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HOUSE OF REPRESENTATIVES—*Tuesday, October 5, 1999*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mrs. WILSON).

DESIGNATION OF SPEAKER PRO TEMPORE cI11The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 5, 1999.

I hereby appoint the Honorable HEATHER WILSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 19, 1999, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 25 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

The Chair recognizes the gentleman from North Carolina (Mr. JONES) for 5 minutes.

CONGRESS SHOULD HELP FLOOD-RAVAGED NORTH CAROLINA

Mr. JONES of North Carolina. Madam Speaker, I represent the Third District of North Carolina that sustained unprecedented damage from Hurricane Floyd. I believe I echo the feelings of my North Carolina colleagues in Congress who also represent storm-damaged areas when I say that the amount of devastation that we have witnessed is almost impossible to comprehend.

While the storm itself has passed, the flooding has wreaked havoc on homes, farms, businesses, and entire communities. Some families lost their homes, jobs, and vehicles; and they are financially and emotional stressed and shattered.

Many of our rivers did not fully crest until days after Floyd hit and the additional rainfall last week only added to the problem.

But despite the amount of devastation that surrounds the citizens of eastern North Carolina, everyone is working together in a spirit that reminds us of the strength of this great Nation.

I want to thank the individuals, communities, businesses and organizations in North Carolina and across the country that have stepped up to the plate to help the citizens of eastern North Carolina. It has been a tremendous encouragement to our people.

Madam Speaker, just let me list some of the companies that are assisting: BlueCross/BlueShield of North Carolina, Food Lion, Lucent Technologies, Glaxo Welcome, International Paper, AJT and Associates of Florida, Mt. Olive Pickle Company, Sara Lee, Winn Dixie, Anheuser-Busch.

These and many other companies have sent help to eastern North Carolina. The charitable agencies and relief organizations have also been wonderful. The Second Harvest Food Bank of Northwestern North Carolina collected more than 100,000 pounds of food in one week. AmeriCares donated cleaning supplies. The Red Cross, Salvation Army, and the United Way are also coordinating donations of clothing and food drives. Religious communities across the country are also donating time as well as money to help their brothers and sisters across our district and the country.

All branches of the armed services, especially the United States Coast Guard and the United States Marines, Air National Guard, Army National Guard, and Air Force were tireless with their time and resources rescuing residents stranded by flooding. Their dedication to the State and Nation is second to none, and their efforts have been critical in saving and protecting human life.

Madam Speaker, now Congress must do its part. This Congress has an obligation to help the American people first when they are in trouble. We have a moral contract with the taxpayers. Madam Speaker, every year we send money to countless countries across the globe in foreign aid and we know through a variety of sources and reports sometimes billions of these dollars never reach the people they were sent to help. Billions of dollars in U.S. aid to Russia has reportedly been laundered through foreign banks including possible IMF funds. Now the President has pledged to forgive the debt of 36 countries owed to the United States in order to help these countries finance basic human needs. To forgive this debt would cost the American taxpayer $5 billion.

I would say to the President, there are families in North Carolina who have lost everything. They are living in shelters dependent upon the goodwill of friends and neighbors to provide them with the most basic human needs. Imagine what the community of eastern North Carolina could do with even $1 billion to help rebuild and repair the devastation.

Now Congress has appropriated over $12 billion in foreign aid for fiscal year 2000. Madam Speaker, I understand that we have strategic obligations to allies in the Middle East such as Israel; however, I cannot justify voting for a foreign aid package when families in my district are hurting so badly. Madam Speaker, we must help the American taxpayer first. I will not break faith with our own American citizens in their time of need. Not one dime of foreign aid should be appropriated until we take care of the people of our United States of America.

Madam Speaker, if this sounds like "America first," so be it. The people in flood-ravaged eastern North Carolina need our help now, not next year. They are striving to exist each and every day. I call on the leadership of both parties to work together in a bipartisan effort to bring much-needed relief to these families in eastern North Carolina immediately.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

CLOSING BOGUS CORPORATE LOOPHOLES BEST WAY TO PAY FOR PATIENTS' BILL OF RIGHTS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Texas (Mr. DOGGETT) is recognized during morning hour debates for 5 minutes.

Mr. DOGGETT. Madam Speaker, in June, I spoke to the House in connection with the introduction of the Abusive Tax Shelter Shutdown Act. This cover of Forbes magazine pretty much tells the entire story. Forbes magazine bills itself as "The Capitalist Tool," yet its cover story is "Tax Shelter Hustlers: Respectable accountants are peddling dicey corporate tax loopholes." And when you open the magazine and begin the article, they continue: "Respectable tax professionals and respectable corporate clients are exploiting the exotica of modern corporate finance to indulge in extravagant tax dodging schemes."

During recent months, a number of individuals and groups have recognized the need to address these abusive and bogus loopholes. "The Joint Committee on Taxation staff is convinced that the present law does not sufficiently deter corporations from entering into arrangements with a significant purpose of avoiding or evading Federal income tax. The corporate tax shelter phenomenon poses a serious challenge to the efficacy of the tax system. The proliferation of corporate tax shelters causes taxpayers to question the fairness of the tax system." And the Treasury Department has emphasized that, "the proliferation of corporate tax shelters presents an unacceptable and growing level of tax avoidance behavior."

Within the last several weeks, the American Bar Association tax section has again declared, "growing alarm with the aggressive marketing of tax products that have little or no purpose other than the reduction of Federal income taxes."

The New York State Bar Association expressed concern as to "the negative and corrosive effect that corporate tax shelters have on our system of taxation and again called for congressional action." And even the Republican chair of the Committee on Ways and Means proclaimed much earlier this year that "the area of corporate tax shelters is one field which merits review. . . . We are going to try to eliminate every abuse that circumvents the legitimate needs of the Tax Code."

Unfortunately, neither that committee nor any of this House has addressed specific legislation to even slow down these guys, the corporate tax hustlers, with or without a fedora like this follow on the cover of Forbes. And no other Member of the House, except those of us who joined behind the Abusive Tax Shelter Shutdown Act, has offered a specific legislative answer.

Madam Speaker, tomorrow the House will hopefully have an opportunity to cast a vote for tax fairness and tax equity. The supporters of the bipartisan Consensus Managed Care Improvements Act, the gentleman from Michigan (Mr. DINGELL), the gentleman from Georgia (Mr. NORWOOD), the gentleman from Iowa (Mr. GANSKE), and the gentleman from Arkansas (Mr. BERRY), Republicans and Democrats, are supporting this Tax Shelter Shutdown legislation both to deal with this problem and in order to pay for the costs of the bill.

I want to commend their efforts. While I think that the costs of managed care reform have been greatly overstated, all of us who are committed to the Patients' Bill of Rights are taking the fiscally prudent approach and recognizing that this must be a pay-as-you-go Congress even on a measure as important as protecting the rights of those in managed care.

And I am particularly pleased that it is the tax dodgers that will be financing this important measure to improve the health care of the millions of Americans who must rely on managed care.

My legislation which should be considered as an amendment to the Patients' Bill of Rights, will curtail egregious behavior without impacting legitimate business transactions. It will eliminate the well-justified feeling of many people that high rollers are cheating and gaming the system, a feeling which leads to distrust on behalf of our taxpaying public.

My bill seeks to shut down abusive tax shelters by prohibiting loss generators, transactions which lack any legitimate purpose and are ginned up to obtain lower taxes. Second, a company that thinks it has a proper shelter is required to provide complete, clear, and concise disclosure. And third, the penalty for tax dodging is increased and tightened. Getting some downtown lawyer to bless what some high-priced accountant has cooked up will not save the corporation from penalties anymore, if it has clearly overstepped the line.

Some of the worst tax inequities arrive from those who use abusive tax shelters to exploit loopholes. The Abusive Tax Shelter Shutdown Act is not a panacea, but offered as an amendment to the Patients' Bill of Rights. It will not only advance the cause of quality health care, but it will help law enforcement to close the loopholes, eliminate sham transactions, and stop hustlers like this.

Madam Speaker, as we say in Texas: shut them down and move them out.

CHILD ABUSE PREVENTION AND ENFORCEMENT ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Illinois (Mr. EWING) is recognized during morning hour debates for 5 minutes.

Mr. EWING. Madam Speaker, I come today to the floor for a couple of reasons. Later today we are going to be considering H.R. 764, the Child Abuse Prevention and Enforcement Act. We call that CAPE. I just wanted to come here this morning during morning hour and talk a little bit about what we are trying to do with this important piece of legislation.

I go back quite a ways with this bill, which is sponsored by the gentlewoman from Ohio (Ms. PRYCE). Before that, it was the gentlewoman from New York (Ms. Molinari). We recognize that there is a very serious problem with child abuse. The bill is not a panacea nor does it answer all the questions raised in this important area of social concern. But what it does is allow what I think is really good government, and that allows for the money which we are now spending in many regards which is tied up with government bureaucracy and rules and regulation, to allow those at the local level to have flexibility in using this money in child abuse prevention programs.

Just look at the statistics: 3 million cases of child abuse and neglect. That is 9,000 reports a day. This bill is a step towards the goal of trying to achieve better use of the resources which we have out there to fight this growing problem in American society.

□ 0915

It bothers me when I look at young couples, and we talk to people and some of my own children, they have had grandchildren, when we talk to a parent, and they are doing everything they can to be sure that the child that they are going to have is healthy, not taking medicine for a cold, not taking an aspirin, not touching liquor or tobacco, things that we know could injure the child. Then we have the disparity on the other side of the equation where a child does not get that kind of care, does not get that kind of nurturing once they have been born.

That is who we want to try and help are those who are having trouble, who are under difficult pressures in our society so that they can be able to raise their child in a good atmosphere and that that child can grow and be nurtured to adulthood.

It is so important to our society because the child that is abused will very likely follow that same pattern when they grow as an adult. So today, when we take up H.R. 764, it is a small step in the direction of correcting and assisting in this very major social problem.

The other thing that I wanted to talk about a minute today was a report that

I saw in the newspaper about the failure of the administration to seek or to report to us about seeking assistance on repaying for the Kosovo operation.

We all know, I think, that, in this Congress for sure we know, it has cost us billions of dollars in Kosovo. We have shelled out probably easily 75 to 90 percent of the cost of that operation. It was really an American operation under the guise of NATO.

I think it was well founded when we put in the legislation that we sent to the President that he signed, that he agreed to report to us his efforts in trying to get contributions from our allies who took so much credit for what was done there and yet paid so little of the cost of that. I think that it is important that this administration come up with the report that is already now 2 weeks late.

Let us know what they are doing, make efforts to be sure that we get some assistance. As we go around the world, as we do our share of keeping peace in the world, we want to do that as American citizens. I do not think as American citizens we want to be taken advantage of, that we want to pay for all of that when there are others in this world equally able to share in that burden.

So I say to the administration, let us have the report. Let us know what they are doing. We should be able to do easily as well as we did when President Bush was President and we got $53 billion reimbursement for the Persian War, which was a very nice shot in the arm for the American budget and the American taxpayers.

So I say, Mr. President, let us know what you are doing. We really, really need your report on this.

NATIONAL TECHIES DAY

The SPEAKER pro tempore (Mrs. WILSON). Under the Speaker's announced policy of January 19, 1999, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) is recognized during morning hour debates for 5 minutes.

Mrs. CHRISTENSEN. Madam Speaker, I am here this morning in recognition of the first ever National Techies Day to bring attention to the lack of adequately trained and educated workers to fill the many information and technology jobs that are available today.

Reports estimate about 350,000 Information Technology or IT jobs are currently unfilled in America with an expected 1 million jobs over the next 10 years.

The goal of National Techies Day is to match technology professionals with students, to encourage their involvement in science and technology with particular emphasis on children and disadvantaged communities.

Many of these communities are still without access to the Internet. We must work together to ensure that this digital divide will be eliminated. With Federal initiatives such as the E-Rate to wire all of the Nation's public schools and libraries, we are definitely on the right track.

So I am pleased to support National Techies Day and applaud organizations like the Association for Competitive Technology, the Kids Computer Workshop, and Be Healthy Lifestyles for reaching out to children in urban areas and opening their eyes to the endless possibilities of theirs.

LIBERALS DO NOT CARE ABOUT FISCAL RESPONSIBILITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Alabama (Mr. RILEY) is recognized during morning hour debates for 1 minute.

Mr. RILEY. Madam Speaker, here we go again. Yesterday we debated whether we should allow Federal funding to be used to pay for offensive art exhibits. Last night the Democrats offered a motion to instruct conferees to agree to increase the funding for the NEA and NEH.

I said it then, and I will say it again; under the Constitution, expression must be government protected, but there is no requirement that it be government funded.

Madam Speaker, liberals just do not grasp that concept. What makes the motion even more insulting is that it comes at a time when Congress is fighting to maintain fiscal responsibility and protect the Social Security Trust Fund.

Madam Speaker, this motion only proves what we have been saying all along, liberals do not care about fiscal responsibility. They do not care if American families get a tax cut. They do not care about what the American people want in general. They only care about raiding the surplus to protect their unjustified and often unneeded social programs.

Madam Speaker, it's going to take all of us working together to live within a balanced budget and we will never be able to do so until we set priorities in this Congress.

Social Security is a priority.

Funding obscene art is not.

PATIENTS' BILL OF RIGHTS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from New Jersey (Mr. PALLONE) is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Madam Speaker, we are expecting that tomorrow we will have a debate on the Patients' Bill of Rights on HMO reform. We do not have the rule yet coming out from the Committee on Rules, and I have expressed many times on the floor of the House my concern that this rule, this procedure that may be adopted would allow the Republican leadership in the House to add poison pills, extraneous issues to the Patients' Bill of Rights in an effort to defeat it.

But I do not want to dwell on that today because I am still hopeful, still optimistic that that will not be the case and we will be allowed to have a clean vote on the Patients' Bill of Rights and provide for patient protections for those Americans who have their health insurance through HMOs or managed care.

But I am concerned, Madam Speaker, about the fact that, in the last few weeks and certainly the last 2 days, we have had a barrage of ads and articles that are basically put out by the HMO industry, by the insurance companies in an effort to defeat and spread erroneous information about the Patients' Bill of Rights, about the bipartisan Norwood-Dingell bill.

One that I think that we have basically disputed effectively but keeps coming up is the argument that, under the Patients' Bill of Rights, there will be too many lawsuits because now patients will be able to sue their HMO if they suffer damages; and, secondly, that the cost of health insurance will skyrocket because of the fact that there will now be the ability to sue the HMO as well as the various patient protections that are in place.

I think that the Texas law which has been on the books now in the State of Texas for 2 years, very similar to the Norwood-Dingell bill, effectively disputes the cost argument as well as the HMO liability or ability to sue the HMO argument.

Over 2 years now in Texas, there have only been four lawsuits filed against HMOs. In addition, the costs of health insurance premiums for those in managed care have not gone up at all. In fact, Texas rates have actually been less than a lot of other States. The increases have been actually less in Texas than a lot of other States where they do not have patient protections, where they do not have the Patients' Bill of Rights.

But, today, I hear another argument which I think needs to be effectively refuted as well, and that is that, somehow, employers, not the HMOs, but employers are going to be liable to suit under the Norwood-Dingell bill and that because employers will be sued, a lot of employers will drop health insurance, and the ranks of the uninsureds will increase. Well, nothing could be further from the truth.

The fact of the matter is that under the Norwood-Dingell bill, under the Patients' Bill of Rights, we have specific language that shields the employer from being sued in almost every circumstance. An employer would actually have to actually be involved in the very decision about whether or not one is going to have a particular operation or be able to stay in the hospital before they could be liable for suit, which is simply not the case.

In every case, the insurance company or a third party administrator handles those decisions for employers pursuant to their insurance policy. We have very effective shield language in the bill that effectively precludes the employer from being sued.

Now, I want to say I thought there was a very interesting article in today's Washington Post, an op ed by Anthony Burns where he tries to say and he admits that we do have shield language in the bill that would effectively preclude an employer from being sued.

But it goes on to say, essentially, in the article, and this is sort of a new twist on this theme, that even though the shield language is there, it will not matter because crafty trial lawyers will find a way to get around it.

He talks about, first, that plaintiffs could argue that insurance companies or third-party administrators are merely the agents of the employer, or a crafty lawyer could argue that, by selecting one health-care provider over another, the employers' discretionary decision played a role in a decision or an outcome with regard to patient care. Well, that is totally bogus.

Any trial lawyer, of course, can make any argument, and anybody can be sued and make an argument. But the bottom line is, if one has effective shield language, those arguments are not going to work.

One of the things that disturb me the most is that, if one sees what is happening around the country, one will see in a recent Illinois Supreme Court decision, or even a case that is now being obtained by our own U.S. Supreme Court, that the courts increasingly are getting around the prohibition on the right to sue.

But just because that is happening does not mean that we, when we pass legislation, which we are hopefully going to consider in the next few days, that if we put specific language in that says the employers cannot be sued, that should be sufficient for those who are concerned about this issue. Because any lawyer can make any argument. Any court can overturn any decision or any Federal language. But the bottom line is that we are putting that protection in the bill. I think that that should be sufficient. It is a recognition of the fact that the employers cannot be sued.

Please support the Norwood-Dingell bill. Do not be persuaded by these false arguments.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 10 a.m.

Accordingly (at 9 o'clock and 27 minutes a.m.), the House stood in recess until 10 a.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SUNUNU) at 10 a.m.

PRAYER

The Chaplain, the Reverend James David Ford, D.D., offered the following prayer:

O gracious God, we profess that You are the creator of the whole world and yet when we look at that world we see so much pain and suffering, wars and rumors of wars, and we become distressed. We affirm that You have created every person in Your image and yet in our communities we see alienation and estrangement one from another.

Almighty God, teach us that before we can change the world or our communities we need to change our own hearts and our own attitudes so that Your spirit of faith and hope and love touches our souls and the work of our daily lives. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. GIBBONS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GIBBONS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Louisiana (Mr. VITTER) come forward and lead the House in the Pledge of Allegiance.

Mr. VITTER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 15 one-minute speeches on each side.

FEDERAL TELEPHONE ABUSE REDUCTION ACT OF 1999

(Mrs. BIGGERT asked and was given permission to address the House for 1 minute.)

Mrs. BIGGERT. Mr. Speaker, a report released in August by the Department of Justice's Office of the Inspector General revealed hundreds of cases in which Federal inmates used prison telephones to commit serious crimes, including murder, drug trafficking, witness tampering, and fraud.

Although the Federal Bureau of Prisons has been aware of this problem for some time, it has not taken sufficient steps to address the abuse of Federal prison telephone systems.

To help the Bureau undertake immediate and meaningful action to correct these problems, I am introducing the Federal telephone abuse reduction act. My bill requires the Bureau of Prisons to implement changes to efficiently target and increase the monitoring of inmate conversations. It will also refocus officers to detect and deter crimes committed by inmates using Federal telephones.

I urge my colleagues to join me in squarely addressing what appears to be widespread inmate abuse of prison telephones and cosponsor the Federal telephone abuse reduction act.

REPUBLICANS REJECT GOVERNOR BUSH'S ADVICE ON PATIENTS' BILL OF RIGHTS

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. Mr. Speaker, there is good news. The House Republicans have apparently yielded on their cruel plan to defer the earned income tax credit for working families, a plan deplored by Governor George W. Bush as, in his words, "balancing the budget on the backs of the poor."

But there is also bad news. The Republicans are so out of touch with the needs of American families that they have rejected Governor Bush's advice on the Patients' Bill of Rights that we will be debating tomorrow.

Our Lone Star State has been a national leader on reforming managed care. Although Governor Bush initially fell victim to the same old tired insurance company rhetoric upon which our House Republican friends now rely, he permitted our Texas Patients' Bill of Rights to be signed into law. And last week his office declared it has "worked well." Who could say otherwise with only five lawsuits from 4 million Texans over 2 years in managed care.

Governor Bush's insurance commissioner has declared it "a real success story," "one of the leading" consumer protection measures in the country. If the Republican leadership will get out of the way, we will do the same for all of America.

PATIENTS' BILL OF RIGHTS

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to the remarks of my colleague on the left from the State of Texas. And indeed he is making news today. Because, apparently, he is endorsing the candidacy of his governor, Governor Bush. And we certainly appreciate that act of bipartisanship. But in all sincerity and in all seriousness, Mr. Speaker, it is important that we do this as we defend patients' rights.

The key on this House floor and in the hospitals and clinics and homes of America is this: We must make sure that we have a true Patients' Bill of Rights instead of a lawyer's right to bill. And as we see this morning in one of our national publications, Mr. Speaker, sadly this is true.

I quote now, "Yet trial lawyer money talks loudest of all now to many Democrats." And indeed it is increasingly clear the Democrat Party, with no ideological link to the private economy, is now reduced to redistributing income through litigation.

We do not want a lawyer's right to bill. We want a patients' bill of rights.

ENFORCEABLE PATIENTS' BILL OF RIGHTS

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, we will have a chance as bipartisan in this House to really have a patients' bill of rights, yes, a patients' bill of rights that respects the right of patients to expect that the plan they have with their insurance company is indeed enforceable.

That is a fundamental right of consumers to believe that which they have purchased is enforceable. They also expect that they will be able to be treated for disease and illness that they may be suffering, which is covered under that. So the patients' bill of rights does include the right to sue. But it does not include the right that employers should be sued.

So I am urging my colleagues not to have that scare tactic, to make sure that we have an opportunity to debate the right, the right for patients to be covered for those illnesses that they are insured, the right to enforce their plan and, yes, indeed if there is a failure or fraud, the right to sue finally.

The patients' bill of rights is an opportunity for us to say, yes, patients have a right to expect that their insurance company will follow through on their commitment.

REPUBLICANS ARE STOPPING RAID ON SOCIAL SECURITY

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, Washington big spenders have raided Social Security for 30 years to pay for big government programs. Republicans are stopping that raid.

As a result, the President and the Democrats in Congress are desperately looking for new ways to pay for their big government programs. As usual, they think they found it in the wallets of the working Americans.

The Democrats' scream to increase tobacco taxes in order to pay for a fatter, more bloated government is nothing more than a money grab that will hurt low-income workers.

In fact, Mr. Speaker, as this chart shows, over 53 percent of the Democrats' tax increase will be paid by Americans earning less than $30,000.

Mr. Speaker, I am here to assure the hard-working taxpayers of this country that this Republican Congress will not schedule a bill that raises their taxes and this Republican Congress will not schedule a bill that raids their Social Security. It is time to stop the raid on Social Security and time to stop the raid on the taxpayers' wallets.

Mr. Speaker, if the Democrats raise tobacco taxes, they will feed the most insidious addiction in this town, the addiction they have for our money.

UNCLE SAM IS PROPPING UP COMMUNISM IN CHINA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, last week China celebrated 50 years of communist rule. They had parades with tanks, missiles, communism on display after all our efforts to defeat communism.

What is troubling, Mr. Speaker, is they were partying in China on our cash, a $70-billion trade surplus. Unbelievable. The truth is, communism in China would be belly up today if it were not for our trade policy.

Beam me up. Uncle Sam is now propping up communism. I yield back Taiwan, Johnny Huang, Charlie Trie, and all the Chinese spies running around our nuclear labs.

DAY 131 OF SOCIAL SECURITY LOCKBOX HELD HOSTAGE

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, today is day 131 of the Social Security lockbox held hostage by President Clinton and the minority party in the Senate.

One hundred thirty-one days ago, this House, both Democrats and Republicans, voted overwhelmingly 416–12 to lock up Social Security dollars to protect them from being spent on unrelated programs.

Since the passage of the Social Security lockbox in the House, the Senate leadership is on record six times attempting to bring the Social Security lockbox for a vote on the Senate floor. And for six times the approval to even consider the Social Security lockbox was denied on a straight party-line vote.

Mr. Speaker, the House is committed to ending the 30-year raid on Social Security. I urge the Democrat minority in the Senate to allow for the same.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members to refrain during one-minute speeches from references to proceedings in the other body.

KIDDIE MAC

(Mrs. MALONEY of New York asked and was given permission to address the House for 1 minute.)

Mrs. MALONEY of New York. Mr. Speaker, as we enter the new millennium, the American family has taken a new shape. Our children are now reared not only by two working parents, sometimes by single parents, grandmothers, guardians.

Many Americans say that finding safe, affordable child care is one of their most important concerns. We have not been able to finance a sufficient number of needed child care centers. Parents who can afford to pay for modest child care, many spend more on yearly quality child care tuition than on public college tuition.

As one step in addressing this crisis, I have introduced bipartisan legislation with the gentleman from Louisiana (Mr. BAKER) called Kiddie Mac. Kiddie Mac is designed to build a partnership between the Federal Government and private lending institutions to finance safe and affordable child care.

Unless we act to pass Kiddie Mac, the new American family of the new millennium may collide head-on with the unmet needs for safe and affordable child care.

SOCIAL SECURITY LOCKBOX

(Mr. VITTER asked and was given permission to address the House for 1 minute.)

Mr. VITTER. Mr. Speaker, on May 26 of this year, 3 days before my election, this body passed a Social Security lockbox bill authored by my distinguished colleague the gentleman from California (Mr. HERGER). It was by an overwhelming vote of 416–12.

We are here today, and we will be here every day to demand that the Senate act on this measure. A lot has happened since passage on May 26. Four months, a total of 131 days, have gone by. The American League won the All Star game. The NHL and the NFL began play. The President got a home loan. And the other body voted six times to block Social Security lockbox legislation.

But one thing has not changed. The American people are rightly demanding that we protect Social Security through institutional safeguards like the lockbox. Simply put, the other body is holding the lockbox bill hostage. One hundred thirty-one days is long enough.

REPUBLICAN BROKEN PROMISES

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, at the beginning of this Congress, the new Republican leadership made America a few promises. They said that they would finish their work on time, that they would not break the balanced budget spending limits, and that they would not spend money from the Social Security trust fund.

□ 1015

Months later, all we can say about these three promises is broken, broken, and broken. The Republicans have not finished their work on time. Last week we had to pass an emergency spending measure to prevent the government shutdown. The Republicans are breaking the spending caps, proposing budget-busting tax cuts for the wealthiest of Americans. And their plan to bring spending back in line? Delay the small tax credit given to low-income working families, a plan so callous even GOP Presidential candidate George Bush denounced it saying, "Republicans should not balance their budget on the backs of the poor."

Finally, Republicans promised not to take money from Social Security, but now the Congressional Budget Office says that the Republicans have already taken $16 billion out of the Social Security Trust Fund this year. Another promise broken. They have broken the lock-box and they have taken the money out and spent the Social Security Trust Fund. Promises made, promises broken. That is the legacy of this Congress.

MIAMI RIVER CLEANUP

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, now that the President has signed into law the first Federal appropriations to clean up the Miami River, that was in the fiscal year 2000 energy water appropriation bill. The next step will be up to the governments at the State and local levels as well as the broad coalition of community groups represented by the Miami River Commission and the Miami River Marine Group.

The Miami-Dade County manager has reiterated our county's support for this key environmental project. This is the beginning of a 4-year phased dredging project proposed by the Miami River Commission with the assistance of the U.S. Army Corps of Engineers.

This $5 million Federal initial appropriation will begin maintenance dredging of the river which will cost $64 million from Federal, State, and local sources. The Miami River project shows what can be accomplished when governments at all levels join with grass-roots activists to achieve a common goal. The cleanup will ensure the continued growth of the Miami River as one of our Nation's critical shipping links to the Caribbean and Latin America.

We congratulate the Miami-Dade County manager. Let us do our job at the local level now.

MANAGED CARE REFORM

(Mr. GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Speaker, just when Congress appears ready for managed care reform with the Norwood-Dingell bill, there is an effort to propose gimmicks and ways to poison the bill with harmful provisions that will wind up doing nothing for patients.

For months, the Republican leadership has complained that the Patients' Bill of Rights would increase cost and open employers to unfair lawsuits, both of which would supposedly force employers to drop coverage. That is just not true.

As a Northeastern Member of Congress said a couple of weeks ago, even Texas is a leader and California just passed a bill recently and the governor signed it, passed a strong Patients' Bill of Rights. My home State of Texas has passed many of the patient protections. They are already in place, including external appeals, accountability, and there has been no premium increase or exodus by employers to drop coverage.

What Texas residents do have is the health care protections they need. Provisions included in this Patients' Bill of Rights should be extended to every American including eliminating "gag clauses," open access to specialists, a timely appeals process, coverage for immediate emergency care, and holding the medical decision-maker accountable.

Mr. Speaker, I hope and pray we are not headed for more delays and maneuverings and will pass a strong bill for our constituents.

EVERYONE WANTS TO GO TO HEAVEN, BUT NOBODY WANTS TO DIE

(Mr. GREEN of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of Wisconsin. Mr. Speaker, the late heavyweight champion of the world, Joe Louis, once said, "Everyone wants to go to heaven but nobody wants to die."

Mr. Speaker, the wisdom of that statement will be shown to be true this week and next. Everybody in this House says that they want to protect Social Security. Everybody. But how many will support the spending cuts we need to get there?

Every time the majority offers budget cuts to get there, the other side votes "no," or offers tax increases, or screams bloody murder.

We must cut spending to preserve Social Security. We must pass the Social Security lock-box. But as Joe Louis said: "Everybody wants to go to heaven, but nobody wants to die."

TECHIES DAY

(Mrs. MCCARTHY of New York asked and was given permission to address the House for 1 minute.)

Mrs. MCCARTHY of New York. Mr. Speaker, I rise today in support of National Techies Day and the positive impact technology had on our lives.

Techies Day allows us to recognize and applaud today's technology professionals. In addition, it brings current techies and schoolchildren together in hopes of encouraging more of them to pursue careers in science or technology.

The United States leads the world in technology development, but we continue to lag behind in educating and training the workforce that is prepared to fill thousands of technical jobs. With more of our day-to-day activities being done electronically, it is important we ensure a competent workforce that is prepared to meet the growing needs of this industry. These needs will be met by educating our children and preparing them for the technology field. This is essential to America's long-term economic strength as we enter the 21st century.

Mr. Speaker, our children's future matters to all of us, and we have a responsibility to bring them into this new economy equipped with the tools needed to keep pace with technology innovations. Techies Day is the right direction to make this possible.

NUCLEAR WASTE STORAGE AT YUCCA MOUNTAIN COULD LEAD TO DISASTER

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, we have been fortunate that a nuclear accident like the recent disaster at a Japanese uranium processing plant has not occurred in the United States in the last 3 decades.

Mr. Speaker, I urge my colleagues to hold on to their gas masks because things could change.

A recent article in the Las Vegas Review Journal clearly stated that "a nuclear chain reaction similar to the one that released dangerous levels of radiation from a Japanese uranium plant could happen with spent fuel the U.S. Government wants to store at Yucca Mountain."

Unfortunately, the Department of Energy continues to ignore the scientific facts and warnings offered by the nuclear energy experts. Scientists have already concluded that water will drip through the porous rock barrier and accelerate corrosion of the nuclear waste containers, potentially causing a reaction similar to the Japanese nuclear disaster.

Mr. Speaker, this Congress cannot in good faith place the lives of thousands of citizens living in the surrounding area of Yucca Mountain in peril. The plan to store nuclear waste at Yucca Mountain is simply unwarranted, unwise, and dangerous. We can and must prevent such a disaster.

IN SUPPORT OF THE DINGELL-NORWOOD PATIENTS' BILL OF RIGHTS

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Mr. Speaker, I rise today to support the bipartisan Dingell-Norwood Patients' Bill of Rights. We need protections for patients to ensure that they have access to specialists, to ensure that they get accurate information about all of their medical options and not just the cheapest options. We need to ensure that they can get reimbursed for emergency room care. That is what the Patients' Bill of Rights is about.

I am not here to paint the HMOs as the ultimate villains, but I will say that the profit motive leads to greed and greed leads to some of the worst abuses of patients we have seen.

Mr. Speaker, we need a Patients' Bill of Rights that is enforceable. Unfortunately, the Republican leadership wants to give an empty can. If we cannot enforce patients' rights, the rights are meaningless. Some would say that is a boon for trial attorneys. Not so. The importance of having the right to sue is so there is a deterrent against bad medical practices.

Texas has shown that there is not a significant increase in lawsuits when there is an enforceable bill of rights. We will also hear that this will drive up costs. Not so. Minimum cost increases are a couple of dollars. What is important is that we have an enforceable bill of rights with teeth to protect all Americans.

DOLLARS TO THE CLASSROOM

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, this week the House Committee on Education and the Workforce will consider the Dollars to the Classroom resolution stating that our schoolchildren and teachers in our public schools throughout this country can benefit by directing Federal funding for elementary and secondary education directly to classrooms where the learning process actually takes place.

By seeking to get 95 cents of every dollar into the classrooms of our public schools, the children and teachers of this Nation would see an additional $870 million out of the existing appropriation. That is $10,000 per school translating to about $450 for every classroom in America.

By seeing that dollars actually get into the hands of those who directly teach our kids their ABCs and their 1, 2, 3s, we will get maximum efficiency out of the use of our tax dollars.

As the House considers the Elementary and Secondary Education Act, let us look at how we can empower teachers at the local level. No longer do we want our seventh graders saying their books were printed when their teachers were in the eighth grade.

Mr. Speaker, I urge my colleagues to support the Dollars to the Classroom resolution.

CONGRESS MUST PASS PATIENTS' BILL OF RIGHTS

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, just recently we read a report that tells us that 43 million Americans are uninsured and without health insurance. Shame on America and shame on this Congress. That is why among many things that we have to do to include those who are uninsured, we must pass the Patients' Bill of Rights.

Tragically in my own State of Texas under Republican leadership, Texas is number one with uninsured persons with no coverage to protect them and provide for health insurance. Shame on Texas and shame on the Republican leadership in the State of Texas.

But the Patients' Bill of Rights will give minimal relief to those who are covered. It provides access to any emergency room. It will stop the closed-door policy of an emergency room because of nonapproval, allow women to have OB/GYNs as their primary caregiver, and will give relief to sue HMOs, not frivolously but if they decide to determine a patient's medical destiny and they are hurt.

Mr. Speaker, does it mean patients will sue their employer? Of course not. Does it mean this will work? Yes, because it worked in the State of Texas.

We must pass the Patients' Bill of Rights, otherwise more shame on America.

TRIBUTE TO THE CINCINNATI REDS FOR AN INCREDIBLE SEASON

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, this was a special year for baseball in my hometown of Cincinnati, Ohio. The Cincinnati Reds with a handful of dedicated veterans, a lot of young talent, and one of the lowest payrolls in baseball captured the Nation's attention with their unbridled enthusiasm and passion for the game.

Last night the Reds' incredible run ended earlier than we had hoped. And while it may be of little consolation to the players, their inspirational efforts have brought many fans, both young and old, back to baseball.

Sadly, baseball's economics may not allow this same talented team to return to the field for another run at the pennant, but we will not soon forget the 1999 Cincinnati Reds. We will remember Barry Larkin and Pokey Reese turning spectacular double plays; Mike Cameron running down balls in the gap; Sean Casey and Greg Vaughn and many others driving pitches over the outfield walls; and the determined outings by the pitching staff.

Every Member of the Reds and their fans should hold their heads up high today. They gave it their all day in and day out and reminded the country that our national pastime is alive and well in the home of baseball's first professional team: Cincinnati, Ohio.

GOP OBSTACLES TO PATIENT PROTECTIONS

(Mr. MENENDEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MENENDEZ. Mr. Speaker, I rise today to set the record straight on managed care reform. Just this week, the GOP leadership accused the President of trying to rush through a health plan simply to get it done and said that, "Republicans want to get it done right, not fast."

However, Republicans want it done right for their special interests like insurance companies, not for the American people. Their plan would protect insurance companies from liability, rather than protect patients when insurance bureaucrats deny them care. Our proposal on the other hand is the right approach for the American people. We guarantee patients the right to hold plans accountable when they arbitrarily deny medical care.

The Republican leadership's proposal is right for insurance companies because it lets insurance bureaucrats rather than doctors make decisions about medical treatment. Our proposal is right for the American people because it ensures that doctors make medical decisions that are in the best interest of a patient, not the health plan.

So I ask, who is really doing what is right for the American People?

□ 1030

CONGRESS AWAITING PRESIDENT'S PLAN TO SAVE SOCIAL SECURITY

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, where is it? Let me ask my Democrat and Republican friends, where is it? They know what I am talking about: H.R. 1, the President's plan to save Social Security.

Right there he stood, Mr. Speaker, right there, and said, let us put Social Security first. Of course he only wanted to preserve 62 percent of it and has continuously stuck with that by trying to raid it every chance he gets, but he has not introduced a bill.

This box right here, he could put it in here any time, but he has not. That was back in January, Mr. Speaker. Where is the President's plan?

He goes from coast to coast bragging to America's seniors how he is going it take care of them; and yet, he has not introduced his plan to save Social Security.

Instead, he has kept saying, let us spend the money. He puts pressure on Congress: Spend more money on appropriations bills. I am going to have to veto this bill; not enough money in it.

Guess where he is going to get the balance, right from Social Security. That is why he is against the security box concept for Social Security, the lockbox that would keep his hands out of the till. That is why he is fighting it.

Mr. President, the box is waiting. Congress is ready when you are. Go ahead and introduce your plan.

NO MORE TAX INCREASES; BRING SPENDING UNDER CONTROL

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, is it true that Bill Clinton, AL GORE, and House Democrats want to raise taxes one more time? Mr. Speaker, is it true that Bill Clinton, AL GORE, and House Democrats want to raid Social Security one more time?

Is it true that those who cheered Bill Clinton's reckless and irresponsible veto of the Republican efforts to eliminate the marriage tax penalty want to raise taxes one more time?

We can balance the budget. We must balance the budget without the Clinton-Gore tax hike. Let us not forget that Bill Clinton, AL GORE, and House Democrats gave America our biggest tax hike in history in 1993.

Our goal as Republicans is to wall off the Social Security Trust Fund, to stop the raid on Social Security, because we believe 100 percent of Social Security should go for retirement, Social Security, and Medicare.

We can save Social Security. We can help our local schools. We can lower the tax burden by eliminating the marriage tax penalty. We can pay down the national debt, all without raising taxes, all without dipping into Social Security.

No more tax increases. No more raids on Social Security. Let us balance the budget. Let us bring spending under control.

WORK TOGETHER TO PROTECT SOCIAL SECURITY AND MEDICARE

(Mr. TIAHRT asked and was given permission to address the House for 1 minute.)

Mr. TIAHRT. Mr. Speaker, many Americans are surprised to learn that the President's budget proposal spends the Social Security surplus rather than put Social Security first.

The President's proposal takes 38 percent of the surplus for Social Security and spends it, and that excludes his hidden tax increases, as if our taxes are not high enough already.

The Republican proposal sets aside 100 percent of Social Security, 100 percent of the Social Security Trust Fund. As many Americans are learning, the budget surplus this year is due to the surplus in the Social Security trust fund.

Republicans propose to take 100 percent of the retirement surplus, the money coming from the FICA taxes, the payroll deductions, and set it aside for both Social Security, and also set aside all the money from payroll deductions for Medicare. Let me repeat that, Mr. Speaker. Medicare is included in our retirement surplus proposal. Our plan sets aside 100 percent of the retirement surplus for both Social Security and Medicare.

Mr. Speaker, the "Workhorse Congress" is ahead of schedule and moving ahead to deal with Medicare and Social Security, which will be insolvent in over a decade unless we act to protect the Trust Funds now. Let us work together to protect Social Security and Medicare.

OUR FUTURE DEPENDS ON A SOCIAL SECURITY LOCKBOX

(Mr. TANCREDO asked and was given permission to address the House for 1 minute.)

Mr. TANCREDO. Mr. Speaker, if we in this Congress accomplish nothing else in our session but to set in stone the idea of a Social Security lockbox, we will have accomplished a great deal for America.

If we have been able to get across to the people in this country the idea that FICA taxes coming into this government will be used for nothing else but Social Security, if we can firmly establish this concept, the lockbox concept, we will, in fact, save Americans well over $2 trillion in the next 10 years.

We will do it this way: by assuring that those dollars coming in for Social Security will actually pay down debt, not go for new programs as they have gone for the last 34 or 35 years. We have expanded government by using Social Security money; and if we can stop just that one thing from happening and do nothing else here, we will have accomplished an enormous amount.

So, Mr. Speaker, I ask my colleagues to please think about the future of the country and how much it depends upon our ability to advance the idea of a Social Security lockbox.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

The SPEAKER pro tempore (Mr. SUNUNU) laid before the House the following communication from the Chairman of the Committee on Transportation and Infrastructure, which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE,
HOUSE OF REPRESENTATIVES,
Washington, DC, August 9, 1999.

Hon. J. DENNIS HASTERT,
Speaker, U.S. House of Representatives, Capitol, Washington, DC.

DEAR DENNIS: Enclosed please find copies of resolutions approved by the Committee on

Transportation and Infrastructure on August 5, 1999, in accordance with 40 U.S.C. §606.

With warm regards, I remain

Sincerely,

BUD SHUSTER,
Chairman.

There was no objection.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

The SPEAKER pro tempore laid before the House the following communication from the Chairman of the Committee on Transportation and Infrastructure, which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE,
HOUSE OF REPRESENTATIVES,
Washington, DC, August 12, 1999.

Hon. J. DENNIS HASTERT,
Speaker of the House,
Washington, DC.

DEAR MR. SPEAKER: Enclosed are copies of resolutions adopted on August 5, 1999 by the Committee on Transportation and Infrastructure.

With kind regards, I am

Sincerely,

BUD SHUSTER,
Chairman.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX. Any rollcall vote postponed on questions will be taken later today.

NATIONAL MEDAL OF HONOR MEMORIAL ACT

Mr. STUMP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1663) to designate as a national memorial the memorial being built at the Riverside National Cemetery in Riverside, California to honor recipients of the Medal of Honor, as amended.

The Clerk read as follows:

H.R. 1663

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Medal of Honor Memorial Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Medal of Honor is the highest military decoration which the Nation bestows.

(2) The Medal of Honor is the only military decoration given in the name of Congress, and therefore on behalf of the people of the United States.

(3) The Congressional Medal of Honor Society was established by an Act of Congress in 1958, and continues to protect, uphold, and preserve the dignity, honor, and name of the Medal of Honor and of the individual recipients of the Medal of Honor.

(4) The Congressional Medal of Honor Society is composed solely of recipients of the Medal of Honor.

SEC. 3. NATIONAL MEDAL OF HONOR SITES.

(a) RECOGNITION.—The following sites to honor recipients of the Medal of Honor are hereby recognized as National Medal of Honor sites:

(1) RIVERSIDE, CALIFORNIA.—The memorial under construction at the Riverside National Cemetery in Riverside, California, to be dedicated on November 5, 1999.

(2) INDIANAPOLIS, INDIANA.—The memorial at the White River State Park in Indianapolis, Indiana, dedicated on May 28, 1999.

(3) MOUNT PLEASANT, SOUTH CAROLINA.—The Congressional Medal of Honor Museum at Patriots Point in Mount Pleasant, South Carolina, currently situated on the ex-U.S.S. Yorktown (CV-6).

(b) INTERPRETATION.—This section shall not be construed to require or permit Federal funds (other than any provided for as of the date of the enactment of this Act) to be expended for any purpose related to the sites recognized in subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. STUMP) and the gentleman from Illinois (Mr. EVANS) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. Stump).

GENERAL LEAVE

Mr. STUMP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1663.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

H.R. 1663, the National Medal of Honor Memorial Act, is a significant bill that is supported by all veterans and their service organizations.

The Medal of Honor is this country's highest military honor, awarded for distinguished gallantry at the risk of life above and beyond the call of duty.

This bill recognizes three sites dedicated to honoring the Medal of Honor recipients. They are a memorial under construction at the Riverside VA National Cemetery in California; the memorial recently dedicated at White River State Park in Indianapolis, Indiana; and the Congressional Medal of Honor Museum at Patriots Point in Mount Pleasant, South Carolina, on the U.S.S. *Yorktown.*

H.R. 1663 is supported by the Congressional Medal of Honor Society, an exclusive group consisting of all Medal of Honor recipients. I ask my colleagues to support the bill, H.R. 1663, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. EVANS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as original cosponsor of H.R. 1663, the National Medal of Honor Memorial Act, I am very pleased this legislation is being considered today.

The Medal of Honor is, of course, the highest award for valor and action against an enemy force which can be bestowed upon a member of the armed forces of the United States.

Established in the Civil War, only 3,429 Medals of Honor have been awarded since that time. Because of the extraordinary nature of this Medal and those extraordinary Americans who have earned it, it is fitting that the Medal of Honor recipients be honored at designated Medal of Honor sites.

I particularly want to particularly commend the gentlewoman from Indiana (Ms. CARSON) for the amendment in the nature of a substitute which she offered to H.R. 1663 during its consideration by the committee. As perfected by the Carson amendment, the Congressional Medal of Honor Society has expressed enthusiastic support for H.R. 1663, as amended.

Mr. Speaker, I include for the CONGRESSIONAL RECORD a letter from the Congressional Medal of Honor Society, as follows:

CONGRESSIONAL MEDAL OF
HONOR SOCIETY,
Mt. Pleasant, SC, September 3, 1999.

Hon. LANE EVANS,
House Veterans' Affairs Committee, Washington, DC.
RE: H.R. 1663.

DEAR CONGRESSMAN EVANS: This letter is to express enthusiastic support of the Congressional Medal of Honor Society and its members for H.R. 1663 that designates three locations within the United States of America as "National Medal of Honor sites." The designation will properly acknowledge the tireless efforts of the respective communities in honoring the service of our veterans. By recognizing the recipients of the Medal of Honor each memorial in turn acknowledges the men and women with whom each recipient served.

The Society will follow the progress of H.R. 1663 and if signed into law, the Society will issue bronze plaques to be affixed to each site declaring each a National Site.

On behalf of the Society and its members, I thank you for your support.

Sincerely,

PAUL W. BUCHA,
President.

Mr. Speaker, this bill is an excellent piece of legislation. I urge all my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. CALVERT), the chief sponsor of this legislation.

Mr. CALVERT. Mr. Speaker, I thank the gentleman from Arizona for yielding me the time and for his decisive action in moving this important legislation through the Committee on Veterans' Affairs and to the House floor.

Mr. Speaker, I introduced H.R. 1663, the National Medal of Honor Memorial Act of 1999, to honor the sacrifice and bravery of 3,417 Medal of Honor recipients. The Medal of Honor is the highest honor given by Congress for conspicuous gallantry and intrepidity at the risk of life beyond the call of duty.

H.R. 1663 would designate three sites as National Medal of Honor Memorials, the Riverside National Cemetery memorial in Riverside, California; the White River State Park memorial in Indianapolis, Indiana; and the U.S.S. Yorktown memorial in Mount Pleasant, South Carolina.

My bipartisan bill has the Medal of Honor Society's endorsement and does not use taxpayer money for the construction of the three memorial sites. I am also happy to report that the companion legislation to H.R. 1663 has been introduced in the Senate.

I know that the gentlewoman from Indiana (Ms. CARSON) and the gentleman from South Carolina (Mr. SANFORD) will speak about the sites within their districts; therefore, I want to speak about my own Riverside National memorial site in Riverside, California.

Riverside National Cemetery is presently the final resting place for two Medal of Honor recipients: Staff Sergeant Ysmael Villegas, United States Army, awarded posthumously for actions in the Philippines; and Commander John Henry Balch, United States Navy, awarded for action in France.

The memorial will name 3,417 Medal of Honor recipients. For each Medal of Honor recipient, an Italian Cyprus tree will be planted. These trees live in excess of 100 years, grow well in southern California, and require minimal maintenance. The monument itself will include a walled area which will surround a pool and a miniature waterfall.

The Riverside memorial site will bring honor to our Medal of Honor recipients in a solemn manner appropriate to its place in a national cemetery. The memorial site will be dedicated in November as the Medal of Honor Society convenes their 1999 convention.

In closing, I wish to encourage my colleagues to support H.R. 1663 and the Medal of Honor Society's mission to serve our country in peace as we did in war, to inspire and stimulate our youth to become worthy citizens of our country, to foster and perpetuate Americanism.

Mr. EVANS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON. Mr. Speaker, I thank the gentleman from California (Mr. CALVERT) and others for being so generous in terms of incorporating all of the Medal of Honor memorials into H.R. 1663.

I would encourage the enthusiastic support of the Congress given the old adage that says given honor unto whom honor is due.

Earlier this year in my district on May 28, thanks to the civic virtue of John Hodowal, and the civic enterprise of the Indianapolis Power and Light Company Enterprises Foundation, a new memorial was unveiled in Indianapolis in honor of those special American heroes who, for military service above and beyond the call of duty, were rewarded the Congressional Medal of Honor.

We were fortunate to have one of the attendees included there when the presentation was made, Mr. Melvin Biddle of Anderson, Indiana, who was awarded the Medal of honor following his displayed conspicuous gallantry and intrepidity in action against the enemy near Soy, Belgium, on December 23 and 24, 1944.

We not only, Mr. Speaker, do our respective districts proud, we do America proud by passing H.R. 1663 in honor of the 3,400 persons that those memorials honor.

Mr. Speaker, I rise in support today for this legislation that would recognize as National Medal of Honor sites the memorial at the White River State Park in Indianapolis, Indiana, dedicated on May 28, 1999; the memorial under construction at the Riverside National Cemetery in Riverside, California, to be dedicated on November 5, 1999; and the Congressional Medal of Honor Museum at Patriots Point in Mount Pleasant, South Carolina, currently situated on the ex-U.S.S. Yorktown. I am pleased that my colleagues on the Veterans Committee supported my substitute amendment to Representative CALVERT'S original bill.

This legislation is supported by the Congressional Medal of Honor Society. I would like to recognize and thank Paul Bucha, President of the Congressional Medal of Honor Society, for his continued support of the Indianapolis memorial, this legislation, and the extraordinary work he does on behalf of the Medal of Honor recipients. This bill has received the support of several other veterans organizations—AMVETS, the Non Commissioned Officers Association, the Disabled American Veterans, the Paralyzed Veterans of America, and the Veterans of Foreign Wars.

The Medal of Honor is only bestowed on those who have performed an act of gallantry and intrepidity at the risk of life above and beyond the call of duty. Acts of bravery and courage are not unusual among those in uniform, and engaging in direct battle with an enemy or carrying out one's duties under enemy attack is an act of bravery and courage performed by many members of our Armed Forces. The level of heroism cited among those who receive the Medal of Honor is uncommonly high and of a far greater magnitude. The individuals who have received this medal for acts of valor have been signaled out not to glorify war, but to recognize that, for all of its destructiveness, war often is the backdrop for extraordinary acts of bravery.

As a symbol of heroism, this medal has no equal in American life. As of now, 2,363 Medals have been awarded to the Army, 745 to the Navy, 295 to the Marines, 16 to the Air Force, 1 to the Coast Guard, and 9 Unknowns. There have been a 3,410 total recipients and 3,429 total Medals awarded. Of those, nineteen (19) have received the Medal of Honor twice.

Earlier this year in my district on May 28th, thanks to the civic virtue of John Hodowal, and the civic enterprise of the corporation he leads, IPALCO Enterprises and the IPALCO Enterprises Foundation, a new memorial was unveiled in Indianapolis in honor of those special American heroes who, for military service above and beyond the call of duty, were awarded the Congressional Medal of Honor. The dedication ceremony, with ninety-six of the 155 living recipients of the Medal of Honor, was attended by one of the largest ever gatherings of these reputable men and women. One of these attendees included Mr. Melvin E. Biddle, of Anderson, Indiana, who was awarded the Medal of Honor following his displayed conspicuous gallantry and intrepidity in action against the enemy near Soy, Belgium, on December 23 and 24, 1944.

This magnificent memorial, compose of 27 curved walls of glass, each between seven and ten-feet high and representing specific conflicts in which the medal was awarded, features the names of the 3,410 people who have received the medal since it was first awarded during the Civil War. The location of this memorial, on the north bank of the Central Canal in White River State Park is particularly significant, since it is adjacent to Military Park, which served as a training facility during the Civil War. Nearly half of the Medals of Honor issued, 1,520, were bestowed upon soldiers who fought in the Civil War. This memorial joins the many memorials that line downtown Indianapolis paying homage to the men and women in uniform who served our nation at war and at peace down through the years. Nearby, a memorial to the men of the USS Indianapolis marks their service, and on Monument Circle, at the very heart of downtown Indianapolis, stands the Soldier's and Sailors' Monument, standing nearly as tall as the Statute of Liberty, a multifaceted recognition of the contributions of Indiana's Soldiers, Sailors and Marines from the Civil War through the Spanish American War, the Boxer Rebellion and our other foreign military engagements up to World War I.

I am pleased to support this measure to honor these three sites as National Medal of Honor Sites, allowing us the opportunity to say "thank you" to these men and women who have showed us what heroism is all about.

Mr. STUMP. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. SANFORD).

Mr. SANFORD. Mr. Speaker, I thank the gentleman for yielding me this time.

I think it interesting that, over 100 years ago, an Army officer leaned down in the ground and scratched in the Pennsylvania soil and said this was sacred ground. As it turns out, his comments were prophetic, because that happened to be near a little place called Gettysburg.

What I think is prophetic about this bill and so important about this bill is that, basically, it reaches out and it consecrates three national shrines to the theme of patriotism, to the theme of persistence.

I think that it is particularly fitting that one of those shrines be the U.S. *Yorktown*. The *Yorktown*, as has already been mentioned, is tied up off Mount Pleasant, South Carolina, there along the coast of South Carolina, and it is named "The Fighting Lady."

The reason it got that name is that it earned 11 battle stars in World War II. It earned five battle stars off the coast of Vietnam prior to its retirement in 1970. In fact, it took a direct hit back in 1945. Yet, despite the fact that The Fighting Lady had been hit, she continued air operations. She continued to fight. Several men were killed, others were wounded, but they kept on fighting.

☐ 1045

The sailors on board the Yorktown, those Navy officers and enlisted folks, just would not give up.

I think that that is what is so important about the Medal of Honor; it embraces this theme of patriotism, combined with the idea of persistence, and that is a theme I think we could all learn about, whether in wartime or in peacetime.

So I would just applaud the gentleman from California (Mr. CALVERT) and applaud the gentleman from Arizona (Mr. STUMP) for their leadership with this bill and how it again consecrates these three national shrines to the theme of patriotism and persistence.

Mr. EVANS. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Speaker, I thank the gentleman for yielding me this time, and I, too, rise in strong support of H.R. 1663, the National Medal of Honor Memorial Act.

As a Californian and original cosponsor of the bill, I am very pleased that H.R. 1663 recognizes the Riverside National Cemetery in Riverside, California, as a national Medal of Honor site, and I thank the gentleman from California (Mr. CALVERT) for his efforts in that regard.

I was also cosponsor of an amendment offered in full committee by the gentlewoman from Indiana (Ms. CARSON) to recognize two additional national Medal of Honor sites, one at the White River State Park in Indianapolis, Indiana, and the other at the Congressional Medal of Honor Museum in Mount Pleasant, South Carolina, which we just heard about.

As many people know, the Medal of Honor is the first military decoration formally authorized by the American Government to be worn as a badge of honor, and it was created by this Congress in 1861. Senator James Grimes of Iowa, chairman of the Senate Naval Committee, proposed legislation to require that a medal of honor, similar to the Victoria Cross of England, be given to naval personnel for actions of bravery in action. His legislation, which was signed into law by President Lincoln on December 21, 1861, established a Medal of Honor for enlisted men of the U.S. Navy and Marine Corps. Subsequently, legislation was enacted extending eligibility for the medal to Army-enlisted personnel as well as officers of the Armed Services.

Senator Robert F. Kennedy once said, "It is from numberless diverse acts of courage and belief that human history is shaped. Each time a man stands up for an ideal or acts to improve the lot of others or strikes out against injustice, he sends forth a tiny ripple of hope."

Those extraordinary Americans who have won the Medal of Honor have, through their acts of remarkable courage, certainly shaped the history of our country and our world. We are doing the right thing today by honoring these courageous citizens.

I am proud to be a cosponsor of H.R. 1663 and urge my colleagues to support this legislation.

Mr. EVANS. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 1663, the National Medal of Honor Memorial Act. This is a good bill because it honors the incredible courage and valor of our most distinguished veterans. Moreover, it ensures that future generations of Americans will know of the great sacrifices made by these men and women who answered the call to national service for their country. Medal of Honor winners have shown that they were willing to defend our liberty no matter what the price. Their heroism in battle has become legendary.

Since the Civil War, our country has recognized their outstanding acts of courage and bravery through the Congressional Medal of Honor. As there have been only 3,429 award winners in the history of our Nation, these veterans truly occupy a very special place in the hearts of all Americans. Therefore, I think that it is important that we designate sites around the country as national memorials for our Medal of Honor winners.

With this bill, we recognize memorials in Riverside, California; Indianapolis, Indiana; and Mount Pleasant, South Carolina, to honor the contributions to our freedom and to our country of these brave, fine Americans. I therefore strongly endorse this legislation, and I urge all my colleagues to join in unanimously approving this bill.

Mr. EVANS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I thank the ranking member of the committee, the gentleman from Illinois (Mr. EVANS), for all his help in bringing this to the floor; and also the gentleman from California (Mr. CALVERT), the chief sponsor, for bringing this bill to us and for working so closely with the Committee on Veterans' Affairs.

Mr. BUYER. Mr. Speaker, I rise today in strong support of H.R. 1663, the National Medal of Honor Memorial Act.

As the 20th Century draws to a close, many veterans wonder if the nation has lost sight of the sacrifices which have been made to preserve freedom. This bill, loudly states that we the Congress, who represent the people of this great nation, have not lost sight of the heroic sacrifices made in the name of freedom. We appreciate the great contributions of these brave individuals who knowingly placed themselves in harm's way, ready to sacrifice life and limb so that their comrades may live and this nation's values remain strong.

Over this last Memorial Day weekend, I had the distinct pleasure to assemble with nearly 100 Medal of Honor recipients to dedicate the Congressional Medal of Honor Memorial site at the White River State Park in Indianapolis, Indiana. It was truly an inspiring gathering, and at the same time, proved a very humbling experience. These individuals epitomize the true meaning of selfless sacrifice and personal commitment.

While many have answered the call to duty, they have answered a higher calling. A calling that is spiritual in nature and bigger than one's self. For love of God, country, family and friends. Their significant contributions have helped secure a more democratic and peaceful world over the last century. More importantly, their actions serve as a testament to all Americans about serving and caring for others.

Recognizing these Congressional Medal of Honor memorials sites in California, Indiana, and South Carolina as National Medal of Honor memorials continues our commitment to these gallant and heroic men and women and I urge my colleagues to support H.R. 1663.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SUNUNU). The question is on the motion offered by the gentleman from Arizona (Mr. STUMP) that the House suspend the rules and pass the bill, H.R. 1663, as amended.

The question was taken.

Mr. CALVERT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

COMMENDING VETERANS OF THE BATTLE OF THE BULGE

Mr. STUMP. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 65) commending the World War II veterans who fought in the Battle of the Bulge, and for other purposes, as amended.

The Clerk read as follows:

H.J. RES. 65

Whereas the battle in the European theater of operations during World War II known as the Battle of the Bulge was fought from December 16, 1944, to January 25, 1945;

Whereas the Battle of the Bulge was a major German offensive in the Ardennes forest region of Belgium and Luxembourg which took Allied forces by surprise and was intended to split the Allied forces in Europe by breaking through the Allied lines, crippling the Allied fuel supply lines, and exacerbating tensions within the alliance;

Whereas 600,000 American troops, joined by 55,000 British soldiers and other Allied forces, participated in the Battle of the Bulge, overcoming numerous disadvantages in the early days of the battle that included fewer numbers, treacherous terrain, and bitter weather conditions;

Whereas the Battle of the Bulge resulted in 81,000 American and 1,400 British casualties, of whom approximately 19,000 American and 200 British soldiers were killed, with the remainder wounded, captured, or listed as missing in action;

Whereas the worst atrocity involving Americans in the European theater during World War II, known as the Malmédy Massacre, occurred on December 17, 1944, when 86 unarmed American prisoners of war were gunned down by elements of the German 1st SS Panzer Division;

Whereas American, British, and other Allied forces overcame great odds throughout the battle, including most famously the action of the 101st Airborne Division in holding back German forces at the key Belgian crossroads town of Bastogne, thereby preventing German forces from achieving their main objective of reaching Antwerp as well as the Meuse River line;

Whereas the success of American, British, and other Allied forces in defeating the German attack made possible the defeat of Nazi Germany four months later in April 1945;

Whereas thousands of United States veterans of the Battle of the Bulge have traveled to Belgium and Luxembourg in the years since the battle to honor their fallen comrades who died during the battle;

Whereas the peoples of Belgium and Luxembourg, symbolizing their friendship and gratitude toward the American soldiers who fought to secure their freedom, have graciously hosted countless veterans groups over the years;

Whereas the city of Bastogne has an annual commemoration of the battle and its annual Nuts Fair has been expanded to include commemoration of the legendary one-word reply of "Nuts" by Brigadier General Anthony McAuliffe of the 101st Airborne Division when called upon by the opposing German commander at Bastogne to surrender his forces to much stronger German forces;

Whereas the Belgian people erected the Mardasson Monument to honor the Americans who fought in the Battle of the Bulge as well as to commemorate their sacrifices and service during World War II;

Whereas the 55th anniversary of the Battle of the Bulge in 1999 will be marked by many commemorative events by Americans, Belgians, and Luxembourgers; and

Whereas the friendship between the United States and both Belgium and Luxembourg is strong today in part because of the Battle of the Bulge: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress—

(1) commends the veterans of the United States Army, the British Army, and military forces of other Allied nations who fought during World War II in the German Ardennes offensive known as the Battle of the Bulge;

(2) honors those who gave their lives during that battle;

(3) authorizes the President to issue a proclamation calling upon the people of the United States to honor the veterans of the Battle of the Bulge with appropriate programs, ceremonies, and activities; and

(4) calls upon the President to reaffirm the bonds of friendship between the United States and both Belgium and Luxembourg.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. STUMP) and the gentleman from Illinois (Mr. EVANS) will each control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. STUMP).

GENERAL LEAVE

Mr. STUMP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Joint Resolution 65.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this country is justifiably proud of the role its armed forces played during World War II. A few minutes ago, we recognized the relatively few Americans who have been awarded the Medal of Honor for extraordinary acts of gallantry. However, Americans performed hundreds of thousands of courageous acts wherever they were committed to battle during World War II.

The actions of Americans who fought in the Battle of the Bulge are some of the best examples of everyday tenaciousness and bravery of American fighting men. Throughout this battle, the largest pitched battle ever fought by Americans, tens of thousands of Americans and British troops exhibited great courage and determination. Their heroism and willingness to endure great hardship resulted in the defeat of a desperate, powerful and well-trained German army.

It is fitting, Mr. Speaker, that we recall today the service of over 600,000 American combat troops who eventually beat back the last bold thrust of Hitler's war machine. This resolution commends all veterans who served or gave their lives during the Battle of the Bulge, and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. EVANS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.J. Res. 65 and urge the Members of the House to approve this measure. I also salute the gentleman from New Jersey (Mr. SMITH), the vice chairman of the committee, for his leadership on this issue.

This measure, Mr. Speaker, commends those veterans who fought and died during World War II in the offensive known as the Battle of the Bulge. It also authorizes the President to issue a proclamation calling upon the people of the United States to honor the veterans of this battle with appropriate programs, ceremonies, and activities.

1999 marks the 55th anniversary of the Battle of the Bulge, a costly and important victory for the United States. It is fitting that we as a Nation honor the sacrifices and service of America's veterans who fought and sacrificed during this battle. H.J. Res. 65, as amended, is an excellent bill; and I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. SMITH), the vice chairman of the committee and the chief sponsor of this resolution.

Mr. SMITH of New Jersey. Mr. Speaker, I want to thank my good friend, the gentleman from Arizona (Mr. STUMP), the chairman of our full committee, for yielding me this time and for being a cosponsor and also extend my thanks to my good friend, the gentleman from Illinois (Mr. EVANS) as well for cosponsoring and for the bipartisanship that he brings to the committee.

I also want to thank a number of other Members. There are 42 cosponsors of this resolution, including the gentleman from New York (Mr. GILMAN), the gentleman from Illinois (Mr. HYDE), the gentleman from Michigan (Mr. DINGELL), and several other Members who are deeply committed to remembering all veterans, but in particular those who fought in the Battle of the Bulge.

Mr. Speaker, today the House will rightly honor the Americans and allied forces who fought in the Battle of the Bulge. As the son of a World War II combat infantryman who fought in the other major theatre in World War II, he fought in New Guinea, the Philippines, and several islands in the Pacific. I urge all Members to enthusiastically support House Joint Resolution 65, which was introduced to recognize the

55th anniversary of the largest battle in the history of U.S. modern warfare, the Battle of the Bulge.

H.J. Res. 65, as amended, was marked up in the Committee on Veterans' Affairs as well as the Committee on International Relations, and, hopefully, will get the unanimous support of this body.

Let me also thank the veterans of the Battle of the Bulge Association, an organization that was formed back in 1981. They now have about 10,000 members. And the idea behind it is to perpetuate the memory of the sacrifices involved during the battle, to preserve historical data and sites relating to the battle, and to foster international peace and good will, and to promote friendship among the battle survivors as well as their descendants.

I also want to thank Stan Wojtuski, the National Vice President of Military Affairs for the Veterans of the Battle of the Bulge for his work on this resolution, and Mrs. Edith Nowels, a constituent of mine living in Brielle, New Jersey. She has worked very closely in crafting this resolution, and I am very grateful for that.

I think it is very important to point out that Edith Nowels' brother, Bud Thorne, was killed in action during the battle, and was awarded the Medal of Honor along with 17 others who received that highest of medals for their valor and bravery. There were also 86 servicemen who were awarded the Distinguished Service Cross for their valor during this vital battle.

According to the citation presented to his family, Corporal Thorne singlehandedly destroyed a German tank. And in the words of the citation, "Displayed heroic initiative and intrepid fighting qualities, inflicted costly casualties on the enemy and insured the success of his patrol's mission by the sacrifice of his life."

I would like to take just a very brief moment, Mr. Speaker, to provide a brief overview of the battle so that my colleagues will gain a better understanding as to why this chapter in World War II deserves special recognition today. One of the most decisive battles in the war in Europe, the Battle of the Bulge began on December 16, 1944, when the German Army, in an effort to trap the allied forces in Belgium and Luxembourg, launched an attack against what were perceived as a weak line of American and allied troops. Their goal was to submit the allied forces in Belgium and Luxembourg and race to the coast towards Antwerp.

Adolf Hitler and his generals knew the German Air Force could not maintain regional air superiority, so they were banking on bad weather and relatively green and a fatigued American troops, who were greatly outnumbered. At the outset of the battle, the German troops, forming three armies, numbered approximately 200,000 versus 83,000 Americans. Their goal was to capture bridges over the Meuse River in the first 48 hours of the attack and then press on to Antwerp.

At the time of their initial attack, the Germans had more than 13 infantry and 7 panzer divisions, with nearly 1,000 tanks and almost 2,000 larger guns deployed along the front of about 60 miles. Five more divisions were soon to follow, with at least 450 more tanks. Although the Americans were caught by surprise, they tenaciously fought back in those early days of the attack in December, holding the line in the north while the Nazis pushed through in the middle of the bulge towards the Meuse River.

One incident which particularly hardened the Americans and allied forces as to the intent of the German Army was the Malmedy Massacre. Eighty-six American POWs were murdered by the Nazis as they moved towards the capture of the Meuse River. The same German unit which was responsible for this infamous massacre eventually killed at least 300 American POWs and over 100 unarmed Belgium civilians. News of these horrific events outraged and further galvanized the will of American forces to prevail.

Recognizing what they were up against, General Eisenhower transferred the command of all American troops north of the bulge to British General Montgomery. Those south of the bulge were under the command of General Bradley. Meanwhile, the Germans were being slowed down by the dogged defense of the town at St. Vith by Brigadier General Hasbrouck. St. Vith was strategically important due to the number of key roads which met in the town and were essential to the German drive towards Antwerp.

General Patton's Third Army, under the command of General Bradley, was proceeding north to cut through the southern flank of the German bulge in the lines and provide relief to Brigadier General Anthony McAuliffe, whose refusal to surrender to his German counterparts at Bastogne on December 22 is forever known in history with that famous phrase, when he just said back to the Germans, "Nuts." He would not surrender. He just said nuts to them, and they wondered what that meant.

□ 1100

He was not going to give in. As more American reinforcements arrived, eventually totaling 600,000 troops, they assisted in holding up the northern and southern flanks of the Nazi advances. Hitler's generals found that they were running out of fuel and that their hope of seizing allied fuel supplies was becoming a pipe dream and their race to the Meuse river slowed down to a crawl. While Adolph Hitler insisted on pressing with air strikes against advancing allied reinforcements, his generals knew that they had been beaten, and he eventually authorized the retreat of his armies at the end of January.

Mr. Speaker, the cost in lives from this engagement is astronomical and absolutely staggering. The American armies had more than 81,000 casualties; and of these, 19,000 men were killed in action. The British had 1,400 casualties with 200 killed. Both sides lost as many as 800 tanks each, and the Germans lost 1,000 planes. All told, it was one of the largest pitched battles in history with more than three times the number of troops from both the North and the South that engaged in the Battle of Gettysburg. Three times the size of Gettysburg. In the words of British Prime Minister Winston Churchill, and I quote, in addressing the House of Commons, he said, "This is undoubtedly the greatest battle of the war and will I believe be regarded as an ever-famous American victory."

Mr. Speaker, I hope all Members will support this resolution. The veterans of the Battle of the Bulge every year travel to Europe and reacquaint themselves with those with whom they fought side by side and those that they liberated. They will be meeting again soon in both Luxembourg and Belgium. I hope we will go on record supporting their efforts, their valor and this resolution puts all of us on record in that regard.

Mr. Speaker, I include a list of Medal of Honor recipients for the RECORD, as follows:

RECIPIENTS OF THE MEDAL OF HONOR—ARDENNES CAMPAIGN

Arthur O. Beyer
Melvin E. Biddle
Paul L. Bolden
Richard E. Cowan
Francis S. Currey
Peter J. Dalessondro
Archer T. Gammon
James R. Hendrix
Truman Kimbro
Jose M. Lopez
Vernon McGarity
Curtis F. Shoup
William A. Soderman
Horace M. Thorne
Day G. Turner
Henry G. Turner
Henry F. Warner
Paul J. Wiedorfer

Mr. Speaker, I include the following brochure regarding the Ardennes-Alsace Campaign for the RECORD:

ARDENNES-ALSACE

INTRODUCTION

World War II was the largest and most violent armed conflict in the history of mankind. However, the half century that now separates us from that conflict has exacted its toll on our collective knowledge. While World War II continues to absorb the interest of military scholars and historians, as well as its veterans, a generation of Americans has grown to maturity largely unaware of the political, social, and military implications of a war that, more than any other, united us as a people with a common purpose.

Highly relevant today, World War II has much to teach us, not only about the profession of arms, but also about military preparedness, global strategy, and combined operations in the coalition war against fascism. During the next several years, the U.S. Army will participate in the nation's 50th anniversary commemoration of World War II. The commemoration will include the publication of various materials to help educate

Americans about that war. The works produced will provide great opportunities to learn about and renew pride in an Army that fought so magnificently in what has been called "the mighty endeavor."

World War II was waged on land, on sea, and in the air over several diverse theaters of operation for approximately six years. The following essay is one of a series of campaign studies highlighting those struggles that, with their accompanying suggestions for further reading, are designed to introduce you to one of the Army's significant military feats from that war.

This brochure was prepared in the U.S. Army Center of Military History by Roger Cirillo. I hope this absorbing account of that period will enhance your appreciation of American achievements during World War II.

GORDON R. SULLIVAN,
General, United States Army Chief of Staff.

ARDENNES-ALSACE

16 December 1944–25 January 1945

In his political testament *Mein Kampf* ("My Struggle") Adolf Hitler wrote, "Strength lies not in defense but in attack." Throughout World War II, attempts to gain or regain the initiative had characterized Hitler's influence on military operations. Thus, when the military situation in late 1944 looked darkest on the Western Front, an enemy offensive to redress the balance of the battlefield—and thereby cripple or delay the Allied advance—should have come as no surprise.

Hitler's great gamble began during the nights of 13, 14, and 15 December, when the initial assault force of German armor, artillery, and infantry gradually staged forward to attack positions along the Belgian-German-Luxembourg border. This mustered force, with more than 200,000 men in thirteen infantry and seven panzer divisions and with nearly 1,000 tanks and almost 2,000 guns, deployed along a front of 60 miles—its operational armor holdings equaling that on the entire Eastern Front. Five more divisions moved forward in a second wave, while still others, equipped with at least 450 more tanks, followed in reserve.

On the Allied side the threatened American sector appeared quiet. The 15 December daily situation report for the VIII Corps, which lay in the path of two of Hitler's armies, noted: "There is nothing to report." This illusion would soon be shattered.

STRATEGIC SETTING

In August 1944, while his armies were being destroyed in Normandy, Hitler secretly put in motion actions to build a large reserve force, forbidding its use to bolster Germany's beleaguered defenses. To provide the needed manpower, he trimmed existing military forces and conscripted youths, the unfit, and old men previously untouched for military service. Panzer divisions were rebuilt with the cadre of survivors from units in Normandy or on the Eastern Front, while newly created Volksgrenadier ("people's infantry") divisions were staffed with veteran commanders and noncommissioned officers and the new conscripts. By increasing the number of automatic weapons and the number of supporting assault gun and rocket battalions in each division, Hitler hoped to make up for hurried training and the lack of fighting fitness. Despite the massive Allied air bombardment of Germany and the constant need to replace destroyed divisions on both the Eastern and Western Fronts, where heavy fighting continued, forces were gathered for use in what Hitler was now calling Operation Wacht am Rhine ("*Watch on the Rhine*").

In September Hitler named the post of Antwerp, Belgium, as the objective. Selecting the Eifel region as a staging area, Hitler intended to mass twenty-five divisions for an attack through the thinly held Ardennes Forest area of southern Belgium and Luxembourg. Once the Meuse River was reached and crossed, these forces would swing northwest some 60 miles to envelop the port of Antwerp. The maneuver was designed to sever the already stretched Allied supply lines in the north and to encircle and destroy a third of the Allies' ground forces. If successful, Hitler believed that the offensive could smash the Allied coalition, or at least greatly cripple its ground combat capabilities, leaving him free to focus on the Russians at his back door.

Timing was crucial. Allied air power ruled the skies during the day, making any open concentrations of German military strength on the ground extremely risky. Hitler, therefore, scheduled the offensive to take place when inclement weather would ground Allied planes, or at least limit their attacks on his advancing columns. Because the requisite forces and supplies had to be assembled, he postponed the starting date from November until mid-December. This additional preparation time, however, did not ease the minds of the few German generals and staff officers entrusted with planning Wacht am Rhine.

Both the nominal Commander-in-Chief West Field Marshal Gerd von Rundstedt and Army Group B commander Field Marshal Walter Model, who had primary responsibility for Wacht am Rhine, questioned the scope of the offensive. Both argued for a more limited attack, to pinch out the American-held salient north of the Ardennes around Aachen. Borrowing a bridge-players term, they referred to Hitler's larger objectives as the grand slam, or big solution, but proposed instead a small solution more compatible with the limited force being raised.

Rundstedt and Model believed that Hitler's legions were incapable of conducting a blitzkrieg, or lightning war, campaign. The twin swords that had dominated the field during the 1940 drive across France, tanks and air power, no longer existed in the numbers necessary to strike a decisive blow, nor was the hastily conscripted infantry, even when led by experienced officers and sergeants, up to the early war standards. Supply columns, too, would be prone to interdiction or breakdown on the Eifel's limited roads. To Hitler's generals, the grand slam was simply asking for too much to be done with too little at hand.

The determining factor was the terrain itself. The Ardennes consists of a series of parallel ridges and valleys generally running from northeast to southwest, as did its few good roads in 1944. About a third of the region is coniferous forest, with swamps and marshes in the northlands and deep defiles and gorges where numerous rivers and streams cut the ridges. Dirt secondary roads existed, making north-south movement possible, with the road centers—Bastogne and Houffalize in the south, and Malmedy and St. Vith in the north—crucial for military operations. After the winter's first freeze, tanks could move cross-country in much of the central sector. Fall 1944, however, brought the promise of mud, because of rain, and the advancing days of December, the promise of snow. Either could limit the quick advance needed by Wacht am Rhine. Once the Meuse River, west of the Ardennes, was gained, the wide river itself and cliffs on the east bank presented a significant obstacle if the bridges were not captured intact. Since the roads and terrain leading to Antwerp thereafter were good, the German planners focused on the initial breakthrough and the run west to the Meuse. The terrain, which made so little sense as an attack avenue northwestward, guaranteed the surprise needed.

Previous offensives through the Ardennes in World War I and early in World War II had followed the major roads southwestward, and had been made in good weather. The defenses then had always been light screens, easily pushed away. In 1940 the weakly opposed German armor needed three days to traverse the easier terrain in the southern Ardennes in good weather, on dry roads. For Wacht am Rhine, the American line had to be broken and crushed immediately to open paths for the attacking panzers; otherwise, the offensive might bog down into a series of fights for roads and the numerous villages on the way to the Meuse. Precious fuel would be used to deploy tanks to fight across fields. More importantly, time would be lost giving the defenders the opportunity to position blocking forces or to attack enemy flanks. Only surprise, sheer weight of numbers, and minimal hard fighting could guarantee a chance at success. If the Americans fought long and well, the same terrain that guaranteed surprise would become a trap.

The Ardennes held little fascination for the Allies, either as a staging area for their own counterattacks or as a weak spot in their lines. General Dwight D. Eisenhower, the Supreme Allied Commander, had concentrated forces north and south of the area where the terrain was better suited for operations into Germany. Field Marshal Sir Bernard L. Montgomery's 21 Army Group to the north began preparations for the planned crossing of the Rhine in early 1945. Lt. Gen. Omar N. Bradley's 12th Army Group to the south and Lt. Gen. Jacob L. Devers' 6th Army Group in the Alsace region would also launch attacks and additional Rhine crossings from their sectors.

Located in the center of Bradley's sector, the Ardennes had been quiet since mid-September. Referred to as a "ghost front," one company commander described the sector as a "nursery and old folk's home. . . ." The 12th Army Group's dispositions reflected Bradley's operational plans. Lt. Gen. William H. Simpson's Ninth Army and most of Lt. Gen. Courtney H. Hodges' First Army occupied a 40-mile area north of the Ardennes, concentrating for an attack into the Ruhr industrial region of Germany. Lt. Gen. George S. Patton, Jr.'s Third Army was in a 100-mile sector south of the forest, preparing a thrust into the vital Saar mining region. In between, the First Army hold 88 miles of the front with only four divisions, two "green" units occupying ground to gain experience and two veteran units licking wounds and absorbing replacements; an armored infantry battalion; and two mechanized cavalry squadrons. Behind this thin screen was one green armored division, whose two uncommitted combat commands straddled two separate corps, as well as a cavalry squadron and an assortment of artillery, engineer, and service units.

Bradley judged his decision to keep the Ardennes front thinly occupied to be "a calculated risk." Nor was he alone in not seeing danger. Probability, not capability, dominated Allied thinking about the Wehrmacht's next moves on the Western Front in mid-December 1944. Commanders and intelligence officers (G–2) at every level—from the Supreme Headquarters, Allied Expeditionary Force (SHAEF), to the divisions holding the line—judged that the

Germans were too weak to attempt regaining the initiative by a large-scale offensive. Despite their awareness that enemy units were refitting and concentrating across the line, they concluded exactly what Hitler had intended them to conclude. Knowing that the Germans were concerned with major threats to both the Ruhr and the Saar, Eisenhower's G–2 believed that they probably would use the uncommitted Sixth Panzer Army, suspected to be in the northern Eifel, to bolster their weakening northern defenses, or at least to cripple the impending Allied push toward the Ruhr. Both Hodges' and Patton's G–2s viewed the enemy as a reflection of their own operational plans and thus assessed the German buildup as no more than preparations to counterattack the First and Third Armies' assaults.

With only enough troops in the Ardennes to hold a series of strongpoints loosely connected by intermittent patrols, the Americans extended no ground reconnaissance into the German sector. Poor weather had masked areas from aerial photography, and the Germans enforced radio silence and strict countersecurity measures. Equally important, the Allies' top secret communications interception and decryption effort, code-named Ultra, offered clues but no definitive statement of Hitler's intentions. Yet Wacht am Rhine's best security was the continued Allied belief that the Germans would not attack, a belief held up to zero hour on 16 December—designated by the Germans as Null-tag ("Zero-Day").

BATTLE PLANS

Field Marshal Model's attack plan, called Herbstnebel ("Autumn Fog"), assigned Lt. Gen. Josef "Sepp" Dietrich's Sixth Panzer Army the main effort. Dietrich would attack Hodges' First Army along the boundary separating Maj. Gen. Leonard T. Gerow's V Corps in the north from Maj. Gen. Troy H. Middleton's VIII Corps to the south, brushing aside or overrunning the V Corps' 99th Infantry Division and a cavalry squadron of the VIII Corps' 14th Cavalry Group before driving for the Meuse and Antwerp. South of the Sixth Panzer Army, Lt. Gen. Hasso von Manteuffel's Fifth Panzer Army would hit the VIII Corps' 106th Infantry Division and part of its 28th Infantry Division, tearing open Middleton's thin front and adding a secondary effort. Farther south, Lt. Gen. Erich Brandenberger's Seventh Army would attack the remainder of the 28th as well as the VIII Corps' 4th Infantry Division and then cover the advance of the panzers as far as the Meuse River. An airborne drop and infiltration by small teams disguised in American uniforms were added to create havoc in the American rear.

North of the Sixth Panzer Army, the six divisions of Lt. Gen. Gustav von Zangen's Fifteenth Army had a dual role. In addition to fighting and thereby holding American divisions in the crucial Aachen sector, Zangen would attack southward on order after Dietrich's panzers had broken the American line, a variation of the pincers attack originally preferred by Hitler's generals.

The Sixth Panzer Army was to attack in two waves. The first would consist of the LXVII Corps, with the newly organized 272d and 326th Volksgrenadier Divisions, and the I SS Panzer Corps, with the 1st and 12th SS Panzer, the 12th and 277th Volksgrenadier, and the 3d Parachute Divisions. The 150th Special Brigade and a parachute contingent would seize terrain and bridges ahead of the main body after the two corps broke through the American defenses. Dietrich planned to commit his third corps, the II SS Panzer Corps, with the 2d and 9th SS Panzer Divisions, in the second wave. The Sixth Panzer Army's 1,000-plus artillery pieces and 90 Tiger tanks made it the strongest force deployed. Although Dietrich's initial sector frontage was only 23 miles, his assault concentrated on less than half that ground. Relying on at least a 6:1 troop superiority at the breakthrough points, he expected to overwhelm the Americans and reach the Meuse River by nightfall of the third day.

According to Dietrich's plan, the LXVII Corps would secure the Sixth Panzer Army's northern flank. By sidestepping Monschau to seize the poorly roaded, forested hills and upland moors of the Hohe Venn, the LXVII's two divisions would block the main roads leading into the breakthrough area from the north and east. Simultaneously, the I SS Panzer Corps to the south would use its three infantry divisions to punch holes in the American line and swing northwesterly to join the left flank of the LXVII Corps. Together, the five divisions would form a solid shoulder, behind which the panzers of the I and II SS Panzer Corps would advance along the Sixth Panzer Army's routes leading west and northwest.

Three terrain features were critical to Dietrich's panzer thrust: the Elsenborn ridge, the Losheim Gap, and the Schnee Eifel ridge. The Elsenborn ridge, a complex series of fingers and spurs of the southern Hohe Venn, controlled access to two of the westerly panzer routes; a third passed just to the south. The 277th Volksgrenadier Division would attack into the east defenses of the ridge, and to the south the 12th SS Panzer Division would debouch from its forest trail approaches into the hard roads running through and south of the ridge.

Further to the south the Losheim Gap appears as open rolling ground between the Elsenborn ridge to the northwest and the long, heavily wooded Schnee Eifel ridge to the southeast. Measuring about 5 miles wide at the German border and narrowing throughout its roughly 14-mile length as it runs from northeast to southwest, the gap is an unlikely military avenue, subdivided by lesser ridges, twists, and hills. Its roads, however, were well built and crucial for the German advance. Over its two major routes Dietrich intended to pass most of his armor.

The Sixth Panzer Army shared the Losheim Gap as an avenue with its southern neighbor, the Fifth Panzer Army. Their boundary reflected Hitler's obsession with a concentrated attack to ensure a breakthrough, but the common corridor added a potential for confusion. The Sixth Panzer Army was to attack with the 12th Volksgrenadier and the 3d Parachute Divisions through the northern portion of the gap, while the Fifth Panzer Army's northern corps, the LXVI, would open its southern portions. Additionally, the LXVI Corps had to eliminate the American forces holding the Schnee Eifel on the southern flank of the gap and seize the crucial road interchange at St. Vith about 10 miles further west. Manteuffel wanted part of the 18th Volksgrenadier Division to push through the southern part of the gap and hook into the rear of the Schnee Eifel, the remainder of the division to complete the encirclement to the south of the ridge, and the 62d Volksgrenadier Division to anchor the LXVI's flank with a drive toward St. Vith.

To the south of the Losheim Gap—Schnee Eifel area, along the north-south flowing Our River, the Fifth Panzer Army's major thrusts devolved to its LVIII and XLVII Panzer Corps, aligned north to south with four of their five divisions in the assault wave. Each panzer corps had one designated route, but the Fifth Panzer Army commander did not plan to wait for infantry to clear them. Manteuffel intended to commit his armor early rather than in tandem with the infantry, expecting to break through the extended American line quickly and expedite his advance to the west. The LVIII's 116th Panzer and 560th Volksgrenadier Divisions were to penetrate the area astride the Our River, tying the 106th and 28th Divisions together, and to capture the three tank-capable bridges in the sector before driving west to the Meuse. To the south the XLVII's 2d Panzer and 26th Volksgrenadier Divisions were to seize crossings on the Our and head toward the key Bastogne road interchange 19 miles to the west. The Panzer Lehr Division would follow, adding depth to the corps attack.

Covering the Fifth Panzer Army's southern flank were the LXXXV and LXXX Corps of Brandenberger's Seventh Army. The LXXXV's 5th Parachute and 352d Volksgrenadier Divisions were to seize crossings on the Our River, and the LXXX's 276th and 212th Volksgrenadier Divisions, feinting toward the city of Luxembourg, were to draw American strength away from Manteuffel's main attack. The 276th would attack south of the confluence of the Our and Sauer Rivers, enveloping the 3-mile defensive sector held by an American armored infantry battalion, and to the south the 212th, after crossing at Echternach, would push back the large concentration of American artillery in the sector and anchor Army Group B's southern flank. The Germans had a fairly good idea of the American forces opposing them. Facing Dietrich's Sixth Panzer Army was the V Corps' 99th Infantry Division. Newly arrived, the 99th occupied a series of forward positions along 19 miles of the wooded Belgian-German border, its 395th, 393d, and 394th Infantry regiments on line from north to south, with one battalion behind the division's deep right flank available as a reserve. Gerow, the V Corps commander, was focused at the time on a planned attack by his 2d Infantry Division toward the Roer River dams to the north and had given less attention to the defensive dispositions of the 99th. This small operation had already begun on 13 December, with the 2d Division passing through the area held by the 99th Division's northernmost regiment. Two battalions of the 395th Infantry joined the action. Slowed by pillboxes and heavy defenses in the woods, the 2d's attacks were still ongoing when the enemy offensive begin on the sixteenth.

To the south of the 99th Division the First Army had split responsibilities for the Elsenborn ridge—Losheim Gap area between Gerow's V Corps and Middleton's VIII Corps, with the corps boundary running just north of the village of Losheim. Middleton's major worry was the Losheim Gap, which potentially exposed the Schnee Eifel, the latter held by five battalions of the newly arrived 106th Division. When Bradley refused his request to withdraw to a shorter, unexposed line, the VIII Corps commander positioned eight battalions of his corps artillery to support the forces holding the Losheim Gap—Schnee Eifel region.

South of the corps boundary the 18th Cavalry Squadron, belonging to the recently attached 14th Cavalry Group, outposted the 9,000-yard Losheim Gap. Reinforced by a company of 3-inch towed tank destroyers, the 18th occupied eight positions that gave good coverage in fair weather but could be easily bypassed in the fog or dark. To remedy this, Middleton had assigned an additional cavalry squadron to reinforce the gap's thin line under the 14th group. The cavalry force itself was attached to the 106th Division, but with the 106th slowly settling into its positions, a coordinated defense between the two had yet to be decided. As a result, the reinforcing squadron was quartered 20 miles to the rear, waiting to be ordered forward.

South of the Schnee Eifel Middleton's forces followed the Our River with the 106th Division's 424th infantry and, to the south, the 28th Division. After suffering more than 6,000 casualties in the Huertgen Forest battles in November, the 28th was resting and training replacements in a 30-mile area along the Our. Its three regiments—the 112th, 110th, and 109th Infantry—were on line from north to south. Two battalions of the 100th Infantry held 10 miles of the front and the division's center while their sister battalion was kept as part of the division reserve. The 110th had six company-sized strongpoints manned by infantry and engineers along the ridge between the Our and Clerf Rivers to the west, which the troops called "Skyline Drive." Through the center of this sector ran the crucial road to Bastogne.

South of the 28th Division the sector was held by part of Combat Command A of the newly arrived 9th Armored Division and by the 4th Infantry Division, another veteran unit resting from previous battles. These forces, with the 4th's northern regiment, the 12th Infantry, positioned as the southernmost unit in the path of the German offensive, held the line of the Sauer River covering the approaches to the city of Luxembourg. Behind this thinly stretched defensive line of new units and battered veterans, Middleton had few reserves and even fewer options available for dealing with enemy threats.

OPENING ATTACKS, 16–18 DECEMBER

At 0530 on 16 December the Sixth Panzer Army's artillery commenced preparation fires. These fires, which ended at 0700, were duplicated in every sector of the three attacking German armies. At first the American defenders believed the fires were only a demonstration. Simultaneously, German infantry moved unseen through the dark and morning fog, guided by searchlight beams overhead. Yet, despite local surprise, Dietrich's attack did not achieve the quick breakthrough planned. The LXVII Corps' attack north and south of Monschau failed immediately. One division arrived too late to attack; the other had its assault broken by determined resistance. The 277th Volksgrenadier Division's infiltrating attacks followed the preparation fires closely. The Germans overran some of the 99th Division's forest outposts, but they were repulsed attempting to cross open fields near their objectives, the twin villages of Krinkelt-Rocherath. By nightfall the Americans still contested the woods to the north and east of the villages. The 99th's southern flank, however, was in great peril. The 12th Volksgrenadier Division had successfully cleared the 1st SS Panzer Division's main assault avenue, taking the village of Losheim in the early morning and moving on to separate the VIII Corp's cavalry from its connection with the 99th.

South of the American corps boundary the Germans were more successful. Poor communications had further strained the loosely coordinated defense of the 106th Division and the 14th Cavalry Group in the Losheim Gap. The German predawn preparation fires had targeted road junctions, destroying most of the pole-mounted communications wire interchanges. With their major wire command nets silenced, the American defenders had to rely on radio relay via artillery nets, which the mountainous terrain made unreliable.

The attack in the Losheim Gap, in fact, was the offensive's greatest overmatch. The 3d Parachute Division ran up against only one cavalry troop and a tank destroyer company holding over half the sector, and its southern neighbors, the two reinforced regiments of the 18th Volksgrenadier Division, hit four platoons of cavalry. Although some American positions had been bypassed in the dark, the attacking Germans had generally cleared the area by late morning. Poor communications and general confusion limited defensive fire support to one armored field artillery battalion. More importantly, the cavalry's porous front opened the American rear to German infantry; by dawn some of the defenders' artillery and support units behind the Schnee Eifel encountered the enemy. Subsequently, many guns were lost, while others hastily clogged the roads to find safer ground.

The uncoordinated defense of the 106th Division and 14th Cavalry Group now led to tragedy. The cavalry commander quickly realized that his outposts could neither hold nor survive. After launching one abortive counterattack northward against 3d Parachute Division elements with his reserve squadron, he secured permission to withdraw before his road-bound force was trapped against the wooded heights to his rear. This opened the V and VII Corps boundary and separated the cavalry, Middleton's key information source on his northern flank, from the Schnee Eifel battle. Throughout the day of 16 December the 3d pushed north, ultimately overrunning the cavalry's remaining outposts and capturing a small force of the 99th Division. But all of these scattered forces fought valiantly so that by dark the Sixth Panzer Army's route was still clogged by units mopping up bypassed Americans and their own supply and support rains. To the south the 18th Volksgrenadier Division's attack in the Losheim Gap had slid by the cavalry, but failed to clear the open ridge behind the Schnee Eifel. South of the Schnee Eifel the rest of the 18th was unable to push through the defenders to catch the 106th's units on top of the Schnee Eifel in a pincer. Further south the 106th's 42th Infantry had blocked the path of the 62d Volksgrenadier Division across the Our River. By dark the 106th had thus lost little ground. It had committed its reserve to block the enemy threat to its south and was expecting Combat Command B, 9th Armored Division, shifting from V Corps reserve, to conduct a relieving attach via St. Vith toward the Schnee Eifel. But while the defenders moved to restore their positions, the 18th, by searchlight and flare, continued to press south from the gap.

South of the 106th Division, the 28th Division fended off the Fifth Panzer Army's thrusts. In the north the 112th Infantry held back the LVIII Panzer Corps' two divisions, while the 110th Infantry blocked the paths of the XLVII Panzer Corp's three in the center. The 110th's strong points, which received some tank reinforcement from the division reserve, held firm throughout the sixteenth, blocking the route westward. By dark, although German infantry had crossed the Our and started infiltrating, American roadblocks still prevented any armor movement toward Bastogne.

South of the fifth Panzer Army, Brandenberger's Seventh Army also failed to break through the American line. The 28th Division's 109th Infantry managed to hold on to its 9-mile front. Although the LXXXV Corps' two divisions had seized crossings on the Our and achieved some penetrations between the regiment's company strong-points, they failed to advance further. Similarly, the Germans' southernmost attack was held by the 4th Division's 12th Infantry. The LXXX Corps' divisions met with heavy resistance, and by nightfall the Americans still held their positions all along the Seventh Army front, despite some infiltration between company strongpoints.

Hitler responded to the first day's reports with unbridled optimism. Rundstedt, however, was less sanguine. The needed breakthrough had not been achieved, no major armored units had been committed, and the key panzer routes were still blocked. In fact, the first day of battle set the tone for the entire American defense. In every engagement the Americans had been outnumbered, in some sectors facing down tanks and assault guns with only infantry weapons. Darkness, fog, and intermittent drizzle snow had favored the infiltrating attackers; but, despite inroads made around the defenses, the Germans had been forced to attack American positions frontally to gain access to the vital roads. Time had been lost and more would be spent to achieve a complete breakthrough. In that sense, the grand slam was already in danger.

American senior commanders were puzzled by the situation. The Germans apparently had attacked along a 60-mile front with strong forces, including many new units not identified in the enemy order or battle. Yet no substantial ground had been lost. With many communications links destroyed by the bombardment and the relative isolation of most defensive positions, the generals were presented with a panorama of numerous small-unit battles without a clear larger picture.

Nevertheless, command action was forthcoming. By nightfall of the sixteenth, although response at both the First Army and 12th Army Group headquarters was guarded, Eisenhower had personally ordered the 7th Armored Division from the Ninth Army and the 10th Armored Division from the third Army to reinforce Middleton's hard-pressed VIII Corps. In addition, shortly after midnight, Hodges' First Army began moving forces south from the Aachen sector, while the Third Army headquarters, on Patton's initiative, began detailed planning to deal with the German offensive.

Within the battle area the two corps commanders struggled to respond effectively to the offensive, having only incomplete and fragmentary reports from the field. Gerow, the V Corps commander in the north, requested that the 2d Division's Roer River dams attack be canceled; however, Hodges, who viewed the German action against the 99th Division as a spoiling operation, initially refused. Middleton, the VIII Corps commander in the south, changed his plans for the 9th Armored division's Combat Command B, ordering it to reinforce the southern flank of the 106th Division. The newly promised 7th Armored Division would assume the CCB's original mission of relieving troops on the Schnee Eifel via St. Vith. Thereafter, mixed signals between the VIII Corps and the 106th Division led to disaster. Whether by poor communications or misunderstanding, Middleton believed that the 106th was pulling its men off the Schnee Eifel and withdrawing to a less exposed position; the 106th's commander believed that Middleton wanted him to hold until relieved and thus left the two defending regiments in place.

By the early morning hours of 17 December Middleton, whose troops faced multiple enemy threats, had selected the dispositions that would foreshadow the entire American response. Already ordered by Hodges to defend in place, the VIII Corps commander determined that his defense would focus on denying the Germans use of the Ardennes roadnet. Using the forces at hand, he intended to block access to four key road junctions: St. Vith, Houffalize, Bastogne, and the city of Luxembourg. If he could stop or slow the German advance west, he knew that the 12th Army Group would follow with massive flanking attacks from the north and south.

That same morning Hodges finally agreed to cancel the V Corps' Roer dams attack. Gerow, in turn, moved the 2d Division south to strengthen the 99th Division's southern flank, with reinforcements from the 1st Infantry Division soon to follow. The First Army commander now realized that Gerow's V Corps units held the critical northern shoulder of the enemy penetration and began to reinforce them, trusting that Middleton's armor reinforcements would restore the center of the VIII Corps line.

While these shifts took place, the battle raged. During the night of 16–17 December the Sixth Panzer Army continued to move armor forward in the hopes of gaining the breakthrough that the infantry had failed to achieve. The Germans again mounted attacks near Monschau and again were repulsed. Meanwhile, south of Monschau, the 12th SS Panzer Division, committed from muddy logging trails, overwhelmed 99th Division soldiers still holding out against the 277th and 12th Volksgrenadier Divisions.

Outnumbered and facing superior weapons, many U.S. soldiers fought to the bitter end, the survivors surrendering only when their munitions had run out and escape was impossible. Individual heroism was common. During the Krinkelt battle, for example, T. Sgt. Vernon McGarity of the 393d Infantry, 99th Division, after being treated for wounds, returned to lead his squad, rescuing wounded under fire and single-handedly destroying an advancing enemy machine-gun section. After two days of fighting, his men were captured after firing their last bullets. McGarity received the Medal of Honor for his actions. His was the first of thirty-two such awards during the Ardennes-Alsace Campaign.

Ordered to withdraw under the 2d Division's control, the 99th Division, whose ranks had been thinned by nearly 3,000 casualties, pulled back to the northern portion of a horseshoe-shaped line that blocked two of the I SS Panzer Corps' routes. Although the line was anchored on the Elsenborn ridge, fighting raged westward as the Germans pushed to outflank the extended American defense.

During the night of the seventeenth the Germans unveiled additional surprises. They attempted to parachute a 1,000-man force onto the Hohe Venn's high point at Baraque Michel. Although less than half actually landed in the area, the scattered drop occupied the attention of critical U.S. armored and infantry reserves in the north for several days. A companion special operation, led by the legendary Lt. Col. Otto Skorzeny, used small teams of English-speaking soldiers disguised in American uniforms. Neither the drop nor the operation gained any appreciable military advantage for the German panzers. The Americans, with their resistance increasing along the Elsenborn ridge and elsewhere, were undaunted by such threats to their rear.

Further south, however, along the V and VIII Corps boundary, the Sixth Panzer Army achieved its breakthrough. In the Losheim Gap the advanced detachment of the 1st SS Panzer Division, Kampfgruppe Peiper, moved forward through the attacking German infantry during the early hours of the seventeenth. Commanded by Col. Joachim Peiper, the unit would spearhead the main armored assault heading for the Meuse River crossings south of Liege at Huy. With over 100 tanks and approximately 5,000 men, Kampfgruppe Peiper had instructions to ignore its own flanks, to overrun or bypass opposition, and to move day and night. Traversing the woods south of the main panzer route, it entered the town of Buellingen, about 3 miles behind the American line. After fueling their tanks on captured stocks, Peiper's men murdered at least 50 American POWs. Then shortly after noon, they ran head on into a 7th Armored Division field artillery observation battery southeast of Malmedy, murdering more than 80 men. Peiper's men eventually killed at least 300 American prisoners and over 100 unarmed Belgian civilians in a dozen separate locations. Word of the Malmedy Massacre spread, and within hours units across the front realized that the Germans were prosecuting the offensive with a special grimness. American resistance stiffened.

Following a twisted course along the Ambleve River valley, Kampfgruppe Peiper had completed barely half of its drive to the Meuse before encountering a unit from 9th Armored Division and then being stopped by an engineer squad at the Stavelot bridge. Unknown to Peiper, his column had passed within 15 miles of the First Army headquarters and was close to its huge reserve fuel dumps. But the Peiper advance was only part of the large jolt to the American command that day. To the south the 1st SS Panzer Division had also broken loose, moving just north of St. Vith.

As Kampfgruppe Peiper lunged deep into the First Army's rear, further south the VIII Corps front was rapidly being fragmented. The 18th Volksgrenadier Division completed its southern swing, encircling the two regiments of the 106th Division on the Schnee Eifel. While a single troop of the 14th Cavalry Group continued to resist the German spearheads, the 106th's engineers dug in to block the crucial Schoenberg road 2 miles east of St. Vith, a last ditch defense, hoping to hold out until the 7th Armored Division arrived.

St. Vith's road junctions merited the priority Middleton had assigned them. Although the I SS Panzer Corps had planned to pass north of the town and the LVIII Panzer Corps to its south, the crossroad town became more important after the German failure to make a breakthrough in the north on 16–17 December. There, the successful defense of the Elsenborn ridge had blocked three of the Sixth Panzer Army's routes, pushing Dietrich's reserve and supply routes southward and jamming Manteuffel's Losheim route. South of the Losheim Gap the American occupation of St. Vith and the Schnee Eifel represented a double obstacle, which neither Dietrich nor Manteuffel could afford. With thousands of American soldiers still holding desperately along the Schnee Eifel and its western slope village, the Germans found vital roads still threatened. Further west, the possibility of American counterattacks from the St. Vith roadnet threatened Dietrich's narrow panzer flow westward as well as Manteuffel's own western advance. And from St. Vith, the Americans could not only choke the projected German supply arteries but also reinforce the now isolated Schnee Eifel regiments.

For the 106th Division's men holding the Schnee Eifel, time was running out. The 7th Armored Division's transfer south from the Ninth Army had been slowed both by coordination problems and roads clogged by withdrawing elements. Led by Combat Command B, the 7th's first elements arrived at St. Vith in midafternoon of 17 December, with the division taking command of the local defense immediately. That night both sides jockeyed in the dark. While the 18th Volksgrenadier Division tried to make up lost time to mount an attack on the town from the northeast and east, the 7th, whose units had closed around St. Vith in fading daylight, established a northerly facing defensive arc in preparation for its attack toward the Schnee Eifel the next day.

South of St. Vith the 106th Division's southernmost regiment, the 424th Infantry, and Combat Command B, 9th Armored Division, had joined up behind the Our River. From the high-ground positions there they were able to continue blocking the 62d Volksgrenadier Division, thereby securing the southern approaches to St. Vith. But unknown to them, the 28th Division's 112th Infantry was also folding rearward and eventually joined the 424th and the 7th Armored Division, completing a defensive perimeter around the town. During the night of 17 December, with these forces combining, Middleton and the commanders in St. Vith believed that the VIII Corps' northern flank would be restored and the 106th trapped regiments relieve.

On 18 December Middleton's hopes of launching a counterattack toward the Schnee Eifel faded as elements of three German divisions converged around St. Vith. Although situation maps continued to mark the last-known positions of the 106gh Division's 422d and 423d Infantry on the Schnee Eifel, the massive weight of German numbers ended any rescue attempts. Communicating through a tenuous artillery radio net, both regiments believed that help was on the way and that their orders were to break out to the high ground behind the Our River, a distance of between 3 and 4 miles over difficult enemy-held terrain.

The following day, 19 December, brought tragedy for the 106th Division. The two stranded regiments, now behind the Schnee Eifel, were pounded by artillery throughout the day as the Germans drew their circle tighter. With casualties mounting and ammunition dwindling, the 423d's commander chose to surrender his regiment to prevent its annihilation. The 422d had some of its troop overrun; others, who were both segmented and surrounded; surrendered. By 1600 most of the two regiments and their attached support has thus been captured. Nevertheless, one battalion-sized group evaded captivity until the twenty-first, and about 150 soldiers from the 422d ultimately escaped to safety. The confused nature of the final battles made specific casualty accounting impossible, but over 7,000 men were captured.

The tragedy of the Schnee Eifel was soon eclipsed by the triumph of St. Vith. Every senior German commander saw the "road octopus"—the omnidirectional junction of six roads in the town's eastern end—as vital for a massive breakthrough, freeing up the Sixth Panzer Army's advance. For the Americans, holding St. Vith would keep the V and VIII Corps within a reasonable distance of each other; without the town the enemy's spearheads would widen into a huge salient, folding back toward Bastogne further south. With intermittent communications, the St. Vith defenders thus operated with only one order from Middleton: "Hold at all costs."

Despite a "goose-egg" position extending 12 miles from east to west on tactical maps, the St. Vith defense literally had no depth. Designed to fight on the move in more favorable terrain, the four combat commands of the 7th and 9th Armored Divisions found themselves moored to muddy, steep sloped hills, heavily wooded and laced with mud trails. The first action defined the defense's pattern. Unengaged commands sent tanks and halftracks racing laterally across the perimeter to deal with penetrations and infiltrators, with the engaged tanks and infantry holding their overextended lines as best they could. After two days of sporadic attacks, the German commanders attempted to concentrate forces to crush the defense. But with clogged roads German preparations for a coordinated assault encountered continuous delays.

Although the VIII Corps' northern flank had been at least temporarily anchored at St. Vith, its center was in great danger. There, the 28th Division's 110th Infantry was being torn to bits. After failing repeatedly to seize crossing on the Our, Manteuffel had passed some of the 116th Panzer Division's armor through the 2d Panzer Division to move up the Skyline Drive ridgeline and enter its panzer route. Thus by 17 December the 110th had elements of five divisions bulldozing through its strongpoints along the ridge, forcing back the 28th's northern and southern regiments that were attempting to maintain a cohesive defense. The 2d entered Clervaux, in the 110th's center, by a side road and rolled on westward toward Bastogne; holdouts in Clervaux continued to fight from within an ancient castle in the town's eastern end. To the south some survivors of the ridge battle had fallen back to join engineers defending Wiltz, about 4 miles to the rear, and the southern approach to Bastogne. Even though the 110th has suffered over 80 percent casualties, its stand had delayed the XLVII Panzer Corps for a crucial forty-eight hours.

The southern shoulder provided VIII Corps' only clear success. The 4th Division has absorbed the folded back defenses of the 109th Infantry and the 9th Armored Division's Combat Command A, thus effectively jamming the Seventh Army's attack. With the arrival of the 10th Armored Division, a provisional corps was temporarily formed to block any advance toward the city of Luxembourg.

The events of 17 December finally demonstrated the gravity of the German offensive to the Allied command. Eisenhower committed the theater reserve, the XVIII Airborne Corps, and ordered three American divisions training in England to move immediately to north-eastern France. Hodges' First Army moved the 30th Infantry and 3d Armored Divisions south to extend the northern shoulder of the penetration to the west. Although Bradley remained the least concerned, he and Patton explored moving a three-division corps from the Third Army to attack the German southern flank.

Allied intelligence now began to discern German strength objectives with some clarity. The enemy's success apparently was tied to gaining the Meuse quickly and then turning north; however, most of the attacking divisions were trapped in clogged columns, attempting to push through the narrow Losheim Gap and enter the two panzer routes then open. The area, still controlled by the VIII Corps, seemed to provide the key to stabilizing the defensive effort. Somehow the VIII Corps, whose center had now been destroyed, would have to slow down the German drive west, giving the Americans time to strengthen the shoulders north and south of the salient and to prepare one or more major counterattacks.

Middleton committed his only reserves, Combat Command R of the 9th Armored Division and seven battalions of corps and army engineers, positioning the units at critical road junctions. Teams formed from tank, armored infantry, and engineer units soon met the 2d Panzer Division's lead elements. Outgunned in a frontal fight and disadvantaged by the wide-tracked German tanks' cross-country capability in the drizzle-soaked fields, Middleton's armored forces were soon overwhelmed, even though the fighting continued well into the night. By dawn on the eighteenth no recognizable line existed as the XLVII Panzer Corps' three divisions bore down on Bastogne.

Late on 17 December Hodges had requested the commitment of SHAEF reserves, the 82d and 101st Airborne Divisions. Promised to Middleton by the morning of the nineteenth, the VIII Corps commander intended to use them at Houffalize, 17 miles south of St. Vith, and at Bastogne, 10 miles further south, as a solid block against the German advance to the Meuse. But until the airborne divisions arrived, the VIII Corps had to hold its sector with the remnants of its own forces, mainly engineers, and with an armored combat command from the 10th Armored Division, which was beginning to enter the battle for the corps' center.

Middleton's engineer "barrier line" in front of Bastogne slowed the German advance and bought critical time, but the arrival of Combat Command B, 10th Armored Division, at Bastogne was crucial. As it moved forward, Middleton dispatched three armored teams to the north and east during the night of the eighteenth to cover the road junctions leading to Bastogne. A key fight took place at Longvilly, just a few miles east of Bastogne, where the remnants of the 9th Armored Division's Combat Command R and the 10th's Team Cherry tried to block the Germans. Three enemy divisions converged there, trapping the CCR force west of the town and annihilating it and then surrounding Team Cherry. But even as this occurred, the lead elements of the 101st Airborne Division passed through Bastogne to defensive positions along the villages and low hills just to the east of the town. Joining with the CCB's three armor teams and the two battalions of engineers from the barrier line, the 101st formed a crescent-shaped defense, blocking the five roads entering Bastogne from the north, east, and south.

The enemy responded quickly. The German commanders wanted to avoid being enmeshed in any costly sieges. So when Manteuffel saw a hole opening between the American defenses at St. Vith and Bastogne, he ordered his panzer divisions to bypass both towns and move immediately toward their planned Meuse crossing sites some 30 miles to the northwest, leaving the infantry to reduce Bastogne's defenses. Although Middleton had planned to use the 82d Airborne Division to fill the gap between Bastogne and St. Vith, Hodges had been forced to divert it northwest of St. Vith to block the Sixth Panzer Army's advance. Thus only the few engineers and support troops defending the road junctions and crossings along the narrow Ourthe River west of Bastogne lay in the path of Manteuffel's panzers.

COMMAND DECISIONS, 19–20 DECEMBER

Wacht am Rhine's timetable had placed Dietrich's and Manteuffel's panzers at the Meuse four days after the attack began. The stubborn American defense made this impossible. The Sixth Panzer Army, the designated main effort, had been checked; its attacks to open the Hohe Venn's roads by direct assault and airborne envelopment had failed, and Kampfgruppe Peiper's narrow armored spearhead had been isolated. To the south the Fifth Panzer Army's northern corps had been blocked at St. Vith; its center corps had advanced nearly 25 miles into the American center but was still meeting resistance; and its southern corps had been unable to break the Bastogne roadblock. The southern flank was in no better straits. Neither the Seventh Army's feint toward the city of Luxembourg nor its efforts to cover Manteuffel's flank had gained much ground. Hitler's key requirement that an overwhelming force achieve a quick breakthrough had not occurred. Six divisions had held twenty, and now the American forces, either on or en route to the battlefield, had doubled. Nevertheless, the Sixth Panzer Army's II SS Panzer Corps had yet to be committed, and additional divisions and armor existed in the German High Command reserve. The unspoken belief among Hitler's generals now was that with luck and continued poor weather, the more limited objectives of their small solution might still be possible.

Eisenhower's actions had also undermined Hitler's assumption that the Allied response would come too late. When "Ike" committed two armored divisions to Middleton on the first day of fighting and the theater reserve on the next, a lightning German advance to the Meuse became nearly impossible. Meeting with his commanders at Verdun on 19 December, Eisenhower, who had received the latest Ultra intelligence on enemy objectives, outlined his overall operational response. Hodges' First Army would break the German advance; along the southern flank of the German penetration Patton's Third Army would attack north, assuming control of Middleton's VIII Corps from the First Army; and Middleton's Bastogne positions would now be the anvil for Third Army's hammer.

Patton, content that his staff had finalized operational planning, promised a full corps attack in seventy-two hours, to begin after a nearly 100-mile move. Devers' 6th Army Group would take up the slack, relieving two of Patton's corps of their frontage. In the north Montgomery had already begun moving the British 30 Corps to backstop the First Army and assume defensive positions behind the Meuse astride the crossings from Liege to Namur.

Eisenhower began his Verdun conference saying, "The present situation is to be regarded as one of opportunity for us and not disaster." That opportunity, as his generals knew, hung not on their own operational plans but on the soldiers on the battlefield, defending the vital St. Vith and Bastogne road junctions, holding on to the Elsenborn ridge, and blocking the approaches to the city of Luxembourg, as well as on the soldiers in numerous "blocks" and positions unlocated on any command post map. These men knew nothing of Allied operational plans or even the extent of the German offensive, but in the next days, on their shoulders, victory or disaster rested.

One unavoidable decision on overall battlefield coordination remained. Not one to move a command post to the rear, General Bradley had kept his 12th Army Group headquarters in the city of Luxembourg, just south of the German attack. Maj. Gen. Hoyt S. Vandenberg's Ninth Air Force headquarters, which supported Bradley's armies, stayed there also, unwilling to sever its direct ties with the ground forces. But three German armies now separated Bradley's headquarters from both Hodges' First Army and Simpson's Ninth Army in the north, making it difficult for Bradley to supervise a defense in the north while coordinating an attack from the south. Nor would communications for the thousands of messages and orders needed to control and logistically support Bradley's two northern armies and Vandenberg's two northern air commands be guaranteed.

Eisenhower, therefore, divided the battlefield. At noon on 20 December ground command north of the line from Givet on the Meuse to the high ground roughly 5 miles south of St. Vith devolved to Montgomery's 21 Army Group, which temporarily assumed operational control of both the U.S. Ninth and First Armies. Shifting the ground command raised a furor, given the strained relations Montgomery had with senior American commanders. Montgomery had been successful in attacking and occupying "ground of his own choosing" and then drawing in enemy armored reserves where they could be destroyed by superior artillery and air power. He now intended to repeat these tactics, planning to hold his own counterattacks until the enemy's reserves had been spent or a decisive advantage gained. The American generals, however, favored an immediate counteroffensive to first halt and then turn back the German drive. Equally disconcerting to them was Montgomery's persistence in debating command and strategy, a frequent occurrence in all coalitions, but one that by virtue of his personal approach added to the strains within the Allied command.

The British 2d Tactical Air Force similarly took control of the IX and XXIX Tactical Air Commands from Vandenberg's Ninth Air Force. Because the British air commander, Air Chief Marshal Sir Arthur "Maori" Coningham, had long established close personal relations with the concerned American air commanders, the shift of air commands passed uneventfully.

FIRST ARMY BATTLES, 20–27 DECEMBER

Eisenhower and Montgomery agreed that the First Army would establish a cohesive defensive line, yielding terrain if necessary. Montgomery also intended to create a corps-sized reserve for a counterattack, which he sought to keep from being committed during the defensive battle. The First Army's hasty defense had been one of hole-plugging, last stands, and counterattacks to buy time. Although successful, these tactics had created organizational havoc within Hodges' forces as divisional units had been committed piecemeal and badly jumbled. Complicating the situation even further was the fact that the First Army still held the north-south front, north of Monschau to Elsenborn, while fighting Dietrich's panzers along a nearly east-west axis in the Ardennes.

Blessed with excellent defensive ground and a limited lateral roadnet in front of V Corps positions, Gerow had been able to roll with the German punch and Hodges to feed in reserves to extend the First Army line westward. Much of the Sixth Panzer Army's strength was thus tied up in road jams of long columns of vehicles. But American success was still far from certain. The V Corps was holding four panzer divisions along the northern shoulder, an elbow-shaped 25-mile line, with only parts of four U.S. divisions.

To the west of the V Corps the 30th Infantry Division, now under Maj. Gen. Matthew B. Ridgway's XVIII Airborne Corps, marched south to block Kampfgruppe Peiper at Malmedy and, along the Ambleve River, at Stavelot, Stoumont, and La Gleize. To the south of Peiper the XVIII's other units, the 82d Airborne and 3d Armored Divisions, moved forward to the area between the Salm and Ourthe Rivers, northwest of St. Vith, which was still in danger of being isolated. By 20 December the Peiper force was almost out of fuel and surrounded. During the night of the twenty-third Peiper and his men destroyed their equipment, abandoned their vehicles, and walked out to escape capture. Dietrich's spearhead was broken.

North of St. Vith the I SS Panzer Corps pushed west. Part of the LVIII Panzer Corps had already bypassed the defenders' southern flank. Standing in the way of Dietrich's panzers was a 6-mile line along the Salm River, manned by the 82d Airborne Division. Throughout the twenty-first German armor attacked St. Vith's northwestern perimeter and infantry hit the entire eastern circumference of the line. Although the afternoon assault was beaten back, the fighting was renewed after dark. To prevent being trapped from the rear, the 7th Armored Division began pulling out of its advanced positions around 2130. The other American units around the town conformed, folding into a tighter perimeter west of the town.

Ridgway wanted St. Vith's defenders to stay east of the Salm, but Montgomery ruled otherwise. The 7th Armored Division, its ammunition and fuel in short supply and perhaps two-thirds of its tanks destroyed, and the battered elements of the 9th Armored, 106th, and 28th Divisions could not hold the extended perimeter in the rolling and wooded terrain. Meanwhile, Dietrich's second wave of tanks entered the fray. The II SS Panzer Corps immediately threatened the Salm River line north and west of St. Vith, as did the LVIII Panzer Corps circling to the south, adding the 2d SS Panzer Division to its drive. Ordering the St. Vith defenders to withdraw through the 82d Airborne Division line to prevent another Schnee Eifel disaster, Montgomery signaled them that "they come back with all honor."

Mud threatened to trap much of the force, but nature intervened with a "Russian High," a cold snap and snowstorm that turned the trails from slurry to hard ground. While the Germans seemed temporarily powerless to act, the St. Vith defenders on 23 December, in daylight, withdrew across the Salm to reform behind the XVIII Airborne Corps front. Ridgway estimated that the successful withdrawal added at least 100 tanks and two infantry regiments to his corps.

The St. Vith defense purchased five critical days, but the situation remained grave. Model's Army Group B now had twelve full divisions attacking along roughly 25 miles of the northern shoulder's east-west front. Hodges' army was holding with thirteen divisions, four of which had suffered heavy casualties and three of which were forming in reserve. Montgomery had designated Maj. Gen. J. Lawton "Lightning Joe" Collins' VII Corps as the First Army's counterattack force, positioning its incoming divisions northwest of Hodges' open flank, hoping to keep them out of the defensive battle. He intended both to blunt the enemy's assault and wear down its divisions by withdrawing the XVIII Airborne Corps to a shorter, defendable line, thus knitting together the First Army's fragmented defense. Above all, before launching a major counterstroke, Montgomery wanted to cripple the German panzers with artillery and with constant air attacks against their lines of supply.

The Russian High that blanketed the battlefield brought the Allies one tremendous advantage—good flying weather. The week of inclement weather promised to Hitler by his meteorologists had run out—and with it the ability to move in daylight safe from air attack. The Allied air forces rose to the occasion. Night bombers of the Royal Air Force's Bomber Command had been attacking those rail yards supporting the German offensive since 17 December. In the five days of good weather following the Russian High, American day bombers entered the interdiction effort. As Allied fighter bombers patrolled the roads throughout the Ardennes and the Eifel, the Ninth Air Force's medium bombers attacked targets west of the Rhine and the Eighth Air Force's heavy bombers hit rail yards deeper into Germany. Flying an average of 3,000 sorties daily during good weather, the combined air forces dropped more than 31,000 tons of bombs during the first ten days of interdiction attacks.

The effects on the ground battle were dramatic. The sluggish movement of fuel and vehicles over the Ardennes' few roads had already slowed German operations. The added strain on resupply from the bombing and strafing now caused halts up and down the German line, making coordinated attacks more difficult. Still, panzer and infantry units continued to press forward.

From Christmas Eve to the twenty-seventh, battles raged along the First Army's entire front. The heaviest fighting swirled around the positions held by Ridgway's XVIII Airborne Corps and Collins' VII Corps, the latter having been piecemealed forward to extend the First Army line westward. While the XVIII Corps battled the Sixth Panzer Army's last attempts to achieve a northern breakthrough, the VII Corps' 3d Armored and 84th Infantry Divisions held the line's western end against the LVIII and XLVII Panzer Corps. These units had become Model's new main effort, swinging wide of Dietrich's stalled attack, and they now had elements about 5 miles from the Meuse. Upon finding the 2d Panzer Division out of gas at the German salient's tip, Collins on Christmas Day sent 2d Armored Division, with heavy air support, to encircle and destroy the enemy force.

The First Army's desperate defense between the Salm and Meuse Rivers had stopped the Sixth and Fifth Panzer Armies, including six panzer divisions. The fierce battles—at places as Baraque de Fraiture, Manhay, Hotton, and Marche—were epics of valor and determination. Hitler's drive for Antwerp was over.

THIRD ARMY BATTLES, 20–27 DECEMBER

The 20 December boundary shift transferred Middleton's VIII Corps and its Bastogne garrison to Patton's Third Army, which was now moving forces from as far away as 10 miles to attack positions south of the German salient. Bastogne had become an armed camp with four airborne regiments, seven battalions of artillery, a self-propelled tank destroyer battalion, and the surviving tanks, infantry, and engineers from two armored combat commands—all under the 101st Airborne Division's command.

Manteuffel had ordered the Panzer Lehr and the 2d Panzer Divisions to bypass Bastogne and speed toward the Meuse, thus isolating the defenders. As the 26th Volksgrenadier Division and the XLVII Paner Corps' artillery closed in for the kill on 22 December, the corps commander's emissary arrived at the 101st Division's command post, demanding surrender or threatening annihilation. The acting division commander, Brig. Gen. Anthony C. McAuliffe, replied "Nuts," initially confounding the Germans but not Bastogne's defenders. The defense held.

For four days bitter fighting raged in a clockwise rotation around Bastogne's southern and western perimeter, further constricting the defense within the low hills and patches of woods surrounding the town. The infantry held ground, with the armor scurrying to seal penetrations or to support local counterattacks. Once the overcast weather had broke, the defenders received both air support and aerial resupply, making it imperative for Manteuffel to turn some of his precious armor back to quickly crush the American defense, a large deadly threat along his southern flank.

Meanwhile, as Bastogne held, Patton's Third Army units streamed northward. Maj. Gen. John B. Millikin's newly arrived III Corps headquarters took command of the 4th Armored and 26th and 80th Infantry Divisions, in a move quickly discovered and monitored by the Germans' effective radio intercept units. In response, Brandenberger's Seventh Army, charged with the crucial flank guard mission in Hitler's offensive, rushed its lagging infantry divisions forward to block the expected American counterattack.

Jumping off as promised on 22 December some 12 to 15 miles south of Bastogne, III Corps divisions achieved neither the surprise nor momentum that Bradley and Patton had hoped. No longer a lunge into an exposed flank, the attack became a frontal assault along a 30-mile front against infantry holding good defensive terrain. With Bastogne's garrison totally surrounded, only a quick Third Army breakthrough could prevent the brilliant holding action there from becoming a costly disaster. But how long Bastogne's defenders could hold out was a question mark.

To the east, as Millikin's III Corps moved against hardening enemy resistance along the Sure River, Maj. Gen. Manton S. Eddy's XII Corps attacked northward on a front almost as wide as the III Corps'. Taking control of the 4th Infantry and 10th Armored Divisions and elements of the 9th Armored Division, all units of Middleton's former southern wing, Eddy met greater difficulties in clearing the ridges southeast of Bastogne. Meanwhile, the 35th and 5th Infantry Divisions and the 6th Armored Division moved northward to strengthen the counterattacks. Millikin finally shifted the main effort to the west, where the 4th Armored Division was having more success. Following fierce village-by-village fighting in frigid temperatures, the 4th linked up with Bastogne's defenders at 1650 on 26 December, lifting the siege but setting the stage for even heavier fighting for the Bastogne sector.

NORDWIND IN ALSACE, 31 DECEMBER–5 JANUARY

By 21 December Hitler had decided on a new offensive, this time in the Alsace region, in effect selecting one of the options he had disapproved earlier in favor of Wacht am Rhine. With the Fifteenth Army's supporting thrust canceled due to Dietrich's failure to break the northern shoulder, and with no hope of attaining their original objectives, both Hitler and Rundstedt agreed that an attack on the southern Allied front might take advantage of Patton's shift north to the Ardennes, which Wehrmacht intelligence had identified as under way. The first operation, called Nordwind ("Northwind"), targeted the Saverne Gap, 20 miles northwest of Strasbourg, to split the Seventh Army's XV and VI Corps and retake the Alsace north of the Marne-Rhine Canal. If successful, a second operation, called Zahnartz ("Dentist"), would pursue objectives westward toward the area between Luneville and Metz and into the Third Army's southern flank. Lt. Gen. Hans von Obstfelder's First Army would launch the XIII SS Corps as the main effort down the Sarre River valley, while to the southeast four divisions from the XC and LXXXIX Corps would attack southwesterly down the Low Vosges mountain range through the old Maginot Line positions near Bitche. A two-division panzer reserve would be held to reinforce success, which Hitler believed would be in the Sarre River sector. Reichsfuehrer Heinrich Himmler's Army Group Oberrhein, virtually an independent field army reporting only to Hitler, was to pin the southern flank of the Seventh Army with holding attacks. The new offensive was planned for the thirty-first, New Year's Eve. However, its target, the U.S. Seventh Army, was neither unready nor unwarned.

Lt. Gen. Alexander M. Patch's Seventh Army, part of Devers' 6th Army Group, which also included the French First Army, had been among the theater's unsung heroes. After conducting assault landings on the coast of southern France in August 1944, the small army had chased a significantly larger force northward; but, much to the chagrin of his commanders, Patch had been ordered not to cross the Rhine, even though his divisions were among the first Allied units to reach its banks. In November the Seventh Army had been the Western Front's leading Allied ground gainer. Yet, when Patton's Third Army found its offensive foundering, Patch, again following orders, had sent a corps northward to attack the Siegfried Line's southern flank, an operational lever designed to assist Patton's attack.

On 19 December, at the Verdun conference, the 6th Army Group was again relegated to a supporting role. Eisenhower ordered Devers to assume the front of two of Patton's corps that were moving to the Ardennes, and then on the twenty-sixth he added insult to injury by telling the 6th Army Group commander to give up his Rhine gains by withdrawing to the Vosges foothills. The switch to the defense also scrapped Devers' planned attacks to reduce the Colmar Pocket, the German foothold stretching 50 miles along the Rhine's western banks south of Strasbourg. Held in check by two corps of General Jean de Lattre de Tassigny's French First Army, this area was the only German bridgehead in Devers' sector. But by Christmas Eisenhower saw a greater threat than the Colmar Pocket opening on his southern front.

Allied intelligence had confirmed that a new enemy offensive in the Alsace region was imminent. Eisenhower wanted the Seventh Army to meet it by withdrawing to shortened lines to create reserves, essentially ceding northern Alsace back to the Germans, including the city of Strasbourg. Not surprisingly, Devers, Patch, and de Lattre objected strongly to the order. In the end, rather than withdraw, Devers shifted forces to create a reserve to backstop the key enemy attack avenues leading into his front and ordered the preparation of three intermediate withwrawal lines forward of the defensive line designated by Eisenhower.

By New Year's Eve, with two U.S. divisions withdrawn from the Seventh Army and placed in theater reserve, the 6th Army Group's front resembled the weakened defense that had encouraged the German Ardennes offensive. Patch's six divisons covered a 126-mile front, much of it along poor defensive ground. Feeling that the Saree River valley just north of the Low Vosges would bear the brunt of any attack, Patch assigned Maj. Gen. Wade Haislip's XV Corps a 35-mile sector between Sarreguemines and Bitche, with the 103d, 44th, and 100th Infantry Divisions holding from northwest to southeast, backed by the experienced French 2d Armored Division. Maj. Gen. Edward H. Brooks' VI Corps took up the balance of Patch's front from the Low Vosges southeast to Lauterbourg on the Rhine and then southward toward Strasbourg. Brooks' corps had the veteran 45th and 79th Infantry Divsions and the 14th Armored Division in reserve. Patch inserted Task Force Hudelson, a two-squadron cavalry force, reinforced with infantry from the uncommitted 14th Armored Division at the boundary joining the two American corps.

The deployment of three additional units—Task Force Linden (42d Infantry Division), Task Force Harris (63d Infantry Division), and Task Force Herren (70th Infantry Division)—demonstrated how far Devers and Patch would go to avoid yielding ground. Formed from the infantry regiments of three arriving divisions and led by their respective assistant division commanders, these units went straight to the Seventh Army front minus their still to arrive artillery, engineer, and support units that comprised a complete division. By late December Patch had given the bulk of Task Force Harris to Haislip's XV Corps and the other two to Brooks, who placed them along the Rhine between Lauterbourg and Strasbourg.

Despite knowledge of the impending Alsace offensive, the exact location and objectives were unclear. Troop buildups near Saarbruecken, east of the Rhine, and within the Colmar Pocket pointed to possible thrusts either southwestward down the Sarre River valley or northward from the Colmar region, predictions made by the Seventh Army's G–2 that proved to be remarkably accurate.

On New Year's Eve Patch told his corps commanders that the Germans would launch their major offensive early the next day. Actually, first combat began shortly before midnight all along the XV Corps front and along both the southeastern and southwestern approaches from Bitche toward the Low Vosges. The XIII SS Corps' two reinforced units, the 17th SS Panzergrenadier and 36th Volksgrenadier Divisions, attacked the 44th and 100th Division, whose prepared defense in depth included a regiment from Task Force Harris. The Germans made narrow inroads against the 44th's line near Rimling during fighting characterized by constant American counterattacks supported by French armor and Allied air attacks during clear weather. After four days of vicious fighting the XIII SS Corps' initial offensive had stalled.

The XC and LXXXIX Corps attacked near Bitche with four infantry divisions abreast. Advancing through the Low Vosges, they gained surprise by forgoing artillery preparations and by taking advantage of fog and thick forests to infiltrate Task Force Hudelson. As in the Losheim Gap, the defending mechanized cavalry held only a thin line of strongpoints; lateral mobility through the rough snowladen mountain roads was limited. The light mechanized forces were soon overrun or bypassed and isolated by the 559th, 257th, 361st, and 256th Volksgrenadier Divisions. The Germans gained about 10 miles during Nordwind's first four days, heading directly for the Saverne Gap that linked the XV and VI Corps.

Both American corps commanders responded quickly to the threat. Haislip's XV Corps plugged the northwestern exits to the Low Vosges with Task Force Harris, units of the 14th Armored and 100th Divisions, and a regiment from the 36th Infantry Division, which Eisenhower had released from theater reserve. Brooks' VI Corps did the same, stripping its Lauterbourg and Rhine fronts and throwing in Task Force Herren, combat engineers converted to infantry, and units of the 45th and 75th Infantry Divisions to plug holes or block routes out of the Low Vosges.

While units fought for twisted roads and mountain villages in subfreezing temperatures, Obstfelder's First Army committed the 6th SS Mountain Division to restart the advance on the Saverne Gap. In response, Patch shifted the 103d Infantry Division eastward from the XV Corps' northwestern wing to hold the southeastern shoulder of the Vosges defense. By 5 January the SS troopers managed to bull their way to the town of Wingen-sur-Moder, about 10 miles short of Saverne, but there they were stopped. With the Vosges' key terrain and passes still under American control and the German advance held in two salients, Nordwind had failed.

Meanwhile, the original SHAEF withdrawal plan, especially the abandonment of Strasbourg, had created an Allied crisis in confidence. Supporting Devers' decision not to withdraw, the Free French government of General Charles de Gaulle enlisted British Prime Minister Winston Churchill's support to amend Eisenhower's orders. Fortunately, Patch's successful defense temporarily shelved the SHAEF withdrawal plan, but Alsace was not to be spared further German attacks. Hitler's armored reserve and Himmler's Army Group Oberrhein had not yet entered the battle.

ERASING THE BULGE

North of the Alsace region the Allied commanders were concerned with reducing the enemy's Ardennes salient, now called the "Bulge." From the beginning of Wacht am Rhein they had envisioned large-scale counterattacks. The decisions as to where and how the attacks would be launched, however, underscored their different perspectives. The theoretical solution was to attack the salient at its base. Patton had in fact planned to have the Third Army's right flank corps, the XII, attack further eastward toward Bitburg, Germany, along what he referred to as the "honeymoon trail." Bradley, however, as the commander responsible for the southern attack, wanted to cover the shortest distance to relieve Hodges' beleaguered First Army units. Overruling Patton, he designated Houffalize, midway between Bastogne and St. Vith, as a primary objective. Middleton's reinforced VIII Corps, the westernmost force, would drive on Houffalize; the middle force, Millikin's III Corps, would remain on Middleton's right flank heading for St. Vith; and Eddy's XII Corps would serve as an eastern hinge. Bradley's choice made the best use of the existing roads; sending Millikin's IIII Corps along advantageous terrain corridors avoided the favorable defensive ground on the successive ridges east of Bastogne. Once linked with the First Army, the 12th Army Group's boundary would revert to its original northern line. Only then would Bradley send the First and Third Armies east into the Eifel toward Pruem and Bitburg in Germany. Bradley further solidified his plan by committing newly arriving reinforcements—the 11th Armored, 17th Airborne, and 87th Infantry Divisions—to the west of Bastogne for Middleton's VIII corps.

Montgomery had eyed Houffalize earlier, viewing the approaches to the town from the northwest as excellent for a corps-sized attack. His own extended defensive line on the northern shoulder of the bulge and the piecemeal entry of Collins' VII Corps into battle further west did not shake his original concept. Much like Bradley, he saw an interim solution as best. Concerned that American infantry losses in Gerow's V Corps had not been replaced, and with the same terrain and roadnet considerations that had jammed the German assault westward, Montgomery ruled out a direct attack to the south at the base of the bulge. As December waned, Rundstedt's remaining armored reserves were centered near St. Vith, and the roadnet there offered inadequate avenues to channel the four U.S. armored divisions into an attack. Unwilling to weaken his western flank now that his reserve had been committed, Montgomery seemed more prone to let the VII Corps attack from its present positions northwest of St. Vith. Eisenhower raised the issue of committing the British 30 Corps. But having deactivated units to rebuild the corps for use in his projected Rhineland offensive, Montgomery agreed to move it across the Meuse to assume Collins' vacated front, a transfer that would not be completely accomplished until 2 January. From there, the 30 Corps would conduct limited supporting attacks. Although Hodges, as First Army commander, would select the precise counterattack axis, he knew Montgomery's repeated preference for the VII Corps to conduct the main effort and also Bradley's preference for a quick linkup at Houffalize. Hodges' decision was thus predictable. The VII Corps would constitute the First Army's main effort, aimed at Houffalize. Ridgway's XVIII Airborne Corps would cover the VII's northeastern flank, and, like Millikin's III Corps, its advance would be pointed at St. Vith. The Germans would thus be attacked head on.

Timing the counterstrokes also raised difficulties. The American generals wanted the First Army to attack immediately, claiming the Germans had reached their high-water mark. Montgomery demurred, citing intelligence predictions of an imminent offensive by the II SS Panzer Corps—an assault he welcomed as it fit his concept of weakening enemy armor further rather than conducting costly attacks. Contrary to Montgomery's tactics, Eisenhower preferred that the First Army attack immediately to prevent the Germans from withdrawing their panzers and shifting them southward.

Patton's renewed attacks in late December caused the Third Army to learn firsthand how difficult the First Army battles had been. In the Third Army sector the relief of Bastogne had not changed the intensity of combat. As Manteuffel received panzer reinforcements, he threw them into the Bastogne salient before it could be widened and extended northward toward the First Army. Patton's Third Army now encountered panzers and divisions in numbers comparable to those that had been pressing against the northern shoulder for the previous 10 days. In the week after Bastogne's relief the number of German divisions facing the Third Army jumped from three to nine around Bastogne and from four to five in the III and XII Corps sector of the front.

The fighting during the 9-mile American drive from Bastogne to Houffalize became a series of bitter attacks and counterattacks in worsening weather. Patton quickly added the 17th Airborne, the 87th and 35th Infantry, and the 11th and 6th Armored Divisions to his attacking line, which stretched 25 miles from the Ourthe River to the Clerf. While the III Corps continued its grim attacks northeastward against the forested ridges of the Wiltz valley leading toward German escape routes eastward out of the salient, VIII Corps forces added some width to the Bastogne salient but gained no ground northward before New Year's Day. Both sides reinforced the sector with every available gun. In a nearly week-long artillery duel Patton's renewed attacks collided with Manteuffel's final efforts to eradicate the Bastogne bridgehead.

During the same week German attacks continued along the First Army line near the Elsenborn ridge and in the center of the XVIII Airborne Corps line before a general quiet descended upon the northern front. In many areas the fields, forests, and roads were now covered with waist-high snowdrifts, further impeding the movement of both fighting men and their resupply vehicles.

Climaxing Wacht am Rhein's efforts, the Luftwaffe launched its one great appearance of the campaign during the early morning hours of New Year's Day. Over 1,000 aircraft took off before dawn to attack Allied airfields in Holland and Belgium, with the objective of eliminating the terrible scourge that the Allied air forces would again become once the skies cleared over the entire battle area. The Germans destroyed roughly 300 Allied machines, but their loss of more than 230 pilots was a major blow to the Luftwaffe, whose lack of trained aviators was even more critical than their fuel shortages.

Casualties mounted, bringing on a manpower shortage in both camps. Although the Germans continued to commit fresh divisions until late December, the Americans, with only three uncommitted divisions in theater, were forced to realign their entire front. Many units moved from one combat to another without rest or reinforcement. December's battles had cost the Americans more than 41,000 casualties, and with infantry replacements already critically short, antiaircraft and service units had to be stripped to provide riflemen for the line. Black soldiers were offered the opportunity to fight within black platoons assigned to many white battalions, a major break from previous Army policy.

Despite the shortage of replacements, both Patton's Third Army and Hodges' First Army attacked on 3 January. Collins' VII Corps in the north advanced toward the high ground northwest of Houffalize, with two armored divisions in the lead. Meeting stiff opposition from the LXVI Corps, VII Corps infantry soon replaced the tanks as difficult terrain, icy roads, and a tenacious defense using mines, obstacles, antitank ambushes, and armored counterattacks took their toll. The XVIII Airborne Corps moved its right flank south to cover Collins' advance, and in the far west the British 30 Corps pushed eastward. Under intense pressure Hitler's forces pulled back to a new line, based on the Ourthe River and Houffalize, with the bulk of the SS panzer divisions withdrawing from the battlefield. Poor weather restricted Allied flyers to intermittent close support for only three days in the nearly two weeks that VII Corps units fought their way toward their juncture with the Third Army.

South of the Bulge the Third Army intensified its attacks northward to meet the First Army. Still counting on Middleton's VIII Corps to break through, Patton sent

Millikin's III Corps northeastward, hoping to enter the roadnet and follow the terrain corridors to link up with Ridgway's XVIII Airborne Corps attacking St. Vith. Despite having less than fifty-five tanks operational, the I SS Panzer Corps counterattacked the III Corps' 6th Armored Division in ferocious tank fights unseen since the fall campaign in Lorraine. While the III Corps' 90th Division infantrymen broke through to the heights overlooking the Wiltz valley, the VIII Corps to the west struggled against a determined force fighting a textbook withdrawal. By 15 January Noville, the scene of the original northern point of the Bastogne perimeter, was retaken. Five miles from Houffalize, resistance disappeared. Ordered to escape, the remaining Germans withdrew, and on the sixteenth the Third Army's 11th Armored Division linked up with the First Army's 2d Armored Division at Houffalize.

The next day, 17 January, control of the First Army reverted to Bradley's 12th Army Group. Almost immediately Bradley began what he had referred to in planning as a "hurry-up" offensive, another full-blooded drive claiming the Rhine as its ultimate objective while erasing the Bulge en route. On the twenty-third Ridgway's XVIII Airborne Corps, now the First Army's main effort, and the 7th Armored Division took St. Vith. This action was the last act of the campaign for the First Army. Hodges' men, looking out across the Losheim Gap at the Schnee Eifel and hills beyond, now prepared for new battles.

In the Third Army sector Eddy's XII Corps leapt the Sure River on 18 January and pushed north, hoping to revive Patton's plan for a deep envelopment of the German escape routes back across the Belgian-Luxembourg-German borders. Intending to pinch the escape routes via the German tactical bridges on the Our River, the 5th Division crossed the Sauer at night, its main body pushing northward to clear the long Skyline Drive ridge, where the 28th Division had faced the first assaults. By the campaign's official end on the twenty-fifth the V, XVIII, VIII, III, and XII Corps had a total of nine divisions holding most of the old front, although the original line east of the Our River had yet to be restored.

NORDWIND REVISITED, 5–25 JANUARY

In early 1945, as Operation Wacht am Rhein in the Ardennes started to collapse, Operation Nordwind in the Alsace was revived. On 5 January, after Nordwind's main effort had failed, Himmler's Army Group Oberrheim finally began its supporting thrusts against the southern flank of Brooks' VI Corps, with the XIV SS Corps launching a cross-Rhine attack north of Strasbourg. Two days later, south of the city, the Nineteenth Army launched Operation Sonnenwende ("Winter Solstice"), attacking north, astride the Rhone-Rhine Canal on the northern edge of the German-held Colmar Pocket. These actions opened a three-week battle, whose ferocity rivaled the Ardennes fighting in viciousness if not in scope and threatened the survival of the VI Corps.

Sonnenwende sparked a new crisis for the 6th Army Group, which had too few divisions to defend every threatened area. With Brooks' VI Corps now engaged on both flanks, along the Rhine at Gambsheim and to the northeast along the Low Vosges mountain exits, Devers transferred responsibility for Strasbourg to the French First Army, and de Lattre stretched his forces to cover both the city and the Belfort Gap 75 miles to the south.

But the real danger was just northeast of Strasbourg. There, the XIV SS Corps had punched out a 10-miles bridgehead around the town of Gambsheim, brushing off small counterattacks from Task Force Linden. Patch's Seventh Army, reinforced with the newly arrived 12th Armored Division, tried to drive the Germans from the Gambsheim area, a region laced with canals, streams, and lesser watercourses. To the south de Lattre's 3d Algerian Division defended Strasbourg, while the rest of the French First Army kept the Colmar Pocket tightly ringed. But the fate of Strasbourg and the northern Alsace hinged on the ability of the American VI Corps to secure its besieged flanks.

Having driven several wedges into the Seventh Army, the Germans launched another attack on 7 January. The German XXXIX Panzer Corps, with the 21st Panzer and the 25th Panzergrenadier Divisions, attacked the greatly weakened VI Corps center between the Vosges and Lauterbourg. Quickly gaining ground to the edge of the Haguenau Forest 20 miles north of Strasbourg, the German offensive rolled along the same routes used during the successful attacks of August 1870 under Field Marshal Helmuth von Moltke. Moltke's successors, however, made no breakthrough. In the two Alsatian towns of Hatten and Rittershoffen, Patch and Brooks threw in the Seventh Army's last reserve, the 14th Armored Division. Assisted by a mixture of other combat, combat support, and service troops, the division halted the Germans.

While the VI Corps fought for its life in the Haguenau Forest, the enemy renewed attacks on both flanks. During an intense battle between units of the 45th Division and the 6th SS Mountain Division in the Low Vosges, the Germans surrounded an American battalion that had refused to give ground. After a week's fighting by units attempting its relief, only two soldiers managed to escape to friendly lines.

Although gaining ground, the enemy had achieved no clear-cut success. Hitler nevertheless committed his last reserves on 16 January, including the 10th SS Panzer and the 7th Parachute Divisions. These forces finally steamrolled a path along the Rhine's west bank toward the XIV SS Corps' Gambsheim bridgehead, over-running one of the green 12th Armored Division's infantry battalions at Herrlisheim and destroying one of its tank battalions nearby. This final foray led Brooks to order a withdrawal on the twenty-first, one that took the Germans by surprise and was completed before the enemy could press his advantage.

Forming a new line along the Zorn, Moder, and Rothback Rivers north of the Marne-Rhine Canal, the VI Corps commander aligned his units into a cohesive defense with his badly damaged but still game armored divisions in reserve. Launching attacks during the night of 24–25 January, the Germans found their slight penetrations eliminated by vigorous counterattacks. Ceasing their assaults permanently, they might have found irony in the Seventh Army's latest acquisition from SHAEF reserves—the "Battling Bastards of Bastogne," the 101st Airborne Division, which arrived on the Alsace front only to find the battle over.

Even before Nordwind had ended, the 6th Army Group commander was preparing to eliminate the Colmar Pocket in southern Alsace. Five French divisions and two American, the 3d Infantry and the rebuilt 28th Division, held eight German infantry divisions and an armored brigade in a rich farming area laced with rivers, streams, and a major canal but devoid of significant hills or ridges. Devers wanted to reduce this frozen, snow-covered pocket before thaws converted the ploughed ground to a quagmire. General de Lattre's French First Army would write finis to the Germans in the Colmar Pocket, but it would be a truly Allied attack.

To draw the German reserves southward, plans called for four divisions from the French I Corps to start the assault. This initial foray would set the stage for the French II Corps to launch the main effort in the north. The defending Nineteenth Army's eight divisions were low on equipment but well provided with artillery munitions, small arms, and mines, and fleshed out with whatever manpower and materiel that Himmler, the overall commander, could scrounge from the German interior. Bad weather, compartmentalized terrain, and fear of Himmler's SS secret police strengthened the German defense.

On 20 January, in the south, Lt. Gen. Emile Bethouart's French I Corps began its attack in a driving snowstorm. Although its gains were limited by armored-infantry counterattacks, the corps drew the Nineteenth Army's armor southward, along with the arriving 2d Mountain Division. Two days later, in the north, Maj. Gen. Amie de Goislard de Monsabert's French II Corps commenced its attack, led by the U.S. 3d Division. Reinforced by one of the 63d Infantry Division's regiments, the 3d advanced over the first of several watercourses and cleared the Colmar Forest. It met resistance on the Ill River but continued to fight its way forward through enemy counterattacks, subsequently crossing the Colmar Canal and opening an avenue for the French 5th Armored Division. The Allies pushed further eastward in deepening snow and worsening weather, with the 28th and 75th Divisions from the Ardennes following. On the twenty-fifth Maj. Gen. Frank W. Milburn's XXI Corps joined the line. Assuming control of the 3d, 28th, and 75th Divisions, the 12th Armored Division, which was shifted from reserves, and the French 5th Armored Division, the corps launched the final thrust to the Vauban Canal and Rhone-Rhine Canal bridges at Neuf-Brisach. Although the campaign was officially over on 25 January, the American and French troops did not completely clear the Colmar Pocket until 9 February. However, its successful reduction marked the end of both the German presence on French territory and the Nineteenth Army. And with the fighting finally concluded in the Ardennes and Alsace, the Allies now readied their forces for the final offensive into Germany.

ANALYSIS

Hitler's last offensives—in December 1944 in the Ardennes region of Belgium and Luxembourg, and in January 1945 in the Alsace region of France—marked the beginning of the end for the Third Reich. With these final attacks, Hitler had hoped to destroy a large portion of the Allied ground force and to break up the Allied coalition. Neither objective came close to being achieved. Although perhaps the Allies' victory in the spring of 1945 was inevitable, no doubt exists that the costs incurred by the Germans in manpower, equipment, supplies, and morale during the Ardennes-Alsace battles were instrumental in bringing about a more rapid end to the war in Europe. Eisenhower had always believed that the German Army on the Western Front had to be destroyed west of the Rhine River to make a final offensive into Germany possible. When added to the tremendous contributions of the Soviet Army, which had been fighting the majority of Germany's armed forces since 1941, the

Ardennes-Alsace victory set the stage for Germany's rapid collapse.

With little hope of staving off defeat, Germany gambled everything on achieving a surprise operational decision on the Western Front. In contrast, the Allied coalition pursued a more conservative strategy. Since the Normandy invasion Eisenhower's armies had neither the combat power necessary to mount decisive operations in more than one sector nor the reserves; more importantly, their logistical capability was insufficient to fully exploit any major successes. The resulting broadfront Allied advance steadily wore away the German defenses; but, as in the case of the Ardennes and Alsace fronts, the Allied lines had many weak points that could be exploited by a desperate opponent. Moreover, once Hitler's attacking legions had been stopped, the Allies lacked the combat power to overwhelm the German divisions defending their recently acquiring gains. In the Ardennes, terrain and worsening weather aided the Germans in holding off Allied counterattacks for an entire month, ultimately allowing them to withdraw a sizable portion of their initial assault force with perhaps one-third of their committed armor.

The battle in the Alsace appeared to be less dramatic than in the Ardennes, but was no less an Allied victory. Hitler spent his last reserves in Alsace—and with them the ability to regain the initiative anywhere. Like the Normandy Campaign, the Ardennes-Alsace struggle provided the necessary attrition for the mobile operations that would end the war. The carefully husbanded enemy reserves that the Allies expected to meet in their final offensive into Germany had been destroyed in December and January.

Some thirty-two U.S. divisions fought in the Ardennes, where the daily battle strength of U.S. Army forces averaged twenty-six divisions and 610,000 men. Alsace added eleven more divisions to the honors list, with an average battle strength of 230,000. Additionally, separate divisional elements as well as divisions arriving in sector at the end of the campaign granted participation credit to three more divisions. But the cost of victory was staggering. The final tally for the Ardennes alone totaled 41.315 casualties in December to bring the offensive to a halt and an additional 39,672 casualties in January to retake lost ground. The SHAFE casualty estimate presented to Eisenhower in February 1945 listed casualties for the First Army at 39,957; for the Third Army at 35,525; and for the British 30 Corps, which helped at the end, at 1,408. Defeating Hitler's final offensive in the Alsace was also costly; the Seventh Army recorded its January battle losses at 11,609. Sickness and cold weather also ravaged the fighting lines, with the First, Third, and Seventh Armies having cold injury hospital admissions of more than 17,000 during the entire campaign. No official German losses for the Ardennes have been computed, but they have been estimated at between 81,000 and 103,000. A recently published German scholarly source gave the following German casualty totals: Ardennes—67,200; Alsace (not including Colmar Pocket)—22,932. Most of the figures cited do not differentiate between permanent losses (killed and missing), wounded, and non-battle casualties.

Analysts of coalition warfare and Allied generalship may find much to criticize in the Ardennes-Alsace Campaign. Often commonplace disputes over command and strategy were encouraged and overblown by newspaper coverage, which reflected national biases. Predictably, Montgomery inspired much American ire both in revisiting command and strategy issues, which had been debated since Normandy, and in pursuing methodical defensive-offensive tactics. Devers and de Lattre, too, strained coalition amity during their successful retention of liberated French terrain. But in both cases the Allied command structure weathered the storm, and Eisenhower retained a unified command. Preservation of a unit Allied command was perhaps his greatest achievement. In the enemy camp the differences between Hilter and his generals over the objectives of the Ardennes offensive were marked, while the uncoordinated efforts of Obstfelder's First Army and Himmler's Army Group Oberrhein for the Alsace offensive were appaling.

The Ardennes-Alsace battlefield proved to be no general's playground, but rather a place where firepower and bravery meant more than plans or brilliant maneuver. Allied and German generals both consistently came up short in bringing their plans to satisfactory fruition. That American soldiers fought and won some of the most critical battles of World War II in the Ardennes and the Alsace is now an indisputable fact.

U.S. DIVISIONS IN THE ARDENNES-ALSACE CAMPAIGN

1st Infantry Division, 2d Infantry Division, 3d Infantry Division, 4th Infantry Division, 5th Infantry Division, 9th Infantry Division, 26th Infantry Division, 28th Infantry Division, 30th Infantry Division, 35th Infantry Division, 36th Infantry Division, 42d Infantry Division, 44th Infantry Division, 45th Infantry Division, 63d Infantry Division,* 70th Infantry Division, 75th Infantry Division, 76th Infantry Division, 78th Infantry Division, 79th Infantry Division, 80th Infantry Division, 83d Infantry Division, 84th Infantry Division, 87th Infantry Division, 90th Infantry Division, 94th Infantry Division, 95th Infantry Division, 99th Infantry Division, 100th Infantry Division, 103d Infantry Division, 106th Infantry Division.

2d Armored Division, 3d Armored Division, 4th Armored Division, 5th Armored Division, 6th Armored Division, 7th Armored Division, 8th Armored Division, 9th Armored Division, 10th Armored Division, 11th Armored Division, Armored Division, 12th Armored Division, 14th Armored Division.

17th Airborne Division, 82d Airborne Division, 101st Airborne Division.

ARDENNES-ALSACE 1944–1945

Further Readings

A number of official histories provide carefully documented accounts of operations during the Ardennes-Alsace Campaign. U.S. Army operations are covered in Hugh M. Cole, The Ardennes: Battle of the Bulge (1965); Charles B. MacDonald, The Last Offensive (1973); and Jeffrey J. Clarke and Robert Ross Smith, Riviera to the Rhine (1991), three volumes in the United States Army in World War II series. Air operations are detailed in Wesley F. Craven and James L. Cate, eds., Europe: Argument to V–E Day, January 1944 to May 1945 (1951), the third volume in the Army Air Forces in World War II series, and the British perspective and operations are covered in L. F. Ellis, Victory in the West: the Defeat of Germany (1968). Among the large number of books that describe the fighting in the Ardennes are Gerald Astor, A Blood-Dimmed Tide (1992), John S. D. Eisenhower, The Bitter Woods (1969), Charles B. MacDonald, A Time for Trumpets (1985), S. L. A. Marshall, The Eight Days of Bastogne (1946), Jean Paul Pallud, Battle of the Bulge Then and Now (1984), Danny S. Parker, Battle of the Bulge (1991), and Robert F. Phillips, To Save Bastogne (1983). At the small-unit level Charles MacDonald's Company Commander (1947) is still the standard classic. Fighting in the Alsace region has been sparsely covered, but Keith E. Bonn's When the Odds Were Even (1994) is valuable.

Mr. EVANS. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. Shows).

Mr. SHOWS. Mr. Speaker, today I rise to address my colleagues and the American people about a moment in American history that stands out in my family as one of the most crucial there ever was. It is one of those moments in our history where the larger story of the American experience becomes intertwined with the personal legacy of an American family.

The Battle of the Bulge began on December 16, 1944, and ended on January 25, 1945. This enemy offensive was staged to split our forces in half and cripple our supply lines. Of course there were 600,000 American troops participating in the Battle of the Bulge, as we have heard awhile ago. 810,000 Americans were casualties, of whom 19,000 were killed; 33,400 were wounded; and there were 2,000 who were either captured or listed as missing.

One of these 2,000, I want to talk about this morning. My father, Clifford Shows, was one of those captured as a prisoner of war. Today in Mosselle, Mississippi, my father is a veteran. He stands tall when the national anthem is played, enjoys his family and neighbors, and lives out a most American life. It is hard for me to talk about it.

We must remember the actions of my father and the thousands of others who fought then that we might be free now. This year is the 55th anniversary of the Battle of the Bulge. Let us pause, let us remember, and let us be thankful. Please support H.J. Res. 65.

Mr. EVANS. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.J. Res. 65 which commends our World War II veterans who fought in the Battle of the Bulge. This is a great bill because it honors the determination and the courage of these veterans in stopping the last great Nazi counteroffensive of World War II.

History tells us that the fighting in Belgium sealed the victory for the allies in Europe. Without this victory, many additional months of fighting would have been necessary before Nazi Germany's surrender. Our troops overcame superior numbers of Nazi troops and harsh weather to repel and turn back this last great offensive of World War II.

Victory, however, came at a terrible price, with about 81,000 American casualties, 19,000 of which were killed.

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*Elements only

Each and every veteran of the Battle of the Bulge witnessed the horrors of war. One of those was my own father-in-law, Victor Gaytan, who today is a disabled veteran who lives with the wounds he suffered defending our freedom against that threat in Belgium that winter.

Today, my wife and I are honored to have him live with us. Yes, at 79 he walks a little slower, moves at times hesitantly and with great pain; but when you look into his eyes, there is no doubt about his role in saving our country and our way of life. He is a hero to us and was one of those great Americans that courageously turned back the last desperate attempt of the Nazis to stop Allied momentum toward Germany.

Mr. Speaker, I believe that we can never sufficiently express our gratitude to these veterans, America's greatest generation. But this legislation is a proper and fitting way to honor them and their service to their country. With this legislation, we honor these American soldiers and we ensure that future generations of Americans remember the price of freedom in Europe and around the world during World War II. I strongly support this legislation and urge the House to unanimously pass this great bill.

Mr. STUMP. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, just to point out during markup, and this was extraordinary, at least four Members came forward to speak as the gentleman from Texas just pointed out, his father-in-law, the gentleman from Mississippi, his dad, and so many others. Few battles have touched more people than the Battle of the Bulge. The gentleman from Arizona's uncle also fought. He is a combat veteran himself, but his uncle fought at the Battle of the Bulge, was there.

And Joe McNulty, one of our key staffers on the majority side, he just came up and whispered to me that his father got the purple heart, was wounded in both legs. There are few battles that have touched more people and few battles that have done more to save freedom and liberty than the Battle of the Bulge. It is amazing how many people in this Chamber have relatives and close relatives and perhaps themselves actually fought in that very, very famous battle.

Mr. EVANS. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. BARRETT).

Mr. BARRETT of Wisconsin. Mr. Speaker, I thank the gentleman from Illinois (Mr. EVANS) for yielding me this time. I rise in support of House Joint Resolution 65. I want to pay special tribute to a man who was killed in that fight, Bob Kuehn of Rhinelander, Wisconsin. Bob Kuehn was raised in Rhinelander, Wisconsin. After graduating from high school, he attended St. Norbert College in De Pere, Wisconsin, where he was a member of the ROTC program. He graduated in June of 1944 and later that month was married to Gertrude Kuehn of Sturgeon Bay.

They traveled to Camp Fannin in Tyler, Texas; but he was called into Patton's Third Army, and he was killed December 17, 1944, leaving a 23-year-old widow back in Wisconsin. That widow was my mother. Fortunately, my mother was able to move on and attended school at the University of Wisconsin where she met my father, who also fought in World War II and earned the Distinguished Flying Cross for his service.

My father, of course, was fortunate to meet my mother, and my two sisters and I are fortunate enough to have them as parents. But Bob Kuehn has never been forgotten. I pay tribute to him and the thousands of other Americans who gave their lives to protect our freedoms.

Mr. EVANS. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Speaker, it is fitting that we pay tribute to those who gave of their lives and served at the Battle of the Bulge and to every soldier, every man and woman who participated in the Great War to protect our freedoms, protect the independence of this Nation, and to promote freedom and democracy in the world. I did not plan to speak on this resolution, but I do so now in honor of all of those who have served, to remind this Congress that the grave sacrifices they made to win the war, we may be losing the peace.

Last week, they celebrated 50 years of communism in China, parades, tanks, missiles, floats, parties. What bothers me is with a $70 billion trade surplus they enjoy from Uncle Sam, they paid for that parade last week with our cash. Ronald Reagan's great fight was to make sure that communism did not spread, and, by God, I am not so sure we are living up to the great task and challenge and the example set by those who fought in the Battle of the Bulge; I am not so sure we are passively turning our back and taking for granted our great freedoms that they protected. I think we better look at it. They won the war. Let us not lose the peace. I am proud to support this resolution. I commend the authors.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.J. Res. 65, a resolution commending our veterans of the Battle of the Bulge. I urge my colleagues to join in supporting this worthwhile measure.

This year marks the 55th anniversary of the German Ardennes offensive of December 1944, more commonly known as the Battle of the Bulge. In the weeks leading up to the Christmas of 1944, it appeared to the Western Allies that victory over the German army was near at hand. Many thought that one final push was all that was needed to force a total collapse of German resistance on the Western front.

What the Allied commanders were not aware of was the fact that the German dictator was planning one final, desperate offensive through the Ardennes Forest, in the hopes of splitting the Allied lines.

The German attack came as a total surprise, and achieved initial success. Poor weather prevented Allied air superiority from being brought to bear, and the German Panzers took full advantage of the respite. Yet, in the end, their offensive failed.

The offensive failed because American soldiers shook off their initial shock and fought with a stubborn tenacity to prevent a German breakthrough. The Allied lines gave way, hence the "Bulge" description, but refused to break. After several days, the weather cleared, and the overwhelming Allied advantage in tactical air power was finally brought to bear in a concentrated counterattack.

The resolution honors those courageous veterans who fought in the Battle of the Bulge, resulting in a tenacious defense, under horrible conditions, against an enemy with superior armored forces. Their success in halting the German Ardennes offensive preserved the Allied lines, and helped to maintain the offensive pressure on Germany.

The efforts of our veterans in the Battle of the Bulge, like those of all Americans who fought against tyranny in World War II, deserve our recognition and respect. Accordingly, I urge my colleagues to join in supporting this measure, which memorializes the significant contributions of the veterans of the Bulge to the ultimate victory of freedom over tyranny during the Second World War.

Mr. GEJDENSON. Mr. Speaker, I rise in strong support of House Joint Resolution 65 which commends United States Veterans for their heroism in the Battle of the Bulge during World War II. The resolution also reaffirms our bonds of friendship with our Allies we stood together with during that noble cause.

I commend the bill's sponsor, Mr. SMITH of New Jersey, and the Chairman and Ranking Members of the Veterans' Affairs Committee, Mr. STUMP and Mr. EVANS for their support. I am proud to be a cosponsor of this resolution.

I would like to take this time to pay tribute in particular to two of the 600,000 American troops who served in the German Ardennes offensive, known as the Battle of the Bulge. These two heroes who risked their lives to defend our freedom come from my home state of Connecticut.

One is Bob Dwyer of Vernon, Connecticut. After serving his country in World War II, he now continues to serve his nation in peacetime by working for the Veterans' Coalition in Connecticut. Mr. Dwyer plays a central role in this group which provides crucial services and assistance for veterans and advocates on their behalf.

Another hero is Gerald Twomey of Norwich, Connecticut. Mr. Twomey served in a World War II reconnaissance unit that had already fought in North Africa, Sicily, and Normandy before he made his way to this momentous battle. In an interview with Bob Hamilton of the New London Day last year, Mr. Twomey described his service in Africa and Italy as difficult but nothing like the organized resistance he and his comrades met in Ardennes. "That was brutal," said Twomey. "It was very, very cold weather, a lot of snow. It was tough. They kept bringing over replacements, and they were knocking them off as fast as they could bring them over . . . It was much worse than North Africa, much worse."

Anyone who has studied the accounts of this battle is struck by the resilience and courage of our troops at the Battle of the Bulge. Their bravery withstood Hitler's last ditch offensive to prevent the Allies from closing in on Berlin. A passage from the book Citizen Soldiers by Stephen Ambrose serves as a testament to the courage of American fighting men in recovering from a withering German attack and summoning the strength to respond:

> From the Supreme Commander down to the lowliest private, men pulled up their socks and went forth to do their duty. It simplifies, but not much, to say that here, there, everywhere, from top to bottom, the men of the U.S. Army in northwest Europe shook themselves and made this a defining moment in their own lives, and the history of the Army. They didn't like retreating, they didn't like getting kicked around, and as individuals, squads, and companies as well as at Supreme Headquarters Allied Expeditionary Force, they decided they were going to make the enemy pay.

Mr. Speaker, I have nothing more to add except to once again thank these American heroes on behalf of my constituents in Connecticut and citizens across this nation.

Mrs. CHRISTENSEN. Mr. Speaker, I rise today to join my colleagues in paying tribute to the courageous Americans who fought during World War II, especially those who fought at the Battle of the Bulge.

The Battle of the Bulge, as you and my colleagues know, Mr. Speaker, was a major German offensive in the Ardennes forest region of Belgium and Luxembourg that was fought from December 16, 1944 to January 25, 1945. Over 600,000 American troops participated in the Battle of the Bulge, sustaining 81,000 casualties.

I am proud of my many family members and constituents who served this country in the last world war. In so doing, I especially think about my cousin John Henry Woodson, Jr., who not only fought in World War II but was actually left for dead behind enemy lines. He was reported as missing in action for almost three weeks, before he found his way back to the American troops. Although he was fortunate to be among those who returned home, that terrible experience and others during the war left an indelible memory and mark on the rest of his life.

John served the Virgin Islands Community exceptionally for many years, first at the Department of Health and later as a public school science teacher and principal. He is remembered by the Virgin Islands through the Junior High School, on St. Croix, which bears his name.

Today, as we remember those veterans who fought at the Battle of the Bulge for their service and sacrifice, I lovingly remember my cousin Johnny, and the other Virgin Islanders who also served there.

Mr. EVANS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, once again I would like to thank the gentleman from Illinois, the ranking member of the committee, for all of his assistance on this bill, as well as the gentleman from New Jersey who brought the bill to us in the committee.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SUNUNU). The question is on the motion offered by the gentleman from Arizona (Mr. STUMP) that the House suspend the rules and pass the joint resolution, House Joint Resolution 65, as amended.

The question was taken.

Mr. SMITH of New Jersey. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SENSE OF CONGRESS IN SYMPATHY FOR VICTIMS OF HURRICANE FLOYD

Mr. FRANKS of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 322) expressing the sense of the House of Representatives in sympathy for the victims of Hurricane Floyd, which struck numerous communities along the East Coast between September 14 and 17, 1999.

The Clerk read as follows:

H. RES. 322

Whereas on September 16, 1999, Hurricane Floyd deposited up to 18 inches of rain on sections of North Carolina only days after the damaging rains of Hurricane Dennis;

Whereas Hurricane Floyd continued up the eastern seaboard, causing flooding and tornadoes in Virginia, Maryland, Pennsylvania, New Jersey, New York, and Connecticut;

Whereas Hurricane Floyd is responsible for 66 known deaths, including 48 confirmed dead in North Carolina alone, as well as 3 in New Jersey, 2 in New York, 6 in Pennsylvania, 4 in Virginia, 2 in Delaware, and 1 in Vermont;

Whereas hundreds of roads along the eastern seaboard remain closed as a result of damage caused by Hurricane Floyd;

Whereas waters contaminated by millions of gallons of bacteria, raw sewage, and animal waste have flowed into homes, businesses, and drinking water supplies due to septic, pipeline, and water treatment system damage caused by the flooding associated with Hurricane Floyd, a situation that poses considerable health risks for individuals and families in affected States;

Whereas areas in 10 States were declared Federal disaster areas as a result of Hurricane Floyd—Connecticut, Delaware, Florida, Maryland, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, and Virginia;

Whereas individuals registering for Federal assistance in States hit by Hurricane Floyd totalled 68,440 as of September 26, 1999, with 39,265 in North Carolina, 11,121 in New Jersey, 4,582 in New York, 3,222 in South Carolina, 3,153 in Virginia, 371 in Delaware, 6,479 in Pennsylvania, 173 in Connecticut, and 74 in Maryland;

Whereas thousands of individuals and families have been displaced from their homes and are now taking refuge in temporary housing or shelters;

Whereas over $2 million in temporary housing grants have been issued in New York and New Jersey and the residential loss estimates are over $80 million in North Carolina alone; and

Whereas the nature of this disaster deserves the immediate attention and support of the Federal Government: Now, therefore, be it

Resolved, That the House of Representatives—

(1) expresses its deepest sympathies to everyone who suffered as a result of Hurricane Floyd; and

(2) pledges its support to continue to work on their behalf to restore normalcy to their lives and to renew their spirits by helping them recover, rebuild, and reconstruct.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. FRANKS) and the gentleman from Ohio (Mr. TRAFICANT) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. FRANKS).

Mr. FRANKS of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

In communities up and down the East Coast, including many in my own congressional district, Hurricane Floyd left a path of unprecedented destruction, hardship, and tragedy. It has been more than 3 weeks since the storm hit, and still thousands of families are unable to return to their homes. In communities throughout our area, downtowns have become ghost towns.

Several of the towns I represent have suffered through floods before, but past storms were nothing in comparison to what happened on the evening of September 16. In the small community of Bound Brook, New Jersey, flood waters as high as 12 feet turned the downtown business area and surrounding neighborhoods into a raging sea of water. Residents had to be rescued by boats from trees as well as rooftops. Tragically, two people were unable to escape and died. In the neighboring community of Manville, the town literally became an island. The only way to get outside assistance into the flood-ravaged community was by helicopter.

In the days following the flooding, I toured the hardest hit communities and talked to the homeowners and businesses who had lost their life savings in a sudden surge of floodwater. We all need, Mr. Speaker, to extend a heartfelt thanks to the Red Cross, the rescue squads, the police departments, the fire departments, the National Guard, and the tens of thousands who volunteered their time to come to the aid of their neighbors in need.

In the midst of all the destruction, the flood victims found comfort in the compassion and generosity of strangers who held their hands, gave them a blanket or dry clothes to wear, cooked them a hot meal and gave them a roof over their heads. The road to recovery will be a long one for many of the flood's victims. Some may never be able to return to their homes. Others will have to wait for months before extensive repairs are made.

Today, we in Congress can do more than just express our deepest sympathies to the victims of Hurricane Floyd. We can pledge to do everything in our power to help them get back on their feet, rebuild and recover from their losses and restore their faith in the future.

Later this week, I will be joining with colleagues from across the East Coast in calling for the expansion of the current disaster aid program to address one significant unmet need. Our legislation would extend disaster aid grants to small businesses as well as to homeowners. Without this modest level of assistance, the heart of our communities, our small businesses, may never reopen.

□ 1115

We cannot allow Floyd or any other natural disaster to decimate a vitally important part of the United States, our small businesses.

Mr. Speaker, I hope our colleagues will join us in supporting this effort to help businesses, families, and communities fully recover from the devastation of Hurricane Floyd.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as she may consume to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman from Ohio for yielding this time to me, and I thank the gentleman from New Jersey (Mr. FRANKS) for cosponsoring this and providing the leadership for this particular bill.

Mr. Speaker, approximately 52,000 North Carolina citizens have called the FEMA telephone in-take line seeking assistance as a result of Hurricane Floyd. At the peak of the disaster more than 48,000 squeezed in make-shift shelters. Some 3 weeks after Hurricane Floyd struck, hundreds in North Carolina remained in temporary shelters. Emergency housing is needed. Home repair and replacement is a priority. Essential property has been lost. Many are out of jobs. Despair and hopelessness is setting in.

Imagine, if you will, Mr. Speaker, doing without the necessities all of us take for granted. Imagine fighting for a cot to sleep on in a strange shelter at night. Imagine waking in the morning without lights or running water, standing in line for food, clothing and drinking water. Imagine being lost in a tunnel with no end in sight. More than anything, the victims of Hurricane Floyd now need hope.

Imagine, Mr. Speaker, life as you have known it being swept away by rapid and rushing waters, unprecedented, unanticipated, and unforgiving. When Hurricane Floyd hit North Carolina, towns became rivers, and rivers became towns. Infrastructures built over lifetimes was destroyed. Losses that currently reach into the millions of dollars have been documented, and the numbers are growing.

More than 650 roads were impassable due to the flooding, and at least 10 bridges are severely damaged, and many more are structurally damaged. At the height of the flooding, Interstate 95, the roadway to Disneyland, was shut down. At least 600 pipelines were damaged. Electricity losses are nearly $100 million and growing. Millions in revenue has been lost. 1.2 million persons lost power due to the storm. Drinking water and wastewater treatment systems sustained untold damage. Bacteria, nitrates and other pollutants have contaminated many wells. Septic tanks are nonfunctional and due to the high water table will not be functional for some time.

Agricultural losses compounding previous losses from the drought and economic downturns and other natural calamities have reached close to $1.5 billion, and the number is growing. Small-farm life is seriously threatened in North Carolina. We have millions of dollars in forestry losses, unknown losses to homes of thousands, unknown losses of jobs because thousands of businesses were flooded, many ruined, and thousands have lost income entirely.

Thirty-one North Carolina counties were declared disasters in the wake of Hurricane Floyd. Fourteen of my 20 counties suffered severe flooding. Small towns, unincorporated municipalities, medium-sized cities like Pinetops, Trenton, Dodge Place, Kinston, Tarboro, Rocky Mount, Wilson, Greenville were substantially flooded. In Princeville, a town founded at the end of the Civil War by newly freed slaves, every business, every church, nearly every home and school has been destroyed. Mr. Speaker, the entire town has been destroyed. Fish and shellfish losses are countless; and if things could not be worse, there are millions of gallons of raw sewage and animal wastes. Contaminated waters have flowed into our water system. Disease-carrying insects, bugs, and rodent activity is on the rise.

Mr. Speaker, Hurricane Floyd left in its wake the worst flooding in the history of the State of North Carolina. Yet despite all the misery, there are bright spots. Many of the schools that were closed, opened yesterday. Thousands of students who had not been in school since September 15 were able to return. Help has come from thousands, and I recognized some of them during my last night's special order.

The sun is rising, the rivers are cresting, and the water is receding. The devastation of Hurricane Floyd will one day become history. It will become a mere memory in the minds of those who are suffering now through it. Possessions will once again be collected. North Carolina will rebuild, restore, and recover; but it is imperative that more help is provided by our Federal Government.

This resolution, Mr. Speaker, offers hope, and for that help I urge its adoption.

Mr. FRANKS of New Jersey. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Mr. Speaker, I thank the gentleman from New Jersey for bringing this resolution to the floor, thank the gentlewoman from North Carolina for her commitment and energy in providing much needed help, and to all our delegation and Members up and down the East Coast who are affected, I am here today to speak on behalf of the many victims of Hurricane Floyd in North Carolina and also tornado victims in Stanley and Anson County who are looking to us for help.

As a member of the North Carolina delegation, I am going to work hard to make sure their needs are met, but I want to point out, Mr. Speaker, that one way we can assist the many people who are in distress in North Carolina is to not use the Federal Government to wipe out their local economy.

Mr. Speaker, the President went to eastern North Carolina recently and told farmers that he feels their pain, and he pledged his support in the wake of this disaster. However, as soon as he returned to Washington, we learned that he had instructed the Justice Department to do its best to wipe them all out with a Federal lawsuit. Mr. Speaker, the ultimate loser in this process will be the tobacco farmers, their families, workers and manufacturing facilities and others who work long, hard days to put food on the table and provide for their families. The fact that the administration has chosen to launch this action in the wake of a devastating natural disaster might be comical were it not so tragic.

Mr. Speaker, members of the North Carolina delegation and I have sent a letter and personally contacted the President asking him to reconsider his plan and drop this lawsuit against the very people we are here to express sympathy for today. I hope other Members of this body will join us in this effort to not penalize victims with an additional Federal lawsuit.

Mr. TRAFICANT. Mr. Speaker, I yield 1 minute to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON. Mr. Speaker, I thank the honorable gentleman from Ohio for yielding me this time; and, Mr. Speaker, I rise in support of this resolution. We, the people of the United States, in order to form a more perfect union must provide for the general welfare of the people, the people in the Carolinas who have been devastated. I recognize the pain of the people who live there, who are affected by it on television. I saw where the waters had washed up the graves, and caskets were floating down the rivers, and saw where the hogs were on top of roofs trying to preserve what little life there was among the cattle.

America is busy doing things around the world. America needs to focus her attention on North Carolina and swiftly and surely, that the people in the Carolinas who have been affected so in such a devastating way by Hurricane Floyd get the kind of help and relief that they need expeditiously. I am willing to help; I know that most Members of Congress are willing to help. They need shelter, and I think that the apparatus we have in place like FEMA and all of these other disaster agencies that are in existence at this time in this country need to focus its full attention on North Carolina and ensure that relief is posthaste on behalf of those American citizens that we are here to represent.

Mr. FRANKS of New Jersey. Mr. Speaker, I yield 1½ minutes to the gentlewoman from North Carolina (Mrs. MYRICK).

Mrs. MYRICK. Mr. Speaker, I thank the gentleman from New Jersey for yielding me time; and, being from North Carolina, I of course am very much aware of the need there, but I think everybody in this country has seen the horrible devastation that has taken place.

As my colleagues know, we have so far done a good job relative to the disaster-relief part of this effort. The Federal Government has stepped in; FEMA, they have done a good job; the State government has done a magnificent job in meeting the immediate needs of the people. But now we move into a separate phase in this recovery effort.

Recovery is different than the immediate relief because we are talking long term. People have got to have a place to live. They need their homes rebuilt. They need their jobs again. And all of this is going to take place with the help of a lot of people across America because Government will do their job; we in the North Carolina delegation will see that everything possible is done from the government side. But then we have also got to have the help of all the people in this country who are willing not only to step up with dollars, but to step up with volunteer time. Who will come into North Carolina and help these people have some hope again, have a home in which to live?

I mean, think about it. One may have a home that has been destroyed in this flood, and then it has to be condemned because of the hog waste and the human waste and the gasoline and everything else. So, one had a mortgage on that home, they had no insurance because maybe they lived in the 500-year flood plain. They did not think they needed insurance. And all of a sudden here they are, no home, no insurance, a mortgage to pay, nowhere to go, maybe no job.

So I implore all the people across America, please come help us as a volunteer in North Carolina to give these people hope and to rebuild.

Mr. TRAFICANT. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from New Jersey (Mr. ROTHMAN).

Mr. ROTHMAN. Mr. Speaker, I thank the gentleman from Ohio for yielding this time to me. I want to thank my colleague from New Jersey (Mr. FRANKS) for his leadership on this issue, and I urge all my colleagues to support House Resolution 322.

Over the past several weeks the people of northern New Jersey have learned what many victims of disaster have already learned, that rebuilding lives can be a long and painful process and that the Federal Government needs to be there to help them in their time of need.

My heart goes out to the people of my district and to North Carolina and around the country who have suffered so grievously given this natural disaster. From the Hackensack to the Saddle Brook to the Pasaic, the rains that spilled the waters of New Jersey's rivers onto our communities caused tremendous damage, heartache, and loss. Memories that were encased in family heirlooms and photographs and other priceless possessions were lost. In addition to the hundreds of thousands of dollars, millions of dollars in communities that were lost when the rains swept away literally a lifetime of savings and investment.

For the people of my district the effects of this disaster will continue to be felt for weeks, months, and years to come. I have been encouraged by the quick response of FEMA, the Federal Emergency Management Agency. Within hours teams arrived in New Jersey to start the difficult process of assessing the full extent of the damage and providing assistance.

□ 1130

I also want to commend New Jersey's volunteers and those professionals, the police, fire, first-aid, emergency response personnel, phone, gas and electric company workers, local elected officials and all the volunteers who did such an outstanding job during the flooding and its aftermath to help their neighbors. These heroic men and women put their lives on the line many, many times, and made many, many sacrifices to help the people of our region.

But now that the winds and rains have subsided from Hurricane Floyd, the Federal Government must be there. People debate whether there is a role for government. Well, there surely is a role for the Federal Government in the case of a natural disaster no one could have predicted. And in New Jersey, where we are the second lowest in terms of returning dollars from Washington, we send our tax dollars to Washington and we are the 49th State, almost the lowest ranking, to get money back from Washington.

This is now when we need Congress' help. This is now when we need some of our Federal dollars back to us in New Jersey. I urge all my colleagues to support those efforts and to support House Resolution 322.

Mr. FRANKS of New Jersey. Mr. Speaker, I yield 2½ minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding me time, and I congratulate him on offering this important resolution.

Mr. Speaker, as we all know, on September 16, Hurricane Floyd took an unexpected turn after ravaging North Carolina and Virginia and crashed into central and northern New Jersey. The State's capital county, Mercer County, along with eight others, were declared major disaster areas, and, as my colleagues know, such a declaration does trigger the release of Federal expertise and funds to help people recover from Hurricane Floyd.

To date, over 12,000 New Jersey residents have applied for assistance through FEMA. In the short term, we are looking for immediate relief for those who have been devastated, with loans and small grants; and, in the long term, we will be requesting FEMA's help for extensive mitigation projects to protect family and businesses in flood-prone areas such as in the City of Trenton and the Township of Hamilton.

I would just point out for the record, Mr. Speaker, that as a result of that hurricane, in the City of Trenton alone, 40 homes were completely devastated and 25 businesses completely flooded; and each of those people are looking for some help and some assistance.

When disaster strikes, as we all know, the U.S. Small Business Administration acts as the Federal Government's disaster bank. The SBA has three types of low interest loans. Approximately 3.6 percent is the rate, for 30 years, available to qualified homeowners and non-farm businesses of all sizes. These loans include homeowner loans up to $200,000 to cover residential losses not fully compensated by insurance.

Homeowners and renters may also borrow up to $40,000 to repair/replace personal property such as clothing, property, and cars; nonfarm businesses of any size and nonprofit organizations may apply for up to $1.5 million to repair or to replace assets like inventory or machinery or equipment damaged by the disaster; and small businesses that suffer economic losses may apply for SBA's economic injury disaster loans.

Mr. Speaker, beyond the individual SBA loans, FEMA has a Hazard Mitigation Program to fund construction projects to protect either public or private property; and we will be pursuing that very aggressively as well.

Mr. Speaker, I just want to make one final point. When FEMA arrives on the scene, sometimes people feel that the cavalry has arrived and everything is going to be made whole. But FEMA is not a panacea. It provides a bridge, helps people get back on their feet, but the devastating losses that our friends throughout the country on the East Coast especially have experienced will not be fully compensated for, but we have to do the maximum effort to make sure they are back on their feet and their families are protected for the future through mitigation efforts.

Mr. TRAFICANT. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Carolina (Mr. McINTYRE.)

Mr. McINTYRE. Mr. Speaker, I want to thank the gentlewoman from North Carolina (Mrs. CLAYTON) and my other North Carolina colleagues on both sides of the aisle for bringing this resolution to the floor. The flooding with Hurricanes Dennis and Floyd is unprecedented in the history of North Carolina. This disaster met or exceeded the 500-year floodplain for many communities, and 500 years is before settlers had even arrived here in our country.

While the economic losses have been enormous, it cannot touch upon the loss of life that so many fellow Tar Heels have suffered. Hurricane Floyd resulted in 48 confirmed fatalities, and this figure could still rise as search and rescue teams continue to reach isolated communities and flooded homes, cars, and businesses.

Henry Wadsworth Longfellow once said that noble souls, through dust and heat, rise from disaster and defeat, the stronger.

Indeed, nature's actions have tested our patience, our souls, our will, but we should not break our resolve to recover from this horrific event. We will be stronger, now, more than ever, if we work with the sense of community.

After all, what are we here for? This is the People's House. Our first duty is to help the people of this country. If during this time of crisis, we cannot reach out to our countrymen and women, our children, our senior citizens, we do not have a future. Many of them do not even have today, if we do not unite together, reach across the aisle, not only in our expression of sympathy, but our expression of desire to help. That is our duty. That is our calling as the people who have been elected here to serve the people in this Nation.

Mr. Speaker, I ask that every one of our colleagues join us in expressing our deepest sympathy to those individuals and families who have lost loved ones and lost property. I want to thank all my colleagues on both sides of the aisle for standing together as we reach those who need help at life's most desperate hour.

Mr. FRANKS of New Jersey. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Speaker, I rise today in strong support of the resolution offered by my colleague from New Jersey. Throughout our history, Americans have always distinguished themselves and our Nation through their ability to persevere through trying times. This ability must be attributed in large measure to the faith that we have always had in our neighbors, in our fellow citizens, to help in times of need. The efforts of assistance, not only by those in government but also by those who simply cared, to the victims of Hurricane Floyd certainly stands in validation of this faith.

Having worked very closely with representatives of FEMA in New York State, New York State's Emergency Management Office and its extraordinary Director, Edward Jacoby, the Small Business Administration, and many of the fire departments, town supervisors and sheriff and police departments as we tried to clean up and understand the enormous devastation that hit my district, I know firsthand their selfless devotion and caring work to help people whose lives have been diminished by the fury of this hurricane.

Though lives have been lost and communities damaged and disrupted, the effort to recover and rebuild has generated a sense in many that better days will lie ahead.

So we rise today to reaffirm our fellowship to those affected by Hurricane Floyd. This House extends to these victims our sympathy and our continued commitment to assisting them as they work to rebuild their lives and their communities.

Mr. TRAFICANT. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. Mr. Speaker, I want to thank the chairman and ranking member for bringing this resolution to the floor, and the gentlewoman from North Carolina (Mrs. CLAYTON) and the other members of our delegation for working on it.

This expression of sympathy for the victims of this storm is an important symbol that expresses collectively many of our personal thoughts and prayers. And so many have shown genuine sympathy towards those injured and killed by the most destructive natural disaster to ever hit my home State of North Carolina.

Let me say from the outset, I am aware and sympathetic to those affected by the hurricane beyond the borders of North Carolina. My thoughts and prayers are also with you. But, folks, I have seen the suffering in my home State firsthand, and the word "devastating" just does not do it justice.

It is devastating when you lose your job. Those people in many cases have lost everything they own, everything they ever knew. They have lost more than their jobs. They have lost their possessions, their homes, their clothing, those sentimental items that we rarely think about until they are gone, wedding photographs, military awards, a child's first report card, love letters, and, for at least 48 families, a loved one. So much lost, washed away in the flooding not seen in our State in all of recorded history.

In some places entire towns, roads, infrastructure, schools, businesses will have to be rebuilt from scratch. Farmers have lost their crops and have suffered great to their barns, their homes and their equipment. These farmers were already toiling under the worst economic disaster prior to this flooding, and now they have been slammed by a storm.

The people who barely escaped the rushing floodwaters with their clothes on their back hailed from some of the poorest areas in the entire country. Some have said this storm will set back some parts of eastern North Carolina as much as 50 years.

No, "devastating" does not do this storm justice. Hurricane Floyd has been a catastrophe of the highest order.

But, folks, in every storm there is a silver lining. If this storm has proven anything, it has proven the determination, the resolve and the indomitable spirit of the people of North Carolina. Our people come by the name "Tar Heels" honestly, because they stand in the face of adversity, and today they are facing this adversity, but we need the help of this Congress and the people of America.

If something knocks us down, we get right back up to fight another day. And that's what is happening all over North Carolina. People are pulling themselves up by the bootstraps and putting their lives back together. Neighbors are helping neighbors. People all over North Carolina and around the country are making donations, sending food and supplies and providing their letters and prayers of support.

I personally have felt great sadness at the suffering that has since Hurricane Floyd wreaked havoc on my state. However, I have also been inspired by the determination our people have shown as they struggle to survive. I have never been more proud to be a North Carolinian than I am today. Representing the hard-working, God-fearing and Floyd-surviving people of my district in Congress is one of the greatest honors of my life. The people of North Carolina will survive, as will all those that have been affected by this catastrophic storm. Please join me in expressing sympathy for the victims of Hurricane Floyd by passing this resolution unanimously. And then let us pledge to work together to pass a supplemental disaster relief package for the victims of Floyd that will help all the victims get back on their feet and that will bring honor and distinction on the United States Congress. And please keep the victims of this unprecedented disaster in your thoughts and prayers in the weeks ahead.

Mr. FRANK of New Jersey. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I thank the gentleman from New Jersey as well as the gentlewoman from North Carolina for introducing this resolution.

I must say, as many of my colleagues from North Carolina and also from New Jersey and Virginia and elsewhere have said, that this is probably one of the worst natural disasters that we have seen, certainly in my State, and I cannot speak for New Jersey and Virginia. But when you have a gentleman from the State of Maryland who was a volunteer during America's help in Turkey with the earthquake, and he comes back and he goes down to eastern North Carolina and he is quoted in the paper as saying that it reminded him of the Third World, that maybe tells you better than what I can say just how bad things are in eastern North Carolina.

But I will tell you that the resolve of the people in North Carolina and the people of eastern North Carolina is such that when they have been devastated by this natural disaster, they have come together and they take care of their brothers and sisters, as the Bible says, and I can assure you that the outpouring of help, not just sympathy, but help that has come from people within the State of North Carolina, as well as from all over America, is just what America is about. When people are hurting and when people are in need, we as Americans come to each other's aid. That is what makes this country what it is today.

I want to also say that FEMA I think has done an excellent job. It is a tough job. When you have people that are frustrated and stressed and have lost so much, and they are anxious for help, I do want to say that I think FEMA has done an excellent job. Certainly they are overwhelmed by this disaster, but, again, they are doing their very best to help the American taxpayer and the citizens of eastern North Carolina, as well as Virginia and New Jersey.

I do want to say, Mr. Speaker, that when farmers and business owners and individuals have lost everything, then, as I said earlier today in a morning speech, I think sometimes that we need to reconsider foreign aid. We need to reconsider, that the American taxpayer, the American that has been hurt, should come first.

In closing, I know that this Congress will do everything within its power to help its neighbors in North Carolina, as well as New Jersey and Virginia.

Mr. TRAFICANT. Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, if you live in a 5-year floodplain or a 10-year floodplain or even a 25-year floodplain, you can reasonably expect to have a flood every 5 years, every 10 years, every 25 years. But when you live in a 500-year floodplain, you cannot prepare for it. You do not buy insurance for a disaster that occurs every 500 years.

□ 1145

This is what has happened in North Carolina. People have been hit by an incident that can reasonably be expected never to occur again in our lifetimes, not again for 500 years. So we need the kind of response in this body to an incident and in a way that demonstrates that we are responding once every 500 years.

Mr. Speaker, I want to thank these colleagues for bringing this resolution to the floor, and talk about the resolution for a little bit.

The resolution is three pages long. Most of the first two pages talk about the devastation that has occurred. I want my colleagues to zero in on the last four lines of this resolution, because that is where we make our 500-year commitment to these people.

It says that we pledge to support to continue to work on the people's behalf to restore normalcy to their lives, and to renew their spirits by helping them to recover, rebuild, and reconstruct.

Now, we can express all the sympathy that we want to, and that is important in this context. But this is the four lines that we make our commitment in, and it would be a mistake for any of my colleagues to come and support this resolution simply out of a political motivation to get some brownie points if they are not serious about living up to the last four lines of the resolution.

Mr. FRANKS of New Jersey. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida (Mrs. FOWLER).

Mrs. FOWLER. Mr. Speaker, I rise in strong support of this very important resolution. As many of my colleagues know, I have over 100 miles of coastline in my Florida district. This makes us very susceptible to hurricanes like Floyd.

I never thought I would say that we were lucky to have category 1 hurricane force winds, but we were. However, Hurricane Floyd did cause substantial damage to the coast of Florida, enough to warrant a presidential disaster declaration. My thoughts and prayers are with all of those who are now struggling with rebuilding their homes and businesses. I am confident, however, if that same community spirit in the midst of this disaster continues through this rebuilding, we will all end up with stronger and better communities.

I want to particularly commend FEMA and the State and local and volunteer emergency management organizations that did such an excellent job in aiding our communities during this disaster, and are continuing to aid us as we rebuild.

Mr. TRAFICANT. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey (Mr. PAYNE).

Mr. PAYNE. Mr. Speaker, I rise today to join my colleagues in supporting today's resolution, and commend the gentleman from New Jersey (Mr. FRANKS) and the gentlewoman from North Carolina (Mrs. CLAYTON) for House Resolution 322, expressing sympathy for the victims of Hurricane Floyd.

We can all imagine how tragic and terrible and disheartening it must be to lose the very basics of life, to see your home and all your possessions lost because of uncontrollable acts of nature. In the wake of the havoc wreaked by Hurricane Floyd, however, there has been a silver lining. That is that people have been drawn together in a spirit of humanitarian concern as thousands of volunteers from churches and community organizations have come forward to offer assistance to those who are facing hurricane-related hardships. They have provided shelter and food and clothing, and most importantly, moral support during this time of crisis.

In my home county of Essex, we have had a serious problem with flooding and malfunctioning traffic lights which has endangered public safety. Fortunately, everyone pulled together with Federal and State support. We have been able to begin rebuilding and repairing the damage caused by Hurricane Floyd.

I am pleased that President Clinton responded favorably to the request by New Jersey and other States affected by the hurricane to be designated Federal disaster areas so we can obtain much needed relief from FEMA and other Federal agencies.

Again, Mr. Speaker, I want to extend my sympathy to the victims of Hurricane Floyd all across the Atlantic East Coast who have been displaced from their homes or who have lost loved ones. They remain in our thoughts and in our prayers, and we will continue to offer our full assistance as the task of rebuilding gets underway.

Mr. FRANKS of New Jersey. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, my district, which is located in inland North Carolina, was spared this very, very dreadful disease which now plagues eastern North Carolina. But even though we were spared, every time I go home, groups come to me and say, we cannot do enough for those victims down east, and also in New Jersey, but they are talking primarily about North Carolina.

I called on an old law school friend of mine from Rocky Mount, which is also inland, Mr. Speaker, just to inquire as to how things are progressing. He said, you cannot imagine how bad it is until you come to see it. He said, the television portrayals really do not bring you up to speed.

I guess about the only bright spot, Mr. Speaker, has been the East Carolina University football team. They played South Carolina. They could not return to their home in Greenville because the campus was under water. North Carolina State, which is their arch rival, loaned their stadium to them. There were signs, I noticed, in the East Carolina contingency thanking State, which is quite a landmark, the way those two schools battled each other football-wise. But East Carolina won that game and defeated Miami.

An account in the largest newspaper in my district gave a detailed report of the game, but the focus was on the flood and the people from East Carolina who drove the back roads to get to Raleigh just to escape the flood.

The concluding line of the story was that, oh, incidentally, East Carolina won the football game. But it was incidental, because keeping things in perspective, the news that day was the flood and how those people gathered in that parking lot in Raleigh to hold hands, to laugh, and to cry.

I thank those in this body who are concerned about them, those who are empathizing and sympathizing with the people who have suffered through this disease that plagues North Carolina.

A friend said, Howard, they do not need loans, they need grants. I concur. I hope we can come forward quickly and come to the aid of those people who desperately need it.

Mr. FRANKS of New Jersey. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would like to take this opportunity to thank the gentleman from New Jersey (Mr. FRANKS) and the gentlewoman from North Carolina (Mrs. CLAYTON) for coming together with all of our colleagues from New York and New Jersey, Pennsylvania, and North Carolina to bring this timely resolution to the floor.

This bipartisan measure represents the tragedy each of us have observed and experienced in our own congressional districts, and reflects the sorrow we feel for the thousands of individuals, families, businesses, and communities who continue to struggle in the wake of Hurricane Floyd.

Between September 14 and September 17, Hurricane Floyd struck countless communities along the East Coast, devastating homes and businesses. Responsible for at least 66 known deaths and millions of dollars in property and infrastructure damage, Hurricane Floyd is one of the most destructive natural disasters in the history of our Nation.

Accordingly, we have all joined together in introducing House Resolution 322, a resolution expressing the deepest sympathy for the victims of the hurricane, and pledging our support to continue to work on their behalf to restore normalcy to their lives and renew their spirits.

Mr. Speaker, the effects of Hurricane Floyd are continuing to have devastating affects on the State of New York. Numerous municipalities have sustained significant damage from flooding, power outages, and loss of vital public services. Rising waters forced individuals to leave their homes throughout our region, and particularly after the dam at Hyenga Lake burst, portions of the town of the Clarkstown in the State of New York were evacuated.

Presently the Federal Emergency Management Agency, the Small Business Administration, New York State Emergency Management Office, are working together to provide our injured communities with information, supplies, funding, and peace of mind. We commend them for their vital assistance.

However, the true heroes in this disaster are the people and their will to prevail. Citizens throughout the New York counties of Orange, Rockland, and Westchester are working together to overcome this tragedy. It is amazing to see how our communities have rallied around each other to rebuild their broken communities.

Hurricane Floyd was one of the worst disasters in our Nation's history. The Congress has the duty to recognize the challenges people engulfed in this tragedy are facing, and we must work together, as they have, to ensure our Federal agencies have the necessary support they require to deal with the level of disaster.

Mr. TRAFICANT. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for yielding time to me.

Finally, Mr. Speaker, I just want to thank all who have expressed their sympathy, and want to reemphasize the point that the gentleman from North Carolina (Mr. WATT) made; that, one, to empathize is also to support, not just to sympathize. This has been a mammoth, an enormous disaster. There has been none, I am told, in the history of this magnitude for floods in the United States, and never this devastation in North Carolina. Therefore, the response has to be accordingly.

Americans are at their best in disasters. I can tell the Members, if there is any redeeming grace out of this horrific loss, it has to be the generosity of the American people, neighbors helping neighbors.

Equally challenging, however, will be our governments collectively coming together and making the kind of response that is necessary, not for people to recover, but, indeed, for people to rebuild and for communities to be restored.

Again, I urge the support of Members and call for a vote.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the gentlemen from North Carolina, Mr. WATT and Mr. COBLE, sympathy is not enough. The Congress must help. This was a grave disaster. The carcasses of dead animals are still afloat in North Carolina. It is time for Congress to act.

I want to commend FEMA for a fine job, State and local governments for all the good work they are doing, and all the charitable and civic organizations and all the people of America for reaching out to help.

But I want to make this statement to all of the impacted citizens who experienced this great disaster. After the crisis is over and the media packs its bags and they desert, and we do not see it on the news anymore, the people despair and think maybe they have been forgotten. This is the time for the resolution, because it says the Nation has not forgotten, and more importantly, the Congress of the United States has not forgotten, and will help all of those impacted upon by this great disaster.

I want to commend the gentlewoman from North Carolina (Mrs. CLAYTON), the gentleman from New Jersey (Mr. FRANKS), and urge everybody in this body to vote for this resolution.

Mr. Speaker, I rise in strong support of this resolution which expresses sympathy for the victims of Hurricane Floyd.

Hurricane Floyd dumped 20 inches of rain onto North Carolina alone. In fact, parts of North Carolina received nearly three feet of rain in September.

This resulted in the worst flooding in North Carolina history and the start of a recovery process that could take months, if not years, to complete.

In North Carolina, flood waters have destroyed or heavily damaged 3,000 homes and forced 42,500 people to apply for state and federal assistance.

When the waters finally subside, Floyd is expected to be the most expensive natural disaster in North Carolina history, topping the $6 billion price tag from 1996's Hurricane Fran.

FEMA already has approved more than $4.3 million in direct aid to those affected by Floyd, and insurance companies are extending premium due dates an additional 60 days because so many are unable to return to their homes.

At least 1,500 people remain in shelters, spending nights huddled in sleeping bags and days monitoring media reports on the flooding. The American Red Cross has served hundreds of thousands of meals since evacuations for Floyd began, and the organization expects to remain in the region for months to come.

Panicked residents who have lost everything and have watched the media pack up and leave are afraid the Nation has lost interest in their problems.

This resolution is timely, Mr. Speaker, because it sends a message to the victims of Hurricane Floyd that the Nation has not forgotten them, and the Congress of the United States will make sure they get the aid and assistance necessary to rebuild their lives.

Mr. Speaker, I yield back the balance of my time.

Mr. FRANKS of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentlewoman from North Carolina (Mrs. CLAYTON), Members from the region, Members from both sides of the aisle, for coming here to express their heartfelt sympathy, but also for us to collectively focus on the job that remains ahead.

This flood has caused enormous dislocation in our communities. Our neighbors will need our help in the weeks and the months ahead, and this institution needs to retain a commitment to make certain that these folks get back to a life as normal as possible.

I am looking forward to working with our colleagues to assure that that is the end of this event, a successful conclusion that will have the Federal Government working in partnership with the State and local governments and volunteer agencies to make sure our neighbors get back on their feet.

Mr. HOLT. Mr. Speaker, as record floodwaters receded across New Jersey only weeks ago, the damage toll from Hurricane Floyd inched upward in our state. Surging floodwaters caused several hundred million dollars in property damage and claimed four lives.

As officials struggled to cope with thousands of refugees, families were left to deal with contaminated drinking water, highway closures and lingering phone and power outages.

Nine of the counties hardest hit by Floyd have been declared federal disaster areas—including Hunterdon, Middlesex, Mercer, and Somerset counties in my district.

I was able to see firsthand the damage that the hurricane caused. In Lambertville, I toured the Middle School that only days before had 2–3 feet of water flowing through it. Mud covered floors, floating school supplies, and overturned desks scattered the building. Officials there told me they expect the clean-up effort may cost up to $1.5 million.

In Branchburg, I watched as families shoveled mud from their basements—their belongings ruined and homes permanently damaged.

In my Congressional District, there was water everywhere, but none to drink, as flooding contaminated drinking-water sources. More than 200,000 residents throughout the state were urged to boil tap water before using it.

From the scenes of devastation, tales of heroic rescues emerged.

In this time of devastation it gives me some comfort to think on those men and women of New Jersey who thought first of their fellow citizens.

The inextinguishable spirit of the citizens of New Jersey has burned brightly in the days since this horrible disaster. And it will continue to burn as an example for our nation.

However, this spirit alone cannot restore the damage caused by Hurricane Floyd.

While the federal disaster declaration is a substantial step forward in helping central New Jerseyans start to put their lives back together, more immediate assistance is necessary.

In cosponsoring this Resolution, I have pledged my support to continue to work to restore normalcy to the lives of the victims of the hurricane and to renew their spirits by helping them recover, rebuild, and reconstruct. I urge my fellow colleagues to join me.

Mr. FRELINGHUYSEN. Mr. Speaker, New Jersey suffered from some of the worst flooding in 200 years when Hurricane Floyd roared through Jew Jersey in September. Homes, corps, businesses and lives were destroyed.

Floyd is gone, and the flood waters have receded, but many New Jerseyans continue to suffer its effects. Lives were completely disrupted, and they continue to be. Our words here on the House floor have little impact on their suffering, yet they are important because we must ensure that America remembers the havoc Floyd wreaked on New Jerseyans, and the people of coastal North Carolina as well. Furthermore, we must continue to monitor the Federal government's response to this disaster and make sure none of our residents is overlooked.

I also want to take the opportunity to commend the countless men and women who contributed to relief efforts in New Jersey. Whether by wading into the waters to help rescue a stranded citizen, or by aiding with a contribution of time or money to help provide food and shelter for families, many of whom lost everything, New Jersey's volunteers have again demonstrated an admirable commitment to their fellow New Jerseyans, and to them I say, thank you.

To the people of my own district, in Morris, Essex, Somerset, Sussex and Passaic Counties, and elsewhere, and to the people of Bound Brook and Manville, and throughout New Jersey who have lost both their belongings and their faith, let me assure you that Congress has not, and will not forget you.

Mr. FRANKS of New Jersey. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SUNUNU). The question is on the motion offered by the gentleman from New Jersey (Mr. FRANKS) that the House suspend the rules and agree to the resolution, House Resolution 322.

The question was taken.

Mr. FRANKS of New Jersey. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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J.J. "JAKE" PICKLE FEDERAL BUILDING

Mr. COOKSEY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 559) to designate the Federal building located at 300 East 8th Street in Austin, Texas, as the "J.J. 'Jake' Pickle Federal Building".

The Clerk read as follows:

S. 559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Building located at 300 East 8th Street in Austin, Texas, shall be known and designated as the "J.J. 'Jake' Pickle Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "J.J. 'Jake' Pickle Federal Building".

The SPEAKER pro tempore (Mr. SUNUNU). Pursuant to the rule, the gentleman from Louisiana (Mr. COOKSEY) and the gentleman from West Virginia (Mr. WISE) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. COOKSEY).

Mr. COOKSEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, I thank the gentleman from Louisiana (Mr. COOKSEY), my good friend, for yielding me this time, and I rise in strong support of this legislation.

Mr. Speaker, Jake Pickle was a giant in this House. He was a personal friend of mine. He is so deserving of this honor. Some months ago, the gentleman from Texas (Mr. DOGGETT) introduced his resolution. I not only supported it, but I moved it very quickly through our committee. We brought it to the floor. I supported it here on the floor. We passed it, and we sent it over to the Senate in May, I believe.

It was my hope that the Senate would have taken it up and would have acted upon it. That is my preference. But, unfortunately, the Senate has chosen not to act upon it, but rather to pass an identical Senate resolution sponsored by Senator GRAMM from Texas.

As recent as last night, we called the Senate again and asked if they would please consider the House resolution, the Doggett resolution. We were informed, again, in no uncertain terms, that they simply would not bring it up.

So, Mr. Speaker, we are faced with a choice here today, a choice which is not of my making and a choice which I wish we did not have to face. The choice is are we going to take the identical Senate resolution and honor Jake Pickle, or are we not going to pass any such legislation? That is the real choice.

Because Jake Pickle was such an outstanding Member of this body, a great American, I think that we should move ahead. Jake is in his 80's now. He is not in the best of health. He certainly brought great credit to this country and to his State of Texas. Indeed, I have on my coffee table at home his book entitled "Jake," and I recommend it to all Members because it gives extraordinary insight into a very important time in our history.

Mr. Speaker, Jake Pickle is very deserving. I want to see this building named in his honor. The only way we are going to do it is by passing the Senate resolution which is identical to the House resolution. For those reasons that I have stated, I would urge all Members and particularly my Democratic friends because, of course, Jake is and is proud of being a Democrat, so this is a Democratic resolution. And, indeed, I support it and would urge all Members to support it.

Mr. WISE. Mr. Speaker, I yield 10 minutes to the gentleman from Texas (Mr. DOGGETT), author of the House resolution.

Mr. DOGGETT. Mr. Speaker, with our action today, I am pleased that Congress will have finally completed its consideration of the naming of the Federal building in Austin after my predecessor and friend, J.J. "Jake" Pickle. This honor is long, long overdue.

For all of those who come to central Texas by air, there is a good chance when they first touch ground, they will land on the J.J. "Jake" Pickle runway at our new Austin-Bergstrom International Airport. And if one is interested in higher education or in high technology, one will likely be aware that at the University of Texas we have a J.J. Pickle Research Center on the J.J. Pickle Research Campus from which great ideas and great spin-offs have had much to do with the success of the high-tech industry which has really fueled our progress in central Texas and certainly represents our central Texas economic future.

In a joint project, the City of Austin and the Austin Independent School District have construction under way on the J.J. "Jake" Pickle Elementary School, Library, Health Clinic and Recreation Center. They are located in the St. Johns neighborhood and will be opening in the fall of 2001 as, I think, a living symbol and substantive statement about our commitment to equal educational opportunity in central Texas.

To these Austin memorials it is appropriate that we add the J.J. "Jake" Pickle Federal Building. This is the place where, from the time of the administration of President Lyndon B. Johnson, until his retirement in 1994, Congressman Pickle had his district office; and I am fortunate to have the very same rooms up on the 7th floor of the Federal building in Austin that we are naming today, a place from which most of the important operations of the Federal Government in central Texas are conducted.

Congressman Pickle is the only Congressman that I have really ever known during my life in Austin. He was elected when I was a senior at Austin High School, and he continued to serve until I was elected to succeed him in 1994.

And serve our community he certainly does and continues to do. It was with that service in mind that on February 12 of 1998 I introduced H.R. 3223, the bill that the bill before us today copies verbatim. Unfortunately, even I was surprised at the way this Republican Congress handles such matters. For months last year the Republican leadership permitted consideration of few, if any, bills if they had the misfortune of having a Democratic sponsor.

Finally, on July 14, 1998, with a bipartisan tribute, joined by Democrats and Republicans on this floor, we paid tribute to Congressman Pickle for his service and unanimously passed this bill through the House. My goal in filing H.R. 3223 early in 1998 was to have this bill signed into law by President Clinton in time for a ceremony in Austin, Texas, about October 11 of last year when Congressman Pickle happily celebrated his 85th birthday. My office was assured from the staff of the Senate sponsor of this measure, Senator GRAMM, that we would get this done; that the President would be able to sign it last year; and, of course, this was not done.

So on January 6, the first day of this session when I came down to swear my oath of office along with my colleagues, immediately after doing so, I refiled H.R. 3223 that the House had approved unanimously in 1998, and this year it was H.R. 118. Like most everything in this House this year, progress was painfully slow. But finally, finally on May 4 of this year, we had another bipartisan tribute which I hope Congressman Pickle enjoyed again, colleagues, Republican and Democrat, coming to tell some stories and to pay tribute to his excellent service. And the House again unanimously approved the bill.

On June 16 of this year, my office received a call indicating that the Senate was at last about to approve H.R. 118. So we turned on C-SPAN to watch the happy moment; and, indeed, we learned that at the last minute, apparently at the request of the sponsor of S. 559, that H.R. 118 would not be approved, but S. 559 would be.

Such action is highly unusual, even in this often too contentious Congress. During this year of 1999, three House naming bills of this type with Senate companions where both the House and Senate sponsor filed bills, three House bills have been sent over to the Senate first and each one of them is already law. The same has occurred with the naming bills that have come the other direction where the Senate acted more promptly than the House and the House paid courtesy to the Senate and approved those bills which have been signed into law along with these House naming bills that had no Senate sponsor originally, but were also signed into law.

The Pickle bill is thus the first and the only lone exception from the Lone Star State to the courtesy and the bipartisanship that is normally associated with such matters.

After more than a few unreturned phone calls to staff, I spoke personally with our senior Senator from Texas in August to courteously and respectfully request prompt approval of my House bill. About one month later a Senate staffer again assured my staff that we would get Senate approval of the House bill and that it would be done shortly. During the last month, however, we are back to largely the old unreturned phone call routine.

Now this morning's Republican Whip Notice for this very morning indicates that, like Senator GRAMM's original S. 559, they are designating 33 East 8th Street in Austin to be named for Congressman Pickle. If that address actually represents any place, it is part of a sidewalk in downtown Austin; and I think this error probably results from a Senate author who knows as little of Austin and Austinites, unfortunately, as that measure suggests. Mr. Speaker, I think that Congressman Pickle deserves far better from both the Senate and the House.

A number of strange arguments were advanced yesterday for the belated rush and enthusiasm to approve S. 559, the copycat version of the House bill. Yesterday's Congress Daily quoted a spokeswoman for the majority leader, Mr. ARMEY, as saying the House had to schedule S. 559 this week because it was a way to save time and avoid a

House-Senate conference committee. Of course that was phony because there were no differences between the House bill and the copycat version from the Senate for a conference committee to adjust.

Then other stories were circulated, apparently Mr. Shuster heard one of them, suggesting that Congressman Pickle was in grave health. Well, I talked to him personally just after he returned from his morning jog, and I am pleased to report to the Members of the House this beloved former Member of our body is alive and kicking.

Indeed, our community finds Congressman Pickle still mighty hard to keep up with because of the fact that he is no longer a formal Member of Congress, and only a former Member has not slowed him down a bit. We appreciate his energy and vigor, and we say thanks with the approval of this measure for what he has done.

I have tried to gain some understanding of why it is that we would go through the kind of unprofessional conduct associated with the way this bill has been considered. First I think in this do-little Congress approving naming bills and commemoration of the Leif Ericson Millennium Medal is about all that is getting done, so it is not surprising why Republicans would want to sponsor as many of these measures as possible.

Second, it is not unusual for Republicans to adopt good Democratic proposals. It is said that imitation is the sincerest form of flattery, and who could help but be flattered by Senator GRAMM's enthusiasm for my proposal? Republicans, even in this Congress, rely on the wisdom of FDR, Truman and JFK; and it is hard to hear a quote from Mr. Nixon or Mr. Hoover.

But I think finally it is plain old arrogance. For one form of that arrogance we years ago coined a new word in Texas. It is called "grammstanding," which usually describes the fine art of claiming credit in Texas for what you voted against in Washington.

But I think this silliness is not grammstanding. It is certainly not "Profiles in Courage." I call it "Profiles in Pettiness."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded that it is inappropriate to characterize or cast reflections on the Senate or Members of the Senate either individually or collectively.

Mr. DOGGETT. Mr. Speaker, this is a good bill for a great man, Jake Pickle, whose career stood above the kind of deceit and pettiness associated unnecessarily with the process that results in the approval of this very good bill. I urge the House to approve it.

Mr. COOKSEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 559 designates the Federal building in Austin, Texas, as the J.J. "Jake" Pickle Federal Building. One may recall this body passed H.R. 118, the House companion to S. 559, a few months ago. We are here today once again to honor our former colleague from Texas. Action on the Senate version will create a more equitable balance between the House and Senate versions of naming bills. Passage today will clear the measure for the President's signature.

Congressman Pickle began his long career in public service by serving 3½ years with the United States Navy in the Pacific during World War II. Following the war, Congressman Pickle returned to Austin, Texas, and held positions in the private and public sectors.

He served his political party ably as executive director of the Texas State Democratic Party. In 1963, he was elected to the United States House of Representatives in a special election to fill a vacant seat.

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He was then reelected to the next 15 succeeding Congresses until his retirement on January 3, 1995.

During his tenure in Congress, Jake Pickle was a strong advocate for civil rights. He vigorously advocated and supported such legislation as the Civil Rights Act of 1964 and the Voting Rights Act. For over 30 years, Congressman Pickle continuously worked for equal opportunities for women and minorities. As chair of the Committee on Ways and Means Subcommittee on Oversight and the Subcommittee on Social Security, he helped shape the system of Medicare to assure that it fulfilled its intended purpose of bringing basic health care for those in need and timelessly fought for the future of Social Security.

Congressman Pickle was a dedicated public servant who remained close to his Texas constituents. This is fitting legislation that honors him. I support this bill, and I encourage my colleagues to support it as well.

Mr. Speaker, I reserve the balance of my time.

Mr. WISE. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I am personally disappointed that the leadership has chosen to make the naming of a Federal building in Texas, my home State, a partisan issue. There is something ironic about that, because I have known very few Members of this Congress in my service here that were more nonpartisan, that were more bipartisan than J.J. "Jake" Pickle.

But, nevertheless, I come to this floor for the primary purpose of saying thank you to my friend, our friend, Jake Pickle.

Let me say, Mr. Speaker, at the outset that it takes a great deal for a Texas Aggie to come to this well of the House to compliment a University of Texas graduate. In this case, I will make an exception. No one deserves accolades better than our friend, J. J. "Jake" Pickle.

I love Jake Pickle. To me, he represents the very best of public service, truly committed to helping people for all the right reasons. He epitomizes the very best of public service, someone who has served his country in time of war, someone who continued to serve it in time of peace.

There are a lot of people today, Mr. Speaker, on both sides of the aisle claiming to be the saviors of the Social Security system. We will be debating that issue in the weeks and months ahead.

But in the 1980s, and particularly in the 1983 Social Security bill, Jake Pickle, through his leadership position on the Committee on Ways and Means, truly did help save the Social Security system. Millions of senior citizens, past, present, and future have been and will be the beneficiaries of Mr. Pickle's strong far-sighted leadership in that effort.

We could go on and on about all his many accomplishments, but it is not the accomplishments. It is the character of Jake Pickle that I most admire and love.

I think the Bible verse that says, "This is the day the Lord hath made, let us rejoice and be glad in it." is basically the verse that, to me, represents what Jake Pickle is all about.

When he walks in the room, he brings light and life into that room. He has brought light and life to all of us who have known him. I honor Mr. Pickle today along with my colleagues.

Mr. WISE. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Speaker, it is sad to hear that there is a squabble going on about naming this building. Quite frankly, we should keep our eyes on the prize, and that is to make sure that we do name this Federal courthouse after the great Member that we shared some common goals with here, Jake Pickle. I hope that gets worked out.

I would just like to take to the floor to thank Jake Pickle, because I worked for years on trying to change the burden of proof in a civil tax case, and Jake Pickle carried on a strong mantra with the Committee on Ways and Means.

But in the final analysis, he became a pragmatic friend and supporter and ultimately played a key role in the ultimate passing of that in last year's reform bill, even though he was not here.

So I want to say thank you, Jake Pickle. Many of us here love Jake Pickle. I hope we get beyond the partisanship. Keep our eyes on the prize and name that courthouse after our great former Member.

Mr. WISE. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, I want to rise and support enthusiastically this legislation, S. 559, as a bill to designate the Federal building on 8th Street in Austin, Texas in honor of Jake Pickle.

The gentleman from Texas (Mr. DOGGETT) who has previously spoken now represents Jake's district. He has twice introduced similar legislation, and he has been a steadfast advocate and supporter of this designation. House Members extend their thanks and gratitude to the gentleman from Texas (Mr. DOGGETT) for his diligence in this effort.

Now, honoring Jake in this manner is particularly appropriate because, for 28 of his 31 years in Congress, Jake Pickle had his office in this Federal building on 8th Street in Austin.

Jake Pickle was extremely proud of his Texas heritage, a native of Texas, born in Big Spring in the northwest part of the State. He attended public schools and graduated from the University of Texas in 1938. He was a Federal worker during the Roosevelt administration and then entered the Navy during World War II, serving 3½ years in the Pacific.

Coming to Congress after a special election in 1963, and, of course, he then succeeded President Lyndon Johnson, that was LBJ's District, Jake wasted little time in establishing himself as a congressional leader. He joined only five other southern leaders in voting in favor of President Johnson's Civil Rights Act of 1964. Jake has acknowledged that the civil rights vote was a vote of which he is most proud.

A few months later, Jake Pickle again courageously voted for the Voting Rights Act and then worked for 30 years to ensure equal opportunity for minorities and women.

Jake's committee assignments, including chair of the Committee on Ways and Means Subcommittee on Oversight and chair of the Subcommittee on Social Security. He devoted his time and energies to the wellbeing of his constituents and developed a reputation for selfless work and tireless advocacy for his fellow Texans.

Those of us who had the privilege of knowing and working with Jake Pickle are happy that this bill is finally here and that he will receive the honor to which he is entitled. It is with great pride that I support the gentleman from Texas (Mr. DOGGETT) and urge my colleagues to join me in honoring Jake Pickle with this designation.

Mr. WISE. Mr. Speaker, I yield 30 seconds to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I very much appreciate the gentleman yielding me this time.

Mr. Speaker, I want to rise as someone who had the great honor and privilege of serving with Congressman Pickle. He served with great distinction, with great commitment to this country, obviously outstanding service to the State of Texas.

But he was a national legislator and brought credit to himself and to our country and to this House as a Member. I am privileged and honored to be among his friends, his former colleagues, and supporters of this legislation.

Mr. WISE. Mr. Speaker, I yield 1¼ minutes to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, I thank the gentleman from West Virginia for yielding me this time and rise in strong support of this bill.

Jake Pickle was a great leader from Texas, served in this House with distinction for many years, and has been followed ably by the gentleman from Texas (Mr. DOGGETT). We have had this discussion many times. I must say that both Jake and his wife Beryl are two true great Texans.

There is a story, and if the gentleman will bear with me on this, there is a great story that is similar to how this bill is being handled, though. There was a dispute in the Democratic Party some years back when it was a split party, and there was an issue of dollars for Democrats, but not a nickel for Pickle because Jake was on the other side of the issue.

It is ironic that today we are considering the Senate bill offered by our senior Senator from Texas, a former Democrat, now a member of the Republican Party when really the bill we ought to be considering is the bill by the gentleman from Texas (Mr. DOGGETT) who introduced it first, who is the successor of Mr. Pickle.

I think Jake and Beryl are probably sitting back in Austin watching this on C–SPAN and chuckling to themselves that, even after 30, 40 years of these types of disputes, the House of Representatives today can go back and have the same internecine and warfare that the Texas Democratic Party was capable of doing many years ago.

Jake is a great man. He was a great leader from Texas. This is a good bill, even if it is not the Doggett bill. We ought to pass it.

Mr. COOKSEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to point out to my colleagues on the other side of the aisle that I, too, lived in Austin. I was actually stationed at Bergstrom Air Force Base during the Vietnam period while my colleagues were in school there.

I, too, know Jake Pickle. There is no question that Jake Pickle is a gentleman and a scholar and was truly a credit to this great institution. But today I think that we should keep focus on what we are here about. We are here to name a building after a great man who was a great congressman and a credit to this Nation and to the great State of Texas.

So I urge my colleagues to proceed with this, and we will indeed facilitate naming this building for Congressman Jake Pickle.

Mr. WISE. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. FROST).

Mr. FROST. Mr. Speaker, there is no more appropriate person to name a Federal building after than Jake Pickle. Jake has a long and distinguished connection with the city of Austin where this building will be located. Jake was president of the student body at the University of Texas. He went on to work many years in Austin in politics before coming to this Congress. Jake was, in fact, one of the most distinguished Members from our State in the last 30 years.

No person worked harder on making sure that the Social Security system would be strong and would survive well into the next century than Jake Pickle. No person worked harder on behalf of the high-tech industry of Austin authoring and fathering the semi-tech legislation that really created the new Silicon Valley in Texas.

No person served with greater humility, greater humor, and greater distinction than my friend Jake Pickle. I look forward to being with Jake and seeing the name go up on the building.

Mr. WISE. Mr. Speaker, I yield 1¾ minutes to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the Committee on Transportation and Infrastructure.

Mr. COOKSEY. Mr. Speaker, I am delighted to yield 1 additional minute to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, it is unfortunate that action we take today is marred by process. But I do want to express my great appreciation to the gentleman from Pennsylvania (Chairman SHUSTER) for recognizing the impasse that occurred when the other body refused to take up a House version of this legislation and made it clear that the only way to do it is to act on the Senate bill. That is just realism, and I appreciate his desire to, as the gentleman from Pennsylvania (Chairman SHUSTER) expressed himself so eloquently, his depth of appreciation for Jake Pickle for the service in this body, and it shows what a distinguished leader our committee chairman is and his willingness to act as we have always done on our committee, in a bipartisan manner.

The gentleman from Texas whom we honor with this building naming is a very unusual person, a great Member of this body, and a very unorthodox Member. He did not go along to get along. But he pursued his own beliefs and pursued them vigorously and advocated on this floor and in the Democratic Caucus what he believed in. He was a very rare article in the House of Representatives.

He always, as our colleagues from Texas have noted, always considered himself President Lyndon B. Johnson's congressman, and frequently would tell us stories about calls he had received, well I can recall this as a member of the staff at the time, calls from the President and later, after Lyndon Johnson's presidency, calls that he would receive from the former President, giving him advice on one or another action.

□ 1230

And Jake was also always very responsive to that advice.

He was a very close friend of my predecessor in Congress, John Blatnick, for whom I was administrative assistant, and I got to know Jake quite well. He served on the Committee on Public Works prior to going to the Committee on Ways and Means and we got to know each other very well. So well that after I was elected to Congress Jake Pickle always referred to me as John. I considered it a compliment. I never corrected him because I thought being associated with John Blatnick was just fine by me.

Naming this Federal building in Austin, I think, will be just as enduring a compliment to this great public servant, and I am really delighted we are taking the action today, finally, to give Jake Pickle the recognition he so richly deserves.

Mr. COOKSEY. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I thank my colleague from Louisiana for yielding me this time and allowing me to say a few words about Jake Pickle.

I have known Jake literally all my political life, I guess for over 25 years, having served in the Texas legislature since 1973 up until coming to Congress, and Jake was always the Congressman for Austin, Texas.

Having served with Jake from 1993 until he retired, I cannot think of any other Member that deserves this honor of having a courthouse named after him more than Jake, because Jake was such a great Member. He served on the Committee on Ways and Means and he served his community well.

I know in the past, when we have talked about Jake Pickle, I talked about his book, "Jake," and it is a great compilation of stories of his service in Congress. And I was proud a few years ago, for Father's Day, that my daughter, who was at the University of Texas at that time, went over and bought the book and asked Jake to just sign it for me.

Again, I want to congratulate not only the gentleman from Louisiana (Mr. COOKSEY), but also the House for doing this for Jake Pickle.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to strongly support this bill. This measure designates a federal building in Austin, Texas as the J.J. "Jake" Pickle Federal Building. This edifice will truly stand as a striking and fitting monument to Jake Pickle's long and proud legacy of service to Texas.

J.J. "Jake" Pickle is a Texas icon whose shadow looms large across the territory from the Rio Grande to the Texas Panhandle. His presence is still runs deep throughout my home State of Texas.

J.J. Pickle is one of the last of the Great Society's old guard of Lyndon Johnson's administration. "Jake," as his friends affectionately call him, put himself through college during the Depression, worked for President Roosevelt's National Youth Administration, served in the Pacific during World War II, founded a Central Texas radio station right after the war, and represented Texas' Tenth Congressional District from 1963 to 1995. He's a Yellow Dog Democrat who never forgot his West Texas roots, and a superb raconteur.

The following anecdote, as told by Mr. Pickle, reveals his strength of character:

Even today, it's hard to believe that just thirty years ago people of color couldn't patronize many of the restaurants, hotels, public rest rooms, or water fountains in America. In retrospect, it's almost inconceivable that those conditions existed just a generation ago. I believe that in 1964 a strong Civil Rights Bill could have passed only under the leadership of Lyndon Johnson.

Nobody else knew how to manipulate Congress so effectively, or hammer through legislation by sheer force of will. And because Johnson was from Texas, he could look fellow Southerners in the eye and say, "I know what it will take for you to support this." He understood the risk.

A week after the vote, I was visiting with President Johnson and Jack Valenti at the White House. Jack commented that he was glad to see me vote for the bill.

I told Valenti it was a hard vote, and then added with feeling, "I'm sure glad to get that one over with!" President Johnson was listening and he said, "Jake, that was a tough vote. But you'll be in Congress for another twenty years (I surprised everybody—it was thirty-one years!) "and you'll probably have a civil rights vote every year from now on. We've just started civil rights reform, and we're two hundred years behind. We got a long way to catch up. So don't think for a second that you've got this vote behind you!"

As, usual, President Johnson was right. And the fight continues.

Elected to the Eighty-eight Congress by special election, December 21, 1963, JJ Pickle served his constituents for 30 years in the House of Representatives after being re-elected to fifteen succeeding Congresses. He was a leader in the fight for civil rights issues and equal opportunity for women and minorities. During his tenure, J.J. Pickle became chairman of both the Ways and Means Oversight and Social Security Subcommittee. It is my pleasure to support this legislation to designate the federal building located at 300 East 8th Street in Austin, Texas as the J.J. "Jake" Pickle Federal Building.

Mr. FROST. Mr. Speaker, I am pleased to support S. 559, a resolution naming the federal building in Austin, Texas after my fellow Texan and friend, retired Congressman J.J. "Jake" Pickle.

From his election to the House of Representatives in 1962 to his retirement in 1995, Congressman Pickle was the ideal public servant. I know firsthand how hard Congressman Pickle worked on behalf of his constituency in Central Texas. For over thirty years, Congressman Pickle had pivotal roles in legislation from civil rights to the protection of the environment. Naming the federal building in Austin after Congressman Pickle is an appropriate symbol of our admiration, our respect, and our appreciation for his true public service to us all. It's an honor to take this opportunity recognize a man of great integrity and valor, Congressman J.J. "Jake" Pickle.

Mr. COOKSEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SUNUNU). The question is on the motion offered by the gentleman from Louisiana (Mr. COOKSEY) that the House suspend the rules and pass the Senate bill, S. 559.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. COOKSEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Resolution 322 and Senate 559, the measures just considered by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has concluded on all motions to suspend the rules.

Pursuant to the provisions of clause 8 of rule XX, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 1663, by the yeas and nays; H.J. Res. 65, by the yeas and nays; H. Res. 322, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

NATIONAL MEDAL OF HONOR MEMORIAL ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1663, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. STUMP) that the House suspend the rules and pass the bill, H.R. 1663, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 424, nays 0, not voting 9, as follows:

[Roll No. 474]

YEAS—424

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth-Hage
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Paul
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—9

Berry
Blumenauer
Hill (MT)
LaHood
Mascara
McKinney
Meeks (NY)
Metcalf
Scarborough

□ 1255

Mr. HEFLEY changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to recognize National Medal of Honor sites in California, Indiana, and South Carolina.".

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SUNUNU). Pursuant to the provisions of clause 8 of rule XX, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each additional motion to suspend the rules on which the Chair had postponed further proceedings.

COMMENDING VETERANS OF THE BATTLE OF THE BULGE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the joint resolution, H.J. Res. 65, as amended.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. STUMP) that the House suspend the rules and pass the joint resolution, H.J. Res. 65, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 422, nays 0, not voting 11, as follows:

[Roll No. 475]

YEAS—422

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth-Hage
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hilleary
Hilliard
Hinchey
Hinojosa

Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Paul
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—11

Berry
Bilbray
Blumenauer
Hill (MT)
Jefferson
LaHood
Mascara
McKinney
Meeks (NY)
Metcalf
Scarborough

□ 1303

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BERRY. Mr. Speaker, I was unavoidably detained for rollcall votes 474 and 475. Had I been present, I would have voted "yes" on rollcall vote No. 474, and "yes" on rollcall vote No. 475.

SENSE OF CONGRESS IN SYMPATHY FOR VICTIMS OF HURRICANE FLOYD

The SPEAKER pro tempore (Mr. THORNBERRY). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 322.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. FRANKS) that the House suspend the rules and agree to the resolution, H. Res. 322, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 417, nays 0, answered "present" 1, not voting 15, as follows:

[Roll No. 476]

YEAS—417

Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth-Hage
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
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Knollenberg
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Kuykendall
LaFalce
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
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Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Regula
Reyes
Reynolds
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Rivers
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Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaffer
Schakowsky
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Sensenbrenner
Serrano
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Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
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Tauscher
Tauzin
Taylor (MS)
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Thompson (CA)
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Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler

Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

ANSWERED "PRESENT"—1

Paul

NOT VOTING—15

Abercrombie
Bereuter
Blumenauer
DeLay
Hill (MT)
Hilleary
LaHood
Manzullo
Mascara
McKinney
Meeks (NY)
Metcalf
Rangel
Royce
Scarborough

☐ 1311

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1315

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2606, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2000

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 307 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 307

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2606) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Florida (Mr. DIAZ-BALART) is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 307 is the standard rule waiving points of order for the conference report to accompany H.R. 2606, the foreign operations appropriations bill for fiscal year 2000. The rule waives points of order against the conference agreement and its consideration and provides that the conference report shall be considered as read.

I support this rule, and I support the underlying conference report as well. There are many important programs which are being funded in this conference report, and because there are no country earmarks, the President and the Secretary of State are afforded great flexibility to conduct foreign policy as they see fit in this area.

I thank the gentleman from Alabama (Chairman CALLAHAN). I think he has done an extraordinary job, as has the ranking member, the gentlewoman from California (Ms. PELOSI). They have done a lot of hard work on this important conference report, and I urge both the adoption of the rule by our colleagues, as well as passage of the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Florida for yielding me the time.

Mr. Speaker, this rule makes in order consideration of the conference report to accompany H.R. 2606, a bill that makes appropriations for foreign aid and export assistance in fiscal year 2000. The rule waives all points of order against the conference report.

Mr. Speaker, foreign aid is part of the price we pay to be the political and the moral leader of this world, and, just as it is our duty as individuals to help others less fortunate than we are, it is our duty as a Nation to help those countries which are struggling. There are more direct benefits. Foreign aid creates jobs here in the United States, increases exports and opens markets overseas for American businesses.

A report several years ago by the Washington polling firm of Belden & Russonello concluded that Americans strongly support humanitarian assistance to developing countries, which is part of foreign aid. In one poll, the average American thinks that almost one-third of the Federal budget is spent on foreign aid. However, in reality, less than 1 percent of the Federal budget goes to foreign aid. The evidence suggests that the more people think about foreign aid, the more likely they are to support it.

There are good provisions in this conference report. It provides a $65 million increase for the Child Survival and Disease Programs Funds. This includes a $5 million increase for UNICEF, which is so important to helping children throughout the world.

The report also contains favorable language for microenterprise development, which has proven to be a cost effective way to help people become economically self-reliant.

Unfortunately, the overall funding levels for the bill are insufficient to support America's leadership role in the world, and the bill cuts the administration's request for foreign aid programs by about 13 percent. This has been consistent over the past 10 years. Our foreign aid, especially on development assistance, continues to go down. As a matter of fact, it has been cut 50 percent in the last 10 years.

The Peace Corps is cut by $35 million below the administration's request, which will cause the reduction of 1,000 volunteers in the next 2 years. As a returned Peace Corps volunteer myself, I am disappointed in the funding level of this important people-to-people aid program which enjoys broad support among American citizens.

There are no funds to implement the Wye River agreement, which is a tremendous agreement between our President, Jordan, and Israel in the Middle East. The President is considering a veto of the bill largely on the grounds of inadequate funding.

But, despite my concerns about the bill, I am willing to support this rule, which is the standard rule for conference reports, and it will allow for further debate of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as with so many other of the appropriations bills this year, we are hearing opposition from our good friends on the other side of the aisle because of the fact that they wish that more money was being spent. There is no doubt that proposals to spend money in myriad ways will be heard, and will continue to be heard, some of which, I am sure, make a lot of sense.

We made a decision on this side of the aisle, and I think it is important to commend the gentleman from Alabama (Chairman CALLAHAN), the gentleman from Florida (Chairman YOUNG), and the leadership, the Republican leadership, the Speaker, the majority leader, the whip, the conference chairmen, the entire leadership. They made a decision, on our side of the aisle we made a decision, that we will not in these appropriations bills tap, we will not get into the Social Security trust fund. And we are sticking to that decision. So we are going to see a lot of opposition based on the fact we are not spending enough money on these appropriations bills.

This is the foreign aid bill. It is a very important bill. But we believe we are doing a good job, and we are doing the job within the existing resources that we have, while not tapping into, not going into, the Social Security trust fund.

Mr. Speaker, I have no further requests for time on the resolution bringing the conference report to the floor. The distinguished chairman of the subcommittee is ready, the gentleman from Alabama (Chairman CALLAHAN), to explain the details of this legislation in great depth.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Ms. PELOSI), who is an expert and our ranking minority member on the Subcommittee on Foreign Operations.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me time and for his leadership internationally and domestically on behalf of people in need, especially our children.

Mr. Speaker, our distinguished colleague, the gentleman from Ohio (Mr. HALL), very clearly has pointed out some of the good things that are in this bill, and as I rise to talk about the rule, I am really rising in opposition to the bill.

My colleague, our distinguished chairman, the gentleman from Alabama (Mr. CALLAHAN), deserves credit for how he balanced the allocation that he had in the bill, and, again, the gentleman from Ohio (Mr. HALL) pointed out some of the positive initiatives that are in the bill. But the bill does not measure up even in the slightest way to our leadership role in the world.

I think it really is a disservice to the debate on the foreign aid bill to say that if we honor our commitments throughout the world, that that money will be taken out of Social Security. The fact is when these allocations were made, the foreign aid allocation was given very little priority.

This bill is not only about cooperation between the United States and other countries. This bill is about our assistance for our own trade. We have financed in this bill the Ex-Im Bank, OPIC, as well as the Trade Development Administration, which assists in promoting U.S. exports abroad. So the allocation, as small as it is, is not even all about assistance overseas; it is about promoting U.S. products. In order for those products to be sold, we have to develop markets for them. So it is in our interest to cooperate with countries to help develop their economies.

It is necessary for us in our foreign policy, which is an essential part of what we do here in the Congress, to honor the pillars of our foreign policy, to stop the proliferation of weapons of mass destruction, to promote democratic freedoms so that the world is a more peaceful place as we deal with democracies rather than authoritarian regimes who might invade their neighbors or oppress their people, and, again, to promote our economy by promoting U.S. exports abroad.

All of those goals are served very well, in addition to the broader issue of our national security, by our investments in this bill. These are investments that will pay off for us. We would not have to be so involved in sending our young people off and putting them in harm's way abroad if we were more successful in promoting the pillars of our foreign policy through funding this bill.

Mr. Speaker, I just want to say that I hope that our colleagues will not say that the Social Security trust fund is at risk because we want to honor our commitments abroad.

Let me just show you this chart, Mr. Speaker. In it you see this big yellow pie. That is the national budget. This sliver here, this little blue, less than 1 percent of the national budget, less than 1 percent, 0.68 percent of the national budget, is spent on international cooperation.

We are a great country. I come from a city where our patron saint is St. Francis. The song of St. Francis is the anthem of our community, and that is praying to the Lord to make us a channel of God's peace. Where there is darkness, may we bring light; where there is hatred, may we bring love; where there is despair, may we bring hope.

We cannot solve all of the problems of the world, but we can bring hope to people, and that is what we try to do in this bill. This is a small price for us to pay to prevent putting our young men in harm's way and to honor the commitment of our country.

Mr. Speaker, I have been fond of quoting President Kennedy on this bill, because everybody in the world who was alive at the time and those who study history know of his clarion call to the American people, the citizens of America, "Ask not what your country can do for you, but what you can do for your country." But the very next line in that inaugural address, which I heard myself as a student here so many years ago, the very next line says, "To the citizens of the world, I say ask not what America can do for you, but what we can do working together for the freedom of mankind."

That is what this bill strives to do. We cannot have that freedom, promote democratic values, stop the proliferation of weapons of mass destruction and build our economy by promoting our exports on the cheap.

So I would hope that our colleagues would oppose the bill when it comes up. I have no objection to the rule. I urge our colleagues to vote no. Let us come back with a good bill we can have consensus on, that is worthy of a country as great as ours.

□ 1330

Mr. DIAZ-BALART. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I rise in strong support of this rule, and congratulate my friend, the gentleman from Miami, Florida (Mr. DIAZ-BALART) for his superb handling of this issue and the very important input that he has had in structuring this and working closely with the distinguished Cardinal Callahan in helping to move this measure forward.

There is, obviously, some controversy around it. But frankly, it is a measure which falls right in line with our commitment to fund our national priorities, and to do so under the very tight spending constraints with which we are forced to live.

At the same time we are doing that, the conference report utilizes our scarce resources to ensure our successful and very important leadership abroad. A previous speaker mentioned the fact that we are committed to recognizing the importance of global trade. That is something that is underscored here.

Another issue that is very important is for us to, obviously, address the spread of communicable diseases in the developing world, and especially among children. Legislation we are going to be dealing with later today also focuses on children. This conference report itself provides $715 million for child survival and disease programs that are highly effective in fighting diseases out there, such as tuberculosis, malaria, and yellow fever.

We can all agree that the drug abuse issue is no longer simply a domestic concern, it is a global concern. The bill of the gentleman from Alabama (Mr. CALLAHAN) addresses that by providing $285 million to fight international drug traffickers. We recognize in doing so that wiping out that scourge of drugs must be a top priority for all nations throughout the world.

The conference report also is very, very key to dealing with that continued challenge we face in the Middle East. This report maintains our commitment to Israel and Egypt, as laid out in the Camp David accords. Nearly half of the funding is devoted to peace in the Middle East, so this vital region will continue down the path towards democracy and prosperity and stability.

So I urge my colleagues to join in support of this rule and the very important conference report.

The easy issue which is often demagogued around here is to oppose foreign assistance. It is something that frankly I have done in years past. I have done it because in many instances we were spending much more than we should. But the gentleman from Alabama (Mr. CALLAHAN) and other members of his subcommittee and the conference itself have dealt with these spending constraints which have been imposed on us appropriately, and they have established priorities. The priority for us is to maintain our Nation's leadership position in the world.

We all recognize that the United States of America is the world's only complete superpower militarily, economically, and geopolitically. Responsibility goes with that, so providing this assistance is really a very, very small part of that.

It is important to note that much of this assistance benefits the United States of America directly in dollars that are expended here. So I urge support of the rule, support of the conference report, and look forward to what probably will be a reasonably close vote, but I think we will be successful.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Ohio (Mr. HALL), a member of the Committee on Rules, for yielding time to me, and I thank my colleagues.

I do want to add my appreciation to the cooperative efforts of the gentleman from Alabama (Mr. CALLAHAN) and the gentlewoman from California (Ms. PELOSI) for their knowledgeable leadership.

Right out of the box, I want to thank them for the $180 million increase in support of fighting worldwide AIDS, and in particular, the emphasis on Africa. I want to note the work of my colleague, the gentlewoman from Michigan (Ms. KILPATRICK). She and myself and the gentlewoman from California (Ms. LEE) went on an AIDS mission to Africa. We know this is not enough, but we are very grateful for the step that has been made.

Mr. Speaker, let me say that I have no concern with the rule, but unfortunately, I cannot support this final legislation. Let me say that I think the chart that the gentlewoman from California (Ms. PELOSI) had is very telling. It shows the sliver or the mere amount of monies we expend as a country for foreign aid. It does not, however, show that when we poll Americans, they frankly think it is higher, and would accept higher, because they understand the responsibilities that come with world leadership.

So here are my concerns in this bill. First of all, we made a commitment in supporting and encouraging the Israelis and Palestinians to get together on the peace accord, in the Wye accord, to significantly work and fund that accord. The bill provides no funding, to my knowledge, to support the Wye accord. This funding is essential to support the renewed dedication of the Israelis and Palestinians to implement the Wye agreement and achieve an historic permanent status agreement over the next year. We must ensure that the framework of peace is stabilized by the resources. So I would hope that we would reach that point.

I am also concerned about the cuts to development assistance and economic support fund, the multilateral development banks and debt reduction. The $87 million cut from debt relief programs for poor countries will damage the ability of the United States to contribute to the HIPC trust fund, which already is in jeopardy or may not be the best.

Last week or 2 weeks ago, with a number of my colleagues, I joined the gentleman from Vermont (Mr. SANDERS) and others to challenge the IMF for their hypocritical structure of debt relief for undeveloped nations. If we want to give them a fish, as opposed to giving them the opportunity to rebuild themselves, then we will continue to have poverty. Undeveloped nations want us to teach them how to fish, rather than give them a fish. All this so-called debt reduction and helping them with their debt relief keeps them needing fish, as opposed to relieving them of the burdens by providing more infrastructure and support that would help bring down their debt.

The Heavily-Indebted Poor Countries initiative is supported by a wide range of religious and charitable groups, and was recently agreed to by the G–7 in Cologne, and mentioned by our president. We must help bring down the debt of these developing nations so that they can take the lead on social issues in their countries like HIV-AIDS, like education, like health care, like housing.

I supported vigorously the African Growth and Opportunity Act, which provides an opportunity for trade to be used as a tool to economic advancements, but cannot have the intended effect unless the debt burden of these countries is adequately addressed.

The African Growth and Opportunity Act is a trade bill. I support it. The African Growth and Opportunity Act will change how America does business with Africa. African countries want an equal trading relationship, but we at the same time must deal with the enormous amount of debt they must service.

I have in that provision, the African Growth and Opportunity Act, a sense of Congress for corporations to develop an AIDS fund to compliment what we are doing in the Federal Government. But I can tell the Members that if we do not have debt relief, we are going to see these countries go down, down, down into a hole of no return.

I would ask that we send this bill back and have it fixed, though I support the family planning efforts, and get us a real foreign operations bill. I thank Members for their work.

Mr. Speaker, I rise to express my concern regarding the Foreign Operations Appropriations Conference Report. This legislation simply does not provide enough funding to carry out an effective foreign policy. It cuts American assistance to those who most urgently need it throughout the world and ignores some of our most pressing foreign policy priorities.

Since the mid-1980's the resources devoted to our foreign assistance programs have steadily declined. Some of these decreases have been prudent reductions as we examined our international and multilateral commitments. However, these massive cuts in funding currently are threatening America's ability to maintain a leadership role in a rapidly changing world.

The Wye accord between Israel and the Palestinians was a significant diplomatic effort on behalf of our country. The credibility of our country should not be put in a compromising position by this Congress. The bill provides no funding to support the Wye accord.

This funding is essential to support the renewed dedication of the Israelis and Palestinians to implement Wye and achieve a historic permanent status agreement over the next year. This is not the time for the United States to renege on its commitments in support of a historic opportunity for peace in the Middle East.

Implementation of the Wye agreement resumed immediately, with the first round of prisoner released, followed by the next stage of Israeli redeployments in the West Bank, and the assumption of permanent status negotiations. The Israelis and Palestinians have committed to achieve a framework agreement on the most difficult permanent status issues by February 2000 and a final permanent status agreement by later that year. I strongly oppose the lack of funding for the Wye agreement in this measure or any efforts that would impede progress in Middle East peace.

I am concerned about the cuts to Development Assistance and Economic Support Fund, the Multilateral Development Banks and debt reduction. The $87 million cut from Debt Relief programs for poor countries will damage the ability of the United States to contribute to the HIPC Trust Fund, which is an essential component of current debt reduction programs as well as of the Cologne debt initiative. This massive reduction equates to a 72% cut from the Debt Relief programs. The developing nations of the world have developed strategies and plans to alleviate some of the debt burden of poorer countries. The expanded Heavily Indebted Poor Countries (HIPC) initiative is supported by a wide range of religious and charitable organizations, and was agreed to by the G–7 in Cologne. It is critical that the United States demonstrate its leadership by providing the necessary funding support for the first year of this initiative, which enjoys bipartisan and international support.

The debt issue is one that cannot be ignored as the United States establishes a more mature trade relationship with Sub Saharan Africa. The African Growth and Opportunity Act provides an opportunity for trade to be used as a tool to economic advancement but cannot have the intended effect unless the debt burden in these countries is adequately addressed. African Growth and Opportunity will change how America does business with Africa. It seeks to enhance US-Africa policy to increased trade, investment, self-help and serious engagement. It seeks to move away from the paternalism which in the past characterized American dealing with Africa by encouraging strategies to improve economic performance and requiring high level interactions between the U.S. and African governments on trade and investment issues. The debt burden must be addressed.

Payments on unsustainable debt have left many poorer countries facing the tough decisions of making debt payments or delaying necessary social, health, education or other programs designed to improve quality of living. Humanity is less than ninety nine days short of the year 2000. Yet, poorer countries are still faced with 80 percent illiteracy rates, lack of food security, diseases affecting their children that are nonexistent in developed countries, and other malaise that should be eliminated.

Debt reduction must be fully funded. The Congress must not ignore the historic opportunity presented by the Cologne debt reduction initiative to reduce the unmanageable debt burdens of the poorest countries, the majority of which are in Africa. By not funding this initiative, which is supported by a wide range of faith based and other private sector organizations, the Congress will ensure not only that the U.S. does not contribute its fair share, but also that the worldwide initiative does not succeed.

I must oppose the $212 million or 31% cut from democratization and economic recovery programs in Latin America, Africa and Asia. This reduction in the Economic Support Fund would significantly constrain the United States' ability to respond to a host of threats and new crises around the world.

These cuts would force the reduction of programs intended to increase political stability and democratization in Africa; support democracy efforts in Guatemala, Peru and Ecuador, and bolster democratic and economic reform in Asia, as well as sustain implementation of the Belfast Good Friday Accord. Cuts to these accounts will not permit the United States to provide sufficient funds for numerous priorities in Africa. I am concerned that as we applaud democracy, we are not willing to support it. I am concerned that during their critical transition periods, we may not be able to support emerging democracies like Nigeria.

At a time when natural disasters and man-made conflicts are causing unprecedented damage throughout the world, Congress has cut the International Disaster Assistance and Voluntary Peacekeeping requests by over 25 percent. This dramatic reduction in funding for Voluntary Peacekeeping operations would decrease funds available for the Organization for Security and Cooperation in Europe mission Bosnia and Croatia, significantly reduce assistance for the African Crisis Response Initiative and African regional peacekeeping operations, such as ECOMOG, and eliminate funding for Haiti.

Such a substantial reduction would raise international concern that the United States may not support its fair share of the international police force that will help to implement the Kosovo peace settlement, for which new resources will be needed. The conference initiative cuts funding for international peace by 41%. Adequate funding its critical for support of regional peacekeeping activities such as ECOMOG that has helped to maintain stability and avert the kind of humanitarian disasters that require much greater expenditure of resources.

The severe cuts in the conference bill to provide assistance to the NIS will make it impossible to implement the Enhanced Threat Reduction Initiative (ETRI). The primary objective of the ETRI is to reduce the threat of weapons of mass destruction falling into the hands of rogue states. The bill effectively provides no resources to continue ETRI and reduces U.S. ability to prevent and terminate international security threats in Russia and the NIS.

I thank my colleagues for increased funding to combat HIV/AIDS. Of 5.8 million adults and children newly infected with HIV during 1998, 4 million live in sub-Saharan Africa. AIDS in sub-Saharan Africa is a growing disaster. UNAIDS has declared HIV/AIDS in Africa an "epidemic out of control".

Each and everyday, more than 16,000 additional people become HIV positive, and most live in sub-Saharan Africa where in South Africa alone, 1500 people become HIV+ each day. Among children under 15, the proportion is 9 out of 10. To date 82% of all AIDS deaths have been in the region and at least 95% of all AIDS orphans have been in Africa. It is estimated that by the year 2010 AIDS will orphan more than 40 million children, with 95% in sub-Saharan Africa.

Additional funds to combat HIV/AIDS are always welcome and I urge my colleagues to acknowledge this threat to mankind by addressing the international crisis.

I thank my colleagues for funding the United Nations Population Fund (UNFPA), a vital program, which provides valuable voluntary family planning and other services in over 160 countries.

I oppose the use of U.S. funds to lobby for or against abortion. U.S. funds should not be used in such a political debate. Governments should address those issues independently of U.S. appropriated monies.

In closing, I must urge my colleagues to join me in opposing H.R. 2606. Low funding levels translate to bad policy choices. At such funding levels, there will be no choice other than to keep considering supplemental appropriation request and budget amendments.

Mr. DIAZ-BALART. Mr. Speaker, I am honored to yield 5 minutes to the gentleman from Alabama (Mr. CALLAHAN), the chairman of the subcommittee on the Committee on Appropriations who has done superb work on this bill.

Mr. CALLAHAN. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, this bill is always a difficult bill. It requires some difficult negotiations. But for the past 5 years, with my handling of this bill, we have worked in a very bipartisan manner to satisfy or to attempt to satisfy the needs of both sides of the aisle.

I think this year is certainly no different, because not one Member on the other side at any point in this debate has ever come to me and said, "Sonny, I think there is something wrong in your bill." They did not say, "You left out Colombia, because we put Colombia's needs in there. They did not say, "You left out Africa," because we responded to those who were interested in Africa. We did not leave out Israel, we did not leave out Jordan, we did not leave out many of the foreign countries that so many of the Members are interested in, because we worked in a bipartisan spirit to draft a bill.

So the only problem we have here is this insatiable desire on the part of the President to give away American taxpayer money. They talk about revenue enhancement programs. I think the President calls it offsetting receipts. In Alabama we call it taxes, but the President says he wants some offsetting receipts, so let me suggest one. Maybe we could charge every foreign dignitary that comes into the White House $1 million, because every foreign dignitary who walks into the White House comes out with a commitment from anywhere from $1 million to $50 million. Maybe we ought to consider that.

Maybe we ought to limit the ability of the President and the Vice President and the First Lady to travel. Number one, his trip to Africa cost the taxpayers $47 million because he took so many people with him. But that is not our problem. Our problems are the commitments that he makes.

Every time the President meets with a foreign dignitary, they have a toast, which is appropriate. But every time they make a toast, the President of the United States says, here is my commitment to you. I am going to give you some more money. Then they run over here and say, this is an obligation of the United States. How can we possibly not fulfill our obligations?

Mr. Speaker, this does not mean it is an obligation of the United States when the President of the United States raises his glass of wine to some foreign leader and says, I am going to send you $50 million. We do not have the money.

The gentlewoman from California and I have worked so very well together. She told me not to mention social security. I am not going to say, even though it is a reality, if we give the President $2 billion more that he is asking for, it is going to impact social security.

I apologize to the gentlewoman from California for saying that, and I will not say it anymore until the bill comes up. But let me tell the Members, in this bill no one, no one in this debate, no one in the Committee on Rules, no one on the floor of the House, no one by telephone call has called me and said, "Sonny, you did not treat Lebanon right, you did not treat Armenia right, you did not treat Georgia right, you did not treat Africa right," because we worked in a bipartisan fashion to make absolutely certain that we did have a bipartisan bill.

So we have a bipartisan bill, and it is $2 billion less than the President requested at this point. He just came last week and asked for another $100 million for another of his pet projects. In addition to that, he wants $2 billion more to give to Israel and to Jordan and to the Palestinian authority because of the Wye agreement.

He is going to need some additional money, he says, for Kosovo, even though we responded to the wishes of this House on Kosovo by saying, we are not going to participate in reconstruction in Kosovo unless the European community puts up 85 percent of the money.

We have done everything they asked. We have responded to all of our subcommittee members, our full committee members, and to every Member in this House who has come to me and said, we think you ought to do something. We have done every responsible thing we can do except satisfy this insatiable appetite for money that President Clinton has that he wants to hand out as he makes his travels, as I would do if I were in his position, during this last year and a half of his presidency. He wants to travel around the world. He wants more money to hand out.

We do not have more money. The only way to get more money is through new taxes, through possibly jeopardizing social security or breaking the budget caps. I urge Members to bring this bill up, vote for this rule, and let us indeed debate this. If it fails and the President wants to veto it, let him veto it.

I talked to the President the other night. I promise the Members, I think I had him convinced that I was right, that this is as much as he is going to get. The President said, "Well, Sonny, maybe you are right. Maybe you are right. But," he says, "I need to talk with my people." I said, "I will tell you what, Mr. President, I will let you go at this point if you will invite me in the same room when you talk to your people, to let me tell them what I have just told you about the merits of this bill. And the President said, "Well, maybe you are right. I will do that."

But unfortunately, at 9 o'clock that night, Sandy Berger called back and said they did not think it was wise for me to get into the same room with Madeleine Albright, with Sandy Berger, and Bill Clinton, because they knew that logically, and I say to the gentlewoman from California (Ms. PELOSI), they knew that logically I was correct, and that if indeed I were able to get them all in the room, no one could convince the President otherwise of the merits of this bill at this particular time.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. I thank the gentleman for yielding time to me, Mr. Speaker, and I appreciate very much the leadership of the gentleman from Alabama (Mr. CALLAHAN) and the gentlewoman from California (Ms. PELOSI).

I rise on the rule, and I am speaking in opposition to the outrageous underlying bill, although there are many positive initiatives, like increasing funding for security at our embassies abroad.

□ 1345

There is zero funding for the important Wye agreement, the Middle East peace agreement. I must say that I applaud the conferees for their bipartisan agreement to restore funding for the United Nations Family Planning Assistance and for the bipartisan agreement to strip out any antichoice riders. These are two important policy initiatives that are precedent setting that will be part of the underlying bill that returns to this House.

Mr. Speaker, next week, our world reaches 6 billion in population and the decisions that we make on UNFPA and on other policy decisions will determine whether this number quickly doubles or whether we move more slowly. Funding UNFPA will save lives, maternal health, child health, and I applaud the conferees for their bipartisan support of putting UNFPA in and taking Mexico City out.

Mr. GILMAN. Mr. Speaker, will the gentlewoman yield?

Mrs. MALONEY of New York. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman from New York (Mrs. Maloney) for yielding to me. She raised the issue about the Wye agreement, and I am pleased to note we have just received a letter from AIPAC dated October 5, and it was sent to the gentleman from Alabama (Chairman CALLAHAN).

It reads, "Chairman CALLAHAN, we are writing to express our support for the conference report on H.R. 2606, the fiscal year 2000 Foreign Operations Appropriations Bill which contains funding for Israel's regular aid package, including provisions for early disbursal, offshore procurement and refugee settlement. The Middle East peace process is moving forward. Both Israel and the Palestinians are committed to resolving issues between them within a year. It is important that Congress support Israel as this process moves ahead. And we therefore also hope and urge that Congress find a way to fund assistance to the Wye River signatories before the end of this year."

The gentleman from Alabama (Mr. CALLAHAN) has assured us that he will be working in the conference to try to obtain sufficient funding for the Wye River agreement. This is a very complicated measure, but it covers many of our concerns, and I want to commend the gentleman for working out a very difficult foreign operations measure, and it deserves the support of our entire House.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I simply want to reiterate something very important that the gentleman from Alabama (Chairman CALLAHAN) said. The gentleman pointed out that obviously there could always be more requests for more money. But he explained what was done within the resources available, not doing three things which we refuse to do. Raise taxes. We refuse to raise taxes. Bust the balanced budget. We refuse to bust the balanced budget. Or go into the Social Security Trust Fund. We refuse to go into the Social Security Trust Fund.

So not doing those three things, we are doing a good job of funding the Government's needs, including the very important programs that our friends on the other side of the aisle have pointed out.

So, Mr. Speaker, this is very important work that the subcommittee has brought forward in the context of this conference report. We need to get it passed.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 2½ minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, first of all, I want to thank my colleagues on both sides of the aisle who have worked so hard on this bill. Unfortunately, although it is a difficult bill, there are many reasons to oppose it. We have had the gentlewoman from New York (Mrs. MALONEY) indicate some of them.

Some will oppose it because of the Mexico City provisions. Some will oppose it because of various foreign aid proposals in here. I am going to oppose it because it took out the language which the House voted, in which it stopped money from going to keep the School of the Americas program.

In 1980, four U.S. churchwomen were brutally murdered in El Salvador. One of them was a good friend of mine, Sister Dorothy Kazel from Cleveland. In 1989, six Jesuit priests were massacred in El Salvador. Archbishop Oscar Romero and Bishop Juan Gerardi of Guatemala were assassinated. Almost 100 of the El Mozote community in El Salvador were massacred. In 1992, nine students and a professor were killed in Peru. In 1997, 30 peasants in the Colombian village of Mapiripan were massacred.

Mr. Speaker, these people were innocent civilians and missionaries working for peace and justice, and they were brutally killed by officers who received their training from the United States Government at the School of the Americas, and the rule of the House should have stayed. We should have eliminated those funds, and no one who cares about peace and justice should vote for the rule or the bill.

Furthermore, another reason to oppose this bill, American tax dollars have been used to blow up water systems, sewer systems, bridges, railroad trains, buses, tractors, hospitals, libraries, schools and homes, killing and maiming countless innocent women and children. In Yugoslavia, Serbia was wrong to wage war on the Kosovar Albanians. NATO was wrong to bomb Belgrade, and we are wrong to further punish Serbia by making them a terrorist nation which stops any opportunity for democratic opposition to grow to

Milosevic. If we want to get rid of Milosevic and give the Serbian people an opportunity to grow a democracy, do not make it a terrorist nation.

This Congress has messed up the policy in Iraq by not forcing the administration to come to an accounting on that, and we are going to do the same thing in Serbia by letting this legislation pass which puts them as a terrorist nation. It is time that we stand up for what is right and for a future where we really can have peace.

Mr. Speaker, I urge my colleagues to vote against the bill.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I rise in opposition to the fiscal year 2000 foreign operations bill, but I do want to indicate support in the way this legislation affects U.S. policy towards Armenia and India.

First, I want to express my appreciation to the conferees, particularly the gentleman from Alabama (Chairman CALLAHAN) and the gentlewoman from California (Ms. PELOSI), the ranking member, for their continued attention to Armenia, Nagorno Karabagh, and the entire South Caucasus region.

This year's legislation provides somewhat more assistance to Armenia than we provided in the last fiscal year, $89.67 million or 12.2 percent of the total of $735 million for the New Independent States of the former Soviet Union. The conference report also specified that 15 percent of the funds available for the South Caucasus region be used for confidence-building measures and other activities related to regional conflicts including efforts to achieve a peaceful resolution of the Nagorno Karabagh conflict.

The House version of the legislation contains several report language provisions that would contribute greatly to peace and stability in the South Caucasus region. The administration should follow through on the policy directives contained in the House report which are now incorporated in the conference report. The House report specifically directs the Agency for International Development to expedite delivery of $20 million to the victims of the Nagorno Karabagh conflict. The people of Nagorno Karabagh suffered during their war of independence with Azerbaijan, and their need for help continues to be significant. They should not be discriminated against in terms of receiving humanitarian assistance simply on the basis of where they live.

The administration should also heed the House report language regarding the peace process for Nagorno Karabagh, stating that assistance to the governments of the region should be proportional to their willingness to cooperate with the Minsk Group. And finally, I want to applaud the conferees from both bodies who have maintained section 907 of the Freedom Support Act.

Turning to India, I want to thank the conferees and particularly the gentlewoman from California (Mrs. PELOSI), the ranking member, for not adopting a provision in the Senate version of the legislation singling out India as one of a handful of nations that would have to receive special congressional approval before the allocation of foreign aid. Section 521 of the Senate bill talked about special notification requirements for countries such as Colombia, Haiti, Liberia, Pakistan, and also included India in this list; but the House conference report does not, and I want to thank the conferees for making that change.

Mr. DIAZ-BALART. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California (Mr. BILBRAY).

Mr. BILBRAY. Mr. Speaker, I would like to at this moment actually praise the gentleman from Cleveland, Ohio (Mr. KUCINICH), who came up and says he is going to oppose this bill. And I am praising him because at least he is going to oppose this bill for a concept and a reasonable concept that I think the American people could understand, and that is we are spending money on something that he has some concerns about. But at least the gentleman from Cleveland is standing up and saying that the bill is spending money that he does not want spent.

In a time to where we are struggling to try to make sure we do not continue the crime of raiding the Social Security Trust Fund, at a time that we are trying to finally address the national debt, at a time to where we are finally trying to bring some fiscal credibility and live within a budget, at least the gentleman is coming forward and saying, "I am opposing this bill because it is spending money."

But there are speaker after speaker after speaker who will oppose this rule and then justify it because we are not spending enough money all over the world. The gentleman from Ohio at least is consistent at saying let us protect Social Security and stop spending here. The gentleman from Alabama (Mr. CALLAHAN), chairman of this committee, has come forward with a proposal that is moderate and reasonable. Let me say this to the gentleman and to the ranking member, thank you for taking the abortion issue out of this debate. It is something that a lot of us really hate every year.

But now to oppose this bill and oppose this rule because we are not spending enough American money overseas is absolutely absurd. And some of my colleagues may not think the American people understand it, but it is their money. Can we not have a foreign aid policy that does not require us to take from our grandparents' Social Security or take from our children's future to be able to be an international leader? Do we have to buy our way into our standard as the world's superpower?

Is this something that comes with a slip of paper and a little bill that says, Excuse me, American taxpayer, if you want to claim to be the greatest Nation in the world, you have to buy it year by year by sending your money out of Social Security or your money out of your children's savings account to another country that then God knows what happens to this money?

Everybody knows that. Some may not believe that the American people understand foreign aid. And I think they respect a reasonable aid for a reasonable amount of time. But I think the American people are saying enough is enough. The time has come that we allow the world to grow up and start paying some of their bills and quit looking to Washington and quit looking to the United States to be the sugar daddy to pay for everything. We may be Uncle Sam, but we are not Mom and Dad to the world. But we are Mom and Dad to our children and our grandchildren, and we are the children of our parents who want our Social Security Trust Fund to be left alone.

So, Mr. Speaker, I ask those who stand up to oppose this bill, I ask them to stand up and point up, as the gentleman from Ohio (Mr. KUCINICH) did, where they want the money taken out of this bill. But do not stand up and talk about how we need to spend more money overseas and then stand up tomorrow and talk about what are we going to do to protect the Social Security Trust Fund.

There is an obligation here that when we come to oppose something that we also provide the answers. If we are not spending enough money where my colleagues want to spend it in this bill, show us where we take it out of somewhere else to move it over. I ask that we all have the fiscal responsibility that goes along with the privilege of being a representative of the House of Representatives.

If Members want to spend the money, tell us where it is going to go, which committee it is going to come out of, whose trust fund it is going to come out of, and will the seniors or the children of America be asked to pay for a debt that we are incurring overseas because we do not have enough guts to tell the rest the world enough is enough. We are going to take care of our own first.

□ 1400

Charity starts in America. Commitments start in America. Then and only then, after we have paid for our domestic commitments to our seniors and our children, will we be talking about making any new commitments to the rest of the world.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank the gentleman, and I really do not think that the Chamber needs to be lectured by the Republican majority about fiscal responsibility. They cannot even come up with a budget. We still have not passed a budget. Every budget they come up with raids the Social Security Trust Fund.

They came up with an irresponsible huge tax break for the wealthy, which would have destroyed the Social Security tax fund, which would have dipped into the Social Security tax fund. Then they get up on the floor and attempt to portray themselves as the party of fiscal responsibility. They have busted the budget caps.

They have just been devious about it and have gone around it by declaring the census an emergency when we all know that this country has had a census for hundreds and hundreds of years. That was a way they could bust the budget caps and go around it. Perhaps by the same nonsense, we could declare foreign aid an emergency.

So let us not be lectured by the Republicans about fiscal responsibility because the tax break for the rich that the President was courageous enough to veto would have killed Social Security for us, for our children, and for our grandchildren for many, many years to come.

Now, I am a big supporter of foreign aid, and I am embarrassed by this bill. I am embarrassed by it because there is an isolationism bent in the Republican Party where, every year, we provide less and less monies for foreign aid.

Now, we can all get up and give a great speech about how we need the money for home and we need to build housing and build schools, and we need all that. But the United States is also the leader of the world. We used to say the leader of the free world when we had the Soviet. Now we say the leader of the world.

Unfortunately, our friends on the other side of the aisle, the minute the Soviet Union collapsed, most of them saw no further need for the responsible foreign aid. The fact of the matter is, no one made us the leaders of the world. We chose to pick up and take the mantle.

With leadership comes responsibility, and we do not have enough money to fulfill our foreign aid obligations in this bill. I have gone around to foreign capitals and seen our embassies and seen our hard-working Americans do the best they can with what they have had, and I am embarrassed by it. Because there is not enough money to have embassies and to have fully staffed embassies and to have the types of programs that the United States as the leader of the free world needs.

This bill is $1 billion less than last year. It is $2 billion less than what the President asked for. It has no money for the Wye Accords. We talk about a fight with the Soviet Union. We won the Cold War. Now we are going to throw it all away.

Developmental funds for Africa are cut. All these emerging Nations, we say we want them to have democracy and free market economy; and then we do not put our money where our mouth is where a little bit of money would just go a long, long way.

Foreign aid, 75 to 80 percent of the foreign aid that we give comes back to the United States in terms of purchasing American goods and services. So it stimulates our economy, and it is good as well.

Now, this is such a terrible bill that the Republican leadership prepared for days and days and weeks and weeks have been putting this bill on and pulling it back. They do not have the votes to pass this bill. I say we should let them go back to the drawing boards, come up with a responsible bill that we can be proud of so America can lead again.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think it is important to point out just a few things. The essence really of the debate today is whether, as the gentleman from California (Mr. BILBRAY), the previous speaker, pointed out, more money which, except for one speaker on the other side of the aisle, insufficient amount of money is the reason for their opposition to the bill. That is a legitimate discrepancy. We refused to go into the Social Security Trust Fund.

Now, with regard to what the distinguished gentleman from New York (Mr. ENGEL) just stated, U.S. embassies and consulates, they are in another appropriations bill in the State Department; Commerce, State, Justice, that bill, not in this one.

Now, it is important to point out again, and I reiterate it, we made a decision, the leadership, and we are standing firm behind our leadership on this. We are not going to go into the Social Security Trust Fund. We are not going to do it. We made that decision. We are sticking to it. Obviously, it subjects us to pressure. We see argument after argument after argument that they want more and more and more money.

Many of the programs that they talk about are probably good programs. But we are going to stick to our commitment. We are not going to go into the Social Security Trust Fund. We are not going to do it.

This is a good work product. We want to bring it to the floor. This rule does so. We deserve to get into the details of the debate. The gentleman from Alabama (Mr. CALLAHAN), our chairman, the prime author of this legislation is ready to provide the details and go into the details of this debate in depth.

But we need to pass this rule in order to get that debate. It is a procedural rule. It is a standard procedural rule, bringing forth the negotiation between the House and Senate known as the conference report that is finalized for foreign aid.

So we are ready to go, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Speaker, I do not necessarily oppose the rule before us, but today I am forced to cast a very difficult vote against the conference report to the Fiscal Year 2000 Foreign Operations Appropriations bill.

It is unfortunate that strong supporters, like myself, of foreign assistance to countries such as Israel, Columbia, Armenia, India, and Egypt are being placed in a position where it is necessary to vote against assistance for those priority countries.

This legislation also has important contributions to UNFPA and other international programs, which I fully support and have urged my colleagues to support. In fact, I thank the conferees and the gentleman from Alabama (Chairman CALLAHAN) for fulfilling the will of the authorizers and the intent of the House by including funding for UNFPA, which I offered as an amendment earlier this year. However, a no vote on this bill is a vote in favor of a strong U.S. foreign policy and a vibrant foreign assistance program.

Mr. Speaker, the numbers in this report are clear. They speak for themselves. This legislation is nearly $2 billion below the President's request for foreign assistance. Almost every major account is underfunded.

The conference report does not include the $87 million for debt relief initiatives for the poorest countries, and it cuts $200 million from economic development and democracy-building programs in Africa, Asia, and Latin America, to name just two important initiatives which will be hampered by this report.

Additionally, this legislation has no money, not one single dollar, to fulfill our commitment to the Wye agreement to the Middle East Peace Process. I have a great deal of respect for the gentleman from New York (Mr. GILMAN) and AIPAC, and I am sorry to disagreewith my Chairman, but as the gentleman has stated there is no Wye funding in this bill at this time, and it ought to be there.

Mr. Speaker, the President has made his position crystal clear; increase funding for foreign assistance and include the Wye funding or he will veto the legislation. I know it. My colleagues know it. The Republican leadership knows it. Yet, here we are, with legislation that fails to fund U.S. foreign policy priorities and threatens stability in the Middle East.

Mr. Speaker, this conference report is bad for America, it is bad for the Middle East peace process, and it is just plain bad policy. I urge my colleagues to live up to our commitments, support the President and vote against this antiforeign aid bill.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, I rise in vigorous opposition to this rule and to this bill. I would like to alert the Members of this chamber of something they may not have heard; and that is, buried in this bill is yet another one of the insidious repeated antienvironmental riders that have so infected our appropriations process.

Because hidden in this bill is an amendment that would prevent the United States of America from engaging, engaging in a discussion with the developing world on how to get them to start help dealing with the problem of climate change.

There is no reason in this bill or any other bill to shackle our ability to discuss with other Nations of the world how we are going to move forward and how we are going to deal with climate change. This has been infecting other bills. We should stop it right here.

In the last few days, we have debated other antienvironmental riders. This is one dealing with perhaps the most insidious environmental problem that we have. Because, while 15 of the hottest years in human history have been in the last 15 years, while the temperature has risen so that we are having droughts in the Midwest and places of Antarctica breaking up and places in the Tundra changing. While we are doing this, the majority puts in another antienvironmental rider that tells us we should do nothing about this problem.

Well, the one thing I can be sure of about climate change is that we cannot lead in the position of the ostrich. We cannot lead the world in solving this problem by sticking our heads in the sand and allowing other places of anatomy to be out and exposed to the wind. We have got to start leading to a solution of climate change.

If we kill this rule today, and it might be a close vote, so I hope Members may consider this, if my colleagues want to stand up against an antienvironmental rider, cast a no vote on this rule. Let us show some leadership.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I assume that the distinguished gentleman from Washington (Mr. INSLEE) was referring to the Kyoto Treaty, which has to be, pursuant to our constitutional system of advice and consent of the Senate, has to be given consent by the Senate. So that is an issue obviously that is of great importance and is a decision that the Senate will have to make.

Mr. Speaker, we have no further speakers at this time with regard to the rule. It is a procedural rule. This is a procedural rule. We seek to bring the conference report to the floor. That is why we have to pass the rule first.

Once we pass the rule, the gentleman from Alabama (Mr. CALLAHAN), the prime author of the conference report who has provided a tremendous amount of leadership, as well as hard work on this issue, is ready.

The gentleman from Alabama (Mr. CALLAHAN) is ready to delve into the details. He has pointed out how any and all requests that were made of him by our distinguished friends on the other side of the aisle, he did his utmost to comply with. Yet, we are seeing now systematic opposition generally because our friends on the other side of the aisle want more money. But they want more money for everything.

So what we are trying to do, Mr. Speaker, is to bring forth, get to the debate on this foreign aid conference report. But in order to get to the debate on the foreign aid conference report, we have to pass the procedural rule to do so. That is what we would like to do.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say that I do not have a problem with this rule. I do not think many people over here do either. I am not going to ask for a roll call on the rule. I think the rule is in good shape. It is the proper order for a conference committee to have a rule like this.

I will oppose the bill when the bill comes up for a vote. The reason why I oppose the bill is that I do not really have a problem with what the gentleman from Alabama (Mr. CALLAHAN) has done and his staff. I think they spent money they were given. They made the proper choices as to the allocation and some of the earmarks, especially relative to child survival funds and basic education.

The problem that I have had in the last 10 years with the foreign budget or the foreign appropriation budget is, and I testified before the gentleman from Alabama (Mr. CALLAHAN) is that there are so many areas of this foreign aid budget that are lacking.

We have cut the development assistance fund by 50 percent in the last 10 years. If there is one thing that the American people have said, when we invest money overseas, invest it in a way in which people can start to take care of themselves and be self-sufficient. But the very thing that they want we have cut by 50 percent.

We have cut Peace Corps this year. We have cut a lot of programs relative to humanitarian aid of which we could be a leader, and we have been the leader for years. There are so many things to do in this world and our own country that we have the ability to do it.

One does not have to be a rocket scientist to figure out how to feed people, how to give medicines to people, how to immunize people. We have eradicated smallpox in the world. With just a little bit more money, we could start to eradicate polio and TB and those kinds of diseases that are easy. This is not a hard thing to do.

We know logistically how to get food to people. We know how to immunize people. We know how to feed people. At the same time, we should not be giving it from government to government. We should be giving it through our NGOs, the nonprofit organizations, the CARES, and the World Visions, and the Catholic Relief Services, and the Oxfams, and all of the great NGOs in the world, because we get good value for our dollar.

☐ 1415

Another thing. This is a practical thing that produces jobs. For every dollar we invest overseas, we get $2.37 back. We do not lose money on this deal; we gain, and yet year after year it gets more and more frustrating that we continue to cut back on these funds that are so invaluable to our own workers and that would help the world so much.

We do have a responsibility. It is interesting that when we ask Americans how much they think of the Federal budget we spend on foreign aid, every poll will show that the American people believe that we spend somewhere between 18 and 22 percent of our total budget on foreign aid. And the fact is that is wrong. We spend less than 1 percent of our total budget on foreign aid, and it is going down.

The area that I care so much about, humanitarian aid, is less than one-half of 1 percent. Maybe someday we should separate political and diplomatic aid from humanitarian aid and really fund it and solve some of these problems like polio and TB. We know how to lick this. We know how to feed people, and yet we do not do it.

I know the leadership has taken a position on this of no more money for these programs. But they are wrong, and we disagree with them, and that is why so many of us are going to vote against the bill. So I say the rule is okay, vote for the rule, but when this bill or this conference report comes up, vote against it.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

We heard multiple speakers on the other side of the aisle with regard to the issue, and all but two said that their opposition to this foreign aid bill was because there was not enough money. I just want to be clear that even though we on this side of the aisle are standing firm behind our leadership in not raising taxes, in not busting the balanced budget, in not going into the Social Security Trust Fund, despite that, on this bill for foreign aid we have $12.617, that is almost $13 billion. That is almost $13,000 million for foreign aid.

I want to commend the gentleman from Alabama (Mr. CALLAHAN) for his extraordinary job. I think this has been a very good example of the underlying difference that separates the two sides of the aisle. With only two exceptions, every single speaker on the other side of the aisle got up and opposed this legislation because there is not enough money in it. And so there is a fundamental difference, but a very good job has been done by our side, our leadership, the chairman of the subcommittee, and so I support not only this rule but the underlying legislation.

Mr. Speaker, this is important, we need to get it passed, and that is why at this point I support the rule and urge my colleagues to vote for it.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 764, CHILD ABUSE PREVENTION AND ENFORCEMENT ACT

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 321 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 321

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 764) to reduce the incidence of child abuse and neglect, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. Points of order against provisions in the bill for failure to comply with clause 4 of rule XXI are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. THORNBERRY). The gentlewoman from Ohio (Ms. PRYCE) is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 321 is an open rule providing for the consideration of the Child Abuse Protection and Enforcement Act, also known as the CAPE Act. The rule provides for 1 hour of general debate equally divided and controlled by the chairman and ranking member of the Committee on the Judiciary. And as the sponsor of this legislation, I would like to take this opportunity to thank the members of the Committee on the Judiciary, especially the gentleman from Florida (Mr. MCCOLLUM), the chairman of the Subcommittee on Crime, for all of their work on the bill and their efforts to move this legislation forward.

The rule waives all points of order against consideration and against certain provisions of the bill. The bill will be open for amendment at any point, and under this open rule any Member who seeks to improve upon the legislation may offer any germane amendment. However, priority recognition will be given to those Members who have preprinted their amendments in the CONGRESSIONAL RECORD. Additionally, the rule offers an opportunity to change the bill through the customary motion to recommit with or without instructions.

Finally, to ensure timely and orderly consideration of the bill, the rule allows the chairman of the Committee of the Whole to postpone votes and reduce voting time to 5 minutes as long as the vote follows a 15-minute vote.

As the sponsor of this legislation, I am pleased that the House will have the opportunity to fully debate this important issue surrounding the tragedy of child abuse under a fair and open process.

It is hard for most of us to fathom a rage so blinding that it could compel an adult to attack a helpless child, much less their own child. It may shock my colleagues to realize that every 3 minutes a child will be reported abused or neglected. And, sadly, that is just in my own State of Ohio. Nationwide, the crisis of child abuse is even more staggering. An estimated one million violent crimes involving child victims are reported to police annually. And on top of that, another 1.1 million cases of child abuse are substantiated by child protection agencies annually.

This is a national crisis, and as leaders, we have the responsibility to take a stand and fight back against the cruelty that robs children of their innocence and produces troubled and violent adults.

As a former prosecutor and judge, I have seen firsthand the manifestation of child abuse in the criminal behavior of adults. Breaking this cycle of violence in our society begins with child abuse prevention.

But the most compelling case for child abuse prevention is not found in these troubled adults but in the eyes of children who live in constant fear. Children should be focused on school, little league, piano lessons, not reeling from punches or cowering from the adults who should be embracing them.

The CAPE Act focuses on two critically important fronts: child abuse prevention and improved treatment of the victims of child abuse.

The bill has a host of bipartisan cosponsors and has been endorsed by a wide variety of groups from every ideological background, including the National Child Abuse Coalition, Prevent Child Abuse America, National Center for Missing and Exploited Children, and the Family Research Council.

The CAPE Act would make three changes to current law: first, the bill expands a Department of Justice grant program that helps States provide equipment and personnel training for closed-circuit television and video taping of children's testimony in child abuse cases. Under the CAPE Act, these grants could be used to provide child protective workers and child welfare workers access to criminal conviction information and orders of protection based on claims of domestic or child abuse. Or the grants could be used to improve law enforcement access to custody orders, visitation orders, protective orders, or guardianship orders.

Second, the CAPE Act expands the use of the Byrne law enforcement grants to improve the enforcement of child abuse and neglect laws, and, more importantly, child abuse prevention.

Finally, the bill allows additional dollars from the Crime Victims Fund to be used for child abuse assistance programs, increasing the earmark from $10 million to $20 million. This increase reflects a growth in contributions to the fund since the set-aside for victims of child abuse was first established.

Mr. Speaker, all of these changes will funnel more resources to the State and local level, where the individuals who are on the front lines in the fight against child abuse are best equipped to help our children. And I know my colleagues will be pleased to know that the CAPE Act draws on existing resources instead of creating a new Federal program that requires more taxpayer financing.

The CAPE Act has bipartisan support and was favorably reported by the Committee on the Judiciary without controversy or amendment. So while we do not expect numerous amendments to be offered today, this issue is simply far too important to deny a full and fair debate. That is why the Committee on Rules has reported this open rule, which I hope my colleagues will support.

I look forward to today's debate, which I hope will not only be a prelude to the passage of legislation that gives hope to millions of children, but also an effort to raise awareness about the horrors of child abuse and the steps we can take to end it.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank my friend and colleague, the gentleman from Ohio (Ms. PRYCE), for yielding me this time, and I yield myself such time as I may consume.

Mr. Speaker, the rule for H.R. 764 is an open rule, and I am pleased to support its consideration.

Mr. Speaker, every year, millions of children are the victims of child abuse or are witnesses to terrible violence. The repercussions of this violence is often felt for the rest of that child's life. Study after study suggests that children who are victims of child abuse or neglect are far more likely to run afoul of the law either as adolescents or adults. Statistics show that most people who are abusers were abused as children themselves.

Even as the crime in some areas is going down, experts tell us the number of crimes against children is going up. This bill is an important effort aimed at child abuse treatment and prevention. It was passed just a few days ago by a voice vote in the Committee on the Judiciary and is now here on the floor for consideration by the full House.

□ 1430

Several important amendments have been identified, and I look forward to the thoughtful debate concerning this most important issue.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I hope my colleagues will join me in participating in today's debate and strengthening the voice of millions of children who live each day with terror and in pain.

Raising awareness is the first step toward ending the living nightmare of child abuse. The next step is providing the resources to eradicate this scourge on our society. Today, happily, we can do both.

I urge my colleagues to vote for this fair and open rule and the Child Abuse Prevention and Enforcement Act.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JENKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 764.

The SPEAKER pro tempore (Mr. HANSEN). Is there objection to the request of the gentleman from Tennessee?

There was no objection.

CHILD ABUSE PREVENTION AND ENFORCEMENT ACT

The SPEAKER pro tempore (Mr. JENKINS). Pursuant to House Resolution 321 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 764.

□ 1432

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 764) to reduce the incidence of child abuse and neglect, and for other purposes, with Mr. HANSEN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida (Mr. MCCOLLUM) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. MCCOLLUM).

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume. I rise in support of H.R. 764, the Child Abuse Prevention and Enforcement Act.

The bill was introduced by the gentlewoman from Ohio (Ms. PRYCE) and has 54 cosponsors and bipartisan support. The Crime Subcommittee of the Committee on the Judiciary held a legislative hearing on the bill on May 12, 1999; and last week, the full Committee on the Judiciary ordered the bill favorably reported by a voice vote.

The purpose of the bill is to increase the funds available for the investigation of child abuse crimes and programs designed to prevent child abuse and other domestic violence. It will do this by amending existing grant programs that provide funds to States for crime-related purposes so that funds can also be used to provide child protective workers and child welfare workers access to criminal conviction information and orders of protection.

These workers often do not have access to criminal history records and information and may be unaware that when they place a child in foster care or return a child to a parent, that they are placing the child in the custody of a person with a criminal history. Allowing these Federal funds to provide child protective and child welfare workers with access to State records will help alleviate this problem.

This bill would accomplish this purpose by doing two things. First, section 2 of the bill would amend a small Justice Department grant program that currently helps States provide equipment and personnel training for closed circuit television and videotaping of the testimony of children in criminal child abuse cases.

H.R. 764 would permit the Department to make grants for an additional purpose, namely, to provide child protective workers and child welfare workers in public and private agencies access to criminal conviction information and orders of protection based on the claim of domestic or child abuse or to improve law enforcement access to judicial custody orders, visitation orders, protective orders, and guardianship orders.

Section 3 of the bill would modify the federal crime control assistance program known as the Byrne Grant Program. This program authorizes the Federal Government to award both block grants and discretionary grants for specified activities. Block grants are allocated to the State on the basis of population and are to be used for personnel, equipment, training, technical assistance, and information systems to improve criminal justice systems. The discretionary program funds are distributed to non-federal public and private organizations undertaking projects that educate criminal justice personnel or that provide technical assistance to State and local governments.

The Byrne Grant statute specifies 26 permissible uses for these funds. This bill proposes to amend the Byrne Grant program to add an additional permissible use for these funds, namely, "to enforce child abuse and neglect laws and programs designed to prevent child abuse and neglect."

Third, Section 4 of the bill would amend the Victims of Crime Act of 1984. This law was passed to assist States in directly compensating and providing support services for victims and families of victims of violent crimes. Funding for this purpose comes from the Federal Crime Victims Fund, into which are deposited criminal fines, penalty assessments, and forfeited appearance bonds of persons convicted of crimes against the United States. In fiscal year 1998, $363 million was deposited into this fund for distribution in FY 1999.

There are two principal programs established under the act. The victims' compensation program provides funds to States which have in place their own programs to compensate victims of crime. The Federal funds are used by States to reimburse victims of violent crimes or their survivors for non-reimbursable medical costs, lost wages and support, and funeral expenses arising from a crime-related injury or death.

The victims' assistance program also provides grants to States which are then authorized to distribute the funds to support public and nonprofit agencies that provide direct services to victims of crime, such as 24-hour crisis hotlines for victims of sexual assault and shelters for victims of spousal abuse.

Under current law, the first $10 million of the funds deposited in the fund each year are to be expended by the Secretary of Health and Human Services for grants relating to child abuse prevention and treatment. Of the remaining funds, 48.5 percent are to be used for grants to State crime victims' compensation programs, 48.5 percent for victims' assistance programs, and 3 percent for grants for demonstration projects and training in technical assistance services to be eligible for crime assistance programs.

H.R. 764 would increase the earmark for child abuse and domestic assistance programs from $10 million to $20 million. Doubling this earmark would, therefore, result in a $10 million reduction in the funds that would otherwise be available for grants to victims' compensation programs and victims' assistance programs.

Mr. Chairman, we all know that much more needs to be done to reduce the incidence of child abuse and neglect across the country. It is a very serious problem, and Congress has an important role to play by assisting the States to do all they can to reduce the incidence of such abuse. It is vitally important for child care and protective agencies working in concert with law enforcement to have access to criminal history information. Getting timely and complete information to these agencies will save lives.

I want to commend the gentlewoman from Ohio (Ms. PRYCE) for her work in making this bill possible and for working with the Crime Subcommittee to improve it.

Later today, I will offer an amendment in the nature of a substitute to address the two concerns that I have with this bill.

Mr. Chairman, I include the following Congressional Budget Office Cost Estimate for the RECORD:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 1, 1999.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 764, the Child Abuse Prevention and Enforcement Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, OCTOBER 1, 1999

H.R. 764: CHILD ABUSE PREVENTION AND ENFORCEMENT ACT, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON THE JUDICIARY ON SEPTEMBER 28, 1999

CBO estimates that implementing H.R. 764 would not result in any significant cost to the federal government. Because enactment of H.R. 764 could affect direct spending, pay-as-you-go procedures would apply to the bill. However, CBO estimates that any impact on direct spending would not be significant. H.R. 764 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Under current law, the first $10 million available for spending from the Crime Victims Fund is earmarked for grants for child abuse victims; H.R. 764 would increase this allotment to $20 million. The bill also would permit recipients of certain grants from the Department of Justice to use those funds for various child protection programs. Because these provisions would reallocate federal funds among similar activities, CBO estimates that enacting H.R. 764 would not significantly change the net direct spending from the Crime Victims Fund or the net discretionary spending from the affected grant programs.

The CBO staff contact for this estimate is Mark Grabowicz, who can be reached at 226-2860. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

Mr. Chairman, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank my colleagues very much for the very hard work that they have put in for this legislation. I say to the gentlewoman from Ohio (Ms. PRYCE) and the gentlewoman from Ohio (Mrs. JONES), the very difficult job of focusing on something so sensitive to be able to help us bring to the floor the Child Abuse Prevention and Enforcement Act, this is a good day for many of us.

Mr. Chairman, so many of us have had a tragic story to talk about in our State as it relates to child abuse. I can call off the names of so many children in the State of Texas. As a convening chairperson of the Congressional Children's Caucus, one of the issues we have debated here in the United States Congress is the access of our children to mental health services.

Many times our children are in need of counseling because they have suffered abuse in their homes. We are well aware of the very famous case in Colorado, JonBenet. Her murder is still unsolved, but we know that she met a very tragic death; and, as well, we know that the perpetrator is still at large.

In addition, we are quite familiar with a case that I saw just last evening, the case of little Collin in Florida, where time after time those who are responsible for protecting her life, taking her away from an abusive father, failed to see the abuse in the home until ultimately, out of anger of the parent, little Collin was killed.

The problem of child abuse and neglect is disturbing and far-reaching. The U.S. Department of Health and Human Services, in a report issued in April of this year, indicated that there were over 950,000 documented cases of child abuse and neglect in 1997.

Further, in an earlier report, HHS indicated that while the number of child abuse and neglect cases has increased since 1986, the actual number of cases investigated by State agencies has remained about the same. As a result, the proportion of cases investigated has decreased from 44 percent in 1986 to 28 percent in 1993.

Mr. Chairman, this is a failure on our part. This is again not holding to our responsibility to be the protectors of our children. The failure to adequately address the problem of child abuse and neglect is costly in many ways. First and foremost, there is a human tragedy related to the victimized child.

How many of us, Mr. Chairman, have cried at the television and newspaper reports of the abused and sometimes mutilated bodies of dead and/or badly injured children? Obviously, abused and neglected children carry physical and emotional scars with them forever affecting every aspect of their life.

Might I note that many times murderers who are murderers as adults, when we begin to look into their background, it has been determined, although the murder is of course no less horrible, that they were abused as children in their childhood.

In addition, the National Committee to Prevent Child Abuse estimated in 1993 that the annual cost of child welfare health care and out-of-home care for abused and neglected children totaled $9 billion. I must add that this is a conservative estimate in light of the fact that it does not include every related cost, such as long-term physical and mental impairment, emergency room care, lost productivity, special education services, and costs to adjudicate child abuse cases.

That is why the Congressional Children's Caucus has focused on greater mental health access to children so that maybe in counseling some of those who have been heretofore afraid of talking about being abused will be able to tell an adult about their abuse.

Yet another cause of child abuse is in the area of increased criminal activity. According to a 1992 U.S. Department of Justice report entitled the Cycle of Violence, 68 percent of youth arrested had a prior history of abuse and neglect. The study also indicated that childhood abuse increased the odds of future delinquency and, as I said earlier, in adult criminality by approximately 40 percent.

On the positive side, we know how to address this problem. The National Child Abuse Coalition reports that family support programs and parental education have demonstrated that prevention efforts work. And as we have seen in the other areas, such as drug treatment programs, community-based programs, supporting families can be implemented to prevent child abuse for far less than the dollars it now costs to treat and manage a child abused and neglected.

The legislation being considered today is a step in the right direction. I congratulate the proponents. This bill provides increased grant authority for services to abused or neglected children. It also provides an increase in the existing set-aside for child abuse and neglect services from the Crime Victims Fund, in which I hope that we will not cap it so that we will not be able to get those funds.

The McCollum amendment provides for a formula which will tie the increased set-aside for child abuse and neglect services to the overall increase in the Crime Victims Fund. I support the amendment.

I will offer an amendment to specify that this bill also covers children's sexual abuse, as noted by the evidence that suggests that JonBenet was sexually abused. It is clear that prevention and early treatment for child abuse and neglect victims benefits everyone. This bill represents a positive step in that direction and, as a result, I support H.R. 764, as amended, offered by the gentlewoman from Ohio (Ms. PRYCE) and the gentlewoman from Ohio (Mrs. JONES) and as amended by the gentleman from Florida (Mr. MCCOLLUM).

Mr. Chairman, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I yield 5 minutes to the gentlewoman from Ohio (Ms. Pryce) the author of this bill.

Ms. PRYCE of Ohio. Mr. Chairman, I thank the gentleman from Florida for yielding me the time.

Mr. Chairman, this morning, in coordination with today's House consideration of the CAPE Act, I and a number of my colleagues from both sides of the aisle toured the D.C.'s Children Advocacy Center, otherwise known as Safe Shores.

For those who are not familiar with the children's advocacy centers like Safe Shores, they provide child abuse victims with a child-friendly environment where they can seek initial treatment and examination under one roof in one visit.

□ 1445

This is far superior to the more traditional method which subjected children to a cold bureaucratic maze of probing and prodding that often have the unintended consequences of re-victimizing them.

Mr. Chairman, like most children's advocacy centers, Safe Shores has a toy room which is where the cruel reality of child abuse really comes to life. I think we would all agree that toys should represent happy times in children's lives, but at Safe Shores they are merely temporary distractions from the nightmare inflicted upon them by adults who should be loving them. It is for those children at Safe Shores and all abused children around our Nation that I introduced the CAPE act and why we must pass it today.

The CAPE Act focuses on two critically important aspects of child abuse, prevention and improved treatment of child abuse victims. Moreover, the bill recognizes that it is those on the front lines in our communities who are in the best position to make a difference for our children, the child protection workers, the police, the judges, the court-appointed special advocates, the doctors and nurses, the foster families, and the volunteers, just to name a few.

In a nutshell, this bill takes three important steps to help children, and they have already been described by the gentleman from Florida (Mr. MCCOLLUM), so I will not go into the technical aspects; but suffice it to say that all the money for this bill comes from forfeited assets, forfeited bail bonds, fines paid to the Government, not taxpayers' dollars.

So, without tapping the U.S. Treasury, the bill will increase the amount of funds which can be used for such things as training child abuse investigators, training child protection workers, and the development of children's advocacy centers like the one I toured this morning in Washington and the one which is evolving at Children's Hospital in my own hometown of Columbus, Ohio.

In fact, I am very proud that Children's Hospital soon will be embarking on a brand new state-of-the-art children's advocacy center on its campus in Columbus, building on its 10 years of experience and success in its existing location inside the hospital.

Also, this bill gives State and local officials the flexibility to use existing grants to provide child protection agencies access to criminal history records. This will help ensure that abused and neglected children are placed in safe foster and adoptive homes as expeditiously as possible so that they do not languish any longer than necessary in bureaucratic limbo.

The bill will make a difference in the lives of children without any additional cost to the taxpayer. It removes federally imposed straight-jackets on Federal funds and gives local folks the flexibility to invest in our children as they know best how to.

Quite appropriately, Deborah Sendek, Director of Columbus Children's Advocacy Center at Children's Hospital is with me today in Washington, for she is on the front lines in the fight to protect our children. It is heroes like this that the bill is designed to empower in their tireless efforts to bring care and comfort to our children to make sure that they are protected from their abusers.

In closing, I want to thank the gentleman from Florida (Mr. MCCOLLUM), the chairman of the Subcommittee on Crime, and the chairman, the gentleman from Illinois (Mr. HYDE), for all their perseverance in helping me bring the CAPE Act from the Committee on the Judiciary, to the House floor. I also want to express my gratitude to the original cosponsors of this bill, the distinguished majority whip, the gentleman from Texas (Mr. DELAY), who is a devoted foster parent and a tireless champion of the CAPE Act, to the gentleman from Illinois (Mr. EWING), to the gentleman from Pennsylvania (Mr. GREENWOOD), and last but not least, to the gentlewoman from Ohio (Mrs. JONES), my fellow colleague from the Buckeye State, who has so much experience in this issue.

Finally, I want to tip my hat to all the child advocates around the Nation in our communities, some of whom are here today, for all they do to nurture and treat victims of child abuse.

Mr. Chairman, abused children do not have high-priced lobbyists in Washington, nor are they a powerful voting block; but they are counting on us to act on their behalf, and the CAPE Act is for them. I urge adoption of this CAPE Act.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 4 minutes to the distinguished gentlewoman from Ohio (Mrs. JONES), the original Democratic cosponsor of this legislation.

Mrs. JONES of Ohio. Mr. Chairman, first of all I would like to thank my colleague, the gentlewoman from Texas (Ms. JACKSON-LEE), my colleague, the gentlewoman from Ohio

(Ms. PRYCE), and all the other persons that were original sponsors and cosponsors on this piece of legislation.

Mr. Chairman, I will not repeat what has been said by the other presenters as to what the CAPE Act will do. What I want to speak to is why the CAPE Act is so necessary.

I served for 8 years as the prosecutor from Cuyahoga County, Ohio. In Cuyahoga County I had 180 assistants, and many of them were responsible for prosecuting child abuse cases. One of the things that I realized as prosecutor was the need to specially train prosecutors who worked in that area. They needed to be able to speak to a young child witness; they needed to be able to understand and see when that child was drawing back and understand the behavioral manifestations from child abuse. They needed to be able to speak with a child-protection worker and have a worker who was as well trained as they were. They needed police officers who were also specially trained in dealing with child abuse victims.

Ultimately, we made a determination that we had to come up with an organization or interagency group that could handle these types of cases, and that is why what the CAPE Act will be able to do is so very important. Many of the child protection workers who work throughout this country need additional training. Many of them come right out of school into child protection work. Many of them find that because of the type of job that they are involved in, burnout comes quickly; and there are very few opportunities for reward or encouragement. Through providing dollars through the Byrne grant for training, we will be able to say to these child-protection workers, You are important to us. You are important to us not only because of who you are, but who you work with.

They will be working with young people, young abuse victims and providing dollars for their training is of particular importance. We were able to, through the work that we did and ads at the advocacy center that we visited today, to see that there were joint interviews being done with a one-way mirror so that in the course of being interviewed or handled as a young person or a child victim, they were not abused over and over again by so many interviews. That takes special technique, that takes great experience, and the funds that we are proposing from the Byrne grant will also be able to be used for training in that area.

It is very important also to understand that the work that forms the basis of the child-protection workers' work becomes the basis or foundation of the prosecutor's case as we go to trial; and very often we find ourselves in Cuyahoga County not being able to win some of our cases because early work done in those cases was not appropriately done, and it was not because the people working in the area were not able to do the job. It was because they were overwhelmed or maybe not specially trained in the area of child abuse and child sexual and physical abuse.

So these dollars are good, could be used for that training area. I want to salute all the child-protection workers, police officers, prosecutors who work out in this area and tell them that we really need them to continue to work hard, and by working to pass the Child Abuse Prevention and Enforcement Act, we are saying to them, we know you're important, and you're important enough for us to set aside an allocation specifically in the Byrne grant funds for you to be trained and you to be saluted for the work that you do.

I want to thank all of my colleagues who are here and in support of this legislation.

Mr. MCCOLLUM. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. DELAY) who is our majority whip.

Mr. DELAY. Mr. Chairman, I too want to thank the gentleman from Florida (Mr. MCCOLLUM) for bringing this very important piece of legislation to the floor, and I particularly want to thank the two gentlewomen from Ohio for all the hard work in putting this together; but I particularly want to thank one of my staff members, Autumn Hannah, whose tireless work and her work in raising the visibility of the abused and neglected children in this country has been so exemplary, and we greatly appreciate all her hard work.

Mr. Chairman, abuse against children is one of the unpardonable sins we must all work to end in this country. The Child Abuse Prevention and Enforcement Act takes a big step towards making America safer for all of our most vulnerable youngsters. There is no topic more important and no issue more pressing than the welfare of our Nation's children. But for far too long the tragedy of abuse has been swept under the rug. The result is that the culture of abuse continues because we, as a Nation, have at times been afraid to admit our own failings.

It is time for the silence to end. It is time for the years of relative inactivity to be turned into humane action. After all, the health of a society is easily reflected in how it treats its most vulnerable.

Today, too many of our young ones are having their innocence stripped away. Two years ago there were three million cases of child abuse and neglect in this country. Today, as I speak, there are at least a half a million American kids in foster care because it is not safe enough for them to live with their own families.

These numbers are as staggering as they are hard to comprehend. The sheer sadness that poisons so many little lives must move us all to action. There are many ways that we can help, though the task is complicated. At the Federal level we have to help lift our children out of despair while simultaneously giving more flexibility to States to deal with their own local concerns. In other words, we must take action and get out of the way and not interfere with the good work that is already taking place.

Nationally, billions upon billions of dollars have been spent on child welfare programs, but this is not just a question of dollars and cents because it would be worth every dime if money was the solution to ending abuse and neglect. But money is not the solution, and a one-size-fits all Federal program often allows too many children to fall through the cracks.

Such failure directly translates into trouble for our communities in the future as children with a bad formation predictably make bad choices in life. No one is surprised to learn that there is a correlation between adolescent crime and child abuse, but this is a cycle of trouble that we can beat. CAPE is the first step towards that goal.

This legislation allows State and local officials to take advantage of existing Byrne law enforcement grants for child prevention work. It also allows localities to use the identification technology act to provide criminal history records to child protection agencies. These measures simply make use of resources that already exist while cutting out wasteful repetitive action from different agencies and different levels of government.

Along with these steps, CAPE also increases the set-aside for child abuse services and the crime victim fund, all of which comes from nontaxpayer dollars. In short, this bill expands services, cuts red tape, and works within already existing programs. It is good for government at the Federal level, better for State governments and most importantly, it is great for victims of abuse that it seeks to protect.

Just one example of the good work CAPE assists is the court-appointed special advocate, a group of volunteers who provide millions of hours to have courtroom support for abused children. In Texas alone, these programs save the Federal Government an estimated $80 million a year at least, all while maximizing support services for children and minimizing their time in foster care, but this is just one program of so many. The point is that there are no shortage of ways and no lack of ideas in the fight to prevent child abuse and neglect; there is only a lack of involvement.

Mr. Chairman, too many Americans sit on their hands idly while others raise their hands in silence; but in most cases, Mr. Chairman, people simply do not know how they can make a difference in the lives of children. One easy way is to support this legislation.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Mr. Chairman, I want to thank the gentlewoman for yielding this time to me and I want to thank her for all her hard work in this area and the sponsors of this legislation, I thank them too. As lawmakers and human beings we have an obligation to care, to care that every 12 minutes in my home State of Maryland one child is reported abused or neglected.

☐ 1500

To care that currently 50 out of 1,000 children are reported maltreated, and to care that 2,000 children die each year as a result of abuse or neglect. But our higher duty is to transfer this care into prevention. H.R. 764 does this by providing for increased funding for prevention training, child advocacy and treatment, and increased access by protective service workers to criminal conviction records.

The Children's Defense Fund logo, written by a child, states quite succinctly: "Dear Lord, be good to me; the sea is so wide and my boat is so small."

Mr. Chairman, if we do not demonstrate that we care, this child and all others abused and neglected across this land will drift away in their small boats and eventually sink and die.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I am pleased to rise in strong support of H.R. 764, the Child Abuse Prevention Act. And I thank the sponsor of this important legislation, the gentlewoman from Ohio (Ms. PRYCE); and the distinguished subcommittee chairman, the gentleman from Florida (Mr. McCOLLUM), for bringing the measure before us today; and the ranking minority member, the gentlewoman from Texas (Ms. JACKSON-LEE); the gentlewoman from Ohio (Mrs. JONES); and our distinguished whip for supporting this measure.

The U.S. Advisory Board on Child Abuse and Neglect reports that 2,000 children die each year as a result of abuse or neglect. Moreover, it has been reported by the U.S. Department of Health and Human Services that there has been a 1.7 percent increase over the prior year of substantiated cases of child abuse and neglect. As we begin to enter the next century, it is imperative that we make certain that we take care of our Nation's children. Our future as a Nation and as a caring people depend on that.

History will not look kindly upon a society that chose to ignore the plight of its children over issues of politics, wealth, or new technology. Accordingly, it is imperative that Congress provide our local communities and our States the tools needed to end child abuse and neglect.

This measure, H.R. 764, will permit the Department of Justice to provide the kind of grants to States for the enforcement of laws to prevent child abuse and will provide technical assistance to local law enforcement to help in that battle.

Accordingly, I urge all of my colleagues to fully support this important measure.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Chairman, they say that home is where the heart is, but where is the home of a child whose heart beats rapidly in fear that he will be beaten black and blue because dad has had a bad day at work today? What about the child who avoids his drunk mother for fear that he may irritate her?

Because of the alarming statistics of child abuse today, at least 500,000 children in the United States are making foster care, group shelters, and other institutions their permanent homes. As responsible legislators, it is imperative that we work to ensure safety for all of our children. We must do everything within our power to foster healthy environments where children can learn, can play, and can prepare to be the future of our country.

With statistics on child abuse ever increasing, it is evident that CAPE, the Child Abuse Prevention and Enforcement Act, is very needed. This legislation will help to improve conditions faced by at-risk children by expanding technology and enabling child protecting agencies to access criminal history records.

I challenge our colleagues to commit themselves to finding a solution for child abuse and take the first step by voting to pass the Child Abuse Prevention and Enforcement Act.

I congratulate our colleague, the gentlewoman from Ohio (Ms. PRYCE), for her leadership in sponsoring this bill that was also a legislative priority for our mutual friend, former Congresswoman Sue Molinari. I especially want to acknowledge the hard work of the gentleman from Texas (Mr. DELAY), who has made fighting child abuse a key legislative priority for all of us through our Shine the Light on the Children in the Darkness project.

Ms. JACKSON-LEE of Texas. Mr. Chairman, it is my distinct pleasure to yield 4 minutes to the distinguished gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Chairman, I first of all want to thank the gentlewoman from Texas (Ms. JACKSON-LEE), who chairs the Children's Caucus, for yielding me time. I also want to commend the gentleman from Florida (Mr. McCOLLUM), who will be offering a floor manager's amendment to this bill, who chairs the Subcommittee on Crime of the Committee on the Judiciary who helped this bill through. The gentlewoman from Ohio (Mrs. JONES) on one side, the gentlewoman from Ohio (Ms. PRYCE) on one side, and the gentleman from Texas (Mr. DELAY). Boy, if this is not a good example of bipartisan cooperation on an issue that is so very important.

Mr. Chairman, I rise obviously in strong support of the Child Abuse Prevention and Enforcement Act, the CAPE Act, introduced by the gentlewoman from Ohio (Ms. PRYCE), to be amended by a floor manager's amendment. It expands the Byrne grants to allow the States flexibility in programs for child abuse protection services and also for programs to prevent the incidence of child abuse.

Just citing some of the statistics, the National Committee to Prevent Child Abuse reports that in 1994, over 3 million children were reported to child protective service agencies for child abuse and neglect. This is in the United States, and the numbers continue to increase. Currently about 47 out of every 1,000 children are reported as victims of child mistreatment, and overall child abuse reporting levels have increased 63 percent between 1985 and 1994.

Well, based on these numbers, more than 3 children die each day as a result of child abuse or neglect or a combination of neglectful and physically abusive parenting, and approximately 45 percent of these deaths occur to children known to child protective service agencies as current or prior clients.

Prevention, early intervention, and protection are the three components of child abuse programs that the Interdisciplinary Report on At-Risk Children and Families recommended. Prevention efforts build on the resources presented in local communities by encouraging residents to participate in awareness programs. Special outreach components are recommended to ensure early intervention by establishing at-risk behaviors for educators and parents. The third component, protection services, focuses on protecting the child while keeping the family together by providing in-home services. These three principles, so needed, are all examples of grant funded programs increased by H.R. 764.

This bill, the Child Abuse Prevention and Enforcement Act, expands a key element of preventing child abuse and neglect by providing access to services that address specific needs of local communities. Services must be responsive to the range of ongoing and changing needs of both children and families. The bill allows individual States and communities to develop and update their programs to meet these changing needs.

Mr. Chairman, I conclude with something that I think exemplifies it all. It was once stated that if you touch a rock, you touch the past, and if you touch a flower, you touch the present, and if you touch a child, you touch the future.

This bill is critically important. I urge my colleagues to support this urgently needed legislation.

Mr. MCCOLLUM. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. GRANGER).

Ms. GRANGER. Mr. Chairman, I rise today in support of the Child Abuse Prevention and Enforcement Act, and I give my great appreciation to those who have brought this act to the floor of the House, the gentleman from Florida (Chairman MCCOLLUM), the gentlewoman from Ohio (Ms. PRYCE), and the gentlewoman from Texas (Ms. JACKSON-LEE).

I do so because I believe a society is measured in large part by how it treats the young and the most vulnerable. This bill seeks to help communities to help themselves by giving them the tools to stop and prevent child abuse.

The bill would give local and State officials the flexibility to use the Byrne Law Enforcement Act for Child Abuse Prevention, and increase the earmark for child abuse victims out of the crime victims fund.

These simple steps are not earth shattering, but they could actually be life saving. By giving our States and local communities increased resources, we decrease the chances of losing our children to the predators of child abuse. Now, that is an investment worth making, and that is legislation I am proud to support.

I urge my colleagues to support the Child Abuse Prevention and Enforcement Act.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I am delighted to yield 3 minutes to the distinguished gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Chairman, I would like to thank the chairman and the ranking member and all of those who are associated with this very important piece of legislation, and like to commend my colleague, the gentlewoman from Ohio (Mrs. JONES) for her amendment.

Mr. Chairman, as a mother of five and a grandmother of four and a former teacher, I know the importance of bringing up children in healthy environments that protect them from abuse and neglect. According to the Children's Defense Fund, in my home State of California every minute a child is reported as being abused or neglected. That translates to 60 children being abused and neglected during the 1 hour of debate that has been allotted for this bill. That is why it is evident that we need H.R. 764. The CAPE Act would allow additional grant monies to enhance services related to child abuse and neglect cases. Also it would expand the definition of abuse under existing law to include the taking of a child in violation of a court order.

These are just but two, Mr. Chairman, of the great provisions of this CAPE Act. I am indeed happy to be standing here in a bipartisan effort to pass such an important bill.

As a member of the Missing and Exploited Children's Caucus and the Co-Vice Chair of the Women's Caucus, I urge all of my colleagues to join us in voting "yes" to H.R. 764. We need to do more to prevent abuse and neglect and protect our children, which are, of course, our future.

Mr. MCCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. EWING).

Mr. EWING. Mr. Chairman, my association with the sponsor of this bill goes back to the last Congress when Susan Molinari, Congresswoman Molinari from New York, introduced a similar piece of legislation, and I was a cosponsor of it.

I am very pleased this time to be a cosponsor, along with our good friend and colleague, the gentlewoman from Ohio (Ms. PRYCE). The need here is really great, and this bill, while it does not spend a lot of extra money, I think we are going to get a lot more bang for our buck if we pass this bill.

Each day there are 9,000 reports of child abuse in America. That totals out to over 3 million cases in a year. Since 1987, the total number of reports of child abuse nationwide have gone up 47 percent. Of the cases of abuse, 54 percent result in a fatality, and over 18,000 children were permanently disabled as a result of physical abuse. Finally, those who are abused as children, when they become adults, are more apt to abuse their own children.

This is a problem in our society of enormous magnitude. It gets at the very basis of the next generation and future generations, and is something that we must do all that we can to address.

I think this is an excellent piece of legislation, and we should overwhelmingly pass it.

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Mr. MCCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I thank the chairman and the gentleman from Florida for yielding time to me.

Mr. Chairman, childhood is the time of life that should be treasured and protected. The truth is, many children are robbed of their innocence or even worse at the hands of abuse.

Even while our overall national crime statistics have declined dramatically, child abuse continues to rise. The U.S. Advisory Board on Child Abuse and Neglect reports that 2000 children die each year as a result of abuse and neglect. In the State of Florida alone, a child is reported abused or neglected every 3 minutes. With these statistics, it is clear our Nation needs to do more to protect our children from abuse. We need to do everything we can to prevent it from happening in the first place.

Child abuse and prevention not only help protect the child, it also helps protect society in the long run, since statistics show that abused children are more likely to commit future acts of child abuse and domestic violence.

Last year the Volunteers for Children Act, a bill that I sponsored, was signed into law by the President. Volunteers for children will help protect children in after-school activities from being in the care of people with dangerous criminal records. This is an important step, but it is certainly not enough. We must attack child abuse at every opportunity, by investigating reported abuse thoroughly, by ensuring that children are not returned to abusive environments they have been taken out of, and by making penalties for convicted abusers much tougher.

Furthermore, we must ensure that children have safe places to go whenever they are in danger. As such, we need to continue empowering those on the State and local level in their efforts to prevent child abuse and treat victims.

That is what the CAPE Act is designed to do, to give local and State officials the flexibility to use law enforcement grants for child abuse prevention. It would increase the earmark, currently $10 million for child abuse victims, out of the Crime Victims Fund. This funding can be used by the States for important things such as training child protective service workers; training court-appointed special advocates; and child advocacy centers, which are one-stop child-friendly places where all parts of an abused child examination and treatment are brought together under one roof.

Among others, the CAPE Act is supported by the National Child Abuse Coalition, which includes the Children's Defense Fund and the Child Welfare League, Prevent Child Abuse America, the Christian Coalition, the Family Research Council, and the National Center for Missing and Exploited Children.

I urge my colleagues to join these groups in supporting the bill. I thank the gentlewoman from Texas (Ms. JACKSON-LEE), and I thank again the chairman, the gentleman from Florida (Mr. MCCOLLUM), for being part of this great legislation.

I urge adoption by the Members.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Chairman, I would like to thank the gentlewoman for yielding time to me, and those who have sponsored this critically important legislation.

Mr. Chairman, I am here today to address one of the most ugly, horrific crimes and experiences that can befall children, physical and sexual abuse. Before coming to Congress I spent more than 23 years of my life working as a psychologist in the mental health field helping to heal and counsel people who were the victims of child abuse and other terrible experiences.

I can tell Members that as ugly as it is, child abuse cannot be wished away. It is something we have to face square on, and the bill we are addressing today will help us do precisely that.

Earlier today I spoke with folks back in my own district, back in Vancouver, Washington. They told me some very frightening and troubling statistics. Referrals for child abuse were actually up in 1998 by 2 percent from the previous year. In one year we had over 3,957 referrals. Those are not just numbers, those are children whose lives have been harmed and damaged, and who will perhaps pass that harm on to others if we do not help them and intervene early on.

Some might say, what is the big deal, it is just a 1 or 2 percent increase? But this is happening in the best of economic times. We know that child abuse goes up when economic times go bad, but if we are having this many cases in good times, we have to act now to stop that before it gets worse.

My home State actually does a very good job of trying to prevent child abuse. I have visited many of the treatment centers myself. They do an outstanding job. They make use of scarce resources, and they put together innovative and effective programs to combat the problem, but they need help. They need additional resources and they need H.R. 764.

The legislation before us today puts more resources in the hands of the folks who need them most. This bill will expand the grant authority to provide funds to enhance services related to child abuse prevention programs. It will help fund the prevention and early intervention programs that have been shown to work, and it will help communities make sure those who commit these horrible crimes are prosecuted to the full extent of the law.

We need to provide more opportunities to prevent, to investigate, and to prosecute child abuse and neglect cases. We need this bill, and I urge my colleagues to give it their full support.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Mr. Chairman, I want to first thank the chairman of the subcommittee, the gentleman from Florida (Mr. McCOLLUM), and particularly my colleague, the gentlewoman from Ohio (Ms. PRYCE), for their leadership in this legislation. I have had numerous discussions with her particularly about this important legislation.

The U.S. Advisory Board on Child Abuse and Neglect reports that 2,000 children die each year as a result of abuse or neglect. In my home State of Ohio alone, a child is reported abused or neglected every 3 minutes of every day. With these statistics, it is clear our Nation needs to do more to protect our children from abuse and prevent it from happening in the first place.

That is why this legislation is so important, because it focuses in on prevention. Child abuse prevention is true crime prevention, and all of us, I am sure, support that concept.

We needed to recognize that on the State and local level, the child protective workers, the police, prosecutes, judges, doctors, the nurses, are in the best position to prevent child abuse and find ways to treat those who have been abused.

We need to empower those on the State and local level in their efforts to prevent child abuse and treat victims. That is what the CAPE Act is designed to do. The bill would give State and local officials flexibility to use Byrne law enforcement grants for child abuse prevention, to increase the earmark currently at $10 million for education out of the crime victims fund, and the best news of all is, it does not cost taxpayers' dollars because it comes from forfeited assets, forfeited bail bonds and fines paid by the government.

This funding can be used by the States for important things such as training child protective service workers, training court-appointed special advocates, and child advocacy centers. Child advocacy centers help provide treatment and examination for abused children in a way which will not revictimize the child.

We are fortunate in this country to have the assets necessary to carry out this important function. This act is supported by the National Child Abuse Coalition, Prevent Child Abuse America, the Christian Coalition, the Family Research Council, and the National Center for Missing and Exploited Children.

Ms. JACKSON-LEE of Texas. Mr. Chairman, it is my pleasure to yield 4 minutes to the gentleman from Michigan (Mr. BONIOR), the distinguished minority whip.

Mr. BONIOR. Mr. Chairman, I first of all would like to thank the distinguished gentlewoman from Texas (Ms. JACKSON-LEE) for her efforts on this bill, and also the gentlewoman from Ohio (Ms. PRYCE), and the gentleman from Florida (Mr. McCOLLUM), for their good work on this legislation as well.

Mr. Chairman, in another life prior to entering politics, I used to work as a probation officer, and worked with juvenile delinquents. I worked in a youth home as an attendant there and also as a caseworker, and had some experience as an adoption caseworker. In that work, I had the occasion to witness situations in homes that cried out for attention.

Over the years, we have watched as governments at all levels have done relatively little to address this need. This need is quite extensive. Over 1 million cases of child abuse were committed in 1997. A child is abused or neglected in Michigan every 5 minutes, every 5 minutes, and about 300 cases are reported a day. That is according to a nonprofit group called Michigan's Children's Trust Fund.

Sixty-eight percent of youths arrested had a prior history of abuse and neglect, 68 percent. So what we have here is a vicious cycle of abuse, neglect, crime, violence, more abuse and neglect from generation to generation.

Lest we think of this as statistics, let me cite an example that was recently reported in the press, in the Detroit papers, and in other papers throughout Michigan about a mother who beat her 10-year-old and 13-year-old with an electrical cord and burned them with an iron. I know these are graphic pictures that I am creating for Members here, but it is what happens. The children escaped the house, they wandered the city, it was dark, at night, looking for their friend's house somewhere near what they said was Tiger Stadium. They were found cold and scared in the middle of the night; scarred, certainly physically, but more importantly, mentally for the rest of their lives. This is what happens on a regular basis.

So Mr. Chairman, I just rise in support of this bill. I rise in support of the efforts of the gentlewoman from Ohio (Mrs. JONES) on this bill. She has done an excellent job. She knows this issue from the perspective of one elected local law enforcement officer and other activities in her community.

Mr. Chairman, this is a good bill because it will start to address the issues of child abuse and neglect. It will take a positive, preventive step in addressing this issue. Groups like Covenant House, which have 15 shelters throughout this country, and other groups in my district, child welfare agencies, will hopefully receive the support they need to continue their good work and to expand it so we can get at the root of these problems, and address them in a humane way so we can break the cycle and we can develop the love that is needed for our children to succeed.

In conclusion, I just want to thank the gentlewoman from Texas (Ms. JACKSON-LEE) and the gentlewoman from Ohio (Mrs. JONES) for all of their efforts, and my colleague from Florida, as well as my colleague from Ohio.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, there is a Jesuit expression that says, let us have the children for the first 7 years, and then the world can have them. What that means is that when children in their earliest years are loved and nurtured, and when they are instilled with values and self-confidence, then they will have the strength and resilience that they need to face life's challenges and to resist its evils.

The opposite is most certainly true. When children are battered, when children are neglected, when children are sexually or psychologically mistreated and abused, they become weak, they become infirm, they become troubled. It is fitting that I follow the gentleman from Michigan (Mr. BONIOR), because I, too, was a caseworker with abused children.

Over the years as I worked with these children, and many of these children appear in my life 20 years later, calling me at home, we find these children, so many of them, not only just in the child welfare system as battered, but we find them in the juvenile justice system as delinquents, we find them in the mental health system as psychopathic or maladjusted, we find them in the drug and alcohol system as addicts, we find them in the domestic violence systems of batterers of their own spouses, and often, too often, batterers of their own children. Then we find them ultimately in the criminal justice system in our jails.

This legislation, introduced by my colleagues from both sides of the aisle, is not only compassionate, and it is the right thing to do for the innocent and helpless children of the country, but it is also the right thing to do, because this $10 million or $20 million will become multiplied many times over, for each child that is protected from abuse will be one less child in one of these other social service systems that is not only costly to American society, but causes so much more additional pain.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 30 seconds to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Chairman, I would be remiss if I did not take the opportunity to thank my staff for all the support and work they did with me in trying to get the Child Abuse Prevention and Enforcement Act passed.

I would like to thank my staff on the record, Dan Weinheimer and other members of my staff.

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Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

I think that was an extremely important statement, and I do appreciate the work of the staff on all of the committees and all of the Members' staff, and let me simply say we have heard a phrase used in another effort: a mind is a terrible thing to waste. I would paraphrase it to say that a child is a terrible person to lose or to waste their lives or to see that child abused.

So I want to applaud the proponents of this legislation; I am delighted to join and be a cosponsor of it, and I hope that we can quickly move this legislation to see not one other life snuffed out. Not only another child's life snuffed out because we have been neglectful in providing the resources that we need to detect child abuse and prevent child abuse.

Mr. Chairman, I yield back the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, what I think our legislative role is day in and day out here is to provide ways to preserve and protect our great quality of life and freedom for our children and our grandchildren. We are the greatest free Nation in the history of the world. It is all about children. And in this case, we are talking about protecting them not only in that broad sense but in the very specific sense against child abuse, one of the worst things that can happen in this Nation to anyone.

And so I am pleased that the authors have brought this bill forward today. I am proud to have been a part of the team that has brought it out in the committee and subcommittee, and I look forward to the passage of this bill.

Mrs. FOWLER. Mr. Chairman, the statistics on the abuse of our most precious resource—our children—is heartbreaking. We must protect our children from those who would abuse their trusting souls and prey on their innocence. It is a moral obligation that binds us together, regardless of race, religion, gender, or party affiliation.

Today, the House can reiterate its commitment to our children by passing the Child Abuse Prevention and Enforcement Act.

As we know, our states are each different, with different needs and different resources—what works for Florida's children may not work for Maine's. This Bill encourages each state's creativity to deal with the unique needs of their children by offering greater flexibility with federal funds.

The bill also doubles to $20 million a year the amount of money from the Crime Victims Fund that can be earmarked for child abuse victims. This fund is not taxpayer money, but money from the pockets of criminals—poetic justice, you might say. Finally, this bill increases access to criminal records by child protective services, making it easier for those who work to protect our children to do their jobs.

No one entity can fight child abuse alone. Working together, as partners, states and Congress can make a difference.

Mrs. CHRISTENSEN. Mr. Chairman, as a cosponsor of H.R. 764, the Child Abuse Prevention and Enforcement Act, I am proud to rise in strong support of its passage. I am also equally proud of my colleagues Congresswomen PRYCE and JONES of Ohio for their leadership in bringing this bill forward. I applaud them for their efforts and on behalf of children across this country thank them and all of the cosponsors of this bill.

The abuse, and I include neglect, of children is a most heinous crime, for all of the obvious reasons. Adults are supposed to protect and nurture children, and provide a suitable and supportive environment for their optimal development. It is a sacred trust, and one that must be upheld at all costs. H.R. 764 will help us to do this better.

I also find that it is the most insidious of crimes, because in many of the problems that plague our country—domestic abuse, teen pregnancy, drugs addiction, youth violence and delinquency, as well as many adult crimes—one will find that child abuse is generally a root cause.

The national statistics on child abuse are also very alarming. Many of my colleagues will recount these disturbing facts as we debate H.R. 764 today. Even in my own district, the U.S. Virgin Islands, we have seen an unacceptable increase in the numbers of children affected. And we know, that as in every other district, not every case is found or reported. This fact, as well as, the fact that it is a crime that has far and long reaching consequences that can affect even subsequent generations of our children, makes our responsibility and response to this issue even more critical.

The Child Abuse Prevention and Enforcement Act, through making resources available to those individuals who work every day to prevent child abuse and protect our children, makes a vital and most important contribution, not only to each and every child that is saved, but also to the future of this nation.

Mr. Speaker, H.R. 764 is not an investment we ought to make. It is one we must make. Our children deserve and need us to do everything within our power to protect them and to ensure the kind of safe and nurturing environment that will allow them to develop their fullest potential.

I strongly support H.R. 764 and I ask my colleagues to vote in favor of its passage.

Mr. HOBSON. Mr. Chairman, I rise in strong support of H.R. 764, the Child Abuse Prevention and Enforcement Act.

Providing for the safety and well-being of our children is one of society's most sacred obligations. Our children represent the future. But child abuse takes away their future. It cruelly takes away their hope and promise of realizing their talents and dreams. Child abuse denies our children a life of happiness and fulfillment by inflicting emotional and psychological scars that persist for the rest of their lives.

This important piece of legislation will confront child abuse head on. It will protect our children, and assist those vulnerable children who've been the victims of abuse. One of the aims of this legislation is to prevent child abuse before it happens. Because law enforcement is best conducted at the local level, law enforcement officials in communities across America will be given the flexibility and resources to combat the incidence of child abuse.

This legislation also will increase the funding for the Crime Victims Fund. These are not taxpayer dollars, but revenues from forfeited assets and fines paid to the government. This funding can be used by the states for critical services such as training child protection workers and supporting child advocacy centers.

I recently had a very tragic case of child abuse in my district. Three-year old Ashley Taggart from Lancaster, Ohio was abducted and abused. After an excruciating ordeal, she was returned to safety. Though we cannot take this experience away, we can try to give Ashley a chance to lead a normal life.

Mr. Chairman, this legislation is for Ashley, and for the thousands of children like her across America. It is for the safety and well-being of all our children who deserve the best that life can give them.

Mrs. KELLY. Mr. Speaker, I rise in support of the legislation introduced by my colleague from Ohio, Congresswoman PRYCE.

This body has long worked to promote policies which seek to protect our children, guided by common sense, and by the general idea that a child's environment and experiences may have an influence on the type of person he or she will turn out to be.

Extensive research on child development issues in recent years has made it increasingly evident that the relationship between the nature of a child's upbringing and the mental and emotional health of that child undoubtedly exists. Though there is still much for us to learn, we know that the link is there, and this knowledge alone should be enough to strengthen our resolve to enact policies which shelter our children from harmful behavior and influences. I believe the work of this Congress attests to an active recognition of the importance of promoting such policies. In June, I was encouraged to see the House approve unanimously as an amendment to the juvenile justice legislation my bill on child hostages, which strengthens the penalties against those individuals who take a child hostage. The House consideration of H.R. 764 today, I think, further demonstrates the strength of this body's commitment to our children, and I urge my colleagues to support its passage.

Mr. MCCOLLUM. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered read for amendment under the 5-minute rule.

The text of H.R. 764 is as follows:

H.R. 764

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Abuse Prevention and Enforcement Act".

SEC. 2. IMPROVEMENT OF ACCESS TO CERTAIN COURT AND LAW ENFORCEMENT RECORDS TO PREVENT CHILD ABUSE.

(a) DESCRIPTION OF GRANT PROGRAM.—Section 1402 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796aa–1) is amended by adding before the period at the end the following: "or to provide child protective workers and child welfare workers (in public and private agencies, who, in the course of their official duties, are engaged in the assessment of risk and other actions related to the protection of children, including placement of children in foster care) access to criminal conviction information and orders of protection based on a claim of domestic or child abuse, or to improve law enforcement access to judicial custody orders, visitation orders, protection orders, guardianship orders, stay away orders, or other similar judicial orders".

(b) APPLICATION TO RECEIVE GRANTS.—Section 1403 of such Act (42 U.S.C. 3796aa–2) is amended—

(1) in paragraph (1), by inserting before the semicolon at the end the following: "or to provide child protective workers and child welfare workers (in public and private agencies, who, in the course of their official duties, are engaged in the assessment of risk and other actions related to the protection of children, including placement of children in foster care) access to criminal conviction information and orders of protection based on a claim of domestic or child abuse, or to improve law enforcement access to judicial custody orders, visitation orders, protection orders, guardianship orders, stay away orders, or other similar judicial orders"; and

(2) in paragraph (2), by inserting before the period at the end the following: "or to provide child protective workers and child welfare workers (in public and private agencies, who, in the course of their official duties, are engaged in the assessment of risk and other actions related to the protection of children, including placement of children in foster care) access to criminal conviction information and orders of protection based on a claim of domestic or child abuse, or to improve law enforcement access to judicial custody orders, visitation orders, protection orders, guardianship orders, stay away orders, or other similar judicial orders".

(c) REVIEW OF APPLICATIONS.—Section 1404(a) of such Act (42 U.S.C. 3796aa–3(a)) is amended in the matter preceding paragraph (1) by inserting after "to receive a grant" the following: "for closed circuit televising of testimony of children who are victims of abuse".

(d) DEFINITIONS.—Section 1409(2) of such Act (42 U.S.C. 3796aa–8(2)) is amended by inserting before the period at the end the following: "or the taking of a child in violation of a court order".

(e) CONFORMING AMENDMENT.—Part N of title I of such Act (42 U.S.C. 3796aa) is amended in the heading to read as follows:

"PART N—GRANTS FOR CLOSED-CIRCUIT TELEVISING OF TESTIMONY OF CHILDREN WHO ARE VICTIMS OF ABUSE AND FOR IMPROVING ACCESS TO COURT AND LAW ENFORCEMENT RECORDS FOR THE PURPOSE OF PREVENTING CHILD ABUSE".

SEC. 3. USE OF FUNDS UNDER BYRNE GRANT PROGRAM FOR CHILD PROTECTION.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended—

(1) by striking "and" at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and adding "; and"; and

(3) by adding at the end the following:

"(27) enforcing child abuse and neglect laws and programs designed to prevent child abuse and neglect.".

SEC. 4. INCREASE IN SET ASIDE FOR CHILD ABUSE VICTIMS UNDER THE VICTIMS OF CRIME ACT OF 1984.

Section 1402(d)(2) of the Victims of Crime Act of 1984 is amended by striking "$10,000,000" and inserting "$20,000,000".

The CHAIRMAN. During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

Are there any amendments to the bill?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MCCOLLUM

Mr. MCCOLLUM. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. MCCOLLUM:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Abuse Prevention and Enforcement Act".

SEC. 2. GRANT PROGRAM.

Section 102(b) of the Crime Identification Technology Act of 1998 (42 U.S.C. 14601(b)) is amended by striking "and" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting "; and", and by adding after paragraph (16) the following:

"(17) the capability of the criminal justice system to deliver timely, accurate, and complete criminal history record information to child welfare agencies, organizations, and programs that are engaged in the assessment of risk and other activities related to the protection of children, including placement of children in foster care.".

SEC. 3. USE OF FUNDS UNDER BYRNE GRANT PROGRAM FOR CHILD PROTECTION.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended—

(1) by striking "and" at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and adding "; and"; and

(3) by adding at the end the following:

"(27) enforcing child abuse and neglect laws and promoting programs designed to prevent child abuse and neglect.".

SEC. 4. CONDITIONAL ADJUSTMENT IN SET ASIDE FOR CHILD ABUSE VICTIMS UNDER THE VICTIMS OF CRIME ACT OF 1984.

Section 1402(d)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(2)) is amended—

(1) by striking "(2) the next $10,000,000" and inserting "(2)(A) Except as provided in subparagraph (B), the next $10,000,000"; and

(2) by adding at the end the following:

"(B)(i) For any fiscal year for which the amount deposited in the Fund is greater than the amount deposited in the Fund for fiscal year 1998, the $10,000,000 referred to in subparagraph (A) plus an amount equal to 50 percent of the increase in the amount from fiscal year 1998 shall be available for grants under section 1404A.

"(ii) Amounts available under this subparagraph for any fiscal year shall not exceed $20,000,000.".

Mr. McCOLLUM. Mr. Chairman, I am offering an amendment today in the nature of a substitute to this bill to address two aspects that I have concerns with.

First, H.R. 764 would authorize the Bureau of Justice Assistance to use a small grant program that helps purchase equipment so that children testifying in abuse cases can do so via closed circuit television to also fund the purposes stated in Section 2 of this bill. I am told there is just not enough money in this program to fund the CAPE Act. The funds for that program are consumed annually for their original purpose, and I do not believe we should dilute them.

My amendment would authorize funding under the Crime Identification Technology Act, a bill enacted last year to improve the operation of the criminal justice system by upgrading criminal justice and general justice record systems. I supported the passage of that bill in the House last year, and I believe it is a perfect fit for the purposes behind the bill before us today.

Secondly, H.R. 764 would also amend the Victims of Crime Act of 1984, which created the Crime Victims Fund. The fund is financed through the collection of criminal fines, penalty assessments, and forfeited appearance bonds of persons convicted of crimes against the United States. In fiscal 1998, $363 million was deposited into the fund for distribution during this fiscal year. The fund provides money to States to compensate crime victims directly, and it provides other grants to States which are then distributed to public and nonprofit agencies that provide direct services to crime victims. Under current law, the first $10 million deposited in the fund each year is to be expended by the Secretary of Health and Human Services for grants relating to child abuse prevention and treatment.

This bill, the one before us today, would increase the earmark for child abuse and domestic assistance program from $10 million to $20 million. Doubling this earmark would result in a $10 million reduction in funds that would otherwise be available for grants to the victims compensation programs and the victims assistance programs.

Victims' rights groups oppose doubling the earmark. In fact, they are not enamored with the earmark to begin with. My amendment offers an alternative to the straight doubling of the earmark. It would leave the current earmark at $10 million in place except in any fiscal year when the amount of money deposited in the fund exceeds what was deposited for fiscal year 1998, $363 million. When more than that amount of money is deposited, half of the extra money would be allocated for child abuse prevention and treatment, but the total amount available in any fiscal year would not exceed $20 million.

Mr. Chairman, it is my understanding it is likely that this fund will be well in excess of the $363 million figure over the next couple of years, so I think there will be more than an adequate amount of money to fund the programs that are in this bill. I believe my amendment to H.R. 764 balances the interests of all stakeholders and I urge all of my colleagues to support this.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Florida (Mr. McCOLLUM).

Mr. Chairman, I just want to add my support for the McCollum amendment and to indicate that the value of adding dollars to prevent child abuse among many other things is a key part of the effort that we are trying to do today.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MCCOLLUM

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas to the amendment in the nature of a substitute offered by Mr. McCOLLUM:

On Page 1, line 15 after "protection of children," insert "including protection against child sexual abuse,".

On page 2, line 11, after "neglect laws" insert, "including laws protecting against child sexual abuse,".

Ms. JACKSON-LEE of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

Ms. JACKSON-LEE of Texas. First of all, Mr. Chairman, let me again thank the gentleman from Florida (Mr. McCOLLUM) for his leadership on the substitute and let me also thank the gentlewoman from Ohio (Ms. PRYCE) and the gentlewoman from Ohio (Mrs. JONES) for this legislation that I had the pleasure of cosponsoring.

The focus of the amendment that I am offering is to emphasize the heinousness and the tragedy of child sexual abuse. So my amendment offers to clarify that child abuse includes child sexual abuse, and this will add to the information that the child abuse workers will be able to secure and to be able to investigate in order to determine whether there has been child sexual abuse.

Let me emphasize why this is an important distinction, because most often when we think of child abuse we think of the physical abuse that may be noticeable. The knocked head, the bruised arm, the broken arm, the broken leg, the burn on the body, physical things that can be seen by a school counselor, a teacher, a friend or a pastor.

But sometimes children suffer in the quietness and the horror of sexual abuse that cannot be detected by looking at a child fully clothed, and the idea is to ensure that in this new legislation we have a circumstance where this is on the minds of those child abuse investigators should they not also inquire, look, examine, and determine whether the child has been sexually abused.

Let me cite the numbers of sexually abused children. The numbers are going up. In 1990, there were 127,000 children abused sexually. In 1991, it goes up, 129,425. When we go to 1992, sexual abuse goes 130,000, 14 percent. 1993, 139,000. Each year the number of children sexually abused increases. When we look at close to 3 million children who are reported abused, we find that 12 percent of them suffered sexual abuse.

Mr. Chairman, might I offer to those who are able to, I guess, tolerate hearing about the horrificness, the heinousness about what happens when a child is sexually abused by citing the report on the autopsy of JonBenet Ramsey, a case that still stands as one of the singular cases of terrible child abuse and, of course, an unsolved murder of a child.

What the autopsy says is that this particular child was found to have been whacked. Her head was whacked against something, and then she was still alive and strangled. The autopsy goes on to note there are two injuries in that autopsy that could have killed her. One is a strangulation, the other is the assorted brain injuries. It is not clear in what sequence. Meyer found an abrasion on the girl's hymen, which other experts said could indicate a sexual assault. The size of the girl's hymen, which Meyer measured at 1 centimeter by 1 centimeter, should have more significance. "The thing that concerns me is that the hymenal opening is measured at 1 centimeter, which is too large," said Kirschner, a child abuse specialist, "but if in fact that was the real measurement, that is twice the diameter that it should be. Usually a hymen in a young child like this should be 4 millimeters."

And so there was discussion, horrible discussion about whether or not JonBenet Ramsey was sexually abused. "There is blood and contusions in the vagina and the hymen has been torn."

Yes, descriptive, horrific, but every day our children face this kind of assault. So I think it is extremely important that this language emphasizes the protection of our children as the legislation already does; but it emphasizes a real focus on sexually abused children along with other abuse. It does not in any way diminish the importance of other abuse, but realizes that children can suffer in silence with child abuse, and it cannot easily be detected.

Mr. Chairman, I would hope that my colleagues would support this amendment because it again states to our child abuse investigators: be thorough in your work, do not be limited in your work, and realize that our children suffer in silence when they are sexually abused and you need to inquire and draw from them the information that will protect and save the lives of American children.

Mr. Chairman, I have an amendment that I would like to offer to this bill. In its present form, this bill has a tremendous impact on the current abuse and neglect system by enhancing the services available. This amendment I am offering would give child protective and child welfare workers additional access to criminal records that would include convictions for sexual abuse.

According to the statistics on abuse, 12 percent of the abuse is sexual abuse. Any discussion of child abuse is incomplete without including the growing problem of child sexual abuse and exploitation.

Child sexual abuse is any sex act performed by an adult or an older child. This includes actual physical abuse such as touching a child's genital area or molestation, and it also includes sexual assault, self-exposure (flashing), voyeurism, and exposing children to pornography.

Sexual abuse is often committed by a family member. Incest is the most common form of child sexual abuse. However, anyone can commit sexual abuse against a child. It is often perpetrated by adults that have been entrusted with caring for a child—a family friend, babysitter, a teacher, day care worker, or even religious leaders. Even a child can commit sexual abuse against another child.

The purpose of my amendment is to specify the importance of sexual abuse as a crime that should be recognized by child welfare and child protection workers when investigating incidences of child abuse.

It gives protection and child welfare workers access to the conviction records and orders of protection based on sexual abuse, in addition to domestic and child abuse. A history of sexual abuse, whether it is against a child or an adult, is significant information.

Sexual abuse against children is a harsh reality that is very common. At least one out of five adult women and one out of ten adult men report having been sexually abused as children. These cases may represent the untold stories of many children, now adults, who suffered in silence due to sexual abuse.

Now, we have mechanisms in place to investigate incidences of child abuse. However, in some cases, certain information about an alleged abuser's past may not be available. This bill remedies that situation by making criminal records for sexual abuse available.

In Texas, there were more than 111,000 investigations of child abuse and neglect by the Child Protective Services in Texas. Of those cases 7,650 were sexual abuse.

In one infamous case, the death of JonBenet Ramsey, sexual assault may have been a factor in her death. The autopsy was released this summer and was inconclusive as to whether the child had been sexually assaulted. However, it was clear to the investigators that in a case such as this, an inquiry had to be made concerning possible sexual assault.

This change only adds the term "sexual abuse" to the bill in an attempt to give child protection and child welfare workers another factor to consider when assessing the risk related to the protection of children.

I ask my Colleagues to support this technical amendment to this bill. It is uncontroversial and it would further enhance the ability of the abuse and neglect system to combat child abuse. Thank you.

Mr. McCOLLUM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take the 5 minutes. I do not oppose this amendment, but I want to point out to the gentlewoman that the term "child abuse" is already defined in two different sections of the Federal Criminal Code, and in both cases the term is defined to include both physical violence and sexual abuse.

In 18 USC Section 1169, the statute that requires doctors, teachers, and childcare workers to report any suspected case of child abuse that takes place in Indian country the term "child" and "abuse" are defined to include any case where the child is bruised, bleeding, malnourished, burned, has broken bones and other physical injuries, and also includes cases where is the child is sexual assaulted, molested, or otherwise subjected to exploitation of a sexual matter.

In 18 USC 3509, the term "child abuse" is defined to mean the physical or mental injury, sexual abuse, exploitation, or negligent treatment of a child.

So I believe the term is very clearly in law defined to include sexual abuse, but I think the gentlewoman's purpose here as she stated it is to make it clear that anyone reading the words that we publish today in this legislation, especially those who are caseworkers on matters of child abuse, will look further and make sure they look for sexual abuse as well. And to that end I compliment her for it and I support her amendment.

Mrs. MALONEY of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this bill, the Child Abuse Prevention and Enforcement Act, and commend my friends the gentlewoman from Ohio (Ms. PRYCE), the gentlewoman from Ohio (Mrs. JONES), the gentlewoman from Texas (Ms. JACKSON-LEE), and the gentleman from Florida (Mr. McCOLLUM) and many others for their work in bringing this important issue to the floor today.

This is an important bill in the fight to end the cycle of violence in America's homes. In my State of New York, my home State of New York, a child is reported abused or neglected every 2 minutes. Two thousand children die each year as a result of abuse or neglect.

To make matters even worse, many of these young people will grow up to abuse their children and the cycle will continue. That is why this bill is so important. It will put needed resources in places to help those children who need help the most. It will stress prevention which is very, very important in breaking the cycle of violence. It will double the funding used to train child protective service workers and court-appointed special advocates. A very important component of this bill allows grant money to be used to purchase equipment, allowing abused children to testify in court through closed circuit television.

□ 1545

This creates the least intimidating situation for children who are already under enormous pressure to tell their stories.

We currently have a network of one-stop, child-friendly places where all services are housed under one roof.

These Child Advocacy Centers perform life-saving work, but they need more money. According to Christine Crowder of the Child Advocacy Center in Manhattan, in the district that I represent, this bill helps children on a very basic level. It will provide a coordination of services, which is key to helping victims of child abuse.

When a child abuse case is being assessed, it is important for the social workers and other advocates, police officers, to know about all protective orders, restraining orders, visitation orders, and guardianship orders. That is why this one-stop Child Advocacy Center is so important and the funding is so desperately needed.

I congratulate all the Members of Congress who have been working on this legislation, and I congratulate them for focusing our efforts to prevent and combat child abuse.

Mr. NETHERCUTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I also rise to support this legislation that seeks to address the issue of child abuse and prevent it and treat it. It is a terrible problem in our society. More than anything, I want the House and the Speaker to understand the value of community-based child abuse prevention efforts, like that which exists in my hometown of Spokane, Washington.

In the mid-1980s, a group of us decided that, in order to address this growing problem, something needed to be done to have a safe place for children who are potentially abused children to go until their parents or guardians or custodians could have a chance to get the variable social services that might be available, whether it is job loss advice or alcohol abuse advice or other assistance.

So we started a group called the Vanessa Behan Crisis Nursery. It is a nonprofit charitable organization that exists today without any government funds. It is all community supported and assisted, from labor unions to community leaders, to business leaders, to social service assistance, to Junior League of Spokane and many, many others who have banded together to contribute clothing, have bought a house and converted it through the assistance of contractors and labor union tradesmen and made this house a home for children who are potentially abused children. To this day, they do not take any State or Federal money.

So my point to the Speaker and the House is that it can be done outside of the auspices of government, but there is also a challenge that the Vanessa Behan Crisis Nursery has, and its wonderful director Sue Manfred in trying to have phase two of the crisis nursery be constructed, terribly expensive, terribly difficult to get more money to try to assist in this program. But it is a valuable program.

My hope would be that, as we discuss the issue of child abuse and child abuse prevention, that we think about the nonprofit charity, I believe community-based and supported operations that can go such a long way to helping solve this problem of child abuse and protection of children without the bureaucracy and the strings that are attached many, many times to government money.

So I would hope that my colleagues, the gentleman from Florida (Mr. McCOLLUM) and the gentlewoman from Texas (Ms. JACKSON-LEE) and others, the gentlewoman from Ohio (Ms. PRYCE) especially would think carefully about making money available to community-based organizations for proper purposes and with accountability but without so many strings attached and so much Federal or State control over what happens to the money once it gets there.

Accountability is a good thing. It has to be. But at least the crisis nursery thus far has rejected Federal funds application or State funds application for just that reason. It is burdensome and creates more problems sometimes than it is worth.

But I really think that the model that is established through the Vanessa Behan Crisis Nursery in Spokane, I think it is the only one in our entire State that has addressed this issue of child abuse prevention. It is a safe haven respite care facility for kids, young children who are the subject of abuse or potential abuse. But it may be temporary.

It is an opportunity for the parents of these kids or the custodians or guardians to get out and get some social services help, which I think probably will be help in this bill as well.

So I commend my colleagues to this model, to the great success of the crisis nursery in Spokane, Washington, and I suggest that those who may be interested in this look to the crisis nursery as an example of what can be done in a nongovernmental charitable community-based organizational way.

With that, I will support this bill, and I thank the gentleman from Florida (Mr. McCOLLUM) and others who work so hard to make this concept of child abuse a prominent one and prevent the child abuse that exists so much in our country today.

Ms. MILLENDER-McDONALD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this great piece of legislation. Again, I would like to thank my colleagues, the gentlewoman from Ohio (Ms. PRYCE), the gentlewoman from Ohio (Mrs. JONES), and especially the gentlewoman from Texas (Ms. JACKSON-LEE), the amendment that I speak to now.

Sexual abuse of children is a harsh fact of life in our society, Mr. Chairman. It is more common than most people realize. Some surveys say that at least one out of five adult women and one out of 10 adult men report having had sexual abuse in childhood.

I would like to just give my colleagues an example, Mr. Chairman, of when I was a teacher and this young woman came to school. She was dressed in clothes, just like any other child would be, very nicely dressed; but deep down within, I saw a sadness in her eyes.

When I attempted to talk with her, she started crying. I could not get her to divulge at that time what had actually happened. It was several days before I could draw from her that she had been sexually abused.

Now we talk about abuse in all of the forms that I said earlier that, every minute, a child is abused or neglected in the State of California. But here we are talking about sexual abuse, something that is hard to detect, because it is not a visual thing, per se, not until one has been able to get that child to really talk out and speak out on what has happened.

We also recognize, Mr. Chairman, that the majority of the children who have been abused were abused by people whom they knew. The victims usually know the offender in eight out of 10 reported cases.

When we got to the bottom of this case, Mr. Chairman, we detected that this child had been abused by an uncle, an adult male in the family. She did not want to tell this because she really did not want to divulge something that would hurt the family, though she was hurt.

We must do all that we can to train and teach parents to know when perhaps something is wrong with their child and the child has been sexually abused.

Abuse in all other forms tends to be detected earlier than that of sexual abuse. So, Mr. Chairman, the American Academy of Pediatrics believe that parents need not feel frightened or helpless about this problem, and they provide the following information: One must teach one's child about the privacy of his or her body parts; listen to the child to ensure that, if something is wrong and it is difficult for them to bring this out, for one to really draw and continue to give them that support; giving one's child enough time and attention where he or she will divulge this; know one's child and what type of time is being spent with her; check one's child to make sure there is nothing wrong physically; talk to one's child about sexual abuse; let them know that even, yes, surely someone in the family could abuse them sexually; and then have them to tell somebody in authority when this has happened.

We cannot, Mr. Chairman, continue to allow our young children to be sexually abused because it does, as it has been said, go on into adulthood, and then they, too, become an abuser.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentlewoman yield?

Ms. MILLENDER-McDONALD. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, first of all, I appreciate the gentlewoman's personal stories as an educator. I appreciate the comments of the gentleman from Florida (Mr. McCOLLUM). The reason for emphasizing sexual abuse is to note that children may be sexually abused by family members or nonfamily members and are more frequently abused by males, but boys and girls are victimized. One is not more than the other.

The key of this is to give an extra added emphasis tool, if you will, not exclusionary tool, to these child abuse investigators to remember that sexual abuse can be the silent abuse, that one really must have to investigate very thoroughly.

Ms. MILLENDER-McDONALD. Mr. Chairman, reclaiming my time, I would like to say the gentlewoman from Texas (Ms. JACKSON-LEE) has said it all. I support her amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. McCOLLUM).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 321, further proceedings on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. MCCOLLUM) will be postponed.

The point of no quorum is considered withdrawn.

AMENDMENT OFFERED BY MRS. JONES OF OHIO TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MCCOLLUM

Mrs. JONES of Ohio. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mrs. JONES of Ohio to the amendment in the nature of a substitute offered by Mr. MCCOLLUM:

Page 2, line 17, strike "Section" and insert "(a) IN GENERAL.—Section".

Page 3, after line 6, insert the following:

(b) INTERACTION WITH ANY CAP.—Subsection (a) shall be implemented so that any increase in funding provided thereby shall operate notwithstanding any dollar limitation on the availability of the Crime Victims Fund established under the Victims of Crime Act of 1984.

Mrs. JONES of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Mrs. JONES of Ohio. Mr. Chairman, my amendment is simple and straightforward. It strengthens the underlying bill and manager's amendment by ensuring that any increase in funding provided for under the bill will not be prejudiced by any dollar cap imposed on the victims of crime fund. This will help to ensure that Congress will not attempt to balance the budget on the backs of crime victims in general and victims of sexual abuse in particular.

I wish I was not forced to offer this amendment, but I must do so because I fear that some will attempt to tap into money which will otherwise be available to assist in criminal enforcement and compensate crime victims. As a matter of fact, the Commerce, Justice, State appropriations bill, which has recently passed this House, would have us cap the amount of money available to crime victims at $500 million in a futile effort to balance the budget.

I have some concern that any caps imposed by Congress could threaten the stream of victims compensation payments. As a matter of fact, in 1996, the needs of crime victims were so great that we expended funds in excess of the proposed cap.

To victim advocates such as myself, maximizing the stream of victim assistance grants through the Victims of Crime Act is of the utmost importance, given the many large gaps in victims services found in most communities today.

We should never allow any cap to limit the amount of funds available for the prosecution of child abuse cases. This is why the amendment is supported by victims groups such as the National Organization for Victims Assistance. My amendment guarantees that this bill will take full and immediate effect regardless of any gap.

If my colleagues support victims of crime in general and child abuse victims in particular, they should support this amendment. I urge Members on both sides of the aisle to join me in supporting this amendment.

Mr. MCCOLLUM. Mr. Chairman, will the gentlewoman yield?

Mrs. JONES of Ohio. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, I want to thank the gentlewoman from Ohio for the amendment and say it is agreeable to me, and I am more than happy to accept the amendment she is offering. It is a perfecting amendment, as I understand it.

Mrs. JONES of Ohio. Mr. Chairman, I thank the gentleman from Florida for his support and encouragement.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentlewoman yield?

Mrs. JONES of Ohio. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I want to thank the gentlewoman from Ohio for a very astute amendment. Without resources, we cannot do our job. I will be happy to support the amendment, and I congratulate the gentlewoman for her effort and vision.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Ohio (Mrs. JONES) to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. MCCOLLUM).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mrs. JONES of Ohio. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 321, further proceedings on the amendment offered by the gentlewoman from Ohio (Mrs. JONES) to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. MCCOLLUM) will be postponed.

Mr. MCCOLLUM. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. CALLAHAN) having assumed the chair, Mr. HANSEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 764) to reduce the incidence of child abuse and neglect, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. DOYLE. Mr. Speaker, on October 4, I was unavoidably detained and missed rollcall votes 470, 471, 472, and 473. Had I been present, I would have voted "yes" on all four votes.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 4:30 p.m.

Accordingly (at 4 p.m.), the House stood in recess until approximately 4:30 p.m.

□ 1636

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LATHAM) at 4 o'clock and 36 minutes p.m.

CHILD ABUSE PREVENTION AND ENFORCEMENT ACT

The SPEAKER pro tempore. Pursuant to House Resolution 321 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 764.

□ 1637

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 764) to reduce the incidence of child abuse and neglect, and for other purposes, with Mr. BLUNT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, the demand for a recorded vote on the amendment offered by the gentlewoman from Ohio (Mrs. JONES) to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. MCCOLLUM) had been postponed and the bill was open for amendment at any point.

Are there further amendments to the bill?

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to House Resolution 321, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. McCOLLUM); amendment offered by the gentlewoman from Ohio (Mrs. JONES) to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. McCOLLUM).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. McCOLLUM

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. McCOLLUM) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 424, noes 0, not voting 10, as follows:

[Roll No. 477]

AYES—424

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth-Hage
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson, E.B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Paul
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Blumenauer
Boucher
Jefferson
LaHood
Mascara
McKinney
Meeks (NY)
Moore
Scarborough
Waters

☐ 1658

Mr. PAUL changed his vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 321, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MRS. JONES OF OHIO TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. McCOLLUM, AS AMENDED

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Ohio (Mrs. JONES) to the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. McCOLLUM) as amended, on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 389, noes 32, not voting 12, as follows:

[Roll No. 478]

AYES—389

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Coburn
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell

Dixon
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Houghton
Hoyer
Hulshof
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
Lampson
Lantos
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Spence
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Sununu
Sweeney
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—32

Archer
Barr
Burton
Campbell
Chabot
Chenoweth-Hage
Coble
Collins
Deal
Doolittle
Everett
Goode
Hefley
Herger
Hostettler
Hunter
Kingston
Largent
Lewis (KY)
Linder
Manzullo
Paul
Porter
Riley
Sanford
Schaffer
Shadegg
Souder
Stearns
Stump
Tancredo
Watts (OK)

NOT VOTING—12

Blumenauer
Ganske
Goodling
Hutchinson
Jefferson
Jones (NC)
LaHood
Mascara
McKinney
Meeks (NY)
Scarborough
Taylor (NC)

□ 1706

Mr. HERGER changed his vote from "aye" to "no."

So the amendment to the amendment in the nature of a substitute, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. McCOLLUM), as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. If there are no further amendments, under the rule the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. THORNBERRY) having assumed the chair, Mr. HANSEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 764) to reduce the incidence of child abuse and neglect, and for other purposes, pursuant to House Resolution 321, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. PRYCE of Ohio. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 425, noes 2, not voting 7, as follows:

[Roll No. 479]

AYES—425

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney

Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—2

Chenoweth-Hage
Paul

NOT VOTING—7

Blumenauer
Fletcher
Jefferson
LaHood
McKinney
Meeks (NY)
Scarborough

☐ 1725

Mr. SANFORD changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2606, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2000

Mr. CALLAHAN. Mr. Speaker, pursuant to House Resolution 307, I call up the conference report on the bill (H.R. 2606) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. THORNBERRY). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 27, 1999, at page H8831).

The SPEAKER pro tempore. The gentleman from Alabama (Mr. CALLAHAN) and the gentlewoman from California (Ms. PELOSI) each will control 30 minutes.

The Chair recognizes the gentleman from Alabama (Mr. CALLAHAN).

GENERAL LEAVE

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report to accompany H.R. 2606, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. CALLAHAN. Mr. Speaker, I yield myself such time as I may consume.

This matter that we are addressing now is something that has been discussed for a great many months. During the rule we talked about the amount of money. True, it is $2 billion below what the President requested. True, it is less than last year. But it is all the money that we can afford under the circumstances this year.

So I ask the Members to consider where we are and what we are offering, and that is an opportunity for the administration to have an effective foreign policy capability with the monies that are available without increasing taxes. The President has suggested that we increase taxes to meet these new needs. This Congress, Mr. Speaker, is not going to do that, and I think both sides of the aisle as well as the President recognize that.

So we are not going to include any new taxes. This Congress has said that we are going to live within the budget caps so we are not going to break the budget caps. This Congress is not going to interfere with the ability that we fund adequately Social Security. So we are not going to break Social Security. We are going to cut foreign aid below the President's request, cut foreign aid below last year. I think it is a responsible thing to do because this is the very thing we are asking Americans to understand in every domestic policy that we have facing us.

So we have a good bill. We have worked in a bipartisan fashion to bring together a bill that recognizes and facilitated the needs of most every Member of Congress that came before us. They came and they asked for assistance to Africa. We increased the assistance to Africa. They came and they asked that we increase child survival. Mr. Speaker, I created the child survival account so I willingly went along with the gentlewoman from California to increase child survival to $700 million, a great step in the right direction.

We tried to hold down on earmarks where we would not hamstring the administration into having to spend money in areas that they did not want to. So we removed most all of the earmarks. We have given them a responsible piece of legislation that affords the President and the Secretary of State to have an effective capability of running the State Department and running our foreign policy.

So we have a good bill, no one disputes that. The only argument that we are going to hear this afternoon is, Mr. Speaker, it is not enough money. But keep in mind, it is not uncommon for this Congress, in fact to the best of my recollection, in every Congress for the last 25 years, the Congress has reduced the President's request. This request is lower than his request, and I am sorry, Mr. President, but we do not have any more money. We are not going to raise taxes; we are not going to take it out of the national defense.

H.R. 2606 - FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS BILL, 2000

(Amounts in thousands)

	FY 1999 Enacted	FY 2000 Request	House	Senate	Conference	Conference vs. enacted
TITLE I - EXPORT AND INVESTMENT ASSISTANCE						
EXPORT-IMPORT BANK OF THE UNITED STATES						
Subsidy appropriation	785,000	839,000	759,000	785,000	759,000	-6,000
Emergency funding (by transfer)	(10,000)					(-10,000)
(Direct loan authorization)	(1,333,000)	(1,687,000)	(1,350,000)	(1,333,000)	(1,350,000)	(+17,000)
(Guaranteed loan authorization)	(12,702,000)	(13,825,000)	(10,400,000)	(10,500,000)	(10,400,000)	(-2,302,000)
Administrative expenses	50,000	57,000	55,000	55,000	55,000	+5,000
Y2K conversion (emergency funding)	400					-400
Negative subsidy	-25,000	-15,000	-15,000	-15,000	-15,000	+10,000
Total, Export-Import Bank of the United States	790,400	881,000	799,000	825,000	799,000	+8,600
OVERSEAS PRIVATE INVESTMENT CORPORATION						
Noncredit account:						
Administrative expenses	32,500	35,000	35,000	31,500	35,000	+2,500
Y2K conversion (emergency funding)	840					-840
Insurance fees and other offsetting collections	-260,000	-303,000	-303,000	-303,000	-303,000	-43,000
Direct loans:						
Loan subsidy	4,000	14,000	10,500	14,000	14,000	+10,000
(Loan authorization)	(136,000)	(130,000)	(85,000)	(100,000)	(130,000)	(-6,000)
Guaranteed loans:						
Loan subsidy	46,000	10,000	10,000	10,000	10,000	-36,000
(Loan authorization)	(1,750,000)	(1,000,000)	(850,000)	(1,000,000)	(1,000,000)	(-750,000)
Y2K conversion (emergency funding)	1,260					-1,260
Total, Overseas Private Investment Corporation	-175,400	-244,000	-247,500	-247,500	-244,000	-68,600
TRADE AND DEVELOPMENT AGENCY						
Trade and development agency	44,000	48,000	44,000	43,000	44,000	
Total, title I, Export and investment assistance	659,000	685,000	595,500	620,500	599,000	-60,000
(Loan authorizations)	(15,921,000)	(16,642,000)	(12,685,000)	(12,933,000)	(12,880,000)	(-3,041,000)
TITLE II - BILATERAL ECONOMIC ASSISTANCE						
FUNDS APPROPRIATED TO THE PRESIDENT						
Agency for International Development						
Child survival and disease programs fund	650,000	555,000	685,000		715,000	+65,000
UNICEF				(105,000)	(110,000)	(+110,000)
Emergency funding	50,000					-50,000
Development assistance	1,225,000	780,440	1,201,000	1,928,500	1,228,000	+3,000
Transfer out - UNICEF				(-105,000)		
Central America and the Caribbean Emergency Disaster Recovery Fund (Emergency Funding)	621,000					-621,000
Emergency funding (transfer out)	(-17,000)					(+17,000)
Development Fund for Africa		512,560				
International disaster assistance	200,000	220,000	200,880	175,000	175,880	-24,120
Emergency funding	188,000					-188,000
Micro & Small Enterprise Development program account:						
Subsidy appropriation	1,500	1,500	1,500	1,500	1,500	
(Direct loan authorization)	(1,000)					(-1,000)
(Guaranteed loan authorization)	(40,000)	(30,000)	(30,000)	(40,000)	(30,000)	(-10,000)
Administrative expenses	500	500	500	500	500	
Urban and environmental credit program account:						
Subsidy appropriation	1,500	3,000		1,500	1,500	
(Guaranteed loan authorization)	(14,000)	(26,000)		(14,000)	(14,000)	
Administrative expenses	5,000	5,000	5,000	4,000	5,000	
Development credit authority program account:						
(By transfer)		(15,000)		(7,500)	(3,000)	(+3,000)
(Guaranteed loan authorization)		(200,000)			(40,000)	(+40,000)
Subtotal, development assistance	2,942,500	2,078,000	2,093,880	2,111,000	2,127,380	-815,120
Payment to the Foreign Service Retirement and Disability Fund	44,552	43,837	43,837	43,837	43,837	-715
Operating expenses of the Agency for International Development	479,950	507,739	479,950	495,000	495,000	+15,050
Emergency funding (by transfer)	(8,000)					(-8,000)
Y2K conversion (emergency funding)	10,200					-10,200
Operating expenses of the Agency for International Development Office of Inspector General	30,750	25,261	25,000	25,000	25,000	-5,750
Emergency funding (by transfer)	(1,500)					(-1,500)
Total, Agency for International Development	3,507,952	2,654,837	2,642,667	2,674,837	2,691,217	-816,735

H.R. 2606 - FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS BILL, 2000 — continued

(Amounts in thousands)

	FY 1999 Enacted	FY 2000 Request	House	Senate	Conference	Conference vs. enacted
Other Bilateral Economic Assistance						
Economic support fund:						
Camp David countries	1,855,000	1,645,000	1,695,000	1,695,000	1,695,000	-160,000
Other	512,000	894,000	532,000	500,000	482,000	-30,000
Rescission	-5,000					+5,000
Subtotal, Economic support fund	2,362,000	2,539,000	2,227,000	2,195,000	2,177,000	-185,000
Emergency funding	211,500					-211,500
Emergency funding (transfer out)	(-3,770)					(+3,770)
International Fund for Ireland	19,600		19,600		19,600	
Assistance for Eastern Europe and the Baltic States	430,000	393,000	393,000	535,000	535,000	+105,000
Emergency funding	120,000					-120,000
Assistance for the Independent States of the former Soviet Union	801,000	1,032,000	725,000	780,000	735,000	-66,000
Emergency funding	46,000					-46,000
Total, Other Bilateral Economic Assistance	3,990,100	3,964,000	3,364,600	3,510,000	3,466,600	-523,500
INDEPENDENT AGENCIES						
Inter-American Foundation						
Appropriation		22,300				
(By transfer)	(20,000)		(5,000)	(18,000)	(5,000)	(-15,000)
Total	(20,000)	(22,300)	(5,000)	(18,000)	(5,000)	(-15,000)
African Development Foundation						
Appropriation		14,400				
(By transfer)	(11,000)		(14,400)	(12,500)	(14,400)	(+3,400)
Y2K conversion (emergency funding)	137					-137
Total	(11,137)	(14,400)	(14,400)	(12,500)	(14,400)	(+3,263)
Peace Corps						
Appropriation	240,000	270,000	240,000	220,000	235,000	-5,000
Emergency funding (by transfer)	(1,769)					(-1,769)
Department of State						
International narcotics control and law enforcement	261,000	295,000	285,000	215,000	285,000	+24,000
Emergency funding	255,600					-255,600
Migration and refugee assistance	640,000	660,000	640,000	610,000	625,000	-15,000
Emergency funding	266,000					-266,000
United States Emergency Refugee and Migration Assistance Fund	30,000	30,000	30,000	20,000	12,500	-17,500
Emergency funding	165,000					-165,000
Nonproliferation, anti-terrorism, demining and related programs	198,000	231,000	181,630	175,000	181,600	-16,400
Emergency funding	20,000					-20,000
National Commission on Terrorism	840					-840
U.S. Commission on International Religious Freedom	3,000					-3,000
Total, Department of State	1,839,440	1,216,000	1,136,630	1,020,000	1,104,100	-735,340
Department of the Treasury						
International affairs technical assistance	3,000	8,500	1,500	1,500	1,500	-1,500
Debt restructuring	33,000	120,000	33,000	43,000	33,000	
Emergency funding	41,000					-41,000
United States community adjustment and investment program	10,000	17,000				-10,000
Subtotal, Department of the Treasury	87,000	145,500	34,500	44,500	34,500	-52,500
Total, title II, Bilateral economic assistance	9,664,629	8,287,037	7,418,397	7,469,337	7,531,417	-2,133,212
Appropriations	(7,675,192)	(8,287,037)	(7,418,397)	(7,469,337)	(7,531,417)	(-143,775)
Emergency funding	(1,994,437)					(-1,994,437)
Rescission	(-5,000)					(+5,000)
(By transfer)	(10,230)	(15,000)	(19,400)	(38,000)	(22,400)	(+12,170)
(By transfer) (emergency appropriations)	(11,269)					(-11,269)
(Loan authorizations)	(55,000)	(256,000)	(30,000)	(54,000)	(84,000)	(+29,000)

H.R. 2606 - FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS BILL, 2000 — continued

(Amounts in thousands)

	FY 1999 Enacted	FY 2000 Request	House	Senate	Conference	Conference vs. enacted
TITLE III - MILITARY ASSISTANCE						
FUNDS APPROPRIATED TO THE PRESIDENT						
International Military Education and Training	50,000	52,000	45,000	50,000	50,000	
Foreign Military Financing Program:						
Grants:						
Camp David countries	3,160,000	3,220,000	3,220,000	3,220,000	3,220,000	+60,000
Other	170,000	560,000	250,000	190,000	200,000	+30,000
Subtotal, grants	3,330,000	3,780,000	3,470,000	3,410,000	3,420,000	+90,000
(Limitation on administrative expenses)	(29,910)	(30,000)	(30,495)	(30,000)	(30,495)	(+585)
Direct loans:						
Subsidy appropriation	20,000					-20,000
(Loan authorization)	(167,000)					(-167,000)
FMF program level	(3,497,000)	(3,780,000)	(3,470,000)	(3,410,000)	(3,420,000)	(-77,000)
Total, Foreign Military Financing	3,350,000	3,780,000	3,470,000	3,410,000	3,420,000	+70,000
Emergency funding	50,000					-50,000
Special Defense Acquisition Fund:						
Offsetting collections	-19,000	-6,000	-6,000	-6,000	-6,000	+13,000
Peacekeeping operations	76,500	130,000	76,500	80,000	78,000	+1,500
Total, title III, Military assistance	3,507,500	3,956,000	3,585,500	3,534,000	3,542,000	+34,500
(Limitation on administrative expenses)	(29,910)	(30,000)	(30,495)	(30,000)	(30,495)	(+585)
(Loan authorization)	(167,000)					(-167,000)
TITLE IV - MULTILATERAL ECONOMIC ASSISTANCE						
FUNDS APPROPRIATED TO THE PRESIDENT						
International Financial Institutions						
World Bank Group						
Contribution to the International Bank for Reconstruction and Development:						
Global Environment Facility	192,500	143,333	50,000	25,000	35,800	-156,700
Rescission	-25,000					+25,000
Subtotal, Global Environment Facility	167,500	143,333	50,000	25,000	35,800	-131,700
Contribution to the International Development Association	800,000	803,430	568,600	776,600	625,000	-175,000
Contribution to Multilateral Investment Guarantee Agency		10,000		10,000	4,000	+4,000
(Limitation on callable capital subscriptions)		(50,000)		(50,000)	(20,000)	(+20,000)
Total, World Bank Group	967,500	956,763	618,600	811,600	664,800	-302,700
Contribution to the Inter-American Development Bank:						
Paid-in capital	25,611	25,611	25,611	25,611	25,611	
(Limitation on callable capital subscriptions)	(1,503,719)	(1,503,719)	(1,503,719)	(1,503,719)	(1,503,719)	
Fund for special operations	21,152					-21,152
Contribution to the Inter-American Investment Corporation		25,000				
Contribution to the Enterprise for the Americas Multilateral Investment Fund	50,000	28,500				-50,000
Total, contribution to the Inter-American Development Bank	96,763	79,111	25,611	25,611	25,611	-71,152
Contribution to the Asian Development Bank:						
Paid-in capital	13,222	13,728	13,728	13,728	13,728	+506
(Limitation on callable capital subscriptions)	(647,858)	(672,745)	(672,745)	(672,745)	(672,745)	(+24,887)
Contribution to the Asian Development Fund	210,000	177,017	100,000	50,000	77,000	-133,000
Total, contribution to the Asian Development Bank	223,222	190,745	113,728	63,728	90,728	-132,494
Contribution to the African Development Bank:						
Paid-in capital		5,100		5,100	1,000	+1,000
(Limitation on callable capital subscriptions)		(80,000)			(16,000)	(+16,000)
Contribution to the African Development Fund	128,000	127,000	108,000		77,000	-51,000
Contribution to the European Bank for Reconstruction and Development:						
Paid-in capital	35,779	35,779	35,779	35,779	35,779	
(Limitation on callable capital subscriptions)	(123,238)	(123,238)	(123,238)	(123,238)	(123,238)	
Total, International Financial Institutions	1,451,264	1,394,498	901,718	941,818	894,918	-556,346
(Limitation on callable capital subscript)	(2,274,815)	(2,429,702)	(2,299,702)	(2,349,702)	(2,335,702)	(+60,887)

H.R. 2606 - FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS BILL, 2000 — continued

(Amounts in thousands)

	FY 1999 Enacted	FY 2000 Request	House	Senate	Conference	Conference vs. enacted
International Organizations and Programs						
Appropriation	187,000	293,000	167,000	170,000	170,000	-17,000
(By transfer)	(2,500)	(2,500)	(2,500)	(2,500)	(2,500)	
Total, title IV, Multilateral economic assistance	1,638,264	1,687,498	1,068,718	1,111,818	1,084,918	-573,346
Appropriations	(1,663,264)	(1,687,498)	(1,068,718)	(1,111,818)	(1,084,918)	(-598,346)
Rescission	(-25,000)					(+25,000)
(By transfer)	(2,500)	(2,500)	(2,500)	(2,500)	(2,500)	
(Limitation on callable capital subscript)	(2,274,815)	(2,429,702)	(2,299,702)	(2,349,702)	(2,335,702)	(+60,887)
TITLE VI						
FUNDS APPROPRIATED TO THE PRESIDENT						
International Monetary Programs						
Loans to International Monetary Fund	3,361,000					-3,361,000
United States Quota, International Monetary Fund	14,500,000					-14,500,000
Total, International Monetary Programs	17,861,000					-17,861,000
Grand total	33,330,393	14,615,535	12,668,115	12,735,655	12,737,335	-20,593,058
Appropriations	(31,313,456)	(14,615,535)	(12,668,115)	(12,735,655)	(12,737,335)	(-18,576,121)
Emergency appropriations	(2,046,937)					(-2,046,937)
Rescission	(-30,000)					(+30,000)
(By transfer)	(12,730)	(17,500)	(21,900)	(40,500)	(24,900)	(+12,170)
(By transfer) (emergency appropriations)	(21,269)					(-21,269)
(Limitation on administrative expenses)	(29,910)	(30,000)	(30,495)	(30,000)	(30,495)	(+585)
(Limitation on callable capital subscript)	(2,274,815)	(2,429,702)	(2,299,702)	(2,349,702)	(2,335,702)	(+60,887)
(Loan authorizations)	(16,143,000)	(16,898,000)	(12,715,000)	(12,987,000)	(12,964,000)	(-3,179,000)
CONGRESSIONAL BUDGET RECAP						
Total mandatory and discretionary	31,246,456	14,615,535	12,668,115	12,735,655	12,737,335	-18,509,121
Mandatory	44,552	43,837	43,837	43,837	43,837	-715
Discretionary	31,201,904	14,571,698	12,624,278	12,691,818	12,693,498	-18,508,406

□ 1730

We are not going to break the caps, and we are not going to touch Social Security. That is our position.

We received a letter today from AIPAC, the Jewish lobby who is so interested in helping our ally, Israel. AIPAC is supportive of this bill. We have provided, I think, as best we can; and certainly the Armenian people feel like we have provided adequately for them under the circumstances.

Everybody would like to have more money. But more money is not available for everybody. We can recommend to the White House some things they might do. The President might stop going to places like Africa with 1,700 people with him, spending $47 million of taxpayers' money. We might save some money in areas like that.

I suggested earlier, Mr. Speaker, that we might impose a visitors' tax on the White House, not for American citizens, but for foreign dignitaries who come to the White House and are greeted with a royal dinner there.

Then after dinner, they all sit around with a glass of wine, and they toast one another, and they talk about what great friends we are. Inevitably, the President of the United States promises them some more money and then calls it an obligation that we, the Members of Congress, who have the responsibility of appropriating the monies that are available to us, must then decide on whether or not it is merited.

So we have a good bill. We have a bipartisan drafted bill. We have a good bill for the administration, because it gives them the flexibility that he needs, and it does not raise taxes, does not hurt Social Security, does not take away from the national defense.

I urge my colleagues to vote for the conference report.

Mr. Speaker, I reserve the balance of my time.

Ms. PELOSI. Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I would like to thank the gentlewoman from California (Ms. PELOSI), the ranking member, for yielding me this time.

Having recently returned from Israel, Lebanon, and the Palestinian Authority, I wish to urge the House to consider the great opportunity before us to use American food surpluses as a tool to build stability in the Middle East and aid in sustaining the peace process.

Mr. Speaker, as we debate the fiscal year 2000 Foreign Operations Appropriations conference report, I wish to focus the attention to the House on a nation in the Middle East is rarely mentioned on this floor, Lebanon. There are strong historical ties between the Lebanese people and the American people—ties that have been repeatedly reinforced by new generations of Lebanese who have immigrated to the United States.

Moreover, Mr. Speaker, as we, hopefully, move toward a lasting and just peace in the Middle East, we must recognize the importance of regional stability for the maintenance of that peace. Lebanon is critical to that stability. The pro-market orientation of Lebanon's economy has not alone been sufficient to create economic health in that country. The Lebanese people are struggling to rebuild a society and infrastructure devastated by 15 years of civil war.

We now have an opportunity to assist by allocating U.S. surplus commodities to Lebanon and allowing the proceeds of the sale of these commodities to be invested in medium and long-term development projects in that country.

A preliminary assessment by the Faculty of Agriculture and Food Security at the American University of Beirut suggests that commodities such as corn, soybeans, alfalfa, rice, and red meats would be well suited to the country's needs and circumstances. These commodities have high water requirements and are therefore not produced in water-scarce Lebanon.

Agriculture is an important sector in the Lebanese economy, and there are many areas in which its economic performance could be improved by investments in irrigation networks, an agricultural extension service, modern agricultural processing and marketing systems, scholarships, or endowments for agricultural science, establishment of a land resource database, or many other investments important to developing an agricultural economy.

Mr. Speaker, I urge the House to consider the importance of Lebanon to a long-lasting Middle East peace and urge the Departments of State and Agriculture to think creatively about ways to use American agricultural surpluses to sustain the peace process.

Ms. PELOSI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the conference report. As I have said earlier in the day, I do so with great regret, because I had hoped that, in the course of the legislative process, we would be able to come up with a bill that would meet the needs that we have as a leader in the world as well as one that addressed our concerns about export finance and helping to promote U.S. products abroad.

I do this, though, with great admiration and commendation to the distinguished gentleman from Alabama (Mr. CALLAHAN), chairman of the Subcommittee on Foreign Operations, Export Financing and Related Agencies. He did the best that he could with what he had, and that was not much. It was not enough. But he did have a balanced set of priorities in the bill that he did right.

I take issue, though, with what has been said here in this discussion so far and earlier when we debated the rule. It has been said that there is not going to be any more money for foreign aid because the Democrats want to take money from the Social Security fund to spend it on foreign aid.

The gentleman from Alabama (Mr. CALLAHAN) and his colleagues know that that is a disingenuous proposal. The fact is that this bill would not be supported by the organization that the gentleman cited as supporting this bill unless they knew that the funding for the Wye agreement would be put before this Congress and put before this Congress soon.

So do not on the one hand tell us we do not want to spend any more money on foreign aid and then on the other hand tell the outside groups, do not worry, the money for the Wye River agreement will be in the bill, just later, so we can make a presentation that says we do not want to spend money on foreign aid. They do, and they want to take it out of one's Social Security, when they know very well that that money is going to be in this bill but at a time that will not be in time for the Wye River agreement. That is why I have a serious concern.

The commitments for the assistance to the parties made at Wye River have become even more important now given the new timetable outlined in the Sharm-El-Sheikh agreement. This agreement calls for the completion of the framework status negotiations by February of next year.

The Wye funds are targeted to fund critical activities for both Israel and the Palestinians. It would make these negotiations more viable.

There are conflicting messages, as I said, coming from the other side about whether the Wye agreement, Wye funding would occur this fall. I for one say it is very, very important for us to have the money in this bill. Let us be honest with the American people about what funding is necessary for us to honor our commitments.

There are also other cuts in the allocation that are serious in addition: Two hundred twelve million dollars or 31 percent is cut from the President's request for democratization and economic recovery programs in Africa, Latin America, and Asia that are meant to give the administration tools to respond to new threats and crises.

Five hundred million dollars is cut from international banking lending programs to the poorest countries in the world, including from IDA, the Asia America Development Bank, InterAmerican Bank, and from the environmental mitigation programs of the global environmental facility. Eighty-seven million dollars is cut from debt relief programs. The additional resources the administration requested to fund the new historic G–7 plan for debt relief has not even been considered.

Two hundred ninety-seven million dollars was cut for the New Independent States programs, severely cutting back on the funding for combined threat reduction initiative. Also cutting funds for pro-reform governments, nongovernmental democratic reforms, and nuclear threat reductions. And $80 million is cut from the request for the Ex-Im bank which helps American companies sell their products abroad.

I enumerate some of these cuts for the following reasons: Three of the pillars of our foreign policy which ensure our national security are stopping the proliferation of weapons of mass destruction. This bill cuts the funding for that.

Promoting democratic values throughout the world so that we are dealing with democratic governments, not authoritarian regimes which attack their neighbors and oppress their people. That funding is cut from this bill.

The funding for the Ex-Im Bank. One of the pillars of our foreign policy is growing our economy by promoting our exports abroad. That funding is cut $80 million in the Ex-Im Bank alone.

When we are cooperating with other countries to help them grow their economies and promote their democracies, we are doing what is the right thing. But we are also developing markets for U.S. products abroad.

All of what we talk about in this bill is in the national interest of the United States. We are a great country. We are probably the greatest country that ever existed on the face of the earth. Yet, we act like pikers. We do not understand what our responsibilities are in the world when it comes time to living up to our responsibilities. Certainly we intend to save Social Security. We intend to save it first.

The Democrats will be second to none in saving Social Security. But do not hand this Congress and this country a bill of goods to say that my colleagues are not going to spend the money on the Wye River agreements when we know that they are. If they were not going to, there would be no way an organization like AIPAC would be supporting this bill, as the gentleman from Alabama (Chairman CALLAHAN) indicated that they were. They know they have a guarantee that that money will be there.

Well, we want it there now when it is in time for the February framework talks. We want our colleagues to be honest with this Congress about how much money will be spent.

When they do the Wye River money, are they contending that that money will be coming out of the Social Security account? If they are contending it when we are proposing it, then they have to contend it then. I do not think it is in either case.

So I encourage our colleagues to let us be honest about what we are talking about here today. Let us live up to our responsibilities. I said earlier today, the city I am proud to represent, San Francisco, was named for Saint Francis. The prayer to Saint Francis is our anthem.

The first line is familiar to my colleagues while they may not recognize its title. That is, "Oh, Lord, make us a channel of thy peace."

Our country can be a channel of peace in the Middle East, in the Balkans, in Northern Ireland, and other places throughout the world, but we cannot do it unless we have the resources to commit to promoting prodemocratic reform and stopping the proliferation of weapons of mass destruction. And we cannot do it unless we have the appropriate tools for the administration to carry out that great mandate that our country has.

Why should we, this great country, be about the last per capita in terms of the assistance and the cooperation we provide to other countries in the world?

So let us heed the words of John F. Kennedy who at his inauguration, my colleagues may be tired of hearing me say this, but it is my clarion call. Following his very famous statement, "My fellow Americans, ask not what your country can do for you; ask what you can do for your country." The very next sentence said, "Citizens of the world, ask not what America can do for you; but what we can do working together for the freedom of mankind."

For the freedom of mankind, I urge my colleagues to vote against this bill until we can come back to the floor with a product that we can all be proud of, and we can all support. I urge my colleagues to vote no.

In closing, Mr. Speaker, I want to point out just how small a part of the Federal budget this foreign cooperation and assistance is. It is this little blue line in this big yellow pie.

So we are not talking about an opportunity cost for anyone in America taking money from anything else. What we are talking about is investing in a way that it rebounds to the benefit of every person in our country in terms of peace and freedom and exports abroad for America.

So I urge my colleagues to see what a small percentage, less than 1 percent, less than 1 percent, 0.68 percent of the national budget is spent on this legislation.

I urge my colleagues to vote no.

Mr. Speaker, I reserve the balance of my time.

Mr. CALLAHAN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I might just address the chart that the gentlewoman from California (Ms. PELOSI) was talking about, that little sliver of pie. What she fails to say is that, included in our foreign aid policy is foreign assistance in the form of the military.

Every time there is a problem in the world, they call on the United States of America. They called on us in Kosovo. They called on us at Desert Storm. They called on us at Haiti. Part of that pie must be expanded.

That sliver becomes almost half the pie of our domestic spending because we utilize our military as foreign assistance to these countries who cannot afford to defend themselves, including Israel, because every time Israel is in trouble, the United States of America, where do my colleagues think we get the money for those missiles to shoot down those missiles that Saddam Hussein was shooting, that is part of our foreign assistance. No country can stand up to the United States of America when it comes to spending money to protecting and helping our allies.

Mr. BERMAN. Mr. Speaker, will the gentleman yield?

Mr. CALLAHAN. I am glad to yield to the gentleman from California.

Mr. BERMAN. Mr. Speaker, I appreciate the gentleman yielding. He is exactly right. Very much of the military budget is for foreign aid purposes and for foreign policy purposes. How much more expensive it is to go into an area because our foreign policy did not work.

Mr. CALLAHAN. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan (Mr. KNOLLENBERG), one of the members of our subcommittee, a man very knowledgeable in all aspects of foreign policy.

Mr. KNOLLENBERG. Mr. Speaker, I rise in strong support of the conference report to H.R. 2606, the Fiscal Year 2000 Appropriations Bill for Foreign Operations, Export Financing and Related Agencies.

As a member of the subcommittee, I want to again commend the gentleman from Alabama (Chairman CALLAHAN) for the outstanding work that he has done, hard work. Shepherding an appropriations bill, particularly this bill, to the process is no easy task. Yet, he has done it with diligence and impartiality, and he has done it, frankly, with extraordinary fairness, I think; and I commend him for that.

I also, of course, want to thank the gentlewoman from California (Ms. PELOSI), the ranking member. I am disappointed that she is going to oppose this bill.

But I want to thank the staff as well who have contributed so much to bringing this bill to the floor in a shape I think that is satisfactory.

From the beginning, we have worked in a bipartisan fashion to craft a foreign operations bill that reflects our Nation's international priorities, and the chairman mentioned those, while adhering to the budget constraints that we face today.

Mr. Speaker, I would like to set the record straight on a provision in the conference report designed to prevent back-door implementation of the Kyoto Protocol.

Despite what was said during consideration of the rule, in no way does this provision prevent the United States from engaging developing countries under the UN Framework Convention on Climate Change signed by President Bush in 1992 and ratified by the Senate. Specifically, Articles 4, 6, and 17 allow voluntary measures and give developed country parties authority to engage in international education, listen carefully, international education, develop technologies, promote sustainable development, and assist vulnerable developing countries.

I point out to my colleagues that not one of these activities arises out of the Kyoto Protocol.

The funding prohibition states that no fund shall be used to implement or prepare to implement the Kyoto protocol.

□ 1745

Not one of the aforementioned diplomatic activities arising out of the U.N. Framework Convention is prevented by this prohibition.

The administration is free to engage developing countries under the U.N. Framework Convention. However, the administration cannot cross the line and engage other nations regarding ratification and implementation of the Kyoto Protocol, which the United States deems totally unworthy of ratification and implementation.

The conference report was crafted, again, in a bipartisan fashion and taking into consideration all of the views, certainly of everybody in this House. And the subcommittee, I think, has worked very well to bring all this together. We need to unite behind this fair bill that will maintain U.S. leadership and strengthen our influence across the globe.

I ask for Members certainly on the other side to rethink their thoughts about voting against this bill. We need to support this conference report.

Ms. PELOSI. Mr. Speaker, I yield 4 minutes to the gentlewoman from New York (Mrs. LOWEY), a very distinguished member of the subcommittee and a champion for democracy and peace throughout the world.

Mrs. LOWEY. Mr. Speaker, I rise in opposition, reluctantly, to this conference report.

Mr. Speaker, during the August debate, I was quite clear in expressing my strong reservations about this foreign aid bill. But I voted for it, hoping that some of the most egregious funding cuts would be remedied in conference and the overall flaws in the bill would be repaired through bipartisan negotiations.

I want to commend my friend and our distinguished chairman, the gentleman from Alabama (Mr. CALLAHAN), and our ranking member and my good friend, the gentlewoman from California (Ms. PELOSI), for their hard work in crafting this bill. Despite their best efforts, however, I believe that this bill, plagued by poor funding levels from the start, still has serious problems.

The $12.6 billion measure remains $2 billion under the President's request, $1 billion below last year's level. Passing an inadequate foreign aid package will severely harm the United States' ability to maintain its position of leadership in world affairs.

And referring to the comments before of my good friend and chairman, the gentleman from Alabama (Mr. CALLAHAN), in my judgment it will be a costly mistake. Conflict and problems that could be avoided with a modest allocation today may turn into expensive crises down the road. I would think that by now we should all have learned that lesson.

Let me take a moment to highlight a few of the conference report's biggest problems, in my judgment. First, the Wye River aid package is nowhere to be found. Implementation of the Wye agreement between the Israelis and the Palestinians is now on track and steadily moving forward. Both sides have begun to act on their commitments, and we must act on ours. But we have received no commitment from the leadership to include Wye in this fiscal year. Waiting until the spring for a supplemental is just unacceptable. This is a priority of the United States foreign policy, and it should be addressed immediately. Now is a dangerous time to turn our backs on the Middle East.

Secondly, debt relief in this bill is woefully underfunded. A debt relief program for the highly indebted poorest countries is not even authorized.

To further burden the poorest of the poor, the bill cuts $175 million from the International Development Association. IDA is the primary World Bank lender on primary health care, basic education, microcredit, and a number of other critical development programs.

And in a final blow to the poorest of the poor, the bill provides $22 million less than the President's request for international organizations and programs. This will be disastrous for the United Nations Development Program, which attacks the roots of poverty by creating jobs, promoting economic growth, and providing education and basic social services. Underfunding this program will decrease our contribution to UNDP and will decrease United States leadership in this critical organization.

The list of underfunded accounts is too long to enumerate. The bill is not good for our programs in Africa, Asia, Latin America, and throughout the world.

I stated very clearly during the initial House debate on this measure that my continued support was contingent upon an increase in overall funding levels and inclusion of the Wye aid package. I had high hopes that we would craft a final package that would merit everyone's support. But, regrettably, I must oppose this measure. I think we can do better, and I think that in the interest of our national security we need to try.

I encourage my colleagues to vote "no" on this conference report. Let us hope we can get back together again, work in a bipartisan way, and meet our priorities. The United States is the leader of the world. And, again, I think by investing now, we are saving millions and millions of dollars later on.

Mr. CALLAHAN. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GILMAN), the chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in strong support of the foreign operations conference report, and I want to commend the distinguished chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs of the Committee on Appropriations, the gentleman from Alabama (Mr. CALLAHAN), for performing magnificently under very difficult circumstances.

I especially commend the gentleman from Alabama for the sections in his bill on family planning. While the gentleman has differing views, this bill clearly reflects the will of the House on U.S. contribution for the U.N.'s Population Fund.

Next week, the 6 billionth person will be born on this planet. When I was born, we had just over 2 billion people. World population is growing at such a rapid pace, we will likely have to support 12 billion people before our world's population stabilizes. It is long past due that we address this problem by rejoining the UNFPA.

I also want my colleagues to know that while this bill regrettably does not have the vital Wye River Accord Middle East Peace funding, it does contain over $5 billion in current funding for our partners in the Arab-Israeli peace process. No one really doubts that Congress will eventually approve the Wye River Accord funding, which the gentleman from Alabama supports. And I am confident that that will happen. What is important to remember now is that this bill contains the full regular funding for our Israeli allies and their partners in peace.

This foreign operations appropriations legislation fully funds the administration's request to wage our war on drugs at its source and continues vital support for the International Fund for Ireland to promote economic justice at a critical point in the peace process.

I also commend the chairman and his committee for sustaining other key programs to support microenterprise development programs. These programs are the only ones that truly work in reaching the poorest of the poor throughout the world.

Moreover, this bill contains important funding to fight the spread of highly contagious tropical diseases. Our country already suffers from the AIDS epidemic that swept out of central Africa. My home State of New York now suffers from a new outbreak of encephalitis. We are going to have to fight these diseases far from our shores to prevent future outbreaks of that nature.

On the whole, this legislation is a good compromise, supporting our key allies in programs with the limited resources we have in this year's budget. We all wish we could do more, but we are also committed to protecting Social Security and other important social programs. Accordingly, I urge my colleagues to vote in support of this foreign operations appropriations legislation.

Ms. PELOSI. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WATERS), the distinguished ranking Democratic member on the House Subcommittee on Domestic and International Monetary Policy of the Committee on Banking and Financial Services.

Ms. WATERS. Mr. Speaker, I would like to thank the gentlewoman from California (Ms. PELOSI) for her wonderful leadership in international relations and foreign affairs.

Mr. Speaker, I rise to speak in opposition to the conference report for H.R. 2606, the foreign operations appropriations bill for fiscal year 2000. This bill makes drastic cuts in vital foreign assistance programs and endangers the lives of millions of children and families who live in poverty in Africa and Latin America.

This conference report cuts funding for debt relief for poor countries to only $33 million. That is $87 million below the President's request. Moreover, it completely eliminates funding for the Highly Indebted Poor Countries, HIPC, initiative that provides debt relief to countries that desperately need it.

Last week, the International Monetary Fund, IMF, held its 1999 annual meeting right here in Washington, D.C. At this meeting, President Clinton announced his support for the cancellation of 100 percent of the debts owed by poor countries to the United States. As the ranking member of the Subcommittee on Domestic and International Monetary Policy of the House Committee on Banking and Financial Services, I applaud the President's decision; and I urge Congress to appropriate the funds necessary to make full debt cancellation a reality.

Many impoverished countries have been forced to make drastic cuts in essential social services, such as health and education, in order to make payments on their debts. In Tanzania, debt service payments in 1997 were equal to nine times the spending on basic health services and four times the spending on basic education. In Nicaragua, over half of the government's revenue was allocated to debt service payments in 1997. This was equivalent to 2½ times the spending on health and education combined. Now is the time for Congress to cut debt relief funding.

This inhumane conference report cuts funding for the African Development Fund to $77 million. That is $50 million below the administration's request. The African Development Fund is a vitally important program which provides low-interest loans to poor countries in Africa. Furthermore, the conference report also cuts funding for the African Development Bank, which provides market-rate loans to qualifying African countries.

The conference report also cuts refugee assistance to $625 million, which is $35 million below the administration's request. There are 6 million refugees and internally displaced people in Africa today. The United Nations High Commissioner for Refugees said recently that the world is neglecting the plight of African refugees. Now is not the time to cut funding for refugees.

I just want to say that some people who would like to make it difficult for us to get up here and be advocates for other parts of the world would have us believe that we are taking the taxpayers' money and we are literally throwing it at undeserving people. Well, I do not think that is true. We are leaders, and we should act like leaders and do the right thing by these very poor countries.

Mr. Speaker, I ask for a "no" vote on this conference report.

Mr. CALLAHAN. Mr. Speaker, I yield myself such time as I may consume.

There has been a lot of conversation about debt forgiveness for these poorer nations or developing countries. Let me tell my colleagues when that came to our attention. Two weeks ago, as we were in the middle of our conference, then the President requested that we include an additional $900 million. That was right after his trip to Africa where he took the 1,700 people with him and at the same time spent $47 million of taxpayer money entertaining his friends in Africa. Then he comes back and says we want an additional billion dollars to forgive debt.

Let me tell my colleagues where that debt came from. The World Bank loaned it to these countries. So what we are saying is, we are going to forgive these countries and pay back the World Bank. We have already given the money to the World Bank. The World Bank made a bad investment, because these people cannot repay their loans. Now we are saying let us forgive their debts and open up their books to the poor where they will be more solvent and can borrow more money.

They are not willing to say we will not borrow more money and get right back in the same shape we are in. When the people who borrowed the money that were running these countries at that time absconded, they did not spend it on the bridges; they did not spend it on health care. They took the money, and they put it in Swiss banks. So now they want us to forgive the debt. Well, maybe that would be the right way to go if they would agree not to borrow any more money.

But the point is that personifies the argument I have been making about the President's foreign policy trips. He goes overseas, and he takes 1,700 of his closest friends with him, with the taxpayers paying the bill. They go over there and hold the glasses of wine up, and the President says, relief is coming. And then he comes back and he calls me, and he tells me to include $900 million more than what I have already requested.

□ 1800

And then it becomes an obligation. All of my colleagues, my great friend the gentlewoman from California (Ms. PELOSI) and the gentlewoman from New York (Mrs. LOWEY), which are standing up saying fulfill the President's request. He just requested it a couple of weeks ago.

So how can we wait every week for the President to make another trip and come back and say, SONNY, now we need some money for Macedonia. Now we need some money for Albania. Whenever he goes, he comes back with a commitment he thinks that we must respond to.

So we can talk about all of this debt forgiveness we want. The gentlewoman from California (Ms. PELOSI) mentioned the African Development Bank, said we cut them. We did not cut them. We gave them $1 million. We got zero last year. So we actually gave them more money than we got last year. And that was at the request of the gentleman from Illinois (Mr. JACKSON). He came back, and said we need to do this. So we gave it to them. Now they are saying, That is not enough. Now we need another $2 billion.

Well, if we carry this thing over for another week or if we carry it over to October 21 when the continuing resolution comes out, good Lord, the President might make another trip and then the $2 billion he is requesting is going to turn into $3 billion. So let us go ahead and pass this thing today. Tell the President to catch up, slow down on his trips, slow down on his promises, and let us keep this budget balanced, keep Social Security intact, and maintain a strong national defense.

Mr. Speaker, I reserve the balance of my time.

Ms. PELOSI. Mr. Chairman, I am pleased to yield 2½ minutes to the distinguished gentleman from California (Mr. BERMAN), a leader in international relations for our country, a member of the Committee on International Relations.

Mr. BERMAN. Mr. Speaker, first of all, I would like to say that I have a great deal of affection for both the chair and the ranking member of the Subcommittee on Foreign Operations. Even as we speak, my office is seeking to facilitate one of the chairman's most recent requests.

But even though ever since Mr. CALLAHAN has become chairman of that Subcommittee on Foreign Operations, I have never before voted against a foreign operations bill or a conference report. I am compelled to do so now.

There are only two groups of people who should oppose this conference report: one are people who hate foreign aid, because this is $12.7 billion of foreign aid; the other group are the people who like foreign aid, because this bill is woefully inadequate to meet the needs we have now.

That is not the fault of the chairman. He was given an allocation. He has done as well as he could possibly have done with that allocation. But the gentlewoman from California (Ms. PELOSI), the gentlewoman from California (Ms. WATERS), and the gentlewoman from New York (Mrs. LOWEY) have all pointed out defects in this bill.

I want to focus on one particular item in the bill that is $1.9 billion less than the President requested, a cut of more than 13 percent. We are not talking 1 percent here, 3 percent, a 13 percent cut from the President's request, a billion dollars below last year's funding level, and when we count for inflation, way below any other bill that the chairman has asked us to vote for in the past.

But on the particular issue that he has spoken about with respect to the Middle East, this bill does not meet the administration's request or the interests that are served by promoting the peace process in the Middle East. Because this bill includes no funding for the Wye plantation supplemental request of the administration.

Now, some in the leadership on the other side say, oh, well, we will do that later. And I say, when? This year? And they say, oh, no, no, not necessarily. It might be next year. And I say to not do the Wye supplemental, to not appropriate those monies before the February framework agreement is to tell both parties that America's commitments cannot be accounted on, that the sacrifices and the compromises that need to be made cannot be carried out because the funding will not be there.

Who knows what is going to happen next spring or next summer when the Republican leadership may choose to bring up a supplemental, and who knows what will be in that supplemental. This is the time to deal with it. This is when we are concluding our budget request. This accord is being implemented as the parties agree now, and we can do no less than to try to fund something that is so essential to American foreign policy interests.

I urge a no vote on the conference report.

Mr. CALLAHAN. Mr. Speaker, I yield myself such time as I may consume to respond to the gentleman from California (Mr. BERMAN), who is a super guy and good friend of mine. And it has nothing to do with friendship, but I might tell my colleagues, he mentioned that there would be certain groups of people and mentioned how they ought to vote.

Let me tell my colleagues, there are some other groups of people they might consider, too. We might consider that they are the fiscally responsible group, those people who think that we ought to continue to have a surplus rather than creating another deficit as we encountered during the first, I guess, 30 years before we took charge of this House. So we have the fiscally responsible group who ought to vote for this bill because it reduces foreign aid.

Secondly, we have those of us who think that we ought to make absolutely certain that Social Security remains solvent. Who knows, we might even be able to solve the notch-baby problem if indeed we can make certain that Social Security is solvent. Who knows what the future holds there.

There are those of us who want to maintain a surplus instead of the deficit that we experienced for the 40 years before we finally, just during the last 2 or 3 years, reached this magnificent level of a surplus instead of a deficit. So there are many groups that ought to look at this bill from many different points of view.

One of them, those who want to protect Social Security, those who want to maintain a surplus instead of going back to deficit spending, those who want to protect the national defense, because one suggestion came that we take away money from the national defense and give it to foreign aid. This is a good bill.

Mr. Speaker, I reserve the balance of my time.

Ms. PELOSI. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from Connecticut (Mr. GEJDENSON), the Democratic ranking member of the Committee on International Relations.

Mr. GEJDENSON. Mr. Speaker, I wish I had the charm of the chairman of the committee and the grace of the gentlewoman from California. I do not.

But let me say it as plainly as I can. It is not the fault of the chairman. They have got a disastrous budgetary process forced on them by the whip and the leadership of their party. They refused to really sit down and work out a bipartisan proposal. And the failure of this particular bill will cost us an enormous amount of more money.

We spent a billion dollars under George Bush in Haiti trying to deal with refugees that was flooding Florida, as the chairman of the full committee understands. We spent $61 billion on the Gulf War. We got a lot of that back. But we had to lay out most of it up front. We have spent $5 billion on Kosovo.

My colleagues do not want this President to travel. I have watched the President travel from Ireland to Israel. Wherever this President has traveled, America's interests have succeeded; and he has moved the peace process forward. We ought to encourage him to continue to do that because it is better for America.

Mr. CALLAHAN. Mr. Speaker, I yield myself 1 minute to respond to the good friend of mine to tell him that I do not mind the President traveling. I think the President should travel.

We all know that in the last year and a half of any presidential term, especially when he is a lame duck, that every President wants to build up an international image. So we can expect the President to travel. I encourage that.

Use Air Force One, that magnificent airplane. Fly all over the world. Impress people. But do not take 1,700 people with him, do not spend $47 million every time the wheels touch down; and every time a glass of wine is raised, do not promise these countries the moon and expect it to be an obligation on the part of the Congress of the United States to fund.

So let me encourage the President to travel. I wish he would go ahead and be gone this week. We could probably settle all this stuff if he would just take a trip. Just do not take 1,700 people with him. Do not take a blank checkbook and make all these promises and expect me to come before this floor and convince the American people that they ought to cut back on their spending.

Mr. Speaker, I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, I wanted to say I should have added "charm". I wish I was as articulate, but the proposition of my colleagues is wrong. We have got a proposal before us that does not meet America's interest. We ought to vote this down and come back with a bipartisan solution that deals with America's foreign policy interests. I thank the gentleman for his graciousness.

Mr. CALLAHAN. Mr. Speaker, I reserve the balance of my time.

Ms. PELOSI. Mr. Speaker, I was hoping the gentleman would yield himself some more time so he could yield to me. He is so generous.

Mr. CALLAHAN. Mr. Speaker, I yield 30 seconds in order to facilitate the gentlewoman from California (Ms. PELOSI) as I have facilitated her at every segment of this process.

Ms. PELOSI. Mr. Speaker, the gentleman has been most gracious. It is just that there is not enough money in the bill to meet our international responsibilities. But I did want to point out because the gentleman said that the President asked for $900 million. That, as the gentleman knows, is not just for this year but over a period of time.

I also want to make sure I am inferring correctly from the remarks of the gentleman that since we are not going to spend any more money that there will be no money for the Wye Agreement. That is the conclusion that I draw from the statements that have been made by the gentleman and the other speakers from his side.

Mr. CALLAHAN. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, let me tell my colleague that the Wye Agreement request was not in the President's request. He did not submit that in the budget he sent over here. That came as an afterthought. And now we are saying, well, the President not only wants $2 billion more, he wants $2 billion plus the Wye monies. So we are really talking about the President wanting $4 billion more than what is suggested here in this debate.

Mr. Speaker, I reserve the balance of my time.

Ms. PELOSI. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from California (Mr. FARR), a member of the Committee on Appropriations.

Mr. FARR of California. Mr. Speaker, I thank the gentlewoman very much for yielding me the time.

Mr. Speaker, I rise because I heard during the debate on the rule that we do not want to spend our money abroad, that we should not be spending all these tax dollars. Well, I suggest that we spend more money here at home that will have an effect all over the world.

I suggest that we do that by spending more money on the Peace Corps. It may sound like a broken record, but the Peace Corps has been our most effective and most popular foreign aid program.

The President requested more money for the Peace Corps because of the demand out there by the countries in which it serves up. The countries want us and American citizens want to participate in the Peace Corps. The only thing that is holding us from supplying that demand is the money that we appropriate.

Now, it is not the fault of this House. It has been terrific. The chairman of the committee has been terrific. But it is the appropriators on the other side. I suggest that those Americans who are interested in the Peace Corps and want more money in the Peace Corps ought to be petitioning the Members on the other side, particularly the appropriators, to put at least as much money in the budget as the House has.

Ms. PELOSI. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Illinois (Mr. JACKSON), a distinguished member of the Subcommittee on Foreign Operations.

Mr. JACKSON of Illinois. Mr. Speaker, I want to begin by thanking the ranking member the gentlewoman from California (Ms. PELOSI) for the time and certainly thank the gentleman from Alabama (Chairman CALLAHAN) for his very evenhanded approach to drafting the House version of the foreign operations bill under very tight budget constraints.

Unfortunately, the conference report further cuts programs that I feel are vital to serving those who are less fortunate around the world. I guess the questions that many of us are trying to ask today is, if not now, when?

I was in the meeting when the Subcommittee on Foreign Operations met with Prime Minister Barak from Israel, where we gave him the impression that in this foreign operations bill that we would meet some of the Wye money agreement. There is no evidence in this bill that we are going do that. So, if not now, when will we do it?

We made commitments to the Palestinian authority. If not now, when will we honor these commitments? We made commitments to the Jordanians. If not now, when will we honor these commitments?

What are the costs associated with peace in the Middle East completely collapsing? Have we measured it in terms of cost to our national defense, to our national security in the Middle East what those costs ultimately will be?

I cannot thank the chairman enough for the $1 million that he was kind enough to appropriate to fulfill one of our commitments to the African Development Bank. It is not enough, but it clearly is a start.

I am also seriously concerned about the low level of funding for debt restructuring, only $33 million, $87 million below the administration's request.

Many nations in sub-Saharan Africa are suffering from crushing levels of debt, both bilateral and multilateral, and these nations will never become self-sufficient until we help decrease some of these debt levels.

So, Mr. Speaker, the question becomes: If not now, if not in a regular appropriations bill, at what point in time will we begin to measure these deficits in terms of national security, in terms of our obligations beyond our borders so that we can have a sustainable growth and sustainable development in the world, which will ultimately cost us if in fact the development is not sustainable and it is not growing?

□ 1815

I have really enjoyed working on the Subcommittee on Foreign Operations, Export Financing and Related Programs, and I certainly urge colleagues on both sides of the aisle to oppose this inadequate conference report.

Mr. CALLAHAN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I was listening to the debate in my office, and I was compelled to come to the floor because I heard the gentleman outline some priorities we as a nation should adhere to, and the first priority should be domestic spending.

Now I have heard a lot of talk today about our responsibility around the world, and I agree we have a severe and awesome responsibility. But at the end of the day some of us who have voted to help Head Start, National Endowment for the Arts on this side of the aisle, that have participated in AIDS funding and things vitally important to our Nation, and I have to hear the demagoguery coming from the other side that we are being cheap?

Let us find out how cheap we have been over these decades. Let us think about the money that went out of our taxpayers' wallets to Duvalier and the Marcoses and all these other regimes that pocketed our money and sent them to Swiss bank accounts.

And let us talk about fiscal stewardship. We are in this Congress trying to save Social Security, and I keep hearing this constant refrain from the other side: we are being cheap. Well, Mr. Speaker, right outside the capitol door there are Vietnam veterans living homeless. We are doing nothing about them. But somehow today in foreign ops we have got to sit here, criticize the leadership, criticize the Republicans, call it a stacked deck. Somehow we are not caring for our overseas commitments. Has anybody asked where the money is from the IMF that went to the Russian drug lords? Has anybody asked where that cash is?

The taxpayers of the United States of America are home right now paying the bills, and they pay them every April 15, and they pay them every day, and they pay our salaries, and we have to sit here and listen to this nonsense about our commitment and our responsibility.

And I accept the notion we have that, and I respect the President. He has done wonderfully on the Wye accord, he has done wonderfully in Northern Ireland. My God, he has been everywhere in the world, saving the world, helping Africa. God bless America and God bless him. But at the end of the day we have to save our own people's Social Security, we have to provide and protect Medicare, we have to help our children in education. We have to do for our own people at times and sacrifice some of the spending in foreign operations. And I applaud the gentleman for his leadership; I applaud the gentleman from Florida who has done a masterful job on the appropriation.

Ms. PELOSI. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, I am going to encourage my colleagues to vote against this measure. I will agree with the previous speaker that being a Member of Congress is all about setting priorities, and I will agree with him that the priorities start here at home.

This is a list from a recent Washington Post article that talked about young people in the United States military living on food stamps and Aid to Families with Dependent Children. Turns out that there is about 12,000 soldiers, sailors, airmen, and marines who are eligible for food stamps. Now in the defense authorization bill that was signed today, they got a 4.8 percent increase, but do my colleagues know what? 4.8 percent of nothing is still nothing, and we are not doing enough for them.

This young lady is the wife of a United States marine. Same article. She is picking up a used mattress off the side of the road so that other young marines will have someplace to sleep. 4.8 percent of nothing is nothing.

This is a young Marine lance corporal. His name is Harry Schein. He works two part-time jobs so that he can live on his salary that he earns as a United States marine.

It is all about setting priorities.

In this bill is $5 billion for two relatively wealthy countries called Israel and Egypt. I happen to think that taking care of those folks is more important. I hope that a majority of my colleagues will think the same way.

Mr. CALLAHAN. Mr. Speaker, I yield myself 1 minute to respond.

I note that the gentleman from Mississippi was arguing my case. I assume he is supporting the bill because we are trying to save the $2 billion out of the national defense that probably some are suggesting that we take in order that we can provide for these military people. With respect to the assistance to Israel and Egypt, it was this chairman that negotiated the reduction that is going to wean Israel from all economic support that then-Prime Minister Netayanhu agreed to. So we cut Israel by $60 million and $120 million in economic support, we cut Egypt, and we cut foreign aid.

So the gentleman, no doubt, was arguing in favor of a yes vote on this bill because we are doing exactly what he wants us to do.

Ms. PELOSI. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington (Mr. INSLEE), a member of the Committee on Commerce and an expert on environmental protection in the world.

Mr. INSLEE. Mr. Speaker, I must rise in strong opposition to this bill as it stands, and I would like to alert my colleagues to something they may not know in that this bill unfortunately is infected with one of the host of anti-environmental riders that have really infested our appropriations process this year.

This bill currently has in it language which would shackle and stop the United States of America from negotiating with other countries, particularly developing nations, to try to get them to join us in efforts to stop greenhouse gas emissions from continuing, to do something about global warming. We must move forward to get other nations to join us.

Section 583 specifically says that none of the funds appropriated by this act shall be used for issuing rules, regulations, decrees or orders for the purpose of implementation or in preparation, in preparation for implementation of the Kyoto treaty. This is a major defect in this bill. Why is it there? We have alerted the committee to this problem, but this language is there because unfortunately there are those who want to act like an ostrich and put our Nation's head in the sands and not deal with this problem.

Mr. Speaker, we need to defeat this bill, take this out, and reconsider the issue.

Mr. CALLAHAN. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. KINGSTON) who is a member of the Committee on Appropriations as well and is very well knowledgeable in the foreign operations aspect of this.

Mr. KINGSTON. Mr. Speaker, the statement of managers notes that HIV/AIDS is much more of a problem in Africa than perhaps any other country. It has great consequences for economic and political stability. The Morehouse School of Medicine, which is the only African American school to be started in this century, can be and should be part of the solution as we address this horrible problem of AIDS. The President of Morehouse School of Medicine is the distinguished Dr. Lewis W. Sullivan, the former Secretary of HHS.

And the Senate has earmarked $5.5 million dollars in this effort. Accordingly, AID must not delay informing a partnership with Morehouse so that AID resources that focus on Africa can be maximized to their fullest extent. There exists a strong community of interests between the people of sub-Saharan Africa and the African-American citizens of our Nation.

So, Mr. Speaker, is it not true that in this bill additional new resources were added by the managers to fight HIV/AIDS in Africa?

Mr. CALLAHAN. Mr. Speaker, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Speaker, yes, that is correct. HIV or AIDS in Africa is a major issue, and Morehouse can certainly play an important role in fighting HIV/AIDS. I hope that the gentleman from Georgia has been able to convey my willingness to assist Morehouse College and especially the gentleman in whose district Morehouse college is, that it is imperative that we have a foreign aid bill in order to facilitate Morehouse, and I hope that the gentleman from Georgia can talk to his colleagues who are interested in seeing Morehouse College participate in this program, of the importance of voting yes on this bill.

Ms. PELOSI. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin (Mr. OBEY), the very distinguished ranking member of the Committee on Appropriations. Mr. OBEY for 11 years, I believe, was the Chair of the Subcommittee on Foreign Operations, Export Financing and Related Programs and is well aware of the challenge that we have.

Mr. OBEY. Mr. Speaker, I thank the gentlewoman from California (Ms. PELOSI) for the time. Mr. Speaker, for 4 years this House has been wrapped around the axle on foreign aid, or at least for 2 of those years because of Mexico City policy. For years those who supported the Mexico City provisions on family planning felt that that was so important that they needed to block assistance to some of the poorest people on the face of the globe. It was so important that they had to stop our payments of debts that we owed to the U.N. for years. It was so important that we had to block our contributions to the IMF in the middle of the Asian financial crisis last year.

But then this morning the Washington Post carries a story which indicates that the majority whip told the Republican caucus last night that they had to pass this bill as is today without Mexico City if they wanted to remain in control of the House of Representatives. So suddenly conviction apparently evaporates. It took us 2 years to learn that? I am really impressed. So much for conviction, so much for principle.

I think we need to understand why this is being done. It is being done so that the majority party can continue to prevent or to pretend that they are preventing this spending of the Social Security surplus for the coming year. The fact is that my colleagues have already spent, Mr. Speaker, they have already spent almost $25 billion of next year's Social Security surplus, and they know it even if they do not want to admit it. The soundness of Social Security has nothing whatsoever to do with this bill.

This year and next year we will wind up paying down over $230 worth of debt. That is far and away the best thing we will have done to strengthen Social Security over the past 20 years. Only our Republican friends on the majority side can take a success like this and turn it into a crisis through false rhetoric. What this bill does do is fail to keep our word in the Middle East, it fails to do everything that we ought to be doing to reduce the danger of nuclear weapons within the former Soviet Union.

It is another of the long list of items by which the majority politicizes foreign policy to the detriment of us all.

and it would be funny if it were not so sad. The majority party's budget, the plans which were announced today, declines to meet our responsibilities in housing, it declines to meet our responsibilities in education, it declines to meet our responsibilities in health care, it declines to meet our responsibilities to veterans, and a whole host of other crucial initiatives domestically and internationally.

This bill declines our responsibility to meet our international obligations and to defend our international interests as aggressively as we can. As the gentlewoman has indicated, this bill, under our colleague's level or anybody else's is far less than 1 percent of our total national budget. That is a small price to pay for protecting our national interests around the world, and I think we do a discredit to this body and the political dialog that takes place here when we pretend that this bill has anything whatsoever to do with Social Security.

□ 1830

That is a small price to pay for protecting our national interests around the world, and I think we do a discredit to this body and to the political dialogue that takes place here when we pretend that this bill has anything whatsoever to do with Social Security.

The only people I know who believe that are the people who are saying it. It is a laughing stock to everyone else in the country who hears it.

Ms. PELOSI. Mr. Speaker, I yield myself such time as I may consume to close.

Mr. Speaker, in doing so I want to point out a couple of issues that have come up in the course of the debate. First, let me say that I urge my colleagues to vote against this bill because it is beneath the greatness of our country.

We have an opportunity for peace in the Middle East, and yet this bill does not include funding to the Wye River agreement, this historic opportunity. When Prime Minister Barak was here we all commended him, wished him well, and now we have no money to help meet our commitment to the Wye River agreement. Contrary to what has been said here, the President did make a request for the Wye River funding in his February budget submission, so this committee has in a timely fashion had that request.

Not only do we not include the Wye River funding, we removed the $100 million for Jordan, a commitment that we made to King Hussein with his strong commitment to peace. He gave his life for peace, and we are removing the funding from the bill, while saying all along that it is an emergency that we help Jordan through this transition time. This opportunity in Wye River can be missed if we do not have the money now.

As I say, our colleagues cannot have it both ways. They cannot wink at that constituency that is concerned about Middle East peace with the idea it will be there later, and then say if we put it in today it is coming out of the Social Security fund. That simply is not a straightforward approach to this problem.

Mr. Speaker, I want to save money too. This budget has been declining since the middle 1980s. We have a very low budget figure we are requesting. It is the least we can do for freedom and democracy and peace in the world.

Mr. CALLAHAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at long last we are going to reach that stage where we get to vote on this document. I love this place, and I love the personalities here and the people here. We have so many brilliant people with such diverse opinions that it is interesting to witness, as a Member of this House, the greatness of this House.

The gentleman from Wisconsin used to chair this very committee that I chair. I was a member of his subcommittee. But I will remind him when he was chairman of that subcommittee they created a $100 billion deficit, in addition to the Social Security monies. Now in the last few years, we have been able to reverse that. And now we have a $100 billion surplus. What a great accomplishment.

I do not take credit for doing all this by myself. I had a lot of help. The President takes credit for doing a lot of it, and he had a lot of help.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, let me remind the gentleman that I led the opposition to those budgets 7 years in a row, the Reagan budgets, which saddled this country with $4 trillion worth of unnecessary debt.

Mr. CALLAHAN. Mr. Speaker, reclaiming my time, this was during the Clinton administration.

I might tell you, Mr. Speaker, that the President comes to the Congress, and this President has come to the Congress, and he has requested emergency supplemental assistance for Bosnia, he has requested emergency supplemental assistance for Kosovo, for Honduras, for Nicaragua. Now he is coming with Israel, with the Palestinian Authority and with Jordan. I will remind you also he came back in the middle of last year, in the middle of all of our negotiations, and wanted $18 billion for the International Monetary Fund. So we have not been discourteous to this President in responding to his needs.

So we have to second guess what this bill does. I am contending it cuts foreign aid. We might second guess what the headlines might be. I do not have to go back to Alabama to apologize to anyone when I say folks, I voted against increasing foreign aid. They seem to like that, when I say to the people of Alabama that we have a more responsible piece of legislation because we are earmarking a great portion of it for child survival, to make certain that the money goes directly to the people we are trying to assist.

So the headlines might be, "Callahan votes to reduce foreign aid." That would be fine with me, if the Mobile paper wants to do that. It might say, "Callahan refuses to respond to the insatiable appetite the President has to spend more money." It might say, "Callahan saves Social Security." It might say, "Congress refuses the President's ridiculous request." We do not know what they will say. You can go home and answer any of the things your constituents want you to hear.

I am telling you, this is a responsible piece of legislation that responds to the needs of the administrative branch of government, while at the same time recognizing the priorities that we, especially on this side of the aisle, have, that we are going to insist that Social Security not be touched, that we are not going to tolerate taking money away from the national defense, as the gentlewoman from California suggested in the Committee on Rules, and giving it to foreign aid, and that we are not going to increase taxes in order to facilitate the whims of this President.

So, Mr. Speaker, here we are today. We have a responsible bill. Yes, it cuts foreign aid. It cuts the President's request, it cuts it from last year. It does not raise taxes, it does not touch the Social Security program. As a matter of fact, it compliments that program.

Mr. Speaker, I would urge the members to vote for this responsible bill, and let us deliver it to the President's desk.

Mrs. CAPPS. Mr. Speaker, I rise in opposition to the conference report.

American spending on our foreign policy priorities represents a tiny percentage of our national budget. It is clear, however, that modest investment in key foreign policy initiatives saves us major expenses when regional problems explode into national security crisis. Unfortunately, the bill before us today is vastly underfunded. This measure will only weaken the world leadership of the United States.

I want to take a moment to discuss what I believe is the most glaring omission in this legislation, the lack of any funding to implement the Middle East peace plan signed at Wye. The 1998 Wye Accord was a triumph in U.S. diplomacy. This agreement—which carefully balanced Israeli security considerations with Palestinian economic and territorial gains—put a long-stalled peace process back on track. And the Sharm el-Sheikh agreement, which the parties signed just one month ago, has already led to the implementation of key components of the Wye accord.

A successful Middle East peace process is in the security and economic interests of the

United States. Now is clearly not the time for us to renege on the pledges we made at Wye. The $1.2 billion Wye package would provide critical security assistance to Israel, desperately needed economic aid to the Palestinians, and important economic and social funding for Jordan.

Peace in the Middle East has been a paramount U.S. foreign policy goal for decades. This long-impossible dream is finally becoming a reality. Sadly, the funding bill on the floor today fails to address this exciting opportunity. I must oppose the bill and I hope that new legislation will be brought forward which enables the United States to continue its leadership role in world affairs.

Mr. PAYNE. Mr. Speaker, I rise today in opposition to H.R. 2606—the Conference Report on Foreign Operations Appropriations. The report moves us in the wrong direction. Unfortunately, the conference report moves us into a dangerously low budget from foreign opps. Let me just say that we spend less than 1% on the total foreign aid budget when we spend almost a trillion dollars on defense and other related expenses.

People in my district when polled thought that we spend close to 15% on foreign aid. Recently, Governor Whitman suggested that we cut foreign aid to less developed countries. That's greedy and fails to accomplish what we are all about. How can we take away the meager $1 a day that we give to 1.3 billion of the people in these nations that depend on this.

The conference agreement, which provides $12.6 billion in funding, is nearly $2 billion below the President's request and $1 billion less than last year's bill This low level of funding is untenable—it will be impossible for the U.S. to maintain its leadership role in the world community with an inadequate foreign affairs budget.

Nearly every major account in the conference report is underfunded, and one specific initiative, the Africa accounts, are nonexistent. This omission is particularly troubling, as it signals a lack of support for the recent strides made by the countries in Africa. The Development Fund for Africa (DFA) is being cut almost 40% from last year (512 million). I know the other side will point to the other accounts like Child Survival that has funding for Africa. Let me say that the DFA traditionally supports less developed countries and the grassroots programs. Other egregious funding cuts include: $175 million cut from essential loan program for the poorest nations; $157 million cut from global environmental protection projects; $87 million denied for debt relief initiatives for the poorest countries; $50 million cut from African development loan initiatives; $200 million cut from economic development and democracy-building programs in Africa, Asia, and Latin America; and $35 million denied for Peace Corps programs, just months after Congress voted to support the expansion of the Peace Corps to 10,000 volunteers.

It is abundantly clear that this Foreign Operations bill just won't work. It will not allow the U.S. to continue to operate its important international programs at current levels, and will undoubtedly detract from the stature of the U.S. in the international community. We have learned from recent events that foreign assistance is a good investment—the dollars we spend today help avoid expensive national security crisis tomorrow. This bill will curtail our ability to help prevent the conflicts and curb the poverty that lead to instability throughout the world.

We cannot adequately pursue our foreign affairs priorities with this conference report. And not only does this bill underfund existing needs, but it ignores emerging global needs, such as earthquake recovery in Turkey and Taiwan, peace implementation in Kosovo, and debt relief for the world's poorest countries. We urge you not to settle for this dangerously underfunded bill. Vote "no" on the Foreign Operations Conference Report.

Mr. PORTER. Mr. Speaker, I rise to congratulate the gentleman from Alabama for bringing this conference report to the floor.

While this subcommittee works with one of the smaller allocations, this bill is usually one of the most contentious. The chairman and his staff have done an outstanding job of trying to address numerous concerns while working within the constraints of, what I consider, too small a budget for the important programs that this bill supports. I am pleased that the conference committee continues to recognize the needs of areas of conflict, such as Armenia and Cyprus and I hope that a peaceful settlement will soon be reached in both of these regions.

Further, I strongly support the committee's suspension of military aid to Indonesia and hope that this will be expanded to multilateral assistance until the results of the referendum in East Timor are permanently implemented. Finally, I am pleased with the language in the Statement of Managers supporting biodiversity programs within AID, specifically those implemented through the Office of Environment and Natural Resources, and strongly urge AID to increase funding for these programs to a level proportionally equal to that provided in 1996.

While I am pleased with many of the issues addressed in this bill, I am concerned that the funding for implementation of the Wye Memorandum is not included. This obviously is due to budget constraints and not because of a lack of congressional interest in furthering the Middle East peace process. Israel has made great strides in furthering this process in the last month and I know that the U.S. will find a way to provide the Wye money before the end of the year.

Finally, while I support this bill, I remain concerned with the continued decreases in U.S. foreign assistance. As I have said before, the U.S. is now the sole superpower and world leader. Yet, we are not leading. As our role in the world becomes more important, our budget for foreign operations continues to shrink, thereby, limiting the impact we can have on global development.

It is simply embarrassing. We are the world leader, with the strongest most productive economy in history, yet we continue to refuse payments to global institutions, including the United Nations and World Bank, and provide the smallest amount of foreign assistance to the developing world of any industrial country, in relation to our GDP.

Many of these global institutions were created over 50 years ago and needed reforms to eliminate bureaucracy and changes to update them for the next century. The U.S. was correct in demanding these changes. However, now that many of these reforms have been made, we must live up to our word and pay our contributions. As we refuse payment, we erode our word and reputation. This must stop. I hope that those who are concerned with our multilateral assistance will take a serious look at the progress that has been made in effecting change at these institutions. I believe that they will find that many of their concerns have been addressed.

I look forward to reversing this decline in foreign assistance in the next century and furthering the values that we cherish here—democracy, human rights, rule of law and free markets—to other parts of the world. Again, I would like to congratulate my colleague from Alabama and his staff for their hard work and ultimate success in bringing a free-standing Foreign Operations Conference Report to the floor.

Mr. CALLAHAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. THORNBERRY). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 214, nays 211, not voting 9, as follows:

[Roll No. 480]

YEAS—214

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Foley
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Kasich
Kelly
King (NY)
Kingston
Knollenberg
Kolbe
Kuykendall
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle

Ose
Oxley
Packard
Pease
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Smith (MI)
Smith (TX)
Souder
Spence
Stabenow
Stearns
Stump
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—211

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barcia
Barr
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Blagojevich
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson
Chenoweth-Hage
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Forbes
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
John
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pickett
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schaffer
Schakowsky
Scott
Serrano
Sherman
Shows
Sisisky
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NOT VOTING—9

Blumenauer
Jefferson
LaHood
McKinney
Meeks (NY)
Paul
Peterson (PA)
Pomeroy
Scarborough

☐ 1900

Mr. STRICKLAND and Mr. BARCIA changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. POMEROY. Mr. Speaker, on rollcall No. 480, I was unavoidably detained and was absent during the vote. It was my intention to vote "no" on this rollcall vote.

THE JOURNAL

The SPEAKER pro tempore (Mr. WELDON of Florida). Pursuant to clause 8, rule XX, the pending business is the question of agreeing to the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

Pursuant to clause 1, rule I, the Journal stands approved.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

LATEX ALLERGY AWARENESS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I use this occasion to recognize this week as Latex Allergy Awareness Week, October 4 through 10, 1999, and to talk about an important health issue, an issue which directly affects a constituent of mine, 9-year-old Jimmy Clark of River Forest, Illinois, whose parents have become leading crusaders to make the public aware of this problem.

Mr. Speaker, Jimmy Clark lives with an ailment that is virtually unrecognized by most Americans and the medical community. Jimmy is latex sensitive. Yes, Jimmy is latex sensitive. He is at risk for serious and potentially fatal allergic reactions when exposed to products made from natural latex.

It is critical that we become fully aware and acknowledge the broad and problematic scope of this issue which the American Academy of Dermatology has called the next major health concern of the decade.

Something as simple as eating lunch in his school's cafeteria could be fatal to Jimmy, since latex gloves are commonly used in the food service industries. Jimmy and others like him are allergic to thousands of items ranging from the balloons at his best friend's birthday party to the examining gloves in an ambulance or at a doctor's office.

It is heartbreaking to know that for thousands of American citizens like Jimmy, that exposure to even these seemingly harmless items could cause him to die. He cannot even receive needed medical treatment or enjoy eating lunch at school without fear of exposure to potentially deadly latex particles.

Reactions to exposure include immediate allergic reactions from skin contact resulting in itching and hives. Reactions to the airborne latex particles include inflammation of the eyes, shortness of breath, asthma, dizziness, and rapid heart rate.

The most severe cases can result in severe blood pressure drop and loss of consciousness. Latex allergy develops most commonly in people who have frequent or intimate exposure to it. At high risk are those who have had frequent surgical procedures, particularly in infancy and workers with occupational exposure, especially to latex gloves. A history of allergies or hay fever also may be a significant risk factor.

Some studies suggest that some individuals who have had dermatitis or rash and wear latex gloves may be at greater risk. Although the American public knows little about latex allergy, the last 5 years have shown increasing evidence that latex allergy has become a major occupational health problem which has become epidemic in scope among highly exposed health care workers and among others with significant occupational exposure. This is largely because the use of latex rubber has increased, especially in medical devices, because latex is used as a disease-prevention barrier.

However, Mr. Speaker, I am not suggesting who or what is at fault. Nor am I suggesting that latex is not an effective instrument in protecting humans from life-threatening diseases. I am suggesting that we need to increase research in this area and find ways to spare the citizens of this country from unnecessarily developing latex sensitivity.

It is my belief, Mr. Speaker, that an increased awareness will go a long ways towards helping find a solution to this problem.

Mr. Speaker, it is important that our researchers work cooperatively to achieve the right solution, a solution not influenced or marred by special interests from different sides of the spectrum, but a solution developed for those most affected by the disease.

Latex allergy organizations and support groups across this Nation have successfully established a State Latex Allergy Awareness Week in several States. I believe once this awareness of this disease increases, our Nation will see with sincere satisfaction the positive results from research and care for those who suffer from its effects. Hopefully, next year as this same time approaches, both Houses will see fit to declare this week National Latex Allergy Awareness Week.

Mr. Speaker, I close by thanking Mr. and Mrs. Clark and Jimmy for stepping up to the plate to help make Americans more aware of a health problem and a societal need. They embody the real spirit of democracy: if not I, then who? If not then, when? I thank both Jimmy and his parents and say to them that River Forest as well as all of America are proud of them.

ISSUES OF CONCERN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I rise tonight to speak on several unrelated but very important topics. First I want to quote from an Associated Press story of a few days ago: "A billion-dollar-a-year air war forgotten by the outside world but droning on over dusty Iraqi towns does not appear to be getting Washington any closer to its ultimate goal of ousting President Saddam Hussein."

The Associated Press story said that we have dropped 1,400 bombs and missiles on Iraq since mid-December in this forgotten war. A forgotten war that is doing no good, wasting more than $2.6 million each day, bombing people who could be our friends, but instead making new enemies for the United States each and every day. A billion-dollar-a-year air war that is wasteful, useless, inhumane, and according to the Associated Press, not accomplishing its goal.

Second, I want to mention another ridiculously wasteful project. A few days ago NASA lost a $125 million Mars orbiter because one engineering team used metric units while another used English units for a key spacecraft operation. If this had happened in the private sector, heads would have rolled. However, when it happens with taxpayer money done by totally protected civil servants and big government contractors, no one is really held accountable.

We see over and over and over again that the Federal Government is unable to do anything in an economical, efficient, low-cost manner. Because it is other people's money, they really just do not care. If we want our money to be wasted, just turn it over to Federal bureaucrats. They will be paid regardless of how bad a job they do and at a rate that is about 50 percent higher than the average citizen for whom they are supposed to be working.

Today we just cavalierly lose a $125 million machine because we have a government that is of, by, and for the bureaucrats instead of one that is of, by, and for the people.

Third, Mr. Speaker, let me mention the scandalous grant of clemency to the 16 Puerto Rican terrorists responsible for 130 bombings. These bombings killed six people. They left six people dead, and maimed and injured 84 others. One New York City policeman lost his leg and one lost his sight and has 20 pins holding his head together, and the President and the Department of Justice are refusing to give congressional committees the information and papers leading to these grants of clemency. What are they trying to hide?

Senator ORRIN HATCH, a Member of the other body and chairman of its Committee on the Judiciary said, "The Justice Department today is run by people who do not care about the law." The grants of clemency were given against the advice of every law enforcement agency asked about them.

□ 1915

Three examples, Mr. Speaker, of a Federal Government that is simply too big and out of control and wasting billions of hard-earned tax dollars each and every day.

Finally, Mr. Speaker, one other concern I have does not deal with Federal Government wasteful spending, but is it possible that many people are spending money in a harmful way on Ritalin.

I mentioned once before on this floor that a retired high-level Drug Enforcement Agency official wrote in the Knoxville News-Sentinel last year that Ritalin is prescribed six times as much in the United States as in any other industrialized nation. He said that Ritalin has the same properties, basically, as some of the most addictive drugs there are.

Now I read in Time Magazine that production of Ritalin has increased sevenfold in the past 8 years and that 90 percent of it is consumed in the United States. Time Magazine said, "the growing availability of the drug raises the fear of the abuse: more teenagers try Ritalin by grinding it up and snorting it for $5 a pill than get it by prescription."

Also, I read in Insight magazine that almost all these teenage school shooters in recent years have been boys who were on at the time or had recently been on Ritalin or some similar mind-altering drug.

Now, I believe there are some people for whom Ritalin has been good. But I also read that it is almost always given to boys who have both parents working full time.

I am simply asking if it is a good thing to give such a strong drug to so many, or is it simply a way for a big drug company to make huge profits. Why 90 percent in the United States? Why do we have at least six times as much of this prescribed in the U.S. as any other industrialized nation?

I hope, Mr. Speaker, that parents, teachers, doctors and everyone else will not be so eager to turn to Ritalin, which is really a potentially dangerous addictive drug and will use it only as an absolute last resort.

NATIONAL DEFENSE IS IN BAD SHAPE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HUNTER) is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, today, the President signed the defense bill and he gave, in signing the defense bill, a speech in which I think he gave a dangerously false message to the American people. That message was that defense is in good shape.

Defense is not in good shape. We are $3.5 billion short on ammunition for the Army. We are $193 million short on ammunition for the Marine Corps. We have 10,000 uniformed families on food stamps because they are about 13 percent under the wages of their counterparts in the civilian sector.

Our aircraft are in such bad shape that only about 65 percent of them can get off the ground and go do their mission. Our Navy now is lacking 18,000 sailors because we cannot get sailors to join Mr. Clinton's Navy. We are about 800 pilots short in the Air Force, and it costs millions of dollars to train a pilot, and it takes a long time. If the balloon goes up and we have a war, we are not going to be ready.

So the President has cut defense disastrously. His own Joint Chiefs, some of whom stood behind him in that press conference said that his budget was underfunded by about $20 billion. The Air Force said they need an extra $5 billion. The Navy said they need an extra $6 billion a year, the Army an extra $5 billion, and the Marine Corps an extra $1.75 billion. On top of that, they need an extra $2.5 billion a year to pay for the retirement and the wages that are necessary to keep good people in the service.

So the Clinton administration has dragged down national defense.

Now, Congress has added some money to the defense bill. We have added about $50 billion over the last 6 years, but that is not enough. We have added as much as we thought we could add without getting the bill vetoed by President Clinton. Even then, he has threatened vetoes on a number of occasions.

But defense is in difficult condition. It is in bad shape. If we had to fight the two-war scenario, that is, if we had to fight on the Korean Peninsula and we had to fight in the Middle East today, we would have a lot of Americans coming home in body bags because we are short on ammo, short on spare parts, and short on technically knowledgeable people in extremely critical areas. We need more money. We need it desperately.

ASTROS WIN FIRST GAME

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think there is some good news that we have just heard, and I am delighted to be on the floor with the gentleman from Texas (Mr. GREEN), and that is that the Astros have just won the first game of the division that will lead them on to the World Series.

Though we see no Georgians on the floor because they are playing the Atlanta Braves, I am prepared to offer a bet of some good Texas barbecue that the Astros will win.

Mr. Speaker, I yield to the gentleman from Houston, Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I thank the gentlewoman for yielding. The gentlewoman and I have both talked to the gentleman from Atlanta, Georgia (Mr. LEWIS). He and I talked a little bit. He knows my affinity for Diet Coke, and I bet him some venison sausage from Texas against a case of Diet Coke. It looks like I may get that Diet Coke from Georgia.

Ms. JACKSON-LEE of Texas. Mr. Speaker, with barbecue and venison on the table, I do not think we can miss. I look forward to a victory.

CLAUDE BUDDY YOUNG SHOULD BE INDUCTED INTO FOOTBALL HALL OF FAME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RUSH) is recognized for 5 minutes.

Mr. RUSH. Mr. Speaker, I rise today to encourage the Pro Football Hall of Fame to induct an extraordinary athlete called Buddy Young, a Chicago hero and graduate of the Wendell Phillips High School in my district.

As Chicago Sun Times columnist Steve Neal recently observed, Buddy Young was among the greatest NFL running backs of the modern era.

From 1944 to 1946, Buddy Young was an All American halfback for the University of Illinois' fighting Illini. In his first season as a college football player, Young was runner up for the coveted Heisman Trophy. As one of the most electrifying players on the team, he tied renowned football legend Red Grange's college record for touchdowns.

In 1947, Young led the NCAA college all star football team in an astounding upset victory over defending pro football champions, the Chicago Bears. Due to his outstanding performance during the game, Buddy Young was selected as the game's MVP.

Following his college football career, Buddy showcased his athletic talents on a number of pro football teams. He is best remembered as a standout offensive threat for the Baltimore Colts where he set a kickoff record that is still standing today.

Also, Young's 27.7 per yard kickoff return average is currently ranked fourth in all-time pro football record books. In fact, Mr. Speaker, Young's record and play as a Colt was so superior that the franchise retired his number, an accolade afforded to only eight other Colt football players.

Furthermore, it is worth noting that, of the nine Baltimore Colt football players to have had their numbers retired, Buddy Young is the sole player who has not been inducted into the Pro Football Hall of Fame.

Although well known for his great football accomplishment, Buddy Young has excelled in other aspects of his life. As the director of player relations of the National Football League, Young was the first African American to become an executive in any major sports league.

Additionally, while in college, Young won the NCAA Division I track and field championship in the 100 yard dash, the 220 yard dash, and he set a world record in the 60-yard dash.

Already, Mr. Speaker, Buddy Young's athletic achievements have earned him induction into the College Football, Chicagoland, and the Rose Bowl Halls of Fame.

It is now both fitting and warranted for the Pro Football Hall of Fame to induct this athlete of athletes into its cherished halls.

In closing, Mr. Speaker, I again encourage the Pro Football Hall of Fame selection committee to induct Claude Buddy Young into its prestigious and historical group of athletic legends. Only then will Young's place in athletic history be rightfully immortalized alongside other legends of the great game of football.

EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HOLT) is recognized for 5 minutes.

Mr. HOLT. Mr. Speaker, as I travel my district in central New Jersey, I am constantly confronted with the growth of these communities. Young families are moving into new houses and school principals get phone calls daily from parents who are moving into the area. The opening days of school are challenging for school principals. Some schools in my New Jersey district have kindergartens that are twice the size of the senior class.

Communities across the State and the Nation are struggling, struggling to address the critical need to build new schools and renovate existing ones to make up for years of deferred maintenance and to accommodate rising school enrollment.

Urban and rural and high growth suburban areas all face different and difficult school modernization problems.

The General Accounting Office estimates that $112 billion is needed just to repair existing schools across the Nation. Twenty-four hundred new public schools will be needed by 2003 to accommodate 1.3 million new students and to relieve overcrowding.

With schools bursting at the seams, new schools being constructed every year, property taxes are reaching astronomical rates. These growing communities need relief. Communities in my New Jersey district are voting down needed construction because they cannot afford even higher property taxes.

That is why, together with the gentleman from North Carolina (Mr. ETHERIDGE), I am working for legislation to ease the burden for fast growing communities as they construct new schools.

The interest on school construction bonds is a big item. Even on a short-term, 15-year tax exempt bond, the interest on the bond may be an additional 65 percent of the value.

Under our legislation, the Federal government would provide tax credits equal to the interest the local communities would pay to investors on these bonds. This emergency Federal assistance would help communities like mine and others across the country meet the needs of our children.

Let me give my colleagues an example from my district to illustrate that we are facing a serious situation. In Montgomery Township, Somerset County, in 1990, their school enrollment was about 1,500 students. Now Montgomery has to provide seats for 3,500 students, an increase of 134 percent in 10 years. Enrollment is expected to rise another 1,500 students over the next 5 years.

The residents of Montgomery have been very supportive of their school system. However, the strain of paying for an annual operating budget coupled with the payment for new buildings is testing the pocketbooks of even the most ardent supporters of public education. They need our help. In some towns in my district, there is now the added expense to rebuild and repair after Hurricane Floyd.

□ 1930

These days school construction and modernization also includes technology infrastructure. Our schools need to keep up to date on technology to ensure our students are ready for the jobs of the 21st century. Employers depend on talent, skills, and creativity of their workforces for their success. Companies, communities, and students all benefit from a vital and a successful educational system.

Many high-tech firms in my district in central New Jersey already invest in the local schools. They have much to offer, especially in technical areas of science and math. The New Jersey State Chamber of Commerce has a program called Tech Corps New Jersey which recruits business volunteers with expertise in computer technology to work with schools that need assistance in the area of education technology. I believe we need to encourage these partnerships where businesses can invest in their local communities.

Businesses can easily help schools keep up to date with their technology infrastructure. The E-rate, which supports discounted internet wiring and services to schools and libraries, is a good example of effective Federal local partnership which can help finance technology infrastructure in our schools.

Certainly local taxpayers bear the responsibility for educating their children, and local taxpayers shoulder most of the cost, but the education of our youth is a national responsibility, similar to national defense, and it is time the Federal Government steps up and accepts our responsibility to local districts for the education of our children.

TRIBUTE TO CONGRESSWOMAN CARRIE MEEK OF FLORIDA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. BROWN) is recognized for 5 minutes.

Ms. BROWN of Florida. Mr. Speaker, I rise today to pay tribute to my friend and colleague, the gentlewoman from Florida (Mrs. MEEK).

Mr. Speaker, I want to submit for the RECORD an article that ran in the Sunday September 26 edition of the Miami Herald. This article talks about the achievement the gentlewoman from Florida has made and the obstacles she had to overcome to get to Congress. She was the first African American female to serve in the Florida Senate. And when we both were elected to Congress in 1992, this marked the first time in 127 years that an African American from Florida had been sent to Congress.

This year marks 20 years of service for Congresswoman MEEK. Her constituents are proud of her hard work and the results she brings to her district. She has fought for fairness in the appropriations process, and I am proud to recognize the gentlewoman for her accomplishments.

Mr. Speaker, I yield to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I am so delighted to hear that the gentlewoman is paying tribute to our colleague, and I hope that the gentlewoman will allow me to mention that she has taken a leadership role in heading the task force on census for the Congressional Black Caucus and that she has been very diligent in her legislative duties here.

I really compliment the gentlewoman for making a record of this because the gentleman from Florida (Mrs. MEEK) is a very worthy person.

Ms. BROWN of Florida. Mr. Speaker, I yield to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Speaker, I also want to add my congratulations to our colleague, the gentlewoman from Florida (Mrs. MEEK), and I commend the gentlewoman for bringing this to the floor and putting on RECORD her achievements.

Ms. BROWN of Florida. Mr. Speaker, I yield to the gentlewoman from Florida (Mrs. THURMAN).

Mrs. THURMAN. Mr. Speaker, I thank the gentlewoman for yielding to me, and I really would ask all of my colleagues who have not seen this article to read this in the RECORD. It is a wonderful tribute to a woman who has served in her State legislature and is very much admired.

People just came to her to get information and to get help. She was my chairman on the education subcommittee in appropriations when we served together, and she was fairer than anybody I have ever seen because she understood the entire State of Florida, what it meant for rural areas to have funding as well as the urban areas.

We just all love her in Florida, and we all respect her and admire her for the work that she has done. So I would really hope our colleagues do read this article because it is fabulous.

Ms. BROWN of Florida. Mr. Speaker, I yield to the chairman of the Congressional Black Caucus, the gentleman from South Carolina (Mr. CLYBURN).

Mr. CLYBURN. Mr. Speaker, I thank the gentlewoman from Florida (Ms. BROWN) for yielding to me, and I too would add my voice to the accolades that are being paid our good friend, the gentlewoman from Florida (Mrs. MEEK).

I first met her some, and she may not want me to tell how long ago, 25 or 30 years ago, and I got to know her. I followed her career over the years, and my friends in the State of Florida all have said to me what a great person that she was there in the Florida legislature.

When I came here in the class of 1993, it was a great pleasure for me to be here and to have the opportunity to serve with her. It has been a service that I have enjoyed tremendously, and I can truly say that I do not believe that I would be standing here as chair of the Congressional Black Caucus had it not been for the great support and guidance that I received from her since being here in this body.

The people of Florida should be very proud of her. I am pleased to see it here that her hometown newspaper has paid her such a tremendous tribute. It is one that is well deserved.

Ms. BROWN of Florida. In closing, Mr. Speaker, my favorite saying is, "Let the work I have done speak for me." And certainly Mrs. MEEK's work speaks for itself. In fact, I recommend that she look at serving 20 more years. 20 more years of service from the gentlewoman from Florida (Mrs. MEEK) would be a great tribute to Florida and to this great Nation.

Mr. Speaker, the article I referenced above follows:

[From the Miami Herald, Sept. 26, 1999]

REPRESENTATIVE MEEK MAKES 20-YEAR MARK—MIAMI CONGRESSWOMAN DISPLAYS DEFT POLITICAL TOUCH

(By Andrea Robinson)

WASHINGTON.—Though a morning of angry wind and rain has transformed the nation's capital into a virtual ghost town, an intrepid band of Washington luminaries heads toward a meeting room in a basement of the Capitol.

Among the celebrity attendees: House Minority Leader Richard Gephardt, Sen. Bob Graham, Attorney General Janet Reno and U.S. Reps. Charles Rangel and James Clyburn, chairman of the Congressional Black Caucus.

The draw? U.S. Rep. Carrie Meek, D-Miami, who has summoned an obedient cadre of political figures to speak to a group of her visiting constituents. "We're here because Carrie told us to be here," Labor Secretary Alexis Herman says.

This year, Meek marks 20 years of public service, 13 of them in the Florida Legislature. She is the first black Floridian to win a seat in Congress in recent history, a member of the House Appropriations Committee, a four-time congressional winner whose only general-election opponent earned just 11 percent of the vote.

Over the past 12 months, Meek is credited with boosting her district by helping to secure notable federal allocations—$130 million in employment-zone tax incentives; $35 million in housing grants to rebuild public housing; $2.2 million to jump-start a Little Haiti program for troubled children.

But most remarkable, political observers say, has been Meek's ability to play politics in more than one arena. Meek—an unapologetically liberal Democrat—has managed to solidfy her standing not only with members of her own party but with those across the aisle.

"She's got a nice way, but she's no pushover," says Rep. E. Clay Shaw, R-Fort Lauderdale. "She has a velvet glove, but sometimes she can have a fist in it. She's so likable that it's sometimes disarming."

BOLDLY STEPPING FORWARD

Once a neighborhood activist, she has become a power broker.

Carrie Meek has never been timid. When she started in politics, she was audacious.

In the Legislature, Meek regularly intensified floor debates, once threatening to camp out on the doorstep of a colleague who was reluctant to increase funding for Jackson Memorial Hospital.

Back then, if she thought a particular bill needed to be killed, she waved a black flag adorned with a skull and crossbones, declaring the measure needed to be "black flag dead."

"It's now in the nomenclature of the Legislature. They wanted my son to use it," Meek says, referring to state Sen. Kendrick Meek, D-Miami.

Carrie Meek has established a fairly liberal voting record, generally following Democratic endorsements of affirmative action, abortion rights, gun control, and spending on housing and job creation. She has favored increasing the minimum wage, expanding the rights of immigrants, and giving tax credits to small businesses in her district.

Her current causes: Census 2000, which aims to count minorities fully in the upcoming census, and additional research on lupus, the autoimmune disease that claimed her sister.

Meek has sided with Republicans on some matters, such as opposing military defense cuts or foreign-policy adjustments to ease relations with Cuba.

On voting evaluations this year, Meek scored 95 or better with the American Federation of State, County and Municipal Employees, the nation's largest public service employees union, and with Americans for Democratic Action, a group that promotes human rights.

She fared worse with business groups, scoring 28 with the Chamber of Commerce of the United States, and only four with the American Conservative Union, which focuses on foreign-policy, social and budget issues.

At a party Sept. 17, 300 supporters gathered on a Washington rooftop to celebrate Meek's 20-year tenure in politics. The guest list included Miami-Dade Commissioners Betty Ferguson and Dennis Moss, Opa-locka Mayor Alvin Miller and representatives of Washington's black elite.

The woman they toasted had graduated from neighborhood activist to power broker. She is one of 60 members of the House Appropriations Committee, where virtually every spending billion housing, transportation, taxes or juvenile crime—is scrutinized.

Remarkably, Meek won a spot on Appropriations during her freshman year. In that term, she sponsored, and won, a measure providing Social Security retirement for nannies and day laborers. After Hurricane Andrew, she helped to obtain more than $100 million in federal aid for South Florida, and joined the fight to rebuild what had been Homestead Air Force Base.

The past 12 months have brought success and failure.

Meek pushed unsuccessfully for a bill that would employ welfare recipients as census takers. Also stalled is her attempt to increase funding for lupus research.

On the other hand, Meek helped to bring Miami-Dade about $80 million in economic development money this year. And, with the aid of Florida Republican lawmakers such as Rep. Lincoln Diaz/Balart and Sen. Connie Mack, she helped to establish new protections for almost 50,000 Haitian immigrants.

Perhaps the biggest prize was the empowerment-zone designation, which will mean $130 million in tax incentives over 10 years, and millions more in job grants.

Norman Omstein, a policy analyst for the conservative American Enterprise Institute, says Meek has carved out a political niche.

"She's open, frank . . . a nice person who works hard," Ornstein says. "When people say nice things about her, it's not just blowing smoke. She ranges across a series of areas: Cuba, Haitians, housing. What she does is outside the norm."

Rep. John Lewis, D-Ga., says Meek has kept her eye on an important goal: looking out for the people in her district.

"We see showboats and we see tugboats," Lewis says. "She's a tugboat. I never want to be on the side of issues against her."

Carrie Pittman Davis Meek was born in Tallahassee. She is a granddaughter of slaves, the youngest of 12 children and a firsthand witness to the injustices of bigotry.

Though she grew up in the shadow of the Florida Capitol, segregation prevented her from setting foot in state offices. Her father, Willie, one of the great influences in her life, took her onto the Capitol grounds on the only day it was permitted--inauguration day.

"I grew up in a discriminatory society," she says. "I knew what it was like to be treated differently. I wanted to see things changed, and wanted to assist any movement to help with changing it."

Though she graduated with honors in biology and physical education from Florida A&M, her race kept her from medical training at state colleges. She enrolled at the University of Michigan and received a master's degree in public health.

After college, Meek returned to Florida and pursued a career in education, working for 30 years as an instructor at Florida A&M and Bethune-Cookman College, and as an administrator at Miami-Dade Community College.

Her interest in public service was kindled in the late 1960s, when she became the local director of the federally funded Model Cities program. She designed recreation programs for low-income public housing tenants.

"I learned people needed homes, schools, day-care centers," Meek says. "I learned of all these unmet needs in the community."

In 1979, some tenants in those same Miami neighborhoods urged Meek to run for a vacant seat in the Legislature. Meek initially ran into resistance from some of Miami's black political leaders, who favored James Burke, a Democrat who had name recognition because of a previous unsuccessful House race. Now, Burke is on trial in federal court, accused of bribery.

Meek defeated Burke in the primary, trounced Republican Roberto Casas in the general election, and assumed office with a central goal: to champion "little people" causes such as housing, education and equal access.

Over the past 20 years, Meek has achieved milestones: the first black female to serve in the state Senate, the first leader of the state's black caucus, and the first black from Florida in modern history elected to Congress.

Her District 17 stretches through the central part of Miami-Dade, from Carol City to Homestead.

When not in Washington, Meek returns to the house in Liberty City—a few blocks from the Martin Luther King Metrorail station—where she has lived for 35 years.

Divorced twice and living alone, she likes dancing, quiet evenings at home, reading books or playing with Duchess, a great Dane puppy.

HOPES IN LIBERTY CITY

Federal aid for housing shows 'possibilities of what can happen.' It is just after 10:30 a.m. on a recent weekday, and Carrie Meek is riding along Miami's Northwest 27th Avenue. Since a ceremony last month, the street carries her name: Carrie P. Meek Boulevard.

She is headed to the Miami-Dade Housing Agency to join U.S. Housing and Urban Development Secretary Andrew Cuomo for an announcement: a $35 million federal housing award for renovation of the Scott and Carver housing developments in Liberty City.

On three previous attempts, the county missed a shot at the funding. Last year, Meek's staff asked HUD to help the county craft a better application.

Problems are chronic at the housing developments. But with the new money, housing officials intend to start over. Demolition is set for 754 units at Scott Homes and 96 at Carver Homes. In their place, the county will build 382 single-family and townhome units, adding more grass and trees.

The housing agency has great hopes for the project—lower density, reduced poverty, less crime. Meek says the assistance is long overdue.

"It's about the possibilities of what can happen in Liberty City," she says.

COOPERATIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, I rise to speak about cooperatives, but I cannot resist talking about my friend, the gentleman from Florida (Mrs. MEEK).

I did not know the gentlewoman before I came to Congress. I did not have that privilege. But we have become soul mates here, and I certainly want to express my admiration for her constituents, who understand her value and the true quality of the person representing them. I want to commend the newspaper, who also understands quality of service. So I just wanted to add those additional remarks.

Mr. Speaker, I rise to talk about cooperatives and to say this is National Cooperative Week, celebrating the founding of cooperatives and why they are special and why we make this recognition.

Cooperative businesses are special because they are owned by the consumers they serve and because they are guided by a set of principles that reflect the interests of those consumers. More than 100 million people are members of some 47,000 U.S. cooperatives, enabling consumers to secure a wide array of goods and services, such as health care, insurance, housing, food, heating, electricity, credit unions, child care, as well as farming.

Farming community cooperatives indeed have been very important. In the agricultural sector, USDA's Cooperative Services' survey of farmer cooperatives for the year 1995 reported that actually there were more than 4,006 cooperatives in operation. These associations provide a variety of services, from buying, as well as producing, as well as marketing. So they have made a difference.

Cooperatives structured properly can be of great benefit to farmers. They focus on their ability to collectively buy at the most economic rates. They also allow them to sell and to be in an association to market their goods. So cooperatives in the farming community is very, very special, and we want to commend and strengthen their service in the rural community.

Cooperatives are also effective in electric. In my area, I come from rural America, and electric cooperatives have made the difference. They have been in eastern North Carolina from the very beginning. In fact, in the 1940s, it was not very profitable to have electricity in our areas, and they were established in eastern North Carolina, which is sparsely populated, and they have made the difference. They have grown in my district. In fact, I perhaps have more electric cooperatives than anyone else in my State, and they are of value.

In fact, in the recent Hurricane Floyd that we had, it was indeed the cooperatives not only in the State but those cooperatives from out of the State who came to the rescue of the cooperatives who were affected by Floyd. In fact, some 260 electric members were without electricity for a period of time, and there were 700 cooperative linemen of the entire State who engaged in securing the additional support for the rural utility service.

So I want to just commend cooperatives and to say how valuable they have been for the quality of life and the protection of consumers and the value they have meant both in the agricultural community and also in the electrical service area.

Cooperatives structured properly can be of great benefit to farmers. They help focus buying strength for quantity discounts on input and combine a larger volume to get a higher price on output.

From an economic standpoint cooperatives can improve the bottom line and cut out the middleman, they create efficiencies that allow cooperative members to be stock holders and receive rebates.

Cooperatives were born out of the low prices of the 1930's as the farmers' response to dealing with these low prices . . . now as we move towards consolidation and vertical integration farmers cooperatives in general will serve a more vital role than they have in the past.

Cooperatives will continue to hold down prices by creating diversity within the market place.

Electric cooperatives have been these since "the beginning" because they began electric power service in North Carolina. In the 1940s it simply wasn't profitable for established power companies to serve the sparsely-settled areas of eastern North Carolina.

The electric cooperatives have grown with my district. Without stable, reliable electric infrastructure, economic development could not have taken place.

Are they still needed today? Of course, they are. Cooperatives—owned by their customers—have been there when no one else wanted the outlying areas and they are still there, standing shoulder to shoulder with today's businesses ensuring that customers—large and small—can benefit in an ever-changing market environment.

Electric cooperatives are not just cooperatives in name only, they truly stand for "cooperation".

Hurricane Floyd provides an all too timely and graphic example as to the value of electric cooperatives.

While more than 260,000 electric members were without power, the 700 cooperative linemen of the entire state came together to "turn on the lights" in eastern NC. Additionally, 600 electric co-op linemen from 10 states came in to assist. As the cooperatives borrow the Rural Utilities Service, standard engineering and construction facilitate out of state electric cooperative crews coming in to provide much needed hands-on assistance that is vital to restoring power.

Electric cooperatives continue to serve vital functions in the coming new millennium as they did when they were first formed. Rather than constructing and bringing power into kerosene-lit homes, they now will continue to assist consumers through an ever-changing landscape of a restructured electric industry. Through the use of the cooperative model and principles, consumers need to be able to pull together as a electric-buying cooperative in order to create buying leverage in an open marketplace. Consumers can make themselves a powerful force in the marketplace . . . just as cooperatives have been doing for years.

Electric cooperatives are working on models such as this in areas of the country that have begun to open their electric markets.

Cooperatives can also serve consumers by bundling packages of utility services—such as internet, other home heating sources, water and sewer—to provide "one stop" shopping convenience. This is especially true for rural areas that traditionally are left behind when it comes to competitive services.

CO-OPS IMPORTANT TO IOWA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. BOSWELL) is recognized for 5 minutes.

Mr. BOSWELL. Mr. Speaker, I am pleased to be here tonight along with the gentlewoman from North Carolina (Mrs. CLAYTON) and the gentleman from North Dakota (Mr. POMEROY) to honor and appreciate cooperatives across America. It is important to honor and recognize these valuable institutions. America's co-ops, not only during national co-op month but every day because of the importance they play in every community's life.

Years ago, farmers across our State, many years ago, had no place to purchase their inputs or no place to store their grain or to market. They were really at the mercy of a handful of people, and sometimes they could not even get their grain anywhere. Well, co-ops came into existence. They were organized across our State and across the land, and they are very important to our Nation and they are very important to our State of Iowa.

There are 47,000 cooperatives of all types in the U.S., and they serve 120 million in all 50 States. One of every four people in the United States is a member of a co-op. In Iowa, co-ops originate about 75 percent of the grain sold by Iowa farmers. Iowa's rural electric co-ops, which the gentlewoman from North Carolina (Mrs. CLAYTON) mentioned how important they are, they certainly are to me, I have three meters on a co-op line at my farm, serve more than 176,000 farms, homes, and businesses in all of our 99 counties. There are over 220 credit unions in Iowa that have more than 740,000 members. Iowa has 124 cooperative farm organizations that total 322 sites throughout the State. The bottom line is nearly everyone's life in Iowa is touched by a co-op in one way or another.

Cooperative associations can take on different forms within the communities they serve. Certainly they serve as business organizations, but they can also be the lifeblood of the community, providing the backbone and the strength to the residents of the area. Local control and local ownership make co-ops a special kind of business because of the commitment not only to the people they serve but also to the communities in which they exist.

Co-ops can take on many different functions in a community. In rural Iowa, where I am from, the farmer cooperative can be the center of many of the community's actions. I have said for a long time in farm communities today they need at least a minimum of two important things to do business: they have to have a bank and they have to have an elevator. And I would say very often a co-op elevator. Both are very important. They are a must to do business down on the farm.

On the business side, the farmer cooperative can help create a business superstructure for individual farmers or other cooperatives which allow for a more coordinated and efficient farm operation. They supply services and supplies that are essential to the day-to-day running of the operation.

On the personal side, they allow farmers the opportunity to join together to provide inputs in the market, share information, and provide co-op regional support. My local farmer cooperative in Lamoni, Iowa, is part of the reason I am here today in the United States Congress. Back in the 1980s, during the last farm crisis, my neighbors and fellow farmers asked me to serve as the president of their co-op. We worked as a community to keep our people on the farm and to keep our towns and our schools and our churches and our local businesses viable.

Co-op members have always helped each other make it through the tough times by sharing resources and experiences and helping each other work through the problems and struggles associated with crises. I can recall serving on the local co-op board during the farm crisis of the 1980s. It was a tough time, but I was sure glad to have the associates that I had. Now, American agriculture is again faced with a growing crisis, and again cooperatives will be there to lend a helping hand and, in many cases, the glue that holds communities together.

□ 1945

By joining together and marketing their products together, farmers are better able to gain strength they need to compete with the large multinational corporate farming operations that now control much of agriculture.

There are going to be many dramatic success stories coming out of the current agriculture crisis, and once again it is going to be the farmer cooperatives playing a very significant role. Cooperation by whatever means and whatever name you call it, networks or co-ops, is what built our system of family farms in the Midwest, and they may well be the best strategy for preserving it to the greatest degree possible as we meet future farm challenges.

Once again I am pleased to join with the gentlewoman from North Carolina (Mrs. CLAYTON) and the gentleman from North Dakota (Mr. POMEROY) to honor and appreciate the importance of America's co-ops.

Ms. KAPTUR. Mr. Speaker, I offer the following: "I must study politics and war that my sons and daughters may have liberty to study mathematics and philosophy. My sons and daughters ought to study mathematics and philosophy, geography, natural history, naval architecture, navigation, commerce, and agriculture, in order to give their children a right to study painting, poetry, music, architecture, statuary, tapestry, and porcelain."—Letter to Abigail Adams from John Adams [May 12, 1780].

Mr. Speaker, Jamie Whitten, the former chairman of the House Appropriations Committee and chairman of the Agriculture Subcommittee for forty years, said the only real wealth we have is the land. Much like President Adams, he believed that what farmers do provides us with the greatest security in the world—the freedom from hunger so that we are afforded the freedom to undertake other endeavors.

Farmer Cooperatives have been a real source of strength in the 20th century. They provide an opportunity for many small producers to band together to create strength among themselves for themselves. Farmers have been able to purchase supplies and sell product through cooperatives. They have banded together based on commodities or region for the betterment of all.

They also have been a vital source of development in rural areas with telephone and electric power services.

They provide collaborative financing for producers and rural businesses (Farm Credit Services).

There are more than 3,500 cooperatives in the US, with total sales of over $100 billion. They employ nearly 300,000 people, with a payroll of $6.8 billion.

Cooperatives have been storehouses of ideas and innovation. As we see consolidation in the agriculture industry today, co-ops offer farmers the opportunity to vertically integrate and take advantage of profit sharing as a way to keep rural areas and rural families productive, while offering new opportunities for prosperity.

Farmers have been unfairly portrayed as unsophisticated individuals who could easily be fooled by "city slickers". The next time you want to talk with someone who is knowledgeable in cutting edge science, the intricacies of international trade, who is prepared to compete on a global scale, and must depend upon every available tool to stay ahead, you might want to think about Intel and Microsoft. But you would be wrong. The person you need to talk to is the American farmer and his co-op manager. There are no more savvy people like them in the world.

Mr. OBEY. Mr. Speaker, October is Coop Month and I am delighted to join with my colleagues in recognizing the importance of cooperatives to our country.

The cooperative idea is as old as civilization itself. It began with people recognizing that by banding together for their mutual benefit they could achieve much more than they could as individuals.

When we think of co-ops in America we generally think of agricultural organizations who, beginning in the Midwest in the 1860s and 1870s, understood this principal and began to organize around it. Because of the foresight and determination of a number of pioneers in the Grange, founded in 1867, rural Americans began to enjoy the benefits of cooperative stores to serve their members with farm supplies and machinery, groceries and household essentials. Soon, farm commodities from cotton to milk to wheat were being marketed through co-ops.

In the following decades the fortunes of co-ops fluctuated, but by the early decades of the twentieth century co-ops had become the prevailing feature of the farm economy helping farmers not only with supplies and marketing, but with financing, housing and electrification. Today, Rural Electric Co-ops alone operate more than half the electrical lines in America and provide electric power to more than 25 million people in 46 states. In the field of telecommunications, cooperatives have become vital in ensuring that rural residents are not bypassed by the information revolution.

Today, co-ops are a common feature throughout both rural and urban America and throughout all sectors of the economy, while they remain a vital part of the food and agriculture industry. In recent years, cooperative members have been spreading that message abroad to the developing world and to newly-emerging democracies in Eastern Europe. And, with the help of Congress and the federal government, new co-op development is underway here at home through Co-op Development Centers and the Co-op Development Grants Program at the U.S. Department of Agriculture whereby small federal investments are helping to leverage substantial amounts of non-federal support to help start and strengthen businesses, create jobs and build communities.

In 1908, Teddy Roosevelt's Country Life Commission recommended cooperatives as a means to improve economies of scale, strengthen agricultural production and supply and promote infrastructure development. 90 years later, the National Commission on Small Farms called for increased federal investments to support rural cooperative development at the grassroots. While America has changed almost out of all recognition in the intervening years, the cooperative principals upon which much of America's wealth and values is built remain as important as ever.

Mr. Speaker, I am happy to help celebrate Co-op Month and to recognize the vital role that co-ops have played in the development of our nation.

THE IMPORTANCE OF COOPERATIVES

The SPEAKER pro tempore (Mr. WELDON of Florida). Under a previous order of the House, the gentleman from North Dakota (Mr. POMEROY) is recognized for 5 minutes.

Mr. POMEROY. Mr. Speaker, October is National Co-op Month, and throughout the month of October cooperatives, whether agricultural, consumer, electrical or child care, from all over the Nation will celebrate the importance of cooperatives. Across the United States more than 100 million Americans benefited by 48,000 cooperatives that will generate $100 billion annually to our Nation's economy.

Tonight, I would like to highlight the importance of cooperatives to my home State, North Dakota. Throughout their history cooperatives have been a symbol of rural America just like the wind mill, the old country barn, and the four bottom plow. Cooperatives represent the very fiber of American ingenuity and community that have made this country great.

From the first successful cooperative organized in the United States by Benjamin Franklin to the 1990's cooperatives, like housing and baby-sitting cooperatives, cooperatives were created with the belief that individuals joining together in cooperative efforts can best market the product they produce. Cooperatives are associations of people uniting voluntarily to meet their common economic, social, and cultural needs through a jointly owned, democratically controlled organization.

Cooperatives are based on the values of self-help, self-responsibility, democracy, equality, equity, and solidarity. In the tradition of their founders, cooperative members believe the ethical values of honesty, openness, and social responsibility in caring for others.

In the 1920s, the country witnessed the growth of the dairy cooperatives; in the 1930s country grain elevators were created; in the 1940s oil and gas cooperatives; and in the 1950s, electrical and telephone cooperatives were created. Each of these co-ops provided the basic essential, providing quality products for consumers and producers at the most cost-efficient beneficial means. Over the past 20 years cooperatives have entered a new and exciting phase. We have begun to observe a new wave of cooperation such as the North Dakota examples I will speak about tonight.

Specifically in responding to consolidation and concentration in agriculture occurring at an alarming rate, cooperatives have helped provide an avenue for farmers joining together. In North Dakota cooperatives have become, it seems, our State's newest best strategy in bringing to farmers a value-added component of marketing their products. North Dakota is a leader in cooperative development.

All the necessary ingredients are there, the long history of progressive prairie populism, its rural population used to pulling together to meet trying times. Now our heavy dependence on agriculture has made the ability to produce the value-added component to the product very, very important.

Since 1990, nearly $800 million in value-added facilities have been creating 600 new jobs in North Dakota. Some of the examples, the American Sugar Crystal Cooperative, one of the most recognizable cooperatives in North Dakota founded in 1972, and now with literally hundreds of growers, it has been a very, very successful marriage between the grower and the producer through this shared cooperative experience.

The Dakota Pasta Growers, one of the most fascinating cooperatives in North Dakota. The Dakota Pasta Growers, founded in the late 1980s by durum farmers who believed they could pull together and get themselves a better market for their product by actually producing the seminola flour and the pasta products itself; and Dakota pasta has succeeded in the face of many skeptics in Carrington, North Dakota, by hard work, ingenuity and producing a very top quality product. Today they will increase storage capacity from 120,000 to 370,000 bushels doubling milling capacity, all in all an outstanding success.

The North American Bison Cooperative, an excellent example of how farmers can band together to try new products. The prairie bison, now jointly slaughtered in this cooperative slaughtering plant. Five years ago, the co-op got off to a terrific start, and every year its product marketing continues to grow. This past year they slaughtered 8,000 bison in this 5-year-old cooperative, to give you an idea of how things have grown.

Now clearly as we look at the cooperatives in total, the government at all levels has a role in cooperative development and maintenance. It is important they work. They bring economic opportunity to people, and they have as a result different tax statuses, different contracts and, most importantly, nonprofit philosophies.

As a Federal law maker when it comes to cooperatives, I believe it is my role to maintain and preserve the opportunity for development of cooperatives so especially essential to our rural communities.

The 1996 farm bill increased the risk of production agriculture on the family farmer. It is more important than ever therefore to have the farmer be able to pull together and create new economic opportunities in the value-added piece, in the wonderful examples of the North Dakota cooperatives that we have demonstrated.

The development of rural business today is just as vital today as it was 50 or 75 years ago. As I mentioned before, the smaller business owner, the farmer and the rancher is going to continue to be squeezed in the marketplace in light of the concentration that we are seeing; and their best shot at being able to preserve their ongoing place in production agriculture and in the value-added component is by teaming together through the cooperative philosophy, banding together to achieve collectively what it would be impossible for them to achieve individually. That is the miracle of cooperatives.

We certainly are proud to recognize them tonight and wish farmers and others all across the country thinking about how they might achieve a different dimension of success, to urge them to look at the cooperative way. It works as North Dakota examples have shown.

I. OVERVIEW AND BACKGROUND

Mr. Speaker, October is "National Co-op Month." Throughout the month of October, cooperatives—whether agricultural, consumer, electrical, or child care—from all over the nation will celebrate the importance of cooperatives. Across the United States, more than 100 million Americans benefit by 48,000 cooperatives that generate $100 billion annually to our nation's economy.

Tonight, colleagues from across the United States and from all sides of the political spectrum will join me in highlighting the importance of cooperatives to our constituents.

A. HISTORICAL ROOTS

Throughout their history, cooperatives have been a symbol of rural America—just like the windmill, the old country barn, and the four bottom plow. Cooperatives represent the very fiber of American ingenuity and community that have made this country great. From the first successful cooperative organized in the United States by Ben Franklin to 1990's cooperatives like housing and baby sitting cooperatives, cooperatives were created with the belief that individuals joining together in cooperative efforts can best market the product they produce.

Cooperatives are autonomous associations of people uniting voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly owned democratically controlled enterprise. Cooperatives are based on the values of self-help, self-responsibility, democracy, equality, equity, and solidarity. In the tradition of their founders, cooperative members believe the ethical values of honesty, openness, social responsibility and caring for others.

The contemporary cooperative as we know it was created in the 1920's as a reaction to the rapidly growing, unchecked corporate, business climate on Wall Street. Also, in 1922, Congress passed the Capper-Volstead Act which allowed farmers to act together to market their products without being in violation of antitrust laws.

In the 1920's, the country witnessed the growth of the dairy cooperatives, in the 1930's, country grain elevators were created, in the 1940's oil and gas cooperatives, and in the 1950's electrical and telephone cooperatives were created. Each of these cooperatives provided the same basic essential providing quality products for consumers and producers at the most cost-effective, beneficial means.

Over the past 20 years, cooperatives have entered a new and exciting phase. We have begun to observe new wave cooperatives such as the North Dakota examples that I will speak about tonight.

The growth of cooperatives can be compared to the game of football. From their modern-day inception in the 1920's through the 1950's, cooperatives were created in an act of defense. Defense to protect the smaller producers and vulnerable rural communities from the unregulated, massive corporate companies.

Cooperatives have evolved throughout history seeming to continue to be one step ahead of contemporary society by meeting the ever changing needs of consumers.

B. THE IMPACTS OF MARKET CONCENTRATION ON COOPERATIVES

As you all know, concentration is occurring at a very rapid rate in nearly all aspects of our economy. In the past five years, mergers have occurred in the oil, technological, chemical and seed, automobile, and agriculture sectors.

Specifically in agriculture, 4 meat packers control 80 percent of the beef and lamb processing industry compared to 36 percent in 1980, 5 meat packers control 65 percent of the hog industry, four firms control 59 percent of port facilities, 62 percent of flour milling, 74 percent of wet corn milling, and 76 percent of soybean crushing. Moreover, in 1980, the farmer got 37 cents of every dollar consumers spent on food compared to 23 cents in 1997.

Obviously, with market concentration occurring at such a rapid rate in all aspects of our economy, the role of cooperatives as a means to market a product become more important for producers' economic livelihoods.

Cooperatives, as we head into the 21st Century, must be prepared to meet the complex challenges of meeting the diverse needs of the American consumers while at the same time continuing their role of a producer-driven cooperative.

II. THE "NORTH DAKOTA EXPERIMENT"—COOPERATIVES AT THEIR BEST

A. WHY COOPERATIVES ARE WORKING IN NORTH DAKOTA?

In North Dakota, cooperatives have become, it seems, our State's newest obsession. North Dakota is one of the leaders in the nation on cooperative development.

All the necessary ingredients for cooperatives is in North Dakota. North Dakota has a long history or progressive, prairie populism, its rural population does not want to fall victim to corporate greed, and its farmers are tired of receiving low prices for the bountiful products they produce.

North Dakota's heavy dependence on agriculture (nearly 40 percent of the entire state's economy) has made the ability to produce value-added a foremost concern for producers. With producers experiencing extremely low commodity prices in recent years, many have decided to form cooperatives because of their communal marketing advantages to sell the product.

Since 1990, nearly $800 million in value-added facilities creating more than 600 new jobs in North Dakota. Clearly, the cooperative spirit has had an impact in North Dakota.

B. COOPERATIVE EXAMPLES IN NORTH DAKOTA

American Crystal Sugar.—One of the most recognizable cooperatives in North Dakota is American Crystal Sugar in the Red River Valley. The American Crystal Sugar cooperative was formed in the spring of 1972, when sugar beet growers from throughout the Red River Valley decided to purchase the processing facility of American Crystal Sugar Company. With over 70 percent of the vote (1,065 to 443), the Red River Valley Sugar Beet Growers decided to purchase American Crystal and begin what has been a very prosperous 27 year marriage between the grower and the processor.

Dakota Pasta Growers—Carrington, ND.—One of the most fascinating cooperatives North Dakota has seen in recent years is the Dakota Pasta Growers in Carrington, ND. The Dakota Pasta Growers began due to the ideas of local durum wheat farmers in the late 1980's. The durum farmers were tired of the low prices they were receiving for the high quality, unique product (75 percent of the nation's durum is grown in North Dakota) and were not receiving nearly the benefits of their product they felt they deserved.

In 1993, the Dakota Pasta Growers were born. It is the world's first and only grower-owned, fully-integrated pasta manufacturing company with 1,080 drurum producers who serve as the owners. In only four years, the Dakota Pasta Growers doubled its rollstands to 28, increased storage capacity from 120,000 to 370,000 bushels, doubled milling capacity to 20,000 bushels, and increased the size of the plant from 110,000 to 160,000 square feet. Currently, Dakota Pasta Growers producers 470 million pounds of pasta annually with more than 75 shapes and flavors for retail, food service and industrial segments. The Dakota Pasta Growers now has three manufacturing facilities in Carrington, Minneapolis and New Hope, Minnesota .

Clearly, the Dakota Pasta Growers seems to have perfected its very own method of spinning wheat into gold.

North American Bison Cooperative—New Rockford, ND.—The North American Bison Cooperative is an excellent example of a cooperative that is facing a serious at-risk financial situation. The North American Bison Cooperative is an example of how the community cooperative spirit is alive and well, but the complex, intricacies of successfully marketing the cooperative's product have not been met.

Five years ago the bixon cooperative got off to a terrific start. Every year, it has grown every year by selling a substantial amount of bison in Europe. But, that growth has brought new challenges. To meet the growing demand for the steaks and roasts, more bison had to be slaughtered. It was real easy to market all of the meat when you only slaughtered a thousand head a year, but it's very different issue when you've increased your production to more than 8,000 animals.

While this cooperative has had excellent markets for every bison steak and roast, it has extreme difficulty in marketing the other half of the animal that is ground up into burgers. Those trim products built up in the freezer while new products and markets were developed. Yes, the cooperative has developed several products—sausages, jerky, and ravioli—and those products are in a whole lot of stores throughout the Dakotas, Minnesota, and Montana. But that has not been enough. The cooperative has developed a strategic marketing relationship with a private firm in Denver, Colorado. This firm also developed new value-added bison products.

But every new product takes time to develop. Therefore, USDA has had to get involved the past two years to assist in the purchase of bison trim to move the Bison Cooperative's product. Clearly, USDA has recognized that this cooperative needs a financial shove and is willing to ante up to allow the Bison Cooperative to survive in its infant phase.

C. NORTH DAKOTA—MORE THAN JUST AG COOPERATIVES

Even though, North Dakota is a predominantly rural state, it has more than just agriculture cooperatives. North Dakota because of its rural communities has electric, credit unions, housing, and telephone cooperatives to name a few.

III. COOPERATIVES AND THE GOVERNMENT'S ROLE

A. BACKGROUND ON GOVERNMENT'S ROLE

Clearly, the government at all levels has a role in cooperative development and maintenance. Cooperatives serve different functions than corporations or small businesses. They have different tax statuses, different contracts, and most importantly, have non-profit philosophies.

As a federal lawmaker, I believe my role in cooperative development and maintenance is essential—especially in regard to agriculture cooperatives.

As you may know, the 1996 Farm Bill changed the course of agriculture policy in the U.S. for the first time in sixty years (since the New Deal). No longer does the government provide a safety net for producers who have suffered from low prices and severe weather. Instead, the new farm bill leaves it up to the producer, through his own instincts, to market the product he produces. In my opinion, the farm bill has made the occupation of farming similar to rolling dice.

B. COOPERATIVE COMPONENTS OF THE 1996 FARM BILL

The 1996 Farm Bill did include provisions to promote value-added agriculture. It created the Rural Business Cooperative office of the USDA Rural Development Agency. The Rural Business Cooperative's mission is very simple: to enhance the quality of life for all Americans by providing leadership in building competitive businesses and cooperatives that can prosper in the global marketplace.

The Rural Business Cooperative has many methods of providing credit for cooperatives to get started. The Business and Industry (B&I) Guarantee Loan Program helps create jobs and stimulates rural economies by providing financial backing for rural businesses. This program guarantees up to 80 percent of a loan made by a commercial lender. Loan proceeds may be used for working capital, machinery and equipment, buildings and real estate, and certain types of debt refinancing.

The B&I Direct Loan Program provides loans to public entities and private parties who cannot obtain credit from other sources. This type of assistance is available in rural areas.

The 1996 Farm Bill, in my opinion, needs to be reexamined because of its lack of a safety net, but I am a strong support of the efforts for value-added cooperatives.

C. COOPERATIVES AND THE 106TH CONGRESS

It is important to me that Congress maintain its commitment to cooperative development by continuing funding for the Rural Cooperative Development Grant Program within the USDA's Rural Development.

The dollars committed to this program have generated hundreds if not thousands of jobs and brought many producers back from the brink of economic disaster.

It is very clear to me just how important this under funded and little recognized program has been to many of the organizations who have come together as part of the National Network of Centers for Rural Cooperative Development.

IV. COOPERATIVE DEVELOPMENT

A. ABOUT COOPERATIVE DEVELOPMENT

The development of rural businesses today is just as vital as it was 50 or 75 years ago.

As mentioned before, the smaller business owner, farmer, and rancher will continue to be squeezed out of the marketplace by giant corporate conglomerates that are vertically integrated, beholden to Wall Street and its stockholders.

Cooperatives represent the best hope that most rural communities, rural residents, rural business owners, and farmers have for ever hoping to control their destiny.

Cooperatives require commitment and hard work, and I know that they are not always going to succeed.

Of the eight Centers represented in the national network, I was proud to learn that at least half are involved in establishing value-added agricultural cooperatives.

I'm particularly proud of my fellow North Dakotan—Bill Patrie. Bill has established a phenomenal number of value-added cooperatives in our state, and most have been very successful. But, Bill also knows the pain of witnessing a great idea not succeed.

B. MORE PEOPLE WHO ARE COOPERATIVE LEADERS

Andy Ferguson in the Northeast who is breaking new ground to establish energy cooperatives; Rosemary Mahoney and E.G. Nadeau who are building value-added markets for organic products in the Upper Midwest; Gus Townes who is developing new value-added vegetable cooperatives and credit unions in the Southeast; Melbah Smith who is building partnerships with state agencies, universities, and private businesses to help small Mississippi sweet potato growers build a multimillion dollar cooperative enterprise; Annette Pagan who is working with poultry producers and small wood manufacturers in Arkansas; and Mahlon Lang and Karen Spatz who continue to with members of the Hmong in building a cooperative that strengthens their community.

V. CONCLUSION

A. COOPERATIVES AS WE HEAD INTO A NEW MILLENNIUM

There are many challenges facing cooperatives as we head into the 21st Century. Cooperatives will be faced with the struggling challenges of increased competition through market concentration, internal forces urging the cooperative to get bigger, and continuing to meet the producer-owners' interests. And, at the same time, meeting the very diverse needs of American consumers.

Mr. Speaker, October is "National Co-op Month" and it is an excellent opportunity for the American consumer to recognize the importance of cooperatives in "the American way of life."

OUR SCHOOLS ARE TOO BIG AND TOO IMPERSONAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HILL) is recognized for 5 minutes.

Mr. HILL of Indiana. Mr. Speaker, last April, shortly after the terrible tragedy that occurred at Columbine High School in Colorado, I spoke with my freshman colleague from the State of Washington (Mr. BAIRD). My colleague from Washington is a trained psychologist, so I asked him for his thoughts about the Columbine tragedy. Since Mr. BAIRD is a trained psychologist, I was expecting a long academic explanation using lots of psychological terms regular people do not understand. Instead, he had a simple solution, an explanation. He looked at me and said, "Baron, our schools are too big, and these kids do not know one another."

The Columbine tragedy and other recent events of violence in our schools have made all of us take a serious look at our children, our schools, and ourselves. These recent tragedies have forced us to think about how we educate our children and how we can make our schools safer and better.

This is a personal issue for me, for my wife, Betty, is a middle school teacher; and my youngest daughter is in the eighth grade at a public school in my hometown of Seymour, Indiana. I do not believe that there is one easy solution to all of the problems our schools and our children face today, nor do I believe that we politicians in Congress could pass some law that would solve every school's and every child's problem. I strongly believe that the people who work with children every day, the parents, the teachers and local school administrators, are in the best position to make decisions about their schools.

But this week I am introducing a bill that I hope will make some small contribution to addressing a problem that I and other people have been talking about for many years. It is a problem that the recent episodes of school violence in Colorado and Georgia and other places around the country have once again brought to the forefront of our national debate. It is the problem that my colleague Dr. BAIRD was talking about.

Our schools are too big and too impersonal. Too many of our children wake up every day and go to schools that make them feel disconnected and detached from their teachers, their parents and their communities. The goal of my bill that I am introducing, the Smaller Schools Stronger Communities Act, is to make our schools smaller and to help parents, teachers and administrators and students strengthen the sense of community that many of our schools today are lacking.

My strong feelings about this issue come from my own experience growing up in southern Indiana. When I was growing up in Jackson County, there were more high schools than there are today in towns like Tampico and Clear Spring and Cortland. There were high schools that local kids attended and local families supported. These communities were proud of their schools. Their schools brought people together and helped keep their towns strong and vital places to live.

These schools were the hearts of the communities, and when we consolidated, when school consolidation forced their high schools to close, it tore the heart out of these communities. These high schools along with thousands of other smaller schools around America were closed because for many years educators have followed the rule that bigger schools are better. For a long time we all assumed that bigger schools were better because they could offer students more courses, more extracurricular activities, and could save school districts money.

The statistics on school size show how dramatically this bigger-is-better approach has changed the way we educate our children. In 1930 there were 262,000 elementary, middle and high schools in America. Today there are only 88,000 schools. In 1930 the average school had 100 students. Today's average school has 500 students.

Some education experts are now arguing that school consolidation has gone too far. More and more educators today believe that our children do better academically and socially in smaller schools that are closer to their homes and their parents than in the big schools with thousands of students. Because many schools have become too big, they sometimes harm the students they are supposed to be helping. Many students in big schools never develop any meaningful relationships with their teachers and never experienced a sense of belonging in their schools.

When I start looking at the issue of big schools, I was surprised to find that some of the biggest critics of big schools are high school principals. The men and women who run our high schools, who work with our teenagers every day, say that schools are too big and too impersonal. In 1966 the national association of secondary school principals released a report criticizing the bigness of today's high schools. The principals recommended that the high school of the 21st century be much more student centered and personalized.

Here is what the high school principals said: students take more interest in school when they experience a sense of belonging. Some students cope in large impersonal high schools because they have the advantage of external motivation that allows them to transcend the disadvantage of school size. Many others, however, would benefit from a more intimate setting in which their presence could be more readily and repeatedly acknowledged. Experts have found that achievement levels in smaller schools are higher especially among children from disadvantaged backgrounds who need extra help to succeed.

A recent study of academic achievement and school size concluded that high schools and smaller schools perform better in course subjects of reading, math, history, and science. Students in smaller schools also have better attendance records, are less likely to get in fights or join gangs. A principal of a successful small high school recently wrote that small schools offer what metal detectors and guards cannot, the safety and security of being where you are well known by the people who care for you the most.

The bill that I am introducing, the Smaller School Strong Stronger Communities Act provides grants to school districts that want to develop school size reduction strategy. This bill does not introduce a new mandate or try to micromanage local education authority. It simply supports education leaders in school districts who decide they want to implement a plan to reduce the size of their school units either through new building space or through schools within schools.

I hope this bill will encourage local school districts to take a look at this idea and perhaps think about ways they can make their schools smaller and to find ways to help students feel connected again to their schools and their communities and their parents. This bill and the academic research I have been discussing here today make a very simple point about our schools, our kids, and ourselves. Our lives are better when we feel connected to the people we live and work with.

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HEALTH CARE REFORM

The SPEAKER pro tempore (Mr. WELDON of Florida). Under the Speaker's announced policy of January 6, 1999, the gentleman from Missouri (Mr. TALENT) is recognized for 60 minutes as the designee of the majority leader.

Mr. TALENT. Mr. Speaker, I want to talk about health care tonight, and I am going to get into some legislative language. I think it is important that we do that, because we are going to be voting tomorrow and the next day on pieces of legislation that will have as big an impact on the quality of life of the American people as anything that will be voted on this session. And I think sometimes it is important that before we vote on bills, we actually read them and take a look at what they say. I hope that comes clear in the course of my discussion this evening.

Before I get into what may sound to some people, however, like a bit of a law school discourse or exercise, I want to talk about the real impact these bills are going to have on real people.

There is nothing more important to the average American and his or her family than the quality of the health insurance that they have access to.

We need health care reform in this country, and we have to keep in mind that it has two aspects. First and foremost, we have to help people who do not have access to good quality private health insurance get access to that health insurance.

Then the second thing we have to do is ensure once they have access to that insurance, it delivers for them. When they get sick, they get the care their physician says that they need, when they need it, before they become seriously ill or before they die. But it is very important that we make certain that in providing for health care reform and providing for accountability of managed care plans, we do not increase the number of people who do not have health insurance in the first place.

Health care reform of insurance is of no value to you if you do not have the insurance, and too many people in America today do not have health care insurance. Forty-four million people in the United States do not have health insurance. One out of every six Americans is without health insurance. They face the risk of illness, they and their families, without having health insurance.

There is nothing more tragic than talking to individuals in this situation. Maybe they have been downsized by a company, they are working for a small employer who does not provide health insurance, they cannot afford it. Maybe they are 55, 60 years old, retired, but they are not old enough for Medicare. Maybe they have a history of illness and they do not work for a large employer and they cannot buy health insurance on the individual market.

These are our friends and neighbors, and we need to help them. Eleven million of them are children, and 75 percent of the people who are uninsured work for small businesses or own small businesses, or are the dependents of people who work for or own small businesses.

That is the first thing that we need to do with health care reform. We are going to have an opportunity to do that tomorrow. We are going to have an opportunity to pass an accessibility bill that will open up health insurance to millions of people who currently do not have it, and we are going to do that with a number of things in the bill. Some of them provide tax relief to people so they can better afford health insurance on the individual market.

One important provision that I cosponsored allows small employers to pool together in associations, the Chamber of Commerce, the Farm Bureau, the Psychologist Association. They can pool together in an association. The association can sponsor health care plans. Then the small employers can buy those plans for their employees and they can have health care, the same way big employers offer health insurance to their employees today. We are going to have an opportunity to vote on that bill tomorrow.

We are also going to have an opportunity, Mr. Speaker, to vote on the whole issue of accountability, so that, again, when people get health insurance, and that is the number one thing, we ensure that they get the care their physician prescribes when they need it, before they get seriously ill, before they die, and we do that without big government, without increasing costs in a way that increases the number of uninsured. We will have an opportunity to do that also in the next couple of days.

Now, in considering how we can hold HMOs accountable, the problem is this, and most Americans are familiar with it. The concern is maybe less what their insurance covers than the fact that when they get sick, their HMO may not provide the coverage they are supposed to provide. A lot of people have been in that situation. Other people are afraid of being in that situation.

The best thing to do about that is to give individuals and their physicians access to speedy, low cost, internal and external review before independent physicians when the plan has denied their care. So here would be an example, and I am going to use this example several times throughout this discussion, Mr. Speaker.

Let us suppose you belong to a managed care plan or you are a participant in it. You have a heart problem. Your cardiologist recommends beta blockers. That is a drug that will help clear up the arteries if they are blocked. The health care plan says no, you do not need beta blockers. More conservative treatment is appropriate.

We need to make certain that people can have access to external review procedures under those circumstances. They can appeal, in a low cost, quick, timely way, to a panel of independent specialists, cardiologists who are not controlled by the health care plan, and those cardiologists decide whether or not that treatment is medically necessary under those circumstances.

Professionals in any field should be reviewed by other professionals and specialists in that field. We can do that. We are going to have the opportunity to vote for legislation that does that.

It may be appropriate to back that up with liability, limited kinds of liability against the health care plan, to reinforce that external review procedure. So it the plan does not go along with the decision of the independent physicians, they can be sued and they can be hammered with punitive damages under those circumstances.

What we want to avoid, Mr. Speaker, is open-ended liability against employers in particular and against labor unions, in addition to against health care plans, that will jack up the cost of health insurance by billions of dollars, moving that money out of health care and into litigation; moving people out of treatment rooms and into courtrooms.

If we pass a bill that does that, Mr. Speaker, we are going to make the problem worse instead of better, because we are going to vastly increase the number of people in the United States who are uninsured.

It is my concern that the bill being offered by my colleagues, Mr. NORWOOD and Mr. DINGELL, would do exactly that. I say this with the sincerest of respect for their passion and their dedication on this issue, but I am concerned that their bill, the Norwood-Dingell bill, opens up precisely the kind of liability that will jack up the number of uninsured in the country by moving people again out of treatment rooms and into courtrooms.

The Norwood-Dingell liability provision is open-ended liability in hundreds of State courts around the country for any result that someone claims to be negative in a health care case, if that result can be connected in any way to any aspect of the operation of any health plan, with unlimited damages, including punitive damages, for the employer, for a labor union if it is a labor-management plan, and for the employees of the employer and the labor union, and, in fact, for contractors or accountants or people associated with the employer or the labor union if they assisted in any way in setting up the health care plan. Again, it would move billions of dollars out of treatment, out of health care, into litigation. That is not good for anybody.

So much for my preface, Mr. Speaker. I want to get to the language in the Norwood-Dingell bill. It would be kind of hard to read it this way, so let me turn it around.

The Norwood-Dingell bill allows any cause of action, there it is in bold, against any person, it does not define "person," so that means the employer, it means the health care plan, it means employees of the employer or the health care plan, for any personal injury, and they define that to mean a physical injury or a mental injury, so it cannot be an economic injury, but allows a cause of action against any person for any physical injury that is connected to or arises from, in connection with or that arises out of, the provision of insurance, the administrative services, or medical services, or the arrangement thereof.

This is not just a cause of action for the denial of a benefit. It is not just a cause of action when a health care plan goes against the treating physician or the external reviewer. It is much more broadly written than that. It could not be more broadly written. It is a cause of action for any injury arising out of or in connection with in any way the operation or arrangement of a health care plan.

Now, Mr. Speaker, I am a lawyer. When I read this language, I put my lawyer's hat on and I thought, now, what kind of lawsuits are we going to see in response to that kind of language?

Well, just a couple of what we lawyers call hypotheticals. They are hypotheticals in the sense that they have not actually happened because we have not actually passed this bill, but they are the kinds of cases that will be brought if we do pass this bill.

First the classic case. Let me go back to my beta blocker example. When physicians treat clogged arteries, they have to choose whether to use beta blockers, which is a drug or a cardiac cath, a minor surgery or some more aggressive kinds of surgery or treatment.

So, let us suppose that somebody goes to their cardiologist in a managed care plan, and the cardiologist decides to grant a cardiac cath, to prescribe a cardiac cath, and the plan reviews that decision by the treating physician and denies the cardiac cath and, as a result, some kind of injury arises.

Well, that is a physical injury arising out of the provision of medical services, so clearly a cause of action would be warranted. But let us suppose that the plan grants the treating physician's decision and allows the cardiac cath and an injury results. That too is a physical injury in connection with or arising out of the operation of a health plan and you can sue the health care plan for that.

Or let us assume the health care plan says look, we do not even want to review this. We are going to let the physicians prescribe whatever they want, and go along with that, and a bad result occurs. Then you could sue the plan for not reviewing what the physician does, and that would be a physical injury arising out of or in connection with the arrangement of a health care plan and a cause of action would lie under the Norwood-Dingell bill.

That cause of action, remember, is against any person. Not just the plan, but the employer who purchased the plan, the restaurant owner, the small restaurant owner who went out and decided he was going to try to provide health insurance to his people and linked up with a managed care network, or a big employer with a big HR department and tries to operate these plans in a conscientious way. You could sue them. You could sue the employees of the big employer who helped set up the plan. You could sue a contractor or consultant that you relied on. All of these people would be open to lawsuits for punitive damages in State courts around the country.

That is a pretty obvious case. Let us take a different case, again with the beta blocker example. Let us suppose that a plan has a quality assurance plan. Many managed care plans do. So they go out and they try to make sure their physicians are up-to-date in all the latest kinds of medical developments. So they go out and give seminars on when you use beta blockers and when you use a cardiac cath or more kinds of aggressive treatment, and the physicians go to these seminars.

Then a patient is going to one of these physicians, and the physician recommends beta blockers in a particular case and you get a bad result or what somebody alleges is a bad result or a physical injury. Now you can sue the plan because they were not aggressive enough in recommending cardiac caths.

But let us suppose the physician recommends the cardiac cath. Now you could sue the plan because in the way it operated its quality assurance plan they were not aggressive enough in recommending beta blockers. Or if they did not have a quality insurance plan you could sue them for that. Or if they did not have enough seminars in their quality assurance plan, you could sue them for that. Or if they did not require that the physicians attend all the seminars, you could sue them for that. And what would constitute an adequately and properly run quality assurance plan would be determined in State courts in jurisdictions all around this country, even though many of these plans are national plans.

So what a plan that was hired by a big employer would have to do with regard to quality assurance plans would differ from one circuit court in one State to another circuit court in another State. And if they got it wrong, if a jury believed they got it wrong, they would be open to unlimited damages, including punitive damages, and you could sue the employer and the employer's employee as well, although I will get to that language in a minute.

Let me give one more example, and I could give hypotheticals with my lawyer's hat on all night long. Let us assume a situation where somebody is having some heart pain or chest pain. They belong to a managed care network. They try and make an appointment with the cardiologist. They do not get in for a week or so, and, as a result, their condition worsens.

Now they say well, you do not have enough cardiologists who are close enough to me so I could get an appointment. So, again, you sue the plan. You say you have to have more cardiologists than this within a certain number of miles from me, and all the other plan participants as well.

Again you have the same kind of lawsuit, and again you have the standards for what is quality care being determined for national plans in State courts after the fact in jury deliberations in circuit courts all around this country. If you get it wrong, why, you owe punitive damages.

By the way, you can, of course, sue the people who consulted with you in determining how much cardiologists you had to have and the employees you hired to determine how many cardiologists you had to have, and all resulting in billions of dollars being transferred out of the health care system, out of the treatment room, into the court room.

Moreover, Mr. Speaker, not only would the plan and the employer in these circumstances be subject to punitive damages, they would not be able to avail themselves of any malpractice limits that had been passed in State statutes, because these actions are not for malpractice, these are actions for negligence or whatever the State statute provided in the operation of the health care plan.

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So it would not sound, as we lawyers call it, it would not arise out of a malpractice action. Therefore, you would not be allowed the limits that you would have in a malpractice action.

Let us go to the liability of the employer under these circumstances. I want to say, the bill contains, in a different provision, and I did not have it all here, a shield for employers from lawsuits. So the bill does have a defense. It says you cannot sue employers, except in certain circumstances.

These are the circumstances under which you can sue the employer or other plan sponsor, and that, of course, would include labor unions, in the event of a labor-management plan. You can sue the employer or the labor union for the exercise of discretionary authority to make a decision on a claim for benefits; not deny a claim for benefits, but whenever the employer or the labor union makes a decision on a claim for benefits.

So let us go back to the first hypothetical and put a lawyer's hat back on again. The case was where the question was whether the cardiologist would recommend beta blockers or whether the cardiologist would recommend a cardiac cath or some more aggressive treatment.

If the employer exercises his discretionary authority to deny the care recommended by the cardiologist, he has obviously made a decision on claim for benefits on the exercise of his discretionary authority, and if injury results, the employer would be open to lawsuits.

Remember, this includes small employers, not just big employers. It does include the big employers, the big national plans, whose employees by and large are satisfied with their health care.

Suppose the employer grants or sustains the benefits and a bad result occurs. Now you can sue the employer saying, you were negligent in the exercise of your discretionary authority in sustaining the benefits. You should have overruled them.

But let us say the employer says, I do not want to get in this kind of liability. I am not going to do anything. I am not going to be involved in this process.

In the first place, they could be liable under ERISA. Under ERISA, the basic network of laws under which all this operates, the plan sponsor is supposed to be a fiduciary. They are supposed to operate the trust for the benefit of the participants.

If you explicitly refuse to exercise your discretionary authority on behalf of the participants, you have violated ERISA. But if you say, I am not going to exercise my discretionary authority, I am going to let the plan do everything, Mr. Speaker, you have exercised your discretionary authority not to exercise your discretionary authority, and you could be sued for that.

If I was counsel for the employer, I would say that is the most dangerous thing of all, because when you get before a jury, and I am going to bring this home to real life and real lawsuits in just a minute, when you get before a jury, you are going to have to explain to the jury why you did not care enough to try and oversee in any way the operation of your health care plan when somebody was injured as a result of that.

That kind of lawsuit is the least in the liability that the employer faces. And remember, there are punitive damages for this. There is no shield in this bill for the employer against punitive damages under any circumstances. Remember, you could sue the employees of the employer or the labor union under these circumstances.

I think you might be able to defeat this defense in other ways. Again, I don't want to get too exotic here with my hypotheticals, but I think you could say if an employer hires a health care plan and does not engage in adequate due diligence, does not look into enough whether that health care plan was a good plan, maybe willfully neglects doing that, that is the exercise of the discretionary authority to hire a bad plan when you should have known it was a bad plan, and you should have known it would result in affecting decisions made on claims of benefits, and as a result, the entire shield is removed.

Those are the kinds of hard cases when there is a serious injury to somebody that makes bad law. Those will be pushed in every courtroom in the country.

Let me go over again, and I am going to wrap this up in a minute, Mr. Speaker, but let me go over again what we are talking about here, and the dangers that we are talking about: again, openended liability for employers, labor unions, health care plans, their employees, contractors, associations, for any physical injury that arises or is connected in any way with the operation or administration of any health care plan.

This is going to result in billions of dollars being spent in litigation, in avoiding litigation, in settling litigation that is not going to go to health care. It is going to result in a diminution, a lessening, Mr. Speaker, of benefits for individuals who have insurance, and a vast increase in the number of people who do not.

The final points. Again, the Norwood-Dingell bill does not define "person." So again, anybody can be sued: the health care plan, the employer, any of their employees. Employers are going to have to have directors and officers liability insurance for their employees who run human resources operations. They are going to have to have insurance on their employees, in order to get health insurance for the employees.

Winning is not everything. This is very important to understand. If I am a lawyer and I am representing somebody who has been hurt, and I do not criticize lawyers in saying this, they have an absolute obligation to zealously represent their client in an attempt to recover whatever they can recover for them if they have been physically injured. You are going to sue everybody. You are going to name everybody, including the employer.

Now, this defense is what we lawyers call an affirmative defense. So you are going to be sued in State court, you are going to raise this affirmative defense in the answer. When you file your original papers, you going to say, no, I was not exercising my discretionary authority, so under Federal law you cannot sue me.

Okay, immediately what is called the interrogatories go out. Immediately they ask you for every document relating to how you developed your health care plan or how you were involved in this particular decision. After that they begin the depositions. They will depose whoever it was, anybody who was involved in any way or should have been involved with choosing the health care plan. Meanwhile, of course, the legal bills are adding up, because of course you are having your lawyers write memos to try and determine what exactly this means, because these terms in here are not defined, so thousands and thousands and thousands of dollars in legal fees are adding up.

Then after the interrogatories and after the depositions, you file what is called a motion for summary judgment. In other words, you say to the court, look, it is evident from the information we have gathered so far that you cannot sue me under this bill. Now you are up to $40,000, $50,000, spent in legal fees, even if there is not a basis for claiming that you exercised your discretionary authority to make a decision on benefits.

How is anybody going to know, because this is entirely new law? We are making it up in this bill. Many of these terms are undefined. Then, if you lose at that point, and very often a judge will exercise his discretion not to grant a motion for summary judgment and let the case go to a jury, now you are before a jury, and a jury is making a judgment about whether you exercised discretionary authority. So this legal term here, this aspect of Federal law, is going to be defined by juries all over the country.

Mr. Speaker, I talked to some people who came into my office who owned restaurants. I am the chairman of the Committee on Small Business, so I talk a lot to small business people. Small business people by and large want good employees, so they want to shape compensation packages to get good employees. They are by and large very distressed that they usually cannot offer as good health care as the big employers can because they cannot fashion big pools.

I asked them what would happen, what they would do if they were faced with this kind of liability. These were restaurant owners. The restaurant business is a business where many people who work in that business do not have health insurance. Many restaurant owners do not offer health insurance. I asked them what they do. They said, we will drop the health insurance. We cannot open ourselves to this kind of liability. These are not wealthy people.

If we talk to people who run big companies, who want their health plans to be good so people are satisfied because they have to compete for good employees, what are they going to do when their costs start going up? I hope none of them drop their coverage. At least the cost of the coverage is going to have to go up. They are going to have to reduce the number of benefits. They are going to have to increase the number of employees. They are going to have to pass along costs to their employees, and they are going to have access to poorer quality health insurance.

That is unprecedented liability for employers. I just reviewed that. External review is useless. The Norwood-Dingell bill requires resort to external review in the event of a denial of a claim. Well, most of the actions I have just talked about do not involve denying a claim, so the external review that I talked about in the beginning that is the answer to the problem of accountability would not even be available. We cannot go to external review on the issue of whether a quality assurance plan was adequate or not.

Also, the bill permits people to avoid external review when there is injury suffered before the external review panel can meet. So if the heart condition gets worse in the week while you are waiting for external review, you can get around it and you can sue.

We ought not to be getting people out of external review. That is the right answer. We ought to be encouraging people to go into external review so that physicians are reviewing the decisions of physicians, not juries or courtrooms reviewing the decisions of physicians.

Finally, Mr. Speaker, the liability provisions in the Norwood-Dingell bill would apply to private sector employees, but would not apply to Federal employees. They would not apply to Congressmen. This is a liability provision which is supposedly good for people, but once again, Congress would exempt itself from the operation of this procedure.

Now, I have talked with some Members today. They indicated to me that, no, they thought well, maybe you could not sue if you were a Federal employee. Maybe today you could not sue the Federal Government, and right there you have a difference, because the Norwood-Dingell bill allows you to sue employers. Under current law, you cannot sue the Federal Government.

But they have told me, but you can at least sue the health care plan or the carrier with whom the Federal Government contracts. So they say, well, no, the Federal employees are excluded from the Norwood-Dingell bill. That is true, but that is because they can already sue their health plans or their health carriers.

Here is what title V, section 890 107(C) of the Federal regulations say with regard to actions by employees of the Federal Government.

It says, "A legal action to review final action by the OPM," the Office of Personnel Management, and you must go first to the Office of Personnel Management if you have a claim, "involving such denial of health benefits must be brought against OPM and not against the carrier or the carrier's subcontractors. The recovery in such a suit shall be limited to a court order directing OPM to require the carrier to pay the amount of benefits in dispute."

So under current law, which would not be changed by the Norwood-Dingell bill, Federal employees cannot sue their carriers, Federal employees cannot sue the Federal Government, but under this provision, employers, private employers, would be subject to actions.

Mr. Speaker, this does not have to be all or nothing at all. We do not have to go on with the current system, where people have rights, supposedly, under health care contracts, but no effective way of enforcing those rights. We can have accountability. We can do it through tightly-written, low-cost, easily accessible external review procedures where physicians are reviewing the decisions of other physicians. We can back that up with liability, in cases where the external review process is ignored or where it is fraudulent or where it is frustrated.

The least we need to do with the Norwood-Dingell bill is to make clear that liability against the employer is strictly limited to cases where the employer directly participated in the denial of benefits. We need to make clear that punitive damages are strictly limited or not allowed. We need to require exhaustion of external review.

We need to be certain that where we allow quality of care actions, we make clear in the law what quality of care is, so that people know what the law is and can set up their health care plans accordingly, and we do not have that judgment being made in State courts around the country.

The reason, again, is because all of this makes a difference to real people who are really confronted with illness and the threat of illness. There are too many people in the United States today, Mr. Speaker, who do not have health insurance, and most of them do not have health insurance because it costs too much. Every time we increase the cost of health insurance, it means more and more people are not covered. Patient protections do not help you if you do not have insurance.

We have the chance in the next couple of days to pass good bills to increase accessibility, to increase the availability of private health insurance to people who do not have it, good private health insurance to these employees of small employers. We have the chance to hold HMOs accountable to get people in treatment rooms where they ought to be, not at home ill and untreated, and not in courtrooms afterwards, after they become seriously ill.

We can do these things. We have that opportunity. I want to close by saying that I welcome the fact that the bills have come this far. There are many competing factions in this House, and it is because of the passion and the energy of those factions that we have a bill and we have the opportunity to vote on it.

I have been working intensively on this for 2 years. I have wanted to see this day come. I am glad we have this opportunity. But let us not do something that will hurt the very people that we are trying to help. Let us not punish the employers and the small employers in this country and their employees by driving up the cost of health insurance to them in a way that is not necessary to ensure the kind of accountability that we all seek in the health care system.

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GENERAL LEAVE

Mr. GREEN of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of the special order by the gentleman from Iowa (Mr. BOSWELL).

The SPEAKER pro tempore (Mr. WELDON of Florida). Is there objection to the request of the gentleman from Texas?

There was no objection.

TEXAS' EXPERIENCE WITH MANAGED CARE REFORM: A MODEL FOR THE NATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Texas (Mr. GREEN) is recognized for 60 minutes as the designee of the minority leader.

Mr. Speaker, I want to thank you and also thank our minority leader for allowing me to have this second hour tonight and follow the gentleman from Missouri. Obviously, I agree with the gentleman from Missouri (Mr. TALENT) because Missouri has been the "Show Me State" all of my life, and for the next hour from Texas we are going to show him why he is wrong in his statements.

Mr. Speaker, I would like to first talk about that in the last 2 years in Texas we have had basically the same law that we are trying to pass here tomorrow and Thursday, and the examples offered by the gentleman from Missouri just do not hold water, at least they have not in the State of Texas.

First a little background. Before I was elected to Congress, I actually helped manage a small business in Houston, a printing business. One of my jobs in that business was to shop for our insurance and to make sure our 13 or so employees had adequate coverage, because our company was under a union contract and we could buy it from the union benefit plan or buy on our own if it was either equivalent or better, and so we did that.

And having experience of shopping for a number of years for insurance as both a manager and one who had to make sure we also paid the bills at the end of the week so we could afford it, I bring that kind of experience of a small business, even though I do not serve on the committee.

The other thing I would like to mention, the gentleman talked a great deal of time about threats of suits for employers, and it is not in the intention of myself or the sponsors of the Norwood-Dingell bill that employers will be responsible unless they make those medical decisions. I have offered in my own district and even here in Washington to the National Association of Manufacturers, give me the language and we will sponsor it as an amendment to make sure that employers are not held liable unless they are putting themselves in the place of a health care provider or health care decision-maker. That is saying to their employees, No you cannot do this or you cannot do that.

Again, having been a manager, I know that sometimes employers and businesses can afford a Cadillac plan that pays for a lot. Sometimes they can only afford a Chevy plan that does not pay as much. But just so they are getting what they are paying for, for their employees; and that is what I think the managed care reform and HMO reform issue is about and it has been about for the last 2 years.

Let me follow up too, the gentleman had mentioned that this bill does not cover Federal employees. Well, right now as a Federal employee or as a State government employee, we have the right to sue our insurance company. We have the right under our plan. All we are trying to do with this bill is to provide to all the other Americans some of the same rights as Members of Congress have. And also it covers the Federal insurance plans, whether it be BlueCross or whatever other plans, because there are so many of them that the consumer would have the right to go to the courthouse ultimately.

So there was a lot of things the gentleman said during his time; and hopefully during the next hour we will hear a lot of folks who have real-life experiences from the State of Texas, because we have had a Patients' Bill of Rights under State law for over 2 years, and it only covers insurance policies that are licensed by the State of Texas.

That is why we have to pass something on the Federal level, because 60 percent of the insurance policies in the district I represent come under ERISA, come under Federal law. Even though the State of Texas 2 years ago passed these very same protections, we have to do it on the Federal level to cover the citizens of Texas who do not come under the State insurance policy.

In fact, this next hour hopefully we will have a lot of folks, and people who like to hear Texas accents will hear them for the next hour, because we will talk about the Texas experience with a little bit of help from some of our Texas colleagues and some from other parts of the country.

Mr. Speaker, let me address some of the issues. The insurance industry and managed care organizations and HMOs have been repeatedly trying to scare the American people saying the bill that we are going to vote on, the Norwood-Dingell bill, would dramatically raise premiums and force employers to drop health insurance. I even heard one of the special interest groups say that this number would be as high as 40 percent.

Mr. Speaker, once they have spread all of this inaccurate information, let me give the experience that not only we have in Texas but also from the Congressional Budget Office. The Congressional Budget Office is a nonpartisan agency. They analyzed the Patients' Bill of Rights and said that the best they could determine, that the cost to the beneficiaries under the Patients' Bill of Rights may cost $2 a month. That is less than the cost of a Happy Meal to provide fairness and protection and accountability.

But in the State of Texas, even if one does not agree with the Congressional Budget Office, and sometimes I disagree with their estimates, we need to look at real-life experience for the last 2 years in Texas. Again, Texas passed this same legislation in 1997, and it became effective in September of 1997; and so we have had over 2 years of experience.

In Texas the patient protections included a consensus HMO reform bill that had external appeals and also the accountability issue, the liability. And over the first 2 years there has been no significant increase in premiums. In fact, the analysis shows that the first quarter of 1999, premiums in Dallas and Houston have increased about half the national average.

And we know there are lots of things that go into increases in premiums, particularly with HMOs because of some of the problems they have now. They tried to expand so rapidly, and now they are having to contract and they are also increasing their premiums; but they are doing it around the country.

So in Texas we have not seen any increase in 2 years in health insurance premiums attributable to the Patients' Bill of Rights. In some cases it is attributable to the increased cost for prescription medication or for other reasons. Health care costs in Texas have increased 4 percent in the first quarter compared to 8 percent in the rest of the country. These estimates are based on reality provided by the Texas Medical Association, and it is more than a theoretical study that should be our guide for the HMO debate.

Moreover, beyond the slim cost of the increase, there has been no exodus by employers to drop health insurance coverage, nor has there been any exodus by patients to go to a courthouse.

Mr. Speaker, in an earlier life I was licensed to practice law, and I have to admit we do not have any shortage of plaintiff's lawyers in Texas who will go to court if they have that opportunity. But, again, in the 2 years we have had it, we have not seen more than four suits, and I will talk about that later in the hour if we get to it. But four lawsuits in Texas. Although we have a fifth one that may be out there, but one of them was by one of the insurance companies challenging the law.

So what Texas residents have is health care protections that they needed, and they are enjoying them now; and as Members of Congress we owe the duty to provide those same protections on a nationwide basis. Unfortunately, instead of recognizing the affordability and value of the consensus bill tomorrow, the Norwood-Dingell bill, our Republican leadership seems poised to repeat last year's actions and come up with imitation bills, and we will talk about those over the next hour also.

But I see my colleague, the gentleman from San Antonio, Texas (Mr. RODRIGUEZ). Before he came to Washington, he served in the Texas legislature for a number of years. He knows it is not easy to pass major legislation there unless it is consensus. In fact, the gentleman was in the State legislature in 1997 when Texas passed that law, and I yield to my colleague from San Antonio.

Mr. RODRIGUEZ. Mr. Speaker, as a State representative from Texas I know the situation well, and we in Texas are known for the blue bonnets, the Texas barbecue and the champion San Antonio Spurs, the beautiful Rio Grande; but we are also known for the changes that we have made in managed care reform.

Two years ago, Texas was fortunate to have the foresight to enact and implement its own managed care reform. The days and nights prior to that passage are very similar to tonight and this week here in the U.S. Congress where the discussions are over one side that says that health care costs are going to skyrocket and the other side, the good side, saying that we cannot compromise the health care even at the expense of losing one individual for the almighty dollar.

I am of the thinking that health care should not be about compromising anyone's life, but rather about health care and promotion and education.

Two major issues that have helped address the health care concerns of consumers in Texas are the external review process and the ability to hold an HMO liable through a lawsuit. Through the external review process, hundreds of individuals in Texas have the opportunity to have their cases heard by an outside party. The decisions are made by the doctors chosen by an independent medical foundation. The doctors review the cases and render a decision based on that information.

The best part of it is that it is done in a timely manner. In Texas we take pride in that we mandate the review to occur within 14 days and in cases of life or death, for them to move within 3 days in making those life-threatening decisions.

What is even better is that what the doctor says goes. It is not the way we have it right now where an accountant or an insurance person is the one dictating what should happen versus what the doctor is saying.

Nearly 600 cases have been handled in this manner through the external and internal review in Texas and guess what? Half of them have been ruled on behalf of the patients. So it has gone 50-50. So we feel it has been a very fair system that has been working.

For the States that are not fortunate to have this law, I believe that we need to pass Federal legislation here on the Federal level that will ensure that all Americans, not just Texans, have that opportunity to have a due process.

A testament to the fact that the Texas' system works is evidenced through the story that was told in an article by the U.S. News and World Report in March. The story is about a young boy, little Travis, who had a medical condition that came from the fact that he had difficulty breathing. And I was hearing the comments by the previous gentleman out here talking about the external review process being useless. The gentleman should tell that to little Travis. That was the difference between life and death.

Because of his condition, his doctor asked the HMO to authorize an on-duty nurse. Hard to believe, but the HMO later refused to pay for that nurse. An internal review of the case by the HMO doctor ended up upholding the HMO decision, so the first internal review they sided with the HMO. But thank God the next step was the external review. An outside doctor reviewed the case and found that little Travis was, indeed, entitled to that nursing care. And this is a case with the HMO playing with a little boy's life and it is a serious situation.

Mr. Speaker, thank God he lived in Texas. Each time he stopped breathing, he and his parents knew that he was within moments of suffocating. Having a nurse on hand part-time provided the necessary care for little Travis who needed it when his parents were not around. The external review process works for many, but for those that do not have that access, it cannot work. We have got to assure that those individuals have access to that opportunity.

For the positive happening for little Travis's case, it is great. But there are too many out there who still suffer under those situations.

I would also like to mention that I believe that the ability to sue HMOs in Texas, there was a lot of talk about the fact that there was going to be a lot of lawsuits and that everyone was going to be sue happy. This is not the case, and we have had it there over 2 years. So the reality is, and I will challenge my colleagues, do not be fearful. It is not going to happen. In the State of Texas only five lawsuits have been filed. Think about it. It is a State of 4 million individuals that are in managed care with only five lawsuits that have been filed.

Members can say what they will about managed care reform, but in Texas it has been working. It is alive and well and serving the best interests of those individuals under managed care.

Mr. Speaker, I want to also just congratulate my fellow colleagues and I yield to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, before my colleague leaves, and I appreciate the gentleman being here, let me give some updated information on the appeals process in Texas. As of August of 1999, during the month of August there were only 23 requests for the independent review. But from November 1 of 1997 to the present, the total requests were 626 appeals in those 2 years. 610 of them were completed. The number they upheld was 47. The number of overturned was 46. And partially overturned was 42. So what we are seeing is about 50-50 for the external appeals process.

Again, they are not clogging up the process, but what they are doing is making sure people have a right to go outside and ask for an appeals process. They do not really want to go to court in Texas. The 2 years we have had that there have been so few lawsuits, but we have had a lot of appeals and people are getting the health care that they need and these appeals are being done quick. They ask for them, and they can complete them almost within that 30 days.

□ 2045

So instead of waiting for 2 years to get to the courthouse, they are actually able to get that health care that they need. That is what is so important.

Again, in the last 2 years since November, a little less than 2 years because the actual appeals process went into effect November 1 of 1997, again half the decisions are in favor of the insurance company, and about a little over half are in favor of the patient.

So what that means is that I feel much more comfortable as a patient that, instead of the chance of a flip of the coin, that we have a better percentage of upholding HMO's decisions or managed care decisions if they had it. But they are losing about half of them in Texas, actually a little more than half.

So that is why it is so important that we pass on a national level a real strong external review process backed up by the accountability.

The reason we do not have the lawsuits in Texas and what is estimated by the people at home is that we have a good, tough external review process where people get their case heard, they get their health care; or they lay out their case, and they do not receive their health care because they are not entitled to it.

It is tough to go to court after one has been through that external review process and find out that one really does not have enough that even an independent review does not do it.

What worries me is that the Republican leadership this year, with what we are going to do tomorrow, there is going to be a number of other plans that will be considered, every one of them is found lacking in what we need to do.

It is so important that we adopt the Norwood-Dingell bill, it is a consensus bill, a bipartisan bill, and attack or defeat the poison pills that are really there just to cloud the issue and not provide the health care that we need.

Let me talk a little bit about the concern about one of the amendments to move these suits to Federal court. Again, in Texas, they go to State court. Again, having practiced law, I do not have a lot of Federal experience in Federal courts, but there was a reason for that. I would much rather go before judges that are elected than judges on the Federal level.

My worry is, if we move these cases to Federal court, that they will be there for years and years and years. If they have to go to court, one needs to go the quickest one can if one has to.

In Texas, we have not had but three or four cases, maybe five at the most, in 2 years. That is why moving to Federal court in one of the amendments tomorrow would be wrong. It would actually be against the patients ability to have justice.

Mr. Speaker, I yield to the gentleman from East Texas (Mr. TURNER). Again, the gentleman from Texas (Mr. TURNER) served as a State representative in

Texas, State Senator, in fact was a State Senator in 1995 when the first Patients' Bill of Rights was passed by the legislature and vetoed by the Governor at that time. But in 1997, he let it become law without his signature. I am glad Governor Bush did that in 1997 and saw the error of his ways.

Mr. TURNER. Mr. Speaker, all three of the Texans here tonight served in the legislature, and we all have fought for this issue in our State legislature, and that is one of the reasons we feel so strongly about the fact that the protections that we have provided in law for all Texans should be protections that every American enjoys.

I am glad to see the gentleman from Iowa (Mr. GANSKE) here tonight who is a medical doctor who has fought hard on the Republican side to help pass the Norwood-Dingell bill, also referred to as the Bipartisan Consensus Managed Care Improvement Act, which I think aptly describes the bill that we are trying to pass because it has been crafted with bipartisan support.

It has been worked on for many, many months. Those who have worked on it have been responsive to any concern that has been expressed about it. We are convinced that it is the right bill, and this is the right time to pass these protections for all Americans.

As the gentleman from Texas (Mr. GREEN) mentioned, I was in the Texas Senate in 1995 when the Texas legislature passed the first patient protection legislation in the country. That bill, unfortunately, was vetoed by Governor Bush.

The legislature came back in Texas in 1997 and passed similar legislation once again, broke it down into four separate bills. Three of those bills were signed by the Governor. The fourth he allowed to become law without his signature.

Unfortunately, when we passed the bill the first time in 1995, even though we passed it with overwhelming support, over 90 percent of the members of each house voting in favor, we passed it at the end of the session, and the Governor was able to veto it without an opportunity to overturn the veto.

But we are here tonight to try to provide the same kind of protections for all Americans that we provided for Texans in 1997.

When we passed that bill in 1995 and again in 1997, we had no idea that it would not apply to all Texans. But an insurance company went to court shortly after we passed our legislation and it had become law, and the courts ruled that a Federal law preempted our State law, and that all insurance plans covered by the ERISA law that the gentleman from Texas (Mr. GREEN) referred to at Federal law meant that those protections that we had provided in our State legislature did not apply to all of those plans that were multi-State plans covered under the Federal ERISA law.

So we have a very awkward situation all across the country today because State after State after State have passed patient protection legislation to protect their patients. Yet, we find there is a Federal law standing in the way that has basically meant that about 40 percent of all the folks that are insured in this country under managed care are not covered by the basic patient protections that their State legislatures have passed over the last 2 and 3 years.

So the Norwood-Dingell bill is designed to change that, to be sure that all people enrolled in managed care plans have the same protections that we believe are just common sense.

Things like ensuring that a patient can go to the nearest emergency room when he has an emergency. Rights like being able to go to the doctor in your own town rather than going to a doctor in an adjoining community. Rights like having access to go to a specialist when one needs one when one's doctor says he wants to refer one to a specialist. Basic rights like not being forced to change doctors and hospitals right in the middle of one's treatment just because one's employer happens to change their managed care company. Basic protections like making sure that medical decisions are made by doctors, not by insurance company clerks.

These are the basic protections that we provided in Texas in 1997, and these are the basic protections that we want to provide for all patients across the United States in the Norwood-Dingell bill.

One of the things that always amazes me, we faced it in 1995 in Texas, we faced it in 1997 in Texas, and now we are facing it here in Washington in 1999, with the managed care companies saying that the sky is going to fall if we pass this legislation. They are claiming that health care costs are going to go up.

They had even gotten the folks who carry their insurance for the employers and the business community all worked up and speaking out against this bill because they think the cost of insuring their employees is going to go up.

As the gentleman from Texas (Mr. GREEN) pointed out, the Congressional Budget Office says the cost of this legislation would be less than $2 a month per patient. Very small cost in my judgment to protect patients.

When it comes right down to it, business people in this country care very much about their employees and their employees health care. I think most businessmen and women understand that, when they sign up with an insurance company to provide health insurance for their employees, they want a plan that is going to take care of those employees.

Right now, we have a situation where these basic protections are not guaranteed, and some managed care companies, I understand, today, are already providing these, but many are not.

I really think it would be a lot easier for the average businessman or woman in selecting health insurance for their employees to know that every plan, no matter what proposal is laid on their desk, and no matter what price is offered to them for coverage of their employees, that they know these very basic common sense protections are in every plan.

Right now, I think health care is in turmoil in this country. Doctors are not happy, having to make ten and twenty phone calls to a managed care company just to get something approved that they know their patient needs.

I have talked to these doctors. They are really frustrated with the system as we know it today. I have talked to patients who wonder why they cannot get simple care from a specialist simply because their plan denies them access to a specialist. They do not understand that kind of treatment. They do not understand why they cannot go to an emergency room and have a doctor in the emergency room make a decision as to whether or not there is an emergency rather than having to get on the phone and call the insurance company clerk in some far-off city and find out whether or not they can receive emergency treatment. Those kind of basic protections patients deserve. Employers who want to take care of their employees want this kind of protection for their employees as well.

The truth of the matter is, if we are going to have a health care system in this country that works for everybody, the employers, those who are insured, the doctors, and other health care providers, we need to pass this legislation, because the further we go down the road and find patients being abused and managed care companies doing a shoddy job of rendering care, the more we are going to undermine what has become known for many years as the finest system of health care in the entire world.

So what we are really fighting for here tonight is, not only the protection of patients, individual patients and their families, but we are fighting to preserve the finest quality system of health care the world has ever known. We need the stability in health care that this legislation will provide.

Now, the big debate is over this issue of accountability. Should a managed care company be accountable for their decisions? Well, frankly, I think that the answer is pretty obvious. Certainly they should be accountable. All of us are accountable for our decisions. All of us can end up in court if we are negligent or make a mistake.

Frankly, the rule really is pretty simple, I think, that should be applied in this debate; and that is, when health insurance companies make medical decisions, they should be accountable in the same way that one's doctor is accountable when he makes a health care decision. We all know in this country that, if a doctor happens to make a mistake in the operating room, happens to do something that causes injury to one or one's children, that one can go to the courthouse and seek redress, seek recovery of injuries. A child who is paralyzed for life because of a mistake of a medical provider, that family can go to court, be compensated in damages. That is what our American system of legal justice guaranties all of us.

If a managed care company makes a decision that denies one health care when it is covered under the plan, now if it is not covered, it is just not covered and it is not going to be paid for, but if it is covered and, in their review of medical necessity they say one does not need that care, one's doctor is standing there all the while saying, yes, my patient needs that care, and the managed care company says, no, and one goes under the Norwood-Dingell bill and appeals that internally, and one appeals that externally, and one has got a decision, and one finds out that still the decision of the managed care company was wrong, every American ought to have the right to go to the courthouse and seek their damages. That is what the American system of justice is all about.

So if a doctor makes a mistake, he knows he has to go to the courthouse or could go to the courthouse. That is why he buys malpractice insurance. What is wrong with asking managed care companies to also carry malpractice insurance? Every profession in the United States, every individual who is a doctor, a lawyer, an engineer carries malpractice insurance. It is a wonderful thing, insurance. We spread the risk of loss among all of us to protect each of us individually.

Why should we in this hallowed hall of the House of Representatives declare this week that the only group in America that can never be held accountable in a court of law is a managed care insurance company? That is wrong, and we cannot let that happen.

I think we have a good bill. It ensures accountability, and it is drafted in a fair way. The only way one can go to court and sue a managed care company under this legislation is after one has gone through the internal and the external review procedure.

In Texas, the sky has not fallen. In Texas, we have the right to go to the courthouse. As the gentleman from Texas (Mr. GREEN) pointed out, there has only been a handful of lawsuits. In fact, there has only been five filed in Texas.

The author of the legislation that did pass in 1997, Senator David Sibley, a Republican, good friend of mine, carried that bill. He says, and I quote, "The sky did not fall. Those horror stories raised by the industry just did not transpire." Dave Sibley, the sponsor of the bill is a lawyer, former doctor, an ally of Governor Bush.

Even Governor Bush acknowledged in the Washington Post September of this year that he believes the law in Texas has worked well.

I believe every American deserves the protection that we fought to give Texans in 1997. This legislation is long overdue.

I appreciate so very much the gentleman from Texas (Mr. GREEN) reserving this hour to give us the opportunity to talk about this important bill.

I believe the American people want this legislation. I believe the employers of this country who believe in protecting their employees want this legislation. I believe we need to ensure the long-term stability of the best health care system the world has ever known, and this bill moves us along the road in ensuring that.

□ 2100

Mr. GREEN of Texas. I thank my colleague. Again, having served with the gentleman both in the State legislature, the Senate and the House, and now in the Congress, we have gotten to that point. Because as Texans we brag all the time about how great our State is, and sometimes we puff it up a little bit; but we are not puffing on this legislation. This has worked in Texas, it has provided the benefits, all the accountability, the outside appeals process, the anti-gag orders so doctors can actually talk to their patients; and it has allowed patients to go to the closest emergency room without having to drive by closer emergency rooms.

So there are so many things I am proud of. Always proud to be a Texan, but particularly because of this legislation.

Mr. Speaker, I now want to yield to another good friend who I serve with on the Committee on Education and the Workforce. And I might just mention that her State, California, just recently passed a series of bills just similar to this, and I know Governor Davis signed them into law about a week ago.

I yield to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman from Texas and would like to compliment him for sharing with us tonight the experience of Texas in health maintenance organization reform. It is particularly appropriate that we are here tonight, because tomorrow, after fighting for more than 2 years, the House actually has a real shot at passing a managed care reform bill. The American people want this. In fact, they are demanding that we pass managed care reform, and I am particularly glad that this House is finally rising to the occasion.

I am also pleased that the Democrats and Republicans have worked together to support a common sense patient protection bill. It is bipartisan. It is called, in fact, the bipartisan Dingell-Norwood bill. And any of my colleagues who are saying the Dingell-Norwood bill will not work are very, very wrong; and they have to review what has gone on in Texas. If they will pay attention to the Texas experience, they will know that the sky will not fall if we take care of patients when they are covered by a health maintenance organization.

I would like to share also some of the recent accomplishments from my State, the State of California, where just last week Governor Gray Davis signed landmark legislation that put health decisions back in the hands of 20 million patients and their doctors. This comprehensive package is made up of 19 bills, and it will absolutely overhaul the way HMOs do business in California.

A key piece in the package includes managed care accountability. The State now has a new Department of Managed Care, which will act as a watchdog for patients with HMO providers. This State agency is devoted exclusively to the licensing and regulation of health plans. The legislation will also include a new Office of Patient Advocate, which will assist in enrollees with complaints, provide education guidelines, issue annual reports, and make recommendations on consumer issues.

With this legislation, Californians now have the right to an external review of their health care coverage decisions by an independent group of medical experts. By January 1, 2001, this external review program will dispute claims when a patient's treatment has been delayed, denied, or modified.

I am proud to tell my colleagues that the package also includes HMO liability, giving Californians the right to sue their HMO for harm caused by failure to provide appropriate and/or necessary care. This is a much-needed remedy for any family harmed by a decision made by the HMO or by a clerk working for the HMO. Any decision that would delay, deny, or modify medically necessary treatment will be under scrutiny.

In addition, Californians can look forward, under this legislation, to new consumer protections. These protections will include a second medical opinion, upon request for patients; expanded patient privacy rights will prohibit the release of mental health information, unless patient notice is provided; and a prohibition on the selling, sharing or use of medical information for any purpose not necessary to provide health care services.

This legislation in California sets procedures for HMOs to review a treatment request by a doctor to ensure that timely information and decisions regarding a patient's treatment needs come forward at the right time. Patients will be informed of the process used by a doctor when that doctor determines whether to deny, modify, or approve health care services.

In fact, Californians are also guaranteed the right to hold an HMO accountable by seeking punitive damages in court if and when harm comes to a patient. Congress should take note that if California can do it, and if California can pass similar reforms as those in the Dingell-Norwood bill, then, for Heaven's sake, we can pass the same type of legislation for our country. Because California has the population and the economy of a country in and of itself. California has 33 million people, and the challenge has been met.

Tomorrow, the Dingell-Norwood bill is a good starting point for the managed care reform we need in this Nation. The Norwood-Dingell bill provides Americans the ability to choose their own doctor, to get emergency room care, to see a specialist, and unleash their doctor from HMO gag rules on treatment options. And especially important for Americans is that the Dingell-Norwood bill holds HMOs accountable.

This bill has bipartisan support as well as support from more than 300 health care and consumer groups. I am convinced that this bipartisan bill deserves a clean up or down vote. It does not need to have any amendments.

The American people are counting on us to take heed of the Texas and the California accomplishments in HMO reform, so let us focus tomorrow on the consensus we have built. Let us accept no substitutes to the vital patient protections in the Dingell-Norwood bill, and let us again pay attention to what other States have been able to accomplish, such as Texas.

We are going to hear from Wisconsin and North Carolina, and we will see that the people in this country are telling us that they want and they demand health care reform and managed care reform, and we must heed this and go forward tomorrow.

Again, Mr. Speaker, I thank the gentleman from Texas for having this special order tonight.

Mr. GREEN of Texas. I thank my colleague from California. It is great to serve with the gentlewoman on the Committee on Education and the Workforce.

And the gentlewoman is right. In the California experience, it is both rural and urban. Just like Texas is rural and urban. So it will be a great example of making it work in this country from one coast to the other coast. We need to make sure that we have real patient care and managed care reform.

I would like to now yield to my colleague, the gentlewoman from North Carolina (Mrs. CLAYTON), who came in the same class as I did, in 1993.

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for yielding to me and arranging for this special order for us to talk about the provision in the bipartisan manage care reform bill known as the Dingell-Norwood bill. I am pleased to have this opportunity to discuss it before we debate it on the floor tomorrow.

I am proud to be one of the original cosponsors of the bill and to be an advocate for it. I also serve as the cochair of a health task force. And as an individual coming from a rural area, where a lot of our patients are still uninsured, I can also be a very strong advocate for this bill, which gives protection for managed care.

We have just heard recently that, indeed, the uninsured have increased. And I am concerned about that because many of the people in my district are indeed part of that uninsured. So my support for the Norwood-Dingell bill does not diminish my advocacy for making sure that we find ways of insuring more of the uninsured. Indeed, it was almost predictable, because we did not do what we could have done earlier when we had the opportunity to look at health care reform that, indeed, this rise would occur. I think we have an opportunity to speak to that, but I do not think one negates the other. So as one who is an advocate for making sure the uninsured are also protected, I strongly advocate the provisions of the bipartisan bill.

This bipartisan bill gives increased access to patients in a variety of areas. It says first that those who have emergencies should not have to have prior approval. They have immediate access for emergency treatment, even at the emergency hospitals of their choice. They should not have to be shifted around to various hospitals in that area.

It also increases the protections for women who want to be protected under this bill. It increases that access. It also increases access for those patients who have special needs and need to have specialty providers in treating their conditions. So the access is enhanced for those who have a managed care program.

Let me just say parenthetically that there are, indeed, good managed care programs. This is not to negate where there are positive managed care programs. This is to improve and to give some minimal standards that the managed care programs that people have should be dependable, they should be held accountable for their care, and they should be aware of defining medical necessity. All of these are to ensure that whatever plans we have, they should be the kind of plans that patients can have confidence in.

I cannot understand why it is that people are afraid of being held accountable. If they say they are going to provide certain services, they should be honored to say that they will be held accountable for those services. Indeed, being held accountable allows a review process. And if in the review process arbitration does not work out, the patient has the right to go to court. They have that opportunity.

Also, the bill protects the provider. And this is very, very important, because many doctors have said they have been under a gag rule. They cannot tell their patient all of the options that they know would be good for their health care. So they are prevented from telling them options that would perhaps provide the right medical treatment because it is not the most economical treatment in that area. The anti-gag provision in this bill prevents that. It means that we protect the providers and we assure the confidentiality and the professional care between a doctor and their patient. And the patient also has a right in the selection of the provider that is adequately trained in those areas.

All of these provisions go to making the managed care program stronger for patients who have to have these insurance provisions. So I want to say to our colleagues that as we debate this bill tomorrow, that any options or amendments or substitutes that are being offered, and offered in glorious terms as being a cure-all for health care, are, indeed, poison pills. And if we are ensuring that patients have good health care, we have to vote down each and every one of those substitutes as well as those amendments.

So I urge my colleagues to give Americans a choice and, indeed, to give them a clean bipartisan Patients' Bill of Rights. And I thank the gentleman once again.

Mr. GREEN of Texas. Mr. Speaker, I thank the gentlewoman, and I want her to know that I am aware of the devastation in the gentlewoman's district, we talked about it today, from the hurricane. In Texas, we are familiar with hurricanes damaging our coast.

I would like to now yield, Mr. Speaker, to a new Member, a very active new Member from Wisconsin. And like I said earlier, we have people from not only the West Coast in California but North Carolina, on the East Coast, and of course in Texas, and also now the gentlewoman from Wisconsin (Ms. BALDWIN), and I yield to her.

Ms. BALDWIN. Mr. Speaker, I thank the gentleman for organizing this special order.

Time and time again we hear how the United States has the best health care in the world, but that does not matter if a health plan denies meaningful access to the health care system when individuals are sick. Managed care was designed to provide the best health care available at a lower cost. But what does it matter if in addition to our health insurance premium we still have to pay sizable, sometimes enormous out-of-pocket costs for needed tests or treatments that our health plan will not cover.

□ 2115

There was a time when we paid our health insurance premiums trusting that when we got sick our doctors would make his or her recommendations for treatment and that our health insurance would pay for that treatment. This just does not seem to be the case any more. We no longer trust that the best medical decisions are being made in this system, and too many people with health care coverage are being driven into debt because necessary treatment is not being covered by their managed care company.

As my colleagues know, families in my community in Wisconsin feel very anxious about the state of health care in America. They are increasingly concerned that medical decisions are being made by accountants, by managers, by other insurance company employees instead of the doctors and the patients making the decisions; and too often profit is taking a priority over a sick patient in need.

Patients are losing faith that they can count on their health insurance plans to provide the care that they were promised when they enrolled and faithfully paid their premiums.

We have all read the stories, and those of us who have the privilege of serving here have often heard painful firsthand accounts from families and individuals who sent us here to fight for them, to represent them, people who were denied care or services by managed care providers.

I recall reading an article last winter in Wisconsin about a young man struggling with known Hodgkin's lymphoma. He was told by his doctor that the most promising and potential cure, a bone marrow transplant, was not going to be covered by his plan. Chemotherapy in his case would only slow down the disease. The prognosis they gave him was up to 10 years to live, and according to this prognosis 5 of those years his cancer with chemotherapy would likely to be in some sort of remission. However it would likely come back sometime within the second 5 years and get steadily worse. He underwent a round of chemotherapy because that is what his insurance company would cover. In his case his earlier prognosis was not accurate. It did not even give him 5 years of remission. Instead the cancer re-appeared in only 8 months.

Now this was a highly publicized case in my State, and because of the negative publicity and the public outcry, his insurance company relented and permitted the bone marrow transplant admitting belatedly. According to the medical literature, this was not a treatment that was regarded in the medical literature as experimental. Unfortunately, it was too late for this 41-year-old young man, and he passed away earlier this year.

But people should not have to wage publicity campaigns to shame their health care plans into covering medically necessary procedures. They should have appeals processes, not publicity campaigns.

I was deeply disturbed when I heard of another poignant case in my district. This is a story of a man who is in the hospital. He was recovering from a procedure, and he received a phone call from the representative of his HMO in his room saying that if he stayed in the hospital room past midnight, his insurance company was not going to cover it.

Now this gentleman had just gotten out of intensive care, and it was all he could do practically to reach over and pick up the phone, and I just think how frightening this experience must be for the patient, for the family and for those who hear of it and wonder whether their insurance, their health care plans, their managed care plans are really going to cover them.

As my colleagues know, having a recourse when something goes wrong is so vital, and health plans should not be allowed to escape responsibility for their actions when their decisions kill or injure patients.

Six years ago we were promised reform that would guarantee every American the health care they needed. That vision was not realized. In this time of economic prosperity, in this time of rapidly changing medicine, in this time of political opportunity, I think it is time that we renew our commitment to the health care security for all; and when I think about what that means, I believe that health care security for all encompasses both the notion that we must cover the uninsured and the effort to fully protect those who already have health care coverage but find that is not the security blanket that they thought they had purchased.

Many States have taken steps to establish some of these patient protections. We heard about Texas and California earlier this hour. Unfortunately, most States have only passed a few of the protections contained in this bill before us, and there are many gaps that remain to be filled. Even States with strong consumer protection laws cannot cover a large number of their residents, the 50 million Americans who receive their insurance from a self-insured employer plan under ERISA and are not protected under State law.

We need comprehensive Federal legislation that provides a minimum standard of patient protections for all Americans. The Norwood-Dingell bill will do just that, and I hope tomorrow that this Congress rises to the occasion to pass this vital legislation.

Mr. GREEN of Texas. Mr. Speaker, I appreciate our colleague from Wisconsin in being here this evening and joining in this. We only have a few minutes left before our colleague from Iowa (Mr. GANSKE) comes to the floor. Having watched Dr. GANSKE over the last number of weeks and sitting in my office, returning phone calls, thank goodness an hour earlier in Texas, and I can catch up on that, and his efforts on managed care reform and his efforts over the last, in the last session of Congress.

Let me talk before we close about some of the bills or the competitive bills tomorrow to the Norwood-Dingell bill. There will be a bill called the Comprehensive Access and Responsibility Act introduced by the gentleman from Ohio (Mr. BOEHNER). Which is one of the two alternatives. It falls very far short of the Norwood-Dingell bill and the protections that are in there. The biggest problem is it does not cover as many Americans as the Norwood-Dingell bill. It is very limited. Moreover, the bill has no provision to hold HMOs accountable for the decisions that harm their customers that are enrollees, and every other business in America is subject to liability for poor judgment, and why should not the health plans be any different?

Finally, this bill does not allow chronically ill patients to designate their specialist as a primary care provider. As our colleague from Wisconsin mentioned, there are times that you might need if it is an oncologist, if you have a cancer, if you have some other type of illness, you might want to designate that specialist as your primary care person, and that is in the Norwood-Dingell bill.

The other alternative by a couple Members of Congress, the gentleman from Oklahoma (Mr. COBURN), the gentleman from Arizona (Mr. SHADEGG), it is called the Health Care Quality and Choice Act. Now again for most folks who watch Congress and they understand that there is no requirement that the actual title of the bill reflect what is in the body of the bill, and we do not have any truth in titling here in Congress, because their bill again falls short. It would force patients harmed by their HMOs to go to Federal court so you can get behind all the Federal cases, and in Texas most of the Federal cases are drug cases, and they have preference; criminal cases have preference. So their bill would require you to go to Federal court.

First, the Federal system is much more difficult and expensive to access than State courts, and there are fewer of them, so patients will be forced to travel long distances, and particularly in rural areas, but even in Houston we have many more State courts in Harris County, Texas, than we ever have Federal courts. And worse yet, Federal law gives that priority to criminal cases over civil cases. So, in other words, maybe a decision will be made on whether you should have that bone marrow transplant. By the time you get to Federal court after all the other criminal cases are there, it may be 5 or 6 years later, and health care delayed is health care denied.

The Dingell-Norwood consensus bill is the only bipartisan bill that we have that recognizes medical necessity, that allows the patient and the doctor to define medical necessity based on the medical history and the specific need of that patient.

Appeals process. Again, modeled after the Texas law, allows patients to appeal the decision of their HMO to an independent external panel of specialists.

Access to specialists. As I said earlier, the bill requires health care plans to include access to specialists and offer access to specialists that the patient needs.

Emergency room coverage. The bill provides guaranteed access to emergency services to managed care enrollees and requires a plan to pay for those services if a prudent lay person believes that they are in a health, in a life-threatening situation, and I use the example: I am a lay person. I do not know if I am having chest pains because of the pizza I had last night or it is because I am actually having a heart attack. I should not have to make that decision. That is why we need to go to the closest emergency room.

But the most important and the final issue is accountability. The reason the appeals process in Texas works is because ultimately they could go to court, and it is also the most controversial; but again this is modeled after the Texas law, and we have over 2 years experience. This bill allows Americans harmed by their HMOs to seek redress in the State court. However, to prevent frivolous cases, they can only sue after they have exhausted their appeals and the patient is harmed. The provision is tightly crafted so not only to hold the medical decision maker accountable.

And let me say in brief I had, a couple of years ago I had the opportunity to speak to the Harris County Medical Society, and after talking about some of the bills I have been working on, the first question from a doctor was, and by the way, I joked about my daughter having 2 weeks in medical school, and she was not quite ready to do brain surgery. The first question from that doctor to me said, you know your daughter after 2 weeks in medical school has more training than the person I call to treat my patients.

That is what is wrong with our medical system we have now. We do have the greatest health care system in the world. People come from all over the world to get to us to have that system, but we are denying it to some of our folks who have insurance, and we need to change that. We need to make sure that we restore that health care provider and that doctor so they can talk to their patient.

The reason, reasons the consensus bill are so insistent on accountability provision, because if you do not have that, you will not have, they will not have the incentive to change their practices, and while opponents of the strong binding consensus bill claim it would dramatically increase health costs, we know in Texas it has not increased health costs in 2 years; and what we found in Texas, that patients are right and about half their appeals in the health care plans honor that decision because they do not want to get sued. All the people want is their health care. They do not want to have to go to court; they do not want to have to go to State court, much less Federal court that is in some of the alternatives.

I would hope that my colleagues tomorrow would reject the poison pill amendments. Sure we need to do additional access, and I would hope we can do that on the floor of the House sometime but without trying to dirty up the waters on providing access in modernization of the HMO process.

I have had my colleagues talk about earlier that all we are asking for is some guidelines for managed care to deal with their customers and our constituents and the doctors' patients. In fact, over the past 5 years all 50 States have passed laws to protect patients in State-regulated plans. Some of them are stronger than others, and these alternative bills essentially disregard the advances that are made in each State and moreover more people into Federal regulation would lose protections.

These laws have been passed by Democratic and Republican legislators. They have been signed into law by Democratic and Republican governors. But the Republican leadership would jeopardize the health care of millions in these protections unless we pass it tomorrow.

Mr. Speaker, I again thank my colleagues who were here tonight and all those who are listening because tomorrow, Wednesday, and Thursday this week this House will make some major decisions; and if we make the wrong decision like we did last year, then we will continue to have people denied adequate health care in our country. Our country is too great to do that.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, Will enactment of the Norwood-Dingell Bill lead to skyrocketing health care costs?

Since Texas began to implement a series of managed care reforms in 1995, our HMO premium increases have mirrored or trailed those premium hikes in other states that don't have managed care reform bills in place.

Nationally, health care costs have increased by 3.7 percent in 1998 while in Texas, the costs increased by only 1.10 percent for the same period.

Will enactment of the Norwood-Dingell Bill lead to frivolous law suits?

Since Texas enacted its Patient's Bill of Rights in 1997, there have been only five lawsuits in a managed care system that serves four million patients.

This number of lawsuits is low because our patients are fully using the external review process that is a component of the Norwood-Dingell bill. More than 700 patients have used the external review process in the past two years to appeal the decisions made by health plans. Of those, about half of the decisions have gone in favor of the HMOs.

Will the Norwood-Dingell Bill result in employers dropping their employees from health care coverage and thus drive up the number of uninsured families?

It may be too early to tell using our state's example. But the fact remains that as HMOs have increased penetration in recent years, so has the nubmer of uninsured. That is the case in Texas and around the nation.

Since the Texas Legislature made managed-care plans liable for malpractice, there have been five known lawsuits from among the 4 million Texans who belong to HMOs.

"The sky didn't fall," said Sen. David Sibley, the Republican who championed the Texas version of the Patient's Bill of Rights. "Those horror stories," envisioned by the health insurance industry "just did not transpire."

While it is too early to see the full effect on my state it is evident that the implementation of this legislation has had a dramatic effect on resolving complaints between patients and their health plans—before they get to the courthouse.

Clearly this legislation has acted as a prime motivator for HMOs to settle their disputes with their patients. Regrettably, the vast majority of Americans do not have this option. That's why it is vital that we have national Patient's Bill of Rights that has some teeth in it—that permits patients to suit their HMOs when treatment decisions result in injury or death as well as granting patients access to emergency care and specialty care that is not currently allowed.

I strongly believe that the Texas experience strongly speaks to the benefits of empowering patients and doctors so that they can work with the insurance companies in ensuring that our health care system provides the best care for all Americans.

Republican Health Care Bill:

The Republicans introduced the Quality Care for the Uninsured Act. This legislation does move the health care debate forward. But not very far. It is not a bipartisan bill and it does not address that entire scope of health care delivery or what's wrong with managed care.

At best the Republican bill nibbles around the corners of health care debate. It provides for Medical Savings Plans and 100 percent deductibility of individual insurance premiums for the self-insured and uninsured.

This legislation does nothing to increase access to emergency services or ob-gyn. It does nothing to address the lopsided nature of the managed care equation in which insurance companies make most of the patient decisions, while doctors and the patients themselves are left in the waiting room.

BI-PARTISAN CONSENSUS MANAGED CARE IMPROVEMENT ACT (H.R. 2723)

H.R. 2723 that has already been introduced by Representatives Charles Norwood and John Dingell truly addresses the consumer and provider issues that have undermined the health care in America. I am a cosponsor of this legislation.

Its independent external appeals process will help patients get care quickly and resolve disputes without resorting to a court fight.

Once the appeals process has been exhausted patients will be able to hold health care plans accountable when they make negligent decisions that result in patient injury or death. At the same time, this legislation includes safeguards to protect employers from lawsuits and punitive damages against health plans that comply with the external review determination.

This legislation also provides patients with other essential protections including access to specialty care, emergency care, clinical trials and direct access to women's health services. Patients who need to go out-of-network for care will have access to a point-of-service option.

I look forward to a fair debate between our bi-partisan Patient's Bill of Rights versus the Republican Leadership's alternative. Once the American people fully understand what's in each bill—I am confident that the bi-partisan bill will prevail.

The majority of Americans would rather have a strong say in how they receive medical treatment than nibbling at the edges of this important problem.

Support and protect the Norwood-Dingell Bill; it's the only way to put doctors, nurses, and patients back into the business of patient care.

Mr. SANDLIN. Mr. Speaker, the Lone Star State has been a leader in health insurance reform. The Texas Legislature enacted a law in 1997 which protects patients' rights when insurance companies stand in the way of common sense and good medicine.

So what has happened in my home state over the past two years? Have our courts been overrun with frivolous lawsuits? Are families saddled with growing premiums? Are HMOs being run out of business? No. Not by a Texas mile.

Last week the Washington Post noted that only five lawsuits have been filed against health plans in Texas. That's five lawsuits in two years. Of the roughly six hundred complaints submitted to the independent review system established under the Texas law, about half of the cases have been resolved in favor of the patients, half in favor of the insurance companies. And premiums have not increased in our state. In fact, we enjoy some of the lowest premiums in the country. Almost everything is big in Texas.

And now the Lone Star State is not alone. California and Georgia have enacted health care legislation that will enable policyholders to sue their HMOs. And the majority of members of this body favor similar bi-partisan legislation.

Mr. Speaker, the question is no longer whether such provisions are a good idea, or even whether they are supported by legislators across the land and here in Washington. The question now is whether or not we, the House, will even have a chance to consider this measure. It will take, from the Republican leadership, the courage to stand up to big insurance companies and their scare tactics. And, I think, it will take an ounce of good old Texas courage.

GENERAL LEAVE

Mr. GREEN of Texas. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and include their extraneous material on the subject of this special order speech that I and my colleagues have given tonight.

The SPEAKER pro tempore (Mr. Toomey). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GREEN of Texas. Mr. Speaker, I include the following for the Record:

WHILE COVERING UNINSURED, LET'S FIX MANAGED CARE

(By U.S. Rep. Gene Green)

As the Congress prepared to debate several HMO reform bills this week, House Speaker Dennis Hastert, R-Ill., has stated his intention to include in the managed-care reform debate, health-care-related tax cuts. These incentives, called the "access package," are intended to allow tax cuts to the 44 million uninsured Americans who cannot afford health-care coverage.

While it is important that everyone has access to affordable health care, the issue that Congress has been debating for several months and that we should resolve, is how to reform our current managed-care system. If we are truly concerned about the uninsured, let's expand health-insurance access to them—insurance that will actually provide quality health care. Various managed-care proposals will be debated, but it is important to look beyond the titles to see what each proposal would do to really protect patients.

The fact is, 48 million Americans belong to self-funded health-insurance plans that offer very little protection for individuals from neglectful and wrongful decisions made by their insurance plans. Although some states—Texas, for instance—have passed laws that protect consumers from health-insurance malpractice, the protections enacted by states only affect insurance policies licensed by the state. We need a national set of guidelines for health-plan conduct.

The Dingell/Norwood consensus managed-care reform proposal is the only bipartisan bill that provides the necessary protections to revamp the current managed-care system. This bill, developed over weeks of negotiations, would provide every American in an HMO or managed-care plan the fundamental rights they need to ensure they receive quality health care. Its major provisions are:

Medical necessity: Allows the patient and the doctor to define medical necessity based on the medical history and specific needs of the patient.

Appeals process: Allows patients to appeal the decision of their HMO to an independent, external panel of specialists.

Access to specialists: Requires health plans that include access to specialists to offer access to the specialist that the patient needs.

Emergency room coverage: Provides guaranteed access to emergency services to managed-care enrollees and requires the plan to pay for those services if a "prudent layperson" believes they are in a life-threatening situation.

Accountability: Allows patients harmed by their HMO to hold their health plan accountable in state court.

While other bills claim to provide these same protections for patients, one look beyond their titles proves otherwise. The Comprehensive Access and Responsibility Act, introduced by Rep. John Boehner, R-Ohio, does not apply to all Americans. It only covers employer-sponsored health plans, and leaves out the most vulnerable insurance consumers—those who do not have an employer to negotiate for them. Moreover, this bill has no provision to hold HMOs accountable when their decision harms a patient.

The other alternative is sponsored by Rep. Tom Coburn, R-Okla., and Rep. John Shadegg, R-Ariz. This bill would force patients harmed by their HMO to seek remedies in federal court. The practical impact of this provision would be devastating to patients. First, the federal court system is much more difficult and expensive to access than state courts. There are fewer of them, so some patients could be forced to travel long distances. Worse yet, because federal law gives priority to criminal cases over civil cases, patients seeking remedies could be forced to wait years while the backlog of criminal cases clears. Finally, this bill does not allow chronically ill patients to designate their specialist as their primary-care provider. This means that every time they need to see their doctor, they have to go to another primary-care doctor first and get a referral.

Accountability and enforcement for medical decisions is the critical issue in the HMO debate. Without an effective accountability provision, managed-care companies will never have an incentive to change their practices of placing profits before patients. And while opponents of the strong and binding Norwood-Dingell bill claim it would dramatically increase health costs, we in Texas know it won't. The majority of the "expensive" provisions in the bill—which include accountability, decisions of medical necessity and external appeals—were modeled after the Texas law. What we have found in Texas is that patients are right in about half of their appeals and health plans honor that decision. Since the law took effect, health-cost increases in Texas have been a reflection of rising prescription drug costs and inflation—just as we have seen in every other state.

It is our responsibility to ensure that patients get the high-quality health care they pay for and deserve. When Americans buy health insurance, they should not have to lose their relationship with their doctor or worry if their insurance plan will pay for the medical bill as they are heading to the emergency room. It is time that we provide patient-protection rights for consumers and for managed-care plans to be made accountable for delivering quality care and respecting basic consumer rights.

CONTINUATION OF DISCUSSION ON HEALTH CARE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Iowa (Mr. Ganske) is recognized for 60 minutes.

Mr. GANSKE. Mr. Speaker, I appreciate the remarks of my colleagues from across the aisle as they relate to health care. I am going to continue the discussion on health care, and if my colleagues from Texas want to contribute to some of this, that would be just great; and I will be happy to recognize them periodically.

Let us talk a little bit about how people receive health care in this country.

So I have a chart here I want to share with my colleagues.

□ 2130

Let us just assume that this square represents all of the health insurance market, and the circle represents, both red and white in the circle, employer-based health insurance. So that you have about two-thirds of employer-based health insurance, consisting of employers offering fully insured products, i.e., you have your small business that contracts with an HMO. About one-third of employer-based health insurance is what we call self-funded employer plans. Then you have, outside of the employer-based health insurance, you have health insurance that is provided by churches and certain nonprofit organizations, Medicare, Medicaid, public sector employees, i.e., government employees, both Federal and State, and you have individuals who buy insurance policies.

Now, Congress passed a law related to pensions about 25 years ago called the Employee Retirement Income Security Act, and those people who receive insurance from their employer, those within the circle here, are under that law, the ERISA law.

Now, about two-thirds of those employer-based programs are under both Federal and State regulation. To some extent states regulate those plans, but the white area here is totally regulated by the Federal law.

The problem is in this area that frequently there are jurisdictional disputes between whether the State has the right to oversee those plans in some ways, or the Federal Government does, and that frequently ends you up in court fighting that out or with legal disputes. That needs to be clarified by Congress.

But one thing is pretty clear, and that is that there has been a universal feeling that if you are in an employer-based plan, both the red and the white in this circle, that then you are shielded from any responsibility, any legal responsibility, for bad actions that could result from the medical decisions that your health plan makes. The health plan is shielded from their negligent actions. That is something we need to address here in a few minutes.

Now, we are going to be debating in the next two days both a bill related to increasing the number of people in this country that are inside this square, i.e., those that have insurance, and we are going to be debating what quality of care those who are inside the circle receive.

Let me speak for a minute about those that are off the chart, the 44 million Americans that do not have health insurance.

This number has gone up steadily over the last several years. As a percentage of the number of people in this country, however, it is staying about the same, about 16.2 percent. In other words, the number of people in our country is increasing as well.

Who are those people who are not inside the box, that do not have health insurance? They are primarily the young, i.e., those between 18 and 24, and the poor, and there is a sizable percentage of them who qualify for Federal programs already, but they are not enrolled.

There are 11 million uninsured children in this country today. More than half of those children qualify for Federal programs to pay for their insurance, either through Medicaid or through what we call the children's health insurance plan, the CHIP program.

Why are they not enrolled if they are qualified? Frequently it is a matter that the parents do not even know about it, or the states and Federal Government have not done a very good job in making sure that people who qualify take advantage of those benefits. That would go a long way. If you could reduce the number of uninsured children in this country by 5 million simply by getting those children into the programs that already exist, you have made a big dent in the number of uninsured. We ought to do that.

We are going to be debating on the floor some tax measures, some measures related to changes in what are called association health plans; there will probably be some debate on medical savings accounts, some things like that.

Some of those areas I agree with; some I have some problems with. I am worried that with the association health plan measure in the access bill that it could have unintended consequences to actually increase the cost of insurance for those who are, for instance, in the individual market, the individual health insurance market. Nevertheless, we are going to have a debate on that. I anticipate there will be some support for that bill from both sides of the aisle. Then we are going to have a debate on how to improve the health care for those people in this country who are already spending a lot of money on health care.

But while I have this chart up here, I think it is useful to point out something, because there was a recent study by the Kaiser Family Foundation on the relative cost of lawsuits in comparing those people who are in the ERISA plans who are shielded, whose plans are shielded from liability, to those that are in non-ERISA plans where you can obtain legal redress against your HMO if they commit an injury to you or your loved one.

Remember this: Government employees are in non-ERISA plans. That means that government employees have a right to sue their HMO. But if you receive your health insurance from your employer, either through an employer offering fully insured products, like HMOs or self-funded products, you do not.

So this is a good comparison, the comparison on premiums and on the incidence of lawsuits between those that can sue, i.e., churches, people in churches or public sector employees or individuals, versus those that cannot.

The Kaiser Family Foundation found out that the incidence of lawsuits in those who are in plans where you can sue is very low, and that the cost, the estimated cost for providing that right to those who do not have it, would be in the range of 3 to 12 cents per month per employee. That is a rather modest cost when you think about how that could prevent something truly awful.

Let me describe a case that is truly awful. We have here a little boy, a beautiful little boy about 6 months old, and he is tugging on his sister's sleeve. His name is James.

Sometime shortly after this picture was taken he became sick. At about 3 in the morning he had a temperature of 104 or 105, and his mother, Lamona, looked at him and she knew he needed to go to the emergency room because he was really sick. So she phones her HMO on a 1-800 number and says, "My little boy is really sick and needs to go to the emergency room." Some disembodied voice over a 1-800 telephone line who has never seen Jimmy Adams says, "Well, I guess I could let you go, but I am only going to authorize you to go to one hospital that we have a contract with." The mother says, "That is fine, where is it?" The medical reviewer says, "I don't know. Find a map."

Well, it turns out it is a long ways away, 70-some miles away, and you have to drive through Atlanta to get there. So at 3 in the morning mom and dad wrap up little Jimmy and they start out in their truck. About halfway through they pass three hospitals that have emergency rooms, but, you know, they have not received an authorization from their HMO to stop there, and, if they do, their HMO is not going to pay for it.

They are not medical professionals. They do not know exactly how sick Jimmy is, so they decide to push on. Unfortunately, before they get to the authorized hospital, I would say an unreasonably long distance from where their home is, little Jimmy has a cardiac arrest.

So picture mom and dad trying to keep Jimmy alive in the car while they are driving like crazy to get to the hospital emergency room that has been authorized. They pull in to the driveway to the hospital, the mother leaps out holding little Jimmy screaming "help me, help me," and a nurse comes running out and starts mouth to mouth resuscitation. They put in the IVs, they pump his chest, they get him moving, they get him going, the little guy is tough and he lives.

Unfortunately, because of that medically negligent decision, that medical judgment by the HMO that caused the cardiac arrest before he got in a timely fashion to an emergency room, little Jimmy ends up with gangrene of both hands and both feet. No blood supply to both hands and both feet, and both hands and both feet turn black and dead.

So, what happens? This is little Jimmy after his HMO care. Under that Federal law, the only thing that that HMO is liable for is the cost of the amputations of both his hands and both his legs.

This little boy will never be able to play basketball. This little boy will never be able to wrestle. Some day, when he gets married, he will never be able to caress the cheek of the woman that he loves with his hand.

I asked his mother how he is doing. Well, he is learning how to put on his bilateral leg stump, his leg prosthesis with his arm stumps, but he needs a lot of help in getting on his bilateral hooks. He is always going to be that way. He is doing great. He is a courageous little kid.

But I ask you, how is it that when HMOs under employer systems are making medical judgments and decisions that can result in losing your hands and your feet, that the only thing those plans are responsible for is the cost of the amputations? Is that fair? Is that justice? If that HMO had known that they would be liable, they would have been much more careful, and they would have said, "Take him to the closest emergency room," not 70 miles away. That would have helped prevent this.

It is cases like this that have come before the Federal judiciary that has caused our Federal judges to be so frustrated, because the only recourse that Jimmy has at this point in time is the fact that the HMO paid for his amputations. That has caused some judges like Judge Gorton in Turner v. Fallon to say, "Even more disturbing to this court is the failure of Congress to amend a statute that, due to the changing realities of the modern health care system, has gone conspicuously awry from its original intent." That statute that he is talking about is the Employee Retirement Income Security Act, ERISA, that 25 years ago was meant to be a plan that would protect employees in terms of their pensions.

□ 2145

It has been turned on its head as a protection for employers and for health plans, not for employees. Federal judges are saying, Congress, fix it.

Judge Garbis, in the case Pomeroy v. Johns Hopkins, says the prevalent system of utilization review now in effect in most health care programs may warrant a revaluation of ERISA by Congress so that its central purpose of protecting employees may be reconfirmed.

A judge looked at this case involving little Jimmy Adams. He reviewed the case. Do you know what he said? He said, the margin of safety by that HMO was "razor thin." I would add to that, about as razor thin as the scalpel that had to cut off his hands and his feet.

Judge Bennett, in Prudential Insurance Company v. National Park Medical Center, said, "If Congress wants the American citizens to have access to adequate health care, then Congress must accept its responsibility to define the scope of ERISA preemption and to enact legislation that will ensure every patient has access to that care."

So I ask my colleagues on both sides of the aisle, but especially my colleagues, my fellow Republicans, do the right thing in the next 2 days, and you will be fulfilling Republican principles.

What are those principles? Those principles that we Republicans have talked about are individual responsibility. We have been for tort reform, we have been for States' rights, we have been for market reform. We have been for adequate enforcement on some of the legislation we have passed. We are all for fairness.

Let me go into this in a little bit more detail. I do not know how somebody who has voted for welfare reform, where we say that if a person is able-bodied, that they have a responsibility to go out and work, to get an education to work and support their family, that is a Republican principle of responsibility. That was the major thrust of our welfare reform bill.

Republicans have repeatedly on this floor, my fellow Republicans, myself included, said that if somebody commits murder or rape, then they ought to be responsible for that. How can we say that a health plan or an HMO which makes a medical decision that results in a little baby boy losing his hands and feet, that they should not be responsible? I do not know how one can justify his other actions. Do we only talk about responsibility if it does not involve some big special interest money? Let us think about this for a minute.

How about the issue of tort reform? This is tort reform. This is fairness. When we have a system that is tilted, that is unbalanced, it creates distortions. What we are talking about is that there is no other industry in this country that has this type of liability shield.

If an automobile manufacturer came to us and said, you know, I do not think under ERISA we should be liable for any of the bad things we do, or if an airplane manufacturer said that, I think they would get laughed off Capitol Hill. I mean, if they do a negligent action that cost the lives of our constituents, then they should be liable. They are not coming to us for that.

So we have this bizarre situation where an organization which is making daily life and death decisions by a 25-year-old antiquated law that needs to be updated in one particular area has an exemption from responsibility for their actions.

States' rights, let us talk about that for a minute. Today in our Republican Conference we had a discussion on patient protection legislation. I pointed out that a couple of the bills that will come up in the next 2 days seek to take away from State jurisdiction personal injury and move it into Federal courts.

After we had a discussion about that, which I am going to discuss some more, I said, somewhat tongue in cheek, to a colleague of mine from South Carolina, I just, I just do not understand how a successor for John C. Calhoun, the major proponent of States' rights, how Republicans who have repeatedly said, hey, we need to get big government off your back and devolve power back to the States, and we have said that on education, we have said that on welfare, we have said that on all sorts of things, I do not know how a representative from South Carolina could be for moving this to Federal court under two of the bills that we will, I hope, defeat in the next 2 days. And my friend said, yes, but John C. Calhoun is dead. And a voice from the back of the room said, yes, but he passed away because of his HMO.

Well, I think that when we are looking at States' rights, this is really important. Since the beginning of our Constitution, in the area of personal injury, this has been an issue that has been handled at the State level.

My father managed a grocery store. What was one of the things he always watched out for? A grape on the floor in the produce department, because somebody could slip on a piece of produce and hurt themselves, and once in a while that happened. Once in a while then you had a lawsuit arise out of that. That is handled, if you are talking about any national retail chain, whether you are talking about Target or whether you are talking about Wal-Mart, anything like that today is handled in your local State court. That is where it should be handled.

But under two of the bills that we are going to be debating, the major thrust of the liability provisions is that you take those out of State jurisdiction and put them into Federal. That just stands our Federal-State relationship on its head. It would be the biggest usurpation of Federal big government power that I think I have ever seen in Congress, and unnecessary.

What the bipartisan consensus managed care bill says is that when we have a problem that requires that you go to court because of a health plan's problem, you simply go back to State court, to a jurisdiction where it has always been in the past. We are not creating a new cause of action, we are simply returning it back to where it was before 25 years ago.

Why is that important? Well, when we are talking about the issue of Federal versus State jurisdiction, I would read this report by Chief Justice William Rehnquist, Chief Justice of the Supreme Court. He said, "This principle was enunciated by Abraham Lincoln in the 19th century and Dwight Eisenhower in the 20th century. Matters that can be handled adequately by the States should be left to them. Matters that cannot be handled should be undertaken by the Federal Government."

Do Members know what? I will bet there is not a single Congressperson here who has gotten a phone call from one of his constituents complaining that their State court has not been able to take care of those problems of personal injury. I do not think that we are going to find very many Congressmen that think that their States are not able to handle this, their State courts are unable to handle this. So the bill that I support simply says, return the jurisdiction to that.

Look, if a State wants to pass a law like Texas did on managed care liability, or like California did, they can devise whatever law they want to. Under the bill, the bipartisan managed care consensus bill, we do not tell them how to do it in California or how to do it in Texas. For all I know, a State could pass a law that would say, we do not think that any employer ought to be liable for anything. And under our bill, that is the way it would be handled in that State, because I believe philosophically that this is where the decision should be made, in the States. I am willing to walk the talk.

I wonder if the gentleman from Texas (Mr. GREEN) would like to interject a comment.

Mr. GREEN of Texas. I thank my colleague, one, for being willing to do this night after night, and I know how firm he is in his belief, because I have watched the gentleman in our committee, in the Subcommittee on Health in the Committee on Commerce.

The fear I have from some of the options tomorrow, some of the poison pill amendments, as we call them, is that transfer to Federal court, in my experience as a lawyer, again, practicing law, I did not want to go to Federal court. I had one case in my almost 20 years of practicing law that was in Federal court, but I liked the State court one because you could get to court quicker, you had more access, more judges in the court.

Again, the Federal courts under our rules now, and we voted for them, they would give preference to criminal cases. I want that to still be the case. I want them to be able to handle the drug cases in the Southern District of Texas, because that is the overwhelming number we get in our Federal courts. I do not want to continue to add more cases to the Federal court when they cannot deal with the criminal cases now.

So that is what worries me about allowing these to be brought in Federal court. It will just delay it. They will have to be behind the criminal cases. Why should we not take advantage of the State courts, because these are State issues? Typically, insurance has been a State-regulated commodity, except on ERISA, but we have a right as a Member of Congress and as a Congress to say, on these issues, go back to your State court. I think that is good.

The gentleman used the great example of his father, who managed produce. If somebody had slipped on that grape, they were going to State court. Whether it is Wal-Mart or Safeway or anyone else, why should they not be able to go to State court, just like they would if there is a personal injury?

Mr. GANSKE. Reclaiming my time, Mr. Speaker, I think the gentleman would agree, if a Wal-Mart came to Congress and said, we think that we ought to take slip and fall injury out of State court and make it a Federal law, a Federal tort, does the gentleman not think they would be laughed off Capitol Hill?

Mr. GREEN of Texas. I would hope so. Again, I thank the gentleman for yielding to me. There are certain cases the Federal court needs to be dealing with.

We have not created Federal courts on the floor of this House. The Senate has trouble even filling the vacancies. But there are so many more opportunities for justice to be had in the local and State courts.

Like I said, in Harris County, Texas, Houston, Texas, we have dozens more State judges than we do Federal judges. And again, we have State courts for civil jurisdiction, and we have the district courts, depending on the size of the loss. We could go to a county court if it is a small loss, whereas on the Federal level, you are in there, whether it is your small case, you are in there with those multi-million dollar cases, but also you are behind the criminal cases.

Again, our experience in the Southern District of Texas with the border region we have that comes up to Houston, most of the cases in our Federal District Courts are drug cases and criminal cases. They do not try as many civil cases as they used to. All these issues would be behind those criminal cases, because I want them to do those criminal cases. We want that justice swift for someone who is accused of violating our law, so they can either be found not guilty, or start serving their time.

Mr. GANSKE. Let us be specific about this. The two bills that are going to come before us that would move an entire area of State law into the Federal courts are the Coburn-Thomas substitute and the Houghton substitute.

What are some practical implications for that? The gentleman has already alluded to some of them. Let me speak from Iowa's perspective. I represent central and southwest Iowa. In Iowa we have 99 counties. There is a State courthouse. There is a county courthouse in every one of those counties, and a State court, but there are only two Federal courts in Iowa, one in Des Moines and one in Cedar Rapids.

In Texas, I know there are 372 State courts, but there are only 39 Federal courts. Texas is a bigger State than Iowa. How about in Oklahoma? There are 77 State courts, but one Federal court.

What does that mean? That means that if we look at being able to get our say in court, and we have to go to Federal court in Iowa, someone may be traveling 200 miles to get into Des Moines, instead of going to the county seat. In Texas, I imagine, out in the panhandle, it could be significantly longer distances. Then you have the travel expenses, and as you mentioned, under a law that passed Congress about 25 years ago, the Federal judiciary is bound to handle criminal cases first before they can handle these.

□ 2200

And Chief Justice Rehnquist has told us that the Federal court system in the last 2 years has had a 22 percent increase in their caseload. They do not want this jurisdiction. They are understaffed now. If we look at current Federal judicial vacancies, there are currently 65 judicial vacancies. Twenty-two Federal jurisdictions, because of the case overload, are called emergency jurisdictions. We anticipate that there will be another 16 vacancies in the next 6 months.

That adds up to an understaffed Federal system, long distances, and for what purpose? The State courts are doing their job. I can hardly believe that some of my Republican colleagues would be in favor of expanding the big Federal Government in this area at the expense of their States.

And we have talked about the fact that criminal case filings in Federal court are up 15 percent in 1998 alone. That is because Congress has passed some laws related to increased criminal penalties. We have talked about the fact that those criminal cases have priority in the Federal cases. So what does this mean? It means that consumers are not going to get a speedy resolution of their problem with an HMO if they have to go to Federal court.

Now, some people, i.e. some of the HMOs, they would love it if they could delay 5 or 6 or 7 years. They would especially love it if we do not change ERISA because maybe the patient is dead by then and at that point in time under the ERISA law they would be liable for nothing.

In Chief Justice Rehnquist's 1999 proposed long-range plan for the Federal courts he said, "Congress should commit itself to conserving the Federal courts as a distinctive judicial forum of limited jurisdiction in our system of Federalism. Civil and criminal jurisdiction should be assigned to the Federal courts only to further clearly define a justified national interest, leaving to the State courts the responsibility for adjudicating other matters."

And I have here a letter from the National Association of Attorneys General that says, "Any Federal legislation enacted should at a minimum provide full authority for states to enforce all legal standards independently of Federal entities."

I have here a letter from the National Conference of Chief Justices relating to this Federal-State issue. They say relating to court jurisdiction, "Following the exhaustion of administrative remedies and consistent with the general principles of Federalism, State courts should be designated as the primary forum for the consideration of benefit claims."

I think that quite frankly if the national governors are aware that we are about ready to take away State jurisdiction in something like this, they are going to come out pretty darn strongly against a piece of legislation that usurps State authority.

Now, let me move on to something that the gentleman from Missouri talked about in terms of how our bill, the bipartisan managed care bill, the Norwood-Dingell bill either does or does not protect employers, because this is a crucial point. I would say that it does protect employers. As a physician who ran a medical office, and who has a lot of friends who run medical offices, employing a lot of people providing health insurance for them, I would not be in favor of a bill that would say that they would now be liable for a decision by their HMO that they have contracted with for their employees that would put them at risk. The bill that we have does not.

We simply say this: that if one hires an HMO as a business and that HMO makes a decision that results in an injury to the patient and you as an employer have not entered into that decision, then you are not liable. Period.

I have here an assessment by one of the leading law firms in the country that deals with the Employee Retirement Income Security Act, the ERISA law. They analyzed the language in our bill that is designed to protect employers. They specifically addressed the claims by those opponents to our legislation. They say that those claims that our bill does not protect employers do not represent an accurate analysis of the employer protections in the bipartisan bill. The claims that the bill would subject plan sponsors or employers to a flood of lawsuits in State courts over all benefit decisions and suggests that plan sponsors, i.e. employers, would be forced to abandon their plans is incorrect for the following reasons:

Number one, most lawsuits would not be against employers. Under current ERISA preemption, lawsuits seeking State law remedies for injury or wrongful death of group health plan participants are already allowed in numerous jurisdictions; and those cases show that those suits are normally brought against HMOs, not against employers.

Mr. DREIER. Mr. Speaker, if the gentleman from Iowa will yield, I would simply like to congratulate my friend and tell him that I have just filed a rule, which in fact, will allow us to have the freest, fairest debate that we have had in over a quarter century on the health care issues.

We anxiously look forward to bringing that measure up tomorrow morning here on the House floor, and we will continue to debate it into Thursday. And I thank the gentleman for yielding, and I look forward to his continued remarks.

Mr. GANSKE. Mr. Speaker, I thank the gentleman from California (Mr. DREIER), chairman of the Committee on Rules for his comments.

Mr. Speaker, let me continue on talking about this analysis that was done by a leading law firm on how the bill that I support, the Norwood-Dingell bill, bipartisan consensus managed care reform act actually does protect employers. And there are about four or five points that this legal brief makes.

First is that lawsuits would not be against plan sponsors. Second is that plan sponsor is limited. Third is that the statute's plain meaning limits employer liability. And the fourth is that they point out several reasons why the private sector health care would not be destroyed.

This is what is in our liability provision. It basically says that if there is a problem, it goes back to State jurisdiction. But we do not want to increase the number of lawsuits. We want people to get the care that they need before they lose their hands or lose their feet like the little boy who I showed. So what we do is we say that an HMO should have an internal appeals process in a timely fashion, but that if the patient or family is not still happy with a denial of care at the end of the internal appeals, they go to an external appeal by an independent peer panel of doctors that can make a binding decision on the health plan and does not need to follow the plan guidelines.

In other words, they can consider those plan guidelines on medical necessity, but they can take into consideration the medical literature, prevailing standards of care, NIH consensus statements. In other words, the things that are necessary in order to make a determination.

We say they cannot overrule a specific exclusion of coverage. And so let me just say there is nothing in this legislation that prevents an employer who has business in many different States from being able to design a standard benefits package. There is nothing in this bill that says that they now have to follow State mandates as it regards to benefits.

All we are saying is that if they are up front and say they do not cover bone marrow transplants, then that independent panel, even if the patient needs it, cannot tell the health plan that they have to give it. But if they do not have a specific exclusion and that patient needs it, then the independent panel can tell the plan they have to provide it; and if the plan follows the recommendation, then we have a fair compromise.

The Democratic side of the aisle made a big compromise on this. It is that if the health plan follows that recommendation by the independent panel, then there can be no punitive damages against that employer; and that would be a punitive damages relief not just for group health plans but also for all other health plans. Individuals as well. Not just for ERISA plans but for non-ERISA plans. That is a major compromise, but it is a fair one because if the plan follows the recommendation of the independent panel that has made the decision, then they cannot be maliciously liable for someone else's decision.

But we need to have the liability provision in there as the ultimate inducer to the HMO to follow the law. Why is that? Let me give an example from Texas. Texas just passed this HMO reform bill that includes liability for health plans. In that bill they say that if a physician recommends treatment to a patient, say a patient is in the hospital but the HMO says no, we do not want to pay for it but the physician says, hey, this patient could suffer injury, then under the law that dispute is supposed to go immediately to a peer review organization for a determination. It is supposed to be sent there, the determination is supposed to be sent there by the plan.

Well, about a year or so ago after this law was passed in Texas, a psychiatrist who was taking care of a man who was suicidal. He was in the hospital. The psychiatrist thought that this man could commit suicide and so he told the health plan this patient needs to stay in the hospital. The health plan said no we are not going to pay for it any more. Send him home, and told the family that. Now, under Texas law they were required in that situation to get an independent peer review decision, but they did not. They did not follow the law. They just told the patient to leave. So the patient went home that night. He drank half a gallon of antifreeze and he died. It took him 2 days of a horrible, painful death.

Now, in that circumstance under Texas law, that health plan is now liable. They did not follow the law. If we did not have liability, why would any plan ever follow the law? It will take about two or three cases like that and then the health plans in Texas will decide, we had better follow the law before a patient goes home and commits suicide.

That is part of the reason why we need enforcement. But I honestly think that if we combine the appeals process, if we combine the provisions in our bill related to emergency care, related to clinical trials, related to physicians being able to tell their patients all of their treatment options, and we follow an internal and external appeals process, that we are actually going to decrease the incidence of injuries, and we are going to decrease the number of lawsuits.

☐ 2215

That in fact has been what Texas has found out.

Before they passed the Texas law, the HMOs, the business groups, they lobbied furiously against that law. They said the sky will fall, the sky will fall. There will be an avalanche of lawsuits. Premiums will go out of sight. The HMOs will all leave Texas.

What has happened? There has just been a couple lawsuits like the one I mentioned where the plans did not follow the law. Premiums have not gone up any faster in Texas than they have anywhere else. In fact, they still have lower than average premiums. There were 30 HMOs in Texas before this law passed. There are 51 HMOs in Texas today. The sky did not fall.

There have been over 600 decisions made to resolve disputes because of that Texas law, and more than half of them have been decided in favor of the health plans; and that has provided an adequate relief to the patients to know that they are getting the right care. But half of the time the independent panels have decided for the patient, and so they have gotten the treatment before an injury has occurred.

This is just common sense. All our bill does in terms of ERISA is say that, let the State jurisdiction as it relates to liability function. In Texas, one has to follow these rules and regulations. There are protections for employers. That is the law as it relates to liability.

California just passed an HMO liability bill. That would be the way that it would be handled in California. This is federalism. This is returning power to States. This is following up on Republican principles where the States are the crucible of democracy. This is following the Constitution. This is following the remarks of the Supreme Court Justice who says, please, do not load up the Federal judiciary any more than what would be absolutely necessary for national security. Do not take away jurisdiction from the States if they are doing a reasonable and good job; and they are in this area.

So I just have to ask my Republican friends, it seems to me that if they are for States rights, if they are for responsibility, then they would be against a bill that would remove this authority from the States. They would be against the Coburn-Thomas bill. They would be against the Houghton substitute. They would be for the Norwood-Dingell bill. Those are Republican principles, and they will be done at a very modest cost.

As I said before, we are looking at, for an average family of four, potentially an increase in the cost of premiums of about $36 a year. That is money that my constituents tell me is well worth it if it can reassure them that they are going to be treated fairly by their HMO.

So when we have our debate in the next day or so on this, let us try to get past some of the special interest smoke and mirrors and Chicken Little statements. Let us do something right. Let us do something for justice. Let us correct a problem that Congress created 25 years ago. Let us be for our principles of States rights and responsibility, and not tilting the deck against a fair market.

Let us be for the Norwood-Dingell Bipartisan Managed Care Reform Act. Vote, I would say to my colleagues, however my colleagues want on the access bill. My colleagues are going to have to balance some of those individual provisions. If it passes, it will go to conference. But I would urge my colleagues strongly to vote against the Coburn-Thomas bill and against another substitute that would be against our Republican principles of States rights and individual responsibility.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2990, QUALITY CARE FOR THE UNINSURED ACT OF 1999, AND H.R. 2723, BIPARTISAN CONSENSUS MANAGED CARE IMPROVEMENT ACT OF 1999

Mr. DREIER (during special order of Mr. GANSKE) from the Committee on Rules, submitted a privileged report (Rept. No. 106–366) on the resolution (H. Res. 323) providing for consideration of the bill (H.R. 2990) to amend the Internal Revenue Code of 1986 to allow individuals greater access to health insurance through a health care tax deduction, a long-term care deduction, and other health-related tax incentives, to amend the Employee Retirement Income Security Act of 1974 to provide access to and choice in health care through association health plans, to amend the Public Health Service Act to create new pooling opportunities for small employers to obtain greater access to health coverage through HealthMarts, and for other purposes, and for consideration of the bill (H.R. 2723) to amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage, which was referred to the House Calendar and ordered to be printed.

DRUG PROBLEMS IN AMERICA

The SPEAKER pro tempore (Mr. TOOMEY). Under the Speaker's announced policy of January 6, 1999, the gentleman from Florida (Mr. MICA) is recognized for 60 minutes.

Mr. MICA. Mr. Speaker, I thank the Chair for the opportunity to come before the House this evening, as I do on most Tuesday evenings when the House is in session, to talk about an area of responsibility that I inherited in this particular session of Congress. That responsibility is Chairman of the Subcommittee on Criminal Justice, Drug Policy and Human Relations of the House. It is an investigations and oversight panel of Congress.

One of its primary responsibilities is to try to develop a coherent and effective national drug policy. It is a very difficult task, but a very important task, because illegal narcotics have taken an incredible toll among our citizens.

We have a costs estimated at $250 billion a year affecting our economy, not only the cost of criminal justice, but lost employment, social disruption, costs that just transcends every part of our society. Those are the dollar and cents costs, not talking about human suffering and the effects on families and children across our Nation. Certainly illegal narcotics must be our biggest social problem.

Additionally, the statistics are staggering as to the number of people incarcerated. Somewhere between 1.8 million and 2 million Americans are in jails and prisons, Federal facilities, across the Nation. It is estimated that 60 to 70 percent of those individuals incarcerated are there because of a drug-related offense.

Now, there are many myths and misconceptions about some of these problems related to illegal narcotics. Tonight, I would like to touch upon a few of them.

As Chairman of this subcommittee with this responsibility, I have tried to not ignore the problem, not ignore the various alternatives, but try to have an open, free, and honest debate in our subcommittee and also stimulate it here in the Congress and the House of Representatives and among the American people, because we have a very, very serious problem facing our Nation.

In that regard, we have held a number of hearings, on average, three or four a month in this year. Prior to my assuming that responsibility, that responsibility was held by the former chairman of the Subcommittee on National Security, International Affairs, and Criminal Justice on which I served. That individual who chaired that responsibility and that subcommittee was the gentleman from Illinois (Mr. HASTERT) who is now the Speaker of the House of Representatives. He reawakened some of the interest in this topic and also certainly gave impetus to congressional action for a refocus, reexamination of this issue.

I might, as I have done in the past, review a bit of the history of the illegal narcotics problem and the efforts of this Congress and past Congresses to deal with this problem.

During the Reagan administration, and having been a staff member in the other body during 1981 to 1985, I witnessed firsthand the beginning of what was actually a war on drugs, a multifaceted approach to attacking illegal narcotics, drug abuse, and misuse by our population. That was continued for the most part through the Bush administration until, again, this House of Representatives and the United States Senate and the White House were all dominated by one party in 1992 with that election.

It happened to be the year I was elected, so I saw firsthand the dismantling of any real Federal effort with regard to illegal narcotics. The national drug policy was pretty much taken apart, dismantled. Our interdiction efforts, which is a national responsibility were decimated, halved.

The source country and international programs, also a Federal responsibility, were cut dramatically, also halved. Most of the resources were put into treatment programs and to other priorities that, again, changed dramatically.

The Drug Czar's office was dramatically reduced in size, probably 70 percent reduction. Appointees of the administration were individuals who had a different philosophy, "just say maybe to illegal narcotics."

Some of that has had a very specific result with our population. Attitudes particularly among leaders of Congress and the Nation, and also our chief health officer for the country, certainly those attitudes certainly do impact our population's thinking and particularly the actions of our young people.

I have used these charts before to show exactly what happened. Tonight I will use them once again. Even today, we had Governor Gary Johnson, a Republican Governor from New Mexico who participated in a national symposium on a new attitude towards illegal narcotics. He talked about and also has made statements that the war on drugs has been a failure.

I submit that the war on drugs has basically, again, closed down in the 1990 to 1993 period. Again, a Federal responsibility was Federal expenditures for international programs. International programs would be stopping illegal narcotics at their source.

This is an interesting chart in that it shows, again, a dramatic reduction. My colleagues see back where the Republicans, new majority, took over. Right now, in 1999, we are getting back in 1992 dollars to where we were in 1992 and 1999 on these international programs.

These international programs do make a difference. For example, let me cite, if I may, one success that we have seen from the Coast Guard. The Coast Guard seized a record 111,689 pounds of cocaine with a street value of $3.9 billion in fiscal 1999, an increase of 35 percent over last year, the agency said on Tuesday.

□ 2230

More than two-thirds of the cocaine seized in 1999 was the Miami-based 7th Coast Guard district that included Florida, South Carolina, Georgia, Puerto Rico, the Virgin Islands, and most of the Caribbean. Secretary of Transportation who oversees the Coast Guard, and in this case Secretary Slater, attributed the record seizures in part to a 10-month-old counternarcotics initiative in the Caribbean. And that, of course, was funded by the initiative that was undertaken by the gentleman from Illinois (Mr. HASTERT) some 2 years ago in restarting a war on drugs and, again, a Federal responsibility to stop drugs at their source and interdicting them.

What I have spoken to here is really the success of the interdiction. This chart shows the failure of interdiction and the cutting in just about half of expenditures for interdiction, that is stopping drugs as they come from their source, before they reach our border, utilizing the Coast Guard, the military and other Federal resources to stop drugs cost effectively as they come from their source to our borders.

We can see the dramatic close-down of the war on drugs in 1993 and we can see the restart again under the new leadership of the House of Representatives under Republican control of the House. Again, we are back in 1999 to about where we were in 1992, and we have some very specific results for our efforts for those expenditures. We have seen not only a dramatic increase in the seizures of cocaine but also less cocaine on the streets in the United States. So we know that this interdiction works.

What is interesting is we know what does not work, and that is the policy of this past administration. We saw the charts with funds and efforts for our international programs to stop drugs cost effectively at their source and also to interdict drugs before they reach our borders. This is a very interesting chart. It shows from the 1980s, the late 1980s to 1992, this would be part of the Reagan and Bush era, and we can see a declining in 12th grade drug use. This would be lifetime annual in the red here, green is lifetime annual use and 30 day use.

So in all of these usages by 12th graders, we see a decline up until this change in the drug policy. Then we see, again, the change in Federal leadership, the attitude, the "just say maybe," cutting the drug czar's office, cutting the programs as far as the supply, the incredible supply of illegal narcotics coming into the country, and then this upsurge. Then again in 1995, the Republicans took control, began instituting this policy and, changing it, and now we see a decline and beginning of a reversal. Because we know that a multifaceted approach to illegal narcotics works.

First, we have to stop drugs cost effectively at their source, then we must interdict those illegal narcotics before they come in. And I might say, even to those legalizers, to those who have been in town, including Governor Johnson of New Mexico, promoting legalization of what are now illegal narcotics, even under their plan, it would still be a requirement for the United States to stop illegal narcotics at their source. They would be illegal, even if they were legalized in the United States; drugs through interdiction.

And, again, education, which I think Governor Johnson and others have been promoting along with legalization, does not work. We find the same thing that is very interesting in this administration's approach to tobacco. They have done everything they can to bring tobacco companies into lawsuits. They have expended incredible historic amounts in anti-narcotics advertising and have forced attention to the problem as far as education of young people. But what is interesting, even the most recent statistics that they show, even with all this effort, shows that we still have an upsurge in the use of tobacco products among our young people.

So it does not work by itself. Education is one of a number of elements that must be used. This is very interesting to show; that as the Federal efforts for interdiction and source country program eradication declined, and again a change in policy, we saw our young people using more illegal narcotics.

What is really sad is some of the statistics that have evolved from this situation. And I just received today the latest figures, which were released in August, published the last June of 1999, on the number of drug deaths in the United States. These are deaths from drug-induced causes.

My colleagues have heard me cite before on the floor of the House of Representatives over 14,000 drug deaths, and that was in 1996. The policy that we have seen promoted by this administration and this Congress now has us up to 15,973 deaths in 1997. These are drug-induced causes in the United States. That is a 7.6 percent increase.

I added up the statistics from this report just received today on the number of drug deaths since 1993, the beginning of this administration's policy, and it is 72,232 deaths. I am sure that we will reach 100,000 before the end of this tenure. So we have still a continuing problem. We have more and more deaths caused by illegal narcotics.

Part of the problem, as I have explained before in these special orders, is that the cocaine and the heroin that we see on the streets today is not the cocaine or heroin that was on the streets in the 1970s or 1980s. In those years we saw cocaine and heroin of sometimes 4 to 10 percent in purity. Today, we are seeing on a very common basis a purity of 60 and 70 percent. We are seeing heroin and cocaine that is deadly in form. And many of these deaths are attributed to young people who are trying illegal narcotics, and do not recover in many instances from first-time use, or by combining those very potent and high purity illegal narcotics with other substances of abuse.

Again, we see record numbers of deaths from drug-induced causes in the latest statistics produced, I believe, by the Department of HHS. Again, these just came out.

Of course, we have the deaths that I cited that are very easy to identify, and then we have the deaths that I also report. And whether we legalize or decriminalize what are now illegal narcotics, we would still have situations like this. This was reported in this week's October 2 edition in Carnesville, Georgia, a lady by the name of Shannon Nicole Moss has been in jail since May for allegedly taking cocaine during her pregnancy and causing the death of her daughter. Ms. Moss, 21, gave birth to twins on April 21, but one child, Angel Hope Schneider, died shortly after birth. Franklin County Investigator Chad Bennett said Ms. Moss tested positive for both cocaine and methamphetamine. The child's death was consistent with cocaine use by the mother, said Bennett.

I do not know if this young baby's death will be counted in these statistics. I doubt it. But as I have cited, there are thousands of other deaths that are related to illegal narcotics.

In this week's Christian Science Monitor we see another example of drug use and abuse among our population. This particular story focuses on Plano, Texas. It says, "With its gated communities, leafy parks, and Fortune 500 jobs, Plano is not the sort of town to have a big city drug problem. At least that is what most residents thought. Then, in 1997, some of the young people of Plano discovered the latest craze, heroin, and started overdosing at the rate of one a month. The youngest victim was a 7th grader, Victor Garcia. The oldest and most famous was former Dallas Cowboy, Mark Tuinei. The string of deaths, 18 in Plano, along with half a dozen from nearby towns, does not appear to be over."

We have cited Plano as an example of a very prosperous community, just like the one I come from in Central Florida, north of Orlando, which is my district. We have had over 60 drug-related deaths. Deaths by drugs and drug overdoses now exceed homicides in our central Florida communities. So we see a tremendous impact of illegal narcotics on our communities. I am not sure what difference legalization would make in people overdosing, and particularly young people, on these illegal narcotics.

If it was not bad enough that we had cocaine and heroin, we have on the scene and coming from primarily Mexico, also an international import and again a Federal responsibility to control this type of activity, a report of methamphetamines spiraling out of control in some of our communities. This is a report that appeared in this week's news media and it is date lined Tulsa, Oklahoma. "The number of methamphetamine labs in Oklahoma is exploding. State records show that officials have discovered 60 times the number of clandestine laboratories making methamphetamines than they had found just 5 years ago. State officials call problems with the highly-addictive drug epidemic. And they said the meteoric rise in the drug's popularity has to do in how easy it is to make."

This is not a harmless illegal narcotic, and it is illegal. "Oklahoma Highway Patrol Trooper David 'Rocky' Eales," the story went on to say, "was killed in an attempt to serve methamphetamine-related warrants on September 25. Another trooper was wounded."

It is also interesting to note, and I have some information that we received in one of the hearings that we conducted on legalization of what are now illegal narcotics, and we did try to conduct an open hearing on that subject, but we had a scientist who produced these images. I think I have shown these images one other time about methamphetamine, and this is one of the drugs that some folks would like to legalize. This particular photograph, and these images, demonstrate the long-lasting effects that methamphetamine has on the brain.

The brighter colors reflect greater dopamine-binding capacity. Dopamine function is critical to emotional regulation and it is involved in the normal experience of pleasure. It is also involved in controlling an individual's motor functions. The scan on the left is a nondrug user. The second scan is a chronic methamphetamine abuser who was drug free for 3 years prior to this image. The third scan is a chronic meth abuser who was drug free for 3 years prior to the image. The last brain is a scan of an individual newly diagnosed with Parkinson's Disease, a disease known to deplete dopamine.

□ 2245

So you see what methamphetamine, the so-called harmless, what is now an illegal narcotic that some would like to make legal, does to individuals. Drugs are dangerous. This is very clear scientific evidence produced again by a scientist, not by a congressional committee, about the effects of this particular illegal narcotic.

I wanted to also cite tonight again some of the comments that have been made in this national forum that talked about legalization or a new approach to illegal narcotics, and let me say that I am open to any reasonable approach that we can take to deal with this mounting problem. Our subcommittee has been open, we have held hearings on the question of legalization, of decriminalization, on the problems of incarceration, on enforcement, on interdiction, on the source countries, and we will be doing one in just a few weeks on our first anniversary of our national education program to review all of these programs' effectiveness and various approaches.

But the meeting that was conducted today and this week in Washington about new approaches featured, I guess, a new rage on the drug, national drug scene, and that is New Mexico Governor Gary Johnson. He again has said that the Nation's War on Drugs has been a multibillion-dollar failure and unjustifiably throwing thousands of people in prison and lying to children about the dangers of marijuana. I happened to catch some of that particular presentation of Governor Johnson, a Republican from New Mexico, and I wanted to respond to some of the points that he has raised.

Again, one of these is graphically illustrated by one of the substances that some proponents would like to legalize, and we can show similar graphic displays for other substances, and we have one, another one here we will just put up here. But we do have, in fact, scientific evidence that there is danger to the brain from cocaine, from heroin, from methamphetamine, and it is documented, and the Governor has said that the War on Drugs has been a multibillion-dollar failure. In fact, I think he stated that we went from 1 billion in the 1970s to $18 billion. I think if we look at the way the dollars have been spent, again there were dramatic decreases in a multi-faceted approach to combat illegal narcotics both at the source and through interdiction.

I have often showed the treatment dollars, and we do not have a chart of that tonight, but in fact the chart would show you that treatment dollars since 1992 have in fact doubled, and we are spending a great deal of that $18 billion on treatment programs. I would as much as anyone would like to see a reduction in those expenditures, but we find that if we take out one element, whether it is a source country, international programs, interdiction, law enforcement, education, treatment or prevention, then the efforts begin to crumble and the effect, as we have seen, is devastating particularly among our young people.

He made a rash statement, and I heard him say that soon we will be spending the entire national gross product on enforcement, and that just is not correct. The Governor is incorrect, that of the $18 billion that we will be spending this year, a small percentage of that is on enforcement although that is Federal money and there are substantial dollars spent at the State and local level.

The question is:

Does a liberal policy work or does a tough enforcement policy work and are they cost effective?

Let me take these charts down and again cite one of the best examples that we have of a liberal policy, and I believe in a legalization or liberal policy we would have to look at some model where they have tried this.

And again we have to point to Baltimore. I do not have a whole lot of areas, although Washington, D.C., is now trying to emulate this program that they adopted in Baltimore with free needle exchanges and, again, a more liberal attitude.

But this is an interesting chart that was given to me by the head of our Drug Enforcement Agency in one of our hearings, and I will recite it.

In Baltimore we saw the population in 1950 at nearly a million drop to, it is around 600,000 now, not half, but on its way down. We saw a small number of heroin addicts, and this was the population of the heroin addicts, about 39,000 in 1996. The latest figures or unofficial figures are 60,000, and I cited a council person from Baltimore who said 1 in 8 citizens in Baltimore are now addicted to heroin.

Now this is a liberal policy, this needle exchange policy. We have seen that that policy, and again, if we had legalization, I do not know what would stop people from becoming addicted, but in fact we have 1 in 8 in this city as a heroin addict, which is absolutely astounding, a model I do not think any of us would want to copy.

I have also pointed out as a counter example New York City with Mayor Giuliani, and I bring this up again, a tough enforcement policy, and Governor Johnson said that we are spending too much money, and I think, if we look and go back and look at per capita expenses, dollar expenses, and we compared New York with Baltimore, we would see that there would probably be similar expenditures.

But this particular chart shows the narcotics arrests index and the crime index, and we see that crime is going down as the number of tough enforcement was undertaken in that city. Pretty dramatic figures in New York, and let me cite a few of them, if I may.

First of all, the total number of major felony crimes fell from 1993 to 1998 in New York City by 51 percent. Just from 1997 to 1998 with a zero tolerance policy there was 11 percent decrease in major felony crimes. In New York City murder and nonnegligent manslaughter also declined. There was a 67 percent decrease from 1993 to 1998, and in just one year, from 1997 to 1998, an 18 percent decrease in murder and nonnegligent manslaughter.

And what about some other crimes? Total felony and misdemeanor narcotics arrests in the city actually increased, and we went from less than 70,000 to 120 between 1993 and 1998, but in that period of time you saw the dramatic decrease in murders. In fact, in New York City in 1998 it was the lowest number of murders committed in New York in 36 years. The murders fell from approximately, this chart will show, from over 2,000 in this period, 1991 to somewhere in the 600 to 629 in 1998, dramatic decreases as there were some increase in narcotic offenses.

So the cost effectiveness of these programs, and I am sure if we looked at the social implications, the destruction of families, abuse in Baltimore, and we look at what has taken place in New York City, we would see that we have, in fact, a success, and again not a total success. We still have some dramatic problems not only in New York.

But what is amazing, if you look at this last chart again, as a result of Mayor Giuliani's zero tolerance policies that he established and based on what the murder rate was before he took office, over 3,500 people just in New York City are alive today who otherwise would be fatality statistics. That is a pretty dramatic figure.

The other misconception that Governor Johnson stated in his speech, and again I heard part of it today; he said that, and I think he was citing more in his State; he said there were arresting Mexican citizens coming across the border for $200, and he said if we looked at the profile of people arrested, you would find marijuana users selling a little bit of marijuana and crack users selling a little crack and going to jail for that. Those were some of his comments.

I did not take it down in shorthand, but there are many myths about people who are in prison for drug related offenses, and the most recent study that our subcommittee found was one that was conducted in New York State by that New York State Office of Justice, and it was a rather telling example of what is really taking place with those convicted of various offenses related to narcotics, and this was again in spring, very recent. We had testimony to this affect, that there are roughly 22,000 individuals serving time in New York State prison for drug offenses. Again this is very comprehensive study. Eighty-seven percent of them are actually serving time for selling drugs, 87 percent of them are there for selling drugs. Seventy percent of them have had one or more felony convictions on their record.

So these are not just these innocent little Mexicans crossing the border for $200 reward or some innocent marijuana users selling enough marijuana to supply his habit or some minor crack dealer. Seventy percent of these 22,000 individuals have one or more felony convictions on their record.

Of the people who are serving time for drug possession charges, 76 percent were actually arrested for sale or intent to sell charges that eventually pled down to possession. So there is a great myth about who is behind bars and why they are there and what offenses they have committed.

We also found from this study and in our hearing about New York drug offenses that the 1998 arrestee drug abuse monitoring program report issued by the National Institute of Justice documents an estimated 80 percent of persons arrested each year in New York City tested positive for drugs. So we have a situation where these people have, who are arrested also, have illegal narcotics in their system, and that is also part of the problem, and we do need to revisit our treatment programs both at State level and the Federal level.

□ 2300

But there is a great myth about who is serving time. This study was quite interesting, because it showed and documented very specifically that, at least in New York State, you really have to try, you have to commit a number of serious felonies and you have to be a dealer in very large quantities of hard illegal narcotics to make your way into prison. You had to work to get into prison in New York. We found that same pattern in other states. So the information that Governor Johnson used is not correct.

He also said half the arrests in the United States involved United States Hispanics selling marijuana. I do not know where he got that figure. I have never seen that figure.

We do know that the latest statistics that our subcommittee has received from DEA and HHS do indicate that one of the victims of illegal narcotics are teenage Hispanics and young Hispanics; that, in fact, with addiction, they have the highest percentage of increases.

What we also know from the most recent report that I have received is that the biggest problem with addiction among our young people, and I would think it would be alcohol, is not alcohol, but in fact is marijuana, another startling fact. Of course, many people do not want to deal with facts or reality on this subject. They want to deal with their own personal viewpoint.

The Governor also, I heard him say, Governor Johnson, that the war on drugs was 1,000 miles wide and a half inch thick. The war on drugs in fact is thousands and thousands of miles wide and, as you may have seen by what I illustrated, it was reduced down to an inch thick. But the war on drugs does not work when you have no resources in it, and they were eviscerated by this Congress back in 1993, 1994 and 1995 under this Democrat-controlled House of Representatives, Senate and the presidency. That approach did not work, and we had some very, again, well-documented results. That was not and is not today pleasing.

His final comment was "stop arresting the entire country." Again, this is Governor Johnson. I do not think any of us want to arrest anyone. We do know that individuals that have used illegal narcotics, probably marijuana is one of the most frequently. Maybe it does not have all of the effects of some of the other hard drugs that we cited, cocaine, heroin, methamphetamines. We have shown here we do know the levels of purity are much, much higher than that marijuana that was used in the seventies and eighties, and it also has an effect on the brain.

Again, we do know from facts that today our biggest problem with addiction among young people, again, I was even surprised by this, and these are statistics that are DEA and HHS documented, our biggest problem with addiction now is marijuana with our young people. Whether it gets to be a gateway drug or not is a question for debate, and we certainly had plenty of testimony that did point to the first use of that substance or other substance abuse and then on to harder drugs.

Legalization just has not been acceptable as an alternative, and neither has decriminalization, although we are looking very carefully at the programs we have for those incarcerated. We have also looked at the Arizona model, which is not a decriminalization, and had testimony from officials from Arizona who do take first-time drug offenders and give them alternatives before their final sentencing, but the sentencing is withheld pending their performance. The moment that they backslide or get back into the narcotics habit, which is a tremendous problem, recidivism with illegal narcotics use in these programs, those individuals do go on, are sentenced and serve time.

So, again, I think everyone wants to see that our prisons are free of so-called casual drug users. But, again, the people that end up there, unfortunately, commit felonies and crimes while under the influence of these illegal narcotics, were selling quantities of illegal narcotics which would be illegal under decriminalization or the legalization scheme that has been mentioned by anyone to date.

What is interesting is even with these efforts to liberalize national drug policy, even the latest surveys, and again the surveys can be subject to the way the questions are asked or framed, but the latest surveys that we have, this one is by the Melman Group and it was a survey by telephone of 800 registered voters at the beginning of September, found some of these topics on the public's mind.

Voters want education, Social Security and drug trafficking to be top priorities of the Congress and the President. HMO restrictions and illegal drugs are top worries for the largest number of voters. We have heard most of the special orders tonight on the topic of HMOs. I am the soul one on the second subject, illegal drugs.

Women and minorities are more likely to think that drug issues should be a top national priority. The poll also found that Americans want cracking down on drug smuggling to be Washington's highest priority. Preventing drugs from entering the United States, reducing the supply, is the most important effective way to deal with the problem. Again, this poll of 800 Americans showed three-fourths of Americans favor increasing funding for interdiction. Even with the $2 billion price tag, the majority still favor increasing funding for interdiction. By more than two to one, voters favor additional dollars on interdiction over anti-drug advertising.

As I said, our subcommittee continues to monitor the reinstitution of our national and international efforts on interdiction and source country programs. We will be carefully reviewing our $200 million with private donations, probably half a billion dollar total expenditures for an anti-drug advertising program, the first year of which will have been concluded this past week, and we will do a hearing on that and review an examination of those expenditures and the effectiveness of that program.

Congressional Democrats, the poll finally says, enjoy an advantage over Republicans on almost every issue except keeping illegal drugs out of the U.S. I am not sure what that means for Republicans, being a Republican, but at least hopefully I am on the right side of one issue.

The rest of the special order that I wanted to do tonight really would get away from the topic of legalization, decriminalization or liberalization, as Governor Johnson of New Mexico has advocated, and talk about again one of our responsibilities, which is stopping illegal narcotics that are coming into the United States.

Again, under any of these schemes, no matter how wild they may be for liberalization or decriminalization or legalization, one of the responsibilities of this Congress, of any administration, will be to stop these hard drugs from coming in to the United States.

□ 2310

The source of more than 50 percent or probably in the 60 or 70 percent of all illegal antibiotics, we could start with marijuana, go on to cocaine, heroin, methamphetamine, the source of all the hard narcotics and even, again, the soft narcotic, if you want to call it that, marijuana, coming into the United States is through Mexico. Most of the cocaine and heroin is now produced in Colombia, but they have melded forces with corrupt officials in Mexico and corrupt dealers in Mexico, and these gangs are now filtering and transiting illegal narcotics through Mexico.

Mexico is our big problem on an international level, and will continue to be. That is in spite of the fact that our trade with Mexico has been at an all-time high. We have given Mexico, as I have cited, incredible trade advantages, both with NAFTA, and we have underwritten Mexico in its financially difficult times.

The United States' exports to Mexico now surpass U.S. exports to Japan, making Mexico our second most important export partner. However, with NAFTA, exports to the United States, from the United States to Mexico, were $71 billion in 1998. Imports to the United States from Mexico were $87 billion. We experienced in 1998 a $15.7 billion trade deficit, so we are good partners, we have given them help. We are good neighbors, good allies. We have given them a trade advantage that is now hurting us economically.

The U.S.-Mexican border is 2,000 miles long and 60 miles deep on either side of the border, consisting of four U.S. States, California, Arizona, New Mexico, and Texas, all on the borders, of course. They border six Mexican

States. We have 45 border crossings with an estimated 278 to 351 million persons legally crossing the border from Mexico to the United States in 1998.

The INS, at great expense, apprehended 1.5 million undocumented immigrants on the southwest border in fiscal year 1998. According to DEA, almost all of the estimated six tons of heroin produced in Mexico in 1998 will reach the United States markets. Mexico remains a major source country for marijuana and heroin sold in the United States.

The DEA estimates that the majority of methamphetamine available in the United States is either produced and transported to the United States or is manufactured in the United States now by Mexican drug traffickers.

According to the United States Department of State, Mexico continues to be the primary haven for money laundering in all of Latin America. This of course has had incredible consequences in Mexico. The Baja Peninsula along this end is completely controlled by drug traffickers. In fact, this chart shows Mexico-based drug trafficking. The Yucatan Peninsula is controlled by drug traffickers, and different states and such regions of Mexico are almost totally controlled by drug traffickers.

I cited methamphetamine, a new phenomenon. It is incredible, but 90 percent of the methamphetamine seized in Iowa this year came from Mexico. That is from the U.S. Attorney's office in Iowa's northern district. About 85 percent of the methamphetamine in Minnesota, all the way up, it is not even on this chart, in Minnesota is smuggled from Mexico. The source is the Minneapolis Star Tribune, in an investigation that was conducted there.

Most of the methamphetamine available in the upper Midwest is trafficked by Mexican-controlled criminal organizations connected to sources of supply in California and Mexico that were based in smaller midwestern cities with existing Mexican-American populations. The source of that is the Drug Enforcement Administration, in a 1996 report.

Unfortunately, even with all this activity, with the trade benefits, financial benefits, pledges of cooperation with Mexico, drug seizures are dramatically down. The amount of heroin seized from 1997 to 1998 dropped 56 percent. The amount of cocaine dropped some 35 percent in the same year. The number of vehicles seized from 1997 at sea went from 135 to 96, a 9 percent decrease.

We have asked for maritime cooperation. We have not gotten it. We have asked for seizure cooperation. We have not gotten it. We have also asked for extradition of Mexicans who have been involved in illegal narcotics.

Tonight let me display a couple of folks we are looking for and describe them. To date we have not had a single Mexican major drug trafficker extradited.

This individual is Lewis Ignacio Amezcua-Contreras, and this individual is one of the chief producers of methamphetamine in really the world. Recently, despite overwhelming evidence, all Mexican drug charges have been dismissed. We are hoping that this individual will be extradited to the United States.

Again, our requests, this Congress passed a resolution, the House of Representatives several years ago, asking for cooperation in extradition of major drug traffickers. To date, we have not had one Mexican major drug kingpin extradited.

We have another star tonight in our array of requests for extradition. This is another individual that we have asked for. This is Vincent Carrillo Fuentes. He is a major cocaine trafficker. He has not been arrested. We think he is at large in Mexico. He is a United States fugitive. This is another individual.

There are 45 of these major drug traffickers we would like extradited to stand trial, it is the thing they fear most, in the United States. I would say for both of these individuals, I believe there are some substantial rewards in the million dollar range, so if anyone would like to turn these individuals in, I am sure they would also like to receive the reward that is available.

United States officials testified before my subcommittee that there are 275 extradition requests that are pending with Mexico. Mexico has only approved 45 extradition requests since 1996, and as I said, not one major Mexican drug kingpin. Only 20 of the extradition requests that Mexico has approved have been drug-related, and only one of those has been a Mexican citizen. But again, there have been no major drug kingpins.

On November 13, 1997, the United States and Mexico signed a protocol to the current extradition treaty. I think that treaty goes back to 1978. The protocol is basically the way the extradition would operate, and all the details.

The protocol has been ratified by United States Senate, the other body, and is currently being delayed in Mexico's Senate. To date they still have not resolved or approved an extradition protocol with the United States.

Additionally, this Congress several years ago asked Mexico for cooperation in enforcing the laws on the books. It was not a tough request: extradition, maritime cooperation. The United States customs agency ran an undercover operation called Operation Casablanca. This undercover operation was the largest money laundering sting in the history of the United States, absolutely incredible money laundering.

Members will not be able to see this chart too well. Maybe they can focus for a few minutes. Let me talk a little about this. Forty Mexican and Venezuelan bankers, businessmen, and suspected drug cartel members were arrested, and 70 others were indicted as fugitives.

The United States informed Mexican counterparts of the operation, but they did not tell them all the details because they feared Mexican corruption would or could endanger the lives of some of our agents.

□ 2320

And as we know from history, one of our agents, Kiki Camarena, was brutally murdered in Mexico and even today some of his murderers and those involved in his horrible death have not been brought to justice.

Operation Casablanca involved three of Mexico's most prominent banks, Bancomer, Banca Serfin, and Confia, and all of these three major banks were implicated in the investigations. A former senior United States Customs agent who led the Casablanca probe declared that the corruption reached the highest levels of the Zedillo government when he implicated the defense minister in this event.

Mr. Speaker, it is my hope that we can have justice prevail in this situation and next week we will continue the rest of the story as it relates to corruption in the Mexican Government and Mexican drug trafficking.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MASCARA (at the request of Mr. GEPHARDT) for before 5:00 p.m. today on account of personal reasons.

Mr. LAHOOD (at the request of Mr. ARMEY) for today on account of attending the funeral of Bishop Edward O'Rourke.

Mr. HILL of Montana (at the request of Mr. ARMEY) for today on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. LIPINSKI, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. RUSH, for 5 minutes, today.

Ms. WATERS, for 5 minutes, today.

Mr. HOLT, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Ms. BROWN of Florida, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. THUNE) to revise and extend their remarks and include extraneous material:)

Mr. JONES of North Carolina, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, October 12.

Mr. DUNCAN, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1255. An act to protect consumers and promote electronic commerce by amending certain trademark infringement, dilution, and counterfeiting laws, and for other purposes; to the Committee on the Judiciary.

ADJOURNMENT

Mr. MICA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 21 minutes p.m.), the House adjourned until tomorrow, Wednesday, October 6, 1999, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4649. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Modification of Procedures for Limiting the Volume of Small Red Seedless Grapefruit [Docket No. FV99-905-4 IFR] received September 29, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4650. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Increase in Fees and Charges for Egg, Poultry, and Rabbit Grading [Docket No. PY-99-004] (RIN: 0581-AB54) received September 29, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4651. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Tobacco Inspection; Subpart B-Regulations [Docket No. TB-99-07] received September 29, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4652. A letter from the Administrator, Food and Safety Inspection Service, Department of Agriculture, transmitting the Department's final rule—Addition of Mexico to the List of Countries Elligible to Export Poultry Products into the United States [Docket No. 97-006F] (RIN: 0583-AC33) received September 22, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4653. A communication from the President of the United States, transmitting a request for emergency funds for the Department of Defense to be used to meet the critical readiness and sustainability needs that emerged from operations in Kosovo; (H. Doc. No. 106-140); to the Committee on Appropriations and ordered to be printed.

4654. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Changes in Flood Elevation Determinations—received September 28, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

4655. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Changes in Flood Elevation Determinations [Docket No. FEMA-7300] received September 28, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

4656. A letter from the Associate Bureau Chief, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of the Amateur Service Rules to Provide For Greater Use of Spread Spectrum Communications [WT Docket No. 97-12 RM-8737] received September 29, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4657. A letter from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Manson, Iowa) [MM Docket No. 99-91 RM-9529] (Rudd, Iowa) [MM Docket No. 99-92 RM-9530] (Pleasantville, Iowa) [MM Docket No. 99-93 RM-9531] (Dunkerton, Iowa) [MM Docket No. 99-95 RM-9533] (Manville, Wyoming) [MM Docket No. 99-97 RM-9535] received September 29, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4658. A letter from the Associate Chief, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, transmitting the Commission's final rule—Implementation of the Telecommunications Act of 1996 [CC Docket No. 96-115] Telecommunications Carriers' Use of Customer Propriety Network Information and Other Customer Information; Implentation of the Non-Accounting Safeguards of the Communications Act of 1934, As Amended [CC Docket No. 96-149] received September 30, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4659. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—List of Approved Spent Fuel Storage Casks: (VSC-24) Revision (RIN: 3150-AG36) received September 28, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4660. A communication from the President of the United States, transmitting a report on the status of efforts to obtain Iraq's compliance with the resolutions adopted by the U.N. Security Council, pursuant to 50 U.S.C. 1541; (H. Doc. No. 106-139); to the Committee on International Relations and ordered to be printed.

4661. A letter from the Bureau of Export Administration, Department of Commerce, transmitting the Department's final rule—Reexports to Libya of Foreign Registered Aircraft Subject to the Export Administration [Docket No. 990827238-9238-01] (RIN: 0694-AB94) received September 27, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

4662. A letter from the Director, Office of the Procurement and Property Management, Department of Agriculture, transmitting the Department's final rule—Agriculture Acquisition Regulation; Part 415 Reorganization; Contracting by Negotiation [AGAR Case 96-04] (RIN: 0599-AA07) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4663. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Coastal Zone Consistency Review of Exploration Plans and Development and Production Plans (RIN: 1010-AC42) received September 27, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4664. A letter from the Acting Regulations Officer, Office of Process and Innovation Management, Social Security Administration, transmitting the Administration's final rule—Administrative Review Process; Prehearing Proceedings and Decisions by Attorney Advisors; Extension of Expiration Dates (RIN: 0960-AF07) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. TALENT: Committee on Small Business. H.R. 1497. A bill to amend the Small Business Act with respect to the women's business center program; with an amendment (Rept. 106-365). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOSS: Committee on Rules. House Resolution 323. Resolution providing for consideration of the bill (H.R. 2990) to amend the Internal Revenue Code of 1986 to allow individuals greater access to health insurance through a health care tax deduction, a long-term care deduction, and other health-related tax incentives, to amend the Employee Retirement Income Security Act of 1974 to provide access to and choice in health care through association health plans, to amend the Public Health Service Act to create new pooling opportunities for small employers to obtain greater access to health coverage through HealthMarts, and for other purposes, and for consideration of the bill (H.R. 2723) to amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage (Rept. 106-366). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of Texas: Committee on the Judiciary. S. 452. An act for the relief of Belinda McGregor (Rept. 106-364). Referred to the Private Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BLILEY (for himself, Mr. Tauzin, Mr. Oxley, and Mr. Blunt):

H.R. 3011. A bill to amend the Communications Act of 1934 to improve the disclosure of information concerning telephone charges, and for other purposes; to the Committee on Commerce.

By Mr. BARTON of Texas (for himself, Mr. McIntosh, Mr. Pickering, and Mr. Kasich):

H.R. 3012. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to protect Social Security trust funds and save Social Security surpluses for Social Security; to the Committee on the Budget.

By Mr. YOUNG of Alaska:

H.R. 3013. A bill to amend the Alaska Native Claims Settlement Act to allow shareholder common stock to be transferred to adopted Alaska Native children and their descendants, and for other purposes; to the Committee on Resources.

By Mrs. BIGGERT (for herself, Mr. Ose, Mr. English, Mr. Schaffer, Mr. Lipinski, Mr. Bachus, Mr. McIntosh, Mr. Royce, Mr. Weldon of Florida, and Mr. Foley):

H.R. 3014. A bill to amend title 18, United States Code, with regard to prison commissaries, and for other purposes; to the Committee on the Judiciary.

By Mr. CAMPBELL:

H.R. 3015. A bill to amend the Internal Revenue Code of 1986 to encourage a strong community-based banking system; to the Committee on Ways and Means.

By Mr. CLYBURN (for himself, Mr. Spence, Mr. Spratt, Mr. Graham, Mr. Sanford, and Mr. DeMint):

H.R. 3016. A bill to designate the United States Post Office located at 301 Main Street in Eastover, South Carolina, as the "Layford R. Johnson Post Office"; to the Committee on Government Reform.

H.R. 3017. A bill to designate the United States Post Office located at 78 Sycamore Street in Charleston, South Carolina, as the "Richard E. Fields Post Office"; to the Committee on Government Reform.

H.R. 3018. A bill to designate the United States Post Office located at 557 East Bay Street in Charleston, South Carolina, as the "Marybelle H. Howe Post Office"; to the Committee on Government Reform.

H.R. 3019. A bill to designate the United States Post Office located at 4026 Lamar Street in (the Eau Claire community of) Columbia, South Carolina, as the "Mamie G. Floyd Post Office"; to the Committee on Government Reform.

By Mr. CROWLEY (for himself, Mr. Sherman, Mr. Brady of Pennsylvania, Mr. Moran of Virginia, Mr. Larson, Mr. Meehan, Mr. Neal of Massachusetts, Mr. Menendez, Ms. Pelosi, and Mr. Hoeffel):

H.R. 3020. A bill to make illegal the sale of guns, ammunition, or explosives between private individuals over the Internet; to the Committee on the Judiciary.

By Mrs. LOWEY:

H.R. 3021. A bill to extend the authority of the Thomas Paine National Historical Association to establish a memorial to Thomas Paine in the District of Columbia; to the Committee on Resources.

By Mr. MARKEY:

H.R. 3022. A bill to amend the Communications Act of 1934 to improve the disclosure of information concerning telephone charges, and for other purposes; to the Committee on Commerce.

By Mr. PASTOR:

H.R. 3023. A bill to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to convey property to the Greater Yuma Port Authority of Yuma County, Arizona, for use as an international port of entry; to the Committee on Resources.

By Mr. SMITH of New Jersey:

H.R. 3024. A bill to amend the Communications Act of 1934 to restrict the transmission of unsolicited electronic mail messages; to the Committee on Commerce.

By Mr. SOUDER (for himself, Mr. Andrews, and Mr. McIntosh):

H.R. 3025. A bill to establish a national clearinghouse for youth entrepreneurship education; to the Committee on Education and the Workforce.

By Mr. TRAFICANT:

H.R. 3026. A bill to direct the Secretary of Transportation to complete construction of the Hubbard Expressway in the vicinity of Youngstown, Ohio; to the Committee on Transportation and Infrastructure.

By Mr. WELDON of Pennsylvania (for himself, Mr. Abercrombie, Ms. Kaptur, Mr. Armey, Mr. Murtha, Mr. Cox, Mr. Leach, Mrs. Tauscher, Mr. Saxton, Mr. Taylor of North Carolina, Mr. Kucinich, Mr. Royce, Mr. Burton of Indiana, Mr. Gilman, Mr. Wicker, Mr. Holden, Mr. Brady of Pennsylvania, Mr. Graham, Mr. Cramer, Mr. Hayes, Mr. Rohrabacher, Mr. Sherwood, Mr. Pitts, Mrs. Fowler, Mr. DeLay, Mr. Goss, Mr. Watts of Oklahoma, Mr. Gibbons, Mr. Bartlett of Maryland, Mr. Snyder, Mr. Ortiz, Mr. Andrews, Ms. Brown of Florida, Mr. Hinchey, Mr. Schaffer, Mr. Sisisky, Mr. Goode, Mr. Hoeffel, Mr. Dicks, Mr. Kanjorski, Mr. Thornberry, Mr. Stenholm, Mr. Pickett, Mr. Condit, Mr. Peterson of Minnesota, Mr. Ryan of Wisconsin, Mr. Hall of Texas, Mr. Lazio, Mr. Reyes, and Mr. Sanders):

H.R. 3027. A bill to propose principles governing the provision of International Monetary Fund assistance to Russia; to the Committee on Banking and Financial Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COX:

H.J. Res. 70. A joint resolution providing for expedited emergency humanitarian assistance, disaster relief assistance, and medical assistance to the people of Taiwan; to the Committee on International Relations.

By Mr. STRICKLAND:

H. Con. Res. 192. Concurrent resolution expressing the sense of Congress regarding support for nongovernmental organizations participating in honor guard details at funerals of veterans; to the Committee on Armed Services.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

255. The SPEAKER presented a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 27 memorializing Congress to call on the Government of Japan to issue a formal apology and reparations to the victims of its war crimes during World War II; to the Committee on International Relations.

256. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution 15 memorializing the President and Congress to take action necessary to honor our country's moral obligation to provide these Filipino veterans with the military benefits that they deserve, including, but not limited to, holding related hearings, and acting favorably on legislation pertaining to granting full veterans benefits to Filipino veterans of the United States Armed Forces; to the Committee on Veterans' Affairs.

257. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 7 memorializing the Congress of the United States to index the AMT exemption and tax brackets for inflation; to the Committee on Ways and Means.

258. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 23 memorializing the President and Congress of the United States to evaluate the problems caused by relocating film industry business to Canada and other foreign nations, to evaluate the current state and federal tax incentives provided to the film industry and to promote trade-related legislation that will persuade the film industry to remain in California; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. Oberstar and Mr. Boucher.

H.R. 82: Mr. Duncan and Mr. McNulty.

H.R. 123: Mr. Ewing.

H.R. 142: Mr. Hefley.

H.R. 271: Ms. Pelosi and Mr. Blagojevich.

H.R. 303: Mr. Leach, Mr. Menendez, Mr. Clyburn, Mr. Lucas of Kentucky, Mr. Barr of Georgia, and Ms. McCarthy of Missouri.

H.R. 354: Mr. Jackson of Illinois and Mr. LaHood.

H.R. 460: Mr. McHugh.

H.R. 531: Mr. Evans.

H.R. 534: Mr. Ortiz and Mr. Reyes.

H.R. 654: Mr. Horn.

H.R. 728: Mr. Skelton.

H.R. 783: Mr. Snyder, Mr. Gutierrez, Mrs. Napolitano, and Mr. Leach.

H.R. 784: Mr. Baird and Mr. Vitter.

H.R. 860: Mr. Holden.

H.R. 976: Mr. DeFazio.

H.R. 979: Mr. Pallone, Mr. Weygand, Mr. Lucas of Kentucky, Mrs. Christensen, Mr. Watt of North Carolina, Mr. Lewis of California, Mr. Jackson of Illinois, Mr. Udall of New Mexico, and Ms. Stabenow.

H.R. 1032: Mr. Burr of North Carolina.

H.R. 1046: Mr. Vento.

H.R. 1082: Mr. Hall of Ohio and Mr. Strickland.

H.R. 1093: Mr. Hoekstra.

H.R. 1168: Mr. Bentsen, Mr. Stupak, Mr. Baird, Mr. Bilbray, and Mr. Ortiz.

H.R. 1176: Mr. Luther.

H.R. 1221: Mr. Hayes and Mr. Shays.

H.R. 1248: Mr. Thompson of California.

H.R. 1274: Mr. Foley.

H.R. 1294: Mr. Vitter.

H.R. 1322: Mr. Toomey.

H.R. 1325: Mr. Deutsch.

H.R. 1329: Mr. Hostettler, Mr. Baker, and Mr. Nethercutt.

H.R. 1422: Mr. Gonzalez, Mr. Towns, Mr. George Miller of California, Mr. Sandlin, and Ms. Berkley.

H.R. 1445: Mr. Jenkins, Mr. Wise, Mr. Towns, and Mr. Kingston.

H.R. 1505: Mr. Evans.

H.R. 1592: Mr. Mascara.

H.R. 1593: Mr. Kind.

H.R. 1621: Mr. Wexler and Mr. Baird.

H.R. 1644: Mr. Baird.

H.R. 1686: Mr. Hutchinson and Mr. Rahall.

H.R. 1728: Mr. Hoeffel and Mr. Ryan of Wisconsin.

H.R. 1987: Mr. Cannon, Mr. Hutchinson, Mr. Dreier, Mr. Bonilla, Mrs. Fowler, Mr. Kuykendall, Mr. Calvert, Mr. Hobson, and Mr. Hayworth.

H.R. 2053: Mrs. Kelly.

H.R. 2059: Mr. Coyne, Mr. Holden, Mr. Etheridge, and Mr. Reyes.

H.R. 2121: Mr. Lampson, Mr. Watt of North Carolina, Mr. George Miller of California, and Mr. Capuano.

H.R. 2240: Mr. Franks of New Jersey.

H.R. 2241: Ms. DeLauro, Mr. Vento, Mr. Young of Florida, Mr. Weldon of Florida, Ms. Woolsey, and Mr. Kingston.

H.R. 2252: Mr. Blumenauer and Mr. Clay.

H.R. 2287: Mr. Lantos.

H.R. 2420: Mr. Taylor of North Carolina, Mr. Reyes, Mr. Rahall, and Mr. Ryan of Wisconsin.

H.R. 2492: Mr. Frost and Mr. Towns.

H.R. 2498: Mr. Jones of North Carolina, Mr. Vento, Mr. LaFalce, and Mr. Kennedy of Rhode Island.

H.R. 2544: Mr. Barcia, Mr. McInnis, Mrs. Northup, Mr. Tancredo, and Mr. Weldon of Florida.

H.R. 2551: Mr. Blunt, Mr. Stenholm, Mr. Bonilla, Mr. Sanders, Mr. Greenwood, Mr. Kucinich, Mr. Lewis of Kentucky, and Ms. Danner.

H.R. 2594: Mr. Horn, Mr. Conyers, Ms. Pelosi, Mr. Davis of Illinois, Ms. Jackson-Lee of Texas, Mr. Bonior, Mr. Lewis of Georgia, and Mr. Weiner.

H.R. 2640: Mrs. Thurman.

H.R. 2673: Mr. Bonior.

H.R. 2706: Mr. Frost, Mr. Frank of Massachusetts, Mr. Meehan, Mr. Wynn, and Mr. Sanders.

H.R. 2711: Mr. LaFalce.

H.R. 2720: Mr. Foley.

H.R. 2723: Mr. Borski, Mr. Gonzalez, Mr. Scott, Mr. Gutierrez, Mr. Franks of New Jersey, Mr. Hall of Ohio, Mr. Jefferson, and Mr. Lampson.

H.R. 2726: Mr. Hall of Texas, Mr. Collins, Mr. Traficant, and Ms. Granger.

H.R. 2733: Mr. Frank of Massachusetts, Mrs. Kelly, Mr. Oxley, and Mr. Sherman.

H.R. 2738: Mrs. Clayton, Mr. Waxman, and Mr. Doyle.

H.R. 2784: Mr. Hall of Texas.

H.R. 2807: Mr. Reyes.

H.R. 2819: Mr. Evans and Mr. Dooley of California.

H.R. 2824: Mr. Wamp.

H.R. 2837: Ms. Berkley.

H.R. 2901: Mr. Terry.

H.R. 2902: Mrs. Mink of Hawaii, Mr. Evans, Ms. Eddie Bernice Johnson of Texas, Mr. Hastings of Florida, Mr. Frank of Massachusetts, Mr. Bonior, Mr. Payne, Mr. Olver, Mr. DeFazio, Mr. Baldacci, Mr. Kucinich, Ms. Jackson-Lee of Texas, Mr. Conyers, Mr. Vento, and Ms. Waters.

H.R. 2959: Mr. Sam Johnson of Texas.

H.R. 2973: Mr. Barcia.

H.R. 2982: Mr. Lewis of Georgia, Mr. Fattah, and Mr. Farr of California.

H.R. 2990: Mr. Bryant, Mr. DeMint, Mr. Watts of Oklahoma, Mr. Bilirakis, Mr. Cunningham, Mr. Chabot, Mrs. Northup, and Mr. Bachus.

H.R. 3006: Mr. George Miller of California.

H. Con. Res. 132: Ms. Stabenow.

H. Con. Res. 186: Mr. Isakson, Mr. Talent, Mr. Hefley, and Mr. Foley.

H. Con. Res. 189: Mr. Boehlert and Mr. Bereuter.

H. Con. Res. 190: Mr. Kolbe and Mr. Cook.

H. Res. 298: Mr. Fattah, Mr. Jefferson, Mr. Kanjorski, Ms. Ros-Lehtinen, Mr. Ackerman, Mr. Forbes, Mr. Meehan, Mr. Hastings of Florida, Ms. Millender-McDonald, Mr. Wynn, and Mr. Sabo.

H. Res. 303: Mr. Hostettler and Mr. Thune.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

59. The SPEAKER presented a petition of South Amboy City Council, relative to Resolution No. 199-99 petitioning the members of the U.S. Senate and the House of Representatives to oppose any budgetary cuts inimical to the Community Block Grant funding and HUD's budget; to the Committee on Banking and Financial Services.

60. Also, a petition of Cleveland City Council, relative to Resolution No. 1587-99 petitioning for a Congressional investigation into HUD's handling of Longwood and Rainbow Apartments; to the Committee on Banking and Financial Services.

61. Also, a petition of the City Council of Orange Township, relative to a resolution petitioning Congress to enact H.R. 1168; jointly to the Committees on Science and Transportation and Infrastructure.

SENATE—*Tuesday, October 5, 1999*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord of all life, our prayer is like breathing. We breathe in Your Spirit and breathe out praise to You. Help us to take a deep breath of Your love, peace, and joy so that we will be refreshed and ready for the day. Throughout the day, if we grow weary, give us a runner's second wind of renewed strength. What oxygen is to the lungs, Your Spirit is to our souls.

Grant the Senators the rhythm of receiving Your Spirit and leading with supernatural wisdom. In this quiet moment, we join with them in asking You to match the inflow of Your power with the outflow of energy for the pressures of the day. So much depends on inspired leadership from the Senators at this strategic time. Grant each one what he or she needs to serve courageously today. Thank You for a great day lived for Your glory. You are our Lord and Savior. Amen.

PLEDGE OF ALLEGIANCE

The Honorable GEORGE VOINOVICH, a Senator from the State of Ohio, led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER• (Mr. VOINOVICH). The Senator from Arizona is recognized.

Mr. McCAIN. I thank the Chair.

SCHEDULE

Mr. McCAIN. MR. PRESIDENT, TODAY THE SENATE WILL RESUME CONSIDERATION OF THE PENDING AMENDMENTS TO THE FAA BILL. SENATORS SHOULD BE AWARE THAT ROLLCALL VOTES ARE POSSIBLE TODAY PRIOR TO THE 12:30 RECESS IN AN ATTEMPT TO COMPLETE ACTION ON THE BILL BY THE END OF THE DAY. AS A REMINDER, FIRST-DEGREE AMENDMENTS TO THE BILL MUST BE FILED BY 10 A.M. TODAY. AS A FURTHER REMINDER, DEBATE ON THREE JUDICIAL NOMINATIONS TOOK PLACE LAST NIGHT AND BY PREVIOUS CONSENT THERE WILL BE THREE STACKED VOTES ON THOSE NOMINATIONS AT 2:15 P.M. TODAY. FOLLOWING THE COMPLETION OF THE FAA BILL, THE SENATE WILL RESUME CONSIDERATION OF THE LABOR-HHS APPROPRIATIONS BILL.

I thank my colleagues for their attention.

AIR TRANSPORTATION IMPROVEMENT ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the pending amendments to the FAA bill.

Pending:

Gorton Amendment No. 1892, to consolidate and revise provisions relating to slot rules for certain airports.

Gorton (for Rockefeller/Gorton) Amendment No. 1893, to improve the efficiency of the air traffic control system.

Baucus Amendment No. 1898, to require the reporting of the reasons for delays or cancellations in air flights.

Mr. McCAIN. Mr. President, I am sorry that I was not here yesterday when the debate began. Nevertheless, I rise in support of S. 82, the Air Transportation Improvement Act. As everyone should be aware, this is "must-pass" legislation that includes numerous provisions to maintain and improve the safety, security and capacity of our nation's airports and airways. Furthermore, this bill would make great strides in enhancing competition in the airline industry.

If Congress does not reauthorize the Airport Improvement Program (AIP), the Federal Aviation Administration (FAA) will be prohibited from issuing much needed grants to airports in every state, regardless of whether or not funds have been appropriated. We have now entered fiscal year 2000, and we cannot put off reauthorization of the AIP. The program lapsed as of last Friday. Every day that goes by without an AIP authorization is another day that important projects cannot move ahead.

If we fail to reauthorize this program, we may do significant harm to the transportation infrastructure of our country. AIP grants play a critical part of airport development. Without these grants, important safety, security, and capacity projects will be put at risk throughout the country. The types of safety projects that airports use AIP grants to fund include instrument landing systems, runway lighting, and extensions of runway safety areas.

But the bill does more than provide money. It also takes specific, proactive steps to improve aviation safety. For example, S. 82 would require that cargo aircraft be equipped with instruments that warn of impending midair collisions. Passenger aircraft are already equipped with collision avoidance equipment, which gives pilots ample time to make evasive maneuvers. The need for these devices was highlighted a few months ago by a near-collision between two cargo aircraft over Kansas. Unfortunately, that was not an isolated incident.

On the aviation safety front, the bill also: provides explicit AIP funding eligibility for the installation of integrated inpavement lighting systems, and other runway incursion prevention devices, requires more types of fixed-wing aircraft in air commerce to be equipped with emergency locator transmitters by 2002, provides broader authority to the FAA to determine what circumstances warrant a criminal history record check for persons performing security screening of passengers and cargo, reauthorizes the aviation insurance program, also known as war risk insurance. This program provides insurance for commercial aircraft that are operating in high risk areas, such as countries at war or on the verge of war. Commercial insurers usually will not provide coverage for such operations, which are often required to advance U.S. foreign policy or to support our overseas national security operations. The program expired on August 6, 1999, and cannot be extended without this authorization, gives the FAA the authority to fine unruly airline passengers who interfere with the operation or safety of a civil flight, up to $10,000 per violation, authorizes $450,000 to address the problem of bird ingestions into aircraft engines, authorizes $9.1 million over three years for a safety and security management program to provide training for aviation safety personnel. The program would concentrate on personnel from countries that are not in compliance with international safety standards, authorizes at least $30 million annually for the FAA to purchase precision instrument landing systems (ILS) through its ILS inventory program, authorizes at least $5 million for the FAA to carry out at least one project to test and evaluate innovative airport security systems and related technologies, including explosive detection systems in an airport environment, requires the FAA to maintain human weather observers to augment the services provided by the Automated Surface Observation System (ASOS) weather stations, at least until the FAA certifies that the automated systems provide consistent reporting of changing meteorological conditions, allows the FAA to continue and expand its successful

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

program of establishing consortia of government and aviation industry representatives at individual airports to provide advice on aviation security and safety, requires that individuals be fined or imprisoned when they knowingly pilot a commercial aircraft without a valid FAA certificate, requires the FAA to consider the need for (1) improving runway safety areas, which are essentially runway extensions that provide a landing cushion beyond the ends of runways; (2) requiring the installation of precision approach path indicators, which are visual vertical guidance landing systems for runways, prohibits any company or employee that is convicted of an offense involving counterfeit aviation parts from keeping or obtaining an FAA certificate. Air carriers, repair stations, manufacturers, and any other FAA certificate holders would be prohibited from employing anyone convicted of an offense involving counterfeit parts.

This bill requires the FAA to accelerate a rulemaking on Flight Operations Quality Assurance. FOQA is a program under which airlines and their crews share operational information, including data captured by flight data recorders. Information about errors is shared to focus on situations in which hardware, air traffic control procedures, or company practices create hazardous situations.

It requires the FAA to study and promote improved training in the human factors arena, including the development of specific training curricula.

It provides FAA whistleblowers who uncover safety risks with the ability to seek redress if they are subject to retaliation for their actions.

The legislation provides employees of airlines, and employees of airline contractors and subcontractors, with statutory whistleblower protections to facilitate their providing air safety information.

These provisions will be critical in the continuing effort to enhance safety and reduce the accident rate.

Of all the bills that the Senate may consider this year, the Air Transportation Improvement Act should be easy. This bill is substantially the same as the Wendell H. Ford National Air Transportation System Improvement Act, which this body approved last September by a vote of 92–1. If anything, this bill is better than last year's. There is no rational reason why we can't take care of this quickly.

Because S. 82 is so similar to last year's FAA reauthorization bill, I will skip a lengthy description of every provision, particularly those that have not changed. Nevertheless, I do want to remind my colleagues of a few key items in this legislation and describe what has changed since last year.

The manager's amendment to this bill, which is in the nature of a substitute, has at least three critical parts that are worth highlighting. First and foremost, S. 82 reauthorizes the FAA and the AIP through fiscal year 2002. Second, the bill contains essential provisions to promote a competitive aviation industry. Third, it will protect the environment in our national parks by establishing a system for the management of commercial air tour overflights. With the help of my colleagues, I have worked long and hard on all of these issues.

The provisions in S. 82 that have generated the most discussion are the airline competition provisions. As I have said many times, the purpose of these provisions is to complete the deregulation of our domestic aviation system for the benefit of consumers and communities everywhere. According to the General Accounting Office, there still exist significant barriers to competition at several important airports in this country. These barriers include slot controls at Chicago O'Hare, Reagan National, and LaGuardia and Kennedy in New York, and the Federal perimeter rule at Reagan National.

In a recent study, the GAO found that the established airlines have expanded their slot holdings a the four-slot constrained airports, while the share held by startup airlines remains low. Airfares at these airports continue to be consistently higher than other airports of comparable size.

It does not take a trained economist to figure that out. If you restrict the number of flights, then obviously the cost of those flights will go up.

Additionally, the federal permimeter rule continues to prevent airlines based outside the perimeter from gaining competitive access to Reagan National.

This GAO report reinforces my view that the perimeter rule is a restrictive and anti-competitive Federal regulation that prohibits airlines from flying the routes sought by their customers. According to testimony presented to the Commerce Committee by the Department of Transportation, the perimeter rule is not needed for safety or operational reasons. For that matter, neither are slot controls. Therefore, these restrictions simply are not warranted.

So long as the Federal Government maintains outdated unneeded restrictions, which favor established airlines over new entrants, deregulation will not be complete. Slot controls and the perimeter rule are Federal interference with the market's ability to reflect consumer preferences. We should not be in the position of choosing sides in the marketplace.

With respect to Reagan National, I would like to make one final point. Just last month, the GAO came out with another study confirming that the airport is fully capable of handling more flights without compromising safety or creating significant aircraft delays. The GAO also found that the proposal in this bill pertaining to perimeter rule would not significantly harm any of the other airports in this region. I believe the GAO's findings demonstrated that there are no credible arguments against the modest changes proposed in this bill.

Although the reported version of S. 82 increased the number of new opportunities for service to Reagan National compared to last year's bill, an amendment that will be offered by Senators GORTON and ROCKEFELLER will bring the total number of slot exemptions back to the level approved by the Senate last year. It is sadly ironic that an airport named for President Reagan, who stood for free markets and deregulation, will continue to be burdened with two forms of economic regulation—slots and a perimeter rule. But some loosening of these unfair restrictions is better than the status quo, and so I will not oppose the amendment.

Fortunately, the competition-related amendment being offered by Senator GORTON and others includes several significant improvements to the reported bill. Most notably, the slot controls at O'Hare, Kennedy, and LaGuardia airports will eventually be eliminated. This is a remarkable win for consumers and a change that I endorse wholeheartedly. Furthermore, before the slot controls are lifted entirely, regional jets, and new entrant air carriers will have more opportunities to serve these airports. The typically low cost, low fare new entrants will bring competition to these restricted markets, which will result in lower fares for travelers. Travelers from small communities will benefit from increased access to these crucial markets.

I am not alone in believing that the competition provisions in the bill are a big step forward for all Americans. Support for these competition-enhancing provisions is strong and widespread. I have heard from organizations as diverse as the Western Governor's Association of Attorneys General, the Des Monies International Airport, and Midwest Express Airlines. All of them support one or more of the provisions that loosen or eliminate slot and perimeter rule restrictions.

But it was a letter from just an average citizen in Alexandria, VA that caught my attention. He said that he feels victimized by the artificial restrictions placed on flights from Reagan National. His young family is living on one paycheck. He says that his family budget does not allow them the luxury of using Reagan National, which is less than ten minutes from his home. To him, using Reagan National seems to be "a privilege reserved for the wealthy and those on expense accounts." For the sake of his privacy I will not mention his name, but this is precisely the type of person who deserves the benefits of more competition at restricted airports like Reagan National.

In summary, this bill represents two years of work on a comprehensive package to promote aviation safety, airport and air traffic control infrastructure investment, and enhanced competition in the airline industry. Our air transportation system is essential to the Nation's well being. We must not neglect its pressing needs. If we fail to act, the FAA will be prevented from addressing vital security and safety needs in every State in the Union. I urge all of my colleagues to support swift passage of this legislation.

I thank Senator HOLLINGS and his staff, Senator ROCKEFELLER, Senator GORTON, and all members of the Commerce Committee who have taken a very active role in putting this legislation together. It is a significantly large piece of legislation reflecting a great deal of complexities associated with aviation and the importance of it.

Approximately a year ago, a commission that was mandated to be convened by legislation reported to the Congress and the American people. Their findings and recommendations were very disturbing. In summary, these very qualified individuals reported that unless we rapidly expand our aviation capability in America, every day, in every major airport in America, is going to be similar to the day before Thanksgiving. I do not know how many of my colleagues have had the opportunity of being in a major airport on the busiest day of the year in America. It is not a lot of fun.

I do a lot of flying, a great deal of flying this year, more than I have in previous years. I see the increase in delays, especially along the east coast corridor. I have seen when there is a little bit of bad weather our air traffic control system becomes gridlocked and hours and hours of delay ensue. These delays are well documented.

The committee is going to have to look at what we have done in the air traffic control system modernization area. We are going to have to look at what they have not done. There are a number of recommendations, some of which we have acted on in this committee, some of which we have not. But if we do not pass this legislation, then how can we move forward in aviation in this country?

I believe any objective economist will assure all of us that deregulation has led to increased competition and lower fares. But some of that trend has leveled off of late because of a lack of competition, because of a lack of ability to enter the aviation industry.

This is disturbing to me because the one thing, it seems to me, we owe Americans is an affordable way of getting from one place to another; and more and more Americans, obviously, are making use of the airlines.

I can give you a lot of anecdotal stories about what the effective competition is. For example, at Raleigh-Durham Airport, when it was announced that a new, low-cost airline was going to be operating out of that airport, the day after the announcement, long before the airline started its competition, the average fares dropped by 25 percent—a 25-percent drop in average airfares.

We have to do whatever we can to encourage the ability of new entrants to come into the aviation business. My greatest disappointment in deregulation of the airlines is that the phenomenon which was generated initially has not remained nearly at the level we would like to see it.

There are problems many of my colleagues, including the Senator from West Virginia, have talked about at length—of rural areas not being able to have just minimal air services. That is why we are dramatically increasing the essential air service authorization, so that more rural areas can achieve it.

I also think it is very clear the air traffic control system is lagging far behind. I think there is no doubt that we have had problems with passengers receiving fundamental courtesies and rights which they deserve. That is why there has been so much attention generated concerning the need for some fundamental, basic rights that passengers should have and receive from the airlines. For example, the debacle of last Christmas at Detroit should never be repeated in America, what airline passengers were subjected to on that unhappy occasion. Yes, it was generated by bad weather, but, no, there was no excuse for the treatment many of those airline passengers received on that day and other passengers have received in other airports around the country, only the examples were not as egregious, nor did they get the widespread publicity.

If you believe, as I do, if we continue the economic prosperity that we have been enjoying in this country, we will continue to see a dramatic and very significant increase in the use of the airlines by American citizens, we have major challenges ahead.

I do not pretend that this legislation addresses all of those challenges, but I do assert, unequivocally, that if we pass this legislation, pass it through the body, get it to conference, and get it out, we will make some significant steps forward, including in the vital area of aviation safety.

I again thank Senator GORTON and Senator ROCKEFELLER for all their hard work on this issue. I remind my colleagues that in about 5 minutes, according to the unanimous consent agreement, all relevant amendments should be filed.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I ask unanimous consent that notwithstanding the 10 a.m. filing requirement, it be in order for a managers' amendment and, further, the majority and minority leaders be allowed to offer one amendment each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Baucus amendment No. 1898.

Ms. COLLINS. Mr. President, I ask unanimous consent that the pending amendment be laid aside and that I be permitted to call up an amendment that I have at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1907

(Purpose: To establish a commission to study the impact of deregulation of the airline industry on small town America)

Ms. COLLINS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. CRAPO). The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for herself, Mr. BURNS, Mr. BAUCUS, Mr. ROBB, Mr. HOLLINGS, Mr. ROCKEFELLER, and Mr. HARKIN, proposes an amendment numbered 1907.

Ms. COLLINS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. 01. AIRLINE DEREGULATION STUDY COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—

(1) ESTABLISHMENT.—There is established a commission to be known as the Airline Deregulation Study Commission (in this section referred to as the "Commission").

(2) MEMBERSHIP.—

(A) COMPOSITION.—Subject to subparagraph (B), the Commission shall be composed of 15 members of whom—

(i) 5 shall be appointed by the President;

(ii) 5 shall be appointed by the President pro tempore of the Senate, 3 upon the recommendation of the Majority Leader, and 2 upon the recommendation of the Minority Leader of the Senate; and

(iii) 5 shall be appointed by the Speaker of the House of Representatives, 3 upon the Speaker's own initiative, and 2 upon the recommendation of the Minority Leader of the House of Representatives.

(B) MEMBERS FROM RURAL AREAS.—

(i) REQUIREMENT.—Of the individuals appointed to the Commission under subparagraph (A)—

(I) one of the individuals appointed under clause (i) of that subparagraph shall be an individual who resides in a rural area; and

(II) two of the individuals appointed under each of clauses (ii) and (iii) of that subparagraph shall be individuals who reside in a rural area.

(ii) GEOGRAPHIC DISTRIBUTION.—The appointment of individuals under subparagraph (A) pursuant to the requirement in clause (i) of this subparagraph shall, to the maximum extent practicable, be made so as to ensure that a variety of geographic areas of the country are represented in the membership of the Commission.

(C) DATE.—The appointments of the members of the Commission shall be made not later than 60 days after the date of the enactment of this Act.

(3) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(5) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(6) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRPERSON.—The Commission shall select a Chairman and Vice Chairperson from among its members.

(b) DUTIES OF THE COMMISSION.—

(1) STUDY.—

(A) DEFINITIONS.—In this subsection, the terms 'air carrier' and 'air transportation' have the meanings given those terms in section 40102(a).

(B) CONTENTS.—The Commission shall conduct a thorough study of the impacts of deregulation of the airline industry of the United States on—

(i) the affordability, accessibility, availability, and quality of air transportation, particularly in small-sized and medium-sized communities;

(ii) economic development and job creation, particularly in areas that are underserved by air carriers;

(iii) the economic viability of small-sized airports; and

(iv) the long-term configuration of the United States passenger air transportation system.

(C) MEASUREMENT FACTORS.—In carrying out the study under this subsection, the Commission shall develop measurement factors to analyze the quality of passenger air transportation service provided by air carriers by identifying the factors that are generally associated with quality passenger air transportation service.

(D) BUSINESS AND LEISURE TRAVEL.—In conducting measurements for an analysis of the affordability of air travel, to the extent practicable, the Commission shall provide for appropriate control groups and comparisons with respect to business and leisure travel.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commission shall submit an interim report to the President and Congress, and not later than 18 months after the date of the enactment of this Act, the Commission shall submit a report to the President and Congress. Each such report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(c) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the duties of the Commission under this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission shall consult with the Comptroller General of the United States and may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the duties of the Commission under this section. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(d) COMMISSION PERSONNEL MATTERS.—

(1) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(2) STAFF.—

(A) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(B) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(e) TERMINATION OF COMMISSION.—The Commission shall terminate 90 days after the date on which the Commission submits its report under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated $950,000 for fiscal year 2000 to the Commission to carry out this section.

(2) AVAILABILITY.—Any sums appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

Ms. COLLINS. Mr. President, I rise today to offer an amendment to the FAA reauthorization bill to establish an independent commission to thoroughly examine the impact of airline deregulation on smalltown America. I am very pleased to be joined in this effort by several cosponsors, including Senators ROCKEFELLER, BURNS, BAUCUS, ROBB, HOLLINGS, and HARKIN.

This amendment is modeled after a bill I recently introduced that would authorize a study into how airline deregulation has affected the economic development of smaller towns in America, the quality and availability of air transportation, particularly in rural areas of this country, and the long-term viability of local airports in smaller communities and rural areas.

For far too long, small communities throughout this Nation, from Bangor, ME, to Billings, MT, to Bristol, TN, have weathered the effects of airline deregulation without adequately assessing how deregulation has affected their economic development, their ability to create and attract new jobs, the quality and availability of air transportation for their residents, and the long-term viability of their local airports. It is time to evaluate the effects of airline deregulation from this new perspective by looking at how it has affected the economies in small towns and rural America.

Bangor, ME, where I live, is an excellent example of how airline deregulation can cause real problems for a smaller community. Bangor recently learned it was going to lose the services of Continental Express. This follows a pullout by Delta Airlines last year. It has been very difficult for Bangor to provide the kind of quality air service that is so important in trying to attract new businesses to locate in the area as well as to encourage businesses to expand.

Nowadays, businesses expect to have convenient, accessible, and affordable air service. It is very important to their ability to do business. Although there have been several studies on the impact of airline deregulation, they have all focused on some aspects of air service itself. For example, there have been GAO studies that have looked at the impact on airline prices.

Not one study I am aware of has actually analyzed the impact of airline deregulation on economic development and job creation in rural States. Indeed, we have spoken to the GAO and the Department of Transportation, and they are not aware of a single study that has taken the kind of comprehensive approach I am proposing. Moreover, one GAO official told my staff he thought such a study was long overdue. We need to know more about how airline deregulation has affected smaller and medium-sized communities such as Presque Isle, ME, and Bangor, ME. We need to focus on the relationship between access to affordable, quality airline service and the economic development of America's smaller towns and cities.

During the past 20 years, air travel has become increasingly linked to business development. Successful businesses expect and need their personnel to travel quickly over long distances. It is expected that a region being considered for business location or expansion should be reachable conveniently, quickly, and easily via jet service. Those areas without air access or with access that is restricted by prohibitive travel costs, infrequent flights, or small, slow planes appear to be at a distinct disadvantage compared to those communities that enjoy accessible, convenient, and economic air service.

This country's air infrastructure has grown to the point where it now rivals our ground transportation infrastructure in its importance to the economic vibrancy and vitality of our communities. It has long been accepted that building a highway creates an almost instant corridor of economic activity for businesses eager to cut shipping and transportation costs by locating close to the stream of commerce.

Like a community located on an interstate versus one that is reachable only by back roads, a community with a midsize or small airport underserved by air carriers appears to be operating at a disadvantage to one located near a large airport. What this proposal would do is allow us to take a close look at the relationship between quality air service and the communities it serves.

Bob Ziegelaar, director of the Bangor International Airport, perhaps put it best. He tells me: Communities such as Bangor are at risk of being left behind with service levels below what the market warrants, both in terms of capacity and quality. The follow-on consequences are a decreasing capacity to attract economic growth.

He sums it up well. A region's ability to attract and keep good jobs is inextricably linked to its transportation system. Twenty-one years after Congress deregulated the airline industry, it is important that we now look and assess the long-term impacts of our actions. The commission established by my amendment will ensure that Congress, small communities, and the airlines are able to make future decisions on airline issues fully aware of the concerns and the needs of smalltown America.

Mr. President, I thank the chairman of the committee and the ranking minority members of both the subcommittee and the full committee for their assistance in shaping this amendment. I look forward to working with them. I know they share my concerns about providing quality, accessible air service to all parts of America. I thank them for their cooperation in this effort and yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, obviously, this Senator from West Virginia is already a cosponsor of the amendment. There are very few people who would know the situation in this amendment as well as the Senator from Maine. Her State, as many rural States, has had a major reaction to deregulation. Economic development is always the first thing on the minds of States that are trying to grow and attract their population back. This is simply asking for a commission to study the effects of deregulation on economic development. I think it is very sensible. I think it highlights a real agony for a lot of States. It is highly acceptable on this side.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I also thank the Senator from Maine. I do understand there have been some very negative impacts on Bangor and other parts of the State of Maine associated with airline deregulation. It needs to be studied. We need to find out how we can do a better job, as I said in my earlier remarks, allowing smaller and medium-sized markets to receive the air service they deserve which has such a dramatic impact on their economies.

I thank the Senator from Maine for her amendment. Both sides are prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1907.

The amendment (No. 1907) was agreed to.

Mr. McCAIN. Mr. President, I move to reconsider the vote.

Mr. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCAIN. Mr. President, I ask unanimous consent that the pending amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NOS. 1948 AND 1949, EN BLOC

Mr. McCAIN. Mr. President, I send two amendments to the desk, en bloc, and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes amendments numbered 1948 and 1949, en bloc.

The amendments are as follows:

AMENDMENT NO. 1948

(Purpose: To prohibit discrimination in the use of Private Airports)

At the appropriate place insert the following:

SEC. . NONDISCRIMINATION IN THE USE OF PRIVATE AIRPORTS.

(a) PROHIBITING DISCRIMINATION IN THE USE OF PRIVATE AIRPORTS.—Chapter 401 of Subtitle VII of title 49, United States Code, is amended by inserting the following new section after section 40122:

"§ 40123. Nondiscrimination in the Use of Private Airports

"(a) IN GENERAL.—Notwithstanding any other provision of law, no state, county, city or municipal government may prohibit the use or full enjoyment of a private airport within its jurisdiction by any person on the basis of that person's race, creed, color, national origin, sex, or ancestry.

AMENDMENT NO. 1949

(Purpose: To amend section 49106(c)(6) of title 49, United States Code, to remove a limitation on certain funding)

SECTION 1. SHORT TITLE.

This Act may be cited as the "Metropolitan Airports Authority Improvement Act".

SEC. 2. REMOVAL OF LIMITATION.

Section 49106(c)(6) of title 49, United States Code, is amended—

(1) by striking subparagraph (C); and

(2) by redesignating subparagraph (D) as subparagraph (C).

Mr. McCAIN. Mr. President, these two amendments, along with amendment No. 1893, which was previously offered, have been accepted on both sides. There is no further debate on the amendments, and I ask for their adoption.

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

The amendments (Nos. 1948, 1949, and 1893) were agreed to.

Mr. McCAIN. Mr. President, I move to reconsider the vote.

Mr. ROCKEFELLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCAIN. Mr. President, it is my understanding that there is now some 304 amendments that are germane that have been filed by the Senator from Illinois. Obviously, that is his right under the rules of the Senate.

I would like for the Senator from Illinois to understand what he is doing. This is a very important piece of legislation. It has a lot to do with safety. The Senator from Illinois should know that. He is jeopardizing, literally, the safety of airline passengers across this country, perhaps throughout the world.

I will relate to the Senator what he is doing. Before I do, I think he should know there are strong objections by the Senators from Virginia, the Senators from New York, and the Senators from Maryland, concerning this whole issue of slots and the perimeter rule—but particularly slots. We have been able to work with the Senators from these other States that are equally affected. It is very unfortunate that the

Senator from Illinois cannot sit down and work out something that would be agreeable.

I want to tell the Senator from Illinois, again, this is very serious business we are talking about. We are talking about aviation safety. This is the reauthorization of the Aviation Improvement Program. It requires fixed-wing aircraft in air commerce to be equipped with emergency locator transmitters; it provides broader authority to the FAA to determine what circumstances warrant a criminal history record check for persons performing security screening of passengers and cargo; it extends the authorization for the Aviation Insurance Program, also known as war risk insurance, through 2003; it requires all large cargo aircraft to be equipped with collision avoidance equipment by the end of 2002; it gives FAA the authority to fine unruly airline passengers who interfere with the operation or safety of a civil flight, up to $10,000 per violation; it authorizes $450,000 to address the problem of bird ingestions into aircraft engines; it authorizes $9.1 million over 3 years for a safety and security management program to provide training for aviation safety personnel.

Mr. President, I have three pages. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Safety-related Provisions in S. 82, Air Transportation Improvement Act

Extends the contract authority through fiscal year 2000 for Airport Improvement Programs (AID) grants. Federal airport grants lapsed on August 6, 1999, because the contract authority had not been extended. Authorizes a $2.475 billion AID program in fiscal year 2000. (Sec. 103)

Provides explicit AIP funding eligibility for the installation of integrated in-pavement lighting systems, and other runway incursion prevention devices. (Sec. 205)

Requires nearly all fixed-wing aircraft in air commerce, to be equipped with emergency locator transmitters by 2002. (Sec. 404)

Provides broader authority to the FAA to determine what circumstances warrant a criminal history record check for persons performing security screening of passengers and cargo. (Sec. 306)

Extends the authorization for the aviation insurance programs (also known as war risk insurance) through 2003. The program provides insurance for commercial aircraft that are operating in high risk areas, such as countries at war or on the verge of war. Commercial insurers usually will not provide coverage for such operations, which are often required to advance U.S. foreign policy or the country's national security policy. The program expired on August 6, 1999, and cannot be extended without this authorization in place. (Sec. 307)

Requires all large cargo aircraft to be equipped with collision avoidance equipment by the end of 2002. (Sec. 402)

Gives the FAA the authority to fine unruly airline passengers who interfere with the operation or safety of a civil flight, up to $10,000 per violation. (Sec. 406)

Authorizes $450,000 to address the problem of bird ingestions into aircraft engines. (Sec. 101)

Authorizes $9.1 million over three years for a safety and security management program to provide training for aviation safety personnel. The program would concentrate on personnel from countries that are not in compliance with international safety standards. (Sec. 101)

Authorizes at least $30 million annually for the FAA to purchase precision instrument landing systems (ILS) through its ILS inventory program. (Sec. 102)

Authorizes at least $5 million for the FAA to carry out at least one project to test and evaluate innovative airport security systems and related technologies, including explosive detection systems in an airport environment (Sec. 105)

Requires the FAA to maintain human weather observers to augment the services provided by the Automated Surface Observation System (ASOS) weather stations, at least until the FAA certifies that the automated systems provide consistent reporting of changing meteorological conditions. (Sec. 106)

Allows the FAA to continue and expand its successful program of establishing consortia of government and aviation industry representatives at individual airports to provide advice on aviation security and safety. (Sec. 303)

Requires the imprisonment (up to three years) or imposition of a fine upon any individual who knowingly serves as an airman without an airman's certificate from the FAA. The same penalties would apply to anyone who employs an individual as an airman who does not have the applicable airman's certificate. The maximum term of imprisonment increases to five years if the violation is related to the transportation of a controlled substance. (Sec. 309)

Requires the FAA to consider the need for (1) improving runway safety areas, which are essentially runway extensions that provide a landing cushion beyond the ends of runways at certificated airports; (2) requiring the installation of precision approach path indicators (PAPI), which are visual vertical guidance landing systems for runways. (Sec. 403)

Prohibits any company or employee that is convicted of installing, producing, repairing or selling counterfeit aviation parts from keeping or obtaining an FAA certificate. Air carriers, repair stations, manufacturers, and any other FAA certificate holders would be prohibited from employing anyone convicted of an offense involving counterfeit parts. (Sec. 405)

Requires the FAA to accelerate a rulemaking on Flight Operations Quality Assurance (FOQA). FOQA is a program under which airlines and their crews share operational information, including data captured by flight data recorders. Sanitized information about crew errors is shared, to focus on situations in which hardware, air traffic control procedures, or company practices create hazardous situations. (Sec. 409)

Requires the FAA to study and promote improved training in the human factors arena, including the development of specific training curricula. (Sec. 413)

Provides FAA whistleblowers who uncover safety risks with the ability to seek redress if they are subject to retaliation for their actions. (Sec. 415)

Provides employees of airlines, and employees of airline contractors and subcontractors, with statutory whistleblower protections to facilitate their providing air safety information. (Sec. 419)

Mr. MCCAIN. Mr. President, I won't go through them all. This is a very important bill. In this very contentious and difficult time concerning balanced budgets and funding for other institutions of Government, this authorization bill has been brought up by the majority leader, not by me. I hope it is fully recognized. I repeat, the Senators from Virginia, Senator WARNER and Senator ROBB, Senator MIKULSKI, Senator SARBANES, Senator DURBIN, and Senator FITZGERALD's predecessor, all worked together on this issue. We need to work this out and we need to have this authorization complete. I hope we can get that done as soon as possible.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

PRIVILEGE OF THE FLOOR

Mr. FITZGERALD. Mr. President, I ask unanimous consent that John Fisher of the Congressional Research Service be granted the privilege of the floor during the Senate's consideration of S. 82.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FITZGERALD. Mr. President, in response to the distinguished Senator from Arizona, I would be delighted to work with him as best I can. I am sorry we have missed each other in recent days. Obviously, he has dual responsibilities now as a candidate for President of the United States. I would certainly like to continue negotiations with him. I do believe——

Mr. MCCAIN. If the Senator will yield, he knows full well that for the last several months—in fact, ever since he came to this body—the Senator and I have been discussing this issue. It has nothing to do with any Presidential campaign or anything else. The Senator should know that and correct the record.

Mr. FITZGERALD. Well, I understand the last time we talked, I thought the Senator was working to address my concerns. In fact, I didn't realize he supported lifting the high density rule altogether. I guess that is what has taken me by surprise. Senator Moseley-Braun, my predecessor, and Senator DURBIN urged your support to limit the increased exceptions for slot restrictions at O'Hare from 100 down to 30. You had supported that in your original bill which had that 30 figure. You and I had been having discussions with respect to that.

This year, the amendment by Senator GORTON and Senator ROCKEFELLER is what has given me pause because, obviously, that would be going in a different direction than the limitations that were worked out with you, Senator DURBIN, and former Senator Moseley-Braun last year in what was reflected as the original version of S. 82.

Mr. MCCAIN. If the Senator will yield, the fact is, the Senator has been involved in discussions in the Cloakroom, on the floor, in my office, and other places on this issue. If we don't agree, that is one thing, but to say somehow that my attention has been diverted is an inaccurate depiction of the situation.

Mr. FITZGERALD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, since we are on the FAA bill this morning, I will take a few minutes to discuss the issue of airline passenger rights.

In the face of a wave of consumer complaints which are running at twice the number this time last year, the airline industry has proposed a Customer First program. I will take a few minutes this morning to ensure the Senate understands what this program is all about. After the industry released its voluntary proposal, I asked the General Accounting Office and the Congressional Search Service to analyze what the industry had actually proposed. In summary, these two reports—the one done by the General Accounting Office and the one done by the Congressional Research Service—demonstrates, unfortunately, when it comes to the industry's plan to protect passenger rights, there is no "There there."

These two reports found the airline industry's proposal puts passenger rights into three categories: first, rights that passengers already have, as in the rights of the disabled; second, rights that have no teeth in them because they are not written into the contracts of carriage between the passenger and the airline; third, rights that are ignored altogether, such as the right to full information on overbooking and ensuring that passengers can find out about the lowest possible fare.

Specifically, I asked the General Accounting Office to compare the voluntary pledges made by the airline industry to the hidden but actually binding contractual rights airline passengers have that are written into something known as a contract of carriage. The Congressional Research Service pointed out:

> . . . front line airline staff seem uncertain as to what contracts of carriage are.

The Congressional Research Service found that:

> . . . even if the consumer knows they have a right to the information, they must accurately identify the relevant provisions of the contract of carriage or take home the address or phone number, if available, of the airline's consumer affairs department, send for it and wait for the contract of carriage to arrive in the mail.

As the Congressional Research Service states with their unusual tact and diplomacy:

> . . . the airlines do not appear to go out of their way to provide easy access to contract of carriage information.

I want the Senate to know the current status of passenger rights so we can begin to strengthen the hand of passengers at a time when we have a record number of consumer complaints.

Two weeks ago, the Senate began the task of trying to empower the passengers with the Transportation appropriations bill. In that legislation, we directed the Department of Transportation inspector general to investigate unfair and deceptive practices in the airline industry. The Department of Transportation inspector general does not currently conduct these investigations so we added the mandatory binding consumer protection language in the Transportation appropriations bill to ensure the Transportation inspector general would have exactly the same authority to investigate these consumer protection issues that I proposed in the airline passenger bill of rights early this session.

On this FAA bill, I am proposing another step to help passengers. The purpose of the amendment I offer is to make sure customers can find out whether the airlines are actually living up to their voluntary commitments by beginning to write them into the contracts of carriage—the binding agreement between the passenger and the airline.

This is what the law division of the Congressional Research Service had to say on that point:

> It would appear that the voluntary aviation industry standards would probably not have the same level of contractual enforceability that the provisions of the "contract of carriage" has. Under basic American contract law, the airlines offer certain terms and service under these "contracts of carriage" and the consumer accepts this offer and relies on the terms of the contract when he or she buys a ticket. The voluntary industry standards are not the basis of the contract and may lack the enforceability that the conditions of the "contract of carriage" may possess.

What especially troubles me is that the airlines are clearly dragging their feet on actually writing these consumer protection provisions in any kind of meaningful fashion.

In fact, one of the proposals I saw from American Airlines stipulates specifically that their pledges to the consumer are not enforceable, that they are not going to be in the contracts of carriers.

Under my amendment on this FAA bill, the Department of Transportation inspector general is going to investigate whether an airline means what it says, whether it is actually moving to put these various nice-sounding, voluntary proposals into meaningful language. I am very hopeful that as a result of this amendment, we are going to know the truth about actually what kind of consumer protection proposals are in the airline industry's package.

This amendment has been shared with the ranking minority member of the committee and the ranking minority member of the subcommittee, and I have talked about it with the chairman of the full committee, Senator McCAIN. Also, it has been shared with the chairman of the subcommittee.

There are many things in this good bill with which I agree. I am especially pleased, with Senator ROCKEFELLER, Senator McCAIN, and Senator GORTON, we are taking steps to improve competition. I am very pleased, for example, we are doing more for small and medium-size markets. These are very sensible proposals.

My concern is that together and on a bipartisan basis, we need to persuade the airline industry to put just a small fraction of the ingenuity and expertise they have that has produced one of the world's truly extraordinary safety records—the airline industry's safety record is extraordinary, and I simply want to see them put the ingenuity and expertise they have into trying to ensure that passengers get a fair shake as well.

It is not right at a time like this, particularly when many of the airlines are making such significant profits, to leave airline service for the passengers out on the runway. The figures are indisputable. There are a record number of complaints. I hear constantly from business travelers about the unbelievable problems they have with failure to disclose, for example, overbooking. Many consumers have had problems trying to find out about the lowest fare.

With the binding consumer protection language that was adopted in the Transportation appropriations bill so there will be an investigation into the problems I outlined in the airline passenger bill of rights, we have made a start. Today we will have a chance to build on that by making sure these voluntary pledges begin to show up in the contracts of carriage that actually protect the consumer.

I express my thanks to Chairman McCAIN and Senators ROCKEFELLER and GORTON for working with me on these matters and particularly to make sure the Senate knows that in many areas, the areas that promote competition and address the needs of small and medium-size airports—this is an important bill. We can strengthen it with this consumer protection amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank the Senator from Oregon for his steadfast advocacy for airline passengers and a range of other issues. I believe he has done this Nation a great service by attempting to see that airline passengers have certain fundamental benefits that most Americans assume they already had before certain information became known to them and to the Senate. I thank him very much. It appears to be a very good amendment.

It has not been cleared yet by Senator ROCKEFELLER. They still have some people with whom they have to talk. I have every confidence we will accept the amendment. I ask that the Senator from Oregon withhold his amendment at this time until we are ready to accept it.

Mr. WYDEN. Mr. President, I am happy to do that and anxious to work with the chairman and Senator ROCKEFELLER. I will be glad to do that.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I say to my friend from Oregon, there is no plot or underlying purpose not to accept the amendment at this point, but there may be others who have amendments that relate to this area. Let's see what we have. From this Senator's point of view, the Senator from Oregon has made a useful amendment and, at the appropriate time, should there not be any problems that arise—I do not anticipate them—I will have no problem.

AMENDMENT NO. 2070 TO AMENDMENT NO. 1892, AMENDMENT NO. 1920, AS MODIFIED, AND AMENDMENT NO. 2071, EN BLOC

Mr. MCCAIN. Mr. President, I send three amendments to the desk, one by Senator HELMS, which is a second-degree amendment to the Gorton amendment No. 1892, an amendment by Senator BOXER, and an amendment by Senator INHOFE. I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 2070 TO AMENDMENT NO. 1892

In the pending amendment on page 13, line 9 strike the words "of such carriers".

AMENDMENT NO. 1920, AS MODIFIED

Insert on page 126, line 16, a new subsection (f) and renumber accordingly:

"(f) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—Participants carrying out inherently low-emission vehicle activities under this pilot program may use no less than 10 percent of the amounts made available for expenditure at the airport under the pilot program to receive technical assistance in carrying out such activities.

(2) ELIGIBLE CONSORTIUM.—To the maximum extent practicable, participants in the pilot program shall use eligible consortium (as defined in section 5506 of this title) in the region of the airport to receive technical assistance described in paragraph (1).

(3) PLANNING ASSISTANCE.—The Administrator may provide $500,000 from funds made available under section 48103 to a multistate, western regional technology consortium for the purposes of developing for dissemination prior to the commencement of the pilot program a comprehensive best practices planning guide that addresses appropriate technologies, environmental and economic impacts, and the role of planning and mitigation strategies.

AMENDMENT NO. 2071

On page 132, line 4, strike "is authorized to" and insert "shall".

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

The amendments (Nos. 2070, 1920, as modified, and 2071) were agreed to.

Mr. McCAIN. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FITZGERALD. Mr. President, I wish to take a few moments now during this lull in activity on the floor to speak to my concerns about lifting the high density rule that governs O'Hare International Airport in my State.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

AMENDMENT NO. 1892

Mr. FITZGERALD. Mr. President, I think the first thing we need to do, in considering the Gorton-Rockefeller amendment to lift altogether the high density rule that governs O'Hare International Airport, is to look at what that high density rule is and why it was first imposed.

The high density rule was imposed not by Congress, although Congress is attempting to repeal it; the high density rule was imposed by the Federal Aviation Administration back in 1968 or 1969. The reason they imposed it at O'Hare was because by then—already the world's busiest airport—demand for flight operations exceeded capacity at O'Hare. Given that situation, in order to prevent inordinate delays to the air traffic system at O'Hare and around the country, they capped the number of operations per hour at O'Hare. They capped those operations at 155 flights per hour—roughly 1 every 20 seconds.

The sponsors of this amendment, and others who are proponents of it, have said: We need to lift that high density rule because it is anticompetitive, and we have to get more competition for more slots and more flights at O'Hare. They point out that just two carriers—United Airlines and American Airlines—control 80 percent of the flight operations at O'Hare International Airport, and there are studies that show that given that duopoly, the prices are higher at O'Hare. And that is true. There is absolutely no question about it.

The idea of increasing competition is great in the abstract. There is only one problem. O'Hare Airport does not have the capacity for more flights.

How do we know that? We know that because the last time Congress considered lifting the high density rule in 1994, the FAA commissioned a study and asked: What would happen if we were to lift the high density rule at O'Hare International Airport? The study, commissioned by the FAA, came back and said if you did that, there would be huge delays at O'Hare International Airport that would reverberate throughout the entire air travel system in the United States of America.

Consequently, following that report, in the summer of 1995, the U.S. Department of Transportation said they would not lift the high density rule at O'Hare because it would add to delays. The reason it would add to delays was because it would put more planes there waiting to take off or land, and that demand for more flights vastly outstripped the capacity at O'Hare.

So the problem with lifting that high density rule is that unless there is more capacity in Chicago, planes are just going to sit on the runway at O'Hare until they can take off.

What is the situation now? We have not lifted the high density rule now. Are there delays at O'Hare? You bet. There are more delays at O'Hare than just about any other major airport in the entire country, with as many as 100 airplanes lined up every morning waiting to take off from the runway.

This proposal is a proposal that would give airlines an unfettered ability to schedule even more flights. Sometimes they schedule 20 flights to take off at the same time. The marketing experts have told the airlines that 8:45 a.m. is a popular time, so schedule your plane to take off at 8:45 a.m. The airlines know darn well only one plane can take off at 8:45 a.m., but as many as 20 of them will be scheduled to take off at that time. What does that mean? That means when you are trying to take off on an 8:45 a.m. flight out of O'Hare, most likely you are going to be sitting on the tarmac waiting to take off.

At least the high density rule is some limitation because it is a limitation on how many airline flights can be scheduled to take off within that 8 o'clock hour. But by lifting this rule, we are saying there is not going to be any limitation. Perhaps the airlines could schedule 100 or 200 or 300 flights to take off in that 8 o'clock hour. People will buy tickets; they think they are going to be able to take off sometime in that hour. They do not realize that is just a bait and switch; that the airlines know full well the passengers are going to have to be sitting on the tarmac waiting to take off.

Does it make sense, at the most congested, most delay-ridden airport, to add even more delays? It makes no sense at all.

I know Senator MCCAIN well. I do believe he is very concerned about competition in the airline industry, and he, in good faith, wants to increase competition in the airline industry. I agree with him wholeheartedly on that point. But I do not agree we want to do it in a way that is going to inconvenience everybody who flies out of O'Hare, and not just everybody who flies out of

O'Hare but people all around the country who will suffer because of backlogs and delays at O'Hare International Airport, which is in the center of our country.

Furthermore, there is a provision in this bill—neatly tucked in there—that probably not many people can figure out what it means. Let me read it to you. As I said earlier, United and American have 80 percent of the flights at O'Hare. So if we were to add slots or more flights at O'Hare, you would think we would want to encourage some new entrants into the market, some other companies. That would bring some more competition, bringing some other airlines into O'Hare.

There is a little provision in here. I wonder who thought of this. Did some Senator think of this?

This is on page 4 of the amendment: "Affiliated Carriers: . . . the Secretary shall treat all commuter air carriers that have cooperative agreements, including code-share agreements with other air carriers equally for determining eligibility for the application of any provision of these sections regardless of the form of the corporate relationship between the commuter air carrier and the other air carrier."

I bet many people wonder what that means. What that means is that American Airlines' wholly-owned subsidiary, American Eagle, and United Airlines' affiliate, United Express, can be treated equally with new commuter airlines that are trying to get in and get slots out of O'Hare.

This provision in the bill seems to undercut, in my judgment, the argument that this bill would increase competition. In my judgment, competition isn't going to be increased by increasing concentration. The FAA bill before us today will not increase competition due to its definition of the term "affiliated carrier." As the term "affiliated carrier" is defined, those carriers that already control the vast majority of capacity at the airport, United and American, will get eligibility for additional capacity and slots.

In addition, many carriers that would benefit from this bill are wholly-owned subsidiaries of the controlling carriers. Later, I hope we can have a discussion on that particular aspect of the bill.

Let me talk a little bit more in depth about the delays we already have at O'Hare, without this idea of increasing the number of flights we are going to have, regardless of the fact that we don't have more capacity for more flights.

This was an article just the other day, September 10, 1999: "Delays at O'Hare Mounting. For the first 8 months of this year, flight delays at O'Hare soared by 65 percent compared to all of 1997 and by 18 percent over 1998, according to an analysis by the Federal Aviation Administration."

Why are those delays occurring? In part because in the existing law we already have exemptions from the slot controls put in by the FAA back in 1969. Those slot controls limited the number of flights to 155 operations per hour. By virtue of the 1994 bill we passed in this Congress, before I was here, they allowed more exemptions to those slot rules, and the FAA has been granting those. In fact, I am told the FAA now has about 163 flights an hour at O'Hare. This bill would lift those caps entirely.

This is from August 23, 1999. I said O'Hare is one of the most delay-ridden, congested airports in the country. This article talks about it: O'Hare has one of the worst on-time arrival and departure records of any major airport in the Nation, according to U.S. Department of Transportation data analyzed by the Chicago Sun-Times. For the first 6 months of 1999, O'Hare ranked at the bottom or second to last in percentage of on-time arrivals and departures at the 29 biggest U.S. airports, performing worse than the Boston and Newark airports, the other chronic laggards.

This goes back to the idea that airlines set their own schedules. There are slot controls that limit the number of flights in an hour at O'Hare. You can get from the FAA a slot to take off in a particular hour. You can get a slot, for example, to take off at the 8 a.m. hour. It is up to the airline, then, to schedule when that plane will take off.

It turns out, as the Sun-Times investigative report found, that many of the airlines schedule them all at the same time. At times there have been as many as 80 planes scheduled to take off, all at the same time. Obviously, they can't do that. What that means is that passengers sit on the runway and wait.

Have you ever been in an airplane, sitting on the tarmac with that stuffy air, waiting for the plane to take off? The airlines always blame it on the weather or they blame it on the FAA. They blame it on somebody else. They never blame it on themselves for scheduling all the flights to take off at the same time, which we know as a matter of physics is impossible.

This October 3 article, just this Sunday, was the front-page headline article in the Chicago Sun-Times:

> AIRLINES CRAMMING DEPARTURE TIME SLOTS
>
> Airlines at O'Hare Airport schedule so many flights in and out during peak periods that it is impossible to avoid delays, a Chicago Sun-Times analysis shows.
>
> O'Hare can handle about 3 takeoffs a minute at most, [that is one every 20 seconds] but air carriers slate as many as 20 at certain times, slots they believe will draw the most passengers. And they've continued to add flights to crowded time slots, even though delays have been increasing since 1997.

At least today, even as we have these horrible delays, there is some limitation as to how far the airlines can go with this bait-and-switch tactic with consumers. There is some check. That is the check on the absolute maximum number of slots that can be given for takeoffs and landings at O'Hare in a given hour. This bill removes that check. There will be no check then on airlines scheduling departures and arrivals all at the same time, when it is impossible for them all to land or take off at that time. In fact, you could have 200, 300, 400 flights all scheduled to take off at the same time. We are removing any of those caps.

I mentioned that in 1995, the FAA ordered a study of what would happen if we lifted the high density rule. Again, the 1995 DOT study shows that lifting the high density rule more than doubles delay times at O'Hare. That is why they didn't do it. According to this report, a Department of Transportation May 1995 Report to Congress, a study of the high density rule, lifting the rule at O'Hare, ORD, is estimated to increase the average time average annual all-weather delay by nearly 12 minutes, from 11.8 to 23.7 minutes per operation, and besides, that average annual delay is much higher now than it was back in 1995, assuming no flight cancellations occur due to instrument flight rules, weather. This is beyond the average of 15 minutes, the original basis for imposing HDR.

There are many studies that show the problem. This is why the caps were put on at O'Hare. They wanted to stop delays. The studies have all shown that adding just one more slot beyond the capacity of an airport causes an exponential, compounding increase on the delays. In fact, this is a chart that the Federal Aviation Administration prepared on airfield and airspace capacity and delay policy analysis. Once you go beyond the practical capacity of an airport—and for O'Hare, the FAA has said it is 158 flights per hour—the delays skyrocket. In my judgment, if we are saying now we are not going to have any checks on the demand at O'Hare and there is no added capacity, we are going to go right up into this range very fast.

I said yesterday, Mayor Daley from Chicago was supposed to be in Washington last week for an event. We were going to have a taste and touch of Chicago in Washington. There was a huge celebration. There were about 500 people at this reception. We were all there waiting for Mayor Daley. Everybody was asking: Where is Mayor Daley? It turns out Mayor Daley was delayed at O'Hare Airport. In fact, poor Mayor Daley had to sit on the tarmac for 4 hours at O'Hare. He arrived in Washington at 8:30 at night, after the reception was over, and he got the next plane back to Chicago.

That is typical of the kind of delays people incur going through O'Hare. This bill would add to that. I think it is a mistake to do that. It ignores the original reason we had for the high density rule. Furthermore, I think it is unusual for Congress to put on the mantle of safety and aviation experts and decide that we are going to rewrite FAA rules. We ought to take that out of the political process, have the FAA write its own rules, not us rejiggle them from the statutes.

With that, I am not going to mention at this time what I believe will be the extreme safety hazards by trying to cram more flights into less time and space at O'Hare. A flight lands and takes off every 20 seconds at O'Hare. If we are going to cram more in and narrow the distance, maybe it will come down to every 10 or 15 seconds. There is not much room for error. If you are sitting in a plane and you think there is a plane tailgating you, there is a lot of pressure. All these takeoffs and landings will not give air passengers a great deal of comfort.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Mr. President, I ask unanimous consent to address the Senate for a few minutes. I see Chairman MCCAIN, and I wanted to engage him in a brief discussion on a matter involving the Death on the High Seas Act. I have offered several amendments with respect to this issue, but I don't intend to offer them this morning because this bill has several hundred amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WYDEN. Mr. President, I think it is extraordinarily important that the Senate take steps promptly to remedy some of the loopholes in the antiquated Death on the High Seas Act. I have had constituents bring to my attention a tragedy that is almost unique in my years of working in the consumer protection field.

Mr. John Sleavin, one of my constituents, testified before the Commerce Committee that he lost his brother, Mike, his nephew, Ben, and his niece, Annie, under absolutely grotesque circumstances. The family's pleasure boat was run over by a Korean freighter in international waters. The only survivor was the mother, Judith Sleavin, who suffered permanent injuries. The accident was truly extraordinary because, after the collision, there was absolutely no attempt by the Korean vessel to rescue the family or even to notify authorities about the collision. Mr. Sleavin's brother and his niece perished after 8 hours in the water following the collision. It was clear to me that there was an opportunity to have rescued this family. Yet there was no remedy.

We have had very compelling testimony on this problem in the Senate Commerce Committee. The chairman has indicated a willingness to work with me on this. We have a Coast Guard bill coming up, and because this is an important consumer protection issue and a contentious one, I don't want to do anything to take a big block of additional time.

I will yield at this time for a colloquy with the chairman in the hopes that we can finally get this worked out so we don't have Americans subject to the kind of tragic circumstances we saw in this case, where a family was literally mowed down in international waters by a Korean freighter and should have been rescued and, tragically, loved ones were lost. I feel very strongly about this.

I yield now to the chairman of the full committee to hear his thoughts on our ability to get this loophole-ridden Death on the High Seas Act changed, and particularly doing it on the Coast Guard bill that will be coming up.

Mr. McCAIN. Mr. President, I thank my friend from Oregon. I know he has been heavily involved in this issue for a long time. We will have the Coast Guard bill scheduled for markup. At that time, I hope the Senator from Oregon will be able to propose an amendment addressing this issue. But I also remind my friend that there may be objection within the committee as well. I know he fully appreciates that. There is at least one other Senator who doesn't agree with this remedy. But I think we should bring up this issue and it should be debated and voted on. I think certainly the Senator from Oregon has the argument on his side in this issue.

Mr. WYDEN. I thank the chairman. I am going to be very brief in wrapping this up. I think our colleagues know that I am not one who goes looking for frivolous litigation. The chairman of the committee and all our colleagues on the Commerce Committee know that I spent a lot of time on the Y2K liability legislation this year so we could resolve these problems without a whole spree of frivolous litigation.

But we do know that there are areas, particularly ones where injured consumers in international waters have no remedy at all, when they are subject to some of the most grizzly and unfortunate accidents, where there is a role for legislation and a need for a remedy.

I am very appreciative that the chairman has indicated he thinks it is appropriate that we devise a remedy. I intend to work very closely with our colleagues on the Commerce Committee. I know the chairman of the subcommittee, Senator GORTON, has strong views on this. I am willing to look anew with respect to what that remedy ought to be so we can pass a bipartisan bill. But I do think we have to devise a remedy because to have innocent Americans run down in international waters without any remedy can't be acceptable to the American people.

With that, I ask unanimous consent to withdraw all four of the amendments I have had filed on this bill with respect to the Death on the High Seas Act.

The PRESIDING OFFICER. The Senator has that right. The amendments are withdrawn.

Mr. McCAIN. Mr. President, I thank the Senator from Oregon. I look forward to working with him on this very important issue.

I suggest the absence of a quorum.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I will comment on an amendment we introduced last night and ask for the support of my colleagues. Before I do that, I want to recognize the chairman of the full committee, the Commerce Committee, and my colleagues on the subcommittee. There are many important provisions in this bill. Most importantly, I think it reauthorizes the funding mechanism for airport construction which has been going on around the country. I hardly find a place where there are not improvements being done to the infrastructure for air traffic.

The legislation allows a limited number of exemptions to the current perimeter rule at the Ronald Reagan National Airport. Creating these exemptions takes a step in the right direction to provide balance between Americans within the perimeter and outside the perimeter. The current perimeter rule is outdated and restrictive to creating competition.

We have the best and the most efficient modes of transportation in the entire world. No other country can make such a boast. With the exception, of course, of rail transportation and passengers, we have very competitive alternatives. Now is the time to further enhance our competitive aviation and rail alternatives, although some who live at the end of the lines sometimes question if we have competition in the right places.

These limited exemptions to the perimeter rule will improve service to the nation's capital for dozens of western cities beyond the perimeter—while at the same time ensuring that cities inside the perimeter are not adversely impacted by new service. This is a fair balance which is consistent with the overall intent of the bill to improve air service to small and medium-sized cities.

As a result, I believe our committee has crafted a limited compromise which protects the local community from uncontrolled growth, ensures that service inside the perimeter will not be affected and creates a process which will improve access to Ronald Reagan National Airport for small and medium-sized communities outside the current perimeter. Montana's communities will benefit from these limited exemptions through improved access to the nation's capitol.

Throughout this bill, our goal has been to improve air service for communities which have not experienced the benefits of deregulation to the extent of larger markets. The provision related to improved access to Reagan National is no different.

Today, passengers from many communities in Montana are forced to double or even triple connect to fly to Washington National. My goal is to ensure that not just large city point-to-point service will benefit, but that passengers from all points west of the perimeter will have better options to reach Washington and Ronald Reagan National Airport.

This provision is about using this restricted exemption process to spread improved access throughout the West—not to limit the benefits to a few large cities which already have a variety of options.

Let me be clear, if the Secretary receives more applications for more slots than the bill allows, DOT must prioritize the applications based on quantifying the domestic network benefits. Therefore, DOT must consider and award these limited opportunities to western hubs which connect the largest number of cities to the national transportation network.

I request the support of my colleagues on a very important amendment I along with my colleague from Missouri have introduced to this bill. That amendment was added last night. This amendment will establish a commission to study the future of the travel agent industry and determine the consumer impact of airline interaction with travel agents.

Since the Airline Deregulation Act of 1978 was enacted, major airlines have controlled pricing and distribution policies of our nation's domestic air transportation system. Over the past four years, the airlines have reduced airline commissions to travel agents in a competitive effort to reduce costs.

I am concerned the impact of today's business interaction between airlines and travel agents may be a driving force that will force many travel agents out of business. Combined with the competitive emergence of Internet services, these practices may be harming an industry that employs over 250,000 people in this country.

This amendment will explore these concerns through the establishment of a commission to objectively review the emerging trends in the airline ticket distribution system. Among airline consumers there is a growing concern that airlines may be using their market power to limit how airline tickets are distributed and sold.

Mr. President, if we lose our travel agents, we lose a competitive component to affordable air fare. Travel agents provide a much needed service and without them, the consumer is the loser.

The current use of independent travel agencies as the predominate method to distribute tickets ensures an efficient and unbiased source of information for air travel. Before deregulation, travel agents handled only about 40 percent of the airline ticket distribution system. Since deregulation, the complexity of the ticket pricing system created the need for travel agents resulting in travel agents handling nearly 90 percent of transactions.

Therefore, the travel agent system has proven to be a key factor to the success of airline deregulation. I'm afraid, however, that the demise of the independent travel agent would be a factor of deregulation's failure if the major airlines succeed in dominating the ticket distribution system.

Tavel agents and other independent distributors comprise a considerable portion of the small business sector in the United States. There are 33,000 travel agencies employing over 250,000 people. Women or minorities own over 50 percent of travel agencies.

Since 1995, commissions have been reduced by 30%, 14% for domestic travel alone in 1998. since 1995, travel agent commissions have been reduced from an average of 10.8 to 6.9 percent in 1998. Travel agencies are failing in record numbers.

I think it is important we study the issue, get an unbiased commission together, and give a report to Congress. We will see how important the role played by the ticket agents and the travel agencies is in contributing to the competitive nature of travel in this country.

I ask my colleagues to support this important amendment. We are dealing with a subject that needs to be dealt with; this bill needs to be passed. We are in support of it.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FITZGERALD. Mr. President, I would like to take advantage of this opportunity to finish one final point to the speech I had given a few moments ago wherein I mentioned the likely delays that would be caused at Chicago O'Hare, and that is the increase in delays that would be caused in Chicago O'Hare and throughout our Nation's entire air traffic system if the high density rule were to be repealed. But right now I mention one other item which is probably the most important matter this Senate confronts in passing statutes to govern our aviation system, and that is the issue of safety.

I alluded earlier to the fact that O'Hare is the world's biggest airport and that there is a takeoff and landing every 20 seconds at O'Hare. Any sixth grader can figure out if we are going to try to run more flights per hour and more flights per minute through O'Hare, we are going to have to bring them in and take them off in less time than 20 seconds. Either that or we will continue mounting delays.

Most likely, we will continue mounting delays. But it is possible the increased congestion and delays would cause the air carriers to be pressuring the FAA to let the planes take off and would be pressuring the air traffic controllers to get planes into the air quicker, and it would be pressuring them to shorten the separation distances between airplanes.

Already in this country, in order to increase capacity at our airports without adding capacity in terms of new facilities and runways, we are doing a number of things. We are reducing separation distances between arriving aircraft.

A couple of years ago, I was doing a landing at O'Hare. I was on a commercial air carrier. We were about to land at O'Hare. Lo and behold, we were about to land on top of another plane that was still on the runway. At the last minute, the pilot lifted up, and we took off again right before we hit the other plane that had not gotten off the runway. Many people have probably been through that experience. It is pretty frightening.

If we are going to cram more flights into the same space at O'Hare, we are going to see more incidents like that. They are already reducing runway occupancy time. You will notice when your plane lands that it hightails it off that runway because it knows there is another plane right behind.

They are doing something that they call land-and-hold operations—they are doing it at O'Hare and across the country—where the plane lands, and it has to get to a crisscross with another runway. They have to hold while another plane lands. Pilots hate to do that, but they are forced to by air traffic control.

We are seeing increasing incidents of triple converging runway arrivals in this country. All of this is designed to put more planes together in time and space. I think it is obvious to anybody that decreases the margin of safety that we have in aviation in this country.

I think that is a great mistake because nothing is as important as the safety of the flying public.

I call your attention to an article that appeared in USA Today. I apologize. The date is wrong on this. It says November 13, 1999. Obviously, that was November 13 of a different year because we haven't gotten to November 13 of 1999. This is actually from 1998.

They had a front-page headline article called: "Too Close for Comfort. Crossing Runways Debated as Travel Soars. Safety, On-Time Travel on Collision Course, Pilots Say."

Let me read a quote from this article from USA Today from November 13, 1998.

> "They are just trying anything to squeeze out more capacity from the system," says Captain Randolph Babbitt, President of the Airline Pilots Association, which represents 51,000 of the 70,000 commercial pilots in the United States and Canada. "Some of us think this is nibbling at the safety margins."

Probably at no airport in the country have we nibbled more at the safety margins than at O'Hare International Airport—the world's biggest airport, the world's most congested, the one that has the most delays in this country.

I will read a portion of a letter that was sent earlier this year to the Governor of our great State, Governor George Ryan.

> My name is John Teerling and I recently retired, after 31.5 years with American Airlines as a Captain, flying international routes in Boeing 767 and 757's. I was based at Chicago's O'Hare my entire career. I have seen the volume of traffic at O'Hare pick up and exceed anyone's expectations, so much so, that on occasions, mid-airs were only seconds apart. O'Hare is at maximum capacity, if not over capacity. It is my opinion that it is only a matter of time until two airliners collide making disastrous headlines.

I close with that thought, and I caution the Senate on the effects of our interfering in the rulemaking authority of the FAA, overruling their authority, and by statute rewriting their rules.

I ask unanimous consent that this letter to Governor George Ryan from this former American Airlines captain, John Teerling, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JOHN W. TEERLING,
Lockport, IL, January 18, 1999.

RE: A Third Chicago Airport
Gov. GEORGE RYAN,
State Capitol, Springfield, IL.

DEAR GOVERNOR RYAN: My name is John Teerling and I recently retired, after 31.5 years with American Airlines as a Captain, flying international routes in Boeing 767 and 757's. I was based at Chicago's O'Hare my entire career. I have seen the volume of traffic at O'Hare pick up and exceed anyone's expectations, so much so, that on occasion mid-airs were only seconds apart. O'Hare is at maximum capacity, if not over capacity. It is my opinion that it is only a matter of time until two airliners collide making disastrous headlines.

Cities like Atlanta, Dallas and especially Miami continue to increase their traffic flow, some months exceeding Chicago, and at some point could supersede Chicago permanently. If Chicago and Illinois are to remain as the major Hub for airline traffic, a third major airport has to be built, and built now. Midway, with its location and shorter runways will never fill this void. A large international airport located in the Peotone area, complete with good ground infrastructure (rail and highway) to serve Chicago, Kankakee, Joliet, Indiana and the Southwest suburbs, would be win, win situation for all. The jobs created for housing and offices, hotels, shopping, manufacturing and light industry could produce three to four hundred thousand jobs. Good paying jobs.

Another item to consider, which I feel is extremely important is weather. I have frequently observed that there are two distinct weather patterns between O'Hare and Kankakee. Very often when one is receiving snow, fog or rain the other is not. These conditions affect the visibility and ceiling conditions determining whether the airports operate normally or not. Because of the difference in weather patterns when one airport, say O'Hare, is experiencing a hampered operation, an airport in Peotone, in all probability, could be having more normal operations. Airliners could then divert to the "other" Chicago Airport, saving time and money as well as causing less inconvenience to the public. (It's better to be in Peotone than in Detroit).

It is well known that American and United, who literally control O'Hare with their massive presence, are against a third airport. Why? It is called market share competition and greed. A new airport in the Peotone area would allow other airlines to service Chicago and be competition. American and United are of course dead set against that. What they are not considering is that their presence at a third airport would afford them an even greater share of the Chicago regional pie as well as put them in a great position for future expansion.

You also have Mayor Daley against a third airport because he feels a loss of control and possible revenue for the city. This third airport, if built, and it should be, should be classified as the Northern Illinois Regional Airport, controlled by a Board with representatives from Chicago and the surrounding areas. That way all would share in the prestige of a new major international airport along with its revenues and expanding revenue base.

The demand in airline traffic could easily expand by 30% during the next decade. Where does this leave Illinois and Chicago? It leaves us with no growth in the industry if we have no place to land more airplanes. If Indiana were ever to get smart and construct a major airport to the East of Peotone, imagine the damaging economic impact it would have on Northern Illinois!

Sincerely,

JOHN W. TEERLING.

Mr. FITZGERALD. Thank you, Mr. President.

I yield the floor.

Mr. McCAIN. Mr. President, although I have serious reservations with respect to one or two provisions, I rise in support of the amendment by Senators GORTON and ROCKEFELLER to replace the slot-related provisions in the bill.

It won't surprise anyone to hear that my reservations primarily concern Reagan National. It is deeply regrettable that the amendment takes a step backward in terms of competitive access to Reagan National. The Commerce Committee overwhelmingly approved providing 48 slot exemptions for more service. This amendment will cut that number in half. I understand that this bill may not have come to the floor if this compromise had not been made, but I certainly am not happy about it. Nevertheless, some additional access is better than none at all.

The most frustrating aspect of this compromise is that the continued existence of slot and perimeter restrictions at Reagan National flies in the face of every independent analysis of the situation. To support my position, I can quote at length from reports by the General Accounting Office (GAO), the National Research Council, and others, all of which conclude that slots and perimeter rules are anticompetitive, unfair, unneeded, and harmful to consumers. Despite the voluminous support for the fact that these restrictions are bad public policy, we allow them to continue.

Reagan National should not receive special treatment just because it is located inside the Beltway. This amendment will already lead to the eventual elimination of the high density rule at O'Hare, Kennedy, and LaGuardia. If we believe it is good policy at those airports, why is it not the same for Reagan National? Arguments that opening up the airport to more service and competition will harm safety, exceed capacity, or adversely affect other airports in the region are without merit. The GAO recently concluded that the proposals in the committee-reported bill are well within capacity limits and would not significantly impact nearby airports. In addition, the DOT believes that increased flights would not be a safety risk.

With any luck, the wisdom and benefits of increasing airline competition will eventually win out over narrow parochial interests. It saddens me to say that it will not happen today. Another opportunity to do the right thing by the traveling public is being missed.

But my concerns about the Reagan National provisions do not in any way diminish my enthusiastic support for the other competition enhancing provisions in the bill. Eliminating the slot controls at the other restricted airports is a remarkable win for the principle of competition and for consumers. As GAO and others have repeatedly found, more competition leads to lower fares and better service. And in the interim, new entrants and small communities will benefit from enhanced access, which is more good news.

I want to make our intent clear with respect to the provisions that govern the time period before the slot restrictions are lifted. We are providing additional access for new service to small communities and for new entrants and limited incumbent airlines. Because these airports are already dominated by the major airlines, which jealously hold on to slots to keep competitors out, we intentionally limited their ability to take advantage of the new opportunities.

The amendment directs that Secretary of Transportation to treat commuter affiliates of the major airlines the same, for purposes of applying for slot exemptions and for gaining interim access to O'Hare. Let me be perfectly clear about what this provision means. It means the Secretary should consider commuter affiliates as new entrants or limited incumbents for purposes of applying for slot exemptions and interim access to O'Hare. A major airline should not be allowed to game the system and add to its hundreds of daily slots through its commuter affiliates and codeshare partners. Genuine new entrants and limited incumbents are startup airlines that cannot get competitive access to the high density markets.

Many provisions in this amendment are just as that Senate approved them in last year's bill, so I will forgo a discussion of the various studies and other requirements that ensure people residing around these airports have their concerns addressed. Suffice it to say that the FAA and DOT will be very busy monitoring conditions in and around the four affected airports over the next few years. If these provisions begin having seriously adverse impacts, which I do not anticipate, we will certainly know about them.

The benefits of airline deregulation have been proven time and again in study after study. But the job that Congress started 20 years ago is incomplete. We still retain outdated controls over the market. Even worse, these controls work to the benefit of entrenched interests and to the detriment of consumers and competition. The sooner the Federal Government stops playing favorites in the industry the better off air travelers will be. The majority of provisions in this bill will get us closer to the goal of completing deregulation.

I urge my colleagues to support the Gorton amendment and vote against any second degree amendment that might weaken its move toward a truly deregulated aviation system.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I would just make a couple of comments in general and not direct it to those who are trying to decrease or increase slots at airports but some philosophical points.

A lot of these rules were set, as has been pointed out, some 30 years ago. Of course, there has been a lot of technology which has developed since that time, and a lot of it which has been in place since that time which allows much more efficient use. We don't have so-called "buy and sell" situations anymore. We have slots.

We also have, as I described in my opening statement yesterday, millions of Americans who fly every year, and 1 billion people will be flying in the next decade. We have a tripling of air cargo. We have an enormous increase in international flights. We have an enormous increase in letters and boxes, all of which require flights and all of which require slots. They go to different airports. But the point is everything is increasing.

I don't think that any of us on the floor or colleagues who will be here to vote on various issues can pretend that we can turn around and say: All right, Mr. and Mrs. America. Yes, you are making more income. Yes, you are maybe vacation-conscious. Yes, this is a free market system. Yes, you live in a free country and you want to fly to more places and you have the money now to take your children with you. You are writing more letters. You are sending more packages because more services are available.

We cannot pretend as though we are going to stop this process. I don't want to make the comparison to the Internet because the Internet has a life of its own. But it comes to mind. There are a lot of people who want to stop some of the things going on on the Internet. They can't do it. The Internet has a life of its own. It is the result of the free enterprise system that people decide to buy it or not buy it. That is their choice.

But people also have the choice as to whether they want to fly or not. We are now coming to the point where we have the technology to allow a lot more of that to happen.

I described a visit I made to the air traffic control center in Herndon, VA, which is highly automated and has the highest form of technology. If you want to say: All right. How many flights are in the air right now from 3,000 to 5,000 feet? How many are in the air now from 5,000 to 7,000, or 5,000 to 6,000? They push a button, and they can tell you every flight—because I have seen it—every flight in the country at certain levels. The whole concept of being able to increase flights is going to be there.

No. 1, we have established the fact that Americans are free. This is not the former Soviet Union. People have the right to fly. They have the money to fly. The economy is doing better, and exponentially everything is growing. That case is closed.

If somebody wants to say, let's stop that, let's just say we are going to pretend it was 30 years ago and only so many people can fly, only so many letters can be written, only so many international flights, the Italians and French are going to have to stop, it is OK the Japanese and Germans do it—life does not work like that. People have the right to make their decisions, and it is up to us in Congress to expedite the ability of the FAA to have in place the instruments, the technology, and the funding to make all of this work properly.

I point out one economic thing that comes from the Department of Transportation which is very interesting. This happens to deal with O'Hare. That is an accident; it is not deliberate. But it makes an interesting point because it talks about the benefits if you open up slots and it talks about the deficiencies; there are both. If you open up more slots, you will get a benefit for the consumer that outweighs the total cost of the delays and, in short, the consumer will save a great deal of money, or a certain amount of money, on tickets. They will save money because there will be more competition, because there will be more slots, because there will be more flights. That is the free-market system. That is what brings lower costs.

I do not enjoy flying from Charleston, WV, to Washington, DC, and paying $686 for a flight on an airplane into which I can barely squeeze.

Let's understand, we have something which is growing exponentially and happens to be terrific for our economy. As I indicated, 10 million people work in this industry. You are not going to stop people from sending letters. You are not going to stop people from flying. You are not going to stop people from taking vacations. You are not going to stop international traffic. None of that is going to happen. We have to accommodate ourselves.

Does that mean there is going to be somewhat more noise? Yes.

Does that mean we have to improve systems, engines, and research that are reducing that noise? Yes, we do.

Does that mean there are going to be more delays? Probably.

But the alternative to that is to say, all right, since we cannot have a single delay and nobody can be inconvenienced a single half hour, then let's just shut all of this off and go back to the 1960s and pretend we are in that era. We cannot do that. We simply cannot do that.

I introduce that thought into this conversation. There will be other amendments and other points that will be made about it. But we are dealing with inexorable growth, which the American people want, which the international community wants, which is now supported by an economy which is going to continue to sustain it. Even if the economy goes through a downturn, it is not going to slow down traffic use substantially because once people begin to fly, they keep on flying; they do not give up that habit.

We are dealing with a fact of life to which we have to make an adjustment in two ways: One, we have to be willing to accept certain inconveniences. I happen to live in one place where the airplanes just pour over my house. I do not enjoy that, but I adjust to it.

Let's deal in the real world here. Flights are good for the economy; flights are good for Americans; flights are good for the world. Packages and letters are all part of communication. There is nothing we are going to do to stop it, so we have to make adjustments. One, in our own personal lives, and, two, we in Congress have to make adjustments by being far more aggressive in terms of expediting funding for research, instruments, and technology that will make all of this as easy as possible.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent to add Senator GRASSLEY as an original cosponsor of the Collins amendment No. 1907.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1892, AS MODIFIED

Mr. McCAIN. Mr. President, on behalf of Senator GORTON, I send to the desk a modification to amendment No. 1892 offered yesterday by Senator GORTON and ask that it be considered.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 1892), as modified, is as follows:

On page 9, beginning with line 15, strike through line 11 on page 10 and insert the following:

"(2) New or Increased Service Required.—Paragraph (1)(A) applies only if—

"(A) the air carrier was not providing air transportation described in paragraph (1)(A) during the week of June 15, 1999; or

"(B) the level of such air transportation to be provided between such airports by the air carrier during any week will exceed the level of such air transportation provided by such carrier between Chicago O'Hare International Airport and an airport described in paragraph (1)(A) during the week of June 15, 1999.

AMENDMENT NO. 1950 TO AMENDMENT NO. 1906

Mr. McCAIN. Mr. President, I ask unanimous consent to call up amendment No. 1906 submitted by Senator VOINOVICH, and on behalf of Senator GORTON, I send a second-degree amendment, No. 1950 to amendment No. 1906, and ask that the second-degree amendment be adopted and that the amendment No. 1906, as amended, then be adopted.

The PRESIDING OFFICER. Without objection, it is so. ordered.

The amendment (No. 1906) is as follows:

Strike section 437.

The amendment (No. 1950) was agreed to, as follows:

SEC. 437. DISCRIMINATORY PRACTICES BY COMPUTER RESERVATIONS SYSTEMS OUTSIDE THE UNITED STATES.

(a) Actions Against Discriminatory Activity by Foreign CRS Systems.—Section 41310 is amended by adding at the end the following:

"(g) Actions Against Discriminatory Activity by Foreign CRS Systems.—The Secretary of Transportation may take such actions as the Secretary considers are in the public interest to eliminate an activity of a foreign air carrier that owns or markets a computer reservations system, when the Secretary, on the initiative of the Secretary or on complaint, decides that the activity, with respect to airline service—

"(1) is an unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practice against a computer reservations system firm;

"(2) imposes an unjustifiable or unreasonable restriction on access of such a computer reservations system to a market.".

(b) Complaints by CRS Firms.—Section 41310 is amended—

(1) in subsection (d)(1)—

(A) by striking "air carrier" in the first sentence and inserting "air carrier, computer reservations system firm,";

(B) by striking "subsection (c)" and inserting "subsection (c) or (g)"; and

(C) by striking "air carrier" in subparagraph (B) and inserting "air carrier or computer reservations system firm"; and

(2) in subsection (e)(1) by inserting "or a computer reservations system firm is subject when providing services with respect to airline service" before the period at the end of the first sentence.

The amendment (No. 1906), as amended, was agreed to.

AMENDMENTS NOS. 1900 AND 1901, EN BLOC

Mr. McCAIN. Mr. President, on behalf of Senator ROBB, I send to the desk two amendments that have been cleared on both sides.

The PRESIDING OFFICER. Without objection, the amendments will be reported en bloc.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for Mr. ROBB, proposes amendments numbered 1900 and 1901, en bloc.

The amendments are as follows:

AMENDMENT NO. 1900

(Purpose: To protect the communities surrounding Ronald Reagan Washington National Airport from nighttime noise by barring new flights between the hours of 10:00 p.m. and 7:00 a.m.)

At the appropriate place, insert the following new section:

SEC. . CURFEW.

Notwithstanding any other provision of law, any exemptions granted to air carriers under this Act may not result in additional operations at Ronald Reagan Washington National Airport between the hours of 10:00 p.m. and 7:00 a.m.

AMENDMENT NO. 1901

(Purpose: To require collection and publication of certain information regarding noise abatement)

At the appropriate place, insert the following new title:

TITLE —

SEC. 01. GOOD NEIGHBORS POLICY.

(a) Public Disclosure of Noise Mitigation Efforts by Air Carriers.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of Transportation shall collect and publish information provided by air carriers regarding their operating practices that encourage their pilots to follow the Federal Aviation Administration's operating guidelines on noise abatement.

(b) Safety First.—The Secretary shall take such action as is necessary to ensure that noise abatement efforts do not threaten aviation safety.

(c) Protection of Proprietary Information.—In publishing information required by this section, the Secretary shall take such action as is necessary to prevent the disclosure of any air carrier's proprietary information.

(d) No Mandate.—Nothing in this section shall be construed to mandate, or to permit the Secretary to mandate, the use of noise abatement settings by pilots.

SEC. 02. GAO REVIEW OF AIRCRAFT ENGINE NOISE ASSESSMENT.

(a) GAO Study.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and report to Congress on regulations and activities of the Federal Aviation Administration in the area of aircraft engine noise assessment. The study shall include a review of—

(1) the consistency of noise assessment techniques across different aircraft models and aircraft engines, and with varying weight and thrust settings; and

(2) a comparison of testing procedures used for unmodified engines and engines with hush kits or other quieting devices.

(b) Recommendations to the FAA.—The Comptroller General's report shall include specific recommendations to the Federal Aviation Administration on new measures that should be implemented to ensure consistent measurement of aircraft engine noise.

SEC. 03. GAO REVIEW OF FAA COMMUNITY NOISE ASSESSMENT.

(a) GAO Study.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and report to Congress on the regulations and activities of the Federal Aviation Administration in the area of noise assessment in communities near airports. The study shall include a review of whether the noise assessment practices of the Federal Aviation Administration fairly and accurately reflect the burden of noise on communities.

(b) Recommendations to the FAA.—The Comptroller General's report shall include specific recommendations to the Federal Aviation Administration on new measures to improve the assessment of airport noise in communities near airports.

Mr. McCAIN. Mr. President, I ask that the amendments be adopted en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 1900 and 1901) were agreed to.

Mr. McCAIN. Mr. President, I move to reconsider the vote.

Mr. ROBB. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1904

(Purpose: to provide a requirement to enhance the competitiveness of air operations under slot exemptions for regional jet air service and new entrant air carriers at certain high density traffic airports)

Mr. McCAIN. Mr. President, finally, I send to the desk amendment No. 1904 on behalf of Senator SNOWE, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for Ms. SNOWE, proposes an amendment numbered 1904.

The amendment is as follows:

At the end of title V of the Manager's substitute amendment, add the following:

SEC. . REQUIREMENT TO ENHANCE COMPETITIVENESS OF SLOT EXEMPTIONS FOR REGIONAL JET AIR SERVICE AND NEW ENTRANT AIR CARRIERS AT CERTAIN HIGH DENSITY TRAFFIC AIRPORTS.

(a) IN GENERAL.—Subchapter I of chapter 417, as amended by sections 507 and 508, is amended by adding at the end thereof the following:

"§41721. Requirement to enhance competitiveness of slot exemptions for nonstop regional jet air service and new entrant air carriers at certain airports

"In granting slot exemptions for nonstop regional jet air service and new entrant air carriers under this subchapter to John F. Kennedy International Airport, and La Guardia Airport, the Secretary of Transportation shall require the Federal Aviation Administration to provide commercially reasonable times to takeoffs and landings of air flights conducted under those exemptions.".

(b) CONFORMING AMENDMENT.—The chapter analysis for subchapter I of chapter 417, as amended by this title, is amended by adding at the end thereof the following:

"41721. Requirement to enhance competitiveness of slot exemptions for nonstop regional jet air service and new entrant air carriers at certain airports.".

Mr. McCAIN. Mr. President, this amendment has been cleared on the other side, and there is no further debate on the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1904) was agreed to.

Mr. McCAIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia.

Mr. ROBB. Mr. President, I inquire of the Chair, what is the pending amendment at this time?

The PRESIDING OFFICER. Amendment No. 1898 offered by the Senator from Montana, Mr. BAUCUS.

Mr. ROBB. Mr. President, I ask unanimous consent that amendment No. 1898 be temporarily laid aside and that we return to consideration of amendment No. 1892 offered by the Senator from Washington, Mr. GORTON.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2259 TO AMENDMENT NO. 1892

(Purpose: to strike the provisions dealing with special rules affecting Reagan Washington National Airport)

Mr. ROBB. Mr. President, I send a second-degree amendment to amendment No. 1892 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. ROBB] for himself, Mr. SARBANES and Ms. MIKULSKI; proposes an amendment numbered 2259 to amendment No. 1892.

Beginning on page 12 of the amendment, strike line 18 and all that follows through page 19, line 2, and redesignate the remaining subsections and references thereto accordingly.

Mr. ROBB. Mr. President, I thank my friend and colleague from Arizona for accepting three out of four of the amendments I have proposed. I had hoped we might someday find a way he could accept the fourth. I am very much aware of the fact, however, that he and some others are not inclined to do that. I have, therefore, sent to the desk an amendment, just read by the clerk in its entirety, which simply strikes the section of the amendment that deals with the number of additional slots at National Airport.

In this particular case, this amendment offered by the Senator from Washington, while a step in the right direction from the original bill language which would have required that an additional 48 slots be forced on the Washington National Airport Authority, nonetheless cuts that in half and it gets halfway to the objective I hope we can ultimately achieve in this particular case.

The amendment would reduce to zero the number of changes in the slots that are currently in existence at Ronald Reagan Washington National Airport.

My primary objection to this section is that it breaks a commitment to the citizens of this region, by injecting the Federal Government back into the management of our local airports.

Before I discuss this issue in detail, I wish to make clear that I fully support nearly all of the underlying legislation and have for some period of time. Congress ought to approve a multiyear FAA reauthorization bill that boosts our investment in aviation infrastructure and keeps our economy going strong. There is no question about that. I have supported that from the very beginning, and I thank the managers for their efforts in this particular regard.

I have long believed that funding for transportation, particularly mass transportation, is one of the best investments our Government can make. For our aviation system, in particular, these investments are critical.

As Secretary of Transportation Rodney Slater noted:

> . . . aviation will be for America in the 21st Century what the Interstate Highway System has been for America in this century.

It has been suggested that as part of our preparation for the next century of aviation to promote competition and protect consumers, we ought to impose additional flights on the communities surrounding National Airport.

It has been argued that the high density rule, which limits the number of slots or flights at National, is a restriction on our free market and hurts consumers. I do not dispute the fact that flight limits at National restrict free market. I believe, however, that the proponents of additional flights give an inaccurate picture of the supposed benefits of forcing flights on National Airport.

Before I go on to discuss the impact of additional flights on communities in Northern Virginia, I would like to deflate the idea that more flights will necessarily be a big winner for consumers.

Based on the number of GAO reports we have had on this subject, some of our colleagues may think slot controls are somehow the primary cause of consumer woes. When we look at the facts, however, this simply is not the case.

I understand reports by the GAO and by the National Research Council argue that airfares at slot-controlled airports are higher than average. However, the existence of higher-than-average fares does not tell us how slot controls may contribute to high fares at a specific airport. Many other factors, such as dominance of a given market by a particular carrier, or the leasing terms for gates, play a role in determining price. Also, simply noting the higher-than-average fares do not tell us whether slot controls are really a significant problem for the Nation.

The U.S. Department of Transportation has examined air service on a city-by-city basis looking at all service to each city. This chart shows a 1998 third quarter DOT assessment of airfares, ranking each city based on the average cost per mile traveled. As you can see, the airports with the slot controls are not at the top of the list. In fact, they do not even make the top 106. Slot-controlled Chicago, as my distinguished colleague from Illinois has pointed out, comes in at No. 19, right after Atlanta, GA; slot-controlled Washington, DC, comes in at 25, which is after Denver; and slot controlled New York is way down the list at No. 42.

Clearly, there are factors beyond slot controls that weigh heavily in determining how expensive air travel is in a particular city. So simply adding more flights will not necessarily bring costs down.

Proponents of adding more slots at National may argue, nonetheless, that their proposal is a slam-dunk win for consumers. But on closer examination, more flights look less like a game-winning move and more like dropping the ball.

Advocates of more flights ignore or downplay a central fact: More flights mean more delays, as the Senator from Illinois has so eloquently pointed out. More flights mean more harm to consumers in the airline industry. This is the untold story of the impact of more flights at National.

The most recent GAO study downplays this issue in a passing reference to the impact of delays. According to the GAO:

> [I]f the number of slots were increased . . . delays . . . could cause the airlines to experience a decreased profit . . . the costs [of delay] associated with the increase would be partially offset by consumer benefits.

A 1999 National Research Council report acknowledges that delays resulting from more flights may hurt consumers:

> [I]t is conceivable that many travelers would accept additional delays in exchange for increased access to [slot-controlled] airports. . . . Recurrent delays from heavy demand, however, would prompt direct responses to relieve congestion.

Later on the report suggests "congestion pricing" to prevent delays. Congestion pricing would raise airport charges and, thus, airfares during busy times to reduce delays. In other words, the National Research Council is suggesting that additional flights would force consumers to either accept more delays or accept price hikes to manage delays.

I understand the underlying bill says that additional slots shall not cause "meaningful delay." The legislation does not define "meaningful delay," however, or provide any mechanism to protect consumers from delays, should they occur.

While both the GAO and the NRC reports acknowledge we can expect delays, neither report examines the specific impact of delays on consumers.

The most detailed analysis that is available to us comes from a 1995 DOT study titled "A Study of the High Density Rule." That report examines the impact of several scenarios, including removing slots at National completely, and allowing 191 new flights, the maximum the airport could safely accept according to their report.

According to experts at DOT:

> [T]he estimated dollar benefit of lifting the slot rule at National is substantially negative: minus $107 million.

This figure includes the benefits of new service and fare reductions, weighed against the cost of delays to consumers and airliners.

There is simply no getting around the fact that National has limits on how many flights it can safely manage. As we try to get closer to that maximum safe number, the more delays we will face.

The DOT report goes on to examine the specific impact of adding 48 new slots, as proposed by the underlying legislation. The report finds that the length of delays will nearly double from an average of something around 4.6 minutes to a delay of 8 minutes, on average. I will discuss the costs of these delays at National Airport in a moment.

But in case some of my colleagues think that a few minutes of delay is not a problem for air travelers, the Air Transport Association has estimated that last year delays cost the industry $2.5 billion in overtime wages, extra fuel, and maintenance. Indeed, yesterday I was flying up and down the east coast and all of those charges were clearly adding to the cost of the airline, which will ultimately be passed on to the consumer.

For consumers, there were 308,000 flight delays and millions of hours of time lost. For National in particular, the 1995 DOT report finds that airlines would see $23 million in losses due to delays. For consumers, 48 new slots would provide little benefit overall. Consumers would see $53 million in new service benefits, but delays would cost consumers $50 million.

The report assumes no benefits from fare reductions with 48 slots, but, being generous, I have assumed an estimated fare reduction of $20 million from fare benefits listed elsewhere in the report. Consumer benefits, therefore, are $53 million for new service; minus $50 million for delays, plus $20 million for possible discounts, for a total of about $23 million.

Considering the fact that about 16 million travelers use National each year, that works out to about $1.50 per person per trip in savings.

That is not much benefit for the 48 slots. For 24 slots, as the Gorton amendment provides, we don't have a good analysis of the cost of delay. I suspect, however, the ultimate consumer benefits are similarly modest.

We all value the free market and the benefit it provides to consumers. At the same time, it is the job of Congress to weigh the benefits of an unrestrained market against other cherished values. The free market does not protect our children from pollution, guard against monopolies, or preserve our natural resources. In this case, we are weighing a small benefit that would come from an additional 24 slots at National against the virtues of a Government that keeps its word and against the peace of mind of thousands of Northern Virginians, as well as many in the District of Columbia and Maryland.

Elsewhere in this bill, we would restrain the market. The legislation would restrict air flights over both small and large parks. I submit that is the right thing to do. We should work to preserve the sanctity of our national parks. But while this bill abandons free market principles to shield our parks, it uses free market principles as a sword to cut away at the quality of life in our Nation's Capital. It is wrong to try to force Virginians and those who live in this area, Maryland and the District of Columbia and elsewhere, to endure more noise from National Airport, especially when the consumer benefits are so small and so uncertain. Most troubling of all is the fact that this bill breaks a promise to the citizens of this region, a promise that they would be left to manage their own airports without Federal meddling. To give the context surrounding that promise, I must review some of the history of the high density rule and the perimeter rule at National.

National, as many of our colleagues know, was built in 1941. It was, therefore, not designed to accommodate large commercial jets. As a result, during the 1960s, as congestion grew, National soon became overcrowded. To address chronic delays, in 1966, the airlines themselves agreed to limit the number of flights at National. They also agreed to a perimeter rule to further reduce overcrowding. Long haul service was diverted to Dulles. During the 1970s and early 1980s, improvements were negligible or nonexistent at both National and Dulles, as any of our colleagues who served in this body or the other body at that time will recall, because there was no certainty to the airline agreements.

National drained flights from Dulles so improvements at Dulles were put on hold. Litigation and public protest over increasing noise at National blocked improvements there. As my immediate successor as Governor, Jerry Baliles, described the situation in 1986:

> National is a joke without a punchline—National Airport has become a national disgrace. National's crowded, noisy, and incomprehensible. Travelers need easy access to the terminal. What they get instead is a half marathon, half obstacle course, and total confusion.

To address this problem, Congress codified the voluntary agreements the airlines had adopted on flight limits and created an independent authority to manage the airports. The slot rules limited the number of flights and noise at National, and the perimeter rule increased business at Dulles. Together with local management of the airports, these rules provided what we thought was long-term stability and growth for both airports. More than $1.6 billion in bonds have supported the expansion of Dulles. More than $940 million has been invested to upgrade National. These major improvements would not have taken place without local management and without the stability provided by the perimeter and slot rules.

The local agreement on slot controls was not enacted into Federal law simply to build good airports. Slot controls embodied a promise to the communities of Northern Virginia and Washington and Maryland.

In the 1980s, there was some discussion of shutting down National completely. Anyone who was here at the time will recall that discussion and the prospect that National might actually be shut down. We avoided that fate and the resulting harm to consumer choice with an agreement to limit National's growth. I suspect some individuals in communities around National believe the agreement did not protect them enough and should have limited flights even more. But by giving them some sense of security that airport noise would not continue to worsen by giving them a commitment, we were able to move ahead with airport improvements.

Congress and the executive branch recognized the community outrage that had blocked airport work and affirmed that a Federal commitment in law would allow improvements to go forward.

In 1986 hearings on the airport legislation, Secretary of Transportation Elizabeth Dole stated:

> With a statutory bar to more flights, noise levels will continue to decline as quieter aircraft are introduced. Thus all the planned projects at National would simply improve the facility, not increase its capacity for air traffic. Under these conditions, I believe that National's neighbors will no longer object to the improvements.

As the Senate Committee on Commerce report noted at the time:

> [I]t is the legislation's purpose to authorize the transfer under long-term lease of the two airports "as a unit to a properly constituted independent airport authority to be created by Virginia and the District of Columbia in order to improve the management, operation and development of these important transportation assets."

Local government leaders, such as Arlington County Board member John Milliken, at that time noted that they sought a total curfew on all flights and shrinking the perimeter rule but, in the spirit of compromise, would accept specific limitations on flights and the perimeter rule.

The airport legislation was not simply about protecting communities from airport noise. It was also about the appropriate role of the Federal Government. Members of Congress noted at the time that the Federal Government should not be involved in local airport management. In short, local airports should be managed by local governments, not through congressional intervention.

At a congressional debate on the airport legislation, Senator Robert Dole and Congressman Dick Armey affirmed that Federal management of the airports was harmful. According to Senator Dole:

> There are a few things the Federal Government—and only the Federal Government—can do well. Running local airports is not one of them.

According to Congressman Dick Armey:

> Transferring control of the airports to an independent authority will put these airports on the same footing as all others in the country. It gets the Federal Government out of the day-to-day operation and management of civilian airports, and puts this control into the hands of those who are more interested in seeing these airports run in the safest and most efficient manner possible.

I submit that local airports in Virginia have been well managed to date. We shouldn't now start second-guessing that effort.

Again, the legislation before us reneges on the Federal commitment to this region that the Federal Government would not meddle in airport management and that we would not force additional flights on National. Congress repeated that commitment in 1990 with the Airport Noise Capacity Act which left in place existing noise control measures across the country. That act, wherein Congress limited new noise rules and flight restrictions, also recognized that the Federal Government should not overrule preexisting slot controls, curfews, and noise limits. The 1990 act left in place preexisting rules, including flight limits at National.

The bill before us contributes to the growing cynicism with which the public views our Federal Government. Overruling protections that airport communities have relied on is fundamentally unfair.

Beyond the matter of fairness, forcing flights on National sets a precedent that will affect communities across the Nation. Many communities, such as Seattle, WA, and San Diego, CA, are trying to determine how they will address growing aviation needs and how their actions will affect communities around their airports.

Those debates will determine how communities will treat their existing airport, whether they will close the airport to prevent possible growth in excess noise or leave it open to preserve consumer benefits, with the understanding that growth will be restrained.

Those debates will also determine the location of new airports, whether a community will place the airport in a convenient location or further remove it from population centers to avoid noise impacts.

The action Congress takes today will shape those debates. Knowing that Congress may intervene in local airport management will tip the balance toward closing the more convenient local airports out of fear—fear that Congress will simply stamp out a local decision.

Unfortunately, for the citizens around National, they trusted the Federal Government. They hoped the Federal Government agreement that they had to limit flights would protect them. As former Secretary of Transportation William Coleman noted in 1986, "National has always been a political football."

To summarize, the additional flights proposed in this bill are not designed to address some major restraint on aviation competition. Slot controls may respect competition, but there are clearly many factors affecting airfares. More importantly, the benefits to consumers of 24 additional flights at National are very uncertain. We will clearly have delays, and none of the studies supporting additional flights have examined in detail the cost of those delays. The best study we have on the subject, a 1995 DOT report, suggests that because of those delays, consumers won't get much benefit—maybe $1.50 per person, on average.

We don't know how the delays at National—which we know will come if we approve the new flights—will affect air service in other cities with connecting flights to National. We are balancing these marginal benefits against the quality of life in communities surrounding the National Airport. We are pitting improved service for a few against quieter neighborhoods for many. We are also pitting a small, uncertain benefit to consumers against the integrity of the Federal Government.

Forcing additional flights on National breaks an agreement that Congress made in 1986 to turn the airport over to a regional authority and leave it alone.

A vote for this amendment to strike is a vote against more delays for consumers. A vote for this amendment is a vote in favor of a Federal Government that keeps its word. I urge my colleagues to support this amendment to strike and retain the bargain, both implied and explicit, that we made in 1986 with the communities that surround the two airports in question.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank my friend from Virginia. I understand his passion and commitment on this issue. On this particular issue, we simply have an honorable disagreement. He makes a very cogent argument, but with all due respect, I simply am not in agreement. I have a different view and perspective. He and I have debated this issue on a number of occasions in the past.

I want to make a few additional points. Twelve new round-trip flights at Reagan National is barely acceptable to me. Because of Senator ROBB's intense pressures and that of Senator WARNER, and others, we have reduced it rather dramatically from what we had hoped to do. I know the Senator from Virginia knows I won't give up on this issue because of my belief. But 12 additional round-trip flights are simply not going to help, particularly the underserved airports all over America.

The GAO has found on more than one occasion that significant barriers to competition still exist at several important airports, and both at Reagan National Airport are slot controls and the perimeter rule.

The GAO is not the only one that assesses it that way. The National Research Council's Transportation Research Board recently issued its own report on competition in the airline industry. This independent group also found that "the detrimental effects of slot controls on airline efficiency and competition are well-documented and are too far-reaching and significant to continue."

Based on its finding, the Transportation Research Board recommended the early elimination of slot controls. They were equally critical of perimeter rules.

As I mentioned during my opening statement, the GAO came out last month with another study confirming that Reagan National is fully capable of handling more flights without compromising safety or creating significant aircraft delays. In fact, language in the bill requires that any additional flights would have to clear the Department of Transportation's assessment so far as any impact on safety. The GAO demonstrates that their arguments against these modest changes are not persuasive. I regret this legislation doesn't do more to promote competition at Reagan National Airport.

I earlier read a statement from one of Senator ROBB's constituents who alleged that he could not afford flights out of Reagan National Airport. Also, I got another letter that was sent to the FAA aviation noise ombudsman and printed in his annual activity report. The noise ombudsman deals almost entirely with complaints about noise.

The relevant section of that report reads as follows:

> Very few citizens who are not annoyed by airplane noise take the time to publicly or privately voice an opinion. The Ombudsman received a written opinion from one such residence in the area south of National Airport which said:
>
> Recently, someone left a "flyer" in my mailbox urging that I contact you to complain about aircraft noise into and out of the airport. I am going to follow her format point by point.
>
> I have lived in (the area) for 35 years. I have not experienced any increase in aircraft noise. I have noticed a reduction in the loudness of the planes during that time.

That makes sense, Mr. President, since aircraft engines are quieter and quieter. The citizen says:

> I do not observe aircraft flying lower. I have not observed more aircraft following one another more closely. I have not noticed the aircraft turning closer to the airport as opposed to "down river." My quality of life has not significantly been reduced by aircraft noise. In fact, in the 1960s and 1970s, the noise was much louder. I am not concerned about property values due to the level of aircraft noise. I would be very concerned if there were no noise because it would mean the airport was closed. A closure of the airport would make my neighborhood less desirable to me and to many thousands of others who like the convenience of Reagan National Airport. I am concerned about safety and environmental impacts, as everybody should be; but Reagan National Airport has a good safety record and the environmental impact is no greater here than elsewhere. I have not heard any recent neighborhood "upset'" about the increase in airport noise. Reagan National Airport is the most convenient airport that I have ever been in. I hope you will do more to expand its benefit by expanding the range of flights in and out of it.

This is certainly another resident of Northern Virginia who has, in my view, the proper perspective. Most local residents don't get motivated to write such letters as the one I just read. Apparently, there are those who drop flyers in mailboxes asking people to write and complain.

I yield to the Senator from Virginia.

Mr. ROBB. Mr. President, I thank my colleague and friend from Arizona, with whom I agree on so many issues but disagree on this particular question. First of all, I will let the Senator know that I am not in any way affiliated or associated with an effort to get people to write the Senator from Arizona or anybody else. There may be others with good intentions. But I submit to my friend from Arizona that the letter he just read makes the point we are trying to make; that is, the letter—which I haven't seen yet—talks about it was worse back in the early 1960s when we had a slots agreement which limited the number of planes. We had a decrease in noise because of the aircraft noise levels in the stage 3 aircraft. All of this is consistent with what has happened. Why most of the individuals who live in these areas want to continue to have the protections that were afforded to them by the 1986 agreement is precisely what is included in the letter my friend from Arizona just read.

I ask my friend from Arizona to react to my reaction to a letter previously unseen, but it seems to me to be directly on point and makes the point as to why we are pursuing an attempt to keep my friend from Arizona from breaking that agreement.

Mr. McCAIN. I thank my friend.

First of all, the gentleman said 1960s and 1970s—not just 1960s, 1970s. He said the noise was much louder in the 1970s.

In a report to Congress recently, Secretary Rodney Slater announced that the Nation's commercial jet aircraft fleet is the quietest in history and will continue to achieve record low noise levels into the next century. Obviously, with stage 3 aircraft, that noise would be dramatically lessened, thank God. I hope there is going to be a stage 4 that will make it even quieter. Clearly, it is not, because actually the number of flights have been reduced at Reagan National Airport since the perimeter rule and the slot controls were put in—because, as the Senator knows, the major airlines aren't making full use of those slots as they are really required to do by, if not the letter of the law, certainly the intent of the law.

I remind the Senator, the requirement is they all be stage 3 aircraft. New flights would have to be stage 4 aircraft.

The Senator just pointed out how stage 3 aircraft are much quieter. They would have to meet any safety studies done by the DOT before any additional flights were allowed.

Again, the GAO and the Department of Transportation—literally every objective organization that observes the situation at Reagan National Airport—say that increase in flights is called for. The perimeter rule, which was put in in a purely blatant political move, as we all know—coincidentally, the perimeter rule reaches the western edge of the runway at Dallas-Fort Worth Airport. We all know who the majority leader of the House was at that time. We all know it has been a great boon to the Dallas-Fort Worth Airport.

Why wasn't it in Jackson, MS? I think if my dear friend, the majority leader, had been there at the time, perhaps it might have.

But the fact is that the perimeter rule was artificially imposed for restraint. The Senator knows that as well as I do.

But back to his question, again, the GAO, the DOT, the Aviation Commission, and every other one indicate clearly that this is called for. I want to remind the Senator. I do with some embarrassment—12 additional flights, 12 additional round-trip flights? I think my dear friend from Virginia doth protest too much.

Mr. ROBB. Mr. President, will my friend from Arizona yield for an additional question?

Mr. McCAIN. Yes.

Mr. ROBB. Mr. President, I ask my friend from Arizona if he would address the other two principal concerns that have been raised—delays and the breaking of a deal. He has in part addressed the breaking of a deal. He says the deal in effect was political. Indeed, there are some political implications in almost anything that is struck, particularly as it affects jurisdictions differently in this body, as the Senator well knows. But it was a deal entered into by the executive branch, Congress on both sides, the governments of the local jurisdictions involved, and all of the local communities. That was the deal that was entered into. Now we are concerned about the impact of breaking the deal and the impact of additional delays.

As I mentioned just a few minutes ago, I myself was caught in delays that were exacerbated by the fact that we had some planes waiting to take off "right now." That is without any additional flight authorization during the time periods that are going to be sought.

Second, certainly the Senator from Illinois talked about the fact that the mayor of Chicago came here for a specific reception that was in his honor to benefit Chicago and was inconvenienced to the point that he didn't arrive until after the reception was over and he turned right around. I almost did that yesterday on another flight.

But the point is, more flights mean more delays and mean breaking the deal that the Congress, the executive branch, and the local governments made with the people.

Will the distinguished Senator from Arizona address those two elements of my concern at this point? I agree certainly on the stage 3 engines and the continued noise reduction.

Mr. President, before he answers the question, let me thank him for his accommodation in many areas. I am not in any way diminishing the number of changes the Senator from Arizona has made to try to address legitimate concerns that he recognized could be addressed. And this is a less bad bill than we had earlier with respect to this particular component of it. But we are still not where the deal said we ought to be. We are still not where we can represent to the people that we are not going to be creating additional delays in an obviously constricted area.

Mr. McCAIN. I would be glad to respond very quickly. Does the Senator want an up-or-down vote on this amendment?

Mr. ROBB. The Senator would definitely like it.

Mr. McCAIN. I would like to ask the majority leader. Perhaps we can schedule it right after the lunch along with the other votes. I will ask the majority leader when he finishes his conversation. We are about to break for the lunch period. Would the majority leader agree to an up-or-down vote as part of the votes that are going to take place after the lunch?

Mr. LOTT. That would be my preference, actually, Mr. President. If the Senator will yield, I would like to get that locked in at this point, if you would like to do so.

Mr. McCAIN. I would be glad to.

Could I just very briefly respond. We have been down this track many times. Delays are due to the air traffic control system, and obviously our focus and the reason why we have to pass this bill is to increase the capability of the air traffic control system. Deals are made all the time, my dear friend. The people of Arizona weren't consulted. The people of California weren't consulted. It was a deal made behind closed doors, which is the most unpleasant aspect of the way we do business around here, where people were artificially discriminated against because they happened to live west of the Dallas-Fort Worth Airport. It is an inequity, and it is unfair and should be fixed.

Mr. LOTT. Mr. President, I ask unanimous consent that a vote on the Robb amendment be included in the stacked sequence of votes after the policy luncheon breaks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, if I may withhold for 1 second, I am concerned that there might be another Senator who would want to be heard on this issue. If so, we will delay the vote momentarily. But I don't know that that will be necessary, so let's go ahead and go forward with the stacked vote sequence.

AMENDMENT NO. 2254, AS MODIFIED

Mr. HATCH. Mr. President, I ask unanimous consent to modify amendment No. 2254, which I filed earlier today, to conform to the previous unanimous consent agreement as it relates to aviation matters. I send the modification to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

Insert at the appropriate place:

SEC. . ROLLING STOCK EQUIPMENT.

(a) IN GENERAL.—Section 1168 of title 11, United States Code, is amended to read as follows:

"§ 1168. Rolling stock equipment

"(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court, except that the right to take possession and enforce those other rights and remedies shall be subject to section 362, if—

"(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind described in section 365(b)(2), under such security agreement, lease, or conditional sale contract that—

"(i) occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period;

"(ii) occurs or becomes an event of default after the date of commencement of the case and before the expiration of such 60-day period is cured before the later of—

"(I) the date that is 30 days after the date of the default or event of the default; or

"(II) the expiration of such 60-day period; and

"(iii) occurs on or after the expiration of such 60-day period is cured in accordance with the terms of such security agreement, lease, or conditional sale contract, if cure is permitted under that agreement, lease, or conditional sale contract.

"(2) The equipment described in this paragraph—

"(A) is rolling stock equipment or accessories used on rolling stock equipment, including superstructures or racks, that is subject to a security interest granted by, leased to, or conditionally sold to a debtor; and

"(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

"(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(2), if at any time after the date of commencement of the case under this chapter such secured party, lessor, or conditional vendor is entitled under subsection (a)(1) to take possession of such equipment and makes a written demand for such possession of the trustee.

"(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(2), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

"(d) With respect to equipment first placed in service on or before October 22, 1994, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.

"(e) With respect to equipment first placed in service after October 22, 1994, for purposes of this section, the term 'rolling stock equipment' includes rolling stock equipment that is substantially rebuilt and accessories used on such equipment.".

(b) AIRCRAFT EQUIPMENT AND VESSELS.—Section 1110 of title 11, United States Code, is amended to read as follows:

"§ 1110. Aircraft equipment and vessels

"(a)(1) Except as provided in paragraph (2) and subject to subsection (b), the right of a secured party with a security interest in equipment described in paragraph (3), or of a lessor or conditional vendor of such equipment, to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies, under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court.

"(2) The right to take possession and to enforce the other rights and remedies described in paragraph (1) shall be subject to section 362 if—

"(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the approval of the court, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind specified in section 365(b)(2), under such security agreement, lease, or conditional sale contract that occurs—

"(i) before the date of the order is cured before the expiration of such 60-day period;

"(ii) after the date of the order and before the expiration of such 60-day period is cured before the later of—

"(I) the date that is 30 days after the date of the default; or

"(II) the expiration of such 60-day period; and

"(iii) on or after the expiration of such 60-day period is cured in compliance with the terms of such security agreement, lease, or conditional sale contract, if a cure is permitted under that agreement, lease, or contract.

"(3) The equipment described in this paragraph—

"(A) is—

"(i) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 40102 of title 49) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that, at the time such transaction is entered into, holds an air carrier operating certificate issued under chapter 447 of title 49 for aircraft capable of carrying 10 or more individuals or 6,000 pounds or more of cargo; or

"(ii) a documented vessel (as defined in section 30101(1) of title 46) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that, at the time such transaction is entered into, holds a certificate of public convenience and necessity or permit issued by the Department of Transportation; and

"(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

"(4) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the approval of the court, to extend the 60-day period specified in subsection (a)(1).

"(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(3), if at any time after the date of the order for relief under this chapter such secured party, lessor, or conditional vendor is entitled under subsection (a)(1) to take possession of such equipment and makes a written demand for such possession to the trustee.

"(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(3), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

"(d) With respect to equipment first placed in service on or before October 22, 1994, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.".

Mr. HOLLINGS. Mr. President, I rise today to discuss the Federal Aviation Administration reauthorization bill and I am pleased we will have this opportunity to consider the current state of the aviation industry and some of the enormous challenges facing our air transportation system over the next decade. I resisted efforts earlier this year to bypass Senate consideration of this major transportation bill and go directly to conference with the House when the Senate passed a short term extension bill for the Airport Improvement Program. We need to have a serious debate on the increasing demands for air transportation, the capital requirements for our future air transportation system, the availability of federal funding and whether the current structure of the aviation trust fund will meet those needs, and finally, the lack of competition and minimal service that most small and medium sized communities are faced with in this era of airline deregulation.

I want to commend Senators McCAIN, ROCKEFELLER and GORTON for their hard work in resolving so many issues prior to bringing this bill to the floor. I am disturbed, however, by provisions in this bill which would force even more planes into an already jammed system in New York as well as Washington's National Airport. At a time when delays are at an all-time high, we continue to authorize more flights into and out of these already busy airports. I am even more perplexed at the timing of the current call to privatize our Air Traffic Control System. While certain segments of the industry support this effort, we often too quickly gravitate toward solutions such as privatization as cure all for whatever ails the system, instead of simply ensuring that the FAA has the tools and money it needs to do its job.

Aviation has become a global business and is an important part of the transportation infrastructure and a vital part of our national economy. Every day our air transportation system moves millions of people and billions of dollars of cargo. While many predicted that an economy based on advanced communications and technology would reduce our need for travel, the opposite has proved true. The U.S. commercial aviation industry recorded its fifth consecutive year of traffic growth, while the general aviation industry enjoyed a banner year in shipments and aircraft activity at FAA air traffic facilities. To a large extent, growth in both domestic and international markets has been driven by the continued economic expansion in the U.S. and most world economies.

The FAA Aerospace Forecasts Report, Fiscal Years 1999–2010, was issued in March of this year and forecasts aviation activity at all FAA facilities through the year 2010. The 12-year forecast is based on moderate economic growth and inflation, and relatively constant real fuel prices. Based on these assumptions, U.S. scheduled domestic passenger enplanements are forecast to increase 50.4 percent—air carriers increasing 49.3 percent and regional/commuters growing by 87.5 percent. Total International passenger traffic between the United States and the rest of the world is projected to increase 82.6 percent. International passenger traffic carried on U.S. Flag carriers is forecast to increase 94.2 percent.

These percentages represent a dramatic increase in the actual number of people using the air system, even when compared to the increase in air travel that occurred over the last ten years. Daily enplanements are expected to grow to more than 1 billion by 2009. In 2010, there will be 828 million domestic enplanements compared to last year's 554.6 million, and there will be 230.2 million international enplanements compared to today's figure of 126.1 million. Respectively, this represents an annual growth of 3.4% and 4.95% per year. Regional and commuter traffic is expected to grow even faster at the rate of 6.4%. Total enplanements in this category should reach 59.7 million in 2010. As of September 1997, there were 107 regional jets operating in the U.S. airline fleet. In the FAA Aviation Forecasts Fiscal years 1998–2009, the FAA predicts that there will be more than 800 of these in the U.S. fleet by FY2009.

Correspondingly, the growth in air travel has placed a strain on the aviation system and has further increased delays. In 1998, 23% of flights by major air carriers were delayed. MITRE, the FAA's federally-funded research and development organization, estimates that just to maintain delays at current levels in 2015, a 60% increase in airport capacity will be needed. As many of you may know, and perhaps experienced first hand, delays reached an all-time high this summer. These delays are inordinately costly to both the carriers and the traveling public; in fact, according to the Air Transport Association, delays cost the airlines and travelers $3.9 billion for 1997.

We cannot ignore the numbers. These statistics underscore the necessity of properly funding our investment—we must modernize our Air Traffic Control system and expand our airport infrastructure. In 1997, the National Civil

Aviation Review Commission came out with a report stating the gridlock in the skies is a certainty unless the Air Traffic Control, ATC, system and National Air Space are modernized. A system-wide delay increase of just a few minutes per flight will bring commercial operations to a halt. American Airlines published a separate study confirming these findings. A third, done by the White House Commission on Aviation Security and Safety, dated January 1997 and commonly known as the Gore Commission, recommends that modernization of the ATC system be expedited to completion by 2005 instead of 2015.

Regrettably, as the need to upgrade and replace the systems used by our air traffic controllers grows, funding has steadily decreased since 1992. In FY '92 the Facilities and Equipment account was funded at $2.4 Billion. In 1997, F&E was $1.938 Billion. In 1998, the account was funded at 1.901 billion. Assuming a conservative 2015 completion date, the modernization effort requires $3 billion per year in funding for the Facilities and Equipment Account alone, the mainspring of the modernization effort. Unfortunately, S.82 authorizes $2.689 billion for FY2000 while the Appropriations Committee has provided only $2.075 billion. We are falling short every year and losing critical ground in the race to update our national air transportation system.

Increasing capacity through technological advances is crucial to the functionality of the FAA and the aviation industry. Today, a great deal of the equipment used by the Air Traffic Controllers is old and becoming obsolete. Our air traffic controllers are the front line defense and insure the safety of the traveling public every day by separating aircraft and guiding take-offs and landings. Our lives and those of our families, friends, and constituents are in their hands. These controllers and technicians do a terrific job. The fact that their equipment is so antiquated makes their efforts even more heroic.

We have the funds to modernize our air facilities but refuse to spend them and by doing so Congress perpetuates a fraud on the traveling public. The Airport and Airways Trust Fund, AAF, was created to provide a dedicated funding source for critical aviation programs and the money in the fund is generated solely from taxes imposed on air travelers and the airline industry. The fund was created so that users of the air transportation system would bear the burden of maintaining and improving the system. The traveling public has continued to honor its part of the agreement through the payment of ticket taxes, but the federal government has not.

Congress has refused to annually appropriate the full amount generated in the trust fund despite the growing needs in the aviation industry. The surplus generated in the trust fund is used to fund the general operations of government, similar to the way in which Congress has used surplus generated in the Social Security trust fund. At the end of FY 2000, the Congressional Budget Office predicts that there will be a cash balance of $14.047 billion in the AATF, for FY2001, it will be $16.499 billion. By FY2009, the balance will grow to $71.563 billion. Instead of using these monies to fund the operation of the general government, we should use them to fund aviation improvements, which is what we promised the American public when we enacted and then increased the airline ticket tax.

Let's get our aviation transport system up to par and let's provide ways to increase competition and maintain our worldwide leadership in aviation. Let's follow the lead of Chairman SHUSTER and Congressman OBERSTAR and vote to take the Trust Fund off-budget. I look forward to a thoughtful debate on these issues and I intend to work with Senators McCAIN, ROCKEFELLER, and GORTON to accomplish this common goal of ensuring that the safest and most efficient air transportation system in the world stays so.

NATIONAL AIRSPACE REDESIGN

Mr. TORRICELLI. Mr. President, I rise today in support of a provision in S. 82, the FAA Reauthorization Bill, that will provide an additional $36 million over three years to the National Airspace Re-Design project, and to thank Chairman McCAIN and Senators HOLLINGS, and ROCKEFELLER for their critical role in securing this funding.

Many of my colleagues may not realize this, but the air routes over the U.S. have never been designed in a comprehensive way, they have always been dealt with regionally and incrementally. In order to enhance efficiency and safety, as well as reduce noise over many metropolitan areas, the FAA is undertaking a re-design of our national airspace.

In an effort to deal with the most challenging part of this re-design from the outset, the FAA has decided to begin the project in the "Eastern Triangle" ranging from Boston through New York/Newark down to Miami. This airspace constitutes some of the busiest in the world, with the New York metropolitan area alone servicing over 300,000 passengers and 10,000 tons of cargo a day. The delays resulting from this level of activity being handled by the current route structure amount to over $1.1 billion per year.

While many of my constituents, and I am sure many of Senators HOLLINGS' and ROCKEFELLER's as well, are pleased by the FAA's decision to undertake this difficult task, they are concerned by the timetable associated with the re-design. The FAA currently estimates that it could take as long as five years to complete the project. However, my colleagues and I have been working with the FAA to expedite this process, and this additional funding will go a long way toward helping us achieve this goal.

In fact, I had originally offered an amendment to this legislation that would have required the FAA to complete the re-design process in two years, but have withdrawn it because it is my understanding that the Rockefeller provision will allow the agency to expedite this project.

I want to recognize Senator ROCKEFELLER again for including this funding in the bill, and ask Chairman McCAIN and Senator ROCKEFELLER if it is the Committee's hope that this additional funding will be used to expedite the National Re-Design project, including the portion dealing with the "Eastern Triangle's" airspace.

Mr. McCAIN. Mr. President, I begin by thanking my friend from New Jersey for his comments, and reassure him that it is the Committee's hope that the funding included in this legislation will allow us to finish the National Airspace Re-Design more expeditiously, including the ongoing effort in the Eastern Triangle.

Mr. ROCKEFELLER. Mr. President, I hope this money will be used to speed up the re-design project and finally bring some relief to the millions of Americans who use our air transportation system and live near our Nation's airports.

Mr. TORRICELLI. Mr. President, I am grateful to Chairman McCAIN and Senator HOLLINGS and ROCKEFELLER for their cooperation and support. I look forward to collaborating with them again on this very important issue.

Mr. BENNETT. Mr. President, I rise today to express my support for the actions taken by the Commerce Committee and in particular, Chairman McCAIN, in crafting provisions that will allow exemptions to the current perimeter rule at Ronald Reagan Washington National Airport. Mr. Chairman, I commend you on creating a process which I believe fairly balances the interests of Senators from states inside the perimeter and those of us from western states without convenient access to Reagan National.

These limited exemptions to the perimeter rule will improve service to the nation's capital for dozens of western cities beyond the perimeter—while ensuring that cities inside the perimeter are not adversely impacted by new service. This is a fair balance which is consistent with the overall intent of the bill to improve air service to small and medium-sized cities.

Throughout this bill, our goal has been to improve air service for communities which have not experienced the benefits of deregulation to the extent of larger markets. The provision relating to improved access to Reagan National Airport is no different. Today, passengers from many communities in the West are forced to double or even triple connect to fly to Reagan National. My goal is to ensure that not just large city point-to-point service will benefit, but that passengers from all points west of the perimeter will have better options to reach Washington, DC via Ronald Reagan Washington National Airport. This provision is about using this restricted exemption process to spread improved access throughout the West—not to limit the benefits to a few large cities which already have a variety of options.

Let me be clear, according to the language contained in this provision, if the Secretary receives more applications for additional slots than the bill allows, DOT must prioritize the applications based on quantifying the domestic network benefits. Therefore, DOT must consider and award these limited opportunities to western hubs which connect the largest number of cities to the national air transportation network. In a perfect world, we would not have to make these types of choices and could defer to the marketplace. This certainly would be my preference. However, Congress has limited the number of choices thereby requiring the establishment of a process which will ensure that the maximum number of cities benefit from this change in policy.

I commend the Chairman and his colleagues on the Commerce Committee for their efforts to open the perimeter rule and improve access and competition to Ronald Reagan Washington National Airport. As a part of my statement, I ask unanimous consent to have printed in the RECORD a letter sent to Chairman McCAIN on this matter signed by seven western Senators.

There being no objection, the letter was ordered to be printed—the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 23, 1999.

Hon. JOHN McCAIN,
Chairman, Committee on Commerce, Science, and Transportation, Washington, DC.

DEAR CHAIRMAN McCAIN: We are writing to commend you on your efforts to improve access to the western United States from Ronald Reagan Washington National Airport. We support creating a process which fairly balances the interests of states inside the perimeter and those of western states without convenient access to Reagan National.

These limited exemptions to the perimeter rule will improve service to the nation's capital for dozens of western cities beyond the perimeter—while at the same time ensuring that cities inside the perimeter are not adversely impacted by new service. This is a fair balance which is consistent with the overall intent of the bill to improve air service to small and medium-sized cities.

The most important aspect of your proposal is that the Department of Transportation must award these limited opportunities to western hubs which connect the largest number of cities to the national transportation network. In our view, this standard is the cornerstone of our mutual goal to give the largest number of western cities improved access to the Nation's capital. We trust that the Senate bill and Conference report on FAA reauthorization will reaffirm this objective.

In a perfect world, we would not have to make these types of choices. These decisions would be better left to the marketplace. However, Congress has limited the ability of the marketplace to make these determinations. Therefore, we must have a process which ensures that we spread improved access to Reagan National throughout the West.

We look forward to working with you as the House and Senate work to reconcile the differences in the FAA reauthorization bills.

Sincerely,

ORRIN G. HATCH,
U.S. Senator.
LARRY E. CRAIG,
U.S. Senator.
CONRAD BURNS,
U.S. Senator.
CRAIG THOMAS,
U.S. Senator.
ROBERT F. BENNETT,
U.S. Senator.
MIKE CRAPO,
U.S. Senator.
MAX BAUCUS,
U.S. Senator.

Mr. BYRD. Mr. President, I rise in support of the Gorton-Rockefeller amendment. This amendment makes important revisions to the underlying bill concerning the rules governing the allocation of slots at the nation's four slot-controlled airports—Chicago O'Hare, LaGuardia, Kennedy, and Reagan National Airports. The issues surrounding the application of the high density rule, and the perimeter rule, are both complex and delicate. They engender strong feelings on all sides. I believe that the bipartisan leadership of the aviation subcommittee, Senators GORTON and ROCKEFELLER, performed a service to the Senate by crafting a compromise that, while not satisfactory to all Senators, proposes a regime that is much improved over the one contained in the committee-reported bill.

Mr. President, when the Senate is in session, my wife and I reside in Northern Virginia, not far from the flight path serving Reagan National Airport. I have had misgivings about proposals to tinker with the status quo in terms of the number of flights coming into Reagan National Airport and the distances to which those flights can travel. Despite efforts to reduce the levels of aircraft noise through the advent of quieter jet engines, I can tell my colleagues that the aircraft noise along the Reagan National Airport flight path is often deafening. It can bring all family conversation to a halt. Current flight procedures for aircraft landing at Reagan National Airport from the north call on the pilots to direct their aircraft to the maximum extent possible over the Potomac River. The intent of this procedure is to minimize the noise impact on residential communities on both the Maryland and Virginia sides of the river. Notwithstanding this policy, however, too often the aircraft fail to follow that guidance. That is not necessarily the fault of the pilots. During the busiest times of the day, the requirement to stray directly over certain residential communities is necessary for safety reasons in order to maintain a minimum level of separation between the many aircraft queued up to land at Reagan National Airport. I invite my colleagues to glance up the river during twilight one day soon. There is a high probability that you will see the lights of no fewer than four aircraft, all lined up, waiting to land, one right after the other.

I appreciate very much the earlier statements made by the distinguished chairman of the Commerce Committee, Senator McCAIN. The chairman pointed out that the Department of Transportation has indicated that safety will not be compromised through additional flights at Reagan National Airport. I remain concerned, however, regarding the current capabilities of the air traffic control tower at that airport. The air traffic controllers serving in that facility have been quite outspoken regarding the deficiencies they find with the aging and unreliable air traffic control equipment in the tower. Indeed, the situation has become so severe that our FAA Administrator, Ms. Jane Garvey, mandated that the equipment in that facility be replaced far sooner than was originally anticipated. Even so, the new equipment for that facility has, like so many other FAA procurements, suffered from development problems and extended delays. Just this past weekend, I know many of my colleagues noticed the Washington Post article discussing a further two-year delay in the FAA's deployment of equipment to minimize runway incursions—the very frightening circumstance through which taxiing aircraft or other vehicles unknowingly stray onto active runways.

Given these concerns, Mr. President, I want to commend Senators GORTON and ROCKEFELLER for negotiating a reasonable compromise on this issue. The Gorton-Rockefeller amendment will reduce by half the increased number of frequencies into Reagan National Airport than was originally sought. It will also reserve half of the additional slots for flights serving cities within the 1,250 mile perimeter. Most importantly, Mr. President, these additional slots within the perimeter will be reserved for flights to small communities, flights to communities without existing service to Reagan National Airport, and flights provided by either a new entrant airline, or an established airline that will provide new competition to the dominant carriers at Reagan National.

As my colleague from West Virginia, Senator ROCKEFELLER, knows well, no state has endured the ravages of airline deregulation like West Virginia. We have experienced a very severe downturn in the quality, quantity and affordability of air service in our state. Fares for flights to and from our state have grown to ludicrous levels. A refundable unrestricted round-trip ticket between Reagan National Airport and Charleston, West Virginia, now costs $722. Conversely, Mr. President, I can buy the same unrestricted round-trip ticket to Boston, which is 100 miles farther away than Charleston, and pay less than half that amount. By targeting the additional slots to be provided inside the perimeter to underserved communities, the Gorton-Rockefeller amendment has taken a small but important step toward addressing this problem.

At the present time, the largest airport in West Virginia does have some direct service to Reagan National. We face greater hurdles, frankly, in gaining direct access to LaGuardia Airport in New York, as well as improved service to Chicago O'Hare. The Gorton-Rockefeller amendment expands slots at those airports as well. As a member of the Transportation Appropriations Subcommittee, I intend to diligently work with Senator ROCKEFELLER, Secretary Slater and his staff, to see that West Virginia has a fair shot at the expanded flight opportunities into these slot controlled airports.

Again, in conclusion, I want to rise in support of the Gorton-Rockefeller amendment. It is a carefully crafted compromise that is a great improvement over the underlying committee bill, and gives appropriate attention to the needs of under-served communities.

KEEPING AVIATION TRUST FUND ON BUDGET

Mr. LOTT. Mr. President, I understand that the Senator from New Mexico and the Senator from Alabama had filed four amendments that they were considering offering during Senate consideration of S. 82, the FAA reauthorization legislation. After discussions with them, with the managers of the bill and other interested Members, I understand the Members no longer feel it necessary to offer their amendments.

Mr. DOMENICI. The Leader's understanding is correct. After discussions with the managers of the reauthorization bill, I am comfortable with the assurances of the Majority Leader and the distinguished Chairman of the Commerce Committee on their commitment to preserve the current budgetary treatment for aviation accounts in the conferenced bill.

Mr. SHELBY. I, too, share the Senator's understanding, and would note that there is much to praise in both H.R. 1000 and S. 82 without regard to changing budgetary treatment of the aviation accounts. I would be very disappointed if the prospect of a multiyear reauthorization were frustrated by the House's intransigence on changing the budgetary treatment of the aviation accounts to the detriment of all other discretionary spending, including Amtrak, drug interdiction efforts of the Coast Guard, as well as many of the domestic programs funded in appropriations bills other than the one I manage as the Chairman of the Transportation appropriations subcommittee.

According to the Administration, the budget treatment envisioned in H.R. 1000 would create an additional $1.1 billion in outlays, which if it were absorbed out of the DOT budget would mean: "elimination of Amtrak capital funding, thereby making it impossible for Amtrak to make the capital investments needed to reach self-sufficiency; and severe reductions to Coast Guard, the Federal Railroad Administration, Saint Lawrence Seaway, the Office of the Inspector General, the Office of the Secretary, and the Research and Special Programs Administration funding, greatly impacting their operations." Clearly, firewalls or off-budget treatment for the aviation accounts is a budget buster that would only further exacerbate the current budget problems we face staying under the spending caps.

Mr. LAUTENBERG. The Senator from Alabama and the Chairman of the Appropriations Committee make a good point. There is more at stake here than just aviation. Our experience over the last two years demonstrates that mandated increases in certain transportation accounts makes it extraordinarily difficult to fund other transportation accounts. While aviation investment is critical to the continued growth, development and quality of life of New Jersey and the Northeast, so is the continued improvement of Amtrak service and an adequately funded Coast Guard. Taking care of one mode of transportation with a firewall belies the reality and the importance of providing adequate investment in other modes of transportation—not to mention investment in other social programs.

Mr. LOTT. I share the concerns of the Senator from New Jersey and would mention that the Senator from New Mexico and the Senator from Alabama have informed me on more than one occasion that if a change in the budgetary treatment of the aviation accounts, whether off-budget or a firewall, is included in the conference report, it would make it extraordinarily difficult to consider the conference report in the Senate. If that occurs the prospect of a multi-year aviation reauthorization may disappear and we may have to settle for a simple one-year extension of the Airport Improvement Program.

Mr. DOMENICI. I associate myself with the remarks of my Leader and would also note that there has been much discussion by the proponents of changing the budgetary treatment of the FAA accounts because of the need to spend more from the airport and airways trust fund. I would like to set the record straight—for the last five years, we have spent more on the aviation accounts than the airport and airways trust fund has taken in. In addition, the Department of Transportation has estimated that we have spent in excess of $6 billion more on FAA programs than total receipts into the Airport and Airways Trust Fund over the life of the trust fund.

Mr. GORTON. My colleagues have been very clear as to their position on this issue. As a member of all three of the interested committees, Budget, Commerce, and Appropriations, I appreciate this issue from all the different perspectives. In short, I believe that we need to spend more on aviation infrastructure investment, but that increased investment should have to compete with other transportation and other discretionary spending priorities. I think the record shows that Senator SHELBY, Senator STEVENS, as well as the Senator from New Mexico and the Senator from Arizona are strong advocates for the importance of investing in airport and aviation infrastructure. I share their concern that firewalling or taking the aviation trust fund off-budget would allow FAA spending to be exempt for congressional budget control mechanisms, providing aviation accounts with a level of protection that is not warranted and I will not support such a proposition in conference.

Mr. DOMENICI. I appreciate the comment of the Senator from Washington and look forward to working with him on this important issue.

Mr. STEVENS. Mr. President, I, too, serve on more than one of the interested committees. On Commerce with the Leader, the Senator from Arizona, and the Senator from Washington, and on the Appropriations Committee with the Senator from New Mexico, the Senator from Alabama, and the Senator from Washington. No member's state relies on aviation more than does my state of Alaska. Yet, changing the budgetary treatment of the aviation accounts is, in my estimation, shortsighted and irresponsible. The FAA is to be commended, along with the airlines, for the level of safety they have contributed to achieving. However, the FAA is not known as the most efficient of agencies. Unfortunately, the FAA has had substantial problems on virtually every major, and minor, procurement and has been the subject of numerous audits and management reports that invariably call for increased accountability and oversight. Changing budgetary treatment cannot have other than a detrimental effect on the oversight efforts of the two committees of jurisdiction that I serve on. For that reason as well as the reasons mentioned by the Leader, the Senators from Alabama, New Mexico and New Jersey, I cannot support a change in budgetary treatment for the aviation accounts.

Mr. McCAIN. Mr. President, I hear and share the views of my colleagues on this issue. Clearly, I have been tasked by the Senate and the Leader with successfully completing a conference with the House on multi-year aviation reauthorization legislation. I, too, oppose any change in budgetary treatment of the aviation accounts.

Mr. DOMENICI. I note that the Administration strongly opposes any provisions that would drain anticipated budget surpluses prior to fulfilling our commitment to save Social Security. The House bill asks us to do for aviation what isn't done for education, veterans' benefits, national defense, or environmental protection. As important as aviation investment is, it would be fiscally irresponsible of us to grant it a bye from the budget constraints we face with in funding virtually every other program.

Mr. SHELBY. The assurances of my Leader and the distinguished Chairman of the Commerce Committee are all this Senator needs, and I withdraw my filed amendments.

Mr. LOTT. I thank my colleagues.

Mr. WARNER. Mr. President, I will offer an amendment to give Reagan National and Dulles International Airports equitable treatment under Federal law that is enjoyed today by all of the major commercial airports.

Congress enacted legislation in 1986 to transfer ownership of Reagan National and Dulles Airports to a regional authority which included a provision to create a Congressional Board of Review.

Immediately upon passage of the 1986 Transfer Act, local community groups filed a lawsuit challenging the constitutionality of the board of review. The Supreme Court upheld the lawsuit and concurred that the Congressional Board of Review as structured as unconstitutional because it gave Members of Congress veto authority over the airport decisions. The Court ruled that the functions of the board of review was a violation of the separation of powers doctrine.

During the 1991 House-Senate conference on the Intermodal Surface Transportation Efficiency Act (ISTEA), I offered an amendment, which was adopted, to attempt to revise the Board of Review to meet the constitutional requirements.

Those provisions were also challenged and again were ruled unconstitutional.

In 1996, in another attempt to address the situation, the Congress enacted legislation to repeal the Board of Review since it no longer served any function due to several federal court rulings. In its place, Congress increased the number of federal appointees to the MWAA Board of Directors from 1 to 3 members.

In addition to the requirement that the Senate confirm the appointees, the statute contains a punitive provision which denies all federal Airport Improvement Program entitlement grants and the imposition of any new passenger facility charges to Dulles International and Reagan National if the appointees were not confirmed by October 1, 1997.

Regretfully, Mr. President, the Senate has not confirmed the three Federal appointees. Since October 1997, Dulles International and Reagan National, and its customers, have been waiting for the Senate to take action. Finally in 1998, the Senate Commerce Committee favorably reported the three pending nominations to the Senate for consideration, but unfortunately no further action occurred before the end of the session because these nominees were held hostage for other unrelated issues. Many speculate that these nominees have not been confirmed because of the ongoing delay in enacting a long-term FAA reauthorization bill.

At the beginning of the 105th Congress in January 1997, Commerce Committee held hearings and approved the three nominees for floor consideration. Unfortunately, a hold was placed on them on the Senate floor at the very end of the Congress. All three nominees were renominated by the President in January 1999. Nothing has happened since.

Mr. President, I am not here today to join in that speculation. I do want, however, to call to the attention of my colleagues the severe financial, safety and consumer service constraints this inaction is having on both Dulles and Reagan National.

As the current law forbids the FAA from approving any AIP entitlement grants for construction at the two airports and from approving any Passenger Facility Charge (PFC) applications, these airports have been denied access to over $146 million.

These are funds that every other airport in the country receives annually and are critical to maintaining a quality level of service and safety at our Nation's airports. Unlike any other airport in the country, the full share of federal funds have been withheld from Dulles and Reagan National for over two years.

These critically needed funds have halted important construction projects at both airports. Of the over $146 million that is due, approximately $161 million will fund long-awaited construction projects and $40 million is needed to fund associated financing costs.

I respect the right of the Senate to exercise its constitutional duties to confirm the President's nominees to important federal positions. I do not, however, believe that it is appropriate to link the Senate's confirmation process to vitally needed federal dollars to operate airports.

Also, I must say that I can find no justification for the Senate's delay in considering the qualifications of these nominees to serve on the MWAA Board. To my knowledge, no one has raised concerns about the qualifications of the nominees. We are neglecting our duties.

For this reason, I am introducing an amendment today to repeal the punitive prohibition on releasing Federal funds to the airports until the Federal nominees have been confirmed.

Airports are increasingly competitive. Those that cannot keep up with the growing demand see the services go to other airports. This is particularly true with respect to international services, and low-fare services, both of which are essential.

As a result of the Senate's inaction, I provide for my colleagues a list of the several major projects that are virtually on hold since October, 1997. They are as follows:

At Dulles International there are four major projects necessary for the airport to maintain the tremendous growth that is occurring there.

Main terminal gate concourse: It is necessary to replace the current temporary buildings attached to the main terminal with a suitable facility. This terminal addition will include passenger hold rooms and airline support space. The total cost of this project is $15.4 million, with $11.2 million funded by PFCs.

Passenger access to main terminal: As the Authority continues to keep pace with the increased demand for parking and access to the main terminal, PFCs are necessary to build a connector between a new automobile parking facility and the terminal. The total cost of this project is $45.5 million, with $29.4 million funded by PFCs.

Improved passenger access between concourse B and main terminal: With the construction of a pedestrian tunnel complex between the main terminal and the B concourse, the Authority will be able to continue to meet passenger demand for access to this facility. Once this project is complete, access to concourse B will be exclusively by moving sidewalk, and mobile lounge service to this facility will be unnecessary. The total cost of this project is $51.1 million, with $46.8 million funded by PFCs.

Increased baggage handling capacity: With increased passenger levels come increase demands for handling baggage. PFC funding is necessary to construct a new baggage handling area for inbound and outbound passengers. The total cost of this project is $38.7 million, with $31.4 million funded by PFCs.

At Reagan National there are two major projects that are dependent on the Authority's ability to implement passenger facility charges (PFCs).

Historic main terminal rehabilitation: Even though the new terminal at Reagan National was opened last year, the entire Capital Development Program will not be complete until the historic main terminal is rehabilitated for airline use. This project includes the construction of nine air carrier gates, renovation of historic portions of the main terminal for continued passenger use and demolition of space that is no longer functional. The total cost of this project is $94.2 million with $20.7 million to be paid for by AIP entitlement grants and $36.2 million to be funded with PFCs. Additional airfield work to accompany this project will cost $12.2 million, with $5.2 million funded by PFCs.

Terminal connector expansion: In order to accommodate the increased passengers moving between Terminals B and C (the new terminal) and Terminal A, it is necessary to expand the "Connector" between the two buildings. The total cost of the project is $4.8 million, with $4.3 million funded by PFCs.

Mr. President, my amendment is aimed at ensuring that necessary safety and service improvements proceed at Reagan National and Dulles. Let's give them the ability to address consumer needs just like every other airport does on a daily basis.

This amendment would not remove the Congress of the United States, and particularly the Senate, from its advise-and-consent role. It allows the money, however, which we need for the modernization of these airports, to flow properly to the airports. These funds are critical to the modernization program of restructuring them physically to accommodate somewhat larger traffic patterns, as well as do the necessary modernization to achieve safety-most important, safety-and greater convenience for the passengers using these two airports.

Under the current situation these funds have been held up. It is over $146 million, which is more or less held in escrow, pending the confirmation by the Senate of the United States of three individuals to this board.

For reasons known to this body, that confirmation has been held up. The confirmation may remain held up. But this amendment will let the moneys flow to the airports for this needed construction for safety and convenience. It is my desire that at a later date, we can achieve the confirmation of these three new members to the board.

NATURAL RESOURCE CONSERVATION

Mr. LOTT. Mr. President, I am pleased to join my colleague from South Dakota, the minority leader, in submitting for the RECORD and acknowledging the importance of a letter we received last week from 40 of our Nation's Governors. This letter is distinctly bipartisan and the signatories represent both coastal and inland states. It unequivocally demonstrates strong national support for reinvesting a substantial portion of federal outer continental shelf (OCS) oil and gas development revenues in coastal conservation and impact assistance; open space and farmland preservation; development and maintenance of federal, state and local parks and recreation areas; and wildlife conservation. The Governors also stressed the importance of recognizing the role of state and local governments in planning and implementing these conservation initiatives.

Although the signatories to this letter did not identify specific legislation to which they are lending support, I believe that S. 25, the Conservation and Reinvestment Act of 1999, of which I am a cosponsor along with 20 other Senators, most nearly achieves the objectives outlined by the Governors. S. 25 has strong bipartisan support and offers Congress the best opportunity to pass legislation this year.

I share the belief of these Governors that the 106th Congress has a historic opportunity to demonstrate our solid commitment to natural resource conservation for the benefit of future generations. I urge my colleagues on both sides of the aisle to join hands in advancing this noble effort.

I thank the Governors for their letter. I invite the attention of my colleagues to this very important area which is a win-win-win for those who live in the coastal regions as I do, but also inland Governors who will help us with conservation and preservation.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 21, 1999.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate, Washington, DC.
Hon. THOMAS DASCHLE,
Minority Leader, U.S. Senate, Washington, DC.
Hon. J. DENNIS HASTERT,
Speaker of the House, House of Representatives, Washington, DC.
Hon. RICHARD GEPHARDT,
Minority Leader, House of Representatives, Washington, DC.

DEAR SENATORS LOTT AND DASCHLE AND REPRESENTATIVES HASTERT AND GEPHARDT: The 106th Congress has an historic opportunity to end this century with a major commitment to natural resource conservation that will benefit future generations. We encourage you to approve legislation this year that reinvests a meaningful portion of the revenues from federal outer continental shelf (OCS) oil and gas development in coastal conservation and impact assistance, open space and farmland preservation, federal, state and local parks and recreation, and wildlife conservation including endangered species prevention, protection and recovery costs.

Since outer continental shelf revenues come from nonrenewable resources, it makes sense to permanently dedicate them to natural resource conservation rather than dispersing them for general government purposes. Around the nation, citizens have repeatedly affirmed their support for conservation through numerous ballot initiatives and state and local legislation. We applaud both the Senate Energy and Natural Resources committee and the House Resources Committee for conducting a bipartisan and inclusive process that recognizes the unique role of state and local governments in preserving and protecting natural resources.

The legislation reported by the Committees should, to the maximum extent possible, permanently appropriate these new funds to the states, to be used in partnership with local governments and non-profit organizations to implement the various conservation initiatives. We urge the Congress to give state and local governments maximum flexibility in determining how to invest these funds. In this way, federal funds can be tailored to complement state plans, priorities and resources. State and local governments are in the best position to apply these funds to necessary and unique conservation efforts, such as preserving species, while providing for the economic needs of communities. The legislation should be neutral with regard to both existing OCS moratoria and future offshore development, and should not come at the expense of federally supported state programs.

We recognize that dedicating funds over a number of years to any specific use is a difficult budgetary decision. Nevertheless, we believe that the time is right to make this major commitment to conservation along the lines outlined in this letter.

We look forward to working with you to take advantage of this unique opportunity and are available to help ensure that this commitment is fiscally responsible. Thank you for your consideration of these legislative principles as you proceed to enact this important legislation.

Sincerely,

John A. Kitzhaber, Oregon; Mike Leavitt, Utah; Tom Ridge, Pennsylvania; Mike Foster, Louisiana; John G. Rowland, Connecticut; Parris N. Glendening, Maryland; Howard Dean, Vermont; Thomas R. Carper, Delaware; Christipe Todd Whitman, New Jersey; James B. Hunt, Jr., North Carolina; Roy B. Barnes, Georgia; Jim Hodges, South Carolina; Lincoln Almond, Rhode Island; Angus S. King, Jr., Maine; Gary Locke, Washington; Argeo Paul Cellucci, Massachusetts; Cecil H. Underwood, West Virginia; Marc Rancot, Montana; Don Siegelman, Alabama; Gray Davis, California; Mel Carnahan, Missouri; Benjamin J. Cayetano, Hawaii; Jane Dru Hull, Arizona; Dirk Kempthorne, Idaho; Tony Knowles, Alaska; George H. Ryan, Illinois; James S. Gilmore III, Virginia; Jeanne Shabeen, New Hampshire; Bill Graves, Kansas; George E. Pataki, New York; Paul E. Patton, Kentucky; Tommy G. Thompson, Wisconsin; Bill Owens, Colorado; Mike Huckabee, Arkansas; Frank Keating, Oklahoma; Jim Geringer, Wyoming; Edward T. Schafer, North Dakota; Frank O'Bannon, Indiana; Kirk Fordice, Mississippi; William J. Janklow, South Dakota.

Mr. DASCHLE. Mr. President, I thank the majority leader. We recognize and applaud the desire of a number of groups and organizations in this country to take the proceeds from this non-renewable resource and reinvest a portion of these outer continental shelf revenues in the conservation and enhancement of our renewable resources.

When the Land and Water Conservation Fund was created more than thirty years ago, the intention was for revenues from off-shore oil and gas drilling to be deposited into the fund, allowing federal and state governments to protect green space, improve wildlife habitat and purchase lands for conservation purposes.

In my state of South Dakota this program has been particularly beneficial, helping local and state governments to purchase park lands and develop facilities in municipal and state parks throughout the state.

Unfortunately, the Land and Water Conservation Fund has rarely received adequate funding.

Congress has the opportunity this year to pass legislation that would finally ensure consistent funding for the Land and Water Conservation Fund and provide a permanent stream of revenue for conservation.

We applaud the efforts of the Senate Committee on Energy and Natural Resources as well as the House Committee on Natural Resources for conducting the process thus far in a fair and bi-partisan manner.

We encourage these committees to continue their progress so that Congress as a whole can debate and pass what may well be the most significant conservation effort of the century.

ORDER OF PROCEDURE

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, I may object. I have been standing here about 45 minutes waiting to speak. I thought we were going to go back and forth across the aisle. I want to speak on the bill, not as in morning business. Since I like the Senator from Utah so much, I will not object. I wanted to make my point.

The PRESIDING OFFICER. Is the Senator from Iowa requesting time to speak?

Mr. HARKIN. I did not hear the request.

The PRESIDING OFFICER. Is the Senator from Iowa requesting, as part of the unanimous consent request, an opportunity to speak?

Mr. HARKIN. If I can follow the Senator from Utah for 10 minutes, yes, I request to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I thank my colleague, and I apologize. I did not realize he had been standing here all this time.

NOMINATION OF TED STEWART TO BE DISTRICT JUDGE FOR THE DISTRICT OF UTAH

Mr. HATCH. Mr. President, it is a great pleasure for me to support the confirmation of a judicial candidate who is the epitome of good character, broad experience, and a judicious temperament.

First, however, I think it appropriate that I spend a moment to acknowledge the minority for relenting in what I consider to have been an ill-conceived gambit to politicize the judicial confirmations process. My colleagues appear to have made history on September 21 by preventing the invocation of cloture for the first time ever on a district judge's nomination.

This was—and still is—gravely disappointing to me. In a body whose best moments have been those in which statesmanship triumphs over partisanship, this unfortunate statistic does not make for a proud legacy.

My colleagues, who were motivated by the legitimate goal of gaining votes on two particular nominees, pursued a short-term offensive which failed to accomplish their objective and risked long-term peril for the nation's judiciary. There now exists on the books a fresh precedent to filibuster judicial nominees with which either political party disagrees.

I have always, and consistently, taken the position that the Senate must address the qualifications of a judicial nominee by a majority vote, and that the 41 votes necessary to defeat cloture are no substitute for the democratic and constitutional principles that underlie this body's majoritarian premise for confirmation to our Federal judiciary.

But now the Senate is moving forward with the nomination of Ted Stewart. I think some of my colleagues realized they had erred in drawing lines in the sand, and that their position threatened to do lasting damage to the Senate's confirmation process, the integrity of the institution, and, of course, the judicial branch of Government.

The record of the Judiciary Committee in processing nominees is a good one. I believe the Senate realized that the Committee will continue to hold hearings on those judicial nominees who are qualified, have appropriate judicial temperament, and who respect the rule of law. I had assured my colleagues of this before we reached this temporary impasse and I reiterate this commitment today.

This is not a time for partisan declarations of victory, but I am pleased that my colleagues revisited their decision to hold up the nomination. We are proceeding with a vote on the merits on Ted Stewart's nomination, and we will then proceed upon an arranged schedule to vote on other nominees in precisely the way that was proposed prior to the filibuster vote.

Ultimately, it is my hope for us, as an institution, that instead of signaling a trend, the last 2 weeks will instead look more like an aberration that was quickly corrected. I look forward to moving ahead to perform our constitutional obligation of providing advice and consent to the President's judicial nominees.

And now, I would like to turn our attention to the merits of Ted Stewart's nomination. I have known Ted Stewart for many years. I have long respected his integrity, his commitment to public service, and his judgment. And I am pleased that President Clinton saw fit to nominate this fine man for a seat on the United States District Court for the District of Utah.

Mr. Stewart received his law degree from the University of Utah School of Law and his undergraduate degree from Utah State University. He worked as a practicing lawyer in Salt Lake City for 6 years. And he served as trial counsel with the Judge Advocate General in the Utah National Guard.

In 1981, Mr. Stewart came to Washington to work with Congressman JIM HANSEN. His practical legal experience served him well on Capitol Hill, where he was intimately involved in the drafting of legislation.

Mr. Stewart's outstanding record in private practice and in the Legislative Branch earned him an appointment to the Utah Public Service Commission in 1985. For 7 years, he served in a quasi-judicial capacity on the Commission, conducting hearings, receiving evidence, and rendering decisions with findings of fact and conclusions of law.

Mr. Stewart then brought his experience as a practicing lawyer, as a legislative aide, and as a quasi-judicial officer, to the executive branch in State government. Beginning in 1992, he served as Executive Director of the Utah Departments of Commerce and Natural Resources. And since 1998, Mr. Stewart has served as the chief of staff of Governor Mike Leavitt.

Throughout Mr. Stewart's career, in private practice, in the legislative branch, in the executive branch, and as a quasi-judicial officer, he has earned the respect of those who have worked for him, those who have worked with him, and those who were affected by his decisions. And a large number of people from all walks of life and both sides of the political aisle have written letters supporting Mr. Stewart's nomination.

James Jenkins, former President of the Utah State Bar, wrote, "Ted's reputation for good character and industry and his temperament of fairness, objectivity, courtesy, and patience [are] without blemish."

Utah State Senator, Mike Dmitrich, one of many Democrats supporting this nomination, wrote, "[Mr. Stewart] has always been fair and deliberate and shown the moderation and thoughtfulness that the judiciary requires."

I understand that the American Bar Association has concluded that Ted Stewart meets the qualifications for appointment to the federal district court. This sentiment is strongly shared by many in Utah, including the recent president of the Utah State Bar. For these reasons, Mr. Stewart was approved for confirmation to the bench by an overwhelming majority vote of the Judiciary Committee.

To those who contend Mr. Stewart has taken so-called anti-environmental positions, I say: look more carefully at his record. Mr. Stewart was the director of Utah's Department of Natural Resources for 5 years, and the fact is that his whole record has earned the respect and support of many local environmental groups.

Indeed, for his actions in protecting reserve water rights in Zion National Park, Mr. Stewart was enthusiastically praised by this administration's Secretary of the Interior.

Consider the encomiums from the following persons hailing from Utah's environmental community:

R.G. Valentine, of the Utah Wetlands Foundation, wrote, "Mr. Stewart's judgment and judicial evaluation of any project or issue has been one of unbiased and balanced results."

Don Peay, of the conservation group sportsmen for Fish and Wildlife, wrote, "I have nothing but respect for a man who is honest, fair, considerate, and extremely capable."

Indeed, far from criticism, Mr. Stewart deserves praise for his major accomplishments in protecting the environment.

Ultimately, the legion of letters and testaments in support of Mr. Stewart's nomination reflects the balanced and fair judgment that he has exhibited over his long and distinguished career. Those who know Ted Stewart know he will continue to serve the public well.

On a final note, Ted Stewart is needed in Utah. The seat he will be taking has been vacant since 1997. So I am deeply gratified that the Senate is now considering Mr. Stewart for confirmation.

I am grateful to my colleagues on both sides of the aisle who helped get this up and resolve what really was a very serious and I think dangerous problem for the Senate as a whole and for the judiciary in particular.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Iowa for up to 10 minutes.

AIR TRANSPORTATION IMPROVEMENT ACT—Continued

Mr. HARKIN. I thank the President for this time and his indulgence while I take my 10 minutes when I know we are supposed to be recessing for our luncheon caucuses. I appreciate the indulgence of the Senator from Wyoming.

I want to take a few minutes to talk about the managers' amendment, the slot amendment that provides for a two-step process for the elimination of airline slots for landing and takeoff rights at O'Hare, Kennedy, and LaGuardia Airports.

Senator GRASSLEY and I have been working on this for quite awhile together. I am pleased we have been able to work closely with Chairman McCAIN, with Senator ROCKEFELLER, Senator GORTON, and others on the development of this proposal.

It is an important step toward eliminating a major barrier to airline competition. Not only must we eliminate the barrier, but we have to do it in a way that mitigates against the long-term effects of a Government-imposed slot rule. Under the current rules, most smaller airlines have, in effect, a far more difficult time competing, in part, because of the slot rule.

In the first phase of the proposal, in the managers' amendment, small airlines will be allowed immediate expanded access to the airports. Again, this will help stimulate increased competition and lower ticket prices. Turboprop and regional jet aircraft will also be allowed immediate slot exemptions when they serve smaller markets. This will increase airline service available to smaller cities, especially cities west of the Mississippi, such as the Presiding Officer's cities in Wyoming, or Nebraska or the Dakotas or Iowa, or places such as that.

The two-step mechanism in the bill has the support of 30 attorneys general, the Business Travel Coalition, and the Air Carrier Association of America which represents many of the smaller airlines.

After that first phase, in the final step—after a number of years when the new competitive airlines might get a chance to establish a foothold and smaller cities would have established better service—the slot rules will be ended at O'Hare, Kennedy, and LaGuardia Airports.

Again, I commend Chairman McCAIN for working so closely with us on this issue. Chairman McCAIN had a field hearing in Des Moines on April 30 of this year to hear firsthand how the current system affects small- and medium-sized cities. Senator McCAIN has worked hard to move forward a proposal which I believe will significantly increase competition.

I also thank Senator GORTON, and my colleague, Senator ROCKEFELLER from West Virginia, for their considerable efforts. These Senators have shown a keen interest in the problems unique to smaller cities and rural areas where adequate service is a paramount issue.

The provision has a number of items that address the noise implications of eliminating the slot rule near the three airports. I believe this final language is an excellent compromise. I am pleased that the structure of our original proposal is largely intact. I was also pleased that the House moved in June to eliminate the slot rule at these airports. I think the Senate provision improves on that.

Access to affordable air service is essential to efficient commerce and economic development in States with a lot of small communities. Again, Americans have a right to expect this. Airports are paid for by the traveling public through taxes and fees charged by the Federal Government and local airport authorities. Unfortunately, when deregulation came through in 1978, there was no framework put in place to deal with anticompetitive practices. A lot of these outrageous practices have become business as usual.

What happened? We went through deregulation in 1978; and then in 1986 the DOT gave the right to land and take off under these slots to those that used them as of January 21, 1986. So what happened was, when the Secretary of DOT, in 1986 said, here, airlines, these are your slots, it locked them into those airports, and it effectively locked out competition in the future. It was, in fact, a give-away. I always said this was a give-away of a public resource. These airports do not belong to the airlines. They belong to us. They belong to the people of this country.

So what has happened is that over the years these airlines have been able to lock them up. So we have this slot system. The slot system came in in the late 1960s because the air traffic control system was getting overwhelmed with the number of flights then being handled. So they had a slot system.

Just the reverse is true today. With the modernization of our air traffic control system—with global positioning satellites, GPSs, all of the other things we have, the communications systems, our air traffic control system, and the ongoing modernization of it—we can handle it. We do not need the slots any longer.

However, rather than just dropping them right away, we need to mitigate against the damage that has been caused by the slots. That is why we need to have a phaseout, a two-step phaseout—a phaseout that would both phase out the slots but at the same time include, in that first phase, turboprops that serve smaller cities, new airlines that would start up with small regional jets that would serve some of the smaller cities that have been cut out of this for the last almost 20 years—well, I guess 14 years now since 1986.

So, again, many airlines have monopolies in markets, especially if they control a hub airport. Local airport authorities at major hub airports do very little to encourage small carriers to use hub airports. It is no surprise that big airlines would rather see gates empty than lease them to competitors. Dominant carriers flood the market with cheap seats to destinations served by small carriers. They maintain the low price until the day the small carrier is gone.

This happened in Des Moines with Vanguard Airlines. We had a new airline that started. What happened? United and American, flying to Chicago, dropped their fares by over half, dropped their fares down to below what Vanguard could do. The travelers were happy, but Vanguard could only afford to do that for so long, and then they went out of business. As soon as they went out of business, what did United and American do? They upped their fares 83 percent. That is what they were doing to stifle competition.

I believe that allowing new entrant carriers, such as Vanguard, Access Air, and others that may be coming along, easier access to O'Hare from cities such Des Moines, and the Quad Cities—Moline, Rock Island, Bettendorf, and Davenport and others, will be a step in the right direction toward helping economic development and growth and providing for lower airfares for our people.

The amendment of the managers opens up the opportunity for direct service into LaGuardia, important to cities such as Des Moines and Cedar Rapids and the Quad Cities.

Again, the Quad Cities recently lost American Airlines' service to O'Hare because of the slot rule. American Airlines decided to fly their new regional jet between Omaha and O'Hare. Normally, this would not have had an impact on Quad Cities' service to O'Hare, but under the slot rule, Quad Cities lost American Airlines' service entirely. They entirely lost it.

Without the slot limitation, Quad Cities would be a profitable market for American or any other airline. But the area did not make the cut with a limited number of landing rights available under the existing slot rule. Again, economic decisions are not based upon what they can expect to get from a market; it is based upon the slot rule. That is skewing the economic decisions made by airlines and by small community airports.

So again, for our area, for Iowa, for areas west of the Mississippi—I am sure for Wyoming and for West Virginia—we need to change this system, but we need to do it in a way that does not lock in the past anticompetitive activities of the larger airlines.

Right now, Sioux City, IA, does not have service to O'Hare. It is the No. 1 destination of its business travelers. So, again, what is this doing? It hurts economic development and stifles competition in Sioux City.

Again, I urge the Senate to support the managers' amendment. Doing so will lower airfares, it will improve air service to small- and medium-sized cities across the Nation, and it will allow for economic decisions to be based on economics and not upon an outdated, outmoded, anticompetitive slot rule.

I thank the Chair.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:48 p.m., recessed until 2:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INHOFE).

EXECUTIVE SESSION

EXECUTIVE CALENDAR

NOMINATION OF RONNIE L. WHITE

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 having arrived, the Senate will now go into executive session and proceed to vote on Executive Calendar Nos. 172, 215 and 209 which the clerk will report.

The legislative clerk read the nomination of Ronnie L. White, of Missouri, to be United States District Judge for the Eastern District of Missouri.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on each nomination with one showing of hands.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I rise to address the nomination of Judge Ronnie Lee White, of Missouri, to the United States District Court for the Eastern District of Missouri. We have heard thorough discussions of the nominee by the distinguished Senators from Vermont and from Missouri. In coming to my decision on this nominee, I have considered the fairness of the process under which Judge White has been reviewed, the deference due to the President, and the deference due to the Senators from the nominee's home State. This is a very difficult case.

As chairman of the Judiciary Committee, I have conducted thorough hearings and reviewed nominees in a fair and even-handed manner. As a result, we have seen a hearings process that does not include personal attacks on nominees and that maintains the institutional integrity of the Senate. On numerous occasions, even when several of my Republican colleagues voted against nominees, I maintained a fair process free from personal attacks on nominees. This was the case with Judge White. The committee held a fair and objective hearing on Judge White and thoroughly reviewed his record.

In considering any nomination, I believe that the President, in whom the Constitution vests the nominations power, is due a large degree of deference. Even though there are a large number of the President's nominees that I would not have nominated had I been President, I have supported these nominees in obtaining a floor vote because in my view, the Constitution requires substantial deference to the President.

Of course, the more controversial a nominee is, the longer it takes to garner the consensus necessary to move such a nominee out of committee. Such is the case with Judge White. I supported Judge White coming to the floor on two occasions. In the last vote in committee, no fewer than six of my Republican colleagues voted against reporting Judge White to the floor. At that point, however, I gave the President the deference of allowing a vote on his nominee and voted to report Judge White.

I must say that I am deeply disappointed by the unjust accusations from some that this body intentionally delays nominees, such as Judge White, based on their race. As the administration is well aware, it is not a nominee's race or gender that slows the process down, but rather the controversial nature of a nominee based on his or her record.

Indeed, nominees such as Charles Wilson, Victor Marrero, and Carlos Murguia, minority nominees, and Marryanne Trump Barry, Marsha Pechman, and Karen Schrier, female nominees, had broad support and moved quickly through the committee and were confirmed easily on the floor. And, although the committee does not keep race and gender statistics, a brief review of the committee's record so far this session shows that a large proportion of the nominees reported to the floor and confirmed consists of minorities and women. I categorically reject the allegation that race or gender, as opposed to substantive controversy, has ever played any role whatsoever in slowing down any nominee during my tenure as chairman.

After a fair and thorough review in committee and after paying the deference to the President to obtain a vote on the floor, I consider the position of a nominee's home State Senators. These Senators are in a unique position to evaluate whether a nominee instills the confidence in the people of a State necessary to be a successful Federal judge in that State. This is especially true for a district judge nominee whose jurisdiction, if confirmed, would be wholly limited to that particular State. Thus, there has developed a general custom and practice of my giving weight to the Senators from a nominee's home State.

There have been several instances where—notwithstanding some serious reservations on my part—I voted to confirm district court nominees because the Senators from the nominees home State showed strong, and in some cases, bipartisan support. The nominations of Keith Ellison, Allen Pepper, Anne Aiken, Susan Mollway, and Margaret Morrow are examples of where I supported contested district court nominees and relied on the view of the home-State Senators in reaching my decision.

While I have harbored great concerns on the White nomination, I withheld my final decision until I had the benefit of the view of my colleagues from Missouri. I was under the impression that one of my colleagues might actually support the nomination, so I felt that the process should move forward—and it did.

Since the committee reported Judge White to the floor of the Senate, however, both of the Senators from Missouri have announced their opposition to confirming Judge White. Also, since the committee reported this nominee to the floor, the law enforcement community of Missouri has indicated serious concerns, and in some cases, open opposition to the nomination of Judge Ronnie White. And indeed, I have been informed that the National Sheriffs Association opposes this nomination. Opposition is mounting and it would perhaps be preferable to hold another hearing on the nomination. But if we must move forward today, it is clear to me that Judge White lacks the home-State support that I feel is necessary for a candidate to the Federal district court in that State.

For me, this case has been a struggle. On the one hand, Judge White is a fine man and the President is due a fair amount of deference. On the other hand, we are faced with the extremely unusual case in which both home State Senators, after having reviewed the record, are opposing this nomination on the floor.

Of course, had the President worked more closely with the two Senators from Missouri and then nominated a less problematic candidate, we would not be in this predicament. But the President did not.

When a nominee has a record of supporting controversial legal positions that call into question his, or her, respect for the rule of law, it takes longer to gain the consensus necessary to move the nominee. When the President has not adequately consulted with the Senate, it takes longer to gain the consensus necessary to move the nominee. And when both home State Senators of a nominee oppose as nominee on the floor of the Senate, it is almost impossible to vote for the confirmation of that nominee.

Regretfully, such is the case with Judge White. Judge White has written some controversial opinions, especially on death penalty cases that have caused some to question his commitment to upholding the rule of law. The President has not garnered broad support for Judge White. And both Senator ASHCROFT and Senator BOND oppose this nomination. It would have been better for all parties concerned—the President, the Senate, the people of Missouri, and Judge White, had we been able to reach this decision earlier. But I cannot rewrite the past.

After a painstaking review of the record and thorough consultation with the nominee's home State Senators, I deeply regret that I must vote against the nomination of Judge White. This is in no way a reflection of Judge White personally. He is a fine man. Instead, my decision is based on the very unusual circumstances in which the President has placed this body. I must defer to my colleagues from Missouri with respect to a nominee whose jurisdiction, if confirmed, would be wholly limited to that State.

I call on the President to nominate another candidate for the Eastern District of Missouri. He should do so, however, only after properly consulting with both Missouri Senators and thus respecting the constitutional advice and consent duties that this body performs in confirming a nominee who will serve as a Federal judge for life.

Mr. BOND. After discussing this difficult decision with Missouri constituents, the Missouri legal community, and the Missouri law enforcement community, I have determined that Ronnie White is not the appropriate candidate to serve in a lifetime capacity as a U.S. district judge for eastern Missouri.

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The Missouri law enforcement community, whose views I deeply respect, has expressed grave reservations about Judge White's nomination to the Federal bench. They have indicated to me their concern that Judge White might use the power of the bench to compromise the strength of law enforcement efforts in Missouri.

Given the concerns raised by those in Missouri's law enforcement community, who put their lives on the line on a daily basis, and those in Missouri's legal community, who are charged with protecting our system of jurisprudence, I am compelled to vote against Judge White's confirmation.

Mr. SMITH of New Hampshire. Mr. President, I am opposed to the nominations of Raymond Fisher to the United States Court of Appeals for the Ninth Circuit and Ronnie White to the Eastern District of Missouri.

Our judicial system is supposed to protect the innocent and ensure justice, which is what it has done for the most part for over 200 years. However, there have been glaring exceptions: the Dred Scott decision, which ruled that blacks were not citizens and had no rights which anyone was bound to respect, and Roe versus Wade, which similarly ruled that an entire class of people, the unborn, are not human beings and therefore are undeserving of any legal protection.

Both decisions, made by our Nation's highest court, violated two key constitutional provisions for huge segments of the population. Dred Scott, which legally legitimized slavery, deprived nearly the entire black population of the right to liberty, while Roe has taken away the right to life of 35 million unborn children since 1973. Both created rights, the right to own slaves and the right to an abortion, that were not in the Constitution. Of course, both are morally and legally wrong. Sadly, only Dred has been overturned, by the 13th and 14th amendments. Congress and the courts have yet to reverse Roe.

The only requirement, the only standard that I have for any judicial nominees is that they not view "justice" as the majorities did in Dred Scott and Roe, and that they uphold the standards and timeless principles so clearly stated in our Constitution.

Unfortunately, I do not believe that Mr. White and Mr. Fisher meet those critical standards. During the committee hearings, Mr. Fisher fully indicated to me that he would uphold the constitutional and moral travesties of Roe and Planned Parenthood versus Casey. Mr. White has also given answers which strongly suggest that he believes Roe was correctly decided by the Supreme Court. In addition, Mr. White's dubious actions as chairman of a Missouri House committee when a pro-life bill was before it further proves that he would enthusiastically enforce the pro-abortion judicial decree of Roe versus Wade.

The Framers of our Constitution believed we are endowed by our Creator with certain unalienable rights. Roe not only violates the 5th and 14th amendments, it violates the first and most fundamental right that we have as human beings and no court, liberal or conservative, can take away that right.

As a U.S. Senator, I recognize the awesome responsibility that we have to confirm, or deny, judicial nominees. I recognize the solemn obligation that we have to make sure that our Federal courts are filled only with judges who uphold and abide by the transcendent ideals explicitly stated in our Constitution and the Bill of Rights. The judges we confirm or deny will be among the greatest and far-reaching of our legacies, and I for one do not ever want my legacy to be that I confirmed pro-abortion judges to our Nation's courts.

This is why I will not support the nominations of Mr. White and Mr. Fisher. I will not support any judges who deny the undeniable connection that must exist, in a free and just civilization, between humanity and personhood. Our judges should be the very embodiment of justice. How can we then approve of those who will deny justice to most defenseless and innocent of us all?

But, further, I would add that these nominees propose a more general concern in that they are liberal activists. In the case of Justice White, who now serves on the Supreme Court in Missouri, he has demonstrated that he is an activist, and has a political slant to his opinions in favor of criminal defendants and against prosecutors. It is my belief that judges should interpret the law, and not impose their own political viewpoints.

He is strongly opposed by the law enforcement community in Missouri, and was directly opposed by the Missouri Association of Police Chiefs due to his activist record.

Senator ASHCROFT spoke in more detail about Justice White's activist record. Coming from the same State, Senator ASHCROFT is in an even better position to comment on Justice White's record. But, he laid out a very disturbing record of judicial activism in Justice White's career, particularly on law and order matters, and I simply do not think that this is the kind of person we need on the U.S. District Court.

With regard to Mr. Fisher, this is a critical slot because of the nature of the Ninth Circuit. This circuit has gained such a bad reputation for its liberal opinions that it has been referred to as a "rogue" circuit. It is controlled by an extreme liberal element and it is important that our appointments to this circuit be people who can restore at least some level of constitutional scrutiny.

In the case of Mr. Fisher, this clearly will not be the case. He is not a judge, and therefore, there is not the kind of judicial paper trail that we have with Justice White. However, he has a long record of liberal political activism for causes that run contrary to the Constitution. If he is willing to thwart the Constitution in his political activism, what makes us think he will uphold it in his judicial opinions. He took an active role in supporting the passage of proposition 15 in California regarding registration of handguns. This kind of hostility to the second amendment will not make matters any better on the Ninth Circuit. He very actively supported employment benefits for homosexual partners, and I found him to be very evasive in his responses to questions during the Committee hearings. Given the importance of this circuit and its demonstrated bias toward the left, this nominee, who himself is a liberal activist, is not the right person to help restore some constitutionality to this circuit.

So, I would urge my colleagues to vote against these two judges. We have sworn duty to support and defend the Constitution. This is never more critical than when we exercise our advise and consent role for judicial nominees.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Ronnie L. White, of Missouri, to be United States District Judge for the Eastern District of Missouri? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative assistant called the roll.

Mr. NICKLES. I announce that the Senator from Florida (Mr. MACK) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 54, as follows:

(Rollcall Vote No. 307 Ex.)

YEAS—45

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Bryan
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Schumer
Torricelli
Wellstone
Wyden

NAYS—54

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Cochran
Collins
Coverdell
Craig
Crapo
DeWine
Domenici
Enzi
Fitzgerald
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—1

Mack

The nomination was rejected.

Mr. ASHCROFT. Mr. President, I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I ask unanimous consent to continue for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I have to say this with my colleagues present. When the full history of Senate treatment of the nomination of Justice Ronnie White is understood, when the switches and politics that drove the Republican side of the aisle are known, the people of Missouri and the people of the United States will have to judge whether the Senate was unfair to this fine man and whether their votes served the interests of justice and the Federal courts.

I am hoping—and every Senator will have to ask himself or herself this question—the United States has not reverted to a time in its history when there was a color test on nominations.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I use leader time for 1 minute in response.

With regard to nominations, judicial or otherwise, I am sure the Senate would never use any basis for a vote other than the qualifications and the record of the nominee. And just so the record will be complete, as a matter of fact, of the 19 nominees who have been confirmed this year, 4 of them have been women, 1 of them African American, and 3 of them have been Hispanic. Their records and the kind of judges these men and women would make are the only things that have been a factor with the Senate and are the only things that should ever be a factor.

I ask unanimous consent that the remaining votes in the series be limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I rise to express how saddened I am by the party-line vote against Judge Ronnie White today. I had sincerely hoped that today would mark the beginning of a bipartisan attempt to clear the backlog of federal judicial nominees and begin to fill the vacancies that are rampant throughout the federal judiciary. I was mistaken. Instead, we got a party-line vote against a qualified minority judge coupled with a continued refusal to schedule votes on other qualified minority and women nominees.

Judge White is eminently qualified to sit on the federal bench. He is a distinguished jurist and the first African-American to serve on the Missouri Supreme Court. Prior to his service on Missouri's Supreme Court, Judge White served as a State Representative to the Missouri Legislature, where he chaired the Judiciary Committee. In his law practice, which he continued during his service as a legislator, White handled a variety of civil and criminal matters for mostly low income individuals. His nomination received the support of the St. Louis Metropolitan Police Department, the Saint Louis Post Dispatch, and the National Bar Association. He is a fine man who has given his life to public service and he deserved better than what he got from this Senate. He deserved better than to be kept waiting 27 months for a vote, and then to be used as a political pawn.

This vote wasn't about the death penalty. This vote wasn't about law and order. This vote was about the unfair treatment of minority judicial nominees. This vote tells minority judicial candidates "do not apply." And if you do, you will wait and wait, with no guarantee of fairness.

Judge Marsha Berzon, for instance, has been kept waiting more than 20 months for a vote. Judge Richard Paez has been waiting more than 44 months. These nominees deserve a vote. While I am totally dismayed by what happened here today with respect to Judge White's nomination, the Senate today functioned, albeit in a partisan, political manner.

As Chief Justice Rehnquist has recognized: "The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down." An up-or-down vote, that is all we ask for Berzon and Paez. And, after years of waiting, they deserve at least that much. The Republican majority should not be allowed to cherry-pick among nominees, allowing some to be confirmed in weeks, while letting other nominations languish for years. Accordingly, I vow today, that we Democrats just will not allow Paez and Berzon to be forgotten.

As I have in the past, I will again move to proceed to the nominations of Judge Paez and Marsha Berzon, and I intend to take this action again and again should unnamed Senators continue to block a vote. Particularly after today's vote, I must say, I find it simply baffling that a Senator would vote against even voting on a judicial nomination. Today's actions prove that we all understand that we have a constitutional outlet for antipathy against a judicial nominee—a vote against that nominee. What the Constitution does not contemplate is for one or two Senators to grind a nomination to a halt on the basis of a "secret" hold. This cowardly, obstructionist tactic is an anathema to the traditions of the Senate. Thus, today, I implore, one more time, every Senator to follow Senator LEAHY's advice, and treat every nominee "with dignity and dispatch." Lift your holds, and let the Senate vote on every nomination.

The business of judges is the simple but overwhelmingly important business of providing equal justice to the poor and to the rich. Accordingly, the consequences of this confirmation process are awesome. It is time that we all take it more seriously and it is time that we schedule votes on every nominee on the Calendar—including Judge Paez and Marsha Berzon. All we are asking of our Republican colleagues is to give these nominees the vote—and hopefully the fair consideration—they deserve. We will press this issue every day and at every opportunity until they get that vote.

Today is a dark day for the Senate. We have voted down a fully-qualified nominee but I hope we can do better in the future and that we can move forward on the Paez and Berzon nominations in a fair and non-partisan manner.

The PRESIDING OFFICER. The Clerk will report the next nomination, Calendar No. 215.

The legislative clerk read the nomination of Brian Theadore Stewart, of Utah, to be United States District Judge for the District of Utah.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Brian Theadore Stewart, of Utah, to be United States District Judge for the District of Utah? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Florida (Mr. MACK) is necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS) is necessarily absent.

The result was announced—yeas 93, nays 5, as follows:

[Rollcall Vote No. 308 Ex.]

YEAS—93

Abraham
Akaka
Allard
Ashcroft
Bayh
Bennett
Biden
Bingaman
Bond
Breaux
Brownback
Bryan
Bunning
Burns
Byrd
Campbell
Chafee
Cleland
Cochran
Collins
Conrad
Coverdell
Craig
Crapo
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Enzi
Feinstein
Fitzgerald
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wyden

NAYS—5

Boxer
Feingold
Johnson,
Mikulski
Wellstone

NOT VOTING—2

Baucus
Mack

The nomination was confirmed.

NOMINATION OF RAYMOND C. FISHER

The PRESIDING OFFICER (Mr. CRAPO). The clerk will report the next nomination.

The legislative assistant read the nomination of Raymond C. Fisher, of California, to be United States Circuit Judge for the Ninth Circuit.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Raymond C. Fisher, of California, to be United States Circuit Judge for the Ninth Circuit. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Florida (Mr. MACK) is necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS) is necessarily absent.

The result was announced—yeas 69, nays 29, as follows:

[Rollcall Vote No. 309 Ex.]

YEAS—69

Abraham
Akaka
Ashcroft
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Bryan
Byrd
Chafee
Cleland
Cochran
Collins
Conrad
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Frist
Gorton
Graham
Grassley
Harkin
Hatch
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
McCain
Mikulski
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Roth
Sarbanes
Schumer
Smith (OR)
Snowe
Specter
Stevens
Thurmond
Torricelli
Voinovich
Wellstone
Wyden

NAYS—29

Allard
Brownback
Bunning
Burns
Campbell
Coverdell
Craig
Crapo
Enzi
Gramm
Grams
Gregg
Hagel
Helms
Hutchinson
Hutchison
Inhofe
Lott
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Thomas
Thompson
Warner

NOT VOTING—2

Baucus
Mack

The nomination was confirmed.

Mr. LEAHY. Mr. President, I want to congratulate Ray Fisher on his Senate confirmation. I will miss Ray and Nancy here in Washington, but know that the Ninth Circuit will greatly benefit from his service there.

Finally, I congratulate Ted Stewart on his confirmation and Senators HATCH and BENNETT, who have worked hard to get him confirmed expeditiously. I trust that Mr. Stewart will honor the commitments that he made to the Judiciary Committee to avoid even the appearance of impropriety on matters on which he has worked while in State government.

I said on the Senate floor last night that this body's recent treatment of women and minority judicial nominees is a badge of shame. I feel that we added to that shame with today's vote of Justice Ronnie White.

In their report entitled "Justice Held Hostage," the bipartisan Task Force on Federal Judicial Selection from Citizens for Independent Courts, co-chaired by Mickey Edwards and Lloyd Cutler, substantiated through their independent analysis what I have been saying for some time: Women and minority judicial nominations are treated differently by this Senate and take longer, are less likely to be voted on and less likely to be confirmed.

Judge Richard Paez has been stalled for 44 months, and the nomination of Marsha Berzon has been pending for 20 months. Other nominees are confirmed in 2 months.

Anonymous Republican Senators continue their secret holds on the Paez and Berzon nominations. The Republican majority refuses to vote on those nominations. In fairness, after almost 2 years and almost 4 years, Marsha Berzon and Judge Richard Paez are entitled to a Senate vote on their nominations. Vote them up or vote them down, but vote. That is what I have been saying, that is what the Chief Justice challenged the Republican Senate to do back in January 1998.

I can assure you that there is no Democratic Senator with a hold on Judge Paez or Marsha Berzon. I can assure you that every Democratic Senator is willing to go forward with votes on Judge Paez and Marsha Berzon now, without delay.

Last Friday, Senator LOTT committed to trying to "find a way" to have these nominations considered by the Senate. I want to help him do that.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

JUDICIAL NOMINATIONS

Mr. NICKLES. Mr. President, before we return to the consideration of the FAA reauthorization bill, I would like to make a couple of comments. Raymond Fisher, just confirmed to the Ninth Circuit, is the 323rd judge who has been confirmed since President Clinton has been in office. 195 of those judges have been confirmed since Republicans took control of the Senate in 1995.

Judge Ronnie White is the first nominee, I believe, to be rejected on the floor since Republicans took control of the Senate. One of our colleagues said that he hoped that we are not returning to a "color test." That is what was said. I am offended by that statement. Many people on our side of the aisle didn't know what race Judge White is. We did know that 77 of Missouri's 114 sheriffs were opposed to his nomination. We did find out that two State prosecutors' offices raised their objections. We did know there was a letter from the National Sheriffs Association opposing his nomination.

I believe that we have been very consistent, at least on this side of the aisle. We do not want to confirm a nominee where you have major law enforcement organizations and leading officials saying they are opposed to the nomination, regardless of what race he or she is. I do not believe the Senate has ever confirmed anyone when national law enforcement organizations or officials have stated that the nominee has a poor or weak background in law enforcement. To my knowledge, I have never voted to confirm any such nominee, nor have many other members.

I want to make it absolutely clear and understood that members voted no on Judge White's nomination because of the statements made by law enforcement officers, in addition to the respect that we have for the two Senators from the nominee's state who recommended a no vote. We respect their recommendation to us. So I make mention of that.

I am bothered that somebody said I hope we are not returning to a "color test." That statement was uncalled for and, I think, not becoming of the Senate. I want to make sure that point is made.

Mr. SCHUMER. Mr. President, will the Senator from Oklahoma yield?

Mr. NICKLES. I would be happy to yield.

Mr. SCHUMER. I thank the Senator. I just want to say a few words not in response but maybe in contraposition to what the Senator said.

Mr. NICKLES. I will be happy to yield for a question.

Mr. SCHUMER. I thank the Senator. I appreciate that. I will ask my question.

It seems to me that whatever the intentions—I am not impugning any intentions of any person who voted the other way, but it seems to me that the recent vote on the floor of the Senate is going to create division and animus in this country of ours.

Mr. NICKLES. Mr. President, regular order. I will answer a question. If the Senator wants to make a speech, he can make the speech on his own time.

Mr. SCHUMER. I will yield back my time to the Senator, retract my question, and ask unanimous consent that I might speak for 3 minutes.

The PRESIDING OFFICER. Is there objection?

The Senator from Oklahoma.

Mr. NICKLES. I didn't know my colleague wanted to engage in this. I was not clear that the Senator wanted to make a speech.

I want to say absolutely and positively that there is no "color test." No one raised that suggestion, that I am aware of, during the Clarence Thomas confirmation. I want to clarify again. I had several colleagues say they did not know what race Mr. White is. I think it is very much uncalled for and incorrect for anybody to make that kind of implication.

I yield the floor.

Mr. SCHUMER. Will the Senator yield for a question?

The PRESIDING OFFICER. The Chair advises that the pending business before the Senate is the vote on the Robb amendment. Unless there is unanimous consent to move beyond that vote, debate is not in order.

Mr. SCHUMER. Mr. President, I ask unanimous consent to address the Senate for 3 minutes.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I respect the right of my friend from New York. In behalf of the Senator from Connecticut, who is waiting, we have pending business we are trying to finish today. I ask unanimous consent that the Senator from New York be allowed to speak for 3 minutes. Hopefully, we can move on.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SCHUMER. I very much appreciate the courtesy.

The PRESIDING OFFICER. Will the Senator withhold?

Without objection, the vote on the Robb amendment is laid aside.

Mr. McCAIN. Mr. President, could I ask for recognition.

The PRESIDING OFFICER. The Senator from Arizona may clarify his unanimous consent.

Mr. McCAIN. Mr. President, prior to the Senator from New York being recognized, I ask unanimous consent the vote on or in relation to the Robb amendment be postponed, to occur in the next stacked sequence of votes, and, prior to the vote, Senators ROBB, WARNER, BRYAN, and MCCAIN be given 5 minutes each for closing remarks and that the amendment now be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York is recognized for 3 minutes.

Mr. SCHUMER. I thank the Senators from Arizona, Oklahoma, and Connecticut for their courtesy, and the President as well.

I would like to make some remarks in contraposition to the Senator from Oklahoma. I say that without casting any impugning of any motivations as to why people voted.

It seems to me that this being, as I understand it, the first time we have this year rejected a Senate candidate on the floor—and I understand that there were recommendations from the home State—I still find myself very troubled by that rejection. I find myself troubled because we do need diversity on our bench. We need to, in my judgment, try to have more African Americans on the bench.

There is not an African American Member of this body. I find that regretful. The first impression I had the first day I walked on the floor was that. And I guess what I would like to do is just call into question why this nomination was rejected. I would ask that we examine. I know one of the reasons was the opposition of this nominee to the death penalty. I happen to be for the death penalty. I wrote the death penalty law when I was in the House. But I would like to ask how many other nominees we have rejected because of opposition to the death penalty.

I am told that one of the Senators who objected from Missouri actually nominated judges on that State court who agreed with Ronnie White on the very case that has been brought into question.

So if we are not to be accused of maybe having two standards, I think we ought to be very careful.

I respect each Senator's right to oppose nominations for judge. I respect the idea that we often defer to our colleagues in their home States. But I think there is a higher calling here. That is, because this was one of the few African American nominees to reach this floor, we ought to be extra careful to make sure the standard was not being used that we haven't used for some other nominees who have come before this body this year.

I disagree with that nominee on the issue at hand. But I still think that we should have extra sensitivity, given the long history of division in this country and the need to try to bring some equality onto our bench in the sense that we have a diverse and representative judiciary.

I hope my colleagues will examine those questions. I do not know the answers to them. But my guess is, we have unanimously approved or approved overwhelmingly judges who have the same view as Judge Ronnie White on this very controversial issue.

Mr. NICKLES. Mr. President, will the Senator yield for a question?

Mr. SCHUMER. I would be happy to yield for a question.

Mr. NICKLES. To my knowledge, we have never confirmed a nominee who was opposed by the National Sheriffs Association or by a State Federation of Police Chiefs. I don't think we have done that in my Senate career.

Does the Senator know of any instance where we have ignored the recommendations of major law enforcement officers?

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. SCHUMER. I ask unanimous consent for 30 seconds to respond to the Senator's question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. I thank the Senator. I don't know of cases. But I would want to have examined the record about those questions and the questions I asked before we moved so hastily to reject this nominee. It so happened that there were votes on the other side in committee for this nominee that abruptly reversed themselves without any explanation as to why.

I yield my time.

The PRESIDING OFFICER. The Senator's time has expired.

AIR TRANSPORTATION IMPROVEMENT ACT—Resumed

The PRESIDING OFFICER. Under the regular order, we are now in legislative business.

The Senator from Connecticut.

AMENDMENT NO. 2241

(Purpose: To require the submission of information to the Federal Aviation Administration regarding the year 2000 technology problem, and for other purposes)

Mr. DODD. Mr. President, I call up amendment No. 2241.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. DODD), for himself, Mr. BENNETT, Mr. MCCAIN, Mr. ROCKEFELLER, and Mr. HOLLINGS, proposes an amendment numbered 2241.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ____. FEDERAL AVIATION ADMINISTRATION YEAR 2000 TECHNOLOGY SAFETY ENFORCEMENT ACT OF 1999.

(a) SHORT TITLE.—This section be cited as the "Federal Aviation Administration Year 2000 Technology Safety Enforcement Act of 1999".

(b) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) AIR CARRIER OPERATING CERTIFICATE.—The term "air carrier operating certificate" has the same meaning as in section 44705 of title 49, United States Code.

(3) YEAR 2000 TECHNOLOGY PROBLEM.—The term "year 2000 technology problem" means a failure by any device or system (including any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collection of processing instructions to process, to calculate, to compare, to sequence, to display, to store, to transmit, or to receive year-2000 date-related data failures—

(A) to deal with or account for transitions or comparisons from, into, and between the years 1999 and 2000 accurately;

(B) to recognize or accurately process any specific date in 1999, 2000, or 2001; or

(C) to accurately account for the year 2000's status as a leap year, including recognition and processing of the correct date on February 29, 2000.

(c) RESPONSE TO REQUEST FOR INFORMATION.—Any person who has an air carrier operating certificate shall respond on or before November 1, 1999, to any request for information from the Administrator regarding readiness of that person with regard to the year 2000 technology problem as it relates to the compliance of that person with applicable safety regulations.

(d) FAILURE TO RESPOND.—

(1) SURRENDER OF CERTIFICATE.—After November 1, 1999, the Administrator shall make a decision on the record whether to compel any air carrier that has not responded on or before November 1, 1999, to a request for information regarding the readiness of that air

carrier with regard to the year 2000 technology problem as it relates to the air carrier's compliance with applicable safety regulations to surrender its operating certificate to the Administrator.

(2) REINSTATEMENT OF CERTIFICATE.—The Administrator may return an air carrier operating certificate that has been surrendered under this subsection upon—

(A) a finding by the Administrator that a person whose certificate has been surrendered has provided sufficient information to demonstrate compliance with applicable safety regulations as it relates to the year 2000 technology problem; or

(B) upon receipt of a certification, signed under penalty or perjury, by the chief operating officer of the air carrier, that such air carrier has addressed the year 2000 technology problem so that the air carrier will be in full compliance with applicable safety regulations on and after January 1, 2000.

AMENDMENT NO. 2241, AS MODIFIED

Mr. DODD. Mr. President, I ask unanimous consent that a modified version of that amendment be permitted. I send the modification to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is so modified.

The amendment (No. 2241), as modified, is as follows:

At the appropriate place, insert the following:

SEC.   . FEDERAL AVIATION ADMINISTRATION YEAR 2000 TECHNOLOGY SAFETY ENFORCEMENT ACT OF 1999.

(a) SHORT TITLE.—This section be cited as the "Federal Aviation Administration Year 2000 Technology Safety Enforcement Act of 1999".

(b) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) AIR CARRIER OPERATING CERTIFICATE.—The term "air carrier operating certificate" has the same meaning as in section 44705 of title 49, United States Code.

(3) YEAR 2000 TECHNOLOGY PROBLEM.—The term "year 2000 technology problem" means a failure by any device or system (including any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collection of processing instructions to process, to calculate, to compare, to sequence, to display, to store, to transmit, or to receive year-2000 date-related data failures—

(A) to deal with or account for transitions or comparisons from, into, and between the years 1999 and 2000 accurately;

(B) to recognize or accurately process any specific date in 1999, 2000, or 2001; or

(C) to accurately account for the year 2000's status as a leap year, including recognition and processing of the correct date on February 29, 2000.

(c) RESPONSE TO REQUEST FOR INFORMATION.—Any person who has an air carrier operating certificate shall respond on or before November 1, 1999, to any request for information from the Administrator regarding readiness of that person with regard to the year 2000 technology problem as it relates to the compliance of that person with applicable safety regulations.

(d) FAILURE TO RESPOND.—

(1) SURRENDER OF CERTIFICATE.—After November 1, 1999, the Administrator shall make a decision on the record whether to compel any air carrier that has not responded on or before November 1, 1999, to a request for information regarding the readiness of that air carrier with regard to the year 2000 technology problem as it relates to the air carrier's compliance with applicable safety regulations to surrender its operating certificate to the Administrator.

(2) REINSTATEMENT OF CERTIFICATE.—The Administrator may return an air carrier operating certificate that has been surrendered under this subsection upon—

(A) a finding by the Administrator that a person whose certificate has been surrendered has provided sufficient information to demonstrate compliance with applicable safety regulations as it relates to the year 2000 technology problem; or

(B) upon receipt of a certification, signed under penalty or perjury, by the chief operating officer of the air carrier, that such air carrier has addressed the year 2000 technology problem so that the air carrier will be in full compliance with applicable safety regulations on and after January 1, 2000.

Mr. DODD. Mr. President, I offer this amendment on behalf of myself, Senator BENNETT, Senator MCCAIN, Senator ROCKEFELLER, and Senator HOLLINGS.

I urge my colleagues to support this proposal that would ground air carriers that do not respond to the Federal Aviation Administration's request for information about their Y2K status. This information is obviously critical not only to Americans who are now making travel plans for the millennium period, but to all American businesses that rely on safe air transportation to keep their doors open, to pay employees, and to contribute to the national economy.

Through our work on the Special Committee on the Year 2000 Technology Problem, Senator BENNETT and I have learned how hard it is for Americans to determine what precautions they should take to prepare for the year 2000. This task has been made unduly onerous by the failure of too many industries, including the aviation industry, to disclose information about their Y2K status.

The Y2K problem is a national challenge that requires all of us to do whatever it takes to make the transition between this century and the next one safe. The least any of us can do is to respond to surveys asking about the status of our Y2K preparations.

I suppose that you and others would assume that members of the safety-conscious aviation community would be eager to reassure the public by responding to the FAA's request for information about their Y2K status. Mr. President, if you made that assumption, unfortunately, you would be wrong.

At the committee's hearing last week on transportation and the Y2K issue, we learned that 1,900 of the 3,300 certificate holders, which includes air carriers and manufacturers, failed to respond to the FAA's request. Bear in mind that this survey is only 4 pages long, and the FAA estimates it would take 45 minutes to fill it out at an average cost of $30. There is no excuse, in my view, for this high rate of nonresponsiveness to the FAA's survey inquiry of certificate holders.

The FAA did not conduct this survey as a mere exercise. Reviewing a Y2K survey is often the only way the public can be sure an industry can keep functioning safely into the new year. When such a high percentage of the aviation industry fails to respond, the public might as well be flying blind.

These nonrespondents are mostly smaller carriers and charter airlines—not major airlines, I would quickly point out. But all of us have constituents who fly on these small carriers and rely on their cargo services. Their failure to respond to the request of their regulator is, I think, unacceptable, and I am sure my colleagues do as well.

The FAA has given me an updated list of the members of the aviation industry who have not responded to this survey. I made the request, along with the chairman, last Thursday, to give time to the members of their representative organizations who were in the room until today to comply with that survey. Of the 1,900 who had failed to comply last week, roughly 600 have responded to the survey since last Thursday. The list now contains 1,368 carriers and operators who have not complied with the FAA's survey request on the Y2K issue. I told the people in that hearing that, today, I would submit the names of the air carriers, manufacturers, or others with FAA certificates who have not responded to the survey to the Senate and put them in the CONGRESSIONAL RECORD.

Today, I ask unanimous consent that a list of 1,368 carriers and operators who have not complied with these surveys be printed in the RECORD. It lists the States they are from and the names of the businesses that have not complied. I hope that, in the coming days, these businesses will comply and provide the information to the FAA as requested.

Mr. President, I ask unanimous consent that this list at a cost of $3,122.00, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FAA FLIGHT STANDARDS SERVICE—YEAR 2000 READINESS QUESTIONNAIRE NON-RESPONDENTS LIST

[As of October 4, 1999]

State and company name	Designator	Aggregate
ALASKA:		
AIR LOGISTICS OF ALASKA INC.	EOPA	135 On-Demand
DENALI WEST LODGE INC	D01C	135 On-Demand
EVERTS AIR FUEL	EVAB	125 Air Operator
GIBSON, ROBERT A	G6BC	135 On-Demand
LOCKHEED MARTIN SERVICES INC.	L5SC	135 Commuters
MILLER, DENNIS C	FXCA	135 On-Demand
MORRIS, JACK	JR7C	135 On-Demand
NEEDHAM, DARRELL R	N8PC	135 On-Demand
PARKERSON, STAN	PJSC	135 On-Demand
SWISHER, RICHARD C	QOFC	135 On-Demand
WARBELOWS AIR VENTURES INC.	WVBA	135 Commuters

FAA FLIGHT STANDARDS SERVICE—YEAR 2000 READINESS QUESTIONNAIRE NON-RESPONDENTS LIST—Continued

[As of October 4, 1999]

State and company name	Designator	Aggregate
ZACZKOWSKI, PAUL STEPHEN	KY9C	135 On-Demand
A C E FLYERS INC	JKWC	135 On-Demand
ADAMS, BRAD	OUKC	135 On-Demand
ADAMS, ROBERT L	U7GC	135 On-Demand
AIRBORNE SCIENTIFIC INC	AS6C	135 On-Demand
AKERS, MERLE W	WL6C	135 On-Demand
ALASKA NORTH COUNTRY ENTERPRISES INC.	E3KC	135 On-Demand
ALASKA SKYWAYS INC	METC	135 On-Demand
ALASKAN BUSH SAFARI INC	BT6C	135 On-Demand
ALASKAS FISHING UNLIMITED INC.	F9UC	135 On-Demand
ALDRIDGE, RON	UDCC	135 On-Demand
ALEUTIAN SPECIALTY AVIATION INC.	VZDA	135 On-Demand
ALLIGOOD, ALLEN K	K7AC	135 On-Demand
ALLWEST FREIGHT INC	W1FC	135 On-Demand
ALPINE AIR INC	YDAC	135 On-Demand
ALYESKA AIR SERVICE INC	X4SC	135 On-Demand
ANDREW AIRWAYS INC	D4NA	135 On-Demand
ARCHERY OUTFITTERS INC	VYOC	135 On-Demand
ATKINS, JAMES A	J03C	135 On-Demand
BAL INC	W3LC	135 On-Demand
BARBER, JACK B	JKGC	135 On-Demand
BERRYMAN, JON M	EPQC	135 On-Demand
BETHE, KENNETH E	EQYC	135 On-Demand
BICKMAN, JIM	B35C	135 On-Demand
BISHOP, GARY LEE	BMKC	135 On-Demand
BRENT, CARL E	B21C	135 On-Demand
BRISTOL BAY AIR SERVICE INC.	B9BC	135 On-Demand
BRISTOL BAY LODGE INC	B4YC	135 On-Demand
BROWN BEAR AIR INC	B64C	135 On-Demand
BURWELL, JEFFERY S	P3BC	135 On-Demand
C AND L INC	ENEA	135 On-Demand
CHAPLIN, L JAMES	LJOC	135 On-Demand
CLARK, HENRY C	K09C	135 On-Demand
CLARK, JOHN W.	A40C	135 On-Demand
CLEARWATER AIR INC	LAMA	135 On-Demand
COYOTE AIR LLC	CY6C	135 On-Demand
CUB DRIVER INC	VUDC	135 On-Demand
CUSACK, ROBERT A	R67C	135 On-Demand
DARDEN, DONALD E	EQRC	135 On-Demand
DAVIS, JEREMY S	DU5C	135 On-Demand
DENALI AIR INC	DLIA	135 On-Demand
DITTLINGER, BRET	K9SC	135 On-Demand
EATON, GLEN	ENOC	135 On-Demand
EGGE, LORI L	IUKA	135 On-Demand
EHRHART, JAMES E	EHOC	135 On-Demand
ELLIS, WILLIAM COLE	WEOC	135 On-Demand
EMERY, CRAIG A	VDQC	135 On-Demand
EVERGREEN HELICOPTERS OF ALASKA INC.	EHAA	135 On-Demand
EXOUSIA INC	M9UC	135 On-Demand
F S AIR SERVICE INC	STZA	135 Commuters
FILKILL, DAVID B	YEOC	135 On-Demand
FRESH WATER ADVENTURES INC.	BPMC	135 On-Demand
GALAXY AIR CARGO INC	GX7C	135 On-Demand
GLASER, DONALD E	GQDC	135 On-Demand
GLENN, DAVID HAMILTON	G7HC	135 Commuters
GRANT AVIATION INC	ENHA	135 Commuters
GREEN, GARY D	MGWC	135 On-Demand
GRETZKE, ROBERT C	WN6C	135 On-Demand
HAGELAND AVIATION SERVICES INC.	EPUA	135 Commuters
HALL, WILLIAM ELLIS	WXYA	135 On-Demand
HANGER ONE AIR INC	H1YC	135 On-Demand
HARRISS, BAYLIS EARLE	HOBC	135 On-Demand
HATELY, WILLIAM	E2KC	135 On-Demand
HICKS, DAVID	T26C	135 On-Demand
HIGH ADVENTURE AIR CHARTER GUIDES AND OUTFITTERS I.	ZKTC	135 On-Demand
HILDE, DEAN MITCHELL	D20C	135 On-Demand
HUDSON AIR SERVICE INC	EMWC	135 On-Demand
HUGHES, CLARENCE O	H9MC	135 On-Demand
ILIAMNA AIR GUIDES INC	YKMC	135 On-Demand
ILIAMNA AIR TAXI INC	EONA	135 On-Demand
J AND M ALASKA AIR TOURS INC.	HVUA	135 On-Demand
JAMES TRUMBULL INC	A3WC	135 On-Demand
JIM AIR INC	IUJA	135 Commuters
JOHNSON, JOSH W	OHQC	135 On-Demand
JOHNSTON, THOMAS	S2TC	135 On-Demand
JONES, ROBERT D JR	H4AC	135 On-Demand
KACHEMAK AIR SERVICE INC	ELTA	135 On-Demand
KACHEMAK BAY FLYING SERVICE INC.	YKBA	135 On-Demand
KANTISHNA AIR TAXI INC	XAKC	135 On-Demand
KATMAI PRO SHOP INC	K4PC	135 On-Demand
KENAI AIR ALASKA INC	EMDA	135 On-Demand
KENAI FJORD OUTFITTERS INC.	XKNA	135 On-Demand
KENNICOTT WILDERNESS AIR INC.	D9TC	135 On-Demand
KING AIR INC	KQAC	135 On-Demand
KING SALMON GUIDES INC	K3NC	135 On-Demand
LAKE CLARK AIR INC	HXXC	135 On-Demand
LANG, MARK E	L7CC	135 On-Demand
LAST FRONTIER AIR VENTURES LTD.	L49C	135 On-Demand
LECHNER, BURDETTE J	BJLC	135 On-Demand
LEE, ANTHONY	W71C	135 On-Demand
LEE, DAVID J	EPOC	135 On-Demand
LOUGHRAN, CRAIG S	XL8C	135 On-Demand
MACAIR INC	M41C	135 On-Demand
MARK MADURA INC	UMZA	135 On-Demand
MEEKIN MICHAEL	EQKC	135 On-Demand
MERCHANT, CLIFFORD ROBERT.	UVMC	135 On-Demand
MIKE CUSACK'S KING SALMON LODGE INC.	KLOC	135 On-Demand
MILLER, MARK	EMVC	135 On-Demand
MINTA INC	W9RA	135 On-Demand
MORONEY, BRUCE J	T43C	135 On-Demand
MURPHY, GEORGE W	XGMC	135 On-Demand
N A C NETWORK INC	NN9A	135 On-Demand
NEITZ AVIATION INC	NZYC	135 On-Demand
NEWHALEN LODGE INC	NL6C	135 On-Demand
NICHOLSON, LARRY D	NL8C	135 On-Demand
NO SEE UM LODGE INC	N6SC	135 On-Demand
O'HARE AVIATION INC	XZPC	135 On-Demand
ONEY, ANTHONY KING	ONYC	135 On-Demand
ORTMAN, JOHN D	W4RC	135 On-Demand
OSOLNIK, MICHAEL J	BWAC	135 On-Demand
OSPREY AIR II INC	043C	135 On-Demand
OSPREY AIR INC	O3SC	135 On-Demand
PACIFIC JET INC	JDMA	135 On-Demand
PARMENTER, DAVID M	UWPC	135 On-Demand
PETERSON, JOHN A	B00C	135 On-Demand
POLAR EXPRESS AIRWAYS INC.	D2OC	135 On-Demand
POLLACK AND SONS FLYING SERVICE INC.	P1JC	135 On-Demand
POLLUX AVIATION LTD	UPXC	135 On-Demand
POPE, TIM W	N3NC	135 On-Demand
PRALLE, JEFF	HIGC	135 On-Demand
PRECISION AVIATION INC	P8IC	135 On-Demand
PRISM HELICOPTERS INC	EOOA	135 On-Demand
PVT INC	JTBC	135 On-Demand
RAINBOW KING LODGE INC	RKOC	135 On-Demand
REDEMPTION INC	RI9A	135 Commuters
SCENIC MOUNTAIN AIR INC	LVKA	135 On-Demand
SCHUSTER, JOE S	J4HC	135 On-Demand
SCHWAB, MAX	XWQC	135 On-Demand
SECURITY AVIATION INC	LATA	135 On-Demand
SHUMAN, CECIL R	UKHC	135 On-Demand
SKY QUEST VENTURES INC	SQ9A	135 On-Demand
SLUICE BOX INC	ENGC	135 On-Demand
SMOKEY BAY AIR INC	X53A	135 On-Demand
SOUSA, GERALD L	TOKC	135 On-Demand
SOUTH BAY LTD	YB9A	135 On-Demand
STARFLITE INC	EQSC	135 On-Demand
STEARNS AIR ALASKA INC	UGJC	135 On-Demand
STRONG, EDWARD D	E03C	135 On-Demand
SWISS, JOHN S	EMLC	135 On-Demand
TRAIL RIDGE AIR INC	YGOC	135 On-Demand
TRANS ALASKA HELICOPTERS INC.	ELOA	135 On-Demand
TUCKER AVIATION INC	TKAC	135 On-Demand
ULMER INC	INXA	135 On-Demand
UYAK AIR SERVICE INC	EPIA	135 On-Demand
VANDERPOOL, JOSEPH J	VJWC	135 On-Demand
VANDERPOOL, ROBERT W SR	V5PC	135 On-Demand
VERN HUMBLE ALASKA AIR ADVENTURE INC.	HVKC	135 On-Demand
VILLAGE AVIATION INC	HYQA	135 Commuters
VREM, TRACY J	V3JC	135 On-Demand
WARREN, MARK J	W03C	135 On-Demand
WEBSTER, JAMES M	WF8C	135 On-Demand
WIEDERKEHR AIR INC	EMKC	135 On-Demand
WIRSCHEM, CHARLES	WVUA	135 On-Demand
WOODIN, WILLIAM HAROLD	SKOC	135 On-Demand
YUKON HELICOPTERS INC	YUKC	135 On-Demand
YUTE AIR ALASKA INC	YAAA	135 On-Demand
YUTE AIR TAXI INC	YUEC	135 On-Demand
ALASKAN OUTBACK ADVENTURES.	O5BA	135 On-Demand
DOYON, DAVID P	EKTA	135 On-Demand
HAYES, ARTHUR D	EKRA	135 On-Demand
LAUGHLIN, HAROLD J	LFKA	135 On-Demand
MASDEN, MICHELLE	IW7A	135 On-Demand
RANNEY, GAYLE AND STEVE	LGDA	135 On-Demand
REIMER, DOUGLAS D	NOGA	135 On-Demand
SKAGWAY AIR SERVICE INC	FYOA	135 Commuters
TAL AIR	T8FA	135 On-Demand
TYME AIR	T1MA	135 On-Demand
WILSON, STEVE R	YAXA	135 On-Demand
ALABAMA:		
B C AVIATION SERVICES	B4ZA	135 On-Demand
CHARTER SERVICES INC	ZZTA	135 On-Demand
DOTHAN AIR CHARTER INC	EUUA	135 On-Demand
DOUBLE BRIDGES AVIATION	D9UA	135 On-Demand
EXECUTIVE AVIATION SERVICE INC.	EX6A	135 On-Demand
FLYING M AVIATION INC	HROA	135 On-Demand
GULF AVIATION INC	G62A	135 On-Demand
GULF COAST CHARTERS L L C.	G94A	135 On-Demand
HELI-PLANE	H9LA	135 On-Demand
HENDERSON BLACK AND GREENE.	H9GA	135 On-Demand
HOLMAN FUNERAL HOME INC	ETUA	135 On-Demand
MEDJET INTERNATIONAL INC	MDGA	135 On-Demand
MONTGOMERY AVIATION CORPORATION.	EA4A	135 On-Demand
OAK MOUNTAIN HELICOPTERS INC.	EETA	135 On-Demand
SEASANDS AIR	N9RA	135 On-Demand
WILLIAMS, WOODROW	EUPA	135 On-Demand
ARKANSAS:		
GULFSTREAM INTERNATIONAL AIRLINES TRAINING ACADEMY.	ITJA	135 On-Demand
STEWART AVIATION SERVICES INC.	HCPA	135 On-Demand
YOUNKIN AIR SERVICE INC	YOUA	135 On-Demand
ARIZONA:		
SPORTS JET LLC	J01B	135 On-Demand
AERO JET SERVICES LLC	J7EA	135 On-Demand
AEX AIR	A3XA	135 On-Demand
AIR EVAC SERVICES INC	VE7A	135 On-Demand
AIR SAFARI INC	G9RA	135 On-Demand
AIR WEST INC	W9WA	135 On-Demand
AIRWEST HELICOPTERS LLC	XW9A	135 On-Demand
ARIZONA HELISERVICES INC	A6ZA	135 On-Demand
BRICE AVIATION SERVICE	B8JA	135 On-Demand
CANYON STATE AIR SERVICE INC.	NYOA	135 On-Demand
CUTTER AVIATION INC	EKGA	135 On-Demand
DELTA LEASING INC	QUHA	135 On-Demand
DIAMOND AIR AIRLINES INC	QIDA	135 On-Demand
DIAMONDBACK AVIATION SERVICES INC.	D6BA	135 On-Demand
EXECUTIVE AIRCRAFT SERVICES INC.	EV6A	135 On-Demand
EXPRESS AIR INC	E7RA	135 On-Demand
G MICHAEL LEWIN CORP	GMYA	135 On-Demand
H Y AVIATION INC	H9YA	135 On-Demand
HELICOPTERS INC	H1NA	135 On-Demand
INTERSTATE EQUIPMENT LEASING INC.	I5EA	135 On-Demand
JET ARIZONA INC	J7ZA	135 On-Demand
KING AVIATION INC	OQHA	135 On-Demand
LEADING EDGE AVIATION INC	ULDA	135 On-Demand
MARSH AVIATION COMPANY INC.	ILIA	135 On-Demand
MED-TRANS CORPORATION	M3XA	135 On-Demand
MORTGAGE BANC CONSTRUCTION CO.	M6QA	135 On-Demand
NATIVE AMERICAN AIR AMBULANCE INC.	S4WA	135 On-Demand
RELIANT AVIATION LLC	K7BA	135 On-Demand
SCOTTSDALE FLYERS LLC	SD9A	135 On-Demand
SOUTHWEST AIRCRAFT CHARTER LC.	B2LA	135 On-Demand
SUN WEST AVIATION INC	VH3A	135 On-Demand
SUN WESTERN FLYERS INC	EKIA	135 On-Demand
SUPERSTITION AIR SERVICE INC.	EIYA	135 On-Demand
T AND G AVIATION INC	RJFA	135 On-Demand
THE CONSTELLATION GROUP	TOCM	135 On-Demand
THE GLOBAL GROUP	T6MA	135 On-Demand
TOM CHAUNCEY CHARTER COMPANY.	EJTA	135 On-Demand
UROPP, DANIEL P	DOKA	135 On-Demand
WESTCOR AVIATION INC	EKLA	135 On-Demand
WESTWIND AVIATION INC	WIWA	135 On-Demand
AIR STAR HELICOPTERS INC	QKLA	135 On-Demand
BLUMENTHAL, JAMES R	SKAB	125 Air Operator
GRAND CANYON AIRLINES INC.	GCNA	121 Domestic/Flag
WINDROCK AVIATION LLC	WR7A	135 On-Demand
SIERRA PACIFIC AIRLINES INC.	SPAA	121 Domestic/Flag
SUN PACIFIC INTERNATIONAL INC.	S1NA	121 Domestic/Flag
CALIFORNIA:		
ALASKA CENTRAL EXPRESS INC.	YADA	135 On-Demand
VICTORIA FOREST AND SCOUT LLC.	VF9M	125 Air Operator
AIR AURORA INC	CFHA	135 On-Demand
THUNDER SPRING-WAREHAM LLC II.	T7HA	135 On-Demand
AIRLINERS OF AMERICA INC	W8JM	125 Air Operator
ARCTIC AIR SERVICE INC	NAAA	135 On-Demand
ASPEN HELICOPTERS INC	IGAA	135 On-Demand
AVJET CORPORATION	ABFA	135 On-Demand
CHANNEL ISLANDS AVIATION INC.	DDEA	135 On-Demand
GENESIS AVIATION INC	G1NB	125 Air Operator
SPIRIT AVIATION INC	DWHA	135 On-Demand
STAR AIRWAYS	WY8A	135 On-Demand
SURFAS, FRANK N	XZLA	135 On-Demand
THE AIR GROUP INC	ACNA	135 On-Demand
THE ARGOSY GROUP INC	AGHA	135 On-Demand
AIRMANNS AVIATION INC	ZM5A	135 On-Demand
AVTRANS CORPORATION	VKHA	135 On-Demand
C AND D INTERIORS	C02M	125 Air Operator
CARDINAL AIR SERVICES INC	DNSA	135 On-Demand
CENTURY WEST INC	CIOA	135 On-Demand
DOUGLAS AIRCRAFT COMPANY.	DACM	125 Air Operator
EMERALD AIR INC	VZMA	135 On-Demand
HELISTREAM INC	JMXA	135 On-Demand
ORANGE COUNTY SUNBIRD AVIATION	QGXA	135 On-Demand
RAINBOW AIR ACADEMY INC	MNOA	135 On-Demand

FAA FLIGHT STANDARDS SERVICE—YEAR 2000 READINESS QUESTIONNAIRE NON-RESPONDENTS LIST—Continued

[As of October 4, 1999]

State and company name	Designator	Aggregate
ROSS, BRUCE A AND HERMAN, JAMES S.	MGHA	135 On-Demand
TG AIR INC	TG8A	135 On-Demand
AMERICAN CARE INC	F75A	135 On-Demand
CASCADE AIR LINES	W3VA	135 On-Demand
CAVOK INC	CWNA	135 On-Demand
CLARK, JAMES L	XARA	135 On-Demand
CRITICAL AIR MEDICINE INC	IBUA	135 On-Demand
ISLAND HOPPER INC	ISFA	135 On-Demand
JAAZ, GERHARD JACK	DKKA	135 On-Demand
JETSOURCE CHARTER INC	AMPA	135 On-Demand
LIQUID CHARTER SERVICES INC.	L3SA	135 On-Demand
LUNDY AIR CHARTER INC	LQUA	135 On-Demand
MERIDIAN AIR CHARTER INC	MZ6A	135 On-Demand
SHIER AVIATION CORP	IVSA	135 On-Demand
SKY LIMO WEST INC	SZ0A	135 On-Demand
TANGO AIR INC	LOMA	135 On-Demand
CAL VADA AIRCRAFT INC	AQNA	135 On-Demand
COFFELT, JOHN X	CFKA	135 On-Demand
ENGLISH, DANIEL B	XDOA	135 On-Demand
RALSTON AVIATION	R7NA	135 On-Demand
AERO MICRONESIA INC	15PA	121 Supplemental
AIR S F FLIGHT SERVICE	F81A	135 On-Demand
AMI JET CHARTER INC	IJOA	135 On-Demand
ARIS HELICOPTERS LTD	CAXA	135 On-Demand
BAY AIR CHARTER	OUOA	135 On-Demand
EMECTEC CORP	E7CA	135 On-Demand
EMPIRE AVIATION INC	EP7A	135 On-Demand
EXECUTIVE HELICOPTER SERVICE INC.	HUYA	135 On-Demand
IBC AVIATION SERVICES INC	IB9A	135 On-Demand
SAN JOSE AIR CARGO INC	SJ9A	135 On-Demand
T E Q CORPORATION	BMWA	135 On-Demand
VAN WAGENEN, ROBERT F	VWGA	135 On-Demand
VERTICARE	CBFA	135 On-Demand
AMERICAN VALET AIR INC	VMNA	135 On-Demand
AVIATION INTERNATIONAL ROTORS INC.	A8YA	135 On-Demand
DESERT AIRLINES AND AEROMEDICAL TRANSPORT INC.	EFAA	135 On-Demand
EXECUTIVE AVIATION LOGISTICS INC.	EEUA	135 On-Demand
NORTHAIR INC	NH9A	135 On-Demand
ORCO AVIATION INC	EEAA	135 On-Demand
PARALIFT INC	VPLM	125 Air Operator
PRO-CRAFT AVIATION INC	JI3A	135 On-Demand
SAN BERNARDINO COUNTY SHERIFFS AVIATION DIVISION.	SB9A	135 On-Demand
SKYDIVE ELSINORE INC	K2EM	125 Air Operator
AIR BY JET L L C	J2IA	135 On-Demand
AIR DESERT PACIFIC CORP	UDPA	135 On-Demand
AIR JUSTICE INC	J9SA	135 On-Demand
C A T S TOURS INC	C9UA	135 On-Demand
CORSAIR COPTERS INC	DG0A	135 On-Demand
GOLDEN WEST AIRLINES INC	G2WA	135 On-Demand
INTER ISLAND YACHTS INC	I2YA	135 On-Demand
M B AIRWAYS INC	XMBA	135 On-Demand
MANHATTAN BANKER CORPORATION.	YCSA	135 On-Demand
MERCURY AIR CARGO INC	M27A	135 On-Demand
NORTHROP GRUMMAN AVIATION INC.	NOZA	135 On-Demand
OCCIDENTAL PETROLEUM CORP.	OCPM	125 Air Operator
OIL AND GAS MANAGEMENT CORPORATION.	OG8A	135 On-Demand
ROUSE, MARC S	R5FA	135 On-Demand
TRANS-EXEC AIR SERVICE INC.	DVYA	135 On-Demand
UNIVERSAL JET INC	U3JA	135 On-Demand
WESTFIELD AVIATION INC	WTZM	125 Air Operator
ATKIN, WILLARD KENT	WNHA	135 On-Demand
CARTER FLYGARE INC	SA8A	135 On-Demand
CELEBRITY AIR INC	C86A	135 On-Demand
EVERSON, DAVID E	QVHA	135 On-Demand
HILLSIDE AVIATION INC	AXHA	135 On-Demand
N T ENLOE MEMORIAL HOSPITAL.	NTQA	135 On-Demand
OROVILLE AVIATION INC	LIKA	135 On-Demand
PACIFIC COAST BUILDING PRODUCTS INC.	PCPA	135 On-Demand
REDDING AERO ENTERPRISES INC.	MNVA	135 On-Demand
REDDING AIR SERVICE INC	AUMA	135 On-Demand
SHASTA LIVESTOCK AUCTION YARD INC.	WV8A	135 On-Demand
WEATHERS, TERRY M AND JEAN L.	AVWA	135 On-Demand
WOODLAND AVIATION INC	AWKA	135 On-Demand
AIR AMBULANCE INC	BZXA	135 On-Demand
AIR WOLFE FREIGHT INC	W27A	135 On-Demand
AMPHIBIOUS ADVENTURES INC.	X47A	135 On-Demand
CONCORD JET SERVICE INC	CJBA	135 On-Demand
COOK, WILLIAM B	COIA	135 On-Demand
DC-3 FLIGHTS INC	UUDM	125 On-Demand
GABEL, KYLE AND GLENDA	NG7A	135 On-Demand
HUMBOLDT GROUP	H29A	135 On-Demand
KEB AIRCRAFT SALES INC	XSKM	125 Air Operator
L W WINTER HELICOPTERS INC.	W7SE	135 On-Demand
LARON ENTERPRISES INC	COPA	135 On-Demand
LARSEN, JAMES E	COGA	135 On-Demand
MCCLELLAND, JOHN AND TERI.	HLRA	135 On-Demand
MEDIPLANE INC	JBZA	135 On-Demand
PACIFIC STATES AVIATION INC.	CPFA	135 On-Demand
S P AVIATION INC	SPOA	135 On-Demand
SCENIC AIR INC	S5TA	135 On-Demand
SKELLET, ANNALOU	PQWA	135 On-Demand
SMITH AIR INC	CQIA	135 On-Demand
TOMCAT VERTICAL AIR	T9VA	135 On-Demand
TRINITY HELICOPTERS INC	TH6A	135 On-Demand
WESTLOG INC	JXKA	135 On-Demand
COLORADO:		
AERO SYSTEMS INC	CKEA	135 On-Demand
AIR METHODS CORP	QMLA	135 On-Demand
AIRCAM NATIONAL HELICOPTER SERVICES INC..	VMIA	135 On-Demand
ASPEN BASE OPERATION INC	CKBA	135 On-Demand
BAAN HOFMAN, CHERYL	B5HA	135 On-Demand
CB AIR INC	OAXA	135 On-Demand
DISCOVERY AIR INC	IYDA	135 On-Demand
FLATIRONS AVIATION CORPORATION.	YFAA	135 On-Demand
G AND G FLIGHT INC	YGHA	135 On-Demand
GALENA AIR SERVICES COMPANY.	GN0A	135 On-Demand
GEO-SEIS HELICOPTERS INC	EKKA	135 On-Demand
KEY LIME AIR	KY7A	135 On-Demand
LAWRENCE, KIRKLAND WAYNE.	XSNA	135 On-Demand
MACK FLIGHT LEASE INC	F4KM	125 Air Operator
MAYO AVIATION INC	CIEA	135 On-Demand
MILAM INTERNATIONAL INC	CJPA	135 On-Demand
MILE HI AIRCRAFT MANAGEMENT INC.	MH6A	135 On-Demand
MOUNTAIN AVIATION INC	VQMA	135 On-Demand
MOUNTAIN FLIGHT SERVICE	OGQA	135 On-Demand
ORION HELICOPTERS INC	CIQA	135 On-Demand
PIKES PEAK CHARTER L L C	PQ9A	135 On-Demand
RED MOUNTAIN AVIATION L L C.	RV0A	135 On-Demand
ROCKY MOUNTAIN AVIATION	J6TA	135 On-Demand
SEA PACIFIC INC	URGA	135 On-Demand
SUNDANCE AIR INC	MGDA	135 On-Demand
TURBO WEST CORPAC INC	TQWA	135 On-Demand
WINDSTAR AVIATION CORP	CIWA	135 On-Demand
AMERICAN CHECK TRANSPORT INC.	VOXA	135 On-Demand
CENTURY AVIATION INC	GNTA	135 On-Demand
DURANGO AIR SERVICE INC	CMIA	135 On-Demand
EARTH CENTER ADVENTURES INC.	E4HA	135 On-Demand
GUNSLINGER INVESTMENT CORP.	W9CA	135 On-Demand
PREMIER AVIATION INC	PGFA	135 On-Demand
TUCKER, BLAINE	CLRA	135 On-Demand
WESTERN AVIATORS INC	W6TA	135 On-Demand
WESTERN SLOPE HELICOPTERS INC.	WL8A	135 On-Demand
JETPROP INC	J25A	135 On-Demand
CONNECTICUT:		
DELTA JET LTD	FUUA	135 On-Demand
DISTRICT OF COLUMBIA:		
CAPITAL HELICOPTERS L L C	H14A	135 On-Demand
SHORT BROTHERS USA INC	SB8M	125 Air Operator
DELAWARE:		
AMERICAN AEROSPACE CORPORATION.	D4AA	135 On-Demand
CANNAVO, DAVID	EHEA	135 On-Demand
DAWN AERO INC	DIQA	135 On-Demand
MARSHALL GEOSURVEY ASSOCIATES.	M0YM	125 Air Operator
MERCURY RESEARCH AND SURVEYING.	MK0M	125 Air Operator
AMERICAN INTERNATIONAL AVIATION CORP.	I4NA	135 On-Demand
VALLEY RESOURCES INC	VRYM	125 Air Operator
FLORIDA:		
OMNI AVIATION INC	OI8A	135 On-Demand
CHIPOLA AVIATION INC	ETSA	135 On-Demand
PARADISE HELICOPTERS INC	P1LA	135 On-Demand
PENSACOLA AVIATION CENTER.	KRTA	135 On-Demand
SOWELL AIRCRAFT SERVICE INC.	V4SA	135 On-Demand
SOWELL AVIATION COMPANY INC.	DW4A	135 On-Demand
SUNSHINE AERO INDUSTRIES	EUBA	135 On-Demand
AIR CLASSIC CARGO INC	LXEA	135 On-Demand
AIR FLORIDA CHARTER INC	H8DA	135 On-Demand
AIR ONE INC	HZUA	135 On-Demand
AIR ORLANDO CHARTER INC	AOUA	135 On-Demand
AIRSCAN INC	OIPA	135 On-Demand
ATLANTIC AIRWAYS INC	TCXA	135 On-Demand
BORGHORST, MARK	B55B	125 Air Operator
BRAUNIG CORPORATION INC	JG8A	135 On-Demand
C AND R LEASING INC	E1VA	135 On-Demand
CLYDE AIR INC	TQ6A	135 On-Demand
CONSTRUCTION INSURANCE SERVICES INC.	ORGA	135 On-Demand
CORPORATE AIRWAYS INC	FCTA	135 On-Demand
DEAL AEROSPACE CORPORATION.	D5EA	135 On-Demand
DISCOVERY AIR CHARTER INC.	DIBA	135 On-Demand
F I T AVIATION INC	ECQA	135 On-Demand
FLIGHT EXPRESS INC	FPIA	135 On-Demand
FLY SAFELY INC	F77A	135 On-Demand
KENN AIR CORP	ILZA	135 On-Demand
MAGIC CHARTER INC	OVAA	135 On-Demand
MARATHON FLIGHT SCHOOL INC.	LCRA	135 On-Demand
MISSIONAIR	M4HM	125 Air Operator
NATIONAL AIR CHARTERS INC.	NA6A	135 On-Demand
PHILIPS AND JORDAN INC	JFQA	135 On-Demand
PRETSCH, ERNEST	FOFA	135 On-Demand
REGIONAL AIR CHARTERS INC.	M97A	135 On-Demand
SEBASTIAN AERO SERVICES INC.	VWKA	135 On-Demand
SUN AVIATION INC	ECWA	135 On-Demand
TRANS NORTHERN AIRWAYS INC.	IHMA	135 On-Demand
UNIVERSITY OF FLORIDA ATHLETIC ASSOCIATION.	UFEM	125 Air Operator
VINTAGE PROPS AND JETS INC.	VNWA	135 Commuters
WHISPER AIRLINES INC	KCDA	135 On-Demand
ADVENTURE FLOATPLANE INC	Y6RA	135 On-Demand
AIR CHARTER ONE INC	CO6A	135 On-Demand
AIR FLIGHT INC	AFWA	135 On-Demand
AIRCOASTAL HELICOPTERS INC.	JJWA	135 On-Demand
AMELIA AIRWAYS INC	A2AA	135 On-Demand
AMERIJET INTERNATIONAL INC.	PCSA	121 Supplemental
A-OK JETS	FAUA	135 On-Demand
ARAWAK AVIATION INC	EYDA	135 On-Demand
ATLANTIC AIRLINES INC	HWTA	135 On-Demand
BEL AIR TRANSPORT	MJNA	135 On-Demand
BIMINI ISLAND AIR INC	B5MA	135 On-Demand
BLACKHAWK INTL AIRWAYS	IKWA	135 On-Demand
CATALINA AEROSPACE CORPORATION.	C40A	135 On-Demand
COMMERCIAL AVIATION ENTERPRISES INC.	JKBA	135 On-Demand
CUSTOM AIR TRANSPORT INC.	C7WA	121 Supplemental
EXECSTAR AVIATION INC	XVQA	135 On-Demand
EXECUTIVE AIR CHARTER OF BOCA RATON.	FOMA	135 On-Demand
FLIGHT TRAINING INTERNATIONAL INC.	RL6A	135 On-Demand
FLORIDA AIR TRANSPORT INC.	FLRB	125 Air Operator
FLORIDA SUNCOAST AVIATION INC.	F7UA	135 On-Demand
FLYING BOAT INC	FVYA	121 Domestic/Flag
GULF AND CARIBBEAN CARGO INC.	VGCA	121 Supplemental
HOP A JET INC	EXOA	135 On-Demand
JET CHARTER INTERNATIONAL INC.	YJIA	135 On-Demand
LOCAIR INC	YLXA	135 On-Demand
M W TRAVEL AND LEISURE INC.	M8WA	135 On-Demand
MID-STAR INC	YLPA	135 On-Demand
NEALCO AIR CHARTER SERVICES INC.	N5CA	135 On-Demand
PALM BEACH AEROSPACE INC.	P58M	125 Air Operator
PALM BEACH COUNTY HEALTH CARE DISTRICT.	HC7A	135 On-Demand
PARADISE ISLAND AIRLINES INC.	CICA	121 Domestic/Flag
PERSONAL JET CHARTER INC	EZKA	135 On-Demand
PLANE SPACE INC	P62A	135 On-Demand
PLANET AIRWAYS INC	PZ6A	121 Domestic/Flag
POMPANO HELICOPTERS INC	P8HA	135 On-Demand
SEMINOLE TRIBE OF FLORIDA.	S64A	135 On-Demand
SOUTHEASTERN JET AVIATION INC.	SJ6A	135 On-Demand
SOUTHERN FLARE INC	F25A	135 On-Demand
STUART JET CENTER INC	VSAA	135 On-Demand
TRIANGLE AIRCRAFT SERVICES INC.	T9GM	125 Air Operator
TROPIC AIR CHARTERS INC	T4CA	135 On-Demand
TWIN TOWN LEASING CO INC	EYLA	135 On-Demand
VOLAR HELICOPTERS INC	VOLA	135 On-Demand
WORLD JET CHARTERS INC	WUJA	135 On-Demand
AIR RECOVERY INC	YRUA	135 On-Demand
AIR SAL INC	JCOA	135 On-Demand
AIRGLASS AVIATION INC	S3HA	135 On-Demand
ATLANTIC AIR CARGO INC	XAUA	135 On-Demand
AVIATOR SERVICES INC	UFVA	135 On-Demand
COLLIER COUNTY HELICOPTER OPERATION.	CCHA	135 On-Demand
CONTINENTAL AVIATION SERVICES INC.	CX0B	125 Air Operator
CORPORATE AIR CHARTERS INC	C5GA	135 On-Demand
EXEC AIR INC OF NAPLES	E69A	135 On-Demand

FAA FLIGHT STANDARDS SERVICE—YEAR 2000 READINESS QUESTIONNAIRE NON-RESPONDENTS LIST—Continued

[As of October 4, 1999]

State and company name	Designator	Aggregate
FUN AIR CORP	FUNB	125 Air Operator
GOLDEN AIRLINES INC	G1LA	135 On-Demand
GULF COAST AIRWAYS INC	GW0A	135 On-Demand
HUGHES FLYING SERVICE INC.	EYAA	135 On-Demand
I-LAND AIR CORPORATION	IL7A	135 On-Demand
MARCO AVIATION INC	MAEA	135 On-Demand
MARIOS AIR INC	C8QA	135 On-Demand
MILLON AIR INC	MIRA	121 Supplemental
ROBINSON AIR CRANE INC	R19A	135 On-Demand
SKYS FLIGHT SERVICE INC	S59A	135 On-Demand
SUPER THREE INC	SU6M	125 Air Operator
TRANS AIR LINK CORP	TALA	121 Supplemental
WCA TRANSPORTATION SERVICES INC.	WT8A	135 On-Demand
PARADISE FLIGHTS INC	P31A	135 On-Demand
AIR SITARAH INC	IBHC	135 On-Demand
BAY AIR FLYING SERVICE INC.	EDDA	135 On-Demand
COMMANDER AIRWAYS INC	SUEA	135 On-Demand
EAGLE AIR CORP	E2CA	135 On-Demand
EXECUJET CHARTER SERVICE INC.	EV7A	135 On-Demand
EXECUTIVE AVIATION CHARTERS INC.	HD9A	135 On-Demand
FLIGHTLINE GROUP INC	FBUA	135 On-Demand
GLOBAL AIR CHARTER INC	G2CA	135 On-Demand
HUFFMAN AVIATION INC	HZAA	135 On-Demand
JONES FLYING SERVICE INC	ECTA	135 On-Demand
LEADING EDGE AVIATION CHARTER SERVICE.	L1EA	135 On-Demand
PRIORITY JETS INC	NWHA	135 On-Demand
RED BARON AVIATION INC	REBA	135 On-Demand
SARASOTA AIRWAYS INC	SQ8A	135 On-Demand
STRONG AIR AIR CARGO INC	E35A	135 On-Demand
SUN JET INTERNATIONAL INC	A4JA	121 Supplemental
WALKABOUT AIR	WK9A	135 On-Demand
DSTS INC	D8TM	125 Air Operator
PAXSON COMMUNICATIONS CORPORATION.	XP0M	125 Air Operator
GEORGIA:		
QUICKSILVER AVIATION INC	QCKA	135 On-Demand
AIR CHARTERS INC	C89A	135 On-Demand
AIRLINE AVIATION ACADEMY INC.	ACDA	135 On-Demand
AVIOR TECHNOLOGIES OPERATIONS INC.	A80A	135 On-Demand
CRITICAL CARE MEDFLIGHT INC.	MFGA	135 On-Demand
CUSTOM AIR SERVICE INC	C9QB	125 Air Operator
DODSON INTERNATIONAL CORP.	DOSA	135 On-Demand
EPPS AIR SERVICE INC	ESMA	135 On-Demand
GEORGIA FLIGHT INC	IXGA	135 On-Demand
H C L AVIATION INC	UHVA	121 Domestic/Flag
HILL AIRCRAFT AND LEASING CORP	ESEA	135 On-Demand
HOUSTON AIR INC	H3AA	135 On-Demand
LOWE AVIATION CO INC	ETEA	135 On-Demand
METRO ENVIRONMENTAL ASSOCIATES INC.	M1VA	135 On-Demand
NATIONS AIR EXPRESS INC	USVA	121 Domestic/Flag
SMITHAIR INC	ETHA	135 On-Demand
SOUTHEASTERN AIR CHARTER INC.	MFJA	135 On-Demand
UK-USA HELICOPTERS INC	UK6A	135 On-Demand
HAWAII:		
ABOVE IT ALL INC	OVFA	135 On-Demand
AIR LINKS INC	L6KA	135 On-Demand
AIR NEVADA AIRLINES INC	RNVA	135 Communities
ALII AVIATION INC	ALUA	135 On-Demand
CIRCLE RAINBOW AIR INC	DCRA	135 On-Demand
GENAVCO CORP	GVCA	135 On-Demand
HAWAII AIR AMBULANCE INC	H48A	135 On-Demand
HAWAII COUNTY FIRE DEPARTMENT.	H5FA	135 On-Demand
MAUNA KEA HELICOPTERS INC.	MUNA	135 On-Demand
MOLOKAI LANAI AIR SHUTTLE INC.	OIKA	135 On-Demand
NIIHAU HELICOPTERS INC	NUIA	135 On-Demand
PACIFIC HELICOPTER TOURS INC.	DBZA	135 On-Demand
PEARL PACIFIC ENTERPRISES	YZPA	135 On-Demand
SAFARI AVIATION INC	XSFA	135 On-Demand
SANDSTONE AERIAL SERVICE	SZNA	135 On-Demand
WILL SQUYRES HELICOPTER SERVICE.	LBGA	135 On-Demand
IOWA:		
ACCESSAIR INC	E6RA	121 Domestic/Flag
CARVER AERO INC	XRRA	135 On-Demand
CHARTERSTAR INC	C2SA	135 On-Demand
DENISON AVIATION INC	CSVA	135 On-Demand
HAPS AIR SERVICE INC	CRJA	135 On-Demand
HASSMAN, DALE	DHSA	135 On-Demand
IOWA CITY FLYING SERVICE INC.	ICFA	135 On-Demand
MONTICELLO AVIATION INC	K02A	135 On-Demand
MOORE HELICOPTER SERVICES INC.	JLEA	135 On-Demand
NIEDERHAUSER AIRWAYS INC.	CSNA	135 On-Demand
P AND N CORP	PNOA	135 On-Demand
P S AIR INC	ZSEA	135 On-Demand
RITEL COPTER SERVICE INC	RCSA	135 On-Demand
SIOUX CENTER AVIATION LTD	CQXA	135 On-Demand
SPORT AVIATION INC	S5IA	135 On-Demand
TODDS FLYING SERVICE INC	TDFA	135 On-Demand
WHITFIELD, WAYNE E	CYUA	135 On-Demand
IDAHO:		
BRISTOL BAY SPORT FISHING INC.	YJBC	135 On-Demand
AVCENTER INC	GAYA	135 On-Demand
BOARD OF DIRECTORS OF BANNOCK REGIONAL MEDICAL CEN.	BRMA	135 On-Demand
AIR KETCHUM IDAHO INC	K7MA	135 On-Demand
AIR RESOURCES INC	A00A	135 On-Demand
ARNOLD, RAY E	REAA	135 On-Demand
CREW CONCEPTS INC	FZOA	135 On-Demand
CURRIE, DAVID A	X5HA	135 On-Demand
HELI'KO INC	MGRA	135 On-Demand
HORMAECHEA, RICHARD M	XXRA	135 On-Demand
IDAHO TRANSPORT SERVICE INC.	IBNA	135 On-Demand
JEFLYN AVIATION INC	JL9A	135 On-Demand
MCCALL AIR TAXI INC	GBWA	135 On-Demand
MIDDLE FORK AVIATION INC	MKTA	135 On-Demand
PERE, GUY A	PGKA	135 On-Demand
PIONEER AVIATION INC	FZQA	135 On-Demand
REGIONAL EXPRESS CO	RECA	135 On-Demand
STANLEY AIR TAXI INC	IKOA	135 On-Demand
THOMAS HELICOPTERS INC	GBNA	135 On-Demand
WESTERN AIRWAYS INC	KHSA	135 On-Demand
Z AIR	ZI0A	135 On-Demand
BUSINESS AVIATION INC	BU7A	135 On-Demand
HILLCREST AIRCRAFT CO INC	GFLA	135 On-Demand
NORTHERN AIR INC	NR9A	135 On-Demand
OROFINO AVIATION INC	INMA	135 On-Demand
PANHANDLE HELICOPTER INC	PHAA	135 On-Demand
RESORT AVIATION SERVICES INC.	YRVA	135 On-Demand
SCANLON, JOHN T	SCFA	135 On-Demand
STOUT FLYING SERVICE INC	WQEA	135 On-Demand
WHITEWATER CREEK INC	W7IA	135 On-Demand
ILLINOIS:		
METRO-EAST AIR SERVICE INC.	DFIA	135 On-Demand
AERO TAXI ROCKFORD INC	CGYA	135 On-Demand
AIR ANGELS INC	X34A	135 On-Demand
AIRWAY CHARTER SERVICE INC.	IXLA	135 On-Demand
ALLEGRA AIRCRAFT	XUNA	135 On-Demand
ALPINE AVIATION CORP	CEVA	135 On-Demand
DB AVIATION INC	IEYA	135 On-Demand
DIAMOND INTERNATIONAL AIRLINES INC.	D9IA	135 On-Demand
EAGLE AIR TRANSPORT INC	E2TM	125 Air Operator
GREAT BEAR AVIATION COMPANY.	G7BA	135 On-Demand
INTEGRATED FLIGHT RESOURCES INC.	I4FA	135 On-Demand
INTERNATIONAL AIRWAY EXPRESS INC.	VJCA	135 On-Demand
LUMANAIR INC	CGFA	135 On-Demand
MALEC HOLDINGS LTD	UMQA	135 On-Demand
MIDWEST HELICOPTER AIRWAYS INC.	CHVA	135 On-Demand
NAC AIRLINE INC	CFBA	135 On-Demand
NORTH AMERICAN JET CHARTER GROUP INC.	CJ6A	135 On-Demand
NORTH WESTERN AVIATION INC.	YNIA	135 On-Demand
NORTHWEST FLYERS INC	NW9A	135 On-Demand
O O T AIR EXPRESS COMPANY.	OO6A	135 On-Demand
OLIVERS HELICOPTERS INC	OBYA	135 On-Demand
OWNERS JET SERVICES LTD	LJCA	135 On-Demand
ROTERS IN MOTION INC	A9XA	135 On-Demand
SCOTT AVIATION INC	SVTA	135 On-Demand
SOUTH SUBURBAN AVIATION INC.	XZSA	135 On-Demand
SPIRIT AVIATION INC	IS0A	135 On-Demand
SUN AERO INC	ZSUA	135 On-Demand
VALLEY AIR SERVICE	VL8A	135 On-Demand
VIKING EXPRESS INC	CHRA	135 On-Demand
WINDY CITY CHARTER INC	ZRGA	135 On-Demand
WSG INC	J9MA	135 On-Demand
BYERLY AVIATION INC	BOEA	135 On-Demand
COBB, FREDERICK L	BOOA	135 On-Demand
HEETCO JET CENTER INC	BOUA	135 On-Demand
JET AIR INC	JAFA	135 On-Demand
TATES FLYING SERVICE INC	JBNA	135 On-Demand
THE FLIGHTSTAR CORP	BONA	135 On-Demand
INDIANA:		
HIGH TECH APPLICATIONS INC.	I3RA	135 On-Demand
ANDERSON AVIATION INC	AIEA	135 On-Demand
BROWN FLYING SCHOOL INC	DAVA	135 On-Demand
COOK AIRCRAFT LEASING INC.	YSIB	125 Air Operator
INDIANAPOLIS AVIATION INC	AIHA	135 On-Demand
KEENAIRE INC	KKEA	135 On-Demand
LAZY S FLYING SERVICE	KVEA	135 On-Demand
RHOADES AVIATION INC	JRAA	121 Supplemental
TRI STATE AERO INC	AHTA	135 On-Demand
AIR CHARTER EXPRESS INC	X31A	135 On-Demand
BOWMAN AVIATION INC	BLVA	135 On-Demand
CARTER, CRAIG S	UKCA	135 On-Demand
CONSOLIDATED CHARTER SERVICE INC.	CBGA	135 On-Demand
CORPORATE AIR INC	M7GA	135 On-Demand
EXECUTIVE AVIATION INC	E94A	135 On-Demand
FORT WAYNE AIR SERVICE INC.	BLBA	135 On-Demand
INTEGRATED AIRWAYS INC	KWTA	135 On-Demand
K-AIR LEASING INC	OCGA	135 On-Demand
SUMMIT CITY AIR CHARTER INC.	JHYA	135 On-Demand
TRAVEL MANAGEMENT COMPANY LTD.	T17A	135 On-Demand
KANSAS:		
HUSTED AND HUSTED AIR CHARTER INC.	IJTA	135 On-Demand
KANSAS CITY AVIATION CENTER INC.	AMYA	135 On-Demand
ACE AVIATION CORPORATION	BWWA	135 On-Demand
CHARTERS INC	QCHA	135 On-Demand
KANSAS AIR CENTER INC	CXIA	135 On-Demand
OLIVER AVIATION INC	OAVA	135 On-Demand
PFEIFER, CAROL AND OR STEVEN J.	IURA	135 On-Demand
RAYTHEON AIRCRAFT SERVICES INC.	ERYA	135 On-Demand
SCHREIB-AIR INC	S31A	135 On-Demand
YINGLING AIRCRAFT INC	BWRA	135 On-Demand
SUNSET AERO SERVICES INC	SSTA	135 On-Demand
KENTUCKY:		
CENTRAL AMERICAN AIR TAXI INC.	AZWA	135 On-Demand
COMMONWEALTH HELICOPTERS INC.	C90A	135 On-Demand
DON DAVIS AVIATION INC	FGBA	135 On-Demand
EMERALD AVIATION INC	INKA	135 On-Demand
HORIZON AVIATION INC	QZNA	135 On-Demand
KENTUCKY AIRMOTIVE INC	KKIA	135 On-Demand
MIDLINE AIR FREIGHT	E7TA	135 On-Demand
NEW IMAGE AIR INC	N9IA	135 On-Demand
PEGASUS AIRWAYS INC	PK9A	135 On-Demand
SUNWORLD INTERNATIONAL AIRLINES INC.	SQ7A	121 Domestic/Flag
LOUISIANA:		
AIR RELDAN INC	HEBA	135 On-Demand
AMERICAN AVIATION LLC	A05A	135 On-Demand
BATON ROUGE AIR CHARTER AND MANAGEMENT.	GOWA	135 On-Demand
BUTLER AVIATION INC	YBBA	135 On-Demand
CAPITAL CITY AIR SERVICE INC.	L7WA	135 On-Demand
CHARLIE HAMMONDS FLYING SERVICE INC.	HMDA	135 On-Demand
EXCEL AIR CHARTER L L C	L5GA	135 On-Demand
GULF STATES AIR INC	SG6A	135 On-Demand
INDUSTRIAL HELICOPTERS INC.	IIFA	135 On-Demand
LOUISIANA AIRCRAFT COMPANIES INC.	UGIA	135 On-Demand
MAYEUXS FLYING SERVICE INC.	KEVA	135 On-Demand
MCMAHAN AVIATION INC	GQ8A	135 On-Demand
PETROLEUM HELICOPTERS INC.	HEEA	135 On-Demand
PRIORITY AIR INC	FTMA	135 On-Demand
REILLY ENTERPRISES L L C	RE0A	135 On-Demand
SEA AIR SERVICE INC	KBNA	135 On-Demand
SOUTHERN HELICOPTERS INC.	HDCA	135 On-Demand
TIGER ATHLETIC FOUNDATION.	OTFA	135 On-Demand
TRANS GULF SEAPLANE SERVICE INC.	HEIA	135 On-Demand
TRANS-GULF AVIATION INC	TFUA	135 On-Demand
VINTAGE WINGS AND THINGS	VWFM	135 Air Operator
CASINO AIRLINES INC	C37A	121 Domestic/Flag
MASSACHUSETTS:		
HYANNIS AIR SERVICE INC	HYIA	135 Commuters
ISLAND SHUTTLE INC	ISIA	135 On-Demand
WIGGINS AIR CARGO INC	W6CA	135 On-Demand
ADVANCE MATERIALS CORP	ADBA	135 On-Demand
BULLOCK CHARTER INC	FUGA	135 On-Demand
MARYLAND:		
ODYSSEY TRANSPORT INC	OTYA	135 On-Demand
FREEDOM AIR INC	FEVA	135 On-Demand
STREAMLINE AVIATION INC	W28A	135 On-Demand
HELIVISION L L C	H8VA	135 On-Demand
MAINE:		
BILLS FLYING SERVICES	PLOA	135 On-Demand
CALDEN, C HARVEY	H7VA	135 On-Demand
COASTAL HELICOPTERS INC	YBMA	135 On-Demand
COLEMANS FLYING AND GUIDE SERVICE.	CMGA	135 On-Demand
DEARBORN AVIATION INC	D50A	135 On-Demand
DOWNEAST AIRLINES INC	LHAA	135 On-Demand
EASTERN AIRCRAFT AND SALES INC.	BFWA	135 On-Demand
FOLSOMS AIR SERVICE INC	BGAA	135 On-Demand
JACKS AIR SERVICE INC	FSNA	135 On-Demand
LIBBY CAMPS	BPLA	135 On-Demand
MAINE AVIATION CORP	FSEA	135 On-Demand

FAA FLIGHT STANDARDS SERVICE—YEAR 2000 READINESS QUESTIONNAIRE NON-RESPONDENTS LIST—Continued

[As of October 4, 1999]

State and company name	Designator	Aggregate
MAINE INSTRUMENT FLIGHT	BFYA	135 On-Demand
MINSCHWANER, NEIL	XYEA	135 On-Demand
NAPLES SEAPLANE SERVICE INC.	BN6A	135 On-Demand
OPTIMAIR INC	O9PA	135 On-Demand
PLAIN AIR FLYING SERVICE	POVA	135 On-Demand
QUODDY AIR	QDZA	135 On-Demand
SKINNER, RICHARD S	FRQA	135 On-Demand
SKYWAGON CORPORATION INC.	I5MA	135 On-Demand
STRANG, JAMES W	NXYA	135 On-Demand
MICHIGAN:		
A AND R AVIATION SERVICES	R9RA	135 On-Demand
AIRCRAFT MANAGEMENT SERVICES INC.	I4MA	135 On-Demand
BROOKS AERO INC	EANA	135 On-Demand
BUTTERWORTH AERO MED INC.	BTEA	135 On-Demand
HOFFMAN FLYING SERVICE INC.	EBEA	135 On-Demand
KELLEY AIRCRAFT LEASING CO.	QKYA	135 On-Demand
LOO, ROBERT H	ECDA	135 On-Demand
SPARTA AVIATION SERVICE INC.	EAVA	135 On-Demand
SUPERIOR AVIATION INC	EATA	135 On-Demand
TRAVEL CONSULTANTS AVIATION INC.	T6FA	135 On-Demand
WEST MICHIGAN AIR CARE INC.	ZYWA	135 On-Demand
ASTRO STAR AVIATION INC	JOPA	135 On-Demand
HELICOPTERS PLUS L L C	HZ9A	135 On-Demand
RILEY AVIATION INC	BLIA	135 On-Demand
AEROGENESIS AVIATION INC	XG9A	135 On-Demand
AIR GO PACK	P1KA	135 On-Demand
BIJAN AIR INC	BJUA	135 On-Demand
CORPORATE AIR MANAGEMENT INC.	CMHA	135 On-Demand
DETROIT RED WINGS	DWMM	125 Air Operator
EAGLE AVIATION INC	EGUA	135 On-Demand
ERIM INTERNATIONAL INC	ERIM	125 Air Operator
EVANS AIR CORPORATION	EQHA	135 On-Demand
FLIGHT ONE INC	BTCA	135 On-Demand
FLINT AVIATION SERVICES INC.	BSRA	135 On-Demand
H B AVIATION AND LEASING INC.	H8BA	135 On-Demand
KITTY HAWK CHARTER INC	KKFA	135 On-Demand
MCCARDELL PROPERTIES INC.	M75A	135 On-Demand
MCMAHON HELICOPTER SERVICES INC.	BUBA	135 On-Demand
MORTON HELICOPTERS	M37A	135 On-Demand
PONTIAC FLIGHT SERVICE INC.	PONA	135 On-Demand
ROUNDBALL ONE	REOB	125 Air Operator
ROYAL AIR FREIGHT INC	BUHA	135 On-Demand
SUBURBAN AVIATION INC	S41A	135 On-Demand
SYSTEC 2000 INC	S6YA	135 On-Demand
THOR PROPERTIES INC	T6PA	135 On-Demand
TRI-STAR EXPRESS INC	T5RA	135 On-Demand
MINNESOTA:		
A B FLIGHT SERVICES INC	A2BA	135 On-Demand
ADVENTURE BOUND SEAPLANES INC.	X1BA	135 On-Demand
AIR CARE EXECUTIVE CHARTER AND SECURITY INC.	X15A	135 On-Demand
AIR D INC	AA6A	135 On-Demand
ANOKA FLIGHT TRAINING INC	VL6A	135 On-Demand
AVIATION CHARTER INC	ABOA	135 On-Demand
B A G S INC	YNNA	135 On-Demand
BAUDETTE FLYING SERVICE INC.	BTFA	135 On-Demand
BRAINERD HELICOPTER SERVICE INC.	BRNA	135 On-Demand
ELMO AIR CENTER INC	CPGA	135 On-Demand
GENERAL AVIATION SERVICES INC.	GVKA	135 On-Demand
GUNDERSON, GREGORY RAHN.	KWJA	135 On-Demand
HELICOPTER FLIGHT INC	BJDA	135 On-Demand
HORIZON AVIATION INC	H3ZA	135 On-Demand
JW AVIATION	JVWA	135 On-Demand
MIDWEST AVIATION DIV OF SOUTHWEST A.	SOWA	135 On-Demand
NAVAIR INC	N6VA	135 On-Demand
SCOTTS HELICOPTER SERVICE INC.	CUHA	135 On-Demand
SUN AMERICA LEASING CORP.	YOLA	135 On-Demand
TACONITE AVIATION INC	BCRA	135 On-Demand
THUNDERBIRD AVIATION INC	TBDA	135 On-Demand
MISSOURI:		
A–1 AIR CARRIERS INC	JKNA	135 On-Demand
AEROFLITE INC	X76A	135 On-Demand
BROOKS INTERNATIONAL AVIATION.	B42A	135 On-Demand
C A LEASING INC	C18A	135 On-Demand
EXECUTIVE BEECHCRAFT STL INC.	DEBA	135 On-Demand
MC CORMICK AVIATION INC	M81A	135 On-Demand
METROPOLITAN HELICOPTERS INC.	DFQA	135 On-Demand
MID-AMERICA AVIATION INC	MDDA	135 On-Demand
MULTI–AERO INC	MUIA	135 On-Demand
OZARK AIR CHARTER INC	OZ8A	135 On-Demand
PROVIDENCE AIRLINE CORP	PTLA	121 Domestic/Flag
SCOTT, MARVIN L	MVNA	135 On-Demand
ST LOUIS HELICOPTER AIRWAYS INC.	DFMA	135 On-Demand
SUM AIR SERVICES INC	SXUA	135 On-Demand
THUNDER AIR CHARTER INC	TODA	135 On-Demand
TRANS MO AIRLINES INC	XUIA	135 Commuters
WEHRMAN, HOWARD Q	DEKA	135 On-Demand
AIR ONE INC	ONNA	135 On-Demand
CROUGH AG AVIATION	CRHA	135 On-Demand
D AND D AVIATION INC	DOZA	135 On-Demand
DE JARNETTE, RONALD W SR	DJMA	135 On-Demand
EXECUTIVE BEECHCRAFT INC	AKGA	135 On-Demand
PRO FLIGHT AIR INC	JDZA	135 On-Demand
SAVE A CONNIE INC	S80M	125 Air Operator
TABLE ROCK HELICOPTERS INC.	TQBA	135 On-Demand
TIG–AIR AVIATION INC	AKFA	135 On-Demand
MISSISSIPPI:		
APOLLO AVIATION CO INC	QAIA	135 On-Demand
HIGHER EDUCATION INC	F95A	135 On-Demand
JACKSON AIR CHARTER INC	JC9A	135 On-Demand
MERCURY AVIATION INC	MSQA	135 On-Demand
RAS INC	EWPA	135 On-Demand
MONTANA:		
3–D AVIATION INC	XTGA	135 On-Demand
ARMENT, CHARLES RANDALL	OGZA	135 On-Demand
BUTTE AVIATION INC	BTJA	135 On-Demand
CENTRAL COPTERS INC	JOLA	135 On-Demand
CHARLES TROWER AVIATION INC.	HTHA	135 On-Demand
COLDWELL, JERRY	HSZA	135 On-Demand
COLTON, STANLEY G	NBOA	135 On-Demand
CONQUEST AVIATION L L C	L2VA	135 On-Demand
DILLON FLYING SERVICE INC	EFSA	135 On-Demand
ELGEN, DENNIS P	ELGA	135 On-Demand
FRANCES MAHON DEACONESS HOSPITAL.	FMMA	135 On-Demand
GALLATIN FLYING SERVICE INC.	JHTA	135 On-Demand
GLIKO AVIATION INC	CXOA	135 On-Demand
HOEM, LAURENCE R	LBPA	135 On-Demand
HOLMAN ENTERPRISES	CXSA	135 On-Demand
HOMESTEAD HELICOPTERS INC.	H1OA	135 On-Demand
KINDEN, KEITH A	HTEA	135 On-Demand
LAIRD, ERLEND D	DCZA	135 On-Demand
LEADING EDGE AVIATION SERVICES INC.	LXGA	135 On-Demand
LONAIRE FLYING SERVICE INC.	L15A	135 On-Demand
LYNCH FLYING SERVICE INC	HSRA	135 On-Demand
MINUTEMAN AVIATION INC	MINA	135 On-Demand
MONTANA FLYING MACHINES L L C.	M26A	135 On-Demand
MUSTANG AVIATION INC	M06A	135 On-Demand
NEWTON, DONALD H	NAVA	135 On-Demand
PRAIRIE AVIATION INC	VPEA	135 On-Demand
RED EAGLE AVIATION INC	IKLA	135 On-Demand
SUNBIRD AVIATION INC	CXNA	135 On-Demand
WOLFF AVIATION	QWFA	135 On-Demand
NORTH CAROLINA:		
AIR HOLDINGS INC	TL6A	135 On-Demand
DAIRY AIR INC	FFPA	135 On-Demand
EAST AIR INC	ET6A	135 On-Demand
EASTWIND AIRLINES INC	E9WA	121 Domestic/Flag
GREENWOOD HELICOPTERS INC.	GHYA	135 On-Demand
ISO AERO SERVICE INC	ISOA	135 On-Demand
KINGSLAND AIR INC	K42A	135 On-Demand
MC CORMACK, JAMES G	FPCA	135 On-Demand
NORTH STATE AIR SERVICE INC.	NSTA	135 On-Demand
ORION AVIATION L L C	O5RA	135 On-Demand
SEAFLIGHT L L C	S08A	135 On-Demand
SEQUIN ENTERPRISES INC	O5NA	135 On-Demand
SOUTHEAST AIR CHARTER INC.	ZQUA	135 On-Demand
TRADEWINDS AIRLINES INC	WRNA	121 Supplemental
TRIANGLE AIR SERVICE LLC	T15A	135 On-Demand
ASHEVILLE AIR CHARTER INC	X26A	135 On-Demand
CAROLINAS HISTORIC AVIATION COMMISSION.	I8CM	125 Air Operator
CORPORATE AIR FLEET INC	SX0A	135 On-Demand
PIEDMONT AIR TRANSPORT INC.	P2DB	125 Air Operator
PROFILE AVIATION CENTER INC.	LLOA	135 On-Demand
SABER CARGO AIRLINES INC	SBRA	135 On-Demand
SPITFIRE AVIATION INC	S1FA	135 On-Demand
U S AVIATION L L C	D4KA	135 On-Demand
US HELICOPTERS INC	USXA	135 On-Demand
NORTH DAKOTA:		
CAPITAL AVIATION CORPORATION.	CTQA	135 On-Demand
EXECUTIVE AIR TAXI CORP	CTYA	135 On-Demand
FOSS AND MEIER INC	CTIA	135 On-Demand
GFK FLIGHT SUPPORT INC	G7FA	135 On-Demand
WAKEFIELD FLIGHT SERVICE INC.	CTWA	135 On-Demand
NEBRASKA:		
ENGLES AIRCRAFT INC	JGXA	135 On-Demand
NEW HAMPSHIRE:		
AGILE AIR SERVICE INC	A5GA	135 On-Demand
AIR DIRECT AIRWAYS	DIPA	135 On-Demand
ALLIED AIR FREIGHT INC	F6GA	135 On-Demand
JET AIRWAYS INC	JKXA	135 On-Demand
LAKES REGION AVIATION INC	L9RA	135 On-Demand
OIA AIR CORP	OIBA	135 On-Demand
RIGHTWAY AVIATION INC	XWRA	135 On-Demand
SILVER RANCH AIRPARK INC	FTDA	135 On-Demand
NEW JERSEY:		
ANALAR CO	CZIA	135 On-Demand
SOMERSET AIR SERVICE INC	CECA	135 On-Demand
TAFT AIR INC	TFRA	135 On-Demand
BERLIN AIRLIFT HISTORICAL FOUNDATION.	BFOM	125 Air Operator
EQUIPMNENT SUPPLY CO INC.	EQ6A	135 On-Demand
GPI AVIATION INC	DINA	135 On-Demand
HOBAN HELICOPTERS INC	H4FA	135 On-Demand
O'BRIEN AVIATION INC	DIZA	135 On-Demand
PEN TURBO INC	NW6M	125 Air Operator
ROYAL AIR INC	RAOA	135 On-Demand
SKYWAYS EXPRESS INC	S9XA	135 On-Demand
KIWI INTERNATIONAL HOLDINGS INC.	K3HA	121 Domestic/Flag
LIBERTY HELICOPTERS INC	MHIA	135 On-Demand
SCHIAVONE CONSTRUCTION CO.	BKRA	135 On-Demand
SPARTA AVIATION INC	S3ZA	135 On-Demand
CHELSEA AIR SHUTTLE INC	X27A	135 On-Demand
NEW MEXICO:		
ADAMS, BRUCE M	GNVA	135 On-Demand
AEROWEST MANAGEMENT SERVICES INC.	PBKA	135 On-Demand
AIR/AMERICA INC	A2WA	135 On-Demand
B AND M ENTERPRISES INC	GNXA	135 On-Demand
EAGLE FLYING SERVICE INC	XZZA	135 On-Demand
EDELWEISS HOLDINGS INC	E5HA	135 commuters
EDS FLYING SERVICE INC	GRXA	135 On-Demand
FLYING Z AVIATION INC	XFZA	135 On-Demand
FOUR CORNERS AVIATION INC.	GONA	135 On-Demand
GALLUP FLYING SERVICES INC.	GNMA	135 On-Demand
KEMP AVIATION INC	K3IA	135 On-Demand
MANSELL AVIATION INC	M9AA	135 On-Demand
MC CAUSLAND AVIATION INC	GRUA	135 On-Demand
MOUNTAIN AVIATION ENTERPRISES LTD.	XMNA	135 On-Demand
NORD AVIATION INC	NRDA	135 On-Demand
ROSS AVIATION INC	ROSA	121 Supplemental
SEVEN BAR FLYING SERVICE INC.	GNLA	135 On-Demand
SILVERWINGS AIR AMBULANCE LTD COMPANY.	X93A	135 On-Demand
SOUTH AERO INC	GNBA	135 On-Demand
MC RAE AVIATION SERVICES INC.	IFOA	135 On-Demand
NEVADA:		
ALPINE LAKE AVIATION INC	A4LA	135 On-Demand
AMERICAN MEDFLIGHT INC	XPCA	135 On-Demand
FALLON AIRMOTIVE	XFLA	135 On-Demand
HEAVERNE, CLIFFORD J	ARUA	135 On-Demand
HUTT AVIATION INC	HZNA	135 On-Demand
KAJANS, FRED A	GJGA	135 On-Demand
NEVADA-CAL AERO INC	VLJA	135 On-Demand
PREMIER AVIATION INC	MCIA	135 On-Demand
REMLINGER, JON RICHARD	T7DA	135 On-Demand
RENO FLYING SERVICE INC	IPMA	135 On-Demand
SILVER SKY AVIATION INC	SS9A	135 On-Demand
SKYDANCE OPERATIONS INC	NCNA	135 On-Demand
TEM ENTERPRISES INC	BJNA	121 Domestic/Flag
AEROTECH SPECIALISTS INC	O9RA	135 On-Demand
AIR BAJA CALIFORNIA INC	ODUA	135 On-Demand
AVIATION VENTURES INC	XV6A	135 On-Demand
DESERT SOUTHWEST AIRLINES.	JBFA	135 On-Demand
ELAN EXPRESS INC	E4EB	125 Air Operator
HELI USA AIRWAYS INC	S9HA	135 On-Demand
IMPERIAL PALACE AIR LTD	IPEM	125 Air Operator
KING AIRELINES INC	KNFA	135 On-Demand
LAKE MEAD AIR INC	DOQA	135 On-Demand
NATIONAL AIRLINES INC	N8TA	121 Domestic/Flag
ROSS, THOMAS C	TCRA	135 On-Demand
SEVEN DELTA ROMEO	N9DA	135 On-Demand
SUNDANCE HELICOPTERS INC.	KBMA	135 On-Demand
NEW YORK:		
ADIRONDACK AIR INC	AI6A	135 On-Demand
ADIRONDACK HELICOPTERS INC.	XH5A	135 On-Demand
AMERICAN COMMERCIAL EXPRESS INC.	EUXA	135 On-Demand
BIRDS SEAPLANE SERVICE INC.	BRBA	135 On-Demand
G K W LEASING CORP	WNXA	135 On-Demand
HELICORP INC	T4JA	135 On-Demand
LAKE PLACID AIRWAYS INC	BPYA	135 On-Demand
PANDA AIR LTD	PD9A	135 On-Demand
TEAM AIR INC	QTZA	135 On-Demand
AVIATION RESOURCES INC	KR7A	135 On-Demand

FAA FLIGHT STANDARDS SERVICE—YEAR 2000 READINESS QUESTIONNAIRE NON-RESPONDENTS LIST—Continued

[As of October 4, 1999]

State and company name	Designator	Aggregate
EAST COAST AVIATION SERVICES LTD.	ECAA	135 On-Demand
M AND J AERONAUTICS 3WF INC.	M04A	135 On-Demand
NORTHEASTERN AVIATION CORP.	AOYA	135 On-Demand
T D AVIATION INC	TD9A	135 On-Demand
VENTURA AIR SERVICES INC	APMA	135 On-Demand
WALL STREET HELICOPTERS	APTA	135 On-Demand
BAIR HELICOPTERS L L C	B9NA	135 On-Demand
CORNING INCORPORATED	IH1M	135 On-Demand
COSTA, JOSEPH	BJGA	135 On-Demand
ELMIRA-CORNING AIR SERVICE INC.	EL6A	135 On-Demand
GREAT CIRCLE AVIATION INC	G4CA	135 On-Demand
GREAT NORTHERN CHARTER INC.	YNYA	135 On-Demand
MK AVMART INC	MK6A	135 On-Demand
ROCHESTER AVIATION INC	OROA	135 On-Demand
TAYLOR AVIATION INC	T5YA	135 On-Demand
WELLSVILLE FLYING SERVICE INC.	BJEA	135 On-Demand
NEW ENGLAND HELICOPTER INC.	UITA	135 On-Demand
TOTAL FLIGHT MANAGEMENT INC.	TFMA	135 On-Demand
LEBANON AIRPORT DEVELOPMENT CORP.	IGZA	135 On-Demand
OHIO:		
SEYON AVIATION INC	HRZA	135 On-Demand
CORPORATE WINGS SERVICES CORPORATION.	DJFA	135 On-Demand
ALL STAR HELICOPTERS INC	MG7A	135 On-Demand
BROOKVILLE AIR PARK INC	CVXA	135 On-Demand
CIN-AIR LP	CYWA	135 On-Demand
D AND K AVIATION INC	D05A	135 On-Demand
DIRECT AIR SERVICE	D5AA	135 On-Demand
JET AIR INC	CWUA	135 On-Demand
NORTHERN AIRMOTIVE CORP	NAQA	135 On-Demand
SUNBIRD AIR SERVICES INC	CWTA	135 On-Demand
AEROHIO AVIATION CORPORATION.	O5HA	135 On-Demand
AIR CAMIS INC	CMRA	135 On-Demand
AIR Z FLYING SERVICE INC	ZFDA	135 On-Demand
AIRWOLF HELICOPTERS INC	A4WA	135 On-Demand
AVIATION PROFESSIONALS INC.	P65A	135 On-Demand
CASTLE AVIATION INC	CSJA	135 On-Demand
CORPORATE WINGS INC	DSEA	135 On-Demand
KEMPTHORN INC	K2MA	135 On-Demand
PEREGRINE AVIATION INC	PGNA	135 On-Demand
PILOT MANAGEMENT INCORPORATED.	GKHA	135 On-Demand
WHITE AIR INC	DTCA	135 On-Demand
WINNER AVIATION CORPORATION.	W3NA	135 On-Demand
CVG AVIATION INC	CVGA	135 On-Demand
OKLAHOMA:		
AIR FLITE INC	IEEA	135 On-Demand
CENTRAL AIR SOUTHWEST INC.	ZJWA	135 On-Demand
CORPORATE AVIATION SERVICES INC.	HGTA	135 On-Demand
CORPORATE HELICOPTERS	CXEA	135 On-Demand
D AND D AVIATION INC	DQUA	135 On-Demand
DOWNTOWN AIRPARK INC	VR1A	135 On-Demand
ECKLES AIRCRAFT CO	E8AA	135 On-Demand
FALCON AIR CHARTERS LLC	F1CA	135 On-Demand
H L K ENTERPRISES INC	H7KA	135 On-Demand
INTERNATIONAL BUSINESS AIRCRAFT INC.	HMNA	135 On-Demand
JOHNSON, J P	HFXA	135 On-Demand
LITCHFIELD FLYING LTD	LFQA	135 On-Demand
T S P INC	VXIA	135 On-Demand
TULSAIR BEECHCRAFT INC	HMGA	135 On-Demand
OREGON:		
ADVANCED AVIATION SYSTEMS CORP.	GDAA	135 On-Demand
AERIAL PHOTOGRAPHY AND SURVEILLANCE CO INC.	P35A	135 On-Demand
AIR CHARTERS OF OREGON	LNFA	135 On-Demand
AVIA FLIGHT SERVICES INC	GPQA	135 On-Demand
BERTEA AVIATION INC	GMDA	135 On-Demand
BUSWELL AVIATION INC	KCZA	135 On-Demand
C AND C AVIATION INC	MGLA	135 On-Demand
DESERT AIR NORTH WEST	R7WA	135 On-Demand
E-3 HELICOPTERS INC	D2EA	135 On-Demand
EMANUEL HOSPITAL	LOVA	135 On-Demand
ERICKSON, JACK	J8KM	135 On-Demand
GOLDEN EAGLE HELICOPTERS INC.	GDCA	135 On-Demand
GRAYBACK AVIATION INC	YGBA	135 On-Demand
H AND H AVIATION INC	OHGA	135 On-Demand
HAGGLUND, CARL D	GLGA	135 On-Demand
HELI-JET CORP	GDMA	135 On-Demand
HENDERSON AVIATION CO	GCMA	135 On-Demand
HERMISTON AVIATION INC	JAXA	135 On-Demand
HILLSBORO AVIATION INC	LJEA	135 On-Demand
HOOD RIVER AIRCRAFT INC	GEUA	135 On-Demand
HORIZONS UNLIMITED AIR INC.	HXUA	135 On-Demand
J C SQUARED INC	QJUA	135 On-Demand
KEENAN, JOSEPH E AND LORI L.	WPIA	135 On-Demand
KENDALL, STANLEY F	S39A	135 On-Demand
NINE FOUR TWO THREE CHARLIE INC.	TRDA	135 On-Demand
OMNI INC	OMNA	135 On-Demand
PACIFIC FLIGHTS INC	GCZA	135 On-Demand
PACIFIC GAMBLE ROBINSON CO.	GLWA	135 On-Demand
PARAMOUNT AVIATION INC	PMTA	135 On-Demand
PREMIER JETS INC	CMWA	135 On-Demand
RAINBOW HELICOPTERS INC	QRNA	135 On-Demand
REESE BROTHERS OF OREGON INC.	PRBA	135 On-Demand
RELIANT AVIATION INC	RELA	135 On-Demand
SNOWY BUTTE HELICOPTERS INC.	S83A	135 On-Demand
SOUTH COAST AVIATION INC	S50A	135 On-Demand
SUNSET SCENIC FLIGHTS INC	ZUNA	135 On-Demand
TERRA HELICOPTERS INC	GKSA	135 On-Demand
THE FLIGHT SHOP INC	THGA	135 On-Demand
TROUTDALE AVIATION INC	TR6A	135 On-Demand
WILDERNESS AIR CHARTERS INC.	WL9A	135 On-Demand
BAKER AIRCRAFT INC	GLQA	135 On-Demand
CIRRUS AIR L L C	C58A	135 On-Demand
EAGLE CAP AVIATION INC	YYEA	135 On-Demand
PENNSYLVANIA NCA:		
AERO EXECUTIVE SERVICES INC.	XE8A	135 On-Demand
DAVISAIR INC	DV7A	135 On-Demand
DELLARIA AVIATION INC	VJTA	135 On-Demand
EASTERN MEDI-VAC INC	VAJA	135 On-Demand
LAUREL AVIATION INC	L6VA	135 On-Demand
PENN AIR INC	BCBA	135 On-Demand
PRIMEAIR INC	P67A	135 On-Demand
PRO FLIGHT CENTER INC	P6GA	135 On-Demand
SCAIFE FLIGHT OPERATIONS	RJBM	125 Air Operator
GRANITE SALES INC	KT7A	135 On-Demand
INNOVATIVE AIR HELICOPTER INC.	I3HA	135 On-Demand
LEADING EDGE AVIATION INC	LE7A	135 On-Demand
LR SERVICES INC	CERA	135 On-Demand
MARC FRUCHTER AVIATION INC.	CDKA	135 On-Demand
TECH AVIATION SERVICE INC	TVMA	135 On-Demand
BRANDYWINE HELICOPTERS	YWIA	135 On-Demand
DECK, CLYDE E	AHBA	135 On-Demand
JOHNSTON, CRAIG J	JZQA	135 On-Demand
MILLS BROTHERS AVIATION	M2BA	135 On-Demand
OAK RIDGE AVIATION	HVGA	135 On-Demand
THOROUGHBRED AVIATION LTD.	TH8A	135 On-Demand
HELICOPTER SERVICES INC	HRVA	135 On-Demand
KEYSTONE HELICOPTER CORP.	EGRA	135 On-Demand
NORTHEAST AIRCRAFT CHARTER INC.	NYIA	135 On-Demand
STERLING CORP	JQVA	135 On-Demand
UNIVERSITY FLIGHT SERVICES.	U44A	135 On-Demand
PUERTO RICO:		
AIR BORINQUEN INC	B26A	135 On-Demand
AIR CALYPSO INC	Y3CA	135 On-Demand
AIR CARGO NOW	C3QA	135 On-Demand
AIR CAROLINA INC	OAWA	135 On-Demand
AIR CHARTER INC	UOIA	135 On-Demand
AIR CULEBRA INC	I1CA	135 On-Demand
AIR EXECUTIVE INC	E82A	135 On-Demand
AIR MANGO LTD	A1NA	135 On-Demand
AIR SUNSHINE INC	RSHA	135 Commuters
AMY AIR	I5RA	135 On-Demand
BENITEZ, PEDRO FELICIANO	HREA	135 On-Demand
CARIBBEAN HELICORP	C26A	135 On-Demand
CITY WINGS INC	W5NA	135 On-Demand
COPTERS CORP	IJKA	135 On-Demand
CORPORATE AIR CHARTER INC.	QOAA	135 On-Demand
DIAZ AVIATION CORP	FITA	135 On-Demand
DODITA AIR CARGO INC	WNRB	125 Air Operator
FAJARDO AIR EXPRESS INC	C7JA	135 On-Demand
FC AIR INC	XFIA	135 On-Demand
ICARUS CARIBBEAN CORP	IISA	135 On-Demand
ISLA GRANDE FLYING SCHOOL AND SERVI.	FHSA	135 On-Demand
ISLA NENA AIR SERVICE INC	IN9A	135 On-Demand
M AND N AVIATION	XXDA	135 On-Demand
MBD CORP	FIUA	135 On-Demand
PEREZ, LUIS A	A6PA	135 On-Demand
PRO-AIR INC	POEA	135 On-Demand
PRO-AIR SERVICES	FHFA	135 On-Demand
PUERTO RICO AIRWAYS	P8YA	121 Domestic/Flag
ROBLEX AVIATION COMPANY	R8XA	135 On-Demand
SAN JUAN JET CHARTER INC	XJUA	135 On-Demand
VIEQUES AIR LINK INC	VLIA	135 Commuters
RHODE ISLAND:		
AQUIDNECK AVIATION INC	UU7A	135 On-Demand
RLV INDUSTRIES INC	R5VA	135 On-Demand
SOUTH CAROLINA:		
ACE AVIATION	A8CA	135 On-Demand
AIRSTREAM AVIATION INC	HX0A	135 On-Demand
ANDERSON AVIATION INC	FEAA	135 On-Demand
ARDALL INC	FEJA	135 On-Demand
CAROLINA AIR SERVICES INC	C7AA	135 On-Demand
CRACKER BOX CORPORATION.	X8BA	135 On-Demand
EAGLE AVIATION INC	FEHA	135 On-Demand
SINTRAIR INC	I5SA	135 On-Demand
SPECIAL SERVICES CORPORATION.	Z3SA	135 On-Demand
STEVENS AVIATION INC	VIBA	135 On-Demand
SYSTEMS SOFT INC	C2BA	135 On-Demand
TYLER AVIATION INC	FEFA	135 On-Demand
WHITES AVIATION INC	FERA	135 On-Demand
SOUTH DAKOTA:		
JOHNSON FLYING SERVICES	EKWA	135 On-Demand
TENNESSEE:		
AVERITT AIR CHARTER INC	N9VA	135 On-Demand
C AND G AIRCRAFT SALES INC.	FKDA	135 On-Demand
CHOO CHOO AVIATION L L C	Q75A	135 On-Demand
COLEMILL ENTERPRISES INC	DVIA	135 On-Demand
CORPORATE AIR FLEET INC	VUCA	135 On-Demand
DERRYBERRY, WILLIS CLAY	FJGA	135 On-Demand
DICKSON AIR CENTER L L C	D8KA	135 On-Demand
EDWARDS AND ASSOCIATES INC.	FKFA	135 On-Demand
EXECUTIVE AIRCRAFT SERVICES INC.	XEOA	135 On-Demand
FORWARD AIR INTERNATIONAL AIRLINES INC.	L17A	135 On-Demand
FOSTER AIRCRAFT INC	F6RA	135 On-Demand
GLOBAL AIR SERVICES INC	G8SA	135 On-Demand
GRAHAM, HAROLD	G3HA	135 On-Demand
HELICOPTER CORPORATION OF AMERICA.	NZCA	135 On-Demand
MAYES, NORMAN C	DVQA	135 On-Demand
PROFESSIONAL AIR CHARTER INC.	OYPA	135 On-Demand
SILVER AVIATION INC	GJSA	135 On-Demand
SPRAY, CARL	FJXA	135 On-Demand
WINGS OF EAGLES AIR SERVICE INC.	WE8A	135 On-Demand
XPRESS AIR INC	XIGA	135 On-Demand
AIR NORTH LTD	A9NA	135 On-Demand
AMERICAN HEALTH AVIATION INC.	A8HA	135 On-Demand
BATTLES, RICHARD	ZEGA	135 On-Demand
EASTERLING, ELLIS R III AND MELODI J.	EEMA	135 On-Demand
GILDING, BERNARD	FLDA	135 On-Demand
MIDSOUTH AVIATION ALLIANCE CORP.	M4DA	135 On-Demand
RICHARDS AVIATION INC	FLHA	135 On-Demand
SOUTHERN FLYING SERVICE	YZLA	135 On-Demand
SWOR AVIATION	SVKA	135 On-Demand
MONARCH AIRCRAFT INC	M3AM	125 Air Operator
TEXAS:		
GE CAPITAL AVIATION SERVICES INC.	G8EM	125 Air Operator
JULIES AIRCRAFT SERVICE INC	JULA	135 On-Demand
AEROVATION INC	QIAA	135 On-Demand
BIG SKY AIR INC	1YBM	125 Air Operator
C AND S AVIATION LTD	C4SA	135 On-Demand
CHAMPIONSHIP AIRWAYS	MV9B	125 Air Operator
CHERRY-AIR INC	CEDA	135 On-Demand
DYNAMIC VENTURES INC	DYMA	135 On-Demand
EXECUTIVE AIRE EXPRESS INC	E18A	135 On-Demand
EXECUTIVE AIRLINES COMPANY INC.	E4LA	135 On-Demand
FORENSIC SERVICES INC	IDWA	135 On-Demand
G T A INVESTMENTS INC	XGNA	135 On-Demand
HALL AIRWAYS INC	H05A	135 On-Demand
J O H AIR INC	KVDA	135 On-Demand
MARTINAIRE EAST INC	MAQA	135 On-Demand
MARTINAIRE INC	MT9A	135 On-Demand
NORTHERN AIR INC	N6TM	125 Air Operator
OMNIFLIGHT HELICOPTERS INC.	RMXA	135 On-Demand
STANLEY, JACKY GLEN	QJGA	135 On-Demand
TXI AVIATION INC	GQRA	135 On-Demand
EXPRESS ONE INTERNATIONAL INC.	EISA	121 Supplemental
LEGEND AIRLINES INC	L1GA	121 Domestic/Flag
ACUNA, EDWARD SR	GWLA	135 On-Demand
AIR AMERICA JET CHARTER INC.	VKMA	135 On-Demand
AIR CHARTERS INC	YWGA	135 On-Demand
AIR ROUTING INTERNATIONAL CORP.	VRIA	135 On-Demand
ARAMCO ASSOCIATED CO	ASCB	125 Air Operator
BASEOPS INTERNATIONAL INC.	UBIA	135 On-Demand
EVERGREEN HELICOPTERS INTERNATIONAL INC.	EGIA	135 On-Demand
EXECUTIVE AIR CHARTER	E1XA	135 On-Demand
HUTCH AVIATION CENTER INC	XYGA	135 On-Demand
JMC AVIATION INC	J3CA	135 On-Demand
P K CHARTER INC	PKCA	135 On-Demand
PROJECT ORBIS INC	POIM	125 Air Operator
SALAIKA, TIMOTHY ALBERT	GWHA	135 On-Demand
TEM-KIL COMPANY INC	TK8A	135 On-Demand
THUNDERBIRD AIRWAYS INC	T4BA	135 On-Demand
WESTERN AIRWAYS	WAIA	135 On-Demand
CONFEDERATE AIR FORCE	CAFM	125 Air Operator
JETMAN L C	JM0A	135 On-Demand

FAA FLIGHT STANDARDS SERVICE—YEAR 2000 READINESS QUESTIONNAIRE NON-RESPONDENTS LIST—Continued

[As of October 4, 1999]

State and company name	Designator	Aggregate
WESTERN AIR EXPRESS INC	WX5A	135 On-Demand
HALLIBURTON CO	LXNM	125 Air Operator
ADVANTAGE AIR CHARTER INC.	YDVA	135 On-Demand
HELICOPTER EXPERTS INC	H2EA	135 On-Demand
JARRALL GABRIEL AIRCRAFT CHARTER COMPANY INC.	HKJA	135 On-Demand
MCCREERY AVIATION CO INC	HLFA	135 On-Demand
SAN ANTONIO PIPER INC	MMPA	135 On-Demand
SIERRA INDUSTRIES—UVALDE FLIGHT CENTER.	UVFA	135 On-Demand
TEXAS AMERICAN AIRCRAFT SALES INC.	T3XA	135 On-Demand
ZESCH AIR CHARTER INC	Z7CA	135 On-Demand
ARLINGTON JET CHARTER COMPANY INC.	ULA	135 On-Demand
DAVID NICKLAS ORGAN DONOR AWARENESS FOUNDATION INC.	DO6M	125 Air Operator
EAGLE AIR ENTERPRISES INC	ELEA	135 On-Demand
HELIJET HOLDINGS INC	H39A	135 On-Demand
MONTEX DRILLING CO	MDCM	125 Air Operator
NORTH CENTRAL TEXAS SERVICES INC.	NXTA	135 On-Demand
REL AVIATION MARINE	R6LA	135 Commuters
TEXAS AERO INC	GRMA	135 On-Demand
TEXAS AIR CHARTERS INC	GO7A	135 On-Demand
UTAH:		
AERO-COPTERS OF ARIZONA INC.	DQBA	135 On-Demand
AIRCRAFT SPECIALITIES COMPANY.	DQQA	135 On-Demand
DESERT AIR TRANSPORT INC	D7TA	135 On-Demand
DINALAND AVIATION INC	DYSA	135 On-Demand
GREAT WESTERN AVIATION INC.	DPOA	135 On-Demand
HELOWOOD HELICOPTERS INC.	DYWA	135 On-Demand
KOLOB CANYONS AIR SERVICES L L C.	K51A	135 On-Demand
MIDWAY AVIATION INC	MZQA	135 On-Demand
RICHARDS, BEN JAMES	DQMA	135 On-Demand
RIVERS AVIATION INC	DD7A	135 On-Demand
SCENIC AVIATION INC	DYVA	135 On-Demand
SLICKROCK AIR GUIDES INC	S2GA	135 On-Demand
TRANS WEST AIR SERVICES INC.	TV0A	135 On-Demand
W ENTERPRISE HELICOPTERS	W9EA	135 On-Demand
VIRGINIA:		
LINE POWER MANUFACTURING CORP.	FJDA	135 On-Demand
AEROMANAGEMENT FLIGHT SERVICES INC.	X58A	135 On-Demand
BLUE RIDGE AERO SERVICE	B8OM	125 Air Operator
AIR GERONIMO CHARTER INC.	C8PA	135 On-Demand
CHESAPEAKE AVIATION INC	CRGA	135 On-Demand
COMFORT AVIATION SERVICES INC.	H54A	135 On-Demand
COMMONWEALTH AVIATION SERVICE INC.	VXWA	135 On-Demand
EXECUTIVE AIR INC	BHVA	135 On-Demand
INTERNATIONAL JET CHARTER INC.	U9M	125 Air Operator
INTERNATIONAL JET CHARTER INC.	UIJA	135 On-Demand
SAKER, WILLIAM G	JPCA	135 On-Demand
SOUTHERN VIRGINIA AVIATION INC.	S2VA	135 On-Demand
UNITED AIR SERVICES CC	UNAA	135 On-Demand
VALLEY AIR INC	VA7A	135 On-Demand
AIR AMERICAN SUPPORT INC	B38M	125 Air Operator
DORNIER AVIATION NORTH AMERICA INC.	D9AM	125 Air Operator
MERCY MEDICAL AIRLIFT	MYHA	135 On-Demand
OC INC	X20A	135 On-Demand
SAAB AIRCRAFT OF AMERICA INC.	S4RM	125 Air Operator
VIRGIN ISLANDS:		
ACE FLIGHT CENTER	JLZA	135 On-Demand
ATLANTIC AIRCRAFT INC	X25M	125 Air Operator
CLAIR AERO	E07A	135 On-Demand
CORPORATE CHARTER SERVICE INC.	C6CA	135 On-Demand
DOMTRAVE AIRWAYS INC	FINA	135 On-Demand
FOUR STAR AVIATION INC	FHCA	135 On-Demand
FRESH AIR INC	F6AB	125 Air Operator
ISLAND AIR CHARTERS INC	I5AA	135 On-Demand
PREMIER AIRWAYS INC	PI7A	135 On-Demand
ROI INC	R6IA	135 On-Demand
SHILLINGFORD, CLINTON K	FHVA	135 On-Demand
ST JOHN SEAPLANE INC	S2JA	135 On-Demand
VIRGIN AIR INC	VAIA	135 Commuters
WRA INC	FOWA	135 On-Demand
VERMONT:		
VALLEY AIR SERVICES INC	IGXA	135 On-Demand
WASHINGTON:		
ALASKAS WILDERNESS LODGE INC.	AIWC	135 On-Demand
AEROCOPTERS INC	GKDA	135 On-Demand
AIR RAINIER INC	R5IA	135 On-Demand
AIRPAC AIRLINES INC	APCA	135 On-Demand
COOL AIR INC	CJOA	135 On-Demand
DAVIS AVIATION INC	XZDA	135 On-Demand
ERICKSON AVIATION	E4SA	135 On-Demand
GALVIN FLYING SERVICE INC	HUNA	135 On-Demand
HALEY, JOSEPH R	OF7A	135 On-Demand
HANSON, ROGER D	O9AA	135 On-Demand
HELICOPTER CONSULTANTS INC.	H89A	135 On-Demand
JEM INVESTMENTS INC	O4CM	125 Air Operator
LUDLOW AVIATION INC	HUMA	135 On-Demand
METHOW AVIATION INC	GGPA	135 On-Demand
NATIONAL CHARTER NETWORK INC.	NCRA	135 On-Demand
NATURES DESIGNS INC	V5IA	135 On-Demand
NORTHERN TIER AIRLINES INC.	NOQA	135 On-Demand
NORTHWEST HELICOPTERS INC.	NTWA	135 On-Demand
PACKARD, THOMAS G	TCZA	135 On-Demand
PAVCO INC	PVCA	135 On-Demand
PHX INC	GHCA	135 On-Demand
PUGET SOUND AIR COURIER	P84A	135 On-Demand
RITE BROS AVIATION INC	RTEA	135 On-Demand
ROGERS, RICHARD O	IRTA	135 On-Demand
SNOHOMISH FLYING SERVICE INC.	GIQA	135 On-Demand
SPORTCO INVESTMENTS II INC.	OB7M	125 Air Operator
VULCAN NORTHWEST INC	VN8M	125 Air Operator
WEST ISLE AIR INC	HUFA	135 Commuters
WINGS ALOFT INC	GHAA	135 On-Demand
AIRCRAFT SPECIALITIES LTD	GLSA	135 On-Demand
EVANS, JOHN F AND GRATZER, DAREL.	GKPA	135 On-Demand
KELSO FLIGHT SERVICE INC	K5FA	135 On-Demand
KOLBE, BARRY J	LJOA	135 On-Demand
MT ADAMS LUMBER COMPANY INC.	GEGA	135 On-Demand
ARCHER AVIATION INC	KWYA	135 On-Demand
BERGSTROM AIRCRAFT INC	GMOA	135 On-Demand
COMMANDER NORTHWEST LTD.	CMMA	135 On-Demand
EAGLE HELICOPTERS INC	IOAA	135 On-Demand
EVANS AVIATION INC	EAIB	125 Air Operator
FALCON WEST HELICOPTERS INC.	OFWA	135 On-Demand
FELTS FIELD AVIATION INC	GFVA	135 On-Demand
INLAND NORTHWEST HELICOPTERS L L C.	I7HA	135 On-Demand
INTER-STATE AVIATION INC	GGSA	135 On-Demand
KENNEWICK AIRCRAFT SERVICES INC.	K3WA	135 On-Demand
LAKE CHELAN AIR SERVICE INC.	LCCA	135 On-Demand
MIDSTATE AVIATION INC	GGUA	135 On-Demand
NOLAND-DECOTO FLYING SERVICE INC.	GGNA	135 On-Demand
OKANOGAN AIR SERVICE INC	GGDA	135 On-Demand
POPE, JAMES R	GGVA	135 On-Demand
RMA INC	VVRA	135 On-Demand
SKYRUNNERS CORP	SKQA	135 On-Demand
THOMAS, CHARLES R	GFXA	135 On-Demand
PACIFIC NORTHWEST HELICOPTERS INC.	PNGA	135 On-Demand
NOBLE AIR INC	NB9A	135 On-Demand
WISCONSIN:		
AIR CARGO CARRIERS INC	DATA	135 On-Demand
AIR CHARTER LTD	A3CA	135 On-Demand
AIR RESOURCE INC	UROA	135 On-Demand
GAIL FORCE CORPORATION	QGKA	135 On-Demand
GROSS, KURT R	W9SA	135 On-Demand
KENDALL, TERRY A	K3FA	135 On-Demand
MAGNUS AVIATION INC	AYQA	135 On-Demand
MAXAIR INC	MAXA	135 On-Demand
MILWAUKEE GENERAL AVIATION INC.	OWWA	135 On-Demand
ROESSEL AVIATION INC	QROA	135 On-Demand
SELECT LEASING INC	J13M	125 Air Operator
SKYTRANS AVIATION INC	S02A	135 On-Demand
STATE OF WISCONSIN DEPARTMENT OF ADMINISTRATION.	ZWSA	135 On-Demand
T AND J AVIATION CO INC	DAZA	135 On-Demand
TRANS NORTH AVIATION LTD	EBFA	135 On-Demand
NAE INC	NE9A	135 On-Demand
WEST VIRGINIA:		
EXECUTIVE AIR TERMINAL INC.	E96A	135 On-Demand
FRED L HADDAD INC	HDZA	135 On-Demand
GREENBRIER VALLEY AVIATION INC.	BYWA	135 On-Demand
HELICOPTER FLITE SERVICES INC.	BXOA	135 On-Demand
JEDA INC	EJDA	135 On-Demand
RADER AVIATION INC	BXSA	135 On-Demand
STONE RIVER LLC	B9ZA	135 On-Demand
WYOMING:		
AIR CAROLINA INC	TB7A	135 On-Demand
BIGHORN AIRWAYS INC	BIGA	135 On-Demand
CASPER AIR SERVICE INC	CBCA	135 On-Demand
FLIGHTLINE AVIATION SERVICES INC.	F3NA	135 On-Demand
FRANKLIN AVIATION INC	FK9A	135 On-Demand
HAWKINS AND POWERS AVIATION INC.	BZBA	135 On-Demand
POWERS AND HAWKINS ENTERPRIZES.	PHEB	125 Air Operator
SHANE, RONALD A AND SHARON L.	BYYA	135 On-Demand
SKULL CREEK AIR SERVICE	UKLA	135 On-Demand
SKY AVIATION CORP	BZHA	135 On-Demand

Mr. DODD. Mr. President, lastly, all of us have a sense of responsibility to our constituents and the people of this country to act when we have information that raises concerns about the safety of an industry over this new millennium period. Since so many air carriers did not respond to the FAA survey, I have unanswered questions about the safety of these companies to which we deserve the answers. The irresponsibility of these carriers and companies that fail to respond prompts me to offer this amendment which I have already sent to the desk on behalf of Senator BENNETT, myself, Senator McCAIN, Senator HOLLINGS, and Senator ROCKEFELLER.

We realize the FAA already has the authority to suspend a carrier's flying privileges under appropriate circumstances. With this proposal, we want to make it explicit that Y2K noncompliance is one of those circumstances. Under the amendment, any air carrier that does not respond by November 1 to the FAA's request for information about their Y2K status may be required to surrender its operating certificate. It is simple. If you don't comply, you don't fly. The FAA will have the authority to keep you grounded.

Air carriers do business not by right, but by privilege. Most fulfill their responsibilities with distinction, offering services unmatched by any country on the face of this Earth.

Since the Y2K noncompliance of air carriers may raise safety issues, Congress must ensure that the privilege of possessing a certificate can be withdrawn from carriers and manufacturers that fail to give their regulator, the FAA, the information that is central to the safety of the flying public. This amendment does just that. We hope it spurs these carriers and manufacturers to respond to the survey before November 1, and we know it will reassure the public about the safety of the aviation system as we enter this new millennium, just 87 days away.

I urge the adoption of the amendment and yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, the chairman of the full committee is here. On the Democratic side, the amendment is acceptable, and I believe that is the case on the Republican side, but I will let the chairman of the full committee speak for himself.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank the Senator from Connecticut for his usual perspective on an important issue that had escaped the attention of this committee, and it is an important issue. His involvement in the Y2K issue clearly indicates he is qualified to discuss this issue, and this amendment will be extremely helpful. I thank the Senator from Connecticut.

I believe there is no further debate on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2241), as modified, was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCAIN. Mr. President, for the benefit of my colleagues, we are working through most of the amendments. We are close except for a couple. We have a number that have been agreed to. I would like to clear some that have been agreed to by both sides.

AMENDMENT NO. 2256

(Purpose: to establish a commission to study the airline industry and to recommend policies to ensure consumer information and choice)

Mr. McCAIN. Mr. President, I send to the desk an amendment on behalf of Senator BURNS and Senator ASHCROFT.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for Mr. BURNS, for himself and Mr. ASHCROFT, proposes an amendment numbered 2256.

The amendment is as follows:

At the appropriate place insert:

TITLE —

SECTION 1. SHORT TITLE.

This title may be cited as the "Improved Consumer Access to Travel Information Act".

SEC. 2. NATIONAL COMMISSION TO ENSURE CONSUMER INFORMATION AND CHOICE IN THE AIRLINE INDUSTRY.

(b) ESTABLISHMENT.—There is established a commission to be known as the "National Commission to Ensure Consumer Information and Choice in the Airline Industry" (in this section referred to as the "Commission").

(c) DUTIES.—

(1) STUDY.—The Commission shall undertake a study of—

(A) consumer access to information about the products and services of the airline industry;

(B) the effect on the marketplace on the emergency of new means of distributing such products and services;

(C) the effect on consumers of the declining financial condition of travel agents in the United States; and

(D) the impediments imposed by the airline industry on distributors of the industry's products and services, including travel agents and Internet-based distributors.

(2) POLICY RECOMMENDATIONS.—Based on the results of the study described in paragraph (1), the Commission shall recommend to the President and Congress policies necessary to—

(A) ensure full consumer access to complete information concerning airline fares, routes, and other services;

(B) ensure that the means of distributing the products and services of the airline industry, and of disseminating information about such products and services, is adequate to ensure that competitive information is available in the marketplace;

(C) ensure that distributors of the products and services of the airline industry have adequate relief from illegal, anticompetitive practices that occur in the marketplace; and

(D) foster healthy competition in the airline industry and the entry of new entrants.

(d) SPECIFIC MATTERS TO BE ADDRESSED.—In carrying out the study authorized under subsection (c)(1), the Commission shall specifically address the following:

(1) CONSUMER ACCESS TO INFORMATION.—With respect to consumer access to information regarding the services and products offered by the airline industry, the following:

(A) The state of such access.

(B) The effect in the 5-year period following the date of the study of the making of alliances in the airline industry.

(C) Whether and to what degree the trends regarding such access will produce benefits to consumers.

(2) MEANS OF DISTRIBUTION.—With respect to the means of distributing the products and services of the airline industry, the following:

(A) The state of such means of distribution.

(B) The roles played by travel agencies and Internet-based providers of travel information and services in distributing such products and services.

(C) Whether the policies of the United States promote the access of consumers to multiple means of distribution.

(3) AIRLINE RESERVATION SYSTEMS.—With respect to airline reservation systems, the following:

(A) The rules, regulations, policies, and practices of the industry governing such systems.

(B) How trends in such systems will affect consumers, including—

(i) the effect on consumer access to flight reservation information; and

(ii) the effect on consumers of the use by the airline industry of penalties and promotions to convince distributors to use such systems, and the degree of consumer awareness of such penalties and promotions.

(4) LEGAL IMPEDIMENTS TO DISTRIBUTORS SEEKING RELIEF FOR ANTICOMPETITIVE ACTIONS.—The policies of the United States with respect to the legal impediments to distributors seeking relief for anticompetitive actions, including—

(A) Federal preemption of civil actions against airlines; and

(B) the role of the Department of Transportation in enforcing rules against anticompetitive practices.

(e) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 voting members and 11 nonvoting members as follows:

(A) 5 voting members and 1 nonvoting member appointed by the President.

(B) 3 voting members and 3 nonvoting members appointed by the Speaker of the House of Representatives.

(C) 2 voting members and 2 nonvoting members appointed by the minority leader of the House of Representatives.

(D) 3 voting members and 3 nonvoting members appointed by the majority leader of the Senate.

(E) 2 voting members and 2 nonvoting members appointed by the minority leader of the Senate.

(2) QUALIFICATIONS.—Voting members appointed under paragraph (1) shall be appointed from among individuals who are experts in economics, service product distribution, or transportation, or any related discipline, and who can represent consumers, passengers, shippers, travel agents, airlines, or general aviation.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) CHAIRPERSON.—The President, in consultation with the Speaker of the House of Representatives and the majority leader of the Senate, shall designate the Chairperson of the Commission (referred to in this Act as the "Chairperson") from among its voting members.

(f) COMMISSION PANELS.—The Chairperson shall establish such panels consisting of voting members of the Commission as the Chairperson determines appropriate to carry out the functions of the Commission.

(g) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(h) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(i) OTHER STAFF AND SUPPORT.—Upon the request of the Commission, or a panel of the Commission, the Secretary of Transportation shall provide the Commission or panel with professional and administrative staff and other support, on a reimbursable basis, to assist the Commission or panel in carrying out its responsibilities.

(j) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(k) REPORT.—Not later than 6 months after the date on which initial appointments of members to the Commission are completed, the Commission shall transmit to the President and Congress a report on the activities of the Commission, including recommendations made by the Commission under subsection (c)(2).

(l) TERMINATION.—The Commission shall terminate on the 30th day following the date of transmittal of the report under subsection (k). All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

(m) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

Mr. McCAIN. Mr. President, that amendment has been accepted by both sides, and there is no further debate.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2256) was agreed to.

AMENDMENT NO. 1925

(Purpose: expressing the sense of the Senate concerning air traffic over northern Delaware)

Mr. McCAIN. Mr. President, on behalf of Senator ROTH, I send amendment No. 1925 to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for Mr. ROTH, proposes an amendment numbered 1925.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . EXPRESSING THE SENSE OF THE SENATE CONCERNING AIR TRAFFIC OVER NORTHERN DELAWARE.

(a) DEFINITION.—The term "Brandywine Intercept" means the point over Brandywine Hundred in northern Delaware that pilots use for guidance and maintenance of safe operation from other aircraft and over which most aircraft pass on their East Operations approach to Philadelphia International Airport.

(b) FINDINGS.—Congress makes the following findings:

(1) The Brandywine Hundred area of New Castle County, Delaware serves as a major approach causeway to Philadelphia International Airport's East Operations runways.

(2) The standard of altitude over the Brandywine Intercept is 3,000 feet, with airport scatter charts indicating that within a given hour of consistent weather and visibility aircraft fly over the Brandywine Hundred at anywhere from 2,500 to 4,000 feet.

(3) Lower airplane altitudes result in increased ground noise.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Transportation should—

(1) include northern Delaware in any study of aircraft noise conducted under part 150 of title 14 of the Code of Federal Regulations required under the National Environmental Policy Act of 1969 for the redesign of the airspace surrounding Philadelphia International Airport;

(2) study the feasibility, consistent with safety, of placing the approach causeway for Philadelphia International Airport's East Operations over the Delaware River (instead of Brandywine Hundred); and

(3) study the feasibility of increasing the standard altitude over the Brandywine Intercept from 3,000 feet to 4,000 feet.

Mr. McCAIN. Mr. President, this amendment has been agreed to by both sides. There is no further debate.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1925) was agreed to.

AMENDMENT NO. 2251

(Purpose: to restore the eligibility of reliever airports for Airport Improvement Program Letters of Intent)

Mr. McCAIN. Mr. President, I send to the desk amendment No. 2251 on behalf of Senator ABRAHAM.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for Mr. ABRAHAM, proposes an amendment numbered 2251.

The amendment is as follows:

On page 14, strike lines 9 through 11.

Mr. McCAIN. Mr. President, this amendment has been agreed to by both sides, and there is no further debate.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2251) was agreed to.

AMENDMENT NO. 1909

(Purpose: to authorize the Federal Aviation Administration's civil aviation research and development programs for fiscal years 2000 and 2001, and for other purposes)

Mr. McCAIN. Mr. President, on behalf of myself, I send amendment No. 1909 to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 1909.

The amendment is as follows:

At the appropriate place, insert the following:

TITLE —FEDERAL AVIATION RESEARCH, ENGINEERING, AND DEVELOPMENT

SEC. 01. AUTHORIZATION OF APPROPRIATIONS.

Section 48102(a) of title 49, United States Code, is amended—

(1) by striking "and" at the end of paragraph (4)(J);

(2) by striking the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(6) $240,000,000 for fiscal year 2000;

"(7) $250,000,000 for fiscal year 2001; and

"(8) $260,000,000 for fiscal year 2002;".

SEC. 02. INTEGRATED NATIONAL AVIATION RESEARCH PLAN.

(a) IN GENERAL.—Section 44501(c) of title 49, United States Code, is amended—

(1) in paragraph (2)(B)—

(A) by striking "and" at the end of clause (iii);

(B) by striking the period at the end of clause (iv) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new clause:

"(v) highlight the research and development technology transfer activities that promote technology sharing among government, industry, and academia through the Stevenson-Wydler Technology Innovation Act of 1980."; and

(2) in paragraph (3), by inserting "The report shall be prepared in accordance with requirements of section 1116 of title 31, United States Code." after "effect for the prior fiscal year.".

(b) REQUIREMENT.—Not later than March 1, 2000, the Administrator of the National Aeronautics and Space Administration and the Administrator of the Federal Aviation Administration shall jointly prepare and transmit to the Congress an integrated civil aviation research and development plan.

(c) CONTENTS.—The plan required by subsection (b) shall include—

(1) an identification of the respective research and development requirements, roles, and responsibilities of the National Aeronautics and Space Administration and the Federal Aviation Administration;

(2) formal mechanisms for the timely sharing of information between the National Aeronautics and Space Administration and the Federal Aviation Administration; and

(3) procedures for increased communication and coordination between the Federal Aviation Administration research advisory committee established under section 44508 of title 49, United States Code, and the NASA Aeronautics and Space Transportation Technology Advisory Committee.

SEC. 03. INTERNET AVAILABILITY OF INFORMATION.

The Administrator of the Federal Aviation Administration shall make available through the Internet home page of the Federal Aviation Administration the abstracts relating to all research grants and awards made with funds authorized by the amendments made by this Act. Nothing in this section shall be construed to require or permit the release of any information prohibited by law or regulation from being released to the public.

SEC. 04. RESEARCH ON NONSTRUCTURAL AIRCRAFT SYSTEMS.

Section 44504(b)(1) of title 49, United States Code, is amended by inserting ", including nonstructural aircraft systems," after "life of aircraft".

SEC. 05. POST FREE FLIGHT PHASE I ACTIVITIES.

No later than May 1, 2000, the Administrator of the Federal Aviation Administration shall transmit to Congress a definitive plan for the continued implementation of Free Flight Phase I operational capabilities for fiscal years 2003 through 2005. The plan shall include and address the recommendations concerning operational capabilities for fiscal years 2003 through 2005 due to be made by the RTCA Free Flight Steering Committee in December 1999 that was established at the direction of the Federal Aviation Administration. The plan shall also include budget estimates for the implementation of these operational capabilities.

SEC. 06. RESEARCH PROGRAM TO IMPROVE AIRFIELD PAVEMENTS.

The Administrator of the Federal Aviation Administration shall consider awards to nonprofit concrete pavement research foundations to improve the design, construction, rehabilitation, and repair of rigid concrete airfield pavements to aid in the development of safer, more cost-effective, and durable airfield pavements. The Administrator may use a grant or cooperative agreement for this purpose. Nothing in this section shall require the Administrator to prioritize an airfield payment research program above safety, security, Flight 21, environment, or energy research programs.

SEC. 07. SENSE OF SENATE REGARDING PROTECTING THE FREQUENCY SPECTRUM USED FOR AVIATION COMMUNICATION.

It is the sense of the Senate that with the World Radio Communication Conference scheduled to begin in May, 2000, and the need to ensure that the frequency spectrum available for aviation communication and navigation is adequate, the Federal Aviation Administration should—

(1) give high priority to developing a national policy to protect the frequency spectrum used for the Global Positioning System that is critical to aviation communications and the safe operation of aircraft; and

(2) expedite the appointment of the United States Ambassador to the World Radio Communication Conference.

SEC. 08. STUDY.

The Secretary shall conduct a study to evaluate the applicability of the techniques used to fund and administer research under the National Highway Cooperative Research Program and the National Transmit Research Program to the research needs of airports.

Mr. McCAIN. Mr. President, the amendment is agreed to by both sides.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1909) was agreed to.

AMENDMENTS NOS. 1911, 1897, 1914, 2238, EN BLOC

Mr. McCAIN. Mr. President, I send the final four amendments to the desk en bloc. They are amendment No. 1911 on behalf of Senator FEINSTEIN, amendment No. 1897 on behalf of Senator ABRAHAM, amendment No. 1914 on behalf of Mr. TORRICELLI, and amendment No. 2238 on behalf of Senator CONRAD. I ask unanimous consent that these amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendments en bloc.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes amendments numbered 1911, 1897, 1914, and 2238, en bloc.

The amendments are as follows:

AMENDMENT NO. 1911

(Purpose: To direct the Secretary of Transportation, acting throiugh the Administrator of the Federal Aviation Administration, to issue regulations relating to the outdoor air and ventilation requirements for ventilation for passenger cabins)

At the appropriate place, insert the following new section:

SEC. ___. STUDY OF OUTDOOR AIR, VENTILATION, AND RECIRCULATION AIR REQUIREMENTS FOR PASSENGER CABINS IN COMMERCIAL AIRCRAFT.

(a) DEFINITIONS.—In this section, the terms "air carrier" and "aircraft" have the meanings given those terms in section 40102 of title 49, United States Code.

(b) IN GENERAL.—As soon as practicable after the date of enactment of this section, the Secretary of Transportation (referred to in this section as the "Secretary") shall conduct a study of sources of air supply contaminants of aircraft and air carriers to develop alternatives to replace engine and auxiliary power unit bleed air as a source of air supply. To carry out this paragraph, the Secretary may enter into an agreement with the Director of the National Academy of Sciences for the National Research Council to conduct the study.

(c) AVAILABILITY OF INFORMATION.—Upon completion of the study under this section in one year's time, the Administrator of the Federal Aviation Administration shall make available the results of the study to air carriers through the Aviation Consumer Protection Division of the Office of the General Counsel for the Department of Transportation.

AMENDMENT NO. 1897

(Purpose: To provide for a General Aviation Metropolitan Access and Reliever Airport Grant Fund)

At the appropriate place insert the following:

SEC. . GENERAL AVIATION METROPOLITAN ACCESS AND RELIEVER AIRPORT GRANT FUND.

(a) DEFINITION.—Title 49, United States Code, is amended by adding the following new section at the end of section 47144(d)(1):

"(C) GENERAL AVIATION METROPOLITAN ACCESS AND RELIEVER AIRPORT.—'General Aviation Metropolitan Access and Reliever Airport' means a Reliever Airport which has annual operations in excess of 75,000 operations, a runway with a minimum usable landing distance of 5,000 feet, a precision instrument landing procedure, a minimum of 150 based aircraft, and where the adjacent Air Carrier Airport exceeds 20,000 hours of annual delays as determined by the Federal Aviation Administration."

(b) APPORTIONMENT.—Title 49, United States Code, section 47114(d), is amended by adding at the end:

"(4) The Secretary shall apportion an additional 5 percent of the amount subject to apportionment for each fiscal year to States that include a General Aviation Metropolitan Access and Reliever Airport equal to the percentage of the apportionment equal to the percentage of the number of operations of the State's eligible General Aviation Metropolitan Access and Reliever Airports compared to the total operations of all General Aviation Metropolitan Access and Reliever Airports."

AMENDMENT NO. 1914

(Purpose: To require the Administrator of the Environmental Protection Agency to conduct a study on airport noise)

At the appropriate place in title IV, insert the following:

SEC. 4 . STUDY.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall submit a study on airport noise to Congress, the Secretary of Transportation, and the Administrator of the Federal Aviation Administration.

(b) AREAS OF STUDY.—The study shall examine—

(1) the selection of noise measurement methodologies used by the Administrator of the Federal Aviation Administration;

(2) the threshold of noise at which health impacts are felt;

(3) the effectiveness of noise abatement programs at airports around the United States; and

(4) the impacts of aircraft noise on students and educators in schools.

(c) RECOMMENDATIONS.—The study shall include specific recommendations to the Secretary of Transportation and the Administrator of the Federal Aviation Administration concerning new measures that should be implemented to mitigate the impact of aircraft noise on communities surrounding airports.

AMENDMENT NO. 2238

SECTION 1. SENSE OF THE SENATE.

It is the Sense of the Senate that—

(a) essential air service (EAS) to smaller communities remains vital, and that the difficulties encountered by many of communities in retaining EAS warrant increased federal attention.

(b) the FAA should give full consideration to ending the local match required by Dickinson, North Dakota.

SEC. 2. REPORT.

Not later than 60 days after enactment of this legislation, the Secretary of Transportation shall report to the Congress with an analysis of the difficulties faced by many smaller communities in retaining EAS and a plan to facilitate easier EAS retention. This report shall give particular attention to communities in North Dakota.

Mr. McCAIN. Mr. President, those amendments are agreed to by both sides.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

The amendments (Nos. 1911, 1897, 1914, and 2238) were agreed to.

Mr. BURNS. Mr. President, I rise today to introduce an amendment to S. 82, the Air Transport Improvement Act. This amendment will establish a commission to study the future of the travel agent industry and determine the consumer impact of airline interaction with travel agents.

Since the Airline Deregulation Act of 1978 was enacted, major airlines have controlled pricing and distribution policies of our nation's domestic air transportation system. Over the past four years, the airlines have reduced airline commissions to travel agents in an competitive effort to reduce costs.

I am concerned the impact of today's business interaction between airlines and travel agents may be a driving force that will force many travel agents out of business. Combined with the competitive emergence of Internet services, these practices may be harming an industry that employs over 250,000 Americans.

This amendment will explore these concerns through the establishment of a commission to objectively review the emerging trends in the airline ticket distribution system. Among airline consumers there is a growing concern that airlines may be using their market power to limit how airline tickets are distributed.

Mr. President, if we lose our travel agents, we lose a competitive component to affordable air fare. Travel agents provide a much needed service and without, the consumer is the loser.

The current use of independent travel agencies as the predominate method to distribute tickets ensures an efficient and unbiased source of information for air travel. Before deregulation, travel agents handled only about 40% of the airline ticket distribution system. Since deregulation, the complexity of the ticket pricing system created the need for travel agents resulting in travel agents handling nearly 90% of transactions.

Therefore, the travel agent system has proven to be a key factor to the success of airline deregulation. I'm afraid, however, that the demise of the independent travel agent would be a factor of deregulation's failure if the major airlines succeed in dominating the ticket distribution system.

Travel agents and other independent distributors comprise a considerable portion of the small business sector in the United States. There are 33,000 travel agencies employing over 250,000 people. Women or minorities own over 505 of travel agencies.

The assault on travel agents has been fierce. Since 1995, commissions have been reduced by 30%, 14% for domestic travel alone in 1998. Since 1995, travel agent commissions have been reduced from an average of 10.8% to 6.9% in 1998. Travel agencies are failing in record numbers.

Mr. President, I think it is important to study this issue as well as the related issues of the current state of ticket distribution channels, the importance of an independent system on small, regional, start-up carriers, and the role of the Internet. I would like to ask my colleagues to support this important amendment.

DEKALB-PEACHTREE AIRPORT

Mr. COVERDELL. Mr. President, will the distinguished chairman of the Senate Commerce Committee yield for a question?

Mr. McCAIN. I will be happy to yield to the senior Senator from Georgia.

Mr. COVERDELL. Mr. President, the DeKalb-Peachtree Airport is the second busiest airport in Georgia, and this level of activity makes living and working in this area noisy and dangerous. Businesses cannot expand, and poorer residents cannot afford to move until a government buy-out of these properties is completed. The Federal Aviation Administration, commonly referred to as the FAA, has done studies which show that increased operations at Dekalb-Peachtree Airport are too noisy and unsafe for residents and businesses in the northern vicinity of the airport. While the FAA has provided some relief and been helpful in the purchasing of some homes, there needs to be a speedy conclusion to this buy-out process in order to allow these homes and businesses to move to safer areas and give the airport the room it requires to meet an ever-increasing demand. Additional FAA funding is needed as soon as possible, to complete this task, would the Chairman be willing provide additional federal funding in the FAA reauthorization bill to address this situation?

Mr. McCAIN. I appreciate the efforts of the senior Senator from Georgia on behalf of his constituents and for bringing this matter to the attention of the Senate at the beginning of this Congress. As the Senator may know, there are a number of businesses and residents located near other airports across the country in a similar situation to what is occurring at the Dekalb-Peachtree Airport. The Commerce Committee has authorized a significant increase in noise mitigation funding for the FAA to address this problem and accelerate the buy-out process.

Mr. COVERDELL. I thank the chairman for his assistance. My staff and I look forward to working with him and the junior Senator from Georgia on this important matter.

Mr. CLELAND. Will the chairman yield for another question?

Mr. McCAIN. I will be happy to yield to the junior Senator from Georgia.

Mr. CLELAND. Mr. President, the noise mitigation funding which this bill authorizes is very much needed—and appreciated—by communities located near our nation's airports. Over 10 years ago, Georgia's second busiest airport, Dekalb-Peachtree Airport, began a runway expansion program to accommodate its increased traffic. Six years ago, the FAA began providing funding to relocate the residential homes located in the Airport's Runway Protection Zone. Thanks to noise mitigation money, 108 homes have had the opportunity to relocate. Unfortunately, after a decade, 58 homes and 61 businesses are still in limbo, and still impacted by the noise from 225,000 flights a year. This community near Atlanta—and I am sure there are communities in similar straights in Arizona—has suffered for years, because the buy-out has gone on far too long. Don't you agree that in determining the need for noise money, the FAA should take into consideration the harmful, drawn-out impact on communities from long-standing projects which have awaited completion over a number of years?

Mr. McCAIN. The Senator is correct. As the Senator knows, in the report accompanying the Federal Aviation Administration reauthorization bill, the Commerce Committee, at the instigation of the Junior Senator from Georgia, urges the FAA to take into consideration the negative impact on communities, like DeKalb County, of such unresolved long-standing projects when allocating noise mitigation money.

Mr. CLELAND. I thank the chairman for his remarks, and I look forward to continuing to work with the Senator from Arizona and my colleague from Georgia to complete the Dekalb-Peachtree Airport buy-out.

LOUISVILLE AIRPORT

Mr. BUNNING. Mr. President, I want to express my hope that Senators McCAIN and GORTON will work to include language in the conference report accompanying S. 82, which is of great importance to the Regional Airport Authority of Louisville and Jefferson County, KY. I would like to provide a brief explanation of the need for this provision and what it is intended to accomplish.

Mr. McCAIN. I thank the Senator from Kentucky for his support of the legislation and we are pleased to hear his views on this provision.

Mr. BUNNING. In 1991, the Regional Airport Authority of Louisville and Jefferson County entered into a letter of intent (LOI) with the Federal Aviation Administration for funding from the Airport Improvement Program for an ambitious expansion of the Louisville Airport. The LOI was for $126 million. When the new east runway was completed in 1995 and ready for operation, Louisville was informed that no funds were available in the FAA Facilities and Equipment Account (F&E) to provide an Instrument Landing System (ILS), thus rendering the new runway inoperative. FAA advised Louisville that if they procured the ILS, the FAA would later reimburse them for the expenditure of $5.68 million for the system.

Mr. McCAIN. I can appreciate the demands on the F&E account for these expenditures and can well understand how such a regrettable situation might occur.

Mr. BUNNING. We currently have a confusing situation where the FAA has informed Louisville that $4.2 million in funds drawn down against the LOI in 1998 were for reimbursement for the ILS.

Mr. McCAIN. As the Senator knows, the FAA routinely provides safety and navigational equipment to airports.

Mr BUNNING. Yes, indeed. That is precisely the purpose of the language. The $4.2 million the FAA designated as reimbursement is money the Louisville Airport would have received under the $126 million LOI anyway. The provision in the legislation simply directs the FAA to amend the existing LOI with the Regional Airport Authority to increase it by $5.68 million, thus reimbursing Louisville the total cost of the ILS.

Mr. McCAIN. It is my understanding that a similar provision was included in the Statement of Managers accompanying the Transportation appropriations legislation for fiscal year 2000.

Mr. BUNNING. That is correct.

Mr. McCAIN. I thank the Senator for his description of the situation, and I will be happy to continue to work to rectify this matter.

Mr. BUNNING. I thank the Senators for their assistance.

PRIVILEGE OF THE FLOOR

Mr. McCAIN. Mr. President, on behalf of Senator STEVENS, I ask unanimous consent that Dan Elwell, a congressional fellow in Senator STEVENS' office, be granted the privilege of the floor for the pendency of the Senate consideration of S. 82.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask unanimous consent that notwithstanding the agreement of yesterday referencing the filing of amendments, Senator FITZGERALD be recognized and that it be in order for him to offer an amendment not previously filed, and that the amendment then be agreed to. Prior to that, if it is agreeable with Senator FITZGERALD, Senator ASHCROFT wants to have 5 minutes to make a statement. I ask unanimous consent that prior to that, Senator ASHCROFT have 5 minutes.

The PRESIDING OFFICER (Mr. GORTON). Is there objection? Without objection, it is so ordered. The Senator from Missouri is recognized.

NOMINATION OF RONNIE WHITE

Mr. ASHCROFT. Mr. President, I thank the Senator from Arizona for affording me this opportunity to make some remarks regarding the vote on the nomination of Ronnie White.

Yesterday, in accordance with the unanimous consent agreement entered into last week, we set aside substantially over an hour to debate not only the White nomination but a number of other nominations which came before the Senate today. I was here for that debate, I engaged in that debate, and I outlined my opposition to Judge White, not my opposition based on anything personal or based on my distaste in any way for the judge, but based on my real reservations about his record as it relates to law enforcement.

After the conclusion of the vote today, there were a number of individuals who secured integrals of time to speak about that nomination and about that vote and raised questions that more properly should have been raised in the debate, and, secondly, deserve a response. So I come to respond in that respect.

I want to explain why I believe Judge White should not have been confirmed, and I believe the Senate acted favorably and appropriately in protecting the strong concerns raised by law enforcement officials.

The National Sheriffs Association expressed their very serious opposition to the nomination of Judge White. The Missouri Federation of Chiefs of Police expressed their opposition. The Missouri Sheriffs Association raised strong concerns and asked for a very serious consideration. In my conferences with law enforcement officials, prosecutors and judges, they raised serious concerns; so that when those who come to the floor today talk about this nomination in a context that is personal rather than professional and is political rather than substantive, I think they miss the point.

There are very serious matters addressed in his record that deserve the attention of the Senate and which, once having been reviewed by Members of the Senate, would lead Senators to the conclusion that, indeed, the Senate did the right thing.

Judge White's sole dissent in the Missouri v. Johnson, a brutal cop killer, an individual who killed three law enforcement officials over several hours, holding a small town in Missouri in a terrified condition, that opinion which sought to create new ground for allowing convicted killers who had the death penalty ordered in their respect, allowing them new ground for new trials, and the like, is something that ought to trouble us. We do not need judges with a tremendous bent toward criminal activity or with a bent toward excusing or providing second chances or opportunities for those who have been accused in those situations.

Missouri v. Kinder is another case where he was the sole dissenter, a case of murder and assault, murder with a lead pipe, the defendant was seen leaving the scene of the crime with the lead pipe and DNA evidence confirming the presence of the defendant with the person murdered.

The judge in that case wrote a dissent saying that the case was contaminated by a racial bias of the trial judge because the trial judge had indicated that he opposed affirmative action and had switched parties based on that.

Another case, Missouri v. Damask, a drug checkpoint case. The sole dissent in the case was from Judge White who would have expanded substantially the rights of defendants to object to searches and seizures.

I believe that law enforcement officials had an appropriate, valid, reasonable concern. That concern was appropriately recognized and reflected in the vote of the Senate. Not only Missouri needs judges, but the entire country needs judges whose law enforcement experience is such that it sends a signal that they are reliable and will support appropriate law enforcement.

I am grateful to have had this opportunity. No time was expected for debate on this issue today, and as an individual who was involved in this matter, I am pleased to have had this opportunity. I thank the Senate. I thank the Senator from Arizona for helping make this time available to me.

I yield the floor.

AIR TRANSPORTATION IMPROVEMENT ACT—Continued

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized.

AMENDMENT NO. 2264 TO AMENDMENT NO. 1892

(Purpose: To replace the slot provisions relating to Chicago O'Hare International Airport)

Mr. FITZGERALD. Mr. President, I rise on behalf of myself and my colleague from Illinois, Senator DURBIN, to propose an amendment to the amendment proposed by the Presiding Officer himself, Senator GORTON, and Senator ROCKEFELLER. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. FITZGERALD], for himself and Mr. DURBIN, proposes an amendment numbered 2264 to amendment No. 1892.

The amendment is as follows:

On page 5, beginning with "apply—" in line 15, strike through line 19 and insert "apply after December 31, 2006, at LaGuardia Airport or John F. Kennedy International Airport.".

On page 8, beginning with line 7, strike through line 17 on page 12 and insert the following:

(1) IN GENERAL.—Subchapter I of chapter 417, as amended by subsection (d), is amended by inserting after section 41717 the following:

"§ 41718. Special Rules for Chicago O'Hare International Airport

"(a) IN GENERAL.—The Secretary of Transportation shall grant 30 slot exemptions over a 3-year period beginning on the date of enactment of the Transportation Improvement Act at Chicago O'Hare International Airport.

"(b) EQUIPMENT AND SERVICE REQUIREMENTS.—

"(1) STATE 3 AIRCRAFT REQUIRED.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

"(2) SERVICE PROVIDED.—Of the exemptions granted under subsection (a)—

"(A) 18 shall be used only for service to underserved markets, of which no fewer than 6 shall be designated as commuter slot exemptions; and

"(B) 12 shall be air carrier slot exemptions.

"(c) PROCEDURAL REQUIREMENTS.—Before granting exemptions under subsection (a), the Secretary shall—

"(1) conduct an environmental review, taking noise into account, and determine that the granting of the exemptions will not cause a significant increase in noise;

"(2) determine whether capacity is available and can be used safely and, if the Secretary so determines then so certify;

"(3) give 30 days notice to the public through publication in the Federal Register of the Secretary's intent to grant the exemptions; and

"(4) consult with appropriate officers of the State and local government on any related noise and environmental issues.

"(d) UNDERSERVED MARKET DEFINED.—In this section, the term 'service to underserved markets' means passenger air transportation service to an airport that is a nonhub airport or a small hub airport (as defined in paragraphs (4) and (5), respectively, of section 41731(a)).".

(2) 3-year report.—The Secretary shall study and submit a report 3 years after the first exemption granted under section 41718(a) of title 49, United States Code, is first used on the impact of the additional slots on the safety, environment, noise, access to underserved markets, and competition at Chicago O'Hare International Airport.

On page 19, strike lines 10 and 11.

On page 19, line 12, strike "(B)" and insert "(A)".

On page 19, line 13, strike "(C)" and insert "(B)".

On page 19, line 15, strike "(D)" and insert "(C)".

Mr. BYRD. Mr. President, will the distinguished Senator yield without losing his right to the floor?

Mr. FITZGERALD. Yes, I will yield.

Mr. BYRD. I ask unanimous consent that following the Senator's statement, I be recognized to speak for not to exceed 15 minutes on another matter.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. I thank the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. FITZGERALD. Mr. President, this amendment would exempt O'Hare International Airport from any lifting of the high density rule. I understand this amendment has been accepted on both sides. I ask unanimous consent the amendment be agreed to.

I thank the Presiding Officer himself for his efforts to work with me, and also the distinguished Commerce Committee Chairman, Senator McCAIN from Arizona, and the ranking Democratic member, Senator ROCKEFELLER. Of course, I thank the good auspices of our majority leader who helped work out this agreement. I appreciate the time and consideration of all on a very difficult matter.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment (No. 2264) was agreed to.

Mr. FITZGERALD. I thank the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized for not to exceed 15 minutes.

Mr. BYRD. Mr. President, I thank the Chair.

IN DEFENSE OF CHURCHES

Mr. BYRD. Mr. President, recent comments by a political figure have unfairly and, I think, unjustly castigated American churches and millions of American church-goers as ". . . a sham and a crutch for weak-minded people who need strength in numbers. [meaning organized religion] tells people to go out and stick their noses in other people's business." Now these comments are being defended as the kind of outspoken honesty that people really seek in a politician. While I am totally in favor of greater candor from politicians, particularly in these days of poll-driven and consultant-drafted mealy-mouthed pap masquerading as "vision," I am emphatically not in favor of rudeness. There is far too much rude and divisive talk in this Nation these days, and it only exacerbates the kind of climate that encourages acts of violence against anyone who is different or any organization that is not mainstream—or maybe even if it is mainstream, as churches are still mainstream, at least in my part of the world. We cannot and should not let this kind of meanness be excused in the name of honesty and candor.

I do not question anyone's right to voice his opinion, whether I agree with it or not, but I also do not believe it is necessary to demean or belittle or denigrate anyone in the process of voicing an opinion. I am pleased to see that I am not alone in my outrage, but that many people have expressed similar feelings. I hope that we can all learn a lesson from this episode.

All of us ask for guidance from those we trust whenever we are faced with difficult problems. We ask our parents, or our wives, we ask our husbands, or our friends. So what is wrong with seeking the advice of someone who has seen more troubles and received more training in counseling than ourselves—someone who has a calling, a passion, for this role? Someone such as our pastor or priest or minister? Or what is wrong with asking the One who knows and shares all of our troubles—in asking the Creator for guidance and support? What is wrong with asking ourselves, "What would Jesus do?" There is nothing wrong with using the spiritual guidance provided to us from God and His Son, and tested over nearly 2,000 years of human experience. It is not weak-minded. It is not sheep-like to grow up within a framework of faith and to celebrate the rituals of the church. It does not mean that one has a weakness and needs organized religion to "strengthen oneself."

Churches across this Nation provide millions of strong people with spiritual, emotional, and physical support. People who are active in their church may literally count their blessings when disaster strikes them. Be it the sudden loss of a loved one, a fire, a flood, that person will find himself surrounded with caring friends and helping hands. Insurance may provide a sense of financial security, but no matter whose good hands your insurance may be in, an insurance company cannot hold your hand and offer a shoulder to lean on while your home is reduced to smoky ruins or washed downstream in a flood. A pastor, a priest, a minister, or friend from your church can do so, and will do so. And people in your church will offer you the clothes off of their backs, or a place to stay, or food to eat when you are hungry, or help in many other small ways that are a balm on a hurting soul. Instead of facing your loss alone, help arrives in battalions.

Churches have become, in many ways, the new centers of community in America. We live in ever-expanding suburbs. We spend long hours each day commuting to jobs miles from our homes. Our children ride buses to distant schools that may combine many neighborhoods or even many communities.

We may rarely see our neighbor, or may know the neighbor only to nod at as we back our cars out of our driveways. Air conditioning, television, and other amenities have taken the place of sitting on the front porch with a glass of lemonade. Now, if we are outside, we are likely on a deck in the back yard, hidden by a fence or a hedge from the prying eyes of our unseen neighbors. But in church on Sunday, one is encouraged to shake a neighbor's hand. One is asked to pray for neighbors who are sick or in distress. And one hears the word of God—a Name that is above all other names—and participates in the observance of the liturgy that binds all of us in a seamless lineage to the heritage of man.

Churches are not for the weak-minded, Mr. President. They are for the strong. They are for people who are not afraid to seek guidance, not afraid to show charity, not afraid to practice kindness. Tolerance for the beliefs of others is one of the cornerstones on which this Nation is founded, and we in public life would be well-advised to remember that.

Let me close these remarks, Mr. President, with a passage from George Washington's Farewell Address. Mr. President, George Washington, commander of the American forces at Valley Forge, was not a weak-minded man. George Washington, the first President of the United States—and the greatest President of all—was not a weak-minded man. Let's share what he had to say about religion. We might even class George Washington as a politician.

Here is what George Washington said. I suggest that all take note.

> Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens.

Let me digress briefly to suggest that all politicians, whether at the State or local or national level, take note of what George Washington said.

> The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked, where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect, that national morality can prevail in exclusion of religious principle.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I had no intention to speak on this matter. It is purely coincidence—one might even suggest the hand of the Almighty—that caused me just a few minutes ago to read a column that appeared in the Boston Globe in this particular case, a column that picks up on the very theme the distinguished senior Senator from West Virginia has addressed this afternoon.

I will read the column into the CONGRESSIONAL RECORD. I have rarely ever done this, but I found this column so compelling. It corresponds very much to the eloquent words of our colleague from West Virginia and the compelling words of our first American President, George Washington.

First of all, we live in a wonderful country that allows people to express their views, whether they be public people or not. The Governor of Minnesota has expressed his views in a national publication that comes to the issue of organized religion. He certainly is entitled to his views, but I think for those of us who disagree with him and, in fact, as public persons, we bear responsibility to challenge those words when they are offensive to millions of Americans, be they Christians, Jews, Muslims, whether or not people who practice their religion in a church, a synagogue, or a mosque. There is every reason to believe that organized religion, if you will, has contributed significantly to the strength and well-being of the Nation.

This morning, in a column by E.J. Dionne called the Gospel of Jesse Ventura, he quotes the statements made by the Governor of Minnesota in which the Governor said:

> Organized religion is a sham and a crutch for weak-minded people who need strength in numbers. It tells people to go out and stick their noses in other people's business.

Now, Mr. President, the column:

> Well, Governor, I have to hand it to you. You've told us over and over that you say what's on your mind and, because of that, you're unlike the average politician. This statement definitely justifies all your self-congratulation.
>
> Because you're so honest and tough-minded, I figured you wouldn't mind answering a few questions about your comments. I ask them because none of your explanations after the interview helped me understand your meaning. Perhaps I'm thick-headed and you can bring me to your level of enlightenment.
>
> Martin Luther King Jr. was a pastor who led the Southern Christian Leadership Conference. He organized church people to fight for justice. Many who opposed him thought he was sticking his nose into other people's business. In his first major civil rights sermon at the Holt Street Baptist Church in Montgomery, Ala., he declared: "If we are wrong, Jesus of Nazareth was merely a utopian dreamer and never came down to earth! If we are wrong, justice is a lie!"
>
> Please tell me, Governor, I want to know: Was Martin Luther King Jr. "weak-minded" for working through "organized religion"? While you're at it, were all those civil rights activists, so many motivated by religious faith, "weak-minded" for risking their lives in the struggle?
>
> Rabbi Abraham Heschel was a brilliant theologian and wrote about the Hebrew prophets. He was moved by his sense of the prophetic to become a leading ally of King's battle for equality. Was he weak-minded?
>
> Dietrich Bonhoffer was a German theologian moved by his faith to oppose Hitler. He went to prison and was eventually killed. "I have discovered," he wrote a few weeks before his execution, "that only by living fully in the world can we learn to have faith." Was Dietrich Bonhoffer using his faith as a "sham and a crutch?"
>
> The Polish workers of the Solidarity trade union movement, inspired by faith and helped immensely by their "organized religion," faced down the Communist dictatorship in Poland. They risked jail and beatings and helped change the world. Was that weak-minded of them?
>
> What about those theologians who thought through religious questions and the meaning of life on behalf of all those churchy souls you say need crutches? Were Augustine and Aquinas weak-minded? Were Luther and Calvin? What about 20th-century prophets such as Reinhold Niebuhr and Martin Buber? They were towering intellects. I've always thought, but perhaps I'm blind and you can help me see.
>
> I respect and admire the courage you demonstrated in serving our country as a Navy SEAL. But just out of curiosity: Do you think the military chaplains you met were weak-minded?
>
> Father Andrew Greeley, the sociologist, has found that "relationships related to religion" are clearly the major forces mobilizing volunteers in America. We're talking here about mentors for children, volunteers in homeless programs, those who give comfort at shelters for battered women. Are all these good volunteers just seeking strength in numbers?
>
> While you were making money wrestling, Mother Teresa was devoting her life to the poor of Calcutta. Maybe you think she would have been better off in the ring with Disco Inferno.
>
> I don't want to get too personal, but I truly want to know what you're trying to tell us. The nuns who taught me in grade school and the Benedictine monks who taught me in high school devoted the whole of their lives to helping young people learn. Was their dedication to others a sign of weakness? The parish I grew up in was full of parents—my own included—whose religious faith motivated them to build a strong community that nurtured us kids. I guess you're telling me those parents I respected were only seeking strength in numbers.
>
> Somewhere around 100 million Americans attend religious services in any given week. Sociologists agree we are one of the most religiously observant countries in the world, especially compared to other wealthy nations. Are we a weak-minded country?
>
> In explaining your comments afterward, you said: "This is Playboy; they want you to be provocative." Does that mean you would have said something different to the editors of, say, Christianity Today?
>
> And, Governor, one last question: Are you tough-minded enough to understand the meaning of the words: "Your act is wearing thin?"

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ART FROM THE HEART

Mr. WELLSTONE. Mr. President, I thought I would use this time, before we go forward in the Senate with some additional votes, to speak on two matters. I am actually waiting for a few visuals, or pictures, I want to show regarding what I am going to say.

First of all, let me thank a pretty amazing group of young people from my State of Minnesota for coming all the way here to Washington, DC. These are high school students, and they have brought, if you will, art that is from the heart. It is an art display that will be on exhibit in the rotunda of the Russell Senate Office Building.

This month of October is an awareness of domestic violence month. People in the country should understand, if they don't already, that about every 13 seconds, a woman is battered in her home—about every 13 seconds.

A home should be a safe place for women and children. What these students have done is—and I first saw their display at the Harriet Tubman Center back home in Minnesota—they have presented some art that, as I say, is really from the heart. This artwork, in the most powerful way, deals with the devastating impact of violence in homes, not only on women and adults but on children as well.

Quite often, we have debates out here on the floor of the Senate about the negative impact of television violence, or violence in movies, on children. The fact is that for too many children—maybe as many as 5 million children in our country—they don't need to turn on the TV or go to a movie to see the violence; they see the violence in their homes.

We will have this really marvelous display of art by these students from Minnesota, and it will be in the Russell rotunda on display this week. Tonight, for other Senators, at 6:30, there will be a reception for these students. They should be honored for their fine work.

Mr. President, I commend Mr. Dionne. His words speak eloquently to the emotions and feelings of many of us. Again, I respect the Governor of Minnesota in expressing his views, but we certainly have an obligation to express ours. E.J. Dionne has expressed them well with this Member of the Senate.

I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

DISSIDENTS DISAPPEARING IN BELARUS

Mr. WELLSTONE. Mr. President, the government of Belarus has systematically intimidated and punished members of opposition political groups for several years now. Ordinary citizens—some as young as fifteen—have been beaten, arrested, and charged with absurd criminal offenses all because they dared to speak out against the President of Belarus, Alex Lukashenko, and his crushing of basic human rights and civil liberties there.

Recently, however, events have grown worse. Four dissidents, closely watched by the government's omnipresent security police have vanished.

The government says it has no clues as to why. Up until now, the President only beat and jailed his opponents. The President now appears to be behind a series of disappearances by key opposition figures since April, as reported in the New York Times. Last week, the State Department said that it was greatly concerned about the pattern of disappearances and urged the government of Belarus to find and protect those who had vanished. The disappearances coincide with the strongest campaign yet launched by Belarus's pro-democracy movement to press the government for reforms.

The first person to disappear was the former chairwoman of the Central Bank (Tamara Vinnikova). She publicly supported the former prime minister, an opposition candidate, and was being held on trumped up charges under house arrest with an armed guard at the time she vanished. That she was held under house arrest, guarded at all times by live-in KGB agents, her telephone calls and visitors strictly screened, strongly suggests that her disappearance was orchestrated by the authorities.

In May, Yuri Zakharenka, a former interior minister and an opposition activist, disappeared as he was walking home. He was last seen bundled into a car by a group of unidentified men. His wife said for two weeks prior to his abduction, he had complained of being tailed by two cars.

At the height of protests in July, another opposition leader, speaker of the illegally disbanded parliament, fled to Lithuania, saying that he feared for his life.

Then two weeks ago, Victor Gonchar, a leading political dissident, and his friend, a publisher, vanished on an evening outing, even though Mr. Gonchar was under constant surveillance by the security police. Gonchar's wife reportedly contacted city law enforcement agencies, local hospitals and morgues without result. The government maintains that it has no information on his whereabouts. Mr. Gonchar has been instrumental in selecting an opposition delegation to OSCE-mediated talks with the government, and was scheduled to meet with the U.S. ambassador to Belarus on September 20. Earlier this year, police violently assaulted and arrested him on charges of holding an illegal meeting in a private cafe, for which he served ten days in jail.

Before President Lukashenko came to office in 1994, one could see improvements in the human rights situation in Belarus. Independent newspapers emerged, and ordinary citizens started openly expressing their views and ideas, opened associations and began to organize. The parliament became a forum for debate among parties with differing political agendas. The judiciary also began to operate more independently.

After Mr. Lukashenko was elected president, he extended his term and replaced the elected Parliament with his own hand-picked legislators in a referendum in 1996, universally condemned as rigged. Since then, he has held fast to his goal of strengthening his dictatorship. He has ruthlessly sought to control and subordinate most aspects of public life, both in government and in society, cracking down on the media, political parties and grass roots movements. Under the new constitution, he overwhelming dominates other branches of government, including the parliament and judiciary.

The first president of democratic Belarus, Stanislav Shushkevich, and now in the opposition, said recently that the government is resorting to state terrorism by abducting and silencing dissidents. He said, "the regime has gone along the path of eliminating the leaders against whom it can't open even an artificial case. This is done with the goal of strengthening the dictatorship."

I am deeply concerned that comments by senior government officials this past week which betray official indifference to those disappearances.

I urge President Lukashenko to use all available means at his disposal to locate the four missing—and to ensure the safety and security of all living in Belarus, regardless of their political views. What is happening in Belarus now is an outrage. The world is watching what President Lukashenko does to address it.

Mr. President, I want the Government of Belarus to know that their blatant violation of the human rights of citizens is unacceptable. The report several days ago of four prominent men and women who have had the courage to stand up against this very repressive Government of Belarus raises very serious questions. As a Senator, I want to speak from the floor and condemn that Government's repressive actions. I want to make it clear to the Government of Belarus that these actions, the repression and violation of citizens' rights in Belarus, is unacceptable, I think, to every single Senator.

I think many of us in the human rights community are very worried about whether or not they are still alive. I would not want the Government of Belarus to think they can engage in this kind of repressive activity with impunity. That is why I speak about this on the floor of the Senate.

ECONOMIC CONVULSION IN AGRICULTURE

Mr. WELLSTONE. Mr. President, let me, one more time, return to a question I have put to the majority leader, and then I say to my colleague from Arizona I will complete my remarks.

In the last 3 weeks now, I have asked for the opportunity to introduce legislation—amendments—which would speak directly to what can only be described as an economic convulsion in agriculture, the unbelievable economic pain in the countryside, and the number of farmers who are literally being obliterated and driven off the land.

Up to date, I have not been able to get any kind of clear commitment from the majority leader as to when we will have the opportunity for all of us in the Senate to have a substantive debate about this and take action. For those of us in agricultural States, this is very important. I want to signal to colleagues that I will look for an opportunity, and the first opportunity I get, I will try to do everything I can to focus our attention on what can only be described as a depression in agriculture. I will try to focus the attention of people in the Senate, Democrats and Republicans alike, on the transition that is now taking place in agriculture, which I think, if it runs its full course, we will deeply regret as a Nation.

Mr. President, I yield the floor.

AIR TRANSPORTATION IMPROVEMENT ACT—Continued

Mr. McCAIN. Mr. President, for the benefit of my colleagues, we are nearing the end as far as amendments are concerned. We will be ready within about 20 minutes to a half hour to complete an amendment by Senator DORGAN. We are in the process of working on it. We have several amendments by Senator HATCH that we are trying to get so we can work those out. We have no report yet from Senator HUTCHISON on whether or not she wants an amendment. So if Senator HUTCHISON, or her staff, is watching, we would like to get that resolved. There is a modification of an amendment by Senator BAUCUS.

Other than that, we will be prepared to move to the previous unanimous consent agreement concerning debate on the Robb amendment and vote on that, followed by final passage. I believe we are nearing that point. So as we work out the final agreements on these amendments, I hope that within 10 or 15 minutes we will be able to complete action on that and be prepared to move to the Robb amendment debate and then final passage.

Mr. President, in the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1898, AS MODIFIED

Mr. McCAIN. Mr. President, on behalf of Senator BAUCUS, I send a modification to the desk and ask that it be accepted.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The modification will be accepted.

The amendment (No. 1898), as modified, is as follows:

At the appropriate place, insert the following:

( ) AIRLINE QUALITY SERVICE REPORTS.—The Secretary of Transportation shall modify the Airline Service Quality Performance reports required under part 234 of title 14, Code of Federal Regulations, to more fully disclose to the public the nature and source of delays and cancellations experienced by air travelers. Such modifications shall include a requirement that air carriers report delays and cancellations in categories which reflect the reasons for such delays and cancellations. Such categories and reporting shall be determined by the Administrator in consultation with representatives of airline passengers, air carriers, and airport operators, and shall include delays and cancellations caused by air traffic control.

AMENDMENT NO. 1927

(Purpose: To amend title 18, United States Code, with respect to the prevention of frauds involving aircraft or space vehicle parts in interstate or foreign commerce.)

Mr. McCAIN. Mr. President, on behalf of Senator HATCH and others, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for Mr. HATCH, Mr. LEAHY, and Mr. THURMOND, proposes an amendment numbered 1927.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. HATCH. Mr. President, today I am proud to offer the Aircraft Safety Act of 1999 as an amendment to S. 82, the Air Transportation Improvement Act. I join with Senator LEAHY and Senator THURMOND in proposing this amendment, which will provide law enforcement with a potent weapon in the fight to protect the safety of the traveling public. This is one piece of legislation which could truly help save hundreds of lives.

Current federal law does not specifically address the growing problem of the use of unapproved, uncertified, fraudulent, defective or otherwise unsafe aviation parts in civil, military and public aircraft. Those who traffic in this potentially lethal trade have thus far been prosecuted under a patchwork of Federal criminal statutes which are not adequate to deter the conduct involved. Most subjects prosecuted to date have received little of no jail time, and relatively minor fines have been assessed. Moreover, law enforcement has not had the tools to prevent these individuals from reentering the trade or to seize and destroy stockpiles of unsafe parts.

While the U.S. airline industry can take pride in the safety record they have achieved thus far, trade in fraudulent and defective aviation parts is a growing problem which could jeopardize that record. These suspect parts are not only readily available throughout the country, they are being installed on aircraft as we speak. This problem will continue to grow as our fleet of commercial and military aircraft continues to age. Safe replacement parts are vital to the safety of this fleet. When you consider that one Boeing 747 has about 6 million parts, you begin to understand the potential for harm caused by the distribution of fraudulent and defective parts.

Where do these parts come from? Some are used or scrap parts which should be destroyed, or have not been properly repaired. Others are simply counterfeit parts using substandard materials unable to withstand the rigors imposed through daily use on a modern aircraft. Some are actually scavenged from among the wreckage and broken bodies strewn about after an airplane crash. For example, when American Airlines Flight 965 crashed into a mountain in Columbia in 1995, it wasn't long before some of the parts from that aircraft wound up back in the United States and resold as new by an unscrupulous Miami dealer who had obtained them through the black market.

While the danger to passengers and civilians on the ground is substantial, this danger also jeopardizes the courageous men and women of our armed forces. The Army is increasingly buying commercial off-the-shelf aircraft and parts for their growing small jet and piston-engine passenger and cargo fleets. The Department of Defense will buy 196 such aircraft by 2005 and virtually every major commercial passenger aircraft is in the Air Force fleet, although the military designation is different. In addition, there are dozens of specially configured commercial aircraft that have frame modifications to serve special missions, such as reconnaissance and special operations forces. The safety of all of these vehicles is dependent on the quality of the parts used to repair them and keep them flying.

The amendment we have proposed will criminalize: (1.) The knowing falsification or concealment of a material fact relating to the aviation quality of a part; (2.) The knowing making of a fraudulent misrepresentation concerning the aviation quality of a part; (3.) the export, import, sale, trade or installation of any part where such transaction was accomplished by means of a fraudulent certification or other representation concerning the aviation quality of a part; (4.) An attempt or conspiracy to do the same.

The penalty for a violation will be up to 15 years in prison and a fine of up to $250,000, however, if that part is actually installed, the violator will face up to 25 years and a fine of $500,000. And if the part fails to operate as represented and serious bodily injury or death results, the violator can face up to life in prison and a $1,000,000 fine. Organizations committing a violation will be subject to fines of up to $25,000,000.

In addition to the enhanced criminal penalties created, the Department of Justice may also seek reasonable restraining orders pending the disposition of actions brought under the section, and may also seek to remove convicted persons from engaging in the business in the future and force the destruction of suspect parts. Criminal forfeiture of proceeds and facilitating property may also be sought. The Attorney General is also given the authority to issue subpoenas for the purpose of facilitating investigations into the trafficking of suspect parts, and wiretaps may be obtained where appropriate.

This amendment is supported by Attorney General Reno, Secretary Slater, Secretary Cohen and NASA Administrator Goldin, and OMB has indicated that this amendment is in accord with the President's program. I ask my fellow Senators to join with Senators LEAHY, THURMOND and me in supporting this important piece of legislation.

I ask unanimous consent that relevant material, including a copy of the amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Enclosed is proposed legislation, "The Aircraft Safety Act of 1999." This is part of the legislative program of the Department of Justice for the first session of the 106th Congress. This legislation would safeguard United States aircraft, space vehicles, passengers, and crewmembers from the dangers posed by the installation of nonconforming, defective, or counterfeit parts in civil, public, and military aircraft. During the 105th Congress, similar legislation earned strong bi-partisan support, as well as the endorsement of the aviation industry.

The problems associated with fraudulent aircraft and spacecraft parts have been explored and discussed for several years. Unfortunately, the problems have increased while the discussions have continued. Since 1993, federal law enforcement agencies have secured approximately 500 criminal indictments for the manufacture, distribution, or installation of nonconforming parts. During that same period, the Federal Aviation Administration (FAA) received 1,778 reports of suspected unapproved parts, initiated 298 enforcement actions, and issued 143 safety notices regarding suspect parts.

To help combat this problem, an interagency Law Enforcement/FAA working group was established in 1997. Members include the Federal Bureau of Investigation

(FBI); the Office of the Inspector General, Department of Transportation; the Defense Criminal Investigative Service; the Office of Special Investigations, Department of the Air Force; the Naval Criminal Investigative Service, Department of the Navy; the Customs Service, Department of the Treasury; the National Aeronautics and Space Administration; and the FAA. The working group quickly identified the need for federal legislation that targeted the problem of suspect aircraft and spacecraft parts in a systemic, organized manner. The enclosed bill is the product of the working group's efforts.

Not only does the bill prescribe tough new penalties for trafficking in suspect parts; it also authorizes the Attorney General, in appropriate cases, to seek civil remedies to stop offenders from re-entering the business and to direct the destruction of stockpiles and inventories of suspect parts so that they do not find their way into legitimate commerce. Other features of the bill are described in the enclosed section-by-section analysis.

If enacted, this bill would give law enforcement a potent weapon in the fight to protect the safety of the traveling public. Consequently, we urge that you give the bill favorable consideration.

We would be pleased to answer any questions that you may have and greatly appreciate your continued support for strong law enforcement. The Office of Management and Budget has advised us that, from the perspective of the Administration's program, there is no objection to the submission of this legislative proposal, and that its enactment would be in accord with the program of the President.

Sincerely,

JANET RENO,
Attorney General.
RODNEY E. SLATER,
Secretary of Transportation.
WILLIAM S. COHEN,
Secretary of Defense.
DANIEL S. GOLDIN,
Administrator, National Aeronautics and Space Administration.

Enclosures.

PROPOSED LEGISLATION

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,

SECTION 1.

This Act may be cited as the "Aircraft Safety Act of 1999."

SEC. 2. PREVENTION OF FRAUDS INVOLVING AIRCRAFT OR SPACEVEHICLE PARTS IN INTERSTATE OR FOREIGN COMMERCE.

(a) Chapter 2 of title 18, United States Code, is amended—

(1) by adding at the end of section 31 the following:

"'Aviation quality' means, with respect to aircraft or spacevehicle parts, that the item has been manufactured, constructed, produced, repaired, overhauled, rebuilt, reconditioned, or restored in conformity with applicable standards specified by law, regulation, or contract.

"'Aircraft' means any civil, military, or public contrivance invented, used, or designed to navigate, fly, or travel in the air.

"'Part' means frame, assembly, component, appliance, engine, propeller, material, part, spare part, piece, section, or related integral or auxiliary equipment.

"'Spacevehicle' means a man-made device, either manned or unmanned, designed for operation beyond the earth's atmosphere.

"'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(b) Chapter 2 of title 18, United States Code, is amended by adding at the end the following—

"§ 38. Fraud involving aircraft or spacevehicle parts in interstate or foreign commerce

"(a) OFFENSES.—Whoever, in or affecting interstate or foreign commerce, knowingly—

"(1) falsifies or conceals a material fact; makes any materially fraudulent representation; or makes or uses any materially false writing, entry, certification, document, record, data plate, label or electronic communication, concerning any aircraft or spacevehicle part;

"(2) exports from or imports or introduces into the United States, sells, trades, installs on or in any aircraft or spacevehicle any aircraft or spacevehicle part using or by means of fraudulent representations, documents, records, certifications, depictions, data plates, labels or electronic communications; or

"(3) attempts or conspires to commit any offense described in paragraph (1) or (2), shall be punished as provided in subsection (b).

"(b) PENALTIES.—The punishment for an offense under subsection (a) is as follows:

"(1) If the offense relates to the aviation quality of the part and the part is installed in an aircraft or spacevehicle, a fine of not more than $500,000 or imprisonment for not more than 25 years, or both;

"(2) If, by reason of its failure to operate as represented, the part to which the offense is related is the probable cause of a malfunction or failure that results in serious bodily injury (as defined in section 1365) to or the death of any person, a fine of not more than $1,000,000 or imprisonment for any term of years or life, or both;

"(3) If the offense is committed by an organization, a fine of not more than $25,000,000; and

"(4) In any other case, a fine under this title or imprisonment for not more than 15 years, or both.

"(c) CIVIL REMEDIES.—(1) The district courts of the United States shall have jurisdiction to prevent and restrain violations of this section by issuing appropriate orders, including, but not limited to: ordering any person convicted of an offense under this section to divest himself of any interest, direct or indirect, in any enterprise, or to destroy, or to mutilate and sell as scrap, aircraft material or part inventories or stocks; imposing reasonable restrictions on the future activities or investments of any such person, including, but not limited to, prohibiting engagement in the same type of endeavor as used to perpetrate the offense, or ordering dissolution or reorganization of any enterprise, making due provisions for the rights and interests of innocent persons.

"(2) The Attorney General may institute proceedings under this subsection. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions, or take such other actions, including the acceptance of satisfactory performance bonds, as it shall deem proper.

"(3) A final judgment or decree rendered in favor of the United States in any criminal proceeding brought by the United States under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the United States.

"(d) CRIMINAL FORFEITURE.—(1) The court, in imposing sentence on any person convicted of an offense under this section, shall order, in addition to any other sentence and irrespective of any provision of State law, that the person shall forfeit to the United States—

"(A) any property constituting, or derived from, any proceeds such person obtained, directly or indirectly, as a result of such offense; and

"(B) any property used, or intended to be used, in any manner or part, to commit or facilitate the commission of such offense.

"(2) The forfeiture of property under this section, including any seizure and disposition thereof, and any proceedings relating thereto, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. §853), except for subsection (d) of that section.

"(e) CONSTRUCTION WITH OTHER LAWS.—This Act shall not be construed to preempt or displace any other remedies, civil or criminal, provided by Federal or State law for the fraudulent importation, sale, trade, installation, or introduction of aircraft or spacevehicle parts into commerce.

"(f) TERRITORIAL SCOPE.—This section applies to conduct occurring within the United States or conduct occurring outside the United States if—

"(1) The offender is a United States person; or

"(2) The offense involves parts intended for use in U.S. registry aircraft or spacevehicles; or

"(3) The offense involves either parts, or aircraft or spacevehicles in which such parts are intended to be used, which are of U.S. origin.

"(g) AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.—

"(1) AUTHORIZATION.—(A) In any investigation relating to any act or activity involving an offense under this section, the Attorney General may issue in writing and cause to be served a subpoena—

"(i) requiring the production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control; and

"(ii) requiring a custodian of records to give testimony concerning the production and authentication of such records.

"(B) A subpoena under this subsection shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(C) The production of records shall not be required under this section at any place more than 500 miles distant from the place where the subpoena for the production of such records is served.

"(D) Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(2) SERVICE.—A subpoena issued under this section may be served by any person who is at least 18 years of age and is designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(3) ENFORCEMENT.—In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony concerning the production and authentication of such records. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

"(4) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a summons under this section, who complies in good faith with the summons and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"38. Fraud involving aircraft of space vehicle parts in interstate of foreign commerce.".

SEC. 3. CONFORMING AMENDMENT.

Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 38 (relating to aircraft parts fraud)," after "section 32 (relating to destruction of aircraft or aircraft facilities),".

SECTION-BY-SECTION ANALYSIS

SECTION 1.

This section states the short title of the legislation, the "Aircraft Safety Act of 1999."

SECTION 2. PREVENTION OF FRAUDS INVOLVING AIRCRAFT OR SPACEVEHICLE PARTS IN INTERSTATE OR FOREIGN COMMERCE.

This section, whose primary purpose is to safeguard U.S. aircraft and spacecraft, and passengers and crewmembers from the dangers posed by installation of nonconforming, defective, or counterfeit frames, assemblies, components, appliances, engines, propellers, materials, parts or spare parts into or onto civil, public, and military aircraft. Thus, even though the section is cast as an amendment to the criminal law, it is a public safety measure.

The problems associated with nonconforming, defective, and counterfeit aircraft parts have been explored and discussed in a number of fora for several years. For example, in 1995, the Honorable Bill Cohen, then Chairman of the Senate Subcommittee on Oversight of Government Management and the District of Columbia (now Secretary of Defense), said: "Airplane parts that are counterfeit, falsely documented or manufactured without quality controls are posing an increased risk to the flying public, and the federal government is not doing enough to ensure safety." Similarly, Senator Carl Levin, in a 1995 statement before the same Subcommittee, said: "A domestic passenger airplane can contain as many as 6 million parts. Each year, about 26 million parts are used to maintain aircraft. Industry has estimated that as much as $2 billion in unapproved parts are now sitting on the shelves of parts distributors, airlines, and repair stations."

Notwithstanding increased enforcement efforts, the magnitude of the problem is increasing: according to the June 10, 1996, edition of Business Week magazine, "Numerous FAA inspectors . . . say the problem of substandard parts has grown dramatically in the past five years. That's partly because the nation's aging airline fleet needs more repairs and more parts to keep flying—increasing the opportunities for bad parts to sneak in. And cash-strapped startups outsource much of their maintenance, making it harder for them to keep tabs on the work." According to Senator Levin's 1995 statement, "over the past five years, the Department of Transportation Inspector General and the Federal Bureau of Investigation have obtained 136 indictments, 98 convictions, about $50 million in criminal fines, restitutions and recoveries in cases involving unapproved aircraft parts. . . . The bad news is that additional investigations are underway with no sign of a flagging market in unapproved parts."

Yet, no single Federal law targets the problem in a systemic, organized manner. Prosecutors currently use a variety of statutes to bring offenders to justice. These statutes include mail fraud, wire fraud, false statements and conspiracy, among others. While these prosecutorial tools work well enough in many situations, none of them focus directly on the dangers posed by nonconforming, defective, and counterfeit aircraft parts. Offenders benefit from this lack of focus, often in the form of light sentences. One incident reveals the inherent shortcomings of such an approach.

"In 1991, a mechanic at United [Airlines] noticed something odd about what were supposed to be six Pratt & Whitney bearing-seal spacers used in P&W's jet engines—engines installed on Boeing 727s and 737s and McDonnell-Douglas DC–9s world-wide. The spacers proved to be counterfeit, and P&W determined that they would have disintegrated within 600 hours of use, compared with a 20,000-hour service life of the real part. A spacer failure in flight could cause the total failure of an engine. Investigators traced the counterfeits to a broker who allegedly used unsuspecting small toolmakers and printers to fake the parts, as well as phony Pratt & Whitney boxes and labels. The broker . . . pled guilty to trafficking in counterfeit goods and received a seven-month sentence in 1994." (June 10, 1996, Edition of Business Week Magazine.)

Given the potential threat to public safety, a focused, comprehensive law is needed to attack this problem.

Prevention of Frauds Involving Aircraft or Spacecraft Parts in Interstate or Foreign Commerce remedies the problems noted above by amending Chapter Two of Title 18, United States Code. Chapter Two deals with "Aircraft and Motor Vehicles," and currently contains provisions dealing with the destruction of aircraft or aircraft facilities, and violence at international airports but says nothing about fraudulent trafficking in nonconforming, defective, or counterfeit aircraft parts.

Subsection (a) builds on the existing framework of Chapter Two by adding some relevant definitions to Section 31. The subsection defines "aviation quality," when used with respect to aircraft or aircraft parts, to mean aircraft or parts that have been manufactured, constructed, produced, repaired, overhauled, rebuilt, reconditioned, or restored in conformity with applicable standards, specified by law, regulation, or contract. The term is used in Section 38(b) of the Act, which sets forth the maximum penalties for violation of the offenses prescribed by Section 38(a). If the misrepresentation or fraud that leads to a conviction under Section 38(a) concerns the "aviation quality" of an aircraft part, then Section 38(b)(2) enhances the maximum punishment by 10 years imprisonment and doubles the potential fine.

This subsection also defines "aircraft." This definition essentially repeats the definition of aircraft already provided in Section 40102 of Title 49.

"Part" is defined to mean virtually all aircraft components and equipment.

"Spacevehicle" is defined to mean any man-made device, manned or unmanned, designed for operation beyond the earth's atmosphere and would include rockets, missiles, satellites, and the like.

Subsection (b) adds a totally new Section 38 to Chapter Two of Title 18. Subsection 38(a)(1)–(3) sets out three new offenses designed to outlaw the fraudulent exportation, importation, sale, trade, installation, or introduction of nonconforming, defective, or counterfeit aircraft or aircraft parts into interstate or foreign commerce. This is accomplished by making it a crime to falsify or conceal any material fact, to make any materially fraudulent representation, or to use any materially false documentation or electronic communication concerning any aircraft or spacecraft part, or to attempt to do so.

The three provisions, overlap to some extent but each focuses upon a different aspect of the problem to provide investigators and prosecutors with necessary flexibility. All are specific intent crimes; that is, all require the accused to act with knowledge, or reason to know, of his fraudulent activity.

Proposed subsection (b) prescribes the maximum penalties that attach to the offenses created in Subsection (a). A three-pronged approach is taken in order to both demonstrate the gravity of the offenses and provide prosecutors and judges alike with flexibility in punishing the conduct at issue. A basic 15-year imprisonment and $250,000 fine maximum punishment is set for all offenses created by the new section; however, the maximum punishment may be escalated if the prosecution can prove additional aggravating circumstances. If the fraud that is the subject of a conviction concerns the aviation quality of the part at issue and the part is actually installed in an aircraft or spacevehicle, then the maximum punishment increases to 25 years imprisonment and a $500,000 fine. If, however, the prosecution is able to show that the part at issue was the probable cause of a malfunction or failure leading to an emergency landing or mishap that results in the death or injury of any person, then the maximum punishment is increased to life imprisonment and a $1 million fine. Finally, if a person other than an individual is convicted, the maximum fine is increased to $25 million.

New subsection (c) authorizes the Attorney General to seek appropriate civil remedies, such as injunctions, to prevent and restrain violations of the Act. Part of the difficulty in stopping the flow of nonconforming, defective, and counterfeit parts into interstate or foreign commerce is the ease with which unscrupulous individuals and firms enter and re-enter the business: "Moreover, even when they are caught and punished, these criminals can conceivably go back to selling aircraft parts when their sentences are up." (*See*, 1995 Statement of Senator Joe Lieberman before the Senate Subcommittee on Oversight of Government Management and the District of Columbia.) In addition to providing a way to maintain the status quo and to keep suspected defective or counterfeit parts out of the mainstream of commerce during an investigation, this provision adds important post-conviction enforcement tools to prosecutors. The ability to bring such actions may be especially telling in dealing with repeat offenders since a court may, in addition to imposing traditional criminal penalties, order individuals to divest themselves of interests in businesses used to perpetuate related offenses or to refrain from entering the same type of business endeavor in the future. Courts may also direct the disposal of stockpiles and inventories of parties not shown to be genuine or conforming to specifications to prevent their subsequent resale or entry into commerce. It is envisioned that the prosecution would seek such relief only when necessary to ensure aviation safety.

Proposed subsection (d) provides for criminal forfeiture proceedings in cases arising under new section 38 of Title 18.

Proposed subsection (e) discusses how the Act is to be construed with other laws relating to the subject of fraudulent importation, sale, trade, installation, or introduction of aircraft or aircraft parts. The section makes clear that other remedies, whether civil or criminal, are not preempted by the Act and may continue to be enforced. In particular, the Act is not intended to alter the jurisdiction of the U.S. Customs Service, which is generally responsible for enforcing the laws governing importation of goods into the United States.

Proposed subsection (f) deals with the territorial scope of the Act. To rebut the general presumption against the extraterritorial effect of U.S. criminal laws, this section provides that the Act will apply to conduct occurring both in the United States and beyond U.S. borders. Clearly the U.S. will apply the law to conduct occurring outside U.S. territory only when there is an important U.S. interest at stake. If, however, an offender affects the safety of U.S. aircraft, spacevehicles, or is a U.S. person, this section would provide for subject matter jurisdiction even if the offense is committed overseas.

Subsection (g) of new section 38 authorizes administrative subpoenas to be issued in furtherance of the investigation of offenses under this section. Under this provision, the Attorney General or designee may issue written subpoenas requiring the production of records relevant to an authorized law enforcement inquiry pertaining to offenses under the new section. Testimony concerning the production and authentication of such records may also be compelled. The subsection also sets forth guidance concerning the service and enforcement of such subpoenas and provides civil immunity to any person who, in good faith, complies with a subpoena issued pursuant to the Section.

The subsection is modeled closely on an analogous provision found in Section 3486(a)(1) of Title 18, pertaining to health care fraud investigations. Like the health care industry, the aviation industry—including the aviation-parts component of the industry—is highly regulated since the public has an abiding interest in the safe and efficient operation of all components of the industry. The public also has concomitant interest in access to the records and related information pertaining to the industry since, often, the only evidence of possible violations of law may be the records of this regulated industry. Thus, companies and individuals doing business in this industry are in the public limelight by choice and have reduced or diminished expectations of privacy in their affairs relating to how that business is conducted. In such situations, strict probable cause requirements regarding the production of records, documents, testimony, and related materials make enforcement impossible. This provision recognizes this but also imposes some procedural rigor and related safeguards so that the administrative subpoena power is not abused in this context. The provisions rquires the information sought to be relevant to the investigation, reasonably specific, and not unreasonably burdensome to meet.

SECTION 3. CONFORMING AMENDMENT.

This section would add the new offenses created by the Act to the list of predicate offenses for which oral, wire, and electronic communications may be authorized.

Mr. McCAIN. Mr. President, the amendment has been agreed to by both sides. There is no further debate.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1927) was agreed to.

AMENDMENT NO. 2240

(Purpose: To preserve essential air services at dominated hub airports)

Mr. McCAIN. Mr. President, on behalf of Senator DORGAN, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for Mr. DORGAN, proposes an amendment numbered 2240.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. PRESERVATION OF ESSENTIAL AIR SERVICE AT DOMINATED HUB AIRPORTS.

(a) IN GENERAL.—Subchapter II of chapter 417 is amended by adding at the end thereof the following:

"§41743. Preservation of basic essential air service at dominated hub airports

"(a) IN GENERAL.—If the Secretary of Transportation determines that extraordinary circumstances jeopardize the reliable and competitive performance of essential air service under this subchapter from a subsidized essential air service community to and from an essential airport facility, then the Secretary may require the air carrier that has more than 50 percent of the total annual enplanements at that essential airport facility to take action to enable an air carrier to provide reliable and competitive essential air service to that community. Action required by the Secretary under this subsection may include interline agreements, ground services, subleasing of gates, and the provision of any other service to facility necessary for the performance of satisfactory essential air service to that community.

"(b) ESSENTIAL AIRPORT FACILITY DEFINED.—In this section, the term 'essential airport facility' means a large hub airport (as defined in section 41731) in the contiguous 48 states at which 1 air carrier has more than 50 percent of the total annual enplanements at that airport.".

Mr. McCAIN. Mr. President, I thank Senator DORGAN for this amendment. Senator DORGAN has been, for at least 10 years I know, deeply concerned about this whole issue of essential air service. Although essential air service has increased funding, still we are not having medium-sized and small markets being served as they deserve.

I thank Senator DORGAN for the amendment.

It has been agreed to by both sides. I don't believe there is any further debate.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2240) was agreed to.

The PRESIDING OFFICER. Without objection, the modified Baucus amendment is agreed to.

The amendment (No. 1898), as modified, was agreed to.

Mr. McCAIN. Thank you, Mr. President. All we have now remaining is the managers' amendment, which will be arriving shortly. Then I will have a request on behalf of the leader for FAA passage, and the parliamentary procedures for doing so.

Mr. DOMENICI. Mr. President, I wonder if I might use a few moments while the manager is waiting to give general observations. I am totally in favor of the bill. I just want to talk generally about the Airport and Airways Trust Fund.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair.

Over the last several years, there has been a lot of talk and support on the House side for the idea of changing the budgetary status of the Airport and Airways Trust Fund. In fact, the House's FAA Reauthorization bill, the so-called AIR-21, would take the Airport and Airways Trust Fund off-budget. Some say the House's real intent is to create a new budgetary firewall for aviation, similar to those created for the highway and mass transit trust funds under the Transportation Equity Act for the 21st Century (TEA-21).

I've been hearing distant, low rumbles from a minority of my colleagues on this side of the Capitol. They, too, would like an off-budget status or firewall for the Aviation Trust Fund.

Let me reiterate my response to these proposals—These proposals are dangerous and fiscally irresponsible. They undermine the struggle to control spending, reduce taxes, and balance the budget.

Taking the Aviation Trust Fund off-budget would allow FAA spending to be exempt from all congressional budget control mechanisms. It would provide aviation with a level of protection now provided only to Social Security. Important spending control mechanisms such as budget caps, pay-as-you-go rules, and annual congressional oversight and review would no longer apply.

A firewall scenario has very similar problems. A firewall would prevent the Appropriations Committee from reducing trust fund spending, even if the FAA was not ready to spend the money in a given year. If the Appropriations Committee wanted to increase FAA spending above the firewall, it would have to come from the discretionary spending cap, a very difficult choice given the tight discretionary caps through 2002.

These proposals would also create problems in FAA management and oversight. Both an off-budget or firewall status would reduce management and oversight of the FAA by taking trust fund spending out of the budget process. Placing the FAA and the trust fund on autopilot by locking-up funding would result in fewer opportunities to review and effect needed reforms. This is very dangerous. There would be little leverage to induce the FAA to strive for higher standards of performance. Now is the time for more management and oversight by both the Authorizing and Appropriations committee, not less.

The Budget Enforcement Act and other budget laws were created to keep runaway spending in check. I oppose, as we all should, budgetary changes that would make it more difficult to control spending, weaken congressional oversight, create a misleading federal budget, and violate the spirit of the law.

Some of my colleagues object to the building of money in the Aviation Trust Fund. They contend that all of the revenues should be spent on airport improvements. They say that all of the aviation related user taxes should be dedicated to aviation, and should not be used for other spending programs, deficit reduction, or tax cuts.

On the contrary, total FAA expenditures have far exceeded the resources flowing into the trust fund. Since the trust fund was created in 1971 to 1998, total expenditures have exceeded total tax revenues by more than $6 billion.

This is because the Aviation Trust Fund resources have been supplemented with General Revenues. The purpose of the General Fund contribution is that the federal government should reimburse the FAA for the direct costs of public-sector use of the air traffic control system. The FAA estimated in 1997 that the public-sector costs incurred on the air traffic control system is 7.5 percent.

In 1999, a total of 15 percent of federal aviation funding came from the General Fund. Since the creation of the Aviation Trust Fund, the General Fund subsidy for the FAA is 38 percent of all spending. This far exceeds the 7.5 percent public-sector costs that FAA estimated. Therefore, over the life of the trust fund, the public sector has subsidized the cost of the private-sector users of the FAA by $46 billion.

Let this Congress not make the fiscally irresponsible decision to insulate aviation spending from any fiscal restraint imposed by future budget resolutions; to make aviation spending off-limits to Congressional Appropriations Committees. Let us not grant aviation a special budgetary privilege, and make it more difficult for future Congresses and Administrations to enact major reforms in airport and air traffic control funding and operations.

Taking the Aviation Trust Funds off-budget or creating a firewall—these proposals are not fit to fly!

I yield the floor. I thank the chairman for yielding.

Mr. McCAIN. Mr. President, I thank the Senator from New Mexico.

AMENDMENT NO. 2265

(Purpose: To make available funds for Georgia's regional airport enhancement program)

Mr. McCAIN. Mr. President, I send an amendment to the desk on behalf of Senator COVERDELL.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for Mr. COVERDELL, proposes an amendment numbered 2265.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the Manager's substitute amendment, insert the following:

SEC. . AVAILABILITY OF FUNDS FOR GEORGIA'S REGIONAL AIRPORT ENHANCEMENT PROGRAM.

Of the amounts made available to the Secretary of Transportation for the fiscal year 2000 under section 48103 of title 49, United States Code, funds may be available for Georgia's regional airport enhancement program for the acquisition of land.

Mr. McCAIN. Mr. President, there is no further debate on the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2265) was agreed to.

Mr. McCAIN. Mr. President, I know of no further amendments to be offered to S. 82 other than the managers' package.

I ask unanimous consent that the Senate proceed to the debate and vote in relation to the Robb amendment. I further ask unanimous consent that following the vote in relation to the Robb amendment, the managers' amendment be in order, and following its adoption, the bill be advanced to third reading.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Mr. President, I wonder whether I could ask my colleague, how long will the debate be on the Robb amendment?

Mr. McCAIN. According to the previous unanimous consent amendment, there was 5 minutes for Senators BRYAN, WARNER, ROBB, and 5 minutes for me. I don't intend to use my 5 minutes because I know that the Senator from Nevada can far more eloquently state the case.

Mr. WELLSTONE. I shall not object.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to.

Mr. McCAIN. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on passage of the House bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. McCAIN. Mr. President, therefore, two back-to-back votes will occur within a short period of time, the last in the series being final passage of the FAA bill.

I thank all Senators for their cooperation.

Before I move on to the debate on the part of Senator BRYAN, Senator ROBB, Senator WARNER, and myself, I will ask that the Chair appoint Republican conferees on this side of the aisle as follows: Senators McCAIN, STEVENS, BURNS, GORTON, and LOTT; and from the Budget Committee, Senators DOMENICI, GRASSLEY, and NICKLES.

I hope the other side will be able to appoint conferees very shortly as well so that we can move forward to a conference on the bill. I understand the Democratic leader has not decided on the conferees. But we have decided ours.

I see the Senator from Nevada.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Nevada.

AMENDMENT NO. 2259

Mr. BRYAN. Mr. President, I would like to accommodate the distinguished Senator from Arizona, the chairman. The Senator from Nevada would like to use 2 minutes of his time at this point and reserve the remainder.

I rise in opposition to the amendment offered by our distinguished colleague from Virginia. I do so because the effect of his amendment would leave us with the perimeter rule unchanged.

Very briefly, the perimeter rule is a rule enacted by statute by the Congress of the United States which prohibits flights originating from Washington National to travel more than 1,250 miles and prohibits any flights originating more than 1,250 miles from Washington National from landing here.

The General Accounting Office has looked at this and has found that it is anticompetitive. It tends to discriminate against new entrants into the marketplace, and it cannot be justified by any rational standard.

As is so often the case, a page of history is more instructive than a volume of logic. The history of this dates back to 1986 when there was difficulty in getting long-haul carriers to move to Washington Dulles. At that point in time, the perimeter rule, which was then something like 750 miles, was put into effect to force air service for long-haul carriers out of Dulles. As we all know, that is no longer the case. Dulles has gone to a multibillion-dollar expansion and the original basis for the rule no longer exists.

The effect, unfortunately, of the amendment offered by the distinguished Senator from Virginia is to leave that perimeter rule in place unchanged. The Senator from Arizona has recommended a compromise. He and I would prefer to abolish the rule in its entirety. Yielding to the reality of the circumstances, he has provided a compromise to provide for 24 additional slots: 12 to be made available for carriers that would serve outside of the perimeter; that is, beyond the 1,250 miles, and 12 within the 1,250 miles.

This is a very important piece of legislation, and I urge my colleagues to defeat it on the basis that it is anticompetitive, unnecessary, and no longer serves any useful purpose.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Arizona.

Mr. MCCAIN. Mr. President, in light of the fact that Senator WARNER just arrived and Senator ROBB has not arrived, I ask unanimous consent that we stand in a quorum call for approximately 5 minutes, and that will give Senator WARNER time to collect his thoughts. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. I yield 3 minutes of my time to the Senator from West Virginia, Mr. ROCKEFELLER.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, each Member of the Senate will vote on the Robb amendment as they see fit. I want to simply make a philosophical statement, which I made earlier but will make it again.

The fact that passengers, planes, parcels, international flight activities, planes in the air, and planes on the ground are either going to be doubling, tripling, or quadrupling over the next 10 years is obviously not now in effect but has everything to do with the future of what it is that our airports are willing to accept and what it is that those who live around our airports are willing to accept.

To stop aviation growth, to stop aviation traffic, passengers, packages, new airlines, and new international flight activity is to try to stop the Internet. It is something you might wish for, but it is not going to happen. In fact, it is not something we wish for because it is good economic activity. Ten million people work for the airline aviation industry, and many of those people work in and around the airports where those airplanes land and take off.

My only point is, we cannot expect to have progress in this country without there being a certain inconvenience that goes along with it. We have become accustomed to having our cake and eating it, too, and that is having our airports but then having a relatively small number of flights landing or a slotted number, in the case of four of our major airports, landing, but then the thought of others landing becomes very difficult.

Atlanta, Newark, and many other large airports do not have any slots at all. The people who live around them survive. They hear the noise. They do not like it. The noise mitigation is getting much better as technology improves, and the safety technology, if the Congress will give the money, will get even better than it is. It is virtually a perfect record.

I simply make the observation that slots are a difficult subject. They are very controversial because people prefer quietness to noise. But in a world that grows more complex in commerce, in which the standard of living is increasing enormously, one cannot have the convenience of travel, the convenience of packages, the convenience of letters, the convenience of getting around internationally, and the convenience of many new airplanes and expect to have everything the way it was 30 years ago hold until this day.

I thank the Presiding Officer and the chairman of the committee and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MCCAIN. Mr. President, I ask unanimous consent that the time be counted against my time under a quorum call.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I just attended a ceremony at the Department of Defense, at which time the President signed the authorization bill for the Armed Forces of the United States for the year 2000. I was necessarily delayed in returning to the floor. My colleague, Senator ROBB, accompanied me, and he will be here momentarily. We worked together on this amendment, as we worked together on this project from the inception, a project basically to try to get National Airport and Dulles Airport into full operation.

Our aim all along has been to let modernization go forward and, to the extent we can gain support in this Chamber, limit any increase in the number of flights. We do this because of our concerns regarding safety, congestion, and other factors. I say "other factors" because at the time the original legislation was passed whereby we defederalized these airports and allowed a measure of control by other than Federal authorities, giving the State of Virginia, the State of Maryland, and the District of Columbia a voice in these matters, it was clear that Congress should not micromanage these two airports.

We went through a succession of events to achieve this objective, and we are here today hopefully to finalize this legislation—and I have already put in an amendment to allow the modernization to go forward—and to do certain other things in connection with the board, to let the board be appointed.

Now we come to the question of the increased flights, and I support the amendment by my distinguished colleague.

I want to cover some history.

My remarks today will focus on the unwise provisions included in this bill which tear apart the perimeter and high density rules at Reagan National Airport. These rules have been in effect—either in regulation or in statute—for nearly 30 years. Since 1986, these rules have been a critical ingredient in providing for significant capital investments and a balance in service among this region's three airports—Dulles International, Reagan National, and Baltimore-Washington International.

First and foremost, I believe these existing rules have greatly benefitted the traveling public—the consumer.

Mr. President, to gain a full understanding of the severe impact these increased slot changes will have on our regional airports, one must examine the recent history of these three airports.

Prior to 1986, Dulles and Reagan National were federally owned and managed by the FAA. The level of service provided at these airports was deplorable. At National, consumers were routinely subject to traffic gridlock, insufficient parking, and routine flight cancellations and delays. Dulles was an isolated, underutilized airport.

For years, the debate raged within the FAA and the surrounding communities about the future of Reagan National. Should it be improved, expanded or closed? This ongoing uncertainty produced a situation where no investments were made in National and Dulles and service continued to deteriorate.

A national commission, now known as the Holton Commission, was created in 1984. It was led by former Virginia Governor Linwood Holton and former Secretary of Transportation Elizabeth Dole and charged with resolving the longstanding controversies which plagued both airports. The result was a recommendation to transfer federal ownership of the airports to a regional authority so that sorely needed capital investments to improve safety and service could be made.

I was pleased to have participated in the development of the 1986 legislation to transfer operations of these airports to a regional authority. It was a fair compromise of the many issues which had stalled any improvements at both airports over the years.

The regulatory high density rule was placed in the statute so that neither the FAA nor the Authority could unilaterally changes it. The previous passenger cap at Reagan National was repealed, thereby ending growth controls, in exchange for a freeze on slots. Lastly, the perimeter rule at 1,250 miles was established.

For those interested in securing capital investments at both airports, the transfer of these airports under a long-term lease arrangement to the Metropolitan Washington Airports Authority gave MWAA the power to sell bonds to finance the long-overdue work. The Authority has sold millions of dollars in bonds which has financed the new terminal, rehabilitation of the existing terminal, a new control tower and parking facilities at Reagan National.

These improvements would not have been possible without the 1986 Transfer Act which included the high density rule, and the perimeter rule. Limitations on operations at National had long been in effect through FAA regulations, but now were part of the balanced compromise in the Transfer Act.

For those who feared significant increases in flight activity at National and who for years had prevented any significant investments in National, they were now willing to support major rehabilitation work at National to improve service. They were satisfied that these guarantees would ensure that Reagan National would not become another "Dulles or BWI".

Citizens had received legislative assurances that there would be no growth at Reagan National in terms of permitted scheduled flights beyond on the 37-per-hour-limit. Today, unless the Robb amendment is adopted, we will be breaking our commitments.

These critical decisions in the 1986 Transfer Act were made to fix both the aircraft activity level at Reagan National and to set its role as a short/medium haul airport. These compromises served to insulate the airport from its long history of competing efforts to increase and to decrease its use.

Since the transfer, the Authority has worked to maintain the balance in service between Dulles and Reagan National. The limited growth principle for Reagan National has been executed by the Authority in all of its planning assumptions and the Master Plan. While we have all witnessed the transformation of National into a quality airport today, these improvements in terminals, the control tower and parking facilities were all determined to meet the needs of this airport for the foreseeable future based on the continuation of the high density and perimeter rules.

These improvements, however, have purposely not included an increase in the number of gates for aircraft or aircraft capacity.

Prior to the 1986 Transfer Act, while National was mired in controversy and poor service, Dulles was identified as the region's growth airport. Under FAA rules and the Department of Transportation's 1981 Metropolitan Washington Airports Policy, it was recognized that Dulles had the capacity for growth and a suitable environment to accommodate this growth.

Following enactment of the Transfer Act, plans, capital investments and bonding decisions made by the Authority all factored in the High Density and Perimeter rules.

Mr. President, I provide this history on the issues which stalled improvements at the region's airports in the 1970s and 1980s because it is important to understanding how these airports have operated so effectively over the past 13 years.

Every one of us should ask ourselves if the 1986 Transfer Act has met our expectations. For me, the answer is a resounding yes. Long-overdue capital investments have been made in Reagan National and Dulles. The surrounding communities have been given an important voice in the management of these airports. We have seen unprecedented stability in the growth of both airports. Most importantly, the consumer has benefited by enhanced service at Reagan National.

For these reasons, I have opposed an increase in slots at Reagan National. There is no justification for an increase of this size. It is not recommended by the administration, by the airline industry, by the Metropolitan Washington Airports Authority or by the consumer.

The capital improvements made at Reagan National since the 1986 Transfer Act have not expanded the 44 gates or expanded airfield capacity. All of the improvements that have been made have been on the land side of the airport. No improvements have been made to accommodate increased aircraft capacity. Expanding flights at Reagan National will simply "turn back the clock" at National to the days of traffic gridlock, overcrowded terminal activity and flight delays—all to the detriment of the traveling public.

This ill-advised scheme is sure to return Reagan National to an airport plagued by delays and inconvenience. This proposal threatens to overwhelm the new facilities, just as the previous facilities were overwhelmed.

Mr. President, it is completely inappropriate for Congress to act as "airport managers" to legislate new flights. Those decisions should be made by the local airport authority with direct participation by the public in an open process. Today, we will be preventing local decisionmaking.

I know that my colleagues readily cite a recent GAO report that indicates that new flights at Reagan National can be accommodated. This report, however, plainly includes an important disclaimer. That disclaimer states:

> This study did not evaluate the potential congestion and noise that could result from an increase in operations at Reagan National. Ultimately, . . . the Congress must balance the benefits that additional flights may bring to the traveling public against the local community's concerns about the effect of those flights on noise, the environment, and the area's other major airports.

Surely, we cannot make this important decision in a vacuum. Determining how many flights serve Reagan National simply by measuring how quickly we can clear runway space is not sound policy.

For these reasons I urge the adoption of the Robb amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The 5 minutes allocated to the Senator have expired.

Mr. SARBANES. Mr. President, I rise in support of Senator ROBB's amendment to strike the exceptions to the high-density slot limit and the flight perimeter rule at Reagan National Airport.

I have serious concerns about increasing the number of flights and granting exemptions to the 1,250 mile nonstop perimeter rule at Ronald Reagan Washington National Airport. In my judgment, the bill provisions creating new slots at DCA and allowing for nonstop flights beyond the airport's existing 1,250 mile perimeter are fundamentally flawed for four reasons: first, they contravene longstanding federal policy; second, they undermine regional airport plans and programs; third these provisions will not have any significant impact on service for most consumers or competition in the Washington metropolitan region; and finally the provisions will subject local residents to an unwarranted increase in overflight noise.

First, the slot and perimeter rules have been in place for more than thirty years. And they were codified in the 1986 legislation that created the Metropolitan Washington Airports Authority. Both rules were pivotal in reaching the political consensus among federal, regional, state, and local interests that allowed for passage of the 1986 legislations. The rules, as codified, were designed to carefully balance the benefits and impacts of aviation in the Washington metropolitan area. The bill now before us would overturn more than thirty years of federal policies and upset the balance struck in 1986.

Second, the slot and perimeter rules are among the most fundamental air traffic management and planning tools available to the Metropolitan Washington Airports Authority. The Washington-Baltimore regional airport system plan and Reagan National Airport's master plan both rely on the slot and perimeter rules. By eliminating these tools, the bill before us would inappropriately override the authority and control vested in the Metropolitan Washington Airport Authority and would affect local land use plans. One of the main purposes of the 1986 Metropolitan Washington Airports Authority Act was to remove the federal government from the business of micro managing the operation of National Airport. The bill before us puts the federal government right back in the business of making decisions about daily operations and local community impacts—issues that should be left to local decision-makers.

Third, if the Washington region were not served by two other airports, Dulles and BWI, specifically designed to handle the kind of long-haul commercial jet operations never intended to use National, then the argument that the slot and perimeter rules are somehow inherently "anti-competitive," might have some validity. However, because consumers have access to so many choices, the rules do not injure competition in the Washington-Baltimore region. Far from being an anemic market, the Washington-Baltimore market today is one of the healthiest and most competitive markets in the country. Consumers can choose between three airports and a dizzying number of flights and flight times. Indeed, GAO recently reported that even if the perimeter rule were removed "only a limited number of passengers will switch" from Dulles or BWI to National, underscoring my contention that the proposed new slots will yield no significant benefit to local consumers or otherwise improve the local market.

Finally, let me address the very important issue of noise, which is of principal concern to my constituents. Anyone who lives in the flight path of National Airport knows what a serious problem aircraft noise poses to human health and even performing daily activities. Citizens for the Abatement of Aircraft Noise (CAAN), a coalition of citizens and civic associations which has been working for more than 14 years to reduce aircraft noise in the Washington metropolitan area, has analyzed data from a recent Metropolitan Washington Airport Authority report which shows that between 31% and 53% of the 32 noise monitoring stations in the region have a day-night average sound level which is higher than the 65 decibel level that has been established by the EPA and the American National Standards Institute as the threshold above which any residential living is incompatible. New slots will add to the noise problem.

Mr. President, I support this amendment because I believe Congress should defer to the FAA and local airport officials on this issue. I also believe that Congress should not be asking hundreds of thousands of local residents to tolerate more aircraft noise merely to benefit a handful of frequent flyers and fewer than a handful of airlines. I urge my colleagues to support the amendment as well.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The junior Senator from Virginia.

Mr. ROBB. Mr. President, I thank my senior colleague. He and I were away from the Senate floor for the signing of the defense authorization bill, which was the work of my colleague from Virginia and the committee he chairs. I thank him for his kind comments.

Very simply, this amendment is about a 1986 agreement, on which the senior Senator from Virginia and I both worked, as well as many others. It was an agreement between the Federal Government and the local governments and the State governments involved to make sure that we addressed the serious concerns that were then holding up any progress on improvements on National Airport.

At that time, we recognized that the two airports, Dulles Airport and Ronald Reagan Washington National Airport, work in tandem; they should be viewed as a single airport. Together, they serve consumers and the Washington region well. It was agreed that a local authority would best manage the airports, just as all other airports across the nation.

In this particular case, if we were to approve an increase in flights at National Airport, we would be breaking that deal.

We would also increase the delay and increase the disruption to local communities. Most importantly, we would be going back on a deal—we would be reneging on a deal that was made so the Federal Government would stay out of the business of trying to micromanage the only two airports in the area.

I hope the Members will respect the agreement that this body, the Federal Government, and the State governments and the local governments entered into in 1986, and move to strike the additional slots that are in an otherwise meritorious bill.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Does the Senator from Virginia yield the remainder of the time? You have 2 minutes left.

Mr. ROBB. Unless my senior colleague has additional remarks or the Senator from Arizona, I would yield back.

Mr. WARNER. I have no additional remarks. My colleague has handled it. Our statements are very clear. We have worked together now for these many months. We did our very best on behalf of our State for this issue.

Mr. McCAIN. Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona has no more time.

Mr. ROBB. The Senator from Virginia yields back any time remaining.

The PRESIDING OFFICER. The Senator from Nevada has 2 minutes 55 seconds.

Mr. BRYAN. Mr. President, it is tempting to engage my colleagues in debate, both of whom are good friends, but I shall refrain from doing so, knowing the merits of this will result in the rejection of this amendment; therefore, I yield the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

Under the previous order, the question is on agreeing to the Robb amendment. The yeas and nays have been ordered. The clerk will call the roll.

Excuse me. The yeas and nays have not been ordered.

Mr. McCAIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The question is on agreeing to the Robb amendment No. 2259. The yeas and nays have been ordered. The clerk will call the roll.

The legislative assistant called the roll.

Mr. NICKLES. I announce that the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Florida (Mr. MACK) are necessarily absent.

The result was announced—yeas 37, nays 61, as follows:

[Rollcall Vote No. 310 Leg.]

YEAS—37

Bayh
Biden
Collins
Conrad
Daschle
DeWine
Dodd
Dorgan
Durbin
Edwards
Fitzgerald
Graham
Gregg
Hollings
Hutchison
Inouye
Jeffords
Johnson
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Moynihan
Murray
Reed
Robb
Sarbanes
Schumer
Smith (NH)
Snowe
Torricelli
Warner
Wellstone

NAYS—61

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bunning
Burns
Byrd
Campbell
Cleland
Cochran
Coverdell
Craig
Crapo
Domenici
Enzi
Feingold
Feinstein
Frist
Gorton
Gramm
Grams
Grassley
Hagel
Harkin
Hatch
Helms
Hutchinson
Inhofe
Kerrey
Kohl
Kyl
Landrieu
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Reid
Roberts
Rockefeller
Roth
Santorum
Sessions
Shelby
Smith (OR)
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Wyden

NOT VOTING—2

Chafee
Mack

The amendment (No. 2259) was rejected.

Mr. McCAIN. Mr. President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, the Senator from New Jersey, Mr. LAUTENBERG, has inserted—

Mr. BYRD. Mr. President, the Senate is not in order. May we have order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, I hope the Senator will forgive me. I am asking for order, and I am going to insist on it. I want to help the Chair to get order.

The PRESIDING OFFICER. The Senator is entitled to be heard.

Mr. BYRD. I hope the Chair will break that gavel so that Senators will hear him.

The PRESIDING OFFICER. Will the Senators in the well holding conversations please take them out.

I thank the Senator from West Virginia.

Mr. BYRD. I thank the Chair.

AMENDMENTS NOS. 2266 AND 1921

(Purpose: To make technical changes and other modifications to the substitute amendment)

(Purpose: To improve the safety of animals transported on aircraft, and for other purposes)

Mr. McCAIN. Mr. President, the Senator from New Jersey has insisted on his rights, which he has as a Senator, to propose an amendment, for which he seeks half an hour of discussion, followed by a vote on his amendment. He has another amendment which he has agreed to include in the managers' package, which is agreeable to both sides.

I ask unanimous consent that the Lautenberg amendment No. 1921 concerning pets be included in the managers' package and that the package be accepted at this time.

The PRESIDING OFFICER. Is there objection?

Mr. McCAIN. I add to that unanimous consent request that immediately following that, the Senator from New Jersey be recognized for half an hour, and following this half hour we will vote on his second amendment, and that be immediately followed by final passage.

Mr. LAUTENBERG. Mr. President, I am not going to object. But I will try to wrap that up in less than half an hour to move the process.

Mr. McCAIN. I thank the Senator from New Jersey.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments (Nos. 2266 and 1921) were agreed to.

(The text of the amendments is printed in today's RECORD under "Amendments Submitted.")

Mr. McCAIN. I yield the floor.

The PRESIDING OFFICER. Without objection, the underlying Gorton amendment No. 1892 is agreed to.

The amendment (No. 1892) was agreed to.

Mr. McCAIN. Mr. President, I ask unanimous consent that no further amendments be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. I yield the floor. I thank the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

As a courtesy to the Senator from New Jersey, all those having conversations will please take them off the floor.

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, there is still a fair amount of commotion in the Chamber, and if I might ask that the Chamber be in order.

The PRESIDING OFFICER. The Senator is entitled to be heard.

Mr. LAUTENBERG. Mr. President, I hate to talk above the din, but I will take the liberty of doing so if that competition continues to exist.

Mr. BYRD. Mr. President, there is no reason the Senator from New Jersey has to insist on order. I ask that the Chair get order in the Senate.

The PRESIDING OFFICER. If each Senator holding a conversation could give the Senator from New Jersey their attention or take the conversation out of the Chamber, it would be appreciated.

The Senator from New Jersey.

Mr. LAUTENBERG. I thank the keeper of sanity in the Senate, the distinguished Senator from West Virginia, for his ever available courtesy.

AMENDMENT NO. 1922

(Purpose: To state requirements applicable to air carriers that bump passengers involuntarily)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. LAUTENBERG) proposes an amendment numbered 1922.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title IV, insert the following new section:

SEC. 454. REQUIREMENTS APPLICABLE TO AIR CARRIERS THAT BUMP PASSENGERS INVOLUNTARILY.

(a) IN GENERAL.—If an air carrier denies a passenger, without the consent of the passenger, transportation on a scheduled flight for which the passenger has made a reservation and paid—

(1) the air carrier shall provide the passenger with a one-page summary of the passenger's rights to transportation, services, compensation, and other benefits resulting from the denial of transportation;

(2) the passenger may select comparable transportation (as defined by the air carrier), with accommodations if needed, or a cash refund; and

(3) the air carrier shall provide the passenger with cash or a voucher in the amount that is equal to the value of the ticket.

(b) DELAYS IN ARRIVALS.—If, by reason of a denial of transportation covered by subsection (a), a passenger's arrival at the passenger's destination is delayed—

(1) by more than 2 hours after the regularly schedule arrival time for the original flight, but less than 4 hours after that time, then the air carrier shall provide the passenger with cash or an airline voucher in the amount equal to twice the value of the ticket; or

(2) for more than 4 hours after the regularly schedule arrival time for the original flight, then the air carrier shall provide the passenger with cash or an airline voucher in the amount equal to 3 times the value of the ticket.

(c) DELAYS IN DEPARTURES.—If the earliest transportation offered by an air carrier to a passenger denied transportation as described in subsection (a) is on a day after the day of the scheduled flight on which the passenger has reserved and paid for seating, then the air carrier shall pay the passenger the amount equal to the greater of—

(1) $1,000; or

(2) 3 times the value of the ticket.

(d) Relationship of Benefits.—

(1) General and delay benefits.—Benefits due a passenger under subsection (b) or (c) are in addition to benefits due a passenger under subsection (a) with respect to the same denial of transportation.

(2) Delay benefits.—A passenger may not receive benefits under both subsection (b) and subsection (c) with respect to the same denial of transportation. A passenger eligible for benefits under both subsections shall receive the greater benefit payable under those subsections.

(e) Civil Penalty.—An air carrier that fails to provide a summary of passenger's rights to one or more passengers on a flight when required to do so under subsection (a)(1) shall pay the Federal Aviation Administration a civil penalty in the amount of $1,000.

(f) Definitions.—In this section:

(1) Airline ticket.—The term "airline ticket" includes any electronic verification of a reservation that is issued by the airline in place of a ticket.

(2) Value.—The term "value", with respect to an airline ticket, means the value of the remaining unused portion of the airline ticket on the scheduled flight.

(3) Without consent of the passenger.—The term "without consent of the passenger", with respect to a denial of transportation to a passenger means a passenger, is denied transportation under subsection (a) for reasons other than weather or safety.

Mr. LAUTENBERG. Mr. President, I first want to thank the managers of the bill and acknowledge their hard work. The distinguished Senator from Arizona and the distinguished Senator from West Virginia have performed an extremely arduous task to get this bill to the place that it is. I don't enjoy holding the work back. I don't think I am doing that. By some quirk in the process, our amendment was not offered at an earlier time because of a procedural mixup. I thank them. I commend them for their understanding. I know they want to see this bill get into law. It is very important that we do.

I offer an amendment on an issue that is, unfortunately, becoming more and more of a problem for American travelers. That is the experience of reserve paid passengers being bumped from overbooked airline flights.

I have talked to Members, and I speak from direct personal experience where airlines said: Sorry, seats are filled—even though you have arrived on time, paid for your reservation—that is life, and we are sorry, and you can get there by going first to Boston, or Cincinnati, or what have you.

Our skies are more crowded than ever. People need to move quickly between different cities to do business and also to attend to a wide variety of personal functions. As this need has grown, people who fly find themselves increasingly at the mercy of the airlines. The airlines are not quite as user friendly as they used to be when they were scraping to get the revenues and the profits. They do not always treat their customers as they should.

They are pretty good. I give them credit. But in 1998, almost 45,000 customers—44,797, to be precise—were bumped from domestic flights on the 10 largest carriers; 45,000 people to whom word was given, well, you have lost your seat, and maybe you can get to your business appointment tomorrow; maybe you can miss the flight you were going to take to India; or maybe the funeral that was going to be held that you were going to attend can be held over for a couple of days until you get there.

Mr. President, it is not pleasant news when it happens. This year, the numbers have increased. For the first 6 months, 29,213 customers have been involuntarily bumped. If the trend continues, this year over 58,000 people could be involuntarily bumped—paid for, reserved, and just not able to get on the airplane.

People with a paid reservation have a right to expect a seat on the flight they booked. But too often they discover that having a ticket doesn't mean much when they get to the gate.

For the first half of the year, the number of people bumped from airlines has increased. Nothing ruins a business trip or a vacation more thoroughly than being bumped from a flight. It is sometimes impossible to make up for the lost hours and the frustration of rearranging longstanding business or personal plans.

The airlines ought not to be able to act as an elitist business. They have to treat their customers with respect, just as any other seller of services or products would have to do. They are the only business I know of that deliberately oversells their products.

Can you imagine, if you go to your doctor and you have an appointment, it is urgent that you see him, and you get bumped because someone else took your place; or you go to buy furniture, you paid for it, for 3 months you want to go down and see the final product, and they say, sorry, someone else took your place.

The airlines have a unique position. They also are users of a commodity that belongs to the American people; that is, our airspace. They use our airports that are paid for by others. They have lots of community services that accompany this process of handling passengers. When people hold a valid ticket to a sporting event or a concert, they know when they get there they are going to have a seat. They deserve the same assurances when they try to fly.

Current practices don't go far enough. There are regulations, but they don't have the teeth to get the airlines to respect passengers who hold paid for and reserved tickets. The regulations are out of date. They don't provide incentives for the airlines to pay attention to this overbooking problem. The amount of compensation has not been increased for those who are bumped since the early 1980s. The dollar amounts are not enough to have any impact on the airlines and their decisions to overbook flights.

I do not want to see them flying with empty seats. I do not think that is a good idea. People ought not to take advantage and make two, three, and four reservations and then do not show up. But the airlines are smart enough to figure out a different way to do it. Perhaps they will have to have some kind of a deposit on a reservation that is honored as part of the cost of the ticket. If not, then it becomes a reminder to the passenger, as well as to the airline, as well as a benefit to the airline, that they lost their seat.

While there are regulations now, we need to make this a matter of statutory law so the airlines step up to this serious issue. The Senate needs to send a strong message to the airlines that it cannot treat our constituents as second-class citizens when they fly. We need to put strong measures into law to protect consumers, and that is what this amendment does.

Very simply, my amendment is not out to get the airlines. It is to make sure that people are treated fairly, and we are going to have a chance to see whether my colleagues agree with me.

My amendment will make the airlines act more responsibly by allowing travelers who are bumped from a flight to first choose between alternative travel plans or receiving a full refund. Every traveler who is bumped will receive cash or a travel voucher at least equal to the amount they paid for the flight. The amount of compensation would increase based on how long the person is delayed from his or her destination.

If a passenger is delayed more than 2 hours, he or she would receive 200 percent of the value of his or her ticket. If a passenger cannot depart that day, then he or she would receive 300 percent of the value of the ticket, or $1,000, whichever is greater. This will remind the airlines they have, after all, already sold that seat. They have already gotten the income from that seat.

My amendment would also require the airlines to disclose these rights to passengers in a one-page, simple-language summary. The burden should not be on the customer to read up on the latest Federal regulation or law to know their rights.

My goal is not to sponsor a ticket giveaway. The goal is to hold the airlines accountable when they put profits ahead of respect and service for their customers.

I will cut short my presentation. I ask my colleagues to recognize on what we are voting. We are voting on whether or not a passenger who gets bumped is entitled to compensation for being refused that flight or whether we are going to protect the airline's ability to continue to sell more than one person the same seat and hope they will be able to get away with it.

That, Mr. President, concludes my comments.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I see the majority leader on the floor. It is the intention of the two leaders to finish debate on this, have a vote on this amendment, and then have final passage by voice vote.

Mr. McCAIN. I ask unanimous consent to vitiate the yeas and nays.

Mr. LAUTENBERG. I object.

Mr. McCAIN. On final passage.

Mr. LAUTENBERG. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the Lautenberg amendment.

The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I want to speak a moment to my colleagues. The Senator from New Jersey has indicated he wants to send a strong message to the airlines. I do, too. In fact, over a period of a number of months, a number of us have negotiated a strong message. What we did not do, however, is prescribe exactly what it was that would take place with each and every one of the problems. We forced them to report to us through the Department of Transportation with the inspector general monitoring and watching.

I have no objection to part of what is in this amendment, but what the Senator from New Jersey gets into is the most careful kind of mandating: If it is more than 2 hours late, such and such; if it is 4 hours late, such and such penalty. It goes on. Sometimes it is three times the value of the ticket—it just depends for what it might be.

In other words, it is precisely the opposite of what we approached the airlines to negotiate with in a very hard fashion. For example, they are going to have to reply to us on notification of known delays, cancellations, diversions, and a lot of other subjects, and they are going to have to do it within a prescribed amount of time, to which they have agreed.

We are going to increase penalties for consumer violations under which this amendment falls. I say to the Senator, I do not have any problem with him putting forward the purpose of his amendment. I do have a problem and urge my colleagues to have a problem with prescribing exactly how much would be paid according to which number of hours and how long the delay was. That is what we have tried to avoid.

The Senator, from the beginning, has not been for that approach, but that approach is what we have agreed to with the airlines. I ask the Senator if he will be willing to take out on page 2, from line 9 through page 3, line 6—if he will be willing to modify his amendment to that extent?

Mr. McCAIN. Mr. President, I believe under the unanimous consent agreement, it is now time for the vote on the Lautenberg amendment.

Mr. LAUTENBERG. Mr. President, I agree with the exception of one thing that happened I am sure was inadvertent. As I understood it, the unanimous consent agreement did not call for rebuttal in any way. Since the distinguished Senator from West Virginia chose to rebut, I would like to make a couple of sentences to respond to that, and I assume there will be no objection.

The PRESIDING OFFICER. The Senator is correct. Is there objection? The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, GAO has reviewed voluntary customer service plans and the GAO concluded many of the new measures that the airlines volunteered to do were already required in law or regulation. The problem is the voluntary customer service plan says nothing on the topic of involuntary bumping. Whatever there is already on the books does not do it.

I hope my colleagues will support this reminder to the airlines that they have to take better care of the passengers.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, following the Lautenberg vote, I ask unanimous consent that H.R. 1000 be discharged from the Commerce Committee, that the Senate proceed to its immediate consideration, all after the enacting clause be stricken, the text of S. 82, as amended, be inserted in lieu thereof, the bill be read a third time, and a voice vote then occur on passage of H.R. 1000. Finally, I ask consent that following the vote, S. 82 be placed back on the calendar.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the Lautenberg amendment.

Mr. LAUTENBERG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1922. The yeas and nays have been ordered. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Florida (Mr. MACK) and the Senator from Rhode Island (Mr. CHAFEE) are necessarily absent.

The result was announced—yeas 30, nays 68, as follows:

[Rollcall Vote No. 311 Leg.]

YEAS—30

Baucus
Boxer
Bryan
Byrd
Cleland
Conrad
Dodd
Feingold
Feinstein
Harkin
Hollings
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Moynihan
Reed
Sarbanes
Snowe
Specter
Torricelli
Wellstone
Wyden

NAYS—68

Abraham
Akaka
Allard
Ashcroft
Bayh
Bennett
Biden
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Cochran
Collins
Coverdell
Craig
Crapo
Daschle
DeWine
Domenici
Dorgan
Durbin
Edwards
Enzi
Fitzgerald
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Inouye
Kohl
Kyl
Landrieu
Lott
Lugar
McCain
McConnell
Murkowski
Murray
Nickles
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—2

Chafee
Mack

The amendment (No. 1922) was rejected.

Mr. ROCKEFELLER. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, I rise to recognize the importance of today's passage of S. 82, the Federal Aviation Administration Reauthorization bill. Today is a great day for rural America's air passengers. This legislation, now known as the Air Transportation Improvement Act of 1999, will bring much needed air service to under served communities throughout the Nation. It will grant billions of dollars in federal funds to our Nation's small airports for upgrades, through the Airport Improvements Program (AIP).

Senator MCCAIN, Chairman of the Committee on Commerce, Science and Transportation, is to be commended for his superb leadership on this complex and contentious measure. Together with Senator HOLLINGS, their joint efforts moved this bill through the committee, to the Senate floor, and to conference.

Also, Senator SLADE GORTON's leadership role in this legislation was vital. My friend and Colleague from the State of Washington proved himself pivotal earlier during S. 82 floor consideration. His counterpart, Senator JAY ROCKEFELLER, should also be commended for his efforts to move this bill forward.

Rural Americans are the biggest winners with the passage of S. 82. Citizens of under served communities will no longer have to travel hundreds of miles and several hours to board a plane.

This legislation gives incentives to domestic air carriers and its affiliates to reach out to these people and serve them conveniently near their homes. Many Americans will be able to travel a reasonable distance to gain access to our Nation's skies and, from there, anywhere they wish to go.

I also applaud the hard work of Senator FRIST of Tennessee. He added provisions to S. 82 to expand small community air service. His dedicated efforts ensured that under served cities like Knoxville, Chattanooga and Bristol/Johnson are now in a position to receive additional or expanded air service. Likewise, his efforts will ensure that several under served regions in my home state of Mississippi, such as Gulfport-Biloxi, Tupelo, or Jackson, will become eligible to compete for more flights.

The major policy changes in S. 82 led to hard fought, but honest disagreements. I have enormous respect for the efforts of Senators JOHN WARNER and CHARLES GRASSLEY as they diligently advocated for their constituents and their respective states. This honest debate and willingness to work together to achieve common goals is what makes it exciting to serve in the United States Senate.

Throughout the last twelve months, my home state of Mississippi has received federal support from the AIP to make needed physical improvements. A portion of these funds went to the Meridian Airport Authority to rehabilitate the taxiway pavement. Other funds were allocated to the John C. Stennis International Airport in Hancock County to extend and light existing taxiways. These enhancements are needed. And this bill will ensure that the AIP will continue uninterrupted for the next three years. AIP's reauthorization within S. 82 will allow Mississippi to continue to receive funds for essential enhancements for the upcoming year. I look forward to working with the airport authorities in my home state to make sure that the right improvements are made at the right airports. This is essential to aviation safety and economic growth.

S. 82, through the Gorton-Rockefeller amendment, begins the process of evaluating current Air Traffic Control (ATC) management problems and implements initial change to begin to address these problems. I hope the Gorton/Rockefeller amendment will be a starting point for an intensive review of the ATC system next year. The delays experienced this past summer will return until a long-term solution to the Nation's ATC problems is implemented.

Once my Colleagues initiate ATC review, I encourage them to include all relevant stakeholders in this issue including officials from the general aviation community, Department of Defense, commercial airlines industry, and airports. Likewise, I hope the Senate will review other models of air traffic management, such as Nav Canada and others to examine ways that other countries are addressing this matter.

No legislative initiation is ever possible without the dedicated efforts of staff, and I want to take a moment to identify those who worked hard to prepare S. 82 for consideration by the full Senate.

From the Senate Committee on Commerce, Science and Transportation: Marti Allbright; Lloyd Ator; Mark Buse; Ann Choiniere; Julia Kraus; Michael Reynolds; Ivan Schlager; Scott Verstandig; and Sam Whitehorn.

The following staff also participated on behalf of their Senators: David Broome; Steve Browning; Jeanne Bumpus; John Conrad; Brett Hale; Amy Henderson; Ann Loomis; Randal Popelka; Jim Sartucci; and Lori Sharpe.

These individuals worked very hard on S. 82, and the Senate owes them a debt of gratitude for their dedicated service to this legislation.

Mr. President, our Nation's small communities are a step closer to receiving long-sought air service. Also, America's smaller, yet important airstrips and airports will be enhanced. This is good for all Americans.

Mr. DASCHLE. Mr. President, I would like to voice my support for S. 82, the Air Transportation Improvement Act. I would also like to take this opportunity to commend Senator McCAIN, the Chairman of the Senate Commerce Committee, and Senator HOLLINGS, the Ranking Member of that committee, for their leadership and their willingness to accommodate many of our colleagues who raised concerns about various provisions in the bill.

I would also like to thank Senator GORTON, the Chairman of the Aviation Subcommittee, and Senator ROCKEFELLER, the Ranking Member of that committee. They truly have been tireless advocates for improving aviation safety, security and system capacity. I would also like to thank the Majority Leader, Senator LOTT, for the cooperation he has shown on this bill and for recently leading the way on another aviation bill that allowed the FAA to release FY99 funds for airport construction projects. Finally, I would like to thank all of my colleagues for their willingness to allow timely Senate consideration of this must-pass legislation.

If it seems like the Senate has already considered legislation bill to authorize programs at the Federal Aviation Administration (FAA) including the Airport Improvement Program (AIP), that is because it has. More than a year ago, the Senate passed S. 2279, the Wendell H. Ford National Air Transportation System Improvement Act. Although there was overwhelming support for this legislation in the Senate last year, House and Senate negotiators could not agree on a multi-year FAA authorization bill. In October of last year, Congress passed a six-month authorization of the FAA instead. The FAA has been operating under short-term extensions ever since.

Mr. President, this is no way to fund the FAA. Short-term extension after short-term extension disrupts long-term planning at the FAA and at airports around the country that rely on federal funds to improve their facilities and enhance aviation safety. Perhaps the only thing worse than passing a short-term extension is allowing the AIP program to lapse all together. Unfortunately, that is exactly what Congress did before the August recess when the House failed to pass a 60-day extension previously approved by the Senate. Almost two months later, Congress passed a bill authorizing the FAA to release $290 million for airport construction projects just before the funds were set to expire at end of the fiscal year.

Airports around the country came within one day of losing federal funds they need for construction projects. The numerous short-term extensions could have been avoided if Congress would have simply passed a multi-year FAA preauthorization bill. We had our chance last year, and we have had more than enough time to carry out that responsibility this year. The Senate Commerce Committee approved S. 82, the Air Transportation Improvement Act of 1999 on February 11—almost eight months ago. As my colleagues know, this legislation is almost identical to S. 2279, the Wendell H. Ford National Air Transportation System Improvement Act.

With the amendment offered by the managers of the bill, S. 82 would authorize programs at the FAA including the AIP program through FY02. Specifically, it would provide more than $2.4 billion a year for airport construction projects and more than $2 billion a year for facilities and equipment upgrades. It would also provide between $5.8 billion and $6.3 billion for the FAA's operations in FY00 through FY02.

S. 82 includes a number of provisions to encourage competition among the airlines and quality air service for communities. For instance, it would authorize $80 million for a four-year pilot program to improve commercial air service in small communities that have not benefitted from deregulation. Specifically, the bill calls for the establishment of an Office of Small Community Air Service Development at the Department of Transportation (DoT) to work with local communities, states, airports and air carriers and develop public-private partnerships that bring commercial air service including regional jet service to small communities.

I have often commented about how critical the Essential Air Service Program has been to small communities in South Dakota and around the country to retain air service. Although the Small Community Aviation Development Program would not provide a similar per passenger subsidy, it would give DoT the authority to provide up to $500,000 per year to as many as 40 communities that participate in the program and agree to pay 25 percent in matching funds. In addition, the legislation would establish an air traffic control service pilot program that would allow up to 20 small communities to share in the cost of building contract control towers. I am hopeful that South Dakota will have the opportunity to participate in the Small Community Aviation Development Program.

Mr. President, some have suggested that we should use S. 82 as a vehicle to reform the air traffic control (ATC) system. Due to a number of factors, including bad weather, flight delays reached record levels this summer. Last month, Senator ROCKEFELLER noted on the Senate floor that air traffic control delays increased by 19 percent from January to July of this year and by 36 percent from May to June when compared to the same time periods last year. The Air Transport Association estimates that the cost of air traffic control delays is $4.1 billion annually.

The Administrator of the FAA, Jane Harvey, recently announced a number of short-term plans to reduce air traffic control delays. Ensuring aviation safety must always be the FAA's top priority. But I think Administrator Harvey should be commended for working with the airlines to determine ways to reduce air traffic control delays while maintaining the FAA's commitment to safety. Although these short-term improvements may help reduce flight delays, Administrator Harvey and Secretary of Transportation, Rodney Slater, insist that more must be done to modernize the AT for the long-term.

Last week, Senators ROCKEFELLER and GORTON introduced a bill with a package of ATC improvements, and I am pleased that they plan to offer this proposal as an amendment to Air Transportation Improvement Act. Their proposal would create a Chief Operating Officer position with responsibility for funding and modernizing the ATC system. It would also create public-private joint ventures to purchase air traffic control equipment. Under their proposal, FAA seed money would be leveraged with money from the airports and airlines to purchase and field ATC modernization equipment more quickly. Although more may need to be done to improve the ATC system in the future, I think the plans announced by Administrator Harvey and the amendment offered by Senators ROCKEFELLER and GORTON are steps in the right direction.

Mr. President, I know some of our colleagues oppose provisions in that bill that would increase the number of flights at the four slot-controlled airports. The proposal to increase the number of flights at Ronald Reagan Washington National Airport has been particularly controversial, and I would like to commend Senator ROBB for being a strong advocate for his constituents in Northern Virginia. Although the amendment offered by the managers of the bill would reduce the increase from 48 to 24 new flights into Ronald Reagan Washington National Airport, I understand from Senator ROBB that many Virginians continue to find that increase objectionable. I know my distinguished colleague from Virginia will continue to make persuasive arguments against the increase, and I look forward to that debate.

Although there may be different provisions in this bill that each of us of may find objectionable, I hope my colleagues will join me in supporting S. 82, the Air Transportation Improvement Act. We simply cannot continue to fund the FAA and the AIP program with short-term extensions. It is unfair to the FAA, and it is unfair to airports in South Dakota and throughout the country. I encourage my colleagues to support S. 82, the Air Transportation Improvement Act.

Mr. GRASSLEY. I have filed an amendment dealing with child exploitation which I will not press at this time. However, during the conference on the FAA bill, I intend to pursue the matter further. It is my understanding that Senator McCAIN will be willing to entertain soon an amendment during conference. Is that correct?

Mr. McCAIN. That is correct.

Mr. HARKIN. Mr. President, the Senate struck the portion of the Gorton slots amendment concerning O'Hare Airport and inserted a portion of the language that had appeared in last years measure. I understand that was not done because the Chairman and Senator ROCKEFELLER supported the substance of the change. I understand there was a concern with the filing of over 300 amendments on the issue. It was clear that we would have had difficulty finishing the bill if the Senate was forced to consider those amendments. Now we can move this measure to conference. I am hopeful that we will see the slot rule eliminated in two phases in the conference. I believe that the O'Hare elements of the Gorton Amendment are solid and would be an excellent position for the Senate to push for, given that the House has proposed to eliminate slots at O'Hare.

We need a two-step elimination of the slot rule to provide time for mitigation against the adverse effects of the rule. These include: the need to provide for improved turboprop service for our small cities, the need to provide for regional jets for our mid-sized cities, the need to provide for balance between the major carriers and we need an ability to provide for new entrant carriers to competitively compete. I am pleased that Senator GRASSLEY is expected to be a conferee on the entire measure.

Mr. GRASSLEY. Mr. President, I agree with the remarks of my fellow Senator from Iowa. We need to eliminate the slot rule which is detrimental to the air service for cities in Iowa and throughout the Midwest. But, the elimination of slots does need to be done in the proper way. Otherwise the major carriers will absorb all of the capacity of the airport, not [providing sufficient service for small and medium sized cities. We need to provide for service by new entrant carriers that can provide for real competition on the price of tickets, increased ability to provide for turboprops so our smaller cities can have proper service, and regional jets for improved service to mid sized cities. While I am pleased with the action by the House, I do believe that it is important that the conferees support the content of the original Gorton proposal.

Mr. McCAIN. Mr. President, I do agree with the comments of both Senators from Iowa about the need to eliminate the slot rule in two phases at O'Hare. As I stated this morning, I am a supporter of the Gorton slot amendment before its modification by Senator FITZGERALD. I intend to do what I can to have the conference report on the bill contain the provisions of that measure regarding O'Hare which I believe is good policy.

Providing for a 40 month first phase during which regional jets and turboprop aircraft to airports with under two million enplanements, as well as exemption of new entrant carriers, all under the limitations set out in the original amendment would be exempt from the slot rule is crucial. These are key elements of a first phase in the elimination of slots at O'Hare. I will also support the increased service provisions that allow for improved service in conference.

Mr. ROCKEFELLER. Mr. President, I fully agree with Senators HARKIN and GRASSLEY and Chairman McCAIN. It is very important that service to small and mid-sized cities be improved. I believe that the Gorton slot provisions as originally proposed was good policy that I intend to support in conference. Both Senators HARKIN and GRASSLEY have worked hard toward the development of the slot amendment concerning O'Hare and the New York Airports and their interest is well noted and I intend to do what I can in conference to provide for a mechanism along the lines that they proposed be agreed to in the conference.

The PRESIDING OFFICER (Mr. BROWNBACK). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 1000 by title.

The legislative clerk read as follows:

> A bill (H.R. 1000) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause of H.R. 1000 is stricken and the text of S. 82, as amended, is inserted in lieu thereof. The question is on third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 1000), as amended, was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 1000), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

The PRESIDING OFFICER. S. 82 is returned to the calendar.

Mr. ROCKEFELLER. Mr. President, I thank the Presiding Officer. I want to thank some folks because this is important to do. I thank Senators HOLLINGS, GORTON, MCCAIN, DASCHLE, Majority Leader LOTT, and Senator DODD, obviously, on the slot question. I thank very much Senators SCHUMER, DURBIN, HARKIN and ROBB for their cooperation.

On the Democratic Commerce staff, I thank Sam Whitehorn, Kevin Kayes, Julia Kraus and Kerry Ates, who works with me; and on the GOP Commerce staff, Ann Choiniere and Michael Reynolds; and on Senator GORTON's staff, Brett Hale. They have all done wonderful work and I thank them.

Mr. CRAPO addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

MORNING BUSINESS

Mr. CRAPO. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUCCESSFUL INTERCEPT TEST OF THE NATIONAL MISSILE DEFENSE SYSTEM

Mr. COCHRAN. Mr. President, I am sure that by now Senators have heard the news that this past weekend a key element of our national missile defense system was successfully tested when a self-guided vehicle intercepted and destroyed an intercontinental ballistic missile in outer space some 140 miles above the Pacific Ocean.

This test was another in a string of successes of our new missile defense technology. The test last Saturday evening follows two consecutive successful intercepts each for the PAC-3 and THAAD theater missile defense systems.

The timing of this good news is fortunate, coming as it does a few weeks after our intelligence community released an unclassified summary of a new intelligence estimate which shows both theater and long-range ballistic missile threats continue to grow. That summary states:

> The proliferation of [Medium Range Ballistic Missiles]—driven primarily by North Korean No-Dong sales—has created an immediate, serious, and growing threat to U.S. forces, interests and allies in the Middle East and Asia and has significantly altered the strategic balances in those regions.

Our new theater missile defense systems such as PAC-3, THAAD, and the airborne laser, and the Navy's area and theaterwide systems will help redress those balances and ensure the security of our forces and our allies.

The summary of the new intelligence estimate also discloses that new ICBM threats to the territory of the United States could appear in a few years and that those threats may be more sophisticated than previously estimated. The summary states:

> Russia and China each have developed numerous countermeasures and probably are willing to sell the requisite technologies.

It states that countries such as North Korea, Iran, and Iraq could "develop countermeasures based on these technologies by the time they flight-test their missiles.

The Washington Times reported recently that China's recent test of the DF-31 ICBM employed such countermeasures, and if the Chinese are willing to share this technology with rogue states such as North Korea, as the intelligence summary estimates, the threat we face may be more sophisticated than previously anticipated.

The intelligence summary notes a related trend that was also illustrated in a recent news report. It states:

> Foreign assistance continues to have demonstrable effects on missile advances around the world. Moreover, some countries that have traditionally been recipients of foreign missile technology are now sharing more amongst themselves and are pursuing cooperative missile ventures.

Recently, the Jerusalem Post reported Syria is, with the help of Iran, developing a new 500 kilometer-range missile based on the North Korean Scud C. According to the summary of the National Intelligence Estimate, Iran is receiving technical assistance from Russia, and North Korea from China.

These disturbing trends suggest the ballistic missile threat—both to our forces deployed overseas and to our homeland—continue to increase, and it makes the recent successes all the more important. I congratulate the Army, the Ballistic Missile Defense Organization, and the contractor teams on their successes.

Saturday's success does not mean all the technical problems in our missile defense programs are solved, but the successful intercepts do confirm that the test programs are proving the technology of missile defense is maturing and that, with the appropriate resources, the talented men and women in our military and defense industries who are working on these programs are making very impressive progress on the development of workable theater and national missile defense systems. We should be very pleased with these successes and continue to support a robust missile defense program.

I yield the floor.

MILLENNIUM DIGITAL COMMERCE ACT

Mr. ABRAHAM. Mr. President, I wonder if the Chairman of the Banking Committee, Senator GRAMM, would agree to a short colloquy with respect to the issues we are currently addressing in S. 761, the Millennium Digital Commerce Act.

Mr. GRAMM. I am pleased to discuss this legislation with my colleague from Michigan.

Mr. ABRAHAM. It is my understanding that the Banking Committee is currently reviewing this legislation and the impact it might have on banking regulations and law.

Mr. GRAMM. As I understand it, one proposed amendment to S. 761 contains language which would preclude the use of electronic records by business in instances where there is a state law or regulation affecting that record and that notification and disclosure requirements in particular would be precluded from being sent electronically.

Mr. ABRAHAM. That is correct.

Mr. GRAMM. That, Mr. President, is what causes some concern. I would say to the Senator from Michigan that I understand what your legislation intends to do and I support the goals of this bill, but notification and disclosure requirements are the responsibility of the Banking Committee. At this time, the Federal Reserve is formulating regulations for the use of electronic records by banks and mortgage providers, and notification and disclosure requirements will be a part of the proposed rules.

For that reason, I believe the Banking Committee should have the opportunity to consider this matter.

Mr. ABRAHAM. I thank my colleague for explaining his thoughts on this bill. While I would note that the opportunities presented by electronic records go beyond banks, it is certainly not my intention to have this bill interfere in the jurisdiction of the Banking Committee. Therefore, I would ask the Chairman whether the portion of the language pertaining to records would best be removed from the bill and left for further work by the Banking Committee.

Mr. GRAMM. Yes it would. I would also say to the Senator from Michigan that, with this modification, I would have no further objection to the consideration of this bill. Also, I want to once again express my support for what the Senator is seeking to accomplish and pledge to assist him in this effort.

Mr. ABRAHAM. I thank the distinguished Chairman for his input.

Mr. GRAMM. I thank my colleague from Michigan.

CLEMENCY OFFER TO FALN MEMBERS

Mr. COVERDELL. Mr. President, as you know I have been a strong critic of the President's recent decision to offer clemency to the 16 members of the Puerto Rican terrorist organization FALN. I have held hearings on this matter and have seen the outrage this action has prompted in many of my constituents and the public at large. I have received numerous communications regarding this situation which criticize the President's decision and question his motives. In particular, I would like to thank Larry Stewart of Lynchburg, Virginia, one of the first to bring this matter to my attention. His interest in this action and its effect on our overall terrorism policy have been appreciated and helpful to me as our work on this issue has progressed.

THE MEDICARE BENEFICIARIES ACCESS TO CARE ACT

Mr. WELLSTONE. Mr. President, I speak today in support of Senator DASCHLE's bill titled the Medicare Beneficiary Access to Care Act, S. 1678. I am proud to cosponsor this important bill because it will provide relief for health care providers suffering under drastic cuts resulting from the Balanced Budget Act (BBA) of 1997. That legislation has had a very negative impact on the Medicare program and the financial viability of our medical establishments providing care under that program. The Senate Minority Leader's legislation will scale back some of the BBA reductions and therefore provide the necessary reimbursement for providers who give needed medical services to patients. Let me be clear, patients will be the ultimate beneficiaries when this bill is enacted. A basic fact is that any person seeking medical attention will likely visit a medical establishment currently being affected by BBA payment reductions. If medical facilities close due to BBA cuts, it will adversely impact not only Medicare beneficiaries, but all of the citizens in that same community who need access to health care.

Back in 1997, I did not support the Balanced Budget Act. In fact, when this came up for consideration back then I said "Mr. President, this is a huge mistake - a huge mistake." Realizing the vital role of Medicare in our country, I thought that we should be going in the opposite direction - providing the opportunity for all Americans to access decent healthcare. Although BBA passed, I did hope that it would not severely impact Medicare beneficiaries or the healthcare establishments that provide their care. Unfortunately, my worst fears have come true.

I have had an almost continuous stream of people from Minnesota come into my office and tell me about the dramatic, draconian effects that BBA has had on the ability of medical establishments to provide needed medical services to people in my state. We have heard from large academic teaching hospitals, small rural clinics, home healthcare agencies, skilled nursing facilities, hospices and physicians. It is hard to think of a medical establishment that has not been impacted by these cuts. According to the hospitals in my state, the total impact of BBA cuts for Minnesota over 5 years will be $908 million. The prognosis is really disturbing. We hear many service providers tell us they can not continue their operations because of these cuts. They are going to close their doors and shut down. Some of these establishments are located in rural settings where they are the only hospital or clinic or nursing facility within dozens and dozens of miles. What is going to happen when these facilities close? The answer is that peoples' health will suffer and the communities will suffer economically. The communities will suffer because they don't have a hospital. Businesses will be reluctant to locate in a community that does not have access to healthcare.

It doesn't have to be this way. In the United States Senate, we have the opportunity to fix some of the problems created by BBA. Senator DASCHLE's bill will lessen the impact of the BBA cuts on providers, thus benefitting patients. I think this package will make a substantial difference.

This bill will help our teaching hospitals by limiting further decreases in the Indirect Medical Education payments. Teaching hospitals are important not only because they train future physicians, but also because they treat a large number of Medicare beneficiaries. For skilled nursing facilities, this bill will repeal the $1500 therapy caps for three years until a new system can be implemented. For Home Healthcare Agencies, this bill postpones the 15% cut in payments for 2 years. For physicians, this bill would smooth out the fluctuations in physician payment rates. For Medicare Plus Choice, this bill provides enrollees with additional time to switch plans if their plan terminates. For clinics, this bill will create a new payment system that is linked to 1999 costs along with subsequent updates. For hospices, this bill will increase hospice payments by the full market basket updates.

This bill will allow many medical facilities in my state to continue operating. I'm sure the same holds true for most states. We need to pass this bill now. Health care is too important an issue. Even though not everybody has access to it, we do have a great health care system and it needs to be preserved. The BBA was a mistake, and now is the time to limit some of the resulting adverse consequences. I hope that my colleagues will join me in support of this bill.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, October 4, 1999, the Federal debt stood at $5,654,411,268,306.82 (Five trillion, six hundred fifty-four billion, four hundred eleven million, two hundred sixty-eight thousand, three hundred six dollars and eighty-two cents).

Five years ago, October 4, 1994, the Federal debt stood at $4,692,027,000,000 (Four trillion, six hundred ninety-two billion, twenty-seven million).

Ten years ago, October 4, 1989, the Federal debt stood at $2,878,049,000,000 (Two trillion, eight hundred seventy-eight billion, forty-nine million).

Fifteen years ago, October 4, 1984, the Federal debt stood at $1,572,268,000,000 (One trillion, five hundred seventy-two billion, two hundred sixty-eight million).

Twenty-five years ago, October 4, 1974, the Federal debt stood at $476,919,000,000 (Four hundred seventy-six billion, nine hundred nineteen million) which reflects a debt increase of more than $5 trillion—$5,177,492,268,306.82 (Five trillion, one hundred seventy-seven billion, four hundred ninety-two million, two hundred sixty-eight thousand, three hundred six dollars and eighty-two cents) during the past 25 years.

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:32 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1606. An act to reenact chapter 12 of title 11, United States Code, and for other purposes.

S. 323. An act to redesignate the Black Canyon of the Gunnison National Monument as a national park and establish the Gunnison Gorge National Conservation Area, and for other purposes.

H.R. 2084. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

At 11:05 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 356. An act to provide for the conveyance of certain property from the United States to Stainislaus County, California.

H.R. 1451. An act to establish the Abraham Lincoln Bicentennial Commission.

H.R. 1794. An act concerning the participation of Taiwan in the World Health Organization (WHO).

H.R. 2401. An act to amend the U.S. Holocaust Assets Commission Act of 1998 to extend the period by which the final report is due and to authorize additional funding.

H.R. 2607. An act to promote the development of the commercial space transportation industry, to authorize appropriations for the Office of the Associate Administrator for Commercial Space Transportation, to authorize appropriations for the Office of Space Commercialization, and for other purposes.

H.R. 2681. An act to establish a program, coordinated by the National Transportation Safety Board, of assistance to families of passengers involved in rail passenger accidents.

The message also announced that the House has agreed to the following concurrent resolutions in which it requests the concurrence of the Senate:

H. Con. Res. 171. Concurrent resolution congratulating the American Public Transit Association for 25 years of commendable service to the transit industry and the Nation.

H. Con. Res. 191. Concurrent resolution expressing the sense of the Congress that the Brooklyn Museum of Art should not receive Federal funds unless it closes its exhibits featuring works of a sacrilegious nature.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2466) making appropriations for the Departments of the Interior and related agencies for the fiscal year ending September 30, 2000, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. REGULA, Mr. KOLBE, Mr. SKEEN, Mr. TAYLOR of North Carolina, Mr. NETHERCUTT, Mr. WAMP, Mr. KINGSTON, Mr. PETERSON of Pennsylvania, Mr. YOUNG of Florida, Mr. DICKS, Mr. MURTHA, Mr. MORAN of Virginia, Mr. CRAMER, Mr. HINCHEY, and Mr. OBEY as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2684) making appropriations for the Departments of Veterans Affairs and Housing Development, and for sundry independent agencies, boards, commissions, corporations, and for offices for the fiscal year ending September 30, 2000, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. WALSH, Mr. DELAY, Mr. HOBSON, Mr. KNOLLENBERG, Mr. FRELINGHUYSEN, Mr. WICKER, Mrs. NORTHUP, Mr. SUNUNU, Mr. YOUNG of Florida, Mr. MOLLOHAN, Ms. KAPTUR, Mrs. MEEK of Florida, Mr. PRICE of North Carolina, Mr. CRAMER, and Mr. OBEY as the managers of the conference on the part of the House.

The message further announced that pursuant to section 301 of Public Law 104–1, the Speaker and the Minority Leader of the House of Representatives and the Majority and Minority Leaders of the United States Senate appoints jointly the following individuals to a 5-year term to the Board of Directors of the Office of Compliance: Mr. Alan V. Friedman of California, Ms. Susan S. Robfogel of New York, and Ms. Barbara Childs Wallace of Mississippi.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 1451. An act to establish the Abraham Lincoln Bicentennial Commission; to the Committee on the Judiciary.

H.R. 1794. An act concerning the participation of Taiwan in the World Health Organization (WHO); to the Committee on Foreign Relations.

H.R. 2401. An act to amend the U.S. Holocaust Assets Commission Act of 1998 to extend the period by which the final report is due and to authorize additional funding; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 2681. An act to establish a program, coordinated by the National Transportation Safety Board, of assistance to families of passengers involved in rail passenger accidents; to the Committee on Commerce, Science, and Transportation.

The following concurrent resolutions were read and referred as indicated:

H. Con. Res. 171. Concurrent resolution congratulating the American Public Transit Association for 25 years of commendable service to the transit industry and the Nation; to the Committee on the Judiciary.

H. Con. Res. 191. Concurrent resolution expressing the sense of the Congress that the Brooklyn Museum of Art should not receive Federal funds unless it closes its exhibits featuring works of a sacrilegious nature; to the Committee on Health, Education, Labor, and Pensions.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on October 5, 1999, he had presented to the President of the United States, the following enrolled bill:

S. 1606. An act to extend for 9 additional months the period for which chapter 12 of title 11, United States Code, is reenacted.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MURKOWSKI:

S. 1686. A bill to provide for the conveyances of land interests to Chugach Alaska Corporation to fulfill the intent, purpose, and promise of the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN:

S. 1687. A bill to amend the Federal Trade Commission Act to authorize appropriations for the Federal Trade Commission; to the Committee on Commerce, Science, and Transportation.

By Mr. LEVIN (for himself and Mr. AKAKA):

S. 1688. A bill to amend chapter 89 of title 5, United States Code, relating to the Federal Employees Health Benefits Program, to enable the Federal Government to enroll an employee and the family of the employee in the program when a State court orders the employee to provide health insurance coverage for a child of the employee, but the employee fails to provide the coverage, and for other purposes; to the Committee on Governmental Affairs.

By Mr. GRASSLEY (for himself, Mr. HELMS, and Mr. DEWINE):

S. 1689. A bill to require a report on the current United States policy and strategy regarding counter-narcotics assistance for Colombia, and for other purposes; to the Committee on Foreign Relations.

By Mr. MACK (for himself, Mr. SARBANES, Mr. DEWINE, Mr. LIEBERMAN, Mr. JEFFORDS, Mr. KERREY, Mr. LUGAR, Mr. KERRY, Mr. DODD, and Ms. LANDRIEU):

S. 1690. A bill to require the United States to take action to provide bilateral debt relief, and improve the provision of multilateral debt relief, in order to give a fresh start to poor countries; to the Committee on Foreign Relations.

By Mr. INHOFE (for himself, Mr. GRAHAM, and Mr. VOINOVICH):

S. 1691. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize programs for predisaster mitigation, to streamline the administration of disaster relief, to control the Federal costs of disaster assistance, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SANTORUM (for himself, Mr. SMITH of New Hampshire, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BROWNBACK, Mr. BURNS, Mr. CRAIG, Mr. DEWINE, Mr. ENZI, Mr. FRIST, Mr. GRAMM, Mr. GRASSLEY, Mr. HATCH, Mr. HUTCHINSON, Mr. KYL, Mr. MACK, Mr. MCCONNELL, Mr. NICKLES, Mr. SESSIONS, Mr. SMITH of Oregon, Mr. THURMOND, Mr. WARNER, Mr. BENNETT, Mr. LOTT, Mr. ALLARD, Mr. BOND, Mr. BUNNING, Mr. COCHRAN, Mr. CRAPO, Mr. DOMENICI, Mr. FITZGERALD, Mr. GORTON, Mr. GRAMS, Mr. HAGEL, Mr. HELMS, Mr. INHOFE, Mr. LUGAR, Mr. MCCAIN, Mr. MURKOWSKI, Mr. ROBERTS, Mr. SHELBY, Mr. THOMAS, Mr. VOINOVICH, and Mr. COVERDELL):

S. 1692. A bill to amend title 18, United States Code, to ban partial birth abortions; read the first time.

By Mr. GRAMS:

S. 1693. A bill to protect the Social Security surplus by requiring a sequester to eliminate any deficit; to the Committee on the Budget and to the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WARNER (for himself and Mr. DODD):

S. Res. 196. A resolution commending the submarine force of the United States Navy on the 100th anniversary of the force; to the Committee on Armed Services.

STATEMENTS ON INTRODUCED BULLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI:

S. 1686. A bill to provide for the conveyances of land interests to Chugach Alaska Corporation to fulfill the intent, purpose, and promise of the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Energy and Natural Resources.

CHUGACH ALASKA NATIVES SETTLEMENT IMPLEMENTATION ACT OF 1999

• Mr. MURKOWSKI. Mr. President. This morning I rise to introduce legislation to implement a settlement agreement between the Chugach Alaska Corporation (CAC) and the United States Forest Service. This legislation will fulfill a long overdue commitment of the Federal government made to certain Alaska Natives.

I am terribly troubled and disappointed that Congress must once again step in to secure promises to Alaska Natives that at best have been unnecessarily delayed by this Administration and at worst have been trampled by them.

This legislation will accomplish three goals:

It will direct the Secretary of Agriculture to, not later than 90 days after enactment, grant CAC the access rights they were granted under the Alaska National Interest Lands Conservation Act.

It will return to CAC cemetery and historical sites they are entitled to under section 14(h)(1) of the Alaska Native Claims Settlement Act.

It will require the Secretary of Agriculture to coordinate the development, maintenance, and revision of land and resource management plans for units of the National Forest System in Alaska with the plans of Alaska Native Corporations for the utilization of their lands which are intermingled with, adjacent to, or dependent for access upon National Forest System lands.

BACKGROUND

Pursuant to section 1430 of the Alaska National Interest Lands Conservation Act (ANILCA), the Secretary of the Interior, the Secretary of Agriculture, the State of Alaska, and the CAC, were directed to study land ownership in and around the Chugach Region in Alaska. The purpose of this study was twofold. The first purpose was to provide for a fair and just settlement of the Chugach people and realizing the intent, purpose, and promise of the Alaska Native Claims Settlement Act by CAC. The second purpose was to identify lands that, to the maximum extent possible, are of like kind and character to those that were traditionally used and occupied by the Chugach people and, to the maximum extent possible, those that provide access to the coast and are economically viable.

On September 17, 1982, the parties entered into an agreement now known as the 1982 Chugach Natives, Inc. Settlement Agreement that set forth a fair and just settlement for the Chugach people pursuant to the study directed by Congress. Among the many provisions of this agreement the United States was required to convey to CAC not more than 73,308 acres of land in the vicinity of Carbon Mountain. The land eventually conveyed contained significant amounts of natural resources that were inaccessible by road. A second major provision of the Settlement Agreement granted CAC rights-of-way across Chugach National Forest to their land and required the United States to also grant an easement for the purpose of constructing and using roads and other facilities necessary for development of that tract of land on terms and conditions to be determined in accordance with the Settlement Agreement. It is obvious that without such an easement the land conveyed to CAC could not be utilized or developed in a manner consistent with the intent of Congress as expressed in ANILCA and ANCSA.

More than seventeen years after the Settlement Agreement was signed the much needed easement still has not been granted and CAC remains unable to make economic use of their lands. It seems absurd to me that Congress passed a Settlement Act for the Benefit of Alaska Natives; then the federal government entered into a Settlement Agreement to implement that Act where the CAC was concerned; and today, we find ourselves once again in a position of having to force the government to comply with these agreements.

I have spoken directly to the Chugach Forest Supervisor, the Regional Forester, and to the Chief of the Forest Service about this issue. Just last month I facilitated a meeting between the Forest Service and CAC to work out final details. While the parties thought they had an agreement in principle it fell apart once it reached Washington, D.C. Therefore, I find it necessary to once again have Congress rectify inaction on behalf of the Forest Service.

It is my intent to hold a hearing on this issue in the Energy and Natural Resources Committee as soon as possible.•

By Mr. MCCAIN:

S. 1687. A bill to amend the Federal Trade Commission Act to authorize appropriations for the Federal Trade Commission; to the Committee on Commerce, Science, and Transportation.

FEDERAL TRADE COMMISSION REAUTHORIZATION ACT OF 1999

Mr. MCCAIN. Mr. President, today, I am introducing the Federal Trade Commission Reauthorization Act. The bill will authorize funding for the Commission for fiscal years 2001 and 2002. The measure sets spending levels at $149 million in FY 2001 and increases that amount for inflation and mandatory pay benefits to $156 for FY 2002.

The Federal Trade Commission (FTC) has two primary missions: (1) the prevention of anticompetitive conduct in the marketplace; and (2) the protection of consumers from unfair or deceptive acts or practices. The Commission accomplishes its anticompetitive mission primarily through premerger reviews under that Hart-Scott-Rodino Act. Under that Act, merger and acquisitions of a specified size are reviewed for anticompetitive impact. During the 1990's, the number of mergers that met these size requirements tripled. This has placed an increased burden on the Commission.

Additionally, the Commission pursues claims of unfair or deceptive practices or acts—essentially fraud. As electronic commerce on the Internet increases, fraud will certainly increase with it and the FTC should and will play a role in protecting consumers on the Internet, as they do in the traditional market place. The Commission's performance of these dual missions is vital to the protection of consumers.

The Commission was last reauthorized in 1996. That legislation provided for funding levels of $107 million in FY 1997 and $111 million in FY 1998. The bill I introduce today increases the previous authorization by $37 million. In general, the increase is necessary to meet the rising number of merger reviews under the Hart-Scott-Rodino Act and to protect consumers in the expanding world of e-commerce. According to the Commission's justification, the new authorization would fund 25 additional employees to work on merger and Internet issues. It will also help the Commission upgrade its computing facilities and fund increased consumer education activities.

The authorization, however, does not provide for the full amount requested by the Commission. In a recent request, the Commission asked for $176 million in FY2002. While I agree the Commission plays an important role in protecting consumers, their request represents more than a 50% increase in their authorization over a four-year period. At this point, I am not convinced that such a dramatic increase is warranted.

As we move through the authorization process, I look forward to hearing further from the FTC as to why such an increase is needed to meet its statutory functions. I also hope to explore other ways we can improve the Commission's ability to protect customers without increasing spending.

For example, I was very interested in the comments of the FTC nominee Thomas Leary during his confirmation hearing regarding the Commission's merger review process. I know over the past few years, the Commission has taken steps to simplify this process reducing its own costs and the costs to the business community. Mr. Leary indicated, however, that more work could be done to change the internal procedures of the FTC to further reduce the number of reviews without harming competition. I look forward to exploring this topic with Mr. Leary and the other commissioners.

I look forward to working with the members of the Commerce Committee, the full Senate, and the Commission as we move through the authorization process.

By Mr. LEVIN (for himself and Mr. AKAKA):

S. 1688. A bill to amend chapter 89 of title 5, United States Code, relating to the Federal Employees Health Benefits Program, to enable the Federal Government to enroll an employee and the family of the employee in the program when a State court orders the employee to provide health insurance coverage for a child of the employee, but the employee fails to provide the coverage, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEES HEALTH BENEFITS CHILDREN'S EQUITY ACT OF 1999

Mr. LEVIN. Mr. President, I rise to introduce, along with my distinguished colleague Senator AKAKA, the Federal Employees Health Benefits Children's Equity Act of 1999.

This legislation concerns Federal employees who are under a court order to provide health insurance to their dependent children. If a Federal employee is under such a court order and his dependent children have no health insurance coverage, the Federal government would be authorized to enroll the employee in a "family coverage" health plan. If the employee is not enrolled in any health care plan, the Federal government would be authorized to enroll the employee and his or her family in the standard option of the service benefit plan. The bill would also prevent the employee from canceling health coverage for his dependent children for the term of the court order.

This bill would close a loophole created by the 1993 Omnibus Budget Reconciliation Act. The 1993 bill required each State to enact legislation requiring an employer to enroll a dependent child in an employee's group health plan when an employee is under a court order to provide health insurance for his or her child but neglects to do so. This legislation simply provides Federal agencies with the same authority granted to the states.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1688

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Health Benefits Children's Equity Act of 1999".

SEC. 2. ENROLLMENT OF CERTAIN EMPLOYEES AND FAMILY.

Section 8905 of title 5, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

"(f)(1)(A) An unenrolled employee who is required by a court or administrative order to provide health insurance coverage for a child who meets the requirements of section 8901(5) may enroll for self and family coverage in a health benefits plan under this chapter.

"(B) The employing agency of an employee described under subparagraph (A) shall enroll the employee in a self and family enrollment in the option which provides the lower level of coverage under the service benefit plan if the employee—

"(i) fails to enroll for self and family coverage in a health benefits plan that provides full benefits and services in the location in which the child resides; and

"(ii) does not provide documentation demonstrating that the required coverage has been provided through other health insurance.

"(2)(A) An employee who is enrolled as an individual in a health benefits plan under this chapter and who is required by a court or administrative order to provide health insurance coverage for a child who meets the requirements of section 8901(5) may change to a self and family enrollment in—

"(i) the health benefits plan in which the employee is enrolled; or

"(ii) another health benefits plan under this chapter.

"(B) The employing agency of an employee described under subparagraph (A) shall change the enrollment of the employee to a self and family enrollment in the plan in which the employee is enrolled if—

"(i) such plan provides full benefits and services in the location where the child resides; and

"(ii) the employee—

"(I) fails to change to a self and family enrollment; and

"(II) does not provide documentation demonstrating that the required coverage has been provided through other health insurance.

"(C) The employing agency of an employee described under subparagraph (A) shall change the coverage of the employee to a self and family enrollment in the option which provides the lower level of coverage under the service benefit plan if—

"(i) the plan in which the employee is enrolled does not provide full benefits and services in the location in which the child resides; or

"(ii) the employee fails to change to a self and family enrollment in a plan that provides full benefits and services in the location where the child resides.

"(3)(A) Subject to subparagraph (B), an employee who is subject to a court or administrative order described under this section may not discontinue the self and family enrollment in a plan that provides full benefits and services in the location in which the child resides for the period that the court or administrative order remains in effect if the child meets the requirements of section 8901(5) during such period.

"(B) Enrollment described under subparagraph (A) may be discontinued if the employee provides documentation demonstrating that the required coverage has been provided through other health insurance.".

SEC. 3. FEDERAL EMPLOYEES' RETIREMENT SYSTEM ANNUITY SUPPLEMENT COMPUTATION.

Section 8421a(b) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(5) Notwithstanding paragraphs (1) through (4), the reduction required by subsection (a) shall be effective during the 12-month period beginning on the first day of the seventh month after the end of the calendar year in which the excess earnings were earned.".

By Mr. GRASSLEY (for himself, Mr. HELMS, and Mr. DEWINE):

S. 1689. A bill to require a report on the current United States policy and strategy regarding counter-narcotics assistance for Colombia, and for other purposes; to the Committee on Foreign Relations.

COLOMBIAN COUNTER-NARCOTICS ASSISTANCE LEGISLATION

• Mr. GRASSLEY. Mr. President, I share many of my colleagues concerns about the need to do more to aid Colombia. But I also believe that our aid must be based on a clear and consistent plan, not on good intentions. We do Colombia no favors by throwing money at the problem. We do not help ourselves. Too often, throwing money at a problem is the same thing as throwing money away. For that reason, I, along with Senator HELMS and Senator DEWINE, am introducing legislation today calling on the U.S. Administration to present a plan.

Colombia is the third largest recipient of U.S. security aid behind Israel and Egypt. It is also the largest supplier of cocaine to the United States. But, we seem to find ourselves in the midst of a muddle. Our policy appears to be adrift, and our focus blurred.

This past Tuesday, the Caucus on International Narcotics Control held a hearing to ask the Administration for a specific plan and a detailed strategy outlining U.S. interests and priorities dealing with counter-narcotics efforts in Colombia. Before we in Congress get involved in a discussion about what and how much equipment we should be sending to Colombia, we need to discuss whether or not we should send any and why. Recent press reports indicate that the Administration is preparing a security assistance package to Colombia with funding from $500 million dollars to somewhere around $1.5 billion dollars.

And yet, Congress hasn't been able to evaluate any strategy. That's because there is none. From the hearing, it seems the Administration is incapable of thinking about the situation with any clarity or articulating a strategy with any transparency. It seems confused as to what is actually happening in Colombia.

At Tuesday's hearing, representatives from the Department of State and the Department of Defense assured me they were currently working on a detailed strategy to be unveiled at some future point. So far there have been difficulties in creating a detailed and coherent strategy and presenting it to Congress. Today we are introducing a bill that requires the Secretary of State to submit to Congress within 60 days a detailed report on current U.S. policy and strategy for counter-narcotics assistance for Colombia.

This is an issue that will not just simply disappear. Before we begin appropriating additional funding for Colombia, we need strategies and goals, not just piecemeal assistance and operations. I strongly urge my colleagues to support this bill.

By Mr. MACK (for himself, Mr. SARBANES, Mr. DEWINE, Mr. LIEBERMAN, Mr. JEFFORDS, Mr. KERREY, Mr. LUGAR, Mr. KERRY, Mr. DODD, and Ms. LANDRIEU):

S. 1690. A bill to require the United States to take action to provide bilateral debt relief, and improve the provision of multilateral debt relief, in order to give a fresh start to poor countries; to the Committee on Foreign Relations.

DEBT RELIEF FOR POOR COUNTRIES ACT OF 1999

• Mr. MACK. Mr. President, I rise today with my colleague from Maryland, Mr. SARBANES, to introduce the Debt Relief for Counties Act of 1999. This bill simply forgives much of the debt owed to us by the world's poorest countries in exchange for commitments from these countries to reform their economies and work toward a better quality of life for their people. Our effort today is premised on the fact that we must help these poverty-stricken nations break the vicious cycle of debt and give them the economic opportunity to liberate their futures. I ask my colleagues to join me in this worthwhile effort.

Today, the world's poorest countries owe an average of $400 for every man, woman, and child within their borders. This is much more than most people in these countries make in a year. Debt service payments in many cases consume a majority of a poor country's annual budget, leaving scarce domestic resources for economic restructuring or such vital human services as education, clean water and sanitary living conditions. In Tanzania, for example, debt payments would require nearly four-fifths of the government's budget. In a country where one child in six dies before the age of five, little money remains to finance public health programs. Among Sub-Saharan African countries, one in five adults can't read or write, and it is estimated that in several countries almost half the population does not have access to safe drinking water.

Mr. President, the problems that yield such grim statistics will never be solved without a monumental commitment of will from their leaders, their citizens, and the outside world. That is not what we propose to do here today. Our bill is only a small step in the right direction, but it is one we can do quickly and for relatively little cost.

The effort to forgive the debts of the world's poorest countries has been ongoing for more than a decade. During this time the international community and the G7 came to the realization that the world's poorest countries are simply unable to repay the debt they owe to foreign creditors. The external debt for many of the developing nations is more than twice their GDP, leaving many unable to even pay the interest on their debts. We must accept the fact that this debt is unpayable. the question is not whether we'll ever get paid back, but rather what we can encourage these heavily indebted countries to do for themselves in exchange for our forgiveness.

Our bill requires the President to forgive at least 90 percent of the entire bilateral debt owed by the world's heavily indebted poor countries in exchange for verifiable commitments to pursue economic reforms and implement poverty alleviation measures. While roughly $6 billion is owed to the United States by these poor countries, it is estimated the cost of forgiving this debt would be less than ten percent of that amount. The U.S. share of the bilateral debt is less than four percent of the total, but our action would provide leadership to the rest of the world's creditor nations and provide some savings benefits to these countries as well.

Our bill also requires a restructuring of the IMF and World Bank's Heavily Indebted Poor Countries Initiative (HIPC). This program was begun in 1996, but to date only three countries have received any relief. While the premise of HIPC is sound, its shortcomings have become evident during the implementation. It promises much, but in reality it benefits too few countries, offers too little relief, and requires too long a wait before debt is forgiven. A process of reforming the HIPC was begun this year during the G7's meeting in Cologne, and our bill meets or exceeds the standards set out in the Cologne communique.

Specifically, we shorten the waiting period for eligibility from six to three years. We extend the prospect of relief to more countries. And we ensure that savings realized from the relief will be used to enhance ongoing economic reforms in addition to initiatives designed to alleviate poverty. This is a sound and balanced approach to help these poor countries correct their underlying economic problems and improve the standard of living of their people.

Mr. President, this legislation is not a handout to the developing world. Rather, it is an investment in these countries' commitment to implementing sound economic reforms and helping their people live longer, healthier and more prosperous lives. In order to receive debt relief under our bill, countries must commit the savings to policies that promote growth and expand citizens' access to basic services like clean water and education.

We have included a strict prohibition in our bill on providing relief to countries that sponsor terrorism, spend excessively on their militaries, do not cooperate on narcotics matters, or engage in systematic violations of their citizens' human rights. We are not proposing to help any country that is not first willing to help itself.

Mr. President, the debt accumulated in the developing world throughout the Cold War and into the 1990s has become a significant impediment to the implementation of free-market economic reforms and the reduction of poverty. We in the developed world have an interest in removing this impediment and providing the world's poorest countries with the opportunity to address their underlying economic problems and set a course for sustainability.

I believe our bill is an important first step in this process and I look forward to the support of my colleagues in the Senate.•

• Mr. SARBANES. Mr. President, I am pleased to join today with my colleague from Florida, Mr. MACK, in introducing the "Debt Relief for Poor Countries Act of 1999." This bill is the companion legislation to H.R. 1095, offered in the House by Representatives LEACH and LAFALCE and cosponsored by 116 other Members.

The purpose of the bill is to provide the world's poorest countries with relief from the crippling burden of debt and to encourage investment of the proceeds in health, education, nutrition, sanitation, and basic social services for their people.

All too often, payments on the foreign debt—which account for as much as 70 percent of government expenditures in some countries—mean there is little left to meet the basic human needs of the population. In effect, debt service payments are making it even harder for the recipient governments to enact the kinds of economic and political reforms that the loans were designed to encourage, and that are necessary to ensure broad-based growth and future prosperity.

To address this problem the World Bank and the IMF began a program in 1996 to reduce $27 billion in debt from the most Heavily Indebted Poor Countries, known as the "HIPC Initiative." But the program created a number of stringent criteria and provided only partial relief, which meant that only a small number of countries actually qualified for participation and the ones who did received only marginal benefits after an extended period of time.

Following calls by non-government organizations, religious groups and member governments for faster and more flexible relief, the G–7 Finance Ministers, meeting this past June in Cologne, Germany, proposed alternative criteria that would make expanded benefits available quicker and to more countries. Last week, at the annual World Bank-IMF meetings here in Washington, President Clinton pledged to cancel all $5.7 billion of debt owed to the U.S. government by 36 of the poorest countries, and he sent a supplemental request for $1 billion over 4 years to pay the U.S. portion of the multilateral initiative. Canceling the debt will not cost the full $5.7 billion because many of the loans would never have been repaid and are no longer worth their full face-value. I commend the President for exercising international leadership on this important issue and for making it a foreign policy priority.

The legislation we are offering today goes even further by requiring the President to forgive at least 90 percent of the U.S. non-concessional loans and 100 percent of concessional loans to countries that meet the eligibility guidelines. To qualify, the countries must have an annual per capita income of less than $925, have public debts totaling at least 150 percent of average annual exports, and agree to use the savings generated by debt relief to facilitate the implementation of economic reforms in a way that is transparent and participatory, to reduce the number of persons living in poverty, to promote sustainable growth and to prevent damage to the environment.

Countries that have an excessive level of military expenditures, support terrorism, fail to cooperate in international narcotics control matters, or engage in a consistent pattern of gross violations of internationally recognized human rights are not eligible for debt relief under this legislation.

In addition, the bill urges the President to undertake diplomatic efforts in the Paris Club to reduce or cancel debts owed bilaterally to other countries, and to work with international financial institutions to maximize the impact of the HIPC Initiative. The United States accounts for less than 5 percent of the total debt burden, so it is essential that relief is provided in a coordinated and comprehensive fashion.

Mr. President, countries should not be forced to make a tradeoff between servicing their debt and feeding their people. And once debt is relieved, we should ensure that the savings are being used to reduce poverty and improve living standards, so that the benefits are widely shared among the population. This bill achieves both objectives, and I look forward to working with my colleagues to ensure its prompt consideration.●

By Mr. INHOFE (for himself, Mr. GRAHAM, and Mr. VOINOVICH):

S. 1691. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize programs for predisaster mitigation, to streamline the administration of disaster relief, to control the Federal costs of disaster assistance, and for other purposes; to the Committee on Environment and Public Works.

DISASTER MITIGATION ACT OF 1999

● Mr. INHOFE. Mr. President, I rise today to introduce the Disaster Mitigation Act of 1999. As the chairman of the Senate Subcommittee with jurisdiction over FEMA, I have been working on this legislation for the last couple of years. I am joined in the introduction today with my ranking member Senator BOB GRAHAM. I appreciate his commitment to this legislation and I look forward to working with him to shepherd this Bill through the process.

We have been witness to several major natural disasters already this year. And, we have three more months to go. We have seen devastating tornadoes ravage Oklahoma City and Salt Lake City. We have also seen the destruction brought on the East Coast by hurricanes Dennis and Floyd. Our hearts go out to the victims of these natural disasters. I was in Oklahoma City the morning of May 4, the day after the tornadoes moved through the Oklahoma City metro area. I have never seen destruction like that any place in the world. I was moved by the stories I heard and saw as we traveled through the remains of entire neighborhoods.

Now a few months later, I see and hear stories of the destruction brought by the flooding in North Carolina and I know the problems that lie ahead as they begin to recover. As the recovery effort begin, our hearts and our prayers go out to the people of North Carolina.

The Federal government, through FEMA, has been there to help people and their communities deal with the aftermath of disasters for over a generation. As chairman of the oversight Subcommittee I want to ensure that FEMA will continue to respond and help people in need for generations to come. Unfortunately, the costs of disaster recovery have spiraled out of control. For every major disaster Congress is forced to appropriate additional funds through Supplemental Emergency Spending Bills. This not only plays havoc with the budget and forces us to spend funds which would have gone to other pressing needs, but sets up unrealistic expectations of what the federal government can and should do after a disaster.

For instance, following the Oklahoma City tornadoes, there was an estimated $900 million in damage, with a large portion of that in federal disaster assistance. Now, in the aftermath of hurricane Floyd in North Carolina, estimates of $1 billion or more in damages are being discussed. This problem is not just isolated to Oklahoma City or North Carolina. In the period between fiscal years 1994 and 1998, FEMA disaster assistance and relief costs grew from $8.7 billion to $19 billion. That marks a $10.3 billion increase in disaster assistance in just five years. To finance these expenditures, we have been forced to find over $12 billion in rescissions.

The Bill I am introducing today will address this problem from two different directions. First, it authorizes a Predisaster Hazard Mitigation Program, which assists people in preparing for disasters before they happen. Second, it provides a number of cost-saving measures to help control the costs of disaster assistance.

In our bill, we are authorizing PROJECT IMPACT, FEMA's natural disaster mitigation program. PROJECT IMPACT authorizes the use of small grants to local communities to give them funds and technical assistance to mitigate against disasters before they occur. Too often, we think of disaster assistance only after a disaster has occurred. For the very first time, we are authorizing a program to think about preventing disaster-related damage prior to the disaster. We believe that by spending these small amounts in advance of a disaster, we will save the federal government money in the long-term. However, it is important to note that we are not authorizing this program in perpetuity. The program, as drafted, is set to expire in 2003. If PROJECT IMPACT is successful, we will have the appropriate opportunity to review its work and make a determination on whether to continue program.

We are also proposing to allow states to keep a larger percentage of their federal disaster funds to be used on state mitigation projects. In Oklahoma, the state is using its share of disaster funds to provide a tax rebate to the victims of the May 3 tornadoes who, when rebuilding their homes, build a "safe room" into their home. Because of limited funding, this assistance is only available to those who were unfortunate enough to lose everything they owned. We seek to give states more flexibility in determining their own mitigation priorities and giving them the financial assistance to follow through with their plans.

While we are attempting to re-define the way in which we respond to natural disasters, we must also look to curb the rising cost of post-disaster related assistance. The intent of the original Stafford Act was to provide federal assistance after States and local communities had exhausted all their existing resources. As I said earlier, we have lost sight of this intent.

To meet our cost saving goal, we are making significant changes to FEMA's Public Assistance program. One of the most significant changes in the PA program focuses on the use of insurance. FEMA is currently developing an insurance role to require States and local government to maintain private or self-insurance in order to qualify for the PA program. We applaud their efforts and are providing them with some parameters we expect them to follow in developing any insurance rule.

Second, we are providing FEMA with the ability to estimate the cost of repairing or rebuilding projects. Under current law, FEMA is required to stay in the field and monitor the rebuilding of public structures. By requiring FEMA to stay afield for years after the disaster, we run up the administrative cost of projects. Allowing them to estimate the cost of repairs and close out the project will bring immediate assistance to the State or local community and save the Federal government money.

We have spent months working closely with FEMA, the States, local communities, and other stakeholders to produce a bill that gives FEMA the increased ability to respond to disasters, while assuring States and local communities that the federal government will continue to meet its commitments.

In closing, I want to thank Senator GRAHAM for his help and the leadership he has taken on this important issue. Without his help, input, and insight, this legislation would be little more than an idea. As we continue to move this bill forward in the process, I look forward to continuing to work with him to make this legislation a reality.●

● Mr. GRAHAM. Mr. President, I rise to join my distinguished colleague from Oklahoma in introducing legislation that creates public and private incentives to reduce the cost of future disasters.

On June 1st, the start of the 1999 Hurricane Season, the National Weather Service predicted that the United States would face three or four intense hurricanes during the next six months.

We did not have a long wait to experience the accuracy of that forecast. From September 12–15, 1999, Hurricane Floyd dragged 140 mph winds and eight foot tidal surges along the eastern seaboard. Floyd caused flooding, tornadoes, and massive damage from Florida to New Jersey. Evacuations were conducted as far north as Delaware. This disaster claimed the lives of 68 people. Initial damage estimates suggest that Floyd could cost the federal government more than $6 billion. Just days later, Tropical Storm Harvey struck Florida's west coast. We are still assessing the combine effects of these storms.

Coming just seven years after Hurricane Andrew damaged 128,000 homes, left approximately 160,000 people homeless, and caused nearly $30 billion in damage, this year's developments remind us of the inevitability and destructive power of Mother Nature. We must prepare for natural disasters if we are going to minimize their devastating effects.

It is impossible to stop violent weather. But Congress can reduce the losses from severe weather by legislating a comprehensive, nationwide mitigation strategy. Senator INHOFE and I have worked closely with FEMA, the National Emergency Management Association, the National League of Cities, the American Red Cross, and numerous other groups to construct a comprehensive proposal that will make mitigation—not response and recovery—the primary focus of emergency management.

Our legislation amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act. It will: Authorize programs for pre-disaster emergency preparedness; streamline the administration of disaster relief; restrain the Federal costs of disaster assistance; and provide incentives for the development of community-sponsored mitigation projects.

Mr. President, history has demonstrated that no community in the United States is safe from disasters. From tropical weather along the Atlantic Coast to devastating floods in the Upper Midwest to earthquakes in the Pacific Rim, we have suffered as a result of Mother Nature's fury. She will strike again, But we can avoid some of the excessive human and financial costs of the past by applying what we have learned about preparedness technology.

Florida has been a leader in incorporating the principles and practice of hazard mitigation into the mainstream of community preparedness. We have developed and implemented mitigation projects using funding from the Hazard Mitigation Grant Program, the Flood Mitigation Assistance Program and other public-private partnerships.

Everyone has a role in reducing the risks associated with natural and technological related hazards. Engineers, hospital administrators, business leaders, regional planners and emergency managers and volunteers are all significant contributors to mitigation efforts.

An effective mitigation project may be as basic as the Miami Wind Shutter program. The installation of shutters is a cost-effective mitigation measure that has proven effective in protecting buildings from hurricane force winds, and in the process minimizing direct and indirect losses to vulnerable facilities. These shutters significantly increase strength and provide increased protection of life and property.

In 1992, Hurricane Andrew did $17 million worth of damage to Baptist, Miami South, and Mercy Hospitals in Miami. As a result, these hospitals were later retrofitted with wind shutters through the Hazard Mitigation Grant Program.

Six years after Hurricane Andrew, Hurricane Georges brushed against South Florida. The shutter project paid dividends. Georges' track motivated evacuees to leave more vulnerable areas of South Florida to seek shelter. The protective shutters allowed these three Miami hospitals to serve as a safe haven for 200 pregnant mothers, prevented the need to evacuate critical patients, and helped the staff's families to secure shelter during the response effort.

In July of 1994, Tropical Storm Alberto's landfall in the Florida Panhandle triggered more than $500 million in federal disaster assistance. State and local officials concluded that the direct solution to the problem of repetitive flooding was to remove or demolish the structures at risk. A Community Block Grant of $27.5 million was used to assist local governments in acquiring 388 extremely vulnerable properties.

The success of this effort was evident when the same area experienced flooding again in the spring of 1998. While both floods were of comparable severity, the damages from the second disaster were significantly lower in the communities that acquired the flood prone properties. This mitigation project reduced their vulnerability.

We have an opportunity today to continue the working partnership between the federal government, the states, local communities and the private sector. In mitigating the devastating effects of natural disasters, it is also imperative that we control the cost of disaster relief. Our legislation will help in this effort. I encourage my colleagues to support this initiative.●

By Mr. GRAMS:

S. 1693. A bill to protect the Social Security surplus by requiring a sequester to eliminate any deficit; to the

Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee has thirty days to report or be discharged.

SOCIAL SECURITY SURPLUS PROTECTION ACT OF 1999

Mr. GRAMS. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1693

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Surplus Protection Act of 1999".

SEC. 2. SEQUESTER TO PROTECT THE SOCIAL SECURITY SURPLUS.

Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901) is amended by adding at the end the following:

"(d) SOCIAL SECURITY SURPLUS PROTECTION SEQUESTER.—

"(1) IN GENERAL.—Within 15 calendar days after Congress adjourns to end a session and on the same day as a sequestration (if any) under subsection (a), section 252, and section 253, there shall be a sequestration to eliminate any on-budget deficit (excluding any surplus in the Social Security Trust Funds).

"(2) ELIMINATING DEFICIT.—The sequester required by this subsection shall be applied in accordance with the procedures set forth in subsection (a). The on-budget deficit shall not be subject to adjustment for any purpose.".

ADDITIONAL COSPONSORS

S. 37

At the request of Mr. GRASSLEY, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 37, a bill to amend title XVIII of the Social Security Act to repeal the restriction on payment for certain hospital discharges to post-acute care imposed by section 4407 of the Balanced Budget Act of 1997.

S. 391

At the request of Mr. KERREY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 391, a bill to provide for payments to children's hospitals that operate graduate medical education programs.

S. 414

At the request of Mr. GRASSLEY, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 414, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind, and for other purposes.

S. 472

At the request of Mr. GRASSLEY, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 472, a bill to amend title XVIII of the Social Security Act to provide certain medicare beneficiaries with an exemption to the financial limitations imposed on physical, speech-language pathology, and occupational therapy services under part B of the medicare program, and for other purposes.

S. 661

At the request of Mr. ABRAHAM, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 661, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 774

At the request of Mr. BREAUX, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 774, a bill to amend the Internal Revenue Code of 1986 to increase the deduction for meal and entertainment expenses of small businesses.

S. 874

At the request of Mr. INOUYE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 874, a bill to repeal the reduction in the deductible portion of expenses for business meals and entertainment.

S. 1003

At the request of Mr. ROCKEFELLER, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1003, a bill to amend the Internal Revenue Code of 1986 to provide increased tax incentives for the purchase of alternative fuel and electric vehicle, and for other purposes.

S. 1020

At the request of Mr. GRASSLEY, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1020, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1091

At the request of Mr. DEWINE, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1091, a bill to amend the Public Health Service Act to provide for the establishment of a pediatric research initiative.

S. 1144

At the request of Mr. VOINOVICH, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1144, a bill to provide increased flexibility in use of highway funding, and for other purposes.

S. 1187

At the request of Mr. DORGAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1187, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Lewis and Clark Expedition, and for other purposes.

S. 1227

At the request of Mr. CHAFEE, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1227, a bill to amend title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide States with the option to allow legal immigrant pregnant women and children to be eligible for medical assistance under the medical program, and for other purposes.

S. 1277

At the request of Mr. GRASSLEY, the names of the Senator from North Carolina (Mr. HELMS), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of S. 1277, a bill to amend title XIX of the Social Security Act to establish a new prospective payment system for Federally-qualified health centers and rural health clinics.

S. 1384

At the request of Mr. ABRAHAM, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1384, a bill to amend the Public Health Service Act to provide for a national folic acid education program to prevent birth defects, and for other purposes.

S. 1453

At the request of Mr. FRIST, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1453, a bill to facilitate relief efforts and a comprehensive solution to the war in Sudan.

S. 1478

At the request of Mr. DASCHLE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1478, a bill to amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

S. 1488

At the request of Mr. GORTON, the names of the Senator from Ohio (Mr. DEWINE), the Senator from New Mexico (Mr. BINGAMAN), and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. 1488, a bill to amend the Public Health Service Act to provide for recommendations of the Secretary of Health and Human Services regarding the placement of automatic external defibrillators in Federal buildings in order to improve survival rates of individuals who experience cardiac arrest in such buildings, and to establish protections from civil liability arising from the emergency use of the devices.

S. 1500

At the request of Mr. HATCH, the names of the Senator from North Carolina (Mr. HELMS), the Senator from

Wyoming (Mr. THOMAS), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Minnesota (Mr. GRAMS) were added as cosponsors of S. 1500, a bill to amend title XVIII of the Social Security Act to provide for an additional payment for services provided to certain high-cost individuals under the prospective payment system for skilled nursing facility services, and for other purposes.

S. 1547

At the request of Mr. BURNS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1547, a bill to amend the Communications Act of 1934 to require the Federal Communications Commission to preserve low-power television stations that provide community broadcasting, and for other purposes.

S. 1580

At the request of Mr. ROBERTS, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1580, a bill to amend the Federal Crop Insurance Act to assist agricultural producers in managing risk, and for other purposes.

S. 1623

At the request of Mr. SPECTER, the names of the Senator from Tennessee (Mr. FRIST) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 1623, a bill to select a National Health Museum site.

S. 1653

At the request of Mr. CHAFEE, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1653, a bill to reauthorize and amend the National Fish and Wildlife foundation Establishment Act.

SENATE RESOLUTION 92

At the request of Mrs. BOXER, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of Senate Resolution 92, a resolution expressing the sense of the Senate that funding for prostate cancer research should be increased substantially.

SENATE RESOLUTION 118

At the request of Mr. REID, the names of the Senator from North Carolina (Mr. EDWARDS), the Senator from Virginia (Mr. WARNER), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of Senate Resolution 118, a resolution designating December 12, 1999, as "National Children's Memorial Day."

SENATE RESOLUTION 179

At the request of Mr. BIDEN, the name of the Senator from Delaware (Mr. ROTH) was added as a cosponsor of Senate Resolution 179, a resolution designating October 15, 1999, as "National Mammography Day."

SENATE RESOLUTION 196—COMMENDING THE SUBMARINE FORCE OF THE UNITED STATES NAVY ON THE 100TH ANNIVERSARY OF THE FORCE

By Mr. WARNER (for himself and Mr. DODD) submitted the following resolution; which was considered and agreed to:

S. RES. 196

Whereas the submarine force of the United States was founded with the purchase of the U.S.S. HOLLAND on April 11, 1900;

Whereas in overcoming destruction resulting from the attack of United States forces at Pearl Harbor, Hawaii, on December 7, 1941, and difficulties with defective torpedoes, the submarine force destroyed 1,314 enemy ships in World War II (weighing a cumulative 5,300,000 tons), which accounts for 55 percent of all enemy ships lost in World War II;

Whereas 16,000 United States submariners served with courage during World War II, and 7 United States submariners were awarded Congressional Medals of Honor for their distinguished gallantry in combat above and beyond the call of duty;

Whereas in achieving an impressive World War II record, the submarine force suffered the highest casualty rate of any combatant submarine service of the warring alliances, losing 375 officers and 3,131 enlisted men in 52 submarines;

Whereas from 1948 to 1955, the submarine force, with leadership provided by Admiral Hyman Rickover and others, developed an industrial base in a new technology, pioneered new materials, designed and built a prototype reactor, established a training program, and took to sea the world's first nuclear-powered submarine, the U.S.S. NAUTILUS, thus providing America undersea superiority;

Whereas subsequent to the design of the U.S.S. NAUTILUS, the submarine force continued to develop and put to sea the world's most advanced and capable submarines, which were vital to maintaining our national security during the Cold War;

Whereas the United States Navy, with leadership provided by Admiral Red Raborn, developed the world's first operational ballistic missile submarine, which provided an invaluable asset to our Nation's strategic nuclear deterrent capability, and contributed directly to the eventual conclusion of the Cold War; and

Whereas in 1999, the submarine force provides the United States Navy with the ability to operate around the world, independent of outside support, from the open ocean to the littorals, carrying out multimission taskings on tactical, operational, and strategic levels: Now, therefore, be it

Resolved,

(a) That the Senate—

(1) commends the past and present personnel of the submarine force of the United States Navy for their technical excellence, accomplishments, professionalism, and sacrifices; and

(B) congratulates those personnel for the 100 years of exemplary service that they have provided the United States.

(b) It is the sense of the Senate that, in the next millennium, the submarine force of the United States Navy should continue to comprise an integral part of the Navy, and to carry out missions that are key to maintaining our great Nation's freedom and security as the most superior submarine force in the world.

• Mr. WARNER. Mr. President, my colleague from the great state of Connecticut Senator DODD and I rise today to pay tribute to the Naval Submarine Force and to submit a resolution to commemorate the 100th anniversary of this outstanding institution.

In the year 2000 the United States Navy Submarine Force celebrates its one hundredth anniversary.

The Submarine Force began with the purchase of U.S.S. *Holland* on April 11, 1900. The past 100 years have witnessed the evolution of a force that mastered submersible warfare, introduced nuclear propulsion to create the true submarine, and for decades patrolled the deep ocean front line: the hottest part of an otherwise cold war.

Beginning in World War I the Submarine Force began to support national interests through offensive and defensive operations in the Atlantic. Using lessons learned from German U-boat design, the US Submarine Force developed advanced diesel submarine designs during the inter-war years. In spite of a hesitant beginning due to Pearl Harbor and difficulties with defective torpedoes, the World War II submarine force destroyed 1,314 enemy ships (5.3 million tons), which translated into 55 percent of all enemy ships lost. Out of 16,000 submariners, the force lost 375 officers and 3,131 enlisted men in fifty-two submarines, the highest casualty rate of any combatant submarine service on any side in the conflict. Seven Congressional Medals of Honor were awarded to submariners during World War II for distinguished gallantry in combat.

Mr. DODD. After World War II the Submarine Force began experimenting with high speed, sophisticated silencing techniques, sensitive sonic detection, and deeper diving designs. Admiral Hyman G. Rickover lead the effort which resulted in the world's first nuclear powered submarine, USS *Nautilus*, commissioned in 1955. The advent of nuclear propulsion resulted in the first true submarine, a vessel that was truly free to operate unrestricted below the surface of the ocean.

Continued development of advanced submarine designs lead to the most capable submarine fleet in the world. The United States Navy, led by Admiral Red Raborn, also fielded the world's first operational submarine launched ballistic missile platform in the world. This force provided invaluable support to our national security and strategic nuclear deterrence. The end of the cold war has been credited in part to the deterrent role that the strategic ballistic submarine played in our nuclear triad.

Through the 1980's and 1990's the submarine force has continued to contribute to all aspects of our country's national security strategy from Desert Storm to Yugoslavia. The sailors who have taken our submarines to sea over the years should be commended for their outstanding service and performance. Always on the cutting edge, the submarine force will help the Navy sustain the adaptability necessary to maintain our national security in and around the oceans of our world.

Mr. WARNER. Mr. President, Senator DODD and I would like to congratulate the Naval Submarine Force on its 100th anniversary and on all the accomplishments it has achieved during that time.

On a personal note, I wish to acknowledge the contributions of the Submarine Force Senior Leadership since its inception, many of whom I am proud to have known and worked closely with over the years. And for the next 100 years, may our Submarine Force run silent, run deep.

AMENDMENTS SUBMITTED ON OCTOBER 4, 1999

AIR TRANSPORTATION IMPROVEMENT ACT

McCAIN (AND OTHERS) AMENDMENT NO. 1891

Mr. GORTON (for Mr. McCAIN (for himself, Mr. GORTON, and Mr. ROCKEFELLER)) proposed an amendment to the bill (S. 82) to authorize appropriations for the Federal Aviation Administration, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF SECTIONS.

(a) SHORT TITLE.—This Act may be cited as the "Air Transportation Improvement Act".

(b) TABLE OF SECTIONS.—The table of sections for this Act is as follows:

Sec. 1. Short title; table of sections.
Sec. 2. Amendments to title 49, United States Code.

TITLE I—AUTHORIZATIONS

Sec. 101. Federal Aviation Administration operations.
Sec. 102. Air navigation facilities and equipment.
Sec. 103. Airport planning and development and noise compatibility planning and programs.
Sec. 104. Reprogramming notification requirement.
Sec. 105. Airport security program.
Sec. 106. Automated surface observation system stations.

TITLE II—AIRPORT IMPROVEMENT PROGRAM AMENDMENTS

Sec. 201. Removal of the cap on discretionary fund.
Sec. 202. Innovative use of airport grant funds.
Sec. 203. Matching share.
Sec. 204. Increase in apportionment for noise compatibility planning and programs.
Sec. 205. Technical amendments.
Sec. 206. Report on efforts to implement capacity enhancements.
Sec. 207. Prioritization of discretionary projects.
Sec. 208. Public notice before grant assurance requirement waived.
Sec. 209. Definition of public aircraft.
Sec. 210. Terminal development costs.
Sec. 211. Airfield pavement conditions.
Sec. 212. Discretionary grants.
Sec. 213. Contract tower cost-sharing.

TITLE III—AMENDMENTS TO AVIATION LAW

Sec. 301. Severable services contracts for periods crossing fiscal years.
Sec. 302. Stage 3 noise level compliance for certain aircraft.
Sec. 303. Government and industry consortia.
Sec. 304. Implementation of Article 83 Bis of the Chicago Convention.
Sec. 305. Foreign aviation services authority.
Sec. 306. Flexibility to perform criminal history record checks; technical amendments to Pilot Records Improvement Act.
Sec. 307. Extension of Aviation Insurance Program.
Sec. 308. Technical corrections to civil penalty provisions.
Sec. 309. Criminal penalty for pilots operating in air transportation without an airman's certificate.
Sec. 310. Nondiscriminatory interline interconnection requirements.
Sec. 311. Review process for emergency orders under section 44709.

TITLE IV—MISCELLANEOUS

Sec. 401. Oversight of FAA response to year 2000 problem.
Sec. 402. Cargo collision avoidance systems deadline.
Sec. 403. Runway safety areas; precision approach path indicators.
Sec. 404. Airplane emergency locators.
Sec. 405. Counterfeit aircraft parts.
Sec. 406. FAA may fine unruly passengers.
Sec. 407. Higher standards for handicapped access.
Sec. 408. Conveyances of United States Government land.
Sec. 409. Flight operations quality assurance rules.
Sec. 410. Wide area augmentation system.
Sec. 411. Regulation of Alaska guide pilots.
Sec. 412. Alaska rural aviation improvement.
Sec. 413. Human factors program.
Sec. 414. Independent validation of FAA costs and allocations.
Sec. 415. Application of Federal Procurement Policy Act.
Sec. 416. Report on modernization of oceanic ATC system.
Sec. 417. Report on air transportation oversight system.
Sec. 418. Recycling of EIS.
Sec. 419. Protection of employees providing air safety information.
Sec. 420. Improvements to air navigation facilities.
Sec. 421. Denial of airport access to certain air carriers.
Sec. 422. Tourism.
Sec. 423. Sense of the Senate on property taxes on public-use airports.
Sec. 424. Federal Aviation Administration Personnel Management System.
Sec. 425. Authority to sell aircraft and aircraft parts for use in responding to oil spills.
Sec. 426. Aircraft and aviation component repair and maintenance advisory panel.
Sec. 427. Aircraft situational display data.
Sec. 428. Allocation of Trust Fund funding.
Sec. 429. Taos Pueblo and Blue Lakes Wilderness Area demonstration project.
Sec. 430. Airline marketing disclosure.
Sec. 431. Compensation under the Death on the High Seas Act.
Sec. 432. FAA study of breathing hoods.
Sec. 433. FAA study of alternative power sources for flight data recorders and cockpit voice recorders.
Sec. 434. Passenger facility fee letters of intent.
Sec. 435. Elimination of HAZMAT enforcement backlog.
Sec. 436. FAA evaluation of long-term capital leasing.
Sec. 437. Discriminatory practices by computer reservations system outside the United States.
Sec. 438. Prohibitions against smoking on scheduled flights.
Sec. 439. Designating current and former military airports.
Sec. 440. Rolling stock equipment.
Sec. 441. Monroe Regional Airport land conveyance.
Sec. 442. Cinncinati-Municipal Blue Ash Airport.
Sec. 443. Report on Specialty Metals Consortium.
Sec. 444. Pavement condition.
Sec. 445. Inherently low-emission airport vehicle pilot program.
Sec. 446. Conveyance of airport property to an institution of higher education in Oklahoma.
Sec. 447. Automated Surface Observation System/Automated Weather Observing System Upgrade.
Sec. 448. Terminal Automated Radar Display and Information System.
Sec. 449. Cost/benefit analysis for retrofit of 16G seats.
Sec. 450. Raleigh County, West Virginia, Memorial Airport.
Sec. 451. Airport safety needs.
Sec. 452. Flight training of international students.
Sec. 453. Grant Parish, Louisiana.

TITLE V—AVIATION COMPETITION PROMOTION

Sec. 501. Purpose.
Sec. 502. Establishment of small community aviation development program.
Sec. 503. Community-carrier air service program.
Sec. 504. Authorization of appropriations.
Sec. 505. Marketing practices.
Sec. 506. Slot exemptions for nonstop regional jet service.
Sec. 507. Exemptions to perimeter rule at Ronald Reagan Washington National Airport.
Sec. 508. Additional slot exemptions at Chicago O'Hare International Airport.
Sec. 509. Consumer notification of e-ticket expiration dates.
Sec. 510. Regional air service incentive options.

TITLE VI—NATIONAL PARKS OVERFLIGHTS

Sec. 601. Findings.
Sec. 602. Air tour management plans for national parks.
Sec. 603. Advisory group.
Sec. 604. Overflight fee report.
Sec. 605. Prohibition of commercial air tours over the Rocky Mountain National Park.

TITLE VII—TITLE 49 TECHNICAL CORRECTIONS

Sec. 701. Restatement of 49 U.S.C. 106(g).
Sec. 702. Restatement of 49 U.S.C. 44909.

TITLE VIII—TRANSFER OF AERONAUTICAL CHARTING ACTIVITY

Sec. 801. Transfer of functions, powers, and duties.

Sec. 802. Transfer of office, personnel, and funds.
Sec. 803. Amendment of title 49, United States Code.
Sec. 804. Savings provision.
Sec. 805. National ocean survey.
Sec. 806. Sale and distribution of nautical and aeronautical products by NOAA.

SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

TITLE I—AUTHORIZATIONS

SEC. 101. FEDERAL AVIATION ADMINISTRATION OPERATIONS.

(a) IN GENERAL.—Section 106(k) is amended to read as follows:

"(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for operations of the Administration $5,632,000,000 for fiscal year 1999, $5,784,000,000 for fiscal year 2000, $6,073,000,000 for fiscal year 2001, and $6,377,000,000 for fiscal year 2002. Of the amounts authorized to be appropriated for fiscal year 2000, not more than $9,100,000 shall be used to support air safety efforts through payment of United States membership obligations, to be paid as soon as practicable.

"(2) AUTHORIZED EXPENDITURES.—Of the amounts appropriated under paragraph (1) $450,000 may be used for wildlife hazard mitigation measures and management of the wildlife strike database of the Federal Aviation Administration.

"(3) UNIVERSITY CONSORTIUM.—There are authorized to be appropriated not more than $9.100,000 for the 3 fiscal year period beginning with fiscal year 2000 to support a university consortium established to provide an air safety and security management certificate program, working cooperatively with the Federal Aviation Administration and United States air carriers. Funds authorized under this paragraph—

"(A) may not be used for the construction of a building or other facility; and

"(B) shall be awarded on the basis of open competition.".

(b) COORDINATION.—The authority granted the Secretary under section 41720 of title 49, United States Code, does not affect the Secretary's authority under any other provision of law.

SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

(a) IN GENERAL.—Section 48101(a) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) $2,131,000,000 for fiscal year 1999.
"(2) $2,689,000,000 for fiscal year 2000.
"(3) $2,799,000,000 for fiscal year 2001.
"(4) $2,914,000,000 for fiscal year 2002.".

(b) CONTINUATION OF ILS INVENTORY PROGRAM.—Section 44502(a)(4)(B) is amended—

(1) by striking "fiscal years 1995 and 1996" and inserting "fiscal years 1999 through 2002"; and

(2) by striking "acquisition," and inserting "acquisition under new or existing contracts,".

(c) LIFE-CYCLE COST ESTIMATES.—The Administrator of the Federal Aviation Administration shall establish life-cycle cost estimates for any air traffic control modernization project the total life-cycle costs of which equal or exceed $50,000,000.

SEC. 103. AIRPORT PLANNING AND DEVELOPMENT AND NOISE COMPATIBILITY PLANNING AND PROGRAMS.

(a) EXTENSION AND AUTHORIZATION.—Section 48103 is amended by striking "$2,050,000,000 for the period beginning October 1, 1998, and ending August 6, 1999." and inserting "$2,410,000,000 for fiscal years ending before October 1, 1999, $4,885,000,000 for fiscal years ending before October 1, 2000, $7,295,000,000 for fiscal years ending before October 1, 2001, and $9,705,000,000 for fiscal years ending before October 1, 2002.".

(b) PROJECT GRANT AUTHORITY.—Section 47104(c) is amended by striking "August 6, 1999," and inserting "September 30, 2002,".

SEC. 104. REPROGRAMMING NOTIFICATION REQUIREMENT.

Before reprogramming any amounts appropriated under section 106(k), 48101(a), or 48103 of title 49, United States Code, for which notification of the Committees on Appropriations of the Senate and the House of Representatives is required, the Secretary of Transportation shall submit a written explanation of the proposed reprogramming to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 105. AIRPORT SECURITY PROGRAM.

(a) IN GENERAL.—Chapter 471 (as amended by section 202(a) of this Act) is amended by adding at the end thereof the following new section:

"§ 47136. Airport security program

"(a) GENERAL AUTHORITY.—To improve security at public airports in the United States, the Secretary of Transportation shall carry out not less than 1 project to test and evaluate innovative aviation security systems and related technology.

"(b) PRIORITY.—In carrying out this section, the Secretary shall give the highest priority to a request from an eligible sponsor for a grant to undertake a project that—

"(1) evaluates and tests the benefits of innovative aviation security systems or related technology, including explosives detection systems, for the purpose of improving aviation and aircraft physical security, access control, and passenger and baggage screening; and

"(2) provides testing and evaluation of airport security systems and technology in an operational, testbed environment.

"(c) MATCHING SHARE.—Notwithstanding section 47109, the United States Government's share of allowable project costs for a project under this section is 100 percent.

"(d) TERMS AND CONDITIONS.—The Secretary may establish such terms and conditions as the Secretary determines appropriate for carrying out a project under this section, including terms and conditions relating to the form and content of a proposal for a project, project assurances, and schedule of payments.

"(e) ELIGIBLE SPONSOR DEFINED.—In this section, the term 'eligible sponsor' means a nonprofit corporation composed of a consortium of public and private persons, including a sponsor of a primary airport, with the necessary engineering and technical expertise to successfully conduct the testing and evaluation of airport and aircraft related security systems.

"(f) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts made available to the Secretary under section 47115 in a fiscal year, the Secretary shall make available not less than $5,000,000 for the purpose of carrying out this section.".

(b) CONFORMING AMENDMENT.—The chapter analysis for such chapter (as amended by section 202(b) of this Act) is amended by inserting after the item relating to section 47135 the following:

"47136. Airport security program.".

SEC. 106. AUTOMATED SURFACE OBSERVATION SYSTEM STATIONS.

The Administrator of the Federal Aviation Administration shall not terminate human weather observers for Automated Surface Observation System stations until—

(1) the Secretary of Transportation determines that the System provides consistent reporting of changing meteorological conditions and notifies the Congress in writing of that determination; and

(2) 60 days have passed since the report was submitted to the Congress.

TITLE II—AIRPORT IMPROVEMENT PROGRAM AMENDMENTS

SEC. 201. REMOVAL OF THE CAP ON DISCRETIONARY FUND.

Section 47115(g) is amended by striking paragraph (4).

SEC. 202. INNOVATIVE USE OF AIRPORT GRANT FUNDS.

(a) CODIFICATION AND IMPROVEMENT OF 1996 PROGRAM.—Subchapter I of chapter 471 is amended by adding at the end thereof the following:

"§ 47135. Innovative financing techniques

"(a) IN GENERAL.—The Secretary of Transportation is authorized to carry out a demonstration program under which the Secretary may approve applications under this subchapter for not more than 20 projects for which grants received under the subchapter may be used to implement innovative financing techniques.

"(b) PURPOSE.—The purpose of the demonstration program shall be to provide information on the use of innovative financing techniques for airport development projects.

"(c) LIMITATION.—In no case shall the implementation of an innovative financing technique under this section be used in a manner giving rise to a direct or indirect guarantee of any airport debt instrument by the United States Government.

"(d) INNOVATIVE FINANCING TECHNIQUE DEFINED.—In this section, the term 'innovative financing technique' includes methods of financing projects that the Secretary determines may be beneficial to airport development, including—

"(1) payment of interest;

"(2) commercial bond insurance and other credit enhancement associated with airport bonds for eligible airport development; and

"(3) flexible non-Federal matching requirements.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 471 is amended by inserting after the item relating to section 47134 the following:

"47135. Innovative financing techniques.".

SEC. 203. MATCHING SHARE.

Section 47109(a)(2) is amended by inserting "not more than" before "90 percent".

SEC. 204. INCREASE IN APPORTIONMENT FOR NOISE COMPATIBILITY PLANNING AND PROGRAMS.

Section 47117(e)(1)(A) is amended by striking "31" each time it appears and inserting "35".

SEC. 205. TECHNICAL AMENDMENTS.

(a) USE OF APPORTIONMENTS FOR ALASKA, PUERTO RICO, AND HAWAII.—Section 47114(d)(3) is amended to read as follows:

"(3) An amount apportioned under paragraph (2) of this subsection for airports in Alaska, Hawaii, or Puerto Rico may be made available by the Secretary for any public airport in those respective jurisdictions.".

(b) Supplemental Apportionment for Alaska.—Section 47114(e) is amended—

(1) by striking "Alternative" in the subsection caption and inserting "Supplemental";

(2) in paragraph (1) by—

(A) striking "Instead of apportioning amounts for airports in Alaska under" and inserting "Notwithstanding"; and

(B) striking "those airports" and inserting "airports in Alaska"; and

(3) striking paragraph (3) and inserting the following:

"(3) An amount apportioned under this subsection may be used for any public airport in Alaska.".

(c) Repeal of Apportionment Limitation on Commercial Service Airports in Alaska.—Section 47117 is amended by striking subsection (f) and redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(d) Continuation of Project Funding.—Section 47108 is amended by adding at the end thereof the following:

"(e) Change in Airport Status.—If the status of a primary airport changes to a nonprimary airport at a time when a development project under a multiyear agreement under subsection (a) is not yet completed, the project shall remain eligible for funding from discretionary funds under section 47115 of this title at the funding level and under the terms provided by the agreement, subject to the availability of funds.".

(e) Grant Eligibility for Private Reliever Airports.—Section 47102(17)(B) is amended—

(1) by striking "or" at the end of clause (i) and redesignating clause (ii) as clause (iii); and

(2) by inserting after clause (i) the following:

"(ii) a privately-owned airport that, as a reliever airport, received Federal aid for airport development prior to October 9, 1996, but only if the Administrator issues revised administrative guidance after July 1, 1998, for the designation of reliever airports; or".

(f) Reliever Airports Not Eligible for Letters of Intent.—Section 47110(e)(1) is amended by striking "or reliever".

(g) Passenger Facility Fee Waiver for Certain Class of Carriers.—Section 40117(e)(2) is amended—

(1) by striking "and" after the semicolon in subparagraph (B);

(2) by striking "payment." in subparagraph (C) and inserting "payment;" and

(3) by adding at the end thereof the following:

"(D) on flights, including flight segments, between 2 or more points in Hawaii.".

(h) Passenger Facility Fee Waiver for Certain Class of Carriers or for Service to Airports in Isolated Communities.—Section 40117(i) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking "transportation." in paragraph (2)(D) and inserting "transportation; and"; and

(3) by adding at the end thereof the following:

"(3) may permit a public agency to request that collection of a passenger facility fee be waived for—

"(A) passengers enplaned by any class of air carrier or foreign air carrier if the number of passengers enplaned by the carriers in the class constitutes not more than one percent of the total number of passengers enplaned annually at the airport at which the fee is imposed; or

"(B) passengers enplaned on a flight to an airport—

"(i) that has fewer than 2,500 passenger boardings each year and receives scheduled passenger service; or

"(ii) in a community which has a population of less than 10,000 and is not connected by a land highway or vehicular way to the land-connected National Highway System within a State.".

(i) Use of the Word "gift" and Priority for Airports in Surplus Property Disposal.—

(1) Section 47151 is amended—

(A) by striking "give" in subsection (a) and inserting "convey to";

(B) by striking "gift" in subsection (a)(2) and inserting "conveyance";

(C) by striking "giving" in subsection (b) and inserting "conveying";

(D) by striking "gift" in subsection (b) and inserting "conveyance"; and

(E) by adding at the end thereof the following:

"(d) Priority for Public Airports.—Except for requests from another Federal agency, a department, agency, or instrumentality of the Executive Branch of the United States Government shall give priority to a request by a public agency (as defined in section 47102 of this title) for surplus property described in subsection (a) of this section for use at a public airport.".

(2) Section 47152 is amended—

(A) by striking "**gifts**" in the section caption and inserting "**conveyances**"; and

(B) by striking "gift" in the first sentence and inserting "conveyance".

(3) The chapter analysis for chapter 471 is amended by striking the item relating to section 47152 and inserting the following:

"47152. Terms of conveyances.".

(4) Section 47153(a) is amended—

(A) by striking "gift" in paragraph (1) and inserting "conveyance";

(B) by striking "given" in paragraph (1)(A) and inserting "conveyed"; and

(C) by striking "gift" in paragraph (1)(B) and inserting "conveyance".

(j) Minimum Apportionment.—Section 47114(c)(1)(B) is amended by adding at the end thereof the following: "For fiscal years beginning after fiscal year 1999, the preceding sentence shall be applied by substituting '$650,000' for '$500,000'.".

(k) Apportionment for Cargo Only Airports.—

(1) Section 47114(c)(2)(A) is amended by striking "2.5 percent" and inserting "3 percent".

(2) Section 47114(c)(2) is further amended by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(l) Temporary Air Service Interruptions.—Section 47114(c)(1) is amended by adding at the end thereof the following:

"(C) The Secretary may, notwithstanding subparagraph (A), apportion to an airport sponsor in a fiscal year an amount equal to the amount apportioned to that sponsor in the previous fiscal year if the Secretary finds that—

"(i) passenger boardings at the airport fell below 10,000 in the calendar year used to calculate the apportionment;

"(ii) the airport had at least 10,000 passenger boardings in the calendar year prior to the calendar year used to calculate apportionments to airport sponsors in a fiscal year; and

"(iii) the cause of the shortfall in passenger boardings was a temporary but significant interruption in service by an air carrier to that airport due to an employment action, natural disaster, or other event unrelated to the demand for air transportation at the affected airport.".

(m) Flexibility in Pavement Design Standards.—Section 47114(d) is amended by adding at the end thereof the following:

"(4) The Secretary may permit the use of State highway specifications for airfield pavement construction using funds made available under this subsection at nonprimary airports with runways of 5,000 feet or shorter serving aircraft that do not exceed 60,000 pounds gross weight, if the Secretary determines that—

"(A) safety will not be negatively affected; and

"(B) the life of the pavement will not be shorter than it would be if constructed using Administration standards.

An airport may not seek funds under this subchapter for runway rehabilitation or reconstruction of any such airfield pavement constructed using State highway specifications for a period of 10 years after construction is completed.".

(n) Eligibility of Runway Incursion Prevention Devices.—

(1) Policy.—Section 47101(a)(11) is amended by inserting "(including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices)" after "activities".

(2) Maximum use of safety facilities.—Section 47101(f) is amended—

(A) by striking "and" at the end of paragraph (9); and

(B) by striking "area." in paragraph (10) and inserting "area; and"; and

(C) by adding at the end the following:

"(11) runway and taxiway incursion prevention devices, including integrated in-pavement lighting systems for runways and taxiways.".

(3) Airport development defined.—Section 47102(3)(B)(ii) is amended by inserting "and including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices" before the semicolon at the end.

(o) Technical Amendments.—Section 47116(d) is amended—

(1) by striking "In making" and inserting the following:

"(1) Construction of new runways.—In making";

(2) by adding at the end the following:

"(2) Airport development for turbine powered aircraft.—In making grants to sponsors described in subsection (b)(1), the Secretary shall give priority consideration to airport development projects to support operations by turbine powered aircraft, if the non-Federal share of the project is at least 40 percent."; and

(3) by aligning the remainder of paragraph (1) (as designated by subparagraph (A) of this paragraph) with paragraph (2) (as added by subparagraph (B) of this paragraph).

SEC. 206. REPORT ON EFFORTS TO IMPLEMENT CAPACITY ENHANCEMENTS.

Within 9 months after the date of enactment of this Act, the Secretary of Transportation shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on efforts by the Federal Aviation Administration to implement capacity enhancements and improvements, both technical and procedural, such as precision runway monitoring systems, and the time frame for implementation of such enhancements and improvements.

SEC. 207. PRIORITIZATION OF DISCRETIONARY PROJECTS.

Section 47120 is amended—

(1) by inserting "(a) IN GENERAL.—" before "In"; and

(2) by adding at the end thereof the following:

"(b) DISCRETIONARY FUNDING TO BE USED FOR HIGHER PRIORITY PROJECTS.—The Administrator of the Federal Aviation Administration shall discourage airport sponsors and airports from using entitlement funds for lower priority projects by giving lower priority to discretionary projects submitted by airport sponsors and airports that have used entitlement funds for projects that have a lower priority than the projects for which discretionary funds are being requested.".

SEC. 208. PUBLIC NOTICE BEFORE GRANT ASSURANCE REQUIREMENT WAIVED.

(a) IN GENERAL.—Notwithstanding any other provision of law to the contrary, the Secretary of Transportation may not waive any assurance required under section 47107 of title 49, United States Code, that requires property to be used for aeronautical purposes unless the Secretary provides notice to the public not less than 30 days before issuing any such waiver. Nothing in this section shall be construed to authorize the Secretary to issue a waiver of any assurance required under that section.

(b) EFFECTIVE DATE.—This section applies to any request filed on or after the date of enactment of this Act.

SEC. 209. DEFINITION OF PUBLIC AIRCRAFT.

Section 40102(a)(37)(B)(ii) is amended—

(1) by striking "or" at the end of subclause (I);

(2) by striking the "States." in subclause (II) and inserting "States; or"; and

(3) by adding at the end thereof the following:

"(III) transporting persons aboard the aircraft if the aircraft is operated for the purpose of prisoner transport.".

SEC. 210. TERMINAL DEVELOPMENT COSTS.

Section 40117 is amended by adding at the end thereof the following:

"(j) SHELL OF TERMINAL BUILDING.—In order to enable additional air service by an air carrier with less than 50 percent of the scheduled passenger traffic at an airport, the Secretary may consider the shell of a terminal building (including heating, ventilation, and air conditioning) and aircraft fueling facilities adjacent to an airport terminal building to be an eligible airport-related project under subsection (a)(3)(E).".

SEC. 211. AIRFIELD PAVEMENT CONDITIONS.

(a) EVALUATION OF OPTIONS.—The Administrator of the Federal Aviation Administration shall evaluate options for improving the quality of information available to the Administration on airfield pavement conditions for airports that are part of the national air transportation system, including—

(1) improving the existing runway condition information contained in the Airport Safety Data Program by reviewing and revising rating criteria and providing increased training for inspectors;

(2) requiring such airports to submit pavement condition index information as part of their airport master plan or as support in applications for airport improvement grants; and

(3) requiring all such airports to submit pavement condition index information on a regular basis and using this information to create a pavement condition database that could be used in evaluating the cost-effectiveness of project applications and forecasting anticipated pavement needs.

(b) REPORT TO CONGRESS.—The Administrator shall transmit a report, containing an evaluation of such options, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not later than 12 months after the date of enactment of this Act.

SEC. 212. DISCRETIONARY GRANTS.

Notwithstanding any limitation on the amount of funds that may be expended for grants for noise abatement, if any funds made available under section 48103 of title 49, United States Code, remain available at the end of the fiscal year for which those funds were made available, and are not allocated under section 47115 of that title, or under any other provision relating to the awarding of discretionary grants from unobligated funds made available under section 48103 of that title, the Secretary of Transportation may use those funds to make discretionary grants for noise abatement activities.

SEC. 213. CONTRACT TOWER COST-SHARING.

Section 47124(b) is amended by adding at the end the following:

"(3) CONTRACT AIR TRAFFIC CONTROL TOWER PILOT PROGRAM.—

"(A) IN GENERAL.—The Secretary shall establish a pilot program to contract for air traffic control services at Level I air traffic control towers, as defined by the Administrator of the Federal Aviation Administration, that do not qualify for the Contract Tower Program established under subsection (a) and continued under paragraph (1) (hereafter in this paragraph referred to as the 'Contract Tower Program').

"(B) PROGRAM COMPONENTS.—In carrying out the pilot program established under subparagraph (A), the Administrator shall—

"(i) utilize for purposes of cost-benefit analyses, current, actual, site-specific data, forecast estimates, or airport master plan data provided by a facility owner or operator and verified by the Administrator;

"(ii) approve for participation only facilities willing to fund a pro rata share of the operating costs of the air traffic control tower to achieve a one-to-one benefit-to-cost ratio, as required for eligibility under the Contract Tower Program; and

"(iii) approve for participation no more than 2 facilities willing to fund up to 50 percent, but not less than 25 percent, of construction costs for an air traffic control tower built by the airport operator and for each of such facilities the Federal share of construction cost does not exceed $1,100,000.

"(C) PRIORITY.—In selecting facilities to participate in the program under this paragraph, the Administrator shall give priority to the following:

"(i) Air traffic control towers that are participating in the Contract Tower Program but have been notified that they will be terminated from such program because the Administrator has determined that the benefit-to-cost ratio for their continuation in such program is less than 1.0.

"(ii) Air traffic control towers that the Administrator determines have a benefit-to-cost ratio of at least .50.

"(iii) Air traffic control towers of the Federal Aviation Administration that are closed as a result of the air traffic controllers strike in 1981.

"(iv) Air traffic control towers located at airports that are prepared to assume partial responsibility for maintenance costs.

"(v) Air traffic control towers that are located at airports with safety or operational problems related to topography, weather, runway configuration, or mix of aircraft.

"(D) COSTS EXCEEDING BENEFITS.—If the costs of operating an air traffic control tower under the pilot program established under this paragraph exceed the benefits, the airport sponsor or State or local government having jurisdiction over the airport shall pay the portion of the costs that exceed such benefits.

"(E) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriation $6,000,000 per fiscal year to carry out this paragraph.".

TITLE III—AMENDMENTS TO AVIATION LAW

SEC. 301. SEVERABLE SERVICES CONTRACTS FOR PERIODS CROSSING FISCAL YEARS.

(a) Chapter 401 is amended by adding at the end thereof the following:

"§ 40125. Severable services contracts for periods crossing fiscal years

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into a contract for procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed one year.

"(b) OBLIGATION OF FUNDS.—Funds made available for a fiscal year may be obligated for the total amount of a contract entered into under the authority of subsection (a) of this section.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 401 is amended by adding at the end thereof the following:

"40125. Severable services contracts for periods crossing fiscal years.".

SEC. 302. STAGE 3 NOISE LEVEL COMPLIANCE FOR CERTAIN AIRCRAFT.

(a) EXEMPTION FOR AIRCRAFT MODIFICATION OR DISPOSAL, SCHEDULED HEAVY MAINTENANCE, OR LEASING-RELATED FLIGHTS.—Section 47528 is amended—

(1) by striking "subsection (b)" in subsection (a) and inserting "subsection (b) or (f)";

(2) by adding at the end of subsection (e) the following:

"(4) An air carrier operating Stage 2 aircraft under this subsection may transport Stage 2 aircraft to or from the 48 contiguous States on a non-revenue basis in order—

"(A) to perform maintenance (including major alterations) or preventative maintenance on aircraft operated, or to be operated, within the limitations of paragraph (2)(B); or

"(B) conduct operations within the limitations of paragraph (2)(B)."; and

(3) adding at the end thereof the following:

"(f) AIRCRAFT MODIFICATION, DISPOSAL, SCHEDULED HEAVY MAINTENANCE, OR LEASING.—

"(1) IN GENERAL.—The Secretary shall permit a person to operate after December 31, 1999, a Stage 2 aircraft in nonrevenue service through the airspace of the United States or to or from an airport in the contiguous 48 States in order to—

"(A) sell, lease, or use the aircraft outside the contiguous 48 States;

"(B) scrap the aircraft;

"(C) obtain modifications to the aircraft to meet Stage 3 noise levels;

"(D) perform scheduled heavy maintenance or significant modifications on the aircraft at a maintenance facility located in the contiguous 48 States;

"(E) deliver the aircraft to an operator leasing the aircraft from the owner or return the aircraft to the lessor;

"(F) prepare or park or store the aircraft in anticipation of any of the activities described in subparagraphs (A) through (E); or

"(G) divert the aircraft to an alternative airport in the contiguous 48 States on account of weather, mechanical, fuel, air traffic control, or other safety reasons while conducting a flight in order to perform any of the activities described in subparagraphs (A) through (F).

"(2) PROCEDURE TO BE PUBLISHED.—The Secretary shall establish and publish, not later than 30 days after the date of enactment of the Air Transportation Improvement Act a procedure to implement paragraph (1) of this subsection through the use of categorical waivers, ferry permits, or other means.".

(b) NOISE STANDARDS FOR EXPERIMENTAL AIRCRAFT.—

(1) IN GENERAL.—Section 47528(a) is amended by inserting "(for which an airworthiness certificate other than an experimental certificate has been issued by the Administrator)" after "civil subsonic turbojet".

(2) FAR MODIFIED.—The Federal Aviation Regulations, contained in Part 14 of the Code of Federal Regulations, that implement section 47528 and related provisions shall be deemed to incorporate this change on the effective date of this Act.

SEC. 303. GOVERNMENT AND INDUSTRY CONSORTIA.

Section 44903 is amended by adding at the end thereof the following:

"(f) GOVERNMENT AND INDUSTRY CONSORTIA.—The Administrator may establish at airports such consortia of government and aviation industry representatives as the Administrator may designate to provide advice on matters related to aviation security and safety. Such consortia shall not be considered federal advisory committees for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).".

SEC. 304. IMPLEMENTATION OF ARTICLE 83 BIS OF THE CHICAGO CONVENTION.

Section 44701 is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) BILATERAL EXCHANGES OF SAFETY OVERSIGHT RESPONSIBILITIES.—

"(1) Notwithstanding the provisions of this chapter, and pursuant to Article 83 Bis of the Convention on International Civil Aviation, the Administrator may, by a bilateral agreement with the aeronautical authorities of another country, exchange with that country all or part of their respective functions and duties with respect to aircraft described in subparagraphs (A) and (B), under the following articles of the Convention:

"(A) Article 12 (Rules of the Air).

"(B) Article 31 (Certificates of Airworthiness).

"(C) Article 32a (Licenses of Personnel).

"(2) The agreement under paragraph (1) may apply to—

"(A) aircraft registered in the United States operated pursuant to an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business, or, if it has no such place of business, its permanent residence, in another country; or

"(B) aircraft registered in a foreign country operated under an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business, or, if it has no such place of business, its permanent residence, in the United States.

"(3) The Administrator relinquishes responsibility with respect to the functions and duties transferred by the Administrator as specified in the bilateral agreement, under the Articles listed in paragraph (1) of this subsection for United States-registered aircraft transferred abroad as described in subparagraph (A) of that paragraph, and accepts responsibility with respect to the functions and duties under those Articles for aircraft registered abroad that are transferred to the United States as described in subparagraph (B) of that paragraph.

"(4) The Administrator may, in the agreement under paragraph (1), predicate the transfer of these functions and duties on any conditions the Administrator deems necessary and prudent.".

SEC. 305. FOREIGN AVIATION SERVICES AUTHORITY.

Section 45301(a)(2) is amended to read as follows:

"(2) Services provided to a foreign government or to any entity obtaining services outside the United States other than—

"(A) air traffic control services; and

"(B) fees for production-certification-related service pertaining to aeronautical products manufactured outside the United States.".

SEC. 306. FLEXIBILITY TO PERFORM CRIMINAL HISTORY RECORD CHECKS; TECHNICAL AMENDMENTS TO PILOT RECORDS IMPROVEMENT ACT.

Section 44936 is amended—

(1) by striking "subparagraph (C))" in subsection (a)(1)(B) and inserting "subparagraph (C), or in the case of passenger, baggage, or property screening at airports, the Administrator decides it is necessary to ensure air transportation security)";

(2) by striking "individual" in subsection (f)(1)(B)(ii) and inserting "individual's performance as a pilot"; and

(3) by inserting "or from a foreign government or entity that employed the individual," in subsection (f)(14)(B) after "exists,".

SEC. 307. EXTENSION OF AVIATION INSURANCE PROGRAM.

Section 44310 is amended by striking "August 6, 1999." and inserting "December 31, 2003.".

SEC. 308. TECHNICAL CORRECTIONS TO CIVIL PENALTY PROVISIONS.

Section 46301 is amended—

(1) by striking "46302, 46303, or" in subsection (a)(1)(A);

(2) by striking "an individual" the first time it appears in subsection (d)(7)(A) and inserting "a person"; and

(3) by inserting "or the Administrator" in subsection (g) after "Secretary".

SEC. 309. CRIMINAL PENALTY FOR PILOTS OPERATING IN AIR TRANSPORTATION WITHOUT AN AIRMAN'S CERTIFICATE.

(a) IN GENERAL.—Chapter 463 is amended by adding at the end the following:

"§ 46317. Criminal penalty for pilots operating in air transportation without an airman's certificate

"(a) APPLICATION.—This section applies only to aircraft used to provide air transportation.

"(b) GENERAL CRIMINAL PENALTY.—An individual shall be fined under title 18, imprisoned for not more than 3 years, or both, if that individual—

"(1) knowingly and willfully serves or attempts to serve in any capacity as an airman without an airman's certificate authorizing the individual to serve in that capacity; or

"(2) knowingly and willfully employs for service or uses in any capacity as an airman an individual who does not have an airman's certificate authorizing the individual to serve in that capacity.

"(c) CONTROLLED SUBSTANCE CRIMINAL PENALTY.—

"(1) In this subsection, the term 'controlled substance' has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

"(2) An individual violating subsection (b) shall be fined under title 18, imprisoned for not more than 5 years, or both, if the violation is related to transporting a controlled substance by aircraft or aiding or facilitating a controlled substance violation and that transporting, aiding, or facilitating—

"(A) is punishable by death or imprisonment of more than 1 year under a Federal or State law; or

"(B) is related to an act punishable by death or imprisonment for more than 1 year under a Federal or State law related to a controlled substance (except a law related to simple possession (as that term is used in section 46306(c)) of a controlled substance).

"(3) A term of imprisonment imposed under paragraph (2) shall be served in addition to, and not concurrently with, any other term of imprisonment imposed on the individual subject to the imprisonment.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 463 is amended by adding at the end thereof the following:

"46317. Criminal penalty for pilots operating in air transportation without an airman's certificate.".

SEC. 310. NONDISCRIMINATORY INTERLINE INTERCONNECTION REQUIREMENTS.

(a) IN GENERAL.—Subchapter I of chapter 417 is amended by adding at the end thereof the following:

"§ 41717. Interline agreements for domestic transportation

"(a) NONDISCRIMINATORY REQUIREMENTS.—If a major air carrier that provides air service to an essential airport facility has any agreement involving ticketing, baggage and ground handling, and terminal and gate access with another carrier, it shall provide the same services to any requesting air carrier that offers service to a community selected for participation in the program under section 41743 under similar terms and conditions and on a nondiscriminatory basis within 30 days after receiving the request, as long as the requesting air carrier meets such safety, service, financial, and maintenance requirements, if any, as the Secretary may by regulation establish consistent with public convenience and necessity. The Secretary must review any proposed agreement to determine if the requesting carrier meets operational requirements consistent with the rules, procedures, and policies of the major carrier. This agreement may be terminated by either party in the event of failure to meet the standards and conditions outlined in the agreement.

"(b) DEFINITIONS.—In this section the term 'essential airport facility' means a large hub airport (as defined in section 41731(a)(3)) in the contiguous 48 States in which one carrier has more than 50 percent of such airport's total annual enplanements.".

(b) CLERICAL AMENDMENT.—The chapter analysis for subchapter I of chapter 417 is amended by adding at the end thereof the following:

"41717. Interline agreements for domestic transportation.".

SEC. 311. REVIEW PROCESS FOR EMERGENCY ORDERS UNDER SECTION 44709.

Section 44709(e) is amended to read as follows:

"(e) EFFECTIVENESS OF ORDERS PENDING APPEAL.—

"(1) IN GENERAL.—When a person files an appeal with the Board under subsection (d) of this section, the order of the Administrator is stayed.

"(2) EXCEPTION.—Notwithstanding paragraph (1), the order of the Administrator is effective immediately if the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the order to be effective immediately.

"(3) REVIEW OF EMERGENCY ORDER.—A person affected by the immediate effectiveness of the Administrator's order under paragraph (2) may request a review by the Board, under procedures promulgated by the Board, on the issues of the appeal that are related to the existence of an emergency. Any such review shall be requested within 48 hours after the order becomes effective. If the Administrator is unable to demonstrate to the Board that an emergency exists that requires the immediate application of the order in the interest of safety in air commerce and air transportation, the order shall, notwithstanding paragraph (2), be stayed. The Board shall dispose of a review request under this paragraph within 5 days after it is filed.

"(4) FINAL DISPOSITION.—The Board shall make a final disposition of an appeal under subsection (d) within 60 days after the appeal is filed.".

TITLE IV—MISCELLANEOUS

SEC. 401. OVERSIGHT OF FAA RESPONSE TO YEAR 2000 PROBLEM.

The Administrator of the Federal Aviation Administration shall report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure every 3 months through December 31, 2000, in oral or written form, on electronic data processing problems associated with the year 2000 within the Administration.

SEC. 402. CARGO COLLISION AVOIDANCE SYSTEMS DEADLINE.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall require by regulation that, not later than December 31, 2002, collision avoidance equipment be installed on each cargo airplane with a maximum certificated takeoff weight in excess of 15,000 kilograms.

(b) EXTENSION.—The Administrator may extend the deadline imposed by subsection (a) for not more than 2 years if the Administrator finds that the extension is needed to promote—

(1) a safe and orderly transition to the operation of a fleet of cargo aircraft equipped with collision avoidance equipment; or

(2) other safety or public interest objectives.

(c) COLLISION AVOIDANCE EQUIPMENT.—For purposes of this section, the term "collision avoidance equipment" means TCAS II equipment (as defined by the Administrator), or any other similar system approved by the Administrator for collision avoidance purposes.

SEC. 403. RUNWAY SAFETY AREAS; PRECISION APPROACH PATH INDICATORS.

Within 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall solicit comments on the need for—

(1) the improvement of runway safety areas; and

(2) the installation of precision approach path indicators.

SEC. 404. AIRPLANE EMERGENCY LOCATORS.

(a) REQUIREMENT.—Section 44712(b) is amended to read as follows:

"(b) NONAPPLICATION.—Subsection (a) does not apply to aircraft when used in—

"(1) scheduled flights by scheduled air carriers holding certificates issued by the Secretary of Transportation under subpart II of this part;

"(2) training operations conducted entirely within a 50-mile radius of the airport from which the training operations begin;

"(3) flight operations related to the design and testing, manufacture, preparation, and delivery of aircraft;

"(4) showing compliance with regulations, exhibition, or air racing; or

"(5) the aerial application of a substance for an agricultural purpose.".

(b) COMPLIANCE.—Section 44712 is amended by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following:

"(c) COMPLIANCE.—An aircraft is deemed to meet the requirement of subsection (a) if it is equipped with an emergency locator transmitter that transmits on the 121.5/243 megahertz frequency or the 406 megahertz frequency, or with other equipment approved by the Secretary for meeting the requirement of subsection (a).".

(c) EFFECTIVE DATE; REGULATIONS.—

(1) REGULATIONS.—The Secretary of Transportation shall promulgate regulations under section 44712(b) of title 49, United States Code, as amended by this section not later than January 1, 2002.

(2) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002.

SEC. 405. COUNTERFEIT AIRCRAFT PARTS.

(a) DENIAL; REVOCATION; AMENDMENT OF CERTIFICATE.—

(1) IN GENERAL.—Chapter 447 is amended by adding at the end thereof the following:

"§44725. Denial and revocation of certificate for counterfeit parts violations

"(a) DENIAL OF CERTIFICATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection and subsection (e)(2) of this section, the Administrator may not issue a certificate under this chapter to any person—

"(A) convicted of a violation of a law of the United States or of a State relating to the installation, production, repair, or sale of a counterfeit or falsely-represented aviation part or material; or

"(B) subject to a controlling or ownership interest of an individual convicted of such a violation.

"(2) EXCEPTION.—Notwithstanding paragraph (1), the Administrator may issue a certificate under this chapter to a person described in paragraph (1) if issuance of the certificate will facilitate law enforcement efforts.

"(b) REVOCATION OF CERTIFICATE.—

"(1) IN GENERAL.—Except as provided in subsections (f) and (g) of this section, the Administrator shall issue an order revoking a certificate issued under this chapter if the Administrator finds that the holder of the certificate, or an individual who has a controlling or ownership interest in the holder—

"(A) was convicted of a violation of a law of the United States or of a State relating to the installation, production, repair, or sale of a counterfeit or falsely-represented aviation part or material; or

"(B) knowingly carried out or facilitated an activity punishable under such a law.

"(2) NO AUTHORITY TO REVIEW VIOLATION.—In carrying out paragraph (1) of this subsection, the Administrator may not review whether a person violated such a law.

"(c) NOTICE REQUIREMENT.—Before the Administrator revokes a certificate under subsection (b), the Administrator shall—

"(1) advise the holder of the certificate of the reason for the revocation; and

"(2) provide the holder of the certificate an opportunity to be heard on why the certificate should not be revoked.

"(d) APPEAL.—The provisions of section 44710(d) apply to the appeal of a revocation order under subsection (b). For the purpose of applying that section to such an appeal, 'person' shall be substituted for 'individual' each place it appears.

"(e) AQUITTAL OR REVERSAL.—

"(1) IN GENERAL.—The Administrator may not revoke, and the Board may not affirm a revocation of, a certificate under subsection (b)(1)(B) of this section if the holder of the certificate, or the individual, is acquitted of all charges related to the violation.

"(2) REISSUANCE.—The Administrator may reissue a certificate revoked under subsection (b) of this section to the former holder if—

"(A) the former holder otherwise satisfies the requirements of this chapter for the certificate;

"(B) the former holder, or individual, is acquitted of all charges related to the violation on which the revocation was based; or

"(C) the conviction of the former holder, or individual, of the violation on which the revocation was based is reversed.

"(f) WAIVER.—The Administrator may waive revocation of a certificate under subsection (b) of this section if—

"(1) a law enforcement official of the United States Government, or of a State (with respect to violations of State law), requests a waiver; and

"(2) the waiver will facilitate law enforcement efforts.

"(g) AMENDMENT OF CERTIFICATE.—If the holder of a certificate issued under this chapter is other than an individual and the Administrator finds that—

"(1) an individual who had a controlling or ownership interest in the holder committed a violation of a law for the violation of which a certificate may be revoked under this section, or knowingly carried out or facilitated an activity punishable under such a law; and

"(2) the holder satisfies the requirements for the certificate without regard to that individual,

then the Administrator may amend the certificate to impose a limitation that the certificate will not be valid if that individual has a controlling or ownership interest in the holder. A decision by the Administrator under this subsection is not reviewable by the Board.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 447 is amended by adding at the end thereof the following:

"44725. Denial and revocation of certificate for counterfeit parts violations".

(b) PROHIBITION ON EMPLOYMENT.—Section 44711 is amended by adding at the end thereof the following:

"(c) PROHIBITION ON EMPLOYMENT OF CONVICTED COUNTERFEIT PART DEALERS.—No person subject to this chapter may employ anyone to perform a function related to the procurement, sale, production, or repair of a part or material, or the installation of a part into a civil aircraft, who has been convicted of a violation of any Federal or State law relating to the installation, production, repair, "(G) divert the aircraft to an alternative airport in the contiguous 48 States on account of weather, mechanical, fuel, air traffic control, or other safety reasons while conducting a flight in order to perform any of the activities described in subparagraphs (A) through (F).

"(2) Procedure To Be Published.—The Secretary shall establish and publish, not later than 30 days after the date of enactment of the Air Transportation Improvement Act a procedure to implement paragraph (1) of this subsection through the use of categorical waivers, ferry permits, or other means.".

(b) Noise Standards for Experimental Aircraft.—

(1) In general.—Section 47528(a) is amended by inserting "(for which an airworthiness certificate other than an experimental certificate has been issued by the Administrator)" after "civil subsonic turbojet".

(2) FAR modified.—The Federal Aviation Regulations, contained in Part 14 of the Code of Federal Regulations, that implement section 47528 and related provisions shall be deemed to incorporate this change on the effective date of this Act.

SEC. 303. GOVERNMENT AND INDUSTRY CONSORTIA.

Section 44903 is amended by adding at the end thereof the following:

"(f) Government and Industry Consortia.—The Administrator may establish at airports such consortia of government and aviation industry representatives as the Administrator may designate to provide advice on matters related to aviation security and safety. Such consortia shall not be considered federal advisory committees for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).".

SEC. 304. IMPLEMENTATION OF ARTICLE 83 BIS OF THE CHICAGO CONVENTION.

Section 44701 is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) Bilateral Exchanges of Safety Oversight Responsibilities.—

"(1) Notwithstanding the provisions of this chapter, and pursuant to Article 83 Bis of the Convention on International Civil Aviation, the Administrator may, by a bilateral agreement with the aeronautical authorities of another country, exchange with that country all or part of their respective functions and duties with respect to aircraft described in subparagraphs (A) and (B), under the following articles of the Convention:

"(A) Article 12 (Rules of the Air).

"(B) Article 31 (Certificates of Airworthiness).

"(C) Article 32a (Licenses of Personnel).

"(2) The agreement under paragraph (1) may apply to—

"(A) aircraft registered in the United States operated pursuant to an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business, or, if it has no such place of business, its permanent residence, in another country; or

"(B) aircraft registered in a foreign country operated under an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business, or, if it has no such place of business, its permanent residence, in the United States.

"(3) The Administrator relinquishes responsibility with respect to the functions and duties transferred by the Administrator as specified in the bilateral agreement, under the Articles listed in paragraph (1) of this subsection for United States-registered aircraft transferred abroad as described in subparagraph (A) of that paragraph, and accepts responsibility with respect to the functions and duties under those Articles for aircraft registered abroad that are transferred to the United States as described in subparagraph (B) of that paragraph.

"(4) The Administrator may, in the agreement under paragraph (1), predicate the transfer of these functions and duties on any conditions the Administrator deems necessary and prudent.".

SEC. 305. FOREIGN AVIATION SERVICES AUTHORITY.

Section 45301(a)(2) is amended to read as follows:

"(2) Services provided to a foreign government or to any entity obtaining services outside the United States other than—

"(A) air traffic control services; and

"(B) fees for production-certification-related service pertaining to aeronautical products manufactured outside the United States.".

SEC. 306. FLEXIBILITY TO PERFORM CRIMINAL HISTORY RECORD CHECKS; TECHNICAL AMENDMENTS TO PILOT RECORDS IMPROVEMENT ACT.

Section 44936 is amended—

(1) by striking "subparagraph (C))" in subsection (a)(1)(B) and inserting "subparagraph (C), or in the case of passenger, baggage, or property screening at airports, the Administrator decides it is necessary to ensure air transportation security)";

(2) by striking "individual" in subsection (f)(1)(B)(ii) and inserting "individual's performance as a pilot"; and

(3) by inserting "or from a foreign government or entity that employed the individual," in subsection (f)(14)(B) after "exists,".

SEC. 307. EXTENSION OF AVIATION INSURANCE PROGRAM.

Section 44310 is amended by striking "August 6, 1999." and inserting "December 31, 2003.".

SEC. 308. TECHNICAL CORRECTIONS TO CIVIL PENALTY PROVISIONS.

Section 46301 is amended—

(1) by striking "46302, 46303, or" in subsection (a)(1)(A);

(2) by striking "an individual" the first time it appears in subsection (d)(7)(A) and inserting "a person"; and

(3) by inserting "or the Administrator" in subsection (g) after "Secretary".

SEC. 309. CRIMINAL PENALTY FOR PILOTS OPERATING IN AIR TRANSPORTATION WITHOUT AN AIRMAN'S CERTIFICATE.

(a) In General.—Chapter 463 is amended by adding at the end the following:

"§46317. Criminal penalty for pilots operating in air transportation without an airman's certificate

"(a) Application.—This section applies only to aircraft used to provide air transportation.

"(b) General Criminal Penalty.—An individual shall be fined under title 18, imprisoned for not more than 3 years, or both, if that individual—

"(1) knowingly and willfully serves or attempts to serve in any capacity as an airman without an airman's certificate authorizing the individual to serve in that capacity; or

"(2) knowingly and willfully employs for service or uses in any capacity as an airman an individual who does not have an airman's certificate authorizing the individual to serve in that capacity.

"(c) Controlled Substance Criminal Penalty.—

"(1) In this subsection, the term 'controlled substance' has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

"(2) An individual violating subsection (b) shall be fined under title 18, imprisoned for not more than 5 years, or both, if the violation is related to transporting a controlled substance by aircraft or aiding or facilitating a controlled substance violation and that transporting, aiding, or facilitating—

"(A) is punishable by death or imprisonment of more than 1 year under a Federal or State law; or

"(B) is related to an act punishable by death or imprisonment for more than 1 year under a Federal or State law related to a controlled substance (except a law related to simple possession (as that term is used in section 46306(c)) of a controlled substance).

"(3) A term of imprisonment imposed under paragraph (2) shall be served in addition to, and not concurrently with, any other term of imprisonment imposed on the individual subject to the imprisonment.".

(b) Clerical Amendment.—The chapter analysis for chapter 463 is amended by adding at the end thereof the following:

"46317. Criminal penalty for pilots operating in air transportation without an airman's certificate.".

SEC. 310. NONDISCRIMINATORY INTERLINE INTERCONNECTION REQUIREMENTS.

(a) In General.—Subchapter I of chapter 417 is amended by adding at the end thereof the following:

"§41717. Interline agreements for domestic transportation

"(a) Nondiscriminatory Requirements.—If a major air carrier that provides air service to an essential airport facility has any agreement involving ticketing, baggage and ground handling, and terminal and gate access with another carrier, it shall provide the same services to any requesting air carrier that offers service to a community selected for participation in the program under section 41743 under similar terms and conditions and on a nondiscriminatory basis within 30 days after receiving the request, as long as the requesting air carrier meets such safety, service, financial, and maintenance requirements, if any, as the Secretary may by regulation establish consistent with public convenience and necessity. The Secretary must review any proposed agreement to determine if the requesting carrier meets operational requirements consistent with the rules, procedures, and policies of the major carrier. This agreement may be terminated by either party in the event of failure to meet the standards and conditions outlined in the agreement.

"(b) Definitions.—In this section the term 'essential airport facility' means a large hub airport (as defined in section 41731(a)(3)) in the contiguous 48 States in which one carrier has more than 50 percent of such airport's total annual enplanements.".

(b) Clerical Amendment.—The chapter analysis for subchapter I of chapter 417 is amended by adding at the end thereof the following:

"41717. Interline agreements for domestic transportation.".

SEC. 311. REVIEW PROCESS FOR EMERGENCY ORDERS UNDER SECTION 44709.

Section 44709(e) is amended to read as follows:

"(e) EFFECTIVENESS OF ORDERS PENDING APPEAL.—

"(1) IN GENERAL.—When a person files an appeal with the Board under subsection (d) of this section, the order of the Administrator is stayed.

"(2) EXCEPTION.—Notwithstanding paragraph (1), the order of the Administrator is effective immediately if the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the order to be effective immediately.

"(3) REVIEW OF EMERGENCY ORDER.—A person affected by the immediate effectiveness of the Administrator's order under paragraph (2) may request a review by the Board, under procedures promulgated by the Board, on the issues of the appeal that are related to the existence of an emergency. Any such review shall be requested within 48 hours after the order becomes effective. If the Administrator is unable to demonstrate to the Board that an emergency exists that requires the immediate application of the order in the interest of safety in air commerce and air transportation, the order shall, notwithstanding paragraph (2), be stayed. The Board shall dispose of a review request under this paragraph within 5 days after it is filed.

"(4) FINAL DISPOSITION.—The Board shall make a final disposition of an appeal under subsection (d) within 60 days after the appeal is filed.".

TITLE IV—MISCELLANEOUS

SEC. 401. OVERSIGHT OF FAA RESPONSE TO YEAR 2000 PROBLEM.

The Administrator of the Federal Aviation Administration shall report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure every 3 months through December 31, 2000, in oral or written form, on electronic data processing problems associated with the year 2000 within the Administration.

SEC. 402. CARGO COLLISION AVOIDANCE SYSTEMS DEADLINE.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall require by regulation that, not later than December 31, 2002, collision avoidance equipment be installed on each cargo airplane with a maximum certificated takeoff weight in excess of 15,000 kilograms.

(b) EXTENSION.—The Administrator may extend the deadline imposed by subsection (a) for not more than 2 years if the Administrator finds that the extension is needed to promote—

(1) a safe and orderly transition to the operation of a fleet of cargo aircraft equipped with collision avoidance equipment; or

(2) other safety or public interest objectives.

(c) COLLISION AVOIDANCE EQUIPMENT.—For purposes of this section, the term "collision avoidance equipment" means TCAS II equipment (as defined by the Administrator), or any other similar system approved by the Administrator for collision avoidance purposes.

SEC. 403. RUNWAY SAFETY AREAS; PRECISION APPROACH PATH INDICATORS.

Within 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall solicit comments on the need for—

(1) the improvement of runway safety areas; and

(2) the installation of precision approach path indicators.

SEC. 404. AIRPLANE EMERGENCY LOCATORS.

(a) REQUIREMENT.—Section 44712(b) is amended to read as follows:

"(b) NONAPPLICATION.—Subsection (a) does not apply to aircraft when used in—

"(1) scheduled flights by scheduled air carriers holding certificates issued by the Secretary of Transportation under subpart II of this part;

"(2) training operations conducted entirely within a 50-mile radius of the airport from which the training operations begin;

"(3) flight operations related to the design and testing, manufacture, preparation, and delivery of aircraft;

"(4) showing compliance with regulations, exhibition, or air racing; or

"(5) the aerial application of a substance for an agricultural purpose.".

(b) COMPLIANCE.—Section 44712 is amended by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following:

"(c) COMPLIANCE.—An aircraft is deemed to meet the requirement of subsection (a) if it is equipped with an emergency locator transmitter that transmits on the 121.5/243 megahertz frequency or the 406 megahertz frequency, or with other equipment approved by the Secretary for meeting the requirement of subsection (a).".

(c) EFFECTIVE DATE; REGULATIONS.—

(1) REGULATIONS.—The Secretary of Transportation shall promulgate regulations under section 44712(b) of title 49, United States Code, as amended by this section not later than January 1, 2002.

(2) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002.

SEC. 405. COUNTERFEIT AIRCRAFT PARTS.

(a) DENIAL; REVOCATION; AMENDMENT OF CERTIFICATE.—

(1) IN GENERAL.—Chapter 447 is amended by adding at the end thereof the following:

"§ 44725. Denial and revocation of certificate for counterfeit parts violations

"(a) DENIAL OF CERTIFICATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection and subsection (e)(2) of this section, the Administrator may not issue a certificate under this chapter to any person—

"(A) convicted of a violation of a law of the United States or of a State relating to the installation, production, repair, or sale of a counterfeit or falsely-represented aviation part or material; or

"(B) subject to a controlling or ownership interest of an individual convicted of such a violation.

"(2) EXCEPTION.—Notwithstanding paragraph (1), the Administrator may issue a certificate under this chapter to a person described in paragraph (1) if issuance of the certificate will facilitate law enforcement efforts.

"(b) REVOCATION OF CERTIFICATE.—

"(1) IN GENERAL.—Except as provided in subsections (f) and (g) of this section, the Administrator shall issue an order revoking a certificate issued under this chapter if the Administrator finds that the holder of the certificate, or an individual who has a controlling or ownership interest in the holder—

"(A) was convicted of a violation of a law of the United States or of a State relating to the installation, production, repair, or sale of a counterfeit or falsely-represented aviation part or material; or

"(B) knowingly carried out or facilitated an activity punishable under such a law.

"(2) NO AUTHORITY TO REVIEW VIOLATION.—In carrying out paragraph (1) of this subsection, the Administrator may not review whether a person violated such a law.

"(c) NOTICE REQUIREMENT.—Before the Administrator revokes a certificate under subsection (b), the Administrator shall—

"(1) advise the holder of the certificate of the reason for the revocation; and

"(2) provide the holder of the certificate an opportunity to be heard on why the certificate should not be revoked.

"(d) APPEAL.—The provisions of section 44710(d) apply to the appeal of a revocation order under subsection (b). For the purpose of applying that section to such an appeal, 'person' shall be substituted for 'individual' each place it appears.

"(e) AQUITTAL OR REVERSAL.—

"(1) IN GENERAL.—The Administrator may not revoke, and the Board may not affirm a revocation of, a certificate under subsection (b)(1)(B) of this section if the holder of the certificate, or the individual, is acquitted of all charges related to the violation.

"(2) REISSUANCE.—The Administrator may reissue a certificate revoked under subsection (b) of this section to the former holder if—

"(A) the former holder otherwise satisfies the requirements of this chapter for the certificate;

"(B) the former holder, or individual, is acquitted of all charges related to the violation on which the revocation was based; or

"(C) the conviction of the former holder, or individual, of the violation on which the revocation was based is reversed.

"(f) WAIVER.—The Administrator may waive revocation of a certificate under subsection (b) of this section if—

"(1) a law enforcement official of the United States Government, or of a State (with respect to violations of State law), requests a waiver; and

"(2) the waiver will facilitate law enforcement efforts.

"(g) AMENDMENT OF CERTIFICATE.—If the holder of a certificate issued under this chapter is other than an individual and the Administrator finds that—

"(1) an individual who had a controlling or ownership interest in the holder committed a violation of a law for the violation of which a certificate may be revoked under this section, or knowingly carried out or facilitated an activity punishable under such a law; and

"(2) the holder satisfies the requirements for the certificate without regard to that individual,

then the Administrator may amend the certificate to impose a limitation that the certificate will not be valid if that individual has a controlling or ownership interest in the holder. A decision by the Administrator under this subsection is not reviewable by the Board.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 447 is amended by adding at the end thereof the following:

"44725. Denial and revocation of certificate for counterfeit parts violations".

(b) PROHIBITION ON EMPLOYMENT.—Section 44711 is amended by adding at the end thereof the following:

"(c) PROHIBITION ON EMPLOYMENT OF CONVICTED COUNTERFEIT PART DEALERS.—No person subject to this chapter may employ anyone to perform a function related to the procurement, sale, production, or repair of a part or material, or the installation of a part into a civil aircraft, who has been convicted of a violation of any Federal or State law relating to the installation, production, repair, or sale of a counterfeit or falsely-represented aviation part or material.".

SEC. 406. FAA MAY FINE UNRULY PASSENGERS.

(a) In General.—Chapter 463 (as amended by section 309) is amended by adding at the end thereof the following:

"§46318. Interference with cabin or flight crew

"(a) In General.—An individual who interferes with the duties or responsibilities of the flight crew or cabin crew of a civil aircraft, or who poses an imminent threat to the safety of the aircraft or other individuals on the aircraft, is liable to the United States Government for a civil penalty of not more than $10,000, which shall be paid to the Federal Aviation Administration and deposited in the account established by section 45303(c).

"(b) Compromise and Setoff.—

"(1) The Secretary of Transportation or the Administrator may compromise the amount of a civil penalty imposed under subsection (a).

"(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the individual liable for the penalty.".

(b) Conforming Change.—The chapter analysis for chapter 463 is amended by adding at the end thereof the following:

"46318. Interference with cabin or flight crew.".

SEC. 407. HIGHER STANDARDS FOR HANDICAPPED ACCESS.

(a) Establishment of Higher International Standards.—The Secretary of Transportation shall work with appropriate international organizations and the aviation authorities of other nations to bring about their establishment of higher standards for accommodating handicapped passengers in air transportation, particularly with respect to foreign air carriers that code-share with domestic air carriers.

(b) Investigation of All Complaints Required.—Section 41705 is amended—

(1) by inserting "(a) In General.—" before "In providing";

(2) by striking "carrier" and inserting "carrier, including any foreign air carrier doing business in the United States,"; and

(3) by adding at the end thereof the following:

"(b) Each Act Constitutes Separate Offense.—Each separate act of discrimination prohibited by subsection (a) constitutes a separate violation of that subsection.

"(c) Investigation of Complaints.—

"(1) In general.—The Secretary or a person designated by the Secretary shall investigate each complaint of a violation of subsection (a).

"(2) Publication of data.—The Secretary or a person designated by the Secretary shall publish disability-related complaint data in a manner comparable to other consumer complaint data.

"(3) Employment.—The Secretary is authorized to employ personnel necessary to enforce this section.

"(4) Review and report.—The Secretary or a person designated by the Secretary shall regularly review all complaints received by air carriers alleging discrimination on the basis of disability, and report annually to Congress on the results of such review.

"(5) Technical assistance.—Not later than 180 days after enactment of the Air Transportation and Improvement Act, the Secretary shall—

"(A) implement a plan, in consultation with the Department of Justice, United States Architectural and Transportation Barriers Compliance Board, and the National Council on Disability, to provide technical assistance to air carriers and individuals with disabilities in understanding the rights and responsibilities of this section; and

"(B) ensure the availability and provision of appropriate technical assistance manuals to individuals and entities with rights or duties under this section.".

(c) Increased Civil Penalties.—Section 46301(a) is amended—

(1) by inserting "41705," after "41704," in paragraph (1)(A); and

(2) by adding at the end thereof the following:

"(7) Violation of section 41705.—

"(A) Credit; voucher; civil penalty.—Unless an individual accepts a credit or voucher for the purchase of a ticket on an air carrier or any affiliated air carrier for a violation of subsection (a) in an amount (determined by the Secretary) of—

"(i) not less than $500 and not more than $2,500 for the first violation; or

"(ii) not less than $2,500 and not more than $5,000 for any subsequent violation,

then that air carrier is liable to the United States Government for a civil penalty, determined by the Secretary, of not more than 100 percent of the amount of the credit or voucher so determined.

"(B) Remedy not exclusive.—Nothing in subparagraph (A) precludes or affects the right of persons with disabilities to file private rights of action under section 41705 or to limit claims for compensatory or punitive damages asserted in such cases.

"(C) Attorney's fees.—In addition to the penalty provided by subparagraph (A), an individual who—

"(i) brings a civil action against an air carrier to enforce this section; and

"(ii) who is awarded damages by the court in which the action is brought,

may be awarded reasonable attorneys' fees and costs of litigation reasonably incurred in bringing the action if the court deems it appropriate.".

SEC. 408. CONVEYANCES OF UNITED STATES GOVERNMENT LAND.

(a) In General.—Section 47125(a) is amended to read as follows:

"(a) Conveyances to Public Agencies.—

"(1) Request for conveyance.—Except as provided in subsection (b) of this section, the Secretary of Transportation—

"(A) shall request the head of the department, agency, or instrumentality of the United States Government owning or controlling land or airspace to convey a property interest in the land or airspace to the public agency sponsoring the project or owning or controlling the airport when necessary to carry out a project under this subchapter at a public airport, to operate a public airport, or for the future development of an airport under the national plan of integrated airport systems; and

"(B) may request the head of such a department, agency, or instrumentality to convey a property interest in the land or airspace to such a public agency for a use that will complement, facilitate, or augment airport development, including the development of additional revenue from both aviation and nonaviation sources.

"(2) Response to request for certain conveyances.—Within 4 months after receiving a request from the Secretary under paragraph (1), the head of the department, agency, or instrumentality shall—

"(A) decide whether the requested conveyance is consistent with the needs of the department, agency, or instrumentality;

"(B) notify the Secretary of the decision; and

"(C) make the requested conveyance if—

"(i) the requested conveyance is consistent with the needs of the department, agency, or instrumentality;

"(ii) the Attorney General approves the conveyance; and

"(iii) the conveyance can be made without cost to the United States Government.

"(3) Reversion.—Except as provided in subsection (b), a conveyance under this subsection may only be made on the condition that the property interest conveyed reverts to the Government, at the option of the Secretary, to the extent it is not developed for an airport purpose or used consistently with the conveyance.".

(b) Release of Certain Conditions.—Section 47125 is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting the following after subsection (a):

"(b) Release of Certain Conditions.—The Secretary may grant a release from any term, condition, reservation, or restriction contained in any conveyance executed under this section, section 16 of the Federal Airport Act, section 23 of the Airport and Airway Development Act of 1970, or section 516 of the Airport and Airway Improvement Act of 1982, to facilitate the development of additional revenue from aeronautical and nonaeronautical sources if the Secretary—

"(1) determines that the property is no longer needed for aeronautical purposes;

"(2) determines that the property will be used solely to generate revenue for the public airport;

"(3) provides preliminary notice to the head of the department, agency, or instrumentality that conveyed the property interest at least 30 days before executing the release;

"(4) provides notice to the public of the requested release;

"(5) includes in the release a written justification for the release of the property; and

"(6) determines that release of the property will advance civil aviation in the United States.".

(c) Effective Date.—Section 47125(b) of title 49, United States Code, as added by subsection (b) of this section, applies to property interests conveyed before, on, or after the date of enactment of this Act.

(d) Iditarod Area School District.—Notwithstanding any other provision of law (including section 47125 of title 49, United States Code, as amended by this section), the Administrator of the Federal Aviation Administration, or the Administrator of the General Services Administration, may convey to the Iditarod Area School District without reimbursement all right, title, and interest in 12 acres of property at Lake Minchumina, Alaska, identified by the Administrator of the Federal Aviation Administration, including the structures known as housing units 100 through 105 and as utility building 301.

SEC. 409. FLIGHT OPERATIONS QUALITY ASSURANCE RULES.

Not later than 90 days after the date of enactment of this Act, the Administrator shall issue a notice of proposed rulemaking to develop procedures to protect air carriers and their employees from enforcement actions for violations of the Federal Aviation Regulations other than criminal or deliberate acts that are reported or discovered as a result of voluntary reporting programs, such as the Flight Operations Quality Assurance

Program and the Aviation Safety Action Program.

SEC. 410. WIDE AREA AUGMENTATION SYSTEM.

(a) Plan.—The Administrator of the Federal Aviation Administration shall identify or develop a plan to implement WAAS to provide navigation and landing approach capabilities for civilian use and make a determination as to whether a backup system is necessary. Until the Administrator determines that WAAS is the sole means of navigation, the Administrator shall continue to develop and maintain a backup system.

(b) Report.—Within 6 months after the date of enactment of this Act, the Administrator shall—

(1) report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, on the plan developed under subsection (a);

(2) submit a timetable for implementing WAAS; and

(3) make a determination as to whether WAAS will ultimately become a primary or sole means of navigation and landing approach capabilities.

(c) WAAS Defined.—For purposes of this section, the term "WAAS" means wide area augmentation system.

(d) Funding Authorization.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out this section.

SEC. 411. REGULATION OF ALASKA GUIDE PILOTS.

(a) In General.—Beginning on the date of the enactment of this Act, flight operations conducted by Alaska guide pilots shall be regulated under the general operating and flight rules contained in part 91 of title 14, Code of Federal Regulations.

(b) Rulemaking Proceeding.—

(1) In general.—The Administrator shall conduct a rulemaking proceeding and issue a final rule to modify the general operating and flight rules referred to in subsection (a) by establishing special rules applicable to the flight operations conducted by Alaska guide pilots.

(2) Contents of rules.—A final rule issued by the Administrator under paragraph (1) shall require Alaska guide pilots—

(A) to operate aircraft inspected no less often than after 125 hours of flight time;

(B) to participate in an annual flight review, as described in section 61.56 of title 14, Code of Federal Regulations;

(C) to have at least 500 hours of flight time as a pilot;

(D) to have a commercial rating, as described in subpart F of part 61 of such title;

(E) to hold at least a second-class medical certificate, as described in subpart C of part 67 of such title;

(F) to hold a current letter of authorization issued by the Administrator; and

(G) to take such other actions as the Administrator determines necessary for safety.

(c) Definitions.—In this section, the following definitions apply:

(1) Letter of authorization.—The term "letter of authorization" means a letter issued by the Administrator once every 5 years to an Alaska guide pilot certifying that the pilot is in compliance with general operating and flight rules applicable to the pilot. In the case of a multi-pilot operation, at the election of the operating entity, a letter of authorization may be issued by the Administrator to the entity or to each Alaska guide pilot employed by the entity.

(2) Alaska guide pilot.—The term "Alaska guide pilot" means a pilot who—

(A) conducts aircraft operations over or within the State of Alaska;

(B) operates single engine, fixed wing aircraft on floats, wheels, or skis, providing commercial hunting, fishing, or other guide services and related accommodations in the form of camps or lodges; and

(C) transports clients by such aircraft incidental to hunting, fishing, or other guide services, or uses air transport to enable guided clients to reach hunting or fishing locations.

SEC. 412. ALASKA RURAL AVIATION IMPROVEMENT.

(a) Application of FAA Regulations.—Section 40113 is amended by adding at the end thereof the following:

"(f) Application of Certain Regulations to Alaska.—In amending title 14, Code of Federal Regulations, in a manner affecting intrastate aviation in Alaska, the Administrator of the Federal Aviation Administration shall consider the extent to which Alaska is not served by transportation modes other than aviation, and shall establish such regulatory distinctions as the Administrator considers appropriate.".

(b) Aviation Closed Circuit Television.—The Administrator of the Federal Aviation Administration, in consultation with commercial and general aviation pilots, shall install closed circuit weather surveillance equipment at not fewer that 15 rural airports in Alaska and provide for the dissemination of information derived from such equipment to pilots for pre-flight planning purposes and en route purposes, including through the dissemination of such information to pilots by flight service stations. There are authorized to be appropriated $2,000,000 for the purposes of this subsection.

(c) Mike-in-hand Weather Observation.—The Administrator of the Federal Aviation Administration and the Assistant Administrator of the National Weather Service, in consultation with the National Transportation Safety Board and the Governor of the State of Alaska, shall develop and implement a "mike-in-hand" weather observation program in Alaska under which Federal Aviation Administration employees, National Weather Service employees, other Federal or State employees sited at an airport, or persons contracted specifically for such purpose (including part-time contract employees who are not sited at such airport), will provide near-real time aviation weather information via radio and otherwise to pilots who request such information.

(d) Rural IFR Compliance.—There are authorized to be appropriated $4,000,000 to the Administrator for runway lighting and weather reporting systems at remote airports in Alaska to implement the CAPSTONE project.

SEC. 413. HUMAN FACTORS PROGRAM.

(a) In General.—Chapter 445 is amended by adding at the end thereof the following:

"§ 44516. Human factors program

"(a) Report.—The Administrator of the Federal Aviation Administration shall report within 1 year after the date of enactment of the Air Transportation Improvement Act to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the status of the Administration's efforts to encourage the adoption and implementation of Advanced Qualification Programs for air carriers under this section.

"(b) Human Factors Training.—

"(1) Air traffic controllers.—The Administrator shall—

"(A) address the problems and concerns raised by the National Research Council in its report 'The Future of Air Traffic Control' on air traffic control automation; and

"(B) respond to the recommendations made by the National Research Council.

"(2) Pilots and flight crews.—The Administrator shall work with the aviation industry to develop specific training curricula to address critical safety problems, including problems of pilots—

"(A) in recovering from loss of control of the aircraft, including handling unusual attitudes and mechanical malfunctions;

"(B) in deviating from standard operating procedures, including inappropriate responses to emergencies and hazardous weather;

"(C) in awareness of altitude and location relative to terrain to prevent controlled flight into terrain; and

"(D) in landing and approaches, including nonprecision approaches and go-around procedures.

"(c) Accident Investigations.—The Administrator, working with the National Transportation Safety Board and representatives of the aviation industry, shall establish a process to assess human factors training as part of accident and incident investigations.

"(d) Test Program.—The Administrator shall establish a test program in cooperation with United States air carriers to use model Jeppesen approach plates or other similar tools to improve nonprecision landing approaches for aircraft.

"(e) Advanced Qualification Program Defined.—For purposes of this section, the term 'advanced qualification program' means an alternative method for qualifying, training, certifying, and ensuring the competency of flight crews and other commercial aviation operations personnel subject to the training and evaluation requirements of Parts 121 and 135 of title 14, Code of Federal Regulations.".

(b) Automation and Associated Training.—The Administrator of the Federal Aviation Administration shall complete the Administration's updating of training practices for flight deck automation and associated training requirements within 12 months after the date of enactment of this Act.

(c) Conforming Amendment.—The chapter analysis for chapter 445 is amended by adding at the end thereof the following:

"44516. Human factors program.".

SEC. 414. INDEPENDENT VALIDATION OF FAA COSTS AND ALLOCATIONS.

(a) Independent Assessment.—

(1) Initiation.—Not later than 90 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall initiate the analyses described in paragraph (2). In conducting the analyses, the Inspector General shall ensure that the analyses are carried out by 1 or more entities that are independent of the Federal Aviation Administration. The Inspector General may use the staff and resources of the Inspector General or may contract with independent entities to conduct the analyses.

(2) Assessment of adequacy and accuracy of FAA cost data and attributions.—To ensure that the method for capturing and distributing the overall costs of the Federal Aviation Administration is appropriate and reasonable, the Inspector General shall conduct an assessment that includes the following:

(A)(i) Validation of Federal Aviation Administration cost input data, including an audit of the reliability of Federal Aviation

Administration source documents and the integrity and reliability of the Federal Aviation Administration's data collection process.

(ii) An assessment of the reliability of the Federal Aviation Administration's system for tracking assets.

(iii) An assessment of the reasonableness of the Federal Aviation Administration's bases for establishing asset values and depreciation rates.

(iv) An assessment of the Federal Aviation Administration's system of internal controls for ensuring the consistency and reliability of reported data to begin immediately after full operational capability of the cost accounting system.

(B) A review and validation of the Federal Aviation Administration's definition of the services to which the Federal Aviation Administration ultimately attributes its costs, and the methods used to identify direct costs associated with the services.

(C) An assessment and validation of the general cost pools used by the Federal Aviation Administration, including the rationale for and reliability of the bases on which the Federal Aviation Administration proposes to allocate costs of services to users and the integrity of the cost pools as well as any other factors considered important by the Inspector General. Appropriate statistical tests shall be performed to assess relationships between costs in the various cost pools and activities and services to which the costs are attributed by the Federal Aviation Administration.

(b) DEADLINE.—The independent analyses described in this section shall be completed no later than 270 days after the contracts are awarded to the outside independent contractors. The Inspector General shall submit a final report combining the analyses done by its staff with those of the outside independent contractors to the Secretary of Transportation, the Administrator, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives. The final report shall be submitted by the Inspector General not later than 300 days after the award of contracts.

(c) FUNDING.—There are authorized to be appropriated such sums as may be necessary for the cost of the contracted audit services authorized by this section.

SEC. 415. APPLICATION OF FEDERAL PROCUREMENT POLICY ACT.

Section 348 of the Department of Transportation and Related Agencies Appropriations Act, 1996 (49 U.S.C. 40110 nt) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) CERTAIN PROVISIONS OF THE OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Notwithstanding subsection (b)(2), section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) shall apply to the new acquisition management system developed and implemented under subsection (a) with the following modifications:

"(1) Subsections (f) and (g) shall not apply.

"(2) Within 90 days after the date of enactment of the Air Transportation Improvement Act, the Administrator of the Federal Aviation Administration shall adopt definitions for the acquisition management system that are consistent with the purpose and intent of the Office of Federal Procurement Policy Act.

"(3) After the adoption of those definitions, the criminal, civil, and administrative remedies provided under the Office of Federal Procurement Policy Act apply to the acquisition management system.

"(4) In the administration of the acquisition management system, the Administrator may take adverse personnel action under section 27(e)(3)(A)(iv) of the Office of Federal Procurement Policy Act in accordance with the procedures contained in the Administration's personnel management system.".

SEC. 416. REPORT ON MODERNIZATION OF OCEANIC ATC SYSTEM.

The Administrator of the Federal Aviation Administration shall report to the Congress on plans to modernize the oceanic air traffic control system, including a budget for the program, a determination of the requirements for modernization, and, if necessary, a proposal to fund the program.

SEC. 417. REPORT ON AIR TRANSPORTATION OVERSIGHT SYSTEM.

Beginning in calendar year 2000, the Administrator of the Federal Aviation Administration shall report biannually to the Congress on the air transportation oversight system program announced by the Administration on May 13, 1998, in detail on the training of inspectors, the number of inspectors using the system, air carriers subject to the system, and the budget for the system.

SEC. 418. RECYCLING OF EIS.

Notwithstanding any other provision of law to the contrary, the Secretary of Transportation may authorize the use, in whole or in part, of a completed environmental assessment or environmental impact study for a new airport construction project on the air operations area, that is substantially similar in nature to one previously constructed pursuant to the completed environmental assessment or environmental impact study in order to avoid unnecessary duplication of expense and effort, and any such authorized use shall meet all requirements of Federal law for the completion of such an assessment or study.

SEC. 419. PROTECTION OF EMPLOYEES PROVIDING AIR SAFETY INFORMATION.

(a) GENERAL RULE.—Chapter 421 is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

"§ 42121. Protection of employees providing air safety information

"(a) DISCRIMINATION AGAINST AIRLINE EMPLOYEES.—No air carrier or contractor or subcontractor of an air carrier may discharge an employee of the air carrier or the contractor or subcontractor of an air carrier or otherwise discriminate against any such employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

"(1) provided, caused to be provided, or is about to provide or cause to be provided to the Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States;

"(2) has filed, caused to be filed, or is about to file or cause to be filed a proceeding relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States;

"(3) testified or will testify in such a proceeding; or

"(4) assisted or participated or is about to assist or participate in such a proceeding.

"(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

"(1) FILING AND NOTIFICATION.—

"(A) IN GENERAL.—In accordance with this paragraph, a person may file (or have a person file on behalf of that person) a complaint with the Secretary of Labor if that person believes that an air carrier or contractor or subcontractor of an air carrier discharged or otherwise discriminated against that person in violation of subsection (a).

"(B) REQUIREMENTS FOR FILING COMPLAINTS.—A complaint referred to in subparagraph (A) may be filed not later than 90 days after an alleged violation occurs. The complaint shall state the alleged violation.

"(C) NOTIFICATION.—Upon receipt of a complaint submitted under subparagraph (A), the Secretary of Labor shall notify the air carrier, contractor, or subcontractor named in the complaint and the Administrator of the Federal Aviation Administration of the—

"(i) filing of the complaint;

"(ii) allegations contained in the complaint;

"(iii) substance of evidence supporting the complaint; and

"(iv) opportunities that are afforded to the air carrier, contractor, or subcontractor under paragraph (2).

"(2) INVESTIGATION; PRELIMINARY ORDER.—

"(A) IN GENERAL.—

"(i) INVESTIGATION.—Not later than 60 days after receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings.

"(ii) ORDER.—Except as provided in subparagraph (B), if the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the findings referred to in clause (i) with a preliminary order providing the relief prescribed under paragraph (3)(B).

"(iii) OBJECTIONS.—Not later than 30 days after the date of notification of findings under this paragraph, the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order and request a hearing on the record.

"(iv) EFFECT OF FILING.—The filing of objections under clause (iii) shall not operate to stay any reinstatement remedy contained in the preliminary order.

"(v) HEARINGS.—Hearings conducted pursuant to a request made under clause (iii) shall be conducted expeditiously and governed by the Federal Rules of Civil Procedure. If a hearing is not requested during the 30-day period prescribed in clause (iii), the preliminary order shall be deemed a final order that is not subject to judicial review.

"(B) REQUIREMENTS.—

"(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(3) FINAL ORDER.—

"(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—

"(i) IN GENERAL.—Not later than 120 days after conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order that—

"(I) provides relief in accordance with this paragraph; or

"(II) denies the complaint.

"(ii) SETTLEMENT AGREEMENT.—At any time before issuance of a final order under this paragraph, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the air carrier, contractor, or subcontractor alleged to have committed the violation.

"(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the air carrier, contractor, or subcontractor that the Secretary of Labor determines to have committed the violation to—

"(i) take action to abate the violation;

"(ii) reinstate the complainant to the former position of the complainant and ensure the payment of compensation (including back pay) and the restoration of terms, conditions, and privileges associated with the employment; and

"(iii) provide compensatory damages to the complainant.

"(C) COSTS OF COMPLAINT.—If the Secretary of Labor issues a final order that provides for relief in accordance with this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the air carrier, contractor, or subcontractor named in the order an amount equal to the aggregate amount of all costs and expenses (including attorney and expert witness fees) reasonably incurred by the complainant (as determined by the Secretary of Labor) for, or in connection with, the bringing of the complaint that resulted in the issuance of the order.

"(4) FRIVOLOUS COMPLAINTS.—Rule 11 of the Federal Rules of Civil Procedure applies to any complaint brought under this section that the Secretary finds to be frivolous or to have been brought in bad faith.

"(5) REVIEW.—

"(A) APPEAL TO COURT OF APPEALS.—

"(i) IN GENERAL.—Not later than 60 days after a final order is issued under paragraph (3), a person adversely affected or aggrieved by that order may obtain review of the order in the United States court of appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of that violation.

"(ii) REQUIREMENTS FOR JUDICIAL REVIEW.—A review conducted under this paragraph shall be conducted in accordance with chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order that is the subject of the review.

"(B) LIMITATION ON COLLATERAL ATTACK.—An order referred to in subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(6) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—

"(A) IN GENERAL.—If an air carrier, contractor, or subcontractor named in an order issued under paragraph (3) fails to comply with the order, the Secretary of Labor may file a civil action in the United States district court for the district in which the violation occurred to enforce that order.

"(B) RELIEF.—In any action brought under this paragraph, the district court shall have jurisdiction to grant any appropriate form of relief, including injunctive relief and compensatory damages.

"(7) ENFORCEMENT OF ORDER BY PARTIES.—

"(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order is issued under paragraph (3) may commence a civil action against the air carrier, contractor, or subcontractor named in the order to require compliance with the order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce the order.

"(B) ATTORNEY FEES.—In issuing any final order under this paragraph, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any party if the court determines that the awarding of those costs is appropriate.

"(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

"(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of an air carrier, or contractor or subcontractor of an air carrier who, acting without direction from the air carrier (or an agent, contractor, or subcontractor of the air carrier), deliberately causes a violation of any requirement relating to air carrier safety under this subtitle or any other law of the United States.

"(e) CONTRACTOR DEFINED.—In this section, the term 'contractor' means a company that performs safety-sensitive functions by contract for an air carrier.".

(b) INVESTIGATIONS AND ENFORCEMENT.—Section 347(b)(1) of Public Law 104–50 (49 U.S.C. 106, note) is amended by striking "protection;" and inserting "protection, including the provisions for investigations and enforcement as provided in chapter 12 of title 5, United States Code;".

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 421 is amended by adding at the end the following:

"SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

"42121. Protection of employees providing air safety information.".

(d) CIVIL PENALTY.—Section 46301(a)(1)(A) is amended by striking "subchapter II of chapter 421," and inserting "subchapter II or III of chapter 421,".

SEC. 420. IMPROVEMENTS TO AIR NAVIGATION FACILITIES.

Section 44502(a) is amended by adding at the end thereof the following:

"(5) The Administrator may improve real property leased for air navigation facilities without regard to the costs of the improvements in relation to the cost of the lease if—

"(A) the improvements primarily benefit the government;

"(B) are essential for mission accomplishment; and

"(C) the government's interest in the improvements is protected.".

SEC. 421. DENIAL OF AIRPORT ACCESS TO CERTAIN AIR CARRIERS.

Section 47107 is amended by adding at the end thereof the following:

"(q) DENIAL OF ACCESS.—

"(1) EFFECT OF DENIAL.—If an owner or operator of an airport described in paragraph (2) denies access to an air carrier described in paragraph (3), that denial shall not be considered to be unreasonable or unjust discrimination or a violation of this section.

"(2) AIRPORTS TO WHICH SUBSECTION APPLIES.—An airport is described in this paragraph if it—

"(A) is designated as a reliever airport by the Administrator of the Federal Aviation Administration;

"(B) does not have an operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulations); and

"(C) is located within a 35-mile radius of an airport that has—

"(i) at least 0.05 percent of the total annual boardings in the United States; and

"(ii) current gate capacity to handle the demands of a public charter operation.

"(3) AIR CARRIERS DESCRIBED.—An air carrier is described in this paragraph if it conducts operations as a public charter under part 380 of title 14, Code of Federal Regulations (or any subsequent similar regulations) with aircraft that is designed to carry more than 9 passengers per flight.

"(4) DEFINITIONS.—In this subsection:

"(A) AIR CARRIER; AIR TRANSPORTATION; AIRCRAFT; AIRPORT.—The terms 'air carrier', 'air transportation', 'aircraft', and 'airport' have the meanings given those terms in section 40102 of this title.

"(B) PUBLIC CHARTER.—The term 'public charter' means charter air transportation for which the general public is provided in advance a schedule containing the departure location, departure time, and arrival location of the flights.".

SEC. 422. TOURISM.

(a) FINDINGS.—Congress finds that—

(1) through an effective public-private partnership, Federal, State, and local governments and the travel and tourism industry can successfully market the United States as the premiere international tourist destination in the world;

(2) in 1997, the travel and tourism industry made a substantial contribution to the health of the Nation's economy, as follows:

(A) The industry is one of the Nation's largest employers, directly employing 7,000,000 Americans, throughout every region of the country, heavily concentrated among small businesses, and indirectly employing an additional 9,200,000 Americans, for a total of 16,200,000 jobs.

(B) The industry ranks as the first, second, or third largest employer in 32 States and the District of Columbia, generating a total tourism-related annual payroll of $127,900,000,000.

(C) The industry has become the Nation's third-largest retail sales industry, generating a total of $489,000,000,000 in total expenditures.

(D) The industry generated $71,700,000,000 in tax revenues for Federal, State, and local governments;

(3) the more than $98,000,000,000 spent by foreign visitors in the United States in 1997 generated a trade services surplus of more than $26,000,000,000;

(4) the private sector, States, and cities currently spend more than $1,000,000,000 annually to promote particular destinations within the United States to international visitors;

(5) because other nations are spending hundreds of millions of dollars annually to promote the visits of international tourists to their countries, the United States will miss a major marketing opportunity if it fails to aggressively compete for an increased share of international tourism expenditures as they continue to increase over the next decade;

(6) a well-funded, well-coordinated international marketing effort—combined with additional public and private sector efforts—would help small and large businesses, as well as State and local governments, share in the anticipated phenomenal growth of the international travel and tourism market in the 21st century;

(7) by making permanent the successful visa waiver pilot program, Congress can facilitate the increased flow of international visitors to the United States;

(8) Congress can increase the opportunities for attracting international visitors and enhancing their stay in the United States by—

(A) improving international signage at airports, seaports, land border crossings, highways, and bus, train, and other public transit stations in the United States;

(B) increasing the availability of multilingual tourist information; and

(C) creating a toll-free, private-sector operated, telephone number, staffed by multilingual operators, to provide assistance to international tourists coping with an emergency;

(9) by establishing a satellite system of accounting for travel and tourism, the Secretary of Commerce could provide Congress and the President with objective, thorough data that would help policymakers more accurately gauge the size and scope of the domestic travel and tourism industry and its significant impact on the health of the Nation's economy; and

(10) having established the United States National Tourism Organization under the United States National Tourism Organization Act of 1996 (22 U.S.C. 2141 et seq.) to increase the United States share of the international tourism market by developing a national travel and tourism strategy, Congress should support a long-term marketing effort and other important regulatory reform initiatives to promote increased travel to the United States for the benefit of every sector of the economy.

(b) Purposes.—The purposes of this section are to provide international visitor initiatives and an international marketing program to enable the United States travel and tourism industry and every level of government to benefit from a successful effort to make the United States the premiere travel destination in the world.

(c) International Visitor Assistance Task Force.—

(1) Establishment.—Not later than 9 months after the date of enactment of this Act, the Secretary of Commerce shall establish an Intergovernmental Task Force for International Visitor Assistance (hereafter in this subsection referred to as the "Task Force").

(2) Duties.—The Task Force shall examine—

(A) signage at facilities in the United States, including airports, seaports, land border crossings, highways, and bus, train, and other public transit stations, and shall identify existing inadequacies and suggest solutions for such inadequacies, such as the adoption of uniform standards on international signage for use throughout the United States in order to facilitate international visitors' travel in the United States;

(B) the availability of multilingual travel and tourism information and means of disseminating, at no or minimal cost to the Government, of such information; and

(C) facilitating the establishment of a toll-free, private-sector operated, telephone number, staffed by multilingual operators, to provide assistance to international tourists coping with an emergency.

(3) Membership.—The Task Force shall be composed of the following members:

(A) The Secretary of Commerce.

(B) The Secretary of State.

(C) The Secretary of Transportation.

(D) The Chair of the Board of Directors of the United States National Tourism Organization.

(E) Such other representatives of other Federal agencies and private-sector entities as may be determined to be appropriate to the mission of the Task Force by the Chairman.

(4) Chairman.—The Secretary of Commerce shall be Chairman of the Task Force. The Task Force shall meet at least twice each year. Each member of the Task Force shall furnish necessary assistance to the Task Force.

(5) Report.—Not later than 18 months after the date of the enactment of this Act, the Chairman of the Task Force shall submit to the President and to Congress a report on the results of the review, including proposed amendments to existing laws or regulations as may be appropriate to implement such recommendations.

(d) Travel and Tourism Industry Satellite System of Accounting.—

(1) In general.—The Secretary of Commerce shall complete, as soon as may be practicable, a satellite system of accounting for the travel and tourism industry.

(2) Funding.—To the extent any costs or expenditures are incurred under this subsection, they shall be covered to the extent funds are available to the Department of Commerce for such purpose.

(e) Authorization of Appropriations.—

(1) Authorization.—Subject to paragraph (2), there are authorized to be appropriated such sums as may be necessary for the purpose of funding international promotional activities by the United States National Tourism Organization to help brand, position, and promote the United States as the premiere travel and tourism destination in the world.

(2) Restrictions on use of funds.—None of the funds appropriated under paragraph (1) may be used for purposes other than marketing, research, outreach, or any other activity designed to promote the United States as the premiere travel and tourism destination in the world, except that the general and administrative expenses of operating the United States National Tourism Organization shall be borne by the private sector through such means as the Board of Directors of the Organization shall determine.

(3) Report to congress.—Not later than March 30 of each year in which funds are made available under subsection (a), the Secretary shall submit to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a detailed report setting forth—

(A) the manner in which appropriated funds were expended;

(B) changes in the United States market share of international tourism in general and as measured against specific countries and regions;

(C) an analysis of the impact of international tourism on the United States economy, including, as specifically as practicable, an analysis of the impact of expenditures made pursuant to this section;

(D) an analysis of the impact of international tourism on the United States trade balance and, as specifically as practicable, an analysis of the impact on the trade balance of expenditures made pursuant to this section; and

(E) an analysis of other relevant economic impacts as a result of expenditures made pursuant to this section.

SEC. 423. SENSE OF THE SENATE ON PROPERTY TAXES ON PUBLIC-USE AIRPORTS.

It is the sense of the Senate that—

(1) property taxes on public-use airports should be assessed fairly and equitably, regardless of the location of the owner of the airport; and

(2) the property tax recently assessed on the City of The Dalles, Oregon, as the owner and operator of the Columbia Gorge Regional/The Dalles Municipal Airport, located in the State of Washington, should be repealed.

SEC. 424. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM.

(a) Applicability of Merit Systems Protection Board Provisions.—Section 347(b) of the Department of Transportation and Related Agencies Appropriations Act, 1996 (109 Stat. 460) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(8) sections 1204, 1211–1218, 1221, and 7701–7703, relating to the Merit Systems Protection Board.".

(b) Appeals to Merit Systems Protection Board.—Section 347(c) of the Department of Transportation and Related Agencies Appropriations Act, 1996 is amended to read as follows:

"(c) Appeals to Merit Systems Protection Board.—Under the new personnel management system developed and implemented under subsection (a), an employee of the Federal Aviation Administration may submit an appeal to the Merit Systems Protection Board and may seek judicial review of any resulting final orders or decisions of the Board from any action that was appealable to the Board under any law, rule, or regulation as of March 31, 1996.".

SEC. 425. AUTHORITY TO SELL AIRCRAFT AND AIRCRAFT PARTS FOR USE IN RESPONDING TO OIL SPILLS.

(a) Authority.—

(1) Notwithstanding section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) and subject to subsections (b) and (c), the Secretary of Defense

may, during the period beginning March 1, 1999, and ending on September 30, 2002, sell aircraft and aircraft parts referred to in paragraph (2) to a person or entity that provides oil spill response services (including the application of oil dispersants by air) pursuant to an oil spill response plan that has been approved by the Secretary of the Department in which the Coast Guard is operating.

(2) The aircraft and aircraft parts that may be sold under paragraph (1) are aircraft and aircraft parts of the Department of Defense that are determined by the Secretary to be—

(A) excess to the needs of the Department; and

(B) acceptable for commercial sale.

(b) Conditions of Sale.—Aircraft and aircraft parts sold under subsection (a)—

(1) shall have as their primary purpose usage for oil spill spotting, observation, and dispersant delivery and may not have any secondary purpose that would interfere with oil spill response efforts under an oil spill response plan;

(2) may not be flown outside of or removed from the United States except for the purpose of fulfilling an international agreement to assist in oil spill dispersing efforts, for immediate response efforts for an oil spill outside United States waters that has the potential to threaten United States waters, or for other purposes that are jointly approved by the Secretary of Defense and the Secretary of Transportation.

(c) Certification of Persons and Entities.—The Secretary of Defense may sell aircraft and aircraft parts to a person or entity under subsection (a) only if the Secretary of Transportation certifies to the Secretary of Defense, in writing, before the sale, that the person or entity is capable of meeting the terms and conditions of a contract to deliver oil spill dispersants by air, and that the overall system to be employed by that person or entity for the delivery and application of oil spill dispersants has been sufficiently tested to ensure that the person or entity is capable of being included in an oil spill response plan that has been approved by the Secretary of the Department in which the Coast Guard is operating.

(d) Regulations.—

(1) As soon as practicable after the date of enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of Transportation and the Administrator of General Services, prescribe regulations relating to the sale of aircraft and aircraft parts under this section.

(2) The regulations shall—

(A) ensure that the sale of the aircraft and aircraft parts is made at a fair market value as determined by the Secretary of Defense, and, to the extent practicable, on a competitive basis;

(B) require a certification by the purchaser that the aircraft and aircraft parts will be used only in accordance with the conditions set forth in subsection (b);

(C) establish appropriate means of verifying and enforcing the use of the aircraft and aircraft parts by the purchaser and other end-users in accordance with the conditions set forth in subsection (b) or pursuant to subsection (e); and

(D) ensure, to the maximum extent practicable, that the Secretary of Defense consults with the Administrator of General Services and with the heads of appropriate departments and agencies of the Federal Government regarding alternative requirements for such aircraft and aircraft parts before the sale of such aircraft and aircraft parts under this section.

(e) Additional Terms and Conditions.—The Secretary of Defense may require such other terms and conditions in connection with each sale of aircraft and aircraft parts under this section as the Secretary considers appropriate for such sale. Such terms and conditions shall meet the requirements of regulations prescribed under subsection (d).

(f) Report.—Not later than March 31, 2002, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the Secretary's exercise of authority under this section. The report shall set forth—

(1) the number and types of aircraft sold under the authority, and the terms and conditions under which the aircraft were sold;

(2) the persons or entities to which the aircraft were sold; and

(3) an accounting of the current use of the aircraft sold.

(g) Construction.—Nothing in this section may be construed as affecting the authority of the Administrator of the Federal Aviation Administration under any other provision of law.

(h) Proceeds from Sale.—The net proceeds of any amounts received by the Secretary of Defense from the sale of aircraft and aircraft parts under this section shall be covered into the general fund of the Treasury as miscellaneous receipts.

SEC 426. AIRCRAFT AND AVIATION COMPONENT REPAIR AND MAINTENANCE ADVISORY PANEL.

(a) Establishment of Panel.—The Administrator of the Federal Aviation Administration—

(1) shall establish an Aircraft Repair and Maintenance Advisory Panel to review issues related to the use and oversight of aircraft and aviation component repair and maintenance facilities located within, or outside of, the United States; and

(2) may seek the advice of the panel on any issue related to methods to improve the safety of domestic or foreign contract aircraft and aviation component repair facilities.

(b) Membership.—The panel shall consist of—

(1) 8 members, appointed by the Administrator as follows:

(A) 3 representatives of labor organizations representing aviation mechanics;

(B) 1 representative of cargo air carriers;

(C) 1 representative of passenger air carriers;

(D) 1 representative of aircraft and aviation component repair stations;

(E) 1 representative of aircraft manufacturers; and

(F) 1 representative of the aviation industry not described in the preceding subparagraphs;

(2) 1 representative from the Department of Transportation, designated by the Secretary of Transportation;

(3) 1 representative from the Department of State, designated by the Secretary of State; and

(4) 1 representative from the Federal Aviation Administration, designated by the Administrator.

(c) Responsibilities.—The panel shall—

(1) determine how much aircraft and aviation component repair work and what type of aircraft and aviation component repair work is being performed by aircraft and aviation component repair stations located within, and outside of, the United States to better understand and analyze methods to improve the safety and oversight of such facilities; and

(2) provide advice and counsel to the Administrator with respect to aircraft and aviation component repair work performed by those stations, staffing needs, and any safety issues associated with that work.

(d) FAA To Request Information From Foreign Aircraft Repair Stations.—

(1) Collection of information.—The Administrator shall by regulation request aircraft and aviation component repair stations located outside the United States to submit such information as the Administrator may require in order to assess safety issues and enforcement actions with respect to the work performed at those stations on aircraft used by United States air carriers.

(2) Drug and alcohol testing information.—Included in the information the Administrator requests under paragraph (1) shall be information on the existence and administration of employee drug and alcohol testing programs in place at such stations, if applicable.

(3) Description of work done.—Included in the information the Administrator requests under paragraph (1) shall be information on the amount and type of aircraft and aviation component repair work performed at those stations on aircraft registered in the United States.

(e) FAA To Request Information About Domestic Aircraft Repair Stations.—If the Administrator determines that information on the volume of the use of domestic aircraft and aviation component repair stations is needed in order to better utilize Federal Aviation Administration resources, the Administrator may—

(1) require United States air carriers to submit the information described in subsection (d) with respect to their use of contract and noncontract aircraft and aviation component repair facilities located in the United States; and

(2) obtain information from such stations about work performed for foreign air carriers.

(f) FAA To Make Information Available to Public.—The Administrator shall make any information received under subsection (d) or (e) available to the public.

(g) Termination.—The panel established under subsection (a) shall terminate on the earlier of—

(1) the date that is 2 years after the date of enactment of this Act; or

(2) December 31, 2000.

(h) Annual Report to Congress.—The Administrator shall report annually to the Congress on the number and location of air agency certificates that were revoked, suspended, or not renewed during the preceding year.

(i) Definitions.—Any term used in this section that is defined in subtitle VII of title 49, United States Code, has the meaning given that term in that subtitle.

SEC. 427. AIRCRAFT SITUATIONAL DISPLAY DATA.

(a) In General.—A memorandum of agreement between the Administrator of the Federal Aviation Administration and any person that directly obtains aircraft situational display data from the Administration shall require that—

(1) the person demonstrate to the satisfaction of the Administrator that such person is capable of selectively blocking the display of any aircraft-situation-display-to-industry derived data related to any identified aircraft registration number; and

(2) the person agree to block selectively the aircraft registration numbers of any aircraft owner or operator upon the Administration's request.

(b) Existing Memoranda To Be Conformed.—The Administrator shall conform any memoranda of agreement, in effect on the date of enactment of this Act, between the Administration and a person under which that person obtains such data to incorporate the requirements of subsection (a) within 30 days after that date.

SEC. 428. ALLOCATION OF TRUST FUND FUNDING.

(a) Definitions.—In this section:

(1) Airport and airway trust fund.—The term "Airport and Airway Trust Fund" means the trust fund established under section 9502 of the Internal Revenue Code of 1986.

(2) Secretary.—The term "Secretary" means the Secretary of Transportation.

(3) State.—The term "State" means each of the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(4) State dollar contribution to the airport and airway trust fund.—The term "State dollar contribution to the Airport and Airway Trust Fund", with respect to a State and fiscal year, means the amount of funds equal to the amounts transferred to the Airport and Airway Trust Fund under section 9502 of the Internal Revenue Code of 1986 that are equivalent to the taxes described in section 9502(b) of the Internal Revenue Code of 1986 that are collected in that State.

(b) Reporting.—

(1) In general.—As soon as practicable after the date of enactment of this Act, and annually thereafter, the Secretary of the Treasury shall report to the Secretary the amount equal to the amount of taxes collected in each State during the preceding fiscal year that were transferred to the Airport and Airway Trust Fund.

(2) Report by secretary.—Not later than 90 days after the date of enactment of this Act, and annually thereafter, the Secretary shall prepare and submit to Congress a report that provides, for each State, for the preceding fiscal year—

(A) the State dollar contribution to the Airport and Airway Trust Fund; and

(B) the amount of funds (from funds made available under section 48103 of title 49, United States Code) that were made available to the State (including any political subdivision thereof) under chapter 471 of title 49, United States Code.

SEC. 429. TAOS PUEBLO AND BLUE LAKES WILDERNESS AREA DEMONSTRATION PROJECT.

Within 18 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall work with the Taos Pueblo to study the feasibility of conducting a demonstration project to require all aircraft that fly over Taos Pueblo and the Blue Lake Wilderness Area of Taos Pueblo, New Mexico, to maintain a mandatory minimum altitude of at least 5,000 feet above ground level.

SEC. 430. AIRLINE MARKETING DISCLOSURE.

(a) Definitions.—In this section:

(1) Air carrier.—The term "air carrier" has the meaning given that term in section 40102 of title 49, United States Code.

(2) Air transportation.—The term "air transportation" has the meaning given that term in section 40102 of title 49, United States Code.

(b) Final Regulations.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall promulgate final regulations to provide for improved oral and written disclosure to each consumer of air transportation concerning the corporate name of the air carrier that provides the air transportation purchased by that consumer. In issuing the regulations issued under this subsection, the Secretary shall take into account the proposed regulations issued by the Secretary on January 17, 1995, published at page 3359, volume 60, Federal Register.

SEC. 431. COMPENSATION UNDER THE DEATH ON THE HIGH SEAS ACT.

(a) In General.—Section 2 of the Death on the High Seas Act (46 U.S.C. App. 762) is amended—

(1) by inserting "(a) In General.—" before "The recovery"; and

(2) by adding at the end thereof the following:

"(b) Commercial Aviation.—

"(1) In general.—If the death was caused during commercial aviation, additional compensation for nonpecuniary damages for wrongful death of a decedent is recoverable in a total amount, for all beneficiaries of that decedent, that shall not exceed the greater of the pecuniary loss sustained or a sum total of $750,000 from all defendants for all claims. Punitive damages are not recoverable.

"(2) Inflation adjustment.—The $750,000 amount shall be adjusted, beginning in calendar year 2000 by the increase, if any, in the Consumer Price Index for all urban consumers for the prior year over the Consumer Price Index for all urban consumers for the calendar year 1998.

"(3) Nonpecuniary damages.—For purposes of this subsection, the term 'nonpecuniary damages' means damages for loss of care, comfort, and companionship.".

(b) Effective Date.—The amendment made by subsection (a) applies to any death caused during commercial aviation occurring after July 16, 1996.

SEC. 432. FAA STUDY OF BREATHING HOODS.

The Administrator shall study whether breathing hoods currently available for use by flight crews when smoke is detected are adequate and report the results of that study to the Congress within 120 days after the date of enactment of this Act.

SEC. 433. FAA STUDY OF ALTERNATIVE POWER SOURCES FOR FLIGHT DATA RECORDERS AND COCKPIT VOICE RECORDERS.

The Administrator of the Federal Aviation Administration shall study the need for an alternative power source for on-board flight data recorders and cockpit voice recorders and shall report the results of that study to the Congress within 120 days after the date of enactment of this Act. If, within that time, the Administrator determines, after consultation with the National Transportation Safety Board that the Board is preparing recommendations with respect to this subject matter and will issue those recommendations within a reasonable period of time, the Administrator shall report to the Congress the Administrator's comments on the Board's recommendations rather than conducting a separate study.

SEC. 434. PASSENGER FACILITY FEE LETTERS OF INTENT.

The Secretary of Transportation may not require an eligible agency (as defined in section 40117(a)(2) of title 49, United States Code), to impose a passenger facility fee (as defined in section 40117(a)(4) of that title) in order to obtain a letter of intent under section 47110 of that title.

SEC. 435. ELIMINATION OF HAZMAT ENFORCEMENT BACKLOG.

(a) Findings.—The Congress makes the following findings:

(1) The transportation of hazardous materials continues to present a serious aviation safety problem which poses a potential threat to health and safety, and can result in evacuations, emergency landings, fires, injuries, and deaths.

(2) Although the Federal Aviation Administration budget for hazardous materials inspection increased $10,500,000 in fiscal year 1998, the General Accounting Office has reported that the backlog of hazardous materials enforcement cases has increased from 6 to 18 months.

(b) Elimination of Hazardous Materials Enforcement Backlog.—The Administrator of the Federal Aviation Administration shall—

(1) make the elimination of the backlog in hazardous materials enforcement cases a priority;

(2) seek to eliminate the backlog within 6 months after the date of enactment of this Act; and

(3) make every effort to ensure that inspection and enforcement of hazardous materials laws are carried out in a consistent manner among all geographic regions, and that appropriate fines and penalties are imposed in a timely manner for violations.

(c) Information Regarding Progress.—The Administrator shall provide information in oral or written form to the Committee on Commerce, Science, and Transportation, on a quarterly basis beginning 3 months after the date of enactment of this Act for a year, on plans to eliminate the backlog and enforcement activities undertaken to carry out subsection (b).

SEC. 436. FAA EVALUATION OF LONG-TERM CAPITAL LEASING.

Nothwithstanding any other provision of law to the contrary, the Administrator of the Federal Aviation Administration may establish a pilot program for fiscal years 2001 through 2004 to test and evaluate the benefits of long-term contracts for the leasing of aviation equipment and facilities. The Administrator shall establish criteria for the program. The Administrator may enter into no more than 10 leasing contracts under this section, each of which shall be for a period greater than 5 years, under which the equipment or facility operates. The contracts to be evaluated may include requirements related to oceanic and air traffic control, air-to-ground radio communications, and air traffic control tower construction.

SEC. 437. DISCRIMINATORY PRACTICES BY COMPUTER RESERVATIONS SYSTEM OUTSIDE THE UNITED STATES.

(a) In General.—Section 41310 is amended by adding at the end thereof the following:

"(g) Actions Against Discriminatory Activity by Foreign Computer Reservation System.—The Secretary of Transportation may take any action the Secretary considers to be in the public interest to eliminate an activity of a foreign air carrier that owns or markets a computer reservations system, or of a computer reservations system the principal offices of which are located outside the United States, when the Secretary, on the Secretary's own initiative or in response to a complaint, decides that the activity with respect to airline service—

"(1) is an unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practice against a computer reservations system the principal offices of which are located in the United States; or

"(2) imposes an unjustifiable or unreasonable restriction on access of a computer reservations system the principal offices of which are located in the United States to a foreign market.".

(b) Conforming Amendments.—Section 41310 is amended—

(1) by striking “carrier” in the first sentence of subsection (d)(1) and inserting “carrier, computer reservations system firm,”;

(2) by striking “subsection (c)” in subsection (d)(1) and inserting “subsection (c) or (g)”;

(3) by inserting “or computer reservations system firm” after “carrier” in subsection (d)(1)(B); and

(4) by striking “transportation.” in subsection (e)(1) and insert “transportation or to which a computer reservations system firm is subject when providing services with respect to airline service.”.

SEC. 438. PROHIBITIONS AGAINST SMOKING ON SCHEDULED FLIGHTS.

(a) In General.—Section 41706 is amended to read as follows:

“§41706. Prohibitions against smoking on scheduled flights

“(a) Smoking Prohibition in Intrastate and Interstate Air Transportation.—An individual may not smoke in an aircraft on a scheduled airline flight segment in interstate air transportation or intrastate air transportation.

“(b) Smoking Prohibition in Foreign Air Transportation.—The Secretary of Transportation (referred to in this subsection as the ‘Secretary’) shall require all air carriers and foreign air carriers to prohibit on and after October 1, 1999, smoking in any aircraft on a scheduled airline flight segment within the United States or between a place in the United States and a place outside the United States.

“(c) Limitation on Applicability.—

“(1) In general.—If a foreign government objects to the application of subsection (b) on the basis that subsection provides for an extraterritorial application of the laws of the United States, the Secretary may waive the application of subsection (b) to a foreign air carrier licensed by that foreign government at such time as an alternative prohibition negotiated under paragraph (2) becomes effective and is enforced by the Secretary.

“(2) Alternative prohibition.—If, pursuant to paragraph (1), a foreign government objects to the prohibition under subsection (b), the Secretary shall enter into bilateral negotiations with the objecting foreign government to provide for an alternative smoking prohibition.

“(d) Regulations.—The Secretary shall prescribe such regulations as are necessary to carry out this section.”.

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date that is 60 days after the date of enactment of this Act.

SEC. 439. DESIGNATING CURRENT AND FORMER MILITARY AIRPORTS.

Section 47118 is amended—

(1) by striking “12.” in subsection (a) and inserting “15.”; and

(2) by striking “5-fiscal-year periods” in subsection (d) and inserting “periods, each not to exceed 5 fiscal years,”.

SEC. 440. ROLLING STOCK EQUIPMENT.

(a) In General.—Section 1168 of title 11, United States Code, is amended to read as follows:

“§1168. Rolling stock equipment

“(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court, except that right to take possession and enforce those other rights and remedies shall be subject to section 362, if—

“(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

“(B) any default, other than a default of a kind described in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

“(i) that occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period;

“(ii) that occurs or becomes an event of default after the date of commencement of the case and before the expiration of such 60-day period is cured before the later of—

“(I) the date that is 30 days after the date of the default or event of the default; or

“(II) the expiration of such 60-day period; and

“(iii) that occurs on or after the expiration of such 60-day period is cured in accordance with the terms of such security agreement, lease, or conditional sale contract, if cure is permitted under that agreement, lease, or conditional sale contract.

“(2) The equipment described in this paragraph—

“(A) is rolling stock equipment or accessories used on rolling stock equipment, including superstructures or racks, that is subject to a security interest granted by, leased to, or conditionally sold to a debtor; and

“(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, that is to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

“(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

“(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

“(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(2), if at any time after the date of commencement of the case under this chapter such secured party, lessor, or conditional vendor is entitled pursuant to subsection (a)(1) to take possession of such equipment and makes a written demand for such possession of the trustee.

“(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(2), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

“(d) With respect to equipment first placed in service on or prior to October 22, 1994, for purposes of this section—

“(1) the term ‘lease’ includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

“(2) the term ‘security interest’ means a purchase-money equipment security interest.

“(e) With respect to equipment first placed in service after October 22, 1994, for purposes of this section, the term ‘rolling stock equipment’ includes rolling stock equipment that is substantially rebuilt and accessories used on such equipment.”.

(b) Aircraft Equipment and Vessels.—Section 1110 of title 11, United States Code, is amended to read as follows:

“§1110. Aircraft equipment and vessels

“(a)(1) Except as provided in paragraph (2) and subject to subsection (b), the right of a secured party with a security interest in equipment described in paragraph (3), or of a lessor or conditional vendor of such equipment, to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies, under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court.

“(2) The right to take possession and to enforce the other rights and remedies described in paragraph (1) shall be subject to section 362 if—

“(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the approval of the court, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

“(B) any default, other than a default of a kind specified in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

“(i) that occurs before the date of the order is cured before the expiration of such 60-day period;

“(ii) that occurs after the date of the order and before the expiration of such 60-day period is cured before the later of—

“(I) the date that is 30 days after the date of the default; or

“(II) the expiration of such 60-day period; and

“(iii) that occurs on or after the expiration of such 60-day period is cured in compliance with the terms of such security agreement, lease, or conditional sale contract, if a cure is permitted under that agreement, lease, or contract.

“(3) The equipment described in this paragraph—

“(A) is—

“(i) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 40102 of title 49) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that, at the time such transaction is entered into, holds an air carrier operating certificate issued pursuant to chapter 447 of title 49 for aircraft capable of carrying 10 or more individuals or 6,000 pounds or more of cargo; or

“(ii) a documented vessel (as defined in section 30101(1) of title 46) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that, at the time such transaction is entered into, holds a certificate of public convenience and necessity or permit issued by the Department of Transportation; and

"(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

"(4) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the approval of the court, to extend the 60-day period specified in subsection (a)(1).

"(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(3), if at any time after the date of the order for relief under this chapter such secured party, lessor, or conditional vendor is entitled pursuant to subsection (a)(1) to take possession of such equipment and makes a written demand for such possession to the trustee.

"(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(3), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

"(d) With respect to equipment first placed in service on or before October 22, 1994, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.".

SEC. 441. MONROE REGIONAL AIRPORT LAND CONVEYANCE.

The Secretary of Transportation may waive all terms contained in the 1949 deed of conveyance under which the United States conveyed certain property then constituting Selman Field, Louisiana, to the City of Monroe, Louisiana, subject to the following conditions:

(1) The city agrees that in conveying any interest in such property the city will receive an amount for such interest that is equal to the fair market value for such interest.

(2) The amount received by the city for such conveyance shall be used by the city—

(A) for the development, improvement, operation, or maintenance of a public airport; or

(B) for the development or improvement of the city's airport industrial park co-located with the Monroe Regional Airport to the extent that such development or improvement will result in an increase, over time, in the amount the industrial park will pay to the airport to an amount that is greater than the amount the city received for such conveyance.

SEC. 442. CINCINNATI-MUNICIPAL BLUE ASH AIRPORT.

To maintain the efficient utilization of airports in the high-growth Cincinnati local airport system, and to ensure that the Cincinnati-Municipal Blue Ash Airport continues to operate to relieve congestion at Cincinnati-Northern Kentucky International Airport and to provide greater access to the general aviation community beyond the expiration of the City of Cincinnati's grant obligations, the Secretary of Transportation may approve the sale of Cincinnati-Municipal Blue Ash Airport from the City of Cincinnati to the City of Blue Ash upon a finding that the City of Blue Ash meets all applicable requirements for sponsorship and if the City of Blue Ash agrees to continue to maintain and operate Blue Ash Airport, as generally contemplated and described within the Blue Ash Master Plan Update dated November 30, 1998, for a period of 20 years from the date existing grant assurance obligations of the City of Cincinnati expire.

SEC. 443. REPORT ON SPECIALTY METALS CONSORTIUM.

The Administrator of the Federal Aviation Administration may work with a consortium of domestic metal producers and aircraft engine manufacturers to improve the quality of turbine engine materials and to address melting technology enhancements. The Administrator shall report to the Congress within 6 months after entering into an agreement with any such consortium of such producers and manufacturers on the goals and efforts of the consortium.

SEC. 444. PAVEMENT CONDITION.

The Administrator of the Federal Aviation Administration may conduct a study on the extent of alkali silica reactivity-induced pavement distress in concrete runways, taxiways, and aprons for airports comprising the national air transportation system. If the Administrator conducts such a study, it shall include a determination based on in-the-field inspections followed by petrographic analysis or other similar techniques.

SEC. 445. INHERENTLY LOW-EMISSION AIRPORT VEHICLE PILOT PROGRAM.

(a) In General.—Subchapter I of chapter 471 is further amended by adding at the end the following:

"§ 47137. Inherently low-emission airport vehicle pilot program

"(a) In General.—The Secretary of Transportation shall carry out a pilot program at not more than 10 public-use airports under which the sponsors of such airports may use funds made available under section 48103 for use at such airports to carry out inherently low-emission vehicle activities. Notwithstanding any other provision of this subchapter, inherently low-emission vehicle activities shall for purposes of the pilot program be treated as eligible for assistance under this subchapter.

"(b) Location in Air Quality Nonattainment Areas.—

"(1) In general.—A public-use airport shall be eligible for participation in the pilot program only if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(d)).

"(2) Shortage of candidates.—If the Secretary receives an insufficient number of applications from public-use airports located in such areas, then the Secretary may consider applications from public-use airports that are not located in such areas.

"(c) Selection Criteria.—In selecting from among applicants for participation in the pilot program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the pilot program.

"(d) United States Government's Share.—Notwithstanding any other provision of this subchapter, the United States Government's share of the costs of a project carried out under the pilot program shall be 50 percent.

"(e) Maximum Amount.—Not more than $2,000,000 may be expended under the pilot program at any single public-use airport.

"(f) Report to Congress.—Not later than 18 months after the date of the enactment of the Air Transportation Improvement Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

"(1) an evaluation of the effectiveness of the pilot program;

"(2) an identification of other public-use airports that expressed an interest in participating in the pilot program; and

"(3) a description of the mechanisms used by the Secretary to ensure that the information and know-how gained by participants to the pilot program is transferred among the participants and to other interested parties, including other public-use airports.

"(g) Inherently Low-emission Vehicle Activity Defined.—In this section, the term 'inherently low-emission vehicle activity' means—

"(1) the construction of infrastructure or modifications at public-use airports to enable the delivery of fuel and services necessary for the use of vehicles that are certified as inherently low-emission vehicles under title 40 of the Code of Federal Regulations, that—

"(A) operate exclusively on compressed natural gas, liquefied natural gas, liquefied petroleum gas, electricity, hydrogen, or a blend at least 85 percent of which is methanol;

"(B) are labeled in accordance with section 88.312–93(c) of such title; and

"(C) are located or primarily used at public-use airports;

"(2) the construction of infrastructure or modifications at public-use airports to enable the delivery of fuel and services necessary for the use of non-road vehicles that—

"(A) operate exclusively on compressed natural gas, liquefied natural gas, liquefied petroleum gas, electricity, hydrogen, or a blend at least 85 percent of which is methanol;

"(B) meet or exceed the standards set forth in section 86.1708–99 of title 40 of the Code of Federal Regulations, or the standards set forth in section 89.112(a) of such title, and are in compliance with the requirements of section 89.112(b) of such title; and

"(C) are located or primarily used at public-use airports;

"(3) the payment of that portion of the cost of acquiring such vehicles that exceeds the cost of acquiring other vehicles or engines that would be used for the same purpose; or

"(4) the acquisition of technological capital equipment to enable the delivery of fuel and services necessary for the use of vehicles described in paragraph (1).".

(b) Conforming Amendment.—The analysis for subchapter I of chapter 471 is further amended by adding at the end the following:

"47137. Inherently low-emission airport vehicle pilot program.".

SEC. 446. CONVEYANCE OF AIRPORT PROPERTY TO AN INSTITUTION OF HIGHER EDUCATION IN OKLAHOMA.

(a) In General.—Notwithstanding any other provision of law, including the Surplus Property Act of 1944 (58 Stat. 765, chapter 479; 50 U.S.C. App. 1622 et seq.), the Secretary of Transportation (or the appropriate Federal officer) may waive, without charge, any of the terms contained in any deed of conveyance described in subsection (b) that restrict the use of any land described in such a deed that, as of the date of enactment of this Act, is not being used for the operation of an airport or for air traffic. A waiver made under the preceding sentence shall be deemed to be consistent with the requirements of section 47153 of title 49, United States Code.

(b) Deed of Conveyance.—A deed of conveyance referred to in subsection (a) is a deed of conveyance issued by the United States before the date of enactment of this Act for the conveyance of lands to a public institution of higher education in Oklahoma.

(c) Use of Lands Subject to Waiver.—

(1) In general.—Notwithstanding any other provision of law, the lands subject to a waiver under subsection (a) shall not be subject to any term, condition, reservation, or restriction that would otherwise apply to that land as a result of the conveyance of that land by the United States to the institution of higher education.

(2) Use of lands.—An institution of higher education that is issued a waiver under subsection (a) may use revenues derived from the use, operation, or disposal of that land only for weather-related and educational purposes that include benefits for aviation.

(d) Grants.—

(1) In general.—Notwithstanding any other provision of law, if an institution of higher education that is subject to a waiver under subsection (a) received financial assistance in the form of a grant from the Federal Aviation Administration or a predecessor agency before the date of enactment of this Act, then the Secretary of Transportation may waive the repayment of the outstanding amount of any grant that the institution of higher education would otherwise be required to pay.

(2) Eligibility to receive subsequent grants.—Nothing in paragraph (1) shall affect the eligibility of an institution of higher education that is subject to that paragraph from receiving grants from the Secretary of Transportation under chapter 471 of title 49, United States Code, or under any other provision of law relating to financial assistance provided through the Federal Aviation Administration.

SEC. 447. AUTOMATED SURFACE OBSERVATION SYSTEM/AUTOMATED WEATHER OBSERVING SYSTEM UPGRADE.

Section 48101 is further amended by adding at the end the following:

"(f) Automated Surface Observation System/Automated Weather Observing System Upgrade.—Of the amounts appropriated under subsection (a) for fiscal years beginning after September 30, 2000, such sums as may be necessary for the implementation and use of upgrades to the current automated surface observation system/automated weather observing system, if the upgrade is successfully demonstrated.".

SEC. 448. TERMINAL AUTOMATED RADAR DISPLAY AND INFORMATION SYSTEM.

The Administrator of the Federal Aviation Administration is authorized to develop a national policy and related procedures concerning the Terminal Automated Radar Display and Information System and sequencing for Visual Flight Rule air traffic control towers.

SEC. 449. COST/BENEFIT ANALYSIS FOR RETROFIT OF 16G SEATS.

Before the Administrator of the Federal Aviation Administration issues a final rule requiring the air carriers to retrofit existing aircraft with 16G seats, the Administrator shall conduct, in consultation with the Inspector General of the Department of Transportation, a comprehensive analysis of the costs and benefits that would be associated with the issuance of such a final rule.

SEC. 450. RALEIGH COUNTY, WEST VIRGINIA, MEMORIAL AIRPORT.

The Secretary of Transportation may grant a release from any term or condition in a grant agreement for the development or improvement of the Raleigh County Memorial Airport, West Virginia, if the Secretary determines that the property to be released—

(1) does not exceed 400 acres; and

(2) is not needed for airport purposes.

SEC. 451. AIRPORT SAFETY NEEDS.

(a) In General.—The Administrator shall conduct a study reviewing current and future airport safety needs that—

(1) focuses specifically on the mission of rescue personnel, rescue operations response time, and extinguishing equipment; and

(2) gives particular consideration to the need for different requirements for airports that are related to the size of the airport and the size of the community immediately surrounding the airport.

(b) Report Transmitted to Congress; Deadline.—The Administrator shall transmit a report containing the Administrator's findings and recommendations to the Aviation Subcommittee of the Senate Committee on Commerce, Science, and Transportation and the Aviation Subcommittee of the House of Representatives Committee on Transportation and Infrastructure within 6 months after the date of enactment of this Act.

(c) Cost/benefit Analysis of Proposed Changes.—If the Administrator recommends, on the basis of a study conducted under subsection (a), that part 139 of title 14, Code of Federal Regulations, should be revised to meet current and future airport safety needs, the Administrator shall include a cost-benefit analysis of any recommended changes in the report.

SEC. 452. FLIGHT TRAINING OF INTERNATIONAL STUDENTS.

The Federal Aviation Administration shall implement a bilateral aviation safety agreement for conversion of flight crew licenses between the government of the United States and the Joint Aviation Authority member governments.

SEC. 453. GRANT PARISH, LOUISIANA.

In General.—The United States may release, without monetary consideration, all restrictions, conditions, and limitations on the use, encumbrance, or conveyance of certain land located in Grant Parish, Louisiana, identified as Tracts B, C, and D on the map entitled "Plat of Restricted Properties/Former Pollock Army Airfield, Pollock, Louisiana", dated August 1, 1996, to the extent such restrictions, conditions, and limitations are enforceable by the United States, but the United States shall retain the right of access to, and use of, that land for national defense purposes in time of war or national emergency.

(b) Mineral Rights.—Nothing in subsection (a) affects the ownership or disposition of oil, gas, or other mineral resources associated with land described in subsection (a).

TITLE V—AVIATION COMPETITION PROMOTION

SEC. 501. PURPOSE.

The purpose of this title is to facilitate, through a 4-year pilot program, incentives and projects that will help up to 40 communities or consortia of communities to improve their access to the essential airport facilities of the national air transportation system through public-private partnerships and to identify and establish ways to overcome the unique policy, economic, geographic, and marketplace factors that may inhibit the availability of quality, affordable air service to small communities.

SEC. 502. ESTABLISHMENT OF SMALL COMMUNITY AVIATION DEVELOPMENT PROGRAM.

Section 102 is amended by adding at the end thereof the following:

"(g) Small Community Air Service Development Program.—

"(1) Establishment.—The Secretary shall establish a 4-year pilot aviation development program to be administered by a program director designated by the Secretary.

"(2) Functions.—The program director shall—

"(A) function as a facilitator between small communities and air carriers;

"(B) carry out section 41743 of this title;

"(C) carry out the airline service restoration program under sections 41744, 41745, and 41746 of this title;

"(D) ensure that the Bureau of Transportation Statistics collects data on passenger information to assess the service needs of small communities;

"(E) work with and coordinate efforts with other Federal, State, and local agencies to increase the viability of service to small communities and the creation of aviation development zones; and

"(F) provide policy recommendations to the Secretary and the Congress that will ensure that small communities have access to quality, affordable air transportation services.

"(3) Reports.—The program director shall provide an annual report to the Secretary and the Congress beginning in 2000 that—

"(A) analyzes the availability of air transportation services in small communities, including, but not limited to, an assessment of the air fares charged for air transportation services in small communities compared to air fares charged for air transportation services in larger metropolitan areas and an assessment of the levels of service, measured by types of aircraft used, the availability of seats, and scheduling of flights, provided to small communities;

"(B) identifies the policy, economic, geographic and marketplace factors that inhibit the availability of quality, affordable air transportation services to small communities; and

"(C) provides policy recommendations to address the policy, economic, geographic, and marketplace factors inhibiting the availability of quality, affordable air transportation services to small communities.".

SEC. 503. COMMUNITY-CARRIER AIR SERVICE PROGRAM.

(a) In General.—Subchapter II of chapter 417 is amended by adding at the end thereof the following:

"§ 41743. Air service program for small communities

"(a) Communities Program.—Under advisory guidelines prescribed by the Secretary of Transportation, a small community or a consortia of small communities or a State may develop an assessment of its air service requirements, in such form as the program director designated by the Secretary under section 102(g) may require, and submit the assessment and service proposal to the program director.

"(b) Selection of Participants.—In selecting community programs for participation in the communities program under subsection (a), the program director shall apply criteria, including geographical diversity and the presentation of unique circumstances, that will demonstrate the feasibility of the program. For purposes of this subsection, the application of geographical diversity criteria means criteria that—

"(1) will promote the development of a national air transportation system; and

"(2) will involve the participation of communities in all regions of the country.

"(c) Carriers Program.—The program director shall invite part 121 air carriers and regional/commuter carriers (as such terms are defined in section 41715(d) of this title) to offer service proposals in response to, or in conjunction with, community aircraft service assessments submitted to the office under subsection (a). A service proposal under this paragraph shall include—

"(1) an assessment of potential daily passenger traffic, revenues, and costs necessary for the carrier to offer the service;

"(2) a forecast of the minimum percentage of that traffic the carrier would require the community to garner in order for the carrier to start up and maintain the service; and

"(3) the costs and benefits of providing jet service by regional or other jet aircraft.

"(d) Program Support Function.—The program director shall work with small communities and air carriers, taking into account their proposals and needs, to facilitate the initiation of service. The program director—

"(1) may work with communities to develop innovative means and incentives for the initiation of service;

"(2) may obligate funds authorized under section 504 of the Air Transportation Improvement Act to carry out this section;

"(3) shall continue to work with both the carriers and the communities to develop a combination of community incentives and carrier service levels that—

"(A) are acceptable to communities and carriers; and

"(B) do not conflict with other Federal or State programs to facilitate air transportation to the communities;

"(4) designate an airport in the program as an Air Service Development Zone and work with the community on means to attract business to the area surrounding the airport, to develop land use options for the area, and provide data, working with the Department of Commerce and other agencies;

"(5) take such other action under this chapter as may be appropriate.

"(e) Limitations.—

"(1) Community support.—The program director may not provide financial assistance under subsection (c)(2) to any community unless the program director determines that—

"(A) a public-private partnership exists at the community level to carry out the community's proposal;

"(B) the community will make a substantial financial contribution that is appropriate for that community's resources, but of not less than 25 percent of the cost of the project in any event;

"(C) the community has established an open process for soliciting air service proposals; and

"(D) the community will accord similar benefits to air carriers that are similarly situated.

"(2) Amount.—The program director may not obligate more than $80,000,000 of the amounts authorized under 504 of the Air Transportation Improvement Act over the 4 years of the program.

"(3) Number of participants.—The program established under subsection (a) shall not involve more than 40 communities or consortia of communities.

"(f) Report.—The program director shall report through the Secretary to the Congress annually on the progress made under this section during the preceding year in expanding commercial aviation service to smaller communities.

"§41744. Pilot program project authority

"(a) In General.—The program director designated by the Secretary of Transportation under section 102(g)(1) shall establish a 4-year pilot program—

"(1) to assist communities and States with inadequate access to the national transportation system to improve their access to that system; and

"(2) to facilitate better air service link-ups to support the improved access.

"(b) Project Authority.—Under the pilot program established pursuant to subsection (a), the program director may—

"(1) out of amounts authorized under section 504 of the Air Transportation Improvement Act, provide financial assistance by way of grants to small communities or consortia of small communities under section 41743 of up to $500,000 per year; and

"(2) take such other action as may be appropriate.

"(c) Other Action.—Under the pilot program established pursuant to subsection (a), the program director may facilitate service by—

"(1) working with airports and air carriers to ensure that appropriate facilities are made available at essential airports;

"(2) collecting data on air carrier service to small communities; and

"(3) providing policy recommendations to the Secretary to stimulate air service and competition to small communities.

"(d) Additional Action.—Under the pilot program established pursuant to subsection (a), the Secretary shall work with air carriers providing service to participating communities and major air carriers serving large hub airports (as defined in section 41731(a)(3)) to facilitate joint fare arrangements consistent with normal industry practice.

"§41745. Assistance to communities for service

"(a) In General.—Financial assistance provided under section 41743 during any fiscal year as part of the pilot program established under section 41744(a) shall be implemented for not more than—

"(1) 4 communities within any State at any given time; and

"(2) 40 communities in the entire program at any time.

For purposes of this subsection, a consortium of communities shall be treated as a single community.

"(b) Eligibility.—In order to participate in a pilot project under this subchapter, a State, community, or group of communities shall apply to the Secretary in such form and at such time, and shall supply such information, as the Secretary may require, and shall demonstrate to the satisfaction of the Secretary that—

"(1) the applicant has an identifiable need for access, or improved access, to the national air transportation system that would benefit the public;

"(2) the pilot project will provide material benefits to a broad section of the travelling public, businesses, educational institutions, and other enterprises whose access to the national air transportation system is limited;

"(3) the pilot project will not impede competition; and

"(4) the applicant has established, or will establish, public-private partnerships in connection with the pilot project to facilitate service to the public.

"(c) Coordination with Other Provisions of Subchapter.—The Secretary shall carry out the 4-year pilot program authorized by this subchapter in such a manner as to complement action taken under the other provisions of this subchapter. To the extent the Secretary determines to be appropriate, the Secretary may adopt criteria for implementation of the 4-year pilot program that are the same as, or similar to, the criteria developed under the preceding sections of this subchapter for determining which airports are eligible under those sections. The Secretary shall also, to the extent possible, provide incentives where no direct, viable, and feasible alternative service exists, taking into account geographical diversity and appropriate market definitions.

"(d) Maximization of Participation.—The Secretary shall structure the program established pursuant to section 41744(a) in a way designed to—

"(1) permit the participation of the maximum feasible number of communities and States over a 4-year period by limiting the number of years of participation or otherwise; and

"(2) obtain the greatest possible leverage from the financial resources available to the Secretary and the applicant by—

"(A) progressively decreasing, on a project-by-project basis, any Federal financial incentives provided under this chapter over the 4-year period; and

"(B) terminating as early as feasible Federal financial incentives for any project determined by the Secretary after its implementation to be—

"(i) viable without further support under this subchapter; or

"(ii) failing to meet the purposes of this chapter or criteria established by the Secretary under the pilot program.

"(e) Success Bonus.—If Federal financial incentives to a community are terminated under subsection (d)(2)(B) because of the success of the program in that community, then that community may receive a one-time incentive grant to ensure the continued success of that program.

"(f) Program to Terminate in 4 Years.—No new financial assistance may be provided under this subchapter for any fiscal year beginning more than 4 years after the date of enactment of the Air Transportation Improvement Act.

"§41746. Additional authority

"In carrying out this chapter, the Secretary—

"(1) may provide assistance to States and communities in the design and application phase of any project under this chapter, and oversee the implementation of any such project;

"(2) may assist States and communities in putting together projects under this chapter to utilize private sector resources, other Federal resources, or a combination of public and private resources;

"(3) may accord priority to service by jet aircraft;

“(4) take such action as may be necessary to ensure that financial resources, facilities, and administrative arrangements made under this chapter are used to carry out the purposes of title V of the Air Transportation Improvement Act; and

“(5) shall work with the Federal Aviation Administration on airport and air traffic control needs of communities in the program.”.

(b) Conforming Amendment.—The chapter analysis for subchapter II of chapter 417 is amended by inserting after the item relating to section 41742 the following:

“41743. Air service program for small communities.
“41744. Pilot program project authority.
“41745. Assistance to communities for service.
“41746. Additional authority.”.

(c) Waiver of Local Contribution.—Section 41736(b) is amended by inserting after paragraph (4) the following:

“Paragraph (4) does not apply to any community approved for service under this section during the period beginning October 1, 1991, and ending December 31, 1997.”.

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation $80,000,000 to carry out sections 41743 through 41746 of title 49, United States Code, for the 4 fiscal-year period beginning with fiscal year 2000.

SEC. 505. MARKETING PRACTICES.

Section 41712 is amended—

(1) by inserting “(a) In General.—” before “On”; and

(2) by adding at the end thereof the following:

“(b) Marketing Practices That Adversely Affect Service to Small or Medium Communities.—Within 180 days after the date of enactment of the Air Transportation Improvement Act, the Secretary shall review the marketing practices of air carriers that may inhibit the availability of quality, affordable air transportation services to small- and medium-sized communities, including—

“(1) marketing arrangements between airlines and travel agents;

“(2) code-sharing partnerships;

“(3) computer reservation system displays;

“(4) gate arrangements at airports;

“(5) exclusive dealing arrangements; and

“(6) any other marketing practice that may have the same effect.

“(c) Regulations.—If the Secretary finds, after conducting the review required by subsection (b), that marketing practices inhibit the availability of such service to such communities, then, after public notice and an opportunity for comment, the Secretary may promulgate regulations that address the problem, or take other appropriate action. Nothing in this section expands the authority or jurisdiction of the Secretary to promulgate regulations under the Federal Aviation Act or under any other Act.”.

SEC. 506. SLOT EXEMPTIONS FOR NONSTOP REGIONAL JET SERVICE.

(a) In General.—Subchapter I of chapter 417, as amended by section 310, is amended by adding at the end thereof the following:

“§ 41718. Slot exemptions for nonstop regional jet service

“(a) In General.—Within 90 days after receiving an application for an exemption to provide nonstop regional jet air service between—

“(1) an airport with fewer than 2,000,000 annual enplanements; and

“(2) a high density airport subject to the exemption authority under section 41714(a), the Secretary of Transportation shall grant or deny the exemption in accordance with established principles of safety and the promotion of competition.

“(b) Existing Slots Taken into Account.—In deciding to grant or deny an exemption under subsection (a), the Secretary may take into consideration the slots and slot exemptions already used by the applicant.

“(c) Conditions.—The Secretary may grant an exemption to an air carrier under subsection (a)—

“(1) for a period of not less than 12 months;

“(2) for a minimum of 2 daily roundtrip flights; and

“(3) for a maximum of 3 daily roundtrip flights.

“(d) Change of Nonhub, Small Hub, or Medium Hub Airport; Jet Aircraft.—The Secretary may, upon application made by an air carrier operating under an exemption granted under subsection (a)—

“(1) authorize the air carrier or an affiliated air carrier to upgrade service under the exemption to a larger jet aircraft; or

“(2) authorize an air carrier operating under such an exemption to change the nonhub airport or small hub airport for which the exemption was granted to provide the same service to a different airport that is smaller than a large hub airport (as defined in section 47134(d)(2)) if—

“(A) the air carrier has been operating under the exemption for a period of not less than 12 months; and

“(B) the air carrier can demonstrate unmitigatable losses.

“(e) Forefeiture for Misuse.—Any exemption granted under subsection (a) shall be terminated immediately by the Secretary if the air carrier to which it was granted uses the slot for any purpose other than the purpose for which it was granted or in violation of the conditions under which it was granted.

“(f) Priority to New Entrants and Limited Incumbent Carriers.—

“(1) In general.—In granting slot exemptions under this section the Secretary shall give priority consideration to an application from an air carrier that, as of July 1, 1998, operated or held fewer than 20 slots or slot exemptions at the high density airport for which it filed an exemption application.

“(2) Limitation.—No priority may be given under paragraph (1) to an air carrier that, at the time of application, operates or holds 20 or more slots and slot exemptions at the airport for which the exemption application is filed.

“(3) Affiliated carriers.—The Secretary shall treat all commuter air carriers that have cooperative agreements, including code-share agreements, with other air carriers equally for determining eligibility for exemptions under this section regardless of the form of the corporate relationship between the commuter air carrier and the other air carrier.

“(g) Stage 3 Aircraft Required.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

“(h) Regional Jet Defined.—In this section, the term ‘regional jet’ means a passenger, turbofan-powered aircraft carrying not fewer than 30 and not more than 50 passengers.”.

(b) Conforming Amendments.—

(1) Section 40102 is amended by inserting after paragraph (28) the following:

“(28A) Limited incumbent air carrier.—The term ‘limited incumbent air carrier’ has the meaning given that term in subpart S of part 93 of title 14, Code of Federal Regulations, except that ‘20’ shall be substituted for ‘12’ in sections 93.213(a)(5), 93.223(c)(3), and 93.225(h) as such sections were in effect on August 1, 1998.”.

(2) The chapter analysis for subchapter I of chapter 417 is amended by adding at the end thereof the following:

“41718. Slot exemptions for nonstop regional jet service.”.

SEC. 507. EXEMPTIONS TO PERIMETER RULE AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

(a) In General.—Subchapter I of chapter 417, as amended by section 506, is amended by adding at the end thereof the following:

“§ 41719. Special Rules for Ronald Reagan Washington National Airport

“(a) Beyond-Perimeter Exemptions.—The Secretary shall by order grant exemptions from the application of sections 49104(a)(5), 49109, 49111(e), and 41714 of this title to air carriers to operate limited frequencies and aircraft on select routes between Ronald Reagan Washington National Airport and domestic hub airports of such carriers and exemptions from the requirements of subparts K and S of part 93, Code of Federal Regulations, if the Secretary finds that the exemptions will—

“(1) provide air transportation service with domestic network benefits in areas beyond the perimeter described in that section;

“(2) increase competition by new entrant air carriers or in multiple markets;

“(3) not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter described in section 49109 of title 49, United States Code; and

“(4) not result in meaningfully increased travel delays.

“(b) Within-Perimeter Exemptions.—The Secretary shall by order grant exemptions from the requirements of sections 49104(a)(5), 49111(e), and 41714 of this title and subparts K and S of part 93 of title 14, Code of Federal Regulations, to commuter air carriers for service to airports with fewer than 2,000,000 annual enplanements within the perimeter established for civil aircraft operations at Ronald Reagan Washington National Airport under section 49109. The Secretary shall develop criteria for distributing slot exemptions for flights within the perimeter to such airports under this paragraph in a manner consistent with the promotion of air transportation.

“(c) Limitations.—

“(1) Stage 3 aircraft required.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

“(2) General exemptions.—The exemptions granted under subsections (a) and (b) may not increase the number of operations at Ronald Reagan Washington National Airport in any 1-hour period during the hours between 7:00 a.m. and 9:59 p.m. by more than 3 operations.”.

“(3) Additional exemptions.—The Secretary shall grant exemptions under subsections (a) and (b) that—

“(A) will result in 24 additional daily air carrier slot exemptions at such airport for long-haul service beyond the perimeter;

“(B) will result in 12 additional daily commuter slot exemptions at such airport; and

“(C) will not result in additional daily commuter slot exemptions for service to any within-the-perimeter airport that has 2,000,000 or fewer annual enplanements.

"(4) ASSESSMENT OF SAFETY, NOISE AND ENVIRONMENTAL IMPACTS.—The Secretary shall assess the impact of granting exemptions, including the impacts of the additional slots and flights at Ronald Reagan Washington National Airport provided under subsections (a) and (b) on safety, noise levels and the environment within 90 days of the date of the enactment of this Act. The environmental assessment shall be carried out in accordance with parts 1500-1508 of title 40, Code of Federal Regulations. Such environmental assessment shall include a public meeting.

"(5) APPLICABILITY WITH EXEMPTION 5133.—Nothing in this section affects Exemption No. 5133, as from time-to-time amended and extended.

"(d) ADDITIONAL WITHIN-PERIMETER SLOT EXEMPTIONS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.—The Secretary shall by order grant 12 slot exemptions from the requirements of sections 49104(a)(5), 49111(e), and 41714 of this title and subparts K and S of part 93 of title 14, Code of Federal Regulations, to air carriers for flights to airports within the perimeter established for civil aircraft operations at Ronald Reagan Washington National Airport under section 49109. The Secretary shall develop criteria for distributing slot exemptions for flights within the perimeter to such airports under this subsection in a manner consistent with the promotion of air transportation.".

(b) OVERRIDE OF MWAA RESTRICTION.—Section 49104(a)(5) is amended by adding at the end thereof the following:

"(D) Subparagraph (C) does not apply to any increase in the number of instrument flight rule takeoffs and landings necessary to implement exemptions granted by the Secretary under section 41719.".

(c) MWAA NOISE-RELATED GRANT ASSURANCES.—

(1) IN GENERAL.—In addition to any condition for approval of an airport development project that is the subject of a grant application submitted to the Secretary of Transportation under chapter 471 of title 49, United States Code, by the Metropolitan Washington Airports Authority, the Authority shall be required to submit a written assurance that, for each such grant made to the Authority for fiscal year 2000 or any subsequent fiscal year—

(A) the Authority will make available for that fiscal year funds for noise compatibility planning and programs that are eligible to receive funding under chapter 471 of title 49, United States Code, in an amount not less than 10 percent of the aggregate annual amount of financial assistance provided to the Authority by the Secretary as grants under chapter 471 of title 49, United States Code; and

(B) the Authority will not divert funds from a high priority safety project in order to make funds available for noise compatibility planning and programs.

(2) WAIVER.—The Secretary of Transportation may waive the requirements of paragraph (1) for any fiscal year for which the Secretary determines that the Metropolitan Washington Airports Authority is in full compliance with applicable airport noise compatibility planning and program requirements under part 150 of title 14, Code of Federal Regulations.

(3) SUNSET.—This subsection shall cease to be in effect 5 years after the date of enactment of this Act, if on that date the Secretary of Transportation certifies that the Metropolitan Washington Airports Authority has achieved full compliance with applicable noise compatibility planning and program requirements under part 150 of title 14, Code of Federal Regulations.

(d) NOISE COMPATIBILITY PLANNING AND PROGRAMS.—Section 47117(e) is amended by adding at the end the following:

"(3) The Secretary shall give priority in making grants under paragraph (1)(A) to applications for airport noise compatibility planning and programs at and around airports where operations increase under title V of the Air Transportation Improvement Act and the amendments made by that title.".

(e) CONFORMING AMENDMENTS.—

(1) Section 49111 is amended by striking subsection (e).

(2) The chapter analysis for subchapter I of chapter 417, as amended by section 506(b) of this Act, is amended by adding at the end thereof the following:

"41719. Special Rules for Ronald Reagan Washington National Airport.".

(f) REPORT.—Within 1 year after the date of enactment of this Act, and biannually thereafter, the Secretary shall certify to the United States Senate Committee on Commerce, Science, and Transportation, the United States House of Representatives Committee on Transportation and Infrastructure, the Governments of Maryland, Virginia, and West Virginia and the metropolitan planning organization for Washington, D.C., that noise standards, air traffic congestion, airport-related vehicular congestion, safety standards, and adequate air service to communities served by small hub airports and medium hub airports within the perimeter described in section 49109 of title 49, United States Code, have been maintained at appropriate levels.

SEC. 508. ADDITIONAL SLOT EXEMPTIONS AT CHICAGO O'HARE INTERNATIONAL AIRPORT.

(a) IN GENERAL.—Subchapter I of chapter 417, as amended by section 507, is amended by adding at the end thereof the following:

"§ 41720. Special Rules for Chicago O'Hare International Airport

"(a) IN GENERAL.—The Secretary of Transportation shall grant 30 slot exemptions over a 3-year period beginning on the date of enactment of the Air Transportation Improvement Act at Chicago O'Hare International Airport.

"(b) EQUIPMENT AND SERVICE REQUIREMENTS.—

"(1) STAGE 3 AIRCRAFT REQUIRED.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

"(2) SERVICE PROVIDED.—Of the exemptions granted under subsection (a)—

"(A) 18 shall be used only for service to underserved markets, of which no fewer than 6 shall be designated as commuter slot exemptions; and

"(B) 12 shall be air carrier slot exemptions.

"(c) PROCEDURAL REQUIREMENTS.—Before granting exemptions under subsection (a), the Secretary shall—

"(1) conduct an environmental review, taking noise into account, and determine that the granting of the exemptions will not cause a significant increase in noise;

"(2) determine whether capacity is available and can be used safely and, if the Secretary so determines then so certify;

"(3) give 30 days notice to the public through publication in the Federal Register of the Secretary's intent to grant the exemptions; and

"(4) consult with appropriate officers of the State and local government on any related noise and environmental issues.

"(d) UNDERSERVED MARKET DEFINED.—In this section, the term 'service to underserved markets' means passenger air transportation service to an airport that is a nonhub airport or a small hub airport (as defined in paragraphs (4) and (5), respectively, of section 41731(a)).".

(b) STUDIES.—

(1) 3-YEAR REPORT.—The Secretary shall study and submit a report 3 years after the first exemption granted under section 41720(a) of title 49, United States Code, is first used on the impact of the additional slots on the safety, environment, noise, access to underserved markets, and competition at Chicago O'Hare International Airport.

(2) DOT STUDY IN 2000.—The Secretary of Transportation shall study community noise levels in the areas surrounding the 4 high-density airports after the 100 percent Stage 3 fleet requirements are in place, and compare those levels with the levels in such areas before 1991.

(c) CONFORMING AMENDMENT.—The chapter analysis for subchapter I of chapter 417, as amended by section 507(b) of this Act, is amended by adding at the end thereof the following:

"41720. Special Rules for Chicago O'Hare International Airport.".

SEC. 509. CONSUMER NOTIFICATION OF E-TICKET EXPIRATION DATES.

Section 41712, as amended by section 505 of this Act, is amended by adding at the end thereof the following:

"(d) E-TICKET EXPIRATION NOTICE.—It shall be an unfair or deceptive practice under subsection (a) for any air carrier utilizing electronically transmitted tickets to fail to notify the purchaser of such a ticket of its expiration date, if any.".

SEC. 510. REGIONAL AIR SERVICE INCENTIVE OPTIONS.

(a) PURPOSE.—The purpose of this section is to provide the Congress with an analysis of means to improve service by jet aircraft to underserved markets by authorizing a review of different programs of Federal financial assistance, including loan guarantees like those that would have been provided for by section 2 of S. 1353, 105th Congress, as introduced, to commuter air carriers that would purchase regional jet aircraft for use in serving those markets.

(b) STUDY.—The Secretary of Transportation shall study the efficacy of a program of Federal loan guarantees for the purchase of regional jets by commuter air carriers. The Secretary shall include in the study a review of options for funding, including alternatives to Federal funding. In the study, the Secretary shall analyze—

(1) the need for such a program;

(2) its potential benefit to small communities;

(3) the trade implications of such a program;

(4) market implications of such a program for the sale of regional jets;

(5) the types of markets that would benefit the most from such a program;

(6) the competitive implications of such a program; and

(7) the cost of such a program.

(c) REPORT.—The Secretary shall submit a report of the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not later than 24 months after the date of enactment of this Act.

TITLE VI—NATIONAL PARKS OVERFLIGHTS

SEC. 601. FINDINGS.

The Congress finds that—

(1) the Federal Aviation Administration has sole authority to control airspace over the United States;

(2) the Federal Aviation Administration has the authority to preserve, protect, and enhance the environment by minimizing, mitigating, or preventing the adverse effects of aircraft overflights on the public and tribal lands;

(3) the National Park Service has the responsibility of conserving the scenery and natural and historic objects and wildlife in national parks and of providing for the enjoyment of the national parks in ways that leave the national parks unimpaired for future generations;

(4) the protection of tribal lands from aircraft overflights is consistent with protecting the public health and welfare and is essential to the maintenance of the natural and cultural resources of Indian tribes;

(5) the National Parks Overflights Working Group, composed of general aviation, air tour, environmental, and Native American representatives, recommended that the Congress enact legislation based on its consensus work product; and

(6) this title reflects the recommendations made by that Group.

SEC. 602. AIR TOUR MANAGEMENT PLANS FOR NATIONAL PARKS.

(a) In General.—Chapter 401, as amended by section 301 of this Act, is amended by adding at the end the following:

"§ 40126. Overflights of national parks

"(a) In General.—

"(1) General requirements.—A commercial air tour operator may not conduct commercial air tour operations over a national park or tribal lands except—

"(A) in accordance with this section;

"(B) in accordance with conditions and limitations prescribed for that operator by the Administrator; and

"(C) in accordance with any effective air tour management plan for that park or those tribal lands.

"(2) Application for operating authority.—

"(A) Application required.—Before commencing commercial air tour operations over a national park or tribal lands, a commercial air tour operator shall apply to the Administrator for authority to conduct the operations over that park or those tribal lands.

"(B) Competitive bidding for limited capacity parks.—Whenever a commercial air tour management plan limits the number of commercial air tour flights over a national park area during a specified time frame, the Administrator, in cooperation with the Director, shall authorize commercial air tour operators to provide such service. The authorization shall specify such terms and conditions as the Administrator and the Director find necessary for management of commercial air tour operations over the national park. The Administrator, in cooperation with the Director, shall develop an open competitive process for evaluating proposals from persons interested in providing commercial air tour services over the national park. In making a selection from among various proposals submitted, the Administrator, in cooperation with the Director, shall consider relevant factors, including—

"(i) the safety record of the company or pilots;

"(ii) any quiet aircraft technology proposed for use;

"(iii) the experience in commercial air tour operations over other national parks or scenic areas;

"(iv) the financial capability of the company;

"(v) any training programs for pilots; and

"(vi) responsiveness to any criteria developed by the National Park Service or the affected national park.

"(C) Number of operations authorized.—In determining the number of authorizations to issue to provide commercial air tour service over a national park, the Administrator, in cooperation with the Director, shall take into consideration the provisions of the air tour management plan, the number of existing commercial air tour operators and current level of service and equipment provided by any such companies, and the financial viability of each commercial air tour operation.

"(D) Cooperation with NPS.—Before granting an application under this paragraph, the Administrator shall, in cooperation with the Director, develop an air tour management plan in accordance with subsection (b) and implement such plan.

"(E) Time limit on response to ATMP applications.—The Administrator shall act on any such application and issue a decision on the application not later than 24 months after it is received or amended.

"(3) Exception.—Notwithstanding paragraph (1), commercial air tour operators may conduct commercial air tour operations over a national park under part 91 of the Federal Aviation Regulations (14 CFR 91.1 et seq.) if—

"(A) such activity is permitted under part 119 (14 CFR 119.1(e)(2));

"(B) the operator secures a letter of agreement from the Administrator and the national park superintendent for that national park describing the conditions under which the flight operations will be conducted; and

"(C) the total number of operations under this exception is limited to not more than 5 flights in any 30-day period over a particular park.

"(4) Special rule for safety requirements.—Notwithstanding subsection (c), an existing commercial air tour operator shall, not later than 90 days after the date of enactment of the Air Transportation Improvement Act, apply for operating authority under part 119, 121, or 135 of the Federal Aviation Regulations (14 CFR Pt. 119, 121, or 135). A new entrant commercial air tour operator shall apply for such authority before conducting commercial air tour operations over a national park or tribal lands.

"(b) Air Tour Management Plans.—

"(1) Establishment of ATMPs.—

"(A) In general.—The Administrator shall, in cooperation with the Director, establish an air tour management plan for any national park or tribal land for which such a plan is not already in effect whenever a person applies for authority to operate a commercial air tour over the park. The development of the air tour management plan is to be a cooperative undertaking between the Federal Aviation Administration and the National Park Service. The air tour management plan shall be developed by means of a public process, and the agencies shall develop information and analysis that explains the conclusions that the agencies make in the application of the respective criteria. Such explanations shall be included in the Record of Decision and may be subject to judicial review.

"(B) Objective.—The objective of any air tour management plan shall be to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tours upon the natural and cultural resources and visitor experiences and tribal lands.

"(2) Environmental determination.—In establishing an air tour management plan under this subsection, the Administrator and the Director shall each sign the environmental decision document required by section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) which may include a finding of no significant impact, an environmental assessment, or an environmental impact statement, and the Record of Decision for the air tour management plan.

"(3) Contents.—An air tour management plan for a national park—

"(A) may prohibit commercial air tour operations in whole or in part;

"(B) may establish conditions for the conduct of commercial air tour operations, including commercial air tour routes, maximum or minimum altitudes, time-of-day restrictions, restrictions for particular events, maximum number of flights per unit of time, intrusions on privacy on tribal lands, and mitigation of noise, visual, or other impacts;

"(C) shall apply to all commercial air tours within ½ mile outside the boundary of a national park;

"(D) shall include incentives (such as preferred commercial air tour routes and altitudes, relief from caps and curfews) for the adoption of quiet aircraft technology by commercial air tour operators conducting commercial air tour operations at the park;

"(E) shall provide for the initial allocation of opportunities to conduct commercial air tours if the plan includes a limitation on the number of commercial air tour flights for any time period; and

"(F) shall justify and document the need for measures taken pursuant to subparagraphs (A) through (E).

"(4) Procedure.—In establishing a commercial air tour management plan for a national park, the Administrator and the Director shall—

"(A) initiate at least one public meeting with interested parties to develop a commercial air tour management plan for the park;

"(B) publish the proposed plan in the Federal Register for notice and comment and make copies of the proposed plan available to the public;

"(C) comply with the regulations set forth in sections 1501.3 and 1501.5 through 1501.8 of title 40, Code of Federal Regulations (for purposes of complying with those regulations, the Federal Aviation Administration is the lead agency and the National Park Service is a cooperating agency); and

"(D) solicit the participation of any Indian tribe whose tribal lands are, or may be, overflown by aircraft involved in commercial air tour operations over a national park or tribal lands, as a cooperating agency under the regulations referred to in paragraph (4)(C).

"(5) Amendments.—Any amendment of an air tour management plan shall be published in the Federal Register for notice and comment. A request for amendment of an air tour management plan shall be made in such form and manner as the Administrator may prescribe.

"(c) Interim Operating Authority.—

"(1) In general.—Upon application for operating authority, the Administrator shall grant interim operating authority under this paragraph to a commercial air tour operator for a national park or tribal lands for which the operator is an existing commercial air tour operator.

"(2) REQUIREMENTS AND LIMITATIONS.—Interim operating authority granted under this subsection—

"(A) shall provide annual authorization only for the greater of—

"(i) the number of flights used by the operator to provide such tours within the 12-month period prior to the date of enactment of the Air Transportation Improvement Act; or

"(ii) the average number of flights per 12-month period used by the operator to provide such tours within the 36-month period prior to such date of enactment, and, for seasonal operations, the number of flights so used during the season or seasons covered by that 12-month period;

"(B) may not provide for an increase in the number of operations conducted during any time period by the commercial air tour operator to which it is granted unless the increase is agreed to by the Administrator and the Director;

"(C) shall be published in the Federal Register to provide notice and opportunity for comment;

"(D) may be revoked by the Administrator for cause;

"(E) shall terminate 180 days after the date on which an air tour management plan is established for that park or those tribal lands; and

"(F) shall—

"(i) promote protection of national park resources, visitor experiences, and tribal lands;

"(ii) promote safe operations of the commercial air tour;

"(iii) promote the adoption of quiet technology, as appropriate; and

"(iv) allow for modifications of the operation based on experience if the modification improves protection of national park resources and values and of tribal lands.

"(3) NEW ENTRANT AIR TOUR OPERATORS.—

"(A) IN GENERAL.—The Administrator, in cooperation with the Director, may grant interim operating authority under this paragraph to an air tour operator for a national park for which that operator is a new entrant air tour operator if the Administrator determines the authority is necessary to ensure competition in the provision of commercial air tours over that national park or those tribal lands.

"(B) SAFETY LIMITATION.—The Administrator may not grant interim operating authority under subparagraph (A) if the Administrator determines that it would create a safety problem at that park or on tribal lands, or the Director determines that it would create a noise problem at that park or on tribal lands.

"(C) ATMP LIMITATION.—The Administrator may grant interim operating authority under subparagraph (A) of this paragraph only if the air tour management plan for the park or tribal lands to which the application relates has not been developed within 24 months after the date of enactment of the Air Transportation Improvement Act.

"(d) DEFINITIONS.—In this section, the following definitions apply:

"(1) COMMERCIAL AIR TOUR.—The term 'commercial air tour' means any flight conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing. If the operator of a flight asserts that the flight is not a commercial air tour, factors that can be considered by the Administrator in making a determination of whether the flight is a commercial air tour, include, but are not limited to—

"(A) whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;

"(B) whether a narrative was provided that referred to areas or points of interest on the surface;

"(C) the area of operation;

"(D) the frequency of flights;

"(E) the route of flight;

"(F) the inclusion of sightseeing flights as part of any travel arrangement package; or

"(G) whether the flight or flights in question would or would not have been canceled based on poor visibility of the surface.

"(2) COMMERCIAL AIR TOUR OPERATOR.—The term 'commercial air tour operator' means any person who conducts a commercial air tour.

"(3) EXISTING COMMERCIAL AIR TOUR OPERATOR.—The term 'existing commercial air tour operator' means a commercial air tour operator that was actively engaged in the business of providing commercial air tours over a national park at any time during the 12-month period ending on the date of enactment of the Air Transportation Improvement Act.

"(4) NEW ENTRANT COMMERCIAL AIR TOUR OPERATOR.—The term 'new entrant commercial air tour operator' means a commercial air tour operator that—

"(A) applies for operating authority as a commercial air tour operator for a national park; and

"(B) has not engaged in the business of providing commercial air tours over that national park or those tribal lands in the 12-month period preceding the application.

"(5) COMMERCIAL AIR TOUR OPERATIONS.—The term 'commercial air tour operations' means commercial air tour flight operations conducted—

"(A) over a national park or within ½ mile outside the boundary of any national park;

"(B) below a minimum altitude, determined by the Administrator in cooperation with the Director, above ground level (except solely for purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the rules and regulations of the Federal Aviation Administration requiring the pilot-in-command to take action to ensure the safe operation of the aircraft); and

"(C) less than 1 mile laterally from any geographic feature within the park (unless more than ½ mile outside the boundary).

"(6) NATIONAL PARK.—The term 'national park' means any unit of the National Park System.

"(7) TRIBAL LANDS.—The term 'tribal lands' means 'Indian country', as defined by section 1151 of title 18, United States Code, that is within or abutting a national park.

"(8) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

"(9) DIRECTOR.—The term 'Director' means the Director of the National Park Service.".

(b) EXEMPTIONS AND SPECIAL RULES.—

(1) GRAND CANYON.—Section 40126 of title 49, United States Code, as added by subsection (a), does not apply to—

(A) the Grand Canyon National Park; or

(B) Indian country within or abutting the Grand Canyon National Park.

(2) LAKE MEAD.—A commercial air tour of the Grand Canyon that transits over or near the Lake Mead National Recreation Area en route to, or returning from, the Grand Canyon, without offering a deviation in flight path between its point of origin and the Grand Canyon, shall be considered, for purposes of paragraph (1), to be exclusively a commercial air tour of the Grand Canyon.

(3) ALASKA.—The provisions of this title and section 40126 of title 49, United States Code, as added by subsection (a), do not apply to any land or waters located in Alaska.

(4) COMPLIANCE WITH OTHER REGULATIONS.—For purposes of section 40126 of title 49, United States Code—

(A) regulations issued by the Secretary of Transportation and the Administrator of the Federal Aviation Administration under section 3 of Public Law 100–91 (16 U.S.C. 1a-1, note); and

(B) commercial air tour operations carried out in compliance with the requirements of those regulations,

shall be deemed to meet the requirements of such section 40126.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 401 is amended by adding at the end thereof the following:

"40126. Overflights of national parks.".

SEC. 603. ADVISORY GROUP.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration and the Director of the National Park Service shall jointly establish an advisory group to provide continuing advice and counsel with respect to the operation of commercial air tours over and near national parks.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The advisory group shall be composed of—

(A) a balanced group of —

(i) representatives of general aviation;

(ii) representatives of commercial air tour operators;

(iii) representatives of environmental concerns; and

(iv) representatives of Indian tribes;

(B) a representative of the Federal Aviation Administration; and

(C) a representative of the National Park Service.

(2) EX-OFFICIO MEMBERS.—The Administrator and the Director shall serve as ex-officio members.

(3) CHAIRPERSON.—The representative of the Federal Aviation Administration and the representative of the National Park Service shall serve alternating 1-year terms as chairman of the advisory group, with the representative of the Federal Aviation Administration serving initially until the end of the calendar year following the year in which the advisory group is first appointed.

(c) DUTIES.—The advisory group shall provide advice, information, and recommendations to the Administrator and the Director—

(1) on the implementation of this title;

(2) on the designation of appropriate and feasible quiet aircraft technology standards for quiet aircraft technologies under development for commercial purposes, which will receive preferential treatment in a given air tour management plan;

(3) on other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) on such other national park or tribal lands-related safety, environmental, and air touring issues as the Administrator and the Director may request.

(d) COMPENSATION; SUPPORT; FACA.—

(1) COMPENSATION AND TRAVEL.—Members of the advisory group who are not officers or employees of the United States, while attending conferences or meetings of the group

or otherwise engaged in its business, or while serving away from their homes or regular places of business, each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) ADMINISTRATIVE SUPPORT.—The Federal Aviation Administration and the National Park Service shall jointly furnish to the advisory group clerical and other assistance.

(3) NONAPPLICATION OF FACA.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the advisory group.

(e) REPORT.—The Administrator and the Director shall jointly report to the Congress within 24 months after the date of enactment of this Act on the success of this title in providing incentives for quiet aircraft technology.

SEC. 604. OVERFLIGHT FEE REPORT.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to Congress a report on the effects proposed overflight fees are likely to have on the commercial air tour industry. The report shall include, but shall not be limited to—

(1) the viability of a tax credit for the commercial air tour operators equal to the amount of the proposed fee charged by the National Park Service; and

(2) the financial effects proposed offsets are likely to have on Federal Aviation Administration budgets and appropriations.

SEC. 605. PROHIBITION OF COMMERCIAL AIR TOURS OVER THE ROCKY MOUNTAIN NATIONAL PARK.

Effective beginning on the date of enactment of this Act, no commercial air tour may be operated in the airspace over the Rocky Mountain National Park notwithstanding any other provision of this Act or section 40126 of title 49, United States Code, as added by this Act.

TITLE VII—TITLE 49 TECHNICAL CORRECTIONS

SEC. 701. RESTATEMENT OF 49 U.S.C. 106(g).

(a) IN GENERAL.—Section 106(g) is amended by striking "40113(a), (c), and (d), 40114(a), 40119, 44501(a) and (c), 44502(a)(1), (b) and (c), 44504, 44505, 44507, 44508, 44511–44513, 44701–44716, 44718(c), 44721(a), 44901, 44902, 44903(a)–(c) and (e), 44906, 44912, 44935–44937, and 44938(a) and (b), chapter 451, sections 45302–45304," and inserting "40113(a), (c)–(e), 40114(a), and 40119, and chapter 445 (except sections 44501(b), 44502(a)(2)–(4), 44503, 44506, 44509, 44510, 44514, and 44515), chapter 447 (except sections 44717, 44718(a) and (b), 44719, 44720, 44721(b), 44722, and 44723), chapter 449 (except sections 44903(d), 44904, 44905, 44907–44911, 44913, 44915, and 44931–44934), chapter 451, chapter 453, sections".

(b) TECHNICAL CORRECTION.—The amendment made by this section may not be construed as making a substantive change in the language replaced.

SEC. 702. RESTATEMENT OF 49 U.S.C. 44909.

Section 44909(a)(2) is amended by striking "shall" and inserting "should".

TITLE VIII—TRANSFER OF AERONAUTICAL CHARTING ACTIVITY

SEC. 801. TRANSFER OF FUNCTIONS, POWERS, AND DUTIES.

Effective October 1, 2000, there are transferred to the Federal Aviation Administration and vested in the Administrator of the Federal Aviation Administration the functions, powers, and duties of the Secretary of Commerce and other officers of the Department of Commerce that relate to the Office of Aeronautical Charting and Cartography and are set forth in section 44721 of title 49, United States Code.

SEC. 802. TRANSFER OF OFFICE, PERSONNEL AND FUNDS.

(a) Effective October 1, 2000 the Office of Aeronautical Charting and Cartography of the National Oceanic and Atmospheric Administration, Department of Commerce, is transferred to the Federal Aviation Administration.

(b) Effective October 1, 2000 the personnel employed in connection with, and the assets, liabilities, contracts, property, equipment, facilities, records, and unexpended balance of appropriations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the function and offices, or portions of offices, transferred by this Act, including all Senior Executive Service positions, subject to section 1531 of title 31, United States Code, are transferred to the Administrator of the Federal Aviation Administration for appropriate allocation. Personnel employed in connection with functions transferred by this Act transfer under any applicable law and regulation relating to transfer of functions. Unexpended funds transferred under this section shall be used only for the purposes for which the funds were originally authorized and appropriated, except that funds may be used for expenses associated with the transfer authorized by this Act.

SEC. 803. AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) IN GENERAL.—Section 44721 is amended to read as follows:

"§ 44721. Aeronautical charts and related products and services

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration is invested with and shall exercise, effective October 1, 2000 the functions, powers, and duties of the Secretary of Commerce and other officers of the Department of Commerce that relate to the Office of Aeronautical Charting and Cartography to provide aeronautical charts and related products and services for the safe and efficient navigation of air commerce, under the following authorities:

"(1) Sections 1 through 9 of the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947, (33 U.S.C. 883a-883h).

"(2) Section 6082 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (33 U.S.C. 883j).

"(3) Section 1307 of title 44, United States Code.

"(4) The provision of title II of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995 under the heading 'National Oceanic and Atmospheric Administration' relating to aeronautical charts (44 U.S.C. 1307 nt).

"(b) AUTHORITY TO CONDUCT SURVEYS.—To provide aeronautical charts and related products and services for the safe and efficient navigation of air commerce, and to provide basic data for engineering and scientific purposes and for other commercial and industrial needs, the Administrator is authorized to conduct the following activities:

"(1) Aerial and field surveys for aeronautical charts.

"(2) Other airborne and field surveys when in the best interest of the United States Government.

"(3) Acquiring, owning, operating, maintaining and staffing aircraft in support of surveys.

"(c) ADDITIONAL AUTHORITY.—In order that full public benefit may be derived from the dissemination of data resulting from activities under this section and of related data from other sources, the Administrator is authorized to conduct the following activities:

"(1) Developing, processing, disseminating and publishing of digital and analog data, information, compilations, and reports.

"(2) Compiling, printing, and disseminating aeronautical charts and related products and services of the United States, its Territories, and possessions.

"(3) Compiling, printing and disseminating aeronautical charts and related products and services covering international airspace as are required primarily by United States civil aviation.

"(4) Compiling, printing and disseminating non-aeronautical navigational, transportation or public-safety-related products and services when in the best interests of the United States Government.

"(d) CONTRACT, COOPERATIVE AGREEMENTS, GRANTS, AND OTHER AGREEMENTS.—

"(1) The Administrator is authorized to contract with qualified organizations for the performance of any part of the authorized functions of the Office of Aeronautical Charting and Cartography when the Administrator deems such procedure to be in the public interest and will not compromise public safety.

"(2) The Administrator is authorized to enter into cooperative agreements, grants, reimbursable agreements, memoranda of understanding and other agreements, with a State, subdivision of a State, Federal agency, public or private organization, or individual, to carry out the purposes of this section.

"(e) SPECIAL SERVICES AND PRODUCTS.—

"(1) The Administrator is authorized, at the request of a State, subdivision of a State, Federal agency, public or private organization, or individual, to conduct special services, including making special studies, or developing special publications or products on matters relating to navigation, transportation, or public safety.

"(2) The Administrator shall assess a fee for any special service provided under paragraph (1). A fee shall be not more than the actual or estimated full cost of the service. A fee may be reduced or waived for research organizations, educational organizations, or non-profit organizations, when the Administrator determines that reduction or waiver of the fee is in the best interest of the United States Government by furthering public safety.

"(f) SALE AND DISSEMINATION OF AERONAUTICAL PRODUCTS.—

"(1) Aeronautical products created or maintained under the authority of this section shall be sold at prices established annually by the Administrator consistent with the following:

"(A) Subject to subparagraph (B), the price of an aeronautical product sold to the public shall be not more than necessary to recover all costs attributable to (i) data base management and processing; (ii) compilation; (iii) printing or other types of reproduction; and (iv) dissemination of the product.

"(B) The Administrator shall adjust the price of an aeronautical product and service sold to the public as necessary to avoid any adverse impact on aviation safety attributable to the price specified under this paragraph.

"(C) A price established under this paragraph may not include costs attributable to the acquisition of aeronautical data.

"(2) The Administrator shall publish annually the prices at which aeronautical products are sold to the public.

"(3) The Administrator may distribute aeronautical products and provide aeronautical services—

"(A) without charge to each foreign government or international organization with which the Administrator or a Federal agency has an agreement for exchange of these products or services without cost;

"(B) at prices the Administrator establishes, to the departments and officers of the United States requiring them for official use; and

"(C) at reduced or no charge where, in the judgment of the Administrator, furnishing the aeronautical product or service to a recipient is a reasonable exchange for voluntary contribution of information by the recipient to the activities under this section.

"(4) The fees provided for in this subsection are for the purpose of reimbursing the United States Government for the costs of creating, printing and disseminating aeronautical products and services under this section. The collection of fees authorized by this section does not alter or expand any duty or liability of the Government under existing law for the performance of functions for which fees are collected, nor does the collection of fees constitute an express or implied undertaking by the Government to perform any activity in a certain manner.".

(b) Conforming Amendment.—The chapter analysis of chapter 447 is amended by adding at the end thereof the following:

"44721. Aeronautical charts and related products and services.".

SEC. 804. SAVINGS PROVISION.

(a) Continued Effectiveness of Directives.—All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, privileges, and financial assistance that—

(1) have been issued, made, granted, or allowed to become effective by the President of the United States, the Secretary of Commerce, the National Oceanic and Atmospheric Administration (NOAA) Administrator, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred by this Act; and

(2) are in effect on the date of transfer, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President of the United States, the Administrator, a court of competent jurisdiction, or by operation of law.

(b) Continued Effectiveness of Pending Actions.—

(1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the date of transfer before the Department of Commerce or the NOAA Administrator, or any officer thereof with respect to functions transferred by this Act; but such proceedings or applications, to the extent that they relate to functions transferred, shall be continued in accord with transition guidelines promulgated by the Administrator under the authority of this section. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Administrator, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary of Commerce, the NOAA Administrator, and the Administrator of the Federal Aviation Administration are authorized to issue transition guidelines providing for the orderly transfer of proceedings and otherwise to accomplish the orderly transfer of functions, personnel and property under this Act.

(c) Continued Effectiveness of Judicial Actions.—No cause of action by or against the Department of Commerce or the National Oceanic and Atmospheric Administration with respect to functions transferred by this Act, or by or against any officer thereof in the official's capacity, shall abate by reason of the enactment of this Act. Causes of action and actions with respect to a function or office transferred by this Act, or other proceedings may be asserted by or against the United States or an official of the Federal Aviation Administration, as may be appropriate, and, in an action pending when this Act takes effect, the court may at any time, on its own motion or that of any party, enter an order that will give effect to the provisions of this subsection.

(d) Substitution or Addition of Parties to Judicial Actions.—If, on the date of transfer, the Department of Commerce or the National Oceanic and Atmospheric Administration, or any officer thereof in the official's capacity, is a party to an action, and under this Act any function relating to the action of such Department, Administration, or officer is transferred to the Federal Aviation Administration, then such action shall be continued with the Administrator of the Federal Aviation Administration substituted or added as a party.

(e) Continued Jurisdiction Over Actions Transferred.—Orders and actions of the Administrator of the Federal Aviation Administration in the exercise of functions transferred by this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Department of Commerce or the National Oceanic and Atmospheric Administration, or any office or officer thereof, in the exercise of such functions immediately preceding their transfer.

(f) Liabilities and Obligations.—The Administrator shall assume all liabilities and obligations (tangible and incorporeal, present and executory) associated with the functions transferred under this Act on the date of transfer, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, accounts payable, financial assistance, and litigation relating to such obligations, regardless whether judgment has been entered, damages awarded, or appeal taken.

SEC. 805. NATIONAL OCEAN SURVEY.

(a) Section 1 of the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947, (33 U.S.C. 883a) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) Hydrographic, topographic and other types of field surveys;"; and

(2) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) Section 2 of that Act (33 U.S.C. 883b) is amended—

(1) by striking paragraphs (3) and (5), and redesignating paragraph (4) and (6) as paragraphs (3) and (4), respectively;

(2) by striking "charts of the United States, its Territories, and possessions;" in paragraph (3), as redesignated, and inserting "charts;"; and

(3) by striking "publications for the United States, its Territories, and possessions" in paragraph (4), as redesignated, and inserting "publications.".

(c) Section 5(1) of that Act (33 U.S.C. 883e(1)) is amended by striking "cooperative agreements" and inserting "cooperative agreements, or any other agreements,".

SEC. 806. SALE AND DISTRIBUTION OF NAUTICAL AND AERONAUTICAL PRODUCTS BY NOAA.

(a) Section 1307 of title 44, United States Code, is amended by striking "and aeronautical" and "or aeronautical" each place they appear.

(b) Section 1307(a)(2)(B) of title 44, United States Code, is amended by striking "aviation and".

(c) Section 1307(d) of title 44, United States Code, is amended by striking "aeronautical and".

AMENDMENTS SUBMITTED ON OCTOBER 5, 1999

AIR TRANSPORTATION IMPROVEMENT ACT

REED AMENDMENT NO. 1905

(Ordered to lie on the table)

Mr. REED submitted an amendment intended to be proposed by him to the bill (S. 82) to authorize appropriations for Federal Aviation Administration, and for other purposes; as follows:

At the end of title III of the Manager's substitute amendment, add the following:

SEC. 312. PROHIBITION ON OPERATING CERTAIN AIRCRAFT NOT COMPLYING WITH STAGE 4 NOISE LEVELS.

(a) In General.—Subchapter II of chapter 475 of title 49, United States Code, is amended—

(1) by redesignating section 47529 as section 47529A; and

(2) by inserting after section 47528 the following:

"§ 47529. Limitation on operating certain aircraft not complying with stage 4 noise levels

"(a) Regulations.—Not later than December 31, 2003, the Secretary of Transportation, in consultation with the International Civil Aviation Organization, shall issue regulations to establish minimum standards for civil turbojets to comply with stage 4 noise levels.

"(b) General Rule.—The Secretary shall issue regulations to ensure that, except as provided in section 47530—

"(1) 50 percent of the civil turbojets with a maximum weight of more than 75,000 pounds operating after December 31, 2008, to or from airports in the United States comply with the stage 4 noise levels established under subsection (a); and

"(2) 100 percent of such turbojets operating after December 31, 2013, to or from airports in the United States comply with the stage 4 noise levels.

"(c) Priority for High Density Airports.—The Secretary shall issue regulations to ensure that air carriers, in purchasing and using civil turbojets that comply with stage 4 noise levels, give priority to using such turbojets to provide air transportation to or from high density airports (as such term is defined under section 41714 on January 1, 1999).

"(d) Annual Report.—Beginning with calendar year 2004—

"(1) each air carrier shall submit to the Secretary an annual report on the progress the carrier is making toward complying with the requirements of this section and regulations issued to carry out this section; and

"(2) the Secretary shall submit to Congress an annual report on the progress being made toward that compliance.

"(e) Civil Turbojet Defined.—In the section, the term 'civil turbojet' means a civil aircraft that is a turbojet.".

(b) Chapter Analysis Amendment.—The analysis for such chapter is amended by striking the item relating to section 47529 and inserting the following:

"47529. Limitation on operating certain aircraft not complying with stage 4 noise levels.
"47529A. Nonaddition rule.".

(c) Nonaddition Rule.—Section 47529A of such title (as redesignated by subsection (a)(1)) is amended—

(1) in subsection (a)—

(A) by striking "subsonic";

(B) by striking "November 4, 1990" and inserting "December 31, 2004";

(C) by striking "stage 3" and inserting "stage 4"; and

(D) by striking "November 5, 1990" and inserting "January 1, 2005";

(2) in subsection (b), by striking "stage 3" and inserting "stage 4"; and

(3) in subsection (c)(1), by striking "November 5, 1990" and inserting "January 1, 2005"

(d) Conforming Amendments.—Such chapter is further amended—

(1) in the chapter analysis by striking "and 47529" in the item relating to section 47530 and inserting ", 47529, and 47529A";

(2) in section 47530—

(A) by striking "and 47529" and inserting ", 47529, and 47529A";

(B) by striking "subsonic"; and

(C) by striking "November 4, 1990" and inserting "December 31, 2004"; and

(3) in section 47531, by inserting "47529A," after "47529,".

(e) Effective Dates.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that the amendments made by subsections (c), (d)(2)(B), and (d)(2)(C) shall take effect on December 31, 2004.

• Mr. REED. Mr. President, I rise today to propose an amendment to the Federal Aviation Administration (FAA) Reauthorization bill because our nation has experienced an explosion in air travel this past decade. Air transportation is now as much a means of mass transit as automobiles and trains. Indeed, our economic good fortune and increased competition from air carriers has led to a buyer's market for passengers looking for affordable fares to countless destinations. While we are all amazed by the dramatic growth in the airline industry, we must also consider the ramifications that increased flights and aircraft noise have on the communities surrounding airport facilities.

In my home state of Rhode Island, T.F. Green State Airport, our state's only major airport, has experienced tremendous expansion over the past several years. With more than 4 million passengers flying into and out of Rhode Island each year, representing a 100 percent increase over three years ago, the number of take offs and landings has likewise climbed. This has led to intolerable noise pollution for the airport's neighbors. Of course, this problem is not isolated to Rhode Island. In fact, cities and towns across the country are dealing with similar growing pains. While T.F. Green and numerous airport authorities in our nation are taking steps to insulate homes and other structures from the effects of aircraft noise, the problem cannot be eliminated entirely. And, we must not forget that there is only so much we can do on the ground to reduce noise. We must also deal with noise at its point of origin by researching and developing quieter jet engine technology.

On December 31 of this year, the FAA will require that all civil aircraft comply with Stage 3 noise regulations. This requires that jet engines emit less noise through hushkit adaptations on older, noisier engines, or that air carriers invest in new and quieter Stage 3 compliant engines. While this is a big step in the right direction, the deadline for compliance with Stage 3 must not end progress toward quieter jet engines, but mark the beginning of Stage 4 research.

Currently, the FAA is working in cooperation and consultation with the International Civil Aviation Organization (ICAO) to define Stage 4 noise levels and reach an agreement with ICAO member states on a plan for implementation of Stage 4 regulations. While this research is in its preliminary stages, our nation's aviation infrastructure must be ready to adopt Stage 4 rules to ensure quieter communities in which residents can enjoy their open spaces and where learning at schools is not interrupted every several minutes to defer to the roar of passing planes.

Mr. President, my amendment would direct the Secretary of Transportation to report to Congress no later than December 31, 2002 the findings of a study on aircraft noise problems in the United States, the status of negotiations between the FAA and ICAO on Stage 4 noise levels, and the feasibility of proceeding with development and implementation of a timetable for air carrier compliance with Stage 4 noise requirements.

This amendment will ensure that both airport authorities and air carriers are aware of developments regarding Stage 4 activities, and that we move in an expeditious and deliberate manner to maintain the momentum we have gained toward making quieter both jet engines and the communities over which they fly.•

VOINOVICH AMENDMENT 1906

Mr. McCAIN (for Mr. VOINOVICH) proposed an amendment to the bill, S. 82, supra; as follows:

Strike section 437.

COLLINS (AND OTHERS) AMENDMENT NO. 1907

Ms. COLLINS (for herself, Mr. BURNS, Mr. BAUCUS, Mr. ROBB, Mr. HOLLINGS, Mr. ROCKEFELLER, Mr. HARKIN, Mr. ENZI, Mr. GRASSLEY, Mr. JOHNSON, and Mr. THOMAS) proposed an amendment to the bill, S. 82, supra; as follows:

At the appropriate place insert the following new section:

SEC. 01. AIRLINE DEREGULATION STUDY COMMISSION.

(a) Establishment of Commission.—

(1) Establishment.—There is established a commission to be known as the Airline Deregulation Study Commission (in this section referred to as the "Commission").

(2) Membership.—

(A) Composition.—Subject to subparagraph (B), the Commission shall be composed of 15 members of whom—

(i) 5 shall be appointed by the President;

(ii) 5 shall be appointed by the President pro tempore of the Senate, 3 upon the recommendation of the Majority Leader, and 2 upon the recommendation of the Minority Leader of the Senate; and

(iii) 5 shall be appointed by the Speaker of the House of Representatives, 3 upon the Speaker's own initiative, and 2 upon the recommendation of the Minority Leader of the House of Representatives.

(B) Members from rural areas.—

(i) Requirement.—Of the individuals appointed to the Commission under subparagraph (A)—

(I) one of the individuals appointed under clause (i) of that subparagraph shall be an individual who resides in a rural area; and

(II) two of the individuals appointed under each of clauses (ii) and (iii) of that subparagraph shall be individuals who reside in a rural area.

(ii) Geographic distribution.—The appointment of individuals under subparagraph (A) pursuant to the requirement in clause (i) of this subparagraph shall, to the maximum extent practicable, be made so as to ensure that a variety of geographic areas of the country are represented in the membership of the Commission.

(C) Date.—The appointments of the members of the Commission shall be made not later than 60 days after the date of the enactment of this Act.

(3) Period of appointment; vacancies.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) Initial meeting.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(5) Meetings.—The Commission shall meet at the call of the Chairperson.

(6) Quorum.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(7) Chairperson.—The Commission shall select a Chairman and Vice Chairperson from among its members.

(b) Duties of the Commission.—

(1) Study.—

(A) Definitions.—In this subsection, the terms 'air carrier' and 'air transportation' have the meanings given those terms in section 40102(a).

(B) CONTENTS.—The Commission shall conduct a thorough study of the impacts of deregulation of the airline industry of the United States on—

(i) the affordability, accessibility, availability, and quality of air transportation, particularly in small-sized and medium-sized communities;

(ii) economic development and job creation, particularly in areas that are underserved by air carriers;

(iii) the economic viability of small-sized airports; and

(iv) the long-term configuration of the United States passenger air transportation system.

(C) MEASUREMENT FACTORS.—In carrying out the study under this subsection, the Commission shall develop measurement factors to analyze the quality of passenger air transportation service provided by air carriers by identifying the factors that are generally associated with quality passenger air transportation service.

(D) BUSINESS AND LEISURE TRAVEL.—In conducting measurements for an analysis of the affordability of air travel, to the extent practicable, the Commission shall provide for appropriate control groups and comparisons with respect to business and leisure travel.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commission shall submit an interim report to the President and Congress, and not later than 18 months after the date of the enactment of this Act, the Commission shall submit a report to the President and Congress. Each such report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(c) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the duties of the Commission under this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission shall consult with the Comptroller General of the United States and may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the duties of the Commission under this section. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(d) COMMISSION PERSONNEL MATTERS.—

(1) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(2) STAFF.—

(A) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(B) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(e) TERMINATION OF COMMISSION.—The Commission shall terminate 90 days after the date on which the Commission submits its report under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated $950,000 for fiscal year 2000 to the Commission to carry out this section.

(2) AVAILABILITY.—Any sums appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

McCAIN AMENDMENT NO. 1908

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to amendment No. 1892 proposed by Mr. GORTON to the bill, S. 82, supra; as follows:

On page 4, strike lines 1 through 8, and insert the following:

"(k) AFFILIATED CARRIERS.—An air carrier that is affiliated with a commuter air carrier, regardless of the form of the corporate relationship between them, shall not be treated as a new entrant or a limited incumbent for purposes of this section, section 41717, 41718, or 41719.".

McCAIN AMENDMENT NO. 1909

Mr. McCAIN proposed an amendment to the bill, S. 82, supra; as follows:

At the appropriate place, insert the following:

TITLE —FEDERAL AVIATION RESEARCH, ENGINEERING, AND DEVELOPMENT

SEC. 01. AUTHORIZATION OF APPROPRIATIONS.

Section 48102(a) of title 49, United States Code, is amended—

(1) by striking "and" at the end of paragraph (4)(J);

(2) by striking the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(6) $240,000,000 for fiscal year 2000;

"(7) $250,000,000 for fiscal year 2001; and

"(8) $260,000,000 for fiscal year 2002;".

SEC. 02. INTEGRATED NATIONAL AVIATION RESEARCH PLAN.

(a) IN GENERAL.—Section 44501(c) of title 49, United States Code, is amended—

(1) in paragraph (2)(B)—

(A) by striking "and" at the end of clause (iii);

(B) by striking the period at the end of clause (iv) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new clause:

"(v) highlight the research and development technology transfer activities that promote technology sharing among government, industry, and academia through the Stevenson-Wydler Technology Innovation Act of 1980."; and

(2) in paragraph (3), by inserting "The report shall be prepared in accordance with requirements of section 1116 of title 31, United States Code." after "effect for the prior fiscal year.".

(b) REQUIREMENT.—Not later than March 1, 2000, the Administrator of the National Aeronautics and Space Administration and the Administrator of the Federal Aviation Administration shall jointly prepare and transmit to the Congress an integrated civil aviation research and development plan.

(c) CONTENTS.—The plan required by subsection (b) shall include—

(1) an identification of the respective research and development requirements, roles, and responsibilities of the National Aeronautics and Space Administration and the Federal Aviation Administration;

(2) formal mechanisms for the timely sharing of information between the National Aeronautics and Space Administration and the Federal Aviation Administration; and

(3) procedures for increased communication and coordination between the Federal Aviation Administration research advisory committee established under section 44508 of title 49, United States Code, and the NASA Aeronautics and Space Transportation Technology Advisory Committee.

SEC. 03. INTERNET AVAILABILITY OF INFORMATION.

The Administrator of the Federal Aviation Administration shall make available through the Internet home page of the Federal Aviation Administration the abstracts relating to all research grants and awards made with funds authorized by the amendments made by this Act. Nothing in this section shall be construed to require or permit the release of any information prohibited by law or regulation from being released to the public.

SEC. 04. RESEARCH ON NONSTRUCTURAL AIRCRAFT SYSTEMS.

Section 44504(b)(1) of title 49, United States Code, is amended by inserting ", including nonstructural aircraft systems," after "life of aircraft".

SEC. 05. POST FREE FLIGHT PHASE I ACTIVITIES.

No later than May 1, 2000, the Administrator of the Federal Aviation Administration shall tranmsit to Congress a definitive plan for the continued implementation of Free Flight Phase I operational capabilities for fiscal years 2003 through 2005. The plan shall include and address the recommendations concerning operational capabilities for fiscal years 2003 through 2005 due to be made by the RTCA Free Flight Steering Committee in December 1999 that was established at the direction of the Federal Aviation Administration. The plan shall also include budget estimates for the implementation of these operational capabilities.

SEC. 06. RESEARCH PROGRAM TO IMPROVE AIRFIELD PAVEMENTS.

The Administrator of the Federal Aviation Administration shall consider awards to nonprofit concrete pavement research foundations to improve the design, construction, rehabilitation, and repair of rigid concrete airfield pavements to aid in the development of safer, more cost-effective, and durable airfield pavements. The Administrator may use a grant or cooperative agreement for this purpose. Nothing in this section shall require the Administrator to prioritize an airfield payment research program above safety, security, Flight 21, environment, or energy research programs.

SEC. 07. SENSE OF SENATE REGARDING PROTECTING THE FREQUENCY SPECTRUM USED FOR AVIATION COMMUNICATION.

It is the sense of the Senate that with the World Radio Communication Conference scheduled to begin in May, 2000, and the need to ensure that the frequency spectrum available for aviation communication and navigation is adequate, the Federal Aviation Administration should—

(1) give high priority to developing a national policy to protect the frequency spectrum used for the Global Positioning System that is critical to aviation communications and the safe operation of aircraft; and

(2) expedite the appointment of the United States Ambassador to the World Radio Communication Conference.

SEC. 08. STUDY.

The Secretary shall conduct a study to evaluate the applicability of the techniques used to fund and administer research under the National Highway Cooperative Research Program and the National Transmit Research Program to the research needs of airports.

ROBB (AND OTHERS) AMENDMENT NO. 1910

Mr. ROBB (for himself, Mr. SARBANES, and Ms. MIKULSKI) submitted an amendment intended to be proposed by them to the bill, S. 82, supra; as follows:

Beginning on page 153, strike line 1 and all that follows through line 21 on page 159.

FEINSTEIN AMENDMENT 1911

Mr. MCCAIN (for Mrs. FEINSTEIN) proposed an amendment to the bill, S. 82, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . STUDY OF OUTDOOR AIR, VENTILATION, AND RECIRCULATION AIR REQUIREMENTS FOR PASSENGER CABINS IN COMMERCIAL AIRCRAFT.

(a) DEFINITIONS.—In this section, the terms "air carrier" and "aircraft" have the meanings given those terms in section 40102 of title 49, United States Code.

(b) IN GENERAL.—As soon as practicable after the date of enactment of this section, the Secretary of Transportation (referred to in this section as the "Secretary") shall conduct a study of sources of air supply contaminants of aircraft and air carriers to develop alternatives to replace engine and auxiliary power unit bleed air as a source of air supply. To carry out this paragraph, the Secretary may enter into an agreement with the Director of the National Academy of Sciences for the National Research Council to conduct the study.

(c) AVAILABILITY OF INFORMATION.—Upon completion of the study under this section in one year's time, the Administrator of the Federal Aviation Administration shall make available the results of the study to air carriers through the Aviation Consumer Protection Division of the Office of the General Counsel for the Department of Transportation.

TORRICELLI AMENDMENTS NOS. 1912–1913

(Ordered to lie on the table.)

Mr. TORRICELLI submitted two amendments intended to be proposed by him to the bill, S. 82, supra; as follows:

AMENDMENT NO. 1912

At the appropriate place, insert the following new title:

TITLE —AIRSPACE REDESIGN

SEC. 01. SHORT TITLE.

This title may be cited as the "Airspace Redesign Enhancement Act of 1999".

SEC. 02. EXPEDITED REDESIGN OF CERTAIN AIRSPACE.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, but not later than 2 years after that date, the Administrator of the Federal Aviation Administration shall, as part of the national airspace redesign activities of the Federal Aviation Administration, redesign the airspace over the New Jersey and New York metropolitan area.

(b) COMPUTER MODELS.—At the same time as the Administrator of the Federal Aviation Administration carries out the activities under subsection (a), the Administrator shall develop and implement computer models that provide for a variety of departure and arrival profiles for aircraft in the New Jersey and New York metropolitan area, including profiles for—

(1) higher altitudes;

(2) unrestricted climbs; and

(3) ocean routing.

SEC. 03. AUTHORIZATION OF APPROPRIATIONS.

To carry out section 02, there shall be available to the Administrator of the Federal Aviation Administration out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986, $6,000,000 for each of fiscal years 2000 and 2001.

AMENDMENT NO. 1913

At the end of title IV of the Manager's substitute amendment, add the following:

SEC. 454. SENSE OF CONGRESS REGARDING CONSIDERATION OF OCEAN ROUTING PROCEDURES IN THE REDESIGN THE EASTERN REGION AIRSPACE.

It is the sense of Congress that the Administrator of the Federal Aviation Administration should ensure that—

(1) ocean routing procedures are considered in the efforts to redesign the Eastern Region Airspace that ongoing as of the date of the enactment of this Act; and

(2) community groups are involved in the redesign process to the maximum extent practicable.

TORRICELLI (AND OTHERS) AMENDMENT NO. 1914

Mr. MCCAIN (for Mr. TORRICELLI (for himself, Mr. MOYNIHAN, Mrs. MURRAY, Mr. ROBB, and Mr. REED)) proposed an amendment to the bill, S. 82, supra; as follows:

At the appropriate place in title IV, insert the following:

SEC. 4 . STUDY.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall submit a study on airport noise to Congress, the Secretary of Transportation, and the Administrator of the Federal Aviation Administration.

(b) AREAS OF STUDY.—The study shall examine—

(1) the selection of noise measurement methodologies used by the Administrator of the Federal Aviation Administration;

(2) the threshold of noise at which health impacts are felt;

(3) the effectiveness of noise abatement programs at airports around the United States; and

(4) the impacts of aircraft noise on students and educators in schools.

(c) RECOMMENDATIONS.—The study shall include specific recommendations to the Secretary of Transportation and the Administrator of the Federal Aviation Administration concerning new measures that should be implemented to mitigate the impact of aircraft noise on communities surrounding airports.

TORRICELLI AMENDMENTS NOS. 1915–1919

(Ordered to lie on the table.)

Mr. TORRICELLI submitted five amendments intended to be proposed by him to the bill, S. 82, supra; as follows:

Amendment No. 1915

On page 8, between lines 12 and 13, insert the following:

(c) DEMONSTRATION PROJECT.—

(1) COVERED LOCAL GOVERNMENT.—In this subsection, the term "covered local government" means a local government that—

(A) is not an airport operator (as that term is defined in section 150.7 of title 14, Code of Federal Regulations); and

(B) has jurisdiction in the vicinity of Newark International Airport.

(2) DEMONSTRATION PROJECT.—The Secretary of Transportation (referred to in this subsection as the "Secretary") shall carry out a demonstration project to provide grants to covered local governments to carry out noise abatement activities (including soundproofing buildings) to mitigate noise attributable to an airport.

(3) GRANTS.—

(A) IN GENERAL.—Under the demonstration project under this subsection, the Secretary shall, subject to the availability of funds, award a grant to each local government that submits an application that is satisfactory to the Secretary to carry out a noise abatement activity referred to in paragraph (2).

(B) APPLICATION REQUIREMENTS.—Each application submitted to the Secretary under this paragraph shall contain documentation (in a manner and form that is satisfactory to the Secretary) that demonstrates—

(i) adverse effects caused by noise resulting from a large number of single-event flights (particularly single-event flights that occur between 10:00 P.M. and 7:00 A.M.); and

(ii) complaints by residents of the geographic area with respect to which the local government has jurisdiction concerning the noise described in clause (i).

(4) FUNDING.—Notwithstanding any other provision of law, to fund the demonstration project under this subsection, the Secretary shall use a portion of the amounts made available to the Secretary for noise compatibility planning and noise compatibility programs under section 48103 of title 49, United States Code, that would otherwise be used to

carry out section 47504(c) or 47505(a)(2) of that title.

AMENDMENT NO. 1916

At the appropriate place in title IV, insert the following:

SEC. 4 . REPORTING OF TOXIC CHEMICAL RELEASES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall promulgate regulations requiring each airport that regularly serves commercial or military jet aircraft to report, under section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (42 U.S.C. 13106), releases and other waste management activities associated with the manufacturing, processing, or other use of toxic chemicals listed under section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023), including toxic chemicals manufactured, processed, or otherwise used—

(1) during operation and maintenance of aircraft and other motor vehicles at the airport; and

(2) in the course of other airport and airline activities.

(b) TREATMENT AS A FACILITY.—For the purpose of subsection (a), an airport shall be considered to be a facility as defined in section 329 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11049).

(c) FUNDING.—The Administrator of the Environmental Protection Agency shall carry out this section using existing funds available to the Administrator.

AMENDMENT NO. 1917

At the appropriate place in title IV, insert the following:

SEC. 4 . RIGHT TO KNOW ABOUT AIRPORT POLLUTION.

(a) FINDINGS.—Congress finds that—

(1) the serious ground level ozone, noise, water pollution, and solid waste disposal problems attendant to airport operations require a thorough evaluation of all significant sources of pollution;

(2) the Clean Air Act (42 U.S.C. 7401 et seq.)—

(A) requires each State to reduce emissions contributing to ground level ozone problems and maintain those reductions; and

(B) requires the Administrator of the Environmental Protection Agency to study, in addition to other sources, the effects of sporadic, extreme noise (such as jet noise near airports) on public health and welfare;

(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) establishes a regulatory and enforcement program for discharges of wastes into waters;

(4) the Safe Drinking Water Act (42 U.S.C. 300f et seq.) establishes primary drinking water standards and a ground water control program;

(5) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) regulates management and disposal of solid and hazardous waste;

(6) a study of air pollution problems in California—

(A) has determined that airports are significant sources of air pollution; and

(B) has led to the creation of an airport bubble concept; and

(7) the airport bubble concept is an approach that—

(A) treats an airport and the area within a specific radius around the airport as a single source of pollution that emits a range of pollutants, including air, noise, water, and solid waste; and

(B) seeks, by implementation of specific programs or regulations, to reduce the pollution from each source within the bubble and thereby reduce the overall pollution in that area.

(b) PURPOSE.—The purpose of this section is to require the Administrator to conduct—

(1) a feasibility study for applying airport bubbles to airports as a method of assessing and reducing, where appropriate, air, noise, water, and solid waste pollution in and around the airports and improving overall environmental quality; and

(2) a study of air pollutant emission standards established by the Environmental Protection Agency for airplane engines to determine whether it is feasible and desirable to strengthen the standards.

(c) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) AIRPORT BUBBLE.—The term "airport bubble" means an area—

(A) in and around an airport (or other facility using aircraft) within which sources of pollution and levels of pollution from those sources are to be identified and reduced; and

(B) containing a variety of types of air, noise, water, and solid waste sources of pollution in which the aggregate of each type of pollutant from the respective sources is regulated as if the various sources were a single source.

(d) STUDY OF USING AIRPORT BUBBLES.—

(1) IN GENERAL.—The Administrator shall conduct a study to determine the feasibility of regulating air, noise, water, and solid waste pollution from all sources in and around airports using airport bubbles.

(2) WORKING GROUP.—In conducting the study, the Administrator shall establish and consult with a working group comprised of—

(A) the Administrator of the Federal Aviation Administration (or a designee);

(B) the Secretary of Defense (or a designee);

(C) the Secretary of Transportation (or a designee);

(D) a representative of air quality districts;

(E) a representative of environmental research groups;

(F) a representative of State Audubon Societies;

(G) a representative of the Sierra Club;

(H) a representative of the Nature Conservancy;

(I) a representative of port authorities of States;

(J) an airport manager;

(K) a representative of commanding officers of military air bases and stations;

(L) a representative of the bus lines that serve airports who is familiar with the emissions testing and repair records of those buses, the schedules of those lines, and any problems with delays in service caused by traffic congestion;

(M) a representative of the taxis and limousines that serve airports who is familiar with the emissions testing and repair records of the taxis and limousines and the volume of business generated by the taxis and limousines;

(N) a representative of local law enforcement agencies or other entities responsible for traffic conditions in and around airports;

(O) a representative of the Air Transport Association;

(P) a representative of the Airports Council International-North America;

(Q) a representative of environmental specialists from airport authorities; and

(R) a representative from an aviation union representing ground crews.

(3) REQUIRED ELEMENTS.—In conducting the study, the Administrator shall—

(A) collect, analyze, and consider information on the variety of stationary and mobile sources of air, noise, water, and solid waste pollution within airport bubbles around airports in the United States, including—

(i) aircraft, vehicles, and equipment that service aircraft (including main and auxiliary engines); and

(ii) buses, taxis, and limousines that serve airports;

(B) study a statistically significant number of airports serving commercial aviation in a manner designed to obtain a representative sampling of such airports;

(C) consider all relevant information that is available, including State implementation plans under the Clean Air Act (42 U.S.C. 7401 et seq.) and airport master plans;

(D) consider the air quality implications of airport and ground and in-flight aircraft operations, such as routing and delays;

(E) assess the role of airports in interstate and international travel and commerce and the environmental and economic impact of regulating airports as significant sources of air, noise, water, and solid waste pollution;

(F) propose boundaries of the areas to be included within airport bubbles;

(G) propose a definition of air pollutant emissions for airport bubbles that includes hydrocarbons, volatile organic compounds, and other ozone precursors targeted for reduction under Federal air pollution law;

(H) develop an inventory of each source of air, noise, water, and solid waste pollution to be regulated within airport bubbles and the level of reduction for each source;

(I) list and evaluate programs that might be implemented to reduce air, noise, water, and solid waste pollution within airport bubbles and the environmental and economic impact of each of the programs, including any changes to Federal or State law (including regulations) that would be required for implementation of each of the programs;

(J) evaluate the feasibility of regulating air, noise, water, and solid waste pollutants in and around airports using airport bubbles and make recommendations regarding which programs should be included in an effective implementation of airport bubble methodology; and

(K) address the issues of air and noise pollution source identification and regulation that are unique to military air bases and stations.

(4) REPORT.—Not later than 3 years after the date of enactment of this Act, the Administrator shall submit to Congress a report describing the results and recommendations of the study required by this subsection.

(e) STUDY OF EMISSION STANDARDS FOR AIRPLANE ENGINES.—

(1) IN GENERAL.—The Administrator shall conduct a study of air pollutant emission standards established by the Environmental Protection Agency for airplane engines to determine whether it is feasible and desirable to strengthen the standards.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator shall submit to Congress a report describing the results and recommendations of the study required by this subsection.

(f) PROGRESS REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter until the reports under subsections (d) and (e) are submitted, the Administrator shall submit to Congress a report that details the progress being made by the Administrator in carrying out subsections (d) and (e).

(g) FUNDING.—The Administrator shall carry out this section using existing funds available to the Administrator.

AMENDMENT NO. 1918

At the appropriate place in title IV, insert the following:

SEC. 4 . RIGHT TO KNOW ABOUT AIRPORT POLLUTION.

(a) FINDINGS.—Congress finds that—

(1) the serious ground level ozone, noise, water pollution, and solid waste disposal problems attendant to airport operations require a thorough evaluation of all significant sources of pollution;

(2) the Clean Air Act (42 U.S.C. 7401 et seq.)—

(A) requires each State to reduce emissions contributing to ground level ozone problems and maintain those reductions; and

(B) requires the Administrator of the Environmental Protection Agency to study, in addition to other sources, the effects of sporadic, extreme noise (such as jet noise near airports) on public health and welfare;

(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) establishes a regulatory and enforcement program for discharges of wastes into waters;

(4) the Safe Drinking Water Act (42 U.S.C. 300f et seq.) establishes primary drinking water standards and a ground water control program;

(5) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) regulates management and disposal of solid and hazardous waste;

(6) a study of air pollution problems in California—

(A) has determined that airports are significant sources of air pollution; and

(B) has led to the creation of an airport bubble concept; and

(7) the airport bubble concept is an approach that—

(A) treats an airport and the area within a specific radius around the airport as a single source of pollution that emits a range of pollutants, including air, noise, water, and solid waste; and

(B) seeks, by implementation of specific programs or regulations, to reduce the pollution from each source within the bubble and thereby reduce the overall pollution in that area.

(b) PURPOSE.—The purpose of this section is to require the Administrator to conduct—

(1) a feasibility study for applying airport bubbles to airports as a method of assessing and reducing, where appropriate, air, noise, water, and solid waste pollution in and around the airports and improving overall environmental quality; and

(2) a study of air pollutant emission standards established by the Environmental Protection Agency for airplane engines to determine whether it is feasible and desirable to strengthen the standards.

(c) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) AIRPORT BUBBLE.—The term "airport bubble" means an area—

(A) in and around an airport (or other facility using aircraft) within which sources of pollution and levels of pollution from those sources are to be identified and reduced; and

(B) containing a variety of types of air, noise, water, and solid waste sources of pollution in which the aggregate of each type of pollutant from the respective sources is regulated as if the various sources were a single source.

(d) STUDY OF USING AIRPORT BUBBLES.—

(1) IN GENERAL.—The Administrator shall conduct a study to determine the feasibility of regulating air, noise, water, and solid waste pollution from all sources in and around airports using airport bubbles.

(2) WORKING GROUP.—In conducting the study, the Administrator shall establish and consult with a working group comprised of—

(A) the Administrator of the Federal Aviation Administration (or a designee);

(B) the Secretary of Defense (or a designee);

(C) the Secretary of Transportation (or a designee);

(D) a representative of air quality districts;

(E) a representative of environmental research groups;

(F) a representative of State Audubon Societies;

(G) a representative of the Sierra Club;

(H) a representative of the Nature Conservancy;

(I) a representative of port authorities of States;

(J) an airport manager;

(K) a representative of commanding officers of military air bases and stations;

(L) a representative of the bus lines that serve airports who is familiar with the emissions testing and repair records of those buses, the schedules of those lines, and any problems with delays in service caused by traffic congestion;

(M) a representative of the taxis and limousines that serve airports who is familiar with the emissions testing and repair records of the taxis and limousines and the volume of business generated by the taxis and limousines;

(N) a representative of local law enforcement agencies or other entities responsible for traffic conditions in and around airports;

(O) a representative of the Air Transport Association;

(P) a representative of the Airports Council International-North America;

(Q) a representative of environmental specialists from airport authorities; and

(R) a representative from an aviation union representing ground crews.

(3) REQUIRED ELEMENTS.—In conducting the study, the Administrator shall—

(A) collect, analyze, and consider information on the variety of stationary and mobile sources of air, noise, water, and solid waste pollution within airport bubbles around airports in the United States, including—

(i) aircraft, vehicles, and equipment that service aircraft (including main and auxiliary engines); and

(ii) buses, taxis, and limousines that serve airports;

(B) study a statistically significant number of airports serving commercial aviation in a manner designed to obtain a representative sampling of such airports;

(C) consider all relevant information that is available, including State implementation plans under the Clean Air Act (42 U.S.C. 7401 et seq.) and airport master plans;

(D) consider the air quality implications of airport and ground and in-flight aircraft operations, such as routing and delays;

(E) assess the role of airports in interstate and international travel and commerce and the environmental and economic impact of regulating airports as significant sources of air, noise, water, and solid waste pollution;

(F) propose boundaries of the areas to be included within airport bubbles;

(G) propose a definition of air pollutant emissions for airport bubbles that includes hydrocarbons, volatile organic compounds, and other ozone precursors targeted for reduction under Federal air pollution law;

(H) develop an inventory of each source of air, noise, water, and solid waste pollution to be regulated within airport bubbles and the level of reduction for each source;

(I) list and evaluate programs that might be implemented to reduce air, noise, water, and solid waste pollution within airport bubbles and the environmental and economic impact of each of the programs, including any changes to Federal or State law (including regulations) that would be required for implementation of each of the programs;

(J) evaluate the feasibility of regulating air, noise, water, and solid waste pollutants in and around airports using airport bubbles and make recommendations regarding which programs should be included in an effective implementation of airport bubble methodology; and

(K) address the issues of air and noise pollution source identification and regulation that are unique to military air bases and stations.

(4) REPORT.—Not later than 3 years after the date of enactment of this Act, the Administrator shall submit to Congress a report describing the results and recommendations of the study required by this subsection.

(e) STUDY OF EMISSION STANDARDS FOR AIRPLANE ENGINES.—

(1) IN GENERAL.—The Administrator shall conduct a study of air pollutant emission standards established by the Environmental Protection Agency for airplane engines to determine whether it is feasible and desirable to strengthen the standards.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator shall submit to Congress a report describing the results and recommendations of the study required by this subsection.

(f) PROGRESS REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter until the reports under subsections (d) and (e) are submitted, the Administrator shall submit to Congress a report that details the progress being made by the Administrator in carrying out subsections (d) and (e).

(g) STUDY ON AIRPORT NOISE.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Administrator shall submit a study on airport noise to Congress, the Secretary of Transportation, and the Administrator of the Federal Aviation Administration.

(2) AREAS OF STUDY.—The study shall examine—

(A) the selection of noise measurement methodologies used by the Administrator of the Federal Aviation Administration;

(B) the threshold of noise at which health impacts are felt; and

(C) the effectiveness of noise abatement programs at airports around the United States.

(3) RECOMMENDATIONS.—The study shall include specific recommendations to the Secretary of Transportation and the Administrator of the Federal Aviation Administration concerning new measures that should be implemented to mitigate the impact of aircraft noise on communities surrounding airports.

(h) FUNDING.—The Administrator shall carry out this section using existing funds available to the Administrator.

AMENDMENT NO. 1919

At the appropriate place in title IV, insert the following:

SEC. 4 . QUIET COMMUNITIES.

(a) FINDINGS.—Congress finds that—

(1)(A) for too many citizens of the United States, noise from aircraft, vehicular traffic, and a variety of other sources is a constant source of torment; and

(B) nearly 20,000,000 citizens of the United States are exposed to noise levels that can lead to psychological and physiological damage, and another 40,000,000 people are exposed to noise levels that cause sleep or work disruption;

(2)(A) chronic exposure to noise has been linked to increased risk of cardiovascular problems, strokes, and nervous disorders; and

(B) excessive noise causes sleep deprivation and task interruptions, which pose untold costs on society in diminished worker productivity;

(3)(A) to carry out the Clean Air Act (42 U.S.C. 7401 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), and section 8 of the Quiet Communities Act of 1978 (92 Stat. 3084), the Administrator of the Environmental Protection Agency established an Office of Noise Abatement and Control;

(B) the responsibilities of the Office of Noise Abatement and Control included promulgating noise emission standards, requiring product labeling, facilitating the development of low emission products, coordinating Federal noise reduction programs, assisting State and local abatement efforts, and promoting noise education and research; and

(C) funding for the Office of Noise Abatement and Control was terminated in 1982, and no funds have been provided since;

(4) because of the lack of funding for the Office of Noise Abatement and Control, and because the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.) prohibits State and local governments from regulating noise sources in many situations, noise abatement programs across the United States lie dormant;

(5) as the population grows and air and vehicle traffic continues to increase, noise pollution is likely to become an even greater problem in the future; and

(6) the health and welfare of the citizens of the United States demands that the Environmental Protection Agency once again assume a role in combating noise pollution.

(b) TRANSFER OF NOISE ABATEMENT DUTIES.—Section 402 of the Noise Pollution and Abatement Act of 1970 (42 U.S.C. 7641) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by redesignating subparagraphs (A) through (G) as clauses (i) through (vii) and indenting appropriately; and

(B) by striking "(a) The Administrator" and all that follows through "(2) determine—" and inserting the following:

"(a) DUTIES RELATING TO NOISE ABATEMENT AND CONTROL.—The Administrator shall assign to the Office of Air and Radiation the duties—

"(1) to coordinate Federal noise abatement activities;

"(2) to update or develop noise standards;

"(3) to provide technical assistance to local communities;

"(4) to promote research and education on the impacts of noise pollution; and

"(5) to carry out a complete investigation and study of noise and its effect on the public health and welfare in order to—

"(A) identify and classify causes and sources of noise; and

"(B) determine—"; and

(2) by adding at the end the following:

"(d) EMPHASIZED APPROACHES.—In carrying out paragraphs (1) through (4) of subsection (a), the Administrator shall emphasize noise abatement approaches that rely on State and local activity, market incentives, and coordination with other public and private agencies.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 403 of the Noise Pollution and Abatement Act of 1970 (42 U.S.C. 7642) is amended—

(1) by inserting "(a) IN GENERAL.—" before "There is"; and

(2) by adding at the end the following:

"(b) ADDITIONAL AMOUNTS.—In addition to amounts made available under subsection (a), there are authorized to be appropriated to carry out this title—

"(1) $5,000,000 for each of fiscal years 2000, 2001, and 2002; and

"(2) $8,000,000 for each of fiscal years 2003 and 2004.".

(d) CONFORMING AMENDMENTS.—Section 7(b) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4364(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) the Office of Air and Radiation, for air quality and noise abatement activities;";

(2) in paragraph (5), by inserting "and" at the end;

(3) in paragraph (6), by striking "; and" and inserting a period; and

(4) by striking paragraph (7).

BOXER AMENDMENT NO. 1920

Mr. MCCAIN (for Mrs. BOXER) proposed an amendment to the bill, S. 82, supra; as follows:

Insert on page 126, line 16, a new subsection (f) and renumber accordingly,

"(f) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—Participants carrying out inherently low-emission vehicle activities under this pilot program may use no less than 10 percent of the amounts made available for expenditure at the airport under the pilot program to receive technical assistance in carrying out such activities.

(2) ELIGIBLE CONSORTIUM.—To the maximum extent practicable, participants in the pilot program shall use in an eligible consortium (as defined in section 5506 of this title) in the region of the airport to receive technical assistance described in paragraph (1).

(3) PLANNING ASSISTANCE.—The Administrator may provide $500,000 from funds made available under section 48103 to a multi-state western regional technology consortium for the purposes of developing for dissemination prior to the commencement of the pilot program a comprehensive best practices planning guide that addresses appropriate technologies, environmental and economic impacts, an the role of planning and mitigation strategies.

LAUTENBERG AMENDMENT NO. 1921

Mr. LAUTENBERG proposed an amendment to the bill S. 82, supra; as follows:

At the end of the bill, add the following:

TITLE —TRANSPORTATION OF ANIMALS

SEC. 01. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Safe Air Travel for Animals Act".

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 01. Short title; table of contents.
Sec. 02. Findings.

SUBTITLE A—ANIMAL WELFARE

Sec. 11. Definition of transport.
Sec. 12. Information on incidence of animals in air transport.
Sec. 13. Reports by carriers on incidents involving animals during air transport.
Sec. 14. Annual reports.

SUBTITLE B—TRANSPORTATION

Sec. 21. Policies and procedures for transporting animals.
Sec. 22. Civil penalties and compensation for loss, injury, or death of animals during air transport.
Sec. 23. Cargo hold improvements to protect animal health and safety.

SEC. 02. FINDINGS.

Congress finds that—

(1) animals are live, sentient creatures, with the ability to feel pain and suffer;

(2) it is inappropriate for animals transported by air to be treated as baggage;

(3) according to the Air Transport Association, over 500,000 animals are transported by air each year and as many as 5,000 of those animals are lost, injured, or killed;

(4) most injuries to animals traveling by airplane are due to mishandling by baggage personnel, severe temperature fluctuations, insufficient oxygen in cargo holds, or damage to kennels;

(5) there are no Federal requirements that airlines report incidents of animal loss, injury, or death;

(6) members of the public have no information to use in choosing an airline based on its record of safety with regard to transporting animals;

(7) the last congressional action on animals transported by air was conducted over 22 years ago; and

(8) the conditions of cargo holds of airplanes must be improved to protect the health, and ensure the safety, of transported animals.

Subtitle A—Animal Welfare

SEC. 11. DEFINITION OF TRANSPORT.

Section 2 of the Animal Welfare Act (7 U.S.C. 2132) is amended by adding at the end the following:

"(p) TRANSPORT.—The term 'transport', when used with respect to the air transport of an animal by a carrier, means the transport of the animal during the period the animal is in the custody of the carrier, from check-in of the animal prior to departure until the animal is returned to the owner or guardian of the animal at the final destination of the animal.".

SEC. 12. INFORMATION ON INCIDENCE OF ANIMALS IN AIR TRANSPORT.

Section 6 of the Animal Welfare Act (7 U.S.C. 2136) is amended—

(1) by striking "SEC. 6. Every" and inserting the following:

"SEC. 6. REGISTRATION.

"(a) IN GENERAL.—Each"; and

(2) by adding at the end the following:

"(b) INFORMATION ON INCIDENCE OF ANIMALS IN AIR TRANSPORT.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall require each airline carrier to—

"(1) submit to the Secretary real-time information (as the information becomes available, but at least 24 hours in advance of a departing flight) on each flight that will be carrying a live animal, including—

"(A) the flight number;

"(B) the arrival and departure points of the flight;

"(C) the date and times of the flight; and

"(D) a description of the number and types of animals aboard the flight; and

"(2) ensure that the flight crew of an aircraft is notified of the number and types of animals, if any, on each flight of the crew.".

SEC. 13. REPORTS BY CARRIERS ON INCIDENTS INVOLVING ANIMALS DURING AIR TRANSPORT.

Section 19 of the Animal Welfare Act (7 U.S.C. 2149) is amended by adding at the end the following:

"(e) REPORTS BY CARRIERS ON INCIDENTS INVOLVING ANIMALS DURING AIR TRANSPORT.—

"(1) IN GENERAL.—An airline carrier that causes, or is otherwise involved in or associated with, an incident involving the loss, injury, death or mishandling of an animal during air transport shall submit a report to the Secretary of Agriculture and the Secretary of Transportation that provides a complete description of the incident.

"(2) ADMINISTRATION.—Not later than 90 days after the date of enactment of this subsection, the Secretary of Agriculture, in consultation with the Secretary of Transportation, shall issue regulations that specify—

"(A) the type of information that shall be included in a report required under paragraph (1), including—

"(i) the date and time of an incident;

"(ii) the location and environmental conditions of the incident site;

"(iii) the probable cause of the incident; and

"(iv) the remedial action of the carrier; and

"(B) a mechanism for notifying the public concerning the incident.

"(3) CONSUMER INFORMATION.—The Secretary of Transportation shall include information received under paragraph (1) in the Air Travel Consumer Reports and other consumer publications of the Department of Transportation in a separate category of information.

"(4) CONSUMER COMPLAINTS.—Not later than 15 days after receiving a consumer complaint concerning the loss, injury, death or mishandling of an animal during air transport, the Secretary of Transportation shall provide a description of the complaint to the Secretary of Agriculture.".

SEC. 14. ANNUAL REPORTS.

Section 25 of the Animal Welfare Act (7 U.S.C. 2155) is amended in the first sentence—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(6) a summary of—

"(A) incidents involving the loss, injury, or death of animals transported by airline carriers; and

"(B) consumer complaints regarding the incidents.".

Subtitle B—Transportation

SEC. 21. POLICIES AND PROCEDURES FOR TRANSPORTING ANIMALS.

(a) IN GENERAL.—Subchapter I of chapter 417 of title 49, United States Code, is amended by adding at the end the following:

"§ 41716. Policies and procedures for transporting animals

"An air carrier shall establish and include in each contract of carriage under part 253 of title 14, Code of Federal Regulations (or any successor regulation) policies and procedures of the carrier for transporting animals safely, including—

"(1) training requirements for airline personnel in the proper treatment of animals being transported;

"(2) information on the risks associated with air travel for animals;

"(3) a description of the conditions under which animals are transported;

"(4) the safety record of the carrier with respect to transporting animals; and

"(5) plans for handling animals prior to and after flight, and when there are flight delays or other circumstances that may affect the health or safety of an animal during transport.".

(b) TABLE OF CONTENTS.—The analysis for chapter 417 of title 49, United States Code, is amended by adding at the end of the items relating to subchapter I the following:

"41716. Policies and procedures for transporting animals.".

SEC. 22. CIVIL PENALTIES AND COMPENSATION FOR LOSS, INJURY, OR DEATH OF ANIMALS DURING AIR TRANSPORT.

(a) IN GENERAL.—Chapter 463 of title 49, United States Code, is amended by adding at the end the following:

"§ 46317. Civil penalties and compensation for loss, injury, or death of animals during air transport

"(a) DEFINITIONS.—In this section:

"(1) CARRIER.—The term 'carrier' means a person (including any employee, contractor, or agent of the person) operating an aircraft for the transportation of passengers or property for compensation.

"(2) TRANSPORT.—The term 'transport', when used with respect to the air transport of an animal by a carrier, means the transport of the animal during the period the animal is in the custody of a carrier, from check-in of the animal prior to departure until the animal is returned to the owner or guardian of the animal at the final destination of the animal.

"(b) CIVIL PENALTIES.—

"(1) IN GENERAL.—The Secretary may assess a civil penalty of not more than $5,000 for each violation on, or issue a cease and desist order against, any carrier that causes, or is otherwise involved in or associated with, the loss, injury, or death of an animal during air transport.

"(2) CEASE AND DESIST ORDERS.—A carrier who knowingly fails to obey a cease and desist order issued by the Secretary under this subsection shall be subject to a civil penalty of $1,500 for each offense.

"(3) SEPARATE OFFENSES.—For purposes of determining the amount of a penalty imposed under this subsection, each violation and each day during which a violation continues shall be a separate offense.

"(4) FACTORS.—In determining whether to assess a civil penalty under this subsection and the amount of the civil penalty, the Secretary shall consider—

"(A) the size and financial resources of the business of the carrier;

"(B) the gravity of the violation;

"(C) the good faith of the carrier; and

"(D) any history of previous violations by the carrier.

"(5) COLLECTION OF PENALTIES.—

"(A) IN GENERAL.—On the failure of a carrier to pay a civil penalty assessed by a final order under this section, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States or other United States court for any district in which the carrier is found or resides or transacts business, to collect the penalty.

"(B) PENALTIES.—The court shall have jurisdiction to hear and decide an action brought under subparagraph (A).

"(c) COMPENSATION.—If an animal is lost, injured, or dies in transport by a carrier, unless the carrier proves that the carrier did not cause, and was not otherwise involved in or associated with, the loss, injury, or death of the animal, the owner of the animal shall be entitled to compensation from the carrier in an amount that—

"(1) is not less than 2 times any limitation established by the carrier for loss or damage to baggage under part 254 of title 14, Code of Federal Regulations (or any successor regulation); and

"(2) includes all veterinary and other related costs that are documented and initiated not later than 1 year after the incident that caused the loss, injury, or death of the animal.".

(b) TABLE OF CONTENTS.—The analysis for chapter 463 of title 49, United States Code, is amended by adding at the end the following:

"46317. Civil penalties and compensation for loss, injury, or death of animals during air transport.".

SEC. 23. CARGO HOLD IMPROVEMENTS TO PROTECT ANIMAL HEALTH AND SAFETY.

(a) IN GENERAL.—To protect the health and safety of animals in transport, the Secretary of Transportation shall—

(1) in conjunction with requiring certain transport category airplanes used in passenger service to replace class D cargo or baggage compartments with class C cargo or baggage compartments under parts 25, 121, and 135 of title 14, Code of Federal Regulations, to install, to the maximum extent practicable, systems that permit positive airflow and heating and cooling for animals that are present in cargo or baggage compartments; and

(2) effective beginning January 1, 2001, prohibit the transport of an animal by any carrier in a cargo or baggage compartment that fails to include a system described in paragraph (1).

(b) REPORT.—Not later than March 31, 2002, the Secretary shall submit a report to Congress that describes actions that have been taken to carry out subsection (a).

LAUTENBERG AMENDMENT NO. 1922

Mr. LAUTENBERG proposed an amendment to the bill S. 82, supra; as follows:

At the end of title IV, insert the following new section:

SEC. 454. REQUIREMENTS APPLICABLE TO AIR CARRIERS THAT BUMP PASSENGERS INVOLUNTARILY.

(a) IN GENERAL.—If an air carrier denies a passenger, without the consent of the passenger, transportation on a scheduled flight for which the passenger has made a reservation and paid—

(1) the air carrier shall provide the passenger with a one-page summary of the passenger's rights to transportation, services, compensation, and other benefits resulting from the denial of transportation;

(2) the passenger may select comparable transportation (as defined by the air carrier),

with accommodations if needed, or a cash refund; and

(3) the air carrier shall provide the passenger with cash or a voucher in the amount that is equal to the value of the ticket.

(b) DELAYS IN ARRIVALS.—If, by reason of a denial of transportation covered by subsection (a), a passenger's arrival at the passenger's destination is delayed—

(1) by more than 2 hours after the regularly schedule arrival time for the original flight, but less than 4 hours after that time, then the air carrier shall provide the passenger with cash or an airline voucher in the amount equal to twice the value of the ticket; or

(2) for more than 4 hours after the regularly schedule arrival time for the original flight, then the air carrier shall provide the passenger with cash or an airline voucher in the amount equal to 3 times the value of the ticket.

(c) DELAYS IN DEPARTURES.—If the earliest transportation offered by an air carrier to a passenger denied transportation as described in subsection (a) is on a day after the day of the scheduled flight on which the passenger has reserved and paid for seating, then the air carrier shall pay the passenger the amount equal to the greater of—

(1) $1,000; or

(2) 3 times the value of the ticket.

(d) RELATIONSHIP OF BENEFITS.—

(1) GENERAL AND DELAY BENEFITS.—Benefits due a passenger under subsection (b) or (c) are in addition to benefits due a passenger under subsection (a) with respect to the same denial of transportation.

(2) DELAY BENEFITS.—A passenger may not receive benefits under both subsection (b) and subsection (c) with respect to the same denial of transportation. A passenger eligible for benefits under both subsections shall receive the greater benefit payable under those subsections.

(e) CIVIL PENALTY.—An air carrier that fails to provide a summary of passenger's rights to one or more passengers on a flight when required to do so under subsection (a)(1) shall pay the Federal Aviation Administration a civil penalty in the amount of $1,000.

(f) DEFINITIONS.—In this section:

(1) AIRLINE TICKET.—The term "airline ticket" includes any electronic verification of a reservation that is issued by the airline in place of a ticket.

(2) VALUE.—The term "value", with respect to an airline ticket, means the value of the remaining unused portion of the airline ticket on the scheduled flight.

(3) WITHOUT CONSENT OF THE PASSENGER.—The term "without consent of the passenger", with respect to a denial of transportation to a passenger means a passenger, is denied transportation under subsection (a) for reasons other than weather or safety.

HATCH (AND OTHERS) AMENDMENT NO. 1923

(Ordered to lie on the table.)

Mr. HATCH (for himself, Mr. LEAHY, and Mr. THURMOND) submitted an amendment intended to be proposed by them to the bill S. 82, supra; as follows:

At the appropriate place, insert the following:

SEC. . PREVENTION OF FRAUDS INVOLVING AIRCRAFT OR SPACE VEHICLE PARTS IN INTERSTATE OR FOREIGN COMMERCE.

(a) SHORT TITLE.—This section may be cited as the "Aircraft Safety Act of 1999".

(b) DEFINITIONS.—Section 31 of title 18, United States Code, is amended by striking all after the section heading and inserting the following:

"(a) IN GENERAL.—

"(1) AIRCRAFT.—The term 'aircraft' means a civil, military, or public contrivance invented, used, or designed to navigate, fly, or travel in the air.

"(2) AVIATION QUALITY.—The term 'aviation quality', with respect to a part of an aircraft or space vehicle, means the quality of having been manufactured, constructed, produced, repaired, overhauled, rebuilt, reconditioned, or restored in conformity with applicable standards specified by law (including a regulation) or contract.

"(3) DESTRUCTIVE SUBSTANCE.—The term 'destructive substance' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or matter of a combustible, contaminative, corrosive, or explosive nature.

"(4) IN FLIGHT.—The term 'in flight' means—

"(A) any time from the moment at which all the external doors of an aircraft are closed following embarkation until the moment when any such door is opened for disembarkation; and

"(B) in the case of a forced landing, until competent authorities take over the responsibility for the aircraft and the persons and property on board.

"(5) IN SERVICE.—The term 'in service' means—

"(A) any time from the beginning of preflight preparation of an aircraft by ground personnel or by the crew for a specific flight until 24 hours after any landing; and

"(B) in any event includes the entire period during which the aircraft is in flight.

"(6) MOTOR VEHICLE.—The term 'motor vehicle' means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo.

"(7) PART.—The term 'part' means a frame, assembly, component, appliance, engine, propeller, material, part, spare part, piece, section, or related integral or auxiliary equipment.

"(8) SPACE VEHICLE.—The term 'space vehicle' means a man-made device, either manned or unmanned, designed for operation beyond the Earth's atmosphere.

"(9) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(10) USED FOR COMMERCIAL PURPOSES.—The term 'used for commercial purposes' means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit.

"(b) TERMS DEFINED IN OTHER LAW.—In this chapter, the terms 'aircraft engine', 'air navigation facility', 'appliance', 'civil aircraft', 'foreign air commerce', 'interstate air commerce', 'landing area', 'overseas air commerce', 'propeller', 'spare part', and 'special aircraft jurisdiction of the United States' have the meanings given those terms in sections 40102(a) and 46501 of title 49.".

(c) FRAUD.—

(1) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§ 38. Fraud involving aircraft or space vehicle parts in interstate or foreign commerce

"(a) OFFENSES.—A person that, in or affecting interstate or foreign commerce, knowingly—

"(1)(A) falsifies or conceals a material fact;

"(B) makes any materially fraudulent representation; or

"(C) makes or uses any materially false writing, entry, certification, document, record, data plate, label, or electronic communication;

concerning any aircraft or space vehicle part;

"(2) exports from or imports or introduces into the United States, sells, trades, installs on or in any aircraft or space vehicle any aircraft or space vehicle part using or by means of a fraudulent representation, document, record, certification, depiction, data plate, label, or electronic communication; or

"(3) attempts or conspires to commit an offense described in paragraph (1) or (2);

shall be punished as provided in subsection (b).

"(b) PENALTIES.—The punishment for an offense under subsection (a) is as follows:

"(1) AVIATION QUALITY.—If the offense relates to the aviation quality of a part and the part is installed in an aircraft or space vehicle, a fine of not more than $500,000, imprisonment for not more than 25 years, or both.

"(2) FAILURE TO OPERATE AS REPRESENTED.—If, by reason of the failure of the part to operate as represented, the part to which the offense is related is the probable cause of a malfunction or failure that results in serious bodily injury (as defined in section 1365) to or the death of any person, a fine of not more than $1,000,000, imprisonment for any term of years or life, or both.

"(3) ORGANIZATIONS.—If the offense is committed by an organization, a fine of not more than $25,000,000.

"(4) OTHER CIRCUMSTANCES.—In the case of an offense not described in paragraph (1), (2), or (3), a fine under this title, imprisonment for not more than 15 years, or both.

"(c) CIVIL REMEDIES.—

"(1) IN GENERAL.—The district courts of the United States shall have jurisdiction to prevent and restrain violations of this section by issuing appropriate orders, including—

"(A) ordering a person CONVICTED OF AN OFFENSE UNDER THIS SECTION to divest any interest, direct or indirect, in any enterprise, or to destroy, or to mutilate and sell as scrap, aircraft material or part inventories or stocks;

"(B) imposing reasonable restrictions on the future activities or investments of any such person, including prohibiting engagement in the same type of endeavor as used to commit the offense; and

"(C) ordering dissolution or reorganization of any enterprise, making due provisions for the rights and interests of innocent persons.

"(2) RESTRAINING ORDERS AND PROHIBITION.—Pending final determination of a proceeding brought under this section, the court may enter such restraining orders or prohibitions, or take such other actions (including the acceptance of satisfactory performance bonds) as the court deems proper.

"(3) ESTOPPEL.—A final judgment rendered in favor of the United States in any criminal proceeding brought under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the United States.

"(d) CRIMINAL FORFEITURE.—

"(1) In general.—The court, in imposing sentence on any person convicted of an offense under this section, shall order, in addition to any other sentence and irrespective of any provision of State law, that the person forfeit to the United States—

"(A) any property constituting, or derived from, any proceeds that the person obtained, directly or indirectly, as a result of the offense; and

"(B) any property used, or intended to be used in any manner, to commit or facilitate the commission of the offense.

"(2) Application of other law.—The forfeiture of property under this section, including any seizure and disposition of the property, and any proceedings relating to the property, shall be governed by section 413 of the Comprehensive Drug Abuse and Prevention Act of 1970 (21 U.S.C. 853) (not including subsection (d) of that section).

"(e) Construction With Other Law.—This section does not preempt or displace any other remedy, civil or criminal, provided by Federal or State law for the fraudulent importation, sale, trade, installation, or introduction into commerce of an aircraft or space vehicle part.

"(f) Territorial Scope.—This section applies to conduct occurring inside or outside the United States.

"(g) Authorized Investigative Demand Procedures.—

"(1) Authorization.—

"(A) Subpoenas.—In any investigation relating to any act or activity involving an offense under this section, the Attorney General may issue in writing and cause to be served a subpoena—

"(i) requiring the production of any record (including any book, paper, document, electronic medium, or other object or tangible thing) that may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care or custody of or control over; and

"(ii) requiring a custodian of a record to give testimony concerning the production and authentication of the record.

"(B) Contents.—A subpoena under subparagraph (A) shall—

"(i) describe the object required to be produced; and

"(ii) prescribe a return date within a reasonable period of time within which the object can be assembled and produced.

"(C) Limitation.—The production of a record shall not be required under this section at any place more than 500 miles from the place at which the subpoena for the production of the record is served.

"(D) Witness fees.—A witness summoned under this section shall be paid the same fees and mileage as are paid witnesses in courts of the United States.

"(b) Service.—

"(1) In general.—A subpoena issued under subsection (a) may be served by any person who is at least 18 years of age and is designated in the subpoena to serve the subpoena.

"(2) Natural persons.—Service of a subpoena issued under subsection (a) on a natural person may be made by personal delivery of the subpoena to the person.

"(3) Corporations and other organizations.—Service of a subpoena issued under subsection (a) on a domestic or foreign corporation or on a partnership or other unincorporated association that is subject to suit under a common name may be made by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process for the corporation, partnership, or association.

"(4) Proof of service.—The affidavit of the person serving the subpoena entered or a true copy of such an affidavit shall be proof of service.

"(c) Enforcement.—

"(1) In general.—In the case of a failure to comply with a subpoena issued under subsection (a), the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which the subpoenaed person carries on business or may be found, to compel compliance with the subpoena.

"(2) Orders.—The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce a record or to give testimony concerning the production and authentication of a record.

"(3) Contempt.—Any failure to obey the order of the court may be punished by the court as a contempt of court.

"(4) Process.—All process in a case under this subsection may be served in any judicial district in which the subpoenaed person may be found.

"(d) Immunity From Civil Liability.—Notwithstanding any Federal, State, or local law, any person (including any officer, agent, or employee of a person) that receives a subpoena under this section, who complies in good faith with the subpoena and produces a record or material sought by a subpoena under this section, shall not be liable in any court of any State or the United States to any customer or other person for the production or for nondisclosure of the production to the customer.".

(2) Conforming amendments.—

(A) Chapter analysis.—The analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"38. Fraud involving aircraft or space vehicle parts in interstate or foreign commerce.".

(B) Wire and electronic communications.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 38 (relating to aircraft parts fraud)," after "section 32 (relating to destruction of aircraft or aircraft facilities),".

COVERDELL AMENDMENT NO. 1924

(Ordered to lie on the table.)

Mr. COVERDELL submitted an amendment intended to be proposed by him to the bill S. 82, supra; as follows:

At the appropriate place in the Manager's substitute amendment, insert the following:

SEC. . AVAILABILITY OF FUNDS FOR GEORGIA'S REGIONAL AIRPORT ENHANCEMENT PROGRAM.

Of the amounts made available to the Secretary of Transportation for the fiscal year 2000 out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), $11,000,000 may be available for Georgia's regional airport enhancement program for the acquisition of land.

ROTH AMENDMENT NO. 1925

Mr. McCAIN (for Mr. Roth) proposed an amendment to the bill S. 82, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . EXPRESSING THE SENSE OF THE SENATE CONCERNING AIR TRAFFIC OVER NORTHERN DELAWARE.

(a) Definition.—The term "Brandywine Intercept" means the point over Brandywine Hundred in northern Delaware that pilots use for guidance and maintenance of safe operation from other aircraft and over which most aircraft pass on their East Operations approach to Philadelphia International Airport.

(b) Findings.—Congress makes the following findings:

(1) The Brandywine Hundred area of New Castle County, Delaware serves as a major approach causeway to Philadelphia International Airport's East Operations runways.

(2) The standard of altitude over the Brandywine Intercept is 3,000 feet, with airport scatter charts indicating that within a given hour of consistent weather and visibility aircraft fly over the Brandywine Hundred at anywhere from 2,500 to 4,000 feet.

(3) Lower airplane altitudes result in increased ground noise.

(c) Sense of the Senate.—It is the sense of the Senate that the Secretary of Transportation should—

(1) include northern Delaware in any study of aircraft noise conducted under part 150 of title 14 of the Code of Federal Regulations required under the National Environmental Policy Act of 1969 for the redesign of the airspace surrounding Philadelphia International Airport;

(2) study the feasibility, consistent with safety, of placing the approach causeway for Philadelphia International Airport's East Operations over the Delaware River (instead of Brandywine Hundred); and

(3) study the feasibility of increasing the standard altitude over the Brandywine Intercept from 3,000 feet to 4,000 feet.

ROTH AMENDMENT NO. 1926

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be propoed by him to the bill S. 82, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . AIR TRAFFIC OVER NORTHERN DELAWARE.

Any airspace redesign efforts relating to Philadelphia International Airport, the Administrator of the Federal Aviation Administration shall—

(1) include northern Delaware in any study of aircraft noise conducted under part 150 of title 14 of the Code of Federal Regulations that are required under the National Environmental Policy Act of 1969;

(2) study the feasibility, consistent with safety, of placing the approach causeway for Philadelphia International Airport's East Operations over the Delaware River; and

(3) study the feasibility of increasing the standard altitude over the Brandywine Intercept in northern Delaware from 3,000 feet to 3,500 or 4,000 feet.

HATCH (AND OTHERS) AMENDMENT NO. 1927

Mr. McCAIN (for Mr. Hatch (for himself, Mr. Leahy, and Mr. Thurmond)) proposed an amendment to the bill S. 82, supra; as follows:

At the appropriate place, insert the following:

SEC. . PREVENTION OF FRAUDS INVOLVING AIRCRAFT OR SPACE VEHICLE PARTS IN INTERSTATE OR FOREIGN COMMERCE.

(a) Short Title.—This section may be cited as the "Aircraft Safety Act of 1999".

(b) Definitions.—Section 31 of title 18, United States Code, is amended by striking all after the section heading and inserting the following:

"(a) In General.—

"(1) Aircraft.—The term 'aircraft' means a civil, military, or public contrivance invented, used, or designed to navigate, fly, or travel in the air.

"(2) Aviation quality.—The term 'aviation quality', with respect to a part of an aircraft or space vehicle, means the quality of having been manufactured, constructed, produced, repaired, overhauled, rebuilt, reconditioned, or restored in conformity with applicable standards specified by law (including a regulation) or contract.

"(3) Destructive substance.—The term 'destructive substance' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or matter of a combustible, contaminative, corrosive, or explosive nature.

"(4) In flight.—The term 'in flight' means—

"(A) any time from the moment at which all the external doors of an aircraft are closed following embarkation until the moment when any such door is opened for disembarkation; and

"(B) in the case of a forced landing, until competent authorities take over the responsibility for the aircraft and the persons and property on board.

"(5) In service.—The term 'in service' means—

"(A) any time from the beginning of preflight preparation of an aircraft by ground personnel or by the crew for a specific flight until 24 hours after any landing; and

"(B) in any event includes the entire period during which the aircraft is in flight.

"(6) Motor vehicle.—The term 'motor vehicle' means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo.

"(7) Part.—The term 'part' means a frame, assembly, component, appliance, engine, propeller, material, part, spare part, piece, section, or related integral or auxiliary equipment.

"(8) Space vehicle.—The term 'space vehicle' means a man-made device, either manned or unmanned, designed for operation beyond the Earth's atmosphere.

"(9) State.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(10) Used for commercial purposes.—The term 'used for commercial purposes' means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit.

"(b) Terms Defined in Other Law.—In this chapter, the terms 'aircraft engine', 'air navigation facility', 'appliance', 'civil aircraft', 'foreign air commerce', 'interstate air commerce', 'landing area', 'overseas air commerce', 'propeller', 'spare part', and 'special aircraft jurisdiction of the United States' have the meanings given those terms in sections 40102(a) and 46501 of title 49.".

(c) Fraud.—

(1) In general.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§ 38. Fraud involving aircraft or space vehicle parts in interstate or foreign commerce

"(a) Offenses.—A person that, in or affecting interstate or foreign commerce, knowingly—

"(1)(A) falsifies or conceals a material fact;

"(B) makes any materially fraudulent representation; or

"(C) makes or uses any materially false writing, entry, certification, document, record, data plate, label, or electronic communication;

concerning any aircraft or space vehicle part;

"(2) exports from or imports or introduces into the United States, sells, trades, installs on or in any aircraft or space vehicle any aircraft or space vehicle part using or by means of a fraudulent representation, document, record, certification, depiction, data plate, label, or electronic communication; or

"(3) attempts or conspires to commit an offense described in paragraph (1) or (2);

shall be punished as provided in subsection (b).

"(b) Penalties.—The punishment for an offense under subsection (a) is as follows:

"(1) Aviation quality.—If the offense relates to the aviation quality of a part and the part is installed in an aircraft or space vehicle, a fine of not more than $500,000, imprisonment for not more than 25 years, or both.

"(2) Failure to operate as represented.—If, by reason of the failure of the part to operate as represented, the part to which the offense is related is the probable cause of a malfunction or failure that results in serious bodily injury (as defined in section 1365) to or the death of any person, a fine of not more than $1,000,000, imprisonment for any term of years or life, or both.

"(3) Organizations.—If the offense is committed by an organization, a fine of not more than $25,000,000.

"(4) Other circumstances.—In the case of an offense not described in paragraph (1), (2), or (3), a fine under this title, imprisonment for not more than 15 years, or both.

"(c) Civil Remedies.—

"(1) In general.—The district courts of the United States shall have jurisdiction to prevent and restrain violations of this section by issuing appropriate orders, including—

"(A) ordering a person convicted of an offense under this section to divest any interest, direct or indirect, in any enterprise, or to destroy, or to mutilate and sell as scrap, aircraft material or part inventories or stocks;

"(B) imposing reasonable restrictions on the future activities or investments of any such person, including prohibiting engagement in the same type of endeavor as used to commit the offense; and

"(C) ordering dissolution or reorganization of any enterprise, making due provisions for the rights and interests of innocent persons.

"(2) Restraining orders and prohibition.—Pending final determination of a proceeding brought under this section, the court may enter such restraining orders or prohibitions, or take such other actions (including the acceptance of satisfactory performance bonds) as the court deems proper.

"(3) Estoppel.—A final judgment rendered in favor of the United States in any criminal proceeding brought under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the United States.

"(d) Criminal Forfeiture.—

"(1) In general.—The court, in imposing sentence on any person convicted of an offense under this section, shall order, in addition to any other sentence and irrespective of any provision of State law, that the person forfeit to the United States—

"(A) any property constituting, or derived from, any proceeds that the person obtained, directly or indirectly, as a result of the offense; and

"(B) any property used, or intended to be used in any manner, to commit or facilitate the commission of the offense.

"(2) Application of other law.—The forfeiture of property under this section, including any seizure and disposition of the property, and any proceedings relating to the property, shall be governed by section 413 of the Comprehensive Drug Abuse and Prevention Act of 1970 (21 U.S.C. 853) (not including subsection (d) of that section).

"(e) Construction With Other Law.—This section does not preempt or displace any other remedy, civil or criminal, provided by Federal or State law for the fraudulent importation, sale, trade, installation, or introduction into commerce of an aircraft or space vehicle part.

"(f) Territorial Scope.—This section applies to conduct occurring inside or outside the United States.

"(g) Authorized Investigative Demand Procedures.—

"(1) Authorization.—

"(A) Subpoenas.—In any investigation relating to any act or activity involving an offense under this section, the Attorney General may issue in writing and cause to be served a subpoena—

"(i) requiring the production of any record (including any book, paper, document, electronic medium, or other object or tangible thing) that may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care or custody of or control over; and

"(ii) requiring a custodian of a record to give testimony concerning the production and authentication of the record.

"(B) Contents.—A subpoena under subparagraph (A) shall—

"(i) describe the object required to be produced; and

"(ii) prescribe a return date within a reasonable period of time within which the object can be assembled and produced.

"(C) Limitation.—The production of a record shall not be required under this section at any place more than 500 miles from the place at which the subpoena for the production of the record is served.

"(D) Witness fees.—A witness summoned under this section shall be paid the same fees and mileage as are paid witnesses in courts of the United States.

"(b) Service.—

"(1) In general.—A subpoena issued under subsection (a) may be served by any person who is at least 18 years of age and is designated in the subpoena to serve the subpoena.

"(2) Natural persons.—Service of a subpoena issued under subsection (a) on a natural person may be made by personal delivery of the subpoena to the person.

"(3) Corporations and other organizations.—Service of a subpoena issued under subsection (a) on a domestic or foreign corporation or on a partnership or other unincorporated association that is subject to suit under a common name may be made by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process for the corporation, partnership, or association.

"(4) PROOF OF SERVICE.—The affidavit of the person serving the subpoena entered or a true copy of such an affidavit shall be proof of service.

"(c) ENFORCEMENT.—

"(1) IN GENERAL.—In the case of a failure to comply with a subpoena issued under subsection (a), the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which the subpoenaed person carries on business or may be found, to compel compliance with the subpoena.

"(2) ORDERS.—The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce a record or to give testimony concerning the production and authentication of a record.

"(3) CONTEMPT.—Any failure to obey the order of the court may be punished by the court as a contempt of court.

"(4) PROCESS.—All process in a case under this subsection may be served in any judicial district in which the subpoenaed person may be found.

"(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person (including any officer, agent, or employee of a person) that receives a subpoena under this section, who complies in good faith with the subpoena and produces a record or material sought by a subpoena under this section, shall not be liable in any court of any State or the United States to any customer or other person for the production or for nondisclosure of the production to the customer.".

(2) CONFORMING AMENDMENTS.—

(A) CHAPTER ANALYSIS.—The analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"38. Fraud involving aircraft or space vehicle parts in interstate or foreign commerce.".

(B) WIRE AND ELECTRONIC COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 38 (relating to aircraft parts fraud)," after "section 32 (relating to destruction of aircraft or aircraft facilities),".

GRASSLEY AMENDMENT NO. 1928

(Ordered to lie on the table.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 82, supra; as follows:

At the appropriate place in title IV, insert the following:

SEC. 4 . NOTIFICATION REQUIREMENTS.

Section 44903 is amended by adding at the end the following:

"(f) NOTIFICATION TO PASSENGERS OF FOREIGN AIR TRANSPORTATION CONCERNING CERTAIN CRIMINAL LAWS RELATING TO THE TRANSPORTATION OF MINORS.—

"(1) IN GENERAL.—Not later than 60 days after the date of enactment of the Air Transportation Improvement Act, the Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, shall promulgate regulations that require each air carrier that provides foreign air transportation to passengers at an airport in the United States and each owner or operator of such an airport to provide reasonable notice to those passengers of the applicability and requirements of—

"(A) section 2323 of title 18, United States Code; and

"(B) any other similar provision of Federal law relating to the transportation of individuals under the age of 18 years.

"(2) CONSULTATION.—In promulgating regulations under paragraph (1), the Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, shall consult with representatives of—

"(A) air carriers; and

"(B) other interested parties.".

FITZGERALD AMENDMENTS NOS. 1929–1947

(Ordered to lie on the table.)

Mr. FITZGERALD submitted 19 amendments intended to be proposed by him to the bill, S. 82, supra: as follows:

AMENDMENT NO. 1929

At the end of the matter proposed to be inserted, insert the following new section:

SEC. . STUDY OF CHICAGO O'HARE INTERNATIONAL AIRPORT.

(a) IN GENERAL.—Notwithstanding any other provision of law, if the Administrator of the Federal Aviation Administration determines, on the basis of the Administrator's own or a credible third party's analysis, that the enactment of any provision of this Act will result in—

(1) additional delays in flight departures from or flight arrivals to Chicago O'Hare International Airport, or

(2) increased risk to public safety,

the Administrator shall report the determination to Congress within 60 days of the date of making the determination.

(b) CRITERIA FOR ASSESSING PUBLIC SAFETY.—In assessing the impact on public safety the Administrator shall take into account air traffic control incidents, runway incursions, near misses, and such other measures as the Administrator may deem appropriate.

AMENDMENT NO. 1930

Strike page 3, line 21, through page 4, line 8.

AMENDMENT NO. 1931

At the appropriate place, insert the following new section:

SEC. . REPORT TO CONGRESS BY THE SECRETARY OF TRANSPORTATION ON THE EFFECT OF THE LIFTING OF THE HIGH DENSITY RULE ON COMPETITION IN THE AIRLINE INDUSTRY IN THE UNITED STATES.

The Secretary of Transportation shall issue a report, within one year of the date of enactment of this Act, on the effect of the phase-out of the rules contained in subparts S and K of part 93, title 14, Code of Federal Regulations on competition in the airline industry in the United States.

AMENDMENT NO. 1932

At the end of the matter proposed to be inserted, insert the following new section:

SEC. . STUDY OF CHICAGO O'HARE INTERNATIONAL AIRPORT.

(a) IN GENERAL.—Notwithstanding any other provision of law, if the Administrator of the Federal Aviation Administration determines, on the basis of the Administrator's own or a credible third party's analysis, that the enactment of any provision of this Act will result in—

(1) additional delays in flight departures from or flight arrivals to Chicago O'Hare International Airport, or

(2) increased risk to public safety,

the Administrator shall report the determination to Congress within 60 days of the date of making the determination.

(b) CRITERIA FOR ASSESSING PUBLIC SAFETY.—In assessing the impact on public safety the Administrator shall take into account air traffic control incidents, runway incursions, and near misses.

AMENDMENT NO. 1933

At the appropriate place, insert the following new section:

SEC. . STUDY OF CHICAGO O'HARE INTERNATIONAL AIRPORT.

(a) IN GENERAL.—If the Administrator of the Federal Aviation Administration determines, on the basis of the Administrator's own or a credible third party's analysis, that the enactment of any provision of this Act will result in—

(1) additional delays in flight departures from or flight arrivals to Chicago O'Hare International Airport, or

(2) increased risk to public safety,

the Administrator shall reimpose the high density ruels as ineffect on the day before the date of enactment of this Act.

(b) CRITERIA FOR ASSESSING PUBLIC SAFETY.—In assessing the impact on public safety the Administrator shall take into account air traffic control incidents, runway incursions, and near misses, and such other measures as the Administrator shall deem appropriate.

AMENDMENT NO. 1934

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 4 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1935

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 5 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1936

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 6 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1937

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 7 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1938

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 8 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1939

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 9 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1940

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 10 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1941

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 11 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1942

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 12 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1943

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 13 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1944

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 14 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1945

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 15 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1946

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 16 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1947

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 17 years after the date of enactment of the Air Transportation Improvement Act.

ABRAHAM (AND LEVIN) AMENDMENT NO. 1948

Mr. MCCAIN (for Mr. ABRAHAM (for himself and Mr. LEVIN)) proposed an amendment to the bill, S. 82, supra; as follows:

At the appropriate place insert the following:

SEC. . NONDISCRIMINATION IN THE USE OF PRIVATE AIRPORTS.

(a) PROHIBITING DISCRIMINATION IN THE USE OF PRIVATE AIRPORTS.—Chapter 401 of Subtitle VII of title 49, United States Code, is amended by inserting the following new section after section 40122:

"§ 40123. Nondiscrimination in the Use of Private Airports

"(a) IN GENERAL.—Notwithstanding any other provision of law, no state, county, city or municipal government may prohibit the use or full enjoyment of a private airport within its jurisdiction by any person on the basis of that person's race, creed, color, national origin, sex, or ancestry.

WARNER (AND ROBB) AMENDMENT NO. 1949

Mr. MCCAIN (for Mr. WARNER (for himself and Mr. ROBB)) proposed an amendment to the bill, S. 82, supra; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Metropolitan Airports Authority Improvement Act".

SEC. 2. REMOVAL OF LIMITATION.

Section 49106(c)(6) of title 49, United States Code, is amended—

(1) by striking subparagraph (C); and

(2) by redesignating subparagraph (D) as subparagraph (C).

GORTON AMENDMENT NO. 1950

Mr. MCCAIN (for Mr. GORTON) proposed an amendment to the bill, S. 82, supra; as follows:

SEC. 437. DISCRIMINATORY PRACTICES BY COMPUTER RESERVATIONS SYSTEMS OUTSIDE THE UNITED STATES.

(a) ACTIONS AGAINST DISCRIMINATORY ACTIVITY BY FOREIGN CRS SYSTEMS.—Section 41310 is amended by adding at the end the following:

"(g) ACTIONS AGAINST DISCRIMINATORY ACTIVITY BY FOREIGN CRS SYSTEMS.—The Secretary of Transportation may take such actions as the Secretary considers are in the public interest to eliminate an activity of a foreign air carrier that owns or markets a computer reservations system, when the Secretary, on the initiative of the Secretary or on complaint, decides that the activity, with respect to airline service—

"(1) is an unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practice against a computer reservations system firm;

"(2) imposes an unjustifiable or unreasonable restriction on access of such a computer reservations system to market.".

(b) COMPLAINTS BY CRS FIRMS.—Section 41310 is amended—

(1) in subsection (d)(1)—

(A) by striking "air carrier" in the first sentence and inserting "air carrier, computer reservations system firm,";

(B) by striking "subsection (c)" and inserting "subsection (c) or (g)"; and

(C) striking "air carrier" in subparagraph (B) and inserting "air carrier or computer reservations system firm"; and

(2) in subsection (e)(1) by inserting "or a computer reservations system firm is subject when providing services with respect to airline service" before the period at the end of the first sentence.

FITZGERALD AMENDMENTS NOS. 1951–2069

(Ordered to lie on the table.)

Mr. FITZGERALD submitted 119 amendments intended to be proposed by him to the bill S. 82, supra; as follows:

AMENDMENT NO. 1951

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 18 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1952

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 19 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1953

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 20 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1954

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 21 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1955

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 22 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1956

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 23 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1957

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 24 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1958

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 25 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1959

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 26 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1960

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 27 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1961

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 28 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1962

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 29 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1963

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 30 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1964

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 31 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1965

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 32 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1966

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 33 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1967

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 34 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1968

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 35 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1969

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 36 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1970

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 37 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1971

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 38 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1972

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 39 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1973

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 40 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1974

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 41 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1975

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 42 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1976

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 43 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1977

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 44 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1978

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 45 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1979

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 46 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1980

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 47 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1981

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 48 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1982

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 49 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1983

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 50 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1984

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 51 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1985

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 52 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1986

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 53 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1987

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 54 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1988

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 55 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1989

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 56 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1990

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 57 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1991

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 58 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1992

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 59 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1993

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 60 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1994

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 61 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1995

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 62 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1996

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 63 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1997

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 64 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1998

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 65 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 1999

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 66 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2000

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 67 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2001

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 68 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2002

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 69 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2003

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 70 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2004

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 71 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2005

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 72 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2006

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 73 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2007

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 74 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2008

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 75 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2009

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 76 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2010

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 77 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2011

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 78 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2012

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 79 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2013

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 80 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2014

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 81 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2015

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 82 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2016

At the appropriate place, insert the following new section:

SEC.   . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 83 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2017

At the appropriate place, insert the following new section:

SEC.   . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 84 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2018

At the appropriate place, insert the following new section:

SEC.   . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 85 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2019

At the appropriate place, insert the following new section:

SEC.   . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 86 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2020

At the appropriate place, insert the following new section:

SEC.   . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 87 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2021

At the appropriate place, insert the following new section:

SEC.   . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 88 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2022

At the appropriate place, insert the following new section:

SEC.   . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 89 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2023

At the appropriate place, insert the following new section:

SEC.   . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 90 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2024

At the appropriate place, insert the following new section:

SEC.   . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 91 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2025

At the appropriate place, insert the following new section:

SEC.   . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 92 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2026

At the appropriate place, insert the following new section:

SEC.   . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 93 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2027

At the appropriate place, insert the following new section:

SEC.   . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 94 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2028

At the appropriate place, insert the following new section:

SEC.   . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 95 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2029

At the appropriate place, insert the following new section:

SEC.   . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 96 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2030

At the appropriate place, insert the following new section:

SEC.   . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 97 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2031

At the appropriate place, insert the following new section:

SEC.   . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 98 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2032

At the appropriate place, insert the following new section:

SEC.   . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 99 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2033

At the appropriate place, insert the following new section:

SEC.   . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 100 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2034

At the appropriate place, insert the following new section:

SEC.   . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 101 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2035

At the appropriate place, insert the following new section:

SEC.   . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 102 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2036

At the appropriate place, insert the following new section:

SEC.   . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 103 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2037

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 104 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2038

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 105 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2039

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 106 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2040

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 107 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2041

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 108 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2042

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 109 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2043

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 110 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2044

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 111 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2045

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 112 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2046

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 113 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2047

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 114 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2048

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 115 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2049

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 116 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2050

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 117 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2051

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 118 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2052

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 119 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2053

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 120 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2054

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 121 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2055

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 122 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2056

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 123 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2057

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 124 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2058

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 125 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2059

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 126 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2060

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 127 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2061

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 128 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2062

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 129 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2063

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 130 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2064

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 131 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2065

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 132 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2066

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 133 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2067

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 134 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2068

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 135 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2069

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 136 years after the date of enactment of the Air Transportation Improvement Act.

HELMS (AND SANTORUM) AMENDMENT NO. 2070

Mr. McCAIN (for Mr. HELMS (for himself and Mr. SANTORUM)) proposed an amendment to amendment No. 1892 proposed by Mr. GORTON to the bill, S. 82, supra; as follows:

In the pending amendment on page 13, line 9 strike the words "of such carriers".

INHOFE AMENDMENT NO. 2071

Mr. McCAIN (for Mr. INHOFE) proposed an amendment to the bill, S. 82, supra; as follows:

On page 132, line 4, strike "is authorized to" and insert "shall".

FITZGERALD AMENDMENTS NOS. 2072–2235

(Ordered to lie on the table.)

Mr. FITZGERALD submitted 164 amendments intended to be proposed by him to the bill, S. 82, supra; as follows:

AMENDMENT NO. 2072

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 137 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2073

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 138 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2074

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 139 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2075

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 140 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2076

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 141 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2077

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 142 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2078

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 143 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2079

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 144 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2080

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 145 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2081

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 146 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2082

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 147 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2083

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 148 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2084

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 149 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2085

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 150 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2086

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any additional slot exemptions granted at Chicago O'Hare International Airport shall not take effect until 151 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2087

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 4 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2088

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 5 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2089

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 6 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2090

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 7 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2091

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 8 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2092

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 9 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2093

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 10 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2094

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 11 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2095

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 12 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2096

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 13 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2097

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 14 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2098

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 15 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2099

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 16 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2100

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 17 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2101

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 18 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2102

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 19 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2103

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 20 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2104

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 21 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2105

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 22 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2106

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 23 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2107

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 24 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2108

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 25 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2109

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 26 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2110

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 27 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2111

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 28 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2112

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 29 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2113

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 30 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2114

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 31 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2115

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 32 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2116

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 33 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2117

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 34 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2118

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 35 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2119

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 36 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2120

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 37 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2121

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 38 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2122

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 39 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2123

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 40 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2124

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 41 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2125

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 42 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2126

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 43 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2127

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 44 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2128

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 45 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2129

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 46 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2130

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 47 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2131

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 48 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2132

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 49 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2133

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 50 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2134

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 51 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2135

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 52 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2136

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 53 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2137

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 54 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2138

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 55 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2139

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 56 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2140

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 57 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2141

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 58 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2142

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 59 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2143

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 60 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2144

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 61 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2145

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 62 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2146

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 63 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2147

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 64 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2148

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 65 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2149

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 66 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2150

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 67 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2151

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 68 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2152

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 69 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2153

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 70 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2154

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 71 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2155

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 72 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2156

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 73 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2157

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 74 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2158

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 75 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2159

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 76 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2160

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 77 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2161

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 78 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2162

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 79 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2163

At the appropriate place, insert the following new section:

SEC. ___ . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 80 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2164

At the appropriate place, insert the following new section:

SEC. ___ . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 81 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2165

At the appropriate place, insert the following new section:

SEC. ___ . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 82 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2166

At the appropriate place, insert the following new section:

SEC. ___ . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 83 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2167

At the appropriate place, insert the following new section:

SEC. ___ . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 84 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2168

At the appropriate place, insert the following new section:

SEC. ___ . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 85 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2169

At the appropriate place, insert the following new section:

SEC. ___ . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 86 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2170

At the appropriate place, insert the following new section:

SEC. ___ . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 87 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2171

At the appropriate place, insert the following new section:

SEC. ___ . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 88 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2172

At the appropriate place, insert the following new section:

SEC. ___ . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 89 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2173

At the appropriate place, insert the following new section:

SEC. ___ . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 90 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2174

At the appropriate place, insert the following new section:

SEC. ___ . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 91 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2175

At the appropriate place, insert the following new section:

SEC. ___ . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 92 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2176

At the appropriate place, insert the following new section:

SEC. ___ . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 93 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2177

At the appropriate place, insert the following new section:

SEC. ___ . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 94 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2178

At the appropriate place, insert the following new section:

SEC. ___ . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 95 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2179

At the appropriate place, insert the following new section:

SEC. ___ . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 96 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2180

At the appropriate place, insert the following new section:

SEC. ___ . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 97 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2181

At the appropriate place, insert the following new section:

SEC. ___ . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 98 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2182

At the appropriate place, insert the following new section:

SEC. ___ . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 99 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2183

At the appropriate place, insert the following new section:

SEC. ___ . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 100 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2184

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 101 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2185

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 102 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2186

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 103 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2187

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 104 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2188

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 105 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2189

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 106 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2190

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 107 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2191

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 108 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2192

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 109 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2193

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 110 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2194

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 111 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2195

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 112 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2196

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 113 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2197

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 114 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2198

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 115 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2199

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 116 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2200

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 117 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2201

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 118 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2202

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 119 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2203

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 120 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2204

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 121 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2205

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 122 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2206

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 123 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2207

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 124 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2208

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 125 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2209

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 126 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2210

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 127 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2211

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 128 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2212

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 129 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2213

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 130 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2214

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 131 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2215

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 132 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2216

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 133 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2217

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 134 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2218

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 135 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2219

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 136 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2220

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 137 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2221

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 138 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2222

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 139 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2223

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 140 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2224

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 141 years after the date of enactment of the Air Transportation Improvement Act.

Amendment No. 2225

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 141 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2226

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 142 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2227

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 143 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2228

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 144 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2229

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 145 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2230

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 146 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2231

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 147 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2232

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 148 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2233

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 149 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2234

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 150 years after the date of enactment of the Air Transportation Improvement Act.

AMENDMENT NO. 2235

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE FOR CERTAIN ADDITIONAL SLOT EXEMPTIONS.

Notwithstanding any other provision of law, any provision to eliminate the High Density Rule at Chicago O'Hare International Airport shall not take effect until 151 years after the date of enactment of the Air Transportation Improvement Act.

HATCH (AND OTHERS) AMENDMENT NO. 2236

(Ordered to lie on the table.)

Mr. HATCH (for himself, Mr. LEAHY, and Mr. THURMOND) submitted an amendment intended to be proposed by them to the bill S. 82, supra; as follows:

At the appropriate place, insert the following:

SEC. . PREVENTION OF FRAUDS INVOLVING AIRCRAFT OR SPACE VEHICLE PARTS IN INTERSTATE OR FOREIGN COMMERCE.

(a) SHORT TITLE.—This section may be cited as the "Aircraft Safety Act of 1999".

(b) DEFINITIONS.—Section 31 of title 18, United States Code, is amended by striking all after the section heading and inserting the following:

"(a) IN GENERAL.—

"(1) AIRCRAFT.—The term 'aircraft' means a civil, military, or public contrivance invented, used, or designed to navigate, fly, or travel in the air.

"(2) AVIATION QUALITY.—The term 'aviation quality', with respect to a part of an aircraft or space vehicle, means the quality of having been manufactured, constructed, produced, repaired, overhauled, rebuilt, reconditioned, or restored in conformity with applicable standards specified by law (including a regulation) or contract.

"(3) DESTRUCTIVE SUBSTANCE.—The term 'destructive substance' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or matter of a combustible, contaminative, corrosive, or explosive nature.

"(4) IN FLIGHT.—The term 'in flight' means—

"(A) any time from the moment at which all the external doors of an aircraft are closed following embarkation until the moment when any such door is opened for disembarkation; and

"(B) in the case of a forced landing, until competent authorities take over the responsibility for the aircraft and the persons and property on board.

"(5) IN SERVICE.—The term 'in service' means—

"(A) any time from the beginning of preflight preparation of an aircraft by ground personnel or by the crew for a specific flight until 24 hours after any landing; and

"(B) in any event includes the entire period during which the aircraft is in flight.

"(6) MOTOR VEHICLE.—The term 'motor vehicle' means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo.

"(7) PART.—The term 'part' means a frame, assembly, component, appliance, engine, propeller, material, part, spare part, piece, section, or related integral or auxiliary equipment.

"(8) SPACE VEHICLE.—The term 'space vehicle' means a man-made device, either manned or unmanned, designed for operation beyond the Earth's atmosphere.

"(9) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(10) USED FOR COMMERCIAL PURPOSES.—The term 'used for commercial purposes' means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit.

"(b) TERMS DEFINED IN OTHER LAW.—In this chapter, the terms 'aircraft engine', 'air navigation facility', 'appliance', 'civil aircraft', 'foreign air commerce', 'interstate air commerce', 'landing area', 'overseas air commerce', 'propeller', 'spare part', and 'special aircraft jurisdiction of the United States' have the meanings given those terms in sections 40102(a) and 46501 of title 49.".

(c) FRAUD.—

(1) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§ 38. Fraud involving aircraft or space vehicle parts in interstate or foreign commerce

"(a) OFFENSES.—A person that, in or affecting interstate or foreign commerce, knowingly—

"(1)(A) falsifies or conceals a material fact;

"(B) makes any materially fraudulent representation; or

"(C) makes or uses any materially false writing, entry, certification, document, record, data plate, label, or electronic communication;

concerning any aircraft or space vehicle part;

"(2) exports from or imports or introduces into the United States, sells, trades, installs on or in any aircraft or space vehicle any aircraft or space vehicle part using or by means of a fraudulent representation, document, record, certification, depiction, data plate, label, or electronic communication; or

"(3) attempts or conspires to commit an offense described in paragraph (1) or (2);

shall be punished as provided in subsection (b).

"(b) PENALTIES.—The punishment for an offense under subsection (a) is as follows:

"(1) AVIATION QUALITY.—If the offense relates to the aviation quality of a part and the part is installed in an aircraft or space vehicle, a fine of not more than $500,000, imprisonment for not more than 25 years, or both.

"(2) FAILURE TO OPERATE AS REPRESENTED.—If, by reason of the failure of the part to operate as represented, the part to which the offense is related is the probable cause of a malfunction or failure that results in serious bodily injury (as defined in section 1365) to or the death of any person, a fine of not more than $1,000,000, imprisonment for any term of years or life, or both.

"(3) ORGANIZATIONS.—If the offense is committed by an organization, a fine of not more than $25,000,000.

"(4) OTHER CIRCUMSTANCES.—In the case of an offense not described in paragraph (1), (2), or (3), a fine under this title, imprisonment for not more than 15 years, or both.

"(c) CIVIL REMEDIES.—

"(1) IN GENERAL.—The district courts of the United States shall have jurisdiction to prevent and restrain violations of this section by issuing appropriate orders, including—

"(A) ordering a person CONVICTED OF AN OFFENSE UNDER THIS SECTION to divest any interest, direct or indirect, in any enterprise, or to destroy, or to mutilate and sell as scrap, aircraft material or part inventories or stocks;

"(B) imposing reasonable restrictions on the future activities or investments of any such person, including prohibiting engagement in the same type of endeavor as used to commit the offense; and

"(C) ordering dissolution or reorganization of any enterprise, making due provisions for the rights and interests of innocent persons.

"(2) RESTRAINING ORDERS AND PROHIBITION.—Pending final determination of a proceeding brought under this section, the court may enter such restraining orders or prohibitions, or take such other actions (including the acceptance of satisfactory performance bonds) as the court deems proper.

"(3) ESTOPPEL.—A final judgment rendered in favor of the United States in any criminal proceeding brought under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the United States.

"(d) CRIMINAL FORFEITURE.—

"(1) IN GENERAL.—The court, in imposing sentence on any person convicted of an offense under this section, shall order, in addition to any other sentence and irrespective of any provision of State law, that the person forfeit to the United States—

"(A) any property constituting, or derived from, any proceeds that the person obtained, directly or indirectly, as a result of the offense; and

"(B) any property used, or intended to be used in any manner, to commit or facilitate the commission of the offense.

"(2) APPLICATION OF OTHER LAW.—The forfeiture of property under this section, including any seizure and disposition of the property, and any proceedings relating to the property, shall be governed by section 413 of the Comprehensive Drug Abuse and Prevention Act of 1970 (21 U.S.C. 853) (not including subsection (d) of that section).

"(e) CONSTRUCTION WITH OTHER LAW.—This section does not preempt or displace any other remedy, civil or criminal, provided by Federal or State law for the fraudulent importation, sale, trade, installation, or introduction into commerce of an aircraft or space vehicle part.

"(f) TERRITORIAL SCOPE.—This section applies to conduct occurring inside or outside the United States.

"(g) AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.—

"(1) AUTHORIZATION.—

"(A) SUBPOENAS.—In any investigation relating to any act or activity involving an offense under this section, the Attorney General may issue in writing and cause to be served a subpoena—

"(i) requiring the production of any record (including any book, paper, document, electronic medium, or other object or tangible thing) that may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care or custody of or control over; and

"(ii) requiring a custodian of a record to give testimony concerning the production and authentication of the record.

"(B) CONTENTS.—A subpoena under subparagraph (A) shall—

"(i) describe the object required to be produced; and

"(ii) prescribe a return date within a reasonable period of time within which the object can be assembled and produced.

"(C) LIMITATION.—The production of a record shall not be required under this section at any place more than 500 miles from the place at which the subpoena for the production of the record is served.

"(D) WITNESS FEES.—A witness summoned under this section shall be paid the same fees and mileage as are paid witnesses in courts of the United States.

"(b) SERVICE.—

"(1) IN GENERAL.—A subpoena issued under subsection (a) may be served by any person who is at least 18 years of age and is designated in the subpoena to serve the subpoena.

"(2) NATURAL PERSONS.—Service of a subpoena issued under subsection (a) on a natural person may be made by personal delivery of the subpoena to the person.

"(3) CORPORATIONS AND OTHER ORGANIZATIONS.—Service of a subpoena issued under subsection (a) on a domestic or foreign corporation or on a partnership or other unincorporated association that is subject to suit under a common name may be made by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process for the corporation, partnership, or association.

"(4) PROOF OF SERVICE.—The affidavit of the person serving the subpoena entered or a true copy of such an affidavit shall be proof of service.

"(c) ENFORCEMENT.—

"(1) IN GENERAL.—In the case of a failure to comply with a subpoena issued under subsection (a), the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which the subpoenaed person carries on business or may be found, to compel compliance with the subpoena.

"(2) ORDERS.—The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce a record or to give testimony concerning the production and authentication of a record.

"(3) CONTEMPT.—Any failure to obey the order of the court may be punished by the court as a contempt of court.

"(4) PROCESS.—All process in a case under this subsection may be served in any judicial district in which the subpoenaed person may be found.

"(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person (including any officer, agent, or employee of a person) that receives a subpoena under this section, who complies in good faith with the subpoena and produces a record or material sought by a subpoena under this section, shall not be liable in any court of any State or the United States to any customer or other person for the production or for nondisclosure of the production to the customer.".

(2) CONFORMING AMENDMENTS.—

(A) CHAPTER ANALYSIS.—The analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"38. Fraud involving aircraft or space vehicle parts in interstate or foreign commerce.".

(B) WIRE AND ELECTRONIC COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 38 (relating to aircraft parts fraud)," after "section 32 (relating to destruction of aircraft or aircraft facilities),".

HUTCHISON AMENDMENT NO. 2237

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 82, supra; as follows:

At the appropriate place in Section 506, add the following:

"(C) or, upgraded air service replacing turbo prop aircraft with regional jet aircraft between Chicago O'Hare International Airport and any airport to which the air carrier provided air service with turbo prop aircraft during the week of June 15, 1999.".

CONRAD AMENDMENT NO. 2238

Mr. McCAIN (for Mr. CONRAD) proposed an amendment to the bill S. 82, supra; as follows:

SECTION 1. SENSE OF THE SENATE.

It is the Sense of the Senate that—

(A) Essential air service (EAS) to smaller communities remains vital, and that the difficulties encountered by many communities in retaining EAS warrant increased federal attention.

(B) The FAA should give full consideration to ending the local match required by Dickinson, North Dakota.

SEC. 2. REPORT.

Not later than 60 days after enactment of this legislation, the Secretary of Transportation shall report to the Congress with an analysis of the difficulties faced by many smaller communities in retaining EAS and a plan to facilitate easier EAS retention. This report shall give particular attention to communities in North Dakota.

HOLLINGS AMENDMENT NO. 2239

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 82, supra; as follows:

At the appropriate place, insert the following:

TITLE—RESTORATION OF AIR TRANSPORTATION COMPETITION

SEC. 01. SHORT TITLE.

This title may be cited as the "Restoration of air Transportation Competition Act".

SEC. 02. FINDINGS.

The Congress makes the following findings:

(1) Essential airport facilities at major airports must be available on a reasonable basis to all air carriers wishing to serve those airports.

(2) 15 large hub airports today are each dominated by one air carrier, with each such

carrier controlling more than 50 percent of the traffic at the hub.

(3) The General Accounting Office has found that such levels of concentration lead to higher air fares.

(4) The United States Government must take every step necessary to reduce those levels of concentration.

(5) Spending at these essential facilities must be directed at providing opportunities for carriers wishing to serve such facilities on a commercially viable basis.

(6) The Department of Transportation and the Department of Justice must vigilantly enforce existing laws on competition.

SEC. 03. POLICY GOAL.

It is the purpose of this title to use the power of the Federal government, working with the Nation's major airports, to reduce levels of concentration and end the domination by 1 air carrier of the transportation services provided to people in a particular region, and to further the policy goals of ensuring lower fares and better service.

SEC. 04. INCREASING COMPETITION AT MAJOR HUB AIRPORTS.

(a) IN GENERAL.—Chapter 401 of title 49, United States Code, is amended by inserting after section 40117 the following:

"§ 40117A. Increased competition and reduced concentration

"(a) ESSENTIAL AIRPORT FACILITIES MUST SUBMIT COMPETITION PLAN.—Within 6 months after the date of enactment of the Restoration of Air Transportation Competition Act, each essential airport facility shall submit a competition plan that meets the requirements of this section to the Secretary of Transportation. If any essential airport facility fails to submit such a plan before the end of that 6-month period, the secretary may not approve an application under section 40117(c) from that essential airport facility to impose or increase a passenger facility fee at that facility.

"(b) SECRETARY SHALL ENSURE IMPLEMENTATION AND COMPLIANCE.—The Secretary shall review any plan submitted under subsection (a) to ensure that it meets the requirements of this section, and shall review its implementation from time to time to ensure that each essential airport facility successfully implements its plan.

"(c) FUTURE PFC IMPOSITION OR INCREASE.—Beginning 3 years after the date of enactment of the Restoration of Air Transportation Competition Act, the Secretary may not approve an application under section 40117(c) for the imposition of, or an increase in, a passenger facility fee at an essential airport facility unless the Secretary determines that—

"(1) the essential airport facility has fully implemented a competition plan that meets the requirements of this section;

"(2) the essential airport facility has adequate facilities available, or has offered to make such facilities available to carriers other than the dominant carrier;

"(3) concentration levels at the essential airport facility have been reduced substantially or below 50 percent; or

"(4) the essential airport facility has made substantial progress toward reducing concentration at that airport.

"(d) COMPETITION PLAN REQUIREMENTS.—A competition plan submitted under this section shall include—

"(1) a proposal on methods of reducing air traffic concentration levels at that airport;

"(2) a timeframe for taking action under the plan, including—

"(A) attracting new service or expanding opportunities for existing air carriers that reduce the levels of concentration;

"(B) making airport grates and related facilities available for air carriers other than the dominant air carrier at that airport;

"(C) leasing and subleasing arrangements;

"(D) gate-use requirements;

"(E) patterns of air service;

"(F) gate-assignment policies;

"(G) financial constraints;

"(H) information on contract relationships that may impede expansion or more effective use of facilities; and

"(I) means to build or acquire gates that could be used as common facilities; and

"(3) any other information required by the Secretary.

"(e) ESSENTIAL AIRPORT FACILITY DEFINED.—In this section, the term 'essential airport facility' means a large hub airport (as defined in section 41731 of this title) in the contiguous 48 states at which 1 carrier has more than 50 percent of total annual enplanements."

(b) GUIDELINES.—The Secretary of Transportation shall issue guidelines for competition plans required under section 40117A of title 49, United States Code, within 30 days after the date of enactment of this title.

(c) ANNUAL REPORT ON AIR FARES.—The Secretary shall issue an annual report on airfares at essential airport facilities (as defined in section 40117A(e) of title 49, United States Code) that includes information about airfares, competition, and concentration at such facilities.

(d) CONFORMING AMENDMENT.—The chapter analysis for chapter 401 of such title is amended by inserting after the item relating to section 40117 the following:

"40117A. Increased competition and reduced concentration".

SEC. 05. INCREASE IN PASSENGER FACILITY FEE GENERALLY.

Section 40117(b) of title 49, United States Code, is amended by striking "$3" in paragraph (1) and inserting "$4".

SEC. 06. INCREASE IN PFC AT ESSENTIAL AIRPORT FACILITIES.

(a) IN GENERAL.—Section 40117 of title 49, United States Code, is amended by adding at the end thereof the following:

"(j) SPECIAL RULES FOR ESSENTIAL AIRPORT FACILITIES.—

"(1) IN GENERAL.—The Secretary may authorize an essential airport facility (as defined in section 40117A(e)) to impose a passenger facility fee under subsection (b)(1) of $4 on each paying passenger only if that facility meets the requirements of section 40117A and this subsection.

"(2) REQUEST.—Before increasing its passenger facility fee to $4 under this subsection, an essential airport facility shall submit a request in writing to the Secretary for permission to increase the fee. The request shall set forth a plan for the use of the revenue from the increased fee that meets the requirements of this subsection. The Secretary may approve or disapprove the request. If the Secretary disapproves the request, the facility may not increase its passenger facility fee to $4. The Secretary may not approve a request unless the facility agrees to meet the requirements of this subsection at all times during which the increased fee is in effect.

"(4) LIMITATION ON USE OF INCREASED PFC REVENUE.—

"(A) PRIORITY USES.—If an essential airport facility (as defined in section 40117A(e)) increases its passenger facility fee to $4, then any increase in passenger facility fee revenue attributable to that increase shall be used first—

"(i) to provide opportunities for non-dominant air carriers to expand operations at that airport;

"(ii) to build gates and other facilities for non-dominant air carriers at that airport; or

"(iii) to take other measures to enhance competition.

"(B) EXCLUSIVE USE PROHIBITED.—Any gate built in whole or in part with passenger facility fee revenue attributable to such an increase may not be made available for exclusive long-term lease or use agreement by an air carrier.

"(C) IG TO AUDIT USE OF FUNDS.—The Inspector General of the Department of Transportation shall audit the use of passenger facility fees at essential airport facilities to ensure that passenger facility fee revenue attributable to an passenger facility fee increase from $3 to $4 is used in accordance with this paragraph.".

(b) DOT INSPECTOR GENERAL TO INVESTIGATE COMPETITIVE IMPACTS.—The Inspector General of the Department of Transportation shall investigate the competitive impact of majority-in-interest provisions in airport-airline contracts at essential airport facilities (as defined in section 40117A(e) of title 49, United States Code).

SEC. 07. DESIGNATION OF COMPETITION ADVOCATE; DUTIES.

(a) DESIGNATION.—The Secretary of Transportation shall designate an officer or employee of the Department of Transportation to serve as the Federal Aviation Competition Advocate.

(b) DUTIES.—The Federal Aviation Competition Advocate shall—

(1) have final responsibility for approving or disapproving applications for passenger facility charges from essential airport facilities (as defined in section 40117A(e) of title 49, United States Code);

(2) oversee the administration of Federal Aviation Administration grant assurances for those facilities; and

(3) review plans submitted under section 40117A of such title.

SEC. 08. AVAILABILITY OF GATES AND OTHER ESSENTIAL SERVICES.

The Secretary of Transportation shall ensure that gates and other facilities are made available at costs that are fair and reasonable to air carriers at essential airport facilities (as defined in section 40117A(e) of title 49, United States Code) where a "majority-in-interest clause" of a contract, or other agreement or arrangement, inhibits the ability of the local airport authority to provide or build new gates or other facilities.

DORGAN AMENDMENT NO. 2240

Mr. MCCAIN (for Mr. DORGAN) proposed an amendment to the bill S. 82, supra; as follows:

At the appropriate place, insert the following:

SEC. . PRESERVATION OF ESSENTIAL AIR SERVICE AT DOMINATED HUB AIRPORTS.

(a) IN GENERAL.—Subchapter II of chapter 417 is amended by adding at the end thereof the following:

"§ 41743. Preservation of basic essential air service at dominated hub airports

"(a) IN GENERAL.—If the Secretary of Transportation determines that extraordinary circumstances jeopardize the reliable and competitive performance of essential air service under this subchapter from a subsidized essential air service community to and from an essential airport facility, then the Secretary may require the air carrier that has more than 50 percent of the total annual enplanements at the essential airport facility to take action to enable air carrier to provide reliable and competitive essential air service to that community. Action required by the Secretary under this subsection may include interline agreements, ground services, subleasing of gates, and the provision of any other service or facility necessary for the performance of satisfactory essential air service to that community.

"(b) ESSENTIAL AIRPORT FACILITY DEFINED.—In this section, the term 'essential airport facility' means a large hub airport (as defined in section 41731) in the contiguous 48 states at which 1 air carrier has more than 50 percent of the total annual enplanements at that airport.".

DODD (AND OTHERS) AMENDMENT NO. 2241

Mr. DODD (for himself, Mr. BENNETT, Mr. MCCAIN, Mr. ROCKEFELLER, and Mr. HOLLINGS) proposed an amendment to the bill, S. 82, supra; as follows:

At the appropriate place, insert the following:

SEC. . FEDERAL AVIATION ADMINISTRATION YEAR 2000 TECHNOLOGY SAFETY ENFORCEMENT ACT OF 1999.

(a) SHORT TITLE.—This section be cited as the "Federal Aviation Administration Year 2000 Technology Safety Enforcement Act of 1999".

(b) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) AIR CARRIER OPERATING CERTIFICATE.—The term "air carrier operating certificate" has the same meaning as in section 44705 of title 49, United States Code.

(3) YEAR 2000 TECHNOLOGY PROBLEM.—The term "year 2000 technology problem" means a failure by any device or system (including any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collection of processing instructions to process, to calculate, to compare, to sequence, to display, to store, to transmit, or to receive year-2000 date-related data failures—

(A) to deal with or account for transitions or comparisons from, into, and between the years 1999 and 2000 accurately;

(B) to recognize or accurately process any specific date in 1999, 2000, or 2001; or

(C) to accurately account for the year 2000's status as a leap year, including recognition and processing of the correct date on February 29, 2000.

(c) RESPONSE TO REQUEST FOR INFORMATION.—Any person who has an air carrier operating certificate shall respond on or before November 1, 1999, to any request for information from the Administrator regarding readiness of that person with regard to the year 2000 technology problem as it relates to the compliance of that person with applicable safety regulations.

(d) FAILURE TO RESPOND.—

(1) SURRENDER OF CERTIFICATE.—After November 1, 1999, the Administrator shall make a decision on the record whether to compel any air carrier that has not responded on or before November 1, 1999, to a request for information regarding the readiness of that air carrier with regard to the year 2000 technology problem as it relates to the air carrier's compliance with applicable safety regulations to surrender its operating certificate to the Administrator.

(2) REINSTATEMENT OF CERTIFICATE.—The Administrator may return an air carrier operating certificate that has been surrendered under this subsection upon—

(A) a finding by the Administrator that a person whose certificate has been surrendered has provided sufficient information to demonstrate compliance with applicable safety regulations as it relates to the year 2000 technology problem; or

(B) upon receipt of a certification, signed under penalty or perjury, by the chief operating officer of the air carrier, that such air carrier has addressed the year 2000 technology problem so that the air carrier will be in full compliance with applicable safety regulations on and after January 1, 2000.

FITZGERALD AMENDMENT NO. 2242

(Ordered to lie on the table.)

Mr. FITZGERALD submitted an amendment intended to be proposed by him to the bill S. 82, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . STUDY OF CHICAGO O'HARE INTERNATIONAL AIRPORT.

(a) IN GENERAL.—If the Administrator of the Federal Aviation Administration determines, on the basis of the Administrator's own or a credible third party's analysis, that the enactment of any provision of this Act will result in—

(1) additional delays in flight departures from or flight arrivals to Chicago O'Hare International Airport, or

(2) increased risk to public safety,

the Administrator shall report the determination to Congress within 60 days of the date of making the determination.

(b) CRITERIA FOR ASSESSING PUBLIC SAFETY.—In assessing the impact on public safety the Administrator shall take into account air traffic control incidents, runway incursions, near misses, and such other measures as the Administrator shall deem appropriate.

HELMS AMENDMENTS NOS. 2243–2244

(Ordered to lie on the table.)

Mr. HELMS submitted 2 amendments intended to be proposed by him to the bill S. 82, supra; as follows:

AMENDMENT NO. 2243

In the pending amendment on page 13, line 9 strike the words "of such carriers".

AMENDMENT NO. 2244

In the bill on page 153, line 14 strike the words "of such carriers".

SHELBY (AND DOMENICI) AMENDMENTS NOS. 2245–2246

(Ordered to lie on the table.)

Mr. SHELBY (for himself and Mr. DOMENICI) submitted 2 amendments intended to be proposed by them to the bill S. 82, supra; as follows:

AMENDMENT NO. 2245

At the appropriate place insert the following:

SEC. . SENSE OF THE SENATE SUPPORTING CURRENT FUNDING FOR AVIATION.

(a) FINDING.—The Senate finds that funding for Federal aviation programs is a high priority for this Congress and sufficient funding is available to adequately address the aviation needs of our country.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that it is both unnecessary and unwise to create any mechanisms, procedures, or any new points of order designed to dictate the level of aviation funding in the future.

AMENDMENT NO. 2246

At the appropriate place insert the following:

SEC. . BUDGET TREATMENT OF AVIATION PROGRAMS.

(a) FINDINGS.—The Senate finds the following:

(1) In order to enforce Congressional Budget Resolutions and help control Federal spending, there are currently at least 22 different points of order in the Congressional Budget Act of 1974. Many of these points of order require a supermajority vote in the Senate.

(2) With the exceptions of Social Security and the Postal Service, all Federal Government spending is on-budget. On-budget treatment is the most appropriate way to account for spending the taxpayers' money.

(3) Since 1990, the existence of the discretionary spending limits has been an extremely useful tool in Congress battle against explosive Federal Government spending and the deficit. Their existence has appropriately forced Congress and the President to revisit the effectiveness of programs and prioritize the use of taxpayers' money.

(4) Funding for Federal aviation programs is a high priority for this Congress and sufficient funding is available within the existing discretionary spending limits to adequately address the aviation needs of our country.

(5) Creating additional budgetary constraints or points of order—designed to dictate the outcome of future spending debates—is unnecessary and unwise. To do so would require the affirmative vote of a supermajority for final passage in the Senate and would prevent future Congresses from making the best spending decisions appropriate to our rapidly changing world.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the current budgetary treatment of aviation programs represents sound fiscal policy and encourages the best decisionmaking; and

(2) this Act or any other legislation which provides for the reauthorization of funding for programs of the Federal Aviation Administration shall not contain special budgetary treatment including off-budget status, separate categories of spending within the existing discretionary spending limits—also known as firewalls—or any new points of order.

ABRAHAM AMENDMENTS NOS. 2247–2251

(Ordered to lie on the table.)

Mr. ABRAHAM submitted 5 amendments intended to be proposed by him to the bill S. 82, supra; as follows:

AMENDMENT NO. 2247

At the appropriate place insert the following:

SEC. . NONDISCRIMINATION IN THE USE OF PRIVATE AIRPORTS.

Chapter 401 of Subtitle VII of title 49, United States Code, is amended by inserting the following new section after section 40122:

"§ 40123. Nondiscrimination in the use of private airports.

Notwithstanding any other provision of law, no state, county, city or municipal government may prohibit the use or full enjoyment of a private airport within its jurisdiction by any person on the basis of that person's race, creed, color, national origin, sex, or ancestry."

AMENDMENT NO. 2248

At the appropriate place insert the following:

SEC. . NONDISCRIMINATION IN THE USE OF PRIVATE AIRPORTS.

(a) PROHIBITING DISCRIMINATION IN THE USE OF PRIVATE AIRPORTS.—Chapter 401 of Subtitle VII of title 49, United States Code, is amended by inserting the following new section after section 40122:

"§ 40123. Nondiscrimination in the use of private airports.

"(a) IN GENERAL.—Notwithstanding any other provision of law, no state, county, city or municipal government may prohibit the use or full enjoyment of a private airport within its jurisdiction by any person on the basis of that person's race, creed, color, national origin, sex, or ancestry.

"(b) ENFORCEMENT.—A person who has been discriminated against under paragraph (a) may bring a civil action, for injunctive or declaratory relief only, in the United States District Court for the judicial district in which the private landing area is located; provided, however, that neither the United States Government nor any of its agencies, instrumentalities, or employees, in their official capacity, shall be party to such action.

"(c) METHOD OF REDRESS.—Section (b) shall provide the sole and exclusive method for the redress of claims arising out of Section (a).

"(d) LIMITATIONS.—Nothing in this provision shall be construed as a limitation, amendment, or change or to any authorities, rights, or obligations of the United States Government, nor any of its agencies, instrumentalities, or employees, in the course of their official capacity."

(b) JUDICIARY AND JUDICIAL PROCEDURES.—Title 28, United States Code, Judiciary and Judicial Procedure is hereby amended to provide exclusive jurisdiction over a claim arising out of 49 U.S.C. §40101, et. seq., as amended by P.L. 103-305 (August 23, 1994), in the United States District Court for the judicial district in which the private landing area is located, provided, however, that neither the United States Government nor any of its agencies, instrumentalities, or employees, in their official capacity, shall be party to such an action.

AMENDMENT NO. 2249

At the appropriate place insert the following:

SEC. . GENERAL AVIATION METROPOLITAN ACCESS AND RELIEVER AIRPORT GRANT FUND.

(a) DEFINITION.—Title 49, United States Code, is amended by adding the following new section at the end of section 47144(d)(1):

"(C) GENERAL AVIATION METROPOLITAN ACCESS AND RELIEVER AIRPORT.—'General Aviation Metropolitan Access and Reliever Airport' means a Reliever Airport which has annual operations in excess of 75,000 operations, a runway with a minimum usable landing distance of 5,000 feet, a precision instrument landing procedure, a minimum of 150 based aircraft, and where the adjacent Air Carrier Airport exceeds 20,000 hours of annual delays as determined by the Federal Aviation Administration.

(b) APPORTIONMENT.—Title 49, United States Code, section 47114(d), is amended by adding at the end:

"(4) The Secretary shall apportion an additional 5 percent of the amount subject to apportionment for each fiscal year to each eligible General Aviation Metropolitan Access and Reliever Airports in proportion to the percentage of the number of operations at that General Aviation Metropolitan Access and Reliever Airport compared to the total operations of all General Aviation Metropolitan Access and Reliever Airports."

AMENDMENT NO. 2250

At the appropriate place insert the following:

SEC. . GENERAL AVIATION METROPOLITAN ACCESS AND RELIEVER AIRPORT GRANT FUND.

(a) DEFINITION.—Title 49, United States Code, is amended by adding the following new section at the end of section 47144(d)(1):

"(C) GENERAL AVIATION METROPOLITAN ACCESS AND RELIEVER AIRPORT.—'General Aviation Metropolitan Access and Reliever Airport' means a Reliever Airport which has annual operations in excess of 75,000 operations, a runway with a minimum usable landing distance of 5,000 feet, a precision instrument landing procedure, a minimum of 150 based aircraft, and where the adjacent Air Carrier Airport exceeds 20,000 hours of annual delays as determined by the Federal Aviation Administration.

(b) APPORTIONMENT.—Title 49, United States Code, section 47114(d), is amended by adding at the end:

"(4) The Secretary shall apportion an additional 5 percent of the amount subject to apportionment for each fiscal year to States that include a General Aviation Metropolitan Access and Reliever Airport equal to the percentage of the apportionment equal to the percentage of the number of operations of the State's eligible General Aviation Metropolitan Access and Reliever Airport compared to the total operations of all General Aviation Metropolitan Access and Reliever Airports. Such funds may only be used by the States for eligible projects at eligible General Aviation Metropolitan Access and Reliever Airports."

ABRAHAM AMENDMENT NO. 2251

Mr. McCAIN (for Mr. ABRAHAM) proposed an amendment to the bill, S. 82, supra; as follows:

On page 14, strike lines 9 through 11.

SHELBY AMENDMENTS NOS. 2252–2253

(Ordered to lie on the table.)

Mr. SHELBY submitted 2 amendments intended to be proposed by him to the bill S. 82, supra; as follows:

AMENDMENT NO. 2252

At the appropriate place insert the following:

SEC. . AVIATION DISCRETIONARY SPENDING GUARANTEE.

Section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(c)) is amended—

(1) in paragraph (5)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by adding "and" after the semicolon; and

(C) by adding at the end the following:

"(D) for the aviation category, an outlay amount equal to the limitation on obligations for the airport improvement program and the amounts authorized for operations, research, and facilities, and equipment in the Air Transportation Improvement Act for fiscal year 2001;"; and

(2) in paragraph (6)—

(A) in subparagraph (B), by striking "and" at the end;

(B) by adding at the end the following:

"(D) for the aviation category, an outlay amount equal to the limitation on obligations for the airport improvement program and the amounts authorized for operations, research, and facilities, and equipment in the Air Transportation Improvement Act for fiscal year 2002; and".

At the appropriate place, insert:

SEC. 1. BUDGETARY TREATMENT OF AIRPORT AND AIRWAY TRUST FUND.

Notwithstanding any other provision of law, the receipts and disbursements of the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1986—

(1) shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(A) the budget of the United States Government as submitted by the President;

(B) the congressional budget (including allocations of budget authority and outlays provided therein); or

(C) the Balanced Budget and Emergency Deficit Control Act of 1985; and

(2) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

SEC. 2. SAFEGUARDS AGAINST DEFICIT SPENDING OUT OF AIRPORT AND AIRWAY TRUST FUND.

(a) IN GENERAL.—Subhcapter I of chapter 471 is further amended by adding at the end the following:

"§ 47138. Safeguards against deficit spending

"(a) ESTIMATES OF UNFUNDED AVIATION AUTHORIZATIONS AND NET AVIATION RECEIPTS.—Not later than March 31 of each year, the Secretary of Transportation, in consultation with the Secretary of the Treasury, shall estimate—

"(1) the amount which would (but for this section) be the unfunded aviation authorizations at the close of the first fiscal year that begins after that March 31; and

"(2) the net aviation receipts to be credited to the Airport and Airway Trust Fund during the fiscal year.

"(b) PROCEDURES IF EXCESS UNFUNDED AVIATION AUTHORIZATIONS.—If the Secretary of Transportation determines for any fiscal year that the amount described on subsection (a)(1) exceeds the amount described in subsection (a)(2), the Secretary shall determine the amount of such excess.

"(c) ADJUSTMENT OF AUTHORIZATIONS IF UNFUNDED AUTHORIZATIONS EXCEED RECEIPTS.—

"(1) DETERMINATION OF PERCENTAGE.—If the Secretary determines that there is an excess referred to in subsection (b) for a fiscal year, the Secretary shall determine the percentage which—

"(A) such excess, is of

"(B) the total of the amounts authorized to be appropriated from the Airport and Airway Trust Fund for the next fiscal year.

"(2) ADJUSTMENT OF AUTHORIZATIONS.—If the Secretary determines a percentage under paragraph (1), each amount authorized to be appropriated from the Airport and Airway Trust Fund for the next fiscal year shall be reduced by such percentage.

"(d) AVAILABILITY OF AMOUNTS PREVIOUSLY WITHHELD.—

"(1) ADJUSTMENT OF AUTHORIZATIONS.—If, after a reduction has been made under subsection (c)(2), the Secretary determines that the amount described in subsection (a)(1) does not exceed the amount described in subsection (a)(2) or that the excess referred to in subsection (b) is less than the amount previously determined, each amount authorized to be appropriated that was reduced under subsection ((c)(2) shall be increased, by an equal percentage, to the extent the Secretary determines that it may be so increased without causing the amount described in subsection (a)(1) to exceed the amount described in subsection (a)(2) (but not by more than the amount of the reduction).

"(2) APPORTIONMENT.—The Secretary shall apportion amounts made available for apportionment by paragraph (1).

"(3) PERIOD OF AVAILABILITY.—Any funds apportioned under paragraph (2) shall remain available for the period for which they would be available if such apportionment took effect with the fiscal year in which they are apportioned under paragraph (2).

"(e) REPORTS.—Any estimate under subsection (a) and any determination under subsection (b), (c), or (d) shall be reported by the Secretary to Congress.

"(f) DEFINITIONS.—For purposes of this section, the following definitions apply:

"(1) NET AVIATION RECEIPTS.—The term 'net aviation receipts' means, with respect to any period, the excess of—

"(A) the receipts (including interest) of the Airport and Airway Trust fund during such period, over

"(B) the amounts to be transferred during such period from the Airport and Airway Trust Fund under section 9502(d) of the Internal Revenue Code of 1986 (other than paragraph (1) thereof).

"(2) UNFUNDED AVIATION AUTHORIZATIONS.—The term 'unfunded aviation authorization' means, at any time, the excess (if any) of—

"(A) the total amount authorized to be appropriated from the Airport and Airway Trust Fund which has not been appropriated, over

"(B) the amount available in the Airport and Airway Trust Fund at such time to make such appropriation (after all other unliquidated obligations at such time which are payable from the Airport and Airway Trust Fund have been liquidated).".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 471 is further amended by adding at the end the following:

"47136. Safeguards against deficit spending."

SEC. 3. ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS

When the President submits the budget under section 1105(a) of title 31, United States Code, for fiscal year 2001, the Director of the Office of Management and Budget shall, pursuant to section 251(b)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, calculate and the budget shall include appropriate reductions to the discretionary spending limits for each of fiscal years 2001 and 2002 set forth in section 251(c)(5)(A) and section 251(c)(6)(A) of that Act (as adjusted under section 251 of that Act) to reflect the discretionary baseline trust fund spending (without any adjustment for inflation) for the Federal Aviation Administration that is subject to section 902 of this Act for each of those two fiscal years.

SEC. 4. APPLICABILITY.

This title (including the amendments made by this Act) shall apply to fiscal years beginning after September 30, 2000.

HATCH AMENDMENT NO. 2254

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 82, supra; as follows:

Insert in the appropriate place:

[The parts of the bill intended to be stricken are shown in boldface brackets and the parts to be inserted are shown in italic.]

TITLE—

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Bankruptcy Reform Act of 1999".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—NEEDS-BASED BANKRUPTCY

Sec. 101. Conversion.
Sec. 102. Dismissal or conversion.
Sec. 103. Notice of alternatives.
Sec. 104. Debtor financial management training test program.
Sec. 105. Credit counseling.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

Sec. 201. Promotion of alternative dispute resolution.
Sec. 202. Effect of discharge.
Sec. 203. Violations of the automatic stay.
Sec. 204. Discouraging abuse of reaffirmation practices.

Subtitle B—Priority Child Support

Sec. 211. Definition of domestic support obligation.
Sec. **[**211**]** *212.* Priorities for claims for domestic support obligations.
Sec. **[**212**]** *213.* Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
Sec. **[**213**]** *214.* Exceptions to automatic stay in domestic support obligation proceedings.
Sec. **[**214**]** *215.* Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. **[**215**]** *216.* Continued liability of property.
Sec. **[**216**]** *217.* Protection of domestic support claims against preferential transfer motions.
[Sec. 217. Amendment to section 1325 of title 11, United States Code.
[Sec. 218. Definition of domestic support obligation.
Sec. 218. Disposable income defined.
Sec. 219. Collection of child support.

Subtitle C—Other Consumer Protections

[Sec. 221. Definitions.
[Sec. 222. Disclosures.
[Sec. 223. Debtor's bill of rights.
[Sec. 224. Enforcement.**]**
Sec. 221. Amendments to discourage abusive bankruptcy filings.
Sec. **[**225**]** *222.* Sense of Congress.
Sec. **[**226**]** *223.* Additional amendments to title 11, United States Code.
Sec. 224. Protection of retirement savings in bankruptcy.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

Sec. 301. Reinforcement of the fresh start.
Sec. 302. Discouraging bad faith repeat filings.
Sec. 303. Curbing abusive filings.
Sec. 304. Debtor retention of personal property security.
Sec. 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 306. Giving secured creditors fair treatment in chapter 13.
Sec. 307. Exemptions.
Sec. 308. Residency requirement for homestead exemption.
Sec. 309. Protecting secured creditors in chapter 13 cases.
Sec. 310. Limitation on luxury goods.
Sec. 311. Automatic stay.
Sec. 312. Extension of period between bankruptcy discharges.
Sec. 313. Definition of household goods and antiques.
Sec. 314. Debt incurred to pay nondischargeable debts.
Sec. 315. Giving creditors fair notice in chapters 7 and 13 cases.
Sec. 316. Dismissal for failure to timely file schedules or provide required information.
Sec. 317. Adequate time to prepare for hearing on confirmation of the plan.
Sec. 318. Chapter 13 plans to have a 5-year duration in certain cases.
Sec. 319. Sense of the Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
Sec. 320. Prompt relief from stay in individual cases.
Sec. 321. Treatment of certain earnings of an individual debtor who files a voluntary case under chapter 11.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

Sec. 401. Rolling stock equipment.
Sec. 402. Adequate protection for investors.
Sec. 403. Meetings of creditors and equity security holders.
Sec. 404. Protection of refinance of security interest.
Sec. 405. Executory contracts and unexpired leases.
Sec. 406. Creditors and equity security holders committees.
Sec. 407. Amendment to section 546 of title 11, United States Code.
Sec. 408. Limitation.
Sec. 409. Amendment to section 330(a) of title 11, United States Code.
Sec. 410. Postpetition disclosure and solicitation.
Sec. 411. Preferences.
Sec. 412. Venue of certain proceedings.
Sec. 413. Period for filing plan under chapter 11.
Sec. 414. Fees arising from certain ownership interests.
Sec. 415. Creditor representation at first meeting of creditors.
[Sec. 416. Elimination of certain fees payable in chapter 11 bankruptcy cases.**]**
Sec. **[**417**]** *416.* Definition of disinterested person.
Sec. **[**418**]** *417.* Factors for compensation of professional persons.
Sec. **[**419**]** *418.* Appointment of elected trustee.
Sec. 419. Utility service.

Subtitle B—Small Business Bankruptcy Provisions

Sec. 421. Flexible rules for disclosure statement and plan.
Sec. 422. Definitions; effect of discharge.
Sec. 423. Standard form disclosure Statement and plan.
Sec. 424. Uniform national reporting requirements.
Sec. 425. Uniform reporting rules and forms for small business cases.
Sec. 426. Duties in small business cases.
Sec. 427. Plan filing and confirmation deadlines.

Sec. 428. Plan confirmation deadline.
Sec. 429. Prohibition against extension of time.
Sec. 430. Duties of the United States trustee.
Sec. 431. Scheduling conferences.
Sec. 432. Serial filer provisions.
Sec. 433. Expanded grounds for dismissal or conversion and appointment of trustee.
Sec. 434. Study of operation of title 11, United States Code, with respect to small businesses.
Sec. 435. Payment of interest.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

Sec. 501. Petition and proceedings related to petition.
Sec. 502. Applicability of other sections to chapter 9.

TITLE VI—IMPROVED BANKRUPTCY STATISTICS AND DATA

Sec. 601. Audit procedures.
Sec. 602. Improved bankruptcy statistics.
Sec. 603. Uniform rules for the collection of bankruptcy data.
Sec. 604. Sense of Congress regarding availability of bankruptcy data.

TITLE VII—BANKRUPTCY TAX PROVISIONS

Sec. 701. Treatment of certain liens.
Sec. 702. Effective notice to government.
Sec. 703. Notice of request for a determination of taxes.
Sec. 704. Rate of interest on tax claims.
Sec. 705. Tolling of priority of tax claim time periods.
Sec. 706. Priority property taxes incurred.
Sec. 707. Chapter 13 discharge of fraudulent and other taxes.
Sec. 708. Chapter 11 discharge of fraudulent taxes.
Sec. 709. Stay of tax proceedings.
Sec. 710. Periodic payment of taxes in chapter 11 cases.
Sec. 711. Avoidance of statutory tax liens prohibited.
Sec. 712. Payment of taxes in the conduct of business.
Sec. 713. Tardily filed priority tax claims.
Sec. 714. Income tax returns prepared by tax authorities.
Sec. 715. Discharge of the estate's liability for unpaid taxes.
Sec. 716. Requirement to file tax returns to confirm chapter 13 plans.
Sec. 717. Standards for tax disclosure.
Sec. 718. Setoff of tax refunds.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

Sec. 801. Amendment to add chapter 15 to title 11, United States Code.
Sec. 802. Amendments to other chapters in title 11, United States Code.
Sec. 803. Claims relating to insurance deposits in cases ancillary to foreign proceedings.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

Sec. 901. Bankruptcy Code amendments.
Sec. 902. Damage measure.
Sec. 903. Asset-backed securitizations.
Sec. 904. Effective date; application of amendments.

TITLE X—PROTECTION OF FAMILY FARMERS

Sec. 1001. Reenactment of chapter 12.
Sec. 1002. Debt limit increase.
Sec. 1003. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.
Sec. 1004. Certain claims owed to governmental units.

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

[Sec. 1101. Definitions.
[Sec. 1102. Disposal of patient records.
[Sec. 1103. Administrative expense claim for costs of closing a health care business.
[Sec. 1104. Appointment of ombudsman to act as patient advocate.
[Sec. 1105. Debtor in possession; duty of trustee to transfer patients.]

TITLE [XII] *XI*—TECHNICAL AMENDMENTS

Sec. [1201] *1101*. Definitions.
Sec. [1202] *1102*. Adjustment of dollar amounts.
Sec. [1203] *1103*. Extension of time.
Sec. [1204] *1104*. Technical amendments.
Sec. [1205] *1105*. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
Sec. [1206] *1106*. Limitation on compensation of professional persons.
Sec. [1207] *1107*. Special tax provisions.
Sec. [1208] *1108*. Effect of conversion.
Sec. [1209] *1109*. Allowance of administrative expenses.
[Sec. 1210. Priorities.
[Sec. 1211. Exemptions.]
Sec. [1212] *1110*. Exceptions to discharge.
Sec. [1213] *1111*. Effect of discharge.
Sec. [1214] *1112*. Protection against discriminatory treatment.
Sec. [1215] *1113*. Property of the estate.
Sec. [1216] *1114*. Preferences.
Sec. [1217] *1115*. Postpetition transactions.
Sec. [1218] *1116*. Disposition of property of the estate.
Sec. [1219] *1117*. General provisions.
Sec. [1220] *1118*. Abandonment of railroad line.
Sec. [1221] *1119*. Contents of plan.
Sec. [1222] *1120*. Discharge under chapter 12.
Sec. [1223] *1121*. Bankruptcy cases and proceedings.
Sec. [1224] *1122*. Knowing disregard of bankruptcy law or rule.
Sec. [1225] *1123*. Transfers made by nonprofit charitable corporations.
Sec. [1226] *1124*. Protection of valid purchase money security interests.
Sec. [1227] *1125*. Extensions.
Sec. [1228] *1126*. Bankruptcy judgeships.

TITLE [XIII] *XII*—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

Sec. [1301] *1201*. Effective date; application of amendments.

TITLE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by inserting "or consents to" after "requests".

SEC. 102. DISMISSAL OR CONVERSION.

(a) IN GENERAL.—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 707. Dismissal of a case or conversion to a case under chapter 13";

and

(2) in subsection (b)—

(A) by inserting "(1)" after "(b)";

(B) in paragraph (1), as redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—

(I) by striking "but not at the request or suggestion" and inserting ", panel trustee or";

(II) by inserting ", or, with the debtor's consent, convert such a case to a case under chapter 13 of this title," after "consumer debts"; and

(III) by striking "substantial abuse" and inserting "abuse"; and

(ii) by striking the next to last sentence; and

(C) by adding at the end the following:

"(2)(A)(i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of—

"(I) 25 percent of the debtor's nonpriority unsecured claims in the case; or

"(II) $15,000.

"(ii) The debtor's monthly expenses shall be the applicable monthly (excluding payments for debts) expenses under standards issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the entry of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent.

"(iii) The debtor's average monthly payments on account of secured debts shall be calculated as—

"(I) the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition; divided by

"(II) 60.

"(iv) The debtor's expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as—

"(I) the total amount of debts entitled to priority; divided by

"(II) 60.

"(B)(i) In any proceeding brought under this subsection, the presumption of abuse may be rebutted by demonstrating special circumstances that justify additional expenses or adjustments of current monthly total income. In order to establish special circumstances, the debtor shall be required to—

"(I) itemize each additional expense or adjustment of income; and

"(II) provide—

"(aa) documentation for such expenses; and

"(bb) a detailed explanation of the special circumstances that make such expenses necessary and reasonable.

"(ii) The debtor, and the attorney for the debtor if the debtor has an attorney, shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.

"(iii) The presumption of abuse may be rebutted if the additional expenses or adjustments to income referred to in clause (i) cause the product of the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv) of subparagraph (A) multiplied by 60 to be less than the lesser of—

"(I) 25 percent of the debtor's nonpriority unsecured claims; or

"(II) $15,000.

"(C)(i) As part of the schedule of current income and expenditures required under section 521, the debtor shall include a statement of the debtor's current monthly income, and the calculations that determine whether a presumption arises under subparagraph (A)(i), that shows how each such amount is calculated.

"(ii) The Supreme Court shall promulgate rules under section 2075 of title 28, that prescribe a form for a statement under clause (i) and may provide general rules on the content of the statement.

"(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(i) of such paragraph does not apply or has been rebutted, the court shall consider—

"(A) whether the debtor filed the petition in bad faith; or

"(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.".

(b) Definition.—Title 11, United States Code, is amended—

(1) in section 101, by inserting after paragraph (10) the following:

"(10A) 'current monthly income'—

"(A) means the average monthly income from all sources which the debtor, or in a joint case, the debtor and the debtor's spouse, receive without regard to whether the income is taxable income, derived during the 180-day period preceding the date of determination; and

"(B) includes any amount paid by any entity other than the debtor (or, in a joint case, the debtor and the debtor's spouse), on a regular basis to the household expenses of the debtor or the debtor's dependents (and, in a joint case, the debtor's spouse if not otherwise a dependent);"; and

(2) in section 704—

(A) by inserting "(a)" before "The trustee shall—"; and

(B) by adding at the end the following:

"(b)(1) With respect to an individual debtor under this chapter—

"(A) the United States trustee or bankruptcy administrator shall review all materials filed by the debtor and, not later than 10 days before the first meeting of creditors, file with the court a statement as to whether the debtor's case would be presumed to be an abuse under section 707(b); and

"(B) not later than 5 days after receiving a statement under subparagraph (A), the court shall provide a copy of the statement to all creditors.

"(2) The United States trustee or bankruptcy administrator shall not later than 30 days after receiving a statement filed under paragraph (1) file a motion to dismiss or convert under section 707(b), or file a statement setting forth the reasons the United States trustee or bankruptcy administrator does not believe that such a motion would be [appropriate. If,] *appropriate, if* based on the filing of such statement with the court, the United States trustee or bankruptcy administrator determines that the debtor's case should be presumed to be an abuse under section 707(b) and the product of the debtor's current monthly income multiplied by 12 is not less than—

"(A) the highest national or applicable State median family income reported for a family of equal or lesser size, whichever is greater; or

"(B) in the case of a household of 1 person, the national or applicable State median household income for 1 earner, whichever is greater.

"(3)(A) The court shall order the counsel for the debtor to reimburse the panel trustee for all reasonable costs in prosecuting a motion brought under section 707(b), including reasonable attorneys' fees, if—

"(i) a panel trustee appointed under section 586(a)(1) of title 28 brings a motion for dismissal or conversion under this subsection; and

"(ii) the court—

"(I) grants that motion; and

"(II) finds that the action of the counsel for the debtor in filing under this chapter was not substantially justified.

"(B) If the court finds that the attorney for the debtor violated Rule 9011, at a minimum, the court shall order—

"(i) the assessment of an appropriate civil penalty against the counsel for the debtor; and

"(ii) the payment of the civil penalty to the panel trustee or the United States trustee.

"(C) In the case of a petition referred to in subparagraph (B), the signature of an attorney shall constitute a certificate that the attorney has—

"(i) performed a reasonable investigation into the circumstances that gave rise to the petition; and

"(ii) determined that the petition—

"(I) is well grounded in fact; and

"(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1).

"(4)(A) Except as provided in subparagraph (B) and subject to paragraph (5), the court may award a debtor all reasonable costs in contesting a motion brought by a party in interest (other than a panel trustee or United States trustee) under this subsection (including reasonable attorneys' fees) if—

"(i) the court does not grant the motion; and

"(ii) the court finds that—

"(I) the position of the party that brought the motion was not substantially justified; or

"(II) the party brought the motion solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

"(B) A party in interest that has a claim of an aggregate amount less than $1,000 shall not be subject to subparagraph (A).

"(5) Only the judge, United States trustee, bankruptcy administrator, or panel trustee may bring a motion under this section if the debtor and the debtor's spouse combined, as of the date of the order for relief, have a total current monthly income equal to or less than the national or applicable State median family monthly income calculated on a monthly basis for a family of equal size.".

(c) Clerical Amendment.—The table of sections for chapter 7 of title 11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

"707. Dismissal of a case or conversion to a case under chapter 13.".

SEC. 103. NOTICE OF ALTERNATIVES.

Section 342(b) of title 11, United States Code, is amended to read as follows:

"(b)(1) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, that individual shall be given or obtain (as required in section 521(a)(1), as part of the certification process under subchapter I of chapter 5) a written notice prescribed by the United States trustee for the district in which the petition is filed under section 586 of title 28.

"(2) The notice shall contain the following:

"(A) A brief description of chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters.

"(B) A brief description of services that may be available to that individual from a credit counseling service that is approved by the United States trustee for that district.".

SEC. 104. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) Development of Financial Management and Training Curriculum and Materials.—The Director of the Executive Office for United States Trustees (in this section referred to as the "Director") shall—

(1) consult with a wide range of individuals who are experts in the field of debtor education, including trustees who are appointed under chapter 13 of title 11, United States Code, and who operate financial management education programs for debtors; and

(2) develop a financial management training curriculum and materials that may be used to educate individual debtors concerning how to better manage their finances.

(b) Test.—

(1) In general.—The Director shall select 3 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) Availability of curriculum and materials.—For a 1-year period beginning not later than 270 days after the date of enactment of this Act, the curriculum and materials referred to in paragraph (1) shall be made available by the Director, directly or indirectly, on request to individual debtors in cases filed during that 1-year period under chapter 7 or 13 of title 11, United States Code.

(c) Evaluation.—

(1) In general.—During the 1-year period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the report of the National Bankruptcy Review Commission issued on October 20, 1997, that are representative of consumer education programs carried out by—

(i) the credit industry;

(ii) trustees serving under chapter 13 of title 11, United States Code; and

(iii) consumer counseling groups.

(2) Report.—Not later than 3 months after concluding the evaluation under paragraph (1), the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs.

SEC. 105. CREDIT COUNSELING.

(a) Who May Be a Debtor.—Section 109 of title 11, United States Code, is amended by adding at the end the following:

"(h)(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless that individual has, during the [90-day period] *180-day period* preceding the date of filing of the petition of that individual, received from an approved nonprofit credit counseling service described in section 111(a) an individual or group briefing that outlined the opportunities for available credit counseling and assisted that individual in performing a related budget analysis.

"(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved nonprofit credit counseling services for that district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from those programs by reason of the requirements of paragraph (1).

"(B) Each United States trustee or bankruptcy administrator that makes a determination described in subparagraph (A) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.

"(3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that—

"(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);

"(ii) states that the debtor requested credit counseling services from an approved nonprofit credit counseling service, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and

"(iii) is satisfactory to the court.

"(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition.".

(b) CHAPTER 7 DISCHARGE.—Section 727(a) of title 11, United States Code, is amended—

(1) in paragraph (9), by striking "or" at the end;

(2) in paragraph (10), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(11) after the filing of the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111.".

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

"(g) The court shall not grant a discharge under this section to a debtor, unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

"(h) Subsection (g) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved instructional courses are not adequate to service the additional individuals who would be required to complete the instructional course by reason of the requirements of this section.

"(i) Each United States trustee or bankruptcy administrator that makes a determination described in subsection (h) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.".

(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The debtor shall—"; and

(2) by adding at the end the following:

"(b) In addition to the requirements under subsection (a), an individual debtor shall file with the court—

"(1) a certificate from the credit counseling service that provided the debtor services under section 109(h); and

"(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the credit counseling service referred to in paragraph (1).".

(e) GENERAL PROVISIONS.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"§ 111. Credit counseling services; financial management instructional courses

"(a) The clerk of each district shall maintain a list of credit counseling services that provide 1 or more programs described in section 109(h) and a list of instructional courses concerning personal financial management that have been approved by—

"(1) the United States trustee; or

"(2) the bankruptcy administrator for the district.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"111. Credit counseling services; financial management instructional courses.".

(f) LIMITATION.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

"(i) If a case commenced under chapter 7, 11, or 13 [of this title] is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.".

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION.

(a) REDUCTION OF CLAIM.—Section 502 of title 11, United States Code, is amended by adding at the end the following:

"(k)(1) The court, on the motion of the debtor and after a hearing, may reduce a claim filed under this section based in whole on unsecured consumer debts by not more than 20 percent of the claim, if—

"(A) the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment schedule proposed by an approved credit counseling agency acting on behalf of the debtor;

"(B) the offer of the debtor under subparagraph (A)—

"(i) was made at least 60 days before the filing of the petition; and

"(ii) provided for payment of at least 60 percent of the amount of the debt over a period not to exceed the repayment period of the loan, or a reasonable extension thereof; and

"(C) no part of the debt under the alternative repayment schedule is nondischargeable.

"(2) The debtor shall have the burden of proving, by clear and convincing evidence, that—

"(A) the creditor unreasonably refused to consider the debtor's proposal; and

"(B) the proposed alternative repayment schedule was made in the 60-day period specified in paragraph (1)(B)(i).".

(b) LIMITATION ON AVOIDABILITY.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

"(h) The trustee may not avoid a transfer if such transfer was made as a part of an alternative repayment plan between the debtor and any creditor of the debtor created by an approved credit counseling agency.".

SEC. 202. EFFECT OF DISCHARGE.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

"(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title (including a plan of reorganization confirmed under chapter 11 of this title) in the manner required by the plan (including crediting the amounts required under the plan) shall constitute a violation of an injunction under subsection (a)(2).".

SEC. 203. VIOLATIONS OF THE AUTOMATIC STAY.

Section 362(a) of title 11, United States Code, is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) any communication (other than a recitation of the creditor's legal rights) threatening a debtor (for the purpose of coercing an agreement for the reaffirmation of debt), at any time after the commencement and before the granting of a discharge in a case under this title, of an intention to—

"(A) file a motion to—

"(i) determine the dischargeability of a debt; or

"(ii) under section 707(b), [to] dismiss or convert a case; or

"(B) repossess collateral from the debtor to which the stay applies.".

SEC. 204. DISCOURAGING ABUSE OF REAFFIRMATION PRACTICES.

(a) IN GENERAL.—Section 524 of title 11, United States Code, as amended by section 202 of this Act, is amended—

(1) in subsection (c)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking "and" at the end;

(ii) in subparagraph (B), by inserting "and" at the end; and

(iii) by adding at the end the following:

"(C)(i) the consideration for such agreement is based on a wholly unsecured consumer debt; and

"(ii) such agreement contains a clear and conspicuous statement that advises the debtor that—

"(I) the debtor is entitled to a hearing before the court at which—

"(aa) the debtor shall appear in person; and

"(bb) the court shall decide whether the agreement constitutes an undue hardship, is not in the debtor's best interest, or is not the result of a threat by the creditor to take an action that, at the time of the threat, [that] the creditor may not legally take or does not intend to take; and

"(II) if the debtor is represented by counsel, the debtor may waive the debtor's right to a hearing under subclause (I) by signing a statement—

"(aa) waiving the hearing;

"(bb) stating that the debtor is represented by counsel; and

"(cc) identifying the counsel. ;"; [and]

(B) in paragraph (6)(A)—

(i) in clause (i), by striking "and" at the end;

(ii) in clause (ii), by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(iii) not an agreement that the debtor entered into as a result of a threat by the creditor to take an action that, at the time of the threat, the creditor could not legally take or did not intend to take[.]; *except that*"; and

(C) in paragraph (6)(B), by striking "Subparagraph" and inserting "subparagraph"; and

(2) in subsection (d), in the third sentence, by inserting after "during the course of negotiating an agreement" the following: "(or if the consideration by such agreement is based on a wholly secured consumer debt, and the debtor has not waived the right to a hearing under subsection (c)(2)(C))".

(b) LAW ENFORCEMENT.—

(1) IN GENERAL.—Chapter 9 of title 18, United States Code, is amended by adding at the end the following:

"§ 158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt

"(a) IN GENERAL.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt.

"(b) UNITED STATES DISTRICT ATTORNEYS AND AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION—The individuals referred to in subsection (a) are—

"(1) a United States attorney for each judicial district of the United States; and

"(2) an agent of the Federal Bureau of Investigation (within the meaning of section 3107) for each field office of the Federal Bureau of Investigation.

"(c) BANKRUPTCY INVESTIGATIONS.—Each United States attorney designated under this section shall have primary responsibility for carrying out the duties of a United States attorney under section 3057.".

(2) CLERICAL AMENDMENT.—The analysis for chapter 9 of title 18, United States Code, is amended by adding at the end the following:

"158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt.".

(c) EXCEPTIONS TO DISCHARGE.—Section 523 of title 11, United States Code, is amended by adding at the end the following:

"(f) Nothing in this section or in any other provision of this title shall preempt any State law relating to unfair trade practices that imposes restrictions on creditor conduct that would give rise to liability—

"(1) under this section; or

"(2) under section 524, for failure to comply with applicable requirements for seeking a reaffirmation of debt.

"(g) ACTIONS BY STATES.—The attorney general of a State, or an official or agency designated by a State—

"(1) may bring an action on behalf of its residents to recover damages on their behalf under subsection (d) or section 524(c); and

"(2) may bring an action in a State court to enforce a State criminal law that is similar to section 152 or 157 of title 18.".

Subtitle B—Priority Child Support

SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (12A); and

(2) by inserting after paragraph (14) the following:

"(14A) 'domestic support obligation' means a debt that accrues before or after the entry of an order for relief under this title that is—

"(A) owed to or recoverable by—

"(i) a spouse, former spouse, or child of the debtor or such child's parent or legal guardian; or

"(ii) a governmental unit;

"(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child's parent or legal guardian, without regard to whether such debt is expressly so designated;

"(C) established or subject to establishment before or after entry of an order for relief under this title, by reason of applicable provisions of—

"(i) a separation agreement, divorce decree, or property settlement agreement;

"(ii) an order of a court of record; or

"(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

"(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child, or parent or legal guardian of the child for the purpose of collecting the debt.".

SEC. [211.] *212.* PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.

Section 507(a) of title 11, United States Code, is amended—

(1) by striking paragraph (7);

(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(3) in paragraph (2), as redesignated, by striking "First" and inserting "Second";

(4) in paragraph (3), as redesignated, by striking "Second" and inserting "Third";

(5) in paragraph (4), as redesignated, by striking "Third" and inserting "Fourth";

(6) in paragraph (5), as redesignated, by striking "Fourth" and inserting "Fifth";

(7) in paragraph (6), as redesignated, by striking "Fifth" and inserting "Sixth";

(8) in paragraph (7), as redesignated, by striking "Sixth" and inserting "Seventh"; and

(9) by inserting before paragraph (2), as redesignated, the following:

"(1) First, allowed *unsecured* claims for domestic support obligations to be paid in the following order on the condition that funds received under this paragraph by a governmental unit in a case under this title be applied *and distributed in accordance with applicable nonbankruptcy law*:

"(A) Claims that, as of the date of entry of the order for relief, are owed directly to a spouse, former spouse, or child of the debtor, or the parent *or legal guardian* of such child, without regard to whether the claim is filed by the spouse, former spouse, child, or [parent] *such child's parent or legal guardian*, or is filed by a governmental unit on behalf of that person.

"(B) Claims that, as of the date of entry of the order for relief, are assigned by a spouse, former spouse, child of the debtor, or the parent *or legal guardian* of that child to a governmental unit or are owed directly to a governmental unit under applicable nonbankruptcy law.".

SEC. [212.] *213.* REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, United States Code, is amended—

[(1) in section 1129(a), by adding at the end the following:

["(14) If the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that become payable after the date on which the petition is filed.";]

(1) in section 1322(a)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding in the end the following:

"(4) if the debtor is required by judicial or administrative order or statute to pay a domestic support obligation, unless the holder of such claim agrees to a different treatment of such claim, provide for the full payment of—

"(A) all amounts payable under such order or statute for such obligation that first become payable after the date on which the petition is filed; and

"(B) all amounts payable under such order before the date on which such petition was filed, if such amounts are owed directly to a spouse, former spouse, child of the debtor, or a parent or legal guardian of such child.";

(2) in section 1225(a)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(7) if the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the plan provides for the full payment of all amounts payable under such order or statute for such obligation that initially become payable after the date on which the petition is filed.";

(3) in section 1228(a)—

(A) by striking "(a) As soon as practicable" and inserting "(a)(1) Subject to paragraph (2), as soon as practicable";

(B) by striking "(1) provided" and inserting the following:

"(A) provided";

(C) by striking "(2) of the kind" and inserting the following:

"(B) of the kind"; and

(D) by adding at the end the following:

"(2) With respect to a debtor who is required by a judicial or administrative order or statute to pay a domestic support obligation, the court may not grant the debtor a discharge under paragraph (1) until after the debtor certifies that—

"(A) all amounts payable under that order or statute that initially became payable after the date on which the petition was filed (through the date of the certification) have been paid; and

"(B) all amounts payable under that order that, as of the date of the certification, are owed directly to a spouse, former spouse, or child of the debtor, or the parent or legal guardian of such child, have been paid, unless the holder of such claim agrees to a different treatment of such claim.";

[(2)] *(4)* in section 1325(a)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(7) if the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, [the debtor has paid] *the plan provides for full payment of* all amounts payable under such order for such obligation that become payable after the date on which the petition is filed."; and

[(3)] *(5)* in section 1328(a), in the matter preceding paragraph (1), by inserting ", and with respect to a debtor who is required by a judicial or administrative order to pay a domestic support obligation, *and with respect to whom the court* certifies that all amounts payable under such order or [statute that are due on or before the date] *statute that initially became payable after the date on which the petition was filed through the date* of the [certification (including amounts due before or after the petition was filed) have been paid" after "completion by the debtor of all payments under the plan".] *certification have been paid, after all amounts payable under that* *order that, as of the date of certification, are owed directly to a spouse, former spouse, or child of the debtor, or the parent or legal guardian of such child have been paid (unless the holder of such claim agrees to a different treatment of such claim)," after "completion by the debtor of all payments under the plan".*

SEC. [213.] *214.* EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) under subsection (a)—

"(A) of the commencement of an action or proceeding for—

"(i) the establishment of paternity [as a part of an effort to collect domestic support obligations]; or

"(ii) the establishment or modification of an order for domestic support obligations; or

"(B) the collection of a domestic support obligation from property that] is not property of the estate;";

[(2) in paragraph (17), by striking "or" at the end;

[(3) in paragraph (18), by striking the period at the end and inserting a semicolon; and

[(4) by inserting after paragraph (18) the following:

["(19) under subsection (a) with respect to the withholding of income under an order as specified in section 466(b) of the Social Security Act (42 U.S.C. 666(b)); or

["(20) under subsection (a) with respect to—]

(2) by inserting after paragraph (4) the following:

"(5) under subsection (a) with respect to the withholding of income—

"(A) for payment of a domestic support obligation for amounts that initially become payable after the date the petition was filed; and

"(B) for payment of a domestic support obligation for amounts payable before the date the petition was filed, and owed directly to the spouse, former spouse, or child of the debtor, or the parent or guardian of such child;";

(3) in paragraph (17), by striking "or" at the end;

(4) in paragraph (18), by striking the period at the end and inserting "; or"; and

(5) by inserting after paragraph (18) the following:

"(19) under subsection (a) with respect to—

"(A) the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses under State law, as specified in section 466(a)(16) of the Social Security Act (42 U.S.C. 666(a)(16)) [or with respect];

"*(B)* [to] the reporting of overdue support owed by an absent parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act (42 U.S.C. 666(a)(7));

"[(B)] *(C)* the interception of tax refunds, as specified in sections 464 and 466(a)(3) of the Social Security Act (42 U.S.C. 664 and 666(a)(3)), *if such tax refund is payable directly to a spouse, former spouse, or child of the debtor, or the parent or legal guardian of such child*; or

"[(C)] *(D) the enforcement of medical obligations as specified under title IV of the Social Security Act (42 U.S.C. 601 et seq.).".*

SEC. [214.] *215.* NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523 of title 11, United States Code, is amended—

[(1) in subsection (a), by striking paragraph (5) and inserting the following:

["(5) for a domestic support obligation;";]

(1) in subsection (a)—

(A) by striking paragraph (5) and inserting the following:

"(5) for a domestic support obligation;";

(B) in paragraph (15)—

(i) by inserting "or" after "court of record"; and

(ii) by striking "unless—" and all that follows through the end of the paragraph and inserting a semicolon; and

(2) in subsection (c), by striking "(6), or (15)" and inserting "or (6)"[; and].

[(3) in paragraph (15), by striking "governmental unit" and all through the end of the paragraph and inserting a semicolon.]

SEC. [215.] *216.* CONTINUED LIABILITY OF PROPERTY.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5));"; and

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting "of a kind that is specified in section 523(a)(5); or".

SEC. [216.] *217.* PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

Section 547(c)(7) of title 11, United States Code, is amended to read as follows:

"(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation; or".

[SEC. 217. AMENDMENT TO SECTION 1325 OF TITLE 11, UNITED STATES CODE.

[Section 1325(b)(2) of title 11, United States Code, is amended by inserting "(other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law and which is reasonably necessary to be expended)" after "received by the debtor".

[SEC. 218. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

[Section 101 of title 11, United States Code, is amended—

[(1) by striking paragraph (12A); and

[(2) by inserting after paragraph (14) the following:

["(14A) 'domestic support obligation' means a debt that accrues before or after the entry of an order for relief under this title that is—

["(A) owed to or recoverable by—

["(i) a spouse, former spouse, or child of the debtor or that child's legal guardian; or

["(ii) a governmental unit;

["(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child, without regard to whether such debt is expressly so designated;

["(C) established or subject to establishment before or after entry of an order for relief under this title, by reason of applicable provisions of—

["(i) a separation agreement, divorce decree, or property settlement agreement;

["(ii) an order of a court of record; or

["(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

["(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child, or parent solely for the purpose of collecting the debt.".]

SEC. 218. DISPOSABLE INCOME DEFINED.

(a) Confirmation of Plan Under Chapter 12.—Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting "for a child support, foster care, or disability payment for a dependent child made in accordance with applicable nonbankruptcy law" after "dependent of the debtor".

(b) Confirmation of Plan Under Chapter 13.—Section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting "or for a child support, foster care, or disability payment for a dependent child made in accordance with applicable nonbankruptcy law" after "dependent of the debtor".

SEC. 219. COLLECTION OF CHILD SUPPORT.

(a) Duties of Trustee Under Chapter 7.—Section 704 of title 11, United States Code, as amended by section 102(b) of this Act, is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking "and" at the end;

(B) in paragraph (9), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(10) if, with respect to an individual debtor, there is a claim for support of a child of the debtor or a custodial parent *or legal guardian* of such child entitled to receive priority under section 507(a)(1), provide the applicable notification specified in subsection (c)."; and

(2) by adding at the end the following:

"(c)(1) In any case described in subsection (a)(10), the trustee shall—

"(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. [654] *664* and 666, respectively) for the State in which the holder resides *for assistance in collecting child support during and after the bankruptcy procedures*; [and]

"(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

"(iii) include in the notice an explanation of the rights of the holder of the claim to payment of the claim under this chapter; and

"(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides of the claim;

"(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

"(iii) at such time as the debtor is granted a discharge under section 727, notify the holder of that claim and the State child support agency of the State in which that holder resides of—

"(I) the granting of the discharge;

"(II) the last recent known address of the debtor; and

"(III) with respect to the debtor's case, the name of each creditor that holds a claim *that—*

"(aa) [that] is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

"(bb) [that] was reaffirmed by the debtor under section 524(c).

"(2)(A) If, after receiving a notice under paragraph (1)(B)(iii), a holder of a claim or a State child support agency is unable to locate the debtor that is the subject of the notice, that party may request from a creditor described in paragraph (1)(B)(iii)(III) (aa) or (bb) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.''.

(b) DUTIES OF TRUSTEE UNDER CHAPTER 11.—Section 1106 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (5), by striking ''and'' at the end;

(B) in paragraph (6), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(7) if, with respect to an individual debtor, there is a claim for support of a child of the debtor or a custodial parent or legal guardian of such child entitled to receive priority under section 507(a)(1), provide the applicable notification specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In any case described in subsection (b)(7), the trustee shall—

''(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664 and 666) for the State in which the holder resides; and

''(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

''(B)(i) notify, in writing, the State child support agency (of the State in which the holder of the claim resides) of the claim;

''(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

''(iii) at such time as the debtor is granted a discharge under section 1141, notify the holder of the claim and the State child support agency of the State in which that holder resides of—

''(I) the granting of the discharge;

''(II) the last recent known address of the debtor; and

''(III) with respect to the debtor's case, the name of each creditor that holds a claim that—

''(aa) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(bb) was reaffirmed by the debtor under section 524(c).

''(2)(A) If, after receiving a notice under paragraph (1)(B)(iii), a holder of a claim or a State child support agency is unable to locate the debtor that is the subject of the notice, that party may request from a creditor described in paragraph (1)(B)(iii)(III) (aa) or (bb) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.''.

(c) DUTIES OF TRUSTEE UNDER CHAPTER 12.—Section 1202 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(6) if, with respect to an individual debtor, there is a claim for support of a child of the debtor or a custodial parent or legal guardian of such child entitled to receive priority under section 507(a)(1), provide the applicable notification specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In any case described in subsection (b)(6), the trustee shall—

''(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664 and 666) for the State in which the holder resides; and

''(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

''(B)(i) notify, in writing, the State child support agency (of the State in which the holder of the claim resides) of the claim;

''(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

''(iii) at such time as the debtor is granted a discharge under section 1228, notify the holder of the claim and the State child support agency of the State in which that holder resides of—

''(I) the granting of the discharge;

''(II) the last recent known address of the debtor; and

''(III) with respect to the debtor's case, the name of each creditor that holds a claim that—

''(aa) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(bb) was reaffirmed by the debtor under section 524(c).

''(2)(A) If, after receiving a notice under paragraph (1)(B)(iii), a holder of a claim or a State child support agency is unable to locate the debtor that is the subject of the notice, that party may request from a creditor described in paragraph (1)(B)(iii)(III) (aa) or (bb) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.''.

[(b)**]** *(d)* DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, **[**as amended by section 102(b) of this Act,**]** is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(6) if, with respect to an individual debtor, there is a claim for support of a child of the debtor or a custodial parent *or legal guardian* of such child entitled to receive priority under section 507(a)(1), provide the applicable notification specified in subsection (d).''; and

[(s)**]** *(2)* by adding at the end the following:

''(d)(1) In any case described in subsection (b)(6), the trustee shall—

''(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664 and 666, respectively) for the State in which the holder resides; and

''(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

''(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides of the claim; **[**and**]**

''(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; *and*

''(iii) at such time as the debtor is granted a discharge under section 1328, notify the holder of the claim and the State child support agency of the State in which that holder-resides of—

''(I) the granting of the discharge;

''(II) the last recent known address of the debtor; and

''(III) with respect to the debtor's case, the name of each creditor that holds a claim *that—*

''(aa) **[**that**]** is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(bb) **[**that**]** was reaffirmed by the debtor under section 524(c).

''(2)(A) If, after receiving a notice under paragraph (1)(B)(iii), a holder of a claim or a State child support agency is unable to locate the debtor that is the subject of the notice, that party may request from a creditor described in paragraph (1)(B)(iii)(III) (aa) or (bb) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.''.

Subtitle C—Other Consumer Protections

[SEC. 221. DEFINITIONS.

[(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

[(1) by inserting after paragraph (3) the following:

[''(3A) 'assisted person' means any person whose debts consist primarily of consumer debts and whose nonexempt assets are less than $150,000;'';

[(2) by inserting after paragraph (4) the following:

[''(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a proceeding under this title;''; and

[(3) by inserting after paragraph (12A) the following:

[''(12B) 'debt relief agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include any person that is any of the following or an officer, director, employee, or agent thereof—

[''(A) any nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

[''(B) any creditor of the person to the extent the creditor is assisting the person to restructure any debt owed by the person to the creditor; or

[''(C) any depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1751)), or any affiliate or subsidiary of such a depository institution or credit union;''.

[(b) CONFORMING AMENDMENT.—Section 104(b)(1) of title 11, United States Code, is amended by inserting ''101(3),'' after ''sections''.

[SEC. 222. DISCLOSURES.

[(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

[“§ 526. Disclosures

[''(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide the following notices to the assisted person:

[''(1) The written notice required under section 342(b)(1).

[“(2) To the extent not covered in the written notice described in paragraph (1) and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

[“(A) all information the assisted person is required to provide with a petition and thereafter during a case under this title shall be complete, accurate, and truthful;

[“(B) all assets and all liabilities shall be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset, as defined in section 506, shall be stated in those documents if requested after reasonable inquiry to establish such value;

[“(C) total current monthly income, projected monthly net income and, in a case under chapter 13, monthly net income shall be stated after reasonable inquiry; and

[“(D) information an assisted person provides during the case of that person may be audited under this title and the failure to provide such information may result in dismissal of the proceeding under this title or other sanction including, in some instances, criminal sanctions.

[“(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) with the following statement, to the extent applicable, or a substantially similar statement. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

[“‘IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER

[“‘If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

[“‘The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

[“‘Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief made available by the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a “trustee” and by creditors.

[“‘If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so and a creditor is not permitted to coerce you into reaffirming your debts.

[“‘If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

[“‘If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what needs to be done from someone familiar with that type of relief.

[“‘Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.’.

[“(c) Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which may be provided orally or in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

[“(1) how to value assets at replacement value, determine total current monthly income, projected monthly income and, in a case under chapter 13, net monthly income, and related calculations;

[“(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

[“(3) how to—

[“(A) determine what property is exempt; and

[“(B) value exempt property at replacement value, as defined in section 506.

[“(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for a period of 2 years after the latest date on which the notice is given the assisted person.”.

[(b) Conforming Amendment.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525 the following:

[“526. Disclosures.”.

[SEC. 223. DEBTOR'S BILL OF RIGHTS.

[(a) Debtor's Bill of Rights.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 222 of this Act, is amended by adding at the end the following:

[“§ 527. Debtor's bill of rights

[“(a)(1) A debt relief agency shall—

[“(A) not later than 5 business days after the first date on which a debt relief agency provides any bankruptcy assistance services to an assisted person, but before that assisted person's petition under this title is filed—

[“(i) execute a written contract with the assisted person specifying clearly and conspicuously the services the agency will provide the assisted person and the basis on which fees or charges will be made for such services and the terms of payment; and

[“(ii) give the assisted person a copy of the fully executed and completed contract in a form the person is able to retain;

[“(B) disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages, or otherwise) that the services or benefits are with respect to proceedings under this title, clearly and conspicuously using the statement: ‘We are a debt relief agency. We help people file bankruptcy petitions to obtain relief under the Bankruptcy Code.’ or a substantially similar statement; and

[“(C) if an advertisement directed to the general public indicates that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, lease eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt, disclose conspicuously in that advertisement that the assistance is with respect to or may involve proceedings under this title, using the following statement: ‘We are a debt relief agency. We help people file bankruptcy petitions to obtain relief under the Bankruptcy Code.’ or a substantially similar statement.

[“(2) For purposes of paragraph (1)(B), an advertisement shall be of bankruptcy assistance services if that advertisement describes or offers bankruptcy assistance with a plan under chapter 12, without regard to whether chapter 13 is specifically mentioned. A statement such as ‘federally supervised repayment plan’ or ‘Federal debt restructuring help’ or any other similar statement that would lead a reasonable consumer to believe that help with debts is being offered when in fact in most cases the help available is bankruptcy assistance with a plan under chapter 13 is a statement covered under the preceding sentence.

[“(b) A debt relief agency shall not—

[“(1) fail to perform any service that the debt relief agency has told the assisted person or prospective assisted person the agency would provide that person in connection with the preparation for or activities during a proceeding under this title;

[“(2) make any statement, or counsel or advise any assisted person to make any statement in any document filed in a proceeding under this title, that—

[“(A) is untrue and misleading; or

[“(B) upon the exercise of reasonable care, should be known by the debt relief agency to be untrue or misleading;

[“(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, what services the debt relief agency may reasonably expect to provide that person, or the benefits an assisted person may obtain or the difficulties the person may experience if the person seeks relief in a proceeding under this title; or

[“(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of that person filing a proceeding under this title or in order to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a proceeding under this title.”.

[(b) Conforming Amendment.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 222 of this Act, is amended by inserting after the item relating to section 526 of title 11, United States Code, the following:

[[“527. Debtor's bill of rights.”.

[[SEC. 224. ENFORCEMENT.

[(a) Enforcement.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 223 of this Act, is amended by adding at the end the following:

["§528. Debt relief agency enforcement

["(a) Any waiver by any assisted person of any protection or right provided by or under section 526 or 527 shall be void and may not be enforced by any Federal or State court or any other person.

["(b)(1) Any contract between a debt relief agency and an assisted person for bankruptcy assistance that does not comply with the material requirements of section 526 or 527 shall be treated as void and may not be enforced by any Federal or State court or by any other person.

["(2) Any debt relief agency that has been found, after notice and hearing, to have—

["(A) negligently failed to comply with any provision of section 526 or 527 with respect to a bankruptcy case or related proceeding of an assisted person;

["(B) provided bankruptcy assistance to an assisted person in a case or related proceeding which is dismissed or converted because the debt relief agency's negligent failure to file bankruptcy papers, including papers specified in section 521; or

["(C) negligently or intentionally disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such debt relief agency shall be liable to the assisted person in the amount of any fees and charges in connection with providing bankruptcy assistance to such person that the debt relief agency has already been paid on account of that proceeding.

["(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating section 526 or 527, the State—

["(A) may bring an action to enjoin such violation;

["(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

["(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

["(4) The United States District Court for any district located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

["(5) Notwithstanding any other provision of Federal law, if the court, on its own motion or on the motion of the United States trustee, finds that a person intentionally violated section 526 or 527, or engaged in a clear and consistent pattern or practice of violating section 526 or 527, the court may—

["(A) enjoin the violation of such section; or

["(B) impose an appropriate civil penalty against such person.

["(c) This section and sections 526 and 527 shall not annul, alter, affect, or exempt any person subject to those sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency.".

[(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 223 of this Act, is amended by inserting after the item relating to section 527 of title 11, United States Code, the following:

["528. Debt relief agency enforcement.".]

SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.

Section 110 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by inserting ", under the direct supervision of an attorney," after "who";

(2) in subsection (b)—

(A) in paragraph (1), by adding at the end the following: "If a bankruptcy petition preparer is not an individual, then an officer, principal, responsible person, or partner of the preparer shall be required to—

"(A) sign the document for filing; and

"(B) print on the document the name and address of that officer, principal, responsible person or partner.";

(B) by striking paragraph (2) and inserting the following:

"(2)(A) Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice to debtors concerning bankruptcy petition preparers, which shall be on an official form issued by the Judicial Conference of the United States.

"(B) The notice under subparagraph (A)—

"(i) shall inform the debtor in simple language that a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;

"(ii) may contain a description of examples of legal advice that a bankruptcy petition preparer is not authorized to give, in addition to any advice that the preparer may not give by reason of subsection (e)(2); and

"(iii) shall—

"(I) be signed by—

"(aa) the debtor; and

"(bb) the bankruptcy petition preparer, under penalty of perjury; and

"(II) be filed with any document for filing.";

(3) in subsection (c)—

(A) in paragraph (2)—

(i) by striking "(2) For purposes" and inserting "(2)(A) Subject to subparagraph (B), for purposes"; and

(ii) by adding at the end the following:

"(B) If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the preparer."; and

(B) by striking paragraph (3);

(4) in subsection (d)—

(A) by striking "(d)(1)" and inserting "(d)"; and

(B) by striking paragraph (2);

(5) in subsection (e)—

(A) by striking paragraph (2); and

(B) by adding at the end the following:

"(2)(A) A bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B).

"(B) The legal advice referred to in subparagraph (A) includes advising the debtor—

"(i) whether—

"(I) to file a petition under this title; or

"(II) commencing a case under chapter 7, 11, 12, or 13 is appropriate;

"(ii) whether the debtor's debts will be eliminated or discharged in a case under this title;

"(iii) whether the debtor will be able to retain the debtor's home, car, or other property after commencing a case under this title;

"(iv) concerning—

"(I) the tax consequences of a case brought under this title; or

"(II) the dischargeability of tax claims;

"(v) whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;

"(vi) concerning how to characterize the nature of the debtor's interests in property or the debtor's debts; or

"(vii) concerning bankruptcy procedures and rights.";

(6) in subsection (f)—

(A) by striking "(f)(1)" and inserting "(f)"; and

(B) by striking paragraph (2);

(7) in subsection (g)—

(A) by striking "(g)(1)" and inserting "(g)"; and

(B) by striking paragraph (2);

(8) in subsection (h)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(B) by inserting before paragraph (2), as so redesignated, the following:

"(h)(1) The Supreme Court may promulgate rules under section 2075 of title 28, or the Judicial Conference of the United States may prescribe guidelines, for setting a maximum allowable fee chargeable by a bankruptcy petition preparer. A bankruptcy petition preparer shall notify the debtor of any such maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor.";

(C) in paragraph (2), as redesignated by subparagraph (A) of this paragraph—

(i) by striking "Within 10 days after the date of filing a petition, a bankruptcy petition preparer shall file a" and inserting "A";

(ii) by inserting "by the bankruptcy petition preparer shall be filed together with the petition," after "perjury"; and

(iii) by adding at the end the following: "If rules or guidelines setting a maximum fee for services have been promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirement under paragraph (1).";

(D) by striking paragraph (3), as redesignated by subparagraph (A) of this paragraph, and inserting the following:

"(3)(A) The court shall disallow and order the immediate turnover to the bankruptcy trustee any fee referred to in paragraph (2) found to be in excess of the value of any services—

"(i) rendered by the preparer during the 12-month period immediately preceding the date of filing of the petition; or

"(ii) found to be in violation of any rule or guideline promulgated or prescribed under paragraph (1).

"(B) All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g).

"(C) An individual may exempt any funds recovered under this paragraph under section 522(b)."; and

(E) in paragraph (4), as redesignated by subparagraph (A) of this paragraph, by striking "or the United States trustee" and inserting "the United States trustee, or the court, on the initiative of the court,";

(9) in subsection (i)(1), by striking the matter preceding subparagraph (A) and inserting the following:

"(i) If a bankruptcy petition preparer violates this section or commits any act that the court finds to be fraudulent, unfair, or deceptive, on motion of the debtor, trustee, or United States trustee, and after the court holds a hearing with respect to that violation or act, the court shall order the bankruptcy petition preparer to pay to the debtor—";

(10) in subsection (j)—

(A) in paragraph (2)—

(i) in subparagraph (A)(i)(I), by striking "a violation of which subjects a person to criminal penalty";

(ii) in subparagraph (B)—

(I) by striking "or has not paid a penalty" and inserting "has not paid a penalty"; and

(II) by inserting "or failed to disgorge all fees ordered by the court" after "a penalty imposed under this section,";

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) The court, as part of its contempt power, may enjoin a bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injunction under this paragraph may be issued upon motion of the court, the trustee, or the United States trustee."; and

(11) by adding at the end the following:

"(l)(1) A bankruptcy petition preparer who fails to comply with any provision of subsection (b), (c), (d), (e), (f), (g), or (h) may be fined not more than $500 for each such failure.

"(2) The court shall triple the amount of a fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer—

"(A) advised the debtor to exclude assets or income that should have been included on applicable schedules;

"(B) advised the debtor to use a false Social Security account number;

"(C) failed to inform the debtor that the debtor was filing for relief under this title; or

"(D) prepared a document for filing in a manner that failed to disclose the identity of the preparer.

"(3) The debtor, the trustee, a creditor, or the United States trustee may file a motion for an order imposing a fine on the bankruptcy petition preparer for each violation of this section.

"(4) All fines imposed under this section shall be paid to the United States trustee, who shall deposit an amount equal to such fines in a special account of the United States Trustee System Fund referred to in section 586(e)(2) of title 28. Amounts deposited under this paragraph shall be available to fund the enforcement of this section on a national basis.".

SEC. [225.] *222. SENSE OF CONGRESS.*

It is the sense of Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. [226.] *223. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.*

(a) IN GENERAL.—Section 507(a) of title 11, United States Code, as amended by section [211] *212* of this Act, is amended by inserting after paragraph (9) the following:

"(10) Tenth, allowed claims for death or personal injuries resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance.".

(b) VESSELS.—Section 523(a)(9) of title 11, United States Code, is amended by inserting "or vessel" after "vehicle".

SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) IN GENERAL.—Section 522 of title 11, United States Code, as amended by section 215 of this Act, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) by striking "(2)(A) any property" and inserting:

"(3) Property listed in this paragraph is—

"(A) any property";

(ii) in subparagraph (A), by striking "and" at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.";

(B) by striking paragraph (1) and inserting:

"(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.";

(C) in the matter preceding paragraph (2)—

(i) by striking "(b)" and inserting "(b)(1)";

(ii) by striking "paragraph (2)" both places it appears and inserting "paragraph (3)";

(iii) by striking "paragraph (1)" each place it appears and inserting "paragraph (2)"; and

(iv) by striking "Such property is—"; and

(D) by adding at the end of the subsection the following:

"(4) For purposes of paragraph (3)(C) and subsection (d)(12), the following shall apply:

"(A) If the retirement funds are in a retirement fund that has received a favorable determination pursuant to section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the commencement of the case under section 301, 302, or 303 of this title, those funds shall be presumed to be exempt from the estate.

"(B) If the retirement funds are in a retirement fund that has not received a favorable determination pursuant to such section 7805, those funds are exempt from the estate if the debtor demonstrates that—

"(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

"(ii)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

"(II) the retirement fund fails to be in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986 and the debtor is not materially responsible for that failure.

"(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, pursuant to section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of that direct transfer.

"(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of that distribution.

"(ii) A distribution described in this clause is an amount that—

"(I) has been distributed from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

"(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of that amount."; and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "subsection (b)(1)" and inserting "subsection (b)(2)"; and

(B) by adding at the end the following:

"(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.".

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 214 of this Act, is amended—

(1) in paragraph (18), by striking "or" at the end;

(2) in paragraph (19), by striking the period and inserting "; or";

(3) by inserting after paragraph (19) the following:

"(20) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, pursuant to the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986 that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

"(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan that satisfies the requirements of section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

"(B) in the case of a loan from a thrift savings plan described in subchapter III of title 5, that satisfies the requirements of section 8433(g) of such title;"; and

(4) by adding at the end of the flush material at the end of the subsection, the following: "Nothing in paragraph (20) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.".

(c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (17);

(2) by striking the period at the end of paragraph (18) and inserting "; or"; and

(3) by adding at the end the following:

"(19) owed to a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, pursuant to—

"(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974, or subject to section 72(p) of the Internal Revenue Code of 1986; or

"(B) a loan from the thrift savings plan described in subchapter III of title 5, that satisfies the requirements of section 8433(g) of such title. Nothing in paragraph (19) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title."

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:

"(f) A plan may not materially alter the terms of a loan described in section 362(b)(20).".

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

SEC. 301. REINFORCEMENT OF THE FRESH START.

Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking "by a court" and inserting "on a prisoner by any court",

(2) by striking "section 1915(b) or (f)" and inserting "subsection (b) or (f)(2) of section 1915", and

(3) by inserting "(or a similar non-Federal law)" after "title 28" each place it appears.

SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(3) if a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)—

"(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease will terminate with respect to the debtor on the 30th day after the filing of the later case;

"(B) upon motion by a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and

"(C) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(i) as to all creditors, if—

"(I) more than 1 previous case under any of chapter 7, 11, or 13 in which the individual was a debtor was pending within the preceding 1-year period;

"(II) a previous case under any of chapter 7, 11, or 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

"(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be a substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney);

"(bb) provide adequate protection as ordered by the court; or

"(cc) perform the terms of a plan confirmed by the court; or

"(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 [of this title], or any other reason to conclude that the later case will be concluded—

"(aa) if a case under chapter 7 [of this title], with a discharge; or

"(bb) if a case under chapter 11 or 13 [of this title], with a confirmed plan which will be fully performed; and

"(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and

"(4)(A)(i) if a single or joint case is filed by or against an individual debtor under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

"(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

"(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed;

"(C) a stay imposed under subparagraph (B) shall be effective on the date of entry of the order allowing the stay to go into effect; and

"(D) for purposes of subparagraph (B), a case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(i) as to all creditors if—

"(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

"(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to pay adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

"(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

"(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to action of such creditor.".

SEC. 303. CURBING ABUSIVE FILINGS.

(a) IN GENERAL.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real estate, if the court finds that the filing of the bankruptcy petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

"(A) transfer of all or part ownership of, or other interest in, the real property without the consent of the secured creditor or court approval; or

"(B) multiple bankruptcy filings affecting the real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under this subsection shall be binding in any other case under this title purporting to affect the real property filed not later than 2 years after that recording, except that a debtor in a subsequent case may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing.".

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section [213] *224* of this Act, is amended—

(1) in paragraph (19), by striking "or" at the end;

(2) in paragraph (20), by striking the period at the end; and

(3) by inserting after paragraph (20) the following:

"(21) under subsection (a), of any act to enforce any lien against or security interest in real property following the entry of an order under section 362(d)(4) as to that property in any prior bankruptcy case for a period of 2 years after entry of such an order, except that the debtor, in a subsequent case, may move the court for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing; or

"(22) under subsection (a), of any act to enforce any lien against or security interest in real property—

"(A) if the debtor is ineligible under section 109(g) to be a debtor in a bankruptcy case; or

"(B) if the bankruptcy case was filed in violation of a bankruptcy court order in a prior bankruptcy case prohibiting the debtor from being a debtor in another bankruptcy case.".

SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521(a), as so redesignated *by section 105(d) of this Act*—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(6) in an individual case under chapter 7 [of this title], not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in that personal property unless, in the case of an individual debtor, the debtor within 45 days after the first meeting of creditors under section 341(a)—

"(A) enters into an agreement with the creditor under section 524(c) with respect to the claim secured by such property; or

"(B) redeems such property from the security interest under section 722."; and

(C) by adding at the end the following:

"(b) [If the debtor] *For purposes of subsection (a)(6), if the debtor* fails to so act within the 45-day period specified in subsection (a)(6), the personal property affected shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee, and after notice and a hearing, that such property is of consequential value or benefit to the estate."; and

(2) in section 722, by inserting "in full at the time of redemption" before the period at the end.

SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended—

(1) in section 362—

(A) in subsection (c), by striking "(e), and (f)" and inserting "(e), (f), and (h)"; and

(B) by redesignating subsection (h), as amended by section 227 of this Act, as subsection (j) and by inserting after subsection (g) the following:

"(h)(1) Subject to paragraph (2), in an individual case under chapter 7, 11, or 13 the stay provided by subsection (a) is terminated with respect to property of the estate securing in whole or in part a claim, or subject to an unexpired lease, if the debtor fails within the applicable period of time set by section 521(a)(2) to—

"(A) file timely any statement of intention required under section 521(a)(2) with respect to that property or to indicate therein that the debtor—

"(i) will either surrender the property or retain the property; and

"(ii) if retaining the property, will, as applicable—

"(I) redeem the property under section 722;

"(II) reaffirm the debt the property secures under section 524(c); or

"(III) assume the unexpired lease under section 365(p) if the trustee does not do so; or

"(B) take timely the action specified in that statement of intention, as the statement may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms.

"(2) Paragraph (1) shall not apply if the court determines on the motion of the trustee, and after notice and a hearing, that such property is of consequential value or benefit to the estate."; and

(2) in section 521, as amended by section 304 of this Act—

(A) in subsection (a)(2), as redesignated *by section 105(d) of this Act*—

(i) by striking "consumer";

(ii) in subparagraph (B)—

(I) by striking "forty-five days after the filing of a notice of intent under this section" and inserting "30 days after the first date set for the meeting of creditors under section 341(a)"; and

(II) by striking "forty-five day period" and inserting "30-day period"; and

(iii) in subparagraph (C), by inserting "except as provided in section 362(h)" before the semicolon; and

(B) by adding at the end the following:

"(c) If the debtor fails timely to take the action specified in subsection (a)(6), or in paragraph (1) or (2) of section 362(h), with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement that has the effect of placing the debtor in default under that lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.".

SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

(a) In General.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

"(i) the plan provides that—

"(I) the holder of such claim retain the lien securing such claim until the earlier of—

"(aa) the payment of the underlying debt determined under nonbankruptcy law; or

"(bb) discharge under section 1328; and

"(II) if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and".

(b) Restoring the Foundation for Secured Credit.—Section 1325(a) of title 11, United States Code, is amended by adding at the end the following flush sentence:

"For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the debt that is the subject of the claim was incurred within the 5-year period preceding the filing of the petition and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 6-month period preceding that filing.".

(c) Definitions.—Section 101 of title 11, United States Code, as amended by section [221] *211* of this Act, is amended—

(1) by inserting after paragraph (13) the following:

"(13A) 'debtor's principal residence'—

"(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

"(B) includes an individual condominium or cooperative unit;"; and

(2) by inserting after paragraph (27), the following:

"(27A) 'incidental property' means, with respect to a debtor's principal residence—

"(A) property commonly conveyed with a principal residence in the area where the real estate is located;

"(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

"(C) all replacements or additions;".

SEC. 307. EXEMPTIONS.

Section [522(b)(2)(A)] *522(b)(3)(A)* of title 11, United States Code, *as so designated by section 224 of this Act*, is amended—

(1) by striking "180" and inserting "730"; and

(2) by striking ", or for a longer portion of such 180-day period than in any other place".

SEC. 308. RESIDENCY REQUIREMENT FOR HOMESTEAD EXEMPTION.

Section 522 of title 11, United States Code, as amended by section 307 of this Act, is amended—

(1) in subsection [(b)(2)(A)] *(b)(3)(A)*, by inserting "subject to subsection (n)," before "any property"; and

(2) by adding at the end the following:

"(n) For purposes of subsection [(b)(2)(A)] *(b)(3)(A)*, and notwithstanding subsection (a), the value of an interest in—

"(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

"(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

"(3) a burial plot for the debtor or a dependent of the debtor;

shall be reduced to the extent such value is attributable to any portion of any property that the debtor disposed of in the 730-day period ending on the date of the filing of the petition, with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could not exempt, under subsection (b) if on such date the debtor had held the property so disposed of.".

SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER 13 CASES.

(a) Stopping Abusive Conversions From Chapter 13.—Section 348(f)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B)—

(A) by striking "in the converted case, with allowed secured claims" and inserting "only in a case converted to chapter 11 or 12 but not in a case converted to chapter 7, with allowed secured claims in cases under chapters 11 and 12"; and

(B) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(C) with respect to cases converted from chapter 13—

"(i) the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of such claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the chapter 13 proceeding; and

"(ii) unless a prebankruptcy default has been fully cured under the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.".

(b) Giving Debtors the Ability To Keep Leased Personal Property by Assumption.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

"(p)(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) is automatically terminated.

"(2)(A) In the case of an individual under chapter 7, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the contract.

"(B) If within 30 days after notice is provided under subparagraph (A), the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate.

"(C) The stay under section 362 and the injunction under section 524(a)(2) shall not be violated by notification of the debtor and negotiation of cure under this subsection.

"(3) In a case under chapter 11 [of this title] in which the debtor is an individual and in a case under chapter 13 [of this title], if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.".

(c) Adequate Protection of Lessors and Purchase Money Secured Creditors.—

[(1) In general.—Subchapter I of chapter 13 of title 11, United States Code, is amended by inserting after section 1307 the following:

["§ 1308. Adequate protection in chapter 13 cases

["(a)(1)(A) On or before the date that is 30 days after the filing of a case under this chapter, the debtor shall make cash payments in an amount determined under paragraph (2), to—

["(i) any lessor of personal property; and

["(ii) any creditor holding a claim secured by personal property to the extent that the claim is attributable to the purchase of that property by the debtor.

["(B) The debtor or the plan shall continue making the adequate protection payments until the earlier of the date on which—

["(i) the creditor begins to receive actual payments under the plan; or

["(ii) the debtor relinquishes possession of the property referred to in subparagraph (A) to—

["(I) the lessor or creditor; or

["(II) any third party acting under claim of right.

["(2) The payments referred to in paragraph (1)(A) shall be the contract amount.

["(b)(1) Subject to the limitations under paragraph (2), the court may, after notice and hearing, change the amount, and timing of the dates of payment, of payments made under subsection (a).

["(2)(A) The payments referred to in paragraph (1) shall be payable not less frequently than monthly.

["(B) The amount of payments referred to in paragraph (1) shall not be less than the amount of any weekly, biweekly, monthly, or other periodic payment schedules as payable under the contract between the debtor and creditor.

["(c) Notwithstanding section 1326(b), the payments referred to in subsection (a)(1)(A) shall be continued in addition to plan payments under a confirmed plan until actual payments to the creditor begin under that plan, if the confirmed plan provides for—

["(1) payments to a creditor or lessor described in subsection (a)(1); and

["(2) the deferral of payments to such creditor or lessor under the plan until the payment of amounts described in section 1326(b).

["(d) Notwithstanding sections 362, 542, and 543, a lessor or creditor described in subsection (a) may retain possession of property described in that subsection that was obtained in accordance with applicable law before the date of filing of the petition until the first payment under subsection (a)(1)(A) is received by the lessor or creditor.

["(e) On or before the date that is 60 days after the filing of a case under this chapter, a debtor retaining possession of personal property subject to a lease or securing a claim attributable in whole or in part to the purchase price of such property shall provide each creditor or lessor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of such property and continue to do so for so long as the debtor retains possession of such property.".

[(2) CLERICAL AMENDMENT.—The table of sections for chapter 13 of title 11, United States Code, is amended, in the matter relating to subchapter I, by inserting after the item relating to section 1307 the following:

["1308. Adequate protection in chapter 13 cases.".]

(1) CONFIRMATION OF PLAN.—Section 1325(a)(5)(B) of title 11, United States Code, is amended—

(A) in clause (i), by striking "and" at the end;

(B) in clause (ii), by striking "or" at the end and inserting "and"; and

(C) by adding at the end the following:

"(iii) if—

"(I) property to be distributed pursuant to this subsection is in the form of periodic payments, such payments shall be in equal monthly amounts; and

"(II) the holder of the claim is secured by personal property the amount of such payments shall not be less than an amount sufficient to provide to the holder of such claim adequate protection during the period of the plan; or".

(2) PAYMENTS.—Section 1326(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) Unless the court orders otherwise, the debtor shall—

"(A) commence making the payments proposed by a plan within 30 days after the plan is filed; or

"(B) if no plan is filed then as specified in the proof of claim, within 30 days after the order for relief or within 15 days after the plan is filed, whichever is earlier.

"(2) A payment made under this section shall be retained by the trustee until confirmation, denial of confirmation, or paid by the trustee as adequate protection payments in accordance with paragraph (3). If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan as soon as is practicable. If a plan is not confirmed, the trustee shall return any such payments not previously paid to creditors pursuant to paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b).

"(3)(A) As soon as is practicable, and not later than 40 days after the filing of the case, the trustee shall—

"(i) pay from payments made under this section the adequate protection payments proposed in the plan; or

"(ii) if no plan is filed then, according to the terms of the proof of claim.

"(B) The court may, upon notice and a hearing, modify, increase, or reduce the payments required under this paragraph pending confirmation of a plan.".

SEC. 310. LIMITATION ON LUXURY GOODS.

Section 523(a)(2)(C) of title 11, United States Code, is amended to read as follows:

"(C)(i) for purposes of subparagraph (A)—

"(I) consumer debts owed to a single creditor and aggregating more than $250 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and

"(II) cash advances aggregating more than $750 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title, are presumed to be nondischargeable; and

"(ii) for purposes of this subparagraph—

"(I) the term 'extension of credit under an open end credit plan' means an extension of credit under an open end credit plan, within the meaning of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.);

"(II) the term 'open end credit plan' has the meaning given that term under section 103 of Consumer Credit Protection Act (15 U.S.C. 1602); and

"(III) the term 'luxury goods or services' does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.".

SEC. 311. AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, as amended by section 303(b) of this Act, is amended—

(1) in paragraph (21), by striking "or" at the end;

(2) in paragraph (22), by striking the period at the end and inserting a semicolon; and

(3) by inserting after paragraph (22) the following:

"(23) under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement;

"(24) under subsection (a)(3), of the commencement of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement that has terminated under the lease agreement or applicable State law; or

"(25) under subsection (a)(3), of eviction actions based on endangerment to property or person or the use of illegal drugs.".

SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8), by striking "six" and inserting "8"; and

(2) in section 1328, by adding at the end the following:

"(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for by the plan or disallowed under section 502 if the debtor has received a discharge in any case filed under this title within 5 years before the order for relief under this chapter.".

SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

Section 522(f) of title 11, United States Code, is amended by adding at the end the following:

"(4)(A) Subject to subparagraph (B), for purposes of paragraph (1)(B), the term 'household goods' means—

"(i) clothing;

"(ii) furniture;

"(iii) appliances;

"(iv) 1 radio;

"(v) 1 television;

"(vi) 1 VCR;

"(vii) linens;

"(viii) china;

"(ix) crockery;

"(x) kitchenware;

"(xi) educational materials and educational equipment primarily for the use of minor dependent children of the debtor, but only 1 personal computer only if used primarily for the education or entertainment of such minor children;

"(xii) medical equipment and supplies;

"(xiii) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor; and

"(xiv) personal effects (including wedding rings and the toys and hobby equipment of minor dependent children) of the debtor and the dependents of the debtor.

"(B) The term 'household goods' does not include—

"(i) works of art (unless by or of the debtor or the dependents of the debtor);

"(ii) electronic entertainment equipment (except 1 television, 1 radio, and 1 VCR);

"(iii) items acquired as antiques;

"(iv) jewelry (except wedding rings); and

"(v) a computer (except as otherwise provided for in this section), motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.".

SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE DEBTS.

Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

"(14A)(A) incurred to pay a debt that is nondischargeable by reason of section 727, 1141, 1228(a), 1228(b), or 1328(b), or any other provision of this subsection, if the debtor incurred the debt to pay such a nondischargeable debt with the intent to discharge in bankruptcy the newly created debt; *except that*

"(B) [except that] all debts incurred to pay nondischargeable debts shall be presumed to be nondischargeable debts if incurred within 70 days before the filing of the petition (except that, in any case in which there is an allowed claim under section 502 for child support or spousal support entitled to priority under section 507(a)(1) and that was filed in a timely manner, debts that would otherwise be presumed to be nondischargeable debts by reason of this subparagraph shall be treated as dischargeable debts);".

(b) DISCHARGE UNDER CHAPTER 13.—Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

"(1) provided for under section 1322(b)(5);

"(2) of the kind specified in paragraph (2), (4), (3)(B), (5), (8), or (9) of section 523(a);

"(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or

"(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.".

SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7 AND 13 CASES.

(a) NOTICE.—Section 342 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

(B) by striking ", but the failure of such notice to contain such information shall not invalidate the legal effect of such notice"; and

(2) by adding at the end the following:

"(d) At any time, a creditor, in a case of an individual debtor under chapter 7 or 13, may file with the court and serve on the debtor a notice of the address to be used to notify the creditor in that case. Five days after receipt of such notice, if the court or the debtor is required to give the creditor notice, such notice shall be given at that address.

"(e) An entity may file with the court a notice stating its address for notice in cases under chapters 7 and 13. After 30 days following the filing of such notice, any notice in any case filed under chapter 7 or 13 given by the court shall be to that address unless specific notice is given under subsection (d) with respect to a particular case.

"(f)(1) Notice given to a creditor other than as provided in this section shall not be effective notice until that notice has been brought to the attention of the creditor. If the creditor designates a person or department to be responsible for receiving notices concerning bankruptcy cases and establishes reasonable procedures so that bankruptcy notices received by the creditor are to be delivered to such department or person, notice shall not be considered to have been brought to the attention of the creditor until received by such person or department.

"(2) No sanction under section 362(h) or any other sanction that a court may impose on account of violations of the stay under section 362(a) or failure to comply with section 542 or 543 may be imposed on any action of the creditor unless the action takes place after the creditor has received notice of the commencement of the case effective under this section.".

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by section 305 of this Act, is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) file—

"(A) a list of creditors; and

"(B) unless the court orders otherwise—

"(i) a schedule of assets and liabilities;

"(ii) a schedule of current income and current expenditures;

"(iii) a statement of the debtor's financial affairs and, if applicable, a certificate—

"(I) of an attorney whose name is on the petition as the attorney for the debtor or any bankruptcy petition preparer signing the petition under section 110(b)(1) indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b); or

"(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition, of the debtor that such notice was obtained and read by the debtor;

"(iv) copies of any Federal tax returns, including any schedules or attachments, filed by the debtor for the 3-year period preceding the order for relief;

"(v) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer of the debtor in the period 60 days before the filing of the petition;

"(vi) a statement of the amount of projected monthly net income, itemized to show how the amount is calculated; and

"(vii) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing;"; and

(2) by adding at the end the following:

"(d)(1) At any time, a creditor, in the case of an individual under chapter 7 or 13, may file with the court notice that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case and the court shall make those documents available to the creditor who requests those documents.

"(2)(A) At any time, a creditor in a case under chapter 13 may file with the court notice that the creditor requests the plan filed by the debtor in the case.

"(B) The court shall make such plan available to the creditor who requests such plan—

"(i) at a reasonable cost; and

"(ii) not later than 5 days after such request.

"(e) An individual debtor in a case under chapter 7 or 13 shall file with the court—

"(1) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, with respect to the period from the commencement of the case until such time as the case is closed;

"(2) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, that were not filed with the taxing authority when the schedules under subsection (a)(1) were filed with respect to the period that is 3 years before the order for relief;

"(3) any amendments to any of the tax returns, including schedules or attachments, described in paragraph (1) or (2); and

"(4) in a case under chapter 13, a statement subject to the penalties of perjury by the debtor of the debtor's income and expenditures in the preceding tax year and monthly income, that shows how the amounts are calculated—

"(A) beginning on the date that is the later of 90 days after the close of the debtor's tax year or 1 year after the order for relief, unless a plan has been confirmed; and

"(B) thereafter, on or before the date that is 45 days before each anniversary of the confirmation of the plan until the case is closed.

"(f)(1) A statement referred to in subsection (e)(4) shall disclose—

"(A) the amount and sources of income of the debtor;

"(B) the identity of any person responsible with the debtor for the support of any dependent of the debtor; and

"(C) the identity of any person who contributed, and the amount contributed, to the household in which the debtor resides.

"(2) The tax returns, amendments, and statement of income and expenditures described in paragraph (1) shall be available to the United States trustee, any bankruptcy administrator, any trustee, and any party in interest for inspection and copying, subject to the requirements of subsection [(f)] *(g)*.

"(g)(1) Not later than 30 days after the date of enactment of the Bankruptcy Reform Act of 1999, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section.

"(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

"(3) Not later than 1 year after the date of enactment of the Bankruptcy Reform Act of 1999, the Director of the Administrative Office of the United States Courts shall prepare and submit to Congress a report that—

"(A) assesses the effectiveness of the procedures under paragraph (1); and

"(B) if appropriate, includes proposed legislation to—

"(i) further protect the confidentiality of tax information; and

"(ii) provide penalties for the improper use by any person of the tax information required to be provided under this section.

"(h) If requested by the United States trustee or a trustee serving in the case, the debtor shall provide—

"(1) a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor; and

"(2) such other personal identifying information relating to the debtor that establishes the identity of the debtor.".

SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by section 315 of this Act, is amended by adding at the end the following:

"(*i*)(1) Notwithstanding section 707(a), and subject to paragraph (2), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under subsection (a)(1) within 45 days after the filing of the petition commencing the case, the case shall be automatically dismissed effective on the 46th day after the filing of the petition.

"(2) With respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. If requested, the court shall enter an order of dismissal not later than 5 days after such request.

"(3) Upon request of the debtor made within 45 days after the filing of the petition commencing a case described in paragraph (1), the court may allow the debtor an additional period of not to exceed 45 days to file the information required under subsection (a)(1) if the court finds justification for extending the period for the filing.".

SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

(a) HEARING.—Section 1324 of title 11, United States Code, is amended—

(1) by striking "After" and inserting the following:

"(a) Except as provided in subsection (b) and after"; and

(2) by adding at the end the following:

"(b) The hearing on confirmation of the plan may be held not later than 45 days after the meeting of creditors under section 341(a).".

(b) FILING OF PLAN.—Section 1321 of title 11, United States Code, is amended to read as follows:

"§ 1321. Filing of plan

"Not later than 90 days after the order for relief under this chapter, the debtor shall file a plan, except that the court may extend such period if the need for an extension is attributable to circumstances for which the debtor should not justly be held accountable.".

SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Section 1322(d) of title 11, United States Code, is amended to read as follows:

"(d)(1) Except as provided in paragraph (2), the plan may not provide for payments over a period that is longer than 3 years.

"(2) The plan may provide for payments over a period that is longer than 3 years if—

"(A) the plan is for a case that was converted to a case under this chapter from a case under chapter 7, *or the plan is for a debtor who has been dismissed from chapter 7 by reason of section 707(b)*, in which case the plan shall provide for payments over a period of 5 years; or

"(B) the plan is for a case that is not described in subparagraph (A), and the court, for cause, approves a period longer than 3 years, but not to exceed 5 years.".

SEC. 319. SENSE OF THE CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of Congress that Rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App.) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by an attorney be submitted only after the debtor or the debtor's attorney has made reasonable inquiry to verify that the information contained in such documents is—

(1) well grounded in fact; and

(2) warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.

SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following:

"(2) Notwithstanding paragraph (1), in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

"(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

"(B) that 60-day period is extended—

"(i) by agreement of all parties in interest; or

"(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.".

SEC. 321. TREATMENT OF CERTAIN EARNINGS OF AN INDIVIDUAL DEBTOR WHO FILES A VOLUNTARY CASE UNDER CHAPTER 11.

Section 541(a)(6) of title 11, United States Code, is amended by inserting "(other than an individual debtor who, in accordance with section 301, files a petition to commence a voluntary case under chapter 11)" after "individual debtor".

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

SEC. 401. ROLLING STOCK EQUIPMENT.

(a) IN GENERAL.—Section 1168 of title 11, United States Code, is amended to read as follows:

"§ 1168. Rolling stock equipment

"(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court, except that the right to take possession and enforce those other rights and remedies shall be subject to section 362, if—

"(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind described in section 365(b)(2), under such security agreement, lease, or conditional sale contract that—

"(i) occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period;

"(ii) occurs or becomes an event of default after the date of commencement of the case and before the expiration of such 60-day period is cured before the later of—

"(I) the date that is 30 days after the date of the default or event of the default; or

"(II) the expiration of such 60-day period; and

"(iii) occurs on or after the expiration of such 60-day period is cured in accordance with the terms of such security agreement, lease, or conditional sale contract, if cure is permitted under that agreement, lease, or conditional sale contract.

"(2) The equipment described in this paragraph—

"(A) is rolling stock equipment or accessories used on rolling stock equipment, including superstructures or racks, that is subject to a security interest granted by, leased to, or conditionally sold to a debtor; and

"(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

"(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(2), if at any time after the date of commencement of the case under this chapter such secured party, lessor, or conditional vendor is entitled under subsection (a)(1) to take possession of such equipment and makes a written demand for such possession of the trustee.

"(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(2), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

"(d) With respect to equipment first placed in service on or before October 22, 1994, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.

"(e) With respect to equipment first placed in service after October 22, 1994, for purposes of this section, the term 'rolling stock equipment' includes rolling stock equipment that is substantially rebuilt and accessories used on such equipment.".

(b) AIRCRAFT EQUIPMENT AND VESSELS.—Section 1110 of title 11, United States Code, is amended to read as follows:

"§ 1110. Aircraft equipment and vessels

"(a)(1) Except as provided in paragraph (2) and subject to subsection (b), the right of a secured party with a security interest in equipment described in paragraph (3), or of a lessor or conditional vendor of such equipment, to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies, under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court.

"(2) The right to take possession and to enforce the other rights and remedies described in paragraph (1) shall be subject to section 362 if—

"(A) before the date that is 60-days after the date of the order for relief under this chapter, the trustee, subject to the approval of the court, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind specified in section 365(b)(2), under such security agreement, lease, or conditional sale contract that occurs—

"(i) before the date of the order is cured before the expiration of such 60-day period;

"(ii) after the date of the order and before the expiration of such 60-day period is cured before the later of—

"(I) the date that is 30 days after the date of the default; or

"(II) the expiration of such 60-day period; and

"(iii) on or after the expiration of such 60-day period is cured in compliance with the terms of such security agreement, lease, or conditional sale contract, if a cure is permitted under that agreement, lease, or contract.

"(3) The equipment described in this paragraph—

"(A) is—

"(i) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 40102 of title 49) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that, at the time such transaction is entered into, holds an air carrier operating certificate issued under chapter 447 of title 49 for aircraft capable of carrying 10 or more individuals or 6,000 pounds or more of cargo; or

"(ii) a documented vessel (as defined in section 30101(1) of title 46) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that, at the time such transaction is entered into, holds a certificate of public convenience and necessity or permit issued by the Department of Transportation; and

"(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

"(4) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the approval of the court, to extend the 60-day period specified in subsection (a)(1).

"(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(3), if at any time after the date of the order for relief under this chapter such secured party, lessor, or conditional vendor is entitled under subsection (a)(1) to take possession of such equipment and makes a written demand for such possession to the trustee.

"(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(3), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

"(d) With respect to equipment first placed in service on or before October 22, 1994, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.".

SEC. 402. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, *as amended by section 306(c) of this Act*, is amended by inserting after paragraph (48) the following:

"(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*–3) or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f);".

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 311 of this Act, is amended—

(1) in paragraph (24), by striking "or" at the end;

(2) in paragraph (25), by striking the period at the end and inserting "; or"; and

(3) by inserting after paragraph (25) the following:

"(26) under subsection (a), of—

"(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;

"(B) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by the securities self regulatory organization to enforce such organization's regulatory power; or

"(C) any act taken by the securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements.".

SEC. 403. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

"(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.".

SEC. 404. PROTECTION OF REFINANCE OF SECURITY INTEREST.

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are each amended by striking "10" each place it appears and inserting "30".

SEC. 405. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

"(4)(A) Subject to subparagraph (B), in any case under any chapter of this title, an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected and the trustee shall immediately surrender that nonresidential real property to the lessor if the trustee does not assume or reject the unexpired lease by the earlier of—

"(i) the date that is 120 days after the date of the order for relief; or

"(ii) the date of the entry of an order confirming a plan.

"(B) The court may extend the period determined under subparagraph (A) only upon a motion of the lessor.".

SEC. 406. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

Section 1102(a)(2) of title 11, United States Code, is amended by inserting before the first sentence the following: "On its own motion or on request of a party in interest, and after notice and hearing, the court may order a change in the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders.".

SEC. 407. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended—

(1) by redesignating the second subsection designated as subsection (g) (as added by section 222(a) of Public Law 103–394) as subsection (i); and

(2) by adding at the end the following:

"(j)(1) Notwithstanding section 545 (2) and (3), the trustee may not avoid a warehouseman's lien for storage, transportation or other costs incidental to the storage and handling of goods.

"(2) The prohibition under paragraph (1) shall be applied in a manner consistent with any applicable State statute that is similar to section 7–209 of the Uniform Commercial Code.".

SEC. 408. LIMITATION.

Section 546(c)(1)(B) of title 11, United States Code, is amended by striking "20" and inserting "45".

SEC. 409. AMENDMENT TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a)(3) of title 11, United States Code, is amended—

(1) by striking "(A) the; and inserting "(i) the";

(2) by striking "(B)" and inserting "(ii)";

(3) by striking "(C)" and inserting "(iii)";

(4) by striking "(D)" and inserting "(iv)";

(5) by striking "(E)" and inserting "(v)";

(6) in subparagraph (A), by inserting "to an examiner, trustee under chapter 11, or professional person" after "awarded"; and

(7) by adding at the end the following:

"(B) In determining the amount of reasonable compensation to be awarded a trustee, the court shall treat such compensation as a commission based on the results achieved.".

SEC. 410. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

"(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.".

SEC. 411. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

"(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

"(B) made according to ordinary business terms;";

(2) in paragraph (7) by striking "or" at the end;

(3) in paragraph (8) by striking the period at the end and inserting "; or"; and

(4) by adding at the end the following:

"(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5,000.".

SEC. 412. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting ", or a nonconsumer debt against a noninsider of less than $10,000," after "$5,000".

SEC. 413. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking "On" and inserting "(1) Subject to paragraph (1), on"; and

(2) by adding at the end the following:

"(2)(A) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

"(B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.".

SEC. 414. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking "dwelling" the first place it appears;

(2) by striking "ownership or" and inserting "ownership,";

(3) by striking "housing" the first place it appears; and

(4) by striking "but only" and all that follows through "but nothing in this paragraph" and inserting "or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot, and until such time as the debtor or trustee has surrendered any legal, equitable or possessory interest in such unit, such corporation, or such lot, but nothing in this paragraph".

SEC. 415. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting after the first sentence the following: "Notwithstanding any local court rule, provision of a State constitution, any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.".

[SEC. 416. ELIMINATION OF CERTAIN FEES PAYABLE IN CHAPTER 11 BANKRUPTCY CASES.

[(a) AMENDMENTS.—Section 1930(a)(6) of title 28, United States Code, is amended—

[(1) in the first sentence by striking "until the case is converted or dismissed, whichever occurs first"; and

[(2) in the second sentence—

[(A) by striking "The" and inserting "Until the plan is confirmed or the case is converted (whichever occurs first) the"; and

[(B) by striking "less than $300,000;" and inserting "less than $300,000. Until the case is converted, dismissed, or closed (whichever occurs first and without regard to confirmation of the plan) the fee shall be".

[(b) DELAYED EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999.]

SEC. [417.] *416.* DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

"(14) 'disinterested person' means a person that—

"(A) is not a creditor, an equity security holder, or an insider;

"(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

"(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;".

SEC. [418.] *417.* FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3)*(A)* of title 11, United States Code, *as amended by section 409 of this Act*, is amended—

(1) in [subparagraph (D)] *clause (i)*, by striking "and" at the end;

(2) by redesignating [subparagraph (E)] *clause (v)* as [subparagraph (F) *clause (vi)*]; *and*

(3) by inserting after [subparagraph (D)] *clause (iv)* the following:

"[(E)] *(v)* with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field;".

SEC. [419.] *418.* APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election.

"(B) Upon the filing of a report under subparagraph (A)—

"(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

"(ii) the service of any trustee appointed under subsection (d) shall terminate.

"(C) In the case of any dispute arising out of an election described in subparagraph (A), the court shall resolve the dispute.".

SEC. 419. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b) and (c)"; and

(2) by adding at the end the following:

"(c)(1)(A) For purposes of this subsection, the term 'assurance of payment' means—

"(i) a cash deposit;

"(ii) a letter of credit;

"(iii) a certificate of deposit;

"(iv) a surety bond;

"(v) a prepayment of utility consumption; or

"(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

"(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

"(2) Subject to paragraphs (3) through (5), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 20-day period beginning on the date of filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

"(3)(A) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).

"(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

"(A) the absence of security before the date of filing of the petition;

"(B) the payment by the debtor of charges for utility service in a timely manner before the date of filing of the petition; or

"(C) the availability of an administrative expense priority.

"(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of filing of the petition without notice or order of the court.".

Subtitle B—Small Business Bankruptcy Provisions

SEC. 421. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125 of title 11, United States Code, is amended by striking subsection (f) and inserting the following:

"(f) Notwithstanding subsection (b), in a small business case—

"(1) in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information;

"(2) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

"(3) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28; and

"(4)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

"(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not later than 20 days before the date of the hearing on confirmation of the plan; and

"(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.".

SEC. 422. DEFINITIONS; EFFECT OF DISCHARGE.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, *as amended by section 402 of this Act*, is amended by striking paragraph (51C) and inserting the following:

"(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

"(51D) 'small business debtor'—

"(A) subject to subparagraph (B), means a person (including any affiliate of such person that is also a debtor under this title) that has aggregate noncontingent, liquidated secured and unsecured debts as of the date of the petition or the order for relief in an amount not more than $4,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has appointed under section 1102(a)(1) a committee of unsecured creditors that the court has determined is sufficiently active and representative to provide effective oversight of the debtor; and

"(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $4,000,000 (excluding debt owed to 1 or more affiliates or insiders);".

[(b) EFFECT OF DISCHARGE.—Section 524 of title 11, United States Code, as amended by section 204 of this Act, is amended by adding at the end the following:

["(j)(1) An individual who is injured by the willful failure of a creditor to substantially comply with the requirements specified in subsections (c) and (d), or by any willful violation of the injunction operating under subsection (a)(2), shall be entitled to recover—

["(A) the greater of—

["(i) the amount of actual damages; or

["(ii) $1,000; and

["(B) costs and attorneys' fees.

["(2) An action to recover for a violation specified in paragraph (1) may not be brought as a class action.".

[(c)] *(b)* Conforming Amendment.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting "debtor" after "small business".

SEC. 423. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of the enactment of this Act, the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 424. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) Reporting Required.—

(1) In general.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:

"§ 308. Debtor reporting requirements

"(1) For purposes of this section, the term 'profitability' means, with respect to a debtor, the amount of money that the debtor has earned or lost during current and recent fiscal periods.

"(2) A small business debtor shall file periodic financial and other reports containing information including—

"(A) the debtor's profitability;

"(B) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

"(C) comparisons of actual cash receipts and disbursements with projections in prior reports;

"(D)(i) whether the debtor is—

"(I) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

"(II) timely filing tax returns and paying taxes and other administrative claims when due; and

"(ii) if the debtor is not in compliance with the requirements referred to in clause (i)(I) or filing tax returns and making the payments referred to in clause (i)(II), what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

"(iii) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.".

(2) Clerical amendment.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

"308. Debtor reporting requirements.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed under section 2075 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 425. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) Proposal of Rules and Forms.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative claims when due.

(b) Purpose.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance among—

(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;

(2) the small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help the small business debtor to understand the small business debtor's financial condition and plan the small business debtor's future.

SEC. 426. DUTIES IN SMALL BUSINESS CASES.

(a) Duties in Chapter 11 Cases.—Title 11, United States Code, is amended by inserting after section 1114 the following:

"§ 1115. Duties of trustee or debtor in possession in small business cases

"In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

"(1) append to the voluntary petition or, in an involuntary case, file within 3 days after the date of the order for relief—

"(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

"(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

"(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 unless the court waives that requirement after notice and hearing, upon a finding of extraordinary and compelling circumstances;

"(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

"(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

"(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

"(6)(A) timely file tax returns;

"(B) subject to section 363(c)(2), timely pay all administrative expense tax claims, except those being contested by appropriate proceedings being diligently prosecuted; and

"(C) subject to section 363(c)(2), establish 1 or more separate deposit accounts not later than 10 business days after the date of order for relief (or as soon thereafter as possible if all banks contacted decline the business) and deposit therein, not later than 1 business day after receipt thereof, all taxes payable for periods beginning after the date the case is commenced that are collected or withheld by the debtor for governmental units, unless the court waives that requirement after notice and hearing, upon a finding of extraordinary and compelling circumstances; and

"(7) allow the United States trustee, or a designated representative of the United States trustee, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.".

(b) Technical Amendment.—The table of sections for chapter 11, United States Code, is amended by inserting after the item relating to section 1114 the following:

"1115. Duties of trustee or debtor in possession in small business cases.".

SEC. 427. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:

"(e) In a small business case—

"(1) only the debtor may file a plan until after 90 days after the date of the order for relief, unless that period is —

"(A) shortened on request of a party in interest made during the 90-day period;

"(B) extended as provided by this subsection, after notice and hearing; or

"(C) the court, for cause, orders otherwise;

"(2) the plan, and any necessary disclosure statement, shall be filed not later than 90 days after the date of the order for relief; and

"(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e), within which the plan shall be confirmed, may be extended only if—

"(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

"(B) a new deadline is imposed at the time the extension is granted; and

"(C) the order extending time is signed before the existing deadline has expired.".

SEC. 428. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

"(e) In a small business case, the plan shall be confirmed not later than 150 days after the date of the order for relief, unless such 150-day period is extended as provided in section 1121(e)(3).".

SEC. 429. PROHIBITION AGAINST EXTENSION OF TIME.

Section 105(d) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2)[(B)(vi)], by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) in a small business case, not extend the time periods specified in sections 1121(e) and 1129(e), except as provided in section 1121(e)(3).".

SEC. 430. DUTIES OF THE UNITED STATES TRUSTEE.

Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G), by striking "and" at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

"(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases;";

(2) in paragraph (5), by striking "and" at the end;

(3) in paragraph (6), by striking the period at the end and inserting "; and"; and

(4) by inserting after paragraph (6) the following:

"(7) in each of such small business cases—

"(A) conduct an initial debtor interview as soon as practicable after the entry of order for relief but before the first meeting scheduled under section 341(a) of title 11, at which time the United States trustee shall—

"(i) begin to investigate the debtor's viability;

"(ii) inquire about the debtor's business plan;

"(iii) explain the debtor's obligations to file monthly operating reports and other required reports;

"(iv) attempt to develop an agreed scheduling order; and

"(v) inform the debtor of other obligations;

"(B) if determined to be appropriate and advisable, visit the appropriate business premises of the debtor and ascertain the state of the debtor's books and records and verify that the debtor has filed its tax returns; and

"(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

"(8) in any case in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly after making that finding to the court for relief.".

SEC. 431. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, as amended by section 429 of this Act, is amended—

(1) in the matter preceding paragraph (1), by striking ", may";

(2) by striking paragraph (1) and inserting the following:

"(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and"; and

(3) in paragraph (2), by striking "unless inconsistent with another provision of this title or with applicable Federal Rules of Bankruptcy Procedure," [and inserting "may"].

SEC. 432. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, is amended—

(1) in subsection (j), as redesignated by section 305(1) of this Act—

(A) by striking "An" and inserting "(1) Except as provided in paragraph (2), an"; and

(B) by adding at the end the following:

"(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) against such entity shall be limited to actual damages."; and

(2) by inserting after subsection (j),[as added by section 419 of this Act], the following:

"(k)(1) Except as provided in paragraph (2), the filing of a petition under chapter 11 [of this title] operates as a stay of the acts described in subsection (a) only in an involuntary case involving no collusion by the debtor with creditors and in which the debtor—

"(A) is a debtor in a small business case pending at the time the petition is filed;

"(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

"(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

"(D) is an entity that has succeeded to substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C).

"(2) Paragraph (1) does not apply to the filing of a petition if the debtor proves by a preponderance of the evidence that—

"(A) the filing of that petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

"(B) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.".

SEC. 433. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

"(b)(1) Except as provided in paragraph (2), in subsection (c), and section 1104(a)(3), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, if the movant establishes cause.

"(2) The relief provided in paragraph (1) shall not be granted if the debtor or another party in interest objects and establishes by a preponderance of the evidence that—

"(A) it is more likely than not that a plan will be confirmed within—

"(i) a period of time fixed under this title or by order of the court entered under section 1121(e)(3); or

"(ii) a reasonable period of time if no period of time has been fixed; and

"(B) if the reason is an act or omission of the debtor that—

"(i) there exists a reasonable justification for the act or omission; and

"(ii)(I) the act or omission will be cured within a reasonable period of time fixed by the court, but not to exceed 30 days after the court decides the motion, unless the movant expressly consents to a continuance for a specific period of time; or

"(II) compelling circumstances beyond the control of the debtor justify an extension.

"(3) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion within 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

"(4) For purposes of this subsection, cause includes—

"(A) substantial or continuing loss to or diminution of the estate;

"(B) gross mismanagement of the estate;

"(C) failure to maintain appropriate insurance;

"(D) unauthorized use of cash collateral harmful to 1 or more creditors;

"(E) failure to comply with an order of the court;

"(F) failure timely to satisfy any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

"(G) failure to attend the meeting of creditors convened under section 341(a) or an examination ordered under Rule 2004 of the Federal Rules of Bankruptcy Procedure;

"(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee;

"(I) failure timely to pay taxes due after the date of the order for relief or to file tax returns due after the order for relief;

"(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

"(K) failure to pay any fees or charges required under chapter 123 of title 28;

"(L) revocation of an order of confirmation under section 1144;

"(M) inability to effectuate substantial consummation of a confirmed plan;

"(N) material default by the debtor with respect to a confirmed plan; and

"(O) termination of a plan by reason of the occurrence of a condition specified in the plan.

"(5) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion within 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.".

(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(3) if grounds exist to convert or dismiss the case under section 1112, but the court determines that the appointment of a trustee is in the best interests of creditors and the estate.".

SEC. 434. STUDY OF OPERATION OF TITLE 11, UNITED STATES CODE, WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of the enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General of the United States, the Director of the Administrative Office of United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

SEC. 435. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting "or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later" after "90-day period)"; and

(2) by striking subparagraph (B) and inserting the following:

“(B) the debtor has commenced monthly payments that—

“(i) may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before or after the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and

“(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or”.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) Technical Amendment Relating to Municipalities.—Section 921(d) of title 11, United States Code, is amended by inserting “, notwithstanding section 301(b)” before the period at the end.

(b) Conforming Amendment.—Section 301 of title 11, United States Code, is amended—

(1) by inserting “(a)” before “A voluntary”; and

(2) by striking the last sentence; and [inserting the following]:

(3) by adding at the end the following:

“(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.”.

SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section [901] *901(a)* of title 11, United States Code, is amended—

(1) by inserting “555, 556,” after “553,”; and

(2) by inserting “559, 560,” after “557,”.

TITLE VI—IMPROVED BANKRUPTCY STATISTICS AND DATA

SEC. 601. AUDIT PROCEDURES.

(a) Amendments.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

“(6) make such reports as the Attorney General directs, including the results of audits performed under subsection (f); and”; and

(2) by adding at the end the following:

“(f)(1)(A) The Attorney General shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322 of title 11, and, if applicable, section 111 of title 11, in individual cases filed under chapter 7 or 13 of such title.

“(B) Those procedures shall—

“(i) establish a method of selecting appropriate qualified persons to contract to perform those audits;

“(ii) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

“(iii) require audits for schedules of income and expenses which reflect greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the [disctrict] *district* in which the schedules were filed; and

“(iv) include procedures for providing, not less frequently than annually, public information concerning the aggregate results of the audits referred to in this subparagraph, including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

“(2) The United States trustee for each district may contract with auditors to perform audits in cases designated by the United States trustee according to the procedures established under paragraph (1).

“(3)(A) The report of each audit conducted under this subsection shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case where a material misstatement of income or expenditures or of assets has been reported, the clerk of the bankruptcy court shall give notice of the misstatement to the creditors in the case.

“(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

“(i) report the material misstatement, if appropriate, to the United States Attorney under section 3057 of title 18; and

“(ii) if advisable, take appropriate action, including commencing an adversary proceeding to revoke the debtor's discharge under section 727(d) of title 11.”.

(b) Amendments to Section 521 of Title 11, United States Code.—Paragraphs (3) and (4) of section 521(a) of title 11, United States Code, as amended by section 315 of this Act, are each amended by inserting “or an auditor appointed under section 586 of title 28” after “serving in the case” each place that term appears.

(c) Amendments to Section 727 of Title 11, United States Code.—Section 727(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking “or” at the end;

(2) in paragraph (3), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(4) the debtor has failed to explain satisfactorily—

“(A) a material misstatement in an audit performed under section 586(f) of title 28; or

“(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and any other papers, things, or property belonging to the debtor that are requested for an audit conducted under section 586(f).”.

(d) Effective Date.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 602. IMPROVED BANKRUPTCY STATISTICS.

(a) Amendment.—Chapter 6 of title 28, United States Code, is amended by adding at the end the following:

“§ 159. Bankruptcy statistics

“(a) The clerk of each district court shall compile statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a form prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the ‘Office’).

“(b) The Director shall—

“(1) compile the statistics referred to in subsection (a);

“(2) make the statistics available to the public; and

“(3) not later than October 31, 1999, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

“(c) The compilation required under subsection (b) shall—

“(1) be itemized, by chapter, with respect to title 11;

“(2) be presented in the aggregate and for each district; and

“(3) include information concerning—

“(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed under section 2075 and filed by those debtors;

“(B) the total current monthly income, projected monthly net income, and average income, and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 111, 521, and 1322 of title 11;

“(C) the aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

“(D) the average period of time between the filing of the petition and the closing of the case;

“(E) for the reporting period—

“(i) the number of cases in which a reaffirmation was filed; and

“(ii)(I) the total number of reaffirmations filed;

“(II) of those cases in which a reaffirmation was filed, the number in which the debtor was not represented by an attorney; and

“(III) of the cases under each of subclauses (I) and (II), the number of cases in which the reaffirmation was approved by the court;

“(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

“(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

“(II) the number of final orders determining the value of property securing a claim issued;

“(ii) the number of cases dismissed for failure to make payments under the plan; and

“(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the date of filing;

“(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

“(H) the number of cases in which sanctions under Rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's counsel and damages awarded under such rule.”.

(b) Clerical Amendment.—The table of sections for chapter 6 of title 28, United States Code, is amended by adding at the end the following:

“159. Bankruptcy statistics.”.

(c) Effective Date.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 603. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) Amendment.—Chapter 39 of title 28, United States Code, is amended by inserting after section 589a the following:

“§ 589b. Bankruptcy data

“(a) Within a reasonable period of time after the effective date of this section, the Attorney General of the United States shall issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

“(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

“(2) periodic reports by debtors in possession or trustees, as the case may be, in cases under chapter 11 of title 11.

"(b) Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum practicable access of the public, by—

"(1) physical inspection at 1 or more central filing locations; and

"(2) electronic access through the Internet or other appropriate media.

"(c)(1) The information required to be filed in the reports referred to in subsection (b) shall be information that is—

"(A) in the best interests of debtors and creditors, and in the public interest; and

"(B) reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system.

"(2) In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

"(A) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system; and

"(B) economy, simplicity, and lack of undue burden on persons with a duty to file reports.

"(d)(1) Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall include with respect to a case under such title, by appropriate category—

"(A) information about the length of time the case was pending;

"(B) assets abandoned;

"(C) assets exempted;

"(D) receipts and disbursements of the estate;

"(E) expenses of administration;

"(F) claims asserted;

"(G) claims allowed; and

"(H) distributions to claimants and claims discharged without payment.

"(2) In cases under chapters 12 and 13 of title 11, final reports proposed for adoption by trustees shall include—

"(A) the date of confirmation of the plan;

"(B) each modification to the plan; and

"(C) defaults by the debtor in performance under the plan.

"(3) The information described in paragraphs (1) and (2) shall be in addition to such other matters as are required by law for a final report or as the Attorney General, in the discretion of the Attorney General, may propose for a final report.

"(e)(1) Periodic reports proposed for adoption by trustees or debtors in possession under chapter 11 of title 11 shall include—

"(A) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

"(B) the length of time the case has been pending;

"(C) the number of full-time employees—

"(i) as of the date of the order for relief; and

"(ii) at the end of each reporting period since the case was filed;

"(D) cash receipts, cash disbursements, and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

"(E) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

"(F) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those that would not have been so incurred); and

"(G) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.

"(2) The information described in paragraph (1) shall be in addition to such other matters as are required by law for a periodic report or as the Attorney General, in the discretion of the Attorney General, may propose for a periodic report.".

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 39 of title 28, United States Code, is amended by adding at the end the following:

"589b. Bankruptcy data.".

SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of Congress that—

(1) it should be the national policy of the United States that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11, United States Code), should be released in a usable electronic form in bulk to the public subject to such appropriate privacy concerns and safeguards as the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE VII—BANKRUPTCY TAX PROVISIONS

SEC. 701. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting "(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)" after "under this title";

(2) in subsection (b)(2), by inserting "(except that such expenses, other than claims for wages, salaries, or commissions which arise after the filing of a petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)" after "507(a)(1)"; and

(3) by adding at the end the following:

"(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

"(1) exhaust the unencumbered assets of the estate; and

"(2) in a manner consistent with section 506(c), recover from property securing an allowed secured claim the reasonable, necessary costs, and expenses of preserving or disposing of that property.

"(f) Notwithstanding the exclusion of ad valorem tax liens under this section and subject to the requirements of subsection (e), the following may be paid from property of the estate which secures a tax lien, or the proceeds of such property:

"(1) Claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(3).

"(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(4).".

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.".

SEC. 702. EFFECTIVE NOTICE TO GOVERNMENT.

(a) EFFECTIVE NOTICE TO GOVERNMENTAL UNITS.—Section 342 of title 11, United States Code, as amended by section 315(a) of this Act, is amended by adding at the end the following:

"(g)(1) If a debtor lists a governmental unit as a creditor in a list or schedule, any notice required to be given by the debtor under this title, applicable rule, other provision of law, or order of the court, shall identify the department, agency, or instrumentality through which the debtor is indebted.

"(2) The debtor shall identify (with information such as a taxpayer identification number, loan, account or contract number, or real estate parcel number, if applicable), and describe the underlying basis for the claim of the governmental unit.

"(3) If the liability of the debtor to a governmental unit arises from a debt or obligation owed or incurred by another individual, entity, or organization, or under a different name, the debtor shall identify that individual, entity, organization, or name.

"(h) The clerk shall keep and update on a quarterly basis, in such form and manner as the Director of the Administrative Office of the United States Courts prescribes, a register in which a governmental unit may designate or redesignate a mailing address for service of notice in cases pending in the district. The clerk shall make such register available to debtors.".

(b) ADOPTION OF RULES PROVIDING NOTICE.—

(1) IN GENERAL.—Within a reasonable period of time after the date of enactment of this Act, the Advisory Committee on Bankruptcy Rules of the Judicial Conference shall propose for adoption enhanced rules for providing notice to Federal, State, and local government units that have regulatory authority over the debtor or that may be creditors in the debtor's case.

(2) PERSONS NOTIFIED.—The rules proposed under paragraph (1) shall be reasonably calculated to ensure that notice will reach the representatives of the governmental unit (or subdivision thereof) who will be the appropriate persons authorized to act upon the notice.

(3) RULES REQUIRED.—At a minimum, the rules under paragraph (1) should require that the debtor—

(A) identify in the schedules and the notice, the subdivision, agency, or entity with respect to which such notice should be received;

(B) provide sufficient information (such as case captions, permit numbers, taxpayer identification numbers, or similar identifying information) to permit the governmental unit (or subdivision thereof) entitled to receive such notice to identify the debtor or the person or entity on behalf of which the debtor is providing notice in any case in which—

(i) the debtor may be a successor in interest; or

(ii) may not be the same entity as the entity that incurred the debt or obligation; and

(C) identify, in appropriate schedules, served together with the notice—

(i) the property with respect to which the claim or regulatory obligation may have arisen, if applicable;

(ii) the nature of such claim or regulatory obligation; and

(iii) the purpose for which notice is being given.

(c) EFFECT OF FAILURE OF NOTICE.—Section 342 of title 11, United States Code, as amended by subsection (a), is amended by adding at the end the following:

"(i) A notice that does not comply with subsections (d) and (e) shall not be effective unless the debtor demonstrates by clear and convincing evidence that—

"(1) timely notice was given in a manner reasonably calculated to satisfy the requirements of this section; and

"(2) either—

"(A) the notice was timely sent to the address provided in the register maintained by the clerk of the district in which the case was pending for such purposes; or

"(B) no address was provided in such list for the governmental unit and that an officer of the governmental unit who is responsible for the matter or claim had actual knowledge of the case in sufficient time to act.".

SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

The second sentence of section 505(b) of title 11, United States Code, is amended by striking "Unless" and inserting "If the request is made substantially in the manner designated by the governmental unit and unless".

SEC. 704. RATE OF INTEREST ON TAX CLAIMS.

(a) IN GENERAL.—Subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

"§ 511. Rate of interest on tax claims

"If any provision of this title requires the payment of interest on a tax claim or the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be as follows:

"(1) In the case of secured tax claims, unsecured ad valorem tax claims, other unsecured tax claims in which interest is required to be paid under section 726(a)(5), and administrative tax claims paid under section 503(b)(1), the rate shall be determined under applicable nonbankruptcy law.

"(2)(A) In the case of any tax claim other than a claim described in paragraph (1), the minimum rate of interest shall be a percentage equal to the sum of—

"(i) 3; plus

"(ii) the Federal short-term rate rounded to the nearest full percent, determined under section 1274(d) of the Internal Revenue Code of 1986.

"(B) In the case of any claim for Federal income taxes, the minimum rate of interest shall be subject to any adjustment that may be required under section 6621(d) of the Internal Revenue Code of 1986.

"(C) In the case of taxes paid under a confirmed plan or reorganization under this title, the minimum rate of interest shall be determined as of the calendar month in which the plan is confirmed.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 510 the following:

"511. Rate of interest on tax claims.".

SEC. 705. TOLLING OF PRIORITY OF TAX CLAIM TIME PERIODS.

Section 507(a)(8)(A) of title 11, United States Code, [as redesignated by section 212 of this Act,] is amended—

(1) in clause (i), by inserting before the semicolon at the end, the following: ", plus any time during which the stay of proceedings was in effect in a prior case under this title, plus 6 months"; and

(2) by striking clause (ii) and inserting the following:

"(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

"(I) any time during which an offer in compromise with respect to that tax, was pending or in effect during that 240-day period, plus 30 days;

"(II) the lesser of—

"(aa) any time during which an installment agreement with respect to that tax was pending or in effect during that 240-day period, plus 30 days; or

"(bb) 1 year; and

"(III) any time during which a stay of proceedings against collections was in effect in a prior case under this title during that 240-day period; plus 6 months.".

SEC. 706. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(9)(B) of title 11, United States Code, [as redesignated by section 221 of this Act,] is amended by striking "assessed" and inserting "incurred".

SEC. 707. CHAPTER 13 DISCHARGE OF FRAUDULENT AND OTHER TAXES.

Section 1328(a)(2) of title 11, United States Code, as amended by section [228] *314* of this Act, is amended by inserting "(1)," after "paragraph".

SEC. 708. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.

Section 1141(d) of title 11, United States Code, is amended by adding at the end the following:

"(5) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt for a tax or customs duty with respect to which the debtor—

"(A) made a fraudulent return; or

"(B) willfully attempted in any manner to evade or defeat that tax or duty.".

SEC. 709. STAY OF TAX PROCEEDINGS.

(a) SECTION 362 STAY LIMITED TO PREPETITION TAXES.—Section 362(a)(8) of title 11, United States Code, is amended by inserting before the semicolon at the end the following: ", with respect to a tax liability for a taxable period ending before the order for relief under section 301, 302, or 303".

(b) APPEAL OF TAX COURT DECISIONS PERMITTED.—Section 362(b)(9) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking "or" at the end;

(2) in subparagraph (D), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(E) the appeal of a decision by a court or administrative tribunal which determines a tax liability of the debtor (without regard to whether such determination was made prepetition or postpetition).".

SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking "and" at the end; and

(2) in subparagraph (C), by striking "deferred cash payments, over a period not exceeding six years after the date of assessment of such claim," and all that follows through the end of the subparagraph, and inserting "regular installment payments—

"(i) of a total value, as of the effective date of the claim, equal to the allowed amount of such claim in cash, but in no case with a balloon payment; and

"(ii) beginning not later than the effective date of the plan and ending on the earlier of—

"(I) the date that is 5 years after the date of the filing of the petition; or

"(II) the last date payments are to be made under the plan to unsecured creditors; and"; and

(3) by adding at the end the following:

"(D) with respect to a secured claim which would otherwise meet the description on an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).".

SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by striking the semicolon at the end and inserting ", except in any case in which a purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986, or in any other similar provision of State or local law;".

SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) PAYMENT OF TAXES REQUIRED.—Section 960 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "Any"; and

(2) by adding at the end the following:

"(b) A tax under subsection (a) shall be paid when due in the conduct of business unless—

"(1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable period of time after the lien attaches, by the trustee of a bankruptcy estate, under section 554 of title 11; or

"(2) payment of the tax is excused under a specific provision of title 11.

"(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11, if—

"(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or

"(2) before the due date of the tax, the court makes a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as the priority of that tax.".

(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B)(i) of title 11, United States Code, is amended by inserting "whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both," before "except".

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by adding "and" at the end; and

(3) by adding at the end the following:

"(D) notwithstanding the requirements of subsection (a), a governmental unit shall not be required to file a request for the payment of a claim described in subparagraph (B) or (C);".

(d) PAYMENT OF TAXES AND FEES AS SECURED CLAIMS.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b), by inserting "or State statute" after "agreement"; and

(2) in subsection (c), by inserting ", including the payment of all ad valorem property taxes with respect to the property" before the period at the end.

SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking "before the date on which the trustee commences distribution under this section;" and inserting the following: "on or before the earlier of—

"(A) the date that is 10 days after the mailing to creditors of the summary of the trustee's final report; or

"(B) the date on which the trustee commences final distribution under this section;".

SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (1)(B)—

(A) by inserting "or equivalent report or notice," after "a return,";

(B) in clause (i)—

(i) by inserting "or given" after "filed"; and

(ii) by striking "or" at the end; and

(C) in clause (ii)—

(i) by inserting "or given" after "filed"; and

(ii) by inserting ", report, or notice" after "return"; and

(2) by adding at the end the following flush sentences:

"For purposes of this subsection, the term 'return' means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements). Such term includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or a similar State or local law.".

SEC. 715. DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

The second sentence of section 505(b) of title 11, United States Code, as amended by section 703 of this Act, is amended by inserting "the estate," after "misrepresentation,".

SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by section **[**212**]** *213 and 306* of this Act, is amended—

(1) in paragraph (6), by striking "and" at the end;

(2) in paragraph (7), by striking the period at the end and inserting "; and"; and

(3) by **[**adding at the end the following:**]** *inserting after paragraph (7) the following:*

"(8) if the debtor has filed all applicable Federal, State, and local tax returns as required by section 1309.".

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—

(1) IN GENERAL.—Chapter 13 of title 11, United States Code, as amended by section 309(c) of this Act, is amended by adding at the end the following:

"§ 1309. Filing of prepetition tax returns

"(a) Not later than the day before the day on which the first meeting of the creditors is convened under section 341(a), the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 3-year period ending on the date of the filing of the petition.

"(b)(1) Subject to paragraph (2), if the tax returns required by subsection (a) have not been filed by the date on which the first meeting of creditors is convened under section 341(a), the trustee may continue that meeting for a reasonable period of time to allow the debtor an additional period of time to file any unfiled returns, but such additional period of time shall not extend beyond—

"(A) for any return that is past due as of the date of the filing of the petition, the date that is 120 days after the date of that first meeting; or

"(B) for any return that is not past due as of the date of the filing of the petition, the later of—

"(i) the date that is 120 days after the date of that first meeting; or

"(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request has been timely made, according to applicable nonbankruptcy law.

"(2) Upon notice and hearing, and order entered before the tolling of any applicable filing period determined under this subsection, if the debtor demonstrates by clear and convincing evidence that the failure to file a return as required under this subsection is attributable to circumstances beyond the control of the debtor, the court may extend the filing period established by the trustee under this subsection for—

"(A) a period of not more than 30 days for returns described in paragraph (1); and

"(B) a period not to extend after the applicable extended due date for a return described in paragraph (2).

"(c) For purposes of this section, the term 'return' includes a return prepared pursuant to section 6020 (a) or (b) of the Internal Revenue Code of 1986, or a similar State or local law, or written stipulation to a judgment entered by a nonbankruptcy tribunal.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1308 the following:

"1309. Filing of prepetition tax returns.".

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d), the following:

"(e) Upon the failure of the debtor to file a tax return under section 1309, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss the case.".

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by inserting before the period at the end the following ", and except that in a case under chapter 13 **[**of this title**]**, a claim of a governmental unit for a tax with respect to a return filed under section 1309 shall be timely if the claim is filed on or before the date that is 60 days after that return was filed in accordance with applicable requirements".

(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of Congress that the Advisory Committee on Bankruptcy Rules of the Judicial Conference should, within a reasonable period of time after the date of enactment of this Act, propose for adoption amended Federal Rules of Bankruptcy Procedure which provide that—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, a governmental unit may object to the confirmation of a plan on or before the date that is 60 days after the date on which the debtor files all tax returns required under sections 1309 and 1325(a)(7) of title 11, United States Code; and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, no objection to a tax with respect to which a return is required to be filed under section 1309 of title 11, United States Code, shall be filed until such return has been filed as required.

SEC. 717. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a)(1) of title 11, United States Code, is amended—

(1) by inserting "including a full discussion of the potential material, Federal, State, and local tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor domiciled in the State in which the debtor resides or has its principal place of business typical of the holders of claims or interests in the case," after "records"; and

(2) by striking "a hypothetical reasonable investor typical of holders of claims or interests" and inserting "such a hypothetical investor".

SEC. 718. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by section 402 of this Act, is amended—

(1) in paragraph (25), by striking "or" at the end;

(2) in paragraph (26), by striking the period at the end and inserting "; or"; and

(3) by inserting after paragraph (26) the following:

"(27) under subsection (a), of the setoff of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the order for relief against an income tax liability for a taxable period that also ended before the order for relief, unless—

"(A) before that setoff, an action to determine the amount or legality of that tax liability under section 505(a) was commenced; or

"(B) in any case in which the setoff of an income tax refund is not permitted because of a pending action to determine the amount or legality of a tax liability, in which case the governmental unit may hold the refund pending the resolution of the action.".

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 13 the following:

"CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

"Sec.
"1501. Purpose and scope of application.

"SUBCHAPTER I—GENERAL PROVISIONS

"1502. Definitions.
"1503. International obligations of the United States.
"1504. Commencement of ancillary case.
"1505. Authorization to act in a foreign country.
"1506. Public policy exception.
"1507. Additional assistance.
"1508. Interpretation.

"SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

"1509. Right of direct access.
"1510. Limited jurisdiction.
"1511. Commencement of case under section 301 or 303.
"1512. Participation of a foreign representative in a case under this title.
"1513. Access of foreign creditors to a case under this title.
"1514. Notification to foreign creditors concerning a case under this title.

"SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

"1515. Application for recognition of a foreign proceeding.
"1516. Presumptions concerning recognition.
"1517. Order recognizing a foreign proceeding.
"1518. Subsequent information.
"1519. Relief that may be granted upon petition for recognition of a foreign proceeding.
"1520. Effects of recognition of a foreign main proceeding.
"1521. Relief that may be granted upon recognition of a foreign proceeding.
"1522. Protection of creditors and other interested persons.
"1523. Actions to avoid acts detrimental to creditors.
"1524. Intervention by a foreign representative.

"SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

"1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.
"1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
"1527. Forms of cooperation.

"SUBCHAPTER V—CONCURRENT PROCEEDINGS

"1528. Commencement of a case under this title after recognition of a foreign main proceeding.
"1529. Coordination of a case under this title and a foreign proceeding.
"1530. Coordination of more than 1 foreign proceeding.
"1531. Presumption of insolvency based on recognition of a foreign main proceeding.
"1532. Rule of payment in concurrent proceedings.

"§ 1501. Purpose and scope of application

"(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

"(1) cooperation between—

"(A) United States courts, United States Trustees, trustees, examiners, debtors, and debtors in possession; and

"(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

"(2) greater legal certainty for trade and investment;

"(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

"(4) protection and maximization of the value of the debtor's assets; and

"(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

"(b) This chapter applies if—

"(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

"(2) assistance is sought in a foreign country in connection with a case under this title;

"(3) a foreign proceeding and a case under this title with respect to the same debtor are taking place concurrently; or

"(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

"(c) This chapter does not apply to—

"(1) a proceeding concerning an entity identified by exclusion in subsection 109(b);

"(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

"(3) an entity subject to a proceeding under the Securities Investor Protection Act of 1970 (84 Stat. 1636 et seq.), a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 1502. Definitions

"For the purposes of this chapter, the term—

"(1) 'debtor' means an entity that is the subject of a foreign proceeding;

"(2) 'establishment' means any place of operations where the debtor carries out a nontransitory economic activity;

"(3) 'foreign court' means a judicial or other authority competent to control or supervise a foreign proceeding;

"(4) 'foreign main proceeding' means a foreign proceeding taking place in the country where the debtor has the center of its main interests;

"(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, taking place in a country where the debtor has an establishment;

"(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapter 9 of this title; and

"(7) 'within the territorial jurisdiction of the United States' when used with reference to property of a debtor refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

"§ 1503. International obligations of the United States

"To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with 1 or more other countries, the requirements of the treaty or agreement prevail.

"§ 1504. Commencement of ancillary case

"A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

"§ 1505. Authorization to act in a foreign country

"A trustee or another entity, including an examiner, may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

"§ 1506. Public policy exception

"Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

"§ 1507. Additional assistance

"(a) Subject to the specific limitations under other provisions of this chapter, the court, upon recognition of a foreign proceeding, may provide additional assistance to a foreign representative under this title or under other laws of the United States.

"(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

"(1) just treatment of all holders of claims against or interests in the debtor's property;

"(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

"(3) prevention of preferential or fraudulent dispositions of property of the debtor;

"(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

"(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

"§ 1508. Interpretation

"In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

"SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

"§ 1509. Right of direct access

"(a) A foreign representative is entitled to commence a case under section 1504 by filing a petition for recognition under section 1515, and upon recognition, to apply directly to other Federal and State courts for appropriate relief in those courts.

"(b) Upon recognition, and subject to section 1510, a foreign representative shall have the capacity to sue and be sued, and shall be subject to the laws of the United States of general applicability.

"(c) Subject to section 1510, a foreign representative is subject to laws of general application.

"(d) Recognition under this chapter is prerequisite to the granting of comity or cooperation to a foreign representative in any Federal or State court in the United States. Any request for comity or cooperation by a foreign representative in any court shall be accompanied by a sworn statement setting forth whether recognition under section 1515 has been sought and the status of any such petition.

"(e) Upon denial of recognition under this chapter, the court may issue appropriate orders necessary to prevent an attempt to obtain comity or cooperation from courts in the United States without such recognition.

"§1510. Limited jurisdiction

"The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

"§1511. Commencement of case under section 301 or 303

"(a) Upon recognition, a foreign representative may commence—

"(1) an involuntary case under section 303; or

"(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

"(b) The petition commencing a case under subsection (a) must be accompanied by a statement describing the petition for recognition and its current status. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) prior to such commencement.

"§1512. Participation of a foreign representative in a case under this title

"Upon recognition of a foreign proceeding, the foreign representative in that proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

"§1513. Access of foreign creditors to a case under this title

"(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

"(b)(1) Subsection (a) does not change or codify law in effect on the date of enactment of this chapter as to the priority of claims under section 507 or 726, except that the claim of a foreign creditor under section 507 or 726 shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

"(2)(A) Subsection (a) and paragraph (1) do not change or codify law in effect on the date of enactment of this chapter as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

"(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

"§1514. Notification to foreign creditors concerning a case under this title

"(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

"(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letters rogatory or other similar formality is required.

"(c) When a notification of commencement of a case is to be given to foreign creditors, the notification shall—

"(1) indicate the time period for filing proofs of claim and specify the place for their filing;

"(2) indicate whether secured creditors need to file their proofs of claim; and

"(3) contain any other information required to be included in such a notification to creditors pursuant to this title and the orders of the court.

"(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

"SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

"§1515. Application for recognition of a foreign proceeding

"(a) A foreign representative applies to the court for recognition of the foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

"(b) A petition for recognition shall be accompanied by—

"(1) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;

"(2) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

"(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

"(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

"(d) The documents referred to in paragraphs (1) and (2) of subsection (b) must be translated into English. The court may require a translation into English of additional documents.

"§1516. Presumptions concerning recognition

"(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding as defined in section 101 and that the person or body is a foreign representative as defined in section 101, the court is entitled to so presume.

"(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

"(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

"§1517. Order recognizing a foreign proceeding

"(a) Subject to section 1506, after notice and a hearing an order recognizing a foreign proceeding shall be entered if—

"(1) the foreign proceeding is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;

"(2) the foreign representative applying for recognition is a person or body as defined in section 101; and

"(3) the petition meets the requirements of section 1515.

"(b) The foreign proceeding shall be recognized—

"(1) as a foreign main proceeding if it is taking place in the country where the debtor has the center of its main interests; or

"(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 1502 in the foreign country where the proceeding is pending.

"(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding shall constitute recognition under this chapter.

"(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the granting of recognition. The case under this chapter may be closed in the manner prescribed for a case under section 350.

"§1518. Subsequent information

"After [the] the petition for recognition of the foreign proceeding is filed, the foreign representative shall file with the court promptly a notice of change of status concerning—

"(1) any substantial change in the status of the foreign proceeding or the status of the foreign representative's appointment; and

"(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

"§1519. Relief that may be granted upon petition for recognition of a foreign proceeding

"(a) Beginning on the date on which a petition for recognition is filed and ending on the date on which the petition is decided upon, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

"(1) staying execution against the debtor's assets;

"(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation, or otherwise in jeopardy; and

"(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

"(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is decided upon.

"(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

"(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

"(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

"§1520. Effects of recognition of a foreign main proceeding

"(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

"(1) section 362 applies with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States;

"(2) a transfer, an encumbrance, or any other disposition of an interest of the debtor in property within the territorial jurisdiction of the United States is restrained as and to the extent that is provided for property of an estate under sections 363, 549, and 552; and

"(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the powers of a trustee under section 549, subject to sections 363 and 552.

“(b) The scope, and the modification or termination, of the stay and restraints referred to in subsection (a) are subject to the exceptions and limitations provided in subsections (b), (c), and (d) of section 362, subsections (b) and (c) of section 363, and sections 552, 555 through 557, 559, and 560.

“(c) Subsection (a) does not affect the right to commence individual actions or proceedings in a foreign country to the extent necessary to preserve a claim against the debtor.

“(d) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

“§ 1521. Relief that may be granted upon recognition of a foreign proceeding

“(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

“(1) staying the commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities to the extent the actions or proceedings have not been stayed under section 1520(a);

“(2) staying execution against the debtor's assets to the extent the execution has not been stayed under section 1520(a);

“(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent that right has not been suspended under section 1520(a);

“(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

“(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

“(6) extending relief granted under section 1519(a); and

“(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

“(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, if the court is satisfied that the interests of creditors in the United States are sufficiently protected.

“(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

“(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

“(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

“§ 1522. Protection of creditors and other interested persons

“(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

“(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(2), to conditions that the court considers to be appropriate, including the giving of security or the filing of a bond.

“(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate the relief referred to in subsection (b).

“(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

“§ 1523. Actions to avoid acts detrimental to creditors

“(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, and 724(a).

“(b) In any case in which the foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

“§ 1524. Intervention by a foreign representative

“Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

“SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

“§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

“(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

“(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

“§ 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

“(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

“(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

“§ 1527. Forms of cooperation

“Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—

“(1) appointment of a person or body, including an examiner, to act at the direction of the court;

“(2) communication of information by any means considered appropriate by the court;

“(3) coordination of the administration and supervision of the debtor's assets and affairs;

“(4) approval or implementation of agreements concerning the coordination of proceedings; and

“(5) coordination of concurrent proceedings regarding the same debtor.

“SUBCHAPTER V—CONCURRENT PROCEEDINGS

“§ 1528. Commencement of a case under this title after recognition of a foreign main proceeding

“After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a), and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

“§ 1529. Coordination of a case under this title and a foreign proceeding

“In any case in which a foreign proceeding and a case under another chapter of this title are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

“(1) If the case in the United States is taking place at the time the petition for recognition of the foreign proceeding is filed—

“(A) any relief granted under sections 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

“(B) even if the foreign proceeding is recognized as a foreign main proceeding, section 1520 does not apply.

“(2) If a case in the United States under this title commences after recognition, or after the filing of the petition for recognition, of the foreign proceeding—

“(A) any relief in effect under sections 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

“(B) if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

“(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

“(4) In achieving cooperation and coordination under sections 1528 and 1529, the court may grant any of the relief authorized under section 305.

“§ 1530. Coordination of more than 1 foreign proceeding

“In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

“(1) Any relief granted under section 1519 or 1521 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

"(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

"(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

"§1531. Presumption of insolvency based on recognition of a foreign main proceeding

"In the absence of evidence to the contrary, recognition of a foreign main proceeding is for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.

"§1532. Rule of payment in concurrent proceedings

"Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.".

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

"15. Ancillary and Other Cross-Border Cases .... 1501".

SEC. 802. AMENDMENTS TO OTHER CHAPTERS IN TITLE 11, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: ", and this chapter, sections 307, 304, 555 through 557, 559, and 560 apply in a case under chapter 15"; and

(2) by adding at the end the following:

"(j) Chapter 15 applies only in a case under such chapter, except that—

"(1) sections 1513 and 1514 apply in all cases under this title; and

"(2) section 1505 applies to trustees and to any other entity (including an examiner) authorized by the court under chapter 7, 11, or 12, to debtors in possession under chapter 11 or 12, and to debtors under chapter 9 who are authorized to act under section 1505.".

(b) DEFINITIONS.—Paragraphs (23) and (24) of section 101 of title 11, United States Code, are amended to read as follows:

"(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

"(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding;".

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking "and" at the end;

(B) in subparagraph (O), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.".

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c)(1) of title 28, United States Code, is amended by striking "Nothing in" and inserting "Except with respect to a case under chapter 15 of title 11, nothing in".

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by inserting "15," after "chapter".

SEC. 803. CLAIMS RELATING TO INSURANCE DEPOSITS IN CASES ANCILLARY TO FOREIGN PROCEEDINGS.

Section 304 of title 11, United States Code, is amended to read as follows:

"§304. Cases ancillary to foreign proceedings

"(a) For purposes of this section—

"(1) the term 'domestic insurance company' means a domestic insurance company, as such term is used in section 109(b)(2);

"(2) the term 'foreign insurance company' means a foreign insurance company, as such term is used in section 109(b)(3);

"(3) the term 'United States claimant' means a beneficiary of any deposit referred to in subsection (b) or any multibeneficiary trust referred to in subsection (b);

"(4) the term 'United States creditor' means, with respect to a foreign insurance company—

"(i) a United States claimant; or

"(ii) any business entity that operates in the United States and that is a creditor; and

"(5) the term 'United States policyholder' means a holder of an insurance policy issued in the United States.

"(b) The court may not grant relief under chapter 15 of this title with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.".

TITLE IX—FINANCIAL CONTRACT PROVISIONS

SEC. 901. BANKRUPTCY CODE AMENDMENTS.

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking "means a contract" and inserting "means—

"(A) a contract";

(ii) by striking ", or any combination thereof or option thereon;" and inserting ", or any other similar agreement;"; and

(iii) by adding at the end the following:

"(B) a combination of agreements or transactions referred to in subparagraphs (A) and (C);

"(C) an option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

"(D) a master netting agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master netting agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master netting agreement that is referred to in subparagraph (A), (B) or (C); or

"(E) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract, option, agreement, or transaction referred to in subparagraph (A), (B), (C), or (D), but not to exceed the actual value of such contract, option, agreement, or transaction on the date of the filing of the petition;";

(B) by striking paragraph (47) and inserting the following:

"(47) 'repurchase agreement' and 'reverse repurchase agreement'—

"(A) mean—

"(i) an agreement, including related terms, which provides for the transfer of—

"(I) a certificate of deposit, mortgage related security (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loan, interest in a mortgage related security or mortgage loan, eligible bankers' acceptance, or qualified foreign government security (defined for purposes of this paragraph to mean a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development); or

"(II) a security that is a direct obligation of, or that is fully guaranteed by, the United States or an agency of the United States against the transfer of funds by the transferee of such certificate of deposit, eligible bankers' acceptance, security, loan, or interest;

with a simultaneous agreement by such transferee to transfer to the transferor thereof a certificate of deposit, eligible bankers' acceptance, security, loan, or interest of the kind described in subclause (I) or (II), at a date certain that is not later than 1 year after the date of the transferor's transfer or on demand, against the transfer of funds;

"(ii) a combination of agreements or transactions referred to in clauses (i) and (iii);

"(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii); or

"(iv) a master netting agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a repurchase agreement under this subparagraph, except that such master netting agreement shall be considered to be a repurchase agreement under this subparagraph only with respect to each agreement or transaction under such master netting agreement that is referred to in clause (i), (ii), or (iii); or

"(v) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract referred to in clause (i), (ii), (iii), or (iv), but not to exceed the actual value of such contract on the date of the filing of the petition; and

"(B) do not include a repurchase obligation under a participation in a commercial mortgage loan;";

(C) in paragraph (48) by inserting ", or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission" after "1934"; and

(D) by striking paragraph (53B) and inserting the following:

"(53B) 'swap agreement'—

"(A) means—

“(i) an agreement, including the terms and conditions incorporated by reference in such agreement, that is—

“(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

“(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;

“(III) a currency swap, option, future, or forward agreement;

“(IV) an equity index or an equity swap, option, future, or forward agreement;

“(V) a debt index or a debt swap, option, future, or forward agreement;

“(VI) a credit spread or a credit swap, option, future, or forward agreement; or

“(VII) a commodity index or a commodity swap, option, future, or forward agreement;

“(ii) an agreement or transaction that is similar to an agreement or transaction referred to in clause (i) that—

“(I) is currently, or in the future becomes, regularly entered into in the swap market (including terms and conditions incorporated by reference therein); and

“(II) is a forward, swap, future, or option on a rate, currency, commodity, equity security, or other equity instrument, on a debt security or other debt instrument, or on an economic index or measure of economic risk or value;

“(iii) a combination of agreements or transactions referred to in clauses (i) and (ii);

“(iv) an option to enter into an agreement or transaction referred to in this subparagraph;

“(v) a master netting agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to such master netting agreement and without regard to whether such master netting agreement contains an agreement or transaction described in any such clause, but only with respect to each agreement or transaction referred to in any such clause that is under such master netting agreement; except that

“(B) the definition under subparagraph (A) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, and the regulations prescribed by the Securities and Exchange Commission or the Commodity Futures Trading Commission.”;

(2) in section 741, by striking paragraph (7) and inserting the following:

“(7) ‘securities contract’—

“(A) means—

“(i) a contract for the purchase, sale, or loan of a security, a mortgage loan or an interest in a mortgage loan, a group or index of securities, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any of the foregoing;

“(ii) an option entered into on a national securities exchange relating to foreign currencies;

“(iii) the guarantee by or to a securities clearing agency of a settlement of cash, securities, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any of the foregoing;

“(iv) a margin loan;

“(v) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;

“(vi) a combination of the agreements or transactions referred to in this subparagraph;

“(vii) an option to enter into an agreement or transaction referred to in this subparagraph;

“(viii) a master netting agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master netting agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master netting agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

“(ix) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract referred to in this subparagraph, but not to exceed the actual value of such contract on the date of the filing of the petition; and

“(B) does not include a purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan;”; and

(3) in section 761(4)—

(A) by striking “or” at the end of subparagraph (D); *and*

[(B) in subparagraph (E), by striking the period at the end and inserting “; and”; and

[(C)**]** *(B)* by adding at the end the following:

“(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

“(G) a combination of the agreements or transactions referred to in this paragraph;

“(H) an option to enter into an agreement or transaction referred to in this paragraph;

“(I) a master netting agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that such master netting agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under such master netting agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

“(J) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract referred to in this paragraph, but not to exceed the actual value of such contract on the date of the filing of the petition.”.

(b) Definitions of Financial Institution, Financial Participant, and Forward Contract Merchant.—Section 101 of title 11, United States Code, *as amended by section 802(b) of this Act*, is amended—

(1) by striking paragraph (22) and inserting the following:

“(22) ‘financial institution’ means—

“(A)(i) a Federal reserve bank, or an entity that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity; and

“(ii) if such Federal reserve bank, receiver, or conservator or entity is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741, such customer; or

“(B) in connection with a securities contract, as defined in section 741 of this title, an investment company registered under the Investment Company Act of 1940;”;

(2) by inserting after paragraph (22) the following:

“(22A) ‘financial participant’ means an entity that is a party to a securities contract, commodity contract or forward contract, or on the date of the filing of the petition, has a commodity contract (as defined in section 761) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in any such agreement or transaction with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period;”; and

(3) by striking paragraph (26) and inserting the following:

“(26) ‘forward contract merchant’ means a Federal reserve bank, or an entity, the business of which consists in whole or in part of entering into forward contracts as or with merchants or in a commodity, as defined or in section 761, or any similar good, article, service, right, or interest that is presently or in the future becomes the subject of dealing or in the forward contract trade;”.

(c) Definition of Master Netting Agreement and Master Netting Agreement Participant.—Section 101 of title 11, United States Code, *as amended by subsection (b) of this section*, is amended by inserting after paragraph (38) the following new paragraphs:

“(38A) the term ‘master netting agreement’—

“(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or closeout, under or in connection with 1 or more contracts that are described in any 1 or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to 1 or more of the foregoing; except that

“(B) if a master netting agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), the master netting agreement shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any 1 or more of the paragraphs (1) through (5) of section 561(a);

“(38B) the term ‘master netting agreement participant’ means an entity that, at any time before the filing of the petition, is a party to an outstanding master netting agreement with the debtor;”.

(d) Swap Agreements, Securities Contracts, Commodity Contracts, Forward Contracts, Repurchase Agreements, and Master Netting Agreements Under the Automatic Stay.—

(1) In general.—Section 362(b) of title 11, United States Code, as amended by section 718 of this Act, is amended—

(A) in paragraph (6), by inserting ", pledged to, and under the control of," after "held by";

(B) in paragraph (7), by inserting ", pledged to, and under the control of," after "held by";

(C) by striking paragraph (17) and inserting the following:

"(17) under subsection (a), of the setoff by a swap participant of a mutual debt and claim under or in connection with a swap agreement that constitutes the setoff of a claim against the debtor for a payment or transfer due from the debtor under or in connection with a swap agreement against a payment due to the debtor from the swap participant under or in connection with a swap agreement or against cash, securities, or other property held by, pledged to, and under the control of, or due from such swap participant to guarantee, secure, or settle a swap agreement;";

(D) in paragraph (26), by striking "or" at the end;

(E) in paragraph (27), by striking the period at the end and inserting "; or"; and

(F) by inserting after paragraph (27) the following:

"(28) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with 1 or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged or and under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent such participant is eligible to exercise such offset rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue.".

(2) Limitation.—Section 362 of title 11, United States Code, as amended by section 432(2) of this Act, is amended by adding at the end the following:

"(l) Limitation.—The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), or (17) of subsection (b) shall not be stayed by an order of a court or administrative agency in any proceeding under this title.".

(e) Limitation of Avoidance Powers Under Master Netting Agreement.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311 (104 Stat. 267 et seq.))—

(A) by striking "under a swap agreement"; and

(B) by striking "in connection with a swap agreement" and inserting "under or in connection with any swap agreement"; and

(2) by inserting before subsection (i) (as redesignated by section 407 of this Act) the following new subsection:

"(h) Notwithstanding sections 544, 545, 547, 548(a)(2)(B), and 548(b), the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement (except under section 548(a)(1)(A)).".

(f) Fraudulent Transfers of Master Netting Agreements.—Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking "and";

(2) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.".

(g) Termination or Acceleration of Securities Contracts.—Section 555 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 555. Contractual right to liquidate, terminate, or accelerate a securities contract";

and

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration".

(h) Termination or Acceleration of Commodities or Forward Contracts.—Section 556 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract";

and

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration".

(i) Termination or Acceleration of Repurchase Agreements.—Section 559 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement";

and

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration".

(j) Liquidation, Termination, or Acceleration of Swap Agreements.—Section 560 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting following:

"§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement";

(2) in the first sentence, by striking "termination of a swap agreement" and inserting "liquidation, termination, or acceleration of a swap agreement"; and

(3) by striking "in connection with any swap agreement" and inserting "in connection with the termination, liquidation, or acceleration of a swap agreement".

(k) Liquidation, Termination, Acceleration, or Offset Under a Master Netting Agreement and Across Contracts.—Title 11, United States Code, is amended by inserting after section 560 the following [new section]:

"§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts

"(a) Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts or other transfer obligations arising under or in connection with 1 or more (or the termination, liquidation, or acceleration of 1 or more)—

"(1) securities contracts, as defined in section 741(7);

"(2) commodity contracts, as defined in section 761(4);

"(3) forward contracts;

"(4) repurchase agreements;

"(5) swap agreements; or

"(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

"(b)(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

"(2) If a debtor is a commodity broker subject to subchapter IV of chapter 7 [of this title]—

"(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a), except to the extent that the party has [no] positive net equity in the commodity accounts at the debtor, as calculated under *such* subchapter IV; and

"(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor against any claim arising under, or in connection with, other instruments, contracts, or agreements referred to in subsection (a).

"(c) As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.".

(l) Ancillary Proceedings.—Section 304 of title 11, United States Code, is amended by adding at the end the following:

"(d) Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case ancillary to a foreign proceeding under this section or any other section of this title, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms—

"(1) shall not be stayed or otherwise limited by—

"(A) operation of any provision of this title; or

"(B) order of a court in any case under this title;

"(2) shall limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11; and

"(3) shall not be limited based on the presence or absence of assets of the debtor in the United States.".

(m) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

"§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".

(n) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

"§ 753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, securities clearing agency, swap participant, repo participant, financial participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".

(o) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(3)(C), by inserting "(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)[(19)] *(28)*, 555, 556, 559, or 560)" before the period; and

(2) in subsection (b)(1), by striking "362(b)(14)," and inserting "362(b)(17), [362(b)(19)] *362(b)(28)*, 555, 556, 559, 560,".

(p) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking "financial institutions," each place such term appears and inserting "financial institution, financial participant";

(2) in section 546(e), by inserting "financial participant" after "financial institution,";

(3) in section 548(d)(2)(B), by inserting "financial participant" after "financial institution,";

(4) in section 555—

(A) by inserting "financial participant" after "financial institution,"; and

(B) by inserting before the period ", a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice"; and

(5) in section 556, by inserting ", financial participant" after "commodity broker".

(q) CONFORMING AMENDMENTS.—Title 11 [of the United States Code], *United States Code*, is amended—

(1) in the table of sections for chapter 5—

(A) by striking the items relating to sections 555 and 556 and inserting the following:

"555. Contractual right to liquidate, terminate, or accelerate a securities contract.

"556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.";

(B) by striking the items relating to sections 559 and 560 and inserting the following:

"559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

"560. Contractual right to liquidate, terminate, or accelerate a swap agreement.";

and

(C) by adding after the item relating to section 560 the following:

"561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts.";

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

"767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.";

and

(B) by inserting after the item relating to section 752 the following:

"753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.".

SEC. 902. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561 the following:

"§ 562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements

"If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761) repurchase agreement, or master netting agreement under section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

"(1) the date of such rejection; or

"(2) the date of such liquidation, termination, or acceleration."; and

(2) in the table of sections for chapter 5 by inserting after the item relating to section 561 the following:

"562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.".

(b) CLAIMS ARISING FROM REJECTION.—Section 502(g) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) A claim for damages calculated in accordance with section 561 shall be allowed under subsection (a), (b), or (c) of this section, or disallowed under subsection (d) or (e) of this section, as if such claim had arisen before the date of the filing of the petition.".

SEC. 903. ASSET-BACKED SECURITIZATIONS.

Section 541 of title 11, United States Code, is amended—

(1) in subsection (b), by striking "or" at the end of paragraph (4);

(2) by redesignating paragraph (5) of subsection (b) as paragraph (6);

(3) by inserting after paragraph (4) of subsection (b) the following new paragraph:

(4) by adding at the end the following [new subsection]:

"(5) any eligible asset (or proceeds thereof), to the extent that such eligible asset was transferred by the debtor, before the date of commencement of the case, to an eligible entity in connection with an asset-backed securitization, except to the extent that such asset (or proceeds or value thereof) may be recovered by the trustee under section 550 by virtue of avoidance under section 548(a); or"; and

"(e) For purposes of this section, the following definitions shall apply:

"(1) The term 'asset-backed securitization' means a transaction in which eligible assets transferred to an eligible entity are used as the source of payment on securities, the most senior of which are rated investment grade by 1 or more nationally recognized securities rating organizations, issued by an issuer.

"(2) The term 'eligible asset' means—

"(A) financial assets (including interests therein and proceeds thereof), either fixed or revolving, including residential and commercial mortgage loans, consumer receivables, trade receivables, and lease receivables, that, by their terms, convert into cash within a finite time period, plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to security holders;

"(B) cash; and

"(C) securities.

"(3) The term 'eligible entity' means—

"(A) an issuer; or

"(B) a trust, corporation, partnership, or other entity engaged exclusively in the business of acquiring and transferring eligible assets directly or indirectly to an issuer and taking actions ancillary thereto.

"(4) The term 'issuer' means a trust, corporation, partnership, or other entity engaged exclusively in the business of acquiring and holding eligible assets, issuing securities backed by eligible assets, and taking actions ancillary thereto.

"(5) The term 'transferred' means the debtor, under a written agreement, represented and warranted that eligible assets were sold, contributed, or otherwise conveyed with the intention of removing them from the estate of the debtor pursuant to subsection (b)(5), irrespective, without limitation of—

"(A) whether the debtor directly or indirectly obtained or held an interest in the issuer or in any securities issued by the issuer;

"(B) whether the debtor had an obligation to repurchase or to service or supervise the servicing of all or any portion of such eligible assets; or

"(C) the characterization of such sale, contribution, or other conveyance for tax, accounting, regulatory reporting, or other purposes.".

SEC. 904. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) Effective Date.—This title shall take effect on the date of enactment of this Act.

(b) Application of Amendments.—The amendments made by this title shall apply with respect to cases commenced or appointments made under any Federal or State law after the date of enactment of this Act, but shall not apply with respect to cases commenced or appointments made under any Federal or State law before the date of enactment of this Act.

TITLE X—PROTECTION OF FAMILY FARMERS

SEC. 1001. REENACTMENT OF CHAPTER 12.

(a) Reenactment.—

(1) In general.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), and amended by this Act, is reenacted.

(2) Effective date.—Subsection (a) shall take effect on [April 1, 1999] *October 1, 1999.*

(b) Conforming Amendment.—Section 302 of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

SEC. 1002. DEBT LIMIT INCREASE.

Section 104(b) of title 11, United States Code, is amended by adding at the end the following:

“(4) The dollar amount in section 101(18) shall be adjusted at the same times and in the same manner as the dollar amounts in paragraph (1) of this subsection, beginning with the adjustment to be made on April 1, 2001.”.

SEC. 1003. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.

Section 101(18)(A) of title 11, United States Code, is amended by striking “the taxable year preceding the taxable year” and inserting “at least 1 of the 3 calendar years preceding the year”.

SEC. 1004. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) Contents of Plan.—Section 1222(a)(2) of title 11, United States Code, is amended to read as follows:

“(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

“(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

“(B) the holder of a particular claim agrees to a different treatment of that claim; and”.

(b) Special Notice Provisions.—Section 1231(d) of title 11, United States Code, is amended by striking “a State or local governmental unit” and inserting “any governmental unit”.

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

SEC. 1101. DEFINITIONS.

(a) Health Care Business Defined.—Section 101 of title 11, United States Code, as amended by section 1004(a) of this Act, is amended—

(1) by redesignating paragraph (27A) as paragraph (27C); and

(2) inserting after paragraph (27) the following:

“(27A) ‘health care business’—

“(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

“(i) the diagnosis or treatment of injury, deformity, or disease; and

“(ii) surgical, drug treatment, psychiatric or obstetric care; and

“(B) includes—

“(i) any—

“(I) general or specialized hospital;

“(II) ancillary ambulatory, emergency, or surgical treatment facility;

“(III) hospice;

“(IV) health maintenance organization;

“(V) home health agency; and

“(VI) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), (IV), or (V); and

“(ii) any long-term care facility, including any—

“(I) skilled nursing facility;

“(II) intermediate care facility;

“(III) assisted living facility;

“(IV) home for the aged;

“(V) domicilary care facility; and

“(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living;”.

(b) Health Maintenance Organization Defined.—Section 101 of title 11, United States Code, as amended by subsection (a), is amended by inserting after paragraph (27A) the following:

“(27B) ‘health maintenance organization’ means any person that undertakes to provide or arrange for basic health care services through an organized system that—

“(A)(i) combines the delivery and financing of health care to enrollees; and

“(ii)(I) provides—

“(aa) physician services directly through physicians or 1 or more groups of physicians; and

“(bb) basic health care services directly or under a contractual arrangement; and

“(II) if reasonable and appropriate, provides physician services and basic health care services through arrangements other than the arrangements referred to in clause (i); and

“(B) includes any organization described in subparagraph (A) that provides, or arranges for, health care services on a prepayment or other financial basis;”.

(c) Patient.—Section 101 of title 11, United States Code, as amended by subsection (b), is amended by inserting after paragraph (40) the following:

“(40A) ‘patient’ means any person who obtains or receives services from a health care business;”.

(d) Patient Records.—Section 101 of title 11, United States Code, as amended by subsection (c), is amended by inserting after paragraph (40A) the following:

“(40B) ‘patient records’ means any written document relating to a patient or record recorded in a magnetic, optical, or other form of electronic medium;”.

SEC. 1102. DISPOSAL OF PATIENT RECORDS.

(a) In General.—Subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

“§ 351. Disposal of patient records

“If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:

“(1) The trustee shall mail, by certified mail, a written request to each appropriate Federal or State agency to request permission from that agency to deposit the patient records with that agency.

“(2) If no appropriate Federal or State agency agrees to permit the deposit of patient records referred to in paragraph (1) by the date that is 60 days after the trustee mails a written request under that paragraph, the trustee shall—

“(A) publish notice, in 1 or more appropriate newspapers, that if those patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 60 days after the date of that notification, the trustee will destroy the patient records; and

“(B) during the 60-day period described in subparagraph (A), the trustee shall attempt to notify directly each patient that is the subject of the patient records concerning the patient records by mailing to the last known address of that patient an appropriate notice regarding the claiming or disposing of patient records.

“(3) If, after providing the notification under paragraph (2), patient records are not claimed during the 60-day period described in paragraph (2)(A) or in any case in which a notice is mailed under paragraph (2)(B), during the 90-day period beginning on the date on which the notice is mailed, by a patient or insurance provider in accordance with that paragraph, the trustee shall destroy those records by—

“(A) if the records are written, shredding or burning the records; or

“(B) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.”.

(b) Clerical Amendment.—The chapter analysis for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 350 the following:

“351. Disposal of patient records.”.

SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF CLOSING A HEALTH CARE BUSINESS.

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking “and” at the end;

(2) in paragraph (6), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(7) the actual, necessary costs and expenses of closing a health care business incurred by a trustee, including any cost or expense incurred—

“(A) in disposing of patient records in accordance with section 351; or

“(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business.”.

SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

(a) In General.—

(1) Appointment of ombudsman.—Subchapter II of chapter 3 of title 11, United States Code, is amended by inserting after section 331 the following:

“§ 332. Appointment of ombudsman

“(a) Not later than 30 days after a case is commenced by a health care business under chapter 7, 9, or 11, the court shall appoint an ombudsman to represent the interests of the patients of the health care business.

"(b) An ombudsman appointed under subsection (a) shall—

"(1) monitor the quality of patient care, to the extent necessary under the circumstances, including reviewing records and interviewing patients and physicians;

"(2) not later than 60 days after the date of appointment, and not less frequently than every 60 days thereafter, report to the court, at a hearing or in writing, regarding the quality of patient care at the health care business involved; and

"(3) if the ombudsman determines that the quality of patient care is declining significantly or is otherwise being materially compromised, notify the court by motion or written report, with notice to appropriate parties in interest, immediately upon making that determination.

"(c) An ombudsman shall maintain any information obtained by the ombudsman under this section that relates to patients (including information relating to patient records) as confidential information.".

(2) Clerical amendment.—The chapter analysis for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 331 the following:

"332. Appointment of ombudsman.".

(b) Compensation of Ombudsman.—Section 330(a)(1) of title 11, United States Code, is amended—

(1) in the matter proceeding subparagraph (A), by inserting "an ombudsman appointed under section 331, or" before "a professional person"; and

(2) in subparagraph (A), by inserting "ombudsman," before "professional person".

SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.

(a) In General.—Section 704(a) of title 11, United States Code, as amended by section 219 of this Act, is amended—

(1) in paragraph (9), by striking "and" at the end;

(2) in paragraph (10), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(11) use all reasonable and best efforts to transfer patients from a health care business that is in the process of being closed to an appropriate health care business that—

"(A) is in the vicinity of the health care business that is closing;

"(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and

"(C) maintains a reasonable quality of care.".

(b) Conforming Amendment.—Section 1106(a)(1) of title 11, United States Code, is amended by striking "and 704(9)" and inserting "704(9), and 704(10)".

TITLE [XII] XI—TECHNICAL AMENDMENTS

SEC. [1201.] 1101. DEFINITIONS.

Section 101 of title 11, United States Code, as amended by section [1101] *1003* of this Act, is amended—

(1) by striking "In this title—" and inserting "In this title:";

(2) in each paragraph, by inserting "The term" after the paragraph designation;

(3) in paragraph (35)(B), by striking "paragraphs (21B) and (33)(A)" and inserting "paragraphs (23) and (35)";

(4) in each of paragraphs (35A) and (38), by striking "; and" at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting "who is not a family farmer" after "debtor" the first place it appears; and

(B) by striking "thereto having aggregate" and all that follows through the end of the paragraph;

(6) by striking paragraph (54) and inserting the following:

"(54) The term 'transfer' means—

"(A) the creation of a lien;

"(B) the retention of title as a security interest;

"(C) the foreclosure of a debtor's equity of redemption; or

"(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

"(i) property; or

"(ii) an interest in property;";

(7) in each of paragraphs (1) through (35), in each of paragraphs (36) and (37), and in each of paragraphs (40) through (55) (including paragraph (54), as amended by paragraph (6) of this section), by striking the semicolon at the end and inserting a period; and

(8) by redesignating paragraphs (4) through (55), including paragraph (54), as amended by paragraph (6) of this section, in entirely numerical sequence.

SEC. [1202.] 1102. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, is amended by inserting "522(f)(3), [707(b)(5),]" after "522(d)," each place it appears.

SEC. [1203.] 1103. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking "922" and all that follows through "or", and inserting "922, 1201, or".

SEC. [1204.] 1104. TECHNICAL AMENDMENTS.

Title 11, [of the] United States Code, is amended—

(1) in section 109(b)(2), by striking "subsection (c) or (d) of"; *and*

[(2) in section 541(b)(4), by adding "or" at the end; and]

[(3)] *(2)* in section 552(b)(1), by striking "product" each place it appears and inserting "products".

SEC. [1205.] 1105. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(3) of title 11, United States Code, is amended by striking "attorney's" and inserting "attorneys'".

SEC. [1206.] 1106. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting "on a fixed or percentage fee basis," after "hourly basis,".

SEC. [1207.] 1107. SPECIAL TAX PROVISIONS.

Section 346(g)(1)(C) of title 11, United States Code, is amended by striking ", except" and all that follows through "1986".

SEC. [1208.] 1108. EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting "of the estate" after "property" the first place it appears.

SEC. [1209.] 1109. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting "subparagraph (A), (B), (C), (D), or (E) of" before "paragraph (3)".

SEC. 1210. PRIORITIES.

Section 507(a) of title 11, United States Code, as amended by sections 211 and 229 of this Act, is amended—

(1) in paragraph (4)(B), by striking the semicolon at the end and inserting a period; and

(2) in paragraph (8), by inserting "unsecured" after "allowed".

SEC. 1211. EXEMPTIONS.

Section 522(g)(2) of title 11, United States Code, as amended by section 311 of this Act, is amended by striking "subsection (f)(2)" and inserting "subsection (f)(1)(B)".

SEC. [1212.] 1110. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by section [229] *714* of this Act, is amended—

(1) as amended by section 304(e) of Public Law 103–394 (108 Stat. 4133), in paragraph (15), by transferring such paragraph so as to insert [it] *such paragraph* after paragraph (14) of subsection (a);

(2) in subsection (a)—

(A) in paragraph (3), by striking "or (6)" each place it appears and inserting "(6), or (15)";

(B) in paragraph (9), by striking "motor vehicle or vessel" and inserting "motor vehicle, vessel, or aircraft"; and

(C) in paragraph (15), as so redesignated by paragraph (1) of this subsection, by inserting "to a spouse, former spouse, or child of the debtor and" after "(15)"; and

(2) in subsection (a)(9), by striking "motor vehicle or vessel" and inserting "motor vehicle, vessel, or aircraft"; and

(3) in subsection (e), by striking "a insured" and inserting "an insured".

SEC. [1213.] 1111. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking "section 523" and all that follows through "or that" and inserting "section 523, 1228(a)(1), or 1328(a)(1), or that".

SEC. [1214.] 1112. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting "student" before "grant" the second place it appears; and

(2) in paragraph (2), by striking "the program operated under part B, D, or E of" and inserting "any program operated under".

SEC. [1215.] 1113. PROPERTY OF THE ESTATE.

Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting "365 or" before "542".

SEC. [1216.] 1114. PREFERENCES.

(a) In General.—Section 547 of title 11, United States Code, *as amended by section 201(b) of this Act*, is amended—

(1) in subsection (b), by striking "subsection (c)" and inserting "subsections (c) and (i)"; and

(2) by adding at the end the following:

"(i) If the trustee avoids under subsection (b) a security interest given between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such security interest shall be considered to be avoided under this section only with respect to the creditor that is an insider.".

(b) Applicability.—The amendments made by this section shall apply to any case that pending or commenced on or after the date of enactment of this Act.

SEC. [1217.] 1115. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting "an interest in" after "transfer of";

(2) by striking "such property" and inserting "such real property"; and

(3) by striking "the interest" and inserting "such interest".

SEC. [1218.] 1116. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking "1009,".

SEC. [1219.] 1117. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, as amended by section [901(k)] *502* of this Act, is amended by inserting "1123(d)," after "1123(b),".

SEC. [1220.] 1118. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

SEC. [1221.] 1119. CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

SEC. [1222.] 1120. DISCHARGE UNDER CHAPTER 12.

Subsections (a) and (c) of section 1228 of title 11, United States Code, are amended by striking "1222(b)(10)" each place it appears and inserting "1222(b)(9)".

SEC. [1223.] 1121. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking "made under this subsection" and inserting "made under subsection (c)"; and

(2) by striking "This subsection" and inserting "Subsection (c) and this subsection".

SEC. [1224.] 1122. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting "(1) the term" before "'bankruptcy"; and

(B) by striking the period at the end and inserting "; and"; and

(2) in the second undesignated paragraph—

(A) by inserting "(2) the term" before "'document"; and

(B) by striking "this title" and inserting "title 11".

SEC. [1225.] 1123. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) Sale of Property of Estate.—Section 363(d) of title 11, United States Code, is amended by striking "only" and all that follows through the end of the subsection and inserting "only—

"(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

"(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362.".

(b) Confirmation of Plan for Reorganization.—Section 1129(a) of title 11, United States Code, as amended by section 212 of this Act, is amended by adding at the end the following:

"(15) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.".

(c) Transfer of Property.—Section 541 of title 11, United States Code, is amended by adding at the end the following:

"(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.".

(d) Applicability.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, except that the court shall not confirm a plan under chapter 11 of this title without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

(e) Rule of Construction.—Nothing in this section shall be construed to require the court in which a case under chapter 11 is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

SEC. [1226.] 1124. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking "20" and inserting "30".

SEC. [1227.] 1125. EXTENSIONS.

Section 302(d)(3) of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended—

(1) in subparagraph (A), in the matter following clause (ii), by striking "or October 1, 2002, whichever occurs first"; and

(2) in subparagraph (F)—

(A) in clause (i)—

(i) in subclause (II), by striking "or October 1, 2002, whichever occurs first"; and

(ii) in the matter following subclause (II), by striking "October 1, 2003, or"; and

(B) in clause (ii), in the matter following subclause (II)—

(i) by striking "before October 1, 2003, or"; and

(ii) by striking ", whichever occurs first".

SEC. [1228.] 1126. BANKRUPTCY JUDGESHIPS.

(a) Short Title.—This section may be cited as the "Bankruptcy Judgeship Act of 1999".

(b) Temporary Judgeships.—

(1) Appointments.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(A) One additional bankruptcy judgeship for the eastern district of California.

(B) Four additional bankruptcy judgeships for the central district of California.

(C) One additional bankruptcy judgeship for the southern district of Florida.

(D) Two additional bankruptcy judgeships for the district of Maryland.

(E) One additional bankruptcy judgeship for the eastern district of Michigan.

(F) One additional bankruptcy judgeship for the southern district of Mississippi.

(G) One additional bankruptcy judgeship for the district of New Jersey.

(H) One additional bankruptcy judgeship for the eastern district of New York.

(I) One additional bankruptcy judgeship for the northern district of New York.

(J) One additional bankruptcy judgeship for the southern district of New York.

(K) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(L) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(M) One additional bankruptcy judgeship for the western district of Tennessee.

(N) One additional bankruptcy judgeship for the eastern district of Virginia.

(2) Vacancies.—The first vacancy occurring in the office of a bankruptcy judge in each of the judicial districts set forth in paragraph (1) that—

(A) results from the death, retirement, resignation, or removal of a bankruptcy judge; and

(B) occurs 5 years or more after the appointment date of a bankruptcy judge appointed under paragraph (1);

shall not be filled.

(c) Extensions.—

(1) In general.—The temporary bankruptcy judgeship positions authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, the district of South Carolina, and the eastern district of Tennessee under section 3(a) (1), (3), (7), (8), and (9) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring—

(A) 8 years or more after November 8, 1993, with respect to the northern district of Alabama;

(B) 10 years or more after October 28, 1993, with respect to the district of Delaware;

(C) 8 years or more after August 29, 1994, with respect to the district of Puerto Rico;

(D) 8 years or more after June 27, 1994, with respect to the district of South Carolina; and

(E) 8 years or more after November 23, 1993, with respect to the eastern district of Tennessee.

(2) Applicability of other provisions.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 remain applicable to such temporary judgeship positions.

(d) Technical Amendment.—The first sentence of section 152(a)(1) of title 28, United States Code, is amended to read as follows: "Each bankruptcy judge to be appointed for a judicial district as provided in paragraph (2) shall be appointed by the United States court of appeals for the circuit in which such district is located.".

(e) Travel Expenses of Bankruptcy Judges.—Section 156 of title 28, United States Code, is amended by adding at the end the following:

"(g)(1) In this subsection, the term 'travel expenses'—

"(A) means the expenses incurred by a bankruptcy judge for travel that is not directly related to any case assigned to such bankruptcy judge; and

"(B) shall not include the travel expenses of a bankruptcy judge if—

"(i) the payment for the travel expenses is paid by such bankruptcy judge from the personal funds of such bankruptcy judge; and

"(ii) such bankruptcy judge does not receive funds (including reimbursement) from the United States or any other person or entity for the payment of such travel expenses.

"(2) Each bankruptcy judge shall annually submit the information required under paragraph (3) to the chief bankruptcy judge for the district in which the bankruptcy judge is assigned.

"(3)(A) Each chief bankruptcy judge shall submit an annual report to the Director of the Administrative Office of the United States Courts on the travel expenses of each bankruptcy judge assigned to the applicable district (including the travel expenses of the chief bankruptcy judge of such district).

"(B) The annual report under this paragraph shall include—

"(i) the travel expenses of each bankruptcy judge, with the name of the bankruptcy judge to whom the travel expenses apply;

"(ii) a description of the subject matter and purpose of the travel relating to each travel expense identified under clause (i), with the name of the bankruptcy judge to whom the travel applies; and

"(iii) the number of days of each travel described under clause (ii), with the name of the bankruptcy judge to whom the travel applies.

"(4)(A) The Director of the Administrative Office of the United States Courts shall—

"(i) consolidate the reports submitted under paragraph (3) into a single report; and

"(ii) annually submit such consolidated report to Congress.

"(B) The consolidated report submitted under this paragraph shall include the specific information required under paragraph (3)(B), including the name of each bankruptcy judge with respect to clauses (i), (ii), and (iii) of paragraph (3)(B).".

TITLE [XIII] XII—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. [1301.] 1201. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) Effective Date.—Except as provided otherwise in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) Application of Amendments.—The amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.

WYDEN AMENDMENT NO. 2255

(Ordered to lie on the table.)

Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 82, supra; as follows:

On page 106, line 25, strike "Commercial Aviation" and insert "Additional Compensation".

On page 107, line 1, beginning with "If" strike all through "additional" on line 2, and insert "Additional".

On page 107, line 21, strike "caused during commercial aviation occurring after July 16, 1996" and insert "occurring after November 23, 1995".

BURNS (AND ASHCROFT) AMENDMENT NO. 2256

Mr. McCAIN (for Mr. BURNS (for himself and Mr. ASHCROFT)) proposed an amendment to the bill S. 82, supra; as follows:

SECTION 1. SHORT TITLE.

This title may be cited as the "Improved Consumer Access to Travel Information Act".

SEC. 2. NATIONAL COMMISSION TO ENSURE CONSUMER INFORMATION AND CHOICE IN THE AIRLINE INDUSTRY.

(b) Establishment.—There is established a commission to be known as the "National Commission to Ensure Consumer Information and Choice in the Airline Industry" (in this section referred to as the "Commission").

(c) Duties.—

(1) Study.—The Commission shall undertake a study of—

(A) consumer access to information about the products and services of the airline industry;

(B) the effect on the marketplace on the emergency of new means of distributing such products and services;

(C) the effect on consumers of the declining financial condition of travel agents in the United States; and

(D) the impediments imposed by the airline industry on distributors of the industry's products and services, including travel agents and Internet-based distributors.

(2) Policy recommendations.—Based on the results of the study described in paragraph (1), the Commission shall recommend to the President and Congress policies necessary to—

(A) ensure full consumer access to complete information concerning airline fares, routes, and other services;

(B) ensure that the means of distributing the products and services of the airline industry, and of disseminating information about such products and services, is adequate to ensure that competitive information is available in the marketplace;

(C) ensure that distributors of the products and services of the airline industry have adequate relief from illegal, anticompetitive practices that occur in the marketplace; and

(D) foster healthy competition in the airline industry and the entry of new entrants.

(d) Specific Matters To Be Addressed.—In carrying out the study authorized under subsection (c)(1), the Commission shall specifically address the following:

(1) Consumer access to information.—With respect to consumer access to information regarding the services and products offered by the airline industry, the following:

(A) The state of such access.

(B) The effect in the 5-year period following the date of the study of the making of alliances in the airline industry.

(C) Whether and to what degree the trends regarding such access will produce benefits to consumers.

(2) Means of distribution.—With respect to the means of distributing the products and services of the airline industry, the following:

(A) The state of such means of distribution.

(B) The roles played by travel agencies and Internet-based providers of travel information and services in distributing such products and services.

(C) Whether the policies of the United States promote the access of consumers to multiple means of distribution.

(3) Airline reservation systems.—With respect to airline reservation systems, the following:

(A) The rules, regulations, policies, and practices of the industry governing such systems.

(B) How trends in such systems will affect consumers, including—

(i) the effect on consumer access to flight reservation information; and

(ii) the effect on consumers of the use by the airline industry of penalties and promotions to convince distributors to use such systems, and the degree of consumer awareness of such penalties and promotions.

(4) Legal impediments to distributors seeking relief for anticompetitive actions.—The policies of the United States with respect to the legal impediments to distributors seeking relief for anticompetitive actions, including—

(A) Federal preemption of civil actions against airlines; and

(B) the role of the Department of Transportation in enforcing rules against anticompetitive practices.

(e) Membership.—

(1) Appointment.—The Commission shall be composed of 15 voting members and 11 nonvoting members as follows:

(A) 5 voting members and 1 nonvoting member appointed by the President.

(B) 3 voting members and 3 nonvoting members appointed by the Speaker of the House of Representatives.

(C) 2 voting members and 2 nonvoting members appointed by the minority leader of the House of Representatives.

(D) 3 voting members and 3 nonvoting members appointed by the majority leader of the Senate.

(E) 2 voting members and 2 nonvoting members appointed by the minority leader of the Senate.

(2) Qualifications.—Voting members appointed under paragraph (1) shall be appointed from among individuals who are experts in economics, service product distribution, or transportation, or any related discipline, and who can represent consumers, passengers, shippers, travel agents, airlines, or general aviation.

(3) Terms.—Members shall be appointed for the life of the Commission.

(4) Vacancies.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) Travel expenses.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) Chairperson.—The President, in consultation with the Speaker of the House of Representatives and the majority leader of the Senate, shall designate the Chairperson of the Commission (referred to in this Act as the "Chairperson") from among its voting members.

(f) Commission Panels.—The Chairperson shall establish such panels consisting of voting members of the Commission as the Chairperson determines appropriate to carry out the functions of the Commission.

(g) Staff.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(h) Staff of Federal Agencies.—Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(i) Other Staff and Support.—Upon the request of the Commission, or a panel of the Commission, the Secretary of Transportation shall provide the Commission or panel with professional and administrative staff and other support, on a reimbursable basis, to assist the Commission or panel in carrying out its responsibilities.

(j) Obtaining Official Data.—The Commission may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(k) Report.—Not later than 6 months after the date on which initial appointments of members to the Commission are completed, the Commission shall transmit to the President and Congress a report on the activities of the Commission, including recommendations made by the Commission under subsection (c)(2).

(l) TERMINATION.—The Commission shall terminate on the 30th day following the date of transmittal of the report under subsection (k). All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

(m) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

INHOFE AMENDMENT NO. 2257

(Ordered to lie on the table.)

Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 82, supra; as follows:

On page 132, line 4, strike "is authorized to" and insert "shall".

BAUCUS AMENDMENT NO. 2258

(Ordered to lie on the table.)

Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 82, supra; as follows:

At the end of title IV of the Manager's substitute amendment, add the following:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate makes the following findings:

(1) Recreational use of public lands is increasing in the United States and Canada.

(2) The increased recreational use can benefit local economies and create jobs.

(3) Increased recreational use can also bring the public into greater contact with grizzly bears and black bears.

(4) These conflicts can cause harm to recreational users and wildlife alike.

(5) United States companies produce pepper spray devices that have been demonstrated to reduce the severity and injury of these conflicts to both people and wildlife.

(6) These companies contribute to local economies and provide employment in distressed areas.

(7) Current Federal regulations prohibit airline passengers from carrying pepper spray devices in checked baggage that are of sufficient size to deter bears, thereby creating a disincentive to the use of these pepper spray devices.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Federal regulations should be changed to allow these types of pepper spray devices to be carried in checked baggage on domestic airlines consistent with the interests of passenger safety.

ROBB (AND OTHERS) AMENDMENT NO. 2259

Mr. ROBB (for himself, Mr. SARBANES, Ms. MIKULSKI, and Mr. WARNER) proposed an amendment to amendment No. 1892 proposed by Mr. Gorton to the bill, S. 82, supra; as follows:

Beginning on page 12 of the amendment, strike line 18 and all that follows through page 19, line 2, and redesignate the remaining subsections and references thereto accordingly.

WYDEN AMENDMENTS NOS. 2260–2262

(Ordered to lie on the table.)

Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 82, supra; as follows:

AMENDMENT NO. 2260

On page 106, strike line 25 and all that follows through the comma on page 107, line 2.

On page 107, line 21, strike "caused during commercial aviation".

AMENDMENT NO. 2261

On page 106, strike line 25 and all that follows through "additional" on page 107, line 2 and insert the following:

"(b) ADDITIONAL COMPENSATION.—

"(1) IN GENERAL.—Additional".

On page 107, line 21, strike "caused during commercial aviation occurring after July 16, 1996" and insert "occurring after November 23, 1995".

AMENDMENT NO. 2262

On page 106, beginning on line 25, strike all through page 107, line 21, and insert the following:

"(b) ADDITIONAL COMPENSATION.—

"(1) IN GENERAL.—Additional compensation for nonpecuniary damages for wrongful death of a decedent is recoverable in a total amount, for all beneficiaries of that decedent, that shall not exceed the greater of the pecuniary loss sustained or a sum total of $750,000 from all defendants for all claims. Punitive damages are not recoverable.

"(2) INFLATION ADJUSTMENT.—The $750,000 amount shall be adjusted, beginning in calendar year 2000 by the increase, if any, in the Consumer Price Index for all urban consumers for the prior year over the Consumer Price Index for all urban consumers for the calendar year 1998.

"(3) NONPECUNIARY DAMAGES.—For purposes of this subsection, the term 'nonpecuniary damages' means damages for loss of care, comfort, and companionship.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to any death occurring after November 23, 1995.

ABRAHAM AMENDMENT NO. 2263

(Ordered to lie on the table.)

Mr. ABRAHAM submitted an amendment intended to be proposed by him to the bill, S. 82, supra; as follows:

At the appropriate place insert the following:

SEC. . REPEAL OF LIMIT ON SLOTS FOR BASIC ESSENTIAL AIR SERVICE AT CHICAGO O'HARE AIRPORT.

49 United States Code section 41714(a)(3) is amended by striking "except that the Secretary shall not be required to make slots available at O'Hare International Airport in Chicago, Illinois, if the number of slots available for basic essential air service (including slots specifically designated as essential air service slots and slots for such purposes) to and from such airport is at least 132 slots".

FITZGERALD (AND DURBIN) AMENDMENT NO. 2264

Mr. FITZGERALD (for himself and Mr. DURBIN) proposed an amendment to the bill, S. 82, supra; as follows:

On page 5, beginning with "apply—" in line 15, strike through line 19 and insert "apply after December 31, 2006, at LaGuardia Airport or John F. Kennedy International Airport.".

On page 8, beginning with line 7, strike through line 17 on page 12 and insert the following:

(1) IN GENERAL.—Subchapter I of chapter 417, as amended by subsection (d), is amended by inserting after section 41717 the following:

"§41718. Special Rules for Chicago O'Hare International Airport

"(a) IN GENERAL.—The Secretary of Transportation shall grant 30 slot exemptions over a 3-year period beginning on the date of amendment of the Air Transportation Improvement Act at Chicago O'Hare International Airport.

"(b) EQUIPMENT AND SERVICE REQUIREMENTS.—

"(1) STAGE 3 AIRCRAFT REQUIRED.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

"(2) SERVICE PROVIDED.—Of the exemptions granted under subsection (a)—

"(A) 18 shall be used only for service to underserved markets, of which no fewer than 6 shall be designated as commuter slot exemptions; and

"(B) 12 shall be air carrier slot exemptions.

"(c) PROCEDURAL REQUIREMENTS.—Before granting exemptions under subsection (a), the Secretary shall—

"(1) conduct an environmental review, taking noise into account, and determine that the granting of the exemptions will not cause a significant increase in noise;

"(2) determine whether capacity is available and can be used safely and, if the Secretary so determines then so certify;

"(3) give 30 days notice to the public through publication in the Federal Register of the Secretary's intent to grant the exemptions; and

"(4) consult with appropriate officers of the State and local government on any related noise and environmental issues.

"(d) UNDERSERVED MARKET DEFINED.—In this section, the term 'service to underserved markets' means passenger air transportation service to an airport that is a nonhub airport or a small hub airport (as defined in paragraphs (4) and (5), respectively, of section 41731(a)).".

(2) 3-YEAR REPORT.—The Secretary shall study and submit a report 3 years after the first exemption granted under section 41718(a) of title 49, United States Code, is first used on the impact of the additional slots on the safety, environment, noise, access to underserved markets, and competition at Chicago O'Hare International Airport.

On page 19, strike lines 10 and 11.

On page 19, line 12, strike "(B)" and insert "(A).

On page 19, line 13, strike "(C)" and insert "(B).

On page 19, line 15, strike "(D)" and insert "(C).

COVERDELL AMENDMENT NO. 2265

Mr. McCAIN (for Mr. COVERDELL) proposed an amendment to the bill, S. 82, supra; as follows:

At the appropriate place in the Manager's substitute amendment, insert the following:

SEC. . AVAILABILITY OF FUNDS FOR GEORGIA'S REGIONAL AIRPORT ENHANCEMENT PROGRAM.

Of the amounts made available to the Secretary of Transportation for the fiscal year 2000 under section 48103 of title 49, United States Code, Funds may be available for Georgia's regional airport enhancement program for the acquisition of land.

McCAIN (AND OTHERS) AMENDMENTS NO. 2266

Mr. McCAIN (for himself, Mr. HOLLINGS, and Mr. GORTON, and Mr. ROCKEFELLER) proposed an amendment to the bill, S. 82, supra; as follows:

On page 7, line 5 beginning with "striking" strike through "1999," in line 8 and insert "striking '1999.' and inserting '1999,' ".

On page 7, line 14, strike " 'August 6, 1999' " and insert " 'September 30, 1999,' ".

On page 111 beginning with line 1, strike through line 12 on page 112.

On page 180, after line 15, insert the following:

(3) QUIET AIRCRAFT TECHNOLOGY FOR GRAND CANYON.—

(A) QUIET TECHNOLOGY REQUIREMENTS.—Within 9 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall designate reasonably achievable requirements for fixed-wing and helicopter aircraft necessary for such aircraft to be considered as emloying quiet aircraft technology for purposes of this section. If no requirements are promulgated as mandated by this paragraph, then beginning 9 months after enactment of this Act and until the provisions of this paragraph are met, any aircraft shall be considered to be in compliance with this paragraph.

(B) ROUTES OF CORRIDORS.—The Administrator shall by rule establish routes or corridors for commercial air tours (as defined in section 4012(d)(1) of title 49, United States Code) by fixed-wing and helicopter aircraft that employ quiet aircraft technology for—

(i) tours of the Grand Canyon originating in Clark County, Nevada; and

(ii) "local loop" tours originating at the Grand Canyon National Park Airport, in Tusayan, Arizona.

(C) OPERATIONAL CAPS AND EXPANDED HOURS.—Commercial air tours (as so defined) by any fixed-wing or helicopter aircraft that employs quiet aircraft technology and that replaces an existing aircraft—

(i) shall not be subject to operational flight allocations applicable to other commercial air tours of the Grand Canyon; and

(ii) may be conducted during the hours from 7:00 a.m. to 7:00 p.m.

(D) MODIFICATION OF EXISTING AIRCRAFT TO MEET STANDARDS.—A commercial air tour (as so defined) by a fixed-wing or helicopter aircraft in a commercial air tour operator's fleet on the date of enactment of this Act that meets the requirements designated under the personally (a), or is subsequently modified to meet the requirements designated under subparagraph (A) may be used for commercial air tours under the same terms and conditions as a replacement aircraft under subparagraph (C) without regard to whether it replaces an existing aircraft.

(E) GOAL OF RESTORING NATURAL QUIET.—Nothing in this paragraph reduces the goal, established for the Federal Aviation Administration and the National Park Service under Public Law 100–91 (16 U.S.C. 1a–1 note), of achieving substantial restoration of the natural quiet at the Grand Canyon National Park.

At the appropriate place, insert the following:

TITLE —AIRLINE CUSTOMER SERVICE COMMITMENT

SEC. 01. AIRLINE CUSTOMER SERVICE REPORTS.

(a) SECRETARY TO REPORT PLANS RECEIVED.—Each air carrier that provides scheduled passenger air transportation and that is a member of the Air Transport Association, all of which have entered into the voluntary customer service commitments established by the Association on June 17, 1999, (hereinafter referred to as the "Airline Customer Service Commitment"), shall provide a copy of its individual customer service plan to the Secretary of Transportation by September 15, 1999. The Secretary, upon receipt of the individual plans, shall report to the Senate Committee on Commerce, Science, and Transportation and to the House of Representatives Committee on Transportation and Infrastructure the receipt of each such plan and transmit a copy of each plan.

(b) IMPLEMENTATION.—The Inspector General of the Department of Transportation shall monitor the implementation of any plan submitted to the Secretary under subsection (a) and evaluate the extent to which each such carrier has met its commitments under its plan. Each such carrier shall provide such information to the Inspector General as may be necessary for the Inspector General to prepare the report required by subsection (c).

(c) REPORTS TO THE CONGRESS.—

(1) INTERIM REPORT.—The Inspector General shall submit a report of the Inspector General's findings under subsection (a) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure by June 15, 2000, that includes a status report on completion, publication, and implementation of the Airline Customer Service Commitment and the individual airline plans to carry it out. The report shall include a review of whether each air carrier has modified its contract of carriage or conditions of contract to reflect each item of the Airline Customer Service Commitment.

(2) FINAL REPORT; RECOMMENDATIONS.—

(A) IN GENERAL.—The Inspector General shall submit a final report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure by December 31, 2000, on the effectiveness of the Airline Customer Service Commitment and the individual airline plans to carry it out, including recommendations for improving accountability, enforcement, and consumer protections afforded to commercial air passengers.

(B) SPECIFIC CONTENT.—In the final report under subparagraph (A), the Inspector General shall—

(i) evaluate each carrier's plan for whether it is consistent with the voluntary commitments established by the Air Transport Association in the Airline Customer Service Commitment.

(ii) evaluate each carrier as to the extent to which, and the manner in which, it has performed in carrying out its plan;

(iii) identify, by air carrier, how it has implemented each commitment covered by its plan; and

(iv) provide an analysis, by air carrier, of the methods of meeting each commitment, and in such analysis provide information that allows consumers to make decisions on the quality of air transportation provided by such carriers.

SEC. 02. INCREASED FINANCIAL RESPONSIBILITY FOR LOST BAGGAGE.

The Secretary of Transportation shall initiate a rule making within 30 days after the date of enactment of this Act to increase the domestic baggage liability limit in part 254 of title 14, Code of Federal Regulations.

SEC. 03. INCREASED PENALTY FOR VIOLATION OF AVIATION CONSUMER PROTECTION LAWS.

Section 46301(a), as amended by section 407 of this Act, is amended by adding at the end thereof the following:

"(8) CONSUMER PROTECTION.—For a violation of section 41310, 41712, any rule or regulation promulgated thereunder, or any other rule or regulation promulgated by the Secretary of Transportation that is intended to afford protection to commercial air transportation consumers, the maximum civil penalty prescribed by subsection (a) may not exceed $2,500 for each violation.".

SEC. 04. COMPTROLLER GENERAL INVESTIGATION.

The Comptroller General of the United States shall study the potential effects on aviation consumers, including the impact on fares and service to small communities, of a requirement that air carriers permit a ticketed passenger to use any portion of a multiple-stop or round-trip air fare for transportation independent of any other portion without penalty. The Comptroller General shall submit a report, based on the study, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure by June 15, 2000.

SEC. 05. FUNDING OF ENFORCEMENT OF AIRLINE CONSUMER PROTECTIONS.

(a) IN GENERAL.—Chapter 481 is amended by adding at the end thereof the following:

"§ 48112. Consumer protection

"There are authorized to be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 for the purpose of ensuring compliance with, and enforcing, the rights of air travelers under sections 41310 and 41712 of this title—

"(1) $2,300,000 for fiscal year 2000;

"(2) $2,415,000 for fiscal year 2001;

"(3) $2,535,750 for fiscal year 2002; and

"(2) $2,662,500 for fiscal year 2003.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 481 is amended by adding at the end thereof the following:

"48112. Consumer protection".

At the appropriate place, add the following new title:

TITLE —PENALTIES FOR UNRULY PASSENGERS

SEC. 01. PENALTIES FOR UNRULY PASSENGERS.

(a) IN GENERAL.—Chapter 463 is amended by adding at the end the following:

"§ 46317. Interference with cabin or flight crew

"(a) GENERAL RULE.—

"(1) IN GENERAL.—An individual who physically assaults or threatens to physically assault a member of the flight crew or cabin crew of a civil aircraft or any other individual on the aircraft, or takes any action that poses an imminent threat to the safety of the aircraft or other individuals on the aircraft is liable to the United States Government for a civil penalty of not more than $25,000.

"(b) COMPROMISE AND SETOFF.—

"(1) COMPROMISE.—The Secretary may compromise the amount of a civil penalty imposed under this section.

"(2) SETOFF.—The United States Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts the Government owes the person liable for the penalty.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 463 is amended by adding at the end the following:

"46317. Interference with cabin or flight crew.".

SEC. 02. DEPUTIZING OF STATE AND LOCAL LAW ENFORCEMENT OFFICERS.

(a) DEFINITIONS.—In this section:

(1) AIRCRAFT.—The term "aircraft" has the meaning given that term in section 40102.

(2) AIR TRANSPORTATION.—The term "air transportation" has the meaning given that term in section 40102.

(3) ATTORNEY GENERAL.—The term "Attorney General" means the Attorney General of the United States.

(b) ESTABLISHMENT OF A PROGRAM TO DEPUTIZED LOCAL LAW ENFORCEMENT OFFICERS.—

(1) IN GENERAL.—The Attorney General may—

(A) establish a program under which the Attorney General may deputize State and local law enforcement officers having jurisdiction over airports and airport authorities as Deputy United States Marshals for the limited purpose of enforcing Federal laws that regulate security on board aircraft, including laws relating to violent, abusive, or disruptive behavior by passengers of air transportation; and

(B) encourage the participation of law enforcement officers of State and local governments in the program established under subparagraph (A).

(2) CONSULTATION.—In establishing the program under paragraph (1), the Attorney General shall consult with appropriate officials of—

(A) the Federal Government (including the Administrator of the Federal Aviation Administration or a designated representative of the Administrator); and

(B) State and local governments in any geographic area in which the program may operate.

(3) TRAINING AND BACKGROUND OF LAW ENFORCEMENT OFFICERS.—

(A) IN GENERAL.—Under the program established under this subsection, to qualify to serve as a Deputy United States Marshal under the program, a State or local law enforcement officer shall—

(i) meet the minimum background and training requirements for a law enforcement officer under part 107 of title 14, Code of Federal Regulations (or equivalent requirements established by the Attorney General); and

(ii) receive approval to participate in the program from the State or local law enforcement agency that is the employer of that law enforcement officer.

(B) TRAINING NOT FEDERAL RESPONSIBILITY.—The Federal Government shall not be responsible for providing to a State or local law enforcement officer the training required to meet the training requirements under subparagraph (A)(i). Nothing in this subsection may be construed to grant any such law enforcement officer the right to attend any institution of the Federal Government established to provide training to law enforcement officers of the Federal Government.

(c) POWERS AND STATUS OF DEPUTIZED LAW ENFORCEMENT OFFICERS.—

(1) IN GENERAL.—Subject to paragraph (2), a State or local law enforcement officer that is deputized as a Deputy United States Marshal under the program established under subsection (b) may arrest and apprehend an individual suspected of violating any Federal law described in subsection (b)(1)(A), including any individual who violates a provision subject to a civil penalty under section 46301 of title 49, United States Code, or section 46302, 46303, 46504, 46505, or 46507 of that title, or who commits an act described in section 46506 of that title.

(2) LIMITATION.—The powers granted to a State or local law enforcement officer deputized under the program established under subsection (b) shall be limited to enforcing Federal laws relating to security on board aircraft in flight.

(3) STATUS.—A State or local law enforcement officer that is deputized as a Deputy United States Marshal under the program established under subsection (b) shall not—

(A) be considered to be an employee of the Federal Government; or

(B) receive compensation from the Federal Government by reason of service as a Deputy United States Marshal in the program.

(d) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to—

(1) grant a State or local law enforcement officer that is deputized under the program under subsection (b) the power to enforce any Federal law that is not described in subsection (c); or

(2) limit the authority that a State or local law enforcement officer may otherwise exercise in the capacity under any other applicable State or Federal law.

(e) REGULATIONS.—The Attorney General may promulgate such regulations as may be necessary to carry out this section.

SEC. . STUDY AND REPORT ON AIRCRAFT NOISE.

Not later than December 31, 2002, the Secretary of Transportation shall conduct a study and report to Congress on—

(1) airport noise problems in the United States;

(2) the status of cooperative consultations and agreements between the Federal Aviation Administration and the International Civil Aviation Organization on stage 4 aircraft noise levels; and

(3) the feasibility of proceeding with the development and implementation of a timetable for air carrier compliance with stage 4 aircraft noise requirements.

TITLE —AIRLINE COMMISSION

SEC. 01. SHORT TITLE.

This title may be cited as the "Improved Consumer Access to Travel Information Act".

SEC. 02. NATIONAL COMMISSION TO ENSURE CONSUMER INFORMATION AND CHOICE IN THE AIRLINE INDUSTRY.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission to Ensure Consumer Information and Choice in the Airline Industry" (in this section referred to as the "Commission").

(b) DUTIES.—

(1) STUDY.—The Commission shall undertake a study of—

(A) consumer access to information about the products and services of the airline industry;

(B) the effect on the marketplace of the emergence of new means of distributing such products and services;

(C) the effect on consumers of the declining financial condition of travel agents in the United States; and

(D) the impediments imposed by the airline industry on distributors of the industry's products and services, including travel agents and Internet-based distributors.

(2) POLICY RECOMMENDATIONS.—Based on the results of the study described in paragraph (1), the Commission shall recommend to the President and Congress policies necessary to—

(A) ensure full consumer access to complete information concerning airline fares, routes, and other services;

(B) ensure that the means of distributing the products and services of the airline industry, and of disseminating information about such products and services, is adequate to ensure that competitive information is available in the marketplace;

(C) ensure that distributors of the products and services of the airline industry have adequate relief from illegal, anticompetitive practices that occur in the marketplace; and

(D) foster healthy competition in the airline industry and the entry of new entrants.

(c) SPECIFIC MATTERS TO BE ADDRESSED.—In carrying out the study authorized under subsection (b)(1), the Commission shall specifically address the following:

(1) CONSUMER ACCESS TO INFORMATION.—With respect to consumer access to information regarding the services and products offered by the airline industry, the following:

(A) The state of such access.

(B) The effect in the 5-year period following the date of the study of the making of alliances in the airline industry.

(C) Whether and to what degree the trends regarding such access will produce benefits to consumers.

(2) MEANS OF DISTRIBUTION.—With respect to the means of distributing the products and services of the airline industry, the following:

(A) The state of such means of distribution.

(B) The roles played by travel agencies and Internet-based providers of travel information and services in distributing such products and services.

(C) Whether the policies of the United States promote the access of consumers to multiple means of distribution.

(3) AIRLINE RESERVATION SYSTEMS.—With respect to airline reservation systems, the following:

(A) The rules, regulations, policies, and practices of the industry governing such systems.

(B) How trends in such systems will affect consumers, including—

(i) the effect on consumer access to flight reservation information; and

(ii) the effect on consumers of the use by the airline industry of penalties and promotions to convince distributors to use such systems, and the degree of consumer awareness of such penalties and promotions.

(d) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 voting members and 11 nonvoting members as follows:

(A) 5 voting members and 1 nonvoting member appointed by the President.

(B) 3 voting members and 3 nonvoting members appointed by the Speaker of the House of Representatives.

(C) 2 voting members and 2 nonvoting members appointed by the minority leader of the House of Representatives.

(D) 3 voting members and 3 nonvoting members appointed by the majority leader of the Senate.

(E) 2 voting members and 2 nonvoting members appointed by the minority leader of the Senate

(2) QUALIFICATIONS.—Voting members appointed under paragraph (1) shall be appointed from among individuals who are experts in economics, service product distribution, or transportation, or any related discipline, and who can represent consumers, passengers, shippers, travel agents, airlines, or general aviation.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) CHAIRPERSON.—The President, in consultation with the Speaker of the House of Representatives and the majority leader of the Senate, shall designate the Chairperson of the Commission (referred to in this title as the "Chairperson") from among its voting members.

(e) COMMISSION PANELS.—The Chairperson shall establish such panels consisting of voting members of the Commission as the Chairperson determines appropriate to carry out the functions of the Commission.

(f) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(g) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(h) OTHER STAFF AND SUPPORT.—Upon the request of the Commission, or a panel of the Commission, the Secretary of Transportation shall provide the Commission or panel with professional and administrative staff and other support, on a reimbursable basis, to assist the Commission or panel in carrying out its responsibilities.

(i) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(j) REPORT.—Not later than 6 months after the date on which initial appointments of members to the Commission are completed, the Commission shall transmit to the President and Congress a report on the activities of the Commission, including recommendations made by the Commission under subsection (b)(2).

(k) TERMINATION.—The Commission shall terminate on the 30th day following the date of transmittal of the report under subsection (j). All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

(l) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

On page 162, before line 15, insert the following:

(3) CONFORMING AMENDMENT.—Section 41714(a)(3) is amended by adding at the end thereof the following: The 132 slot cap under this paragraph does not apply to exemptions or slots made available under section 41718.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the hearing originally scheduled for Tuesday, October 12, 1999, at 2:30 p.m., before the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources has been rescheduled for Wednesday, October 13, 1999, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information please contact Jim O'Toole or Cassie Sheldon of the committee staff at (202) 224–6969.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that the legislative hearing scheduled for 9:30 a.m., on October 26, 1999, before the Energy and Natural Resources Committee to receive testimony on S. 882, a bill to strengthen provisions in the Energy Policy Act of 1992 and the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to potential climate change has been cancelled.

For further information, please call Kristin Phillips, Staff Assistant or Colleen Deegan, Counsel, at (202) 224–8115.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. McCAIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9:30 a.m., on Tuesday, October 5, 1999, in closed session, to receive testimony from Department of Energy and Intelligence Community witnesses on the Comprehensive Test Ban Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. McCAIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 5, 1999, at 10:30 a.m., to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. McCAIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, October 5, 1999, at 2:30 p.m., to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. McCAIN. Mr. President, the Committee on the Judiciary, Subcommittee on Administrative Oversight and the Courts, requests unanimous consent to conduct a hearing on Tuesday, October 5, 1999, beginning at 10 a.m., in Dirksen Room 226.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. McCAIN. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 5, 1999, at 2:45 p.m., to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR, WETLANDS, PRIVATE PROPERTY, AND NUCLEAR SAFETY

Mr. McCAIN. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety be granted permission to conduct a hearing Tuesday, October 5, 9:30 a.m., hearing room (SD–406), on the Environmental Protection Agency's Blue Ribbon Panel findings on MTBE.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FOREST AND PUBLIC LAND MANAGEMENT

Mr. McCAIN. I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, October 5, for purposes of conducting a Subcommittee on Forest and Public Lands Management hearing which is scheduled to begin at 2:30 p.m. The purpose of this hearing is to receive testimony on S. 1608, a bill to provide annual payments to the States and counties from National Forest System lands managed by the Forest Service, and the revested Oregon and California Railroad and reconveyed Boos Bay Wagon Road grant lands managed predominately by the Bureau of Land Management, for use by the counties in which the lands are situated for the benefit of the public schools, roads, emergency and other public purposes; to encourage and provide a new mechanism for cooperation between counties and the Forest Service and the Bureau of Land Management to make necessary investments in federal lands, and reaffirm the positive connection between Federal Lands counties and Federal Lands; and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. McCAIN. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, October 5, 1999, to conduct a hearing on S. 1452, the Manufactured Housing Improvement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COMMEMORATION FOR THE TOWN OF OAKLAND, MARYLAND

• Ms. MIKULSKI. Mr. President, I rise to extend my sincerest congratulations to the town of Oakland, Maryland, as it enters its Sesquicentennial Year on October 10, 1999. Oakland, the county seat of Garrett County, enjoys a long and proud history in the State of Maryland.

Nestled in the Appalachian Mountains, Oakland is blessed with a natural beauty all four seasons, from snowy hills in winter to pastel flowers in spring to lush foliage in summer to gorgeous red, orange and gold trees in autumn. Even Oakland's early name, "Yough Glades," conjures up images of river and forest, natural beauty and abundant resources.

Oakland's rich history tells a story of a small farming community which grew with the opening of the first sawmill, expanded with the arrival of the railroad and continues to grow with old and new livelihoods alike, all the while treasuring those qualities which make it special—beauty, peacefulness and small town charm.

"A Brief History of Oakland, Maryland" by John Grant describes the people, forces and events which shaped the town of Oakland. Three Indian trails met in a meadow on the western edge of Oakland and formed an entrance into the Yough Glades where Native Americans hunted in the forest and fished in the Youghiogheny River for hundreds and hundreds of years. White settlers followed in the 1790s as the fertile soil in "Glades" country attracted more and more farmers.

Around 1830, the first combination gristmill and sawmill provided lumber for the homes and shops in the growing community. On October 10, 1849, the town which had been known by several different names including Yough Glades became "Oakland."

The arrival of the Baltimore and Ohio Railroad in 1851 triggered a growth spurt in Oakland. Business and tradesmen frequented the newly built Glades Hotel and more people moved to the town. In 1862, Oakland incorporated a regular town government and in 1872 Oakland was selected as the County Seat of the newly formed Garrett County. The B&O Railroad continued its influence on the growth of the town with its construction of the Oakland Hotel in 1875. The hotel attracted many summer visitors, several of whom later built summer homes in Oakland.

Tragedy has struck Oakland more than once, and each time the town bounced back. The Wilson Creek flooded in 1896 and periodically over the next 70 years before a series of dams built in the late 1960s controlled the flooding. A devastating fire destroyed the business section of Oakland in 1898. The town used brick fire walls when rebuilding the downtown area, a farsighted decision which paid off in 1994 when fire struck again. This time only two buildings were destroyed.

Natural resources and beauty have long contributed to Oakland's economy and continue to do so today. The lumber industry, which began in the late 1800s, still provides jobs in Oakland. Coal, another natural resource, is found in the mountains near Oakland and adds to the economy of the town. And Oakland's natural beauty, which drew visitors to the Oakland Hotel in 1875, continues to attract people from all over the country seeking not only its beautiful vistas, but also its myriad of recreational opportunities all year round. Today, visitors to Oakland can choose from a variety of activities including hiking, biking, fishing, boating and skiing.

The town of Oakland reminds us of all that is good in our country. Oakland is a place where fire and rescue services are still staffed by volunteers, where folks greet each other with a friendly wave and hello, where people work together to support their schools and community, and where patriotism runs deep. In so many ways, Oakland is truly a "Main Street Community," as the State of Maryland has so fittingly designated it.

Once again, I extend my congratulations to Oakland on their 150th anniversary and I invite all my colleagues to visit this Maryland treasure.•

TRIBUTE TO ALBERT ENGELKEN

• Mr. STEVENS. Mr. President, for 28 years Albert Engelken was the man behind the scenes at the American Public Transit Association (APTA), a Washington-based member organization advancing and representing the interests of public transit systems and industry suppliers across North America.

He was the creative force for the vast majority of APTA's "People Programs," including the innovative International Bus Roadeo, where drivers and mechanics compete in events that test their skills at operating and maintaining public transit vehicles. His efforts at this endeavor also spawned the equally competitive International Rail Roadeo.

Albert Engelken was the originator of "Transit Appreciation Day," which later became "Try Transit Week," an annual fixture that encourages people to ride public transit, and salutes those who make the systems work. His creativity also extended to judging and selecting those systems that demonstrated excellence in transit advertising, a program now known as "AdWheel," an important event held at the Association's annual meeting.

Albert Engelken's education programs developed transit information modules for thousands of grade school teachers throughout the United States. And, until his retirement in 1997, Albert Engelken produced the American Public Transit Association's Grant Awards Ceremony, an event that honors transit systems, individuals, and achievements in the public transit industry.

That ceremony continues today, and while lacking the unique skills Albert brought to directing the national and local arrangements that publicized the winners, the ceremony this year will honor him by electing him to the prestigious APTA Hall of Fame.

He was also the long-time editor of the Association's "Passenger Transport" weekly newspaper, and directed the industry's successful communications strategy in the important formative years of the federal transit program. Over his entire career with APTA, Albert's behind-the-scenes work—from speechwriting to the orchestration of presentations and the stage management of events—were critical to the success of APTA's member programs and the smooth functioning of APTA's many conferences.

Albert is known by his family, colleagues, and peers as a person who would always go the extra mile to help them out. No task was too small or too complicated to be turned away. He is a gentleman, trusted friend, and caring confidant. Yet he has never sought the spotlight not taken a bow over his work in public transit and APTA.

Those are just some of the reasons to honor Albert Engelken, Mr. President. At work and in the community he has touched thousands of lives, and made life safer and easier for hundreds of thousands of transit users and providers across our nation.

He is a also great family man. His wife Betsy, children Jane, Elizabeth and Richard and their spouses, and his five grandchildren can certainly attest to that.

Mr. President, I join them and his colleagues in congratulating Albert Engelken for a job well done, and in applauding his induction into the American Public Transit Hall of Fame.•

IN RECOGNITION OF JOAN FLATLEY

• Mr. TORRICELLI. Mr. President, I rise today to recognize an outstanding woman in the State of New Jersey. Joan Flatley is being honored with the prestigious Spirit of Asbury Award for her activism and commitment to the Asbury Park community. Joan is recently retired as the Executive Director of the Asbury Park Chamber of Commerce, and her legacy in the community will be felt for years to come.

For over twelve years, John used her depth of knowledge and breadth of experience to contribute to the successful functioning of the Chamber. It is through her effort that the Chamber became a dynamic force in the Asbury

Park business community, and the State of New Jersey as a whole. Joan has been the main force behind the Chamber's development and growth. She has consistently been receptive to the community's need, and has responded to them under the auspices of the Chamber. The Chamber is now a respected source of information, both in Asbury Park and across the country, for business and community events. Without Joan's unyielding commitment, the Chamber's development would not have been as pronounced.

Joan's continued and unwavering service to the people of Asbury Park is indicative of her love of the community in which she lives. Whether she was giving out travel information, sending out newsletters or organizing a business meeting, Joan met every task with an unbridled enthusiasm and pleasantness that made the community around her a better place to live. Indeed it is a testament to her service that New Jerseyans from every walk of life from across the state have come to celebrate the end of her distinguished career.

Joan's dedication to community service has always been clear, and the people of Asbury Park have benefitted from her involvement. I can think of few individuals more worthy of this distinguished award than Joan Flatley, and I am pleased to extend my congratulations to her.•

IN HONOR OF EVA B. ISRAELSEN

• Mr. BENNETT. Mr. President, I was sad to learn of the death of Mrs. Eva Israelsen of North Logan, Utah this past week. As one of Cache Valley's oldest living residents, she was a remarkable woman.

Eva May Butler Israelsen was born October 5, 1894, in Butlerville, Utah. She attended Butlerville School as a young girl. A diligent student throughout her life, she was Valedictorian of the first graduating class of Jordan High School in 1915. I find it remarkable that just nine years ago, she and the other surviving class member, Thomas J. Parmley celebrated their 75th class reunion. In 1991 she was invited to be the featured speaker at Jordan High School's graduation.

She attended the Utah Agricultural College (now Utah State University) where she met her husband Victor Eugene Israelsen. They were married in the Salt Lake LDS Temple in 1917. After college, she and her husband farmed, eventually establishing the North Logan Buttercup Dairy where she lived for 63 years. That dairy became a landmark in Cache Valley.

Eva was known throughout Cache Valley simply as "Grandma Israelsen." She kept numerous journals and granted countless interviews to young people in the community who sought her out for her perspective and historical knowledge. She remained active in her community and her church throughout her life. With support from her children, she attended nearly every funeral, wedding and baby blessing in the community. She was active in the Daughters of the Utah Pioneers and blessed the lives of her neighbors through her charitable example and her Christian life.

Grandma Israelsen had a remarkable memory, often recalling details about not only her own family members and grandchildren but of the families of her neighbors and acquaintances. It was common for her to ask her neighbors about their children by name, even though she may not have seen them for years. The residents of North Logan will miss that, just as they miss waiving to her on her morning walks which she used to take back when she was a young woman of just 101.

She and her husband had eleven children, eight of which are living. Her husband Victor passed away in 1967. Her progeny includes 67 grandchildren, 271 great-grandchildren and 40 great-great grandchildren. Including the 97 spouses, she is survived by 483 family members.

Grandma Israelsen would have been 105 years old today. So on her birthday, I want to pay tribute to her life and express my condolences to her family on her passing. She was a remarkable woman who led a remarkable life. Sophocles once said "One must wait until the evening to see how splendid the day has been." In her passing, I am sure that the community agrees that it was indeed splendid to spend the day with Eva Israelsen.•

TRIBUTE TO JAMES ARTHUR GAY III

• Mr. REID. Mr. President, I rise today to pay tribute to James Arthur Gay III, a pioneer black civic leader from Las Vegas. Through his tireless efforts, he was instrumental in the fight to desegregate Las Vegas. Jimmy Gay was one of the first black hotel executives in Las Vegas in the 1950s at a time when his longtime friends Sammy Davis Jr., Nat "King" Cole and others were not allowed to stay overnight in strip hotels.

Mr. Gay was one of the best known and respected local black leaders of his generation. Among his accomplishments are many "firsts". He was the first black to obtain a mortician's license in the state of Nevada, the first black to be appointed to the Nevada Athletic Commission, and the first black in the United States to be certified as a water safety instructor by the Red Cross. He also was a national record holder in the 100-yard dash and an alternate on the 1936 U.S. Olympic track team.

Born in Fordyce, Arkansas in 1916, Jim was the youngest of three children. When he was just 3 years old, Jim was orphaned. Beginning his experience with work at age 7 as a house boy, Jim developed a strong commitment to work at an early age. He moved to Las Vegas in 1946 as a college-educated man having earned his degree from the University of Arkansas. Although he was educated and ambitious, getting a job in Las Vegas was virtually impossible at the time. He started out as a cook at Sills Drive-In, a popular restaurant in the area of Charleston and Las Vegas Boulevard working hard to prove himself. In the late 1940s, people became aware of Jimmy's many talents. Jim's first break in Las Vegas came when the city opened the Jefferson Recreation Center in West Las Vegas. He was hired as the Director and among other things also coached football, swimming and basketball. His break in business came when he was hired as the Sands hotel-casino Director of Communications which was one of the highest posts held by a black at that time. During this period, the Sands was one of the Las Vegas Strips finest.

In 1941, Jimmy married Hazel Gloster and together they raised a family of five children, 10 grand-children and 17 great-grandchildren. Always finding time for his community, he was an active member of the executive board of the NAACP. He also was active in local politics serving as a member of the Clark County Democratic Central Committee and on the executive board of Culinary Local 226.

Jimmy discovered the world of the hotel industry and opened opportunities for many. Over the years, Jimmy served as an executive at the Sands, Union Plaza, Fremont, Aladdin and Silverbird hotels. He earned the respect of many for his tireless efforts and his love for the city of Las Vegas.

Deservingly, the state of Nevada has honored Jimmy Gay by naming him a Distinguished Nevadan in 1988 and a few years before, the city of Las Vegas named a park after him. In 1985, the city of Las Vegas and the state of Nevada honored him with "Jimmy Gay Day." For his civic efforts, Jimmy was named Las Vegas Jaycees Man of the Year in 1952 and received a City of Hope commendation in 1959. On numerous occasions he was named NAACP Man of the year. His contributions have not only left a lasting impression on many, but also served as an inspiration to generations of young people growing up in Nevada. Over the years, Jimmy helped many deserving black students receive scholarships to his alma mater.

It was once written that "Some people walk through our life and leave after a few seconds. Others come in and stay there for a very long time leaving marks that will never be forgotten." Jimmy Gay is one of those whose legacy will remain for the countless Nevadans whose journey will be easier because of his pioneering efforts. Las

Vegas is a better place because Jimmy Gay went above and beyond to advance the cause of social justice. The best one can hope for life is to make a difference with their time on earth. There is no doubt that Jimmy Gay made a tremendous difference.

On September 10, 1999 at the age of 83 Jimmy Gay died of complications of a stroke. He will be missed but will remain one of the most admired and respected local Las Vegas leaders to have graced the city. This U.S. Senator is a better person because of the friendship he enjoyed with Jimmy Gay and Nevada is a better state because of his lifelong effort to ensure equality for all.•

TRIBUTE TO CORNELIUS HOGAN

• Mr. JEFFORDS. Mr. President, it gives me great pleasure to stand before my esteemed colleagues and speak of my good friend, Cornelius Hogan, who is retiring as Secretary of the Vermont Agency of Human Services. His work in leading state government to improve the well-being of Vermonters stands as a example for us all.

The Vermont Agency of Human Services includes the departments of Social Welfare, Corrections, Social and Rehabilitation Services, Mental Health, Alcohol and Drug Abuse, Aging and Disabilities. Secretary Hogan has not only administered these vital services through extraordinary changes, but has provided outstanding leadership, recognized throughout the Nation. This agency, with the State's largest budget, must have a human face in its efforts to improve the lives of Vermonters. Con Hogan is that face.

Secretary Hogan has served as Vermont's Secretary of Human Services since 1991 when then-Governor Richard Snelling enticed him back into public service from his successes in the private sector. Previously, Hogan served as Commissioner of Corrections.

Throughout his eight year tenure, Con has been remarkably effective and always gracious in his approach to each challenge. When Vermonters in need have a problem, Con has been the person that folks turned to when all else had failed. As Chris Graff, a Vermont journalist, noted:

> Hogan is a legend. And for the past eight years, when people knew that Con Hogan was coming, they had hope. And confidence. Confidence that whatever the trouble, whatever the problem, whatever the need, someone who cared deeply would do what ever it took to help.

As a result of Con's work, Vermont families and communities have improved educational opportunities, a better health care system, increased employment for the disabled and an expanded network of family support services. By demanding that government define, seek, and evaluate its efforts, Con has set a new example for public service in Vermont and the country.

More Vermont children have health care coverage, and have had it for longer, than almost any state in the country. The state is offering more home and community based care options for the elderly and disabled. Disabled Vermonters are working and, thereby, supporting themselves and their families. Con Hogan's ultimate legacy will be the thousands of lives that have been directly touched by the work of the Agency of Humans Services under his stewardship.

He, of course, will describe his work as collaborative and the consequence of others' good will and efforts. He is right, as he has led efforts to open government to the ideas, hopes, and information from citizens, industry and business. He has fostered a real public debate about the well-being of Vermonters and the responsibilities of government and its citizens to participate, evaluate, and dream for better things.

Secretary Hogan's vision is alive and full of vibrant change. Con has changed our ways of thinking. He is the mastermind of dozens of partnerships in which human services providers now collaborate with others in state and local governments, and communities to deliver locally-based services. Con recognizes and encourages citizen participation as essential to this process. He has convinced service providers that they should listen to real people - that the child, the elder or the youth needs to be the center of their concerns.

Over the last several weeks, many Vermonters have written to their local papers, touting Con Hogan's work as Secretary. Con has significantly changed thousands of Vermonters lives, both through policy and through his own untiring advocacy. The results have impressed his colleagues and friends alike.

I was moved when I read a commentary in the Burlington Free Press by my good friend, David S. Wolk, Superintendent of Schools in Rutland City. David pointed out that it was Con Hogan's success in the private and public sectors, as well as his impeccable reputation as both a manager and a leader, that led then-Governor Snelling to appoint him as the state's premier advocate for Vermonters in need.

David aptly notes that Con's relentless advocacy has been coupled with his unique capacity to reach out to the wider community. His strong and effective leadership has presented important dualities:

> Con Hogan could have remained in the private sector to seek his fortune and fame. Instead, he offered a selfless contribution to public service, an emphasis on accountability with measurable outcomes and an impressive brand of leadership, combining pressure and support, characterized by candor and courage. . .. If the ultimate goal of the consummate public citizen is to improve our collective lot, and to enjoy the privilege of making one's personal mark on Vermont's well-being, then no other public citizen called to service in our wonderful state has achieved that pinnacle more than Cornelius D. Hogan of Plainfield.

On a personal note, I have enjoyed witnessing Con's talents, not only in public service but on the stage, as an accomplished bluegrass musician. Con's passion and zeal for life is evident in all that he does.

Mr. President, I'm sure I could stand here all day, and regale my colleagues with stories and tributes to this remarkable man and still, Con's contribution would not be described adequately. For us to thoroughly understand the impacts of his sage and exemplary leadership, the outcomes of Con Hogan's service to Vermonters will need to be measured far into the new millennium.

I join my fellow Vermonters in offering my most heartfelt congratulations and gratitude to Con Hogan for his years of public service, and I wish him all the best in his new endeavors.•

MEASURE READ THE FIRST TIME—S. 1692

Mr. CRAPO. Mr. President, I understand that S. 1692, which was introduced earlier today by Senator SANTORUM, is at the desk. I therefore ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

> A bill (S. 1692) to amend Title 18, United States Code, to ban partial-birth abortions.

Mr. CRAPO. Mr. President, I now ask for the bill's second reading, and on behalf of Members of the other side of the aisle, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

Mr. CRAPO. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE TEST BAN TREATY

Mr. LOTT. Mr. President, I appreciate the fact that the Democratic leader is still here. I know he had urgent meetings he had to go to. We needed to get that final recorded vote and pass that bill. I appreciate his patience on that. Also, I think he and I both agree that we want to advise Members on both sides of the aisle and all concerned that we are discussing how to proceed with the vote that is now in place on the Comprehensive Test Ban Treaty.

After we discussed our concerns about how and when to proceed on that, then there started to be a lot of speculation on both sides of the aisle and all around town. I think it is important for Members to just calm down and relax. We need to have the ability to communicate with each other and think about what is in the best interest of the Senate and our country and weigh all of the evidence that is now available to us.

We do have a unanimous consent agreement that we will proceed to this issue, and we will have a vote after the requisite number of hours, probably on the 12th, or perhaps the morning of the 13th before we get to final passage. Nothing more than that has been done.

We will have to work through this, and we will certainly have to work with our respective caucuses and the White House, because this is a very important national security and foreign policy issue, and we will also have to be involved in the consideration in how we proceed on this issue.

I think that is what we need to say at this point. Nothing beyond that has been agreed to, suggested, or called for by the President, or by any Senator, and all we are trying to do is communicate and see if we are proceeding in the best interests of all concerned.

Would the Senator like to add to that?

Mr. DASCHLE. Mr. President, I agree with the characterization made just now by the majority leader. I think all we can do is continue to discuss the matter to see if we might proceed in a way that would accommodate the concerns and needs of both caucuses. I think what the majority leader said, especially about rumors, and how all this began is irrelevant. In fact, the more rumors, the more this matter is exacerbated. If we really want to try to proceed successfully, we need to quell the rumors and get on with trying to talk with dispassionate voices and make sure we make the right decisions. We are prepared to do that, and I know the majority leader is prepared to do that. That is all that needs to be said at this time.

ORDERS FOR WEDNESDAY, OCTOBER 6, 1999

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, October 6.

I further ask unanimous consent that, on Wednesday, immediately following the prayer, the journal of the proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume debate on S. 1650, the Labor-HHS Appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, we will begin at 9:30 on this important legislation. The pending amendment is the Nickles amendment regarding the Social Security trust fund. It is hoped that this and remaining amendments can be debated and disposed of in a timely fashion so that action on the bill can be completed no later than Thursday evening.

Therefore, I ask Senators to work with the bill managers to Schedule a time to offer their amendments. Senators should be aware that rollcall votes will occur throughout the day on Wednesday and on Thursday. This week, we also expect to handle the Agriculture Appropriations conference report. I understand that some time for debate or discussion on that conference report will be required. We will work to find a window to do that. If the House should approve the Foreign Operations conference report later today or tomorrow, then we will look for an opportunity to also take that up.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:32 p.m., adjourned until Wednesday, October 6, 1999, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 5, 1999:

THE JUDICIARY

RAYMOND C. FISHER, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

BRIAN THEADORE STEWART, OF UTAH, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF UTAH.

REJECTION

Executive Nomination Rejected by the Senate on October 5, 1999:

RONNIE L. WHITE, OF MISSOURI, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI.

EXTENSIONS OF REMARKS

TRIBUTE TO THE LATE CAROLYN BEEN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. McINNIS. Mr. Speaker, I would like to take a moment to recognize a woman who was dedicated to the community, the church and her family, Carolyn "Cookie" Been. In doing so, I would like to honor this individual who, for so many years, exemplified the notion of public service and civic duty.

Carolyn's many entrepreneurial achievements speak well of the hard working woman that she was. Those achievements are highlighted by her contributions to the Naturita community. There, she served as a town board member from 1991–1992, when she was elected to the position of Mayor. For six years she served diligently and accomplished numerous feats. Among those feats, she secured $500,000 for the renovation of the town park and community center, and rebuilt the town's water and sewer treatment facilities. Numerous other achievements by Carolyn, too many to mention, had a profound positive effect on the community of Naturita. Carolyn received several awards for her contributions. She was named Woman of the Year in 1993 by the San Miguel Business and Professional Women, and Citizen of the Year in 1998 by the Nucla-Naturita Chamber of Commerce.

Carolyn Been considered her finest achievement to be her children, who have proven themselves very successful in Colorado and other states. Also, she is survived by seven wonderful grandchildren who will undoubtedly carry on her good will.

It is with this, Mr. Speaker, that I recognize and say thank you to a fine citizen of Colorado and the United States. Her memory of love and dedication will live on forever.

H.R. 3011, THE TRUTH IN TELEPHONE BILLING ACT OF 1999

HON. TOM BLILEY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. BLILEY. Mr. Speaker, today I am introducing H.R. 3011, the Truth in Telephone Billing Act of 1999.

This legislation is premised on a simple idea that consumers should know when their government is taxing them.

This may seem self-evident to my colleagues. But in reality, politicians and regulators all too often attempt to withhold from consumers information about the government's spending habits.

This is a particularly acute problem in the area of telecommunications services. The telecommunications services market has become a "cash cow" for politicians and regulators to fund their spending habits.

The "Gore Tax" is only one example of what has become a widespread problem not only at the Federal level but also with state and local governments as well. Here's how it usually works.

Rather than make its case for more government spending directly to the people, governments instead levy the tax on telecommunications service providers. The providers, in turn, pass the cost on to American consumers in the form of higher rates. What's worse, regulators then pressure the service provider to bury the tax in its rates, rather than permit the provider to clearly identify for the consumer how much of his or her monthly bill is attributable to government programs.

I know this because, last year, the Committee on Commerce conducted a thorough investigation of the Federal Communications Commission (FCC's) implementation of the Gore Tax. We found that the FCC imposed extraordinary and unprecedented political pressure on the Nation's largest long distance carriers (on whom the Gore Tax is levied) to withhold information from their subscribers about the true cost of the Gore Tax.

Whether one agrees or disagrees with the specifics of government spending, we should all be able to agree that the American people should at least know when they're being taxed, and for what purpose.

Congress has enacted similar legislation dealing with taxation of cable services. As part of the 1992 Cable Act, I included a provision in the law that permits cable operators to place a line item on consumers' monthly bills that identifies the portion of the bill that is attributed to "franchise fees" that cities and counties typically exact from cable operators as the "price" for offering service. Again, while we may differ on the merits of a spending program, consumers are entitled to know when they're being taxed, and for what purpose.

Accordingly, the legislation I am introducing today will ensure that consumers of telecommunications services will have a complete picture of how much their monthly bills can be attributed to government spending. The legislation would require each telecommunications carrier to identify on each subscriber's monthly statement: (1) The government program for which the carrier is being taxed, and the government entity imposing the tax; (2) the form in which the tax is assessed (e.g., per subscriber, per-line, percentage of revenues); and (3) a separate line-item that identifies the dollar amount of the subscriber's bill that is being used by the carrier to pay for the government program.

Mr. Speaker, consumers have a right to know whenever their government levies taxes. By mandating that telecommunications companies identify these taxes through line-items, Congress will promote transparency in taxation.

Moreover, this bill will help to promote the legitimacy of government spending when financed by consumers of telecommunications services. Government can never claim that its programs have the support of the American people when the people are unaware of the extent of the cost.

Mr. Speaker, I urge my colleagues to join me in supporting H.R. 3011, the Truth in Telephone Billing Act of 1999.

AGRICULTURAL RISK PROTECTION ACT OF 1999

SPEECH OF

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1999

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2559) to amend the Federal Crop Insurance Act, to strengthen the safety net for agricultural producers by providing greater access to more affordable risk management tools and improve protection from production and income loss, to improve the efficiency and integrity of the Federal crop insurance program, and for other purposes.

Mrs. MINK of Hawaii. Mr. Chairman, I rise in support of H.R. 2559, the Agriculture Risk Protection Act of 1999.

For several years now, farmers in this country have been plagued by severe weather conditions compounded by drastically low world prices for agricultural products. I am pleased that the Agriculture Risk Protection Act seeks to address the plight of farmers and that we are now taking these steps to enhance the federal crop insurance program.

H.R. 2559 will enable more farmers to participate in the federal crop insurance program and provide them with the tools they need to more adequately address their risk management needs. The Agriculture Risk Protection Act of 1999 increases the government premium support for the federal crop insurance program which will enable more farmers to participate in the program and afford higher levels of crop insurance protection.

The bill would make the federal crop insurance program more user friendly by expediting the policy approval process and helping farmers buy new policies. Furthermore, it would increase the number of crops that are eligible for the crop insurance program and, for the first time, make risk management assistance for livestock producers available to ranchers through a pilot program.

Many producers in the past, did not participate in the federal crop insurance program because they felt it was too expensive and provided too little coverage. To remedy this problem, the bill provides for performance based

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

discounts for "low risk" producers. This will make it more appealing and affordable for "low risk" producers. this will make it more appealing and affordable for "low risk" producers, who previously did not participate in the federal crop insurance program.

I would also like to point out that I have introduced legislation, H.R. 473, intended to expand the scope of the federal crop insurance program even further. Currently, farmers who suffer from outbreaks of plant viruses and diseases are not eligible for benefits from the federal crop insurance program, noninsured crop assistance programs, or emergency loans. My bill would enable farmers who suffer crop losses due to plant viruses or plant diseases to be eligible for all of these programs. Crop destruction from viruses and diseases should be covered under these programs just as other natural disasters are. I invite all of my colleagues to cosponsor H.R. 473 and I urge immediate consideration and passage of H.R. 473.

Farmers deserve an affordable safety net program that will provide a worthwhile benefit when they are most in need. Although H.R. 2559, the Agriculture Risk Protection Act of 1999 would not extend protections to producers whose crops suffer from plant viruses or diseases, I believe it does improve and expand the safety net available for farmers and is a step in the right direction. I support H.R. 2559 and urge its immediate passage.

TRIBUTE TO CROSSING GUARDS

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. ANDREWS. Mr. Speaker, I rise today to commend and thank those who have dedicated a portion of their lives to ensuring that our young people throughout the First Congressional District of New Jersey are provided safe journey to and from school.

Each day crossing guards put their lives in harms way to protect our children from the dangers they may face on the way to school, whether that be a speeding car ignoring posted school-zone speed limits or a drug dealer pushing poison on our young people.

In September, I held a ceremony back in my district to honor 20 crossing guards for their exemplary service to the children of their communities. As a parent of two young girls, I commend them for taking time from their lives, for little compensation, to assure us as parents, that our children will have a responsible adult looking over them literally every step of the way from the time they leave the house in the morning until they sit at their desks to begin their school day.

Through torrential downpours, driving snowstorms, blistering heat and frigid cold, our children can count on crossing guards to be there providing a familiar face to guide them on their trip to and from school. On behalf of the 106th Congress of the United States of America, I thank the following crossing guards for keeping our children safe every day.

The following crossing guards were honored at a ceremony at Camden County Community College on September 13, 1999: Mrs. Angelina Esposito, Burlington Twp, Mrs. Carmella Caruso, City of Burlington Schools, Mrs. Barbara Laute, Oak Vally Elem-Deptford Twp, Mrs. Marie Snyder, Shady Lane Elem-Deptford Twp, Mrs. Janette Multanski, Brooklawn, Mrs. Cynthia Peaker, Willingboro, Mrs. Maureen Saia, Washington Twp, Mrs. Mary Ann Wurst, Woodbury Heights, Mrs. Sue Hynes, Woodlynne, Mrs. Tina Castelli, Principal—Good Intent Elementary—Deptford Twp, Mrs. Ruth Rosenblatt, Somerdale, Mr. Darwin Branch, Camden, Mrs. Frances Oliveri, Mount Laurel, Mr. Robert Bobo, Brooklawn, Mrs. Alice Watson, Runnemede, Mr. Robert Kelly, Laurel Springs, Mrs. Theresa Keehfuss, Maple Shade, Mr. David Pressler, Maple Shade, Mrs. Anne Sprague, Bordentown, and Mrs. Carol Robinson, Audabon.

HONORING COLUMBUS DAY AND ITALIAN HERITAGE MONTH

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. GILMAN. Mr. Speaker, I rise today to commemorate one of the most courageous events in human history, Christopher Columbus' voyage to the New World. In this day and age, when man has walked on the moon and when we can afford to lose a twenty five million dollar satellite in the atmosphere of Mars because somebody "mis-calculated," it is easy to dismiss the courage of Christopher Columbus as no big deal. In reality, it was a very big deal. The three ships Columbus commanded on his first voyage, would today probably be classified as large yachts. Columbus did not have any radio contact with the mainland. He did not have any modern computers to help him navigate. All Columbus basically had was courage, skill, and good luck.

Often, we read that Columbus was not the first voyager to reach the Americas. It is contended that the Vikings, the Irish, and perhaps even the Phoenicians, were here first. Some scholars contend that the lost tribe of Israel journeyed to America and are the ancestors of Native Americans. This may all be true. Yet, it is all irrelevant. Columbus may not have been the first to make the journey, but he was certainly the first to appreciate its significance. Columbus recognized that by reaching the Americas by sailing west, he was opening a whole new world to the people of Europe. He recognized that this was a benefit to everyone, a benefit he believed that it must not be kept secret.

Columbus was also fortunate in that his discovery voyage took place soon after the discovery of moveable type. Thus, publicizing his voyages became more practical than could have been the case just fifty years earlier. Since Christopher Columbus was of Italian extraction, he became the first Italian whose life was intertwined with the history of America, starting a tradition that continues to this day.

Giovanni da Verrazano, who discovered New York Harbor, Constantino Brumidi, whose paintings adorn the rotunda in our U.S. Capitol Building, Guglielmo Marconi, who invented radio, and Joe DiMaggio, whose feats on the baseball diamond won the respect, admiration and love of all Americans, are only a few examples of Italians and Italian Americans who have long been a vital force in American history. They contributed significantly to our culture, improved our way of life, and helped create the America which strides across the world of today.

Accordingly, it is fitting that we commemorate Columbus Day and Italian Heritage Month as a way of not only remembering the courageous contributions of one remarkable man, but also to express our appreciation to the many Italians who have helped us throughout the years.

IN HONOR OF WILLIAM D. MASON

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. KUCINICH. Mr. Speaker, I rise today to honor and congratulate Bill Mason for being named Parma Democrat of the Year.

Bill Mason, Cuyahoga County Prosecutor, has had a successful and fulfilling career. Born on April 13, 1959 in Cleveland, Ohio, he went on to attend and graduate from Cleveland-Marshall College of Law. Mr. Mason served as an Assistant Prosecuting Attorney in the Cuyahoga County Prosecutor's Office from 1987 through 1992. Here, he was able to gain valuable experience in criminal law. In 1992, Mr. Mason was elected by the voters to the Parma City Council. Shortly afterwards he was appointed as Parma's Law Director and Chief Prosecutor. During his service, Mr. Mason was able to improve efficiencies in the office over four consecutive years. By doing this, he was able to dramatically improve the enforcement of local laws, saving taxpayer resources.

Recently, Mr. Mason was elected Cuyahoga County Prosecutor by an overwhelming majority of the Cuyahoga County Democratic Party's Central Committee. Mr. Mason's position as the county's chief law enforcement officer is well deserved.

He has been privileged to have the support of his loving wife, Carol, and his four children Marty, Kelly, Cassidy, and Jordan.

Mr. Speaker, I would like to congratulate Bill Mason for being named outstanding Democrat in the city of Parma.

IN RECOGNITION OF DOMESTIC VIOLENCE AWARENESS MONTH

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mrs. TAUSCHER. Mr. Speaker, I rise in recognition of October as Domestic Violence Awareness Month. Domestic Violence Awareness Month is a national campaign created to focus public awareness on the problem of domestic violence.

As we are all too aware, domestic violence is the leading cause of injury to women between the ages 15 and 44 in the United

States. More women are injured as a result of domestic violence than are injured in car accidents, muggings, and rapes combined. Women of all cultures, races, occupations, income levels, and ages are battered by husbands, boyfriends, and partners. Batterers are not restricted to low-income or unemployed men. Approximately one-third of the men who undergo counseling for battering are professional men who are well-respected in their jobs and communities. These include doctors, psychologists, ministers, and business executives. Domestic violence also affects children. Half who live in violent homes experience some form of physical abuse. Unfortunately, one-third of boys who grow up in violent homes become batterers themselves, simply perpetuating the cycle.

I am proud that in my district, victims of domestic violence have been able to turn to Battered Women's Alternative. For the past 21 years, this wonderful organization has provided a safe haven for those women who have taken the critical first step and escaped from their homes. Battered Women's Alternative serves more than 15,500 women annually through its 24-hour crisis line, emergency shelter, safe homes, traditional housing, legal advocacy, counseling, employment assistance and placement programs. Battered Women's Alternative also conducts educational programs in the hopes of preventing future instances of domestic violence, many of which are targeted toward abusive men as well as younger children.

In recognition of the important work done by Battered Women's Alternatives every month of the year, I urge you all to actively participate in the many scheduled activities and programs planned all over the country that work toward the elimination of personal and institutional violence against women. Only a coordinated community effort can put a stop to this heinous crime and I urge my colleagues to join me in recognizing this important month.

PERSONAL EXPLANATION

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Ms. CARSON. Mr. Speaker, I was unavoidably absent Friday, October 1, 1999, and as a result, missed rollcall votes 468 and 469. Had I been present, I would have voted "yes" on rollcall vote 468 and "no" on rollcall vote 469.

TRIBUTE TO MAJOR GENERAL BRUCE KENYON SCOTT, UNITED STATES ARMY

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. SPENCE. Mr. Speaker, I rise today to recognize Major General Bruce Kenyon Scott, for his outstanding service to our Nation. This month, General Scott will depart The Pentagon to assume the position of Commanding General of the United States Army Security Assistance Command, in Alexandria, Virginia.

Since August 1997, General Scott has served as the Chief of Legislative Liaison for the United States Army. In this role, he has proven himself to be a valued advisor to the Secretary of the Army, the Chief of Staff of the Army, as well as many Members of Congress and staff. Drawing upon his in-depth knowledge of policy and program issues that relate to the Army, General Scott has been able to ensure that the Army message has been delivered in a very effective manner. General Scott has also been instrumental in resolving countless personnel, operational, and support matters involving the Army, during deployments to more than 81 countries around the world.

Throughout his 27 years of dedicated service, General Scott has set a high standard. He clearly symbolizes the Army ethos, "Duty, Honor, Country." General Scott has served with distinction in the position of Chief of Army Legislative Liaison, and he is to be commended on his outstanding work.

I am certain that General Scott will continue to excel in the position of Commanding General of the United States Army Security Assistance Command. He and his lovely wife, Mary, are wished much success in this new assignment.

MEDAL OF HONOR MEMORIAL

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. BURTON of Indiana. Mr. Speaker, I rise today and take great personal pride in having the Medal of Honor Memorial in Indianapolis recognized as a National Memorial. My colleagues, by passing H.R. 1663 today, we have designated as National memorials the memorial being built at the Riverside National Cemetery in Riverside, California; the memorial aboard the former USS *Yorktown* (CV–6) at Mount Pleasant, South Carolina; and the memorial at White River State Park in Indianapolis, Indiana, to honor the 3,410 recipients of the Congressional Medal of Honor.

On May 28, 1999, the last Memorial Day weekend of the 20th Century, I joined my Hoosier colleagues Representatives BUYER, MCINTOSH, and HILL, Senator BAYH, Lt. Governor Kernan, Mayor Goldsmith of Indianapolis, IPALCO Chairman John Hodowal, and 98 of the 157 living Medal of Honor recipients to dedicate the Medal of Honor Memorial. Medal of Honor recipients Sammy L. Davis and Melvin Biddle joined us at the dais, representing their comrades-in-arms.

The new memorial is located along the north bank of the Central Canal in White River State Park in downtown Indianapolis. It sits adjacent to Military Park, the site of the city's first recorded 4th of July celebration in 1822, which was used as a recruiting and training camp for soldiers from Indiana during the Civil War.

It is at this fitting site that the local power utility, IPALCO Enterprises under the leadership of its Chairman, John Hodowal, who along with his wife, Caroline, and countless employees and volunteers, has erected this breathtaking memorial. Caroline Hodowal first read a newspaper article about the Medal recipients and then conceived the idea for the new memorial when she and her husband realized that none existed.

Visitors to the site will see citations for each of the 3,410 medal recipients etched into glass walls. The twenty-seven curved glass walls, each between 7 and 10 feet tall, represent the 15 conflicts, dating back to the Civil War, in which uncommon acts of bravery resulted in the awarding of the Medal of Honor. Steps, benches, and a grassy area provide seating for visitors to rest, reflect, and view this magnificent memorial. Additionally, each evening at dusk, a sound system plays a thirty minute recorded account about a medal recipient, his story, and the act for which he received this Nation's highest military honor. As each story is told, lights illuminate the appropriate portion of the memorial to highlight the war or conflict being discussed.

In the words of Mr. Hodowal, this memorial serves two purposes: "It's an opportunity to say thanks for the sacrifices [these men] made, and it's a chance to show the next generation what real heroes look like . . . to show that ordinary people sometimes do extraordinary things."

Mr. Speaker, Indiana has a proud tradition of honoring those who have sacrificed so much to secure and preserve our freedom. We must never forget that freedom is not free. Because of the selfless sacrifices of so many, we enjoy so much in America. I encourage all of my colleagues to visit Indianapolis, Indiana and see this newest addition to our city and State. It is something, I can assure you, that you will not soon forget.

HONORING ANNA MAE LYNCH ON HER 100TH BIRTHDAY

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Anna Mae Francis Lynch on her 100th birthday. Anna Mae was born on October 5, 1899 in northern Arkansas.

As a child, Anna taught herself to read and write before she started school. Anna went to the fields and worked side by side with her family, chopping cotton, pulling weeds from the cornfields, milking cows and picking cotton by hand.

On February 25, 1916 at the age of 16, Anna married James Elmer Lynch secretly by the Justice of the Peace, in the woods, after attending a church singing. From this union, seven sons were born; six of the seven served with honor in World War II.

In 1921, Anna and her family came to Coalinga to work and prosper in the oil fields. Then came the great depression and the oil fields closed down. The family headed back to Arkansas and then Texas, but returned to Coalinga to labor in the cotton fields of Rancher Johnny Conn of Coalinga.

Anna was a mother, homemaker, a Bible school and singing teacher, and highly interested in Republican politics. Anna now resides in Coalinga.

Mr. Speaker, I want to recognize Anna Mae Lynch for her hard work and dedication to her family. I urge my colleagues to join me in wishing Anna many more years of continued success.

A TRIBUTE TO JOHN J. BELLIZZI

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. GILMAN. Mr. Speaker, I am pleased to share with our colleagues the remarkable life of an outstanding individual and good friend who has devoted his work to law enforcement and particularly to eradicating the impact of drugs in our society.

John J. Bellizzi is being recognized this weekend for his 50 years of dedicated service to these causes, and especially to his 40 years of devotion to the International Narcotics Enforcement Officers Association (INEOA) which he founded in 1959 and for which he became its first President. Today, John continues to serve as Executive Director of INEOA and is even more dedicated to this cause than he was in the past.

John previously retired from the position of Director of the New York State Bureau of Narcotic Enforcement, having worked under six Governors. In that position, John earned the respect of all of us who had worked with him. I vividly recall during my tenure in the State Assembly the dedication John brought to his fledgling crusade against drugs.

John Bellizzi is a product of the New York City school system, having graduated from Stuyvesant High School. He obtained his degree in pharmacy from St. John's University, and received an LL.B. from Albany Law School and his Doctor of Jurisprudence from Union University. John has also studied on the graduate level at New York University and at Fordham University.

John was also a police officer with the New York City Police Department. In that capacity, he was assigned to some of the most critical neighborhoods in the city, including Harlem, Bedford-Stuyvesant, and the south Bronx. During World War II, John was an undercover agent, investigating and reporting on some of the subversive organizations which were working against our nation.

John utilized his unique background in both pharmacy and law enforcement to help spearhead the fight against illegal narcotics. He is the author of many articles on pharmacy, narcotics, and the law. He also served on the faculty of several schools, including Albany Medical School, the University of Southern California, and St. John's University.

John Bellizzi served as a consultant on drug abuse to the White House and served on the Narcotics Commission of two successive Mayors of New York City—Robert F. Wagner, Jr., and John V. Lindsey. He also advised Mayor Sam Yorty of Los Angeles and Governor Jerry Brown of California as a member of their narcotics commissions.

Mr. Speaker, the awards and recognitions John Bellizzi has received over the years are too numerous to fully enumerate here. Suffice to say that he was presented the Honor Legion Medal from the New York City Police Department, the Papal medal from Pope Paul VI in 1965; the very first Anslinger Award for combating international narcotics trafficking presented in 1979; and was honored by the Columbia Association of New York State Employees and the Italian Pharmaceutical Society of New York for distinguished service to the community by an American of Italian ancestry. John also was awarded a gold medal by the Daughters of the American Revolution.

With all these honors, there is no doubt that John's pride and joy is his wife of 57 years, Celeste Morga, who has been his co-partner and confidant in all of his endeavors. They are the proud parents of two sons, John J., Jr., and Robert F.

This weekend, the International Narcotic Enforcement Officers Association is conducting its 40th Annual Conference. A special awards ceremony will honor drug enforcement officers from throughout the world. A special program will spotlight the remarkable career of John J. Bellizzi and his achievements throughout the past half century.

Mr. Speaker, I invite all of our colleagues to join with me in saluting John Belizzi, a champion of our war against drugs.

IN HONOR OF THE SEVENTY-FIFTH ANNIVERSARY OF THE FAITH LUTHERAN CHURCH OF LAKEWOOD

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. KUCINICH. Mr. Speaker, I rise today to honor the 75th anniversary of the Faith Lutheran Church of Lakewood.

Faith Lutheran Church was established in 1924 by the Home Mission Board of the Evangelical Lutheran Joint Synod of Ohio. Services were first held in a storeroom at 15635 Madison Avenue next to Scherzer's Bakery. Reverend Edward W. Schramm served as the first pastor. The Madison School Building, now known as Harding Middle School became a second place of worship until the current church was dedicated on Easter Sunday, March 27, 1932. An additional educational building and chapel were dedicated October 6, 1957.

Faith Lutheran Church was designed in the Gothic style by Cleveland Architect William E. Foster. Especially noteworthy is the Reuter pipe organ designed specially for the church by the Reuter Organ Company. With 1,439 speaking pipes ranging from eighteen feet to one-fourth of an inch, the organ is recognized for its tonal richness.

Today, Faith Lutheran Church has a 582-member congregation. Reverend Richard G. Schluep serves as pastor. Upholding a longstanding tradition of goodwill, the people of Faith Lutheran Church work together to serve local community charities and agencies. Congratulations to Faith Lutheran Church for 75 years of service and religious celebration.

My fellow colleagues, join me in honoring Faith Lutheran Church, a community that has dedicated their lives to God, freedom and the well being of all people.

BIRTHDAY TRIBUTE TO FRAN BANMILLER

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. ANDREWS. Mr. Speaker, I rise today to acknowledge the birthday of a dear friend of mine. On Saturday, October 2, 1999, Mrs. Fran Banmiller, celebrated her 50th birthday. Fran was born in South West Philadelphia and moved to Gloucester City, N.J. She attended Rutgers-Camden School of Finance where she earned her CPA and later went on to earn her masters in tax accounting.

Fran, and her husband Jerry, are the proud parents of three beautiful children, Liz, Sarah and Rachel.

I would like to wish her a happy and healthy 50th birthday.

H.R. 3013: TO AMEND THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to introduce H.R. 3013, a bill to amend the Alaska Native Claims Settlement Act to allow shareholders common stock to be transferred to adopted Alaska native children and their descendants and for other purposes.

This bill is very similar to H.R. 2803, however, the Alaska Federation of Natives and the Department of the Interior have agreed to delete Section 7, the Partial Section Selections from the original bill. Other provisions in the bill contains revised language recommended by the Department of the Interior to address some of their concerns.

Again, Mr. Speaker, I am introducing H.R. 3013 with language revision changes to three provisions of H.R. 2803. This is to allow our Committee to hold a hearing next Wednesday on a new and expanded version of H.R. 2803 which reflects changes recommended by the Alaska Federation of Natives and the Department of the Interior.

THE TOASTMASTERS INTERNATIONAL: RECOGNIZING 75 YEARS OF SERVICE

HON. JIM TURNER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. TURNER. Mr. Speaker, I rise today to honor the 75th anniversary of Toastmasters International, which since its conception on October 22, 1924, has grown to over 8,000 clubs and 200,000 members in 60 countries worldwide.

During the past 75 years, Toastmasters International has performed a valuable service for its members and those who hear its message of opportunity, initiative and good fellowship by assisting in the development of essential communications skills. One of the Toastmasters' most remarkable, yet challenging, efforts has been the formation of clubs within prisons to teach inmates how to effectively communicate to others and accept criticism. I am especially proud of the Sabine River Toastmasters in Orange, Texas.

One year ago, the Sabine River Toastmsters formed a club in the LeBlanc Prison, which is located in Jefferson County in East Texas. This club has been responsible for numerous success stories during the past year, and I am confident that the inmates of East Texas will continue to benefit from this encouragement and assistance in the development of improved communication skills for many more years to come.

The ability to speak in a clear and effective manner is a powerful and important skill that can help all Americans overcome barriers to effective performance in virtually every endeavor and line of work. With the guidance of Toastmaster members, inmates are becoming better communicators with a greater sense of confidence, self-esteem and self-respect, and they are therefore better prepared and qualified for employment after being released from prison. Not only are the inmates encouraging and inspiring each other to become better citizens, but they are also taking active roles in the lives of our Nation's youth by discouraging them from repeating the same mistakes they made by joining gangs or using drugs and alcohol.

According to the Federal Bureau of Prisons, 35 to 40 percent of all released prisoners are re-arrested within the first 12 months of release. Of the LeBlanc Toastmasters' 55 released alumni, 2 have been re-arrested, which is one tenth of what the statistics would have predicted. I would like to applaud the Sabine River Toastmasters for helping these 53 men who have built new lives for themselves after being released from prison.

Mr. Speaker, I rise today to ask that you join me and our colleagues in celebrating the week of October 17, 1999, as Toastmasters Week and recognizing the many opportunities in communication and public speaking that Toastmasters International, and specifically the Sabine River Toastmasters, have promoted and realized for East Texans and Americans all across the nation.

IN HONOR OF JOHN BIG DAWG THOMPSON

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. KUCINICH. Mr. Speaker, I rise today to honor John Big Dawg Thompson.

John Big Dawg Thompson, legendary Cleveland Browns superfan, is the heart and soul of the Cleveland Browns and the Cleveland Browns' Dawg Pound. Nationally recognized, Big Dawg's passion for the Cleveland Browns has touched the spirit of football fans everywhere. Members of Congress have even felt Big Dawg's devotion when he testified before a House committee as the Browns fan who could best convey the trauma to fans from the teams' sudden move to Baltimore.

Driven by heartfelt emotion and determination, Big Dawg served further as a crucial player in saving the team's name and colors and in bringing the Browns back to Cleveland. Big Dawg's big heart was never silenced throughout the years Cleveland was deprived of a team. Due in large part to his efforts, the Cleveland Browns are now back.

Celebrated as one of football's most famous fans, Big Dawg was inducted this year into the Visa Hall of Fans at the Pro Football Hall of Fame in Canton, Ohio. Big Dawg's role evolved back in 1985 when he donned a dog mask after Browns players Hanford Dixon and Frank Minnifield coined the term Dawg Pound to refer to the barking bleacher fans at the old Cleveland Municipal Stadium. Soon thereafter, the media discovered Big Dawg influencing Browns backers everywhere to wear, not only orange and brown, but dog masks and dog collars. With a new meaning to Cleveland's home field advantage, the Dawg Pound became an explosive force in leading the Browns to victory.

Not just a football fan, Big Dawg also serves as a community leader and a devoted family man. As a kid-friendly fellow, Big Dawg has made numerous appearances at local schools and local events. He is also featured on the box of his new Big Dawg Crunch cereal. Big Dawg has even earmarked royalties from cereal sales to go toward the American Diabetes Association and the Lomas Brown Jr. Foundation. Congratulations to Big Dawg for his charitable services, his devotion to his family, and for being the Cleveland Browns' number one fan. Keep the tradition alive!

My fellow colleagues, join me in honoring John Big Dawg Thompson.

TRIBUTE TO BRIGADIER GENERAL TERRY LEE PAUL, UNITED STATES MARINE CORPS

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. SPENCE. Mr. Speaker, it is with pleasure that I rise to recognize Brigadier General Terry Lee Paul, the Legislative Assistant to the Commandant of the United States Marine Corps. General Paul retired from active duty on Friday, October 1st, after 30 years of exceptional service in the Corps.

For the last 10 years, General Paul has been in charge of the Marine Corps Office of Legislative Affairs. During this time, many Members of Congress and staff have come to know General Paul as a very reliable and articulate spokesman for the Corps. His straightforward approach and extensive knowledge of policy and programs has especially been of great benefit to those of us on the Armed Services Committee. Through the effective communication efforts of General Paul, the Congress has become familiar with the details of important programs, which are essential to the mission of the Marine Corps, such as, the V–22 Program, the Advanced Assault Amphibious Vehicle, the KC–130J, and the Maritime Pre-positioned Force-Enhancement, among others. General Paul has tirelessly endeavored to inform Members and staff on issues ranging from the capabilities, technological advances, concepts of operations, and funding requirements of necessary programs, to the basic needs of Marines in the field and of their families on base.

Although, General Paul is well known for his in-depth knowledge of the legislative issues and operational requirements of the Marine Corps, he is also greatly respected as a dedicated leader, who possesses a deep and abiding passion for what it means to be a Marine. General Paul is, above all, a Marine of unquestionable devotion to duty, impeccable integrity, absolutely sound character, and dedication to professionalism. Through his assignments as a Senator Liaison, a Special Assistant to the Commandant, and, finally, as the Legislative Assistant to the Commandant, General Paul has always effectively communicated the message of "making Marines and winning battles." Because of the efforts of General Paul, the United States Marines Corps is better equipped and more prepared to carry out its mission in these demanding times.

As Chairman of the Committee on Armed Services, I have a special appreciation for the outstanding work that General Paul has done. His involvement in briefings and hearings before the House, as well as in Congressional Delegation travel to points around the world, has ensured that these activities were carried out in an efficient and instructive manner. General Paul has set a high standard for others to emulate. His total devotion to the Corps is evident in every action that he has taken, and he is to be commended on his more than thirty years of exemplary service to our Nation. I would like to wish General Paul and his lovely wife, Sharon, much continued success in their future endeavors.

HONORING LARRY PISTORESI

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Larry Pistoresi, Sr. for 50 years of perfect attendance at the Chowchilla Rotary Club.

Larry Pistoresi, Sr. has been a member of the Chowchilla Rotary Club since the day it was chartered in 1946. Pistoresi is an active auto retail salesman, but has been able to keep perfect attendance for 50 years. Perfect attendance did not mean that you had to attend all the local Rotary meetings. It you had to miss a local meeting, you could make that meeting up at another Rotary club in a different town. Through the years, Larry Pistoresi has attended Rotary meetings in 20 different states. In fact, planning a vacation for the

Pistoresi's was quite an ordeal. Vacations were planned around Rotary meetings. Larry would get the Rotary director out to see where and when the Rotary meetings were to be held.

Pistoresi also has a family history of perfect attendance in the Rotary. His dad, Pete Pistoresi, a charter member of the Chowchilla Rotary Club, also received the perfect attendance award. Pistoresi said when he first joined, his dad kept after him to have perfect attendance. After the first two years of perfect attendance he was challenged to keep on going. The father and son team are the only tow in the local club to receive the award. The former president of the Chowchilla club said his goal is to keep his perfect attendance to the day he is forced to quit.

Mr. Speaker, it is my pleasure to honor Larry Pistoresi for his perfect attendance at the Chowchilla Rotary Club. I urge my colleagues to join me in wishing Larry many more years of continued success.

NATIONAL PARKS AIR TOUR MANAGEMENT ACT OF 1999

SPEECH OF

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, September 27, 1999

Mrs. MINK of Hawaii. Mr. Speaker, I rise to express my support for H.R. 717, the National Parks Air Tour Management Act of 1999.

Although this bill does not go as far as I would like, particularly with respect to overflights in National Parks in Hawaii, H.R. 717 is a step in the right direction.

For years I have received complaints fom people who visit National Parks in Hawaii seeking to appreciate its serenity and ambiance only to be agitated by the pesky and noisy buzzing of aircraft overhead. In response, I introduced legislation, H.R. 482, to limit the adverse impacts of commercial air tour operations on National Parks in the State of Hawaii. My bill establishes specific guidelines, setting minimum altitudes and standoff distances, for National Parks in Hawaii. I believe certain parks must be declared flight-free, spared from intrusive noise, and maintained as calm refuges for the enjoyment of all.

I strongly encourage all of my colleagues to cosponsor my bill, H.R. 482, and establish certain flight-free zones over National Parks in Hawaii so that we may all enjoy the whole experience of visiting a National Park.

In the meantime, H.R. 717 will make several improvements upon the current situation of overflights in National Parks.

H.R. 717 requires the National Park Service to work with the Federal Aviation Administration and with the input of both the public and air tour operators, to prepare air tour flight management plans at each national park. Air tours would be prohibited unless the operators comply with the park's air tour overflight management plan. To insure that the plans are fair and comprehensive, the bill also calls for a study of the effects overflights have on park visitors on the ground.

Our National Parks should be enjoyed by all. For many, noise pollution ruins the National Park experience just as spare tires and empty soda cans littered beneath the trees would. I support cleaning up the noise at National Parks and urge immediate passage of H.R. 717, the National Parks Air Tour Management Act of 1999.

NATIONAL COOPERATIVE MONTH

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. SKELTON. Mr. Speaker, October 1999 has been designated as National Cooperative Month. I rise today to call attention to the thousands of cooperatives in the United States and to the thousands of Americans who benefit from membership in a co-op.

Some 40 percent of all Americans belong to a cooperative of one kind or another. Cooperatives bring people together to meet a common goal or need. There are cooperatives to provide electricity and telephone service to rural areas, cooperatives to help farmers market their goods, consumer cooperatives, and credit union cooperatives, to name but a few.

In Missouri, electric co-ops serve approximately 450,000 meters, representing over 1,380,000 people. Nearly 20 small, rural telecommunications providers have received financing from a cooperative to ensure that all rural Missourians have access to reliable telephone and other telecommunications services at an affordable price. There are also more than 1 million credit union cooperative members in Missouri.

Cooperatives allow people to band together and through the strength of numbers achieve what individuals could not accomplish alone. Members gain access to specific services, to marketing power, or to purchasing power. Unlike other businesses, cooperatives operate at cost and income that is not retained for cooperative operations is returned to the members.

In recognition of National Cooperative Month, I congratulate our nations' cooperatives for their continued service to members in Missouri and throughout the nation.

CONFERENCE REPORT ON H.R. 1906, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

SPEECH OF

HON. DEBBIE STABENOW

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 1, 1999

Ms. STABENOW. Mr. Speaker, I rise today to express my extreme disappointment in the process that led to the consideration of the Conference Report for H.R. 1906 in the House of Representatives today. While I intend to vote for this legislation, the leadership in the House has chosen to ignore the wishes of this body on two counts.

First, we selected conferees, knowledgeable Members who have proven themselves in this process, who should have been allowed to represent the House during the conference on H.R. 1906. In the end, however, the conferees were shut out of the process and the final version of the conference report was developed by House leadership, behind closed doors.

Second, this House voted just last week, by an overwhelming majority, to mandate the Option 1A pricing scheme for dairy. H.R. 1402, the bill that I strongly supported and was proud to cosponsor, passed this House on September 22, 1999, by a vote of 285 to 140. While many other elements of the farm crisis were addressed in the conference report, and I am pleased that over $8 billion has been directed for disaster assistance, why was the dairy crisis ignored? Why wasn't the issue of dairy even allowed to be brought to the table during conference negotiations? I am disappointed that H.R. 1402 is not included in the conference report. Our dairy farmers deserve more.

Mr. Speaker, despite these problems, I am pleased to announce that several special grants that are critical for Michigan agriculture will be funded again this year at their Fiscal Year 1999 levels. The following grants, many of which are executed at the world-class land grant institution in my district, Michigan State University, have been funded at their Fiscal Year 1999 levels: Improved Fruit Practices, Wood Utilization, Potato Research, Apple Fireblight, and Sustainable Agriculture. Overall, the positive provisions included in the conference report allow me to support it, but the process that brought us to this point has been deeply flawed and I am very disappointed that the House has not included H.R. 1402 in this legislation.

SENATE—*Wednesday, October 6, 1999*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord, God, speak to us so that what we speak may have the ring of reality and the tenor of truth.

You have granted the Senators the gift of words. May they use this gift wisely today. Help them to speak words that inspire and instruct. Keep them from glibness—from easy words that change little—or from harsh words that cause discord. Enable them to say what they mean and then mean what they say, so that they are able to stand by their words with integrity. And since the world listens so carefully to what is said here in this Chamber, guide the Senators to differ without denigration and communicate without condemnation. May they judge each other's ideas but never each other's values. In this way, may the Senate exemplify to the world how to maintain unity in diversity and the bond of patriotism in the search for Your best for America. Dear God, help us to listen to You and to each other. In Your all-powerful name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CHUCK HAGEL, a Senator from the State of Nebraska, led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Pennsylvania.

RECOGNITIONS

Mr. SPECTER. Mr. President, permit me to comment about how good it is to have Reverend Ogilvie back with us, looking so well after his recent bout with the doctors and the hospital, one which he and I share. It is nice to have Reverend Ogilvie back.

Let me compliment our distinguished President pro tempore for opening the Senate this morning so hale and hardy.

The PRESIDENT pro tempore. I thank the Senator very much.

SCHEDULE

Mr. SPECTER. On behalf of the leader, I have been asked to announce that the Senate will resume consideration of the pending Nickles amendment on the Labor-HHS bill regarding the Social Security trust fund. It is hoped that Senators who have filed amendments will work with the bill managers. What we propose to do is continue to alternate, and we are going to seek time agreements of 30 minutes equally divided so that we can move ahead and complete the bill. We have contentious amendments which are pending on both sides. We are working on the Republican side to try to have these amendments considered with very short time agreements, or reasonably short time agreements so that we can proceed.

We have the obligation to finish this bill, or at least the expectation of finishing this bill by the close of business tomorrow. There are dinners both Wednesday evening, this evening, and tomorrow evening which will keep our sessions not too long unless we establish a window, which we will have to do. And if a window is established, that means very late night sessions if we are to recess from 6:30, 7 o'clock, 8:30 or 9 o'clock. That is something to be avoided. We have culled down the amendments, and we think we are in a position to move ahead very promptly.

The leader has asked me also to announce that the Senate may consider conference reports to accompany the Agriculture appropriations bill and any other conference reports available during this week's session of the Senate.

Until one or two other Senators arrive, I would like to take a moment or two to comment about another matter of business, a very important matter, and that is the Comprehensive Test Ban Treaty.

COMPREHENSIVE TEST BAN TREATY

Mr. SPECTER. Mr. President, the President invited a number of Senators, both Democrats and Republicans, to the White House last night for dinner, including the distinguished Senator from Nebraska, who is now presiding. I had expressed a view publicly before the dinner began that I thought the vote on the Comprehensive Test Ban Treaty should be deferred; it should not be held on Tuesday. I have stated that position because it is plain that there are not enough votes in the Senate to pass the treaty. I favor the treaty. I said so publicly some time ago. I think it is also not timely to take up the treaty on the existing schedule because of the complexity of the issue.

Yesterday, the Armed Services Committee held 5 hours of hearings. I attended part of them. The subject matter is very complicated. It is my judgment that Senators are not really prepared to vote on the matter and that the vote may take on partisan overtones, political overtones, party partisan overtones, which I think would be very undesirable.

It has been reported publicly that all 45 Democrats are in favor of the treaty; that there are only a very few Republicans who are in favor of the treaty, and that many Senators on both sides have really not had an opportunity to study the treaty in depth to have positions which might lead some to disagree with the party position.

It is my thinking that it would be calamitous—a very strong word, but I think that is the right word—if the Senate were to reject the Comprehensive Test Ban Treaty. At the present time around the world, many eyebrows are raised because the Senate has not ratified the treaty. But if the Senate were to reject the treaty, then it would be highly publicized worldwide. It would be an open excuse for countries such as India and Pakistan to continue nuclear testing, which I think is very undesirable, destabilizing that area of the world, and give an excuse for rogue nations such as Iran, Iraq, Libya, and other rogue nations to test, and it would be very undesirable.

It is a complicated issue because our distinguished majority leader has scheduled the vote under a unanimous consent agreement with the minority leader after very substantial pressures have been building up with many floor statements demanding a vote.

The majority leader gave them what they asked for, and it was agreed to. It is not an easy matter to have that unanimous consent agreement vitiated. Any Senator can object to the vote. We will go ahead and schedule it. The administration has expressed the view it does not want to make a commitment to have no vote during the year 2000. The leader has propounded a substitute unanimous consent agreement, as I understand it—I wasn't on the floor at the time—which would vitiate the unanimous consent agreement on the condition that no vote be held in the year 2000.

The administration takes the position if they were to agree to that, or go along with it, that it would look as if they were backing off the treaty and it would be complicated for other world leaders as to how the administration would explain that kind of a position when we were pressing other nations to

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

stop nuclear testing and to end proliferation.

It may be the matter is really for the Senate without the administration. We set our own schedule. Perhaps a group of Senators representing both Democrats and Republicans could take the responsibility to oppose a vote during the year 2000.

Another idea which occurred to me this morning was to have a vote in the year 2000 but have it after the election so the treaty does not become embroiled in Presidential politics. One of the key Democrats expressed the view that he would oppose considering the treaty in the year 2000 because it would become embroiled in Presidential politics and surely lose.

If a debate were to be scheduled by mid-November and then a vote held in November that could accommodate the interests of not having it involved in a Presidential campaign and still give President Clinton an opportunity to have the treaty decided upon during his tenure as President with him being in the position to advocate.

I make these comments because I think with the schedule for debate on Friday and then again on Tuesday and a scheduled vote on Tuesday that time is of the essence—in this case very much the essence, not unlike that expression which has arisen in real estate transactions—that there are very serious international implications.

I know many Senators will be following up on the dinner meeting of last night by communicating with our distinguished majority leader and by communicating with people on both sides to see if we can accommodate all of the competing interests.

We are facing one of the most important votes of our era. It will set back arms control and nonproliferation very substantially if this treaty goes down. If after study and deliberation and an adequate time for debate the treaty is rejected, so be it. That is constitutional process. But to have it go down with the kinds of pressures to schedule it, and a schedule which has been entered into knowingly with leaders on both sides having unanimous consent agreements all the time, and any suggestion that there is any inappropriate conduct on anybody's part is totally unfounded. That is the way we operate. But, as I view it, it is an unwise course for the reasons I have stated.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1650, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1650) making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2000, and for other purposes.

Pending:

Nickles amendment No. 1851, to protect Social Security surpluses.

Nickles amendment No. 1889 (to amendment No. 1851), to protect Social Security surpluses.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have some housekeeping.

Mr. SPECTER. Mr. President, I still have the floor.

I ask my distinguished colleague, the assistant majority leader, if we could propound a unanimous consent request to consider the pending sense-of-the-Senate resolution.

Mr. REID. Mr. President, I say to my friend, the manager of the bill, we are going to have to do that now. It would be appropriate if the debate started. We are in the process of checking to see who wants to speak against the pending amendment.

I say in response to my friend's statement earlier that we want to move this along. The staff has worked very well the last several days since we had our break. We are down now to about 16 amendments, give or take a few, both Democratic and Republican amendments. We have on our side agreed. We have time agreements on most of ours—not all of them but most of them. I think we can move forward on that basis.

I also say to my friend that I saw the Senator from Pennsylvania coming into the White House as I was leaving last night. I was invited down for a meeting. I should say to my friend that I had orange juice and some nuts. I see that he was served dinner. That is something I have to check into.

Mr. SPECTER. If the Senator and I had been there at the same time, we could have solved this problem.

Mr. REID. Over dinner.

Mr. SPECTER. The fact that I was arriving as the Senator from Nevada was departing led to the inability to solve it. If we had been there together, we would have had a very abbreviated meeting. We could have concentrated on dinner instead of debate.

Mr. REID. I think maybe the Senator's great skills in debates may have had something to do with the Senator being served dinner and me getting by with just orange juice and a bowl of nuts.

Anyway, I think we should proceed on this pending amendment and move forward with it. If the Senator from Pennsylvania has someone speaking on it, we will try to get people lined up to speak against it and try to move along as quickly as possible.

We called some of our people to come over and offer amendments. We could set that aside and move on to some of these amendments on which we have time limits.

Mr. SPECTER. Mr. President, I would be agreeable to setting the amendment aside. I have secured the agreement of the proponent of the sense-of-the-Senate resolution, Senator NICKLES, to 30 minutes equally divided. It is a sense of the Senate. It does not have the import of some of the other amendments which involve real money and not confederate money. The next amendment would come from the other side of the aisle. If somebody is ready to offer an amendment, I would be agreeable to setting this amendment aside until we can reach a time agreement.

Let me yield now to my colleague from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, it is my understanding that several from our side of the aisle are coming to speak on this, and Senator NICKLES will return at 10.

While they are assembling their amendments, we might talk on this for the next few minutes and then get a time agreement with Senator NICKLES and I for 30 minutes equally divided. He has indicated he will do that. We have a few minutes before they are ready to present their amendment. We might continue to discuss this amendment.

Mr. REID. I think that would be appropriate.

Mr. SPECTER. Mr. President, may I inquire of my distinguished colleague from Nevada whether an amendment is ready now or when an amendment will be ready to be offered.

Mr. REID. Mr. President, we have two Senators who are on their way. In Senate language, "on their way" doesn't mean they are walking into the building. They have indicated to us they are on their way. As soon as they are through the door, I will let the Senate know and we can get a time agreement on the amendment.

Mr. SPECTER. Mr. President, if I might say, for the information of all Senators who may be watching on television, we are very anxious to sort of queue up so we can move along with dispatch.

If there are Senators on our side of the aisle who wish to speak on this sense of the Senate, it would be my request that they come over promptly so they can speak—the same thing about Members on Senator REID's side of the aisle. If somebody has an amendment to offer, we can move this bill along and stack those votes and not have to have a late night session. The leader did talk about a window. We haven't had a window for a while. Windows which bring us back here late in the evening hours are not very much appreciated.

Mr. REID. Mr. President, I also say, if my friend will yield, to elaborate on his statement, Friday is fast approaching and people have things they want to do on Friday. Friday is scheduled now, and it may be vitiated based on the statement the Senator from Pennsylvania has made. The way the unanimous consent order is now in place, we are going to start debate on the Comprehensive Test Ban Treaty on Friday. There are a lot of people who have planned their schedules around that. If that is taken off for some reason, I am sure the majority leader will ask us to complete this bill, if it is not completed before Thursday.

I say to my friend that we need to move forward on this bill, if anybody has any anticipation of going back to their States on Friday.

Mr. SPECTER. Mr. President, that was well said.

Mr. President, may I yield to my colleague from Georgia?

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I am going to speak for a moment or two about the pending business, which is the Nickles amendment numbered 1851. It is a sense of the Senate and is quite short and very clear.

It is the sense of the Senate that Congress should ensure that fiscal year 2000 appropriations measures do not result in an on-budget deficit, excluding surpluses generated by the Social Security trust fund.

Basically, what he is saying is that if for any reason in our budgetary exercise we find ourselves having dipped into the Social Security receipts, go beyond non-Social Security receipts, there would be a sequester for across-the-board cuts to replenish it. The response from the other side is interesting because, of course, the President and the other side have said they don't want to use Social Security receipts and then they say current budgetary activities, depending on whose numbers you read, may have already done so.

I point out, it is not over until it is over. There has been no concluding action on our budget decisions. What this sense-of-the-Senate amendment states is "if," depending on how much, it would require across-the-board cuts to protect Social Security—pretty clean and very simple. That is the sense-of-the-Senate resolution from Senator NICKLES of Oklahoma, amendment No. 1851. It is simple. It says when we finish all of our budget activities, finish all the conferences, and have everything concluded, if we have gone beyond other surpluses and dipped into Social Security, they will be replenished by an across-the-board cut.

The other side last week was imploring it is already maybe at $19 billion. It depends on whose numbers you look at. That is a 5-percent across-the-board cut. We are not there, is the point. If the budgeteers and appropriators are neglectful and we get into Social Security at that level, it will be appropriate there be a 5-percent across-the-board cut. Everybody has agreed—the President, the leadership on the other side and on our side—we should not use Social Security receipts to deal with this year's budget.

I think Senator NICKLES from Oklahoma offers a rational concept for assuring the American people—assuring those individuals who are concerned about Social Security, whether they are using Social Security or about to use Social Security—that this Congress is not going to use those to deal with the current expenditures.

Mr. SPECTER. May I interrupt my distinguished colleague to propound a unanimous consent agreement.

Mr. COVERDELL. I yield the floor.

Mr. SPECTER. I ask unanimous consent, and it has been cleared with Senator REID, that the pending amendment be subject to 1 hour of debate with time equally divided.

The PRESIDING OFFICER (Mr. SANTORUM). Without objection, it is so ordered.

Mr. SPECTER. I yield time to the Senator from Georgia.

Mr. COVERDELL. Mr. President, Senator NICKLES should be here shortly to speak on his own behalf. Basically, he outlined a very simple premise and a very important principle, that we are not going to use Social Security for new spending; we are going to protect Social Security receipts.

He has offered a concept by which that would be done. Its impact would depend on the amount to which appropriators and the Congress, through their budgetary practices, had used those receipts. They have two options: They can go back to the conference committee reports and make sure the spending does not get into Social Security, in which case this has no import. But if they do, if it is $5 billion, that will be a 1-percent across-the-board cut; if it is $20 billion, it will be about 5.

It is up to the conscience, work, and dedication of our appropriators to resolve.

He outlines early in the process a premise which I think is sound: if we get into Social Security, we will recover.

I yield the floor.

Mr. SPECTER. How much time does my distinguished colleague from New Hampshire desire?

Mr. GREGG. Ten minutes.

Mr. SPECTER. I yield 10 minutes to Senator GREGG.

Mr. GREGG. Mr. President, I rise in support of the Nickles amendment of which I am a cosponsor along with a number of other Members of the Senate.

This proposal addresses one of the underlying political debates we are confronting today in trying to reach conclusion on our entire budget, which is the manner in which we should handle Social Security surplus. It is a key element of how we can resolve this matter and resolve it in a way that fulfills at least the stated goals of the various parties.

We have heard the President say on a number of occasions he wants to protect the Social Security surplus and preserve it for Social Security. It has been our position, as the Republican membership of this Senate, that we should do exactly that. In fact, we have offered time and again something called a lockbox which would essentially guarantee all Social Security surplus be held independent of any other spending and would not be available for any other activities of the Government but, rather, be reserved for the purposes of paying down the debt and being retained in the Social Security trust fund as debt instruments.

Unfortunately, as we have moved down the road to address the operating budget of the Federal Government, it has been clear the administration wants to have it both ways: They want to say, on one side, protect the Social Security trust fund, and specifically the surplus which is now being generated by the Social Security accounts; but, on the other side, they want to propose a large amount of new spending which would inevitably lead to using up some portion of the surplus of the Social Security trust fund.

Senator NICKLES, other Members of this Senate, and I have come forward with this proposal which is a sense of the Senate and therefore isn't binding. Hopefully at some point it will be put into binding language. It says under no circumstances will Social Security trust fund dollars or the surplus now being generated by the Social Security taxes being paid be used to operate the general functions of the Federal Government, and that we should have a mechanism to guarantee what is known as a sequester which is a system of saying, if ever we should spend a dollar or it is looking as if we are about to spend a dollar of Social Security surplus funds, there will be a sequester in spending of the general fund, the general operating accounts of the Federal Government, the discretionary accounts of the Federal Government, the "sequester" meaning those accounts would be reduced to the extent necessary in order to be sure no Social Security surplus funds would be used.

This, of course, is the proper way to proceed because it sets in place a mechanism which makes it clear, and which makes it absolutely a sure thing, that there will be not an invasion of Social Security surplus funds.

To step back a second, let's understand what the Social Security surplus funds are. We all pay Social Security taxes on our earnings. They are called FICA taxes. Those taxes go into what is known as the Social Security trust fund. That trust fund is used to pay for the operation of the Social Security system.

The Social Security system for many years ran a deficit where the taxes being raised were not enough to support the money being paid to support the benefits, or it was about to run a deficit. Therefore, we changed the tax law and we changed the structure of the benefits back in 1983 so the system was put into a solvent situation.

As the baby boom generation grew in its earning capacity and the older generations preceding, the World War II generations, retired, we found the earning capacity of the baby boom generation was so great it was generating a huge surplus. In other words, there was more money going into the Social Security trust fund than was needed to support the people on Social Security.

For a number of years, because the operating accounts of the Federal Government, the day-to-day operation accounts independent of Social Security, were running a deficit, the Social Security trust fund was borrowed from to mask the deficit of the operating accounts of the Federal Government. We ended up with the Federal Government day-to-day operations, whether defense, education, or social services, being supported by the Social Security taxes which were being paid into the Social Security trust fund.

With the occurrence of the good economy and a strict fiscal discipline put in place by this Republican Congress, we now are in a position where we are running what is known as a real surplus. In other words, the amount of money we are taking in in order to operate the Federal Government in its day-to-day activities is about the same, and it is starting to grow to the point where it is actually exceeding the amount of money necessary to operate the Federal Government. So things such as education, defense, and general social services can be paid for by the general revenues of the Federal Government. It is no longer necessary for us to invade the Social Security trust fund in any way to operate the Federal Government.

Yet there is still some pressure, because there is this surplus running up in the Social Security trust fund, to say we can spend a little more on the operations side of the Federal Government—a little more for defense, a little more for education. All we have to do is take it out of the Social Security trust fund to pay for it.

That is what this debate is about; there are many of us who believe that is not the proper way to do it. The money that goes into the Social Security trust fund should be reserved for the purposes of preserving and protecting Social Security. Some of us have even gone so far as to put forward major pieces of legislation, bipartisan in nature, which would structure a program to make the Social Security system solvent not only for today but for the next hundred years.

In fact, there is a bill that would do exactly that which I cosponsor with Senator BREAUX, Senator GRASSLEY, and a number of other Members, Senator KERREY, BOB KERREY from Nebraska. It would make the Social Security system solvent for years. It would use this surplus in the Social Security trust fund to accomplish that solvency.

That is really another story. But it points out it is important the Social Security surplus is preserved for Social Security, the preservation of Social Security, and it is not used to operate the general government.

In order to keep Social Security solvent, in order to keep the surplus from the day-to-day operation of the Federal Government, we have put forward this sense of the Senate. As I mentioned, what the sense of the Senate essentially says is, if it occurs that the day-to-day operation of the Federal Government—for national defense, for education, for general social activities—should exceed the operating income of the general government—income taxes, business taxes, various excise taxes we receive—if it should exceed those incomes, then rather than go into the Social Security trust fund to pay for that deficit, we will reduce the spending of the Federal Government to the point where the incomes of the Federal Government meet the expenses of the Federal Government on the operating side of the ledger and the Social Security surplus will, therefore, be kept protected and preserved for the purpose, I hope, of putting in place a large, comprehensive plan I just described to you, that Senators BREAUX, KERREY, and GRASSLEY, and I have introduced.

This proposal is a sense of the Senate. It is not even actually a legislative event. I hope someday it will be. But this legislation simply states that the Senate is not going to tolerate the invasion of the Social Security trust fund for purposes of operating the day-to-day functioning of the Government of the United States; that we are going to expect the Government of the United States to meet its day-to-day operating expenses from the traditional resources that are available to it for operations and not from the income that comes from those people who are paying Social Security taxes.

Rather than just making that as a statement, we are also taking it a step further, saying we shall create a sequester mechanism whereby there will be an actual reduction in spending on the day-to-day operations side of the account should there ever occur a situation where the Social Security trust fund was going to be used in order to pay for day-to-day operations. Thus, we create this clear, enforceable protection for Social Security and for our Social Security trust fund.

It is a very simple idea. It is a very appropriate idea. Most important, it is an idea that is absolutely consistent with everything we have heard from the White House and from the other side of the aisle as it has put forward its concepts of how we should protect and preserve the Social Security trust fund. Essentially, Senator NICKLES, I, and the other Senators who support this legislation, most of whom I guess are Republican, are really doing the work of the administration.

We know, for that reason, we are going to be supported both by the administration and Democratic Members of the Senate.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Nevada.

Mr. REID. Mr. President, I yield myself 6 minutes.

The PRESIDING OFFICER. The Senator is recognized for 6 minutes.

Mr. REID. Mr. President, we have here an interesting saga. It started when the House decided to add another month to the fiscal year. That caused a little bit of controversy, to say the least. Then last week they came up with a new proposal, and that is the earned-income tax credit, which Ronald Reagan said was the best antiwelfare program he had ever known. The Republicans in the House decided what they were going to do was slow down the payments of this, the best antiwelfare program ever.

This ran into a little bit of trouble, including the frontrunner for the Republican nomination for President, George W. Bush, who said he thought it was wrong to try to balance the budget on the backs of the poor.

Just a short time ago, they came up with a new proposal. That is what we are here to talk about today, an across-the-board cut. Of course, an across-the-board cut would be devastating. In fact, it was attacked immediately by the Republican chairman of the House Appropriations Committee as a political blunder. He said: "It's a mistake. It sets a bad precedent. We have never done anything like that." This is the chairman, the Republican chairman of the House Appropriations Committee. So I think we should just step back and become more realistic and look at some reasonable offsets to fund Government the way it should be funded.

In this morning's Washington Post, in something called "In The Loop" by Al Kamen, he gave us the results of a little contest he held. He wanted to find out what people thought the new month should be named. Remember, the majority wants to extend the calendar year 1 month. Here are some of the names they have come up with. He said:

> We weeded out some suggestions that came as many as 10 times, such as Porkuary or Porkcember, Debtuary or Debtember, Budgetary. . . .

But some of those he thinks were winners were: "Abracadember" which is, magic, It is like "abracadabra." And then "Payupuary" was also declared a winner. This is clearly voodoo economics; one of the names that won was "Voodoober."

We have another one that sounds pretty good—I certainly agree it should be declared a winner—"Gridlockedober," based upon the gridlock that occurred just a few years ago because of the Republicans shutting down the Government. Another one is "Bustacap-uary." This was submitted by a Member of the House of Representatives.

Another one that was not submitted by a Member of the House of Representatives, but probably should have been—is called "DeLaypril," named after the House whip.

I think it is good to add a little bit of levity to what is going on. But the levity should end and we should get serious about getting rid of the appropriations bills. When I say get rid of them, I mean just that. We should get them so they can pass muster here and be signed by the President. The way things are going now, I think the President is going to veto almost every appropriations bill that is going to be sent to him. It is apparent to me the appropriations bills have too much magic in them and really are pieces of legislation that deserve these derogatory names. We must get serious and pass a budget the American people will accept.

Mr. President, I yield the remainder of the time to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey has the floor.

Mr. NICKLES. Mr. President, might I inquire of my colleague from New Jersey how long would he wish to speak.

Mr. LAUTENBERG. We have, by unanimous consent, established a half hour on each side. If the Senator from Nevada has used 6 minutes, then we have roughly 24 left.

Parliamentary inquiry: How much time remains?

The PRESIDING OFFICER. The Senator from Nevada, now the Senator from New Jersey, has 25 minutes 30 seconds. The Senator from Pennsylvania has 18 minutes 19 seconds.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent I may yield to the Senator from Oklahoma for 5 minutes without losing any time on our side. That comes off their time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague from New Jersey for his cooperation. Of course, this will be charged to our time.

I appreciate the comments by Senator COVERDELL and Senator GREGG. I know Senator GRAMS from Minnesota will be speaking shortly on this amendment. I will make some quick comments, and maybe I will not take 5 minutes.

I hope we do not have to have across-the-board cuts to meet our objectives, but our objective is to make absolutely certain that we do not dip in, as some people say, or spend some of the Social Security surplus money.

Right now there are surplus taxes coming from Social Security. There are more taxes going in than going out. We want 100 percent of that to be used to pay down the national debt. We do not want to spend it. We do not want to spend it for anything other than paying down the national debt. Period. We are drawing the line.

I heard my colleagues from the Appropriations Committee—and I have great respect for the members on that committee; I served on it at one time—say: We do not want to; we do not have to. I agree with that. We even put in the resolution we would have across-the-board cuts only if necessary. I hope it will not be necessary. I do not think it will be necessary.

Right now, in totaling up the bills, from the Budget Committee and the Congressional Budget Office, basically if we have discretionary spending above $592 billion or $593 billion, then we will start dipping into the Social Security money. Current projections are if we continue spending, as outlined in all the appropriations bills, we will be above that figure by about $4 billion or $5 billion. We have not concluded major appropriations bills. We have not concluded the Ag bill, but we are very close. We have not concluded the Department of Defense bill, and we have not concluded the Labor-HHS bill which is the biggest bill. Among those three bills, we can find $5 billion, and there would be no reason whatsoever to have to make this cut.

In the event we do not, for whatever reason, then let's have some adjustments. If it turns out we are $5 billion over—and those are the figures given by the Budget Committee and Appropriations Committee—we will have across-the-board reduction cuts of about 1 percent. It will apply to Defense, Labor-HHS, and VA-HUD. It will apply to all agencies. That is minuscule, that is affordable, and that is doable. It will keep us from dipping into Social Security trust funds as we have done year after year.

A lot of us have been pretty resolute in saying we ought to have a line. We are breaching the line on the caps because we are exceeding the caps by using emergency designations. We are now saying the absolute line is let's not grab Social Security money. That money comes from payroll taxes. It is supposed to be set aside for retirement. It is not to be spent on a variety of programs, whether that is a $2 billion increase in NIH or a $2.3 billion increase in education, or a big increase in defense, or an $8.7 billion emergency Agricultural bill. It should not be spent for those things. If necessary, and hopefully it will not be necessary, we will implement across-the-board reductions to make absolutely certain that we do not dip into the Social Security trust funds.

I thank Senator GREGG, Senator COVERDELL, Senator GRAMS from Minnesota, Senator GRAMM from Texas, and others in supporting this sense-of-the-Senate amendment, and hopefully it will not be necessary; Congress will pass its bills and show at least enough discipline to not dip into the Social Security trust fund.

Again, I thank my colleague from New Jersey for his accommodation so I can attend another meeting. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I offer to let our friends on the other side who want to speak in opposition go ahead now if they want. I will pick up my time when that is done, if that is all right, if anybody has any interest.

Mr. NICKLES. Will the Senator yield for another half second?

Mr. LAUTENBERG. Yes.

Mr. NICKLES. Mr. President, I ask unanimous consent that Senator HAGEL be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I want to make sure we mean it when we say we are going to protect Social Security. Right now I ought to say welcome to the magic show because what we are hearing is rather hypothetical: If we want to protect Social Security by adopting across-the-board reductions in all discretionary appropriations, it should be sufficient to eliminate such deficit if necessary.

I believe it is more important to say how we are going to do that without at the same time dipping into Social Security. It is not realistic. This is pie in the sky, and the American public ought to know about what we are talking.

I do not support deep, indiscriminate cuts in education, defense, or law enforcement. Tell the veterans you want to cut further. I want to hear anybody stand on this floor and say to the veterans who served our country when we needed them and we made promises: Sorry, we are going to cut your benefits. I want them to talk about that. I want to hear them talk about how we are going to provide the kind of law enforcement we want when we will be getting rid of FBI agents and Border

Patrol people. Cuts to the Immigration and Naturalization Service could result in a reduction of approximately 2,000 Border Patrol agents, when everybody is screaming about the number of illegal immigrants pouring across our borders. I want to hear them talk about programs such as Head Start that give children a chance to learn if they have not had the benefit of a home life that encourages learning. Mr. President, 43,000 children will be cut from the program.

I hope the American public listens. I know they get tired of our droning, but this is the kind of thing they ought to view with interest. I hope we are going to defeat this amendment.

Everyone knows it is now October 6. The fiscal year is almost a week old. But obviously, the Republican majority still does not know how they are going to put together their budget. They have declared they do not want to use Social Security surpluses. No, but the declarations ring hollow. In fact, they have been moving legislation that would raid those surpluses of billions of dollars, and they do not want to admit it.

The Republican tax bill, for instance, would use Social Security surpluses in the years 2005 through 2008. That is not very far away from our initial attempt to increase the longevity of Social Security.

In fiscal year 2008, that raid on Social Security would reach almost $50 billion. Public, listen to this: Now they are pushing bills that will use roughly $20 billion in Social Security funds this very year, the year which started October 1. That is not just my opinion, it is the opinion of the Congressional Budget Office, which is directed by a Republican appointee.

The majority has that right. Over the past few weeks, the majority has twisted itself into knots to evade the discretionary spending caps. They have used gimmick after gimmick, to the point where, frankly, the integrity of the whole budget process has been compromised.

I hope my colleagues can see this chart.

This is what a prominent paper, the Wall Street Journal, had in its issue of July 27: GOP using "two sets of books."

Lying about the numbers.

That is a budget expert, a fellow by the named of Stan Collender on the GOP. "Directed Scorekeeping"—we will talk about that in a minute.

Republicans are double-counting a big part of next year's surplus, papering over the fact that their proposed tax cuts and spending bills already have exhausted available funds.

In the House, the Republicans have declared the census that we are required to take, mandated by the Constitution; it comes around every 10 years—they want to declare that an emergency so it gets out of the spending loop. It is hardly an unexpected crisis. Calling it an emergency gets around the discretionary spending caps. For House Republicans, apparently, that is more important than direct, honest budgeting.

The Republicans are also using two sets of books, as we see described here, to get around the discretionary spending caps. When it suits their purposes, the majority uses CBO scoring; when it does not, they use OMB scoring. This is mumbo jumbo. For those who are not familiar with what goes on here—using this set of books on the one hand and that set of books on the other hand.

If someone was the chief executive of a major corporation—I had the honor of serving in that capacity before I came here—and did that, they could wind up in jail—using books here to describe what is going on on one side, and using books over here to describe a different picture to the public. That is unacceptable behavior but certainly not in this institution. That way, they can pretend they are spending less than they technically are.

Today, I am releasing a report that explains this so-called "Directed Scorekeeping." As the report explains, the majority is forcing CBO, the Congressional Budget Office, to fudge the numbers in an unprecedented way. The report is available from my office. I ask unanimous consent that a copy of that report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOW THE GOP IS USING "TWO SETS OF BOOKS" TO HIDE USE OF SOCIAL SECURITY SURPLUS

[From the Office of Senator Frank R. Lautenberg]

THE ABUSE OF "DIRECTED SCOREKEEPING"

Congress generally relies on the Congressional Budget Office (CBO) to evaluate the budgetary effects of legislation. This year, however, the Republican majority has repeatedly directed CBO to modify its scoring of appropriations bills, in order to make the bills appear less costly. Although such "directed scorekeeping" has occurred occasionally in the past, the extent of the practice this year is unprecedented.

According to a recent CBO analysis, congressional Republicans have directed CBO to make more than $18 billion in scorekeeping adjustments in the FY 2000 appropriation bill.[1] CBO generally includes these modifications in its reports on legislation by creating a special account called "Budget Committee discretionary adjustment." This year, the adjustments in the Senate range from $5 million for the District of Columbia to $13 billion for the Department of Defense.

By forcing CBO to modify its scoring of legislation, the GOP has sought to hide more than $18 billion in new spending. This total exceeds the entire non-Social Security surplus, which CBO estimates at $14 billion.

Of course, changing the scoring of legislation does not alter the actual budget impact of that legislation. If CBO's actual estimates are used based on their own assumptions, it becomes clear that congress is on its way to spending at least $18 billion of Social Security surpluses in fiscal year 2000, and perhaps considerably more.[2]

Some Republicans defend "directed scorekeeping" as necessary to reconcile differences between OMB and CBO spending assumptions. But if accuracy is the goal, we should stick with CBO. A review of outlay estimates for appropriations enacted between 1993 and 1997 found that CBO's estimates were almost identical to the actual amounts spent in each year.[3] A more recent comparison of CBO and OMB estimates of defense outlays found that CBO's estimates were consistently higher than OMB's between 1997–1999, but that both CBO and OMB came in below actual defense outlays.[4]

The Republicans are also "mixing and matching" estimates—combining OMB's lower spending estimates with CBO's higher surplus projections. Choosing the best assumptions from each agency increases the potential for estimating error beyond what would occur under one set of assumptions. This practice is in clear violation of Section 301(g) of the Congressional Budget Act which states that the budget resolution and determinations made for Budget Act points of order "shall be based upon common economic and technical assumptions". Unfortunately, there is no practical remedy for violations of this section of the Budget Act since the chair in the Senate relies exclusively on the Budget Committee for all budget rulings.

Scorekeeping directives have been used in previous years, but not on this large a scale. Between 1991 and 1999, CBO was asked to change its estimates of appropriations bills four times by amounts ranging from $1.9 billion in 1993 to $5.5 billion in 1992. The adjustment this year, $18.7 billion, is $5.7 billion higher than the previous nine years combined.

Section 312(a) of the Congressional Budget Act gives the Budget Committees the prerogative to use their own estimates in the budget process. When this discretion is abused, there is no penalty, other than higher deficits. Ironically, American companies don't get off the hook so easily. In recent months, the SEC has cracked down on businesses that use accounting gimmicks to exaggerate profits. Several companies have been charged and some have paid fines. Unfortunately, only the American taxpayer picks up the tab when the Congress cooks the books.

The following table shows CBO estimates of scoring adjustments for the ten year period, fiscal years 1991–2000.

DIRECTED SCORING, FY 1991–2000

[Outlays; in billions of dollars]

Fiscal year	Defense	Nondefense	Total
2000 est.[1]	–13,073	–5,596	–18,669
1999[1]	–2,383	–235	–2,618
1993	–1,291	–565	–1,856
1992	–2,937	–2,532	–5,469
1991	–2,929	…………	–2,929
1991–99	–9,540	–3,332	–12,872

[1] Estimates based on House adjustments.

Source: CBO.

[Memorandum of October 4, 1999]

To: Sue Nelson.
From: Janet Airis.
Subject: Across-the-Board Cut to Discretionary Appropriations.

This is in response to your request of an across-the-board cut to FY 2000 discretionary appropriations. You asked us to calculate an across-the-board cut that would result in an estimated on-budget deficit for FY 2000 of zero, assuming that the current status CBO estimate (excluding "directed scoring"), as of October 4, is enacted into law. Given your assumption, our estimate of the projected on-budget deficit is $19.2 billion. Our estimate of the outlays available to be cut is $351.7 billion. Dividing the projected deficit by the available outlays results in an across-the-board cut of 5.5%

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[1] Footnotes at end of article.

This calculation is preliminary and done without benefit of language. If you have any questions, please contact me at 226–2850.

FY 2000 ACROSS-THE-BOARD CUT

[In billions of dollars, as of Oct. 4, 1999]

	Senate	
	BA	OL
Current action:		
Current Status (as of 10/4/99), excluding directed scoring	564.0	613.1
CBO July, 1999 Baseline	539.3	579.8
Excess over Baseline	24.7	33.2
Debt service on increase to disc. spending over baseline		0.4
Total, excess over baseline		33.6
Less projected on-budget surplus (CBO Economic and Budget Outlook, 7/1/99)		14.4
Projected on-budget deficit as of 10/4/99		−19.2
Calculation:		
Current Status (outlays new, excluding scoring adjustment)	564.0	351.7
Percent A–T–B cut to reduce deficit to 0 (projected deficit divided by new outlays)		0.0546
Across-the-board cut amount	30.8	19.2
Current Status after across-the-board cut:		
BA and new outlays	533.2	332.5
Prior year outlays		261.3
Total	533.2	593.8
CBO baseline plus $14.4 billion (estimated surplus)		593.8

Note: This calculation assumes discretionary budgetary resources (e.g. budget authority, obligation limitations) are subject to the across-the-board cut.

Source: Congressional Budget Office.

FOOTNOTES

[1] CBO has been asked to adjust the House appropriation bills downward by $18.6 billion. The total adjustment from normal CBO estimates in the Senate is $18.3 billion. This includes a $2.6 billion reduction in the projected cost of the defense appropriations bill that Committee staff made to reflect OMB's scoring of a provision that accelerates a spectrum auction.

[2] Letter from CBO Director Dan Crippen to Rep. John Spratt, September 29, 1999.

[3] Congressional Budget Office, "An Analysis of CBO's Outlay Estimates for Appropriation Bills, Fiscal Years 1993–1998", October 1998 memorandum.

[4] Congressional Budget Office, "An Analysis of the President's Budgetary Proposals for Fiscal Year 2000", April 1999, page 75–82.

Mr. LAUTENBERG. Beyond using the emergency designation and using two sets of books, the majority has resorted to the gimmick of artificially shifting huge amounts of spending into the next fiscal year.

The Washington Post described this as adding a 13th month to the fiscal year, kind of changing the calendar. It is a gimmick, and the public, again, ought to take notice. It is like getting out of debt by putting existing debts on a second credit card. It may make you feel better today, but it is sure going to make things tougher tomorrow.

These are a few of the gimmicks that are being proposed in this legislation. But no matter how many are used, there is no getting around the fact that the majority has busted the spending caps, and they are spending Social Security surpluses. Let's make sure that is clearly understood. They are using the budget surpluses created in the Social Security account to fund Government. They want to take even larger cuts out of programs.

There is a better alternative. Instead of using scorekeeping gimmicks, we can use real offsets; that is, take it from another place. For example, we can close special interest tax loopholes. The Republicans even included some of those loophole closers in their tax bill, so this should not be at all that hard.

Another option that I personally favor is to simply go to the source that cost this country of ours lots and lots of money, the tobacco industry. Let them fully compensate taxpayers for the costs of tobacco-related diseases that they create. Why should they be protected? I do not understand it. Why cannot we get our friends across the aisle to join us in saying to the tobacco industry: Pay the $20 billion that you cost us with the diseases that you have helped render on our society?

It is an outrage. We are going to let them get away with what they do while we say to our citizens: OK, we are going to cut veterans benefits; we are going to cut police efforts; we are going to cut education. Come on. That by itself could virtually eliminate the raid on Social Security—$20 billion by the bills already approved by the Senate.

To its credit, the Justice Department is trying to recoup these costs through civil litigation against the tobacco companies. But as we all know, that could take years. Meanwhile, Congress can act now to make the taxpayers whole. We ought to do it.

The Nickles amendment, however, proposes another approach. It says: Rather than closing tax loopholes or asking the tobacco industry to pay its fair share, let's cut education, let's cut defense, let's cut the FBI, let's cut the Border Patrol, let's cut environmental protection, and let's cut veterans health care.

We heard it said that these across-the-board cuts might be a 2- or 3-percent difference. But those figures are not based on CBO's own estimates; they are based on the so-called "Directed Scorekeeping." That is a direction from the Budget Committee or the leadership to say: Hey, you say it's going to cost $10 billion. I tell you what, let's say something else. Let's say it's only going to cost $9 billion. OK, $9 billion. There is no basis in fact, but let's say it.

It is based on politically driven assumptions about how much bills will cost, not the objective analysis of CBO estimators.

The truth is that if we are serious about protecting Social Security surpluses, the across-the-board cuts would have to be much greater. And if we look at the bills the Senate has already approved, we would need a 5.5-percent cut. And that is not my figure; that comes from the Congressional Budget Office—5.5 percent. The Transportation bill that we just processed through here—and I shared the Democratic leadership in getting that bill to the floor—would take a cut of over $2.5 billion.

But even that is unrealistically low. First, many Senate bills still need to be reconciled with the House, which has adopted a variety of emergency provisions—gimmickry—to allow for increased spending. In addition, Congress almost inevitably will increase spending for other items in the near future: Funding for hurricane victims—that ought to be fresh in our minds—for health care providers that are suffering from excessive cuts, preventing the expected closings of long-term care facilities in major quantities, for operations such as Kosovo; and then it is also a good bet that at some point this year there will be other emergencies: earthquakes, hurricanes, tornadoes—who knows what—that will also require more funding. If we do not offset that spending, it will come straight out of the Social Security surplus—cut the Social Security surplus.

When you account for these additional costs, you would have to cut discretionary spending roughly 10 percent under this amendment—10 percent. Do my colleagues want to go on record in supporting cutting education by at least 5 percent, more likely 10 percent? Do they want to call for cuts in defense, veterans programs, crime initiatives, and health research? I am sure the American public does not want that to happen, and none of us elected to represent them ought to support this wild scheme.

Senator NICKLES has offered his amendment as a second degree to his own underlying amendment. But at an appropriate point, once his second-degree amendment is disposed of, I plan to offer an alternative amendment. My amendment will call for rejecting scorekeeping gimmicks and indiscriminate across-the-board cuts. Instead, it will urge that we protect Social Security surpluses by closing special interest tax loopholes and using other appropriate offsets.

My alternative amendment does not limit the types of offsets that could be used, nor does it single anything out. But it would put us clearly on record in opposition to the broad-based cuts proposed by the amendment offered by the Senator from Oklahoma, and in strong opposition to the continued use of budget gimmickry to avoid tough decisions.

For now, I urge my colleagues to oppose the Nickles amendment. I ask the public who may learn of this amendment to let their Representatives know they do not like it, that they want to protect Social Security surpluses. Let's not make the deep cuts that are arbitrary in education, defense, crime, veterans, and other programs. Instead, let us close special interest tax loopholes, find other appropriate offsets that will allow us to save Social Security, as all of us agree should be done, in a direct and honest way.

Mr. President, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator from Pennsylvania has 14 minutes 18 seconds, and the Senator from New Jersey has 10 minutes.

Mr. SPECTER. Mr. President, I yield 10 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 10 minutes.

Mr. GRAMS. Mr. President, I rise strongly to support Senator NICKLES' pending amendment on the Labor-HHS bill, and I commend his leadership and vitality on this very important issue.

This amendment reassures the American people that Congress is not going to spend one penny of Social Security money, and it will put the Senate on record that we will honor that commitment.

We hear our colleagues from the other side of the aisle say Republicans are already dipping into Social Security. They want to spend more money.

That is not true. What we are trying to do is say we are going to go up to the edge but not go over; that is, not spend one dime of Social Security money. By being able to do that, we don't want to dip into the Social Security trust fund. We think everybody, across the board, on discretionary spending should make sure that doesn't happen.

That means we have an across-the-board cut. In other words, reduce all spending, in order to protect Social Security. That, I think, would be a fair and even way to do it.

Our colleagues on the other side don't want to cut spending. They are not talking about cutting spending at all in any programs. What they are saying—and the gimmicks they would use or the magic they would put into this budget—is simple tax increases. Let's penalize big tobacco, they say. But they don't tell us there are dozens of other tax increases buried in their proposal that would also affect every other average working American in this country. In other words, to support their higher spending level, they want to go out and attack the taxpayer. "Let's raise taxes," "close loopholes," are some of the words they use. The magic they put in it is tax increases.

That means every American out there can face higher Federal taxes in order to support larger spending. We are saying, let's do it the other way around. Let us be fiscally responsible. Let us not ask more of the taxpayer. Let us reduce spending across the board and do it in a very fair and equitable way.

I believe this is a crucial step to truly protect the Social Security surplus and save it exclusively for Americans' retirement, not for tax relief, not for government spending. This is a line we absolutely have to draw in the sand.

In fact, over the past few days I have been working on legislation which is related to Senator NICKLES' amendment. I will introduce the bill today.

This legislation will be complimentary to the Nickles amendment. His is a sense-of-the-Senate—my bill would create a mechanism to enforce our commitment. It would prevent anyone, whether it be the Congress or the administration, from raiding the Social Security surplus. This enforcement mechanism is simple and straightforward. Because we won't know whether we are spending the Social Security surplus until we get the CBO revised numbers in January, this bill will trigger an automatic across-the-board cut in discretionary spending to make up any differences if the January reestimate shows we are spending any Social Security surplus. It would work similarly to the sequester of Gramm-Rudman-Hollings, but applies to Social Security surplus spending.

Let me address why it is so important to pass both the Nickles sense-of-the-Senate and my legislation. Economic forecasting is more of an art that a science. Many uncertainties, risks, and factors are involved. We have a budget of $1.8 trillion based on a variety of assumptions, estimates, forecasts and projections, with people using both CBO numbers and OMB numbers. It is highly likely that there are errors in this budget. While we should learn from our past mistakes and take a very prudent and conservative approach in our economic outlook and our spending, a $10 billion error in forecasting of $1.8 trillion is not uncommon.

However, some of our colleagues are out there accusing us of spending the Social Security surplus. the truth is, we don't want to, but honestly we don't know for certain at this point. Neither does the President nor our Democratic colleagues. That is, whey we need my bill as our insurance that we will live up to our commitment.

Some wave the CBO August letter to prove they are right. But Mr. President, as one economist observed, "If you torture numbers long enough, they will confess to anything." This is true with the CBO estimates. As you know, the CBO is a scorekeeping office and it scores based on whatever assumptions Congress requires it to use. We could continue to argue indefinitely over the right assumptions. That does not solve the problem.

Since both Congress and President Clinton have agreed that saving Social Security should be our top priority and have committed to not spending the Social Security surplus for government programs, we must find a better way to keep our promise to the American people.

Republicans have made a number of attempts to create a lockbox to lock in every penny of the Social Security surplus, not for government spending, not for tax relief, but exclusively for Americans' retirement. Unfortunately, opposition by the Democrats has blocked the establishment of this safe lockbox.

In the absence of the Social Security safety lockbox, I hope that all of our colleagues and the President agree with us that we must draw a line in the sand. And live up to our pledge that not a penny of the Social Security surplus will be spent to fund this year's appropriations. Personally, I will vote against any spending bills that our right plans to spend Social Security money. If our spending plans do pass and we would, unintentionally wind up spending Social Security, my bill allows us to keep our commitment to the American people, by scaling back other spending to save Social Security.

Again, since we must use economic assumptions, the difficulty we are facing is because the numbers are so close we won't know if this year's appropriations have spent the Social Security surplus—or which specific spending bill or bills have spent the money—until next year when we receive the CBO reestimate. Therefore we need an effective enforcement mechanism to ensure that Congress and the President do not touch the Social Security money.

The best mechanism is that proposed by Senator NICKLES' sense-of-the-Senate and my legislation. If this year's appropriations end up spending the Social Security surplus as a result of estimate errors, we will automatically rescind that amount by reducing government spending across-the-board and return it to the Social Security trust fund. This will affect discretionary spending only—not entitlement programs for seniors or the needy.

My biggest fear, is that without this mechanism Congress and the President may spend some of the Social Security surplus by using erroneous estimates. We would be forced to legislate after the fact if there is a re-estimate that shows spending of the Social Security surplus. The atmosphere of panic could cloud the type and speed of the remedy. The remedy should be my bill, and it should be passed before we face a problem, so we cannot play the blame game once we have a re-estimate.

The President's revised budget plan would have dipped into the Social Security surplus by $24 billion. Counting his $12 billion emergency spending request, the President would spend $36 billion of the Social Security surplus for fiscal year 2000. Compared with his original budget, which would have taken $150 billion from the trust funds, this revised plan is a great improvement.

However, the President still wants to spend money he pledged to save. That's not acceptable. We must say no to anyone who wants to spend even a penny of the Social Security surplus because we promised the American people we would save it. There is no excuse in an era of budget surplus to continue raiding the Social Security trust funds. Washington has done enough damage to America's retirement system.

In 1998, American workers paid $489 billion into the Social Security system, but most of the money, $382 billion, was immediately paid out to 44 million beneficiaries the same year. That left a $106 billion surplus. The total accumulated surplus in the trust fund is $763 billion.

Unfortunately, this surplus exists only on paper. The Government has consumed all the $763 billion for non-Social Security related programs. All it has are the Treasury IOUs.

Despite Washington's rhetoric of using every penny of Social Security surplus to save Social Security, last year's omnibus appropriations bill alone spent over $22 billion of the Social Security surplus. Without the enforceable mechanism provided by the Nickles amendment and my legislation, the Social Security surplus is likely to be spent to fund other government programs in fiscal year 2000 and the outyears.

Enough is enough. We must stop this outrageous practice. The time is now to show our resolve in protecting every penny of the Social Security surplus to ensure it will be available for Americans' retirement income security.

Do not mistakenly think that our colleagues across the aisle have changed their big spending ways by their rhetoric opposing spending the Social Security surplus. Do not believe for a second that they want to maintain fiscal discipline. They still want to spend more by taxing more.

Instead of controlling spending, the President and the Democrats have increased government spending and created even more government programs. They believe they know best how to spend taxpayers' money and that they can do more by spending more.

This solution to continue to grow funding for government programs at unprecedented high levels is to raise taxes. In the President's budget, he has not just proposed to penalize American tobacco companies, but to raise taxes on also small businesses, homeowners as well as millions of other Americans who are already overtaxed.

Again, the President's solution to avoiding spending the Social Security surplus will be to increase taxes. He will penalize American small businesses by changing their tax rules; he penalizes millions of American seniors who rely on life insurance products for their retirement; he penalizes non-profit trade organizations, which serve the disadvantaged in their communities so well, by taking away their tax exempt status; he penalizes other American companies by imposing environmental surtaxes and excise taxes. The President also penalizes millions of American homeowners by increasing their mortgage transaction fees; he penalizes millions of American travelers by raising taxes on their domestic air passenger tickets.

Is there anyone left who hasn't been penalized by the President and his colleagues in the Congress?

A tax increase is not the solution to this year's serious spending problem. Exercising fiscal discipline is our best solution. Although we don't know if we already have spent the Social Security surplus for fiscal year 2000 due to uncertain and incomplete estimates, we should take a very prudent approach on spending. On principle, we must do everything we can to ensure Washington will not have a chance to touch any Social Security money.

I am disappointed that instead of solving the problem, Washington is trying again to hide behind creative financing, forward funding, emergency spending and so-called technical adjustments to give the appearance we are not breaking the spending caps or eating into the Social Security surplus. I am also disappointed that Congress spends every penny of the $14 billion on-budget surplus for increased spending. Remember, this $14 billion is the tax overpayment which we promised to return to working Americans in the form of tax relief. I proposed this in the budget resolution and Congress included this in our budget resolution early this year.

I have warned repeatedly that if we don't return tax overcharges to the taxpayers or reduce the debt, Washington will spend it all, leaving nothing for tax relief or the vitally important task of preserving Social Security. This year's appropriations bills have proven my fear to be well founded. The last thing we want to do is to spend these tax overpayments to enlarge the government. Since President Clinton's veto prevents major tax relief this year, we at least should dedicate this on-budget surplus to reduce the national debt. But we are spending every penny of it, in violation of our commitment in the budget resolution.

Twenty-five years ago, the Congress passed the Congressional Budget Act, which created an annual budgeting process in the hope of controlling spiraling government spending. Twenty five years later we have made progress but are still unable to tame this beast.

Today, spending is at an all-time high, and so are taxes. The government is getting bigger, not smaller. Government spending is growing twice as fast as personal income. Discretionary spending has increased by over 20 percent since 1993.

The budget process has become so complicated that most lawmakers have a hard time understanding it. Of course, that hasn't stopped the proliferation of budget gimmicks to circumvent the intent of the Congress. The flawed budget process allows Members to vote to control spending in the budget and then turn right around and vote for increased appropriations.

Spending caps are the best example of the phrase "fiscal discipline" means nothing in Washington. Spending caps were supposedly a good tool to control spending—if the President and lawmakers could stick to them. But since the establishment of statutory spending limits, Washington has repeatedly broken them because of a lack of fiscal discipline. In fact, the first budget criteria in the past has been to first break the caps so spending could be accommodated.

Washington set new spending caps in 1990 after it failed to meet its deficit reduction targets. In 1993, President Clinton broke the spending caps for his new spending increases and created new caps. But in 1997, the President could not live within his own spending caps, and he broke them again. New spending caps were again re-negotiated and established in BBA.

By 1998, one year later Congress and President Clinton could not live within their new limits and proposed over $22 billion of so-called "emergency spending" and other unauthorized spending in the omnibus spending legislation to get around the caps. The use of "emergency" spending is far too broad, and has become a common budget gimmick.

This year Washington may spend $37 billion or more above the spending caps and use more creative bookkeeping to give the impression we are maintaining the caps. It demands more spending to fully fund government programs, but delays payment of the bills until the next fiscal year, placing more and more pressure on future caps and spending commitments.

Again and again, Washington lowers the fiscal bar and them jumps over it, or finds ways around it, at the expense of the American taxpayers. This is wrong. If we commit to living within the statutory spending caps, we must stick to them. We must use every tool available to enforce these spending limits. If we were still facing a budget deficit we would not be spending this much money. But because there is a surplus, the feeding frenzy continues. Again, a lack of fiscal discipline.

I understand the upward spending pressure the Congress is facing this year and in the outyears. But I believe we should, and can, meet this challenge by prioritizing and streamlining government programs while maintaining fiscal discipline. We can reduce wasteful, unnecessary, duplicate, low-priority government programs to fund the necessary and responsible functions of government. We could if we tried, but it seems it's easier just to throw more money at the budget. Many believe we can help more if we spend more, but the spending comes at the expense of somebody—and that somebody is usually the average, middle-class taxpayer.

It's true that our short-term fiscal situation has improved greatly due to the continued growth of our economy. However, our long-term financial imbalance still poses a major threat to the health of our future economic security. The President said tax relief was irresponsible. Wrong. It's spending appetite that is irresponsible.

Breaking the caps through more and more spending will only worsen our short-term fiscal outlook and affect our ability to deal with long-term budget pressures.

We can run but we cannot hide from our budget problems. We must make hard choices and be honest about it. While "advance appropriations," "advance funding" and "forward funding" are not uncommon practices here, it does not mean they are the right thing to do, particularly when these budget techniques are used to dodge much-needed fiscal discipline.

In the past 5 years, "advance appropriations" have increased dramatically, jumping from $1.9 billion in fiscal year 1996 to $11.6 billion in fiscal year 2000, an increase of $9.7 billlion over 5 years. This year, President Clinton proposed advancing nearly $19 billion into fiscal year 2001. Advance appropriations create even worse problems for us in the outyears. We must end this irresponsible practice.

I realize how extremely difficult it is for appropriators to get their job done this year. I appreciate the fact that tremendous efforts are being made to keep our promise not to spend any of Social Security surplus. My point is, in an era of budget surplus, extra prudence and effort is needed to keep ourselves from spending more than we can afford. If we can maintain fiscal discipline, we will be able to honor our commitment to the American people not to take any money from Social Security.

Protecting the Social Security surplus from funding government operations is the last defense of fiscal discipline. I cannot emphasize how vitally important this line of defense is for both the Republican Party as well as the Democratic Party. If we lose this defense, our credibility and accountability with the Americn people will be gone.

Mr. President, the best protection is the Nickles sense-of-the-Senate amendment coupled with my legislation. If more accurate or actual numbers show Congress and the President have spent the Social Security surplus for fiscal year 2000 and beyond, an effective mechanism will ensure the money is returned. It is plain and simple. I hope my colleagues from both sides will support the Nickles amendment and my legislation.

Mr. REID. Will the Senator yield for a question?

Mr. GRAMS. I will yield.

Mr. REID. Is the Senator aware that the cut would probably have to be around a 9 percent across-the-board cut?

Mr. GRAMS. Why would it be 9 percent? Some of the latest numbers I have seen are anywhere from $3.8 to $5.6 billion, and all of the appropriation bills are not yet completed. They have not been submitted or voted on, so we are still estimating. If the Senator is talking about $30 billion or $40 billion, we are not in that range right now. Those accusations have been made, but according to the numbers I have seen, we are not in that range.

Mr. REID. I say to my friend, the Office of Management and Budget, in a meeting last night, indicated at least 9 percent. The House has a number of things in bills they have passed; they have declared those as emergencies. There are other matters that are double funded. For example, in order to pass this bill, there has been money taken from the Defense appropriations bill. There comes a time when we have to fund everything in realistic terms. As I have indicated, the Office of Management and Budget believes across-the-board cuts now would have to be about 9 percent.

Mr. GRAMS. Without agreeing to the Senator's numbers, let me say that if that were the case, wouldn't it show that we are spending more than we should and that that kind of a cut would be something that we should do? If we are going to go back and say to the taxpayer: We can't manage the books and somehow we have spent 9 or 10 percent more in discretionary spending than we have, and the only way we can make it up is to go out and penalize, as my colleagues have said, big tobacco, but also penalize in dozens of other ways with other tax increases—in other words, if we can't do our job responsibly—then we should go to the taxpayer and say, let's just have a little more revenue to make up those differences. I don't think it is going to be in the range of 9 or 10 percent. If that would be true, I think that would be a glaring argument we are overspending by 10 percent in discretionary spending and we should make every effort to trim that spending.

Mr. HARKIN. Will the Senator yield for a question? If the Senator will yield for a question.

Mr. GRAMS. I will yield just for one.

Mr. HARKIN. We have a letter from CBO that says dividing the projected deficit by the available outlays results in an across-the-board cut of 5.5 percent. That is from the CBO. I ask the Senator, if he hasn't, if he would take a look at that. I think he will see that is some pretty deep cuts he is talking about, 5.5 percent.

Mr. GRAMS. I think we are overspending by that much, too. I will say this once again, as I mentioned earlier in my statement. We are using a lot of different numbers. We are using a lot of assessments, projections. We are taking a lot of risks in a $1.8 trillion budget. If some of these numbers are wrong, then I think we need to go back and adjust them. The question, I guess, comes down to how do we adjust them. My colleagues on the other side would adjust them by raising taxes so they could keep spending more. What we are advocating is we would adjust our spending habits and spend less across the board. I think we need to do that because taxpayers today are paying taxes at an all-time record high. Forty-two percent, on average, of everything people in my State of Minnesota earn goes to pay taxes. I think that we can't continue to ask them to pay even more because we can't hold down their spending.

Thank you, Mr. President. I yield back my time.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. How much time remains on each side?

The PRESIDING OFFICER. Four minutes 25 seconds. The Democratic side has 10 minutes.

Mr. SPECTER. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, I yield myself 10 minutes. The CBO has projected that we are heading toward using at least $19 billion of the Social Security surplus next year. Again, I agree with Senator NICKLES that we should not be dipping into Social Security to pay for this year's appropriations bills. But, quite frankly, I believe the other side already has dipped into Social Security by the fact of what they have been doing with their spending bills.

While I do agree with Senator NICKLES on not dipping into Social Security, I don't agree with his solution. Again, he calls for an across-the-board cut against all discretionary programs, even those that we have already passed. They were passed by both sides, went to conference, came back, and they have been signed into law by the President. Now they want to take that back.

OMB has estimated a 9-percent across-the-board cut. We have a letter from CBO which shows that this across-the-board cut that Senator NICKLES is proposing would be about 5.5 percent. Well, let's take a look. The Senator from Minnesota said we are spending too much money. I am going to get into that in a second. Take a look at what we would have to cut with a 5.5-percent cut across the board. Our COPS program, our community policing program that puts cops on the streets, would have to be cut by $26 million; Head Start, $290 million cut; meals for seniors, $29 million cut; NIH, $967 million cut. That is almost a $1 billion cut in NIH. While Senator SPECTER and I and others, in a bipartisan manner, have worked to get the $2 billion increase for NIH and get it on the track to double in 5 years, this would whack about a billion dollars out of NIH.

Mr. REID. Will the Senator yield?

Mr. HARKIN. Yes.

Mr. REID. Will the Senator from Iowa, who has spent so much time on Head Start, explain why it would hurt American children to cut almost $300 million from Head Start?

Mr. HARKIN. First of all, we all agree this has been a bipartisan approach to put more money into Head Start to cover all 4-year-olds in the Head Start Program. We know an ounce of prevention is worth a pound of cure. Every study done, all the educators, everybody says if we can put the money into Head Start, we are going to save a lot of money downstream.

Mr. REID. It is true, is it not, that it has been proven and apparent that we save money in welfare costs and costs to our criminal justice system by helping these kids?

Mr. HARKIN. That is true.

Mr. REID. Isn't it also true that, even funded at current levels, most kids who need help don't get it?

Mr. HARKIN. Yes. I think right now on Head Start, we are a little over 50 percent. About 50 percent of the eligible kids are served by Head Start. We are trying to get it up to 80 percent.

Mr. REID. If we cut almost $300 million, we are going to drop down to 30 or 35 percent.

Mr. HARKIN. That is correct—probably less than 40 percent. Four out of 10 kids who qualify, who need the Head Start Program, will be cut out of the program because of this cut.

Mr. REID. You heard the Senator from Minnesota say we have to start cutting, that we are spending too much money. Does the Senator from Iowa think we are spending too much money for the Head Start Program?

Mr. HARKIN. The Senator has put his finger on it. We are spending too little on that program. We need to fund it so every eligible child can get into that program.

Mr. REID. The Senator from Minnesota said what Democrats want to do is raise taxes. Hasn't the Senator from Iowa been trying for more than 3 years—would the Senator tell this Senator, because I want some understanding, as to what you are talking about for tobacco, for example, to cover some of these things?

Mr. HARKIN. I am going to get to where we can get the money so we can have the offsets, so we don't have—

Mr. REID. It is not out of taxes, is it?

Mr. HARKIN. Not one penny in taxes. I want to say to my friend from Nevada that the Senator from Minnesota said we are spending too much money. I am thinking that I might offer an amendment to cut NIH by $1 billion. Let's see how many votes we get on the other side. What if I offered an amendment to cut Head Start by $290 million? Do you think the Republicans would all vote to cut that? How about title I, education grants, $380 million in cuts to title I for our schools? How about veterans' health care, cut by $1.1 billion? Does anybody believe that if we offered amendments to cut those, we would get the votes to do that? Maybe the Senator from Minnesota would be the sole person who would vote to cut NIH by a billion dollars; I don't know. Perhaps we ought to have an amendment to see if that is what they want to do.

Mr. REID. Isn't it true that if we had amendments to increase spending for veterans' benefits by a billion dollars, they would pass overwhelmingly?

Mr. HARKIN. That is probably true. The Senator is absolutely right. When the Senator says we are spending too much and we have to cut spending, why doesn't he offer some amendments to cut NIH, title I, meals for seniors, and Head Start? No, they are going to try to hide behind this sort of across-the-board cut. An across-the-board cut means deep cuts in these programs.

The Senator from Nevada said we have a proposal where we can pay for these programs and it would not require any tax at all. This is what we could do. I have a proposal that has been scored by CBO. If we just penalize the tobacco companies that fail to reduce teen smoking—they set the targets to reduce teen smoking, but they are not meeting them. We are saying that they pay a penalty for not reducing that and it raises $6 billion. CBO has given us the score on that. We could fund the Department of Defense at the requested level. What DOD said is, fund them at that level. That saves us $4 billion. We could enact the administration's proposal for student loan guarantee agencies. That is $1.5 billion in savings.

I might add that the House, last week, went the opposite direction. They raised the student loan origination fees. I could not believe they did that. Talk about raising taxes: last week, the House raised the taxes on college students by making them pay more for their loans. They increased it by 25 percent. It affects about one-third of students. More than half of the students in my State of Iowa are affected by that. So they got a 25-percent increase in their origination fees.

Well, that is the opposite way to go. If we enacted the administration's proposal, we would save $1.5 billion. Reduce Medicare waste, fraud, and abuse by $13 billion. Well, again, the House bill—the counterpart to this—actually cuts funding for Medicare waste, fraud, and abuse. It retreats at a time when we have $13 billion estimated annually that we lose to Medicare for waste, fraud, and abuse.

What the House GOP did is to cut $70 million from the audits and other checks that save us $17 for every dollar spent. We know from the audit agencies and others that for every dollar we have spent on audits, every dollar we have spent on the checks, we got $17 returned from waste, fraud, and abuse. Yet the House bill cut money from fighting waste, fraud, and abuse. That is inexcusable. If we want to go after it, we could save $13 billion.

The last is reducing corporate welfare. We have a series of things—$2 billion tax deductibility of tobacco advertising; underpayments by oil and gas industry royalties for use of Federal lands; billions lost because of tax loopholes and gimmicks that allow foreign companies and multinationals to avoid paying their fair share by bookkeeping methods that shift funds to foreign tax havens. By doing that, we can save about $4 billion. So our total offsets are about $28.5 billion, and we haven't raised taxes on any American. Nobody would have to pay more taxes.

Yet this is the choice: Either have these kinds of offsets that will help pay for increased funding at NIH, veterans' health care, Head Start programs, meals for seniors; or what the Senator from Oklahoma wants to do, and that is to have a huge cut in all of these programs. That is really where we are.

As I said, I agree with the Senator from Oklahoma; we shouldn't be dipping into Social Security. But we shouldn't be cutting Head Start programs. We shouldn't be cutting Meals on Wheels, meals to seniors. We shouldn't be cutting NIH and biomedical research. We should focus on the waste, fraud, and abuse, focus on the tax loopholes, focus on the DOD funding at their requested level, and that will more than pay for the programs we have come up with on a bipartisan basis.

The PRESIDING OFFICER. The Senator from Pennsylvania has 4 minutes 25 seconds.

Mr. SPECTER. Mr. President, the consensus has been clear cut that Social Security trust funds ought not to be invaded. The pending Nickles amendment recites that the Congress and the President should balance the budget excluding the surplus generated by the Social Security trust funds. That is really agreed upon, I think on all sides.

The second finding is that Social Security surpluses should be used only for Social Security reform, or to reduce the debt held by the public, and should not be spent on other programs. That is generally agreed upon.

Then the sense-of-the-Senate clause: It is the sense of the Senate that Congress should ensure that the fiscal year 2000 appropriations measures do not result in an onbudget deficit, excluding the surpluses generated by the Social Security trust funds, by adopting an across-the-board reduction in all discretionary appropriations sufficient to eliminate such deficit, if necessary.

The sense of the Senate is not binding, as we all know; it is what we think ought to be done.

I do not like the idea of reducing the discretionary spending, although I think the figures cited by the Senator from Iowa are extreme. I don't think we are looking at a 5-percent across-the-board cut, which would have a deep impact on Head Start, which we ought not to do, or a deep impact on NIH, which we ought not to do.

In proposing this amendment, Senator NICKLES seeks to put the Senate on notice—and appropriately so—that we had better come within the confines, and not exceed the caps, and not go into Social Security. I think that is an appropriate objective.

When the Senator from Iowa articulates proposals for savings in quite a number of other directions, I don't think they are realistic. I don't think the Congress is going to cut defense by $4 billion. When he articulates the view about penalizing tobacco companies that fail to reduce teen smoking by $6 billion, that is a laudable objective, if we can find more tobacco money. It is too bad we don't have some of the money which was worked out on the $203 billion settlement for the Federal Government. But I don't think that is likely either. Reducing waste, fraud, and abuse is the most lofty objective the Congress can articulate. But finding the money to achieve that is so hard.

While I have worked very closely with my distinguished colleague from Iowa, I don't really think those figures are realistic. I don't think we are going to reduce Head Start. I don't think we are going to reduce NIH. But there is a stick. It is a stick to stay within the budget limitations.

Among a great many alternatives which are undesirable, I believe the pending sense-of-the-Senate resolution is the least undesirable. So I am going to support it.

Mr. President, how much time remains?

The PRESIDING OFFICER. Thirty-five seconds.

Mr. SPECTER. Would Senator NICKLES like the last word?

Mr. NICKLES. Mr. President, I ask unanimous consent for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I apologize to my colleagues for going to the Finance Committee. I have just a couple of comments.

I have heard some of the discussion which said if we enact this amendment, we will have a 5-percent reduction. That is not the case. I have heard my colleagues say the Congressional Budget Office says it. Well, frankly, you get into descriptions of who is doing the scoring. If you use the administration scoring, it is not 5 percent; it is 1 percent. We use some administration scoring, OMB scoring. When we had the Gramm-Rudman-Hollings law, we used OMB scoring. They were the ones who implemented it. We use OMB scoring in a lot of the bills we have before us. If that is the case, we are $5 billion off. I don't think we have to be $5 billion off. I think we can, within the last few bills, narrow it down. We can eliminate $5 billion of growth in spending. Across the board won't be necessary, it shouldn't be necessary, if we show just a little discipline.

I know others on the other side said we can raise taxes. That may be their proposal. But it is not going to pass.

Yet I know there is lots of demand for increases in spending. We are trying to say we should have some restraint. The restraint is that we shouldn't be dipping into the Social Security surpluses. If we are going to spend Social Security surpluses, let's have an across-the-board reduction—if necessary. I hope it is not necessary. Let's do that if necessary to restrain the growth of spending, so we can ensure that 100 percent of the Social Security funds are used for debt reduction or for Social Security and not used for more Government spending in a variety of areas, whether it is defense, Labor-HHS, or you name it.

I thank my colleagues for their cooperation.

I yield the floor.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has expired.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent for 1 minute so I may respond.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, the Senator from Oklahoma stresses the difference between OMB and the Congressional Budget Office. It is the typical preference to use the Congressional Budget Office.

I point out a letter dated October 4 sent to a senior member of our staff. It says:

> Dividing the projected deficit by the available outlays results in an across-the-board cut of 5.5 percent.

This is from the Congressional Budget Office. They are the gospel, I think, when it comes to making decisions in the Budget Committee.

I ask unanimous consent that the letter be printed in the RECORD, and I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> [Memorandum of October 4, 1999]
>
> To: Sue Nelson, [Democrat Staff—Budget Committee].
> From: Janet Airis [CBO Staff].
> Subject: Across-the-Board Cut to Discretionary Appropriations.
>
> This is in response to your request of an across-the-board cut to FY 2000 discretionary appropriations. You asked us to calculate an across-the-board cut that would result in an estimated on-budget deficit for FY 2000 of zero, assuming that the current status CBO estimate (excluding "directed scoring"), as of October 4, is enacted into law. Given your assumption, our estimate of the projected on-budget deficit is $19.2 billion. Our estimate of the outlays available to be cut is $351.7 billion. Dividing the projected deficit by the available outlays results in an across-the-board cut of 5.5%.
>
> This calculation is preliminary and done without benefit of language. If you have any questions, please contact me at 226-2850.

Mr. SPECTER. Mr. President, we have attempted to set this first- and second-degree amendment aside, but we cannot get consent to do that. We are now seeking unanimous consent to move to foreign operations. We are waiting for final clearance.

MEASURE PLACED ON THE CALENDAR—S. 1692

Mr. SPECTER. Mr. President, on behalf of the leader, I understand there is a bill at the desk due for its second reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative assistant read as follows:

> A bill (S. 1692) to amend title 18, United States Code, to ban partial birth abortions.

Mr. SPECTER. Mr. President, I object to further reading of the bill at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HUTCHINSON). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 1650 AND H.R. 2606

Mr. SPECTER. Mr. President, we are trying to move this bill on Health,

Health Human Services, and Education. We are seeking short time agreements so we can finish this bill by the close of business tomorrow. Senator HARKIN and I, Senator REID and Senator COVERDELL's staff, are trying to get that done. We have not been able to move ahead at the moment because we cannot get consent to set aside the pending Nickles amendment, second-degree amendment. We are going to proceed now to foreign operations. We have consent on a proposal, which I am about to make.

I ask unanimous consent the pending first- and second-degree amendments be laid aside and the Senate now proceed to the conference report to accompany the foreign operations bill and there be 1 hour for debate equally divided; the conference report should be considered read.

I further ask the votes in relation to the pending amendment and the conference report occur following the use or yielding back of the time, and the votes occur in a stacked sequence with the second vote to be 10 minutes in duration.

Mr. REID. Reserving the right to object, and I shall not object, it is my understanding, then, we would vote first on the foreign operations conference report or the amendment of Senator NICKLES? Which do you want to vote on first?

Mr. SPECTER. Vote first on the conference report, since we will be taking that up.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, therefore Senators may expect votes to occur perhaps as early as 11:45. We have lost about a half hour waiting for this transition, so it is my hope that although we have the unanimous consent agreement for 1 hour, we might accomplish the debate in a half hour and finish at 11:45, where we could then be expected to proceed to a vote. If the managers insist on taking the full hour, then the vote will start at 12:15. But it is hoped, so we can move this bill along, to repeat, that we can have the time yielded back and start the vote as early as 11:45.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2000—CONFERENCE REPORT

The PRESIDING OFFICER. Under the order, the Chair lays before the Senate a report of the committee of conference on the bill (H.R. 2606) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes.

The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2606), have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Under the order, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 27, 1999.)

Mr. REID. Mr. President, with the permission of the Senator from Pennsylvania, I ask a quorum call be initiated and the time run equally against both sides on this conference report.

Mr. SPECTER. Agreed.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent the Senator from Oregon be allowed to speak as in morning business but the time would run against the underlying agreement on the foreign operations bill; he be allowed to speak for—5 minutes?

Mr. WYDEN. I appreciate the Senator's courtesy. If I could have 10, that would be appreciated. I know this is an important bill. I do not want to hold it up.

Mr. REID. Mr. President, we need to get agreement.

The Senator is speaking for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon.

SENIOR PRESCRIPTION INSURANCE COVERAGE EQUITY ACT

Mr. WYDEN. Mr. President, I thank the Senator from Nevada who has been a strong champion of the rights of seniors. He and I serve on the Committee on Aging.

I take this opportunity this morning to talk about an extraordinarily important issue for the older people of this country, and that is the need to make sure senior citizens can get prescription drug coverage as part of the Medicare program.

I am especially proud that Senator OLYMPIA SNOWE and I have introduced what is now the only bipartisan prescription drug bill before the Senate, and I am hopeful in the days ahead we can get this legislation before the Senate and ensure that the millions of vulnerable older people in this country get decent prescription drug coverage under Medicare.

I believe it is time to get this issue out of the beltway, get it out of Washington, DC, and get it to the grassroots of America. That is why Senator SNOWE and I have initiated a grassroots campaign to get prescription drug coverage under Medicare.

As folks can see in the example next to me, we are hoping in the next few weeks that senior citizens and their families from across the country will send in copies of their prescription drug bills to their Senators. We think our proposal, the Senior Prescription Insurance Coverage Equity Act, known as SPICE, is the way to proceed because it is bipartisan, it is market oriented, it gives senior citizens choice in the marketplace, and uses marketplace forces to hold down costs for prescription medicine.

We use as a model the Federal Employees Health Benefits Program, which is what Members of Congress and their families have as the delivery system for health care. If it is good enough for Members of the Senate, Senator SNOWE and I believe it is good enough for the older people of our country.

We are hoping that instead of this just being a discussion within the beltway, with the various interest groups on one side or the other lining up, we hope in the days ahead, as a result of senior citizens sending in copies of their prescription drug bills and their families weighing in with their legislators, we can get our bipartisan bill moving.

More than 50 Members of the Senate have already voted for the funding proposal Senator SNOWE and I advocate. We propose there ought to be a tobacco tax to fund this program. We believe that is only right, because in this country, more than $12 billion goes out of the Medicare program each year to handle tobacco-related illnesses. We believe there is a direct connection between the funding proposal we establish and making sure older people get this benefit. With more than 50 Members of the Senate on record for the budget vote that Senator SNOWE and I offered earlier this year, we ought to be able to build on that vote and actually get this program added to Medicare.

I am especially pleased the approach Senator SNOWE and I have taken is one that can help lower the cost of prescription drug coverage for older people. A key part of this debate is coverage, but equally as important is the need to hold down the costs of these prescriptions. We are seeing around this country that the big buyers of prescription drugs—the health maintenance organizations and the large purchasers—get a discount and senior citizens are hit with a double whammy. Not only does Medicare not cover their prescriptions, but when a senior citizen walks into a pharmacy and picks up their prescription, say, in Arkansas or

Oregon or Maine, they, in effect, are subsidizing the discounts the big buyers are getting as a result of their marketplace power.

Some have proposed a system of price controls, putting Medicare in the position of buying up all the medicine and using that as their idea of holding down costs. Senator SNOWE and I think that will end up generating a lot of cost shifting on to the part of other people who are having difficulty covering their prescription drug bills.

We favor a market-oriented approach along the lines of the Federal employee health plan. We are not talking about a price control regime or a run-from-the-beltway approach to this issue. We are talking about using marketplace forces to hold down the costs of prescription drugs for our older people.

It is especially urgent now. More than 20 percent of the Nation's senior citizens are spending more than $1,000 a year out of pocket for their prescription medicine. We have older people with incomes of $15,000, $16,000 a year spending $1,000 or $1,500 each year on their prescription drugs. Very often those seniors are not able to pick up a prescription their doctor phoned in to their neighborhood pharmacy because the senior citizen cannot afford it, and the prescription languishes for weeks at the pharmacy because they cannot pick it up.

That is what I have heard from seniors in my State of Oregon. We have heard from other seniors whose physicians tell them they should be taking three pills a day and they cannot afford that, and they start by taking two, and then they take one. Eventually they get sicker and they need much more expensive care.

In fact, the pharmaceuticals now and the medicines of the future are going to be preventive drugs. They are going to be drugs that help lower blood pressure and help us deal with cholesterol problems. As a result, in the long term, we are going to save significant dollars by preventing expensive institutionalizations and hospital services as a result of adding immediate prescription drug coverage to the Medicare program. Clearly, this benefit needs to be paid for.

The proposal Senator SNOWE and I have offered will generate more than $70 billion in the next few years to add this benefit to the program. I am very hopeful the Senate will move on a bipartisan basis to tackle this issue.

There are many, certainly, in Washington, DC, who think the prescription drug issue is too complicated and too political to deal with now, that we should wait until after the election. Senator SNOWE and I reject that approach. It is more than a year until the next election. We are hoping senior citizens, just as this poster next to me says, will send in copies of their prescription drug bills to their Senators. Tell the Members of the Senate exactly why this issue is important to them, why the lack of prescription drug coverage is causing them a hardship, and help Senator SNOWE and I ignite a grassroots movement to ensure that prescription drug coverage does become part of the Medicare program.

In effect, it is time for a wake-up call to the Congress. Some of the naysayers and those who say we ought to put this issue off I think are missing the real needs of the Nation's older people. If you have an income of $15,000 or $16,000 and you are spending $1,500 a year for prescription drugs, if you are giving up other essentials, such as electricity, to pay for your prescription drugs, you cannot afford to wait until after the next election.

It may be a luxury for people here in the beltway to wait until after the next election to talk about the need to come up with a practical solution to covering older people with their prescriptions. Senator SNOWE and I think waiting is not a luxury that the millions of vulnerable, older people in this country have. They cannot afford to wait.

We are hoping, as a result of this campaign we have launched in the last week to have folks send in a copy of their prescription drug bills, that this can serve as a wakeup call to this Senate and this Congress that the time to act is now.

We hope the Senate will choose the proposal we have developed. Undoubtedly, there are other very good ideas. I am sure we will hear from seniors, when they send in copies of their bills, about the best way to address this issue legislatively. Ours is a marketplace-oriented approach. It is based on the kind of program that Members of the Senate have.

We hope, in the days ahead, seniors from across the country will send us copies of their prescription drug bills. We want to see this coverage added now. We want to see the Senate address this in a bipartisan way.

With that, I yield the floor.

Mr. President, I suggest the absence of a quorum and ask unanimous consent the time be evenly charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2000—CONFERENCE REPORT—Continued

Mr. McCONNELL. Mr. President, to my amazement, we received a letter indicating the President might want to veto the foreign operations appropriations bill, a stunning development, it seems to me, almost inexplicable.

This bill, while not as much as the President requested, is as large as he signed last year and includes a number of items important not only to many of us but to him as well.

For example, if this bill were to ultimately be vetoed, the President would be vetoing—would be stopping—aid to the Newly Independent States of the former Soviet Union of $735 million; developmental assistance, which was $83 million over his request in this bill that he is threatening to veto; narcotics assistance at $285 million, which is $24 million above last year, the bill that he signed; for AIDS, $180 million to fight AIDS, which is $55 million above the bill that he signed last year; for UNICEF, an important program of the United Nations, there is $110 million in this bill for UNICEF, which is $5 million more than in the bill last year that he signed.

Obviously, we continue the Middle East earmarks to Israel and Egypt. Vetoing this bill would deny $3 billion to Israel. I think it is important to note that The American Israel Public Affairs Committee supports this bill. AIPAC supports this bill. I ask unanimous consent that letter of support be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AIPAC,
Washington, DC, October 6, 1999.

Hon. MITCH MCCONNELL,
United States Senate,
Washington,DC.

DEAR CHAIRMAN MCCONNELL: We are writing to express our support for the Conference Report on HR 2606, the FY 2000 Foreign Operations Appropriations bill, which contains funding for Israel's regular aid package, including provisions for early disbursal, offshore procurement and refugee resettlement. The Middle East peace process is moving forward with both Israel and the Palestinians committed to resolving issues between them within a year. It is important that Congress support Israel as this process moves ahead, and we therefore also hope and urge that Congress find a way to fund assistance to the Wye River signatories before the end of this year.

Sincerely,

LIONEL KAPLAN,
President.
HOWARD KOHR,
Executive Director.
BRAD GORDON,
Legislative Director.

Mr. McCONNELL. Mr. President, other items in this bill of interest: Child health, immunization, and education initiatives. For Kosovo—we fought a war there a few months ago—there is $535 million for Kosovo and for some of the countries surrounding Kosovo that were impacted by the war that was fought there. That is $142 million more than the President requested.

In addition, there is money in this bill for the environment, for biodiversity, for tropical rain forests, unique ecosystems initiatives. All of that will be denied if the President vetoes this bill.

For Lebanon and Cyprus, to help in the reconciliation process there, there is $15 million for Lebanon and $15 million for Cyprus.

Infectious diseases, especially polio and TB campaigns, which have been priorities of Senator LEAHY, all of that would be vetoed by this bill.

Funds for Georgia, for Ukraine, for Armenia, for Poland—all of which is supported vigorously by Americans of Georgian, Ukrainian, Armenian, and Polish descent—all of that would not go forward if this bill were vetoed. The vote on this bill, when it went through the Senate—and it is not all that different now from the way it was when it cleared the Senate—was 97–2. This is virtually the same bill, at $12.6 billion, which protects virtually all of the Senate priorities passed here at 97–2. On the threat reduction initiative, we have spent $5.9 billion in Russia over the years. There are no restrictions on the $735 million we provide for that area of the world preventing funding of this new $250 million initiative to control the nuclear problem there.

On development assistance, the President claims it is dramatically underfunded. In fact, we not only exceeded last year's level—that is the bill President Clinton signed—we exceeded last year's level of spending and we have exceeded his request for this year. The President requested $83 million less than the conference has provided.

The veto threat to the Senator from Kentucky is inexplicable. It doesn't make any sense, unless this important bill for the assistance of Israel and Egypt and Armenia and Georgia and Ukraine and a number of other worthwhile causes that are supported around the world is somehow being made part of a larger strategy by the administration to veto all of these bills.

This bill enjoys strong support from AIPAC, from Armenian Americans, from Georgian Americans, Polish Americans, Latvian, Lithuanian, Estonian, and Ukranian Americans. They are but a few of the Americans who appreciate this bill.

As I indicated, all of these items are threatened by the President's inexplicable decision to threaten to veto this bill.

Finally, let me say, before turning to my friend and colleague from Vermont, Senator LEAHY, I don't know where the President wants to get more money for this bill. Are we going to take it out of the Social Security trust fund to spend on foreign aid? Is that what the President is suggesting we do? Does President Clinton want us to take money out of the Social Security trust fund and spend it on foreign aid? I don't think that is something we ought to be doing. I don't think the American people would like that.

I repeat, this is a bill that was supported overwhelmingly on a bipartisan basis when it cleared the Senate the first time. It is about the same size as the bill the President signed last year.

I don't think there is any rational basis for the vetoing of this bill. I encourage the Senate to speak once again on a broad bipartisan basis with a large vote to support this important bill which means so much to peace and stability around the world.

With that, Mr. President, I understand we are planning on voting around noon. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, how much time is available to this side of the aisle?

The PRESIDING OFFICER. The Senator from Vermont has 14 minutes 50 seconds remaining, and the Senator from Kentucky has 17 minutes 24 seconds remaining.

Mr. LEAHY. Mr. President, I understand the distinguished Senator from Oregon, Mr. WYDEN, had spoken earlier as in morning business; is that correct, and that was taken from my time?

The PRESIDING OFFICER. The UC took the time from this bill.

Mr. LEAHY. I ask unanimous consent that the time taken by Mr. WYDEN be restored to my time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LEAHY. I thank the Chair. We may well not use it. I am trying to protect time for some who may want to come and speak.

It has been a week since the conference committee on foreign operations completed its work. The House tried, during that week, to muscle the votes to pass it, and yesterday they did, by a three-vote margin.

As stated by some of the leadership in the House, the bill is part of a grand Republican strategy to force the President to either except a large cut in funding for foreign policy or veto the bill and then be blamed for cutting Social Security to pay for foreign policy, even though everybody knows that is not going to happen. I think the American people are more savvy than that. They know that foreign policy is the key responsibility of the Federal Government. It has been ever since the days of Thomas Jefferson and Benjamin Franklin.

Today the world is far more complex, more dangerous, more independent than anybody could have assumed. They also know the President is not going to do anything to harm Social Security.

The House finally passed the conference report by three votes. The bill will pass here, with a third of the Senate voting against it. Then the President vetoes it. It is unfortunate we are here.

In that regard, let me say something about the distinguished senior Senator from Kentucky. I should warn him and alert him that I am going to praise him. That may bring about the Republican State committee initiating in Kentucky a recall petition, but that is the price of fame and glory.

The fact is, the distinguished senior Senator from Kentucky took an allocation, as chairman of this subcommittee, which by anybody's standards—his, mine or anybody else's—was too small. With that, he tried to fashion a bill that reflects the best interests of our country and the needs of our country and the great humanitarian nature of Americans.

He has done it extraordinarily well. He has bent over backward—I say this to all Democratic Members of the Senate as well as Republican Members—to accommodate the needs of Senators on both sides of the aisle. His chief of foreign policy, Robin Cleveland, and others have worked very closely with Senators on both sides of the aisle to try to accommodate all they could. Are there things not in here? Of course. You only have so much money.

There are things the Senator from Kentucky would like to increase in here, substantially. Without embarrassing him, I won't go down the list, but he could think of a number of areas. Are there things the Senator from Vermont would want to see increased? Of course, there are, substantial areas.

We have seen, for example, the situation we now have in New York City where, after an outbreak of encephalitis, there is now a feeling that this disease came over transported by a bird. It is now infecting birds and humans in New York. As birds migrate south, it will affect others. Where did the disease come from? A different continent. It demonstrates that every disease is only an airplane trip away.

We have money in here to approach that problem, working with a number of people, Dr. Nils Daulaire and others, to try to help countries identify diseases when they occur in their country, help them eradicate them there, help them contain them—both for the humanitarian effort of helping this country get rid of the disease, but also one that protects all the rest of the world so the disease doesn't spread. Could we use a lot more money? Yes, we could. Ironically, we will end up spending hundreds of times more in this country, if we don't do this, just to help protect our own people within our own borders, than the fraction of that amount we would spend to stop the disease from occurring in the first place. That is one example. AIDS, the greatest calamity to hit the world since

World War II, does not have ample funds.

It has extra money in here. I complimented him and the distinguished Senator from Kentucky for helping get that money in. Both of us believe and both of us have said repeatedly that the money in here falls short of what is needed to protect our interests around the world.

For years, we urged the administration to fight harder for the foreign operations budget. Let me say this as a criticism of the administration of my own party: Too often, the administration has done too little, too late to build the support in Congress.

At the same time, the Congress has failed to allocate to our subcommittee the funds we need. This bill is $800 million below the 1999 level and $1.9 billion below the President's request, which, frankly, was not an unreasonable request. It is substantially less than this Congress was willing to give President Ronald Reagan for foreign aid. At a time when President Reagan was expressing concerns about foreign aid, he was still spending far more than we have in here, in a world much smaller than it is today.

It may surprise Senators to know that the President's fiscal year 2000 budget request for foreign operations, which he didn't get, is about the same as the amount we appropriated a decade ago. It is far less if you count inflation and far, far less if you count the amount we actually came up with.

We have a lot of interests around the globe. The United States, a nation of a quarter of a billion people, has the preeminent economy and military might in the world. But our economy and military might, by itself, does not protect our interests totally and does not enable us to continue our interests into the next century.

It is absurd that at the threshold of the 21st century, we continue to nickel and dime our foreign policy spending. We spend less than 1 percent of the Federal budget on foreign policy. Yet we are a worldwide power. Companies in my little State of Vermont are involved in international trade. We are, on a per capita basis, about third or fourth in the country in exporting outside our borders. With the Internet, any company in Vermont, or Kentucky, or Arkansas, or Illinois, or anywhere else, which does business on the Internet, if they are selling something, they are going to get inquiries from Sri Lanka, from Japan, from Germany, from the Middle East. We are a worldwide, interconnected economy.

We are also a nation that is called upon almost as a 911 source to help put out regional battles, fights, and so on, where democracy has not taken hold, and we will spend tens of billions, even hundreds of billions, of dollars to do that. But we won't spend a tiny fraction of that amount of money in our foreign policy budget to try to help democracy take place in the first place, so we don't have to call out the marines.

Unfortunately, the majority in Congress refuses to face up to that. We continue to underfund these programs and to underfund our diplomacy in the Commerce-Justice-State appropriations bill.

It is an isolationist, shortsighted approach that weakens our security, puts undue burdens on our Armed Forces, and does damage to future generations of Americans. We still have Members of Congress who call this foreign aid, and they even brag about cutting foreign aid. These are the same Members of Congress who say, "I will never leave the shores of this Nation while I serve in Congress," as though this Nation exists just within its shores—a nation where every one our Fortune 500 companies do business around the world, every one of our States' economies is greatly affected by what kind of business we do around the world. Our students travel abroad; our citizens travel abroad. I don't know how many times we have people going to other countries saying, "I am an American, I must have some rights." What do we do to help support those rights?

To say we don't need to be involved in foreign aid, especially when the United States spends far less of its budget than most other nations—actually less in dollars than some— is simplistic, self-serving, and mostly inaccurate. These programs benefit all Americans.

We have a number of programs that are underfunded in this budget that create jobs in the United States. We create the greatest number of jobs in our economy in those jobs that affect our exports. To the extent that our foreign aid and foreign policy programs improve the economies of other countries, they improve our markets. But unlike the request the President has made for funding to support America's export community, the bill cuts those funds.

The President has requested funding to support national security programs, including to safeguard nuclear material in the former Soviet Union. If you want something to make you wake up at 3 o'clock in the morning, think of the inadequate controls over the nuclear material that is now stored in the former Soviet Union. Ask any American, "Would you support something that would help us secure those nuclear materials?" and they will say yes. This bill cuts those funds.

The President has asked for funds to build free markets, to strengthen democratic governments that support our policies, to protect the global environment. I don't think anybody opposes these programs, but we are just not going to pay for them. Rather than funding them at a level commensurate with the requirements and needs of a superpower with the world's largest economy, some want to make political points. I disagree with that. I think that is dangerous.

I voted to report the bill from the committee. I did that mostly out of respect for the efforts of the chairman of the subcommittee. I voted for it on the floor, as most Senators did, to send it to conference. But I said at that time my vote was contingent upon additional funding being added in conference. It did not happen.

I don't support everything the President has asked for at all. I want to make that clear. Some things I would vote against. But there is much in this conference report I do support. I don't support a cut in funding. I think the long-term security costs to our economy and our security will be far greater. It is simply irresponsible.

Year after year, I have voted for foreign operations bills I thought were too low. I thought last year's bill was too low, and I said so at the time. I voted for it because I thought it was the best we could do and it would not do irreparable harm to our national security. But this bill is $800 million less than last year's.

We have written a balanced bill. I have talked about the provisions I support, such as funding to combat HIV/AIDS in Africa and other development assistance programs. It also includes some provisions I don't support, but we had a fair debate and vote on them. That is fine with me.

Funding for IDA, which makes low-cost loans to the poorest countries, was cut by $175 million. Funding for the U.N. agencies was cut. Funding for the Korea Energy program cut by $20 million. Funding for peacekeeping was cut. Funding for nonproliferation, antiterrorism, and other security programs was cut. The Peace Corps was cut.

The world's population is going to pass 6 billion people next week, yet this conference report provides $50 million less for international family planning than the amount passed by the Senate in July and $100 million less than we spent 10 years ago, when the population was much smaller.

It cuts funding for the Global Environment Facility by $157 million below last year's level and $108 million below the President's request.

I want to see a bill the President can sign. I say this to the administration and the leadership of the House and Senate: You have many Members on both sides of the aisle who want a good bill. But all of you are going to have to help us get the money so we can have a better bill.

Mr. KOHL. Mr. President, I will be voting against the fiscal year 2000 Foreign Operations appropriations bill conference report. Although I supported this bill when it came through the Senate, I was hopeful that during the conference we would find the resources to address the serious deficiencies in this bill. Unfortunately, that was not the case and we have before us a bill that dramatically cuts the Administration's request for foreign operations by 14 percent.

At a time of great uncertainty around the world, when we are being called on to foster new democracies, support peacekeeping operations, prevent the spread of nuclear weapons, and provide critical support for the ongoing Middle East peace process, we have before us a bill which threatens to undermine many of these vital foreign policy interests. If we nickel and dime our foreign policy priorities now, we will pay a higher price down the road when we respond to the ensuing international crises.

I have generally supported our foreign aid budget. It is a less than one percent of our annual budget, a small amount to protect our national interests and provide tremendous benefit to those in need. In the past, however, when our spending contributed to burgeoning deficits, I opposed foreign aid or for that matter any spending bill that surpassed the spending levels of the previous year. However, in this era of budget surpluses the debate has shifted to a question of priorities. And, it is in this context that I must oppose this bill. We cannot afford to give short shrift to basic priorities traditionally funded in this bill. It is my hope that after the President vetoes this bill, we produce a bipartisan foreign operations budget that can be supported by all.

Mrs. FEINSTEIN. Mr. President, I rise to oppose the Foreign Operations Conference Report and to express my disappointment that in passing this report the Committee has not provided funding for the U.S. commitment to the Wye River agreement.

This conference agreement, which provides $12.6 billion in funding, is nearly $2 billion below the President's request and $1 billion less than last year's bill. This low level of funding makes it all but impossible for the U.S. to maintain its leadership role in the international community. Indeed, nearly every major account in the conference report is underfunded, including funding for voluntary international peacekeeping, the Peace Corps, Multilateral Development Banks, the Enhanced Threat Reduction Initiative, African development loan initiatives, the Global Environment Facility, and debt relief for the world's poorest countries.

Most troubling, one specific initiative, the Wye assistance for the Middle East peace process, is nonexistent.

As Israel and the Palestinian Authority move ahead with implementation of the Wye agreement and final status negotiations, it is vital that the United States also do its part in meeting its commitments and obligations.

On Monday I, and twenty-one of my colleagues, sent letters to the President and to the Majority and Minority leaders about the critical importance of meeting our Wye commitments. Let me tell you why I consider this to be such an important issue.

On September 4, 1999 Prime Minister Barak and Palestinian Authority President Arafat signed the Sharm el-Shiekh Memorandum, expediting the fulfillment of Israeli and Palestinian obligations under prior treaties, particularly the Wye agreement, and establishing a time line for the completion of final status negotiations by September 13, 2000. Under this agreement: Israel has now relinquished an additional 7 percent of the West Bank, with 5 percent more slated for turnover to the Palestinian Authority later this year; Israel has released 199 Palestinian prisoners with another 150 scheduled for release later this year; Israel has started to open the Shuhada Road in Hebron; the Palestinian Authority has submitted its list of police; and, Israel and the Palestinian Authority have formally initiated final status negotiations.

Israel and the Palestinian Authority are meeting their obligations, and as Israel, Jordan, and the Palestinian Authority continue to make progress in these negotiations, it is all the more critical for the United States to provide the financial assistance and support that has been promised.

Whereas the first land transfer from Israel to the Palestinian Authority did not involve the movement of Israeli troops or bases, the next two planned transfers will involve the redeployment of troops, bases, and other infrastructure at considerable cost to Israel. In fact, there is some concern in Israel that if the U.S. is unable or unwilling to meet its commitments under Wye, the budget of the government of Israel will be thrown into chaos.

The United States has pledged to provide $1.2 billion to Israel, $400 million to the Palestinians, and $300 million to Jordan to assist them in meeting their obligations under the Wye accord, as well as for economic assistance for Jordan and areas under the Palestinian Authority.

The United States has a deep commitment to Israel and its Arab partners in the peace process to help advance negotiations and to help meet the financial burden placed on the parties in the peace process in meeting their obligations. We have undertaken this commitment both because it is the right thing to do and because it serves well vital U.S. national security interests.

The Wye agreement represents an important step on the road to peace in the Middle East. We must meet our obligations under Wye, and I do not believe that Congress should pass a Foreign Operations Appropriations bill that does not include such funding.

I do not believe that the United States can adequately pursue our national interests and foreign affairs priorities with this Conference Report. It will not allow the U.S. to continue to operate important international programs at current levels, will undoubtedly detract from the stature of the U.S. in the international community, and lets down our partners in the Middle East peace process. I urge my colleagues to join me in opposition to this conference report.

Mrs. MURRAY. Mr. President, as a member of the Foreign Operations Appropriations Subcommittee, I have always supported the subcommittee's bill here on the Senate floor. We always have difficult and controversial choices before our subcommittee. Under the leadership of Senators McCONNELL and LEAHY, we have been able to do a reasonable job crafting a bill with bipartisan support.

Unfortunately, that is not the case this year. I will be voting against the foreign operations appropriations measure. I take this action for a number of reasons.

Most importantly, this bill is woefully underfunded. The bill is $2 billion less than President Clinton's request and some $800 million below last year's congressionally approved funding level. This account has already been cut significantly in recent years. The most recent cuts, in my estimation, will cripple our already meager foreign aid efforts. We spend a great deal of time here in the Congress talking about the U.S. role as the world's lone superpower. The foreign operations bill is a test of our sincerity in providing global leadership beyond the realm of U.S. military might.

This bill does so many things that project an America to the world that we can and should all be proud of. We educate young girls, we provide microcredit loans to small family enterprises, we export democracy throughout the world, we cooperate with human rights activists and monitors, and we create opportunities for American citizens and business interests abroad. Unfortunately, the bill on the floor today cripples our efforts to work internationally, vital work that is in the national interest of the United States.

The foreign operations bill fails to provide any funding to the important Middle East peace process. The President had requested $500 million in assistance to aid the implementation of the Wye River Accords. This small investment in peace and security is even more important given the recent agreement between Israel's new government and the Palestinian Authority. Now is the time to reassert U.S. support for the peace process that, at this moment, shows so much hope and promise.

I also am disappointed that this bill underfunds our export promotion programs. For example, the Export-Import

Bank, which protects and creates American jobs, is funded below the 1999 level and far below the Administration's 2000 request. U.S. workers compete in the global economy. That's a fact. It is equally true that other governments in Asia and Europe do far more to help their exporters succeed. Our ability to compete and win abroad for American workers is impacted by the foreign operations bill. And this bill could do far more for American workers.

Finally, I continue to have reservations regarding the funding levels and the restrictive language placed on our international family planning assistance programs. The restrictive language is particularly harmful as it cripples the provision of valuable family planning programs which aid population control, economic development, environmental protection and some many other areas. Our false family planning debates driven by domestic politics here in the United States only harm thousands of women and families in the developing world.

Mr. President, this bill will not become law. President Clinton has promised a veto for numerous, very legitimate reasons. I encourage the President to follow through with a veto if this bill makes it to his desk. And I am anxious to work with my Senate colleagues on a new version of this bill. This is an important bill. Given the resources, I am confident that Senator McCONNELL and Senator LEAHY can deliver a bill the Senate will again endorse with wide bipartisan margins.

Mr. BIDEN. Mr. President, I have to say that I am disappointed in the foreign operations appropriations conference report. In my estimation then, and in my estimation now, this bill has two huge flaws: First of all, the bill as a whole is under funded. It simply does not dedicate the necessary monies for our nation's foreign operations.

The Administration has indicated that the President will veto this bill, and I approve that decision. The amount in this bill is nearly $2 billion less than the administration's request. That is unacceptable.

The second major problem is that, not only is overall funding inadequate, two essential programs have either faced draconian cuts, or have not been funded at all. It is on those programs that I wish to speak.

Perhaps the biggest failure of this bill is that it does not provide the amount that the President requested to support the Middle East Wye River Agreement.

I find it irresponsible that the conference report does not include a single penny to fulfill our commitment to support the agreement. Early in September, Israel and the Palestinian Authority signed an agreement to carry out Wye and to move to final status negotiations.

Just as the peace process is getting back on track, this conference report sends a signal of American retreat from our historic moral and strategic commitments in the Middle East.

The $800 billion in aid missing from the conference report for fiscal years 1999, and the $500 missing form this year's appropriation were requested to support Israel, Jordan, and the Palestinian Authority in critical areas.

In Israel, funds were requested to assist Israel in carrying out its military re-deployments and to acquire anti-terrorism equipment. In the Palestinian Authority, support was requested for education, health care, and basic infrastructure in order to reduce the influence of radical groups that thrive off of economic misery.

In Jordan, support is needed to bolster the new King as he takes bold and risky moves to support peace and aggressively fight terror.

The parties in the region will need to know that we are a reliable partner as they move to the most contentious issues in the peace process. This conference report calls into question our ability to carry out our commitments.

The second failure of this year's conference report is that it does not fund the Expanded Threat Reduction Initiative, an essential part of U.S. efforts to reduce the chances for the proliferation of weapons of mass destruction from the former Soviet Union.

Almost every one of the Department of State budget increases proposed in the Expanded Threat Reduction Initiative has been zeroed out in the conference report. This occurred despite the inclusion in the Senate bill of two floor amendments calling for the conferees to achieve full funding of these program requests. I regret that this message was ignored by the conferees, and Frankly I fear that their action could endanger our national security.

Some of the programs that are unfunded in this bill were to help Russia's biological weapons experts find new fields of work. If we fail to do that, these very same experts could later threaten our crops, our livestock, and our very lives.

Assistance for the Newly Independent States was decreased by 445 million from a Senate passed level that was already $250 million below the Administration's request. While it is unclear where the additional cut would be made, it could reduce existing non-proliferation assistance programs such as the International Science and Technology Centers in Russia and Ukraine. Through these centers over 24,000 former weapons scientists have found jobs in places other than nuclear and biological weapons labs in Iraq and Iran.

The same could be said for the Civilian Research and Development Fund. This foundation provides training for Russians who are former weapons scientist so that they can embark in non-military careers. Not only the United States, but the entire world has benefited from this.

I accept the fact that Congress has to make some tough choices in all of our appropriations. There are literally a dozen more programs in this bill that I would like to see increased funding for. We cannot designate as much money as we would like in all the areas we would like. However, I believe that the programs I have outlined above are crucial to the effective execution of United States foreign policy.

By ignoring them, we are creating serious problems which may very well be costly to correct. Diplomacy and assistance are cheap compared to the price we pay when they fail. When the Senate passed its appropriation bill in June, I hoped that these flaws I have just discussed would be corrected. They were not. As it stands, I cannot support the conference report.

Mr. SMITH of New Hampshire. Mr. President, the foreign operations conference report includes a major concession to the Clinton administration—it strikes language which attempted to stop U.S. taxpayer dollars from being used to promote abortion abroad, imposing an imperialistic, left-wing, pro-death agenda on the nearly 100 countries who have, for deeply-held religious reasons, upheld the sanctity of human life and who believe that life, including lives of the innocent and unborn, are sacred in God's eyes.

Regrettably, the House-passed language, the Smith-Barcia Foreign Families Protection amendment, while not cutting funding for the international population assistance, would have at least restored the prohibition on using these funds to support foreign organizations that lobby to repeal or undermine the laws of foreign governments against abortion. Since the Senate refused to negotiate with the House on a proposed compromise on the issue, as a result, the conference report on foreign operations has no pro-life safeguards. The Senate conferees did not accept the House's proposal to reinstate last year's ban on funding for the U.N. Population Fund in exchange for dropping the Foreign Families Protection Act Amendment.

The UNFPA has cooperated with the Peoples Republic of China in implementing coercive population control including forced abortion and sterilization. There are examples of poor people around the world being coerced into sterilization and fertility experimentation, sometimes, as was reported in Peru, by the threat of withholding food aid.

More recently, in Kosovo, Concerned Women for America reported that while refugees sought water, clothing and other basic necessities, the UNFPA and Planned Parenthood delivered what they considered "life-saving supplies"—working with the UNHCR, whey dispatched "emergency reproductive health kits" for about 350,000 people for a period of 3 to 6 months.

These kits included oral and indictable contraception kits, sexually transmitted disease kits, intrauterine device (IUDs) kits, complications of abortion kits, vacuum extraction equipment and, condoms (UNFPA press release, 4/8/99).

The U.S. State Department estimates that of the 350,000 refugees, 10 percent are either pregnant, breastfeeding or caring for very young infants. Also, Kosovo has one of the two highest total fertility rates in Europe, making it a prime target for population controllers like UNFPA (Planned Parenthood press release, 4/13/99).

UNFPA and Planned Paenthood are putting these women at risk. CWA found a doctor with 10 years experience with the UNHCR, as well as numerous non-governmental organizations (NGOs), who was willing to testify without attribution about the danger of providing birth control pills and emergency "contraception" to refugee women. This doctor worked extensively within the U.N. and externally to prevent distribution of emergency "contraception" which causes chemical abortion in the early stages of pregnancy and manual vacuum aspirators used to perform abortions.

The doctor confirmed the fact that refugee women who use birth control pills are vulnerable in two specific ways. First, they do not receive information to make an informed decision, nor are they guaranteed a doctor's continuing care.

Vacuum aspirators included in the UNFPA kit are particularly dangerous. These manual devices cannot be sterilized, risking fatal infections, and can puncture the uterus. Rather than lifesaving, these devices can be life-threatening.

The UNFPA and PPFA are exploiting these desperate, vulnerable refugee women. They are attempting to indoctrinate them with the U.N.'s radical notions about sexuality and abortion. Abortions may only intensify their physical and emotional distress. Post-abortion syndrome (PAS) is a type of Post-Traumatic Stress Disorder, once believed only to affect war veterans.

This year, unsuccessfully, an effort was made in the House to transfer funds from "international family planning" programs to child survival programs—this is based on the pleas of many respected people in the children's health field, including health ministers in Africa, who have begged the West for basic medicines like penicillin and rehydration salts. They have said their shelves are overflowing with condoms, while they watch their infants and young children die from basic maladies that would never go untreated in the industrialized world. Their calls have gone unheeded. The Clinton Administration's foreign policy priority is to ensure that women can abort their babies, not to ensure that mothers who give birth can properly care for their children.

The fight is not over—the issue of protecting women and their unborn children and of respecting the pro-life, pro-family laws of foreign nations will resurface this year.

Mr. DODD. Mr. President: I rise in opposition to the adoption of H.R. 2606—the fiscal year 2000 foreign operations conference report.

Let me say at the outset that it is very unusual for me to oppose an appropriations bill of this kind, but I do so today because I believe that if it becomes law it will jeopardize United States interests globally. Why are our interests threatened? They are threatened because this bill does not provide the wherewithal to the Clinton administration so that it can effectively carry out United States foreign policies and programs. Many programs being funded by this bill are at drastically reduced levels. The total dollar value of the appropriations contained in this conference report are approximately $2 billion below levels requested by the President.

The conferees apparently did not think that the Middle Peace Process is of critical interest to the United States because nowhere can a find funding in support of the implementation of the Wye Agreement—clearly a critical component in ensuring that the peace process more forward. I believe that this omission is extremely unwise and is reason enough alone for Members of this body to oppose it.

But that is not the only problem with this bill. Let me discuss some of the other deficiencies as well.

First, Mr. President, we all know how much bipartisan support the Peace Corps engenders in both Houses of Congress. Peace Corps volunteers are our "citizen diplomats" abroad. The lasting good will and friendship that results from American men and women serving as volunteers for two years in countries that need and want their presence is immeasurable. No one that I know of has any complaints about the organization. Yet, this bill would short change its fiscal year 2000 budget by $35 million, making it nearly impossible for the Peace Corps to meet its congressionally mandated goal of placing 10,000 volunteers in the field early in the next decade.

Nor does this conference report contain a penny for use by the Clinton administration as its initial responses to the tragic natural disasters that have just occurred in Turkey and Taiwan. Surely we could have provided some start up monies to assist our friends in their hour of need. Similarly, money was not included in this bill to assist the people of Kosovo begin the painful process of rebuilding after the devastation wrought by Serbian forces earlier this year.

The phrase "penny wise and pound foolish" comes readily to mind as one reviews the provisions of this bill. Let me highlight some of the most important deficiencies as I see them: $175 million reduction in loan programs designed to help the poorest nations address their critical needs; $157 million reduction in global environmental protection programs; $26 million below the Senate passed appropriated amounts for the U.S. Export Import Bank and additional unnecessary Congressional notification requirements that could delay approval of export credit applications; $85 million reduction in debt relief for the poorest countries; $200 million reduction in regional democracy building and economic development programs for Africa, Latin America and Asia; $297 million reduction in democracy and civil society programs in the independent states of the former Soviet Union; and $20 million reduction in funds to support the Korean Peninsula Development Organization and seriously restrictive legislative conditions which jeopardize important ongoing U.S. diplomatic efforts to contain the North Korean nuclear threat to the Korean Peninsula.

This is certainly not an exhaustive listing of all the problems I have with this bill, but merely the highlights, or low lights as the case may be, of the serious inadequacies with the foreign operations conference report. Having said that I believe that the issues I have cited are more than enough reason for members to vote against this legislation and I urge them to do so.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I am sorry my friend and colleague, the Senator from Vermont, is not going to be able to support the bill. But I do want to commend him for his ongoing effort with regard to demining. The Leahy War Victims Fund has had a dramatic impact not only on rehabilitation but also on safety; in addition, Senator LEAHY's interest in and devotion to the subject of infectious diseases. He has single-handedly driven the funding levels up. The surveillance, control, and treatment have improved throughout the world because of his commitment.

I commend him for that.

Mr. President, it is my understanding that both sides are interested in having this vote at noon. I am prepared to yield back my time, if Senator LEAHY is, and we will proceed with the vote.

Mr. LEAHY. Mr. President, my understanding is that no one else on this side wishes to speak.

In that case, I yield our time.

Mr. McCONNELL. Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. All time is yielded.

The yeas and nays have not be ordered.

Mr. LEAHY. I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative assistant called the roll.

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 312 Leg.]

YEAS—51

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Cochran
Collins
Coverdell
Craig
Crapo
DeWine
Domenici
Enzi
Fitzgerald
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—49

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Bryan
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Hagel
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Schumer
Smith (NH)
Smith (OR)
Torricelli
Voinovich
Wellstone
Wyden

The conference report was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—Continued

VOTE ON AMENDMENT NO. 1889

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 1889 to amendment No. 1851. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 54, nays 46, as follows:

[Rollcall Vote No. 313 Leg.]

YEAS—54

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Cochran
Collins
Coverdell
Craig
Crapo
DeWine
Domenici
Enzi
Fitzgerald
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kyl
Lott
Lugar
Mack
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—46

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Bryan
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Schumer
Torricelli
Wellstone
Wyden

The amendment (No. 1889) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote.

Mr. COVERDELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, I ask unanimous consent that the next order of business be 9 minutes for the Senator from North Carolina, Mr. HELMS. I further ask consent that Senator LAUTENBERG be recognized to offer a second-degree amendment and there be up to 1 hour for debate equally divided in the usual form. I further ask consent that upon the use or yielding back of the time, the vote on the Lautenberg amendment be stacked for consideration later today.

The PRESIDING OFFICER (Mr. BUNNING). Is there objection?

Mr. WELLSTONE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. Mr. President, I withdraw the request. Why, I don't understand, but I will withdraw the request because it is faster to do that than to find out what the reason is why we can't stack. I say, by way of explanation, if we stack the votes, we can move more expeditiously to dispose of the Senate's business. But I hear an objection to that.

I ask unanimous consent that after Senator HELMS is recognized for 9 minutes, that we proceed to Senator LAUTENBERG's second-degree amendment for 1 hour, equally divided, and that the Senate vote in relation to the Lautenberg second-degree amendment without intervening action.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SPECTER. Might I add, before proceeding to Senator HELMS' recognition, Senator HARKIN and I are in agreement, as are others managing the bill, to try to get time agreements for 30 minutes equally divided. If we are to move the bill, we need to do that. I think it is not inappropriate to say that we can get as much done in 30 minutes equally divided as we can with an hour equally divided. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I concur with the Senator.

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina is recognized for 9 minutes.

COMPREHENSIVE TEST BAN TREATY

Mr. HELMS. Mr. President, as the Senate proceeds toward its still-scheduled debate on the Comprehensive Test Ban Treaty, I am confident that the record will show most former senior U.S. government officials remain strongly opposed to Senate ratification of the CTBT.

The Senate—and the American people—will hear from many distinguished officials in the coming days, as they speak out against the CTBT. Of course, the Clinton Administration will try to counter that other well-known people support the CTBT, but those who support ratification of this proposed total nuclear test ban are a distinct minority.

In looking over the record, however, I found that many of the very people the Clinton Administration claims now support such a permanent and total nuclear test ban treaty in fact explicitly rejected it when they served in the U.S. Senate and in uniform.

They argued at that time (a) that such a test ban was unverifiable, and (b) that the U.S. needs to preserve the ability to conduct nuclear tests if the American people are to be assured of the safety and reliability of our nuclear weapons.

Make no mistake: These are all great Americans, whom I admire and respect, who served their country with distinction. In calling attention to their statements of the past for the record today, I certainly imply no disrespect.

To the contrary, I hope the record will reflect their judgements at that time because I believe that those judgements on a zero-yield test ban were right back then—and those judgements are still right today.

For example, as a U.S. Senator, our distinguished former colleague, Bill Cohen of Maine, was a leading light on defense issues in the U.S. Senate. Indeed, he vigorously objected to the termination of nuclear testing when he served here as a U.S. Senator. He objected, he said, because the termination of nuclear testing would undermine efforts to make U.S. weapons safer.

Throughout the months of August and September 1992, Senator Cohen vigorously fought efforts by Senators Mitchell, Exon, and Hatfield to kill the United States nuclear test program.

Here is a sample of Senator Cohen's 1992 views as expressed on the Senate floor on September 18 of that year seven years ago:

> We have made, in fact, remarkable progress in negotiating substantial reductions in nuclear arsenals. While we have made substantial reductions, we are not yet on the verge of eliminating nuclear weapons from our inventories. We are going to have to live with nuclear weapons for some time to come, so we have to ask ourselves the question: Exactly what kinds of nuclear weapons do we want to have during that time?

Senator Bill Cohen declared further seven years ago:

> . . . [W]hat remains relevant is the fact that many of these nuclear weapons which we intend to keep in our stockpile for the indefinite future are dangerously unsafe. Equally relevant is the fact that we can make these weapons much safer if limited testing is allowed to be conducted. So, when crafting our policy regarding nuclear testing, this should be our principal objective: To make the weapons we retain safe.
>
> . . . The amendment that was adopted last week . . . does not meet this test . . . [because] it would not permit the Department of Energy to conduct the necessary testing to make our weapons safe.

Similarly, Vice President AL GORE likewise adamantly opposed a "zero-yield" test ban—i.e., one that would ban all nuclear tests—as a United States Senator, on the grounds that such a ban was unverifiable.

Indeed, on May 12, 1988, Senator GORE objected to an amendment (offered to the 1989 defense bill) because it called for a test ban treaty and restricted all nuclear tests above 1 kiloton.

A 1 kiloton limit ban, Senator GORE said at that time, was unverifiable. At Senator GORE's insistence, the proposed amendment was modified to raise the limit for nuclear testing from a 1 kiloton limit to a 5 kiloton limit.

For the RECORD, here's what Senator GORE's position as taken on the Senate floor in 1988:

> Mr. President, I want to express a lingering concern about the threshold contained in the amendment.
>
> Without regard to the military usefulness of lack of usefulness of a 1 kiloton versus the 5 kiloton test, purely with regard to verification, I am concerned that a 1 kiloton test really pushes verification to the limit, even with extensive cooperative measures. . . . I express the desire that this threshold be changed from 1 to 5.

If Senator GORE argued on the Senate floor that a 1 kiloton test ban was unverifiable, surely the zero-yield—ban—i.e. a ban on all nuclear tests would be equally unverifiable.

President Clinton has argued that several former Chairmen of the Joint Chiefs of Staff strongly back his call for a Comprehensive Test Ban Treaty banning any and all nuclear tests.

It's interesting that their statements, when they were still in uniform, however, raise doubts about Administration's claims that they vigorously support the CTBT. Consider, for example, what General Colin Powell, then the Chairman of the Joint Chiefs, said on December 1, 1992:

> With respect to a comprehensive test ban, that has always been a fundamental policy goal of ours, but as long as we have nuclear weapons, we have a responsibility for making sure that our stockpile remains safe. And to keep that stockpile safe, we have to conduct a limited number of nuclear tests to make sure that we know what a nuclear weapon will actually do and how it is aging and to find out a lot of other physical characteristics with respect to nuclear phenomenon. . . . As long as we have nuclear weapons, I think as good stewards of them, we have to conduct testing.

General Powell previously had made much the same declaration during a Senate hearing on September 20, 1991:

> We need nuclear testing to ensure the safety, surety of our nuclear stockpile. As long as one has nuclear weapons, you have to know what it is they will do, and so I would recommend nuclear testing.

What General Powell said was as true back then as it is today.

Similarly, Admiral William Crowe also opposed the Comprehensive Test Ban Treaty while he was Chairman of the Joint Chiefs of Staff. In testimony before the Senate Foreign Relations Committee on May 5, 1986, he stated:

> [A comprehensive test ban] would introduce elements of uncertainty that would be dangerous for all concerned.

He further declared:

> I frankly do not understand why Congress would want to suspend testing on one of the most critical and sophisticated elements of our nuclear deterrent—namely the warhead.

General David Jones likewise stated, during his confirmation hearing before the Senate Armed Services Committee:

> I would have difficulty recommending a zero test ban for an extended period.

Among the General's reasons for opposition were, according to a May 29, 1978 press account, that the CTBT

> is not verifiable, and that U.S. stockpile reliability could not be assured.

Numerous press accounts from 1994 and 1995 indicated that General John Shalikashvili maintained strong reservations regarding a zero yield test ban, and made clear that he favored maintenance of the ability to conduct low-yield testing under any negotiated treaty.

Indeed, these comments by these former Chairmen of the Joint Chiefs—while in uniform—strongly echo the current views of other former Chairmen of the Joint Chiefs, such as Admiral Tom Moorer and General John Vessey, Jr., both of whom today strongly oppose the CTBT.

Again, I must emphasize that all of these men are distinguished Americans whom I greatly respect and admire.

Indeed, my point today is simply to show that the arguments of Senators Cohen and GORE, and Chairmen Powell, Crowe, Jones and Shalikashvili were right then—and they are still right today:

Nuclear testing is vital to maintaining the safety of our nuclear weapons and the reliability of our nuclear deterrent.

A "zero-yield"—i.e., a total and complete—nuclear test ban is unverifiable.

A Comprehensive Test Ban Treaty that bars any and all nuclear testing is dangerous for the American people, and I am confident that the United States Senate will not ratify such a dangerous treaty.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—Continued

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

AMENDMENT NO. 2267 TO AMENDMENT NO. 1851

(Purpose: To reject indiscriminate across-the-board cuts and protect Social Security surpluses by closing special interest tax loopholes and using other appropriate offsets)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 2267 to amendment No. 1851.

At the end of the amendment add the following:

SEC. . PROTECTING SOCIAL SECURITY SURPLUSES.

(a) FINDINGS.—The Senate finds the following:

(1) The Congressional Budget Office has projected that Congress is headed toward using at least $19,000,000,000 of the social security surplus in fiscal year 2000.

(2) Amendment number 1851 calls for across-the-board cuts, which could result in a broad-based reduction of 10 percent, taking into consideration approved appropriations bills and other costs likely to be incurred in the future, such as relief for hurricane victims, Kosovo, and health care providers.

(3) These across-the-board cuts would sharply reduce military readiness and long-term defense modernization programs, cut emergency aid to farmers and hurricane victims, reduce the number of children served by Head Start, cut back aid to schools to help reduce the class size, severely limit the number of veterans served in VA hospitals, reduce the number of FBI and Border Patrol agents, restrict funding for important transportation investments, and limit funding for environmental cleanup sites.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that instead of raiding social security surpluses or indiscriminately cutting defense, emergency relief, education, veterans' health care, law enforcement, transportation, environmental cleanup, and other discretionary appropriations across the board, Congress should fund fiscal year 2000 appropriations, without using budget scorekeeping gimmicks, by closing special-interest tax loopholes and using other appropriate offsets.

Mr. LAUTENBERG. Mr. President, obviously, I went in a slightly different direction as we introduced our second-degree amendment because I wanted the clerk to particularly read some of the implications of what it is we are facing if we adopt the Nickles amendment.

My amendment is a substitute for the Nickles amendment. It is very simple. It expresses the sense of the Senate that the Congress must not permit raiding Social Security surpluses nor indiscriminately cut defense, emergency relief, education, veterans' health care, law enforcement, transportation, environmental cleanup, and other discretionary appropriations across the board. Instead, we should fund fiscal year 2000 appropriations—I point out that the year began October 1—without using budgetary gimmicks by closing special interest tax loopholes and using other appropriate offsets.

In my view, this is a much more rational and appropriate way to approach the budget. Deep across-the-board cuts are a bad way to do business. They will prove extremely unpopular. Americans didn't send us to Washington to simply use a meat ax approach to governing. They want us to do it thoughtfully. They want us to go after waste and inefficiencies, to use our judgment and support essential programs such as education. The Nickles amendment, by contrast, puts the budget process on automatic pilot. It would cut indiscriminately.

I read from the text of the Nickles amendment where they say in the sense-of-the-Senate amendment that "Congress should ensure that the fiscal year 2000 appropriations measures do not result in an on-budget deficit"—that on-budget is excluding Social Security trust funds. They put parentheses around it—"by adopting"—this is the solution they offer—"an across-the-board reduction in all discretionary appropriations sufficient to eliminate such deficit if necessary."

The language is quite clear. But to further clarify, it says cut these programs—the ones I talked about—cut veterans' health benefits, cut educational benefits, cut law enforcement, cut FBI, cut border guards even though our border is saturated by illegal immigration. And we ought to make an orderly process about that.

The Nickles amendment makes no distinction between critical priorities such as education, defense, and lower priorities such as corporate subsidies or pork barrel spending.

There is no need for a meat ax approach. The Republicans' own tax bill proposed to close various tax loopholes. Now that the bill has been vetoed, why not use some of the same loopholes to help protect Social Security, to prevent potentially painful cuts in education and other priorities?

Why not search for waste from other Government programs? How many of us have talked about that waste as we campaigned for office? Shouldn't we go after that before we take money away from our schools or our Armed Forces?

My amendment does not specify the offsets we should adopt, and it in no way endorses raising income taxes on ordinary families, but it does say we have to treat the budget candidly.

One of the things we should all be alerted to—the public in particular, but certainly we who are going to vote on this—it says: "GOP Using Two Sets of Books," in a commentary by the Wall Street Journal of July 27:

> Republicans are double-counting a big part of next year's surplus, papering over the fact that their proposed tax cuts and spending bills already have exhausted available funds.

If it were up to me, as I said earlier, I would ask the tobacco industry to compensate the taxpayers for the damage they have caused and help pay for the tobacco-related diseases that cost us some $20 billion a year. If we could get that $20 billion a year, we wouldn't have to be faced with the prospect of cutting Social Security surpluses by some $19 billion.

Once again, my amendment doesn't endorse that particular approach, or any specific provision. It just says: Let's be honest with the American people, and let's find real offsets.

I will tell you what I learned from the Congressional Budget Office in a letter to one of my staff people:

> Our estimates of the outlays available to be cut is $351.7 billion. Dividing the projected deficit by the available outlays results in an across-the-board cut of 5.5 percent.

Across-the-board cuts—that is all of those programs that we have discussed several times.

We shouldn't use gimmicks. We shouldn't use that kind of treatment, and not indiscriminate, across-the-board cuts which drastically slash funding for teachers, military personnel, veterans, and other priorities. In fact, we have an endorsement of that view, I think it is fair to say, when Appropriations Committee chairman BILL YOUNG of Florida says to cut 2.7 percent of all discretionary spending would result in cuts of about $7 billion from defense which would wipe out the pay increase that lawmakers recently provided for the military.

We all know the military is having a problem recruiting new members and getting new recruits to join the various branches. Would we want to discourage that effort even though we are having a problem filling those important positions that we must have to protect ourselves? I think not.

Mr. President, pretty simply, I hope my colleagues will support the amendment.

I yield the floor. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, several comments: First, I commend the Senator from New Jersey for at least a more, in my judgment, candid discussion of this debate than we heard last week because the resolution that he offers says the Congressional Budget Office has projected that Congress is headed toward—headed toward doesn't mean they are there—whereas last week in the debate you would have thought it was a fait accompli.

The point is, we don't know if any funds or spending levels would have been at such a level that they would have affected Social Security. No one knows that now. Everybody is trying to avert that. Here comes Senator NICKLES' amendment which says if we don't avert that, it would relate to across-the-board cuts. I think all of us understand that the number, if any of it applies to Social Security, would never be of the magnitude discussed in the amendment by the Senator from New Jersey.

The point I wish to make is that it is a nebulous amendment because it says it is headed for—in other words, we don't know. But then they draw the conclusion that it might result in reductions of 10 percent across the board. We heard 1 percent. If it were around $5 billion, it would be 1 percent. If it were $19 billion, it would be probably around 5 percent. To get to 10 percent, we would probably have to be at about $40 billion.

The point is, this is a very imprecise amendment about something. It is like an attempt to be a crystal ball. What are the appropriators, what is the Senate, and what is the Congress going to ultimately do with the pressure?

The amendment also has a technical flaw because it suggests in the language that it would cut emergency aid to farmers and hurricane victims when across-the-board cuts do not apply to emergency funding—something the authors may want to review.

Senator NICKLES said if spending is such that it utilizes some Social Security receipts, they will require an across-the-board cut. I think the American people can understand that.

This resolution says we could cut spending, which of course is what Senator NICKLES suggests ought to happen as well; but if that doesn't work, we will just raise taxes. The Senator from New Jersey points out these are taxes that would not affect ordinary families. All taxes affect ordinary families. There is no such thing as a corporate tax. It really doesn't exist. Corporate taxes are expenses to the corporation. The ladder consumers buy, the loaf of bread consumers buy, the gasoline consumers buy, on anything consumers buy, consumers pay all corporate taxes.

He talks about the possibility of taxing tobacco companies yet again after the settlement. Who pays any charge to the cost of the tobacco? The people who buy it, the ordinary people who use the product.

The major distinction has at least been reduced between the two bills. They both say "if," "could," "maybe," but the principal distinction is that the Senator from Oklahoma says if any of those funds come from Social Security receipts, they have to be replaced by an across-the-board reduction, which is an incentive to reduce spending so that doesn't happen; and the Senator from New Jersey says there is a major incentive to reduce expenditures to keep it from happening, but if it does, we will raise taxes; we will take more out of everybody's pocket. That is the principal distinction.

I am pleased the debate has eliminated both suggestions that anyone really understands what that amount, if any, might be. I am pleased the amendment of the Senator from New Jersey acknowledges that.

It boils down to two different approaches about what to do if it were to happen. The Senator from Oklahoma says we would have across-the-board spending reduction; the Senator from New Jersey says we would raise taxes. He does admonish it would not be a tax that would affect an ordinary person. I point out that all corporate taxes are paid for by all consumers.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. VOINOVICH). Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I want to continue to use some of the time we have reserved. How much time remains?

The PRESIDING OFFICER. The Senator has 21 and a half minutes.

Mr. LAUTENBERG. Mr. President, I listened to our colleague from Georgia with interest. He said we were not too specific about things. But we are specific about one thing, and that is we do not want to touch Social Security.

A long time ago, someone said: Touch not a hair on that old gray head. I have the color hair that evokes thoughts of Social Security, and I am eligible to be a recipient. I know how important it is, as does everybody here. I do not want to diminish everybody else's view. They all know how important it is.

Let's start with what is in the Nickles amendment. It says that Congress should eliminate any on-budget deficit by adopting an across-the-board reduction in all discretionary appropriations, if necessary. All discretionary appropriations —that could mean anything: Farmers' aid, Veterans Administration, FBI, drug enforcement, Coast Guard, you name it. All these programs would have to suffer deep cuts under this amendment because, according to CBO, the Senate has already approved legislation that would use $19 billion of Social Security funds. And we're likely to use even more Social Security funds when we conference with the House, which is proposing higher spending levels, and when we provide relief to hurricane victims and others suffering from genuine emergencies. Mr. President, before I go further, I see my colleague from Illinois on the floor. I yield 5 minutes to him, and then we will be able to come back to our point.

Mr. DURBIN. Mr. President, those who are trying to follow what is happening on Capitol Hill at this moment in time should be aware of some of the basics. Our calendar year for budget purposes ended on October 1. We started a new year. So, "happy new year" to all who are following this debate. Unfortunately, we do not have our spending bills passed.

In fairness, neither Democrats nor Republicans have a very good record of passing these bills on time. But I think most people would concede, we are at a moment in time in the history of this institution where we have never faced such chaos as we do today. There does not seem to be any exit strategy. People are getting too comfortable here. Instead of thinking about ending this session in a responsible way and going home, we are still jousting back and forth politically, and that is sad.

What is even sadder is the situation in which we find ourselves today. After all the time we spent on the budget and after all the suggestions about how to resolve it, we do not have anything near a dialog between the President and the leaders on Capitol Hill. Some say they do not want the President to come up to Capitol Hill because that may not be a good environment for the debate. Some say the Republican leaders are afraid to go to the White House because they have had their pockets picked there in the past. I suggested we set up folding chairs on The Mall and let them meet there, let the whole world watch, and let's see if we can bring it to a conclusion.

I think the American people ought to pay attention to this debate because now what we hear from the Republican side of the aisle is that in order to exit this place, they want to have an across-the-board cut in all the appropriations bills. That may sound eminently fair: Everybody suffers. But keep in mind, some suffer more than others. When you start cutting back in programs such as Head Start and you have the kinds of cuts we need to balance the budget, 43,000 children are taken out of this program where we try to get them ready for school. How many people do you want the cut at the Federal Bureau of Investigation? How many people do you want to cut from the border guards to stop drugs from coming into the United States?

These are legitimate questions, and spending committees make these decisions as they build their budget bills. Now, in a effort to get out of town, we hear from the Republican side of the aisle, "Let's just have an across-the-board cut," and I think that is sad. We have had entirely too much gimmickry in this budget debate already. At one point in time, one of the Republican Senators suggested we should amend, not a bill but the calendar, not the legislative calendar but the real calendar; let's create a 13th month in a year. We were going to have a contest to see if we could come up with a name for it in an effort to at least have some bipartisan agreement. But after it did not pass the laugh test, it was dropped as an idea.

Then last week, the Republican leaders in the House said: We'll take the millions of Americans, working Americans, who get some tax relief called the earned-income tax credit, and let's just delay paying those people. That was a suggestion from the House Republican leaders. That did not even pass the George W. Bush compassionate conservative test. He announced to his party and America: Don't do that. You have to find a way out of this short of hurting people who are working for a living and struggling to get by.

It seems as if every week there is a new notion, the latest one being this across-the-board cut. Let's try to get to the bottom line here. You will hear us toss out CBO, OMB, on and on. We love to do that in Washington. The Congressional Budget Office comes up with some estimates on spending and the economy. The Office of Management and Budgeting does the same. Sometimes they agree; sometimes they don't. It is a calculated guess. But they both seem to agree at this point in time that we will be borrowing money from the Social Security trust fund in order to bring this to a conclusion. I don't want to see that happen. But it has happened for years and years and years, and this year we would borrow less than we usually do. I hope we do not have to borrow any, when it is all said and done.

President Clinton came to us and said: Here are some offsets. Here are some things you can do that will, in fact, provide the revenue we need for us to leave on time.

I think some of them were reasonable. Let me give you an idea. One of them suggested a 50-cents-a-pack tobacco tax. I know from serving in this body, my colleagues are not going to warm up to that idea. I support it. Yes, it is true, the Senator from Illinois just said he supports a tax increase on tobacco products, because when the price goes up, the kids stop buying them. When kids stop buying them, they start weaning themselves from an addiction that can ultimately lead to death and disease—50 cents a pack, $6 to $8 billion a year, money that can be spent for education, for health care, for priorities in this country. I think the President is on the right track.

So I sincerely hope, before we resort to cutting such things as education and FBI, border guards, military personnel—personnel staffing reductions—we ought to step back for a minute and see if there is not some common ground left here.

The most amazing thing about this across-the-board cut debate is that the ink is hardly dry on the Republican proposal that was offered, and then thrown off the table, to give America a $792 billion tax cut. You may remember it. It has only been a few weeks ago. We had so much money, we were awash in money, we were going to start giving it back in huge sums. Thank goodness the American people and many leaders in Washington said wait a minute, take another look at it.

The PRESIDING OFFICER. The 5 minutes of the Senator has expired.

Mr. DURBIN. I ask unanimous consent for 3 additional minutes.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. I yield the time to the Senator from Illinois.

Mr. DURBIN. So when the proposal was made by the Republican side for the $792 billion tax cut, many people said: Wasn't it 24 months ago that this Senate floor was consumed in a debate about amending the Constitution of the United States to pass a balanced budget amendment to stop the deficits once and for all, to bring discipline by the Federal court system imposing limitations on spending?

Yes, it was a little over 2 years ago. That is what we were talking about.

Then the proposal came from the Republican side: We have so much money now that we can give away a massive tax cut, primarily to the wealthiest people in this country.

The idea was rejected by Alan Greenspan who has no political ax to grind and wants to see the economy move forward. The idea was rejected by economists, as well as leaders from the President on down, and most important, it was rejected by the American people.

A few weeks later, the same Republican Party that had this massive tax cut tells us we are in desperate straits as to this year's budget, and we have to do across-the-board cuts in law enforcement, education, and health care. That tells us, frankly, the captain on the ship does not know where he is headed. The captains, in these cases, are the leaders in the House and the Senate on the Republican side.

I will tell you where I think they should be heading, and I think the American people expect this to happen. We have to end this in a sensible fashion. We have to make certain when it is done we meet our basic obligations—obligations to kids and school, obligations to those who depend on us for the very basics, obligations to Social Security to make sure it is strong beyond the year 2032, and as for Medicare, beyond the year 2015. These should be viable systems. That is our first obligation.

It is our obligation, as well, to provide for the basics of this country—the national defense, to make sure the men and women in uniform are treated humanely and they have not only good assignments but are adequately compensated for the service they give to our country.

The list is pretty obvious and most American families would agree with them, but we have not gotten the dialog underway between Democrats and Republicans on Capitol Hill. I sincerely hope this idea of an across-the-board cut is rejected. I believe the Appropriations Committee has to make priority judgments on spending. The President's offset package will save us some money.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURBIN. I hope this happens soon. I yield the floor.

Mr. LAUTENBERG. Mr. President, I yield to the Senator from Nebraska—how much time does the Senator need, 5 minutes?

Mr. KERREY. Five or 6 minutes.

Mr. LAUTENBERG. Five or 10. I prefer he not take the "or"; take the 5 or 6 minutes, please. I yield 6 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 6 minutes.

Mr. KERREY. Mr. President, I ask the distinguished Senator from Georgia and the Senator from New Jersey if I can split my time because though I do support the amendment of the distinguished Senator from New Jersey, I have an unusual argument. It may sound as if I am both for it and against it. I appreciate him yielding time to me.

It is terribly important we do save Social Security, but my frustration in the entire Social Security debate is to date, what has happened is the Social Security issue has prevented us from increasing discretionary spending and getting a budget that meets the needs of the American people. It has prevented us from doing a tax cut of any kind, whether it is $300 billion or $500 billion or $700 billion. It has prevented us from doing Medicare reform. It locked us up in a box.

We cannot seem to get anything done because we are not willing to fix Social Security. We want to have the issue, but when we get down to the details of the problem, it is not an easy problem to solve because we basically—not basically—we have a liability on the table that is about 33 percent larger than what current taxes will fund. That is the problem.

For 150 million Americans under the age of 45, that means they are going to face a benefit cut of between 25 and 33 percent. Thus, the announcements recently sent out by Mr. Apfel, the head of the Social Security Administration, are not accurate. He is telling people how much money they are going to get if Congress raises taxes. The last time I checked, there is not a single vote in this body to raise payroll taxes. If that is the case, it is likely to be every beneficiary under the age of 45 is going to be looking at a pretty substantial benefit cut. That is the problem we have to address.

There are a number of legislative proposals that have been introduced, but, again, relevant to this debate, you would think everybody is about to fix Social Security. The lockbox does not fix Social Security. All it does is use the payroll tax to pay down the debt. After having used the payroll tax to keep the deficit low for 16 years, we are now saying to Americans who get paid by the hour: You get the pleasure of reducing all the debt.

For the median family of $37,000 a year, they will pay about $5,500 in payroll taxes versus $1,300 or $1,400 in income taxes. It is not, in my view, a very fair transaction.

If we enact Social Security legislation, it could be a very good transaction because we could do tax reduction for those families. We could help them on the discretionary side helping their children go to college by doing some things as well to make certain their kids get a good education in our K–12 system. There are a lot of good things that could occur if we fix Social Security.

There are only 29 Members of Congress who have signed on to any specific legislation at all. I call that to the attention of those who are watching this debate because, again, one would think, given all the interest in Social Security, they were about to pass Social Security reform legislation.

Earlier today, the chairman of the Finance Committee had a meeting in which he was discussing the need to extend some tax provisions, the R&D tax credit most specifically, but also making some changes in the individual alternative minimum tax, a very unfair and pretty heavy tax on working families that have multiple deductions.

We were talking about that, and I suggested to the chairman that the Finance Committee take up Social Security reform; let's mark up the bill.

There is a majority on the committee who would vote for a specific piece of legislation. It is not likely we are going to.

As I see it, the Republicans are a little bit distrustful of what the President might do. The President has a proposal on the table that takes $25 trillion of income taxes to extend Social Security solvency for 20 years. Republicans, I believe, have correctly identified that as a mistaken way to sort of fix Social Security.

I am willing to join with Republicans in that regard and hope, as we debate these various proposals, that enthusiasm will grow as a consequence of looking at what is happening to 150 million beneficiaries who will not be eligible for another 20, 30, or 40 years. What happens to them if we do not take action? They are the ones who are going to pay a price. The terrible paradox about that is not only are they going to pay a price with delay, but the lockbox basically says to them: You are going to shoulder the burden for debt reduction until we finally come to grips with this particular problem.

Time is not on our side. The problem does not get easier. If you favor tax increases, the tax increases will be larger the longer you wait. If you favor cutting benefits, the benefit cuts get bigger the longer you wait. If you favor, as I do and a number of us in the Senate, making some modest reduction in benefits but coupling that with increased payments for lower-wage individuals and the establishment of savings accounts that would enable individuals, in combination with a defined benefit program, to actually get more than what is currently promised—with either one of those three proposals, the longer you wait, the more the beneficiaries and taxpayers are going to suffer. It does not get easier for them. It gets harder for them. It may be easier for us as we head to elections, but it is not easier for the American people to watch this debate get locked up over this lockbox issue, seeing who favors saving Social Security the most. It does not benefit the American people for us not to enact legislation that will fix Social Security.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. NICKLES. How much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 17 minutes; the Senator from New Jersey has 5.

Mr. SPECTER. Mr. President, I ask my colleague from Oklahoma how much time he wishes.

Mr. NICKLES. If the Senator can give me 5 minutes.

Mr. SPECTER. I yield 5 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 5 minutes.

Mr. NICKLES. Mr. President, shortly, within the next 10 or 15 minutes, we will be voting on the Lautenberg second-degree amendment. I urge my colleagues to vote no on the amendment. I looked through the amendment. Although it is a sense-of-the-Senate amendment, it should be factual. This is not factual. Amendment No. 1851 calls for across-the-board cuts which could result in a broad-based reduction of 10 percent. That is not true. There is no way in the world it can be 10 percent unless Congress goes on a drunken spending spree. Maybe some people want to do that. We are not going to do that.

You can get into all kinds of discussions using CBO or using OMB.

Further, the amendment says we should do it without using budget scorekeeping gimmicks.

The gimmick is, we are using the administration's scorekeeping. That is a gimmick. Maybe it is wrong, but I have heard many people on the other side say OMB is more accurate than CBO. If you used all CBO numbers, it would be, at most, a 5 percent reduction. So 10 percent does not even belong in this debate. Using OMB scorekeeping, you are talking about 1 percent. I actually believe we will not have to.

I have talked to the chairman of the Appropriations Committee, and he says we can make it. We are talking about spending $500 billion. We are only $5 billion off. That is about 1 percent. We ought to be able to do that.

The Labor-HHS bill we are debating right now has some big increases in some programs. Maybe we could scale back those increases just a little. NIH grows from $15 billion to $17 billion, but the President only requested an increase of $300 million. Does it have to grow by $2 billion?

Education. I have heard some of my colleagues say, oh, those Republicans are cutting education. The bill has a $2.3 billion increase over last year and $500 million more than the President requested. There is a $500 million increase in the bill that is before us dealing with labor.

So my point is, I think we can tighten up a little bit and not have across-the-board cuts. I just mentioned Labor-HHS. Maybe we could also do it in defense; maybe we could do it in a couple of other areas.

But the way I read the Lautenberg amendment, getting around the false statements that it could cut up to 10 percent, it says: "closing special-interest tax loopholes"—that is another way of saying let's raise taxes—"and using other appropriate offsets."

If the Senator has the votes to raise taxes, let him try to raise taxes. This Congress passed a tax cut, not a tax increase. The Senator had a chance to offer tax increases. They did not pass. I am just saying maybe he still wants to raise taxes, but that did not happen. The tax cuts were not signed into law. The President vetoed that. So we are not going to get tax cuts.

So I am saying, whatever happens, let's make sure we do not dip into this money of the Social Security surplus. We are saying 100 percent of that should be used to pay down the national debt—100 percent of it. We should not be raiding that money to spend on all these other appropriations bills. That is what I am saying.

I look at the substitute offered by my friend and colleague from New Jersey that says: Hey, let's raise taxes; let's use other appropriate offsets. I do not know what they are. If he has "other appropriate offsets," offer them.

I want to help work with my colleagues to make sure we don't take money out of the Social Security fund. I am willing to do it. We have bills on the floor now where we can do it.

Maybe we should have other offsets for the Labor-HHS bill. Maybe we should have other offsets for other appropriations bills. But if we try to put them all together, let's make sure we do not dip into Social Security money. Let's not do that. We should not do it.

I think this amendment by my colleague from New Jersey says: Well, instead of any cuts in spending, let's raise taxes. I think that would be a mistake. I do not think the votes are there to do it. I do not think it will happen in this Congress.

So I urge my colleagues to vote no on the Lautenberg amendment.

Mr. ROTH. Mr. President, I want to make some brief observations in reference to the debate on the Lautenberg amendment to the Labor/Health and Human Services/Education Appropriations bill for fiscal year 2000. The Senator from New Jersey suggests that there is an aversion to identifying and addressing tax loopholes. I would point out that in the Finance Committee we have worked in a bipartisan manner to identify and address areas of our tax code which are viewed as candidates for change. These measures have raised tens of billions in revenue over the last few years. Some examples in this area include action the committee took to effect the tax treatment of corporate owned life insurance (COLI), liquidating REITs and tax shelter registration requirements.

Indeed, we are required to consistently look for avenues where we can adjust our tax code to enact change going forward. We are faced with just such a situation right now in crafting our so called extender bill. The items we are seeking to go forward with include permanently shielding individuals from the alternative minimum tax—an important item to ensure that our families are able to take advantage of measures designed to advance their education and child care needs. We are looking to create job opportunities with the extension of the work opportunity tax credit, the R&D tax credit and the welfare to work tax credit and to enable working men and women to continue their education both at the undergraduate and graduate level through the employer provided education assistance program. In the environmental area we are looking to continue provisions which enable communities and businesses to address brownfields. I would point out that millions of people benefit from these provisions.

I believe it is possible to craft legislation which will provide for programs which have been identified as priorities—health care for our veterans, education, aid for our farmers, environmental programs and health research. We have worked in the Finance Committee to advance these priorities as well and will continue to do so going forward in a bipartisan manner.

Mr. LAUTENBERG. Mr. President, I ask if the distinguished Senator from Pennsylvania wants to use any of the time available on that side at this time.

Mr. SPECTER. Mr. President, I intend to make comments for a few minutes, and then I will be prepared to yield back the remainder of our time so we can proceed to a vote, if the Senator from New Jersey is prepared to do the same.

Mr. LAUTENBERG. Mr. President, I will use just a couple minutes to respond, and then we will have finished.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I listened very carefully. One of the things that sometimes the public does not understand is, we can disagree on things because it is an honest view of what is taking place. Perhaps our friends on the Republican side would see things one way and we on this side see them another way. But when we talk about OMB and CBO, these are rather arcane acronyms for the public at large. We work with them all the time. They are arcane for us.

But OMB is something that usually is thought to represent the White House view, the administration view, on calculating where we are, our budget—how much we are spending and how much we are taking in. So I guess it is easy to say that those of us who are on the same party side as the White House want to pay attention to what OMB says and those who represent the majority in the legislature—the House and the Senate—want to rely exclusively on CBO—except when it is convenient. This difference is what we are seeing now in talking about whether or not we use OMB scoring.

Our distinguished colleague from Oklahoma said: Well, we want to use some of the scoring the President uses, from OMB. But, Mr. President, they only want to use OMB scoring selectively—only when OMB's numbers make it appear that they are using less of the Social Security surplus.

In court, you are not allowed to do that. I am not a lawyer, but I know lawyers can't pick and choose from the laws of various states when they present their cases, and use only those laws most favorable to their clients. They have to live under the rules of their jurisdiction.

But here in the Congress, the Republican majority wants to use CBO scoring when it suits their purposes, and OMB scoring when it doesn't.

For example, the majority is using CBO's estimate of the non-Social Security surplus. That's because CBO is projecting a $14 billion non-Social Security surplus, whereas OMB's estimate is much lower—$6 billion.

But then when it comes to scoring the defense appropriations bill, all of a sudden the majority wants to use OMB numbers.

In other words, they are using two sets of books.

Mr. President, there may be rare occasions when the majority will truly believe that CBO has erred in their scoring. But that is not what is going on here. This "directed scoring" is not based on the merits. The Republicans are simply trying to make it appear that they are spending less than they really are. And that they are using less Social Security surpluses than they actually are.

I also would point out that when the Senator from Oklahoma says, well, they want to raise taxes, let me remind the Senator that when the tax bill was sent to the President, it had $5.5 billion over 10 years of tax increases. So the Republicans themselves have admitted that there are legitimate savings to be had from closing loopholes. But apparently now their position is that there is not a single loophole to be closed in the tax code. Or at least that we should not close any loopholes before we cut education and defense first.

I say, let's take a look at the tobacco industry. Let's try to recover some of the expenses they force us to incur. Let's see if we can't get back the $20 billion a year it costs taxpayers to treat tobacco-related diseases. That by itself would essentially solve our budget problem and allow us to avoid dipping into the Social Security trust fund.

Mr. President, if there is any time left, I yield it back and hope our colleagues will support this sense-of-the-Senate amendment.

Mr. DORGAN. I wonder if the Senator from New Jersey would yield.

The PRESIDING OFFICER. There are only 8 seconds remaining of the time of the Senator.

Mr. LAUTENBERG. I yield the 8 seconds.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I am interested in the comment by the Senator from New Jersey about "he is not a lawyer, but" with respect to what has been offered on the floor of the Senate. I would suggest that if the Presiding Officer were a judge and was looking for competent evidence, evidence that had a factual basis, the speeches would be much shorter in this Chamber.

One of the things I have been impressed with over the years is the difference in the kinds of assertions—on both sides of the aisle. I am not referring to anything the distinguished Senator from New Jersey has said. But when he talks about the authenticity of representations of fact, this body takes extraordinary liberty in what is represented as fact. When it comes to the numbers, my preference would be—and I know the Senator from New Jersey did not use the expression "lying about the numbers," it is some budget expert—but I do not think a comment about lying, suggesting untruthfulness, is very helpful.

Mr. LAUTENBERG. Will the Senator yield for a comment?

Mr. SPECTER. I will.

Mr. LAUTENBERG. In my opening comments, I said that we viewed things differently. There was no suggestion of lying or dishonesty. I displayed this because that is what was said by a bunch of experts. I was careful not to accuse any of my colleagues of acting unethically.

Mr. SPECTER. I thank my colleague from New Jersey for that. I walked in a little late and hadn't heard him say that. Maybe he repeated it. I respect the comment that there are different views. But to have a chart about lying, when the matters are subject to widespread disagreements as to how you calculate numbers, I would be very critical of budget expert Stan Collender—not critical of Senator LAUTENBERG—for using the expression "lying." I don't think that advances the ball very much.

I agree with a great deal of what is in the Lautenberg amendment. I agree we ought not cut Head Start, education, VA hospitals, border patrols, transportation, environmental funding, defense funding. I think that is exactly right. But when the Senator from New Jersey comes down to the sense of the Senate and says we should avoid using budget scorekeeping gimmicks, close special interest tax loopholes, and use other appropriate methods, starting with the budget loopholes—the President's budget had more than $20 billion of advance funding. Advance funding, regrettably, has become a commonplace practice that has been engaged in on all sides. I think the precedent and the custom are used generally and not subject to criticism from someone who uses them.

When the President submits a budget with a tax increase of 55 cents a pack on cigarettes resulting in revenues of $6.5 billion, I might support that kind of a tax increase, but it is not money in the bank. It is pie in the sky. It is not even Confederate money. It doesn't exist anywhere. So when the President includes that in his budget, that is hardly a subject to criticize Republicans on grounds of gimmickry.

When the advance funding is accepted that the President uses, and the Republicans have used it, too, but you can't have a tax increase to pay for discretionary programs under the Balanced Budget Act. I don't know if that is a very good provision, but I do know it is the law. I do know it is a law the President signed. So when the sense-of-the-Senate resolution calls for eliminating gimmicks and you have that approach—I won't call it gimmickry; why disparage the administration; just call it "that approach"—it hardly is valid.

Then the final line on the amendment by the Senator from New Jersey is "and by using other appropriate offsets." I am all for appropriate offsets, but what are they? Where are they?

I think what we have to do—and we are still struggling on this—is to bring our appropriations bills within the caps, not to cut Social Security. I agree totally with the Senator from New Jersey on not touching Social Security. I think that is an accepted conclusion on all sides.

We are struggling with this bill, and we have a lot of amendments yet to be offered. This is a very massive bill, $91.7 billion. This bill was crafted in the subcommittee, the full committee, to take the maximum load that could be borne on this side of the aisle. I may be wrong about that. My distinguished colleague from Oklahoma raises some significant questions with me about the propriety of that amount of money.

Well, we have to really, my metaphor is, run between the raindrops in a hurricane to find a bill which shall be passed by this body and go to conference with the House and can be signed by the President. I had occasion to have a word or two with the President about this bill last night, when we were talking about the Comprehensive Test Ban Treaty. The President doesn't like the bill because it takes out a lot of his programs.

The Constitution gives some authority to the Congress on appropriations—a little more expressed, explicit authority to the Congress than to the President, although the President has to sign the bills, but we do have some standing. So when we disagree with some of the priorities and have added $2.3 billion to education and are $500 million more than the President, we are trying to fit this bill within the budget constraints and within the caps which we have.

While we have dueling sense-of-the-Senate resolutions, I intend to vote against the resolution offered by the Senator from New Jersey. I voted for the resolution offered by the Senator from Oklahoma. I think, in all candor, that neither of these resolutions advances this bill a whole lot. What we have to deal with on this bill are the hard dollars and the specific programs. In the interest of moving the bill ahead, I will inquire how much time I have remaining in anticipation of yielding it back.

The PRESIDING OFFICER. Five minutes 43 seconds.

Mr. SPECTER. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I will use my leader time. I know if we are not out of time, we are just about out of time. I will take a few minutes of my leader time to talk about this amendment.

I rise in strong support of the amendment. I do so in large measure because I believe it reflects the approach that represents the only way we are ever going to bring about a consensus on spending and the budget before the end of this year.

I don't have it at this moment—I have asked my staff to bring it—but the chairman of the appropriations committees in both the House and the Senate have expressed themselves publicly about the impropriety of across-the-board cuts. They have said it is the easy way; it is not the most appropriate way.

Indiscriminate cuts have never been the right way to approach deficit reduction, but these indiscriminate cuts are not the only way our Republican colleagues have suggested we go about meeting our budget objectives in the past. They have used a number of devices. Some of them have been the subject of a good deal of discussion in recent days.

George W. Bush has noted how inappropriate it is to use the EITC, and they appear to have backed away from using the tax credit available to working families. They have suggested accelerating the timing of the spectrum auction by $2.6 billion. They have suggested using two sets of books, one by and for congressional Republicans and one by the CBO. They have suggested declaring LIHEAP an emergency, the Low-Income Home Energy Assistance Program. They have suggested declaring the year 2000 census as an emergency. They have suggested that we raid the Labor-HHS appropriations bill. None of these have worked. Now we find our Republican colleagues suggesting maybe just an across-the-board, indiscriminate cut.

We made some very difficult decisions with regard to defense earlier this year. We made the decision to provide them a pay raise for the first time in some time. Yet it appears our Republican colleagues are now prepared to go back and cut that pay raise and cut the other portions of the defense budget as well. We estimate that if you are going to pay for everything Republicans suggest with across-the-board cuts, a 3 percent cut won't do; the cut required is closer to 10 percent. That is what the Office of Management and Budget says.

So if we cut defense by 10 percent, if we cut all the programs associated with disaster and agriculture by 10 percent, if we cut education by 10 percent, I wonder whether our colleagues want to do that. Yet that seems to be where they have relegated themselves, given the fact that none of their other budget gimmicks have worked. You can't accelerate spending. You can't turn the EITC program into an ATM machine.

You can't use many of the approaches that have been previously proposed by our Republican colleagues. They now know that. However, as I said, congressional Republicans didn't figure this out until after we witnessed the unusual occurrence where they were criticized by one of their Presidential candidates. They will soon find out that across-the-board spending cuts will not work either.

What works is what the senior Senator from New Jersey is now suggesting. What works is that we demonstrate some real leadership and find the offsets necessary to pay for these programs, or find the cuts that may be required to pay for these spending bills—not indiscriminately, but by making some tough choices. That is what we are suggesting. We are going to have to make tough choices in cuts or in offsets, but we have to make the tough choices together—Republicans and Democrats negotiating how to resolve this. We resolved it last year. That is how we should do it this year. In many cases, we have been locked out of the deliberations. Up until now, we haven't been involved in some of the conference committee deliberations.

So I hope everybody realizes that in the end, if we are going to solve this problem, we have to do it in the way the senior Senator from New Jersey is suggesting. Let's solve it by showing some leadership, let's solve it by working together, let's solve it in the age-old traditional way of sitting down and finding the cuts and the offsets required to pay for the commitments we are making in the budget this year.

I am happy to yield to the Senator from North Dakota for a question.

Mr. DORGAN. Mr. President, I wonder if a lot of this debate isn't about some here running for cover on the Social Security issue.

Isn't it the case that several years ago, we had a very substantial debate about amending the Constitution to require a balanced budget? Isn't it true the author of the previous amendment and others were demanding on the floor of the Senate that we write into the Constitution the proposition that Social Security revenues ought to be able to be used to pay for other programs in order to claim a balanced budget? Isn't that the case?

If that is the case, how do they come to us now and say we don't want to use Social Security moneys for the operating budget when, in fact, they wanted to put it in the Constitution 3 years ago?

Mr. DASCHLE. The Senator from North Dakota makes a very interesting point. We had that debate and we had some votes back then. I think the Senator from North Dakota and the Senator from Nevada were the prime sponsors of the amendment that said you cannot use Social Security trust funds for the purposes of general revenues in calculating a balanced budget. I think we lost that amendment fight on a party-line vote. And now, in the last couple weeks, the CBO has already said: Look, Republicans are now acting in a manner consistent with their votes on this constitutional amendment. We now know that, according to CBO, they have already used $18 billion. Those aren't our numbers, those are CBO numbers. They have already done that. But that is the way they voted 3 or 4 years ago when we had that constitutional amendment debate—to use Social Security trust funds for the purposes of general revenues, for the purposes of meeting whatever obligations there may be. So they are consistent.

But I don't think anybody ought to be misled. Now there is some talk about, well, we ought to use across-the-board cuts. They know across-the-board cuts involve deep cuts in defense, in education, in commitments to the environment, and in disaster and emergency assistance. They know that isn't going to happen. The only way it is going to happen is to do what is now on the table. This ought to be a 100–0 vote. Every Republican and Democrat ought to be supporting this amendment because it is the only way we are going to resolve this impasse. The sooner we recognize that, the better.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. DASCHLE. I yield to the Senator from Massachusetts for a question before I yield the floor.

Mr. KENNEDY. In listening to the Senator's explanation of his understanding of what the underlying issue was, and also the Lautenberg proposal, did the 1 percent underlying proposal consider tax expenditures? We have about $4 trillion in tax expenditures. The 1 percent, as I understand it, doesn't take into consideration a review of tax expenditures, where we might be able to find places where we could tighten the belt on some of these tax expenditures, and we would not need these kinds of offsets in the areas of education or health. I wonder whether the Senator's understanding of the 1-percent cut would include a review of tax expenditures.

We have seen some important cutbacks in terms of freezes in various expenditure programs, and we have seen some cutbacks in various programs in the period of the last few years in some important areas of education and health, but we haven't had a real review of these tax expenditures. I wonder whether the Senator—as we come down to this period of time—thinks that issue might be at least something we ought to consider or debate.

Mr. DASCHLE. The Senator from Massachusetts makes a very important point. Not $1 of tax expenditures are on the table in their proposal. What they are suggesting is that we cut education first, that we cut disaster assistance first, that we cut LIHEAP first, that we cut defense first; and only after we have done all of that, I suppose they would assume we might look at tax expenditures. But there is not a word about looking at the $4 trillion of possibilities in the tax expenditure category before we look at cutting education for children, before we look at cutting Head Start, before we look at cutting afterschool programs, before we look at cutting title I and funding for disadvantaged children. All of those cuts are on the table but not $1 in tax expenditures. So the Senator from Massachusetts is absolutely correct.

Mr. KENNEDY. Finally, does the Senator not agree with me that we have seen a comprehensive review of these various programs, as we should, to find out how effective the programs are? These programs that we authorize and appropriate money for have been watched carefully in the past several years. But I don't know of a single hearing that has been held in the Senate of the United States to have a similar kind of review of tax expenditures, to find out whether there are inefficiencies and waste, or whether they are accomplishing what the public purpose and goal was when they were devised. There very well may be an opportunity to squeeze some resources out of tax expenditures so we don't have to cut education and health and home heating oil. Does the Senator think that ought to be part of this debate and discussion as we talk about the questions of funding these critical programs?

Mr. DASCHLE. If I may respond, the irony is that the only tax matter that has been on the table for our Republican colleagues has been the earned-income tax credit, the tax credit affecting working families who are trying to get off welfare, who are trying to ensure that they pay their bills on time, who appreciate the importance of having that little help in April of every year. In fact, our colleagues on the other side of the aisle, and on the other side of the Capitol, made the point last week that these families need some help in managing.

Well, I have heard, "I am from the Government and I am here to help you" in a lot of different ways, but this is a new chapter. There is no way we are going to help working families manage their money better by taking away the one financial tool they have in the Tax Code. That doesn't help them. It is a charade that even George W. Bush fully understood and appreciated and spoke out on.

I think the Senator from Massachusetts is absolutely right. That ought to be a consideration as well. We ought to be looking at $4 trillion in possibilities there, at least prior to the time we commit to cut the first dollar of education, the first dollar of health care for children, or the first dollar of Armed Forces personnel stationed abroad. That, it seems to me, would be the prudent approach.

Mr. REID. Will the leader yield for a brief question?

Mr. DASCHLE. I am happy to yield to the Senator from Nevada for a question.

Mr. REID. The Senator from Massachusetts and the Senator from South Dakota talked about tax expenditures. Is that the same thing some of us refer to as "corporate loopholes," "corporate welfare," and "tax loopholes"?

Mr. DASCHLE. That is what I am talking about. Obviously, when we talk about tax expenditures, people sometimes wonder what reference that is. In many cases, we are talking about loopholes. In fact, it is interesting that our Republican colleagues, in order to pay for the huge tax cut they had proposed earlier this year—which ended up going nowhere—used corporate loophole closures as a way to pay for part of it. So even they have acknowledged on occasion that these corporate loophole closures are something we should be looking at; not in this case, however. In this case, they are proposing that we cut education first, that we cut health care first, and then we look at other things, perhaps—although it isn't addressed in this proposal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that an additional amount of time be granted to this side equal to the time used in excess of the leader's allotted time. I first make an inquiry as to how much in excess of the leader's allotted time was just used.

Mr. REID. Parliamentary inquiry. Reserving the right to object, how much time?

The PRESIDING OFFICER. A total of 20 minutes was used.

Mr. REID. Is there a request pending?

The PRESIDING OFFICER. There is a request pending.

Is there objection?

Mr. LAUTENBERG. Parliamentary question: Is there not time usually reserved as leader time and as time allocated outside of debate?

The PRESIDING OFFICER. There is time reserved for the two leaders.

Is there objection?

Mr. REID. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. Mr. President, I had inquired of the Parliamentarian how much time was being used when it was up to 17 minutes. I was informed that the Parliamentarian never interrupts the leader when the time is in excess. I didn't want to break with that custom. But it seemed to me, as a matter of comity and fairness, that if excess time was being used, there ought to be that much additional time on this side. But I understand the rules. If there is objection to that, so be it.

How much more time is left on this side of the aisle?

The PRESIDING OFFICER. Five minutes.

Mr. SPECTER. Mr. President, I listened with interest to the arguments by the Senator from South Dakota. When he talks about Democrats being locked out, certainly he isn't talking about this bill. The ranking member and I worked on this bill in a collaborative partnership. I don't know if he is referring to other bills or just this bill, but there was no lock out here. When the Senator from South Dakota objects to across-the-board cuts and says—may we have order, Mr. President—that we ought to take a look at matters one by one and make the tough choices, we ought to have the offsets, I would certainly be in favor of that.

If the Senator from New Jersey had made specific requests on offsets, I would have been glad to vote on them one by one instead of saying "other appropriate offsets." If he had identified special interest tax loopholes, I would have been prepared to vote on those one by one instead of the generalization. But I think it is worth noting that on this bill nobody on that side of the aisle has made any suggestion for any offset—not at all.

We added to block grants $900 million by an amendment from the Senator from Florida. We had $900 million offered from day care and added to the bill by the Senator from Connecticut. We had $200 million offered but rejected by the Senator from California for afterschool; $200 million offered but rejected on class size by the Senator from Washington. We have amendments pending now by the Senator from Minnesota, Mr. WELLSTONE, $3 billion for disadvantaged education; $3 billion for Head Start. Other amendments, the Senator from Massachusetts, $200 million on one; the Senator from New Mexico, Mr. BINGAMAN, $200 million on another.

I think those are all very worthwhile programs. But it hardly lies in the mouth of those on the other side of the aisle to talk about hard decisions of offsets when they don't talk about any offsets and they don't talk about any hard decisions. They don't talk about specifics.

I don't like across-the-board cuts, either. I have said so. I don't think we are going to have across-the-board cuts. I think that is the sword of Damocles which is hanging over this appropriations process to keep us within the caps. But we have hardly heard of any offsets or any tough decisions on the other side of the aisle.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. NICKLES. Mr. President, I will make a couple of comments, and then we will vote.

For the information of all of our colleagues, we will have a vote momentarily on the Lautenberg amendment, or at least in relationship to the Lautenberg amendment.

I have heard: Well, if you follow the amendment that has already passed, we will have to have a 10-percent reduction.

I want to say categorically that is false, and people shouldn't try to mislead people. What we are saying is we should not be taking money out of Social Security trust funds to spend it on a bunch of other programs. We should show some discipline. I absolutely don't want across-the-board cuts. I want to make those cuts. I want us to live within the numbers necessary so we don't touch Social Security. That is $14 billion more than the caps. All right. We will go up to that amount, but not more than that amount. We need some limit.

This bill has been growing like crazy. The Labor-HHS bill, as Senator SPECTER mentioned, the bill that he reported out of committee, had significant growth; it had more money than the President requested for education. Somebody said: Well, if we adopt the last amendment, which is already adopted, and we followed that, we would have cuts in education.

We would have maybe 1 percent. But guess what. The education bill went up by $2.3 billion. You could have a 1-percent reduction in that and still spend more than the President requested.

The Labor-HHS bill over the year has been growing like crazy. In 1996, it was $63.4 billion; in 1997, it was $71 billion; in 1998, it was $80.7 billion. The bill we have before us is $84.4 billion. As Senator SPECTER mentioned, we already have amendments adding a couple of billion dollars on top of that. We defeated amendments to try to add a couple billion dollars more.

There is a whole slew of amendments to spend billions more as if there is no budget, as if there is no restraint whatsoever. And Senators are saying, wait a minute, you really are spending Social Security surpluses, and we shouldn't be doing that. We said we are not going to do it. We passed a resolution that says if it is necessary, we will have across-the-board cuts. We don't want to touch Social Security. Yet we have amendment after amendment saying let's spend more. Many of us reject that.

I yield the remainder of our time.

I move to table the Lautenberg amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 2267. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 54, nays 46, as follows:

[Rollcall Vote No. 314 Leg.]

YEAS—54

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Cochran
Collins
Coverdell
Craig
Crapo
DeWine
Domenici
Edwards
Enzi
Fitzgerald
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—46

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Bryan
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Schumer
Snowe
Torricelli
Wellstone
Wyden

The motion was agreed to.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 1851, WITHDRAWN

Mr. NICKLES. Mr. President, I ask unanimous consent to withdraw my underlying amendment No. 1851.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object, parliamentary inquiry.

The PRESIDING OFFICER. Is there objection to the motion of the Senator from Oklahoma?

Without objection, it is so ordered.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. On our sequencing, we are now ready for an amendment from the Senator from Massachusetts, Mr. KENNEDY. He and I have had an informal discussion on a unanimous consent request to not have any second-degree amendments, to vote on or in relation to the Kennedy amendment after 30 minutes equally divided. And I supplement that with no second-degree amendments prior to the motion to table.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object, I do not object to doing half an hour. I am instructed by the leadership on our side that they not start a vote until 4:15. But I can wind up if you want to start on a second.

Mr. SPECTER. It is my intention to stack the votes, to take them up later today, so there will be no vote before 4:15.

Mr. KENNEDY. Fine.

Mr. NICKLES. Reserving the right to object, was the request for a time agreement on the Kennedy amendment?

Mr. SPECTER. Yes.

Mr. NICKLES. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Pennsylvania still has the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I renew my unanimous consent request to have 30 minutes equally divided, no vote before 4:15, no second-degree amendments, and a tabling motion on or in relation to the Kennedy amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2268

(Purpose: To protect education)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and I understand, therefore, that not withstanding other previous agreements in regard to first-degree amendments, this would qualify as a first-degree amendment.

Mr. SPECTER. That is right.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 2268.

Mr. KENNEDY. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

In order to improve the quality of education funds available for education, including funds for Title 1, the Individuals with Disabilities Education Act and Pell Grants shall be excluded from any across-the-board reduction.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

Mr. President, this is a very simple amendment. Simply stated, this amendment says:

> In order to improve the quality of education, funds available for education * * *

And then it says, such as:

> Title I, the Individuals with Disabilities Education Act [IDEA] and Pell Grants shall be excluded from any across-the-board reduction.

Just a few minutes ago, we were having a debate on the floor of the Senate on the questions about overall general reductions in the budget which would have affected these education programs. We had a brief debate on alternative ways in order to try to deal with some of the budgetary considerations and constraints.

During that discussion and debate, I asked whether we had actually even given consideration to trying to find additional kinds of funding by closing some of the tax expenditures which are generally understood as tax loopholes. We did not receive any assurances on that. Really, as a result of that debate, as we are moving on through this whole appropriation bill, and in anticipation there may be another opportunity or another occasion where Senators will come forward and ask for a reduction in the funding levels across the board, this amendment just excludes the education programs.

We can ask why we ought to exclude education programs. Why not other programs? We could have some debate and discussion on that issue. But the principal reason for excluding these programs is because over the period of recent years, we have seen a series of reductions in education programs as a result of House and Senate Appropriations Committee action.

Going back to 1995, we had a House bill—this is just after the Republicans had gained control of the House and Senate—that actually requested rescission of $1.7 billion. Then the House bill in 1996 was $3.9 billion below 1995; in 1997, $3.1 billion below the President's request; in 1998, $200 million below the President's request; in 1999, $2 billion below the President's request.

We know this appropriation bill that has been reported out by the Appropriations Committee is in excess in total numbers of what the President requested. We also know it is on its way to the House of Representatives for negotiation.

The purpose of this amendment is, no matter what we are going to do in terms of other kinds of activities to reduce funding of various provisions of the legislation, we are not going to reduce funding in the area of education. That is basically the reason for this amendment. We know that the title I program works; the Pell program works; IDEA works; the other education programs work. We have had good debates on those measures over the past months. It is very important that we understand that.

We are now experiencing a significant increase in the total number of students who are going to be involved in K through 12 education. We will see 500,000 students this coming year attending our schools, an all-time high. We know we will need 2.2 million teachers over the next 10 years, and we are getting further behind, hiring only about 100,000 teachers a year. Even with the current efforts we have made in recruitment we are still falling further and further behind.

We are also finding that more young families and needy families are able to get their children through college. One of the most interesting developments that has taken place in this last year is, we have the best repayment of student loans in over 10 years. This means that young people who are going to post-secondary education are taking advantage of the federal loan programs, and are repaying those loans. This is a very important and significant indication that there is a great need for these federal loans, and that young people across this country are demonstrating a responsible attitude by repaying those loans on time.

I had raised the question earlier of whether we should not fully fund these important education programs, and other health care measures, child care measures and the community service block grant—I yield myself 3 more minutes. I have asked if we couldn't find some reductions in terms of tax expenditures to find that funding.

Only a few months ago, under the Republican tax bill, they effectively found $5.5 billion over 10 years in their legislation. All we are saying is, if you can find $5.5 billion over 10 years, you can certainly find enough now to protect the programs dealing with education, dealing with health care, dealing with the LIHEAP program and some of these other nutrition programs. These are programs which are a lifeline to the neediest people in our society. That is what we are resisting. We are resisting this wholesale way of trying to diminish the continued commitment and responsibility we have to the neediest children and to the neediest workers and the neediest parents in our society. That is what brings us to the floor of the Senate today.

I see my friend and colleague from Iowa. How much time do I have, Mr. President?

The PRESIDING OFFICER (Mr. CRAPO). Eight minutes 41 seconds.

Mr. KENNEDY. I yield 4 minutes 30 seconds to the Senator from Iowa and the other 4 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I thank the Senator for yielding me this time. I compliment him on this amendment.

There is all this talk going around about across-the-board cuts. We just had the amendment offered by the Senator from Oklahoma which he withdrew. As you can see, there is some sentiment on the other side of the aisle to have some across-the-board cuts. Again, we have tried to resist those because, as the Senator from Massachusetts said so eloquently, there are a lot of people out there who could be drastically hurt—low-income people, needy people, seniors, veterans, and others.

What this amendment addresses is the education end of it. Both sides of the aisle have said time and time again that education is our No. 1 priority. The leader said that earlier this year. Both sides have been saying education is our No. 1 priority. What this amendment basically says is, as I understand it, if there is going to be any across-the-board cut—and there shouldn't be because we have plenty of offsets; we don't need an across-the-board cut—if there is an across-the-board cut, we will exempt education, only education, including IDEA, the Individuals with Disabilities Education Act, title I, and Pell grants.

What the Nickles amendment would have done—again, it is sort of rolling around out there about an across-the-board cut—CBO said the Nickles amendment would translate into a 5. 5-percent cut. For title I, that would be a $380 million cut. OMB said it would be as much as a 10-percent cut. That would be $800 million. So somewhere between a $380 and a $800 million cut in title I. Afterschool programs would be cut $20 to $40 million; ed technology, $35 to $70 million; and special education would be cut from $300 to $600 million, if, in fact we had an across-the-board cut.

Again, I urge Senators to vote for this amendment because it will send a signal, loudly and clearly, that if there are any across-the-board cuts, we are not going to take it out of education. We understand that education is our No. 1 priority. We understand we have to invest in education. The last thing we want to be included in any kind of across-the-board cut would be any cuts in education.

I compliment the Senator from Massachusetts. This is a great amendment. This ought to receive a 100–0 vote to protect education from any across-the-board cuts.

I yield back whatever time I have remaining.

The PRESIDING OFFICER. The Senator from Illinois had been yielded 4 minutes. Does the Senator from Oklahoma wish to speak at this time?

Mr. DURBIN. I would be happy to yield to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, two or three comments are in order.

Some people are still debating the amendment to which we have already agreed. I withdrew it. It was a sense of the Senate, a sense of the Senate which said we shouldn't be raiding Social Security funds. I don't think we should be raiding Social Security funds for education or for defense or for other issues. We have a lot of money. Defense is going up by $17 billion. Education alone is going up by $2.3 billion, even more than the President requested. As I stated before, if you do have an across-the-board cut, it is only 1 percent. And if you cut 1 percent off that 37.3, you are talking about $370 million off an increase that is $2.3 billion. So you still have an increase of $2 billion in education alone.

People are entitled to their own interpretation. They are not entitled to their own facts. Education has grown dramatically. The entire Labor-HHS bill, on which I have already quoted the figures, has grown from—I don't have it right in front of me—about $50 billion a few years ago to about $90 billion today.

So when I see charts: "Republicans slashing education," it is just absolutely false. We have more money in this bill than the President requested. And even if you have a 1-percent reduction—and I hope we don't; I have said this time and time again; I hope we don't have an across-the-board reduction—I hope the appropriators will work with everybody to stay within the limit to which we agreed, which actually, so everybody will know, is $592 billion, and if we do that, we won't be touching Social Security. That is what we ought to do.

You can fund an increase in education, an increase in NIH, an increase in defense, an increase in HUD, an increase in veterans, and still not raid Social Security. That is what we are trying to do.

Just for the information of my colleagues, I withdrew the amendment. I don't believe the Senator's amendment is in order. I don't know how you amend something that is not underlying. I make that point and yield the floor at this time.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I will yield to the Senator from Pennsylvania, if he wishes.

Mr. SPECTER. The Senator may go first.

Mr. DURBIN. Mr. President, I thank the Senator from Massachusetts for raising this issue. In reply to my colleague, the Senator from Oklahoma, I believe the Senator from Massachusetts is making it clear, now that we know that lurking at least in the backs of the minds of many of the Republican leaders is the idea of an across-the-board cut, to somehow develop an exit strategy, the Senator from Massachusetts reminds us that across-the-board cuts means a cut in education.

Let me give you some specifics, if I might. When I look at the committee report from this education funding bill, I see that if the 5.5-percent cut that is envisioned by some of the Republican leaders is put into place, we will reduce the amount of money for title I, the major Federal educational program for disadvantaged children, to below last year's level of funding. So those who say this is a harmless cut that will never be noticed are not portraying this accurately, I'm afraid.

I am prepared to discuss the facts with the Senator from Oklahoma, and the facts, unfortunately, lead to the conclusion that if we take his across-the-board cut strategy, we are going to cut educational funding below last year's level of spending. In so doing, whom do we jeopardize? Title I, of course, sounds pretty general and pretty bureaucratic, but this program is critically important for 11 million kids across America. Who are these kids? These are the kids most likely to drop out of school; these are the kids most likely to need special help to stay up with their classes and not fall behind; these are the kids who need that extra tutor for reading so they don't get behind the class, get discouraged, and drop out of school or, frankly, become a problem in the classroom. That is what title I is about. That is the program that would be cut by the Senator from Oklahoma.

It is not the only program. The Congressional Budget Office says that the 5.5-percent across-the-board cut that is envisioned by some Republican leaders will cut many other programs as well: $26 million from the COPS Program, a program to put more police on the street and in communities, which is bringing down crime in America. Is there a higher priority? I don't think there is in my State of Illinois. The Head Start Program, from which millions of kids from poor families get a helping hand before they start kindergarten so they can succeed, we would see $290 million cut from that program by this idea of an across-the-board cut. National Institutes of Health: Of all of the progress we have made in improving Federal funding for medical research, we would cut $967 million out of the progress and research into diseases and problems facing American families. I think that is a serious mistake. Title I education grants, a $380 million cut.

Let me tell you some of the other cuts in education effected by this Republican strategy of across-the-board cuts. Afterschool programs: All of us stood on this floor in horror over what happened at Columbine High School in Littleton, CO. We knew something went wrong in a very good school. Children lost their lives. We said: What is it that we need to do to protect our kids in school and to make sure fewer kids go astray? We were told by the experts time and time again that we need counselors at the schools to seek out troubled kids, and we need programs at the schools so kids can use their time effectively.

An across-the-board cut would reduce the amount of money available to American schools for afterschool programs. By reducing that amount of money, it is just going to lessen our opportunity to reach out to kids who need something constructive to do in a supervised environment after school. So when my friends on the Republican side say that the easy way out, the painless way, is an across-the-board cut, they don't want to face reality. Those cuts will touch people who need a helping hand. They are going to touch kids who might drop out of school. They are going to cut afterschool programs. They are going to cut the kind of tutoring we need to make sure that kids succeed.

In this day and time, at this time in our history, with the prosperity of the American economy, with the strength of this budget and of our budget process, have we reached a point where we have no recourse but to cut the most basic program for America—education? I think not. The President has come up with a list of offsets that will preserve the Social Security trust fund and still keep our budget in balance. I urge this Senate to adopt the amendment offered by the Senator from Massachusetts.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, the anticipation is that we are not going to have across-the-board cuts because the totality of the appropriated bills will come within the caps. Senator STEVENS was on the floor and we were discussing the last amendment. That continues to be the reassurance from the chairman of the Appropriations Committee. I can personally vouch for the fact that we are striving mightily on a conglomerate of 13 bills to come within the caps. I am personally opposed to the cuts across the board, as I have already said. When the Lautenberg amendment was argued a few moments earlier this afternoon, I said if there were specific proposed cuts, we ought to take them up one at a time. I hope we don't get to that either. If we do get to cuts, I think that education ought to be preserved.

This bill has an increase in education of $2.3 billion, some $500 million more than the President's budget. That reflects the concerns that the distinguished ranking member, Senator HARKIN, and I have had. If there are to be cuts, I would want to exclude education.

It is true that it becomes difficult, once something is excluded, to not want to exclude other items. I would not want to see a cut in NIH. It hardly makes a lot of sense to add $2 billion to NIH if it is going to be cut almost $1 billion. Senator HARKIN and I probably would have increased it $3 billion in that case.

The Senator is laughing. It is good to have a laugh in the middle of the afternoon.

But what we have to do is avoid across-the-board cuts. If it comes to that, then we will start to make exclusions, and we are making choices to have other cuts instead of these cuts. Then when we start to exclude virtually everything, we will ultimately have to come down to what cuts are necessary if these 13 appropriations bills do not come within budget.

Mr. President, I see no other Senator on the floor seeking recognition. How much time remains?

The PRESIDING OFFICER. Ten-and-a-half minutes.

Mr. SPECTER. We are looking for a Senator to offer the next amendment.

Mr. HARKIN. Will the Senator yield?

Mr. SPECTER. Yes.

Mr. HARKIN. If we can yield back time, then the vote on this would be held at what time?

Mr. SPECTER. We are going to stack them later in the afternoon, but not in advance of 4:15, which was the point raised by Senator KENNEDY.

Mr. HARKIN. I ask the chairman, are we then through with this amendment and we are open for other amendments right now?

Mr. SPECTER. That is correct, as soon as I yield back the balance of the time, which I intend to do.

Mr. HARKIN. Will the Senator yield for me to make a couple of comments?

Mr. SPECTER. I yield.

Mr. HARKIN. We have a list of amendments. I urge Senators on our side to please come over and offer the amendments that we have listed. People are protected in their amendments, but we want to get the bill done. Any Senators who may not be on the floor but who are available, please come over and offer your amendments. We have time agreements, and we can get these out of the road this afternoon before we start voting later on. It would be a shame not to use the time we have right now available to us to offer amendments and get them debated.

Again, I urge Senators on the Democratic side to please come over.

Mr. KENNEDY. Will the Senator yield?

Mr. HARKIN. Yes.

The PRESIDING OFFICER. The Senator from Iowa is speaking on time yielded from the Senator from Pennsylvania.

Mr. KENNEDY. Mr. President, I wonder if we could have the attention of the Senator from Pennsylvania.

Mr. HARKIN. The Senator from Pennsylvania has the floor; is that correct?

The PRESIDING OFFICER. The Senator from Pennsylvania controls the remaining time.

Mr. KENNEDY. Mr. President, I was inquiring if the Senator would yield just for a question.

Mr. SPECTER. I do.

Mr. KENNEDY. I saw the Senator from Iowa indicating that we might have a lull. I see the Senator from Texas on her feet. There was a desire by the committee to move forward on this bill and I would be glad to move on to one of the other amendments with a short time agreement as well. I see the Senator from Texas. We will be glad to cooperate.

Mr. SPECTER. If I may respond, I would be glad to entertain the next amendment of the Senator from Massachusetts on a short time agreement. We are sequencing. We would like to now yield to the Senator from Texas to make a statement, and then we will proceed with an amendment on this side.

The PRESIDING OFFICER. The Senator from Texas.

Mr. SPECTER. Mr. President, I yield the remainder of my time.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senator from Maine and I have 10 minutes equally divided to speak on an issue pertaining to the bill but not actually offering an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. If it is agreeable to go ahead, we will be set to go. I am willing to work out a time agreement. As far as I am concerned, the Senator from Texas may want to go right ahead. I can follow her right away.

Mr. SPECTER. We have another amendment on this side. We are sequencing time. We will be yielding to Senator HUTCHISON now. We have another amendment on which we hope to have a short time agreement. Then we will return. Is the Senator from Massachusetts prepared to accept another time agreement of 30 minutes equally divided?

Mr. KENNEDY. I think the Senator from Rhode Island wishes to speak, if we can make it 45 minutes.

Mr. SPECTER. All right. Let's do this. I ask unanimous consent that in sequence after the Senator from Texas and the Senator from Maine are recognized for 10 minutes equally divided, there then be an amendment offered on the Republican side. We would then go to the Senator from Massachusetts, Mr. KENNEDY, for his amendment, a second-degree amendment, with 45 minutes equally divided.

Mr. REID. Reserving the right to object, does the Senator from Pennsylvania know how long the second amendment will take? Ours will be 45 minutes.

Mr. SPECTER. I haven't worked that time agreement out. I haven't talked to the proponent. But I expect it to be 30 minutes equally divided. I would not want to make a commitment to that because I haven't cleared that.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object, I would not object with an amendment with a short-time agreement. There was some talk that there may be an offering of another type of amendment—one that might require a longer time agreement.

Mr. SPECTER. We don't anticipate offering the ergonomics amendment—if that is the Senator's question—at this particular time.

Mr. REID. Continuing to raise the objection, it is my understanding that Senator KENNEDY would be able to debate for 45 minutes equally divided prior to there being a motion to table.

Mr. SPECTER. That is correct.

Mr. REID. And no amendment would be in order.

Mr. SPECTER. That is correct.

Mr. REID. Prior to the motion to table.

Mr. SPECTER. No second-degree amendment would be offered prior to the motion to table.

The PRESIDING OFFICER. Hearing no objection, the Senators from Texas and Maine are recognized for 10 minutes each.

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask that after 5 minutes I be notified so I can yield my colleague her 5 minutes.

The PRESIDING OFFICER. The Senator will be notified.

Mrs. HUTCHISON. Mr. President, I am talking today about an amendment that I would like to offer but am not able to because it would be subject to a rule XVI point of order. It is an amendment that has been offered before and passed by the Senate. Yet we have not been able to prevail in conference. It is just an amendment that would clarify the law in a particular area, and one that I think would improve the options that would be available in public schools.

Mr. SPECTER. Mr. President, will the Senator from Texas yield for a unanimous consent request?

Mrs. HUTCHISON. Yes.

Mr. SPECTER. We now have the intervening amendment to be offered by Senator COVERDELL, after Senators HUTCHISON and COLLINS speak, and I ask unanimous consent that on Senator COVERDELL's amendment there be 30 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Reserving the right to object, we need to see the amendment.

Mr. COVERDELL. I will get a copy for the Senator.

Mr. REID. Could we know the subject?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that my time start now.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, the amendment I hope to provide in the ESEA authorization that is going to take place either later this year or next year would allow public schools the option of offering single-sex classes or single-sex schools in the public arena.

We all know that the hallmark of America is that we have a public education system that would give every child an equal opportunity to fulfill his or her potential. Many of us acknowledge that the public school systems throughout our country are failing the test today. What we are trying to do is give more options to public schools to acquire the necessary tools to provide each child the nurturing and the special attention they need to succeed.

My amendment would clarify existing Federal law by allowing Federal education funds to be used for single-sex public schools and classrooms as long as comparable educational opportunities are made available for students of both sexes. Remember, there is an option. It could not even come into being unless a school district and the school itself and the parents wanted this option.

Due largely to the fear that many schools throughout our country believe the Education Department's Office for Civil Rights will not allow single-sex education efforts, most schools and school districts are reluctant to use even their own money on same-gender education programs, much less Federal funds. Ask almost any student or graduate of a same-gender school, most of whom are from private or parochial schools, and they will almost always tell you they have been enriched and strengthened by their experience.

Surveys and studies of students show that both boys and girls enrolled in same-gender programs tend to be more confident and more focused on their studies and ultimately more successful in school as well as later in their careers, particularly if they have something to overcome in the way of either rowdiness, shyness, or something of that sort. Girls report being more willing to participate in class and to take difficult math and science classes they otherwise would not have attempted. Boys report less fear of being put down by their classmates for wanting to participate in class and excel in their studies. Teachers, too, report fewer control and discipline problems, something almost any teacher will tell you can consume a good part of class time.

Study after study has demonstrated that girls and boys in same-gender schools, where they have chosen this route, are academically more successful and ambitious than their coeducation counterparts.

Single-sex education has benefited students such as Cyndee Couch, an eighth-grader at Young Women's Leadership School in East Harlem, NY. Cyndee and the other students at their school, located in a low-income, predominantly African American and Hispanic section of New York City, have an attendance rate of 91.8 percent, significantly above the city average. They also score higher on math and science exams than the city average. In fact, 90 percent of the school's students recently scored at or above grade level on the standardized public school math problem-solving tests. The citywide average was 50 percent.

Last year, Cyndee bravely appeared on the television show "60 Minutes" to talk about why she likes this all-girls public school, one of the very few in the nation. She told host Morley Safer ". . . as long as I'm in this school and I'm learning, and no boys are allowed in the school, I think everything's going to be OK."

Unfortunately for Cyndee and for the other students in fledgling same-gender public school programs across the country, everything is not OK. Opponents of same-gender education have sued to shut down the Young Women's Leadership School and other schools like it around the country. I cannot imagine why they would do this when the success has been proven. We want to give the options to public schools that private and parochial schools now have.

It is not a mandate. It is an option. We want to pursue this so public schools will succeed in giving every child his or her full educational opportunity.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I want to begin my remarks by commending my friend and colleague from Texas for her leadership on this issue and for bringing it to the Senate's attention.

I wish to share with my colleagues a wonderful example of the accomplishments that can be realized by a same-gender class. A gifted math teacher, Donna Lisnik, at Presque High School, pioneered an all-girls math class some years ago. She believed it would result in greater achievement by the young girls who were studying math at Presque High School. She began to offer the same-sex class in math and she proved to be absolutely right. The class was offered for over 5 years and the results were outstanding. Both the achievement of these girls and the number of them participating in advanced math and science classes increased.

I had the privilege of visiting Mrs. Lisnik's classroom. I cannot overstate the excitement of the girls in her class studying advanced math. They were learning so much and they were so excited by this opportunity to learn together.

Incredibly, the Federal Department of Education concluded that this math class violated title IX of the Education Act. Consequently, Presque High School was required to open the class to both boys and girls. It is interesting to note, however, that it is girls who continue to enroll in this class even though it is open to both boys and girls.

It is unfortunate that schools are prevented by the Federal regulations from developing single-gender classes in which both young women—and in other classes, young men—can flourish and reach their full potential. Senator HUTCHISON's proposal assures that other schools with innovative education programs designed to meet gender-specific needs will not face such obstacles.

This proposal does not weaken or undercut in any way the protections for women and girls in title IX. It does not allow a school to offer an education benefit for only one sex, to the exclusion of the other. Schools must have comparable programs for both boys and girls. However, it does give schools the flexibility to design and offer single-gender classes when the school determines that such classes will provide their students with a better opportunity to achieve high standards, the kind of high standards and achievement that I witnessed firsthand in Mrs. Lisnik's exciting math class in northern Maine.

Although Senator HUTCHISON has decided to withdraw her amendment, I am going to work with her to ensure that it is incorporated in the rewrite of the Elementary and Secondary Education Act that will be undertaken by the health committee later this year. This is a proposal that is designed to help young girls and young boys excel by using the device of single-sex classrooms. It deserves support.

I am very pleased to join with the Senator from Texas in supporting this effort.

I yield back any remaining time.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Maine for cosponsoring this amendment with me and for being willing in the committee to work on getting it included in the reauthorization.

This is an option, not a mandate. Coed education is better for a number of students. However, when students have a problem with not being willing to speak up in class or have a particular problem in math and science where it is indicated that they would do better in a single-sex atmosphere, let's have this option open for public school students, students who may not be able to afford the option of private school or parochial school, so that our public schools will be the very best they can be, offering every option they can offer to the public school students so every child in this country will have the same opportunity to excel.

I hope we can approve this amendment. The last time it was offered we adopted it in the Senate by a vote of 69-29. It was very bipartisan and very strong. I know Members on both sides of the aisle who have attended single-sex schools and who believe this is an option that should be allowed will fight for this amendment for every public school child to have this option without the hassle and threat of being sued that might deter the opportunity for them to have what would meet their needs.

AMENDMENT NO. 1837

(Purpose: To decrease certain education funding, and to increase certain education funding)

Mr. COVERDELL. Mr. President, I ask that Senate amendment 1837 be called up.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from Georgia [Mr. COVERDELL] proposes an amendment numbered 1837.

Mr. COVERDELL. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 54, line 19, strike "$1,151,550,000" and insert "$1,126,550,000".

On page 55, line 8, strike "$65,000,000" and insert "$90,000,000".

At the end, insert the following:

SEC. . FUNDING

Notwithstanding any other provision of law—

(1) the total amount made available under this Act to carry out part A of title X of the Elementary and Secondary Education Act of 1965 shall be $39,500,000;

(2) the total amount made available under this Act to carry out part C of title X of the Elementary and Secondary Education Act of 1965 shall be $150,000,000; and

(3) the total amount made available under this Act to carry out subpart 1 of part A of title IV of the Elementary and Secondary Education Act of 1965 shall be $451,000,000, of which $111,275,000 shall be available on July 1, 2000.

Mrs. HUTCHISON. Mr. President, I offer a second-degree amendment to the Coverdell amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. Under the precedent of the Senate, the second-degree amendment would not be in order until the time for debate has been utilized or yielded back.

Mrs. HUTCHISON. I will reoffer at the appropriate time.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, amendment No. 1837 increases funding for Reading Excellence by $25 million; it would increase charter school funding by $50 million, and increase Safe and Drug Free Schools by $25 million. The amendment is paid for by an offset of $100 million from the fund for the improvement of education which is currently funded at $139.5 million. I repeat, the amendment increases funding for Reading Excellence by $25 million, increases charter school funding by $50 million, and increases Safe and Drug Free Schools by $25 million.

Charter schools are offering some of the most promising educational reform today. Since 1991, 34 States and the District of Columbia have enacted charter school programs. This year, more than 1,700 charter schools will be serving 350,000 of our Nation's students. As most Members know, charter schools are public schools which have been set free from burdensome Federal, State, and local regulations. In place of the intrusive regulations, charter schools are held accountable for academic results by the consumers, parents, and students.

In the last 2 years, exciting studies have been released that provide data on the success of charter schools around the country. In May of 1997, the Department of Education released its first formal report on the study of charter schools. The findings include the two most common reasons for starting public charter schools: flexibility from bureaucratic laws and regulations, and the chance to realize an educational vision.

About 60 percent of public charter schools are new startups rather than public or private school conversions to charter status.

In most States, charter schools have a racial composition similar to statewide averages, or have a higher proportion of minority students. Charter schools enroll roughly the same proportion of low-income students, on average, as other public schools.

The Hudson Institute also undertook a study of charter schools entitled "Charter Schools in Action." Their research team traveled to 14 States, visited 60 schools, and surveyed thousands of parents, teachers, and students.

Some of the study's key findings: Three-fifths of charter school students report that their charter school teachers are better than their previous school's teachers; over two-thirds of the parents say their charter schools are better than that child's previous school with respect to class size, school size, and individual attention; 90 percent of the teachers are satisfied with their charter school educational philosophy, size, fellow teachers, and students.

Among students who said they were failing at their previous school, more than half are now doing excellent or good work. These gains were dramatic for minority and low-income youngsters and were confirmed by their parents.

The Hudson Institute study found that charter schools are successfully serving students, parents, and teachers. Currently, there are national and State studies that demonstrate a positive ripple effect. The study on the impact of Michigan charter schools found that charter school competition has put pressure on traditional public schools to become more accountable. A similar study done on Massachusetts charter schools found that district schools have been adopting innovative practices that mirror charter school efforts. A study on Los Angeles charter schools shows that charter schools have influenced district reform by heightening awareness and initiating dialog.

The implication of the success of charter schools is that successful public schools should be consumer oriented, diverse, results oriented, and professional places that also function as mediating institutions in their communities. Charter schools offer greater accountability, broader flexibility for classroom innovation, and ultimately more choice in public education.

Many in this Chamber are aware of my strong support of the opportunity for low-income parents to choose the best educational setting for their child, whether public or private. I believe this ability to choose the best educational environment for our children is something all parents should have, not just those parents who can afford the choice.

Another provision of this amendment deals with reading excellence. To get an idea of our children's future, one has only to look in the Sunday paper at all the high-tech firms looking for applicants. There is no more clear indicator of where our economy is headed. Without basic skills, many of our children will be shut out of the workforce—left behind. We have a literacy crisis in the Nation. More than 40 million Americans cannot read. Those who cannot learn to read are not only less likely to get a good job but they are also disproportionately represented in the ranks of the unemployed and homeless. Consider that 75 percent of unemployed adults, 33 percent of mothers on welfare, 85 percent of juveniles appearing in court, and 60 percent of prison inmates are illiterate.

The Federal Government spends more than $8 billion on programs to promote literacy, with little result. More than 40 million Americans cannot read a phone book, a menu, or the directions on a medicine bottle, and only 4 out of 10 third graders can read at grade level or above. That is why last fall we passed an important piece of legislation to address the serious problem of illiteracy in our country. This legislation, the Reading Excellence Act, seeks to turn around our Nation's alarmingly high illiteracy rates by focusing on training teachers to teach reading, increasing parental involvement, and sending more dollars to the classroom.

Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator has 8 minutes 3 seconds.

Mr. COVERDELL. The legislation provide $210 million for research, teacher training, and individual grants for K–12 reading instruction and requires that funds for teacher training be spent on programs that are demonstrated by scientific research to be effective. It also authorizes grants to parents for tutorial assistance for their children. Most important, Reading Excellence ensures that 95 percent of the funds go to teaching children to read, not to administrative overhead. The Reading Excellence Act provides today's children with the tools they need to be successful in tomorrow's workforce. Helping to ensure every child can read is one of the best bills Congress can pass.

We also deal in this amendment with safety in schools. In 1996, students ages 12 through 18 were victims of about 225,000 incidents of nonfatal, serious, violent crimes at school and 671,000 incidents away from school. These numbers indicate that when students were away from school, they were more likely to be victims of nonfatal serious crimes including rape, sexual assault, robbery, and aggravated assault.

In 1996, 5 percent of all 12th graders reported they had been injured with a weapon such as a knife, gun, or club during the past 12 months while they were at school: that is, inside or outside the school building or on a school bus; and 12 percent reported they had been injured on purpose without a weapon while at school.

So I come back to the basic tenet of this legislation; that is, we are reinforcing, through the amendment, in a significant way, Federal assistance to charter schools, the Reading Excellence Act, and Safe and Drug Free Schools—$50 million more to charter schools, $25 million more to the Reading Excellence Act, and $25 million into Safe and Drug Free Schools.

Mr. President, I yield the floor and retain the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Rhode Island.

Mr. REED. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

Mr. REID. The minority yields back its time on this amendment.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. The majority yields back its time on this amendment. I believe we have an agreement to accept it. I suggest this be dealt with by voice vote.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment (No. 1837) was agreed to.

Mr. COVERDELL. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COVERDELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1819

(Purpose: To increase funding for title II of the Higher Education Act of 1965)

Mr. KENNEDY. Mr. President, I welcome the opportunity to have the attention of the Senate on a measure which I think has compelling support of families across this country. I know we have a 45-minute time limitation. So we have 22½ minutes on our side.

I yield myself 5 minutes at the present time.

The PRESIDING OFFICER. The Senator would need to call up his amendment.

Mr. KENNEDY. I call up amendment No. 1819.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mr. REED, Mr. BINGAMAN, Mrs. MURRAY, Ms. MIKULSKI, Mr. DURBIN, Mr. LAUTENBERG, and Mr. KERRY, proposes an amendment numbered 1819.

Mr. KENNEDY. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 60, line 10, before the period, insert the following ": *Provided further*, That in addition to any other amounts appropriated under this heading an additional $223,000,000 is appropriated to carry out title II of the Higher Education Act of 1965, and a total of $300,000,000 shall be available to carry out such title, of which $300,000,000 shall become available in October 1, 2000".

Mr. KENNEDY. I yield myself 5 minutes.

Mr. President, if this amendment is accepted, it will provide some $300 million nationwide to improve the quality of teaching in the public schools of America. If we have had some important testimony over these past several years, it has been along these lines. Let's get along with having smaller class sizes in the various early years. Senator MURRAY, from the State of Washington, has made that case very clear. And the STAR report, that has focused in on the work of Tennessee, has also demonstrated that in a very compelling way.

The second area is afterschool programs. Our good friends, Senator BOXER from California, Senator DODD, and others, have spoken about the importance of afterschool programs for children in reducing violence and enhancing academic achievement and offering opportunities for business communities to work with children in these afterschool programs to offer career improvements.

There have been important needs which have been demonstrated for building additional kinds of facilities and improving the facilities that exist. The General Accounting Office says that is in excess of over $100 billion. That amendment will follow on tomorrow. It is very important to make sure when every child goes to class in a public school system that the school is going to be in the kind of condition to which all of us want our children to go. If we do not do that, we send a very poor message to children. We say, effectively, it does not matter what that classroom looks like or what that classroom is really all about. That sends a powerful message to a child that perhaps education is not so important.

But when you consider that, and consider also the steps that have been taken in terms of improving technology in the classroom, improving the work that is being done in the areas of literacy, there is one important, outstanding additional issue which demands and cries out for attention in the Senate; and it is this: The American families want to have a well-qualified teacher in every classroom in America, period.

I think if you ask parents all across this country, at the end of the afternoon, where the greatest priority is—if you said, look, if we could have a well-qualified teacher in your child's classroom, I bet every family in America would put that just about at the top of their various lists.

Over the last 3 years, our Committee on Education has had extensive hearings on this issue. We made some recommendations in the last Congress on this issue. It had very strong bipartisan support on the issue of quality teaching. The approach that was taken in that legislation says: All right. We want to provide teacher enrichment for individuals who are already teachers.

We had ideas about mentoring with older teachers and working with professional teachers, but what we have not addressed in an adequate way is how we are going to recruit the kinds of teachers who would be the best teachers for our children and how we are going to train them in the most effective ways so they will be the very best.

This amendment, if it is accepted, amounts to $300 million. We have some $77 million in there now. The President had asked for $115 million to do it. But certainly the applications for this kind of training has far exceeded even the amounts we are talking about today.

This offers an opportunity to say to the young people of this country, and to those kinds of local partnerships—the effective State programs, the universities across this country in the States—that we are going to help and assist you in, as a top priority, recruiting the best teachers for the students in this country.

Finally, we have pointed out, in the education debate over the period of the past days, the need for new teachers. Some 2 million teachers over the next 10 years—200,000 a year—is what we need. We are only getting 100,000 at the present time. The Senate has rejected the excellent proposal of the Senator from Washington to increase the number of teachers in the early grades.

I yield myself 3 more minutes.

In fact, with the rejection of the Murray amendment, we are going to find in excess of 30,000 well-qualified, well-trained teachers who are working in grades K through 3 actually getting pink slips. It makes no sense at all. It makes no sense at all.

So it does seem to me that in an overall budget of $1.7 trillion—do we understand? $1.7 trillion—we ought to be able to have $300 million in the tried and tested way of recruiting teachers, additional teachers, who we know we are in short supply of; well-trained teachers, who we know we are in short supply of; and make them available to an expanding, growing population in our K through 12th grade system. We are increasing the number of students by 477,000 this year. So we are falling further and further behind.

This is a very simple, straightforward amendment. It is saying that of all of the priorities—and there are many—education is certainly among the very highest; and of all the priorities in the areas of education, getting good teachers, recruiting young and old people alike who will be good teachers, giving them the inspirational kind of training so they can go into the classroom, use the latest in technologies, adapt that to the kind of curricula to benefit the children of this country, should receive these additional funds.

Mr. President, I know there are others who want to speak on this issue. How much time remains on our side?

The PRESIDING OFFICER. Fifteen and one-half minutes.

Mr. KENNEDY. I yield 5 minutes to the Senator from Rhode Island, Mr. REED. I think all of us understand that he has made the issue of quality and highly trained teachers his issue in this body, as well his interest in providing pediatric specialists for all children. These are among the many other areas of public policy in which he has been actively engaged both on the Education Committee in the House of Representatives and here in the Senate. I certainly think all of us on the Health, Education, Labor and Pensions Committee in the Senate are very fortunate to have his insights about the importance of this amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. I thank Senator KENNEDY for those kind words, and also for offering this very important amendment. I am a very proud cosponsor of this amendment with Senator KENNEDY.

Last Congress, on an overwhelming bipartisan vote the Senate passed the Teacher Quality Enhancement Grants program as part of the Higher Education Act Amendments of 1998. This was the first time we looked seriously at reforming the way our teachers are trained by enhancing the linkage between teacher colleges and elementary and secondary schools.

What we tried to emphasize is the connection between the teacher colleges and the real-life experiences of teachers in the classroom. The best way to enhance the quality of teaching in America is at the level of the entry teacher.

This is something the Kennedy-Reed amendment will provide more resources for. What we want to do is form a strong, vibrant, and vital link between the teacher colleges and the elementary and secondary schools. We want to ensure that teachers who leave teacher colleges are not just experts in theoretical and pedagogical subjects. We want them to be, first and foremost, experts on the subject matter that they teach, be it mathematics or science or any other subject. In addition, we want to ensure that they have extensive clinical experience.

The model to follow is our medical education system. No one would dream of certifying and licensing a physician after simply going to school and hearing lectures and then maybe having 2 or 3 weeks in a hospital. It is a long-term, extensive clinical education. That model is applicable also, I believe, to education.

In fact, what we have found from our hearings is a disconnect between what teaching students are learning in college and the reality of the teaching experience in the classroom. We want to eliminate that disconnect.

The Higher Education Act Amendments of 1998 sought to do just that by authorizing partnerships between teacher colleges and elementary and secondary schools. There are examples of partnerships that already existed and inspired us; examples such as Salve Regina University in my home State of Rhode Island, which has a partnership with the Sullivan School in Newport. It is exciting and challenging, not only to the young students in that school, but also to the prospective teachers who learn a great deal. In fact, at the heart of these partnerships is the attempt not only to change the culture of elementary and secondary schools but also to change the culture of teacher colleges.

Too often the teacher college in a great university is a poor cousin without a great endowment, neglected by other parts of the university. What we want to do is get the university involved in this great effort so that professors in the math, English, and history departments are also part of this great reawakening of teacher preparation at the university level. This cultural change at the college level, together with extensive clinical involvement with local elementary and secondary schools, I believe, is a fundamental way to enhance the quality of teachers.

The Kennedy-Reed amendment will provide more resources to do this very important and critical job that lies before us. We have gone through the first round of grants with respect to the partnership grants. The Department of Education funded $33 million in the first round to 25 institutions of higher education and their elementary and secondary school partners. This is a first and important step, but we need to do more. That is precisely what this amendment proposes to do. It will appropriate additional resources so we can broaden dramatically these partnerships, as well as increase our investment in the state and recruitment grants also included in the Teacher Quality Enhancement Grants program.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. REED. I ask unanimous consent for an additional minute.

Mr. KENNEDY. One additional minute.

Mr. REED. I thank the Senator.

If we, in fact, pass this amendment, we will be able to fund up to 100 additional partnership, state, and recruitment grant proposals, thereby enabling this important innovation in teacher preparation to be accessible throughout our nation.

I am strongly supportive of this amendment. I think it is something that will allow us to make great progress. Once again, emphasizing a point made so well by Senator KENNEDY, if you look at public education, and if you search for the most powerful lever that we have to improve it, to reform it, and to continue it as an excellent system, teacher training is that lever.

This amendment will give us the power to move forward, dramatically and decisively to improve the quality of teaching in the United States. I strongly support it and commend the Senator from Massachusetts for his efforts.

I yield back to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. Nine and a half minutes.

Mr. KENNEDY. I yield 5 minutes to my colleague from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

Mr. KERRY. I thank the Chair, and I particularly thank my senior colleague for this amendment, as well as for his extraordinary leadership on the subject of education. I think everyone here will agree there simply is no stronger voice for the quality of our schools and the opportunities for our children than my senior colleague.

The great battle in the Senate over the past years has been to establish standards by which we would raise the education level of our schools. The fact is, a few years ago we basically won that battle because now 49 States in the country have agreed to put standards in place or have them in place. Those standards vary. In some States they are stronger than they are in other States, but the great challenge now is fourfold.

One is to stay the course in putting the standards in place and raising the standards. The second is to guarantee that teachers can teach to the standards. The third is to guarantee that students have the opportunity to learn to the standards. That is not being dealt with specifically, though partly, in this amendment. The final one is accountability. All of this has to be accountable. We have learned that. You have to know that what you are trying to teach and what kids are learning are, in fact, being taught and learned.

What the Senator from Massachusetts, my senior colleague, and Senator REED and I and others are joining in is a recognition that we have an extraordinary challenge before us. I was going to use the word "crisis," but I don't want to use it because it is overused. We have all heard the quotes about the number of teachers we need to hire in the next few years. We know maybe as many as 2 million teachers are needed, perhaps half of them in the next 5 years. We also know we are losing 30 to 40 percent of new teachers within the first 3 to 4 years. We know there are ways to make a difference in teachers staying at what is increasingly becoming one of the toughest jobs in America.

It is interesting that a survey, released about 4 months ago, showed what teachers have been telling us for some time. Our own teachers in this country acknowledge that they don't feel fully prepared for the modern classroom. By modern classroom, we mean a lot of different things. We mean the technology needed to teach. We mean some of the modern teaching methodologies, pedagogies. We also mean the nature of the student who comes to school today. That student comes burdened with a whole set of problems, unlike the students of the past. We also know that because of the multicultural, racial diversity of our Nation, we have teachers coping with different cultures, with a diversity that is absolutely extraordinary but also challenging.

The fact is that fully 80 percent of our teachers tell us they don't feel equipped to be able to do the job. They are crying out for help. That is what the Kennedy amendment delivers. It makes education programs accountable for preparing high-quality teachers, for improving prospective teachers' knowledge of academic content, through increased collaboration between the faculty and schools of education and the departments of arts and sciences, so we will ensure that teachers are well prepared for the realities of the classroom by providing very strong, hands-on classroom experience and by strengthening the links between the university and the K-through-12 school faculties.

We also need to prepare prospective teachers to use technology as a tool for teaching and learning. We need to prepare prospective teachers to work effectively with diverse students.

The truth is that we as Senators talk about the difficulties of teaching today in America. The fact is that it is one of the most difficult jobs in our Nation. It is extraordinary to me that the Senate, at this time of urgent need in the country, might not be prepared to make the most important investment in the country. It is extraordinary to me that kids just 2 or 3 years out of college can earn in a Christmas bonus more than teachers will earn in an entire year. It is impossible to attract some of the best kids out of our best colleges and universities because we are not willing to provide the mentoring, the ongoing education, the support systems, and the capacity to really fulfill the promise of teaching in the public school system.

So I hope our colleagues will support the notion that all we are trying to do is raise to the original requested level the spending for the teacher enhancement grants, with the knowledge that this is the most important investment we can make in America. Teachers need and deserve respect from the Senate and from those who create the structure within which they try to teach our kids so that they can, in fact, learn and we can do better as a country.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, I think I have 3 and a half minutes left. I yield myself 3 minutes.

On this chart behind me, we see that communities need more well-qualified teachers. Out of 366 total applications—and this is 1999—only 77 applications were funded. With this particular amendment accepted, we would still be below half of what was actually in the pipeline for this last year, let alone what would be in there for next year. There is enormous need.

Finally, I will quote from the chairman of our Education Committee, Senator JEFFORDS, who, in his representation to the Senate on the education bill, had this to say about this particular provision that is in the law—not about this amendment but about this provision:

> At its foundation, Title II embraces the notion that investing in the preparation of our Nation's teachers is a good one. Well-prepared teachers play a key role in making it possible for our students to achieve the standards required to assure both their own well-being and the ability of our country to compete internationally.
>
> . . .Title II demands excellence from our teacher preparation programs; encourages coordination; focuses on the need for academic content, knowledge, and strong teaching skills.
>
> . . .These efforts recognize the fundamental connection that exists among States, institutions of higher education, and efforts to improve education for our Nation's elementary and secondary school teachers.

This provision had the strongest bipartisan support in that education bill. We know what the need is. We know this is a very modest amendment. We know what a difference it will make in terms of the high school students of this country. I hope this amendment will be accepted.

Mr. President, I understand I have a minute left.

The PRESIDING OFFICER. The Senator has a minute and a half.

Mr. KENNEDY. I yield that time to the Senator from Rhode Island, Mr. REED, with whom I have enjoyed working, along with my colleague from Massachusetts, Senator KERRY.

Mr. REED. I thank Senator KENNEDY.

Let me emphasize one additional point that bears repeating. The classroom today is very different from those in the 1950s or 1960s—different because of technology; different because families are in much more distressed conditions in many parts of the country; different because of the various cultural factors that go into the makeup of many classes, particularly in urban America. In fact, we are still teaching in too many colleges as if it were the class of 1950, as if it were the time of "My Three Sons" and "Leave It To Beaver."

That is not what American education is today. What we have to do today—and this amendment will help immensely—is refocus our teacher training to confront the issues of today, such as multiculturalism, children with disabilities in the classroom, and technology. This is absolutely critical. Unless we enhance our commitment to this type of education—partnerships between schools of education and elementary and secondary schools, drawing on the resources of the whole university, focusing these resources on new technology and the challenges that are particular to this time in our history—we are not going to succeed in educating all of our children to the world-class standards that we all know have to be met.

I urge passage of this very important amendment.

Mr. SPECTER. Mr. President, there is no doubt about the importance of teacher quality enhancement. Teachers are the backbone of the educational system. There is no doubt about the importance of education. It is a truism that education is a priority second to none. The bill that has been presented on the floor by the distinguished ranking member, Senator HARKIN, and myself through subcommittee and full committee has recognized the importance of education in that we have increased education funding by $2.3 billion this year over last year's appropriation. It is now in excess of $35 billion on the Federal allocation. Bear in mind that the Federal Government funds only about 7 percent of education nationwide.

When we talk about teacher quality enhancement, this is a program which is a very new program. It was not on the books in fiscal year 1998. For the current year, fiscal year 1999, we have an appropriation in excess of $77 million. When we took a look at it this year, we provided a $3 million increase. This is a matter of trying to recognize what the priorities are.

The President had asked for $115 million, and we thought that in allocating funds on a great many lines—title I, Head Start, and many other very important education programs—the proper allocation was $80 million. Now, when the Senator from Massachusetts comes in and asks for an increase of some $220 million, he is requesting $185 million more than the President's request. It would be an ideal world if our funding were unlimited. But what we are looking at here—and we have had very extensive debate today on whether the budget is going to invade the Social Security trust fund. I think this Senator, like others, has determined that we do not invade the Social Security trust fund.

We had debated whether or not there ought to be a pro rata increase or a decrease, if we ran into the Social Security trust fund, to make sure we didn't use any of the Social Security moneys, or whether, as the Senator from New Jersey, Mr. LAUTENBERG, offered in an amendment, to have other targeted cuts. My view is that we have to structure this budget so we don't cut into the Social Security trust fund.

Senator STEVENS was in the well of the Senate earlier today, and I discussed the matter with him. We are trying to structure these 13 appropriations bills so we don't move into the Social Security trust fund. But if we make extensive additions, as this amendment would do, adding $220 million, as I say, which is $185 million more than the President's request, it is not going to be possible to avoid going into the Social Security trust fund.

We have already had very substantial increases in funding on this bill. We have a bill of $91.7 billion, which is as much as we thought the traffic would bear on the Republican side of the aisle, realizing that we have to go to conference with the House which has a lower figure, and realizing beyond that, that we have to get the President's signature. We have already had $1.3 billion added to the $91.7 billion for block grants. We have had $900 million added for day care. Now, if we look at another amendment for $220 million, it is going to inevitably at one point or another break the caps.

These are not straws that break the camel's back. These are heavy logs which will break the back, and it is not even a camel.

Much as I dislike opposing the amendment by the Senator from Massachusetts, I am constrained to do so in my capacity as manager of this bill.

In the course of the past week, I have voted against more amendments on funding for programs that I think are very important than I have in the preceding 19 years in the Senate. But that is the responsibility I have when I manage the bill—to take a look at the priorities, get the allocation from the Budget Committee, have a total allocation budget of $91.7 billion, and simply have to stay within that budget.

Mr. President, I inquire as to how much time is remaining on the 45 minute time agreement.

The PRESIDING OFFICER. Seven minutes.

Mr. SPECTER. How much does the Senator from Massachusetts have?

The PRESIDING OFFICER. His time has expired.

Mrs. MURRAY. Mr. President, teacher quality is one of the most critical factors influencing student achievement and success. I urge my colleagues to support the Kennedy amendment, which would increase Teacher Quality Enhancement grants from $80 million to the fully authorized level of $300 million.

I am a cosponsor of this amendment, along with Senator REED of Rhode Island and others, because I firmly believe that an investment in teacher quality is an investment in our children's future. We know all learners have the capacity for high achievement. We must increase our investment in teacher quality enhancement so every child in America is taught by the most qualified teacher available. We must invest in our teachers. We must help them reach the highest levels of competency, so they in turn can help their students reach the highest summits of achievement. As we work to bolster teacher quality, we must also focus our attention on reducing class size. Smaller classes have led to dramatic gains in student achievement. We must continue to reduce class size so highly qualified teachers can provide students more individualized attention. Reducing class size and increasing investment in teacher quality enhancement are key to ensuring academic success for all students.

Mr. SPECTER. Mr. President, we are prepared to move ahead with another amendment. We are going to evaluate our schedule. I suggest, just a moment or two, the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, it is my understanding that the Senator from Rhode Island, Mr. REED, is prepared to offer an amendment, to speak to it for 10 minutes, and then withdraw it.

Mr. REED. That is correct.

Mr. SPECTER. I ask unanimous consent that the pending amendment be set aside.

Mr. KENNEDY. Mr. President, reserving the right to object, and I will not, is it appropriate to ask for the yeas and nays until the time has been yielded? I ask for the yeas and nays on my amendment. I ask for the yeas and nays on the previous amendment as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

It is in order to ask for the yeas and nays. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, reserving the right to object on the request for the amendment, I would happy to do that. I say to my friend from Pennsylvania that we want to use this fill time. Senator BINGAMAN will go next, may I inquire, on the next amendment offered?

Mr. SPECTER. I believe the next amendment would be on this side of the aisle.

Mr. REID. The next Democratic amendment would be Bingaman.

I thank the manager.

Mr. SPECTER. That is satisfactory.

I yield the remainder of my time on the Kennedy amendment.

I now ask unanimous consent to proceed with Senator REED under the stipulated terms of 10 minutes to offer an amendment and withdraw it.

I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 10 minutes.

Mr. REED. Thank you, Mr. President.

AMENDMENT NO. 1866

(Purpose: To permit the expenditure of funds to complete certain reports concerning accidents that result in the death of minor employees engaged in farming operations)

Mr. REED. Mr. President, I ask that amendment No. 1866 be called up.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from Rhode Island [Mr. REED] proposes an amendment numbered 1866.

Mr. REED. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In title I, under the heading "OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—SALARIES AND EXPENSES", insert before the colon at the end of the second proviso the following: ", except that amounts appropriated to the Occupational Safety and Health Administration for fiscal year 2000 may be obligated or expended to conduct an investigation in response to an accident causing the death of an employee (who is under 18 years of age and who is employed by a person engaged in a farming operation that does not maintain a temporary labor camp and that employs 10 or fewer employees) and to issue a report concerning the causes of such an accident, so long as the Occupational and Safety and Health Administration does not impose a fine or take any other enforcement action as a result of such investigation or report".

Mr. REED. Mr. President, this amendment is a result of a tragic accident in my home State of Rhode Island where a young worker on a farm was killed accidentally.

The police came immediately and determined that there was no foul play and concluded their investigation. But the parents were deeply concerned because no one could explain to them what happened.

As we looked into the matter for them, we discovered that for many years, because of a rider on this appropriations bill, OSHA has been prohibited from investigating deaths on farms that employ 10 or fewer workers.

If this terrible, tragic accident had taken place in a McDonald's, OSHA would be there. There would be an investigation. They would discover the cause. They would suggest remedies. They would do what most Americans expect should be done when an accident takes place in the workplace. But because of this small farm rider, OSHA is powerless to investigate.

I think it is wrong. I think it is wrong not only because these parents don't know what circumstances took the life of their child, but they also regret that it might happen again because there might be some type of systematic flaw or some type of problematic process on the farm that could also claim the life of another youngster.

Mr. SPECTER. Mr. President, will the Senator from Rhode Island yield for a moment on a managers' matter?

Mr. REED. I am happy to yield.

Mr. SPECTER. We are ready to proceed on the votes on the two amendments pending by the Senator from Massachusetts when Senator REED concludes. I thought perhaps we should notify the Members that the first vote will start at approximately 4:55.

I thank my colleague from Rhode Island for yielding.

I thank the Chair.

Mr. REED. Mr. President, let me continue.

My amendment would simply state that OSHA has the authority to conduct an inspection when a minor, someone under 18 years of age, is killed on a farm regardless of the size of the farm, but they would also be prevented from levying any type of fine or enforcement action. Their role would be very simple and very direct: Find the cause of the action; then, not with respect to that particular farm, not with respect to any particular sanction of penalty, generally, if they can learn something that would help protect the lives of others, they would incorporate that, of course, in their overall directions and regulations for farming and other activities.

These goals are very simple and straightforward: Identify the cause of the accident so that the employer knows what steps are needed to prevent similar deaths, and make that information available so that other farmers can take steps to avert similar tragedies.

This is not an academic or arcane issue because there are numerous youngsters working on farms. There are also in the United States about 500 work-related deaths reported each year. Moreover, although only 8 percent of all workers under the age of 18 are employed in agriculture, more than 40 percent of the work-related deaths among young people occur in the agricultural industry.

So this is an issue of importance.

Let me stress something else. This particular amendment would only apply if the individual youngster was, in fact, an employee of the farm. This would not affect a situation where a son or daughter are doing chores around the farm. This is a situation when someone is hired to work on the farm, and that person is involved in a fatal accident. I think it is only fair because I believe the parents in America, when they send their children into the workplace—be it a supermarket or McDonald's or a farm, large or small—expect their children will at least have the coverage of many of the safety laws we have in place; but failing that, at least we will have the power, the authority, the ability to determine what happened in the case of a fatal accident.

This proposal is not unique to the situation I found in Rhode Island. The National Research Council, an arm of the National Academy of Science, issued a report entitled "Protecting Youth at Work," and among the recommendations:

> To ensure the equal protection of children and adolescents from health and safety hazards in agriculture, Congress should take an examination of the effects and feasibility of extending all relevant Occupational Safety and Health Administration regulations to agricultural workers, including subjecting small farms to the same level of OSHA enforcement as that apply to other small businesses.

My proposal goes not to that great length, not to that extreme. It is much more constrained and limited. It simply says when there is a fatality involving an employee under 18 years of age on a farm—small or large—OSHA can conduct an inspection to determine the cause and perhaps propose remedial actions but cannot invoke any type of sanction or fine.

That is the height of reasonableness, given the experiences we have seen, given the report of the National Academy of Science, given all of these factors.

I believe this should be done. In fact, it is long overdue. It is simple justice, not only for the families of those youngsters who are fatally injured on these small farms, but also it will give us the impetus to save lives in the future.

Some have criticized this amendment as potentially imposing an undue burden on small farms. This is erroneous criticism. There is no burden here other than facing up to the facts and finding out what happened. Indeed, I believe knowledge is power; if we know what caused these accidents, we can prevent them and, even, I hope, make the operators of these farms more conscious of what they are doing, particularly as they employ youngsters.

This is an amendment I believe is important; it is critical. I offered a variation on this amendment in the Committee on Health, Education, Labor, and Pensions when we were considering the SAFE Act. We had a vigorous debate but, I will admit, it met resistance.

I believe passionately we can do something and we must do something. I also recognize this process will not end today, that in the last few hours or moments of this debate it is unlikely this amendment will pass. I will, as I indicated to the Senator from Pennsylvania, withdraw the amendment. Such withdrawal does not signify retreat by me on this issue. I will continue to look for ways in which we can have investigations of fatalities on small farms, not because of any animus toward large or small farms but because when someone loses a child, I believe they deserve an answer. What happened? How did it happen? How can other children be spared from such a fatality?

In that spirit, I will continue to advance this issue and look for additional ways we can get an investigation. Again, the emphasis is not on being punitive; the emphasis is on being, first of all, fair to the family; and second, of being remedial so we can address problems that may be systematic and prevalent not just on the site of the particular fatality but endemic and systematic throughout the farming community.

AMENDMENT NO. 1866, WITHDRAWN

With that, I yield back my time, and I ask unanimous consent the amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1866) was withdrawn.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 1819

Mr. SPECTER. Mr. President, a few minutes ago we gave notice to Members we would have a vote at 4:55 and it is now 4:57.

I move to table the Kennedy amendment on teacher enhancement, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to table amendment No. 1819. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. McCAIN) is necessarily absent.

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 315 Leg.]

YEAS—56

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Cochran
Collins
Conrad
Coverdell
Craig
Crapo
DeWine
Domenici
Enzi
Feingold
Fitzgerald
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kyl
Lott
Lugar
Mack
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—43

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Bryan
Byrd
Cleland
Daschle
Dodd
Dorgan
Durbin
Edwards
Feinstein
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Schumer
Torricelli
Wellstone
Wyden

NOT VOTING—1

McCain

The motion was agreed to.

Mr. LOTT. I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2268

The PRESIDING OFFICER (Mr. CRAPO). The question is on agreeing to the Kennedy amendment No. 2268. The yeas and nays have been ordered. The clerk will call the roll.

Mr. NICKLES. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Kennedy Amendment No. 2268. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. McCAIN) is necessarily absent.

The result was announced—yeas 50, nays 49, as follows:

YEAS—50

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Cochran
Coverdell
Craig
Crapo
Domenici
Enzi
Fitzgerald
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kyl
Lott
Lugar
Mack
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—49

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Bryan
Byrd
Cleland
Collins
Conrad
Daschle
DeWine
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Moynihan
Murray
Reed
Reid
Robb
Rockefeller

Sarbanes
Schumer
Snowe
Specter
Torricelli
Wellstone
Wyden

NOT VOTING—1

McCain

The motion was agreed to.

Mr. COVERDELL. Mr. President, I move to reconsider the vote.

Mr. ABRAHAM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I would have voted against the Nickles amendment because I could not endorse a plan to bust the budget caps, spend every dime of the non-Social Security surplus, and then use budget gimmicks to keep ourselves from dipping into the Social Security surplus.

The Congress has the power of the purse, and that power carries with it the obligation to spend the taxpayer dollars responsibly. Just because we have a surplus of tax dollars in the Treasury, that doesn't mean we should spend it.

In fact, when we passed a tax relief bill this summer, we made it clear that the surplus—the portion that does not come from Social Security payroll taxes—should be given back to the taxpayers, not spent on big government. That bill was vetoed, as expected, and the Congressional leadership and the Administration have given up on providing meaningful tax relief to American families this year. But now we are apparently planning to use this year's surplus—the surplus that we were going to give back to the people—for more government spending.

The Nickles amendment does seek to protect the Social Security surplus, and I applaud him for that effort. I have consistently supported a lockbox to keep Congress' hands off these retirement funds.

However, I oppose the Nickles amendment because it contemplates spending the $572 billion allowed under the budget caps, as well as the $14 billion in non-Social Security surplus funds, and even billions of dollars more—and then indiscriminately cut every program across-the-board by whatever percentage amount is needed to keep us from dipping into Social Security.

This ludicrous plan demonstrates just how badly the Congress is addicted to pork-barrel spending. Why not just cut out the pork?

I have identified over $10 billion in wasteful, unnecessary, and low-priority spending in the appropriations bills that have passed the Senate this year. Last year, when all was said and done, Congress spent over $30 billion on pork, some of it disguised as emergency spending, but most of it everyday, garden-variety pork.

If we cut out every one of these pork-barrel spending projects—projects added by Members of Congress for their special interest supporters and parochial concerns—we wouldn't have to resort to budget gimmicks like creating a thirteenth month in the next fiscal year, or delaying payments to our neediest families, or resorting to a Congressional sequester.

I have published on my Senate website voluminous lists that include every earmark and set-aside added by Congress this year and for the previous two years. I urge my colleagues to look over these lists. Surely, these pork-barrel projects aren't as deserving of taxpayer funding as, say, funding for our children's education, veterans health care programs, getting our military personnel and their families off food stamps, and the many other national priorities that would be cut in an across-the-board sequester gimmick.

Mr. President, I also want to make the point that voluntarily returning to the indiscriminate sequestration process of Gramm-Rudman-Hollings—a process that was instituted as a last-ditch effort to rein in enormous annual deficits—is not responsible budgetary stewardship. It is an admission of defeat, an admission that the Congress cannot control its appetite for pork-barrel spending.

Regarding the Lautenberg amendment, I voted to table that amendment for two reasons. First, by its silence on the issue, the amendment implicitly endorses spending the $14 billion non-Social Security surplus in the appropriations process. Second, the amendment contemplates closing special interest tax loopholes, which I fully endorse, but for the purposes of raising more money to spend on more government. I believe any revenues raised by making our tax code fairer and less skewed toward special interests should be used to provide tax relief for American families.

I agree that we must not dip into the Social Security Trust Funds; that would merely exacerbate the impending insolvency of the system. But I cannot support a plan to use the non-Social Security surplus for anything other than shoring up Social Security and saving Medicare, paying down the $5.6 trillion national debt, and providing tax relief to lower- and middle-income Americans. Neither the Nickles or Lautenberg amendments protect the entire surplus from the greedy hands of government.

Mr. President, we have a budget process and we have spending caps to make sure we keep the budget balanced. We should ensure that appropriations stay within the caps. We should cut out the wasteful and unnecessary spending. And we should make sure that America's priorities are funded, not the priorities of the special interests.

ORDER OF BUSINESS

Mr. SPECTER. Mr. President, I ask unanimous consent that Senator ABRAHAM be recognized to offer his amendment, that immediately following the reporting by the clerk the bill be laid aside until 9:30 a.m. on Thursday, and at that time Senator ABRAHAM be recognized to make his opening statement on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I have been authorized by the leader to say that in light of this last agreement there will be no further rollcall votes this evening.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 1828

(Purpose: To prohibit the use of funds for any program for the distribution of sterile needles or syringes for the hypodermic injection of any illegal drug)

Mr. ABRAHAM. Mr. President, I call up amendment No. 1828.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan (Mr. ABRAHAM), for himself, Mr. COVERDELL, Mr. GRASSLEY, and Mr. ASHCROFT, proposes an amendment numbered 1828.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 80, strike lines 1 through 8, and insert the following:

SEC. . Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

Mr. ABRAHAM. Mr. President, if I could, based on the prior agreement that was entered into, we will begin a fuller discussion of this issue tomorrow morning, and I will be here along with other Members who wish to speak on it.

In a nutshell, this amendment to the appropriations bill before us would prohibit the use of our Federal dollars for the purpose of engaging in needle exchange programs.

I simply wish to indicate that when we discuss this in the morning, I will lay out arguments in support of the amendment. I believe the arguments would strongly buttress the case that we should not use the taxpayer dollars for purposes of needle exchange programs.

I am sure there will be a spirited discussion of this in the morning. I look forward to it.

At this point, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, is the parliamentary situation such that the Senator from Virginia can make a unanimous consent request on a matter not related to the bill?

The PRESIDING OFFICER. Yes.

COMPREHENSIVE TEST BAN TREATY

Mr. WARNER. Mr. President, I rise to address the issue of the Comprehensive Nuclear Test Ban Treaty and to apprise the Senate of information presented at hearings of the Armed Services Committee over the last two days. The committee today conducted the second of its series of three hearings this week on the CTBT.

Yesterday morning, the Armed Services Committee heard classified testimony from career professionals, technical experts with decades of experience, from the Department of Energy laboratories and the CIA. At that hearing, the committee received new information having to do with the Russian nuclear stockpile, our ability to verify compliance with the CTBT, as well as DOE lab assessments of the U.S. nuclear stockpile. Much of what the committee heard during that hearing was new information—information developed over the past 18 months—and therefore was not available to the Congress and the President when the CTBT was signed in 1996. Since 1997, when the intelligence community released its last estimate on our ability to monitor the CTBT, new information has led the intelligence community—on its own initiative—to conclude that a new, updated estimate is needed. I have been informed that this new estimate will be completed late this year or early next year.

This morning, the Armed Services Committee heard from the Secretary of Defense, William Cohen, and the Chairman of the Joint Chiefs of Staff, General Shelton. This afternoon, we heard from Dr. James Schlesinger, former Secretary of Defense and Energy and former Director of Central Intelligence, and General Shalikashvili, former Chairman of the JCS. Their testimony is available on the Committee's web page.

In today's hearing, I highlighted my serious concerns with the CTBT in three areas:

1. We will not be able to adequately and confidently verify compliance with the treaty.

2. CTBT will preclude the United States from taking needed measures to ensure the safety and reliability of our stockpile.

3. The administration has overstated the effectiveness of the CTBT in lessening proliferation.

Regarding the safety of the U.S. nuclear stockpile, today's witnesses highlighted the fact that only half of the nuclear weapons in the U.S. stockpile today have all the modern safety features that have been developed and should be included on these weapon systems. We will not be able to retrofit these safety features in our weapons in the absence of nuclear testing. These are weapons that are stored at various locations around the world; weapons that rest in missile tubes literally feet away from the bunks of our submarine crews; weapons that are regularly moved across roads and through airfields around the world.

Regarding the reliability of the U.S. nuclear stockpile, Secretary Cohen and General Shelton acknowledged that it could be ten years or more before we will know whether the Stockpile Stewardship Program—computer simulation tools—needed to replace nuclear testing will work. Secretary Schlesinger clarified that, if we substitute computer simulation for actual nuclear testing, the most we can hope for is that these computer tools will slow the decline—due to aging—in our confidence in the stockpile. Will we ever be able to replace nuclear testing?

Regarding proliferation, Secretary Schlesinger highlighted the fact that the diminishing confidence in our stockpile, which is inevitable if we were to ratify CTBT, may actually drive some non-nuclear countries to reconsider their need to develop nuclear weapons to compensate for the diminished credibility of the U.S. deterrent force. This declining confidence in the U.S. stockpile is a fact of science that has been progressing since the United States stopped nuclear testing in 1992. Our nuclear weapons are experiencing the natural consequences of aging. Dr. Schlesinger stated it clearly when he asked: "Do we want a world that lacks confidence in the U.S. deterrent or not?"

Regarding verification, this morning Secretary Cohen confirmed that the United States will not be able to detect low yield nuclear testing which can be carried out in violation of the treaty. In addition, we exposed the fallacy of the administration's claim that CTBT will provide us with important on-site inspection rights. We would need to get the approval of 30 nations before we could conduct any on-site inspections. That will be very difficult, to say the least.

Although I believe all of our witnesses have conducted themselves very professionally, I heard nothing at either of our hearings that changes my view of the CTBT. I am deeply concerned that the administration is overselling the benefits of this treaty while downplaying its many adverse long-term consequences.

My bottom line is this: reasonable people can disagree on the impact of the CTBT for U.S. national security. As long as there is a reasonable doubt about whether the CTBT is in the U.S. national interest, then we should not ratify it.

Mr. President, tomorrow morning the Armed Services Committee will conduct the third of its CTBT hearings. We will hear from the DOE lab directors and others responsible for overseeing the stockpile. We will also hear from former officials and other technical experts with years of experience in developing, testing and maintaining our nuclear weapons.

I ask unanimous consent to have printed in the RECORD material presented at today's hearing, including a letter to me dated October 5, 1999, from former Chairman of the JCS, John W. Vessey, USA-Ret; a letter to the Senate leaders from six former Secretaries of Defense and a letter from other former Government officials.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

GARRISON, MN, *October 5, 1999.*

Hon. JOHN W. WARNER,
Chairman, Armed Services Committee,
United States Senate,
Washington, DC.

DEAR SENATOR WARNER: If the news reports are correct, the Armed Services Committee will be addressing the proposed Comprehensive Test Ban Treaty (CTBT) in the next few days. Although I will not be able to be in Washington during the hearings, I want you to have at least a synopsis of my views on the matter.

I believe that ratifying the treaty requiring a permanent zero-yield ban on all underground nuclear tests is not in the security interest of the United States.

From 1945 through the end of the Cold War, the United States was clearly the preeminent nuclear power in the world. During much of that time, the nuclear arsenal of the Soviet Union surpassed ours in numbers, but friends and allies, as well as potential enemies and other nations not necessarily friendly to the United States, all understood that we were the nation with the very modern, safe, secure, reliable, usable, nuclear deterrent force which provided the foundation for the security of our nation and for the security of our friends and allies, and much of the world. Periodic underground nuclear tests were an essential part of insuring that our nuclear deterrent force remained modern, safe, secure, reliable and usable. The general knowledge that the United States would do whatever was necessary to maintain that condition certainly reduced the proliferation of nuclear weapons during the period and added immeasurably to the security cooperation with our friends and allies.

Times have changed; the Soviet Union no longer exists; however, much of its nuclear arsenal remains in the hands of Russia. We have seen enormous political, economic, social and technological changes in the world since the end of the Cold War, and the these changes have altered the security situation and future security requirements for the United States. One thing has not changed. Nuclear weapons continue to be with us. I do not believe that God will permit us to "uninvent" nuclear weapons. Some nation, or power, will be the preeminent nuclear power in the world, and I, for one, believe that at least under present and foreseeable conditions, the world will be safer if that power is the United States of America. We jeopardize maintaining that condition by eschewing the development of new nuclear weapons and by ruling out testing if and when it is needed.

Supporters of the CTBT argue that it reduces the chances for nuclear proliferation. I applaud efforts to reduce the proliferation of nuclear weapons, but I do not believe that the test ban will reduce the ability of rogue states to acquire nuclear weapons in sufficient quantities to upset regional security in various parts of the world. "Gun type" nuclear weapons can be built with assurance they'll work without testing. The Indian and Pakistani "tests" apparently show that there is adequate knowledge available to build implosion type weapons with reasonable assurance that they will work. The Indian/Pakistan explosions have been called "tests", but I believe it be more accurate to call them "demonstrations", more for political purposes than for scientific testing.

Technological advances of recent years, particularly the great increase in computing power coupled with improvements in modeling and simulation have undoubtedly reduced greatly the need for active nuclear testing and probably the size of any needed tests. Some would argue that this should be support for the United States agreeing to ban testing. The new technological advantages are available to everyone, and they probably help the "proliferator" more than the United States.

We have embarked on a "stockpile stewardship program" designed to use science, other than nuclear testing, to ensure that the present weapons in our nuclear deterrent remain safe, secure, and reliable. The estimates I've seen are that we will spend about $5 billion each year on that program. Over twenty years, if the program is completely successful, we will have spent about $100 billion, and we will have replaced nearly every single part in each of those complex weapons. At the end of that period, about the best that we will be able to say is that we have a stockpile of "restored" weapons of at least thirty-year-old design that are probably safe and secure and whose reliability is the best we can make without testing. We will not be able to say that the stockpile is modern, nor will we be assured that it is usable in the sense of fitting the security situation we will face twenty years hence. To me that seems to foretell a situation of increasing vulnerability for use and our friends and allies to threats from those who will not be deterred by the Nonproliferation Treaty or the CTBT, and there will surely be such states.

If the United States is to remain the preeminent nuclear power, and maintain a modern safe secure, reliable, and usable nuclear deterrent force, I believe we need to continue to develop new nuclear weapons designed to incorporate the latest in technology and to meet the changing security situation in the world. Changes in the threat, changes in intelligence and targeting, and great improvements in delivery precision and accuracy make the weapons we designed thirty years ago less and less applicable to our current and projected security situation. The United States, the one nation most of the world looks to for securing peace in the world, should not deny itself the opportunity to test the bedrock building block of its security, its nuclear deterrent force, if conditions require testing.

To those who would see in my words advocacy for a nuclear buildup or advocacy for large numbers of high-yield nuclear tests, let me say that I believe we can have a modern, safe, secure, reliable and usable nuclear deterrent force at much lower numbers than we now maintain. I believe we can keep it modern and reliable with very few actual nuclear tests and that those tests can in all likelihood be relatively low-yield tests. I also believe that the more demonstrably modern and usable is our nuclear deterrent force, the less likely are we to need to use it, but we must have modern weapons, and we ought not deny ourselves the opportunity to test if we deem it necessary.

Very respectfully yours,

JOHN W. VESSEY,
General, USA (Ret.), Former Chairman,
Joint Chiefs of Staff.

Hon. TRENT LOTT,
Majority Leader,
U.S. Senate, Washington, DC.
Hon. TOM DASCHLE,
Democratic Leader,
U.S. Senate, Washington, DC.

DEAR SENATORS LOTT AND DASCHLE: As the Senate weighs whether to approve the Comprehensive Test Ban Treaty (CTBT), we believe Senators will be obliged to focus on one dominant, inescapable result were it to be ratified: over the decades ahead, confidence in the reliability of our nuclear weapons stockpile would inevitably decline, thereby reducing the credibility of America's nuclear deterrent. Unlike previous efforts at a CTBT, this Treaty is intended to be of unlimited duration, and though "nuclear weapon test explosion" is undefined in the Treaty, by America's unilateral declaration the accord is "zero-yield," meaning that all nuclear tests, even of the lowest yield, are permanently prohibited.

The nuclear weapons in our nation's arsenal are sophisticated devices, whose thousands of components must function together with split-second timing and scant margin for error. A nuclear weapon contains radioactive material, which in itself decays, and also changes the properties of other materials within the weapon. Over time, the components of our weapons corrode and deteriorate, and we lack experience predicting the effects of such aging on the safety and reliability of the weapons. The shelf life of U.S. nuclear weapons was expected to be some 20 years. In the past, the constant process of replacement and testing of new designs gave some assurance that weapons in the arsenal would be both new and reliable. But under the CTBT, we would be vulnerable to the effects of aging because we could not test "fixes" of problems with existing warheads.

Remanufacturing components of existing weapons that have deteriorated also poses significant problems. Manufacturers go out of business, materials and production processes change, certain chemicals previously used in production are now forbidden under new environmental regulations, and so on. It is a certainty that new processes and materials—untested—will be used. Even more important, ultimately the nuclear "pits" will need to be replaced—and we will not be able to test those replacements. The upshot is that new defects may be introduced into the stockpile through remanufacture, and without testing we can never be certain that these replacement components will work as their predecessors did.

Another implication of a CTBT of unlimited duration is that over time we would gradually lose our pool of knowledgeable people with experience in nuclear weapons design and testing. Consider what would occur if the United States halted nuclear testing for 30 years. We would then be dependent on the judgment of personnel with no personal experience either in designing or testing nuclear weapons. In place of a learning curve, we would experience an extended unlearning curve.

Furthermore, major gaps exist in our scientific understanding of nuclear explosives. As President Bush noted in a report to Congress in January 1993, "Of all U.S. nuclear weapons designs fielded since 1958, approximately one-third have required nuclear testing to resolve problems arising after deployment." We were discovering defects in our arsenal up until the moment when the current moratorium on U.S. testing was imposed in 1992. While we have uncovered similar defects since 1992, which in the past would have led to testing, in the absence of testing, we are not able to test whether the "fixes" indeed work.

Indeed, the history of maintaining complex military hardware without testing demonstrates the pitfalls of such an approach. Prior to World War II, the Navy's torpedoes had not been adequately tested because of insufficient funds. It took nearly two years of war before we fully solved the problems that caused our torpedoes to routinely pass harmlessly under the target or to fail to explode on contact. For example, at the Battle of Midway, the U.S. launched 47 torpedo aircraft, without damaging a single Japanese ship. If not for our dive bombers, the U.S. would have lost the crucial naval battle of the Pacific war.

The Department of Energy has structured a program of experiments and computer simulations called the Stockpile Stewardship Program, that it hopes will allow our weapons to be maintained without testing. This program, which will not be mature for at least 10 years, will improve our scientific understanding of nuclear weapons and would likely mitigate the decline in our confidence in the safety and reliability of our arsenal. We will never know whether we should trust Stockpile Stewardship if we cannot conduct nuclear tests to calibrate the unproven new techniques. Mitigation is, of course, not the same as prevention. Over the decades, the erosion of confidence inevitably would be substantial.

The decline in confidence in our nuclear deterrent is particularly troublesome in light of the unique geopolitical role of the United States. The U.S. has a far-reaching foreign policy agenda and our forces are stationed around the globe. In addition, we have pledged to hold a nuclear umbrella over our NATO allies and Japan Though we have abandoned chemical and biological weapons, we have threatened to retaliate with nuclear weapons to such an attack. In the Gulf War, such a threat was apparently sufficient to deter Iraq from using chemical weapons against American troops.

We also do not believe the CTBT will do much to prevent the spread of nuclear weapons. The motivation of rogue nations like North Korea and Iraq to acquire nuclear weapons will not be affected by whether the U.S. tests. Similarly, the possession of nuclear weapons by nations like India, Pakistan, and Israel depends on the security environment in their region, not by whether or not the U.S. tests. IF confidence in the U.S. nuclear deterrent were to decline, countries that have relied on our protection could well feel compelled to seek nuclear capabilities of their own. Thus, ironically, the CTBT might cause additional nations to seek nuclear weapons.

Finally, it is impossible to verify a ban that extends to very low yields. The likelihood of cheating is high. "Trust but verify" should remain our guide. Tests with yields below 1 kiloton can both go undetected and be military useful to the testing state. Furthermore, a significantly larger explosion can go undetected—or be mistaken for a conventional explosion used for mining or an earthquake—if the test is "decoupled." Decoupling involves conducting the test in a large underground cavity and has been shown to dampen an explosion's seismic signature by a factor of up to 70. The U.S. demonstrated this capability in 1966 in two tests conducted in salt domes at Chilton, Mississippi.

We believe that these considerations render a permanent, zero-yield Comprehensive Test Ban Treaty incompatible with the Nation's international commitments and vital security interests and believe it does not deserve the Senate's advice and consent. Accordingly, we respectfully urge you and your colleagues to preserve the right of this nation to conduct nuclear tests necessary to the future viability of our nuclear deterrent by rejecting approval of the present CTBT.

Respectfully,

JAMES R. SCHLESINGER.
FRANK C. CARLUCCI.
DONALD H. RUMSFELD.
RICHARD B. CHENEY.
CASPAR W. WEINBERGER.
MELVIN R. LAIRD.

WASHINGTON, DC,
October 5, 1999.

Hon. TRENT LOTT,
Majority Leader,
U.S. Senate, Washington, DC.

Hon. THOMAS A. DASCHLE,
Minority Leader,
U.S. Senate, Washington, DC.

DEAR SENATORS LOTT AND DASCHLE: The Senate is beginning hearings on the Comprehensive Test Ban Treaty ("CTBT"), looking to an October 12 vote on whether or not to ratify. We believe, however, that it is not in the national interest to vote on the Treaty, at least during the life of the present Congress.

The simple fact is that the Treaty will not enter into force any time soon, whether or not the United States ratifies it during the 106th Congress. This means that few, if any, of the benefits envisaged by the Treaty's advocates could be realized by Senate ratification now. At the same time, there could be real costs and risks to a broad range of national security interests—including our nonproliferation objectives—if Senate acts prematurely.

Ratification of the CTBT by the U.S. now will not result in the Treaty coming into force this fall, as anticipated at its signing. Given its objectives, the Treaty wisely requires that each of 44 specific countries must sign and ratify the document before it enters into force. Only 23 of those countries have done so thus far. So the Treaty is not coming into force any time soon, whether or not the U.S. ratifies. The U.S. should take advantage of this situation to delay consideration of ratification, without prejudice to eventual action on the Treaty. This would provide the opportunity to learn more about such issues as movement on the ratification process, technical progress in the Department of Energy's Stockpile Stewardship Program, the political consequences of the India/Pakistan detonations, changing Russian doctrine toward greater reliance on nuclear weapons, and continued Chinese development of a nuclear arsenal.

Supporters of the CTBT claim that it will make a major contribution to limiting the spread of nuclear weapons. This cannot be true if key countries of proliferation concern do not agree to accede to the Treaty. To date, several of these countries, including India, Pakistan, North Korea, Iran, Iraq, and Syria, have not signed and ratified the Treaty. Many of these countries may never join the CTBT regime, and ratification by the United States, early or late, is unlikely to have any impact on their decisions in this regard. For example, no serious person should believe that rogue nations like Iran or Iraq will give up their efforts to acquire nuclear weapons if only the United States signs the CTBT.

Our efforts to combat proliferation of weapons of mass destruction not only deserve but are receiving the highest national security priority. It is clear to any fair-minded observer that the United States has substantially reduced its reliance on nuclear weapons. The U.S. also has made or committed to dramatic reductions in the level of deployed nuclear forces. Nevertheless, for the foreseeable future, the United States must continue to rely on nuclear weapons to contribute to the deterrence of certain kinds of attacks on the United States, its friends, and allies. In addition, several countries depend on the U.S. nuclear deterrent for their security. A lack of confidence in that deterrent might itself result in the spread of nuclear weapons.

As a consequence, the United States must continue to ensure that its nuclear weapons remain safe, secure, and reliable. But the fact is that the scientific case simply has not been made that, over the long term, the United States can ensure the nuclear stockpile without nuclear testing. The United States is seeking to ensure the integrity of its nuclear deterrent through an ambitious effort called the Stockpile Stewardship Program. This program attempts to maintain adequate knowledge of nuclear weapons physics indirectly by computer modeling, simulation, and other experiments. We support this kind of scientific and analytic effort. But even with adequate funding—which is far from assured—the Stockpile Stewardship Program is not sufficiently mature to evaluate the extent to which it can be a suitable alternative to testing.

Given the absence of any pressing reason for early ratification, it is unwise to take actions now that constrain this or future Presidents' choices about how best to pursue our non-proliferation and other national security goals while maintaining the effectiveness and credibility of our nuclear deterrent. Accordingly, we urge you to reach an understanding with the President to suspend action on the CTBT, at least for the duration of the 106th Congress.

Sincerely,

BRENT SCOWCROFT.
HENRY A. KISSINGER.
JOHN DEUTCH.

MORNING BUSINESS

Mr. SPECTER. Mr. President, on behalf of the leader, I ask unanimous consent the Senate now proceed to a period of morning business with Senators permitted to speak for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE COMPREHENSIVE NUCLEAR TEST BAN TREATY

Mr. DORGAN. Mr. President, today I attended an event in the White House at which 31 nobel laureates, the Chairman of the Joint Chiefs of Staff, four previous chairmen of the Joint Chiefs of Staff, the Secretary of Defense, and the President, among many others, supported the ratification by the Senate of the Comprehensive Nuclear Test Ban Treaty.

The point was made in those presentations that this treaty is not about politics. It is not about political parties. It is about the issue of the proliferation or spread of nuclear weapons and whether the United States of America should ratify a treaty signed by the President and sent to the Senate over 700 days ago that calls for a ban on all further testing of nuclear weapons all around the world.

For some months, I have been coming to the floor of the Senate suggesting that after nearly 2 years we ought to be debating the question of whether this country should ratify the Comprehensive Nuclear Test Ban Treaty.

I have exhibited charts that have shown the Senate what has happened with respect to other treaties that have been sent to the Senate by various Presidents, how long it has taken for them to be considered, the conditions under which they were considered, and I have made the point that this treaty alone has languished for over 2 years without hearings and without discussion. Why? Because there are some in the Senate who oppose it and don't want it to be debated or voted upon.

There are small issues and big issues in the course of events in the Senate. We spent many hours over a period of days debating whether to change the name of Washington's National Airport. What a debate that was—whether to change the name of Washington National Airport. That was a small issue. It was proposed that former President Reagan's name be put on that airport. Some agreed, some disagreed. We had a vote, after a debate over a number of days. The naming of an airport, in my judgment, is a small issue.

An example of a big issue is whether we are going to do something as a country to stop the spread of nuclear weapons. Now a big issue comes to the floor of the Senate in the form of a request for ratification of a treaty called the Comprehensive Test Ban Treaty. It is not a new idea, not a new issue. It started with President Dwight Eisenhower believing we ought to exhibit the leadership to see if we could stop all the testing of nuclear weapons around the rest of the world. It has taken over 40 years. Actually, 7 years ago this country took unilateral action and said: We are going to stop testing. We, the United States, will no longer test nuclear weapons. So we took the lead, and we decided 7 years ago we would not any longer test nuclear weapons.

The treaty that is now before the Senate, that was negotiated with many other countries around the world in the last 5 years and sent to the Senate over 2 years ago, is a treaty that answers the question: Will other countries do what we have done? Will we be able to persuade other countries to decide not to test nuclear weapons?

Why is that important? Because no country that has nuclear weapons can acquire more advanced weaponry without testing. And no country that does not now have nuclear weapons can acquire nuclear weapons with any assurance they have nuclear weapons that work without testing. Prohibit testing, stop the testing of nuclear weapons, and you take a step in the direction of stopping the spread of nuclear weapons around this world.

We have some 30,000 nuclear weapons in the arsenals of Russia and the United States. We have other countries that possess nuclear weapons. We have still other countries that want to possess nuclear weapons. We have a world that is a dangerous world with respect to the potential spread of nuclear weapons. The question is, what shall we do about that? What kind of behavior, what kind of response in this country, is appropriate to deal with that question?

Some say the response is to ratify the Comprehensive Test Ban Treaty. I believe that. I believe that very strongly. Others say this treaty will weaken our country, that this treaty is not good for our country, this treaty will sacrifice our security. Nothing could be further from the truth. Nothing. Some say that—not all—have never supported any arms control agreements, never liked them. I understand that, despite the fact those people have been wrong.

Arms control agreements have worked. Actually, agreements that we have reached through the ratification of treaties have resulted in the reduction of nuclear warheads, the reduction of delivery vehicles. Some arms control treaties have worked. However, there are some who have not supported any of those treaties. I guess they are content to believe it is their job to oppose treaties. There are others who have supported previous treaties who somehow believe this treaty is inappropriate. Perhaps they read a newspaper article last week that said there are new appraisals or new assessments by the CIA that suggest it would be difficult for us to monitor low-level nuclear tests. That article was wrong. The article in the newspaper that said the CIA has a new assessment or a new report is wrong. The CIA has no new assessment. The CIA has no new reports. I have talked to the Director of the CIA. No such report and no such assessment exists.

Do we have difficulty detecting low-level nuclear explosions, very low-level nuclear explosions? The answer is yes. But then, the answer is also: Yes; so what? Will the ability to detect those kinds of small explosions—explosions which, by the way, don't give anyone any enhanced capability in nuclear power or nuclear weaponry—will we be able to better detect those and better monitor those if we pass this Comprehensive Test Ban Treaty? The answer to that is an unqualified yes.

I have a chart to demonstrate what I mean. This chart shows the current monitoring network by which we attempt to monitor where nuclear tests may have occurred in the world. This bottom chart shows current monitoring. The top chart shows monitoring that will occur after we have a Comprehensive Test Ban Treaty in place. Is there anyone who can argue that having this enhanced monitoring in place will not enhance our capability of detecting nuclear weapons tests? Of course it will. That is why every senior military officer in this country who has been involved in this—from the Joint Chiefs to the Chairman of the Joint Chiefs to the other senior officers—have said passage of the Comprehensive Test Ban Treaty is good for this country and will not jeopardize this country's security. They know and we know it will enhance this country's ability to detect nuclear tests anywhere around the world.

It baffles me that on an issue this big and this important, we have people who seem to not want to understand and debate the facts. I mentioned I have been on the floor for some months pushing for consideration of this treaty. Probably partly as a result of that, probably partly as a result of a letter that all 45 Members of the Democratic caucus sent to the majority leader saying we think the Senate ought to consider this treaty, we ought to have hearings, about a week ago the majority leader abruptly decided, all right, we will consider this Comprehensive Test Ban Treaty; we will consider it by having a vote in a matter of 10 days or so.

We had held no hearings. This has not been a thoughtful process of consideration. We have not held comprehensive hearings; we have sparked no national debate. We will just go to a vote—as far as I am concerned, that is not a very responsible thing to do, but I won't object to that—go to a vote if that is what you want to do.

It is very interesting how those in this Chamber treat the light seriously and treat the serious lightly. If ever there was a case of treating serious issues lightly, it is this. We have a treaty dealing with the banning of nuclear testing in this world, negotiated and signed by 145 countries, languishing here for 2 years, and now in 10 days let's have a vote—and, by the way, we don't intend on having significant hearings.

The Senator from Virginia indicated he will have hearings. I applaud him for that. He is a thoughtful Senator, in my judgment; I respect him deeply. He disagrees with me on this issue. I have deep respect for him. I think it is appropriate there are hearings being held this week. I think they probably thought—some thought—you can't call this up for a vote without at least showing you will have some hearings. I am told the requests to have people testify at the hearings who support the Comprehensive Test Ban Treaty was not met with great success. Who knows; we will see the record of that, I suppose, toward the end of the week.

Let me show what our allies have done with respect to this treaty. We spent a lot of time on the floor of the Senate talking about NATO. We have been involved with NATO, in Kosovo and elsewhere. In fact, the Senate voted to expand NATO. NATO is an important security alliance. What have our NATO allies done with respect to this Comprehensive Test Ban Treaty? Most of them have already ratified it. Two of the NATO nuclear powers have ratified the treaty, England and France. NATO itself endorsed the treaty at the April 1999 conference. The United States has yet to ratify it. Some would say: Neither have China and Russia. Of course they are not NATO members. Neither have China nor Russia. That is true, they have not. They will, in my judgment, when this country ratifies it. They did when this country ratified the chemical weapons treaty.

My point is this: I think this country has a responsibility to provide leadership, moral leadership, on an issue this important. Are there questions that can be raised about this treaty? Yes. And every single one of them can be answered easily and decisively, every one. There is not a question that has been raised that casts a shred of doubt on what the outcome ought to be on the vote in this Senate on this treaty. If you believe this country has a responsibility to provide leadership to stop the spread of nuclear weapons and reduce the threat of nuclear war, then this Senate ought to ratify this treaty.

Perhaps it would be useful to quote President Kennedy who succeeded President Eisenhower. President Eisenhower, 40 years ago, said:

> One of greatest regrets of any administration of any time would be the failure to achieve a nuclear test ban treaty.

President Kennedy, following President Eisenhower's lead, said the following:

> A comprehensive test ban would place the nuclear powers in a position to deal more effectively with one of the greatest hazards man faces. It would increase our security. It

> would decrease the prospects of war. Surely this goal is sufficiently important to require steady pursuit, yielding neither to the temptation to give up the whole effort nor the temptation to give up our insistence on responsible safeguards.

President Johnson said:

> We shall demonstrate that, despite all his problems, quarrels and distractions, man still retains a capacity to design his fate rather than be engulfed by it. Failure to complete our work will be interpreted by our children and grandchildren as a betrayal of conscience in a world that needs all of its resources and talents to serve life, not death.

When Nikita Khrushchev, in discussions and dialog with President Kennedy, described nuclear war as "a circumstance in which the living would envy the dead," that was almost 40 years ago, long, long ago, before we had arsenals of 30,000 nuclear weapons, some in airplanes, some on submarines, some on missiles, some in storage facilities, with many countries around the world wanting to achieve the opportunity to possess nuclear weapons.

We have very few opportunities to do work as important as will be done if the Senate ratifies this treaty. My expectation is that when we debate this treaty in the coming couple of days—the schedule is for a debate Friday and a debate the following Tuesday—at the culmination of 14 hours, we would discuss the advisability of the Senate ratifying this treaty. There will be a lot of discussion by those who believe it is ill advised and by those who believe it is imperative the Senate ratify this treaty.

Let me make a couple of other comments that might describe some of this debate. The debate will not be about the American people's interests. According to surveys, 82 percent of the American people support a comprehensive nuclear test ban—82 percent of the American people. The debate, in my judgment, will not be about espionage by the Chinese. Some have said the Chinese espionage allegations at National Laboratories actually weaken the case for a Comprehensive Nuclear Test Ban Treaty. In fact the Cox report, which was published earlier this year, pointed out that if China were a signatory to and were to adhere to the CTBT, its ability to modernize its nuclear arsenal would be significantly curtailed.

Let me put up the chart of the monitoring stations. After we ratify the treaty, let me ask if anyone in this Chamber could make the argument that we have less capability to monitor than we do now? No one can make that case. We will have more capability. And no one can make the case there is some new assessment or new report by the CIA that poses a danger, saying we can't detect tests of nuclear explosions. That is not accurate either. Despite the story in the newspaper, the CIA says there is no new assessment. The CIA says there is no new report.

Can we detect low-level explosions that have no consequence in the development of advanced weapons or the acquisition of nuclear weapons? The answer is no; we cannot detect those low-level explosions. And the response is, so what? So what? We could not 4 years ago; we cannot now. Have our abilities to detect been enhanced in the last few years? The answer is yes. But we will hear those charges nonetheless. I think it is important for people to understand the charges are without merit.

Today at the White House, 31 Nobel laureates were in attendance. These are those honored physicists and chemists who have won the highest awards, who have powerful intellects, the scientists who understand and evaluate these issues. One of those scientists who spoke today is Dr. Charles Townes. He is the man who invented radar during the Second World War for our airplanes, and the laser—a towering intellect. He spoke with passion about the need for this country to ratify the Comprehensive Nuclear Test Ban Treaty.

These scientists almost uniformly indicate they have no questions about our ability to detect explosions of consequence. They have no questions about our ability to require compliance with this treaty and detect cheating. In the front row of that meeting at the White House today were the Joint Chiefs of Staff, General Shalikashvili, the former Chairman of the Joint Chiefs; General Shelton, the current Chairman of the Joint Chiefs; Gen. David Jones, a former Chairman of the Joint Chiefs; Admiral Crowe, former Chairman of the Joint Chiefs—all of them were there to support this treaty.

Why? Because it weakens this country? No; of course that's absurd. It does not weaken this country. They were there because they know it strengthens this country. They know, from a security standpoint and from a military standpoint, the ratification of this treaty strengthens this country.

I know I have heard about briefings that are held which suggest that there is information that is not available to the American people that suggests something different. It is not the case. It is just not the case. I am sorry. I respect those who disagree with me. They are welcome to come to the floor of the Senate, and will, and they will debate. I am sure they will be persuasive, in their own way. But I am telling you in my judgment, there is nothing, there is nothing that would persuade the last four Chairmen of the Joint Chiefs of Staff, including Gen. Colin Powell, to support the ratification of this test ban treaty if they felt this treaty would injure this country.

Does anyone in this Chamber believe that Gen. Colin Powell is advocating ratification of a treaty that will weaken this country? If so, come and tell us that. Or perhaps we will have people come and say Gen. Colin Powell doesn't understand. Or, if he understands, he is misinformed. I don't think so. Not General Powell, not General Shalikashvili, not General Jones, not Admiral Crowe, and not General Shelton. All of them come to the same conclusion: This treaty will strengthen our country. The ratification of this treaty will strengthen the security of this country. The ratification of this treaty will allow us to better monitor whether anyone cheats on a treaty that is designed to ban nuclear testing.

Again, there is room for disagreement, but in my judgment there is not room for the Senate to say to the world; We quit testing in 1992 unilaterally, and our position is we quit testing, but anyone else out there, our message is: You go ahead; we do not want to impose the same limitation on you; we have quit testing nuclear weapons, but we do not want to impose the limitation on you.

We have two countries that have nuclear capability: India and Pakistan. They do not like each other much, and they are neighbors. They share a contentious border. Earlier this year, they each exploded a nuclear weapon literally under each other's chin. That should provide a sober warning to the rest of this world that we need to stop nuclear testing and need a ban on nuclear testing, especially to the Senate, a senate in a country that possesses the best capability of leadership in the entire world on this issue. The proliferation of nuclear weapons and the willingness to use them, the willingness to test them, is a very serious issue. It is a big issue, and this Senate has a responsibility to address it.

It would be unthinkable for me to see this Senate proceed in the manner it now appears to be proceeding, and that is to take an issue this important and to blithely say: All right, it's been here 2 years; we have not cared much about it, and a week from Tuesday, we will bring it up and kill it because we do not believe in arms control; if you don't like that, that's tough luck.

That is not a responsible way to legislate. I did not object to bringing it up on Tuesday. There was a unanimous consent request. I did not object to it. If that is the only way to get a vote, as far as I am concerned, so be it. But it is not a responsible way to legislate. All of us know better than that. We know better on issues this important that the way to legislate is to take a treaty that has been signed by 154 countries, and have a series of hearings. We should have men and women across this country weigh in on this issue, have a robust, aggressive, thoughtful, interesting, exciting debate, and then the Senate should vote. That is not what has happened here. We know that.

Two years have passed, and this treaty has been in prison. This treaty has not seen the light of day. I know we had a Senator saying that is not true, there have been hearings. Senator BIDEN came to the floor to refute that. There have been no hearings. This week, there have been a couple of hearings. The Senator from Virginia just talked about hearings. He is a man for whom I have great respect. I only regret he is on the other side of this issue.

Everyone in this Chamber knows better than to proceed with this issue in this manner. This has great consequences all around the world. This country has a responsibility all around the world. Everybody in this Chamber knows better. That is not the way you handle a treaty of this importance, by standing up and saying: If you want a treaty, then let's do it in 10 days, and if you don't like it, tough luck.

If that is the only opportunity presented to the Senate to decide we are going to lead the world in arms control and say to the rest of the world we have quit testing nuclear weapons and we want you to as well, we are going to ratify the treaty, that is fine.

If there are those who stand up and say: We do not support a ban on nuclear testing; in fact, we ought to test more; we do not want to send a signal to India and Pakistan not to test; we do not want to send a message to Russia and China to ratify the pact, they can say that. That is the democratic way. But they will not say it with my vote. It is the wrong direction for this country. It is not leadership. It is an abdication of leadership, in my judgment. I hope in the coming days we will find a way to see if we cannot have a more thoughtful approach to this country doing what it ought to do.

I want to conclude with one additional chart that has some quotes which I think are important. This is the Joint Chiefs of Staff Annual Posture Statement 1999, responding to the question raised by those in the Senate who say the Comprehensive Test Ban Treaty will injure this country's preparedness and security. Nonsense. It says:

> In a very real sense, one of the best ways to protect our troops and our interests is to promote arms control. . . . In both the conventional and nuclear realms, arms control can reduce the chances of conflict. . . . Our efforts to reduce the numbers of nuclear weapons coincide with efforts to control testing of nuclear weapons . . . and the Joint Chiefs support ratification of this treaty.

I want to hear in this debate from those who believe that the Joint Chiefs of Staff, heading the military services in our country, have somehow concluded they want to support something that injures this country's defense. It is preposterous. The Joint Chiefs of Staff support this because they understand it will enhance this country's defense; it will make this country and this world more secure.

Gen. Colin Powell, General Shalikashvili, Adm. William Crowe, and Gen. David Jones said the following:

> We support Senate approval of the Comprehensive Test Ban Treaty together with six safeguards under which the President will be prepared to conduct necessary testing if the safety and reliability of our nuclear deterrent could no longer be verified.

This treaty has safeguards. Gen. Colin Powell says he supports this treaty. It will not injure this country's security or preparedness. I do not think we have to go further on the floor of the Senate. We can have folks come over here and raise their fists, get red in the face, the veins in their necks can bulge, they can hyperventilate, and they can speak loudly about their vision of what this might or might not do with respect to this country's military preparedness. But when they are done, I will ask them to go visit with Colin Powell. I will ask them to visit with General Shelton or the Joint Chiefs of Staff and try to reconcile the position the military leaders in this country have taken with respect to this treaty to the allegations made without a good basis on the floor of the Senate about this treaty.

We are given 14 hours, starting Friday and continuing Tuesday, to debate the Comprehensive Test Ban Treaty. If that is the procedure for debate that exists at the end of this week, then I will be here, and I intend to speak at some length, as will my colleagues, Senator BIDEN and many others, who feel strongly about this.

I look forward to engaging in this debate. I know there are some who are concerned, upset, and nervous about heading toward a vote that looks as if we probably will lose. But I say this: At least we are on the right subject for a change. At least we are talking about the right issue for a change. If talking about the Comprehensive Test Ban Treaty takes goading the majority into saying to us: We are going to give you 10 days with no hearings, essentially, and then we are going to force you to vote and defeat this treaty because that is what we want to tell the world about our position on nuclear weapons and arms control, that is fine with me because we are talking about the right subject.

If we do not ratify this treaty now, we will ratify it next year, and if we do not ratify it next year, then we will ratify it the year after. Because at some point, when 82 percent of the American people want arms control to reduce the spread of nuclear weapons through the ratification of this treaty, and when the Joint Chiefs of Staff say it will not injure the security of this country, at some point the American people will say: We want to have our way on this issue, and we will impress our way on this issue by having the Senate come to this Chamber and vote for ratification. If not now, later. But at some point, the American people will demand this country provide leadership in reducing the threat of nuclear war and reducing the spread of nuclear weapons.

The Senator from Virginia, Mr. WARNER, is on the floor. I mentioned a couple of times—I did not mention his name—but I referred to him as "the Senator from Virginia."

I say to Senator WARNER, I mentioned—when I think you were not on the floor—one of my great regrets is that you are not with us on this issue because I have great respect for you and your abilities. I also appreciate the fact that some hearings are being held this week.

But I confess, as I have said, I think this is not a good, thoughtful way to deal with something this important. I am not talking about the Senator's hearings. I am talking about, after 2 years of virtually no activity, saying: All right. Ten days from now we're going to have a vote. In the meantime, we'll cobble together a couple hearings and then figure how we get there, and vote the treaty down, and tell the world that is our judgment.

I do not think that is a good way to do it. I think that is treating the serious too lightly. I do not think it is the best we can do. The better way for us to have done this, in my judgment, is to have decided we would hold a comprehensive set of hearings over a rather lengthy period of time, develop a national discussion about the import and consequence of a treaty of this type, and then have the Senate consider it. That is not what is being done.

If we vote next Tuesday, I am here and I am ready. I am ready Friday and Tuesday to debate it. But I very much wish this had been dealt with in a much more responsible way. By that comment, I do not mean to suggest the Senator from Virginia is in any way involved in that. I, again, appreciate the fact that he is holding some hearings this week, hearing from people who are weighing in on both sides of this issue.

Mr. President, I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I simply say to my good friend and colleague that I addressed many of the issues he has addressed in the last few minutes in a press conference today that I think covers the work of the Armed Services Committee.

We are trying to do a very thorough job. We have had 10 hours of hearings in the last 48 hours. We will go into lengthy hearings again tomorrow morning.

I thank my friend for his views.

GORTON-ROCKEFELLER AMENDMENT TO S. 82, THE AIR TRANSPORTATION IMPROVEMENT ACT

Mr. HATCH. Mr. President, I appreciate that the Senate has finally acted on S. 82 to reauthorize the FAA and to deal with some of our Nation's air transportation issues.

In particular, I am pleased that the amendment offered by the Senator from Washington and the Senator from West Virginia was adopted to allow exemptions to the current perimeter rule at Ronald Reagan Washington National Airport. I recognize that this is a serious matter affecting a number of cities and high-profile airports, and I commend my colleagues who worked long and hard to develop this amendment.

While I would have preferred that the final bill include the 48 exemptions contained in S. 82 as it was reported by the Commerce Committee, I recognize that reducing this number to 24 reflects a reasonable compromise. I believe the amendment proposed by Senators GORTON and ROCKEFELLER achieves the central objective, which was to maintain the current level of safety while improving air service for the flying public—which is now almost everyone at one time or another. The compromise also assiduously avoids adversely affecting the quality of life for those living within the perimeter.

Today, my constituents in Utah and in other western communities must double or even triple connect to fly into Washington, DC. The Gorton/Rockefeller amendment goes a long way to addressing this inconvenient and time-consuming process and to ensuring that passengers in Utah and the Intermountain West have expanded options.

I believe that use of this limited exemption should be to improve access throughout the west and not limit the benefits to cities which already enjoy a number of options.

Therefore, when considering applications for these slots, I think it is important for the U.S. Department of Transportation to consider carefully these factors and award opportunities to western hubs, such as the one in Salt Lake City, which connects the largest number of cities to the national transportation network. I want U.S. DOT officials to know that I will be carefully monitoring the implementation of the perimeter slot exemption.

I look forward to working with Transportation Department officials as well as my colleagues in the Senate to ensure that the traveling public has the greatest number of options available to them. I thank the chair.

CABIN AIR QUALITY

Mrs. FEINSTEIN. Mr. President, I rise to draw attention to a problem my colleagues on both sides of the aisle have no doubt encountered—poor air quality on commercial airline flights.

Cabin environmental issues have been a part of air travel since the inception of commercial aircraft almost 70 years ago. However, with the exception of the ban on smoking on domestic flights in 1990, no major changes have occurred to improve the quality of air on commercial flights.

Commercial airplanes operate in an environment hostile to human life. According to Boeing, the conditions existing outside an airplane cabin at modern cruise altitudes off 35,000 feet, are no more survivable by humans than those conditions that would be encountered outside a submarine at extreme ocean depths.

To make air travel more conducive to passengers and flight crews, airplanes are equipped with advanced Environmental Control Systems. While these systems are designed to control cabin pressurization, ventilation and temperature control, they have not diminished the number of health complaints reported by travelers.

It should come as no surprise to my colleagues that the most common complaints from passengers and flight crew are headaches, dizziness, irritable eyes and noses, and exposure to cold and flu. With the amount we travel, I would not be surprised to learn some of my friends in the Senate have suffered some of these symptoms themselves. But complaints of illness do not stop there. Some passengers complaints are as serious as chest pains or nervous system disorders. This is a serious consideration and should be addressed.

Airlines say the most common complaints are a result of the reduction in humidity at high altitudes, or of individuals sitting in close proximity to one another. Airlines even say the air on a plane is better than the air in the terminal. But the airplane cabin is a unique, highly stressful environment. It's low in humidity, pressurized up to a cabin altitude of 8,000 feet above sea level and subject to continuous noise, vibration and accelerations in multiple directions. Air in the airplane cabin is not comparable with air in the airport terminal. It's apples and oranges.

The American Society of Heating, Refrigerating and Air-Conditioning Engineers—or ASHRAE—recently released standards it found suitable for human comfort in a residential or office building. ASHRAE determined that environmental parameters such as air temperature and relative humidity—and nonenvironmental parameters such as clothing insulation and metabolism—all factored in to create a comfortable environment. Airlines immediately chimed in, saying average cabin temperatures and air factors fell within the ASHRAE guidelines for comfort.

But once again, the air in an airplane cabin is not comparable to air in an office building. The volume, air distribution system, air density, relative humidity, occupant density, and unique installations such as lavatories, galleys all make for a unique condition. The ASHRAE guidelines simply do not translate to the airplane cabin.

It is high time we make a concerted effort to study the air quality on our commercial flights and make some changes. Studies done by the airlines are simply not thorough enough. My amendment directs the Secretary of Transportation—in conjunction with the National Academy of Sciences—to conduct a study of the air on our flights. After completion of the 1-year study, the results will be reported to Congress. It is my sincere hope this will be a step toward more comfortable travel conditions for everyone.

I thank the Chair.

JUDICIAL NOMINATIONS

Mr. BUNNING. Mr. President, I voted yesterday to oppose the nominations of Ronnie White to serve as District Court Judge for the Eastern District of Missouri, and Raymond C. Fisher to sit on the Ninth U.S. Circuit Court of Appeals.

As a newly elected member of the Senate, I am acutely aware of our obligation to confirm judges to sit on the Federal courts who will enforce the law without fear or favor.

But, after carefully considering Judge White's record, I am compelled to vote "no." I believe that he has evidenced bias against the death penalty from his seat on the Missouri Supreme Court, even though it is the law in that State. He has voted against the death penalty more than any other judge on that panel, and I am afraid that he would use a lifetime appointment to the Federal bench to push the law in a procriminal direction rather than deferring interpreting the law as written and adhering to the legislative will of the people.

Although Judge Fisher has been recognized as "thoughtful liberal," I cannot in good conscience vote to appoint him to serve a lifetime appointment to the Ninth Circuit Court. Over the last decade, the Ninth Circuit has been a fertile breeding ground for liberal judges to advance their activist agenda—a fact evidenced by the Supreme Court's consistent reversal of cases referred to them from the Ninth Circuit—and I am afraid that Judge Fisher would continue this disturbing trend. Probably more than any other circuit in the America, the views of the Ninth Circuit are unquestionably out of alignment with mainstream America, and I believe the panel badly needs a sense of judicial balance. I do not believe that Judge Fisher would have helped to provide that balance.

AMERICA'S HEALTH CARE

Mr. GRAMM. Mr. President, I wish to bring to the attention of my colleagues one of the most insightful articles that I have read in regard to the most effective way to promote health care and patient's rights.

Written by Mr. M. Anthony Burns of Ryder System Inc., the comments appear on the op-ed page of yesterday's Washington Post. Mr. Burns speaks as the CEO of a company which provides health care benefits for 80,000 employees and family members. At a time when courage appears to be in short supply, it is refreshing to find a person who is able and willing to publicly examine a complex issue in such a lucid, thoughtful manner.

I encourage all my colleagues to read and consider carefully the analysis offered by Mr. Burns. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 5, 1999]

AN ASSAULT ON AMERICA'S HEALTH CARE

(By M. Anthony Burns)

As the CEO of a $5 billion transportation company, when I need legal advice, I listen to the experts. Congress should do the same when it considers the Dingell-Norwood "Patients' Bill of Rights," which would allow patients to sue their HMOs but would also make employers liable in state court for the health care benefits they provide.

The sponsors claim their legislation includes an exemption to shield employers from liability, but Reps. John Dingell and Charlie Norwood are just dead wrong on that. A new study prepared by independent legal experts shows this so-called employers' "shield" is nothing more than a legal mirage that provides only the illusion of protection. In reality, very few companies could withstand the lawsuit exposure this bill would impose on every business in America.

David Kenty and Frank Sabatino, experts in employee benefits law and co-authors of the publication "ERISA: A Comprehensive Guide," found that under the Dingell-Norwood bill "employers would be subject to state law causes of action replete with jury trials, extra-contractual damages, and punitive damages." This would "dramatically change the way that group health benefits claims are litigated in the United States," conclude the authors. "Anyone who claims the contrary is simply failing to comprehend the thrust of the legislation."

Trial lawyers could initiate lawsuits against employers based on a number of legal arguments, according to Kenty and Sabatino.

First, plaintiffs could argue that insurance companies or third-party administrators are merely the agents of the employer and therefore—shield language notwithstanding—the employer is also responsible.

Second, a lawyer could argue that by selecting one health care provider over another, the employer's discretionary decisions played an integral part in a particular employee/patient outcome.

Third, most employers commonly retain the right to override the decisions of their health care provider or fiduciary to enable them to serve as patient advocates for their employees. The Dingell-Norwood bill would turn that relationship on its ear, forcing most companies to abandon their advocacy role altogether.

Supporters of the lawsuit provisions scoff at the notion that trial attorneys would abuse the health care system or employers who provide insurance. Tell that to the West Virginia convenience store that got hit with a $3 million judgment when one of its workers injured her back opening a pickle jar.

The likely epidemic of litigation this kind of legislation would generate creates an impossible choice for employers. They can continue to provide health care coverage and risk financial disaster if they find themselves on the losing end of a health care lawsuit, whether they had anything to do with treatment decisions or not. Or they can stop providing health care altogether.

In fact, according to a recent survey of small business owners, six out of 10 reported they would be forced to end employee coverage rather than face this risk. Today my company, Ryder, provides top quality health care benefits to 22,000 employees covering more than 80,000 people. We monitor employee satisfaction with our health care providers, and we act as a strong advocate for employees in disputes with these providers.

But if Dingell-Norwood passes, we will be forced to seriously reevaluate whether and how we can continue to offer health benefits to our employees. As with most businesses today, the exposure could simply be too severe for us. It would put our traditional employer-provided system of health care at extreme risk.

Add rising health care costs to this new threat of expensive litigation and it's clear that this legislation is a prescription for disaster. Last year healath care costs went up 6 percent and the average employer spent $4,000 per employee on health care. This year, health care costs are expected to go up an average 9 percent, and potentially much higher for small businesses.

As a result, it will be harder for employers to offer health insurance and, as some costs are passed on, harder for workers to afford it. Research shows that every one percent increase in costs forces 300,000 more people to lose their health care coverage.

A lot of people agree that "right-to-sue" provisions don't make sense for either employers or employees. The U.S. Senate, 25 state legislatures and President Clinton's own hand-picked Health Care Quality Commission all refused to support similar provisions to expand liability.

Congress says it wants to make managed care more accountable, but Dingell-Norwood would only raise health care costs, increase the number of uninsured and punish the nation's employers who voluntarily provide health care to millions of American workers and their families.

This legislation isn't a "Patients' Bill of Rights." It's a devastating assault on America's health care system, and Congress should reject it.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, October 5, 1999, the Federal debt stood at $5,657,493,668,389.71 (Five trillion, six hundred fifty-seven billion, four hundred ninety-three million, six hundred sixty-eight thousand, three hundred eighty-nine dollars and seventy-one cents).

One year ago, October 5, 1998, the Federal debt stood at $5,527,218,000,000 (Five trillion, five hundred twenty-seven billion, two hundred eighteen million).

Five years ago, October 5, 1994, the Federal debt stood at $4,692,973,000,000 (Four trillion, six hundred ninety-two billion, nine hundred seventy-three million).

Ten years ago, October 5, 1989, the Federal debt stood at $2,878,570,000,000 (Two trillion, eight hundred seventy-eight billion, five hundred seventy million).

Fifteen years ago, October 5, 1984, the Federal debt stood at $1,572,268,000,000 (One trillion, five hundred seventy-two billion, two hundred sixty-eight million) which reflects a debt increase of more than $4 trillion—$4,085,225,668,389.71 (Four trillion, eighty-five billion, two hundred twenty-five million, six hundred sixty-eight thousand, three hundred eighty-nine dollars and seventy-one cents) during the past 15 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:17 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 559. An act to designate the Federal building located at 300 East 8th Street in Austin, Texas, as the "J.J. 'Jake' Pickle Federal Building."

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 2606, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes

At 11:36 a.m., a message from the House of Representative, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills and joint resolution in which it requests the concurrence of the Senate:

H.R. 1663. An act to recognize National Medal of Honor sites in California, Indiana, and South Carolina.

H.R. 764. An act to reduce the incidence of child abuse and neglect, and for other purposes.

H.J. Res. 65. Joint resolution commending the World War II veterans who fought in the Battle of the Bulge, and for other purposes.

ENROLLED BILLS SIGNED

At 5:29 p.m. a message from the House of Representatives, delivered by Mr. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2606. An act making appropriations for foreign operations, export financing, and belted programs for the fiscal year ending September 30, 2000, and for other purposes.

S. 559. An act to designate the Federal building located at 33 East 8th Street in Austin, Texas, as the "J.J. "Jake" Pickle Federal Building."

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

MEASURES REFERRED

The following bills and joint resolutions were read the first and second time by unanimous consent and referred as indicated:

H.R. 1663. An act to recognize National Medal of Honors sites in California, Indiana, and South Carolina; to the Committee on Armed Services.

H.R. 764. An act to reduce the incidence of child abuse and neglect, and for other purposes, to the Committee on the Judiciary.

H.J. Res. 65. Joint resolution commending the World War II veterans who fought in the Battle of the Bulge, and for other purposes; to the Committee on Judiciary.

MEASURE PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar:

S. 1692. A bill to amend title 18, Untied States Code, to ban partial-birth abortions.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5502. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–5503. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–5504. A communication from the Chairman, the J. William Fulbright Foreign Scholarship Board, transmitting, pursuant to law, the 1998 annual report; to the Committee on Foreign Relations.

EC–5505. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–5506. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Foreign Assistance Act of 1961, a report relative to Indonesia; to the Committee on Foreign Relations.

EC–5507. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the International Fund for Ireland; to the Committee on Foreign Relations.

EC–5508. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Audit of the People's Counsel Agency Fund for Fiscal Year 1997"; to the Committee on Governmental Affairs.

EC–5509. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Audit of the Public Service Commission Agency Fund for Fiscal Year 1997"; to the Committee on Governmental Affairs.

EC–5510. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Audit of the People's Counsel Agency Fund for Fiscal Year 1998"; to the Committee on Governmental Affairs.

EC–5511. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Audit of the Public Service Commission Agency Fund for Fiscal Year 1998"; to the Committee on Governmental Affairs.

EC–5512. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Observed Weaknesses in the District's Early Out Retirement Incentive Program"; to the Committee on Governmental Affairs.

EC–5513. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Chronology of the Steps Through Which the Tentative Agreement Between the Washington Teachers Union AFT Local #6, AFL–CIO and the District of Columbia Public Schools Passed"; to the Committee on Governmental Affairs.

EC–5514. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Auditors Review of Unauthorized Transactions Pertaining to ANC 1A"; to the Committee on Governmental Affairs.

EC–5515. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Auditors Review of Unauthorized and Improper Transactions of ANC 7C's Chairperson"; to the Committee on Governmental Affairs.

EC–5516. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Prevailing Rate Systems; Change in Survey Cycle for the Southwest Michigan Appropriated Fund Wage Area" (RIN3206–AI68), received October 4, 1999; to the Committee on Governmental Affairs.

EC–5517. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Prevailing Rate Systems; Redefinition of the Eastern South Dakota and Wyoming Appropriated Fund Wage Areas" (RIN3206–AI74), received October 4, 1999; to the Committee on Governmental Affairs.

EC–5518. A communication from the Executive Director, Committee for Purchase from People who are Blind or Severely Disabled, transmitting, pursuant to law, the report of a rule relative to additions to and deletions from the Procurement List, received September 30, 1999; to the Committee on Governmental Affairs.

EC–5519. A communication from the Chairman and CEO, Chemical Safety and Hazard Investigation Board, transmitting, pursuant to law, a report relative to the annual inventory of agency activities which could be considered for performance by the private sector; to the Committee on Governmental Affairs.

EC–5520. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to its commercial activities inventory of the Department; to the Committee on Governmental Affairs.

EC–5521. A communication from the Archivist of the United States, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5522. A communication from the Director, Federal Mediation and Conciliation Service, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5523. A communication from the Chairman, U.S. Commission for the Preservation of America's Heritage Abroad, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5524. A communication from the Acting Director, Office of Federal Housing Enterprise Oversight, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5525. A communication from the Director, Office of Government Ethics, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5526. A communication from the President, James Madison Memorial Fellowship Foundation, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5527. A communication from the Chairman, National Labor Relations Board, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM—361. A resolution adopted by the City Council of the City of Fond du Lac, Wisconsin relative to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women; to the Committee on Foreign Relations.

POM—362. A joint resolution adopted by the Legislature of State of California relative to war crimes committed by the Japanese military during World War II; to the Committee on Foreign Relations.

ASSEMBLY JOINT RESOLUTION NO. 27

Whereas, Our nation is founded on democratic principles that recognize the vigilance with which fundamental individual human rights must be safeguarded in order to preserve freedom; and

Whereas, This resolution condemns all violations of the international law designed to safeguard fundamental human rights as embodied in the Geneva and Hague Conventions; and

Whereas, This resolution vociferously condemns all crimes against humanity and at the same time condemns the actions of those who would use this resolution to further an agenda that fosters anti-Asian sentiment and racism, or Japan "bashing," or otherwise fails to distinguish between Japan's war criminals and Americans of Japanese ancestry; and

Whereas, Since the end of World War II, Japan has earned its place as an equal in the society of nations, yet the Government of Japan has failed to fully acknowledge the crimes committed during World War II and to provide reparations to the victims of those crimes; and

Whereas, While high ranking Japanese government officials have expressed personal apologies, supported the payment of privately funded reparations to some victims, and modified some textbooks, these efforts are not adequate substitutes for an apology and reparations approved by the Government of Japan; and

Whereas, The need for an apology sanctioned by the Government of Japan is underscored by the contradictory statements and actions of Japanese government officials and leaders of a "revisionist" movement who openly deny that war crimes took place, defend the actions of the Japanese military, seek to remove the modest language included in textbooks, and refuse to cooperate with United States Department of Justice efforts to identify Japanese war criminals; and

Whereas, During World Was II, 33,587 United States military and 13,966 civilian prisoners of the Japanese military were confined in inhumane prison camps where they were subjected to forced labor and died unmentionable deaths; and

Whereas, The Japanese military invaded Nanking, China, from December 1937 until February 1938, during the period known as the "Rape of Nanking," and brutally slaughtered, in ways that defy description, by some accounts as many as 300,000 Chinese men, women, and children and raped more than 20,000 women, adding to a death toll that may have exceeded millions of Chinese; and

Whereas, The people of Guam and the Marshall Islands, during the Japanese occupation from 1941–1944, were subjected to unmentionable acts of violence, including forced labor and marches, and imprisonment by the Japanese military during its occupation of these islands; and

Whereas, Three-fourths of the population in Port Blair on Andaman Islands, India, were exterminated by Japanese troops between March 1942 and the end of World War II; many were tortured to death or forced into sexual slavery at "comfort stations," and crimes beyond description were committed on families and young children; and

Whereas, at the February 1945 "Battle of Manila," 100,000 men, women, and children were killed by Japanese armed forces in inhumane ways, adding to a total death toll that may have exceeded one million Filipinos during the Japanese occupation of the Philippines, which began in December 1941 and ended in August 1945; and

Whereas, At least 260 of the 1,500 United States prisoners, including many Californians, believed to have been held at Mukden, Manchuria, died during the first winter of their imprisonment and many of the 300 living survivors of Mukden claim to suffer from physical ailments resulting from their subjection to Japanese military chemical and biological experiments; and

Whereas, The Japanese military enslaved millions of Koreans, Chinese, Filipinos, and citizens from other occupied or colonized territories during World War II, and forced hundreds of thousands of women into sexual slavery for Japanese troops; and

Whaeras, The International Commission of Jurists, a nongovernmental organization (NGO) in Geneva, Switzerland, ruled in 1993 that the Government of Japan should pay reparations of at least $40,000 for the "extreme pain and suffering" caused to each woman who was forced into sexual slavery by the Japanese military (referred by the Japanese military as "comfort women"), yet none of these women have been paid any compensation by the Government of Japan: Now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California urges the Government of Japan to finally bring closure to concerns relating to World War II by doing both of the following:

(1) Formally issuing a clear and unambiguous apology for the atrocious war crimes committed by the Japanese military during World War II.

(2) Immediately paying reparations to the victims of those crimes, including, but not limited to, United States military and civilian prisoners of war, the people of Guam and the Marshall Islands, who were subjected to violence and imprisonment, the survivors of the "Rape of Nanking" from December 1937 until February 1938, and the women who were forced into sexual slavery and known by the Japanese military as "comfort women"; and be it further

Resolved, That the Legislature of the State of California calls upon the United States Congress to adopt a similar resolution that follows the spirit and letter of this resolution calling on the Government of Japan to issue a formal apology and pay reparations to the victims of its war crimes during World War II; and be it further

Resolved, That the Legislature of the State of California requests that the President of the United States take all appropriate action to further bring about a formal apology and reparations by the Government of Japan to the victims of its war crimes during World War II: and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Japanese Ambassador to the United States, the President of the United States, the President of the Senate, the Speaker of the House of Representatives, and each California Member of the Senate and the United States House of Representatives.

POM–363. A resolution adopted by the Council of the City of Cincinnati, Ohio relative to the proposed Medicaid primary care safety net preservation legislation; to the Committee on Finance.

POM–364. A joint resolution adopted by the Legislature of the State of California relative to the California film industry; to the Committee on Finance.

ASSEMBLY JOINT RESOLUTION NO. 23

Whereas, The film industry is a major contributor to the California economy. It was one of the main drivers of the California comeback as the state recovered from the protracted recession of 1991, however, other countries aggressively promote incentives for filming outside of California. This competition translates into a significant share of tax revenue that is not directed to California. According to published estimates by the Motion Picture Association of America (MPAA), every one percent of entertainment jobs in California represents about $9 million in state tax revenue; and

Whereas, The MPAA also notes that most forecasts predict that the demand for motion picture, television, and commercial products will increase. The issue is whether the future economic activity that this growth may generate will occur in California or elsewhere; and

Whereas, The film industry has a significant effect on other industries, including the multimedia industry, tourism, toys, games, and industries that perpetuate the "California look" in apparel and furniture manufacturing. This is part of the residual effect of the film industry; and

Whereas, The enormity of the film industry makes it an important contributor of tax revenue to this state; and

Whereas, While there is an abundance of available labor in the film industry in the Los Angeles region, many below-the-line union workers are currently unemployed; and

Whereas, Canada is enticing entertainment industry jobs out of this country by offering significant tax credits to United States production companies. This practice is resulting in less work for American film crews as more and more movies, TV series, sitcoms, miniseries, etc. are being relocated there; and

Whereas, A continued exodus of motion picture and television production to foreign countries such as Canada will not only eliminate thousands of well-paying jobs, it will mean the United States will lose a growing and very lucrative industry that it created: Now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the President and the Congress of the United States to evaluate the problems caused by relocating film industry business to Canada and other foreign nations, to evaluate the current state and federal tax incentives provided to the film industry, and to promote trade-related legislation that will persuade the film industry to remain in California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate of the United States, and to each Senator and Representative from California in the Congress of the United States.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1398. A bill to clarify certain boundaries on maps relating to the Coastal Barrier Resources System (Rept. No. 106–171).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

S. 769. A bill to provide a final settlement on certain debt owed by the city of Dickinson, North Dakota, for the construction of the bascule gates on the Dickinson Dam (Rept. No. 106–172).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 986. A bill to direct the Secretary of the Interior to convey the Griffith Project to the Southern Nevada Water Authority (Rept. No. 106–173).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

S. 1030. A bill to provide that the conveyance by the Bureau of Land Management of the surface estate to certain land in the

State of Wyoming in exchange for certain private land will not result in the removal of the land from operation of the mining laws (Rept. No. 106–174).

S. 1211. A bill to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner (Rept. No. 106–175).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1288. A bill to provide incentives for collaborative forest restoration projects on National Forest System and other public lands in New Mexico, and for other purposes (Rept. No. 106–176).

S. 1377. A bill to amend the Central Utah Project Completion Act regarding the use of funds for water development for the Bonneville Unit, and for other purposes (Rept. No. 106–177).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1694. A bill to direct the Secretary of the Interior to conduct a study on the reclamation and reuse of water and wastewater in the State of Hawaii; to the Committee on Energy and Natural Resources.

By Mr. BUNNING:

S. 1695. A bill to amend the Internal Revenue Code of 1986 to provide that beer or wine which may not be sold may be transferred to a distilled spirits plant, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. ROTH, and Mr. SCHUMER):

S. 1696. A bill to amend the Convention on Cultural Property Implementation Act to improve the procedures for restricting imports of archaeological and ethnological material; to the Committee on Finance.

By Mr. SMITH of Oregon (by request):

S. 1697. A bill to authorize the Secretary of the Interior to refund certain collections received pursuant to the Reclamation Reform Act of 1982; to the Committee on Energy and Natural Resources.

By Mr. GRAMS:

S. 1698. A bill for the relief of D.W. Jacobson, Ronald Karkala, and Paul Bjorgen of Grand Rapids, Minnesota, and for other purposes; to the Committee on the Judiciary.

By Mr. VOINOVICH:

S. 1699. A bill to amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DURBIN:

S. 1700. A bill to amend the Federal Rules of Criminal Procedure to allow a defendant to make a motion for forensic testing not available at trial regarding actual innocence; to the Committee on the Judiciary.

By Mr. SESSIONS (for himself, Mr. SCHUMER, Mr. THURMOND, Mr. BIDEN, Mrs. FEINSTEIN, Mr. HELMS, and Mr. CLELAND):

S. 1701. A bill to reform civil asset forfeiture, and for other purposes; to the Committee on the Judiciary.

By Mr. MURKOWSKI:

S. 1702. A bill to amend the Alaska Native Claims Settlement Act to allow shareholder common stock to be transferred to adopted Alaska Native children and their descendants, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN:

S. 1703. A bill to establish America's education goals; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself and Mrs. HUTCHISON):

S. 1704. A bill to provide for college affordability and high standards; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRAMS:

S. Res. 197. A resolution referring S. 1698 entitled "A bill for the relief of D.W. Jacobson, Ronald Karkala, and Paul Bjorgen of Grand Rapids, Minnesota" to the chief judge of the United States Court of Federal Claims for a report thereon; to the Committee on the Judiciary.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1694. A bill to direct the Secretary of the Interior to conduct a study on the reclamation and reuse of water and wastewater in the State of Hawaii; to the Committee on Energy and Natural Resources.

Mr. AKAKA. Mr. President, today I introduced S. 1694, the Hawaii Water Resources Reclamation Act of 1999. Senator INOUYE joins me in sponsoring this legislation.

My colleagues, rural Hawaii faces difficult economic times. The past decade has been especially challenging for agriculture in our state. Sugar has declined dramatically, from 180,000 acres of cane in 1989 to 60,000 acres today, and with this decline has come tremendous economic disruption.

120,000 acres may not seem like much to Senators from large states of the continental U.S., but in Hawaii the loss has huge implications. 120,000 acres represents more than 45 percent of our cultivated farm land. Hawaii County, where the greatest impact of these losses is felt, faces double digit unemployment.

As Carol Wilcox, author of the definitive history of irrigation in Hawaii noted in her recent book "Sugar Water," the cultivation of sugarcane dominated Hawaii's agricultural landscape for the last 25 years of the 19th century and for most of this century as well. "Sugar was the greatest single force at work in Hawaii," she wrote, and water was essential to this development.

The face of Hawaii agriculture is changing. During the past decade, 95 sugar farms and plantations closed their doors. Today, many rural communities in Hawaii are struggling to define new roles in an era when sugar is no longer the king of crops. We have entered a period of rebirth. A new foundation for agriculture is being established.

Diversified agriculture has become a bright spot in our economy. Farm receipts from diversified crops rose an average of 5.5 percent annually for the past three years, surpassing the $300 million mark for the first time. Hawaii still grows sugarcane, but diversified farming represents the future of Hawaii agriculture.

The restructuring of agriculture has prompted new and shifting demands for agricultural water and a broad reevaluation of the use of Hawaii's fresh water resources. The outcome of these events will help define the economic future of rural Hawaii.

While the Bureau of Reclamation played a modest role in Hawaii water resource development, sugar plantations and private irrigation companies were responsible for constructing, operating, and maintaining nearly all of Hawaii's agricultural irrigation systems. Over a period of 90 years, beginning in 1856, more than 75 ditches, reservoirs, and groundwater systems were constructed.

Although Hawaii's irrigation systems are called ditches, the use of this term misrepresents their magnitude. Hawaii's largest ditch system, the East Maui Irrigation Company, operates a network of six ditches on the north flank of Haleakala Crater. The broad scope of East Maui irrigation is extensively chronicled in "Sugar Water":

> Among the water entities, none compares to EMI. It is the largest privately owned water company in the United States, perhaps in the world. The total delivery capacity is 445 mgd. The average daily water delivery under median weather conditions is 160 mgd . . . Its largest ditch, the Wailoa Canal, has a greater median flow (170 mgd) than any river in Hawaii . . . The [EMI] replacement cost is estimated to be at $200 million.

Most of Hawaii's irrigation systems—ditches as we know them—are in disrepair. Some have been abandoned. Those that no longer irrigate cane lands may not effectively serve the new generation of Hawaii farmers, either because little or no water reaches new farms or because the ditches have not been repaired or maintained. Thus, the wheel has turned full circle: the challenge that confronted six generations of cane farmers, access to water, has become the challenge for a new generation that farms diversified agriculture.

In response to these changing events, the Hawaii Water Resources Reclamation Act authorizes the Bureau of Reclamation to survey irrigation and water delivery systems in Hawaii, identify the cost of rehabilitating the systems, and evaluate demand for their future use. The bill also instructs the Bureau to identify new opportunities for reclamation and reuse of water and wastewater for agriculture and non-agricultural purposes. Finally, the bill authorizes the Bureau to conduct emergency drought relief in Hawaii. This is especially important for struggling farmers on the Big Island.

While I hesitate to predict the findings of the Bureau's study, I expect we will learn that some of the ditch systems should be repaired or improved, while others should be abandoned. We may also learn that the changing face of Hawaii agriculture justifies entirely new systems or new components being added to existing ditches. Because the bill emphasizes water recycling and reuse, the report will identify opportunities to improve water conservation, enhance stream flows, improve fish and wildlife habitat, and rebuilding groundwater supplies. These important objectives will help ensure that any legislative response to the Bureau's report is ecologically appropriate.

The process outlined in S. 1694 cannot advance unless sound environmental principles are observed. Those who are for Hawaii's rivers and streams, as I do, believe that water resource development should not adversely affect fresh water resources and the ecosystems that depend upon them. Hawaii's rivers support a number of rare native species that rely on undisturbed habitat. Perhaps the most remarkable of these is the goby, which actually climbs waterfalls, reaching habitat that is inaccessible to other fish. As a young boy, my friends and I caught and ate o'opu, as the goby are known to Hawaiians, at Oahu's streams. I am determined to preserve this, and the other forms of rich biological heritage that inhabit our streams and watersheds.

My remarks would not be complete without a review of the history of Federal reclamation initiatives in Hawaii. Hawaii's relationship with the Bureau of Reclamation dates from 1939, when the agency proposed developing an aqueduct on Molokai to serve 16,000 acres of federally managed Hawaiian Home Lands. While this project did not proceed, in 1954 Congress directed the Bureau to investigate irrigation and reclamation needs for three of our islands: Oahu, Hawaii, and Molokai. A Federal reclamation project on the Island of Molokai was eventually constructed in response to this investigation. The project continues in operation today.

In the first session of Congress following Hawaii's statehood, legislation authorizing the Secretary of the Interior to develop reclamation projects in Hawaii under the Small Reclamation Projects Act was signed into law. The most recent interaction with the Bureau occurred in 1995 when Congress authorized the Secretary to allow Native Hawaiians the same favorable cost recovery for reclamation projects as Indians or Indian tribes.

I will work closely with my colleagues on the Senate Energy and Natural Resources Committee to pass the Hawaii Water Resources Reclamation Act. I ask that a copy of S. 1694 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1694

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hawaii Water Resources Reclamation Act of 1999".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Act of August 23, 1954 (68 Stat. 773, chapter 838) authorized the Secretary of the Interior to investigate the use of irrigation and reclamation resource needs for areas of the islands of Oahu, Hawaii, and Molokai in the State of Hawaii;

(2) section 31 of the Hawaii Omnibus Act (43 U.S.C. 422*l*) authorizes the Secretary to develop reclamation projects in the State under the Act of August 6, 1956 (70 Stat. 1044, chapter 972; 42 U.S.C. 422a et seq.) (commonly known as the "Small Reclamation Projects Act");

(3) the amendment made by section 207 of the Hawaiian Home Lands Recovery Act (109 Stat. 364; 25 U.S.C. 386a) authorizes the Secretary to assess charges against Native Hawaiians for reclamation cost recovery in the same manner as charges are assessed against Indians or Indian tribes;

(4) there is a continuing need to manage, develop, and protect water and water-related resources in the State; and

(5) the Secretary should undertake studies to assess needs for the reclamation of water resources in the State.

SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) STATE.—The term "State" means the State of Hawaii.

SEC. 4. WATER RESOURCES RECLAMATION STUDY.

(a) IN GENERAL.—The Secretary, acting through the Commissioner of Reclamation, shall conduct a study that includes—

(1) a survey of irrigation and water delivery systems in the State;

(2) an estimation of the cost of repair and rehabilitation of the irrigation and water delivery systems;

(3) an evaluation of options for future use of the irrigation and water delivery systems (including alternatives that would improve the use and conservation of water resources); and

(4) the identification and investigation of other opportunities for reclamation and reuse of water and wastewater for agricultural and nonagricultural purposes.

(b) REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report that describes the findings and recommendations of the study described in subsection (a) to—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Resources of the House of Representatives.

(2) ADDITIONAL REPORTS.—The Secretary shall submit to the Committees described in paragraph (1) any additional reports concerning the study described in subsection (a) that the Secretary considers to be necessary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 5. WATER RECLAMATION AND REUSE.

Section 1602(b) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h(b)) is amended by inserting before the period at the end the following: ", and the State of Hawaii".

SEC. 6. DROUGHT RELIEF.

Section 104 of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2214) is amended—

(1) in subsection (a), by inserting after "Reclamation State" the following: "and in the State of Hawaii"; and

(2) in subsection (c), by striking "ten years after the date of enactment of this Act" and inserting "on September 30, 2005".

By Mr. MOYNIHAN (for himself, Mr. ROTH and Mr. SCHUMER):

S. 1696. A bill to amend the Convention on Cultural Property Implementation Act to improve the procedures for restricting imports of archaeological and ethnological material; to the Committee on Finance.

THE CULTURAL PROPERTY PROCEDURAL REFORM ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation to amend the Convention on Cultural Property Implementation Act (CCPIA). This legislation improves the procedures for restricting imports of archaeological and ethnological materials. I am pleased that the distinguished chairman of the Finance Committee, Senator ROTH, joins me, as well as my distinguished colleague from New York, Senator SCHUMER.

This legislation provides a necessary clarification of the Convention on Cultural Property Implementation Act. The CCPIA was reported by the Senate Finance Committee and passed in the waning days of the 97th Congress. The CCPIA implements the 1970 UNESCO Convention on the Means of Prohibiting the Illicit Import, Export and Transfer of Ownership of Cultural Property. It sets forth our national policy concerning the importation of cultural property. As the last of the authors of the CCPIA remaining in the Senate, it falls to me to keep a close eye on its implementation.

Central to our intention in drafting the CCPIA was the principle that the United States will act to bar the importation of particular antiquities, but only as part of a concerted international response to a specific, severe problem of pillage. The CCPIA established an elaborate process to ensure that the views of experts—archaeologists, ethnologists, art dealers, museums—and the public, are taken fully into account when foreign governments ask us to bar imports of antiquities. The Congress put these safeguards in place with the specific intent to provide due process.

The need for this bill arises from the recent proliferation of import restrictions imposed on archaeological and ethnological artifacts from a number of countries, including Canada and Peru. Restrictions may soon be imposed on imports from Cambodia, and I am told that the Government of Italy has now requested that the United States impose a sweeping embargo on archaeological material dating from the 8th century B.C. to the 5th century A.D.

My understanding is that the standards and procedures the Congress meant to introduce in the CCPIA are not being followed. The chief concerns are two-fold: (1) the Cultural Property Advisory Committee, which reviews all requests for import restrictions, remains essentially closed to non-members despite the provisions of the 1983 Cultural Property Act—which I co-authored with Senators Dole and Matsunaga—that call for open meetings and transparent procedures; and (2) the Committee lacks a knowledgeable art dealer—in large part because the Executive Branch has interpreted the statute—incorrectly, in my view—to require that Committee members serve as "special government employees" rather than—as was intended—"representatives"—of dealers. Candidates have thus been subjected to insurmountable conflict-of-interest rules that have effectively prevented experts from serving on the Committee—the very individuals whose advice ought to be sought.

The amendments I offer today would open up the proceedings of the Cultural Property Advisory Committee and the administering agency (formerly USIA, now an agency under the Department of State) to allow for meaningful public participation in the fact-finding phase of an investigation, i.e., the stage at which the Committee and the agency review the factual basis for a country's request for import restrictions. The bill would require that notice of such a request be published in the Federal Register, that interested parties be provided an opportunity to comment, and that the Committee issue a public report of its findings in each case. Once the evidence is gathered, the Committee would, as under current law, be permitted to conduct its deliberations behind closed doors so as not to jeopardize the government's negotiating objectives or disclose its bargaining position.

The amendments would also clarify that Cultural Property Advisory Committee members are to serve only in a "representative" capacity—as is the case with members of the President's trade advisory committees—and not as "special government employees." It was my clear understanding, as one of the chief drafters of the law, that members of the Advisory Committee would be acting in a representative capacity. The CCPIA sought to ensure that there would be a "fair representation of the various interests of the public sectors and the private sectors in the international exchange of archaeological and ethnological materials," by designating members to represent those various perspectives. The CCPIA reserves specific slots on the Advisory Committee for representatives of the affected interest groups, including as I mentioned earlier, art dealers. The special conflict-of-interest provisions applicable to "special government employees" would probably prevent any active art dealer knowledgeable in the affected areas of trade from serving on the Committee, depriving the Committee of invaluable expertise.

This bill, clarifying Congressional intent, is essential to successful implementation of the CCPIA. If I may ask the Senate's indulgence, I would like to summarize the key provisions of the bill:

Procedural requirements.—The bill amends Section 303(f)(2) of the CCPIA to provide that a foreign nation's request for relief shall include a detailed description of the archaeological or ethnological material that a party to the 1970 Cultural Property Convention seeks to protect and a comprehensive description of the evidence submitted in support of the request. This information is to be included in the Federal Register notice required to initiate proceedings under the CCPIA.

The purpose of this amendment is to provide interested parties with adequate notice of the nature of a foreign nation's request and the evidence in support of an allegedly serious condition of pillage, which is evidence essential to any response under CCPIA. In the past, proceedings before the CPAC and the administering agency (formerly USIA, now an agency under the Department of State) have been conducted almost in total secrecy, thus denying interested parties the opportunity to prepare rebuttal and response to the evidence presented by a foreign nation on alleged pillage and with respect to the other statutory requirements that must be satisfied. The result is that the Committee is denied a full, unbiased record upon which to make its decisions.

The bill also amends Section 303(f)(1)(C) of the CCPIA to provide that interested parties shall have an opportunity to provide comments to Executive Branch decision-makers on the findings and recommendations of the CPAC, which are to be made public under a separate provision of the bill. To date, interested parties have not had an effective opportunity to bring their perspectives to the attention of the statutory decision-maker.

Proceedings before the committee.—The bill amends Section 306(f)(1) of the CCPIA to provide that the procedures before the Advisory Committee shall be conducted to afford full participation by interested parties in the fact-finding phase of the CPAC review.

This provision draws a clear line between the fact-finding investigation and the deliberative review phases of the Committee's proceedings and provide for full public participation in the fact-finding phase. It also responds to concerns that, under current procedures, the Committee is denied full information from interested parties relating to the foreign nation's request because there is no public information about the specific nature of a request nor of the data supporting it.

Also, in an amendment to Section 306(f)(1) of the CCPIA, the Committee is directed to prepare, and then publish in the Federal Register, a report which includes, inter alia, its findings with respect to each of the criteria described in Section 301(a)(1) of the Act, which sets forth the requirements that must be met before import restrictions may be imposed. This amendment is essential to ensure that the Committee faithfully responds to each of the statutory criteria.

Import restrictions.—Our bill amends Section 303(a)(1)(A) of the CCPIA, dealing with the authority to impose restrictions, to make clear that there must be evidence of pillage which supports the full range of any import restrictions under the CCPIA and that such evidence must reflect contemporary pillage. Evidence of contemporary pillage is essential to the working of the Act, which is based on the concept that a U.S. import restriction will have a meaningful effect on an ongoing situation of pillage.

There is striking evidence that the Committee and the administering agency are now promulgating broad-scale import restrictions where there is no evidence of contemporary pillage that would justify the scope of those restrictions. Recent examples include omnibus import restrictions involving cultural property from Canada and Peru, extending over thousands of years. Vast portions of the Canadian restrictions were supported by no evidence whatsoever of contemporary pillage. Likewise, the Peruvian restrictions extend far beyond any evidence of current pillage contained in the administrative record. I am told that the Government of Italy has now requested that the United States impose a sweeping embargo on Italian archaeological materials dating from the 8th century B.C. to the 5th century A.D.

This provision also makes clear that an import embargo cannot be based on historical evidence of pillage; rather, there must be contemporary pillage. This amendment responds to recent instances where the committee has made recommendations, which the agency has accepted, based upon evidence of pillage that is many years old, and indeed, evidence of pillage that occurred hundreds of years previously. It is quite obvious that an import restriction in 1999 cannot deter pillage that took place decades or even centuries ago. This provision is imperative to ensure that the administrative process under the act is faithful to the statutory goals of CCPIA.

Continuing review.—Our bill amends section 306(g) of the act to make more specific the obligation of the committee to conduct reviews, on an annual basis, of existing agreements providing for import restrictions; to publish in the Federal Register the conclusions of such reviews; and to report on those agreements not reviewed during the preceding year and the reasons why such agreements were not reviewed. The amendment provides for full public participation in the fact-finding phase of the annual reviews. It is prompted by the committee's failure to undertake, with full public participation, a prompt review of existing import restrictions, particularly those relating to Canada, for which serious questions have been raised as to the claims of pillage made in support of the omnibus U.S. import restrictions.

Multinational response.—These provisions deal with the action required by other art-importing nations in connection with non-emergency import restrictions imposed under the act. The act requires that any import restriction under Section 303 of the act be accomplished by corresponding import restrictions by other nations having a significant trade in the cultural properties barred by the U.S. import restriction. The rationale for this requirement is that one cannot effectively deter a serious situation of pillage of cultural properties if the U.S. unilaterally closes its borders to the import of those properties, and they find their way, in an undiminished stream of commerce, to markets in London, Paris, Munich, Tokyo, or other air-importing centers.

Congress imposed a specific requirement of an actual multinational response. There is a concern that the committee is simply disregarding these requirements in its recent actions imposing far-reaching restrictions on cultural properties. Therefore, this subsection amends section 303(g)(2) of the act to require the administering agency to set forth in detail the reasons for its determination under this provision.

Consultation by committee members.—These provisions relate to the appropriate activities of committee members. In order to provide that maximum information and insight be brought to bear upon the committee's fact-finding and deliberations, all members of the Committee will be free to consult with others in connection with non-confidential information in an effort to secure expert advice and information on the justification for a particular request, and to share non-confidential information received from a requesting country in support of its request. Any such consultation must be reported in the committee's records. In the past, committee members have been advised that they would face severe sanctions if they were to consult with experts on the extent of pillage or other pertinent facts in connection with a foreign nation's request.

Cultural Property Advisory Committee membership.—Our bill clarifies that members of the CPAC serve in a representative capacity and not as officers or employees of the government or as special government employees ("SGEs"). This additional language is necessary because officials at the administering agency and elsewhere in the executive branch appear to have misconstrued congressional intent in this regard.

Because CPAC members are expected to bring their particular institutional perspectives to CPAC deliberations, the CCPIA seeks to ensure a "fair representation of the various interests of the public sectors and the private sectors in the international exchange of archaeological and ethnological material," by designating members to represent various perspectives. To accomplish this purpose, Congress reserved specific slots on the CPAC for representatives of the affected interest groups.

Despite this language, the administering agency has asserted that CPAC members serve as SGE rather than in a representative capacity. As a result, certain experts have been prevented from serving on the CPAC. The proposed amendment would restate and clarify that all members of the CPAC serve in a representative capacity.

Federal Advisory Committee Act.—Finally, the bill makes clear that the transparency provisions of the Federal Advisory Committee Act (e.g., open meetings, public notice, public participation, and public availability of documents) apply to the fact-finding phase of the committee's actions. Those provisions shall not apply to the deliberative phase of the committee's action if there is an appropriate determination that open procedures would compromise the Government's negotiating objectives or bargaining position.

This provision would open to the public the fact-gathering phase of the CPAC's work, while retaining discretion, consistent with section 206(h) of the CCPIA, to close the deliberative phase where the government's negotiating objectives or bargaining positions may be compromised.

Mr. President, I urge the speedy passage of this legislation and ask unanimous consent that the full text of the bill appear in the RECORD along with a brief section-by-section description of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1696

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cultural Property Procedural Reform Act".

SEC. 2. PROCEDURAL REQUIREMENTS.

(a) IN GENERAL.—Section 303(f) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2602(f)) is amended to read as follows:

"(f) PROCEDURES.—

"(1) IN GENERAL.—In the case of any request-described in subsection (a) made by a State Party or in the case of a proposal by the President to extend any agreement under subsection (e), the President shall—

"(A) publish notification of the request or proposal in the Federal Register;

"(B) submit to the Committee such information regarding the request or proposal (including, if applicable, information from the State Party with respect to the implementation of emergency action under section 304) as is appropriate to enable the Committee to carry out its duties under section 306;

"(C) provide interested parties an opportunity to comment on the findings and recommendations of the Committee; and

"(D) consider, in taking action on the request or proposal, the views and recommendations contained in any Committee report—

"(i) required under section 306(f) (1) or (2); and

"(ii) submitted to the President before the close of the 150-day period beginning on the day on which the President submitted information on the request or proposal to the Committee under subparagraph (B).

"(2) CONTENT OF NOTICE.—Each notice required by paragraph (1)(A) shall include a statement of the relief sought by the State Party, a detailed description of the archaeological or ethnological material that the State Party seeks to protect, and a comprehensive description of the evidence submitted in support of the request.".

(b) PROCEEDINGS BEFORE COMMITTEE.—Section 306(f)(1) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2605(f)(1)) is amended to read as follows:

"(1) The Committee shall, with respect to each request by a State Party referred to in section 303(a), undertake a fact-finding investigation and a deliberative review with respect to matters referred to in section 303(a)(1) as the matters relate to the State Party or the request. The Committee shall provide notice and opportunity for comment to all interested parties in the fact-finding phase of the Committee's actions. The Committee shall prepare and publish in the Federal Register a report setting forth—

"(A) the results of the investigation and review and its findings with respect to each of the criteria described in section 303(a)(1);

"(B) the Committee's findings as to the nations individually having a significant import trade in the relevant material; and

"(C) the Committee's recommendation, together with the reasons therefore, as to whether an agreement should be entered into under section 303(a) with respect to the State Party.".

(c) IMPORT RESTRICTIONS.—Section 303(a)(1) of such Act (19 U.S.C. 2602(a)(1)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) that particular objects of the cultural patrimony of the State Party are in jeopardy from pillaging of archaeological or ethnological materials of the State Party;"; and

(2) by adding at the end the following: "Historical evidence of pillaging shall not be sufficient to make a determination under subparagraph (A).".

(d) Continuing Review.—Section 306(g) of such Act (19 U.S.C. 2605(g)) is amended—

(1) in paragraph (1), by striking "a continuing" and inserting "an annual";

(2) by amending paragraph (2) to read as follows:

"(2) Action by committee.—

"(A) In general.—If the Committee finds, as a result of such review, that—

"(i) cause exists under section 303(d) for suspending the import restrictions imposed under an agreement,

"(ii) any agreement or emergency action is not achieving the purposes for which the agreement or action was entered into or implemented, or

"(iii) changes are required to this title in order to implement fully the obligations of the United States under the Convention,

the Committee shall submit to Congress and the President and publish in the Federal Register a report setting forth the Committee's recommendations for suspending such import restrictions or for improving the effectiveness of any such agreement or emergency action or this title.

"(B) Agreements reviewed where no action proposed.—In any case in which the Committee undertakes a review but concludes that the agreement meets the applicable statutory criteria of effectiveness, the Committee shall submit to Congress and the President and publish in the Federal Register a report setting forth the Committee's findings and conclusions as to the effectiveness of the agreement.

"(C) Agreements not reviewed.—The report required by subparagraph (A) shall contain a list of any agreement not reviewed during the year preceding the submission of the report and the reasons why such agreement was not reviewed."; and

(3) by adding at the end the following new paragraph:

"(3) Requirements for review.—In each annual review conducted under this subsection, the Committee shall—

"(A) undertake a fact-finding investigation and a deliberative review with respect to the effectiveness of the agreement under review;

"(B) provide notice and opportunity for comment to all interested parties in the fact-finding phase of Committee's action; and

"(C) publish notice of the review in the Federal Register that includes a detailed description of the information submitted to the Committee concerning the effectiveness of the agreement.".

(e) Multinational Response.—Section 303(g)(2) of such Act (19 U.S.C. 2602(g)(2)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(D) if the President determines that the application of import restrictions by other nations, as required by subsection (c)(1), is not essential to deter a serious situation of pillage, the reasons for such determination.".

(f) Consultation by Committee Members.—Section 306(e) of such Act (19 U.S.C. 2605(e)) is amended by adding at the end the following new paragraph:

"(3) Members of the Committee may consult with any person to obtain expert advice and may, in such consultations, share information obtained from a country in support of the request filed under this title to the extent that the information is otherwise publicly available. Any consultations conducted pursuant to this paragraph shall be reported in the record of the Committee's actions.".

SEC. 3. CULTURAL PROPERTY ADVISORY COMMITTEE.

(a) In General.—Section 306(b)(1) (B) and (C) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2605(b)(1) (B) and (C)) are amended to read as follows:

"(B) Three members who shall represent the fields of archaeology, anthropology, ethnology, or related areas.

"(C) Three members who shall represent the international sale of archaeological, ethnological, and other cultural property.".

(b) Conflict of Interest Provisions.—Section 306(b) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2605(b)) is amended by adding at the end the following new paragraph:

"(4) Members of the Committee who are not otherwise officers or employees of the Federal Government shall serve in a representative capacity and shall not be considered officers, employees, or special Government employees for any purpose.".

(c) Application of Federal Advisory Committee Act.—Section 306(h) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2605(h)) is amended to read as follows:

"(h) Federal Advisory Committee Act.—In order to provide for open meetings and public participation, the provisions of the Federal Advisory Committee Act (Public Law 92-463; 5 U.S.C. App.) shall apply to the fact-finding phase of the Committee's actions including the requirements of subsections (a) and (b) of section 10 and section 11 (relating to open meetings, public notice, public participation, and public availability of documents). The requirements of subsections (a) and (b) of section 10 and section 11 shall not apply to the deliberative phase of the Committee's actions if it is determined by the President or the President's designee that the disclosure of matters involved in the Committee's deliberations would compromise the Government's negotiating objectives or bargaining positions on the negotiation of any agreement authorized by this title.".

SEC. 4. TECHNICAL AMENDMENTS.

(1) Sections 306(e) (1) and (2), 306(i)(1)(A) and 306(i)(2) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2605(e) (1) and (2), 2605(i)(1)(A), and 2605(i)(2)) are each amended by striking "Director of the United States Information Agency" each place it appears and inserting "Secretary of State".

(2) Section 305 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2604) is amended—

(A) in the first sentence, by inserting ", after consultation with the Secretary of State," after "Secretary"; and

(B) in the second sentence, by striking "archeological" and inserting "archaeological".

Cultural Property Procedural Reform Act—Section-by-Section Description

The purpose of this legislation is to improve the procedures for restricting imports of archaeological and ethnological material under the Convention on Cultural Property Implementation Act ("the CCPIA" or "Act"). It also clarifies that members of the Cultural Property Advisory Committee ("CPAC" or "Committee") are appointed to act in a representative capacity and are not special government employees.

SECTION 1. SHORT TITLE

The title of the bill is the "Cultural Property Procedural Reform Act."

SEC. 2. PROCEDURAL REQUIREMENTS

(a) In general

First, Section 303(f)(2) of the CCPIA is amended to provide that a foreign nation's request for relief shall include a detailed description of the archaeological or ethnological material that a party to the 1970 Cultural Property Convention seeks to protect and a comprehensive description of the evidence submitted in support of the request. This information is to be included in the Federal Register notice required to initiate proceedings under the CCPIA.

Second, Section 303(f)(1)(C) of the CCPIA is amended to require that interested parties have an opportunity to provide comments to the administering agency (formerly USIA, now an agency under the Department of State) on the findings and recommendations of the CPAC.

(b) Proceedings before committee

Section 306(f)(1) of the CCPIA is amended to draw a clear distinction between the fact-finding phase of the Cultural Property Advisory Committee's investigation and its deliberative review of the evidence. The amendment requires the Committee to provide interested parties both notice and an opportunity to comment during the fact-finding phase of the CPAC review.

Section 2(b) of the bill amends Section 306(f)(1) of the CCPIA to direct the Committee to publish in the Federal Register its report, which is to include, inter alia, its findings with respect to each of the criteria described in Section 301(a)(1) of the Act, which sets forth the requirements that must be met before import restrictions may be imposed.

(c) Import restrictions

Section 303(a)(1)(A) of the CCPIA, dealing with the authority to enter into import restrictions, is amended to make clear that there must be evidence that particular objects of the cultural patrimony of the country requesting an embargo be in jeopardy of pillage. The legislation clarifies that historical evidence of pillaging is not sufficient to support the imposition of import restrictions; rather the evidence must reflect contemporary pillage.

(d) Continuing review

Under current law, the Committee is required to review the effectiveness of existing import restrictions on a continuing basis. The legislation makes more specific the obligation of the Committee to conduct such continuing reviews of outstanding agreements. It clarifies that reviews will be conducted on an annual basis, and requires the Committee to publish in the Federal Register the conclusions of such reviews, and to include in an annual report a description of those agreements not reviewed during the preceding year and the reasons why such agreements were not reviewed. This provision requires that notice of the review be published in the Federal Register and that interested parties be afforded an opportunity to comment in the fact-finding phase of the annual reviews.

(e) Multinational response

This subsection deals with the action required by other art-importing nations in connection with non-emergency import restrictions imposed under the Act. The Act requires that any import restriction under Section 303 of the Act be accompanied by corresponding import restrictions by other nations having a significant trade in the materials barred by the U.S. import restriction. This subsection amends Section 303(g)(2) of the Act to require the President to set forth in detail the reasons for a determination that multilateral action is not required.

(f) Consultation by committee members

This subsection provides that Committee members are free to consult with experts and, in connection with such consultations, to share non-confidential information receive from a country in support of its request for an import embargo. Any such consultations must be reported in the records of the Committee.

SEC. 3. CULTURAL PROPERTY ADVISORY COMMITTEE

(a) In general. (see (b), below)

(b) Conflict of interest provisions

These subsections clarify that members of the CPAC serve in a representative capacity and not as officers or employees of the government or as special government employees.

(c) Application of Federal Advisory Committee Act

Subsection (c) of Section 3 of the bill makes clear that the transparency provisions of the Federal Advisory Committee Act (e.g., open meetings, public notice, public participation, and public availability of documents) apply to the fact-finding phase of the Committee's actions. Those provisions shall not apply to the deliberative phase of the Committee's action if the President or his designee determines that open procedures would compromise the Government's negotiating objectives or bargaining position.

SEC. 4. TECHNICAL AMENDMENTS

This section makes technical changes to the CCPIA in light of the abolition of the United States Information Agency, and consequent transfer of its functions to the Department of State.

• Mr. SCHUMER. Mr. President, I rise to join with my colleagues Senators MOYNIHAN and ROTH in introducing legislation today that I feel is long overdue.

More than 20 years ago, in an attempt to end the looting and pillaging of important archaeological and cultural sites, and to protect the integrity of a country's cultural patrimony, Senator MOYNIHAN and others labored to develop an international protocol that struck a balance between a country's desire to protect its heritage and the art world's desire to have a healthy trade in and exhibition of cultural artifacts. After years of deliberation, these efforts resulted in the UNESCO Convention on Cultural Property—a delicately balanced set of rules and guidelines to protect countries from looting, but to allow a legitimate trade in historical objects and the showing of those objects in museums around the world.

Congress later established the Cultural Property Advisory Committee (CPAC) to assist the President in making determinations under this convention about whether to restrict or allow the trade of archaeologically significant materials when another country claims harm. Once again, Senator MOYNIHAN was the impetus and intellectual might behind this legislation.

For years, this was a balanced process that weighed the claims of countries against the competing interests of museums, art dealers, and auction houses. The CPAC itself was comprised of individuals representing the interests of the museums, auction houses, dealers, archaeologists, and anthropologists. This committee, with the help of staff, made determinations based on fact (was there sufficient evidence of looting or pillaging?) and effectiveness (if the U.S. unilaterally banned the import of certain items, would it have a reasonable chance of reducing or ending the looting?). The original international protocol as well as the enacting legislation passed by the Congress, specifically discouraged unilateral or bilateral actions. The protocols and the legislation were designed to lead to a cohesive international response, not a country-by-country response to looting.

Somewhere along the line, that delicate balance shifted. CPAC hearings that were once open became closed. Actions that were once multilateral became unilateral. A process that was once inclusive became exclusive. Decisions that in the past were based on a fair hearing on the merits became instead a foregone conclusion against the museums and the dealers. I would go as far as to say that for those representing museums and art dealers, the process became overtly hostile and secretive.

More than a year ago, I convened a meeting with then-USIA director Joe Duffy, members of the art community, and the staff of Senator MOYNIHAN. The meeting was called because of a sweeping action taken by the CPAC regarding Canadian Native American artifacts. Without dwelling on the details of the complaint by the Canadian government or the decision to bar any imports by the U.S. of thousands of artifacts—the meeting was extraordinary. Director Duffy, who as USIA head oversaw the CPAC, admitted that they were way out of line. He admitted that the process had become closed and hostile to dealers and the museums. And he suggested to me and by proxy to Senator MOYNIHAN that we supply him with a name of a person to fill a vacancy on the CPAC to help restore the balance that once was the norm. We gave him the name of Andre Emmerich, a semi-retired dealer in artifacts and probably the most respected voice in the field of cultural property. Director Duffy said to me that Andre Emmerich was the perfect choice.

More than one year later and unfortunately after Director Duffy retired, Andre Emmerich's nomination was rejected because, the CPAC claimed, as a dealer he had a conflict of interest. Let's face facts. The entire CPAC is designed to be a conflict of interest. The balance of the committee membership is supposed to reflect that conflict of interest. That conflict of interest is essential to the inner workings of the committee as the expertise supplied by those in various fields is also intended to edify the rest of the committee to help them make the right decision.

That brings us to today. We are introducing legislation that is intended to clean up the CPAC—to make the process open, fair, transparent, and accountable. Among other provisions, the legislation forces CPAC to open meetings that have been absurdly secretive. The need for cloak and dagger, spy vs. spy, CIA level secrecy over the importation of Peruvian pottery escapes me.

I am proud to be joining both Senator MOYNIHAN and Senator ROTH—two of the most respected leaders in the Senate—in introducing this legislation. I hope we can move this bill quickly, because this is a situation that needs a remedy.•

By Mr. VOINOVICH:

S. 1699. A bill to amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes; to the Committee on Environment and Public Works.

CLEAN WATER INFRASTRUCTURE FINANCING ACT OF 1999

Mr. VOINOVICH. Mr. President, I rise today to introduce the Clean Water Infrastructure Financing Act of 1999, legislation which will reauthorize the highly successful, but undercapitalized, Clean Water State Revolving Loan Fund (SRF) Program administered by the U.S. Environmental Protection Agency (EPA).

As many of my colleagues know, the Clean Water SRF Program is an effective and immensely popular source of funding for wastewater collection and treatment projects. Congress created the SRF in 1987, to replace the direct grants program that was enacted as part of the landmark 1972 Federal Water Pollution Control Act, or as it is known, the Clean Water Act. State and local governments have used the federal Clean Water SRF to help meet critical environmental infrastructure financing needs. The program operates much like a community bank, where each state determines which projects get built.

The performance of the SRF Program has been spectacular. Total federal capitalization grants have been nearly doubled by non-federal funding sources, including state contributions, leveraged bonds, and principal and interest payments. Communities of all sizes are participating in the program, and approximately 7,000 projects nationwide have been approved to date.

Ohio has needs for public water system improvements which greatly exceed the current SRF appropriations levels. According to the latest state figures, more than $7 billion of improvements have been identified as necessary. In recent years, Ohio cities and villages are spending more on maintaining and operating their systems than in the past, which is an indication their systems are aging and will soon need to be replaced. For example, the City of Columbus recently requested SRF assistance amounting to $725 million over the next five years.

While the SRF program's track record is excellent, the condition of our Nation's environmental infrastructure remains alarming. A 20-year needs survey published by the EPA in 1997 documented $139 billion worth of wastewater capital needs nationwide. This past April, the national assessment was revised upward to nearly $200 billion, in order to more accurately account for expected sanitary sewer needs. Private studies demonstrate that total needs are closer to $300 billion, when anticipated replacement costs are considered.

Authorization for the Clean Water SRF expired at the end of fiscal year 1994, and the failure of Congress to reauthorize the program sends an implicit message that wastewater collection and treatment is not a national priority. The longer we have an absence of authorization of this program, the longer it creates uncertainty about the program's future in the eyes of borrowers, which may delay or in some cases prevent project financing.

The bill that I am introducing today will authorize a total of $15 billion over the next five years for the Clean Water SRF. Not only would this authorization bridge the enormous infrastructure funding gap, the investment would also pay for itself in perpetuity by protecting our environment, enhancing public health, creating jobs and increasing numerous tax bases across the country. Additionally, the bill will provide technical and planning assistance for small systems, expand the types of projects eligible for loan assistance, and offer disadvantaged communities extended loan repayment periods and principal subsidies.

At the local level, there are numerous areas like the town of Glenn Robbins in Jefferson County, Ohio, which cannot afford a zero percent loan to build the cost-effective facilities they need. Estimates indicate that among towns of less than 3,500 population in Ohio, there are $1.5 billion in needs.

The health and well-being of the American public depends on the condition of our Nation's wastewater collection and treatment systems. Unfortunately, the facilities that comprise these systems are often taken for granted because they are invisible absent a crisis. Let me assure my colleagues that the costs of poor environmental infrastructure are simply intolerable. Recent flood disasters have been a stark reminder of the human costs that stem from the contamination of our Nation's water supply.

The Clean Water SRF Program has helped thousands of communities meet their wastewater treatment needs. My legislation will help ensure that the Clean Water SRF Program remains a viable component in the overall development of our Nation's infrastructure for years to come. I urge my colleagues to join me in cosponsoring this legislation, and I urge it's speedy consideration by the Senate.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1699

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Clean Water Infrastructure Financing Act of 1999".

SEC. 2. GENERAL AUTHORITY FOR CAPITALIZATION GRANTS.

Section 601(a) of the Federal Water Pollution Control Act (33 U.S.C. 1381(a)) is amended by striking "(1) for construction" and all that follows through the period at the end and inserting "to accomplish the purposes of this Act.".

SEC. 3. CAPITALIZATION GRANTS AGREEMENTS.

(a) REQUIREMENTS FOR CONSTRUCTION OF TREATMENT WORKS.—Section 602(b)(6) of the Federal Water Pollution Control Act (33 U.S.C. 1382(b)(6)) is amended—

(1) by striking "before fiscal year 1995"; and

(2) by striking "201(b)" and all that follows through "218," and inserting "211,".

(b) GUIDANCE FOR SMALL SYSTEMS.—Section 602 of the Federal Water Pollution Control Act (33 U.S.C. 1382) is amended by adding at the end the following:

"(c) GUIDANCE FOR SMALL SYSTEMS.—

"(1) SIMPLIFIED PROCEDURES.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall assist the States in establishing simplified procedures for small systems to obtain assistance under this title.

"(2) PUBLICATION OF MANUAL.—Not later than 1 year after the date of enactment of this subsection, and after providing notice and opportunity for public comment, the Administrator shall publish a manual to assist small systems in obtaining assistance under this title and publish in the Federal Register notice of the availability of the manual.

"(3) DEFINITION OF SMALL SYSTEM.—In this title, the term 'small system' means a system for which a municipality or intermunicipal, interstate, or State agency seeks assistance under this title and that serves a population of 20,000 or fewer inhabitants.".

SEC. 4. WATER POLLUTION CONTROL REVOLVING FUNDS.

(a) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended by striking subsection (c) and inserting the following:

"(c) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—

"(1) IN GENERAL.—The water pollution control revolving fund of a State shall be used only for providing financial assistance for activities that have, as a principal benefit, the improvement or protection of the water quality of navigable waters to a municipality, intermunicipal, interstate, or State agency, or other person, including activities such as—

"(A) construction of a publicly owned treatment works;

"(B) implementation of lake protection programs and projects under section 314;

"(C) implementation of a nonpoint source management program under section 319;

"(D) implementation of a estuary conservation and management plan under section 320;

"(E) restoration or protection of publicly or privately owned riparian areas, including acquisition of property rights;

"(F) implementation of measures to improve the efficiency of public water use;

"(G) development and implementation of plans by a public recipient to prevent water pollution; and

"(H) acquisition of land necessary to meet any mitigation requirements related to construction of a publicly owned treatment works.

"(2) FUND AMOUNTS.—

"(A) REPAYMENTS.—The water pollution control revolving fund of a State shall be established, maintained, and credited with repayments.

"(B) AVAILABILITY.—The balance in the fund shall be available in perpetuity for providing financial assistance described in paragraph (1).

"(C) FEES.—Fees charged by a State to recipients of the assistance may be deposited in the fund and may be used only to pay the cost of administering this title.".

(b) EXTENDED REPAYMENT PERIOD FOR DISADVANTAGED COMMUNITIES.—Section 603(d)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1383(d)(1)) is amended—

(1) in subparagraph (A), by inserting after "20 years" the following: "or, in the case of a disadvantaged community, the lesser of 40 years or the expected life of the project to be financed with the proceeds of the loan"; and

(2) in subparagraph (B), by striking "not later than 20 years after project completion" and inserting "on the expiration of the term of the loan".

(c) LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGY.—Section 603(d) of the Federal Water Pollution Control Act (33 U.S.C. 1383(d)) is amended by striking paragraph (5) and inserting the following:

"(5) to provide loan guarantees for—

"(A) similar revolving funds established by municipalities or intermunicipal agencies; and

"(B) developing and implementing innovative technologies;".

(d) ADMINISTRATIVE EXPENSES.—Section 603(d)(7) of the Federal Water Pollution Control Act (33 U.S.C. 1383(d)(7)) is amended by inserting before the period at the end the following: "or the greater of $400,000 per year or an amount equal to ½ percent per year of the current valuation of the fund, plus the amount of any fees collected by the State under subsection (c)(2)(C)".

(e) TECHNICAL AND PLANNING ASSISTANCE FOR SMALL SYSTEMS.—Section 603(d) of the Federal Water Pollution Control Act (33 U.S.C. 1383(d)) is amended—

(1) in paragraph (6), by striking "and" at the end;

(2) in paragraph (7), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(8) to provide to small systems technical and planning assistance and assistance in financial management, user fee analysis, budgeting, capital improvement planning, facility operation and maintenance, repair schedules, and other activities to improve wastewater treatment plant operations, except that the amounts used under this paragraph for a fiscal year shall not exceed 2 percent of all grants provided to the fund for the fiscal year under this title.".

(f) CONSISTENCY WITH PLANNING REQUIREMENTS.—Section 603(f) of the Federal Water Pollution Control Act (33 U.S.C. 1383(f)) is amended by striking "is consistent" and inserting "is not inconsistent".

(g) CONSTRUCTION ASSISTANCE.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended by striking subsection (g) and inserting the following:

"(g) CONSTRUCTION ASSISTANCE.—

"(1) PRIORITY LIST REQUIREMENT.—The State may provide financial assistance from the water pollution control revolving fund of the State for a project for construction of a publicly owned treatment works only if the project is on the priority list of the State under section 216, without regard to the rank of the project on the list.

"(2) ELIGIBILITY OF CERTAIN TREATMENT WORKS.—A treatment works shall be treated as a publicly owned treatment works for purposes of subsection (c) if the treatment works, without regard to ownership, would be considered a publicly owned treatment works and is principally treating municipal waste water or domestic sewage.".

(h) INTEREST RATES.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended by adding at the end the following:

"(i) INTEREST RATES.—

"(1) IN GENERAL.—In any case in which a State makes a loan under subsection (d)(1) to a disadvantaged community, the State may charge a negative interest rate of not to exceed 2 percent to reduce the unpaid principal of the loan.

"(2) LIMITATION.—The aggregate amount of all negative interest rate loans the State makes for a fiscal year under paragraph (1) shall not exceed 20 percent of the aggregate amount of all loans made by the State from the water pollution control revolving fund for the fiscal year.

"(j) DEFINITION OF DISADVANTAGED COMMUNITY.—In this section, the term 'disadvantaged community' means the service area of a publicly owned treatment works with respect to which the average annual residential sewage treatment charges for a user of the treatment works meet affordability criteria established by the State in which the treatment works is located (after providing for public review and comment) in accordance with guidelines established by the Administrator in cooperation with the States.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 607 of the Federal Water Pollution Control Act (33 U.S.C. 1387) is amended by striking "the following sums:" and all that follows through the period at the end of paragraph (5) and inserting "$3,000,000,000 for each of fiscal years 2001 through 2005.".

By Mr. DURBIN:

S. 1700. A bill to amend the Federal Rules of Criminal Procedure to allow a defendant to make a motion for forensic testing not available at trial regarding actual innocence; to the Committee on the Judiciary.

THE RIGHT TO USE TECHNOLOGY IN THE HUNT FOR TRUTH

Mr. DURBIN. Mr. President, the hallmark of our criminal justice system has always been the search for the truth. With this goal in mind, I am introducing legislation to ensure the quality of justice in our criminal courts through the use of DNA testing.

In the last decade, the use of DNA evidence as a tool to assign guilt and acquit the innocent has produced dramatic results. The Innocence Project at the Cardozo School of Law has identified 62 cases in the United States since 1988 in which the use of DNA technology resulted in overturned convictions. In my home State of Illinois, 12 innocent men in the past 12 years have been released from Illinois' Death Row after DNA testing or other evidence proved their innocence.

The bill I am introducing today, The Right to Use Technology in the Hunt for Truth (TRUTH) Act will amend the Federal Rules of Criminal Procedure. Specifically, the bill will allow Federal defendants to file a motion to mandate DNA testing to support claims of actual innocence. Under current law, rule 33 of the Federal Rules of Criminal Procedure imposes a 2-year time limitation for new trial motions based on newly discovered evidence. This time limitation can act as a carrier even in cases where the evidence of actual innocence is available. My bill will allow defendants to bring a motion for forensic DNA testing without regard to the 2-year time limitation. It will not waive the 2-year time limit for all new trial limitations. Only motions for forensic DNA testing under limited circumstances will not subject to the 2-year time limitation.

This Federal rule change allows a defendants to utilize technology that was unavailable at the time of their conviction. The bill requires the defendant to show that identity was an issue in the trial which resulted in his conviction and that the evidence gathered by law enforcement was subject to a chain of custody sufficient to protect its integrity.

DNA technology has undergone rapid change that has increased its ability to obtain meaningful results from old evidence through the use of smaller and smaller samples. In the World Trade Center bombing case, DNA was recovered from saliva on the back of a postage stamp.

In the past, crime laboratories relied primarily on restriction fragment length polymorphism (RFLP) testing, a technique that requires a rather large quantity of DNA (100,000 or more cells). Most laboratories are now shifting to using a test based on the polymerase chain reaction (PCR) method that can generate reliable data from extremely small amounts of DNA in crime scene samples (50 to 100 cells).

Two States in the country, New York and Illinois, have laws mandating postconviction DNA testing. The Illinois law has led to as many as six overturned sentences, including some murder charges.

When the measure was debated in the Illinois Legislature, some lawmakers raised concerns that allowing DNA-based appeals would lead to an avalanche of prisoners' demands for such tests.

But the response from experts is that such motions have not been excessive because prisoners who were justifiably convicted of crimes would have that DNA tests would only underscore their guilt.

Recently, a high-level study of a commission appointed by Attorney General Janet Reno has encouraged prosecutors to be more amenable to reopening cases where convictions might be overturned because of the use of DNA testing. The Innocence Project in New York estimates that 60 percent of the samples it sends out for testing come back in their clients' favor.

Justice Robert Jackson wrote some 40 years ago, "[i]t must prejudice the occasional meritorious application to be buried in a flood of worthless ones. He who must search a haystack for a needle is likely to end up with the attitude that the needle is not worth the search." This bill will help make the hay stack smaller by separating out motions for new trial based on scientific evidence of actual innocence.

I hope my colleagues will join me in this effort to protect the integrity of the criminal justice system by utilizing all that technology has to offer. I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1700

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "The Right to Use Technology in the Hunt for Truth Act" or "TRUTH Act".

SEC. 2. MOTION FOR FORENSIC TESTING NOT AVAILABLE AT TRIAL REGARDING ACTUAL INNOCENCE.

(a) IN GENERAL.—The Federal Rules of Criminal Procedure are amended by inserting after rule 33 the following:

"Rule 33.1. Motion for forensic testing not available at trial regarding actual innocence

"(a) MOTION BY DEFENDANT.—A court on a motion of a defendant may order the performance of forensic DNA testing on evidence that was secured in relation to the trial of that defendant which resulted in the defendant's conviction, but which was not subject to the testing which is now requested because the technology for the testing was not available at the time of trial. Reasonable notice of the motion shall be served upon the Government.

"(b) PRIMA FACIE CASE.—The defendant shall present a prima facie case that—

"(1) identity was an issue in the trial which resulted in the conviction of the defendant; and

"(2) the evidence to be tested has been subject to a chain of custody sufficient to establish that the evidence has not been substituted, tampered with, replaced, or altered in any material aspect.

"(c) DETERMINATION OF THE COURT.—The court shall allow the testing under reasonable conditions designed to protect the interests of the Government in the evidence and the testing process upon a determination that—

"(1) the result of the testing has the scientific potential to produce new, noncumulative evidence materially relevant to the defendant's assertion of actual innocence; and

"(2) the testing requested employs a scientific method generally accepted within the relevant scientific community.".

(b) TABLE OF CONTENTS.—The table of contents for the Federal Rules of Criminal Procedure are amended by adding after the item for rule 33 the following:

"33.1. Motion for forensic testing not available at trial regarding actual innocence.".

By Mr. SESSIONS (for himself, Mr. SCHUMER, Mr. THURMOND, Mr. BIDEN, Mrs. FEINSTEIN, Mr. HELMS, and Mr. CLELAND):

S. 1701. A bill to reform civil asset forfeiture, and for other purposes; to the Committee on the Judiciary.

CIVIL ASSET FORFEITURE REFORM

Mr. SESSIONS. Mr. President, today I am proud to introduce the Sessions/Schumer Civil Asset Forfeiture Reform Act of 1999. This bill is the product of many months of work by a bipartisan group of Judiciary Committee Senators. It will make many needed reforms to the law of civil asset forfeiture. At the same time, our measures preserve forfeiture as a crucial tool for law enforcement.

The Sessions/Schumer bill was drafted in close consultation and with the support of the Justice and Treasury Departments. It has the support of the FBI, the DEA, the INS, and the U.S. Marshall's Service.

There are five major reforms in the Sessions/Schumer bill. First, we have raised the burden of proof on the government in forfeiture claims from probable cause to preponderance of the evidence, the same as other civil cases.

Second, Sessions/Schumer requires that real property can only be seized through the court. It will be illegal for federal agents to physically seize real property until the property has been forfeited in court.

For those who cannot afford the cost bond, our bill also adds a property bond alternative for contesting forfeiture. This provides potential claimants with more flexibility in choosing how to proceed with a claim against seized assets. It will no longer be necessary to provide cash up front to file a claim. Instead, a claimant can simply pledge an asset to cover the anticipated costs or, if the claimant cannot afford this, proceed without posting any bond.

Sessions/Schumer also creates a uniform innocent owner defense; an innocent owner's interest in property cannot be forfeited by the government. An innocent owner includes one who had no knowledge that the property may have been used to commit a crime. And in cases where the property was acquired after the crime, the uniform innocent owner defense includes bona fide purchases who have no reason to know that the asset they have purchased may be tainted.

The fifth major reform provides payment of attorney's fees. If a claimant receives a judgment in his favor, the Government will pay the claimant's reasonable attorney's fees.

I am pleased to note that this bill has the support of a broad coalition of law enforcement groups. It has been endorsed by the Fraternal Order of Police, the Federal Law Enforcement Officer's Association, the International Association of Chiefs of Police, the International Brotherhood of Police Officers, the National Association of Police Organizations, the National District Attorney's Association, the National Sheriff's Association, and the National Troopers' Coalition.

As one who believes in justice and who spent many years as a federal prosecutor, I know how important asset forfeiture is in the war on drugs. We cannot allow exaggerated rhetoric and outdated examples to destroy asset forfeiture as a law enforcement tool. I believe that this bill will strike an appropriate balance between those on the front lines of the war on drugs and advocates for reform.

Mr. THURMOND. Mr. President, I rise today as an original cosponsor of the Civil Asset Forfeiture Reform Act of 1999. This important legislation makes needed reforms to Federal civil asset forfeiture while preserving Federal civil asset forfeiture and its important role in fighting crime.

The government has had the authority to seize property connected to illegal activity since the founding days of the Republic. Forfeiture may involve seizing contraband, like drugs, or the tools of the trade that facilitate the crime.

Further, forfeiture is critical to taking the profits out of the illegal activity. Profit is the motivation for many crimes like drug trafficking and racketeering, and it is from these enormous profits that the criminal activity thrives and sustains. The use of traditional criminal sanctions of fines and imprisonment are inadequate to fight the enormously profitable trade in illegal drugs, organized crime, and other such activity, because even if one offender is imprisoned the criminal activity continues.

Asset forfeiture deters crime. It has been a major weapon in the war on drugs since the mid-1980s, when we expanded civil forfeiture to give it a more meaningful role.

The Judiciary Subcommittee on Criminal Justice Oversight which I chair, held a hearing recently on this important issue. We heard from the Department of Justice, the Department of Treasury, the law enforcement community and others involved in this issue. The Departments and law enforcement expressed support for reform but concerns about going too far.

As I stated at that time, many believe the government should have the burden of proving that it is more likely than not that the property was involved in the criminal activity, rather than the owner having to prove that the property was not involved. There is wide support for developing a more uniform innocent owner defense. Further, some are concerned that under current law the government is not liable when it negligently damages property in its possession, even when the property is later returned to its innocent owner.

I believe we have addressed these concerns in this bill. We have raised the burden on the government to the preponderance of the evidence standard, which is the general burden of proof used in civil cases.

We have developed a uniform innocent owner defense to protect an owner's interest in property when he did not have knowledge of the criminal activity or took reasonable steps to stop or prevent the illegal use of the property. The bill also protects the bonafide purchaser who purchased the property after the fact without knowledge of the criminal activity.

As an additional reform provision, this legislation holds the government liable for the negligent damage to property as the result of unreasonable law enforcement actions while the property is in the government's possession.

This bill requires the government to make seizures pursuant to a warrant, based on probable cause, and requires a timely notice to interested parties of the seizure. When a claim has been filed for the return of property, the government must conduct a judicial hearing within 90 days, and if the court enters a judgment for the claimant, the government must pay reasonable attorney fees to the claimant. This is a reasonable way to award attorney fees to the claimant after the court has determined that the claim was justified. This provision also protects the government from frivolous claims because it maintains the possibility of awarding cost to the government if the claim is determined to be frivolous.

In this legislation, we encourage the government to use criminal forfeiture as an alternative to civil forfeiture. We also allow for the use of forfeited funds to pay restitution to crime victims by expanding the ability of the Attorney General to use property forfeited in a Federal civil case to pay restitution to victims of the underlying crime.

This bill represents a compromise between the many interests involved in this issue. I would like to commend my colleagues Senators SESSIONS, BIDEN, SCHUMER, and FEINSTEIN for their work on this complex issue. After the hearing in my Subcommittee, we worked hard to create comprehensive, bipartisan legislation, and I believe we have succeeded.

This bill has been endorsed by law enforcement organizations including the Fraternal Order of Police, the National Association of Police Organizations, the National District Attorneys Association, the National Troopers Coalition, the National Sheriffs Association, and the International Association of Chiefs of Police.

This is a balanced reform of Federal civil asset forfeiture laws. It does not tie the hands of law enforcement and does not give criminals the upper hand. It makes needed reforms of civil asset forfeiture while preserving civil asset forfeiture as an essential law enforcement tool.

I hope our colleagues will join with us in supporting this important bipartisan legislation.

By Mr. MURKOWSKI:

S. 1702. A bill to amend the Alaska Native Claims Settlement Act to allow shareholder common stock to be transferred to adopted Alaska Native children and their descendants, and for other purposes; to the Committee on Energy and Natural Resources.

ALASKA NATIVE CLAIMS TECHNICAL AMENDMENTS ACT OF 1999

• Mr. MURKOWSKI. Mr. President, today I rise to introduce legislation that would make technical changes to the Alaska Native Claims Settlement Act (ANCSA).

As my colleagues know, ANCSA was enacted in 1971 stimulated by the need to address Native land claims as well as the desire to clear the way for the construction of the Trans-Alaska Pipeline and thereby provide our country with access to the petroleum resources of Alaska's North Slope. This landmark piece of legislation is a breathing, living, document that often needs to be attended for Alaska Natives to receive its full benefits. This body has amended the Act many times including this Congress.

This bill has nine provisions. One provision would allow common stock to be willed to adopted-out descendants. Another provision would clarify the liability for contaminated lands in Alaska. The clarification of contaminated land would declare that no person acquiring interest in land under this Act shall be liable for the costs of removal or remedial action, any damages, or any third party liability arising out or as a result of any contamination on that land at the time the land was acquired.

In 1917, the Norton Bay Reservation was established on 350,000 acres of land located on the north side of Norton Bay southeast of Nome, Alaska, for the benefit of Alaska Natives who now reside in the village of Elim, Alaska. The purpose of the establishment of the reservation included providing a land, economic, subsistence, and resources base for the people of that area.

In 1929, through an Executive Order, 50,000 acres of land were deleted from the reservation with little consultation and certainly without the informed consent of the people who were to be most affected by such a deletion. After passage of ANCSA, only the remaining 300,000 acres of the original reservation were conveyed to the Elim Native Corporation. This loss of land from the original reservation has become over the years a festering wound to the people of Elim. It now needs to be healed through the restoration or replacement of the deleted fifty thousand acres of land to the Native Village Corporation authorized by ANCSA to hold such land.

Section 5 of the bill amends the Act further to allow equal access to Alaska Native veterans who served in the military or other armed services during the Vietnam War. I want to spend a moment speaking about this provision in particular, Mr. President, because I feel a great injustice has occurred and the current Administration has turned its back to these dedicated American veterans.

Under the Native Allotment Act, Alaska Natives were allowed to apply for lands which they traditionally used as fish camps, berry picking camps or hunting camps. However, many of our Alaska Natives answered the call to duty and served in the services during the Vietnam War and were unable to apply for their native allotment. This provision allows them to apply for their native allotments and would expand the dates to include the full years of the Vietnam War. The original dates recommended by the Administration only allowed the dates January 1, 1969 to December 31, 1971. Our Alaska Native veterans should not be penalized for serving during the entire dates of the Vietnam conflict. This provision corrects that inequity by expanding the dates to reflect all the years of the Vietnam War—August 5, 1964 to May 7, 1975.

Mr. President, Alaska Natives have faithfully answered the call of duty when asked to serve in the armed services. In fact, American Indians and Alaska Natives generally have the highest record of answering the call to duty. Where their needs are concerned I believe we should be inclusive, not exclusive. What this Administration has done to deny them their rights is shameful. Unfortunately, their treatment of Alaska Native Veterans is reflective of their treatment of Alaska Natives in general.

As I am sure my colleagues will agree, the history of our Nation reflects many examples of injustices to Native Americans. As hearings will confirm, this issue calls out to be sensibly remedied and can be with relative ease as outlined in this section of the bill.

I plan on holding a hearing on this legislation at the earliest possible opportunity.•

By Mr. BINGAMAN:

S. 1703. A bill to establish America's education goals; to the Committee on Health, Education, Labor, and Pensions.

ESTABLISH AMERICA'S EDUCATION GOALS LEGISLATION

By Mr. BINGAMAN (for himself and Mrs. HUTCHISON):

S. 1704. A bill to provide for college affordability and high standards; to the Committee on Health, Education, Labor, and Pensions.

ACCESS TO HIGH STANDARDS ACT

• Mr. BINGAMAN. Mr. President, today I am pleased to introduce two education bills for consideration in the context of reauthorization of the Elementary and Secondary Education Act ("ESEA"). Two weeks ago, I introduced two education bills related to raising standards and improving accountability for our public school teachers. Last week, I introduced three bills related to raising standards and accountability in our schools. The two bills that I introduce today focus on raising standards and accountability for student performance. One bill continues our commitment to provide support for the standards-based reform movement taking place in virtually every State by reauthorizing the National Education Goals Panel. The other bill, the Access to High Standards Act, which I introduce on behalf of myself and Senator KAY BAILEY HUTCHISON, will provide our high school students with greater access to rigorous, college level courses through advanced placement programs.

I think most people would agree that in order to compete and continue to prosper in our global economy, it is imperative that our students are provided with a world-class educational program. To that end, we owe it to our students to define high academic standards, monitor their progress and provide them with the resources they need to succeed. The National Education Goals Panel has played a crucial role in achieving these objectives by focusing attention on the need to raise standards and effective methods for achieving higher performance on the local level. As a founding and current member of the National Education Goal Panel, I am pleased to introduce a bill that would reauthorize the Panel so that it can continue its efforts to provide leadership and track progress for local efforts to raise standards for student performance.

The Goals Panel is a bipartisan body of federal and state officials made up of eight governors, four members of Congress, four state legislators and two members appointed by the President. The Panel is charged with reporting national and state progress toward goals set initially by the nation's Governors during a National Education Summit meeting with President Bush and expanded during the 1994 ESEA reauthorization Summit meeting with President Bush and expanded during the 1994 ESEA reauthorization process in the Educate America Act. The Panel also identifies promising practices for improving education and helps to build a nationwide, bipartisan consensus to achieve the goals. The eight National Education Goals call for greater levels of: school readiness; student achievement and citizenship; high school completion; teacher education and professional development; parental participation in the schools; literacy and lifelong learning; and safe, disciplined and alcohol- and drug-free schools.

We need to continue the Panel's work, because we are not yet where we need to be with respect to meeting the goals or with respect to supporting state and local efforts to put in place standards-based educational programs. Data collected by the Goals Panel has helped and can continue to help State and local officials to formulate comprehensive school improvement policies. The Goals Panel also has provided and can continue to provide guidance to federal, state and local policy-makers by providing a national picture for student performance. We have made good progress towards developing more competitive, high quality educational systems in our states and localities, but we must not leave the task incomplete. We must continue to focus attention and resources on incorporating high standards into public education. As Secretary Riley stated before the nation's governors and President Bush met in 1989, "Significant educational improvements do not just happen. They are planned and pursued." I hope that my colleagues will support continuation of the Goals Panel so that we can continue to use the Panel as a tool for setting and achieving high standards for student performance.

Building on the successful expansion of the Advanced Placement Incentive Program achieved in the last Congress, the Access to High Standards Act is intended to help foster the continued growth of advanced placement programs throughout the nation and to help ensure equal access to these programs for low income students. Advanced placement programs already provide rigorous academics and valuable college credits at half the high schools in the United States, serving over 1.5 million students last year. Many States that have advanced placement incentive programs have already shown tremendous success in increasing participation rates, raising achievement scores, and increasing the involvement of low-income and underserved students. Nevertheless students—particularly low-income students—continue to be denied or have limited access to this critical program.

Despite recent growth in state initiatives and participation, AP programs are still often distributed unevenly among regions, states, and even high schools within the same districts. Just a few months ago, a group of students filed a complaint in federal court against the State of California seeking equal access to advance placement programs. Over forty percent of our nation's public schools still do not offer any Advanced Placement courses. The Access to High Standards Act is intended to take additional steps in fostering the continued growth of advanced placement programs throughout the nation and to help ensure equal access to these programs for low-income students. This bill creates a $25 million demonstration grant program to help states build and expand advanced placement incentive programs giving priority to districts with high concentrations of low-income students and to State programs targeting low-income students. In addition, the bill authorizes a pilot grant program for States seeking to provide advanced placement courses through Internet-based on-line curriculum to students in rural areas or areas where the lack of available advanced placement teachers make it impossible to provide traditional courses. The bill also make AP a part of other federal education programs such as the Technology for Education Act programs that I helped author in 1994. In this way, federal initiatives will be encouraged to incorporate the high standards and measurable results of the AP program.

As many of my colleagues know, college costs have risen many times faster than inflation over the last decade, making attendance more difficult for high school graduates and creating tremendous financial burdens. Advanced placement programs address this issue by giving students an opportunity to earn college credit in high school by preparing for and passing AP exams. In fact, a single AP English test score of 3 or better is worth approximately $500 in tuition at the University of New Mexico, and the credits granted to students nationwide are worth billions each year.

By promoting AP courses, we also address the need to raise academic standards. Many states and districts are struggling to develop and implement rigorous academic standards and concrete measures of achievement—an approach that is advocated by many experts, lawmakers, and the public. By implementing high academic standards and providing standardized measures for achievement through AP programs, we can help prepare students for college. This is clearly a necessary goal. Almost 33 percent of all freshmen fail to pass to pass basic entrance exams and are required to take remedial courses. And, at least in part due to academic difficulties, over 25 percent of freshmen drop out before their second year.

In addition, expanding AP programs improve students' academic performance in college. And because the vast majority of AP teachers teach several non-AP classes as well, AP programs also have a tendency of raising schoolwide standards and achievement among the 400 new schools adopting the program each year. As Secretary Riley has said, expanded AP will "help fight the tyranny of low expectations, which tragically hold back so many of our students."

Of course, there is no single remedy or federal program that can hope to address all of the issues that public education must face in order to improve the achievement and preparation of our students. However, I believe that high college costs and low academic standards deserve our closest attention, and I am confident that expansion of advanced placement programs will help states address these issues effectively.

I look forward to working with my colleagues to incorporate the two bills I am introducing today, as well as, the education bills introduced in recent weeks into the ESEA. I believe that they will go a long way towards improving education in the United States by focusing on raising standards and ensuring accountability for teacher, school and student performance.●

ADDITIONAL COSPONSORS

S. 185

At the request of Mr. ASHCROFT, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Iowa (Mr. HARKIN), and the Senator from Illinois (Mr. FITZGERALD) were added as cosponsors of S. 185, a bill to establish a Chief Agricultural Negotiator in the Office of the United States Trade Representative.

S. 332

At the request of Mr. BROWNBACK, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 332, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Kyrgyzstan.

S. 446

At the request of Mrs. BOXER, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 446, a bill to provide for the permanent protection of the resources of the United States in the year 2000 and beyond.

S. 469

At the request of Mr. BREAUX, the name of the Senator from Hawaii (Mr.

INOUYE) was added as a cosponsor of S. 469, a bill to encourage the timely development of a more cost effective United States commercial space transportation industry, and for other purposes.

S. 631

At the request of Mr. DEWINE, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 631, a bill to amend the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the medicare program, to provide continued entitlement for such drugs for certain individuals after medicare benefits end, and to extend certain medicare secondary payer requirements.

S. 758

At the request of Mr. ASHCROFT, the names of the Senator from New Hampshire (Mr. GREGG), the Senator from Kentucky (Mr. MCCONNELL), and the Senator from Alaska (Mr. MURKOWSKI) were added as cosponsors of S. 758, a bill to establish legal standards and procedures for the fair, prompt, inexpensive, and efficient resolution of personal injury claims arising out of asbestos exposure, and for other purposes.

S. 759

At the request of Mr. MURKOWSKI, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 759, a bill to regulate the transmission of unsolicited commercial electronic mail on the Internet, and for other purposes.

S. 1003

At the request of Mr. ROCKEFELLER, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1003, a bill to amend the Internal Revenue Code of 1986 to provide increased tax incentives for the purchase of alternative fuel and electric vehicle, and for other purposes.

S. 1085

At the request of Mrs. MURRAY, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1085, a bill to amend the Internal Revenue Code of 1986 to modify the treatment of bonds issued to acquire renewable resources on land subject to conservation easement.

S. 1102

At the request of Mr. GRAMS, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 1102, a bill to guarantee the right of individuals to receive full social security benefits under title II of the Social Security Act in full with an accurate annual cost-of-living adjustment.

S. 1131

At the request of Mr. EDWARDS, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1131, a bill to promote research into, and the development of an ultimate cure for, the disease known as Fragile X.

S. 1133

At the request of Mr. GRAMS, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1133, a bill to amend the Poultry Products Inspection Act to cover birds of the order Ratitae that are raised for use as human food.

S. 1155

At the request of Mr. ROBERTS, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1155, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes.

S. 1187

At the request of Mr. DORGAN, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1187, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Lewis and Clark Expedition, and for other purposes.

S. 1272

At the request of Mr. NICKLES, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1272, a bill to amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia, and for other purposes.

S. 1277

At the request of Mr. BAUCUS, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1277, a bill to amend title XIX of the Social Security Act to establish a new prospective payment system for Federally-qualified health centers and rural health clinics.

S. 1315

At the request of Mr. BINGAMAN, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1315, a bill to permit the leasing of oil and gas rights on certain lands held in trust for the Navajo Nation or allotted to a member of the Navajo Nation, in any case in which there is consent from a specified percentage interest in the parcel of land under consideration for lease.

S. 1384

At the request of Mr. KOHL, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1384, a bill to amend the Public Health Service Act to provide for a national folic acid education program to prevent birth defects, and for other purposes.

S. 1445

At the request of Mr. KOHL, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 1445, a bill to amend titles XVIII and XIX of the Social Security Act to prevent abuse of recipients of long-term care services under the medicare and medicaid programs.

S. 1452

At the request of Mr. SHELBY, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 1452, a bill to modernize the requirements under the National Manufactured Housing Construction and Safety Standards of 1974 and to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes.

S. 1488

At the request of Mr. GORTON, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Michigan (Mr. ABRAHAM) were added as cosponsors of S. 1488, a bill to amend the Public Health Service Act to provide for recommendations of the Secretary of Health and Human Services regarding the placement of automatic external defibrillators in Federal buildings in order to improve survival rates of individuals who experience cardiac arrest in such buildings, and to establish protections from civil liability arising from the emergency use of the devices.

S. 1571

At the request of Mr. JEFFORDS, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1571, a bill to amend title 38, United States Code, to provide for permanent eligibility of former members of the Selected Reserve for veterans housing loans.

S. 1573

At the request of Mr. LIEBERMAN, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1573, a bill to provide a reliable source of funding for State, local, and Federal efforts to conserve land and water, preserve historic resources, improve environmental resources, protect fish and wildlife, and preserve open and green spaces.

S. 1590

At the request of Mr. CRAPO, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. 1590, a bill to amend title 49, United States Code, to modify the authority of the Surface Transportation Board, and for other purposes.

S. 1608

At the request of Mr. WYDEN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 1608, a bill to provide annual payments to the States and counties from National Forest System lands managed by the Forest Service, and the revested Oregon and California Railroad and reconveyed Coos Bay

Wagon Road grant lands managed predominately by the Bureau of Land Management, for use by the counties in which the lands are situated for the benefit of the public schools, roads, emergency and other public purposes; to encourage and provide new mechanism for cooperation between counties and the Forest Service and the Bureau of Land Management to make necessary investments in Federal Lands, and reaffirm the positive connection between Federal Lands counties and Federal Lands; and for other purposes.

S. 1689

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 1689, a bill to require a report on the current United States policy and strategy regarding counter-narcotics assistance for Colombia, and for other purposes.

S. 1690

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1690, a bill to require the United States to take action to provide bilateral debt relief, and improve the provision of multilateral debt relief, in order to give a fresh start to poor countries.

SENATE CONCURRENT RESOLUTION 34

At the request of Mr. SPECTER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of Senate Concurrent Resolution 34, a concurrent resolution relating to the observance of "In Memory" Day.

AMENDMENT NO. 1889

At the request of Mr. NICKLES the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of amendment No. 1889 proposed to S. 1650, an original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

SENATE RESOLUTION 197—REFERRING S. 1698 ENTITLED "A BILL FOR THE RELIEF OF D.W. JACOBSON, RONALD KARKALA, AND PAUL BJORGEN OF GRAND RAPIDS, MINNESOTA" TO THE CHIEF JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A REPORT THEREON

Mr. GRAMS submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 197

Resolved,

SECTION 1. REFERRAL.

S. 1698 entitled "A bill for the relief of D. W. Jacobson, Ronald Karkala, and Paul Bjorgen of Grand Rapids, Minnesota" now pending in the Senate, together with all the accompanying papers, is referred to the chief judge of the United States Court of Federal Claims.

SEC. 2. PROCEEDING AND REPORT.

The chief judge shall—

(1) proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code; and

(2) report back to the Senate, at the earliest practicable date, providing—

(A) such findings of fact and conclusions that are sufficient to inform the Congress of the nature, extent, and character of the claim for compensation referred to in such bill as a legal or equitable claim against the United States or a gratuity; and

(B) the amount, if any, legally or equitably due from the United States to D. W. Jacobson, Ronald Karkala, and Paul Bjorgen of Grand Rapids, Minnesota.

AMENDMENTS SUBMITTED

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT 2000

LAUTENBERG AMENDMENT NO. 2267

Mr. LAUTENBERG proposed an amendment to amendment No. 1851 proposed by Mr. NICKLES to the bill (S. 1650) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2000, and for other purposes; as follows:

At the end of the amendment add the following:

SEC. . PROTECTING SOCIAL SECURITY SURPLUSES.

(a) FINDINGS.—The Senate finds the following:

(1) The Congressional Budget Office has projected that Congress is headed toward using at least $19,000,000,000 of the social security surplus in fiscal year 2000.

(2) Amendment number 1851 calls for across-the-board cuts, which could result in a broad-based reduction of 10 percent, taking into consideration approved appropriations bills and other costs likely to be incurred in the future, such as relief for hurricane victims, Kosovo, and health care providers.

(3) These across-the-board cuts would sharply reduce military readiness and long-term defense modernization programs, cut emergency aid to farmers and hurricane victims, reduce the number of children served by Head Start, cut back aid to schools to help reduce the class size, severely limit the number of veterans served in VA hospitals, reduce the number of FBI and Border Patrol agents, restrict funding for important transportation investments, and limit funding for environmental cleanup sites.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that instead of raiding social security surpluses or indiscriminately cutting defense, emergency relief, education, veterans' health care, law enforcement, transportation, environmental cleanup, and other discretionary appropriations across the board, Congress should fund fiscal year 2000 appropriations, without using budget scorekeeping gimmicks, by closing special-interest tax loopholes and using other appropriate offsets.

KENNEDY AMENDMENT NO. 2268

Mr. KENNEDY proposed an amendment to the bill, S. 1650, supra; as follows:

At the appropriate place, insert the following:

In order to improve the quality of education funds available for education, including funds for Title 1, the Individuals with Disabilities Education Act and Pell Grants shall be excluded from any across-the-board reduction.

ABRAHAM (AND OTHERS) AMENDMENT NO. 2269

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. COVERDELL, Mr. GRASSLEY, Mr. ASHCROFT, and Mr. SMITH of New Hampshire) submitted an amendment intended to be proposed by them to amendment No. 1828 proposed by Mr. COVERDELL to the bill, S. 1650, supra; as follows:

Strike all after the first word and insert the following:

Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug. This provision shall become effective one day after the date of enactment.

NOTICE OF HEARING

SUBCOMMITTEE ON FOREST AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will take place Tuesday, October 19, 1999, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 1608, a bill to provide annual payments to the States and counties from National Forest System lands managed by the Forest Service, and the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands managed predominately by the Bureau of Land Management, for use by the counties in which the lands are situated for the benefit of the public schools, roads, emergency and other public purposes; to encourage and provide a new mechanism for cooperation between counties and the Forest Service and the Bureau of Land Management to make necessary investments in federal lands, and reaffirm the positive connection between Federal Lands counties and Federal Lands; and for other purposes.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

SUBCOMMITTEE ON WATER AND POWER

Mr. SMITH. Mr. President, I would like to announce for the information of the Senate and the public that a legislative hearing has been scheduled before the Subcommittee on Water and Power.

The purpose of this hearing is to receive testimony on S. 1167, a bill to amend the Pacific Northwest Electric Power Planning and Conservation Act to provide for expanding the scope of the Independent Scientific Review Panel; S. 1694, a bill to direct the Secretary of the Interior to conduct a study on the reclamation and reuse of water and wastewater in the State of Hawaii; S. 1612, a bill to direct the Secretary of the Interior to convey certain irrigation project property to certain irrigation and reclamation districts in the State of Nebraska; S. 1474, providing conveyance of the Palmetto Bend project to the State of Texas; S. 1697, to authorize the Secretary of the Interior to refund certain collections received pursuant to the Reclamation Reform Act of 1982; and S. 1178, a bill to direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the Oahe Irrigation Project, South Dakota, to the Commission of Schools and Public Lands of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes.

The hearing will take place on Wednesday, October 20, 1999, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Water and Power, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington DC 20510–6150.

For further information, please call Kristin Phillips, Staff Assistant or Colleen Deegan, Counsel.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Wednesday, October 6, 1999. The purpose of this meeting will be to discuss the science of biotechnology and its potential applications to agriculture.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9:30 a.m., on Wednesday, October 6, 1999, in open session in SH–216 and in closed session in SH–219, to receive testimony on the national security implications of the Comprehensive Test Ban Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. SPECTER. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Wednesday, October 6, 3 p.m., to receive testimony from Skila Harris, nominated by the President to be a member of the board of directors, Tennessee Valley Authority; Glenn L. McCullough, Jr., nominated by the President to be a member of the board of directors of the Tennessee Valley Authority; and Gerald V. Poje, nominated by the President to be a member of the Chemical Safety and Hazard Investigation Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 6, 1999, at 10 a.m. and 2:15 p.m., to hold two hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. SPECTER. Mr. President, the Committee on the Judiciary requests unanimous consent to conduct a hearing on Wednesday, October 6, 1999, beginning at 2 p.m., in Dirksen Room 226.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. SPECTER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, October 6, 1999, at 2 p.m., to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. SPECTER. Mr. President, I ask unanimous consent that the Surface Transportation and Merchant Marine Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, October 6, 1999, at 9:30 a.m., on the Cruise Ship Tourism Development Act of 1999.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM AND GOVERNMENT INFORMATION

Mr. SPECTER. Mr. President, the Committee on the Judiciary Subcommittee on Technology, Terrorism and Government Information requests unanimous consent to conduct a hearing on Wednesday, October 6, 1999, beginning at 10 a.m., in Dirksen Room 226.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO THE ATLANTA BRAVES

• Mr. CLELAND. Mr. President, I rise today to pay tribute to the Atlanta Braves baseball team for winning their eighth consecutive divisional championship and, once again, finishing the season with the best record in Major League Baseball. While their record may suggest that this championship was won with a great deal of ease, this could not be further from the truth. Before the season began, the Braves and baseball as a whole were shaken by the news that Andreas Galarraga, the All-Star first baseman of the Braves, had been diagnosed with non-hodgkin's lymphoma, a form of cancer. Although Galarraga had to sit own the entire 1999 season, he has now fully recovered and everyone is eagerly awaiting his return to the field next year.

Despite the loss of Galarraga and several other individuals who had been an integral part of the previous championship teams, the Atlanta Braves never gave up. Through this difficult time, the Braves played to the best of their ability and exceeded everyone's expectations. This season the Braves won more games than any other team in baseball which is why, including the worst to first season of 1991, this season may have been the most meaningful of all their recent successes.

In this year when each major league team individually celebrated Hank Aaron Day—a day devoted to the memory of baseball's all time homerun leader breaking Babe Ruth's staggering record of 714 homers—the Atlanta Braves once again rose to the top. Their national following combined with their hard work and perseverance have given the Braves the moniker of "America's Team," an honor well suited for these champions.•

COOPERATIVES

• Mr. CONRAD. Mr. President, October is "Co-op Month," and today I would like to stress the importance of cooperatives to the nation and especially to my state of North Dakota. Cooperatives are pure examples of good business—companies formed, owned and democratically controlled by the people who use its services and who receive benefits from patronage. Cooperatives are institutions that demonstrate people making their lives better through hard work and their knowledge of the American economic system.

In fact, the notion of cooperation is an ideal—people working together to accomplish a task and provide products and services for the public good. It is this basic philosophical idea, which so many find difficult to achieve, that the citizens of my state have been particularly adept at making a reality. North Dakota farmers have been leaders when it comes to improving their economic and social positions through cooperative community enterprise. From the great traditions of early political movements that created cooperative momentum—the American Society of Equity, the Nonpartisan League, and the Farmers Union—an educational base was formed that today still influences the drive for cooperative development. As a result, electricity and telephone service, pasta, sugar, bison and scores of other marketing and service cooperatives cover North Dakota today. Income is distributed, products and services are supplied, and employment and opportunity are spread throughout the state.

Cooperatives are formed to protect the way of life for independent producers and provide essential services for rural communities. Member education, one-member, one-vote equity in business decisions, and relying on neighbors to form and maintain the institution are all cooperative principles that underpin the success of these ventures. The legendary hardships that have been overcome in my state's pioneering history required cooperation among neighbors for everything from food and shelter to aid in farm labor and human companionship. Cooperation and the formation of cooperative enterprise were logical means of ensuring rural survival. We have long known that through organization, we can accomplish any goal, and through cooperation we can work together to benefit all. Therefore, during October, the month designated to recognize the importance of cooperatives, I thank the members of cooperatives for taking the initiative to direct their economic futures and for contributing to the unique economic heritage of North Dakota and this nation.•

IN CELEBRATION OF REV. GREGORY J. JACKSON

• Mr. TORRICELLI. Mr. President, I rise today in recognition of the Reverend Gregory J. Jackson as he celebrates his 15th year as pastor of the Mount Olive Baptist Church in Hackensack, New Jersey. Reverend Jackson has been an ordained minister for over twenty-three years and has ministered to the Hackensack community since 1984. It is a pleasure for me to be able to honor his accomplishments.

Since his ordination on May 16, 1976, Reverend Jackson has worked to help those less fortunate throughout New York and New Jersey. During his career, Reverend Jackson has shown commitment to public service as well as dedication to the disabled. These life experiences have proved invaluable in his ministry. His activism is widely known and admired throughout the State of New Jersey.

In addition to his ministry in Hackensack, Reverend Jackson has played a very active role in strengthening the political and economic life of New Jersey. He has served on a number of civic organizations including the NAACP of Bergen County, Fair Housing Board of Bergen County, and the Advisory Board of the Office on Aging. He has also served as the President of the Hackensack Board of Education, Treasurer of the North Jersey Baptist Association, Vice-President of the Fellowship of Black Churches and as Vice-President of the Bergen County Council of Churches. Reverend Jackson recently been named as Director of Promotions of the Lott Carey Baptist Foreign Mission Convention.

Although Reverend Jackson has dedicated so much time to civic organizations, he has never lost sight of the need to serve his community. During his fifteen year tenure as the pastor of Mount Olive Baptist Church, the parish has grown by more than 1,000 new members. In addition, Reverend Jackson has implemented ministry programs to improve the Hackensack community both spiritually and educationally.

I am pleased to recognize a leader of great stature in New Jersey, and a close friend. Through all of the years we have spent, working to strengthen New Jersey's communities, I have always known Reverend Jackson to stand on principle, loyalty, and commitment. I look forward to continuing to work with Reverend Jackson, and I wish him the best as he celebrates this momentous occasion.•

RECOGNITION OF THE SS *WAYNE VICTORY*

• Mr. LEVIN. Mr. President, I rise today to call my colleagues' attention to a new exhibit of artifacts from the SS *Wayne Victory*. The exhibit, which is located at Wayne State University in my home town of Detroit, MI, is being dedicated on Friday, October 8, 1999.

The SS *Wayne Victory* was a so-called "Victory Ship," one of several hundred ships built during the final two years of World War II to serve as cargo and troop transport vessels. The SS *Wayne Victory* was named for Wayne University, now known as Wayne State University. Commissioned in 1945, the SS *Wayne Victory* served in World War II, the Korean conflict and the Vietnam war.

Thanks to the efforts of a Wayne State University alumnus, the contributions of the SS *Wayne Victory* to our armed forces will be celebrated for years to come. Many ships of its kind fell into disuse and were forgotten after their service. Fortunately, Joe Gerson, who grew up in Detroit and graduated from Wayne State University in 1951, located the SS *Wayne Victory* and negotiated with the federal government for the permanent loan of several artifacts from the ship to the university. These artifacts include the ship's bell, engine order telegraph, wheel, furniture, oars, life rings, and name board. Mr. Gerson also generously contributed funds which allowed the university to transport the artifacts to Detroit and to display them in the permanent exhibit being dedicated this Friday.

Mr. President, the preservation of artifacts like those from the SS *Wayne Victory* is critical if we are to continue to learn from history. Thanks to Joe Gerson and Wayne State University, one small, but significant, piece of American military history will be available for people to study in the 21st century. I know my colleagues join me in extending Joe Gerson and Wayne State University our thanks and congratulations for their commitment to the preservation of the memory of the SS *Wayne Victory*'s role in some of the most significant military conflicts in our nation's history.•

AIR TRANSPORTATION IMPROVEMENT ACT

On October 5, 1999, amended and passed H.R. 1000. The bill, as amended, follows:

Resolved, That the bill from the House of Representatives (H.R. 1000) entitled "An Act to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF SECTIONS.

(a) SHORT TITLE.—This Act may be cited as the "Air Transportation Improvement Act".

(b) TABLE OF SECTIONS.—The table of sections for this Act is as follows:

Sec. 1. Short title; table of sections.
Sec. 2. Amendments to title 49, United States Code.

TITLE I—AUTHORIZATIONS

Sec. 101. Federal Aviation Administration operations.
Sec. 102. Air navigation facilities and equipment.
Sec. 103. Airport planning and development and noise compatibility planning and programs.
Sec. 104. Reprogramming notification requirement.
Sec. 105. Airport security program.
Sec. 106. Automated surface observation system stations.

TITLE II—AIRPORT IMPROVEMENT PROGRAM AMENDMENTS

Sec. 201. Removal of the cap on discretionary fund.
Sec. 202. Innovative use of airport grant funds.
Sec. 203. Matching share.
Sec. 204. Increase in apportionment for noise compatibility planning and programs.
Sec. 205. Technical amendments.
Sec. 206. Report on efforts to implement capacity enhancements.
Sec. 207. Prioritization of discretionary projects.
Sec. 208. Public notice before grant assurance requirement waived.
Sec. 209. Definition of public aircraft.
Sec. 210. Terminal development costs.
Sec. 211. Airfield pavement conditions.
Sec. 212. Discretionary grants.
Sec. 213. Contract tower cost-sharing.

TITLE III—AMENDMENTS TO AVIATION LAW

Sec. 301. Severable services contracts for periods crossing fiscal years.
Sec. 302. Stage 3 noise level compliance for certain aircraft.
Sec. 303. Government and industry consortia.
Sec. 304. Implementation of Article 83 Bis of the Chicago Convention.
Sec. 305. Foreign aviation services authority.
Sec. 306. Flexibility to perform criminal history record checks; technical amendments to Pilot Records Improvement Act.
Sec. 307. Extension of Aviation Insurance Program.
Sec. 308. Technical corrections to civil penalty provisions.
Sec. 309. Criminal penalty for pilots operating in air transportation without an airman's certificate.
Sec. 310. Nondiscriminatory interline interconnection requirements.
Sec. 311. Review process for emergency orders under section 44709.

TITLE IV—MISCELLANEOUS

Sec. 401. Oversight of FAA response to year 2000 problem.
Sec. 402. Cargo collision avoidance systems deadline.
Sec. 403. Runway safety areas; precision approach path indicators.
Sec. 404. Airplane emergency locators.
Sec. 405. Counterfeit aircraft parts.
Sec. 406. FAA may fine unruly passengers.
Sec. 407. Higher standards for handicapped access.
Sec. 408. Conveyances of United States Government land.
Sec. 409. Flight operations quality assurance rules.
Sec. 410. Wide area augmentation system.
Sec. 411. Regulation of Alaska guide pilots.
Sec. 412. Alaska rural aviation improvement.
Sec. 413. Human factors program.
Sec. 414. Independent validation of FAA costs and allocations.
Sec. 415. Application of Federal Procurement Policy Act.
Sec. 416. Report on modernization of oceanic ATC system.
Sec. 417. Report on air transportation oversight system.
Sec. 418. Recycling of EIS.
Sec. 419. Protection of employees providing air safety information.
Sec. 420. Improvements to air navigation facilities.
Sec. 421. Denial of airport access to certain air carriers.
Sec. 422. Tourism.
Sec. 423. Sense of the Senate on property taxes on public-use airports.
Sec. 424. Federal Aviation Administration Personnel Management System.
Sec. 425. Authority to sell aircraft and aircraft parts for use in responding to oil spills.
Sec. 426. Aircraft and aviation component repair and maintenance advisory panel.
Sec. 427. Aircraft situational display data.
Sec. 428. Allocation of Trust Fund funding.
Sec. 429. Taos Pueblo and Blue Lakes Wilderness Area demonstration project.
Sec. 430. Airline marketing disclosure.
Sec. 431. Compensation under the Death on the High Seas Act.
Sec. 432. FAA study of breathing hoods.
Sec. 433. FAA study of alternative power sources for flight data recorders and cockpit voice recorders.
Sec. 434. Passenger facility fee letters of intent.
Sec. 435. Elimination of HAZMAT enforcement backlog.
Sec. 436. FAA evaluation of long-term capital leasing.
Sec. 437. Prohibitions against smoking on scheduled flights.
Sec. 438. Designating current and former military airports.
Sec. 439. Rolling stock equipment.
Sec. 440. Monroe Regional Airport land conveyance.
Sec. 441. Cinncinati-Municipal Blue Ash Airport.
Sec. 442. Report on Specialty Metals Consortium.
Sec. 443. Pavement condition.
Sec. 444. Inherently low-emission airport vehicle pilot program.
Sec. 445. Conveyance of airport property to an institution of higher education in Oklahoma.
Sec. 446. Automated Surface Observation System/Automated Weather Observing System Upgrade.
Sec. 447. Terminal Automated Radar Display and Information System.
Sec. 448. Cost/benefit analysis for retrofit of 16G seats.
Sec. 449. Raleigh County, West Virginia, Memorial Airport.
Sec. 450. Airport safety needs.
Sec. 451. Flight training of international students.
Sec. 452. Grant Parish, Louisiana.
Sec. 453. Designation of general aviation airport.
Sec. 454. Airline Deregulation Study Commission.
Sec. 455. Nondiscrimination in the use of private airports.
Sec. 456. Curfew.
Sec. 457. Federal Aviation Administration Year 2000 Technology Safety Enforcement Act of 1999.
Sec. 458. Expressing the sense of the Senate concerning air traffic over northern Delaware.
Sec. 459. Study of outdoor air, ventilation, and recirculation air requirements for passenger cabins in commercial aircraft.
Sec. 460. General Aviation Metropolitan Access and Reliever Airport Grant Fund.
Sec. 461. Study on airport noise.
Sec. 462. Sense of the Senate concerning EAS.
Sec. 463. Airline quality service reports.
Sec. 464. Prevention of frauds involving aircraft or space vehicle parts in interstate or foreign commerce.
Sec. 465. Preservation of essential air service at dominated hub airports.
Sec. 466. Availability of funds for Georgia's regional airport enhancement program.

TITLE V—AVIATION COMPETITION PROMOTION

Sec. 501. Purpose.
Sec. 502. Establishment of small community aviation development program.
Sec. 503. Community-carrier air service program.
Sec. 504. Authorization of appropriations.
Sec. 505. Marketing practices.
Sec. 506. Changes in, and phase-out of, slot rules.
Sec. 507. Consumer notification of e-ticket expiration dates.
Sec. 508. Regional air service incentive options.
Sec. 509. Requirement to enhance competitiveness of slot exemptions for regional jet air service and new entrant air carriers at certain high density traffic airports.

TITLE VI—NATIONAL PARKS OVERFLIGHTS

Sec. 601. Findings.
Sec. 602. Air tour management plans for national parks.
Sec. 603. Advisory group.
Sec. 604. Overflight fee report.
Sec. 605. Prohibition of commercial air tours over the Rocky Mountain National Park.

TITLE VII—TITLE 49 TECHNICAL CORRECTIONS

Sec. 701. Restatement of 49 U.S.C. 106(g).
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Sec. 1001. Short title.
Sec. 1002. Removal of limitation.

TITLE XI—NOISE ABATEMENT

Sec. 1101. Good neighbors policy.
Sec. 1102. GAO review of aircraft engine noise assessment.
Sec. 1103. GAO review of FAA community noise assessment.

TITLE XII—STUDY TO ENSURE CONSUMER INFORMATION

Sec. 1201. Short title.
Sec. 1202. National Commission to Ensure Consumer Information and Choice in the Airline Industry.

TITLE XIII—FEDERAL AVIATION RESEARCH, ENGINEERING, AND DEVELOPMENT

Sec. 1301. Authorization of appropriations.

Sec. 1302. Integrated national aviation research plan.
Sec. 1303. Internet availability of information.
Sec. 1304. Research on nonstructural aircraft systems.
Sec. 1305. Post Free Flight Phase I activities.
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Sec. 1307. Sense of Senate regarding protecting the frequency spectrum used for aviation communication.
Sec. 1308. Study.

TITLE XIV—AIRLINE CUSTOMER SERVICE COMMITMENT

Sec. 1401. Airline customer service reports.
Sec. 1402. Increased financial responsibility for lost baggage.
Sec. 1403. Increased penalty for violation of aviation consumer protection laws.
Sec. 1404. Comptroller General investigation.
Sec. 1405. Funding of enforcement of airline consumer protections.

TITLE XV—PENALTIES FOR UNRULY PASSENGERS

Sec. 1501. Penalties for unruly passengers.
Sec. 1502. Deputizing of strike State and local law enforcement officers.
Sec. 1503. Study and report on aircraft noise.

TITLE XVI—AIRLINE COMMISSION

Sec. 1601. Short title.
Sec. 1602. National Commission to Ensure Consumer Information and Choice in the Airline Industry.

TITLE XVII—TRANSPORTATION OF ANIMALS

Sec. 1701. Short title; table of contents.
Sec. 1702. Findings.

SUBTITLE A—ANIMAL WELFARE

Sec. 1711. Definition of transport.
Sec. 1712. Information on incidence of animals in air transport.
Sec. 1713. Reports by carriers on incidents involving animals during air transport.
Sec. 1714. Annual reports.

SUBTITLE B—TRANSPORTATION

Sec. 1721. Policies and procedures for transporting animals.
Sec. 1722. Civil penalties and compensation for loss, injury, or death of animals during air transport.
Sec. 1723. Cargo hold improvements to protect animal health and safety.

SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

TITLE I—AUTHORIZATIONS

SEC. 101. FEDERAL AVIATION ADMINISTRATION OPERATIONS.

(a) IN GENERAL.—Section 106(k) is amended to read as follows:

"(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for operations of the Administration $5,632,000,000 for fiscal year 1999, $5,784,000,000 for fiscal year 2000, $6,073,000,000 for fiscal year 2001, and $6,377,000,000 for fiscal year 2002. Of the amounts authorized to be appropriated for fiscal year 2000, not more than $9,100,000 shall be used to support air safety efforts through payment of United States membership obligations, to be paid as soon as practicable.

"(2) AUTHORIZED EXPENDITURES.—Of the amounts appropriated under paragraph (1) $450,000 may be used for wildlife hazard mitigation measures and management of the wildlife strike database of the Federal Aviation Administration.

"(3) UNIVERSITY CONSORTIUM.—There are authorized to be appropriated not more than $9,100,000 for the 3 fiscal year period beginning with fiscal year 2000 to support a university consortium established to provide an air safety and security management certificate program, working cooperatively with the Federal Aviation Administration and United States air carriers. Funds authorized under this paragraph—

"(A) may not be used for the construction of a building or other facility; and

"(B) shall be awarded on the basis of open competition.".

(b) COORDINATION.—The authority granted the Secretary under section 41720 of title 49, United States Code, does not affect the Secretary's authority under any other provision of law.

SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

(a) IN GENERAL.—Section 48101(a) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) $2,131,000,000 for fiscal year 1999.

"(2) $2,689,000,000 for fiscal year 2000.

"(3) $2,799,000,000 for fiscal year 2001.

"(4) $2,914,000,000 for fiscal year 2002.".

(b) CONTINUATION OF ILS INVENTORY PROGRAM.—Section 44502(a)(4)(B) is amended—

(1) by striking "fiscal years 1995 and 1996" and inserting "fiscal years 1999 through 2002"; and

(2) by striking "acquisition," and inserting "acquisition under new or existing contracts,".

(c) LIFE-CYCLE COST ESTIMATES.—The Administrator of the Federal Aviation Administration shall establish life-cycle cost estimates for any air traffic control modernization project the total life-cycle costs of which equal or exceed $50,000,000.

SEC. 103. AIRPORT PLANNING AND DEVELOPMENT AND NOISE COMPATIBILITY PLANNING AND PROGRAMS.

(a) EXTENSION AND AUTHORIZATION.—Section 48103 is amended by striking "1999." and inserting "1999, $4,885,000,000 for fiscal years ending before October 1, 2000, $7,295,000,000 for fiscal years ending before October 1, 2001, and $9,705,000,000 for fiscal years ending before October 1, 2002.".

(b) PROJECT GRANT AUTHORITY.—Section 47104(c) is amended by striking "September 30, 1999," and inserting "September 30, 2002,".

SEC. 104. REPROGRAMMING NOTIFICATION REQUIREMENT.

Before reprogramming any amounts appropriated under section 106(k), 48101(a), or 48103 of title 49, United States Code, for which notification of the Committees on Appropriations of the Senate and the House of Representatives is required, the Secretary of Transportation shall submit a written explanation of the proposed reprogramming to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 105. AIRPORT SECURITY PROGRAM.

(a) IN GENERAL.—Chapter 471 (as amended by section 202(a) of this Act) is amended by adding at the end thereof the following new section:

"§ 47136. Airport security program

"(a) GENERAL AUTHORITY.—To improve security at public airports in the United States, the Secretary of Transportation shall carry out not less than 1 project to test and evaluate innovative aviation security systems and related technology.

"(b) PRIORITY.—In carrying out this section, the Secretary shall give the highest priority to a request from an eligible sponsor for a grant to undertake a project that—

"(1) evaluates and tests the benefits of innovative aviation security systems or related technology, including explosives detection systems, for the purpose of improving aviation and aircraft physical security, access control, and passenger and baggage screening; and

"(2) provides testing and evaluation of airport security systems and technology in an operational, testbed environment.

"(c) MATCHING SHARE.—Notwithstanding section 47109, the United States Government's share of allowable project costs for a project under this section is 100 percent.

"(d) TERMS AND CONDITIONS.—The Secretary may establish such terms and conditions as the Secretary determines appropriate for carrying out a project under this section, including terms and conditions relating to the form and content of a proposal for a project, project assurances, and schedule of payments.

"(e) ELIGIBLE SPONSOR DEFINED.—In this section, the term 'eligible sponsor' means a nonprofit corporation composed of a consortium of public and private persons, including a sponsor of a primary airport, with the necessary engineering and technical expertise to successfully conduct the testing and evaluation of airport and aircraft related security systems.

"(f) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts made available to the Secretary under section 47115 in a fiscal year, the Secretary shall make available not less than $5,000,000 for the purpose of carrying out this section.".

(b) CONFORMING AMENDMENT.—The chapter analysis for such chapter (as amended by section 202(b) of this Act) is amended by inserting after the item relating to section 47135 the following:

"47136. Airport security program.".

SEC. 106. AUTOMATED SURFACE OBSERVATION SYSTEM STATIONS.

The Administrator of the Federal Aviation Administration shall not terminate human weather observers for Automated Surface Observation System stations until—

(1) the Secretary of Transportation determines that the System provides consistent reporting of changing meteorological conditions and notifies the Congress in writing of that determination; and

(2) 60 days have passed since the report was submitted to the Congress.

TITLE II—AIRPORT IMPROVEMENT PROGRAM AMENDMENTS

SEC. 201. REMOVAL OF THE CAP ON DISCRETIONARY FUND.

Section 47115(g) is amended by striking paragraph (4).

SEC. 202. INNOVATIVE USE OF AIRPORT GRANT FUNDS.

(a) CODIFICATION AND IMPROVEMENT OF 1996 PROGRAM.—Subchapter I of chapter 471 is amended by adding at the end thereof the following:

"§ 47135. Innovative financing techniques

"(a) IN GENERAL.—The Secretary of Transportation is authorized to carry out a demonstration program under which the Secretary may approve applications under this subchapter for not more than 20 projects for which grants received under the subchapter may be used to implement innovative financing techniques.

"(b) PURPOSE.—The purpose of the demonstration program shall be to provide information on the use of innovative financing techniques for airport development projects.

"(c) LIMITATION.—In no case shall the implementation of an innovative financing technique under this section be used in a manner giving rise to a direct or indirect guarantee of any airport debt instrument by the United States Government.

"(d) INNOVATIVE FINANCING TECHNIQUE DEFINED.—In this section, the term 'innovative financing technique' includes methods of financing projects that the Secretary determines may be beneficial to airport development, including—

"(1) payment of interest;

"(2) commercial bond insurance and other credit enhancement associated with airport bonds for eligible airport development; and

"(3) flexible non-Federal matching requirements.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 471 is amended by inserting after the item relating to section 47134 the following:

"47135. Innovative financing techniques.".

SEC. 203. MATCHING SHARE.

Section 47109(a)(2) is amended by inserting "not more than" before "90 percent".

SEC. 204. INCREASE IN APPORTIONMENT FOR NOISE COMPATIBILITY PLANNING AND PROGRAMS.

Section 47117(e)(1)(A) is amended by striking "31" each time it appears and inserting "35".

SEC. 205. TECHNICAL AMENDMENTS.

(a) USE OF APPORTIONMENTS FOR ALASKA, PUERTO RICO, AND HAWAII.—Section 47114(d)(3) is amended to read as follows:

"(3) An amount apportioned under paragraph (2) of this subsection for airports in Alaska, Hawaii, or Puerto Rico may be made available by the Secretary for any public airport in those respective jurisdictions.".

(b) SUPPLEMENTAL APPORTIONMENT FOR ALASKA.—Section 47114(e) is amended—

(1) by striking "ALTERNATIVE" in the subsection caption and inserting "SUPPLEMENTAL";

(2) in paragraph (1) by—

(A) striking "Instead of apportioning amounts for airports in Alaska under" and inserting "Notwithstanding"; and

(B) striking "those airports" and inserting "airports in Alaska"; and

(3) striking paragraph (3) and inserting the following:

"(3) An amount apportioned under this subsection may be used for any public airport in Alaska.".

(c) REPEAL OF APPORTIONMENT LIMITATION ON COMMERCIAL SERVICE AIRPORTS IN ALASKA.—Section 47117 is amended by striking subsection (f) and redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(d) CONTINUATION OF PROJECT FUNDING.—Section 47108 is amended by adding at the end thereof the following:

"(e) CHANGE IN AIRPORT STATUS.—If the status of a primary airport changes to a nonprimary airport at a time when a development project under a multiyear agreement under subsection (a) is not yet completed, the project shall remain eligible for funding from discretionary funds under section 47115 of this title at the funding level and under the terms provided by the agreement, subject to the availability of funds.".

(e) GRANT ELIGIBILITY FOR PRIVATE RELIEVER AIRPORTS.—Section 47102(17)(B) is amended—

(1) by striking "or" at the end of clause (i) and redesignating clause (ii) as clause (iii); and

(2) by inserting after clause (i) the following:

"(ii) a privately-owned airport that, as a reliever airport, received Federal aid for airport development prior to October 9, 1996, but only if the Administrator issues revised administrative guidance after July 1, 1998, for the designation of reliever airports; or".

(f) PASSENGER FACILITY FEE WAIVER FOR CERTAIN CLASS OF CARRIERS.—Section 40117(e)(2) is amended—

(1) by striking "and" after the semicolon in subparagraph (B);

(2) by striking "payment." in subparagraph (C) and inserting "payment;"; and

(3) by adding at the end thereof the following:

"(D) on flights, including flight segments, between 2 or more points in Hawaii.".

(g) PASSENGER FACILITY FEE WAIVER FOR CERTAIN CLASS OF CARRIERS OR FOR SERVICE TO AIRPORTS IN ISOLATED COMMUNITIES.—Section 40117(i) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking "transportation." in paragraph (2)(D) and inserting "transportation; and"; and

(3) by adding at the end thereof the following:

"(3) may permit a public agency to request that collection of a passenger facility fee be waived for—

"(A) passengers enplaned by any class of air carrier or foreign air carrier if the number of passengers enplaned by the carriers in the class constitutes not more than one percent of the total number of passengers enplaned annually at the airport at which the fee is imposed; or

"(B) passengers enplaned on a flight to an airport—

"(i) that has fewer than 2,500 passenger boardings each year and receives scheduled passenger service; or

"(ii) in a community which has a population of less than 10,000 and is not connected by a land highway or vehicular way to the land-connected National Highway System within a State.".

(h) USE OF THE WORD "GIFT" AND PRIORITY FOR AIRPORTS IN SURPLUS PROPERTY DISPOSAL.—

(1) Section 47151 is amended—

(A) by striking "give" in subsection (a) and inserting "convey to";

(B) by striking "gift" in subsection (a)(2) and inserting "conveyance";

(C) by striking "giving" in subsection (b) and inserting "conveying";

(D) by striking "gift" in subsection (b) and inserting "conveyance"; and

(E) by adding at the end thereof the following:

"(d) PRIORITY FOR PUBLIC AIRPORTS.—Except for requests from another Federal agency, a department, agency, or instrumentality of the Executive Branch of the United States Government shall give priority to a request by a public agency (as defined in section 47102 of this title) for surplus property described in subsection (a) of this section for use at a public airport.".

(2) Section 47152 is amended—

(A) by striking "**gifts**" in the section caption and inserting "**conveyances**"; and

(B) by striking "gift" in the first sentence and inserting "conveyance".

(3) The chapter analysis for chapter 471 is amended by striking the item relating to section 47152 and inserting the following:

"47152. Terms of conveyances.".

(4) Section 47153(a) is amended—

(A) by striking "gift" in paragraph (1) and inserting "conveyance";

(B) by striking "given" in paragraph (1)(A) and inserting "conveyed"; and

(C) by striking "gift" in paragraph (1)(B) and inserting "conveyance".

(i) MINIMUM APPORTIONMENT.—Section 47114(c)(1)(B) is amended by adding at the end thereof the following: "For fiscal years beginning after fiscal year 1999, the preceding sentence shall be applied by substituting '$650,000' for '$500,000'.".

(j) APPORTIONMENT FOR CARGO ONLY AIRPORTS.—

(1) Section 47114(c)(2)(A) is amended by striking "2.5 percent" and inserting "3 percent".

(2) Section 47114(c)(2) is further amended by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(k) TEMPORARY AIR SERVICE INTERRUPTIONS.—Section 47114(c)(1) is amended by adding at the end thereof the following:

"(C) The Secretary may, notwithstanding subparagraph (A), apportion to an airport sponsor in a fiscal year an amount equal to the amount apportioned to that sponsor in the previous fiscal year if the Secretary finds that—

"(i) passenger boardings at the airport fell below 10,000 in the calendar year used to calculate the apportionment;

"(ii) the airport had at least 10,000 passenger boardings in the calendar year prior to the calendar year used to calculate apportionments to airport sponsors in a fiscal year; and

"(iii) the cause of the shortfall in passenger boardings was a temporary but significant interruption in service by an air carrier to that airport due to an employment action, natural disaster, or other event unrelated to the demand for air transportation at the affected airport.".

(l) FLEXIBILITY IN PAVEMENT DESIGN STANDARDS.—Section 47114(d) is amended by adding at the end thereof the following:

"(4) The Secretary may permit the use of State highway specifications for airfield pavement construction using funds made available under this subsection at nonprimary airports with runways of 5,000 feet or shorter serving aircraft that do not exceed 60,000 pounds gross weight, if the Secretary determines that—

"(A) safety will not be negatively affected; and

"(B) the life of the pavement will not be shorter than it would be if constructed using Administration standards.

An airport may not seek funds under this subchapter for runway rehabilitation or reconstruction of any such airfield pavement constructed using State highway specifications for a period of 10 years after construction is completed.".

(m) ELIGIBILITY OF RUNWAY INCURSION PREVENTION DEVICES.—

(1) POLICY.—Section 47101(a)(11) is amended by inserting "(including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices)" after "activities".

(2) MAXIMUM USE OF SAFETY FACILITIES.—Section 47101(f) is amended—

(A) by striking "and" at the end of paragraph (9); and

(B) by striking "area." in paragraph (10) and inserting "area; and"; and

(C) by adding at the end the following:

"(11) runway and taxiway incursion prevention devices, including integrated in-pavement lighting systems for runways and taxiways.".

(3) AIRPORT DEVELOPMENT DEFINED.—Section 47102(3)(B)(ii) is amended by inserting "and including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices" before the semicolon at the end.

(n) TECHNICAL AMENDMENTS.—Section 47116(d) is amended—

(1) by striking "In making" and inserting the following:

"(1) CONSTRUCTION OF NEW RUNWAYS.—In making";

(2) by adding at the end the following:

"(2) AIRPORT DEVELOPMENT FOR TURBINE POWERED AIRCRAFT.—In making grants to sponsors described in subsection (b)(1), the Secretary shall give priority consideration to airport development projects to support operations by turbine powered aircraft, if the non-Federal share of the project is at least 40 percent."; and

(3) by aligning the remainder of paragraph (1) (as designated by subparagraph (A) of this paragraph) with paragraph (2) (as added by subparagraph (B) of this paragraph).

SEC. 206. REPORT ON EFFORTS TO IMPLEMENT CAPACITY ENHANCEMENTS.

Within 9 months after the date of enactment of this Act, the Secretary of Transportation shall report to the Committee on Commerce, *Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on efforts by the Federal Aviation Administration to implement capacity enhancements and improvements, both technical and procedural, such as precision runway monitoring systems, and the time frame for implementation of such enhancements and improvements.*

SEC. 207. PRIORITIZATION OF DISCRETIONARY PROJECTS.

Section 47120 is amended—

(1) by inserting "(a) IN GENERAL.—" before "In"; and

(2) by adding at the end thereof the following:

"(b) DISCRETIONARY FUNDING TO BE USED FOR HIGHER PRIORITY PROJECTS.—The Administrator of the Federal Aviation Administration shall discourage airport sponsors and airports from using entitlement funds for lower priority projects by giving lower priority to discretionary projects submitted by airport sponsors and airports that have used entitlement funds for projects that have a lower priority than the projects for which discretionary funds are being requested.".

SEC. 208. PUBLIC NOTICE BEFORE GRANT ASSURANCE REQUIREMENT WAIVED.

(a) IN GENERAL.—Notwithstanding any other provision of law to the contrary, the Secretary of Transportation may not waive any assurance required under section 47107 of title 49, United States Code, that requires property to be used for aeronautical purposes unless the Secretary provides notice to the public not less than 30 days before issuing any such waiver. Nothing in this section shall be construed to authorize the Secretary to issue a waiver of any assurance required under that section.

(b) EFFECTIVE DATE.—This section applies to any request filed on or after the date of enactment of this Act.

SEC. 209. DEFINITION OF PUBLIC AIRCRAFT.

Section 40102(a)(37)(B)(ii) is amended—

(1) by striking "or" at the end of subclause (I);

(2) by striking the "States." in subclause (II) and inserting "States; or"; and

(3) by adding at the end thereof the following:

"(III) transporting persons aboard the aircraft if the aircraft is operated for the purpose of prisoner transport.".

SEC. 210. TERMINAL DEVELOPMENT COSTS.

Section 40117 is amended by adding at the end thereof the following:

"(j) SHELL OF TERMINAL BUILDING.—In order to enable additional air service by an air carrier with less than 50 percent of the scheduled passenger traffic at an airport, the Secretary may consider the shell of a terminal building (including heating, ventilation, and air conditioning) and aircraft fueling facilities adjacent to an airport terminal building to be an eligible airport-related project under subsection (a)(3)(E).".

SEC. 211. AIRFIELD PAVEMENT CONDITIONS.

(a) EVALUATION OF OPTIONS.—The Administrator of the Federal Aviation Administration shall evaluate options for improving the quality of information available to the Administration on airfield pavement conditions for airports that are part of the national air transportation system, including—

(1) improving the existing runway condition information contained in the Airport Safety Data Program by reviewing and revising rating criteria and providing increased training for inspectors;

(2) requiring such airports to submit pavement condition index information as part of their airport master plan or as support in applications for airport improvement grants; and

(3) requiring all such airports to submit pavement condition index information on a regular basis and using this information to create a pavement condition database that could be used in evaluating the cost-effectiveness of project applications and forecasting anticipated pavement needs.

(b) REPORT TO CONGRESS.—The Administrator shall transmit a report, containing an evaluation of such options, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not later than 12 months after the date of enactment of this Act.

SEC. 212. DISCRETIONARY GRANTS.

Notwithstanding any limitation on the amount of funds that may be expended for grants for noise abatement, if any funds made available under section 48103 of title 49, United States Code, remain available at the end of the fiscal year for which those funds were made available, and are not allocated under section 47115 of that title, or under any other provision relating to the awarding of discretionary grants from unobligated funds made available under section 48103 of that title, the Secretary of Transportation may use those funds to make discretionary grants for noise abatement activities.

SEC. 213. CONTRACT TOWER COST-SHARING.

Section 47124(b) is amended by adding at the end the following:

"(3) CONTRACT AIR TRAFFIC CONTROL TOWER PILOT PROGRAM.—

"(A) IN GENERAL.—The Secretary shall establish a pilot program to contract for air traffic control services at Level I air traffic control towers, as defined by the Administrator of the Federal Aviation Administration, that do not qualify for the Contract Tower Program established under subsection (a) and continued under paragraph (1) (hereafter in this paragraph referred to as the 'Contract Tower Program').

"(B) PROGRAM COMPONENTS.—In carrying out the pilot program established under subparagraph (A), the Administrator shall—

"(i) utilize for purposes of cost-benefit analyses, current, actual, site-specific data, forecast estimates, or airport master plan data provided by a facility owner or operator and verified by the Administrator;

"(ii) approve for participation only facilities willing to fund a pro rata share of the operating costs of the air traffic control tower to achieve a one-to-one benefit-to-cost ratio, as required for eligibility under the Contract Tower Program; and

"(iii) approve for participation no more than 2 facilities willing to fund up to 50 percent, but not less than 25 percent, of construction costs for an air traffic control tower built by the airport operator and for each of such facilities the Federal share of construction cost does not exceed $1,100,000.

"(C) PRIORITY.—In selecting facilities to participate in the program under this paragraph, the Administrator shall give priority to the following:

"(i) Air traffic control towers that are participating in the Contract Tower Program but have been notified that they will be terminated from such program because the Administrator has determined that the benefit-to-cost ratio for their continuation in such program is less than 1.0.

"(ii) Air traffic control towers that the Administrator determines have a benefit-to-cost ratio of at least .50.

"(iii) Air traffic control towers of the Federal Aviation Administration that are closed as a result of the air traffic controllers strike in 1981.

"(iv) Air traffic control towers located at airports that are prepared to assume partial responsibility for maintenance costs.

"(v) Air traffic control towers that are located at airports with safety or operational problems related to topography, weather, runway configuration, or mix of aircraft.

"(D) COSTS EXCEEDING BENEFITS.—If the costs of operating an air traffic control tower under the pilot program established under this paragraph exceed the benefits, the airport sponsor or State or local government having jurisdiction over the airport shall pay the portion of the costs that exceed such benefits.

"(E) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriation $6,000,000 per fiscal year to carry out this paragraph.".

TITLE III—AMENDMENTS TO AVIATION LAW

SEC. 301. SEVERABLE SERVICES CONTRACTS FOR PERIODS CROSSING FISCAL YEARS.

(a) Chapter 401 is amended by adding at the end thereof the following:

"§40125. Severable services contracts for periods crossing fiscal years

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into a contract for procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed one year.

"(b) OBLIGATION OF FUNDS.—Funds made available for a fiscal year may be obligated for the total amount of a contract entered into under the authority of subsection (a) of this section.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 401 is amended by adding at the end thereof the following:

"40125. Severable services contracts for periods crossing fiscal years.".

SEC. 302. STAGE 3 NOISE LEVEL COMPLIANCE FOR CERTAIN AIRCRAFT.

(a) EXEMPTION FOR AIRCRAFT MODIFICATION OR DISPOSAL, SCHEDULED HEAVY MAINTENANCE, OR LEASING-RELATED FLIGHTS.—Section 47528 is amended—

(1) by striking "subsection (b)" in subsection (a) and inserting "subsection (b) or (f)";

(2) by adding at the end of subsection (e) the following:

"(4) An air carrier operating Stage 2 aircraft under this subsection may transport Stage 2 aircraft to or from the 48 contiguous States on a non-revenue basis in order—

"(A) to perform maintenance (including major alterations) or preventative maintenance on aircraft operated, or to be operated, within the limitations of paragraph (2)(B); or

"(B) conduct operations within the limitations of paragraph (2)(B)."; and

(3) adding at the end thereof the following:

"(f) AIRCRAFT MODIFICATION, DISPOSAL, SCHEDULED HEAVY MAINTENANCE, OR LEASING.—

"(1) IN GENERAL.—The Secretary shall permit a person to operate after December 31, 1999, a Stage 2 aircraft in nonrevenue service through the airspace of the United States or to or from an airport in the contiguous 48 States in order to—

"(A) sell, lease, or use the aircraft outside the contiguous 48 States;

"(B) scrap the aircraft;

"(C) obtain modifications to the aircraft to meet Stage 3 noise levels;

"(D) perform scheduled heavy maintenance or significant modifications on the aircraft at a maintenance facility located in the contiguous 48 States;

"(E) deliver the aircraft to an operator leasing the aircraft from the owner or return the aircraft to the lessor;

"(F) prepare or park or store the aircraft in anticipation of any of the activities described in subparagraphs (A) through (E); or

"(G) divert the aircraft to an alternative airport in the contiguous 48 States on account of

weather, mechanical, fuel, air traffic control, or other safety reasons while conducting a flight in order to perform any of the activities described in subparagraphs (A) through (F).

"(2) PROCEDURE TO BE PUBLISHED.—The Secretary shall establish and publish, not later than 30 days after the date of enactment of the Air Transportation Improvement Act a procedure to implement paragraph (1) of this subsection through the use of categorical waivers, ferry permits, or other means.".

(b) NOISE STANDARDS FOR EXPERIMENTAL AIRCRAFT.—

(1) IN GENERAL.—Section 47528(a) is amended by inserting "(for which an airworthiness certificate other than an experimental certificate has been issued by the Administrator)" after "civil subsonic turbojet".

(2) FAR MODIFIED.—The Federal Aviation Regulations, contained in Part 14 of the Code of Federal Regulations, that implement section 47528 and related provisions shall be deemed to incorporate this change on the effective date of this Act.

SEC. 303. GOVERNMENT AND INDUSTRY CONSORTIA.

Section 44903 is amended by adding at the end thereof the following:

"(f) GOVERNMENT AND INDUSTRY CONSORTIA.—The Administrator may establish at airports such consortia of government and aviation industry representatives as the Administrator may designate to provide advice on matters related to aviation security and safety. Such consortia shall not be considered federal advisory committees for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).".

SEC. 304. IMPLEMENTATION OF ARTICLE 83 BIS OF THE CHICAGO CONVENTION.

Section 44701 is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) BILATERAL EXCHANGES OF SAFETY OVERSIGHT RESPONSIBILITIES.—

"(1) Notwithstanding the provisions of this chapter, and pursuant to Article 83 Bis of the Convention on International Civil Aviation, the Administrator may, by a bilateral agreement with the aeronautical authorities of another country, exchange with that country all or part of their respective functions and duties with respect to aircraft described in subparagraphs (A) and (B), under the following articles of the Convention:

"(A) Article 12 (Rules of the Air).

"(B) Article 31 (Certificates of Airworthiness).

"(C) Article 32a (Licenses of Personnel).

"(2) The agreement under paragraph (1) may apply to—

"(A) aircraft registered in the United States operated pursuant to an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business, or, if it has no such place of business, its permanent residence, in another country; or

"(B) aircraft registered in a foreign country operated under an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business, or, if it has no such place of business, its permanent residence, in the United States.

"(3) The Administrator relinquishes responsibility with respect to the functions and duties transferred by the Administrator as specified in the bilateral agreement, under the Articles listed in paragraph (1) of this subsection for United States-registered aircraft transferred abroad as described in subparagraph (A) of that paragraph, and accepts responsibility with respect to the functions and duties under those Articles for aircraft registered abroad that are transferred to the United States as described in subparagraph (B) of that paragraph.

"(4) The Administrator may, in the agreement under paragraph (1), predicate the transfer of these functions and duties on any conditions the Administrator deems necessary and prudent.".

SEC. 305. FOREIGN AVIATION SERVICES AUTHORITY.

Section 45301(a)(2) is amended to read as follows:

"(2) Services provided to a foreign government or to any entity obtaining services outside the United States other than—

"(A) air traffic control services; and

"(B) fees for production-certification-related service pertaining to aeronautical products manufactured outside the United States.".

SEC. 306. FLEXIBILITY TO PERFORM CRIMINAL HISTORY RECORD CHECKS; TECHNICAL AMENDMENTS TO PILOT RECORDS IMPROVEMENT ACT.

Section 44936 is amended—

(1) by striking "subparagraph (C))" in subsection (a)(1)(B) and inserting "subparagraph (C), or in the case of passenger, baggage, or property screening at airports, the Administrator decides it is necessary to ensure air transportation security)";

(2) by striking "individual" in subsection (f)(1)(B)(ii) and inserting "individual's performance as a pilot"; and

(3) by inserting "or from a foreign government or entity that employed the individual," in subsection (f)(14)(B) after "exists,".

SEC. 307. EXTENSION OF AVIATION INSURANCE PROGRAM.

Section 44310 is amended by striking "August 6, 1999." and inserting "December 31, 2003.".

SEC. 308. TECHNICAL CORRECTIONS TO CIVIL PENALTY PROVISIONS.

Section 46301 is amended—

(1) by striking "46302, 46303, or" in subsection (a)(1)(A);

(2) by striking "an individual" the first time it appears in subsection (d)(7)(A) and inserting "a person"; and

(3) by inserting "or the Administrator" in subsection (g) after "Secretary".

SEC. 309. CRIMINAL PENALTY FOR PILOTS OPERATING IN AIR TRANSPORTATION WITHOUT AN AIRMAN'S CERTIFICATE.

(a) IN GENERAL.—Chapter 463 is amended by adding at the end the following:

"§46317. Criminal penalty for pilots operating in air transportation without an airman's certificate

"(a) APPLICATION.—This section applies only to aircraft used to provide air transportation.

"(b) GENERAL CRIMINAL PENALTY.—An individual shall be fined under title 18, imprisoned for not more than 3 years, or both, if that individual—

"(1) knowingly and willfully serves or attempts to serve in any capacity as an airman without an airman's certificate authorizing the individual to serve in that capacity; or

"(2) knowingly and willfully employs for service or uses in any capacity as an airman an individual who does not have an airman's certificate authorizing the individual to serve in that capacity.

"(c) CONTROLLED SUBSTANCE CRIMINAL PENALTY.—

"(1) In this subsection, the term 'controlled substance' has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

"(2) An individual violating subsection (b) shall be fined under title 18, imprisoned for not more than 5 years, or both, if the violation is related to transporting a controlled substance by aircraft or aiding or facilitating a controlled substance violation and that transporting, aiding, or facilitating—

"(A) is punishable by death or imprisonment of more than 1 year under a Federal or State law; or

"(B) is related to an act punishable by death or imprisonment for more than 1 year under a Federal or State law related to a controlled substance (except a law related to simple possession (as that term is used in section 46306(c)) of a controlled substance).

"(3) A term of imprisonment imposed under paragraph (2) shall be served in addition to, and not concurrently with, any other term of imprisonment imposed on the individual subject to the imprisonment.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 463 is amended by adding at the end thereof the following:

"46317. Criminal penalty for pilots operating in air transportation without an airman's certificate.".

SEC. 310. NONDISCRIMINATORY INTERLINE INTERCONNECTION REQUIREMENTS.

(a) IN GENERAL.—Subchapter I of chapter 417 is amended by adding at the end thereof the following:

"§41717. Interline agreements for domestic transportation

"(a) NONDISCRIMINATORY REQUIREMENTS.—If a major air carrier that provides air service to an essential airport facility has any agreement involving ticketing, baggage and ground handling, and terminal and gate access with another carrier, it shall provide the same services to any requesting air carrier that offers service to a community selected for participation in the program under section 41743 under similar terms and conditions and on a nondiscriminatory basis within 30 days after receiving the request, as long as the requesting air carrier meets such safety, service, financial, and maintenance requirements, if any, as the Secretary may by regulation establish consistent with public convenience and necessity. The Secretary must review any proposed agreement to determine if the requesting carrier meets operational requirements consistent with the rules, procedures, and policies of the major carrier. This agreement may be terminated by either party in the event of failure to meet the standards and conditions outlined in the agreement.

"(b) DEFINITIONS.—In this section the term 'essential airport facility' means a large hub airport (as defined in section 41731(a)(3)) in the contiguous 48 States in which one carrier has more than 50 percent of such airport's total annual enplanements.".

(b) CLERICAL AMENDMENT.—The chapter analysis for subchapter I of chapter 417 is amended by adding at the end thereof the following:

"41717. Interline agreements for domestic transportation.".

SEC. 311. REVIEW PROCESS FOR EMERGENCY ORDERS UNDER SECTION 44709.

Section 44709(e) is amended to read as follows:

"(e) EFFECTIVENESS OF ORDERS PENDING APPEAL.—

"(1) IN GENERAL.—When a person files an appeal with the Board under subsection (d) of this section, the order of the Administrator is stayed.

"(2) EXCEPTION.—Notwithstanding paragraph (1), the order of the Administrator is effective immediately if the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the order to be effective immediately.

"(3) REVIEW OF EMERGENCY ORDER.—A person affected by the immediate effectiveness of the Administrator's order under paragraph (2) may request a review by the Board, under procedures

promulgated by the Board, on the issues of the appeal that are related to the existence of an emergency. Any such review shall be requested within 48 hours after the order becomes effective. If the Administrator is unable to demonstrate to the Board that an emergency exists that requires the immediate application of the order in the interest of safety in air commerce and air transportation, the order shall, notwithstanding paragraph (2), be stayed. The Board shall dispose of a review request under this paragraph within 5 days after it is filed.

''(4) FINAL DISPOSITION.—The Board shall make a final disposition of an appeal under subsection (d) within 60 days after the appeal is filed.''.

TITLE IV—MISCELLANEOUS

SEC. 401. OVERSIGHT OF FAA RESPONSE TO YEAR 2000 PROBLEM.

The Administrator of the Federal Aviation Administration shall report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure every 3 months through December 31, 2000, in oral or written form, on electronic data processing problems associated with the year 2000 within the Administration.

SEC. 402. CARGO COLLISION AVOIDANCE SYSTEMS DEADLINE.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall require by regulation that, not later than December 31, 2002, collision avoidance equipment be installed on each cargo airplane with a maximum certificated takeoff weight in excess of 15,000 kilograms.

(b) EXTENSION.—The Administrator may extend the deadline imposed by subsection (a) for not more than 2 years if the Administrator finds that the extension is needed to promote—

(1) a safe and orderly transition to the operation of a fleet of cargo aircraft equipped with collision avoidance equipment; or

(2) other safety or public interest objectives.

(c) COLLISION AVOIDANCE EQUIPMENT.—For purposes of this section, the term ''collision avoidance equipment'' means TCAS II equipment (as defined by the Administrator), or any other similar system approved by the Administrator for collision avoidance purposes.

SEC. 403. RUNWAY SAFETY AREAS; PRECISION APPROACH PATH INDICATORS.

Within 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall solicit comments on the need for—

(1) the improvement of runway safety areas; and

(2) the installation of precision approach path indicators.

SEC. 404. AIRPLANE EMERGENCY LOCATORS.

(a) REQUIREMENT.—Section 44712(b) is amended to read as follows:

''(b) NONAPPLICATION.—Subsection (a) does not apply to aircraft when used in—

''(1) scheduled flights by scheduled air carriers holding certificates issued by the Secretary of Transportation under subpart II of this part;

''(2) training operations conducted entirely within a 50-mile radius of the airport from which the training operations begin;

''(3) flight operations related to the design and testing, manufacture, preparation, and delivery of aircraft;

''(4) showing compliance with regulations, exhibition, or air racing; or

''(5) the aerial application of a substance for an agricultural purpose.''.

(b) COMPLIANCE.—Section 44712 is amended by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following:

''(c) COMPLIANCE.—An aircraft is deemed to meet the requirement of subsection (a) if it is equipped with an emergency locator transmitter that transmits on the 121.5/243 megahertz frequency or the 406 megahertz frequency, or with other equipment approved by the Secretary for meeting the requirement of subsection (a).''.

(c) EFFECTIVE DATE; REGULATIONS.—

(1) REGULATIONS.—The Secretary of Transportation shall promulgate regulations under section 44712(b) of title 49, United States Code, as amended by this section not later than January 1, 2002.

(2) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002.

SEC. 405. COUNTERFEIT AIRCRAFT PARTS.

(a) DENIAL; REVOCATION; AMENDMENT OF CERTIFICATE.—

(1) IN GENERAL.—Chapter 447 is amended by adding at the end thereof the following:

''§44725. Denial and revocation of certificate for counterfeit parts violations

''(a) DENIAL OF CERTIFICATE.—

''(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection and subsection (e)(2) of this section, the Administrator may not issue a certificate under this chapter to any person—

''(A) convicted of a violation of a law of the United States or of a State relating to the installation, production, repair, or sale of a counterfeit or falsely-represented aviation part or material; or

''(B) subject to a controlling or ownership interest of an individual convicted of such a violation.

''(2) EXCEPTION.—Notwithstanding paragraph (1), the Administrator may issue a certificate under this chapter to a person described in paragraph (1) if issuance of the certificate will facilitate law enforcement efforts.

''(b) REVOCATION OF CERTIFICATE.—

''(1) IN GENERAL.—Except as provided in subsections (f) and (g) of this section, the Administrator shall issue an order revoking a certificate issued under this chapter if the Administrator finds that the holder of the certificate, or an individual who has a controlling or ownership interest in the holder—

''(A) was convicted of a violation of a law of the United States or of a State relating to the installation, production, repair, or sale of a counterfeit or falsely-represented aviation part or material; or

''(B) knowingly carried out or facilitated an activity punishable under such a law.

''(2) NO AUTHORITY TO REVIEW VIOLATION.—In carrying out paragraph (1) of this subsection, the Administrator may not review whether a person violated such a law.

''(c) NOTICE REQUIREMENT.—Before the Administrator revokes a certificate under subsection (b), the Administrator shall—

''(1) advise the holder of the certificate of the reason for the revocation; and

''(2) provide the holder of the certificate an opportunity to be heard on why the certificate should not be revoked.

''(d) APPEAL.—The provisions of section 44710(d) apply to the appeal of a revocation order under subsection (b). For the purpose of applying that section to such an appeal, 'person' shall be substituted for 'individual' each place it appears.

''(e) ACQUITTAL OR REVERSAL.—

''(1) IN GENERAL.—The Administrator may not revoke, and the Board may not affirm a revocation of, a certificate under subsection (b)(1)(B) of this section if the holder of the certificate, or the individual, is acquitted of all charges related to the violation.

''(2) REISSUANCE.—The Administrator may reissue a certificate revoked under subsection (b) of this section to the former holder if—

''(A) the former holder otherwise satisfies the requirements of this chapter for the certificate;

''(B) the former holder, or individual, is acquitted of all charges related to the violation on which the revocation was based; or

''(C) the conviction of the former holder, or individual, of the violation on which the revocation was based is reversed.

''(f) WAIVER.—The Administrator may waive revocation of a certificate under subsection (b) of this section if—

''(1) a law enforcement official of the United States Government, or of a State (with respect to violations of State law), requests a waiver; and

''(2) the waiver will facilitate law enforcement efforts.

''(g) AMENDMENT OF CERTIFICATE.—If the holder of a certificate issued under this chapter is other than an individual and the Administrator finds that—

''(1) an individual who had a controlling or ownership interest in the holder committed a violation of a law for the violation of which a certificate may be revoked under this section, or knowingly carried out or facilitated an activity punishable under such a law; and

''(2) the holder satisfies the requirements for the certificate without regard to that individual, then the Administrator may amend the certificate to impose a limitation that the certificate will not be valid if that individual has a controlling or ownership interest in the holder. A decision by the Administrator under this subsection is not reviewable by the Board.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 447 is amended by adding at the end thereof the following:

''44725. Denial and revocation of certificate for counterfeit parts violations.''.

(b) PROHIBITION ON EMPLOYMENT.—Section 44711 is amended by adding at the end thereof the following:

''(c) PROHIBITION ON EMPLOYMENT OF CONVICTED COUNTERFEIT PART DEALERS.—No person subject to this chapter may employ anyone to perform a function related to the procurement, sale, production, or repair of a part or material, or the installation of a part into a civil aircraft, who has been convicted of a violation of any Federal or State law relating to the installation, production, repair, or sale of a counterfeit or falsely-represented aviation part or material.''.

SEC. 406. FAA MAY FINE UNRULY PASSENGERS.

(a) IN GENERAL.—Chapter 463 (as amended by section 309) is amended by adding at the end thereof the following:

''§46318. Interference with cabin or flight crew

''(a) IN GENERAL.—An individual who interferes with the duties or responsibilities of the flight crew or cabin crew of a civil aircraft, or who poses an imminent threat to the safety of the aircraft or other individuals on the aircraft, is liable to the United States Government for a civil penalty of not more than $10,000, which shall be paid to the Federal Aviation Administration and deposited in the account established by section 45303(c).

''(b) COMPROMISE AND SETOFF.—

''(1) The Secretary of Transportation or the Administrator may compromise the amount of a civil penalty imposed under subsection (a).

''(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the individual liable for the penalty.''.

(b) CONFORMING CHANGE.—The chapter analysis for chapter 463 is amended by adding at the end thereof the following:

''46318. Interference with cabin or flight crew.''.

SEC. 407. HIGHER STANDARDS FOR HANDICAPPED ACCESS.

(a) ESTABLISHMENT OF HIGHER INTERNATIONAL STANDARDS.—The Secretary of Transportation

shall work with appropriate international organizations and the aviation authorities of other nations to bring about their establishment of higher standards for accommodating handicapped passengers in air transportation, particularly with respect to foreign air carriers that code-share with domestic air carriers.

(b) Investigation of All Complaints Required.—Section 41705 is amended—

(1) by inserting "(a) In General.—" before "In providing";

(2) by striking "carrier" and inserting "carrier, including any foreign air carrier doing business in the United States,"; and

(3) by adding at the end thereof the following:

"(b) Each Act Constitutes Separate Offense.—Each separate act of discrimination prohibited by subsection (a) constitutes a separate violation of that subsection.

"(c) Investigation of Complaints.—

"(1) In general.—The Secretary or a person designated by the Secretary shall investigate each complaint of a violation of subsection (a).

"(2) Publication of data.—The Secretary or a person designated by the Secretary shall publish disability-related complaint data in a manner comparable to other consumer complaint data.

"(3) Employment.—The Secretary is authorized to employ personnel necessary to enforce this section.

"(4) Review and report.—The Secretary or a person designated by the Secretary shall regularly review all complaints received by air carriers alleging discrimination on the basis of disability, and report annually to Congress on the results of such review.

"(5) Technical assistance.—Not later than 180 days after enactment of the Air Transportation and Improvement Act, the Secretary shall—

"(A) implement a plan, in consultation with the Department of Justice, United States Architectural and Transportation Barriers Compliance Board, and the National Council on Disability, to provide technical assistance to air carriers and individuals with disabilities in understanding the rights and responsibilities of this section; and

"(B) ensure the availability and provision of appropriate technical assistance manuals to individuals and entities with rights or duties under this section.".

(c) Increased Civil Penalties.—Section 46301(a) is amended—

(1) by inserting "41705," after "41704," in paragraph (1)(A); and

(2) by adding at the end thereof the following:

"(7) Violation of section 41705.—

"(A) Credit; voucher; civil penalty.— Unless an individual accepts a credit or voucher for the purchase of a ticket on an air carrier or any affiliated air carrier for a violation of subsection (a) in an amount (determined by the Secretary) of—

"(i) not less than $500 and not more than $2,500 for the first violation; or

"(ii) not less than $2,500 and not more than $5,000 for any subsequent violation,

then that air carrier is liable to the United States Government for a civil penalty, determined by the Secretary, of not more than 100 percent of the amount of the credit or voucher so determined.

"(B) Remedy not exclusive.—Nothing in subparagraph (A) precludes or affects the right of persons with disabilities to file private rights of action under section 41705 or to limit claims for compensatory or punitive damages asserted in such cases.

"(C) Attorney's fees.—In addition to the penalty provided by subparagraph (A), an individual who—

"(i) brings a civil action against an air carrier to enforce this section; and

"(ii) who is awarded damages by the court in which the action is brought,

may be awarded reasonable attorneys' fees and costs of litigation reasonably incurred in bringing the action if the court deems it appropriate.".

SEC. 408. CONVEYANCES OF UNITED STATES GOVERNMENT LAND.

(a) In General.—Section 47125(a) is amended to read as follows:

"(a) Conveyances to Public Agencies.—

"(1) Request for conveyance.—Except as provided in subsection (b) of this section, the Secretary of Transportation—

"(A) shall request the head of the department, agency, or instrumentality of the United States Government owning or controlling land or airspace to convey a property interest in the land or airspace to the public agency sponsoring the project or owning or controlling the airport when necessary to carry out a project under this subchapter at a public airport, to operate a public airport, or for the future development of an airport under the national plan of integrated airport systems; and

"(B) may request the head of such a department, agency, or instrumentality to convey a property interest in the land or airspace to such a public agency for a use that will complement, facilitate, or augment airport development, including the development of additional revenue from both aviation and nonaviation sources.

"(2) Response to request for certain conveyances.—Within 4 months after receiving a request from the Secretary under paragraph (1), the head of the department, agency, or instrumentality shall—

"(A) decide whether the requested conveyance is consistent with the needs of the department, agency, or instrumentality;

"(B) notify the Secretary of the decision; and

"(C) make the requested conveyance if—

"(i) the requested conveyance is consistent with the needs of the department, agency, or instrumentality;

"(ii) the Attorney General approves the conveyance; and

"(iii) the conveyance can be made without cost to the United States Government.

"(3) Reversion.—Except as provided in subsection (b), a conveyance under this subsection may only be made on the condition that the property interest conveyed reverts to the Government, at the option of the Secretary, to the extent it is not developed for an airport purpose or used consistently with the conveyance.".

(b) Release of Certain Conditions.—Section 47125 is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting the following after subsection (a):

"(b) Release of Certain Conditions.—The Secretary may grant a release from any term, condition, reservation, or restriction contained in any conveyance executed under this section, section 16 of the Federal Airport Act, section 23 of the Airport and Airway Development Act of 1970, or section 516 of the Airport and Airway Improvement Act of 1982, to facilitate the development of additional revenue from aeronautical and nonaeronautical sources if the Secretary—

"(1) determines that the property is no longer needed for aeronautical purposes;

"(2) determines that the property will be used solely to generate revenue for the public airport;

"(3) provides preliminary notice to the head of the department, agency, or instrumentality that conveyed the property interest at least 30 days before executing the release;

"(4) provides notice to the public of the requested release;

"(5) includes in the release a written justification for the release of the property; and

"(6) determines that release of the property will advance civil aviation in the United States.".

(c) Effective Date.—Section 47125(b) of title 49, United States Code, as added by subsection (b) of this section, applies to property interests conveyed before, on, or after the date of enactment of this Act.

(d) Iditarod Area School District.—Notwithstanding any other provision of law (including section 47125 of title 49, United States Code, as amended by this section), the Administrator of the Federal Aviation Administration, or the Administrator of the General Services Administration, may convey to the Iditarod Area School District without reimbursement all right, title, and interest in 12 acres of property at Lake Minchumina, Alaska, identified by the Administrator of the Federal Aviation Administration, including the structures known as housing units 100 through 105 and as utility building 301.

SEC. 409. FLIGHT OPERATIONS QUALITY ASSURANCE RULES.

Not later than 90 days after the date of enactment of this Act, the Administrator shall issue a notice of proposed rulemaking to develop procedures to protect air carriers and their employees from enforcement actions for violations of the Federal Aviation Regulations other than criminal or deliberate acts that are reported or discovered as a result of voluntary reporting programs, such as the Flight Operations Quality Assurance Program and the Aviation Safety Action Program.

SEC. 410. WIDE AREA AUGMENTATION SYSTEM.

(a) Plan.—The Administrator of the Federal Aviation Administration shall identify or develop a plan to implement WAAS to provide navigation and landing approach capabilities for civilian use and make a determination as to whether a backup system is necessary. Until the Administrator determines that WAAS is the sole means of navigation, the Administrator shall continue to develop and maintain a backup system.

(b) Report.—Within 6 months after the date of enactment of this Act, the Administrator shall—

(1) report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, on the plan developed under subsection (a);

(2) submit a timetable for implementing WAAS; and

(3) make a determination as to whether WAAS will ultimately become a primary or sole means of navigation and landing approach capabilities.

(c) WAAS Defined.—For purposes of this section, the term "WAAS" means wide area augmentation system.

(d) Funding Authorization.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out this section.

SEC. 411. REGULATION OF ALASKA GUIDE PILOTS.

(a) In General.—Beginning on the date of the enactment of this Act, flight operations conducted by Alaska guide pilots shall be regulated under the general operating and flight rules contained in part 91 of title 14, Code of Federal Regulations.

(b) Rulemaking Proceeding.—

(1) In general.—The Administrator shall conduct a rulemaking proceeding and issue a final rule to modify the general operating and flight rules referred to in subsection (a) by establishing special rules applicable to the flight operations conducted by Alaska guide pilots.

(2) Contents of rules.—A final rule issued by the Administrator under paragraph (1) shall require Alaska guide pilots—

(A) to operate aircraft inspected no less often than after 125 hours of flight time;

(B) to participate in an annual flight review, as described in section 61.56 of title 14, Code of Federal Regulations;

(C) to have at least 500 hours of flight time as a pilot;

(D) to have a commercial rating, as described in subpart F of part 61 of such title;

(E) to hold at least a second-class medical certificate, as described in subpart C of part 67 of such title;

(F) to hold a current letter of authorization issued by the Administrator; and

(G) to take such other actions as the Administrator determines necessary for safety.

(c) DEFINITIONS.—In this section, the following definitions apply:

(1) LETTER OF AUTHORIZATION.—The term "letter of authorization" means a letter issued by the Administrator once every 5 years to an Alaska guide pilot certifying that the pilot is in compliance with general operating and flight rules applicable to the pilot. In the case of a multi-pilot operation, at the election of the operating entity, a letter of authorization may be issued by the Administrator to the entity or to each Alaska guide pilot employed by the entity.

(2) ALASKA GUIDE PILOT.—The term "Alaska guide pilot" means a pilot who—

(A) conducts aircraft operations over or within the State of Alaska;

(B) operates single engine, fixed wing aircraft on floats, wheels, or skis, providing commercial hunting, fishing, or other guide services and related accommodations in the form of camps or lodges; and

(C) transports clients by such aircraft incidental to hunting, fishing, or other guide services, or uses air transport to enable guided clients to reach hunting or fishing locations.

SEC. 412. ALASKA RURAL AVIATION IMPROVEMENT.

(a) APPLICATION OF FAA REGULATIONS.—Section 40113 is amended by adding at the end thereof the following:

"(f) APPLICATION OF CERTAIN REGULATIONS TO ALASKA.—In amending title 14, Code of Federal Regulations, in a manner affecting intrastate aviation in Alaska, the Administrator of the Federal Aviation Administration shall consider the extent to which Alaska is not served by transportation modes other than aviation, and shall establish such regulatory distinctions as the Administrator considers appropriate.".

(b) AVIATION CLOSED CIRCUIT TELEVISION.—The Administrator of the Federal Aviation Administration, in consultation with commercial and general aviation pilots, shall install closed circuit weather surveillance equipment at not fewer that 15 rural airports in Alaska and provide for the dissemination of information derived from such equipment to pilots for preflight planning purposes and en route purposes, including through the dissemination of such information to pilots by flight service stations. There are authorized to be appropriated $2,000,000 for the purposes of this subsection.

(c) MIKE-IN-HAND WEATHER OBSERVATION.—The Administrator of the Federal Aviation Administration and the Assistant Administrator of the National Weather Service, in consultation with the National Transportation Safety Board and the Governor of the State of Alaska, shall develop and implement a "mike-in-hand" weather observation program in Alaska under which Federal Aviation Administration employees, National Weather Service employees, other Federal or State employees sited at an airport, or persons contracted specifically for such purpose (including part-time contract employees who are not sited at such airport), will provide near-real time aviation weather information via radio and otherwise to pilots who request such information.

(d) RURAL IFR COMPLIANCE.—There are authorized to be appropriated $4,000,000 to the Administrator for runway lighting and weather reporting systems at remote airports in Alaska to implement the CAPSTONE project.

SEC. 413. HUMAN FACTORS PROGRAM.

(a) IN GENERAL.—Chapter 445 is amended by adding at the end thereof the following:

"§ 44516. Human factors program

"(a) REPORT.—The Administrator of the Federal Aviation Administration shall report within 1 year after the date of enactment of the Air Transportation Improvement Act to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the status of the Administration's efforts to encourage the adoption and implementation of Advanced Qualification Programs for air carriers under this section.

"(b) HUMAN FACTORS TRAINING.—

"(1) AIR TRAFFIC CONTROLLERS.—The Administrator shall—

"(A) address the problems and concerns raised by the National Research Council in its report 'The Future of Air Traffic Control' on air traffic control automation; and

"(B) respond to the recommendations made by the National Research Council.

"(2) PILOTS AND FLIGHT CREWS.—The Administrator shall work with the aviation industry to develop specific training curricula to address critical safety problems, including problems of pilots—

"(A) in recovering from loss of control of the aircraft, including handling unusual attitudes and mechanical malfunctions;

"(B) in deviating from standard operating procedures, including inappropriate responses to emergencies and hazardous weather;

"(C) in awareness of altitude and location relative to terrain to prevent controlled flight into terrain; and

"(D) in landing and approaches, including nonprecision approaches and go-around procedures.

"(c) ACCIDENT INVESTIGATIONS.—The Administrator, working with the National Transportation Safety Board and representatives of the aviation industry, shall establish a process to assess human factors training as part of accident and incident investigations.

"(d) TEST PROGRAM.—The Administrator shall establish a test program in cooperation with United States air carriers to use model Jeppesen approach plates or other similar tools to improve nonprecision landing approaches for aircraft.

"(e) ADVANCED QUALIFICATION PROGRAM DEFINED.—For purposes of this section, the term 'advanced qualification program' means an alternative method for qualifying, training, certifying, and ensuring the competency of flight crews and other commercial aviation operations personnel subject to the training and evaluation requirements of Parts 121 and 135 of title 14, Code of Federal Regulations.".

(b) AUTOMATION AND ASSOCIATED TRAINING.—The Administrator of the Federal Aviation Administration shall complete the Administration's updating of training practices for flight deck automation and associated training requirements within 12 months after the date of enactment of this Act.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 445 is amended by adding at the end thereof the following:

"44516. Human factors program.".

SEC. 414. INDEPENDENT VALIDATION OF FAA COSTS AND ALLOCATIONS.

(a) INDEPENDENT ASSESSMENT.—

(1) INITIATION.—Not later than 90 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall initiate the analyses described in paragraph (2). In conducting the analyses, the Inspector General shall ensure that the analyses are carried out by 1 or more entities that are independent of the Federal Aviation Administration. The Inspector General may use the staff and resources of the Inspector General or may contract with independent entities to conduct the analyses.

(2) ASSESSMENT OF ADEQUACY AND ACCURACY OF FAA COST DATA AND ATTRIBUTIONS.—To ensure that the method for capturing and distributing the overall costs of the Federal Aviation Administration is appropriate and reasonable, the Inspector General shall conduct an assessment that includes the following:

(A)(i) Validation of Federal Aviation Administration cost input data, including an audit of the reliability of Federal Aviation Administration source documents and the integrity and reliability of the Federal Aviation Administration's data collection process.

(ii) An assessment of the reliability of the Federal Aviation Administration's system for tracking assets.

(iii) An assessment of the reasonableness of the Federal Aviation Administration's bases for establishing asset values and depreciation rates.

(iv) An assessment of the Federal Aviation Administration's system of internal controls for ensuring the consistency and reliability of reported data to begin immediately after full operational capability of the cost accounting system.

(B) A review and validation of the Federal Aviation Administration's definition of the services to which the Federal Aviation Administration ultimately attributes its costs, and the methods used to identify direct costs associated with the services.

(C) An assessment and validation of the general cost pools used by the Federal Aviation Administration, including the rationale for and reliability of the bases on which the Federal Aviation Administration proposes to allocate costs of services to users and the integrity of the cost pools as well as any other factors considered important by the Inspector General. Appropriate statistical tests shall be performed to assess relationships between costs in the various cost pools and activities and services to which the costs are attributed by the Federal Aviation Administration.

(b) DEADLINE.—The independent analyses described in this section shall be completed no later than 270 days after the contracts are awarded to the outside independent contractors. The Inspector General shall submit a final report combining the analyses done by its staff with those of the outside independent contractors to the Secretary of Transportation, the Administrator, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives. The final report shall be submitted by the Inspector General not later than 300 days after the award of contracts.

(c) FUNDING.—There are authorized to be appropriated such sums as may be necessary for the cost of the contracted audit services authorized by this section.

SEC. 415. APPLICATION OF FEDERAL PROCUREMENT POLICY ACT.

Section 348 of the Department of Transportation and Related Agencies Appropriations Act, 1996 (49 U.S.C. 40110 nt) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) CERTAIN PROVISIONS OF THE OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Notwithstanding subsection (b)(2), section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) shall apply to the new acquisition management system developed and implemented under subsection (a) with the following modifications:

"(1) Subsections (f) and (g) shall not apply.

"(2) Within 90 days after the date of enactment of the Air Transportation Improvement Act, the Administrator of the Federal Aviation Administration shall adopt definitions for the acquisition management system that are consistent with the purpose and intent of the Office of Federal Procurement Policy Act.

"(3) After the adoption of those definitions, the criminal, civil, and administrative remedies provided under the Office of Federal Procurement Policy Act apply to the acquisition management system.

"(4) In the administration of the acquisition management system, the Administrator may take adverse personnel action under section 27(e)(3)(A)(iv) of the Office of Federal Procurement Policy Act in accordance with the procedures contained in the Administration's personnel management system.".

SEC. 416. REPORT ON MODERNIZATION OF OCEANIC ATC SYSTEM.

The Administrator of the Federal Aviation Administration shall report to the Congress on plans to modernize the oceanic air traffic control system, including a budget for the program, a determination of the requirements for modernization, and, if necessary, a proposal to fund the program.

SEC. 417. REPORT ON AIR TRANSPORTATION OVERSIGHT SYSTEM.

Beginning in calendar year 2000, the Administrator of the Federal Aviation Administration shall report biannually to the Congress on the air transportation oversight system program announced by the Administration on May 13, 1998, in detail on the training of inspectors, the number of inspectors using the system, air carriers subject to the system, and the budget for the system.

SEC. 418. RECYCLING OF EIS.

Notwithstanding any other provision of law to the contrary, the Secretary of Transportation may authorize the use, in whole or in part, of a completed environmental assessment or environmental impact study for a new airport construction project on the air operations area, that is substantially similar in nature to one previously constructed pursuant to the completed environmental assessment or environmental impact study in order to avoid unnecessary duplication of expense and effort, and any such authorized use shall meet all requirements of Federal law for the completion of such an assessment or study.

SEC. 419. PROTECTION OF EMPLOYEES PROVIDING AIR SAFETY INFORMATION.

(a) GENERAL RULE.—Chapter 421 is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

"§42121. Protection of employees providing air safety information

"(a) DISCRIMINATION AGAINST AIRLINE EMPLOYEES.—No air carrier or contractor or subcontractor of an air carrier may discharge an employee of the air carrier or the contractor or subcontractor of an air carrier or otherwise discriminate against any such employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

"(1) provided, caused to be provided, or is about to provide or cause to be provided to the Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States;

"(2) has filed, caused to be filed, or is about to file or cause to be filed a proceeding relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States;

"(3) testified or will testify in such a proceeding; or

"(4) assisted or participated or is about to assist or participate in such a proceeding.

"(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

"(1) FILING AND NOTIFICATION.—

"(A) IN GENERAL.—In accordance with this paragraph, a person may file (or have a person file on behalf of that person) a complaint with the Secretary of Labor if that person believes that an air carrier or contractor or subcontractor of an air carrier discharged or otherwise discriminated against that person in violation of subsection (a).

"(B) REQUIREMENTS FOR FILING COMPLAINTS.—A complaint referred to in subparagraph (A) may be filed not later than 90 days after an alleged violation occurs. The complaint shall state the alleged violation.

"(C) NOTIFICATION.—Upon receipt of a complaint submitted under subparagraph (A), the Secretary of Labor shall notify the air carrier, contractor, or subcontractor named in the complaint and the Administrator of the Federal Aviation Administration of the—

"(i) filing of the complaint;

"(ii) allegations contained in the complaint;

"(iii) substance of evidence supporting the complaint; and

"(iv) opportunities that are afforded to the air carrier, contractor, or subcontractor under paragraph (2).

"(2) INVESTIGATION; PRELIMINARY ORDER.—

"(A) IN GENERAL.—

"(i) INVESTIGATION.—Not later than 60 days after receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings.

"(ii) ORDER.—Except as provided in subparagraph (B), if the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the findings referred to in clause (i) with a preliminary order providing the relief prescribed under paragraph (3)(B).

"(iii) OBJECTIONS.—Not later than 30 days after the date of notification of findings under this paragraph, the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order and request a hearing on the record.

"(iv) EFFECT OF FILING.—The filing of objections under clause (iii) shall not operate to stay any reinstatement remedy contained in the preliminary order.

"(v) HEARINGS.—Hearings conducted pursuant to a request made under clause (iii) shall be conducted expeditiously and governed by the Federal Rules of Civil Procedure. If a hearing is not requested during the 30-day period prescribed in clause (iii), the preliminary order shall be deemed a final order that is not subject to judicial review.

"(B) REQUIREMENTS.—

"(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(3) FINAL ORDER.—

"(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—

"(i) IN GENERAL.—Not later than 120 days after conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order that—

"(I) provides relief in accordance with this paragraph; or

"(II) denies the complaint.

"(ii) SETTLEMENT AGREEMENT.—At any time before issuance of a final order under this paragraph, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the air carrier, contractor, or subcontractor alleged to have committed the violation.

"(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the air carrier, contractor, or subcontractor that the Secretary of Labor determines to have committed the violation to—

"(i) take action to abate the violation;

"(ii) reinstate the complainant to the former position of the complainant and ensure the payment of compensation (including back pay) and the restoration of terms, conditions, and privileges associated with the employment; and

"(iii) provide compensatory damages to the complainant.

"(C) COSTS OF COMPLAINT.—If the Secretary of Labor issues a final order that provides for relief in accordance with this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the air carrier, contractor, or subcontractor named in the order an amount equal to the aggregate amount of all costs and expenses (including attorney and expert witness fees) reasonably incurred by the complainant (as determined by the Secretary of Labor) for, or in connection with, the bringing of the complaint that resulted in the issuance of the order.

"(4) FRIVOLOUS COMPLAINTS.—Rule 11 of the Federal Rules of Civil Procedure applies to any complaint brought under this section that the Secretary finds to be frivolous or to have been brought in bad faith.

"(5) REVIEW.—

"(A) APPEAL TO COURT OF APPEALS.—

"(i) IN GENERAL.—Not later than 60 days after a final order is issued under paragraph (3), a person adversely affected or aggrieved by that order may obtain review of the order in the United States court of appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of that violation.

"(ii) REQUIREMENTS FOR JUDICIAL REVIEW.—A review conducted under this paragraph shall be conducted in accordance with chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order that is the subject of the review.

"(B) LIMITATION ON COLLATERAL ATTACK.—An order referred to in subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(6) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—

"(A) IN GENERAL.—If an air carrier, contractor, or subcontractor named in an order issued under paragraph (3) fails to comply with the order, the Secretary of Labor may file a civil action in the United States district court for the district in which the violation occurred to enforce that order.

"(B) RELIEF.—In any action brought under this paragraph, the district court shall have jurisdiction to grant any appropriate form of relief, including injunctive relief and compensatory damages.

"(7) ENFORCEMENT OF ORDER BY PARTIES.—

"(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order is issued under paragraph (3) may commence a civil action against the air carrier, contractor, or subcontractor named in the order to require compliance with the order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce the order.

"(B) ATTORNEY FEES.—In issuing any final order under this paragraph, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any party if the court determines that the awarding of those costs is appropriate.

"(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

"(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of an air carrier, or contractor or subcontractor of an air carrier who, acting without direction from the air carrier (or an agent, contractor, or subcontractor of the air carrier), deliberately causes a violation of any requirement relating to air carrier safety under this subtitle or any other law of the United States.

"(e) CONTRACTOR DEFINED.—In this section, the term 'contractor' means a company that performs safety-sensitive functions by contract for an air carrier.".

(b) INVESTIGATIONS AND ENFORCEMENT.—Section 347(b)(1) of Public Law 104–50 (49 U.S.C. 106, note) is amended by striking "protection;" and inserting "protection, including the provisions for investigations and enforcement as provided in chapter 12 of title 5, United States Code;".

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 421 is amended by adding at the end the following:

"SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

"42121. Protection of employees providing air safety information.".

(d) CIVIL PENALTY.—Section 46301(a)(1)(A) is amended by striking "subchapter II of chapter 421," and inserting "subchapter II or III of chapter 421,".

SEC. 420. IMPROVEMENTS TO AIR NAVIGATION FACILITIES.

Section 44502(a) is amended by adding at the end thereof the following:

"(5) The Administrator may improve real property leased for air navigation facilities without regard to the costs of the improvements in relation to the cost of the lease if—

"(A) the improvements primarily benefit the government;

"(B) are essential for mission accomplishment; and

"(C) the government's interest in the improvements is protected.".

SEC. 421. DENIAL OF AIRPORT ACCESS TO CERTAIN AIR CARRIERS.

Section 47107 is amended by adding at the end thereof the following:

"(q) DENIAL OF ACCESS.—

"(1) EFFECT OF DENIAL.—If an owner or operator of an airport described in paragraph (2) denies access to an air carrier described in paragraph (3), that denial shall not be considered to be unreasonable or unjust discrimination or a violation of this section.

"(2) AIRPORTS TO WHICH SUBSECTION APPLIES.—An airport is described in this paragraph if it—

"(A) is designated as a reliever airport by the Administrator of the Federal Aviation Administration;

"(B) does not have an operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulations); and

"(C) is located within a 35-mile radius of an airport that has—

"(i) at least 0.05 percent of the total annual boardings in the United States; and

"(ii) current gate capacity to handle the demands of a public charter operation.

"(3) AIR CARRIERS DESCRIBED.—An air carrier is described in this paragraph if it conducts operations as a public charter under part 380 of title 14, Code of Federal Regulations (or any subsequent similar regulations) with aircraft that is designed to carry more than 9 passengers per flight.

"(4) DEFINITIONS.—In this subsection:

"(A) AIR CARRIER; AIR TRANSPORTATION; AIRCRAFT; AIRPORT.—The terms 'air carrier', 'air transportation', 'aircraft', and 'airport' have the meanings given those terms in section 40102 of this title.

"(B) PUBLIC CHARTER.—The term 'public charter' means charter air transportation for which the general public is provided in advance a schedule containing the departure location, departure time, and arrival location of the flights.".

SEC. 422. TOURISM.

(a) FINDINGS.—Congress finds that—

(1) through an effective public-private partnership, Federal, State, and local governments and the travel and tourism industry can successfully market the United States as the premiere international tourist destination in the world;

(2) in 1997, the travel and tourism industry made a substantial contribution to the health of the Nation's economy, as follows:

(A) The industry is one of the Nation's largest employers, directly employing 7,000,000 Americans, throughout every region of the country, heavily concentrated among small businesses, and indirectly employing an additional 9,200,000 Americans, for a total of 16,200,000 jobs.

(B) The industry ranks as the first, second, or third largest employer in 32 States and the District of Columbia, generating a total tourism-related annual payroll of $127,900,000,000.

(C) The industry has become the Nation's third-largest retail sales industry, generating a total of $489,000,000,000 in total expenditures.

(D) The industry generated $71,700,000,000 in tax revenues for Federal, State, and local governments;

(3) the more than $98,000,000,000 spent by foreign visitors in the United States in 1997 generated a trade services surplus of more than $26,000,000,000;

(4) the private sector, States, and cities currently spend more than $1,000,000,000 annually to promote particular destinations within the United States to international visitors;

(5) because other nations are spending hundreds of millions of dollars annually to promote the visits of international tourists to their countries, the United States will miss a major marketing opportunity if it fails to aggressively compete for an increased share of international tourism expenditures as they continue to increase over the next decade;

(6) a well-funded, well-coordinated international marketing effort—combined with additional public and private sector efforts—would help small and large businesses, as well as State and local governments, share in the anticipated phenomenal growth of the international travel and tourism market in the 21st century;

(7) by making permanent the successful visa waiver pilot program, Congress can facilitate the increased flow of international visitors to the United States;

(8) Congress can increase the opportunities for attracting international visitors and enhancing their stay in the United States by—

(A) improving international signage at airports, seaports, land border crossings, highways, and bus, train, and other public transit stations in the United States;

(B) increasing the availability of multilingual tourist information; and

(C) creating a toll-free, private-sector operated, telephone number, staffed by multilingual operators, to provide assistance to international tourists coping with an emergency;

(9) by establishing a satellite system of accounting for travel and tourism, the Secretary of Commerce could provide Congress and the President with objective, thorough data that would help policymakers more accurately gauge the size and scope of the domestic travel and tourism industry and its significant impact on the health of the Nation's economy; and

(10) having established the United States National Tourism Organization under the United States National Tourism Organization Act of 1996 (22 U.S.C. 2141 et seq.) to increase the United States share of the international tourism market by developing a national travel and tourism strategy, Congress should support a long-term marketing effort and other important regulatory reform initiatives to promote increased travel to the United States for the benefit of every sector of the economy.

(b) PURPOSES.—The purposes of this section are to provide international visitor initiatives and an international marketing program to enable the United States travel and tourism industry and every level of government to benefit from a successful effort to make the United States the premiere travel destination in the world.

(c) INTERNATIONAL VISITOR ASSISTANCE TASK FORCE.—

(1) ESTABLISHMENT.—Not later than 9 months after the date of enactment of this Act, the Secretary of Commerce shall establish an Intergovernmental Task Force for International Visitor Assistance (hereafter in this subsection referred to as the "Task Force").

(2) DUTIES.—The Task Force shall examine—

(A) signage at facilities in the United States, including airports, seaports, land border crossings, highways, and bus, train, and other public transit stations, and shall identify existing inadequacies and suggest solutions for such inadequacies, such as the adoption of uniform

standards on international signage for use throughout the United States in order to facilitate international visitors' travel in the United States;

(B) the availability of multilingual travel and tourism information and means of disseminating, at no or minimal cost to the Government, of such information; and

(C) facilitating the establishment of a toll-free, private-sector operated, telephone number, staffed by multilingual operators, to provide assistance to international tourists coping with an emergency.

(3) MEMBERSHIP.—The Task Force shall be composed of the following members:

(A) The Secretary of Commerce.

(B) The Secretary of State.

(C) The Secretary of Transportation.

(D) The Chair of the Board of Directors of the United States National Tourism Organization.

(E) Such other representatives of other Federal agencies and private-sector entities as may be determined to be appropriate to the mission of the Task Force by the Chairman.

(4) CHAIRMAN.—The Secretary of Commerce shall be Chairman of the Task Force. The Task Force shall meet at least twice each year. Each member of the Task Force shall furnish necessary assistance to the Task Force.

(5) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Chairman of the Task Force shall submit to the President and to Congress a report on the results of the review, including proposed amendments to existing laws or regulations as may be appropriate to implement such recommendations.

(d) TRAVEL AND TOURISM INDUSTRY SATELLITE SYSTEM OF ACCOUNTING.—

(1) IN GENERAL.—The Secretary of Commerce shall complete, as soon as may be practicable, a satellite system of accounting for the travel and tourism industry.

(2) FUNDING.—To the extent any costs or expenditures are incurred under this subsection, they shall be covered to the extent funds are available to the Department of Commerce for such purpose.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION.—Subject to paragraph (2), there are authorized to be appropriated such sums as may be necessary for the purpose of funding international promotional activities by the United States National Tourism Organization to help brand, position, and promote the United States as the premiere travel and tourism destination in the world.

(2) RESTRICTIONS ON USE OF FUNDS.—None of the funds appropriated under paragraph (1) may be used for purposes other than marketing, research, outreach, or any other activity designed to promote the United States as the premiere travel and tourism destination in the world, except that the general and administrative expenses of operating the United States National Tourism Organization shall be borne by the private sector through such means as the Board of Directors of the Organization shall determine.

(3) REPORT TO CONGRESS.—Not later than March 30 of each year in which funds are made available under subsection (a), the Secretary shall submit to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a detailed report setting forth—

(A) the manner in which appropriated funds were expended;

(B) changes in the United States market share of international tourism in general and as measured against specific countries and regions;

(C) an analysis of the impact of international tourism on the United States economy, including, as specifically as practicable, an analysis of the impact of expenditures made pursuant to this section;

(D) an analysis of the impact of international tourism on the United States trade balance and, as specifically as practicable, an analysis of the impact on the trade balance of expenditures made pursuant to this section; and

(E) an analysis of other relevant economic impacts as a result of expenditures made pursuant to this section.

SEC. 423. SENSE OF THE SENATE ON PROPERTY TAXES ON PUBLIC-USE AIRPORTS.

It is the sense of the Senate that—

(1) property taxes on public-use airports should be assessed fairly and equitably, regardless of the location of the owner of the airport; and

(2) the property tax recently assessed on the City of The Dalles, Oregon, as the owner and operator of the Columbia Gorge Regional/The Dalles Municipal Airport, located in the State of Washington, should be repealed.

SEC. 424. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM.

(a) APPLICABILITY OF MERIT SYSTEMS PROTECTION BOARD PROVISIONS.—Section 347(b) of the Department of Transportation and Related Agencies Appropriations Act, 1996 (109 Stat. 460) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(8) sections 1204, 1211–1218, 1221, and 7701–7703, relating to the Merit Systems Protection Board.".

(b) APPEALS TO MERIT SYSTEMS PROTECTION BOARD.—Section 347(c) of the Department of Transportation and Related Agencies Appropriations Act, 1996 is amended to read as follows:

"(c) APPEALS TO MERIT SYSTEMS PROTECTION BOARD.—Under the new personnel management system developed and implemented under subsection (a), an employee of the Federal Aviation Administration may submit an appeal to the Merit Systems Protection Board and may seek judicial review of any resulting final orders or decisions of the Board from any action that was appealable to the Board under any law, rule, or regulation as of March 31, 1996.".

SEC. 425. AUTHORITY TO SELL AIRCRAFT AND AIRCRAFT PARTS FOR USE IN RESPONDING TO OIL SPILLS.

(a) AUTHORITY.—

(1) Notwithstanding section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) and subject to subsections (b) and (c), the Secretary of Defense may, during the period beginning March 1, 1999, and ending on September 30, 2002, sell aircraft and aircraft parts referred to in paragraph (2) to a person or entity that provides oil spill response services (including the application of oil dispersants by air) pursuant to an oil spill response plan that has been approved by the Secretary of the Department in which the Coast Guard is operating.

(2) The aircraft and aircraft parts that may be sold under paragraph (1) are aircraft and aircraft parts of the Department of Defense that are determined by the Secretary to be—

(A) excess to the needs of the Department; and

(B) acceptable for commercial sale.

(b) CONDITIONS OF SALE.—Aircraft and aircraft parts sold under subsection (a)—

(1) shall have as their primary purpose usage for oil spill spotting, observation, and dispersant delivery and may not have any secondary purpose that would interfere with oil spill response efforts under an oil spill response plan;

(2) may not be flown outside of or removed from the United States except for the purpose of fulfilling an international agreement to assist in oil spill dispersing efforts, for immediate response efforts for an oil spill outside United States waters that has the potential to threaten United States waters, or for other purposes that are jointly approved by the Secretary of Defense and the Secretary of Transportation.

(c) CERTIFICATION OF PERSONS AND ENTITIES.—The Secretary of Defense may sell aircraft and aircraft parts to a person or entity under subsection (a) only if the Secretary of Transportation certifies to the Secretary of Defense, in writing, before the sale, that the person or entity is capable of meeting the terms and conditions of a contract to deliver oil spill dispersants by air, and that the overall system to be employed by that person or entity for the delivery and application of oil spill dispersants has been sufficiently tested to ensure that the person or entity is capable of being included in an oil spill response plan that has been approved by the Secretary of the Department in which the Coast Guard is operating.

(d) REGULATIONS.—

(1) As soon as practicable after the date of enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of Transportation and the Administrator of General Services, prescribe regulations relating to the sale of aircraft and aircraft parts under this section.

(2) The regulations shall—

(A) ensure that the sale of the aircraft and aircraft parts is made at a fair market value as determined by the Secretary of Defense, and, to the extent practicable, on a competitive basis;

(B) require a certification by the purchaser that the aircraft and aircraft parts will be used only in accordance with the conditions set forth in subsection (b);

(C) establish appropriate means of verifying and enforcing the use of the aircraft and aircraft parts by the purchaser and other end-users in accordance with the conditions set forth in subsection (b) or pursuant to subsection (e); and

(D) ensure, to the maximum extent practicable, that the Secretary of Defense consults with the Administrator of General Services and with the heads of appropriate departments and agencies of the Federal Government regarding alternative requirements for such aircraft and aircraft parts before the sale of such aircraft and aircraft parts under this section.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of Defense may require such other terms and conditions in connection with each sale of aircraft and aircraft parts under this section as the Secretary considers appropriate for such sale. Such terms and conditions shall meet the requirements of regulations prescribed under subsection (d).

(f) REPORT.—Not later than March 31, 2002, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the Secretary's exercise of authority under this section. The report shall set forth—

(1) the number and types of aircraft sold under the authority, and the terms and conditions under which the aircraft were sold;

(2) the persons or entities to which the aircraft were sold; and

(3) an accounting of the current use of the aircraft sold.

(g) CONSTRUCTION.—Nothing in this section may be construed as affecting the authority of the Administrator of the Federal Aviation Administration under any other provision of law.

(h) PROCEEDS FROM SALE.—The net proceeds of any amounts received by the Secretary of Defense from the sale of aircraft and aircraft parts under this section shall be covered into the general fund of the Treasury as miscellaneous receipts.

SEC 426. AIRCRAFT AND AVIATION COMPONENT REPAIR AND MAINTENANCE ADVISORY PANEL.

(a) Establishment of Panel.—The Administrator of the Federal Aviation Administration—

(1) shall establish an Aircraft Repair and Maintenance Advisory Panel to review issues related to the use and oversight of aircraft and aviation component repair and maintenance facilities located within, or outside of, the United States; and

(2) may seek the advice of the panel on any issue related to methods to improve the safety of domestic or foreign contract aircraft and aviation component repair facilities.

(b) Membership.—The panel shall consist of—

(1) 8 members, appointed by the Administrator as follows:

(A) 3 representatives of labor organizations representing aviation mechanics;

(B) 1 representative of cargo air carriers;

(C) 1 representative of passenger air carriers;

(D) 1 representative of aircraft and aviation component repair stations;

(E) 1 representative of aircraft manufacturers; and

(F) 1 representative of the aviation industry not described in the preceding subparagraphs;

(2) 1 representative from the Department of Transportation, designated by the Secretary of Transportation;

(3) 1 representative from the Department of State, designated by the Secretary of State; and

(4) 1 representative from the Federal Aviation Administration, designated by the Administrator.

(c) Responsibilities.—The panel shall—

(1) determine how much aircraft and aviation component repair work and what type of aircraft and aviation component repair work is being performed by aircraft and aviation component repair stations located within, and outside of, the United States to better understand and analyze methods to improve the safety and oversight of such facilities; and

(2) provide advice and counsel to the Administrator with respect to aircraft and aviation component repair work performed by those stations, staffing needs, and any safety issues associated with that work.

(d) FAA To Request Information From Foreign Aircraft Repair Stations.—

(1) Collection of information.—The Administrator shall by regulation request aircraft and aviation component repair stations located outside the United States to submit such information as the Administrator may require in order to assess safety issues and enforcement actions with respect to the work performed at those stations on aircraft used by United States air carriers.

(2) Drug and alcohol testing information.—Included in the information the Administrator requests under paragraph (1) shall be information on the existence and administration of employee drug and alcohol testing programs in place at such stations, if applicable.

(3) Description of work done.—Included in the information the Administrator requests under paragraph (1) shall be information on the amount and type of aircraft and aviation component repair work performed at those stations on aircraft registered in the United States.

(e) FAA To Request Information About Domestic Aircraft Repair Stations.—If the Administrator determines that information on the volume of the use of domestic aircraft and aviation component repair stations is needed in order to better utilize Federal Aviation Administration resources, the Administrator may—

(1) require United States air carriers to submit the information described in subsection (d) with respect to their use of contract and noncontract aircraft and aviation component repair facilities located in the United States; and

(2) obtain information from such stations about work performed for foreign air carriers.

(f) FAA To Make Information Available to Public.—The Administrator shall make any information received under subsection (d) or (e) available to the public.

(g) Termination.—The panel established under subsection (a) shall terminate on the earlier of—

(1) the date that is 2 years after the date of enactment of this Act; or

(2) December 31, 2000.

(h) Annual Report to Congress.—The Administrator shall report annually to the Congress on the number and location of air agency certificates that were revoked, suspended, or not renewed during the preceding year.

(i) Definitions.—Any term used in this section that is defined in subtitle VII of title 49, United States Code, has the meaning given that term in that subtitle.

SEC. 427. AIRCRAFT SITUATIONAL DISPLAY DATA.

(a) In General.—A memorandum of agreement between the Administrator of the Federal Aviation Administration and any person that directly obtains aircraft situational display data from the Administration shall require that—

(1) the person demonstrate to the satisfaction of the Administrator that such person is capable of selectively blocking the display of any aircraft-situation-display-to-industry derived data related to any identified aircraft registration number; and

(2) the person agree to block selectively the aircraft registration numbers of any aircraft owner or operator upon the Administration's request.

(b) Existing Memoranda To Be Conformed.—The Administrator shall conform any memoranda of agreement, in effect on the date of enactment of this Act, between the Administration and a person under which that person obtains such data to incorporate the requirements of subsection (a) within 30 days after that date.

SEC. 428. ALLOCATION OF TRUST FUND FUNDING.

(a) Definitions.—In this section:

(1) Airport and airway trust fund.—The term "Airport and Airway Trust Fund" means the trust fund established under section 9502 of the Internal Revenue Code of 1986.

(2) Secretary.—The term "Secretary" means the Secretary of Transportation.

(3) State.—The term "State" means each of the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(4) State dollar contribution to the airport and airway trust fund.—The term "State dollar contribution to the Airport and Airway Trust Fund", with respect to a State and fiscal year, means the amount of funds equal to the amounts transferred to the Airport and Airway Trust Fund under section 9502 of the Internal Revenue Code of 1986 that are equivalent to the taxes described in section 9502(b) of the Internal Revenue Code of 1986 that are collected in that State.

(b) Reporting.—

(1) In general.—As soon as practicable after the date of enactment of this Act, and annually thereafter, the Secretary of the Treasury shall report to the Secretary the amount equal to the amount of taxes collected in each State during the preceding fiscal year that were transferred to the Airport and Airway Trust Fund.

(2) Report by secretary.—Not later than 90 days after the date of enactment of this Act, and annually thereafter, the Secretary shall prepare and submit to Congress a report that provides, for each State, for the preceding fiscal year—

(A) the State dollar contribution to the Airport and Airway Trust Fund; and

(B) the amount of funds (from funds made available under section 48103 of title 49, United States Code) that were made available to the State (including any political subdivision thereof) under chapter 471 of title 49, United States Code.

SEC. 429. TAOS PUEBLO AND BLUE LAKES WILDERNESS AREA DEMONSTRATION PROJECT.

Within 18 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall work with the Taos Pueblo to study the feasibility of conducting a demonstration project to require all aircraft that fly over Taos Pueblo and the Blue Lake Wilderness Area of Taos Pueblo, New Mexico, to maintain a mandatory minimum altitude of at least 5,000 feet above ground level.

SEC. 430. AIRLINE MARKETING DISCLOSURE.

(a) Definitions.—In this section:

(1) Air carrier.—The term "air carrier" has the meaning given that term in section 40102 of title 49, United States Code.

(2) Air transportation.—The term "air transportation" has the meaning given that term in section 40102 of title 49, United States Code.

(b) Final Regulations.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall promulgate final regulations to provide for improved oral and written disclosure to each consumer of air transportation concerning the corporate name of the air carrier that provides the air transportation purchased by that consumer. In issuing the regulations issued under this subsection, the Secretary shall take into account the proposed regulations issued by the Secretary on January 17, 1995, published at page 3359, volume 60, Federal Register.

SEC. 431. COMPENSATION UNDER THE DEATH ON THE HIGH SEAS ACT.

(a) In General.—Section 2 of the Death on the High Seas Act (46 U.S.C. App. 762) is amended—

(1) by inserting "(a) In General.—" before "The recovery"; and

(2) by adding at the end thereof the following:

"(b) Commercial Aviation.—

"(1) In general.—If the death was caused during commercial aviation, additional compensation for nonpecuniary damages for wrongful death of a decedent is recoverable in a total amount, for all beneficiaries of that decedent, that shall not exceed the greater of the pecuniary loss sustained or a sum total of $750,000 from all defendants for all claims. Punitive damages are not recoverable.

"(2) Inflation adjustment.—The $750,000 amount shall be adjusted, beginning in calendar year 2000 by the increase, if any, in the Consumer Price Index for all urban consumers for the prior year over the Consumer Price Index for all urban consumers for the calendar year 1998.

"(3) Nonpecuniary damages.—For purposes of this subsection, the term 'nonpecuniary damages' means damages for loss of care, comfort, and companionship.".

(b) Effective Date.—The amendment made by subsection (a) applies to any death caused during commercial aviation occurring after July 16, 1996.

SEC. 432. FAA STUDY OF BREATHING HOODS.

The Administrator shall study whether breathing hoods currently available for use by flight crews when smoke is detected are adequate and report the results of that study to the Congress within 120 days after the date of enactment of this Act.

SEC. 433. FAA STUDY OF ALTERNATIVE POWER SOURCES FOR FLIGHT DATA RECORDERS AND COCKPIT VOICE RECORDERS.

The Administrator of the Federal Aviation Administration shall study the need for an alternative power source for on-board flight data *recorders and cockpit voice recorders and shall report the results of that study to the Congress within 120 days after the date of enactment of this Act. If, within that time, the Administrator determines, after consultation with the National Transportation Safety Board that the Board is preparing recommendations with respect to this subject matter and will issue those recommendations within a reasonable period of time, the Administrator shall report to the Congress the Administrator's comments on the Board's recommendations rather than conducting a separate study.*

SEC. 434. PASSENGER FACILITY FEE LETTERS OF INTENT.

The Secretary of Transportation may not require an eligible agency (as defined in section 40117(a)(2) of title 49, United States Code), to impose a passenger facility fee (as defined in section 40117(a)(4) of that title) in order to obtain a letter of intent under section 47110 of that title.

SEC. 435. ELIMINATION OF HAZMAT ENFORCEMENT BACKLOG.

(a) FINDINGS.—The Congress makes the following findings:

(1) The transportation of hazardous materials continues to present a serious aviation safety problem which poses a potential threat to health and safety, and can result in evacuations, emergency landings, fires, injuries, and deaths.

(2) Although the Federal Aviation Administration budget for hazardous materials inspection increased $10,500,000 in fiscal year 1998, the General Accounting Office has reported that the backlog of hazardous materials enforcement cases has increased from 6 to 18 months.

(b) ELIMINATION OF HAZARDOUS MATERIALS ENFORCEMENT BACKLOG.—The Administrator of the Federal Aviation Administration shall—

(1) make the elimination of the backlog in hazardous materials enforcement cases a priority;

(2) seek to eliminate the backlog within 6 months after the date of enactment of this Act; and

(3) make every effort to ensure that inspection and enforcement of hazardous materials laws are carried out in a consistent manner among all geographic regions, and that appropriate fines and penalties are imposed in a timely manner for violations.

(c) INFORMATION REGARDING PROGRESS.—The Administrator shall provide information in oral or written form to the Committee on Commerce, Science, and Transportation, on a quarterly basis beginning 3 months after the date of enactment of this Act for a year, on plans to eliminate the backlog and enforcement activities undertaken to carry out subsection (b).

SEC. 436. FAA EVALUATION OF LONG-TERM CAPITAL LEASING.

Nothwithstanding any other provision of law to the contrary, the Administrator of the Federal Aviation Administration may establish a pilot program for fiscal years 2001 through 2004 to test and evaluate the benefits of long-term contracts for the leasing of aviation equipment and facilities. The Administrator shall establish criteria for the program. The Administrator may enter into no more than 10 leasing contracts under this section, each of which shall be for a period greater than 5 years, under which the equipment or facility operates. The contracts to be evaluated may include requirements related to oceanic and air traffic control, air-to-ground radio communications, and air traffic control tower construction.

SEC. 437. PROHIBITIONS AGAINST SMOKING ON SCHEDULED FLIGHTS.

(a) IN GENERAL.—Section 41706 is amended to read as follows:

"§41706. Prohibitions against smoking on scheduled flights

"(a) SMOKING PROHIBITION IN INTRASTATE AND INTERSTATE AIR TRANSPORTATION.—An individual may not smoke in an aircraft on a scheduled airline flight segment in interstate air transportation or intrastate air transportation.

"(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.—The Secretary of Transportation (referred to in this subsection as the 'Secretary') shall require all air carriers and foreign air carriers to prohibit on and after October 1, 1999, smoking in any aircraft on a scheduled airline flight segment within the United States or between a place in the United States and a place outside the United States.

"(c) LIMITATION ON APPLICABILITY.—

"(1) IN GENERAL.—If a foreign government objects to the application of subsection (b) on the basis that subsection provides for an extraterritorial application of the laws of the United States, the Secretary may waive the application of subsection (b) to a foreign air carrier licensed by that foreign government at such time as an alternative prohibition negotiated under paragraph (2) becomes effective and is enforced by the Secretary.

"(2) ALTERNATIVE PROHIBITION.—If, pursuant to paragraph (1), a foreign government objects to the prohibition under subsection (b), the Secretary shall enter into bilateral negotiations with the objecting foreign government to provide for an alternative smoking prohibition.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 60 days after the date of enactment of this Act.

SEC. 438. DESIGNATING CURRENT AND FORMER MILITARY AIRPORTS.

Section 47118 is amended—

(1) by striking "12." in subsection (a) and inserting "15."; and

(2) by striking "5-fiscal-year periods" in subsection (d) and inserting "periods, each not to exceed 5 fiscal years,".

SEC. 439. ROLLING STOCK EQUIPMENT.

(a) IN GENERAL.—Section 1168 of title 11, United States Code, is amended to read as follows:

"§1168. Rolling stock equipment

"(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court, except that right to take possession and enforce those other rights and remedies shall be subject to section 362, if—

"(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind described in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

"(i) that occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period;

"(ii) that occurs or becomes an event of default after the date of commencement of the case and before the expiration of such 60-day period is cured before the later of—

"(I) the date that is 30 days after the date of the default or event of the default; or

"(II) the expiration of such 60-day period; and

"(iii) that occurs on or after the expiration of such 60-day period is cured in accordance with the terms of such security agreement, lease, or conditional sale contract, if cure is permitted under that agreement, lease, or conditional sale contract.

"(2) The equipment described in this paragraph—

"(A) is rolling stock equipment or accessories used on rolling stock equipment, including superstructures or racks, that is subject to a security interest granted by, leased to, or conditionally sold to a debtor; and

"(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, that is to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

"(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(2), if at any time after the date of commencement of the case under this chapter such secured party, lessor, or conditional vendor is entitled pursuant to subsection (a)(1) to take possession of such equipment and makes a written demand for such possession of the trustee.

"(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(2), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

"(d) With respect to equipment first placed in service on or prior to October 22, 1994, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.

"(e) With respect to equipment first placed in service after October 22, 1994, for purposes of this section, the term 'rolling stock equipment' includes rolling stock equipment that is substantially rebuilt and accessories used on such equipment.".

(b) AIRCRAFT EQUIPMENT AND VESSELS.—Section 1110 of title 11, United States Code, is amended to read as follows:

"§1110. Aircraft equipment and vessels

"(a)(1) Except as provided in paragraph (2) and subject to subsection (b), the right of a secured party with a security interest in equipment described in paragraph (3), or of a lessor or conditional vendor of such equipment, to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies, under such security agreement, lease, or conditional sale contract, to sell, lease,

or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court.

"(2) The right to take possession and to enforce the other rights and remedies described in paragraph (1) shall be subject to section 362 if—

"(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the approval of the court, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind specified in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

"(i) that occurs before the date of the order is cured before the expiration of such 60-day period;

"(ii) that occurs after the date of the order and before the expiration of such 60-day period is cured before the later of—

"(I) the date that is 30 days after the date of the default; or

"(II) the expiration of such 60-day period; and

"(iii) that occurs on or after the expiration of such 60-day period is cured in compliance with the terms of such security agreement, lease, or conditional sale contract, if a cure is permitted under that agreement, lease, or contract.

"(3) The equipment described in this paragraph—

"(A) is—

"(i) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 40102 of title 49) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that, at the time such transaction is entered into, holds an air carrier operating certificate issued pursuant to chapter 447 of title 49 for aircraft capable of carrying 10 or more individuals or 6,000 pounds or more of cargo; or

"(ii) a documented vessel (as defined in section 30101(1) of title 46) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that, at the time such transaction is entered into, holds a certificate of public convenience and necessity or permit issued by the Department of Transportation; and

"(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

"(4) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the approval of the court, to extend the 60-day period specified in subsection (a)(1).

"(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(3), if at any time after the date of the order for relief under this chapter such secured party, lessor, or conditional vendor is entitled pursuant to subsection (a)(1) to take possession of such equipment and makes a written demand for such possession to the trustee.

"(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(3), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

"(d) With respect to equipment first placed in service on or before October 22, 1994, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.".

SEC. 440. MONROE REGIONAL AIRPORT LAND CONVEYANCE.

The Secretary of Transportation may waive all terms contained in the 1949 deed of conveyance under which the United States conveyed certain property then constituting Selman Field, Louisiana, to the City of Monroe, Louisiana, subject to the following conditions:

(1) The city agrees that in conveying any interest in such property the city will receive an amount for such interest that is equal to the fair market value for such interest.

(2) The amount received by the city for such conveyance shall be used by the city—

(A) for the development, improvement, operation, or maintenance of a public airport; or

(B) for the development or improvement of the city's airport industrial park co-located with the Monroe Regional Airport to the extent that such development or improvement will result in an increase, over time, in the amount the industrial park will pay to the airport to an amount that is greater than the amount the city received for such conveyance.

SEC. 441. CINCINNATI-MUNICIPAL BLUE ASH AIRPORT.

To maintain the efficient utilization of airports in the high-growth Cincinnati local airport system, and to ensure that the Cincinnati-Municipal Blue Ash Airport continues to operate to relieve congestion at Cincinnati-Northern Kentucky International Airport and to provide greater access to the general aviation community beyond the expiration of the City of Cincinnati's grant obligations, the Secretary of Transportation may approve the sale of Cincinnati-Municipal Blue Ash Airport from the City of Cincinnati to the City of Blue Ash upon a finding that the City of Blue Ash meets all applicable requirements for sponsorship and if the City of Blue Ash agrees to continue to maintain and operate Blue Ash Airport, as generally contemplated and described within the Blue Ash Master Plan Update dated November 30, 1998, for a period of 20 years from the date existing grant assurance obligations of the City of Cincinnati expire.

SEC. 442. REPORT ON SPECIALTY METALS CONSORTIUM.

The Administrator of the Federal Aviation Administration may work with a consortium of domestic metal producers and aircraft engine manufacturers to improve the quality of turbine engine materials and to address melting technology enhancements. The Administrator shall report to the Congress within 6 months after entering into an agreement with any such consortium of such producers and manufacturers on the goals and efforts of the consortium.

SEC. 443. PAVEMENT CONDITION.

The Administrator of the Federal Aviation Administration may conduct a study on the extent of alkali silica reactivity-induced pavement distress in concrete runways, taxiways, and aprons for airports comprising the national air transportation system. If the Administrator conducts such a study, it shall include a determination based on in-the-field inspections followed by petrographic analysis or other similar techniques.

SEC. 444. INHERENTLY LOW-EMISSION AIRPORT VEHICLE PILOT PROGRAM.

(a) In General.—Subchapter 1 of chapter 471 is further amended by adding at the end the following:

"§47137. Inherently low-emission airport vehicle pilot program

"(a) In General.—The Secretary of Transportation shall carry out a pilot program at not more than 10 public-use airports under which the sponsors of such airports may use funds made available under section 48103 for use at such airports to carry out inherently low-emission vehicle activities. Notwithstanding any other provision of this subchapter, inherently low-emission vehicle activities shall for purposes of the pilot program be treated as eligible for assistance under this subchapter.

"(b) Location in Air Quality Nonattainment Areas.—

"(1) In general.—A public-use airport shall be eligible for participation in the pilot program only if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(d)).

"(2) Shortage of candidates.—If the Secretary receives an insufficient number of applications from public-use airports located in such areas, then the Secretary may consider applications from public-use airports that are not located in such areas.

"(c) Selection Criteria.—In selecting from among applicants for participation in the pilot program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the pilot program.

"(d) United States Government's Share.—Notwithstanding any other provision of this subchapter, the United States Government's share of the costs of a project carried out under the pilot program shall be 50 percent.

"(e) Maximum Amount.—Not more than $2,000,000 may be expended under the pilot program at any single public-use airport.

"(f) Technical Assistance.—

"(1) In general.—Participants carrying out inherently low-emission vehicle activities under this pilot program may use no less than 10 percent of the amounts made available for expenditure at the airport under the pilot program to receive technical assistance in carrying out such activities.

"(2) Eligible consortium.—To the maximum extent practicable, participants in the pilot program shall use an eligible consortium (as defined in section 5506 of this title) in the region of the airport to receive technical assistance described in paragraph (1).

"(3) Planning assistance.—The administrator may provide $500,000 from funds made available under section 48103 to a multi-State, western regional technology consortium for the purposes of developing for dissemination prior to the commencement of the pilot program a comprehensive best practices planning guide that addresses appropriate technologies, environmental and economic impacts, and the role of planning and mitigation strategies.

"(g) Report to Congress.—Not later than 18 months after the date of the enactment of the Air Transportation Improvement Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

"(1) an evaluation of the effectiveness of the pilot program;

"(2) an identification of other public-use airports that expressed an interest in participating in the pilot program; and

"(3) a description of the mechanisms used by the Secretary to ensure that the information

and know-how gained by participants to the pilot program is transferred among the participants and to other interested parties, including other public-use airports.

"(h) Inherently Low-Emission Vehicle Activity Defined.—In this section, the term 'inherently low-emission vehicle activity' means—

"(1) the construction of infrastructure or modifications at public-use airports to enable the delivery of fuel and services necessary for the use of vehicles that are certified as inherently low-emission vehicles under title 40 of the Code of Federal Regulations, that—

"(A) operate exclusively on compressed natural gas, liquefied natural gas, liquefied petroleum gas, electricity, hydrogen, or a blend at least 85 percent of which is methanol;

"(B) are labeled in accordance with section 88.312–93(c) of such title; and

"(C) are located or primarily used at public-use airports;

"(2) the construction of infrastructure or modifications at public-use airports to enable the delivery of fuel and services necessary for the use of non-road vehicles that—

"(A) operate exclusively on compressed natural gas, liquefied natural gas, liquefied petroleum gas, electricity, hydrogen, or a blend at least 85 percent of which is methanol;

"(B) meet or exceed the standards set forth in section 86.1708–99 of title 40 of the Code of Federal Regulations, or the standards set forth in section 89.112(a) of such title, and are in compliance with the requirements of section 89.112(b) of such title; and

"(C) are located or primarily used at public-use airports;

"(3) the payment of that portion of the cost of acquiring such vehicles that exceeds the cost of acquiring other vehicles or engines that would be used for the same purpose; or

"(4) the acquisition of technological capital equipment to enable the delivery of fuel and services necessary for the use of vehicles described in paragraph (1).".

(b) Conforming Amendment.—The analysis for subchapter I of chapter 471 is further amended by adding at the end the following:

"47137. Inherently low-emission airport vehicle pilot program.".

SEC. 445. CONVEYANCE OF AIRPORT PROPERTY TO AN INSTITUTION OF HIGHER EDUCATION IN OKLAHOMA.

(a) In General.—Notwithstanding any other provision of law, including the Surplus Property Act of 1944 (58 Stat. 765, chapter 479; 50 U.S.C. App. 1622 et seq.), the Secretary of Transportation (or the appropriate Federal officer) may waive, without charge, any of the terms contained in any deed of conveyance described in subsection (b) that restrict the use of any land described in such a deed that, as of the date of enactment of this Act, is not being used for the operation of an airport or for air traffic. A waiver made under the preceding sentence shall be deemed to be consistent with the requirements of section 47153 of title 49, United States Code.

(b) Deed of Conveyance.—A deed of conveyance referred to in subsection (a) is a deed of conveyance issued by the United States before the date of enactment of this Act for the conveyance of lands to a public institution of higher education in Oklahoma.

(c) Use of Lands Subject to Waiver.—

(1) In general.—Notwithstanding any other provision of law, the lands subject to a waiver under subsection (a) shall not be subject to any term, condition, reservation, or restriction that would otherwise apply to that land as a result of the conveyance of that land by the United States to the institution of higher education.

(2) Use of lands.—An institution of higher education that is issued a waiver under subsection (a) may use revenues derived from the use, operation, or disposal of that land only for weather-related and educational purposes that include benefits for aviation.

(d) Grants.—

(1) In general.—Notwithstanding any other provision of law, if an institution of higher education that is subject to a waiver under subsection (a) received financial assistance in the form of a grant from the Federal Aviation Administration or a predecessor agency before the date of enactment of this Act, then the Secretary of Transportation may waive the repayment of the outstanding amount of any grant that the institution of higher education would otherwise be required to pay.

(2) Eligibility to receive subsequent grants.—Nothing in paragraph (1) shall affect the eligibility of an institution of higher education that is subject to that paragraph from receiving grants from the Secretary of Transportation under chapter 471 of title 49, United States Code, or under any other provision of law relating to financial assistance provided through the Federal Aviation Administration.

SEC. 446. AUTOMATED SURFACE OBSERVATION SYSTEM/AUTOMATED WEATHER OBSERVING SYSTEM UPGRADE.

Section 48101 is further amended by adding at the end the following:

"(f) Automated Surface Observation System/Automated Weather Observing System Upgrade.—Of the amounts appropriated under subsection (a) for fiscal years beginning after September 30, 2000, such sums as may be necessary for the implementation and use of upgrades to the current automated surface observation system/automated weather observing system, if the upgrade is successfully demonstrated.".

SEC. 447. TERMINAL AUTOMATED RADAR DISPLAY AND INFORMATION SYSTEM.

The Administrator of the Federal Aviation Administration shall develop a national policy and related procedures concerning the Terminal Automated Radar Display and Information System and sequencing for Visual Flight Rule air traffic control towers.

SEC. 448. COST/BENEFIT ANALYSIS FOR RETROFIT OF 16G SEATS.

Before the Administrator of the Federal Aviation Administration issues a final rule requiring the air carriers to retrofit existing aircraft with 16G seats, the Administrator shall conduct, in consultation with the Inspector General of the Department of Transportation, a comprehensive analysis of the costs and benefits that would be associated with the issuance of such a final rule.

SEC. 449. RALEIGH COUNTY, WEST VIRGINIA, MEMORIAL AIRPORT.

The Secretary of Transportation may grant a release from any term or condition in a grant agreement for the development or improvement of the Raleigh County Memorial Airport, West Virginia, if the Secretary determines that the property to be released—

(1) does not exceed 400 acres; and

(2) is not needed for airport purposes.

SEC. 450. AIRPORT SAFETY NEEDS.

(a) In General.—The Administrator shall conduct a study reviewing current and future airport safety needs that—

(1) focuses specifically on the mission of rescue personnel, rescue operations response time, and extinguishing equipment; and

(2) gives particular consideration to the need for different requirements for airports that are related to the size of the airport and the size of the community immediately surrounding the airport.

(b) Report Transmitted to Congress; Deadline.—The Administrator shall transmit a report containing the Administrator's findings and recommendations to the Aviation Subcommittee of the Senate Committee on Commerce, Science, and Transportation and the Aviation Subcommittee of the House of Representatives Committee on Transportation and Infrastructure within 6 months after the date of enactment of this Act.

(c) Cost/Benefit Analysis of Proposed Changes.—If the Administrator recommends, on the basis of a study conducted under subsection (a), that part 139 of title 14, Code of Federal Regulations, should be revised to meet current and future airport safety needs, the Administrator shall include a cost-benefit analysis of any recommended changes in the report.

SEC. 451. FLIGHT TRAINING OF INTERNATIONAL STUDENTS.

The Federal Aviation Administration shall implement a bilateral aviation safety agreement for conversion of flight crew licenses between the government of the United States and the Joint Aviation Authority member governments.

SEC. 452. GRANT PARISH, LOUISIANA.

In General.—The United States may release, without monetary consideration, all restrictions, conditions, and limitations on the use, encumbrance, or conveyance of certain land located in Grant Parish, Louisiana, identified as Tracts B, C, and D on the map entitled "Plat of Restricted Properties/Former Pollock Army Airfield, Pollock, Louisiana", dated August 1, 1996, to the extent such restrictions, conditions, and limitations are enforceable by the United States, but the United States shall retain the right of access to, and use of, that land for national defense purposes in time of war or national emergency.

(b) Mineral Rights.—Nothing in subsection (a) affects the ownership or disposition of oil, gas, or other mineral resources associated with land described in subsection (a).

SEC. 453. DESIGNATION OF GENERAL AVIATION AIRPORT.

Section 47118 of title 49, United States Code, is amended—

(1) in the second sentence of subsection (a), by striking "12" and inserting "15"; and

(2) by adding at the end the following new subsection:

"(g) Designation of General Aviation Airport.—Notwithstanding any other provision of this section, at least one of the airports designated under subsection (a) may be a general aviation airport that is a former military installation closed or realigned under a law described in subsection (a)(1).".

SEC. 454. AIRLINE DEREGULATION STUDY COMMISSION.

(a) Establishment of Commission.—

(1) Establishment.—There is established a commission to be known as the Airline Deregulation Study Commission (in this section referred to as the "Commission").

(2) Membership.—

(A) Composition.—Subject to subparagraph (B), the Commission shall be composed of 15 members of whom—

(i) 5 shall be appointed by the President;

(ii) 5 shall be appointed by the President pro tempore of the Senate, 3 upon the recommendation of the Majority Leader, and 2 upon the recommendation of the Minority Leader of the Senate; and

(iii) 5 shall be appointed by the Speaker of the House of Representatives, 3 upon the Speaker's own initiative, and 2 upon the recommendation of the Minority Leader of the House of Representatives.

(B) Members from rural areas.—

(i) Requirement.—Of the individuals appointed to the Commission under subparagraph (A)—

(I) one of the individuals appointed under clause (i) of that subparagraph shall be an individual who resides in a rural area; and

(II) two of the individuals appointed under each of clauses (ii) and (iii) of that subparagraph shall be individuals who reside in a rural area.

(ii) GEOGRAPHIC DISTRIBUTION.—The appointment of individuals under subparagraph (A) pursuant to the requirement in clause (i) of this subparagraph shall, to the maximum extent practicable, be made so as to ensure that a variety of geographic areas of the country are represented in the membership of the Commission.

(C) DATE.—The appointments of the members of the Commission shall be made not later than 60 days after the date of the enactment of this Act.

(3) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(5) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(6) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRPERSON.—The Commission shall select a Chairman and Vice Chairperson from among its members.

(b) DUTIES OF THE COMMISSION.—

(1) STUDY.—

(A) DEFINITIONS.—In this subsection, the terms 'air carrier' and 'air transportation' have the meanings given those terms in section 40102(a).

(B) CONTENTS.—The Commission shall conduct a thorough study of the impacts of deregulation of the airline industry of the United States on—

(i) the affordability, accessibility, availability, and quality of air transportation, particularly in small-sized and medium-sized communities;

(ii) economic development and job creation, particularly in areas that are underserved by air carriers;

(iii) the economic viability of small-sized airports; and

(iv) the long-term configuration of the United States passenger air transportation system.

(C) MEASUREMENT FACTORS.—In carrying out the study under this subsection, the Commission shall develop measurement factors to analyze the quality of passenger air transportation service provided by air carriers by identifying the factors that are generally associated with quality passenger air transportation service.

(D) BUSINESS AND LEISURE TRAVEL.—In conducting measurements for an analysis of the affordability of air travel, to the extent practicable, the Commission shall provide for appropriate control groups and comparisons with respect to business and leisure travel.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commission shall submit an interim report to the President and Congress, and not later than 18 months after the date of the enactment of this Act, the Commission shall submit a report to the President and Congress. Each such report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(c) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the duties of the Commission under this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission shall consult with the Comptroller General of the United States and may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the duties of the Commission under this section. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(d) COMMISSION PERSONNEL MATTERS.—

(1) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(2) STAFF.—

(A) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(B) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(e) TERMINATION OF COMMISSION.—The Commission shall terminate 90 days after the date on which the Commission submits its report under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated $950,000 for fiscal year 2000 to the Commission to carry out this section.

(2) AVAILABILITY.—Any sums appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

SEC. 455. NONDISCRIMINATION IN THE USE OF PRIVATE AIRPORTS.

Chapter 401 of subtitle VII of title 49, United States Code, is amended by inserting the following new section after section 40122:

"§40123. Nondiscrimination in the use of private airports

"(a) IN GENERAL.—Notwithstanding any other provision of law, no State, county, city or municipal government may prohibit the use or full enjoyment of a private airport within its jurisdiction by any person on the basis of that person's race, creed, color, national origin, sex, or ancestry.".

SEC. 456. CURFEW.

Notwithstanding any other provision of law, any exemptions granted to air carriers under this Act may not result in additional operations at Ronald Reagan Washington National Airport between the hours of 10:00 p.m. and 7:00 a.m.

SEC. 457. FEDERAL AVIATION ADMINISTRATION YEAR 2000 TECHNOLOGY SAFETY ENFORCEMENT ACT OF 1999.

(a) SHORT TITLE.—This section be cited as the "Federal Aviation Administration Year 2000 Technology Safety Enforcement Act of 1999".

(b) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) AIR CARRIER OPERATING CERTIFICATE.—The term "air carrier operating certificate" has the same meaning as in section 44705 of title 49, United States Code.

(3) YEAR 2000 TECHNOLOGY PROBLEM.—The term "year 2000 technology problem" means a failure by any device or system (including any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collection of processing instructions to process, to calculate, to compare, to sequence, to display, to store, to transmit, or to receive year-2000 date-related data failures—

(A) to deal with or account for transitions or comparisons from, into, and between the years 1999 and 2000 accurately;

(B) to recognize or accurately process any specific date in 1999, 2000, or 2001; or

(C) to accurately account for the year 2000's status as a leap year, including recognition and processing of the correct date on February 29, 2000.

(c) RESPONSE TO REQUEST FOR INFORMATION.—Any person who has an air carrier operating certificate shall respond on or before November 1, 1999, to any request for information from the Administrator regarding readiness of that person with regard to the year 2000 technology problem as it relates to the compliance of that person with applicable safety regulations.

(d) FAILURE TO RESPOND.—

(1) SURRENDER OF CERTIFICATE.—After November 1, 1999, the Administrator shall make a decision on the record whether to compel any air carrier that has not responded on or before November 1, 1999, to a request for information regarding the readiness of that air carrier with regard to the year 2000 technology problem as it relates to the air carrier's compliance with applicable safety regulations to surrender its operating certificate to the Administrator.

(2) REINSTATEMENT OF CERTIFICATE.—The Administrator may return an air carrier operating certificate that has been surrendered under this subsection upon—

(A) a finding by the Administrator that a person whose certificate has been surrendered has provided sufficient information to demonstrate compliance with applicable safety regulations as it relates to the year 2000 technology problem; or

(B) upon receipt of a certification, signed under penalty or perjury, by the chief operating officer of the air carrier, that such air carrier has addressed the year 2000 technology problem so that the air carrier will be in full compliance with applicable safety regulations on and after January 1, 2000.

SEC. 458. EXPRESSING THE SENSE OF THE SENATE CONCERNING AIR TRAFFIC OVER NORTHERN DELAWARE.

(a) DEFINITION.—The term "Brandywine Intercept" means the point over Brandywine Hundred in northern Delaware that pilots use for guidance and maintenance of safe operation from other aircraft and over which most aircraft pass on their East Operations approach to Philadelphia International Airport.

(b) FINDINGS.—Congress makes the following findings:

(1) The Brandywine Hundred area of New Castle County, Delaware serves as a major approach causeway to Philadelphia International Airport's East Operations runways.

(2) The standard of altitude over the Brandywine Intercept is 3,000 feet, with airport scatter charts indicating that within a given hour of consistent weather and visibility aircraft fly over the Brandywine Hundred at anywhere from 2,500 to 4,000 feet.

(3) Lower airplane altitudes result in increased ground noise.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Transportation should—

(1) include northern Delaware in any study of aircraft noise conducted under part 150 of title 14 of the Code of Federal Regulations required under the National Environmental Policy Act of 1969 for the redesign of the airspace surrounding Philadelphia International Airport;

(2) study the feasibility, consistent with safety, of placing the approach causeway for Philadelphia International Airport's East Operations over the Delaware River (instead of Brandywine Hundred); and

(3) study the feasibility of increasing the standard altitude over the Brandywine Intercept from 3,000 feet to 4,000 feet.

SEC. 459. STUDY OF OUTDOOR AIR, VENTILATION, AND RECIRCULATION AIR REQUIREMENTS FOR PASSENGER CABINS IN COMMERCIAL AIRCRAFT.

(a) DEFINITIONS.—In this section, the terms "air carrier" and "aircraft" have the meanings given those terms in section 40102 of title 49, United States Code.

(b) IN GENERAL.—As soon as practicable after the date of enactment of this section, the Secretary of Transportation (referred to in this section as the "Secretary") shall conduct a study of sources of air supply contaminants of aircraft and air carriers to develop alternatives to replace engine and auxiliary power unit bleed air as a source of air supply. To carry out this paragraph, the Secretary may enter into an agreement with the Director of the National Academy of Sciences for the National Research Council to conduct the study.

(c) AVAILABILITY OF INFORMATION.—Upon completion of the study under this section in one year's time, the Administrator of the Federal Aviation Administration shall make available the results of the study to air carriers through the Aviation Consumer Protection Division of the Office of the General Counsel for the Department of Transportation.

SEC. 460. GENERAL AVIATION METROPOLITAN ACCESS AND RELIEVER AIRPORT GRANT FUND.

(a) DEFINITION.—Title 49, United States Code, is amended by adding the following new subparagraph at the end of section 47144(d)(1):

"(C) GENERAL AVIATION METROPOLITAN ACCESS AND RELIEVER AIRPORT.—'General Aviation Metropolitan Access and Reliever Airport' means a Reliever Airport which has annual operations in excess of 75,000 operations, a runway with a minimum usable landing distance of 5,000 feet, a precision instrument landing procedure, a minimum of 150 based aircraft, and where the adjacent Air Carrier Airport exceeds 20,000 hours of annual delays as determined by the Federal Aviation Administration.".

(b) APPORTIONMENT.—Title 49, United States Code, section 47114(d), is amended by adding at the end:

"(4) The Secretary shall apportion an additional 5 percent of the amount subject to apportionment for each fiscal year to States that include a General Aviation Metropolitan Access and Reliever Airport equal to the percentage of the apportionment equal to the percentage of the number of operations of the State's eligible General Aviation Metropolitan Access and Reliever Airports compared to the total operations of all General Aviation Metropolitan Access and Reliever Airports.".

SEC. 461. STUDY ON AIRPORT NOISE.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall submit a study on airport noise to Congress, the Secretary of Transportation, and the Administrator of the Federal Aviation Administration.

(b) AREAS OF STUDY.—The study shall examine—

(1) the selection of noise measurement methodologies used by the Administrator of the Federal Aviation Administration;

(2) the threshold of noise at which health impacts are felt;

(3) the effectiveness of noise abatement programs at airports around the United States; and

(4) the impacts of aircraft noise on students and educators in schools.

(c) RECOMMENDATIONS.—The study shall include specific recommendations to the Secretary of Transportation and the Administrator of the Federal Aviation Administration concerning new measures that should be implemented to mitigate the impact of aircraft noise on communities surrounding airports.

SEC. 462. SENSE OF THE SENATE CONCERNING EAS.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) essential air service (EAS) to smaller communities remains vital, and that the difficulties encountered by many communities in retaining EAS warrant increased Federal attention;

(2) the FAA should give full consideration to ending the local match required by Dickinson, North Dakota.

(b) REPORT.—Not later than 60 days after enactment of this legislation, the Secretary of Transportation shall report to the Congress with an analysis of the difficulties faced by many smaller communities in retaining EAS and a plan to facilitate easier EAS retention. This report shall give particular attention to communities in North Dakota.

SEC. 463. AIRLINE QUALITY SERVICE REPORTS.

The Secretary of Transportation shall modify the Airline Service Quality Performance reports required under part 234 of title 14, Code of Federal Regulations, to more fully disclose to the public the nature and source of delays and cancellations experienced by air travelers. Such modifications shall include a requirement that air carriers report delays and cancellations in categories which reflect the reasons for such delays and cancellations. Such categories and reporting shall be determined by the Administrator in consultation with representatives of airline passengers, air carriers, and airport operators, and shall include delays and cancellations caused by air traffic control.

SEC. 464. PREVENTION OF FRAUDS INVOLVING AIRCRAFT OR SPACE VEHICLE PARTS IN INTERSTATE OR FOREIGN COMMERCE.

(a) SHORT TITLE.—This section may be cited as the "Aircraft Safety Act of 1999".

(b) DEFINITIONS.—Section 31 of title 18, United States Code, is amended by striking all after the section heading and inserting the following:

"(a) IN GENERAL.—

"(1) AIRCRAFT.—The term 'aircraft' means a civil, military, or public contrivance invented, used, or designed to navigate, fly, or travel in the air.

"(2) AVIATION QUALITY.—The term 'aviation quality', with respect to a part of an aircraft or space vehicle, means the quality of having been manufactured, constructed, produced, repaired, overhauled, rebuilt, reconditioned, or restored in conformity with applicable standards specified by law (including a regulation) or contract.

"(3) DESTRUCTIVE SUBSTANCE.—The term 'destructive substance' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or matter of a combustible, contaminative, corrosive, or explosive nature.

"(4) IN FLIGHT.—The term 'in flight' means—

"(A) any time from the moment at which all the external doors of an aircraft are closed following embarkation until the moment when any such door is opened for disembarkation; and

"(B) in the case of a forced landing, until competent authorities take over the responsibility for the aircraft and the persons and property on board.

"(5) IN SERVICE.—The term 'in service' means—

"(A) any time from the beginning of preflight preparation of an aircraft by ground personnel or by the crew for a specific flight until 24 hours after any landing; and

"(B) in any event includes the entire period during which the aircraft is in flight.

"(6) MOTOR VEHICLE.—The term 'motor vehicle' means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo.

"(7) PART.—The term 'part' means a frame, assembly, component, appliance, engine, propeller, material, part, spare part, piece, section, or related integral or auxiliary equipment.

"(8) SPACE VEHICLE.—The term 'space vehicle' means a man-made device, either manned or unmanned, designed for operation beyond the Earth's atmosphere.

"(9) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(10) USED FOR COMMERCIAL PURPOSES.—The term 'used for commercial purposes' means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit.

"(b) TERMS DEFINED IN OTHER LAW.—In this chapter, the terms 'aircraft engine', 'air navigation facility', 'appliance', 'civil aircraft', 'foreign air commerce', 'interstate air commerce', 'landing area', 'overseas air commerce', 'propeller', 'spare part', and 'special aircraft jurisdiction of the United States' have the meanings given those terms in sections 40102(a) and 46501 of title 49.".

(c) FRAUD.—

(1) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§38. Fraud involving aircraft or space vehicle parts in interstate or foreign commerce

"(a) OFFENSES.—A person that, in or affecting interstate or foreign commerce, knowingly—

"(1)(A) falsifies or conceals a material fact;

"(B) makes any materially fraudulent representation; or

"(C) makes or uses any materially false writing, entry, certification, document, record, data plate, label, or electronic communication;

concerning any aircraft or space vehicle part;

"(2) exports from or imports or introduces into the United States, sells, trades, installs on or in any aircraft or space vehicle any aircraft or space vehicle part using or by means of a fraudulent representation, document, record, certification, depiction, data plate, label, or electronic communication; or

"(3) attempts or conspires to commit an offense described in paragraph (1) or (2);

shall be punished as provided in subsection (b).

"(b) PENALTIES.—The punishment for an offense under subsection (a) is as follows:

"(1) AVIATION QUALITY.—If the offense relates to the aviation quality of a part and the part is installed in an aircraft or space vehicle, a fine of not more than $500,000, imprisonment for not more than 25 years, or both.

"(2) FAILURE TO OPERATE AS REPRESENTED.—If, by reason of the failure of the part to operate as represented, the part to which the offense is related is the probable cause of a malfunction or failure that results in serious bodily injury (as defined in section 1365) to or the death of any person, a fine of not more than $1,000,000, imprisonment for any term of years or life, or both.

"(3) ORGANIZATIONS.—If the offense is committed by an organization, a fine of not more than $25,000,000.

"(4) OTHER CIRCUMSTANCES.—In the case of an offense not described in paragraph (1), (2), or (3), a fine under this title, imprisonment for not more than 15 years, or both.

"(c) CIVIL REMEDIES.—

"(1) IN GENERAL.—The district courts of the United States shall have jurisdiction to prevent and restrain violations of this section by issuing appropriate orders, including—

"(A) ordering a person CONVICTED OF AN OFFENSE UNDER THIS SECTION to divest any interest, direct or indirect, in any enterprise, or to destroy, or to mutilate and sell as scrap, aircraft material or part inventories or stocks;

"(B) imposing reasonable restrictions on the future activities or investments of any such person, including prohibiting engagement in the same type of endeavor as used to commit the offense; and

"(C) ordering dissolution or reorganization of any enterprise, making due provisions for the rights and interests of innocent persons.

"(2) RESTRAINING ORDERS AND PROHIBITION.—Pending final determination of a proceeding brought under this section, the court may enter such restraining orders or prohibitions, or take such other actions (including the acceptance of satisfactory performance bonds) as the court deems proper.

"(3) ESTOPPEL.—A final judgment rendered in favor of the United States in any criminal proceeding brought under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the United States.

"(d) CRIMINAL FORFEITURE.—

"(1) IN GENERAL.—The court, in imposing sentence on any person convicted of an offense under this section, shall order, in addition to any other sentence and irrespective of any provision of State law, that the person forfeit to the United States—

"(A) any property constituting, or derived from, any proceeds that the person obtained, directly or indirectly, as a result of the offense; and

"(B) any property used, or intended to be used in any manner, to commit or facilitate the commission of the offense.

"(2) APPLICATION OF OTHER LAW.—The forfeiture of property under this section, including any seizure and disposition of the property, and any proceedings relating to the property, shall be governed by section 413 of the Comprehensive Drug Abuse and Prevention Act of 1970 (21 U.S.C. 853) (not including subsection (d) of that section).

"(e) CONSTRUCTION WITH OTHER LAW.—This section does not preempt or displace any other remedy, civil or criminal, provided by Federal or State law for the fraudulent importation, sale, trade, installation, or introduction into commerce of an aircraft or space vehicle part.

"(f) TERRITORIAL SCOPE.—This section applies to conduct occurring inside or outside the United States.

"(g) AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.—

"(1) AUTHORIZATION.—

"(A) SUBPOENAS.—In any investigation relating to any act or activity involving an offense under this section, the Attorney General may issue in writing and cause to be served a subpoena—

"(i) requiring the production of any record (including any book, paper, document, electronic medium, or other object or tangible thing) that may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care or custody of or control over; and

"(ii) requiring a custodian of a record to give testimony concerning the production and authentication of the record.

"(B) CONTENTS.—A subpoena under subparagraph (A) shall—

"(i) describe the object required to be produced; and

"(ii) prescribe a return date within a reasonable period of time within which the object can be assembled and produced.

"(C) LIMITATION.—The production of a record shall not be required under this section at any place more than 500 miles from the place at which the subpoena for the production of the record is served.

"(D) WITNESS FEES.—A witness summoned under this section shall be paid the same fees and mileage as are paid witnesses in courts of the United States.

"(b) SERVICE.—

"(1) IN GENERAL.—A subpoena issued under subsection (a) may be served by any person who is at least 18 years of age and is designated in the subpoena to serve the subpoena.

"(2) NATURAL PERSONS.—Service of a subpoena issued under subsection (a) on a natural person may be made by personal delivery of the subpoena to the person.

"(3) CORPORATIONS AND OTHER ORGANIZATIONS.—Service of a subpoena issued under subsection (a) on a domestic or foreign corporation or on a partnership or other unincorporated association that is subject to suit under a common name may be made by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process for the corporation, partnership, or association.

"(4) PROOF OF SERVICE.—The affidavit of the person serving the subpoena entered or a true copy of such an affidavit shall be proof of service.

"(c) ENFORCEMENT.—

"(1) IN GENERAL.—In the case of a failure to comply with a subpoena issued under subsection (a), the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which the subpoenaed person carries on business or may be found, to compel compliance with the subpoena.

"(2) ORDERS.—The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce a record or to give testimony concerning the production and authentication of a record.

"(3) CONTEMPT.—Any failure to obey the order of the court may be punished by the court as a contempt of court.

"(4) PROCESS.—All process in a case under this subsection may be served in any judicial district in which the subpoenaed person may be found.

"(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person (including any officer, agent, or employee of a person) that receives a subpoena under this section, who complies in good faith with the subpoena and produces a record or material sought by a subpoena under this section, shall not be liable in any court of any State or the United States to any customer or other person for the production or for nondisclosure of the production to the customer.".

(2) CONFORMING AMENDMENTS.—

(A) CHAPTER ANALYSIS.—The analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"38. Fraud involving aircraft or space vehicle parts in interstate or foreign commerce.".

(B) WIRE AND ELECTRONIC COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is dmended by inserting "section 38 (relating to aircraft parts fraud)," after "section 32 (relating to destruction of aircraft or aircraft facilities),".

SEC. 465. PRESERVATION OF ESSENTIAL AIR SERVICE AT DOMINATED HUB AIRPORTS.

(a) IN GENERAL.—Subchapter II of chapter 417 is amended by adding at the end thereof the following:

"§41743. Preservation of basic essential air service at dominated hub airports

"(a) IN GENERAL.—If the Secretary of Transportation determines that extraordinary circumstances jeopardize the reliable and competitive performance of essential air service under this subchapter from a subsidized essential air service community to and from an essential airport facility, then the Secretary may require the air carrier that has more than 50 percent of the total annual enplanements at the essential airport facility to take action to enable an air carrier to provide reliable and competitive essential air service to that community. Action required by the Secretary under this subsection may include interline agreements, ground services, subleasing of gates, and the provision of any other service or facility necessary for the performance of satisfactory essential air service to that community.

"(b) ESSENTIAL AIRPORT FACILITY DEFINED.—In this section, the term 'essential airport facility' means a large hub airport (as defined in section 41731) in the contiguous 48 States at which 1 air carrier has more than 50 percent of the total annual enplanements at that airport.".

SEC. 466. AVAILABILITY OF FUNDS FOR GEORGIA'S REGIONAL AIRPORT ENHANCEMENT PROGRAM.

Of the amounts made available to the Secretary of Transportation for the fiscal year 2000 under section 48103 of title 49, United States Code, funds may be available for Georgia's regional airport enhancement program for the acquisition of land.

TITLE V—AVIATION COMPETITION PROMOTION

SEC. 501. PURPOSE.

The purpose of this title is to facilitate, through a 4-year pilot program, incentives and projects that will help up to 40 communities or consortia of communities to improve their access to the essential airport facilities of the national air transportation system through public-private partnerships and to identify and establish ways to overcome the unique policy, economic, geographic, and marketplace factors that may inhibit the availability of quality, affordable air service to small communities.

SEC. 502. ESTABLISHMENT OF SMALL COMMUNITY AVIATION DEVELOPMENT PROGRAM.

Section 102 is amended by adding at the end thereof the following:

"(g) SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a 4-year pilot aviation development program to be administered by a program director designated by the Secretary.

"(2) FUNCTIONS.—The program director shall—

"(A) function as a facilitator between small communities and air carriers;

"(B) carry out section 41743 of this title;

"(C) carry out the airline service restoration program under sections 41744, 41745, and 41746 of this title;

"(D) ensure that the Bureau of Transportation Statistics collects data on passenger information to assess the service needs of small communities;

"(E) work with and coordinate efforts with other Federal, State, and local agencies to increase the viability of service to small communities and the creation of aviation development zones; and

"(F) provide policy recommendations to the Secretary and the Congress that will ensure that small communities have access to quality, affordable air transportation services.

"(3) REPORTS.—The program director shall provide an annual report to the Secretary and the Congress beginning in 2000 that—

"(A) analyzes the availability of air transportation services in small communities, including, but not limited to, an assessment of the air fares charged for air transportation services in small communities compared to air fares charged for air transportation services in larger metropolitan areas and an assessment of the levels of service, measured by types of aircraft used, the availability of seats, and scheduling of flights, provided to small communities;

"(B) identifies the policy, economic, geographic and marketplace factors that inhibit the availability of quality, affordable air transportation services to small communities; and

"(C) provides policy recommendations to address the policy, economic, geographic, and marketplace factors inhibiting the availability of quality, affordable air transportation services to small communities.".

SEC. 503. COMMUNITY-CARRIER AIR SERVICE PROGRAM.

(a) IN GENERAL.—Subchapter II of chapter 417 is amended by adding at the end thereof the following:

"§41743. Air service program for small communities

"(a) COMMUNITIES PROGRAM.—Under advisory guidelines prescribed by the Secretary of Transportation, a small community or a consortia of small communities or a State may develop an assessment of its air service requirements, in such form as the program director designated by the Secretary under section 102(g) may require, and submit the assessment and service proposal to the program director.

"(b) SELECTION OF PARTICIPANTS.—In selecting community programs for participation in the communities program under subsection (a), the program director shall apply criteria, including geographical diversity and the presentation of unique circumstances, that will demonstrate the feasibility of the program. For purposes of this subsection, the application of geographical diversity criteria means criteria that—

"(1) will promote the development of a national air transportation system; and

"(2) will involve the participation of communities in all regions of the country.

"(c) CARRIERS PROGRAM.—The program director shall invite part 121 air carriers and regional/commuter carriers (as such terms are defined in section 41715(d) of this title) to offer service proposals in response to, or in conjunction with, community aircraft service assessments submitted to the office under subsection (a). A service proposal under this paragraph shall include—

"(1) an assessment of potential daily passenger traffic, revenues, and costs necessary for the carrier to offer the service;

"(2) a forecast of the minimum percentage of that traffic the carrier would require the community to garner in order for the carrier to start up and maintain the service; and

"(3) the costs and benefits of providing jet service by regional or other jet aircraft.

"(d) PROGRAM SUPPORT FUNCTION.—The program director shall work with small communities and air carriers, taking into account their proposals and needs, to facilitate the initiation of service. The program director—

"(1) may work with communities to develop innovative means and incentives for the initiation of service;

"(2) may obligate funds authorized under section 504 of the Air Transportation Improvement Act to carry out this section;

"(3) shall continue to work with both the carriers and the communities to develop a combination of community incentives and carrier service levels that—

"(A) are acceptable to communities and carriers; and

"(B) do not conflict with other Federal or State programs to facilitate air transportation to the communities;

"(4) designate an airport in the program as an Air Service Development Zone and work with the community on means to attract business to the area surrounding the airport, to develop land use options for the area, and provide data, working with the Department of Commerce and other agencies;

"(5) take such other action under this chapter as may be appropriate.

"(e) LIMITATIONS.—

"(1) COMMUNITY SUPPORT.—The program director may not provide financial assistance under subsection (c)(2) to any community unless the program director determines that—

"(A) a public-private partnership exists at the community level to carry out the community's proposal;

"(B) the community will make a substantial financial contribution that is appropriate for that community's resources, but of not less than 25 percent of the cost of the project in any event;

"(C) the community has established an open process for soliciting air service proposals; and

"(D) the community will accord similar benefits to air carriers that are similarly situated.

"(2) AMOUNT.—The program director may not obligate more than $80,000,000 of the amounts authorized under 504 of the Air Transportation Improvement Act over the 4 years of the program.

"(3) NUMBER OF PARTICIPANTS.—The program established under subsection (a) shall not involve more than 40 communities or consortia of communities.

"(f) REPORT.—The program director shall report through the Secretary to the Congress annually on the progress made under this section during the preceding year in expanding commercial aviation service to smaller communities.

"§41744. Pilot program project authority

"(a) IN GENERAL.—The program director designated by the Secretary of Transportation under section 102(g)(1) shall establish a 4-year pilot program—

"(1) to assist communities and States with inadequate access to the national transportation system to improve their access to that system; and

"(2) to facilitate better air service link-ups to support the improved access.

"(b) PROJECT AUTHORITY.—Under the pilot program established pursuant to subsection (a), the program director may—

"(1) out of amounts authorized under section 504 of the Air Transportation Improvement Act, provide financial assistance by way of grants to small communities or consortia of small communities under section 41743 of up to $500,000 per year; and

"(2) take such other action as may be appropriate.

"(c) OTHER ACTION.—Under the pilot program established pursuant to subsection (a), the program director may facilitate service by—

"(1) working with airports and air carriers to ensure that appropriate facilities are made available at essential airports;

"(2) collecting data on air carrier service to small communities; and

"(3) providing policy recommendations to the Secretary to stimulate air service and competition to small communities.

"(d) ADDITIONAL ACTION.—Under the pilot program established pursuant to subsection (a), the Secretary shall work with air carriers providing service to participating communities and major air carriers serving large hub airports (as defined in section 41731(a)(3)) to facilitate joint fare arrangements consistent with normal industry practice.

"§41745. Assistance to communities for service

"(a) IN GENERAL.—Financial assistance provided under section 41743 during any fiscal year as part of the pilot program established under section 41744(a) shall be implemented for not more than—

"(1) 4 communities within any State at any given time; and

"(2) 40 communities in the entire program at any time.

For purposes of this subsection, a consortium of communities shall be treated as a single community.

"(b) ELIGIBILITY.—In order to participate in a pilot project under this subchapter, a State, community, or group of communities shall apply to the Secretary in such form and at such time, and shall supply such information, as the Secretary may require, and shall demonstrate to the satisfaction of the Secretary that—

"(1) the applicant has an identifiable need for access, or improved access, to the national air transportation system that would benefit the public;

"(2) the pilot project will provide material benefits to a broad section of the travelling public, businesses, educational institutions, and other enterprises whose access to the national air transportation system is limited;

"(3) the pilot project will not impede competition; and

"(4) the applicant has established, or will establish, public-private partnerships in connection with the pilot project to facilitate service to the public.

"(c) COORDINATION WITH OTHER PROVISIONS OF SUBCHAPTER.—The Secretary shall carry out the 4-year pilot program authorized by this subchapter in such a manner as to complement action taken under the other provisions of this subchapter. To the extent the Secretary determines to be appropriate, the Secretary may adopt criteria for implementation of the 4-year pilot program that are the same as, or similar to, the criteria developed under the preceding sections of this subchapter for determining which airports are eligible under those sections. The Secretary shall also, to the extent possible, provide incentives where no direct, viable, and feasible alternative service exists, taking into account geographical diversity and appropriate market definitions.

"(d) MAXIMIZATION OF PARTICIPATION.—The Secretary shall structure the program established pursuant to section 41744(a) in a way designed to—

"(1) permit the participation of the maximum feasible number of communities and States over

a 4-year period by limiting the number of years of participation or otherwise; and

"(2) obtain the greatest possible leverage from the financial resources available to the Secretary and the applicant by—

"(A) progressively decreasing, on a project-by-project basis, any Federal financial incentives provided under this chapter over the 4-year period; and

"(B) terminating as early as feasible Federal financial incentives for any project determined by the Secretary after its implementation to be—

"(i) viable without further support under this subchapter; or

"(ii) failing to meet the purposes of this chapter or criteria established by the Secretary under the pilot program.

"(e) SUCCESS BONUS.—If Federal financial incentives to a community are terminated under subsection (d)(2)(B) because of the success of the program in that community, then that community may receive a one-time incentive grant to ensure the continued success of that program.

"(f) PROGRAM TO TERMINATE IN 4 YEARS.—No new financial assistance may be provided under this subchapter for any fiscal year beginning more than 4 years after the date of enactment of the Air Transportation Improvement Act.

"§41746. Additional authority

"In carrying out this chapter, the Secretary—

"(1) may provide assistance to States and communities in the design and application phase of any project under this chapter, and oversee the implementation of any such project;

"(2) may assist States and communities in putting together projects under this chapter to utilize private sector resources, other Federal resources, or a combination of public and private resources;

"(3) may accord priority to service by jet aircraft;

"(4) take such action as may be necessary to ensure that financial resources, facilities, and administrative arrangements made under this chapter are used to carry out the purposes of title V of the Air Transportation Improvement Act; and

"(5) shall work with the Federal Aviation Administration on airport and air traffic control needs of communities in the program.".

(b) CONFORMING AMENDMENT.—The chapter analysis for subchapter II of chapter 417 is amended by inserting after the item relating to section 41742 the following:

"41743. Air service program for small communities.
"41744. Pilot program project authority.
"41745. Assistance to communities for service.
"41746. Additional authority.".

(c) WAIVER OF LOCAL CONTRIBUTION.—Section 41736(b) is amended by inserting after paragraph (4) the following:

"Paragraph (4) does not apply to any community approved for service under this section during the period beginning October 1, 1991, and ending December 31, 1997.".

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation $80,000,000 to carry out sections 41743 through 41746 of title 49, United States Code, for the 4 fiscal-year period beginning with fiscal year 2000.

SEC. 505. MARKETING PRACTICES.

Section 41712 is amended—

(1) by inserting "(a) IN GENERAL.—" before "On"; and

(2) by adding at the end thereof the following:

"(b) MARKETING PRACTICES THAT ADVERSELY AFFECT SERVICE TO SMALL OR MEDIUM COMMUNITIES.—Within 180 days after the date of enactment of the Air Transportation Improvement Act, the Secretary shall review the marketing practices of air carriers that may inhibit the availability of quality, affordable air transportation services to small- and medium-sized communities, including—

"(1) marketing arrangements between airlines and travel agents;

"(2) code-sharing partnerships;

"(3) computer reservation system displays;

"(4) gate arrangements at airports;

"(5) exclusive dealing arrangements; and

"(6) any other marketing practice that may have the same effect.

"(c) REGULATIONS.—If the Secretary finds, after conducting the review required by subsection (b), that marketing practices inhibit the availability of such service to such communities, then, after public notice and an opportunity for comment, the Secretary may promulgate regulations that address the problem, or take other appropriate action. Nothing in this section expands the authority or jurisdiction of the Secretary to promulgate regulations under the Federal Aviation Act or under any other Act.".

SEC. 506. CHANGES IN, AND PHASE-OUT OF, SLOT RULES.

(a) RULES THAT APPLY TO ALL SLOT EXEMPTION REQUESTS.—

(1) PROMPT CONSIDERATION OF REQUESTS.—Section 41714(i) is amended to read as follows:

"(i) 45-DAY APPLICATION PROCESS.—

"(1) REQUEST FOR SLOT EXEMPTIONS.—Any slot exemption request filed with the Secretary under this section, section 41717, or 41719 shall include—

"(A) the names of the airports to be served;

"(B) the times requested; and

"(C) such additional information as the Secretary may require.

"(2) ACTION ON REQUEST; FAILURE TO ACT.—Within 45 days after a slot exemption request under this section, section 41717, or section 41719 is received by the Secretary, the Secretary shall—

"(A) approve the request if the Secretary determines that the requirements of the section under which the request is made are met;

"(B) return the request to the applicant for additional information; or

"(C) deny the request and state the reasons for its denial.

"(3) 45-DAY PERIOD TOLLED FOR TIMELY REQUEST FOR MORE INFORMATION.—If the Secretary returns the request for additional information during the first 10 days after the request is filed, then the 45-day period shall be tolled until the date on which the additional information is filed with the Secretary.

"(4) FAILURE TO DETERMINE DEEMED APPROVAL.—If the Secretary neither approves the request under paragraph (2)(A) nor denies the request under subparagraph (2)(C) within the 45-day period beginning on the date it is received, excepting any days during which the 45-day period is tolled under paragraph (3), then the request is deemed to have been approved on the 46th day after it was filed with the Secretary.".

(2) EXEMPTIONS MAY NOT BE BOUGHT OR SOLD.—Section 41714 is further amended by adding at the end the following:

"(j) EXEMPTIONS MAY NOT BE BOUGHT OR SOLD.—No exemption from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations, granted under this section, section 41717, or section 41719 may be bought or sold by the carrier to which it is granted.".

(3) EQUAL TREATMENT OF AFFILIATED CARRIERS.—Section 41714, as amended by paragraph (2), is further amended by adding at the end thereof the following:

"(k) AFFILIATED CARRIERS.—For purposes of this section, section 41717, 41718, and 41719, the Secretary shall treat all commuter air carriers that have cooperative agreements, including code-share agreements, with other air carriers equally for determining eligibility for the application of any provision of those sections regardless of the form of the corporate relationship between the commuter air carrier and the other air carrier.".

(4) NEW ENTRANT SLOTS.—Section 41714(c) is amended—

(A) by striking "(1) IN GENERAL.—";

(B) by striking "and the circumstances to be exceptional,"; and

(C) by striking paragraph (2).

(5) LIMITED INCUMBENT; REGIONAL JET.—Section 40102 is amended by—

(A) inserting after paragraph (28) the following:

"(28A) The term 'limited incumbent air carrier' has the meaning given that term in subpart S of part 93 of title 14, Code of Federal Regulations, except that '20' shall be substituted for '12' in sections 93.213(a)(5), 93.223(c)(3), and 93.225(h) as such sections were in effect on August 1, 1998."; and

(B) inserting after paragraph (37) the following:

"(37A) The term 'regional jet' means a passenger, turbofan-powered aircraft carrying not fewer than 30 and not more than 50 passengers.".

(b) PHASE-OUT OF SLOT RULES.—Chapter 417 is amended—

(1) by redesignating sections 41715 and 41716 as sections 41720 and 41721; and

(2) by inserting after section 41714 the following:

"§41715. Phase-out of slot rules at certain airports

"(a) TERMINATION.—The rules contained in subparts S and K of part 93, title 14, Code of Federal Regulations, shall not apply after December 31, 2006, at LaGuardia Airport or John F. Kennedy International Airport.

"(b) FAA SAFETY AUTHORITY NOT COMPROMISED.—Nothing in subsection (a) affects the Federal Aviation Administration's authority for safety and the movement of air traffic.

(c) PRESERVATION OF EXISTING SERVICE.—Chapter 417, as amended by subsection (b), is amended by inserting after section 41715 the following:

"§41716. Preservation of certain existing slot-related air service

"An air carrier that provides air transportation of passengers from a high density airport (other than Ronald Reagan Washington National Airport) to a small hub airport or nonhub airport, or to an airport that is smaller than a small hub or nonhub airport, on or before the date of enactment of the Air Transportation Improvement Act pursuant to an exemption from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), or where slots were issued to an airline conditioned on a specific airport being served, may not terminate air transportation service for that route for a period of 2 years (with respect to service from LaGuardia Airport or John F. Kennedy International Airport), or 4 years (with respect to service from Chicago O'Hare International Airport), after the date on which those requirements cease to apply to that high density airport unless—

"(1) before October 1, 1999, the Secretary received a written air service termination notice for that route; or

"(2) after September 30, 1999, the air carrier submits an air service termination notice under section 41720 for that route and the Secretary determines that the carrier suffered excessive losses, including substantial losses on operations on that route during the calendar quarters immediately preceding submission of the notice.".

(d) SPECIAL RULES AFFECTING LAGUARDIA AIRPORT AND JOHN F. KENNEDY INTERNATIONAL

AIRPORT.—Chapter 417, as amended by subsection (c), is amended by inserting after section 41716 the following:

"§41717. Interim slot rules at New York airports

"(a) IN GENERAL.—The Secretary of Transportation may, by order, grant exemptions from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports) with respect to a regional jet aircraft providing air transportation between LaGuardia Airport or John F. Kennedy International Airport and a small hub or nonhub airport—

"(1) if the operator of the regional jet aircraft was not providing such air transportation during the week of June 15, 1999; or

"(2) if the level of air transportation to be provided between such airports by the operator of the regional jet aircraft during any week will exceed the level of air transportation provided by such operator between such airports during the week of June 15, 1999.".

(e) SPECIAL RULES AFFECTING CHICAGO O'HARE INTERNATIONAL AIRPORT.—

(1) IN GENERAL.—Subchapter I of chapter 417, as amended by subsection (d), is amended by inserting after section 41717 the following:

"§41718. Special Rules for Chicago O'Hare International Airport

"(a) IN GENERAL.—The Secretary of Transportation shall grant 30 slot exemptions over a 3-year period beginning on the date of enactment of the Air Transportation Improvement Act at Chicago O'Hare International Airport.

"(b) EQUIPMENT AND SERVICE REQUIREMENTS.—

"(1) STAGE 3 AIRCRAFT REQUIRED.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

"(2) SERVICE PROVIDED.—Of the exemptions granted under subsection (a)—

"(A) 18 shall be used only for service to underserved markets, of which no fewer than 6 shall be designated as commuter slot exemptions; and

"(B) 12 shall be air carrier slot exemptions.

"(c) PROCEDURAL REQUIREMENTS.—Before granting exemptions under subsection (a), the Secretary shall—

"(1) conduct an environmental review, taking noise into account, and determine that the granting of the exemptions will not cause a significant increase in noise;

"(2) determine whether capacity is available and can be used safely and, if the Secretary so determines then so certify;

"(3) give 30 days notice to the public through publication in the Federal Register of the Secretary's intent to grant the exemptions; and

"(4) consult with appropriate officers of the State and local government on any related noise and environmental issues.

"(d) UNDERSERVED MARKET DEFINED.—In this section, the term 'service to underserved markets' means passenger air transportation service to an airport that is a nonhub airport or a small hub airport (as defined in paragraphs (4) and (5), respectively, of section 41731(a)).".

(2) 3-YEAR REPORT.—The Secretary shall study and submit a report 3 years after the first exemption granted under section 41718(a) of title 49, United States Code, is first used on the impact of the additional slots on the safety, environment, noise, access to underserved markets, and competition at Chicago O'Hare International Airport.

(f) SPECIAL RULES AFFECTING REAGAN WASHINGTON NATIONAL AIRPORT.—

(1) IN GENERAL.—Chapter 417, as amended by subsection (e), is amended by inserting after section 41718 the following:

"§41719. Special Rules for Ronald Reagan Washington National Airport

"(a) BEYOND-PERIMETER EXEMPTIONS.—The Secretary shall by order grant exemptions from the application of sections 49104(a)(5), 49109, 49111(e), and 41714 of this title to air carriers to operate limited frequencies and aircraft on select routes between Ronald Reagan Washington National Airport and domestic hub airports and exemptions from the requirements of subparts K and S of part 93, Code of Federal Regulations, if the Secretary finds that the exemptions will—

"(1) provide air transportation service with domestic network benefits in areas beyond the perimeter described in that section;

"(2) increase competition by new entrant air carriers or in multiple markets;

"(3) not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter described in section 49109 of this title; and

"(4) not result in meaningfully increased travel delays.

"(b) WITHIN-PERIMETER EXEMPTIONS.—The Secretary shall by order grant exemptions from the requirements of sections 49104(a)(5), 49111(e), and 41714 of this title and subparts K and S of part 93 of title 14, Code of Federal Regulations, to air carriers for service to airports that were designated as medium-hub or smaller airports in the Federal Aviation Administration's Primary Airport Enplanement Activity Summary for Calendar Year 1997 within the perimeter established for civil aircraft operations at Ronald Reagan Washington National Airport under section 49109. The Secretary shall develop criteria for distributing slot exemptions for flights within the perimeter to such airports under this paragraph in a manner that promotes air transportation—

"(1) by new entrant and limited incumbent air carriers;

"(2) to communities without existing service to Ronald Reagan Washington National Airport;

"(3) to small communities; or

"(4) that will provide competitive service on a monopoly nonstop route to Ronald Reagan Washington National Airport.

"(c) LIMITATIONS.—

"(1) STAGE 3 AIRCRAFT REQUIRED.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

"(2) GENERAL EXEMPTIONS.—The exemptions granted under subsections (a) and (b) may not increase the number of operations at Ronald Reagan Washington National Airport in any 1-hour period during the hours between 7:00 a.m. and 9:59 p.m. by more than 2 operations.

"(3) ADDITIONAL EXEMPTIONS.—The Secretary shall grant exemptions under subsections (a) and (b) that—

"(A) will result in 12 additional daily air carrier slot exemptions at such airport for long-haul service beyond the perimeter;

"(B) will result in 12 additional daily air carrier slot exemptions at such airport for service within the perimeter; and

"(C) will not result in additional daily slot exemptions for service to any within-the-perimeter airport that was designated as a large-hub airport in the Federal Aviation Administration's Primary Airport Enplanement Activity Summary for Calendar Year 1997.

"(4) ASSESSMENT OF SAFETY, NOISE AND ENVIRONMENTAL IMPACTS.—The Secretary shall assess the impact of granting exemptions, including the impacts of the additional slots and flights at Ronald Reagan Washington National Airport provided under subsections (a) and (b) on safety, noise levels and the environment within 90 days of the date of the enactment of the Air Transportation Improvement Act. The environmental assessment shall be carried out in accordance with parts 1500–1508 of title 40, Code of Federal Regulations. Such environmental assessment shall include a public meeting.

"(5) APPLICABILITY WITH EXEMPTION 5133.—Nothing in this section affects Exemption No. 5133, as from time-to-time amended and extended.".

(2) OVERRIDE OF MWAA RESTRICTION.—Section 49104(a)(5) is amended by adding at the end thereof the following:

"(D) Subparagraph (C) does not apply to any increase in the number of instrument flight rule takeoffs and landings necessary to implement exemptions granted by the Secretary under section 41719.".

(3) MWAA NOISE-RELATED GRANT ASSURANCES.—

(A) IN GENERAL.—In addition to any condition for approval of an airport development project that is the subject of a grant application submitted to the Secretary of Transportation under chapter 471 of title 49, United States Code, by the Metropolitan Washington Airports Authority, the Authority shall be required to submit a written assurance that, for each such grant made to the Authority for fiscal year 2000 or any subsequent fiscal year—

(i) the Authority will make available for that fiscal year funds for noise compatibility planning and programs that are eligible to receive funding under chapter 471 of title 49, United States Code, in an amount not less than 10 percent of the aggregate annual amount of financial assistance provided to the Authority by the Secretary as grants under chapter 471 of title 49, United States Code; and

(ii) the Authority will not divert funds from a high priority safety project in order to make funds available for noise compatibility planning and programs.

(B) WAIVER.—The Secretary of Transportation may waive the requirements of subparagraph (A) for any fiscal year for which the Secretary determines that the Metropolitan Washington Airports Authority is in full compliance with applicable airport noise compatibility planning and program requirements under part 150 of title 14, Code of Federal Regulations.

(C) SUNSET.—This paragraph shall cease to be in effect 5 years after the date of enactment of this Act if on that date the Secretary of Transportation certifies that the Metropolitan Washington Airports Authority has achieved full compliance with applicable noise compatibility planning and program requirements under part 150 of title 14, Code of Federal Regulations.

(4) REPORT.—Within 1 year after the date of enactment of this Act, and biannually thereafter, the Secretary shall certify to the United States Senate Committee on Commerce, Science, and Transportation, the United States House of Representatives Committee on Transportation and Infrastructure, the Governments of Maryland, Virginia, and West Virginia and the metropolitan planning organization for Washington, D.C., that noise standards, air traffic congestion, airport-related vehicular congestion, safety standards, and adequate air service to communities served by small hub airports and medium hub airports within the perimeter described in section 49109 of title 49, United States Code, have been maintained at appropriate levels.

(g) NOISE COMPATIBILITY PLANNING AND PROGRAMS.—Section 47117(e) is amended by adding at the end the following:

"(3) The Secretary shall give priority in making grants under paragraph (1)(A) to applications for airport noise compatibility planning and programs at and around—

"(A) LaGuardia Airport;

"(B) John F. Kennedy International Airport; and

"(C) Ronald Reagan Washington National Airport.".

(h) Study of Community Noise Levels Around High Density Airports.—The Secretary of Transportation shall study community noise levels in the areas surrounding the 4 high-density airports after the 100 percent Stage 3 fleet requirements are in place, and compare those levels with the levels in such areas before 1991.

(i) Conforming Amendments.—

(1) Section 49111 is amended by striking subsection (e).

(2) The chapter analysis for subchapter I of chapter 417 is amended—

(A) by redesignating the items relating to sections 41715 and 41716 as relating to sections 41720 and 41721, respectively; and

(B) by inserting after the item relating to section 41714 the following:

"41715. Phase-out of slot rules at certain airports.

"41716. Preservation of certain existing slot-related air service.

"41717. Interim slot rules at New York airports.

"41718. Interim application of slot rules at Chicago O'Hare. International Airport.

"41719. Special Rules for Ronald Reagan Washington National Airport.".

(3) Conforming Amendment.—Section 41714(a)(3) is amended by adding at the end thereof the following: "The 132 slot cap under this paragraph does not apply to exemptions or slots made available under section 41718.".

SEC. 507. CONSUMER NOTIFICATION OF E-TICKET EXPIRATION DATES.

Section 41712, as amended by section 505 of this Act, is amended by adding at the end thereof the following:

"(d) E-Ticket Expiration Notice.—It shall be an unfair or deceptive practice under subsection (a) for any air carrier utilizing electronically transmitted tickets to fail to notify the purchaser of such a ticket of its expiration date, if any.".

SEC. 508. REGIONAL AIR SERVICE INCENTIVE OPTIONS.

(a) Purpose.—The purpose of this section is to provide the Congress with an analysis of means to improve service by jet aircraft to underserved markets by authorizing a review of different programs of Federal financial assistance, including loan guarantees like those that would have been provided for by section 2 of S. 1353, 105th Congress, as introduced, to commuter air carriers that would purchase regional jet aircraft for use in serving those markets.

(b) Study.—The Secretary of Transportation shall study the efficacy of a program of Federal loan guarantees for the purchase of regional jets by commuter air carriers. The Secretary shall include in the study a review of options for funding, including alternatives to Federal funding. In the study, the Secretary shall analyze—

(1) the need for such a program;

(2) its potential benefit to small communities;

(3) the trade implications of such a program;

(4) market implications of such a program for the sale of regional jets;

(5) the types of markets that would benefit the most from such a program;

(6) the competitive implications of such a program; and

(7) the cost of such a program.

(c) Report.—The Secretary shall submit a report of the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not later than 24 months after the date of enactment of this Act.

SEC. 509. REQUIREMENT TO ENHANCE COMPETITIVENESS OF SLOT EXEMPTIONS FOR REGIONAL JET AIR SERVICE AND NEW ENTRANT AIR CARRIERS AT CERTAIN HIGH DENSITY TRAFFIC AIRPORTS.

(a) In General.—Subchapter I of chapter 417, as amended by sections 507 and 508, is amended by adding at the end thereof the following:

"§41721. Requirement to enhance competitiveness of slot exemptions for nonstop regional jet air service and new entrant air carriers at certain airports

"In granting slot exemptions for nonstop regional jet air service and new entrant air carriers under this subchapter to John F. Kennedy International Airport, and La Guardia Airport, the Secretary of Transportation shall require the Federal Aviation Administration to provide commercially reasonable times to takeoffs and landings of air flights conducted under those exemptions.".

(b) Conforming Amendment.—The chapter analysis for subchapter I of chapter 417, as amended by this title, is amended by adding at the end thereof the following:

"41721. Requirement to enhance competitiveness of slot exemptions for nonstop regional jet air service and new entrant air carriers at certain airports.".

TITLE VI—NATIONAL PARKS OVERFLIGHTS

SEC. 601. FINDINGS.

The Congress finds that—

(1) the Federal Aviation Administration has sole authority to control airspace over the United States;

(2) the Federal Aviation Administration has the authority to preserve, protect, and enhance the environment by minimizing, mitigating, or preventing the adverse effects of aircraft overflights on the public and tribal lands;

(3) the National Park Service has the responsibility of conserving the scenery and natural and historic objects and wildlife in national parks and of providing for the enjoyment of the national parks in ways that leave the national parks unimpaired for future generations;

(4) the protection of tribal lands from aircraft overflights is consistent with protecting the public health and welfare and is essential to the maintenance of the natural and cultural resources of Indian tribes;

(5) the National Parks Overflights Working Group, composed of general aviation, air tour, environmental, and Native American representatives, recommended that the Congress enact legislation based on its consensus work product; and

(6) this title reflects the recommendations made by that Group.

SEC. 602. AIR TOUR MANAGEMENT PLANS FOR NATIONAL PARKS.

(a) In General.—Chapter 401, as amended by section 301 of this Act, is amended by adding at the end the following:

"§40126. Overflights of national parks

"(a) In General.—

"(1) General requirements.—A commercial air tour operator may not conduct commercial air tour operations over a national park or tribal lands except—

"(A) in accordance with this section;

"(B) in accordance with conditions and limitations prescribed for that operator by the Administrator; and

"(C) in accordance with any effective air tour management plan for that park or those tribal lands.

"(2) Application for operating authority.—

"(A) Application required.—Before commencing commercial air tour operations over a national park or tribal lands, a commercial air tour operator shall apply to the Administrator for authority to conduct the operations over that park or those tribal lands.

"(B) Competitive bidding for limited capacity parks.—Whenever a commercial air tour management plan limits the number of commercial air tour flights over a national park area during a specified time frame, the Administrator, in cooperation with the Director, shall authorize commercial air tour operators to provide such service. The authorization shall specify such terms and conditions as the Administrator and the Director find necessary for management of commercial air tour operations over the national park. The Administrator, in cooperation with the Director, shall develop an open competitive process for evaluating proposals from persons interested in providing commercial air tour services over the national park. In making a selection from among various proposals submitted, the Administrator, in cooperation with the Director, shall consider relevant factors, including—

"(i) the safety record of the company or pilots;

"(ii) any quiet aircraft technology proposed for use;

"(iii) the experience in commercial air tour operations over other national parks or scenic areas;

"(iv) the financial capability of the company;

"(v) any training programs for pilots; and

"(vi) responsiveness to any criteria developed by the National Park Service or the affected national park.

"(C) Number of operations authorized.—In determining the number of authorizations to issue to provide commercial air tour service over a national park, the Administrator, in cooperation with the Director, shall take into consideration the provisions of the air tour management plan, the number of existing commercial air tour operators and current level of service and equipment provided by any such companies, and the financial viability of each commercial air tour operation.

"(D) Cooperation with NPS.—Before granting an application under this paragraph, the Administrator shall, in cooperation with the Director, develop an air tour management plan in accordance with subsection (b) and implement such plan.

"(E) Time limit on response to ATMP applications.—The Administrator shall act on any such application and issue a decision on the application not later than 24 months after it is received or amended.

"(3) Exception.—Notwithstanding paragraph (1), commercial air tour operators may conduct commercial air tour operations over a national park under part 91 of the Federal Aviation Regulations (14 CFR 91.1 et seq.) if—

"(A) such activity is permitted under part 119 (14 CFR 119.1(e)(2));

"(B) the operator secures a letter of agreement from the Administrator and the national park superintendent for that national park describing the conditions under which the flight operations will be conducted; and

"(C) the total number of operations under this exception is limited to not more than 5 flights in any 30-day period over a particular park.

"(4) Special rule for safety requirements.—Notwithstanding subsection (c), an existing commercial air tour operator shall, not later than 90 days after the date of enactment of the Air Transportation Improvement Act, apply for operating authority under part 119, 121, or 135 of the Federal Aviation Regulations (14 CFR Pt. 119, 121, or 135). A new entrant commercial air tour operator shall apply for such authority before conducting commercial air tour operations over a national park or tribal lands.

"(b) Air Tour Management Plans.—

"(1) ESTABLISHMENT OF ATMPS.—

"(A) IN GENERAL.—The Administrator shall, in cooperation with the Director, establish an air tour management plan for any national park or tribal land for which such a plan is not already in effect whenever a person applies for authority to operate a commercial air tour over the park. The development of the air tour management plan is to be a cooperative undertaking between the Federal Aviation Administration and the National Park Service. The air tour management plan shall be developed by means of a public process, and the agencies shall develop information and analysis that explains the conclusions that the agencies make in the application of the respective criteria. Such explanations shall be included in the Record of Decision and may be subject to judicial review.

"(B) OBJECTIVE.—The objective of any air tour management plan shall be to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tours upon the natural and cultural resources and visitor experiences and tribal lands.

"(2) ENVIRONMENTAL DETERMINATION.—In establishing an air tour management plan under this subsection, the Administrator and the Director shall each sign the environmental decision document required by section 102 of the National Environmental Policy Act. of 1969 (42 U.S.C. 4332) which may include a finding of no significant impact, an environmental assessment, or an environmental impact statement, and the Record of Decision for the air tour management plan.

"(3) CONTENTS.—An air tour management plan for a national park—

"(A) may prohibit commercial air tour operations in whole or in part;

"(B) may establish conditions for the conduct of commercial air tour operations, including commercial air tour routes, maximum or minimum altitudes, time-of-day restrictions, restrictions for particular events, maximum number of flights per unit of time, intrusions on privacy on tribal lands, and mitigation of noise, visual, or other impacts;

"(C) shall apply to all commercial air tours within ½ mile outside the boundary of a national park;

"(D) shall include incentives (such as preferred commercial air tour routes and altitudes, relief from caps and curfews) for the adoption of quiet aircraft technology by commercial air tour operators conducting commercial air tour operations at the park;

"(E) shall provide for the initial allocation of opportunities to conduct commercial air tours if the plan includes a limitation on the number of commercial air tour flights for any time period; and

"(F) shall justify and document the need for measures taken pursuant to subparagraphs (A) through (E).

"(4) PROCEDURE.—In establishing a commercial air tour management plan for a national park, the Administrator and the Director shall—

"(A) initiate at least one public meeting with interested parties to develop a commercial air tour management plan for the park;

"(B) publish the proposed plan in the Federal Register for notice and comment and make copies of the proposed plan available to the public;

"(C) comply with the regulations set forth in sections 1501.3 and 1501.5 through 1501.8 of title 40, Code of Federal Regulations (for purposes of complying with those regulations, the Federal Aviation Administration is the lead agency and the National Park Service is a cooperating agency); and

"(D) solicit the participation of any Indian tribe whose tribal lands are, or may be, overflown by aircraft involved in commercial air tour operations over a national park or tribal lands, as a cooperating agency under the regulations referred to in paragraph (4)(C).

"(5) AMENDMENTS.—Any amendment of an air tour management plan shall be published in the Federal Register for notice and comment. A request for amendment of an air tour management plan shall be made in such form and manner as the Administrator may prescribe.

"(c) INTERIM OPERATING AUTHORITY.—

"(1) IN GENERAL.—Upon application for operating authority, the Administrator shall grant interim operating authority under this paragraph to a commercial air tour operator for a national park or tribal lands for which the operator is an existing commercial air tour operator.

"(2) REQUIREMENTS AND LIMITATIONS.—Interim operating authority granted under this subsection—

"(A) shall provide annual authorization only for the greater of—

"(i) the number of flights used by the operator to provide such tours within the 12-month period prior to the date of enactment of the Air Transportation Improvement Act; or

"(ii) the average number of flights per 12-month period used by the operator to provide such tours within the 36-month period prior to such date of enactment, and, for seasonal operations, the number of flights so used during the season or seasons covered by that 12-month period;

"(B) may not provide for an increase in the number of operations conducted during any time period by the commercial air tour operator to which it is granted unless the increase is agreed to by the Administrator and the Director;

"(C) shall be published in the Federal Register to provide notice and opportunity for comment;

"(D) may be revoked by the Administrator for cause;

"(E) shall terminate 180 days after the date on which an air tour management plan is established for that park or those tribal lands; and

"(F) shall—

"(i) promote protection of national park resources, visitor experiences, and tribal lands;

"(ii) promote safe operations of the commercial air tour;

"(iii) promote the adoption of quiet technology, as appropriate; and

"(iv) allow for modifications of the operation based on experience if the modification improves protection of national park resources and values and of tribal lands.

"(3) NEW ENTRANT AIR TOUR OPERATORS.—

"(A) IN GENERAL.—The Administrator, in cooperation with the Director, may grant interim operating authority under this paragraph to an air tour operator for a national park for which that operator is a new entrant air tour operator if the Administrator determines the authority is necessary to ensure competition in the provision of commercial air tours over that national park or those tribal lands.

"(B) SAFETY LIMITATION.—The Administrator may not grant interim operating authority under subparagraph (A) if the Administrator determines that it would create a safety problem at that park or on tribal lands, or the Director determines that it would create a noise problem at that park or on tribal lands.

"(C) ATMP LIMITATION.—The Administrator may grant interim operating authority under subparagraph (A) of this paragraph only if the air tour management plan for the park or tribal lands to which the application relates has not been developed within 24 months after the date of enactment of the Air Transportation Improvement Act.

"(d) DEFINITIONS.—In this section, the following definitions apply:

"(1) COMMERCIAL AIR TOUR.—The term 'commercial air tour' means any flight conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing. If the operator of a flight asserts that the flight is not a commercial air tour, factors that can be considered by the Administrator in making a determination of whether the flight is a commercial air tour, include, but are not limited to—

"(A) whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;

"(B) whether a narrative was provided that referred to areas or points of interest on the surface;

"(C) the area of operation;

"(D) the frequency of flights;

"(E) the route of flight;

"(F) the inclusion of sightseeing flights as part of any travel arrangement package; or

"(G) whether the flight or flights in question would or would not have been canceled based on poor visibility of the surface.

"(2) COMMERCIAL AIR TOUR OPERATOR.—The term 'commercial air tour operator' means any person who conducts a commercial air tour.

"(3) EXISTING COMMERCIAL AIR TOUR OPERATOR.—The term 'existing commercial air tour operator' means a commercial air tour operator that was actively engaged in the business of providing commercial air tours over a national park at any time during the 12-month period ending on the date of enactment of the Air Transportation Improvement Act.

"(4) NEW ENTRANT COMMERCIAL AIR TOUR OPERATOR.—The term 'new entrant commercial air tour operator' means a commercial air tour operator that—

"(A) applies for operating authority as a commercial air tour operator for a national park; and

"(B) has not engaged in the business of providing commercial air tours over that national park or those tribal lands in the 12-month period preceding the application.

"(5) COMMERCIAL AIR TOUR OPERATIONS.—The term 'commercial air tour operations' means commercial air tour flight operations conducted—

"(A) over a national park or within ½ mile outside the boundary of any national park;

"(B) below a minimum altitude, determined by the Administrator in cooperation with the Director, above ground level (except solely for purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the rules and regulations of the Federal Aviation Administration requiring the pilot-in-command to take action to ensure the safe operation of the aircraft); and

"(C) less than 1 mile laterally from any geographic feature within the park (unless more than ½ mile outside the boundary).

"(6) NATIONAL PARK.—The term 'national park' means any unit of the National Park System.

"(7) TRIBAL LANDS.—The term 'tribal lands' means 'Indian country', as defined by section 1151 of title 18, United States Code, that is within or abutting a national park.

"(8) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

"(9) DIRECTOR.—The term 'Director' means the Director of the National Park Service.".

(b) EXEMPTIONS AND SPECIAL RULES.—

(1) GRAND CANYON.—Section 40126 of title 49, United States Code, as added by subsection (a), does not apply to—

(A) the Grand Canyon National Park; or

(B) Indian country within or abutting the Grand Canyon National Park.

(2) LAKE MEAD.—A commercial air tour of the Grand Canyon that transits over or near the Lake Mead National Recreation Area en route to, or returning from, the Grand Canyon, without offering a deviation in flight path between

its point of origin and the Grand Canyon, shall be considered, for purposes of paragraph (1), to be exclusively a commercial air tour of the Grand Canyon.

(3) QUIET AIRCRAFT TECHNOLOGY FOR GRAND CANYON.—

(A) QUIET TECHNOLOGY REQUIREMENTS.—Within 9 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall designate reasonably achievable requirements for fixed-wing and helicopter aircraft necessary for such aircraft to be considered as employing quiet aircraft technology for purposes of this section. If no requirements are promulgated as mandated by this paragraph, then beginning 9 months after enactment of this Act and until the provisions of this paragraph are met, any aircraft shall be considered to be in compliance with this paragraph.

(B) ROUTES OR CORRIDORS.—The Administrator shall by rule establish routes or corridors for commercial air tours (as defined in section 40126(d)(1) of title 49, United States Code) by fixed-wing and helicopter aircraft that employ quiet aircraft technology for—

(i) tours of the Grand Canyon originating in Clark County, Nevada; and

(ii) "local loop" tours originating at the Grand Canyon National Park Airport, in Tusayan, Arizona.

(C) OPERATIONAL CAPS AND EXPANDED HOURS.—Commercial air tours (as so defined) by any fixed-wing or helicopter aircraft that employs quiet aircraft technology and that replaces an existing aircraft—

(i) shall not be subject to operational flight allocations applicable to other commercial air tours of the Grand Canyon; and

(ii) may be conducted during the hours from 7:00 a.m. to 7:00 p.m.

(D) MODIFICATION OF EXISTING AIRCRAFT TO MEET STANDARDS.—A commercial air tour (as so defined) by a fixed-wing or helicopter aircraft in a commercial air tour operator's fleet on the date of enactment of this Act that meets the requirements designated under subparagraph (A), or is subsequently modified to meet the requirements designated under subparagraph (A) may be used for commercial air tours under the same terms and conditions as a replacement aircraft under subparagraph (C) without regard to whether it replaces an existing aircraft.

(E) GOAL OF RESTORING NATURAL QUIET.—Nothing in this paragraph reduces the goal, established for the Federal Aviation Administration and the National Park Service under Public Law 100–91 (16 U.S.C. 1a–1 note), of achieving substantial restoration of the natural quiet at the Grand Canyon National Park.

(4) ALASKA.—The provisions of this title and section 40126 of title 49, United States Code, as added by subsection (a), do not apply to any land or waters located in Alaska.

(5) COMPLIANCE WITH OTHER REGULATIONS.—For purposes of section 40126 of title 49, United States Code—

(A) regulations issued by the Secretary of Transportation and the Administrator of the Federal Aviation Administration under section 3 of Public Law 100–91 (16 U.S.C. 1a–1, note); and

(B) commercial air tour operations carried out in compliance with the requirements of those regulations,

shall be deemed to meet the requirements of such section 40126.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 401 is amended by adding at the end thereof the following:

"40126. Overflights of national parks.".

SEC. 603. ADVISORY GROUP.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration and the Director of the National Park Service shall jointly establish an advisory group to provide continuing advice and counsel with respect to the operation of commercial air tours over and near national parks.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The advisory group shall be composed of—

(A) a balanced group of —

(i) representatives of general aviation;

(ii) representatives of commercial air tour operators;

(iii) representatives of environmental concerns; and

(iv) representatives of Indian tribes;

(B) a representative of the Federal Aviation Administration; and

(C) a representative of the National Park Service.

(2) EX-OFFICIO MEMBERS.—The Administrator and the Director shall serve as ex-officio members.

(3) CHAIRPERSON.—The representative of the Federal Aviation Administration and the representative of the National Park Service shall serve alternating 1-year terms as chairman of the advisory group, with the representative of the Federal Aviation Administration serving initially until the end of the calendar year following the year in which the advisory group is first appointed.

(c) DUTIES.—The advisory group shall provide advice, information, and recommendations to the Administrator and the Director—

(1) on the implementation of this title;

(2) on the designation of appropriate and feasible quiet aircraft technology standards for quiet aircraft technologies under development for commercial purposes, which will receive preferential treatment in a given air tour management plan;

(3) on other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) on such other national park or tribal lands-related safety, environmental, and air touring issues as the Administrator and the Director may request.

(d) COMPENSATION; SUPPORT; FACA.—

(1) COMPENSATION AND TRAVEL.—Members of the advisory group who are not officers or employees of the United States, while attending conferences or meetings of the group or otherwise engaged in its business, or while serving away from their homes or regular places of business, each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) ADMINISTRATIVE SUPPORT.—The Federal Aviation Administration and the National Park Service shall jointly furnish to the advisory group clerical and other assistance.

(3) NONAPPLICATION OF FACA.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the advisory group.

(e) REPORT.—The Administrator and the Director shall jointly report to the Congress within 24 months after the date of enactment of this Act on the success of this title in providing incentives for quiet aircraft technology.

SEC. 604. OVERFLIGHT FEE REPORT.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to Congress a report on the effects proposed overflight fees are likely to have on the commercial air tour industry. The report shall include, but shall not be limited to—

(1) the viability of a tax credit for the commercial air tour operators equal to the amount of the proposed fee charged by the National Park Service; and

(2) the financial effects proposed offsets are likely to have on Federal Aviation Administration budgets and appropriations.

SEC. 605. PROHIBITION OF COMMERCIAL AIR TOURS OVER THE ROCKY MOUNTAIN NATIONAL PARK.

Effective beginning on the date of enactment of this Act, no commercial air tour may be operated in the airspace over the Rocky Mountain National Park notwithstanding any other provision of this Act or section 40126 of title 49, United States Code, as added by this Act.

TITLE VII—TITLE 49 TECHNICAL CORRECTIONS

SEC. 701. RESTATEMENT OF 49 U.S.C. 106(g).

(a) IN GENERAL.—Section 106(g) is amended by striking "40113(a), (c), and (d), 40114(a), 40119, 44501(a) and (c), 44502(a)(1), (b) and (c), 44504, 44505, 44507, 44508, 44511–44513, 44701–44716, 44718(c), 44721(a), 44901, 44902, 44903(a)–(c) and (e), 44906, 44912, 44935–44937, and 44938(a) and (b), chapter 451, sections 45302–45304," and inserting "40113(a), (c)–(e), 40114(a), and 40119, and chapter 445 (except sections 44501(b), 44502(a)(2)–(4), 44503, 44506, 44509, 44510, 44514, and 44515), chapter 447 (except sections 44717, 44718(a) and (b), 44719, 44720, 44721(b), 44722, and 44723), chapter 449 (except sections 44903(d), 44904, 44905, 44907–44911, 44913, 44915, and 44931–44934), chapter 451, chapter 453, sections".

(b) TECHNICAL CORRECTION.—The amendment made by this section may not be construed as making a substantive change in the language replaced.

SEC. 702. RESTATEMENT OF 49 U.S.C. 44909.

Section 44909(a)(2) is amended by striking "shall" and inserting "should".

TITLE VIII—TRANSFER OF AERONAUTICAL CHARTING ACTIVITY

SEC. 801. TRANSFER OF FUNCTIONS, POWERS, AND DUTIES.

Effective October 1, 2000, there are transferred to the Federal Aviation Administration and vested in the Administrator of the Federal Aviation Administration the functions, powers, and duties of the Secretary of Commerce and other officers of the Department of Commerce that relate to the Office of Aeronautical Charting and Cartography and are set forth in section 44721 of title 49, United States Code.

SEC. 802. TRANSFER OF OFFICE, PERSONNEL AND FUNDS.

(a) Effective October 1, 2000 the Office of Aeronautical Charting and Cartography of the National Oceanic and Atmospheric Administration, Department of Commerce, is transferred to the Federal Aviation Administration.

(b) Effective October 1, 2000 the personnel employed in connection with, and the assets, liabilities, contracts, property, equipment, facilities, records, and unexpended balance of appropriations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the function and offices, or portions of offices, transferred by this Act, including all Senior Executive Service positions, subject to section 1531 of title 31, United States Code, are transferred to the Administrator of the Federal Aviation Administration for appropriate allocation. Personnel employed in connection with functions transferred by this Act transfer under any applicable law and regulation relating to transfer of functions. Unexpended funds transferred under this section shall be used only for the purposes for which the funds were originally authorized and appropriated, except that funds may be used for expenses associated with the transfer authorized by this Act.

SEC. 803. AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) IN GENERAL.—Section 44721 is amended to read as follows:

"§ 44721. Aeronautical charts and related products and services

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration is invested with and shall exercise, effective October 1, 2000 the functions, powers, and duties of the Secretary of Commerce and other officers of the Department of Commerce that relate to the Office of Aeronautical Charting and Cartography to provide aeronautical charts and related products and services for the safe and efficient navigation of air commerce, under the following authorities:

"(1) Sections 1 through 9 of the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947, (33 U.S.C. 883a-883h).

"(2) Section 6082 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (33 U.S.C. 883j).

"(3) Section 1307 of title 44, United States Code.

"(4) The provision of title II of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995 under the heading 'National Oceanic and Atmospheric Administration' relating to aeronautical charts (44 U.S.C. 1307 nt).

"(b) AUTHORITY TO CONDUCT SURVEYS.—To provide aeronautical charts and related products and services for the safe and efficient navigation of air commerce, and to provide basic data for engineering and scientific purposes and for other commercial and industrial needs, the Administrator is authorized to conduct the following activities:

"(1) Aerial and field surveys for aeronautical charts.

"(2) Other airborne and field surveys when in the best interest of the United States Government.

"(3) Acquiring, owning, operating, maintaining and staffing aircraft in support of surveys.

"(c) ADDITIONAL AUTHORITY.—In order that full public benefit may be derived from the dissemination of data resulting from activities under this section and of related data from other sources, the Administrator is authorized to conduct the following activities:

"(1) Developing, processing, disseminating and publishing of digital and analog data, information, compilations, and reports.

"(2) Compiling, printing, and disseminating aeronautical charts and related products and services of the United States, its Territories, and possessions.

"(3) Compiling, printing and disseminating aeronautical charts and related products and services covering international airspace as are required primarily by United States civil aviation.

"(4) Compiling, printing and disseminating non-aeronautical navigational, transportation or public-safety-related products and services when in the best interests of the United States Government.

"(d) CONTRACT, COOPERATIVE AGREEMENTS, GRANTS, AND OTHER AGREEMENTS.—

"(1) The Administrator is authorized to contract with qualified organizations for the performance of any part of the authorized functions of the Office of Aeronautical Charting and Cartography when the Administrator deems such procedure to be in the public interest and will not compromise public safety.

"(2) The Administrator is authorized to enter into cooperative agreements, grants, reimbursable agreements, memoranda of understanding and other agreements, with a State, subdivision of a State, Federal agency, public or private organization, or individual, to carry out the purposes of this section.

"(e) SPECIAL SERVICES AND PRODUCTS.—

"(1) The Administrator is authorized, at the request of a State, subdivision of a State, Federal agency, public or private organization, or individual, to conduct special services, including making special studies, or developing special publications or products on matters relating to navigation, transportation, or public safety.

"(2) The Administrator shall assess a fee for any special service provided under paragraph (1). A fee shall be not more than the actual or estimated full cost of the service. A fee may be reduced or waived for research organizations, educational organizations, or non-profit organizations, when the Administrator determines that reduction or waiver of the fee is in the best interest of the United States Government by furthering public safety.

"(f) SALE AND DISSEMINATION OF AERONAUTICAL PRODUCTS.—

"(1) Aeronautical products created or maintained under the authority of this section shall be sold at prices established annually by the Administrator consistent with the following:

"(A) Subject to subparagraph (B), the price of an aeronautical product sold to the public shall be not more than necessary to recover all costs attributable to (i) data base management and processing; (ii) compilation; (iii) printing or other types of reproduction; and (iv) dissemination of the product.

"(B) The Administrator shall adjust the price of an aeronautical product and service sold to the public as necessary to avoid any adverse impact on aviation safety attributable to the price specified under this paragraph.

"(C) A price established under this paragraph may not include costs attributable to the acquisition of aeronautical data.

"(2) The Administrator shall publish annually the prices at which aeronautical products are sold to the public.

"(3) The Administrator may distribute aeronautical products and provide aeronautical services—

"(A) without charge to each foreign government or international organization with which the Administrator or a Federal agency has an agreement for exchange of these products or services without cost;

"(B) at prices the Administrator establishes, to the departments and officers of the United States requiring them for official use; and

"(C) at reduced or no charge where, in the judgment of the Administrator, furnishing the aeronautical product or service to a recipient is a reasonable exchange for voluntary contribution of information by the recipient to the activities under this section.

"(4) The fees provided for in this subsection are for the purpose of reimbursing the United States Government for the costs of creating, printing and disseminating aeronautical products and services under this section. The collection of fees authorized by this section does not alter or expand any duty or liability of the Government under existing law for the performance of functions for which fees are collected, nor does the collection of fees constitute an express or implied undertaking by the Government to perform any activity in a certain manner.".

(b) CONFORMING AMENDMENT.—The chapter analysis of chapter 447 is amended by adding at the end thereof the following:

"44721. Aeronautical charts and related products and services.".

SEC. 804. SAVINGS PROVISION.

(a) CONTINUED EFFECTIVENESS OF DIRECTIVES.—All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, privileges, and financial assistance that—

(1) have been issued, made, granted, or allowed to become effective by the President of the United States, the Secretary of Commerce, the National Oceanic and Atmospheric Administration (NOAA) Administrator, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred by this Act; and

(2) are in effect on the date of transfer, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President of the United States, the Administrator, a court of competent jurisdiction, or by operation of law.

(b) CONTINUED EFFECTIVENESS OF PENDING ACTIONS.—

(1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the date of transfer before the Department of Commerce or the NOAA Administrator, or any officer thereof with respect to functions transferred by this Act; but such proceedings or applications, to the extent that they relate to functions transferred, shall be continued in accord with transition guidelines promulgated by the Administrator under the authority of this section. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Administrator, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary of Commerce, the NOAA Administrator, and the Administrator of the Federal Aviation Administration are authorized to issue transition guidelines providing for the orderly transfer of proceedings and otherwise to accomplish the orderly transfer of functions, personnel and property under this Act.

(c) CONTINUED EFFECTIVENESS OF JUDICIAL ACTIONS.—No cause of action by or against the Department of Commerce or the National Oceanic and Atmospheric Administration with respect to functions transferred by this Act, or by or against any officer thereof in the official's capacity, shall abate by reason of the enactment of this Act. Causes of action and actions with respect to a function or office transferred by this Act, or other proceedings may be asserted by or against the United States or an official of the Federal Aviation Administration, as may be appropriate, and, in an action pending when this Act takes effect, the court may at any time, on its own motion or that of any party, enter an order that will give effect to the provisions of this subsection.

(d) SUBSTITUTION OR ADDITION OF PARTIES TO JUDICIAL ACTIONS.—If, on the date of transfer, the Department of Commerce or the National Oceanic and Atmospheric Administration, or any officer thereof in the official's capacity, is a party to an action, and under this Act any function relating to the action of such Department, Administration, or officer is transferred to the Federal Aviation Administration, then such action shall be continued with the Administrator of the Federal Aviation Administration substituted or added as a party.

(e) CONTINUED JURISDICTION OVER ACTIONS TRANSFERRED.—Orders and actions of the Administrator of the Federal Aviation Administration in the exercise of functions transferred by this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Department of Commerce or the National Oceanic and Atmospheric Administration, or any office or officer thereof, in the exercise of such functions immediately preceding their transfer.

(f) LIABILITIES AND OBLIGATIONS.—The Administrator shall assume all liabilities and obligations (tangible and incorporeal, present and

executory) associated with the functions transferred under this Act on the date of transfer, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, accounts payable, financial assistance, and litigation relating to such obligations, regardless whether judgment has been entered, damages awarded, or appeal taken.

SEC. 805. NATIONAL OCEAN SURVEY.

(a) Section 1 of the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947, (33 U.S.C. 883a) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) Hydrographic, topographic and other types of field surveys;"; and

(2) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) Section 2 of that Act (33 U.S.C. 883b) is amended—

(1) by striking paragraphs (3) and (5), and redesignating paragraph (4) and (6) as paragraphs (3) and (4), respectively;

(2) by striking "charts of the United States, its Territories, and possessions;" in paragraph (3), as redesignated, and inserting "charts;"; and

(3) by striking "publications for the United States, its Territories, and possessions" in paragraph (4), as redesignated, and inserting "publications.".

(c) Section 5(1) of that Act (33 U.S.C. 883e(1)) is amended by striking "cooperative agreements" and inserting "cooperative agreements, or any other agreements,".

SEC. 806. SALE AND DISTRIBUTION OF NAUTICAL AND AERONAUTICAL PRODUCTS BY NOAA.

(a) Section 1307 of title 44, United States Code, is amended by striking "and aeronautical" and "or aeronautical" each place they appear.

(b) Section 1307(a)(2)(B) of title 44, United States Code, is amended by striking "aviation and".

(c) Section 1307(d) of title 44, United States Code, is amended by striking "aeronautical and".

TITLE IX—MANAGEMENT REFORMS OF THE FEDERAL AVIATION ADMINISTRATION

SEC. 901. SHORT TITLE.

This title may be cited as the "Air Traffic Management Improvement Act of 1999".

SEC. 902. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 903. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Department of Transportation.

SEC. 904. FINDINGS.

The Congress makes the following findings:

(1) The Nation's air transportation system is projected to grow by 3.4 percent per year over the next 12 years.

(2) Passenger enplanements are expected to rise to more than 1 billion by 2009, from the current level of 660 million.

(3) The aviation industry is one of our Nation's critical industries, providing a means of travel to people throughout the world, and a means of moving cargo around the globe.

(4) The ability of all sectors of American society, urban and rural, to access and to compete effectively in the new and dynamic global economy requires the ability of the aviation industry to serve all the Nation's communities effectively and efficiently.

(5) The Federal Government's role is to promote a safe and efficient national air transportation system through the management of the air traffic control system and through effective and sufficient investment in aviation infrastructure, including the Nation's airports.

(6) Numerous studies and reports, including the National Civil Aviation Review Commission, have concluded that the projected expansion of air service may be constrained by gridlock in our Nation's airways, unless substantial management reforms are initiated for the Federal Aviation Administration.

(7) The Federal Aviation Administration is responsible for safely and efficiently managing the National Airspace System 365 days a year, 24 hours a day.

(8) The Federal Aviation Administration's ability to efficiently manage the air traffic system in the United States is restricted by antiquated air traffic control equipment.

(9) The Congress has previously recognized that the Administrator needs relief from the Federal Government's cumbersome personnel and procurement laws and regulations to take advantage of emerging technologies and to hire and retain effective managers.

(10) The ability of the Administrator to achieve greater efficiencies in the management of the air traffic control system requires additional management reforms, such as the ability to offer incentive pay for excellence in the employee workforce.

(11) The ability of the Administrator to effectively manage finances is dependent in part on the Federal Aviation Administration's ability to enter into long-term debt and lease financing of facilities and equipment, which in turn is dependent on sustained sound audits and implementation of a cost management program.

(12) The Administrator should use the full authority of the Federal Aviation Administration to make organizational changes to improve the efficiency of the air traffic control system, without compromising the Federal Aviation Administration's primary mission of protecting the safety of the travelling public.

SEC. 905. AIR TRAFFIC CONTROL SYSTEM DEFINED.

Section 40102(a) is amended—

(1) by redesignating paragraphs (5) through (41) as paragraphs (6) through (42), respectively; and

(2) by inserting after paragraph (4) the following:

"(5) 'air traffic control system' means the combination of elements used to safely and efficiently monitor, direct, control, and guide aircraft in the United States and United States-assigned airspace, including—

"(A) allocated electromagnetic spectrum and physical, real, personal, and intellectual property assets making up facilities, equipment, and systems employed to detect, track, and guide aircraft movement;

"(B) laws, regulations, orders, directives, agreements, and licenses;

"(C) published procedures that explain required actions, activities, and techniques used to ensure adequate aircraft separation; and

"(D) trained personnel with specific technical capabilities to satisfy the operational, engineering, management, and planning requirements for air traffic control.".

SEC. 906. CHIEF OPERATING OFFICER FOR AIR TRAFFIC SERVICES.

(a) Section 106 is amended by adding at the end the following:

"(r) CHIEF OPERATING OFFICER.—

"(1) IN GENERAL.—

"(A) APPOINTMENT.—There shall be a Chief Operating Officer for the air traffic control system to be appointed by the Administrator, after consultation with the Management Advisory Council. The Chief Operating Officer shall report directly to the Administrator and shall be subject to the authority of the Administrator.

"(B) QUALIFICATIONS.—The Chief Operating Officer shall have a demonstrated ability in management and knowledge of or experience in aviation.

"(C) TERM.—The Chief Operating Officer shall be appointed for a term of 5 years.

"(D) REMOVAL.—The Chief Operating Officer shall serve at the pleasure of the Administrator, except that the Administrator shall make every effort to ensure stability and continuity in the leadership of the air traffic control system.

"(E) COMPENSATION.—

"(i) The Chief Operating Officer shall be paid at an annual rate of basic pay not to exceed that of the Administrator, including any applicable locality-based payment. This basic rate of pay shall subject the chief operating officer to the post-employment provisions of section 207 of title 18 as if this position were described in section 207(c)(2)(A)(i) of that title.

"(ii) In addition to the annual rate of basic pay authorized by paragraph (1) of this subsection, the Chief Operating Officer may receive a bonus not to exceed 50 percent of the annual rate of basic pay, based upon the Administrator's evaluation of the Chief Operating Officer's performance in relation to the performance goals set forth in the performance agreement described in subsection (b) of this section. A bonus may not cause the Chief Operating Officer's total aggregate compensation in a calendar year to equal or exceed the amount of the President's salary under section 102 of title 3, United States Code.

"(2) ANNUAL PERFORMANCE AGREEMENT.—The Administrator and the Chief Operating Officer shall enter into an annual performance agreement that sets forth measurable organization and individual goals for the Chief Operating Officer in key operational areas. The agreement shall be subject to review and renegotiation on an annual basis.

"(3) ANNUAL PERFORMANCE REPORT.—The Chief Operating Officer shall prepare and submit to the Secretary of Transportation and Congress an annual management report containing such information as may be prescribed by the Secretary.

"(4) RESPONSIBILITIES.—The Administrator may delegate to the Chief Operating Officer, or any other authority within the Federal Aviation Administration responsibilities, including, but not limited to the following:

"(A) STRATEGIC PLANS.—To develop a strategic plan of the Federal Aviation Administration for the air traffic control system, including the establishment of—

"(i) a mission and objectives;

"(ii) standards of performance relative to such mission and objectives, including safety, efficiency, and productivity; and

"(iii) annual and long-range strategic plans.

"(iv) methods of the Federal Aviation Administration to accelerate air traffic control modernization and improvements in aviation safety related to air traffic control.

"(B) OPERATIONS.—To review the operational functions of the Federal Aviation Administration, including—

"(i) modernization of the air traffic control system;

"(ii) increasing productivity or implementing cost-saving measures; and

"(iii) training and education.

"(C) BUDGET.—To—

"(i) develop a budget request of the Federal Aviation Administration related to the air traffic control system prepared by the Administrator;

"(ii) submit such budget request to the Administrator and the Secretary of Transportation; and

"(iii) ensure that the budget request supports the annual and long-range strategic plans developed under paragraph (4)(A) of this subsection.

"(5) BUDGET SUBMISSION.—The Secretary shall submit the budget request prepared under paragraph (4)(D) of this subsection for any fiscal year to the President who shall submit such request, without revision, to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, together with the President's annual budget request for the Federal Aviation Administration for such fiscal year.".

SEC. 907. FEDERAL AVIATION MANAGEMENT ADVISORY COUNCIL.

(a) MEMBERSHIP.—Section 106(p)(2)(C) is amended to read as follows:

"(C) 13 members representing aviation interests, appointed by—

"(i) in the case of initial appointments to the Council, the President by and with the advice and consent of the Senate; and

"(ii) in the case of subsequent appointments to the Council, the Secretary of Transportation.".

(b) TERMS OF MEMBERS.—Section 106(p)(6)(A)(i) is amended by striking "by the President".

(c) AIR TRAFFIC SERVICES SUBCOMMITTEE.—Section 106(p)(6) is amended by adding at the end thereof the following:

"(E) AIR TRAFFIC SERVICES SUBCOMMITTEE.—The Chairman of the Management Advisory Council shall constitute an Air Traffic Services Subcommittee to provide comments, recommend modifications, and provide dissenting views to the Administrator on the performance of air traffic services, including—

"(i) the performance of the Chief Operating Officer and other senior managers within the air traffic organization of the Federal Aviation Administration;

"(ii) long-range and strategic plans for air traffic services;

"(iii) review the Administrator's selection, evaluation, and compensation of senior executives of the Federal Aviation Administration who have program management responsibility over significant functions of the air traffic control system;

"(iv) review and make recommendations to the Administrator's plans for any major reorganization of the Federal Aviation Administration that would effect the management of the air traffic control system;

"(v) review, and make recommendations to the Administrator's cost allocation system and financial management structure and technologies to help ensure efficient and cost-effective air traffic control operation;

"(vi) review the performance and cooperation of managers responsible for major acquisition projects, including the ability of the managers to meet schedule and budget targets; and

"(vii) other significant actions that the Subcommittee considers appropriate and that are consistent with the implementation of this Act.".

SEC. 908. COMPENSATION OF THE ADMINISTRATOR.

Section 106(b) is amended—

(1) by inserting "(1)" before "The"; and

(2) by adding at the end the following:

"(2) In addition to the annual rate of pay authorized for the Administrator, the Administrator may receive a bonus not to exceed 50 percent of the annual rate of basic pay, based upon the Secretary's evaluation of the Administrator's performance in relation to the performance goals set forth in a performance agreement. A bonus may not cause the Administrator's total aggregate compensation in a calendar year to equal or exceed the amount of the President's salary under section 102 of title 3, United States Code.".

SEC. 909. NATIONAL AIRSPACE REDESIGN.

(a) FINDINGS RELATING TO THE NATIONAL AIRSPACE.—The Congress makes the following additional findings:

(1) The national airspace, comprising more than 29 million square miles, handles more than 55,000 flights per day.

(2) Almost 2,000,000 passengers per day traverse the United States through 20 major en route centers including more than 700 different sectors.

(3) Redesign and review of the national airspace may produce benefits for the travelling public by increasing the efficiency and capacity of the air traffic control system and reducing delays.

(4) Redesign of the national airspace should be a high priority for the Federal Aviation Administration and the air transportation industry.

(b) REDESIGN REPORT.—The Administrator, with advice from the aviation industry and other interested parties, shall conduct a comprehensive redesign of the national airspace system and shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Transportation and Infrastructure of the House on the Administrator's comprehensive national airspace redesign. The report shall include projected milestones for completion of the redesign and shall also include a date for completion. The report must be submitted to the Congress no later than December 31, 2000. There are authorized to be appropriated to the Administrator to carry out this section $12,000,000 for fiscal years 2000, 2001, and 2002.

SEC. 910. FAA COSTS AND ALLOCATIONS SYSTEM MANAGEMENT.

(a) REPORT ON THE COST ALLOCATION SYSTEM.—No later than July 9, 2000, the Administrator shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House on the cost allocation system currently under development by the Federal Aviation Administration. The report shall include a specific date for completion and implementation of the cost allocation system throughout the agency and shall also include the timetable and plan for the implementation of a cost management system.

(b) INDEPENDENT ASSESSMENT.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct the assessments described in this subsection. To conduct the assessments, the Inspector General may use the staff and resources of the Inspector General or contract with one or more independent entities.

(2) ASSESSMENT OF ADEQUACY AND ACCURACY OF FEDERAL AVIATION ADMINISTRATION COST DATA AND ATTRIBUTIONS.—

(A) IN GENERAL.—The Inspector General shall conduct an assessment to ensure that the method for calculating the overall costs of the Federal Aviation Administration and attributing such costs to specific users is appropriate, reasonable, and understandable to the users.

(B) COMPONENTS.—In conducting the assessment under this paragraph, the Inspector General shall assess the Federal Aviation Administration's definition of the services to which the Federal Aviation Administration ultimately attributes its costs.

(3) COST EFFECTIVENESS.—

(A) IN GENERAL.—The Inspector General shall assess the progress of the Federal Aviation Administration in cost and performance management, including use of internal and external benchmarking in improving the performance and productivity of the Federal Aviation Administration.

(B) ANNUAL REPORTS.—Not later than December 31, 2000, the Inspector General shall transmit to Congress an updated report containing the results of the assessment conducted under this paragraph.

(C) INFORMATION TO BE INCLUDED IN FEDERAL AVIATION ADMINISTRATION FINANCIAL REPORT.—The Administrator shall include in the annual financial report of the Federal Aviation Administration information on the performance of the Administration sufficient to permit users and others to make an informed evaluation of the progress of the Administration in increasing productivity.

SEC. 911. AIR TRAFFIC MODERNIZATION PILOT PROGRAM.

(a) IN GENERAL.—Chapter 445 is amended by adding at the end thereof the following:

"§44516. Air traffic modernization joint venture pilot program

"(a) PURPOSE.—It is the purpose of this section to improve aviation safety and enhance mobility of the Nation's air transportation system by facilitating the use of joint ventures and innovative financing, on a pilot program basis, between the Federal Aviation Administration and industry, to accelerate investment in critical air traffic control facilities and equipment.

"(b) DEFINITIONS.—As used in this section:

"(1) ASSOCIATION.—The term 'Association' means the Air Traffic Modernization Association established by this section.

"(2) PANEL.—The term 'panel' means the executive panel of the Air Traffic Modernization Association.

"(3) OBLIGOR.—The term 'obligor' means a public airport, an air carrier or foreign air carrier that operates a public airport, or a consortium consisting of 2 or more of such entities.

"(4) ELIGIBLE PROJECT.—The term 'eligible project' means a project relating to the Nation's air traffic control system that promotes safety, efficiency or mobility, and is included in the Airway Capital Investment Plan required by section 44502, including—

"(A) airport-specific air traffic facilities and equipment, including local area augmentation systems, instrument landings systems, weather and wind shear detection equipment; lighting improvements and control towers;

"(B) automation tools to effect improvements in airport capacity, including passive final approach spacing tools and traffic management advisory equipment; and

"(C) facilities and equipment that enhance airspace control procedures, including consolidation of terminal radar control facilities and equipment, or assist in en route surveillance, including oceanic and off-shore flight tracking.

"(5) SUBSTANTIAL COMPLETION.—The term 'substantial completion' means the date upon which a project becomes available for service.

"(c) AIR TRAFFIC MODERNIZATION ASSOCIATION.—

"(1) IN GENERAL.—There may be established in the District of Columbia a private, not for profit corporation, which shall be known as the Air Traffic Modernization Association, for the purpose of providing assistance to obligors through arranging lease and debt financing of eligible projects.

"(2) NON-FEDERAL ENTITY.—The Association shall not be an agency, instrumentality or establishment of the United States Government and shall not be a 'wholly-owned Government controlled corporation' as defined in section

9101 of title 31, United States Code. No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the Association.

"(3) Executive Panel.—

"(A) The Association shall be under the direction of an executive panel made up of 3 members, as follows—

"(i) 1 member shall be an employee of the Federal Aviation Administration to be appointed by the Administrator;

"(ii) 1 member shall be a representative of commercial air carriers, to be appointed by the Management Advisory Council; and

"(iii) 1 member shall be a representative of operators of primary airports, to be appointed by the Management Advisory Council.

"(B) The panel shall elect from among its members a chairman who shall serve for a term of 1 year and shall adopt such bylaws, policies, and administrative provisions as are necessary to the functioning of the Association.

"(4) Powers, Duties and Limitations.—Consistent with sound business techniques and provisions of this chapter, the Association is authorized—

"(A) to borrow funds and enter into lease arrangements as lessee with other parties relating to the financing of eligible projects, provided that any public debt issuance shall be rated investment grade by a nationally recognized statistical rating organization;

"(B) to lend funds and enter into lease arrangements as lessor with obligors, but—

"(i) the term of financing offered by the Association shall not exceed the useful life of the eligible project being financed, as estimated by the Administrator; and

"(ii) the aggregate amount of combined debt and lease financing provided under this subsection for air traffic control facilities and equipment—

"(I) may not exceed $500,000,000 per fiscal year for fiscal years 2000, 2001, and 2002;

"(II) shall be used for not more than 10 projects; and

"(III) may not provide funding in excess of $50,000,000 for any single project; and

"(C) to exercise all other powers that are necessary and proper to carry out the purposes of this section.

"(5) Project Selection Criteria.—In selecting eligible projects from applicants to be funded under this section, the Association shall consider the following criteria:

"(A) The eligible project's contribution to the national air transportation system, as outlined in the Federal Aviation Administration's modernization plan for alleviating congestion, enhancing mobility, and improving safety.

"(B) The credit-worthiness of the revenue stream pledged by the obligor.

"(C) The extent to which assistance by the Association will enable the obligor to accelerate the date of substantial completion of the project.

"(D) The extent of economic benefit to be derived within the aviation industry, including both public and private sectors.

"(d) Authority To Enter into Joint Venture.—

"(1) In General.—Subject to the conditions set forth in this section, the Administrator of the Federal Aviation Administration is authorized to enter into a joint venture, on a pilot program basis, with Federal and non-Federal entities to establish the Air Traffic Modernization Association described in subsection (c) for the purpose of acquiring, procuring or utilizing air traffic facilities and equipment in accordance with the Airway Capital Investment Plan.

"(2) Cost Sharing.—The Administrator is authorized to make payments to the Association from amounts available under section 4801(a) of this title, provided that the agency's share of an annual payment for a lease or other financing agreement does not exceed the direct or imputed interest portion of each annual payment for an eligible project. The share of the annual payment to be made by an obligor to the lease or other financing agreement shall be in sufficient amount to amortize the asset cost. If the obligor is an airport sponsor, the sponsor may use revenue from a passenger facility fee, provided that such revenue does not exceed 25 cents per enplaned passenger per year.

"(3) Project Specifications.—The Administrator shall have the sole authority to approve the specifications, staffing requirements, and operating and maintenance plan for each eligible project, taking into consideration the recommendations of the Air Traffic Services Subcommittee of the Management Advisory Council.

"(e) Incentives for Participation.—An airport sponsor that enters into a lease or financial arrangement financed by the Air Traffic Modernization Association may use its share of the annual payment as a credit toward the non-Federal matching share requirement for any funds made available to the sponsor for airport development projects under chapter 471 of this title.

"(f) United States Not Obligated.—The contribution of Federal funds to the Association pursuant to subsection (d) of this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States by virtue of the contribution. The obligations of the Association do not constitute any commitment, guarantee or obligation of the United States.

"(g) Report to Congress.—Not later than 3 years after establishment of the Association, the Administrator shall provide a comprehensive and detailed report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure on the Association's activities including—

"(1) an assessment of the Association's effectiveness in accelerating the modernization of the air traffic control system;

"(2) a full description of the projects financed by the Association and an evaluation of the benefits to the aviation community and general public of such investment; and

"(3) recommendations as to whether this pilot program should be expanded or other strategies should be pursued to improve the safety and efficiency of the Nation's air transportation system.

"(h) Authorization.—Not more than the following amounts may be appropriated to the Administrator from amounts made available under section 4801(a) of this title for the agency's share of the organizational and administrative costs for the Air Traffic Modernization Association—

"(1) $500,000 for fiscal year 2000;

"(2) $500,000 for fiscal year 2001; and

"(3) $500,000 for fiscal year 2002.

"(i) Relationship to Other Authorities.—Nothing in this section is intended to limit or diminish existing authorities of the Administrator to acquire, establish, improve, operate, and maintain air navigation facilities and equipment.".

(b) Conforming Amendments.—

(1) Section 40117(b)(1) is amended by striking "controls." and inserting "controls, or to finance an eligible project through the Air Traffic Modernization Association in accordance with section 44516 of this title.".

(2) The analysis for chapter 445 is amended by adding at the end the following:

"44516. Air traffic modernization pilot program.".

TITLE X—METROPOLITAN AIRPORTS AUTHORITY IMPROVEMENT ACT

SEC. 1001. SHORT TITLE.

This title may be cited as the "Metropolitan Airports Authority Improvement Act".

SEC. 1002. REMOVAL OF LIMITATION.

Section 49106(c)(6) of title 49, United States Code, is amended—

(1) by striking subparagraph (C); and

(2) by redesignating subparagraph (D) as subparagraph (C).

TITLE XI—NOISE ABATEMENT

SEC. 1101. GOOD NEIGHBORS POLICY.

(a) Public Disclosure of Noise Mitigation Efforts by Air Carriers.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of Transportation shall collect and publish information provided by air carriers regarding their operating practices that encourage their pilots to follow the Federal Aviation Administration's operating guidelines on noise abatement.

(b) Safety First.—The Secretary shall take such action as is necessary to ensure that noise abatement efforts do not threaten aviation safety.

(c) Protection of Proprietary Information.—In publishing information required by this section, the Secretary shall take such action as is necessary to prevent the disclosure of any air carrier's proprietary information.

(d) No Mandate.—Nothing in this section shall be construed to mandate, or to permit the Secretary to mandate, the use of noise abatement settings by pilots.

SEC. 1102. GAO REVIEW OF AIRCRAFT ENGINE NOISE ASSESSMENT.

(a) GAO Study.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and report to Congress on regulations and activities of the Federal Aviation Administration in the area of aircraft engine noise assessment. The study shall include a review of—

(1) the consistency of noise assessment techniques across different aircraft models and aircraft engines, and with varying weight and thrust settings; and

(2) a comparison of testing procedures used for unmodified engines and engines with hush kits or other quieting devices.

(b) Recommendations to the FAA.—The Comptroller General's report shall include specific recommendations to the Federal Aviation Administration on new measures that should be implemented to ensure consistent measurement of aircraft engine noise.

SEC. 1103. GAO REVIEW OF FAA COMMUNITY NOISE ASSESSMENT.

(a) GAO Study.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and report to Congress on the regulations and activities of the Federal Aviation Administration in the area of noise assessment in communities near airports. The study shall include a review of whether the noise assessment practices of the Federal Aviation Administration fairly and accurately reflect the burden of noise on communities.

(b) Recommendations to the FAA.—The Comptroller General's report shall include specific recommendations to the Federal Aviation Administration on new measures to improve the assessment of airport noise in communities near airports.

TITLE XII—STUDY TO ENSURE CONSUMER INFORMATION

SEC. 1201. SHORT TITLE.

This title may be cited as the "Improved Consumer Access to Travel Information Act".

SEC. 1202. NATIONAL COMMISSION TO ENSURE CONSUMER INFORMATION AND CHOICE IN THE AIRLINE INDUSTRY.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission to Ensure Consumer Information and Choice in the Airline Industry" (in this section referred to as the "Commission").

(b) DUTIES.—

(1) STUDY.—The Commission shall undertake a study of—

(A) consumer access to information about the products and services of the airline industry;

(B) the effect on the marketplace of the emergence of new means of distributing such products and services;

(C) the effect on consumers of the declining financial condition of travel agents in the United States; and

(D) the impediments imposed by the airline industry on distributors of the industry's products and services, including travel agents and Internet-based distributors.

(2) POLICY RECOMMENDATIONS.—Based on the results of the study described in paragraph (1), the Commission shall recommend to the President and Congress policies necessary to—

(A) ensure full consumer access to complete information concerning airline fares, routes, and other services;

(B) ensure that the means of distributing the products and services of the airline industry, and of disseminating information about such products and services, is adequate to ensure that competitive information is available in the marketplace;

(C) ensure that distributors of the products and services of the airline industry have adequate relief from illegal, anticompetitive practices that occur in the marketplace; and

(D) foster healthy competition in the airline industry and the entry of new entrants.

(c) SPECIFIC MATTERS TO BE ADDRESSED.—In carrying out the study authorized under subsection (b)(1), the Commission shall specifically address the following:

(1) CONSUMER ACCESS TO INFORMATION.—With respect to consumer access to information regarding the services and products offered by the airline industry, the following:

(A) The state of such access.

(B) The effect in the 5-year period following the date of the study of the making of alliances in the airline industry.

(C) Whether and to what degree the trends regarding such access will produce benefits to consumers.

(2) MEANS OF DISTRIBUTION.—With respect to the means of distributing the products and services of the airline industry, the following:

(A) The state of such means of distribution.

(B) The roles played by travel agencies and Internet-based providers of travel information and services in distributing such products and services.

(C) Whether the policies of the United States promote the access of consumers to multiple means of distribution.

(3) AIRLINE RESERVATION SYSTEMS.—With respect to airline reservation systems, the following:

(A) The rules, regulations, policies, and practices of the industry governing such systems.

(B) How trends in such systems will affect consumers, including—

(i) the effect on consumer access to flight reservation information; and

(ii) the effect on consumers of the use by the airline industry of penalties and promotions to convince distributors to use such systems, and the degree of consumer awareness of such penalties and promotions.

(4) LEGAL IMPEDIMENTS TO DISTRIBUTORS SEEKING RELIEF FOR ANTICOMPETITIVE ACTIONS.—The policies of the United States with respect to the legal impediments to distributors seeking relief for anticompetitive actions, including—

(A) Federal preemption of civil actions against airlines; and

(B) the role of the Department of Transportation in enforcing rules against anticompetitive practices.

(d) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 voting members and 11 nonvoting members as follows:

(A) 5 voting members and 1 nonvoting member appointed by the President.

(B) 3 voting members and 3 nonvoting members appointed by the Speaker of the House of Representatives.

(C) 2 voting members and 2 nonvoting members appointed by the Minority Leader of the House of Representatives.

(D) 3 voting members and 3 nonvoting members appointed by the Majority Leader of the Senate.

(E) 2 voting members and 2 nonvoting members appointed by the Minority Leader of the Senate.

(2) QUALIFICATIONS.—Voting members appointed under paragraph (1) shall be appointed from among individuals who are experts in economics, service product distribution, or transportation, or any related discipline, and who can represent consumers, passengers, shippers, travel agents, airlines, or general aviation.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) CHAIRPERSON.—The President, in consultation with the Speaker of the House of Representatives and the Majority Leader of the Senate, shall designate the Chairperson of the Commission (referred to in this title as the "Chairperson") from among its voting members.

(e) COMMISSION PANELS.—The Chairperson shall establish such panels consisting of voting members of the Commission as the Chairperson determines appropriate to carry out the functions of the Commission.

(f) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(g) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(h) OTHER STAFF AND SUPPORT.—Upon the request of the Commission, or a panel of the Commission, the Secretary of Transportation shall provide the Commission or panel with professional and administrative staff and other support, on a reimbursable basis; to assist the Commission or panel in carrying out its responsibilities.

(i) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(j) REPORT.—Not later than 6 months after the date on which initial appointments of members to the Commission are completed, the Commission shall transmit to the President and Congress a report on the activities of the Commission, including recommendations made by the Commission under subsection (b)(2).

(k) TERMINATION.—The Commission shall terminate on the 30th day following the date of transmittal of the report under subsection (j). All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

(l) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

TITLE XIII—FEDERAL AVIATION RESEARCH, ENGINEERING, AND DEVELOPMENT

SEC. 1301. AUTHORIZATION OF APPROPRIATIONS.

Section 48102(a) of title 49, United States Code, is amended—

(1) by striking "and" at the end of paragraph (4)(J);

(2) by striking the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(6) $240,000,000 for fiscal year 2000;

"(7) $250,000,000 for fiscal year 2001; and

"(8) $260,000,000 for fiscal year 2002;".

SEC. 1302. INTEGRATED NATIONAL AVIATION RESEARCH PLAN.

(a) IN GENERAL.—Section 44501(c) of title 49, United States Code, is amended—

(1) in paragraph (2)(B)—

(A) by striking "and" at the end of clause (iii);

(B) by striking the period at the end of clause (iv) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new clause:

"(v) highlight the research and development technology transfer activities that promote technology sharing among government, industry, and academia through the Stevenson-Wydler Technology Innovation Act of 1980."; and

(2) in paragraph (3), by inserting "The report shall be prepared in accordance with requirements of section 1116 of title 31, United States Code." after "effect for the prior fiscal year.".

(b) REQUIREMENT.—Not later than March 1, 2000, the Administrator of the National Aeronautics and Space Administration and the Administrator of the Federal Aviation Administration shall jointly prepare and transmit to the Congress an integrated civil aviation research and development plan.

(c) CONTENTS.—The plan required by subsection (b) shall include—

(1) an identification of the respective research and development requirements, roles, and responsibilities of the National Aeronautics and Space Administration and the Federal Aviation Administration;

(2) formal mechanisms for the timely sharing of information between the National Aeronautics and Space Administration and the Federal Aviation Administration; and

(3) procedures for increased communication and coordination between the Federal Aviation Administration research advisory committee established under section 44508 of title 49, United States Code, and the NASA Aeronautics and Space Transportation Technology Advisory Committee.

SEC. 1303. INTERNET AVAILABILITY OF INFORMATION.

The Administrator of the Federal Aviation Administration shall make available through the Internet home page of the Federal Aviation Administration the abstracts relating to all research grants and awards made with funds authorized by the amendments made by this Act.

Nothing in this section shall be construed to require or permit the release of any information prohibited by law or regulation from being released to the public.

SEC. 1304. RESEARCH ON NONSTRUCTURAL AIRCRAFT SYSTEMS.

Section 44504(b)(1) of title 49, United States Code, is amended by inserting ", including nonstructural aircraft systems," after "life of aircraft".

SEC. 1305. POST FREE FLIGHT PHASE I ACTIVITIES.

No later than May 1, 2000, the Administrator of the Federal Aviation Administration shall transmit to Congress a definitive plan for the continued implementation of Free Flight Phase I operational capabilities for fiscal years 2003 through 2005. The plan shall include and address the recommendations concerning operational capabilities for fiscal years 2003 through 2005 due to be made by the RTCA Free Flight Steering Committee in December 1999 that was established at the direction of the Federal Aviation Administration. The plan shall also include budget estimates for the implementation of these operational capabilities.

SEC. 1306. RESEARCH PROGRAM TO IMPROVE AIRFIELD PAVEMENTS.

The Administrator of the Federal Aviation Administration shall consider awards to nonprofit concrete pavement research foundations to improve the design, construction, rehabilitation, and repair of rigid concrete airfield pavements to aid in the development of safer, more cost-effective, and durable airfield pavements. The Administrator may use a grant or cooperative agreement for this purpose. Nothing in this section shall require the Administrator to prioritize an airfield payment research program above safety, security, Flight 21, environment, or energy research programs.

SEC. 1307. SENSE OF SENATE REGARDING PROTECTING THE FREQUENCY SPECTRUM USED FOR AVIATION COMMUNICATION.

It is the sense of the Senate that with the World Radio Communication Conference scheduled to begin in May, 2000, and the need to ensure that the frequency spectrum available for aviation communication and navigation is adequate, the Federal Aviation Administration should—

(1) give high priority to developing a national policy to protect the frequency spectrum used for the Global Positioning System that is critical to aviation communications and the safe operation of aircraft; and

(2) expedite the appointment of the United States Ambassador to the World Radio Communication Conference.

SEC. 1308. STUDY.

The Secretary shall conduct a study to evaluate the applicability of the techniques used to fund and administer research under the National Highway Cooperative Research Program and the National Transmit Research Program to the research needs of airports.

TITLE XIV—AIRLINE CUSTOMER SERVICE COMMITMENT

SEC. 1401. AIRLINE CUSTOMER SERVICE REPORTS.

(a) SECRETARY TO REPORT PLANS RECEIVED.—Each air carrier that provides scheduled passenger air transportation and that is a member of the Air Transport Association, all of which have entered into the voluntary customer service commitments established by the Association on June 17, 1999 (hereinafter referred to as the "Airline Customer Service Commitment"), shall provide a copy of its individual customer service plan to the Secretary of Transportation by September 15, 1999. The Secretary, upon receipt of the individual plans, shall report to the Senate Committee on Commerce, Science, and Transportation and to the House of Representatives Committee on Transportation and Infrastructure the receipt of each such plan and transmit a copy of each plan.

(b) IMPLEMENTATION.—The Inspector General of the Department of Transportation shall monitor the implementation of any plan submitted to the Secretary under subsection (a) and evaluate the extent to which each such carrier has met its commitments under its plan. Each such carrier shall provide such information to the Inspector General as may be necessary for the Inspector General to prepare the report required by subsection (c).

(c) REPORTS TO THE CONGRESS.—

(1) INTERIM REPORT.—The Inspector General shall submit a report of the Inspector General's findings under subsection (a) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure by June 15, 2000, that includes a status report on completion, publication, and implementation of the Airline Customer Service Commitment and the individual airline plans to carry it out. The report shall include a review of whether each air carrier has modified its contract of carriage or conditions of contract to reflect each item of the Airline Customer Service Commitment.

(2) FINAL REPORT; RECOMMENDATIONS.—

(A) IN GENERAL.—The Inspector General shall submit a final report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure by December 31, 2000, on the effectiveness of the Airline Customer Service Commitment and the individual airline plans to carry it out, including recommendations for improving accountability, enforcement, and consumer protections afforded to commercial air passengers.

(B) SPECIFIC CONTENT.—In the final report under subparagraph (A), the Inspector General shall—

(i) evaluate each carrier's plan for whether it is consistent with the voluntary commitments established by the Air Transport Association in the Airline Customer Service Commitment;

(ii) evaluate each carrier as to the extent to which, and the manner in which, it has performed in carrying out its plan;

(iii) identify, by air carrier, how it has implemented each commitment covered by its plan; and

(iv) provide an analysis, by air carrier, of the methods of meeting each commitment, and in such analysis provide information that allows consumers to make decisions on the quality of air transportation provided by such carriers.

SEC. 1402. INCREASED FINANCIAL RESPONSIBILITY FOR LOST BAGGAGE.

The Secretary of Transportation shall initiate a rule making within 30 days after the date of enactment of this Act to increase the domestic baggage liability limit in part 254 of title 14, Code of Federal Regulations.

SEC. 1403. INCREASED PENALTY FOR VIOLATION OF AVIATION CONSUMER PROTECTION LAWS.

Section 46301(a), as amended by section 407 of this Act, is amended by adding at the end thereof the following:

"(8) CONSUMER PROTECTION.—For a violation of sections 41310 and 41712, any rule or regulation promulgated thereunder, or any other rule or regulation promulgated by the Secretary of Transportation that is intended to afford protection to commercial air transportation consumers, the maximum civil penalty prescribed by subsection (a) may not exceed $2,500 for each violation.".

SEC. 1404. COMPTROLLER GENERAL INVESTIGATION.

The Comptroller General of the United States shall study the potential effects on aviation consumers, including the impact on fares and service to small communities, of a requirement that air carriers permit a ticketed passenger to use any portion of a multiple-stop or round-trip air fare for transportation independent of any other portion without penalty. The Comptroller General shall submit a report, based on the study, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure by June 15, 2000.

SEC. 1405. FUNDING OF ENFORCEMENT OF AIRLINE CONSUMER PROTECTIONS.

(a) IN GENERAL.—Chapter 481 is amended by adding at the end thereof the following:

"§48112. Consumer protection

"There are authorized to be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 for the purpose of ensuring compliance with, and enforcing, the rights of air travelers under sections 41310 and 41712 of this title—

"(1) $2,300,000 for fiscal year 2000;

"(2) $2,415,000 for fiscal year 2001;

"(3) $2,535,750 for fiscal year 2002; and

"(4) $2,662,500 for fiscal year 2003.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 481 is amended by adding at the end thereof the following:

"48112. Consumer protection.".

TITLE XV—PENALTIES FOR UNRULY PASSENGERS

SEC. 1501. PENALTIES FOR UNRULY PASSENGERS.

(a) IN GENERAL.—Chapter 463 is amended by adding at the end the following:

"§46317. Interference with cabin or flight crew

"(a) GENERAL RULE.—An individual who physically assaults or threatens to physically assault a member of the flight crew or cabin crew of a civil aircraft or any other individual on the aircraft, or takes any action that poses an imminent threat to the safety of the aircraft or other individuals on the aircraft is liable to the United States Government for a civil penalty of not more than $25,000.

"(b) COMPROMISE AND SETOFF.—

"(1) COMPROMISE.—The Secretary may compromise the amount of a civil penalty imposed under this section.

"(2) SETOFF.—The United States Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts the Government owes the person liable for the penalty.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 463 is amended by adding at the end the following:

"46317. Interference with cabin or flight crew.".

SEC. 1502. DEPUTIZING OF STATE AND LOCAL LAW ENFORCEMENT OFFICERS.

(a) DEFINITIONS.—In this section:

(1) AIRCRAFT.—The term "aircraft" has the meaning given that term in section 40102.

(2) AIR TRANSPORTATION.—The term "air transportation" has the meaning given that term in section 40102.

(3) ATTORNEY GENERAL.—The term "Attorney General" means the Attorney General of the United States.

(b) ESTABLISHMENT OF A PROGRAM TO DEPUTIZE LOCAL LAW ENFORCEMENT OFFICERS.—

(1) IN GENERAL.—The Attorney General may—

(A) establish a program under which the Attorney General may deputize State and local law enforcement officers having jurisdiction over airports and airport authorities as Deputy United States Marshals for the limited purpose of enforcing Federal laws that regulate security on board aircraft, including laws relating to violent, abusive, or disruptive behavior by passengers of air transportation; and

(B) encourage the participation of law enforcement officers of State and local governments in the program established under subparagraph (A).

(2) CONSULTATION.—In establishing the program under paragraph (1), the Attorney General shall consult with appropriate officials of—

(A) the Federal Government (including the Administrator of the Federal Aviation Administration or a designated representative of the Administrator); and

(B) State and local governments in any geographic area in which the program may operate.

(3) TRAINING AND BACKGROUND OF LAW ENFORCEMENT OFFICERS.—

(A) IN GENERAL.—Under the program established under this subsection, to qualify to serve as a Deputy United States Marshal under the program, a State or local law enforcement officer shall—

(i) meet the minimum background and training requirements for a law enforcement officer under part 107 of title 14, Code of Federal Regulations (or equivalent requirements established by the Attorney General); and

(ii) receive approval to participate in the program from the State or local law enforcement agency that is the employer of that law enforcement officer.

(B) TRAINING NOT FEDERAL RESPONSIBILITY.—The Federal Government shall not be responsible for providing to a State or local law enforcement officer the training required to meet the training requirements under subparagraph (A)(i). Nothing in this subsection may be construed to grant any such law enforcement officer the right to attend any institution of the Federal Government established to provide training to law enforcement officers of the Federal Government.

(c) POWERS AND STATUS OF DEPUTIZED LAW ENFORCEMENT OFFICERS.—

(1) IN GENERAL.—Subject to paragraph (2), a State or local law enforcement officer that is deputized as a Deputy United States Marshal under the program established under subsection (b) may arrest and apprehend an individual suspected of violating any Federal law described in subsection (b)(1)(A), including any individual who violates a provision subject to a civil penalty under section 46301 of title 49, United States Code, or section 46302, 46303, 46504, 46505, or 46507 of that title, or who commits an act described in section 46506 of that title.

(2) LIMITATION.—The powers granted to a State or local law enforcement officer deputized under the program established under subsection (b) shall be limited to enforcing Federal laws relating to security on board aircraft in flight.

(3) STATUS.—A State or local law enforcement officer that is deputized as a Deputy United States Marshal under the program established under subsection (b) shall not—

(A) be considered to be an employee of the Federal Government; or

(B) receive compensation from the Federal Government by reason of service as a Deputy United States Marshal in the program.

(d) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to—

(1) grant a State or local law enforcement officer that is deputized under the program under subsection (b) the power to enforce any Federal law that is not described in subsection (c); or

(2) limit the authority that a State or local law enforcement officer may otherwise exercise in the capacity under any other applicable State or Federal law.

(e) REGULATIONS.—The Attorney General may promulgate such regulations as may be necessary to carry out this section.

SEC. 1503. STUDY AND REPORT ON AIRCRAFT NOISE.

Not later than December 31, 2002, the Secretary of Transportation shall conduct a study and report to Congress on—

(1) airport noise problems in the United States;

(2) the status of cooperative consultations and agreements between the Federal Aviation Administration and the International Civil Aviation Organization on stage 4 aircraft noise levels; and

(3) the feasibility of proceeding with the development and implementation of a timetable for air carrier compliance with stage 4 aircraft noise requirements.

TITLE XVI—AIRLINE COMMISSION

SEC. 1601. SHORT TITLE.

This title may be cited as the "Improved Consumer Access to Travel Information Act".

SEC. 1602. NATIONAL COMMISSION TO ENSURE CONSUMER INFORMATION AND CHOICE IN THE AIRLINE INDUSTRY.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission to Ensure Consumer Information and Choice in the Airline Industry" (in this section referred to as the "Commission").

(b) DUTIES.—

(1) STUDY.—The Commission shall undertake a study of—

(A) consumer access to information about the products and services of the airline industry;

(B) the effect on the marketplace of the emergence of new means of distributing such products and services;

(C) the effect on consumers of the declining financial condition of travel agents in the United States; and

(D) the impediments imposed by the airline industry on distributors of the industry's products and services, including travel agents and Internet-based distributors.

(2) POLICY RECOMMENDATIONS.—Based on the results of the study described in paragraph (1), the Commission shall recommend to the President and Congress policies necessary to—

(A) ensure full consumer access to complete information concerning airline fares, routes, and other services;

(B) ensure that the means of distributing the products and services of the airline industry, and of disseminating information about such products and services, is adequate to ensure that competitive information is available in the marketplace;

(C) ensure that distributors of the products and services of the airline industry have adequate relief from illegal, anticompetitive practices that occur in the marketplace; and

(D) foster healthy competition in the airline industry and the entry of new entrants.

(c) SPECIFIC MATTERS TO BE ADDRESSED.—In carrying out the study authorized under subsection (b)(1), the Commission shall specifically address the following:

(1) CONSUMER ACCESS TO INFORMATION.—With respect to consumer access to information regarding the services and products offered by the airline industry, the following:

(A) The state of such access.

(B) The effect in the 5-year period following the date of the study of the making of alliances in the airline industry.

(C) Whether and to what degree the trends regarding such access will produce benefits to consumers.

(2) MEANS OF DISTRIBUTION.—With respect to the means of distributing the products and services of the airline industry, the following:

(A) The state of such means of distribution.

(B) The roles played by travel agencies and Internet-based providers of travel information and services in distributing such products and services.

(C) Whether the policies of the United States promote the access of consumers to multiple means of distribution.

(3) AIRLINE RESERVATION SYSTEMS.—With respect to airline reservation systems, the following:

(A) The rules, regulations, policies, and practices of the industry governing such systems.

(B) How trends in such systems will affect consumers, including—

(i) the effect on consumer access to flight reservation information; and

(ii) the effect on consumers of the use by the airline industry of penalties and promotions to convince distributors to use such systems, and the degree of consumer awareness of such penalties and promotions.

(d) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 voting members and 11 nonvoting members as follows:

(A) 5 voting members and 1 nonvoting member appointed by the President.

(B) 3 voting members and 3 nonvoting members appointed by the Speaker of the House of Representatives.

(C) 2 voting members and 2 nonvoting members appointed by the minority leader of the House of Representatives.

(D) 3 voting members and 3 nonvoting members appointed by the majority leader of the Senate.

(E) 2 voting members and 2 nonvoting members appointed by the minority leader of the Senate

(2) QUALIFICATIONS.—Voting members appointed under paragraph (1) shall be appointed from among individuals who are experts in economics, service product distribution, or transportation, or any related discipline, and who can represent consumers, passengers, shippers, travel agents, airlines, or general aviation.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) CHAIRPERSON.—The President, in consultation with the Speaker of the House of Representatives and the majority leader of the Senate, shall designate the Chairperson of the Commission (referred to in this title as the "Chairperson") from among its voting members.

(e) COMMISSION PANELS.—The Chairperson shall establish such panels consisting of voting members of the Commission as the Chairperson determines appropriate to carry out the functions of the Commission.

(f) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(g) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(h) OTHER STAFF AND SUPPORT.—Upon the request of the Commission, or a panel of the Commission, the Secretary of Transportation shall provide the Commission or panel with professional and administrative staff and other support, on a reimbursable basis, to assist the Commission or panel in carrying out its responsibilities.

(i) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(j) Report.—Not later than 6 months after the date on which initial appointments of members to the Commission are completed, the Commission shall transmit to the President and Congress a report on the activities of the Commission, including recommendations made by the Commission under subsection (b)(2).

(k) Termination.—The Commission shall terminate on the 30th day following the date of transmittal of the report under subsection (j). All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

(l) Applicability of the Federal Advisory Committee Act.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

TITLE XVII—TRANSPORTATION OF ANIMALS

SEC. 1701. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This title may be cited as the "Safe Air Travel for Animals Act".

(b) Table of Contents.—The table of contents of this title is as follows:

Sec. 1701. Short title; table of contents.
Sec. 1702. Findings.

Subtitle A—Animal Welfare

Sec. 1711. Definition of transport.
Sec. 1712. Information on incidence of animals in air transport.
Sec. 1713. Reports by carriers on incidents involving animals during air transport.
Sec. 1714. Annual reports.

Subtitle B—Transportation

Sec. 1721. Policies and procedures for transporting animals.
Sec. 1722. Civil penalties and compensation for loss, injury, or death of animals during air transport.
Sec. 1723. Cargo hold improvements to protect animal health and safety.

SEC. 1702. FINDINGS.

Congress finds that—

(1) animals are live, sentient creatures, with the ability to feel pain and suffer;

(2) it is inappropriate for animals transported by air to be treated as baggage;

(3) according to the Air Transport Association, over 500,000 animals are transported by air each year and as many as 5,000 of those animals are lost, injured, or killed;

(4) most injuries to animals traveling by airplane are due to mishandling by baggage personnel, severe temperature fluctuations, insufficient oxygen in cargo holds, or damage to kennels;

(5) there are no Federal requirements that airlines report incidents of animal loss, injury, or death;

(6) members of the public have no information to use in choosing an airline based on its record of safety with regard to transporting animals;

(7) the last congressional action on animals transported by air was conducted over 22 years ago; and

(8) the conditions of cargo holds of airplanes must be improved to protect the health, and ensure the safety, of transported animals.

Subtitle A—Animal Welfare

SEC. 1711. DEFINITION OF TRANSPORT.

Section 2 of the Animal Welfare Act (7 U.S.C. 2132) is amended by adding at the end the following:

"(p) Transport.—The term 'transport', when used with respect to the air transport of an animal by a carrier, means the transport of the animal during the period the animal is in the custody of the carrier, from check-in of the animal prior to departure until the animal is returned to the owner or guardian of the animal at the final destination of the animal.".

SEC. 1712. INFORMATION ON INCIDENCE OF ANIMALS IN AIR TRANSPORT.

Section 6 of the Animal Welfare Act (7 U.S.C. 2136) is amended—

(1) by striking "Sec. 6. Every" and inserting the following:

"SEC. 6. REGISTRATION.

"(a) In General.—Each"; and

(2) by adding at the end the following:

"(b) Information on Incidence of Animals in Air Transport.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall require each airline carrier to—

"(1) submit to the Secretary real-time information (as the information becomes available, but at least 24 hours in advance of a departing flight) on each flight that will be carrying a live animal, including—

"(A) the flight number;

"(B) the arrival and departure points of the flight;

"(C) the date and times of the flight; and

"(D) a description of the number and types of animals aboard the flight; and

"(2) ensure that the flight crew of an aircraft is notified of the number and types of animals, if any, on each flight of the crew.".

SEC. 1713. REPORTS BY CARRIERS ON INCIDENTS INVOLVING ANIMALS DURING AIR TRANSPORT.

Section 19 of the Animal Welfare Act (7 U.S.C. 2149) is amended by adding at the end the following:

"(e) Reports by Carriers on Incidents Involving Animals During Air Transport.—

"(1) In general.—An airline carrier that causes, or is otherwise involved in or associated with, an incident involving the loss, injury, death or mishandling of an animal during air transport shall submit a report to the Secretary of Agriculture and the Secretary of Transportation that provides a complete description of the incident.

"(2) Administration.—Not later than 90 days after the date of enactment of this subsection, the Secretary of Agriculture, in consultation with the Secretary of Transportation, shall issue regulations that specify—

"(A) the type of information that shall be included in a report required under paragraph (1), including—

"(i) the date and time of an incident;

"(ii) the location and environmental conditions of the incident site;

"(iii) the probable cause of the incident; and

"(iv) the remedial action of the carrier; and

"(B) a mechanism for notifying the public concerning the incident.

"(3) Consumer information.—The Secretary of Transportation shall include information received under paragraph (1) in the Air Travel Consumer Reports and other consumer publications of the Department of Transportation in a separate category of information.

"(4) Consumer complaints.—Not later than 15 days after receiving a consumer complaint concerning the loss, injury, death or mishandling of an animal during air transport, the Secretary of Transportation shall provide a description of the complaint to the Secretary of Agriculture.".

SEC. 1714. ANNUAL REPORTS.

Section 25 of the Animal Welfare Act (7 U.S.C. 2155) is amended in the first sentence—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(6) a summary of—

"(A) incidents involving the loss, injury, or death of animals transported by airline carriers; and

"(B) consumer complaints regarding the incidents.".

Subtitle B—Transportation

SEC. 1721. POLICIES AND PROCEDURES FOR TRANSPORTING ANIMALS.

(a) In General.—Subchapter I of chapter 417 of title 49, United States Code, is amended by adding at the end the following:

"§41716. Policies and procedures for transporting animals

"An air carrier shall establish and include in each contract of carriage under part 253 of title 14, Code of Federal Regulations (or any successor regulation) policies and procedures of the carrier for transporting animals safely, including—

"(1) training requirements for airline personnel in the proper treatment of animals being transported;

"(2) information on the risks associated with air travel for animals;

"(3) a description of the conditions under which animals are transported;

"(4) the safety record of the carrier with respect to transporting animals; and

"(5) plans for handling animals prior to and after flight, and when there are flight delays or other circumstances that may affect the health or safety of an animal during transport.".

(b) Table of Contents.—The analysis for chapter 417 of title 49, United States Code, is amended by adding at the end of the items relating to subchapter I the following:

"41716. Policies and procedures for transporting animals.".

SEC. 1722. CIVIL PENALTIES AND COMPENSATION FOR LOSS, INJURY, OR DEATH OF ANIMALS DURING AIR TRANSPORT.

(a) In General.—Chapter 463 of title 49, United States Code, is amended by adding at the end the following:

"§46317. Civil penalties and compensation for loss, injury, or death of animals during air transport

"(a) Definitions.—In this section:

"(1) Carrier.—The term 'carrier' means a person (including any employee, contractor, or agent of the person) operating an aircraft for the transportation of passengers or property for compensation.

"(2) Transport.—The term 'transport', when used with respect to the air transport of an animal by a carrier, means the transport of the animal during the period the animal is in the custody of a carrier, from check-in of the animal prior to departure until the animal is returned to the owner or guardian of the animal at the final destination of the animal.

"(b) Civil Penalties.—

"(1) In general.—The Secretary may assess a civil penalty of not more than $5,000 for each violation on, or issue a cease and desist order against, any carrier that causes, or is otherwise involved in or associated with, the loss, injury, or death of an animal during air transport.

"(2) Cease and desist orders.—A carrier who knowingly fails to obey a cease and desist order issued by the Secretary under this subsection shall be subject to a civil penalty of $1,500 for each offense.

"(3) Separate offenses.—For purposes of determining the amount of a penalty imposed under this subsection, each violation and each day during which a violation continues shall be a separate offense.

"(4) Factors.—In determining whether to assess a civil penalty under this subsection and the amount of the civil penalty, the Secretary shall consider—

"(A) the size and financial resources of the business of the carrier;

"(B) the gravity of the violation;

"(C) the good faith of the carrier; and

"(D) any history of previous violations by the carrier.

"(5) COLLECTION OF PENALTIES.—

"(A) IN GENERAL.—On the failure of a carrier to pay a civil penalty assessed by a final order under this section, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States or other United States court for any district in which the carrier is found or resides or transacts business, to collect the penalty.

"(B) PENALTIES.—The court shall have jurisdiction to hear and decide an action brought under subparagraph (A).

"(c) COMPENSATION.—If an animal is lost, injured, or dies in transport by a carrier, unless the carrier proves that the carrier did not cause, and was not otherwise involved in or associated with, the loss, injury, or death of the animal, the owner of the animal shall be entitled to compensation from the carrier in an amount that—

"(1) is not less than 2 times any limitation established by the carrier for loss or damage to baggage under part 254 of title 14, Code of Federal Regulations (or any successor regulation); and

"(2) includes all veterinary and other related costs that are documented and initiated not later than 1 year after the incident that caused the loss, injury, or death of the animal.".

(b) TABLE OF CONTENTS.—The analysis for chapter 463 of title 49, United States Code, is amended by adding at the end the following:

"46317. Civil penalties and compensation for loss, injury, or death of animals during air transport.".

SEC. 1723. CARGO HOLD IMPROVEMENTS TO PROTECT ANIMAL HEALTH AND SAFETY.

(a) IN GENERAL.—To protect the health and safety of animals in transport, the Secretary of Transportation shall—

(1) in conjunction with requiring certain transport category airplanes used in passenger service to replace class D cargo or baggage compartments with class C cargo or baggage compartments under parts 25, 121, and 135 of title 14, Code of Federal Regulations, to install, to the maximum extent practicable, systems that permit positive airflow and heating and cooling for animals that are present in cargo or baggage compartments; and

(2) effective beginning January 1, 2001, prohibit the transport of an animal by any carrier in a cargo or baggage compartment that fails to include a system described in paragraph (1).

(b) REPORT.—Not later than March 31, 2002, the Secretary shall submit a report to Congress that describes actions that have been taken to carry out subsection (a).

REREFERRAL OF NOMINATION

Mr. WARNER. Mr. President, as in executive session, I ask unanimous consent that the nomination of Gregory A. Baer, of Virginia, to be an Assistant Secretary of the Treasury, vice Richard Scott Carnell, be discharged from the Committee on Finance and referred to the Committee on Banking, Housing, and Urban Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, OCTOBER 7, 1999

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Thursday, October 7. I further ask consent that on Thursday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume debate on the pending Abraham amendment to S. 1650, the Labor-HHS Appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. WARNER. For the information of all Senators, the Senate will resume consideration of the Labor-HHS Appropriations bill at 9:30 a.m. on Thursday. The pending amendment is the Abraham amendment regarding the needle exchange programs. It is hoped this amendment and the few remaining amendments can be debated and disposed of in a timely fashion so that action on the bill can be completed by tomorrow. I encourage continued cooperation from those Senators who have amendments remaining on the list so that time agreements can be made for their consideration. Rollcall votes will occur throughout the day. As usual, Senators will be notified as votes are scheduled. Following completion of the Labor-HHS Appropriations bill, it is the intention of the leader to resume debate on the Agriculture Appropriations conference report. The Senate may also consider any other conference reports available for action.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. WARNER. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:33 p.m., adjourned until Thursday, October 7, 1999, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 6, 1999:

DEPARTMENT OF DEFENSE

CORNELIUS P. O'LEARY, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS, VICE ROGER HILSMAN, TERM EXPIRED.

DEPARTMENT OF STATE

DONALD STUART HAYS, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS FOR U.N. MANAGEMENT AND REFORM, WITH THE RANK OF AMBASSADOR.

DEPARTMENT OF JUSTICE

DANIEL J. FRENCH, OF NEW YORK, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS, VICE THOMAS JOSEPH MARONEY, TERM EXPIRED.

NOTE: IN THE RECORD OF OCTOBER 5, 1999, THE FOLLOWING NOMINATIONS WERE INADVERTENTLY SHOWN TO HAVE BEEN REPORTED BY THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY. THEY WERE NOT REPORTED. THE PERMANENT RECORD WILL BE CORRECTED ACCORDINGLY.

PAUL W. FIDDICK, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.

ANDREW C. FISH, OF VERMONT, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.

HOUSE OF REPRESENTATIVES—*Wednesday, October 6, 1999*

The House met at 10 a.m.

The Reverend Michael A. Nagy, Faith Evangelical Congregational Church, York, Pennsylvania, offered the following prayer:

Our Father and our God, it is with great joy, thanksgiving, and humility that we enter into Your presence this day as we lift up the Members of the 106th Congress to You. We ask that, as they govern, they will do so with divine grace, mercy, wisdom, and direction.

As You are ruler of all nations, we pray that You would rule in us today. As a nation, may we recover our awe of You. Refresh us with Your unfailing love. Revive our hearts. Renew our vision. Revitalize our sense of national purpose. Rekindle within us patriotism's flame. Restore in us our Founding Fathers' convictions of justice and equality.

This we pray through Him who reigns with You, both now and evermore. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. DOGGETT. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DOGGETT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. DOGGETT) come forward and lead the House in the Pledge of Allegiance.

Mr. DOGGETT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

INTRODUCTION FOR PASTOR MICHAEL A. NAGY

(Mr. GOODLING asked and was given permission to address the House for 1 minute.)

Mr. GOODLING. Mr. Speaker, it gives me great pleasure to welcome Pastor Michael Nagy to the U.S. House of Representatives and thank him for his opening prayer this morning.

Pastor Nagy is the current full-time pastor of Faith Evangelical Congregational Church in York County, Pennsylvania, a position that he has enjoyed for the past 2½ years.

Pastor Nagy has been ministering to his congregation in a variety of ways. Aside from his duties as pastor, he teaches adult Sunday school, provides home care and counseling needs, and tends to the needs of his assembly. The pastor is also continuing his education at the Evangelical School of Theology in Myerstown, Pennsylvania, where he hopes to earn his Masters of Divinity degree.

He is joined today by his wife Tracy and their daughters Leona and Sarah.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 15 one-minute speeches on each side.

30-YEAR RAID ON SOCIAL SECURITY TRUST FUND HAS STOPPED WITH THIS LEADERSHIP

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, because Republicans have held the line on spending, $115 billion from the Social Security taxes are saved for the trust fund and to pay down debt. Republicans have stopped the 30-year raid on Social Security, and we are determined to make sure that this program is never raided again.

That is why we have announced that we will not schedule any legislation that spends one penny of Social Security Trust Fund. This leadership is committed to ending the 30-year raid on the senior's Social Security plan and to paying down the debt.

It is really a simple proposition. The Democrats have a risky scheme to finance big government spending on the backs of senior retirement plans. Republicans want to lock away every penny of Social Security for seniors.

Mr. Speaker, the President wants to spend the Social Security surplus. That is right. President Clinton wants to spend the Social Security surplus.

The President's budget would spend $57 billion of Social Security in fiscal year 2000 alone. The President's $57 billion Social Security spending spree is equal to the yearly Social Security taxes paid by one out of every eight American workers.

It gets worse, Mr. Speaker. The President's $50 billion Social Security spending spree is equal to the yearly Social Security benefits for one out of every seven senior citizens.

Mr. Speaker, let me repeat. Not one dime of our Social Security taxes will be spent for something other than Social Security. Beginning in fiscal year 2000, we are stopping this 30-year raid.

REPUBLICANS' MANAGED CARE REFORM BILL WILL SPEND SOCIAL SECURITY TRUST FUND MONEY

(Mr. GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Speaker, I am proud to follow the gentleman from Texas (Mr. ARMEY) and obviously disagree with him because he said there is not going to be a bill scheduled that will spend Social Security trust funds.

Well, I was going to stand up here and talk about the managed care reform bill and the rule that was rigged to make sure that the access bill would pass even if the Dingell-Norwood bill does. Let me tell my colleagues what has been scheduled today, and it is exactly opposite from what the majority leader said. $48 billion of Social Security money will be spent if that access bill passes because there is no way they are paying for that.

So I do not know who to believe, either the numbers I see or what I hear from the 1-minute from the majority leader. Hopefully, the American people will look at what is happening. They are promising one thing from the floor of this House; but in the Committee on Appropriations and everywhere else, they are spending over $18 billion in Social Security funds, and today they have allowed an amendment on this floor that will spend $48 billion that will not be used for Social Security benefits.

KEEP AMERICA STRONG; SUPPORT THE MINING INDUSTRY

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, just last week the National Research Council released its much-anticipated report about hardrock mining on Federal lands.

Well, I say to my colleagues take a deep breath and grab their bifocals because this report actually shows a glimmer of common sense. It reaffirms what the mining industry in the State of Nevada has known all along; that is, that we do not need more regulation and restrictions. In fact, this report clearly states that existing Federal and State laws regulating mining are effective in protecting our environment.

Unfortunately, there are those in Congress who would like to destroy the mining industry in America by stopping its vital productivity with undue and burdensome Federal regulations.

Mr. Speaker, let me tell my colleagues, they probably do not think about it, but mining touches them, their constituents, and their families every day. Without mining, there would be no computers, no telephones, no automobiles, no modern medicine or technologies that provide all of us a longer and better quality of life.

Unnecessary Federal regulations could put an end to the mining industry and put an end to improving our quality of life. Keep America strong. Keep it moving. Support the mining industry.

PRAYING NOW BANNED FOR FOOTBALL PLAYERS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, a football team in Texas was overheard saying a prayer. My colleagues guessed it, now there is a lawsuit to ban football players in high school from praying. Unbelievable.

Mr. Speaker, even though the First Amendment states Congress shall make no law prohibiting the free exercise of religion, children cannot pray in school. School functions cannot mention God. Now football teams cannot pray.

What is next? Are they going to ban the Hail Mary pass in football? Beam me up. A Nation that outlaws God, so help me God, is inviting the Devil.

I yield back the trampled rights of the majority of the American people.

SENIOR CITIZENS SCORE VICTORY IN CONGRESS

(Mr. HILL of Montana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILL of Montana. Mr. Speaker, last night, America's senior citizens scored a big victory in the Congress. They may not even be aware of it this morning, but in the first time in decades, this Congress voted to make Social Security more important than foreign aid. Let me repeat. Congress said yesterday that Social Security is more important than foreign aid.

Now, the President has threatened to veto the foreign operations bill because he wants $2 billion of Social Security money to hand out around the world. Yesterday, Mr. Speaker, the Congress said no.

Mr. Speaker, for 40 years, the Democrats controlled this House, and not once did they set aside even a single dollar to save Social Security. If they had their way, they would have continued yesterday to raid the Social Security account. Yesterday it was for foreign aid. But yesterday they lost, and American senior citizens won. Today, Mr. Speaker, Social Security in this Congress is more important than foreign aid.

NORWOOD-DINGELL BILL PUTS THE CARE BACK INTO HEALTH CARE

(Mrs. CHRISTENSEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CHRISTENSEN. Mr. Speaker, the Republican leadership and managed care companies did not tell the American public the truth about why they oppose the Norwood-Dingell bill. They said that they were concerned that medical necessity provisions went too far. But how can one argue against physicians and their patients using their trained or best judgment?

They said that they were concerned that employers would be liable. But H.R. 2723 makes sure that businesses are protected.

So it came down to what their opposition is really about, the accountability of managed care companies for the medical decisions that they make. Tell me, why should every other business or company be liable for negligence or damages for the products they make, and this one kind of business not be held accountable for the life and death decisions that they make, not the doctors.

The only bill that is real managed care reform that puts the business of medicine back in the proper perspective and puts the care back into health care is the Norwood-Dingell bill. Let us pass that bill today. The American people need and want us to do that.

DAVIS-BACON ACT INFLATES COSTS FOR HURRICANE VICTIMS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, Hurricanes Floyd and Dennis have dealt a devastating blow to the residents along the Eastern Seaboard from Florida to North Carolina to New York. The flood waters have resulted in billions of dollars in damage and left thousands without homes.

Last week, a number of my colleagues and I sent a letter to the President of the United States asking him to relax the Davis-Bacon prevailing-wage requirements in order to facilitate repairs in the States hardest hit by the hurricanes.

The Davis-Bacon Act requires contractors who work on Federal projects to use Federal dollars to pay certain prevailing wages. Economic studies believe that Davis-Bacon inflates the cost of construction projects up to an estimated 38 percent.

Victims of the hurricanes should have the opportunity to use Federal disaster relief in local competitive markets to rebuild their homes and communities. In fact, under the Davis-Bacon Act, a man or woman who receives $2,500 of Federal disaster funding cannot use that relief to rebuild their own house themselves, but must pay the inflated prevailing wage to another contractor because of the use of Federal dollars.

SMALLER SCHOOLS, STRONGER COMMUNITIES ACT WILL STRENGTHEN SENSE OF COMMUNITY IN SCHOOLS

(Mr. HILL of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILL of Indiana. Mr. Speaker, the recent violence we have seen in our schools has made all of us take a serious look at our children, our schools, and ourselves. Too many of our children wake up every day and go to schools that make them feel disconnected and detached from their teachers, their parents, and their communities.

I am introducing a bill tomorrow called the Smaller Schools, Stronger Communities Act which I hope will make our schools smaller and strengthen the sense of community and safety that many of our schools today are lacking.

A principal of a successful small high school recently wrote that small schools "offer what metal detectors and guards cannot, the safety and security of being where you are well-known by people who care for you."

I hope this bill will encourage local school districts to find new ways to help their students feel connected to their schools, their communities, and their parents.

DAY 132 OF SOCIAL SECURITY LOCKBOX BEING HELD HOSTAGE

(Mr. VITTER asked and was given permission to address the House for 1 minute.)

Mr. VITTER. Mr. Speaker, this is day 132 of the Social Security lockbox held hostage in the Senate. Today's seniors and the seniors of tomorrow demand that we act as responsible stewards of the hard-earned money that they pay into Social Security.

Now there are two things we need to do to protect Social Security: first, we must act responsibly this year and pass spending bills without dipping into Social Security, and we are; second, we must work to see that institutional protections like the lockbox become law.

This House passed the lockbox bill by a vote of 416 to 12 on May 26. For 132 days, the other body has held this bill hostage.

☐ 1015

I hope President Clinton and all who say they are concerned about protecting Social Security call on the Senate for action on the Social Security lockbox bill.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BONILLA). The Chair will remind Members to avoid urging action of the other body, the Senate, in their remarks.

AMERICA WANTS HMO REFORM THAT PUTS PATIENTS AHEAD OF PROFITS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, the American public has consistently called for HMO reforms that put patients ahead of profits. Just as we are about to debate the bipartisan Patients' Bill of Rights, the Republican leadership and the insurance industry have set traps to weaken and kill sensible patient protections.

Earlier this week, the Republican leadership held a fund-raiser with insurance industry lobbyists, the most rabid opponents of HMO reform, and filled their pockets with campaign donations. Their motives are transparent: set traps for HMO reform and collect checks from the insurance industry. The Republican leadership is displaying upside-down values that put campaign favors ahead of HMO reform.

Mr. Speaker, I say to the Republican leadership that in this body rank-and-file Democrats and Republicans have come together around a bipartisan piece of legislation that is a good piece of health care reform legislation. The Republican leadership in this House is attempting to thwart the will of the Democrats and the Republicans here, and thwart the will of the American people that wants access to emergency rooms and specialty care, that wants to have prescription drugs, and that allows them to sue an HMO if they have proceeded irresponsibly.

AMERICA NEEDS PATIENTS' BILL OF RIGHTS, NOT LAWYERS' RIGHT TO BILL

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I really appreciate the outlook of my colleague from Connecticut, and it is unique in her interpretation of what transpires.

For example, the silence is deafening from my friends on the left when it comes to Communist Chinese contributions to their political party and the President of the United States. Very interesting that they do not have a word to say about that. Oh, they do talk about campaign finance reform. But that is akin to Bonnie and Clyde, at the height of their crime spree, calling for a press conference for tougher penalties against bank robbery.

Make no mistake, my friends on the left love trial lawyers, and what they want instead of a true patients' bill of rights is a lawyers' right to bill. The Wall Street Journal opined yesterday that the left has been held hostage by the trial lawyers' lobby.

I know they will get up and be very clever today, but remember the facts: We need a true patients' bill of rights, not a lawyers' right to bill.

APPROVE BIPARTISAN PATIENTS' BILL OF RIGHTS

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, of course the gentleman from Arizona (Mr. HAYWORTH) is right. I think all America recognizes it is just a matter of coincidence that the Republican Party here in the House sucked out every dollar it could from the managed care and insurance companies on the eve of the consideration of a meaningful patients' bill of rights.

What I prefer to focus on is not their failure but our success, a success in the Lone Star State. This is experience that this Congress should follow to protect health care consumers across this country. We began in Texas with bipartisan participation in crafting meaningful guarantees for every person in managed health care.

Texas recognized that we have to reject the same sham insurance company talk that is being advanced here today, and the same misinformation that clutters the television airwaves. The result has been what Governor Bush's own insurance commissioner calls one of the most effective consumer laws in the country.

Unfortunately, a Federal law is interfering with the ability of Texas and other States to assure patients full guarantees. Let us approve the bipartisan patients' bill of rights, empower the States, and empower the patients.

REPUBLICANS ARE FIGHTING TO PROTECT SOCIAL SECURITY SURPLUS

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, the previous gentleman from Texas spoke very well, as a trial lawyer would. But I want to talk about the throes of a great struggle we are in to restore the integrity of the Social Security Trust Fund.

If the Republicans in the House are successful, not one penny of the Social Security surplus will be spent on wasteful Washington spending. Last night, the Republicans passed a foreign operations bill that cuts the amount of foreign aid Americans send overseas. Why is that good? It reflects disciplined spending, it cuts growth in the Federal Government, and it protects the Social Security surplus.

The President now has threatened to veto the bill. Why? Because he wants to spend $2 billion more on foreign aid. Now, that alone troubles most Americans. But what brings us to despair is that this $2 billion more the President wants to spend will come right out of the Social Security Trust Fund. The President intends to spend $2 billion more of the Social Security Trust Fund not here in America but overseas.

Mr. Speaker, we are fighting to protect the Social Security surplus not only for this year but for the next year, the year 2000.

MAKING EDUCATION MORE AFFORDABLE

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, it has been said that education is not the filling of a pail but the lighting of a fire. But, Mr. Speaker, how can our children keep the flames of education alive when for many college education, so necessary in today's job market, seems unaffordable and out of reach.

As a former educator and school administrator, I know of the difficulties that working families encounter with the skyrocketing costs of a college education. While in the Florida legislature, I made it a priority to create the Florida Prepaid College Tuition Plan, helping thousands of Florida's families. In Congress, I have continued to support legislation aimed at providing tax deductions for families of college students, particularly lower-income families.

As legislators, it is our duty to ensure that a college education is made affordable. And tax deductions and incentives are a surefire way of relieving working families who aspire to send their children to college. Our future can only be as good as the education of our children.

Our congressional leadership is making students a priority, and we will work to pass legislation that will enable them to attend college, to reach their goals, and supply them with the necessary tools to create an even better America.

HOUSE FACES HISTORIC OPPORTUNITY IN HMO REFORM

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, today the House of Representatives has an enormously historic opportunity, an opportunity that America has been asking for time, after time, after time. And that is just to provide equity in the health management organizations that provide insurance for a great number of hardworking American families.

All America asks for is that we respond to their desires to emphasize the patient-physician relationship; that we do not have drive-by emergency rooms; that we allow women to use their OB-GYN; and, yes, that we give them the opportunity when an HMO intercedes between a physician-patient relationship and denies coverage or care and our loved one is injured or they are made worse or they die, that they have the opportunity to seek redress of their grievance, similar to the constitutional fathers who came and organized and made this country great.

So I would say, Mr. Speaker, I am hoping that we will not interject poisonous amendments that will take away from the American people the opportunity to see a fair and just HMO plan. We should vote for the Patients' Bill of Rights. Let us do this together as one country, one Nation, and one Congress.

FOREIGN AID ACCOUNTABILITY

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, Federal investigators are still sorting through the evidence in what may well be the biggest money laundering scandal in U.S. history.

The United States has provided billions of dollars in direct foreign aid to Russia since the breakup of the foreign Soviet Union. Much of the money is missing, unaccounted for. The taxpayers have also underwritten billions more in International Monetary Fund commitments. What we are apparently seeing right now is a pretty good example of what happens when we throw good money after bad. Let us face it, someone has been asleep at the switch.

This Congress is doing the right thing by reducing foreign aid spending, as we voted to do just last night, President Clinton's objections notwithstanding. But we need to do more. We need to make sure that the Clinton administration ensures that our tax dollars are not being diverted inappropriately or outright stolen. We need to ensure that somebody is looking out for the American taxpayers. We need some accountability, finally, at the White House.

CONGRESS NEEDS TO TAKE UP A SCHOOL FACILITIES BILL

(Mr. THOMPSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of California. Mr. Speaker, modern well-equipped schools in good repair are an important part of a good learning environment, yet we are lacking badly in our efforts to keep up with school facilities needs.

In my home State, California, we need 10,791 classrooms in the next 5 years in order to keep up. That is 6 classrooms per day that we are going to need to build for the next 5 years.

Facilities are necessary to keep up with the new technology that we are putting in schools and to meet the needs of the growing student population, enrollment that grew to a record high last year of 53.2 million students. And it is projected that next year it will grow by another 440,000 students.

Mr. Speaker, it is paramount that we have a school facility bill on this floor to address these needs.

FEDERAL RED TAPE IS STRANGLING AMERICA'S SCHOOLS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, Federal red tape is strangling America's public schools. As long as the bureaucrats maintain their death grip on school districts across America, schools will struggle with their effort to get better.

So when we talk about how much money we are spending on education, let us also talk about how we are spending that money. Let us stop focusing on process and start focusing on what really matters: Results.

That is what Republican education reform is all about. It is about fewer layers of bureaucracy and more dollars to the classroom. It is about less red tape and more student achievement. It is about allowing parents to take their kids out of bad schools and put them into good ones. It is about putting more decisions into the hands of teachers and parents and fewer decisions in the hands of the bureaucrats. It is about giving America's children the chance for a brighter future.

IN MEMORY OF ARMY SERGEANT JASON PRINGLE

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, on last Friday, October 1, my hometown suffered a grave loss. A paratrooper, Army Sergeant Jason Pringle, died while serving this country in Kosovo as part of the Army's elite Company A, 1–508th Airborne Battalion Combat Team. Jason, a 24-year-old army medic had served this Nation since his graduation from Palm Bay High School in 1993.

I never had the opportunity to meet Jason, but I wish I had. He was a fine young man with a bright future. I, too, served in the Army in its medical corps, and I met many young people like Jason during my service, and it was always a privilege.

It is tragic that this has happened; that the state of the world is such that we have to have our brave men and women all over the globe. It is tragic that a father has lost his son, a mother has lost her child.

To Jason: Thank you for giving the greatest gift, your life, for our continued freedom and the freedom of others.

PRESIDENT CLINTON AND JAMES RIADY IN NEW ZEALAND

(Mr. TANCREDO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TANCREDO. Mr. Speaker, John Huang recently named James Riady as his superior in the campaign finance fiasco who funneled over $4 million, along with the influence of the People's Republic of China, into the pockets of the Clinton-Gore campaign and into the White House.

This man, Mr. Riady, is wanted for questioning by both the House and the Senate, as well as the Department of Justice. On September 24, 1999, the Wall Street Journal reported that "James Riady, the Indonesian businessman central to Donorgate, used an economic summit in New Zealand last week to chat with President Clinton."

□ 1030

The White House will not talk about it, but the Indonesians say Riady did not discuss anything sensitive with the President.

Mr. Speaker, Mr. Clinton is the head law enforcement officer of the United States. He and Janet Reno have once again made a mockery of the Congress and the American people.

PATIENTS' BILL OF RIGHTS

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, I would urge my colleagues today and tomorrow to vote only for the Norwood-Dingell managed care reform, the Patients' Bill of Rights.

Every effort is being made with the rule that we will adopt today in the House to try to mess up the Patients' Bill of Rights and make sure that it is ultimately defeated and does not go on to the Senate.

The Patients' Bill of Rights, the Norwood-Dingell bill, would change the way medical care is provided by guaranteeing that the doctor and the patients make the decisions about what kind of care they get rather than the insurance company and it would provide for enforcement through an external independent review process if their medical care has been denied and ultimately to the federal courts.

The phony access bill that the Republican leadership will put up on the floor today does nothing for the uninsured. It does not help the uninsured at all. All it does is to make it more difficult to pass the Norwood-Dingell Patients' Bill of Rights.

The substitutes that are going to be proposed tomorrow as alternatives to the Norwood-Dingell bill, all they do is basically water down their ability to get adequate patient protections and to enforce what kind of care they should get either in a court of law or through external review.

Vote for Norwood-Dingell. Vote against all the substitutes tomorrow.

MANAGED CARE REFORM IS LONG OVERDUE

(Mr. SHAYS asked and was given permission to address the House for 1 minute.)

Mr. SHAYS. Mr. Speaker, I am for malpractice reform. I am for product liability reform. I think we have too many lawsuits. But I do not believe HMOs should cause the injury or death of someone and escape liability, and neither do any or most of my constituents.

I have been having community meetings the last few weeks. I asked Republicans. I asked Democrats. I asked the young. I asked the old. I asked conservatives. I asked moderates. I asked liberals. And almost everyone says HMOs should not escape liability.

I believe we need a patients' health care bill of rights, and I am going to support one. I think it is long overdue that we are addressing this issue.

REJECTION OF PRESIDENTIAL NOMINEE FOR SUPREME COURT JUSTICE

(Mr. BECERRA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BECERRA. Mr. Speaker, today we see the injustice that the majority party is doing with regard to America's right to be able to go to a hospital and get decent health care.

But yesterday was a further injustice, this time in the other body, the Senate, where the Senate, in the first time for some 20 years, decided to reject the nomination of the President of the United States of a court nomination.

The gentleman in this case was a gentleman named Ronny White, a sitting Supreme Court justice in the State of Missouri. He also happened to be African American, the first African American in that State to sit on the Supreme Court in that State.

He was rejected despite the fact that in committee in the Senate he passed with Republican support. Yet, when his vote came to the Senate floor, the Senators rejected him on the Republican side, including those who had voted for him in committee.

Outrageous because this is the first time in some 20 years that we have seen this happen, but outrageous because it is the first time in my memory that someone has been rejected for reasons other than his qualifications.

We have seen this happen now yesterday. I am afraid it may happen again when we have other judges of minority background who may face the same consequences by this Republican Senate. It is outrageous and we need to stop that. Hopefully the outrage will stop by the year 2000.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BONILLA). The Speaker would remind Members not to characterize actions taken by the other body or to encourage that they take specific action.

PRESIDENT IS GOING TO VETO FOREIGN AID BILL

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, I am still confused. The President said in January, let us put Social Security first. So, taking him for his word, the Republican conference says, we agree. We will reserve House Resolution 1, the first bill of the legislative session, for consideration for the President's Social Security reform package.

Well, that was in January. Here we are in October. No bill, no legislation, nothing from the President on Social Security protection.

Here is what we do have. He said he wanted to protect 62 percent of the Social Security Trust Fund. Republicans want to protect 100 percent. He said he is against the lockbox. The lockbox works the same way as a security deposit box in the bank works. They put the money in there and then nothing can get out. But the President is against that.

Now we find out he is going to veto the foreign aid bill because he wants to spend more money but the only surplus that is left is Social Security.

So I am really confused now. The President is going to veto foreign aid so he can spend at its current level, so he can spend Social Security dollars in foreign countries. It does not make sense, Mr. Speaker.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the pending business is the question of the Speaker's approval of the Journal.

The question is on the Speaker's approval of the Journal of the last day's proceedings.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 340, nays 68, answered "present" 1, not voting 24, as follows:

[Roll No. 481]

YEAS—340

Ackerman
Allen
Andrews
Archer
Armey
Bachus
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boswell
Boyd
Brady (TX)
Brown (FL)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson

Castle
Chabot
Chambliss
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Coyne
Cramer
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fletcher
Foley
Forbes
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gejdenson
Gekas
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Hall (OH)
Hall (TX)
Hastings (WA)
Hayes
Hayworth
Herger
Hill (IN)
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
Kuykendall
LaHood
Lampson
Lantos
Largent
Larson
Latham
Lazio
Leach
Lee
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McHugh
McInnis
McIntosh
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Packard
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Peterson (PA)
Petri
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Pickering
Pitts
Pomeroy
Porter
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Price (NC)
Pryce (OH)
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Radanovich
Rahall
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Regula
Reyes
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Rodriguez
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Rohrabacher
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Rothman
Roukema
Roybal-Allard
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Rush
Ryan (WI)
Ryun (KS)
Sánchez
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Shaw
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Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
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Tierney
Toomey
Traficant
Turner
Upton
Velázquez
Vitter
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Watkins
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
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ANSWERED "PRESENT"—1

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McKinney
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Rogan
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Scarborough
Waxman
Wicker
Young (AK)

☐ 1057

So the Journal was approved.

The result of the vote was announced as above recorded.

☐ 1100

PROVIDING FOR CONSIDERATION OF H.R. 2990, QUALITY CARE FOR THE UNINSURED ACT OF 1999, AND H.R. 2723, BIPARTISAN CONSENSUS MANAGED CARE IMPROVEMENT ACT OF 1999

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 323 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 323

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 2990) to amend the Internal Revenue Code of 1986 to allow individuals greater access to health insurance through a health care tax deduction, a long-term care deduction, and other health-related tax incentives, to amend the Employee Retirement Income Security Act of 1974 to provide access to and choice in health care through association health plans, to amend the Public Health Service Act to create new pooling opportunities for small employers to obtain greater access to health coverage through HealthMarts, and for other purposes. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) two hours of debate equally divided among and controlled by the chairmen and ranking minority members of the Committee on Commerce, the Committee on Education and the Workforce, and the Committee on Ways and Means; and (2) one motion to recommit.

SEC. 2. At any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2723) to amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed three hours equally divided among and controlled by the chairmen and ranking minority members of the Committee on Commerce, the Committee on Education and the Workforce, and the Committee on Ways and Means. After general debate the bill shall be considered for amendment under the five-minute rule. The amendments printed in part A of the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as read. No further amendment to the bill shall be in order except those printed in part B of the report of the Committee on Rules. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against the amendments printed in part B of the report are waived except that the adoption of an amendment in the nature of a substitute shall constitute the conclusion of consideration of the bill for amendment. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill, as amended, and any further amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 3. (a) In the engrossment of H.R. 2990, the Clerk shall—

(1) await the disposition of H.R. 2723;

(2) add the text of H.R. 2723, as passed by the House, as new matter at the end of H.R. 2990;

(3) conform the title of H.R. 2990 to reflect the addition of the text of H.R. 2723 to the engrossment;

(4) assign appropriate designations to provisions within the engrossment; and

(5) conform provisions for short titles within the engrossment.

(b) Upon the addition of the text of H.R. 2723 to the engrossment of H.R. 2990, H.R. 2723 shall be laid on the table.

The SPEAKER pro tempore (Mr. BONILLA). The gentleman from Florida (Mr. GOSS) is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, today the Republican majority makes good on its promise of a full and fair debate on health care reform. We have acceded to the requests of both sponsors, the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Michigan (Mr. DINGELL), by separating the two major issues in the managed care debate. This rule ensures that both parts of the debate, the affordable access part and the patient protection part, receive the attention they deserve separately.

Under the rule, we will first debate the access bill, H.R. 2990, introduced by the gentleman from Missouri (Mr. TALENT) and the gentleman from Arizona (Mr. SHADEGG). Because of the tax provisions within H.R. 2990, we have offered the minority a substitute, which I understand they have declined to offer, as well as the traditional motion to recommit.

The rule provides for an ample 2 hours of general debate on this access bill, to be equally divided between the three committees of jurisdiction.

After consideration of the access bill, H.R. 2990, we will proceed to separately debate H.R. 2723, the so-called Norwood-Dingell bill. We provide for 3 hours of general debate, again to be equally divided among the three committees, the Committee on Commerce, the Committee on Education and Work Force, and the Committee on Ways and Means.

Because of the comprehensive nature of this legislation, the rule makes in order only full substitutes to Norwood-Dingell, the underlying bill. There are three such substitutes. Each of the three substitutes will receive an hour of debate time. We have made in order every substitute offered to the Committee on Rules, and a great many of the more than 50 or so perfecting amendments we heard in the Committee on Rules are addressed in one way or another in all of these substitutes. We believe this will ensure timely and full consideration of all points of view on this very important issue.

After considering these substitutes and voting on the underlying bill, the rule provides that the two bills, the access bill and the patient's rights bill, will be enrolled and sent to the Senate together. Since this was precisely the process that the base bill sponsors had requested, we were surprised when the minority objected last night at the last minute to this fair process and even threatened to bring down the rule over it. It should be clear to any objective Member that we have kept our word and prevented so-called "poison pill" amendments from even being offered.

I am concerned that by last minute moving of the goalposts and by their statements in opposition to this approach, that the minority now has a desire to have a partisan political debate, rather than to solve a real and growing problem that Americans are asking us to deal with.

Access and affordability are as important as improving patient protection, and we fairly provide for both under this rule, as we have pledged we would do. At the Committee on Rules on Tuesday I was struck by something the gentleman from Michigan (Mr. DINGELL) said on this topic, and I quote him: "A right without enforcement is no right at all." While he was referring to the patient protection side of this debate, I believe those words are even more appropriate in the context of the debate over the uninsured.

This week the Census Bureau reported that the number of uninsured grew by 1 million last year. It is now one in six Americans that do not have health care insurance. This should be devastating news to all Americans, particularly those in the small business community. None of the important patient protections we will debate later today or tomorrow mean anything to those 44 million Americans living without insurance. In this case, to paraphrase my friend from Michigan, a right without insurance is no right at all.

That is why I am pleased that our first order of business today is a well-crafted bill to increase the number of insured, not through more bureaucracy, not "big brother" mandates, but through market reform and long overdue tax equity. For the mom and pop and other small business employees in my district in Florida, that means that they can afford quality health care insurance, they can stop using the emergency room as their only source of health care, and they can finally enjoy the same health care advantages that the employees of the IBMs of the world currently have. I will speak in greater length about the patient protection piece during the amendment process. I intend to offer a substitute, along with the gentleman from Oklahoma (Mr. COBURN), the gentleman from Arizona (Mr. SHADEGG), the gentleman from California (Mr. THOMAS), and the gentleman from Pennsylvania (Mr. GREENWOOD) to the Norwood-Dingell bill.

Put simply, our approach seeks to find the responsible middle ground between limited liability for health plans and a trial lawyer bonanza. Our message is simple: If you are harmed, you deserve to be made whole. But we should encourage patients to get the care they need up front from quality medical providers, with a lawsuit as a last resort, not the first choice. I am encouraged by the amount of support we have received, and I look forward to a vigorous debate when the time comes.

Mr. Speaker, I want to finish by reminding all Members what this rule does and does not do. This rule does provide for separate votes on access and patient protection, as requested by the sponsors. This rule does not make in order any poison pill amendments intended to sink the underlying bill.

This is a fair process, and I encourage my friends on the other side of the aisle to keep their word, vote for the rule, and help us improve the quality and affordability of health care for all working Americans.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule is a classic case of caveat emptor, or perhaps it is a pig in a poke. Whatever it is, this rule is a not-too-cleverly-disguised attempt by the Republican leadership to derail meaningful reforms in the managed care industry, reforms that will benefit millions of Americans who are counting on us to help them.

Mr. Speaker, the gentleman from Florida (Mr. GOSS) has told the House that this is a fair rule, a rule which will allow the House to debate a full range of health care issues.

Mr. Speaker, I must respectfully disagree with my friend. While this rule may well allow the House to debate both managed care and a means to expand health care to some 44 million Americans who today have none, this rule is purposefully structured to keep either of those goals from being reached.

It is therefore my intention to oppose the rule. I would hope that the House will defeat this rule so that the Committee on Rules can adopt a new rule to permit the House to pass a real managed care reform package that stands a real chance of becoming law.

Mr. Speaker, clever packaging is often used to disguise the fact that consumers get much less than they pay for, and this rule is just as deceptive.

☐ 1115

Thus, I must repeat that this rule is a case of caveat emptor. In this case, Members may think they are getting two for the price of one, but I would submit, Mr. Speaker, that this rule is designed to cheat those of us who are looking for real value.

Mr. Speaker, the Republican majority on the Committee on Rules has recommended to the House a very peculiar procedure which was never supported by the minority. This very peculiar procedure ties together two vastly different topics under the guise of a wide-ranging reform of health care in this country.

Members have to follow the bouncing ball of what they have done. After passage of both bills, presuming both pass, the access bill and HMO reform, the rule provides that the two bills will be combined in the engrossment, thus making the two bills one, without a vote to do that. Let me repeat, after these two separate bills have been passed on separate days, then the Republicans, by operation of this rule, would tie them all together and send them to conference with the Senate, without actually voting on that proposition.

They know, they know that by doing this, this will jeopardize any piece of legislation from ever emerging from a conference with the Senate. They do so in a very cynical way.

Mr. Speaker, over and above this question about tying the two bills together without a vote to do that, the rule does not allow the House to consider an amendment which would pay for the costs associated with managed care reform. The authors of the Patients' Bill of Rights, the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Michigan (Mr. DINGELL) have proposed an amendment to their bill which would offset the cost of higher employer deductions for worker health insurance.

Mr. Speaker, this should be a very simple proposition. Republicans have for days and days on the floor of the House been crying great crocodile tears about not wanting to invade the social security surplus. What happens? Democrats and Republicans who support this bill come to the Committee on Rules and say, make in order an amendment so we do not have to invade the social security surplus, and the Republicans say no. No, we cannot do that. We do not want to invade the social security surplus, and we say that every day four or five times here on the floor, but if you actually give us the chance to vote on that subject, we do not want to vote on it, and we will prevent the House from voting on that. That is why this is a flawed rule, Mr. Speaker.

Mr. Speaker, the reasoning in all of this is somewhat tortured. I do not want to belabor the House. I would only point out that last night on the subject of tying the two bills together, I asked the chairman of the committee, the gentleman from California (Mr. DREIER), I said, why are we doing this? Why are we combining these two bills at the end without a vote? Is there some rule of the House that requires us to do that? The chairman said, no, there is not a rule of the House, we just want to do it.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding to me.

Mr. Speaker, the gentleman is correct. As the gentleman knows, that is the prerogative of the majority, to set forth these guidelines. But it is very clear that if we are going to address the question that my friend has accurately raised, the fact that we have gone from 1992, when the President was elected and 38 million Americans were uninsured, to the report we just received this week, that 44.3 million Americans are uninsured, we believe very strongly that unless we provide those things that are in the access bill, that we will not be able to address the concerns of those who will become even more uninsured if we simply have the kind of legislation that the gentleman supports. That is the reason we want to tie these bills together.

Mr. FROST. Reclaiming my time, Mr. Speaker, I thank the chairman for his comments, because the question I raised last night was, is there some reason, some legal reason here on the House floor that we have to do this, in the rules of the House? He said no, it is because they want to.

I would suggest that wanting to may well doom final passage out of a conference committee of either one of these provisions, which may well have merits on their own as separate pieces of legislation, but when combined under one package, no, particularly because the access bill is also not paid for. The Republicans have done nothing to provide the money to pay for the access bill. The estimates are that that bill could wind up costing $40 billion or $50 billion. So we are not paying for anything under the rule that is presented here today. All we are doing is voting on some very nice pieces of legislation.

Democrats are asking that the Patients' Bill of Rights that we have been advocating for years now, and it is final reaching the floor, that we be given the opportunity to offer an amendment which would pay for this bill so that the Republicans could honor their word and honor their pleas of not invading the social security trust fund.

Mr. Speaker, we have a lot of Members who wish to speak at this point. Members I know feel very strongly about passage of a strong Patients' Bill of Rights. We are to the point hopefully where we can do that, but we should do it in an honest way. We should be honest with the American public. I would urge defeat of this rule so we may have an honest procedure here on the floor of the House of Representatives.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Surely the gentleman from Texas, Mr. Speaker, is not implying that we are doing anything dishonest on this side of the aisle. We have the press gallery watching. We have the whole world watching. There is nothing going on here except a clear, transparent debate on what I believe is a very good rule, which provides for full and fair debate, which is what we have promised.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio (Ms. PRYCE), a distinguished member of the Committee on Rules.

Ms. PRYCE of Ohio. Mr. Speaker, I thank my good friend, the gentleman from Florida, for yielding time to me.

Mr. Speaker, I rise in support of this very fair rule. I would like to take this opportunity to congratulate the gentleman from Florida (Mr. GOSS) on all his hard work to bring people together to find some middle ground on this emotionally charged issue. It was certainly no small feat, and his success will give the House the opportunity to vote on consensus legislation that offers all the patient protections that we agree on without the excessive litigation and Federal regulation that the Norwood-Dingell bill promises.

I hope all my colleagues on both sides of the aisle will give the Goss substitute their very serious consideration.

Mr. Speaker, I have to say that I find it very curious that my Democratic colleagues are opposed to this rule, which I believe is eminently fair. I think all fair-minded people will agree with me when I explain why.

The Democrat leadership and some of our Republican colleagues asked the Republican leadership to bring managed care reform legislation to the House floor for debate. Today, with the passage of this rule, we will be able to. Mind you, we are not bringing just any old managed care bill to the floor. We are taking up the bipartisan bill with so much Democrat support, the Norwood-Dingell bill. This is the base bill under this rule.

Then my Democrat colleagues ask us not to allow any poison pill amendments. We complied by making in order only full substitutes under this rule. But that was not enough. Then they asked us not to add any Republican amendments to the Norwood-Dingell bill that would provide greater affordability and access. We did not.

Now my Democratic friends are upset that we did not save them from themselves, because apparently they just realized that their bill will increase premiums. I am glad that the Democrats have come to terms with reality.

One would think that they would be pleased that this rule allows us to debate another bill that addresses affordability and access, but apparently they are still not satisfied. Now they use the politically charged rhetoric that the Norwood-Dingell bill will spend social security. It is a bit of a stretch, but I guess, in a political pinch, it will do.

So now, at the last minute, the Republican leadership is supposed to fix their policy flaws by adding a last-minute $7 billion tax increase to the Norwood-Dingell bill? I realize we have been accommodating, but that is just a little bit too much for us to swallow. Frankly, their protests are beginning to ring a bill hollow.

If my colleagues are truly concerned about health care policy, I suggest they support this fair rule. This rule will allow the House to debate various proposals to provide patient protections, as well as a bill that will help uninsured Americans and those that will eventually find themselves without insurance when the premium increases in the Norwood-Dingell bill price them out of the market.

Mr. Speaker, this process is eminently fair. It gives all viewpoints a chance to be heard on the important health care issues facing our Nation. I urge my colleagues to vote for the previous question and the rule.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Speaker, by asking us to pass a rigged rule to finally allow a vote on managed care reform, the majority has once again demonstrated that they are out of touch with the American people, and that they are even out of touch with Members of their own Republican conference.

Over 20 Republicans have signed on as cosponsors of the Bipartisan Consensus Managed Care Improvement Act because they recognize that physicians and their patients, not HMO bureaucrats, should be the ones making the decisions on what kind of care we should receive.

The rule before us is a bad rule that is designed to kill the Norwood-Dingell bill and prevent any chance of us having real, meaningful health managed care reform this year. We must defeat this rule so supporters of managed care reform on both sides of the aisle can have the opportunity to have a clean up or down vote on real managed care reform, the Norwood-Dingell bill.

This is not about providing access to care, as the opponents of the Norwood-Dingell bill would have us believe. This rule is about having no access to care even for the insured, and no managed care reform at all.

The American people have told us they want the Norwood-Dingell bill. Vote no on this rule.

Mr. GOSS. Mr. Speaker, I am happy to yield 2 minutes to the distinguished gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Speaker, I am back on the floor of the House of Congress. I have been here night after night with my colleagues from the other side and colleagues from this side of the aisle, too, in pushing that we finally get a vote on patient protection legislation.

I went before the Committee on Rules with the gentleman from Michigan (Mr. DINGELL) and argued forcefully for the amendments that concern the Democrats on the pay-fors. I understand their concern about that. What we need, though, is we need a vote on access.

I have some concerns about some of the access provisions. I am going to speak about that. We need a vote also on patient protections. I will tell the Members what, we are going to have to run a gauntlet to get the Norwood-Dingell bill passed. The rule is tough, it is really tough, for us to win. At the end of the day, if either of those bills pass, then they go to conference.

I think this is the best we can do. I think it is time that we need to move to this debate. I understand my colleagues on the other side, their concern on this rule, but I honestly think that we can have a good debate in the next 2 days on both the access provisions and things in that access bill that can send a message to conference.

I intend to do that. I intend to work my hardest to get the bipartisan consensus managed care bill passed that will be in the best interests of the people in this country, and will help us move this process along. So I will vote for the rule, but I understand fully the concerns of Members on the other side.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, the House Republican leadership has awarded this fellow in the fedora on the cover of Forbes magazines and all the tax shelter hustlers that he represents a great victory because this rule denies the right to pay for this legislation by calling on tax dodgers. As the gentleman from Georgia (Mr. NORWOOD), our Republican colleague, told the Rules Committee in urging an end to this tax dodging, "there is a difference between a tax increase and stopping bogus tax loopholes." Bogus loopholes, indeed. This is a bogus rule that blocks the shutdown of abusive of corporate tax loopholes.

Additionally, this rule represents fiscal irresponsibility at its worst. These bills are not paid for. It is wrong to dip into Social Security when the corporate tax dodgers should be paying for this legislation. While the costs of managed care reforms have been greatly exaggerated, all of us committed to patient protection believe this must be a fiscally prudent pay-as-you-go approach. The approach we sought in the Rules Committee was to pay for our reforms.

Finally, this so-called Republican access bill is really access to the U.S. Treasury. It would open access to up to $50 billion of tax loopholes to be financed right out of social security. This is wrong, and the rule should be rejected.

□ 1130

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I find it a little puzzling that the gentleman who just spoke and the distinguished gentleman from Texas (Mr. FROST) both signed a discharge petition that would have precluded the opportunity to discuss this, and now they seem to be very upset with what they signed.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. Mr. Speaker, I thank the gentleman from Florida for yielding me this time.

Mr. Speaker, I think it is very important the American public really gets to see how we got in the mess we find ourselves in with health care. In America today, we have a Soviet-run government-mandated health care system which has resulted in the loss of freedom of choice for millions of Americans. This rule to provide access is hopefully a step in moving back in that direction.

But I also want to make sure that the American people understand the two extremes on this debate. On one side, we have corporate America and small business who is afraid that the costs are going to go through the roof if we change anything. On the other side, we find the legal profession licking its chops to take money away from people who normally act responsibly.

We are going to hear all sorts of things during this debate. The one thing that we are going to hear claimed said many times is we are doing this for patients. We are going to find out if we are really doing this for patients, if we are really trying to restore freedom of choice, if we are really trying to restore accountability, and we are trying to do that at the same time that people do not lose their health care.

The partisanship of this body is terrible, the claims made on the basis of some premier principle when they are really a veiled partisan dig for a political purpose.

We are going to find out if one group or another really cares about people. We are going to find out on these votes if my colleagues really want to have a compromised piece of legislation that solves the problem of accountability, that restores choice and does not bankrupt the payroll of the American people who are supplying health care in this country.

We are going to get to hear all the stories that will touch our hearts that say why we should go one way. We are going to hear all the threats about why we cannot go another because health care is going to be taken away.

But in the long run, what it really comes down to is not the next election, which is what we are going to hear most about but nobody is ever going to say, what it really comes down to is will we have the courage to look and risk our seats to do what is in the best interest of patients in this country, not what is in the best interest of the Democratic party, not what is in the best interest of the Republican Party, but what is in the best interest of the people of this country.

That rings hollow to members who have been here; I understand that. But the only true measure of whether or not we have done our job well is that when we look in the eye of somebody that is out in our district and say, You have more freedom, you still have your health care, and you are still going to get it when this debate is all over.

By the way, access is in the Senate bill. So anything we would merge is already there, and the opposition knows that. So the claim rings very hollow. Without access, no matter which bill in terms of Patients' Bill of Rights is passed, without access provisions, fewer people will have insured coverage in America tomorrow than have it today.

This access bill is not perfect. AHPs are a terrible idea when we think about what it is going to do to disrupt the private insurance market regardless of the fact that the National Federation of Independent Businesses wants it. We make no adjustment for high-risk pools in the States.

The gentleman from Arizona (Mr. SHADEGG) is actually right. One cannot do AHPs unless one is willing to put something else back there to help take care of the risk.

But, politically, the bill that comes out, although needed, is not in the best interest of patients either. So let us quit playing the game of partisan politics, and let us define this debate back down about what we are really supposed to be here for is the people who need and should get care and choose, and not take it away by something we might foolishly do either for the trial lawyers or for big business.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I thank the gentleman from Texas for yielding me this time.

Mr. Speaker, George W. Bush said it yesterday, that his party is putting too much emphasis on economic wealth and too little on social problems, and their candidate is not whistling Dixie.

The gentleman from Oklahoma (Mr. COBURN), the previous speaker, said that we are going to break the payroll of this country. They are not going to break the payroll; they are going to break Social Security system. Because what the Republicans have done is the most dishonest, obscene attempt at almost fascist power to defeat a bill that they know would pass if they allowed the Members of the House to vote to pay for it.

To force Members to be fiscally irresponsible as a Republican ploy to win what they cannot win through honest debate is shameful. To suggest that access is in their bill is sheer nonsense.

Thirty-two million of the 45 million uninsured are in the 15 percent bracket or less, which means they get less than the $700 discount from a $5,000 bill, if they had $5,000 to buy insurance in the first place. Absolute nonsense and drivel.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas (Mr. BERRY), a cosponsor of the bill.

Mr. BERRY. Mr. Speaker, I urge my colleagues to vote against this unfair and unreasonable rule, a rule so cynical, so calculated that there is no question of its intent, which is to kill the bipartisan Norwood-Dingell managed care bill.

When we went to the Committee on Rules this week, we presented an amendment version of our bill that included offsets to pay for it. That is right. We wanted to do the fiscally responsible thing and pay for what we proposed.

The Committee on Rules refused to allow us to pay for our bill. What is even more impossible to understand is the Committee on Rules will, if our bill is passed, stick on to it a $48 billion so-called access bill that is also not paid for.

This is a disgrace. Surely the gentleman from Texas (Mr. DELAY) and his colleagues cannot suppose that the American people will be fooled by this nonsense. Just this morning the gentleman from Texas is quoted in the Washington Post as saying, "We are at a defining moment in the direction of this country. It is the classic battle of tax and spend versus balanced budget and fiscal restraint."

Ironically, the gentleman from Texas indicated that his leadership was not one to tax and spend.

I refuse to vote for this rule and this $48 billion sound bite. If my colleagues care about balancing the budget, vote no on the rule.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, it is with real sorrow that I rise to oppose the rule on H.R. 2723, the Bipartisan Consensus Managed Care Improvement Act of 1999 of which I am a cosponsor, and proudly so, with the gentleman from Georgia (Mr. NORWOOD).

I was initially pleased that the Republican leadership would actually schedule our bill for consideration on the floor, so it is with considerable regret that I find myself in the awkward position of opposing the rule. I do so for a number of real and valuable reasons.

First, the Committee on Rules has chosen to include a requirement to link H.R. 2990, a bill dealing with Medical Savings Accounts and other discredited insurance reforms, which I oppose and which I am certain will trigger a veto, with H.R. 2723, a bill which would protect the rights of patients. All of the tax cuts in H.R. 2990 are unpaid for.

I would note for the benefit of my colleagues that the access provisions here, and this is the reason that they did not make these cuts subject to being identified or subject to being paid for, amount to about $50 billion. So we cannot blame my Republican colleagues for hiding those numbers.

While the House will vote separately on each bill, the rule has determined that these two bills must be joined into a single bill when they are sent to the Senate. No reason for that except, I suspect, politics. In effect, if the first bill prevails, the rule would send the patients' rights bill to the Senate with it attached, like a kind of a ticking time bomb, and unless it is disarmed in conference, the likelihood of enacting patient protections and having them signed by the President into law is highly diminished.

I also oppose the rule because the bill sponsors were not allowed to include a package of revenue offsets, which we tried to offer in the Committee on Rules. I would like to just observe that I thought the Committee on Rules' meeting was a good one. Regrettably, it was all on the surface and not within the real discussions.

Although the revenue offsets are relatively small, about $6 billion and less according to the Congressional Budget Office, they should be paid for so that we do not dip further into Social Security.

Similarly, none of the three substitutes for our bill are paid for. Instead, the rule waives the Budget Act for each substitute.

I have been to the floor in the past to speak of the need for patient protection legislation, but today I want to emphasize the fact that I am proud to be here with a bill that is truly bipartisan. For too long our fight on behalf of the rights of patients has been characterized as partisan. When I joined with CHARLIE NORWOOD on this bill, along with 22 Republican cosponsors, I think we put that myth to an end. We spent long hard hours reaching a compromise, but we did so because we wanted to put patients ahead of politics.

I would hope that we could defeat this rule, which is full of gimmicks and get on to helping patients. Let's feed our patients protection from their HMO, not a poison pill.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Speaker, I thank the gentleman from Texas for yielding me this time.

Mr. Speaker, I rise in opposition to this rule and express my support for the bipartisan Dingell-Norwood bill.

Someone said in trying to defend this rule, well, it is not exactly dishonest. Well, maybe it is not dishonest: but it is clearly disingenuous, it is clearly cynical, and it is clearly raw partisanship.

It is clearly an attempt to block bipartisan legislation that will provide real HMO reform for American citizens that would give them the right to sue when they are aggrieved.

Now, this rule has two flaws. First of all, we wanted to pay for the Dingell-Norwood bill. We had the offsets. They ruled the offsets out of order, forcing us or attempting to force us to dip into the Social Security Trust Fund.

Second, they attach the access bill. It has some merits. But why is it attached? It is not paid for. It has some undesirable aspects; and it is designed, once again, for one sole purpose, and that is to help kill the bipartisan Dingell-Norwood bill.

This vote today may be the most important in our legislative session. I hope we can defeat this rule and push for real HMO reform.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I am a little bit puzzled, and I rise very strongly opposed to the rule for my puzzlement. I am going to ask the gentleman from Florida (Mr. GOSS) a question in just a moment, or the chairman of the committee.

Last week, my colleagues were criticizing we Democrats for spending Social Security Trust Funds. Last week, we had threats of advertisements being run against several of us. This week we come to the floor, and we only ask for a rule allowing all of the bills to be paid for. My colleagues deny it. Why do my colleagues choose to deny the right of this body to pay for that which we will discuss today?

Mr. GOSS. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I am happy to yield to the gentleman from Florida.

Mr. GOSS. Mr. Speaker, we did not deny it. In fact, what we did is respond to the petition, the discharge petition which, in fact, would have precluded it.

Mr. STENHOLM. Mr. Speaker, I reclaim my time. Why would the gentleman from California (Mr. DREIER) at this time not go back to the Committee on Rules and give the minority an opportunity to pay for that?

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I am glad to yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank the gentleman for yielding to me. As the gentleman from Texas understands the rules of the House very well, he understands germaneness. It is not germane to do that. The gentleman signed the discharge petition in the well, I suspect, with a lot of people. If that would have moved forward, it would not have been made in order.

Mr. STENHOLM. Mr. Speaker, I did not.

Mr. DREIER. Well, I know the gentleman from Texas (Mr. FROST) did and several other Members. It is not germane.

Mr. FROST. Mr. Speaker, I yield myself 15 seconds.

The gentleman from California (Mr. DREIER), chairman of the Committee on Rules, knows that the Committee on Rules can waive germaneness at any time and often does when it is to the convenience of the majority. We are only asking that it be waived once for the minority.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it would probably be worth noting at this point in the discussion that we had a whole bunch of amendments. If we made room for one, we would have had to make room for a whole bunch more as well. We made, I think, a very wise decision to have a full fair debate. I am sorry that the folks who are upset about this, paying for what they want to do at the last minute did not think of it a lot sooner. We congratulate them for finally thinking about paying for it.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Arizona (Mr. SHADEGG), who has been an instrumental player in this.

Mr. SHADEGG. Mr. Speaker, I rise in strong support of this rule; and I want to point out, as one of the original cosponsors with the gentleman from Missouri (Mr. TALENT) of the access bill which provides access, affordability, and choice for the American people; that what we are hearing from the other side is that they do not like our provision, but they do not have one of their own.

There is a saying around this town, one cannot beat something with nothing. Yet, in the area of access, affordability, and choice, the other side tries to beat something that we Republicans are doing for the uninsured with nothing. My colleagues will not hear them today talk about their bill to help the uninsured get access to care.

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Mr. Speaker, we will not hear them talk about their bill to bring down the cost of insurance and make it more affordable. We will not hear them talk about their bill to give those who are insured choice.

I want to stop at this point and talk about the second issue we will hear a lot about today, which is pay-fors. We did not pay for our bill. We cannot afford this legislation. I want to point out that the opposite is true. We simply cannot afford to go on not paying for, that is, not giving care to the uninsured in America.

We are already paying for them. Has everyone lost sight of that in this debate? The uninsured are getting care in emergency rooms all across America. The uninsured are getting care in hospitals all across America, and there is cost shifting to pay for that.

So when we hear the argument that, oh, this is not paid for, this will bust the budget, please recognize that that is a ruse. That is not true because we are already paying for their care. Long ago, fortunately, this society decided that those who are in need should not go without care.

There are 44 million uninsured Americans in this country. The vast majority of those work for small businesses who cannot afford to offer them coverage. Our legislation, the legislation that the gentleman from Missouri (Mr. TALENT) and I wrote, gives those people access to care and it makes it more affordable. It gives them a deduction they do not now have. It allows small businesses to pool together.

Do not let nothing beat something. I urge my colleagues to support this very fair rule.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I heard my Republican colleagues talk about fairness. There is nothing fair about this rule. This is a killer rule.

Basically, what they are doing is abusing their majority position to rig the procedure here today. And I know why. Very simply, if I am a Member and I want to support the Norwood-Dingell bill, which I certainly do, I am forced under this rule basically to vote in favor of spending Social Security money. At the same time I am also forced to vote for MSAs, medical savings accounts, health marts, and all these other poison pills that basically break the insurance pool and increase the cost for the uninsured.

The Republicans say that their access bill is going to help the uninsured. Exactly the opposite; it is going to make it more difficult for people who are uninsured to buy health insurance. That is the poison pill.

They are rigging this rule. They are making it impossible for those of us who want to support managed care reform and true reform to vote for it because we would have to vote for all these awful other things that will hurt the uninsured, and make it more difficult also because of the fact that we are going to be spending Social Security money. It is unfair.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. TALENT), who will be managing the access bill.

Mr. TALENT. Mr. Speaker, I thank the gentleman for yielding me this time. Mr. Speaker, in the Baltimore Sun this morning appeared an article which begins as follows: "She has stood in front of the mirror trying to practice her new smile because Linda Welch-Green can't afford the dentist. She has lost three front teeth. And Bell's palsy has paralyzed the right side of her face, so she struggles to pronounce words that start with "P." She never used to miss annual medical checkups, but now she pretends not to notice when the dates slip by. Green, 50, hasn't had health insurance for two years. Even though she's working full time as a cashier at a downtown garage, the Baltimore woman can't afford the $200 a month to cover herself and her 13-year-old son."

Mr. Speaker, there are 44 million Linda Welch-Greens around this country whose future depends on passing the accessibility bill that this rule is going to allow us to consider today. We cannot afford not to pass this bill.

Talking about this in terms of what it is going to cost the Federal government has an air of unreality about it. These people are out there suffering. They are paying for it and we are paying for it in the illnesses that they have. We cannot afford not to pass this bill.

I am told the 5-year cost, and it is the arcane way we figure cost out here, is $8 billion. And even the President agrees that we have well over $100 billion over 5 years to spend on tax relief without getting into the Social Security surplus. There is no Social Security surplus issue here.

The other issue regarding linkage of this with health care reform is that health care reform does not do much good if an individual does not have health insurance. That is a linkage in common sense, not a linkage as a result of this rule. So, please, do not say that we are not doing anything for the uninsured, we are going to try to defeat the other side's attempts to do anything for the uninsured, and if the other side manages to succeed to do something for the uninsured, notwithstanding our opposition, we are going to kill the health care reform bill too.

That is not the right attitude. Let us help the Linda Welch-Greens in this country. We cannot afford not to do that. This is a good rule; it is a natural rule. Let us pass it and then pass this legislation.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, I went before the Committee on Rules to try to get an answer to how the health access bill, which is just as much a tax bill as it is a health bill, how it could possibly get to the Committee on Rules without ever seeing the light of day in the tax writing committee.

I know that the Committee on Appropriations can vote on earned-income tax credits, but it has reached the point now on important legislation that the committees of jurisdiction do not even have an opportunity to review the bills. There is one thing that we have appreciated in our committee, unlike the majority on the floor, is that whether someone is a Republican or a Democrat, the gentleman from Texas (Mr. ARCHER) has made certain that those bills are paid for. At least he says that he will.

Now, by any standard this bill, this package, would cost some $43 billion over 10 years. Somebody said, well, it should not make any difference, we are paying for it anyway. Well, we can use that argument by not investing in education and transportation and research and development. There are a variety of things we can say that we are paying for it anyway. But there is no way in the world to believe that the majority is serious about health access by combining it with the Dingell-Norwood bill.

It is clear that when we have a rule like the majority has fashioned today, that for those of us who have worked so hard as Republicans and Democrats, who have tried to work together to get a decent bill, and the fact that so many Republicans have seen the light and walked away from the leadership saying they would rather have a good bill than just good will, that now the majority has done this; they have tried to think of ways just to overthrow this thing.

And what did the majority come up with? Did they give us a fair rule where we can debate the issue? No, they had to think of another bill that is unrelated and attach it and to put it in the rule. So that those of us who just want to support Dingell-Norwood would have to support a bill that has never seen our committee.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I rise in strong opposition to the rule.

Republicans and Democrats came together behind the Norwood-Dingell bill and a clear majority of this House supports it. Virtually a unanimous vote of this House supports the idea that the cost of that bill should be paid for without raiding Social Security money. Now, common sense would tell us we would, therefore, have on the floor the Norwood-Dingell bill with offsetting provisions to make sure it is paid for without touching Social Security. That is what common sense would tell us. But that is not what we are permitted to do here today, and that is what is wrong with this rule.

This rule is a conscious attempt to subvert the will of the majority. It is the tyranny of the minority. In urging my colleagues to oppose this rule, I am not certain that we are going to succeed, and perhaps the minority will succeed in having its views prevail today; but I assure my colleagues, Mr. Speaker, the majority of the American public will prevail in the end and this bill will become law despite their best efforts.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. THOMAS), a member of the subcommittee and a very strong player in this matter.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding me this time. I will do my best in the short time I have to cut through the fog that has been laid and walk through the crocodile tears that have been shed in terms of this particular rule.

Number one, the Congressional Budget Office has not scored any of these bills, so we do not have an official cost. For months, the Norwood-Dingell group said their bill did not cost anything. They are now complaining because, notwithstanding not knowing what it really costs as scored by the Congressional Budget Office, a tax provision that has never been looked at by the Ways and Means was not made in order.

Some of us on the Committee on Ways and Means have looked at that tax provision. One portion of that tax provision says that the government-forced wage rate, called Davis-Bacon, would be required to be imposed on every school district in the United States. That probably ought to go through committee so that we can determine if that is an appropriate policy or not. But they do not need to attach dollars to their bill because it has not been scored.

Secondly, when we take a look at their argument about the access provision, it is not married. Watch the vote. The gentleman from New Jersey (Mr. PALLONE) rings his hands over the problem of having to vote for access and then dealing with the patient provisions. Very simple. He will vote "no" on access, and he will vote "yes" on his choice in terms of patient protection. This rule allows that. The House will work its will.

And what about that access bill? Those tax provisions that the gentleman from New York has said he has not seen, I will have to remind him he voted "no" on all of them in committee and on the floor in terms of the comprehensive tax package.

What are some of those tax provisions on access? For the first time people who work for an employer, when the employer does not pay their health insurance, will be able to deduct the cost of that insurance. The uninsured will be covered with these access provisions. I thought that is what we were supposed to be all about.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am very sad this morning, because I am persuaded by this rule that this House will never touch insurance reform. This bill, the underlying bipartisan bill, has been doomed to fail after years of work by large numbers of Members on both sides.

Nothing should be clearer to each of us than the fact that our constituents want medical decisions made by medical practitioners and not by their insurance carriers. But the right of action against an insurance company dooms this bill.

State after State has enacted legislation that allows the right of action this bill intends, and it has created no massive rush to the courts. Texas has had four cases in several years under this legislation. Now, if an individual lives in one of those States, then that is good for them, but they are not going to get the protection in the United States if they do not.

Now, why should insurance companies who are culpable to damages be immune from redress? Doctors are not, hospitals are not, ancillary care is not. But insurance companies have to have the immunity.

Never mind about those questions, the clever construction of this rule will once again thwart the people's will.

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We have waited a long time for this day, only to see it lost in this dance of legislation. I urge my colleagues to defeat this rule so that we may try to have a second chance to give Americans what they want and what they deserve for the first time this year.

Mr. GOSS. Mr. Speaker, I am happy to yield 2 minutes to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Speaker, I rise in support of this rule. I also rise in support and plan to vote for several of the initiatives to make health care more affordable and to provide protections for patients.

It is interesting, my colleagues on the other side use a code word called "pay-fors." What the code word "pay-fors" really means is tax increase. They always want to increase taxes. That is their first choice every time.

My colleagues, there are a number of facts out here that are so important. In my home State of Illinois, 15 percent of the workers and families and people of my home State lack health insurance. It is an increase over last year. And if we look at it from a national perspective, 44 million Americans do not have health insurance. That is an increase of 1 million over last year. And the question is, why? And the answer to that question is because health care coverage is not affordable and they also do not have access.

In fact, they say that for every 1 percent increase in health care costs 400,000 Americans lose their coverage. And if we look at those 44 million Americans who do not have coverage, 85 percent of them are self-employed people or workers for small businesses unable to find affordable rates of insurance.

That is why this rule is so important, because the access in choice legislation of quality care through the uninsured legislation provides answers and solutions that have been debated over the years in this House but never signed into law. We make it easier for small businesses to go together and in a cooperative fashion purchase health insurance in greater numbers, bringing their rates down through a cooperative purchasing effort, making it more affordable, and helping their workers have health care coverage.

We give something to the self-employed that corporate America already has. We allow the self-employed under this legislation to deduct 100 percent of their health insurance premium costs. We also give uninsured workers who do not have coverage provided by their employers a 100-percent deduction for their health insurance premium costs, too. That is fair.

I was pleased that the Committee on Ways and Means in the House and Senate voted to do this earlier this year. Unfortunately, the President vetoed it.

My colleagues, let us make health care more affordable and more accessible. Vote aye on the rule.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. GEPHARDT), the Democratic leader.

Mr. GEPHARDT. Mr. Speaker, I rise reluctantly to ask Members to vote against this rule. This is a very important day, perhaps the most important day in the Congress that we are involved in.

We have a chance now, in a bipartisan way, to pass a very good Patients' Bill of Rights, something that I think is desired by all of the American people. I want to commend the gentleman from Michigan (Mr. DINGELL) and the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Iowa (Mr. GANSKE) and many others on both sides of the aisle who have worked so hard to get to this point. They have worked together. They have worked admirably on a very tough set of issues. And what I wanted to pass this bill today.

Unfortunately the rule, in my view, is lacking in fairness, for two reasons. One, it does not allow an amendment that was desired by both Republicans and Democrats to pay for the patients. Unfortunately, the Congressional Budget Office has said that this bill will cost about $7 billion over 5 years. Members on both sides of the aisle wanted a chance to pay for this so that they were not seen as voting for something that would invade the Social Security Trust Fund and break the caps and causes budgetary problems. But that amendment which was desired by proponents of Dingell-Norwood was not allowed to be made.

Secondly, the access bill, which is now going to be taken up even though we did not take it up in committee, does not have pay-fors, as well. So if it passes and becomes part of this bill, we have another section of the bill that costs money in the budget and is not paid for. I just think this is unnecessary.

First of all, the Patients' Bill of Rights should be on its own, should not be subsumed under some other bill for access which was not really the subject of this matter to begin with.

Second, if it is going to be subsumed under it, we should be allowed to figure out a way to pay for it. Thirdly, we ought to be able to pay for the Patients' Bill of Rights. None of that is allowed in the bill.

My fear is that, at the end of the day, even if Dingell-Norwood survives, the votes are not going to be there to pass the bill because of these other matters that were not dealt with properly in the rule.

I ask the majority leadership to rethink this matter and to try to get us a rule or a procedure that will allow a fair consideration of patients.

I guess I just end with saying, putting all of this procedural wrangle aside, let us all try to remember what this legislation is about. It is about helping people, children, seniors, women, men, who want to have an enforceable right to have the decisions about their health care made by the doctors and them together to be able to do that, to have an enforceable right that they can bring against their health insurance company or their HMO. That is what is at stake here.

We have a chance as a House of Representatives, in a bipartisan way, to do something that is deeply desired by the American people. I hope that this rule in its present form will be defeated, and I hope we will find a procedure and a rule that will allow fair consideration of this very, very important legislation.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I do not know what it will take for my colleagues on both sides of the House to acknowledge, as I said earlier this morning, that more than 83 percent of the American people are asking us to vote for a freestanding, upstanding HMO reform bill today. And I think one of those is little Steve Olson, a 2-year-old who went hiking with his parents. As he was hiking he fell ill, went to an emergency room, and was treated for meningitis. But the little boy still experienced pain, could not express himself. They went back to that emergency room, but they could not get any more care, they could not get him to do a brain scan because the HMO denied it. And now this little boy, because he had a lump on his brain, has cerebral palsy.

The American people are asking us to stop the parliamentary maneuvers that would not allow us to have a free-standing bill on managed care, access to emergency rooms, the sanctity of the physician-patient relationship; and the American people are asking us to deal with the uninsured in a separate manner because there are working poor who cannot pay for their insurance and this bill does not do it. The American people have asked us to have an amendment on $7 billion to ensure that we pay for this.

Mr. Speaker, I just conclude by saying, my colleagues, let us join together and get a real HMO reform bill, the Dingell-Norwood bill.

Mr. Speaker, I rise to strongly oppose the rule for today's managed care bills. The rule is a sham and seeks to undermine these two vital health bills.

Instead of providing a fair and open rule for considering the patients' bill of rights, the majority has written an unreasonable rule that combines the managed care bill with a measure riddled with special interest "poison pills" designed to kill the measure. This rule guarantees that we will not be able to offset any potential revenue losses from the measure, and we will not be able to establish the health care services that we hoped to provide for the citizens of this country.

The majority has shown a grave error in judgment by including special interest provisions in the managed care bill. This act is fiscally irresponsible because no funding is provided for these provisions. Worse yet, this rule denies a bipartisan group of members from offering an amendment to pay for this bill.

Because the access bill and managed care bill are combined in one rule, managed care reform may be defeated through parliamentary maneuvering. This is untenable.

Merging these bills into one rule is unacceptable because it combines a bill that helps those who need health care, H.R. 2723, with a bill, H.R. 2990, that simply helps the Nation's most healthy and wealthy, and not the uninsured. We must separate these two bills so we can ensure that H.R. 2723 provides new patient protections, sets nationwide standards for health insurance, and expands medical liability. These issues are vitally important to all of the American people, not just the privileged.

Yet, these bills, these once glimmering symbols of managed care reform that sought to stretch their healing arms around each of our citizens, have now been twisted and manipulated into one hideous, unrecognizable heap of special interest slag. In particular, poison pill amendments have been offered to the Bipartisan Consensus Managed Care Improvement Act of 1999. The Boehner amendment benefits the healthy and wealth instead of the uninsured, those who need the most help. The Goss-Coburn amendment weakens patient protections, cap non-economic damages, and guts enforcement provisions. The Houghton-Graham amendment provides far too weak federal remedies and internal reveiw procedures.

An open rule would allow us to correct these problems. But by providing only one rule for both HMO bills, we prevent ourselves from doing any good today. Do we want to tell the American public that it will not receive the managed care reform it has so desperately sought because of a procedural bar?

The sobering truth is that our citizens need health care reform—especially those living in poverty. Over one-third of the U.S. population was living in or near poverty in 1996. The majority of African-American (55 percent) and persons of Hispanic origin (60 percent) lived in families classified as poor or near poor. In the southern portions of the United States, the poverty rate is 15 percent. My home State of Texas had poverty rate over 16 percent. Of those suffering from poverty, 44.1 percent are uninsured. 44.4 percent of African-Americans in poverty are uninsured, and 58.7 percent of Hispanics in poverty are uninsured. These numbers are sobering, and we must do something about them.

People living in poverty, and many minority citizens, simply cannot afford health insurance, and, in turn, cannot obtain quality health care. Their lack of access to quality health care has devastating effects because many minority groups and people living in poverty are particularly susceptible to health problems. Racial and ethnic minorities constitute approximately 25 percent of the total U.S. population, yet, they account for nearly 54 percent of all AIDS cases. For men and women combined, blacks have a cancer death rate about 35 percent higher than that for whites. The age-adjusted death rate for coronary heart disease for the total population declined by 20 percent from 1987 to 1995; for blacks the overall decrease was only 13 percent.

The Bipartisan Consensus Managed Care Improvement Act of 1999 is also important due to the reforms it provides because even when people do have insurance, quality health care is not guaranteed. Take for instance, Steven Olson—a once healthy, thriving two-year old child. After falling on a stick while hiking with his parents, two-year-old Steven was rushed to the emergency room where he was treated. His mother returned him a week later because he was in great pain. He was treated for meningitis and sent home. Steven continued to complain about pain, but despite his parents' protest, the HMO doctors refused to perform a brain scan, even though it was a covered benefit. Steven eventually fell into a coma due to a brain abscess that herniated. He now has cerebral palsy. An $800 brain scan would have prevented this tragedy.

In an even more tragic case, a woman attempted to switch doctors when it became clear that her original doctor would not fully examine a growing and discolored mole on her ankle. Paperwork and bureaucracy resulted in a six-month wait. Once the woman finally visited a second-doctor, she was immediately sent to a dermatologist who determined that the mole was a malignant melanoma. The woman died one year later.

Both sides of the aisle should be working together to ensure that these stories never surface ever again. Yet, this rule encourages special interest "gutting" of the bill, and negates any amendment that would provide the necessary $7 billion in offsets for revenue losses estimated to result from increased deductions for higher medical premiums.

Over 200 organizations support the Bipartisan Consensus Managed Care Improvement Act of 1999—including AIDS Action, the American Academy of Pediatrics, the American Heart Association, the American Medical Association, and the National Association of Public Hospitals. But these organizations cannot support the bill as offered. The special interest additions and weakened bill language undermine the goals of these groups. Without an open rule that would allow us to correct these problems, we will essentially slam the door on the very groups who can provide us with the greatest support and resources.

This rule does not penalize the minority side; it penalizes the very people we represent—the American taxpayers. We need an open rule that will permit the enactment of effective managed care reform.

I urge my colleagues to vote "no" against this unfair rule and against this distorted version of the bill.

Mr. FROST. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, the gentleman from California (Mr. THOMAS), a member of the Committee on Ways and Means, just appeared on the floor and made a statement that there was a provision relating to Davis-Bacon in the amendment the Democrats sought in order.

I have consulted the Committee on Ways and Means staff. That is not true. There is nothing in the amendment that was offered by the Democrats relating to Davis-Bacon.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I take great pleasure in yielding 1 minute to the distinguished gentleman from Florida (Mr. SHAW), a member of the Committee on Ways and Means.

Mr. SHAW. Mr. Speaker, I thank my friend for yielding this time to me.

Mr. Speaker, when the gentleman from Missouri (Mr. GEPHARDT) was on the floor talking about wishing that the pay-fors were in the bill, I would like to point out that both he and the gentleman from Michigan (Mr. DINGELL) have signed a discharge petition asking that this bill in its form that it is going to be made in order under this rule be brought directly to the floor.

In that bill, there were no pay-fors. If they would attempt to put a paid-for in as an amendment, it would be nongermane. So they have already asked by way of a discharge petition that this bill be brought to the floor without any pay-fors.

Now, regarding the pay-fors that were requested in the Committee on Rules, one of those, and the largest one of which, has never had a hearing before the Committee on Ways and Means. It is a tax increase.

As long as I have been in this Congress, both under Democrat control and under Republican control, I can never remember a single time when this Congress was so irresponsible as to bringing a tax increase directly to the floor without even so much as a hearing before the Committee on Ways and Means. That would be irresponsible on our side, and it would be equally irresponsible on the Democrats' side.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Speaker, I thank the gentleman from Texas for yielding me the time.

Mr. Speaker, the American public is not going to be fooled by clever tactics. This has been a long-standing process with the Patients' Bill of Rights, and the American public is aware of that.

In the 105th session we talked about coming forward with a meaningful Patients' Bill of Rights, and that was put off by people who were carrying water for the special interests and the insurance groups.

We fought all the way through that. We found a way to build a coalition with Republicans and Democrats that were bold enough and strong enough to step forward and give real patients' rights, talking about the idea that insurance companies would be no longer the ones to determine what is medically necessary just on the basis of cost; but we would take this out of that venue and leave it to doctors and patients to decide the issue of medical necessity.

This Patients' Bill of Rights will allow people to determine if they need to go to a specialist and get that care. We have right after right in there that, finally, we have enough Republicans and almost all the Democrats on it that it will pass. And it is at that point in time that the leadership of the majority decides that they now have to get clever.

It is not enough to try to fight it on its merits. It is not enough to try to fight it on a fair rule. It is not enough to bring it forward for a straight up or down vote. Because they know now the political pressure in this country demands Patients' Bill of Rights in the form of Norwood-Dingell. They refuse to do it. They are being clever. The American public will certainly not be fooled by that.

Mr. GOSS. Mr. Speaker, I am very happy to yield 1 minute to the distinguished gentleman from Tennessee (Mr. BRYANT).

Mr. BRYANT. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, there are two bills, I might remind my colleagues on the floor. One bill that we will discuss later today and tomorrow will consider various ways to provide patient protection to people in America. And many of us support that.

But right now what we are talking about is a rule that also covers an access bill which we are going to debate immediately after this rule. What this access bill does is it provides an opportunity for 44 million people who do not have insurance right now who do not have anything to do with that second bill because they do not have any insurance. They do not need protection from anything.

What we need to do now in this rule and in this bill is pass this so we can deal with those 44 million people and provide them access, the opportunity to see a doctor, go to a hospital, and get good quality care at affordable prices.

What this bill will do, it will not set up another Government entitlement; but it will provide incentives to private businesses, tax deductions, tax credits, and opportunities to pool together in areas that will be able to get them to affordable, quality, insurance coverage.

These folks do not care about this other thing right now until they get that coverage.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I am surprised that we have this rule here on the floor today and hear the debate talking about the access bill that will allow 44 million people to have insurance.

We have had a Republican majority for 6 years, and it is the first time I have heard concern for that 44 million. My colleagues talk about these bills did not have a hearing in the Committee on Ways and Means at any time was a decision by the Republican leadership not to have a hearing on any of these bills.

I worked for years on the Committee on Commerce so I could deal with health care. None of the bills had hearings that we are debating today in the decision to bring them to the floor. It is becoming increasingly clear that the leadership does not reflect the views of the majority of this House on many issues.

The Republican leadership is using the Committee on Rules to defeat legislation supported by majority Members of the House and attempting to defeat by subterfuge what they cannot defeat on a straight up or down vote.

The Republican leadership cannot defeat the bipartisan Norwood-Dingell proposal, so it attempts to change the proposal so that it is unacceptable to the bipartisan Members who support a real strong Patients' Bill of Rights. That is why this rule is so wrong. That is why it should be defeated.

By denying the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Michigan (Mr. DINGELL) the right to finance the small portion of their legislation, the Republican leadership is trying to create a situation that they can claim that a vote for a Patients' Bill of Rights is an effort to spend the Social Security surplus.

□ 1215

That is not the intent. Hopefully, before the day is through, we will have a chance to pass a clean Norwood-Dingell bill. It is what the people want, what 83 percent of the people in a most recent poll said. I know at all the town hall meetings that I have they say that. They want patient protections just like, Mr. Speaker, we enjoy in Texas for our constituents under Texas law. We need them for all the Americans.

Mr. GOSS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would point out that all but one of the speakers on the other side, according to my records, signed a discharge petition to bring this matter forward, the original bill, the underlying bill, to our attention, without the pay-fors in it.

I would point out that this is a procedure that is designed to end-run the committee system and point out particularly, as one looks at the discharge petition, that the first two signatures on it are the gentleman from Michigan (Mr. DINGELL) and the gentleman from Missouri (Mr. GEPHARDT).

If that does not send a message that this is being done in a way to end-run the regular order and put a partisan aspect to it, I do not know what does.

The other thing I would like to point out is that we have crafted a rule that does, in fact, provide for a full debate on liability, which is the nugget of the patient protection.

We have also done something in this rule, and that is provide for worrying about those Americans who do not have health care insurance, and it is time somebody did worry about them and the Republican majority is doing that and providing a way to help them. That is worthwhile, and if anybody says that is unfair they have a warped sense of what is fair in this country.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, we signed a discharge petition. That is the only way to get the attention of the majority. They have to be hit right between the eyes. It happens all the time around here. When we were in the majority, they signed discharge petitions. We are in the minority. We sign discharge petitions, and that was a successful effort which forced them to bring a bill to the floor they did not otherwise want to bring to the floor.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. TURNER).

Mr. TURNER. Mr. Speaker, I was proud to join in signing that discharge petition because the truth is, we would not be here today had some of us not been willing to sign that discharge petition to allow this very critical issue to be brought to the floor of this House.

The truth of the matter is, even after it has become apparent to everyone in this body that a majority of the Members of this House, if given the opportunity on a straight up or down vote, will vote for the Norwood-Dingell bill, the Committee on Rules has crafted a very complicated rule that most American people will never understand, whose sole purpose is to try to once again defeat the opportunity to pass strong patient protection legislation.

The trick they have used is to attach another bill that has a nice ring to it, a bill to provide access to health care, that just happens to have a $40 billion to $50 billion price tag on it, a bill that never had any hearings in the Committee on Ways and Means, attached to the Norwood-Dingell bill in the complicated rule that is before this House, simply to weigh it down and try to get some of the folks that are supporting the bill to vote no.

It is not going to work. At the end of the day, we will prevail because the American people want to see strong patient protection legislation.

Mr. FROST. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, all we ask is for an opportunity to consider this legislation under a fair rule. For months and months and months the other side has decried and shed great tears about efforts to invade the Social Security trust fund. All we ask is for an honest approach to this legislation, which would permit this legislation not to take a penny out of the Social Security trust fund.

This is a good bill. Everyone agrees this is a good bill. Let us have this bill considered under a fair procedure so that we can get to the merits of the legislation. Let us not take money away from Social Security in so doing, and let us pass a strong patient protection piece of legislation.

We will oppose the rule and ask for a fair rule on this floor.

Mr. Speaker, I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I want to congratulate the gentleman from Florida (Mr. GOSS) for the fine job that he has done on this issue.

It is not often that I stand in this well somewhat saddened over the debate that we have gone through. This is one of the first times that I can remember that the gentleman from Florida (Mr. GOSS) used the word "warped." Last night, he pounded on the table upstairs.

If there is any kind of unfairness, it is coming from the rhetoric that we have gotten from the other side of the aisle, using words like "cynical" and "calculated" to describe what we are doing here.

One hundred and eighty-four Members signed the discharge petition. I have to tell my friends on the other side of the aisle, that is not what it takes to force a bill to the floor.

We very much want a deal, with the fact that there are 44.3 million Americans who do not have insurance, and we want to increase accessibility for them. We also want to make sure that people are accountable when there are problems out there, and that is exactly what we are doing with the reform measure itself. We also want to make sure that affordability is out there, and that is what we are doing with this measure.

This is a very fair bill. My colleagues are screaming about one amendment on the other side of the aisle. Fifty-nine amendments were submitted to our committee. Forty-three Republicans were denied, and the Members on the other side are saying this is an unfair rule because of the six amendments the Democrats submitted, one of them was not made in order. Well, that to me is unfair rhetoric.

We are about to proceed with what I think is going to be a very fair, fair debate. In fact, we have to go back a quarter of a century, 25 years, to the debate in 1974 on the ERISA act to find a rule that is more fair.

Now a lot of people have been complaining, saying that this bill ties together the reform package and the access package. It does not do that. At the end, after the votes are taken, they are engrossed and will be sent to the other body for a conference, which we hope will address each issue.

So if someone does not want to vote for the access bill, they do not have to vote for the access bill. They can still vote for the reform bill and only after both measures pass will they be engrossed and sent to the other side of the Capitol.

So I happen to believe very strongly that we are going to begin an important debate. Everyone acknowledges that there are problems with our health care, in spite of the fact that we have the best health care system on the face of the earth. People come from all over the world to enjoy it, but there are still problems. They need to be addressed and this bill, with three balanced substitutes, will allow for an open debate, a fair debate; and I urge my colleagues to support it.

Mr. COSTELLO. I rise today in strong opposition to the process imposed in the House today by the Republican leaders. Once again the Republican-led Congress has made in order a rule they know will defeat the bipartisan Norwood-Dingell bill, the only bill that could provide real managed care reform for 32 million Americans. This is the Republicans clever way of fooling the public into thinking they would like to pass a real managed care bill.

Mr. Speaker, the rule does not allow the bipartisan Norwood-Dingell bill to be offered in its original form and then links it with another poorly crafted bill that will deny access to the 32 million uninsured individuals in the lowest income bracket. This scheme is unacceptable, the Republican leadership should be ashamed.

The "access bill" that will be tied to the real managed care bill is for the healthiest and wealthiest of individuals. By expanding Medical Savings Account (MSAs), the access bill discourages preventive care, and undermines the very purpose of insurance. When we voted on the Kennedy-Kassebaum Health Insurance Portability Protection Act in 1996 I supported the MSA demonstration project. However, this demonstration project turned out to be a failure. Of the 750,000 policies available only 50,000 have been sold. In my own congressional district in southwestern Illinois my constituents do not have access to these policies.

This access bill and the rule is just another attempt by the Republican-led Congress to undermine a bipartisan bill that could provide relief for millions of Americans. I am outraged that the Rules Committee denied Representative DINGELL's request to offer an amendment to pay for this legislation. As a general rule the Republican leadership demands that legislation not bust the budget caps imposed in 1997. While the Norwood-Dingell bill was not expected to require additional spending, the Congressional Budget Office estimated it would cost $7 billion. Representative DINGELL offered to offset the bill so that Members like myself who wish to protect Social Security could cast their vote in support of real managed care reform while ensuring the Social Security Trust Fund would not be touched.

As a cosponsor of the Bipartisan Consensus Managed Care Improvement Act—legislation strongly supported by doctors and by the American Medical Society and the Illinois State Medical Society—I believe it is the only real reform bill that will provide a comprehensive set of consumer rights that includes guaranteed access to emergency care and specialists, choice of providers, and strong enforcement provisions against health plans that put patients' lives in jeopardy. I am pleased the bill protects our small business owners by excluding businesses from liability if they do not make the decisions. This bill contains provisions that create safe harbors to ensure that no trial lawyer will accuse an employer of making a decision by simply choosing what benefits are in a plan or providing a patient benefit not in a plan. I am encouraged by the State of Texas who gave their citizens the right to sue HMOs for the past 2 years. In that time there have only been four cases filed.

I urge my colleagues to oppose this rule and support real managed care reform legislation. Vote for the bipartisan Norwood-Dingell legislation.

Ms. MILLENDER-McDONALD. Mr. Speaker, our day has been consumed with debate on a desperate rule drafted to derail the bipartisan managed care reform bill. This disheartens me because the Norwood-Dingell bill is a good bill. It is such a good bill; the three alternatives have used it as their base. Why is that? Maybe because over 260 medical organizations have endorsed it. Maybe because many of our constituents want us to pass it. Whatever the reasons may be, they are all for naught if this good bill has to be joined with the poison pill train that the rules committee placed on our tracks.

The Norwood-Dingell bill allows women to obtain routine ob/gyn care from their ob/gyn without prior authorizations or referral. This is a good step in the right direction. As a staunch advocate for women, I prefer women having the opportunity to designate their ob/gyn as their primary care provider but—that is another battle for another time.

Norwood-Dingell also looks out for our children. Parents now have the opportunity to select a pediatrician as a primary care provider. This provision gives parents a level of comfort knowing that their child's doctor understands the health needs of children.

Mr. Speaker, this bill needs a straight up or down vote. It should not be joined and we should not be forced to vote on both bills. When a straight up or down vote—without poison pills—is allowed, I urge my colleagues to vote "yes" on the Norwood-Dingell bipartisan managed care reform bill.

Mr. GOSS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

MOTION TO ADJOURN

Mr. FROST. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore (Mr. LATHAM). The Clerk will report the motion.

The Clerk read as follows:

> Mr. FROST moves that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn offered by the gentleman from Texas (Mr. FROST).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 3, nays 423, not voting 7, as follows:

[Roll No. 482]

YEAS—3

Dingell
Kennedy
Obey

NAYS—423

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth-Hage
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inslee
Isakson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Paul
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—7

Brown (OH)
Delahunt
Hunter
Istook
McKinney
Scarborough
Wise

□ 1246

Messrs. BALLENGER, YOUNG of Alaska, COYNE, Ms. PELOSI, and Messrs. VITTER, MINGE and OWENS changed their vote from "yea" to "nay."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

PROVIDING FOR CONSIDERATION OF H.R. 2990, QUALITY CARE FOR THE UNINSURED ACT OF 1999, AND H.R. 2723, BIPARTISAN CONSENSUS MANAGED CARE IMPROVEMENT ACT OF 1999

The SPEAKER pro tempore (Mr. BONILLA). Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker; on that I demand the yeas and nays.

The yeas and nays were ordered.

□ 1252

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BONILLA) (during the voting). The Chair has been advised that there is difficulty with some of the votes being displayed to the Members' left, on the far left panel. There have been Members reporting that after they have cast their vote, that on the far left panel their votes are not being accurately reflected, but their votes are being properly recorded.

But Members should be cautious about what they see on the panel and should reconfirm with their cards their actual votes.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Michigan is recognized for a parliamentary inquiry relating to the vote.

Mr. DINGELL. Mr. Speaker, I note that the display over on the right and the left of the Chamber give the number of the Members who have voted. I note that there is no display of the names of the Members who have voted in back of the Chair, the presiding officer.

What does this mean with regard to the regularity and the correctness of the vote?

The SPEAKER pro tempore. The Chair would cite Speaker O'Neill's ruling on 19 September 1985. The Speaker has the discretion, in the event of a malfunction of the electronic voting system, to, one, continue to utilize the electronic system, even though the electronic display panels are inoperative, where the voting stations continue in proper operation and Members are able to verify their votes; or, number two, to utilize a backup voting procedure, such as calling the roll.

In this case, the Clerk has indicated that the voting tallies are correct. There is no reason at this time for the Chair to have in doubt that the totals displayed on either side of the Chamber are incorrect.

Mr. DINGELL. Further parliamentary inquiry.

The SPEAKER pro tempore. The Chair will continue to allow Members, if there is a question about a Member's particular vote, the Chair will allow the vote to remain open a little while longer if there is a question any Member has about casting his or her vote.

Mr. DINGELL. Further parliamentary inquiry, Mr. Speaker.

Mr. Speaker, how is a Member to know how he is recorded on this particular vote?

The SPEAKER pro tempore. Any Member can re-insert his or her voting card in any voting station, electronic station.

The monitor indicates that every Republican has voted in favor of this resolution, and all but one Democrat is opposed. So that might also be another indication that the vote, unless there is dispute, is accurate.

Mr. DINGELL. Further parliamentary inquiry. I have noted, Mr. Speaker, that a Member on the majority side had voted no on the rule on the display behind the chair of the Speaker. I am curious, what does that mean in terms of the reliability of the vote?

The SPEAKER pro tempore. The Clerk is certifying that the vote is being accurately recorded.

Mr. DINGELL. Further parliamentary inquiry. Could the Chair inform the Chamber what the Clerk has done to assure that the vote is reliable and correct? I have great respect for the Clerk, but we have a malfunction in the electronic system.

My question is, who do we believe, the malfunctioning electronic system or the Clerk of the House?

The SPEAKER pro tempore. The Clerk has responded to every Member and checked every Member's vote of any Member who has come forward to question the recording of their vote.

At this time there is no pending question from any Member about the accuracy of their vote being recorded.

Mr. DINGELL. If the Chair would permit, I believe a check by the Clerk will indicate that there are Members who are no longer listed on the computer anymore. I am advised that that constitutes a problem insofar as Members on this side of the aisle are concerned.

I know the Chair is anxious to have a correct vote. I know the Chair also has the responsibility of assuring a correct vote.

At this particular moment, I would note to the Chair, as part of my parliamentary inquiry, that when I look up there I find that there is a display there and there is no display there, and there is a variance between the display behind the Chair and the display which is at the end of the Chamber.

The SPEAKER pro tempore. The Chair would reaffirm that it is in everyone's interest in this body to have an accurate vote established. That is the intent of every Member of this body.

Mr. DINGELL. I would tell the Chair that the gentleman from Michigan (Mr. BARCIA)——

The SPEAKER pro tempore. The Chair will further state there have been cases in the past where the displays on the boards before the media gallery have been inoperative, but that the votes recorded by the Clerk have been accurate. There is precedent for relying on the running totals.

Mr. DINGELL. Further parliamentary inquiry, Mr. Speaker. Is the gentleman from Michigan (Mr. BARCIA) listed as present and voting? I am informed he is not. I am informed that he was present and that he did vote. I am comforted at the assurances of the Clerk. I am not comforted, however, at apparent discrepancies between his comments and what I see on the displays and what I am advised with regard to the presence and the recording of the name and the vote of one Member.

The SPEAKER pro tempore. The Clerk is checking.

The gentleman from Michigan (Mr. BARCIA) is recorded as voting no.

Mr. DINGELL. Mr. Speaker, I would note, on a hurried addition, that 429 Members are listed as having been present and voting. I would note that there are 435. That means that six Members are not recorded as voting on a matter of this importance. I would assume that those Members would have been here.

I am curious, where are those Members who are not recorded as being present and having voted?

The SPEAKER pro tempore. The RECORD will show those Members not voting. The gentleman understands that occasionally there are Members who are either on leave, absent, or simply do not vote, for whatever reason they choose. It is not unusual.

Mr. DINGELL. Mr. Speaker, it is the duty of the Chair to see that all Members are properly recorded. Could the Chair assure us that somebody other than the Clerk, whose record is not an official one in this matter, has inquired into the presence or absence of these Members?

The SPEAKER pro tempore. The Chair is allowing all Members a sufficient amount of time to verify their votes at this time, if there is a question about their vote.

Mr. DINGELL. I am looking at the numbers, Mr. Speaker. I note that 16 Members are listed as not having been present and voting, or there are six Members listed as unrecorded. Do I have the assurance of the Chair that the vote is correct?

The SPEAKER pro tempore. The Chair can only assure the accuracy in the vote count by electronic device. The Chair could not account for the whereabouts of Members who have not voted, unless they are on leave.

Mr. DINGELL. Further parliamentary inquiry. Is it appropriate to request a recapitulation of the vote?

The SPEAKER pro tempore. If the gentleman would kindly delay his question, the Clerk is researching to see whether the Clerk can certify the vote at this time.

Mr. DINGELL. Would that be the Clerk that certifies it, or the Chair?

The SPEAKER pro tempore. The Chair will report the Clerk's certification or lack thereof.

Mr. DINGELL. I think this matter has been carried as far as it can be, but I would just note with distress, Mr. Speaker, that I believe the events of the last few minutes have raised questions as to the regular order of this vote.

□ 1315

Mr. Speaker, can the Clerk certify with 100 percent accuracy that the record of the votes in the displays above the doors are, in fact, 100 percent?

The SPEAKER pro tempore (Mr. BONILLA). The Chair is checking on the accuracy of the vote at this time.

Mr. DINGELL. Mr. Speaker, is it the practice of the Chair, then, or would it be the practice of the Chair to inform us of whether the Clerk's certification is 100 percent correct when that process has been completed?

The SPEAKER pro tempore. The House will be informed of the accuracy of the vote, and the Chair just asks Members' indulgence.

Mr. DINGELL. I thank the Speaker. I may have further parliamentary inquiries, Mr. Speaker.

The SPEAKER pro tempore. The Chair has been informed that the accuracy of the vote cannot be established with 100 percent accuracy.

On this occasion, the Chair will direct the Clerk to call the roll to record the yeas and nays, as provided in clause 2(b) of rule XX.

PARLIAMENTARY INQUIRY

Mr. ABERCROMBIE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Hawaii will state his parliamentary inquiry.

Mr. ABERCROMBIE. Mr. Speaker, may I take it from the Speaker's remarks that he cannot do anything without me?

The SPEAKER pro tempore. The Clerk will call the roll alphabetically.

Mr. ABERCROMBIE. I thank the Speaker.

The SPEAKER pro tempore. The Chair will inform Members that this is the only valid vote on the resolution, H. Res. 323, on the rule, and this will be the only recorded vote. It is not a recapitulation.

The question was taken; and there were—yeas 221, nays 209, not voting 4, as follows:

[Roll No. 483]

YEAS—221

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth-Hage
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Foley
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
King (NY)
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—209

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barcia
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Forbes
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Pickett
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Sherman
Shows
Sisisky
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NOT VOTING—4

Delahunt
McKinney
Scarborough
Watts (OK)

□ 1404

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MALFUNCTIONS WITH VOTING MACHINE NOT UNPRECEDENTED

(Mr. THOMAS asked and was given permission to address the House for 1 minute.)

Mr. THOMAS. Mr. Speaker, to briefly explain what occurred on the machinery, this is not unprecedented. On May 4, 1988, the same situation occurred. As one might guess, it is a human error.

There was a Member who had a card, and we all know that these new cards are much better than the old laminated ones but they do go bad. When that Member's name was adjusted on the visual screen, it was placed first, out of order alphabetically, and so when the votes were recorded they skipped one. They did not match up.

I want to assure every Member that the computer is far more sophisticated than that. These lights are for visual purposes only. The machine records the vote according to a unique identifier number. Regardless of where a Member might be placed alphabetically the unique number from the card records the vote.

However, I want to compliment the gentleman from Michigan (Mr. DINGELL), who is one of the few Members around here who remembers this is the way we used to do business on an ordinary basis, about a quarter of a century it was done under this system, the other half with lights. The votes were recorded accurately, but given the concern over the visual reference it was entirely appropriate to go through this procedure. It was a revisiting of a previous existence of the Congress.

Our hope is that the human errors are now minimized, but the actual vote that is recorded, notwithstanding the visual display, was recorded accurately by the machine.

QUALITY CARE FOR THE UNINSURED ACT OF 1999

Mr. BLILEY. Mr. Speaker, pursuant to House Resolution 323, I call up the bill (H.R. 2990) to amend the Internal Revenue Code of 1986 to allow individuals greater access to health insurance through a health care tax deduction, a long-term care deduction, and other health-related tax incentives, to amend the Employee Retirement Income Security Act of 1974 to provide access to and choice in health care through association health plans, to amend the Public Health Service Act to create new pooling opportunities for small employers to obtain greater access to health coverage through HealthMarts, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The text of H.R. 2990 is as follows:

H.R. 2990

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Quality Care for the Uninsured Act of 1999".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Findings relating to health care choice.

TITLE I—TAX-RELATED HEALTH CARE PROVISIONS

Sec. 101. Deduction for health and long-term care insurance costs of individuals not participating in employer-subsidized health plans.
Sec. 102. Deduction for 100 percent of health insurance costs of self-employed individuals.
Sec. 103. Expansion of availability of medical savings accounts.
Sec. 104. Long-term care insurance permitted to be offered under cafeteria plans and flexible spending arrangements.
Sec. 105. Additional personal exemption for taxpayer caring for elderly family member in taxpayer's home.
Sec. 106. Expanded human clinical trials qualifying for orphan drug credit.
Sec. 107. Inclusion of certain vaccines against streptococcus pneumoniae to list of taxable vaccines; reduction in per dose tax rate.
Sec. 108. Credit for clinical testing research expenses attributable to certain qualified academic institutions including teaching hospitals.

TITLE II—GREATER ACCESS AND CHOICE THROUGH ASSOCIATION HEALTH PLANS

Sec. 201. Rules.

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"Sec. 801. Association health plans.
"Sec. 802. Certification of association health plans.
"Sec. 803. Requirements relating to sponsors and boards of trustees.
"Sec. 804. Participation and coverage requirements.
"Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
"Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
"Sec. 807. Requirements for application and related requirements.
"Sec. 808. Notice requirements for voluntary termination.
"Sec. 809. Corrective actions and mandatory termination.
"Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
"Sec. 811. State assessment authority.
"Sec. 812. Special rules for church plans.
"Sec. 813. Definitions and rules of construction.
Sec. 202. Clarification of treatment of single employer arrangements.
Sec. 203. Clarification of treatment of certain collectively bargained arrangements.
Sec. 204. Enforcement provisions.
Sec. 205. Cooperation between Federal and State authorities.
Sec. 206. Effective date and transitional and other rules.

TITLE III—GREATER ACCESS AND CHOICE THROUGH HEALTHMARTS

Sec. 301. Expansion of consumer choice through HealthMarts.

"TITLE XXVIII—HEALTHMARTS

"Sec. 2801. Definition of HealthMart.
"Sec. 2802. Application of certain laws and requirements.
"Sec. 2803. Administration.
"Sec. 2804. Definitions.

TITLE IV—COMMUNITY HEALTH ORGANIZATIONS

Sec. 401. Promotion of provision of insurance by community health organizations.

(c) CONSTITUTIONAL AUTHORITY TO ENACT THIS LEGISLATION.—The constitutional authority upon which this Act rests is the power of Congress to regulate commerce with foreign nations and among the several States, set forth in article I, section 8 of the United States Constitution.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to make it possible for individuals, employees, and the self-employed to purchase and own their own health insurance without suffering any negative tax consequences;

(2) to assist individuals in obtaining and in paying for basic health care services;

(3) to render patients and deliverers sensitive to the cost of health care, giving them both the incentive and the ability to restrain undesired increases in health care costs;

(4) to foster the development of numerous, varied, and innovative systems of providing health care which will compete against each other in terms of price, service, and quality, and thus allow the American people to benefit from competitive forces which will reward efficient and effective deliverers and eliminate those which provide unsatisfactory quality of care or are inefficient; and

(5) to encourage the development of systems of delivering health care which are capable of supplying a broad range of health care services in a comprehensive and systematic manner.

SEC. 3. FINDINGS RELATING TO HEALTH CARE CHOICE.

(a) Congress finds that the majority of Americans are receiving health care of a quality unmatched elsewhere in the world but that 43 million Americans remain without private health insurance. Congress further finds that small business faces significant challenges in the purchase of health insurance, including higher costs and lack of choice of coverage. Congress further finds that such challenges lead to fewer Americans who are able to take advantage of private health insurance, leading to higher cost and lower quality care.

(b) Congress finds that reduction of the number of uninsured Americans is an important public policy goal. Congress further finds that the use of alternative pooling mechanisms such as Association Health Plans, HealthMarts and other innovative means could provide significant opportunities for small business and individuals to purchase health insurance. Congress further finds that the use of such mechanisms could provide significant opportunities to expand private health coverage for individuals who are employees of small business, self-employed, or do not work for employers who provide health insurance.

(c) Congress finds that the current Tax Code provides significant incentives for employers to provide health insurance coverage for their employees by providing a deduction for the employer for the cost of health insurance coverage and an exclusion from income for the employee for employer-provided health care. Congress further finds that some individuals may prefer to decline coverage under their employer's group health plan and obtain individual health insurance coverage, and some employers may wish to give employees the opportunity to do so. Congress further finds that the Internal Revenue Service has ruled that this tax treatment for the employer and employee for employer-provided health care applies even if the employer pays for individual health insurance polices for its employees. Therefore, the Tax Code makes it possible for employers to provide employees choice among health insurance coverage while retaining favorable tax treatment. Congress further finds that the present-law exclusion for employer-provided health care, together with the tax provisions in the bill, will provide more equitable tax treatment for health insurance expenses, encourage uninsured individuals to purchase insurance, expand health care options, and encourage individuals to better manage their health care needs and expenses.

(d) Congress finds that continually increasing and complex government regulation of the health care delivery system has proven ineffective in restraining costs and is itself expensive and counterproductive in fulfilling its purposes and detrimental to the care of patients.

TITLE I—TAX-RELATED HEALTH CARE PROVISIONS

SEC. 101. DEDUCTION FOR HEALTH AND LONG-TERM CARE INSURANCE COSTS OF INDIVIDUALS NOT PARTICIPATING IN EMPLOYER-SUBSIDIZED HEALTH PLANS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. HEALTH AND LONG-TERM CARE INSURANCE COSTS.

"(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.

"(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage shall be determined in accordance with the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
2002, 2003, and 2004	25

2005	35
2006	65
2007 and thereafter	100.

"(c) Limitation Based on Other Coverage.—

"(1) Coverage under certain subsidized employer plans.—

"(A) In general.—Subsection (a) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any health plan maintained by any employer of the taxpayer or of the spouse of the taxpayer if 50 percent or more of the cost of coverage under such plan (determined under section 4980B and without regard to payments made with respect to any coverage described in subsection (e)) is paid or incurred by the employer.

"(B) Employer contributions to cafeteria plans, flexible spending arrangements, and medical savings accounts.—Employer contributions to a cafeteria plan, a flexible spending or similar arrangement, or a medical savings account which are excluded from gross income under section 106 shall be treated for purposes of subparagraph (A) as paid by the employer.

"(C) Aggregation of plans of employer.—A health plan which is not otherwise described in subparagraph (A) shall be treated as described in such subparagraph if such plan would be so described if all health plans of persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 were treated as one health plan.

"(D) Separate application to health insurance and long-term care insurance.—Subparagraphs (A) and (C) shall be applied separately with respect to—

"(i) plans which include primarily coverage for qualified long-term care services or are qualified long-term care insurance contracts, and

"(ii) plans which do not include such coverage and are not such contracts.

"(2) Coverage under certain federal programs.—

"(A) In general.—Subsection (a) shall not apply to any amount paid for any coverage for an individual for any calendar month if, as of the first day of such month, the individual is covered under any medical care program described in—

"(i) title XVIII, XIX, or XXI of the Social Security Act,

"(ii) chapter 55 of title 10, United States Code,

"(iii) chapter 17 of title 38, United States Code,

"(iv) chapter 89 of title 5, United States Code, or

"(v) the Indian Health Care Improvement Act.

"(B) Exceptions.—

"(i) Qualified long-term care.—Subparagraph (A) shall not apply to amounts paid for coverage under a qualified long-term care insurance contract.

"(ii) Continuation coverage of FEHBP.—Subparagraph (A)(iv) shall not apply to coverage which is comparable to continuation coverage under section 4980B.

"(d) Long-Term Care Deduction Limited to Qualified Long-Term Care Insurance Contracts.—In the case of a qualified long-term care insurance contract, only eligible long-term care premiums (as defined in section 213(d)(10)) may be taken into account under subsection (a).

"(e) Deduction Not Available for Payment of Ancillary Coverage Premiums.—Any amount paid as a premium for insurance which provides for—

"(1) coverage for accidents, disability, dental care, vision care, or a specified illness, or

"(2) making payments of a fixed amount per day (or other period) by reason of being hospitalized,

shall not be taken into account under subsection (a).

"(f) Special Rules.—

"(1) Coordination with deduction for health insurance costs of self-employed individuals.—The amount taken into account by the taxpayer in computing the deduction under section 162(l) shall not be taken into account under this section.

"(2) Coordination with medical expense deduction.—The amount taken into account by the taxpayer in computing the deduction under this section shall not be taken into account under section 213.

"(g) Regulations.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations requiring employers to report to their employees and the Secretary such information as the Secretary determines to be appropriate.".

(b) Deduction Allowed Whether or Not Taxpayer Itemizes Other Deductions.—Subsection (a) of section 62 of such Code is amended by inserting after paragraph (17) the following new item:

"(18) Health and long-term care insurance costs.—The deduction allowed by section 222.".

(c) Clerical Amendment.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

"Sec. 222. Health and long-term care insurance costs.

"Sec. 223. Cross reference.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 102. DEDUCTION FOR 100 PERCENT OF HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) In General.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 is amended to read as follows:

"(1) Allowance of deduction.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.".

(b) Clarification of Limitations on Other Coverage.—The first sentence of section 162(l)(2)(B) of such Code is amended to read as follows: "Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any subsidized health plan maintained by any employer (other than an employer described in section 401(c)(4)) of the taxpayer or the spouse of the taxpayer.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 103. EXPANSION OF AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) Repeal of Limitations on Number of Medical Savings Accounts.—

(1) In general.—Subsections (i) and (j) of section 220 of the Internal Revenue Code of 1986 are hereby repealed.

(2) Conforming amendments.—

(A) Paragraph (1) of section 220(c) of such Code is amended by striking subparagraph (D).

(B) Section 138 of such Code is amended by striking subsection (f).

(b) Availability Not Limited to Accounts for Employees of Small Employers and Self-employed Individuals.—

(1) In general.—Section 220(c)(1)(A) of such Code (relating to eligible individual) is amended to read as follows:

"(A) In general.—The term 'eligible individual' means, with respect to any month, any individual if—

"(i) such individual is covered under a high deductible health plan as of the 1st day of such month, and

"(ii) such individual is not, while covered under a high deductible health plan, covered under any health plan—

"(I) which is not a high deductible health plan, and

"(II) which provides coverage for any benefit which is covered under the high deductible health plan.".

(2) Conforming amendments.—

(A) Section 220(c)(1) of such Code is amended by striking subparagraph (C).

(B) Section 220(c) of such Code is amended by striking paragraph (4) (defining small employer) and by redesignating paragraph (5) as paragraph (4).

(C) Section 220(b) of such Code is amended by striking paragraph (4) (relating to deduction limited by compensation) and by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(c) Increase in Amount of Deduction Allowed for Contributions to Medical Savings Accounts.—

(1) In general.—Paragraph (2) of section 220(b) of such Code is amended to read as follows:

"(2) Monthly limitation.—The monthly limitation for any month is the amount equal to 1/12 of the annual deductible (as of the first day of such month) of the individual's coverage under the high deductible health plan.".

(2) Conforming amendment.—Clause (ii) of section 220(d)(1)(A) of such Code is amended by striking "75 percent of".

(d) Both Employers and Employees May Contribute to Medical Savings Accounts.—Paragraph (5) of section 220(b) of such Code is amended to read as follows:

"(5) Coordination with exclusion for employer contributions.—The limitation which would (but for this paragraph) apply under this subsection to the taxpayer for any taxable year shall be reduced (but not below zero) by the amount which would (but for section 106(b)) be includible in the taxpayer's gross income for such taxable year.".

(e) Reduction of Permitted Deductibles Under High Deductible Health Plans.—

(1) In general.—Subparagraph (A) of section 220(c)(2) of such Code (defining high deductible health plan) is amended—

(A) by striking "$1,500" in clause (i) and inserting "$1,000", and

(B) by striking "$3,000" in clause (ii) and inserting "$2,000".

(2) Conforming amendment.—Subsection (g) of section 220 of such Code is amended to read as follows:

"(g) Cost-of-Living Adjustment.—

"(1) In general.—In the case of any taxable year beginning in a calendar year after 1998, each dollar amount in subsection (c)(2) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which such taxable year begins by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) Special rules.—In the case of the $1,000 amount in subsection (c)(2)(A)(i) and the $2,000 amount in subsection (c)(2)(A)(ii), paragraph (1)(B) shall be applied by substituting 'calendar year 1999' for 'calendar year 1997'.

"(3) ROUNDING.—If any increase under paragraph (1) or (2) is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

(f) MEDICAL SAVINGS ACCOUNTS MAY BE OFFERED UNDER CAFETERIA PLANS.—Subsection (f) of section 125 of such Code is amended by striking "106(b),".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 104. LONG-TERM CARE INSURANCE PERMITTED TO BE OFFERED UNDER CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.

(a) CAFETERIA PLANS.—

(1) IN GENERAL.—Subsection (f) of section 125 of the Internal Revenue Code of 1986 (defining qualified benefits) is amended by inserting before the period at the end "; except that such term shall include the payment of premiums for any qualified long-term care insurance contract (as defined in section 7702B) to the extent the amount of such payment does not exceed the eligible long-term care premiums (as defined in section 213(d)(10)) for such contract".

(b) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106 of such Code (relating to contributions by employer to accident and health plans) is amended by striking subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 105. ADDITIONAL PERSONAL EXEMPTION FOR TAXPAYER CARING FOR ELDERLY FAMILY MEMBER IN TAXPAYER'S HOME.

(a) IN GENERAL.—Section 151 of the Internal Revenue Code of 1986 (relating to allowance of deductions for personal exemptions) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ADDITIONAL EXEMPTION FOR CERTAIN ELDERLY FAMILY MEMBERS RESIDING WITH TAXPAYER.—

"(1) IN GENERAL.—An exemption of the exemption amount for each qualified family member of the taxpayer.

"(2) QUALIFIED FAMILY MEMBER.—For purposes of this subsection, the term 'qualified family member' means, with respect to any taxable year, any individual—

"(A) who is an ancestor of the taxpayer or of the taxpayer's spouse or who is the spouse of any such ancestor,

"(B) who is a member for the entire taxable year of a household maintained by the taxpayer, and

"(C) who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being an individual with long-term care needs described in paragraph (3) for a period—

"(i) which is at least 180 consecutive days, and

"(ii) a portion of which occurs within the taxable year.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the 39½ month period ending on such due date (or such other period as the Secretary prescribes) a physician (as so defined) has certified that such individual meets such requirements.

"(3) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—An individual is described in this paragraph if the individual—

"(A) is unable to perform (without substantial assistance from another individual) at least two activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity, or

"(B) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform, without reminding or cuing assistance, at least one activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities.

"(4) SPECIAL RULES.—Rules similar to the rules of paragraphs (1), (2), (3), (4), and (5) of section 21(e) shall apply for purposes of this subsection.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 106. EXPANDED HUMAN CLINICAL TRIALS QUALIFYING FOR ORPHAN DRUG CREDIT.

(a) IN GENERAL.—Subclause (I) of section 45C(b)(2)(A)(ii) of the Internal Revenue Code of 1986 is amended to read as follows:

"(I) after the date that the application is filed for designation under such section 526, and".

(b) CONFORMING AMENDMENT.—Clause (i) of section 45C(b)(2)(A) of such Code is amended by inserting "which is" before "being" and by inserting before the comma at the end "and which is designated under section 526 of such Act".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2000.

SEC. 107. INCLUSION OF CERTAIN VACCINES AGAINST STREPTOCOCCUS PNEUMONIAE TO LIST OF TAXABLE VACCINES; REDUCTION IN PER DOSE TAX RATE.

(a) INCLUSION OF VACCINES.—

(1) IN GENERAL.—Section 4132(a)(1) of the Internal Revenue Code of 1986 (defining taxable vaccine) is amended by adding at the end the following new subparagraph:

"(L) Any conjugate vaccine against streptococcus pneumoniae.".

(2) EFFECTIVE DATE.—

(A) SALES.—The amendment made by this subsection shall apply to vaccine sales beginning on the day after the date on which the Centers for Disease Control makes a final recommendation for routine administration to children of any conjugate vaccine against streptococcus pneumoniae, but shall not take effect if subsection (c) does not take effect.

(B) DELIVERIES.—For purposes of subparagraph (A), in the case of sales on or before the date described in such subparagraph for which delivery is made after such date, the delivery date shall be considered the sale date.

(b) REDUCTION IN PER DOSE TAX RATE.—

(1) IN GENERAL.—Section 4131(b)(1) of such Code (relating to amount of tax) is amended by striking "75 cents" and inserting "50 cents".

(2) EFFECTIVE DATE.—

(A) SALES.—The amendment made by this subsection shall apply to vaccine sales after December 31, 2004, but shall not take effect if subsection (c) does not take effect.

(B) DELIVERIES.—For purposes of subparagraph (A), in the case of sales on or before the date described in such subparagraph for which delivery is made after such date, the delivery date shall be considered the sale date.

(3) LIMITATION ON CERTAIN CREDITS OR REFUNDS.—For purposes of applying section 4132(b) of the Internal Revenue Code of 1986 with respect to any claim for credit or refund filed after August 31, 2004, the amount of tax taken into account shall not exceed the tax computed under the rate in effect on January 1, 2005.

(c) VACCINE TAX AND TRUST FUND AMENDMENTS.—

(1) Sections 1503 and 1504 of the Vaccine Injury Compensation Program Modification Act (and the amendments made by such sections) are hereby repealed.

(2) Subparagraph (A) of section 9510(c)(1) of such Code is amended by striking "August 5, 1997" and inserting "October 21, 1998".

(3) The amendments made by this subsection shall take effect as if included in the provisions of the Tax and Trade Relief Extension Act of 1998 to which they relate.

(d) REPORT.—Not later than December 31, 1999, the Comptroller General of the United States shall prepare and submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the operation of the Vaccine Injury Compensation Trust Fund and on the adequacy of such Fund to meet future claims made under the Vaccine Injury Compensation Program.

SEC. 108. CREDIT FOR CLINICAL TESTING RESEARCH EXPENSES ATTRIBUTABLE TO CERTAIN QUALIFIED ACADEMIC INSTITUTIONS INCLUDING TEACHING HOSPITALS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by inserting after section 41 the following:

"SEC. 41A. CREDIT FOR MEDICAL INNOVATION EXPENSES.

"(a) GENERAL RULE.—For purposes of section 38, the medical innovation credit determined under this section for the taxable year shall be an amount equal to 40 percent of the excess (if any) of—

"(1) the qualified medical innovation expenses for the taxable year, over

"(2) the medical innovation base period amount.

"(b) QUALIFIED MEDICAL INNOVATION EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified medical innovation expenses' means the amounts which are paid or incurred by the taxpayer during the taxable year directly or indirectly to any qualified academic institution for clinical testing research activities.

"(2) CLINICAL TESTING RESEARCH ACTIVITIES.—

"(A) IN GENERAL.—The term 'clinical testing research activities' means human clinical testing conducted at any qualified academic institution in the development of any product, which occurs before—

"(i) the date on which an application with respect to such product is approved under section 505(b), 506, or 507 of the Federal Food, Drug, and Cosmetic Act (as in effect on the date of the enactment of this section),

"(ii) the date on which a license for such product is issued under section 351 of the Public Health Service Act (as so in effect), or

"(iii) the date classification or approval of such product which is a device intended for human use is given under section 513, 514, or 515 of the Federal Food, Drug, and Cosmetic Act (as so in effect).

"(B) PRODUCT.—The term 'product' means any drug, biologic, or medical device.

"(3) QUALIFIED ACADEMIC INSTITUTION.—The term 'qualified academic institution' means any of the following institutions:

"(A) EDUCATIONAL INSTITUTION.—A qualified organization described in section 170(b)(1)(A)(iii) which is owned by, or affiliated with, an institution of higher education (as defined in section 3304(f)).

"(B) TEACHING HOSPITAL.—A teaching hospital which—

"(i) is publicly supported or owned by an organization described in section 501(c)(3), and

"(ii) is affiliated with an organization meeting the requirements of subparagraph (A).

"(C) FOUNDATION.—A medical research organization described in section 501(c)(3) (other than a private foundation) which is affiliated with, or owned by—

"(i) an organization meeting the requirements of subparagraph (A), or

"(ii) a teaching hospital meeting the requirements of subparagraph (B).

"(D) CHARITABLE RESEARCH HOSPITAL.—A hospital that is designated as a cancer center by the National Cancer Institute.

"(4) EXCLUSION FOR AMOUNTS FUNDED BY GRANTS, ETC.—The term 'qualified medical innovation expenses' shall not include any amount to the extent such amount is funded by any grant, contract, or otherwise by another person (or any governmental entity).

"(c) MEDICAL INNOVATION BASE PERIOD AMOUNT.—For purposes of this section, the term 'medical innovation base period amount' means the average annual qualified medical innovation expenses paid by the taxpayer during the 3-taxable year period ending with the taxable year immediately preceding the first taxable year of the taxpayer beginning after December 31, 2000.

"(d) SPECIAL RULES.—

"(1) LIMITATION ON FOREIGN TESTING.—No credit shall be allowed under this section with respect to any clinical testing research activities conducted outside the United States.

"(2) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subsections (f) and (g) of section 41 shall apply for purposes of this section.

"(3) ELECTION.—This section shall apply to any taxpayer for any taxable year only if such taxpayer elects to have this section apply for such taxable year.

"(4) COORDINATION WITH CREDIT FOR INCREASING RESEARCH EXPENDITURES AND WITH CREDIT FOR CLINICAL TESTING EXPENSES FOR CERTAIN DRUGS FOR RARE DISEASES.—Any qualified medical innovation expense for a taxable year to which an election under this section applies shall not be taken into account for purposes of determining the credit allowable under section 41 or 45C for such taxable year.".

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Section 38(b) of such Code (relating to current year business credits) is amended by striking "plus" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", plus", and by adding at the end the following:

"(13) the medical innovation expenses credit determined under section 41A(a).".

(2) TRANSITION RULE.—Section 39(d) of such Code is amended by adding at the end the following new paragraph:

"(9) NO CARRYBACK OF SECTION 41A CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the medical innovation credit determined under section 41A may be carried back to a taxable year beginning before January 1, 2001.".

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C of such Code is amended by adding at the end the following new subsection:

"(d) CREDIT FOR INCREASING MEDICAL INNOVATION EXPENSES.—

"(1) IN GENERAL.—No deduction shall be allowed for that portion of the qualified medical innovation expenses (as defined in section 41A(b)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 41A(a).

"(2) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (2), (3), and (4) of subsection (c) shall apply for purposes of this subsection.".

(d) DEDUCTION FOR UNUSED PORTION OF CREDIT.—Section 196(c) of such Code (defining qualified business credits) is amended by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) the medical innovation expenses credit determined under section 41A(a) (other than such credit determined under the rules of section 280C(d)(2)),".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding after the item relating to section 41 the following:

"Sec. 41A. Credit for medical innovation expenses.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

TITLE II—GREATER ACCESS AND CHOICE THROUGH ASSOCIATION HEALTH PLANS

SEC. 201. RULES.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"SEC. 801. ASSOCIATION HEALTH PLANS.

"(a) IN GENERAL.—For purposes of this part, the term 'association health plan' means a group health plan—

"(1) whose sponsor is (or is deemed under this part to be) described in subsection (b); and

"(2) under which at least one option of health insurance coverage offered by a health insurance issuer (which may include, among other options, managed care options, point of service options, and preferred provider options) is provided to participants and beneficiaries, unless, for any plan year, such coverage remains unavailable to the plan despite good faith efforts exercised by the plan to secure such coverage.

"(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

"(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care;

"(2) is established as a permanent entity which receives the active support of its members and collects from its members on a periodic basis dues or payments necessary to maintain eligibility for membership in the sponsor; and

"(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), and (3) shall be deemed to be a sponsor described in this subsection.

"SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.

"(a) IN GENERAL.—The applicable authority shall prescribe by regulation, through negotiated rulemaking, a procedure under which, subject to subsection (b), the applicable authority shall certify association health plans which apply for certification as meeting the requirements of this part.

"(b) STANDARDS.—Under the procedure prescribed pursuant to subsection (a), in the case of an association health plan that provides at least one benefit option which does not consist of health insurance coverage, the applicable authority shall certify such plan as meeting the requirements of this part only if the applicable authority is satisfied that—

"(1) such certification—

"(A) is administratively feasible;

"(B) is not adverse to the interests of the individuals covered under the plan; and

"(C) is protective of the rights and benefits of the individuals covered under the plan; and

"(2) the applicable requirements of this part are met (or, upon the date on which the plan is to commence operations, will be met) with respect to the plan.

"(c) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—An association health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

"(d) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The applicable authority may provide by regulation, through negotiated rulemaking, for continued certification of association health plans under this part.

"(e) CLASS CERTIFICATION FOR FULLY INSURED PLANS.—The applicable authority shall establish a class certification procedure for association health plans under which all benefits consist of health insurance coverage. Under such procedure, the applicable authority shall provide for the granting of certification under this part to the plans in each class of such association health plans upon appropriate filing under such procedure in connection with plans in such class and payment of the prescribed fee under section 807(a).

"(f) CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—An association health plan which offers one or more benefit options which do not consist of health insurance coverage may be certified under this part only if such plan consists of any of the following:

"(1) a plan which offered such coverage on the date of the enactment of the Quality Care for the Uninsured Act of 1999,

"(2) a plan under which the sponsor does not restrict membership to one or more trades and businesses or industries and whose eligible participating employers represent a broad cross-section of trades and businesses or industries, or

"(3) a plan whose eligible participating employers represent one or more trades or businesses, or one or more industries, which have been indicated as having average or above-average health insurance risk or health claims experience by reason of State rate filings, denials of coverage, proposed premium rate levels, and other means demonstrated by such plan in accordance with regulations which the Secretary shall prescribe through negotiated rulemaking, including (but not limited to) the following: agriculture; automobile dealerships; barbering and cosmetology; child care; construction; dance, theatrical, and orchestra productions; disinfecting and pest control; eating and drinking establishments; fishing; hospitals; labor organizations; logging; manufacturing (metals); mining; medical and dental practices; medical laboratories; sanitary services; transportation (local and freight); and warehousing.

"SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

"(a) SPONSOR.—The requirements of this subsection are met with respect to an association health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

"(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to an association health plan if the following requirements are met:

"(1) FISCAL CONTROL.—The plan is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the plan and which is responsible for all operations of the plan.

"(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

"(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

"(B) LIMITATION.—

"(i) GENERAL RULE.—Except as provided in clauses (ii) and (iii), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

"(ii) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

"(iii) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, clause (i) shall not apply in the case of any service provider described in subparagraph (A) who is a provider of medical care under the plan.

"(C) CERTAIN PLANS EXCLUDED.—Subparagraph (A) shall not apply to an association health plan which is in existence on the date of the enactment of the Quality Care for the Uninsured Act of 1999.

"(D) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with a service provider to administer the day-to-day affairs of the plan.

"(c) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

"(1) the requirements of subsection (a) and section 801(a)(1) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b); and

"(2) the requirements of section 804(a)(1) shall be deemed met.

The Secretary may by regulation, through negotiated rulemaking, define for purposes of this subsection the terms 'franchiser', 'franchise network', and 'franchisee'.

"(d) CERTAIN COLLECTIVELY BARGAINED PLANS.—

"(1) IN GENERAL.—In the case of a group health plan described in paragraph (2)—

"(A) the requirements of subsection (a) and section 801(a)(1) shall be deemed met;

"(B) the joint board of trustees shall be deemed a board of trustees with respect to which the requirements of subsection (b) are met; and

"(C) the requirements of section 804 shall be deemed met.

"(2) REQUIREMENTS.—A group health plan is described in this paragraph if—

"(A) the plan is a multiemployer plan; or

"(B) the plan is in existence on April 1, 1997, and would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of section 3(40)(C)(ii).

"SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

"(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan—

"(1) each participating employer must be—

"(A) a member of the sponsor,

"(B) the sponsor, or

"(C) an affiliated member of the sponsor with respect to which the requirements of subsection (b) are met,

except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

"(2) all individuals commencing coverage under the plan after certification under this part must be—

"(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

"(B) the beneficiaries of individuals described in subparagraph (A).

"(b) COVERAGE OF PREVIOUSLY UNINSURED EMPLOYEES.—In the case of an association health plan in existence on the date of the enactment of the Quality Care for the Uninsured Act of 1999, an affiliated member of the sponsor of the plan may be offered coverage under the plan as a participating employer only if—

"(1) the affiliated member was an affiliated member on the date of certification under this part; or

"(2) during the 12-month period preceding the date of the offering of such coverage, the affiliated member has not maintained or contributed to a group health plan with respect to any of its employees who would otherwise be eligible to participate in such association health plan.

"(c) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

"(d) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to an association health plan if—

"(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

"(2) upon request, any employer eligible to participate is furnished information regarding all coverage options available under the plan; and

"(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

"SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

"(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if the following requirements are met:

"(1) CONTENTS OF GOVERNING INSTRUMENTS.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

"(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A));

"(B) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)); and

"(C) incorporates the requirements of section 806.

"(2) CONTRIBUTION RATES MUST BE NONDISCRIMINATORY.—

"(A) The contribution rates for any participating small employer do not vary on the basis of the claims experience of such employer and do not vary on the basis of the type of business or industry in which such employer is engaged.

"(B) Nothing in this title or any other provision of law shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from—

"(i) setting contribution rates based on the claims experience of the plan; or

"(ii) varying contribution rates for small employers in a State to the extent that such rates could vary using the same methodology employed in such State for regulating premium rates in the small group market with respect to health insurance coverage offered in connection with bona fide associations (within the meaning of section 2791(d)(3) of the Public Health Service Act),

subject to the requirements of section 702(b) relating to contribution rates.

"(3) FLOOR FOR NUMBER OF COVERED INDIVIDUALS WITH RESPECT TO CERTAIN PLANS.—If any benefit option under the plan does not consist of health insurance coverage, the plan has as of the beginning of the plan year not fewer than 1,000 participants and beneficiaries.

"(4) MARKETING REQUIREMENTS.—

"(A) IN GENERAL.—If a benefit option which consists of health insurance coverage is offered under the plan, State-licensed insurance agents shall be used to distribute to small employers coverage which does not consist of health insurance coverage in a manner comparable to the manner in which such agents are used to distribute health insurance coverage.

"(B) STATE-LICENSED INSURANCE AGENTS.—For purposes of subparagraph (A), the term 'State-licensed insurance agents' means one or more agents who are licensed in a State and are subject to the laws of such State relating to licensure, qualification, testing, examination, and continuing education of persons authorized to offer, sell, or solicit health insurance coverage in such State.

"(5) REGULATORY REQUIREMENTS.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation through negotiated rulemaking.

"(b) ABILITY OF ASSOCIATION HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Subject to section 514(d), nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from exercising its sole discretion in selecting the specific items and services consisting of medical care to be included as benefits under such plan or coverage, except (subject to section 514) in the case of any law to the extent that it (1) prohibits an exclusion of a specific disease from such coverage, or (2) is not preempted under section 731(a)(1) with respect to matters governed by section 711 or 712.

"SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

"(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if—

"(1) the benefits under the plan consist solely of health insurance coverage; or

"(2) if the plan provides any additional benefit options which do not consist of health insurance coverage, the plan—

"(A) establishes and maintains reserves with respect to such additional benefit options, in amounts recommended by the qualified actuary, consisting of—

"(i) a reserve sufficient for unearned contributions;

"(ii) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities;

"(iii) a reserve sufficient for any other obligations of the plan; and

"(iv) a reserve sufficient for a margin of error and other fluctuations, taking into account the specific circumstances of the plan; and

"(B) establishes and maintains aggregate and specific excess/stop loss insurance and solvency indemnification, with respect to such additional benefit options for which risk of loss has not yet been transferred, as follows:

"(i) The plan shall secure aggregate excess/stop loss insurance for the plan with an attachment point which is not greater than 125 percent of expected gross annual claims. The applicable authority may by regulation, through negotiated rulemaking, provide for upward adjustments in the amount of such percentage in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

"(ii) The plan shall secure specific excess/stop loss insurance for the plan with an attachment point which is at least equal to an amount recommended by the plan's qualified actuary (but not more than $175,000). The applicable authority may by regulation, through negotiated rulemaking, provide for adjustments in the amount of such insurance in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

"(iii) The plan shall secure indemnification insurance for any claims which the plan is unable to satisfy by reason of a plan termination.

Any regulations prescribed by the applicable authority pursuant to clause (i) or (ii) of subparagraph (B) may allow for such adjustments in the required levels of excess/stop loss insurance as the qualified actuary may recommend, taking into account the specific circumstances of the plan.

"(b) MINIMUM SURPLUS IN ADDITION TO CLAIMS RESERVES.—In the case of any association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan establishes and maintains surplus in an amount at least equal to—

"(1) $500,000, or

"(2) such greater amount (but not greater than $2,000,000) as may be set forth in regulations prescribed by the applicable authority through negotiated rulemaking, based on the level of aggregate and specific excess/stop loss insurance provided with respect to such plan.

"(c) ADDITIONAL REQUIREMENTS.—In the case of any association health plan described in subsection (a)(2), the applicable authority may provide such additional requirements relating to reserves and excess/stop loss insurance as the applicable authority considers appropriate. Such requirements may be provided by regulation, through negotiated rulemaking, with respect to any such plan or any class of such plans.

"(d) ADJUSTMENTS FOR EXCESS/STOP LOSS INSURANCE.—The applicable authority may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any plan or class of plans to take into account excess/stop loss insurance provided with respect to such plan or plans.

"(e) ALTERNATIVE MEANS OF COMPLIANCE.—The applicable authority may permit an association health plan described in subsection (a)(2) to substitute, for all or part of the requirements of this section (except subsection (a)(2)(B)(iii)), such security, guarantee, hold-harmless arrangement, or other financial arrangement as the applicable authority determines to be adequate to enable the plan to fully meet all its financial obligations on a timely basis and is otherwise no less protective of the interests of participants and beneficiaries than the requirements for which it is substituted. The applicable authority may take into account, for purposes of this subsection, evidence provided by the plan or sponsor which demonstrates an assumption of liability with respect to the plan. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the plan in the form of assessments of participating employers, security, or other financial arrangement.

"(f) MEASURES TO ENSURE CONTINUED PAYMENT OF BENEFITS BY CERTAIN PLANS IN DISTRESS.—

"(1) PAYMENTS BY CERTAIN PLANS TO ASSOCIATION HEALTH PLAN FUND.—

"(A) IN GENERAL.—In the case of an association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan makes payments into the Association Health Plan Fund under this subparagraph when they are due. Such payments shall consist of annual payments in the amount of $5,000, except that the Secretary shall reduce part or all of such annual payments, or shall provide a rebate of part or all of such a payment, to the extent that the Secretary determines that the balance in such Fund is sufficient (taking into account such a reduction or rebate) to meet all reasonable actuarial requirements. Such determination shall occur not less than once annually. In addition to any such annual payments, such payments may include such supplemental payments as the Secretary may determine to be necessary to meet reasonable actuarial requirements to carry out paragraph (2). Payments under this paragraph are payable to the Fund at the time determined by the Secretary. Initial payments are due in advance of certification under this part. Payments shall continue to accrue until a plan's assets are distributed pursuant to a termination procedure.

"(B) PENALTIES FOR FAILURE TO MAKE PAYMENTS.—If any payment is not made by a plan when it is due, a late payment charge of not more than 100 percent of the payment which was not timely paid shall be payable by the plan to the Fund.

"(C) CONTINUED DUTY OF THE SECRETARY.—The Secretary shall not cease to carry out the provisions of paragraph (2) on account of the failure of a plan to pay any payment when due.

"(2) PAYMENTS BY SECRETARY TO CONTINUE EXCESS/STOP LOSS INSURANCE COVERAGE AND INDEMNIFICATION INSURANCE COVERAGE FOR CERTAIN PLANS.—In any case in which the applicable authority determines that there is, or that there is reason to believe that there will be: (A) a failure to take necessary corrective actions under section 809(a) with respect to an association health plan described in subsection (a)(2); or (B) a termination of such a plan under section 809(b) or 810(b)(8) (and, if the applicable authority is not the

Secretary, certifies such determination to the Secretary), the Secretary shall determine the amounts necessary to make payments to an insurer (designated by the Secretary) to maintain in force excess/stop loss insurance coverage or indemnification insurance coverage for such plan, if the Secretary determines that there is a reasonable expectation that, without such payments, claims would not be satisfied by reason of termination of such coverage. The Secretary shall, to the extent provided in advance in appropriation Acts, pay such amounts so determined to the insurer designated by the Secretary.

“(3) ASSOCIATION HEALTH PLAN FUND.—

“(A) IN GENERAL.—There is established on the books of the Treasury a fund to be known as the ‘Association Health Plan Fund’. The Fund shall be available for making payments pursuant to paragraph (2). The Fund shall be credited with payments received pursuant to paragraph (1)(A), penalties received pursuant to paragraph (1)(B); and earnings on investments of amounts of the Fund under subparagraph (B).

“(B) INVESTMENT.—Whenever the Secretary determines that the moneys of the fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary determines advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

“(g) EXCESS/STOP LOSS INSURANCE.—For purposes of this section—

“(1) AGGREGATE EXCESS/STOP LOSS INSURANCE.—The term ‘aggregate excess/stop loss insurance’ means, in connection with an association health plan, a contract—

“(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation through negotiated rulemaking) provides for payment to the plan with respect to aggregate claims under the plan in excess of an amount or amounts specified in such contract;

“(B) which is guaranteed renewable; and

“(C) which allows for payment of premiums by any third party on behalf of the insured plan.

“(2) SPECIFIC EXCESS/STOP LOSS INSURANCE.—The term ‘specific excess/stop loss insurance’ means, in connection with an association health plan, a contract—

“(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation through negotiated rulemaking) provides for payment to the plan with respect to claims under the plan in connection with a covered individual in excess of an amount or amounts specified in such contract in connection with such covered individual;

“(B) which is guaranteed renewable; and

“(C) which allows for payment of premiums by any third party on behalf of the insured plan.

“(h) INDEMNIFICATION INSURANCE.—For purposes of this section, the term ‘indemnification insurance’ means, in connection with an association health plan, a contract—

“(1) under which an insurer (meeting such minimum standards as the applicable authority may prescribe through negotiated rulemaking) provides for payment to the plan with respect to claims under the plan which the plan is unable to satisfy by reason of a termination pursuant to section 809(b) (relating to mandatory termination);

“(2) which is guaranteed renewable and noncancellable for any reason (except as the applicable authority may prescribe by regulation through negotiated rulemaking); and

“(3) which allows for payment of premiums by any third party on behalf of the insured plan.

“(i) RESERVES.—For purposes of this section, the term ‘reserves’ means, in connection with an association health plan, plan assets which meet the fiduciary standards under part 4 and such additional requirements regarding liquidity as the applicable authority may prescribe through negotiated rulemaking.

“(j) SOLVENCY STANDARDS WORKING GROUP.—

“(1) IN GENERAL.—Within 90 days after the date of the enactment of the Quality Care for the Uninsured Act of 1999, the applicable authority shall establish a Solvency Standards Working Group. In prescribing the initial regulations under this section, the applicable authority shall take into account the recommendations of such Working Group.

“(2) MEMBERSHIP.—The Working Group shall consist of 18 members appointed by the applicable authority as follows:

“(A) 3 representatives of the National Association of Insurance Commissioners;

“(B) 3 representatives of the American Academy of Actuaries;

“(C) 3 representatives of the State governments, or their interests;

“(D) 3 representatives. of existing self-insured arrangements, or their interests;

“(E) 3 representatives of associations of the type referred to in section 801(b)(1), or their interests; and

“(F) 3 representatives of multiemployer plans that are group health plans, or their interests.

“SEC. 807. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

“(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), an association health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5.000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to association health plans.

“(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority through negotiated rulemaking, at least the following information:

“(1) IDENTIFYING INFORMATION.—The names and addresses of—

“(A) the sponsor; and

“(B) the members of the board of trustees of the plan.

“(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

“(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

“(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

“(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan and contract administrators and other service providers.

“(6) FUNDING REPORT.—In the case of association health plans providing benefits options in addition to health insurance coverage, a report setting forth information with respect to such additional benefit options determined as of a date within the 120-day period ending with the date of the application, including the following:

“(A) RESERVES.—A statement, certified by the board of trustees of the plan, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 806 are or will be met in accordance with regulations which the applicable authority shall prescribe through negotiated rulemaking.

“(B) ADEQUACY OF CONTRIBUTION RATES.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the plan for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the plan. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

“(C) CURRENT AND PROJECTED VALUE OF ASSETS AND LIABILITIES.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the plan and a projection of the assets, liabilities, income, and expenses of the plan for the 12-month period referred to in subparagraph (B). The income statement shall identify separately the plan's administrative expenses and claims.

“(D) COSTS OF COVERAGE TO BE CHARGED AND OTHER EXPENSES.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the plan.

“(E) OTHER INFORMATION.—Any other information as may be determined by the applicable authority, by regulation through negotiated rulemaking, as necessary to carry out the purposes of this part.

“(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to an association health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which at least 25 percent of the participants and beneficiaries under the plan are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed.

“(d) NOTICE OF MATERIAL CHANGES.—In the case of any association health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation through negotiated rulemaking. The applicable authority may require by regulation, through negotiated rulemaking, prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

“(e) REPORTING REQUIREMENTS FOR CERTAIN ASSOCIATION HEALTH PLANS.—An association health plan certified under this part which provides benefit options in addition to health insurance coverage for such plan year shall meet the requirements of section 103 by filing an annual report under such section which shall include information described in subsection (b)(6) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed with the applicable authority not later than 90 days after the close of the plan year (or on such later date as may be prescribed by the applicable authority). The applicable authority may require by regulation through negotiated rulemaking such interim reports as it considers appropriate.

“(f) ENGAGEMENT OF QUALIFIED ACTUARY.—The board of trustees of each association health plan which provides benefits options in addition to health insurance coverage and which is applying for certification under this part or is certified under this part shall engage, on behalf of all participants and beneficiaries, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

“(1) are in the aggregate reasonably related to the experience of the plan and to reasonable expectations; and

“(2) represent such actuary's best estimate of anticipated experience under the plan.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

“SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

“Except as provided in section 809(b), an association health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees—

“(1) not less than 60 days before the proposed termination date, provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

“(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

“(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation through negotiated rulemaking.

“SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

“(a) ACTIONS TO AVOID DEPLETION OF RESERVES.—An association health plan which is certified under this part and which provides benefits other than health insurance coverage shall continue to meet the requirements of section 806, irrespective of whether such certification continues in effect. The board of trustees of such plan shall determine quarterly whether the requirements of section 806 are met. In any case in which the board determines that there is reason to believe that there is or will be a failure to meet such requirements, or the applicable authority makes such a determination and so notifies the board, the board shall immediately notify the qualified actuary engaged by the plan, and such actuary shall, not later than the end of the next following month, make such recommendations to the board for corrective action as the actuary determines necessary to ensure compliance with section 806. Not later than 30 days after receiving from the actuary recommendations for corrective actions, the board shall notify the applicable authority (in such form and manner as the applicable authority may prescribe by regulation through negotiated rulemaking) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the board has taken or plans to take in response to such recommendations. The board shall thereafter report to the applicable authority, in such form and frequency as the applicable authority may specify to the board, regarding corrective action taken by the board until the requirements of section 806 are met.

“(b) MANDATORY TERMINATION.—In any case in which—

“(1) the applicable authority has been notified under subsection (a) of a failure of an association health plan which is or has been certified under this part and is described in section 806(a)(2) to meet the requirements of section 806 and has not been notified by the board of trustees of the plan that corrective action has restored compliance with such requirements; and

“(2) the applicable authority determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements of section 806,

the board of trustees of the plan shall, at the direction of the applicable authority, terminate the plan and, in the course of the termination, take such actions as the applicable authority may require, including satisfying any claims referred to in section 806(a)(2)(B)(iii) and recovering for the plan any liability under subsection (a)(2)(B)(iii) or (e) of section 806, as necessary to ensure that the affairs of the plan will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the plan is obligated.

“SEC. 810. TRUSTEESHIP BY THE SECRETARY OF INSOLVENT ASSOCIATION HEALTH PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

“(a) APPOINTMENT OF SECRETARY AS TRUSTEE FOR INSOLVENT PLANS.—Whenever the Secretary determines that an association health plan which is or has been certified under this part and which is described in section 806(a)(2) will be unable to provide benefits when due or is otherwise in a financially hazardous condition, as shall be defined by the Secretary by regulation through negotiated rulemaking, the Secretary shall, upon notice to the plan, apply to the appropriate United States district court for appointment of the Secretary as trustee to administer the plan for the duration of the insolvency. The plan may appear as a party and other interested persons may intervene in the proceedings at the discretion of the court. The court shall appoint such Secretary trustee if the court determines that the trusteeship is necessary to protect the interests of the participants and beneficiaries or providers of medical care or to avoid any unreasonable deterioration of the financial condition of the plan. The trusteeship of such Secretary shall continue until the conditions described in the first sentence of this subsection are remedied or the plan is terminated.

“(b) POWERS AS TRUSTEE.—The Secretary, upon appointment as trustee under subsection (a), shall have the power—

“(1) to do any act authorized by the plan, this title, or other applicable provisions of law to be done by the plan administrator or any trustee of the plan;

“(2) to require the transfer of all (or any part) of the assets and records of the plan to the Secretary as trustee;

“(3) to invest any assets of the plan which the Secretary holds in accordance with the provisions of the plan, regulations prescribed by the Secretary through negotiated rulemaking, and applicable provisions of law;

“(4) to require the sponsor, the plan administrator, any participating employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the Secretary as trustee may reasonably need in order to administer the plan;

“(5) to collect for the plan any amounts due the plan and to recover reasonable expenses of the trusteeship;

“(6) to commence, prosecute, or defend on behalf of the plan any suit or proceeding involving the plan;

“(7) to issue, publish, or file such notices, statements, and reports as may be required by the Secretary by regulation through negotiated rulemaking or required by any order of the court;

“(8) to terminate the plan (or provide for its termination accordance with section 809(b)) and liquidate the plan assets, to restore the plan to the responsibility of the sponsor, or to continue the trusteeship;

“(9) to provide for the enrollment of plan participants and beneficiaries under appropriate coverage options; and

“(10) to do such other acts as may be necessary to comply with this title or any order of the court and to protect the interests of plan participants and beneficiaries and providers of medical care.

“(c) NOTICE OF APPOINTMENT.—As soon as practicable after the Secretary's appointment as trustee, the Secretary shall give notice of such appointment to—

“(1) the sponsor and plan administrator;

“(2) each participant;

“(3) each participating employer; and

“(4) if applicable, each employee organization which, for purposes of collective bargaining, represents plan participants.

“(d) ADDITIONAL DUTIES.—Except to the extent inconsistent with the provisions of this title, or as may be otherwise ordered by the court, the Secretary, upon appointment as trustee under this section, shall be subject to the same duties as those of a trustee under section 704 of title 11, United States Code, and shall have the duties of a fiduciary for purposes of this title.

“(e) OTHER PROCEEDINGS.—An application by the Secretary under this subsection may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding, or any proceeding to reorganize, conserve, or liquidate such plan or its property, or any proceeding to enforce a lien against property of the plan.

“(f) JURISDICTION OF COURT.—

“(1) IN GENERAL.—Upon the filing of an application for the appointment as trustee or the issuance of a decree under this section, the court to which the application is made shall have exclusive jurisdiction of the plan involved and its property wherever located with the powers, to the extent consistent with the purposes of this section, of a court of the United States having jurisdiction over cases under chapter 11 of title 11, United States Code. Pending an adjudication under this section such court shall stay, and upon appointment by it of the Secretary as trustee, such court shall continue the stay of, any pending mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan, the sponsor, or property of such plan or sponsor, and any other suit against any receiver, conservator, or trustee of the plan, the sponsor, or property of the plan or sponsor. Pending such adjudication and upon the appointment by it of the Secretary as trustee, the court may stay any proceeding to enforce a lien against property of the plan or the sponsor or any other suit against the plan or the sponsor.

“(2) VENUE.—An action under this section may be brought in the judicial district where the sponsor or the plan administrator resides or does business or where any asset of the plan is situated. A district court in which such action is brought may issue process with respect to such action in any other judicial district.

“(g) PERSONNEL.—In accordance with regulations which shall be prescribed by the Secretary through negotiated rulemaking, the Secretary shall appoint, retain, and compensate accountants, actuaries, and other professional service personnel as may be necessary in connection with the Secretary's service as trustee under this section.

“SEC. 811. STATE ASSESSMENT AUTHORITY.

“(a) IN GENERAL.—Notwithstanding section 514, a State may impose by law a contribution tax on an association health plan described in section 806(a)(2), if the plan commenced operations in such State after the date of the enactment of the Quality Care for the Uninsured Act of 1999.

“(b) CONTRIBUTION TAX.—For purposes of this section, the term ‘contribution tax’ imposed by a State on an association health plan means any tax imposed by such State if—

“(1) such tax is computed by applying a rate to the amount of premiums or contributions, with respect to individuals covered under the plan who are residents of such State, which are received by the plan from participating employers located in such State or from such individuals;

“(2) the rate of such tax does not exceed the rate of any tax imposed by such State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage offered in such State in connection with a group health plan;

“(3) such tax is otherwise nondiscriminatory; and

“(4) the amount of any such tax assessed on the plan is reduced by the amount of any tax or assessment otherwise imposed by the State on premiums, contributions, or both received by insurers or health maintenance organizations for health insurance coverage, aggregate excess/stop loss insurance (as defined in section 806(g)(1)), specific excess/stop loss insurance (as defined in section 806(g)(2)), other insurance related to the provision of medical care under the plan, or any combination thereof provided by such insurers or health maintenance organizations in such State in connection with such plan.

“SEC. 812. SPECIAL RULES FOR CHURCH PLANS.

“(a) ELECTION FOR CHURCH PLANS.—Notwithstanding section 4(b)(2), if a church, a convention or association of churches, or an organization described in section 3(33)(C)(i) maintains a church plan which is a group health plan (as defined in section 733(a)(1)), and such church, convention, association, or organization makes an election with respect to such plan under this subsection (in such form and manner as the Secretary may by regulation prescribe), then the provisions of this section shall apply to such plan, with respect to benefits provided under such plan consisting of medical care, as if section 4(b)(2) did not contain an exclusion for church plans. Nothing in this subsection shall be construed to render any other section of this title applicable to church plans, except to the extent that such other section is incorporated by reference in this section.

“(b) EFFECT OF ELECTION.—

“(1) PREEMPTION OF STATE INSURANCE LAWS REGULATING COVERED CHURCH PLANS.—Subject to paragraphs (2) and (3), this section shall supersede any and all State laws which regulate insurance insofar as they may now or hereafter regulate church plans to which this section applies or trusts established under such church plans.

“(2) GENERAL STATE INSURANCE REGULATION UNAFFECTED.—

“(A) IN GENERAL.—Except as provided in subparagraph (B) and paragraph (3), nothing in this section shall be construed to exempt or relieve any person from any provision of State law which regulates insurance.

“(B) CHURCH PLANS NOT TO BE DEEMED INSURANCE COMPANIES OR INSURERS.—Neither a church plan to which this section applies, nor any trust established under such a church plan, shall be deemed to be an insurance company or other insurer or to be engaged in the business of insurance for purposes of any State law purporting to regulate insurance companies or insurance contracts.

“(3) PREEMPTION OF CERTAIN STATE LAWS RELATING TO PREMIUM RATE REGULATION AND BENEFIT MANDATES.—The provisions of subsections (a)(2)(B) and (b) of section 805 shall apply with respect to a church plan to which this section applies in the same manner and to the same extent as such provisions apply with respect to association health plans.

“(4) DEFINITIONS.—For purposes of this subsection—

“(A) STATE LAW.—The term ‘State law’ includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

“(B) STATE.—The term ‘State’ includes a State, any political subdivision thereof, or any agency or instrumentality of either, which purports to regulate, directly or indirectly, the terms and conditions of church plans covered by this section.

“(c) REQUIREMENTS FOR COVERED CHURCH PLANS.—

“(1) FIDUCIARY RULES AND EXCLUSIVE PURPOSE.—A fiduciary shall discharge his duties with respect to a church plan to which this section applies—

“(A) for the exclusive purpose of:

“(i) providing benefits to participants and their beneficiaries; and

“(ii) defraying reasonable expenses of administering the plan;

“(B) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

“(C) in accordance with the documents and instruments governing the plan.

The requirements of this paragraph shall not be treated as not satisfied solely because the plan assets are commingled with other church assets, to the extent that such plan assets are separately accounted for.

“(2) CLAIMS PROCEDURE.—In accordance with regulations of the Secretary, every church plan to which this section applies shall—

“(A) provide adequate notice in writing to any participant or beneficiary whose claim for benefits under the plan has been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood by the participant;

“(B) afford a reasonable opportunity to any participant whose claim for benefits has been denied for a full and fair review by the appropriate fiduciary of the decision denying the claim; and

“(C) provide a written statement to each participant describing the procedures established pursuant to this paragraph.

“(3) ANNUAL STATEMENTS.—In accordance with regulations of the Secretary, every church plan to which this section applies shall file with the Secretary an annual statement—

“(A) stating the names and addresses of the plan and of the church, convention, or association maintaining the plan (and its principal place of business);

“(B) certifying that it is a church plan to which this section applies and that it complies with the requirements of paragraphs (1) and (2);

“(C) identifying the States in which participants and beneficiaries under the plan are or likely will be located during the 1-year period covered by the statement; and

“(D) containing a copy of a statement of actuarial opinion signed by a qualified actuary that the plan maintains capital, reserves, insurance, other financial arrangements, or any combination thereof adequate to enable the plan to fully meet all of its financial obligations on a timely basis.

“(4) DISCLOSURE.—At the time that the annual statement is filed by a church plan with the Secretary pursuant to paragraph (3), a copy of such statement shall be made available by the Secretary to the State insurance commissioner (or similar official) of any State. The name of each church plan and sponsoring organization filing an annual statement in compliance with paragraph (3) shall be published annually in the Federal Register.

“(c) ENFORCEMENT.—The Secretary may enforce the provisions of this section in a manner consistent with section 502, to the extent applicable with respect to actions under section 502(a)(5), and with section 3(33)(D), except that, other than for the purpose of seeking a temporary restraining order, a civil action may be brought with respect to the plan's failure to meet any requirement of this section only if the plan fails to correct its failure within the correction period described in section 3(33)(D). The other provisions of part 5 (except sections 501(a), 503, 512, 514, and 515) shall apply with respect to the enforcement and administration of this section.

“(d) DEFINITIONS AND OTHER RULES.—For purposes of this section—

“(1) IN GENERAL.—Except as otherwise provided in this section, any term used in this section which is defined in any provision of this title shall have the definition provided such term by such provision.

“(2) SEMINARY STUDENTS.—Seminary students who are enrolled in an institution of higher learning described in section 3(33)(C)(iv) and who are treated as participants under the terms of a church plan to which this section applies shall be deemed to be employees as defined in section 3(6) if the number of such students constitutes an insignificant portion of the total number of individuals who are treated as participants under the terms of the plan.

"SEC. 813. DEFINITIONS AND RULES OF CONSTRUCTION.

"(a) DEFINITIONS.—For purposes of this part—

"(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

"(2) MEDICAL CARE.—The term 'medical care' has the meaning provided in section 733(a)(2).

"(3) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1).

"(4) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

"(5) APPLICABLE AUTHORITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'applicable authority' means, in connection with an association health plan—

"(i) the State recognized pursuant to subsection (c) of section 506 as the State to which authority has been delegated in connection with such plan; or

"(ii) if there is no State referred to in clause (i), the Secretary.

"(B) EXCEPTIONS.—

"(i) JOINT AUTHORITIES.—Where such term appears in section 808(3), section 807(e) (in the first instance), section 809(a) (in the second instance), section 809(a) (in the fourth instance), and section 809(b)(1), such term means, in connection with an association health plan, the Secretary and the State referred to in subparagraph (A)(i) (if any) in connection with such plan.

"(ii) REGULATORY AUTHORITIES.—Where such term appears in section 802(a) (in the first instance), section 802(d), section 802(e), section 803(d), section 805(a)(5), section 806(a)(2), section 806(b), section 806(c), section 806(d), paragraphs (1)(A) and (2)(A) of section 806(g), section 806(h), section 806(i), section 806(j), section 807(a) (in the second instance), section 807(b), section 807(d), section 807(e) (in the second instance), section 808 (in the matter after paragraph (3)), and section 809(a) (in the third instance), such term means, in connection with an association health plan, the Secretary.

"(6) HEALTH STATUS-RELATED FACTOR.—The term 'health status-related factor' has the meaning provided in section 733(d)(2).

"(7) INDIVIDUAL MARKET.—

"(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

"(B) TREATMENT OF VERY SMALL GROUPS.—

"(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

"(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

"(8) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with an association health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

"(9) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

"(10) QUALIFIED ACTUARY.—The term 'qualified actuary' means an individual who is a member of the American Academy of Actuaries or meets such reasonable standards and qualifications as the Secretary may provide by regulation through negotiated rulemaking.

"(11) AFFILIATED MEMBER.—The term 'affiliated member' means, in connection with a sponsor—

"(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor,

"(B) in the case of a sponsor with members which consist of associations, a person who is a member of any such association and elects an affiliated status with the sponsor, or

"(C) in the case of an association health plan in existence on the date of the enactment of the Quality Care for the Uninsured Act of 1999, a person eligible to be a member of the sponsor or one of its member associations.

"(12) LARGE EMPLOYER.—The term 'large employer' means, in connection with a group health plan with respect to a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

"(13) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, an employer who is not a large employer.

"(b) RULES OF CONSTRUCTION.—

"(1) EMPLOYERS AND EMPLOYEES.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is an association health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

"(A) in the case of a partnership, the term 'employer' (as defined in section (3)(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section (3)(6)) includes any partner in relation to the partnership; and

"(B) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

"(2) PLANS, FUNDS, AND PROGRAMS TREATED AS EMPLOYEE WELFARE BENEFIT PLANS.—In the case of any plan, fund, or program which was established or is maintained for the purpose of providing medical care (through the purchase of insurance or otherwise) for employees (or their dependents) covered thereunder and which demonstrates to the Secretary that all requirements for certification under this part would be met with respect to such plan, fund, or program if such plan, fund, or program were a group health plan, such plan, fund, or program shall be treated for purposes of this title as an employee welfare benefit plan on and after the date of such demonstration.".

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

"(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of an association health plan which is certified under part 8.".

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking "Subsection (a)" and inserting "Subsections (a) and (d)";

(B) in subsection (b)(5), by striking "subsection (a)" in subparagraph (A) and inserting "subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805", and by striking "subsection (a)" in subparagraph (B) and inserting "subsection (a) of this section" or subsection (a)(2)(B) or (b) of section 805";

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

"(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude, or have the effect of precluding, a health insurance issuer from offering health insurance coverage in connection with an association health plan which is certified under part 8.

"(2) Except as provided in paragraphs (4) and (5) of subsection (b) of this section—

"(A) In any case in which health insurance coverage of any policy type is offered under an association health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may preclude a health insurance issuer from offering health insurance coverage of the same policy type to other employers operating in the State which are eligible for coverage under such association health plan, whether or not such other employers are participating employers in such plan.

"(B) In any case in which health insurance coverage of any policy type is offered under an association health plan in a State and the filing, with the applicable State authority, of the policy form in connection with such policy type is approved by such State authority, the provisions of this title shall supersede any and all laws of any other State in which health insurance coverage of such type is offered, insofar as they may preclude, upon the filing in the same form and manner of such policy form with the applicable State authority in such other State, the approval of the filing in such other State.

"(3) For additional provisions relating to association health plans, see subsections (a)(2)(B) and (b) of section 805.

"(4) For purposes of this subsection, the term 'association health plan' has the meaning provided in section 801(a), and the terms 'health insurance coverage', 'participating employer', and 'health insurance issuer' have the meanings provided such terms in section 811, respectively.".

(3) Section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) is amended—

(A) in clause (i)(II), by striking "and" at the end;

(B) in clause (ii), by inserting "and which does not provide medical care (within the meaning of section 733(a)(2))," after "arrangement,", and by striking "title." and inserting "title, and"; and

(C) by adding at the end the following new clause:

"(iii) subject to subparagraph (E), in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement and which provides medical care (within the meaning of section 733(a)(2)), any law of any State which regulates insurance may apply.".

(4) Section 514(e) of such Act (as redesignated by paragraph (2)(C)) is amended—

(A) by striking "Nothing" and inserting "(1) Except as provided in paragraph (2), nothing"; and

(B) by adding at the end the following new paragraph:

"(2) Nothing in any other provision of law enacted on or after the date of the enactment of the Quality Care for the Uninsured Act of 1999 shall be construed to alter, amend, modify, invalidate, impair, or supersede any provision of this title, except by specific cross-reference to the affected section.".

(c) Plan Sponsor.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: "Such term also includes a person serving as the sponsor of an association health plan under part 8.".

(d) Disclosure of Solvency Protections Related to Self-Insured and Fully Insured Options Under Association Health Plans.—Section 102(b) of such Act (29 U.S.C. 102(b)) is amended by adding at the end the following: "An association health plan shall include in its summary plan description, in connection with each benefit option, a description of the form of solvency or guarantee fund protection secured pursuant to this Act or applicable State law, if any.".

(e) Savings Clause.—Section 731(c) of such Act is amended by inserting "or part 8" after "this part".

(f) Report to the Congress Regarding Certification of Self-Insured Association Health Plans.—Not later than January 1, 2004, the Secretary of Labor shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate the effect association health plans have had, if any, on reducing the number of uninsured individuals.

(g) Clerical Amendment.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

"Part 8—Rules Governing Association Health Plans

"Sec. 801. Association health plans.
"Sec. 802. Certification of association health plans.
"Sec. 803. Requirements relating to sponsors and boards of trustees.
"Sec. 804. Participation and coverage requirements.
"Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
"Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
"Sec. 807. Requirements for application and related requirements.
"Sec. 808. Notice requirements for voluntary termination.
"Sec. 809. Corrective actions and mandatory termination.
"Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
"Sec. 811. State assessment authority.
"Sec. 812. Special rules for church plans.
"Sec. 813. Definitions and rules of construction.".

SEC. 202. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting "for any plan year of any such plan, or any fiscal year of any such other arrangement;" after "single employer", and by inserting "during such year or at any time during the preceding 1-year period" after "control group";

(2) in clause (iii)—

(A) by striking "common control shall not be based on an interest of less than 25 percent" and inserting "an interest of greater than 25 percent may not be required as the minimum interest necessary for common control"; and

(B) by striking "similar to" and inserting "consistent and coextensive with";

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

"(iv) in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only one participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement;".

SEC. 203. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

(a) In General.—Section 3(40)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(A)(i)) is amended to read as follows:

"(i)(I) under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, and (II) in accordance with subparagraphs (C), (D), and (E);".

(b) Limitations.—Section 3(40) of such Act (29 U.S.C. 1002(40)) is amended by adding at the end the following new subparagraphs:

"(C) For purposes of subparagraph (A)(i)(II), a plan or other arrangement shall be treated as established or maintained in accordance with this subparagraph only if the following requirements are met:

"(i) The plan or other arrangement, and the employee organization or any other entity sponsoring the plan or other arrangement, do not—

"(I) utilize the services of any licensed insurance agent or broker for soliciting or enrolling employers or individuals as participating employers or covered individuals under the plan or other arrangement; or

"(II) pay any type of compensation to a person, other than a full time employee of the employee organization (or a member of the organization to the extent provided in regulations prescribed by the Secretary through negotiated rulemaking), that is related either to the volume or number of employers or individuals solicited or enrolled as participating employers or covered individuals under the plan or other arrangement, or to the dollar amount or size of the contributions made by participating employers or covered individuals to the plan or other arrangement;

except to the extent that the services used by the plan, arrangement, organization, or other entity consist solely of preparation of documents necessary for compliance with the reporting and disclosure requirements of part 1 or administrative, investment, or consulting services unrelated to solicitation or enrollment of covered individuals.

"(ii) As of the end of the preceding plan year, the number of covered individuals under the plan or other arrangement who are neither—

"(I) employed within a bargaining unit covered by any of the collective bargaining agreements with a participating employer (nor covered on the basis of an individual's employment in such a bargaining unit); nor

"(II) present employees (or former employees who were covered while employed) of the sponsoring employee organization, of an employer who is or was a party to any of the collective bargaining agreements, or of the plan or other arrangement or a related plan or arrangement (nor covered on the basis of such present or former employment);

does not exceed 15 percent of the total number of individuals who are covered under the plan or arrangement and who are present or former employees who are or were covered under the plan or arrangement pursuant to a collective bargaining agreement with a participating employer. The requirements of the preceding provisions of this clause shall be treated as satisfied if, as of the end of the preceding plan year, such covered individuals are comprised solely of individuals who were covered individuals under the plan or other arrangement as of the date of the enactment of the Quality Care for the Uninsured Act of 1999 and, as of the end of the preceding plan year, the number of such covered individuals does not exceed 25 percent of the total number of present and former employees enrolled under the plan or other arrangement.

"(iii) The employee organization or other entity sponsoring the plan or other arrangement certifies to the Secretary each year, in a form and manner which shall be prescribed by the Secretary through negotiated rulemaking that the plan or other arrangement meets the requirements of clauses (i) and (ii).

"(D) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

"(i) all of the benefits provided under the plan or arrangement consist of health insurance coverage; or

"(ii)(I) the plan or arrangement is a multiemployer plan; and

"(II) the requirements of clause (B) of the proviso to clause (5) of section 302(c) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)) are met with respect to such plan or other arrangement.

"(E) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

"(i) the plan or arrangement is in effect as of the date of the enactment of the Quality Care for the Uninsured Act of 1999; or

"(ii) the employee organization or other entity sponsoring the plan or arrangement—

"(I) has been in existence for at least 3 years; or

"(II) demonstrates to the satisfaction of the Secretary that the requirements of subparagraphs (C) and (D) are met with respect to the plan or other arrangement.".

(c) CONFORMING AMENDMENTS TO DEFINITIONS OF PARTICIPANT AND BENEFICIARY.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended by adding at the end the following new sentence: "Such term includes an individual who is a covered individual described in paragraph (40)(C)(ii).".

SEC. 204. ENFORCEMENT PROVISIONS.

(a) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by inserting "(a)" after "SEC. 501."; and

(2) by adding at the end the following new subsection:

"(b) Any person who willfully falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, a plan or other arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

"(1) being an association health plan which has been certified under part 8;

"(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws; or

"(3) being a plan or arrangement with respect to which the requirements of subparagraph (C), (D), or (E) of section 3(40) are met;

shall, upon conviction, be imprisoned not more than 5 years, be fined under title 18, United States Code, or both.".

(b) CEASE ACTIVITIES ORDERS.—Section 502 of such Act (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

"(n)(1) Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of an association health plan (or similar arrangement providing benefits consisting of medical care (as defined in section 733(a)(2))) that—

"(A) is not certified under part 8, is subject under section 514(b)(6) to the insurance laws of any State in which the plan or arrangement offers or provides benefits, and is not licensed, registered, or otherwise approved under the insurance laws of such State; or

"(B) is an association health plan certified under part 8 and is not operating in accordance with the requirements under part 8 for such certification,

a district court of the United States shall enter an order requiring that the plan or arrangement cease activities.

"(2) Paragraph (1) shall not apply in the case of an association health plan or other arrangement if the plan or arrangement shows that—

"(A) all benefits under it referred to in paragraph (1) consist of health insurance coverage; and

"(B) with respect to each State in which the plan or arrangement offers or provides benefits, the plan or arrangement is operating in accordance with applicable State laws that are not superseded under section 514.

"(3) The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the plan.".

(c) RESPONSIBILITY FOR CLAIMS PROCEDURE.—Section 503 of such Act (29 U.S.C. 1133) (as amended by title I) is amended by adding at the end the following new subsection:

"(c) ASSOCIATION HEALTH PLANS.—The terms of each association health plan which is or has been certified under part 8 shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.".

SEC. 205. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

"(c) RESPONSIBILITY OF STATES WITH RESPECT TO ASSOCIATION HEALTH PLANS.—

"(1) AGREEMENTS WITH STATES.—A State may enter into an agreement with the Secretary for delegation to the State of some or all of—

"(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8;

"(B) the Secretary's authority to certify association health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8; or

"(C) any combination of the Secretary's authority authorized to be delegated under subparagraphs (A) and (B).

"(2) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this paragraph may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.

"(3) RECOGNITION OF PRIMARY DOMICILE STATE.—In entering into any agreement with a State under subparagraph (A), the Secretary shall ensure that, as a result of such agreement and all other agreements entered into under subparagraph (A), only one State will be recognized, with respect to any particular association health plan, as the State to which all authority has been delegated pursuant to such agreements in connection with such plan. In carrying out this paragraph, the Secretary shall take into account the places of residence of the participants and beneficiaries under the plan and the State in which the trust is maintained.".

SEC. 206. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) EFFECTIVE DATE.—The amendments made by sections 201, 204, and 205 shall take effect on January 1, 2001. The amendments made by sections 202 and 203 shall take effect on the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this title before January 1, 2001. Such regulations shall be issued through negotiated rulemaking.

(b) EXCEPTION.—Section 801(a)(2) of the Employee Retirement Income Security Act of 1974 (added by section 201) does not apply in connection with an association health plan (certified under part 8 of subtitle B of title I of such Act) existing on the date of the enactment of this Act, if no benefits provided thereunder as of the date of the enactment of this Act consist of health insurance coverage (as defined in section 733(b)(1) of such Act).

(c) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 813(a)(5) of the Employee Retirement Income Security Act of 1974 (as amended by this Act)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a)(1) and 803(a)(1) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of directors which—

(i) is elected by the participating employers, with each employer having one vote; and

(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement.

(2) DEFINITIONS.—For purposes of this subsection, the terms "group health plan", "medical care", and "participating employer" shall have the meanings provided in section 813 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an "association health plan" shall be deemed a reference to an arrangement referred to in this subsection.

(d) PROMOTING USE OF CERTAIN ADDITIONAL ASSOCIATIONS IN PROVIDING INDIVIDUAL HEALTH INSURANCE COVERAGE.—Section 2742(b)(5) of the Public Health Service Act (42 U.S.C. 300gg–42(b)(5)) is amended—

(1) by striking "paragraph" and inserting "subparagraph";

(2) by inserting "(A)" after ".—"; and

(3) by adding at the end the following new subparagraph:

"(B)(i) In the case of health insurance coverage that is made available in the individual market only through one or more associations described in clause (ii), the membership of the individual in the association (on the basis of which the coverage is provided) ceases but only if such coverage is terminated under this subparagraph uniformly without regard to any health status-related factor of covered individuals and only if the individual is entitled, upon application and without furnishing evidence of insurability, to health insurance conversion coverage that meets and is subject to all the rules and regulations of the State in which application is made.

"(ii) An association described in this clause is an organization that meets the requirements for a bona fide organization described in subparagraphs (A), (B), (C), (E) and (F) of section 2791(d)(3) and, except in the case of an association that enrolls individual members who each pay their own individual membership dues, which provides that all members and dependents of members are eligible for coverage offered through the association regardless of any health status-related factor.".

TITLE III—GREATER ACCESS AND CHOICE THROUGH HEALTHMARTS

SEC. 301. EXPANSION OF CONSUMER CHOICE THROUGH HEALTHMARTS.

(a) In General.—The Public Health Service Act is amended by adding at the end the following new title:

"TITLE XXVIII—HEALTHMARTS

"SEC. 2801. DEFINITION OF HEALTHMART.

"(a) In General.—For purposes of this title, the term 'HealthMart' means a legal entity that meets the following requirements:

"(1) Organization.—The HealthMart is a nonprofit organization operated under the direction of a board of directors which is composed of representatives of not fewer than 2 and in equal numbers from each of the following:

"(A) Small employers.

"(B) Employees of small employers.

"(C) Health care providers, which may be physicians, other health care professionals, health care facilities, or any combination thereof.

"(D) Entities, such as insurance companies, health maintenance organizations, and licensed provider-sponsored organizations, that underwrite or administer health benefits coverage.

"(2) Offering health benefits coverage.—

"(A) In general.—The HealthMart, in conjunction with those health insurance issuers that offer health benefits coverage through the HealthMart, makes available health benefits coverage in the manner described in subsection (b) to all small employers and eligible employees in the manner described in subsection (c)(2) at rates (including employer's and employee's share) that are established by the health insurance issuer on a policy or product specific basis and that may vary only as permissible under State law. A HealthMart is deemed to be a group health plan for purposes of applying section 702 of the Employee Retirement Income Security Act of 1974, section 2702 of this Act, and section 9802(b) of the Internal Revenue Code of 1986 (which limit variation among similarly situated individuals of required premiums for health benefits coverage on the basis of health status-related factors).

"(B) Nondiscrimination in coverage offered.—

"(i) In general.—Subject to clause (ii), the HealthMart may not offer health benefits coverage to an eligible employee in a geographic area (as specified under paragraph (3)(A)) unless the same coverage is offered to all such employees in the same geographic area. Section 2711(a)(1)(B) of this Act limits denial of enrollment of certain eligible individuals under health benefits coverage in the small group market.

"(ii) Construction.—Nothing in this title shall be construed as requiring or permitting a health insurance issuer to provide coverage outside the service area of the issuer, as approved under State law.

"(C) No financial underwriting.—The HealthMart provides health benefits coverage only through contracts with health insurance issuers and does not assume insurance risk with respect to such coverage.

(D) Minimum coverage.—By the end of the first year of its operation and thereafter, the HealthMart maintains not fewer than 10 purchasers and 100 members.

"(3) Geographic areas.—

"(A) Specification of geographic areas.—The HealthMart shall specify the geographic area (or areas) in which it makes available health benefits coverage offered by health insurance issuers to small employers. Such an area shall encompass at least one entire county or equivalent area.

"(B) Multistate areas.—In the case of a HealthMart that serves more than one State, such geographic areas may be areas that include portions of two or more contiguous States.

"(C) Multiple healthmarts permitted in single geographic area.—Nothing in this title shall be construed as preventing the establishment and operation of more than one HealthMart in a geographic area or as limiting the number of HealthMarts that may operate in any area.

"(4) Provision of administrative services to purchasers.—

"(A) In general.—The HealthMart provides administrative services for purchasers. Such services may include accounting, billing, enrollment information, and employee coverage status reports.

"(B) Construction.—Nothing in this subsection shall be construed as preventing a HealthMart from serving as an administrative service organization to any entity.

"(5) Dissemination of information.—The HealthMart collects and disseminates (or arranges for the collection and dissemination of) consumer-oriented information on the scope, cost, and enrollee satisfaction of all coverage options offered through the HealthMart to its members and eligible individuals. Such information shall be defined by the HealthMart and shall be in a manner appropriate to the type of coverage offered. To the extent practicable, such information shall include information on provider performance, locations and hours of operation of providers, outcomes, and similar matters. Nothing in this section shall be construed as preventing the dissemination of such information or other information by the HealthMart or by health insurance issuers through electronic or other means.

"(6) Filing information.—The HealthMart—

"(A) files with the applicable Federal authority information that demonstrates the HealthMart's compliance with the applicable requirements of this title; or

"(B) in accordance with rules established under section 2803(a), files with a State such information as the State may require to demonstrate such compliance.

"(b) Health Benefits Coverage Requirements.—

"(1) Compliance with consumer protection requirements.—Any health benefits coverage offered through a HealthMart shall—

"(A) be underwritten by a health insurance issuer that—

"(i) is licensed (or otherwise regulated) under State law (or is a community health organization that is offering health insurance coverage pursuant to section 330B(a));

"(ii) meets all applicable State standards relating to consumer protection, subject to section 2802(b); and

"(iii) offers the coverage under a contract with the HealthMart;

"(B) subject to paragraph (2), be approved or otherwise permitted to be offered under State law; and

"(C) provide full portability of creditable coverage for individuals who remain members of the same HealthMart notwithstanding that they change the employer through which they are members in accordance with the provisions of the parts 6 and 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and titles XXII and XXVII of this Act, so long as both employers are purchasers in the HealthMart.

"(2) Alternative process for approval of health benefits coverage in case of discrimination or delay.—

"(A) In general.—The requirement of paragraph (1)(B) shall not apply to a policy or product of health benefits coverage offered in a State if the health insurance issuer seeking to offer such policy or product files an application to waive such requirement with the applicable Federal authority, and the authority determines, based on the application and other evidence presented to the authority, that—

"(i) either (or both) of the grounds described in subparagraph (B) for approval of the application has been met; and

"(ii) the coverage meets the applicable State standards (other than those that have been preempted under section 2802).

"(B) Grounds.—The grounds described in this subparagraph with respect to a policy or product of health benefits coverage are as follows:

"(i) Failure to act on policy, product, or rate application on a timely basis.—The State has failed to complete action on the policy or product (or rates for the policy or product) within 90 days of the date of the State's receipt of a substantially complete application. No period before the date of the enactment of this section shall be included in determining such 90-day period.

"(ii) Denial of application based on discriminatory treatment.—The State has denied such an application and—

"(I) the standards or review process imposed by the State as a condition of approval of the policy or product imposes either any material requirements, procedures, or standards to such policy or product that are not generally applicable to other policies and products offered or any requirements that are preempted under section 2802; or

"(II) the State requires the issuer, as a condition of approval of the policy or product, to offer any policy or product other than such policy or product.

"(C) Enforcement.—In the case of a waiver granted under subparagraph (A) to an issuer with respect to a State, the Secretary may enter into an agreement with the State under which the State agrees to provide for monitoring and enforcement activities with respect to compliance of such an issuer and its health insurance coverage with the applicable State standards described in subparagraph (A)(ii). Such monitoring and enforcement shall be conducted by the State in the same manner as the State enforces such standards with respect to other health insurance issuers and plans, without discrimination based on the type of issuer to which the standards apply. Such an agreement shall specify or establish mechanisms by which compliance activities are undertaken, while not lengthening the time required to review and process applications for waivers under subparagraph (A).

‘‘(3) EXAMPLES OF TYPES OF COVERAGE.—The health benefits coverage made available through a HealthMart may include, but is not limited to, any of the following if it meets the other applicable requirements of this title:

‘‘(A) Coverage through a health maintenance organization.

‘‘(B) Coverage in connection with a preferred provider organization.

‘‘(C) Coverage in connection with a licensed provider-sponsored organization.

‘‘(D) Indemnity coverage through an insurance company.

‘‘(E) Coverage offered in connection with a contribution into a medical savings account or flexible spending account.

‘‘(F) Coverage that includes a point-of-service option.

‘‘(G) Coverage offered by a community health organization (as defined in section 330B(e)).

‘‘(H) Any combination of such types of coverage.

‘‘(4) WELLNESS BONUSES FOR HEALTH PROMOTION.—Nothing in this title shall be construed as precluding a health insurance issuer offering health benefits coverage through a HealthMart from establishing premium discounts or rebates for members or from modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention so long as such programs are agreed to in advance by the HealthMart and comply with all other provisions of this title and do not discriminate among similarly situated members.

‘‘(c) PURCHASERS; MEMBERS; HEALTH INSURANCE ISSUERS.—

‘‘(1) PURCHASERS.—

‘‘(A) IN GENERAL.—Subject to the provisions of this title, a HealthMart shall permit any small employer to contract with the HealthMart for the purchase of health benefits coverage for its employees and dependents of those employees and may not vary conditions of eligibility (including premium rates and membership fees) of a small employer to be a purchaser.

‘‘(B) ROLE OF ASSOCIATIONS, BROKERS, AND LICENSED HEALTH INSURANCE AGENTS.—Nothing in this section shall be construed as preventing an association, broker, licensed health insurance agent, or other entity from assisting or representing a HealthMart or small employers from entering into appropriate arrangements to carry out this title.

‘‘(C) PERIOD OF CONTRACT.—The HealthMart may not require a contract under subparagraph (A) between a HealthMart and a purchaser to be effective for a period of longer than 12 months. The previous sentence shall not be construed as preventing such a contract from being extended for additional 12-month periods or preventing the purchaser from voluntarily electing a contract period of longer than 12 months.

‘‘(D) EXCLUSIVE NATURE OF CONTRACT.—Such a contract shall provide that the purchaser agrees not to obtain or sponsor health benefits coverage, on behalf of any eligible employees (and their dependents), other than through the HealthMart. The previous sentence shall not apply to an eligible individual who resides in an area for which no coverage is offered by any health insurance issuer through the HealthMart.

‘‘(2) MEMBERS.—

‘‘(A) IN GENERAL.—Under rules established to carry out this title, with respect to a small employer that has a purchaser contract with a HealthMart, individuals who are employees of the employer may enroll for health benefits coverage (including coverage for dependents of such enrolling employees) offered by a health insurance issuer through the HealthMart.

‘‘(B) NONDISCRIMINATION IN ENROLLMENT.—A HealthMart may not deny enrollment as a member to an individual who is an employee (or dependent of such an employee) eligible to be so enrolled based on health status-related factors, except as may be permitted consistent with section 2742(b).

‘‘(C) ANNUAL OPEN ENROLLMENT PERIOD.—In the case of members enrolled in health benefits coverage offered by a health insurance issuer through a HealthMart, subject to subparagraph (D), the HealthMart shall provide for an annual open enrollment period of 30 days during which such members may change the coverage option in which the members are enrolled.

‘‘(D) RULES OF ELIGIBILITY.—Nothing in this paragraph shall preclude a HealthMart from establishing rules of employee eligibility for enrollment and reenrollment of members during the annual open enrollment period under subparagraph (C). Such rules shall be applied consistently to all purchasers and members within the HealthMart and shall not be based in any manner on health status-related factors and may not conflict with sections 2701 and 2702 of this Act.

‘‘(3) HEALTH INSURANCE ISSUERS.—

‘‘(A) PREMIUM COLLECTION.—The contract between a HealthMart and a health insurance issuer shall provide, with respect to a member enrolled with health benefits coverage offered by the issuer through the HealthMart, for the payment of the premiums collected by the HealthMart (or the issuer) for such coverage (less a pre-determined administrative charge negotiated by the HealthMart and the issuer) to the issuer.

‘‘(B) SCOPE OF SERVICE AREA.—Nothing in this title shall be construed as requiring the service area of a health insurance issuer with respect to health insurance coverage to cover the entire geographic area served by a HealthMart.

‘‘(C) AVAILABILITY OF COVERAGE OPTIONS.—A HealthMart shall enter into contracts with one or more health insurance issuers in a manner that assures that at least 2 health insurance coverage options are made available in the geographic area specified under subsection (a)(3)(A).

‘‘(d) PREVENTION OF CONFLICTS OF INTEREST.—

‘‘(1) FOR BOARDS OF DIRECTORS.—A member of a board of directors of a HealthMart may not serve as an employee or paid consultant to the HealthMart, but may receive reasonable reimbursement for travel expenses for purposes of attending meetings of the board or committees thereof.

‘‘(2) FOR BOARDS OF DIRECTORS OR EMPLOYEES.—An individual is not eligible to serve in a paid or unpaid capacity on the board of directors of a HealthMart or as an employee of the HealthMart, if the individual is employed by, represents in any capacity, owns, or controls any ownership interest in a organization from whom the HealthMart receives contributions, grants, or other funds not connected with a contract for coverage through the HealthMart.

‘‘(3) EMPLOYMENT AND EMPLOYEE REPRESENTATIVES.—

‘‘(A) IN GENERAL.—An individual who is serving on a board of directors of a HealthMart as a representative described in subparagraph (A) or (B) of section 2801(a)(1) shall not be employed by or affiliated with a health insurance issuer or be licensed as or employed by or affiliated with a health care provider.

‘‘(B) CONSTRUCTION.—For purposes of subparagraph (A), the term ‘‘affiliated’’ does not include membership in a health benefits plan or the obtaining of health benefits coverage offered by a health insurance issuer.

‘‘(e) CONSTRUCTION.—

‘‘(1) NETWORK OF AFFILIATED HEALTHMARTS.—Nothing in this section shall be construed as preventing one or more HealthMarts serving different areas (whether or not contiguous) from providing for some or all of the following (through a single administrative organization or otherwise):

‘‘(A) Coordinating the offering of the same or similar health benefits coverage in different areas served by the different HealthMarts.

‘‘(B) Providing for crediting of deductibles and other cost-sharing for individuals who are provided health benefits coverage through the HealthMarts (or affiliated HealthMarts) after—

‘‘(i) a change of employers through which the coverage is provided; or

‘‘(ii) a change in place of employment to an area not served by the previous HealthMart.

‘‘(2) PERMITTING HEALTHMARTS TO ADJUST DISTRIBUTIONS AMONG ISSUERS TO REFLECT RELATIVE RISK OF ENROLLEES.—Nothing in this section shall be construed as precluding a HealthMart from providing for adjustments in amounts distributed among the health insurance issuers offering health benefits coverage through the HealthMart based on factors such as the relative health care risk of members enrolled under the coverage offered by the different issuers.

‘‘(3) APPLICATION OF UNIFORM MINIMUM PARTICIPATION AND CONTRIBUTION RULES.—Nothing in this section shall be construed as precluding a HealthMart from establishing minimum participation and contribution rules (described in section 2711(e)(1)) for small employers that apply to become purchasers in the HealthMart, so long as such rules are applied uniformly for all health insurance issuers.

“SEC. 2802. APPLICATION OF CERTAIN LAWS AND REQUIREMENTS.

‘‘(a) AUTHORITY OF STATES.—Nothing in this section shall be construed as preempting State laws relating to the following:

‘‘(1) The regulation of underwriters of health coverage, including licensure and solvency requirements.

‘‘(2) The application of premium taxes and required payments for guaranty funds or for contributions to high-risk pools.

‘‘(3) The application of fair marketing requirements and other consumer protections (other than those specifically relating to an item described in subsection (b)).

‘‘(4) The application of requirements relating to the adjustment of rates for health insurance coverage.

‘‘(b) TREATMENT OF BENEFIT AND GROUPING REQUIREMENTS.—State laws insofar as they relate to any of the following are superseded and shall not apply to health benefits coverage made available through a HealthMart:

‘‘(1) Benefit requirements for health benefits coverage offered through a HealthMart, including (but not limited to) requirements relating to coverage of specific providers, specific services or conditions, or the amount, duration, or scope of benefits, but not including requirements to the extent required to implement title XXVII or other

Federal law and to the extent the requirement prohibits an exclusion of a specific disease from such coverage.

“(2) Requirements (commonly referred to as fictitious group laws) relating to grouping and similar requirements for such coverage to the extent such requirements impede the establishment and operation of HealthMarts pursuant to this title.

“(3) Any other requirements (including limitations on compensation arrangements) that, directly or indirectly, preclude (or have the effect of precluding) the offering of such coverage through a HealthMart, if the HealthMart meets the requirements of this title.

Any State law or regulation relating to the composition or organization of a HealthMart is preempted to the extent the law or regulation is inconsistent with the provisions of this title.

“(c) Application of ERISA Fiduciary and Disclosure Requirements.—The board of directors of a HealthMart is deemed to be a plan administrator of an employee welfare benefit plan which is a group health plan for purposes of applying parts 1 and 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and those provisions of part 5 of such subtitle which are applicable to enforcement of such parts 1 and 4, and the HealthMart shall be treated as such a plan and the enrollees shall be treated as participants and beneficiaries for purposes of applying such provisions pursuant to this subsection.

“(d) Application of ERISA Renewability Protection.—A HealthMart is deemed to be a group health plan that is a multiple employer welfare arrangement for purposes of applying section 703 of the Employee Retirement Income Security Act of 1974.

“(e) Application of Rules for Network Plans and Financial Capacity.—The provisions of subsections (c) and (d) of section 2711 apply to health benefits coverage offered by a health insurance issuer through a HealthMart.

“(f) Construction Relating to Offering Requirement.—Nothing in section 2711(a) of this Act or 703 of the Employee Retirement Income Security Act of 1974 shall be construed as permitting the offering outside the HealthMart of health benefits coverage that is only made available through a HealthMart under this section because of the application of subsection (b).

“(g) Application to Guaranteed Renewability Requirements in Case of Discontinuation of an Issuer.—For purposes of applying section 2712 in the case of health insurance coverage offered by a health insurance issuer through a HealthMart, if the contract between the HealthMart and the issuer is terminated and the HealthMart continues to make available any health insurance coverage after the date of such termination, the following rules apply:

“(1) Renewability.—The HealthMart shall fulfill the obligation under such section of the issuer renewing and continuing in force coverage by offering purchasers (and members and their dependents) all available health benefits coverage that would otherwise be available to similarly-situated purchasers and members from the remaining participating health insurance issuers in the same manner as would be required of issuers under section 2712(c).

“(2) Application of association rules.—The HealthMart shall be considered an association for purposes of applying section 2712(e).

“(h) Construction in Relation to Certain Other Laws.—Nothing in this title shall be construed as modifying or affecting the applicability to HealthMarts or health benefits coverage offered by a health insurance issuer through a HealthMart of parts 6 and 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 or titles XXII and XXVII of this Act.

“SEC. 2803. ADMINISTRATION.

“(a) In General.—The applicable Federal authority shall administer this title through the division established under subsection (b) and is authorized to issue such regulations as may be required to carry out this title. Such regulations shall be subject to Congressional review under the provisions of chapter 8 of title 5, United States Code. The applicable Federal authority shall incorporate the process of ‘deemed file and use’ with respect to the information filed under section 2801(a)(6)(A) and shall determine whether information filed by a HealthMart demonstrates compliance with the applicable requirements of this title. Such authority shall exercise its authority under this title in a manner that fosters and promotes the development of HealthMarts in order to improve access to health care coverage and services.

“(b) Administration Through Health Care Marketplace Division.—

“(1) In general.—The applicable Federal authority shall carry out its duties under this title through a separate Health Care Marketplace Division, the sole duty of which (including the staff of which) shall be to administer this title.

“(2) Additional duties.—In addition to other responsibilities provided under this title, such Division is responsible for—

“(A) oversight of the operations of HealthMarts under this title; and

“(B) the periodic submittal to Congress of reports on the performance of HealthMarts under this title under subsection (c).

“(c) Periodic Reports.—The applicable Federal authority shall submit to Congress a report every 30 months, during the 10-year period beginning on the effective date of the rules promulgated by the applicable Federal authority to carry out this title, on the effectiveness of this title in promoting coverage of uninsured individuals. Such authority may provide for the production of such reports through one or more contracts with appropriate private entities.

“SEC. 2804. DEFINITIONS.

“For purposes of this title:

“(1) Applicable Federal authority.—The term ‘applicable Federal authority’ means the Secretary of Health and Human Services.

“(2) Eligible employee or individual.—The term ‘eligible’ means, with respect to an employee or other individual and a HealthMart, an employee or individual who is eligible under section 2801(c)(2) to enroll or be enrolled in health benefits coverage offered through the HealthMart.

“(3) Employer; employee; dependent.—Except as the applicable Federal authority may otherwise provide, the terms ‘employer’, ‘employee’, and ‘dependent’, as applied to health insurance coverage offered by a health insurance issuer licensed (or otherwise regulated) in a State, shall have the meanings applied to such terms with respect to such coverage under the laws of the State relating to such coverage and such an issuer.

“(4) Health benefits coverage.—The term ‘health benefits coverage’ has the meaning given the term group health insurance coverage in section 2791(b)(4).

“(5) Health insurance issuer.—The term ‘health insurance issuer’ has the meaning given such term in section 2791(b)(2) and includes a community health organization that is offering coverage pursuant to section 330B(a).

“(6) Health status-related factor.—The term ‘health status-related factor’ has the meaning given such term in section 2791(d)(9).

“(7) HealthMart.—The term ‘HealthMart’ is defined in section 2801(a).

“(8) Member.—The term ‘member’ means, with respect to a HealthMart, an individual enrolled for health benefits coverage through the HealthMart under section 2801(c)(2).

“(9) Purchaser.—The term ‘purchaser’ means, with respect to a HealthMart, a small employer that has contracted under section 2801(c)(1)(A) with the HealthMart for the purchase of health benefits coverage.

“(10) Small employer.—The term ‘small employer’ has the meaning given such term for purposes of title XXVII.”.

(b) Effective Date.—The amendment made by subsection (a) shall take effect on January 1, 2000. The Secretary of Health and Human Services shall first issue all regulations necessary to carry out such amendment before such date.

TITLE IV—COMMUNITY HEALTH ORGANIZATIONS

SEC. 401. PROMOTION OF PROVISION OF INSURANCE BY COMMUNITY HEALTH ORGANIZATIONS.

(a) Waiver of State Licensure Requirement for Community Health Organizations in Certain Cases.—Subpart I of part D of title III of the Public Health Service Act is amended by adding at the end the following new section:

“WAIVER OF STATE LICENSURE REQUIREMENT FOR COMMUNITY HEALTH ORGANIZATIONS IN CERTAIN CASES

“Sec. 330D. (a) Waiver Authorized.—

“(1) In general.—A community health organization may offer health insurance coverage in a State notwithstanding that it is not licensed in such a State to offer such coverage if—

“(A) the organization files an application for waiver of the licensure requirement with the Secretary of Health and Human Services (in this section referred to as the ‘Secretary’) by not later than November 1, 2005; and

“(B) the Secretary determines, based on the application and other evidence presented to the Secretary, that any of the grounds for approval of the application described in subparagraph (A), (B), or (C) of paragraph (2) has been met.

“(2) Grounds for approval of waiver.—

“(A) Failure to act on licensure application on a timely basis.—The ground for approval of such a waiver application described in this subparagraph is that the State has failed to complete action on a licensing application of the organization within 90 days of the date of the State’s receipt of a substantially complete application. No period before the date of the enactment of this section shall be included in determining such 90-day period.

“(B) Denial of application based on discriminatory treatment.—The ground for approval of such a waiver application described in this subparagraph is that the State has denied such a licensing application and the standards or review process imposed by the State as a condition of approval of the license or as the basis for such denial by the State imposes any material requirements, procedures, or standards (other than solvency requirements) to such organizations that are not generally applicable to other entities engaged in a substantially similar business.

“(C) Denial of application based on application of solvency requirements.—With respect to waiver applications filed on or after the date of publication of solvency standards established by the Secretary under subsection (d), the ground for approval of such a waiver application described in this subparagraph is that the State has denied such a licensing application based (in whole or in part) on the organization's failure to meet applicable State solvency requirements and such requirements are not the same as the solvency standards established by the Secretary. For purposes of this subparagraph, the term solvency requirements means requirements relating to solvency and other matters covered under the standards established by the Secretary under subsection (d).

“(3) Treatment of waiver.—In the case of a waiver granted under this subsection for a community health organization with respect to a State—

“(A) Limitation to state.—The waiver shall be effective only with respect to that State and does not apply to any other State.

“(B) Limitation to 36-month period.—The waiver shall be effective only for a 36-month period but may be renewed for up to 36 additional months if the Secretary determines that such an extension is appropriate.

“(C) Conditioned on compliance with consumer protection and quality standards.—The continuation of the waiver is conditioned upon the organization's compliance with the requirements described in paragraph (5).

“(D) Preemption of state law.—Any provisions of law of that State which relate to the licensing of the organization and which prohibit the organization from providing health insurance coverage shall be superseded.

“(4) Prompt action on application.—The Secretary shall grant or deny such a waiver application within 60 days after the date the Secretary determines that a substantially complete waiver application has been filed. Nothing in this section shall be construed as preventing an organization which has had such a waiver application denied from submitting a subsequent waiver application.

“(5) Application and enforcement of state consumer protection and quality standards.—A waiver granted under this subsection to an organization with respect to licensing under State law is conditioned upon the organization's compliance with all consumer protection and quality standards insofar as such standards—

“(A) would apply in the State to the community health organization if it were licensed as an entity offering health insurance coverage under State law; and

“(B) are generally applicable to other risk-bearing managed care organizations and plans in the State.

“(6) Report.—By not later than December 31, 2004, the Secretary shall submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report regarding whether the waiver process under this subsection should be continued after December 31, 2005.

“(b) Assumption of Full Financial Risk.—To qualify for a waiver under subsection (a), the community health organization shall assume full financial risk on a prospective basis for the provision of covered health care services, except that the organization—

“(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds such aggregate level as the Secretary specifies from time to time;

“(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization;

“(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 105 percent of its income for such fiscal year; and

“(4) may make arrangements with physicians or other health care professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of health services by the physicians or other health professionals or through the institutions.

“(c) Certification of Provision Against Risk of Insolvency for Unlicensed CHOs.—

“(1) In general.—Each community health organization that is not licensed by a State and for which a waiver application has been approved under subsection (a)(1), shall meet standards established by the Secretary under subsection (d) relating to the financial solvency and capital adequacy of the organization.

“(2) Certification process for solvency standards for CHOs.—The Secretary shall establish a process for the receipt and approval of applications of a community health organization described in paragraph (1) for certification (and periodic recertification) of the organization as meeting such solvency standards. Under such process, the Secretary shall act upon such a certification application not later than 60 days after the date the application has been received.

“(d) Establishment of Solvency Standards for Community Health Organizations.—

“(1) In general.—The Secretary shall establish, on an expedited basis and by rule pursuant to section 553 of title 5, United States Code and through the Health Resources and Services Administration, standards described in subsection (c)(1) (relating to financial solvency and capital adequacy) that entities must meet to obtain a waiver under subsection (a)(2)(C). In establishing such standards, the Secretary shall consult with interested organizations, including the National Association of Insurance Commissioners, the Academy of Actuaries, and organizations representing Federally qualified health centers.

“(2) Factors to consider for solvency standards.—In establishing solvency standards for community health organizations under paragraph (1), the Secretary shall take into account—

“(A) the delivery system assets of such an organization and ability of such an organization to provide services to enrollees;

“(B) alternative means of protecting against insolvency, including reinsurance, unrestricted surplus, letters of credit, guarantees, organizational insurance coverage, partnerships with other licensed entities, and valuation attributable to the ability of such an organization to meet its service obligations through direct delivery of care; and

“(C) any standards developed by the National Association of Insurance Commissioners specifically for risk-based health care delivery organizations.

“(3) Enrollee protection against insolvency.—Such standards shall include provisions to prevent enrollees from being held liable to any person or entity for the organization's debts in the event of the organization's insolvency.

“(4) Deadline.—Such standards shall be promulgated in a manner so they are first effective by not later than April 1, 2000.

“(e) Definitions.—In this section:

“(1) Community health organization.—The term ‘community health organization’ means an organization that is a Federally-qualified health center or is controlled by one or more Federally-qualified health centers.

“(2) Federally-qualified health center.—The term ‘Federally-qualified health center’ has the meaning given such term in section 1905(l)(2)(B) of the Social Security Act.

“(3) Health insurance coverage.—The term ‘health insurance coverage’ has the meaning given such term in section 2791(b)(1).

“(4) Control.—The term ‘control’ means the possession, whether direct or indirect, of the power to direct or cause the direction of the management and policies of the organization through membership, board representation, or an ownership interest equal to or greater than 50.1 percent.”.

The SPEAKER pro tempore (Mr. Hastings of Washington). Pursuant to House Resolution 323, the gentleman from Virginia (Mr. Bliley), the gentleman from Michigan (Mr. Dingell), the gentleman from Pennsylvania (Mr. Goodling), the gentleman from Missouri (Mr. Clay), the gentleman from Texas (Mr. Archer), and the gentleman from New York (Mr. Rangel) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. Bliley).

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on this bill and all bills considered pursuant to this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BLILEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise today to support H.R. 2990, the Quality Care for the Uninsured Act. I appreciate the hard work of my colleagues, the gentleman from Missouri (Mr. Talent) and the gentleman from Arizona (Mr. Shadegg) on this bill. I urge all of my colleagues to support this important measure.

This bill will have a greater impact on Americans struggling to access basic health coverage than anything else we do here this week. That is because this bill is designed to address the real crisis in health care in this country, the crisis of the rising numbers of uninsured.

The problem is bad and it is getting worse. The headline in the Washington Post this past Monday highlighted the true health care crisis in America today, "one million more in the U.S. lacked health care coverage in study of 1998." This is at a time when we are virtually at full employment.

The Census Bureau tells us the number of uninsured increased to over 44 million in 1998, as this chart here demonstrates. Over the last decade, we have had a long period of economic growth. Household incomes are up and everyone is trading stocks, but as this chart shows the number of uninsured grow every year.

Who are the uninsured? The majority of the 44 million uninsured come from hard-working families. My committee held a hearing back in June to look at the problems with access to health coverage. We heard compelling testimony from Mary Horsley, a wife and mother from Cape Charles, Virginia. The Horsley family is uninsured. Mrs. Horsley told the committee about her family's struggles with illness. They cannot afford health insurance because they make too much money to qualify for Medicaid but not enough to buy insurance that will cover her husband's preexisting medical condition.

Like millions of other Americans, the Horsleys are in what I like to call the coverage gap. This chart shows us that low income workers tend to fall in this coverage gap.

Now, there are two ways this gap can be filled. One can try and fill it by expanding public programs like medicaid. Historically, this is how we have tried to address the problems of the lower-income uninsured. Using this approach, however, places millions of people in a one-size-fits-all, big government program.

There is a better way, however. We can begin to address this problem by making sure low-income workers, who do not want to go on Medicaid, have access to private health coverage like a majority of Americans have today.

This is what H.R. 2990 will do. It will expand access to private health insurance by providing tax incentives and regulatory relief.

A key feature of this bill, which I am proud to have offered, is the proposal to create HealthMarts. HealthMarts are private, voluntary health care supermarkets; employers who elect to join a HealthMart. But just like in our own health plan, the Federal Employee Health Benefit Plan, FEHBP, individual employees would make the choice of coverage from the options available in the HealthMart, not the employer.

These charts show us how HealthMarts would provide employees with new coverage options.

How can HealthMarts help the uninsured? First it would help with costs. The General Accounting Office tells us that in my home State alone, Virginia, mandated benefit laws account for 12 percent of premium costs. HealthMarts would be free to offer plans that did not include these costly mandates. Further, cost savings would be achieved by competition in the HealthMart, because the consumer can choose the plan he wants or she wants and is able to switch plans on an annual basis.

Insurers would compete for this business. This competition is surely lacking in health coverage today. There is one system where this type of choice in competition is alive and well, and it is our plan, the Federal Employee Health Benefit Plan. My colleagues and I enjoy a great treasure in our Federal health program. We have multiple plans to choose from. We are all pooled together to spread the cost of caring for the sick with the healthy and, most important, once a year we all get the chance to fire our health plan if we do not like it and hire a new one.

This choice drives quality in the health care system. This choice drives affordability in the health care system. This is a choice all Americans should have. Giving consumers the freedom to make the choice is why we are here today. We will never get to the root of the problems faced by the uninsured or the dissatisfaction some have with their current coverage until we create a true marketplace for health care.

Today, patients lack real control. They are riding shotgun in a system driven by employers and insurance companies. H.R. 2990 seeks to change this by putting patients in the driver's seat where they belong. The answers to the problems we are trying to address today do not lie in more costly mandates on health insurers.

Mr. DINGELL. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, let us put this in the simplest terms. Health care is paid for with insurance premiums and deductibles. The payments buy a promise that health care is there when it is needed.

Is that true? Probably not. When one has a problem, one visits their doctor. Someone might have a numb feeling in their leg or a lesion or migraine headaches. The doctor examines them, and decides they need a procedure or medication or a diagnostic test.

So what happens? The doctor talks to the administrative office in the HMO. They check with the insurance company. The insurance bureaucrat at the other end of the 800 telephone number says, no, we cannot pay for that procedure or treatment or medication. So the doctor gets on the phone, argues with the bureaucrat. The HMO still says no.

What does one do then? That is when Norwood-Dingell comes in. We give a person the right to see a qualified specialist. We give a person the ability to get into a clinical trial. We say women and children can see obstetricians and pediatricians or cancer specialists are available to cancer patients. We say a person can go to the nearest emergency room without prior approval or extra charges, and we give a person a fair chance to appeal an unfair or biased decision to get the treatment that is needed.

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In short, Norwood-Dingell makes the health insurance work.

We are going to hear a lot about lawyers and employers, but let us keep a few things in mind.

If a doctor makes a wrong medical decision, that doctor can be and is held accountable. In a word, he can be sued. But if an insurance company makes a medical decision by denying someone treatment, that denial causes injury or death, the insurance company gets off scot free. Only the insurance companies and foreign diplomats escape liability. They are the only ones who get a complete shelter against wrongdoing.

A lot of people want us to believe that this debate is all about lawsuits, but that fails the simple test of common sense. When someone is sick, do they want to go to court? Do they want to see a lawyer? Do they want to have litigation? Of course not. What they want to do is to see a doctor, not a judge; and they want to get their pain and their suffering alleviated.

We are going to hear a lot of talk about helping the uninsured today. My good friend and colleague, the gentleman from Virginia (Mr. BLILEY) who I dearly love, spent a lot of time on it; but we could have written bipartisan legislation to help the uninsured. No effort in that direction was made, and that is not the bill on which we will vote today. This bill and the question before this body is about giving people health insurance. The bill that we have before us at this moment is simply about giving Members of Congress political insurance against those who know they are not being properly treated by HMOs.

Let us look at the facts. Who are the 46 million Americans without health insurance? Well, here they are. Half of them work in low-wage jobs. Many of them are people moving from welfare to work who are no longer covered by Medicaid. One-quarter of the uninsured are children. According to the General Accounting Office one-third of the uninsured pay no income taxes whatsoever. Many others pay far less than will do them any good on a tax credit. What we have to talk about here is getting the money to the people who have the need. What is needed here is a tax credit which is refundable in character. That is not before this body at this time, and the practical result of that is then that the uninsured are not going to be benefited.

The bill that we have before us is a bill which helps the wealthy and which helps the healthy.

Now let us talk about the people who are uninsured. The health insurance industry pointed out three factors that are pricing employers out of the market: modern medical technologies, rising cost of prescription medication, and longer lives for old people who need more care. This bill does nothing, nothing about any of those questions.

If this is to be a serious exercise in helping the uninsured, and I have many friends on the other side of the aisle who are sincere in that, we could have found a common ground. We have legislation around here which will really cover every American, and I think that is the way in which we should proceed. This bill does nothing except help the insurance companies and to help the well to do and to help the healthy. It creates a long downward spiral of adverse selection which is going to reduce the number of people who are really eligible to get insurance coverage and which is going to raise the costs by leaving those people who have the least ability to pay dependent upon those services.

It is interesting to note that only one of the bills we are going to consider in this cycle of legislation was written before yesterday. Only one has been examined in broad daylight. Only one is bipartisan and has a chance of being signed into law. Only one has been endorsed by more than 300 organizations representing doctors, teachers, consumers, union members, specialists, women, doctors, and others. Only one has a chance of making life easier for the people who desperately have need.

That is Norwood-Dingell, and I would commend my colleagues to the fact that if they really want to do something about people, do not mess around with this nonsensical piece of legislation. Vote for Norwood-Dingell to get what we want.

What is this debate about today?

Let me put it in the simplest terms.

You pay for your health care with insurance premiums and deductibles. Those payments buy a promise that you can get health care when you need it.

When you think you have a problem, you visit your doctor.

You might have a numb feeling in your arm or leg, or a lesion, or migraine headaches. Your doctor examines you, and decides you need a procedure, or medication, or a diagnostic test.

So your doctor talks to the administrative staff in the office, and they check with your insurance company. The insurance bureaucrat at the other end of the 800 telephone number says, no, we won't pay for that procedure or treatment or medication. So the doctor gets on the phone and argues with the bureaucrat, and still they say no.

So what do you do then? That's what the Norwood-Dingell bill is about. We give you the right to see a qualified specialist. We give you the ability to get into a clinical trial. We say women and children can see obstetricians and pediatricians, or cancer patients oncologists. We say you can go to the nearest emergency room without prior approval or extra charges. And we give you a fair chance to appeal the decision and get the treatment you need.

In short, we make your insurance work.

We're going to hear a lot of talk about lawyers and employers in the next two days. But keep a few things in mind.

If a doctor makes the wrong medical decision, a doctor can be—and is—held accountable, the doctor can be sued—

But if an insurance company makes a medical decision by denying you treatment, and that denial causes injury or death, the insurance company gets off free. Only insurance companies and HMO's get this protection against accountability for their wrong doing.

A lot of people want you to believe this debate is all about lawsuits. But that claim fails the simple test of common sense. If you're sick, do you want to go to court—or do you want to get better? When you need treatment for an illness, do you want to see a doctor or a judge?

We're also going to hear a lot of talk about helping the uninsured today.

We could have written bipartisan legislation to help the uninsured. But that's not the bill we'll consider and vote on today. That bill isn't about giving people health insurance. That bill is designed to give Members of Congress political insurance.

Let's look at the facts. Who are the 46 million Americans without health insurance?

Half of them work in low wage jobs. Many of them are people moving from welfare to work who are no longer covered by Medicaid.

One quarter of the uninsured are children. According to the General Accounting Office, one third of the uninsured pay no income taxes. Are people who neither pay nor file taxes really going to be helped by tax deductions?

Why are these people uninsured? A spokesman for the health insurance industry pointed to three factors that are pricing employers out of the market: new medical technologies, the rising cost of prescription medication, and longer lives for older people who need more care.

The access bill H.R. 2990 does nothing to address any of those issues.

If this were a serious exercise in helping the uninsured—and I have many friends on the other side of the aisle who are sincere in that desire—we could have found common ground. We could have put together a package to help children, small businesses, and the self-employed. We could have targeted those at lower income levels, instead of showering tax deductions on the wealthy.

We could have, but we didn't. Instead we have before us a bill that helps the healthy and wealthy. It actually reduces existing consumer protections for those who today have insurance. And it dynamites an almost $50 billion hole in the deficit.

Only one of the bills we'll consider in the next two days was written before yesterday. Only one has been examined in broad daylight. Only one is bipartisan and has a chance of being signed into law. Only one has been endorsed by more than 300 organizations representing doctors, teachers, consumers, union members, specialists, women, and others. Only one has a chance of making life a little easier for the people who buy health insurance in the hope that it will pay for care when it's needed.

That bill is the one offered by my friends Mr. NORWOOD, Mr. GANSKE, Mr. BERRY, and myself. Support that bill, and reject all other bills and substitutes.

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent to control the remainder of the time in place of the gentleman from Virginia (Mr. BLILEY).

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the Quality Care for the Uninsured Act. This bill is designed to increase access to care for millions of Americans who currently lack health coverage. It includes a proposal that I crafted to expand the ability of community health centers to provide quality care to individuals in need. Community health centers are not-for-profit health care providers. By law they are established in America's medically underserved areas and must make their sources accessible to everyone regardless of individuals' ability to pay.

H.R. 2990 would expand the ability of community health centers to private affordable health care services to individuals who lack health coverage. It would authorize community health organizations to form networks of providers, to increase access to care and medically underserved areas. These networks will expand health options in communities that currently lack the necessary infrastructure to fully support the comprehensive delivery of health care services.

Specifically, Mr. Speaker, the bill will authorize a waiver of State financial requirements that may prevent managed care organizations controlled by community health centers from fully participating in the private health care market. By allowing the establishment of alternative Federal solvency standards for community health organizations, this proposal recognizes the unique circumstances facing community health centers and the communities that they serve. Community health organizations will help expand the patient base of health centers while providing a cost-effective coverage option for the small employers. These networks will be operated by local providers whose primary mission is to meet the health care needs of the communities they serve. These networks will enhance competition among commercial managed care plans because they will deliver care that is responsive to local needs. Competition will drive quality up while driving costs down.

Mr. Speaker, I was proud to cosponsor H.R. 2990, and I strongly urge Members to support its passage. The Census Bureau has underscored the urgent need for this legislation by announcing that the number of uninsured Americans rose to over 44 million last year. This legislation builds on the efforts of previous Congresses to expand health care to the uninsured.

During the 103rd Congress I joined then Congressman Roy Rowland in leading a bipartisan coalition in support of consensus health reforms. Our targeted plan included significant measures to expand health care access to the uninsured. Among its key provisions, our plan would expand the role of community centers in providing access to care in medically underserved areas. We also proposed insurance reforms to help individuals with preexisting conditions obtain coverage and to help workers keep their insurance when they changed jobs. These insurance provisions were ultimately, I underline ultimately, enacted into law during the 104th Congress, but those individuals had to wait 2 years for assistance.

Mr. Speaker, we should not repeat that mistake today. H.R. 2990 represents an important opportunity to expand coverage to the uninsured. It is not perfect, it can go further, it can consider some of the items that the gentleman from Michigan (Mr. DINGELL) mentioned; but it would be an important opportunity to at least expand coverage, make available coverage to the uninsured. We should not make 44 million Americans wait any longer for access to the health care they need. I challenge those who support patients' rights to put people ahead of politics and join us in supporting passage of this critical measure.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I thank the ranking member for yielding this time to me, and I just want to bring to light some new information. The Joint Committee on Taxation has given us some estimates on what this wonderful access bill will do.

It will provide access perhaps to 160,000 families; that is all. At a cost of $48 billion, and try this with your shoes and socks on, that is $300,000 per family or $30,000 a year to give 160,000 families, 320,000 people, coverage. That is all it does. The benefits go to those people who are currently insured, which means the Republicans are squandering $300,000 per family for 160,000 families who are uninsured, and my colleagues want to talk about wasting money? Trust the Republicans to do it.

Mr. Speaker, the Joint Tax Committee has estimated how many people the Access bill would help.

The answer: almost no one.

The tax deduction for individuals paying for more than 50% of the cost of their health insurance will cost $31.2 billion over 10 years and result in 200,000 uninsured people getting insurance.

That's $156,000 per new insured person—$15,600 per year!

The acceleration of the 100% tax deduction for the self-employed will help 120,000 previously uninsured and cost about $3 billion over 4 years.

That's $6,250 per person per year—a cadillac cost for sure!

Just for comparison, an individual policy in the Federal Employee Health Benefit Plan costs about $2,500 to $2,800.

The Republican plan is a massive waste of money.

The Joint Tax's letter follows:

JOINT COMMITTEE ON TAXATION,
Washington, DC, October 6, 1999.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: This is in response to your letter of October 4, 1999, requesting revenue estimates and other information concerning several of the health care tax provisions in the conference agreement on H.R. 2488 and two of the health care tax provisions in S. 1344.

The conference agreement on H.R. 2488 contains an above-the-line deduction for health insurance expenses and long-term care insurance expenses for which the taxpayer pays at least 50 percent of the premium. The deduction would be phased in at 25 percent for taxable years beginning in 2002 through 2004, 35 percent for taxable years beginning in 2005, 65 percent for taxable years beginning in 2006, and 100 percent for taxable years beginning in 2007 and thereafter. Taxpayers enrolled in Medicare, Medicaid, Champus, VA, the Indian Health Service, the Children's Health Insurance Program, and the Federal Employees Health Benefits Program would be ineligible for the deduction for health insurance expenses.

The conference agreement on H.R. 2488 also contains a provision that would allow long-term care insurance to be offered as part of cafeteria plans, effective for taxable years beginning after December 31, 2001.

For the purpose of preparing revenue estimates for these provisions in H.R. 2488, we have assumed that the provisions will be enacted during calendar year 1999. Estimates of changes in Federal fiscal year budget receipts are shown in the enclosed table.

We estimate that in calendar year 2002 about 9.1 million taxpayers would claim the 25-percent deduction for health insurance expenses. About 100,000 of these 9 million taxpayers would be new purchasers of health insurance. Assuming an average of two persons covered by each policy, about 200,000 persons would be newly insured as a result of the 25-percent deduction for health insurance expenses.

We estimate that in calendar year 2002 about 4.7 million taxpayers would claim the 25-percent deduction for long-term care insurance expenses, and an additional 300,000 taxpayers would use cafeteria plans to pay their share of premiums for employer-sponsored long-term care insurance. About 80,000 of these 5 million taxpayers would be new purchasers of long-term care insurance.

S. 1344 contains a provision that would increase the deduction for health insurance expenses of self-employed individuals. Under present law, when certain requirements are satisfied, self-employed individuals are permitted to deduct 60 percent of their expenditures on health insurance and long-term care insurance. The deduction is scheduled to increase to 70 percent of such expenses for taxable years beginning in 2002 and 100 percent in all taxable years beginning thereafter. S. 1344 would increase the rate of deduction to 100 percent of health insurance and long-term care insurance expenses for taxable years beginning after December 31, 1999.

S. 1344 also contains provisions that would eliminate certain restrictions on the availability of medical savings accounts, remove the limitation on the number of taxpayers that are permitted to have medical savings accounts, reduce the minimum annual deductibles for high-deductible health plans to $1,000 for plans providing single coverage and $2,000 for plans providing family coverage, increase the medical savings account contribution limit to 100 percent of the annual deductible for the associated high-deductible health plan, limit the additional tax on distributions not used for qualified medical expenses, and allow network-based manage care plans to be high-deductible plans. These provisions would be effective for taxable years beginning after December 31, 1999.

For the purpose of preparing revenue estimates for these provisions in S. 1344, we have assumed that the provisions will be enacted during calendar year 1999. Estimates of changes in Federal fiscal year budget receipts are shown in the enclosed table.

We estimate that in calendar year 2000, about 3.3 million taxpayers would claim the 100-percent deduction for health insurance expenses of self-employed individuals. About 60,000 of these taxpayers would be new purchasers of health insurance. Assuming an average of two persons covered by each policy, about 120,000 persons would be newly insured as a result of the 100-percent deduction for health insurance expenses.

We do not have an estimate of the numbers of individuals who would be newly insured as a result of the medical savings account provisions of S. 1344.

I hope this information is helpful to you. If we can be of further assistance, please let me know.

Sincerely,

LINDY L. PAULL.

Enclosure: Table #99-3 206

ESTIMATED REVENUE EFFECTS OF VARIOUS PROVISIONS RELATING TO HEALTH CARE.

[By fiscal years, in millions of dollars]

Provision	Effective	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2000-04	2000-08
Health care provisions in the conference agreement for H.R. 2488:													
1. Provide an above-the-line deduction for health insurance expenses—25% in 2002 through 2004, 95% in 2005, 65% in 2006, and 100% thereafter.	tyba 12/31/01	—	—	−444	−1,379	−1,477	−1,803	−3,137	−5,878	−8,299	−8,848	−3,300	−31,264
2. Provide an above-the-line deduction for long-term care insurance expenses—25% in 2002 through 2004, 35% in 2006, 65% in 2006, and 100% thereafter.	tyba 12/31/01	—	—	−48	−328	−964	−417	−677	−1,315	−2,027	−2,146	−741	−7,324
3. Allow long-term care insurance to be offered as part of cafeteria plans; limited to amount of deductible premiums [1].	tyba 12/31/01	—	—	−104	−151	−171	−190	−202	−204	−215	−247	−426	−1,484
Total of health care provisions in the conference agreement for H.R. 2488.		—	—	−596	−1,858	−2,012	−2,410	−4,016	−7,397	−10,541	−11,241	−4,467	−60,074
Health care provisions in S. 1344, as passed by the Senate:													
1. Immediate 100% deductibility of health insurance and long term care insurance premiums of the self-employed.	tyba 12/31/99	−245	−1,007	−1,040	−657	....	....	....	....	....	....	−2,949	−2,844
2. Liberalization of conditions for enrolling in MSAs	tyba 12/31/99	−93	−281	−326	−370	−414	−458	−502	−546	−590	−634	−1,483	−4,214
Total of health care provisions in S. 1344, as passed by the Senate.		−338	−1,268	−1,866	−1,027	−414	−458	−502	−546	−590	−634	−4,432	−7,164

Note.—Details may not add to totals due to rounding.
Legend for "Effective" column: tyba=taxable years beginning after [1] Estimate assumes concurrent enactment of the above-the-line deducation for long-term care Insurance (item 2.)

Source: Joint Committee on Taxation.

Mr. BILIRAKIS. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. BRYANT).

Mr. BRYANT. Mr. Speaker, I thank the gentleman from Florida for yielding me time. I do rise in strong support of this bill this day. So as there will not be any confusion, I want to remind all my colleagues here that later on today and tomorrow we will be debating the bill that provides protection to those people in this country who have insurance; but, Mr. Speaker, today and right now we are talking about those 45 million men, women, and children in this country who do not have any insurance; and, therefore, patient protections that we will be talking about later mean nothing, zero, to those people without health insurance. For those 44 million people, which by the way translates into 1 out of 6 Americans, getting access to quality, affordable health care is the most important and most basic patient protection.

No other bill before this body this week addresses this crisis of the uninsured in this country. This legislation does address the problem, and it does it the right way, by providing access to affordable quality private-sector health care coverage through tax incentives and free market reforms. The Quality Care For the Uninsured Act achieves these in several ways.

First, it would expand access to the medical savings accounts. This legislation would also create two new innovative ways for people to pool together, to come together in groups to obtain more affordable health insurance. The association health plans allow small businesses and people who are self-employed to have that freedom to join together and design more affordable health plans; and the HealthMarts, which is the second one, are private organizations similar in concept to a supermarket where employers, employees, and other individuals can come to purchase health insurance.

The bill would also provide or allow local community providers to form health care networks to meet the special needs of employers and employees in medically underserved areas. These community health center networks would particularly be helpful in rural areas, certainly in areas that I represent and others in this Congress represent.

Last, but not least, this bill provides for 100 percent tax deductible premiums for the self-employed and the uninsured for health care insurance premiums and long-term health care premiums. This will be of tremendous help to the farmers that I represent.

Mr. Speaker, none of these proposals alone will completely solve this problem of underinsured and uninsured, but together they have the potential to expand access to care, opportunity to see a doctor or go to a hospital, this opportunity to a significant number of Americans without busting the budget, without creating new entitlement programs, and without expanding existing government programs.

Mr. Speaker, this legislation is a responsible approach to providing access to care for these 44 million American men, women, and children. I urge all of my colleagues to support it and help these people who have fallen through the cracks and who do not have that opportunity to get affordable good quality health care.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Georgia (Mr. NORWOOD), my good friend and a man of remarkable courage and integrity.

Mr. NORWOOD. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I thought, if I could, I would take a few minutes and try to put this debate in perspective. There really are a couple of serious, serious problems in health care in America today; and since that involves each of us, each of our families, it involves each of us, each of our families, and it involves every constituent we have whether one is a Republican or Democrat. It is a very important debate, and I am so pleased that we are going to have this opportunity to stand up and discuss it, but let us try to put this in the box.

We are going to talk about two things. One of those things that must be discussed and will be discussed over the next 2 days is that we have a serious problem with so many Americans without any coverage.

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Both sides, Democrats and Republicans, recognize this is a problem. Both sides say they want to correct it, and I believe that to be the case. I have often said if we thought that was a top priority in the Congress of the United States, you need to stand up and say that is a top priority in the Congress of the United States. We are going to correct that, and we are going to fund that. We are going to take the dollars it takes to make sure that we do not have 43 million uninsured Americans.

The other part of the debate though is equally important. It is about people who actually do have insurance. I had a colleague say to me that health care reform does not do a bit of good if you do not have health care insurance. That is most assuredly true. But health care insurance does not do you a bit of good either if the benefits that the plan has offered you are being denied on a regular basis.

What we have done in this country over the last 30 years is we have turned over the health care industry of this country to the insurance industries, and they are in total charge. We preempted state laws, we are very silent at the Federal level, there is no public policy at all. The insurance industry is very much in charge.

The access bill that is before us is about the 21st century. It is about health care in the future and how we will try to help people have access to the health care. I will be perfectly honest with you, I am on my fourth or fifth bill, I forget. In the 101st Congress we had a bill, H.R. 2400. In the 105th Congress I had a bill named Parker, H.R. 1415. It had 234 cosponsors on it. This year I dropped another health care bill, H.R. 216. And all of this was about your benefits within your plan and who is in charge of health care.

But realizing early on this year that this business of access is equally important, I dropped an access bill in February very clearly stating we need to deal with the problem of 43 million Americans that are uninsured. What I was saying back in February are these are two separate subjects, though they are health care. You must keep these separate, because each solution has a different constituency. Perhaps you can pass both things, but if you blend them together very much, you can kill both things.

Mr. Speaker, let me just wrap this up and simply say we have two subjects. One is access, that is, looking into the future of health care, how we can solve some problems, and it should be debated. We are. It should be voted on, and it will be. It should be paid for though. I think if we ever get there, we will do that too.

But the other part of this is about Bob Schumacher from Macon, Georgia, whose wife is dying, and she has been denied a benefit that is in her plan. If we do not deal with this problem right now, we are going to find that further Americans are complaining about their health care, further Americans are going to be harmed, further Americans are going to be killed.

All I ask you to do is let us have both debates, let us have separate votes on this, and let us try to come to an American vote; not a Republican vote and not a Democratic vote. Let us vote as patients on this. What would you have done if it was your family?

I look forward to the debate, Mr. Speaker, over the next two days, and I am sure that if we are careful about it, the American people will enjoy it.

Mr. BILIRAKIS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. GRANGER).

Ms. GRANGER. Mr. Speaker, today I am pleased to stand up and to speak out on behalf of the Quality Care for the Uninsured Act. I believe this is a commonsense solution to an all too common problem of access to health insurance.

As a mother and a small businesswoman, I understand how important health care is to each American and to every employer. The issue of health care is not just about dollars and cents or rules and regulations, or even liability. First and foremost, the issue of health care is about people and their access to doctors. It is about knowing there is someone to call when your 3 year old wakes up with a fever. It is about knowing there is a doctor who understands the reoccurring ear infection.

Access has to be the number one goal in this entire health care issue. Today there are 44 million Americans without any health care coverage. These people are not concerned about whether they can sue their HMO, they are concerned about whether they can see a doctor. I am proud to say today may be the day we finally listen to the voices of the uninsured. The Quality Care for the Uninsured Act addresses access with HealthMarts and Association Health Plans, and also full 100 percent deductibility of health insurance.

These proposals hold the promise of health insurance for millions of Americans. By increasing the choices and options, we can decrease the number of uninsured Americans, and is that not really the most important issue? I think it is. After all, when it comes to health care, access to a doctor is far more important than access to a lawyer.

If we are really serious about expanding access to health care, we will vote for this very important proposal. I urge my colleagues to put the patients' interests ahead of special interests. Too many people are still uninsured. Today we have the chance to change that. In short, this bill will mean more access for more Americans. I encourage us all to lower our voices, to raise our sights, and to reach out for the uninsured by passing the Quality Care for the Uninsured Act.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I would like to thank my good friend and ranking member of the Committee on Commerce for yielding me time.

Mr. Speaker, I rise in reluctant opposition to H.R. 2990. Clearly, access to health care is not a Democrat or Republican issue. In fact, I have introduced legislation in the last two Congresses that would do some of the things that this bill would do. In fact, we have not even had a hearing on my bill the last two Congresses, so it is good to be able to talk about it on the floor today.

My bill would allow everyone to deduct from their taxes what their health and long term care costs would be. Unfortunately, the bill we are considering today is poorly timed and irresponsibly drafted.

The Republican leadership has gone out of their way to say they will not spend a dime of the Social Security funds until the program is fixed. Yet that seems to have lasted about a week.

Earlier this week we found out that they were dipping into Social Security for about $16 billion, and today we are proposing an agriculture bill that would dip into the Social Security trust fund to the tune of about $48 billion with H.R. 2990. So this is how it works. They also started running TV ads saying that they were going to devote 100 percent of the Social Security surplus. Hopefully when this Congress is through, we will be able to do that.

This bill promises a lot, but gives little results because it is not funded. Some of the specific things I think that is wrong with it, it expands the MSAs, a demonstration project that has failed, and we have seen that happen. Throwing more tax benefits at the MSAs will not make it become a reality and it will increase health costs for those who remain in traditional health care or insurance or managed care plans.

It misdirects Federal dollars through the tax deduction, disproportionately helps the wealthy by not expanding it to all employees and just doing self-employed predominantly. You are taking the highest income brackets, and the deductions will not help those 32 million people in the 0 to 15 percent tax bracket who will not be able to benefit from this bill.

The last concern I have is that because in Texas we have passed managed care reform and over the years had a very aggressive insurance commissioner or State Department of Insurance, this would bypass state regulation on benefits in Texas in favor of new Federal regulations, and it would disrupt state insurance markets. That is just not true in Texas, but that is in all our states. One size does not fit all.

Mr. BILIRAKIS. Mr. Speaker, I am pleased to yield 1 minute to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Speaker, I rise in strong support of H.R. 2990, the Quality Care for the Uninsured Act. Reducing the number of uninsured Americans is one of the biggest challenges facing this Congress. My predecessor, Harris Fawell, worked tirelessly toward expanding access to care for those who are currently uninsured. Congressman Fawell's good work continues with this bill, H.R. 2990.

By combining free market reforms with health care tax provisions, this bill expands access to affordable insurance for individuals and small businesses across the country. We in Congress have a responsibility to make it easier, not more difficult, for small businesses to offer health insurance. H.R. 2990 will go a long way towards reaching this goal.

Mr. Speaker, we should not let this opportunity pass us by. I ask all of my colleagues to support this legislation.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Arkansas (Mr. BERRY).

Mr. BERRY. Mr. Speaker, I rise to urge a vote against this fiscally irresponsible legislation. It does not make sense to enact legislation that would cost more than $48 billion without paying for it. The authors of this bill claim that it is paid for out of the non-Social Security surplus. They have been spending this surplus once a week for the last month and a half. We started out, as this chart shows, the first of July with $14 billion in surplus, and now we are down to something less than $25 billion that we have overspent.

Here we go again. Although we are projected to begin running substantial on-budget surpluses in 2001, these are just projections. This is not real money. Enacting policies now that will result in a permanent revenue loss based on projected surpluses that may not materialize is irresponsible. Adding to the debt our children have to pay off is reckless and foolhardy.

Why would we want to rob the Social Security trust fund again? This is a tax bill that is not paid for. Let us not do this to our precious children and to their future. Let us save the Social Security trust fund.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in strong opposition to this bill. The fact is that this bill is not paid for. It is a $48 billion raid on Social Security. That is one reason to vote against it.

The so-called access bill fails to provide any access for the people who truly need it most. It includes discredited medical savings accounts that only help the wealthy and the healthy. In fact, nearly one-third of all uninsured Americans would receive no help under this bill. As has been pointed out, only 160,000 people would be the beneficiaries of this bill. A second good reason to vote against it.

The third reason to vote against the bill is that it represents a last-ditch effort to kill the Patients' Bill of Rights. The Republican leadership has announced that they will attach this sham bill to the bipartisan Patients' Bill of Rights. A strong bipartisan majority in this body supports the Dingell-Norwood bill, but we have been fighting against a small minority in the Republican leadership every step of the way.

Why do they oppose HMO reform? Because they are in league with the insurance lobby, a major campaign contributor to the Republican Party. In fact, just yesterday, on the eve of this important health care debate, the Republican leadership held a breakfast with the insurance industry, a sad testament.

We should not be surprised that the Republican leadership is thwarting the will of this House. There is nothing new here. It is what we saw earlier this year on gun safety legislation, it is what we saw on campaign finance reform, an unwillingness to allow an honest debate and the use of clever procedural tricks to defeat reform.

People in this country are dying because our health care system is broken, and the Republican leaders' response? Meet with the insurance lobby and devise a clever way to try to kill HMO reform.

Vote against this legislation. Let us have a fair and an open debate on Patients' Bill of Rights, a bill that would put medical decision making back into the hands of doctors and patients and make HMOs accountable.

□ 1445

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, can we imagine the fireworks that would erupt on this floor if the Democrats brought forward a bill that was $45 billion in a hit to the Treasury, without a nickel in how it is paid for? That is precisely the proposal offered by the majority with this access bill, a $45 billion hit over 10 years to the Treasury, and not one nickel in terms of how those monies would be paid for.

I am for full deductibility of health insurance premiums paid by individuals, but let us show how we are going to pay for it, so we are not spending the social security trust fund to do it.

I rise for another very important reason on this bill. I am the only former insurance commissioner in Congress. I know the consumer protection role played by State insurance departments. Every day State insurance department officials are helping people get claims paid, helping them deal with insurance complaints.

This bill in a major way would preempt all of that. Association health plans, community health center networks, HealthMarts, all of these features of this access bill would take it from State insurance departments and place it into a never-never-land of a soon-to-be-created Federal bureaucracy for regulation.

This whole Patients' Bill of Rights is about getting patients protections, because they right now do not have sufficient protections with their HMOs. How ironic that the majority would come up with a proposal that literally would take those who are now protected and push them also into the unprotected categories.

Consumers should not have to turn to some Federal bureaucracy to get a claim paid. Consumers should not have to call someone in the Federal bureaucracy to get approval to get the medical procedures that they need. They should go to their State insurance department, fifty State insurance departments, all with toll-free lines located right in the State capitols.

This bill, through the association health plans, the community health center networks, and the HealthMarts, would take it all away. Keep consumer protection. Defeat the access bill.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I rise in opposition to this bill.

Mr. Speaker, I rise today to oppose this legislation that purports to provide access to health care for those who need it most—the uninsured. I know this is the month that we celebrate Halloween, but it is way too early for these gimmicks and tricks. The American people expect treats not tricks and this bill represents a trick for two reasons.

First, at a time when we are experiencing unprecedented economic growth the number of uninsured individuals has risen more than one million over the past year to 44 million Americans. This legislation that purports to help the needy does more by way of giving tax breaks to help the wealthy—that the needy would hardly benefit from this bill. According to the General Accounting Office nearly one-third of all uninsured Americans do not pay income taxes. These families would not benefit under this bill. Instead the greatest benefits under this bill would go to the 600,000 families that make almost $100,000 per year.

Secondly, this bill expands medical savings accounts—a special tax break for the healthy and wealthy that threatens to increase health insurance premiums for everyone else. This provision was added to an important health portability bill in 1996—and this provision drew a veto from President Clinton—ultimately killing the bill. Here we are again, a chance to do something meaningful to improve the quality of life and health care for those who do not have access, but yet we would attach provisions that effectively make the bill DOA (dead on arrival). The effect of merging this bill with the Norwood-Dingell bill is to kill meaningful managed care legislation.

I support improving access to health care, in my congressional district 175,000 people live at or below the poverty level. It is a district that has pockets of poverty and great need. Unfortunately, this bill does not help to alleviate the hurt and pain of the uninsured in my district. If we are serious about providing access then we need to pass a universal health care bill. A bill that allows individuals to go to the doctor when they need to go, a bill that allows them to see a specialist, a bill that allows them prescription drug coverage. That is what access is all about. This bill is a trick, a sham, and not a treat for the vast majority of Americans who need health coverage. I urge my colleagues to vote "no" on this gimmick laden legislation.

Mr. DINGELL. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have heard it already. This access package is going to cost $156,000 for a well-to-do patient. It is not going to give anything to the poor. The reason for that is that this is a tax deduction. The poor do not pay taxes.

So who is going to get, then, the money that is going to come under this proposal? Only the well-to-do. What will be the practical effect on the insurance pool? To suck out the well-to-do out of the conventional insurance pool and to set up a very special, privileged insurance pool for the well-to-do. That is what this legislation does.

In addition to that, the legislation expands SMAs. This is another proposal which benefits the well-to-do, because they do not care whether they have to buy the insurance or not, what they want to do is to get the tax deduction and tax break which benefits only those of substantial means.

The other thing that it does, it misdirects Federal tax dollars to tax deductions that help the wealthy. This is hardly a defensible expansion. Remember, we are paying $156,000 per new insurance beneficiary. The whole of this program is going to cost $31.2 billion. Guess from what part of the government accounting structure it is coming. It is coming from the social security deficit, which is now a reality at this particular time.

I think it is time we recognize that what we are here for is to craft good legislation. This is not. If Members want to craft good legislation in the field of covering new people, then the minority stands ready to help our Republican colleagues towards that end. This bill does not do that.

We came here to talk about the Patients' Bill of Rights, about protecting the rights of patients, not in obfuscating the issue by bringing forward a lot of phony tax breaks and a lot of help to fatten the rich at the expense of the poor. What we need here is attention to the real problem. Then if they want to go on in a carefully packaged and carefully programmed set of rules, regulations, and laws which will address the problems of people in terms of providing uniform coverage for all Americans, I stand ready to do it.

I remind my Republican colleagues that it was they who killed, together with the assistance of their same good friends in the insurance lobby, the President's last proposal to expand health care to all Americans. It looks like they are up to the same game today.

Mr. BILIRAKIS. Mr. Speaker, I yield the balance of my time to the gentleman from Arizona (Mr. SHADEGG).

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Arizona (Mr. SHADEGG) is recognized for 5 minutes.

Mr. SHADEGG. Mr. Speaker, let me begin by thanking the chairmen of the Committee on Commerce and the Subcommittee on Health, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Florida (Mr. BILIRAKIS), for making this debate possible, and for their hard work.

Secondly, let me set the record straight. On two different occasions, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Florida (Mr. BILIRAKIS) offered to work with the gentleman from Michigan (Mr. DINGELL) on access legislation, and their staffs made an offer to work. That offer was not taken up, so the notion that we have not attempted to work with the minority on access legislation is simply wrong.

Let me address a second argument made here, which is that these two issues do not belong together. If Members do not believe these two issues belong together, they are not looking at what is happening in health care in America today.

If they can say, well, we should not deal with quality of care at the same time we deal with access to care, at a point in American history when we have 44 million people who are uninsured, they do not get what is going on here. If they think we should not deal with affordability at the same time we deal with quality, they do not understand that this is all about health care. If they do not think we should give people choice at the same time that we improve quality, they do not understand markets or how this system works.

We have to deal with access, affordability, and choice in order to get quality. So let me set the record straight on that point, as well.

The next issue I want to deal with is the question of pay-for. The other side says these tax relief measures, attempting to give Americans who do not have health insurance now a chance to get health insurance, are not paid for, that we cannot afford this bill. Let me tell the Members, we cannot afford not to pass this bill.

Thankfully, these people are getting care, but they are getting care in the most expensive form of all. They are getting it in emergency rooms. This bill lets every single American have a better chance to access affordable care. The statement that it does not help an entire group of Americans is flat false. It is wrong. Let me explain why.

This bill allows small businesses to pool together through HealthMarts and association health plans and to offer coverage. That includes small businesses who today cannot provide their employees any insurance, forget the tax bracket they are in. To talk about an employee the other side has talked about who does not pay a dime in income tax, but works for an employer that cannot give that employee any health care, this bill makes it possible for that employer to give that employee health care because they can pool together and offer them more affordable coverage. So, so much for the claim that it does not help anybody at all.

Then let us talk about access for the insured. This is a USA Today editorial. It appeared earlier this year. It points out that more and more Americans are losing choice. They are offered one plan and one plan only.

The minority may think that is great, a single system, take it or leave it; too bad, no choice. If it does not fit you and your family, you are stuck. Too bad. Indeed, they must think it is okay because they have offered nothing to counter that.

We have offered something. We have said, we ought to give all Americans, including those lucky enough to have coverage, more choices. Let us talk about how many people do not have choices. Seventy-nine percent of all employers in firms with less than 200 employees offer their employees one choice, only one choice. Almost 80 percent say, you get one choice. That is small business America. You are stuck with the plan you are offered.

Our bill would let those employers offer those employees not one but five or six or eight choices. Maybe Members are against choice. I did not think so. But this legislation would help those employees just like it would help the uninsured, regardless of their tax break. By the way, it helps everybody that does pay income taxes.

Let us talk about big employers. Even in firms with more than 200 employees, only 46 percent offer their employees two plans to choose from. That is, most, barely over or almost half, say you get one choice, even when you work in a fairly large company, a company with over 200 employees.

This bill is about access for the uninsured. It is about affordability for the uninsured, and it is about choice for every single American. The other side says, no, we do not want access. We do not want choice. We are not worried about affordability. It is a poison pill to simply discuss this the same day we talk about quality.

It is not a poison pill. The marriage of these two bills does not occur until after they leave the floor. That is the point in time when we ought to be dealing with a comprehensive fix for health care in America.

I urge my colleagues to vote for this bill. It is good legislation. Regardless of the obstructionist tactics of the minority, affordability, access, and choice will help health care in America. I urge my colleagues to vote for H.R. 2990, a bill which I cosponsored with the gentleman from Missouri (Mr. TALENT) and which I am proud of.

Mr. TALENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we said a little while ago that this bill is obfuscating the real issue. This bill is about the uninsured. Let us look at the 44 million people who some believe are obfuscating the real issue.

Three-quarters of those people work for small businesses. One out of every six Americans is uninsured. Eleven million kids in the United States are uninsured. As I said, three-quarters of these people either own small businesses or work in small businesses or are dependents of people who own or work in small businesses.

What does it mean to be uninsured in America today? It means you face the risk of illness without the shield of health insurance. You gamble that you are not going to get sick. We have 44 million people running that gamble every day, and a lot of them lose.

Linda Welch-Green has lost. Her story was reported in the Baltimore Sun today. Three of her teeth have fallen out because she cannot afford to go to the dentist anymore. She has Bell's palsy that has paralyzed part of her face. She cannot get it treated. The reason is she works, she works full-time, and her employer offers health insurance, but it is so expensive for small employers that she cannot afford the buy-in, so she uses her money to pay for her mortgage instead of for health care for herself.

We can do something about that, Mr. Speaker, if we pass this bill. This is the only bill we are going to have a chance to consider that does anything for the uninsured, and it does a lot, the part of it that we passed out of the Committee on Education on association health plans. It is a simple thing. It allows small businesses to pool together in their trade or professional associations or farm associations, would allow farmers to do this, and when they pool together, they can buy health insurance with the same kinds of economies and efficiencies that big businesses already have.

So if you work for a restaurant, instead of being part of a six-person pool or an eight-person pool, you can be part of a pool of 20,000 or 30,000 people, because you can be part of a pool of restaurants all around the country.

We have had hearings on this bill year after year after year. Our estimate is that, at a minimum, and this is a conservative estimate, it will reduce the cost of health insurance to small businesses by 10 percent to 20 percent. That means 4 to 8 million of these people are going to be able to get insurance who do not have it.

Yes, by the way, as the gentleman from Arizona (Mr. SHADEGG) said so eloquently, maybe others who now have access to one bare-boned HMO are going to have access to a whole lot more choices.

It is about these people who are running this gamble every day. Many of them are losing. We can help them today. Let us help them. Let us not let politics get in the way of this. Let us vote for this bill today. We take up the second half of this health care reform later today or tomorrow. We can do this.

Mr. Speaker, I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I support access and choice for the uninsured health care consumer. However, I rise in opposition to the proposal before us today because it will not deliver on either. It fails because it promotes such flawed ideas as association health plans.

Many experts have criticized association health plans, yet Republicans continue to trumpet them. They do so at the behest of their special interest friends, and not because of any real demand from health care consumers. The dangers inherent in association health plans became apparent to me when legislation to establish them was first considered by the Committee on Education and the Workforce back in 1997.

□ 1500

The experts told us then that they had major concerns about the effect on the insurance marketplace. The National Governors Association, the National Conference of State Legislatures, and the National Association of Insurance Commissioners advise that Association Health Plans would undermine positive State reforms already in place to help consumers and would contribute to the collapse of small group health insurance.

According to CBO, Association Health Plans would increase the risk of health plan failures and allow groups of healthier people to receive favorable premium rates while leaving groups with sick and elderly enrollees to pay higher ones.

The American Academy of Actuaries advise that Association Health Plans could increase solvency risks and create regulatory confusion. The Urban Institutes Research determined that Association Health Plans would not reduce the number of the uninsured because nonparticipating firms are likely to drop their health insurance coverage rather than pay the higher rates that would result from a deteriorating risk pool.

I urge my colleagues to reject these dangerous remedies and vote no on H.R. 2990.

Mr. Speaker, I reserve the balance of my time.

Mr. TALENT. Mr. Speaker, I yield myself 30 seconds to address two points.

We have very strong reserve requirements in this bill. There is no solvency problem, no reason why these associations cannot sponsor plans the same way that big companies do.

The second thing is that the bill requires that employers must offer, must carry, they must offer this coverage to every employee they have on the payroll, even if they have a history of illness. This will result in sick people going into Association Health Plans because they are going to get better coverage there.

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Speaker, when we look at today's health care system, there are two problems that most all of us can agree on, that we need more accountable in managed care, which virtually every Member of this Chamber is supportive of, and we that have 44 million people who have no insurance whatsoever.

So as we proceed in this debate, it is clear to me that we have three principles that we have to follow. How do we make sure that we get more accountability in managed care.

Secondly, how do we make sure that health care insurance is affordable for all Americans to ensure that all Americans have greater access. Accountability, affordability, accessibility.

In my view, we cannot deal with one of these issues without dealing with all of them. We cannot deal with one principle and ignore one. That is why this rule today and this debate that we are having is about accessibility today, and we will deal with accountability tomorrow.

When we look at the uninsured, as the gentleman from St. Louis, Missouri (Mr. TALENT) pointed out, they work for small businesses. They want to buy insurance, but they cannot afford to do it.

When one looks at what we are going to do tomorrow, we are going to raise the cost of insurance. As we add more accountability for insurers, employers, and others, we are going to raise the cost of insurance. That is what the debate earlier was about. We wanted to offset the cost of it.

As we raise it, we are going to push more people into the ranks of the uninsured. That is because there is a clear link between the cost of health care and people's access to it.

So we have got to move this bill, this access bill today, because whether one has insurance or not, one wants to be protected. We ought to help all patients in America today whether one has insurance or not.

I think that the bill that we have today guaranteeing greater access to health care for the uninsured is the first major step that we take. Then tomorrow we will deal with more accountability.

Mr. CLAY. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, we all know that Halloween is fast approaching. The question is trick or treat. H.R. 2990 is, in effect, a trick or treat measure.

We offer a treat with Norwood-Dingell, the Patients' Bill of Rights. However, Americans are being tricked by H.R. 2990.

The trick: getting health care in America. The treat: goes only to the wealthy. The trick: pooling and separating of persons with greater health risks from those with less, leaving many people uninsured. The trick: MSAs, Medical Savings Accounts, they are MIA, missing in action. No insurance company has yet to offer this coverage to senior citizens. The treat: health care access for small business. I sit on the Committee on Small Business. I know what they need.

The trick is that these Association Health Plans would not be subject to State regulation and cannot be sued in court just like the HMOs. Just like Halloween, H.R. 2990 is a hollow effort. Let us deflate this pumpkin now.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Speaker, I have spoken on the floor of the House many times on the issue of access. I have grave concerns about one of the provisions in this bill as it relates to Association Health Plans. The times that I have spoken before on the House floor, I have entered into the CONGRESSIONAL RECORD these letters which I am going to cite. The National Governors Association, National Conference of State Legislatures, and National Association of Insurance Commissioners have expressed reservations about Association Health Plans.

Here is a memo from the HIAA. It strikes my colleagues as a little ironic that I am citing this. I happen to think they are right on this, because insurers like Blue Cross Blue Shield and others are the insurers of last resort. They know about the risk pool in the United States.

They say, "We have grave concerns about the calls for Association Health Plans and HealthMarts, because they would hurt many small employers who provide coverage to their employees; and that could in turn cause many of those employers to drop their coverage because it would be too costly." That would be exactly the opposite purpose of what we want to achieve in this bill.

Here we have a memo from Blue Cross Blue Shield. "Association Health Plans, the unraveling of State insurance reforms." Same source, "Association Health Plan, national survey finds that small businesses reject Association Health Plan legislation." Blue Cross Blue Shield, "Association Health Plan legislation would increase administrative costs for small businesses."

Association Health Plan study shows that a claim that coverage would increase is fundamentally flawed.

Here is a Blue Cross Blue Shield study, "Association Health Plan legislation would reduce insurance coverage." Another Blue Cross Blue Shield study, "Association Health Plan legislation would require billions in Federal regulatory spending."

Then I have a letter that is from a number of organizations that say, key concerns about Association Health Plans are that it would increase the cost of insurance rather than decrease it, that it would leave a sicker pool for those States and thereby actually result in the exact opposite of our access legislation.

Mr. Speaker, this is a poor provision, and we should oppose it.

Mr. Speaker, I include for the RECORD the letter I referred to as follows:

JUNE 24, 1999.

DEAR REPRESENTATIVE: As representatives of consumers, seniors, labor, the religious community, and people with disabilities and chronic illnesses, we are writing to urge you to oppose H.R. 2047, the "Small Business Access and Choice for Entrepreneurs Act of 1999." This bill would move our health care system in the wrong direction. As long as Congress continues on the path of incremental health reform, we believe that such reforms must meet this litmus test: does the bill make health care more affordable for American families, without creating harmful side effects that offset its benefits? We believe that Association Health Plans (AHP's), as defined in this bill, will do more harm than good to our health care system.

Our key concerns about the bill are:

"Affordable" health coverage through skimpy benefits. The bill allows AHP's to design their benefit options, exempting AHP's from state benefit mandates that apply to other insurance plans (except laws that prohibit an exclusion of a specific disease). This means that AHP's will be free to create barebones policies with skimpy benefits. The premium may well be low and "affordable" but when policyholders get seriously sick, or when they seek cancer screening or preventive care that would have been covered, they are likely to find their out-of-pocket costs to be very high.

Fragmentation of health risk pool. AHP's have the potential to further fragment the risk pool. Because AHP's would be exempt from state benefit standards, they would attract healthier, low-cost members. There is a grave danger that associations will form in part to offer low cost coverage to people with low health risks or avoid high cost areas. The net effect is to undermine state regulatory efforts to spread risks broadly.

Existing AHP's exempt from state premium taxes. The bill allows states to collect a "contribution tax" only on plans started after enactment of the Act. This creates an unfair loophole for existing associations; unlike other health plans they will be exempt from premium taxes that are used to cover health care costs for the uninsured and certain high-cost individuals.

Exemption from state consumer protection regulation. In addition to being exempt from state benefit mandates, AHP's could be exempt from state consumer protection regulation, like other self-insured health plans. Creating a new loophole from regulation is a step in the wrong direction for our health care system.

We agree that small businesses—as well as large businesses, individuals, and families—should all have access to affordable health care coverage. But we believe that to achieve this goal, we need to set rules so that marketplace competition benefits consumers, not health plans (or associations) that cherry pick the healthy. We need standard, comprehensive benefits. We need market reforms that spread the cost between the healthy and the sick. We need sizable subsidies to bring premiums in reach of moderate-income families. Association Health Plans do not move the health care system in the right direction.

Sincerely,

American Counseling Association, American Federation of State, County, and Municipal Employees, Bazelon Center for Mental Health Law, Brain Injury Association, Center on Disability and Health, Committee on Children, Communication Workers of America, Consumer Coalition for Quality Health Care, Consumers Union, Eldercare America, Inc.

Families USA, Friends Committee on National Legislation, General Board of Church and Society of The United Methodist Church, National Association of Developmental Disabilities Councils, National Association of People with AIDS, National Association of School Psychologists, National Association of Social Workers, National Council of Senior Citizens, National Health Law Program, National Mental Health Association, National Osteoporosis Foundation.

National Partnership for Women & Families, National Patient Advocate Foundation, National Senior Citizens Law Center, National Women's Health Network, Neighbor to Neighbor, Network: A National Catholic Social Justice Lobby, Public Citizen, Service Employees International Union, The Arc of the United States, UNITE, Union of Needletrades, Industrial & Textile Employees, United Church of Christ, Office of Church & Society, United Food and Commercial Workers International Union, Universal Health Care Action Network (UHCAN).

Mr. TALENT. Mr. Speaker, I yield myself 1 minute to respond.

The gentleman is quite correct, the insurance companies do not like this legislation and neither do the insurance regulators, because it will result in small businesses being able to participate in associations which will have at least some self-funded plans.

The insurance companies do not like that because they lose business. The insurance regulators do not like that because they lose business. They do not get to regulate the self-funded plans.

As for this costing small businesses more money, tell that to the small funeral home in North Carolina with less than 10 employees that was hit with a 73 percent increase this year by Blue Cross Blue Shield because it is on the small group market.

Tell that to the members of the Western Retail Implement and Hardware Association which was hit with a 65 percent increase this year because it is on the small group market. Tell that to the small businesses around this country that are experiencing on average a 20 percent increase in health costs.

No, the reason all the small business groups support this, Mr. Speaker, is because it is going to reduce their costs and decrease the number of uninsured.

Mr. Speaker, I am very happy to yield 3 minutes to the gentleman from California (Mr. DOOLEY), my friend and cosponsor of the Association Health Plan bill.

Mr. DOOLEY of California. Mr. Speaker, I rise in support to draw the attention of my colleagues to a provision in this bill that would dramatically expand access to affordable health care for small businesses and working families. The bill allows small businesses and self-employed individuals to purchase health insurance for themselves and the workers through Associated Health Plans.

We all saw on the news last week the ranks of those without insurance grew by 1 million last year, up to 44.3 million. It also was not lost on us that, of that number, 60 percent of those individuals are working for a small business.

I support this legislation because it would expand access to health insurance to the working poor of our country. My district in the Central Valley of California has one of the lowest private insurance coverage rates in the State, and the problem is getting worse. It is also one of the lowest income districts in the country. These low-income families have few options for gaining health insurance.

But an excellent solution to this problem has already emerged in the form of an Associated Health Plan that is already providing coverage to thousands of farmers, farm workers, and their families.

In my district, where agriculture represents the heart of our economy, Association Health Plans have made a significant impact and can make an even stronger impact by providing health insurance to more seasonal and migrant farm workers.

I would like to share with my colleagues just one story. The Lopez family from Visalia, California, in my district, has firsthand knowledge on how Association Health Plans can provide top quality care. Amalia Lopez works at a citrus packing house in Visalia and receives her health insurance through an Association Health Plan through Western Growers Association. Her daughter Lizette was diagnosed at age 10 with a heart ailment; and it became apparent, unless she had a heart transplant, she would die.

In June of last year, Lizette was informed that a donor had been found in Western Growers insurance plan, helicoptered to the UCLA Medical Center for an operation. The operation was a success, and, today, Lizette is back in school and living the life of a normal teenager.

The hospital bill for Lizette's operation was $270,000. But the Association Health Plan covered the vast majority of the cost and Lizette's family only had to pay $5,000.

Lizette's story demonstrates that Association Health Plans work in delivering affordable health care to working families. They provide a compelling and cost effective means of providing affordable quality health insurance to a greater number of people.

The issue for the Lopez family and thousands of other low-income families is not a choice between different insurance plans, it really is a choice oftentimes whether they will have health insurance through an Association Health Plan or no health insurance at all.

Let us not deny low-income families an opportunity to have quality health insurance that can be provided through an Association Health Plan.

Mr. CLAY. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, it is noteworthy that the gentleman from Missouri (Mr. TALENT) cited that insurance commissioners and insurance companies oppose the Associated Health Plans. Also noteworthy, he did not cite the 31 Republican governors that also oppose it.

Mr. Speaker, I yield 2 minutes to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Speaker, I thank the gentleman from Missouri for yielding me this time.

Mr. Speaker, the Republican leadership has a knack for putting an attractive name on terrible bills. They are doing this today with H.R. 2990, what is called the Quality Care For The Uninsured Act.

H.R. 2990 provides no increased access to health care for the uninsured; and, yet, it would take up to $43 billion away from important programs that do help the American people.

This bill is a sham. We do not need it to make health insurance tax deductibility for the self-employed. That will happen even without this bill.

Among other deceptive things that H.R. 2990 would provide are Medical Savings Accounts. We told our colleagues this was a bad idea when it was forced down our throat 2 years ago. Even the insurance industry has not used them. MSAs are a proven failure, and we do not need to be voting for them today.

This bill would also provide tax deductions for long-term care. Who will that help? Only those who pay taxes, those who, after living expenses, have money left over to pay for it, the usual people the Republican leadership looks out for, the rich.

Mr. Speaker, we should care about the 44 million uninsured in this country. They are mostly women, people of color, and the poor. I am committed to working with my colleagues on both sides of the aisle and groups around this country to make sure that we do achieve universal access and universal coverage.

But this bill, H.R. 2990, does nothing, absolutely nothing to provide any help to these people who are largely poor to purchase any coverage.

□ 1515

The only bill that will give back access to health care for those from whom managed care has taken it is H.R. 2723, Norwood-Dingell bill. Let us pass that bill to provide real access to quality care for the insured. That is the first step. Then let us work together to give real access to health care for the 44 million who currently have none. Vote "no" on H.R. 2990.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in opposition to this bill.

Mr. Speaker, this bill provides taxpayer subsidized access to people who largely do not need it, who already have it, and does virtually nothing for those who have nothing.

We heard some talk on the floor earlier about the typical uninsured person, and that is the person I want to focus on for a few minutes this afternoon. She is usually a working person. She makes $20,000 or $21,000 a year. She has children, and she is working 40 hours a week.

I want us to examine how little this bill does for that person. The first thing she is supposed to do under this bill is, if she is self-employed, is to have a sped-up deduction from her income tax return, which is worth the princely sum of $300 a year, when fully phased in, toward her $6,000 that she would have to pay in premiums or more. That is nothing more than superficial help for someone.

The next thing she is supposed to hope for is that her employer, if she is employed by someone else, will join an association health plan. The most optimistic projections I have ever heard about these things say they might lower the cost to small business by 15 or 20 percent. Now, that is nothing to sneer at. That is nothing to sneer at, but she has to keep her fingers crossed that maybe her employer will do such a thing and she will get lucky.

Of course, once she gets into such a plan, all the protections of State law, the mandatory stay if she has a C-section, the mandatory coverage for breast or cervical cancer, the mandatory coverage for immunization for her kids are not subject to these plans. So she can wind up with a health insurance plan that is not worth the paper it is written on.

Finally, this bill gives her the tremendous opportunity to contribute to her medical savings account. After she has paid her rent and her utility bills and her groceries and her auto insurance and her car payment and her child care and all the other things she has to do, this enormous amount of money that she has left over she can now put into an MSA.

This is a cruel hoax. It should be defeated because it does not provide access.

Mr. TALENT. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Speaker, as we begin the floor debate today on patient protections, it is important that we do not forget those 44 million uninsured Americans who have no protections at all. More than 60 percent of the uninsured have one thing in common; they are either self-employed or their family is employed by a small business that cannot afford to provide health benefits.

As a former small business owner, I understand firsthand that small businesses have difficulties in providing health care to their employees. Conventional health insurance and administrative costs are just too expensive for small businesses. In 1997, a typical small business owner paid $4,342 per employee for a family plan, yet a Fortune 500 company paid an average of $3,521.

Association health plans would empower small business owners with the purchasing power of a large business. In fact, AHPs would reduce health care costs for small businesses by 10 percent.

Providing health care for small business employers ought not to be a choice between feeding their own families and taking care of their employees. The small business owners of this Nation want and need to do both. AHPs will help 8 million small business employees obtain coverage. Small businesses need equal fitting in the health insurance market. That is protection we cannot afford to pass up.

Let us open up health care for all working people. I strongly support this bill, and I urge my colleagues to vote in support of it.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK. Mr. Speaker, I thank the gentleman from Missouri (Mr. CLAY) for his fine leadership.

One of the most important issues we will face in this 106th Congress is health care. Will Americans in the richest country in the world have available to them the health care they need for themselves and their families?

Access. Will they have the access to get the health care that they need? I am afraid, my colleagues, the bill before us today does not address that issue. Our own Government Accounting Office has said to us that the poorest of the poor who are uninsured today, with this access bill before us, still will not have access.

Is it the right thing to do? I think not. First of all, the bill is for the wealthiest and the healthiest. Yes, we want everyone to have insurance. Yes, we want those small business owners to be able to have insurance for themselves and their employees. But we also want the others who are uninsured to have insurance, too.

All week long we have been hearing that over 40 million Americans do not have health insurance, that one out of six do not have health insurance, that 11 million children or more do not have health insurance. Will this bill address those people? In large part, it will not.

It is unfortunate as we debate this subject today, with this most important issue that our country faces, that this bill continues to leave too many people out. The bill is not offset.

We, in our other proposal, which is a bipartisan proposal I might add, and would cost $7 billion over the next 5 years, wanted to have offsets for it. Our leadership, the Republican leadership, said no. This bill will cost $40-plus billion. It is not paid for. It is not offset. And we think that is unfair and unconscionable.

It does not improve the affordability of health care if an individual does not have the up-front money. Many families and many children who live in those families do not have that. It does not help the poorest of the poor in America. When will they have access?

It digs into our Social Security Trust Fund in that it will take out from the Treasury before we put into it. It is not fair.

Mr. Speaker, I urge my colleagues, let us not adopt this. Let us get back to work on a real bipartisan solution that actually accesses those things that people need to carry on their daily lives. It is a bad idea; it is a bad bill; and I urge my colleagues to vote "no."

Mr. TALENT. Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky (Mr. FLETCHER).

Mr. FLETCHER. Mr. Speaker, I certainly appreciate the gentleman from Missouri (Mr. TALENT) and the gentleman from Arizona (Mr. SHADEGG) for the work they have done on this bill to make sure that we make health care more affordable and more accessible.

Let me first start in saying, what does it mean to be uninsured in this country? I will share with my colleagues, and especially those on this side of the aisle that oppose this, what it really means.

A patient named Mary came to me a few years ago. She had no insurance. She was not the poorest of poor, because the poorest of poor have Medicaid. She was working, but she did not have insurance. She came to me and, upon exam, it was very obvious that she had a very large tumor. Cancer, metastatic cancer, that probably could have been prevented had she had health care and had the kind of preventive care that patients that will benefit from this legislation will have.

Now, many will say this is not a perfect solution. I agree with that. But what it means to not have health care means an individual does not have access to getting the kind of preventive care that will prevent the kind of diseases that will take an individual's life too soon.

In Kentucky, what is happening? We have had health care reform. Now, if an individual is on the individual market, they only have two choices of insurance. And small businesses only have a few. This plan with associated health plans and health marts gives the opportunity for individuals to have health care, as small businesses can help reduce their costs from 10 to 15 percent and be able to offer a spectrum of choice that will enable them to get the kind of health care and the preventive care that they need.

Some folks say, well, we should not link these two. I am kind of disappointed they were not linked to begin with because they are inseparable. The whole debate about patient protection is about how the money, cost of reimbursal, affects access. Because if an insurance company says they are not going to pay for something, they do not prevent an individual from having treatment; but they limit the access because the patient cannot afford it.

Right now we have limited access because folks cannot afford health insurance, because small businesses cannot offer it, because we do not have legislation that encourages small businesses to offer it. This will allow the tax deductions for individuals to allow small companies to come together.

And now insurance companies do not like it. Why? Because they will have to contract and negotiate with a group of individuals much larger than just a small company. I have been a small business owner. I know what it is like to buy insurance. I have seen the costs escalate every year, and I think this will help small businesses.

I ask those folks on the left that oppose this to look at themselves in the mirror and look at patients like Mary, who I am talking about, and ask themselves whether this will help her get insurance. I hope my colleagues can look at themselves in the mirror and say, this is not perfect, but at least it is a step in the right direction. My intent in coming to Congress was to make sure that we eventually get every American covered with health insurance. This is a step.

Some would like a government-run, single-payer system; others like a market-based system. I think a market-based system with choice is the way to go. This does that. I encourage my colleagues to vote for this measure.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman from Missouri for yielding me this time.

Mr. Speaker, some will say this is about access for the more than 44 million Americans that are now known to be without health care. In fact, we now know, since 1998, that more than 1.3 million new persons that are uninsured.

But let us examine if this is really about access for all of those people or for the majority of those people. Certainly coming from rural North Carolina, I can tell my colleagues that rural North Carolina does not have as many insured people with HMOs as they would have in urban areas. So access is important. Uninsured people are very important.

But when we consider that this tax break is designed for those who have been substantially paying into the revenue, we know that that eliminates immediately a majority of the children who are uninsured who may have working parents who are not on Medicaid. They make too much for Medicaid but are not insured. We have to understand that these individuals would have to pay a substantial amount to make any sense. If indeed they had the $4,500 or the $5,000 to pay for the premium, perhaps they would get $700 as a break.

Help me understand how those 33 million people can call this access. Indeed, this is insufficient and should not be labeled as access. The Norwood-Dingell bill is about access. It is about access for those who have insurance to have better access, to ensure that their care is based on medical necessity, that they will not be denied based on an insurance promise that we will not allow you to be covered.

Indeed, this is a fraud. This is inadequate. We should be ashamed of ourselves thinking we are addressing the needs of the American people by calling this access. Defeat this bill and, indeed, support the Norwood-Dingell bill.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Mrs. THURMAN).

Mrs. THURMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

One year ago, I actually introduced a piece of legislation because of an article that was in the St. Pete Times about a group of employees whose company actually was on the verge of bankruptcy. They allegedly pocketed their employees' health care premiums. The health insurer, hoping that the employer would catch up on overdue premiums, agreed to work with the employer to resolve the unpaid debt.

Meanwhile, the unsuspecting employees continued to receive authorized health care coverage. When the company ultimately filed for bankruptcy, the health insurer retroactively terminated the employees' health plan. One woman in this article ended up having to be stuck with $20,000 worth of medical bills.

As a result, the cost of any health visit or procedure conducted the preceding 3 months became the sole responsibility of each employee. In addition, because they did not meet the 63-day standard under HIPAA, because it went 70, they could not even get any kind of insurance.

□ 1530

I think it is unconscionable. As we introduced this legislation, we found out that there were several other areas around this country that these same things happen. So on Monday I went to the Committee on Rules because I, too, am concerned about access and I am really concerned about access for people who had it and lost it because they do not have the opportunity to contract with this company but the employee does. The insurance commissioner in Florida said, in fact, they were in their rights because the contract was with the employer.

So we went in and we said, okay, look. They ought to prohibit retroactive termination of health insurance by requiring that the insurance company provide 30 days' notice of pending termination of coverage.

In addition, we required that such employees be extended HIPAA protections for obtaining alternative coverage. I do not want to hear about access. This was not included and this was one that cost nothing.

Mr. TALENT. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, as we consider health care legislation in Congress today, it is essential that we find ways to make health care more affordable for American families.

There are 44 million uninsured people in this country; and this number, unfortunately, is growing steadily. Comprehensive health insurance is rapidly becoming too expensive for the average working family, and many small businesses are unable to provide costly group plans. We need to help the millions of Americans that do not have health insurance, as well as those who are struggling to afford quality care.

The Quality Care for the Uninsured Act will do just that by allowing taxpayers to deduct their health insurance premiums and giving small businesses and associations the freedom to provide their employees more comprehensive and flexible health care. Mr. Speaker, this proposal is a positive step forward.

Earlier this year I introduced similar legislation that received bipartisan support. I would ask both sides of the aisle to support this.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I agree that small businesses need help for their employees. As a matter of fact, all consumers of health care need help. The 44 million uninsured in this country need help. Patients need access to primary care and to physicians.

What this country needs is a national health insurance, a national health policy that takes care of the needs of all the people. But what we need right now is to reform managed care. And the only bill that provides any real help for managed care reform, for real access for physician-patient communication, the only bill that moves us seriously in the direction of taking care of the immediate needs of millions of people in this country is the bipartisan Dingell-Norwood bill.

I would urge that all other items before us, while they may contain meaningful elements, really do not do the job. The only way to do the real job is to vote for the Dingell-Norwood bipartisan bill.

Mr. CLAY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I know that the intentions of the gentleman were good with respect to the staggering numbers of uninsured Americans.

Forty-four million Americans lack access to basic health care, and 44 million Americans live in fear of getting sick. But what we must realize is that we must not give them a bucket of water with a leak in it. And right now that is what this legislation does. That is why we should stick to passing the Dingell-Norwood health care reform, a straight-up vote on giving the American people what they want.

I have a letter here, Mr. Speaker, that I would like to submit into the RECORD from a nurse and three doctors who said, "We are mad as hell, and we are not going to take it anymore," Dr. Self, Dr. Zaremski, and Nurse Self. And the reason is because they were trying to express their beliefs on behalf of the patients and they lost their positions in the medical profession.

(September 29, 1999)

AN "OPEN LETTER" TO THE HONORABLE MEMBERS OF THE UNITED STATES HOUSE OF REPRESENTATIVES REGARDING MANAGED CARE LEGISLATION

(By Thomas W. Self, MD, FAAP, Linda P. Self, RN, BSN, Miles J. Zaremski, JD, FCLM)

September 29, 1999.

DEAR HONORABLE MEMBERS OF THE HOUSE OF REPRESENTATIVES: We hope that our remarks that follow will be able to be part of the floor debate that will occur on managed care legislation, scheduled for early next month. While we have endeavored to communicate with several of you, either by letter, phone or by in-person conferences with you or your staffs, we feel our individual, yet collective, wisdom on the underpinnings of this legislation before you is critical and important. Two of us have a unique experience not shared by other health care providers in our country. The other has considerable expertise based on experience and writings on managed care liability, what our courts have done with ERISA preemption, and what is likely to be done in the future by our judicial system. Two final introductory remarks. First, there is so much that needs to be said that brevity in our remarks could not be achieved. Second, while this letter comes from the three of us, we refer to each of us in the third person.

THOMAS W. SELF, *MD, FAAP.*
LINDA P. SELF, *RN, BSN.*
MILES J. ZAREMSKI, *JD, FCLM.*

Our plea comes not as Democrats, Republicans or members of other political parties. Our plea comes to you as a physician, nurse and lawyer, representatives of those at the crossroads of medicine, health care and law. Our plea comes to you also as people who are deeply and passionately concerned about the quality and delivery of health care for America's patients, all patients, and the legal and legislative efforts to do the right thing—insure fairness and accountability for parties and by those delivering health care.

To quote a famous line from a motion picture of some years back, the battle cry of patients is, "We are mad as hell and we are not going to take it anymore!" Patients and providers alike should not be subject to the grave inequities foisted upon them by what managed care has done to the delivery of health care. Linda and Tom Self are fitting and, perhaps, unfortunately, unique examples of what has to occur before managed care moguls will listen.

As a San Diego doctor trained at Yale and UCLA, who ran afoul of managed care and who was actually fired for spending "too much time" with his patients, Dr. Self is unique among health care providers in that he fought back against the medical group that fired him and won a three year "battle" that culminated in a three month jury trial. His victory is the first of its kind in the nation, and was profiled by ABC's "20/20", on August 6, 1999.

His experience, where managed care profit motives infiltrated and contaminated the professional ethics of his medical group, shows clearly the murky and often brutal influences wielded by HMOs which have only profit, not quality of care, as their goal. In this scenario, patients become "cost units" and doctor is pitted against doctor, undermining the very foundation of medicine and throwing to the winds the Hippocratic axiom, "first of all do no harm."

With the art and science of medicine controlled by managed care forces, it is not surprising that the number of patient casualties continue to soar. The ability of a clerk with no medical training, in the employ of a payor thousands of miles away, to overrule medical decisions of a trained physician is allowed in no other profession, but is the standard of practice under managed care! Furthermore, this type of employee and also the managed care entity which acts as the puppeteer behind the clerk are completely immune from any legal accountability when their faulty medical decisions cause patient harm. That this situation is allowed to continue is also peculiar only to the medical profession. This is unfair and inequitable!

As an experienced diagnostician with the reputation of being thorough and careful, Dr. Self was criticized under managed care dictates as a physician who ordered too many costly tests and as a "provider" who "still doesn't understand how managed care works." Sadly, this situation continues nationwide, as more and more experienced doctors are unjustly censored, dropped from managed care plans or terminated from medical groups anxious to conform to managed care policies, leaving their needy patients feeling confused, frightened and abandoned.

This pillage and waste of medical resources (under the yoke of managed care which destroys the very quality and continuity so necessary for a positive outcome from medical treatment) is running rampant in America. Dr. Self and his wife have put their lives and their careers on the line to combat the wrongs caused by the health care delivery system called managed care. Now, representing, in microcosm, all health care providers, they turn to you as lawmakers, representing all past, present and future patients, to stop the horror and carnage by health plans by voting for the Norwood-Dingell bill, H.R. 2723, and restoring quality, decency and humanity to health care for the American people.

Linda Self, a registered nurse, is, like her husband, a healer. Always active in charitable activities, she returned to nursing full time four years ago to work with her husband when he lost his job. After being away from nursing for many years, she realized that her compassion and love for the art of healing was now even stronger, especially after raising two children, one of whom had a serious illness. Devoted to caring for children with chronic diseases and giving support to their families, she was shocked and unprepared for the massive de-emphasis on patient care that had been fostered by health plans. Linda realized that her commitment to people had not changed nor had the needs of such children—what had changed, and changed for the worse, was the indifference to patient suffering held by the managed care system. She realized that in order to care for sick patients and their families in the 90's, there is, and was going to be, a constant controversy with the managed care bureaucracy involving patient referrals, treatment authorizations and, above all, the daily need to appeal treatment decisions lost, delayed or denied by their patients' health plans.

As if also in microcosm to what other private medical practitioners face, this office "busy work," in addition to the requirements of providing necessary medical support to sick patients, has created enormous frustrations among health care providers as well as increasing the costs of running a practice. Conversely, reimbursements from health plans have steadily diminished, regardless of the severity of the patient's illness or the increased amount of physician and nursing time expended.

Additionally, in her dual role as nurse and office administrator, Linda works daily to insure that patients receive the appropriate medical care they need and deserve without suffering the indignity and humiliation of having their health plans ignore, delay, or deny health care that is not only medically necessary, but for which the patient has already paid insurance premiums. This endless paper shuffle mandated by managed care without its cost cutting mentality further decreases the amount of time that a nurse can devote to patient care. This dilemma has driven competent and caring paraprofessionals from the medical field in droves, thereby further weakening the overall quality of medical care needed by patients nationwide. The resulting upswing in poorly trained, undedicated office personnel hired to replace the nursing flight has created a hemorrhage in medical care delivery which, if not stopped, will hasten the demise of American medicine as far as any vestige of quality of care which still remains.

Patients must not be considered commodities to be bartered by health plans. Payors must be held fully and judicially accountable wherever their pressures on physicians to curtail tests, delay or deny treatment plans, or by clogging the wheels of medicine with mountains of paperwork cause patient harm. Therefore, Linda Self, speaking as a mother, a patient, and a nurse brings her experiences to the House floor and adds her plea to those of Dr. Self and Mr. Zaremski to bring dignity and salvation to the practice of medicine.

Those in the House, listen, as we have done for years, to the voices of the grass roots populace when they cry out for help and relief from a medical system that harms, not heals. Read, if you will, the numerous e-mails and other written communications from viewers of the ABC "20/20" program on Dr. Self and other well wishes after he and his wife's historic jury verdict, which we have included as a attachment to this letter. A sampling of quotations from these communications (emphasis added) follows:

"As an R.N. I have had similar experiences as Dr. Self concerning HMO's. He is the type of doctor HMO's do not want, since he actually takes enough time for each patient, and does the right thing. A warning to all patients: do not choose an HMO if you have a chronic or rare illness! They will hasten your demise; they are Goliath and you are David. . . . Until patients become better-informed and less passive about their health care, and until doctors start standing up, like Dr. Self, HMO's will continue to run over the patients they are supposed to serve."—Sheryl W. McIntosh.

"Your August 6 piece on Dr. Self who was fired for ignoring his group's bottom line and putting his patient's needs first was excellent. This is happening more frequently than people realize. Only when people have access to information like you provided—or when they get sick and learn firsthand—do they realize how corporate managed care has affected American lives. I hope you will talk to other medical caregivers and deal with other facets of this complicated problem."—Francis Conn.

"This might be just the tip of the iceberg. Our health care should not be treated as a commodity, i.e., something to make money on at your or my expense. Neither should it be a political football where the vote goes to the place with the most political donations . . ."—James A. Eha, M.D.

". . . At first HMOs were VERY good but every single year that passes it get volumes worse. Now, it is so hard to get a referral, a prescription, a test or an office visit. . . . My husband has to take off work because you have to take the appointment they give you. . . . They make it nearly impossible to get care. They have those drug lists that they are always changing so the doctors are changing your meds all the time making you very sick. They do not allow doctors to do their jobs . . ."—Diann Wolf.

"An identical story happened . . . with my brother who is a family practitioner. . . . He dealt mostly with AIDS patients and the HMO found that to be too costly. He and his fellow practitioners in his office decided to leave the medical practice and regroup mentally to figure what to do. They had spent many months without pay at all due to the methods of saving costs by the HMO. . . . and just so the HMO's could make some money, good doctors are leaving the profession."—Michele Drumond.

". . . For the past 11 years I have cared for people in long term care. . . . just imagine the lack of incentive there is for good care of the elderly or disabled. Many newer meds are not covered as they are not cost effective . . . patient loads rise but staffing does not, rules and regulations of documentation rise, staff does not nor does equitable pay. The diagnosis to dollar mentality is ripping the caring soul and commitment out of medicine. Everyday I ask God to give me both compassion and wisdom in my job, but my soul feels that the battle of excellence in care and cost will always be won by cost. I feel called to this job, and just have to do what I do the best that I can, but NEVER would I want any of my four children involved in direct patient care, the physical, emotional and psychological load is becoming too great!! I strongly believe we will see life expectance decline . . ."—Barbara Harland, RN.

". . . I work for a doctor's office . . . I do all referrals, authorizations and surgery precerts for our patients. It has become a nightmare to approve any surgeries without going thru the third degree for patients.

They can't begin to realize what we in the "field" go thru to get these things approved . . ."—Susie Wallace.

"'There are men too gentle to live among wolves' to a gentle and courageous man & woman [Tom and Linda Self]."—Brian Monahan.

". . . It is a great irony that, after a generation of tremendous growth of our knowledge and our ability to care for patients and diseases in a manner far better than we ever could before, greedy companies are seeking to limit our doing so. . . ."—Herbert J. Kauffman, M.D.

". . . I deeply respect what you've accomplished and appreciate the way in which your victory benefits patients and those of us who choose to treat patients according to sound clinical decision-making versus adherence to the masters and dictates of those more concerned with profit than quality patient care . . ."—Robert Alexander Simon, Ph.D.

". . . Seven years ago I was hired as a homecare Social Worker. . . . Then, managed care entered the scene—frequently denying approval for a social-worker's services. Since urgent social worker intervention was often necessary with our patients, there were many times that I was dispatched to the patient's home to provide emergency services . . . only to later receive a "denial of payment" from the managed care company . . . [Hospital] required me to find any excuse possible to visit those patients whose insurance would pay, and would cram as many patients as possible every day into my schedule. It was all so very, very wrong. For months this unethical practice tore me apart—and eventually made me very ill. I quit my job. . . . I had been forced to compromise my ethics in order for [Hospital] to maximize their profits. I applaud your courage, and I just wanted you to know that I am proud to be the parent of one of your patients."—Ruth Bronske.

"You stood tall for yourself and set a perfect example for the rest of us. I am so pleased."—George Jackson, M.D.

". . . Congratulations on winning your lawsuit! Truth always comes out triumphant. Hopefully the HMOs . . . of the world will put the patients' interest first and the bottom line at the bottom as it should be from now on. . . ."—Faith H. Kung, M.D.

". . . Dr. Self stuck his neck out and he lost his job, but he stood up for what he believed in and hopefully other doctors will do the same. He should be commended for what he did. I hope . . . that if something really bad ever happens to me and I need tests run or extensive surgery done, the doctor better not look at what kind of insurance I have rather than giving me the best medical attention I need that could save my life . . ."—Kim Lewis.

". . . I have quit the medical field in the past month because medicine is no longer about patient care and needs. It is only about how much money can be made off of them. Thank you for letting me see it is not just the employee that is affected!"—Linda Copp.

As a legislator, you can therefore appreciate first hand, the anger, frustration, and hopelessness expressed by your constituents such as what we have quoted above. Then, recall the quote by Margaret Mead, "Never doubt that a small group of dedicated people can change the world. Indeed, it is the only thing that ever has." The "rank and file", the grass roots populace is, we think, what Ms. Mead had in mind when it comes to health care in our country.

The third major thrust of our letter pertains to the three of us having seen and heard the disingenuous expressions of opponents of what patients really need and which is embodied in the Norwood-Dingell bill. First, we have heard that lifting the ERISA preemption will cause employers to terminate health plans for their employees, that lifting this so-called shield will cause premiums to increase and that trial lawyers will gain an avenue to sue. To all of this, and with all the passion we can muster, we say, "absolutely not!"

First, ERISA, enacted in 1974, had nothing to do with shielding managed care plans from accountability for their medical decision-making process. There has never been anything in the legislative history on ERISA having to do with this subject. The American Bar Association, not known at all for representing trial attorneys, voted last February 302–36 to lift the ERISA shield.

Next, allowing for accountability by health plans to patients, as contained in H.R. 2723, provides for real equity in distributing responsibility to all those persons and entities involved in the medical decision-making process. This does not mean increased or additional litigation! The liability exposure to managed care entities that would exist with removal of the ERISA preemption shield will force these entities to insure improvement in patient care, by, for example, not allowing clerks to override physician treatment decisions, providing a review process to all treatment denial determinations, etc. As a result, the number of bad-outcomes leading to litigation will likely decrease, leading to less litigation. And where bad-outcomes do occur, allowing direct suits against health plans will not create more lawsuits, but will rather lead to roughly the same number of lawsuits—with one additional defendant. This one additional defendant will better allow a trier of fact to equitably distribute liability to the persons and entities responsible for the harm. In the end, there are fewer bad-outcomes, less litigation and better equity in the distribution of fault.

Alsi, realize that H.R. 2723 provides for accountability and responsibility of health plans according to state laws. State courts are where this area of responsibility and accountability for health plans should reside. For example, if your state has "caps" on the amount of money that an injured person could receive, such as in California, then those caps would equally apply to exposures faced by health plans.

And if the Texas state statute on holding HMOs responsible is any example, fears of increased litigation are totally without any basis in fact. In the three years since that state's law was enacted, there have been less than a handful of cases filed against health plans in that state. Also, in joining with Georgia legislators, the California[1] state assembly of 80 members (overwhelmingly) passed legislation recently providing that HMOs can be held accountable for their medical decision-making. On September 27, 1999, Governor Grey Davis signed into law this legislation, and, in so doing, stated, "It's time to make the health of the patient the bottom line in California HMOs."

In conclusion, we implore each and every one of you to do the right thing. Vote your conscience by voting for the rights of each and every American who has been, or will be, a patient in our health care delivery system. Remember that a person's health is unlike anything that can be bought, traded, negotiated or sold. Don't hold hostage human sickness and injury to a "bottom line" mentality. Keep in mind the words of a colleague in medicine who wrote Dr. Self after his jury verdict, "The rewards of being a doctor are largely measured in identifying what is best for the patient and then having to do what one believes is correct and best for the patient." Again, we reiterate the quotation by Mead: "Never doubt that a small group of dedicated people can change the world. Indeed, it is the only thing that ever has." In passing H.R. 2723, each one of you will heed her message, and, accordingly, insure that the tendrils of greed and disregard for legal accountability in managed care will no longer be able to find fertile soil in which to take root and grow.

Thank you.

Sincerely,

THOMAS W. SELF, *MD, FAAP.*
LINDA P. SELF, *RN, BSN.*
MILES J. ZAREMSKI, *JD, FCLM.*

This particular legislation gives tax benefits to the uninsured, but nearly two-thirds of the uninsured population are in the 15 percent tax bracket, which means they only receive a 15 percent relief. We are talking about poor people, working people, Mr. Speaker, who cannot afford any sort of excess funds to buy the insurance and then others are already on Medicaid. This is an important issue to ensure that those who are uninsured get health coverage.

But, Mr. Speaker, we need deliberation. We need hearings. We need the opportunity to do the right thing. Let us just vote for the Norwood-Dingell reform bill.

Self-employed taxpayers may deduct payments for health insurance. The deduction cannot exceed the net profit and any other earned income from the business under which the plan is established. It is not available for any month in which the taxpayer or the taxpayer's spouse is eligible to participate in a subsidized employment-based health plan.

These restrictions prevent taxpayers with little net income from their business, which is not uncommon in a new business, or in a part-time business that grows out of a hobby, from deducting much if any of their insurance payments.

What about the 12.5 million people who do not pay income taxes? What about the 12.5 million who work on low wage jobs, those who do not make enough for health coverage?

In 1996, close to 33 percent of the U.S. residents were living in poverty or near poverty. Twenty percent of all households had incomes below $14,768 per year. Among the near poor, those who work on low wage jobs, 35 percent of all men and 29 percent of all women are uninsured. Whites account for close to 27 percent, African Americans account for 55 percent, Hispanics account for 60 percent and Asian Americans account for 31 percent of the uninsured.

What about the woman who called my office last week who had cancer and congestive heart failure? She was dropped from her insurance when she became a widow. She was worried about the high cost of her prescriptions that she is unable to afford. She was worried because she receives samples from her doctor and she wonders how long his good will can last.

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[1] California is said to be the "birthplace" of managed care.

What about the Hispanic family with several children? Although both parents work, they do not make enough to afford health coverage. One of the children has developed a serious illness and needs to be hospitalized. The child cannot survive without the operation and the parents cannot afford to pay for it.

What about the woman who just discovered a lump in her breast. She is nervous because of the lump, but she is more nervous because she has no health insurance. She cannot go to a doctor for screening and she cannot afford a mammogram.

What about the man who went to the emergency room because he became ill and discovered that he had diabetes? In addition to the bills he accumulated because of his hospital stay, he also has to pay for insulin and other supplies to manage his condition.

These are the people that need our help. These stories only represent a few of the people that need access to health insurance.

Like many of my colleagues, I received many letters from businesses in support of this bill. I am sensitive to the needs and concerns of small businesses. I understand the various costs associated with running a small business and I respect the entrepreneurs that want to provide health insurance to their employees.

Many of these employers want to do the right thing. However, this bill does not benefit the small business owner, nor does it benefit the employees. This bill will only benefit the insurance companies and wealthier Americans.

I urge my colleagues to vote against this bill. We need to go back to the drafting table to come up with a better plan for these 44 million Americans. Let's offer some real reform for those working families and their children.

Mr. CLAY. Mr. Speaker, I yield the balance of my time to the gentleman from Tennessee (Mr. FORD).

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Tennessee (Mr. FORD) is recognized for 1 minute and 20 seconds.

Mr. FORD. Mr. Speaker, although I applaud the Republican realization that improving access to health care is vital to all Americans, I must oppose the bill.

The Census Bureau, as we all know, has reported that more than one million people last year, and now the number is up to 44 million people, are without health insurance. In my State of Tennessee, close to three-quarters of a million people are without health insurance. That amounts to about 15 percent of the State's population.

As a healthy 29-year-old male with a comfortable income, I would be eager to set up a medical savings account, which is one of the features of this proposal put on the floor today. However, this would help far too few of my constituents. It would hurt the poorest working people who have plans with the smallest deductibles. Eleven million children nationwide are without the basic care afforded to prison inmates in America. The most disproportionate groups of Americans uninsured were women and the working poor.

The Republican access bill does nothing to alleviate the problems of the working poor and children have in gaining health insurance. The main provision of the access bill is an expansion of medical savings accounts. This assumes that those without health care have enough money to save or are healthy enough to wait for interest to accrue.

The access bill also contains two other troubling provisions, the Associated Health Plans and HealthMarts. Each would allow insurance companies to bypass State laws and regulations, allowing plans to select the young and the healthy from the State-regulated markets. This would drive up the premiums for the sick and the old.

This $48 billion, which my dear friend says this will cost, again represents another raid on the Social Security Trust Fund. The $792 billion tax scheme they are attempting to pass cannot be paid for without dipping into the trust fund, and neither can this.

Mr. TALENT. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this is about people who do not have health insurance. Let us remember who they are. Three-quarters of them work for small businesses or they are dependents of people who work for small businesses or they own small businesses. They are our friends. They are our neighbors. They are people who have been down-sized by big companies and who have had to go to work as consultants. They are people who have retired from companies who are not old enough yet for Medicare. They are people who have histories of illnesses, and they cannot get insurance on the individual market unless they want to pay $1,000 or $1,200 a month.

I bet everyone in this room is somebody like that or knows somebody like that. We know who the uninsured are. And we can help them. We can help all those people who are working for small businesses that cannot afford to provide them with health insurance or cannot afford to provide it at a cost that they can afford, and we can do it with Association Health Plans that allow small businesses to pool together just the way big businesses do and buy health insurance for groups of thousands and thousands of people across this country, with all the efficiencies that that means, without the insurance companies' marketing costs and the profit margin and with the efficiencies of a big pool.

We have studied this bill a number of years. We passed it in the House last year. We can make a difference for people who desperately need to have us make a difference for them.

What are the reasons given for not doing this? It costs too much. Well, the Associated Health Plans do not cost the Government anything. The rest of the bill costs $8 billion over the future 5 years. We paid $20 billion in agricultural relief over the last 2 years. I supported that. I thought that was important.

Everybody in this House, the White House, and most of the people here want to pass a tax cut of at least a couple hundred billion dollars. So we cannot spend $8 billion helping the uninsured? We cannot afford not to help these people who are sick.

The Association Health Plans are not safe. The reserves are not high enough. We met every objection of the American Academy of Actuaries. These are going to be fully regulated by the Department of Labor or by the States if they want to. The insurance companies do not like it. No, the insurance companies do not like Association Health Plans. We will have to live with that. It increases costs to small businesses and farmers.

Tell that to the coalition of 90 small business people and farmers who support this bill because they know it will reduce their costs and enable them to make health insurance available.

It is only for the healthy. Mr. Speaker, it is precisely the ill people who want to get in big groups. That is why they like to work for big businesses. They are the ones who will be benefited by Association Health Plans.

And then the one I cannot understand more than any of the others: it is only for the rich. Only the rich people are going to benefit from this.

Well, tell that to Lasette Lopez, who my friend from California talked about. Her mom is a migrant worker. She got a heart transplant and she is alive because of a State Association Health Plan. I do not think she is rich. Tell that to Linda Welch-Green, a report in the Baltimore Sun today, who works as a cashier at a garage. She would be able to get her health insurance under this and get her Bell's Palsy taken care of. She is not rich.

Let us forget about those tired old arguments, the old class envy thing that gets brought out every time we try to do something good for America. Let us help these people. This is the only opportunity we are going to have to do that. It is a real opportunity. We have studied it long enough. We passed it last year. Let us pass it now and send it over to the Senate and insist that they do something for our friends and our neighbors who do not have health insurance and face the risk of illness every day without it.

Mr. STARK. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I do want to remind my colleagues that this bill is the penultimate waste of taxpayers' money.

The Joint Committee on Internal Revenue Taxes, a committee run by the Republican majority on the Committee on Ways and Means to estimate the cost and benefits of tax bills, has estimated that there will be a grand total of 160,000 uninsured individuals who could possibly benefit from this bill, 160,000 people, I say to the gentleman from Missouri (Mr. TALENT), at a cost of $48 billion over 10 years.

Mr. Speaker, would the gentleman from Missouri (Mr. TALENT) like to respond to a question?

Why does he think it is so important to spend $48 billion to help 160,000 people? Because that is all this bill does.

Mr. TALENT. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Missouri.

Mr. TALENT. Mr. Speaker, there are 44 million people who are uninsured.

Mr. STARK. Mr. Speaker, reclaiming my time, but according to the Joint Tax Committee, only 160,000 people who are uninsured will receive any benefit.

Mr. TALENT. Mr. Speaker, if the gentleman will continue to yield, the Association Health Plan provision in the bill about which I just spoke will, conservatively speaking, provide health insurance to 48 million people who currently do not have it.

I would say to the gentleman, if there is a chance that this bill can provide help for these people, it is a chance that we ought to take. I would ask the gentleman why is he not willing to do that on behalf of these people.

Mr. STARK. Mr. Speaker, I am not willing to waste $30,000 a year per family to pay for it because the insurance is not worth that much. This is squandering the taxpayers' money. I will repeat what the Joint Committee on Taxes has said.

□ 1545

That the total people benefiting from this bill, while there will be 12,400,000, all of them already have insurance. There are only 160,000 people who are eligible who are uninsured.

So we are spending, I just want to repeat, we are spending $48 billion to help 160,000 people. They may each insure two people so to give my colleagues credit, I will say it is 320,000 people. That is a cost of $15,000 a head, $30,000 a family, for 10 years. My colleagues could buy them a hospital and a doctor for that kind of money.

The Republicans just do not know what they are doing. They are squandering the taxpayers' money.

I just want to remind everybody, $48 billion to help, according to the Committee on Ways and Means, Republicans-controlled Joint Committee on Taxation, there are only 160,000 people who are uninsured who qualify. That is ridiculous.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the House prepares now to consider legislation on liability and lawsuits, it is important that we consider that there are 44 million Americans who lack even the basic coverage of today's health plans.

What we do in this health access bill will keep many of them from falling into the uninsured. It will, furthermore, qualify more and more people who work, who are self-employed to be able to have access to plans. It will level the playing field within the Tax Code for everyone.

The gentleman from California has just said we are squandering the taxpayers' money. Far more billions of dollars are going out for the deductibility of employers who are providing health insurance today. They get a tax deduction. Why should only the employer get a tax deduction? Why should not the self-employed get an equal tax deduction? And why should those who pay their own premiums, without the benefit of an employer's program, not also get a deduction?

This is equity within the system, as well as making insurance more affordable for all of those people.

This bill also is not just about that type of insurance. It is about long-term care, which is a medical concern of a different sort for more and more millions of Americans, and greater access to long-term care, helping those people who are taking care of the elderly in their own home by giving them an extra tax exemption.

Now, the gentleman from California says that is squandering the taxpayers' dollars. I dare say to those families who are taking care of the elderly in their homes, that to get a little bit of tax relief is certainly not squandering the dollars that are coming in to Washington.

The 44 million people will increase that are uninsured unless we address the barriers to access. This bill is a first step to do that. It is not the ultimate answer, but these barriers are preventing Americans from getting affordable care at a rate of nearly 1 million a year; and, frankly, all the lawsuits in the world will not add anything to help a worker struggling to buy health insurance for his or her family or struggling to maintain their elderly in their own home.

The best patient protection of all is health insurance, and our plan is the only one before the Congress that helps families get the coverage and the care that they need.

Our plan is based on three fundamental principles: Affordability, accessibility, and individual choice. A major source of America's frustration with HMOs is a lack of control, which both patients and doctors feel. Patients want to be able to pick up the phone and get an appointment to see their own doctor. Doctors want more time with their patients and to treat them as they see fit.

Answers to these frustrations, however, are found when we empower people, not lawyers. Our plan helps make health care available and affordable for every generation. Baby-boomers caring for elderly family members at home will get help from our tax breaks, as I mentioned. We even help them plan for their future and the long-term care that they may need through deductions for the purchase of long-term care health insurance.

A new family will also get help with its health insurance costs, costs that have outpaced average household income last year by nearly two-to-one. And small businesses, which create 95 percent of new jobs, will benefit with accelerated deductions for the self-employed, so start-up companies can offer competitive benefits to attract and retain the best workers.

Finally, nothing embodies the vision of choice and accessibility more than medical savings accounts. Expanding MSAs will give consumers more control over their health care dollars, offering them the freedom to consult any doctor they choose to lower their deductibles or premiums and to save any unused funds for future health care expenses. With MSAs' patients and not insurance companies, not a third party payer, controls the choices. There are no gatekeepers, and there are no middlemen.

More Americans are using medical savings accounts because they put patients back in charge and not insurance companies. In fact, 28 percent more Americans opened MSAs last year. That means that thousands of Americans who previously had no health insurance are now covered because of MSAs, and that is our top priority.

By the way, this is $9 billion of revenues over 5 years, not the $50 billion that we have heard over and over again from the other side. After all, the House budgets only for 5 years, and they have been prepaid by the American people in the form of a projected surplus that will be close to $300 billion over the next 5 years; $8 billion out of $300 billion, and that is all according to the Congressional Budget Office.

Are Democrats now saying that they are not for any tax relief whatsoever, even to help low- and middle-income Americans get health insurance? Are they opposed to giving some relief for those caring for their elderly relatives at home?

I would remind my colleagues what Senator BOB KERRY, a Democrat, said, and I quote, to suggest that we cannot afford to cut taxes when we are running a $3 trillion surplus is ludicrous, unquote.

In closing, let us not lose sight of the real health care problem facing Americans and their families today: Lack of the most basic patient protection of all through health insurance. And while accountability in health care is an important aspect of the managed care debate, there are 44 million reasons why Republicans are broadening the focus to include affordability, accessibility and individual choice. Americans want more ambulances, not more ambulance chasers, and they want to spend more time in front of their doctors and not in front of a judge.

This bill is the right kind of health care reform, and I urge a "yes" vote.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wonder if the gentleman from Texas (Mr. ARCHER) would indulge me and respond to a question. I had stated that over 10 years this bill would cost, just for the tax deduction, $31 billion.

The gentleman is quite correct, for 5 years it would cost less, but in the outyears the cost goes up.

Is it not correct that there would only be 200,000 uninsured people, or 100,000 insured individuals, policyholders, who would benefit from the tax, according to our own Joint Committee on Taxation?

Mr. ARCHER. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Speaker, the gentleman appears to be quoting the Joint Committee on Taxation for his numbers, and I have requested the Joint Committee on Taxation to give me the basis of that, and they say they have no knowledge of that. So there is some misunderstanding relative to those figures.

Mr. STARK. I will be glad to share with the gentleman those figures, and perhaps we can discuss it later.

Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. RANGEL), the ranking member of the Committee on Ways and Means.

Mr. RANGEL. Mr. Speaker, I think the whole country now knows the substance of the bipartisan bill, the Norwood-Dingell patients' rights bill. I think all over, people are saying that the patients' rights should be determined by physicians and when that does not occur and when there is liability that they should have the right to sue.

I think that there are enough people on the other side of the aisle that have decided that this was the right, this was the decent, and this was the moral thing to do.

I think that both the majority and minority have come to believe that now the majority of the Members of the House were going to vote on the Norwood-Dingell Patients' Bill of Rights, and every editorial indicated it would pass and the President would sign it into law.

We wondered what little tricks anyone could come up with; what could they possibly do and what could they pull out of this hat of tricks that they manage to come up with from time to time? They could spread EITC further and not give the poor folks what they are entitled to when they work every day. They could look for the thirteenth and the fourteenth month. They could start determining that everything that came up they could not pay for was an emergency. But we never, never, never thought that they would just pull out of the hat a tax bill that never came out of the tax-writing committee.

I say a tax bill that never came out of the tax-writing committee because I am led to believe that the provisions that are in this health access bill came out of the conference the Joint Committee on Taxation had, that is the Republicans had, and that no Democrats were involved in it, except to vote against it.

So why would they take a bipartisan bill that Republicans have worked hard on and try to attach this poison pill to it, knowing that it is not paid for? It can be said that it is $9 billion, it is $12 billion; it can be said that it is not $40 billion or $50 billion, but if the President has promised that if it is not paid for he is going to veto it, then I guess the only answer to the senseless, committeeless bills that have come out to the floor from either the Committee on Appropriations or the Committee on Rules is that the majority has decided that it really does not intend to legislate at all. What it intends to do is to send out political statements so that the President of the United States can fulfill his commitment to the American people and to veto those bills that are not funded.

It is not fair. It is not fair to do this for a bill that my colleagues know we have the votes to pass in the House of Representatives.

Mr. ARCHER. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Speaker, again I find myself on the floor in another debate about freedom, the basic principle of democracy. To debate over freedom means to choose the quality health care that one wants.

This bill permits all individuals access to health care by expanding medical savings accounts. Medical savings accounts allow all Americans to have the freedom to choose their own doctor and decide, with their doctor, what sort of medical care they need.

My colleagues will notice that medical savings accounts have been expanded by more than 28 percent last year. We need to allow them to choose. The best way to provide health care to every American is not to add government regulations but to lift the regulations that prevent people from getting quality care.

I believe the path to good medicine and health care should pass through the doctor's office, not the lawyer's office.

I think that it is important for us to help people learn new innovations, and this bill also contains a medical innovation tax credit which helps our teaching hospitals and research facilities continue their fight to find cures for deadly diseases such as cancer.

The American people have said they want control over their own health care. The answer to this problem is to give every American the freedom and control to choose their own doctor and medical savings accounts, and this legislation will do just that.

□ 1600

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, let me thank my friend from California for yielding me this time.

Mr. Speaker, every Member here is concerned about the rising number of uninsured Americans, now more than 43 million; and we recognize that steps must be taken to address this problem. But H.R. 2990 is not the answer. This bill does very little to reduce the number of uninsured. Instead, its sponsors are proposing a new set of tax breaks that would help those that are least likely to be currently uninsured, as my friend from California pointed out.

It also contains many provisions that will hurt us in covering people with insurance. The Health Association Plans that the sponsors brag about, there is a reason why the National Governors' Association and the National Conference of State Legislators are opposed to it, for it preempts these plans from State reform. Under the guise of helping small business be able to find health insurance, instead what we are doing is preempting State reform.

And I could tell my colleagues in my own State of Maryland we have a small market reform; it is working. Small employers can find affordable health insurance. If we pass this provision, we have destroyed the Maryland small market reform, and we are going to have less people insured by small employers in our State if that provision becomes law.

But let me tell my colleagues the real reason, the most important reason, why we should oppose this effort. If we want to pass a patients' protection bill in this Congress, if we want to provide help to our constituents from the practices of HMOs, then we need to defeat this bill. The unfair rule that we are operating under marries this proposal with the Patients' Bill of Rights, and if this becomes part of the Patients' Bill of Rights, it is much less likely that we are going to enact a Patients' Bill of Rights in this Congress. That is why this rule was passed in the way it was, and that is why this bill is on the floor today.

Mr. Speaker, if we are serious about expanding access, let us work together to do it. This bill will not do it. I urge my colleagues to reject it.

Mr. CRANE. Mr. Speaker, I yield 1½ minutes to our distinguished colleague from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank my friend from Illinois for yielding the time, and I thank my friends on the left for offering a clear choice today, because really this comes down to a simple question: Who do you trust in terms of health care?

One of the reasons I left private life and ran for public office is because those on the left favored big government to run health care, take power out of the hands of patients, put that power in the hands of Washington bureaucrats, and that is being reaffirmed, Mr. Speaker, even while those on the left offer their incisive legislative analyses of why there is a poison pill attached to this.

Mr. Speaker, how on earth can putting power in the hands of patients to choose the doctors they want through medical savings accounts, how on earth can that freedom be regarded as a poison pill?

I rise in strong support of this legislation, mindful of the fact that nearly one-quarter of the population of Arizona is uninsured, and I wish my friends in the minority would come with me to Show-Low, Arizona, to hear the people of that town say give us medical savings accounts, give us the ability to choose health care for ourselves, we need that help; and I wish they could hear the pleas in the town hall meetings I attend where the self-employed say give us 100 percent deductibility on health insurance, the same provisions the big boys have.

That is what this legislation does, and association plans, it is interesting to hear my friend from Maryland, they cannot have it both ways.

Mr. Speaker, if my colleagues want to federalize health care in one arena and then criticize accessibility to insurance through Association Health Plans, there is something there that cannot be reconciled.

Stand for the people, stand for freedom, stand in favor of this legislation.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

I suspect, Mr. Speaker, that the gentleman from Arizona, like myself, gets his health insurance from the Federal Government, and I do not hear him complaining about that.

Further, Mr. Speaker, I would just like to remind my colleagues that at a cost for these 200,000 uninsured people of 15,000 a year, the Speaker would have to have a breakfast to raise money from lobbyists several times to be able to get enough money to pay for the cost of this health plan.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, this so-called access bill is in truth a smokescreen, so flimsy that it is easy to see through. Its main effect would be to sink Dingell-Norwood, not help the uninsured. It is about access of the majority to special interests and their access to the majority far more than it is about access of 45 million uninsured to health insurance.

Mr. Speaker, that is clear because, number one, according to the analysis of the joint task committee, and I am sorry the chairman of the committee is not on the floor; here is the letter dated October 6 from the Joint Committee on Taxation that is under the control of the majority. It says that this bill would help 160,000 taxpayers, only 1 percent of the uninsured. Ninety-nine percent of the uninsured would be left high and dry while giving a tax benefit to those already insured, and the higher one's income, the more would be the tax benefit.

Number two, it is not paid for, and it is going nowhere.

Three, the majority have refused to allow the minority to present an amendment to pay for the cost of Dingell-Norwood. They say they are doing that because the amendment would not be germane. What is not germane is the inability and unwillingness, not the inability, but the unwillingness, of the majority to make this amendment germane. The majority claimed there was no consideration in committee of the Democratic paid-for proposal, but all but two parts of it were in the Republican tax bill that passed this House, and the other two were in a proposal presented in the Committee on Ways and Means by Democrats.

The best answer is a large vote for Dingell-Norwood and place the Republican leadership in a quandary as to what to do next to thwart the will of the American people. Let us give a resounding vote to Dingell-Norwood.

Mr. CRANE. Mr. Speaker, I yield 1½ minutes to our distinguished colleague from Washington (Ms. DUNN).

Ms. DUNN. Mr. Speaker, I rise today in support of the Quality Care for the Uninsured Act, a bill that will address the most critical issue facing our Nation's health care system today, that is, the issue of access. The total number of uninsured Americans in the United States today is 44 million people, 706,000 people in my home State of Washington. As we proceed with this debate, we must remember that maintaining the world's finest health care system is a balancing act. How do we sustain the quality of health care that most Americans enjoy and still extend the benefits of that system to those who lack coverage?

The first principle we must accept is that the marketplace, not the Government, must be the focus of our support efforts. Our health care system is the envy of the world, and American businesses, hospitals and researchers are on the forefront of medical innovations that are bringing a better quality of life to the people of the United States.

In my home State of Washington hundreds of companies are researching new ways to combat illnesses through biotechnology, through new medical devices, and through automated testing. Many of these treatments will be the foundation of a new health care system, one that increasingly relies on groundbreaking technology to replace traditional treatment methods. We must not overly burden this system with new costs that will lead to more uninsured Americans or redirection of precious resources away from investing in critical new technologies. Helping people purchase private-sector insurance is the most important first step we can take to improve our system.

Mr. Speaker, the American people need access to coverage that keeps them healthy more than they need mandates to government. Please support this bill.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, on the way in here I met a reporter from one of the major newspapers that said what is going on up on the floor? Why are they adding that access stuff to the perfectly good bill that the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Iowa (Mr. GANSKE) put together? I said, well, they are just trying to avoid for one more time addressing the issue of the uninsured in this country.

This bill will do absolutely nothing. Less than 1 percent are affected at all. If my colleagues were serious about the tax break, they would make it a refundable tax break. The gentleman from California (Mr. ROGAN) and I put in a bill that said give a 30 percent refundable tax break, but they did not do that because they did not want to help the people on the bottom.

In the census data they talk about, they talk about people who make less than $25,000 in this country. One out of four is uninsured, and this bill does nothing for those people. So they simply are not serious about access.

Now I believe that the reason this is out here is because the polling must be real bad. They took all that credit for beating the President who wanted to give affordable health care that could never be taken away. They said we killed it; we are going to let the private sector take care of it. Well, Mr. Speaker, the private sector has now put them in the position where it is not 35 million who do not have insurance; it is 44 million who do not have insurance. That is why we have Medicare, my colleagues.

Forty-nine percent of seniors had health insurance in 1963. Today 99 percent of the people have it. They got it because we had a government program run through the private sector, private doctors, private hospitals, and what this bill will do; and I kind of hope it passes because I know it will fail because what they are doing is cutting up the insurance pool, and it is ultimately going to fail, and we are going to have more people uninsured.

The gentlewoman from Washington (Ms. DUNN) talks about it helping her State. There is no individual insurance available in the State of Washington. So if someone tries to buy it, they cannot buy it. We can have all the tax deductions in the world, and we will not get a single dime.

Vote no on this.

Mr. CRANE. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I rise in strong support of this package, and I will say some of the conversation from the other side of the aisle is suggesting if it is not my idea, it is not a good idea.

I happen to be a cosponsor of Norwood-Dingell, and I support this package. I have worked with the great Governor Lawton Chiles in Florida, and we came up with similar proposals when I was in the legislature. We talked about expanding access. There is a problem of uninsurability, there is a problem with fewer people becoming enrolled, and there is a crisis of cost shifting. Hospitals, uninsured, all these programs are helping to raise premiums because fewer are insured.

My colleagues, we can do both today. We can pass good health care legislation as prescribed by Norwood-Dingell, but we can also talk realistically about some tax cuts to make insurance more affordable.

Now the President goes out and campaigns on giving tax deductions for elder care, and from the other side of the aisle we hear applause. But if it is a Republican idea, it is stupid, it is bankrupting the system, it is too expensive.

My colleagues, let us stop the rhetoric. Let us help average Americans. Let us get out of this chamber, this echo chamber of hostility, and pass some real legislation. We do have a chance to do both today. Do not shirk from the responsibility and the opportunity.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to help 160,000 Americans to the tune of $48 billion. That is real help to the average taxpayer.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I rise today with great concern. I am deeply concerned that millions of Americans are without health care. I am concerned that parents cannot afford to take their sick children to see a doctor. Too many of us are more worried about insurance companies than patients' care. We are more concerned with managing liability than caring for those who are sick and weak.

This is not just, this is not right, this is not fair. Access to health care is a right.

Mr. Speaker, we need to pass a meaningful Patients' Bill of Rights. We need a bill that will hold insurance companies responsible. We need a bill that will give patients the right to sue in State courts.

□ 1615

We need to do what is right. Let us not jeopardize this remarkable opportunity we have worked so hard and so long to build. My colleagues, the people of America are counting on all of us.

Mr. Speaker, let us work together to pass one of the most important health care bills in our lifetime. Now is the time, not next year, not next month or next week, but now is the time to pass a Patients' Bill of Rights, without poison pills.

Let us do what is right. Do it for the American people. Do it for the 40 million without any health insurance, without health care. Pass this bill for the people. Pass the Dingell-Norwood bill.

Mr. CRANE. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, my State of Illinois saw its ranks of uninsured increase from 12.4 percent in 1997 to 15 percent in 1998. That is disheartening and unacceptable, and we want to see what this Congress can do to address the problem. We have before us today H.R. 2990, the quality care for the uninsured, which is intended to reduce the ranks of the uninsured.

Much to the disappointment of some of our colleagues on the other side of the aisle, it is not drafted to create a Federal takeover of our health care system. Rather, it is intended to help hard-working uninsured Americans afford health insurance for their families and it will solve the problem, at least better than it is being addressed today.

Will it do all? Probably not. But let us give it a chance. This bill contains provisions that our small business community tells us will go a long way in bringing more Americans under the protection of health insurance so they do not have to fear financial ruin as a result of a medical crisis.

I urge my colleagues to support H.R. 2990 and help the 44 million Americans who have been ignored for too long.

Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in strong support of the health access bill before us today. It is interesting, the Norwood-Dingell bill is not before us. We are talking about another piece of legislation that is directly focused on trying to cover more of the uninsured.

Just two days ago the Census Bureau told us that 44.3 million Americans now do not have health insurance in the years 1998 and 1999. That means there are about 1 million more uninsured since 1997.

That is disheartening, that in this time of relative prosperity we do have about 16 percent of our population without insured access to health care. That is what this bill is all about.

About 161 million Americans get their health care coverage through their employers, and, of course, many of those are small employers. We all know small business, self-employed people, typically operate on very tight margins, making health insurance very difficult for them to afford. And as we debate the managed care issues before us today, we have to be sure we are not increasing the ranks of the uninsured, by increasing the potential for liability, by increasing the Federal mandates, by increasing the costs and burdens of health care.

The essential provisions of this health care access bill will go a long way towards seeing that not fewer, but more Americans receive insured access to health care. That is why this is so important.

It has a lot of good provisions on the tax side. Taxpayers who pay more than 50 percent of the costs of their premiums that the employers are not picking up will now be able to deduct 100 percent of that premium cost they incur that is.

This is a good idea. Over 7 million people now need long term care insurance. We now think that by 2050 that number is going to be about 20 million Americans. This bill addresses this problem by providing individuals who purchase long-term insurance with 100 percent deduction.

Mr. Speaker, there are so many other good things in here that will focus on the issue of trying to get more access, including medical savings accounts, new drugs to find cures for diseases. This is the right prescription to making our health system work better.

Mr. STARK. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, over 44 million Americans do not have health insurance, yet this bill that we have before us by the majority wants to spend $48 billion to cover 160,000 of those 44 million Americans who do not have health insurance. It is also a bill that leaves the uninsured out in the cold, not just because it does not cover enough of them, it is because most of these tax breaks go for those who pay income taxes in large portions. So who is left out? Most of those 44 million Americans who are working poor, and, therefore, do not pay the substantial number of income taxes to get all of those tax breaks.

Who will benefit? The 160,000 people who benefit are those who are higher income individuals who can shop around and buy insurance already. It is an abusive way to try to spend money. It is an abusive way to try to give coverage. There are better ways to do it.

Perhaps the worst thing about this bill is it is fiscally irresponsible. $48 billion, not paid for, and, worse than that, somehow the math does not add up. The majority here is talking about doing an $800 billion tax cut. It is already overspending its appropriations bills for next year's budget by about $30 billion, and now we are going to pile on top of that $48 billion.

Explain to the American people where you get the money. You can only spend a dollar one time. You are trying to tell the American people you have a shell game going on and you can spend it lots of times.

Let us not pass this bill. Let us get real reform, and tomorrow let us get to the real work at hand, and that is to provide the American people with the rights that they demand. When they go to a hospital, they want to know that they have the best information, the best doctors, to get the best care, and if they do not get it, they deserve to go after whoever was responsible for not giving it to them.

Let us do the right thing. Let us get beyond this, defeat this, and get to getting to the Patients' Bill of Rights.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong support of this legislation to provide access to health insurance by the uninsured. The number of uninsured people has risen dramatically, a very troubling fact, given the economy, the low unemployment and poverty rates. Health insurance is a critical component of personal financial fitness and we should be doing all we can to help people afford health insurance. You can be for patients rights and for coverage of uninsured Americans.

This legislation provides tax deductions for people who pay 50 percent of the cost of health insurance and long-term care insurance. The GAO has said this will expand coverage to 40 million Americans, 25 million of whom are uninsured. Does it matter whether you help 25 million of the 43 million uninsured? You bet it does. And by making insurance more affordable, you can help them get into the health care system we all value and depend on.

We spend $100 billion in tax breaks for people who have employer-provided insurance, regardless of their income, so why should we not treat those who pay their own premiums exactly the same way? It is a matter of fairness, it is a matter of access to critical benefits, health insurance.

In addition, this bill expands availability to MSAs. I have visited a company in my district, a manufacturing company. These are working people, and they have chosen MSAs. They have a choice and they choose MSAs. Why? Because they can spend MSA dollars on dental benefits, vision benefits, home health care benefits, drug benefits, a far broader range of benefits than most employer plans provide, because they can spend those MSA dollars on anything eligible in the Tax Code.

Why would we not want to offer them that choice? Do we not trust them? I think it is terrific to have sure coverage. And the sicker you are, the better off you would be in an MSA, because once you meet that deductible and you can spend it on everything, then you get catastrophic coverage, and that is the best deal for a really sick person.

In addition, the bill provides new and more affordable choices for small businesses so they can offer coverage to their employees.

In short, let me say that this is a great bill, we should support it, and if we do not open up access, we need our heads examined, because that is the real problem out there. We can do Patients' Bill of Rights and access this week in this House.

Mr. Speaker, I am pleased to rise in strong support of this legislation that will help people afford health insurance. The number of uninsured people has risen dramatically over the past year—a troubling fact, given the growth in our economy and low unemployment and poverty rates. Health insurance is a critical component of personal financial fitness. We should be doing all we can to help people afford health insurance.

This legislation will expand access to health insurance. First, it will offer tax deductions for people who pay at least 50% of the cost of their health and long-term care insurance. At my request, the GAO has examined the impact of a health deduction and concluded that 40 million people would have been eligible in 1997 for a tax deduction for health insurance. Of these 40 million, 25 million were uninsured. We are currently providing over $100 billion in tax breaks to people who have employer-provided insurance regardless of their income. We should do no less for people who have to pay their own premiums. It's a matter of fairness. It's a matter of access to health insurance.

In addition to helping the uninsured through premium deductibility, this bill expands the availability of medical savings accounts (MSAs). MSAs are a preferred way for some people to cover their health insurance costs. I have visited a small company in my district that offers MSAs to their employees. I heard directly from the workers that they prefer MSAs because their health care dollars cover a far broader range of health benefits, better benefits than almost all employers provided plans—dental, vision home care drugs! And gain access to a broad range of doctors, instead of a narrow group covered through an HMO.

In addition, this bill provides new and more affordable choices for small businesses to offer coverage to their employees. Only 28% of employers with less than 25 workers offer health insurance. The main reason for small employers not offering health insurance is the higher costs they face. Their small size means they cannot spread the risk associated with a few unhealthy employees. They also face higher administrative costs.

If we are going to address the problem of uninsured Americans, we must help small businesses, which are one of the fastest growing employment sectors, afford to offer health insurance coverage. People working for small businesses account for 16% of the under-65 population, but 28% of the uninsured. This legislation will help small employers pool together to afford the cost of insuring their workers. It will also create access to health insurance and health care services for people in urban and rural areas by allowing community health centers to serve as insurance networks.

It is critical that we address the problem of the uninsured. CBO estimates that for every 1% increase in health insurance costs, 400,000 people lose their health insurance. If we consider managed care reform legislation without taking steps to increase access to health insurance, we are turning a blind eye to the 44 million Americans who have no health insurance option plus those who will lose their plans as litigation runs premiums up. Our efforts to improve health insurance quality must include equal commitment to increasing the number of insured Americans. H.R. 2990 takes these steps. I urge its adoption.

Mr. STARK. Mr. Speaker, in the interest of explaining how we spend $48 billion to give 160,000 people access, I yield 1½ minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I rise in strong opposition to this legislation. I do not do so because I do not agree with the goal of increasing access to health insurance. In fact, I support many of the individual provisions in this legislation.

I oppose this legislation because it is fiscally irresponsible to enact legislation that would cost nearly $50 billion, without paying for it and with no clear end game for health care in sight.

Congress should not consider any tax or spending legislation without knowing how it would fit within the context of a comprehensive game plan which balances all of the various health needs of all Americans at an affordable cost. Any decision to fund tax cuts or new spending out of the projected surplus should be made only after we have sat down in a regular committee process in a bipartisan way to make sure there will be sufficient resources for competing needs.

As important as the issue before us today is, we also have a responsibility to deal with the problems of Medicare that threaten rural hospitals, set more realistic discretionary spending levels, deal with the long-term problems facing Medicare and Social Security, and leave room for tax cuts for purposes in addition to health care.

This legislation takes the approach of spend first, figure out if we can afford it, given all the other demands on the surplus later. Some of my friends on the other side of the aisle argue they could not allow the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Michigan (Mr. DINGELL) to add an amendment paying for the cost of their bill that we will be considering tomorrow because it was not germane and did not go through the Committee on Ways and Means. I find it very curious we are now bringing up a $50 billion tax bill that did not go through the Committee on Ways and Means and which violates the budget rules. I do not understand that double standard that makes it easy to spend money we do not have and impossible to be fiscally irresponsible.

Mr. CRANE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania (Mr. ENGLISH).

Mr. ENGLISH. Mr. Speaker, in Pennsylvania in 1998, roughly 10 percent of the population did not have health insurance of any sort, and these were not just the indigent, they were small business people, they were self-employed, people who simply could not afford the premiums.

This legislation contains an element fundamental to any balanced debate on health care policy. It would make health care coverage more accessible, not for 160,000, for millions, and, in doing so, blunt the impact of any cost increases that might result from the imposition of health care quality standards.

American families are concerned about their health care. We in Congress must recognize that their concern relates to both the quality of health care and its cost. We cannot and we should not address one without the other.

Mr. Speaker, this legislation is not a poison pill for health care reform, but an essential ingredient to any balanced approach to health care policy. For those of us who support a market oriented incremental approach to improving our health care system, this represents an important step toward the goal of universal access to affordable care.

Mr. STARK. Mr. Speaker, I yield such time as he may consume to the gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Speaker, I appreciate the gentleman yielding me time.

Mr. Speaker, I rise in opposition to this legislation and in favor of the Norwood-Dingell bill, and at the same time to express the worry of Maine's citizens about the out-of-state health insurance companies taking away local control. I am looking forward to working with the gentleman from Georgia (Mr. NORWOOD) and others.

Mr. Speaker, I am very pleased to rise today in support of this bipartisan effort to guarantee minimum standards for access to care for all Americans. This legislation provides crucial protections and preserves the doctor-patient relationship.

Most importantly, this bipartisan bill will hold health plans accountable for their medical decisions. Let's be clear. When an insurance company overrides the decision of a medical professional, that plan is clearly making a decision affecting the health of the patient. This bill recognizes that simple fact.

This bipartisan bill empowers our citizens and assures them that at the very minimum, their relationship with their doctors—relationships built on trust—will not be infringed upon, no matter who owns the plan to which they belong. This bill is necessary in a climate where local control over health insurance is dwindling.

I am deeply concerned about this diminishment of local control which is evident in the current trend of consolidation of health insurers. I am particularly concerned about what this trend means for access to and quality of care for Americans in rura areas.

In my state of Maine, for example, regulators are currently reviewing a proposed merger that will dramatically change the health insurance landscape. If approved, Blue Cross and Blue Shield of Maine will be taken over by an ever-growing regional health insurer. People in my state, one-third of whom are covered under Blue Cross, are experiencing great anxiety about the coverage they will have under an out-of-state insurer with interests spread across the country. The citizens of Maine worry about whether large out-of-state health insurers will take away local control of their plan, reduce benefits while raising premiums, or cut back on quality care.

As the trend of insurance mergers and acquisitions continues, we in Congress ought to continue to review the effects this has on health care delivery and quality of care, especially in rural areas. Although this is not within the scope of this legislation, I would hope that we can soon look further into this trend and ensure that health care consumers' interests are being adequately represented. I hope that Mr. NORWOOD agrees that this is something we should revisit in the future.

I would like to thank Mr. NORWOOD and Mr. DINGELL for their tireless efforts to bring managed care reform and patient protection to the House floor. The American people are demanding change and accountability in this industry. This bill provides real protections for citizens and has the teeth needed to make these protections meaningful. I am pleased to be an original cosponsor of this important legislation, and urge my colleagues to support this bill and to oppose amendments that would weaken it.

Mr. STARK. Mr. Speaker, I yield the balance of my time to the gentleman from Georgia (Mr. NORWOOD).

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Georgia is recognized for 1½ minutes.

Mr. NORWOOD. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I have listened to this debate through all three committees, and I am looking for a place to hang my hat. I am very much for the access provisions. I am for medical savings accounts. I am for deductible of long-term care, of insurance. I am for HealthMarts. I even can live with Associated Health Plans if we will put just a little bit of patient protections under ERISA.

But I am not going to vote for this, even though I have a bill that I dropped in the spring that is just like this, because I have concluded, after listening to this debate, that this effort is not to have a law. This bill was not ever intended to be a law. This bill simply is intended to go to conference with patient protections to act as a poison pill, to make sure that we cannot pass those protections that we want.

I know my Republican friends. They would never put up a bill, whether it costs $50 billion, as some say, $43 billion, as others say, $8 billion, as others say, it does not matter, I know we would never put up a bill we intended to be law without trying to figure out how we are going to pay for it.

□ 1630

We are not going to raise taxes to pay for it. We are not going to dip into social security to pay for it. There is no excess in the Treasury, there is only excess of our FICA money. Maybe there will be next year, but this bill does not give us any assurances at all as to how it would be paid for.

This is a bill that can be passed out of the House of Representatives, but it is not intended to be the law of the land, at least not this go-round. Maybe at another time, another date, we can get that job done.

So I have to oppose the bill simply on the basis that it is a poison pill.

Mr. CRANE. Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. THOMAS), the distinguished chairman of the Committee on Ways and Means.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from California (Mr. THOMAS) is recognized for 2 minutes.

Mr. THOMAS. So, Mr. Speaker, it has come to this. If Members had a chance to actually look at the legislation and they had a chance to vote, let me ask the Members if they would be in favor of this: "Provide an above-the-line deduction for health insurance expenses if your employer does not pay for it."

That was in the tax bill that was sent to the President. The President vetoed it. We think it is important enough to bring it back. They said it had not been voted on. It has been voted on.

"Provide an above-the-line deduction for long-term care insurance." Would Members like to have that deduction? We want people to have it. We sent it to the President. He vetoed it.

Accelerate, for those who are self-employed, the ability to write off, like corporations, their health insurance, so people who are self-employed could have 100 percent coverage as well. It was in the tax bill that was sent to the President. The President vetoed it. We want people to have it. It is in this measure.

"Extend the availability of medical savings accounts." Young people who are not going to get sick maybe want to invest in their health, and if they do not spend the money at the end of the year, they can roll it over, but let them choose. That was in the bill that was sent to the President that he vetoed. We still think it is a good idea.

How about if we want our long-term care insurance to be part of a cafeteria plan, if one has insurance? It was in the bill vetoed by the President. We think we should have it.

How about if someone is taking care of someone in our homes right now, out of the goodness of their hearts and their kin relationship? Would they not like to have $1,000 deduction on the tax form? We believe we should have it on the tax form. We sent it to the President. He vetoed it. We think it is important enough to give it to the American people.

That is what this access bill is all about. It is access in ways people can use. We voted on them, we sent them out of the House, we sent them to the President, and he vetoed it. The problem was, it was in a larger bill that contained a number of other items. Now, these are very specific access issues for people. We think they are important enough. They stand alone. The American people should get them. If we vote for this, they will.

Mr. SANDLIN. Mr. Speaker, the Republicans are again playing games with the American people. They are telling the public what they want to hear, hoping no one will read beyond the title of their bill, the Quality of Care for the Uninsured Act.

Well, Mr. Speaker, I read the bill and it doesn't provide access to health insurance to those who need it most. According to the General Accounting Office, nearly one-third of all uninsured Americans would not be helped by this bill. Why? Because they make so little income that they do not pay income taxes. How will the Republican tax breaks help these families? It will not help them one cent.

Of the 44 million uninsured Americans, of whom 5 million live in the State of Texas, the people this bill aims to really help are the 600,000 uninsured healthy families that make almost $100,000 per year and can afford the risk to opt out of the broader insurance pool. The effect of this would be to drive up costs for those most in need of coverage. In addition, the Ways and Means Committee has also determined that only 160,000 people of those 600,000 families would qualify for access to insurance under this bill. Yet we would be spending 48 billion dollars on this phony access package. Even worse, the bill is not paid for within the budget or by offsets.

Mr. Speaker, my Republican friends on the other side of the aisle continue to ignore budgetary reality in order to push through a 48 billion dollar access bill, the funds for which will come directly from the Social Security trust fund. Like the supporters of this bill, I want to give more Americans a range of options for their health care—they should have at least as many choices in their health care plan as Federal employees. However, this bill does not deliver on what its supporters are promising. The Republican access bill will benefit a small group of people and is simply intended to kill the Norwood-Dingell managed care reform bill that so many of my colleagues on the other side of the aisle are trying to derail.

Republicans have already spent over $25 billion over the Social Security surplus, but here they are again with a tax bill they can't pay for. I urge my colleagues not to raid Social Security. I urge them to vote against this fiscally irresponsible poison pill to the Norwood-Dingell managed care reform bill.

Mr. FRELINGHUYSEN. Mr. Speaker, more than 16 percent of the people of my home State of New Jersey don't have health insurance. The national figure is even more staggering—44 million uninsured in America, one in six Americans goes without health care coverage. Mr. Speaker, these numbers are a wake up call and today we are taking steps to respond to the needs of the uninsured.

The Quality Care for the Uninsured Act (H.R. 2990) improves access, affordability and individual choice for the 44 million Americans who lack health care insurance.

H.R. 2990 includes measures designed to ensure that the nation's health care system is accessible and affordable for all Americans.

Highlights of the tax incentives found in H.R. 2990 are:

100 percent deduction for health insurance premiums—for the second time this year, we will send the President a bill that allows each and every American to deduct every penny they pay for health insurance premiums—hopefully he won't veto it the second time, 100 percent deduction of health and long-term care insurance costs for self-employed Americans, and 100 percent deduction for long-term care premiums for all Americans, relief for taxpayers caring for elderly family members at home, cafeteria benefit plans will now be permitted to include long-term insurance, expands medical savings accounts for more Americans to allow more of our families to save for emergency medical needs.

Helping more Americans obtain health insurance is a top priority and this bill will do just that. I urge my colleagues to support H.R. 2990.

Mr. HILL of Montana. Mr. Speaker, it is clear that a growing number of Americans are looking to Congress and their state legislatures to address their concerns facing our health care system.

They are concerned of the number of uninsured working adults and their dependents. They are concerned about the rising costs of health care. They are concerned about the lack of choice in health plans. They are concerned that important decisions involving their health care are being made by government bureaucrats or insurance company adjusters rather than their physician.

While we enjoy the highest quality health care in the world, our system of financing health care often frustrates patients, providers and employers. People are deeply concerned that their health plan may not deliver the care they need when they are sick.

I believe that we need to promote the three A's in reforming the system—Accessibility, Affordability and Accountability.

Mr. Speaker, today we will be taking up the first two important parts to ensuring patient protection—Accessibility and Affordability.

The best patient protection of all is access to quality, affordable health care. Yet, there are more than 43 million Americans who are currently uninsured. Nineteen percent, or nearly one in every five Montanans are uninsured. More than 60 percent of the uninsured have one thing in common—they are either self-employed, or their family is employed by a small business that cannot afford to provide health benefits.

H.R. 2990 promotes accessibility and affordability by requiring basic protections to ensure high-quality health care coverage. This legislation accomplishes this in three major ways.

First, we accelerate the phase-in of the 100 percent deduction for the health insurance of self-employed individuals to become effective in 2001.

Secondly, the bill establishes a process for certifying association health plan (AHPs). AHPs empower small business owners who currently cannot afford to offer health insurance to their employees, to access health insurance through trade and professional association.

Third, this legislation expands medical savings accounts (MSAs) to increase access to health care services and patient control of health care expenditures.

Through these three and many other provisions in H.R. 2990, today the House will pass a common-sense approach to providing affordable choices and reliable access to health care for consumers.

Again, I urge all of my colleagues to support this bill.

Mr. BARCIA. Mr. Speaker, I rise today in opposition to H.R. 2990. This bill, while ostensibly aimed at expanding access to healthcare for those who are currently uninsured, in reality fails to provide access to health insurance for those who need it most. The authors of this bill have been very creative in drafting this legislation. They tout Association Health Plans, Tax Deductions for the Self-Employed and Uninsured and expanding Medical Savings Accounts. And unlike some of my Democratic colleagues, I have supported versions of these proposals in the past. I have worked with small businesses and local chambers of commerce in Michigan to allow them to form Association Health Plans. I have supported tax deductions for the self-employed and allowing individuals open tax free savings accounts for the purpose of covering their medical expenses. However, I must oppose this bill because of the many clever exemptions included by the authors of this legislation that will ultimately undermine any hope of increasing access to healthcare or providing important patient protections for our constituents.

Under this bill, Association Health Plans will be exempt from important consumer protection, insurance and benefit regulations. Consumers in 33 states that require mental health benefits could lose this protection. Women in 49 states could lose mammography screening.

Children in 29 states that require well-child care could face new financial barriers. These new plans intended to increase access will actually open new barriers to much needed health care.

In addition, H.R. 2990 spends $48 billion federal on tax breaks that do more to help the healthy and the wealthy than the uninsured. According to the General Accounting Office, nearly one third of all uninsured Americans are at the lowest end of the income bracket. New tax deductions or medical savings accounts will not help them to purchase health insurance. These hardworking families are completely ignored by this bill.

This morning I received a postcard from the National Federation of Independent Business which I submit for the record. It stated:

> DEAR REPRESENTATIVE: On behalf of the 600,000 members of the National Federation of Independent Business, I urge you NOT to help the 44.3 million uninsured Americans by voting for H.R. 2990.

Now I realize this is probably not the argument the NFIB intended to make in an attempt to garner support for this bill, however, the statement does have merit.

H.R. 2990 does not help the millions of Americans who are uninsured. It does not improve their access to healthcare. It does not provide important patient protections. Instead, it grants tax breaks to the healthiest and wealthiest. Instead, it divides the insurance market between the healthy and the sick, undermining state efforts designed to spread health risks broadly. Instead of improving access to health care, this bill ignores millions of Americans who cannot afford the high cost of health insurance.

Mr. Speaker, I urge my colleagues to vote no on this bill.

> DEAR REPRESENTATIVE: On behalf of the 600,000 members of the National Federation of Independent Business, I urge you not to help the 44.3 million uninsured Americans by voting for H.R. 2990, which will expand access to affordable health care coverage for small businesses and their employees.
>
> Specifically, H.R. 2990 would lower health care costs for small business while increasing their choices in the health care marketplace. Here's how:
>
> Association Health Plans (AHPs) would give small business the administrative cost savings, economies of scale, and bargaining power now enjoyed by big business;
>
> Tax-Deductible Premiums for the Self-Employed and Uninsured would offer tax equity to level the playing field between the "haves" and "have nots;
>
> Medical Savings Accounts (MSAs) would allow families to exercise control over their individual health care dollars to address their particular needs.
>
> Don't turn your back on the uninsured, the majority of which (3 out of 5) are small business owners and their employees. Increase their access to affordable health care coverage. Vote for H.R. 2990! This will be an NFIB Key Small Business Vote for the 106th Congress.
>
> Sincerely,
>
> DAN DANNER,
> *Vice President, Federal Public Policy.*

Mr. VENTO. Mr. Speaker, I rise today in opposition to H.R. 2990, the Quality Care of the Uninsured Act.

While I am concerned by the burgeoning numbers of uninsured, I am not convinced that this legislative initiative will provide relief to those who most need health care coverage. I am also disappointed that the Republican leadership has used this important forum for debate on managed care reform to resuscitate discredited tax proposals that are not even offset. Last week, the Congressional Republicans promised once again not to use Social Security trust funds; this week, they are advancing H.R. 2990 with no offset. Last week, the Congressional Republicans promised once again not to use Social Security trust funds; this week, they are advancing H.R. 2990 with no offsets, and once again breaking their promise not to spend Social Security funds.

Unfortunately, Medical Savings Accounts (MSAs) are predicated primarily on greater cost-sharing and reduced health care use by beneficiaries. While this may be feasible for the wealthy and healthy, it does not help the sick and poor, and could lead to adverse selection by health plans. Essentially, MSAs are just another tax break for those who need it least.

While I have supported full tax deductibility for small business health insurance in the past, I question policies to promote further segmentation of health care consumers. Association Health Plans and HealthMarts would not only separate the healthy from the sick, but they would allow certain health plans to circumvent state regulation. It is ironic that H.R. 2990 would actually create a more expansive ERISA shield at a time when Congress is trying to close the current ERISA loophole.

Mr. Speaker, while the individual market may offer healthy people affordable coverage, people with substantial health risks will be burdened with disproportionate costs or limited access under this proposal. Disguised by popular bromides such as access and choice, these proposals would only serve to create further disparities in health care utilization in our society.

It is unfortunate that we continue to allow a slow erosion of health care coverage at the expense of some of our most vulnerable workers and their families. Congress should seek comprehensive and responsible measures to reduce the number of uninsured. However, H.R. 2990 will not accomplish that goal. I urge my colleagues to reject this legislation and work towards substantial managed care reform that does not include costly tax breaks which blatantly expend Social Security trust funds.

Mr. STEARNS. Mr. Speaker, I am pleased to support H.R. 2990, the Quality Care for the Uninsured Act. The legislation promotes access to health coverage for the estimated 43 million Americans who are currently lacking health insurance.

Approximately 85 percent of these individuals are employed and either opt to forego such coverage (healthy young individuals) or work for companies who cannot afford to provide such benefits to their employees.

Most people who have health insurance are covered by a health insurance policy chosen for them by their employers. If they work for small companies/businesses that cannot afford to pay for health coverage, they often have no coverage at all. If they are fortunate enough to have employer provided coverage, the possibility remains that if they lose their jobs or decide to change jobs, this valued benefit can be lost. Individuals who are self-employed currently get a 60% tax credit for purchasing their own health insurance, unlike the major corporations who get a 100 percent credit for purchasing health coverage for their employees.

Tax benefits should be moved out of the workplace and shifted over to the individual or family. Everyone—the self-employed as well as those who work for small firms—should get a tax credit to enable them to purchase coverage for themselves and their families. These credits should be larger for those whose medical expenses make up a greater share of their income. These credits should be refundable so that low-income individuals and families should get assistance if they have no tax liability.

Under current tax law, third-party insurance is subsidized and self-insurance is penalized. Every dollar an employer pays for third-party insurance is excluded from employee income. When employee's try to save that money it is taxed.

If we are to have true health care reform, we must provide individuals with the option of being allowed to create Medical Savings Accounts (MSAs). These Medical IRA would enable consumers to use tax-free savings accounts to self-insure for routine, out-of-pocket medical expenses.

By empowering consumers with choice and individual responsibility, a healthy competition among insurance companies to compete for the consumers' health care business would be generated.

One of the proposals in H.R. 2990 to expand access to health coverage is through the establishment of HealthMarts which would shift the decision making power over to the individual or family. Everyone—the self-employed as well as those who work for small firms—should be allowed to purchase coverage for themselves and their families. The consumers would be given the ability to making their own choices. This gives consumers a sense of empowerment and a sense of responsibility which will encourage them to wisely use medical services.

H.R. 2990 provides for the establishment of Association Health Plans (AHPs) to allow national trade and professional associations to sponsor plans. This would also allow them to buy into plans and pool together for themselves and their employees.

This bill also allows Community Health Organizations to form networks to give community health centers greater control of their resources and to provide comprehensive coverage to the people they assist.

Community health centers offer a valuable service by providing primary health care in our rural and urban communities. I have toured these community health care centers and know full well the valuable services they provide and it is one of the most cost-effective programs in which our government invests to meet the growing demands of the uninsured and underinsured.

I support this important bill that would provide those individuals, many of whom are the working poor, who do not currently have access to health care insurance an opportunity to purchase such care for themselves and their families.

Ms. MILLENDER-McDONALD. Mr. Speaker, the nation continues to cry our for reform of the managed care system. However, I must rise in strong opposition to this bill and the rule that has brought this important issue to the floor. As legislators, we must stop playing games with healthcare. I have great respect for my colleague Mr. TALENT, but I do not believe that H.R. 2990 provides the access to quality health care that our constituents really need.

When we talk about access to health care, those that are most in need are children and those with limited means. This bill does nothing to provide access to those people. Instead it contains "poison pill" provisions in an effort to pander to campaign contributors. One-third of the currently uninsured will still not have access to health care. This bill spends federal dollars on tax breaks—when is the last time a tax break benefited the poor and low-income?

I urge my colleagues to vote no against this special interest poison pill package disguised as an "access" bill to health care.

Mr. WELDON of Florida. Mr. Speaker, I believe strongly that any discussion of improving the quality of care for those with health insurance must also include a discussion of ways to make health insurance more affordable. Earlier this week, the Census Bureau released the latest figures showing that nearly one million additional Americans were added to the ranks to the uninsured last year. We must take steps to ensure that these Americans have greater access to affordable health insurance.

There is no doubt that the managed care reform legislation that we are considering today will result in higher insurance premiums for Americans. There is significant difference of opinion about how much those premiums will go up. Will it be one percent, three percent, or ten percent? Study after study has indicated that with every one percent increase in insurance premiums 300,000 additional Americans lose their insurance. That is why I believe it is so critical that these issues be considered together.

H.R. 2990 will expand insurance options for uninsured Americans. I am particularly pleased that the bill provides a 100 percent deduction for health insurance premiums and long-term care premiums if the taxpayer pays more than 50 percent of the premiums. This is long overdue. For too long, Americans who pay for their health insurance out of their own pockets have not had the same opportunity to deduct these expenses as do large corporations. This bill fixes that problem.

I am also pleased that the bill provides families with an additional exemption ($2,750) if they care for an elderly family member in their home. This is important in helping families who have made a decision to care for an elderly family member in their own home, rather than placing them in an expensive long-term care facility.

Association Health Plans (AHPs), which are encouraged in this bill, will play a critical role in helping those who work for small businesses have access to affordable insurance. This is the largest segment of uninsured Americans. AHPs enable small employers to pool together to obtain the economies of scale, purchasing clout, and administrative efficiencies enjoyed by employees of larger firms.

H.R. 2990 expands Medical Savings Accounts (MSAs) to increase access to health care services and patient control of health care expenditures. It (1) allows both employers and employees to make contributions to MSAs: (2) makes MSAs a permanent health care choice under the law; (3) eliminates the cap on the number of taxpayers (currently 750,000) that may benefit annually from MSA contributions; (4) reduces the minimum deducitble to $1,000 for individual coverage and $2,000 for families; and (5) allows MSA contributions equal to 100 percent of the deductible;

The bill also allows for the creation of HealthMarts, which are private, voluntary, and competitive health insurance "supermarkets" that transfer choice within the current employer-based health insurance market from small employers to their employees and dependents. HealthMarts are similar to the Federal Employee Health Benefits Plan (FEHBP) which gives federal employees greater choice among a host of different plans. They will be established and run by private sector partnerships consisting of providers, consumers, small employers, and insurers.

Finally, the bill permits Community Health Organizations (CHOs) to offer health insurance coverage in a state in which they are not licensed under certain conditions. This change is designed to make it easier for providers to form health care networks to meet needs in medically under served areas.

Again, I believe that this bill, combined with patient protection legislation will play an important role in improving the quality of health care and giving Americans greater access to affordable insurance plans.

Mr. HAYES. Mr. Speaker, over the August recess, I had the opportunity to meet with a number of health care providers in my district, the 8th district of North Carolina. Without exception, these care givers share a common concern. Hospitals and clinics in rural America appear to shoulder a disproportionate share of the spending reductions agreed to in the Balanced Budget Agreement of 1997. Now why do I bring up this subject today. Because our hospitals are currently providing health care for the more than 43 million uninsured Americans and have to absorb the cost.

Hospitals and clinics are faced with the untenable position of having to scale back services or closing their doors altogether. In fact, many of our providers have trimmed services to such an extent that in the near future they may be forced to turn away critically ill patients. As you can imagine, further cuts in Medicare spending expected for next fiscal year will only exacerbate the current problem, leaving our hospital administrators braced for the worst, but financially unable to respond to needs.

If we do not address the desperate situation in which our health care providers find themselves, my constituents, both individuals and businesses, will not have any choice when it comes to health care—hospitals, doctors, nursing homes. I am hearing from hospital and nursing homes that they will be closing their doors within the next year if immediate relief for these budget cuts are not addressed.

Elements of all three health care bills that are being debated later today will become obsolete if our hospitals and clinics begin to close, including: Rural Americans diminished access to health care because they will have to drive too many miles to see a primary care physician; emergency care that will be so far away that patients could die before ever reaching a hospital; and less access to local pediatricians, obstetricians, and specialists.

Bottom line the health care services will be unavailable. I support the intentions of the underlying health care bills, but at what cost? I cannot pass along these costs to the consumer.

Let's pass H.R. 2990—Quality Care for the Uninsured to give small businesses, individuals and early retirees the access to affordable health care. But, let's please be careful how we pass along the cost to consumers. Let's allow patients to speak freely with their doctors. Let's be sure there is accountability. Let's provide choice in primary care physicians and specialists, and give employers the opportunity to provide affordable benefits to their employees. But, if we pass costly new mandates—won't we be passing along the cost to the consumer that we are trying to help with H.R. 2990?

I would also like to urge the Speaker—Let's address Medicare reform this year—so that both of these bills do not become null and void in Rural America.

Mr. RYAN of Wisconsin. Mr. Speaker, I am here today to speak in favor of the Quality Care for the Uninsured Act.

You are going to hear a lot of discussion later today about protecting individuals who are enrolled in health plans in this country; but we have a much bigger problem in this country. A problem that this act provides solution for—the problem of the uninsured.

It is important to make sure individuals who have health care are receiving quality care, but it even more important to find a solution for the growing number of uninsured. The Census Bureau reported that currently 44 million people in this country do not have health insurance—that number has been steadily rising during this administration. We must find a way to provide a better system for them—a system that makes health care affordable and accessible.

This bill does that with healthmarts, medical savings accounts, tax deductions for the self-employed and the uninsured, tax deductions for long-term care premiums, and association health plans. These provisions will help small businesses find a way to offer health insurance for their employees.

I believe everyone in this country deserves quality, affordable health care. This bill provides that through tax incentives and market reform. I urge my colleagues to join me in voting in favor of the Quality Care for the Uninsured Act.

Mr. BALLENGER. Mr. Speaker, I rise today in strong support of H.R. 2990, an important and timely bill designed to help the 44.3 million Americans who have no health insurance whatsoever. These Americans will find little comfort from our debate later today and tomorrow over improvements to managed care plans. H.R. 2990 offers something for them—that is, accessible, affordable and accountable health insurance coverage.

This week, Congress and the American people learned from a Census Bureau report that the ranks of the uninsured has swelled by another one million. I support the efforts of the Republican leadership to give these uninsured Americans more choice in the health insurance market instead of expanding big government plans which President Clinton has embraced.

To this end, H.R. 2990 contains important changes in the tax code which we have championed in earlier tax relief packages, including expanding Medical Savings Accounts (MSAs). We have worked for years to convince President Clinton that expanded eligibility for MSAs is one solution to the problem of the uninsured. The facts are in: 42 percent of individuals purchasing MSAs this year were previously uninsured. In addition to the creation of association health plans and "HealthMarts," H.R. 2990 also accelerates to 2001 the phase-in of the 100 percent deduction for the health insurance of the self-employed Americans. Last month, the President rejected an immediate 100 percent deduction of these costs when he vetoed the Taxpayer Refund and Relief Act of 1999.

I believe we need to add common sense and tax relief to the health care access debate. H.R. 2990 does just that, and I urge my colleagues to vote for it.

Mr. STARK. Mr. Speaker, this is a very tough week for the House Republican leadership. In an attempt to get the spotlight off of bipartisan attempts to curb the power of big managed care companies, the Republican leadership is finally willing to talk about helping the uninsured get access to health care. Unfortunately, while their proposals are expensive, their talk is cheap.

In a very cynical attempt change to the topic from managed care reform, we will see Republicans on the floor today in the House of Representatives claiming to be trying to expand health insurance to the uninsured. Don't be fooled. Their proposal will not help the population the most likely to lack health insurance and it isn't financed at all. It would cost the federal government more than $48 billion over ten years without solving the very problem it proclaims to address.

A record 44.3 million uninsured Americans live in our country today, hoping and praying they do not get sick or injure themselves. More than 32 million of these families have income at or below the 15% income tax bracket. These are people who cannot afford to pay insurance premiums—working families of modest means, people between jobs, students, unskilled workers who do not have the luxury of demanding employer coverage—or have a "pre-existing condition" that makes them persona non grata in the individual insurance market. The "access" provisions that the Republicans offer do little to nothing to help these people without insurance. Instead, they provide tax breaks to the wealthy and the healthy through a variety of tax changes that don't reach the uninsured.

For example, one of their so-called access provisions would expand a demonstration project on medical savings accounts (MSAs) so that all employers could offer them. Generally, demonstration projects have to "demonstrate" some success to be expanded but, in this case, the big insurance companies that offer MSAs have much more political clout with the GOP than the millions of uninsured. Instead of admitting that MSAs have failed, the Republicans are throwing more money into them. With bigger tax breaks, more healthy and wealthy people will use them, but that doesn't do anything for people too poor to afford insurance or benefit from MSAs.

Another provision would expand the deductibility of health insurance that employers and the self-employed receive to people who purchase their own insurance. It would not provide people with up front funds to help them purchase health insurance. Again, since more than 32 million uninsured families are at the 15% or 0% income tax bracket, this provision does nothing to make insurance affordable to them.

The Republicans also do nothing to address the inequities of the individual insurance market. Anyone with a pre-existing condition, anyone who is older, anyone with a genetic history of potential health problems will continue to find it impossible to purchase affordable insurance.

There are also other Republican provisions that would preempt state regulation of insurance in favor of new federal regulations. These so-called Association Health Plans and HealthMarts would undermine successful state-based small group market and individual insurance reforms. They are less comprehensive health insurance policies that would escape state consumer protections. The Republican proposal would let these plans "cherry-pick" the healthy, low-cost patients and result in higher health insurance premiums for people in traditional state-regulated insurance.

If the Republicans were serious about providing access to the uninsured, there are a number of affordable, sensible solutions which they could be raising on the floor today, but aren't. Those provisions include items such as:

Passing the Medicare Early Access Act. Introduced again this Congress as H.R. 2228, this bill would allow all people aged 62–64 to buy into Medicare program, people aged 55–64 who have lost their job to buy into Medicare, and would allow people whose employers' renege on retiree health coverage the option of staying in COBRA until they are Medicare-eligible. This bill has only a small cost that can be fully covered by a number of small Medicare fraud and abuse revisions. Yet, we have seen no action on this legislation that would provide a new, affordable option for health insurance coverage for early retirees—the people who are the hardest to insure in the private marketplace and a significant growing portion of the uninsured.

Enacting provisions to protect children whose parents are leaving the welfare rolls for low-income jobs so that they aren't inappropriately dumped out of Medicaid and left without health insurance. The number of people with Medicaid coverage in 1998 was the lowest it's been since 1991, according to the Bureau's historical tables on insurance coverage.

Improving the State Children's Health Insurance Program. This program was passed by Congress with great fanfare in 1997 as a means of extending health insurance to half of the then 10 million uninsured children. According to new census data, we now have 11 million uninsured children after that program has been in existence two years. Clearly, it isn't working as intended. Serious attention should be focused on making this program work or finding a new solution for covering these 11 million children. It's not rocket science to figure out who are low-income children. The Internal Revenue Service could run a match or we could utilize data from the free and reduced price school lunch program to presumptively enroll children.

Passing H.R. 1180, the Work Incentives Improvement Act to allow the more than 8 million people receiving disability benefits return to work without fear of losing their health insurance. This bill has already unanimously passed the Senate and the Commerce Committee, but it has been stalled from reaching the House floor.

These are real, concrete steps that would help the uninsured, but they are not part of the Republican bill. Instead, all of these Republican leadership provisions benefit the well-heeled rather than the uninsured. Essentially the Republican leadership has taken a tax break package for the wealthy and disguised it as a health access bill. But the Wolf's teeth show through the sheep's clothing when one looks at how the bill is financed. Instead of finding off-sets and living within tradition pay-go rules, the Republican leaders decided to tap the surplus needed to shore up Social Security and Medicare and pay down the debt.

Not only are the Republican leaders not proposing a plan to help those who cannot afford health insurance, by using the surplus, they are putting the future of Social Security and Medicare in jeopardy and increasing the amount of debt we leave to future generations.

H.R. 2990 is a poison pill to managed care reform and I urge my colleagues to join me in opposing this legislation.

As further evidence of this point, I submit new data that we have received from the Joint Tax Committee.

As you will see, the Joint Tax Committee has estimated how many people the Talent Access bill would help.

The answer: Almost no one. The tax deduction for individuals paying for more than 50% of the cost of the health insurance will cost $31.2 billion over 10 years and result in 200,000 uninsured people getting insurance. That's $156,000 per new insured person—$15,600 per year.

The acceleration of the 100% tax deduction for the self-employed will help 120,000 previously uninsured and cost about $3 billion over 4 years. That's $6,250 per person per year—a cadillac cost for sure.

JOINT COMMITTEE ON TAXATION,
Washington, DC, October 6, 1999.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: This is in response to your letter of October 4, 1999, requesting revenue estimates and other information concerning several of the health care tax provisions in the conference agreement on H.R. 2488 and two of the health care tax provisions in S. 1344.

The conference agreement on H.R. 2488 contains an above-the-line deduction for health insurance expenses and long-term care insurance expenses for which the taxpayer pays at least 50 percent of the premium. The deduction would be phased in at

25 percent for taxable years beginning in 2002 through 2004, 35 percent for taxable years beginning in 2005, 65 percent for taxable years beginning in 2006, and 100 percent for taxable years beginning in 2007 and thereafter. Taxpayers enrolled in Medicare, Medicaid, Champus, VA, the Indian Health Service, the Children's Health Insurance Program, and the Federal Employees Health Benefits Program would be ineligible for the deduction for health insurance expenses.

The conference agreement on H.R. 2488 also contains a provision that would allow long-term care insurance to be offered as part of cafeteria plans, effective for taxable years beginning after December 31, 2001.

For the purpose of preparing revenue estimates for these provisions in H.R. 2488, we have assumed that the provisions will be enacted during calendar year 1999. Estimates of changes in Federal fiscal year budget receipts are shown in the enclosed table.

We estimate that in calendar year 2002 about 9.1 million taxpayers would claim the 25-percent deduction for health insurance expenses. About 100,000 of these 9 million taxpayers would be new purchasers of health insurance. Assuming an average of two persons covered by each policy, about 200,000 persons would be newly insured as a result of the 25-percent deduction for health insurance expenses.

We estimate that in calendar year 2002 about 4.7 million taxpayers would claim the 25-percent deduction for long-term care insurance expenses, and an additional 300,000 taxpayers would use cafeteria plans to pay their share of premiums for employer-sponsored long-term care insurance. About 80,000 of these 5 million taxpayers would be new purchasers of long-term care insurance.

S. 1344 contains a provision that would increase the deduction for health insurance expenses of self-employed individuals. Under present law, when certain requirements are satisfied, self-employed individuals are permitted to deduct 60 percent of their expenditures on health insurance and long-term care insurance. The deduction is scheduled to increase to 70 percent of such expenses for taxable years beginning in 2002 and 100 percent in all taxable years beginning thereafter. S. 1344 would increase the rate of deduction to 100 percent of health insurance and long-term care insurance expenses for taxable years beginning after December 31, 1999.

S. 1344 also contains provisions that would eliminate certain restrictions on the availability of medical savings accounts, remove the limitation on the number of taxpayers that are permitted to have medical savings accounts, reduce the minimum annual deductibles for high-deductible health plans to $1,000 for plans providing single coverage and $2,000 for plans providing family coverage, increase the medical savings account contribution limit to 100 percent of the annual deductible for the associated high-deductible health plan, limit the additional tax on distributions not used for qualified medical expenses, and allow network-based manage care plans to be high-deductible plans. These provisions would be effective for taxable years beginning after December 31, 1999.

For the purpose of preparing revenue estimates for these provisions in S. 1344, we have assumed that the provisions will be enacted during calendar year 1999. Estimates of changes in Federal fiscal year budget receipts are shown in the enclosed table.

We estimate that in calendar year 2000, about 3.3 million taxpayers would claim the 100-percent deduction for health insurance expenses of self-employed individuals. About 60,000 of these taxpayers would be new purchasers of health insurance. Assuming an average of two persons covered by each policy, about 120,000 persons would be newly insured as a result of the 100-percent deduction for health insurance expenses.

We do not have an estimate of the numbers of individuals who would be newly insured as a result of the medical savings account provisions of S. 1344.

I hope this information is helpful to you. If we can be of further assistance, please let me know.

Sincerely,

LINDY L. PAULL.

Enclosure: Table #99-3 206

ESTIMATED REVENUE EFFECTS OF VARIOUS PROVISIONS RELATING TO HEALTH CARE

[By fiscal years, in millions of dollars]

Provision	Effective	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2000–04	2000–08
Health care provisions in the conference agreement for H.R. 2488:													
1. Provide an above-the-line deduction for health insurance expenses—25% in 2002 through 2004, 95% in 2005, 65% in 2006, and 100% thereafter.	tyba 12/31/01	—	—	−444	−1,379	−1,477	−1,803	−3,137	−5,878	−8,299	−8,848	−3,300	−31,264
2. Provide an above-the-line deduction for long-term care insurance expenses—25% in 2002 through 2004, 35% in 2006, 65% in 2006, and 100% thereafter.	tyba 12/31/01	—	—	−48	−328	−964	−417	−677	−1,315	−2,027	−2,146	−741	−7,324
3. Allow long-term care insurance to be offered as part of cafeteria plans; limited to amount of deductible premiums [1].	tyba 12/31/01	—	—	−104	−151	−171	−190	−202	−204	−215	−247	−426	−1,484
Total of health care provisions in the conference agreement for H.R. 2488.		—	—	−596	−1,858	−2,012	−2,410	−4,016	−7,397	−10,541	−11,241	−4,467	−60,074
Health care provisions in S. 1344, as passed by the Senate:													
1. Immediate 100% deductibility of health insurance and long term care insurance premiums of the self-employed.	tyba 12/31/99	−245	−1,007	−1,040	−657							−2,949	−2,844
2. Liberalization of conditions for enrolling in MSAs	tyba 12/31/99	−93	−281	−326	−370	−414	−458	−502	−546	−590	−634	−1,483	−4,214
Total of health care provisions in S. 1344, as passed by the Senate.		−338	−1,268	−1,866	−1,027	−414	−458	−502	−546	−590	−634	−4,432	−7,164

Note.—Details may not add to totals due to rounding.

Legend for "Effective" column: tyba=taxable years beginning after [1] Estimate assumes concurrent enactment of the above-the-line deducation for long-term care Insurance (item 2.)

Source: Joint Committee on Taxation.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 323, the bill is considered read for amendment, and the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. RANGEL. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Rangel moves to recommit the bill, H.R. 2990, to the Committee on Ways and Means with instructions to report the same promptly back to the House with an amendment in the nature of a substitute that—makes the bill consistent with the President's demand to preserve the projected surpluses until there is action on Medicare and Social Security solvency.

PARLIAMENTARY INQUIRY

Mr. ARCHER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. ARCHER. I have just listened to the motion to recommit. I have a copy of it in writing before me. I am curious as to what is the amendment that will make the bill consistent with the President's demand.

This says to report the bill back with an amendment that will make it consistent with the President's demand. I am curious as to what the terminology and the wording of that amendment would be.

The SPEAKER pro tempore. These are general instructions from the gentleman from New York contained in the motion to recommit, so they are general instructions and not instructions to report "forthwith", which could be taken up in the Committee on Ways and Means if the motion to recommit is successful.

The gentleman from New York (Mr. RANGEL) is recognized for 5 minutes in support of his motion to recommit.

Mr. RANGEL. Mr. Speaker, I understand the problem that my chairman has in not understanding any amendment that preserves the projected surpluses in social security and Medicare. But this is what the President has been saying all along, that we can present bills that are paid for, we can reduce benefits and other things, but the bill has to be amended, amended, amended, amended, paid for, paid for, paid for, paid for; not bust the social security trust fund, not bust the Medicare trust fund. That is all the amendment means.

I think we have had enough of partisanship for today. I think it is abundantly clear that the American people want a decent patients' rights bill. That is what they want. That is what Republicans want. That is what Democrats want. We cannot be effective as a body if we truly believe there is a Republican right way to do it or a Democratic right way to do it.

The only way we can do it is putting the party labels behind us and sitting down like the gentleman from Georgia (Mr. NORWOOD) has and the gentleman from Michigan (Mr. DINGELL) has to put together a bill that is not good for our parties, not good for our elections, but good for those people who need solid health care.

That is what we are trying to do. That is why we have a motion to recommit, not to get rid of the bill, but to make certain that we pay for whatever we attach to what is a good bill.

We do not know where Members got the access to health care to tax bills, but obviously if there is a little Republican bag of tricks, then come up with some money to pay for these things. That is all we are suggesting.

It is just not fair to the American people to see that they have lost the support of their own party on a bill that is good for the American people, and instead of just taking it and working with it and seeing where the next struggle would be for bipartisanship, they had to come up with something that not even the Members of the tax-writing committees have seen.

What they have done is to try to poison a good bill. It is not the right thing to do, it is not the fair thing to do, and it should not make Members proud, as Republicans, that they can kill a bill. They have the majority. The real question is, do Members have the determination to work with us so that we can work our will in providing the right thing for the American people?

When people talk about a Patients' Bill of Rights, they are not talking about a tax bill, they are talking about something that we have created together with Republicans and Democrats working together. So I do not know why that side would object to the motion to recommit. It gives them the opportunity to be responsible. It gives them the opportunity to review the access to health care through using the tax system.

If Members really believe we should use the tax structure, that is, no longer pull it up by the roots, no longer reduce it to the size of a postcard, but put another 30, 40, 50 pages there, which certainly the IRS would say that we would need in order to carry out the bill that Members just pulled up.

If Members really want to use the tax code for that purpose, I do not think there would be serious objection on the Democratic side, and not by the President of the United States. But they have to pay for it. This message has been sent out so often that I think the American people understand it a lot better than some of my colleagues on the other side.

All it says here is that the bill be recommitted to the Committee on Ways and Means. That means that we have to meet as a committee. I know that is difficult, but, Members know, no caucus, but Democrats and Republicans come together and report the same bill out promptly, which means all we have to do is to find ways to pay for this bill. Then we report it back to the floor. Then we can get on with the Patients' Bill of Rights.

If Members have no concern about what happens to social security and no concern about what happens to Medicare, then they can say, let us deal with the projected surplus. They can even say, let us do it with smoke and mirrors, whatever makes them feel comfortable.

But the whole thing is, let us not bring a bill to this floor and pass it because they have the numbers, only to have the President of the United States veto it. Do not send a bill like this over to the Senate, only to have them pile on whatever they wish to do in terms of loopholes for large corporations and probably donors to their party.

In other words, it is not Christmas in September. It is time for us to come together as Members of Congress, cut out the partisanship, and work together as a team.

The SPEAKER pro tempore. Is the gentleman from Texas (Mr. ARCHER) opposed to the motion to recommit?

Mr. ARCHER. Mr. Speaker, I am opposed to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Texas is recognized for 5 minutes.

Mr. ARCHER. Mr. Speaker, I listened to the gentleman from New York, and I heard the rhetoric that we are invading the social security trust fund, that we are undermining Medicare. He knows that is not true. There is nothing in this bill that in any way invades the social security trust fund, and it is so certified by the Congressional Budget Office. I do not know why we have to listen to that kind of rhetoric, but, of course, we do.

He says we have to save social security first. I agree with that. I have pushed for a plan to save social security, but I have not seen any specific plan come from the other side. We have been told recently in the media that the Chief of Staff in the White House has said that social security is not a priority anymore this year.

Are we then faced with a standard which says, you have to save social security before you can give tax relief, and then on the other hand, but we will not let you save social security, in effect, just simply saying, we do not want tax relief?

Why is this position being taken? Frankly, I do not know, because in 1997 we had a tax bill that was passed when social security was in worse shape and we had no surpluses, and they voted for it. They made a big point of all of the relief that they had given to the American people. But today they want to stop children from being able to have access to vaccines, a new vaccine that can be an across-the-board preventer of many, many childhood diseases. Sixty-four million children will be denied access to that vaccine. He calls it, or my friend, the gentleman from New York (Mr. RANGEL), calls it a poison pill. Who is poisoned is the children who will not be able to get a vaccination.

What really this is all about, Mr. Speaker, I believe, sadly, is some type of political ploy to get to some end position on the part of the Democrats that might give them an advantage in the elections next year. I cannot imagine what it is, but clearly that must be what they feel.

When the President vetoed our tax bill, he said it was too big. It was irresponsible, risky, too big. But we could have a $300 billion tax bill. Now we have tax relief for health care that will give more access to more people to health care, and it is $48 billion, and it still is not going to be accepted by the other side.

I do not know what is happening. Perhaps it is really that the Democrats want to fight ferociously to keep this money in Washington because they know better how to spend it than the people do in taking care of their own health needs. Perhaps; I do not know. I have wondered about this effort to try to tie something that has no relationship to social security and Medicare into the social security-Medicare mix.

But I do know that if this bill does not pass, we will have millions of Americans who will not have access to health insurance who would otherwise have it. We will have thousands and thousands of Americans who will not get tax relief for taking care of their elderly in their own homes.

□ 1645

We will have, again, millions of Americans who will not have access to long-term care insurance because they will not be given this tax deduction, and we will have a continuation of the inequitable and unfair treatment taxwise of different ways to provide health care; that big corporations get the deduction, the self-employed do not, and the individuals who have to buy their own insurance do not get it. That is wrong, Mr. Speaker. We cure that.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I understood that there would be a denial of a vaccine if this measure is voted down.

Mr. ARCHER. That is correct.

Mr. THOMAS. That vaccine is for America's children?

Mr. ARCHER. Mr. Speaker, 64 million American children would have access to a new vaccine that will come on the market in November. But if this bill does not pass, it will not be put on the market.

Mr. THOMAS. So on one hand, it is rhetoric about corporations; and on the other hand, it is vaccine for the America's children.

Mr. ARCHER. Mr. Speaker, this motion is ill-conceived. It is vague. It should be opposed. I urge all of my colleagues to vote no on the motion to recommit.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. RANGEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 211, noes 220, not voting 2, as follows:

[Roll No. 484]

AYES—211

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barcia
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Forbes
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pickett
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Sherman
Shows
Sisisky
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NOES—220

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth-Hage
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Foley
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
King (NY)
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Paul
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—2

McKinney
Scarborough

□ 1707

Messrs. SIMPSON, CUNNINGHAM, CASTLE, POMBO, and Ms. DUNN changed their vote from "aye" to "no."

Mr. STUPAK, Ms. ROYBAL-ALLARD, Messrs. RODRIGUEZ, DAVIS of Florida, and SNYDER changed their vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ARCHER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 227, nays 205, not voting 2, as follows:

[Roll No. 485]

YEAS—227

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth-Hage
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crane
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
King (NY)
Kingston
Knollenberg
Kolbe

Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Moran (VA)
Myrick
Nethercutt
Ney
Northup
Nussle
Ose
Oxley
Packard
Paul
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—205

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barcia
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Campbell
Capps
Capuano
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Ganske
Gejdenson
Gephardt
Gilman
Gonzalez
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Morella
Murtha
Nadler
Napolitano
Neal
Norwood
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pickett
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Sherman
Shows
Sisisky
Skelton
Slaughter
Snyder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NOT VOTING—2

McKinney
Scarborough

☐ 1724

Mrs. ROUKEMA changed her vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2606) "An Act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes."

The message also announced that pursuant to Public Law 104–1, the Chair, on behalf of the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, announces the joint appointment of the following individuals as members of the Board of Directors of the Office of Compliance—

Alan V. Friedman, of California;

Susan B. Robfogel, of New York; and

Barbara Childs Wallace, of Mississippi.

PERSONAL EXPLANATION

Mr. WATTS of Oklahoma. Mr. Speaker, this afternoon I recorded my vote by electronic device in favor of the rule to consider the Quality Care for the Uninsured Act, H.R. 2990. Subsequently and unexpectedly, that vote was reordered due to a failure with the electronic equipment, and I was not advised of this in time to return to the Capitol to recast my vote.

BIPARTISAN CONSENSUS MANAGED CARE IMPROVEMENT ACT OF 1999

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to House Resolution 323 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2723.

☐ 1725

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2723) to amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage, with Mr. HASTINGS of Washington in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Virginia (Mr. BLILEY), the gentleman from Michigan (Mr. DINGELL), the gentleman from Pennsylvania (Mr. GOODLING), the gentleman from Missouri (Mr. CLAY), the gentleman from Texas (Mr. ARCHER), and the gentleman from New York (Mr. RANGEL) will each control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BLILEY).

Mr. BLILEY. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, over 5 years ago, Republicans in Congress stood efficient against a very bad idea, an attempted Government takeover of our Nation's health care system. Back then, we opposed President Clinton's vision of health care reform primarily because of the negative effects his proposal would have on employers and the negative effects it would have on consumers' ability to choose their own physicians.

Mr. Chairman, we won that debate over how to best reform our health care system. We won that debate because the public agreed that Government micromanagement of our health care system was wrong. The public agreed that imposing expensive new burdens on employers would result in an increase in premiums and would cause businesses to drop their health care coverage.

Now today we are faced with another debate about the direction of our Nation's health care system. Mr. Chairman, once again, we must decide whether we want to move toward a Government-controlled health care system or instead enact reasonable protections for patients that maintain quality without driving up costs. I stand here today with a firm hope that we will prevail in this fight similar to the way we did 5 years ago.

Mr. Chairman, I do not think that anyone would question my long-standing commitment to ensuring that the United States maintains its high quality health care system and that Americans of all walks of life have access to that system.

☐ 1730

Unfortunately, I believe that H.R. 2723, the Norwood-Dingell bill, is misdirected in several fundamental ways and ultimately will harm the very people it intends to help.

My views on health care reform are fairly straightforward. First, we should do no harm. Doctors take the Hippocratic oath; we legislators should follow a similar injunction. We should vote down health reform legislation that harms patients. We should avoid legislation that increases the number of uninsured in this country. For all the attention that has been given in this debate to denied care, I think we should focus on the worst kind of denial, and that is denial to any form of health insurance at all.

Forty-four point three million persons are uninsured today, and we ought not be adding to that number; we should be subtracting from it.

Second, when we do enact patient protections, they should be just that, patient protections; not provider protections, not insurer protections but patient protections. That is why I have been an ardent supporter of a fair and just external review process.

My colleagues have heard me say "care, not court." A patient in need of care needs medical treatment not legal treatment. In my opinion, H.R. 2723 goes way too far on liability and will simply be a treasure trove for trial lawyers.

By overreaching on the constraints it imposes on valid cost containment techniques, this bill poses a real threat to the voluntary, employer-sponsored health insurance system prevalent today.

I know how price-sensitive employers are. I was a small business owner myself some time ago. The Norwood-Dingell bill takes a reasonable idea, and then it takes it way too far. As a result, costs will needlessly go up and not always for the betterment of health care quality. For example, the bill does not have a point-of-service exemption for small employers. Due to this omission, many small business owners, who can least afford to contribute to health care coverage for their employees, will be left with the choice between providing Cadillac care or no care at all. Many of their employees will lose their employer-sponsored insurance because the point-of-service mandate will drive health care costs up.

The bill's whistleblower provision is another example of a reasonable idea gone bad, and the list goes on.

This bill micromanages a plan's utilization review requirement.

It gives too much secretarial authority in the selection of external review entities and in specifying the standards of review.

Even the bill's definition of medical necessity extends beyond what is needed to ensure that patients receive the most appropriate care.

Mr. Chairman, I could go on and on and discuss other concerns I have and point out the breadth of the bill's onerous "any willing provider" provisions and the lack of a conscience clause, but there are other Members here who wish to have their say.

Let me simply conclude as follows: As the chairman of the Committee on Commerce, I have reached across the aisle to draft reasonable patient protection legislation with my colleagues. While some amount of this bill reflects that effort, in the end the authors went too far, as I have said. This is unfortunate, and this is why I have cosponsored H.R. 2926 instead.

As I have said, my goals throughout have been to provide better, not worse, care to the American people; to provide access to needed medical care, not to courts of law; and to provide patient protections, not protections for the interests of providers or insurers.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that I may yield 15 minutes of the time available to me to the gentleman from Georgia (Mr. NORWOOD), to be controlled by him.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. NORWOOD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the opportunity finally, after 5 years, for us to come together and decide an issue that has really confronted this body for 5 years, but the truth is it has confronted the American patient for 25 years.

The issue is whether managed care insurance companies can be held truly accountable in court when they breach their contract and someone is injured or dies.

Since 1974, this Congress has given HMOs a free pass to deny promised benefits without any legal responsibility for the damages that they do and have caused.

Are we willing to correct this injustice, finally, after 25 years? If so, we simply must pass a bill that can become a law which reverses that 1974 mistake, and a bill that we are certain will be signed by the President. We must also be able to answer in the affirmative the following question: If someone makes a wrongful medical decision or breaches their contract and a member of someone's family dies, will that family have an absolute, unconditional right to seek redress in court? Yes or no, no strings attached?

There is only one bill that we will consider that can pass this test, and that is a bipartisan bill supported by both Republicans and Democrats. I believe that everyone in this body knows that to be a fact. To cast a vote really for any other bill is to cast a vote to block managed care reform.

Not one Member of this body will be able to hide behind a vote for a watered-down bill that cannot become a law and claim to be on the side of patients. We know better. The American people know better. Vote no, Mr. Chairman, on every substitute. Vote yes on the only legislation that has really a chance of becoming law and changing the disaster that this Congress visited on the American people with the 1973 HMO Act and the 1974 ERISA Act.

Mr. Chairman, I reserve the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this is an old story. Last year, the industry spent $75 million to defeat legislation similar to that which we are considering today. Reports today indicate they will be spending in excess of $100 million for that purpose. Tonight they will be launching another new ad campaign with pictures of sharks and music from Jaws.

What scared them so much? Could it be they are afraid of paying for someone's cancer screening? Are they terrified of paying for surgery to some person who needs it? Is it the threat of paying for prescription drugs that has them petrified? Or maybe they are afraid of letting ordinary people make the decisions that affect their own lives.

Maybe they are afraid of the mother whose child has leukemia and wants the pediatrician to decide what care her child needs or perhaps a terminally ill cancer patient who has no other treatment available to save his life, other than a clinical trial.

Perhaps that patient needs to have an oncologist as his principal medical advisor. Maybe it is a woman in her second trimester of pregnancy whose doctor is dropped from the health care plan, or maybe it is a woman with breast cancer who has a mastectomy and is sent home that same day, or the man with a stroke who needs follow-up visits to a physical and speech therapist to regain full function.

The Norwood-Dingell bill would help each of these people get and continue the health care they need. None of the other substitutes can truthfully make that claim. The gentleman from Georgia (Mr. NORWOOD) and the gentleman from Iowa (Mr. GANSKE) and I have been working on these issues for years. Our bill has been totally vetted. We have even incorporated suggestions from other Members, including the gentleman from Oklahoma (Mr. COBURN) and the gentleman from New York (Mr. HOUGHTON).

We are going to hear a lot of rhetoric about lawsuits, and it is one thing which is perhaps one of the significant differences between these bills. Yes, we allow patients to hold their health care plans accountable if they cause harm or death when they make a medical decision. That should be. A right without a remedy is of no value.

All we have done is the same thing they did in Texas, where a law enacted during the tenure of Governor George Bush does these things. In 2 years since that law has been in effect, Texas has had exactly 5 lawsuits. The cost of such a situation, according to Coopers & Lybrand, a major accounting firm, amounts to 13 cents a month.

Let me remind all here, only one of these bills that is considered today was written before yesterday. They are all brand new, except the one which is offered by the gentleman from Oklahoma (Mr. COBURN), the gentleman from Iowa (Mr. GANSKE) and I.

All of our bills have been examined in broad daylight. The others have not. There is only one bipartisan bill. There is only one that has a chance of being signed into law. Only one has been endorsed by more than 300 organizations, including doctors, teachers, consumers, union members, specialists, women and others, including the league of voters, and all of the consumer organizations.

Only one has a chance of really making life better for people who buy health insurance and only one gives the people a clear right to the care which they need and which they deserve. Only one will be signed by the President. Vote for Norwood-Dingell and support a bill that is going to benefit the people.

Mr. Chairman, I reserve the balance of my time.

Mr. BLILEY. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee (Mr. BRYANT).

Mr. BRYANT. Mr. Chairman, I thank the gentleman from Virginia (Mr. BLILEY) for yielding time to me.

Mr. Chairman, as a former attorney who practiced malpractice law and defending health care providers, I can say part of the problem with our health care system is the cost of that. It is simply too expensive. A lot of that cost is driven up by lawsuits where doctors have to practice defensive medicine in the event they might be sued later on. Common sense would tell us that if we are going to try and work in this situation and make health care more affordable and more accessible, then common sense would tell us that we ought to be able to try and reduce the cost here so that we can make health care more affordable and keep more people in the health care market. That would be the commonsense approach.

Now, the other approach, which is supported by the President and some here in Congress, would seem to allow the public to sue their way to more affordable health care; but according to the Congressional Research Service, expanding liability in an unrestricted fashion could result in private employer-sponsored plans, and these are the people who provide insurance to their employees, it could cause these plans to increase by 70 to 90 percent in premiums.

Just as medical malpractice liability induces health care providers to practice defensive medicine, again do this so I will not be sued or in case I am sued I have myself covered here, so would expanding liability to managed care in an unrestricted fashion. It would result in those employers and insurers and HMOs and third party health plan administrators beginning to approve unnecessary or inappropriate tests and procedures that are expensive, that will drive up the cost, all out of a fear of being sued. These added costs would then have to be passed on to employers who would then have to pass them on to their employees in the form of increased premiums and planned administration fees or simply do the easy thing and that is just quit providing health insurance to their employees.

Why fight that? If someone thinks suing a company for $4 million for a spilled cup of coffee was excessive, wait until they see some of the lawsuits and some of the awards which could result from the passage of this plan.

With health care representing over one-seventh of our economy, the odds of hitting the lawsuit lottery will expand exponentially. If the cost of providing health insurance actually goes up under this plan, which is supported by the President, who actually benefits? The discussion from the other side would have people believe it is the public; but if the costs go up, I fail to see how it is going to help those 44 million Americans that we have talked about heretofore afford health care coverage.

So who, in reality, does benefit from more lawsuits? Well, who gets over one-third in fees of the millions of dollars which have been awarded in our lottery-style court system? I think if we answer that question, we will find out who actually is being protected here; and those are some of those trial lawyers.

□ 1745

Mr. Chairman, this is not hard. Let us not turn this patient protection effort into a lottery. Let us instead try to find a way to find a balance here that would hold managed care people accountable, they ought to be held accountable, but yet do so in a fashion which does not drive up the cost of this health care; does not cause them to practice defensive medicine for fear of being sued or for these lottery-style judgments, but yet do the right thing and also keep these employers in the business of providing insurance for their employees.

What we do not want to do by this plan is to put more people into that 44 million uninsured classification simply by virtue of the fact that it is just easier, less expensive, less risk involved if they do not provide health care insurance for their employees, and I think we can do that.

Mr. Chairman, I trust this Congress has that ability to pass such a law that would provide that proper balance of accountability weighed against the cost and exposure and the risk and people dropping out of the market. I hope we can.

Mr. NORWOOD. Mr. Chairman, I yield myself 1 minute which I need to respond to my friend from Tennessee.

I am delighted that our lawyer friends would like to see some type of legal reform.

Would I agree that we need to stop the extortion, and frivolous lawsuits and all those things that cause defensive medicine prices to go up that I have lived with all of my life? Absolutely right. But legal reform can never mean that we take the civil rights or the due process away from 160 million Americans across this country and simply say, In your case with health care insurance you're on your own, baby.

Now we have got external review that is going to stop most of that anyway; it is going to be very hard to be negligent. And I think we are not going to find this big rash of lawsuits. But to say, Americans, the justice system is not there for you when somebody denies you a benefit that damages you and kills your child, what kind of justice system is that? Are we going back to six guns and the OK Corral when one is wronged? No, I do not think so.

The good news is that ours is very modest. We go back to the States where we took this away from them in 1974.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. HORN).

Mr. HORN. Mr. Chairman, for all the controversy surrounding this debate the issue is very simple: responsibility. Just as doctors are held accountable for the care they provide, just as manufacturers are held accountable for the safety of their products, so too should HMOs be held accountable for the consequences of their decisions.

Mr. Chairman, the Norwood-Dingell-Ganske bill simply sets up mechanisms to enforce the existing contractual agreements between patients and their health insurance providers. No health insurance plan should be allowed to avoid paying for necessary medical treatment for those who have faithfully paid their premiums each month by inventing its own definition of medical necessity. When health plans tell consumers that a requested treatment is not medically necessary, they are practicing medicine as much as a doctor who reaches the same conclusion. This shield of ERISA allows HMOs to escape the consequences of their decisions.

I know of no other business in America which has such immunity. With this bill we want to drive the quality of health care in this country not by encouraging lawsuits, but by encouraging HMOs to use the best medical science when providing care instead of using the bottom line. Medical necessity must be determined by physicians and their patients, not by MBAs and people that have not had a medical experience and not by profit margins and HMO bureaucrats. Norwood-Dingell-Ganske is the only bill that does just that. Support it.

Mr. BURR of North Carolina. Mr. Chairman, I ask unanimous consent that I be permitted to control the time of the gentleman from Virginia (Mr. BLILEY).

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Chairman, I rise in very strong support of the Bipartisan Consensus Managed Care Improvement Act of 1999. I commend the gentleman from Georgia (Mr. NORWOOD) for his heroic leadership in this issue.

The passion of the gentleman from Michigan (Mr. DINGELL) for health care was inherited from his father, John Dingell, Sr., who introduced the first bill in Congress to make health care available to all Americans, and I am sure that he would be very proud of his son today. At last we can enact real managed care reform and improve patient care across this country. The Norwood-Dingell bill was not written by special interest groups. It is the result of listening to what I call the other voices, those of patients and providers who have been left out of this dialogue.

As a nurse, I am also speaking on behalf of over 2 million nurses who have known for a long time that HMO reform is necessary, and I am proud that the American Nurses Association has offered a strong endorsement of this legislation, and I enter their letter as part of the RECORD:

AMERICAN NURSES ASSOCIATION,
Washington, DC, September 29, 1999.

Hon. LOIS CAPPS,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE CAPPS: As the House prepares for floor consideration of patient protection legislation, I am writing to express the American Nurses Association's strong support for the Bipartisan Consensus Managed Care Improvement Act of 1999, HR 2723.

The American Nurses Association is pleased to endorse this bill and is encouraged by the cooperation and compromises made to achieve real progress on managed care reform. This legislation constitutes an important step in assuring that strong, comprehensive, and enforceable protections will be in place for all insured Americans.

ANA believes that every individual should have access to health care services along the full continuum of care and be an empowered partner in making health care decisions. Given the nursing profession's preeminent role in patient advocacy, ANA is particularly heartened by the steps proposed to protect registered nurses and other health care professionals from retaliation when they advocate for their patients' health and safety. As the nation's foremost patient advocates, registered nurses need to be able to speak up about inappropriate or inadequate care that would harm their patients. Nurses at the bedside know exactly what happens when care is denied, comes too late or is so inadequate that it leads to inexcusable suffering, which is why the strong whistleblower protection language in this bill is critical to patient protection legislation.

ANA also believes that accountability for quality, cost-effective health care must be shared among health plans, health systems, providers, and consumers. The provisions of HR 2723 that assure a truly independent appeals system and legal accountability for health plans are reasonable and necessary if we are to have reform that is comprehensive and enforceable for all participants in the health care system.

This important bipartisan compromise also includes an important requirement that health plans allow patients to have access to a full range of health care providers, with no discrimination against some providers solely on the basis of type of licensure. ANA also strongly supports the provision assuring that women have direct access to providers of obstetric and gynecological services.

The American Nurses Association, which represents registered nurses throughout the nation who practice in every health care setting, urges support for HR 2723, the Bipartisan Consensus Managed Care Improvement Act of 1999, the only patient protection bill to be considered by the House that will bring about genuine reform in our health care system.

Sincerely,

BEVERLY L. MALONE,
President.

This bill contains common sense provisions so important in the lives of ordinary Americans. It allows patients to choose their doctor and hospital and to see needed specialists. It leaves the determination of medical necessity with doctors, not insurance clerks. It guarantees emergency room care and ensures access to clinical trials. It allows patients recourse when they have not received proper care. This bill also includes whistle-blower protections which prevent nurses and other health care professionals from being fired if they report dangerous abuses.

Mr. Chairman, in my travels around the central coast of California it is heartbreaking to listen to so many families whose HMO horror stories have ruined their lives. In this, the greatest Nation of the earth, the time has come to put patients before profits. Let us pass this bipartisan bill. Stop the abuses of managed care.

Mr. BURR of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. I thank the gentleman from North Carolina for yielding this time to me.

As my colleagues know, several times today we have asked ourselves why we are here, and what we have already heard in the first part of the debate is some of us are here to take a cheap partisan shot, some of us are here to build a career in Congress, some are here to get an electoral advantage. I am here to help patients, and I have already heard that the only bill that can do that is the bipartisan bill, and I adamantly and flatly disagree with that.

The American public needs to ask themselves why the persecution complex of the American Medical Association would say because we get sued so much we want everybody else sued.

There is a 1990 study out of the University of Indiana that says American doctors at that time ordered $33 billion worth of tests that were unneeded because of the fear of being sued. It is a legitimate concern to consider what the unintended consequences of uncontrolled lawsuits are going to be. Some will say we are going too far. That is what people say about the bipartisan bill. Some would say we are not going far enough. That is what they say about the Boehner bill. What we have to do is find a balance between both extremes, one that holds plans accountable, that does not raise costs and in fact can be enacted.

There is some perverse incentives out there that my friend, the gentleman from Georgia (Mr. NORWOOD), and the gentleman from Iowa (Mr. GANSKE) have worked hard to try to change with their bills, and I applaud them in their efforts to doing that. But to get a bipartisan bill, what happened is the group of people that they listed in support of their bill, they just happened to fail to mention that the trial lawyers are in strong support of their bill. Why would they be? Because one out of every $3 that is ever going to come out of this system to, quote, "protect patients" is going right into their pockets.

So there needs to be a balance; there needs to be accountability. We can do that.

And some have talked today about poison pills. We need to be real careful with that because, if in fact we care about patients, there is no such thing as a poison pill, there is no such thing as a poison pill. If my colleagues care about fixing the great inequality in our laws for patients, if my colleagues care about the future of voluntarily giving workers benefits, if my colleagues care about restoring the responsibilities on both sides of the doctor and patient relationship, then we cannot have too far reaching either way. We have got to have a balanced approach.

There is going to be several votes that we are going to take. If my colleagues care about fairness and finally again if my colleagues care about patients, they are going to consider the one that is just right, the one in between, the one that holds plans accountable, that does not raise the costs.

And, Mr. President, I would say to him, When you talk about vetoeing a bill that has access, that has limited liability, what you are saying is you really don't care about patients either. What you care about is a partisan political advantage and the fact that we will not enact a law that will save our patients and give them the freedom that all the rest of us have.

Mr. BROWN of Ohio. Mr. Chairman, I yield myself 2 minutes.

I am going to vote for the Norwood-Dingell-Ganske bill and against all the substitutes, and here is why:

The Norwood-Dingell-Ganske bill is the product of negotiations among three Members of Congress who believe in patient protections so strongly that they have devoted more than 3 years to the passage of comprehensive reform. They know what they are doing, and the Norwood-Dingell-Ganske bill gets it. To protect patients we just cannot fix discrete problems as they pop up. We would be at that task forever. We need to make it in HMO's best interest to do the right thing without hand holding or without prompting. That is what accountability is all about; that is what the Norwood-Dingell-Ganske bill does.

As most of my colleagues know, Texas allows its citizens to sue managed care plans in State court. This bill says that all Americans should have that same right as people in Texas do. Most of my colleagues probably also know that there have been only five cases in the 2 years since the Texas law went into effect.

One of those cases should silence every single opponent of the Norwood-Dingell-Ganske bill. It involves a doctor who refused to refer his patient to a specialist. Why? It turns out that the patient's HMO told this doctor that if he referred even one more patient to a specialist, he would be kicked out of the provider network permanently and financially penalized. Apparently, Mr. Chairman, he had passed his quota.

Managed care organizations take huge gambles that they perceive as benign business decisions at our expense. We need to raise the stakes. That is what the Norwood-Dingell-Ganske bill does. If we want to protect patients now and in the future, it is the bill we should all vote for.

Mr. Chairman, I reserve the balance of my time.

Mr. BURR of North Carolina. Mr. Chairman, I yield 30 seconds to the gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. Mr. Chairman, I think we just need to address what was just said because what was just said was misspoken.

The State of Texas allows a suit on quality of care only, not on benefits. The Norwood-Ganske-Dingell bill covers both of those. The coalition bill allows any State to set up the same law that Texas has, but it reserves the right for benefits to the ERISA plans where they should be reserved.

So any State can do what Texas can do under either of the two options.

□ 1800

Mr. NORWOOD. Mr. Chairman, it is my great privilege, pleasure, and honor to yield 3 minutes to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Chairman, I thank the gentleman from the great State of Georgia, who has led the fight on patient protection, for yielding me this time, and my colleagues on the other side of the aisle, the gentleman from Michigan (Mr. DINGELL), and so many others that I recognize from the many nights we have had here on the floor.

Mr. Chairman, why are we here? We are here because patients have been harmed by HMOs because they have made medical decisions. It started out a couple years ago. Remember, we had 285 cosponsors to ban gag clauses.

Here we have a cartoon, a doctor is talking to his patient, he says, "Your best option is cremation. $359, fully covered." The patient is saying, "This is one of those HMO gag rules, isn't it doctor?"

There were problems with all sorts of denials of care; right? Here is the HMO claims department. "No, we don't authorize that specialist. No, we don't cover that operation. No, we don't pay for that medication." And the lady at the desk at the HMO suddenly hears something and she says, "No, we don't consider this assisted suicide."

Or how about the HMOs that decided they were going to do drive-through deliveries. Here we have the counter at the hospital drive-through window. "Now only 6 minute stays for new moms." And we have the mother there, her hair like this, getting her baby.

And, do you know what? This affects real people. This lady here with her family is no longer alive because an HMO made a medical decision where she lost her life.

This lady who fell off a 40-foot cliff found that her HMO would not pay her bill because she did not phone ahead for prior authorization.

This is a patient of mine, a child born with a birth defect. Guess what? Fifty percent of the surgeons who correct this have found that HMOs deny coverage for this birth defect because it is "cosmetic."

And this little boy, this beautiful little boy, clutching his sister's shirt sleeve. Guess what? After his HMO care, he no longer has any hands and feet, and the judge that looked at that case said that HMO's margin of safety was "razor thin."

Look, I call upon my colleagues on both sides of the aisle: Vote for the bill that will correct these HMO abuses. Vote for a bill that will make sure that patients do not lose their hands and their feet before it happens. That is the Norwood-Dingell bill. It is the only bill that has been endorsed by over 300 organizations. It is the only bill that has been endorsed by nearly every consumer group, by nearly every patient advocacy group, by the provider groups, by the AMA. It is the only bill that the AMA has endorsed. The AMA is recommending a "no" vote on all substitutes. Look, why is that? It is because we need to fix this Federal law.

Mr. BURR of North Carolina. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, let me say that I hold in high regard my colleagues on both sides of the aisle that are here on different sides of this debate.

I hope the fact that we have seen the works of political satirists and comics is not an indication that health care policy in this institution will be driven by the jokes that we see in the newspapers but that it will be driven by the policies that we should adopt about those real people.

Mr. Chairman, I think that the forgotten folks in this debate are the 200-plus million people that are insured, many of whom are happy with the system. You know, we do have the best health care delivery system in the world, and I hope that that is not something that would be challenged on this floor. It is not a system that we want to change the gold standard that we have set. Nor is ours a system where the American people want to wait for procedures, like they do in other countries.

I am confident that it is, in fact, the wish of the American people that Congress do no harm to the system. Is there room for improvement? There always is. I remember when I became a Member of Congress, I took the same health care coverage that I had in North Carolina, only to find out that the cost of it was some $30 higher than the 50-person company I worked for. It was, needless to say, something that I had to inquire as to why.

That health care company said to me, "Richard, never let the Federal Government negotiate your health care." That stuck with me ever since then, because it gets at the heart of cost, and it also gets at the heart of the quality of the services provided.

I am hopeful that through this debate we can separate the rhetoric and the policy and truly come up with the right direction.

Mr. BROWN of Ohio. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY), a member of the committee.

Mr. MARKEY. Mr. Chairman, back 4 years ago the gentleman from Iowa (Mr. GANSKE) and I introduced a gag bill, a bill that said that physicians should not be gagged in telling a patient that they might need some additional help, some additional services outside of the scope of what the HMO might want to provide. We had 169 cosponsors on our bill in the 104th Congress. We had 302 cosponsors on that bill in the last Congress, but the Speaker of the House would not allow us to debate it out here on the floor of Congress.

We have come a long way since that point, not that long ago, when that was controversial in the minds of the majority, of the Speaker, a gag rule.

The gentleman from Iowa (Mr. GANSKE) and I are looking back at that as though it is ancient history, because this debate has moved far beyond that now. The majority wishes they could just work on the gag rule now, "How do we go just on that?" But that issue is passed by, and as each issue goes to the public and they understand it more, the Republicans get educated more.

Now we are down to the question of whether or not, if an HMO engages in practices which are really wrong, that an injured family should be able to sue, to say something went wrong; my family member got hurt. The public understands this issue. It is 75-25. "Give me and my family the right to be able to protect ourselves. Allow me to be able to sue someone who harmed my family member."

They are debating on this final issue now, but it is going to go in. If it does not go in this Congress, it is going in the next Congress. And you should view that gag rule as past being prologue. Vote for this substitute today, and give the American people what they need, protections for their families today across our country.

Mr. BURR of North Carolina. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Mr. Chairman, when we come to the well of the House to speak, we can make speeches about the things that divide us. And we can do that for partisan reasons or other reasons. Or we can choose to come and talk about the things that unite us and then try to examine our differences. We are, in fact, united within the Republican Party and among Republicans and Democrats on most of what will be debated today and most of what will be debated tomorrow.

We all understand that managed care has brought us savings, but it has also put insurance companies between doctors and patients, and that is not good.

All of us, all of the plans, all four of them that will be debated agree on that and have good provisions to protect patients. We are not fighting about that. What we do have a legitimate difference of opinion about is the extent to which patients ought to be able to sue their insurance companies. That is a legitimate difference.

In fact, three of the four versions that we will vote on, two Republican and one Democrat version, will allow patients to sue their insurance companies if they have been harmed by them, so we are not even fighting about that. The one plan that does not allow suits, as everybody knows, that is going to fail and get the least number of votes of all of them.

So now the whole debate about which people will try to make political hay for reasons of elections is really about what is the best structure to allow patients to get accountability and to get redress when they are really hurt, which does not create a feeding frenzy for the trial bar. That is what this is about.

The gentleman from Georgia (Mr. NORWOOD), whom I respect immensely, a good friend of mine, has one version. Our bill, which we now call Goss-Coburn-Shadegg-Greenwood, et cetera, has another version, and the gentleman from South Carolina (Mr. GRAHAM) has yet another version.

We are going to have a good debate for the next two days. And if we can stop trying to make political hay out of it and try to figure out what is good for the American people, I have a feeling that this House will pick the right and wise position.

I advocate for the position that the gentleman from Colorado (Mr. COBURN) and the gentleman from Arizona (Mr. SHADEGG) and I and the gentleman from Florida (Mr. GOSS) have structured. We think it is the midpoint. We think it allows accountability, unlike the Boehner proposal, but it does not allow wide open accountability, which we think would generate too many lawsuits, which would then be settled by the insurance companies day in and day out, raise the cost of insurance, and cause employers to stop offering insurance to their employees because the cost is high.

So we think that our version, the Goss-Coburn-Shadegg-Greenwood substitute, strikes the midpoint, and I would urge all of my colleagues to support us in that position.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. PALLONE), who worked incredibly long hours in support of this legislation.

Mr. PALLONE. Mr. Chairman, I have great respect for the previous speaker, the gentleman from Pennsylvania, but I think he suggests that somehow there are not great differences between these various bills. And I do not think that is true.

There are two goals in the Norwood-Dingell bill, and each of the other substitutes that we are going to vote on tomorrow takes away from those goals I think in a significant way. And that is why Members should vote for Norwood-Dingell and not any of the other three substitutes.

Those two goals, which I have spoken about many times in the well, are as follows:

One is the issue of medical necessity. The bottom line is the decision of what kind of care you get, whether you get a particular operation or procedure, whether you can stay in the hospital a certain number of days. That basically is defined by what is medically necessary.

What the Norwood-Dingell bill says is that that decision, what kind of care you get, what is medically necessary, is going to be made by doctors and by the patients and not by the HMOs, not by the insurance companies.

The second goal in the Norwood-Dingell bill is to enforce your rights. If that decision about what kind of care you make goes the wrong way, you should be able to go either through an independent review board or through the courts, if necessary, in order to enforce your right. It is an enforcement issue.

The bottom line is that the Norwood-Dingell bill provides for a very good enforcement mechanism. It says that when you want to appeal a decision because of a denial of care, you are going to go to an independent review board, not under the authority, if you will, of the HMO. And they are going to define what is medically necessary, what kind of care you get, and they can overturn a denial of care. Failing that, you can go to court.

All of the substitutes take away from those two goals, and that is why you should vote against the substitutes and vote for Norwood-Dingell.

Mr. NORWOOD. Mr. Chairman, it is now my great pleasure and honor to yield 2 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Chairman, I want to say this is really wonderful. I want to congratulate the gentleman from Georgia (Mr. NORWOOD), the gentleman from Iowa (Mr. GANSKE), the gentleman from Michigan (Mr. DINGELL), and all of the others who cosponsored this legislation, because we are finally getting past bureaucrats and HMOs practicing bottom line medicine.

□ 1815

We are putting the medical decisions back in the hands of the medical professionals, where they belong. I think that has been more than adequately explained by those who have come before me.

I guess I have to recognize that there has been another straw man put up here, and misinformation on lawsuits and so forth, in that somehow this legislation is an open door to the courthouse. That is not true. That is not on the facts. There are strict appeals processes, strict grievance procedures, and lawsuits are only the last resort.

Mr. Chairman, I guess I also have to say that I had an interesting conversation with a host of a radio show the other day that I think more than anything explains why this provision for appeals process and Federal and State court access to the legal liability is necessary.

This was a Christian radio station. They were interviewing me. The host was a conservative-oriented host, okay? We discussed a number of things. All of a sudden he says, Congresswoman, you know what, a builder who built my house, we closed on the house and I thought I had a good contract with him. I thought everything was well explained. But I no sooner moved into the house than the foundation was weak, the roof leaked, I had to replace the roof, and by God, he was refusing to deal with it, Congresswoman. Of course, I went to court.

Would you tell me that if my mother died because of a denial of treatment by an HMO, that I should not have the ability to go to court?

Mr. Chairman, knowing that these procedures are very specific, can we really say to our constituents, conservatives and liberals alike and everybody in between, no, you cannot file a grievance procedure when your mother died, but you can take your homebuilder to court?

Mr. Chairman, last year, the House conducted a similar debate on the future of health coverage for working Americans—an issue of critical importance for every family in our Congressional Districts. At that time, I stood on this floor and asked, "Is this as good as it gets?"

The answer last year was a disappointing "no."

But 1999 may be different. The debate over who makes medical decisions for our family members—doctors or insurance company bureaucrats practicing "bottom line medicine"—has moved forward significantly.

Today, after this debate, the House will vote on no less than three pieces of legislation that protect a patient's access to necessary medical services AND ensure a patient's right to hold health plans responsible for their treatment decisions.

All three have been drafted by Republican Members of this House and all three move the public policy debate in the right direction. This is a victory for families everywhere.

So, "Is this as good as it gets."

Well, if this House passes the Norwood measure then the answer will be yes. The Norwood bill, which I am a proud co-sponsor, includes many significant improvements in Patient Protections. It includes:

Emergency Services.—The bill says that individuals must have access to emergency care, without prior authorization, and under a "prudent layperson" standard.

Direct Access to ob/gyn care and services, including direct access to all covered obstetric and gynecological care, including follow up care and direct access to a broad array of qualified health professionals for ob/gyn care.

Direct Access to Pediatric Care by ensuring access to appropriate specialists for children and pediatricians as primary care providers. The list goes on.

But let's face it—the crux of this debate is about one issue—protecting a patient's ability to hold HMOs accountable for any negligent actions—the ability for patients to sue.

But an important point must be understood here. This legislation is not an open door to the courthouse. The bill contains a strict grievance procedure if a plan denies a claim, including a legally binding independent external review done by a panel of medical specialists. If a plan does not follow the recommendation of the grievance procedure than the patient may seek judicial relief in state court. Since the external review language is so prescriptive, most claims should be taken care of at this level, rather than the courthouse. This bill reduces the need for costly court cases by setting up a straightforward appeals process for grievances.

Lawsuits Are the Last Resort.—The bill only allows suits for personal injury or wrongful death and this greatly limits the type of suits that can be filed under the bill. The bill does not allow suits and damages for persons who weren't harmed and does not allow suits and damages for benefits that weren't covered by the plan.

Employers Are Protected.—Much has been said that opening plans up to liability will trap small businesses in a swamp of litigation that will eventually force them out of business.

Well let's set the record straight. Small employers usually contract out with insurance companies to administer the health plans, thus these small employers don't exercise discretionary authority. In an explicit provision in the Norwood bill, only employers who exercise discretionary authority (i.e., make medical decisions/pre-certification and utilization review) can be held liable along with the health plan.

So, Mr. and Mrs. Small Business, unless you are at the table with your insurance company bureaucrats using discretionary authority to design your own health plan, you are shielded from liability. So the claim that you will be sued out-of-business simply does not hold water.

Mr. Chairman, I don't know if this is as good as it gets, but it is better than last year and a world of difference from current law where insurance company clerks and accountants are making medical decisions about our loved ones.

Support the Norwood bill.

Mr. BURR of North Carolina. Mr. Chairman, it is my honor to yield 1 minute to the gentleman from Florida (Mr. McCOLLUM).

Mr. McCOLLUM. Mr. Chairman, well-intentioned HMOs have run amok, and tomorrow we are going to have an opportunity to correct some of the more glaring deficiencies and to allow more choice, more right to choose the doctor you want, and for doctors to get more control over their patients' care.

The principal bone of contention we have in this legislation and the choices we have is over the decision-making with regard to redress and negligence, when that occurs in the HMO circumstance. Norwood-Dingell allows tort claims in State courts as the last resort, but fails to require the exhaustion of administrative remedies before administration, and contains no caps on damages that can be awarded. It also leaves open the possibility of employer liability, not just HMO liability.

On the other hand, Coburn-Shadegg requires the exhaustion of all administrative remedies before litigation when relief is sought, but the right to seek court relief is too narrow, and suits are required to be brought in Federal courts, which are already overworked, and simply an inappropriate place for dumping this garden variety type of litigation.

I hope that tomorrow we send a strong message and pass an appropriate Patients' Bill of Rights, but work out these problems in conference, because once the House-Senate meets to bring back a bill to us, it needs to be right. We need to have the exhaustion of remedies. We also need to have the remedy.

Mr. NORWOOD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, dead people really should not have to go to external review. Of course we exhaust all administrative remedies, unless there is bodily harm or death which occurs before you get to external review. If you do not do that, we encourage those people to drag it out forever until someone can die.

Mr. Chairman, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1½ minutes to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Chairman, I thank the gentleman from Ohio for yielding time to me.

Mr. Chairman, in 1994 the insured population was swelling while the cost of health care was rising higher and higher, even higher than the rate of inflation. We were paying more and getting less, but we backed off and walked away from health care reform because we were told there really was no health care crisis.

Yet, when we look at the picture now, things have only gotten worse. The Census Bureau tells us that the number of uninsured continues to rise. Health care costs are still escalating, and the Federal employees' health benefit premiums are going to 9 percent this year. The managed care organizations who were supposed to solve the problem of cost have not only failed to do so, but have added new problems of their own.

The system is still in need of major reform that would make health care universal and that would eliminate the inhumaneness of our current system, which leaves millions without coverage. But in the meantime, even our imperfect system has things that can be improved.

Managed care should not be allowed to run rampant over patients by denying emergency care arbitrarily, by interfering with doctors' professional clinical judgments, and by injuring patients who have no legal redress.

Only the Norwood-Dingell bill allows access to lifesaving clinical trials and prescription drugs outside the plan-defined formulary. Only the Norwood-Dingell bill has whistle-blower protections for doctors and nurses who advocate for patients. Only the Norwood-Dingell prohibits plans from giving financial rewards to health care professionals when they limit care. Only this bill will hold plans accountable through strong external review processes, backed by a nonwaivable right to sue in court, as people should have.

When we buy health coverage, what we really are purchasing is peace of mind and the security that we will be taken care of in the event that something unforeseen occurs. Without some way of holding plans accountable to what they have promised, we can never be certain that our care will not be denied. We have to support the Norwood-Dingell bill.

Mr. BURR of North Carolina. Mr. Chairman, it is my pleasure to yield 3 minutes to the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I think the significance of today's debate cannot really be overestimated. This legislation and the many permutations that we are considering is going to affect the lives of 160 million working Americans, every small business owner, every self-employed person, every corporation in America. The decision that we make here today and tomorrow has the potential to fundamentally alter the structure of the U.S. health care system, and with it, the quality and the quantity of health care that every American enjoys.

The task that we have before us today and tomorrow is to strike a balance between assuring access to health care and assuring accountability for those who provide it. We have to rise above the rhetoric, the heated rhetoric, which we are going to hear in these next 2 days and find the truth. If we do not and we respond with knee-jerk legislation, that in the end will only cause more harm than good to patients.

Let us be honest, there are no easy answers in this debate, but we can begin by acknowledging that under current laws, HMOs are not held truly accountable for their health care decisions. When the agent responsible for delivering health care services is the same agent that is responsible for controlling costs, then the quality of health care gets short-changed, and rationing of care results.

I have heard the cries of people in Arizona, and I have listened to the angry complaints of physicians who serve them. I have heard the horror stories I know many of my colleagues have about cancers that went untreated, physical deformities that went uncorrected, lifesaving therapies that were denied.

I believe HMOs should be held accountable for their decisions. But unfortunately, the suggested remedy in the underlying Norwood-Dingell bill establishing the unlimited right to sue an HMO I find equally troublesome. Already 44 million Americans have no health insurance, and that number is rising. Another significant number of Americans are underinsured. There can be no doubt that permitting unlimited liability will increase both the cost of health insurance and the number of uninsured.

How do I say this? How do I know that I can say this? In the first instance, simple economic logic tells us that insurers will pass the cost of increased risk of litigation along to someone else, and that someone in this case is going to be the consumer.

We have plenty of empirical evidence about the second concern, the loss of coverage for working people. I have in my office dozens of letters from companies in my area that say, in effect, any expansion of liability will force us to drop health insurance for our employees. The reason is straightforward. A company always seeks to reduce unknown and unquantifiable business risks. Norwood-Dingell is an open-ended liability, a brand new lottery for trial lawyers.

I am concerned that instead of 44 million uninsured Americans, we should all worry that in 4 or 5 years, with unlimited right to sue, the ranks of uninsured Americans will swell to 144 million people. That is what I mean by a knee-jerk response to a very ugly problem.

I urge my colleagues to reject the Norwood-Dingell bill and to support the Coburn-Shadegg bill.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1½ minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Chairman, every day I hear from my constituents enrolled in HMOs who are crying out for help.

Most Americans want guaranteed access to emergency room care, and so do I. Most Americans want to be able to see doctors who are specialists, and so do I. Most Americans want the ability to choose their own doctors, and so do I. Most Americans want doctors, not accountants or bureaucrats, to make decisions about their medical health care. So do I. Most Americans want protection of the doctor-patient relationship. So do I. Most Americans want the ability to sue their HMOs if they are injured by deficient medical care, and so do I.

It is ludicrous that in New York City if you were injured in a taxicab, you can sue, but if you are injured or killed by deficient medical care, you would have no right to sue. That cannot continue to happen in the United States.

The Norwood-Dingell bipartisan bill is the only one which guarantees these consumer rights. It is the only one which will ensure that Americans will have quality health care. It is the only one that will ensure that Americans who understand the needs of health care get access to quality health care.

I commend the gentleman from Georgia (Mr. NORWOOD) for his courageous stand, and the gentleman from Michigan (Mr. DINGELL) as well. Americans will not be fooled. Americans want quality health care. So do I. Support Norwood-Dingell. It is the only bill that assures them that quality.

Mr. BURR of North Carolina. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I want to tell a quick story about a town in North Carolina in my district, a town with a high concentration of textile workers and companies, companies that are forced to compete on margin, struggling to find cost-effective health care for their employees.

They banded together and self-insured. They supplied a greater benefit package to their employees than they ever could have had they gone through an insurance company. Their creative, innovative approach to quality health care for their employees is in jeopardy with what we do here in the next 48 hours, because if we extend liability to those employers, they will no longer offer health care as a benefit.

For us to talk about the human face hopefully is not to show that face of the future uninsured because of our actions. I would encourage my colleagues to vote against the Norwood-Dingell bill and to support the Coburn-Shadegg bill.

Mr. Chairman, I yield 2 minutes to the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Chairman, I rise in strong support of the Goss-Coburn-Shadegg-Greenwood alternative substitute, but I want to begin by talking about the Norwood-Dingell bill and about what it does.

I want to talk about the fact that it simply goes too far. When we look at the legislation, it makes liability too available and it turns the entire system over to the lawyers.

I want to focus in my remarks particularly on an issue that concerns the employers in my district. That is, can those employers be held liable when all they do is buy insurance for their employees. The reality is, the sad truth, is that my good friend, the gentleman from Georgia (Mr. NORWOOD) wrote language which he thought protected employers, but which does not do so. It says quite clearly that if an employer exercises discretionary authority, that employer may be sued.

□ 1830

Discretionary authority is a very broad concept. Indeed, the decision not to do something can be construed as the exercise of discretionary authority. I want to contrast that with our efforts to protect employers. We said, no, we should not make employers liable. We ought to make health care plans liable.

So how can we do that? Because we want employers to pick a health care coverage plan. So we wrote that employers cannot be sued for picking a health care coverage plan. We want employers to participate on behalf of their employees. We want them to be able to advocate on behalf of their employees. That is the exercise of their discretion. We want to them to be able to make a decision not to advocate an employee in a particular case without being suable for just that decision.

Let us look at the language in our substitute. It does not say if one really exercises discretion as an employer one can be sued. It says that one may only be sued if one chooses as an employer to directly participate in the final decision to deny care to a specific participant on a claim for covered benefits.

We had written an airtight provision that says one cannot sue employers. We did it precisely because we want employers to pick a plan. We want them to offer health care coverage. We want them to get involved and advocate on behalf of their employees. All of those are the exercise of discretion.

Sadly, the Norwood-Dingell bill allows suits by anyone. One does not have to show actual harm or does not have to be sustained by a panel like ours does. One can sue at any time. There is no requirement that one goes through administrative remedies.

One can sue over everything. Ours is limited to just covered benefits. One can sue even when the plan does everything right, that is, the plan makes the right decision that is sustained on external appeal. One still can sue under the Norwood-Dingell bill. Sadly, they put in place no limits.

I know that doctors across America do not like the fact that they can be sued; and in some States, there is no tort reform. We need tort reform. We do not need lawsuit lotteries against doctors, but we also do not need them against plans driving up costs and driving patients away from the system because they cannot get coverage.

Mr. NORWOOD. Mr. Chairman, it is my pleasure to yield 1 minute to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Chairman, I thank the gentleman from Georgia for yielding me this time.

Mr. Chairman, judging by the amount of time and money that some Washington lobbyists are spending on character assassinations and other ridiculous paraphernalia that we have received in our office in an attempt to defeat the Norwood-Ganske-Dingell bill, I am more certain than ever of supporting this bill.

This bill deserves our bipartisan support. This bill is right on target. It puts patients first. That is what we are here for, for our constituents. I support the Norwood-Dingell-Ganske bill.

Mr. Chairman, judging by the amount of time and money some Washington lobbyists have spent in recent weeks on character assassinations and other ridiculous paraphernalia in an attempt to defeat this bill, I am more certain than ever that voting for this bill is the right thing to do.

The Norwood-Dingell-Ganske bill is the only legislation that puts patients—our constituents—first!

We've all heard that question posed, "is there a doctor in the House?" when someone is in dire need of expert medical care. One always hopes that someone with some sort of medical training is nearby to assist. Well, Mr. Chairman, we must pose that question here today: Is there a doctor in the House?

As my colleagues are already well aware, indeed there are physicians in our Congressional ranks—bona fide caregivers, medical experts, right here among us. Because we are in need—because the American public is in dire need of expert medical advice—we ought to listen to the professionals among us.

Why is it that "the doctors in this House" support legislation with stronger patient protections?

Because they have been on the front lines of this debate—they have been there to see the look in the eyes of a mother who discovers her health plan won't cover the next phase of her child's cancer therapy.

They've been there when an insurance company accountant dictates to them what medical options are available and what essential information cannot be disclosed to their patients.

Mr. Chairman, patients, men, women, and children and their families rely on doctors in life and death situations, a heavy responsibility. But that resonsiblity is even greater under our current managed care system as insurance companies burden doctors with making medical decisions that too often coincide with the company's business decisions.

Mr. Chairman, our nation's doctors went to medical school because they were passionate about helping people. They could have gone to business school if they were interested in helping companies make a profit.

And Mr. Chairman, Americans want to be assured that when they step into their doctor's office, they will be seen by a doctor, not an accountant!

Realizing that managed care is here to stay, and that health maintenance organizations will always be in the business of making a profit as much as they are in the business of keeping patients healthy, we must not miss the opportunity to strengthen the system and make it more accountable. We must bring balance to the system—balance that ensues doctors are free to provide compassionate care to their patients, balance that ensures doctors are free to provide compassionate care to their patients, balance that ensures providers are protected, too, yet held acountable when a decision ultimately proves wrong, and balance that, most importantly, assures patients that they are the number one priority for their health care provides.

We can do that by passing H.R. 2723, the Bipartisan Consensus Managed Care Improvement Act of 1999 of which I am a proud co-sponsor. The Bipartisan Consensus bill provides important choices for everyone—the most important being the passage of a law that provides for the best health care possible in the next century.

The Bipartisan Consensus bill provides access, accountability and strong patient protections. It also: gives patients the ability to appeal a decision by their health plan; won't allow health plans to prevent doctors from informing their patients of all treatment options; gives female patients direct access to OB/GYN care and services, and children direct access to pediatricians; provides all patients with access to emergency services; and ensures that medical decision makers would be held responsible if someone suffers injury or dies as a direct result of that decision.

With just these few simple provisions, this legislation would eliminate some of the most egregious and unfair abuses by some health insurers.

Mr. Chairman, in the year or so since our last attempt to reform managed care, nothing has improved. In fact it has only gotten worse as we learned earlier this week of reports that said another one million people have joined the ranks of America's uninsured. This is a startling revelation considering our robust economy.

If this bill is defeated, another year will go by, maybe more time, and we will start the 21st century having missed an opportunity to provide Americans with the right to control their own health care. Indeed, we are afforded a rare opportunity here to prove to an already cynical American public that when the United States Congress debates the bottom line in managed care reform, we refer to protecting people, not profits.

Mr. Chairman, in closing, I remind some of my colleagues that no one political party owns this issue. All of us have heard from our constituents who tell us about their unhappy experiences with their health plans. I think it is the desire of every member to make health maintenance organizations more accountable—no one is interested in promoting more litigation; we simply support basic protections for all Americans.

As the greatest nation in the world counts down the days until the start of a new—millennium—there is no better way to prepare for a strong, healthy America than by putting people in control of their health care. Let's pass the Bipartisan Consensus bill (H.R. 2723), and let's return medical decisions to doctors and their patients.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I thank the gentleman from Ohio for yielding me this time.

Mr. Chairman, I rise in strong support of the Norwood-Dingell-Ganske bill and in opposition to the other substitutes. I believe it is important to point out the strengths that the real Patients' Bill of Rights, the Norwood-Dingell-Ganske bill, has. There are two of them.

The first is that the key aspect of liability is not simply the claims on which people can prevail in court and make their specific case winnable. It is the behavioral change that liability will introduce throughout the managed care system. It is a decision that will be made with people understanding that there are real consequences.

The key to the Norwood-Dingell bill is not the suits that will be brought. It is the suits that will not be brought because the right decisions will be made in the first place.

The second advantage of this bill is its medical necessity standard. It is very important for us to lay out very clearly, as the Norwood-Dingell bill does, that disputes will be resolved under an objective standard of medical necessity defined by the best practices of those who practice in a given medical field, not by the arbitrary economic discretion of the insurance carrier.

For reasons of medical necessity and the benefits of liability on corporate behavior, it is important that we reject the other substitutes and strongly support the Norwood-Dingell-Ganske bill.

Mr. NORWOOD. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, however one views this debate, it is exciting. Think about where we have come in 5 years. I mean, here we are, all members of the Committee on Commerce. All of us know each other well. We are generally good friends. The gentleman from Oklahoma (Mr. COBURN) and I do not disagree on probably three things on this Earth.

We are actually sitting here all talking about the same thing. We are talking about a managed care system, Mr. Chairman, that has gone awry, where it allows people to practice medicine who simply are not licensed to do so. Even if they are licensed to do so, usually it is a dermatologist telling a cardiologist how to treat their patient; and they are 2,000 miles away, looking at a computer screen. They have never touched that patient. They have never listened to their heart. They have never listened to their lungs. They are 2,000 miles away, and they say, Doctor, you cannot possibly be right. I know better. I have got a protocol in front of me. That is what we have allowed to happen in this country.

Now, have some people been killed? You bet. Why do my colleagues think the insurance industry said to Congress in 1974, give us the system. We will manage the costs. We will make it cost cheaper. By the way, we are going to have to deny some benefits to do that. We are going to kill a few people. For God's sakes, give us immunity, too. And we did. They are the only industry in America where we say they are absolutely protected from being responsible for their actions.

We do not believe that. We tell everybody they need to be responsible for their actions, do we not? We tell welfare mothers. We tell deadbeat dads. We tell teachers. We tell everybody. One has to be responsible for oneself. When one harms somebody, one has got to step up to the plate.

Do I want anybody sued? No. I am not interested in lawsuits, and I never have been. But the people who are practicing medicine without a license are being paid to do so. They are incentivized to do so. They lose their job if they do not do it.

Do I want a hammer over their head? Yes. Do I want that insurance clerk to think twice when he says to that mother, I know the pediatrician thinks your child needs to be hospitalized, but I know better. I have got it on my computer right here. I want that clerk to think twice about it.

If that clerk makes a decision that denies a benefit that is in a plan and causes death or injury, then, by golly, maybe we should go to court on that. We ought to go to State court. I strongly believe that now.

A lot of us do not disagree on a lot of this. We do disagree a little bit on the liability. I want to just tell my colleagues that, in our bill, employers who do not make medical decisions cannot be held liable on H.R. 2723. It states that a cause of action may only be filed against an employer when the employer exercises discretionary authority to make a decision on a claim for benefits covered under the plan and the exercise of such authority results in injury or death.

What that means is that the employer has the ability to make some decisions. If one of those decisions it makes is a medical decision, if it absolutely denies one of the patients a benefit that is in their plan, and they die from it, yes, we are saying the employer needs to be responsible for that and needs to be called up.

The only system of justice we have in this country, where does one right a wrong if one does not do it in a courtroom anymore? We are not going back to the O.K. Corral. We are not going back to six guns to solve our problems.

We have only one system of justice; and to say to an entire industry in this country, no, they never have to be held accountable for the decisions that they make, even though the Congress of the United States told them they could do all of this, discretionary authority does not include an employer's decision to include or exclude from the plan any specific benefit. What that says, they can have anything in it that they want to.

Now, we agree on a lot of things, but the one thing that is a must, my colleagues must vote for the bipartisan bill if they want to protect patients because that is how we get to a law.

Mr. BURR of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma (Mr. COBURN), still a practicing doctor.

Mr. COBURN. Mr. Chairman, I love the gentleman from Georgia (Mr. NORWOOD). What he just expressed to my colleagues in his heart is right. The conclusion he has drawn on how we accomplish what he wants to accomplish is dead wrong.

Let us just use their definition of protecting employers. I happen to have a son-in-law that is a lawyer. He likes their bill because he knows he is going to make a lot of money off of it, because the very subtleties of going to State court to solve the problem that the gentleman from Georgia (Mr. NORWOOD) so eloquently just described, which we all want to solve, we all want to solve that, says that that lawyer is going to file a suit against that company, not because he thinks he can and not because he thinks he will win, because that is the person with the deep pockets. Then he is going to work hard, and then he is going to extort, and he is going to say I am going to settle.

They do not care about the patients most of the time. What they care about are their pocketbooks. The reason we are in this shape is too many doctors in this country care about their pocketbook more than doctors in the first place, or we would never have had HMOs, or we would never have had the abuses of HMOs.

So if my colleagues really care about patients, and if they really want a solution that will meet the needs of those patients and not the needs of the trial bar, then we have to back up. We have gone too far. We have created a system that is going to result in the extortion of dollars from every employer in this country.

Mark my words, those guys are smart. They are going to find every crack every time. They are going to claim it under doing something good. But the motive is not going to be pure; the motive is going to be money. Just like the motive today with too many HMOs is money. It is not about patients to either side, but it should be about patients to this body.

The only way we have to fix it is with a middle ground that protects the very supplier of that care in the first place, does not undermine it, does not cut it. If they truly make a medical decision under the Coburn-Shadegg bill, they are held liable. They cannot be penetrated unless they are not. So let us hold them accountable. Let us do it in a way.

Let us get a good bill to the Senate. Let us get a good a bill that the President is going to sign. Let us fix the problem. Let us reverse the cynicism of this body. Let us talk about patients and not politics.

The CHAIRMAN. All time has expired for the Committee on Commerce.

Under the rule, the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from Missouri (Mr. CLAY) each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, over the last several years, the Committee on Education and the Workforce has tackled the issue that should be number one when we talk about health care problems in this country, because the number one issue that needs to be fixed before anything else is the fact that we have 44 million uninsured people in this country, most of which work or have someone in the family that works.

That is very, very expensive to health care because, of course, the cost shifting that takes place is dramatic. Someone has to pay for the bills for the uninsured.

So today we have an opportunity to make a real difference in the lives of many Americans. As I said to the committee over and over again, there is a very fine line. Our job is to make sure the 44 million get insured and at the same time make sure that the 125 million do not get uninsured that are already insured.

We can thoughtfully provide real patient protections, including a binding external review by independent medical experts, that will ensure that Americans who currently have health care coverage get the care they are entitled to when they need it.

Unfortunately, we also have an opportunity to do great damage to a very successful system of employer-sponsored health care coverage and add to the ranks of the 44 million Americans who are presently uninsured. I would hope that we would make the wise choice.

□ 1845

One of the great casualties of this debate has been the reputation of one of the most successful Federal laws ever enacted: The Employee Retirement Income Security Act, better known as ERISA. Enacted in 1974, ERISA has provided the foundation for employers to voluntarily offer health care insurance to their employees. It has given employers who operate in multiple States the ability to provide uniform benefits and administration to their health plans. This has resulted in more than 125 million Americans having coverage through their employers.

In 1998, more than 2 billion claims were filed under employer-sponsored health plans. The overwhelming majority of these claims were approved and participants and providers were reimbursed in a timely fashion. Because some small percentage of these claims are disputed or denied, some Members of this body believe that litigation and trial lawyers are the best way to bring about accountability.

But what if we could guarantee that any benefit disputes could be resolved by an independent panel of medical experts in a time frame that takes into account a patient's condition, and then, if warranted, provides care immediately, not a courtroom, which finally makes a decision after they have died. What need would anyone have for courts and lawyers? The answer is none. And that, frankly, is what so upsets supporters of H.R. 2723. They put their entire faith in the hands of lawyers and courts that are blind to a process that would ensure proper medical care without the need of litigation.

The various bills that we consider today, all of them, and tomorrow, have all of the patient protections that are needed. All of us have the right for women to have direct access to OB-GYNs; the right for parents to designate a pediatrician as a primary care physician for their children; the right for unrestricted communication between a doctor and a patient. They all have these. The right to seek care if a person reasonably believes they are in an emergency situation; the requirement for greater disclosure of information from health plans and that the information be communicated in easy-to-understand language. They all have continuity of care for pregnant mothers, those awaiting surgery, and the terminally ill. And they all have access to specialists and the right to go to doctors outside a closed network.

What has become the focal point of the debate is whether we provide a system that guarantees quality medical care or begins a new era of expensive, lengthy, and self-defeating litigation. The Dingell-Norwood bill, I believe, would quickly take us to a medical decision by court order. It would result in a significant increase in health care costs, and will, make no mistake about it, result in many more Americans joining their 44 million fellow Americans in the ranks of the uninsured. It is bad medicine and bad policy. All Members should think long and hard before they entrust the future of medical care to lawyers and courtrooms. Get them into hospital rooms when needed, not courtrooms.

I urge all Members to oppose expanded liability and support an approach that provides people with the care they need when they need it: binding external review of any disputed health care claim. A bill almost like that passed last year out of committee and on the floor of the House.

Mr. Chairman, I reserve the balance of my time.

Mr. CLAY. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, during the past few years, health care consumers have expressed increasing concern about the manner in which managed care plans are operating. Patients are being denied emergency care. Patients are being denied access to specialists. Patients are being denied needed drugs, and patients are being denied the ability to hold plans accountable for these coverage denials. Clearly, Mr. Chairman, this situation is intolerable, and the enactment of Federal legislation is needed to remedy it.

.Though several comprehensive managed plan reform bills have been introduced during this session of Congress, I first decided to cosponsor H.R. 358, the patients' bill of rights introduced by the gentleman from Michigan (Mr. DINGELL), because it would best deliver the comprehensive and enforceable patient protections that health care consumers demand.

In addition to the patients' bill of rights, I also decided to support the compromise now before us, introduced by the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Michigan (Mr. DINGELL). This bill retains all of the essential protections found in the patients' bill of rights. Among them are access to enforcement in State courts if an individual is injured by their health plan's actions and a fair and responsive grievance and appeals process.

Despite the initial attempts by the Republican leadership in both bodies to block consideration of the patients' bill of rights, those interested in real health care reform continued to fight for its consideration. Now, with H.R. 2723, we have a reasonable compromise that can become law. I urge a "yes" vote on H.R. 2723 and "no" votes on all three substitutes.

I would like to take this opportunity to briefly discuss the bogeyman known as ERISA. I have been on the primary committee of ERISA jurisdiction, which is now known as Education and the Workforce, for over 30 years and I have watched how this statute has been repeatedly misconstrued by the courts and employers.

First and foremost, ERISA, the Employee Retirement Income Security Act, was enacted in 1974 to protect the pension and other employee benefits promised to workers and their families. Plain and simple, ERISA was intended to protect workers, not be used against them.

ERISA was primarily directed at pension plans. It contains extensive standards that employers must comply with in order to ensure that workers receive promised benefits. With respect to health benefits, ERISA contained few standards. That was because Congress was already debating health care reform in 1974, and Congress expected to shortly enact national health care legislation. Unfortunately, that legislation never came to be.

ERISA contains two key provisions that have repeatedly been misinterpreted by the courts and used to undermine the employee benefit protections of ERISA. First, although ERISA permits individuals to sue for violations of the law, ERISA only permitted individuals to seek "appropriate equitable relief." The reason for this was that pension law derives from trust law and under trust law equitable relief includes money damages. Unfortunately, the initial courts that interpreted ERISA did not consider ERISA's underlying trust law basis.

Second, ERISA preemption. ERISA did intend to preempt states from directly enacting laws that regulate benefit plans. But, ERISA specifically included a provision that permitted state laws that regulate insurance. Historically, health benefits have been provided through insurance companies and the states have always been the primary regulators of insurance. Unfortunately, here too, the courts misinterpreted ERISA and encroached upon traditional state authority. ERISA always intended for states to continue to be able to regulate the activities of insurance companies, which includes managed care companies.

Mr. Chairman, let's make ERISA what it was intended to be—a law to protect the pension and employee benefit rights of workers and their families.

Mr. Chairman, I reserve the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. BOEHNER), a gentleman who truly cares about those who are uninsured and truly cares about those who need quick medical attention.

Mr. BOEHNER. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding me this time; and I would like to follow up on his earlier remarks.

In America today, about 125 million lives are insured through employer-based plans. Earlier today, we passed an access bill that would give Americans more choice, give them an above-the-line tax deduction for health care that I think will empower them to have better choices in the system we have today and begin the process of developing a more competitive private market.

But the fact is today employers do, in fact, provide most of the health insurance that we have out there. I have letters in my office, one from Mike Toohey, a former staffer here in the Congress who now works for Ashland Oil, who wrote to me, and I will quote, "Because I have leukemia, I am not insurable except through my corporate health care plan." Mike went on to say, "My company's health care plan saved my life and paid for those costs."

Employer-based health care is what made it possible for James Barton, a retired employee from Tulsa, Oklahoma, to get quality care for his wife after she had a stroke in 1998. He wrote and said, and I will quote, "During the past year, my company's health plan has been a godsend," Mr. Barton wrote recently. "We could not have gotten by without it."

Employer-based health care is what made it possible for Simon Scott, a patient from Columbus, Ohio, to afford the expensive treatment he needed when he was gripped by cancer. He wrote, "These choices were critical to me and allowed me to afford the medical care that I needed. Please oppose any legislation that will cause my costs and those of my company to rise at alarming rates, resulting in less coverage and less ability of my company to provide the quality care that I need."

That is really what this debate is all about, Mr. Chairman. We have the underlying bill here, the Dingell-Norwood bill, and while the sponsors of the bill are dear friends of mine, and I would never question their judgment nor what their motives are because they believe strongly in the bill that they have before us, it is just that I and many Members believe it goes way, way too far.

Employer-provided health care in America today is a voluntary program, started back in the 1950s, then codified in the ERISA act that the gentleman from Pennsylvania (Mr. GOODLING) talked about earlier, that has allowed this program to grow successfully. But it is a voluntary program. If we put too much weight, if we put too much regulation, and, most importantly, if we put too much liability, we will drive employers away from offering this coverage to their employees. And when we look at the Dingell-Norwood bill, it does put the Federal Government more in charge of our health care by empowering the Secretary of Labor and the Department of Health and Human Services to look at health plans to make sure that they have network advocacy and all other types of Federal mandates.

Most importantly, and I think where we will see this debate go over the next day and a half or so, is in the area of lawsuits. Because under the Dingell-Norwood bill not only are health insurers and health care providers liable for insurance, but, in my view, employers are also subject to lawsuits. I do not believe we can sue our way to better health care in America today.

The sponsors will say they have shielded employers from any liability, and I will say that they have made an attempt to do that. But the fact of the matter is that under ERISA, employers have to provide discretion. And if they provide discretion under the Dingell-Norwood bill, they are now subject to liability.

I think there is another way, a better way to provide the care that Americans want, when they want it; and that is through a binding external appeals process that has severe penalties to make sure that employers and health care plans provide the care that the outside reviewers have determined that the patient ought to get. This independent review, this third-party review, has real binding teeth in it. It allows a reviewer to look at the care that is out there and available and would allow them to determine, within the contract, what appropriate care was right for that patient.

If the patient won the fight, they get the care. They do not have to wait around for a courtroom or wait around for a judge or a lawyer to get there. They get the care. And if the health plan or the employer drags their feet, it is a $1,000 a day penalty on that health plan or employer, with no cap. And if they willfully deny that coverage after it has been granted by an external reviewer, it is $5,000 a day, no cap. And while they are waiting, if they are dragging their feet, that individual has a certificate from an external reviewer that they can take and get their care at any medical facility they want to go to.

I think this is a much better way to provide the care that patients want without going to court. Let us do the right thing, the responsible thing and, at the same time, not undermine the employer-provided health care that millions and millions of Americans appreciate today.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. TURNER).

Mr. TURNER. Mr. Chairman, the managed care insurance industry has used the threat of lawsuits as a red herring in this debate. The insurance industry has chosen to use the oldest trick in the book to oppose the Norwood-Dingell bill, that is to say the problem is the lawyers. After all, no one likes lawyers, until they need one.

The insurance industry knows that the law in Texas, that the Norwood-Dingell bill is modeled after, has not resulted in litigation. In fact, I was a part of helping that legislation become law in Texas when it was first introduced in 1995. Since its enactment in 1997, we have had only five lawsuits filed.

In our Nation, there are two solemn principles guaranteed every person, rich or poor, wealthy or powerful, and even to the weak, and that is equal justice under the law and due process of law. Access to the courts ensures that every citizen, every business, every organization is accountable for their negligent actions. Only one group in our system of law is immune from litigation, and that is foreign diplomats. The insurance industry in this debate tonight wants to add one other group. That is the insurance companies themselves want to be immune from liability.

Now, no one wants to go to court, and the Norwood-Dingell bill has embraced a full internal and external review process to avoid having to go to court. But in the last analysis, the protections the American people deserve under our constitution is the right to have access to the courts.

The Congressional Budget Office estimated the cost of legal accountability would be 12 cents per month per patient. And the CBO says that half of that cost would be because the insurance companies would implement review standards to be sure that no patient is denied quality care. Sounds like a pretty good investment to me.

Every individual, every business understands that they are accountable for their negligent acts in our society; that they can land in court. Managed care insurance companies should be accountable too.

Support the Norwood-Dingell bill. It has worked in Texas, and it will work for all Americans.

Mr. CLAY. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. VISCLOSKY).

Mr. VISCLOSKY. Mr. Chairman, I rise in support of the Norwood-Dingell bipartisan consensus bill.

Ann is a 60-year-old diabetic from Lake Station, IN who had always taken care of her condition. She refused to drink or smoke, and carefully monitored her insulin and sugar levels. However, the disease continued to progress and her doctor scheduled regular kidney tests to make sure that her kidney function did not deteriorate to emergency levels. Then Ann switched to a Health Maintenance Organization (HMO), lured by promises of lower costs and prescription coverage. Her first primary care doctor continued the same regimen, keeping a close eye on her kidneys and monitoring her heart function and sugar levels as well. This doctor was dropped from the HMO. The new doctors she was allowed to see did not think regular testing was necessary. In fact, when Ann came down with an infected foot, a common symptom in diabetics whose condition is worsening, the approved doctors she visited were unmoved. Finally, a member of Ann's family realized she was in potential danger and took her to the emergency room. There she was found to be in congestive heart failure. She was also anemic and her kidney function had dropped to a dangerous level. The painful process of kidney dialysis became necessary. Several days later, Ann received a call from her HMO. Although her daughter had taken her to an approved hospital, neither the emergency room physician nor the two specialists she saw were on the approved list. Ann was forced to pay out of pocket for this emergency care.

Sadly, Ann's case is not unique. Certainly, many HMOs provide excellent medical care at a reasonable cost. However, there are far too many which routinely abuse their members, refuse to pay for necessary treatments, and, in many cases, prevent doctors from conducting treatments that they consider too costly.

Ann's story and others' from Northwest Indiana demonstrate just how desperately we need to reform the managed care industry. I believe doctors and patients should make decisions about health care, not insurance company bureaucrats. That is why I support the Norwood-Dingell Bipartisan Consensus Bill.

Certainly not all HMOs abuse their patients, but there are far too many horror stories from real patients to think all HMOs act in a responsible and reasonable manner. The Norwood-Dingell bill will set a standard in which emergency room coverage is guaranteed as long as the prudent layperson considers the situation an emergency. Along with guaranteed emergency room care the Norwood-Dingell bill outlines common sense patient protections that provide access to specialty care, continuity of care, opportunities for patient grievances and appeals, and accountability for decisions made by HMOs regarding patient care.

This bill has the support of approximately 300 organizations, including the American Medical Association and the American Public Health Association. I am glad to see that the leadership of the House has finally addressed this important issue. I have been fighting to see that real HMO reforms be addressed in the House for the past three years. I am glad to see that we finally will be allowed a straight up or down vote on real HMO reform.

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Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. BALLENGER), a member of the subcommittee.

Mr. BALLENGER. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. GOODLING) for yielding me the time.

Mr. Chairman, let me talk a minute about the 125 million people who could lose their insurance. H.R. 2723, or Norwood-Dingell contains language that would expose employers to lawsuits for voluntarily providing health care benefits to their employees and thus jeopardize the employer-based health care system.

The bill opens the flood gates for trial lawyers. It mandates greater cost and liability to employers of all sizes. Yet, defenders of this bill believe that employers would be shielded from liability unless they used discretionary authority on a benefit decision.

However, what is discretionary authority? In reality, nearly any health care decision made by employers entails the use of discretionary authority. This open-ended term leaves trial lawyers drooling over the possibility of litigation and employers considering whether to pull the plug on the health care benefits. Trial lawyers will continually test the term "discretionary authority" in the courts, which will cost employers millions in the realm of attorneys and defense.

An ad in today's Washington Post put it best. "The patients' bill of rights is actually the lawyers' right to bill." When faced with the specter of liability and the ambiguous term "discretionary authority," employers will opt to stop voluntarily offering health care and give employees the monetary equivalent. In a recent poll, 57 percent of small businesses said they would drop health care if faced with increased liability and cost.

We do not need more litigation spurred on by greedy trial lawyers. We need health care reform that supports both patients and the employers who voluntarily provide these important benefits. The solution is not liability but accountability, and the Boehner substitute does just that. This substitute strengthens the internal and external review process and holds health care plans liable for up to $5,000 a day if the plan refuses to adhere to the decision of the review process.

H.R. 2723 would jeopardize employer-based health care plans for over 120 million Americans. Support the Boehner substitute and let small businesses and employers continue to provide health care for the American workforce.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I support Dingell-Norwood-Ganske because I believe the people have a right to decent health care in the United States of America. This is a life-and-death matter that transcends the narrow needs of insurance companies.

Do my colleagues know that the total cash compensation received by the CEOs of just the largest three HMO companies totaled $33.3 million. The insurance companies have enslaved our health system. They hold patients and doctors captive. They operate a modern-day plantation where servitude to their profit is their only objective.

The old spiritual says, "Let my people go. Go tell it on the mountain." Well, we are here on Capitol Hill, and it is time to send a message to the insurance companies: let my people go. My people are being denied decent health care because of the insurance companies' profit motives. My people are being denied the doctor of their choice because of the insurance companies' profit motives. Let my people go.

My people are being charged confiscatory prices for prescription drugs. Let my people go. My people are being told they should not even have legal help in dealing with these same insurance companies because the insurance companies' profit motive is there.

The insurance companies may rule health care like modern-day pharoahs, but soon they will have to meet the awesome wrath of the American people. If we are worthy of the promise of government of the people, by the people, and for the people, we will free our people from the rule of the insurance companies, we will lead them out of this valley of tears to better health care, we will let them live longer, better healthier lives, let their children grow up healthy.

We have a chance to write a new chapter in this country's history where government of the people means better health care. Pass Dingell-Norwood-Ganske.

Mr. GOODLING. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Mr. Chairman, I think the point here is that if we allow open-ended litigation in health plans what will happen is employers will let their people go, employers will let their people go without insurance because they will no longer be able to afford it.

The idea here is to keep the costs down by keeping the litigation down.

Mr. GOODLING. Mr. Chairman, he is not a Moses so I don't know whether he will let his people go, but I yield 3 minutes to the gentleman from South

Carolina (Mr. GRAHAM), a very important member of our committee.

Mr. GRAHAM. Mr. Chairman, no, I am certainly by no means Moses. Do my colleagues know what I was before I was in Congress? I was a trial lawyer. I was glad to do what I did for a living. Because when somebody came into my office, I tried to help them where I could, and I would always be honest: you do not have a case. I am sorry. It would be a waste of your money and my time.

But every now and then people would come in like the folks that the gentleman from Iowa (Mr. GANSKE) have displayed on the floor tonight. And if my colleagues think suing a hospital or a doctor is easy, they have never done it. They have got to find an expert that will be willing to say the standard of care was not adhered to. And most people that come into the office do not have enough money to pay the bill, so we have got to go into our own account and advance costs.

The most dramatic form of litigation I have ever been involved in is suing health care professionals because most people in the community want to support their doctors and to give them the best benefit of a doubt, as they should. It is traumatic; it is emotional for the doctor and their family. And it is traumatic for the patient; and it is very, very expensive. But it needs to occur in situations where people are wrongfully treated.

We need to have liability over HMOs' heads. When they make a decision for the plan participant, they need to understand that if they nickel-and-dime folks and they do not treat them fairly, they could wind up in a courtroom.

But having made my living in courtrooms, let me tell my colleagues, we could do better than all the options that we have heard about tonight. To say that legal liability does not affect insurance and the ability to have health care is wrong. Legal liability is something employers look at very hard.

I believe, when it is all said and done, that there are no guys with white hats and black hats in this debate. I support Norwood-Ganske-Dingell, and I will vote for it no matter what happens because I believe the Senate Republican bill does not get us where we need to go as a country.

I am going to ask my colleagues to listen to one thing at the end of this debate. I am not a doctor, and I am not going to practice medicine because it is not what I know how to do. But I am a lawyer. I can tell my colleagues this: we can create a fair day in court for people in this country, but we have got to look long and hard at how we do it. Because one day, if we do not watch it, we are going to drive people out of the health care business.

If we allow State court lawsuits for companies that do business in more than one State, I believe we will have a legal conversation that goes like this: the corporate lawyer is going to tell the company, You are subject to 50 different legal theories of liability. There are 50 different rules out there. And you are going to have to think long and hard if you want to stay in this business.

To give this back to the State where there is no uniformity is going to drive up cost, and it is going to be very complicated to administer. What I suggest is let us keep the Federal court system as it is but allow full range of lawsuits. If they have a bodily injury, sue for the complete recovery of their damages, but let us make it uniform so people do not lose their health care and have some damage limitations.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Chairman, I appreciate the comments of my colleague from South Carolina (Mr. GRAHAM).

Mr. Chairman, I am a doctor and not a lawyer. So what did I do? When we were looking at drafting this law to help protect employers, we put in a provision that said, unless the employer makes a discretionary decision, they are not liable.

Most employers, most small business people, most doctors, what do they do? They hire an HMO or they hire a health plan, and they do not get involved in the administration of the plan; and so, under our bill, they are not liable.

And so, do my colleagues know what? Since I am not a lawyer, we asked some experts to make sure that our language truly did protect the employers. We asked the senior attorneys at the Employee Benefits Department and Health Law Department at the law firm of Gardner Carton and Douglas to look at our language, does it really protect employers. And guess what they said. They said that it protects employers if they are not involved in that decision-making.

That is what they said in their legal brief on this. They said the provisions in the Norwood-Dingell bill, section 302(a) that protect plan sponsors would be interpreted under the Supreme Court's well-established "plain meaning" analysis. Such an analysis supports the Norwood-Dingell bill that the clear intention to continue to preempt any State law liability suits against employers that do not involve an exercise of discretion by them in making a benefit claim decision resulting in injury or death. Other types of discretionary plan sponsor action would not be affected and would not be subject to State law liability claims.

Interpretations of the Norwood-Dingell bill which characterize it as a broad employer liability provision require one to ignore critical elements of section 302(a) which means under the "plain meaning" analysis of the Norwood-Dingell bill that employers will not be liable when the HMO that they contract with makes the decision.

That is the lawyers' opinion.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Chairman, I thank my colleague for yielding me the time.

Mr. Chairman, every so often this body gets an opportunity to decide on an issue that has direct impact on the lives the people we represent. Today is one of those days.

At long last, we have an opportunity, through passage of the bipartisan managed care improvement act, to balance the scales of health care delivery in favor of our constituents. And it is long overdue.

The opponents of justice for health care consumers say that we should not pass the Norwood-Dingell-Ganske bill because it would drive up the cost of health care. But they are not telling the American people the truth. The premiums are going up now, but they have not risen disproportionately in the States that have enacted HMO reform.

The American people understand that we cannot put a price on the right to get justice when an HMO refuses to pay for care that was ordered reasonable by a doctor and the patient suffers harm or dies.

My colleagues, the American people are a lot smarter than the HMO industry; and our colleagues who are against this bill give them credit. They can tell whether a particular piece of legislation is good and whether it is not.

How many good doctors have been fired by HMOs just because they continue to deliver a high standard of health care? Norwood-Dingell-Ganske is the only bill that would change that.

Among the other things in H.R. 2723 that the American people support is the fact that it will ensure that people have direct access to OB-GYN services from the health care professional of their choice. Under the Norwood-Dingell bill, if someone has a chest pain, they can go to an emergency room and be seen immediately; if they have a heart attack, they can be treated and stabilized and not have to be transported for emergency care.

My colleagues, a number of States and the courts have already begun to do away with the exemption from being held accountable that HMOs currently enjoy.

Should not all Americans, not just the ones in California, Georgia, Texas, and now Illinois also enjoy this right?

We are having an opportunity to do right by the American people today. Let us not squander that opportunity. Let us pass a right kind of managed care reform, the only bill that does what the American people have asked us to do. Vote yes on Dingell-Norwood-Ganske and no on all the other substitutes.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Chairman, I rise in support of the Dingell-Norwood bill because it is the only bipartisan bill that addresses the needs and concerns of some families in my district who need a level playing field in dealing with their managed care plans.

I am hopeful, however, we will have the opportunity to provide the funding offsets we were denied on the floor today. This issue is simply too important to families like the one in my district in which a child was denied post-operative care by their managed care plan and, as a result, suffered severe life-long health complications.

It is these families for whom we should level the playing field. And the Republican leadership should be having breakfast with them, not the fat-cat insurance companies who want to kill the Patients' Bill of Rights.

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We can ensure that doctors, not insurance bureaucrats, make medical decisions in the best interests of the patient not the health plan.

This is not about lawyers. It is about empowering patients by giving them the right to hold their plans accountable when they are denied care.

The Dingell-Norwood bill levels the playing field, empowers patients and, as a result, ensures access to quality health care for all Americans.

Mr. GOODLING. Mr. Chairman, in passing I might mention that I think that law firm referenced might represent the AMA. I think I heard that somewhere.

Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Chairman, good HMOs manage care. Bad HMOs manage costs. Good managed care has physicians making those decisions not bean counters. Bad managed care has bureaucratic bean counters making health care decisions to cut costs, and that is the problem we should have fixed first.

The good guys and gals who are out of this debate are our employers. Where are they in this proposal? Were they at the table? No. The manufacturers, the contractors, the restaurateurs, the retailers, NFIB, the Chamber, people who make this country work, employers who pay the bill.

I also find it is interesting, are Medicare recipients covered by this? No. Medicaid? No. Veterans? No. Federal employees? No. We pay for their health care and are responsible. They are not covered.

We are building a Federal bureaucracy like HCFA for our employers to deal with, the good guys. Our employers are frightened by this proposal, and they should be. They were left out in the cold. They were not adequately protected. This proposal takes a meat axe to an issue that a sharp surgical knife could have fixed. We should have made sure managed care used physicians to manage care, not accountants and bureaucrats to manage costs.

Our employers who pay the bill should have had their concerns resolved. That did not happen. The Dingell-Norwood bill will increase the number of uninsured, and what recourse do those who have no insurance have? Nothing is given to them.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Chairman, I thank the gentleman from Missouri (Mr. CLAY) for yielding me this time.

Mr. Chairman, I am sure tired of hearing the other side say that it is lawyers who are causing this dilemma. There is a doctor seated in here this evening who had to sue to be able to practice medicine in California. And he sued and he won. His name is Dr. Thomas Self. There are a ton of people who keep saying the lawyers are keeping the patients out of the hospital and keeping the doctors out of the hospital. Well, we want to be able to get in doctors' offices and hospitals, but it seems the only way we can do that is to sue them because the HMOs will not let us in the hospital.

Now, my friends, the Selfs, and my friend Miles Zaremski, my law school buddy, submitted an open letter to Congress and I would like to include that in the RECORD.

AN "OPEN LETTER" TO THE HONORABLE MEMBERS OF THE UNITED STATES HOUSE OF REPRESENTATIVES REGARDING MANAGED CARE LEGISLATION

(By: Thomas W. Self, MD, FAAP, Linda P. Self, RN, BSN, Miles J. Zaremski, JD, FCLM)

SEPTEMBER 29, 1999.

DEAR HONORABLE MEMBERS OF THE HOUSE OF REPRESENTATIVES: We hope that our remarks that follow will be able to be part of the floor debate that will occur on managed care legislation, scheduled for early next month. While we have endeavored to communicate with several of you, either by letter, phone or by in-person conferences with you or your staffs, we feel our individual, yet collective, wisdom on the underpinnings of this legislation before you is critical and important. Two of us have a unique experience not shared by other health care providers in our country. The other has considerable expertise based on experience and writings on managed care liability, what our courts have done with ERISA preemption, and what is likely to be done in the future by our judicial system. Two final introductory remarks. First, there is so much that needs to be said that brevity in our remarks could not be achieved. Second, while this letter comes from the three of us, we refer to each of us in the third person.

THOMAS W. SELF, MD,
FAAP.
LINDA P. SELF, RN, BSN.
MILES J. ZAREMSKI, JD,
FCLM.

Our plea comes not as Democrats, Republicans or members of other political parties. Our plea comes to you as a physician, nurse and lawyer, representatives of those at the crossroads of medicine, health care and law. Our plea comes to you also as people who are deeply and passionately concerned about the quality and delivery of health care for America's patients, all patients, and the legal and legislative efforts to do the right thing—insure fairness and accountability for patients and by those delivering health care.

To quote a famous line from a motion picture of some years back, the battle cry of patients is, "We are mad as hell and we are not going to take it anymore!" Patients and providers alike should not be subject to the grave inequities foisted upon them by what managed care has done to the delivery of health care. Linda and Tom Self are fitting and, perhaps, unfortunately, unique examples of what has to occur before managed care moguls will listen.

As a San Diego doctor trained at Yale and UCLA, who ran afoul of managed care and who was actually fired for spending "too much time" with his patients, Dr. Self is unique among health care providers in that he fought back against the medical group that fired him and won a three year "battle" that culminated in a three month jury trial. His victory is the first of its kind in the nation, and was profiled by ABC's "20/20", on August 6, 1999.

His experience, where managed care profit motives infiltrated and contaminated the professional ethics of his medical group, shows clearly the murky and often brutal influences wielded by HMOs which have only profit, not quality of care, as their goal. In this scenario, patients become "cost units" and doctor is pitted against doctor, undermining the very foundation of medicine and throwing to the winds the Hippocratic axiom, "first of all do no harm".

With the art and science of medicine controlled by managed care forces, it is not surprising that the number of patient casualties continue to soar. The ability of a clerk with no medical training, in the employ of a payor thousands of miles away, to overrule medical decisions of a trained physician is allowed in no other profession, but is the standard of practice under managed care! Furthermore, this type of employee and also the managed care entity which acts as the puppeteer behind the clerk are completely immune from any legal accountability when their faulty medical decisions cause patient harm. That this situation is allowed to continue is also peculiar only to the medical profession. This is unfair and inequitable.

As an experienced diagnostician with the reputation of being thorough and careful, Dr. Self was criticized under managed care dictates as a physician who ordered too many costly tests and as a "provider" who "still doesn't understand how managed care works." Sadly, this situation continues nationwide, as more and more experienced doctors are unjustly censored, dropped from managed care plans or terminated from medical groups anxious to conform to managed care policies, leaving their needy patients feeling confused, frightened and abandoned.

This pillage and waste of medical resources (under the yoke of managed care which destroys the very quality and continuity so necessary for a positive outcome from medical treatment) is running rampant in America. Dr. Self and his wife have put their lives and their careers on the line to combat the wrongs caused by the health care delivery system called managed care. Now, representing, in microcosm, all health care providers, they turn to you as lawmakers, representing all past, present and future patients, to stop the horror and carnage by health plans by voting for the Norwood-Dingell bill, H.R. 2723, and restoring quality, decency and humanity to health care for the American people.

Linda Self, a registered nurse, is, like her husband, a healer. Always active in charitable activities, she returned to nursing full time four years ago to work with her husband when he lost his job. After being away from nursing for many years, she realized that her compassion and love for the art of healing was now even stronger, especially after raising two children, one of whom had a serious illness. Devoted to caring for children with chronic disease and giving support to their families, she was shocked and unprepared for the massive de-emphasis on patient care that had been fostered by health plans. Linda realized that her commitment to people had not changed nor had the needs of such children—what had changed, and changed for the worse, was the indifference to patient suffering held by the managed care system. She realized that in order to care for sick patients and their families in the 90's, there is, and was going to be, a constant controversy with the managed care bureaucracy involving patient referrals, treatment authorizations and, above all, the daily need to appeal treatment decisions lost, delayed or denied by their patients' health plans.

As if also in microcosm to what other private medical practitioners face, this office "busy work", in addition to the requirements of providing necessary medical support to sick patients, has created enormous frustrations among health care providers as well as increasing the costs of running a practice. Conversely, reimbursements from health plans have steadily diminished, regardless of the severity of the patient's illness or the increased amount of physician and nursing time expended.

Additionally, in her dual role as nurse and office administrator, Linda works daily to insure that patients receive the appropriate medical care they need and deserve without suffering the indignity and humiliation of having their health plans ignore, delay, or deny health care that is not only medically necessary, but for which the patient has already paid insurance premiums. This endless paper shuffle mandated by managed care with its cost cutting mentality further decreases the amount of time that a nurse can devote to patient care. This dilemma has driven competent and caring paraprofessionals from the medical field in droves, thereby further weakening the overall quality of medical care needed by patients nationwide. The resulting upswing in poorly trained, undedicated office personnel hired to replace the nursing flight has created a hemorrhage in medical care delivery which, if not stopped, will hasten the demise of American medicine as far as any vestige of quality of care which still remains.

Patients must not be considered commodities to be batered by health plans. Payors must be held fully and judicially accountable wherever their pressures on physicians to curtail tests, delay or deny treatment plans, or by clogging the wheels of medicine with mountains of paperwork cause patient harm. Therefore Linda Self, speaking as a mother, a patient, and a nurse brings her experiences to the House floor and adds her plea to those of Dr. Self and Mr. Zaremski to bring dignity and salvation to the practice of medicine.

Those in the House, listen, as we have done for years, to the voices of the grass roots populace when they cry out for help and relief from a medical system that harms, not heals. Read, if you will, the numerous e-mails and other written communications from viewers of the ABC "20/20" program on Dr. Self and other well wishes after he and his wife's historic jury verdict, which we have included as an attachment to this letter. A sampling of quotations from these communications follows:

As an R.N. I have had similar experiences as Dr. Self concerning HMO's. He is the type of doctor HMO's do not want, since he actually takes enough time for each patient, and does the right thing. A warning to all patients: do not choose an HMO if you have a chronic or rare illness! They will hasten your demise; they are Goliath and you are David. * * * Until patients become better-informed and less passive about their health care, and until doctors start standing up, like Dr. Self, HMO's will continue to run over the patients they are supposed to serve.—Sheryl W. McIntosh

Your August 6 piece on Dr. Self who was fired for ignoring his group's bottom line and putting his patient's needs first was excellent. This is happening more frequently than people realize. Only when people have access to information like you provided—or when they get sick and learn firsthand—do they realize how corporate managed care has affected American lives. I hope you will talk to other medical caregivers and deal with other facets of this complicated problem.—Frances Conn

This might be just the tip of the iceberg. Our health care should not be treated as a commodity, i.e., something to make money on at your or my expense. Neither should it be a political football where the vote goes to the place with the most political donations. * * *"—James A. Eha, M.D.

* * * At first HMOs were VERY good but every single year that passes it gets volumes worse. Now, it is so hard to get a referral, a prescription, a test or an office visit. * * * My husband has to take off work because you have to take the appointment they give you. * * * They make it nearly impossible to get care. They have those drug lists that they are always changing so the doctors are changing your meds all the time making you very sick. They do not allow doctors to do their jobs * * *—Diann Wolf

An identical story happened . . . with my brother who is a family practitioner. . . . He dealt mostly with AIDS patients and the HMO found that to be too costly. He and his fellow practitioners in his office decided to leave the medical practice and regroup mentally to figure what to do. They had spent many months without pay at all due to the methods of saving costs by the HMO. . . . And just so the HMO's could make some money, good doctors are leaving the profession.—Michele Drumond

. . . For the past 11 years I have cared for people in long term care. . . . Just imagine the lack of incentive there is for good care of the elderly or disabled. Many newer meds are not covered as they are not cost effective . . . patient loads rise but staffing does not, rules and regulations of documentation rise, staff does not nor does equitable pay. The diagnosis to dollar mentality is ripping the caring soul and commitment out of medicine. Everyday I ask God to give me both compassion and wisdom in my job, but my soul feels that the battle of excellence in care and cost will always be won by cost. I feel called to this job, and just have to do what I do the best that I can, but NEVER would I want any of my four children involved in direct patient care. The physical, emotional and psychological load is becoming too great!! I strongly believe we will see life expectancy decline.—Barbara Harland, RN

. . . I work for a doctors office . . . I do all referrals, authorizations and surgery precerts for our patients. It has become a nightmare to approve any surgeries without going thru the third degree for patients. They can't begin to realize what we in the "field" go thru to get these things approved.—Susie Wallace

'There are men too gentle to live among wolves' to a gentle and courageous man & woman [Tom and Linda Self].—Brian Monahan,

. . . It is a great irony that, after a generation of tremendous growth of our knowledge and our ability to care for patients and diseases in a manner far better than we ever could before, greedy companies are seeking to limit our doing so.—Herbert J. Kauffman, M.D.

. . . I deeply respect what you've accomplished and appreciate the way in which your victory benefits patients and those of us who choose to treat patients according to sound clinical decision-making versus adherence to the masters and dictates of those more concerned with profit than quality patient care . . .—Robert Alexander Simon, PhD.

. . . Seven years ago I was hired as a homecare Social Worker. . . . Then, managed care entered the scene—frequently denying approval for a social-worker's services. Since urgent social worker intervention was often necessary with our patients, there were many times that I was dispatched to the patient's home to provide emergency services . . . only to later receive a "denial of payment" from the managed care company . . . [Hospital] required me to find any excuse possible to visit those patients whose insurance would pay, and would cram as many patients as possible every day into my schedule. It was all so very, very wrong. For months this unethical practice tore me apart—and eventually made me very ill. I quit my job. . . . I had been forced to compromise my ethics in order for [Hospital] to maximize their profits. I applaud your courage, and I just wanted you to know that I am proud to be the parent of one of your patients.—Ruth Bronske

You stood tall for yourself and set a perfect example for the rest of us. I am so pleased.—George Jackson, M.D.

. . . Congratulations on winning your lawsuit! Truth always comes out triumphant. Hopefully the HMOS . . . of the world will put the patients' interest first and the bottom line at the bottom as it should be from now on . . .—Faith H. Kung, M.D.

. . . Dr. Self stuck his neck out and he lost his job, but he stood up for what he believed in and hopefully other doctors will do the same. He should be commended for what he did. I hope . . . that if something really bad ever happens to me and I need tests run or extensive surgery done, the doctor better not look at what kind of insurance I have rather than giving me the best medical attention I need that could save my life . . .—Kim Lewis

. . . I have quit the medical field in the past month because medicine is no longer about patient care and needs. It is only about how much money can be made off of them. Thank you for letting me see it is not just the employee that is affected!—Linda Copp

As a legislator, you can therefore appreciate first hand, the anger, frustration, and hopelessness expressed by your constituents such as what we have quoted above. Then, recall the quote by Margaret Mead, "Never doubt that a small group of dedicated people can change the world. Indeed, it is the only thing that ever has." The "rank and file", the grass roots populace is, we think, what Ms. Mead had in mind when it comes to health care in our country.

The third major thrust of our letter pertains to the three of us having seen and heard the disingenuous expressions of opponents of what patients really need and which is embodied in the Norwood-Dingell bill. First, we have heard that lifting the ERISA preemption will cause employers to terminate health plans for their employees, that lifting this so-called shield will cause premiums to increase and that trial lawyers will gain an avenue to sue. To all of this, and with all the passion we can muster, we say, "absolutely not!"

First, ERISA, enacted in 1974, had nothing to do with shielding managed care plans from accountability for their medical decision-making process. There has never been anything in the legislative history on ERISA having to do with this subject. The American Bar Association, not known at all for representing trial attorneys, voted last February 302–36 to lift the ERISA shield.

Next, allowing for accountability by health plans to patients, as contained in HR 2723, provides for real equity in distributing responsibility to all those persons and entities involved in the medical decision-making process. This does *not* mean increased or additional litigation! The liability exposure to managed care entities that would exist with removal of the ERISA preemption shield will force these entities to insure improvement in patient care, by, for example, not allowing clerks to override physician treatment decisions, providing a review process to all treatment denial determinations, etc. As a result, the number of bad-outcomes leading to litigation will likely decrease, leading to less litigation. And where bad-outcomes do occur, allowing direct suits against health plans will not create more lawsuits, but will rather lead to roughly the same number of lawsuits—with one additional defendant. this one additional defendant will better allow a trier of fact to equitably distribute liability to the persons and entities responsible for the harm. In the end, there are fewer bad-outcomes, less litigation and better equity in the distribution of fault.

Also, realize that HR 2723 provides for accountability and responsibility of health plans according to state laws. State courts are where this area of responsibility and accountability for health plans should reside. For example, if your state has "caps" on the amount of money that an injured person could receive, such as in California, then those caps would equally apply to exposures faced by health plans.

And if the Texas state statute on holding HMOs responsible is any example, fears of increased litigation are totally without any basis in fact. In the three years since that state's law was enacted, there have been less than a handful of cases filed against health plans in that state. Also, in joining with Georgia legislators, the California[1] state assembly of 80 members (overwhelmingly) passed legislation recently providing that HMOs can be held accountable for their medical decision-making. On September 27, 1999, Governor Grey Davis signed into law this legislation, and, in so doing, stated, "It's time to make the health of the patient the bottom line in California HMOs."

In conclusion, we implore each and every one of you to do the right thing. Vote your conscience by voting for the rights of each and every American who has been, or will be, a patient in our health care delivery system. Remember that a person's health is *unlike anything* that can be bought, traded, negotiated or sold. Don't hold hostage human sickness and injury to a "bottom line" mentality. Keep in mind the words of a colleague in medicine who wrote Dr. Self after his jury verdict, "The rewards of being a doctor are largely measured in indentifying what is best for the patient and then having to do what one believes is correct and best for the patient." Again, we reiterate the quotation by Mead: "Never doubt that a small group of dedicated people can change the world. Indeed, it is the only thing that ever has." In passing HR 2723, each one of you will heed her message, and, accordingly, insure that the tendrils of greed and disregard for legal accountability in managed care will no longer be able to find fertile soil in which to take root and grow.

Thank you.

Sincerely,

THOMAS W. SELF, MD, FAAP,
LINDA P. SELF, RN, BSN,
MILES J. ZAREMSKI, JD, FCLM.

They say that Norwood-Dingell will restore medicine to physicians not bureaucrats. They say that it will provide for medicine over money and not the bottom line. They say that it will provide for patient care over profits. They say that it will provide judicial accountability for all entities involved in the medical decision, and I agree with them.

Dr. Self said to me, remember that a person's health is unlike anything that can be bought, traded, negotiated, or sold. He said, do not hold hostage human sickness and injury to a bottom line mentality.

Mr. Chairman, I strongly support H.R. 2723, and we will ensure that greed and disregard for legal accountability and managed care will no longer find fertile soil in which to take root. Support H.R. 2723.

Mr. CLAY. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I thank the gentleman from Missouri (Mr. CLAY) for yielding me this time.

Mr. Chairman, in this debate we have come a long way. We are actually beginning to agree on some things. I am proud of my good friend, the gentleman from Ohio (Mr. BOEHNER), for having an external review provision in his bill. In fact, we all do, because all of us understand that is precisely the better way to get our patients the care that they need.

I would like to speak to the gentleman from Pennsylvania (Mr. PETERSON) before he leaves. I noticed that he made a couple of remarks about employers, that they are not involved.

I will say, I have been doing this a long time, 5 years, and I do not know many employers I have not met with. I am sure there are not many I have not begged to come to my office over the last 5 years, from General Motors, to Wal-Mart, to IBM, to Caterpillar, to you name it.

I have asked them to come. I have said, look, guys, we have a serious problem going on out here. Help me with this bill. I am not after them. I am simply trying to get people to quit practicing medicine that are not licensed.

They did not want anything to do with it. They did not help. They absolutely did everything that they could do to make sure we do not want anything to happen; we like it like it is; we are in control, and that is what we want.

They did not work with us at all, but I worked with them. I worked with them for 3 years, hard. We met with one of them every day. Here is the bill, help us with it. They would not.

Many employers, and I am sure not all, but many employers have had the opportunity to help us make it better and what they want is absolutely nothing.

Now, why? Well, there are two types of employers. Seventy-five percent, I would say, of the 160 million Americans, are in insurance plans that are partially funded and partially administered, and those employers typically they do not practice medicine. They really do not. That is why we have worked very hard in this bill to make certain those people would not be made liable, because they are not sitting there every day, the CEO, trying to tell the administrator, no, this patient cannot have that surgery but this patient can.

The problem is that other 40 million Americans that are under plans, very good plans, too, the big guys, really good stuff, they do practice medicine, though. The gentleman said they did not, but they do. Just because they make tires does not mean they do not have an insurance company in the backyard. I can guarantee they do, and they make decisions of medical necessity, long distance, untrained people, planned and paid to deny care. That is what they do for a living. These medical directors make big money. They do not last long if they do not deny care.

My problem with that is that they are looking at a computer screen. They are not using the art of medicine, the science of medicine. They are going down a mathematical screen on a computer. People are going to be killed like that. Medicine cannot be practiced that way if the patient is at least not looked at.

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[1] California is said to be the "birthplace" of managed care.

They never talk to the patient. They just call up and say, no, my computer screen says no. How could that cardiologist possibly know anything, that has been seeing someone as a patient for 30 years, that is a next door neighbor that a lot is known about?

That is the problem; it is that group.

Do I want them out of this? Yes, because basically they do try to do a good job, and basically have very good plans, but there is not a way to take them out of it because they are practicing medicine without a license; and that, Mr. Chairman, is what the problem is.

If we had it all to do again and go back 5 years ago, what would I do? I would make it a Federal crime to practice medicine without a license. That would stop this mess, because that is indeed what is going on.

Now, why are the employers scared? And they are. I am in sympathy with them about that. They are scared because the insurance industry scares them. They have great practice at this, Mr. Chairman. They have been doing it in States across America for the last 20 years. They go in and scare the bejeezus out of these employers. They say, gosh, if this is not done, if that bill is not killed, costs are going up 25 percent. Guys, if this is not done, we are going to find that everybody gets sued every day.

We do not say that in that bill. My word of mercy, I am for employers, too. We have to support, Mr. Chairman, to change the system, a bipartisan bill. That is the only way that I know to get a law in a split Congress with a Democratic president, but it is so important we have to get it done now. This window of opportunity, where we have my friend the gentleman from Ohio (Mr. BOEHNER); my friend the gentleman from Oklahoma (Mr. COBURN); my friend the gentleman from Iowa (Mr. GANSKE); my friend the gentleman from Michigan (Mr. DINGELL); my friend the gentleman from Arizona (Mr. SHADEGG); we are all pretty close to agreement because we all have recognized the fallacy in a system of practicing long distance medicine by people who make their living by denying those claims.

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky (Mr. FLETCHER), a member of our committee.

Mr. FLETCHER. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. GOODLING) for yielding me this time.

Mr. Chairman, I appreciate the opportunity to come and speak. It has not been too long ago since I was sitting face-to-face with patients, practicing family practice, primary care.

We also had a program in Kentucky where we cared for those without insurance. We provided that treatment free of charge. And we saw a lot of folks that would like to have insurance. But they were not able to afford it, or the small business that they worked for could not afford it.

We also solved problems with HMOs, and I have the utmost respect for my colleagues, the gentleman from Georgia (Mr. NORWOOD), the gentleman from Iowa (Mr. GANSKE), and the other folks that certainly have addressed this issue long before I arrived here.

I have had the privilege of working in health care in the State of Kentucky, and I do know that projections of increase in costs and those sorts of things are tenuous. The real fact is we do not know how much any of this is going to cost.

I think there was an article yesterday, an editorial in The Washington Post, that advised us to be careful, to go incrementally, to take very careful steps because, in fact, we do not know how much this is going to increase costs and how many more people this is going to leave without insurance and without health care.

We have 44 million people, increasing almost by a million people a year, that are uninsured and have no health care. And we do not need to take health care dollars and run them into another system. We need to make sure they are running in to providing care for patients that really need it. That is why I came here, and I trust that is why all of us came here.

Since I have arrived here, I found one thing out, Mr. Chairman. There are some very loud voices here. I have heard the loud voices of trial lawyers, or people that take that position, providers, employers, insurance companies. Sometimes those voices get so loud that we cannot hear the patients back home. We cannot see the number of folks that are getting the kind of health care that they need because their employer voluntarily provides that.

I have companies like Toyota and 3M, Caterpillar, Johnson Controls, Trane, Cooper Tires, and I could go on and on, Dana, et cetera, et cetera, that offer the kind of health care, and I visited those plants and I have gone through, and I have asked the employees about this. They have some of the best health care in this country. I do not want to threaten that, but we do need to do something to make sure that physicians make decisions not insurance companies.

I think we have done that with many of the bills. We have said, let us make sure we have internal review. And I am glad that we want to make sure it is a physician in many of the bills, but we also say there is an independent panel that can look and decide, a panel of experts decide what is medically necessary and what is needed. And then the decision lies with physicians not insurance companies. I think that is important.

We need to look at the other provisions of the bill. Certainly we want to make sure they have access to emergency room, they have access to the OBGYN and their pediatricians, that they can go to the emergency room so we do not see the kind of problems the gentleman from Iowa (Mr. GANSKE) has brought out about a patient that wanted to go to the emergency room and had to go to a distant one. Our bill takes care of that.

I am very concerned about the Norwood-Dingell bill, because I am concerned about where would some of the money go of increased costs. I want to hold insurance companies accountable, but to open up unfettered liability is something that I have felt like has increased costs. And I think many other folks have documented the increased costs over the years, and I do not think there is any question that it will increase cost and more money will go into the pockets of trial lawyers instead of providing care for patients.

According to the General Accounting Office, it takes an average of 25 months, more than 2 years, to resolve a malpractice suit. At the same time, patients typically receive only 43 cents on the dollar.

□ 1930

Defensive medicine, Mr. Chairman, is the practice of ordering tests, and the American Medical Association has said that about 8 out of 10 doctors practice defensive medicine because of the fear of trial lawyers. One study touted by the AMA, was in 1996, reported by Daniel P. Kessler and Mark McClellen of Stanford University, published in the Quarterly Journal of Economics.

This study found that tort reforms directly limiting the liability of medical care providers could reduce hospital expenditures by 5 to 9 percent within 3 to 5 years of adoption basically by eliminating unnecessary testing associated with defensive medicine.

I want to make sure that physicians make the decision, but I do not want us to put money in trial lawyers or to have the practice increase of defensive medicine. I think it is important, and we have got one estimate of Stanford researchers that extrapolating the savings to the national level of researchers, if we had some tort reform, unlike what is in the Norwood-Dingell bill, would save an estimated $50 billion per year.

I think we need to be very careful as we are doing this. As my colleagues know, we can always come back a year, 2 years, or whatever and improve what we are doing; but I think this leap to the Norwood-Dingell bill, a leap that will increase the costs, decrease the availability of health care, and I discourage or I encourage my colleagues to vote against the bill.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I rise today in support of the Dingell-Norwood bill, in support of this bipartisan managed care reform legislation, a bill that puts patients ahead of politics and allows us an opportunity to address American's concerns regarding health maintenance organizations. This bill provides important patient protections such as ensuring that medical judgments are made by medical experts, not insurance bureaucrats, ensuring that individuals have access to emergency medical services, clinical trials, prescription drugs.

In addition, this bill ensures that individuals have a right to see a specialist, access to out-of-the-network providers, and holds HMO plans accountable when their decisions to withhold or limit care injures the patient.

We have an opportunity today to listen to the over 80 percent of the individuals in health plans who have cried out for reform of HMOs. We have an opportunity today to make sure that women do not have to see a gatekeeper before seeing their OB/GYN specialist. We have an opportunity to improve the quality of health care individuals receive.

In my congressional district we have 22 hospitals, three VA medical facilities, countless community health centers, half a dozen HMOs all providing quality health services throughout Illinois. This bill will facilitate opportunities for doctors and patients to form a strong relationship and make important decisions regarding their health treatment.

Let us take a historic step forward. Let us vote in favor of Dingell-Norwood. A vote for Dingell-Norwood is a vote for real reform of managed care.

Mr. CLAY. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I rise in support of the Norwood-Dingell bill and in opposition to the three substitutes that will be offered. This legislation will restore medical decisions to where they belong, to patients and their doctors.

Mr. Chairman, quality health care should be the right of every American, but this principle seems to have been lost in recent years as more and more people have been forced into a managed care system in which HMOs are involved in a zero-sum gain. Every dollar not spent on health care is another dollar of profit for the HMO. Every incentive in the system is not to allow the specialist referral, not to allow the diagnostic tests, not to allow the treatment. The HMO has every incentive to overrule the doctor's judgment or to exert financial pressure on the exercise of that judgment, and they do so every day.

Mr. Chairman, this destroys the confidence a patient should be able to have in his or her doctor's judgment and often causes unfavorable medical outcomes, avoidable deaths and suffering. The American people are crying out for reform, and this bill provides it.

One of the most important provisions of this bill will prohibit an HMO from providing a financial incentive to doctors to limit treatment for their patients. It is wrong to put doctors into a conflict of interest situation between their medical judgment on the one hand and their pocketbooks on the other.

I introduced a bill to prohibit this practice in 1993, and I am pleased that it has been incorporated into this bill.

We have seen a lot of negative publicity surrounding this bill. The insurance industry has waged a campaign of misinformation. They claim this bill would open up a flood of lawsuits against employers, but anyone who takes the time to actually read the legislation will find that it is a balanced bill that protects the interests of employers, doctors, and patients.

The greatest distortion concerns the liability provision. This provision says that whoever is directly responsible for making a decision that harms a patient must be held accountable for his or her action. If an HMO practices medicine, if it does so negligently, and withholds necessary medical care and the patient is hurt by this, the HMO should be liable to a malpractice lawsuit.

This is a matter of simple justice. It is also the only effective way to deter withholding necessary medical care in order to save money.

Every other person or corporation in this country is held responsible for the consequences of their actions, responsible at law if necessary. Why should HMOs be the only entities in this country not held responsible for the consequences of their actions at law?

Contrary to what the insurance companies would have us believe, this bill would not open employers to liability if their involvement was simply to contract with a negligent HMO, nor would an employer who advocates on behalf of his or her employees be held responsible. This bill would eliminate the common HMO gag rules so that information can flow freely between doctors and their patients.

It would ensure full access to clinical trials, greater choice of doctors and plans, continuity of care, access to services for women and access to emergency care and specialists, and it would hold insurance companies accountable for their decisions. It would go a long way toward ensuring that people have access to the treatment they need. We must not settle for less.

Mr. GOODLING. Mr. Chairman I yield 4 minutes to the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Chairman, I thank the gentleman for yielding this time to me, and I want to begin by pointing out the bill. Would the gentleman bring me a copy of the bill? I want to point out that in this debate there is a lot of misinformation. One piece of misinformation that is going around is that this legislation does not protect existing lawsuits authorized by State law.

Here is a copy of the Norwood, excuse me, of the Coburn-Shadegg substitute. If we turn to Page 91, any Member can read the language; and it plainly says for Texas, for Georgia, for Louisiana, every State action has been preserved; and it says that not only are State actions already created at State law by State legislative conduct, preserved, but those authorized by future legislation are preserved as well.

Now let us turn to some of the debate that I think goes to the issue of Norwood-Dingell.

I respect my friend, the gentleman from Georgia (Mr. NORWOOD). I know his intentions are good in this debate. I believe that he has done a great service by forcing this debate to occur here tonight.

But the reality is there are two extreme positions in this debate which is going forward on the floor tonight and will continue tomorrow. Those two extreme positions are represented by the HMOs on the one side who say we must continue to have absolute immunity. On that issue I could not agree more with my friend, the gentleman from Georgia (Mr. NORWOOD), or my friend, the gentleman from Iowa (Mr. GANSKE).

A good friend of mine in Arizona said the other day why would we want people who have to get a license to practice medicine to be held liable, but people who do not have to get a license to practice medicine, not to be held liable? So on that issue, on the concept of liability I agree that we must change the system. But if immunity is one extreme, we cannot ever be held liable when we kill Mrs. Corcoran's baby.

Mr. Chairman, I have to point out that absolute liability is the other extreme; and my friends on the opposite side, from the Democrat side, my friend, the gentleman from Georgia (Mr. NORWOOD), when he joined with them embraced the other extreme in this debate, and that is absolute liability, and let us talk about one example of that.

In their enthusiasm to deal with this, they swept into their legislation fee-for-service plans. I will tell my colleagues fee-for-service plans regulated at the State level should not be brought into your legislation, but they are. They are already regulated at the State level. The State insurance commissioners cannot handle them, and they can already be sued. But my colleagues sweep them into their regulatory net. That is going too far.

Let us talk about lawsuits that can be brought without exhausting the administrative review. My colleagues' bill says the minute somebody becomes dissatisfied with the plan, they can file a lawsuit. It is like simply having to allege that a marriage is irreconcilably broken. All one has to do is decide they want out, decide they want to go to court and they are in court. Well, that is no system. We ought to force patients to at least ask the plan to do the right thing. But my colleagues allow them to sue without any exhaustion of administrative remedies. They just open the door at any time.

Let us go beyond that. Lawsuits over anything.

Our bill says the Coburn-Shadegg substitute says we allow suits over covered benefits. If they cover this benefit, then they got to provide the benefit, and if they do not provide the benefit, we will allow an appeal; and we will probably allow a lawsuit. But my colleagues allow a lawsuit over anything, not just covered benefits; and what that means is that a panel of doctors or a court can come in after the fact and say, you may not have thought you covered this, but we are going to mandate that you should have covered it.

Now think about that from the insurance policies position. They thought they insured this podium, but they have just discovered they insured the table as well, and nobody told them. That is not fair. It is the other extreme of the end of the pendulum.

And what about lawsuits without limits? Nobody, nobody in this system does not understand that if we, and I implore, I implore colleagues to look at the costs that they can drive. If we allow too many lawsuits, we will produce a million more uninsured Americans.

I urge my colleagues to support the Coburn-Shadegg amendment.

Mr. CLAY. Mr. Chairman, I yield 4 minutes to the gentleman from Iowa (Mr. GANSKE) to respond to the gentleman who just spoke.

Mr. GANSKE. Mr. Chairman, let me respond to a couple comments that have been made. I appreciate the comments of my good friend from Kentucky (Mr. FLETCHER). I just wish that he would listen to some of the arguments by the American Academy of Family Physicians that endorses the Norwood-Dingell bill. I would also point out to him a study. He is concerned about costs, costs of litigation? Well, here is a study by Coopers and Lybrand. This study was conducted for the Kaiser Family Foundation. They looked at group health plans where one can sue their HMO. Okay. They researched the litigation experience of Los Angeles School District, California Public Retirement System and the Colorado Employee Benefit System, and what did they show? That the incidence of lawsuits was very low, from 0.3 to 1.4 cases per hundred thousand enrollees per year and that the cost of that was 3 to 13 cents.

Now let me talk about some of the comments that my good friend from Arizona made. I hardly have time. I am glad that now on the fifth or sixth draft of the Coburn-Shadegg bill we are finally going to have an exemption for California and Texas. It has been hard to pin this bill down; it has been changed so many times.

I would also point out, yes, the Coburn-Shadegg bill requires that a patient has to exhaust all available administrative remedies before going to court. That does not make any sense in situations where the patient has already been seriously injured, or even worse, has died.

My colleague is correct. The Norwood-Dingell bill allows patients who have already suffered harm to go to court. How can you justify a provision in yours that says that, Gee, you have to exhaust all of your appeals. They can be dead before that, or they are already injured.

Mr. NORWOOD. Mr. Chairman, will the gentleman yield?

Mr. GANSKE. I yield to my friend from Georgia.

Mr. NORWOOD. Mr. Chairman, I would like to ask my friend a question. If that provision were to hold, then would the insurance companies not just simply delay getting them through all these appeals until the patient dies? Then they do not have to pay any benefits.

Mr. GANSKE. Absolutely, and I also point out that the punitive damages relief provision in our bill is applicable to all insurance.

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Mr. Chairman, let us look at the issue of how the Norwood-Dingell bill applies it to everyone. Yes, it applies to fee-for-service plans. Do Members know why? Because that is a benefit to the independent insurance policies.

We have a provision in our bill that the Democrats were kind enough to go along with, a very Republican provision, that says, if a health plan follows the advice of that independent panel, they cannot be held liable for any punitive liability. Think of that. That is tort reform. That applies not just to group health plans, that applies to all health plans.

That means that the Blue Cross-Blue Shield plan in Pennsylvania now will get a total punitive damages liability if they have a dispute and then they follow that independent panel's decision. They do not have that now. That is a very good provision in our bill.

Mr. NORWOOD. If the gentleman will continue to yield, Mr. Chairman, one of the reasons we wanted to make sure that we had good tort reform that would particularly protect the fee-for-service plans is that under State law, which we are pretty fond of, there are only 22 States that cap punitive damages, so we wanted to get them all. We have them all under there. But under State law, there are 24 States that limit non-economic damages.

There is not any Federal tort reform. We have tort reform at the State level. That is where we always have dealt historically with problems in the health care field with medicine, malpractice, and tort, is at the State level. We like it there, because it has these wonderful, absolute limits in there.

Mr. GANSKE. I would remind my good friend, the gentleman from Georgia, is it not Republicans who stand in this aisle who say the States are the laboratory of democracy? Is it not my good friends, the Republicans, who say, hey, we want to get power back to the States? Do Members want to support a bill that eats up States? I do not think so.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I want to thank my colleague for yielding time to me, and for his commitment to health care for all Americans.

Mr. Chairman, I rise in strong support of H.R. 2723, which will provide protection for patients in managed care plans.

Patients should not have to face obstruction when they seek basic health care, and they should have the right to sue HMOs when careless or questionable decisions are made. Patients should not have to agonize with obtaining proper medical care while they struggle with their health problems. During these periods of life, times should be less stressful, rather than more burdensome.

This bipartisan bill allows patients to appeal their grievances when they are denied basic health care. It is wrong that millions of Americans and their families are still denied these simple rights, and continue to be denied for so long now. It is about time that medical decisions be made by the patient and his or her physician, rather than account executives or insurance bureaucrats.

In my home State of California, our Governor, Governor Davis, just signed legislation to enact historic health care reform within the State. These laws offer similar proposals to H.R. 2723 in allowing dissatisfied patients the right to appeal and seek redress from HMOs.

California patients now have many more protections than the rest of the country. Patients across the Nation, however, should also have these protections. We must not limit access to health insurance, but we should put the health of all Americans before the interests of special interests. Let us vote for H.R. 2723, and put people first when it comes to life or death decisions.

Mr. CLAY. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. GOODLING) is recognized for 3 minutes.

Mr. GOODLING. First of all, Mr. Chairman, I want to make sure that if the Norwood-Dingell bill is a tort reform bill, I sure hope the leadership does not ask them to write some major tort reform bill. We are in trouble if that happens.

Let me close by first of all indicating what the Washington Post said recently. I quote: "Those who favor regulating the industry do so in the name of preserving access to care for those it insures. But to regulate in such a way as to weaken cost containment and price more people out of the market would likewise have the effect of reducing access, just for different folks."

They continue, "The need is for greater balance than an increasingly partisan debate such as this may allow. You should legitimatize managed care by keeping it within acceptable bounds without crippling it."

They close by saying, "Our first instinct would be to try an appeals system first, and broaden access to the courts only if the appeals process turned out, after a number of years, not to work." So I repeat the call I made to my committee so many times, and now make it to the entire Congress.

When the final bell rings, after the conference is concluded with the Senate, if we have not insured the 44 million who are uninsured, we have done a great disservice not only to those 44 million, but to all Americans who are now picking up the burden in the cost-sharing process that goes on. If we have not, at the end of this day or the end of that conference, made sure that we did not uninsure, no matter how unintentional it may have been, uninsure those who are presently insured, then, again, we have done a great disservice. If one person becomes uninsured because of any action that we take here in the House or in conference, again, we have done a great disservice to the American people.

It is my hope that by the end of the time when the conference is over, that, as a matter of fact, we have tackled the number one health care issue in this country, and that is, insuring the uninsured. All should have that opportunity to be insured, and at the same time, making very sure that we do not uninsure by destroying a system that has worked so well that provides health care insurance for 125-plus million people in this country.

Thanks to the Employee Retirement Income Security Act, that has worked. So my hope would be that we build the whole program on the Boehner-Goodling program, so that we do not make a mistake and destroy what it is we are trying to do; build incrementally, starting with Boehner-Goodling.

The CHAIRMAN. All time has expired for the Committee on Education and the Workforce.

Pursuant to the rule, the gentleman from California (Mr. THOMAS) and the gentleman from Maryland (Mr. CARDIN) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Chairman, I would ask the gentleman from Maryland to proceed.

Mr. CARDIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have been listening to my colleagues debate this issue for the last 2 hours. I marvel more about the fine work that the gentleman from Georgia (Mr. NORWOOD), the gentleman from Michigan (Mr. DINGELL), the gentleman from Iowa (Mr. GANSKE), and the gentleman from Arkansas (Mr. BERRY) have done. They have given us a bipartisan bill, a consensus bill, that will move forward on the Patients' Bill of Rights. It is a good bill. It will make a lot of progress in areas that we need to do.

The first question is, why do we need to pass Federal legislation in this area? There is a very simple explanation. It is called Employee Retirement Income Security Act. We at the Federal level have prevented our States from effectively providing protection to many people in our own State. We have preempted the States, and yet we provide no protection at the Federal level for many of our people who are insured under Employee Retirement Income Security Act plans. Therefore, we need to enact Federal legislation.

The concerns out there are great. We know that in too many cases, medical decisions are being made by insurance company bureaucrats, not health care professionals. We know that HMOs are putting roadblocks in the way of our constituents needing necessary medical services by requiring them to go across town to see a primary care doctor before they can see a specialist, over and over and over again.

The Norwood-Dingell bill is a reasonable bill that establishes national standards to protect our constituents. Let me just mention a few of the provisions I am particularly pleased with, that I have worked on for many years with many of my colleagues in this body.

There is access to emergency care. We have been working on this bill for many years. I thank my friend, the gentleman from California, for the work that he did in expanding these protections to our Federal health care plans, including Medicare and Medicaid.

Many States have already enacted access to emergency care, as my own State of Maryland has. But the Maryland law does not apply to over half the people in Maryland because of the preemption under Employee Retirement Income Security Act.

Access to emergency care will say that if your symptoms dictate that you need emergency care, the HMO must pay for that emergency care. That is reasonable. Too many times a day HMOs are denying payments of emergency needs because the final diagnosis was not life-threatening. Sometimes we think that they want you to die before they are willing to acknowledge that there is an emergency.

Then there is the independent appeal that I have been working on with many of my colleagues for many years to guarantee that if you disagree with your HMO, you have the ability to have a review of that decision by individuals that do not have a financial stake in the outcome of that review. That is only fair. We have that, again, in many of our States, we have that in our Federal health care plans, but it is not there for Employee Retirement Income Security Act plans, because we have preempted the States' ability to act.

The use of clinical trials. In many cases it is the best health care available for our constituents. The gentlewoman from Connecticut who was on the floor has been very instrumental in moving forward with the clinical trials issues. This bill will provide basic protection to our constituents to be able to participate in clinical trials.

There are many, many other provisions in the bill that go to eliminating the gag provisions, the availability of specialists. Let me deal with some of the issues that the opponents have raised, because I do think they are without merit, and the gentleman from Iowa (Mr. GANSKE) and the gentleman from Georgia (Mr. NORWOOD) have both done an excellent job in explaining that.

As far as compliance, the Employee Retirement Income Security Act shields the HMOs from liability. We cannot bring cases against them today for the consequences of their negligent acts. We all agree that that is wrong, so the Norwood-Dingell bill says, okay, let us do it this way.

First, we are not going to hold employers liable unless they are directly involved in the management of the plan. Secondly, in regard to the insurance company, if they follow their appeals process, we protect them from punitive damages. That seems like a reasonable compromise on compliance.

Let me deal with the issue of cost. We have heard over and over again, this is going to increase costs. Mr. Chairman, we have these reforms in place, including the compliance provisions, in many States in the Nation. We have not seen any dramatic escalation of costs. Many of these reforms are already in our Federal health care plans, and we have not seen an escalation of costs. I think good health care will reduce costs, not increase costs.

Mr. Chairman, we have heard it is going to be tough for a multi-State company to comply with laws in different States. Mr. Chairman, historically insurance has been subject to State regulation. That is what we thought was best. A multi-State company has to comply with the different State laws on workers' comp and unemployment compensation. This is not a burden for them to understand how the local court systems work. After all, they are located in these States.

It is for all these reasons and many more that over 300 groups, including health care professionals, consumer groups, the League of Women Voters, urge us to pass the Norwood-Dingell bill, and I urge my colleagues to do that.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am sure that by now people trying to follow this debate are thoroughly confused. When we look at the plans, there are significant portions of the various bills that are identical. The reason for that is that in 1997, when we worked together to produce the most significant change in the Medicare system since the beginning of Medicare, the gentleman from Maryland (Mr. CARDIN) and others joined together with me to produce a bill which we thought was responsible in the area of emergency rooms, gag rules, and most of what is in, in a specified fashion, all through the bills.

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Obviously that is not what is at issue tonight and tomorrow. It is the question of who can sue whom, when and how.

If my colleagues look at that and examine the various bills in that regard, what we hear over and over again in an attempt to defend Norwood-Dingell and its reasonableness or appropriateness dealing with employers is "unless," "if," "and," "but." What we have is hedging. Because, frankly, at the end of the day, employers, through no fault of their own, can be liable under Norwood-Dingell.

When employers are faced with potential liability on something which is an option to begin with, which has continued to increase in cost to the employer, there will be some employers who say I have had enough.

In contrast to that, if my colleagues will look at the Goss-Coburn-Shadegg-Greenwood-Thomas substitute, we can say this: employers cannot be held liable if they provide health care coverage, in selecting a plan, in selecting a third-party administrator, in determining coverage or increasing or reducing coverage, intervening on behalf of an employee, or declining to intervene on behalf of an employee.

When we look at what is available in terms of remedies, one of the things that concerns people is the open-endedness of the ability to sue. When we compare, for example, the Norwood-Dingell bill, it basically says that someone has a right to sue for something that is denied to them under a health plan. One also has the right to sue for something that is not under the health plan.

Now, how in the world, when it is entirely possible that a benefit request that is requested for external review does not have to be under contract, and a court can grant a benefit that is not under contract, that creates an open-ended opportunity.

In contrast, the position that the gentleman from Oklahoma (Mr. COBURN) and the gentleman from Arizona (Mr. SHADEGG) have been willing to modify with the gentleman from Florida (Mr. GOSS), the gentleman from Pennsylvania (Mr. GREENWOOD), and myself says that what is adjudicated is in the contract. More importantly, if the plan follows the contract, internal review, and external review, the plan is not liable.

That cannot be said about the Norwood-Dingell plan. If, in fact, there is an ability to bring a charge, no matter how remote, no matter how qualified, it is not the number of cases that are critical. It is the case that says it is not under the plan, and one followed all the rules, but one can still be sued.

No matter how qualified that position is, it is absolutely true that, under the Norwood-Dingell plan, no matter how remote, that can occur.

When an employer looks at that potential exposed liability, there will be, and if one does it, that is too many, a number of employers who will say that exposure, no matter how limited, is too much. That is one of the real key differences that we should be discussing, how much exposure, how much protection, how many safeguards are reasonable and appropriate.

On that ground, I think my colleagues will find that Norwood-Dingell is too open ended, too exposed, too much relying on third parties able to impose themselves and make decisions that are different than were contained between the two parties who originally wrote the contract. That contract in opposition to the coalition bill is, I think, protected on a far, far higher level.

The gentleman from Georgia (Mr. NORWOOD) has been standing in the well; and if the gentleman from Maryland (Mr. CARDIN) wishes to yield him time, I would be more than willing to respond to him.

Mr. Chairman, I reserve the balance of my time.

Mr. CARDIN. Mr. Chairman, I yield 30 seconds to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I just simply want to read from our bill about the exercise of discretionary authority. We say very clearly, unlike the gentleman from California (Mr. THOMAS) just described it, we say very clearly in this bill that an employer under any circumstances cannot be held liable for what they want to put in a plan or for what they do not want to put in a plan. That is totally their business, none of mine. They cannot be liable regardless of what happens to anybody. The only way they can be liable is if they deny a benefit, a treatment that is in the plan, and that results in the death of a patient.

Mr. CARDIN. Mr. Chairman, I yield myself 30 seconds to clarify what the gentleman from Georgia (Mr. NORWOOD) was saying.

Not only does the bill specifically provide that there is no cause of action if they do not provide a particular benefit, but what the Norwood-Dingell bill does is say that, if we have a plan of 50 employees in the State of Maryland, that is currently subject to State law, and one that is creative enough to come under ERISA, then we are going to treat both of the plans the same as far as their responsibility is concerned. I think that is a matter of basic fairness.

Mr. Chairman, I yield 3½ minutes to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Chairman, I thank the gentleman from Maryland for yielding me this time.

Mr. Chairman, I rise in support of the Dingell-Norwood bill. It is the truly bipartisan approach that we need to address the issue of HMO reform.

Now, there are several alternatives, and I believe they are well intentioned. I believe, however, Norwood-Dingell is the better bill for several reasons. First, it is bipartisan. It is the only bipartisan alternative which reflects the thinking of both Democrats and Republicans who are serious about reforming our HMO system.

Second, I want to go to the crux of this debate, which has to do with the right to sue. Again, I believe Dingell-Norwood is a superior piece of legislation. Now, if we listen to the opponents of Dingell-Norwood, we would believe that citizens who need health care really want to buy a lawsuit. That is not what people pay their premiums for. They pay their premiums to get quality health care.

The issue of liability, the issue of suits only arises when benefits are denied, care is improper. Under those circumstances, the citizen, the taxpayer, the consumer, the patient gets the best protection under the Dingell-Norwood bill.

Now, some people, opponents of this bill, would have my colleagues believe that this is really just a boon for trial lawyers, and, for some reason, we on the Democrat side in particular, as proponents of the bill, just want to provide welfare for trial lawyers. Nothing could be further from the truth.

Understand this: the value of the right to sue is not in the lawsuit. It is in the deterrence. Because when HMOs understand that they can be sued, they have a strong deterrent to provide best quality, the best quality of health care. That is the ultimate point. The number of suits in relation to the number of patients is ultimately going to be very small.

But the question is, are we motivated by profit or greed, or are we motivated by the fact that, if we do not provide good care, one's patient could possibly sue one.

Now, my colleagues will also hear, well, this will result in a proliferation of lawsuits, and this will overburden the system and increase costs. Not so.

We have an empirical example in Texas which has implemented a program similar to Norwood-Dingell. They have not seen a significant increase in the number of lawsuits. Quite the contrary. Because, keep in mind, lawsuits are time consuming, cumbersome; and, remember, people do not pay premiums for lawsuits. They pay premiums to get quality care.

Now, Dingell-Norwood says one cannot just rush right into court at any rate. First one has to exhaust an administrative process that allows for both internal review within the HMO and independent third-party review by an impartial arbitrator who can look at the situation. In most instances, that will resolve the case one way or the other. At least based on the Texas experience, that is the case.

On the other hand, if one still believes one is aggrieved and the issue is not resolved, one has the opportunity to go into court to get redress for one's grievances.

The bottom line is simply this, we have maximum deterrence to encourage best practices when we have the optimal right to sue. We do not have an experience that tells us that we are actually going to get an explosion of lawsuits. We have, in fact, a system that has very few lawsuits and protection for consumers. Is that not really what we are trying to accomplish?

I believe Dingell-Norwood best accomplishes this goal and best protects the consumer-patient in the purchase of health care services. I urge adoption of Dingell-Norwood bill.

Mr. THOMAS. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, notwithstanding that statement, there is a phrase "discretionary authority." My colleagues can qualify it. They can argue that is what it means. It is not defined.

I guess the most ironic aspect, though, of this discussion is the constant argument that doctors are no longer making decisions, that we have got to put doctors back in the decision-making key positions.

I hope somebody finds that ironic that, in the Norwood-Dingell bill, the question of whether or not someone has been physically harmed is not determined by a medical doctor. It is determined by a jury.

Under the coalition plan, both on the internal review by medical doctors and the external review by medical doctors, that decision is made. In Norwood-Dingell, there is a hole one can drive a medical malpractice case through because one alleges harm and one goes to court. A jury determines something that they have been constantly pleading ought to be in the hands of a doctor.

By the way, was not it desirable for doctors to have medical malpractice? Where is it in the bill? Ironically enough, the argument that they are doing this for doctors does not contain the thing that the doctors have always said they wanted so they would not have to practice defensive medicine, so they would not have to overutilize to protect themselves. Something as simple as medical malpractice, which is present in a number of States, is not available in this bill.

Mr. Chairman, it is my pleasure to yield 7½ minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), a member of the Subcommittee on Health of the Committee on Ways and Means, someone who has worked long and hard on these issues, has examined them, not only from someone who deals with this issue in the Congress of the United States, but who is very familiar with it from her close relationship in the medical community.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I am very pleased that we are having this debate on the floor of the House tonight. I believe that, due to the real intense focus of a group of Members on this issue over the last few months, we have before us three very thoughtful bills.

I do not want the citizens of this country who are watching this debate to miss a very important fact, and that is that any one of these bills would force accountability for health care decisions made by HMOs and able patients to get the care they need.

It is essential that we act during this Congress to pass meaningful patient protections because patients need it, doctors need it, and HMOs need it. For the first time, a national independent external review process will help us identify those plans that routinely deny necessary care.

If we hold them publicly accountable, I guarantee they will change their ways or dramatically lose their patient enrollment. We will also identify those plans that are providing timely access to quality care and give them the public attention and support they deserve.

Most importantly, a strong external appeals process will reestablish the role of physicians in the health care delivery system as plans must use physicians to review claims internally, and the external review can be made only by physicians with appropriate specialty of training.

So there are many bills before us tonight, but they all have certain core benefits in common. This internal-external appeals process for the first time makes evident nationally controversial decisions made by health plan.

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And that will provide us with the information we need and the power we need to guarantee that patients get the care they need in a timely fashion.

All the bills provide access to OB-GYN care, access to specialists, access to better pediatric care, access to emergency services, continuity of care, access to far better information about benefits, access to clinical trial coverage, and prohibits gag clauses and incentive plans that discourage the delivery of appropriate care. One can hardly say this is a partisan debate when the two parties have come together in agreement on the majority of the issues at hand, and when passage of these positions would address major concerns of the American people and have a substantial impact on the way Americans receive their health care coverage.

Now, there is an additional issue that is controversial and, unfortunately, has turned partisan. Many of us have come to the conclusion that assuring all Americans the right to sue is an important component in increasing health plan accountability. Unfortunately, many of us are also keenly aware that if we create this right to sue in the wrong way that we will create so many opportunities for litigation that the cost of insuring all those possibilities will drive premiums up.

This is an important point, because many Members have said there have not been many suits. Of course there have not been many suits. There is no clear right to sue. But if we look back at physician liability, we can see how suits do drive up costs and how one has to insure to the possibilities not just to the existence. The possibilities of suit contained in the Norwood-Dingell bill will, without fail, increase the number of the uninsured because it will drive premium costs up.

Equally important, if employers perceive themselves as liable, and this is just as big a point, if employers perceive themselves as liable by sponsoring a plan or negotiating benefits, they will drop plans, whether we say they are technically protected or not. So this bill is fraught with dangers, and we must do this job right.

My goal is to place doctors and patients back in the driving seat of health care decisions. Many who have spoken today have worked long and hard to make that kind of reform of the system possible and to assure that patients get the care they need at the earliest stage of their illness. In my opinion, the Dingell-Norwood bill would create systemic incentives to choose lawsuits over timely, independent, external reviews, driving up costs, forcing small employers to drop plans to protect themselves against the possibility of suit, and increasing the number of uninsured Americans.

Without nationwide public review of care decisions, as the external and internal appeals process will provide us, we, as a society, and health insurance, as a product, cannot develop a health care system capable of providing appropriate, timely, and affordable health care. That is why adding the right to sue must be done exactly right and must not be done in a way that creates an explosion of litigation with all the attendant consequences.

I am a cosponsor of the Coburn-Shadegg coalition substitute, because I believe lawsuits are a necessary remedy for patients who have been wronged by their managed care plan's decisions, but I oppose opening up opportunities for lawsuits where none should exist. Let me give my colleagues an example of what I believe to be the systemic incentives to lawsuits contained in the Dingell-Norwood bill.

In laying out the appeals process, internal and external, that bill says the decision must be made within 14 days or as soon as possible, given the medical exigencies of the case. Now, first of all, imagine the Department of Labor writing regulations to define what the medical exigencies are; and imagine the medical community trying to figure out how to comply with those regulations. That is a problem. But the bigger problem is that this passage now creates a case-by-case deadline for the reviewers to meet that can be reevaluated retroactively.

So it is not a 14-day decision. It is a 14-day decision unless it can be done earlier. And that can be a point that can be litigated when we start from the back end of the line and go back and say this process could have made this decision earlier and, therefore, harm has been done and liability is established.

It is that kind of phrase in the Dingell-Norwood bill that gives that legislation, and there are many others I could quote, that create within that legislation a systemic incentive for litigation.

Mr. Chairman, let me close by saying that my goal is to put doctors and patients back in the driving seat of health care decisions. Lawyers driving these decisions is no more desirable in America than insurance companies driving these decisions. The right answer is the 85 percent of these bills that provide greater access to specialists and timely access to appropriate medical care.

On the issue of the right to sue, we must guarantee it protects patients who are harmed by the egregious practices of health plans, and we must provide a clear simple process that avoids the ambiguities that delight trial lawyers, explodes litigations, drives up costs, and drives small employers out of the business of providing health care. The Coburn-Shadegg substitute is the right answer.

Mr. CARDIN. Mr. Chairman, I yield 1½ minutes to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. I wonder if the gentlewoman from Connecticut would return to the mike.

The gentlewoman from Connecticut (Mrs. JOHNSON) is to be commended, because she has really worked hard on a lot of health care issues, but she and I have had a discussion several times on this medical exigencies part. And she has a concern about that.

I think it is necessary to have that in a bill in order that a health plan does not slow walk to the definition. But let me ask the gentlewoman, because I know she feels differently. The gentlewoman would not support a bill that has medical exigency language in it; is that correct?

Mrs. JOHNSON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. GANSKE. I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. That is correct, I would not support that bill, unless it has a very good appeals process in place.

We were one of the first States to do this, and now the gentleman wants to impose on our appeals process that is working. I do not mind shortening the time. That is not hard for a State to adjust to. But the gentleman wants to impose this language that is very hard to adjust to, and that really throws what is a simple clear system into an unpredictable, and uninsurable liability, I believe, system.

Mr. GANSKE. Reclaiming my time, Mr. Chairman, I want to be clear. The gentlewoman will not support a bill that has medical exigency language in it?

Mrs. JOHNSON of Connecticut. If the gentleman will continue to yield, I will not support the Dingell-Norwood bill because this is one of the passages among many others that create a systemic explosion of litigations.

Mr. GANSKE. Let me point out to the gentlewoman that the bill she is supporting has medical exigency language that she says she does not like, yet she criticizes our bill on, on page 7, on page 11, on page 52, and on page 85. And they all are in the same time frame.

Mrs. JOHNSON of Connecticut. That may be true but it is not in context, if the gentleman will yield.

It is in the context of a totally different ability to sue with all the different definitions. The gentleman talked earlier about the discretion language.

Mr. GANSKE. Here is the language from the bill that the gentlewoman supports. The decision on expedited review must be made according to the medical exigencies of the case. That is in the gentlewoman's bill.

Mrs. JOHNSON of Connecticut. Yes, but in a context that functions very differently than this language does.

Mr. CARDIN. Mr. Chairman, I yield 4 minutes to the gentleman from Washington (Mr. MCDERMOTT), a member of the Committee on Ways and Means and a distinguished member of the Subcommittee on Health.

Mr. MCDERMOTT. Mr. Chairman, I thank the gentleman for yielding me this time.

I first want to say that last year, we passed a bill out of this House that was a terrible bill, absolutely terrible bill, and it rightly died over in the Senate. They never did a thing. But the persistence of two Members of this House, the gentleman from Iowa (Mr. GANSKE) and the gentleman from Georgia (Mr. NORWOOD) needs to be acknowledged. They knew what was wrong with that bill, and they came back and persisted and put a bill on the floor which makes great sense to anybody involved in the medical profession. That is why hundreds of organizations, of physicians and other health care providers are deeply supportive of this bill. It is because it meets the needs of people who deal on a day-to-day basis in this field.

There are two issues here that I think are really central. We can get into exigencies and all these fancy words, but there are two things that really this bill is about. One is about the question of ERISA. If we allow that Federal law to protect from this bill a whole series of 100 million people in this country, we will not have done a good job.

The reason we need to preempt ERISA is that we have to give everybody, whether they are under a State plan, in Maryland or Washington State or Nevada or working for a major corporation shielded by ERISA, they all ought to have the same protection. There should be no difference. And that, in my view, is what the number of all these other bills are about, is to keep that ERISA protection some way or other that they will be treated differently.

Now, the second issue, and I think this one is more personal. Having recently been a patient and having had open heart surgery, I have been in a hospital and I had my chest opened and they did all this stuff, and within 5 days the doctor came in and patted me on the back and said, "Jim, you can go home." Now, the essence of why we are here on this patient protection act is that everybody, when they are vulnerable, as I felt then, wants to know that that decision was made by my doctor, who knows me and cares about me. I do not want some insurance company person saying, "Well, let me see. Open heart surgery: 5 days. Home you go." I want it to be my doctor that looks at me and listens to my chest and makes the decision.

Now, the gentleman from California says, oh, this is no problem, doctors making the decisions, blah, blah, blah. Is that the reason we had to come in here and pass a bill prohibiting drive-by baby deliveries, as we did 2 years ago? And the next year we came in and we stuck an amendment into a military appropriations bill or something or other, an authorization, saying that we were not going to have drive-by mastectomies. A woman comes to the hospital in the morning; and in the afternoon, she goes home. Who decided that? Did the doctor decide it? No. Insurance companies were throwing people out in the afternoon. And we said, wait a minute, the doctor ought to have something to say about that.

And this whole issue is about whether or not we give the assurance to all the American public that when they are in a vulnerable state after surgery, after cancer treatment, after whatever, that they have the assurance that it is their provider that made the decision about what happened to them. They do not want to sue. I did not want to sue. I simply wanted the assurance that my doctor made the decision.

Mr. THOMAS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Chairman, I rise in opposition to H.R. 2723, the Bipartisan Consensus Managed Care Improvement Act.

Mr. Chairman, I have heard much talk in this chamber about what is wrong in the area of private health insurance. Members from both sides of the aisle have concentrated on what is wrong with HMOs and ignored the many good things that have happened and are happening in private health care.

□ 2030

What I think we are forgetting is that employers are voluntarily providing health insurance coverage for their employees. What we are also forgetting is that our employee-based system of health care has been the best in the world and most employees are pleased with their care.

Mr. Chairman, I fear that what we are doing today will jeopardize millions of employees who are satisfied with both the cost and protection offered by their plans. Employers throughout my district tell me the risk of liability will drive them out of the health care business. They will simply give their employees a check. Who loses then? Employees.

Without the ability to negotiate the lower rates secured by their employers, employees will be forced to pay rates double or triple for the same coverage.

Mr. Chairman, the challenge we face today is encouraging more employers to offer health insurance, not fewer. We need access and accountability, but reform should preserve our ability to offer more cost-effective quality health care, not less.

I am afraid the bill offered by the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Michigan (Mr. DINGELL) will produce the latter.

I urge my colleagues to oppose H.R. 2723.

Mr. CARDIN. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Ms. VELÁZQUEZ).

Ms. VELÁZQUEZ. Mr. Chairman, we are experiencing a health care crisis in our country. Forty-three million Americans are uninsured. Almost 11 million of the insured are children. One in five uninsured adults went without needed health care in the past year. This is unacceptable.

Equally unacceptable are the more than 50 percent of insured Americans who are in HMOs and are denied coverage in emergencies, access to specialists, and recourse if wrongfully denied necessary medical treatment. This bill does something about that.

What matters to Americans is their ability to take care of their families in an emergency. What matters to Americans is that their children will not be turned away from an emergency room because the hospital is not on the family's HMO plan. What matters to Americans is that they will have access to the best treatment by the best doctor when they or their children are sick.

This bill will protect patients. No longer will HMOs deny patients access to specialists and emergency care. No longer will HMOs gag doctors and restrict their freedom to disclose medical treatment options to their patients.

Arguably, the most progressive element of this bill will allow patients to pursue punitive damages in State courts when they have been wrongfully denied necessary treatment by an HMO.

It makes me sick to hear opponents of this bill try to convince the American public that we will pay inflated premiums because of this protection. I have news for them. We do not buy it. We know who will pay the price if we do not demand more accountability in health care. The American public.

I urge everyone here to vote in favor of this bill. By doing so, we will take the first step toward addressing the health care needs of Americans.

Mr. CARDIN. Mr. Chairman, I yield 4 minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, this really is a historic day for this House. For the first time, Members will have an opportunity to fundamentally change how managed care operates in this Nation.

For far too long, insurance companies have based their treatment decisions not on what is best for their patients but what is best for the companies' stockholders. It is time to put health care providers and patients back into the business of patient care.

We need the Norwood-Dingell bill to ensure that patients have access to emergency care and to specialists. HMOs need to be prohibited from gagging doctors and other providers so that they are prevented from telling their patients of all the treatment options available.

What are the insurance companies afraid of? Are they afraid of their own policies?

Patients also need the right to appeal when they disagree with HMO suggested treatment. The Norwood-Dingell bill grants patients internal and external appeals, a process to ensure that the best possible treatments are made. The bill permits patients or their families who have been injured or die as a result of the HMO's denial of care to sue in State courts.

What is wrong with that? If the insurance companies are confident of their policies, what is wrong with that? This is America.

The Norwood-Dingell bill, however, does not invite frivolous lawsuits. It imposes the number of limitations on lawsuits. These restrictions include those damages only allowable by State law, no punitive damages provided the HMO complied with an external reviewer's decision and no plan would be required to cover services not provided in the contract.

My State of Texas has a patients' bill of rights. This legislation took effect 2 years ago. And while HMOs serve more than 4 million patients in Texas, there have been only five lawsuits resulting from the legislation. That is hardly a flood of lawsuits.

To quote Senator David Sibley, one of my colleagues when I was in the Texas Senate, the bill's Republican sponsor, "The sky didn't fall" with its passage.

The number of lawsuits is low because our patients are fully using the external review process, and that is a component of the Norwood-Dingell bill. More than 700 patients have used that external review process in the past 2 years to appeal decisions made by health plans.

Critics of the Norwood-Dingell bill have said it will increase health care costs. Since Texas's bill of rights has been in effect, premiums in our State have been less than the national average, while health care costs rose 3.7 percent nationally in 1998. The Texas health care cost increased only by 1.1 percent. And these are figures done by the Texas Medical Association.

As a former registered, degreed nurse, I strongly understand the relationship between a patient's involvement in his or her treatment and quality health care. We cannot have one without the other.

The Norwood-Dingell bill will create a treatment environment where patients and doctors can work together with insurance companies to produce the best patient care and the best patient outcomes.

I urge all Members to please support this bill. Let us put health care where the patients are.

Mr. THOMAS. Mr. Chairman, I yield myself 3½ minutes.

Mr. Chairman, there was a colloquy just a short time ago on the exigency question. I had said sometime earlier that it was possible to abort the system under Norwood-Dingell and go to jail if they claim that they have been harmed. And it could be denial of medicine for one day, denial of a procedure for one day. That was the point that the gentlewoman from Connecticut was talking about, that although there are numbers stated in the bill, there are ways to short-circuit those numbers and, notwithstanding the internal and external appeal language, go to court.

What was read from the Goss-Coburn-Shadegg provision claiming to be loaded with exigencies is under the section that deals with the emergency 48-hour provision. The 14-day time frame is the ordinary one in which they are required to exhaust the internal and the external. And then based upon the medical exigency, they have a 48-hour capability.

In other words, instead of writing all of the medical conditions that would trigger the 48 hours, they use the phrase "medical exigency." The English word was the same. The location and the usage was entirely different. I will tell my colleagues, that has been the basis for a number of challenges in this debate. Just because a word is there does not mean anything. As most people know, it is the context, the location, and how that word is used.

Let me also point out that although the Clinton administration is pleading for us to move this kind of legislation, and we are talking about in the coalition bill a fast and fixed 14 days in ordinary situations on the internal appeal, 14 days on ordinary situations in the external appeal, and in both situations, depending upon the medical exigencies, 48 hours.

The Clinton administration, with a stroke of a pen, could change the appeals procedure in Medicare. Do my colleagues know what the appeals procedure in Medicare is today? For Part A on a fair hearing, it is 52 days. And if they want to appeal that decision, on average, it is 310 days.

Why are they not making the kinds of changes in Medicare law that they are arguing ought to be imposed on the private sector?

Now, if my colleagues think that is bad, in the Part B appeals provision, currently it is 524 days. It seems to me a fixed 14 days and in serious conditions 48 hours with medical doctors reviewing the appeal, not the rush to judgment, not the claim of harm, not the ability to go to court and let a jury decide whether or not they are harmed, but it seems to me some folks ought to go back and with a stroke of the pen make the changes in Medicare that they are claiming are so necessary to be imposed on the private sector.

Mr. CARDIN. Mr. Chairman, I yield 1 minute to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Chairman, I appreciate the gentleman yielding the time.

Mr. Chairman, I would point out to the gentleman from California (Mr. THOMAS) that on page 7, lines 25 through 35, are not "in the expedited care," they are "in the ongoing care." And I point out that on page 47, the lines that talk in the Thomas bill are not "in the expedited area," they are "in the ongoing care" concurrent review sections.

So I am just glad that my colleague has recognized that there are places in the bill.

Mrs. JOHNSON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. GANSKE. I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. Mr. Chairman, the concurrent care, that is what the word "concurrent" means, it is during that 48-hour period.

In the longer 14-day period, that language does not appear. It is appropriate when they have only 48 hours and they look at whether the person can stay in the hospital then it ought to be as quick as possible, and it is the same argument the gentleman gave me about why it is important.

Mr. GANSKE. Mr. Chairman, reclaiming my time, I appreciate the comments of the gentlewoman because it conforms with what we have said in these certain areas. We need to have some flexibility in that.

Mr. CARDIN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Ms. BROWN).

Ms. BROWN of Florida. Mr. Chairman, today we have a chance to do the right thing for millions of Americans who are currently being served by the HMO by holding health care plans accountable when they deny patients the care that they need.

I just suffered through a very painful experience of the death of a very close relative. It was a difficult experience made even more difficult because of the HMO restrictions we face.

For example, a family member is in the hospital for a week and they have to come out and be placed back in because even though the doctor said that the person needs to stay in the hospital or they have to go to a rehab, they cannot go to the one close to their home; they have to go to one miles away.

We know their health care plan should make sense. It should not cause headaches.

Mr. Chairman, this bill brings dignity back to the health care for the 4 million people in my great State of Florida who use HMOs. We did not pass a health care plan in 1993. That did not mean that the problem went away.

Shame on this Congress if we miss this opportunity to provide genuine protection from harm to the citizens that are counting on our leadership. Do the right thing and vote for the Dingell-Norwood bill.

Mr. THOMAS. Mr. Chairman, it is my pleasure to yield 5½ minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise to speak in support of the Goss-Coburn-Shadegg-Thomas bill. And let me explain why, should that not pass, I intend to vote for the Norwood-Dingell bill. But first I would like to make a few general comments regarding how we got into the problem that we are in today in the United States with managed care.

A health care plan in the early 1960s, a plan that we all grew up and became used to where there was very little interference in the doctor-patient relationship cost a family of four a few hundred dollars a year. But along came developments like MRI scanners, CT scanners, third-generation cephalosporins, new surgical procedures to treat glaucoma diabetic retinopathy, all good things that prolonged life, improved the quality of life, reduced disability but significantly increased costs.

□ 2045

The pressure of the cost burden on our health care system led many health care economists to look at the perversity in our health care system, where the doctor was not responsible for costs, nor the consumer; the patient was responsible for costs. Both parties were really not regarding costs at all.

Now, what should have been done was exploring alternatives that actually introduced a true marketplace in health care, which is along the lines of some of the reforms we are trying to establish, but instead what was established was managed care, HMOs.

I would like to say, in defense of those entities, while it is true that there are problems in HMOs and people are being injured and are dying, the system that they replaced was a system where people were injured and were being killed, and the body of information on this is out there. It is abundant.

Many economists looked at the issue that there were perverse incentives that caused providers to provide excessive care in some areas such as Cesarian sections, there is abundant data to show that there were too many Cesarian sections; and, yes, there were people who had unnecessary complications; and some people, unfortunately actually, died from it.

Now, I believe it is entirely in order for us to try today to address the problems, the perverse problem in the HMO field, where there is an incentive not to provide care.

Now, I would like to point out to my colleagues that I met with officials from the AMA several months ago; and at that time, they said to me that they thought that a health care reform package that had a good internal and external review, without any litigation language, would be sufficient; and that is because their primary interest was quality of care.

I believe the people at AMA, that is their real interest, in preserving the quality of care. Unfortunately, some of the leaders of the underlying Norwood-Dingell-Ganske bill had come to the conclusion at the same time that I was having that discussion with the AMA that our leadership on this side of the aisle was so determined not to pass any type of reform that they went over to the other side of the aisle and agreed to a proposal that introduces a tremendous amount of new litigation.

If someone asked me what is the real solution to the problem that is at hand, it is to open up insurance companies and HMOs to litigation because they are practicing medicine. Today, when I make rounds at the hospital, third party payers can come in and say, "No, Dr. Weldon. If you want to send a patient home in 2 days, we do not agree; they have to go home now. No, they cannot go home on that antibiotic, they will go home on this antibiotic." That is practicing medicine, and I believe they should be held accountable for that, in all the facets which they are practicing medicine.

There should be reasonable caps and limits on punitive damages and on pain and suffering claims. The other side of the aisle refuses to agree to any of that language, and the President of the United States refuses to agree to any of that language.

The bill we are primarily talking about right now, the substitute with the name of the gentleman from California (Mr. THOMAS) on it, tries to institute some reasonable limits on litigation, reasonable limits on litigation that I feel most of the Republican supporters of the Norwood-Dingell bill actually want to see in place; maybe not this language.

My hope is that as we move from the House to a conference committee, that we will finally have a product that places patients first and the doctor/patient relationship first and that does not open up American courts to more and more litigation.

Mr. CARDIN. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. GANSKE).

Mr. GANKSE. Mr. Chairman, I would just like to thank my colleague, the gentleman from Florida (Mr. WELDON), for his support for the Norwood-Dingell bill. He is a family physician. He has been on the front lines. The American Academy of Family Physicians has endorsed the bipartisan bill.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. GANKSE. I yield to the gentleman from California.

Mr. THOMAS. I believe the gentleman made a misstatement, and he can take it on my time.

Mr. GANKSE. What was my misstatement?

Mr. THOMAS. The gentleman said he was supporting the Goss-Coburn-Shadegg-Greenwood-Thomas bill and that under the rule, if it passes, I want the gentleman to characterize accurately his statement.

Mr. GANKSE. Mr. Chairman, reclaiming my time, I was accurately stating that the gentleman from Florida (Mr. WELDON) said that he would support the Norwood-Dingell bill.

I hope we get to the Norwood-Dingell bill, to be quite frank. I know the gentleman from California (Mr. THOMAS) will try to prevent that.

I would point out that the American Academy of Family Physicians has endorsed the Norwood-Dingell bill. They are on the front line. My colleague from Florida is on the front line. He understands that we need HMO reform.

I do want to specifically, though, thank the gentlewoman from Connecticut for her remarks because this is about much more than just a debate on liability. The liability provisions that are in this bill are almost verbatim the ones that the gentleman from Oklahoma (Mr. COBURN) and the gentleman from Georgia (Mr. NORWOOD) and I wrote at the behest of the Republican chairman of the Committee on Commerce. Quite frankly, we thought it was a very good faith effort and compromise on the part of the Democrats to agree to a punitive damages liability provision that we have in that bill that would protect employers from any punitive damages liability if they followed the recommendation of that independent panel. I thought that represented a good bipartisan compromise, and I very much appreciate my colleagues from the other side, but this bill is about so much more than that.

It is about emergency services, people getting the care they need. It is about specialty care, people getting the care they need. It is about people who have chronic care problems getting the care they need; women getting the care they need; children getting the care they need, having continuity of care so that the gentleman from Oklahoma (Mr. COBURN) can continue to see his patients and the HMOs cannot yank him around. This is about clinical trials. The American Cancer Society endorses our bill because we have clinical trials in it, as well as numerous other patient advocacy groups.

This is about choice of plans. This is about getting health plan information to beneficiaries. This is about allowing appropriate utilization. It is about allowing internal appeals. It is preventing gag rules that prevent people from getting the information they need. It is about prompt payment of claims. It is about paperwork simplification. These are all things that are in the bipartisan Norwood-Dingell bill. This is about so much more than liability. This is about patients finally having some ground rules that their HMOs have to follow.

Mr. THOMAS. Mr. Chairman, I yield 30 seconds to the gentleman from Oklahoma (Mr. COBURN), one of the central participants in this debate.

Mr. COBURN. Mr. Chairman, I would make two notes. Number one, the American Academy of Family Practice has endorsed our bill as well, the Goss-Coburn-Shadegg-Thomas bill. Number two is, the gentleman from Florida (Mr. WELDON) is an internist, not a family practice physician. Number three is, we do have cancer clinical trials. And, number four is, we in fact have network adequacy which is not in the consensus bill, which is if there is not an adequate network there is not care.

Mr. CARDIN. Mr. Chairman, I yield 30 seconds to the gentleman from Iowa (Mr. GANSKE).

Mr. GANKSE. Mr. Chairman, my apologies to the gentleman from Florida (Mr. WELDON), who is an internist.

I would point out that the American Society of Internal Medicine has endorsed the bipartisan bill, too.

Mr. CARDIN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I think the choice here is very clear. There have been many groups and many Members working for many years to get an effective patient bill of rights enacted by this Congress. Three hundred groups have endorsed the Norwood-Dingell-Ganske bill. They understand who has been working to make sure we pass a bill that will be effective, that does the right thing. It is very interesting to see the eleventh hour efforts to try to confuse what we should do.

It is very interesting that the Norwood-Dingell bill has been available. People have looked at it. It has been worked on. It has been given the public airing necessary in order to make sure it is drafted properly.

Now, we saw last year those who did not want to see a Patients' Bill of Rights pass but they did, and bringing out a bill without any real effort made to deal with the issues. Now we see this year an eleventh hour effort in order to confuse the people, but the people are not confused. They know where the advocates are. They know where the people are who have been working on this issue, and it is the Norwood-Dingell bill.

Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Maryland (Mr. CARDIN) has 1¾ minutes remaining.

Mr. CARDIN. Mr. Chairman, I yield the balance of my time to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I thank the distinguished gentleman from Maryland (Mr. CARDIN) for yielding me this time.

Mr. Chairman, I rise in very strong support of this piece of legislation. On Monday, I met with a constituent of mine, Sharyl Asbra of Waldorf, Maryland. She went to the hospital in June complaining of severe abdominal pains. After diagnosing her condition, the doctors recommended she have a hysterectomy, but her insurance company denied the procedure. After weeks and weeks and weeks and weeks of pain, only after Dr. Scott Kelso repeatedly called the insurer on Sharyl's behalf did the insurer relent and let Sharyl get the necessary treatment. This was after she had to be off work, could not care for her children, her mother had to do so, and after she experienced a long period of pain.

This bill is about real people who have a real problem. It is about people who need medical care, as determined by their doctors and by themselves. It is about ensuring that they have access to the medical care that they need, and that that decision will be made by doctors who are trained to make those decisions and who have sworn an oath of personal responsibility to those patients to ensure that they get the kind of quality health care that is available in this country if it will be paid for.

I rise in strong support of this bipartisan bill to help Sharyl and millions and millions of others like her in America.

Mr. THOMAS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would tell my friend from Maryland, he cannot have it both ways. When we were debating the rule, there was plea after plea from the other side of the aisle, do not vote for the rule because they would not let us have an eleventh hour amendment to our bill, and yet they say that they have had their bill without making changes.

They cannot have it both ways. Either they pleaded for an eleventh hour amendment, they did not get it and they voted against the rule, or they have a position they have held for some time.

We can read off hundreds of medical associations. They have endorsed the Coburn-Shadegg bill, just as they have endorsed the other. I can say, we fall by the wayside when we reach about 200 endorsements. The reason we do not reach the level of 300, that the gentleman from Maryland cited, is because we do not have the labor unions and the trial lawyers.

The trial lawyers are endorsing their bill. Why? Because their bill will allow trial lawyers, without medical doctors proving harm, to go to the courtroom and have open-ended penalties imposed by juries. Frankly, we do not think those extra 100 endorsements are the kind of endorsements Americans think should be made in today's health care structure.

Our bill makes sure that medical doctors make the decision, and when the plan is wrong, one can sue.

□ 2100

What I find most egregious is the fact that employers struggling to provide health care to their employees if Norwood-Dingell becomes law, will have to examine the exposure to those same trial lawyers and juries and decide if the risk is worth it. It is a sad statement to make, but I believe a factual one; if Norwood-Dingell becomes law, there will be fewer people covered. On the other hand, if the Goss-Coburn-Shadegg-Greenwood-Thomas bill becomes law, we will have an ordered process, internal and external, reviewed by medical doctors, and if the plan is wrong, they have to provide the coverage. If there has been medical harm, they can go to court, and they can, yes, those now famous phrases, sue their HMO, but it is done in an orderly fashion, and guess what? The trial lawyers do not endorse our proposal. Why? Because it is not open ended, and it is not left up to a jury to determine injury. If we are going to advance medical coverage in this country, it is clear one of the things we have to do is to allow patients to get what they rightfully deserve, and, if harmed, to get proper adjudication. But what we do not need is open-ended trial juries with trial lawyers endorsing the process. They proudly announce they have the trial lawyers on their side. We proudly announce we do not, and that, I think, is the bottom line.

Mr. ARCHER. Mr. Chairman, two principles have forever guided this great nation of ours—freedom and liberty. As a democratic nation whose strength is derived from its people, we have achieved unparalleled success, unsurpassed by any nation on this planet. It's no wonder that people around the globe want to come here and be called Americans. We're the envy of the world.

Our nation's health care system is no different. Americans don't travel abroad to get health care. Visitors come here—to the Mayo Clinic, to Mt. Sinai, to the Texas Medical Center, because we are the best.

And the reason our health care system is the best is because it's based on free-market principles, on choice and on individualism. But we lose that choice when we take it out of the hands of doctors and patients and put it in the laps of trial lawyers. As we consider a plan to protect and strengthen a free people who worry about the health care needs of themselves and their families, we must do so with our guiding principles in mind.

The best patient protection of all is health insurance, and the number one barrier to access to cost. But this big government approach makes this problem worse by raising the costs of health insurance premiums even higher, pricing thousands of American families out of the market. But Democrats don't stop there.

After they've raised health costs for Americans and made it more expensive for businesses to provide employees with health insurance, they want to pay for it by turning around and sticking it to those same companies under the guise of "closing loopholes." That's why the National Taxpayers Union and Americans for Tax Reform oppose the Democrats' one-two punch, because it slams the very people that create jobs and provide 70 percent of Americans with their health insurance.

Frivolous lawsuits won't promote individual choice. More trial lawyers won't mean better care. And higher punitive damages won't save one American from falling into the ranks of the uninsured.

The best patient protections we can offer to families and individuals is health care coverage. Forty-four million Americans go without that protection every day. Isn't it time we did something for them, and not the special interests? The American people want the choice and freedom to be examined by a doctor in the treatment room, not cross-examined by an attorney in the courtroom.

Finally, Mr. Chairman, let me point out that the base bill and the amendments made in order under the rule address tax matters under the jurisdiction of the Committee on Ways and Means.

Specifically, section 401 of H.R. 2723, as introduced, contains a single tax code amendment to enforce the legislation's so-called patient protections through the existing tax penalty structure in the tax code. The bill aims to conform to the structure established in the original HIPAA law by including health reforms in both the Public Health Service Act and ERISA, as well as by reference in the tax code. The Houghton substitute includes an identical provision.

Title III of the Boehner substitute and Title III of the Goss substitute include similar provisions necessary to mirror the proposed health reforms in the tax code. However, these two amendments have been drafted to more closely follow the format used in the HIPAA legislation.

Mr. COX. Mr. Chairman, my colleagues today are addressing very real concerns that patients and doctors have raised. The current system of "managed care" imposes restrictions on a patient's choice of doctors. It interferes with the doctor-patient relationship. And it requires patients to navigate through a maze of frustrating health care bureaucracy. Indeed, the only dysfunction the current system does not yet suffer from is an epidemic of litigation that drives up health care costs. More lawsuits is not the right prescription for today's health care ailments. Rather, we need more consumer choice. Choice, quality, and competition should be the watchwords of this debate.

In a competitive market, when consumers don't like what they want, they go elsewhere. In today's health care market, where employers often provide only one health care plan to employees, that is often not possible. Workers who are dissatisfied with their HMO care should have real alternatives to choose from, not just a lawsuit against a plan they didn't really want to begin with.

Today, 90 percent of insured Americans are covered through their employers. Fully 30 percent of employers provide only one health plan to their employees. And a whopping 70 percent offer only no more than two choices. The tragic cause of Americans' lack of health care choice is federal regulation. The tax code provides a special break for employer-provided third-party payment plans. It provides a severe disincentive for individuals to shop for their own insurance, fee-for-service medicine, or other health care not preapproved by Uncle Sam. As a result, individuals are left with a Hobson's choice—employer-provided coverage or nothing. When your employer contracts with an HMO provider, what choice do you have?

Today's bill piles on more regulation and litigation on top of this tragic mess. It further regulates how you interact with your HMO. It does not increase individual choice; it only increases the cost of health care for everyone. Increased health care costs, in turn, mean rationing of services, limits on patient choice, shortages of the latest high-tech equipment, and long waiting lists for operations. Consumers will see an increase in premiums, and many will lose their benefits or their insurance altogether as employers are forces to drop coverage due to higher costs.

It's time to give Americans more choice in their health care, and more control over their health care dollars. Instead, however, this bill takes us towards more and more government control.

Until individuals have an alternative to an employer-provided HMO, the fool's gold of ever-increasing litigation and regulation will beckon us toward disaster. The solution is to resist the calls for more lawsuits and more government controls, and to move to a genuinely competitive market that will empower consumers, put patients and doctors back together and cut out the bureaucracy, deliver reduced costs, provide increased access, and guarantee improved health care quality.

Ms. PELOSI. Mr. Chairman, there are few things more important to family security than access to quality health care. People's health must come before the corporate bottom line. We must preserve and protect the doctor-patient relationship, and put health care providers ahead of insurance company accountants. At least 13 million Californians and 122 million Americans are now without enforceable patient protections on their health care plans. To protect them, Congress must act to pass a real Patients' Bill of Rights.

Take, for example, the person who has a painful health condition. Her doctor would like to prescribe a medication with the fewest side effects, but that drug is not on the managed care company's formulary. Or consider a person with a chronic disease who needs frequent access to a specialist, but is required to get a referral from his primary care doctor for each specialty visit.

H.R. 2723, the Norwood-Dingell Patients' Rights Bill, would provide needed protections for these and other health care consumers. The bill would: ensure access to emergency care without prior authorization; allow people to choose their own primary care and specialty providers; and give patients the right to hold HMO's accountable.

The other bills we will consider today fall far short of guaranteeing many important protections. H.R. 2824, introduced by Representatives COBURN and SHADEGG, and H.R. 2926, introduced by Representative BOEHNER, differ from the Consensus bill in important ways. In particular, they would not provide patients with the ability to hold health plans accountable in state courts, which typically handle injury and wrongful death suits, and are less expensive and more accessible than federal courts.

Mr. Chairman, last week we learned that the number of the uninsured in this country has increased to over 44 million. For years, many of my colleagues and I have insisted that we must expand access to health care. But H.R. 2290, the Quality Care for the Uninsured Act, would institute untested or failed health programs and cost at least $48 billion over ten years.

For example, "Association Health Plans" authorized in the bill would repeal state-based health care reform initiatives that address the needs of local consumers, and eliminate several consumer protections designed to prevent fraud and abuse. H.R. 2290 would undermine our ability to pass comprehensive and bipartisan patient protection this year. It should be rejected by the House.

The Bipartisan Consensus Managed Care Improvement Act provides a broad range of important protections for health care consumers. The American Medical Association has stated that the bill is "the only real patients' bill of rights," and the Children's Defense Fund feels that the legislation is "tailored to meet the health care needs of children and their families." I urge my colleagues to support real patient protection by voting for H.R. 2723.

Ms. MILLENDER-McDONALD. Mr. Chairman, our day has been consumed with debate on a desperate rule drafted to derail the bipartisan managed care reform train. This disheartens me because the Norwood-Dingell bill is a good bill. It is such a good bill; the three alternatives have used it as their base. Why is that? Whatever the reasons may be, they are all for naught if this good bill has to be joined with the poison pill train that the Rules Committee placed on our tracks.

The Norwood-Dingell bill allows women to obtain routine ob/gyn care for their ob/gyn without prior authorizations or referral. This is a good step in the right direction.

Mr. Chairman, this bill needs a straight up or down vote. When a straight up or down vote—without poison pills is allowed, I urge my colleagues to vote YES on the Norwood-Dingell bill.

Mr. KUCINICH. Mr. Chairman, I rise in favor of this bill. If HMOs are left free to determine the quality and availability of health care in America, they will have an incentive to deny care to those who need it and reward their executives and shareholders with these quote unquote "savings". Studies show that HMO enrollees receive ⅓ less home visits after a hospital stay (1994 Health Care Finance Review study). HMO enrollees are three times more likely to report problems getting medical care than publicly owned and managed Medicare beneficiaries (1969 Study by the Physician Payment Review Commission, a Congressional advisory commission). Meanwhile, private HMO executives are richly-compensated. The total cash compensation received by the CEOs of just the 3 largest HMO companies totaled 33.3 million dollars. Three companies: Aetna, Inc.—$888,568, Pacifi Care Health System Inc.—$1.7 million, Oxford Health Plans—$30.7 million.

Now, our job in Congress is to pass laws. But what good is a law that is not enforced? The easiest way for HMOs to limit health care costs is to deny people care to those who need it most. This bill gives citizens the opportunity to hold HMOs accountable for trimming costs at the expense of the sick. If a lawsuit against an HMO corrects the incentives and ensures that the best treatment will be given to a patient rather than the cheapest treatment, then I say, give people their day in court to enforce the law. And what we really need is a national health care system so that every person has health care coverage and has protected rights under the law. Let's pass H.R. 2723, I urge my colleagues to vote "yes" on this bill.

Mr. KLECZKA. Mr. Chairman, the need for managed care reform is clear.

According to a study by the non-partisan Kaiser Family Foundation, nearly nine in 10 doctors say their patients had experienced denial of coverage by a health maintenance organization (HMO) over the past two years. The same study found that as many as two in three of those doctors believe that the denial resulted in a serious decline in health for their patients.

To address this problem, the bill before us today, the Managed Care Patients' Bill of Rights, will establish critical patient protections to ensure that consumers get the health care they've been promised and have paid for.

The Patients' Bill of Rights would: prohibit plans from gagging doctors who wish to talk about treatment options; ban arrangements in which doctors receive incentives to limit medically necessary service; prevent plans from retaliating against health care workers who advocated on behalf of their patients; allow women to see their OB/GYN without prior approval; allow patients to select pediatricians as the primary care provider for children; allow patients with special needs to get a standing referral to a specialist; require coverage of emergency care without prior approval; and allow patients with life-threatening conditions access to approved clinical trials.

None of these provisions have any weight unless patients can hold health plans accountable for the medical decisions they make. This bill would allow patients to do so.

Some insurance companies, business groups and their advocates in Congress claim that if you hold health plans accountable in the courts for their actions the whole health care system will collapse. They say there will be a rush to the courthouse and the cost of health care will shoot through the roof. This is just not so.

For those who claim the sky is falling, let me point to an article that appeared in the Washington Post. As this article explains, two years ago, Texas became the first state to give patients the ability to sue their health plan. Since then, there have been only five lawsuits among the over 4 million Texans who belong to HMOs. Moreover, health care premiums have not increased more in Texas than in the rest of the country.

The Dingell-Norwood bill would ensure that all Americans have the protections which have worked to promote better patient care in Texas. The bill would permit patients—or their survivors—to sue their health plans in state courts when they make negligent decisions that result in injury or death.

H.R. 2723 is a responsible approach to make our nation's health plans accountable for their actions. As a cosponsor of the Dingell-Norwood Managed Care Patients' Bill of Rights, I stand in strong support of this needed reform which will finally put patient protections ahead of special interests.

Mr. WELDON of Florida. Mr. Chairman, I rise in support of the Norwood-Dingell bill, H.R. 2723. I am very supportive of the provisions in this bill which strengthen patient protections and restore the doctor-patient relationship.

I am also hopeful that the final bill that we send to a House-Senate conference will include not only the Norwood-Dingell patient protections, but also provisions that will make health insurance more affordable for the growing ranks of the uninsured. Our failure to address both of these issues will leave the job perilously half done.

I fully support the strong patient protection standards included in H.R. 2723, many of which were included in my Access to Specialty Care legislation from the last Congress. Particularly, I am pleased that the bill provides for a strong internal and external review process. This will help reassure patients that medical decisions about their coverage have received full consideration, not only by an internal board of medical experts, but also by an external board of medical experts.

The bill also ensures that patient have access to the care they need in a timely manner. In addition to providing timely internal and external reviews, the bill ensures that patients' emergency room expenses are covered. For a patient to be second guessed by a health plan administrator after an emergency episode is unreasonable. H.R. 2723 ensures that patients have their emergency health care needs taken care of. It also ensures that they have greater access to the specialty care that they need. This is critical for ensuring that patients have access to the type of provider that can care for their special needs.

In addition to these provisions, I am pleased that the bill ensures that women can designate an obstetrician or gynecologist as their primary care provider. Also, I am pleased that we ensure that parents can designate a pediatrician as the primary care provider for their children. These provisions make perfect sense and they will be of significant help in emphasizing preventive care.

The bill will also ensure that health plan enrollees will have access to full, easily understandable language on what medical services are covered and not covered. Information is the key to empowering individuals to make informed decisions on their health care. Consumers should have a right to know before they sign up with a plan exactly what is covered and what is not covered.

I am pleased with provisions that will ensure that no one gets between the physician and the patient. The patient must have the assurance that their physician is not influenced by any third party when making decisions about their health care. Toward this end, the bill eliminates gag rules that in the past have limited the free speech of doctors when talking with their patients. Additionally, the bill ensures that the insurance companies are no longer permitted to offer perverse incentives that would encourage health care providers not to provide care.

Finally, H.R. 2723 includes liability provisions to hold medical decisionmakers accountable. While I agree that the current system in which the people who make medical decisions to deny care are often not held accountable, I am concerned that the provisions in the Norwood-Dingell bill go too far. I fully support provisions to hold health plans accountable for the decisions they make; however, we must ensure that we do not open Padora's Box by turning the Patients' Bill of Rights legislation into a Lawyers Right to Bill. Any liability legislation must impose caps.

We must recognize that allowing trial lawyers and their clients to walk away with multi-million dollar awards will raise everyone's premiums. The costs of multi-million dollar lawsuit awards will be passed along to everyone in higher premiums to health plan enrollees. That is why I believe it is critical that if the final bill includes liability provisions, we must insist on reasonable caps on damages. While caps may not be in the best interest of the trial lawyers, it is important for average American citizens in ensuring that insurance premiums are more affordable.

Mr. UDALL of Colorado. Mr. Chairman, I rise in opposition to H.R. 2990 and in favor of the Norwood-Dingell Bipartisan Consensus Managed Care Improvement Act.

At some time in their lives, all Americans will be faced with making tough choices about medical care for themselves or their families. At these times, the last thing anyone wants to think about is whether their health plan will pay for what's necessary. H.R. 2723 is a bipartisan solution to many of the problems Americans face with their health plans. The bill creates new federal standards and requirements on all health insurance plans and would cover 161 million Americans, much more than what is covered in the Senate bill.

I believe H.R. 2723 would protect the doctor-patient reationship. It provides a point of service option if the enrollee otherwise does not have access to non-network alternatives. It provides access to emergency room care, specialists, and clinical trials. It gives women their choices of OB/GYN specialists without referrals from a primary care provider. It allows parents to choose a pediatrician as their child's primary care physician. It provides for continuity of care in cases where a provider or insurer is terminated by a plan.

And finally, it will give consumers uniform grievance and appeals procedures, including the right to sue, if their health plan makes a decision that puts them in harms way.

In short, this legislation will help restore the doctor-patient relationship, give Americans better access to care, greater consumer information, and better protections and benefits. On top of all this, it protects employers by exempting them from legal action if they are not involved in a claim decision.

H.R. 2723 is good legislation. It is good for Americans, and it is good for the future health of our country.

The CHAIRMAN. All time for general debate has expired.

Mr. THOMAS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. KUYKENDALL) having assumed the chair, Mr. HASTINGS of Washington, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2723) to amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage, had come to no resolution thereon.

APPOINTMENT TO BOARD OF TRUSTEES OF THE AMERICAN FOLKLIFE CENTER

The SPEAKER pro tempore. Without objection, and pursuant to section 4(b) of Public Law 94-201 (20 U.S.C. 2103(b)), the Chair announces the Speaker's appointment of the following individuals from private life to the Board of Trustees of the American Folklife Center in the Library of Congress on the part of the House:

Ms. Kay Kaufman Shelemay of Massachusetts to fill the unexpired term of Mr. David W. Robinson; and Mr. John Penn Fix, III, of Washington to a 6-year term.

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

WASTEFUL SPENDING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I want to continue speaking out tonight about very wasteful spending by the Federal Government. One of the most wasteful, extravagant programs in the entire Federal Government is the Job Corps.

It is now costing about $26,000 a year to put a student through this program, $26,000 a year. We could give each of these young people a $1,000 a month allowance, send them to some expensive private school and still save money. If we did that, these kids would feel like they had won a lottery, they would be so happy. We are still giving this scandalously wasteful program increases each year. The bill that will be before us next week increases the Job Corps appropriation to $1.4 billion. If this bill or this program was good for children, then it would be worthwhile spending. However, the GAO has reported that only about 12 percent of the young people in this program end up in jobs for which they were trained, and that is after you give the Job Corps every benefit of the doubt and stretch the definition of a Job Corps type job to ludicrous limits. Actually the Job Corps is very harmful to young people. It takes money from parents and families, money that they could be spending on their children, and gives it instead to Federal bureaucrats and fat cat government contractors. That is who really benefits from the Job Corps program, the bureaucrats and the contractors.

Also, there has been a real crime problem in the Job Corps program, including murders and many drug-related and very serious crimes. People who really want to help children would vote to end this very wasteful program or at least make them bring their cost per student down. $26,000 per year per Job Corps student is just ridiculous.

Second, Mr. Speaker, I consider national defense to be one of the most important and legitimate functions of our national government, and the military is continually crying about a shortage of funds. Yet we find that the Air Force has spent $1.5 million to remodel the house of the commandant at the Air Force Academy including $267,000 simply to redo the kitchen. $267,000 should have bought a beautiful new home instead of being just blown on a kitchen. Now we find that the Navy has taken $10,260,000 from operations and family housing accounts to fix up the residences of three admirals. This comes out to more than $3,420,000 per home. These were the houses of the Chief of Naval Operations in Washington, the Commandant of the Naval Academy in Annapolis, and the Commander of the Pacific Fleet in Honolulu.

Let me quickly mention two other examples of very wasteful spending.

A few years ago I read a column by Henry Kissenger which said that the 50 to $60 billion we had sent in aid to Russia over the previous 5 years or so had just been wasted. In 1991, Senator Sam Nunn, the Georgia Democrat, said giving monetary aid to the Soviet Union was like throwing money into a cosmic black hole. But do we ever learn? No. Now we find out many billions more of U.S. taxpayer money to Russia has been put into private accounts that are hidden all over the world, and our wealthy elitist foreign policy establishment will make fun of and sarcastically criticize anyone who opposes sending Russia many billions more.

One final example is the $625,000 taxpayers have been ordered to pay by a Federal judge because Interior Secretary Bruce Babbitt and former Treasury Secretary Robert Rubin illegally withheld documents in a lawsuit over Indian trust funds. The judge regretted that the burden would fall on taxpayers and that he could not fine the Cabinet secretaries themselves.

We see over and over and over again that the Federal Government cannot do anything in an economical, efficient, low-cost manner. We see over and over again that today we have a Federal Government that is of, by and for the bureaucrats instead of one that is of, by and for the people.

Finally, Mr. Speaker, we see over and over again that if you want money to be wasted and spent in ridiculous, lavish ways, just send it to the Federal Government.

MANAGED CARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, we have had a tremendous debate all evening on managed care, and we will continue to do so even tomorrow.

I received a letter from a physician in my community that I think reflects the position that Americans should take on this issue. It comes from a Dr. Elizabeth Burns, medical doctor, professor and head, College of Medicine, Department of Family Medicine, University of Illinois at Chicago. Doctor BURNS said:

> Dear Representative Davis:
>
> As a practicing family physician in your district, I want to ask you to support meaningful management care reform when it is considered in October by the House of Representatives. Your support for the Bipartisan Consensus Managed Care Improvement Act of 1999, H.R. 2723, or the Health Care Quality Choice Act of 1999, H.R. 2824, would be responsive to the needs of my patients and your constituents. Meaningful, comprehensive managed care reform is greatly needed right now in your district.
>
> Below are the principles I see as important in any managed care reform proposal:
>
> Reforms need to cover all health care plans, not just self-funded plans. Patient protections should protect all patients.
>
> Gag clause protections need to be extended to all physicians. Physician patient communication must be protected and extended to health insurers' contracts. Unfettered medical communication is undeniably in the best interests of patients, all patients. Any final bill needs specific language stipulating that any provision of a contract between a health plan and a physician that restricts physician-patient communication is null and void.
>
> Physician advocacy must be protected. Managed care reform must include provisions to prevent retaliation by a health plan towards physicians who advocate on behalf of their patients within the health plan, or before an external review entity. Family physicians, as primary care physicians, play a pivotal role in ensuring that their patients get access to the care they need. Health plans should not have the power to threaten or retaliate against physicians they contract with to provide needed health care services.
>
> Independent external review standards must be truly independent. Managed care reform must contain a fair, independent standard of external review by an outside entity. It makes no sense to pay an outside reviewer to use the same standard of care used by some health plans which may limit care to the lowest cost option that does not endanger the life of the patient. All of our patients deserve better.
>
> Patients need the right to seek enforcement of external review decisions in court. Managed care reform must allow patients to seek enforcement of an independent external review entity decision against the health plan. Without explicit recourse to the courts, the protections of external review are meaningless.
>
> Patients need access to primary care physicians and other specialists. Managed care reform must allow patients to seek care from the appropriate specialist, including both family physician and obstetricians/gynecologists for women's health, as well as both family physicians and pediatricians for children's health. Primary care physicians should provide acute care and preventive care for the entire person, and other specialists should provide ongoing care for conditions or disease.

And so you see, Mr. Speaker, from patient to physician, from consumer to provider, those who want serious reform and serious change know that the Dingell-Norwood bill is the way to go.

TWO EXTREMES IN THE HEALTH CARE REFORM DEBATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. SHADEGG) is recognized for 5 minutes.

Mr. SHADEGG. Mr. Speaker, I want to begin by thanking my colleague, the gentleman from Illinois (Mr. DAVIS). He read a letter from a doctor, a constituent of his, who said that he supported two bills, and I think it is very important to note that of the two numbers he read off, the second number that the doctor wrote him about said he supported H.R. 2824.

I think the doctor is right about that. H.R. 2824 is the Coburn-Shadegg bill, the bill that I have cosponsored, and his medical doctor constituent wrote to him to say that he favored either the Norwood-Dingell bill or the Coburn-Shadegg bill. I hope tomorrow the gentleman from Illinois (Mr. DAVIS) will cross the line and do exactly what that doctor said, support the Coburn-Shadegg bill, because it is a reasonable alternative.

I want to talk for a moment about the two extremes in this important health care debate. One extreme says we should do nothing about the faults in the Employee Retirement Income Security Act. One of our colleagues, the gentleman from Mississippi (Mr. PICKERING), his father is a district judge. He has written a number of opinions in this area. I want to quote from those.

I sent around a series of dear colleagues: "ERISA abuses people. Courts cry out for reform." Here is what Judge Pickering wrote: "It is indeed an anomaly that an act passed for the security of the employees should be used almost exclusively to defeat their security, and to leave them without remedies for fraud and overreaching."

Second in this series that I want to talk about, "ERISA abuses people, courts cry out for reform," is a decision written by Judge William Young of the Federal District Court in Boston. He writes, "It is extremely troubling that in the health insurance context, ERISA has evolved into a shield of immunity which thwarts the legitimate claims of the very people it is designed to protect."

I want to conclude this series by again reading from another opinion by Judge Pickering in which he says, "Every single case brought before this court has involved an insurance company using ERISA as a shield to prevent employees from having the legal redress and remedies they would have had under the longstanding State laws existing before the adoption of ERISA."

Not amending ERISA is an extreme position that will hurt the American people. But I want to point out, there is another extreme position in this debate. That second extreme position is represented by the Norwood-Dingell bill.

The Norwood-Dingell bill is extreme in several regards. First and foremost, it does not protect employers from liability. I want plans held liable. I do not want Mrs. Corcoran's baby to be killed and the plan to be able to walk away, as happened in Corcoran versus United States Health Care. But when that plan is held liable, I do not want the employer held liable. The employer just hired the plan. The employer just wanted to offer health care to his or her employees.

The Coburn-Shadegg proposal, now joined by the gentleman from Florida (Mr. GOSS), the gentleman from Pennsylvania (Mr. GREENWOOD), and the gentleman from California (Mr. THOMAS) protects employers. Employers are not liable unless they directly participate in the final decision. That is the key language.

That means, and here is the debate, and Members will hear this from industry, an employer is not liable, cannot be sued, for merely selecting a plan or for merely deciding what coverage ought to be, or for selecting a third party administrator.

An employer cannot be held liable for selecting or continuing the maintenance of the plan. They cannot be held liable for modifying or terminating the plan. They cannot be held liable for the design of or coverage or the benefits to be included in the plan. They can only be held liable if they make the final decision to deny care. That is the way it should be.

I want to go on to point out that the other extreme position represented by Norwood-Dingell is lawsuits by anyone, as my colleague, the gentleman from California (Mr. THOMAS) pointed out, that let the jury decide injury. Our bill says no, you have to have a panel of doctors to decide injury.

Lawsuits at any time. They do not want you to have to go through internal and external review. They do not want to have to give the plan a chance to make the right decision. They want to just go to court.

Lawsuits over anything. Our legislation says it has to be a covered benefit. Their legislation says you can sue over anything, just get the lawyer and go to court. Their bill says lawsuits even when the plan does everything right. Our legislation says, no, if the plan makes the right decision, you should not be able to throw the book at them in court and drag them and blackmail them into making a settlement.

Their position is lawsuits without limits. They want all kinds of unlimited damages. There are over 100 organizations, not trial lawyers, but over 100 organizations endorsing the Goss-Coburn-Shadegg-Greenwood-Thomas proposal. I urge my colleagues to join us in passing this needed legislation.

A RULE WHICH MAKES PASSING GOOD MANAGED CARE REFORM DIFFICULT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, in this Republican Congress, the special interests who write the big checks get the last word. The day before the House began its debate on the Patients' Bill of Rights, the only bill that takes medical decision-making away from insurance company bureaucrats and returns it to doctors and patients, the gentleman from Illinois (Speaker HASTERT) sat down with 15 health care lobbyists who paid $1,000 each for one last chance to make their case.

The health care industry has cultivated the Republican leadership with strong-armed lobbying efforts and well-placed campaign contributions, over $1 million from the Health Benefits Coalition, a group of insurance groups alone.

House Republicans, led by the majority whip, the gentleman from Texas (Mr. DELAY) and the gentleman from Illinois (Speaker HASTERT) are doing everything they can to kill reform to please their contributors in the health insurance industry. Mr. Speaker, that is why they put forward the rule today that was adopted on an almost exclusively partisan vote. Almost every or actually every Republican voted for the rule, and almost every Democrat except for one or a few voted against the rule.

Mr. Speaker, I just want to talk a little bit, if I can, about this rule and why it is making the ultimate question of passage of good managed care reform difficult.

The rule, instead of providing a fair and open rule for considering the Patients' Bill of Rights, basically stacks the deck by insisting on provisions that blend the managed care bill, the Patients' Bill of Rights, with a measure riddled with special interest poison pills designed to kill the Patients' Bill of Rights, the Norwood-Dingell bill, and that denies the gentleman from Michigan (Mr. DINGELL) and the gentleman from Georgia (Mr. NORWOOD) the opportunity to offset any potential revenue losses from the measure.

The Republican bill basically combines a so-called access bill, H.R. 990, and the managed care bill, the Norwood-Dingell bill, together. The measure will combine essentially a meaningful managed care bill with a special interest-laden boondoggle of a bill that masquerades as a health access bill.

There is no question that this rule which was adopted today, I would say again, on almost exclusively a partisan vote, is nothing more than a cynical, desperate, last-minute attempt to stave off a bipartisan Norwood-Dingell managed care bill that was on the verge of passage.

I am very fearful, Mr. Speaker, about what kind of success we are ultimately going to have here tomorrow with regard to the Norwood-Dingell bill because of the way that this rule provides for us to proceed, and because of the stark choices that many Members will have to make; had to make today on the so-called access bill, and will have to make tomorrow on some of the substitutes to Norwood-Dingell.

I wanted to talk about this phony access bill that was voted on today, again, almost exclusively on a bipartisan basis. Most of the Republicans voted for the access bill and most of the Democrats voted against it.

First of all, I would point out that it is designed, according to the Republican leadership, to try to improve access to health insurance for the over 40 million Americans that have no insurance, who are right now uninsured. But the phoniest aspect of this, if you will, is that the bill, this access bill, spends Federal dollars on tax breaks that do more to help the healthy and the wealthy than the uninsured.

According to the General Accounting Office, nearly one-third of all uninsured Americans do not pay income taxes. These families would not be helped at all under the bill that was passed today. Instead, the greatest benefits under the bill would go to the 600,000 uninsured families that make almost $100,000 per year, because the value of shielding income from Federal tax is greater for those in the highest tax bracket.

In addition to not helping the uninsured because so many of them essentially are not paying taxes, or are not paying that much to benefit from this bill, the bill expands medical savings accounts, a special tax break for the healthy and wealthy that threatens to increase health insurance premiums for everyone else.

My point is, Mr. Speaker, that the so-called access bill today, which the Republican leadership claims is trying to get more people into insurance plans and out of the ranks of the uninsured, in fact will make it more difficult for those who are uninsured to buy insurance because the costs will go up. That is accomplished, first of all, by putting in the poison pill of the medical savings accounts, the SMA's, as well as new Federal regulations that would disrupt State health insurance markets.

With the SMA's, and this is nothing new, this is something we have seen over and over again over the last couple years in an effort to try to defeat managed care reform, this poison pill, which was included in the 1996 bill, basically is a tax break for the wealthy.

The new Federal regulations that would disrupt State health insurance markets that are in this bill, the access bill, basically are two proposals called association health plans and HealthMarts, both of which would offer cheaper, less comprehensive policies that bypass State consumer protection, insurance, and benefit requirements.

Like medical savings accounts, these new plans and networks would be able to cherrypick the healthiest out of the State-regulated health insurance market, which could result in higher costs for those still in the State-regulated market.

In addition, like medical savings accounts, the association health plans are supported by big contributors to Republican candidates.

Mr. Speaker, my point is that this access, this so-called access bill that was adopted today, really is mucking up, if you will, the possibility of passing real managed care reform because it will travel now with whatever managed care reform bill that we adopt tomorrow and go over to the Senate together.

It means that whatever managed care reform bill we pass tomorrow will now have these other provisions attached to them, attached to it, that basically are going to make it more difficult to pass in the Senate, more difficult to adopt in conference, if the Senate and the House ever get together to try to come up with a bill that both houses adopt, and undoubtedly will result in a veto by the President, because he could not possibly sign provisions like the SMA's, like the HealthMarts, that basically break the insurance pool and make the costs to buy insurance for those who do not have it even more costly than it is today.

I would like to go on, though, and talk about what is going to happen tomorrow. The access bill is passed, the rule was passed. There is not much we can do about it tomorrow. But tomorrow we have more debate, which began tonight, on the Norwood-Dingell bill, and three substitutes that have been made in order under the rule which really, again, are nothing more than an effort to try to kill and water down the Norwood-Dingell bill.

I have said over and over again on the floor of this House and in this well that the two major advantages and overall goals, if you will, of the Norwood-Dingell bill are fairly simple, fairly easy for the average person to understand.

First of all, the first principle, the first goal of Norwood-Dingell, says that on the one hand, right now most decisions about what kind of medical care we get, what type of operation we get, or what kind of equipment we can use, or how long we stay in the hospital, or all the other things that define adequate health care, the decision as to what type of care we get is essentially now made by the HMO, by the insurance company.

That is not the way it should be. What should be and the way it used to be a few years ago was that the physician, the doctor, our doctor, and us, the patients, would determine what kind of care we were going to get.

We want to turn that around. In the Norwood-Dingell bill, we want to go back to the old days, essentially, when decisions about the type of care that we as Americans receive are basically decisions made by the physician, the doctor, and us, the patient.

The second thing we do in the Norwood-Dingell bill is to say that if we have been denied care that we and our physician think we should have had, then we have to have some adequate way to enforce our rights and overturn that denial of care. That is essentially done in two ways with the Norwood-Dingell bill.

First of all, there is an independent review, so that we do not have to go to the HMO and appeal their decision, and essentially appeal to them or someone who is within the HMO to decide the appeal. Rather, we go to an external, independent review board not controlled by the HMO, which has the ability to overturn that decision and provide us with the care that our physician and we say we need in a very quick, expedited way.

Failing that, if for some reason this independent external review does not work and we are still denied care that we and the physician think we need, then we have the right to go to court and seek an action to overturn that denial of care. Or if the situation has resolved itself so that we were denied the care and we suffered damages, we were injured, we suffered, or God forbid, died, then we would be able to sue in the courts for damages as a result of that denial of care.

□ 2130

Now, all this makes perfect sense; and, frankly, I do not know what the big deal is. Any time people have a grievance and they suffer damages, they normally can go to some kind of review and take some kind of appeal and ultimately go to the courts.

What we are told by our colleagues who support the Republican leadership on the other side is that that is not acceptable. In fact, the previous speaker made the point that it is not acceptable; that the Norwood-Dingell bill goes too far in providing enforcement actions.

Well, let me just say, if I could, a few things about these substitutes that are going to be considered tomorrow and why they do not establish the two goals, they do not meet the two tests that I have already mentioned; and that is, who is going to decide what kind of care one gets; and, secondly, how one is going to enforce one's rights if one was denied care.

We have three substitutes that will be considered tomorrow. I just want to basically go through some of the key concerns I have with these substitutes and why I ask my colleagues to vote no against them and to let us have, instead, the Norwood-Dingell bill as the base bill that we are voting on.

Let me take first the Boehner amendment in the nature of a substitute. This bill does not include many important patient protections. Now, I have not spent the time this evening going into all the patient protections, all the specific patient protections that the Norwood-Dingell bill provides, and there are many. I have talked about them many times, so I am not going to go through them all this evening.

But I did want to talk about the patients' protections that are in the Norwood-Dingell bill that are not in the Boehner substitute. The Boehner substitute does not apply to all Americans in privately insured plans. It fails to extend protection to millions of Americans who purchase insurance individually.

Now, my colleagues have to understand that, in the other body, a managed care bill was passed in the Senate that basically covered very few people.

The tremendous advantage of the Norwood-Dingell bill is that it covers everybody, anybody who has insurance. Well, if my colleagues were to adopt the Boehner substitute tomorrow instead of the Norwood-Dingell bill, basically millions of Americans who purchase insurance individually would not be covered.

The Boehner substitute also does not include a provision on accountability or liability. It, therefore, provides no meaningful remedies at all for individuals in employer plans. It takes away current remedies by placing restrictions on all health care liability claims, including those in State court.

The bill also does not include access to specialists, an important aspect of the Norwood-Dingell bill, access to non-formulary drug, another important aspect in the Norwood-Dingell bill, protections for patient advocacy or limits on financial incentive arrangements that induce providers to withhold care.

One of the things that is most abusive today and one of the biggest criticisms that I receive from my constituents is that, right now, HMOs provide financial incentives to physicians not to provide care. That is an awful thing. But that is the reality today in the managed care system for many people.

The Boehner bill does not do anything to correct that, whereas the Norwood-Dingell bill does. The Boehner substitute's external appeals provision would require external reviews to use the plan's definition of medical necessity.

When I talked before about how the Norwood-Dingell bill, one of its two major goals is to make sure that the physician and the patient decide what kind of care one gets, that is because, in the Norwood-Dingell bill, the definition of medical necessity, what is medically necessary is made by physicians. It is a standard developed in the particular specialty by the doctors in that specialty area. So that, for example, for cardiology, the Board of Cardiologist standards would hold sway.

Well, the Boehner substitute basically says that, in doing an external review, the plan's definition, the HMO insurance company's definition of medical necessity holds sway. So there again, the HMO is going to decide what kind of care one gets. Reviews would only decide if the plan followed its own guidelines, essentially rubber stamping the HMOs decisions.

The Boehner bill also says that plans control, HMOs control what information patients have to submit to the reviewers. The patient does not have the right to submit his or her own evidence. There is no requirement that reviews be made in accordance with the patient's medical exigencies. A review panel could take up to 30 days.

Again, the problem with these substitutes to the Norwood-Dingell bill is that, if one has been denied care, one is not going to be able to have an effective appeal in a timely manner. That is one of the biggest problems with the Boehner substitute.

Now, let me talk about the Coburn-Shadegg-Thomas substitute. The gentleman from Arizona (Mr. SHADEGG), just a few minutes before I spoke, talked about how wonderful this substitute was. I would point out that the Coburn-Shadegg-Thomas substitute, the second substitute that will be considered tomorrow in lieu of Norwood-Dingell falls short on many important patient protections.

There is a $100 threshold to get to external review. A person who is denied a simple, yet life-saving, test would never get the review. There is no ability for patients to get access to off-formulary drugs when necessary.

The Coburn-Shadegg bill only requires coverage of routine costs of cancer trials, leaving patients with other devastating diseases without any protections. Emergency coverage under the Coburn-Shadegg bill for newborns is judged by a prudent health professional standard. That could mean that plans could deny payment for a larger range of neonatal emergency care.

But let me also talk about the enforcement aspects of the Coburn-Shadegg bill. Again, if one is denied care, how does one enforce one's right to overturn that denial and have the care provided? Well, under the Coburn-Shadegg substitute, there is an entirely new Federal cause of action.

HMOs can require an enrollee, a patient, to go to a certification panel that would decide whether the person was injured and whether this was caused by the HMO. If the panel finds for the HMO, the suit is dismissed.

The bill basically caps the amount of noneconomic damages a person can receive. It also undermines existing remedies because it requires that a person go through the bill's Federal remedy before seeking any State remedies.

What we are seeing here is a series of hoops. I have to be honest. I felt that the gentleman from Arizona (Mr. SHADEGG) was actually being somewhat honest when he was saying that there were major limits on one's ability to sue in the substitute that he has co-authored. Well, why should that be? Why are all these limits placed on one's ability to sue if one has seriously suffered damage? I mean, this is not right.

What we are trying to do here in the Norwood-Dingell bill is to basically make sure that one has a remedy, a right to enforce one's rights, and to make sure that one is not denied care. Any effort to basically water that down, to me, makes no sense and should be defeated.

Mr. Speaker, let me lastly talk about the third substitute that the House will consider tomorrow, and that is the Houghton substitute or Houghton amendment.

It strikes the liability provision from the Norwood-Dingell bill and replaces it with a weak Federal remedy under ERISA. The Federal remedy would preempt a long history of allowing States to provide appropriate remedies for various harms suffered by their residents.

All we are doing in the Norwood-Dingell bill is saying that one has a right in State court or under State law to sue in the same way that one would for any other damage that one suffered.

Well, why should we go along with the Houghton amendment which basically strikes that liability provision in Norwood-Dingell and creates another Federal remedy under ERISA? ERISA is the Federal law that preempts the State law and then makes it so that, even in States like Texas or New Jersey, where we have patient protections on the State level, that one does not have any right to those protections because one's employer may be self-insured; and, therefore, one falls under the Federal ERISA law.

Well, the Houghton amendment would basically strike the provisions from Norwood-Dingell and give one another Federal ERISA remedy rather than being able to sue under State law. This Federal remedy under the Houghton amendment is full of loopholes and would allow plans, HMOs to escape liability.

The Houghton amendment provides bonding arbitration in place of external review and access to courts with minimal, if any, protections for consumers against bias.

Once again, Mr. Speaker, I urge my colleagues to look carefully at these substitutes tomorrow, and they will find that, in every case, they limit the ability of an American, of our constituents to be able to get quality care and to enforce their rights to make sure that they get their quality care. That is why all those substitutes should be defeated, and we should simply pass the Norwood-Dingell bill.

I wanted to mention a few other things tonight about some of the attacks that we are getting and that I am sure will intensify tomorrow against the Norwood-Dingell bill, which I think have been effectively refuted by those who support the Norwood-Dingell bill, but I want to mention them again because they continue unabated.

We are told, of course, the old thing, that the Norwood-Dingell bill, the Patients' Bill of Rights, is going to allow for numerous lawsuits, and that that is going to increase the costs of premiums, and ultimately employers will drop coverage for their employees because the costs will be too high.

Well, I think that that has been effectively refuted by the fact for the last 2 years that the State of Texas has had on its book a patient protection act very similar to the Norwood-Dingell bill. The reality is there have been only four lawsuits filed during that 2-year period in the State of Texas, and the cost of premiums have gone up less than they have in States that do not have those same kind of patient protections.

I do not think anything more needs to be said on the issue of costs or the issue of suing the HMO and liability and excessive lawsuits than to look at the Texas example.

But the other attack that we are getting again was made by the gentleman from Arizona (Mr. SHADEGG) earlier this evening when he said that the Norwood-Dingell bill would allow for employers to be sued; and because employers would be sued, they would drop coverage because they would not want to be the subject of lawsuits.

Well, again, that is not accurate. The Norwood-Dingell bill has very specific shield language that shields the employer from liability unless they are actually involved in the decision to deny one care.

I would say that even the gentleman from Arizona (Mr. SHADEGG) admitted that, if they are involved in a decision to deny one care, they should be sued.

The bottom line is that it is only the Norwood-Dingell bill that provides this kind of a shield to make sure that employers cannot be sued. To suggest somehow that that shield will not work again is inaccurate.

I just wanted to cite a reference that has been made again by some of my colleagues today and on other occasions, the myth that is being promulgated against Norwood-Dingell on this point is to say that employers would be subject to lawsuits simply because they offer health benefits to their employees under ERISA.

Well, section 302(a) of the Norwood-Dingell bill specifically precludes any cause of action against an employer or other plan sponsor unless the employer or plan sponsor exercises discretionary authority to make a decision on a claim for covered benefits that results in personal injury or wrongful death.

Now, how do we define exercise and discretionary authority? The myth again being promulgated by those against the Norwood-Dingell bill is that employers' decisions to provide health insurance for employees will be considered an exercise of discretionary authority. That is simply not true.

Examples of the types of decisions that health plan administrators make that directly affect the care that patients receive and could be considered medical decisions include inappropriately limiting access to physicians through restricted networks, refusing to cover or delay needed medical services, drawing treatment protocols too narrowly, offering payment incentives, or creating deterrence to discourage the provision of necessary care, and discouraging physicians from fully discussing health plan treatment options, the so-called gag rules. These are not decisions that employers make.

The Norwood-Dingell bill excludes from being construed as the exercise of discretionary authority decisions to, one, include or exclude from the health plan any specific benefit; two, any decision to provide extra contractual benefits; and, three, any decision not to consider the provision of the benefit while its internal or external review is being conducted.

So the bottom line is the employer is shielded from liability. That is the simple truth. That is why the Norwood-Dingell bill should be adopted tomorrow and not some of these substitutes that claim to improve on the law.

Now, let me just say one thing finally if I could, Mr. Speaker. It sounds kind of crazy, but I have heard some of my colleagues say, well, why do we need to pass the Norwood-Dingell bill? Why do we need Federal legislation to address the abuses of managed care, because, after all, the States are doing this, and even the courts are doing it?

I mentioned the Texas law. I mentioned the other day, and some of my colleagues have talked about it, California really recently enacting a law which was signed by Governor Davis just a few days ago.

We have also heard about court cases, a recent decision by the Illinois Supreme Court that ruled last Thursday that HMOs may be sued for medical malpractice.

Just last week as well, the Supreme Court assigned itself an important role in the debate over managed care, the U.S. Supreme Court, by accepting a case on whether an Illinois health maintenance organization breached a legal duty to a patient whose appendix burst during an 8-day wait for a test to diagnose her abdominal pain.

□ 2145

So some of my colleagues are saying to me, we have some States that are passing laws, let them continue to do so. Or we have the court, this case Illinois or maybe even the Supreme Court of the United States, that will ultimately say that an individual has the right to sue the HMO, so why do we need the Norwood-Dingell bill? Well, the fact that many States have decided that they cannot wait for Federal action and have passed these measures to strengthen patient protection should not be an excuse to not have Federal action.

The bottom line is, and if I could just read from an editorial that was in The New York Times the other day, it talks about why State laws are not sufficient, and it says and I quote, "State initiatives do not replace the need for Federal legislation. For one thing, none of these State protections apply to people in self-insured plans created by large employers, which are exclusively federally regulated. More important, current Federal law has long been interpreted to bar patients covered by private employer-sponsored health plans from suing for damages caused by improper benefit denials, although the Supreme Court this week decided to hear a case that will review this issue. The California legislation tries to get around the legal hurdle by framing the new State-granted right to sue as based on the right to obtain quality care rather than the right to particular benefits. That approach will clearly be challenged in court and may well be struck down unless Congress closes the loophole in Federal law that now shields health plans from meaningful liability."

Mr. Speaker, if I am one of the people, one of my constituents out there who has been denied care, I can assure Members that it is not going to make me feel good that I do not come under the patient protections because I happen to be in an ERISA federally-preempted plan, or that I have to wait for the courts, whether it be Federal or State courts, to find a loophole so that I can sue the HMO.

Again, Mr. Speaker, I would say it has been an interesting debate today. I think it is very unfortunate that the rule passed. I think it is unfortunate that this access bill passed now, and that whatever we do pass tomorrow will have to be incorporated in this so-called access bill that I think provides a number of poison pills and will make it difficult for the Norwood-Dingell bill to move in the Senate or to be resolved in conference.

But I would still urge that tomorrow is also an important day, and we want to make sure that the Norwood-Dingell bill passes and is not superceded by some of these other three substitutes that basically will water down the protection and the enforcement rights for our constituents that exist in the Norwood-Dingell bill.

I urge my colleagues tomorrow to support the Norwood-Dingell bill and to vote "no" on all the substitutes.

ISSUES OF CONCERN

The SPEAKER pro tempore (Mr. KUYKENDALL). Under the Speaker's announced policy of January 6, 1999, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes as the designee of the majority leader.

Mr. MCINNIS. Mr. Speaker, this evening I want to address really three subjects. The first two subjects will be quite brief.

One, satellite TV. Many of my colleagues, who like me represent rural districts in this country, have a deep concern about the reception and the need for local access on satellite TV.

The second issue that I intend to address this evening is the Brooklyn Art Museum in New York City. I have gotten a number of phone calls into my office from people who appear somewhat confused on my position in regard to that. I want to make sure this evening that position is clarified.

Then I intend to move on to the third subject, which will consume most of my time this evening as I address my colleagues, and that is the anti-ballistic missile treaty. My comments will be highlighted by the term, and Members have heard it before, the race against time.

What is the anti-ballistic missile treaty and what is the impact that the anti-ballistic missile treaty has on us all as average citizens? What is the threat to this country of continuing to try to comply with the terms of the anti-ballistic missile treaty?

I will go into a definition of what the anti-ballistic missile treaty is, about our national defense against missiles, and I think we will have at least some detail for a somewhat educated exchange this evening on the pros and the cons of the anti-ballistic missile treaty.

Mr. Speaker, let me begin with satellite reception across the country. As I mentioned, my district is the Third Congressional District in the State of Colorado. My district is unique in geographic terms in that this district has the highest elevation of any district in the United States. We have over 54 mountains above 14,000 feet. TV reception in the Third District of the State of Colorado is as important to the people of the Third Congressional District of Colorado as it is to the people in New York City, or as it is to the people in Kansas, or as it is to the people in Los Angeles, or up in Seattle.

TV has become a very important part of our lives. Now, I am not this evening trying to get into the pros and cons of watching television, but I am getting into the ability to have local access through satellite. Many of my constituents, and many of my colleagues' constituents, if they live in rural areas especially in this country, or even if they live in an urban area but have some challenges because of geography or buildings or things like that, are looking to satellite for their TV reception. And I think it is important that these satellite receivers, the users, have an opportunity to have local access, which they have been denied for a period of time.

We have a bill right now that passed out of the House overwhelmingly, passed out of the Senate overwhelmingly, and we have the two bills now in what is known as a conference committee. My good friend, the Senator from the State of Utah, is the chairman of that conference committee, and I am assured that that conference committee is working very hard to come out with some type of compromise so that those constituents of ours who are using satellites will have an opportunity in the not-too-distant future to have the right to local access.

I am confident that we can conclude this in such a manner that it will not be damaging to the other competitors out there but will allow satellite to be at least at the same level as cable TV.

Now, Mr. Speaker, let me move to the second subject, the subject that some of my colleagues who have been on the floor when I have spoken before know I feel very strongly about.

I will precede my comments by telling my colleagues that at times in the past I have supported government involvement in certain art projects. I think art is fundamentally important in our country. I think there are a lot of things about art that help our society become more civilized and so on. But that said, I, like all Americans, have limitations. And those limitations, of course, were tested, intentionally tested, recently by the Brooklyn Art Museum in New York City.

Let me explain what is happening at that museum. That museum, which is funded in part, in large part, by taxpayer dollars, by taxpayer dollars, decided to put on a show, an art show, an exhibit, that displayed, amongst other things, the Virgin Mary, which is a very significant symbol of the christian religion, but to exhibit a portrait of the Virgin Mary with, for lack of a better word, although they say dung in my country they understand it as crap, with crap thrown on the portrait. It is disgusting. The artist knows it is disgusting, the Brooklyn Art Museum knows it is disgusting, and the directors of the Brooklyn Art Museum know it is disgusting.

But they have decided to defy what I think is common sense, and they have decided to stand up and say it is their right, trying to paint it under the constitutional right of freedom of speech, it is their right to use taxpayer dollars, taxpayer dollars, it is their right to use those dollars to pay for this exhibit. I disagree with that.

Now, let me say at the very outset, so that I am perfectly clear, this is not, this is not an argument about the first amendment of the Constitution, freedom of speech. No one that I have heard, no one that I know has said that this exhibit, as sick as it is, should be prohibited from being shown somewhere in the country by any individual. We believe very strongly in this country about the freedom of speech and about that first amendment in our constitution. That is not the issue here. They have tried to paint the issue as a first amendment issue. It is not a first amendment issue.

The issue here is very clear. Number one, should taxpayer dollars be used to pay for this exhibit? Now, some people say, well, how do we decide what is offensive? How do we decide when taxpayer dollars should be used or should not be used? The decision, to me, is pretty easy, and I am sure the decision to a number of my colleagues is pretty easy. It is called a gut feeling. I wonder how many of my colleagues out there would take a look at the portrait of the Virgin Mary with dung, or crap, thrown all over it and their gut would not tell them that something is wrong; that this is not right; that this should not be happening.

Now, to me, that decision would be no more difficult than looking at a portrait of Martin Luther King with crap thrown all over it. That is not right. It should not be exhibited with taxpayer dollars. And whoever would do that is sick, in my opinion. It is not a display of art. But there is that right of freedom of speech.

I can tell my colleagues what has happened in the Brooklyn Art Museum is they have decided to put that exhibit up and they have decided to test it and use taxpayer dollars. Well, what have they done and why is a congressman from the State of Colorado and the mountains of Colorado worried about an art exhibit in New York City? Well, number one, I am a Catholic and I am personally offended by what has occurred here.

But that is not the primary issue. The primary issue is that I am a supporter of the arts. But I think by these prima donnas in New York City at the Brooklyn Art Museum deciding to display this portrait of the Virgin Mary with crap thrown all over it that these prima donnas have damaged the art community throughout the United States, including in the Third Congressional District in the State of Colorado.

I am sure my colleagues can understand how hard it is sometimes to go to our constituents and to defend the fact that we have voted for government funding of some type of art project, no matter how worthwhile it is. These prima donnas at the Brooklyn Art Museum, do they take that into consideration? Do they take into consideration that they are offending the christian communities out there?

I can tell my colleagues right now that the Brooklyn Art Museum and those prima donnas would no more think about putting a Nazi symbol in the museum and pay for it with taxpayer dollars, they would not think of doing it with a Martin Luther King portrait, they would not do it with an AIDS quilt, those beautiful quilts that are made in memory of the people that have suffered that horrible tragedy, and then have crap thrown on that blanket. They would not think about it. In fact, they would probably join in a protest to take down the building or destroy the building. But when it comes to Christianity, they think it is okay.

And then, beyond that, look what these prima donna directors at this museum, and the director of the museum, are doing to the art community. Do they need to harm the programs that we now have in place where we have legitimate worthwhile art projects that are paid for in part with taxpayer dollars? Do they need to put those in threat of extinction? Do they need to do that? They do not need to do that. They have a lot of money there at the Brooklyn Art Museum. They can pick up a phone and call one of their benefactors, they have a lot of wealthy benefactors at that museum, and they can ask for them to pay for the exhibit. They do not need to use taxpayer dollars. The only reason that they are using taxpayer dollars is because at that museum they want to put their thumb in the face of the American citizen.

Now, I have gotten some calls in the office, as many of my colleagues do when we talk about a controversial subject. I have gotten some threats about my future in politics because of my philosophy that we should not be using taxpayer dollars here. But those people that call me with those threats, those people that think they are justified in displaying art like the Virgin Mary with crap thrown all over her, at taxpayers' expense, those people that call me on the phone, in my opinion, colleagues, have a very difficult time. In reality, when they are by themselves, they have a very difficult time when they get up in the morning looking at that mirror and saying to themselves that what they did today and what they are going to do tomorrow is justified; that it makes a lot of sense to go ahead and use taxpayer dollars to fund this kind of garbage.

Now, some people have called my office saying, "How dare you call any kind of art garbage. How dare you act so offended by this piece of art. This is an artist's right of expression." Of course, they do not answer the question, they usually hang up on me, when I ask them about some of these other examples I have cited earlier. But I am telling my colleagues that there are limitations.

First of all, I think the average person, just their gut reaction is deep offense, deep offense at a portrait of the Virgin Mary or a portrait of a Jewish leader or a Buddhist leader that would have crap thrown on it. There is an inherent standard of character with the American citizen that says there is not a place for that. Do not put that in our society, especially with taxpayer dollars.

□ 2200

So, my colleagues, those of your constituents who disagree with me, let me make it very clear. I think they are a minority. I think that the average American out there wants character standards in this country and says there is no place for this type of art.

Let me now move on to the subject of which I intend to spend most of my time and which is entirely separated from either the satellite issue that I just spoke about or the fight we are having over the Brooklyn Art Museum.

By the way, let me include one other thing. Mayor Giuliani in New York City has come under criticism because he yanked the taxpayer dollars. Well, I will tell you something, Mayor, you are doing the right thing.

The second thing I should point out is some of my colleagues, I heard it well, what the Republicans are trying to do is exercise censorship on the art community. What a bunch of bogus baloney. What do you mean exercise censorship? Those are taxpayer dollars, Democrats. And for you to come out in the press and say the Republicans are trying to exercise censorship is ridiculous and you know it is ridiculous.

Do not evade the issue. Do not try to push it off under the first amendment. It has nothing to do with the first amendment. It has to do entirely with, number one, should you be doing that in a public institution, but number 2, should you be allowed to use taxpayer dollars for those kind of expressions.

Mr. Speaker, let us move on to my other subject, the race against time.

Many of us in this country assume that if this country were to come under attack by missiles of another country that we would have a defense.

I live in the State of Colorado. Just outside of my district and the district of my good colleague the gentleman from Colorado (Mr. HEFLEY) who represents the community of Colorado Springs, the County of El Paso, there is a mountain called Cheyenne Mountain. That mountain has been bored out. In fact, a small community is now within that mountain that is called the NORAD Defense System inside Cheyenne Mountain.

Within seconds, and I do not know the exact details because it is classified or the details I do know are classified, but, generally, within a very short period of time, if any country in the world launches a missile, NORAD in Colorado Springs, through its detection devices, can pick up, one, that a launch has occurred; two, the direction of the missile; three, the speed of the missile; and a lot of other things; and, of course, they can pick up the target of the missile.

Well, we have known this for a long time. NORAD is one of our proud accomplishments at providing a defense for the United States of America against our enemies. In the past we really only had one country capable of delivering that type of missile attack against the United States. It was Russia. But what a lot of people mistakenly assume is that once we detect within a very short period of time that a missile has been launched against the United States of America, then we somehow can defend against that missile.

Well, the bad news that I bring my colleagues this evening is that we have no defense. We have the technology. We are even gaining more technical capability to defend this country against a missile attack. But we do not have a defense system in place to stop those missiles.

I want to say at the beginning of these comments that a lot of the information that I have gathered over the years on the Anti-Ballistic Missile Treaty has been gathered from some of the experts at the Wall Street Journal. I want to commend to my colleagues, I hope you have an opportunity to read any of the articles that the Wall Street Journal has on the Anti-Ballistic Missile Treaty.

But let us go over a few facts about our military defense. One, as I just told you, we can detect a launch, we can determine when that missile is coming, where it is coming from, and where it is going to hit. But then all we can do is call up the target and say, you have got an incoming ICBM and we will say a prayer for you because there is not much else we can do for you.

That is wrong. Henry Kissinger once said, "It is morally irresponsible not to provide for the people of your country a missile defense system." "It is morally irresponsible not to provide the people of your country a missile defense system." I was at the World Forum about 3 years ago in Vail, Colorado, and there Margaret Thatcher said exactly the same thing. These people are people of intellect. They are people who have had many experiences through their lives and they realize the importance of having a defense system in place.

Let me go through a few facts for my colleagues. The Cox report. Remember what the Cox report was about? The Cox report was a bipartisan, not a Democrat, not a Republican, a combination of Republican and Democrat congressmen, and I say that generically, who investigated the Chinese espionage.

It is said, and from what I have read and the briefings I have gotten I believe it to be true, that the Chinese espionage was the worst and most devastating espionage we have had in American history. The Cox report reveals that Communist China has moved almost overnight from a 1950s nuclear capability to the most modern technology in the American nuclear arsenal.

In the opinion of many of the experts, as I just said, this could be the most damaging failure in American intelligence history.

Fact number 2: The ABM Treaty, the Anti-Ballistic Missile Treaty, is over 27 years old. It has not been amended. It is a treaty that exists only between two countries, between Russia and the United States. Remember earlier in my comments I mentioned that at the time this treaty was put together and in the early days of the missiles, the only country really capable of delivering a significant and severe blow to the United States was Russia.

This is a very important fact and one we have got to remember: Today over two dozen countries have the capability to deliver a missile into the United States. Many of these countries are in the process of building even more sophisticated delivery systems.

We know, for example, what the North Koreans are doing. The answer, by the way, of the administration to the North Koreans is, buy them off, get them to promise that they will abandon their nuclear program and we will give them more aid. We give them a lot of aid right now, I think 500,000 barrels of oil a year and money that the North Koreans promised us they will not put into the military, they will put into food for their citizens.

What kind of fools are we? These people do not have our interests in mind. They do not care about the United States of America. They do not care about our future.

Now, that is not to say we need to go to war with them. I am not advocating that at all. My position is, however, if somebody picks a fight with us, we ought to be in shape to handle it, because at some point in the future it is going to happen.

Do my colleagues not think that we have an obligation to the generation behind us, if not our own generation, to be ready when that day comes? It is a race against time.

We need a missile defense system. We need a defense system that, as stated by the Heritage Foundation, is a defense based on land, sea, and space. Here it goes, space.

Remember when Ronald Reagan was President and he got ridiculed, frankly, he got an awful lot of ridicule from the Democrats, he got a lot of ridicule for his proposed missile defense system in space? Well, you know, the day is coming when we are going to look back at Ronald Reagan and say he knew what he was talking about on that missile defense system.

In fact, we must put into place a missile defense system based on land, based on sea, and yes, based on space. Having a missile defense system in space gives us many, many more options. In other words, instead of waiting for the incoming missile to come into our country where we try and intercept it with a one-shot opportunity, we can then, through satellite detection and so on, hit the missile in several different stages as it arcs over to our country. We can actually hit it on the launching pad.

There are lot of options out there and we should not eliminate any of them and we should not allow our hands to be tied by this Anti-Ballistic Missile Treaty. I am going to explain a little more on the Treaty and what the Treaty means. But the world has changed a great deal since the ABM Treaty was first ratified, over 27 years ago. The U.S. faces a lot of new challenges and there are a lot of different types of threats that are coming at us today.

Take a look at China and take a look at what China has gotten into their espionage and take a look at the capabilities. The Chinese are very bright people and they know and they want a future, not only a future as a giant in economics, they want to be the leading country in the world in military.

As many of you know, and some of you may hate to admit it, but the fact is you cannot be the second strongest kid on block. You cannot do it, especially if you have something else that the strongest kid on the block wants. You have got to be the strongest.

That is not to suggest that you got to be a bully and you got to go out and pick fights. But it is to say that if you are not the strongest, you are going to be in a lot of fights.

It is interesting. Let me tell you, I have been very blessed over the years with many high school students coming into my office, very bright. That generation has got a lot of things going for it. There are a lot more things going right for this generation than going wrong. But once in a while when these classes come in and I have an opportunity to speak with some of these fine young people, someone brings up the question, why do we spend so much money on military defense? Why do we worry about a missile defense system in this country?

I say to them, if you were a black belt in karate and everybody in your class knew that you were a black belt in karate and everybody in that class knew that if they decided to take your lunch or pick on your friend or pick on you that you would exercise the knowledge you have as a result of your black belt in karate and you break their nose or break their neck, how many fights do you think you would be in? How many people do you think would pick a fight? Not very many.

I forget who I should attribute this saying to, but there is a quote and it should be attributed, but I cannot remember who it was, but the quote goes something like this: The best way to stay out of a war is to always be prepared for a war. That is the best way to stay out of it.

Well, let us talk about another fact, the Rumsfield report.

Former Defense Secretary Donald Rumsfield and his team of defense experts, now remember, this is bipartisan, this is not a Republican deal, not a Democrat deal, it is a bipartisan team, the Rumsfield report, and we have real experts on that. We do not have some congressmen. We are real experts on missile defense that are on this panel. Here are their conclusions, and they are important conclusions to remember. Lock them in because it impacts our generation and every generation to go forward.

Former Defense Secretary Donald Rumsfield and his team of defense experts issued a report to the United States Congress in the summer of 1988 that said ballistic missiles from rogue nations could strike American cities with little or no warning. Ballistic missiles from rogue nations could strike American cities with little or no warning; that North Korea has been said to be building missiles with a 6,200 mile range that could reach Arizona or even Wisconsin; that Iran is working on missiles with the capability to hit Pennsylvania or Montana or Minnesota; that there is a fear that Russian missiles may be bought by one of these nations or a terrorist like Bin Laden, that when dealing with terrorists arms control negotiations do not work.

Well, let us talk about the Anti-Ballistic Missile Treaty. I am going to read this. And let me again attribute a lot of this information right here to the Wall Street Journal. I think they are very accurate in their description. And my colleagues, I would ask that you be patient but listen to the words as I read through.

"Anti-Ballistic Missile Treaty meant to hold the populations of the United States and Soviet Union hostage to nuclear attack."

Now, what do they mean by that? What the Anti-Ballistic Missile Treaty does. The essence of it, very simplified, is that Russia and the United States agreed over 27 years ago, look, one way to deter war is to not have the ability to defend against it. In other words, one way to make sure you never pick on anybody is to be sure that you never get a black belt in karate.

□ 2215

So they come up with the Anti-Ballistic Missile treaty, which in essence says that Russia cannot build a defense against incoming missile attack and the United States cannot build a defense against an incoming missile attack. The theory of this is that the United States would never then go to war with Russia because we have no way to defend ourselves and, vice versa, Russia would never go to war with the United States because Russia has no way to defend itself.

The language of the Anti-Ballistic Missile treaty expressly forbids the development of a national missile defense, allowing each side to deploy just 100 land-based anti-missile intercepters, capable of shielding only a small region. The United States observed the treaty and still does. Yet, from the onset there were troubling signs that the Soviets were not.

Now a new book provides disquieting evidence that the treaty has proved to be a gigantic sham and an enormous deterrent to the security of the United States of America. In the book, the

ABM Treaty Charade, a Study in Elite Illusion and Delusion, William T. Lee, a retired officer with the Defense Intelligence Agency sets down a devastating twofold case against the treaty.

First, it increased the risk of nuclear war during the Cold War. Second, there is conclusive proof of violations on a massive scale, both by the Soviet Union and post-Communist Russia. Champions of the treaty argue that it reassured the Soviets, dampened the armed race and brought stability to the United States-Soviet Union relations.

In reality, by leaving itself defenseless against missiles, the United States had encouraged Moscow to prepare to win a nuclear war. Soviet annual defense expenditure climbed steady to about 30 percent of gross domestic product in 1988, from about 15 percent in 1968. So 15 percent in 1968 to 30 percent in 1988. In 1981 through 1984, although it was not widely understood at the time, the Soviet Union had nearly launched a full scale attack against the United States and its NATO allies. Had America deployed a missile defense around 1970, which by the way it could have done with technology at that time, the Soviets would probably have found the quest for nuclear supremacy prohibitive from the start and would have never, ever considered or come as close as they did to launching a nuclear attack against our Nation.

To make matters worse, in utter contempt of the treaty the Soviets conceived, tested, deployed and refined a missile defense. Not only did the USSR, unlike the United States, deploy the one missile defense permitted by the treaty, leaving Moscow with 100 intercepters, sanctioned by the law, but Moscow also littered about the Soviet territory with another 10,000 to 12,000 intercepters and 18 battle management radars. So, in other words, we signed the treaty with Russia and contained within that treaty, and we will go over a few parts of that treaty here in a minute, contained within the treaty was a clause that said each side could have 100 intercept defense missiles.

The United States had 100 intercept defense missiles. The Russians had 12,100 under the mask of secrecy, and under the mask of compliance of the anti-ballistic Missile treaty they did not build just 100 intercepters they built 12,100 intercepters. We are such fools sometimes in this country. We owe it to ourselves to become alert about this issue.

Together, the Moscow defense and the vast homeland defense formed an interlocking system, nearly all of it not allowed by the treaty. How could the U.S. intelligence system overlook such an astounding violation? To answer this question is to comprehend another awful part of the treaty legacy. Those in this country who promoted the treaty succeeded in elevating it to theology and they prevailed upon virtually everyone in authority to accept no evidence that spoke to the existence of Soviet missile defense. We just intentionally, these arms control fanatics intentionally put a shield in front of their eyes and said, do not tell me about any Soviet missile defenses. I do not hear it. I do not want to see it. I do not want to talk about it. It is not happening.

In the meantime, 12,000 Russian intercepter missiles are put out there, and we comply with this treaty and we build 100. Washington knew about the 10,000 to 12,000 intercepters; in 1967 and 1968 had concluded that the intercepters that were not part of the Moscow system were anti-aircraft systems and that each of the radars was for early warning of a missile attack. No violations.

In 1991, however, a U.S. team visited one of the radars and found that the passing of data was not only for early warning but also for battle management. Violation.

This discovery, combined with earlier evidence which had been dismissed by the Central Intelligence Agency, leads to the clear conclusion that the 12,000 interceptors were dual use, lethal against ballistic missiles as well as aircraft. Several former top Soviet officials have confirmed the dual use in memoirs published this decade, but Washington has continued to ignore this massive violation of the treaty.

Today with the Cold War over, the ABM treaty is as dangerous as ever to the United States. Long gone, and this is so important, this is so important, long gone are the days where the only threat to the United States in the form of a capacity of a missile was from Russia. How foolish to forsake missile defense in the face of rising missile powers such as China, such as Iran, such as India, such as Iraq, such as North Korea, such as Pakistan.

Remember, the treaty is not between the United States and Iran. It is not between the United States and North Korea. It is between the United States and Russia and prevents the United States from defending itself against any other country, not just Russia but against North Korea, against Iran. So we cannot build a missile defense system because we are locked in under this treaty.

It is foolish. It is crazy.

Let us talk for a minute about what we have, what the Anti-Ballistic Missile treaty is and some of the articles that are important. I have to my left here, Mr. Speaker, a display board and I will go over a couple of things. Article number one, my red dot is there, this is the Anti-Ballistic Missile treaty. These are parts of it taken out. By the way, the treaty is not complicated. I would be happy to provide any of my colleagues a copy of it. It is three or four pages long. This is not a study in complexity. It is fairly simply written. It is easy to understand, and it is devastating in its contents.

Each party undertakes to limit Anti-Ballistic Missile systems and to adopt other measures in accordance with provisions of the treaty. Each party, again speaking only of the United States and of Russia, but it is applicable as to the defense against any other country, against the United States of America, each party agrees not to deploy Anti-Ballistic Missile defense systems for the defense of its territory. Each party undertakes not to deploy ABM systems for defense of the territory of its country, and not to provide a base for such defense and not to deploy ABM systems for defense of an individual region except as provided in article three of the treaty.

Right there, that paragraph right there, we are saying 27 years ago we will not provide any kind of missile defense system in this country.

Well, I cannot figure out the logic of it 27 years ago. I cannot figure out the logic of it 15 years ago and today I sure as heck cannot figure out the logic of this treaty, especially when we have numerous other countries that are developing this ballistic missile capability, over two dozen of them.

Let us skip here just for a minute. Each party undertakes not to develop, test or deploy ABM systems or components which are sea-based, air-based, space-based or mobile-land based. This treaty, in my opinion, is a complete lock-out of any opportunity of the citizens of the United States of America to defend themselves.

Each party undertakes not to develop, test or deploy ABM launchers for launching more than one ABM intercepter missile at a time from each launcher, not to modify deployed launchers, et cetera, et cetera. You can see as this goes on, to enhance the assurance of effectiveness on the ABM systems and their components, each party undertakes not to give missiles, launchers or radars, other than ABM intercepter missiles, ABM launchers or ABM radars capabilities to counter strategic basic missiles or their elements in flight trajectory and not to test them in an ABM mode. To assure the viability and effectiveness of this treaty, each party undertakes not to transfer to other states and not to deploy outside of its national territory ABM systems of the components limited by this treaty.

What I have brought out of the treaty here is the language that is fairly simple, easy to understand and the concept is clear. The concept is that the United States of America, based on the word of Russia, would not build a defensive missile system for itself. Know what? In America, we like to keep our word. We kept our word. In America, the United States did not deploy a missile defense system. We are here today, 1999, just a few short weeks away from the turn of the century, facing over two dozen countries with sophisticated missiles and the opportunity to increase the technology and the sophistication of their missiles, and we still continue to put a blindfold in front of our eyes.

As Henry Kissinger said, it is immoral, it is immoral, not to provide a defense system for our citizens.

Well, now some people say, all right, SCOTT, you have convinced us, this treaty is not a good idea. It prevents the United States from defending its own territory.

But are we locked into it? Well, the treaty is perpetual, meaning that it goes on as long as the parties agree, but the treaty also has language that allows us to abrogate the treaty, to get out of the treaty, legitimately. It is in the contract.

Again, language from the contract, article 15 of the Anti-Ballistic Missile treaty, ABM, this treaty shall be of unlimited duration. I spoke about that a moment ago. Each party shall, in exercising its national sovereignty, have the right to withdraw from this treaty if it decides that extraordinary events related to the subject matter of this treaty have jeopardized its supreme interest.

Let us talk for a minute about extraordinary events. What are some extraordinary events? Well, there are several out there that we can look at. First of all, the other party that we made the agreement with, the Soviet Union, is no longer in existence. Now we have independent countries over there. So one party of the agreement is not even in existence as it was at the time we signed the agreement over 27 years ago.

Number two, the countries that have the missile capability 27 years ago, 20 years ago, even 15 years ago, the only country that was capable of bringing and delivering those missiles to Minnesota or to Montana or to New York or Los Angeles was Russia. So extraordinary event, now we have over two dozen countries that are building or are capable of delivering those missiles into the inside of the United States of America. That is a pretty extraordinary event, and that is exactly what that term is intended to mean in that treaty.

We ought to get out of this treaty. We ought to abrogate the treaty.

It shall give notice of its decision to the other party 6 months prior to withdrawal from this treaty. Such notice shall include a statement of the extraordinary events the notifying party regards as having jeopardized its supreme interests.

Supreme interests; think of the wording, supreme interests. Above all else, what should the United States of America be concerned about, above all else when it comes to this military? It is the defense of our people. We are not warmongers. Our country has lost many, many of our citizens and lives to protect other countries, some of them in recent years, and we know that in the future we will have another fight. But what are our supreme interests? It is an inherent supreme interest to protect yourself. Even individually, we have the concept of self-defense. That is what this is. It is self-defense for an entire nation, for the territory of the United States. That is a supreme interest and that is why we should, in this country, abrogate this treaty under the terms of the agreement and build a missile defense system for the United States.

□ 2230

Now what are some people thinking about this? You are not going to believe it, you are not going to believe it.

There are still, of course, supporters out there for this treaty, including the President.

Colleagues, we have an opportunity in another year and a half to have new leadership down there, and regardless of which party it comes from, although obviously I have some preference in that regards, whichever party it comes from, that new President, our new President, should seriously consider the terms of this and how it has handcuffed the United States in its own self-defense.

But I want you to know there are other people on the other side of this issue. What are their thoughts?

They want to go a step further. They actually do not think that the anti ballistic missile treaty is enough. They think we ought to do something called, and get ahold of this, and any of my colleagues out there that have constituents with any type of military conscience, get ahold of this:

They call it de-alerting, de-alerting, D-E-hyphen-A-L-E-R-T-I-N-G, de-alerting. Let me describe what de-alerting is. You are not going to believe it.

Now, having lulled the country to sleep on defenses against missiles, the same group of old-time arms controllers have come up with another idea called de-alerting which would take our nuclear forces off alert status. The aim would be to increase the amount of time necessary to launch a nuclear weapon from minutes to hours to even days.

De-alerting, a word so awkward only arms control bureaucrats could have thought of it, could take a number of forms, and suggestions being put forward are somewhat concerning. They include removing the integrated circuit boards from the ballistic missiles that we have and storing them hundreds of miles away.

What? As my colleagues know, what you do is you take the computer brains of the missiles we have, and you take them, and you store them several hundred miles away so that if, all of a sudden, we come under attack by another country and we decide to retaliate, we have got to go get the parts several hundred miles away, bring them to the missile and install them. Makes a lot of sense; does it not? Taking the warheads off the missiles or possibly the Minutemen ICBMs, welding shut, and get ahold of this, welding shut the missile hatches on some submarines and doubling the number of orders a hard-to-communicate-with submarine would have to receive before it can launch a missile.

Any one of these measures is the nuclear equivalent of giving a beat cop an unloaded gun and requiring he radio back to headquarters for bullets when he wants to use them. That is a pretty good example. I want to credit the Wall Street Journal for that example. What they are saying is what the new arms control people are aiming for is the essence of giving a police officer out on the street in a dangerous situation an unloaded gun and that if he wanted the bullets for his gun, he would have to call headquarters and request headquarters to get them out of the lockbox. He can run back, get the bullets and then come back to the scene.

That is what they are asking us to do with our military defense. We have got to change the direction that some of these people are going, and I think the majority of people in the United States believe, one, very strongly that we should not initiate a war unnecessarily; two, that our country has a fundamental obligation to its citizens, a fiduciary obligation to its citizens, and not only a fiduciary and fundamental obligation to its citizens, but a fiduciary and fundamental obligation to the future generations to provide a defense, a missile defense, for this country.

That is where we have to go with this. That is where we need to take it, and that is the direction we need to go. And can we do it with the anti ballistic missile treaty? We cannot do it. We need to get rid of it. It is not serving our best interests. It does not help us. It does us as much good on the floor as it does in action. I mean it is not helping. It hurts us. We should be entitled to defend ourselves with defensive missiles.

Let me wrap up just very briefly about the conclusion that I think we should all look at.

Number One, remember the facts, that there are over two dozen countries currently with the capability or building the capability to deliver missiles into the heart of the United States of America.

Number Two, that when this treaty was drafted, it was 27, over 27 years ago, and it was drafted between two countries, Russia and the United States. It was applicable. Even though the United States now faces multiple threats, this treaty prevents the United States not only from defending itself from the country of Russia, but defending itself from any of the other threats like they may have from North Korea, or Iran, or Iraq, or Pakistan, or India, et cetera, et cetera. Mr. Speaker, we could go through two dozen of those kinds of countries.

Number Three, we have the sophistication today to build an effective missile defensive system. We have the money today, and it should be a high priority. We have the money today to develop even better technology.

Now is the technology complicated? It is very complicated. Imagine a bullet coming several thousand miles per hour, and you have got to take it down with another bullet going several thousand miles per hour.

Now many of you may recall over the last couple of weeks we had a successful test where the bullet hit the bullet. It is a preliminary test, but the technology there is promising.

The next fact that I think is important is do not automatically, colleagues, do not automatically dismiss a space defense system.

Now in the days of Reagan when the Democrats ridiculed him, it was amazing, it was amazing in my opinion the shortsightedness that was allowed to continue with that ridicule. But today those days are passed. I am willing to go past that. But today we need to sit down as a team. We need to sit down and develop the kind of technology, not to start a war, not to pick on somebody, but to defend the supreme interests, and I use that as a quote out of the anti ballistic missile treaty, supreme interests, to defend the supreme interests of the United States of America. It is a race against time.

I have said several times during my comments this evening I have quoted Henry Kissinger. It is immoral, it is immoral not to provide the citizens of your country with a defensive missile system.

To my colleagues, when you leave the chambers tonight, you may not remember the facts. I hope you remember a little about this treaty and how and what it does to us. But more than anything else, I hope you remember those four or five words:

A race against time.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. LIPINSKI, for 5 minutes, today.

Mr. HILL of Indiana, for 5 minutes, today.

Mr. MINGE, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, October 13.

Mr. BRYANT, for 5 minutes, October 6.

Mr. DUNCAN, for 5 minutes, today.

Mr. ISTOOK, for 5 minutes, today.

Mr. MILLER of Florida, for 5 minutes, October 12.

Mr. JONES of North Carolina, for 5 minutes, October 7.

Mr. SOUDER, for 5 minutes, today.

Mr. SHADEGG, for 5 minutes, today.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker.

H.R. 2606. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 559. An act to designate the Federal building located at 300 East 8th Street in Austin, Texas, as the "J.J. 'Jake' Pickle Federal Building."

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On September 29, 1999:

H.J. Res. 34. Congratulating and commending the Veterans of Foreign Wars.

On October 5, 1999:

H.R. 2084. Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

On October 6, 1999:

H.R. 2606. Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes.

ADJOURNMENT

Mr. McINNIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 38 minutes p.m.), the House adjourned until tomorrow, Thursday, October 7, 1999, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4665. A letter from the Director, Office of Regulatory Mangement and Information, Environmental Protection Agency, transmitting the Agency's final rule—Imazapic-Ammonium; Pesticide Tolerances for Emergency Exemptions [FRL-6382-3] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4666. A letter from the Secretary of Defense, transmitting the approved retirement of Lieutenant General David K. Heeber, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

4667. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—National Flood Insurance Programs; Procedures and Fees for Processing Map Changes (RIN: 3067-AC88) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

4668. A letter from the Acting Inspector General, Department of Defense, transmitting the FY 1998 Department of Defense Superfund Financial Transactions; to the Committee on Commerce.

4669. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Indiana [IN96-2; FRL-6452-6] received October 1, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4670. A letter from the Secretary of Energy, transmitting a legislative proposal to amend certain provisions of the Weather Assistance Program for Low-Incomed Persons; to the Committee on Commerce.

4671. A letter from the Auditor, District of Columbia, transmitting A copy of a report entitled, "Audit of the People's Counsel Agency Fund for Fiscal Year 1998," pursuant to D.C. Code section 47-117(d); to the Committee on Government Reform.

4672. A letter from the Executive Director, Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting the Committee's final rule—Additions to and Deletions from the Procurement List—received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4673. A letter from the Comptroller General of the United States, General Accounting Office, transmitting the Research Notification System through September 7, 1999; to the Committee on Government Reform.

4674. A letter from the Office of the District of Columbia Auditor, transmitting a report entitled "Observed Weakness in the District's Early Out Retirement Incentive Program"; to the Committee on Government Reform.

4675. A letter from the Office of the District of Columbia Auditor, transmitting a report entitled "Auditor's Review of Unauthorized Transactions Pertaining to ANC 1A"; to the Committee on Government Reform.

4676. A letter from the Office of the District of Columbia, Auditor, transmitting a copy of a report entitled, "Examination of the People's Counsel Agency for Fiscal Year 1997"; to the Committee on Government Reform.

4677. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Amendment by Mexico to Appendix III Listing of Bigleaf Mahogany under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (RIN: 1018–AF58) received June 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4678. A letter from the Commissioner, Department of the Interior, transmitting draft legislation to authorize not new feasibility investigations for three water resource development projects within the Pacific Northwest; to the Committee on Resources.

4679. A letter from the Commissioner, Department of the Interior, transmitting a draft bill "To authorize the Secretary of the Interior to refund certain collections received pursuant to the Reclamation Reform Act of 1982"; to the Committee on Resources.

4680. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska [Docket No. 990304062–9062–01; I.D. 092499J] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4681. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Atka MACKerel in the Central Aleutian Islands [Docket No. 990304063–9063–01; I.D. 092399E] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4682. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska [Docket No. 990304062–9062–01; I.D. 091799B] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4683. A letter from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Pacific Halibut Fisheries; Local Area Mangement Plan for the Halibut Fishery in Sitka Sound [Docket No. 990416100–9256–02; I.D. 031999C] (RIN: 0648–AL18) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4684. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska [Docket No. 990304062–9062–01; I.D. 092399A] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4685. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Fixed Gear Sablefish Mop-Up [DOcket No. 981231333–8333–01; I.D. 091399D] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4686. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic And Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Vessels Catching Pollock for Processing by the Mothership Component in the Bering Sea Subarea [Docket No. 990304063–9063–01; I.D. 092499N] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4687. A letter from the Deputy General Counsel, FBI, Department of Justice, transmitting the Department's final rule—Federal Bureau of Investigation, Criminal Justice Information Services Division Systems and Procedures [AG Order No. 2258–99] (RIN: 1105–AA63) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

4688. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes and Conforming Amendments [USCG–1999–6216] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4689. A letter from the Chief, Office of Regulations and Administrative Law, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Mile 94.0 to Mile 96.0, Lower Mississippi River, Above Head of Passes [COTP New Orleans, LA Regulation 99–022] (RIN: 2115–AA97) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4690. A letter from the Chief, Office of Regualtions and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Special Local Regulations; Tall Stacks 1999 Ohio River Mile 467.0–475.0, Cincinnati, OH [CGD08–99–052] (RIN: 2115–AE46) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4691. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone: Wedding on the Lady Windridge Fireworks, New York Harbor, Upper Bay [CGD01–99–163] (RIN: 2115–AA97) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4692. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Noise Transition Regulations; Approach of Final Compliance Date—received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4693. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt & Whitney PW2000 Series Turbofan Engines [Docket No. 99–NE–02–AD; Amendment 39–11333; AD 99–20–03] (RIN: 2120–AA64) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4694. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt & Whittney JT9D–7R4 Series Turbofan Engines [Docket No. 99–NE–06–AD; Amendment 39–11334; AD 99–20–04] (RIN: 2120–AA64) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4695. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes [Docket No. 98–NM–270–AD; Amendment 39–11335; AD 99–20–05] (RIN: 2120–AA64) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4696. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes [Docket No. 99–NM–48–AD; Amendment 39–11336; AD 99–20–06] (RIN: 2120–AA64) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4697. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Pikeville, KY [Airspace Docket No. 99–ASO–13] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4698. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Center TX [Airspace Docket No. 99–ASW–14] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4699. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—High Density Airports; Allocation of Slots [Docket No. FAA–1999–4971, Amendment No. 93–78] (RIN: 2120–AG50) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4700. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes (RIN: 2120–AA64) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4701. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29753; Amdt. No. 1950] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4702. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach; Miscellaneous Amendments [Docket No. 29754; Amt. No. 1951] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4703. A letter from the Admiral, U.S. Coast Guard Commandant, Department of Transportation, transmitting a report on the Coast Guard's findings the Chicago area search and rescue standards and procedures; to the Committee on Transportation and Infrastructure.

4704. A letter from the Principal Deputy Assistant Secretary for Congressional Affairs, Department of Veterans Affairs, transmitting a draft bill to authorize major facility projects and lease programs for Fiscal

Year 2000; to the Committee on Veterans' Affairs.

4705. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Section 846 Discount Factors for 1999 [Revenue Procedure 99-36] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4706. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Section 832 Discount Factors for 1999 [Revenue Procedure 99-37] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4707. A letter from the Chief, Regulations Service, Internal Revenue Service, transmitting the Service's final rule—Mutual Insurance, Inc. v. Commissioner—received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4708. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Medical Savings Accounts—Number—received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4709. A letter from the Secretary of Health and Human Services, transmitting the notification you that Department of Health and Human Services is alloting emergency funds to be made available to the State of North Carolina; jointly to the Committees on Commerce and Education and the Workforce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BURTON: Committee on Government Reform. H.R. 1788. A bill to deny Federal public benefits to individuals who participated in Nazi persecution; with an amendment (Rept. 106-321, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

BILLS PLACED ON THE CORRECTIONS CALENDAR

Under clause 4 of rule XIII, the Speaker filed with the Clerk a notice requesting that the following bill be placed upon the Corrections Calendar:

H.R. 576. A bill to amend title 4, United States Code, to add the Martin Luther King, Jr. holiday to the list of days on which the flag should especially be displayed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ROGAN (for himself, Mr. BOUCHER, Mr. COBLE, and Mr. GOODLATTE):

H.R. 3028. A bill to amend certain trademark laws to prevent the misappropriation of marks; to the Committee on the Judiciary.

By Ms. DUNN (for herself and Mr. MCDERMOTT):

H.R. 3029. A bill to amend title XVIII of the Social Security Act to increase Medicare payment to skilled nursing facilities that have a significant proportion of residents with AIDS; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HINCHEY:

H.R. 3030. A bill to designate the facility of the United States Postal Service located at 757 Warren Road in Ithaca, New York, as the "Matthew F. McHugh Post Office"; to the Committee on Government Reform.

By Mr. LEWIS of Georgia (for himself, Mr. HILLIARD, Mr. FROST, Mr. RUSH, Mr. PAYNE, Mr. ENGEL, Mr. THOMPSON of Mississippi, Ms. KILPATRICK, Mr. DAVIS of Illinois, Mr. TOWNS, Mr. CLYBURN, Mr. CLAY, Mr. BISHOP, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. BROWN of Florida, and Mrs. MEEK of Florida):

H.R. 3031. A bill to redesignate the Federal building located at 935 Pennsylvania Avenue, NW, in Washington, DC, as the "Frank M. Johnson Federal Building"; to the Committee on Transportation and Infrastructure.

By Mr. MARKEY (for himself, Mr. GEORGE MILLER of California, Mr. HOEFFEL, Mr. WEXLER, Mr. KUCINICH, Mrs. MALONEY of New York, Mr. WEINER, Ms. DELAURO, Mr. NEAL of Massachusetts, Mr. LIPINSKI, and Mr. WAXMAN):

H.R. 3032. A bill to restore the jurisdiction of the Consumer Product Safety Commission over amusement park rides which are at a fixed site, and for other purposes; to the Committee on Commerce.

By Ms. ROS-LEHTINEN (for herself, Mrs. MEEK of Florida, Mr. SHAW, Mr. DIAZ-BALART, and Mr. HASTINGS of Florida):

H.R. 3033. A bill to direct the Secretary of the Interior to make certain adjustments to the boundaries of Biscayne National Park in the State of Florida, and for other purposes; to the Committee on Resources.

By Mr. ROYCE (for himself and Mr. DUNCAN):

H.R. 3034. A bill to amend the Internal Revenue Code of 1986 to allow unused benefits from cafeteria plans to be carried over into later years and used for health care reimbursement rollover accounts and certain other plans, arrangements, or accounts; to the Committee on Ways and Means.

By Mr. MILLER of Florida (for himself and Mrs. MALONEY of New York):

H. Con. Res. 193. Concurrent resolution expressing the support of Congress for activities to increase public participation in the decennial census; to the Committee on Government Reform.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

259. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of The Mariana Islands, relative to House Resolution No. 11-183 memorializing the U.S. House Speaker, Chairman Young, U.S. House Committee on Resources, the President, Senator MURKOWSKI, Secretary of the Interior, CNMI Governor and CNMI Senate President to permit the U.S. House Committee on Resources to bring to justice all those who may have taken part in any illegal political activities aimed against the CNMI's ability to control its own immigration and minimum wage policies as provided under the Convenant; to the Committee on Resources.

260. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution 16 memorializing the President and Congress of the United States to maintain the existing restrictions on trucks from Mexico and other foreign nations entering California and to continue efforts to ensure full compliance by the owners and drivers of those trucks with all the highway safety, environmental, and drug enforcement laws; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 126: Mrs. MALONEY of New York and Mr. FORBES.

H.R. 274: Mr. MALONEY of Connecticut.

H.R. 325: Mr. BISHOP and Mr. HOYER.

H.R. 353: Mr. WU, Mr. ETHERIDGE, Mr. UDALL of Colorado, Mr. BURR of North Carolina, Mr. COLLINS, and Mrs. LOWEY.

H.R. 355: Mr. TALENT and Mr. SANFORD.

H.R. 372: Mr. COYNE, Mr. MORAN of Virginia, and Mr. HOLT.

H.R. 405: Ms. WOOLSEY.

H.R. 460: Mr. EVANS.

H.R. 488: Mr. MORAN of Virginia.

H.R. 637: Mr. STRICKLAND.

H.R. 742: Mr. HOLDEN.

H.R. 773: Mr. GUTIERREZ and Mr. HINOJOSA.

H.R. 780: Mr. LAFALCE.

H.R. 802: Mr. TOOMEY and Mr. GOODE.

H.R. 872: Mr. HASTINGS of Washington.

H.R. 1057: Mr. BERMAN.

H.R. 1095: Mr. SANDLIN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. GREENWOOD, Mr. PASTOR, Mr. SHAYS, and Ms. ROS-LEHTINEN.

H.R. 1195: Mr. SOUDER, Mr. VITTER, Mr. RYUN of Kansas, and Mr. KENNEDY of Rhode Island.

H.R. 1248: Mr. PRICE of North Carolina.

H.R. 1322: Ms. ESHOO.

H.R. 1344: Mr. SWEENEY.

H.R. 1456: Mr. BILBRAY.

H.R. 1459: Mr. WHITFIELD.

H.R. 1485: Mr. EVANS.

H.R. 1532: Mr. LUTHER.

H.R. 1598: Mr. ISTOOK, Mr. SMITH of New Jersey, and Mr. HILL of Montana.

H.R. 1835: Mr. MCHUGH, Mr. BURTON of Indiana, Mr. GOODLING, Mr. DELAY, and Mr. TANCREDO.

H.R. 1887: Mr. BILBRAY.

H.R. 1910: Mrs. WILSON.

H.R. 1977: Mr. BENTSEN.

H.R. 2059: Mr. TRAFICANT.

H.R. 2244: Mr. TIAHRT and Mr. VITTER.

H.R. 2260: Mr. REYNOLDS.

H.R. 2325: Mr. DAVIS of Florida.

H.R. 2362: Mr. NEY, Mr. HAYES, and Mr. PEASE.

H.R. 2372: Mrs. NORTHUP, Mr. BRADY of Texas, Mr. PETERSON of Pennsylvania, Mr. CALVERT, Mr. FRANKS of New Jersey, Mr. LOBIONDO, Mr. BOEHNER, and Mr. HAYES.

H.R. 2418: Mr. TANNER, Mr. ROGERS, and Mr. FRELINGHUYSEN.

H.R. 2446: Mr. MARTINEZ and Mr. NADLER.

H.R. 2492: Mr. THOMPSON of Mississippi, Mr. GILMAN, and Mrs. LOWEY.

H.R. 2494: Mr. HILL of Montana and Mr. LEWIS of Kentucky.

H.R. 2554: Mr. PAYNE and Mr. HEFLEY.

H.R. 2571: Mr. GARY MILLER of California.

H.R. 2631: Mr. SISISKY.

H.R. 2673: Mrs. LOWEY.

H.R. 2726: Mr. SCHAFFER.

H.R. 2733: Mr. BURTON of Indiana.

H.R. 2745: Mr. FORBES.

H.R. 2746: Mr. HOUGHTON and Mr. MCNULTY.

H.R. 2757: Mr. CANADY of Florida, Mr. RADANOVICH, Mr. EHLERS, and Mr. LAHOOD.

H.R. 2776: Ms. ROYBAL-ALLARD, Mr. HINOJOSA, and Mr. PALLONE.

H.R. 2785: Mr. FRANKS of New Jersey.

H.R. 2790: Mr. GEKAS.

H.R. 2807: Mr. THOMPSON of Mississippi and Ms. NORTON.

H.R. 2814: Mr. GALLEGLY and Mr. CUNNINGHAM.

H.R. 2825: Mr. NEY.

H.R. 2882: Mr. DEFAZIO.

H.R. 2892: Mrs. MORELLA, Ms. STABENOW, Mrs. KELLY, and Ms. ESHOO.

H.R. 2909: Mr. WAMP, Mr. DEFAZIO, Ms. PRYCE of Ohio, Mr. WU, and Mr. WEXLER.

H.R. 2911: Mr. PHELPS and Mrs. EMERSON.

H.R. 2915: Ms. PELOSI, Mrs. THURMAN, Mr. FROST, Mr. LUTHER, Mr. TIERNEY, and Ms. NORTON.

H.R. 2971: Mr. WELDON of Florida.

H.R. 2980: Mr. THOMPSON of Mississippi and Mrs. NAPOLITANO.

H.R. 2993: Mr. JOHN.

H.R. 3012: Mr. ROHRABACHER, Mr. SUNUNU, and Mr. METCALF.

H.J. Res. 25: Mr. VITTER.

H.J. Res. 53: Mr. KASICH, Mr. LOBIONDO, Mr. MILLER of Florida, Mr. RYUN of Kansas, and Mr. SIMPSON.

H.J. Res. 55: Mr. SWEENEY.

H. Con. Res. 51: Mr. TANCREDO and Mr. ROYCE.

H. Con. Res. 133: Mrs. LOWEY.

H. Con. Res. 188: Mr. HOLDEN, Mr. BROWN of Ohio, Ms. PELOSI, Mr. CUNNINGHAM, Mr. ENGEL, Mr. HORN, Mr. PAYNE, Mr. MCGOVERN, Mr. GUTIERREZ, Mr. BEREUTER, Mr. WYNN, Mr. BAIRD, Mr. HINCHEY, Mr. TOWNS, Ms. KAPTUR, Mr. MCDERMOTT, Mr. SANDLIN, Ms. ROS-LEHTINEN, Mr. ANDREWS, Mr. MCNULTY, Mr. CAPUANO, Mr. MALONEY of Connecticut, Mrs. KELLY, Mr. ROYCE, Ms. NORTON, Mr. ENGLISH, and Mr. GILMAN.

H. Res. 224: Mr. HILL of Montana.

H. Res. 298: Mrs. MCCARTHY of New York, Mr. CROWLEY, Mr. GEORGE MILLER of California, Mr. SHERWOOD, Mr. RADANOVICH, Mr. CLAY, Mr. TOWNS, Mr. PASTOR, Mr. KLECZKA, and Mr. NADLER.

H. Res. 303: Mr. SMITH of Michigan and Mr. WELDON of Florida.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

62. The SPEAKER presented a petition of Omaha City Council, relative to Resolution No. 2507 petitioning the President of the United States, Secretary of State, Majority Leader of the United States Senate, Speaker of the United States Senate, Speaker of the United States House of Representatives, the Ambassador of Indonesia to the United States, and the U.S. Ambassador to the United Nations to support independence of East Timor; to the Committee on International Relations.

63. Also, a petition of Township of Freehold, New Jersey, relative to Resolution 99-100 petitioning the the Congress to support the Protection of Religious Liberty and to oppose H.R. 1691; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

ELECTRONIC COMMERCE CRIME PREVENTION AND PROTECTION ACT

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. CROWLEY. Mr. Speaker, did you know that anyone with access to a computer and a modem could buy or sell firearms and explosives over the Internet with little or no federal regulation? And, did you know that, as a result of this loophole, children and career criminals are illegally purchasing firearms and explosives right now? Unfortunately, obtaining the instruments of violence over the Internet is as easy as "point, click, ship."

For far too long, gunfire in our homes, our communities, and in our schools has continued to steal young lives and destroy families. As scenes like Columbine High School and the North Valley Jewish Community Center killing spree continue to haunt America, we must step-up our efforts to protect children from gun violence.

One important step in the process of protecting our children from gun violence is closing the dangerous loophole that allows guns to be purchased from unlicensed dealers over the Internet. To accomplish this, I am introducing the "Electronic Commerce Crime Prevention and Protection Act." This much-needed legislation would ban all sales of firearms, ammunition and explosives over the Internet.

I would like to thank Congressman BRAD SHERMAN, Congressman ROBERT BRADY, Congressman JAMES MORAN, Congressman JOHN LARSON, Congressman MARTIN MEEHAN, Congressman RICHARD NEAL, Congressman ROBERT MENENDEZ, Congressman NANCY PELOSI, and Congressman JOSEPH HOEFFEL for joining me as original cosponsors of this important legislation.

Mr. Speaker, I urge my colleagues to cosponsor my legislation to ensure that the Internet remains a wonderful mechanism for commerce, communication and learning, and not a means for obtaining the tools of violence.

INDIAN HUMAN RIGHTS ACTIVISTS ISSUE NEW REPORT ON ENFORCED DISAPPEARANCES, ARBITRARY EXECUTIONS, AND SECRET CREMATIONS IN INDIA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. BURTON of Indiana. Mr. Speaker, the Committee for Coordination on Disappearances in Punjab recently issued a new report on enforced disappearances, arbitrary executions, and secret cremations of Sikhs in Punjab. It documents the names and addresses of 838 victims of this tyrannical policy. The report is both shocking and distressing.

The Committee is an umbrella organization of 18 human rights organizations under the leadership of Hindu human rights activist Ram Narayan Kumar. The report discusses "illegal abductions and secret cremations of dead bodies." In fact, the Indian Supreme Court has itself described this policy as "worse than a genocide."

The report includes direct testimony from members of the victims' families, other witnesses, and details of these brutal cases. The human rights community has stated that over 50,000 Sikhs have "disappeared" at the hands of the Indian government in the early nineties. How can any country, especially one that claims to be the "world's largest democracy," get away with so many killings, abductions and other atrocities? Will the Indian government prosecute the officials of its security forces who are responsible for these acts? Will the Indian government compensate the victims and their families?

If America can compensate the Japanese victims of the internment camps during World War II, why can't India compensate the families whose husbands, sons, wives, or daughters have been murdered? Murder is a lot more serious than internment, and these acts are much more recent.

The Council of Kahlistan recently issued a press release on the Committees's report. I am placing that release in the CONGRESSIONAL RECORD for the information of my colleagues.

NEW REPORT EXPOSES ENFORCED DISAPPEARANCES, ARBITRARY EXECUTIONS, SECRET CREMATIONS OF SIKHS BY INDIAN GOVERNMENT IDENTIFIES VICTIMS OF GENOCIDE BY NAME

WASHINGTON, D.C., September 15, 1999—The Committee for Coordination on Disappearances in Punjab, led by Hindu human-rights activist Ram Narayan Kumar, has issued an interim report entitled "Enforced Disappearances, Arbitrary Executions, and Secret Cremations" which exposes secret mass cremations of Sikhs by the Indian government.

The report contains a 21-page list of 838 victims who were identified by name and address. This is a very preliminary report. Three of India's most respected human rights group issued a joint letter in 1997 stating that between 1992 and 1994, 50,000 Sikhs were made to disappear by Indian forces. They were arrested, tortured, and murdered by police, then their bodies were declared "unidentified" and cremated. The Indian Supreme Court described the situation as "worse than a genocide."

More than 250,000 Sikhs have been killed since 1984. Over 200,000 Christians have been killed since 1947 and over 65,000 Kashmiri Muslims have been killed since 1988. Thousands more languish in prisons without charge or trial, according to Amnesty International. Last month, 29 Members of the U.S. Congress wrote to the Prime Minister of India demanding the release of these political prisoners.

The report makes reference to the police kidnapping and murder of human-rights activist Jaswant Singh Khalra in 1995. Khalra "released some official documents which established that the security agencies in Punjab had been secretly cremating thousands of dead bodies labelled as unidentified," the report noted. "Khalra suggested the most of these cremations were of people who had earlier been picked up in the state on suspicion of separatist sympathies," according to the report.

"In September 1995, it was Khalra's turn to disappear; he was kidnapped from his Armristar home by officers of the Punjab police." In October 1995, the police murdered Mr. Khalra. Despite an order of the Supreme Court, none of the police officers involved has been brought to justice. The report also cited an official inquiry's findings of "flagrant violation of human rights on a mass scale."

"This report shows that for Sikhs there are no human rights in India," said Dr. Gurmit Singh Aulakh, President of the Council of Khalistan. "The genocide by the Indian Government shows Sikhs that there is no religious tolerance in India and India will never allow Sikhs or other religious minorities to exercise their religious or political rights," he said.

"If India is the democracy it claims to be, then why not simply hold a plebiscite on independence in Punjab, Khalistan? Dr. Aulakh asked. "Instead of doing the democratic thing and allowing the people of Punjab, Khalistan, of Kashmir, of Christian Nagaland to vote on their political status, as America has repeatedly allowed Puerto Rico to do and Canada has allowed Quebec to do, the Indians try to crush the freedom movements by killing massive numbers of people in these minority nations," he said. "Democracies don't commit genocide."

CONFERENCE REPORT ON H.R. 1906, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

SPEECH OF

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 1, 1999

Mr. SKEEN. Mr. Speaker, as Chairman of the Appropriations Subcommittee on Agriculture I fully expect the Secretary, in conjunction with the International Arid Lands Consortium, to expand efforts in the area of arid lands research, specifically in the areas of water, grazing and drought mitigation programs applicable to arid and semi-arid regions. Not only will an expansion of these efforts prove valuable to America's farmers and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ranchers, the employment of the existing scientific/political relationship between the Department, the International Arid Lands Consortium, Israel and Jordan could prove highly beneficial to the Middle East peace process as well.

U.N. SECRETARY GENERAL KOFI ANNAN DISCUSSES THE INTERNATIONAL BUSINESS COMMUNITY'S SELF INTEREST IN HUMAN RIGHTS AND GLOBAL VALUES

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. LANTOS. Mr. Speaker, standing at the dawn of the new millennium, we have an incredible opportunity to create a more peaceful, more humane, and more orderly world. We are entering a new era in which previously ignored social issues must be addressed. In today's increasingly globalized world, we have seen remarkable advances in trade and technology. The time has come, however, when the new global economy must embrace social responsibility.

Mr. Speaker, the Secretary General of the United Nations, my dear friend Kofi Annan, addressed a number of these issues in an important message last month. He discussed the fundamental partnership between business and human rights and the importance of having international values and principles to guide our global economy. The United Nations is an extremely important element of our nation's foreign policy and it plays a fundamental role in enhancing respect for the rights of women and men around the globe as well as enhancing the value of human life.

The Secretary General addressed these issues in a message to the Workshop "Today and Tomorrow: Outlook for Corporate Strategies" which was organized by the Ambrosetti firm and was held this September in Cernobbio, Italy, under the leadership of my friend Alfredo Ambrosetti.

Mr. Speaker, the message of the Secretary General to the conference is most appropriate to consider as we face the new millennium. I offer the message of Secretary General Kofi Annan to be placed in the RECORD, and I urge my colleagues to give it serious and thoughtful attention.

[Message of Secretary General Kofi Annan to the Workshop]

TODAY AND TOMORROW: OUTLOOK FOR CORPORATE STRATEGIES

It gives me great pleasure to convey my greetings to all who have gathered for the Villa d'Este workshop, which this year celebrates its 25th anniversary. Congratulations on this milestone.

You have gathered to examine a global predicament that is deeply ambivalent. Peace spreads in one region while violence rages in another. Unprecedented wealth coexists with terrible deprivation, as a quarter of the world's people remain mired in poverty. Through it all we can see the contours of a new global fabric taking shape. The globalization of markets, technology, finance and information is defining new realities, re-shaping our notions of sovereignty and challenging us to reconsider many of the assumptions that have guided policy-making until now.

As you know globalization is under intense pressure. And the multilateral trading system is in the line of fire. The problem is not with trade or transnational companies or market per se; the trading system is one of the great success stories of the past half century. Rather the problem seems to be that while so much has been done to make the trading system the success it is, other urgent issues—such as safeguarding the environment, protecting human rights and ensuring labour standards—have failed to attract similar attention.

The result is a serious imbalance on the international agenda. We have a global trading system with potentially strong governance and a strong institution—the World Trade Organization. Strong, if universal and if the most powerful countries comply with the rules. Strong, also, if we avoid saddling the trade regime with a load it cannot bear conditionalities—and instead build bridges between trade and environment, between trade and labour, between trade and human rights. We need to strengthen the pillars of global governance in these areas. After all, a bridge cannot rest on only one pillar.

It was with this in mind that I proposed, earlier this year at the World Economic Forum in Davos, a "Globla Compact" between the United Nations and the world business community. The Compact asks the international business community to advocate for a stronger Unite Nations. It asks individual businesses to protect human rights within their sphere of influence, support the abolition of child labour, adopt a precautionary approach to environmental challenges and take other such steps which, of course, also make good business sense. The Compact offers a practical way forward to reconciling one of the key questions in the debate on globalization: how to sustain open markets while meeting the soci-economic needs of societies. It envisages business doing what it does best—creating jobs and wealth—while rooting the global market in universal values and giving the global market more of a human face.

It may not seem fair that business should be called upon to undertake such initiatives, but in today's globalizing world, economic power and social responsibility cannot be separated. This issue—and in particular the risk of protectionism and other unwelcome interventions—will not go away unless business is committed, and seen to be committed, to global corporate citizenship. Just as national markets reflect the values, laws and rules of a given society, so must the new global economy be guided by an international consensus on values and principles.

I have been speaking of "business" as if it were some monolithic presence in the world economy. In the end we are talking to individual businessmen and businesswomen with the power to influence the world for the better. Let us remember that the global markets and the multilateral trading system we have today did not come about by accident. They are the result of enlightened policy choices. If we want to maintain them in the new century, all of us —governments, corporations, nongovernmental organizations, international organizations—have to make the right choices now. We have an opportunity to usher in an age of global prosperity comparable to that enjoyed by the industrialized countries in the decades after the Second World War. We will tip the scales to the positive only if we work together and, in particular, only if the leaders amongst us step forward and do their part. In that hopeful spirit, please accept my best wishes for a successful workshop.

CONCERNING PARTICIPATION OF TAIWAN IN THE WORLD HEALTH ORGANIZATION (WHO)

SPEECH OF

HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 1999

Mr. HOEFFEL. Mr. Speaker, I rise to speak in favor of Taiwan's participation in the World Health Organization. While I have strong feelings on the issue of Taiwan's status in the world, I know there are some who disagree with me. On the issue of the health of the Taiwanese people, I don't think there can be any disagreement. Taiwan should have full participation in the World Health Organization.

As this legislation states: "Good health is a basic right for every citizen of the world and access to the highest standards of health information and services is necessary to help guarantee this right." Health risks do not recognize political boundaries. Unfortunately, politics has kept Taiwan from participating in WHO activities and other international organizations and the effects of this policy have had serious repercussions.

The World Health Organization was unable to help Taiwan with a viral outbreak which killed scores of Taiwanese children and infected more than 1,000 Taiwanese children in 1998.

More recently, Taiwan was struck by an earthquake which did substantial damage to the island. The latest estimates are that just over 2,000 people have been killed and about 100,000 are homeless. In the wake of this disaster, I was shocked to read news reports about the United Nations' response. According to one report, instead of immediately harnessing its resources and heading to Taiwan to help with the relief effort, the United Nations instead sought approval from China before sending United Nations relief workers to the scene of the disaster. If this is true, lives were again needlessly put at risk.

Ensuring the health of the people of Taiwan is a commendable goal and it is time that we put their health above politics. I commend the sponsor of the legislation, Mr. BROWN, and I urge my colleagues to support the bill.

IN CELEBRATION OF THE 25TH ANNIVERSARY OF THE BLACK COWBOYS PARADE IN OAKLAND, CALIFORNIA

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Ms. LEE. Mr. Speaker, I rise in celebration of the 25th Anniversary of the Black Cowboys

Parade held every year in Oakland, California since 1974. The parade commemorates the contributions made by African Americans and other ethnic groups to the development of the American West.

African Americans, primarily from Louisiana, Texas and Arkansas, poured into California to build ships during World War II. These states were all "horse country" where African Americans had raised and trained horses. Northern California could therefore easily support the concept of a Black Cowboys parade. Some of the original organizers and riders were Lonnie Scoggins, Booker Emery, and Mr. Wright (now in his nineties). Other cities in Oklahoma and Texas have parades celebrating Black horsemen and horsewomen, but the City of Oakland has hosted the longest continuously staged celebration.

Blacks were cowboys before they were freed from slavery. Before California even became a state, they worked on cattle ranches in southern California. At the height of the cattle driving days, it is estimated that a fourth of all cowboys were black. The Buffalo Soldiers were proud and capable men who got the toughest and longest assignments while serving on the frontier. Although they have since been criticized for fighting Indians, these largely illiterate men were recruited starting in 1866 immediately after the end of the Civil War. By 1898, they were a disciplined fighting force who saved Theodore Roosevelt on San Juan Hill in Cuba during the Spanish American War.

This parade rights the portrayal of African Americans from history and media presentations by restoring the pride of black manhood. Northern California and Bay Area horsemen and horsewomen show that blacks can ride today as well and that this history is alive. This is also important to Mexican Americans, Chinese Americans and Native American as children of every background can reclaim their history and have pride in their special contribution to the settlement of the West.

This 25 year tradition of the Black Cowboys Parade is one of the ongoing and visible efforts to restore pride in young blacks and other youngsters. We salute the work of organizations such as the Northern California Black Horsemen Association, the Black Cowboys Association and Wildcat Canyon Ranch Youth Program for their ongoing programs to educate and honor the legacy of the black cowboy today.

TRIBUTE TO RODNEY HERO

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. UDALL of Colorado. Mr. Speaker, I wish to recognize and congratulate one of my constituents, Rodney Hero. Mr. Hero is a Professor at the University of Colorado, who was recently presented with the Woodrow Wilson Foundation Award for his book, 'Faces of Inequality: Social Diversity in American Politics'.

This distinguished annual award honors the author of the premier book published in the United States regarding government, politics or international affairs. Presented by the American Political Science Association, the Woodrow Wilson Foundation Award is one of the most prestigious awards in political science scholarship.

In his award-winning book, Professor Hero offers a unique social diversity theory regarding race and ethnicity in American politics. He argues that race and ethnicity significantly affect politics in all the states, not just the states with a high minority population. Professor Hero's social diversity theory challenges a 35-year-old theory regarding politics in our states.

Mr. Speaker, later this week, I will be visiting with Professor Hero and his introduction to American Politics class. I look forward to the opportunity to join the Professor and his class for a spirited discussion on the issues facing our nation. I would like to thank Rodney Hero for the contribution he has made to the world of academia. His contribution truly exemplifies the academic commitment of Colorado's universities and colleges.

ALEXANDRIA, VA—250 YEARS

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. MORAN of Virginia. Mr. Speaker, I submit for the record two resolutions in recognition of the 250th Anniversary of the City of Alexandria, Virginia.

As Alexandria's former mayor, I am now proud to represent the city as part of the Commonwealth's 8th Congressional District. This historic seaport city, an early and continuing center of political, business and social life, has drawn from its rich cultural heritage up until the present day, and in so doing has become one of the most frequently visited tourist destinations in the nation today with 1.2 million visitors annually.

To mark this special anniversary year, Alexandria has hosted hundreds of additional cultural events, concerts, symposia, tours and exhibitions, and residents and visitors alike have benefited from the valuable history lessons this great city is able to provide.

I'm sure my colleagues here today will join me in congratulating Alexandria on its long and distinguished history.

May the next 250 years be as remarkable for this very fine American city.

PROCLAMATION

Whereas, the site of Alexandria was occupied for several thousand years by Native Americans; and

Whereas, Captain John Smith and a party of explorers from Jamestown first visited the site of Alexandria in 1608; and

Whereas, a tobacco warehouse was established in 1730 at the foot of Oronoco Street in what is now Alexandria, and a settlement informally called Hunting Creek Warehouse grew up around the warehouse; and

Whereas, a group of Scottish merchants tried to name the area Belhaven, after Scottish patriot John Hamilton, Baron Belhaven, in 1749; and

Whereas, the Virginia House of Burgesses and Council, upon petition of other local residents, voted in May 1749 to establish a new town called Alexandria, named after the Alexander family on whose land the town was to be built; and

Whereas, Governor Gooch convened the House of Burgesses and Council in the Council Chamber on May 11, 1749, and gave his assent to the bill establishing the new town.

Now, therefore, I, Kerry J. Donley, Mayor of the City of Alexandria, Virginia, and on behalf of the Alexandria City Council, do hereby proclaim May 11, 1999 to be the 250th anniversary of the creation of Alexandria, Virginia.

In witness whereof, I have hereunto set my hand and caused the Seal of the City of Alexandria to be affixed this 11th day of May 1999.

GENERAL ASSEMBLY PROCLAMATION

WHEREAS, Capt. John Smith and a party of explorers from Jamestown first visited the site that was to become Alexandria in 1608; and

WHEREAS, a tobacco warehouse was established at the foot of Oronoco Street in what is now Alexandria in 1730, and a settlement informally called Hunting Creek Warehouse grew up around the warehouse; and

WHEREAS, a group of Scottish merchants tried to name the area Belhaven in 1749; and

WHEREAS, the Virginia Assembly, upon petition of other local residents, voted on May 11, 1749, to establish a new town called Alexandria, named after the Alexander family on whose land the town was to be built; and

WHEREAS, the town was created by local landowners and Scottish merchants, with the first auction of town lots occurring on July 13–14, 1749; and

WHEREAS, Alexandria was the site of the adoption of the Fairfax Resolves in July of 1774 and the home town of Commander-in-Chief of the Continental Army and first President of the United States George Washington, and of author of the Virginia Bill of Rights and father of the U.S. Bill of Rights George Mason; and

WHEREAS, Alexandria has been the home town of many people prominent in our nation's history, including Gens. Light Horse Harry Lee and Robert E. Lee, former President Gerald R. Ford, U.S. Supreme Court Justice Hugo Black, General Harold Spaatz, John L. Lewis, several Lords Fairfax, composer Richard Bales, musicians Jim Morrison and Mama Cass, and many Cabinet officers over the last 250 years; and

WHEREAS, Alexandria was ceded to the United States to form part of the District of Columbia in 1791 and at the wish of its citizens retroceded to Virginia in 1846; and

WHEREAS, Alexandria was the site in 1939 of a sit-in demonstration at the Alexandria Public Library, in which the participants demanded equal rights of use for black and white customers; and

WHEREAS, Alexandria is the site of the Alexandria Academy, which had among its three schools the Free School, established by George Washington's contribution of 50 annually to educate 20 boys and girls whose parents could not pay tuition, and which was the site of a school for children of freedmen from 1812 to 1823; and

WHEREAS, Alexandria is the home of institutions of higher learning including a branch of Virginia Tech and the Northern Virginia Community College; and

WHEREAS, Alexandria has many noteworthy museums, historic sites, and tourist attractions, including the internationally-renowned Torpedo Factory Arts Center, one of the highest concentrations of 18th and early 19th century buildings in the nation, and a rich and active cultural life; and

WHEREAS, Alexandria retains the prominent role it has had since 1749 as a transportation center, by sea, road, and rail; and

WHEREAS, the City of Alexandria will mark its 250th anniversary throughout 1999 with a year-long series of diverse programs, activities, and public events; and

WHEREAS, all residents of Alexandria can look back with pride on their city's rich history and forward with anticipation to an exciting and challenging future; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly commend the City of Alexandria on the occasion of its 250th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Hon. Kerry J. Donely, Mayor of the City of Alexandria, as an expression of the General Assembly's congratulations and best wishes for a glorious anniversary celebration.

100TH ANNIVERSARY OF THE GHENT BAND

HON. JOHN E. SWEENEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. SWEENEY. Mr. Speaker, I rise to congratulate Ghent Band on their 100th Anniversary in entertaining the communities of Columbia County, located in the heart of the 22nd Congressional District, which I proudly represent.

Founded in 1899 by 15 members, the Ghent Band continues to make history while other bands in New York have become history. Inspired by nationally touring bands like John Philip Sousa, the original 15 members gathered old, second hand instruments and began rehearsing weekly at the Old Ghent School House. To this day, the bank plays on, serving as Columbia County's only full-fledged village band.

Mr. Speaker, for a full century the Ghent Band's music has filled the hearts of the young and old, creating lasting memories at the many parades and concerts at which they play. The Ghent Band holds a special place in my own heart as they were present at the inauguration celebrating my swearing in to the House of Representatives.

Given the diversity of age and background of the band's members, as well as their strong ties to the local community, I have no doubt that the Ghent Band will continue on for an additional 100 years.

Mr. Speaker, the Ghent Band is America at its best, representing all that is good in this nation. I wish its members and their families the best as they celebrate 100 years of serving and entertaining the Village of Ghent.

FAIR CARE FOUNDATION CALLS ATTENTION TO DANGERS OF HMO TAKEOVERS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. STARK. Mr. Speaker, as the conglomeration and monopolization of American health care continues, State Insurance regulators must do a better job of questioning the quality of plans entering their states.

I thought the following article from the September 18, 1999 issue of the Delaware News Journal by former utilization review nurse Mary Ellen Gaspard and A.G. Newmyer, head of the Fair Care Foundation (an HMO watchdog group), made some excellent points about the "quality danger" facing Delaware.

[From the News Journal, Sept. 18, 1999]

BLUE CROSS TAKEOVER NEEDS SKEPTIC'S EYE

(By Mary Ellen Gaspard and A.B. Newmyer III)

Few Americans can name their state insurance regulator. The majority of regulators are appointed and remain largely invisible. By reputation, they care more about the health of insurers than the health of the public.

Delaware may be different. We've never met Insurance Commissioner Donna Lee Williams. But like the minority of regulators who are elected rather than appointed, she has a reputation for caring about consumers rather than for genuflecting before insurance executives. Now she has a real opportunity.

Hearings begin Tuesday on the plan by CareFirst—a Blue Cross plan based in Maryland—to take over the Delaware plan. The commissioner must determine, among other things, whether the deal would hurt Delaware policyholders.

In our view, CareFirst has redefined predatory behavior by health insurers. Perhaps the company's claims handlers were trained to echo the mantra, "Just say no." Cases handled by volunteers at the Fair Care Foundation, in helping patients in CareFirst's market, suggest that the delays and denials don't even pass the laugh test. Sadly, there is a mean-spiritedness evident in the treatment of the sick and their families that CareFirst management has taken to new heights.

We can't imagine why Donna Lee Williams would want to put Delaware's 200,000 Blues subscribers under CareFirst's heel. Like their claims handlers, she should just say no.

CareFirst, of course, disagrees. With a sensible regulatory structure in CareFirst's back yard, the facts would be apparent to Delaware regulators. But Steve Larsen, the appointed insurance commissioner in Maryland, has a reputation among consumer groups as being affable and ineffective. When CareFirst took over the Blue Cross plan in Washington, questions arose concerning whether Larsen had evaluated the Maryland plan's treatment of policyholders. His so-called market conduct study was reduced to one sentence.

That's one more sentence of oversight than the D.C. regulator could muster. At hearings on the proposed merger, it became clear that the Washington insurance commissioner had never conducted a market study of the Blues during all the years that his office had jurisdiction.

Delaware should just say no pending an investigation that is truly independent and thorough. We've seen no indication that Maryland or Washington regulators are capable of either. Their pre-merger hearings were a pro-forma joke. After consumers sued an appeals court ruled that the Blues had cozied up to the regulator in illegal ex-parte sessions, where they re-wrote conditions of the merger.

The proposed Blues merger in Delaware is complicated. CareFirst has to call the merger an "affiliation" because under the law, a merger would be a "conversion" of the nonprofit assets of the Delaware plan. That would require that the Delaware assets be set aside for health care of residents in the state. But CareFirst wants the money. So the architecture of the deal is intentionally opaque. Delaware will effectively lose all local control of its Blue Cross plan. We suspect the results won't be pretty.

Donna Lee Williams has a vital opportunity. If the state chooses to wink at the predatory practices of CareFirst, then our hearts go out to the 200,000 Blue Cross subscribers in Delaware.

TECHIES DAY

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. LARSON. Mr. Speaker, as Congress continues to debate next year's budget, America continues to face two mounting problems: a growing information technology worker shortage, and a persisting "digital divide" between the information rich and the information poor.

Reports estimate that there are approximately 350,000 unfilled technology jobs available in America, a shortage that threatens the future growth of the sector that is responsible for driving America's unprecedented economic success. Clearly, the demand for highly-skilled information technology workers vastly outweighs the supply.

Further confirmation of this problem came in the Department of Commerce's July report entitled, "Falling Through the Net," which highlighted a persisting "digital divide" characterized by a disparity of race, gender, wealth, and geography.

It is, thus, with the intention of focusing public attention on these two problems, that I lend my support today to the first national "Techies Day" being held today. Its goal is to reverse these trends by inspiring more of America's youth to enter science and technology fields.

To mark this day, the Association for Competitive Technology, an alliance of Information Technology businesses, will bring technology professionals to the Kids Computer Workshop in Washington, D.C., an after-school technology program that works with underserved kids in the District. By showing youth that technology careers are within their reach, these "techies" will bridge the gap for kids who find themselves on the wrong side of the "digital divide" and begin to reduce America's information technology workforce deficit.

Mr. Speaker, if the private sector is recognizing its role in bridging the gap between the information "haves" and the "have-nots," I believe Congress should recognize its role too. It is my hope that through efforts such as Techies Day, Congress will realize that it can, and should, make a difference.

REST OF THE TRUTH IN TELEPHONE BILLING ACT OF 1999

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. MARKEY. Mr. Speaker, I rise to introduce the "Rest of the Truth in Telephone Billing Act of 1999." The title of the bill reflects the fact that some of the "truth in telephone billing" has already been proposed in a bill by two of my esteemed Commerce Committee colleagues, Chairman BLILEY and Telecommunications Subcommittee TAUZIN. I offer the "rest of the truth" to point out that a listing of fees and taxes only provides half the story. The other half of the story is the subsidies in the telecommunications marketplace, which I believe need to be made just as explicit on a consumer's bill as the fees and taxes in order to fully inform consumers of what they do and do not pay for when they subscribe to telecommunications services.

Mr. Speaker, the telecommunications marketplace is rife with such subsidies. Many of these subsidies are quite noble in intention and help to pay for affordable telecommunications service for the poor and for rural consumers. Yet many of these subsidies reflect a historic monopoly marketplace and should be revisited as the marketplace changes. For instance, some of these subsidies may still be needed and there are some which ought to be adjusted (or even eliminated) to reflect a more competitive marketplace.

The "truth," Mr. Speaker, is that many consumers in America today pay too much to support a bloated subsidy system that was designed to support inefficient monopoly-provided service. As efficiencies arrive in the marketplace due to technological changes and the competitive entry of new providers, I believe that many subsidized services could be provided at lower cost, and therefore less subsidy, than previously provided.

Providing subsidies sufficient to keep costs low in rural America and for the inner city poor, or to hook up schools and libraries, ought to be done in a manner that reflects the actual costs of providing the service. In order to ensure that we give consumers the rest of the truth in telephone billing, I suggest in the legislative proposal I am offering today, that we insist that both the fees and taxes AND the subsidies be made explicit for consumers and listed on their bills.

I suggest that we give consumers the full story. Consumers should know when they're paying $8 in fees or $18 in taxes. They should also know whether they're simultaneously receiving (or paying) a hitherto implicit subsidy to the tune of $2 or $200. I look forward to working with Chairman BLILEY and Chairman TAUZIN on their legislative proposal and to discussions with our other colleagues—both urban and rural—on how we can better ascertain the true costs, true taxes, true fees, and the true subsidies embedded in the telecommunications bills that consumers pay monthly.

THE NETIZENS PROTECTION ACT OF 1999

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to announce the introduction of the Netizens Protection Act of 1999. This legislation is carefully tailored to protect consumers and Internet Service Providers (ISPs) from the costs and inconvenience of unsolicited e-mail.

My bill allows Internet Service Providers (ISPs) to take legal action against someone who uses their equipment or facilities—without their permission—to initiate the bulk transmission of unsolicited electronic messages. Equally important, it would also permit consumers to take action against someone who sent them unsolicited e-mail, so-called spam.

The bill is based on a simple principle of fairness: consumers should not have to pay for unwanted messages and neither should their ISP. Spam is not just a nuisance that can be cured by the judicious use of the delete key. Spam literally forces you to pay for the costs of some other person's advertisement—it is like getting a piece of junk mail and then having to pay for the cost of the stamp. Spam exposes you to dangerous viruses that can damage files or harm computer hardware. Spam often consists of illegal pyramid schemes and frequently contains illegal child pornography.

Moreover, even if an Internet user is not paying for the additional time online to retrieve unwanted mail, they are still being charged a higher rate by their ISP for filter services and larger band-widths to combat "junk e-mail." Unwanted e-mail is costly to both the provider and consumer. The problem is that unlike regular junk mail, where the sender pays for the costs, spam shifts the costs from the sender to the recipient.

My legislation would require anyone sending an unsolicited electronic message to provide a name, a physical mailing address, and the electronic mail address of the person who initiated the message, along with a method by which the recipient of the message could contact the transmitter of the electronic mail to request that no further messages be sent. If someone was sent unsolicited e-mail from someone they contacted to request no further mail be sent, they could pursue legal action to recover treble damages.

Along with empowering the consumer to take action against spam, my bill also allows ISP's to seek legal remedies if someone violates their policies against unsolicited electronic mail messaging. Additionally, ISP's would be required to explain their unsolicited e-mail policies in simple terms so spammers could be forewarned and users could make an informed decision about what ISP to use, as well as whether they wanted unsolicited e-mail blocked. Consumers would and should be able to decide whether they want to receive unsolicited e-mail. My bill does that. Furthermore, the consumer would be able to take legal action if a spammer did not respect their wishes under the Netizens Protection Act.

The Netizens Protection Act is directed at the big spammers who tie-up networks with thousands upon thousands of messages. It would not go after someone who just sent a few messages either inadvertently or even intentionally. Language in my bill would allow someone to send up to 50 identical or substantially similar messages to recipients within a seven day period.

My legislation would also not interfere with or affect direct e-mail advertising or marketing. All avenues of legitimate direct marketing would remain. If any previous business relationship existed between the e-mailer and the e-mail recipient, my legislation would not affect the e-mail transaction. For example, if someone made a purchase at a retail store, a business relationship would exist, so that retailer could send e-mail updates to that customer and still maintain compliance with the Netizens Protection Act. Indeed, I believe that unless legislation is enacted to protect consumers from spam, it will discourage the expansion of Internet business and commerce.

HONORING JANICE JAMES

HON. ANNE M. NORTHUP

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mrs. NORTHUP. Mr. Speaker, several weeks ago I had the honor to meet with Janice James, the Kentucky Teacher of the Year. In light of constant stories about the crisis in our nation's schools, it is important to recognize the dedication and outstanding achievements of our teachers. Ms. James serves as the perfect example. It is my honor to pay tribute to someone who has made such a difference to so many children.

Janice James has had a distinguished career as a primary teacher at Price Elementary School in Louisville, Kentucky for 27 years. As part of her teaching philosophy she provides her students with numerous hands-on activities to keep them fully engaged. Ms. James also encourages her students to explore the process of learning by thinking out loud and by pushing them to find multiple solutions to problems. I was particularly impressed by her creative way to encourage students to think more broadly: she hands them a pair of rose-colored glasses every time she wants them to think in a different way.

Janice James has also instilled a sense of leadership in her students through their participation in the Price Leaders of Today program. Students are addressed by key leaders in the Louisville community and are inspired to become leaders and thinkers themselves. Janice James is a teacher who knows how to get the job done. She knows it takes hard work, it takes flexibility, and it takes a commitment to each child. I was proud to hear that Janice James supports what this Congress is trying to do—give schools and teachers the ability to make the choices which best reflect their students needs. We are all in agreement that such changes will help improve education—for Janice James and her students.

Ms. James' remarkable contribution to the field of education deserves our respect and our gratitude. Again, I offer my congratulations to Janice James for this outstanding achievement.

DISTRICT JUSTICE PIERANTONI HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to the Honorable Fred Pierantoni, III, the Justice of Magisterial District 11–104 in my Congressional District and a good friend of mine. Justice Pierantoni will be honored as "Person of the Year" at the 22nd annual Columbus Day Banquet of the Italian American Association of Luzerne County. I am pleased and proud to have been asked to participate in this event.

District Justice Pierantoni, the son of Fred and Betty Pierantoni of Dupont, is a graduate of Pittston Area High School, Wilkes University, and Temple University School of Law. He served as an Assistant District Attorney for Luzerne County and was the senior trial assistant and chief juvenile prosecutor for that office.

First elected District Justice in 1991, Justice Pierantoni is active in many professional and community activities. He is a member of both the Pennsylvania and American Bar Associations. He chairs the prestigious Pennsylvania Supreme Court committee that is charged with amending and formulating rules to be followed by District Justices statewide. Justice Pierantoni is the former Chair of the Publications Committee of the Pennsylvania Special Court Judges Association. He is a member of the Luzerne County District Justice Executive Commission, the Wilkes-Barre Law and Library Association Executive Committee, and the Luzerne County Domestic Violence Task Force. He is legal advisor to many non-profit volunteer and youth groups throughout the area.

District Justice Pierantoni is active in the community as well, having held a seat on the Pittston Chamber Board of Directors, and several cabinet posts in the Hughestown Lions organizations. He is a member of the Board of Directors of Holy Mother of Sorrows Church in Dupont. Justice Pierantoni is Parliamentarian of the Italian American Association of Luzerne County and a member of the Fraternal Order of Eagles, Polish American Citizens Club, and St. John's Lodge. He lectures for Marywood College, Luzerne County Community College, and the Luzerne County District Attorney's Office.

Mr. Speaker, Fred Pierantoni is a dedicated professional, committed to his community and the justice system in Luzerne County. I applaud the Italian-American Association's choice of this year's honoree and am pleased to join with them in honoring this fine Pennsylvanian. I extend my sincere best wishes to Justice Pierantoni as he accepts this prestigious award.

TRIBUTE TO THE LATE WILLIAM "CHUCK" EVERS

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. SHIMKUS. Mr. Speaker, I rise before you today in memory of my friend, Mr. William "Chuck" Evers, who was born June 13, 1945 in Alton, Illinois, and died Sunday, September 12, 1999.

Chuck practiced law in Collinsville, Illinois for twenty years. He was active in our community and generous in sharing his knowledge of the law. Those who agreed and disagreed with him almost always re-evaluated their positions after speaking with him. This role was very healthy for all levels of government as it greatly enriched the public debate.

Chuck Evers touched many lives as an active citizen of Collinsville. He is survived by his wife, Lynda nee Vandewater, daughter, Caren Evers, son, W. Clark Evers, and mother, Dorothy Mae nee Gericke Evers.

Collinsville and I will remember Mr. Evers for his great contributions to the community. He will be forever cherished for his commitment; first to his family and faith, and then to his country and to his work.

HONORING THE 50TH ANNIVERSARY OF THE WOOD RIVER TOWNSHIP HOSPITAL

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. COSTELLO. Mr. Speaker, I rise today in honor of the 50th Anniversary of the Wood River Township Hospital.

As we near the end of the millennium, I ask my colleagues to join me in celebrating the history of the small towns and cities which have made a commitment to better health care in their own communities. This past summer my district celebrated the 50th anniversary of Wood River Township Hospital, with reflection on its vital role in our region.

The Wood River Township Hospital opened its doors to the public on August 1, 1949 with great fanfare. A referendum to build a public hospital had passed three years earlier in a landslide margin of 4,049 votes for to just 270 against. Once passed, plans for the community hospital quickly commenced with the architectural designs of Jamieson & Spearl, built in a year by Brunson Construction Co.

The town's enthusiasm for their new hospital was enhanced by the respect accorded to the patients of wood river township Hospital. The hospital staff today still proudly recall their first doctor, Harry S. Mendelsohn, M.D., first patient, Anna Westbrook, and first baby, Randall Charles Harmon. Today, more than 14,000 babies have been born there.

Remarkably, the Wood River Township Hospital, is well known throughout the state of Illinois for being the site of other significant "firsts" in the world of health care. It was the first hospital in the state of Illinois to be built under a 1945 state law, which authorized townships to levy taxes for the construction, operation and maintenance of hospitals. Additionally, it was the first hospital in Illinois to give chiropractic physicians privileges, as well as the first to have paramedic-staffed ambulances.

Every community is marked by the institutions that serve them, and Wood River is no different. The Wood River Township Hospital's devotion to patients and commitment to community allows us to see the town as a leader in progressive ideas built on a foundation of mutual respect.

As the 20th Century ends and the beginning of the new millennium approaches, Wood River Township Hospital reminds us of our nation's heritage. As they did, 50 years ago, Wood River officials plan to bury a time capsule to honor the community's values and achievements. In this they will show that while the advances in technology made each day continue to fortify our nation's capabilities, it is the principal of caring in which our future generations may find inspiration.

Mr. Speaker, I ask my colleagues to join me in recognizing Wood River Township Hospital in commemoration of its 50th Anniversary.

CARMEN COSENTINO WINS FLORICULTURE HALL OF FAME AWARD

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. WALSH. Mr. Speaker: Today I am proud to commend one of my constituents and a very good personal friend, Mr. Carmen Cosentino. Last week the Society of American Florists recognized the achievements of outstanding individuals in the floral industry and gave its highest honor, induction into the Floriculture Hall of Fame, to Carm Cosentino.

The purpose of the Floriculture Hall of Fame is to honor men and women who have made outstanding and lasting contributions to the advancement of floriculture as an integral part of the American way of life.

Carm, who owns Cosentino's Florist in Auburn, New York, is a well-known industry spokesperson who has touched many in the floral industry through his talks, magazine articles and educational seminars. In his 43 years in the floral industry, Carm's passion has redefined how potent a grassroots effort can be. He has dedicated his life to teaching others in his industry about proper care and handling in order to prolong enjoyment and appreciation of the beauty of flowers.

Carm has spoken at hundreds of industry gatherings, instructed and acted as a spokesperson for major wire services, and has even translated his witty personal style onto paper as a contributor to many publications. His dedication to the floral industry is evidenced by his service as director of the SAF Board of Directors, vice president and president of the New York State Florists Association, and as director of the Seeley Conference.

It is a true accomplishment that Carm also owns and operates his own retail flower shop and wholesale business. Throughout his life in the floral industry, he has demonstrated the highest regard for improving the lives of everyone through flowers.

I am proud to call Carm Cosentino my good friend, and I join his lovely wife Anne Marie and his family today in recognizing this professional achievement.

PROTECTING THE GLOBAL POSITIONING SYSTEM (GPS) SPECTRUM

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. WELDON of Pennsylvania. Mr. Speaker, the fiscal year 2000 defense authorization bill contains a number of provisions critical to protecting military access to the radio spectrum. We all know how important spectrum is to information technologies, such as the Global Positioning System (GPS), which are critical to a wide range of military and civilian applications.

The importance of ensuring the continuous availability of critical information was demonstrated recently, when the Air Force successfully managed the so-called roll-over of the GPS clock—an event similar to the Y2K transition that we have heard so much about.

By successfully managing the GPS roll-over, the Air Force has ensured the continued stable reception of GPS signals by tens of millions of global users who depend on GPS for everything from air navigation and farming to guiding the war fighter on the battlefield and managing the Internet.

The concerns leading up to the Y2K-like rollover of GPS highlighted the potential global impact from any disruption to GPS services. To its credit, the Air Force, in close cooperation with industry, engaged in rigorous testing and analysis to ensure GPS signals would continue to be received through last month's transition. This effort upheld national policy, as expressed in both Presidential directives and Congressional legislation, that GPS signals will be continuously available and receivable at all times, everywhere in the world.

I and many of my colleagues believe it is in our national interest for the government and industry to continue to cooperate in ensuring that GPS spectrum is protected from disruption and interference. The GPS spectrum band is coveted by commercial interests because of increasing demand for limited international spectrum. The American public has invested well over $14 billion to date to have the GPS services we enjoy today and we need to guard this investment from any harm. I urge the Department to continue its efforts to ensure GPS signals are continuously available in support of national policy, and applaud the continued strong congressional support for initiatives that will help us achieve that goal.

DEDICATION OF THE NAVAJO GENERATING STATION SCRUBBERS

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. STUMP. Mr. Speaker, I rise today to bring attention to an important construction project in my home State and District that has set a precedent for balancing economic values with the delicate needs of the environment. I am referring to the recent completion of a $420 million air-emissions project at the Navajo Generating Station, or NGS, located near Page, Arizona, some 12 miles from the eastern boundary of the Grand Canyon National Park.

NGS was built in the early 1970's by the Salt River Project, or SRP, the nation's third largest public power provider, and a consortium of other utilities, to serve the needs to nearly three million customers in Arizona, Nevada and California. With a 2,250-megawatt capacity, the power plant is the second largest in Arizona and remains, to this day, one of the largest coal-fired power plants in North America. NGS participants include the Salt River Project, the Los Angeles Department of Water and Power, Arizona Public Service Company, Nevada Power Company and Tucson Electric Power Company. A sixth participant, the U.S. Bureau of Reclamation, sells its share of NGS electricity for power pumps of the Central Arizona Project, a 336-mile canal system critical to sustaining agriculture, industry and development in the greater Phoenix and Tucson metropolitan areas.

At the time of its construction, NGS was recognized for its advanced environmental controls and strict compliance with the Clean Air Act of 1971. Amendments to the Clean Air Act in 1977, however, put the plant on a collision course with new laws aimed at protecting clear vistas at our nation's national parks. Studies completed by the National Park Service indicated that the plant may be contributing to haze over the Grand Canyon National Park. Environmental groups subsequently filed a lawsuit against the Environmental Protection Agency demanding action to mitigate NGS emissions. Costly and protracted litigation, which would incur high costs to both taxpayers and customers of NGS, appeared inevitable.

Rather than litigate, SRP took the commendable route of seeking an environmentally and economically responsible solution to the plant's sulfur-dioxide output. With financing from NGS participants, independent and thorough scientific studies were conducted. While it was discovered that much of the haze in the Grand Canyon region derived from urban smog, dust, forest fires and visitor traffic at the Grand Canyon itself, it was also discovered that the NGS did contribute to Canyon haze under limited conditions.

In response to the results of the study, SRP and its NGS partners took the lead in reaching a balanced agreement to outfit the plant with additional emissions equipment. On September 8, 1991, I accompanied President George Bush and then-Secretary of the Interior Manuel Lujan and others to the south rim of the Grand Canyon to witness the signing of the NGS Visibility Agreement, the first such compact under the Clean Air Act. In accordance with that agreement, NGS is now outfitted with three wet-limestone scrubbers capable of removing more than 95 percent of the plant's sulfur-dioxide emissions. The last unit was put on line this summer.

In addition, during the scrubber construction process, SRP was able to save $100 million. The savings will be passed on to NGS customers at a time when the utility industry is being opened to retail competition.

Mr. Speaker, on Thursday, October 14, 1999, a ceremony will be conducted at the plant to commemorate the fulfillment of a promise made eight years ago. The Grand Canyon is one of the crown-jewels of our National Park System, with more than four million visitors a year. The Navajo Generating Station can no longer be credited with contributing to the haze at this national treasure.

Mr. Speaker, the dedication this month of the NGS Scrubbers exemplifies a true balance between economic and environmental values. This effort deserves wide recognition.

CELEBRATING PFIZER'S 150TH ANNIVERSARY

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. PITTS. Mr. Speaker, I rise today to congratulate Pfizer, Inc. on its 150th anniversary. As one of the global leaders in the important pharmaceutical industry, Pfizer has helped to improve the health of men and women around the world for the last century and a half.

Pfizer's long history is full of adventure, daring risk-taking, and intrepid decision making. Founded by German immigrant cousins Charles Pfizer and Charles Erhart in 1849, Pfizer has grown from a small chemical firm in Brooklyn, NY to a multinational corporation which employs close to 50,000 people, including 219 men and women in its tradition of developing innovative drugs to combat a variety of illnesses. In 1944, Pfizer was the first company to successfully mass-produce penicillin, a breakthrough that led to the company's emergence as a global leader in its industry. Since then, Pfizer has marketed dozens of effective medicines designed to fight conditions like arthritis, diabetes, infections, and heart disease in humans, and infections, parasites, and heartworm in animals.

As you can see, Mr. Speaker, Pfizer has made innumerable contributions to our nation and our world, and I applaud Pfizer's accomplishments as it celebrates its 150th anniversary.

BOLIVIA'S SUCCESSFUL COUNTER-NARCOTICS PROGRAM

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. GALLEGLY. Mr. Speaker, as Chairman of the Western Hemisphere Subcommittee I wanted to bring to the attention of my colleagues an often overlooked story in the debate over the war on drugs in the Western Hemisphere—that being the surprising success story of Bolivia. Even today, as we consider providing additional counter narcotics aid to Colombia to fight the terrible scourge of the drug trade which has so completely engulfed that nation, there is hardly any mention of the success achieved in Bolivia and Peru nor of the importance of providing additional assistance to those nations. It would be critically important that as the Administration considers a new aid package for the anti-drug fight in Colombia that some additional money be included for Peru and Bolivia so that they can continue their progress and ensure that as the Colombians become more successful in their efforts, the drug trade does not return to these other nations.

Bolivia is a success story which many of my colleagues need to know more about. When the current government of Hugo Banzer took office in 1997, the President proclaimed a goal of ridding Bolivia of all illegal coca and cocaine by the Year 2002. Many people familiar with Bolivia's situation proclaimed their skepticism and said that the drug trade was too lucrative for the farmers and peasants of Bolivia to give up, at least not willingly, that there was too much corruption, that given the condition of Bolivia's economy at the time, the Government could not sustain any type of alternative crop development program to win the coca farmers over.

Now, just a little over two years later, Bolivia has successfully eradicated over 50 percent of the illegal coca crop and reduced re-planting to a historically low level. This story has not been easy, nor without problems but with the firm commitment of President Banzer to succeed and under the strong leadership and direction of Vice President Jorge Quiroga and the Dignity Plan, Bolivia is well on its way to meeting its goals. According to the Bolivian government, between August 1997 and October 1999, over 27,000 hectares of coca have been eradicated. 121,000 square meters of coca seedbeds have been destroyed and 225 tons of cocaine bound for the United States or Europe have been interdicted.

Through a combination of domestic political leadership and international support, mostly from the United States, Bolivia has been able to develop a successful strategy which balances interdiction, eradication and alternative development. It is the alternative development program which has been the real success story and one which could become a model for even Colombia if the guerrilla war in that country is ever brought under control.

Mr. Speaker, the integration of illegal coca farmers into the legal economy of Bolivia has been the most urgent priority of the government and has thus far been highly effective. But it is also the most fragile element of the strategy in that unless the alternative crops can be produced and gotten to market in a timely fashion and can bring a financial return equal to coca, the farmers could very easily return to illegal drug cultivation returning Bolivia to the status of a major coca producing nation as in the past.

The bottom line, Mr. Speaker is that Bolivia has done a remarkable job in reversing the drug trade in that region and for that, they should be recognized and congratulated. But more than that, we should be rewarding their success with additional funds which they need and have requested in order to continue the successful effort and ensure that the gains are not reversed. It makes no sense to recognize Bolivia's successful efforts, thank them for all they are doing to help protect American citizens from drugs and then not continue to help them finish the job they set out to do. I hope that our Administration understands this and that if and when they send a request for additional counter narcotics assistance to the Congress they consider including some level of additional assistance for Bolivia.

CONFERENCE REPORT ON H.R. 1906, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

SPEECH OF

HON. DAVID L. HOBSON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 1, 1999

Mr. HOBSON. Mr. Speaker, I would like to take this opportunity to commend the members of the Agriculture Appropriations Subcommittee for a job well done on the fiscal year 2000 Agriculture Appropriations Act which contained $1.2 billion for disaster assistance.

As you know, this summer's drought has placed a heavy burden on the agricultural industry in several parts of the country. Not only have crops been devastated, but the drought has also caused corresponding economic loss to livestock and dairy producers. The National Association of State Departments of Agriculture has recently estimated the natural disaster losses for all affected states to total $3.56 billion. The State of Ohio alone has suffered losses nearing $600 million, almost 15 percent of Ohio's largest industry. In my district, Pickaway County's estimated crop value for this year's harvest is $39 million below average. When this disaster is compounded with the existing low commodity prices, it puts our farmers in the most dire economic situation in recent memory.

Last week, I communicated with both the leadership and committee members to ensure that the final aid package would be augmented to provide adequate funding for United States Department of Agriculture (USDA) disaster assistance programs such as the Crop Loss Disaster Assistance Program, the Non-Insured Crop Disaster Assistance Program, the Livestock Assistance Program, and the Emergency Conservation Programs. Thankfully, the Republican Congress was able to pass an Agriculture Appropriations bill that included $1.2 billion in much-needed disaster assistance for our farmers.

To close, Mr. Speaker, I would again like to commend this Congress and especially those who have been instrumental in passing meaningful economic assistance to the farming community that serves as the foundation of this great Nation.

HONORING LINDA DOOLIN WARD, CENTRAL EXCHANGE 1999 WOMAN OF THE YEAR

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Ms. McCARTHY of Missouri. Mr. Speaker, I rise today to honor an exceptional leader and friend to our Kansas City community. Today Linda Doolin Ward will be honored as the 1999 Woman of the Year by the Central Exchange. Linda Doolin Ward has an extensive history with Kansas City and has shown outstanding leadership in her career and contributions to our metropolitan area. This prestigious award recognizes her commitment to gender concerns and her desire for equality in the workplace and society.

She is currently President of the Women's Foundation, a local organization dedicated to funding programs and services which assist women. I am especially impressed with her work at the Women's Foundation to establish grants to help meet the health care, employment, and educational needs of women. This year the Foundation will announce $125,000 worth of grants addressing domestic violence, parenting, and professional development skills.

Serving on numerous boards, Mrs. Doolin Ward has demonstrated her significant presence as a catalyst for change. She was the first woman to be Board President and Chairperson of the Boys and Girls Clubs of Greater Kansas City and served as the Executive Director of the Central Exchange. She is the Co-Chair of the FOCUS strategic planning project, was recently appointed to the Port Authority of Kansas City, and serves as a Committee Chairwoman for the Partnership for Children.

Linda Doolin Ward's career is just as impressive as her record of volunteerism. For 15 years she worked as an executive with Payless Cashways, Inc., and is now Vice President of Investor Relations and Corporate communications with the American Italian Pasta Company. In addition to these achievements, she is married to her high school sweetheart, Terry Ward, and a devoted mother to her son, Jason. As a role model for women across the nation, Linda Doolin Ward has shown us how to balance family life with work and still make room to contribute to the people in our community.

I am honored to acknowledge Linda Doolin Ward for her successful efforts to promote equity and opportunity for women and her commitment to making our community a better place. Mr. Speaker, please join me in congratulating the Central Exchange 1999 Woman of the Year, Linda Doolin Ward.

LAND TRANSFER TO THE GREATER YUMA PORT AUTHORITY

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. PASTOR. Mr. Speaker, commercial growth along the southwest border increased at such a rate as to render current infrastructure resources obsolete in dealing with the volume of commercial traffic comfortably, economically and efficiently. Between 1990 and 1995, the border town of San Luis, Arizona witnessed a population increase of more than ninety percent, from 4,212 to 8,026. The combined population of San Luis and its sister city in San Luis, Sonora, Mexico is 350,000.

Since 1924, San Luis has served as a port of entry between the U.S. and Mexico. In 1998, the port experienced average daily crossings of 360 commercial vehicles, 7,500 private vehicles, and 5,865 pedestrian crossings. The average delay experienced by a commercial vehicle is nearly 2 hours. Delays for private vehicles can be of similar length depending on the time of day. Current port facilities are unable to expedite the current volume of traffic, and the increasing volume will only make a bad situation worse, unless efforts are made to reroute commercial traffic.

Today I am introducing legislation that authorizes the Bureau of Reclamation to transfer lands to the Greater Yuma Port Authority as a first in a series of steps toward building a new port of entry to clear commercial traffic through San Luis, Arizona.

This legislative measure has the support of the parties that make up the Grater Yuma Port Authority such as Yuma County, the cities of San Luis and Somerton, and the Cocopah Indian Tribe. I urge my colleagues to join me in supporting this legislation.

TRIBUTE TO DR. PEDRO JOSÉ GREER, JR.

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. DIAZ-BALART. Mr. Speaker, I rise today to honor a true humanitarian, an outstanding Cuban-American physician, a genuine hero, Dr. Pedro José Greer Jr., whose love for mankind, especially for the poor and homeless, is an admirable example for contemporary American society.

My uncle and aunt, Alfredo and Isabel Caballero, recently sent me a book authored by Dr. Greer with the cooperation of another admirable Cuban-American: Pulitzer Prize-winning columnist Liz Balmaseda. The book is titled, "Waking Up In America", and I highly recommend it to you, Mr. Speaker, and to all my colleagues.

Dr. Greer courageously denounces how society neglects millions of Americans who lack adequate health care. Dr. Greer is the medical director and one of the founders in South Florida of the Camilus Health Concern, a free clinic for the poor, and the San Juan Bosco Clinic for the poor. He has won a MacArthur Fellowship "Genius Grant" and was recognized by Time Magazine as one of Fifty Top Young Leaders Under 40 in 1994. Dr. Greer has also been honored by two U.S. Presidents.

Dr. Pedro José Greer Jr. was brought up in a family with a tradition of love and service for our fellow man, formed by his father Dr. Pedro Greer, a prestigious Cuban gastroenterologist, and his mother, Mrs. Maria Teresa Medina Greer. Dr. Greer's great-grandfather fought for Cuba's freedom in 1898.

I would like to express my gratitude and congratulations to Dr. Pedro José Greer Jr. for his love and work for America and also extend this congratulatory message to his proud parents, his wife Janus Munley Greer, his children Alana and Joey and his sister and brother in law, Sally and Brian Belt.

HONORING SCHOOL FOODSERVICE DIRECTOR HELEN RANKIN

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. BALDACCI. Mr. Speaker, I rise today to call my colleagues' attention to National School Lunch Week which we will celebrate next week. Having grown up in the restaurant business, I feel a special camaraderie with school food service professionals. Every day, professional across the country ensure that our students have at least one hot, nutritious meal to help them grow and learn.

Maine is blessed with many extraordinary school food service professionals. But one in particular stands out—Helen Rankin, foodservice director for Maine School Administrative District 55, based in Hiram, Maine. Hiram is not what anybody would describe as a metropolitan area. It is a small, rural area much like most of Maine.

Helen has brought a degree of professionalism to her operation that belies the small size of the school system. Her commitment to quality and top performance by herself and her staff has made her a leader in Maine and across the nation.

Earlier this year, Helen was featured in the national publication School Foodservice & Nutrition. The article just scratches the surface of Helen's activities on behalf of her clients—school children in the Hiram area and beyond. She recognizes that school food services are a crucial building block in a child's education. We all know that hungry children cannot learn and that their bodies cannot grow and develop as they should.

Helen Rankin is a dynamic, dedicated professional. Maine students have benefitted tremendously from her leadership. I am proud to have the opportunity today to pay tribute to her, and to all of Maine's school foodservice professionals. I hope that next week, during National School Lunch Week, all of my colleagues will take the opportunity to recognize these hardworking individuals.

Mr. Speaker, I insert the School Foodservice & Nutrition article about Helen Rankin to be printed in the CONGRESSIONAL RECORD at this point.

HELEN RANKIN

BRINGING BIG-TIME PROFESSIONALISM TO A SMALL-TOWN DISTRICT

(By Mark Ward, Sr.)

Try to find Hiram, Maine, on a road atlas and it might take you a while. But while the town may be off the main highway, it's squarely on the map of leading school foodservice operations.

"We don't have the facilities of a larger district, but we're still on the cutting edge. And even if we don't have a lot of students, we do a lot for them," reports Helen Rankin, foodservice director for Maine School Administrative District No. 55, based in Hiram and serving five rural communities in the southwest corner of the state.

What puts Hiram on the school foodservice map is a simple maxim: "I insist on professionalism," declares Rankin of her school nutrition team. For example, though the district's six schools serve just 800 lunches a day, each member of Rankin's staff is an ASFSA member, has taken a sanitation course and is a ServSafe certified food service handler. And despite an annual budget of just $400,000 (which includes a district appropriation of just $11,000), the department pays the expenses for its employees to attend state association conferences.

That commitment to professionalism and continuing education starts with Rankin herself. After 40 years in school foodservice, including 30 years in her present post, she's not resting on her laurels. At the state level, she has helped to transform what was a small association into a professional organization that now boasts 700 members and conducts a statewide peer review program. And, as a former Maine School Food Service Association (MSFSA) president, Rankin enjoys respect and clout with state and local policymakers.

And though Hiram may be a small dot on the roadmap, Rankin sees no limit to her own professional horizons. She has spoken at conferences across the country, been nominated twice for ASFSA national office and served as Northeast Regional Director on the National Association's Executive Board. Throughout the 1990s, Rankin's influence has been felt on the ASFSA Public Policy and Legislative Committee and, more recently, its Political Action Committee (PAC).

"By making a commitment to get involved with my profession," Rankin reflects, "I've had opportunities that a person from a small rural town, who started out with only a 9th-grade education, might only have dreamed of."

FROM PTA TO PROFESSIONAL

Forty years ago, the notion that a school cafeteria worker could be a "school foodservice professional" was rarely encouraged—or even understood. Back then, Rankin says, she first became involved with school meals "because the PTA, which I was president of, was responsible for the hot lunch program." When the group hired a new cook who quit after just one day, it was up to Rankin to fill the gap. "We had 75 students at that school and, after volunteering at first, I ultimately got paid $15 a week to cook the meals and clean the kitchen," she recalls.

Over time, Rankin received her own high school equivalency certificate and went on to earn a bachelor's degree. Then in her ninth year as de facto school foodservice manager, the school was incorporated into a newly formed district. In turn, that brought the hiring of a district foodservice director. Like the cook a decade earlier, the person who filled this position resigned after a brief stint, which paved the way for Rankin to assume the post.

"In those days we had no free lunch program, and I can remember kids who would bring in a jar of water and a piece of bread to eat," Rankin continues. Now, 30 years later, "We have reimbursable meals, a breakfast program, a la carte service—plus marketing and promotion, and the expectation that we have to be financially self-supporting. Times certainly have changed," she adds.

It also was 30 years ago that Rankin was introduced to ASFSA and the concept that school foodservice could be a professional pursuit. "MSFSA's conference were small," she recalls, "So I went to my first state meeting in Connecticut. That got me fired up and, along with some other foodservice directors from Maine, we decided to start building up our own state association and making it more active."

Professional involvements "are hard work" Rankin admits. And many times her volunteer commitments require extra hours at work because, lacking funds to hire a full central office staff, Rankin first must handle all the business affairs of the district office. "Yet you learn so much by going to meetings and participating in your profession," she remarks. "Every time I go to a conference or event, I find out what's going on in the industry and the profession. Best of all is the exchange of ideas you get, because you can talk with other professionals one-on-one."

PRESERVATION AND PROGRESS

And while Rankin is a firm believer in the need for school foodservice professionals to meet with and learn from one another, she also emphasizes the need for the profession to build relationships with government, industry—and the public.

That realization came to Rankin—and many other school foodservice operators—in a big way, five years ago, when a push was made in Congress to eliminate the National School Lunch Program. As a result, child nutrition advocates from both large urban districts and small rural schools joined with politicians, industry partners and others to make their case for the need for school nutrition programs to remain a federal program.

Today, ending the National School Lunch Program is no longer an issue. The visibility and respect that the school food-service profession earned on Capitol Hill during the debate remains in force.

To preserve these gains and secure more victories, Rankin reports that the goal of the ASFSA PAC is to "ensure that supporters of child nutrition are re-elected to public office."

Like school foodservice directors across the country, Rankin also has focused attention on building bridges at the state level. Back home in Maine, she has helped the profession establish a presence in the state legislature, governor's mansion and in city and county councils statewide. Currently, school food-service directors in Maine are pressing for increased support of nutrition education programs.

In a career that already has spanned 40 years, Rankin has set a personal goal she hopes to achieve before retirement. "School foodservice should be respected enough to be recognized as an integral part of the education process, and therefore included in school planning," she asserts. "For example, determining how much time is allotted for lunch should have the same weight as planning for class periods, rather than just giving lunch whatever time is left over."

Because Rankin is employed in a small district, she enjoys—in a way not available to directors in many large districts—personal and daily contact with school officials. Therefore, she's enthused about the prospects of realizing her goals and seeing her district become a national model for integrating nutrition and education planning.

"Whether your district is large or small, the basic challenges are the same," Rankin concludes. "For example, I may not have the same computer system that a large district has. But that's okay, because the real issue is that, with kids, you always need the human touch. Whatever your district's size, whether it's large or small, city or country, the most important thing we serve our students is a smile."

NATIONAL AMUSEMENT PARK RIDE SAFETY ACT OF 1999

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. MARKEY. Mr. Speaker, today I am joined by ten of my colleagues in introducing "The National Amusement Park Ride Safety Act of 1999." They include Representatives Miller (CA), Hoeffel (PA), Wexler (FL), Kucinich (OH), Lipinski (IL), Maloney (NY), Weiner (NY), DeLauro (NY), Neal (MA) and Waxman (CA). This bill will restore the ability of the Consumer Product Safety Commission (CPSC) to investigate serious accidents in amusement parks that offer rides, such as roller coasters, which are permanently fixed to the site. While the CPSC has the authority to investigate accidents that occur on rides that move from site to site, rides that are permanently fixed in theme parks are off limits. This bill would correct this anomaly by closing the "roller coaster loophole."

Roller coasters are, in general, quite safe. But in the course of just 6 days at the end of August, an unusual number of tragedies on amusement park rides highlighted the fact that when something goes wrong on these rides, the consequences can be catastrophic. Today's rides are huge metal machines capable of hurling the human body through space at forces that exceed the Space Shuttle and at speeds that exceed 100 miles per hour. They are complex industrial-size mechanisms whose design, maintenance and operation can push the limits of physical tolerance even for patrons in peak condition, let alone members of the broad spectrum of the public who are invited to ride each day.

The fatalities at the end of August, which U.S. News & World Report termed "one of the most calamitous weeks in the history of America's amusement parks," included:

August 22—a 12-year-old boy fell to his death after slipping through a harness on the Drop Zone ride at Paramount's Great America Theme Park in Santa Clara, California;

August 23—a 20-year-old man died on the Shockwave roller coaster at Paramount King's Dominion theme park near Richmond, Virginia;

August 28—a 39-year-old woman and her 8-year-old daughter were killed when their car slid backward down a 30-foot ascent and crashed into another car, injuring two others on the Wild Wonder roller coaster at Gillian's Wonderland Pier in Ocean City, New Jersey.

The Consumer Product Safety Act charges the CPSC with the responsibility to protect the public against unreasonable risks of injuries and deaths associated with consumer products. However, rides in "fixed locations" such as theme parks are currently entirely exempt from safety regulation by the CPSC. State oversight is good in some places, bad in others, and in some states, the state has also exempted "fixed locations" so that there is no federal or state regulatory body overseeing ride safety. The number of serious injuries on "fixed location" rides has risen dramatically from 1994 through 1998.

Why do we bar the Consumer Product Safety Commission (CPSC) from investigating accidents on roller coasters and from sharing that information with the rest of the country?

It makes no sense.

When a child is killed or injured on an amusement park ride, should the decision to investigate depend on whether the amusement park ride is "fixed" versus "mobile"?

Emergency-room injuries more than doubled in the last five years, yet the CPSC is prohibited from investigating any—not one—of those accidents, even when it involves a ride that may be in heavy use by mobile carnivals or fairs.

According to the CPSC Chair, Ann Brown, "The current regulatory structure as it applies to fixed-site amusement park rides is not sufficient to protect against unreasonable risks of injuries or deaths caused by these rides."

She is right.

The accident statistics highlight the folly of granting an exemption from federal safety regulation to amusement park rides. Injuries are rising rapidly on the one category of amusement park rides that the CPSC is barred from overseeing. The manufacturer or owner of every other consumer product in America is required by law to inform the CPSC whenever it becomes aware that the product may pose a substantial risk of harm—but not the owners or operators of "fixed-site" rides in amusement parks.

Some in the industry argue that this legislation is unnecessary because the states or the industry itself can provide sufficient protection. This argument fails on two counts.

First, many states have simply failed to step in where the federal safety agency has been excluded. The CPSC reports that there is still no state-level inspection program in Alabama, Arizona, Kansas, Massachusetts, Minnesota, Mississippi, Missouri, Montana, North Dakota, South Dakota, Texas, Utah and Vermont. In addition, Florida exempts the big theme parks from state inspection, Virginia relies on private inspections, and New York exempts New York City (which includes Coney Island.) California had no state program until last month.

Second, states are not equipped and not inclined to act as a national clearinghouse of safety problems associated with particular rides or with operator or patron errors. That is a federal function. Yet the federal agency charged with the protection of the public against unreasonable risk of injury or death is currently, by law, forbidden from carrying out this important task.

I urge my colleagues to support this measured effort to close the loopholes and to ensure patrons of amusement parks that the level of protection afforded by law will no longer hinge on the question of whether the ride itself is "mobile" or "fixed."

PROFILES OF SUCCESS HONORS MRS. HILDA ORTEGA-ROSALES

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. PASTOR. I rise before you and my colleagues today to ask you to join me in paying tribute to a woman who is described by friends as "La Super Chicana," Mrs. Hilda Ortega-Rosales.

Hilda recently received an Exemplary Leadership Award at Valley del Sol's Annual Profiles of Success Leadership Awards in Phoenix. Valley's award ceremony is the premiere Latino recognition event in Arizona each year that acknowledges Arizona's leaders and their contributions.

Raised in a south Phoenix barrio, Hilda was the third child of eight children. As she grew up, Hilda cared for her brothers and sister, put in long days to attend school, helped with household chores and worked in a vegetable packing house to earn money. Even today, she has not shortened those long days and always finds a way to fit in numerous volunteer hours in addition to her job as Customer Service Director for American Express Merchant Services.

Currently, Hilda sits on the city of Glendale Planning and Zoning Commission. Other volunteer posts have included Commissioner for Glendale Parks and Recreation Department, District Chair for the Arizona State University (ASU) Legislative Network Committee and Board Chair for Chicanos Por La Causa, Inc., in Phoenix.

From presidential to school board elections, Hilda has tirelessly given countless hours of her personal time to political campaigns. Other organizations which have benefitted from her community involvement include Los Diablos, the Hispanic Alumni Association for ASU; Mujer, Inc.; United Way; Arizona Hispanic Chamber of Commerce; and ASU's Hispanic Mother/Daughter Program.

Taught by her parents to give back to her community, Hilda's volunteerism and dedication also is compelled by her desire to promote social justice, political power and economic development for Latinos. She is an exemplary role model for our country and someone who has personally made a significant impact on the Latino community.

As you can see, Mr. Speaker, Hilda's community service has been immense. She has instilled the importance of community responsibility in family members and many individuals who look up to her. Therefore, I am pleased to pay tribute to Hilda Ortega-Rosales and I know my colleagues will join me in thanking her and wishing her continued success.

A TRIBUTE TO THE MOST REV. BISHOP ALFRED L. ABRAMOWICZ

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. LIPINSKI. Mr. Speaker, I rise today to pay my respects to a distinguished Bishop in my district, the most Rev. Alfred L. Abramowicz Auxiliary Bishop Emeritus of the Archdiocese of Chicago and Pastor Emeritus of the Five Holy Martyrs Parish, who recently passed away.

Born on January 19, 1919, he completed his secondary education at Quigley Prepatory Seminary and college at St. Mary of the Lake Seminary of Mundelein. Graduate studies were completed at Gregorian University, Rome, 1949–51 with a Licentiate of Canon Law Degree. He served with the Archdiocese Metropolitan Tribunal for twenty years and for two years as a judicial vicar. Bishop Abramowicz's first appointment was associate pastor of Immaculate Conception Parish in South Chicago from June 19th, 1943 to July 7th, 1948. He was named Auxiliary Bishop on May 2nd, 1968 and appointed pastor of Five Holy Martyrs Parish on July 14, 1968 and served until January of 1990.

Bishop Abramowicz's involvement in the community was far-reaching. In 1969 he served as national chairman for the U.S. visit of His Eminence Karol Cardinal Wojtyla of Krakow, Poland and was fundamental in planning the second visit of that same friend, Pope John Paul II to Chicago in 1979.

Mr. Speaker, Bishop Abramowicz's strong dedication to the Catholic church and to his community as a whole will be sorely missed. I am certain that his legacy will live on in the community for many years to come.

TRIBUTE TO JOSE AGUIAR

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to a young and successful entrepreneur from my congressional district, Mr. Jose Aguiar. Through his dedication, discipline, and success in small business, Mr. Aguiar can serve as a role model for millions of youngsters in the United States who dream of succeeding, like him, in the world of business.

Mr. Speaker, I ask my colleagues to join me in paying tribute and wishing continued success to Mr. Jose Aguiar.

The following article, which appeared in the October 4, New York Daily News, describes Mr. Aguiar's career in more detail.

DRY CLEANER'S KEEN TO EXPAND

Dry cleaning is Jose Aguiar's business, but cleaning up is his goal.

The 37-year-old president of Kleener King, a chain of dry cleaning stores in the metro area, is poised to expand by opening a central facility that will handle all the cleaning from his growing number of stores.

"I'm at the cusp," the Bronx businessman said, adding that he will use a $6.1 million loan from the Upper Manhattan Empowerment Zone, the Bronx Overall Economic Development Corp., and the Empire State Development Corp. to help spur his company's growth.

Growing from a small outfit to a chain of 20 in his native Bronx and in upper Manhattan didn't happen overnight.

In 1982, Aguiar dropped out after two years at Columbia University—where he was majoring in economics—to run his parents' business with his mother, Carmen, after his father, Jose Sr., became ill.

He held on to his parents' original location, Joe's Cleaners on Creston Avenue in the South Bronx, but soon sold the branch on University Avenue about a mile away.

"I didn't know how to manage one store, let alone two," he recalled.

After several years of working as a spotter—the person who pretreats all the stains—he started getting scared about his career prospects.

"I felt I had no future," he said, especially since some of his former Columbia classmates were moving on to plum positions in the business world.

A turning point came in the mid-1980s, when Aguiar went to an industry trade show.

"It opened his eyes and created a big appetite," said David Lewin, the owner of Ipso of New York, a dry cleaning equipment company. Over time, Lewin became a mentor as well as an investor in Aguiar's business.

"It all starts with one store," Aguiar recalled thinking.

He prepared a business plan and set about securing loans to fund an expansion, but scores of sources turned him down.

"They said, 'Grow it to a $10 million company first' or 'Dry cleaning is not interesting,'" he said. "But I don't give up that easily."

After rounds of talks, he secured millions in a combined loan from several economic development groups in Manhattan and the Bronx for the centerpiece of his strategy—a $2.5 million centralized cleaning plant, which he persuaded the Port Authority of New York and New Jersey and city economic development agencies to jointly sponsor because he promised to create jobs.

The plant, in the Bathgate Industrial Park, will employ more than 100 Kleener King workers at peak operation.

As his company grows, Aguiar credits his parents for his perseverance. The couple moved to New York from Puerto Rico in the early 1950s, and opened Joe's Cleaners in 1956 with $5,000 in seed money.

His father insisted he work every Saturday starting at 6 a.m. and after school, except when he played for softball and football teams.

Aguiar said some of his earliest memories were in the store. "I was a dry cleaning baby," he said, recalling photos of him sitting on a dryer or atop a clothes bin.

Thirty-five years after his parents' start, Aguiar was crafting his plans for Kleener King.

In the early days, the company was pulling in about $250,000 in revenues. This year, that jumped to about $2 million, and he hopes it could grow to about $10 million in four years.

Working seven days a week at the business has been his routine since his mother died in 1993. Unmarried and without much family in New York, he works well into the evening before trekking home to Bayside, Queens.

"Kleener King is my life," said Aguiar, who for the past three years has been a guest speaker at Columbia University on entrepreneurship and who vows to attend business school one day.

In hopes of pursuing that dream, he's trying to get credit for his professional experiences to help achieve the equivalent of an undergraduate degree.

"I've learned a lot on my own," Aguiar said.

HONORING BEN DiGREGORIO

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. ENGEL. Mr. Speaker, Ben DiGregorio is that rare individual, someone who has devoted his life to the service of his country, his city and his community. He came to the Bronx when he was a year old and has lived here ever since. He joined the Navy as a young man and when he was discharged, joined the New York City Police Department. He has a marvelous 34 year career and was named the first commanding officer of the 49th Precinct when it opened in 1985. He retired three years later but was not finished.

Captain DiGregorio was elected to Community School Board 11 and he has served in that capacity for 11 years. But he not only served on the Board but would go to schools to give career counseling and read to the students. He was honored by the Forum of Italian American Educators with their Community Service Award for his work on the School Board.

Ben and his wife Virginia have a daughter, Donna, and two sons, Steven and David. He is retiring from Community School Board and I want to join his friends and colleagues in wishing him and his family all the good that life has to offer. He has certainly earned it.

NATIONAL COOPERATIVE MONTH

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. MORAN of Kansas. Mr. Speaker, it is with great pleasure today that I rise to join my colleagues in supporting National Co-op Month. Across Kansas and across the country, cooperatives form the economic backbone of many communities. Co-ops provide power, purchase the agriculture products, add value to the farmer and rancher, and allow individuals to join together in their local communities.

Across the country, over 70 million people belong to some type of cooperative. Since Ben Franklin formed the first co-op in 1752, co-ops have operated with three basic principles: user ownership, user control, and user benefits. It is with those three principles that individuals can work together to add value and compete in a world where mergers and concentration are often the stories of the day.

In Kansas, farmers and ranchers have joined in innovative cooperative projects aimed at moving them from being producers, to being processors and providers of wholesome food products in the grocery store. Kansas' 21st Century Alliance has taken risks to move farmers into grain processing, beef processing, high-volume dairying, and even dry-edible bean processing. All of these ventures have been cooperatives, allowing producers ownership, control, and, hopefully, the benefits.

The challenge for Congress is to support and encourage more opportunities for farmers and ranchers to add value and gain a greater portion of the food dollar. Cooperatives provide that opportunity, and I look forward to pursuing new ways to assist cooperatives as they grow and advance on behalf of their member-owners.

Mr. Speaker, I join my colleagues in congratulating cooperatives on their first century and a half, and wish cooperatives success in these and other ventures for the next century.

CHILD ABUSE PREVENTION AND ENFORCEMENT ACT

SPEECH OF

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 764) to reduce the incidence of child abuse and neglect, and for other purposes:

Mr. GARY MILLER of California. Mr. Chairman, I rise today in support of H.R. 764, the Child Abuse and Protection Act of 1999—the CAPE Act.

As a cosponsor of H.R. 764, I would like to extend my gratitude to Congresswoman DEBORAH PRYCE for her hard work on this important measure.

Today at least 500,000 children in the United States are enrolled into foster care or institutions because living situations are so bad, they must be removed from their homes.

In 1997 alone, there were 3 million reported cases of child abuse and neglect.

The challenge for this Congress was to craft legislation which would alleviate this suffering by our children while giving states and localities the resources combined with the flexibility to deal with the child abuse problems in their own communities.

The CAPE Act meets this challenge beautifully.

H.R. 764:

(1) Allows state and local officials to use existing law enforcement grants for child abuse prevention.

(2) Allows state and local officials to use existing Identification Technology Act grants to provide child protection agencies access to criminal history records.

(3) And what I like best about this bill, is that it increases direct funding for child abuse related services in the Crime Victims Fund—all of which comes from forfeited assets, bail bonds, and fines paid to the government by criminals—Not the Taxpayers!

The CAPE Act is an effective piece of legislation that gives those who know how to help abused children the resources they need to do their job, as they see fit.

Once again, Mr. Chairman, I urge my colleagues to support this much-needed piece of legislation.

JACKSONVILLE SYMPHONY ORCHESTRA'S 50TH ANNIVERSARY

HON. TILLIE K. FOWLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mrs. FOWLER. Mr. Speaker, I rise today to recognize two significant events in the cultural life of my home city of Jacksonville, Florida: the 50th Anniversary of the Jacksonville Symphony Orchestra and the much-anticipated arrival of the Symphony's new Music Director, Fabio Mechetti.

Mr. Speaker, either of these things would be something to celebrate under any circumstance. Coming together as they do, however, they represent a unique milestone for the Symphony and for the people of Northeast Florida.

Founded in 1949, the Jacksonville Symphony Orchestra has developed from what was essentially a pick-up group doing seven or eight concerts a year into a full-fledged professional orchestra with a nine-month season and a budget of nearly $7 million. In the process, it has become one of the finest and most respected orchestras in its class in the United States and gained a new home in Jacoby Hall—the only dedicated symphony hall in the state of Florida and one of the few in the nation.

This season, the Symphony will reach more people than ever before, with the advent of innovative new education and outreach programs, and with performances throughout the state and in Myrtle Beach, South Carolina. In addition to the stellar array of programs and guest artists including cellist Lynn Harrell, pianist Leon Fleisher, and guest conductors like Philippe Entremont and Joseph Silverstein, the orchestra will also highlight its own by featuring a number of orchestra musicians as soloists, including concertmaster Philip Pan, principal trombonist Richard Stout, and the redoubtable Charlotte Mabrey, one of the world's few female principal percussionists. In a milestone 50th Anniversary Festival, orchestra patrons will be treated this year to a look at the Symphony's past and a taste of its future, including the sponsorship of the first-ever Florida Composers Competition.

The icing on top of this anniversary cake of great music and great community service is the arrival of the Symphony's new Music Director, distinguished conductor Fabio Mechetti. Born in Brazil, Maestro Mechetti is one of the most respected young conductors in the U.S. today, garnering consistent praise from critics and colleagues for his artistry and knowledge of the repertoire. Chosen as Music Director in 1999 after an intensive, two-year search process, he comes to Florida's First Coast from the West Coast, where he has been Music Director for the Spokane Symphony for 6 years.

Maestro Mechetti, who just finished a 10-year tenure as Music Director of the Syracuse Symphony and was recently appointed as Music Director of the Rio de Janeiro Opera, has also served as Resident Conductor of the San Diego Symphony and Associate Conductor of the National Symphony in Washington, D.C., where his children's programs won the National Endowment for the Arts

Award for Best Educational Programming in the United States in 1985. He has appeared as guest conductor with many of our nation's outstanding symphony orchestras, as well as with orchestras in Mexico, Brazil, Venezuela, Denmark and Japan, and is gaining acclaim in the opera world as well.

Mechetti and his wife, Aida Ribeiro—a brilliant concert pianist—will be making their home in Jacksonville in the near future, deepening the ties between the Symphony and its new leader. The advent of the new creative partnership between Fabio Mechetti and the Jacksonville Symphony Orchestra marks yet another giant step forward for the orchestra and for the cultural life of our community.

Mr. Speaker, I ask my colleagues to join me in congratulating Maestro Fabio Mechetti and the Jacksonville Symphony Orchestra on a momentous 50th Anniversary Season and the beginning of a new millennium of great music.

IN HONOR OF THE POLISH AMERICAN CONGRESS, OHIO DIVISION, IN CELEBRATION OF THEIR 50TH ANNIVERSARY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. KUCINICH. Mr. Speaker, I rise today in honor of the Polish American Congress, Ohio Division, as they celebrate their 50th anniversary.

On May 18, 1949, the Ohio division of The Polish American Congress was founded. The Polish American Congress is composed of individuals of Polish ancestry as well as Polish organizations. The group serves as a unifying force for both Polish Americans and Polish citizens living in America. Taking a positive stand on issues concerning the people of Poland, the group strives to attain a free market economy within the frame work of a democratic society.

The goal of the Polish American Congress is to make Americans of Polish heritage more effective U.S citizens by encouraging them to assume the responsibilities of citizenship. In addition, the group supports fraternal, professional, religious, and civic associations dedicated to the improvement of the status of Polish Americans.

It is evident that The Polish American Congress has played a crucial role in the Polish Community, and in its many years of service has been an invaluable contribution to the Cleveland Community.

UNBORN VICTIMS OF VIOLENCE ACT OF 1999

SPEECH OF

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1999

The House in Committee of the Whole House on the State of the Union had title consideration the bill (H.R. 2436) to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes:

Mr. BLUMENAUER. Mr. Chairman, I wish to express my opposition to H.R. 2436. Since the landmark Roe v. Wade Supreme Court decision, Congress has slowly passed legislation that has eroded women's reproductive choices. This is a personal and private decision that should be made by a woman, her family, her physician, and her beliefs, not subjected to increasing levels of government interference.

Rather than being merely a good faith effort to protect pregnant mothers from violence, the "Unborn Victims of Violence Act" is actually a back door attempt to interject government into individuals' private lives. Harsh penalties already exist in thirty-eight states for crimes against pregnant women that result in the injury or death of her fetus.

The overwhelming majority of crimes against pregnant women that cause injury to her fetus occur in cases of domestic abuse or drunk driving accidents, instances that are prosecutable under currently existing state laws. H.R. 2436 would do nothing to add to the existing protections against these serious and prevalent crimes. Nearly one in every three adult women experience at least one physical assault by their partner during adulthood and drunk driving accidents continue to result in substantial loss of life in every city across the nation. Instead of focusing on purely political measures aimed at the erosion of a women's reproductive freedom, we should be enacting more appropriate penalties, passing measures to promote protection from violence, and increasing assistance to women in life threatening domestic situations.

If the sponsors of this bill truly cared about addressing violence against women, particularly pregnant women, they would have voted in support of the Lofgren Amendment that enacts strict punishments for crimes that result in the injury or death of the fetus without the inclusion of constitutionally questionable language. Or we would be considering the reauthorization of the Violence Against Women Act that has proven to help victims of domestic violence. Clearly H.R. 2436 is more about politics and less about the protection of a woman or her fetus.

REGARDING THE DEATH OF WILLIAM SALETIC

HON. JENNIFER DUNN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Ms. DUNN. Mr. Speaker, the State of Washington and the Northwest seafood industry lost a valuable friend with the death of William G. Saletic on September 9, 1999. Bill had been a very important part of my state's commercial fishing industry since 1960 when he first represented the Purse Sein Vessel Owners Association. Over the next forty years he became both a leader in the industry and an important advisor to many Presidential Administrations and to all who served in the Washington Congressional delegation during that time.

At the time of his death, Bill had just recently retired from his position as President of Peter Pan Seafoods, one of the premier commercial seafood processing companies in the United States, and one of the largest in the Northwest. While at Peter Pan he found time to not only build the company into a marketing powerhouse, but he also remained involved in fishery politics through his membership on numerous boards, commissions, advisory panels and trade associations. Among these were the International North Pacific Fisheries Commission, the Committee for Fisheries of the Law of the Sea, the International Pacific Salmon Fishing Commission, the Board of Directors of the National Fisheries Institute, the Board of Directors of the National Food Processors Association, the Board of Directors of the Alaska Seafood Marketing Institute, Chairman of the Pacific Seafood Processors Association, and member of the Board of the Independent Colleges of Washington.

Bill's involvement in the fisheries of the Northwest and Alaska predates all those who are currently in the Congressional delegations of either Washington or Alaska. He had the chance to assist Senators Magnuson and Jackson in crafting legislation which helped to protect our domestic salmon industry. In the 1960's and 1970's he worked with the Johnson, Nixon, Ford and Carter Administrations in negotiating international fishery agreements to balance access to the resource against the need to limit harvests to a sustainable level. He worked with Senators Magnuson and Stevens and Congressman DON YOUNG in the 1970's developing the legislation which extended American fishing jurisdiction out to 200 miles. And he remained active during the 1980's and 1990's as we successfully developed a whole range of commercially valuable species in the North Pacific, species which now provide employment to thousands of Washington residents.

Bill was very proud of his long involvement with the commercial fishing industry, but he was perhaps even more proud of the years of hard work that he put in working toward both a degree in Business Administration and a Masters in History from Seattle University, an institution for which he had a special fondness.

Education was always an issue of great importance to Bill, and he conveyed this value to his six children who were a great joy to him during his lifetime. He will be greatly missed by them by his wife Dolores who, sadly, had only been able to enjoy one year of retired life with Bill prior to his sudden and tragic death.

I feel that I have lost both a close advisor and a friend with the passing of Bill Saletic. He will be missed by me and by all those who had the opportunity to know him.

IN RECOGNITION OF SEAN STEPHENSON'S ACCOMPLISHMENTS

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. LIPINSKI. Mr. Speaker, I rise today to honor a remarkable constituent and former intern with my office, Sean Stephenson. Sean

Stephenson has a remarkable outlook on life, nutrition, and fitness. The following is an article on Sean Stephenson that was printed this summer in The Suburban LIFE Citizen, a local paper in my district. I encourage my colleagues to read the article and join me in applauding Sean Stephenson for his accomplishments. I wish Mr. Stephenson continued success in the future.

MAKING A CHANGE—STEPHENSON ADOPTS NEW FITNESS, HEALTH REGIMEN

(By Wendy Foster)

He calls himself Mr. Tiny Universe . . . a fitness buff with a whole new look.

He is tiny . . . measuring in at 2 feet, 10 inches tall. But diminutive stature aside, La Grange resident Sean Stephenson's indomitable spirit combined with his enormous strength of character make him in fact, larger than life.

The 20-year-old was born with Osteogenisis Imperfecta, a genetic connective tissue and bone disorder. Stephenson has a serious form of the condition, which is characterized by bones that break easily from little if any apparent cause.

Never one to let his physical limitations affect his academic, social, or business achievements Stephenson has now set about improving his fitness and health through what he calls a dramatic change in his lifestyle.

Late last year Stephenson had several experiences that he said changed his life drastically. This started, he recalled, with a December trip to Florida with his family to attend a Tony Robbins seminar.

Robbins is a world-renowned inspirational speaker and the author of popular self-improving books.

Calling Robbins "the world's greatest motivator," Stephenson who has launched his own inspirational speaking business explained, "He's been my hero when it comes to inspirational speaking."

A featured event scheduled toward the end of the seminar was a fire walk. During this, seminar attendees were encouraged to walk across hot coals. Stephenson went in his wheelchair over to where Robbins was helping to supervise the fire walk.

Unable to walk, Stephenson was carried over the hot coals in Robbins' arms. Stephenson recalled, "It was the most incredible experience . . . They were the most intense seconds of my life . . . It felt like an angel was carrying me up to heaven."

Stephenson and his family later had the opportunity to visit with Robbins in his hotel room. Robbins questioned Stephenson about his disability, and then put him in touch with a physician friend of his in Utah.

Several days prior to Christmas, Stephenson went to Utah to see Dr. Robert Young, a hematologist with a speciality in holistic medicine.

Explaining his visit Stephenson said, "He has a different view on medicine. He tested my blood and showed me all of the horrible garbage in my blood from eating wrong. He told me that in order to get healthy and strengthen my bones, I would need to change my eating habits."

He continued, "Every doctor, every surgeon, everyone I have ever gone to has been about taking a pill, a shot, or having more surgery. None of them have made me feel the way that a new nutritional program would . . . I didn't think anything could change with my body through nutrition. I lived on macaroni and cheese everyday. If it was green, I didn't eat it."

After his consultation with Young, Stephenson did a 180-degree turn in terms of his eating habits, becoming an avid vegan. A vegan, he explained, is someone who does not eat any animal by-product.

He has also drastically cut down on his consumption of sugar, salt and foods made with yeast. Stephenson eats tofu, rice, legumes, and water content foods, which he said are vegetables high in water content.

The one-time junk food eater now starts out his morning with steamed broccoli and olive oil on a whole wheat tortilla. Stephenson explained, "It's packed with Vitamin C and calcium and will keep me going strong till noon or later."

Stephenson drinks water laced with a product that Young calls super greens. Admitting that the concoction tastes like "fresh cut grass," Stephenson said it neutralizes acid in the body.

Describing his new eating habits Stephenson stressed, "This is not a diet. This is how I'm eating for life."

In addition to drastically changing his nutritional program, Stephenson embarked upon a strenuous exercise regime, working out for one and a half hours, five or six days each week.

He reported, "It's the best thing that's ever happened to me. I have basically gained muscle mass in massive amounts in a small time."

Stephenson developed his own exercise program on his computer. He now works out with weights, does stomach crunches and push-ups, jogs in place while laying down, and works out with a speed chair, the kind of wheel chair used in racing competitions.

Stating that most people quit exercising because of boredom with their routines, Stephenson makes certain to alternate his workout regularly.

Stephenson reported that since he started his new nutrition program and exercise regime. "I believe that I'm a lot stronger. When I'm reaching for something, I don't feel like a bone is about to break. I feel more confident. I can now lift my own body so I know I'm stronger."

For the first time in his life, Stephenson said, he has been able to go down the stairs in his home un-aided. He observed, "It's amazing what I have been able to do." Stephenson said, "I was never told with my disorder to work out. I have had hundreds of broken bones. If I had been told to do things to strengthen my muscles in order to reduce my risk of broken bones, I would have done this years ago."

While his ongoing goal is to increase his bone density, Stephenson's long-term goal is to strengthen his muscles enough to enable him to live independently.

In what he admitted is a "wild theory" Stephenson also hopes to decrease the chances of passing on his disorder to his future children. He explained that he feels he can do this if his "body is in the best possible shape."

Stephenson now plans to use his personal experiences leading up to his lifestyle change in his inspirational speaking. He said, "If I can work out, and I have a billion and one reasons not to, then a healthy person definitely should."

Stephenson continued, "Exercising is not just for Arnold Schwartznegger, it's for everyone. I could always say I break really easily or it's not as if I will look any stronger. I could rattle off a million of excuses and people would say I'm probably right. But I have to put myself at the same standard of health or even above if I want to be judged with everyone else."

Stephenson stated, "I look completely different than the average fitness buff. People look at me and think 'If a guy in a wheel chair can do it I need to get off my duff and do it.' I think it motivates them more than when they hear it from someone who has giant muscles. They look at me and see that even though I have things going against me, I'm willing to get out there and make the best of my own body."

Stephenson concluded, "Look at me, I'm 2'10 and I am in a wheelchair and I have every reason in the world not to work out. But I do. Why? Because I believe you need to use what you were given in life."

HONORING EMILY SANCHEZ

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. ENGEL. Mr. Speaker, certainly one of the most important things we can do for our children is to pass on our knowledge to them. Emily Sanchez is someone who has done that. She has been a member of Community School Board 11 for 16 years, twice in that time serving as president of the Board. She also served as Board Secretary and chair of the budget, finance, curriculum and continuing education, personnel and zoning committees.

She hit the ground running at the School Board by leading the fight in her first term to keep I.S. 180 open when the Central School Board wanted to close it.

She did not limit her activities to the School Board. She is also a member of Community Advisory Boards of the Jacobi Medical Center and chair of the AIDS and Support Services Committees, a member of Montefiore Medical Center as well as a member of the Co-op City Democratic Club and the Hispanic Society of Co-op City.

She did not run for re-election to the School Board and this is a loss we will feel for a long time. I want to wish her, her husband and their two sons the very best in the future and say that I and the community will dearly miss her ability and her leadership.

IN HONOR OF UNITED STATES CUSTOMS SERVICE PORT OF CLEVELAND

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. KUCINICH. Mr. Speaker, I rise today to honor the Bicentennial Celebration of the United States Customs Service Port of Cleveland.

The United States Customs Service Port of Cleveland has worked hard for two centuries to make the Port of Cleveland a respected and renowned international port. Due to their extraordinary efforts in making the Port of Cleveland a success, the City of Cleveland has flourished and become a distinguished international trade center for the new millenium.

Following in the tradition of the United States Customs Mission Statement, the employees at the Port of Cleveland truly are the guardians of Cleveland's borders, the Nation's borders and America's frontline. For the past two hundred years, the Port of Cleveland has indeed served and protected the American Public with integrity, innovation, and pride. Furthermore, the Port of Cleveland has achieved the purpose of enforcing the laws of the United States, safeguarding revenue, and fostering lawful international trade and travel.

Not only has the Port of Cleveland fulfilled their goals outlined in their mission statement, but they have recently won the Hammer Award for their leadership in bringing national attention to the Express Consignment Industry. Placing the U.S. Customs Port of Cleveland at the forefront of trade processing, the Port of Cleveland is sure to serve as a model to be exemplified by other U.S. Customs Service Ports of Entry. Congratulations to the United States Customs Service Port of Cleveland for two hundred years of hard work, service, and dedication.

My fellow colleagues, join me in honoring the Bicentennial Celebration of the United States Customs Service Port of Cleveland.

PROFILES OF SUCCESS HONORS MR. SILVESTRE HERRERA

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. PASTOR. I rise before you today to pay tribute to a man who has been a lifelong example of the courage and patriotism of the Latino soldier, Mr. Silvestre Herrera. Mr. Herrera is one of the few Mexican-Americans to earn the Congressional Medal of Honor. In Arizona, Mr. Herrera recently received the Hall of Fame Award at the Valle del Sol's Annual Profiles of Success Leadership Awards. Valle's award ceremony is the premiere Latino recognition event in Arizona each year that acknowledges Arizona's leaders and their contributions.

Silvestre's courageous actions in World War II display acts of great personal and physical sacrifice to support his fellow soldiers during combat in France. Then PFC Silvestre S. Herrera, Company E, 142nd Infantry Regiment, 36th Division, attacked two enemy strong points and captured eight enemy soldiers. He paid a high price for his bravery. He stepped on a land mine and had both feet severed. But despite intense pain and unchecked loss of blood, he pinned down the enemy with accurate rifle fire while a friendly squadron captured the enemy gun by skirting the minefield and rushing in from the flank.

In addition to being a two-time winner of a Profiles of Success award—he first won in the Special Recognition category—Silvestre has used his position as a recipient of one of the nation's highest honors for heroism to promote the Latino community in everything he does. From speaking to schoolchildren to representing veterans in military parades, he continues to give selflessly to the community of his time and wisdom.

Although he has been honored numerous times for his magnificent courage, extraordinary heroism and self-sacrifice, I ask you to again join me in paying tribute to a man who is a symbol of the courage shown by Mexican-Americans during our nation's wars. Please join me in thanking him and wishing him continued success.

TRIBUTE TO UNIVISION COMMUNICATION'S WXTV/CHANNEL 41

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Univision Communication's WXTV/Channel 41 for its continuing service to the Latino community in New York. In addition to its popular news program, "Noticias 41", today the station will launch New York's first early morning Spanish-language newscast, from 6 a.m. to 7 a.m.

Mr. Speaker, I ask my colleagues to join me in paying tribute and wishing continued success to Univision Communication's WXTV/Channel 41.

The following article, which appeared in the October 4 New York Daily News, discusses Univision and Channel 41 in more detail.

NEW YORK UNIVISION AFFILIATE LAUNCHES MORNING SPANISH-LANGUAGE NEWSCAST

At the Spanish-speaking Otero home in midtown Manhattan, David Otero doesn't have to think twice when asked about the family's favorite TV station.

"Channel 41—it's out of sight," said the bilingual 27-year-old. "My mother likes the novelas and I like the comedies."

So do tens of thousands of Hispanic New Yorkers who have made Univision Communication's WXTV/Channel 41 the metro area's No. 1 Spanish-language station, drawing in about 122,625 households—more than four times that of its main rival, Telemundo's WNJU/Channel 47.

Today, the Univision station will try to grab even more of the TV viewing audience when it launches New York's first early morning Spanish-language newscast, a 6 a.m. to 7 a.m. version of its popular news program, "Noticias 41."

Hosted by Spanish broadcasting veterans Adhemar Montagne and Arly Alfaro, the show is aimed at drawing away Spanish speakers who now get their wake-up calls from English-language stations WCBS/Channel 2, WNBC/Channel 4, WNYW/Channel 5 and WABC/Channel 7.

The expansion of Univision's local news—which recently won two Emmy awards, a first for Spanish-language TV—comes in the middle of a hot streak at Channel 41, founded 31 years ago.

In an additional sign of its growing prominence, the station has several times in the past week surpassed WWOR/Channel 9, with programs like "Noticias 41" hosted by veteran Rafael Pineda outdrawing sitcom "Sister, Sister," and novelas "Soadoras" overtaking "In the House."

Even Channel 2 took a recent beating from Univision when network newscast "Noticiero Univision"—from 6:30 p.m. to 7 p.m.—overtook "The CBS Evening News with Dan Rather."

Channel 41's strides mirror the rise of New York's Latino community. The fastest-growing minority group in the region, which includes the city and its surrounding suburbs, Hispanics account for about 18 percent of the population, numbering 3.4 million.

"New York continues to be the historic point of entry," said Carey Davis, general manager of Hispanic radio stations WSKQ/97.9 FM and WPAT/93.1 FM.

As Channel 41 has stolen market share, its Los Angeles-based parent has prospered as well. Under Chairman Jerry Perenchio—a former Hollywood talent agent who represented Marlon Brando and Elizabeth Taylor before joining the network in 1992—the company's ratings growth has made it the nation's fastest-growing TV network.

A tough-minded manager, Perenchio refuses to allow any Univision executives to speak to the press, once even fining an employee who defied him. Perenchio and other Channel 41 executives refused Daily News requests for interviews.

While it has been widely reported that Perenchio doesn't even speak Spanish, he secured the long-term rights to some of the most popular programming in Latin America, generated by entertainment powerhouses Televisa of Mexico and Venezuela's Venevision, both of which own a stake in Univision.

As a result, the network gets a steady dose of novelas, the extremely popular soap-operalike miniseries that Channel 41 airs in prime time, starting with novelas for teens and racier ones as the night goes on.

One current hit is "Camila," the story of a young woman in a small town whose husband leaves her behind for a job in the big city, where he's seduced by his boss' daughter.

"[Novelas are] a way of life in Puerto Rico," said Millie Almodovar-Colon, a media buyer at Siboney USA, a Spanish advertising agency that represents Colgate-Palmolive and Denny's. "My grandma watched them and my mom watched them," she added.

Univision's program monopoly puts Telemundo's Channel 47 at a big disdvantage, acknowledged that station's general manager, Luis Roldan.

"The novelas guarantee the minds, hearts and souls of the viewers," he said. "We can't buy that programming."

Last year, Telemundo, owned by Sony and AT&T's Liberty Media, tried to strike back, taking old shows like "Charlie's Angels" and reshooting them with a Hispanic cast. "It bombed," Almodovar-Colon said.

While Channel 41 is the leader, Roldan is determined to narrow the gap. Telemundo has been pouring money into new programming recently, and Roldan said he is banking on new shows like "Father Albert," a talk show hosted by a priest.

Even more important, Channel 47 secured the rights to broadcast Yankees, Mets and Knicks games in Spanish.

While Univision is making ratings strides, it remains a laggard when it comes to total advertising dollars. Last year, the station took in $50 million, abut one-sixth the sales of Channel 4.

That's because advertisers have historically poured fewer dollars into reaching Spanish-speakers even though their numbers are rising.

"It's racism and ignorance," Almodovar-Colon contended.

But she added that the tide has been changing for Spanish-language media as the explosive rise of entertainers like Ricky Martin, Jennifer Lopez and Marc Anthony draws attention to the city's Hispanic population.

Latino culture is becoming "the hottest thing around," Almodovar-Colon said.

U.S. TRADE DEFICIT RISES AGAIN

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. LIPINSKI. Mr. Speaker, on September 21, the U.S. Department of Commerce issued its regular report on the U.S. trade deficit for the month of July. It should be no surprise to many of my colleagues in this chamber that the deficit has risen again. It has, in fact, grown to $25.2 billion, a 2.4 percent increase from June.

The U.S. deficit set new records with Japan, China, and Western Europe. Foreign products flood our shores, an there's nothing being done. In 1998, the U.S. trade deficits with China and Taiwan accounted for nearly one-third of the total U.S. trade deficit. The deficit with China alone skyrocketed from $3.5 billion in 1988 to nearly $60 billion in 1998, and Taiwan is consistently one of our top ten deficit trading partners.

Nobody seems to notice or care about this problem. Foreign trade becomes a larger and larger portion of our economy. Exports plus imports represent over twenty percent of the U.S. gross domestic product. We ignore it at our own peril. Most economists argue that the trade deficits do not matter. I strongly disagree. Even Alan Greenspan, Chairman of the Federal Reserve, said, "unless reversed, our growing international imbalances are apt to create significant problems for our economy."

Consequently, huge bilateral trade deficits means lost trading opportunities and ultimately means lost American jobs. While rosy unemployment figures hide the fact that over the last year 422,000 Americans lost good-paying manufacturing job to workers overseas, families continue to labor to make ends meet in low-paying service sector jobs.

While I recognize the fact that the U.S. Trade Representative has done much to improve market access, I strongly believe we can still make significant gains. Consider we have one of the largest markets in the world. Every nation wants to sell their product to us, and we must more effectively utilize this leverage. It comes down to a simple proposition. If foreign nations don't let us fairly sell American products in their markets, we shouldn't let them sell their products in America. We're only asking for what is fair. We're only asking for a level playing field, and we're not even getting that.

This is a real problem, and I submit that with most problems, there is usually a simple solution.

Mr. Speaker, I call upon the U.S. Trade Representative to step up efforts to tear down those tariff and non-tariff trade barriers that impede American exports to those nation, especially China and Taiwan. By opening up those huge consumer markets to American products, we can do so much for American workers. Open up those markets, level the playing field, increase American exports, and create American jobs. It's as simple as that.

GENERAL FEDERATION OF WOMEN'S CLUBS ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. KANJORSKI. Mr. Speaker, I rise today to bring to the attention of my colleagues the 75th Anniversary of the General Federation of Women's Clubs (GFWC) of Luzerne County. The GWFC will celebrate this milestone at a breakfast meeting on Saturday, October 9, 1999. I am pleased and proud to have been asked to participate in this event.

Since 1924, the GFWC has been a community-based, volunteer organization representing women of all ages. Early records show meetings held in two parts, the Board of Directors and a Presidents Meeting, which involved club presidents from all over the county in attendance. The purpose of the organization was to bring together the officers of all area women's clubs and consolidate various volunteer programs and projects. The Luzerne County GFWC currently consists of fourteen volunteer clubs representing almost 600 women of all ages.

Many worthy causes have benefited from the GFWC's efforts throughout the years. Federation Day, held in conjunction with Boscov's Department store, has brought thousands of dollars to area social service agencies. In the early 1980s, the GWFC donated almost $40,000 to the Domestic Violence Service Center to aid a shelter for battered women and children. Other GWFC projects have included supporting Drug Free School Zones signs for all area schools and universities, rooms for terminally ill patients at Hospic St. John, hearing aids for Wyoming Valley Childrens Association, a van for Catherine McCauley Center, wishes for terminally ill children under the Make A Wish Foundation, a rescue boat for the Luzerne County Sheriff's Office, and a beautiful new marquee for the Kirby Center.

The General Federation of Women's Clubs of Luzerne County is affiliated with the national GFWC in Washington, D.C. and the Pennsylvania GFWC. Consisting of six departments—arts, conservation, education, home life, international affairs, and public affairs—the Federation's structure helps it address the needs of the community and respond to calls for help. Nationally, some twenty-seven million volunteer hours and more than $56 million have been donated to volunteer projects since 1996. Locally, the GFWC proudly joins in this massive volunteer effort each and every year. This year, the local club joins in the effort to assist our libraries, turning its volunteer resources to the America's Promise program to "keep our library doors open."

Mr. Speaker, the Luzerne County GFWC is an essential element in the high quality of life we enjoy in Northeastern Pennsylvania. These dedicated women take time out of their busy lives to touch the lives of thousands of others. I am proud to join with the community on this milestone anniversary in thanking the General Federation of Women's Clubs and its fourteen affiliates for 75 years of good work and community service. Northeastern Pennsylvania is truly richer through the hard work of these dedicated individuals.

RECOGNITION OF JEANNIE I. ROSOFF'S 30 YEARS OF COMMITMENT TO WOMEN'S REPRODUCTIVE HEALTH AND FREEDOM

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. WAXMAN. Mr. Speaker, i rise today to honor Jeannie I. Rosoff, President of the Alan Guttmacher Institute, who will be retiring after 31 years of service, 20 of them as AGI's president. AGI, under Jeannie's leadership, has been an invaluable partner in working to protect and promote reproductive health and freedom.

During the years I served as Chairman of the House Subcommittee on Health and the Environment, and since, I have relied heavily on AGI's timely, relevant and reliable research and on its politically astute staff, all guided by Jeannie, to help advance us towards our mutual goal. Among the many programs that fell under my subcommittee's jurisdiction were Title X of the Public Health Service Act—the national family planning program—and Medicaid. As a result, the subcommittee became a focal point for legislative activity relating to reproductive health policy. During the time my tenure has overlapped with Jeannie's, we have made numerous efforts—some of them successful—to pass legislation reauthorizing Title X without debilitating amendments. We have fought off the squeal rule—a requirement that minors could only obtain contraceptive services with prior parental consent—and defended against the gag rule, which would have prohibited doctors at Title X clinics from providing women full information about their pregnancy options and prevented women from being able to give informed consent to their medical care. We have resisted repeated attempts by family planning opponents to dissolve Title X's categorical structure and to fold family planning services into a block grant to the states. We have fought against the countless legislative attacks on access to safe abortion services for indigent women, especially affecting those eligible for Medicaid. Finally, we have tried to promote a national approach to health care reform, which would have recognized comprehensive reproductive health care as an integral and legitimate part.

Many of these battles, both pro-active and reactive, will certainly continue in the years to come. I intend to continue to advocate for rational and compassionate federal policies on reproductive health and rights, and I know Jeannie will too, even if it is not in her official capacity anymore. After all, Jeannie was here in Washington in 1968, spearheading the effort to gain federal recognition of the important role of the national government in ensuring access to reproductive health services for all people. She advocated especially on behalf of those least able to advocate for themselves: poor women, young women and those otherwise disadvantaged. Indeed, she may well be considered the "mother" of title X, as she was the primary Washington advocate agitating for its introduction in 1968 and passage in 1970. Her innumerable contributions to furthering the cause of reproductive rights have been invaluable and lasting, perhaps most of all to those young women and poor women who will never know her name. And I know they will continue in the future.

For what she's done, and all she's been, I join the many, many others who say, thank you, Jeannie.

IN TRIBUTE TO J. WILLIAM "BILL" LITTLE

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. GALLEGLY. Mr. Speaker, I rise to pay tribute to J. William "Bill" Little, who will retire as City Manager of Camarillo, California, this month after bringing it back from the precipice of bankruptcy.

As a former mayor of a neighboring city, I know firsthand how important it is to have someone of Bill Little's caliber at the helm. He is a low-key taskmaster who works quietly and effectively to ensure necessary assignments are accomplished. Eleven years ago, Camarillo suffered a $25 million loss to bad investments. Its budget was bleeding. The employee pension fund was bare. Then the city hired Bill Little.

Today, the city of 62,500 is thriving. In 1987, the city brought in $2.5 million in sales taxes. In 1998 it took in $6.3 million, thanks in large part to the upscale outlet mall and other retail endeavors Bill Little brought to Camarillo. Its credit rating has rebounded. It has money to spend to better the community.

Although Camarillo has long been in the center of the urbanized stretch of Ventura County, meeting planners previously bypassed it for "more suitable" locales. Today, Camarillo is recognized as a fine place to bring the east and west together. Under Bill Little's guidance, it has also become a center for high-tech firms.

Only a person with the rare gifts of both vision and ability could have made it happen. After tightening the city's belt and making it solvent, Bill Little led the way toward rebuilding the city's infrastructure, including a new water treatment plant and police station. Streets were widened, three interchanges off the Ventura Freeway were added, and the county was persuaded to build a new fire station in the city.

Those improvements made the city much more attractive to commerce, and commerce has responded enthusiastically.

Bill Little is also largely responsible for bringing Ventura County's first four-year university to Camarillo, a facility that will improve the educational and job opportunities for Ventura County residents for decades to come.

Bill and wife Mary will remain in Camarillo after he retires, enjoying the community he raised up from near catastrophe. The city owes Bill Little a debt of gratitude, but he's not one for such sentiments. He says he was just doing his job, but he did it quite well.

Mr. Speaker, I know my colleagues will join me in congratulating Bill Little for proving that the seemingly impossible can be done, for improving the lifestyle for the City of Camarillo and for all of Ventura County, and for accomplishing it all with understated class.

TRIBUTE TO PATRICIA C. JARRETT

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. COBLE. Mr. Speaker, each year the National Industries for the Blind selects three of its employees to win national awards for service, manufacturing and career achievement. I am proud to say that this year's winner of the Milton J. Samuelson Career Achievement Award is from the Sixth District of North Carolina. The story of our winner, Patricia C. Jarrett of Greensboro, North Carolina, is one of the most inspirational you will ever hear.

One sunny summer day in 1977, Patricia went for an early morning walk on the beach. Her peaceful stroll was interrupted by a man with a gun who abducted her and shot her three times when she tried to escape. He left Patricia to die in a sand dune.

Luckily she was found, but just barely alive. One bullet lodged in Patricia's brain, a second had pierced her right shoulder, and the third struck her in the nose. When she regained consciousness, Patricia was as helpless as a newborn baby.

The damage was permanent. Patricia lost most of her vision along with her hearing in one ear. She was paralyzed on one side of her body. Patricia even had to relearn how to swallow and eat. Patricia completed the 10th and 11th grades of high school through a home tutoring program. She returned to school for the 12th grade winning the award for "the most courageous senior."

Fast forward several years to where Patricia met her future husband, Doug, at a church retreat conducted, ironically, at the beach. In 1991, Patricia entered a training program at Industries and business skills. She was hired as Sears TeleService Center where for four years she handled customer complaints and scheduled repair calls. In 1996, Patricia was hired by the organization which trained her, Industries of the Blind, as a receptionist and switchboard operator.

In her duties, she greets visitors, manages the switchboard, handles walk-in sales, and processes mail for a manufacturing plant with more than 100 employees. In addition to her work responsibilities, Patricia has served on the Greensboro Mayor's Committee for Persons with Disabilities. She has been involved in initiatives to improve transportation opportunities for the disabled and has helped plan annual celebrations in recognition of the Americans with Disabilities Act. Patricia was even a 1996 torchbearer for the Paralympics relay that came through Greensboro on its way to Atlanta.

Now, Patricia is living a full life with no time allowed to feel sorry for herself. In addition to her job, Patricia enjoys spending time at home with her husband and their dog. Looking to the future, Patricia wants to obtain even more computer skills and grow in responsibility at the Industries of the Blind.

On behalf of the citizens of the Sixth District of North Carolina, we congratulate Patricia C. Jarrett on her national honor. We are thrilled that the National Industries for the Blind awarded Patricia with the 1999 Milton J. Samuelson Career Achievement Award. Patricia is living proof that the human spirit is greater than the evil which walks among us and that there are no limits placed upon any of us despite the hardships we may endure. Patricia's story is an inspiration to us all.

CHILD ABUSE PREVENTION AND ENFORCEMENT ACT

SPEECH OF

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 764) to reduce the incidence of child abuse and neglect, and for other purposes.

Ms. KILPATRICK. Mr. Chairman, I rise today in strong and stringent support of H.R. 764, the Child Abuse Prevention and Enforcement Act (CAPE Act). Victims of child abuse often suffer in silence and alone, and this legislation will help shine light on those who take advantage of our Nation's most vulnerable.

In the State of Michigan, every four minutes a child is reported abused or neglected. Statistics indicate that children who suffer the indignity of child abuse are far more likely to demonstrate future deviant behavior along the very same lines they suffered. Other Michigan statistics show that every 31 minutes a baby is born to a teenage mother, and every two days a child or youth is killed by a gun. How many of these additional statistics are directly related to prior child abuse?

By expanding the allowable uses of grant funds provided through law enforcement grants for child abuse prevention, States will have greater flexibility in crafting solutions to the problem. The measure allows grant money to be used for abused children to testify in court through closed circuit television instead of in person. It will also help social workers, child protective workers, and law enforcement officers gain access to criminal records and court documents necessary to safeguard the future placement of children currently in abusive situations.

This bill also provides an additional $10 million, increasing the total to $20 million for child protective services workers; training court appointed special advocates and child advocacy centers. These child advocacy centers will provide a centralized facility that unites all child examination and treatment services in one place. No longer will it be necessary to go from location to location in order to meet the needs of abused children.

Child abuse represents a present and future threat to the well being of our society. Through affirmative and prospective steps like the one we are taking today, we could minimize this threat. I support H.R. 764 because it is time we in Congress enact legislation that addresses future problems. H.R. 764 does this, and should serve as a precedent for future bipartisan cooperation in Congress to meet the present and future needs of the Nation.

CONGRATULATIONS TO PFIZER INC.

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. BEREUTER. Mr. Speaker, this Member rises today to congratulate Pfizer, Inc., on its 150th anniversary. Pfizer is one of the world's premier pharmaceutical companies, recognized for its success in discovering and developing innovative drugs for humans and animals. In its Lincoln, Nebraska, animal health facility, that is located in Nebraska's 1st Congressional District which this Member represents, Pfizer employs 736 men and women who have helped the company in offering its worldwide livestock and companion animal customers one of the broadest product lines in the industry.

German immigrant cousins Charles Pfizer and Charles Erhart founded Pfizer in 1849. From the start, the company sought to chart new courses. The company made many important breakthroughs and developed popular and effective drug treatments in its first 75 years. Pfizer medicines were heavily relied upon by Union Forces during the Civil War, and its ability to mass-produce penicillin in 1944 saved many lives on the front lines of Europe during World War II.

During the era that followed World War II, Pfizer continued in its search for effective antibiotics. Soon, Pfizer began opening plants worldwide and was on its way to developing into an international powerhouse. Today, Pfizer products are available in 150 countries.

In the 1970s, Pfizer began to devote much of its resources to research and development, making long-term investments that would pay off years later. Those investments not only benefited the company, but also the millions of people around the world who have relied on Pfizer drugs to treat a variety of conditions.

From the first Pfizer innovation to the high-performance medicines of today, throughout its 150 years Pfizer has been driven by pioneers—people who were willing to take risks to make the advances that made history. Today, the company spends close to $2.8 billion annually on Research and Development in a wide range of challenging medical fields. Pfizer employees, including the 736 men and women who work in this Member's District, go to work each day dedicated to improving our nation's health.

PERSONAL EXPLANATION

HON. FRANK MASCARA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. MASCARA. Mr. Speaker, I was unavoidably detained on October 5, 1999 and, as a result, missed rollcall votes numbered 474 through 478: on passage of the National Medal of Honor Memorial; on Commending the Battle of the Bulge Veterans; on the Jackson-Lee (TX) Amendment to McCollum Substitute Amendment; and on the Jones (OH) Amendment to McCollum Substitute Amendment to the Child Abuse Prevention and Enforcement Act. Had I been present, I would have voted "yea" on the aforementioned rollcall votes.

COMMENDING GARRISON KEILLOR, NATIONAL MEDAL OF THE ARTS WINNER

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. VENTO. Mr. Speaker, I rise to congratulate a great Minnesota and American humorist, Garrison Keillor. Keillor, best-selling author and radio host of "A Prairie Home Companion," was recently awarded the 1999 National Humanities Medal at a ceremony at Constitution Hall in Washington, D.C. Keillor was one of only 20 individuals selected by the White House to receive the National Medal of the Arts and Humanities for supporting the growth and availability of the arts and humanities to the American public.

During the long, cold Minnesota winters and mosquito-infested summers, the characters of his fictitious small town, Lake Woebegon, make us laugh and remind us of the common human thread that runs through all our communities. And Mr. Keillor doesn't just stick to fictitious characters. With no shortage of raw material, he sometimes takes jibes at us politicians in Minnesota. But we don't mind too much because as Mr. Keillor writes:

"In Minnesota, you learn to avoid self-pity as if it were poison ivy in the woods. Winter is not a personal experience; everyone else is as cold as you are; so don't complain about it too much."

Garrison, I commend you for this great accomplishment. Keep writing, keep telling us your stories and keep us laughing.

I submit the remarks by President Clinton at the National Medal of the Arts and Humanities Dinner as well as a September 30 Associated Press article listing all the 1999 Medal of the Arts and Humanities winners for the RECORD.

REMARKS BY THE PRESIDENT AT NATIONAL MEDAL OF THE ARTS AND HUMANITIES DINNER

SEPTEMBER 29, 1999

The President: Ladies and gentlemen, welcome to the White House. A special welcome to all of our honorees of the National Medals of Arts and Humanities. The nice thing about this evening, apart from being here in America's House slightly before we celebrate its 200th birthday, is that there are no speeches and lots of entertainment—unless, of course, Mr. Keillor wants to substitute for me at this moment. I'll be living down that crack I made about him for the rest of my life.

I want to say again, as I did today and as Hillary did, that this is one of the most enjoyable and important days of every year to us, because it gives America a chance to recognize our sons and daughters who have enriched our lives, made us laugh, made us think, made us cry, lifted us up when we were down. In so many ways, all of you have touched so many people that you will never know. But in all of them accumulated, you have made America a better place, you've made the world a finer place.

And as we look to the new century, I hope that as time goes on we will be known more and more for things beyond our wealth and power, that go to the wealth and power of our spirit. Insofar as that happens, it will be because of you and people like you. And it was a privilege for all of us to honor you today.

I would like to ask all of you here to join me in a toast to the 1999 winners of the Medal of Arts and the Medal of Humanities. And welcome. Thank you.

ARTS MEDALS

(By Joseph Schumann)

WASHINGTON (AP).—As Aretha Franklin, Steven Spielberg and August Wilson passed through a White House receiving line, President Clinton was overheard telling one guest, "If I could make Keillor laugh, I knew that I had achieved."

Humorist Garrison Keillor, director Spielberg, soul diva Franklin, playwright Wilson, and 14 others, as well as the Juilliard School for the performing arts, were awarded national arts and humanities medals Wednesday, chosen by the White House as American cultural treasures.

The medals go to individuals or institutions supporting the growth and availability of the arts and humanities to the general public.

"It gives America a chance to recognize our sons and daughters who have enriched our lives, made us laugh, made us think, made us cry, lifted us up when we were down," Clinton said at a White House dinner honoring the medal winners.

Earlier in the day, Clinton referred to Keillor—a writer and radio impresario best known for his public radio show, "A Prairie Home Companion"—as "our modern-day Mark Twain."

"With imagination, wit and also with a steel trap mind and deep conviction, Garrison Keillor has brought us together," said the president.

He said Keillor's humor and variety show about life in a fictitious small town in Minnesota "constantly reminds us how we're all connected and how it ought to keep us a little humble."

At a ceremony at Constitution Hall near the White House, Clinton said this year's winners of the National Medal of Arts and the National Humanities Medal "defined in their own unique ways a part of who we are as a people and what we're about as a nation as we enter a new century and a new millennium."

American Indian ballet dancer Maria Tallchief and folk singer Odetta were among the musicians, writers and arts patrons so honored this year.

Odetta's 50 years of performing American folk and gospel reminds "us all that songs have the power to change the heart and change the world," Clinton said.

Tallchief helped put an American stamp on classical ballet, until recent decades a primarily European discipline, Clinton said.

The 1999 winners of the National Medal of the Arts are:

—Arts patron Irene Diamond, who gave more than $73 million to the arts through foundations and personal gifts.

—Franklin, the "Queen of Soul" who has won 17 Grammys.

—Designer and architect Michael Graves, who created some of century's most admired structures, including the Riverbend Music Center in Cincinnati.

—Odetta, the "Queen of American Folk Music," who created a groundbreaking sound with her voice and guitar.

—The Juilliard School of performing arts in New York, which includes among its alumni comedian-actor Robin Williams, cellist Yo-Yo Ma and jazz and classical trumpeter and composer Wynton Marsalis.

—Writer and director Norman Lear, who created some of the century's most popular television social comedies, including "All in the Family," "Good Times" and "The Jeffersons."

—Actress and producer Rosetta LeNoire, who boasts a more than 60-year career that includes numerous movies, Broadway productions and TV shows, including "Family Matters" and "Amen."

—Arts administrator Harvey Lichtenstein, who was president of the Brooklyn Academy of Music for 32 years and established it as a leading arts center.

—Singer Lydia Mendoza, who brought Mexican-American music to the public's attention and became famous in Latin America with her signature song, "Mal Hombre."

—Sculptor George Segal, who made a career of sculpting environments, including a life-sized bread line at the Franklin Delano Roosevelt Memorial in Washington.

—Tallchief, who was the New York City Ballet's longtime prima ballerina.

The 1999 winners of the National Humanities Medals are:

—Librarian Patricia M. Battin, who organized a national campaign to save millions of decaying books by putting their content on microfilm.

—Pulitzer Prize-winning writer and journalist Taylor Branch, whose books, including "Parting the Waters: America in the King Years," made him an authority on the civil rights movement.

—New South scholar Jacquelyn Dowd Hall, who founded the Southern Oral History Project at the University of North Carolina-Chapel Hill.

—Keillor, best-selling author and radio host of "A Prairie Home Companion."

—Television anchor and editor Jim Lehrer, host of a public television news program named for him.

—Political philosopher and author John Rawls, renowned for his views on justice, basic rights and equal opportunity.

—Academy Award-winning filmmaker Spielberg.

—Pulitzer Prize-winning playwright Wilson whose plays, including "The Piano Lesson" and "Fences," explore the black experience in America. Wilson is formerly of St. Paul.

UNITED NATIONS' POPULATION FUND (UNFPA) WORK IN KOSOVO

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. CROWLEY. Mr. Speaker, I would like to call attention to the work UNFPA is doing in Kosovo. UNFPA is helping Kosovo rebuild from the war, improving medical care for men, women and children, making deliveries safer, and providing a full range of healthcare services. While the war is over, UNFPA is continuing its work to improve the quality of life and healthcare for Kosovar Albanians.

Mr. Speaker, to answer critics who are questioning their work and commitment in Kosovo, I submit the following explanation of their work into the CONGRESSIONAL RECORD.

UNFPA'S WORK IN KOSOVO

The United Nations Population Fund (UNFPA) is working in Kosovo as part of the United Nations humanitarian and development effort. The United Nations has set up a civil administration in the province of Kosovo, under Security Council Resolution 1244 (1999) of 10 June 1999. UNFPA is working along with other United Nations agencies in Kosovo and is a cooperative partner in the health sector under the leadership of the World Health Organization (WHO). As in all its programmes, UNFPA strictly adheres to internationally agreed human rights conventions and standards and to the Programme of Action of the International Conference on Population and Development, held in Cairo in 1994.

UNFPA'S EMERGENCY RELIEF OPERATIONS

When the refugee crisis in Kosovo began, UNFPA responded quickly to ensure that those fleeing the province had access to critical reproductive health services. The Office of the United Nations High Commissioner for Refugees (UNHCR), the lead United Nations agency responsible for refugees, formally asked UNFPA to serve as co-ordinator for reproductive health service. The Fund conducted a rapid needs assessment from 6 to 13 April 1999; sent materials, supplies and equipment for safe delivery, safe blood transfusion, treatment of sexually transmitted diseases, management of miscarriages, and treatment for victims of sexual violence. Also, a total of 350,000 packets of sanitary towels and 14,000 pairs of underwear were purchased for distribution during the crisis.

In essence, UNFPA's major contribution to meeting the needs of the Kosovo refugees was to supply emergency reproductive health kits and other reproductive health equipment to refugee camps in Albania and the former Yugoslav Republic of Macedonia and to maternity hospitals throughout Albania. UNFPA procured emergency reproductive health kits to meet the needs of approximately 350,000 people for a period of 3 to 6 months. In Albania, emergency reproductive health kits were supplied to refugee camps in Kukes, Korca and Elbasan and to a total of 10 hospitals and maternity clinics. In addition, UNFPA facilitated the donation of two ultrasound machines from a private company to the Albanian Ministry of Health.

UNFPA's emergency reproductive health supplies included:

Individual clean delivery kits for use if medical facilities are unavailable. The kit includes soap, plastic sheeting, pictorial instructions and a razor blade to cut the umbilical cord;

Delivery equipment—for use by trained personnel to deal with both normal and complicated deliveries, as well as referral-level equipment to be used in hospitals to perform Caesarean sections and to resuscitate mothers and babies;

Sexually transmitted diseases (STD) kit—intended to diagnose and treat STDs and explain how to prevent contraction;

Safe blood transfusion equipment;

Then, in early May, UNFPA sent an expert on the treatment of sexual violence and war trauma to assess the needs of women victims of such violence. Interviews with them showed that a considerable degree of sexual violence had occurred and that there were urgent needs for the treatment and counselling of women, their families and communities. UNFPA set up a training programme for health and relief workers of non-governmental organizations (NGOs) working with refugees and for international and national medical staff in Albania and the former Yugoslav Republic of Macedonia.

REHABILITATION OF KOSOVO

Following the cessation of hostilities and the return of refugees to Kosovo, UNFPA, along with other United Nations agencies, quickly established an office in Pristina, the capital of the province. As part of the civil administration authorized by the United Nations Security Council, UNFPA is a member of the Joint Civil Commission on Health, which is responsible for developing health policy and which includes representatives from the United Nations and from all of the communities in Kosovo. UNFPA heads the Reproductive Health Policy Task Force of the Joint Civil Commission and the Reproductive Health Coordination Committee, which includes representatives of all the United Nations bodies, NGOs and bilateral aid agencies working in reproductive health. The Policy Task Force has worked with the Kosovo Institute of Public Health, a local organization, to draw up a Reproductive Health Policy, which will guide the work of all organizations as they undertake the rehabilitation of the province.

UNFPA'S PRIORITY AREAS

The main concern of the United Nations in the area of health is to help reestablish the public health system in the province in order to meet the health needs of all the people of Kosovo. The overall needs throughout the province are overwhelming, and most of the health infrastructure has not been properly maintained; much of it was destroyed or removed during the recent hostilities. Equipment in hospitals is either obsolete and/or broken, including such basic equipment as washing machines and incubators for premature babies. Many health facilities have been left in decay, with broken windows, useless heating systems, and little or no functioning equipment.

The maternity, obstetric and gynecological clinic in Pristina delivers some 30 to 40 babies per day; it is on target to deliver 12,000 babies in the coming year, which would give it the largest number of deliveries of any hospital in Europe. It is achieving this with one broken-down washing machine and a shortage of sheets, gowns, incubators and ultrasound machines. On particular busy days, it does not have enough cribs in which to put the newborns, even when they are doubled up. Many of the deliveries are premature, born to women who suffered great trauma and stress during the hostilities. The World Health Organization

(WHO) estimates that almost 50 percent of premature infants born in the Pristina Hospital do not survive. Other problems related to the effects of the hostilities are a higher-than-normal incidence of miscarriages and still births, both of which put the lives of mothers at risk. Conditions are equally poor, if not worse, in maternities and health centres outside Pristina. In light of the above, it is essential to upgrade the equipment of the maternity at the Pristina Hospital and in other regions of Kosovo, as a critical first step in safeguarding maternal and child health within the overall context of the rehabilitation of the health system of Kosovo.

UNFPA is playing a key role in the area of reproductive health by helping to assess reproductive health conditions and needs; by supplying urgently needed equipment, materials, and medicines for hospitals, primary health facilities and mobile clinics; by providing training and support for health staff; and by supporting health information and education programmes. UNFPA has begun work with its other partners in Kosovo in drawing up a standard reproductive health-training curriculum for health workers in the province. It is designed to raise their awareness of reproductive health needs and to provide basic and refresher training in basic reproductive health skills.

The issue of sexual and other violence against women in Kosovo is a very serious issue. UNFPA has sent an expert on sexual violence to the province to report on ways in which the health system and health workers in Kosovo can address these issues in a culturally sensitive manner. Another component of UNFPA's strategy in the area of health, education and community services focuses on mental health, particularly the mental health of women. Violations of human rights and human dignity have been used as a systematic way of conducting war and have left profound scars that may not disappear. Victims of torture or violence, be it physical, sexual or psychological continue to suffer from significant trauma. To provide counselling and to prevent ostracism and exclusion of the victims from their own communities, UNFPA will continue to help strengthen local community capacity to provide care and support to women and men in distress.

There is an urgent need in Kosovo for demographic and health status of Kosovo since the return of the refugees in June this year. Given the new situation, all prior census and other data—if they can be found—are obsolete. All relief organizations working in the province are looking for such information to use in their operations. To that end, UNFPA and the International Organization for Migration (IOM) jointly organized a preliminary mission to assess the feasibility of a cluster sample population survey in Kosovo. The two organizations have developed a proposal for a survey of about 9,500 households. The results of the survey will be made available to all interested agencies and to the public.

Therefore, as priority measures for emergency relief and rehabilitation in Kosovo, UNFPA is preparing to undertake three crucial projects in the short term: upgrade the equipment of the maternity/OB–GYN department of Pristina hospital, and to provide basic equipment and supplies to maternities and "birthing centers" elsewhere in the province; strengthen local capacity to identify members of the community who need psycho-social support and to provide care and support to these women and men; and undertake an urgently needed demographic, socio-economic and reproductive health survey of the province.

TRIBUTE TO DARRELL W. OPFER

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Ms. KAPTUR. Mr. Speaker, I rise today to recognize the lifelong contributions that Representative Darrell W. Opfer has made to Ohio and more specifically, the Fifty-Third Ohio House District. For the last seven years, Darrell has been the epitome of a public servant in the Ohio House of Representatives. He works tirelessly to represent both Ohio and his district to the best of his ability, and for this we are greatly indebted. On behalf of Ohio's lawmakers and citizens, I am pleased and honored to pay tribute to this outstanding leader.

Born and raised Elmore, Ohio, Darrell has been a resident of Ottawa County and the Fifty-Third district his entire life. After completing bachelor's and master's degrees from Bowling Green State University, he entered the Peace Corps as a volunteer school teacher, instructing schoolchildren in East Africa. Upon his return, he spent sixteen years teaching high school government and social studies at Genova High School.

Darrell began his political career by serving as an Ottawa County Commissioner for ten years. During this time, he helped form the Ottawa County Visitors Bureau and the Community Improvement Corporation. These organizations have improved the quality of life in his district, as each implemented programs to create more jobs and support local businesses.

Darrell was elected to the Ohio House of Representatives, where during his first term he became known for his bipartisanship. During his tenure in the Ohio General Assembly, he was a member of the Agriculture and Natural Resources Committee, Finance and Appropriations Committee, Local Government and Townships Committee and Veteran's Affairs Committee. He was also the ranking minority member of the Agriculture and Development Subcommittee. In his last two terms in office, he was dedicated to bringing about electric deregulation, attempting to meet the needs of schools, local government, industry, customers, and public utilities. Through his career Darrell passed a remarkable amount of legislation, personally sponsoring 30 bills and co-sponsoring 718 others. During his years of service in Columbus, he never missed a session of the Ohio House of Representatives and never missed a vote. In 1991, he earned the Outstanding Chief Elected Official Award, presented by Ohio Training Directors Council. His steadfast dedication in representing his district as an Ohio House Member was only interrupted by state mandated term limits.

Darrell has always been wise counsel to other elected officials and community leaders, quietly building coalitions on issues, bringing various points of view together in discussions, and offering his expertise with myriad concerns. Throughout his years as a Commissioner and State Representative, I have sought his advice many times and know him to be a man possessed of great skill and a wealth of knowledge. He has truly been an invaluable resource for all Ohioans and for us in Northwest Ohio.

Upon Darrell Opfer's retirement from the State House, the prosperity of Ottawa County and jobs for its residents continue to drive his ambitions. After careful consideration, he accepted the position of director of Ottawa County's economic development program. He plans to use his government, utility, and business acumen to further economic development throughout Ottawa County.

Walter Lippman once said, "The final test of a leader is that he leaves behind him in other men the conviction and the will to carry on. . . . The genius of a good leader is to leave behind him a situation which common sense, without the grace of genius, can deal with successfully." The work of Darrell Opfer has made out state a better place to live. On behalf of the entire Ohio community, I would like to thank you, Darrell, for your loyalty and service to our state and your district. We will certainly miss your skills as a legislator, but you know that you will continue your dedication to leadership and service in your new position. Good luck and God bless.

COMMEMORATING THE 88TH ANNIVERSARY CELEBRATION OF THE NATIONAL DAY OF THE REPUBLIC OF CHINA

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. PELOSI. Mr. Speaker, today, I rise to pay tribute to a special occasion. In San Francisco we are celebrating the 88th Anniversary of the National Day of the Republic of China, known as the "Double Tenth" celebration of freedom day.

The people of the United States have a strong bond with and commitment to the people of the Republic of China [Taiwan] who have demonstrated to the world their pledge to democracy. The Republic of China continues to be a prosperous, colorful nation of peoples and interests characterized by strong economic growth and respect for basic human rights and democratic freedoms.

The Republic of China is an important partner of the United States—economically, culturally, strategically, and politically. It is my privilege to congratulate the celebrants of the "Double Tenth" festival of freedom. I am proud to voice the support and best wishes of the Republic of China's many friends in Congress and look forward to celebrating this historic event in the years ahead.

CO-OPS IMPORTANT TO ARKANSAS

SPEECH OF

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. BERRY. Mr. Speaker, throughout my district and throughout rural America, cooperatives are the lifeblood of communities. Cooperatives are made up of groups of people who work together to product results above and beyond what any one member could accomplish alone. Cooperatives embody the characteristics of hard work, economic liberty, interdependence, and togetherness that have defined American business and society throughout history.

In the 1st District of Arkansas, cooperatives provide electricity, farm supplies, and other services and products to residents. These businesses generate economic activity that fuels local economies, while providing savings to local citizens.

For years co-ops have provided great benefits to farms across Arkansas by selling fertilizer, marketing crops, and performing services that otherwise would be much more expensive. I am proud that cooperatives play such a vital part of the communities in my district. It is very fitting we celebrate co-ops' important contributions by recognizing October as National Cooperative Month.

NATIONAL COOPERATIVE MONTH

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. KIND. Mr. Speaker, I rise today to recognize the important contribution of cooperatives to the economic health of the nation. October, after all, is National Cooperative Month. Cooperatives represent economic opportunity for nearly 40% of Americans who are members of a cooperative. Cooperatives come in many forms—rural electric, agriculture, telephone, credit unions, consumer co-ops and more.

This year commemorates the 155th anniversary of the cooperatives as we know them today. In 1844, the Rochdale Society of Pioneers in England formalized cooperative activity by writing down their principles and practices. These principles and practices are the basis of today's cooperative enterprises, which serve more than 600 million people in every country in the world.

In the United States, about 30 percent of farmers' products and farm supplies in the United States are marketed through cooperatives. Rural electric cooperatives operate more than half of the electric distribution lines in the United States and provide electricity for more than 25 million people. Consumer-owned and controlled cooperatives pioneered prepaid, group-practice health care. Today cooperative health-maintenance organizations (HMOs) provide health-care services to more than one million Americans. Moreover, credit unions have more than 63 million members and assets in excess of $100 billion.

In my home state of Wisconsin, 2.9 million citizens depend on more than 800 cooperatives to market and supply agriculture products, as well as to provide credit, electricity, telephone service, health care, housing, insurance, and numerous other products and services. Cooperative businesses employ approximately 20,000 Wisconsin residents. Cooperatives provide hundreds of millions of dollars in annual economic activity in Wisconsin and pay millions of dollars annually in taxes.

Cooperatives have a rich history in my home state, with Wisconsin being one of the first states in the nation to enact a law authorizing cooperatives in 1887. A young woman—Anne Pickett—started Wisconsin's first dairy cooperative in 1841, pooling milk from neighborhood farms, processing it into our state's world class cheese and shipping it to the "big city" of Milwaukee for sale.

In addition, the nation's cooperative marketing of livestock had its beginnings in Wisconsin during the 1920s, when local livestock shipping associations organized at rail points to ship livestock to a terminal market.

Mr. Speaker, cooperatives are owned by their members who come together to meet their common economic, social, and cultural aspirations through a jointly owned and democratically controlled enterprise. Member-owned cooperatives elect a board of directors who determine its management structure and direction. Cooperatives are everywhere, helping people meet their common needs through group effort.

Like everything else in today's world, cooperatives are changing to meet today's challenges. During this Month, let us pay tribute to the important role that cooperatives have played in the tremendous economic success of our nation.

CELEBRATING THE SUCCESS OF EMILY COLE

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. GREEN of Texas. Mr. Speaker, I rise today to pay special tribute to Emily Cole, principal of Jefferson Davis High School in Houston, Texas. Ms. Cole has been principal of Jefferson Davis High School for the last 11 years and has been an educator for 34 years. As a Jeff Davis graduate, I am especially proud to join in paying tribute to her.

Emily Cole earned a BA and M.Ed from Southwest Texas State University in San Marcos. Ms. Cole was the first in her family to earn a college degree. Education has always been a major part of her life. She has worked as a teacher in several elementary schools in Texas, as the associate director of the Teacher Corps at the University of Houston, and as an assistant principal and principal in Houston public schools.

Ms. Cole has spent her career working tirelessly on behalf of all children. She has always promoted what was best for school children, never forgetting that their best interest was her driving force.

During her tenure at Jefferson Davis High School, Emily Cole has made many improvements. The number of seniors receiving scholarships has increased, TAAS scores have risen, the dropout rate has decreased and the number of graduates has grown.

In addition, Ms. Cole has used Project GRAD (Graduation Really Achieves Dreams) to increase the number of college-bound students at Jefferson Davis High School. Project GRAD was started 10 years ago by Jim Ketelsen, former Tenneco chief executive officer, as a scholarship program. It now provides a comprehensive college-preparatory curriculum to students beginning in the elementary grades. Before the program was started at Jefferson Davis High School, only 20 graduates per year went to college. In 1998, 110 Davis graduates enrolled in college.

American historian and writer Henry Adams once stated that "a teacher affects eternity; he can never tell when his influence stops." For Emily Cole, the lives she has touched over her many years in the education field will ensure that her influence carries on far into the future.

I ask my colleagues to join me in honoring the career of one of Texas' education heroes as principal of Jefferson Davis High School. Ms. Cole, we wish you well.

RECOGNIZING DR. EARL F. SKELTON

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. SKELTON. Mr. Speaker, today, I wish to recognize the outstanding achievements of Dr. Earl F. Skelton, who recently retired from the Naval Research Laboratory (NRL) after 32 years.

Dr. Skelton has made tremendous contributions to science through his research and teaching. He earned a Bachelor of Science in Physics from Fairleigh Dickinson University in 1962 and received his Ph.D. in Physics in 1967 from the Rensselaer Polytechnic Institute.

A leader in scientific research, Dr. Skelton has served in many research positions. From 1961–1962, he served as Research Physicist at Benet Weapons Laboratory. In 1967, Dr. Skelton served as Research Associate at Rensselaer Polytechnic Institute and as a National Research Council Postdoctoral Associate at NRL. He was a Research Physicist at NRL from 1968–1976. In 1978, Dr. Skelton worked in the U.S. Embassy in Tokyo, Japan, as Liaison Scientist for the Office of Naval Research. After returning to the United States, Dr. Skelton served as an Associate Member with the Laboratory for High Pressure Science at the University of Maryland from 1977 to 1980. The following year, he was a Visiting Scholar in the Stanford University Synchrotron Radiation Laboratory. Additionally, Dr. Skelton was a Research Affiliate from 1982 through 1986 for the Hawaii Institute of Geophysics. Dr. Skelton served as the Supervisory Research Physicist at the Naval Research Laboratory from 1976 until his recent retirement in September 1999.

In addition to his many research positions, Dr. Skelton also worked in a variety of academic positions at several accredited institutions. From 1968 through 1973, Dr. Skelton lectured in Physics for Prince George's Community College. He also served as an Associate Professional Lecturer at George Washington University for five years. From 1975 to 1980, Dr. Skelton was a Graduate School Lecturer at the University of Maryland. Since 1972, Dr. Skelton has been a National Research Council Postdoctoral Advisor at NRL. He has also been a Professorial Lecturer at George Washington University since 1979. Currently, Dr. Skelton is the Adjunct Professor of Engineering in the School of Engineering and Applied Science at George Washington University.

Throughout Dr. Skelton's career, he has received many honors and awards in science. He was awarded seven Research Publication Awards from the NRL since 1977. In addition, Dr. Skelton received the U.S. Navy Technology Transfer Award and the Pure Science Award from the Society of the Sigma Xi. He was elected to the Users' Executive Committee at both the Brookhaven National Laboratory and Stanford University. In 1980, Dr. Skelton was elected Fellow by the American Physical Society. He also received the Yuri Gargaran Satellite Communication Award and Medal.

Dr. Skelton authored or co-authored over 300 publications, and he has been awarded five patents for his research findings. Dr. Skelton has also organized and led a multinational team to create a new beam line at the National Synchrotron Light Source at Brookhaven National Laboratory.

In addition to his scientific findings and teachings, Dr. Skelton has researched and written a variety of pieces regarding family genealogy and other topics. He has published 13 non-technical publications and received the Best Writing Award from the National Genealogical Society.

Mr. Speaker, Dr. Earl F. Skelton, has been a significant leader in scientific research for many years. His expertise and leadership have contributed greatly to the field of science and to future scientists. Dr. Skelton is my cousin, and also a dear friend of mine. I know the House will join me in paying tribute to this outstanding scientist and wishing him and his family—his wife Francesca, his daughter Diana, and his son, Isaac—all the best in the years ahead.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 7, 1999 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 12

2 p.m.
Foreign Relations
East Asian and Pacific Affairs Subcommittee

To hold hearings on the Perry Report and North Korea policy.

SD–419

OCTOBER 13

9:30 a.m.
Armed Services
SeaPower Subcommittee

To hold hearings on the force structure impacts on fleet and strategic lift operations.

SR–222

Indian Affairs

To hold hearings on S. 1507, to authorize the integration and consolidation of alcohol and substance programs and services provided by Indian tribal governments.

SR–485

Health, Education, Labor, and Pensions

To hold hearings to examine pain management and improving end of life care.

SD–430

10 a.m.
Judiciary

To hold closed hearings to examine Chinese espionage at United States nuclear facilities and the transfer of United States technology to China.

S–407, Capitol

2:30 p.m.
Foreign Relations

To hold hearings on numerous tax treaties and protocols.

SD–419

Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee

To hold hearings on S. 167, to extend the authorization for the Upper Delaware Citizens Advisory Council and to authorize construction and operation of a visitor center for the Upper Delaware Scenic and Recreational River, New York and Pennsylvania; S. 311, to authorize the Disabled Veterans' LIFE Memorial Foundation to establish a memorial in the District of Columbia or its environs; S. 497, to designate Great Kills Park in the Gateway National Recreation Area as "World War II Veterans Park at Great Kills"; H.R. 592, to redesignate Great Kills Park in the Gateway National Recreation Area as "World War II Veterans Park at Great Kills"; S. 919, to amend the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994 to expand the boundaries of the Corridor; H.R. 1619, to amend the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994 to expand the boundaries of the Corridor; S. 1296, to designate portions of the lower Delaware River and associated tributaries as a component of the National Wild and Scenic Rivers System; S. 1366, to authorize the Secretary of the Interior to construct and operate a visitor center for the Upper Delaware Scenic and Recreation River on land owned by the New York State; and S. 1569, to amend the Wild and Scenic Rivers Act to designate segments of the Taunton River in the Commonwealth of Massachusetts for study for potential addition to the National Wild and Scenic Rivers System.

SD–366

OCTOBER 14

9:30 a.m.
Armed Services

To hold hearings on the lessons learned from the military operations conducted as part of Operation Allied Force, and associated relief operations, with respect to Kosovo; to be followed by a closed hearing (SR–222).

SD–106

Governmental Affairs
Investigations Subcommittee

To hold hearings to examine the devastating impact that diabetes and its resulting complications have had on Americans in both human and economic terms.

SD–628

2:30 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee

To hold hearings on S. 1218, to direct the Secretary of the Interior to issue to the Landusky School District, without consideration, a patent for the surface and mineral estates of certain lots; S. 610, to direct the Secretary of the Interior to convey certain land under the jurisdiction of the Bureau of Land Management in Washakie County and Big Horn County, Wyoming, to the Westside Irrigation District, Wyoming; S. 1343, to direct the Secretary of Agriculture to convey certain National Forest land to Elko County, Nevada, for continued use as a cemetery; S. 408, to direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the City of Carson City, Nevada, for use as a senior center; S. 1629, to provide for the exchange of certain land in the State of Oregon; and S. 1599, to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other land in the Black Hills National Forest and to use funds derived from the sale or exchange to acquire replacement sites and to acquire or construct administrative improvements in connection with Black Hills National Forest.

SD–366

OCTOBER 15

9 a.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee

To hold hearings to examine quality management at the Federal level.

SD–628

OCTOBER 19

10 a.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee

To hold hearings on S. 1608, to provide annual payments to the States and counties from National Forest System

lands managed by the Forest Service, and the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands managed predominately by the Bureau of Land Management, for use by the counties in which the lands are situated for the benefit of the public schools, roads, emergency and other public purposes; to encourage and provide new mechanism for cooperation between counties and the Forest Service and the Bureau of Land Management to make necessary investments in federal lands, and reaffirm the positive connection between Federal Lands counties and Federal Lands; and for other purposes.
SD–366

2:30 p.m.
Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold hearings on S. 1365, to amend the National Preservation Act of 1966 to extend the authorization for the Historic Preservation Fund and the Advisory Council on Historic Preservation; S. 1434, to amend the National Historic Preservation Act to reauthorize that Act; and H.R. 834, to extend the authorization for the National Historic Preservation Fund.
SD–366

OCTOBER 20

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine the use of performance enhancing drugs in Olympic competition.
SR–253

Indian Affairs
To hold hearings on proposed legislation authorizing funds for elementary and secondary education assistance, focusing on Indian educational programs.
SR–285

OCTOBER 21

9:30 a.m.
Armed Services
To resume hearings on the lessons learned from the military operations conducted as part of Operation Allied Force, and associated relief operations, with respect to Kosovo; to be followed by a closed hearing (SR–222).
SD–106

OCTOBER 26

2:30 p.m.
Armed Services
Readiness and Management Support Subcommittee
To hold hearings on the Real Property Management Program and the maintenance of the historic homes and senior offices' quarters.
SR–222

OCTOBER 27

9:30 a.m.
Indian Affairs
To hold oversight hearings on the implementation of the Transportation Equity Act in the 21st Century, focusing on Indian reservation roads.
SR–485

CANCELLATIONS

OCTOBER 26

9:30 a.m.
Energy and Natural Resources
To hold hearings on S. 882, to strengthen provisions in the Energy Policy Act of 1992 and the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to potential Climate Change.
SD–366

HOUSE OF REPRESENTATIVES—*Thursday, October 7, 1999*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mrs. BIGGERT).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 7, 1999.

I hereby appoint the Honorable JUDY BIGGERT to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Carl W. Rehling, St. James Parish, Lothian, Maryland, offered the following prayer:

Almighty and everliving God, Fountain of all wisdom, creator of all good knowledge, whose will is good and gracious and whose law is truth, so guide and bless the Representatives in this Congress assembled, that they may enact such laws as shall please You, to the glory of Your name and to the welfare of all people.

We ask that Your holy and life-giving spirit may so move every human heart, especially the hearts of those appointed by the people to lead us, that barriers which divide us may crumble, suspicions disappear, and hatreds cease; that our divisions being healed, we may live in a country and a world governed by Your justice and secure in Your peace. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Ms. KILPATRICK. Madam Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. KILPATRICK. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York (Mr. GILMAN) come forward and lead the House in the Pledge of Allegiance.

Mr. GILMAN led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 15 one-minutes on each side.

HEALTH CARE AND MISS NANNIE LACKEY

(Mr. FLETCHER asked and was given permission to address the House for 1 minute.)

Mr. FLETCHER. Madam Speaker, as I was walking to work this morning and reflecting on the day's very important vote to ensure real patient protection, I was reminded of Miss Nannie Lackey and her 100th birthday.

As I got closer to the Capitol and the Longworth Building, I thought how rich her life was in health, friendship, love, and faith. See, Miss Lackey has voted in every election since women were first given the right to vote. She takes voting very seriously, and she hopes all of us will take equally seriously the votes we cast today.

So I would ask that my colleagues take a few minutes to reflect on the importance of providing the best health care possible in our next century.

I hope my colleagues will see, as I do, that increasing the cost and number of uninsured is not the answer to real health care reform, nor is it real patient protection.

I ask that my colleagues join me in supporting positive health care reform and support the Coburn-Shadegg coalition substitute.

DO NOT LET AMERICA DOWN; VOTE FOR NORWOOD-DINGELL SUBSTITUTE

(Ms. KILPATRICK asked and was given permission to address the House for 1 minute.)

Ms. KILPATRICK. Madam Speaker, today is the most important day in the life of this House of Representatives. Will the people of America be able to have quality health care or not? Will the people of America have the opportunity to have their doctors determine their health care, their length of stay, their type of procedure; or will they turn it over to the bureaucrats, the accountant whose main purpose is to watch the bottom line.

Madam Speaker, let us not take this lightly. Besides quality education, besides environment that is clean and safe, and decent housing, health care is the number one priority of American citizens. Let us not let them down. Vote for the Norwood-Dingell bill today, the most effective of all the proposals.

GOVERNOR OF NEW MEXICO'S CALL FOR DRUG LEGALIZATION

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Madam Speaker, the Governor of New Mexico, Gary Johnson, has been calling for the legalization of mind-altering drugs. His rationale for throwing in the towel is his mistaken belief that we are losing the war on drugs.

Regrettably, under the Clinton administration, there has not been a balanced supply-and-demand-side fight against drugs. In fact, the war on drugs never truly began at its source in places like Colombia, since all of it was concentrated on treating the wounded here at home.

During the Reagan and Bush era, when we fought this battle against drugs on both the supply side and demand side simultaneously, we made real progress. Between 1985 and 1992, we reduced monthly cocaine use by nearly 80 percent. That is real progress.

In the city of Baltimore, we have learned firsthand the disastrous impact of a de facto legalization program and the lax attitude as has been proposed by Governor Johnson. The number of heroin addicts increased dramatically during a long laissez-faire period while population declined. Today, one in 17 citizens of Baltimore are heroin addicts. No one would agree that is any

□This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

solution to the drug use problem. That is what Governor Johnson's legalization plan would bring to our Nation.

I urge the Governor to reconsider his stand.

WEST VIRGINIANS DESERVE PATIENTS' BILL OF RIGHTS

(Mr. WISE asked and was given permission to address the House for 1 minute.)

Mr. WISE. Madam Speaker, today, almost 200,000 people in West Virginia in HMOs and thousands more in managed care are watching Congress today. Today, this Congress has a chance to pass real health care reform.

If one's car is sick, one gets to choose one's mechanic. Do not my colleagues think people have the same rights when they are choosing their doctor?

This bill provides guaranteed access to emergency room care. It protects the doctor-patient relationship. It gives more rights to choose OB/GYNs and pediatricians. It has strong enforcement provisions against violation of patient rights. It holds HMOs and insurance companies accountable for their medical decisions. It has a real appeals process when an insurance company denies treatment.

From the Northern Panhandle, where 44 percent of all insured in Ohio County alone are in HMOs, to the growing 25 percent in the Kanawha Valley, to the thousands more across the State of West Virginia, there is a bill of rights for all citizens. Should there not be a bill of rights for patients in managed care?

I urge Congress to pass this today.

BIENNIAL BUDGET: AN IDEA WHOSE TIME HAS COME

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Madam Speaker, in the next 3 weeks, we will see, perhaps, the best and worst of democracy in action; and that is why I have called for a biennial budget review process.

I have a bill, H.R. 493, I hope my colleagues will look at this. I am a firm believer that, by adopting such measure, we will remove this inherent politics every year that so often occurs during budget negotiations.

What I would like to see is the first session of Congress being dedicated to passing all of the 13 appropriations bills, then the second session of Congress would be dedicated to authorizing these bills, and then to look at oversight of the laws that we have passed.

Let us investigate and evaluate all these laws we pass every year. The current way of doing business often leads to a stalemate where politics prevails. This country deserves better.

IT IS NOT MANAGED CARE ANY MORE, IT IS MANAGED COSTS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, America's the land of the free, but one cannot choose one's doctor. Freedom of speech; but doctors are gagged. Judicial review; HMOs are judge and jury.

Madam Speaker, health care in America has gone from the Constitution to HMOs. Beam me up. It is not managed care any more; it is managed costs. It is time for Congress to vote on behalf of the American people and pass the Patients' Bill of Rights, stone cold simple remedy today.

I yield back more medicine than ever in America and less health care.

IMPORTANCE OF INCREASING AWARENESS OF THYROID DISEASE

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Madam Speaker, the women of our country form the backbone of strong, healthy families. However, it is American women who are often subject to debilitating and sometimes life-threatening diseases which subsequently deteriorate the stability of American households.

This week, I had the privilege of speaking to a remarkable woman who fights a valiant battle against a thyroid disorder known as Graves disease. This woman is none other than three-time Olympic track and field gold medalist Gail Devers. In spite of her illness, Gail will compete in the upcoming Olympics.

Approximately one in eight women will develop a similar thyroid disorder during her lifetime, and more than half of American women over 40 experience three or more common symptoms; yet, they fail to discuss them with their doctors.

To help raise awareness, Gail has joined forces with the American Women's Medical Association to launch a public, nationwide education campaign designed to increase awareness of thyroid disease.

Yesterday, the Congressional Prevention Coalition provided free thyroid screening, and I encourage all of our colleagues to embark on an educational campaign on the dangers of thyroid diseases.

BIPARTISAN CONSENSUS MANAGED CARE IMPROVEMENT ACT

(Ms. SCHAKOWSKY asked and was given permission to address the House for 1 minute.)

Ms. SCHAKOWSKY. Madam Speaker, I rise today in support of H.R. 2723, the Bipartisan Consensus Managed Care Improvement Act of 1999.

Enactment of this bill is the answer to the letter I received from a mother and a constituent in my district. She wrote, "When my middle son was born, the insurance company wouldn't let my son stay in the hospital one extra day to finish the course of antibiotics. They sent him home with a shunt in his arm. The neonatologist has warned us that typically in babies so small the shunt comes out and then you have to start the antibiotics all over again orally and that they would upset the baby's symptom, causing severe intestinal distress and diarrhea, not good for a newborn. My son's shunt came out, and he screamed for 2 weeks."

This baby deserved better. This bill assures that doctors, not insurance companies, decide how long newborns get to stay in the hospital when they are sick. Let us act now. Let us pass H.R. 2723.

GOVERNOR JESSE VENTURA SHOULD BE HONORED WITH NATIONAL DAY OF RECOGNITION

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Madam Speaker, I am here today to propose a national holiday in honor of the Governor in Minnesota, Jesse Ventura.

After all, he confounded the pundits, the pollsters, and the prognosticators by winning the highest office in the State at a time when most voters thought of him as "Jesse the Body."

He continues to confound everyone. Not too much notice was made when he indicated he would like to be re-incarnated as a large bra, but eyebrows did raise when he referred to members of the Armed Forces as Frankenstein monsters that cannot be controlled.

Then, of course, he outdid Oliver Stone by suggesting that President John Kennedy was killed by our own military-industrial complex in order to stimulate business.

Who can forget his plunge into theology? "Organized religion is a sham and a crutch for weak-minded people who need strength in numbers," the Governor said.

□ 1015

So today I am proposing we name a day after Jesse Ventura, and the day I have chosen is April 1. That is right, April Fool's Day, because I can think of no one that so embodies the spirit of that day as the Governor of Minnesota.

AMERICANS SHOULD VOICE THEIR SUPPORT FOR NORWOOD-DINGELL BILL

(Ms. JACKSON-LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Madam Speaker, yesterday I introduced into the RECORD the testimony from Dr. Thomas W. Self, an M.D. educated at Yale and UCLA, but an M.D. that has fallen victim to being terminated because his only grievance and error was spending too much time with patients.

Today, America's voices can be heard, and we ask that all Americans' voices be heard on a revolutionary idea, that is, that the patient and the physician are the two most important individuals who should assess the health condition of American patients on the precipice of the 21st century.

Today we have the opportunity to defeat poison pill bills that will do nothing but undermine the true essence of what we are trying to do. The Norwood-Dingell bill will emphasize the relationship of patient to physician. It will allow individuals to get into an emergency room, allow them to get the care that they need; it will allow women to have a relationship with their OB-GYN, and it will ensure that a patient can press their grievance when medical care is denied.

This is a day when patients will be able to determine that they are not commodities but that they are people. America should, today, let their voices be heard on the floor of the United States Congress that the Norwood-Dingell bill should pass.

TO DETERMINE CREDIBILITY, LOOK TO THE RECORD

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, sometimes it is difficult for people to tell who is being straight with them and who is being misleading or disingenuous. One way to help decide who ought to be believed and who not is to look at the record and the credibility of those making various claims.

Take Social Security, for example. The record will show that the other party controlled this House for 40 years, along with its appropriations process, and not only failed to put aside one dime of the Social Security surplus; but 30 years ago they began the annual practice of raiding the Social Security Trust Fund to pay for things other than Social Security and left us with a huge Federal debt.

Just a few months ago, the other party turned their backs on the President's own Commission on Social Security because bipartisan Social Security reform would take away their ability to scare seniors on the issue in the next election process.

Republicans, on the other hand, have passed Social Security lockbox legislation that locks away 100 percent of Social Security taxes for Social Security and Medicare, and they have been reserving H.R. 1 even to this day for the President's proposal on Social Security reform.

So in judging credibility, look at the record, not just rhetoric.

VOTE AGAINST COBURN SUBSTITUTE AND FOR NORWOOD-DINGELL

(Mr. TURNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TURNER. Madam Speaker, as a former member of a State legislature, both the House and Senate, I implore my colleagues today to support the Dingell-Norwood bill because it reserves in the States what for 2 centuries has been a clear right of every State in this Nation, and that is to control the medical malpractice laws of our country.

Why should we be able to sue a doctor for malpractice in State court but have to go to Federal Court to sue a managed care company? That is what the Coburn substitute does. That proposal is wrong; it does injustice to our State legislatures who work hard to be sure that we have malpractice protections for our citizens. It creates a new Federal cause of action that means individuals will have to go into Federal court.

If we read the Coburn substitute carefully, we will find out that it denies due process even after someone gets to Federal court, because the Coburn substitute says that when an individual gets to Federal court, it is the decision of the external review panel that governs and that individual has no right to challenge that once they get to Federal court.

I think it is a travesty of justice to support the Coburn substitute, and I urge the passage of the Norwood-Dingell bill.

WILDERNESS ISSUES IN THE WEST

(Mr. HANSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANSEN. Madam Speaker, one of the most contentious issues we have in the West is called wilderness. We find it very interesting, because whole industries have started because of this. They come in and have their attorneys and their accountants, and they come up and do all they can to get all our brethren to sign on to their bills, which everybody knows means nothing. We find it interesting because they start out with a small amount, and it just keeps going up.

Today, I am introducing a bill which will solve many of the problems of the great State of Utah, and I think this particular bill would be something that we could finally resolve this. This bill will call for 2.3 million acres of wilderness in the State of Utah.

But we have to be concerned about the local people there. For some reason, a lot of our people from the East think it is a throw-away vote to give away our western land. The people who live on the land, who make their living there, who recreate on the land should have a hand in this.

Today, I am very concerned about the Utah Test and Training Range. For those of us who sit on the military committees, we realize that the Utah Test and Training Range is the best training range the United States Air Force has. And if another bill goes through, we will find that we are killing the golden goose, and we will not be able to train our pilots. I will assure the military there will be nothing in this bill that will be detrimental to this.

Madam Speaker, I would hope that my colleagues could join us on this good piece of legislation and finally resolve an issue that has been very contentious to the West.

SUPPORT DEMOCRATS' PATIENTS' BILL OF RIGHTS

(Mr. KLINK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Madam Speaker, back in 1994, the insurance companies of this country spent tens of millions of dollars having Harry and Louise tell us that we did not want the Government to control our health care, and they won. And as a result, now the insurance companies control our health care. Now managed care means if we need health care, we are going to have to learn to manage.

Beginning in early 1997, when I heard complaints from doctors and from patients, I held a series of health care forums across my district. Over 60 hours of testimony, 1,500 people and horror stories beyond comprehension. I brought those stories and the results of that to the Democratic caucus. We began holding hearings here on the lawn right outside the Capitol. And from that came a series of health care proposals, because we learned that the American people had lost complete confidence in the health care system.

They were screaming for help and could not understand why we as Members of Congress let this go on so long. We had the best health care delivery system in the entire world, and we let it fall apart; and people could not understand why.

Now, today, we have a chance to fix that. We can stop the insurance companies from deciding what doctor we can go to, if we can go to a doctor, what hospital, what kind of treatment we can get. We can put health care back in the hands of doctors and patients by passing Norwood-Dingell.

NATIONAL 4-H WEEK

(Mr. DEAL of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEAL of Georgia. Madam Speaker, I rise today in honor of the National 4-H Club. October 3 through 9 is designated as National 4-H Week.

Across the country this week, the youth are marking the 97th year of this organization and are asking the question with the theme: Are you into it? The theme is embraced by more than 6.5 million young Americans who take part in 4-H educational programs. It is time to celebrate the diversity of 4-H activities and people, and to recognize the achievements of youth who strive to develop the four Hs: head, heart, hands, and health.

Founded in 1902 as an agricultural youth organization, 4-H is no longer just cows and plows. To keep up with the wide range of interests of today's youth, 4-H programs have diversified and include such things as designing web pages, participating in mock legislatures, community cleanups, and so forth. Since its beginning nearly 100 years ago in rural America, about 45 million Americans from all walks of life have been involved in 4-H.

Madam Speaker, I have authored a resolution in honor of the 4-H clubs of America as we congratulate their members.

SUPPORT NORWOOD-DINGELL PATIENTS' BILL OF RIGHTS

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Madam Speaker, I rise in strong support of the Norwood-Dingell Bipartisan Consensus Managed Care Improvement Act.

This debate pits doctors and patients against the health insurance industry. The insurance industry has weighed into this debate to protect its pocketbooks, not its patients. In TV ads and on this floor, opponents of a patients' bill of rights have tried to demonize trial lawyers. But this debate is how to encourage HMOs to provide better care to their patients.

The substitutes to Norwood-Dingell preserve some or all of the legal immunity that the insurers now have even when their decisions kill or injure patients. If HMOs can be held liable for their own negligence, they will pay more attention to patients. They will be more careful. That is all. It is simple. That is what this debate is about. Pass the Dingell-Norwood Patients' Bill of Rights.

SUPPORT H.R. 3034, TO EXPAND FLEXIBLE SPENDING ACCOUNTS

(Mr. ROYCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROYCE. Madam Speaker, flexible spending accounts allow employers and employees to contribute pretax money to accounts which they can then use to pay for out-of-pocket medical expenses and insurance costs and to pay for deductibles. But there is a problem in the Tax Code with the way in which these accounts work today, and that is there is a use it or lose it provision where it reverts back to the employer. So, typically, people put down $750 of pretax to use for these flexible spending accounts, and at the end of the year about $140 reverts back that they are not able to use.

My bill, House bill 3034, would allow this to be expanded, would allow this to be carried over into the following year so that that would not be lost. A lot more people would utilize this provision if they did not lose it.

Many employees would choose less expensive, high-deductible insurance policies and put the premium savings then in their flexible spending accounts if they knew they could roll that over into the following year. It also reinforces the doctor-patient relationship.

Madam Speaker, I urge support for H.R. 3034.

NORWOOD-DINGELL OFFERS BEST PROTECTIONS FOR AMERICAN FAMILIES

(Ms. DeLAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DeLAURO. Madam Speaker, today we have a historic opportunity to pass HMO reform that will ensure that medical decisions are made by doctors and patients and not by insurance companies.

These are sensible patient protections that all parents should have for their families. But to pass them, we are being forced to cross a mine field. The Republican leadership has teamed up with the insurance industry to obstruct and weaken the Patients' Bill of Rights. The Republican leadership has set up a series of amendments that will undermine the basic provisions of this bill, a bipartisan bill. And I stress bipartisan.

The Patients' Bill of Rights simply ensures that medical decisions are being made by doctors and hospitals and that HMOs are accountable for damages caused by wrongful denials. These provisions are already working for families in California and in Texas; now every family deserves them.

I call on my colleagues to defeat the poison pill amendments, pass the Norwood-Dingell bill, the Patients' Bill of Rights, which today's New York Times says, and I quote, "offers the best place to start in getting strong protections for millions of American families."

SUPPORT A PATIENTS' BILL OF RIGHTS, NOT A LAWYER'S RIGHT TO BILL

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Madam Speaker, I always enjoy hearing from my colleague from Connecticut, especially her description of a poison pill involving legislation. Madam Speaker, let me suggest to my colleagues the only poison pill is that which would seek to enrich and empower trial lawyers and courtrooms over clinics.

There is much we can agree on in truly a bipartisan fashion. I believe, as I think every Member of this House does, that when it comes to health care decisions, those decisions should not be made by an insurance company bureaucrat any more than they should be made by a Washington bureaucrat. The power should be in the hands of the patients.

The patients I know in the Sixth District of Arizona want to see a doctor, not a lawyer. They want access to a clinic, not a courtroom. And they do not want their estates to sue; they want to live long, productive lives and seek help. That is the essence of what happens today, not demonization of the insurance companies nor a poison pill of freedom for patients.

Let us have a true patients' bill of rights, not a lawyer's right to bill.

LOOK TO TEXAS FOR EXAMPLE OF MEANINGFUL MANAGED CARE REFORM

(Mr. GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of Texas. Madam Speaker, my colleague from Arizona needs to come to Texas, and we will show him what has happened in the real world when we have really had a Patients' Bill of Rights and real effective reform.

We do not have a lot of lawsuits. In 2 years, in fact we have had three, maybe four.

□ 1030

What we have seen, though, is the external appeals process backed up with the right to go to the courthouse means that they settle those appeals.

In Texas, we are finding that over 50 percent of the appeals are being found in the patient's favor. In other words, the decision-maker, the insurance company, whoever made that decision was wrong over 50 percent of the time. And that is what is wrong with the current system.

I do not want lawyers to get rich. They want health care. The people want health care. That is what they are doing. And in Texas, with 2 years' experience, that is what is happening.

strong external appeals backed up with a judicial review that they do not want to go to neither the insurance companies nor the patients.

We have that in the Norwood/Dingell bill, and that is why it is so important. Medical necessity, external appeals, access to specialists, emergency care, but also backed up with an accountability system.

If Wal-Mart can be sued for a slip-and-fall in State courts, why should their employees not be able to go to State courts?

TIME FOR CONGRESS TO QUIT PLAYING PARTISAN POLITICS WITH AMERICA'S SCHOOLCHILDREN

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Madam Speaker, we have heard a lot of talk about health care here this morning. And health care is very important. Education is pretty important, too.

I think it is time for the President and his liberal Democratic friends here in the House to quit playing partisan politics with American schoolchildren and with their schools. They spend so much time distorting the Republican record on education spending that they fail to acknowledge that spending is not the only issue.

We all believe that education funding is important. The difference lies in how we want that money to be spent. Liberal Democrats want it to be spent on more big government programs. It does not matter to them if the programs work or not as long as they can make themselves believe that they are helping kids.

I would rather see education dollars go directly to the classroom where it can be spent by people who know other children's names. They could spend it on books or chalk or computer equipment or whatever else they need to teach their students. This is a whole lot better than spending it on reams of bureaucratic paperwork.

BIPARTISAN CONSENSUS MANAGED CARE IMPROVEMENT ACT OF 1999

(Mr. LAMPSON asked and was given permission to address the House for 1 minute.)

Mr. LAMPSON. Madam Speaker, I rise today to challenge all of my colleagues, Democrats, Republicans, Independent, to pass legislation that would provide all Americans with the health care protections they need and deserve.

It concerns me that patients from my district are being denied the health coverage they need to lead productive lives. It seems that I cannot pick up the Beaumont Enterprise or Texas City Sun without reading about someone who was denied care because some insurance company decided that a procedure was not necessary. It has even happened to my own daughter, Stephanie.

It is one thing to keep costs down, but it cannot be done at the patient's expense. That is why I support the Bipartisan Consensus Managed Care Improvement Act of 1999.

I am confident that this bill will give residents of Hotel Beaumont, a senior citizens community in the heart of my hometown, the right to choose a specialist and see the same doctor throughout treatment.

It is time for us to put our money where our mouth is. Let us prove to the American people that this Congress can work together to address issues that they really care about. Let us pass H.R. 2723.

HEALTH CARE REFORM

(Mr. HAYES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES. Madam Speaker, this morning I rise to simply say that the people in the 8th District of North Carolina care about access, they care about quality, they care about affordability. That is what we on our side of the aisle care about this morning. We want to provide that.

The language that some of my liberal friends use may be good politics, but it is bad medicine for the people in the 8th District. Support the bill that gives access, that gives affordability, and give quality to the people of America. Support Boehner. Support Shadegg/Coburn.

HEALTH CARE REFORM

(Mr. SNYDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SNYDER. Madam Speaker, as a family doctor in Arkansas for 20 years, I am well aware that doctors and nurses do not know everything about health policy. But one thing I do know is that, in a doctor's office in America today, arguments and shouting matches with insurance companies occur on a regular basis.

Let me tell my colleagues about one example. I saw a patient with depression; and as part of the treatment, I thought they needed counseling. How do I obtain counseling? I took the patient into a room, gave them an 800 number to their insurance company, and they had to call an anonymous voice on the phone who made the decision about whether they would get counseling and for how many sessions.

This is wrong. If anonymous voices working for insurance companies at the end of a phone make medical decisions, they should be held just as accountable under State law as doctors and nurses.

Pass Norwood-Dingell.

REPUBLICANS ENDING 30-YEAR RAID ON SOCIAL SECURITY

(Mr. THUNE asked and was given permission to address the House for 1 minute.)

Mr. THUNE. Madam Speaker, Republicans here in the House are doing the right thing for seniors, the right thing for our children, and the right thing for every American who hopes to retire. We have walled off Social Security and placed it in a secure lockbox. We are ending the 30-year raid on Social Security.

Now we need our colleagues in the Senate to do the same thing: Take up the lockbox legislation, follow our lead, and do what is right for our parents, our children, and for the next generation of Americans.

The American people deserve to know who is serious about protecting and saving Social Security. We need the lockbox legislation passed in the Senate and signed into law by the President.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT). The Chair must remind all Members not to suggest actions to be taken by the Senate.

MANAGED CARE REFORM: A MATTER OF VALUE, ETHICS AND PRIORITIES

(Mr. STRICKLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRICKLAND. Madam Speaker, the issue before the House today is a complex one, but the answer is fairly simple. We are being given a forced choice today. We can either choose to put medical care back into the hands of physicians and patients, or we can allow those medical decisions to remain in the hands of insurance bureaucrats.

All across America today, citizens are being harmed and I believe are losing their lives because we have allowed the insurance companies and the HMOs to make medical decisions. This is a matter of value. It is a matter of ethics. It is a matter of priorities.

Who are we going to put first? Patients? And are we going to honor the sacred relationship between the physician and the patient, or are we going to continue to allow the HMOs and the insurance companies to put profits above patient welfare? It is a simple choice.

The American people are watching, and every one of us ought to be held accountable for what we do in this chamber today.

EUROPE JOB CREATION ALMOST ZERO

(Mr. COOKSEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COOKSEY. Madam Speaker, the unemployment rate in most European countries is nearly three times the unemployment rate of the United States. While the U.S. economy is a job creating machine, in Europe job creation is almost zero. Older workers who lose their jobs cannot find new ones, and younger people looking for that first job often do so for years and often have to wait years before they could move out of the house.

Meanwhile, in the U.S., there is actually a job shortage in many areas of the country. I would be positively fascinated to know how my liberal colleagues might explain this situation.

I wonder if it would ever occur to them that low-tax countries such as the U.S., Hong Kong, Singapore have low unemployment rates, while high-tax countries such as France, Sweden, Germany, Italy, Spain and so many others are wallowing in economies with no economic growth.

The truth is European governments which are successful in implementing the policies of the Democratic party are successful in achieving dreadfully performing economies. It does make one wonder.

REPUBLICAN HEALTH CARE REFORM IS A RUSE

(Mr. PASCRELL asked and was given permission to address the House for 1 minute.)

Mr. PASCRELL. Madam Speaker, I want to commend the gentleman from Michigan (Mr. DINGELL) and the gentleman from Georgia (Mr. NORWOOD), great Americans, for providing a great service to all of us on a managed care bill which I think will work. But there are Members of this House that are working against this consensus by introducing substitutes that in no way equal the comprehensive approach.

We have heard a great deal of hysteria in the past few weeks about how Norwood/Dingell will expose our small business owners and employers of all shapes and sizes to massive new litigation threats.

If my colleagues read the bill, and I would suggest that they read the bill, on page 99 it says very specifically in Section 302 that the bill "does not authorize any cause of action against an employer, or other plan sponsor maintaining the group health plan, or against an employee of such an employer."

It is a ruse. They have provided a ruse. Why do they not tell the American people the truth instead of standing out there with the money changers as they were yesterday as we walked here to do business?

AMERICANS HAVE A CHANCE TO HAVE A ACCOUNTABILITY AGAIN IN HEALTH ORGANIZATIONS

(Mr. KUYKENDALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUYKENDALL. Madam Speaker, today the American people are going to get a chance to have accountability put back in their health care organizations. There are a number of options before us, and at least three of those options are going to give the American public the ability to sue their health plan. They have not had that right in the past. That is an accountability they will have again over the medical profession for medical decisions.

What comes with that is a need to figure out how to protect this employer group that so many of us are dependent upon for our livelihood and health care insurance coverage. I think there are several options today that do a good job at that as well.

Those employers are not meant to be in the medical business, they are meant to be employers, manufacturers, and service providers. In this legislation today, I think we have a couple of options and the public will be well-served when they see the outcome. They will have accountability from their medical providers and their employers will remain sound and still be the conduit through which most people will get their medical coverage.

I would encourage the public to watch today. This debate will be both lengthy and strident. But at the end of the day, they will be better served.

SAFEWAY SHOULD RECOGNIZE ITS CORPORATE RESPONSIBILITY

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Madam Speaker, I rise on behalf of the large group of senior, frail, and low-income citizens in my congressional district in the city of Pacifica. They have been shopping at Safeway for decades, but Safeway—in a display of corporate arrogance and irresponsibility—suddenly closed that store.

These folks have no automobiles. They are too frail and too old to walk two miles to another store. Safeway should have found a way to keep open this facility. But in an irresponsible act of corporate recklessness, it closed the store, and the seniors are left high and dry, trying to fend for themselves.

I call on Safeway—a multi-billion-dollar corporation—to change its course and recognize its corporate responsibility. It has the duty to serve the people who have kept it profitable for decades. It can't just walk out on them.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the pending business is the question of the Speaker's approval of the Journal.

The question is on the Speaker's approval of the Journal of the last day's proceedings.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. DEGETTE. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 341, nays 73, not voting 19, as follows:

[Roll No. 486]

YEAS—341

Ackerman
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldwin
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Clayton
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Cox
Coyne
Cramer
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
Eshoo
Everett
Ewing
Farr
Fattah
Fletcher
Foley
Forbes
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Hall (OH)
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Herger
Hill (IN)
Hill (MT)
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Kanjorski
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kuykendall
LaHood
Lampson
Lantos
Larson
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lofgren
Lucas (KY)

Lucas (OK)
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Minge
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Ose
Oxley
Packard
Pascrell
Pastor
Paul
Payne
Pease
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Salmon
Sánchez
Sanders
Sandlin
Sanford
Saxton
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stearns
Stump
Sununu
Sweeney
Talent
Tancredo
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Upton
Vitter
Walden
Walsh
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—73

Aderholt
Allen
Baldacci
Bilbray
Borski
Brady (PA)
Capuano
Chenoweth-Hage
Clay
Clyburn
Costello
Crane
Crowley
DeFazio
Dickey
English
Etheridge
Evans
Filner
Frost
Gibbons
Gutierrez
Gutknecht
Hastings (FL)
Hefley
Hilleary
Hilliard
Hooley
Hulshof
Hutchinson
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kucinich
LaFalce
Lee
Lewis (GA)
Lipinski
LoBiondo
Lowey
Luther
McDermott
McNulty
Meek (FL)
Miller, George
Moran (KS)
Neal
Oberstar
Pallone
Peterson (MN)
Pickett
Ramstad
Riley
Sabo
Schaffer
Slaughter
Stark
Stenholm
Strickland
Stupak
Tanner
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Udall (CO)
Udall (NM)
Velázquez
Vento
Visclosky
Wamp
Waters
Weller

NOT VOTING—19

Abercrombie
Barr
Clement
Davis (IL)
Ehrlich
Ford
Jefferson
Kaptur
Largent
Linder
McCollum
McGovern
Moakley
Owens
Pelosi
Sawyer
Scarborough
Weldon (PA)
Young (AK)

□ 1106

Ms. JACKSON-LEE of Texas and Mr. DICKEY changed their vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

BIPARTISAN CONSENSUS MANAGED CARE IMPROVEMENT ACT OF 1999

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to House Resolution 323 and rule XXVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2723.

□ 1107

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2723) to amend Title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage, with Mr. HASTINGS of Washington in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, October 6, 1999, all time for general debate had expired.

Pursuant to the rule, the amendments printed in part A of House Report 106–366 are adopted and the bill, as amended, is considered read for amendment under the 5-minute rule.

The text of H.R. 2723, as amended, is as follows:

H.R. 2723

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Bipartisan Consensus Managed Care Improvement Act of 1999".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Grievances and Appeals

Sec. 101. Utilization review activities.
Sec. 102. Internal appeals procedures.
Sec. 103. External appeals procedures.
Sec. 104. Establishment of a grievance process.

Subtitle B—Access to Care

Sec. 111. Consumer choice option.
Sec. 112. Choice of health care professional.
Sec. 113. Access to emergency care.
Sec. 114. Access to specialty care.
Sec. 115. Access to obstetrical and gynecological care.
Sec. 116. Access to pediatric care.
Sec. 117. Continuity of care.
Sec. 118. Access to needed prescription drugs.
Sec. 119. Coverage for individuals participating in approved clinical trials.

Subtitle C—Access to Information

Sec. 121. Patient access to information.

Subtitle D—Protecting the Doctor-Patient Relationship

Sec. 131. Prohibition of interference with certain medical communications.
Sec. 132. Prohibition of discrimination against providers based on licensure.
Sec. 133. Prohibition against improper incentive arrangements.
Sec. 134. Payment of claims.
Sec. 135. Protection for patient advocacy.

Subtitle E—Definitions

Sec. 151. Definitions.
Sec. 152. Preemption; State flexibility; construction.
Sec. 153. Exclusions.
Sec. 154. Coverage of limited scope plans.
Sec. 155. Regulations.

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

Sec. 201. Application to group health plans and group health insurance coverage.
Sec. 202. Application to individual health insurance coverage.

TITLE III—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 301. Application of patient protection standards to group health plans and group health insurance coverage under the Employee Retirement Income Security Act of 1974.
Sec. 302. ERISA preemption not to apply to certain actions involving health insurance policyholders.

TITLE IV—APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986

Sec. 401. Amendments to the Internal Revenue Code of 1986.

TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

Sec. 501. Effective dates.
Sec. 502. Coordination in implementation.

TITLE VI—HEALTH CARE PAPERWORK SIMPLIFICATION

Sec. 601. Health care paperwork simplification.

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Grievance and Appeals

SEC. 101. UTILIZATION REVIEW ACTIVITIES.

(a) COMPLIANCE WITH REQUIREMENTS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section.

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms "utilization review" and "utilization review activities" mean procedures used to monitor or evaluate the use or coverage, clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed with input from a range of appropriate actively practicing health care professionals, as determined by the plan, pursuant to the program. Such criteria shall include written clinical review criteria that are based on valid clinical evidence where available and that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate.

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for an enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(C) REVIEW OF SAMPLE OF CLAIMS DENIALS.—Such a program shall provide for an evaluation of the clinical appropriateness of at least a sample of denials of claims for benefits.

(c) CONDUCT OF PROGRAM ACTIVITIES.—

(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions.

(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and have received appropriate training in the conduct of such activities under the program.

(B) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that encourages denials of claims for benefits.

(C) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who is providing health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program, including the utilization review administrator, are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary or appropriate.

(d) DEADLINE FOR DETERMINATIONS.—

(1) PRIOR AUTHORIZATION SERVICES.—

(A) IN GENERAL.—Except as provided in paragraph (2), in the case of a utilization review activity involving the prior authorization of health care items and services for an individual, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the case, and in no event later than the deadline specified in subparagraph (B).

(B) DEADLINE.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), the deadline specified in this subparagraph is 14 days after the date of receipt of the request for prior authorization.

(ii) EXTENSION PERMITTED WHERE NOTICE OF ADDITIONAL INFORMATION REQUIRED.—If a utilization review program—

(I) receives a request for a prior authorization,

(II) determines that additional information is necessary to complete the review and make the determination on the request, and

(III) notifies the requester, not later than five business days after the date of receiving the request, of the need for such specified additional information,

the deadline specified in this subparagraph is 14 days after the date the program receives the specified additional information, but in no case later than 28 days after the date of receipt of the request for the prior authorization. This clause shall not apply if the deadline is specified in clause (iii).

(iii) EXPEDITED CASES.—In the case of a situation described in section 102(c)(1)(A), the deadline specified in this subparagraph is 72 hours after the time of the request for prior authorization.

(2) ONGOING CARE.—

(A) CONCURRENT REVIEW.—

(i) IN GENERAL.—Subject to subparagraph (B), in the case of a concurrent review of ongoing care (including hospitalization), which results in a termination or reduction of such care, the plan must provide by telephone and in printed form notice of the concurrent review determination to the individual or the individual's designee and the individual's health care provider as soon as possible in accordance with the medical exigencies of the case, with sufficient time prior to the termination or reduction to allow for an appeal under section 102(c)(1)(A) to be completed before the termination or reduction takes effect.

(ii) CONTENTS OF NOTICE.—Such notice shall include, with respect to ongoing health care items and services, the number of ongoing services approved, the new total of approved services, the date of onset of services, and the next review date, if any, as well as a statement of the individual's rights to further appeal.

(B) EXCEPTION.—Subparagraph (A) shall not be interpreted as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(3) PREVIOUSLY PROVIDED SERVICES.—In the case of a utilization review activity involving retrospective review of health care services previously provided for an individual, the utilization review program shall make a determination concerning such services, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, within 30 days of the date of receipt of information that is reasonably necessary to make such determination, but in no case later than 60 days after the date of receipt of the claim for benefits.

(4) FAILURE TO MEET DEADLINE.—In a case in which a group health plan or health insurance issuer fails to make a determination on a claim for benefit under paragraph (1), (2)(A), or (3) by the applicable deadline established under the respective paragraph, the failure shall be treated under this subtitle as a denial of the claim as of the date of the deadline.

(5) REFERENCE TO SPECIAL RULES FOR EMERGENCY SERVICES, MAINTENANCE CARE, AND POST-STABILIZATION CARE.—For waiver of prior authorization requirements in certain cases involving emergency services and maintenance care and post-stabilization care, see subsections (a)(1) and (b) of section 113, respectively.

(e) NOTICE OF DENIALS OF CLAIMS FOR BENEFITS.—

(1) IN GENERAL.—Notice of a denial of claims for benefits under a utilization review program shall be provided in printed form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include—

(A) the reasons for the denial (including the clinical rationale);

(B) instructions on how to initiate an appeal under section 102; and

(C) notice of the availability, upon request of the individual (or the individual's designee) of the clinical review criteria relied upon to make such denial.

(2) SPECIFICATION OF ANY ADDITIONAL INFORMATION.—Such a notice shall also specify what (if any) additional necessary information must be provided to, or obtained by, the person making the denial in order to make a decision on such an appeal.

(f) CLAIM FOR BENEFITS AND DENIAL OF CLAIM FOR BENEFITS DEFINED.—For purposes of this subtitle:

(1) CLAIM FOR BENEFITS.—The term "claim for benefits" means any request for coverage (including authorization of coverage), for eligibility, or for payment in whole or in part, for an item or service under a group health plan or health insurance coverage.

(2) DENIAL OF CLAIM FOR BENEFITS.—The term "denial" means, with respect to a claim for benefits, means a denial, or a failure to act on a timely basis upon, in whole or in part, the claim for benefits and includes a failure to provide benefits (including items and services) required to be provided under this title.

SEC. 102. INTERNAL APPEALS PROCEDURES.

(a) RIGHT OF REVIEW.—

(1) IN GENERAL.—Each group health plan, and each health insurance issuer offering health insurance coverage—

(A) shall provide adequate notice in writing to any participant or beneficiary under such plan, or enrollee under such coverage, whose claim for benefits under the plan or coverage has been denied (within the meaning of section 101(f)(2)), setting forth the specific reasons for such denial of claim for benefits and rights to any further review or appeal, written in a manner calculated to be understood by the participant, beneficiary, or enrollee; and

(B) shall afford such a participant, beneficiary, or enrollee (and any provider or other person acting on behalf of such an individual with the individual's consent or without such consent if the individual is medically unable to provide such consent) who is dissatisfied with such a denial of claim for benefits a reasonable opportunity (of not less than 180 days) to request and obtain a full and fair review by a named fiduciary (with respect to such plan) or named appropriate individual (with respect to such coverage) of the decision denying the claim.

(2) TREATMENT OF ORAL REQUESTS.—The request for review under paragraph (1)(B) may be made orally, but, in the case of an oral request, shall be followed by a request in writing.

(b) INTERNAL REVIEW PROCESS.—

(1) CONDUCT OF REVIEW.—

(A) IN GENERAL.—A review of a denial of claim under this section shall be made by an individual who—

(i) in a case involving medical judgment; shall be a physician or, in the case of limited scope coverage (as defined in subparagraph (B), shall be an appropriate specialist;

(ii) has been selected by the plan or issuer; and

(iii) did not make the initial denial in the internally appealable decision.

(B) LIMITED SCOPE COVERAGE DEFINED.—For purposes of subparagraph (A), the term "limited scope coverage" means a group health plan or health insurance coverage the only benefits under which are for benefits described in section 2791(c)(2)(A) of the Public Health Service Act (42 U.S.C. 300gg–91(c)(2)).

(2) TIME LIMITS FOR INTERNAL REVIEWS.—

(A) IN GENERAL.—Having received such a request for review of a denial of claim, the plan or issuer shall, in accordance with the medical exigencies of the case but not later than the deadline specified in subparagraph (B), complete the review on the denial and transmit to the participant, beneficiary, enrollee, or other person involved a decision that affirms, reverses, or modifies the denial. If the decision does not reverse the denial, the plan or issuer shall transmit, in printed form, a notice that sets forth the grounds for such decision and that includes a description of rights to any further appeal. Such decision shall be treated as the final decision of the plan. Failure to issue such a decision by such deadline shall be treated as a final decision affirming the denial of claim.

(B) DEADLINE.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), the deadline specified in this subparagraph is 14 days after the date of receipt of the request for internal review.

(ii) EXTENSION PERMITTED WHERE NOTICE OF ADDITIONAL INFORMATION REQUIRED.—If a group health plan or health insurance issuer—

(I) receives a request for internal review,

(II) determines that additional information is necessary to complete the review and make the determination on the request, and

(III) notifies the requester, not later than five business days after the date of receiving the request, of the need for such specified additional information,

the deadline specified in this subparagraph is 14 days after the date the plan or issuer receives the specified additional information, but in no case later than 28 days after the date of receipt of the request for the internal review. This clause shall not apply if the deadline is specified in clause (iii).

(iii) EXPEDITED CASES.—In the case of a situation described in subsection (c)(1)(A), the deadline specified in this subparagraph is 72 hours after the time of the request for review.

(c) EXPEDITED REVIEW PROCESS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer, shall establish procedures in writing for the expedited consideration of requests for review under subsection (b) in situations—

(A) in which the application of the normal timeframe for making a determination could seriously jeopardize the life or health of the participant, beneficiary, or enrollee or such an individual's ability to regain maximum function; or

(B) described in section 101(d)(2) (relating to requests for continuation of ongoing care which would otherwise be reduced or terminated).

(2) PROCESS.—Under such procedures—

(A) the request for expedited review may be submitted orally or in writing by an individual or provider who is otherwise entitled to request the review;

(B) all necessary information, including the plan's or issuer's decision, shall be transmitted between the plan or issuer and the requester by telephone, facsimile, or other similarly expeditious available method; and

(C) the plan or issuer shall expedite the review in the case of any of the situations described in subparagraph (A) or (B) of paragraph (1).

(3) DEADLINE FOR DECISION.—The decision on the expedited review must be made and communicated to the parties as soon as possible in accordance with the medical exigencies of the case, and in no event later than 72 hours after the time of receipt of the request for expedited review, except that in a case described in paragraph (1)(B), the decision must be made before the end of the approved period of care.

(d) WAIVER OF PROCESS.—A plan or issuer may waive its rights for an internal review under subsection (b). In such case the participant, beneficiary, or enrollee involved (and any designee or provider involved) shall be relieved of any obligation to complete the review involved and may, at the option of such participant, beneficiary, enrollee, designee, or provider, proceed directly to seek further appeal through any applicable external appeals process.

SEC. 103. EXTERNAL APPEALS PROCEDURES.

(a) RIGHT TO EXTERNAL APPEAL.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall provide for an external appeals process that meets the requirements of this section in the case of an externally appealable decision described in paragraph (2), for which a timely appeal is made either by the plan or issuer or by the participant, beneficiary, or enrollee (and any provider or other person acting on behalf of such an individual with the individual's consent or without such consent if such an individual is medically unable to provide such consent). The appropriate Secretary shall establish standards to carry out such requirements.

(2) EXTERNALLY APPEALABLE DECISION DEFINED.—

(A) IN GENERAL.—For purposes of this section, the term "externally appealable decision" means a denial of claim for benefits (as defined in section 101(f)(2))—

(i) that is based in whole or in part on a decision that the item or service is not medically necessary or appropriate or is investigational or experimental; or

(ii) in which the decision as to whether a benefit is covered involves a medical judgment.

(B) INCLUSION.—Such term also includes a failure to meet an applicable deadline for internal review under section 102.

(C) EXCLUSIONS.—Such term does not include—

(i) specific exclusions or express limitations on the amount, duration, or scope of coverage that do not involve medical judgment; or

(ii) a decision regarding whether an individual is a participant, beneficiary, or enrollee under the plan or coverage.

(3) EXHAUSTION OF INTERNAL REVIEW PROCESS.—Except as provided under section 102(d), a plan or issuer may condition the use of an external appeal process in the case of an externally appealable decision upon a final decision in an internal review under section 102, but only if the decision is made in a timely basis consistent with the deadlines provided under this subtitle.

(4) FILING FEE REQUIREMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), a plan or issuer may condition the use of an external appeal process upon payment to the plan or issuer of a filing fee that does not exceed $25.

(B) EXCEPTION FOR INDIGENCY.—The plan or issuer may not require payment of the filing fee in the case of an individual participant, beneficiary, or enrollee who certifies (in a form and manner specified in guidelines established by the Secretary of Health and Human Services) that the individual is indigent (as defined in such guidelines).

(C) REFUNDING FEE IN CASE OF SUCCESSFUL APPEALS.—The plan or issuer shall refund payment of the filing fee under this paragraph if the recommendation of the external appeal entity is to reverse or modify the denial of a claim for benefits which is the subject of the appeal.

(b) GENERAL ELEMENTS OF EXTERNAL APPEALS PROCESS.—

(1) CONTRACT WITH QUALIFIED EXTERNAL APPEAL ENTITY.—

(A) CONTRACT REQUIREMENT.—Except as provided in subparagraph (D), the external appeal process under this section of a plan or issuer shall be conducted under a contract between the plan or issuer and one or more qualified external appeal entities (as defined in subsection (c)).

(B) LIMITATION ON PLAN OR ISSUER SELECTION.—The applicable authority shall implement procedures—

(i) to assure that the selection process among qualified external appeal entities will not create any incentives for external appeal entities to make a decision in a biased manner, and

(ii) for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

(C) OTHER TERMS AND CONDITIONS.—The terms and conditions of a contract under this paragraph shall be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external appeal activities. Such contract shall provide that all costs of the process (except those incurred by the participant, beneficiary, enrollee, or treating professional in support of the appeal) shall be paid by the plan or issuer, and not by the participant, beneficiary, or enrollee. The previous sentence shall not be construed as applying to the imposition of a filing fee under subsection (a)(4).

(D) STATE AUTHORITY WITH RESPECT QUALIFIED EXTERNAL APPEAL ENTITY FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers offering health insurance coverage in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in a manner determined by the State to assure an unbiased determination.

(2) ELEMENTS OF PROCESS.—An external appeal process shall be conducted consistent

with standards established by the appropriate Secretary that include at least the following:

(A) FAIR AND DE NOVO DETERMINATION.—The process shall provide for a fair, de novo determination. However, nothing in this paragraph shall be construed as providing for coverage of items and services for which benefits are specifically excluded under the plan or coverage.

(B) STANDARD OF REVIEW.—An external appeal entity shall determine whether the plan's or issuer's decision is in accordance with the medical needs of the patient involved (as determined by the entity) taking into account, as of the time of the entity's determination, the patient's medical condition and any relevant and reliable evidence the entity obtains under subparagraph (D). If the entity determines the decision is in accordance with such needs, the entity shall affirm the decision and to the extent that the entity determines the decision is not in accordance with such needs, the entity shall reverse or modify the decision.

(C) CONSIDERATION OF PLAN OR COVERAGE DEFINITIONS.—In making such determination, the external appeal entity shall consider (but not be bound by) any language in the plan or coverage document relating to the definitions of the terms medical necessity, medically necessary or appropriate, or experimental, investigational, or related terms.

(D) EVIDENCE.—

(i) IN GENERAL.—An external appeal entity shall include, among the evidence taken into consideration—

(I) the decision made by the plan or issuer upon internal review under section 102 and any guidelines or standards used by the plan or issuer in reaching such decision;

(II) any personal health and medical information supplied with respect to the individual whose denial of claim for benefits has been appealed; and

(III) the opinion of the individual's treating physician or health care professional.

(ii) ADDITIONAL EVIDENCE.—Such entity may also take into consideration but not be limited to the following evidence (to the extent available):

(I) The results of studies that meet professionally recognized standards of validity and replicability or that have been published in peer-reviewed journals.

(II) The results of professional consensus conferences conducted or financed in whole or in part by one or more Government agencies.

(III) Practice and treatment guidelines prepared or financed in whole or in part by Government agencies.

(IV) Government-issued coverage and treatment policies.

(V) Community standard of care and generally accepted principles of professional medical practice.

(VI) To the extent that the entity determines it to be free of any conflict of interest, the opinions of individuals who are qualified as experts in one or more fields of health care which are directly related to the matters under appeal.

(VII) To the extent that the entity determines it to be free of any conflict of interest, the results of peer reviews conducted by the plan or issuer involved.

(E) DETERMINATION CONCERNING EXTERNALLY APPEALABLE DECISIONS.—A qualified external appeal entity shall determine—

(i) whether a denial of claim for benefits is an externally appealable decision (within the meaning of subsection (a)(2));

(ii) whether an externally appealable decision involves an expedited appeal; and

(iii) for purposes of initiating an external review, whether the internal review process has been completed.

(F) OPPORTUNITY TO SUBMIT EVIDENCE.—Each party to an externally appealable decision may submit evidence related to the issues in dispute.

(G) PROVISION OF INFORMATION.—The plan or issuer involved shall provide timely access to the external appeal entity to information and to provisions of the plan or health insurance coverage relating to the matter of the externally appealable decision, as determined by the entity.

(H) TIMELY DECISIONS.—A determination by the external appeal entity on the decision shall—

(i) be made orally or in writing and, if it is made orally, shall be supplied to the parties in writing as soon as possible;

(ii) be made in accordance with the medical exigencies of the case involved, but in no event later than 21 days after the date (or, in the case of an expedited appeal, 72 hours after the time) of requesting an external appeal of the decision;

(iii) state, in layperson's language, the basis for the determination, including, if relevant, any basis in the terms or conditions of the plan or coverage; and

(iv) inform the participant, beneficiary, or enrollee of the individual's rights (including any limitation on such rights) to seek further review by the courts (or other process) of the external appeal determination.

(I) COMPLIANCE WITH DETERMINATION.—If the external appeal entity reverses or modifies the denial of a claim for benefits, the plan or issuer shall—

(i) upon the receipt of the determination, authorize benefits in accordance with such determination;

(ii) take such actions as may be necessary to provide benefits (including items or services) in a timely manner consistent with such determination; and

(iii) submit information to the entity documenting compliance with the entity's determination and this subparagraph.

(c) QUALIFICATIONS OF EXTERNAL APPEAL ENTITIES.—

(1) IN GENERAL.—For purposes of this section, the term "qualified external appeal entity" means, in relation to a plan or issuer, an entity that is certified under paragraph (2) as meeting the following requirements:

(A) The entity meets the independence requirements of paragraph (3).

(B) The entity conducts external appeal activities through a panel of not fewer than three clinical peers.

(C) The entity has sufficient medical, legal, and other expertise and sufficient staffing to conduct external appeal activities for the plan or issuer on a timely basis consistent with subsection (b)(2)(G).

(D) The entity meets such other requirements as the appropriate Secretary may impose.

(2) INITIAL CERTIFICATION OF EXTERNAL APPEAL ENTITIES.—

(A) IN GENERAL.—In order to be treated as a qualified external appeal entity with respect to—

(i) a group health plan, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting the requirements of paragraph (1)—

(I) by the Secretary of Labor;

(II) under a process recognized or approved by the Secretary of Labor; or

(III) to the extent provided in subparagraph (C)(i), by a qualified private standard-setting organization (certified under such subparagraph); or

(ii) a health insurance issuer operating in a State, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting such requirements—

(I) by the applicable State authority (or under a process recognized or approved by such authority); or

(II) if the State has not established a certification and recertification process for such entities, by the Secretary of Health and Human Services, under a process recognized or approved by such Secretary, or to the extent provided in subparagraph (C)(ii), by a qualified private standard-setting organization (certified under such subparagraph).

(B) RECERTIFICATION PROCESS.—The appropriate Secretary shall develop standards for the recertification of external appeal entities. Such standards shall include a review of—

(i) the number of cases reviewed;

(ii) a summary of the disposition of those cases;

(iii) the length of time in making determinations on those cases;

(iv) updated information of what was required to be submitted as a condition of certification for the entity's performance of external appeal activities; and

(v) such information as may be necessary to assure the independence of the entity from the plans or issuers for which external appeal activities are being conducted.

(C) CERTIFICATION OF QUALIFIED PRIVATE STANDARD-SETTING ORGANIZATIONS.—

(i) FOR EXTERNAL REVIEWS UNDER GROUP HEALTH PLANS.—For purposes of subparagraph (A)(i)(III), the Secretary of Labor may provide for a process for certification (and periodic recertification) of qualified private standard-setting organizations which provide for certification of external review entities. Such an organization shall only be certified if the organization does not certify an external review entity unless it meets standards required for certification of such an entity by such Secretary under subparagraph (A)(i)(I).

(ii) FOR EXTERNAL REVIEWS OF HEALTH INSURANCE ISSUERS.—For purposes of subparagraph (A)(ii)(II), the Secretary of Health and Human Services may provide for a process for certification (and periodic recertification) of qualified private standard-setting organizations which provide for certification of external review entities. Such an organization shall only be certified if the organization does not certify an external review entity unless it meets standards required for certification of such an entity by such Secretary under subparagraph (A)(ii)(II).

(3) INDEPENDENCE REQUIREMENTS.—

(A) IN GENERAL.—A clinical peer or other entity meets the independence requirements of this paragraph if—

(i) the peer or entity does not have a familial, financial, or professional relationship with any related party;

(ii) any compensation received by such peer or entity in connection with the external review is reasonable and not contingent on any decision rendered by the peer or entity;

(iii) except as provided in paragraph (4), the plan and the issuer have no recourse against the peer or entity in connection with the external review; and

(iv) the peer or entity does not otherwise have a conflict of interest with a related party as determined under any regulations which the Secretary may prescribe.

(B) RELATED PARTY.—For purposes of this paragraph, the term "related party" means—

(i) with respect to—

(I) a group health plan or health insurance coverage offered in connection with such a plan, the plan or the health insurance issuer offering such coverage, or

(II) individual health insurance coverage, the health insurance issuer offering such coverage,

or any plan sponsor, fiduciary, officer, director, or management employee of such plan or issuer;

(ii) the health care professional that provided the health care involved in the coverage decision;

(iii) the institution at which the health care involved in the coverage decision is provided;

(iv) the manufacturer of any drug or other item that was included in the health care involved in the coverage decision; or

(v) any other party determined under any regulations which the Secretary may prescribe to have a substantial interest in the coverage decision.

(4) LIMITATION ON LIABILITY OF REVIEWERS.—No qualified external appeal entity having a contract with a plan or issuer under this part and no person who is employed by any such entity or who furnishes professional services to such entity, shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if due care was exercised in the performance of such duty, function, or activity and there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

(d) EXTERNAL APPEAL DETERMINATION BINDING ON PLAN.—The determination by an external appeal entity under this section is binding on the plan and issuer involved in the determination.

(e) PENALTIES AGAINST AUTHORIZED OFFICIALS FOR REFUSING TO AUTHORIZE THE DETERMINATION OF AN EXTERNAL REVIEW ENTITY.—

(1) MONETARY PENALTIES.—In any case in which the determination of an external review entity is not followed by a group health plan, or by a health insurance issuer offering health insurance coverage, any person who, acting in the capacity of authorizing the benefit, causes such refusal may, in the discretion in a court of competent jurisdiction, be liable to an aggrieved participant, beneficiary, or enrollee for a civil penalty in an amount of up to $1,000 a day from the date on which the determination was transmitted to the plan or issuer by the external review entity until the date the refusal to provide the benefit is corrected.

(2) CEASE AND DESIST ORDER AND ORDER OF ATTORNEY'S FEES.—In any action described in paragraph (1) brought by a participant, beneficiary, or enrollee with respect to a group health plan, or a health insurance issuer offering health insurance coverage, in which a plaintiff alleges that a person referred to in such paragraph has taken an action resulting in a refusal of a benefit determined by an external appeal entity in violation of such terms of the plan, coverage, or this subtitle, or has failed to take an action for which such person is responsible under the plan, coverage, or this title and which is necessary under the plan or coverage for authorizing a benefit, the court shall cause to be served on the defendant an order requiring the defendant—

(A) to cease and desist from the alleged action or failure to act; and

(B) to pay to the plaintiff a reasonable attorney's fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

(3) ADDITIONAL CIVIL PENALTIES.—

(A) IN GENERAL.—In addition to any penalty imposed under paragraph (1) or (2), the appropriate Secretary may assess a civil penalty against a person acting in the capacity of authorizing a benefit determined by an external review entity for one or more group health plans, or health insurance issuers offering health insurance coverage, for—

(i) any pattern or practice of repeated refusal to authorize a benefit determined by an external appeal entity in violation of the terms of such a plan, coverage, or this title; or

(ii) any pattern or practice of repeated violations of the requirements of this section with respect to such plan or plans or coverage.

(B) STANDARD OF PROOF AND AMOUNT OF PENALTY.—Such penalty shall be payable only upon proof by clear and convincing evidence of such pattern or practice and shall be in an amount not to exceed the lesser of—

(i) 25 percent of the aggregate value of benefits shown by the appropriate Secretary to have not been provided, or unlawfully delayed, in violation of this section under such pattern or practice, or

(ii) $500,000.

(4) REMOVAL AND DISQUALIFICATION.—Any person acting in the capacity of authorizing benefits who has engaged in any such pattern or practice described in paragraph (3)(A) with respect to a plan or coverage, upon the petition of the appropriate Secretary, may be removed by the court from such position, and from any other involvement, with respect to such a plan or coverage, and may be precluded from returning to any such position or involvement for a period determined by the court.

(f) PROTECTION OF LEGAL RIGHTS.—Nothing in this subtitle shall be construed as altering or eliminating any cause of action or legal rights or remedies of participants, beneficiaries, enrollees, and others under State or Federal law (including sections 502 and 503 of the Employee Retirement Income Security Act of 1974), including the right to file judicial actions to enforce rights.

SEC. 104. ESTABLISHMENT OF A GRIEVANCE PROCESS.

(a) ESTABLISHMENT OF GRIEVANCE SYSTEM.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall establish and maintain a system to provide for the presentation and resolution of oral and written grievances brought by individuals who are participants, beneficiaries, or enrollees, or health care providers or other individuals acting on behalf of an individual and with the individual's consent or without such consent if the individual is medically unable to provide such consent, regarding any aspect of the plan's or issuer's services.

(2) GRIEVANCE DEFINED.—In this section, the term "grievance" means any question, complaint, or concern brought by a participant, beneficiary or enrollee that is not a claim for benefits (as defined in section 101(f)(1)).

(b) GRIEVANCE SYSTEM.—Such system shall include the following components with respect to individuals who are participants, beneficiaries, or enrollees:

(1) Written notification to all such individuals and providers of the telephone numbers and business addresses of the plan or issuer personnel responsible for resolution of grievances and appeals.

(2) A system to record and document, over a period of at least three previous years, all grievances and appeals made and their status.

(3) A process providing for timely processing and resolution of grievances.

(4) Procedures for follow-up action, including the methods to inform the person making the grievance of the resolution of the grievance.

Grievances are not subject to appeal under the previous provisions of this subtitle.

Subtitle B—Access to Care

SEC. 111. CONSUMER CHOICE OPTION.

(a) IN GENERAL.—If a health insurance issuer offers to enrollees health insurance coverage in connection with a group health plan which provides for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the issuer to provide such services, the issuer shall also offer or arrange to be offered to such enrollees (at the time of enrollment and during an annual open season as provided under subsection (c)) the option of health insurance coverage which provides for coverage of such services which are not furnished through health care professionals and providers who are members of such a network unless enrollees are offered such non-network coverage through another group health plan or through another health insurance issuer in the group market.

(b) ADDITIONAL COSTS.—The amount of any additional premium charged by the health insurance issuer for the additional cost of the creation and maintenance of the option described in subsection (a) and the amount of any additional cost sharing imposed under such option shall be borne by the enrollee unless it is paid by the health plan sponsor through agreement with the health insurance issuer.

(c) OPEN SEASON.—An enrollee may change to the offering provided under this section only during a time period determined by the health insurance issuer. Such time period shall occur at least annually.

SEC. 112. CHOICE OF HEALTH CARE PROFESSIONAL.

(a) PRIMARY CARE.—If a group health plan, or a health insurance issuer that offers health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating primary care provider, then the plan or issuer shall permit each participant, beneficiary, and enrollee to designate any participating primary care provider who is available to accept such individual.

(b) SPECIALISTS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary or appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care professional who is available to accept such individual for such care.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating health care professionals with respect to such care.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the

application of section 114 (relating to access to specialty care).

SEC. 113. ACCESS TO EMERGENCY CARE.

(a) Coverage of Emergency Services.—

(1) In general.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides any benefits with respect to services in an emergency department of a hospital, the plan or issuer shall cover emergency services (as defined in paragraph (2)(B))—

(A) without the need for any prior authorization determination;

(B) whether or not the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee—

(i) by a nonparticipating health care provider with or without prior authorization, or

(ii) by a participating health care provider without prior authorization,

the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) Definitions.—In this section:

(A) Emergency medical condition based on prudent layperson standard.—The term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) Emergency services.—The term "emergency services" means—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition (as defined in subparagraph (A)), and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(C) Stabilize.—The term "to stabilize" means, with respect to an emergency medical condition, to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility.

(b) Reimbursement for Maintenance Care and Post-Stabilization Care.—In the case of services (other than emergency services) for which benefits are available under a group health plan, or under health insurance coverage offered by a health insurance issuer, the plan or issuer shall provide for reimbursement with respect to such services provided to a participant, beneficiary, or enrollee other than through a participating health care provider in a manner consistent with subsection (a)(1)(C) (and shall otherwise comply with the guidelines established under section 1852(d)(2) of the Social Security Act), if the services are maintenance care or post-stabilization care covered under such guidelines.

SEC. 114. ACCESS TO SPECIALTY CARE.

(a) Specialty Care for Covered Services.—

(1) In general.—If—

(A) an individual is a participant or beneficiary under a group health plan or an enrollee who is covered under health insurance coverage offered by a health insurance issuer,

(B) the individual has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist, and

(C) benefits for such treatment are provided under the plan or coverage,

the plan or issuer shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

(2) Specialist defined.—For purposes of this subsection, the term "specialist" means, with respect to a condition, a health care practitioner, facility, or center that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

(3) Care under referral.—A group health plan or health insurance issuer may require that the care provided to an individual pursuant to such referral under paragraph (1) be—

(A) pursuant to a treatment plan, only if the treatment plan is developed by the specialist and approved by the plan or issuer, in consultation with the designated primary care provider or specialist and the individual (or the individual's designee), and

(B) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

Nothing in this subsection shall be construed as preventing such a treatment plan for an individual from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

(4) Referrals to participating providers.—A group health plan or health insurance issuer is not required under paragraph (1) to provide for a referral to a specialist that is not a participating provider, unless the plan or issuer does not have an appropriate specialist that is available and accessible to treat the individual's condition and that is a participating provider with respect to such treatment.

(5) Treatment of nonparticipating providers.—If a plan or issuer refers an individual to a nonparticipating specialist pursuant to paragraph (1), services provided pursuant to the approved treatment plan (if any) shall be provided at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist that is a participating provider.

(b) Specialists as Gatekeeper for Treatment of Ongoing Special Conditions.—

(1) In general.—A group health plan, or a health insurance issuer, in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition (as defined in paragraph (3)) may request and receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's care with respect to the condition. Under such procedures if such an individual's care would most appropriately be coordinated by such a specialist, such plan or issuer shall refer the individual to such specialist.

(2) Treatment for related referrals.—Such specialists shall be permitted to treat the individual without a referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment (referred to in subsection (a)(3)(A)) with respect to the ongoing special condition.

(3) Ongoing special condition defined.—In this subsection, the term "ongoing special condition" means a condition or disease that—

(A) is life-threatening, degenerative, or disabling, and

(B) requires specialized medical care over a prolonged period of time.

(4) Terms of referral.—The provisions of paragraphs (3) through (5) of subsection (a) apply with respect to referrals under paragraph (1) of this subsection in the same manner as they apply to referrals under subsection (a)(1).

(c) Standing Referrals.—

(1) In general.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the plan or issuer, or if the primary care provider in consultation with the medical director of the plan or issuer and the specialist (if any), determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to such a specialist if the individual so desires.

(2) Terms of referral.—The provisions of paragraphs (3) through (5) of subsection (a) apply with respect to referrals under paragraph (1) of this subsection in the same manner as they apply to referrals under subsection (a)(1).

SEC. 115. ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

(a) In General.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for a participant, beneficiary, or enrollee to designate a participating primary care health care professional, the plan or issuer—

(1) may not require authorization or a referral by the individual's primary care health care professional or otherwise for coverage of gynecological care (including preventive women's health examinations) and pregnancy-related services provided by a participating health care professional, including a physician, who specializes in obstetrics and gynecology to the extent such care is otherwise covered, and

(2) shall treat the ordering of other obstetrical or gynecological care by such a participating professional as the authorization of the primary care health care professional with respect to such care under the plan or coverage.

(b) Construction.—Nothing in subsection (a) shall be construed to—

(1) waive any exclusions of coverage under the terms of the plan or health insurance

coverage with respect to coverage of obstetrical or gynecological care; or

(2) preclude the group health plan or health insurance issuer involved from requiring that the obstetrical or gynecological provider notify the primary care health care professional or the plan or issuer of treatment decisions.

SEC. 116. ACCESS TO PEDIATRIC CARE.

(a) Pediatric Care.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for an enrollee to designate a participating primary care provider for a child of such enrollee, the plan or issuer shall permit the enrollee to designate a physician who specializes in pediatrics as the child's primary care provider.

(b) Construction.—Nothing in subsection (a) shall be construed to waive any exclusions of coverage under the terms of the plan or health insurance coverage with respect to coverage of pediatric care.

SEC. 117. CONTINUITY OF CARE.

(a) In General.—

(1) Termination of provider.—If a contract between a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, and a health care provider is terminated (as defined in paragraph (3)(B)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who is a participant, beneficiary, or enrollee in the plan or coverage is undergoing treatment from the provider for an ongoing special condition (as defined in paragraph (3)(A)) at the time of such termination, the plan or issuer shall—

(A) notify the individual on a timely basis of such termination and of the right to elect continuation of coverage of treatment by the provider under this section; and

(B) subject to subsection (c), permit the individual to elect to continue to be covered with respect to treatment by the provider of such condition during a transitional period (provided under subsection (b)).

(2) Treatment of termination of contract with health insurance issuer.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) Definitions.—For purposes of this section:

(A) Ongoing special condition.—The term "ongoing special condition" has the meaning given such term in section 114(b)(3), and also includes pregnancy.

(B) Termination.—The term "terminated" includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

(b) Transitional Period.—

(1) In general.—Except as provided in paragraphs (2) through (4), the transitional period under this subsection shall extend up to 90 days (as determined by the treating health care professional) after the date of the notice described in subsection (a)(1)(A) of the provider's termination.

(2) Scheduled surgery and organ transplantation.—If surgery or organ transplantation was scheduled for an individual before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such surgery or transplantation, the transitional period under this subsection with respect to the surgery or transplantation shall extend beyond the period under paragraph (1) and until the date of discharge of the individual after completion of the surgery or transplantation.

(3) Pregnancy.—If—

(A) a participant, beneficiary, or enrollee was determined to be pregnant at the time of a provider's termination of participation, and

(B) the provider was treating the pregnancy before date of the termination,

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

(4) Terminal illness.—If—

(A) a participant, beneficiary, or enrollee was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, and

(B) the provider was treating the terminal illness before the date of termination,

the transitional period under this subsection shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness or its medical manifestations.

(c) Permissible Terms and Conditions.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the individual notifying the plan of the election of continued coverage and upon the provider agreeing to the following terms and conditions:

(1) The provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) Construction.—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

SEC. 118. ACCESS TO NEEDED PRESCRIPTION DRUGS.

If a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits with respect to prescription drugs but the coverage limits such benefits to drugs included in a formulary, the plan or issuer shall—

(1) ensure participation of participating physicians and pharmacists in the development of the formulary;

(2) disclose to providers and, disclose upon request under section 121(c)(5) to participants, beneficiaries, and enrollees, the nature of the formulary restrictions; and

(3) consistent with the standards for a utilization review program under section 101, provide for exceptions from the formulary limitation when a non-formulary alternative is medically indicated.

SEC. 119. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) Coverage.—

(1) In general.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) Exclusion of certain costs.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) Use of in-network providers.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) Qualified Individual Defined.—For purposes of subsection (a), the term "qualified individual" means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) Payment.—

(1) In general.—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs

described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate, or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term "approved clinical trial" means a clinical research study or clinical investigation approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(A) The National Institutes of Health.

(B) A cooperative group or center of the National Institutes of Health.

(C) Either of the following if the conditions described in paragraph (2) are met:

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health, and

(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

Subtitle C—Access to Information

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) DISCLOSURE REQUIREMENT.—

(1) GROUP HEALTH PLANS.—A group health plan shall—

(A) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries as of such date), and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to participants and beneficiaries, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to participants and beneficiaries, the applicable authority, and prospective participants and beneficiaries, the information described in subsection (b) or (c) in printed form.

(2) HEALTH INSURANCE ISSUERS.—A health insurance issuer in connection with the provision of health insurance coverage shall—

(A) provide to individuals enrolled under such coverage at the time of enrollment, and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to enrollees, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to the applicable authority, to individuals who are prospective enrollees, and to the public the information described in subsection (b) or (c) in printed form.

(b) INFORMATION PROVIDED.—The information described in this subsection with respect to a group health plan or health insurance coverage offered by a health insurance issuer includes the following:

(1) SERVICE AREA.—The service area of the plan or issuer.

(2) BENEFITS.—Benefits offered under the plan or coverage, including—

(A) covered benefits, including benefit limits and coverage exclusions;

(B) cost sharing, such as deductibles, coinsurance, and copayment amounts, including any liability for balance billing, any maximum limitations on out of pocket expenses, and the maximum out of pocket costs for services that are provided by nonparticipating providers or that are furnished without meeting the applicable utilization review requirements;

(C) the extent to which benefits may be obtained from nonparticipating providers;

(D) the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the types of providers participating in the plan or issuer network;

(E) process for determining experimental coverage; and

(F) use of a prescription drug formulary.

(3) ACCESS.—A description of the following:

(A) The number, mix, and distribution of providers under the plan or coverage.

(B) Out-of-network coverage (if any) provided by the plan or coverage.

(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

(D) The procedures for participants, beneficiaries, and enrollees to select, access, and change participating primary and specialty providers.

(E) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

(F) The name, address, and telephone number of participating health care providers and an indication of whether each such provider is available to accept new patients.

(G) Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section 112(b)(2).

(H) How the plan or issuer addresses the needs of participants, beneficiaries, and enrollees and others who do not speak English or who have other special communications needs in accessing providers under the plan or coverage, including the provision of information described in this subsection and subsection (c) to such individuals.

(4) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan or issuer.

(5) EMERGENCY COVERAGE.—Coverage of emergency services, including—

(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

(B) the process and procedures of the plan or issuer for obtaining emergency services; and

(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

(6) PERCENTAGE OF PREMIUMS USED FOR BENEFITS (LOSS-RATIOS).—In the case of health insurance coverage only (and not with respect to group health plans that do not provide coverage through health insurance coverage), a description of the overall loss-ratio for the coverage (as defined in accordance with rules established or recognized by the Secretary of Health and Human Services).

(7) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in noncoverage or nonpayment.

(8) GRIEVANCE AND APPEALS PROCEDURES.—All appeal or grievance rights and procedures under the plan or coverage, including the method for filing grievances and the time frames and circumstances for acting on grievances and appeals, who is the applicable authority with respect to the plan or issuer.

(9) QUALITY ASSURANCE.—Any information made public by an accrediting organization in the process of accreditation of the plan or issuer or any additional quality indicators the plan or issuer makes available.

(10) INFORMATION ON ISSUER.—Notice of appropriate mailing addresses and telephone numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

(11) NOTICE OF REQUIREMENTS.—Notice of the requirements of this title.

(12) AVAILABILITY OF INFORMATION ON REQUEST.—Notice that the information described in subsection (c) is available upon request.

(c) INFORMATION MADE AVAILABLE UPON REQUEST.—The information described in this subsection is the following:

(1) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, time frames, and appeal rights) under any utilization review program under section 101, including under any drug formulary program under section 118.

(2) GRIEVANCE AND APPEALS INFORMATION.—Information on the number of grievances and appeals and on the disposition in the aggregate of such matters.

(3) METHOD OF PHYSICIAN COMPENSATION.—A general description by category (including salary, fee-for-service, capitation, and such other categories as may be specified in regulations of the Secretary) of the applicable method by which a specified prospective or treating health care professional is (or would be) compensated in connection with the provision of health care under the plan or coverage.

(4) SPECIFIC INFORMATION ON CREDENTIALS OF PARTICIPATING PROVIDERS.—In the case of each participating provider, a description of the credentials of the provider.

(5) FORMULARY RESTRICTIONS.—A description of the nature of any drug formula restrictions.

(6) PARTICIPATING PROVIDER LIST.—A list of current participating health care providers.

(d) CONSTRUCTION.—Nothing in this section shall be construed as requiring public disclosure of individual contracts or financial arrangements between a group health plan or health insurance issuer and any provider.

Subtitle D—Protecting the Doctor-Patient Relationship

SEC. 131. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

(b) NULLIFICATION.—Any contract provision or agreement that restricts or prohibits medical communications in violation of subsection (a) shall be null and void.

SEC. 132. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSURE.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(b) CONSTRUCTION.—Subsection (a) shall not be construed—

(1) as requiring the coverage under a group health plan or health insurance coverage of particular benefits or services or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer;

(2) to override any State licensure or scope-of-practice law; or

(3) as requiring a plan or issuer that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan or issuer.

SEC. 133. PROHIBITION AGAINST IMPROPER INCENTIVE ARRANGEMENTS.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in clauses (i), (ii)(I), and (iii) of subparagraph (A) of such section are met with respect to such a plan.

(b) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting all capitation and similar arrangements or all provider discount arrangements.

SEC. 134. PAYMENT OF CLAIMS.

A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for prompt payment of claims submitted for health care services or supplies furnished to a participant, beneficiary, or enrollee with respect to benefits covered by the plan or issuer, in a manner consistent with the provisions of sections 1816(c)(2) and 1842(c)(2) of the Social Security Act (42 U.S.C. 1395h(c)(2) and 42 U.S.C. 1395u(c)(2)), except that for purposes of this section, subparagraph (C) of section 1816(c)(2) of the Social Security Act shall be treated as applying to claims received from a participant, beneficiary, or enrollee as well as claims referred to in such subparagraph.

SEC. 135. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this title.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established for the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term "protected health care professional" means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

Subtitle E—Definitions

SEC. 151. DEFINITIONS.

(a) Incorporation of General Definitions.—Except as otherwise provided, the provisions of section 2791 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) Secretary.—Except as otherwise provided, the term "Secretary" means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the term "appropriate Secretary" means the Secretary of Health and Human Services in relation to carrying out this title under sections 2706 and 2751 of the Public Health Service Act and the Secretary of Labor in relation to carrying out this title under section 713 of the Employee Retirement Income Security Act of 1974.

(c) Additional Definitions.—For purposes of this title:

(1) Actively practicing.—The term "actively practicing" means, with respect to a physician or other health care professional, such a physician or professional who provides professional services to individual patients on average at least two full days per week.

(2) Applicable authority.—The term "applicable authority" means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this title, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(3) Clinical peer.—The term "clinical peer" means, with respect to a review or appeal, an actively practicing physician (allopathic or osteopathic) or other actively practicing health care professional who holds a nonrestricted license, and who is appropriately credentialed in the same or similar specialty or subspecialty (as appropriate) as typically handles the medical condition, procedure, or treatment under review or appeal and includes a pediatric specialist where appropriate; except that only a physician (allopathic or osteopathic) may be a clinical peer with respect to the review or appeal of treatment recommended or rendered by a physician.

(4) Enrollee.—The term "enrollee" means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

(5) Group health plan.—The term "group health plan" has the meaning given such term in section 733(a) of the Employee Retirement Income Security Act of 1974 and in section 2791(a)(1) of the Public Health Service Act.

(6) Health care professional.—The term "health care professional" means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

(7) Health care provider.—The term "health care provider" includes a physician or other health care professional, as well as an institutional or other facility or agency that provides health care services and that is licensed, accredited, or certified to provide health care items and services under applicable State law.

(8) Network.—The term "network" means, with respect to a group health plan or health insurance issuer offering health insurance coverage, the participating health care professionals and providers through whom the plan or issuer provides health care items and services to participants, beneficiaries, or enrollees.

(9) Nonparticipating.—The term "nonparticipating" means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(10) Participating.—The term "participating" means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

(11) Prior authorization.—The term "prior authorization" means the process of obtaining prior approval from a health insurance issuer or group health plan for the provision or coverage of medical services.

SEC. 152. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) Continued Applicability of State Law With Respect to Health Insurance Issuers.—

(1) In general.—Subject to paragraph (2), this title shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers (in connection with group health insurance coverage or otherwise) except to the extent that such standard or requirement prevents the application of a requirement of this title.

(2) Continued preemption with respect to group health plans.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(b) Definitions.—For purposes of this section:

(1) State law.—The term "State law" includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) State.—The term "State" includes a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any political subdivisions of such, or any agency or instrumentality of such.

SEC. 153. EXCLUSIONS.

(a) No Benefit Requirements.—Nothing in this title shall be construed to require a group health plan or a health insurance issuer offering health insurance coverage to provide items and services (including abortions) that are specifically excluded under the plan or coverage.

(b) Exclusion From Access to Care Managed Care Provisions for Fee-for-Service Coverage.—

(1) In general.—The provisions of sections 111 through 117 shall not apply to a group health plan or health insurance coverage if the only coverage offered under the plan or coverage is fee-for-service coverage (as defined in paragraph (2)).

(2) Fee-for-service coverage defined.—For purposes of this subsection, the term "fee-for-service coverage" means coverage under a group health plan or health insurance coverage that—

(A) reimburses hospitals, health professionals, and other providers on the basis of a rate determined by the plan or issuer on a fee-for-service basis without placing the provider at financial risk;

(B) does not vary reimbursement for such a provider based on an agreement to contract terms and conditions or the utilization of health care items or services relating to such provider;

(C) does not restrict the selection of providers among those who are lawfully authorized to provide the covered services and agree to accept the terms and conditions of payment established under the plan or by the issuer; and

(D) for which the plan or issuer does not require prior authorization before providing coverage for any services.

SEC. 154. COVERAGE OF LIMITED SCOPE PLANS.

Only for purposes of applying the requirements of this title under sections 2707 and 2753 of the Public Health Service Act and section 714 of the Employee Retirement Income Security Act of 1974, section 2791(c)(2)(A), and section 733(c)(2)(A) of the Employee Retirement Income Security Act of 1974 shall be deemed not to apply.

SEC. 155. REGULATIONS.

The Secretaries of Health and Human Services and Labor shall issue such regulations as may be necessary or appropriate to carry out this title. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this title.

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) In General.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

"SEC. 2707. PATIENT PROTECTION STANDARDS.

"(a) In General.—Each group health plan shall comply with patient protection requirements under title I of the Bipartisan Consensus Managed Care Improvement Act of 1999; and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

"(b) Notice.—A group health plan shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) and a health insurance issuer shall comply with such notice requirement as if such section applied to such issuer and such issuer were a group health plan.".

(b) Conforming Amendment.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg-21(b)(2)(A)) is amended by inserting "(other than section 2707)" after "requirements of such subparts".

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following new section:

“SEC. 2753. PATIENT PROTECTION STANDARDS.

“(a) IN GENERAL.—Each health insurance issuer shall comply with patient protection requirements under title I of the Bipartisan Consensus Managed Care Improvement Act of 1999 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

“(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of such title as if such section applied to such issuer and such issuer were a group health plan.”.

TITLE III—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

“SEC. 714. PATIENT PROTECTION STANDARDS.

“(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title I of the Bipartisan Consensus Managed Care Improvement Act of 1999 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

“(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

“(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title I of the Bipartisan Consensus Managed Care Improvement Act of 1999 with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

“(A) Section 112 (relating to choice of providers).

“(B) Section 113 (relating to access to emergency care).

“(C) Section 114 (relating to access to specialty care).

“(D) Section 115 (relating to access to obstetrical and gynecological care).

“(E) Section 116 (relating to access to pediatric care).

“(F) Section 117(a)(1) (relating to continuity in case of termination of provider contract) and section 117(a)(2) (relating to continuity in case of termination of issuer contract), but only insofar as a replacement issuer assumes the obligation for continuity of care.

“(G) Section 118 (relating to access to needed prescription drugs).

“(H) Section 119 (relating to coverage for individuals participating in approved clinical trials.)

“(I) Section 134 (relating to payment of claims).

“(2) INFORMATION.—With respect to information required to be provided or made available under section 121, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

“(3) GRIEVANCE AND INTERNAL APPEALS.—With respect to the internal appeals process and the grievance system required to be established under sections 102 and 104, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such process and system (and is not liable for the issuer's failure to provide for such process and system), if the issuer is obligated to provide for (and provides for) such process and system.

“(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section 103, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

“(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections, the group health plan shall not be liable for such violation unless the plan caused such violation:

“(A) Section 131 (relating to prohibition of interference with certain medical communications).

“(B) Section 132 (relating to prohibition of discrimination against providers based on licensure).

“(C) Section 133 (relating to prohibition against improper incentive arrangements).

“(D) Section 135 (relating to protection for patient advocacy).

“(6) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

“(7) APPLICATION TO CERTAIN PROHIBITIONS AGAINST RETALIATION.—With respect to compliance with the requirements of section 135(b)(1) of the Bipartisan Consensus Managed Care Improvement Act of 1999, for purposes of this subtitle the term ‘group health plan’ is deemed to include a reference to an institutional health care provider.

“(c) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

“(1) COMPLAINTS.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 135(b)(1) of the Bipartisan Consensus Managed Care Improvement Act of 1999 may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

“(2) INVESTIGATION.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

“(d) CONFORMING REGULATIONS.—The Secretary may issue regulations to coordinate the requirements on group health plans under this section with the requirements imposed under the other provisions of this title.”.

(b) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting “(a)” after “SEC. 503.” and by adding at the end the following new subsection:

“(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of subtitle A of title I of the Bipartisan Consensus Managed Care Improvement Act of 1999 in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial.”.

(c) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking “section 711” and inserting “sections 711 and 714”.

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

“Sec. 714. Patient protection standards.”.

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting “(other than section 135(b))” after “part 7”.

SEC. 302. ERISA PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS INVOLVING HEALTH INSURANCE POLICYHOLDERS.

(a) IN GENERAL.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end the following subsections:

“(e) PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS ARISING OUT OF PROVISION OF HEALTH BENEFITS.—

“(1) NON-PREEMPTION OF CERTAIN CAUSES OF ACTION.—

“(A) IN GENERAL.—Except as provided in this subsection, nothing in this title shall be construed to invalidate, impair, or supersede any cause of action by a participant or beneficiary (or the estate of a participant or beneficiary) under State law to recover damages resulting from personal injury or for wrongful death against any person—

“(i) in connection with the provision of insurance, administrative services, or medical services by such person to or for a group health plan as defined in section 733), or

“(ii) that arises out of the arrangement by such person for the provision of such insurance, administrative services, or medical services by other persons.

“(B) LIMITATION ON PUNITIVE DAMAGES.—

“(i) IN GENERAL.—No person shall be liable for any punitive, exemplary, or similar damages in the case of a cause of action brought under subparagraph (A) if—

“(I) it relates to an externally appealable decision (as defined in subsection (a)(2) of section 103 of the Bipartisan Consensus Managed Care Improvement Act of 1999);

“(II) an external appeal with respect to such decision was completed under such section 103;

“(III) in the case such external appeal was initiated by the plan or issuer filing the request for the external appeal, the request was filed on a timely basis before the date the action was brought or, if later, within 30 days after the date the externally appealable decision was made; and

“(IV) the plan or issuer complied with the determination of the external appeal entity upon receipt of the determination of the external appeal entity.

The provisions of this clause supersede any State law or common law to the contrary.

"(ii) EXCEPTION.—Clause (i) shall not apply with respect to damages in the case of a cause of action for wrongful death if the applicable State law provides (or has been construed to provide) for damages in such a cause of action which are only punitive or exemplary in nature.

"(C) PERSONAL INJURY DEFINED.—For purposes of this subsection, the term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

"(2) EXCEPTION FOR GROUP HEALTH PLANS, EMPLOYERS, AND OTHER PLAN SPONSORS.—

"(A) IN GENERAL.—Subject to subparagraph (B), paragraph (1) does not authorize—

"(i) any cause of action against a group health plan or an employer or other plan sponsor maintaining the plan (or against an employee of such a plan, employer, or sponsor acting within the scope of employment), or

"(ii) a right of recovery, indemnity, or contribution by a person against a group health plan or an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action under paragraph (1).

"(B) SPECIAL RULE.—Subparagraph (A) shall not preclude any cause of action described in paragraph (1) against group health plan or an employer or other plan sponsor (or against an employee of such a plan, employer, or sponsor acting within the scope of employment) if—

"(i) such action is based on the exercise by the plan, employer, or sponsor (or employee) of discretionary authority to make a decision on a claim for benefits covered under the plan or health insurance coverage in the case at issue; and

"(ii) the exercise by the plan, employer, or sponsor (or employee) of such authority resulted in personal injury or wrongful death.

"(C) EXCEPTION.—The exercise of discretionary authority described in subparagraph (B)(i) shall not be construed to include—

"(i) the decision to include or exclude from the plan any specific benefit;

"(ii) any decision to provide extra-contractual benefits; or

"(iii) any decision not to consider the provision of a benefit while internal or external review is being conducted.

"(3) FUTILITY OF EXHAUSTION.—An individual bringing an action under this subsection is required to exhaust administrative processes under sections 102 and 103 of the Bipartisan Consensus Managed Care Improvement Act of 1999, unless the injury to or death of such individual has occurred before the completion of such processes.

"(4) CONSTRUCTION.—Nothing in this subsection shall be construed as—

"(A) permitting a cause of action under State law for the failure to provide an item or service which is specifically excluded under the group health plan involved;

"(B) as preempting a State law which requires an affidavit or certificate of merit in a civil action; or

"(C) permitting a cause of action or remedy under State law in connection with the provision or arrangement of excepted benefits (as defined in section 733(c)), other than those described in section 733(c)(2)(A).

"(f) RULES OF CONSTRUCTION RELATING TO HEALTH CARE.—Nothing in this title shall be construed as—

"(1) permitting the application of State laws that are otherwise superseded by this title and that mandate the provision of specific benefits by a group health plan (as defined in section 733(a)) or a multiple employer welfare arrangement (as defined in section 3(40)), or

"(2) affecting any State law which regulates the practice of medicine or provision of medical care, or affecting any action based upon such a State law.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acts and omissions occurring on or after the date of the enactment of this Act from which a cause of action arises.

SEC. 303. LIMITATIONS ON ACTIONS.

Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

"(n)(1) Except as provided in this subsection, no action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of any provision in section 101, subtitle B, or subtitle D of title I of the Bipartisan Consensus Managed Care Improvement Act of 1999 (as incorporated under section 714).

"(2) An action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of section 101, 113, 114, 115, 116, 117, 119, or 118(3) of the Bipartisan Consensus Managed Care Improvement Act of 1999 (as incorporated under section 714) to the individual circumstances of that participant or beneficiary, except that—

"(A) such an action may not be brought or maintained as a class action; and

"(B) in such an action, relief may only provide for the provision of (or payment of) benefits, items, or services denied to the individual participant or beneficiary involved (and for attorney's fees and the costs of the action, at the discretion of the court) and shall not provide for any other relief to the participant or beneficiary or for any relief to any other person.

"(3) Nothing in this subsection shall be construed as affecting any action brought by the Secretary.".

TITLE IV—APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986

SEC. 401. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

"Sec. 9813. Standard relating to patient freedom of choice.";

and

(2) by inserting after section 9812 the following:

"SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

"A group health plan shall comply with the requirements of title I of the Bipartisan Consensus Managed Care Improvement Act of 1999 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.".

TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 501. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by sections 201(a), 301, 303, and 401 (and title I insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after January 1, 2001 (in this section referred to as the "general effective date") and also shall apply to portions of plan years occurring on and after such date.

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by sections 201(a), 301, 303, and 401 (and title I insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this Act shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The amendments made by section 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

SEC. 502. COORDINATION IN IMPLEMENTATION.

The Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Treasury shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under the provisions of this Act (and the amendments made thereby) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

TITLE VI—HEALTH CARE PAPERWORK SIMPLIFICATION

SEC. 601. HEALTH CARE PAPERWORK SIMPLIFICATION.

(a) ESTABLISHMENT OF PANEL.—

(1) ESTABLISHMENT.—There is established a panel to be known as the Health Care Panel to Devise a Uniform Explanation of Benefits (in this section referred to as the "Panel").

(2) DUTIES OF PANEL.—

(A) IN GENERAL.—The Panel shall devise a single form for use by third-party health care payers for the remittance of claims to providers.

(B) DEFINITION.—For purposes of this section, the term "third-party health care payer" means any entity that contractually pays health care bills for an individual.

(3) MEMBERSHIP.—

(A) SIZE AND COMPOSITION.—The Secretary of Health and Human Services shall determine the number of members and the composition of the Panel. Such Panel shall include equal numbers of representatives of private insurance organizations, consumer groups, State insurance commissioners, State medical societies, State hospital associations, and State medical specialty societies.

(B) TERMS OF APPOINTMENT.—The members of the Panel shall serve for the life of the Panel.

(C) VACANCIES.—A vacancy in the Panel shall not affect the power of the remaining members to execute the duties of the Panel, but any such vacancy shall be filled in the same manner in which the original appointment was made.

(4) PROCEDURES.—

(A) MEETINGS.—The Panel shall meet at the call of a majority of its members.

(B) FIRST MEETING.—The Panel shall convene not later than 60 days after the date of the enactment of the Bipartisan Consensus Managed Care Improvement Act of 1999.

(C) QUORUM.—A quorum shall consist of a majority of the members of the Panel.

(D) HEARINGS.—For the purpose of carrying out its duties, the Panel may hold such hearings and undertake such other activities as the Panel determines to be necessary to carry out its duties.

(5) ADMINISTRATION.—

(A) COMPENSATION.—Except as provided in subparagraph (B), members of the Panel shall receive no additional pay, allowances, or benefits by reason of their service on the Panel.

(B) TRAVEL EXPENSES AND PER DIEM.—Each member of the Panel who is not an officer or employee of the Federal Government shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(C) CONTRACT AUTHORITY.—The Panel may contract with and compensate Government and private agencies or persons for items and services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(D) USE OF MAILS.—The Panel may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(E) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Panel, the Secretary of Health and Human Services shall provide to the Panel on a reimbursable basis such administrative support services as the Panel may request.

(6) SUBMISSION OF FORM.—Not later than 2 years after the first meeting, the Panel shall submit a form to the Secretary of Health and Human Services for use by third-party health care payers.

(7) TERMINATION.—The Panel shall terminate on the day after submitting the form under paragraph (6).

(b) REQUIREMENT FOR USE OF FORM BY THIRD-PARTY CARE PAYERS.—A third-party health care payer shall be required to use the form devised under subsection (a) for plan years beginning on or after 5 years following the date of the enactment of this Act.

The CHAIRMAN. No further amendment is in order except those printed in part B of the report. Each amendment may be offered only in the order printed, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

It is now in order to consider amendment No. 1 printed in part B of House Report 106-366.

AMENDMENT NO. 1 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BOEHNER

Mr. BOEHNER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment No. 1 in the nature of a substitute offered by Mr. BOEHNER:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Access and Responsibility in Health Care Act of 1999".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.

TITLE I—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Subtitle A—Patient Protections

Sec. 101. Patient access to unrestricted medical advice, emergency medical care, obstetric and gynecological care, pediatric care, and continuity of care.
Sec. 102. Required disclosure to network providers.
Sec. 103. Effective date and related rules.

Subtitle B—Patient Access to Information

Sec. 111. Patient access to information regarding plan coverage, managed care procedures, health care providers, and quality of medical care.
Sec. 112. Effective date and related rules.

Subtitle C—Group Health Plan Review Standards

Sec. 121. Special rules for group health plans.
Sec. 122. Special rule for access to specialty care.
Sec. 123. Protection for certain information developed to reduce mortality or morbidity or for improving patient care and safety.
Sec. 124. Effective date.

Subtitle E—Health Care Access, Affordability, and Quality Commission

Sec. 131. Establishment of commission.
Sec. 132. Effective date.

TITLE II—AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

Sec. 201. Patient access to unrestricted medical advice, emergency medical care, obstetric and gynecological care, pediatric care, and continuity of care.
Sec. 202. Requiring health maintenance organizations to offer option of point-of-service coverage.
Sec. 203. Effective date and related rules.

Subtitle B—Patient Access to Information

Sec. 211. Patient access to information regarding plan coverage, managed care procedures, health care providers, and quality of medical care.
Sec. 212. Effective date and related rules.

TITLE III—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Sec. 301. Patient access to unrestricted medical advice, emergency medical care, obstetric and gynecological care, pediatric care, and continuity of care.

TITLE IV—HEALTH CARE LAWSUIT REFORM

Subtitle A—General Provisions

Sec. 401. Federal reform of health care liability actions.
Sec. 402. Definitions.
Sec. 403. Effective date.

Subtitle B—Uniform Standards for Health Care Liability Actions

Sec. 411. Statute of limitations.
Sec. 412. Calculation and payment of damages.
Sec. 413. Alternative dispute resolution.
Sec. 414. Reporting on fraud and abuse enforcement activities.

TITLE I—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Subtitle A—Patient Protections

SEC. 101. PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE, EMERGENCY MEDICAL CARE, OBSTETRIC AND GYNECOLOGICAL CARE, PEDIATRIC CARE, AND CONTINUITY OF CARE.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

"SEC. 714. PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE, EMERGENCY MEDICAL CARE, OBSTETRIC AND GYNECOLOGICAL CARE, PEDIATRIC CARE, AND CONTINUITY OF CARE.

"(a) PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE.—

"(1) IN GENERAL.—In the case of any health care professional acting within the lawful scope of practice in the course of carrying out a contractual employment arrangement or other direct contractual arrangement between such professional and a group health plan or a health insurance issuer offering health insurance coverage in connection with a group health plan, the plan or issuer with which such contractual employment arrangement or other direct contractual arrangement is maintained by the professional may not impose on such professional under such arrangement any prohibition or restriction with respect to advice, provided to a participant or beneficiary under the plan who is a patient, about the health status of the participant or beneficiary or the medical care or treatment for the condition or disease of the participant or beneficiary, regardless of whether benefits for such care or treatment are provided under the plan or health insurance coverage offered in connection with the plan.

"(2) HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this paragraph, the term 'health care professional' means a physician (as defined in section 1861(r) of the Social Security Act) or other health care professional if coverage for the professional's services is provided under the group health plan for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech-language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse-midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.

"(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require the sponsor of a group health plan or a health insurance issuer offering health insurance coverage in connection with the group health plan to engage in any practice that would violate its religious beliefs or moral convictions.

"(b) PATIENT ACCESS TO EMERGENCY MEDICAL CARE.—

"(1) COVERAGE OF EMERGENCY SERVICES.—

"(A) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides any benefits with respect to emergency services (as defined in subparagraph (B)(ii)), or ambulance services, the plan or issuer shall cover emergency services (including emergency ambulance services as defined in subparagraph (B)(iii)) furnished under the plan or coverage—

"(i) without the need for any prior authorization determination;

"(ii) whether or not the health care provider furnishing such services is a participating provider with respect to such services;

"(iii) in a manner so that, if such services are provided to a participant or beneficiary by a nonparticipating health care provider, the participant or beneficiary is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating provider; and

"(iv) without regard to any other term or condition of such plan or coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 701 and other than applicable cost sharing).

"(B) DEFINITIONS.—In this subsection:

"(i) EMERGENCY MEDICAL CONDITION.—The term 'emergency medical condition' means—

"(I) a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act (42 U.S.C. 1395dd(e)(1)(A)); and

"(II) a medical condition manifesting itself in a neonate by acute symptoms of sufficient severity (including severe pain) such that a prudent health care professional could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

"(ii) EMERGENCY SERVICES.—The term 'emergency services' means—

"(I) with respect to an emergency medical condition described in clause (i)(I), a medical screening examination (as required under section 1867 of the Social Security Act, 42 U.S.C. 1395dd)) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition (as defined in clause (i)) and also, within the capabilities of the staff and facilities at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient; or

"(II) with respect to an emergency medical condition described in clause (i)(II), medical treatment for such condition rendered by a health care provider in a hospital to a neonate, including available hospital ancillary services in response to an urgent request of a health care professional and to the extent necessary to stabilize the neonate.

"(iii) EMERGENCY AMBULANCE SERVICES.—The term 'emergency ambulance services' means ambulance services (as defined for purposes of section 1861(s)(7) of the Social Security Act) furnished to transport an individual who has an emergency medical condition (as defined in clause (i)) to a hospital for the receipt of emergency services (as defined in clause (ii)) in a case in which appropriate emergency medical screening examinations are covered under the plan or coverage pursuant to paragraph (1)(A) and a prudent layperson, with an average knowledge of health and medicine, could reasonably expect that the absence of such transport would result in placing the health of the individual in serious jeopardy, serious impairment of bodily function, or serious dysfunction of any bodily organ or part.

"(iv) STABILIZE.—The term 'to stabilize' means, with respect to an emergency medical condition, to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility.

"(v) NONPARTICIPATING.—The term 'nonparticipating' means, with respect to a health care provider that provides health care items and services to a participant or beneficiary under group health plan or under group health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

"(vi) PARTICIPATING.—The term 'participating' means, with respect to a health care provider that provides health care items and services to a participant or beneficiary under group health plan or health insurance coverage offered by a health insurance issuer in connection with such a plan, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

"(c) PATIENT RIGHT TO OBSTETRIC AND GYNECOLOGICAL CARE.—

"(1) IN GENERAL.—In any case in which a group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan)—

"(A) provides benefits under the terms of the plan consisting of—

"(i) gynecological care (such as preventive women's health examinations); or

"(ii) obstetric care (such as pregnancy-related services),

provided by a participating health care professional who specializes in such care (or provides benefits consisting of payment for such care); and

"(B) requires or provides for designation by a participant or beneficiary of a participating primary care provider,

if the primary care provider designated by such a participant or beneficiary is not such a health care professional, then the plan (or issuer) shall meet the requirements of paragraph (2).

"(2) REQUIREMENTS.—A group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan) meets the requirements of this paragraph, in connection with benefits described in paragraph (1) consisting of care described in clause (i) or (ii) of paragraph (1)(A) (or consisting of payment therefor), if the plan (or issuer)—

"(A) does not require authorization or a referral by the primary care provider in order to obtain such benefits; and

"(B) treats the ordering of other care of the same type, by the participating health care professional providing the care described in clause (i) or (ii) of paragraph (1)(A), as the authorization of the primary care provider with respect to such care.

"(3) HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term 'health care professional' means an individual (including, but not limited to, a nurse midwife or nurse practitioner) who is licensed, accredited, or certified under State law to provide obstetric and gynecological health care services and who is operating within the scope of such licensure, accreditation, or certification.

"(4) CONSTRUCTION.—Nothing in paragraph (1) shall be construed as preventing a plan from offering (but not requiring a participant or beneficiary to accept) a health care professional trained, credentialed, and operating within the scope of their licensure to perform obstetric and gynecological health care services. Nothing in paragraph (2)(B) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological or obstetric care so ordered.

"(5) TREATMENT OF MULTIPLE COVERAGE OPTIONS.—In the case of a plan providing benefits under two or more coverage options, the requirements of this subsection shall apply separately with respect to each coverage option.

"(d) PATIENT RIGHT TO PEDIATRIC CARE.—

"(1) IN GENERAL.—In any case in which a group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan) provides benefits consisting of routine pediatric care provided by a participating health care professional who specializes in pediatrics (or consisting of payment for such care) and the plan requires or provides for designation by a participant or beneficiary of a participating primary care provider, the plan (or issuer) shall provide that such a participating health care professional may be designated, if available, by a parent or guardian of any beneficiary under the plan is who under 18 years of age, as the primary care provider with respect to any such benefits.

"(2) HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term 'health care professional' means an individual (including, but not limited to, a nurse practitioner) who is licensed, accredited, or certified under State law to provide pediatric health care services and who is operating within the scope of such licensure, accreditation, or certification.

"(3) CONSTRUCTION.—Nothing in paragraph (1) shall be construed as preventing a plan from offering (but not requiring a participant or beneficiary to accept) a health care professional trained, credentialed, and operating within the scope of their licensure to perform pediatric health care services. Nothing in paragraph (1) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of pediatric care so ordered.

“(4) TREATMENT OF MULTIPLE COVERAGE OPTIONS.—In the case of a plan providing benefits under two or more coverage options, the requirements of this subsection shall apply separately with respect to each coverage option.

“(e) CONTINUITY OF CARE.—

“(1) IN GENERAL.—

“(A) TERMINATION OF PROVIDER.—If a contract between a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, and a health care provider is terminated (as defined in subparagraph (D)(ii)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who, at the time of such termination, is a participant or beneficiary in the plan and is scheduled to undergo surgery (including an organ transplantation), is undergoing treatment for pregnancy, or is determined to be terminally ill (as defined in section 1861(dd)(3)(A) of the Social Security Act) and is undergoing treatment for the terminal illness, the plan or issuer shall—

“(i) notify the individual on a timely basis of such termination and of the right to elect continuation of coverage of treatment by the provider under this subsection; and

“(ii) subject to paragraph (3), permit the individual to elect to continue to be covered with respect to treatment by the provider for such surgery, pregnancy, or illness during a transitional period (provided under paragraph (2)).

“(B) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of subparagraph (A) (and the succeeding provisions of this subsection) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

“(C) TERMINATION DEFINED.—For purposes of this subsection, the term ‘terminated’ includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

“(2) TRANSITIONAL PERIOD.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B) through (D), the transitional period under this paragraph shall extend up to 90 days (as determined by the treating health care professional) after the date of the notice described in paragraph (1)(A)(i) of the provider's termination.

“(B) SCHEDULED SURGERY.—If surgery was scheduled for an individual before the date of the announcement of the termination of the provider status under paragraph (1)(A)(i), the transitional period under this paragraph with respect to the surgery shall extend beyond the period under subparagraph (A) and until the date of discharge of the individual after completion of the surgery.

“(C) PREGNANCY.—If—

“(i) a participant or beneficiary was determined to be pregnant at the time of a provider's termination of participation, and

“(ii) the provider was treating the pregnancy before date of the termination,

the transitional period under this paragraph with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

“(D) TERMINAL ILLNESS.—If—

“(i) a participant or beneficiary was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, and

“(ii) the provider was treating the terminal illness before the date of termination, the transitional period under this paragraph shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness or its medical manifestations.

“(3) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under paragraph (1)(A)(i) upon the individual notifying the plan of the election of continued coverage and upon the provider agreeing to the following terms and conditions:

“(A) The provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in paragraph (1)(B), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in paragraph (1)(A) had not been terminated.

“(B) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under subparagraph (A) and to provide to such plan or issuer necessary medical information related to the care provided.

“(C) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

“(D) The provider agrees to provide transitional care to all participants and beneficiaries who are eligible for and elect to have coverage of such care from such provider.

“(E) If the provider initiates the termination, the provider has notified the plan within 30 days prior to the effective date of the termination of—

“(i) whether the provider agrees to permissible terms and conditions (as set forth in this paragraph) required by the plan, and

“(ii) if the provider agrees to the terms and conditions, the specific plan beneficiaries and participants undergoing a course of treatment from the provider who the provider believes, at the time of the notification, would be eligible for transitional care under this subsection.

“(4) CONSTRUCTION.—Nothing in this subsection shall be construed to—

“(A) require the coverage of benefits which would not have been covered if the provider involved remained a participating provider, or

“(B) prohibit a group health plan from conditioning a provider's participation on the provider's agreement to provide transitional care to all participants and beneficiaries eligible to obtain coverage of such care furnished by the provider as set forth under this subsection.

“(f) COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CANCER CLINICAL TRIALS.—

“(1) COVERAGE.—

“(A) IN GENERAL.—If a group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan) provides coverage to a qualified individual (as defined in paragraph (2)), the plan or issuer—

“(i) may not deny the individual participation in the clinical trial referred to in paragraph (2)(B);

“(ii) subject to paragraphs (2), (3), and (4), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

“(iii) may not discriminate against the individual on the basis of the participation of the participant or beneficiary in such trial.

“(B) EXCLUSION OF CERTAIN COSTS.—For purposes of subparagraph (A)(ii), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

“(C) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in subparagraph (A) shall be construed as preventing a plan from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

“(2) QUALIFIED INDIVIDUAL DEFINED.—For purposes of paragraph (1), the term ‘qualified individual’ means an individual who is a participant or beneficiary in a group health plan and who meets the following conditions:

“(A)(i) The individual has been diagnosed with cancer.

“(ii) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of cancer.

“(iii) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

“(B) Either—

“(i) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon satisfaction by the individual of the conditions described in subparagraph (A); or

“(ii) the individual provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the satisfaction by the individual of the conditions described in subparagraph (A).

“(3) PAYMENT.—

“(A) IN GENERAL.—A group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan) shall provide for payment for routine patient costs described in paragraph (1)(B) but is not required to pay for costs of items and services that are reasonably expected to be paid for by the sponsors of an approved clinical trial.

“(B) ROUTINE PATIENT CARE COSTS.—

“(i) IN GENERAL.—For purposes of this paragraph, the term ‘routine patient care costs’ shall include the costs associated with the provision of items and services that—

"(I) would otherwise be covered under the group health plan if such items and services were not provided in connection with an approved clinical trial program; and

"(II) are furnished according to the protocol of an approved clinical trial program.

"(ii) Exclusion.—For purposes of this paragraph, 'routine patient care costs' shall not include the costs associated with the provision of—

(I) an investigational drug or device, unless the Secretary has authorized the manufacturer of such drug or device to charge for such drug or device; or

(II) any item or service supplied without charge by the sponsor of the approved clinical trial program.

"(C) Payment rate.—For purposes of this subsection—

"(i) Participating providers.—In the case of covered items and services provided by a participating provider, the payment rate shall be at the agreed upon rate.

"(ii) Nonparticipating providers.—In the case of covered items and services provided by a nonparticipating provider, the payment rate shall be at the rate the plan would normally pay for comparable items or services under clause (i).

"(4) Approved clinical trial defined.—

"(A) In general.—For purposes of this subsection, the term 'approved clinical trial' means a cancer clinical research study or cancer clinical investigation approved by an Institutional Review Board.

"(B) Conditions for departments.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

"(i) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health, and

"(ii) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

"(5) Construction.—Nothing in this subsection shall be construed to limit a plan's coverage with respect to clinical trials.

"(6) Plan satisfaction of certain requirements; responsibilities of fiduciaries.—

"(A) In general.—For purposes of this subsection, insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the requirements of this subsection with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer.

"(B) Construction.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4.

"(7) Study and report.—

"(A) Study.—The Secretary shall analyze cancer clinical research and its cost implications for managed care, including differentiation in—

"(i) the cost of patient care in trials versus standard care;

"(ii) the cost effectiveness achieved in different sites of service;

"(iii) research outcomes;

"(iv) volume of research subjects available in different sites of service;

"(v) access to research sites and clinical trials by cancer patients;

"(vi) patient cost sharing or copayment costs realized in different sites of service;

"(vii) health outcomes experienced in different sites of service;

"(viii) long term health care services and costs experienced in different sites of service;

"(ix) morbidity and mortality experienced in different sites of service; and

"(x) patient satisfaction and preference of sites of service.

"(B) Report to congress.—Not later than January 1, 2005, the Secretary shall submit a report to Congress that contains—

"(i) an assessment of any incremental cost to group health plans resulting from the provisions of this section;

"(ii) a projection of expenditures to such plans resulting from this section;

"(iii) an assessment of any impact on premiums resulting from this section; and

"(iv) recommendations regarding action on other diseases.".

(b) Conforming Amendment.—The table of contents in section 1 of such Act is amended by adding at the end of the items relating to subpart B of part 7 of subtitle B of title I of such Act the following new item:

"Sec. 714. Patient access to unrestricted medical advice, emergency medical care, obstetric and gynecological care, pediatric care, and continuity of care.".

SEC. 102. REQUIRED DISCLOSURE TO NETWORK PROVIDERS.

(a) In General.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by section 101) is amended further by adding at the end the following new section:

"SEC. 715. REQUIRED DISCLOSURE TO NETWORK PROVIDERS.

"(a) In General.—If a group health plan reimburses, through a contract or other arrangement, a health care provider at a discounted payment rate because the provider participates in a provider network, the plan shall disclose to the provider the following information before the provider furnishes covered items or services under the plan:

"(1) The identity of the plan sponsor or other entity that is to utilize the discounted payment rates in reimbursing network providers in that network.

"(2) The existence of any substantial benefit differentials established for the purpose of actively encouraging participants or beneficiaries under the plan to utilize the providers in that network.

"(3) The methods and materials by which providers in the network are identified to such participants or beneficiaries as part of the network.

"(b) Permitted Means of Disclosure.—Disclosure required under subsection (a) by a plan may be made—

"(1) by another entity under a contract or other arrangement between the plan and the entity; and

"(2) by making such information available in written format, in an electronic format, on the Internet, or on a proprietary computer network which is readily accessible to the network providers.

"(c) Construction.—Nothing in this section shall be construed to require, directly or indirectly, disclosure of specific fee arrangements or other reimbursement arrangements—

"(1) between (i) group health plans or provider networks and (ii) health care providers, or

"(2) among health care providers.

"(d) Definitions.—For purposes of this subsection:

"(1) Benefit differential.—The term 'benefit differential' means, with respect to a group health plan, differences in the case of any participant or beneficiary, in the financial responsibility for payment of coinsurance, copayments, deductibles, balance billing requirements, or any other charge, based upon whether a health care provider from whom covered items or services are obtained is a network provider.

"(2) Discounted payment rate.—The term 'discounted payment rate' means, with respect to a provider, a payment rate that is below the charge imposed by the provider.

"(3) Network provider.—The term 'network provider' means, with respect to a group health plan, a health care provider that furnishes health care items and services to participants or beneficiaries under the plan pursuant to a contract or other arrangement with a provider network in which the provider is participating.

"(4) Provider network.—The term 'provider network' means, with respect to a group health plan offering health insurance coverage, an association of network providers through whom the plan provides, through contract or other arrangement, health care items and services to participants and beneficiaries.".

(b) Conforming Amendment.—The table of contents in section 1 of such Act is amended by adding at the end of the items relating to subpart B of part 7 of subtitle B of title I of such Act the following new item:

"Sec. 715. Required disclosure to network providers.".

SEC. 103. EFFECTIVE DATE AND RELATED RULES.

(a) In General.—The amendments made by this subtitle shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act, except that the Secretary of Labor may issue regulations before such date under such amendments. The Secretary shall first issue regulations necessary to carry out the amendments made by this subtitle before the effective date thereof.

(b) Limitation on Enforcement Actions.—No enforcement action shall be taken, pursuant to the amendments made by this subtitle, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before the date of issuance of regulations issued in connection with such requirement, if the plan or issuer has sought to comply in good faith with such requirement.

(c) Special Rule for Collective Bargaining Agreements.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this subtitle shall not apply with respect to plan years beginning before the later of—

(1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act); or

(2) January 1, 2002.

For purposes of this subsection, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this subtitle shall not be treated as a termination of such collective bargaining agreement.

Subtitle B—Patient Access to Information

SEC. 111. PATIENT ACCESS TO INFORMATION REGARDING PLAN COVERAGE, MANAGED CARE PROCEDURES, HEALTH CARE PROVIDERS, AND QUALITY OF MEDICAL CARE.

(a) IN GENERAL.—Part 1 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended—

(1) by redesignating section 111 as section 112; and

(2) by inserting after section 110 the following new section:

"DISCLOSURE BY GROUP HEALTH PLANS

"SEC. 111. (a) DISCLOSURE REQUIREMENT.—The administrator of each group health plan shall take such actions as are necessary to ensure that the summary plan description of the plan required under section 102 (or each summary plan description in any case in which different summary plan descriptions are appropriate under part 1 for different options of coverage) contains, among any information otherwise required under this part, the information required under subsections (b), (c), (d), and (e)(2)(A).

"(b) PLAN BENEFITS.—The information required under subsection (a) includes the following:

"(1) COVERED ITEMS AND SERVICES.—

"(A) CATEGORIZATION OF INCLUDED BENEFITS.—A description of covered benefits, categorized by—

"(i) types of items and services (including any special disease management program); and

"(ii) types of health care professionals providing such items and services.

"(B) EMERGENCY MEDICAL CARE.—A description of the extent to which the plan covers emergency medical care (including the extent to which the plan provides for access to urgent care centers), and any definitions provided under the plan for the relevant plan terminology referring to such care.

"(C) PREVENTATIVE SERVICES.—A description of the extent to which the plan provides benefits for preventative services.

"(D) DRUG FORMULARIES.—A description of the extent to which covered benefits are determined by the use or application of a drug formulary and a summary of the process for determining what is included in such formulary.

"(E) COBRA CONTINUATION COVERAGE.—A description of the benefits available under the plan pursuant to part 6.

"(2) LIMITATIONS, EXCLUSIONS, AND RESTRICTIONS ON COVERED BENEFITS.—

"(A) CATEGORIZATION OF EXCLUDED BENEFITS.—A description of benefits specifically excluded from coverage, categorized by types of items and services.

"(B) UTILIZATION REVIEW AND PREAUTHORIZATION REQUIREMENTS.—Whether coverage for medical care is limited or excluded on the basis of utilization review or preauthorization requirements.

"(C) LIFETIME, ANNUAL, OR OTHER PERIOD LIMITATIONS.—A description of the circumstances under which, and the extent to which, coverage is subject to lifetime, annual, or other period limitations, categorized by types of benefits.

"(D) CUSTODIAL CARE.—A description of the circumstances under which, and the extent to which, the coverage of benefits for custodial care is limited or excluded, and a statement of the definition used by the plan for custodial care.

"(E) EXPERIMENTAL TREATMENTS.—Whether coverage for any medical care is limited or excluded because it constitutes an investigational item or experimental treatment or technology, and any definitions provided under the plan for the relevant plan terminology referring to such limited or excluded care.

"(F) MEDICAL APPROPRIATENESS OR NECESSITY.—Whether coverage for medical care may be limited or excluded by reason of a failure to meet the plan's requirements for medical appropriateness or necessity, and any definitions provided under the plan for the relevant plan terminology referring to such limited or excluded care.

"(G) SECOND OR SUBSEQUENT OPINIONS.—A description of the circumstances under which, and the extent to which, coverage for second or subsequent opinions is limited or excluded.

"(H) SPECIALTY CARE.—A description of the circumstances under which, and the extent to which, coverage of benefits for specialty care is conditioned on referral from a primary care provider.

"(I) CONTINUITY OF CARE.—A description of the circumstances under which, and the extent to which, coverage of items and services provided by any health care professional is limited or excluded by reason of the departure by the professional from any defined set of providers.

"(J) RESTRICTIONS ON COVERAGE OF EMERGENCY SERVICES.—A description of the circumstances under which, and the extent to which, the plan, in covering emergency medical care furnished to a participant or beneficiary of the plan imposes any financial responsibility described in subsection (c) on participants or beneficiaries or limits or conditions benefits for such care subject to any other term or condition of such plan.

"(3) NETWORK CHARACTERISTICS.—If the plan (or health insurance issuer offering health insurance coverage in connection with the plan) utilizes a defined set of providers under contract with the plan (or issuer), a detailed list of the names of such providers and their geographic location, set forth separately with respect to primary care providers and with respect to specialists.

"(c) PARTICIPANT'S FINANCIAL RESPONSIBILITIES.—The information required under subsection (a) includes an explanation of—

"(1) a participant's financial responsibility for payment of premiums, coinsurance, copayments, deductibles, and any other charges; and

"(2) the circumstances under which, and the extent to which, the participant's financial responsibility described in paragraph (1) may vary, including any distinctions based on whether a health care provider from whom covered benefits are obtained is included in a defined set of providers.

"(d) DISPUTE RESOLUTION PROCEDURES.—The information required under subsection (a) includes a description of the processes adopted by the plan pursuant to section 503, including—

"(1) descriptions thereof relating specifically to—

"(A) coverage decisions;

"(B) internal review of coverage decisions; and

"(C) any external review of coverage decisions; and

"(2) the procedures and time frames applicable to each step of the processes referred to in subparagraphs (A), (B), and (C) of paragraph (1).

"(e) INFORMATION ON PLAN PERFORMANCE.—Any information required under subsection (a) shall include information concerning the number of external reviews under section 503 that have been completed during the prior plan year and the number of such reviews in which a recommendation is made for modification or reversal of an internal review decision under the plan.

"(f) INFORMATION INCLUDED WITH ADVERSE COVERAGE DECISIONS.—A group health plan shall provide to each participant and beneficiary, together with any notification of the participant or beneficiary of an adverse coverage decision, the following information:

"(1) PREAUTHORIZATION AND UTILIZATION REVIEW PROCEDURES.—A description of the basis on which any preauthorization requirement or any utilization review requirement has resulted in the adverse coverage decision.

"(2) PROCEDURES FOR DETERMINING EXCLUSIONS BASED ON MEDICAL NECESSITY OR ON INVESTIGATIONAL ITEMS OR EXPERIMENTAL TREATMENTS.—If the adverse coverage decision is based on a determination relating to medical necessity or to an investigational item or an experimental treatment or technology, a description of the procedures and medically-based criteria used in such decision.

"(g) INFORMATION AVAILABLE ON REQUEST.—

"(1) ACCESS TO PLAN BENEFIT INFORMATION IN ELECTRONIC FORM.—

"(A) IN GENERAL.—In addition to the information required to be provided under section 104(b)(4), a group health plan may, upon written request (made not more frequently than annually), make available to participants and beneficiaries, in a generally recognized electronic format—

"(i) the latest summary plan description, including the latest summary of material modifications, and

"(ii) the actual plan provisions setting forth the benefits available under the plan,

to the extent such information relates to the coverage options under the plan available to the participant or beneficiary. A reasonable charge may be made to cover the cost of providing such information in such generally recognized electronic format. The Secretary may by regulation prescribe a maximum amount which will constitute a reasonable charge under the preceding sentence.

"(B) ALTERNATIVE ACCESS.—The requirements of this paragraph may be met by making such information generally available (rather than upon request) on the Internet or on a proprietary computer network in a format which is readily accessible to participants and beneficiaries.

"(2) ADDITIONAL INFORMATION TO BE PROVIDED ON REQUEST.—

"(A) INCLUSION IN SUMMARY PLAN DESCRIPTION OF SUMMARY OF ADDITIONAL INFORMATION.—The information required under subsection (a) includes a summary description of the types of information required by this subsection to be made available to participants and beneficiaries on request.

"(B) INFORMATION REQUIRED FROM PLANS AND ISSUERS ON REQUEST.—In addition to information required to be included in summary plan descriptions under this subsection, a group health plan shall provide the following information to a participant or beneficiary on request:

"(i) CARE MANAGEMENT INFORMATION.—A description of the circumstances under which, and the extent to which, the plan has special disease management programs or programs for persons with disabilities, indicating whether these programs are voluntary or mandatory and whether a significant benefit differential results from participation in such programs.

"(ii) INCLUSION OF DRUGS AND BIOLOGICALS IN FORMULARIES.—A statement of whether a specific drug or biological is included in a formulary used to determine benefits under the plan and a description of the procedures for considering requests for any patient-specific waivers.

"(iii) Accreditation status of health insurance issuers and service providers.—A description of the accreditation and licensing status (if any) of each health insurance issuer offering health insurance coverage in connection with the plan and of any utilization review organization utilized by the issuer or the plan, together with the name and address of the accrediting or licensing authority.

"(iv) Quality performance measures.—The latest information (if any) maintained by the plan relating to quality of performance of the delivery of medical care with respect to coverage options offered under the plan and of health care professionals and facilities providing medical care under the plan.

"(C) Information required from health care professionals.—

"(i) Qualifications, privileges, and method of compensation.—Any health care professional treating a participant or beneficiary under a group health plan shall provide to the participant or beneficiary, on request, a description of his or her professional qualifications (including board certification status, licensing status, and accreditation status, if any), privileges, and experience and a general description by category (including salary, fee-for-service, capitation, and such other categories as may be specified in regulations of the Secretary) of the applicable method by which such professional is compensated in connection with the provision of such medical care.

"(ii) Cost of procedures.—Any health care professional who recommends an elective procedure or treatment while treating a participant or beneficiary under a group health plan that requires a participant or beneficiary to share in the cost of treatment shall inform such participant or beneficiary of each cost associated with the procedure or treatment and an estimate of the magnitude of such costs.

"(D) Information required from health care facilities on request.—Any health care facility from which a participant or beneficiary has sought treatment under a group health plan shall provide to the participant or beneficiary, on request, a description of the facility's corporate form or other organizational form and all forms of licensing and accreditation status (if any) assigned to the facility by standard-setting organizations.

"(h) Access to Information Relevant to the Coverage Options under which the Participant or Beneficiary is Eligible to Enroll.—In addition to information otherwise required to be made available under this section, a group health plan shall, upon written request (made not more frequently than annually), make available to a participant (and an employee who, under the terms of the plan, is eligible for coverage but not enrolled) in connection with a period of enrollment the summary plan description for any coverage option under the plan under which the participant is eligible to enroll and any information described in clauses (i), (ii), (iii), (vi), (vii), and (viii) of subsection (e)(2)(B).

"(i) Advance Notice of Changes in Drug Formularies.—Not later than 30 days before the effective of date of any exclusion of a specific drug or biological from any drug formulary under the plan that is used in the treatment of a chronic illness or disease, the plan shall take such actions as are necessary to reasonably ensure that plan participants are informed of such exclusion. The requirements of this subsection may be satisfied—

"(1) by inclusion of information in publications broadly distributed by plan sponsors, employers, or employee organizations;

"(2) by electronic means of communication (including the Internet or proprietary computer networks in a format which is readily accessible to participants);

"(3) by timely informing participants who, under an ongoing program maintained under the plan, have submitted their names for such notification; or

"(4) by any other reasonable means of timely informing plan participants.

"(j) Definitions and Related Rules.—

"(1) In general.—For purposes of this section—

"(A) Group health plan.—The term 'group health plan' has the meaning provided such term under section 733(a)(1).

"(B) Medical care.—The term 'medical care' has the meaning provided such term under section 733(a)(2).

"(C) Health insurance coverage.—The term 'health insurance coverage' has the meaning provided such term under section 733(b)(1).

"(D) Health insurance issuer.—The term 'health insurance issuer' has the meaning provided such term under section 733(b)(2).

"(2) Applicability only in connection with included group health plan benefits.—

"(A) In general.—The requirements of this section shall apply only in connection with included group health plan benefits.

"(B) Included group health plan benefit.—For purposes of subparagraph (A), the term 'included group health plan benefit' means a benefit which is not an excepted benefit (as defined in section 733(c)).".

(b) Conforming Amendments.—

(1) Section 102(b) of such Act (29 U.S.C. 1022(b)) is amended by inserting before the period at the end the following: "; and, in the case of a group health plan (as defined in section 112(j)(1)(A)) providing included group health plan benefits (as defined in section 111(j)(2)(B)), the information required to be included under section 111(a)".

(2) The table of contents in section 1 of such Act is amended by striking the item relating to section 111 and inserting the following new items:

"Sec. 111. Disclosure by group health plans.

"Sec. 112. Repeal and effective date.".

SEC. 112. EFFECTIVE DATE AND RELATED RULES.

(a) In General.—The amendments made by this subtitle shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this subtitle before such date.

(b) Limitation on Enforcement Actions.—No enforcement action shall be taken, pursuant to the amendments made by this subtitle, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before the date of issuance of final regulations issued in connection with such requirement, if the plan or issuer has sought to comply in good faith with such requirement.

Subtitle C—Group Health Plan Review Standards

SEC. 121. SPECIAL RULES FOR GROUP HEALTH PLANS.

(a) In General.—Section 503 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1133) is amended—

(1) by inserting "(a) In General.—" after "Sec. 503.";

(2) by inserting (after and below paragraph (2)) the following new flush-left sentence: "This subsection does not apply in the case of included group health plan benefits (as defined in subsection (b)(10)(S)).''; and

(3) by adding at the end the following new subsection:

"(b) Special Rules for Group Health Plans.—

"(1) Coverage determinations.—Every group health plan shall, in the case of included group health plan benefits—

"(A) provide adequate notice in writing in accordance with this subsection to any participant or beneficiary of any adverse coverage decision with respect to such benefits of such participant or beneficiary under the plan, setting forth the specific reasons for such coverage decision and any rights of review provided under the plan, written in a manner calculated to be understood by the average participant;

"(B) provide such notice in writing also to any treating medical care provider of such participant or beneficiary, if such provider has claimed reimbursement for any item or service involved in such coverage decision, or if a claim submitted by the provider initiated the proceedings leading to such decision;

"(C) afford a reasonable opportunity to any participant or beneficiary who is in receipt of the notice of such adverse coverage decision, and who files a written request for review of the initial coverage decision within 90 days after receipt of the notice of the initial decision, for a full and fair review of the decision by an appropriate named fiduciary who did not make the initial decision; and

"(D) meet the additional requirements of this subsection, which shall apply solely with respect to such benefits.

"(2) Time limits for making initial coverage decisions for benefits and completing internal appeals.—

"(A) Time limits for deciding requests for benefit payments, requests for advance determination of coverage, and requests for required determination of medical necessity.—Except as provided in subparagraph (B)—

"(i) Initial decisions.—If a request for benefit payments, a request for advance determination of coverage, or a request for required determination of medical necessity is submitted to a group health plan in such reasonable form as may be required under the plan, the plan shall issue in writing an initial coverage decision on the request before the end of the initial decision period under paragraph (10)(I) following the filing completion date. Failure to issue a coverage decision on such a request before the end of the period required under this clause shall be treated as an adverse coverage decision for purposes of internal review under clause (ii).

"(ii) Internal reviews of initial denials.—Upon the written request of a participant or beneficiary for review of an initial adverse coverage decision under clause (i), a review by an appropriate named fiduciary (subject to paragraph (3)) of the initial coverage decision shall be completed, including issuance by the plan of a written decision affirming, reversing, or modifying the initial coverage decision, setting forth the grounds for such decision, before the end of the internal review period following the review filing date. Such decision shall be treated as the final decision of the plan, subject to any applicable reconsideration under paragraph (4). Failure to issue before the end of such period such a written decision requested under this clause shall be treated as a final decision affirming the initial coverage decision.

“(B) TIME LIMITS FOR MAKING COVERAGE DECISIONS RELATING TO ACCELERATED NEED MEDICAL CARE AND FOR COMPLETING INTERNAL APPEALS.—

“(i) INITIAL DECISIONS.—A group health plan shall issue in writing an initial coverage decision on any request for expedited advance determination of coverage or for expedited required determination of medical necessity submitted, in such reasonable form as may be required under the plan before the end of the accelerated need decision period under paragraph (10)(K), in cases involving accelerated need medical care, following the filing completion date. Failure to approve or deny such a request before the end of the applicable decision period shall be treated as a denial of the request for purposes of internal review under clause (ii).

“(ii) INTERNAL REVIEWS OF INITIAL DENIALS.—Upon the written request of a participant or beneficiary for review of an initial adverse coverage decision under clause (i), a review by an appropriate named fiduciary (subject to paragraph (3)) of the initial coverage decision shall be completed, including issuance by the plan of a written decision affirming, reversing, or modifying the initial converge decision, setting forth the grounds for the decision before the end of the accelerated need decision period under paragraph (10)(K) following the review filing date. Such decision shall be treated as the final decision of the plan, subject to any applicable reconsideration under paragraph (4). Failure to issue before the end of the applicable decision period such a written decision requested under this clause shall be treated as a final decision affirming the initial coverage decision.

“(3) PHYSICIANS MUST REVIEW INITIAL COVERAGE DECISIONS INVOLVING MEDICAL APPROPRIATENESS OR NECESSITY OR INVESTIGATIONAL ITEMS OR EXPERIMENTAL TREATMENT.—If an initial coverage decision under paragraph (2)(A)(i) or (2)(B)(i) is based on a determination that provision of a particular item or service is excluded from coverage under the terms of the plan because the provision of such item or service does not meet the requirements for medical appropriateness or necessity or would constitute provision of investigational items or experimental treatment or technology, the review under paragraph (2)(A)(ii) or (2)(B)(ii), to the extent that it relates to medical appropriateness or necessity or to investigational items or experimental treatment or technology, shall be conducted by a physician who is selected by the plan and who did not make the initial denial.

“(4) ELECTIVE EXTERNAL REVIEW BY INDEPENDENT MEDICAL EXPERT AND RECONSIDERATION OF INITIAL REVIEW DECISION.—

“(A) IN GENERAL.—In any case in which a participant or beneficiary, who has received an adverse coverage decision which is not reversed upon review conducted pursuant to paragraph (1)(C) (including review under paragraph (2)(A)(ii) or (2)(B)(ii)) and who has not commenced review of the coverage decision under section 502, makes a request in writing, within 30 days after the date of such review decision, for reconsideration of such review decision, the requirements of subparagraphs (B), (C), (D) and (E) shall apply in the case of such adverse coverage decision, if the requirements of clause (i) or (ii) are met, subject to clause (iii).

“(i) MEDICAL APPROPRIATENESS OR INVESTIGATIONAL ITEM OR EXPERIMENTAL TREATMENT OR TECHNOLOGY.—The requirements of this clause are met if such coverage decision is based on a determination that provision of a particular item or service that would otherwise be covered is excluded from coverage because the provision of such item or service—

“(I) is not medically appropriate or necessary; or

“(II) would constitute provision of an investigational item or experimental treatment or technology.

“(ii) EXCLUSION OF ITEM OR SERVICE REQUIRING EVALUATION OF MEDICAL FACTS OR EVIDENCE.—The requirements of this clause are met if—

“(I) such coverage decision is based on a determination that a particular item or service is not covered under the terms of the plan because provision of such item or service is specifically or categorically excluded from coverage under the terms of the plan, and

“(II) an independent contract expert finds under subparagraph (C), in advance of any review of the decision under subparagraph (D), that such determination primarily requires the evaluation of medical facts or medical evidence by a health professional.

“(iii) MATTERS SPECIFICALLY NOT SUBJECT TO REVIEW.—The requirements of subparagraphs (B), (C), (D), and (E) shall not apply in the case of any adverse coverage decision if such decision is based on—

“(I) a determination of eligibility for benefits,

“(II) the application of explicit plan limits on the number, cost, or duration of any benefit, or

“(III) a limitation on the amount of any benefit payment or a requirement to make copayments under the terms of the plan.

Review under this paragraph shall not be available for any coverage decision that has previously undergone review under this paragraph.

“(B) LIMITS ON ALLOWABLE ADVANCE PAYMENTS.—The review under this paragraph in connection with an adverse coverage decision shall be available subject to any requirement of the plan (unless waived by the plan for financial or other reasons) for payment in advance to the plan by the participant or beneficiary seeking review of an amount not to exceed the greater of—

“(i) the lesser of $100 or 10 percent of the cost of the medical care involved in the decision, or

“(ii) $25,

with such dollar amount subject to compounded annual adjustments in the same manner and to the same extent as apply under section 215(i) of the Social Security Act, except that, for any calendar year, such amount as so adjusted shall be deemed, solely for such calendar year, to be equal to such amount rounded to the nearest $10. No such payment may be required in the case of any participant or beneficiary whose enrollment under the plan is paid for, in whole or in part, under a State plan under title XIX or XXI of the Social Security Act. Any such advance payment shall be subject to reimbursement if the recommendation of the independent medical expert (or panel of such experts) under subparagraph (D)(ii)(IV) is to reverse or modify the coverage decision.

“(C) REQUEST TO INDEPENDENT CONTRACT EXPERT FOR DETERMINATION OF WHETHER COVERAGE DECISION REQUIRED EVALUATION OF MEDICAL FACTS OR EVIDENCE.—

“(i) IN GENERAL.—In the case of a request for review made by a participant or beneficiary as described in subparagraph (A), if the requirements of subparagraph (A)(ii) are met (and review is not otherwise precluded under subparagraph (A)(iii)), the terms of the plan shall provide for a procedure for initial review by an independent contract expert selected in accordance with subparagraph (H) under which the expert will determine whether the coverage decision requires the evaluation of medical facts or evidence by a health professional. If the expert determines that the coverage decision requires such evaluation, reconsideration of such adverse decision shall proceed under this paragraph. If the expert determines that the coverage decision does not require such evaluation, the adverse decision shall remain the final decision of the plan.

“(ii) INDEPENDENT CONTRACT EXPERTS.—For purposes of this subparagraph, the term ‘independent contract expert’ means a professional—

“(I) who has appropriate credentials and has attained recognized expertise in the applicable area of contract interpretation;

“(II) who was not involved in the initial decision or any earlier review thereof; and

“(III) who is selected in accordance with subparagraph (H)(i) and meets the requirements of subparagraph (H)(iii).

“(D) RECONSIDERATION OF INITIAL REVIEW DECISION.—

“(i) IN GENERAL.—In the case of a request for review made by a participant or beneficiary as described in subparagraph (A), if the requirements of subparagraph (A)(i) are met or reconsideration proceeds under this paragraph pursuant to subparagraph (C), the terms of the plan shall provide for a procedure for such reconsideration in accordance with clause (ii).

“(ii) PROCEDURE FOR RECONSIDERATION.—The procedure required under clause (i) shall include the following—

“(I) An independent medical expert (or a panel of such experts, as determined necessary) will be selected in accordance with subparagraph (H) to reconsider any coverage decision described in subparagraph (A) to determine whether such decision was in accordance with the terms of the plan and this title.

“(II) The record for review (including a specification of the terms of the plan and other criteria serving as the basis for the initial review decision) will be presented to such expert (or panel) and maintained in a manner which will ensure confidentiality of such record.

“(III) Such expert (or panel) will reconsider the initial review decision to determine whether such decision was in accordance with the terms of the plan and this title. The expert (or panel) in its reconsideration will take into account the medical condition of the patient, the recommendation of the treating physician, the initial coverage decision (including the reasons for such decision) and the decision upon review conducted pursuant to paragraph (1)(C) (including review under paragraph (2)(A)(ii) or (2)(B)(ii)) , any guidelines adopted by the plan through a process involving medical practitioners and peer-reviewed medical literature identified as such under criteria established by the Food and Drug Administration, and any other valid, relevant, scientific or clinical evidence the expert (or panel) determines appropriate for its review. The expert (or panel) may consult the participant or beneficiary, the treating physician, the medical director of the plan, or any other party who, in the opinion of the expert (or panel), may have relevant information for consideration.

"(E) ISSUANCE OF BINDING FINAL DECISION.—Upon completion of the procedure for review under subparagraph (D), the independent medical expert (or panel of such experts) shall issue a written decision affirming, modifying, or reversing the initial review decision, setting forth the grounds for the decision. Such decision shall be the final decision of the plan and shall be binding on the plan. Such decision shall set forth specifically the determination of the expert (or panel) of the appropriate period for timely compliance by the plan with the decision. Such decision shall be issued concurrently to the participant or beneficiary, to the treating physician, and to the plan, shall constitute conclusive, written authorization for the provision of benefits under the plan in accordance with the decision, and shall be treated as terms of the plan for purposes of any action by the participant or beneficiary under section 502.

"(F) TIME LIMITS FOR RECONSIDERATION.—Any review under this paragraph (including any review under subparagraph (C)) shall be completed before the end of the reconsideration period (as defined in paragraph (10)(L)) following the review filing date in connection with such review. Failure to issue a written decision before the end of the reconsideration period in any reconsideration requested under this paragraph shall be treated as a final decision affirming the initial review decision of the plan.

"(G) INDEPENDENT MEDICAL EXPERTS.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'independent medical expert' means, in connection with any coverage decision by a group health plan, a professional—

"(I) who is a physician or, if appropriate, another medical professional,

"(II) who has appropriate credentials and has attained recognized expertise in the applicable medical field,

"(III) who was not involved in the initial decision or any earlier review thereof,

"(IV) who has no history of disciplinary action or sanctions (including, but not limited to, loss of staff privileges or participation restriction) taken or pending by any hospital, health carrier, government, or regulatory body, and

"(V) who is selected in accordance with subparagraph (H)(i) and meets the requirements of subparagraph (H)(iii).

"(H) SELECTION OF EXPERTS.—

"(i) IN GENERAL.—An independent contract expert or independent medical expert (or each member of any panel of independent medical experts selected under subparagraph (D)(ii)) is selected in accordance with this clause if—

"(I) the expert is selected by an intermediary which itself meets the requirements of clauses (ii) and (iii), by means of a method which ensures that the identity of the expert is not disclosed to the plan, any health insurance issuer offering health insurance coverage to the aggrieved participant or beneficiary in connection with the plan, and the aggrieved participant or beneficiary under the plan, and the identities of the plan, the issuer, and the aggrieved participant or beneficiary are not disclosed to the expert;

"(II) the expert is selected by an appropriately credentialed panel of physicians meeting the requirements of clauses (ii) and (iii) established by a fully accredited teaching hospital meeting such requirements;

"(III) the expert is selected by an organization described in section 1152(1)(A) of the Social Security Act which meets the requirements of clauses (ii) and (iii);

"(IV) the expert is selected by an external review organization which meets the requirements of clauses (ii) and (iii) and is accredited by a private standard-setting organization meeting such requirements;

"(V) the expert is selected by a State agency which is established for the purpose of conducting independent external reviews and which meets the requirements of clauses (ii) and (iii); or

"(VI) the expert is selected, by an intermediary or otherwise, in a manner that is, under regulations issued pursuant to negotiated rulemaking, sufficient to ensure the expert's independence, and the method of selection is devised to reasonably ensure that the expert selected meets the requirements of clauses (ii) and (iii).

"(ii) STANDARDS OF PERFORMANCE FOR INTERMEDIARIES.—The Secretary shall prescribe by regulation standards (in addition to the requirements of clause (iii)) which entities making selections under subclause (I), (II), (III), (IV), (V), or (VI) of clause (ii) must meet in order to be eligible for making such selections. Such standards shall include (but are not limited to)—

"(I) assurance that the entity will carry out specified duties in the course of exercising the entity's responsibilities under clause (i)(I),

"(II) assurance that applicable deadlines will be met in the exercise of such responsibilities, and

"(III) assurance that the entity meets appropriate indicators of solvency and fiscal integrity.

Each such entity shall provide to the Secretary, in such manner and at such times as the Secretary may prescribe, information relating the volume of claims with respect to which the entity has served under this subparagraph, the types of such claims, and such other information regarding such claims as the Secretary may determine appropriate.

"(iii) INDEPENDENCE REQUIREMENTS.—An independent contract expert or independent medical expert or another entity described in clause (i) meets the independence requirements of this clause if—

"(I) the expert or entity is not affiliated with any related party;

"(II) any compensation received by such expert or entity in connection with the external review is reasonable and not contingent on any decision rendered by the expert or entity;

"(III) under the terms of the plan and any health insurance coverage offered in connection with the plan, the plan and the issuer (if any) have no recourse against the expert or entity in connection with the external review; and

"(IV) the expert or entity does not otherwise have a conflict of interest with a related party as determined under any regulations which the Secretary may prescribe.

"(iv) RELATED PARTY.—For purposes of clause (i)(I), the term 'related party' means—

"(I) the plan or any health insurance issuer offering health insurance coverage in connection with the plan (or any officer, director, or management employee of such plan or issuer);

"(II) the physician or other medical care provider that provided the medical care involved in the coverage decision;

"(III) the institution at which the medical care involved in the coverage decision is provided;

"(IV) the manufacturer of any drug or other item that was included in the medical care involved in the coverage decision; or

"(V) any other party determined under any regulations which the Secretary may prescribe to have a substantial interest in the coverage decision.

"(v) AFFILIATED.—For purposes of clause (ii)(I), the term 'affiliated' means, in connection with any entity, having a familial, financial, or professional relationship with, or interest in, such entity.

"(I) MISBEHAVIOR BY EXPERTS.—Any action by the expert or experts in applying for their selection under this paragraph or in the course of carrying out their duties under this paragraph which constitutes—

"(i) fraud or intentional misrepresentation by such expert or experts, or

"(ii) demonstrates failure to adhere to the standards for selection set forth in subparagraph (H)(iii),

shall be treated as a failure to meet the requirements of this paragraph and therefore as a cause of action which may be brought by a fiduciary under section 502(a)(3).

"(J) BENEFIT EXCLUSIONS MAINTAINED.—Nothing in this paragraph shall be construed as providing for or requiring the coverage of items or services for which benefits are specifically excluded under the group health plan or any health insurance coverage offered in connection with the plan.

"(5) PERMITTED ALTERNATIVES TO REQUIRED FORMS OF REVIEW.—

"(A) IN GENERAL.—In accordance with such regulations (if any) as may be prescribed by the Secretary for purposes of this paragraph, in the case of any initial coverage decision or any decision upon review thereof under paragraph (2)(A)(ii) or (2)(B)(ii), a group health plan may provide an alternative dispute resolution procedure meeting the requirements of subparagraph (B) for use in lieu of the procedures set forth under the preceding provisions of this subsection relating review of such decision. Such procedure may be provided in one form for all participants and beneficiaries or in a different form for each group of similarly situated participants and beneficiaries. Upon voluntary election of such procedure by the plan and by the aggrieved participant or beneficiary in connection with the decision, the plan may provide under such procedure (in a manner consistent with such regulations as the Secretary may prescribe to ensure equitable procedures) for waiver of the review of the decision under paragraph (3) or waiver of further review of the decision under paragraph (4) or section 502 or for election by such parties of an alternative means of external review (other than review under paragraph (4)).

"(B) REQUIREMENTS.—An alternative dispute resolution procedure meets the requirements of this subparagraph, in connection with any decision, if—

"(i) such procedure is utilized solely—

"(I) in accordance with the applicable terms of a bona fide collective bargaining agreement pursuant to which the plan (or the applicable portion thereof governed by the agreement) is established or maintained, or

"(II) upon election by both the aggrieved participant or beneficiary and the plan,

"(ii) the procedure incorporates any otherwise applicable requirement for review by a physician under paragraph (3), unless waived by the participant or beneficiary (in a manner consistent with such regulations as the

Secretary may prescribe to ensure equitable procedures); and

"(iii) the means of resolution of dispute allow for adequate presentation by each party of scientific and medical evidence supporting the position of such party.

"(6) REVIEW REQUIREMENTS.—In any review of a decision issued under this subsection—

"(A) the record shall be maintained for purposes of any further review in accordance with standards which shall be prescribed in regulations of the Secretary designed to facilitate such further review, and

"(B) any decision upon review which modifies or reverses a decision below shall specifically set forth a determination that the record upon review is sufficient to rebut a presumption in favor of the decision below.

"(7) COMPLIANCE WITH FIDUCIARY STANDARDS.—The issuance of a decision under a plan upon review in good faith compliance with the requirements of this subsection shall not be treated as a violation of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

"(8) LIMITATION ON APPLICABILITY OF SPECIAL RULES.—The provisions of this subsection shall not apply with respect to employee benefit plans that are not group health plans or with respect to benefits that are not included group health plan benefits (as defined in paragraph (10)(S)).

"(9) GROUP HEALTH PLAN DEFINED.—For purposes of this section—

"(A) IN GENERAL.—The term 'group health plan' shall have the meaning provided in section 733(a).

"(B) TREATMENT OF PARTNERSHIPS.—The provisions of paragraphs (1), (2), and (3) of section 732(d) shall apply.

"(10) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) REQUEST FOR BENEFIT PAYMENTS.—The term 'request for benefit payments' means a request, for payment of benefits by a group health plan for medical care, which is made by, or (if expressly authorized) on behalf of, a participant or beneficiary after such medical care has been provided.

"(B) REQUIRED DETERMINATION OF MEDICAL NECESSITY.—The term 'required determination of medical necessity' means a determination required under a group health plan solely that proposed medical care meets, under the facts and circumstances at the time of the determination, the requirements for medical appropriateness or necessity (which may be subject to exceptions under the plan for fraud or misrepresentation), irrespective of whether the proposed medical care otherwise meets other terms and conditions of coverage, but only if such determination does not constitute an advance determination of coverage (as defined in subparagraph (C)).

"(C) ADVANCE DETERMINATION OF COVERAGE.—The term 'advance determination of coverage' means a determination under a group health plan that proposed medical care meets, under the facts and circumstances at the time of the determination, the plan's terms and conditions of coverage (which may be subject to exceptions under the plan for fraud or misrepresentation).

"(D) REQUEST FOR ADVANCE DETERMINATION OF COVERAGE.—The term 'request for advance determination of coverage' means a request for an advance determination of coverage of medical care which is made by, or (if expressly authorized) on behalf of, a participant or beneficiary before such medical care is provided.

"(E) REQUEST FOR EXPEDITED ADVANCE DETERMINATION OF COVERAGE.—The term 'request for expedited advance determination of coverage' means a request for advance determination of coverage, in any case in which the proposed medical care constitutes accelerated need medical care.

"(F) REQUEST FOR REQUIRED DETERMINATION OF MEDICAL NECESSITY.—The term 'request for required determination of medical necessity' means a request for a required determination of medical necessity for medical care which is made by or on behalf of a participant or beneficiary before the medical care is provided.

"(G) REQUEST FOR EXPEDITED REQUIRED DETERMINATION OF MEDICAL NECESSITY.—The term 'request for expedited required determination of medical necessity' means a request for required determination of medical necessity in any case in which the proposed medical care constitutes accelerated need medical care.

"(H) ACCELERATED NEED MEDICAL CARE.—The term 'accelerated need medical care' means medical care in any case in which an appropriate physician has certified in writing (or as otherwise provided in regulations of the Secretary) that the participant or beneficiary is stabilized and—

"(i) that failure to immediately provide the care to the participant or beneficiary could reasonably be expected to result in—

"(I) placing the health of such participant or beneficiary (or, with respect to such a participant or beneficiary who is a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;

"(II) serious impairment to bodily functions; or

"(III) serious dysfunction of any bodily organ or part; or

"(ii) that immediate provision of the care is necessary because the participant or beneficiary has made or is at serious risk of making an attempt to harm himself or herself or another individual.

"(I) INITIAL DECISION PERIOD.—The term 'initial decision period' means a period of 30 days, or such period as may be prescribed in regulations of the Secretary.

"(J) INTERNAL REVIEW PERIOD.—The term 'internal review period' means a period of 30 days, or such period as may be prescribed in regulations of the Secretary.

"(K) ACCELERATED NEED DECISION PERIOD.—The term 'accelerated need decision period' means a period of 3 days, or such period as may be prescribed in regulations of the Secretary.

"(L) RECONSIDERATION PERIOD.—The term 'reconsideration period' means a period of 25 days, or such period as may be prescribed in regulations of the Secretary, except that, in the case of a decision involving accelerated need medical care, such term means the accelerated need decision period.

"(M) FILING COMPLETION DATE.—The term 'filing completion date' means, in connection with a group health plan, the date as of which the plan is in receipt of all information reasonably required (in writing or in such other reasonable form as may be specified by the plan) to make an initial coverage decision.

"(N) REVIEW FILING DATE.—The term 'review filing date' means, in connection with a group health plan, the date as of which the appropriate named fiduciary (or the independent medical expert or panel of such experts in the case of a review under paragraph (4)) is in receipt of all information reasonably required (in writing or in such other reasonable form as may be specified by the plan) to make a decision to affirm, modify, or reverse a coverage decision.

"(O) MEDICAL CARE.—The term 'medical care' has the meaning provided such term by section 733(a)(2).

"(P) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided such term by section 733(b)(1).

"(Q) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided such term by section 733(b)(2).

"(R) WRITTEN OR IN WRITING.—

"(i) IN GENERAL.—A request or decision shall be deemed to be 'written' or 'in writing' if such request or decision is presented in a generally recognized printable or electronic format. The Secretary may by regulation provide for presentation of information otherwise required to be in written form in such other forms as may be appropriate under the circumstances.

"(ii) MEDICAL APPROPRIATENESS OR INVESTIGATIONAL ITEMS OR EXPERIMENTAL TREATMENT DETERMINATIONS.—For purposes of this subparagraph, in the case of a request for advance determination of coverage, a request for expedited advance determination of coverage, a request for required determination of medical necessity, or a request for expedited required determination of medical necessity, if the decision on such request is conveyed to the provider of medical care or to the participant or beneficiary by means of telephonic or other electronic communications, such decision shall be treated as a written decision.

"(S) INCLUDED GROUP HEALTH PLAN BENEFIT.—The term 'included group health plan benefit" means a benefit under a group health plan which is not an excepted benefit (as defined in section 733(c)).".

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—Section 502(c) of such Act (29 U.S.C. 1132(c)) is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6)(A)(i) In the case of any failure to timely provide an included group health plan benefit (as defined in section 503(b)(10)(S)) to a participant or beneficiary, which occurs after the issuance of, and in violation of, a final decision rendered upon completion of external review (under section 503(b)(4)) of an adverse coverage decision by the plan relating to such benefit, any person acting in the capacity of a fiduciary of the plan so as to cause such failure may, in the court's discretion, be liable to the aggrieved participant or beneficiary for a civil penalty.

"(ii) Except as provided in clause (iii), such civil penalty shall be in an amount of up to $1,000 a day from the date that occurs on or after the date of the issuance of the decision under section 503(b)(4) and upon which the plan otherwise could have been reasonably expected to commence compliance with the decision until the date the failure to provide the benefit is corrected.

"(iii) In any case in which it is proven by clear and convincing evidence that the person referred to in clause (i) acted willfully and in bad faith, the daily penalty under clause (ii) shall be increased to an amount of up to $5,000 a day.

"(iv) In any case in which it is further proven by clear and convincing evidence that—

"(I) the plan is not in full compliance with the decision of the independent medical expert (or panel of such experts) under section 503(b)(4)(E)) within the appropriate period specified in such decision, and

"(II) the failure to be in full compliance was caused by the plan or by a health insurance issuer offering health insurance coverage in connection with the plan,

the plan shall pay the cost of all medical care which was not provided by reason of such failure to fully comply and which is otherwise obtained by the participant or beneficiary from any provider.

"(B) For purposes of subparagraph (A), the plan, and any health insurance issuer offering health insurance coverage in connection with the plan, shall be deemed to be in compliance with any decision of an independent medical expert (or panel of such experts) under section 503(b)(4) with respect to any participant or beneficiary upon transmission to such entity (or panel) and to such participant or beneficiary by the plan or issuer of timely notice of an authorization of coverage by the plan or issuer which is consistent with such decision.

"(C) In any action commenced under subsection (a) by a participant or beneficiary with respect to an included group health plan benefit in which the plaintiff alleges that a person, in the capacity of a fiduciary and in violation of the terms of the plan or this title, has taken an action resulting in an adverse coverage decision in violation of the terms of the plan, or has failed to take an action for which such person is responsible under the plan and which is necessary under the plan for a favorable coverage decision, upon finding in favor of the plaintiff, if such action was commenced after a final decision of the plan upon review which included a review under section 503(b)(4) or such action was commenced under subsection (b)(4) of this section, the court shall cause to be served on the defendant an order requiring the defendant—

"(i) to cease and desist from the alleged action or failure to act; and

"(ii) to pay to the plaintiff a reasonable attorney's fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

The remedies provided under this subparagraph shall be in addition to remedies otherwise provided under this section.

"(D)(i) The Secretary may assess a civil penalty against a person acting in the capacity of a fiduciary of one or more group health plans (as defined in section 503(b)(9)) for—

"(I) any pattern or practice of repeated adverse coverage decisions in connection with included group health plan benefits in violation of the terms of the plan or plans or this title; or

"(II) any pattern or practice of repeated violations of the requirements of section 503 in connection with such benefits.

Such penalty shall be payable only upon proof by clear and convincing evidence of such pattern or practice.

"(ii) Such penalty shall be in an amount not to exceed the lesser of—

"(I) 5 percent of the aggregate value of benefits shown by the Secretary to have not been provided, or unlawfully delayed in violation of section 503, under such pattern or practice; or

"(II) $100,000.

"(iii) Any person acting in the capacity of a fiduciary of a group health plan or plans who has engaged in any such pattern or practice in connection with included group health plan benefits, upon the petition of the Secretary, may be removed by the court from that position, and from any other involvement, with respect to such plan or plans, and may be precluded from returning to any such position or involvement for a period determined by the court.

"(E) For purposes of this paragraph, the term 'included group health plan benefit' has the meaning provided in section 503(b)(10)(S).

"(F) The preceding provisions of this paragraph shall not apply with respect to employee benefit plans that are not group health plans or with respect to benefits that are not included group health plan benefits (as defined in paragraph (10)(S)).".

(2) Conforming Amendment.—Section 502(a)(6) of such Act (29 U.S.C. 1132(a)(6)) is amended by striking ", or (6)" and inserting ", (6), or (7)".

(c) Expedited Court Review.—Section 502 of such Act (29 U.S.C. 1132) is amended—

(1) in subsection (a)(8), by striking "or" at the end;

(2) in subsection (a)(9), by striking the period and inserting "; or";

(3) by adding at the end of subsection (a) the following new paragraph:

"(10) by a participant or beneficiary for appropriate relief under subsection (b)(4).".

(4) by adding at the end of subsection (b) the following new paragraph:

"(4) In the case of a group health plan, if exhaustion of administrative remedies in accordance with paragraph (2)(A)(ii) or (2)(B)(ii) of section 503(b) otherwise necessary for an action for relief under paragraph (1)(B) or (3) of subsection (a) has not been obtained and it is demonstrated to the court by means of certification by an appropriate physician that such exhaustion is not reasonably attainable under the facts and circumstances without undue risk of irreparable harm to the health of the participant or beneficiary, a civil action may be brought by the participant or beneficiary to obtain appropriate equitable relief. Any determinations made under paragraph (2)(A)(ii) or (2)(B)(ii) of section 503(b) made while an action under this paragraph is pending shall be given due consideration by the court in any such action. This paragraph shall not apply with respect to benefits that are not included group health plan benefits (as defined in section 503(b)(10)(S)).".

(d) Attorney's Fees.—Section 502(g) of such Act (29 U.S.C. 1132(g)) is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraph (2) or (3))"; and

(2) by adding at the end the following new paragraph:

"(3) In any action under this title by a participant or beneficiary in connection with an included group health plan benefit (as defined in section 503(b)(10)(S)) in which judgment in favor of the participant or beneficiary is awarded, the court shall allow a reasonable attorney's fee and costs of action to the participant or beneficiary.".

(e) Standard of Review Unaffected.—The standard of review under section 502 of the Employee Retirement Income Security Act of 1974 (as amended by this section) shall continue on and after the date of the enactment of this Act to be the standard of review which was applicable under such section as of immediately before such date.

(f) Concurrent Jurisdiction.—Section 502(e)(1) of such Act (29 U.S.C. 1132(e)(1)) is amended—

(1) in the first sentence, by striking "under subsection (a)(1)(B) of this section" and inserting "under subsection (a)(1)(A) for relief under subsection (c)(6), under subsection (a)(1)(B), and under subsection (b)(4)"; and

(2) in the last sentence, by striking "of actions under paragraphs (1)(B) and (7) of subsection (a) of this section" and inserting "of actions under paragraph (1)(A) of subsection (a) for relief under subsection (c)(6) and of actions under paragraphs (1)(B) and (7) of subsection (a) and paragraph (4) of subsection (b)".

SEC. 122. SPECIAL RULE FOR ACCESS TO SPECIALTY CARE.

Section 503(b) of such Act (as added by the preceding provisions of this subtitle) is amended by adding at the end the following new paragraph:

"(11) Special rule for access to specialty care.—

"(A) In general.—In the case of a request for advance determination of coverage consisting of a request by a physician for a determination of coverage of the services of a specialist with respect to any condition, if coverage of the services of such specialist for such condition is otherwise provided under the plan, the initial coverage decision referred to in subparagraph (A)(i) or (B)(i) of paragraph (2) shall be issued within the accelerated need decision period.

"(B) Specialist.—For purposes of this paragraph, the term 'specialist' means, with respect to a condition, a physician who has a high level of expertise through appropriate training and experience (including, in the case of a patient who is a child, appropriate pediatric expertise) to treat the condition.".

SEC. 123. PROTECTION FOR CERTAIN INFORMATION DEVELOPED TO REDUCE MORTALITY OR MORBIDITY OR FOR IMPROVING PATIENT CARE AND SAFETY.

(a) Protection of Certain Information.—Notwithstanding any other provision of Federal or State law, health care response information shall be exempt from any disclosure requirement (regardless of whether the requirement relates to subpoenas, discovery, introduction of evidence, testimony, or any other form of disclosure), in connection with a civil or administrative proceeding under Federal or State law, to the same extent as information developed by a health care provider with respect to any of the following:

(1) Peer review.

(2) Utilization review.

(3) Quality management or improvement.

(4) Quality control.

(5) Risk management.

(6) Internal review for purposes of reducing mortality, morbidity, of for improving patient care or safety.

(b) No Waiver of Protection Through Interaction with Accrediting Body.—Notwithstanding any other provision of Federal or State law, the protection of health care response information from disclosure provided under subsection (a) shall not be deemed to be modified or in any way waived by—

(1) the development of such information in connection with a request or requirement of an accrediting body; or

(2) the transfer of such information to an accrediting body.

(c) Definitions.—For purposes of this section:

(1) The term "accrediting body" means a national, not-for-profit organization that—

(A) accredits health care providers; and

(B) is recognized as an accrediting body by statute or by a Federal or State agency that regulates health care providers.

(2) The term "health care provider" has the meaning given such term in section 1188 of the Social Security Act (as added by section 5001 of this Act).

(3) The term "health care response information" means information (including any data, report, record, memorandum, analysis,

statement, or other communication) developed by, or on behalf of, a health care provider in response to a serious, adverse, patient-related event—

(A) during the course of analyzing or studying the event and its causes; and

(B) for purposes of—

(i) reducing mortality or morbidity; or

(ii) improving patient care or safety (including the provider's notification to an accrediting body and the provider's plans of action in response to such event).

(5) The term "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

SEC. 124. EFFECTIVE DATE.

(a) In General.—The amendments made by sections 801 and 802 shall apply with respect to grievances arising in plan years beginning on or after January 1 of the second calendar year following 12 months after the date the Secretary of Labor issues all regulations necessary to carry out amendments made by this title. The amendments made by section 803 shall take effect on such January 1.

(b) Limitation on Enforcement Actions.—No enforcement action shall be taken, pursuant to the amendments made by this title, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before the date of issuance of final regulations issued in connection with such requirement, if the plan or issuer has sought to comply in good faith with such requirement.

(c) Collective Bargaining Agreements.—Any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this title shall not be treated as a termination of such collective bargaining agreement.

Subtitle D—Health Care Access, Affordability, and Quality Commission

SEC. 131. ESTABLISHMENT OF COMMISSION.

Part 5 of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

"SEC. 518. HEALTH POLICY COMMISSION.

"(a) Establishment.—There is hereby established a commission to be known as the Health Care Access, Affordability, and Quality Commission (hereinafter in this Act referred to as the "Commission").

"(b) Duties of Commission.—The duties of the Commission shall be as follows:

"(1) Studies of critical areas.—Based on information gathered by appropriate Federal agencies, advisory groups, and other appropriate sources for health care information, studies, and data, the Commission shall study and report on in each of the following areas:

"(A) Independent expert external review programs.

"(B) Consumer friendly information programs.

"(C) The extent to which the following affect patient quality and satisfaction:

"(i) health plan enrollees' attitudes based on surveys;

"(ii) outcomes measurements; and

"(iii) accreditation by private organizations.

"(D) Available systems to ensure the timely processing of claims.

"(2) Establishment of form for remittance of claims to providers.—Not later than 2 years after the date of the first meeting of the Commission, the Commission shall develop and transmit to the Secretary a proposed form for use by health insurance issuers (as defined in section 733(b)(2)) for the remittance of claims to health care providers. Effective for plan years beginning after 5 years after the date of the Comprehensive Access and Responsibility in Health Care Act of 1999, a health insurance issuer offering health insurance coverage in connection with a group health plan shall use such form for the remittance of all claims to providers.

"(3) Evaluation of health benefits mandates.—At the request of the chairmen or ranking minority members of the appropriate committees of Congress, the Commission shall evaluate, taking into consideration the overall cost effect, availability of treatment, and the effect on the health of the general population, existing and proposed benefit requirements for group health plans.

"(4) Comments on certain secretarial reports.—If the Secretary submits to Congress (or a committee of Congress) a report that is required by law and that relates to policies under this section, the Secretary shall transmit a copy of the report to the Commission. The Commission shall review the report and, not later than 6 months after the date of submittal of the Secretary's report to Congress, shall submit to the appropriate committees of Congress written comments on such report. Such comments may include such recommendations as the Commission deems appropriate.

"(5) Agenda and additional review.—The Commission shall consult periodically with the chairmen and ranking minority members of the appropriate committees of Congress regarding the Commission's agenda and progress toward achieving the agenda. The Commission may conduct additional reviews, and submit additional reports to the appropriate committees of Congress, from time to time on such topics as may be requested by such chairmen and members and as the Commission deems appropriate.

"(6) Availability of reports.—The Commission shall transmit to the Secretary a copy of each report submitted under this subsection and shall make such reports available to the public.

"(c) Membership.—

"(1) Number and appointment.—The Commission shall be composed of 11 members appointed by the Comptroller General.

"(2) Qualifications.—

"(A) In general.—The membership of the Commission shall include—

"(i) physicians and other health professionals;

"(ii) representatives of employers, including multiemployer plans;

"(ii) representatives of insured employees;

"(iv) third-party payers; and

"(v) health services and health economics researchers with expertise in outcomes and effectiveness research and technology assessment.

"(B) Ethical disclosure.—The Comptroller General shall establish a system for public disclosure by members of the Commission of financial and other potential conflicts of interest relating to such members.

"(3) Terms.—

"(A) In general.—Each member shall be appointed for a term of 3 years, except that the Comptroller shall designate staggered terms for the members first appointed.

"(B) Vacancies.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(4) Basic pay.—

"(A) Rates of pay.—Except as provided in subparagraph (B), members shall each be paid at a rate equal to the rate of basic pay payable for level IV of the Executive Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

"(B) Prohibition of compensation of federal employees.—Members of the Commission who are full-time officers or employees of the United States (or Members of Congress) may not receive additional pay, allowances, or benefits by reason of their service on the Commission.

"(5) Travel expenses.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

"(6) Chairperson.—The Chairperson of the Commission shall be designated by the Comptroller at the time of the appointment. The term of office of the Chairperson shall be 3 years.

"(7) Meetings.—The Commission shall meet 4 times each year.

"(d) Director and Staff of Commission.—

"(1) Director.—The Commission shall have a Director who shall be appointed by the Chairperson. The Director shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS-13 of the General Schedule.

"(2) Staff.—The Director may appoint 2 additional staff members.

"(3) Applicability of certain civil service laws.—The Director and staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

"(e) Powers of Commission.—

"(1) Hearings and sessions.—The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

"(2) Powers of members and agents.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

"(3) Obtaining official data.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish that information to the Commission.

"(4) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(5) Administrative support services.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

"(6) CONTRACT AUTHORITY.—The Commission may contract with and compensate government and private agencies or persons for services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

"(f) REPORTS.—Beginning December 31, 2000, and each year thereafter, the Commission shall submit to the Congress an annual report detailing the following information:

"(1) Access to care, affordability to employers and employees, and quality of care under employer-sponsored health plans and recommendations for improving such access, affordability, and quality.

"(2) Any issues the Commission deems appropriate or any issues (such as the appropriateness and availability of particular medical treatment) that the chairmen or ranking members of the appropriate committees of Congress requested the Commission to evaluate.

"(g) DEFINITION OF APPROPRIATE COMMITTEES OF CONGRESS.—For purposes of this section the term 'appropriate committees of Congress' means any committee in the Senate or House of Representatives having jurisdiction over the Employee Retirement Income Security Act of 1974.

"(h) TERMINATION.—Section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to the termination of advisory committees) shall not apply to the Commission.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years 2000 through 2004 such sums as may be necessary to carry out this section.".

SEC. 132. EFFECTIVE DATE.

This subtitle shall be effective 6 months after the date of the enactment of this Act.

TITLE II—AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

Subtitle A—Patient Protections and Point of Service Coverage Requirements

SEC. 201. PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE, EMERGENCY MEDICAL CARE, OBSTETRIC AND GYNECOLOGICAL CARE, PEDIATRIC CARE, AND CONTINUITY OF CARE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

"SEC. 2707. PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE, EMERGENCY MEDICAL CARE, OBSTETRIC AND GYNECOLOGICAL CARE, PEDIATRIC CARE, AND CONTINUITY OF CARE.

"(a) PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE.—

"(1) IN GENERAL.—In the case of any health care professional acting within the lawful scope of practice in the course of carrying out a contractual employment arrangement or other direct contractual arrangement between such professional and a group health plan or a health insurance issuer offering health insurance coverage in connection with a group health plan, the plan or issuer with which such contractual employment arrangement or other direct contractual arrangement is maintained by the professional may not impose on such professional under such arrangement any prohibition or restriction with respect to advice, provided to a participant or beneficiary under the plan who is a patient, about the health status of the participant or beneficiary or the medical care or treatment for the condition or disease of the participant or beneficiary, regardless of whether benefits for such care or treatment are provided under the plan or health insurance coverage offered in connection with the plan.

"(2) HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this paragraph, the term 'health care professional' means a physician (as defined in section 1861(r) of the Social Security Act) or other health care professional if coverage for the professional's services is provided under the group health plan for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech-language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse-midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.

"(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require the sponsor of a group health plan or a health insurance issuer offering health insurance coverage in connection with the group health plan to engage in any practice that would violate its religious beliefs or moral convictions.

"(b) PATIENT ACCESS TO EMERGENCY MEDICAL CARE.—

"(1) COVERAGE OF EMERGENCY SERVICES.—

"(A) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides any benefits with respect to emergency services (as defined in subparagraph (B)(ii)), or ambulance services, the plan or issuer shall cover emergency services (including emergency ambulance services as defined in subparagraph (B)(iii)) furnished under the plan or coverage—

"(i) without the need for any prior authorization determination;

"(ii) whether or not the health care provider furnishing such services is a participating provider with respect to such services;

"(iii) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee by a nonparticipating health care provider, the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating provider; and

"(iv) without regard to any other term or condition of such plan or coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 and other than applicable cost sharing).

"(B) DEFINITIONS.—In this subsection:

"(i) EMERGENCY MEDICAL CONDITION.—The term 'emergency medical condition' means—

"(I) a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act (42 U.S.C. 1395dd(e)(1)(A)); and

"(II) a medical condition manifesting itself in a neonate by acute symptoms of sufficient severity (including severe pain) such that a prudent health care professional could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

"(ii) EMERGENCY SERVICES.—The term 'emergency services' means—

"(I) with respect to an emergency medical condition described in clause (i)(I), a medical screening examination (as required under section 1867 of the Social Security Act, 42 U.S.C. 1395dd)) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition (as defined in clause (i)) and also, within the capabilities of the staff and facilities at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient; or

"(II) with respect to an emergency medical condition described in clause (i)(II), medical treatment for such condition rendered by a health care provider in a hospital to a neonate, including available hospital ancillary services in response to an urgent request of a health care professional and to the extent necessary to stabilize the neonate.

"(iii) EMERGENCY AMBULANCE SERVICES.—The term 'emergency ambulance services' means ambulance services (as defined for purposes of section 1861(s)(7) of the Social Security Act) furnished to transport an individual who has an emergency medical condition (as defined in clause (i)) to a hospital for the receipt of emergency services (as defined in clause (ii)) in a case in which appropriate emergency medical screening examinations are covered under the plan or coverage pursuant to paragraph (1)(A) and a prudent layperson, with an average knowledge of health and medicine, could reasonably expect that the absence of such transport would result in placing the health of the individual in serious jeopardy, serious impairment of bodily function, or serious dysfunction of any bodily organ or part.

"(iv) STABILIZE.—The term 'to stabilize' means, with respect to an emergency medical condition, to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility.

"(v) NONPARTICIPATING.—The term 'nonparticipating' means, with respect to a health care provider that provides health care items and services to a participant or beneficiary under group health plan or under group health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

"(vi) PARTICIPATING.—The term 'participating' means, with respect to a health care provider that provides health care items and services to a participant or beneficiary under group health plan or health insurance coverage offered by a health insurance issuer in connection with such a plan, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

"(c) PATIENT RIGHT TO OBSTETRIC AND GYNECOLOGICAL CARE.—

"(1) IN GENERAL.—In any case in which a group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan)—

"(A) provides benefits under the terms of the plan consisting of—

"(i) gynecological care (such as preventive women's health examinations); or

"(ii) obstetric care (such as pregnancy-related services),

provided by a participating health care professional who specializes in such care (or provides benefits consisting of payment for such care); and

“(B) requires or provides for designation by a participant or beneficiary of a participating primary care provider,

if the primary care provider designated by such a participant or beneficiary is not such a health care professional, then the plan (or issuer) shall meet the requirements of paragraph (2).

“(1) Requirements.—A group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan) meets the requirements of this paragraph, in connection with benefits described in paragraph (1) consisting of care described in clause (i) or (ii) of paragraph (1)(A) (or consisting of payment therefor), if the plan (or issuer)—

“(A) does not require authorization or a referral by the primary care provider in order to obtain such benefits; and

“(B) treats the ordering of other care of the same type, by the participating health care professional providing the care described in clause (i) or (ii) of paragraph (1)(A), as the authorization of the primary care provider with respect to such care.

“(3) Health care professional defined.—For purposes of this subsection, the term ‘health care professional’ means an individual (including, but not limited to, a nurse midwife or nurse practitioner) who is licensed, accredited, or certified under State law to provide obstetric and gynecological health care services and who is operating within the scope of such licensure, accreditation, or certification.

“(4) Construction.—Nothing in paragraph (1) shall be construed as preventing a plan from offering (but not requiring a participant or beneficiary to accept) a health care professional trained, credentialed, and operating within the scope of their licensure to perform obstetric and gynecological health care services. Nothing in paragraph (2)(B) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological or obstetric care so ordered.

“(5) Treatment of multiple coverage options.—In the case of a plan providing benefits under two or more coverage options, the requirements of this subsection shall apply separately with respect to each coverage option.

“(d) Patient Right to Pediatric Care.—

“(1) In general.—In any case in which a group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan) provides benefits consisting of routine pediatric care provided by a participating health care professional who specializes in pediatrics (or consisting of payment for such care) and the plan requires or provides for designation by a participant or beneficiary of a participating primary care provider, the plan (or issuer) shall provide that such a participating health care professional may be designated, if available, by a parent or guardian of any beneficiary under the plan is who under 18 years of age, as the primary care provider with respect to any such benefits.

“(2) Health care professional defined.—For purposes of this subsection, the term ‘health care professional’ means an individual (including, but not limited to, a nurse practitioner) who is licensed, accredited, or certified under State law to provide pediatric health care services and who is operating within the scope of such licensure, accreditation, or certification.

“(3) Construction.—Nothing in paragraph (1) shall be construed as preventing a plan from offering (but not requiring a participant or beneficiary to accept) a health care professional trained, credentialed, and operating within the scope of their licensure to perform pediatric health care services. Nothing in paragraph (1) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of pediatric care so ordered.

“(4) Treatment of multiple coverage options.—In the case of a plan providing benefits under two or more coverage options, the requirements of this subsection shall apply separately with respect to each coverage option.

“(e) Continuity of Care.—

“(1) In general.—

“(A) Termination of provider.—If a contract between a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, and a health care provider is terminated (as defined in subparagraph (D)(ii)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who, at the time of such termination, is a participant or beneficiary in the plan and is scheduled to undergo surgery (including an organ transplantation), is undergoing treatment for pregnancy, or is determined to be terminally ill (as defined in section 1861(dd)(3)(A) of the Social Security Act) and is undergoing treatment for the terminal illness, the plan or issuer shall—

“(i) notify the individual on a timely basis of such termination and of the right to elect continuation of coverage of treatment by the provider under this subsection; and

“(ii) subject to paragraph (3), permit the individual to elect to continue to be covered with respect to treatment by the provider for such surgery, pregnancy, or illness during a transitional period (provided under paragraph (2)).

“(B) Treatment of termination of contract with health insurance issuer.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of subparagraph (A) (and the succeeding provisions of this subsection) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

“(C) Termination defined.—For purposes of this subsection, the term ‘terminated’ includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

“(2) Transitional period.—

“(A) In general.—Except as provided in subparagraphs (B) through (D), the transitional period under this paragraph shall extend up to 90 days (as determined by the treating health care professional) after the date of the notice described in paragraph (1)(A)(i) of the provider's termination.

“(B) Scheduled surgery.—If surgery was scheduled for an individual before the date of the announcement of the termination of the provider status under paragraph (1)(A)(i), the transitional period under this paragraph with respect to the surgery shall extend beyond the period under subparagraph (A) and until the date of discharge of the individual after completion of the surgery.

“(C) Pregnancy.—If—

“(i) a participant or beneficiary was determined to be pregnant at the time of a provider's termination of participation, and

“(ii) the provider was treating the pregnancy before date of the termination,

the transitional period under this paragraph with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

“(D) Terminal illness.—If—

“(i) a participant or beneficiary was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, and

“(ii) the provider was treating the terminal illness before the date of termination,

the transitional period under this paragraph shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness or its medical manifestations.

“(3) Permissible terms and conditions.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under paragraph (1)(A)(i) upon the individual notifying the plan of the election of continued coverage and upon the provider agreeing to the following terms and conditions:

“(A) The provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in paragraph (1)(B), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in paragraph (1)(A) had not been terminated.

“(B) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under subparagraph (A) and to provide to such plan or issuer necessary medical information related to the care provided.

“(C) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

“(D) The provider agrees to provide transitional care to all participants and beneficiaries who are eligible for and elect to have coverage of such care from such provider.

“(E) If the provider initiates the termination, the provider has notified the plan within 30 days prior to the effective date of the termination of—

“(i) whether the provider agrees to permissible terms and conditions (as set forth in this paragraph) required by the plan, and

“(ii) if the provider agrees to the terms and conditions, the specific plan beneficiaries and participants undergoing a course of treatment from the provider who the provider believes, at the time of the notification, would be eligible for transitional care under this subsection.

“(4) Construction.—Nothing in this subsection shall be construed to—

“(A) require the coverage of benefits which would not have been covered if the provider involved remained a participating provider, or

"(B) prohibit a group health plan from conditioning a provider's participation on the provider's agreement to provide transitional care to all participants and beneficiaries eligible to obtain coverage of such care furnished by the provider as set forth under this subsection.

"(f) COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CANCER CLINICAL TRIALS.—

"(1) COVERAGE.—

"(A) IN GENERAL.—If a group health plan (or a health insurance issuer offering health insurance coverage) provides coverage to a qualified individual (as defined in paragraph (2)), the plan or issuer—

"(i) may not deny the individual participation in the clinical trial referred to in paragraph (2)(B);

"(ii) subject to paragraphs (2), (3), and (4), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

"(iii) may not discriminate against the individual on the basis of the participation of the participant or beneficiary in such trial.

"(B) EXCLUSION OF CERTAIN COSTS.—For purposes of subparagraph (A)(ii), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

"(C) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in subparagraph (A) shall be construed as preventing a plan from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

"(2) QUALIFIED INDIVIDUAL DEFINED.—For purposes of paragraph (1), the term 'qualified individual' means an individual who is a participant or beneficiary in a group health plan and who meets the following conditions:

"(A)(i) The individual has been diagnosed with cancer.

"(ii) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of cancer.

"(iii) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

"(B) Either—

"(i) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon satisfaction by the individual of the conditions described in subparagraph (A); or

"(ii) the individual provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the satisfaction by the individual of the conditions described in subparagraph (A).

"(3) PAYMENT.—

"(A) IN GENERAL.—A group health plan (or a health insurance issuer offering health insurance coverage) shall provide for payment for routine patient costs described in paragraph (1)(B) but is not required to pay for costs of items and services that are reasonably expected to be paid for by the sponsors of an approved clinical trial.

"(B) ROUTINE PATIENT CARE COSTS.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'routine patient care costs' shall include the costs associated with the provision of items and services that—

"(I) would otherwise be covered under the group health plan if such items and services were not provided in connection with an approved clinical trial program; and

"(II) are furnished according to the protocol of an approved clinical trial program.

"(ii) EXCLUSION.—For purposes of this paragraph, 'routine patient care costs' shall not include the costs associated with the provision of—

"(I) an investigational drug or device, unless the Secretary has authorized the manufacturer of such drug or device to charge for such drug or device; or

"(II) any item or service supplied without charge by the sponsor of the approved clinical trial program.

"(C) PAYMENT RATE.—For purposes of this subsection—

"(i) PARTICIPATING PROVIDERS.—In the case of covered items and services provided by a participating provider, the payment rate shall be at the agreed upon rate.

"(ii) NONPARTICIPATING PROVIDERS.—In the case of covered items and services provided by a nonparticipating provider, the payment rate shall be at the rate the plan would normally pay for comparable items or services under clause (i).

"(4) APPROVED CLINICAL TRIAL DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'approved clinical trial' means a cancer clinical research study or cancer clinical investigation approved by an Institutional Review Board.

"(B) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

"(i) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health, and

"(ii) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

"(5) CONSTRUCTION.—Nothing in this subsection shall be construed to limit a plan's coverage with respect to clinical trials.

"(6) PLAN SATISFACTION OF CERTAIN REQUIREMENTS; RESPONSIBILITIES OF FIDUCIARIES.—

"(A) IN GENERAL.—For purposes of this subsection, insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the requirements of this subsection with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer.

"(B) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

"(7) STUDY AND REPORT.—

"(A) STUDY.—The Secretary shall analyze cancer clinical research and its cost implications for managed care, including differentiation in—

"(i) the cost of patient care in trials versus standard care;

"(ii) the cost effectiveness achieved in different sites of service;

"(iii) research outcomes;

"(iv) volume of research subjects available in different sites of service;

"(v) access to research sites and clinical trials by cancer patients;

"(vi) patient cost sharing or copayment costs realized in different sites of service;

"(vii) health outcomes experienced in different sites of service;

"(viii) long term health care services and costs experienced in different sites of service;

"(ix) morbidity and mortality experienced in different sites of service; and

"(x) patient satisfaction and preference of sites of service.

"(B) REPORT TO CONGRESS.—Not later than January 1, 2005, the Secretary shall submit a report to Congress that contains—

"(i) an assessment of any incremental cost to group health plans resulting from the provisions of this section;

"(ii) a projection of expenditures to such plans resulting from this section;

"(iii) an assessment of any impact on premiums resulting from this section; and

"(iv) recommendations regarding action on other diseases.".

SEC. 202. REQUIRING HEALTH MAINTENANCE ORGANIZATIONS TO OFFER OPTION OF POINT-OF-SERVICE COVERAGE.

Title XXVII of the Public Health Service Act is amended by inserting after section 2713 the following new section:

"SEC. 2714. REQUIRING OFFERING OF OPTION OF POINT-OF-SERVICE COVERAGE.

"(a) REQUIREMENT TO OFFER COVERAGE OPTION TO CERTAIN EMPLOYERS.—Except as provided in subsection (c), any health insurance issuer which—

"(1) is a health maintenance organization (as defined in section 2791(b)(3)); and

"(2) which provides for coverage of services of one or more classes of health care professionals under health insurance coverage offered in connection with a group health plan only if such services are furnished exclusively through health care professionals within such class or classes who are members of a closed panel of health care professionals,

the issuer shall make available to the plan sponsor in connection with such a plan a coverage option which provides for coverage of such services which are furnished through such class (or classes) of health care professionals regardless of whether or not the professionals are members of such panel.

"(b) REQUIREMENT TO OFFER SUPPLEMENTAL COVERAGE TO PARTICIPANTS IN CERTAIN CASES.—Except as provided in subsection (c), if a health insurance issuer makes available a coverage option under and described in subsection (a) to a plan sponsor of a group health plan and the sponsor declines to contract for such coverage option, then the issuer shall make available in the individual insurance market to each participant in the group health plan optional separate supplemental health insurance coverage in the individual health insurance market which consists of services identical to those provided under such coverage provided through the closed panel under the group health plan but are furnished exclusively by health care professionals who are not members of such a closed panel.

"(c) EXCEPTIONS.—

"(1) OFFERING OF NON-PANEL OPTION.—Subsections (a) and (b) shall not apply with respect to a group health plan if the plan offers a coverage option that provides coverage for services that may be furnished by a class or classes of health care professionals who are not in a closed panel. This paragraph shall be applied separately to distinguishable groups of employees under the plan.

“(2) AVAILABILITY OF COVERAGE THROUGH HEALTHMART.—Subsections (a) and (b) shall not apply to a group health plan if the health insurance coverage under the plan is made available through a HealthMart (as defined in section 2801) and if any health insurance coverage made available through the HealthMart provides for coverage of the services of any class of health care professionals other than through a closed panel of professionals.

“(3) RELICENSURE EXEMPTION.—Subsections (a) and (b) shall not apply to a health maintenance organization in a State in any case in which—

“(A) the organization demonstrates to the applicable authority that the organization has made a good faith effort to obtain (but has failed to obtain) a contract between the organization and any other health insurance issuer providing for the coverage option or supplemental coverage described in subsection (a) or (b), as the case may be, within the applicable service area of the organization; and

“(B) the State requires the organization to receive or qualify for a separate license, as an indemnity insurer or otherwise, in order to offer such coverage option or supplemental coverage, respectively.

The applicable authority may require that the organization demonstrate that it meets the requirements of the previous sentence no more frequently that once every 2 years.

“(4) COLLECTIVE BARGAINING AGREEMENTS.—Subsections (a) and (b) shall not apply in connection with a group health plan if the plan is established or maintained pursuant to one or more collective bargaining agreements.

“(5) SMALL ISSUERS.—Subsections (a) and (b) shall not apply in the case of a health insurance issuer with 25,000 or fewer covered lives.

“(d) APPLICABILITY.—The requirements of this section shall apply only in connection with included group health plan benefits.

“(e) DEFINITIONS.—For purposes of this section:

“(1) COVERAGE THROUGH CLOSED PANEL.—Health insurance coverage for a class of health care professionals shall be treated as provided through a closed panel of such professionals only if such coverage consists of coverage of items or services consisting of professionals services which are reimbursed for or provided only within a limited network of such professionals.

“(2) HEALTH CARE PROFESSIONAL.—The term ‘health care professional’ has the meaning given such term in section 2707(a)(2).

“(3) INCLUDED GROUP HEALTH PLAN BENEFIT.—The term ‘included group health plan benefit’ means a benefit which is not an excepted benefit (as defined in section 2791(c)).”.

SEC. 203. EFFECTIVE DATE AND RELATED RULES.

(a) IN GENERAL.—The amendments made by this title shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act, except that the Secretary of Health and Human Services may issue regulations before such date under such amendments. The Secretary shall first issue regulations necessary to carry out the amendments made by this title before the effective date thereof.

(b) LIMITATION ON ENFORCEMENT ACTIONS.—No enforcement action shall be taken, pursuant to the amendments made by this title, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before the date of issuance of regulations issued in connection with such requirement, if the plan or issuer has sought to comply in good faith with such requirement.

(c) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this title shall not apply with respect to plan years beginning before the later of—

(1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act); or

(2) January 1, 2002.

For purposes of this subsection, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this title shall not be treated as a termination of such collective bargaining agreement.

Subtitle B—Patient Access to Information

SEC. 111. PATIENT ACCESS TO INFORMATION REGARDING PLAN COVERAGE, MANAGED CARE PROCEDURES, HEALTH CARE PROVIDERS, AND QUALITY OF MEDICAL CARE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (as amended by subtitle A) is amended further by adding at the end the following new section:

“SEC. 2708. DISCLOSURE BY GROUP HEALTH PLANS.

“(a) DISCLOSURE REQUIREMENT.—Each health insurance issuer offering health insurance coverage in connection with a group health plan shall provide the plan administrator on a timely basis with the information necessary to enable the administrator to provide participants and beneficiaries with information in a manner and to an extent consistent with the requirements of section 111 of the Employee Retirement Income Security Act of 1974. To the extent that any such issuer provides such information on a timely basis to plan participants and beneficiaries, the requirements of this subsection shall be deemed satisfied in the case of such plan with respect to such information.

“(b) PLAN BENEFITS.—The information required under subsection (a) includes the following:

“(1) COVERED ITEMS AND SERVICES.—

“(A) CATEGORIZATION OF INCLUDED BENEFITS.—A description of covered benefits, categorized by—

“(i) types of items and services (including any special disease management program); and

“(ii) types of health care professionals providing such items and services.

“(B) EMERGENCY MEDICAL CARE.—A description of the extent to which the plan covers emergency medical care (including the extent to which the plan provides for access to urgent care centers), and any definitions provided under the plan for the relevant plan terminology referring to such care.

“(C) PREVENTATIVE SERVICES.—A description of the extent to which the plan provides benefits for preventative services.

“(D) DRUG FORMULARIES.—A description of the extent to which covered benefits are determined by the use or application of a drug formulary and a summary of the process for determining what is included in such formulary.

“(E) COBRA CONTINUATION COVERAGE.—A description of the benefits available under the plan pursuant to part 6.

“(2) LIMITATIONS, EXCLUSIONS, AND RESTRICTIONS ON COVERED BENEFITS.—

“(A) CATEGORIZATION OF EXCLUDED BENEFITS.—A description of benefits specifically excluded from coverage, categorized by types of items and services.

“(B) UTILIZATION REVIEW AND PREAUTHORIZATION REQUIREMENTS.—Whether coverage for medical care is limited or excluded on the basis of utilization review or preauthorization requirements.

“(C) LIFETIME, ANNUAL, OR OTHER PERIOD LIMITATIONS.—A description of the circumstances under which, and the extent to which, coverage is subject to lifetime, annual, or other period limitations, categorized by types of benefits.

“(D) CUSTODIAL CARE.—A description of the circumstances under which, and the extent to which, the coverage of benefits for custodial care is limited or excluded, and a statement of the definition used by the plan for custodial care.

“(E) EXPERIMENTAL TREATMENTS.—Whether coverage for any medical care is limited or excluded because it constitutes an investigational item or experimental treatment or technology, and any definitions provided under the plan for the relevant plan terminology referring to such limited or excluded care.

“(F) MEDICAL APPROPRIATENESS OR NECESSITY.—Whether coverage for medical care may be limited or excluded by reason of a failure to meet the plan's requirements for medical appropriateness or necessity, and any definitions provided under the plan for the relevant plan terminology referring to such limited or excluded care.

“(G) SECOND OR SUBSEQUENT OPINIONS.—A description of the circumstances under which, and the extent to which, coverage for second or subsequent opinions is limited or excluded.

“(H) SPECIALTY CARE.—A description of the circumstances under which, and the extent to which, coverage of benefits for specialty care is conditioned on referral from a primary care provider.

“(I) CONTINUITY OF CARE.—A description of the circumstances under which, and the extent to which, coverage of items and services provided by any health care professional is limited or excluded by reason of the departure by the professional from any defined set of providers.

“(J) RESTRICTIONS ON COVERAGE OF EMERGENCY SERVICES.—A description of the circumstances under which, and the extent to which, the plan, in covering emergency medical care furnished to a participant or beneficiary of the plan imposes any financial responsibility described in subsection (c) on participants or beneficiaries or limits or conditions benefits for such care subject to any other term or condition of such plan.

“(3) NETWORK CHARACTERISTICS.—If the plan (or issuer) utilizes a defined set of providers under contract with the plan (or issuer), a detailed list of the names of such providers and their geographic location, set forth separately with respect to primary care providers and with respect to specialists.

“(c) PARTICIPANT'S FINANCIAL RESPONSIBILITIES.—The information required under subsection (a) includes an explanation of—

“(1) a participant's financial responsibility for payment of premiums, coinsurance, copayments, deductibles, and any other charges; and

"(2) the circumstances under which, and the extent to which, the participant's financial responsibility described in paragraph (1) may vary, including any distinctions based on whether a health care provider from whom covered benefits are obtained is included in a defined set of providers.

"(d) Dispute Resolution Procedures.—The information required under subsection (a) includes a description of the processes adopted by the plan of the type described in section 503 of the Employee Retirement Income Security Act of 1974, including—

"(1) descriptions thereof relating specifically to—

"(A) coverage decisions;

"(B) internal review of coverage decisions; and

"(C) any external review of coverage decisions; and

"(2) the procedures and time frames applicable to each step of the processes referred to in subparagraphs (A), (B), and (C) of paragraph (1).

"(e) Information on Plan Performance.—Any information required under subsection (a) shall include information concerning the number of external reviews of the type described in section 503 of the Employee Retirement Income Security Act of 1974 that have been completed during the prior plan year and the number of such reviews in which a recommendation is made for modification or reversal of an internal review decision under the plan.

"(f) Information Included with Adverse Coverage Decisions.—A health insurance issuer offering health insurance coverage in connection with a group health plan shall provide to each participant and beneficiary, together with any notification of the participant or beneficiary of an adverse coverage decision, the following information:

"(1) Preauthorization and utilization review procedures.—A description of the basis on which any preauthorization requirement or any utilization review requirement has resulted in the adverse coverage decision.

"(2) Procedures for determining exclusions based on medical necessity or on investigational items or experimental treatments.—If the adverse coverage decision is based on a determination relating to medical necessity or to an investigational item or an experimental treatment or technology, a description of the procedures and medically-based criteria used in such decision.

"(g) Information Available on Request.—

"(1) Access to plan benefit information in electronic form.—

"(A) In general.—A health insurance issuer offering health insurance coverage in connection with a group health plan may, upon written request (made not more frequently than annually), make available to participants and beneficiaries, in a generally recognized electronic format—

"(i) the latest summary plan description, including the latest summary of material modifications, and

"(ii) the actual plan provisions setting forth the benefits available under the plan,

to the extent such information relates to the coverage options under the plan available to the participant or beneficiary. A reasonable charge may be made to cover the cost of providing such information in such generally recognized electronic format. The Secretary may by regulation prescribe a maximum amount which will constitute a reasonable charge under the preceding sentence.

"(B) Alternative access.—The requirements of this paragraph may be met by making such information generally available (rather than upon request) on the Internet or on a proprietary computer network in a format which is readily accessible to participants and beneficiaries.

"(2) Additional information to be provided on request.—

"(A) Inclusion in summary plan description of summary of additional information.—The information required under subsection (a) includes a summary description of the types of information required by this subsection to be made available to participants and beneficiaries on request.

"(B) Information required from plans and issuers on request.—In addition to information otherwise required to be provided under this subsection, a health insurance issuer offering health insurance coverage in connection with a group health plan shall provide the following information to a participant or beneficiary on request:

"(i) Care management information.—A description of the circumstances under which, and the extent to which, the plan has special disease management programs or programs for persons with disabilities, indicating whether these programs are voluntary or mandatory and whether a significant benefit differential results from participation in such programs.

"(ii) Inclusion of drugs and biologicals in formularies.—A statement of whether a specific drug or biological is included in a formulary used to determine benefits under the plan and a description of the procedures for considering requests for any patient-specific waivers.

"(iii) Accreditation status of health insurance issuers and service providers.—A description of the accreditation and licensing status (if any) of each health insurance issuer offering health insurance coverage in connection with the plan and of any utilization review organization utilized by the issuer or the plan, together with the name and address of the accrediting or licensing authority.

"(iv) Quality performance measures.—The latest information (if any) maintained by the health insurance issuer relating to quality of performance of the delivery of medical care with respect to coverage options offered under the plan and of health care professionals and facilities providing medical care under the plan.

"(C) Information required from health care professionals.—

"(i) Qualifications, privileges, and method of compensation.—Any health care professional treating a participant or beneficiary under a group health plan shall provide to the participant or beneficiary, on request, a description of his or her professional qualifications (including board certification status, licensing status, and accreditation status, if any), privileges, and experience and a general description by category (including salary, fee-for-service, capitation, and such other categories as may be specified in regulations of the Secretary) of the applicable method by which such professional is compensated in connection with the provision of such medical care.

"(ii) Cost of procedures.—Any health care professional who recommends an elective procedure or treatment while treating a participant or beneficiary under a group health plan that requires a participant or beneficiary to share in the cost of treatment shall inform such participant or beneficiary of each cost associated with the procedure or treatment and an estimate of the magnitude of such costs.

"(D) Information required from health care facilities on request.—Any health care facility from which a participant or beneficiary has sought treatment under a group health plan shall provide to the participant or beneficiary, on request, a description of the facility's corporate form or other organizational form and all forms of licensing and accreditation status (if any) assigned to the facility by standard-setting organizations.

"(h) Access to Information Relevant to the Coverage Options under which the Participant or Beneficiary is Eligible to Enroll.—In addition to information otherwise required to be made available under this section, a health insurance issuer offering health insurance coverage in connection with a group health plan shall, upon written request (made not more frequently than annually), make available to a participant (and an employee who, under the terms of the plan, is eligible for coverage but not enrolled) in connection with a period of enrollment the summary plan description for any coverage option under the plan under which the participant is eligible to enroll and any information described in clauses (i), (ii), (iii), (vi), (vii), and (viii) of subsection (e)(2)(B).

"(i) Advance Notice of Changes in Drug Formularies.—Not later than 30 days before the effective of date of any exclusion of a specific drug or biological from any drug formulary under health insurance coverage offered by a health insurance issuer in connection with a group health plan that is used in the treatment of a chronic illness or disease, the issuer shall take such actions as are necessary to reasonably ensure that plan participants are informed of such exclusion. The requirements of this subsection may be satisfied—

"(1) by inclusion of information in publications broadly distributed by plan sponsors, employers, or employee organizations;

"(2) by electronic means of communication (including the Internet or proprietary computer networks in a format which is readily accessible to participants);

"(3) by timely informing participants who, under an ongoing program maintained under the plan, have submitted their names for such notification; or

"(4) by any other reasonable means of timely informing plan participants.

"(j) Definitions and Related Rules.—

"(1) In general.—For purposes of this section—

"(A) Group health plan.—The term 'group health plan' has the meaning provided such term under section 733(a)(1).

"(B) Medical care.—The term 'medical care' has the meaning provided such term under section 733(a)(2).

"(C) Health insurance coverage.—The term 'health insurance coverage' has the meaning provided such term under section 733(b)(1).

"(D) Health insurance issuer.—The term 'health insurance issuer' has the meaning provided such term under section 733(b)(2).

"(2) Applicability only in connection with included group health plan benefits.—

"(A) In general.—The requirements of this section shall apply only in connection with included group health plan benefits.

"(B) Included group health plan benefit.—For purposes of subparagraph (A), the term 'included group health plan benefit' means a benefit which is not an excepted benefit (as defined in section 2791(c)).".

SEC. 212. EFFECTIVE DATE AND RELATED RULES.

(a) In General.—The amendments made by section 211 shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this title before such date.

(b) LIMITATION ON ENFORCEMENT ACTIONS.—No enforcement action shall be taken, pursuant to the amendments made by this title, against a health insurance issuer with respect to a violation of a requirement imposed by such amendments before the date of issuance of final regulations issued in connection with such requirement, if the issuer has sought to comply in good faith with such requirement.

TITLE III—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

SEC. 301. PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE, EMERGENCY MEDICAL CARE, OBSTETRIC AND GYNECOLOGICAL CARE, PEDIATRIC CARE, AND CONTINUITY OF CARE.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

"Sec. 9813. Patient access to unrestricted medical advice, emergency medical care, obstetric and gynecological care, pediatric care, and continuity of care."; and

(2) by inserting after section 9812 the following:

"SEC. 9813. PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE, EMERGENCY MEDICAL CARE, OBSTETRIC AND GYNECOLOGICAL CARE, PEDIATRIC CARE, AND CONTINUITY OF CARE.

"(a) PATIENT ACCESS TO UNRESTRICTED MEDICAL ADVICE.—

"(1) IN GENERAL.—In the case of any health care professional acting within the lawful scope of practice in the course of carrying out a contractual employment arrangement or other direct contractual arrangement between such professional and a group health plan, the plan with which such contractual employment arrangement or other direct contractual arrangement is maintained by the professional may not impose on such professional under such arrangement any prohibition or restriction with respect to advice, provided to a participant or beneficiary under the plan who is a patient, about the health status of the participant or beneficiary or the medical care or treatment for the condition or disease of the participant or beneficiary, regardless of whether benefits for such care or treatment are provided under the plan.

"(2) HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this paragraph, the term 'health care professional' means a physician (as defined in section 1861(r) of the Social Security Act) or other health care professional if coverage for the professional's services is provided under the group health plan for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech-language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse-midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.

"(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require the sponsor of a group health plan to engage in any practice that would violate its religious beliefs or moral convictions.

"(b) PATIENT ACCESS TO EMERGENCY MEDICAL CARE.—

"(1) COVERAGE OF EMERGENCY SERVICES.—

"(A) IN GENERAL.—If a group health plan provides any benefits with respect to emergency services (as defined in subparagraph (B)(ii)), or ambulance services, the plan shall cover emergency services (including emergency ambulance services as defined in subparagraph (B)(iii)) furnished under the plan—

"(i) without the need for any prior authorization determination;

"(ii) whether or not the health care provider furnishing such services is a participating provider with respect to such services;

"(iii) in a manner so that, if such services are provided to a participant or beneficiary by a nonparticipating health care provider, the participant or beneficiary is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating provider; and

"(iv) without regard to any other term or condition of such plan (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 701 and other than applicable cost sharing).

"(B) DEFINITIONS.—In this subsection:

"(i) EMERGENCY MEDICAL CONDITION.—The term 'emergency medical condition' means—

"(I) a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act (42 U.S.C. 1395dd(e)(1)(A)); and

"(II) a medical condition manifesting itself in a neonate by acute symptoms of sufficient severity (including severe pain) such that a prudent health care professional could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

"(ii) EMERGENCY SERVICES.—The term 'emergency services' means—

"(I) with respect to an emergency medical condition described in clause (i)(I), a medical screening examination (as required under section 1867 of the Social Security Act, 42 U.S.C. 1395dd) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition (as defined in clause (i)) and also, within the capabilities of the staff and facilities at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient; or

"(II) with respect to an emergency medical condition described in clause (i)(II), medical treatment for such condition rendered by a health care provider in a hospital to a neonate, including available hospital ancillary services in response to an urgent request of a health care professional and to the extent necessary to stabilize the neonate.

"(iii) EMERGENCY AMBULANCE SERVICES.—The term 'emergency ambulance services' means ambulance services (as defined for purposes of section 1861(s)(7) of the Social Security Act) furnished to transport an individual who has an emergency medical condition (as defined in clause (i)) to a hospital for the receipt of emergency services (as defined in clause (ii)) in a case in which appropriate emergency medical screening examinations are covered under the plan pursuant to paragraph (1)(A) and a prudent layperson, with an average knowledge of health and medicine, could reasonably expect that the absence of such transport would result in placing the health of the individual in serious jeopardy, serious impairment of bodily function, or serious dysfunction of any bodily organ or part.

"(iv) STABILIZE.—The term 'to stabilize' means, with respect to an emergency medical condition, to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility.

"(v) NONPARTICIPATING.—The term 'nonparticipating' means, with respect to a health care provider that provides health care items and services to a participant or beneficiary under group health plan, a health care provider that is not a participating health care provider with respect to such items and services.

"(vi) PARTICIPATING.—The term 'participating' means, with respect to a health care provider that provides health care items and services to a participant or beneficiary under group health plan, a health care provider that furnishes such items and services under a contract or other arrangement with the plan.

"(c) PATIENT RIGHT TO OBSTETRIC AND GYNECOLOGICAL CARE.—

"(1) IN GENERAL.—In any case in which a group health plan—

"(A) provides benefits under the terms of the plan consisting of—

"(i) gynecological care (such as preventive women's health examinations); or

"(ii) obstetric care (such as pregnancy-related services),

provided by a participating health care professional who specializes in such care (or provides benefits consisting of payment for such care); and

"(B) requires or provides for designation by a participant or beneficiary of a participating primary care provider,

if the primary care provider designated by such a participant or beneficiary is not such a health care professional, then the plan shall meet the requirements of paragraph (2).

"(2) REQUIREMENTS.—A group health plan meets the requirements of this paragraph, in connection with benefits described in paragraph (1) consisting of care described in clause (i) or (ii) of paragraph (1)(A) (or consisting of payment therefor), if the plan—

"(A) does not require authorization or a referral by the primary care provider in order to obtain such benefits; and

"(B) treats the ordering of other care of the same type, by the participating health care professional providing the care described in clause (i) or (ii) of paragraph (1)(A), as the authorization of the primary care provider with respect to such care.

"(3) HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term 'health care professional' means an individual (including, but not limited to, a nurse midwife or nurse practitioner) who is licensed, accredited, or certified under State law to provide obstetric and gynecological health care services and who is operating within the scope of such licensure, accreditation, or certification.

"(4) CONSTRUCTION.—Nothing in paragraph (1) shall be construed as preventing a plan from offering (but not requiring a participant or beneficiary to accept) a health care professional trained, credentialed, and operating within the scope of their licensure to perform obstetric and gynecological health care services. Nothing in paragraph (2)(B) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological or obstetric care so ordered.

"(5) TREATMENT OF MULTIPLE COVERAGE OPTIONS.—In the case of a plan providing benefits under two or more coverage options, the requirements of this subsection shall apply separately with respect to each coverage option.

"(d) PATIENT RIGHT TO PEDIATRIC CARE.—

"(1) IN GENERAL.—In any case in which a group health plan provides benefits consisting of routine pediatric care provided by a participating health care professional who specializes in pediatrics (or consisting of payment for such care) and the plan requires or provides for designation by a participant or beneficiary of a participating primary care provider, the plan shall provide that such a participating health care professional may be designated, if available, by a parent or guardian of any beneficiary under the plan is who under 18 years of age, as the primary care provider with respect to any such benefits.

"(2) HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term 'health care professional' means an individual (including, but not limited to, a nurse practitioner) who is licensed, accredited, or certified under State law to provide pediatric health care services and who is operating within the scope of such licensure, accreditation, or certification.

"(3) CONSTRUCTION.—Nothing in paragraph (1) shall be construed as preventing a plan from offering (but not requiring a participant or beneficiary to accept) a health care professional trained, credentialed, and operating within the scope of their licensure to perform pediatric health care services. Nothing in paragraph (1) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of pediatric care so ordered.

"(4) TREATMENT OF MULTIPLE COVERAGE OPTIONS.—In the case of a plan providing benefits under two or more coverage options, the requirements of this subsection shall apply separately with respect to each coverage option.

"(e) CONTINUITY OF CARE.—

"(1) IN GENERAL.—

"(A) TERMINATION OF PROVIDER.—If a contract between a group health plan and a health care provider is terminated (as defined in subparagraph (D)(ii)), or benefits provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who, at the time of such termination, is a participant or beneficiary in the plan and is scheduled to undergo surgery (including an organ transplantation), is undergoing treatment for pregnancy, or is determined to be terminally ill (as defined in section 1861(dd)(3)(A) of the Social Security Act) and is undergoing treatment for the terminal illness, the plan shall—

"(i) notify the individual on a timely basis of such termination and of the right to elect continuation of coverage of treatment by the provider under this subsection; and

"(ii) subject to paragraph (3), permit the individual to elect to continue to be covered with respect to treatment by the provider for such surgery, pregnancy, or illness during a transitional period (provided under paragraph (2)).

"(B) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of subparagraph (A) (and the succeeding provisions of this subsection) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

"(C) TERMINATION DEFINED.—For purposes of this subsection, the term 'terminated' includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan for failure to meet applicable quality standards or for fraud.

"(2) TRANSITIONAL PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) through (D), the transitional period under this paragraph shall extend up to 90 days (as determined by the treating health care professional) after the date of the notice described in paragraph (1)(A)(i) of the provider's termination.

"(B) SCHEDULED SURGERY.—If surgery was scheduled for an individual before the date of the announcement of the termination of the provider status under paragraph (1)(A)(i), the transitional period under this paragraph with respect to the surgery or transplantation.

"(C) PREGNANCY.—If—

"(i) a participant or beneficiary was determined to be pregnant at the time of a provider's termination of participation, and

"(ii) the provider was treating the pregnancy before date of the termination,

the transitional period under this paragraph with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

"(D) TERMINAL ILLNESS.—If—

"(i) a participant or beneficiary was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, and

"(ii) the provider was treating the terminal illness before the date of termination,

the transitional period under this paragraph shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness or its medical manifestations.

"(3) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan may condition coverage of continued treatment by a provider under paragraph (1)(A)(i) upon the individual notifying the plan of the election of continued coverage and upon the provider agreeing to the following terms and conditions:

"(A) The provider agrees to accept reimbursement from the plan and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in paragraph (1)(B), at the rates applicable under the replacement plan after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in paragraph (1)(A) had not been terminated.

"(B) The provider agrees to adhere to the quality assurance standards of the plan responsible for payment under subparagraph (A) and to provide to such plan necessary medical information related to the care provided.

"(C) The provider agrees otherwise to adhere to such plan's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan.

"(D) The provider agrees to provide transitional care to all participants and beneficiaries who are eligible for and elect to have coverage of such care from such provider.

"(E) If the provider initiates the termination, the provider has notified the plan within 30 days prior to the effective date of the termination of—

"(i) whether the provider agrees to permissible terms and conditions (as set forth in this paragraph) required by the plan, and

"(ii) if the provider agrees to the terms and conditions, the specific plan beneficiaries and participants undergoing a course of treatment from the provider who the provider believes, at the time of the notification, would be eligible for transitional care under this subsection.

"(4) CONSTRUCTION.—Nothing in this subsection shall be construed to—

"(A) require the coverage of benefits which would not have been covered if the provider involved remained a participating provider, or

"(B) prohibit a group health plan from conditioning a provider's participation on the provider's agreement to provide transitional care to all participants and beneficiaries eligible to obtain coverage of such care furnished by the provider as set forth under this subsection.

"(f) COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CANCER CLINICAL TRIALS.—

"(1) COVERAGE.—

"(A) IN GENERAL.—If a group health plan provides coverage to a qualified individual (as defined in paragraph (2)), the plan—

"(i) may not deny the individual participation in the clinical trial referred to in paragraph (2)(B);

"(ii) subject to paragraphs (2), (3), and (4), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

"(iii) may not discriminate against the individual on the basis of the participation of the participant or beneficiary in such trial.

"(B) EXCLUSION OF CERTAIN COSTS.—For purposes of subparagraph (A)(ii), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

"(C) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in subparagraph (A) shall be construed as preventing a plan from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

"(2) QUALIFIED INDIVIDUAL DEFINED.—For purposes of paragraph (1), the term 'qualified individual' means an individual who is a participant or beneficiary in a group health plan and who meets the following conditions:

"(A)(i) The individual has been diagnosed with cancer.

"(ii) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of cancer.

"(iii) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

"(B) Either—

"(i) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon satisfaction by the individual of the conditions described in subparagraph (A); or

"(ii) the individual provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the satisfaction by the individual of the conditions described in subparagraph (A).

"(3) PAYMENT.—

"(A) IN GENERAL.—A group health plan shall provide for payment for routine patient costs described in paragraph (1)(B) but is not required to pay for costs of items and services that are reasonably expected to be paid for by the sponsors of an approved clinical trial.

"(B) ROUTINE PATIENT CARE COSTS.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'routine patient care costs' shall include the costs associated with the provision of items and services that—

"(I) would otherwise be covered under the group health plan if such items and services were not provided in connection with an approved clinical trial program; and

"(II) are furnished according to the protocol of an approved clinical trial program.

"(ii) EXCLUSION.—For purposes of this paragraph, 'routine patient care costs' shall not include the costs associated with the provision of—

(I) an investigational drug or device, unless the Secretary has authorized the manufacturer of such drug or device to charge for such drug or device; or

(II) any item or service supplied without charge by the sponsor of the approved clinical trial program.

"(C) PAYMENT RATE.—For purposes of this subsection—

"(i) PARTICIPATING PROVIDERS.—In the case of covered items and services provided by a participating provider, the payment rate shall be at the agreed upon rate.

"(ii) NONPARTICIPATING PROVIDERS.—In the case of covered items and servicesprovided by a nonparticipating provider, the payment rate shall be at the rate the plan would normally pay for comparable items or services under clause (i).

"(4) APPROVED CLINICAL TRIAL DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'approved clinical trial' means a cancer clinical research study or cancer clinical investigation approved by an Institutional Review Board.

"(B) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

"(i) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health, and

"(ii) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

"(5) CONSTRUCTION.—Nothing in this subsection shall be construed to limit a plan's coverage with respect to clinical trials.

"(6) PLAN SATISFACTION OF CERTAIN REQUIREMENTS; RESPONSIBILITIES OF FIDUCIARIES.—

"(A) IN GENERAL.—For purposes of this subsection, insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the requirements of this subsection with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer.

"(B) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

"(7) STUDY AND REPORT.—

"(A) STUDY.—The Secretary shall analyze cancer clinical research and its cost implications for managed care, including differentiation in—

"(i) the cost of patient care in trials versus standard care;

"(ii) the cost effectiveness achieved in different sites of service;

"(iii) research outcomes;

"(iv) volume of research subjects available in different sites of service;

"(v) access to research sites and clinical trials by cancer patients;

"(vi) patient cost sharing or copayment costs realized in different sites of service;

"(vii) health outcomes experienced in different sites of service;

"(viii) long term health care services and costs experienced in different sites of service;

"(ix) morbidity and mortality experienced in different sites of service; and

"(x) patient satisfaction and preference of sites of service.

"(B) REPORT TO CONGRESS.—Not later than January 1, 2005, the Secretary shall submit a report to Congress that contains—

"(i) an assessment of any incremental cost to group health plans resulting from the provisions of this section;

"(ii) a projection of expenditures to such plans resulting from this section;

"(iii) an assessment of any impact on premiums resulting from this section; and

"(iv) recommendations regarding action on other diseases.".

SEC. 302. EFFECTIVE DATE AND RELATED RULES.

(a) IN GENERAL.—The amendments made by this title shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act, except that the Secretary of the Treasury may issue regulations before such date under such amendments. The Secretary shall first issue regulations necessary to carry out the amendments made by this title before the effective date thereof.

(b) LIMITATION ON ENFORCEMENT ACTIONS.—No enforcement action shall be taken, pursuant to the amendments made by this title, against a group health plan with respect to a violation of a requirement imposed by such amendments before the date of issuance of regulations issued in connection with such requirement, if the plan has sought to comply in good faith with such requirement.

(c) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this title shall not apply with respect to plan years beginning before the later of—

(1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act); or

(2) January 1, 2002.

For purposes of this subsection, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this title shall not be treated as a termination of such collective bargaining agreement.

TITLE IV—HEALTH CARE LAWSUIT REFORM

Subtitle A—General Provisions

SEC. 401. FEDERAL REFORM OF HEALTH CARE LIABILITY ACTIONS.

(a) APPLICABILITY.—This title shall apply with respect to any health care liability action brought in any State or Federal court, except that this title shall not apply to—

(1) an action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the action;

(2) an action under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.); or

(3) an action in connection with benefits which are not included group health plan benefits (as defined in section 402(14)).

(b) PREEMPTION.—This title shall preempt any State law to the extent such law is inconsistent with the limitations contained in this title. This title shall not preempt any State law that provides for defenses or places limitations on a person's liability in addition to those contained in this title or otherwise imposes greater restrictions than those provided in this title.

(c) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in subsection (b) shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(d) AMOUNT IN CONTROVERSY.—In an action to which this title applies and which is brought under section 1332 of title 28, United States Code, the amount of non-economic damages or punitive damages, and attorneys' fees or costs, shall not be included in determining whether the matter in controversy exceeds the sum or value of $50,000.

(e) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this title shall be construed to establish any jurisdiction in the district courts of the United States over health care liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

SEC. 402. DEFINITIONS.

As used in this title:

(1) ACTUAL DAMAGES.—The term "actual damages" means damages awarded to pay for economic loss.

(2) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term "alternative dispute resolution system" or "ADR" means a system established under Federal or State law that provides for the resolution of health care liability claims in a manner other than through health care liability actions.

(3) CLAIMANT.—The term "claimant" means any person who brings a health care liability action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(4) CLEAR AND CONVINCING EVIDENCE.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. Such measure or degree of proof is more than that required under preponderance of the evidence but less than that required for proof beyond a reasonable doubt.

(5) COLLATERAL SOURCE PAYMENTS.—The term "collateral source payments" means any amount paid or reasonably likely to be paid in the future to or on behalf of a claimant, or any service, product, or other benefit provided or reasonably likely to be provided in the future to or on behalf of a claimant, as a result of an injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident or workers' compensation Act;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(6) DRUG.—The term "drug" has the meaning given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(7) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from injury (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent recovery for such loss is allowed under applicable State law.

(8) HARM.—The term "harm" means any legally cognizable wrong or injury for which punitive damages may be imposed.

(9) HEALTH BENEFIT PLAN.—The term "health benefit plan" means—

(A) a hospital or medical expense incurred policy or certificate;

(B) a hospital or medical service plan contract;

(C) a health maintenance subscriber contract; or

(D) a Medicare+Choice plan (offered under part C of title XVIII of the Social Security Act),

that provides benefits with respect to health care services.

(10) HEALTH CARE LIABILITY ACTION.—The term "health care liability action" means a civil action brought in a State or Federal court against—

(A) a health care provider;

(B) an entity which is obligated to provide or pay for health benefits under any health benefit plan (including any person or entity acting under a contract or arrangement to provide or administer any health benefit); or

(C) the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product,

in which the claimant alleges a claim (including third party claims, cross claims, counter claims, or contribution claims) based upon the provision of (or the failure to provide or pay for) health care services or the use of a medical product, regardless of the theory of liability on which the claim is based or the number of plaintiffs, defendants, or causes of action.

(11) HEALTH CARE LIABILITY CLAIM.—The term "health care liability claim" means a claim in which the claimant alleges that injury was caused by the provision of (or the failure to provide) health care services.

(12) HEALTH CARE PROVIDER.—The term "health care provider" means any person that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(13) HEALTH CARE SERVICE.—The term "health care service" means any service eligible for payment under a health benefit plan, including services related to the delivery or administration of such service.

(14) INCLUDED GROUP HEALTH PLAN BENEFIT.—The term 'included group health plan benefit' means a benefit under a group health plan which is not an excepted benefit (as defined in section 733(c) of the Employee Retirement Income Security Act of 1974).

(15) MEDICAL DEVICE.—The term "medical device" has the meaning given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(16) NON-ECONOMIC DAMAGES.—The term "non-economic damages" means damages paid to an individual for pain and suffering, inconvenience, emotional distress, mental anguish, loss of consortium, injury to reputation, humiliation, and other nonpecuniary losses.

(17) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(18) PRODUCT SELLER.—

(A) IN GENERAL.—Subject to subparagraph (B), the term "product seller" means a person who, in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or is otherwise involved in placing, a product in the stream of commerce; or

(ii) installs, repairs, or maintains the harm-causing aspect of a product.

(B) EXCLUSION.—Such term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor.

(19) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded against any person not to compensate for actual injury suffered, but to punish or deter such person or others from engaging in similar behavior in the future.

(20) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 403. EFFECTIVE DATE.

This title will apply to—

(1) any health care liability action brought in a Federal or State court; and

(2) any health care liability claim subject to an alternative dispute resolution system,

that is initiated on or after the date of enactment of this title, except that any health care liability claim or action arising from an injury occurring before the date of enactment of this title shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

Subtitle B—Uniform Standards for Health Care Liability Actions

SEC. 411. STATUTE OF LIMITATIONS.

A health care liability action may not be brought after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of the action was discovered or should reasonably have been discovered, but in no case after the expiration of the 5-year period that begins on the date the alleged injury occurred.

SEC. 412. CALCULATION AND PAYMENT OF DAMAGES.

(a) TREATMENT OF NON-ECONOMIC DAMAGES.—

(1) LIMITATION ON NON-ECONOMIC DAMAGES.—The total amount of non-economic damages that may be awarded to a claimant for losses resulting from the injury which is the subject of a health care liability action may not exceed $250,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury. The limitation under this paragraph shall not apply to an action for damages based solely on intentional denial of medical treatment necessary to preserve a patient's life that the patient is otherwise qualified to receive, against the wishes of a patient, or if the patient is incompetent, against the wishes of the patient's guardian, on the basis of the patient's present or predicated age, disability, degree of medical dependency, or quality of life.

(2) LIMIT.—If, after the date of the enactment of this Act, a State enacts a law which prescribes the amount of non-economic damages which may be awarded in a health care liability action which is different from the amount prescribed by section 412(a)(1), the State amount shall apply in lieu of the amount prescribed by such section. If, after the date of the enactment of this Act, a State enacts a law which limits the amount of recovery in a health care liability action without delineating between economic and non-economic damages, the State amount shall apply in lieu of the amount prescribed by such section.

(3) JOINT AND SEVERAL LIABILITY.—In any health care liability action brought in State or Federal court, a defendant shall be liable only for the amount of non-economic damages attributable to such defendant in direct proportion to such defendant's share of fault or responsibility for the claimant's actual

damages, as determined by the trier of fact. In all such cases, the liability of a defendant for non-economic damages shall be several and not joint and a separate judgment shall be rendered against each defendant for the amount allocated to such defendant.

(b) Treatment of Punitive Damages.—

(1) General rule.—Punitive damages may, to the extent permitted by applicable State law, be awarded in any health care liability action for harm in any Federal or State court against a defendant if the claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct—

(A) specifically intended to cause harm; or

(B) conduct manifesting a conscious, flagrant indifference to the rights or safety of others.

(2) Applicability.—This subsection shall apply to any health care liability action brought in any Federal or State court on any theory where punitive damages are sought. This subsection does not create a cause of action for punitive damages.

(3) Limitation on punitive damages.—The total amount of punitive damages that may be awarded to a claimant for losses resulting from the injury which is the subject of a health care liability action may not exceed the greater of—

(A) 2 times the amount of economic damages, or

(B) $250,000,

regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury. This subsection does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages.

(4) Bifurcation.—At the request of any party, the trier of fact shall consider in a separate proceeding whether punitive damages are to be awarded and the amount of such award. If a separate proceeding is requested, evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether actual damages are to be awarded.

(4) Drugs and devices.—

(A) In general.—

(i) Punitive damages.—Punitive damages shall not be awarded against a manufacturer or product seller of a drug or medical device which caused the claimant's harm where—

(I) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm, or the adequacy of the packaging or labeling of such drug or device which caused the harm, and such drug, device, packaging, or labeling was approved by the Food and Drug Administration; or

(II) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(ii) Application.—Clause (i) shall not apply in any case in which the defendant, before or after premarket approval of a drug or device—

(I) intentionally and wrongfully withheld from or misrepresented to the Food and Drug Administration information concerning such drug or device required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and relevant to the harm suffered by the claimant; or

(II) made an illegal payment to an official or employee of the Food and Drug Administration for the purpose of securing or maintaining approval of such drug or device.

(B) Packaging.—In a health care liability action for harm which is alleged to relate to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the court by clear and convincing evidence to be substantially out of compliance with such regulations.

(c) Periodic Payments for Future Losses.—

(1) General rule.—In any health care liability action in which the damages awarded for future economic and non-economic loss exceeds $50,000, a person shall not be required to pay such damages in a single, lump-sum payment, but shall be permitted to make such payments periodically based on when the damages are likely to occur, as such payments are determined by the court.

(2) Finality of judgment.—The judgment of the court awarding periodic payments under this subsection may not, in the absence of fraud, be reopened at any time to contest, amend, or modify the schedule or amount of the payments.

(3) Lump-sum settlements.—This subsection shall not be construed to preclude a settlement providing for a single, lump-sum payment.

(d) Treatment of Collateral Source Payments.—

(1) Introduction into evidence.—In any health care liability action, any defendant may introduce evidence of collateral source payments. If any defendant elects to introduce such evidence, the claimant may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the claimant to secure the right to such collateral source payments.

(2) No subrogation.—No provider of collateral source payments shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated to the right of the claimant in a health care liability action.

(3) Application to settlements.—This subsection shall apply to an action that is settled as well as an action that is resolved by a fact finder.

SEC. 413. ALTERNATIVE DISPUTE RESOLUTION.

Any ADR used to resolve a health care liability action or claim shall contain provisions relating to statute of limitations, non-economic damages, joint and several liability, punitive damages, collateral source rule, and periodic payments which are consistent with the provisions relating to such matters in this title.

SEC. 414. REPORTING ON FRAUD AND ABUSE ENFORCEMENT ACTIVITIES.

The General Accounting Office shall—

(1) monitor—

(A) the compliance of the Department of Justice and all United States Attorneys with the guideline entitled "Guidance on the Use of the False Claims Act in Civil Health Care Matters" issued by the Department on June 3, 1998, including any revisions to that guideline; and

(B) the compliance of the Office of the Inspector General of the Department of Health and Human Services with the protocols and guidelines entitled "National Project Protocols—Best Practice Guidelines" issued by the Inspector General on June 3, 1998, including any revisions to such protocols and guidelines; and

(2) submit a report on such compliance to the Committee on Commerce, the Committee on the Judiciary, and the Committee on Ways and Means of the House of Representatives and the Committee on the Judiciary and the Committee on Finance of the Senate not later than February 1, 2000, and every year thereafter for a period of 4 years ending February 1, 2003.

The CHAIRMAN. Pursuant to House Resolution 323, the gentleman from Ohio (Mr. Boehner) and the gentleman from Michigan (Mr. Dingell) will each control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. Boehner).

Mr. BOEHNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let us stop and ask ourselves a basic question: Just what is health care reform all about? Is it forcing HMOs to be more accountable? Is it expanding access for the 44 million who do not have health coverage? Is it limiting costs and making coverage more affordable?

The answer to all of these questions is yes. Health care reform is about all of these things, access, accountability, and affordability, and we cannot address one without affecting the others; and if we truly want to help patients, we certainly cannot address one at the expense of the other two.

Mr. Chairman, I have the utmost respect for my colleague the gentleman from Michigan (Mr. Dingell) and my colleague the gentleman from Georgia (Mr. Norwood), and I know they believe they found the prescription for what is ailing our health system. But, in truth, I believe their bill is poison for our health care system today.

In an effort to make managed care more accountable, the Dingell-Norwood proposal would authorize lawsuits against health plans. The trouble is most health plans in America are employer-based. More than 124 million Americans get their health coverage through the workplace, a benefit employers can provide voluntarily, thanks to a law known as ERISA, which shields employers from unnecessary litigation. The system, for all its complexity, has saved countless American lives.

Under the Dingell-Norwood proposal though, that would change. Expanding lawsuits against employer-based health plans means expanding lawsuits against employers. If employers are exposed to lawsuits, they are going to stop providing coverage to their employees.

It means millions of American workers are going to lose their health insurance at the very time Congress should be working on expanding access to coverage.

The Dingell-Norwood bill has other flaws. The authors claim their bill is about giving control to doctors and patients, but it is also about giving control to the Federal Government.

Under their proposal, the Department of Labor, the Department of Health and Human Services, the IRS, and likely the States, would all have a hand in regulating Americans' health benefits. Granting the bureaucracy these new powers is another quiet step toward the government-run health care system Americans overwhelmingly rejected in 1993 and 1994. They were right to reject it then, and they would be right in rejecting it now.

Their proposal has a third gaping flaw, and it concerns something that is not even in the bill at all, and that is medical malpractice reform. Our opponents often cite the experience in Texas and what they have done with their HMO liability reform bill, and in fact there have not been a flood of frivolous lawsuits and exploding costs. But what our colleagues never mention is that Texas passed a sweeping medical malpractice and tort reform law 2 years before they passed their HMO liability. Why should this Congress not do the same?

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Mr. Chairman, Americans want health care reform. But legislation that exposes employers to lawsuits jeopardizes the benefits to 124 million American lives who get their coverage from their workplace. It expands the reach of big government and slams the door of medical tort reform, and I am not sure that that is what Americans really want when they think about health care reform today.

Fortunately, there is an alternative. My substitute, the CARE Act, would punish bad HMOs without punishing the uninsured. We named it the CARE Act because patients want access to care, not access to court. But that does not mean that managed care companies get a free ride. Instead of lawsuits, the CARE Act would guarantee patients the protection of a strong, enforceable and legally binding appeals process.

If you or your family is denied care, you can automatically appeal to independent physicians who are familiar with your case and conditions and are completely independent from the HMO. Assuming the physicians rule in your favor, you get the care; there is no delay, period. You have the right to that care and can get it immediately. And if your plan refuses to do what the doctors order, the plan is subject up to $5,000 per day until you get the care, with no caps.

Now, Mr. Chairman, if we really want to get tough on HMOs that wrongly deny care, I do not think it gets much tougher than that. But here is the best part. Under our CARE Act, HMOs are punished for the wrongful denials before a patient is harmed, instead of after the fact when it is too late. Instead of waiting until a tragic mistake is made, it ensures that patients get the care they need when they need it, and is that not really what managed care reform is all about?

External review gives patients a better option. It also gives us as Members of Congress the chance to be consistent. How can 286 Members of Congress vote to cap Y2K liability for high-tech companies, and then change course and vote for expanded lawsuits in health care? How can three-fourths of the House vote to override the President's veto of securities litigation reform and then turn around and vote to support new lawsuits against employers? How can Members vote for medical malpractice reform six times in the last 5 years in this House that shields providers from lawsuits and then reverse themselves and support expanded liability in health care?

The CARE Act is not just an alternative to lawsuits, Mr. Chairman, it is a better idea altogether.

So I ask my colleagues, for the sake of the 124 million Americans in employer-based health care, give this plan a chance. And for the sake of the 44 million Americans who have no health insurance, give this option a chance. For the sake of our kids and our grandkids whose quality of life will depend on the health care system of the 21st century, give this option a chance.

I urge my colleagues to join me in voting to give patients care, not court. Let us not jeopardize the health insurance benefits our constituents enjoy today from their employers.

Mr. Chairman, I reserve the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this is a wonderful amendment, but unfortunately, it is a sham and an optical illusion, and very frankly, a fraud. The benefits look good, but there is no way that one can obtain them. Every other alternative to the Norwood-Dingell-Ganske bill that we will consider at least pretends to give you the ability to hold the health insurance companies accountable when they make a medical decision that hurts you. This one does not even keep up the pretense.

The bill is not a serious effort. If you buy insurance, the bill does not help you; and if you have a chronic or serious medical condition requiring regular treatment by a specialist, the bill does not help you. If you believe you should get care when it is medically necessary, this bill does not help you.

For the rhetoric that we are about to hear about lawyers taking over health care and the health care profession, this bill would hand the lawyer, and not the doctor, the power to decide when one needs medical evaluation.

These are just a few of the flaws contained in the Boehner substitute. I urge my colleagues to reject it. I say that with all respect for my good friend, the author of this unfortunate proposal.

Mr. Chairman, I reserve the balance of my time.

Mr. BOEHNER. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. BLILEY), the chairman of the Committee on Commerce.

Mr. BLILEY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, we need care, not courts. The Boehner bill does that. It allows for binding external review; and if the plan does not accept that, if the external review rules in favor of the patient and the care, then the fine of $1,000 a day takes place until they do comply, and there is no cap. It also enables the patient to go to any health care provider that they see fit at that time and be treated. Is that not far better than waiting and going to court and maybe 3 years down the road you get a verdict in your favor. In the meantime, what are you doing about the care that you need in order maybe to live? It is good for your heirs, but it is not very good for you.

If people say, well, there will not be many lawsuits, read last week's Wall Street Journal. The same plaintiff lawyers who took on the tobacco companies and are taking on the gun manufacturers are lining up for the biggest pot since tobacco, the HMOs. And when they sue, they will not just sue the HMO, they will sue everybody in sight, including the employer. And employers, many of them, are not going to put up with that. What they will do will be to put the money in the worker's envelope and say, you are on your own. Unfortunately, many of them, you know how young people are, they think they are eternal, they will not buy insurance. They would rather have an automobile or something else, or take a trip, and that $44 million uninsured number will go up dramatically.

We increased our uninsured last year by 1 million at a time when we have virtual full employment. So, we need to pass the Boehner bill to make sure that patients get care and not courts.

Mr. Chairman, I rise today in strong support of the Boehner substitute to H.R. 2723.

Managed care is an essential component of our health care delivery system today. The notion of managing care grew out of a concern over a decade ago that health care costs were escalating, and something needed to be done to get control over these skyrocketing annual cost increases. In response to these concerns, insurers began to contract with health care providers to arrange to have a broad network of health professionals available to provide benefits. Health professionals accept reduced fees in exchange for access to a high volume of patients; and plan enrollees pay lower premiums in exchange for seeing one of the health professionals in the network. In addition, plans have quality assurance and utilization review programs to ensure that patients continue to receive cost-efficient quality health care.

This private sector response to the increase in health care spending in the 1980's succeeded in reigning in health care spending, while maintaining and yes, even improving the quality of care for millions of Americans. Many health care professionals believe that the techniques used by managed care companies, such as promoting wellness, the strong emphasis on preventive care, and the ability to "manage one's care," have been valuable contributions to improving the health of America.

The pendulum which started on the side of high health costs, with no control on utilization, has swung towards lower costs and increased scrutiny of the types of services health professionals are performing. We are here today, to decide how far that pendulum has swung. I agree that many of the provisions in all of the bills we are discussing today are reasonable—ensuring that doctors are not limited in the treatment options they can share with their patients; guaranteeing women direct access to their OB/GYN provider, and ensuring that children can have their pediatrician serve as their primary care provider, are just some of the common sense protections that I think we all support.

I also support providing as much information as possible that the patient would find useful in evaluating their health care options. That is why I submitted an amendment which would have required physicians to disclose malpractice judgments or criminal convictions issued against them. If this amendment were law today, a consumer would be able to use the Internet to thoroughly research the background of any physician licensed to practice medicine in the United States. I was disappointed when this amendment was not made in order.

There are two provisions in the Boehner substitute that I would like to bring to everyone's attention, because I feel they are positive steps towards ensuring quality without compromising on accountability. The first is the responsible and common sense way in which a plan is held accountable once an independent medical expert has determined what the course of treatment for a patient should be. If the plan does not arrange to provide the care in accordance with what an independent medical expert has determined to be appropriate care, the plan will be fined $1,000 per day until the plan complies with the independent expert's opinion. More importantly for the patient, he or she can see any provider at any facility he or she chooses, and the plan has to pay for it. This is a commonsense approach towards ensuring the patient gets the care he or she has paid for, and holds the plan accountable for providing that care in a timely manner. Care, not courts—that is what patients want when they seek medical attention.

The second provision I would like to mention, which prior to this year had been strongly supported by the AMA, is medical malpractice reform. The Boehner substitute would reform the guidelines governing health care lawsuits by, among other things, limiting "non-economic damages to $250,000, but deferring to states if they feel a higher or lower amount is appropriate. Health care expenditures should be directed towards improving the health of America's patients; not towards lining the pockets of trial lawyers—too often the case today. These reforms would keep more dollars going to patient care and less to the trial lawyers.

I am extremely concerned about the terms of the debate we are having today. One million Americans lost their health insurance coverage in just this past year alone. That is the crisis in health care in America today. If we legislators want to alter the way in which health care is delivered through private markets in this country, we owe it to the American people, to those who sent us here to do the people's work, to at a minimum, abide by the Hippocratic oath that health professionals are obligated to follow every day, which states "First, Do No Harm."

I am disappointed that the debate has focused more on trial lawyers, than on how we can create incentives for the private insurance market to offer more affordable health insurance for all Americans.

Those favoring increasing the role of trial lawyers in our health care delivery system point to Texas as an example of what happens when a state allowed state court action against a health plan, and yet only a handful of suits have been filed. This does not tell the whole picture. Just this week in an article printed in the New York Times by Dave Morehead, a doctor with the Scott and White Health Plan in Texas, Dr. Morehead states, "Lawsuits cost companies money, but so does the mere threat of a lawsuits." He points out that as a result of the recent legislation passed in Texas, the physicians participating in the Scott and White Health Plan have changed the way they practice medicine. Preauthorization requirements which are utilized as a means to ensure that patients receive a course of treatment that is safe and effective, thus reducing the risk of complications which often result from some procedures, have been discontinued for fear of litigation resulting from any delay in treatment. He adds that 25 to 35 percent of tests and treatments do not contribute to better health. Dr. Morehead sums up his experience in Texas by concluding 'Our experience shows that the right to sue doesn't help patients get better care. It just drives costs up, for us and for them."

How many times do we have to come to the well this session on a highly politicized issue and find the trial lawyers actively campaigning for more litigation. First it was tobacco, then guns, now health care. If lawyers are going to start getting in the business of practicing medicine, perhaps we should require them to go to medical school. I am sure the physician community would welcome them, as ironically they too are advocating for more lawyer involvement in the delivery of health care in this country today. On the other hand, this might give the public more comfort. Since lawyers and judges will be making clinical decisions as a result of some of these bills, perhaps we should require them to at least have some medical training.

America has the greatest health care in the world. The fact that 16.3 percent of our fellow citizens cannot afford it is deeply troubling. That the plight of these 44.3 million Americans has been lost on helping the trial attorneys is tragic. I hope members will think of the 44.3 million of Americans who do not have any health insurance as they consider what legislation to vote for today. Do patients deserve care or courts? I vote for care and that is why I am supporting the Boehner substitute, and encourage my colleagues to do the same.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Chairman, a fundamental flaw, a fundamental flaw in the bill that passed the Senate and in the Boehner bill is that it does not address the issue of medical necessity. The problem in the ERISA plan, and that is under ERISA law, a health plan can define medical necessity in any way they want to. The gentleman's bill does nothing to change that, he would agree with me on that.

Let me cite an example of why that could be a problem. Let us say that a health plan sets up its definition for getting psychiatric care, saying that somebody has to try to commit suicide three times before one can qualify. That may sound absurd, but let us just say that the plan does that.

A little boy goes out, a teenager, tries to commit suicide once, tries to commit suicide twice, and finally on the third time, commits suicide. Now, under the Boehner bill, that plan followed its own criteria. Guess what? Under the Boehner bill and under the bill that passed the Senate, there is no recourse, because ERISA says that the health plan can define medical necessity in any way they want to, no matter how unreasonable the criteria are or seem to be by an independent panel, review panel. They still, under ERISA law, cannot change the fact that a health plan could define medical necessity as the cheapest, least expensive care.

We could take a little boy with a cleft palate, a health plan could say all we are going to provide treatment for that is a plastic obturator, a piece of plastic stuck up into that hole. If that is the way the plan's employer has defined medical necessity, there is no recourse, even if it does not fit any prescribed standards of care.

That is such a fundamental problem that is not addressed in the Boehner bill and that was not addressed in the Senate bill, and on that alone we should vote no on the Boehner bill.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I rise in opposition to the Boehner substitute.

The key questions here are who decides who gets care and on what basis. The Boehner substitute says the managed care plan decides who gets care on any basis they find economically viable.

When a Member of our family, when someone we love has to see an oncologist or a cardiologist or a speech therapist, the reason we are here today is that too many people have been told no, that that is not something that is appropriate under their plan. The underlying Norwood-Dingell bill says that decisions about who will get that care will be made by qualified, independent medical professionals. The Boehner bill says the plan will decide, and when the plan decides on the basis of its own economic motivation, its own definition of what is best for the plan, no one is held accountable.

The Boehner substitute fails the two most critical tests that are before us today in protecting the rights of patients. When it comes to the issue of whether decision-makers are held accountable, the Boehner substitute says, they are not held accountable in the same way that delicatessens and fast food restaurants and homebuilders and everyone else in America is held accountable.

When it comes to the issue of the standard on that decision, the Boehner bill says the plan sets the standard. We say the medical professionals acting in consultation with the families should set that standard.

Reject the Boehner substitute; stand for the Norwood-Dingell bill.

Mr. BOEHNER. Mr. Chairman, I yield 2½ minutes to the gentleman from Missouri (Mr. TALENT), the chairman of the Committee on Small Business.

Mr. TALENT. Mr. Chairman, we have a problem in America with health care today. We addressed one of the problems yesterday, trying to help the uninsured.

The other problem is people who have insurance and cannot be certain that they will get the coverage they have been promised when they get sick. So their insurance is fine, and then when they get sick, they are concerned that their HMO may turn them down for coverage, and they have a right to be concerned, and we need to address that, and the Boehner bill does that.

The idea is to provide people with the care that they need when their physician prescribes it before they become seriously ill or die. The key to that is the external review process that is in this bill, and what it says, quite simply, is this: your physician, let us say, prescribes for you a cardiac cath. The plan turns it down and says no, you only need beta blockers. You can appeal immediately to an independent panel of specialists, cardiologists in that field who are fully vested with the authority to reverse the HMO's decision. They have to take into account all of the evidence that is given, including the protocols that the plan wants to follow, but they are vested under this bill with the authority to reverse the decision of the HMO. I read that language this morning.

It is frustrating how we all seem to agree we want the same thing here, and then we are arguing about what the bills actually say. The bill vests the authority in the independent reviewers to reverse decisions of the plan with regard to medical necessity.

Now, why is that better than open-ended liability against employers and plans as is provided in Norwood-Dingell? Because that will take billions and billions of dollars out of treatment rooms and put it into courtrooms. That will take billions and billions of dollars out of care and put it into legal fees and defensive medicine and everything that we have been struggling with for years and years and years with regard to providers and physicians.

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Mr. Chairman, it does not have to be all or nothing at all. It does not have to be the world we have now where the plans are unrestricted, where you cannot control what they do, or where we open this thing up to lawsuits against every employer in the country who has a group health plan and all the plans in unrestricted fashions. We can have a good, measured response that makes sure people get the care they need when their physician prescribes it without big government, without thousands and thousands of lawsuits that will draw money out of treatment rooms and put it in the courtrooms. I think the gentleman has a good idea. I am going to support his bill.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Chairman, children are not just little adults. They have different health and developmental needs than adults, and they often require age-appropriate pediatric expertise to understand, diagnose, and treat their health problems. They deserve health care providers that have training and expertise in their conditions. H.R. 2723, the Dingell-Norwood bill, contains provisions that allow children to have access to pediatricians, access to pediatric specialty care, access to emergency care, continuity of care, appeals to pediatric experts, and pediatric quality assurance provisions.

The Boehner substitute, however, as we can see from this chart, fails to measure up in every single comparison. Children are far too often put at risk by being inappropriately referred to certain adult specialists who are not trained in children's health needs. Who is affected? Children like Kaitlynn Bogan of West Alexandria, Ohio, whose health plan would not refer her to a pediatric gastrologist and who continued to react with blood curdling screams until the Bogan family mortgaged their home and went outside the plan to a pediatric specialist who corrected her problem.

Carley Christie of Palo Alto, California, who was inappropriately referred to an adult specialist for a Wilms' tumor who performed a needle biopsy which punctured the tumor and essentially tripled the duration of Christie's chemotherapy. The family, finally on their own and at their own expense, again elected to have the surgery performed by a qualified pediatric specialist.

Mr. Chairman, the American public strongly supports allowing families like these to get access to the critical pediatric care they need. In fact, 86 percent of Americans have expressed their support for the Dingell-Norwood plan that would ensure children get access to pediatric specialists like pediatric heart specialists and surgeons and to hospitals that specialize in treating children. As adults, we have a responsibility to our kids. I urge my colleagues to reject this amendment and to support the Dingell-Norwood plan.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. COOK).

Mr. COOK. Mr. Chairman, I rise in support of the bipartisan patient protection plan offered by the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Michigan (Mr. DINGELL). I want to commend the leadership of the House for allowing what I think has been a very fair and an open debate. Quality health care is one of the most important issues facing our constituents.

Now, each of these proposals, all of the bills that are being debated today, have some very good ideas in them. However, I have concluded that the Norwood-Dingell approach is the best. If Americans have the right to sue for a damaged fence or an unsafe toy, they should have the right to sue if their health or life has been endangered or lost. This is a constitutional right.

Doctors already face liability. But too often their decisions are forced upon them by an insurance plan. It is only fair, it is only American that the insurance plans be held to the same accountability. The State is the appropriate venue for these cases. States already license the doctors. They license the health plans. And we all know that the Federal courts are already overwhelmed with criminal cases.

I cannot understand why those of us that believe in the importance of States rights are so eager to try to throw some of these cases into the Federal system. The doctor-patient relationship has been damaged in this country, and I believe that the Norwood-Dingell bill is going to help restore that relationship and hopefully will put doctors and patients back in control of what I think ought to be a private health care system.

Mr. BOEHNER. Mr. Chairman, I am happy to yield 2½ minutes to the gentleman from North Carolina (Mr.

BALLENGER), chairman of the Subcommittee on Workforce Protections of the Committee on Education and the Workforce.

Mr. BALLENGER. Mr. Chairman, first of all I thank the gentleman for yielding me this time. I think it is important to realize what small businesses will do when they are faced with health care liability provided by the Norwood-Dingell bill.

Let me show Members what increased liability will do to my own small company in North Carolina. We have 200 employees. We self-insure. Our health insurance expenses last year were a total of $700,000. Of this cost, the company voluntarily paid $550,000, or $2,750 per employee. For additional coverage, the employees collectively paid $150,000, or $750 per employee. Now, the $2,750 per employee expense covered by my company is a voluntary fringe benefit.

Why would any company voluntarily give a fringe benefit that would expose them to the possibility of being sued? We can say that litigation is not likely but small business owners cannot afford to take that chance. With the specter of liability looming, it would make good business sense to give the employee a pay increase of $1.375 per hour, that is $2,750 spread over a year, give them $1.375 and advise each of them to get their own health insurance. This would leave my company free of liability. I guarantee that it would cost each employee substantially more to purchase insurance individually, and many employees would not use their wage increases for health insurance.

As Members can see, the liability provisions of Norwood-Dingell will lead to a greater number of uninsured nationwide. Unlike the liability-ridden Norwood-Dingell bill, the Boehner substitute will ensure patients' rights without exposing employers to lawsuits for voluntarily providing health care to their employees. A strong, binding, independent external review process for health plans, with a fine of $5,000 a day for plans who refuse to adhere to the decision of the panel of doctors, will provide accountability to the millions of Americans in employer-based care.

Do not jeopardize the employer-based health care system. Let the small businesses and employers continue to provide health care benefits to the American workforce. I urge my colleagues to vote for the Boehner substitute and the 150 million people who have insurance coverage right now.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Michigan (Ms. STABENOW).

Ms. STABENOW. Mr. Chairman, I am very pleased to be a cosponsor of the Norwood-Dingell-Ganske legislation. I want to particularly thank the gentleman from Michigan (Mr. DINGELL) for his leadership in this area.

I rise to strongly oppose the Boehner substitute. I want to take just a moment to share the story of Jessica Luker. Jessica died 3 weeks ago. She had an emergency operation on May 11. Her family found out on May 12 that they had suddenly become part of an HMO as of May 1. The HMO would not cover the emergency surgery. They would not allow her to continue with her doctor of 14 years, her neurologist who had been caring for her and her disability. Jessica died while her family was fighting the HMO that would not allow her to get the kind of care that she needed.

It is not right in this country when a family that is struggling to care for their dying daughter also has to fight their insurance carrier. The Boehner substitute would do nothing to help Jessica's family or her situation. I urge a "no" vote on the Boehner substitute and a "yes" vote on a real patients' bill of rights.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York (Mr. FORBES).

Mr. FORBES. I thank the gentleman for yielding me the time.

Mr. Chairman, I rise today and ask that we pass a comprehensive patients' bill of rights and reject the Boehner and other substitutes that would only delay what this Nation needs. It needs accountability with our HMOs; we need consumer protections; and we need to put the doctors and health care professionals back in charge.

I am reminded of a family up in the north fork of Long Island, New York. Mae woke up in the middle of the night. Her husband was gagging and choking in blood. He was lying in a pool of blood. She did not call 911. Why? Because when she called it a month earlier, 911 arrived and when she got home from the hospital with her husband, the bills came in and they were not paid because a clerk said at the HMO that it was not deemed an emergency.

So this time she calls the 24-hour hotline for the HMO. They have the privately contracted ambulance come from somewhere up the island half an hour after her husband stopped breathing. The privately contracted ambulance arrives and, of course, unfortunately her husband was dead. These kinds of incidents require that we move as a Congress to get a comprehensive patients' bill of rights. I urge passage of Dingell-Norwood and rejection of all the substitutes.

Mr. BOEHNER. Mr. Chairman, I yield myself 15 seconds. The last 2 examples that were presented on the floor by the other side would be protected under the Boehner substitute today. The accountability procedures in our bill guarantee access to care. The only real difference between these two bills is that we do not allow lawsuits filed to drive employers into bankruptcy.

Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. KNOLLENBERG).

Mr. KNOLLENBERG. Mr. Chairman, I thank the gentleman for yielding me this time. I rise in strong support of the substitute offered by the gentleman from Ohio.

Mr. Chairman, I urge my colleagues to remember the important principle behind the creation of the Employee Retirement Income Security Act of 1974, better known as ERISA. In response to a number of flagrant abuses to benefit plans, it was decided that protecting the interests of employers as well as the beneficiaries was of the utmost importance. Because of this sentiment, ERISA abides by the predominant view that employees should be afforded the opportunity to quality care.

These provisions apply to nearly 150 million employees, 80 percent of our Nation's workers, who otherwise may not have obtained the necessary access to the vital coverage that they require. Because plans would be subject to the same benefit laws across the States, costs are kept down because government regulations which traditionally drive costs up are eliminated.

Look at the numbers. We have heard them before. Some 44 million Americans do not have health insurance. That means one out of six do not have health coverage. The other proposals that we are considering today, that we have been listening to, would significantly raise premiums, some by over 4 percent. The nonpartisan CBO, Congressional Budget Office, concludes every percentage point in premiums that are increased translates into 400,000 people losing their coverage.

Common sense tells us that what we should be doing is to consider ways to provide coverage for all Americans, not forcing people out of their health coverage. Make no mistake about it, the chief beneficiaries of preempting ERISA would be the trial attorneys. Consumers and employers would be left to pick up the bill for increased and often frivolous litigation.

This Congress must ensure the patient's right to care, not the lawyer's right to bill. The alternatives offered today do nothing to help sick people get better. That is what this debate should be about. That is why I support the Boehner substitute, and I believe all Members should.

Mr. BROWN of Ohio. Mr. Chairman, I ask unanimous consent to claim the time of the gentleman from Michigan (Mr. DINGELL).

The CHAIRMAN. Without objection, the gentleman from Ohio will control the time in opposition.

There was no objection.

Mr. BROWN of Ohio. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. NORWOOD), the sponsor of the underlying Norwood-Dingell bill.

Mr. NORWOOD. Mr. Chairman, I think it would be sort of nice and fun if I took a minute and responded to my good friend the gentleman from North Carolina (Mr. BALLENGER). He said that he is a business owner, a small business owner, and he does not want his business sued, he does not want to be sued. I could not agree with that more. Of course we do not want to do that. That is why we really do not do that. The gentleman from North Carolina has discretionary authority over his small company. He is the CEO, he is the owner, he is the President.

□ 1145

But he is also the congressman. He is in Washington. He is not making medical necessity decisions for his employees at all. It is that third-party administrator that he hired to decide whether those patients get to be hospitalized or whether they get that surgery or whether they get that operation. That is who we are talking about. That is who we are putting under the gun, that third-party administrator.

Our bill says over and over again, it protects the gentleman from North Carolina, but it does go after that third-party administrator in a very tailored way. All it says, one thing, if one denies a benefit that is a benefit in the plan, that was a benefit the gentleman from North Carolina thought his people ought to have, and one denies it arbitrarily, and one kills somebody, one has to be responsible for those decisions.

What are they going to do? They are going to carry malpractice insurance like the rest of the world has to. What is that going to cost? Fifteen to 20 cents a month per patient. But it gives those people that are patients, that work for the gentleman from North Carolina the feeling, the encouragement they actually will have decisions made by their doctors, not by that clerk that may be living in Missouri. That is what it is all about.

I have told the gentleman from North Carolina over and over again, we are not going to sue him. We do not want to sue him. We do not want to sue small businesses. That is why we wrote the bill. Page 99, look at it. We protect the gentleman from North Carolina. But his third-party administrator must be careful.

Mr. BOEHNER. Mr. Chairman, I yield myself 1 minute.

Now, the gentleman from Georgia (Mr. NORWOOD), my dear friend who believes passionately on this issue, and I congratulate him for the 5 years he spent moving this issue along, but we have a very serious disagreement here, because not only are my colleagues exposing health plans and employers to liability, they are jeopardizing the health coverage for millions of Americans because, in the end, it is the health plan and the employer that is going to pay the bill.

Now, under our system today, the employers provide coverage for 125 million people. If my colleagues raise the cost to them and expose them to liability, guess who is in danger? Their employees are. That is not what we want to do.

Now, the gentleman says, well, employers are shielded. The fact is, under ERISA, employers have to provide a fiduciary responsibility. They have to use discretion on behalf and for the benefit of every employee in the plan. We cannot create a wall that says we are going to punish health plans without hurting employers and their employees.

Mr. Chairman, I am happy to yield 2 minutes to the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. Mr. Chairman, I wish to speak in favor of the Boehner amendment today. I believe that this amendment achieves the necessary balance between protection of individuals enrolled in managed care plans and keeping their care affordable and accessible for employers and their employees.

The last thing we want to do is drive up the number of uninsured Americans today. Too many costly mandates and too many costly lawsuits will result in just that.

I firmly believe that real patient protections are ensuring greater access to care, more affordable care, and the highest quality care. According to the Census Bureau, we have 44 million Americans who are uninsured today. The last thing we want to do is drive that number up. We want to get that number down, not up.

We must approach managed care legislation in the same way we approach other mandates we have voted on. We need to consider its effect on the individuals in this country and on their ability to access quality health care.

I have heard from hundreds of employers and their representatives from my district, the First District of Wisconsin, who are extremely nervous about this action that we are taking here today. They are nervous, not because they may be required to provide more benefits, that is a fine thing, but they are nervous because they may be facing a whole new array of lawsuits simply because they choose to offer health care for their employees.

I urge Congress to consider those businesses and the people they employ in this debate today. Anything we do to drive up their costs to expose them to a whole new feeding frenzy of lawsuits will drive up the number of uninsured.

We must strive to protect the rights of individuals in managed care, make sure that they are not wrongfully denied care, but make sure that health care remains affordable and accessible.

The Boehner amendment strikes that balance. It contains strong measures to review health care decisions. It requires an internal review, external review that has teeth and enforcement measures. More importantly, we need to make sure that the relationship in health care is between patients and their doctors, not patients and the HMOs and patients and their trial lawyers.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Chairman, I thank the gentleman from Ohio for yielding me this time.

Mr. Chairman, I rise today as a supporter of Norwood-Dingell and in strong opposition to the Boehner substitute.

This debate is really a very simple debate. Do my colleagues think that medically necessary, important health care decisions should be placed in the hands of doctors in consultation with their patients or should health plan administrators sitting in their offices hundreds of miles away be making these life-and-death decisions. And there are life and death decisions being made.

For me, the debate is about a young family in western Wisconsin who, 2 years ago, were informed that their 10-year-old little girl had an inoperable brain tumor, and they wanted this particular form of treatment that the doctor was recommending.

The health plan administrator says, "We will cover that as long as it is an AMA-approved treatment." The problem, when they talked to the AMA, is that there was no such thing as an "AMA-approved" treatment. So they denied coverage.

As a father of 2 young boys myself, I can think of no greater fear than a parent facing the prospect of losing a child.

They then did what any parents would do under the circumstances. They went into debt. They borrowed. They took a second mortgage out in order to finance the treatment. They ended up with over $100,000 of debt. That young girl eventually died last year. It should not be this way.

Under the Norwood-Dingell bill, administration of a health plan will no longer be able to hide behind the shield of ERISA protection but instead will be subject to an internal and external review process and held responsible for negligent medical decisions.

No longer should parents be faced with the draconian decision of having to mortgage their families' life away or face the prospect of losing a child. Let's put medical decisions back in the hands of doctors and their patients, not insurance companies.

I urge my colleagues to support the Norwood-Dingell bill and oppose the Boehner and other substitutes.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 minute to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, do my colleagues realize that the only people in our society that are exempted from our laws and exempted from being sued are foreign diplomats and HMO bureaucrats? They are the only ones in our society that are held above the law.

My colleagues read about where that foreign diplomat ran over that young girl in Washington, D.C., never had to be held liable until the Georgian government said that he had to be held liable. Guess what? The same blanket immunity that those foreign diplomats have these HMO bureaucrats have.

Now, the thing that is going on here is these HMO bureaucrats forget medical malpractice. That is when a doctor makes a bad decision. We are having people who have no medical education whatsoever, never went to medical school, they are the ones making medical decisions. That is criminal.

If my colleagues think medical malpractice is criminal, try having someone who has no medical experience whatsoever making a medical decision. That is criminal. Those two instances, this Boehner bill will not cover; and that is why we ought to reject the Boehner substitute.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana (Mr. JEFFERSON).

Mr. JEFFERSON. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, who would have ever thought just a few short years ago that we would earnestly debate here in this Congress whether a child needing medical attention could see a pediatrician or whether a woman could engage an OB/GYN for her primary care or whether a cancer patient could follow the advice of a family physician and see a cancer specialist?

It seems obvious that people should be able to make these choices for themselves and for their families. What is more odd is that the choices and the access, which we seek today through the passage of the Dingell-Norwood Patients' Bills of Rights, are choices that our people used to have.

In this sense, Dingell-Norwood is not declarative of new rights for patients, but is restorative of old ones.

But the trouble with restoring old choices, the other side says, is the new costs involved that make health care choices unaffordable.

But are we to assume that every level of every profit center in every HMO plan is reasonable, that every expense incurred by every HMO plan is warranted, or that greater patient choice will not usher in greater competition among HMO plans that will work to drive plan costs down? I think not. Besides, this has not been the experience of States which have undertaken HMO reform.

The three amendments offered by my Republican colleagues make these vital decisions for consumers. I urge Members to reject the tempered approach of the Boehner-Coburn amendments and embrace the bold approach of Dingell-Norwood.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. HOEFFEL).

Mr. HOEFFEL. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to the Boehner amendment and in strong support of the Norwood-Dingell underlying legislation. The gentleman from Iowa (Mr. GANSKE) got it entirely correct when he identified, as others have, that the key here is the question of medical necessity.

The Boehner substitute would continue to allow insurance company bureaucrats to determine what is medically necessary. That has got to stop. We must allow medical doctors once again to make the decisions that affect the quality of their patients' care. We must allow them to determine medical necessity, not the insurance bureaucrats.

Like our doctors who have complained to me in huge numbers, the Montgomery County, Pennsylvania Medical Society to a person tells me that they spend far too much time fighting with insurance companies, and that is time taken away from patient care.

Let us oppose the Boehner substitute and pass Norwood-Dingell.

Mr. Chairman, I rise in opposition to the Boehner substitute and in support of the base bill, the Bipartisan Consensus Managed Care Improvement Act.

I am a cosponsor of H.R. 2723 because it would allow Americans to be treated as patients, not as numbers that affect the bottom line.

HMO encroachments on the quality of health care are real.

One of my constituents, Dr. Peter Lantos of Erdenheim, PA, described to me that when he needed prostate surgery, his HMO was unwilling to provide a list of specialists, making it difficult to make an intelligent choice. He was told to go to a specific hospital, not the one he preferred.

After fighting many layers of bureaucracy, Dr. Lantos prevailed. However, he lost what could have been critical time, although as a doctor he knew how to fight the system. What about the average person who does not? They would have lost even more valuable time.

H.R. 2723 would: strengthen doctor and patient control over medical decisions by allowing doctors, rather than accountants, to define "medical necessity"; protect patients by guaranteeing access to specialists, out-of-network doctors, out-of-network emergency rooms, and non-formulary drugs. It also increases choice by guaranteeing patients a point-of service plan option; prohibit gag rules on doctors, so they may discuss all treatment options with their patients; and hold HMO's accountable by establishing an external review process and allowing liability suits in state courts.

The Boehner substitute does not correct medical necessity, does not hold health plans liable, and waters down patient protections. It is not serious reform.

We spend millions of dollars training our doctors, and billions developing drugs, treatments and equipment to treat America's patients. Then we turn all of that knowledge and innovation and investment over to a bean counter from a business school. Something is wrong.

The most important part of a good bedside manner used to be the infusion of hope that everything would be done to fix what ails the patient. That has been replaced by a glance at the HMO manual and a shrug of the shoulder.

Doctors now take time they could spend with patients to argue with insurance companies.

America's patients deserve medical care that will make them well quicker and keep them well longer. They need more than a placebo, but sadly, that is all this bill is.

I urge my colleagues not to be fooled by this or the other two poison pill substitutes. Let's have a clean vote on Dingell-Norwood, clean up the Senate bill in conference, and send managed care reform to the American people before the holidays.

Mr. BOEHNER. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, under our proposal, an internal review is required, as we have under existing law. Only a doctor can deny care at the internal review level. Then if it is denied, a patient has the ability to go to an external review where an independent medical doctor will determine whether, in fact, that care can be given.

Mr. Chairman, I am happy to yield 3 minutes to the gentlewoman from Kentucky (Mrs. NORTHUP).

Mrs. NORTHUP. Mr. Chairman, as we debate this substitute, I am reminded of what Kentucky did in the General Assembly in 1994. They passed a bill much like the gentleman from Iowa (Mr. GANSKE) and the gentleman from Georgia (Mr. NORWOOD) have proposed in this session and the last session of Congress, one that is highly regulatory, one that they convinced the public will give them more medicine at a lower cost. Of course none of this happened.

In fact, the highly regulatory procedures that were enacted by the Kentucky General Assembly is pointed to by every other one of the other 49 States as the disaster that anybody with any understanding of insurance and the cost of medicine would have understood.

The fact is 45 insurance companies out of 47 have left Kentucky. There are only two that are selling insurance in Kentucky today. The fact is the prices have skyrocketed. Just this year, businesses are telling me again of their increases at 38 percent and 50 percent.

We have an increasing number of workers today that are choosing not to take their company's health insurance because even their share of the premium at 10 or 25 percent is more than they want to pay.

Who is deciding not to take insurance? It is the healthy young workers, the workers we need in the health insurance system. Because insurance in all cases is one of those products where all of the people pay in, the healthy pay in, so that the people that get sick, that the costs are taken care of. When we begin to have the healthy young workers not buy insurance, what it does is create this spiral that continues. Health insurance goes up and up, outpricing most people that want health insurance.

It is terribly counterproductive for us to siphon off medical money, medical money that comes to the medical community from insurance and use it for legal services. We need to create a system where every dollar of medical money, money gotten through medical insurance, is spent on medical services and medical miracles.

We can do that if we ensure that insurance companies live up to their responsibility through an appeals process, appeals process within the plan, an appeals process outside of the plan, and not through siphoning off huge numbers of dollars and go back to the system of excessive medical tests that drove the costs so high originally by allowing lawsuits, more lawsuits than what we have now.

So I support the substitute of the gentleman from Ohio (Mr. BOEHNER), and I ask the rest of the Members to consider supporting it, too.

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Mr. BROWN of Ohio. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. CAPPS), a member of the Subcommittee on Health and Environment.

Mrs. CAPPS. Mr. Chairman, I rise in strong opposition to the Boehner amendment. This substitute will not protect patients. This bill does not provide for independent and timely appeals when patients are harmed by HMO decisions. This amendment leaves in place what is wrong with the current system. HMO bureaucrats, not doctors, will determine what treatment is medically necessary. In comparison, the bipartisan Norwood-Dingell bill provides a core set of meaningful protections for patients. Finally, the Boehner amendment will not allow patients to sue their HMOs for negligent care.

The consensus bill includes a strong independent review panel procedure. And as a last resort, patients must have the ability to sue HMOs for harmful medical decisions. No other industry has such special legal protections. The HMO industry should not have them either.

I urge my colleagues to oppose the Boehner amendment.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. STRICKLAND), also a member of the Subcommittee on Health and Environment.

Mr. STRICKLAND. Mr. Chairman, I am angry today. I am angry because the constituents that I represent from southern Ohio are being denied their rightful medical care under today's system. I am angry because the health care insurance lobbyists are lining our walkways as we walk to this chamber. I am angry because hundreds of thousands of dollars have been poured into influencing the decisions of Members in this chamber in the last few days and weeks. I am angry because I believe Americans, moms and dads and children, are being injured and are losing their lives today because we have not had the courage to stand up and do the right thing for the American people.

I hope the American people are watching us today. I hope they take note of our votes today, because we have a forced choice. We can either support patients or we can support insurance companies. It is as simple as that. This substitute is a nonhelpful bill. We need to support the Norwood-Dingell bill and give the American citizens true protections in their health care coverage.

Mr. BROWN of Ohio. Mr. Chairman, I yield such time as she may consume to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, I rise in opposition to the Boehner amendment, and ask my colleagues to vote against it. This is a poison pill amendment which would gut many of the provisions that are needed to implement true managed care reform.

The American people have told us time and time again, and in many ways, that they want the way that managed care delivers health care changed. They don't want it changed just for some, but for all. To half step change, as this amendment would do, would be more of a disservice than a service.

For example, Mr. Chairman, the Boehner substitute would half step the accountability provisions in the Dingell-Norwood bill by providing for an external appeal provision. The problem with this proposal and why it fall far short, is because the external reviewers in the Boehner substitute will use the HMO's plan definition of medical necessity and not the insured's physician.

If such a set-up could work there would be no need for the Norwood-Dingell.

It is precisely to get away from having the plan's definition of medical necessity be the determining factor and not the patient and his doctor's definition why we need the Norwood-Dingell bill.

Vote against the Boehner substitute and vote for a clean Norwood-Dingell bill.

Mr. BROWN of Ohio. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. BONIOR), the Democratic whip.

Mr. BONIOR. Mr. Chairman, I thank the gentleman for yielding me this time.

I recently met a woman from Marysville, Michigan. Her young daughter had only one kidney left and was in a fight for her life against diabetes. She desperately needed to see a specialist, but her HMO was worried about the cost, not getting this little girl the treatment that she needed. They were worried about how much it might affect their bottom line.

So what happened? They sent her to a general practitioner. That doctor could not help her. Her mother begged for a specialist. The HMO said, again, no, you have to go see somebody on the staff. So they sent her to another staff doctor. No answers. They still would not yield, the HMOs. This went on week after week after week. This girl got sicker and sicker and sicker, and ultimately the HMO refused to see her 10 different times before they sent her to a specialist. Ten times before a specialist.

She survived, but there are others who have not survived. This is what happens when insurance companies make medical decisions instead of doctors and patients. And that is why we are trying to come up with a bill today that will address this problem. Over 300 health organizations, the AMA, the cardiologists, Families USA, consumer and health groups have endorsed the Dingell-Norwood bill and are opposed to the Boehner substitute, which we are on now, the Shadegg-Coburn substitute, and the others that we will face.

They know that the insurance companies are out of control, these groups. Just look at the numbers. Eighty-three percent of the doctors surveyed say managed care has cut time that they spent with their patients. Eighty-six percent of the doctors say that managed care has reduced their access to specialists, in the example I gave previously. Almost 90 percent of the docs report that HMOs actually reject medical recommendations they make for their patients. And it goes on and on and on.

There is no accountability in the substitute that we are addressing here today. No recourse if an individual is turned down; nothing to give an individual the right to fight and to petition in a way that is going to hold the HMOs and the insurance companies accountable.

Vote against the substitute, vote against Coburn-Shadegg, vote against the substitute that follows that changes the course of direction in our courts, and vote for the bill that the American people are yearning for, waiting for, the bill authored by the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Michigan (Mr. DINGELL), as well as the gentleman from Iowa (Mr. GANSKE). It is the bill that will set us on the course to correct all of these abuses, all of these horror stories.

It is the doctors and the patients versus the insurance companies in this country. It could not be more clear.

Mr. BOEHNER. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina (Mr. DEMINT).

Mr. DEMINT. Mr. Chairman, I rise in strong support of the Boehner substitute.

As an employer myself for 15 years, I am angry too that folks would stand up today and punish small employers as well as any size employers who try to provide health insurance for their employees.

I am angry at this idea that we can take health insurance out of the hands of employers and put it in the hands of the trial lawyers and expect to get better health care.

I am angry that yesterday I was in this room and this same group who is arguing for more liability today would try to keep individuals from owning their own health insurance so they could protect themselves by making their own health care decisions.

And I am angry today that now they are back making it harder for employers to buy that health insurance for individuals who cannot buy it for themselves.

I am angry because there is no one here suggesting where they are going to go when they cannot buy it for themselves, yet we do not want employers to buy it any more. Because the question is not whether people will have good health care, it is whether the health care system will be run by attorneys or will be run by physicians.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Chairman, I thank the gentleman for yielding me this time, and I would like to engage in a colloquy with the gentleman from Michigan (Mr. DINGELL) and the gentleman from Georgia (Mr. NORWOOD) about the underlying intent of the bill.

Is it the intent of the sponsors to permit claims to be brought against independent insurance agents who work with employers in helping to select a plan?

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. TANNER. I yield to the gentleman from Michigan.

Mr. DINGELL. The answer to the gentleman's question is no. If an independent insurance agent assists with the selection of or purchase of a plan, but is not involved in the medical care decisions, it is not our intent to permit a claim to be brought against the insurance agent, and under our proposal it cannot.

Mr. TANNER. Reclaiming my time, Mr. Chairman, I thank the gentleman. It is an important clarifying position, and I wanted to make sure that the omission of specific legislative language in section 302 could not be interpreted to permit a claim against an independent insurance agent if that agent is not involved in the making of any actual medical care decisions.

Mr. NORWOOD. Mr. Chairman, will the gentleman yield?

Mr. TANNER. I yield to the gentleman from Georgia.

Mr. NORWOOD. I would say to the gentleman, Mr. Chairman, that I hope my son is watching this colloquy. He is an insurance agent.

But the gentleman is absolutely correct in his assumption.

Mr. DINGELL. Mr. Chairman, if an independent insurance agent assists with the selection or purchase of a plan but is not involved in the medical care decisions, it is not our intent to permit a claim to be brought against that insurance agent.

Independent insurance agents do not make medical decisions and therefore should not be liable for harm caused by a decision made by a group health plan. However, Section 302 dictates that claims may be brought against an employer or its employees, if the employer or employee participates in any way in the making of decisions on health care claims.

The omission of specific legislative language could not be interpreted to permit a claim against an independent insurance agent if the independent insurance agent is not involved in the making of any actual medical care decisions.

If this bill proceeds to conference, we would seek clarification that independent insurance agents are not to be held liable for medical and care decisions made by others. It is the intent of the legislation to limit liability only to those who make medical care decisions.

It is not our intent that independent insurance agents could be held liable.

Independent insurance agents who work with or on behalf of an employer in helping the employer to select a plan should be subject to the same liability parameters as the employer.

Mr. BROWN of Ohio. Mr. Chairman, I yield 2 minutes to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, some would have us believe that this debate is about courts and lawyers. This is not about courts; it is about care. It is not about lawyers but about doctors having the right to provide that care.

I am against the Boehner substitute because it omits the needed enforcement of protection for patients and their doctors in providing that care. Similarly, I am against any substitution that caps damages, like the Coburn substitute. Likewise, I am against the Houghton-Graham substitute because it also strikes out the enforcement and compliance provided by the Norwood-Dingell bill on H.R. 2723.

When a person goes to the doctor, they are not interested in who they can sue. They are interested in who can cure them. But more importantly, Mr. Chairman, this debate is about care for all, rather than care for some. Some would have us believe that the tax package will result in all America's being covered and healthy. But such an approach to managed care reform will not result in greater coverage; it will only result in benefiting the wealthy, the healthy, or those who are financially well off.

This is a misguided concern, Mr. Chairman, because in North Carolina 28.6 percent of children under the age of 19, who are at or below 200 percent of the poverty level, are without health insurance. Rural communities are disproportionately without care. Some 44.3 million people are uninsured in 1998, despite a good economy. Last year 1.7 million more people were uninsured than the previous year in households making below $50,000.

Mr. Chairman, we should support the Norwood-Dingell bill. It is about care, it is about opportunity, it is about accountability.

Mr. BOEHNER. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio (Ms. PRYCE), an esteemed member of the Republican leadership in the House.

Ms. PRYCE of Ohio. Mr. Chairman, I thank my good friend from Ohio for yielding me this time, and I rise in support of the Boehner substitute.

Mr. Chairman, since his markup, the gentleman from Ohio has continued to work to improve upon his proposals. Specifically, he deserves credit as the first one to add strong cancer clinical trials language to his proposal. This language gives cancer patients access to all trials approved by the FDA or sponsored by federally approved entities, as well as those sanctioned by the Department of Defense, NIH, and Veterans Affairs.

We simply must increase participation in clinical trials if our researchers are going to make strides in their search for new treatments and a cure for this horrid disease. This language has the support of some 40 cancer organizations, and it is not in the Dingell-Norwood bill.

In addition to cancer patients, the Boehner substitute offers all patients basic protections. The amendment bans gag rules, ensures emergency room coverage, provides direct access to OB-GYNs and pediatricians, and offers continuity of care. These are the common sense reforms that we all agree on.

I encourage all of my colleagues to support the Boehner amendment.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. BARRETT), a member of the Subcommittee on Health and Environment.

Mr. BARRETT of Wisconsin. Mr. Chairman, we have heard a lot this morning about lawsuits, and I want to talk a little bit about the lawsuits in Texas, because Texas has a law similar to the law that we are trying to pass. There have been less than a handful, less than five. Three of them involved persons who were denied access to a cancer specialist; and, as a result, their health deteriorated dramatically over that time period.

The fourth one, the one that struck me the most, was an individual who was in the hospital and his physician said that this patient should not be sent home because of his severe depression. The HMO bureaucrat demanded that the patient be sent home. The patient went home, swallowed a bottle of antifreeze and killed himself because of the decision of the bureaucrat.

Mr. Chairman, this piece of legislation, or this amendment, would deny access to the courts for that individual. I think that that would be wrong. I think that that is a situation where, clearly, the medical decision was not made by the physician. The decision was made by the HMO. And in order for us to move that decision-making process back to the physician, we have to have access to the courts.

Mr. Chairman, this is not going to create a wave of lawsuits, but it is going to protect those individuals who are denied medical care.

Mr. BOEHNER. Mr. Chairman, I yield myself such time as I may consume to say that the example just given would never happen under the Boehner proposal, nor would it happen under the Dingell-Norwood proposal, and the gentleman well knows that.

Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. ARMEY), the majority leader.

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding me this time.

Let me begin my remarks, Mr. Chairman, by pointing out that this is a serious business we are about today, and I am proud it is being taken as seriously as it is by this body.

I would also like to thank those Members of this body who yesterday cast a vote that provided some equity and opportunity not only to the 44 million Americans that are today doing without insurance, but to the millions of additional Americans who buy their own insurance.

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It is about time that we remove barriers to insurability from these people and treated them fairly under the law. I am proud that we passed those provisions last night.

But with respect to the offers we see contested here, I want to tell my colleagues I am speaking on behalf of the Boehner bill precisely because the gentleman from Ohio (Mr. BOEHNER) in crafting this bill kept his eye on the ball. He asked himself the question, who is this about? And the answer was, wholly and without compromise, the well-being of the patient and the patient's family.

Mr. Chairman, we have all been there ourselves and we have certainly seen our constituents there. They have someone they love, maybe it is mom or dad, maybe it is their child, maybe it is their spouse, someone they love, relying on their insurance coverage and a sense of security they have drawn from that, at a moment of medical stress; and they are scared. They are terrified, Mr. Chairman, that dad is not getting the right care, that their baby is not getting the right procedures. They have doubts. They have concerns. They have worries. And they are frantic with fear.

Mr. Chairman, not only does the patient but the patient's family deserves to have an answer now from medical professionals. Now I must know. If dad is not getting the right treatment, what can we do to change it?

The gentleman from Ohio (Mr. BOEHNER) responds to that. He says the patient's well-being and that peace of mind of the family comes before the doctors, comes before the trial lawyers, comes before the health care provider, comes before everything. And that is what he provides, an immediate, comprehensive, compelling review by medical professionals that says, we give the right necessary treatment and we give it now.

How could anybody turn away from that and say instead to that distressed mother or father or husband or daughter, no, we would rather give you our promise that 6 months from now or maybe a year we will get you on the docket and we will let the lawyers and the judges decide what should have been the care that that precious baby got 6 months or a year ago?

No, that is not good enough, Mr. Chairman. That is not a good enough answer for my children. It is not a good enough answer for the parents. We must do what the Boehner bill says we should do, give that family that answer now and get the care to the parents now. It is about health care. It is about danger. It is about a chance to get a good recovery with the right care and get it now.

Let the trial lawyers and, for that matter, let the doctors take their turn. But today let us all vote for Boehner and let us put patients and the patients' families ahead of everybody else as this bill does.

The CHAIRMAN. The Chair would remind the Members that the gentleman from Ohio (Mr. BOEHNER) on the majority side has 3¾ minutes remaining, and the gentleman from Ohio (Mr. BROWN) on the minority side has 3¾ minutes remaining and the right to close.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1½ minutes to my friend the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Chairman, let me read a letter from my constituents Gary and Marlene Rappaport from Orange, Connecticut.

> As parents whose 25-year-old daughter Rebecca died after delay in receiving a bone marrow transplant because of repeated denials from her insurance provider, we are writing in strong support of the Norwood-Dingell bill. As Rebecca wrote in her journal dated March 28, 1997, "I would like my family to continue my pursuit of litigation, suing for gross negligence resulting in severe physical damage, physical pain and inestimable emotional suffering. My medical record, history, and physicians support my case. Should an award be given in my absence, I would like a significant portion donated to cancer research."

Rebecca had a full life ahead of her. She did not get that chance. Her parents are left with an unimaginable heartache, the loss of a beloved daughter, and nowhere to turn to address wrongful denial.

Vote against the Boehner substitute. It fails to cover all privately insured Americans, does not provide for independent or timely appeals of decisions. It does not provide for access to specialty care. And most of all, it does not allow patients to hold their health plans accountable.

The only bill that does that today is Dingell-Norwood. Do it. Pass Dingell-Norwood. Do it for the Rappaports and do it for families like them who are in pain and who are begging for our help here on the floor of this House today.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 minute to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I am here once again to ask my colleagues to reject all of the substitute amendments that are now being considered and vote for a clean Norwood-Dingell-Ganske bill.

I realize that I have not been here very long. But in the almost 3 years that I have been in Congress, this bill, H.R. 2723, represents the best example of bipartisan cooperation that I have ever seen.

What makes this compromise so special is that it was done in direct response to the concerns that have been brought to us by the people we serve, not out of our political interests but in the interests of all Americans.

The Goss-Coburn-Shadegg substitute puts an unnecessary albatross on the back of our attempts to have real managed care reform. Its purpose could not be anything other than to fatally poison a good bill, making it eligible for a sure veto, thus killing any chance for the American people to get the relief they so desperately seek.

I ask my colleagues to stand with the American people and against the HMO industry. Vote "no" on the Goss-Coburn-Shadegg amendment.

Mr. BOEHNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, what this debate really comes down to, I think, is whether we are going to have accountability through litigation and lawyers or are we going to have accountability through doctors.

To ensure accountability in health care decisions, I think my proposal vests its power in independent doctors to make the right medical decisions.

I think the Dingell-Norwood proposal believes lawyers are the best authority when it comes to medical treatment. They believe that employers who voluntarily provide health care insurance to their employees ought to be subject to open-ended liability if someone believes they have been treated unfairly.

This reminds me of the incredible logic of trial attorneys suing doctors for malpractice when they attempted to render medical care to injured or ill individuals on an emergency basis. What happened? Doctors and other health care professionals began to stand by and did not apply their knowledge and skills to help fellow human beings for fear of being sued by some enterprising trial lawyer.

Across this country, States and local governments had to pass good samaritan laws in order to protect doctors and nurses from doing the right thing in the first place.

Well, let me assure my colleagues, if we move forward on court liability for employers, today's employers are going to become the doctors and nurses of the 1970s. They will stand by and no longer offer health insurance to their employees. Instead of having 44 million Americans with no health care coverage, we will have tens of millions added to that list.

Now, let us put in place a binding external appeal that will ensure that patients get their care when they need it. As the Washington Post stated earlier this week: "Our first instinct would be to try the appeals system first and broaden access to the courts only if the appeals process turned out after a number of years to not work."

My colleagues, we have an opportunity today to do something that is responsible, responsible for our health care system by bringing more accountability to managed care without driving up costs and without creating more uninsured. It is a delicate balance that we walk between bringing more accountability without driving up the cost and driving down access to our system. We have a great system in America where employers are provided health care for 125 million American lives in a shared arrangement in most cases.

Unfortunately, the Norwood-Dingell bill today, in my view, will jeopardize the health insurance benefits that millions of Americans get. Do we really want to take that big step off of this cliff without a parachute? Do we really want to take the chance that millions of Americans are going to lose their insurance because we want to open this up to litigation and entreat the trial bar to another new field that they can go out and operate in?

I do not think that is what the American people want us to do. They want us to take a responsible approach. They want us to take an approach that will ensure they get the care without driving up cost and without jeopardizing the number one benefit that they appreciate from their employers.

Vote for the Boehner proposal.

Mr. BROWN of Ohio. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this substitute undoes the good bipartisan work that the gentleman from Michigan (Mr. DINGELL), the gentleman from Georgia (Mr. NORWOOD), and the gentleman from Iowa (Mr. GANSKE) did to craft this very positive strong legislation.

Similar legislation is working in Texas where insurance companies are held accountable when they make medical decisions.

The Boehner substitute, however, is not a serious legislative effort. It does not hold insurance companies accountable when they make medical decisions that harm people. For all the discussion and all the talk, Mr. Chairman, about lawyers taking over the health care profession, the Boehner substitute would hand the lawyer, not the doctor, the power to decide whether a case needs a medical evaluation.

Mr. Chairman, the majority of Members support the Norwood-Dingell-Ganske bill. Vote "no" on the Boehner substitute.

Mr. CLAY. Mr. Chairman, the Boehner substitute fails to provide enrollees with what they want most from their health plan—accountability. Under the Boehner substitute, all court actions would be subject to caps on non-economic and punitive damages of $250,000. The Boehner substitute does not ensure that employees are adequately redressed when they have been injured. Therefore, health plans still retain an incentive to deny claims in order to cut costs. Every other business is subject to liability when they make negligent decisions, why should health plans be any different?

The Boehner substitute creates a health care access affordability, and quality commission. This proposed commission would establish model guidelines, evaluate the cost impact of proposed mandates, comment on secretarial reports, and conduct additional reviews requested by Members of Congress. However, what this proposed commission really does is create a new Federal bureaucracy that duplicates many functions that are ongoing, both within the Department of Labor and other parts of the Federal Government.

The Boehner substitute also contains a "conscience clause" that significantly weakens the anti-gag protection. This clause allows plans to limit or deny any coverage that is inconsistent with its moral or religious convictions. This provision essentially allows plans to gag their providers from discussing any issues to which the plan is morally opposed. Plans would be able to devise new strategies to deny care, under the guise of moral opposition. This is why I support the Bipartisan Managed Care Improvement Act, H.R. 2723. It represents a reasonable, bipartisan compromise that protects patients. This is not the case with the substitute before us. I urge my colleagues to vote "no" on the Boehner substitute.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio (Mr. BOEHNER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BOEHNER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 145, noes 284, not voting 5, as follows:

[Roll No. 487]

AYES—145

Aderholt
Archer
Armey
Baker
Ballenger
Barrett (NE)
Bartlett
Barton
Bereuter
Biggert
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Brady (TX)
Bryant
Burr
Callahan
Calvert
Camp
Cannon
Chabot
Chambliss
Coble
Collins
Cox
Crane
Cubin
Cunningham
Deal
DeLay
DeMint
Dickey
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Everett
Ewing
Fletcher
Fossella
Fowler
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Goss
Granger
Green (WI)
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hyde
Jenkins
Johnson, Sam
Jones (NC)
Kasich
Kingston
Knollenberg
Kolbe
LaHood
Latham
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McInnis
McIntosh
McKeon
Mica
Miller (FL)
Miller, Gary
Myrick
Nethercutt
Ney
Northup
Nussle
Ose
Oxley
Packard
Paul
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Radanovich
Ramstad
Regula
Riley
Rogers
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sensenbrenner
Sherwood
Shimkus
Shuster
Simpson
Smith (MI)
Smith (TX)
Stump
Sununu
Talent
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thune
Tiahrt
Toomey
Upton
Walden
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Young (AK)

NOES—284

Abercrombie
Ackerman
Allen
Andrews
Bachus
Baird
Baldacci
Baldwin
Barcia
Barr
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Berkley
Berman
Berry
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Burton
Buyer
Campbell
Canady
Capps
Capuano
Cardin
Carson
Castle
Chenoweth-Hage
Clay
Clayton
Clement
Clyburn
Coburn
Combest
Condit
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crowley
Cummings

Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Edwards
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Foley
Forbes
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Gonzalez
Gordon
Graham
Green (TX)
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley
Horn
Hoyer
Hunter
Hutchinson
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kucinich
Kuykendall
LaFalce
Lampson
Lantos
Largent
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Norwood
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pickett
Pomeroy
Porter
Price (NC)
Quinn
Rahall
Rangel
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogan
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaffer
Schakowsky
Scott
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shows
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thornberry
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velázquez
Vento
Visclosky
Vitter
Walsh
Wamp
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—5

Johnson (CT)
Kaptur
Larson
Metcalf
Scarborough

☐ 1246

Ms. RIVERS and Mr. KUYKENDALL changed their vote from "aye" to "no."

Mr. BARRETT of Nebraska changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. LARSON. Mr. Chairman, on rollcall No. 487, I was inadvertently detained. Had I been present, I would have voted "no."

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in part B of House Report 106-366.

AMENDMENT NO. 2 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GOSS

Mr. GOSS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment No. 2 in the nature of a substitute offered by Mr. GOSS:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Care Quality and Choice Act of 1999".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I— AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

Sec. 101. Application to group health plans and group health insurance coverage.
Sec. 102. Application to individual health insurance coverage.
Sec. 103. Improving managed care.

"TITLE XXVIII—IMPROVING MANAGED CARE

"Subtitle A—Grievance and Appeals

"Sec. 2801. Utilization review activities.
"Sec. 2802. Internal appeals procedures.
"Sec. 2803. External appeals procedures.
"Sec. 2804. Establishment of a grievance process.

"Subtitle B—Access to Care

"Sec. 2811. Consumer choice option.
"Sec. 2812. Choice of health care professional.
"Sec. 2813. Access to emergency care.
"Sec. 2814. Access to specialty care.
"Sec. 2815. Access to obstetrical and gynecological care.
"Sec. 2816. Access to pediatric care.
"Sec. 2817. Continuity of care.
"Sec. 2818. Network adequacy.
"Sec. 2819. Access to experimental or investigational prescription drugs.
"Sec. 2820. Coverage for individuals participating in approved cancer clinical trials.

"Subtitle C—Access to Information

"Sec. 2821. Patient access to information.

"Subtitle D—Protecting the Doctor-Patient Relationship

"Sec. 2831. Prohibition of interference with certain medical communications.
"Sec. 2832. Prohibition of discrimination against providers based on licensure.
"Sec. 2833. Prohibition against improper incentive arrangements.
"Sec. 2834. Payment of clean claims.

"Subtitle E—Definitions

"Sec. 2841. Definitions.
"Sec. 2842. Rule of construction.
"Sec. 2843. Exclusions.
"Sec. 2844. Coverage of limited scope plans.
"Sec. 2845. Regulations.
"Sec. 2846. Limitation on application of provisions relating to group health plans..

TITLE II—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 201. Application of patient protection standards to group health plans and group health insurance coverage under the Employee Retirement Income Security Act of 1974.
Sec. 202. Improving managed care.

"PART 8—IMPROVING MANAGED CARE

"SUBPART A—GRIEVANCE AND APPEALS

"Sec. 801. Utilization review activities.
"Sec. 802. Internal appeals procedures.
"Sec. 803. External appeals procedures.
"Sec. 804. Establishment of a grievance process.

"SUBPART B—ACCESS TO CARE

"Sec. 812. Choice of health care professional.
"Sec. 813. Access to emergency care.
"Sec. 814. Access to specialty care.
"Sec. 815. Access to obstetrical and gynecological care.
"Sec. 816. Access to pediatric care.
"Sec. 817. Continuity of care.
"Sec. 818. Network adequacy.
"Sec. 819. Access to experimental or investigational prescription drugs.
"Sec. 820. Coverage for individuals participating in approved cancer clinical trials.

"SUBPART C—ACCESS TO INFORMATION

"Sec. 821. Patient access to information.

"SUBPART D—PROTECTING THE DOCTOR-PATIENT RELATIONSHIP

"Sec. 831. Prohibition of interference with certain medical communications.
"Sec. 832. Prohibition of discrimination against providers based on licensure.
"Sec. 833. Prohibition against improper incentive arrangements.
"Sec. 834. Payment of clean claims.

"SUBPART E—DEFINITIONS

"Sec. 841. Definitions.
"Sec. 842. Rule of construction.
"Sec. 843. Exclusions.
"Sec. 844. Coverage of limited scope plans.
"Sec. 845. Regulations.
Sec. 203. Availability of court remedies.
Sec. 204. Availability of binding arbitration.

TITLE III— AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Sec. 301. Application to group health plans under the Internal Revenue Code of 1986.
Sec. 302. Improving managed care.

"CHAPTER 101—IMPROVING MANAGED CARE

"SUBCHAPTER A—GRIEVANCE AND APPEALS.

"Sec. 9901. Utilization review activities.
"Sec. 9902. Internal appeals procedures.
"Sec. 9903. External appeals procedures.
"Sec. 9904. Establishment of a grievance process.

"SUBCHAPTER B—ACCESS TO CARE

"Sec. 9912. Choice of health care professional.
"Sec. 9913. Access to emergency care.
"Sec. 9914. Access to specialty care.
"Sec. 9915. Access to obstetrical and gynecological care.

"Sec. 9916. Access to pediatric care.
"Sec. 9917. Continuity of care.
"Sec. 9918. Network adequacy.
"Sec. 9919. Access to experimental or investigational prescription drugs.
"Sec. 9920. Coverage for individuals participating in approved cancer clinical trials.
"SUBCHAPTER C—ACCESS TO INFORMATION
"Sec. 9921. Patient access to information.
"SUBCHAPTER D—PROTECTING THE DOCTOR-PATIENT RELATIONSHIP
"Sec. 9931. Prohibition of interference with certain medical communications.
"Sec. 9932. Prohibition of discrimination against providers based on licensure.
"Sec. 9933. Prohibition against improper incentive arrangements.
"Sec. 9934. Payment of clean claims.
"SUBCHAPTER E—DEFINITIONS
"Sec. 9941. Definitions.
"Sec. 9942. Exclusions.
"Sec. 9943. Coverage of limited scope plans.
"Sec. 9944. Regulations.
TITLE IV—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION
Sec. 401. Effective dates.
Sec. 402. Coordination in implementation.
TITLE V—OTHER PROVISIONS
Subtitle A—Protection of Information
Sec. 501. Protection for certain information.
Subtitle B—Other Matters
Sec. 511. Health care paperwork simplification.

TITLE I— AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 101. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

"SEC. 2707. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Each group health plan shall comply with patient protection requirements under title XXVIII, and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

"(b) NOTICE.—A group health plan shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 (as in effect on the date of the enactment of the Health Care Quality and Choice Act of 1999) with respect to the requirements referred to in subsection (a) and a health insurance issuer shall comply with such notice requirement as if such section applied to such issuer and such issuer were a group health plan.".

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg-21(b)(2)(A)) is amended by inserting "(other than section 2707)" after "requirements of such subparts".

SEC. 102. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following new section:

"SEC. 2753. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Each health insurance issuer shall comply with patient protection requirements under title XXVIII with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

"(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of such title as if such section applied to such issuer and such issuer were a group health plan.".

SEC. 103. IMPROVING MANAGED CARE.

The Public Health Service Act is amended by adding at the end the following new title:

"TITLE XXVIII—IMPROVING MANAGED CARE

"Subtitle A—Grievance and Appeals

"SEC. 2801. UTILIZATION REVIEW ACTIVITIES.

"(a) COMPLIANCE WITH REQUIREMENTS.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section.

"(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

"(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms 'utilization review' and 'utilization review activities' mean procedures used to monitor or evaluate the use or coverage, clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

"(b) WRITTEN POLICIES AND CRITERIA.—

"(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

"(2) USE OF WRITTEN CRITERIA.—

"(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed with input from a range of appropriate practicing physicians, as determined by the plan, pursuant to the program. Such criteria shall include written clinical review criteria that are based on valid clinical evidence where available and that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate.

"(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for an enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

"(C) REVIEW OF SAMPLE OF CLAIMS DENIALS.—Such a program shall provide for periodic evaluation at reasonable intervals of the clinical appropriateness of a sample of denials of claims for benefits.

"(c) CONDUCT OF PROGRAM ACTIVITIES.—

"(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by appropriate physician specialists who shall be selected by the plan or issuer and who shall oversee review decisions.

"(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

"(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and have received appropriate training in the conduct of such activities under the program.

"(B) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that encourages denials of claims for benefits. This subparagraph shall not preclude any capitation arrangements between plans and providers.

"(C) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who is providing health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

"(3) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program, including the utilization review administrator, are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

"(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary or appropriate.

"(d) DEADLINE FOR DETERMINATIONS.—

"(1) PRIOR AUTHORIZATION SERVICES.—

"(A) IN GENERAL.—Except as provided in paragraph (2), in the case of a utilization review activity involving the prior authorization of health care items and services for an individual, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed or electronic form, no later than the deadline specified in subparagraph (B). The provider involved shall provide timely access to information relevant to the matter of the review decision.

"(B) DEADLINE.—

"(i) IN GENERAL.—Subject to clauses (ii) and (iii), the deadline specified in this subparagraph is 14 days after the earliest date as of which the request for prior authorization has been received and all necessary information has been provided.

"(ii) EXTENSION PERMITTED WHERE NOTICE OF ADDITIONAL INFORMATION REQUIRED.—If a utilization review program—

"(I) receives a request for a prior authorization,

"(II) determines that additional information is necessary to complete the review and make the determination on the request,

"(III) notifies the requester, not later than 5 business days after the date of receiving the request, of the need for such specified additional information, and

“(IV) requires the requester to submit specified information not later than 2 business days after notification,

the deadline specified in this subparagraph is 14 days after the date the program receives the specified additional information, but in no case later than 28 days after the date of receipt of the request for the prior authorization. This clause shall not apply if the deadline is specified in clause (iii).

“(iii) EXPEDITED CASES.—In the case of a situation described in section 102(c)(1)(A), the deadline specified in this subparagraph is 48 hours after the time of the request for prior authorization.

“(2) ONGOING CARE.—

“(A) CONCURRENT REVIEW.—

“(i) IN GENERAL.—Subject to subparagraph (B), in the case of a concurrent review of ongoing care (including hospitalization), which results in a termination or reduction of such care, the plan must provide by telephone and in printed or electronic form notice of the concurrent review determination to the individual or the individual's designee and the individual's health care provider as soon as possible in accordance with the medical exigencies of the case, with sufficient time prior to the termination or reduction to allow for an appeal under section 102(c)(1)(A) to be completed before the termination or reduction takes effect.

“(ii) CONTENTS OF NOTICE.—Such notice shall include, with respect to ongoing health care items and services, the number of ongoing services approved, the new total of approved services, the date of onset of services, and the next review date, if any, as well as a statement of the individual's rights to further appeal.

“(B) EXCEPTION.—Subparagraph (A) shall not be interpreted as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

“(3) PREVIOUSLY PROVIDED SERVICES.—In the case of a utilization review activity involving retrospective review of health care services previously provided for an individual, the utilization review program shall make a determination concerning such services, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed or electronic form, within 30 days of the date of receipt of information that is reasonably necessary to make such determination, but in no case later than 60 days after the date of receipt of the claim for benefits.

“(4) FAILURE TO MEET DEADLINE.—In a case in which a group health plan or health insurance issuer fails to make a determination on a claim for benefit under paragraph (1), (2)(A), or (3) by the applicable deadline established under the respective paragraph, the failure shall be treated under this subtitle as a denial of the claim as of the date of the deadline.

“(5) REFERENCE TO SPECIAL RULES FOR EMERGENCY SERVICES, MAINTENANCE CARE, POST-STABILIZATION CARE, AND EMERGENCY AMBULANCE SERVICES.—For waiver of prior authorization requirements in certain cases involving emergency services, maintenance care and post-stabilization care, and emergency ambulance services, see subsections (a)(1), (b), and (c)(1) of section 113, respectively.

“(e) NOTICE OF DENIALS OF CLAIMS FOR BENEFITS.—

“(1) IN GENERAL.—Notice of a denial of claims for benefits under a utilization review program shall be provided in printed or electronic form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include—

“(A) the reasons for the denial (including the clinical rationale);

“(B) instructions on how to initiate an appeal under section 102; and

“(C) notice of the availability, upon request of the individual (or the individual's designee) of the clinical review criteria relied upon to make such denial.

“(2) SPECIFICATION OF ANY ADDITIONAL INFORMATION.—Such a notice shall also specify what (if any) additional necessary information must be provided to, or obtained by, the person making the denial in order to make a decision on such an appeal.

“(f) CLAIM FOR BENEFITS AND DENIAL OF CLAIM FOR BENEFITS DEFINED.—For purposes of this subtitle:

“(1) CLAIM FOR BENEFITS.—The term 'claim for benefits' means any request for coverage (including authorization of coverage), or for payment in whole or in part, for an item or service under a group health plan or health insurance coverage.

“(2) DENIAL OF CLAIM FOR BENEFITS.—The term 'denial' means, with respect to a claim for benefits, a denial, or a failure to act on a timely basis upon, in whole or in part, the claim for benefits and includes a failure to provide or pay for benefits (including items and services) required to be provided or paid for under this title.

“SEC. 2802. INTERNAL APPEALS PROCEDURES.

“(a) RIGHT OF REVIEW.—

“(1) IN GENERAL.—Each group health plan, and each health insurance issuer offering health insurance coverage—

“(A) shall provide adequate notice in written or electronic form to any participant or beneficiary under such plan, or enrollee under such coverage, whose claim for benefits under the plan or coverage has been denied “(within the meaning of section 2801(f)(2)), setting forth the specific reasons for such denial of claim for benefits and rights to any further review or appeal, written in layman's terms to be understood by the participant, beneficiary, or enrollee; and

“(B) shall afford such a participant, beneficiary, or enrollee (and any provider or other person acting on behalf of such an individual with the individual's consent or without such consent if the individual is medically unable to provide such consent) who is dissatisfied with such a denial of claim for benefits a reasonable opportunity of not less than 180 days to request and obtain a full and fair review by a named fiduciary (with respect to such plan) or named appropriate individual (with respect to such coverage) of the decision denying the claim.

“(2) TREATMENT OF ORAL REQUESTS.—The request for review under paragraph (1)(B) may be made orally, but, in the case of an oral request, shall be followed by a request in written or electronic form.

“(b) INTERNAL REVIEW PROCESS.—

“(1) CONDUCT OF REVIEW.—

“(A) IN GENERAL.—A review of a denial of claim under this section shall be made by an individual (who shall be a physician in a case involving medical judgment) who has been selected by the plan or issuer and who did not make the initial denial in the internally appealable decision, except that in the case of limited scope coverage (as defined in subparagraph (B)) an appropriate specialist shall review the decision.

“(B) LIMITED SCOPE COVERAGE DEFINED.—For purposes of subparagraph (A), the term 'limited scope coverage' means a group health plan or health insurance coverage the only benefits under which are for benefits described in section 2791(c)(2)(A) of the Public Health Service Act (42 U.S.C. 300gg-91(c)(2)).

“(2) TIME LIMITS FOR INTERNAL REVIEWS.—

“(A) IN GENERAL.—Having received such a request for review of a denial of claim, the plan or issuer shall, in accordance with the medical exigencies of the case but not later than the deadline specified in subparagraph (B), complete the review on the denial and transmit to the participant, beneficiary, enrollee, or other person involved a decision that affirms, reverses, or modifies the denial. If the decision does not reverse the denial, the plan or issuer shall transmit, in printed or electronic form, a notice that sets forth the grounds for such decision and that includes a description of rights to any further appeal. Such decision shall be treated as the final decision of the plan. Failure to issue such a decision by such deadline shall be treated as a final decision affirming the denial of claim.

“(B) DEADLINE.—

“(i) IN GENERAL.—Subject to clauses (ii) and (iii), the deadline specified in this subparagraph is 14 days after the earliest date as of which the request for prior authorization has been received and all necessary information has been provided. The provider involved shall provide timely access to information relevant to the matter of the review decision.

“(ii) EXTENSION PERMITTED WHERE NOTICE OF ADDITIONAL INFORMATION REQUIRED.—If a group health plan or health insurance issuer—

“(I) receives a request for internal review,

“(II) determines that additional information is necessary to complete the review and make the determination on the request,

“(III) notifies the requester, not later than 5 business days after the date of receiving the request, of the need for such specified additional information, and

“(IV) requires the requester to submit specified information not later than 48 hours after notification,

the deadline specified in this subparagraph is 14 days after the date the plan or issuer receives the specified additional information, but in no case later than 28 days after the date of receipt of the request for the internal review. This clause shall not apply if the deadline is specified in clause (iii).

“(iii) EXPEDITED CASES.—In the case of a situation described in subsection (c)(1)(A), the deadline specified in this subparagraph is 48 hours after the time of request for review

“(c) EXPEDITED REVIEW PROCESS.—

“(1) IN GENERAL.—A group health plan, and a health insurance issuer, shall establish procedures in writing for the expedited consideration of requests for review under subsection (b) in situations—

“(A) in which, as determined by the plan or issuer or as certified in writing by a treating physician, the application of the normal timeframe for making the determination could seriously jeopardize the life or health of the participant, beneficiary, or enrollee or such individual's ability to regain maximum function; or

“(B) described in section 2801(d)(2) (relating to requests for continuation of ongoing care which would otherwise be reduced or terminated).

“(2) PROCESS.—Under such procedures—

“(A) the request for expedited review may be submitted orally or in writing by an individual or provider who is otherwise entitled to request the review;

“(B) all necessary information, including the plan's or issuer's decision, shall be transmitted between the plan or issuer and the requester by telephone, facsimile, or other similarly expeditious available method; and

“(C) the plan or issuer shall expedite the review in the case of any of the situations described in subparagraph (A) or (B) of paragraph (1).

“(3) DEADLINE FOR DECISION.—The decision on the expedited review must be made and communicated to the parties as soon as possible in accordance with the medical exigencies of the case, and in no event later than 48 hours after the time of receipt of the request for expedited review, except that in a case described in paragraph (1)(B), the decision must be made before the end of the approved period of care.

“(d) WAIVER OF PROCESS.—A plan or issuer may waive its rights for an internal review under subsection (b). In such case the participant, beneficiary, or enrollee involved (and any designee or provider involved) shall be relieved of any obligation to complete the review involved and may, at the option of such participant, beneficiary, enrollee, designee, or provider, proceed directly to seek further appeal through any applicable external appeals process.

“SEC. 2803. EXTERNAL APPEALS PROCEDURES.

“(a) RIGHT TO EXTERNAL APPEAL.—

“(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall provide for an external appeals process that meets the requirements of this section in the case of an externally appealable decision described in paragraph (2), for which a timely appeal is made (within a reasonable period not to exceed 365 days) either by the plan or issuer or by the participant, beneficiary, or enrollee (and any provider or other person acting on behalf of such an individual with the individual's consent or without such consent if such an individual is medically unable to provide such consent).

“(2) EXTERNALLY APPEALABLE DECISION DEFINED.—

“(A) IN GENERAL.—For purposes of this section, the term 'externally appealable decision' means a denial of claim for benefits (as defined in section 2801(f)(2)), if—

“(i) the item or service involved is covered under the plan or coverage,

“(ii) the amount involved exceeds $100, increased or decreased, for each calendar year that ends after December 31, 2001, by the same percentage as the percentage by which the medical care expenditure category of the Consumer Price Index for All Urban Consumers (United States city average), published by the Bureau of Labor Statistics, for September of the preceding calendar year has increased or decreased from such index for September 2000, and

“(iii) the requirements of subparagraph (B) are met with respect to such denial.

Such term also includes a failure to meet an applicable deadline for internal review under section 2802 or such standards as are established pursuant to section 2818.

“(B) REQUIREMENTS.—For purposes of subparagraph (A)(iii), the requirements of this subparagraph are met with respect to a denial of a claim for benefits if—

“(i) the denial is based in whole or in part on a decision that the item or service is not medically necessary or appropriate or is investigational or experimental, or

“(ii) in such denial, the decision as to whether an item or service is covered involves a medical judgment.

“(C) EXCLUSIONS.—The term 'externally appealable decision' does not include—

“(i) specific exclusions or express limitations on the amount, duration, or scope of coverage; or

“(ii) a decision regarding eligibility for any benefits.

“(3) EXHAUSTION OF INTERNAL REVIEW PROCESS.—Except as provided under section 2802(d), a plan or issuer may condition the use of an external appeal process in the case of an externally appealable decision upon a final decision in an internal review under section 2802, but only if the decision is made in a timely basis consistent with the deadlines provided under this subtitle.

“(4) FILING FEE REQUIREMENT.—

“(A) IN GENERAL.—A plan or issuer may condition the use of an external appeal process upon payment in advance to the plan or issuer of a $25 filing fee.

“(B) REFUNDING FEE IN CASE OF SUCCESSFUL APPEALS.—The plan or issuer shall refund payment of the filing fee under this paragraph if the recommendation of the external appeal entity is to reverse the denial of a claim for benefits which is the subject of the appeal.

“(b) GENERAL ELEMENTS OF EXTERNAL APPEALS PROCESS.—

“(1) USE OF QUALIFIED EXTERNAL APPEAL ENTITY.—

“(A) IN GENERAL.—The external appeal process under this section of a plan or issuer shall be conducted between the plan or issuer and one or more qualified external appeal entities (as defined in subsection (c)). Nothing in this subsection shall be construed as requiring that such procedures provide for the selection for any plan of more than one such entity.

“(B) LIMITATION ON PLAN OR ISSUER SELECTION.—The Secretary shall implement procedures to assure that the selection process among qualified external appeal entities will not create any incentives for external appeal entities to make a decision in a biased manner.

“(C) OTHER TERMS AND CONDITIONS.—The terms and conditions of this paragraph shall be consistent with the standards the Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external appeal activities. All costs of the process (except those incurred by the participant, beneficiary, enrollee, or treating professional in support of the appeal) shall be paid by the plan or issuer, and not by the participant, beneficiary, or enrollee. The previous sentence shall not be construed as applying to the imposition of a filing fee under subsection (a)(4).

“(2) ELEMENTS OF PROCESS.—An external appeal process shall be conducted consistent with standards established by the Secretary that include at least the following:

“(A) FAIR AND DE NOVO DETERMINATION.—The process shall provide for a fair, de novo determination described in subparagraph (B) based on evidence described in subparagraphs (C) and (D).

“(B) STANDARD OF REVIEW.—An external appeal entity shall determine whether the plan's or issuer's decision is appropriate for the medical condition of the patient involved (as determined by the entity) taking into account as of the time of the entity's determination the patient's medical condition and any relevant and reliable evidence the entity obtains under subparagraphs (C) and (D). If the entity determines the decision is appropriate for such condition, the entity shall affirm the decision and to the extent that the entity determines the decision is not appropriate for such condition, the entity shall reverse the decision. Nothing in this subparagraph shall be construed as providing for coverage of items or services not provided or covered by the plan or issuer.

“(C) REQUIRED CONSIDERATION OF CERTAIN MATTERS.—In making such determination, the external appeal entity shall consider, but not be bound by—

“(i) any language in the plan or coverage document relating to the definitions of the terms medical necessity, medically necessary or appropriate, or experimental, investigational, or related terms;

“(ii) the decision made by the plan or issuer upon internal review under section 2802 and any guidelines or standards used by the plan or issuer in reaching such decision; and

“(iii) the opinion of the individual's treating physician or health care professional.

The entity also shall consider any personal health and medical information supplied with respect to the individual whose denial of claim for benefits has been appealed. The entity also shall consider the results of studies that meet professionally recognized standards of validity and replicability or that have been published in peer-reviewed journals.

“(D) ADDITIONAL EVIDENCE.—Such entity may also take into consideration but not be limited to the following evidence (to the extent available):

“(i) The results of professional consensus conferences.

“(ii) Practice and treatment policies.

“(iii) Community standard of care.

“(iv) Generally accepted principles of professional medical practice consistent with the best practice of medicine.

“(v) To the extent that the entity determines it to be free of any conflict of interest, the opinions of individuals who are qualified as experts in one or more fields of health care which are directly related to the matters under appeal.

“(vi) To the extent that the entity determines it to be free of any conflict of interest, the results of peer reviews conducted by the plan or issuer involved.

“(E) DETERMINATION CONCERNING EXTERNALLY APPEALABLE DECISIONS.—

“(i) IN GENERAL.—A qualified external appeal entity shall determine—

“(I) whether a denial of claim for benefits is an externally appealable decision (within the meaning of subsection (a)(2));

“(II) whether an externally appealable decision involves an expedited appeal;

“(III) for purposes of initiating an external review, whether the internal review process has been completed; and

“(IV) whether the item or services is covered under the plan or coverage.

“(ii) CONSTRUCTION.—Nothing in a determination by a qualified external appeal entity under this section shall be construed as authorizing, or providing for, coverage of items and services for which benefits are not provided under the plan or coverage.

“(F) OPPORTUNITY TO SUBMIT EVIDENCE.—Each party to an externally appealable decision may submit evidence related to the issues in dispute.

“(G) PROVISION OF INFORMATION.—The plan or issuer involved shall provide to the external appeal entity timely access to information and to provisions of the plan or health insurance coverage relating to the matter of the externally appealable decision, as determined by the entity. The provider involved shall provide to the external appeal entity timely access to information relevant to the matter of the externally appealable decision, as determined by the entity.

"(H) Timely decisions.—A determination by the external appeal entity on the decision shall—

"(i) be made orally or in written or electronic form and, if it is made orally, shall be supplied to the parties in written or electronic form as soon as possible;

"(ii) be made in accordance with the medical exigencies of the case involved, but in no event later than 21 days after the date (or, in the case of an expedited appeal, 48 hours after the time) of requesting an external appeal of the decision;

"(iii) state, in layperson's language, the scientific rationale for such determination as well as the basis for such determination, including, if relevant, any basis in the terms or conditions of the plan or coverage; and

"(iv) inform the participant, beneficiary, or enrollee of the individual's rights (including any limitation on such rights) to seek binding arbitration or further review by the courts (or other process) of the external appeal determination.

"(I) Compliance with determination.—If the external appeal entity determines that a denial of a claim for benefits was not reasonable and reverses the denial, the plan or issuer—

"(i) shall (upon the receipt of the determination) authorize the provision or payment for benefits in accordance with such determination;

"(ii) shall take such actions as may be necessary to provide or pay for benefits (including items or services) in a timely manner consistent with such determination; and

"(iii) shall submit information to the entity documenting compliance with the entity's determination and this subparagraph.

"(J) Construction.—Nothing in this paragraph shall be construed as providing for coverage of items and services for which benefits are not provided under the plan or coverage.

"(c) Qualifications of External Appeal Entities.—

"(1) In general.—For purposes of this section, the term 'qualified external appeal entity' means, in relation to a plan or issuer, an entity that is certified under paragraph (2) as meeting the following requirements:

"(A) The entity meets the independence requirements of paragraph (3).

"(B) The entity conducts external appeal activities through at least three clinical peers who are practicing physicians.

"(C) The entity has sufficient medical, legal, and other expertise and sufficient staffing to conduct external appeal activities for the plan or issuer on a timely basis consistent with subsection (b)(2)(G).

"(2) Initial certification of external appeal entities.—

"(A) In general.—In order to be treated as a qualified external appeal entity with respect to a group health plan or health insurance issuer operating in a State, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting such requirements—

"(i) by the applicable State authority (or under a process recognized or approved by such authority); or

"(ii) if the State has not established a certification and recertification process for such entities, by the Secretary, under a process recognized or approved by the Secretary, or to the extent provided in subparagraph (C)(ii), by a qualified private standard-setting organization (certified under such subparagraph), if elected by the entity.

"(B) Recertification process.—The Secretary shall develop standards for the recertification of external appeal entities. Such standards shall include a review of—

"(i) the number of cases reviewed;

"(ii) a summary of the disposition of those cases;

"(iii) the length of time in making determinations on those cases;

"(iv) updated information of what was required to be submitted as a condition of certification for the entity's performance of external appeal activities; and

"(v) information necessary to assure that the entity meets the independence requirements (described in paragraph (3)) with respect to plans and issuers for which it conducts external review activities.

"(C) Certification of qualified private standard-setting organizations.—For purposes of subparagraph (A)(ii), the Secretary may provide for a process for certification (and periodic recertification) of qualified private standard-setting organizations which provide for certification of external appeal entities. Such an organization shall only be certified if the organization does not certify an external appeal entity unless it meets standards as least as stringent as the standards required for certification of such an entity by the Secretary under subparagraph (A)(ii).

"(3) Independence requirements.—

"(A) In general.—A clinical peer or other entity meets the independence requirements of this paragraph if—

"(i) the peer or entity is not affiliated with any related party;

"(ii) any compensation received by such peer or entity in connection with the external review is reasonable and not contingent on any decision rendered by the peer or entity;

"(iii) the plan and the issuer (if any) have no recourse against the peer or entity in connection with the external review; and

"(iv) the peer or entity does not otherwise have a conflict of interest with a related party.

"(B) Related party.—For purposes of this paragraph, the term 'related party' means—

"(i) with respect to—

"(I) a group health plan or health insurance coverage offered in connection with such a plan, the plan or the health insurance issuer offering such coverage, or

"(II) individual health insurance coverage, the health insurance issuer offering such coverage,

or any plan sponsor, fiduciary, officer, director, or management employee of such plan or issuer;

"(ii) the health care professional that provided the health care involved in the coverage decision;

"(iii) the institution at which the health care involved in the coverage decision is provided; or

"(iv) the manufacturer of any drug or other item that was included in the health care involved in the coverage decision.

"(C) Affiliated.—For purposes of this paragraph, the term 'affiliated' means, in connection with any peer or entity, having a familial, financial, or fiduciary relationship with such peer or entity.

"(4) Limitation on liability of reviewers.—No qualified external appeal entity having a contract with a plan or issuer under this part and no person who is employed by any such entity or who furnishes professional services to such entity, shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if due care was exercised in the performance of such duty, function, or activity and there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

"(d) External Appeal Determination Binding on Plan.—

"(1) In general.—The determination by an external appeal entity shall be binding on the plan (and issuer, if any) involved in the determination.

"(2) Protection of legal rights.—Nothing in this subtitle shall be construed as removing any legal rights of participants, beneficiaries, enrollees, and others under State or Federal law, including the right to file judicial actions to enforce rights.

"(e) Penalties Against Authorized Officials for Refusing to Authorize the Determination of an External Appeal Entity.—

"(1) Monetary penalties.—In any case in which the determination of an external appeal entity is not followed in a timely fashion by a group health plan, or by a health insurance issuer offering health insurance coverage, any named fiduciary who, acting in the capacity of authorizing the benefit, causes such refusal may, in the discretion in a court of competent jurisdiction, be liable to an aggrieved participant, beneficiary, or enrollee for a civil penalty in an amount of up to $1,000 a day from the date on which the determination was transmitted to the plan or issuer by the external appeal entity until the date the refusal to provide the benefit is corrected.

"(2) Cease and desist order and order of attorney's fees.—In any action described in paragraph (1) brought by a participant, beneficiary, or enrollee with respect to a group health plan, or a health insurance issuer offering health insurance coverage, in which a plaintiff alleges that a person referred to in such paragraph has taken an action resulting in a refusal of a benefit determined by an external appeal entity in violation of such terms of the plan, coverage, or this subtitle, or has failed to take an action for which such person is responsible under the plan, coverage, or this title and which is necessary under the plan or coverage for authorizing a benefit, the court shall cause to be served on the defendant an order requiring the defendant—

"(A) to cease and desist from the alleged action or failure to act; and

"(B) to pay to the plaintiff a reasonable attorney's fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

"(f) Protection of Legal Rights.—Nothing in this subtitle shall be construed as removing or limiting any legal rights of participants, beneficiaries, enrollees, and others under State or Federal law (including section 502 of the Employee Retirement Income Security Act of 1974), including the right to file judicial actions to enforce rights.

"SEC. 2804. ESTABLISHMENT OF A GRIEVANCE PROCESS.

"(a) Establishment of Grievance System.—

"(1) In general.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall establish and maintain a system to provide for the presentation and resolution of oral and written grievances brought by individuals who are participants, beneficiaries, or enrollees, or health care providers or other individuals acting on behalf of an individual and with the individual's consent or without such consent if the individual is medically unable to provide such consent, regarding any aspect of the plan's or issuer's services.

“(2) Grievance defined.—In this section, the term ‘grievance’ means any question, complaint, or concern brought by a participant, beneficiary, or enrollee that is not a claim for benefits.

“(b) Grievance System.—Such system shall include the following components with respect to individuals who are participants, beneficiaries, or enrollees:

“(1) Written notification to all such individuals and providers of the telephone numbers and business addresses of the plan or issuer personnel responsible for resolution of grievances and appeals.

“(2) A system to record and document, over a period of at least 3 previous years beginning two months after the date of the enactment of this Act, all grievances and appeals made and their status.

“(3) A process providing processing and resolution of grievances within 60 days.

“(4) Procedures for follow-up action, including the methods to inform the person making the grievance of the resolution of the grievance.

Grievances are not subject to appeal under the previous provisions of this subtitle.

“Subtitle B—Access to Care

“SEC. 2811. CONSUMER CHOICE OPTION.

“(a) In General.—If a health insurance issuer offers to enrollees health insurance coverage in connection with a group health plan which provides for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the issuer to provide such services, the issuer shall also offer to such enrollees (at the time of enrollment and during an annual open season as provided under subsection (c)) the option of health insurance coverage which provides for coverage of such services which are not furnished through health care professionals and providers who are members of such a network unless enrollees are offered such non-network coverage through another health insurance issuer.

“(b) Additional Costs.—The amount of any additional premium charged by the health insurance issuer for the additional cost of the creation and maintenance of the option described in subsection (a) and the amount of any additional cost sharing imposed under such option shall be borne by the enrollee unless it is paid by the health plan sponsor through agreement with the health insurance issuer.

“(c) Open Season.—An enrollee may change to the offering provided under this section only during a time period determined by the health insurance issuer. Such time period shall occur at least annually.

“SEC. 2812. CHOICE OF HEALTH CARE PROFESSIONAL.

“(a) Primary Care.—If a group health plan, or a health insurance issuer that offers health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating primary care provider, then the plan or issuer shall permit each participant, beneficiary, and enrollee to designate any participating primary care provider who is available to accept such individual.

“(b) Specialists.—A group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary or appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care professional who is available to accept such individual for such care.

“SEC. 2813. ACCESS TO EMERGENCY CARE.

“(a) Coverage of Emergency Services.—

“(1) In general.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides or covers any benefits with respect to services in an emergency department of a hospital, the plan or issuer shall cover emergency services (as defined in paragraph (2)(B))—

“(A) without the need for any prior authorization determination;

“(B) whether the health care provider furnishing such services is a participating provider with respect to such services;

“(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee—

“(i) by a nonparticipating health care provider with or without prior authorization, or

“(ii) by a participating health care provider without prior authorization,

the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization; and

“(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

“(2) Definitions.—In this section:

“(A) Emergency medical condition.—The term ‘emergency medical condition’ means—

“(i) a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act; and

“(ii) a medical condition manifesting itself in a neonate by acute symptoms of sufficient severity (including severe pain) such that a prudent health care professional could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

“(B) Emergency services.—The term ‘emergency services’ means—

“(i) with respect to an emergency medical condition described in subparagraph (A)(i)—

“(I) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate such emergency medical condition, and

“(II) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient; or

“(ii) with respect to an emergency medical condition described in subparagraph (A)(ii), medical treatment for such condition rendered by a health care provider in a hospital to a neonate, including available hospital ancillary services in response to an urgent request of a health care professional and to the extent necessary to stabilize the neonate.

“(C) Stabilize.—The term ‘to stabilize’ means, with respect to an emergency medical condition, to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility.

“(b) Reimbursement for Maintenance Care and Post-Stabilization Care.—If benefits are available under a group health plan, or under health insurance coverage offered by a health insurance issuer, with respect to maintenance care or post-stabilization care covered under the guidelines established under section 1852(d)(2) of the Social Security Act, the plan or issuer shall provide for reimbursement with respect to such services provided to a participant, beneficiary, or enrollee other than through a participating health care provider in a manner consistent with subsection (a)(1)(C) (and shall otherwise comply with such guidelines).

“(c) Coverage of Emergency Ambulance Services.—

“(1) In general.—If a group health plan, or health insurance coverage provided by a health insurance issuer, provides any benefits with respect to ambulance services and emergency services, the plan or issuer shall cover emergency ambulance services (as defined in paragraph (2))) furnished under the plan or coverage under the same terms and conditions under subparagraphs (A) through (D) of subsection (a)(1) under which coverage is provided for emergency services.

“(2) Emergency ambulance services.—For purposes of this subsection, the term ‘emergency ambulance services’ means ambulance services (as defined for purposes of section 1861(s)(7) of the Social Security Act) furnished to transport an individual who has an emergency medical condition (as defined in subsection (a)(2)(A)) to a hospital for the receipt of emergency services (as defined in subsection (a)(2)(B)) in a case in which the emergency services are covered under the plan or coverage pursuant to subsection (a)(1) and a prudent layperson, with an average knowledge of health and medicine, could reasonably expect that the absence of such transport would result in placing the health of the individual in serious jeopardy, serious impairment of bodily function, or serious dysfunction of any bodily organ or part.

“SEC. 2814. ACCESS TO SPECIALTY CARE.

“(a) Specialty Care for Covered Services.—

“(1) In general.—If—

“(A) an individual is a participant or beneficiary under a group health plan or an enrollee who is covered under health insurance coverage offered by a health insurance issuer,

“(B) the individual has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist or the individual requires physician pathology services, and

“(C) benefits for such treatment or services are provided under the plan or coverage,

the plan or issuer shall make or provide for a referral to a specialist who is available and accessible (consistent with standards developed under section 2818) to provide the treatment for such condition or disease or to provide such services.

“(2) Specialist defined.—For purposes of this subsection, the term ‘specialist’ means, with respect to a condition or services, a health care practitioner, facility, or center or physician pathologist that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise and in the case of a pregnant woman, appropriate obstetrical expertise) to provide high quality care in treating the condition or to provide physician pathology services.

“(3) CARE UNDER REFERRAL.—A group health plan or health insurance issuer may require that the care provided to an individual pursuant to such referral under paragraph (1) with respect to treatment be—

“(A) pursuant to a treatment plan, only if the treatment plan is developed by the specialist and approved by the plan or issuer, in consultation with the designated primary care provider or specialist and the individual (or the individual's designee), and

“(B) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

Nothing in this subsection shall be construed as preventing such a treatment plan for an individual from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

“(4) REFERRALS TO PARTICIPATING PROVIDERS.—A group health plan or health insurance issuer is not required under paragraph (1) to provide for a referral to a specialist that is not a participating provider, unless the plan or issuer does not have a specialist that is available and accessible to treat the individual's condition or provide physician pathology services and that is a participating provider with respect to such treatment or services.

“(5) REFERRALS TO NONPARTICIPATING PROVIDERS.—In a case in which a referral of an individual to a nonparticipating specialist is required under paragraph (1), the group health plan or health insurance issuer shall provide the individual the option of at least three nonparticipating specialists.

“(6) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a plan or issuer refers an individual to a nonparticipating specialist pursuant to paragraph (1), services provided pursuant to the approved treatment plan (if any) shall be provided at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist that is a participating provider.

“(b) SPECIALISTS AS GATEKEEPER FOR TREATMENT OF ONGOING SPECIAL CONDITIONS.—

“(1) IN GENERAL.—A group health plan, or a health insurance issuer, in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition (as defined in paragraph (3)) may request and receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's care with respect to the condition. Under such procedures if such an individual's care would most appropriately be coordinated by such a specialist, such plan or issuer shall refer the individual to such specialist.

“(2) TREATMENT FOR RELATED REFERRALS.—Such specialists shall be permitted to treat the individual without a referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment (referred to in subsection (a)(3)(A)) with respect to the ongoing special condition.

“(3) ONGOING SPECIAL CONDITION DEFINED.—In this subsection, the term ‘ongoing special condition’ means a condition or disease that—

“(A) is life-threatening, degenerative, or disabling, and

“(B) requires specialized medical care over a prolonged period of time.

“(4) TERMS OF REFERRAL.—The provisions of paragraphs (3) through (5) of subsection (a) apply with respect to referrals under paragraph (1) of this subsection in the same manner as they apply to referrals under subsection (a)(1).

“(5) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition from having the individual's primary care physician assume the responsibilities for providing and coordinating care described in paragraph (1).

“(c) STANDING REFERRALS.—

“(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the plan or issuer, or if the primary care provider in consultation with the medical director of the plan or issuer and the specialist (if any), determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to such a specialist if the individual so desires.

“(2) TERMS OF REFERRAL.—The provisions of paragraphs (3) through (5) of subsection (a) apply with respect to referrals under paragraph (1) of this subsection in the same manner as they apply to referrals under subsection (a)(1).

“SEC. 2815. ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

“(a) IN GENERAL.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for a participant, beneficiary, or enrollee to designate a participating primary care health care professional, the plan or issuer—

“(1) may not require authorization or a referral by the individual's primary care health care professional or otherwise for covered gynecological care (including preventive women's health examinations) or for covered pregnancy-related services provided by a participating physician (including a family practice physician) who specializes or is trained and experienced in gynecology or obstetrics, respectively, to the extent such care is otherwise covered; and

“(2) shall treat the ordering of other gynecological or obstetrical care by such a participating physician as the authorization of the primary care health care professional with respect to such care under the plan or coverage.

“(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to—

“(1) waive any exclusions of coverage under the terms of the plan with respect to coverage of gynecological or obstetrical care;

“(2) preclude the group health plan or health insurance issuer involved from requiring that the gynecologist or obstetrician notify the primary care health care professional or the plan of treatment decisions; or

“(3) prevent a plan or issuer from offering, in addition to physicians described in subsection (a)(1), non-physician health care professionals who are trained and experienced in gynecology or obstetrics.

“SEC. 2816. ACCESS TO PEDIATRIC CARE.

“(a) PEDIATRIC CARE.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for an enrollee to designate a participating primary care provider for a child of such enrollee, the plan or issuer shall permit the enrollee to designate a physician (including a family practice physician) who specializes or is trained and experienced in pediatrics as the child's primary care provider.

“(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to waive any exclusions of coverage under the terms of the plan with respect to coverage of pediatric care.

“SEC. 2817. CONTINUITY OF CARE.

“(a) IN GENERAL.—

“(1) TERMINATION OF PROVIDER.—If a contract between a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, and a health care provider is terminated (as defined in paragraph (3)(B)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who is a participant, beneficiary, or enrollee in the plan or coverage is undergoing treatment from the provider for an ongoing special condition (as defined in paragraph (3)(A)) at the time of such termination, the plan or issuer shall—

“(A) notify the individual on a timely basis of such termination and of the right to elect continuation of coverage of treatment by the provider under this section; and

“(B) subject to subsection (c), permit the individual to elect to continue to be covered with respect to treatment by the provider of such condition during a transitional period (provided under subsection (b)).

“(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

“(3) DEFINITIONS.—For purposes of this section:

“(A) ONGOING SPECIAL CONDITION.—The term ‘ongoing special condition’ has the meaning given such term in section 2814(b)(3), and also includes pregnancy.

“(B) TERMINATION.—The term ‘terminated’ includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

“(b) TRANSITIONAL PERIOD.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the transitional period under this subsection shall extend up to 90 days (as determined by the treating health care professional) after the date of the notice described in subsection (a)(1)(A) of the provider's termination.

"(2) Scheduled surgery and organ transplantation.—If surgery or organ transplantation was scheduled for an individual before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such surgery or transplantation, the transitional period under this subsection with respect to the surgery or transplantation shall extend beyond the period under paragraph (1) and until the date of discharge of the individual after completion of the surgery or transplantation.

"(3) Pregnancy.—If—

"(A) a participant, beneficiary, or enrollee was determined to be pregnant at the time of a provider's termination of participation, and

"(B) the provider was treating the pregnancy before date of the termination,

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

"(4) Terminal illness.—If—

"(A) a participant, beneficiary, or enrollee was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, and

"(B) the provider was treating the terminal illness before the date of termination,

the transitional period under this subsection shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness or its medical manifestations.

"(c) Permissible Terms and Conditions.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the individual notifying the plan of the election of continued coverage and upon the provider agreeing to the following terms and conditions:

"(1) The provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

"(2) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

"(3) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

"(d) Construction.—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

"SEC. 2818. NETWORK ADEQUACY.

"(a) Requirement.—A group health plan, and a health insurance issuer providing health insurance coverage, shall meet such standards for network adequacy as are established by law pursuant to this section.

"(b) Development of Standards.—

"(1) Establishment of panel.—There is established a panel to be known as the Health Care Panel to Establish Network Adequacy Standards (in this section referred to as the 'Panel').

"(2) Duties of panel.—The Panel shall devise standards for group health plans and health insurance issuers that offer health insurance coverage to ensure that—

"(A) participants, beneficiaries, and enrollees have access to a sufficient number, mix, and distribution of health care professionals and providers; and

"(B) covered items and services are available and accessible to each participant, beneficiary, and enrollee—

"(i) in the service area of the plan or issuer;

"(ii) at a variety of sites of service;

"(iii) with reasonable promptness (including reasonable hours of operation and after hours services);

"(iv) with reasonable proximity to the residences or workplaces of enrollees; and

"(v) in a manner that takes into account the diverse needs of enrollees and reasonably assures continuity of care.

"(c) Membership.—

"(1) Size and composition.—The Panel shall be composed of 15 members. The Secretary of Health and Human Services, the Majority Leader of the Senate, and the Speaker of House of Representatives shall each appoint 1 member from representatives of private insurance organizations, consumer groups, State insurance commissioners, State medical societies, and State medical specialty societies.

"(2) Terms of appointment.—The members of the Panel shall serve for the life of the Panel.

"(3) Vacancies.—A vacancy in the Panel shall not affect the power of the remaining members to execute the duties of the Panel, but any such vacancy shall be filled in the same manner in which the original appointment was made.

"(d) Procedures.—

"(1) Meetings.—The Panel shall meet at the call of a majority of its members.

"(2) First meeting.—The Panel shall convene not later than 60 days after the date of the enactment of the Health Care Quality and Choice Act of 1999.

"(3) Quorum.—A quorum shall consist of a majority of the members of the Panel.

"(4) Hearings.—For the purpose of carrying out its duties, the Panel may hold such hearings and undertake such other activities as the Panel determines to be necessary to carry out its duties.

"(e) Administration.—

"(1) Compensation.—Except as provided in paragraph (1), members of the Panel shall receive no additional pay, allowances, or benefits by reason of their service on the Panel.

"(2) Travel expenses and per diem.—Each member of the Panel who is not an officer or employee of the Federal Government shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

"(3) Contract authority.—The Panel may contract with and compensate government and private agencies or persons for items and services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

"(4) Use of mails.—The Panel may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

"(5) Administrative support services.—Upon the request of the Panel, the Secretary of Health and Human Services shall provide to the Panel on a reimbursable basis such administrative support services as the Panel may request.

"(f) Report and Establishment of Standards.—Not later than 2 years after the first meeting, the Panel shall submit a report to Congress and the Secretary of Health and Human Services detailing the standards devised under subsection (b) and recommendations regarding the implementation of such standards. Such standards shall take effect to the extent provided by Federal law enacted after the date of the submission of such report.

"(g) Termination.—The Panel shall terminate on the day after submitting its report to the Secretary of Health and Human Services under subsection (f).

"SEC. 2819. ACCESS TO EXPERIMENTAL OR INVESTIGATIONAL PRESCRIPTION DRUGS.

"No use of a prescription drug or medical device shall be considered experimental or investigational under a group health plan or under health insurance coverage provided by a health insurance issuer if such use is included in the labeling authorized by the U.S. Food and Drug Administration under section 505, 513 or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or under section 351 of the Public Health Service Act (42 U.S.C. 262), unless such use is demonstrated to be unsafe or ineffective.

"SEC. 2820. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CANCER CLINICAL TRIALS.

"(a) Coverage.—

"(1) In general.—If a group health plan (or a health insurance issuer offering health insurance coverage) provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

"(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

"(B) subject to subsections (b), (c), and (d), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

"(C) may not discriminate against the individual on the basis of the individual's participation in such trial.

"(2) Exclusion of certain costs.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

"(3) Use of in-network providers.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

"(b) Qualified Individual Defined.—For purposes of subsection (a), the term 'qualified individual' means an individual who is a participant or beneficiary in a group health plan or an enrollee in health insurance coverage and who meets the following conditions:

"(1)(A) The individual has been diagnosed with cancer.

"(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

“(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

“(2) Either—

“(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

“(B) the individual provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

“(c) PAYMENT.—

“(1) IN GENERAL.—Under this section a group health plan (or health insurance issuer offering health insurance) shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected to be paid for by the sponsors of an approved clinical trial.

“(2) ROUTINE PATIENT CARE COSTS.—For purposes of this section—

“(A) IN GENERAL.—The term 'routine patient care costs' includes the costs associated with the provision of items and services that—

“(i) would otherwise be covered under the group health plan or health insurance coverage if such items and services were not provided in connection with an approved clinical trial program; and

“(ii) are furnished according to the protocol of an approved clinical trial program.

“(B) EXCLUSION.—Such term does include the costs associated with the provision of—

“(i) an investigational drug or device, unless the Secretary has authorized the manufacturer of such drug or device to charge for such drug or device; or

“(ii) any item or service supplied without charge by the sponsor of the approved clinical trial program.

“(3) PAYMENT RATE.—In the case of covered items and services provided by—

“(A) a participating provider, the payment rate shall be at the agreed upon rate, or

“(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable items or services under subparagraph (A).

“(d) APPROVED CLINICAL TRIAL DEFINED.—In this section, the term 'approved clinical trial' means a cancer clinical research study or cancer clinical investigation approved by an Institutional Review Board.

“(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

“(f) PLAN SATISFACTION OF CERTAIN REQUIREMENTS; RESPONSIBILITIES OF FIDUCIARIES.—

“(1) IN GENERAL.—For purposes of this section, insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the requirements of this section with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer.

“(2) CONSTRUCTION.—Nothing in this section shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B of the Employee Retirement Income Security Act of 1974.

“(g) STUDY AND REPORT.—

“(1) STUDY.—The Secretary of Health and Human Services, in consultation with the Secretary and the Secretary of the Treasury, shall analyze cancer clinical research and its cost implications for managed care, including differentiation in—

“(A) the cost of patient care in trials versus standard care;

“(B) the cost effectiveness achieved in different sites of service;

“(C) research outcomes;

“(D) volume of research subjects available in different sites of service;

“(E) access to research sites and clinical trials by cancer patients;

“(F) patient cost sharing or copayment costs realized in different sites of service;

“(G) health outcomes experienced in different sites of service;

“(H) long term health care services and costs experienced in different sites of service;

“(I) morbidity and mortality experienced in different sites of service; and

“(J) patient satisfaction and preference of sites of service.

“(2) REPORT TO CONGRESS.—Not later than January 1, 2005, the Secretary of Health and Human Services shall submit a report to Congress that contains—

“(A) an assessment of any incremental cost to group health plans and health insurance issuers resulting from the provisions of this section;

“(B) a projection of expenditures to such plans and issuers resulting from this section;

“(C) an assessment of any impact on premiums resulting from this section; and

“(D) recommendations regarding action on other diseases.

“Subtitle C—Access to Information

“SEC. 2821. PATIENT ACCESS TO INFORMATION.

“(a) DISCLOSURE REQUIREMENT.—

“(1) GROUP HEALTH PLANS.—A group health plan shall—

“(A) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries as of such date), and at least annually thereafter, the information described in subsection (b);

“(B) provide to participants and beneficiaries, within a reasonable period (as specified by the Secretary) before or after the date of significant changes in the information described in subsection (b), information on such significant changes; and

“(C) upon request, make available to participants and beneficiaries, the Secretary, and prospective participants and beneficiaries, the information described in subsection (b) or (c).

The plan may charge a reasonable fee for provision in printed form of any of the information described in subsection (b) or (c) more than once during any plan year.

“(2) HEALTH INSURANCE ISSUERS.—A health insurance issuer in connection with the provision of health insurance coverage shall—

“(A) provide to individuals enrolled under such coverage at the time of enrollment, and at least annually thereafter, the information described in subsection (b);

“(B) provide to enrollees, within a reasonable period (as specified by the Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

“(C) upon request, make available to the Secretary, to individuals who are prospective enrollees, and to the public the information described in subsection (b) or (c).

“(b) INFORMATION PROVIDED.—The information described in this subsection with respect to a group health plan or health insurance coverage offered by a health insurance issuer shall be provided to a participant, beneficiary, or enrollee free of charge at least once a year and includes the following:

“(1) SERVICE AREA.—The service area of the plan or issuer.

“(2) BENEFITS.—Benefits offered under the plan or coverage, including—

“(A) those that are covered benefits “(all of which shall be referred to by such relevant CPT and DRG codes as are available), limits and conditions on such benefits, and those benefits that are explicitly excluded from coverage (all of which shall be referred to by such relevant CPT and DRG codes as are available);

“(B) cost sharing, such as deductibles, coinsurance, and copayment amounts, including any liability for balance billing, any maximum limitations on out of pocket expenses, and the maximum out of pocket costs for services that are provided by nonparticipating providers or that are furnished without meeting the applicable utilization review requirements;

“(C) the extent to which benefits may be obtained from nonparticipating providers;

“(D) the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the types of providers participating in the plan or issuer network;

“(E) process for determining experimental coverage; and

“(F) use of a prescription drug formulary.

“(3) ACCESS.—A description of the following:

“(A) The number, mix, and distribution of providers under the plan or coverage.

“(B) Out-of-network coverage (if any) provided by the plan or coverage.

“(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

“(D) The procedures for participants, beneficiaries, and enrollees to select, access, and change participating primary and specialty providers.

“(E) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

“(F) The name, address, and telephone number of participating health care providers and an indication of whether each such provider is available to accept new patients.

“(G) Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section 2812(b)(2).

“(4) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan or issuer.

“(5) EMERGENCY COVERAGE.—Coverage of emergency services, including—

“(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

“(B) the process and procedures of the plan or issuer for obtaining emergency services; and

“(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care”.

“(6) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in noncoverage or nonpayment.

“(7) GRIEVANCE AND APPEALS PROCEDURES.—All appeal or grievance rights and procedures under the plan or coverage, including the method for filing grievances and the time frames and circumstances for acting on grievances and appeals, who is the applicable authority with respect to the plan or issuer.

“(8) ACCOUNTABILITY.—A description of the legal recourse options available for participants and beneficiaries under the plan including—

“(A) the preemption that applies under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) to certain actions arising out of the provision of health benefits; and

“(B) the extent to which coverage decisions made by the plan are subject to internal review or any external review and the proper time frames under

“(9) QUALITY ASSURANCE.—Any information made public by an accrediting organization in the process of accreditation of the plan or issuer or any additional quality indicators the plan or issuer makes available.

“(10) INFORMATION ON ISSUER.—Notice of appropriate mailing addresses and telephone numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

“(11) AVAILABILITY OF INFORMATION ON REQUEST.—Notice that the information described in subsection (c) is available upon request.

“(c) INFORMATION MADE AVAILABLE UPON REQUEST.—The information described in this subsection is the following:

“(1) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, time frames, and appeal rights) under any utilization review program under section 2801.

“(2) GRIEVANCE AND APPEALS INFORMATION.—Information on the number of grievances and appeals and on the disposition in the aggregate of such matters.

“(3) FORMULARY RESTRICTIONS.—A description of the nature of any drug formula restrictions.

“(4) PARTICIPATING PROVIDER LIST.—A list of current participating health care providers.

“(d) CONSTRUCTION.—Nothing in this section shall be construed as requiring public disclosure of individual contracts or financial arrangements between a group health plan or health insurance issuer and any provider.

“Subtitle D—Protecting the Doctor-Patient Relationship

“SEC. 2831. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

“(a) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

“(b) NULLIFICATION.—Any contract provision or agreement that restricts or prohibits medical communications in violation of subsection (a) shall be null and void.

“SEC. 2832. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSURE.

“(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

“(b) CONSTRUCTION.—Subsection (a) shall not be construed—

“(1) as requiring the coverage under a group health plan or health insurance coverage of particular benefits or services or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer;

“(2) to override any State licensure or scope-of-practice law;

“(3) as requiring a plan or issuer that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan or issuer; or

“(4) as prohibiting a family practice physician with appropriate expertise from providing pediatric or obstetrical or gynecological care.

“SEC. 2833. PROHIBITION AGAINST IMPROPER INCENTIVE ARRANGEMENTS.

“(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in clauses (i), (ii)(I), and (iii) of subparagraph (A) of such section are met with respect to such a plan.

“(b) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

“(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting all capitation and similar arrangements or all provider discount arrangements.

“SEC. 2834. PAYMENT OF CLEAN CLAIMS.

“A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for prompt payment of claims submitted for health care services or supplies furnished to a participant, beneficiary, or enrollee with respect to benefits covered by the plan or issuer,in a manner consistent with the provisions of sections 1816(c)(2) and 1842(c)(2) of the Social Security Act (42 U.S.C. 1395h(c)(2) and 42 U.S.C. 1395u(c)(2)), except that for purposes of this section, subparagraph (C) of section 1816(c)(2) of the Social Security Act shall be treated as applying to claims received from a participant, beneficiary, or enrollee as well as claims referred to in such subparagraph.

“Subtitle E—Definitions

“SEC. 2841. DEFINITIONS.

“(a) INCORPORATION OF GENERAL DEFINITIONS.—Except as otherwise provided, the provisions of section 2791 shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII.

“(b) ADDITIONAL DEFINITIONS.—For purposes of this title:

“(1) APPLICABLE AUTHORITY.—The term 'applicable authority' means—

“(A) in the case of a group health plan, the Secretary of Health and Human Services; and

“(B) in the case of a health insurance issuer with respect to a specific provision of this title, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

“(2) CLINICAL PEER.—The term 'clinical peer' means, with respect to a review or appeal, a practicing physician or other health care professional who holds a nonrestricted license and who is—

“(A) appropriately certified by a nationally recognized, peer reviewed accrediting body in the same or similar specialty as typically manages the medical condition, procedure, or treatment under review or appeal, or

“(B) is trained and experienced in managing such condition, procedure, or treatment,

and includes a pediatric specialist where appropriate; except that only a physician may be a clinical peer with respect to the review or appeal of treatment recommended or rendered by a physician.

“(3) ENROLLEE.—The term 'enrollee' means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

“(4) HEALTH CARE PROFESSIONAL.—The term 'health care professional' means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

“(5) HEALTH CARE PROVIDER.—The term 'health care provider' includes a physician or other health care professional, as well as an institutional or other facility or agency that provides health care services and that is licensed, accredited, or certified to provide health care items and services under applicable State law.

“(6) NETWORK.—The term 'network' means, with respect to a group health plan or health insurance issuer offering health insurance coverage, the participating health care professionals and providers through whom the plan or issuer provides health care items and services to participants, beneficiaries, or enrollees.

“(7) NONPARTICIPATING.—The term 'nonparticipating' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

“(8) PARTICIPATING.—The term 'participating' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

“(9) Physician.—The term ‘physician’ means an allopathic or osteopathic physician.

“(10) Practicing physician.—The term ‘practicing physician’ means a physician who is licensed in the State in which the physician furnishes professional services and who provides professional services to individual patients on average at least two full days per week.

“(11) Prior authorization.—The term ‘prior authorization’ means the process of obtaining prior approval from a health insurance issuer or group health plan for the provision or coverage of medical services.

“SEC. 2842. RULE OF CONSTRUCTION.

“(a) Continued Applicability of State Law With Respect to Health Insurance Issuers.—

“(1) In General.—Subject to paragraph (2), this title shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers except to the extent that such standard or requirement prevents the application of a requirement of this title.

“(2) Continued preemption with respect to group health plans.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974.

“(b) Definitions.—For purposes of this section:

“(1) State law.—The term ‘State law’ includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

“(2) State.—The term ‘State’ includes a State, the District of Columbia, the Northern Mariana Islands, any political subdivisions of a State or such Islands, or any agency or instrumentality of either.

“SEC. 2843. EXCLUSIONS.

“(a) No Benefit Requirements.—Nothing in this title shall be construed to require a group health plan or a health insurance issuer offering health insurance coverage to provide specific benefits under the terms of such plan or coverage, other than those provided under the terms of such plan or coverage.

“(b) Exclusion for Fee-for-Service Coverage.—

“(1) In general.—

“(A) Group health plans.—The provisions of sections 2811 through 2821 shall not apply to a group health plan if the only coverage offered under the plan is fee-for-service coverage (as defined in paragraph (2)).

“(B) Health insurance coverage.—The provisions of sections 2801 through 2821 shall not apply to health insurance coverage if the only coverage offered under the coverage is fee-for-service coverage (as defined in paragraph (2)).

“(2) Fee-for-service coverage defined.—For purposes of this subsection, the term ‘fee-for-service coverage’ means coverage under a group health plan or health insurance coverage that—

“(A) reimburses hospitals, health professionals, and other providers on a fee-for-service basis without placing the provider at financial risk;

“(B) does not vary reimbursement for such a provider based on an agreement to contract terms and conditions or the utilization of health care items or services relating to such provider;

“(C) allows access to any provider that is lawfully authorized to provide the covered services and agree to accept the terms and conditions of payment established under the plan or by the issuer; and

“(D) for which the plan or issuer does not require prior authorization before providing for any health care services.

“SEC. 2844. COVERAGE OF LIMITED SCOPE PLANS.

“Only for purposes of applying the requirements of this title under sections 2707 and 2753, section 2791(c)(2)(A) shall be deemed not to apply.

“SEC. 2845. REGULATIONS.

“The Secretary of Health and Human Services shall issue such regulations as may be necessary or appropriate to carry out this title under sections 2707 and 2753. The Secretary may promulgate such regulations in the form of interim final rules as may be necessary to carry out this title in a timely manner.

“SEC. 2846. LIMITATION ON APPLICATION OF PROVISIONS RELATING TO GROUP HEALTH PLANS.

“The requirements of this title shall apply with respect to group health plans only—

“(1) in the case of a plan that is a non-Federal governmental plan (as defined in section 2791(d)(8)(C)), and

“(2) with respect to health insurance coverage offered in connection with a group health plan (including such a plan that is a church plan or a governmental plan), except that subtitle A shall apply with respect to such coverage only to the extent it is offered in connection with a non-Federal governmental plan or a church plan.”.

TITLE II—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 201. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) In General.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

“SEC. 714. PATIENT PROTECTION STANDARDS.

“A group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of part 8 and such requirements shall be deemed to be incorporated into this section.”.

(b) Satisfaction of ERISA Claims Procedure Requirement.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting “(a)” after “Sec. 503.” and by adding at the end the following new subsection:

“(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of subpart A of part 8 in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial. For purposes of applying the previous sentence, the exceptions provided under section 732 shall be deemed to apply.”.

(c) Conforming Amendments.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking “section 711” and inserting “sections 711 and 714”.

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

“Sec. 714. Patient protection standards.”.

SEC. 202. IMPROVING MANAGED CARE.

(a) In General.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new part:

“Part 8—Improving Managed Care

“Subpart A—Grievance and Appeals

“SEC. 801. UTILIZATION REVIEW ACTIVITIES.

“(a) Compliance With Requirements.—

“(1) In general.—A group health plan, and a health insurance issuer that provides health insurance coverage in connection with such a plan, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section.

“(2) Use of outside agents.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

“(3) Utilization review defined.—For purposes of this section, the terms ‘utilization review’ and ‘utilization review activities’ mean procedures used to monitor or evaluate the use or coverage, clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

“(b) Written Policies and Criteria.—

“(1) Written policies.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

“(2) Use of written criteria.—

“(A) In general.—Such a program shall utilize written clinical review criteria developed with input from a range of appropriate practicing physicians, as determined by the plan, pursuant to the program. Such criteria shall include written clinical review criteria that are based on valid clinical evidence where available and that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate.

“(B) Continuing use of standards in retrospective review.—If a health care service has been specifically pre-authorized or approved for a participant or beneficiary under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the individual during the same course of treatment.

“(C) Review of sample of claims denials.—Such a program shall provide for periodic evaluation at reasonable intervals of the clinical appropriateness of a sample of denials of claims for benefits.

“(c) Conduct of Program Activities.—

“(1) Administration by health care professionals.—A utilization review program shall be administered by appropriate physician specialists who shall be selected by the plan or issuer and who shall oversee review decisions.

“(2) Use of qualified, independent personnel.—

“(A) In general.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and have received appropriate training in the conduct of such activities under the program.

“(B) Prohibition of contingent compensation arrangements.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that encourages denials of claims for benefits. This subparagraph shall not preclude any capitation arrangements between plans and providers.

“(C) Prohibition of conflicts.—Such a program shall not permit a health care professional who is providing health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

“(3) Accessibility of review.—Such a program shall provide that appropriate personnel performing utilization review activities under the program, including the utilization review administrator, are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

“(4) Limits on frequency.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary or appropriate.

“(d) Deadline for Determinations.—

“(1) Prior authorization services.—

“(A) In general.—Except as provided in paragraph (2), in the case of a utilization review activity involving the prior authorization of health care items and services for an individual, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed or electronic form, no later than the deadline specified in subparagraph (B). The provider involved shall provide timely access to information relevant to the matter of the review decision.

“(B) Deadline.—

“(i) In general.—Subject to clauses (ii) and (iii), the deadline specified in this subparagraph is 14 days after the earliest date as of which the request for prior authorization has been received and all necessary information has been provided.

“(ii) Extension permitted where notice of additional information required.—If a utilization review program—

“(I) receives a request for a prior authorization,

“(II) determines that additional information is necessary to complete the review and make the determination on the request,

“(III) notifies the requester, not later than 5 business days after the date of receiving the request, of the need for such specified additional information, and

“(IV) requires the requester to submit specified information not later than 2 business days after notification,

the deadline specified in this subparagraph is 14 days after the date the program receives the specified additional information, but in no case later than 28 days after the date of receipt of the request for the prior authorization. This clause shall not apply if the deadline is specified in clause (iii).

“(iii) Expedited cases.—In the case of a situation described in section 802(c)(1)(A), the deadline specified in this subparagraph is 48 hours after the time of the request for prior authorization.

“(2) Ongoing care.—

“(A) Concurrent review.—

“(i) In general.—Subject to subparagraph (B), in the case of a concurrent review of ongoing care (including hospitalization), which results in a termination or reduction of such care, the plan must provide by telephone and in printed or electronic form notice of the concurrent review determination to the individual or the individual's designee and the individual's health care provider as soon as possible in accordance with the medical exigencies of the case, with sufficient time prior to the termination or reduction to allow for an appeal under section 802(c)(1)(A) to be completed before the termination or reduction takes effect.

“(ii) Contents of notice.—Such notice shall include, with respect to ongoing health care items and services, the number of ongoing services approved, the new total of approved services, the date of onset of services, and the next review date, if any, as well as a statement of the individual's rights to further appeal.

“(B) Exception.—Subparagraph (A) shall not be interpreted as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

“(3) Previously provided services.—In the case of a utilization review activity involving retrospective review of health care services previously provided for an individual, the utilization review program shall make a determination concerning such services, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed or electronic form, within 30 days of the date of receipt of information that is reasonably necessary to make such determination, but in no case later than 60 days after the date of receipt of the claim for benefits.

“(4) Failure to meet deadline.—In a case in which a group health plan or health insurance issuer fails to make a determination on a claim for benefit under paragraph (1), (2)(A), or (3) by the applicable deadline established under the respective paragraph, the failure shall be treated under this subpart as a denial of the claim as of the date of the deadline.

“(5) Reference to special rules for emergency services, maintenance care, post-stabilization care, and emergency ambulance services.—For waiver of prior authorization requirements in certain cases involving emergency services, maintenance care and post-stabilization care, and emergency ambulance services, see subsections (a)(1), (b), and (c)(1) of section 813, respectively.

“(e) Notice of Denials of Claims for Benefits.—

“(1) In general.—Notice of a denial of claims for benefits under a utilization review program shall be provided in printed or electronic form and written in a manner calculated to be understood by the participant or beneficiary and shall include—

“(A) the reasons for the denial (including the clinical rationale);

“(B) instructions on how to initiate an appeal under section 802; and

“(C) notice of the availability, upon request of the individual (or the individual's designee) of the clinical review criteria relied upon to make such denial.

“(2) Specification of any additional information.—Such a notice shall also specify what (if any) additional necessary information must be provided to, or obtained by, the person making the denial in order to make a decision on such an appeal.

“(f) Claim for Benefits and Denial of Claim for Benefits Defined.—For purposes of this subpart:

“(1) Claim for benefits.—The term ‘claim for benefits’ means any request for coverage (including authorization of coverage), or for payment in whole or in part, for an item or service under a group health plan or health insurance coverage offered in connection with such a plan.

“(2) Denial of claim for benefits.—The term ‘denial’ means, with respect to a claim for benefits, a denial, or a failure to act on a timely basis upon, in whole or in part, the claim for benefits and includes a failure to provide or pay for benefits (including items and services) required to be provided or paid for under this part.

“SEC. 802. INTERNAL APPEALS PROCEDURES.

“(a) Right of Review.—

“(1) In general.—Each group health plan, and each health insurance issuer offering health insurance coverage in connection with such a plan—

“(A) shall provide adequate notice in written or electronic form to any participant or beneficiary under such plan whose claim for benefits under the plan or coverage has been denied (within the meaning of section 801(f)(2)), setting forth the specific reasons for such denial of claim for benefits and rights to any further review or appeal, written in layman's terms to be understood by the participant or beneficiary; and

“(B) shall afford such a participant or beneficiary (and any provider or other person acting on behalf of such an individual with the individual's consent or without such consent if the individual is medically unable to provide such consent) who is dissatisfied with such a denial of claim for benefits a reasonable opportunity of not less than 180 days to request and obtain a full and fair review by a named fiduciary (with respect to such plan) or named appropriate individual (with respect to such coverage) of the decision denying the claim.

“(2) Treatment of oral requests.—The request for review under paragraph (1)(B) may be made orally, but, in the case of an oral request, shall be followed by a request in written or electronic form.

“(b) Internal Review Process.—

“(1) Conduct of review.—

“(A) In general.—A review of a denial of claim under this section shall be made by an individual (who shall be a physician in a case involving medical judgment) who has been selected by the plan or issuer and who did not make the initial denial in the internally appealable decision, except that in the case of limited scope coverage (as defined in subparagraph (B)) an appropriate specialist shall review the decision.

“(B) Limited scope coverage defined.—For purposes of subparagraph (A), the term ‘limited scope coverage’ means a group health plan or health insurance coverage the only benefits under which are for benefits described in section 2791(c)(2)(A) of the Public Health Service Act (42 U.S.C. 300gg–91(c)(2)).

“(2) Time limits for internal reviews.—

"(A) IN GENERAL.—Having received such a request for review of a denial of claim, the plan or issuer shall, in accordance with the medical exigencies of the case but not later than the deadline specified in subparagraph (B), complete the review on the denial and transmit to the participant, beneficiary, or other person involved a decision that affirms, reverses, or modifies the denial. If the decision does not reverse the denial, the plan or issuer shall transmit, in printed or electronic form, a notice that sets forth the grounds for such decision and that includes a description of rights to any further appeal. Such decision shall be treated as the final decision of the plan. Failure to issue such a decision by such deadline shall be treated as a final decision affirming the denial of claim.

"(B) DEADLINE.—

"(i) IN GENERAL.—Subject to clauses (ii) and (iii), the deadline specified in this subparagraph is 14 days after the earliest date as of which the request for prior authorization has been received and all necessary information has been provided. The provider involved shall provide timely access to information relevant to the matter of the review decision.

"(ii) EXTENSION PERMITTED WHERE NOTICE OF ADDITIONAL INFORMATION REQUIRED.—If a group health plan or health insurance issuer—

"(I) receives a request for internal review,

"(II) determines that additional information is necessary to complete the review and make the determination on the request,

"(III) notifies the requester, not later than 5 business days after the date of receiving the request, of the need for such specified additional information, and

"(IV) requires the requester to submit specified information not later than 48 hours after notification,

the deadline specified in this subparagraph is 14 days after the date the plan or issuer receives the specified additional information, but in no case later than 28 days after the date of receipt of the request for the internal review. This clause shall not apply if the deadline is specified in clause (iii).

"(iii) EXPEDITED CASES.—In the case of a situation described in subsection (c)(1)(A), the deadline specified in this subparagraph is 48 hours after the time of request for review.

"(c) EXPEDITED REVIEW PROCESS.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer, shall establish procedures in writing for the expedited consideration of requests for review under subsection (b) in situations—

"(A) in which, as determined by the plan or issuer or as certified in writing by a treating physician, the application of the normal timeframe for making the determination could seriously jeopardize the life or health of the participant or beneficiary or such individual's ability to regain maximum function; or

"(B) described in section 801(d)(2) (relating to requests for continuation of ongoing care which would otherwise be reduced or terminated).

"(2) PROCESS.—Under such procedures—

"(A) the request for expedited review may be submitted orally or in writing by an individual or provider who is otherwise entitled to request the review;

"(B) all necessary information, including the plan's or issuer's decision, shall be transmitted between the plan or issuer and the requester by telephone, facsimile, or other similarly expeditious available method; and

"(C) the plan or issuer shall expedite the review in the case of any of the situations described in subparagraph (A) or (B) of paragraph (1).

"(3) DEADLINE FOR DECISION.—The decision on the expedited review must be made and communicated to the parties as soon as possible in accordance with the medical exigencies of the case, and in no event later than 48 hours after the time of receipt of the request for expedited review, except that in a case described in paragraph (1)(B), the decision must be made before the end of the approved period of care.

"(d) WAIVER OF PROCESS.—A plan or issuer may waive its rights for an internal review under subsection (b). In such case the participant or beneficiary involved (and any designee or provider involved) shall be relieved of any obligation to complete the review involved and may, at the option of such participant, beneficiary, designee, or provider, proceed directly to seek further appeal through any applicable external appeals process.

"SEC. 803. EXTERNAL APPEALS PROCEDURES.

"(a) RIGHT TO EXTERNAL APPEAL.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with such a plan, shall provide for an external appeals process that meets the requirements of this section in the case of an externally appealable decision described in paragraph (2), for which a timely appeal is made (within a reasonable period not to exceed 365 days) either by the plan or issuer or by the participant or beneficiary (and any provider or other person acting on behalf of such an individual with the individual's consent or without such consent if such an individual is medically unable to provide such consent).

"(2) EXTERNALLY APPEALABLE DECISION DEFINED.—

"(A) IN GENERAL.—For purposes of this section, the term 'externally appealable decision' means a denial of claim for benefits (as defined in section 801(f)(2)), if—

"(i) the item or service involved is covered under the plan or coverage,

"(ii) the amount involved exceeds $100, increased or decreased, for each calendar year that ends after December 31, 2001, by the same percentage as the percentage by which the medical care expenditure category of the Consumer Price Index for All Urban Consumers (United States city average), published by the Bureau of Labor Statistics, for September of the preceding calendar year has increased or decreased from such index for September 2000, and

"(iii) the requirements of subparagraph (B) are met with respect to such denial.

Such term also includes a failure to meet an applicable deadline for internal review under section 802 or such standards as are established pursuant to section 818.

"(B) REQUIREMENTS.—For purposes of subparagraph (A)(iii), the requirements of this subparagraph are met with respect to a denial of a claim for benefits if—

"(i) the denial is based in whole or in part on a decision that the item or service is not medically necessary or appropriate or is investigational or experimental, or

"(ii) in such denial, the decision as to whether an item or service is covered involves a medical judgment.

"(C) EXCLUSIONS.—The term 'externally appealable decision' does not include—

"(i) specific exclusions or express limitations on the amount, duration, or scope of coverage; or

"(ii) a decision regarding eligibility for any benefits.

"(3) EXHAUSTION OF INTERNAL REVIEW PROCESS.—Except as provided under section 802(d), a plan or issuer may condition the use of an external appeal process in the case of an externally appealable decision upon a final decision in an internal review under section 802, but only if the decision is made in a timely basis consistent with the deadlines provided under this subpart.

"(4) FILING FEE REQUIREMENT.—

"(A) IN GENERAL.—A plan or issuer may condition the use of an external appeal process upon payment in advance to the plan or issuer of a $25 filing fee.

"(B) REFUNDING FEE IN CASE OF SUCCESSFUL APPEALS.—The plan or issuer shall refund payment of the filing fee under this paragraph if the recommendation of the external appeal entity is to reverse the denial of a claim for benefits which is the subject of the appeal.

"(b) GENERAL ELEMENTS OF EXTERNAL APPEALS PROCESS.—

"(1) USE OF QUALIFIED EXTERNAL APPEAL ENTITY.—

"(A) IN GENERAL.—The external appeal process under this section of a plan or issuer shall be conducted between the plan or issuer and one or more qualified external appeal entities (as defined in subsection (c)). Nothing in this subsection shall be construed as requiring that such procedures provide for the selection for any plan of more than one such entity.

"(B) LIMITATION ON PLAN OR ISSUER SELECTION.—The Secretary shall implement procedures to assure that the selection process among qualified external appeal entities will not create any incentives for external appeal entities to make a decision in a biased manner.

"(C) OTHER TERMS AND CONDITIONS.—The terms and conditions of this paragraph shall be consistent with the standards the Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external appeal activities. All costs of the process (except those incurred by the participant, beneficiary, or treating professional in support of the appeal) shall be paid by the plan or issuer, and not by the participant or beneficiary. The previous sentence shall not be construed as applying to the imposition of a filing fee under subsection (a)(4).

"(2) ELEMENTS OF PROCESS.—An external appeal process shall be conducted consistent with standards established by the Secretary that include at least the following:

"(A) FAIR AND DE NOVO DETERMINATION.—The process shall provide for a fair, de novo determination described in subparagraph (B) based on evidence described in subparagraphs (C) and (D).

"(B) STANDARD OF REVIEW.—An external appeal entity shall determine whether the plan's or issuer's decision is appropriate for the medical condition of the patient involved (as determined by the entity) taking into account as of the time of the entity's determination the patient's medical condition and any relevant and reliable evidence the entity obtains under subparagraphs (C) and (D). If the entity determines the decision is appropriate for such condition, the entity shall affirm the decision and to the extent that the entity determines the decision is not appropriate for such condition, the entity shall reverse the decision. Nothing in this subparagraph shall be construed as providing for coverage of items or services not provided or covered by the plan or issuer.

"(C) REQUIRED CONSIDERATION OF CERTAIN MATTERS.—In making such determination, the external appeal entity shall consider, but not be bound by—

“(i) any language in the plan or coverage document relating to the definitions of the terms medical necessity, medically necessary or appropriate, or experimental, investigational, or related terms;

“(ii) the decision made by the plan or issuer upon internal review under section 802 and any guidelines or standards used by the plan or issuer in reaching such decision; and

“(iii) the opinion of the individual's treating physician or health care professional.

The entity also shall consider any personal health and medical information supplied with respect to the individual whose denial of claim for benefits has been appealed. The entity also shall consider the results of studies that meet professionally recognized standards of validity and replicability or that have been published in peer-reviewed journals.

“(D) ADDITIONAL EVIDENCE.—Such entity may also take into consideration but not be limited to the following evidence (to the extent available):

“(i) The results of professional consensus conferences.

“(ii) Practice and treatment policies.

“(iii) Community standard of care.

“(iv) Generally accepted principles of professional medical practice consistent with the best practice of medicine.

“(v) To the extent that the entity determines it to be free of any conflict of interest, the opinions of individuals who are qualified as experts in one or more fields of health care which are directly related to the matters under appeal.

“(vi) To the extent that the entity determines it to be free of any conflict of interest, the results of peer reviews conducted by the plan or issuer involved.

“(E) DETERMINATION CONCERNING EXTERNALLY APPEALABLE DECISIONS.—

“(i) IN GENERAL.—A qualified external appeal entity shall determine—

“(I) whether a denial of claim for benefits is an externally appealable decision (within the meaning of subsection (a)(2));

“(II) whether an externally appealable decision involves an expedited appeal;

“(III) for purposes of initiating an external review, whether the internal review process has been completed; and

“(IV) whether the item or services is covered under the plan or coverage.

“(ii) CONSTRUCTION.—Nothing in a determination by a qualified external appeal entity under this section shall be construed as authorizing, or providing for, coverage of items and services for which benefits are not provided under the plan or coverage.

“(F) OPPORTUNITY TO SUBMIT EVIDENCE.—Each party to an externally appealable decision may submit evidence related to the issues in dispute.

“(G) PROVISION OF INFORMATION.—The plan or issuer involved shall provide to the external appeal entity timely access to information and to provisions of the plan or health insurance coverage relating to the matter of the externally appealable decision, as determined by the entity. The provider involved shall provide to the external appeal entity timely access to information relevant to the matter of the externally appealable decision, as determined by the entity.

“(H) TIMELY DECISIONS.—A determination by the external appeal entity on the decision shall—

“(i) be made orally or in written or electronic form and, if it is made orally, shall be supplied to the parties in written or electronic form as soon as possible;

“(ii) be made in accordance with the medical exigencies of the case involved, but in no event later than 21 days after the date (or, in the case of an expedited appeal, 48 hours after the time) of requesting an external appeal of the decision;

“(iii) state, in layperson's language, the scientific rationale for such determination as well as the basis for such determination, including, if relevant, any basis in the terms or conditions of the plan or coverage; and

“(iv) inform the participant or beneficiary of the individual's rights (including any limitation on such rights) to seek binding arbitration or further review by the courts (or other process) of the external appeal determination.

“(I) COMPLIANCE WITH DETERMINATION.—If the external appeal entity determines that a denial of a claim for benefits was not reasonable and reverses the denial, the plan or issuer—

“(i) shall (upon the receipt of the determination) authorize benefits in accordance with such determination;

“(ii) shall take such actions as may be necessary to provide benefits (including items or services) in a timely manner consistent with such determination; and

“(iii) shall submit information to the entity documenting compliance with the entity's determination and this subparagraph.

“(J) CONSTRUCTION.—Nothing in this paragraph shall be construed as providing for coverage of items and services for which benefits are not provided under the plan or coverage.

“(c) QUALIFICATIONS OF EXTERNAL APPEAL ENTITIES.—

“(1) IN GENERAL.—For purposes of this section, the term ‘qualified external appeal entity’ means, in relation to a plan or issuer, an entity that is certified under paragraph (2) as meeting the following requirements:

“(A) The entity meets the independence requirements of paragraph (3).

“(B) The entity conducts external appeal activities through at least three clinical peers who are practicing physicians.

“(C) The entity has sufficient medical, legal, and other expertise and sufficient staffing to conduct external appeal activities for the plan or issuer on a timely basis consistent with subsection (b)(2)(G).

“(2) INITIAL CERTIFICATION OF EXTERNAL APPEAL ENTITIES.—

“(A) IN GENERAL.—In order to be treated as a qualified external appeal entity with respect to a group health plan or a health insurance issuer in connection with a group health plan, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified), under such standards as may be prescribed by the Secretary, as meeting the requirements of paragraph (1)—

“(i) by the Secretary;

“(ii) under a process recognized or approved by the Secretary; or

“(iii) to the extent provided in subparagraph (C)(i), by a qualified private standard-setting organization (certified under such subparagraph), if elected by the entity.

“(B) RECERTIFICATION PROCESS.—The Secretary shall develop standards for the recertification of external appeal entities. Such standards shall include a review of—

“(i) the number of cases reviewed;

“(ii) a summary of the disposition of those cases;

“(iii) the length of time in making determinations on those cases;

“(iv) updated information of what was required to be submitted as a condition of certification for the entity's performance of external appeal activities; and

“(v) information necessary to assure that the entity meets the independence requirements (described in paragraph (3)) with respect to plans and issuers for which it conducts external review activities.

“(C) CERTIFICATION OF QUALIFIED PRIVATE STANDARD-SETTING ORGANIZATIONS.—For purposes of subparagraph (A)(iii), the Secretary shall provide for a process for certification (and periodic recertification) of qualified private standard-setting organizations which provide for certification of external appeal entities. Such an organization shall only be certified if the organization does not certify an external appeal entity unless it meets standards at least as stringent as the standards required for certification of such an entity by the Secretary under subparagraph (A)(i).

“(D) CONSTRUCTION.—Nothing in subparagraph (A) shall be construed as permitting the Secretary to delegate certification or regulatory authority under clause (i) of such subparagraph to any person outside the Department of Labor.

“(3) INDEPENDENCE REQUIREMENTS.—

“(A) IN GENERAL.—A clinical peer or other entity meets the independence requirements of this paragraph if—

“(i) the peer or entity is not affiliated with any related party;

“(ii) any compensation received by such peer or entity in connection with the external review is reasonable and not contingent on any decision rendered by the peer or entity;

“(iii) the plan and the issuer (if any) have no recourse against the peer or entity in connection with the external review; and

“(iv) the peer or entity does not otherwise have a conflict of interest with a related party.

“(B) RELATED PARTY.—For purposes of this paragraph, the term ‘related party’ means—

“(i) a group health plan or health insurance coverage offered in connection with such a plan, the plan or the health insurance issuer offering such coverage, or any plan sponsor, fiduciary, officer, director, or management employee of such plan or issuer;

“(ii) the health care professional that provided the health care involved in the coverage decision;

“(iii) the institution at which the health care involved in the coverage decision is provided; or

“(iv) the manufacturer of any drug or other item that was included in the health care involved in the coverage decision.

“(C) AFFILIATED.—For purposes of this paragraph, the term ‘affiliated’ means, in connection with any peer or entity, having a familial, financial, or fiduciary relationship with such peer or entity.

“(4) LIMITATION ON LIABILITY OF REVIEWERS.—No qualified external appeal entity having a contract with a plan or issuer under this part and no person who is employed by any such entity or who furnishes professional services to such entity, shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if due care was exercised in the performance of such duty, function, or activity and there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

“(d) EXTERNAL APPEAL DETERMINATION BINDING ON PLAN.—

"(1) In general.—The determination by an external appeal entity shall be binding on the plan (and issuer, if any) involved in the determination.

"(2) Protection of legal rights.—Nothing in this subpart shall be construed as removing any legal rights of participants, beneficiaries, and others under State or Federal law, including the right to file judicial actions to enforce rights.

"(e) Penalties Against Authorized Officials for Refusing to Authorize the Determination of an External Appeal Entity.—

"(1) Monetary penalties.—In any case in which the determination of an external appeal entity is not followed in a timely fashion by a group health plan, or by a health insurance issuer offering health insurance coverage in connection with such a plan, any named fiduciary who, acting in the capacity of authorizing the benefit, causes such refusal may, in the discretion in a court of competent jurisdiction, be liable to an aggrieved participant or beneficiary for a civil penalty in an amount of up to $1,000 a day from the date on which the determination was transmitted to the plan or issuer by the external appeal entity until the date the refusal to provide the benefit is corrected.

"(2) Cease and desist order and order of attorney's fees.—In any action described in paragraph (1) brought by a participant or beneficiary with respect to a group health plan, or a health insurance issuer offering health insurance coverage in connection with such a plan, in which a plaintiff alleges that a person referred to in such paragraph has taken an action resulting in a refusal of a benefit determined by an external appeal entity in violation of such terms of the plan, coverage, or this subpart, or has failed to take an action for which such person is responsible under the plan, coverage, or this part and which is necessary under the plan or coverage for authorizing a benefit, the court shall cause to be served on the defendant an order requiring the defendant—

"(A) to cease and desist from the alleged action or failure to act; and

"(B) to pay to the plaintiff a reasonable attorney's fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

"(f) Protection of Legal Rights.—Nothing in this subpart shall be construed as removing or limiting any legal rights of participants, beneficiaries, and others under State or Federal law (including section 502), including the right to file judicial actions to enforce rights.

"SEC. 804. ESTABLISHMENT OF A GRIEVANCE PROCESS.

"(a) Establishment of Grievance System.—

"(1) In general.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage in connection with such a plan, shall establish and maintain a system to provide for the presentation and resolution of oral and written grievances brought by individuals who are participants or beneficiaries or health care providers or other individuals acting on behalf of an individual and with the individual's consent or without such consent if the individual is medically unable to provide such consent, regarding any aspect of the plan's or issuer's services.

"(2) Grievance defined.—In this section, the term 'grievance' means any question, complaint, or concern brought by a participant or beneficiary that is not a claim for benefits.

"(b) Grievance System.—Such system shall include the following components with respect to individuals who are participants or beneficiaries:

"(1) Written notification to all such individuals and providers of the telephone numbers and business addresses of the plan or issuer personnel responsible for resolution of grievances and appeals.

"(2) A system to record and document, over a period of at least 3 previous years beginning two months after the date of the enactment of this Act, all grievances and appeals made and their status.

"(3) A process providing processing and resolution of grievances within 60 days.

"(4) Procedures for follow-up action, including the methods to inform the person making the grievance of the resolution of the grievance.

Grievances are not subject to appeal under the previous provisions of this subpart.

"Subpart B—Access to Care

"SEC. 812. CHOICE OF HEALTH CARE PROFESSIONAL.

"(a) Primary Care.—If a group health plan, or a health insurance issuer that offers health insurance coverage in connection with such a plan, requires or provides for designation by a participant or beneficiary of a participating primary care provider, then the plan or issuer shall permit each participant and beneficiary to designate any participating primary care provider who is available to accept such individual.

"(b) Specialists.—A group health plan and a health insurance issuer that offers health insurance coverage in connection with such a plan shall permit each participant or beneficiary to receive medically necessary or appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care professional who is available to accept such individual for such care.

"SEC. 813. ACCESS TO EMERGENCY CARE.

"(a) Coverage of Emergency Services.—

"(1) In general.—If a group health plan, or health insurance coverage offered by a health insurance issuer in connection with such a plan, provides or covers any benefits with respect to services in an emergency department of a hospital, the plan or issuer shall cover emergency services (as defined in paragraph (2)(B))—

"(A) without the need for any prior authorization determination;

"(B) whether the health care provider furnishing such services is a participating provider with respect to such services;

"(C) in a manner so that, if such services are provided to a participant or beneficiary—

"(i) by a nonparticipating health care provider with or without prior authorization, or

"(ii) by a participating health care provider without prior authorization,

the participant or beneficiary is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization; and

"(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

"(2) Definitions.—In this section:

"(A) Emergency medical condition.—The term 'emergency medical condition' means—

"(i) a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act; and

"(ii) a medical condition manifesting itself in a neonate by acute symptoms of sufficient severity (including severe pain) such that a prudent health care professional could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

"(B) Emergency services.—The term 'emergency services' means—

"(i) with respect to an emergency medical condition described in subparagraph (A)(i)—

"(I) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate such emergency medical condition, and

"(II) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient; or

"(ii) with respect to an emergency medical condition described in subparagraph (A)(ii), medical treatment for such condition rendered by a health care provider in a hospital to a neonate, including available hospital ancillary services in response to an urgent request of a health care professional and to the extent necessary to stabilize the neonate.

"(C) Stabilize.—The term 'to stabilize' means, with respect to an emergency medical condition, to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility.

"(b) Reimbursement for Maintenance Care and Post-Stabilization Care.—If benefits are available under a group health plan, or under health insurance coverage offered by a health insurance issuer in connection with such a plan, with respect to maintenance care or post-stabilization care covered under the guidelines established under section 1852(d)(2) of the Social Security Act, the plan or issuer shall provide for reimbursement with respect to such services provided to a participant or beneficiary other than through a participating health care provider in a manner consistent with subsection (a)(1)(C) (and shall otherwise comply with such guidelines).

"(c) Coverage of Emergency Ambulance Services.—

"(1) In general.—If a group health plan, or health insurance coverage provided by a health insurance issuer in connection with such a plan, provides any benefits with respect to ambulance services and emergency services, the plan or issuer shall cover emergency ambulance services (as defined in paragraph (2))) furnished under the plan or coverage under the same terms and conditions under subparagraphs (A) through (D) of subsection (a)(1) under which coverage is provided for emergency services.

"(2) Emergency ambulance services.—For purposes of this subsection, the term 'emergency ambulance services' means ambulance services (as defined for purposes of section 1861(s)(7) of the Social Security Act) furnished to transport an individual who has an emergency medical condition (as defined in subsection (a)(2)(A)) to a hospital for the receipt of emergency services (as defined in subsection (a)(2)(B)) in a case in which the emergency services are covered under the plan or coverage pursuant to subsection (a)(1) and a prudent layperson, with an average knowledge of health and medicine, could reasonably expect that the absence of such transport would result in placing the health of the individual in serious jeopardy, serious impairment of bodily function, or serious dysfunction of any bodily organ or part.

“SEC. 814. ACCESS TO SPECIALTY CARE.

“(a) SPECIALTY CARE FOR COVERED SERVICES.—

“(1) IN GENERAL.—If—

“(A) an individual is a participant or beneficiary under a group health plan or is covered under health insurance coverage offered by a health insurance issuer in connection with such a plan,

“(B) the individual has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist or the individual requires physician pathology services, and

“(C) benefits for such treatment or services are provided under the plan or coverage,

the plan or issuer shall make or provide for a referral to a specialist who is available and accessible (consistent with standards developed under section 818) to provide the treatment for such condition or disease or to provide such services.

“(2) SPECIALIST DEFINED.—For purposes of this subsection, the term ‘specialist’ means, with respect to a condition or services, a health care practitioner, facility, or center or physician pathologist that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise and in the case of a pregnant woman, appropriate obstetrical expertise) to provide high quality care in treating the condition or to provide physician pathology services.

“(3) CARE UNDER REFERRAL.—A group health plan or health insurance issuer may require that the care provided to an individual pursuant to such referral under paragraph (1) with respect to treatment be—

“(A) pursuant to a treatment plan, only if the treatment plan is developed by the specialist and approved by the plan or issuer, in consultation with the designated primary care provider or specialist and the individual (or the individual's designee), and

“(B) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

Nothing in this subsection shall be construed as preventing such a treatment plan for an individual from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

“(4) REFERRALS TO PARTICIPATING PROVIDERS.—A group health plan or health insurance issuer is not required under paragraph (1) to provide for a referral to a specialist that is not a participating provider, unless the plan or issuer does not have a specialist that is available and accessible to treat the individual's condition or provide physician pathology services and that is a participating provider with respect to such treatment or services.

“(5) REFERRALS TO NONPARTICIPATING PROVIDERS.—In a case in which a referral of an individual to a nonparticipating specialist is required under paragraph (1), the group health plan or health insurance issuer shall provide the individual the option of at least three nonparticipating specialists.

“(6) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a plan or issuer refers an individual to a nonparticipating specialist pursuant to paragraph (1), services provided pursuant to the approved treatment plan (if any) shall be provided at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist that is a participating provider.

“(b) SPECIALISTS AS GATEKEEPER FOR TREATMENT OF ONGOING SPECIAL CONDITIONS.—

“(1) IN GENERAL.—A group health plan, or a health insurance issuer, in connection with the provision of health insurance coverage in connection with such a plan, shall have a procedure by which an individual who is a participant or beneficiary and who has an ongoing special condition (as defined in paragraph (3)) may request and receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's care with respect to the condition. Under such procedures if such an individual's care would most appropriately be coordinated by such a specialist, such plan or issuer shall refer the individual to such specialist.

“(2) TREATMENT FOR RELATED REFERRALS.—Such specialists shall be permitted to treat the individual without a referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment (referred to in subsection (a)(3)(A)) with respect to the ongoing special condition.

“(3) ONGOING SPECIAL CONDITION DEFINED.—In this subsection, the term ‘ongoing special condition’ means a condition or disease that—

“(A) is life-threatening, degenerative, or disabling, and

“(B) requires specialized medical care over a prolonged period of time.

“(4) TERMS OF REFERRAL.—The provisions of paragraphs (3) through (5) of subsection (a) apply with respect to referrals under paragraph (1) of this subsection in the same manner as they apply to referrals under subsection (a)(1).

“(5) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing an individual who is a participant or beneficiary and who has an ongoing special condition from having the individual's primary care physician assume the responsibilities for providing and coordinating care described in paragraph (1).

“(c) STANDING REFERRALS.—

“(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage in connection with such a plan, shall have a procedure by which an individual who is a participant or beneficiary and who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the plan or issuer, or if the primary care provider in consultation with the medical director of the plan or issuer and the specialist (if any), determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to such a specialist if the individual so desires.

“(2) TERMS OF REFERRAL.—The provisions of paragraphs (3) through (5) of subsection (a) apply with respect to referrals under paragraph (1) of this subsection in the same manner as they apply to referrals under subsection (a)(1).

“SEC. 815. ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

“(a) IN GENERAL.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage in connection with such a plan, requires or provides for a participant or beneficiary to designate a participating primary care health care professional, the plan or issuer—

“(1) may not require authorization or a referral by the individual's primary care health care professional or otherwise for covered gynecological care (including preventive women's health examinations) or for covered pregnancy-related services provided by a participating physician (including a family practice physician) who specializes or is trained and experienced in gynecology or obstetrics, respectively, to the extent such care is otherwise covered; and

“(2) shall treat the ordering of other gynecological or obstetrical care by such a participating physician as the authorization of the primary care health care professional with respect to such care under the plan or coverage.

“(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to—

“(1) waive any exclusions of coverage under the terms of the plan with respect to coverage of gynecological or obstetrical care;

“(2) preclude the group health plan or health insurance issuer involved from requiring that the gynecologist or obstetrician notify the primary care health care professional or the plan of treatment decisions; or

“(3) prevent a plan or issuer from offering, in addition to physicians described in subsection (a)(1), non-physician health care professionals who are trained and experienced in gynecology or obstetrics.

“SEC. 816. ACCESS TO PEDIATRIC CARE.

“(a) PEDIATRIC CARE.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage in connection with such a plan, requires or provides for a participant or beneficiary to designate a participating primary care provider for a child of such individual, the plan or issuer shall permit the participant or beneficiary to designate a physician (including a family practice physician) who specializes or is trained and experienced in pediatrics as the child's primary care provider.

“(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to waive any exclusions of coverage under the terms of the plan with respect to coverage of pediatric care.

“SEC. 817. CONTINUITY OF CARE.

“(a) IN GENERAL.—

“(1) TERMINATION OF PROVIDER.—If a contract between a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage in connection with such a plan, and a health care provider is terminated (as defined in paragraph (3)(B)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who is a participant or beneficiary in the plan or coverage is undergoing treatment from the provider for an ongoing special condition (as defined in paragraph (3)(A)) at the time of such termination, the plan or issuer shall—

“(A) notify the individual on a timely basis of such termination and of the right to elect continuation of coverage of treatment by the provider under this section; and

"(B) subject to subsection (c), permit the individual to elect to continue to be covered with respect to treatment by the provider of such condition during a transitional period (provided under subsection (b)).

"(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

"(3) DEFINITIONS.—For purposes of this section:

"(A) ONGOING SPECIAL CONDITION.—The term 'ongoing special condition' has the meaning given such term in section 814(b)(3), and also includes pregnancy.

"(B) TERMINATION.—The term 'terminated' includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

"(b) TRANSITIONAL PERIOD.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the transitional period under this subsection shall extend up to 90 days (as determined by the treating health care professional) after the date of the notice described in subsection (a)(1)(A) of the provider's termination.

"(2) SCHEDULED SURGERY AND ORGAN TRANSPLANTATION.—If surgery or organ transplantation was scheduled for an individual before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such surgery or transplantation, the transitional period under this subsection with respect to the surgery or transplantation shall extend beyond the period under paragraph (1) and until the date of discharge of the individual after completion of the surgery or transplantation.

"(3) PREGNANCY.—If—

"(A) a participant or beneficiary was determined to be pregnant at the time of a provider's termination of participation, and

"(B) the provider was treating the pregnancy before date of the termination,

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

"(4) TERMINAL ILLNESS.—If—

"(A) a participant or beneficiary was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, and

"(B) the provider was treating the terminal illness before the date of termination, the transitional period under this subsection shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness or its medical manifestations.

"(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the individual notifying the plan of the election of continued coverage and upon the provider agreeing to the following terms and conditions:

"(1) The provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

"(2) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

"(3) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

"(d) CONSTRUCTION.—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

"SEC. 818. NETWORK ADEQUACY.

"(a) REQUIREMENT.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with such a plan, shall meet such standards for network adequacy as are established by law pursuant to this section.

"(b) DEVELOPMENT OF STANDARDS.—

"(1) ESTABLISHMENT OF PANEL.—There is established a panel to be known as the Health Care Panel to Establish Network Adequacy Standards (in this section referred to as the 'Panel').

"(2) DUTIES OF PANEL.—The Panel shall devise standards for group health plans and health insurance issuers that offer health insurance coverage in connection with such a plan to ensure that—

"(A) participants and beneficiaries have access to a sufficient number, mix, and distribution of health care professionals and providers; and

"(B) covered items and services are available and accessible to each participant and beneficiary—

"(i) in the service area of the plan or issuer;

"(ii) at a variety of sites of service;

"(iii) with reasonable promptness (including reasonable hours of operation and after hours services);

"(iv) with reasonable proximity to the residences or workplaces of participants and beneficiaries; and

"(v) in a manner that takes into account the diverse needs of such individuals and reasonably assures continuity of care.

"(c) MEMBERSHIP.—

"(1) SIZE AND COMPOSITION.—The Panel shall be composed of 15 members. The Secretary of Health and Human Services, the Majority Leader of the Senate, and the Speaker of House of Representatives shall each appoint 1 member from representatives of private insurance organizations, consumer groups, State insurance commissioners, State medical societies, and State medical specialty societies.

"(2) TERMS OF APPOINTMENT.—The members of the Panel shall serve for the life of the Panel.

"(3) VACANCIES.—A vacancy in the Panel shall not affect the power of the remaining members to execute the duties of the Panel, but any such vacancy shall be filled in the same manner in which the original appointment was made.

"(d) PROCEDURES.—

"(1) MEETINGS.—The Panel shall meet at the call of a majority of its members.

"(2) FIRST MEETING.—The Panel shall convene not later than 60 days after the date of the enactment of the Health Care Quality and Choice Act of 1999.

"(3) QUORUM.—A quorum shall consist of a majority of the members of the Panel.

"(4) HEARINGS.—For the purpose of carrying out its duties, the Panel may hold such hearings and undertake such other activities as the Panel determines to be necessary to carry out its duties.

"(e) ADMINISTRATION.—

"(1) COMPENSATION.—Except as provided in paragraph (1), members of the Panel shall receive no additional pay, allowances, or benefits by reason of their service on the Panel.

"(2) TRAVEL EXPENSES AND PER DIEM.—Each member of the Panel who is not an officer or employee of the Federal Government shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

"(3) CONTRACT AUTHORITY.—The Panel may contract with and compensate government and private agencies or persons for items and services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

"(4) USE OF MAILS.—The Panel may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

"(5) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Panel, the Secretary of Health and Human Services shall provide to the Panel on a reimbursable basis such administrative support services as the Panel may request.

"(f) REPORT AND ESTABLISHMENT OF STANDARDS.—Not later than 2 years after the first meeting, the Panel shall submit a report to Congress and the Secretary of Health and Human Services detailing the standards devised under subsection (b) and recommendations regarding the implementation of such standards. Such standards shall take effect to the extent provided by Federal law enacted after the date of the submission of such report.

"(g) TERMINATION.—The Panel shall terminate on the day after submitting its report to the Secretary of Health and Human Services under subsection (f).

"SEC. 819. ACCESS TO EXPERIMENTAL OR INVESTIGATIONAL PRESCRIPTION DRUGS.

"No use of a prescription drug or medical device shall be considered experimental or investigational under a group health plan or under health insurance coverage provided by a health insurance issuer in connection with such a plan if such use is included in the labeling authorized by the U.S. Food and Drug Administration under section 505, 513 or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or under section 351 of the Public Health Service Act (42 U.S.C. 262), unless such use is demonstrated to be unsafe or ineffective.

“SEC. 820. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CANCER CLINICAL TRIALS.

“(a) Coverage.—

“(1) In general.—If a group health plan (or a health insurance issuer offering health insurance coverage in connection with such a plan) provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

“(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

“(B) subject to subsections (b), (c), and (d), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

“(C) may not discriminate against the individual on the basis of the individual's participation in such trial.

“(2) Exclusion of certain costs.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

“(3) Use of in-network providers.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

“(b) Qualified Individual Defined.—For purposes of subsection (a), the term ‘qualified individual’ means an individual who is a participant or beneficiary in a group health plan who meets the following conditions:

“(1)(A) The individual has been diagnosed with cancer.

“(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

“(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

“(2) Either—

“(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

“(B) the individual provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

“(c) Payment.—

“(1) In general.—Under this section a group health plan (or health insurance issuer offering health insurance) shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected to be paid for by the sponsors of an approved clinical trial.

“(2) Routine patient care costs.—For purposes of this section—

“(A) In general.—The term ‘routine patient care costs’ includes the costs associated with the provision of items and services that—

“(i) would otherwise be covered under the group health plan if such items and services were not provided in connection with an approved clinical trial program; and

“(ii) are furnished according to the protocol of an approved clinical trial program.

“(B) Exclusion.—Such term does include the costs associated with the provision of—

“(i) an investigational drug or device, unless the Secretary has authorized the manufacturer of such drug or device to charge for such drug or device; or

“(ii) any item or service supplied without charge by the sponsor of the approved clinical trial program.

“(3) Payment rate.—In the case of covered items and services provided by—

“(A) a participating provider, the payment rate shall be at the agreed upon rate, or

“(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable items or services under subparagraph (A).

“(d) Approved Clinical Trial Defined.—In this section, the term ‘approved clinical trial’ means a cancer clinical research study or cancer clinical investigation approved by an Institutional Review Board.

“(e) Construction.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

“(f) Plan Satisfaction of Certain Requirements; Responsibilities of Fiduciaries.—

“(1) In general.—For purposes of this section, insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the requirements of this section with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer.

“(2) Construction.—Nothing in this section shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

“Subpart C—Access to Information

“SEC. 821. PATIENT ACCESS TO INFORMATION.

“(a) Disclosure Requirement.—

“(1) Group health plans.—A group health plan shall—

“(A) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries as of such date), and at least annually thereafter, the information described in subsection (b);

“(B) provide to participants and beneficiaries, within a reasonable period (as specified by the Secretary) before or after the date of significant changes in the information described in subsection (b), information on such significant changes; and

“(C) upon request, make available to participants and beneficiaries, the Secretary, and prospective participants and beneficiaries, the information described in subsection (b) or (c).

The plan may charge a reasonable fee for provision in printed form of any of the information described in subsection (b) or (c) more than once during any plan year.

“(2) Health insurance issuers.—A health insurance issuer in connection with the provision of health insurance coverage in connection with a group health plan shall—

“(A) provide to participants and beneficiaries enrolled under such coverage at the time of enrollment, and at least annually thereafter, the information described in subsection (b);

“(B) provide to such participants and beneficiaries, within a reasonable period (as specified by the Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

“(C) upon request, make available to the Secretary, to individuals who are prospective participants and beneficiaries, and to the public the information described in subsection (b) or (c).

“(3) Employers.—Effective 5 years after the date this part first becomes effective, each employer (other than an employer described in paragraph (1) of subsection (d)) shall provide to each employee at least annually information (consistent with such subsection) on the amount that the employer contributes on behalf of the employee (and any dependents of the employee) for health benefits coverage.

“(b) Information Provided.—The information described in this subsection with respect to a group health plan or health insurance coverage offered by a health insurance issuer shall be provided to a participant or beneficiary free of charge at least once a year and includes the following:

“(1) Service area.—The service area of the plan or issuer.

“(2) Benefits.—Benefits offered under the plan or coverage, including—

“(A) those that are covered benefits “(all of which shall be referred to by such relevant CPT and DRG codes as are available), limits and conditions on such benefits, and those benefits that are explicitly excluded from coverage (all of which shall be referred to by such relevant CPT and DRG codes as are available);

“(B) cost sharing, such as deductibles, coinsurance, and copayment amounts, including any liability for balance billing, any maximum limitations on out of pocket expenses, and the maximum out of pocket costs for services that are provided by nonparticipating providers or that are furnished without meeting the applicable utilization review requirements;

“(C) the extent to which benefits may be obtained from nonparticipating providers;

“(D) the extent to which a participant or beneficiary may select from among participating providers and the types of providers participating in the plan or issuer network;

“(E) process for determining experimental coverage; and

“(F) use of a prescription drug formulary.

“(3) Access.—A description of the following:

“(A) The number, mix, and distribution of providers under the plan or coverage.

“(B) Out-of-network coverage (if any) provided by the plan or coverage.

“(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

“(D) The procedures for participants and beneficiaries to select, access, and change participating primary and specialty providers.

“(E) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

“(F) The name, address, and telephone number of participating health care providers and an indication of whether each such provider is available to accept new patients.

“(G) Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section 812(b)(2).

“(4) Out-of-area coverage.—Out-of-area coverage provided by the plan or issuer.

“(5) Emergency coverage.—Coverage of emergency services, including—

"(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

"(B) the process and procedures of the plan or issuer for obtaining emergency services; and

"(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

"(6) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in noncoverage or nonpayment.

"(7) GRIEVANCE AND APPEALS PROCEDURES.—All appeal or grievance rights and procedures under the plan or coverage, including the method for filing grievances and the time frames and circumstances for acting on grievances and appeals, who is the applicable authority with respect to the plan or issuer.

"(8) ACCOUNTABILITY.—A description of the legal recourse options available for participants and beneficiaries under the plan including—

"(A) the preemption that applies under section 514 to certain actions arising out of the provision of health benefits; and

"(B) the extent to which coverage decisions made by the plan are subject to internal review or any external review and the proper time frames under

"(9) QUALITY ASSURANCE.—Any information made public by an accrediting organization in the process of accreditation of the plan or issuer or any additional quality indicators the plan or issuer makes available.

"(10) INFORMATION ON ISSUER.—Notice of appropriate mailing addresses and telephone numbers to be used by participants and beneficiaries in seeking information or authorization for treatment.

"(11) AVAILABILITY OF INFORMATION ON REQUEST.—Notice that the information described in subsection (c) is available upon request.

"(c) INFORMATION MADE AVAILABLE UPON REQUEST.—The information described in this subsection is the following:

"(1) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, time frames, and appeal rights) under any utilization review program under section 801.

"(2) GRIEVANCE AND APPEALS INFORMATION.—Information on the number of grievances and appeals and on the disposition in the aggregate of such matters.

"(3) FORMULARY RESTRICTIONS.—A description of the nature of any drug formula restrictions.

"(4) PARTICIPATING PROVIDER LIST.—A list of current participating health care providers.

"(d) EMPLOYER INFORMATION.—

"(1) SMALL EMPLOYER EXEMPTION.—Subsection (a)(3) shall not apply to an employer that is a small employer (as defined in section 712(c)(1)(B)) or would be such an employer if '100' were substituted for '50' in such section.

"(2) COMPUTATION.—The amount described in subsection (a)(3) may be computed on an average, per employee basis, and may be based on rules similar to the rules applied in computing the applicable premium under section 604.

"(3) FORM OF DISCLOSURE.—The information under subsection (a)(3) may be provided in any reasonable form, including as part of the summary plan description, a letter, or information accompanying a W-2 form.

"(e) CONSTRUCTION.—Nothing in this section shall be construed as requiring public disclosure of individual contracts or financial arrangements between a group health plan or health insurance issuer and any provider.

"SUBPART D—PROTECTING THE DOCTOR-PATIENT RELATIONSHIP

"SEC. 831. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

"(a) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage offered in connection with such a plan (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant or beneficiary who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

"(b) NULLIFICATION.—Any contract provision or agreement that restricts or prohibits medical communications in violation of subsection (a) shall be null and void.

"SEC. 832. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSURE.

"(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage in connection with such a plan shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

"(b) CONSTRUCTION.—Subsection (a) shall not be construed—

"(1) as requiring the coverage under a group health plan or health insurance coverage of particular benefits or services or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants or beneficiaries or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer;

"(2) to override any State licensure or scope-of-practice law;

"(3) as requiring a plan or issuer that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan or issuer; or

"(4) as prohibiting a family practice physician with appropriate expertise from providing pediatric or obstetrical or gynecological care.

"SEC. 833. PROHIBITION AGAINST IMPROPER INCENTIVE ARRANGEMENTS.

"(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage in connection with such a plan may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in clauses (i), (ii)(I), and (iii) of subparagraph (A) of such section are met with respect to such a plan.

"(b) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant or beneficiary with the plan or organization, respectively.

"(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting all capitation and similar arrangements or all provider discount arrangements.

"SEC. 834. PAYMENT OF CLEAN CLAIMS.

"A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for prompt payment of claims submitted for health care services or supplies furnished to a participant or beneficiary with respect to benefits covered by the plan or issuer,in a manner consistent with the provisions of sections 1816(c)(2) and 1842(c)(2) of the Social Security Act (42 U.S.C. 1395h(c)(2) and 42 U.S.C. 1395u(c)(2)), except that for purposes of this section, subparagraph (C) of section 1816(c)(2) of the Social Security Act shall be treated as applying to claims received from a participant or beneficiary as well as claims referred to in such subparagraph.

"SUBPART E—DEFINITIONS

"SEC. 841. DEFINITIONS.

"(a) INCORPORATION OF GENERAL DEFINITIONS.—Except as otherwise provided, the provisions of section 733 shall apply for purposes of this part in the same manner as they apply for purposes of part 7.

"(b) ADDITIONAL DEFINITIONS.—For purposes of this part:

"(1) APPLICABLE AUTHORITY.—The term 'applicable authority' means—

"(A) in the case of a group health plan, the Secretary of Labor; and

"(B) in the case of a health insurance issuer with respect to a specific provision of this part, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

"(2) CLINICAL PEER.—The term 'clinical peer' means, with respect to a review or appeal, a practicing physician or other health care professional who holds a nonrestricted license and who is—

"(A) appropriately certified by a nationally recognized, peer reviewed accrediting body in the same or similar specialty as typically manages the medical condition, procedure, or treatment under review or appeal, or

"(B) is trained and experienced in managing such condition, procedure, or treatment,

and includes a pediatric specialist where appropriate; except that only a physician may be a clinical peer with respect to the review or appeal of treatment recommended or rendered by a physician.

"(3) HEALTH CARE PROFESSIONAL.—The term 'health care professional' means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

"(4) HEALTH CARE PROVIDER.—The term 'health care provider' includes a physician or other health care professional, as well as an institutional or other facility or agency that provides health care services and that is licensed, accredited, or certified to provide health care items and services under applicable State law.

"(5) NETWORK.—The term 'network' means, with respect to a group health plan or health insurance issuer offering health insurance coverage, the participating health care professionals and providers through whom the plan or issuer provides health care items and services to participants or beneficiaries.

"(6) NONPARTICIPATING.—The term 'nonparticipating' means, with respect to a health care provider that provides health care items and services to a participant or beneficiary under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

"(7) PARTICIPATING.—The term 'participating' means, with respect to a health care provider that provides health care items and services to a participant or beneficiary under group health plan or health insurance coverage offered by a health insurance issuer in connection with such a plan, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

"(8) PHYSICIAN.—The term 'physician' means an allopathic or osteopathic physician.

"(9) PRACTICING PHYSICIAN.—The term 'practicing physician' means a physician who is licensed in the State in which the physician furnishes professional services and who provides professional services to individual patients on average at least two full days per week.

"(10) PRIOR AUTHORIZATION.—The term 'prior authorization' means the process of obtaining prior approval from a health insurance issuer or group health plan for the provision or coverage of medical services.

"SEC. 842. RULE OF CONSTRUCTION.

"Nothing in this part or section 714 shall be construed to affect or modify the provisions of section 514.

"SEC. 843. EXCLUSIONS.

"(a) NO BENEFIT REQUIREMENTS.—Nothing in this part shall be construed to require a group health plan or a health insurance issuer offering health insurance coverage in connection with such a plan to provide specific benefits under the terms of such plan or coverage, other than those provided under the terms of such plan or coverage.

"(b) EXCLUSION FOR FEE-FOR-SERVICE COVERAGE.—

"(1) IN GENERAL.—

"(A) GROUP HEALTH PLANS.—The provisions of sections 811 through 821 shall not apply to a group health plan if the only coverage offered under the plan is fee-for-service coverage (as defined in paragraph (2)).

"(B) HEALTH INSURANCE COVERAGE.—The provisions of sections 801 through 821 shall not apply to health insurance coverage if the only coverage offered under the coverage is fee-for-service coverage (as defined in paragraph (2)).

"(2) FEE-FOR-SERVICE COVERAGE DEFINED.—For purposes of this subsection, the term 'fee-for-service coverage' means coverage under a group health plan or health insurance coverage that—

"(A) reimburses hospitals, health professionals, and other providers on a fee-for-service basis without placing the provider at financial risk;

"(B) does not vary reimbursement for such a provider based on an agreement to contract terms and conditions or the utilization of health care items or services relating to such provider;

"(C) allows access to any provider that is lawfully authorized to provide the covered services and agree to accept the terms and conditions of payment established under the plan or by the issuer; and

"(D) for which the plan or issuer does not require prior authorization before providing for any health care services.

"SEC. 844. COVERAGE OF LIMITED SCOPE PLANS.

"Only for purposes of applying the requirements of this part under section 714, section 733(c)(2)(A) shall be deemed not to apply.

"SEC. 845. REGULATIONS.

"(a) REGULATIONS.—The Secretary of Labor shall issue such regulations as may be necessary or appropriate to carry out this part under section 714. The Secretary may promulgate such regulations in the form of interim final rules as may be necessary to carry out this part in a timely manner.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

"PART 8—IMPROVING MANAGED CARE

"SUBPART A—GRIEVANCE AND APPEALS

"Sec. 801. Utilization review activities.
"Sec. 802. Internal appeals procedures.
"Sec. 803. External appeals procedures.
"Sec. 804. Establishment of a grievance process.

"SUBPART B—ACCESS TO CARE

"Sec. 812. Choice of health care professional.
"Sec. 813. Access to emergency care.
"Sec. 814. Access to specialty care.
"Sec. 815. Access to obstetrical and gynecological care.
"Sec. 816. Access to pediatric care.
"Sec. 817. Continuity of care.
"Sec. 818. Network adequacy.
"Sec. 819. Access to experimental or investigational prescription drugs.
"Sec. 820. Coverage for individuals participating in approved cancer clinical trials.

"SUBPART C—ACCESS TO INFORMATION

"Sec. 821. Patient access to information.

"SUBPART D—PROTECTING THE DOCTOR-PATIENT RELATIONSHIP

"Sec. 831. Prohibition of interference with certain medical communications.
"Sec. 832. Prohibition of discrimination against providers based on licensure.
"Sec. 833. Prohibition against improper incentive arrangements.
"Sec. 834. Payment of clean claims.

"SUBPART E—DEFINITIONS

"Sec. 841. Definitions.
"Sec. 842. Preemption; State flexibility; construction.
"Sec. 843. Exclusions.
"Sec. 844. Coverage of limited scope plans.
"Sec. 845. Regulations.

SEC. 203. AVAILABILITY OF COURT REMEDIES.

(a) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

"(n) CAUSE OF ACTION RELATING TO PROVISION OF HEALTH BENEFITS.—

"(1) IN GENERAL.—In any case in which—

"(A) a person who is a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with the plan, or an agent of the plan or plan sponsor (not including a participating physician, other than a physician who participated in making the final decision under section 802 pursuant to section 802(b)(1)(A)) and who, under the plan, has authority to make final decisions under 802—

"(i) fails to exercise ordinary care in making an incorrect determination in the case of a participant or beneficiary that an item or service is excluded from coverage under the terms of the plan based on the fact that the item or service—

"(I) does not meet the requirements for medical appropriateness or necessity,

"(II) would constitute experimental treatment or technology (as defined under the plan), or

"(III) is not a covered benefit, or

"(ii) fails to exercise ordinary care to ensure that—

"(I) any denial of claim for benefits (within the meaning of section 801(f)), or

"(II) any decision by the plan on a request, made by a participant or beneficiary under section 802 or 803, for a reversal of an earlier decision of the plan,

is made and issued to the participant or beneficiary (in such form and manner as may be prescribed in regulations of the Secretary) before the end of the applicable period specified in section 801, 802, or 803, and

"(B) such failure is the proximate cause of substantial harm to, or wrongful death of, the participant or beneficiary,

such person shall be liable to the participant or beneficiary (or the estate of such participant or beneficiary) for economic and noneconomic damages in connection with such failure and such injury or death (subject to paragraph (10)). For purposes of this subsection, the term 'final decision' means, with respect to a group health plan, the sole final decision of the plan under section 802.

"(2) ORDINARY CARE.—For purposes of this subsection, the term 'ordinary care' means the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent individual acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

"(3) SUBSTANTIAL HARM.—The term 'substantial harm' means loss of life, loss or significant impairment of limb or bodily function, significant disfigurement, or severe and chronic physical pain.

"(4) EXCEPTION FOR EMPLOYERS AND OTHER PLAN SPONSORS.—

"(A) IN GENERAL.—Subject to subparagraph (B), paragraph (1) does not authorize—

"(i) any cause of action against an employer or other plan sponsor maintaining the group health plan (or against an employee of such an employer or sponsor acting within the scope of employment),

"(ii) a right of recovery or indemnity by a person against an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action under paragraph (1), or

"(iii) any cause of action in connection with the provision of excepted benefits described in section 733(c), other than those described in section 733(c)(2).

"(B) SPECIAL RULE.—Subparagraph (A) shall not preclude any cause of action described in paragraph (1) commenced against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment), but only if—

"(i) such action is based on the direct participation of the employer or other plan sponsor (or employee of the employer or plan sponsor) in the final decision of the plan with respect to a specific participant or beneficiary on a claim for benefits covered under the plan or health insurance coverage in the case at issue; and ‘‘(ii) the decision on the claim resulted in substantial harm to, or the wrongful death of, such participant or beneficiary.

‘‘(C) DIRECT PARTICIPATION.—For purposes of this subsection, the term ‘direct participation’ means, in connection with a final decision under section 802, the actual making of such final decision as a plan fiduciary or the actual exercise of final controlling authority in the approval of such final decision. In determining whether an employer or other plan sponsor (or employee of an employer or other plan sponsor) is engaged in direct participation in the final decision of the plan on a claim, the employer or plan sponsor (or employee) shall not be construed to be engaged in such direct participation (and to be liable for any damages whatsoever) because of any form of decisionmaking or other conduct, whether or not fiduciary in nature, that does not involve a final decision with respect to a specific claim for benefits by a specific participant or beneficiary, including (but not limited to)—

‘‘(i) any participation by the employer or other plan sponsor (or employee) in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent;

‘‘(ii) any engagement by the employer or other plan sponsor (or employee) in any cost-benefit analysis undertaken in connection with the selection of, or continued maintenance of, the plan or coverage involved;

‘‘(iii) any participation by the employer or other plan sponsor (or employee) in the creation, continuation, modification, or termination of the plan or of any coverage, benefit, or item or service covered by the plan;

‘‘(iv) any participation by the employer or other plan sponsor (or employee) in the design of any coverage, benefit, or item or service covered by the plan, including the amount of copayment and limits connected with such coverage, and the specification of any protocol, procedure, or policy for determining whether any such coverage, benefit, or item or service is medically necessary and appropriate or is experimental or investigational;

‘‘(v) any action by an agent of the employer or plan sponsor in making such a final decision on behalf of such employer or plan sponsor;

‘‘(vi) any decision by an employer or plan sponsor (or employee) or agent acting on behalf of an employer or plan sponsor either to authorize coverage for, or to intercede or not to intercede as an advocate for or on behalf of, any specific participant or beneficiary (or group of participants or beneficiaries) under the plan;

‘‘(vii) the approval of, or participation in the approval of, the plan provisions defining medical necessity or of policies or procedures that have a direct bearing on the outcome of the final decision; or

‘‘(viii) any other form of decisionmaking or other conduct performed by the employer or other plan sponsor (or employee) in connection with the plan or coverage involved unless it involves the making of a final decision of the plan consisting of a failure described in clause (i) or (ii) of paragraph (1)(A) as to specific participants or beneficiaries who suffer substantial harm or wrongful death as a proximate cause of such decision.

‘‘(5) REQUIRED DEMONSTRATION OF DIRECT PARTICIPATION.—An action against an employer or plan sponsor (or employee thereof) under this subsection shall be immediately dismissed—

‘‘(A) in the absence of an allegation in the complaint of direct participation by the employer or plan sponsor in the final decision of the plan with respect to a specific participant or beneficiary who suffers substantial harm or wrongful death, or

‘‘(B) upon a demonstration to the court that such employer or plan sponsor (or employee) did not directly participate in the final decision of the plan.

‘‘(6) TREATMENT OF THIRD-PARTY PROVIDERS OF NONDISCRETIONARY ADMINISTRATIVE SERVICES.—Paragraph (1) does not authorize any action against any person providing nondiscretionary administrative services to employers or other plan sponsors.

‘‘(7) REQUIREMENT OF EXHAUSTION OF ADMINISTRATIVE REMEDIES.—

‘‘(A) IN GENERAL.—Paragraph (1) applies in the case of any cause of action only if all remedies under section 503 (including remedies under sections 802 and 803, made applicable under section 714) with respect to such cause of action have been exhausted.

‘‘(B) EXTERNAL REVIEW REQUIRED.—For purposes of subparagraph (A), administrative remedies under section 503 shall not be deemed exhausted until available remedies under section 803 have been elected and are exhausted by issuance of a final determination by an external appeal entity under such section.

‘‘(C) CONSIDERATION OF ADMINISTRATIVE DETERMINATIONS.—Any determinations made under section 802 or 803 made while an action under this paragraph is pending shall be given due consideration by the court in such action.

‘‘(8) USE OF EXTERNAL APPEAL ENTITY IN ESTABLISHING ABSENCE OF SUBSTANTIAL HARM OR CAUSATION IN LITIGATION.—

‘‘(A) IN GENERAL.—In any action under this subsection by an individual in which damages are sought on the basis of substantial harm to the individual, the defendant may obtain (at its own expense), under procedures similar to procedures applicable under section 803, a determination by a qualified external appeal entity (as defined in section 803(c)(1)) that has not been involved in any stage of the grievance or appeals process which resulted in such action as to—

‘‘(i) whether such substantial harm has been sustained, and

‘‘(ii) whether the proximate cause of such injury was the result of the failure of the defendant to exercise ordinary care, as described in paragraph (1)(A).

‘‘(B) EFFECT OF FINDING IN FAVOR OF DEFENDANT.—If the external appeal entity determines that such an injury has not been sustained or was not proximately caused by such a failure, such a finding shall be an affirmative defense, and the action shall be dismissed forthwith unless such finding is overcome upon a showing of clear and convincing evidence to the contrary. Notwithstanding subsection (g), in any case in which the plaintiff fails in any attempt to make such a showing to the contrary, the court shall award to the defendant reasonable attorney's fees and the costs of the action incurred in connection with such failed showing.

‘‘(9) REBUTTABLE PRESUMPTION.—In the case of any action commenced pursuant to paragraph (1), there shall be a rebuttable presumption in favor of the decision of the external appeal entity rendered upon completion of any review elected under section 803 and such presumption may be overcome only upon a showing of clear and convincing evidence to the contrary.

‘‘(10) MAXIMUM NONECONOMIC DAMAGES.—Total liability for noneconomic loss under this subsection in connection with any failure with respect to any participant or beneficiary may not exceed the lesser of—

‘‘(A) $500,000, or

‘‘(B) 2 times the amount of economic loss. The dollar amount under subparagraph (A), shall be increased or decreased, for each calendar year that ends after December 31, 2001, by the same percentage as the percentage by which the medical care expenditure category of the Consumer Price Index for All Urban Consumers (United States city average), published by the Bureau of Labor Statistics, for September of the preceding calendar year has increased or decreased from such index for September 2000

‘‘(11) PROHIBITION OF AWARD OF PUNITIVE DAMAGES.—

‘‘(A) GENERAL RULE.—Except as provided in this paragraph, nothing in this subsection shall be construed as authorizing a cause of action for punitive, exemplary, or similar damages.

‘‘(B) EXCEPTION.—Punitive damages are authorized in any case described in paragraph (1)(A)(ii)(II) in which the plaintiff establishes by clear and convincing evidence that conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others was the proximate cause of the harm that is the subject of the action and that such conduct was contrary to the recommendations of an external appeal entity issued in the determination in such case rendered pursuant to section 803.

‘‘(C) LIMITATION ON AMOUNT.—

‘‘(i) IN GENERAL.—The amount of punitive damages that may be awarded in an action described in subparagraph (B) may not exceed the greater of—

‘‘(I) 2 times the sum of the amount awarded to the claimant for economic loss; or

‘‘(II) $250,000.

‘‘(ii) SPECIAL RULE.—Notwithstanding clause (i), in any action described in subparagraph (B) against an individual whose net worth does not exceed $500,000 or against an owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization which has fewer that 25 employees, the punitive damages shall not exceed the lesser of—

‘‘(I) 2 times the amount awarded to the claimant for economic loss; or

‘‘(II) $250,000.

‘‘(iii) CONTROLLED GROUPS.—

‘‘(I) IN GENERAL.—For the purpose of determining the applicability of clause (ii) to any employer, in determining the number of employees of an employer who is a member of a controlled group, the employees of any person in such group shall be deemed to be employees of the employer.

‘‘(II) CONTROLLED GROUP.—For purposes of subclause (I), the term ‘controlled group’ means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.

‘‘(D) EXCEPTION FOR INSUFFICIENT AWARD IN CASES OF EGREGIOUS CONDUCT.—

‘‘(i) DETERMINATION BY COURT.—If the court makes a determination, based on clear and convincing evidence and after considering each of the factors in subparagraph (E), that the application of subparagraph (C) would result in an award of punitive damages that is insufficient to punish the egregious conduct of the defendant against whom the punitive damages are to be awarded or to deter such conduct in the future, the court shall determine the additional amount of punitive damages (referred to in this subparagraph as the ‘additional amount’) in excess of the amount determined in accordance with subparagraph

(C) to be awarded against the defendant in a separate proceeding in accordance with this subparagraph.

"(ii) Absolute limit on punitives.—Nothing in this subtitle shall be construed to authorize the court to award an additional amount greater than an amount equal to the maximum amount applicable under subparagraph (C).

"(iii) Requirements for awarding additional amount.—If the court awards an additional amount pursuant to this subparagraph, the court shall state its reasons for setting the amount of the additional amount in findings of fact and conclusions of law.

"(E) Factors for consideration in cases of egregious conduct.—In any proceeding under subparagraph (D), the matters to be considered by the court shall include (but are not limited to)—

"(i) the extent to which the defendant acted with actual malice;

"(ii) the likelihood that serious harm would arise from the conduct of the defendant;

"(iii) the degree of the awareness of the defendant of that likelihood;

"(iv) the profitability of the misconduct to the defendant;

"(v) the duration of the misconduct and any concurrent or subsequent concealment of the conduct by the defendant;

"(vi) the attitude and conduct of the defendant upon the discovery of the misconduct and whether the misconduct has terminated;

"(vii) the financial condition of the defendant; and

"(viii) the cumulative deterrent effect of other losses, damages, and punishment suffered by the defendant as a result of the misconduct, reducing the amount of punitive damages on the basis of the economic impact and severity of all measures to which the defendant has been or may be subjected, including—

"(I) compensatory and punitive damage awards to similarly situated claimants;

"(II) the adverse economic effect of stigma or loss of reputation;

"(III) civil fines and criminal and administrative penalties; and

"(IV) stop sale, cease and desist, and other remedial or enforcement orders.

"(F) Application by court.—This paragraph shall be applied by the court and, in the case of a trial by jury, application of this paragraph shall not be disclosed to the jury.

"(G) Limitation on punitive damages.—No person shall be liable for punitive, exemplary, or similar damages in an action under this subsection based on any failure described in paragraph (1) if such failure was in compliance with the recommendations of an external appeal entity issued in a determination under section 803.

"(H) Bifurcation at request of any party.—

"(i) In general.—At the request of any party the trier of fact in any action that is subject to this paragraph shall consider in a separate proceeding, held subsequent to the determination of the amount of compensatory damages, whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

"(ii) Inadmissibility of evidence relative only to a claim of punitive damages in a proceeding concerning compensatory damages.—If any party requests a separate proceeding under clause (i), in a proceeding to determine whether the claimant may be awarded compensatory damages, any evidence, argument, or contention that is relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible.

"(12) Limitation of action.—Paragraph (1) shall not apply in connection with any action commenced after the later of—

"(A) 1 year after (i) the date of the last action which constituted a part of the failure, or (ii) in the case of an omission, the latest date on which the fiduciary could have cured the failure, or

"(B) 1 year after the earliest date on which the plaintiff first knew, or reasonably should have known, of the substantial harm resulting from the failure.

"(13) Coordination with fiduciary requirements.—A fiduciary shall not be treated as failing to meet any requirement of part 4 solely by reason of any action taken by a fiduciary which consists of full compliance with the reversal under section 803 of a denial of claim for benefits (within the meaning of section 801(f)).

"(14) Construction.—Nothing in this subsection shall be construed as authorizing a cause of action for the failure to provide an item or service which is not covered under the group health plan involved.

"(15) Protection of medical malpractice and similar actions under State law.—This subsection shall not be construed to preclude any action under State law (as defined in section 514(c)(1)) not otherwise preempted under this title with respect to the duty (if any) under such State law imposed on any person to exercise a specified standard of care when making a health care treatment decision in any case in which medical services are provided by such person or in any case in which such decision affects the quality of care or treatment provided or received.

"(16) Coexisting actions in Federal and State courts disallowed.—

"(A) Precedence of Federal action.—An action may be commenced under this subsection only if no action for damages has been commenced by the plaintiff under State law (as defined in section 514(c)(1)) based on the same substantial harm.

"(B) Actions under State law superseded.—Upon the commencement of any action under this subsection, this subsection supersedes any action authorized under State law (as so defined) against any person based on the same substantial harm during the pendency of the action commenced under this subsection.

"(C) Double recovery of damages precluded.—This subsection supersedes any action under State law (as so defined) for damages based on any substantial harm to the extent that damages for such substantial harm have been recovered in an action under this subsection.

"(17) Limitation on relief where defendant's position previously supported upon external review.—In any case in which the court finds the defendant to be liable in an action under this subsection, to the extent that such liability is based on a finding by the court of a particular failure described in paragraph (1) and such finding is contrary to a determination by an external review entity in a decision previously rendered under section 803 with respect to such defendant, no relief shall be available under this subsection in addition to the relief otherwise available under subsection (a)(1)(B).".

(b) Conforming Amendment.—Section 502(a)(1)(A) of such Act (29 U.S.C. 1132(a)(1)(A)) is amended by inserting "or (n)" after "subsection (c)".

(c) Effective Date.—The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) occurring on or after the date of the enactment of this Act.

SEC. 204. AVAILABILITY OF BINDING ARBITRATION.

(a) In General.—Section 503 of the Employee Retirement Income Security Act of 1974 (as amended by the preceding provisions of this Act) is amended further—

(1) in subsection (a), by inserting "In General.—" after "(a)";

(2) in subsection (b), by striking "(b) In the case" and inserting the following:

"(b) Group Health Plans.—

"(1) In general.—In the case"; and

(3) by adding at the end of subsection (b) the following:

"(2) Binding arbitration permitted as alternative means of dispute resolution.—

"(A) In general.—A group health plan shall not be treated as failing to meet the requirements of the preceding provisions of this section relating to review of any adverse coverage decision rendered by or under the plan, if—

"(i) in lieu of the procedures otherwise provided under the plan in accordance with such provisions and in lieu of any subsequent review of the matter by a court under section 502—

"(I) the aggrieved participant or beneficiary elects in the request for the review a procedure by which the dispute is resolved by binding arbitration which is available under the plan with respect to similarly situated participants and beneficiaries and which meets the requirements of subparagraph (B); or

"(II) in the case of any such plan or portion thereof which is established and maintained pursuant to a bona fide collective bargaining agreement, the plan provides for a procedure by which such disputes are resolved by means of binding arbitration which meets the requirements of subparagraph (B); and

"(ii) the additional requirements of subparagraph (B) are met.

"(B) Additional requirements.—The Secretary shall prescribe by regulation requirements for arbitration procedures under this paragraph, including at least the following requirements:

"(i) Arbitration panel.—The arbitration shall be conducted by an arbitration panel meeting the requirements of subparagraph (C).

"(ii) Fair process; de novo determination.—The procedure shall provide for a fair, de novo determination.

"(iii) Opportunity to submit evidence, have representation, and make oral presentation.—Each party to the arbitration procedure—

"(I) may submit and review evidence related to the issues in dispute;

"(II) may use the assistance or representation of one or more individuals (any of whom may be an attorney); and

"(III) may make an oral presentation.

"(iv) Provision of information.—The plan shall provide timely access to all its records relating to the matters under arbitration and to all provisions of the plan relating to such matters.

"(v) Timely decisions.—A determination by the arbitration panel on the decision shall—

"(I) be made in writing;

"(II) be binding on the parties; and

"(III) be made in accordance with the medical exigencies of the case involved.

"(vi) Exhaustion of external review required.—The arbitration procedures under this paragraph shall not be available to party unless the party has exhausted external review procedures under section 804.

"(vii) VOLUNTARY ELECTION.—A group health plan may not require, through the plan document, a contract, or otherwise, that a participant or beneficiary make the election described in subparagraph (A)(i)(I).

"(C) ARBITRATION PANEL.—

"(i) IN GENERAL.—Arbitrations commenced pursuant to this paragraph shall be conducted by a panel of arbitrators selected by the parties made up of 3 individuals, including at least one practicing physician and one practicing attorney.

"(ii) QUALIFICATIONS.—Any individual who is a member of an arbitration panel shall meet the following requirements:

"(I) There is no real or apparent conflict of interest that would impede the individual conducting arbitration independent of the plan and meets the independence requirements of clause (iii).

"(II) The individual has sufficient medical or legal expertise to conduct the arbitration for the plan on a timely basis.

"(III) The individual has appropriate credentials and has attained recognized expertise in the applicable medical or legal field.

"(IV) The individual was not involved in the initial adverse coverage decision or any other review thereof.

"(iii) INDEPENDENCE REQUIREMENTS.—An individual described in clause (ii) meets the independence requirements of this clause if—

"(I) the individual is not affiliated with any related party,

"(II) any compensation received by such individual in connection with the binding arbitration procedure is reasonable and not contingent on any decision rendered by the individual,

"(III) under the terms of the plan, the plan has no recourse against the individual or entity in connection with the binding arbitration procedure, and

"(IV) the individual does not otherwise have a conflict of interest with a related party as determined under such regulations as the Secretary may prescribe.

"(iv) RELATED PARTY.—For purposes of clause (iii), the term 'related party' means—

"(I) the plan or any health insurance issuer offering health insurance coverage in connection with the plan (or any officer, director, or management employee of such plan or issuer),

"(II) the physician or other medical care provider that provided the medical care involved in the coverage decision,

"(III) the institution at which the medical care involved in the coverage decision is provided,

"(IV) the manufacturer of any drug or other item that was included in the medical care involved in the coverage decision, or

"(V) any other party determined under such regulations as the Secretary may prescribe to have a substantial interest in the coverage decision .

"(iv) AFFILIATED.—For purposes of clause (iii), the term 'affiliated' means, in connection with any entity, having a familial, financial, or professional relationship with, or interest in, such entity.

"(D) DECISIONS.—

"(i) IN GENERAL.—Decisions rendered by the arbitration panel shall be binding on all parties to the arbitration and shall be enforcible under section 502 as if the terms of the decision were the terms of the plan, except that the court may vacate any award made pursuant to the arbitration for any cause described in paragraph (1), (2), (3), (4), or (5) of section 10(a) of title 9, United States Code.

"(ii) ALLOWABLE REMEDIES.—The remedies which may be implemented by the arbitration panel shall consist of those remedies which would be available in an action timely commenced by a participant or beneficiary under section 502 after exhaustion of administrative remedies, except that a money award may be made in the arbitration proceedings in any amount not to exceed 3 times the maximum amount of damages that would be allowable in such case in an action described in section 502(n).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to adverse coverage decisions initially rendered by group health plans on or after the date of the enactment of this Act.

TITLE III— AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

SEC. 301. APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

"Sec. 9813. Standard relating to chapter 101."; and

(2) by inserting after section 9812 the following:

"SEC. 9813. STANDARD RELATING TO CHAPTER 101.

"A group health plan shall comply with the requirements of chapter 101 and such requirements shall be deemed to be incorporated into this section.".

SEC. 302. IMPROVING MANAGED CARE.

(a) IN GENERAL.—The Internal Revenue Code of 1986 is amended by adding at the end the following new chapter:

"CHAPTER 101—IMPROVING MANAGED CARE

"Subchapter A. Access to care.
"Subchapter B. Access to information.
"Subchapter C. Protecting the doctor-patient relationship.
"Subchapter D. Definitions.

"Subchapter A—Access to Care

"Sec. 9901. Choice of health care professional.
"Sec. 9902. Access to emergency care.
"Sec. 9903. Access to specialty care.
"Sec. 9904. Access to obstetrical and gynecological care.
"Sec. 9905. Access to pediatric care.
"Sec. 9906. Continuity of care.
"Sec. 9907. Network adequacy.
"Sec. 9908. Access to experimental or investigational prescription drugs.
"Sec. 9909. Coverage for individuals participating in approved cancer clinical trials.

"SEC. 9901. CHOICE OF HEALTH CARE PROFESSIONAL.

"(a) PRIMARY CARE.—If a group health plan requires or provides for designation by a participant or beneficiary of a participating primary care provider, then the plan shall permit each participant and beneficiary to designate any participating primary care provider who is available to accept such individual.

"(b) SPECIALISTS.—A group health plan shall permit each participant or beneficiary to receive medically necessary or appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care professional who is available to accept such individual for such care.

"SEC. 9902. ACCESS TO EMERGENCY CARE.

"(a) COVERAGE OF EMERGENCY SERVICES.—

"(1) IN GENERAL.—If a group health plan provides or covers any benefits with respect to services in an emergency department of a hospital, the plan shall cover emergency services (as defined in paragraph (2)(B))—

"(A) without the need for any prior authorization determination;

"(B) whether the health care provider furnishing such services is a participating provider with respect to such services;

"(C) in a manner so that, if such services are provided to a participant or beneficiary—

"(i) by a nonparticipating health care provider with or without prior authorization, or

"(ii) by a participating health care provider without prior authorization,

the participant or beneficiary is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization; and

"(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

"(2) DEFINITIONS.—In this section:

"(A) EMERGENCY MEDICAL CONDITION.—The term 'emergency medical condition' means—

"(i) a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act; and

"(ii) a medical condition manifesting itself in a neonate by acute symptoms of sufficient severity (including severe pain) such that a prudent health care professional could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

"(B) EMERGENCY SERVICES.—The term 'emergency services' means—

"(i) with respect to an emergency medical condition described in subparagraph (A)(i)—

"(I) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate such emergency medical condition, and

"(II) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient; or

"(ii) with respect to an emergency medical condition described in subparagraph (A)(ii), medical treatment for such condition rendered by a health care provider in a hospital to a neonate, including available hospital ancillary services in response to an urgent request of a health care professional and to the extent necessary to stabilize the neonate.

"(C) STABILIZE.—The term 'to stabilize' means, with respect to an emergency medical condition, to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility.

“(b) Reimbursement for Maintenance Care and Post-Stabilization Care.—If benefits are available under a group health plan with respect to maintenance care or post-stabilization care covered under the guidelines established under section 1852(d)(2) of the Social Security Act, the plan shall provide for reimbursement with respect to such services provided to a participant or beneficiary other than through a participating health care provider in a manner consistent with subsection (a)(1)(C) (and shall otherwise comply with such guidelines).

“(c) Coverage of Emergency Ambulance Services.—

“(1) In general.—If a group health plan provides any benefits with respect to ambulance services and emergency services, the plan shall cover emergency ambulance services (as defined in paragraph (2))) furnished under the plan under the same terms and conditions under subparagraphs (A) through (D) of subsection (a)(1) under which coverage is provided for emergency services.

“(2) Emergency ambulance services.—For purposes of this subsection, the term ‘emergency ambulance services’ means ambulance services (as defined for purposes of section 1861(s)(7) of the Social Security Act) furnished to transport an individual who has an emergency medical condition (as defined in subsection (a)(2)(A)) to a hospital for the receipt of emergency services (as defined in subsection (a)(2)(B)) in a case in which the emergency services are covered under the plan pursuant to subsection (a)(1) and a prudent layperson, with an average knowledge of health and medicine, could reasonably expect that the absence of such transport would result in placing the health of the individual in serious jeopardy, serious impairment of bodily function, or serious dysfunction of any bodily organ or part.

“SEC. 9903. ACCESS TO SPECIALTY CARE.

“(a) Specialty Care for Covered Services.—

“(1) In general.—If—

“(A) an individual is a participant or beneficiary under a group health plan,

“(B) the individual has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist or the individual requires physician pathology services, and

“(C) benefits for such treatment or services are provided under the plan,

the plan shall make or provide for a referral to a specialist who is available and accessible (consistent with standards developed under section 9907) to provide the treatment for such condition or disease or to provide such services.

“(2) Specialist defined.—For purposes of this subsection, the term ‘specialist’ means, with respect to a condition or services, a health care practitioner, facility, or center or physician pathologist that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise and in the case of a pregnant woman, appropriate obstetrical expertise) to provide high quality care in treating the condition or to provide physician pathology services.

“(3) Care under referral.—A group health plan may require that the care provided to an individual pursuant to such referral under paragraph (1) with respect to treatment be—

“(A) pursuant to a treatment plan, only if the treatment plan is developed by the specialist and approved by the plan, in consultation with the designated primary care provider or specialist and the individual (or the individual's designee), and

“(B) in accordance with applicable quality assurance and utilization review standards of the plan.

Nothing in this subsection shall be construed as preventing such a treatment plan for an individual from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

“(4) Referrals to participating providers.—A group health plan is not required under paragraph (1) to provide for a referral to a specialist that is not a participating provider, unless the plan does not have a specialist that is available and accessible to treat the individual's condition or provide physician pathology services and that is a participating provider with respect to such treatment or services.

“(5) Referrals to nonparticipating providers.—In a case in which a referral of an individual to a nonparticipating specialist is required under paragraph (1), the group health plan shall provide the individual the option of at least three nonparticipating specialists.

“(6) Treatment of nonparticipating providers.—If a plan refers an individual to a nonparticipating specialist pursuant to paragraph (1), services provided pursuant to the approved treatment plan (if any) shall be provided at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist that is a participating provider.

“(b) Specialists as Gatekeeper for Treatment of Ongoing Special Conditions.—

“(1) In general.—A group health plan shall have a procedure by which an individual who is a participant or beneficiary and who has an ongoing special condition (as defined in paragraph (3)) may request and receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's care with respect to the condition. Under such procedures if such an individual's care would most appropriately be coordinated by such a specialist, such plan shall refer the individual to such specialist.

“(2) Treatment for related referrals.—Such specialists shall be permitted to treat the individual without a referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment (referred to in subsection (a)(3)(A)) with respect to the ongoing special condition.

“(3) Ongoing special condition defined.—In this subsection, the term ‘ongoing special condition’ means a condition or disease that—

“(A) is life-threatening, degenerative, or disabling, and

“(B) requires specialized medical care over a prolonged period of time.

“(4) Terms of referral.—The provisions of paragraphs (3) through (5) of subsection (a) apply with respect to referrals under paragraph (1) of this subsection in the same manner as they apply to referrals under subsection (a)(1).

“(5) Construction.—Nothing in this subsection shall be construed as preventing an individual who is a participant or beneficiary and who has an ongoing special condition from having the individual's primary care physician assume the responsibilities for providing and coordinating care described in paragraph (1).

“(c) Standing Referrals.—

“(1) In general.—A group health plan shall have a procedure by which an individual who is a participant or beneficiary and who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the plan, or if the primary care provider in consultation with the medical director of the plan and the specialist (if any), determines that such a standing referral is appropriate, the plan shall make such a referral to such a specialist if the individual so desires.

“(2) Terms of referral.—The provisions of paragraphs (3) through (5) of subsection (a) apply with respect to referrals under paragraph (1) of this subsection in the same manner as they apply to referrals under subsection (a)(1).

“SEC. 9904. ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

“(a) In General.—If a group health plan requires or provides for a participant or beneficiary to designate a participating primary care health care professional, the plan—

“(1) may not require authorization or a referral by the individual's primary care health care professional or otherwise for covered gynecological care (including preventive women's health examinations) or for covered pregnancy-related services provided by a participating physician (including a family practice physician) who specializes or is trained and experienced in gynecology or obstetrics, respectively, to the extent such care is otherwise covered; and

“(2) shall treat the ordering of other gynecological or obstetrical care by such a participating physician as the authorization of the primary care health care professional with respect to such care under the plan.

“(b) Construction.—Nothing in subsection (a) shall be construed to—

“(1) waive any exclusions of coverage under the terms of the plan with respect to coverage of gynecological or obstetrical care;

“(2) preclude the group health plan involved from requiring that the gynecologist or obstetrician notify the primary care health care professional or the plan of treatment decisions; or

“(3) prevent a plan from offering, in addition to physicians described in subsection (a)(1), non-physician health care professionals who are trained and experienced in gynecology or obstetrics.

“SEC. 9905. ACCESS TO PEDIATRIC CARE.

“(a) Pediatric Care.—If a group health plan requires or provides for a participant or beneficiary to designate a participating primary care provider for a child of such individual, the plan shall permit the individual to designate a physician (including a family practice physician) who specializes or is trained and experienced in pediatrics as the child's primary care provider.

“(b) Construction.—Nothing in subsection (a) shall be construed to waive any exclusions of coverage under the terms of the plan with respect to coverage of pediatric care.

“SEC. 9906. CONTINUITY OF CARE.

“(a) In General.—

“(1) Termination of provider.—If a contract between a group health plan and a health care provider is terminated (as defined in paragraph (3)(B)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who is a participant or beneficiary in the plan is undergoing treatment from the provider for an ongoing special condition (as defined in paragraph (3)(A)) at the time of such termination, the plan shall—

"(A) notify the individual on a timely basis of such termination and of the right to elect continuation of coverage of treatment by the provider under this section; and

"(B) subject to subsection (c), permit the individual to elect to continue to be covered with respect to treatment by the provider of such condition during a transitional period (provided under subsection (b)).

"(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

"(3) DEFINITIONS.—For purposes of this section:

"(A) ONGOING SPECIAL CONDITION.—The term 'ongoing special condition' has the meaning given such term in section 9903(b)(3), and also includes pregnancy.

"(B) TERMINATION.—The term 'terminated' includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan for failure to meet applicable quality standards or for fraud.

"(b) TRANSITIONAL PERIOD.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the transitional period under this subsection shall extend up to 90 days (as determined by the treating health care professional) after the date of the notice described in subsection (a)(1)(A) of the provider's termination.

"(2) SCHEDULED SURGERY AND ORGAN TRANSPLANTATION.—If surgery or organ transplantation was scheduled for an individual before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such surgery or transplantation, the transitional period under this subsection with respect to the surgery or transplantation shall extend beyond the period under paragraph (1) and until the date of discharge of the individual after completion of the surgery or transplantation.

"(3) PREGNANCY.—If—

"(A) a participant or beneficiary was determined to be pregnant at the time of a provider's termination of participation, and

"(B) the provider was treating the pregnancy before date of the termination,

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

"(4) TERMINAL ILLNESS.—If—

"(A) a participant or beneficiary was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, and

"(B) the provider was treating the terminal illness before the date of termination, the transitional period under this subsection shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness or its medical manifestations.

"(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the individual notifying the plan of the election of continued coverage and upon the provider agreeing to the following terms and conditions:

"(1) The provider agrees to accept reimbursement from the plan and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

"(2) The provider agrees to adhere to the quality assurance standards of the plan responsible for payment under paragraph (1) and to provide to such plan necessary medical information related to the care provided.

"(3) The provider agrees otherwise to adhere to such plan's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan.

"(d) CONSTRUCTION.—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

"SEC. 9907. NETWORK ADEQUACY.

"(a) REQUIREMENT.—A group health plan shall meet such standards for network adequacy as are established by law pursuant to this section.

"(b) DEVELOPMENT OF STANDARDS.—

"(1) ESTABLISHMENT OF PANEL.—There is established a panel to be known as the Health Care Panel to Establish Network Adequacy Standards (in this section referred to as the 'Panel').

"(2) DUTIES OF PANEL.—The Panel shall devise standards for group health plans and to ensure that—

"(A) participants and beneficiaries have access to a sufficient number, mix, and distribution of health care professionals and providers; and

"(B) covered items and services are available and accessible to each participant and beneficiary—

"(i) in the service area of the plan;

"(ii) at a variety of sites of service;

"(iii) with reasonable promptness (including reasonable hours of operation and after hours services);

"(iv) with reasonable proximity to the residences or workplaces of participants and beneficiaries; and

"(v) in a manner that takes into account the diverse needs of such individuals and reasonably assures continuity of care.

"(c) MEMBERSHIP.—

"(1) SIZE AND COMPOSITION.—The Panel shall be composed of 15 members. The Secretary of Health and Human Services, the Majority Leader of the Senate, and the Speaker of House of Representatives shall each appoint 1 member from representatives of private insurance organizations, consumer groups, State insurance commissioners, State medical societies, and State medical specialty societies.

"(2) TERMS OF APPOINTMENT.—The members of the Panel shall serve for the life of the Panel.

"(3) VACANCIES.—A vacancy in the Panel shall not affect the power of the remaining members to execute the duties of the Panel, but any such vacancy shall be filled in the same manner in which the original appointment was made.

"(d) PROCEDURES.—

"(1) MEETINGS.—The Panel shall meet at the call of a majority of its members.

"(2) FIRST MEETING.—The Panel shall convene not later than 60 days after the date of the enactment of the Health Care Quality and Choice Act of 1999.

"(3) QUORUM.—A quorum shall consist of a majority of the members of the Panel.

"(4) HEARINGS.—For the purpose of carrying out its duties, the Panel may hold such hearings and undertake such other activities as the Panel determines to be necessary to carry out its duties.

"(e) ADMINISTRATION.—

"(1) COMPENSATION.—Except as provided in paragraph (1), members of the Panel shall receive no additional pay, allowances, or benefits by reason of their service on the Panel.

"(2) TRAVEL EXPENSES AND PER DIEM.—Each member of the Panel who is not an officer or employee of the Federal Government shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

"(3) CONTRACT AUTHORITY.—The Panel may contract with and compensate government and private agencies or persons for items and services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

"(4) USE OF MAILS.—The Panel may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

"(5) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Panel, the Secretary of Health and Human Services shall provide to the Panel on a reimbursable basis such administrative support services as the Panel may request.

"(f) REPORT AND ESTABLISHMENT OF STANDARDS.—Not later than 2 years after the first meeting, the Panel shall submit a report to Congress and the Secretary of Health and Human Services detailing the standards devised under subsection (b) and recommendations regarding the implementation of such standards. Such standards shall take effect to the extent provided by Federal law enacted after the date of the submission of such report.

"(g) TERMINATION.—The Panel shall terminate on the day after submitting its report to the Secretary of Health and Human Services under subsection (f).

"SEC. 9908. ACCESS TO EXPERIMENTAL OR INVESTIGATIONAL PRESCRIPTION DRUGS.

"No use of a prescription drug or medical device shall be considered experimental or investigational under a group health plan if such use is included in the labeling authorized by the U.S. Food and Drug Administration under section 505, 513 or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or under section 351 of the Public Health Service Act (42 U.S.C. 262), unless such use is demonstrated to be unsafe or ineffective.

"SEC. 9909. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CANCER CLINICAL TRIALS.

"(a) Coverage.—

"(1) In general.—If a group health plan provides coverage to a qualified individual (as defined in subsection (b)), the plan—

"(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

"(B) subject to subsections (b), (c), and (d), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

"(C) may not discriminate against the individual on the basis of the individual's participation in such trial.

"(2) Exclusion of certain costs.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

"(3) Use of in-network providers.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

"(b) Qualified Individual Defined.—For purposes of subsection (a), the term 'qualified individual' means an individual who is a participant or beneficiary in a group health plan and who meets the following conditions:

"(1)(A) The individual has been diagnosed with cancer.

"(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

"(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

"(2) Either—

"(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

"(B) the individual provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

"(c) Payment.—

"(1) In general.—Under this section a group health plan shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected to be paid for by the sponsors of an approved clinical trial.

"(2) Routine patient care costs.—For purposes of this section—

"(A) In general.—The term 'routine patient care costs' includes the costs associated with the provision of items and services that—

"(i) would otherwise be covered under the group health plan if such items and services were not provided in connection with an approved clinical trial program; and

"(ii) are furnished according to the protocol of an approved clinical trial program.

"(B) Exclusion.—Such term does include the costs associated with the provision of—

"(i) an investigational drug or device, unless the Secretary has authorized the manufacturer of such drug or device to charge for such drug or device; or

"(ii) any item or service supplied without charge by the sponsor of the approved clinical trial program.

"(3) Payment rate.—In the case of covered items and services provided by—

"(A) a participating provider, the payment rate shall be at the agreed upon rate, or

"(B) a nonparticipating provider, the payment rate shall be at the rate the plan would normally pay for comparable items or services under subparagraph (A).

"(d) Approved Clinical Trial Defined.—In this section, the term 'approved clinical trial' means a cancer clinical research study or cancer clinical investigation approved by an Institutional Review Board.

"(e) Construction.—Nothing in this section shall be construed to limit a plan's coverage with respect to clinical trials.

"(f) Plan Satisfaction of Certain Requirements; Responsibilities of Fiduciaries.—

"(1) In general.—For purposes of this section, insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the requirements of this section with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer.

"(2) Construction.—Nothing in this section shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B of the Employee Retirement Income Security Act of 1974.

"Subchapter B—Access to Information

"Sec. 9911. Patient access to information.

"SEC. 9911. PATIENT ACCESS TO INFORMATION.

"(a) Disclosure Requirement.—A group health plan shall—

"(1) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries as of such date), and at least annually thereafter, the information described in subsection (b);

"(2) provide to participants and beneficiaries, within a reasonable period (as specified by the Secretary) before or after the date of significant changes in the information described in subsection (b), information on such significant changes; and

"(3) upon request, make available to participants and beneficiaries, the Secretary, and prospective participants and beneficiaries, the information described in subsection (b) or (c).

The plan may charge a reasonable fee for provision in printed form of any of the information described in subsection (b) or (c) more than once during any plan year.

"(b) Information Provided.—The information described in this subsection with respect to a group health plan shall be provided to a participant or beneficiary free of charge at least once a year and includes the following:

"(1) Service area.—The service area of the plan.

"(2) Benefits.—Benefits offered under the plan, including—

"(A) those that are covered benefits "(all of which shall be referred to by such relevant CPT and DRG codes as are available), limits and conditions on such benefits, and those benefits that are explicitly excluded from coverage (all of which shall be referred to by such relevant CPT and DRG codes as are available);

"(B) cost sharing, such as deductibles, coinsurance, and copayment amounts, including any liability for balance billing, any maximum limitations on out of pocket expenses, and the maximum out of pocket costs for services that are provided by nonparticipating providers or that are furnished without meeting the applicable utilization review requirements;

"(C) the extent to which benefits may be obtained from nonparticipating providers;

"(D) the extent to which a participant or beneficiary may select from among participating providers and the types of providers participating in the plan network;

"(E) process for determining experimental coverage; and

"(F) use of a prescription drug formulary.

"(3) Access.—A description of the following:

"(A) The number, mix, and distribution of providers under the plan.

"(B) Out-of-network coverage (if any) provided by the plan.

"(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

"(D) The procedures for participants and beneficiaries to select, access, and change participating primary and specialty providers.

"(E) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

"(F) The name, address, and telephone number of participating health care providers and an indication of whether each such provider is available to accept new patients.

"(G) Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section 9901(b)(2).

"(4) Out-of-area coverage.—Out-of-area coverage provided by the plan.

"(5) Emergency coverage.—Coverage of emergency services, including—

"(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

"(B) the process and procedures of the plan for obtaining emergency services; and

"(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

"(6) Prior authorization rules.—Rules regarding prior authorization or other review requirements that could result in noncoverage or nonpayment.

"(7) Grievance and appeals procedures.—All appeal or grievance rights and procedures under the plan, including the method for filing grievances and the time frames and circumstances for acting on grievances and appeals.

"(8) Accountability.—A description of the legal recourse options available for participants and beneficiaries under the plan including—

"(A) the preemption that applies under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) to certain actions arising out of the provision of health benefits; and

"(B) the extent to which coverage decisions made by the plan are subject to internal review or any external review and the proper time frames under

"(9) QUALITY ASSURANCE.—Any information made public by an accrediting organization in the process of accreditation of the plan or any additional quality indicators the plan makes available.

"(10) INFORMATION ON TREATMENT AUTHORIZATION.—Notice of appropriate mailing addresses and telephone numbers to be used by participants and beneficiaries in seeking information or authorization for treatment.

"(11) AVAILABILITY OF INFORMATION ON REQUEST.—Notice that the information described in subsection (c) is available upon request.

"(c) INFORMATION MADE AVAILABLE UPON REQUEST.—The information described in this subsection is the following:

"(1) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, time frames, and appeal rights) under any utilization review program maintained by the plan.

"(2) GRIEVANCE AND APPEALS INFORMATION.—Information on the number of grievances and appeals and on the disposition in the aggregate of such matters.

"(3) FORMULARY RESTRICTIONS.—A description of the nature of any drug formula restrictions.

"(4) PARTICIPATING PROVIDER LIST.—A list of current participating health care providers.

"(d) CONSTRUCTION.—Nothing in this section shall be construed as requiring public disclosure of individual contracts or financial arrangements between a group health plan or health insurance issuer and any provider.

"Subchapter C—Protecting the Doctor-Patient Relationship

"Sec. 9921. Prohibition of interference with certain medical communications.
"Sec. 9922. Prohibition of discrimination against providers based on licensure.
"Sec. 9923. Prohibition against improper incentive arrangements.
"Sec. 9924. Payment of clean claims.

"SEC. 9921. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

"(a) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant or beneficiary who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan, if the professional is acting within the lawful scope of practice.

"(b) NULLIFICATION.—Any contract provision or agreement that restricts or prohibits medical communications in violation of subsection (a) shall be null and void.

"SEC. 9922. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSURE.

"(a) IN GENERAL.—A group health plan shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

"(b) CONSTRUCTION.—Subsection (a) shall not be construed—

"(1) as requiring the coverage under a group health plan of particular benefits or services or to prohibit a plan from including providers only to the extent necessary to meet the needs of the plan's participants or beneficiaries or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan;

"(2) to override any State licensure or scope-of-practice law;

"(3) as requiring a plan that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan; or

"(4) as prohibiting a family practice physician with appropriate expertise from providing pediatric or obstetrical or gynecological care.

"SEC. 9923. PROHIBITION AGAINST IMPROPER INCENTIVE ARRANGEMENTS.

"(a) IN GENERAL.—A group health plan may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in clauses (i), (ii)(I), and (iii) of subparagraph (A) of such section are met with respect to such a plan.

"(b) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the Secretary of the Treasury, a group health plan, and a participant or beneficiary with the plan, respectively.

"(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting all capitation and similar arrangements or all provider discount arrangements.

"SEC. 9924. PAYMENT OF CLEAN CLAIMS.

"A group health plan shall provide for prompt payment of claims submitted for health care services or supplies furnished to a participant or beneficiary with respect to benefits covered by the plan, in a manner consistent with the provisions of sections 1816(c)(2) and 1842(c)(2) of the Social Security Act (42 U.S.C. 1395h(c)(2) and 42 U.S.C. 1395u(c)(2)), except that for purposes of this section, subparagraph (C) of section 1816(c)(2) of the Social Security Act shall be treated as applying to claims received from a participant or beneficiary as well as claims referred to in such subparagraph.

"Subchapter D—Definitions

"Sec. 9931. Definitions.
"Sec. 9933. Exclusions.
"Sec. 9933. Coverage of limited scope plans.
"Sec. 9934. Regulations; coordination; application under different laws.

"SEC. 9931. DEFINITIONS.

For purposes of this chapter—

"(a) INCORPORATION OF GENERAL DEFINITIONS.—Except as otherwise provided, the provisions of section 9831 shall apply for purposes of this chapter in the same manner as they apply for purposes of chapter 100.

"(b) ADDITIONAL DEFINITIONS.—For purposes of this chapter:

"(1) CLINICAL PEER.—The term 'clinical peer' means, with respect to a review or appeal, a practicing physician or other health care professional who holds a nonrestricted license and who is—

"(A) appropriately certified by a nationally recognized, peer reviewed accrediting body in the same or similar specialty as typically manages the medical condition, procedure, or treatment under review or appeal, or

"(B) is trained and experienced in managing such condition, procedure, or treatment,

and includes a pediatric specialist where appropriate; except that only a physician may be a clinical peer with respect to the review or appeal of treatment recommended or rendered by a physician.

"(2) HEALTH CARE PROFESSIONAL.—The term 'health care professional' means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

"(3) HEALTH CARE PROVIDER.—The term 'health care provider' includes a physician or other health care professional, as well as an institutional or other facility or agency that provides health care services and that is licensed, accredited, or certified to provide health care items and services under applicable State law.

"(4) NETWORK.—The term 'network' means, with respect to a group health plan, the participating health care professionals and providers through whom the plan provides health care items and services to participants or beneficiaries.

"(5) NONPARTICIPATING.—The term 'nonparticipating' means, with respect to a health care provider that provides health care items and services to a participant or beneficiary under group health plan, a health care provider that is not a participating health care provider with respect to such items and services.

"(6) PARTICIPATING.—The term 'participating' means, with respect to a health care provider that provides health care items and services to a participant or beneficiary under group health plan, a health care provider that furnishes such items and services under a contract or other arrangement with the plan.

"(7) PHYSICIAN.—The term 'physician' means an allopathic or osteopathic physician.

"(8) PRACTICING PHYSICIAN.—The term 'practicing physician' means a physician who is licensed in the State in which the physician furnishes professional services and who provides professional services to individual patients on average at least two full days per week.

"(9) PRIOR AUTHORIZATION.—The term 'prior authorization' means the process of obtaining prior approval from a group health plan for the provision or coverage of medical services.

"SEC. 9932. EXCLUSIONS.

"(a) NO BENEFIT REQUIREMENTS.—Nothing in this chapter shall be construed to require a group health plan to provide specific benefits under the terms of such plan, other than those provided under the terms of such plan.

"(b) EXCLUSION FOR FEE-FOR-SERVICE COVERAGE.—

"(1) GROUP HEALTH PLANS.—The provisions of sections 9901 through 9911 shall not apply to a group health plan if the only coverage offered under the plan is fee-for-service coverage (as defined in paragraph (2)).

"(2) FEE-FOR-SERVICE COVERAGE DEFINED.—For purposes of this subsection, the term 'fee-for-service coverage' means coverage under a group health plan that—

"(A) reimburses hospitals, health professionals, and other providers on a fee-for-service basis without placing the provider at financial risk;

"(B) does not vary reimbursement for such a provider based on an agreement to contract terms and conditions or the utilization of health care items or services relating to such provider;

"(C) allows access to any provider that is lawfully authorized to provide the covered services and agree to accept the terms and conditions of payment established under the plan; and

"(D) for which the plan does not require prior authorization before providing for any health care services.

"SEC. 9933. COVERAGE OF LIMITED SCOPE PLANS.

"Only for purposes of applying the requirements of this chapter under section 9813, section 9832(c)(2)(A) shall be deemed not to apply.

"SEC. 9934. REGULATIONS.

"The Secretary of the Treasury shall issue such regulations as may be necessary or appropriate to carry out this chapter under section 9813. The Secretary may promulgate such regulations in the form of interim final rules as may be necessary to carry out this chapter in a timely manner.".

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle K of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"CHAPTER 101. Improving managed care."

TITLE IV—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 401. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by title I (other than section 102), sections 201 and 202, and title III shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after January 1, 2000 (in this section referred to as the "general effective date") and also shall apply to portions of plan years occurring on and after such date.

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by title I (other than section 102), sections 201 and 202, and title III shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this Act shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The amendments made by section 102 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

(c) TREATMENT OF RELIGIOUS NONMEDICAL PROVIDERS.—

(1) IN GENERAL.—Nothing in this Act (or the amendments made thereby) shall be construed to—

(A) restrict or limit the right of group health plans, and of health insurance issuers offering health insurance coverage, to include as providers religious nonmedical providers;

(B) require such plans or issuers to—

(i) utilize medically based eligibility standards or criteria in deciding provider status of religious nonmedical providers;

(ii) use medical professionals or criteria to decide patient access to religious nonmedical providers;

(iii) utilize medical professionals or criteria in making decisions in internal or external appeals regarding coverage for care by religious nonmedical providers; or

(iv) compel a participant or beneficiary to undergo a medical examination or test as a condition of receiving health insurance coverage for treatment by a religious nonmedical provider; or

(C) require such plans or issuers to exclude religious nonmedical providers because they do not provide medical or other required data, if such data is inconsistent with the religious nonmedical treatment or nursing care provided by the provider.

(2) RELIGIOUS NONMEDICAL PROVIDER.—For purposes of this subsection, the term "religious nonmedical provider" means a provider who provides no medical care but who provides only religious nonmedical treatment or religious nonmedical nursing care.

SEC. 402. COORDINATION IN IMPLEMENTATION.

The Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Treasury shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which both Secretaries have responsibility under the provisions of this Act (and the amendments made thereby) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

TITLE V—OTHER PROVISIONS

Subtitle A—Protection of Information

SEC. 501. PROTECTION FOR CERTAIN INFORMATION.

(a) PROTECTION OF CERTAIN INFORMATION.—Notwithstanding any other provision of Federal or State law, health care response information shall be exempt from any disclosure requirement (regardless of whether the requirement relates to subpoenas, discover, introduction of evidence, testimony, or any other form of disclosure), in connection with a civil or administrative proceeding under Federal or State law, to the same extent as information developed by a health care provider with respect to any of the following:

(1) Peer review.

(2) Utilization review.

(3) Quality management or improvement.

(4) Quality control.

(5) Risk management.

(6) Internal review for purposes of reducing mortality, morbidity, or for improving patient care or safety.

(b) NO WAIVER OF PROTECTION THROUGH INTERACTION WITH ACCREDITING BODY.—Notwithstanding any other provision of Federal or State law, the protection of health care response information from disclosure provided under subsection (a) shall not be deemed to be modified or in any way waived by—

(1) the development of such information in connection with a request or requirement of an accrediting body; or

(2) the transfer of such information to an accrediting body.

(c) DEFINITIONS.—For purposes of this section:

(1) ACCREDITING BODY.—The term "accrediting body" means a national, not-for-profit organization that—

(A) accredits health care providers; and

(B) is recognized as an accrediting body by statute or by a Federal or State agency that regulates health care providers.

(2) HEALTH CARE RESPONSE INFORMATION.—The term "health care response information" means information (including any data, report, record, memorandum, analysis, statement, or other communication) developed by, or on behalf of, a health care provider in response to a serious, adverse, patient related event—

(A) during the course of analyzing or studying the event and its causes; and

(B) for the purposes of—

(i) reducing mortality or morbidity; or

(ii) improving patient care or safety (including the provider's notification to an accrediting body and the provider's plans of action in response to such event).

(3) HEALTH CARE PROVIDER.—The term "health care provider" means a person, who with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of—

(A) a person who is licensed, certified, registered, or otherwise authorized by Federal or State law to provide an item or service that constitutes health care in the ordinary course of business, or practice of a profession;

(B) a Federal, State, or employer-sponsored or any other privately-sponsored program that directly provides items or services that constitute health care to beneficiaries; or

(C) an officer or employee of a person described in subparagraph (A) or (B).

(4) STATE.—The term "State" includes a State, the District of Columbia, the Northern Mariana Islands, any political subdivisions of a State or such Islands, or any agency or instrumentality of either.

(d) EFFECTIVE DATE.—The provisions of this section are effective on the date of the enactment of this Act.

Subtitle B—Other Matters

SEC. 511. HEALTH CARE PAPERWORK SIMPLIFICATION.

(a) ESTABLISHMENT OF PANEL.—

(1) ESTABLISHMENT.—There is established a panel to be known as the Health Care Panel to Devise a Uniform Explanation of Benefits (in this section referred to as the "Panel").

(2) DUTIES OF PANEL.—

(A) IN GENERAL.—The Panel shall devise a single form for use by third-party health care payers for the remittance of claims to providers.

(B) DEFINITION.—For purposes of this section, the term "third-party health care payer" means any entity that contractually pays health care bills for an individual.

(3) MEMBERSHIP.—

(A) SIZE AND COMPOSITION.—The Secretary of Health and Human Services, in consultation with the Majority Leader of the Senate and the Speaker of the House of Representatives, shall determine the number of members and the composition of the Panel. Such Panel shall include equal numbers of representatives of private insurance organizations, consumer groups, State insurance commissioners, State medical societies, State hospital associations, and State medical specialty societies.

(B) TERMS OF APPOINTMENT.—The members of the Panel shall serve for the life of the Panel.

(C) VACANCIES.—A vacancy in the Panel shall not affect the power of the remaining members to execute the duties of the Panel, but any such vacancy shall be filled in the same manner in which the original appointment was made.

(4) PROCEDURES.—

(A) MEETINGS.—The Panel shall meet at the call of a majority of its members.

(B) FIRST MEETING.—The Panel shall convene not later than 60 days after the date of the enactment of the Health Care Quality and Choice Act of 1999.

(C) QUORUM.—A quorum shall consist of a majority of the members of the Panel.

(D) HEARINGS.—For the purpose of carrying out its duties, the Panel may hold such hearings and undertake such other activities as the Panel determines to be necessary to carry out its duties.

(5) ADMINISTRATION.—

(A) COMPENSATION.—Except as provided in subparagraph (B), members of the Panel shall receive no additional pay, allowances, or benefits by reason of their service on the Panel.

(B) TRAVEL EXPENSES AND PER DIEM.—Each member of the Panel who is not an officer or employee of the Federal Government shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(C) CONTRACT AUTHORITY.—The Panel may contract with and compensate government and private agencies or persons for items and services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(D) USE OF MAILS.—The Panel may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(E) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Panel, the Secretary of Health and Human Services shall provide to the Panel on a reimbursable basis such administrative support services as the Panel may request.

(6) SUBMISSION OF FORM.—Not later than 2 years after the first meeting, the Panel shall submit a form to the Secretary of Health and Human Services for use by third-party health care payers.

(7) TERMINATION.—The Panel shall terminate on the day after submitting its the form under paragraph (6).

(b) REQUIREMENT FOR USE OF FORM BY THIRD-PARTY CARE PAYERS.—A third-party health care payer shall be required to use the form devised under subsection (a) for plan years beginning on or after 5 years following the date of the enactment of this Act.

The CHAIRMAN. Pursuant to House Resolution 323, the gentleman from Florida (Mr. GOSS) and the gentleman from Michigan (Mr. DINGELL) will each control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. GOSS).

Mr. GOSS. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, I am honored to offer this substitute along with the gentleman from Arizona (Mr. SHADEGG), the gentleman from Oklahoma (Mr. COBURN), the gentleman from California (Mr. THOMAS), the gentleman from Pennsylvania (Mr. GREENWOOD), the gentlewoman from Connecticut (Mrs. JOHNSON), the gentleman from Kentucky (Mr. FLETCHER), and a host of other Members.

A few months ago the Speaker asked me to bring all of the voices and viewpoints on this issue together and craft a consensus bill that was sound public policy and not just another sound bite. It is clear that the Norwood-Dingell approach, while crafted with good intention, falls far short of sound public policy because it invites an avalanche of lawsuits and unlimited, uncontrollable damages. This is unacceptably costly, disruptive, and hardly good medicine for anyone, except maybe the trial bar.

Where Norwood is excessive, our substitute firmly stands on responsible middle ground. We hold all health plans accountable. I repeat, we hold all health plans accountable. Patients who have been harmed can sue and recover damages. Instead of guaranteeing lawsuits at the front end, we encourage patients to get the health care they need first.

Some have commented about special interest endorsements in this process, about the various proposals before us today. I am told that over 100 patient and provider groups have endorsed our substitute amendment, but no, repeat, no trial lawyer groups or insurance associations have. I therefore suggest we have struck the right balance, and urge Members' support accordingly.

Mr. DINGELL. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, the advocates of the substitute here, for whom I have enormous respect and affection, are going to talk about only one thing this morning, trial lawyers. Let us talk about the other things that are important, because other issues are being ignored by them.

Our bill, the Norwood-Dingell-Ganske bill, guarantees that your health plan will give you the prescription medicines you need. Theirs does not.

Our bill guarantees that you will be able to get into an approved clinical trial if you are threatened with serious diseases such as multiple sclerosis, Alzheimer's or Parkinson's. Theirs does not.

Our bill guarantees that the doctor can be an advocate for a patient, through internal and external appeal of a plan's decision, without any fear of being terminated by the HMO. Their doctor has no such assurance.

Their bill allows the HMO to punish your doctor. Our bill guarantees that you will be told when your insurance company offers rewards to health care providers for not providing you with a specialist or giving you cheaper but less effective treatment.

Their bill allows HMOs to keep you in the dark. Our bill allows none of these things.

These are not the only real differences between the substitutes. Others will be addressed in further detail by different participants in the debate.

In the end, the bill offered by my good friends, the gentleman from Oklahoma (Mr. COBURN) and the gentleman from Arizona (Mr. SHADEGG), for whom again I repeat I have great respect and affection, is no substitute whatsoever for real managed care reform.

Give managed care reform that protects the patient, that protects the doctor, that sees to it that medical necessity is dealt with by the doctor, and that the rights of the patient are assured.

Mr. GOSS. Mr. Chairman, I am pleased to yield 5 minutes to the distinguished gentleman from Arizona (Mr. SHADEGG), a principal author of this substitute.

Mr. SHADEGG. Mr. Chairman, I am passionate about this issue. For the last 2 years, I have done almost nothing else. I believe this is a momentous debate. But I am greatly offended by what is going on on the floor. The truth is that there are two extreme positions here, and there is a lot of misrepresentation going on.

Some of the most serious misrepresentation that is going on is the allegation that Republicans do not care about patients and that the Coburn-Shadegg bill will not protect them. I am enraged by that comment.

There is not a Member of this House, not one, Republican or Democrat, man or woman, not the gentleman from Georgia (Mr. NORWOOD), not the gentleman from Iowa (Mr. GANSKE), not the gentleman from Michigan (Mr. DINGELL), who is more passionate that HMOs must be held liable when they kill or maim someone. No one. No one beats me on that issue.

I have written a series of "dear colleagues," which you all should have read, and given them to the press, and it says, point blank, ERISA abuses people. Courts cry out for reform. It is quote after quote after quote from Federal judges describing that absolute immunity is wrong. And from my conservative friends I have been beaten up because I am not sufficiently pro-business.

But let me say that the gentleman from Georgia (Mr. NORWOOD), whom I love and respect, is wrong, because the gentleman from Georgia (Mr. NORWOOD) said the only bill that can become law is a bipartisan bill, and he would be right if yours were a bipartisan bill. But it is not a bipartisan bill, because just as immunity is extreme and wrong and bad public policy, so is outright, absolute, total liability.

The sad truth is that in the gentleman's to change the law, and in his decision to throw in with the other side, including the President, this issue became political, and not about patients. It needs to be about patients.

The reality is no bill we pass here on the floor can, in fact, become law if it is so extreme that it results in employers being sued; and the gentleman's provision to protect employers fails.

Now, I know that the gentleman from Georgia intended to write it to protect employers, but it does not do that. If they use simple discretionary authority, they can be sued.

I also know that the gentleman did not want and may not have intended to throw the door open to wide open liability so that one can sue anyone, anywhere, any time, for everything. But that is the way the bill is written. The gentleman's bill will result in handing the entire process over to the trial lawyers. That will never become law.

What we need is a middle ground which holds plans accountable, says you can no longer kill and maim people the way United Health Care did in United Health Care versus Corcoran, killing Mrs. Corcoran's baby. But we also need a law that says we are not going to turn the entire system over to the tort lawyers and let the tort lawyers get rich and buy Cadillacs and Lexuses and other cars out of the winnings of this system, driving people away from health care.

If American businesses walk away from insuring America's workers, we have not helped the system. We need a reasonable middle ground. We do not need one extreme immunity or another extreme turning the system over to the trial lawyers.

Now, I know you are well intended, but the sad truth, contrary to the description of the gentleman from Michigan (Mr. DINGELL), is that your bill goes too far. It can never be law.

I want a law that protects American people, that gives them health care. Employees working for American businesses need health care, and giving the system to the trial lawyers will not do that, any more than giving the system to the greed of the trial lawyers. Greed by insurance company fails. Greed by trial lawyers fails.

We need a middle ground system. We need desperately to pass a bill that strikes a fair balance, that says no, you do not get immunity, you cannot injure and kill people and, no, we are not going to give the whole system over to the trial lawyers. We are going to require people to take reasonable steps, and we are not going to let the trial lawyers ring the bell and get multimillion dollar judgments and have that come out of all of our pockets and have it drive Americans away from health care. Tick through your liability provision; tick through your employer protections. You may have intended them to work, but they do not.

In this debate it has been said that the truth has been lost. It is alleged that we have preempted State law. There is no one in this Congress that is more States rights than JOHN SHADEGG. We have not preempted State law. We have specifically said that Texas, Georgia, Louisiana, and any other State which passes a law to protect its patients may do so, and that law remains in effect.

I implore you to pass the Coburn-Shadegg substitute.

Mr. DINGELL. Mr. Chairman, I am happy to yield 4 minutes to the gentleman from Georgia (Mr. NORWOOD), my friend that I have come to respect and admire greatly.

Mr. NORWOOD. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, let me start by saying I agree with the gentleman from Arizona (Mr. SHADEGG), my good friend, that he really does, I believe, sincerely want to try to protect patients; and he really does think that he is in the middle.

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We dealt earlier with one bill that absolutely does not at all, and we are dealing with their bill that does not, in some respects either, and my view is that we are in the middle.

I have listened to all of my colleagues make the argument that they protect businesses and that we do not. I have listened to my colleagues take on the use of the term discretionary authority and how by using direct participation, my colleague's bill protects employers so much better. But when we look at the terms very closely, we see, really, that there are not really any differences.

We protect an employer from liability for their choice of plan and any benefits they put in their plan. They protect an employer from liability for their choice of plan and any benefits they put in their plan. Notice, the same thing. We protect an employer who provides an extra contractual benefit that is not in a plan. My colleagues protect an employer who provides an extra contractual benefit that is not in the plan. Notice we are saying the same things. We protect an employer who does not intervene in a review. My colleagues protect an employer who does not intervene in a review. Notice, I am repeating myself. But my colleagues want to go further. My colleagues want to protect an employer who advocates for a patient.

Now, I would not disagree, and I would argue that our bill does not make an employer liable who advocates for a patient, unless by advocating my colleagues mean an employer can get in and settle a dispute by making a medical decision about what coverage is appropriate, what coverage is medically needed. If that is what my colleagues mean by advocate, then I am not going to support that. But the bottom line is our efforts to protect employers really say the same thing.

Our bill does not authorize any cause of action against an employer, plan sponsor, or employee. That will be the new Federal law that goes into ERISA. In our bill, there is no right of recovery by a person against an employer, plan sponsor, or employee for damages.

Now, we go on further to say, there is one exception. In our bill we simply say, one can be liable for a cause of action against an employer, plan sponsor or employee if, if, any of the above exercise their discretionary authority to make a decision on a claim that is a benefit in the plan covered by the plan, and that decision results in personal injury or wrongful death.

I do not know how to say that any clearer. Discretionary authority simply means that the employer has the power to make a decision. One can make a decision in our bill to give an employee a benefit that maybe is not in the plan. The new Federal law will say, one is not liable if one wishes to do that. It is clear as a bell. Look on page 99.

We further protect employers by allowing the employer to put in what they want in the plan and what they do not want in the plan. If they want to exclude hospitalization, that is not my business. They can exclude hospitalization in the plan that they buy. The new Federal law will make certain that they are not liable because they did that.

One is not liable in our bill for not being involved in external review. My word, it is so very narrow. It simply says if the CEO, and it is much like the Thomas bill in the protections that it gives. We simply say, if the CEO really wants to get in there and make a medical necessity decision that takes away a benefit that is a benefit in the claim and the patient dies, one needs to be liable.

Mr. GOSS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from the Commonwealth of Pennsylvania (Mr. GREENWOOD), a principal author also.

Mr. GREENWOOD. Mr. Chairman, I thank the gentleman for yielding me this time.

Last weekend I went to the Doylestown Township Octoberfest, and I was talking to some of my constituents, and a gentleman came up to me and he said, tell me that it is not true that you guys in Washington are getting ready to pass a bill that would allow me to get sued because I provide insurance coverage to my employees; and I said well, we are going to have that debate, and I am going to go down there and try to protect you from that consequence.

I am not a lawyer, and I have listened to the debate go back and forth between the lawyers and nonlawyers and doctors and so forth. But here is what common sense tells me. Common sense tells me that under the Norwood-

Dingell bill, employers will get dragged into court. Now, not in all cases will they be found liable, but they will get dragged into court, because someone will make an allegation that they were harmed; someone will make an allegation that the employer exercised discretionary authority, and there is the employer, the small employer, sitting in a courtroom. And the first time we drag an employer into a courtroom is the last time that employer is going to provide health care coverage for his employees, because it is not worth it. He does not want to get dragged into a courtroom for trying to provide a benefit for his employees.

This is obviously a balancing act. It has been said over and over again, but this is a balancing act between too little liability and too much liability. The Goss-Coburn-Shadegg-Greenwood-Thomas, et cetera, coalition product is the middle ground. It is the exact right, in my opinion, balance between these two extremes.

I bet my colleagues, if the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Iowa (Mr. GANSKE) were sitting here at the dawn of the creation of malpractice liability, they would be about where we are, at best. They would be in the middle. They would be trying to design a system that leaves doctors accountable for this negligence, but not exposed to the maelstrom of liability cases that they are exposed to today.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Chairman, I thank my colleague, the ranking member of the Committee on Commerce, for yielding me this time.

I am glad to follow my colleague from Pennsylvania, because I do not know if I would call their amendment anywhere near middle ground. It may be middle ground from that side of the aisle, but it is not middle ground between the two aisles, and that is what the Norwood-Dingell-Ganske amendment does. The middle ground is really the amendment that is the base of this bill.

The Coburn-Shadegg proposal falls short of meeting the needs of the American people in the most critical issue: accountability. Unlike the Norwood-Dingell-Ganske, the amendment we are considering now will force patients harmed by their HMOs to seek remedies in Federal court. The practical effect of the Federal court provision would be devastating for patients.

First, the Federal court system is more difficult to access than our State courts. People have to travel longer distances, particularly in large States or rural areas. Worse yet, in Federal courts, Federal courts give priority to criminal cases. I know in Texas we have civil courts, we have State civil courts, we have county civil courts; but the Federal courts have to give preference to criminal cases. So these cases will sit behind them.

The Norwood-Dingell-Ganske builds on the success of our State's efforts, the State of Texas, both rural, urban, rich and poor and great diversity, and we need to learn by example.

One of the concerns I have about the amendment, Coburn-Shadegg-Greenwood, et al., is that it would actually overturn current laws that we have. Not only in my home State of Texas, but Missouri, Georgia, and California already have laws in effect to protect their citizens against negligent HMOs. In plain English, no State law can protect its citizens when HMO's medical decisions causes harm or death, and that is what Coburn-Shadegg says, and it is the section of the bill. They are preempting State law that our States have used. The State of Texas has had it for 2 years now, and it has stood the test of time. We have only had three court cases filed, but what we found out because of the effectiveness of the appeals process and, ultimately, judicial accountability, that is why we only have three cases filed, the appeals panel is working. They are finding for the patients over half the time, and that is why we need to make sure that we will not be faked out or pass a false amendment. The Coburn-Shadegg amendment is not a compromise; it may be a compromise on one side of the aisle.

Mr. GOSS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Louisiana (Mr. COOKSEY) who has assisted me mightily from his medical professional point of view.

Mr. COOKSEY. Mr. Chairman, I want to address the American people and the patients.

Since I have been in Washington, I find that there are a lot of groups out there that are looking out for themselves. There is big insurance, and they have overstepped the bounds. HMOs have ridden behind ERISA and overstepped their bounds, and they are guilty as charged. The trial lawyers are here and have been here at least for the last 7 years getting their message out, and they all spread a lot of money. And yes, the physicians are represented with their organizations, and I am a member of that profession and a member of those organizations.

But too often I get the feeling that there is no one here really representing the patients, the public; and that is what we really need to do today. We need to address the excesses of the HMOs. But at the same time, we do not need to open this up to unlimited litigation, because litigation is not going to improve the quality of health care, and that is what the issue is about. It is access to health care and quality of health care. That is the reason I am supporting this bill.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I rise in strong opposition to this amendment. This amendment provides the illusion of accountability, but there is a serious flaw blocking the right of people to get to the courts, and that flaw has to do with apparently the unilateral right of managed care industries to refer findings of fact and conclusions of law on whether there was substantial harm and whether that substantial harm was proximately caused by the decisions of the managed care plans to a private, corporate, nonjudicial body, which can act in an ex parte way; which can act in a way without regard to the Rules of Procedure or evidence.

Mr. Chairman, I include a letter from Dean Rand Rosenblatt of Rutgers Law School and Professor Rosenbaum of George Washington University which outlines these concerns.

THE GEORGE WASHINGTON UNIVERSITY,
Washington, DC, October 6, 1999.

Re: Analysis of the amendment in the nature of a substitute, to be offered by Mr. Coburn to H.R. 2723, The Health Care Quality and Choice Act of 1999.

Hon. JOHN DINGELL,
Ranking Member, Committee on Commerce, U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE DINGELL: This letter responds to your request for a legal analysis of the amendment that Mr. Coburn will offer to H.R. 2723 (hereinafter referred to as the Coburn amendment).

The Coburn amendment purports to add a federal remedy to the current range of judicial remedies under both ERISA and state law in cases involving patient injury. In fact, however, the amendment appears to be a legislative attempt to preempt all available medical malpractice remedies under state law as applied to managed care companies. In other words, the amendment appears to give companies a complete shield against any further medical malpractice cases under state law in which they would be a named defendant. As such, this amendment, which to the best of my knowledge has received no careful analysis and has not been subject to any prior debate, appears to reverse the leading case in the field, Dukes versus U.S. Healthcare Inc.

This federal legislative attempt to sweep away two centuries of state malpractice law in favor of a new and untested federal remedy appears to fly directly in the face of recent Supreme Court decisions regarding the limitations of Congressional authority to displace state law in areas historically committed to the powers of the states. The creation of remedies for personal injuries is the epitome of historic state powers to protect the health and welfare of their citizens.

Finally, close scrutiny of the "remedy" created in the Coburn amendment so tips the scales in favor of managed care companies that the amendment, even if not an unconstitutional exercise of Congressional powers in an area of law reserved to the states, may violate basic principles of constitutional due process.

Our analysis follows.

The amendment appears to preempt all state law remedies for medical malpractice cases involving managed care companies.

Section 502(n)(15) as added by the Coburn amendment purports to "save" malpractice remedies available under state law. However, the amendment is very carefully worded to limit the types of actions that would in fact be "saved:"

Protection of medical malpractice and similar actions under state law—This subsection shall not be construed to preclude any action under State law * * * not otherwise preempted under this title with respect to the duty (if any) under state law imposed on any person to exercise a specified standard of care when making a health care treatment decision in any case in which medical services are provided by such person, or in any case in which such decision affects the quality of care or treatment provided or received.

At first blush, the amendment appears to save both actions aimed at persons who provide medical care as well as persons who make decisions that affect the quality of the care. But a closer look reveals that these actions are saved only to the extent that they are "not otherwise preempted under this title." In fact, the new federal remedy is squarely aimed at persons whose decisions affect the quality of care. Specifically, the remedy would allow a right of action against substandard decision making by health benefit plan fiduciaries. It is their failure to "exercise ordinary care in making an incorrect determination" regarding the medical necessity or availability of a treatment that would be the subject of the new federal remedy. As a result, this new remedy would appear to preempt existing remedies grounded in state malpractice theory, that are aimed at the companies themselves.

This attempt to preempt the application of medical malpractice principles to managed care companies should come as no surprise. This is a critical juncture in the development of judicial theory regarding the conduct of managed care companies. In recent years, a growing number of courts have specifically have held that under various theories of direct and vicarious liability, managed care companies themselves—not just the doctors who work for them—can be liable for injuries caused by substandard decisions that affect the quality of care. These courts have distinguished for ERISA preemption purposes between state law-governed actions for damages as a result of injuries arising out of negligent coverage decisions (which are preempted) and state law actions alleging injuries as a result of the poor quality of medical care (which are not).

By appearing to "save" malpractice actions while at the same time creating a new federal right of action for injuries caused by substandard treatment decisions made by fiduciaries, the amendment thus appears to reverse these recent decisions and shields companies from the effects of state law.

The amendment appears to violate recent Supreme Court decisions regarding the limits of Congressional authority to legislate in areas historically left to the powers of the states.

The process envisioned in the new federal remedy appears to run headlong into the Constitution. There are so many deficiencies in the procedures set forth in the amendment that it is impossible to enumerate all of them. Most fundamentally in our view, the amendment appears to give defendants (e.g., health plans and health insurance issuers) the right to seek an ex parte determination from any qualified external appeal entity regarding whether the plaintiff actually sustained a personal injury, and/or whether the defendant's conduct was the proximate cause of the injury. Giving a private corporation the power to halt a federal judicial action through the use of non-judicial procedures, and with no statutory requirement of notice to the plaintiff or other due process rights, is unprecedented in American civil law.

The provisions of the amendment are simply extraordinary. The bill provides that even after an individual has exhausted the internal and external review process and filed an action in federal court, a managed care company is empowered to nullify the jurisdiction of that court by unilaterally deciding that the action will be heard before a private entity with no clearly relevant legal expertise and with no provision for a right to counsel, a jury trial or any other due process' protections for the plaintiff.

Private companies would have the power to obtain a definitive ruling against patients without patients ever having the opportunity to be heard before the entity making the certification decision. And a federal court with Constitutional authority to hear a case would be stripped of its Constitutional authority and directed to dismiss the case with prejudice based on a ruling by a non-judicial entity.

Nothing in the bill would prohibit a defendant from consulting entity after entity until it finds one that will decide in its favor. Fundamental questions of fact and law would be definitively determined by employees of an external review entity who could theoretically consist entirely of physicians with no judicial training. The measure grants neither discovery nor cross examination rights as part of the certification procedure.

Moreover, unlike a jury, employees of the external review entity would make critical findings of fact, not pursuant to a set of instructions from a legally trained and constitutionally impartial judge, but based on their own legally unguided impressions.

Finally, these findings of fact would not be subject to challenge or appeal by a judicial body, but rather would become legally binding in all judicial venues. Under the amendment, it appears that even the United States Supreme Court could not overturn the certification of an external review entity that the cause of the plaintiff's injury was not the negligence of the defendant.

Between the apparent ex parte nature of the certification process and the granting of sweeping judicial powers to private medical review bodies, the bill violates all notions of Constitutional due process.

Apart from its basic Constitutional problems, the right of action created by the bill contains additional serious shortcomings. The measure permits actions only against persons who have the authority to make the final determination of coverage. Such a provision could shield from liability a utilization review company under subcontract to the managed care organization, thereby undercutting any incentive to ensure better utilization review procedures.

Furthermore, the bill would condition the new right of action on exhaustion of the internal and external review process even when the injury already has occurred and exhaustion is futile. This rigid requirement is contrary to current law, which permits individuals to proceed directly to court under ERISA §502 in situations in which exhaustion would serve no purpose.

Furthermore, in cases in which a plaintiff has commenced both an action for damages under state law, as well as an action under this new federal remedy, the commencement of the federal action would immediately supercede "any action authorized under state law" against any person based on the same substantial harm." Section 502(n)(16)(B), as added. In other words, even if the amendment does not completely preempt actions against managed care companies that are grounded in state malpractice theory, it would effectively halt malpractice actions once an action under this new federal remedy is filed.

Not only does the filing of a federal action stop a state malpractice action, but the resolution of the federal case would fundamentally determine the course of the state case, as well. Under normal principles of collateral estoppel, when faced with a successful affirmative defense to the new federal right of action, a court with a malpractice action before it that turns on the same facts would inevitably dismiss the malpractice action.

Rather than allowing state law regarding malpractice liability in managed care to evolve, the bill would impose a radical, unnecessary, and untested remedy on state governments in an area traditionally committed to state discretion.

The question of when and under what circumstances insurers' liability for damages arising from negligent coverage decisions should be recognized under the law is a complex matter.

State courts began to address this issue in the early 1970s and the theory of insurer liability has slowly evolved. The application of ERIS to liability claims against insurers that sold products to employee benefit plans seriously affected the application of such laws to injured employees. In recent years, as ERISA preemption law has been refined and narrowed by the courts, states once again have begun to carefully approach this issue in the context of employee benefits.

In our view, this is not the time to create a new federal remedy, especially one as controversial as this. In light of the evolutionary nature of American health law, and the limits on Constitutional authority to displace state law, we believe that it is far more advisable to permit states to move the matter forward through legislation that best meets the needs of the residents of their states, particularly since the evidence to date indicates that the growth of such state laws has not resulted in either major cost increases in health insurance or a withdrawal of insurers from the market.

Sincerely,

SARA ROSENBAUM,
Harold and Jane Hirsh Professor of Health Law and Policy, The George Washington University Medical Center, School of Public Health and Health Services.

RAND ROSENBLATT,
Associate Dean for Academic Affairs and Professor of Law, Rutgers University Law School—Camden.

Mr. ANDREWS. Mr. Chairman, I believe that these are more than technical flaws. I believe they are substantive blockages which preclude the right of people to pursue remedies in the Federal courts. For these reasons, I strongly oppose the amendment.

Mr. GOSS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Louisiana (Mr. VITTER), who I believe is not only one of the freshest new Members, but is the freshest new Member from Louisiana on the Republican side.

Mr. VITTER. Mr. Chairman, I rise today as an original cosponsor of a strong bill to provide patient protection, and I rise in support of this version in particular, because many of its provisions are the strongest available on the very patient protection issues we care about.

This version goes further than any other proposal in granting access to hospital emergency rooms and ambulance services, and in ensuring that women have hassle-free access to OB/GYNs. It goes further by providing a quicker independent review process and fully protecting employers from lawsuits while allowing patients the right to sue their HMO.

So this very version, in my opinion, goes further on so many important fronts on the patient protection issue, even leaving the liability debate to the side.

Mr. Chairman, many would rather create partisan issues or enrich the coffers of trial lawyers than provide meaningful protections, the strongest available, to patients. Let us stop the political gamesmanship and pass strong patient protection.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Missouri (Ms. McCARTHY).

Ms. McCARTHY of Missouri. Mr. Chairman, I thank the gentleman from Michigan and rise in opposition to the amendment and in strong support of the bipartisan Norwood-Dingell managed care act.

We have all heard horror stories from our constituents, family members and friends. It is time for real reform. A constituent of mine in a head-on car wreck with massive trauma on his head, a collapsed lung, three broken ribs, and a shattered hip went through numerous surgeries in a struggle to regain the life he had before the accident. He contacted me because he had been denied productive physical therapy from his HMO despite his doctor and orthopedic specialist prescribing the physical therapy.

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Passing the Norwood-Dingell bill will improve patient care at the most fundamental level, and return medical decisions to patients and health care professionals.

This approach is working well at the State level. The current amendment we are considering will wipe out these State laws. I urge my colleagues to oppose the Coburn-Goss-Shadegg amendment and support the Norwood-Dingell bill.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to my good friend, the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Chairman, I would like to just raise two simple points. We have heard briefly a minute ago, who is here to represent patients? Well, I am here to represent patients. Prior to coming to serve in the Congress, I worked for 23 years in the mental health field as a licensed clinical psychologist.

Every major health care organization supports the Dingell-Norwood bill, every single one, bar none. If you are going to see a health care provider, be they a doctor, nurse, a clinical psychologist, a social worker, a physical therapist, occupational therapist, you name it, their professional occupation supports Dingell-Norwood. Those same professionals to whom we trust our health care would oppose this poison pill amendment.

As a psychologist, I am particularly concerned about one provision of this bill, the exemption for liability claims when mental health is damaged. I personally had the experience of working with a patient who was suicidal. Twenty-three years of clinical experience said if this patient did not get additional care, they very likely might go out and kill themselves. This bill would exempt insurance companies from liability for mental health damage. That is wrong. We need to support Norwood-Dingell.

Mr. GOSS. Mr. Chairman, I am happy to yield 2¼ minutes to the gentleman from Kentucky (Mr. FLETCHER), who was instrumental in guiding us on some of the provisions of this substitute amendment.

Mr. FLETCHER. Mr. Chairman, I thank the gentleman for yielding time to me. I appreciate the opportunity to address this bill.

I want to give my thanks to the gentleman from Oklahoma (Mr. COBURN) and the gentleman from Arizona (Mr. SHADEGG) for the extensive work they have done on this, coming from a great deal of concern about patients and a great deal of clinical experience in providing care.

Certainly I appreciate my colleagues, the gentleman from Iowa (Mr. GANSKE) and the gentleman from Georgia (Mr. NORWOOD), for all the work they have done to bring this debate here to the floor this day.

I am here to support the coalition bill, the Coburn-Shadegg bill, because it is the best bill to provide the patients that I have taken care of real protection. It is real patient protection. It is not real trial lawyer protection, I will grant that. No ambulance chasers are going to be smiling today when we pass this bill.

But patients will, because they will be assured that, first, physicians are making medical decisions, not insurance bureaucrats. Secondly, they will make sure that the cost does not go up so much that they end up with no insurance. Causing patients to lose their health insurance is not patient protection. If anyone has seen what the plight of patients are when they do not have health care, how they deliberate at home as to whether they are going to go to the physician, whether they are going to go to the emergency room, because they know it may result in bankruptcy, you know what it means to a family and patient not to have health insurance.

Yet, I believe this bill, the Norwood-Dingell bill, will drive up health care costs and drive up the number of uninsured. It is very important that we pass this coalition bill.

It is kind of interesting to me. As a physician, my primary concern is patients. It is not the special interest groups, whatever they are. I will say that this bill probably does not please a lot of the special interest groups. I think when we reach a bill that probably is balanced and fair, it really protects patients, primarily.

It is interesting to me that, as a physician, we have cried out for help with tort reform for years. We have said, give us some relief and we can reduce the cost. I talked to an OB-GYN physician just this last week who said, my malpractice insurance has gone up to $40,000 a year. This bill will increase the cost of malpractice. It will increase the cost of health care. That money will go into the pockets of trial lawyers.

That is not what we want to do for the patients. That is not real patient protection. Vote for the Coburn-Shadegg coalition bill, for our patients' sake.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Chairman, I appreciate the concerns of my fellow physician, the gentleman from Kentucky, particularly on the issue of cost. This is an important issue. We think that the cost to the bipartisan managed care bill will be very small, and that that is part of the reason why Members should support it.

Why is that? The critics of our bill have said that it is going to result in a lot of lawsuits, but if we look at a study that was recently done by Coopers & Lybrand for the Kaiser Family Foundation, where they compared group health plans that do not have a liability shield to those that do, the incidence of lawsuits was in the range of from .3 to 1.4 cases per 100,000 enrollees, and they showed that the legal costs for those group health plans that are not shielded was from 3 to 13 cents per month per employee.

That is a small price to pay for somebody who is spending thousands of dollars for their HMO coverage to be sure that that health plan then will not cut the corners too tight in the pursuit of profits that could result in harm or injury, when under current ERISA law they are shielded from that liability.

Under the plain meaning limits of our bill, the provisions, as looked at by a leading ERISA law firm in the country, have shown that we do exempt employers. It is the plain meaning of our bill. That is part of the reason why the gentleman from Oklahoma (Mr. COBURN) and the gentleman from Arizona (Mr. SHADEGG) put in about 5 or 6 extra pages that are very circular that in the end, basically, in my opinion, and we will go into that in more detail, shield the employer, or rather, shield the health plans, just like the problem we are trying to correct.

Mr. Chairman, we have a chance today to fix a problem that Congress created 25 years ago. The substitute we are debating now just does not do it.

Mr. GOSS. Mr. Chairman, I am pleased to yield 1 minute to the distinguished gentleman from Wisconsin (Mr. GREEN), to demonstrate the broadness of the consensus group that we have.

Mr. GREEN of Wisconsin. Mr. Chairman, I thank the gentleman for yielding time to me.

I would like to draw attention back to one very simple thing. For better or worse, we have an employer-based health care system in this Nation. That is a fact. Some of us would like to change that, but today, as we are standing here, we have an employer-based system. As long as we do, we must reject plans that would lead employers to drop coverage.

The debate over liability, and we are hearing it on both sides as to what that means, the debate over liability shows at the very least that it creates uncertainty for employers. Where they have uncertainty, we know in order to avoid risks they are going to drop coverage.

In Wisconsin, we have the lowest level of uninsureds in the Nation. We understand that we cannot protect patients unless they have health insurance. Unfortunately, unless we pass this amendment, all we are going to do is drive up costs, drive up uninsured levels. We will not have access to care and we will not have patient protection. Please support this amendment.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Tennessee (Mr. FORD).

Mr. FORD. Mr. Chairman, if we listen to the debate, one could become easily confused that it is trial lawyers who are telling patients no, it is trial lawyers who are denying care.

I understand there may be some aversion, there may be some opposition on the other side to the role that trial lawyers play in helping to even the playing field here in America, but they are not the cause or root of this problem.

As a matter of fact, things have gotten so bad that some of my friends on the other side, and I indeed say friends because many of them are, that their own front-runner presidential nominee has suggested that they soften their image, that perhaps they have gone overboard and exceeded the boundaries of fairness and perhaps even compassion, here in this body and in this Nation.

I applaud the leadership that the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Iowa (Mr. GANSKE) and the gentleman from Oklahoma (Mr. COBURN) and the gentleman from Louisiana (Mr. COOKSEY) and others in this body have demonstrated on this issue. But I do think it is important that we put this issue in its proper context. This is just about accountability.

I think there are issues that can be resolved between Coburn-Shadegg and Norwood-Dingell. There are legal issues which some of the lawyers in the Chamber perhaps understand and others do not. But around here, this is just about accountability. HMOs and foreign diplomats are the only people who are above the law. That should end, and we could do it with the Norwood-Dingell bill.

Mr. GOSS. Mr. Chairman, I am happy to yield 1 minute to the distinguished gentleman from the Commonwealth of Pennsylvania (Mr. ENGLISH), who has contributed, as well, to our effort.

Mr. ENGLISH. Mr. Chairman, I rise in strong support of the Goss-Coburn-Shadegg substitute. This amendment arguably provides better health care quality standards than the Dingell-Norwood plan and better protection for working families by, among other things, including emergency ambulance services in the prudent lay persons standard for emergency care coverage, to ensure that patients are not worried about calling their insurance company before calling an ambulance; by reducing the time limits in expedited cases from 72 hours to 48 hours; by providing broader access to all cancer clinical trials; by providing for a voluntary alternative dispute resolution system, binding arbitration for those who do not want to go to court; by guaranteeing pathology and laboratory services; by creating a panel to establish network adequacy standards, to ensure that each plan has enough doctors in specialties for plan participants; by prohibiting plans from considering FDA-approved drugs or medical devices, experimental or investigational; and by protecting employers from indiscriminately being held liable in lawsuits.

Health care access will suffer if employers or even trade unions are exposed to legal liability for providing health care coverage for workers. Goss-Coburn has a commonsense liability provision that holds HMOs responsible, but also caps damages and puts time limits on lawsuits.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Chairman, I rise in opposition to this amendment, which falls short, far short, on important patient protections.

If a patient has been denied a screen test or a treatment which results in a serious health care problem, the HMO must be held accountable. This amendment contains a $100 threshold for patients to be eligible even for external review. Mammograms cost $95. A routine EKG is $50. A PSA for prostate cancer is $25.

As a nurse, I am very concerned that a person who is denied a simple, inexpensive, lifesaving test would never be eligible for that review. The Coburn-Shadegg substitute will diminish fundamental constitutional rights of patients to seek redress in the courts when they have suffered serious physical harm or even been killed. This provision will save HMOs a few dollars and cents, but it defies common sense.

Mr. Chairman, patients must no longer take a back seat to profits. I urge my colleagues to oppose this amendment and to support the Norwood-Dingell bill.

Mr. GOSS. Mr. Chairman, I am pleased to yield 1 minute to a close colleague and friend, the gentleman from Florida (Mr. WELDON), who obviously has been of much assistance in putting on this measure.

Mr. WELDON of Florida. I thank the gentleman for yielding time to me, Mr. Chairman, and I rise in support of the Goss-Coburn-Shadegg substitute.

Mr. Chairman, I came to Washington from my medical practice in 1995, feeling at that time that the managed care industry had placed the bottom line ahead of quality of care, that insurance company and HMO bureaucrats were practicing medicine, and that they needed to be held accountable, as accountable as I was when I practiced medicine.

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However, I also felt that our society had become too litigious, that we had too many lawsuits. I believe that this substitute before the body now strikes the right balance between these two conflicting needs. It allows for the maintenance of quality through strong internal and independent external appeals processes, but it still reserves the right of individuals to seek redress in court for their injuries. I feel that it is the piece of legislation that we should be enacting.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from New York (Mrs. MCCARTHY).

Mrs. McCARTHY of New York. Mr. Chairman, I rise in support of the Bipartisan Consensus Managed Care Improvement Act. I rise today to speak as a Congresswoman from Long Island, a mother, and a nurse.

I spent close to over 30 years as a nurse, and I speak from experience when I remind my colleagues health care is about people. Real health care means direct access to specialists, especially in OB/GYN for women. Real health care means access to emergency room care. Real health care protects health care workers from retaliation from their employers when they blow the whistle on wrongdoing. Real health care saves lives by making clinical trials available to patients, not just cancer patients, but to patients that are suffering from many diseases. Real health care is a clean Norwood-Dingell bill.

The reason is, the first lesson I learned in nursing school was the patient always comes first. I hope we remember that when we vote today.

One other thing that I would just like to bring up very rapidly, 5 years ago, when I was an average citizen and had my health care insurance, I could not sue my HMO. Today, because I work for Congress, I am allowed to sue.

Mr. GOSS. Mr. Chairman, I am privileged to yield 1 minute to the gentlewoman from New York (Mrs. KELLY), a distinguished medical professional and activist.

Mrs. KELLY. Mr. Chairman, it is as a professional health care advocate that I rise in support of the Goss-Coburn-Shadegg-Greenwood-Thomas substitute amendment.

This amendment provides patients with vital protections that the Norwood-Dingell bill does not, such as shorter external appeal times, network adequacy standards, access to ambulance services, guaranteed pathology services, and a prohibition on plans labeling FDA approved drugs and devices as "experimental."

This amendment ensures patients get the care they need when they need it. It leaves medical decisions up to doctors, not insurers, and not lawyers. It allows doctors to treat their patients and prevents insurers from making medical necessity decisions. Insurers will be held accountable for wrongful actions; and patients, if injured, can go to court to sue for damages.

This substitute amendment also broadens the appeals process a patient may use by allowing binding arbitration as an alternative option to court. Arbitration will provide those patients who choose to select it the opportunity to appeal medical coverage decisions and to hold health insurers financially accountable for wrongful decisions in a nonthreatening forum with the same protections as court, but without the cost and time consumption.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. TURNER).

Mr. TURNER. Mr. Chairman, the Norwood-Dingell bill protects States' rights to regulate medical malpractice, a right that has existed for over 200 years.

In Texas, we passed patient protection legislation. It is working. There is no reason to conclude that we will run to the courthouse or that there has been a rush of litigation.

This House rejected the Boehner substitute because it allows insurance companies to avoid accountability. But equally damaging is to allow insurance companies to avoid medical malpractice laws of our 50 States by creating an exclusive preemptive Federal cause of action that is nothing more than the insurance company protection act of 1999.

The Coburn substitute blatantly tips the scales of justice in favor of the insurance companies. It privatizes justice by giving a private panel the authority to make judicial findings that are binding on the Federal court. Giving private entities the power to make findings that bind the Federal court is unprecedented in American law, and this provision should be rejected.

This substitute gives legal protection from liability to insurance companies enjoyed by no other group except foreign diplomats. We must protect patients. We must preserve accountability. We must preserve States' rights and reject the Coburn substitute.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Georgia (Mr. NORWOOD), which is going to be a benefit to both the gentleman from Florida (Mr. GOSS) and to myself.

Mr. NORWOOD. Mr. Chairman, I thank the gentleman from Michigan for yielding me this time.

Let me make this very clear. Let me also just thank the gentleman from Oklahoma (Mr. COBURN). I think that his bill has tremendous things in it in terms of patient protections. They have tried very hard. He and I have worked together for months and months and months.

But the problem is, and I will try to get through some of them at this point, the problem is that, when they get into their liability section, it takes us for the first time to Federal court. There are so many concoctions in there that it is going to be basically very impossible for a patient who has been wronged to have that wrong made right.

Now, there is really a reason why the California Medical Association and the Texas Medical Association and the Medical Association of Georgia have all sent letters to their Members of Congress saying that the Coburn bill would preempt State law. They are right.

My colleagues tried. I congratulate them for trying. But they failed. Let us take a look at what the bill says. Nothing shall be construed to preclude any action under State law not otherwise preempted under this title. The title they are amending is ERISA, section 502.

The courts have consistently ruled from the Pilot Life case on that any remedy that exists under ERISA, section 502, will preempt State law. By allowing a patient to sue in Federal court, their bill creates a new Federal remedy under ERISA, section 502. The courts have consistently ruled a Federal remedy preempts State law. Any cause of action under State law like California or Georgia or Texas that would conflict with a new Federal cause of action they have created is necessarily preempted. Their own language says so. There is no way the Texas, Georgia, and California laws would not be preempted.

Now my colleagues tried. I do not blame them for trying. I would not want to tell the Members from California or Texas or Georgia that my colleagues are preempting their State laws. Then, again, I do not have to do that.

In addition to what we are putting in ERISA, Federal law is supreme and has been so since 1819 and the Barron v. Baltimore case that the Supreme Court ruled on.

Now, that is one of my hiccups being from Georgia, and I think a lot of people might have that, that we are taking away State law.

Let us point out another little problem, because they are in there. Lord knows I am not against the gentleman from Oklahoma (Mr. COBURN). I love his bill except for these little issues, and that is why we have to defeat it.

Under the Norwood-Dingell bill, a person is held accountable for the consequences of the decision based on the medical merits of that decision. If a doctor makes a decision, he is judged on whether or not that decision was good. Good medicine. We want an insurer who overrules a doctor judged by the same standard. We want an insurer who overrules a doctor judged by the same standard. Now, under the Coburn-Shadegg substitute, an insurer will be judged by whether they practice good accounting.

Mr. GOSS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Tennessee (Mr. BRYANT).

Mr. BRYANT. Mr. Chairman, as we have heard from a number of our doctors today on both sides of this issue, I want to give my colleagues the perspective of an attorney who practiced law representing health care providers in malpractice cases.

I am somewhat confused because I have seen firsthand how unrestricted litigation against doctors and hospitals have caused the cost of medical care to rise dramatically. It caused doctors to practice defensive medicine. It caused premiums to go up and to see the cost of this service, the tests, and all of that to go up to where it is almost unaffordable.

Yet, here, we are today talking about trying to do the same thing to health care organizations. Why do we want to do that?

I have studied these bills, and I have come to a conclusion that there is a need for accountability for managed care. We have to hold them accountable, but we can do so in a fashion that does not chase people out of the health care industry, does not raise the expenses, does not cause more people to become uninsured. That is done in the Shadegg-Coburn bill.

It is a balanced, reasoned, measured approach which holds our HMOs accountable for good care and, on the other hand, does not run people out, does not make it too expensive that we have got more uninsureds on the rolls.

Mr. DINGELL. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Chairman, do we need a new Federal tort in this country? Do we want the Federal courts preempting State law in this country? Do we want the Federal courts taking over the traditional role of regulating insurance that is assumed by the States in this country?

I submit to my colleagues that the answer to those questions is no, but that is exactly what Coburn-Shadegg will do, allow Federal courts to preempt State law and create a brand-new Federal tort. Let us create health care in this country for American citizens. Let us do not create new torts.

What happened to local control? What happened to that argument? Do we not trust our own State courts in this country? Do we not respect local government? Do we turn everything over in this country to the Federal courts? Is that what we are about? That is just what this bill does.

I am here to tell my colleagues that, under Coburn-Shadegg, our State courts are gagged just like the doctors are gagged. On the other hand, Norwood-Dingell will not override protections already provided by State laws, States such as Texas, New York, Michigan, Iowa all across this great country. Norwood-Dingell is a common-sense local approach to these problems. If an insurer makes a decision, the insurer is responsible for that decision.

A final matter, the employer is not responsible for the decisions made by others. The employer is not responsible for the decisions made by others. The employer is not responsible for the decision made by others, period. That is what the States say.

Let us create medical care. Let us do not create a new tort.

Mr. GOSS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Louisiana (Mr. MCCRERY).

Mr. SHADEGG. Mr. Chairman, will the gentleman yield briefly?

Mr. MCCRERY. I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Chairman, I simply want to set the record straight on this issue. Apparently the question of whether or not State law is preempted under Coburn-Shadegg has become important, and I tried to ask the gentleman from Georgia (Mr. NORWOOD) about that issue.

I want to point out that, in his argument, he said that it is preempted because ERISA preempts all State law. That was his premise, because ERISA preempts all State law, and our bill said not otherwise preempted. He said that is the flaw in our logic.

The problem is he is wrong about that. ERISA does preempt all benefits claims, but it does not preempt quality of care claims. That is precisely what the Texas Legislature took advantage of. They wrote a law that says quality of care is not preempted. Georgia, Louisiana, and other States have followed, so his premise is simply wrong.

Mr. MCCRERY. Mr. Chairman, I thank the gentleman from Arizona for his comments.

To the gentleman from Texas (Mr. SANDLIN) who spoke so fervently about employers not being liable, I would simply say that, as a lawyer, he knows, and I am a lawyer, and I know that lawyers are not prevented from suing anybody no matter what the wording of any statute is.

I can guarantee him that some lawyers are going to sue employers because they sue everybody, everybody in sight that they think might be brought into court and have a settlement at hand. Those employers are going to have to fight that. Even though they may ultimately win under the wording of the statute, they are going to have to spend a lot of money fighting that lawsuit, and that is part of the problem.

Let us talk about liability for just a minute.

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And I understand the American Medical Association is supporting Norwood-Dingell and not supporting Coburn-Shadegg, which is just beyond belief to me. The American Medical Association, as well as some of my colleagues who are supporting Norwood-Dingell, have been fighting for years for medical malpractice reform, saying that the liability system is out of control. And yet, by passing Norwood-Dingell, they would impose on health care plans the same out-of-control liability system they have been complaining about for years on doctors. I just do not get it.

Mr. Chairman, besides the liability issue, though, which I think is clear, Norwood-Dingell does impose on health plans, the same out-of-control liability system that we have everywhere else, Coburn-Shadegg, on the other hand, puts some reasonable restraints on that liability system. But let us put that aside. Let us talk about the rest of the bill. I think my colleagues, especially on the free market side of the aisle, should be very concerned about the regulatory aspects of Norwood-Dingell. Their bill includes language stating that external appeals panels, for example, can consider as evidence government-issued practice and treatment policies and guidelines.

This gives bureaucrats the potential to outline practice in this country; bureaucrats writing down how health care will be administered, not doctors. Unlike the Coburn-Shadegg substitute, Norwood-Dingell gives unfettered discretion to Federal bureaucrats to determine if health care workers suffered from inappropriate retaliation from their employer.

This bill, the Norwood-Dingell bill, is too heavily regulatory. Vote against it and support the Coburn-Shadegg substitute.

Mr. DINGELL. Mr. Chairman, I yield 30 seconds to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I would just point out that in our bill we have limited punitive damages. That is a step forward. We go to the State courts because we know that there is a great deal of tort reform around the States, 30 States or so have limited punitives or none, caps on non-economics.

So I would say that is another good reason not to set up a new Federal tort where we just simply do not have any type of tort reform. And we cannot depend on the States to do the right thing in an area that they have typically and historically controlled for the last 200 years.

Mr. DINGELL. Mr. Chairman, I yield 1½ minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Chairman, for those who have contested the theory of evolution, we have the Republican Party's position on this issue. It has been evolving very rapidly.

We started out with many saying, no, there should not be any basis for lawsuits. They have moved. And I give credit to those who have helped them move, but they have been held back by some who still do not like the notion at all. We now have, apparently, agreement that there should be a right to sue HMOs. That is a considerable evolution. How wholeheartedly some believe in what they agree to, I am not sure. But we do have some agreement.

The question is what kind of lawsuits. And, in fact, what we have are people who have been grudgingly brought to the notion that there should be lawsuits but, because it was grudging, have designed flawed lawsuits. They have designed, surprisingly to me, a Federal supremacy situation which is premised on the notion that we cannot trust the States. Indeed, what we have from some on the other side is a distrust of two entities with whom they have previously professed a lot of solidarity: States and doctors. They have to say that we cannot allow the States the freedom to deal with the lawsuits, and they also show a distrust of doctors.

I also want to talk about the kind of lawsuits. Members on the other side have said, well, how has the AMA switched their position. These are very different kinds of malpractice lawsuits. Whatever we think of the other kinds of malpractice lawsuits, they are cases where the doctor who treated the patient is being sued and other people who did not treat that patient are coming in.

Here the lawsuits authorized are a very specific kind. They will require the cooperation of the doctor who treated that patient. Here the malpractice claim is that the doctor who actually treated the patient was overruled and interfered with. So the doctor who treated the patient stands as a gatekeeper to prevent illegitimate lawsuits.

Mr. GOSS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Chairman, while we are talking about evolution, let us talk about the fact that there are a number of unions that support the Norwood-Dingell bill. And why in the world would the American Medical Association align itself with unions? Perhaps my colleagues were asleep when the American Medical Association decided to adopt collective bargaining.

The arguments that we have heard, no matter how strongly or forcefully presented about the fact that the coalition bill tramples State law, are simply wrong. Let us not try to rely on each other. Let us go to the independent, professional attorneys that we have relied on since Congress created itself, the Congressional Research Service. Those lawyers, totally objective, analyzing the coalition bill said this: "This provision would not interfere with, but would support, a recent holding in a Federal district court decision upholding the ordinary care provision of the Texas law."

Now, my friend is a lot of things, but the gentleman from Georgia (Mr. NORWOOD) is not an attorney. The Congressional Research Service says the coalition bill supports State law.

Now, if we want to meet a trial lawyer, follow an ambulance. If we want to know who is supporting this measure, take a look at their list of supporters. On the coalition bill we will find that virtually medical association for medical association they match. But we cannot stay with them when the unions endorse their provision and the trial lawyers support their provision.

Why? Because people whose lives are on the line, in terms of their economic survival, say this: "The Chamber of Commerce strongly opposes any proposal which permits jury trial lawsuits for unlimited punitive and compensatory damages."

Do we believe the trial lawyers? No. Who will butter their bread? Take a look at the list of supporters of the coalition. We do not have the trial lawyers. Take a look at Norwood-Dingell. The trial lawyers and the doctors are together. Now, talk about evolution. Not only are they going to be following an ambulance, but they are going to be in the ambulance.

This is exactly the wrong approach to take when employers still have the ability to say, yes, I will provide health insurance; or, no, I am not going to run the risk of unlimited punitive and compensatory damages. That is the risk that will be run if Norwood-Dingell becomes law. And I can assure my colleagues that employers will say, at some point, it is not worth the risk. Do not feed trial lawyers.

Mr. DINGELL. Mr. Chairman, I yield 15 seconds to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I just want to point out to the gentleman from California (Mr. THOMAS) that we all try to use independent, well-experienced lawyers. The lawyer from CRS who says that we do not preempt State law is out of law school for 3 years and has never practiced ERISA law. We tried to find some experienced people to do our ruling.

Mr. DINGELL. Mr. Chairman, I yield 2½ minutes to the gentleman from Missouri (Mr. GEPHARDT), the minority leader.

Mr. GEPHARDT. Mr. Chairman, I rise in opposition to the Coburn-Shadegg amendment and to speak for the Norwood-Dingell bill. And I want to commend the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Iowa (Mr. GANSKE) and all of the Republicans and Democrats who have worked so hard on this bill and especially the gentleman from Michigan (Mr. DINGELL) for all that he has done to make this happen.

The Coburn-Shadegg amendment, in my view, does not do what it claims to do. It fails to hold health care providers accountable. It lets them off the hook. It will not go far enough to guarantee that American families get the health care they need. In my view, only the Norwood-Dingell bill will return control of medical care back to where it belongs, to doctors and patients. It will deliver much-needed patient protections at a small cost to consumers and to business. I believe the cost is a modest price to pay to restore the much-needed balance in our health care system.

The health insurance lobby and their allies are spreading a false message that the Norwood-Dingell will and managed care reform will force employers to drop plans and will cause a loss of jobs and blunt economic growth. This is not reality. All we have to do is look at the experience in Texas, which has had a bill much like the Norwood-Dingell bill. Information filed with the Texas State Department of Insurance shows that there has been no unusual increases in costs in HMOs. In fact, national HMOs that operate in Texas and other States have higher cost increases outside Texas.

A recent study by the Kaiser Family Foundation found that the premium increases likely to result from a bill like Norwood-Dingell would be very modest. In fact, their study showed that it would result in a premium increase of less than 1 percent to a typical HMO policyholder.

Now, let me say to the Members that if somebody is sick in my own family and is not getting the care that the doctor believes they should get, I can assure my colleagues that paying less than 1 percent more for a policy that would give me enforceable rights would be something that I would leap at, and I think all my colleagues would leap at, if someone in their family was direly sick.

I have said many times that back in the early 1970s my son was diagnosed with terminal cancer, given no hope. The pediatrician said, he is going to be dead in 6 weeks. Then another doctor came in the room and said, we got on the computer last night and we think we found something that might work. This was back in 1972. I had good insurance, thank God. He got the therapy. If that doctor had come in the room and said, we typed in the computer and we found a triple drug therapy but the HMO has refused it, boy, I would have wanted to pay that extra 1 percent or half a percent to get the right to have that happen.

And let me say, with all respect to my friends who have brought these other alternatives, the reason that we want enforceability and accountability and a right to get to court after a review by physicians is we want pressure on these HMOs and health insurance companies to make the decisions in accordance with what doctors and patients need.

This is an important moment. This is the right bill. I urge Members to turn down these alternatives. I have great respect for the people who have written them and their motive and intent; but with all my heart I say to the Members of the House of Representatives today, this Norwood-Dingell bill is the right bill for the people of this country. If somebody is sick in your family, you are going to need this bill. Turn down these alternatives and vote for this very, very positive piece of legislation.

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Mr. GOSS. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Oklahoma (Mr. COBURN) who is the principal author of the patient protection act of this substitute.

Mr. COBURN. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, this is an issue that is very important to many of us. I have spent 21 years of my life in the medical field. Myself and one other doctor in this body goes home and practices every weekend. We all agree that there needs to be certain basic things changed. Everybody that voted on the last bill all know that all those basic things need to be changed.

Why? Because there were four Members in this body that really wrote them: The gentleman from Iowa (Mr. GANSKE), the gentleman from Oklahoma (Mr. COBURN), the gentleman from Georgia (Mr. NORWOOD), and the gentleman from Arizona (Mr. SHADEGG). They constitute the entire base bill of all the bills that are written. We all agree on that. What we do not agree on, however, is what the risks are of going too far.

I believe that all in this debate are well-intended. And other than the statements made by our friend from Massachusetts, I believe all the motives are good. He said our motives are not good, we have been pulled. We have not been pulled. We care about patients immensely. The question is do we care just in the short-run? Are we only going to solve the problem now and then have to come back and fix a bigger problem?

I am known for my independence in this body. I have taken the AMA foursquare for their position, which puts people's future health care benefit at risk. And why are they doing it? They have a persecution complex. They have been sued out the kazoo. And if it is good enough for them, it is good enough for everybody else.

I am a pro-business conservative. I have had the "little you know what" beat out of me from the people who are my friends. Why would I position myself in the middle of those two? Because I want to fix health care. Not just now. I want to fix it down the road. And I do not want what we are about to do to end up being the reason why the Government is going to have to run health care.

Mr. Chairman, I want to tell my colleagues, if they do not believe that is true, listen to this: The closest the Health Care Financing Administration has ever come on any estimate of any cost with Medicare/Medicaid, they missed it by 800 percent. So just take .3 or 1 percent, multiply it by 800 percent, and that is what we are going to see.

There are motivations other than caring for the patients in this debate, and they are big business not wanting to pay the cost of full care. There are HMOs who oftentimes, too often, the bottom line is the most important thing. And there is the trial bar who will extort, we cannot deny it, they will extort businesses. And they will raise costs. And under the claim of a good purpose but all too often as a lawsuit that is intended to only do one thing, extort money because it costs more to defend than it does to settle.

I do not deny that there are serious problems in our health care delivery system. I have worked hard with my friend, the gentleman from Georgia (Mr. NORWOOD), and the gentleman from Iowa (Mr. GANSKE) to try to solve those. But I beg this body to consider what we do. If we go too far and if we do not go far enough, we have failed. And if we fail, everyone in this country loses.

Government-run health care will kill the quality and leading nature of this country's health care. That is really what we are talking about. We are not really talking about lawsuits. We really are not talking about employer-based helped care. What we are talking about is getting over the brink to where what is going to happen is we are going to fulfill our obligation with a Government-run program.

And then talk about costs, talk about the ability to control care, talk about meeting our obligations to Social Security. We cannot even meet our obligations in Medicare now. How are we ever going to do that?

So as my colleagues consider this vote, think about why I would place myself against both sides of my friends, both sides. Because it is right and because it is correct. It does not do everything that the Norwood-Dingell bill does. We know that. But let us go here first. Let us hold plans accountable. There is no denying that we hold them accountable. The gentleman from Georgia (Mr. NORWOOD) knows that. It is how we hold them accountable and what are the costs associated with that.

I would beg my colleagues to look and walk before we leap. Our patients are worth that much.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to my good friend the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, this is the painful part. It is not any fun going against our friends. And the gentleman from Oklahoma (Mr. COBURN) is my friend. Of course, I wish he would not go against our bill which he worked so hard on and so long to help us write.

My colleagues, what this really is all about is about two very strong American principles. It is about the right to choose in this country and choose our own doctor, and it is about the right to ask people to be responsible for their actions. We do that all the time, and it is time that we ask the insurance industry to be responsible for its actions.

I am going to vote against the Coburn amendment because all the good things he has in his bill that he knows I agree with, he is right, I did help him write them, but I am going to vote against him because they really have gone too far with their liability part. And yes, they do and will make insurance companies liable in Federal court. There is no question that they will. But the problem is the poor patient has to jump through so many hurdles before they can get there.

It is correct for us to not endorse frivolous lawsuits and extortion that happens out there in the legal profession today. We know that. That is why we have tried to do our best to protect the employers.

But I cannot support his bill because I have to worry about and I am worried about and I have been for 5 years, tomorrow, today, it is about that mother today who took her child to the pediatrician and the doctor says her child needs to be hospitalized and the insurance industry 2,000 miles away says, no, we cannot do that.

It is about a friend of mine, Bob Schumacher, who, like me, is a small businessman and lives in Macon, Georgia. Bob used to be a member in NFIBE. He used to be a member in the Chamber of Commerce. But his wife is dying and the plan that he bought as the employer will not pay the benefits, and he basically has no recourse today. I want him to get recourse and get it fast, and we think in our bill that is the best way to do that.

Mr. GOSS. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Illinois (Mr. HASTERT), the Speaker of the House.

Mr. HASTERT. Mr. Chairman, I rise today in strong support of the coalition substitute.

As many of my colleagues know, I have been involved in this whole idea of health care and health care reform for a long time, probably longer than I want to remember.

One of the things we have strived for is to be able to get people into health care, into the situation where they need to get treatment, try to get people into hospitals' rooms and doctors' offices and not necessarily going into lawyers' offices and courtrooms before they can get that treatment.

I have always believed that we have three goals in health care. It must be affordable. It must be available. And it must be accountable. If it is not affordable, it is not available. Trying to change a system and keep a balance so that we do not change that system too much that we completely upset it so patients cannot get the care that they need is the task before this House, to try to find balance to try to do those things that are the right things.

As we debate these bills and these options before us today, there are a lot of similarities. People getting the access, people being able to get into emergency care, getting to their caregiver, their pediatrician, or their Ob-Gyn so that they can take care of them. They are all the same. I have written that legislation for years. The gentleman from Georgia (Mr. NORWOOD) helped me to do it. And this is all the same.

The difference in these bills is to some a fine line, but the difference in these bills is how far we go, how far that we give license to the trial lawyers, how far that we take the incentive away from corporate and employers to provide health care for their employees.

I am pleased that the House passed an access bill yesterday in a bipartisan fashion that will help address the problem of the 44 million uninsured today. It would be shameful to take up the important issue of patient protections without doing something to protect the uninsured.

As my good friend the gentleman from Florida (Mr. GOSS) put together a package that does both, he wrestled with many issues, how to make sure that managed care plans come through on their promises to their patients, how can we be certain that patients get the care they need when they need it.

Mr. Chairman, the coalition substitute developed by the gentleman from Florida (Mr. GOSS), the gentleman from Oklahoma (Mr. COBURN), the gentleman from Arizona (Mr. SHADEGG), the gentleman from Pennsylvania (Mr. GREENWOOD), and the gentleman from California (Mr. THOMAS) is an excellent product. It took us a while to reach this point. Consensus takes time. But we have got a solid, balanced approach that I urge my colleagues to support.

This is what the coalition bill does: It provides access to binding, independent decisions by doctors. For patients, we enforce their rights in court. And if they are harmed, they have access and rights to go back to court and get their damages. We protect employers who offer health care as a voluntary benefit. And we do not end fee-for-service medicine. We protect States like California and Texas that have already passed the right to sue legislation.

Sound reasonable? I think so. What could possibly be the reason for division on such a common-sense approach? It is very simple. We do not protect the trial lawyers. We do not force people to sue their way to get better health care. We do not provide windfalls for the trial lawyers. We want to show them something. We want to show them a common-sense way.

I want to also show my colleagues something else. This is a class list from the University of Texas Law School. It is a class list of all kinds of courses on how to sue an HMO. Probably that is relevant in Texas. Folks in Texas argue that the right to sue has not increased costs and they have not exploded. And they may be right so far.

But under the Norwood-Dingell legislation, trial lawyers will be given unprecedented new rights to sue any time for any reason in any venue. The truth is no one has any idea what the cost implications can be when they go too far. The coalition bill, instead, gives patients the care they need when they need it.

My colleagues, we have come to an important point in this Congress in this debate. If we want to protect patients, vote for Goss. I urge support for the coalition substitute. And when it passes, I want to urge my colleagues to vote yes on final passage to move this legislation forward.

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Mr. DINGELL. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Arkansas (Mr. BERRY).

The CHAIRMAN. The gentleman from Arkansas is recognized for 2¼ minutes.

Mr. BERRY. Mr. Chairman, I rise in opposition to this amendment and in support of the bipartisan Norwood-Dingell bill. Let me tell my colleagues one of the reasons why.

Under the Coburn-Shadegg amendment non-economic damages are limited to the lesser of two times economic damages or $500,000. As was already mentioned, the Cocoran case that the gentleman from Arizona (Mr. SHADEGG) talked about, since the victim was a baby with no earnings, economic damages are minor, possibly only the cost of a funeral. Do my colleagues want to tell the Cocorans that the life of their baby is only worth a couple of thousand dollars? Under the Coburn-Shadegg amendment that is all that they would receive. That is one of the reasons I am opposed to this amendment.

Unlike this substitute which creates a new Federal bureaucratic process, the Norwood-Dingell legislation would allow States to determine whether such liability should be expanded to self-insured plans.

Let me say this again. The Norwood-Dingell bill allows States to determine whether HMOs should be held liable, and it allows States to determine which limits to set on damages.

The gentleman from Oklahoma (Mr. COBURN) says that letting the States decide goes too far. I disagree. The State of Texas, which the Speaker just referred to, has only had three lawsuits in its experience with a very similar bill as we are about to pass. Only in States that allow such suits and only in cases where a person has gone through a competitive internal and external review process could a lawsuit be filed, and if a health insurer or HMO abided by the review process, it could not be sued for punitive damages.

Most important, the Norwood-Dingell bill specifically prohibits lawsuits against employers, unless an employer makes a medical decision to deny a covered benefit and a patient is seriously harmed as a result. Norwood-Dingell specifically prohibits the suit to an employer.

These safeguards virtually ensure costly trials. Unreasonable verdicts will not result. At the same time it will ensure insurance companies and HMOs provide the benefits that employers and employees have paid for.

Mr. HUTCHINSON. Mr. Chairman, presently, this Nation is awash with a sea of discontent—a belief, in our Nation, that managed care has eroded the traditional reliance of patients on the decisions and recommendations of the physicians.

Because of the growing discontent of patients who are subject to managed care agreements, Congress is prepared to step in with additional patient protections and rights and to make sure those rights are enforceable. As we consider changes to our managed care system we need to keep in mind our guiding principles:

First, patients should be able to choose their own doctor—the most basic decision on health care. This means that a managed care agreement must allow a point of service option allowing patients to pay for procedures and physicians not covered by their plans; patients must also be guaranteed access to customary specialities such as OB/GYNs and pediatricians.

Second, physicians should be free to discuss all medical options with their patients—this means a prohibition of gag rules which restrict physicians from recommending all medical options with the patient;

Third, members of managed care plans should have immediate access to an emergency room based on a prudent lay person's standard and not be second guessed by an office clerk reviewing an emergency room bill thirty days after an emergency:

Finally, the protections and rights for patients are useless without the means for accountability and liability if those rights are ignored.

When organizations like insurance companies determine issues of medical necessity, they need to stand behind those decisions. However, while I believe there must be accountability, there also must be safeguards for employers who provide healthcare as a benefit and do not make medical decisions. Healthcare insurance is an employer sponsored system, and we must be careful that we maintain that system and encourage it to grow. Already, we have too many people who are without insurance, and we do not want to see those numbers rise because Congress irresponsibly passed legislation that drove up the cost of healthcare in a dramatic fashion.

Mr. Chairman, the bill before us that protects the patient and follows these guiding principles is the Goss, Shadegg, Coburn, Greenwood and Thomas Substitute. This requires group health plans to have a grievance system as well as an internal and external appeals process.

This would also allow a patient recourse when there is a denial of coverage if the benefits would exceed a hundred dollars. The legislation requires decisions within 14 days or 48 hours in expedited cases. In addition, for the first time a patient would be able to take the responsible party into court to protect their rights. The purpose of the court access is to protect rights, recoup damages and not to punish the healthcare plan if the plan is following the recommendation of the appeals review.

Just as important, employers who provide a self-funded health insurance plan will not be held liable unless they directly participate in the medical decisions of the plan. This provides adequate balance between patient protection and avoids astronomical price increases on health insurance premiums.

Mr. Chairman, I ask my colleagues to support the balanced approach of the patient protection provisions in Dr. COBURN's substitute amendment.

Mr. HILL of Montana, Mr. Chairman, Americans enjoy the best quality health care in the world. However, our system for delivering care can still be frustrating for patients, providers and employers. True comprehensive health care reform in my opinion must include the three A's—Accessibility, Affordability and Accountability. Yesterday, the House passed H.R. 2990 which will improve the accessibility and affordability in health care that we need today.

Today, we need to complete the Trifecta and address the most difficult of the three A's—Accountability. During the debate today we will have an opportunity to vote on four different ways to address the accountability issue. The main issue that we are debating when discussing patient protection legislation is how do we bring about accountability for insurance companies without creating a whirlwind of frivolous litigation.

Americans want and deserve patient protections, they do not want more lawsuits. And they don't want to fight with their employer, their doctor, or their insurance provider.

That is why I support the Coburn-Shadegg substitute to H.R. 2723, the Bipartisan Consensus Managed Care Improvement Act.

There are a number of reasons that I feel this solution is the best for both patients and providers. I believe this substitute ensures responsibility by holding insurance companies accountable to patients by allowing physicians to make medical decisions. First, Coburn/Shadegg allows employers to provide health insurance to their employees without exposing them to increased litigation. Under this substitute, employers can not be held liable for providing health care coverage, selecting a plan, selecting a third-party to administer, determining coverage or increasing or reducing coverage, or intervening on behalf of an employee. Under H.R. 2723, the employer will be subject to lawsuits which in turn, I fear, will cause employers to drop their health plans for their employees.

Second, Coburn/Shadegg instills reasonable accountability. The substitute requires an exhaustion of administrative remedies required. Patients are allowed to go through an internal and external appeals process before going to court. This gives patients an expedited forum to air grievances. Most importantly, the appeals are decided by an independent panel of doctors, not by bureaucrats or insurance claims adjusters, not by lawyers or judges.

Under this substitute there is no liability for consequential damages if the plan's doctor's decision is upheld by the independent external appeals entity. The goal is to encourage care and the good decision making at the earliest point in time. We need to avoid a process such as that created in the Norwood/Dingell bill that would produce an avalanche of frivolous lawsuits. We can address the very real concern of patients in managed care plans by empowering patients, not trial lawyers, and do so by passing Coburn/Shadegg.

I want patients to get the care they are entitled to when they need it, not allow their heirs to sue for some large settlement after they die. In the end, excessive lawsuits will only take money away from care and put it into the pockets of attorneys. That is an unacceptable result.

By adopting the Coburn-Shadegg substitute, we will be completing the three A's—Accessibility, Affordability and Accountability. Only when we have the three A's, is when we have a common-sense approach to comprehensive health care reform that will make health insurance companies more accountable and give patients more choices.

Mrs. FOWLER. Mr. Chairman, today I rise in support of the Goss-Coburn-Shadegg substitute. I, too, have heard of the excesses of some managed care plans from constituents and doctors in my district. I agree that these excesses must be curtailed and that the health care plans should be held accountable when they practice bad medicine.

However, I do not believe that the only way to hold them accountable is to open them up to lawsuits without limits.

The Norwood-Dingell bill does not distinguish between managed care insurance and traditional fee-for-service insurance. Fee-for-service plans merely reimburse for care; they do not engage in the type of medical decision-making that we seek to address through this debate. This substitute, on the other hand, makes the distinction and protects fee-for-service plans from expanded liability.

This substitute, like the Norwood-Dingell bill, establishes internal and external review processes through which doctors make determinations about what care is appropriate for their patients. But, unlike the Norwood-Dingell bill, this substitute allows those processes a chance to work before sending patients to court.

Mr. Chairman, the ultimate goal we all share is to ensure that patients get the care that they need when they need it. An expedited review process like that set up in this substitute will get patients that care much more quickly than a lengthy lawsuit.

But should the insurance company defy the determinations of those independent doctors, and as a result a patient is injured or dies, court may be the only option. This substitute allows for full recovery of economic damages, but caps the non-economic and punitive damages that can be won so that they are fair.

Furthermore, Mr. Chairman, this substitute strikes the appropriate balance between the rights to patients to seek redress of their grievances and the legitimate concerns of employers of being subjected to unlimited lawsuits. Unlike the Norwood-Dingell bill, Mr. Chairman, this substitute, through very specific language, will protect employers who do the right thing and provide health insurance coverage to their employees.

Without this employer protection, more employers will be forced to drop their insurance coverage for their employees. Without these limits on liability, premiums will rise and more people will be unable to afford insurance coverage. If these things happen, Mr. Chairman, then all we've done here today and yesterday will have been for naught.

Mr. CLAY. Mr. Chairman. I rise in opposition to the Coburn substitute. This substitute is nothing more than a fig leaf to permit Members to say they voted for something on liability without giving the American people any real rights. Under this substitute it is so difficult to get to court that almost no one will be able to be redressed in court.

First, under Coburn, individuals may only go to court after they have exhausted all internal and external plan appeals. No exception. Even if injury has already occurred. Or if appealing would be futile. This is tougher than current ERISA law which permits individuals to go to court if the court finds the internal process futile.

Second, individuals may only bring suit in federal court. The backlog is far greater in federal court than in state court. Individuals who do not live in big cities will have to travel long distances if they have been harmed.

Third, Coburn only permits individuals to sue the "final decision maker". This alone can be an impossible standard for an individual. Most individuals do not know who denied their claim and they certainly don't know who the final person was.

Furthermore, Coburn includes an unprecedented and likely unconstitutional limitation on the court's power to hear the case. Under Coburn, health plans can contract with private entities and permit them to determine if an individual was harmed and whether it was due to the plan's failure. If the private contractor finds for the health plan, then the court must dismiss the lawsuit unless there is clear and convincing evidence to the contrary. This is an unprecedented intrusion on the power of the courts. A private entity cannot determine whether there is a case or not. That is for the courts and the courts alone.

Even worse, Coburn mandates that the court award losing attorneys' fees and court costs if an individual's case is dismissed. Few working people can afford to go to court if they may be forced to pay the health plan's attorneys' fees if they lose.

Coburn is not a serious liability amendment. It makes it so difficult for an individual to bring a suit that almost no one will be able to go to court. Don't be fooled by this Trojan Horse. The American people want real rights and real reform. Support the Norwood-Dingell compromise.

Mr. KOLBE. Mr. Chairman, for the last 10 months, I've researched, analyzed, listened, and questioned, searching for the right answer to this policy conundrum. I believe there are four guiding principles that should govern any response:

(1) Legislation should permit an individual to sue an HMO as long as the amount of damages are reasonably related to the economic loss.

(2) Legislation should permit the right to sue over covered benefits only.

(3) Legislation should emphasize mediation over litigation.

(4) Legislation must provide sufficient protections for the employer—not the HMO—from lawsuits, unless the employer is actively engaged in making the health care decisions of the HMO.

In my view, Norwood-Dingell runs counter to these principles. Specifically, the bill would:

Allow lawsuits by anyone. No actual injury is required to recover damages under H.R. 2723.

Allow lawsuits at any time. H.R. 2723 does not require patients to seek administrative remedies—including internal and external appeals—before proceeding to litigation.

Allow lawsuits over anything. Plaintiffs may challenge any coverage decision or action by an HMO they disagree with, even if the procedure or service is not a covered benefit.

Allows lawsuits even when the HMO does everything right. Under H.R. 2723, an HMO may be sued even when it made the right decision according to an external medical review conducted by independent physicians.

Allows lawsuits without limits. This bill would let a patient sue for unlimited damages, driving up health care costs.

The Coburn-Shadegg substitute, however, meets these criteria. The bill:

Provides reasonable, but limited, liability for HMOs.

Protects employers from harassing litigation unless they choose to directly participate in any final decision to deny care.

Requires plaintiffs to complete an internal and external review process before proceeding to court.

Restricts lawsuits to covered benefits only, eliminating judicially mandated benefits.

To my colleagues here today, I say this: the Coburn-Shadegg substitute borrows the best of the Norwood-Dingell bill, rejects its worst, and improves upon the rest. It is a final example of pragmatic policy and deserves your support. It is essential that common sense and the common good prevail over rhetoric and political gamesmanship. I urge my colleagues to support the Coburn-Shadegg substitute. Americans are in need of a solution to this problem, not an issue for next year's elections.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. GOSS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GOSS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 193, noes 238, not voting 3, as follows:

[Roll No. 488]

AYES—193

Aderholt
Archer
Armey
Baker
Ballenger
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Biggert
Bilirakis
Bliley
Blunt
Bono
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth-Hage
Coble
Coburn
Collins
Combest
Cooksey
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Fossella
Fowler
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Nussle
Ose
Oxley
Packard
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Radanovich
Ramstad
Regula
Reynolds
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Salmon
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Smith (MI)
Smith (TX)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—238

Abercrombie
Ackerman
Allen
Andrews
Bachus
Baird
Baldacci
Baldwin
Barcia
Barr
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Boehner
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Campbell
Capps
Capuano
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Cook
Costello
Coyne
Cramer
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Foley
Forbes
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Ganske
Gejdenson
Gephardt
Gilman
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley
Horn
Hostettler
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntosh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Norwood
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Phelps
Pickett
Pomeroy
Price (NC)
Quinn
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schakowsky
Scott
Serrano
Sherman
Shows
Sisisky
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Terry
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NOT VOTING—3

Cox
Kaptur
Scarborough

☐ 1439

Mr. WALSH changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 3 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HOUGHTON

Mr. HOUGHTON. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment No. 3 in the nature of a substitute offered by Mr. HOUGHTON:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Bipartisan Consensus Managed Care Improvement Act of 1999".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Grievances and Appeals

Sec. 101. Utilization review activities.
Sec. 102. Internal appeals procedures.
Sec. 103. External appeals procedures.
Sec. 104. Establishment of a grievance process.

Subtitle B—Access to Care

Sec. 111. Consumer choice option.
Sec. 112. Choice of health care professional.
Sec. 113. Access to emergency care.
Sec. 114. Access to specialty care.
Sec. 115. Access to obstetrical and gynecological care.
Sec. 116. Access to pediatric care.
Sec. 117. Continuity of care.
Sec. 118. Access to needed prescription drugs.
Sec. 119. Coverage for individuals participating in approved. clinical trials.

Subtitle C—Access to Information
Sec. 121. Patient access to information.
Subtitle D—Protecting the Doctor-Patient Relationship
Sec. 131. Prohibition of interference with certain medical communications.
Sec. 132. Prohibition of discrimination against providers based on licensure.
Sec. 133. Prohibition against improper incentive arrangements.
Sec. 134. Payment of claims.
Sec. 135. Protection for patient advocacy.
Subtitle E—Definitions
Sec. 151. Definitions.
Sec. 152. Preemption; State flexibility; construction.
Sec. 153. Exclusions.
Sec. 154. Coverage of limited scope plans.
Sec. 155. Regulations.
TITLE II—APPLICATION OF QUALITY STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT
Sec. 201. Application to group health plans and group health insurance coverage.
Sec. 202. Application to individual health insurance coverage.
TITLE III—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974
Sec. 301. Application of patient protection standards to group health plans and group health insurance coverage under the Employee Retirement Income Security Act of 1974.
Sec. 302. Additional judicial remedies.
Sec. 303. Availability of binding arbitration.
TITLE IV—APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986
Sec. 401. Amendments to the Internal Revenue Code of 1986.
TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION
Sec. 501. Effective dates.
Sec. 502. Coordination in implementation.
TITLE VI—HEALTH CARE PAPERWORK SIMPLIFICATION
Sec. 601. Health care paperwork simplification.

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Grievance and Appeals

SEC. 101. UTILIZATION REVIEW ACTIVITIES.

(a) COMPLIANCE WITH REQUIREMENTS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section.

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms "utilization review" and "utilization review activities" mean procedures used to monitor or evaluate the use or coverage, clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed with input from a range of appropriate actively practicing health care professionals, as determined by the plan, pursuant to the program. Such criteria shall include written clinical review criteria that are based on valid clinical evidence where available and that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate.

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for an enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(C) REVIEW OF SAMPLE OF CLAIMS DENIALS.—Such a program shall provide for an evaluation of the clinical appropriateness of at least a sample of denials of claims for benefits.

(c) CONDUCT OF PROGRAM ACTIVITIES.—

(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions.

(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and have received appropriate training in the conduct of such activities under the program.

(B) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that encourages denials of claims for benefits.

(C) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who is providing health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program, including the utilization review administrator, are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary or appropriate.

(d) DEADLINE FOR DETERMINATIONS.—

(1) PRIOR AUTHORIZATION SERVICES.—

(A) IN GENERAL.—Except as provided in paragraph (2), in the case of a utilization review activity involving the prior authorization of health care items and services for an individual, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the case, and in no event later than the deadline specified in subparagraph (B).

(B) DEADLINE.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), the deadline specified in this subparagraph is 14 days after the date of receipt of the request for prior authorization.

(ii) EXTENSION PERMITTED WHERE NOTICE OF ADDITIONAL INFORMATION REQUIRED.—If a utilization review program—

(I) receives a request for a prior authorization,

(II) determines that additional information is necessary to complete the review and make the determination on the request, and

(III) notifies the requester, not later than 5 business days after the date of receiving the request, of the need for such specified additional information,

the deadline specified in this subparagraph is 14 days after the date the program receives the specified additional information, but in no case later than 28 days after the date of receipt of the request for the prior authorization. This clause shall not apply if the deadline is specified in clause (iii).

(iii) EXPEDITED CASES.—In the case of a situation described in section 102(c)(1)(A), the deadline specified in this subparagraph is 72 hours after the time of the request for prior authorization.

(2) ONGOING CARE.—

(A) CONCURRENT REVIEW.—

(i) IN GENERAL.—Subject to subparagraph (B), in the case of a concurrent review of ongoing care (including hospitalization), which results in a termination or reduction of such care, the plan must provide by telephone and in printed form notice of the concurrent review determination to the individual or the individual's designee and the individual's health care provider as soon as possible in accordance with the medical exigencies of the case, with sufficient time prior to the termination or reduction to allow for an appeal under section 102(c)(1)(A) to be completed before the termination or reduction takes effect.

(ii) CONTENTS OF NOTICE.—Such notice shall include, with respect to ongoing health care items and services, the number of ongoing services approved, the new total of approved services, the date of onset of services, and the next review date, if any, as well as a statement of the individual's rights to further appeal.

(B) EXCEPTION.—Subparagraph (A) shall not be interpreted as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(3) PREVIOUSLY PROVIDED SERVICES.—In the case of a utilization review activity involving retrospective review of health care services previously provided for an individual, the utilization review program shall make a

determination concerning such services, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, within 30 days of the date of receipt of information that is reasonably necessary to make such determination, but in no case later than 60 days after the date of receipt of the claim for benefits.

(4) Failure to meet deadline.—In a case in which a group health plan or health insurance issuer fails to make a determination on a claim for benefit under paragraph (1), (2)(A), or (3) by the applicable deadline established under the respective paragraph, the failure shall be treated under this subtitle as a denial of the claim as of the date of the deadline.

(5) Reference to special rules for emergency services, maintenance care, and post-stabilization care.—For waiver of prior authorization requirements in certain cases involving emergency services and maintenance care and post-stabilization care, see subsections (a)(1) and (b) of section 113, respectively.

(e) Notice of Denials of Claims for Benefits.—

(1) In general.—Notice of a denial of claims for benefits under a utilization review program shall be provided in printed form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include—

(A) the reasons for the denial (including the clinical rationale);

(B) instructions on how to initiate an appeal under section 102; and

(C) notice of the availability, upon request of the individual (or the individual's designee) of the clinical review criteria relied upon to make such denial.

(2) Specification of any additional information.—Such a notice shall also specify what (if any) additional necessary information must be provided to, or obtained by, the person making the denial in order to make a decision on such an appeal.

(f) Claim for Benefits and Denial of Claim for Benefits Defined.—For purposes of this subtitle:

(1) Claim for benefits.—The term "claim for benefits" means any request for coverage (including authorization of coverage), for eligibility, or for payment in whole or in part, for an item or service under a group health plan or health insurance coverage.

(2) Denial of claim for benefits.—The term "denial" means, with respect to a claim for benefits, means a denial, or a failure to act on a timely basis upon, in whole or in part, the claim for benefits and includes a failure to provide benefits (including items and services) required to be provided under this title.

SEC. 102. INTERNAL APPEALS PROCEDURES.

(a) Right of Review.—

(1) In general.—Each group health plan, and each health insurance issuer offering health insurance coverage—

(A) shall provide adequate notice in writing to any participant or beneficiary under such plan, or enrollee under such coverage, whose claim for benefits under the plan or coverage has been denied (within the meaning of section 101(f)(2)), setting forth the specific reasons for such denial of claim for benefits and rights to any further review or appeal, written in a manner calculated to be understood by the participant, beneficiary, or enrollee; and

(B) shall afford such a participant, beneficiary, or enrollee (and any provider or other person acting on behalf of such an individual with the individual's consent or without such consent if the individual is medically unable to provide such consent) who is dissatisfied with such a denial of claim for benefits a reasonable opportunity (of not less than 180 days) to request and obtain a full and fair review by a named fiduciary (with respect to such plan) or named appropriate individual (with respect to such coverage) of the decision denying the claim.

(2) Treatment of oral requests.—The request for review under paragraph (1)(B) may be made orally, but, in the case of an oral request, shall be followed by a request in writing.

(b) Internal Review Process.—

(1) Conduct of review.—

(A) In general.—A review of a denial of claim under this section shall be made by an individual who—

(i) in a case involving medical judgment, shall be a physician or, in the case of limited scope coverage (as defined in subparagraph (B), shall be an appropriate specialist;

(ii) has been selected by the plan or issuer; and

(iii) did not make the initial denial in the internally appealable decision.

(B) Limited scope coverage defined.—For purposes of subparagraph (A), the term "limited scope coverage" means a group health plan or health insurance coverage the only benefits under which are for benefits described in section 2791(c)(2)(A) of the Public Health Service Act (42 U.S.C. 300gg-91(c)(2)).

(2) Time limits for internal reviews.—

(A) In general.—Having received such a request for review of a denial of claim, the plan or issuer shall, in accordance with the medical exigencies of the case but not later than the deadline specified in subparagraph (B), complete the review on the denial and transmit to the participant, beneficiary, enrollee, or other person involved a decision that affirms, reverses, or modifies the denial. If the decision does not reverse the denial, the plan or issuer shall transmit, in printed form, a notice that sets forth the grounds for such decision and that includes a description of rights to any further appeal. Such decision shall be treated as the final decision of the plan. Failure to issue such a decision by such deadline shall be treated as a final decision affirming the denial of claim.

(B) Deadline.—

(i) In general.—Subject to clauses (ii) and (iii), the deadline specified in this subparagraph is 14 days after the date of receipt of the request for internal review.

(ii) Extension permitted where notice of additional information required.—If a group health plan or health insurance issuer—

(I) receives a request for internal review,

(II) determines that additional information is necessary to complete the review and make the determination on the request, and

(III) notifies the requester, not later than 5 business days after the date of receiving the request, of the need for such specified additional information,

the deadline specified in this subparagraph is 14 days after the date the plan or issuer receives the specified additional information, but in no case later than 28 days after the date of receipt of the request for the internal review. This clause shall not apply if the deadline is specified in clause (iii).

(iii) Expedited cases.—In the case of a situation described in subsection (c)(1)(A), the deadline specified in this subparagraph is 72 hours after the time of the request for review.

(c) Expedited Review Process.—

(1) In general.—A group health plan, and a health insurance issuer, shall establish procedures in writing for the expedited consideration of requests for review under subsection (b) in situations—

(A) in which, as determined by the plan or issuer or as certified in writing by a treating health care professional, the application of the normal timeframe for making a determination could seriously jeopardize the life or health of the participant, beneficiary, or enrollee or such an individual's ability to regain maximum function; or

(B) described in section 101(d)(2) (relating to requests for continuation of ongoing care which would otherwise be reduced or terminated).

(2) Process.—Under such procedures—

(A) the request for expedited review may be submitted orally or in writing by an individual or provider who is otherwise entitled to request the review;

(B) all necessary information, including the plan's or issuer's decision, shall be transmitted between the plan or issuer and the requester by telephone, facsimile, or other, similarly expeditious available method; and

(C) the plan or issuer shall expedite the review in the case of any of the situations described in subparagraph (A) or (B) of paragraph (1).

(3) Deadline for decision.—The decision on the expedited review must be made and communicated to the parties as soon as possible in accordance with the medical exigencies of the case, and in no event later than 72 hours after the time of receipt of the request for expedited review, except that in a case described in paragraph (1)(B), the decision must be made before the end of the approved period of care.

(d) Waiver of Process.—A plan or issuer may waive its rights for an internal review under subsection (b). In such case the participant, beneficiary, or enrollee involved (and any designee or provider involved) shall be relieved of any obligation to complete the review involved and may, at the option of such participant, beneficiary, enrollee, designee, or provider, proceed directly to seek further appeal through any applicable external appeals process.

SEC. 103. EXTERNAL APPEALS PROCEDURES.

(a) Right to External Appeal.—

(1) In general.—A group health plan, and a health insurance issuer offering health insurance coverage, shall provide for an external appeals process that meets the requirements of this section in the case of an externally appealable decision described in paragraph (2), for which an appeal is made, within 180 days after completion of the plan's internal appeals process under section 102, either by the plan or issuer or by the participant, beneficiary, or enrollee (and any provider or other person acting on behalf of such an individual with the individual's consent or without such consent if such an individual is medically unable to provide such consent). The appropriate Secretary shall establish standards to carry out such requirements.

(2) Externally appealable decision defined.—

(A) In general.—For purposes of this section, the term "externally appealable decision" means a denial of claim for benefits (as defined in section 101(f)(2))—

(i) that is based in whole or in part on a decision that the item or service is not medically necessary or appropriate or is investigational or experimental; or

(ii) in which the decision as to whether a benefit is covered involves a medical judgment.

(B) INCLUSION.—Such term also includes a failure to meet an applicable deadline for internal review under section 102.

(C) EXCLUSIONS.—Such term does not include—

(i) specific exclusions or express limitations on the amount, duration, or scope of coverage that do not involve medical judgment; or

(ii) a decision regarding whether an individual is a participant, beneficiary, or enrollee under the plan or coverage.

(3) EXHAUSTION OF INTERNAL REVIEW PROCESS.—Except as provided under section 102(d), a plan or issuer may condition the use of an external appeal process in the case of an externally appealable decision upon a final decision in an internal review under section 102, but only if the decision is made in a timely basis consistent with the deadlines provided under this subtitle.

(4) FILING FEE REQUIREMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), a plan or issuer may condition the use of an external appeal process upon payment to the plan or issuer of a filing fee that does not exceed $25.

(B) EXCEPTION FOR INDIGENCY.—The plan or issuer may not require payment of the filing fee in the case of an individual participant, beneficiary, or enrollee who certifies (in a form and manner specified in guidelines established by the Secretary of Health and Human Services) that the individual is indigent (as defined in such guidelines).

(C) REFUNDING FEE IN CASE OF SUCCESSFUL APPEALS.—The plan or issuer shall refund payment of the filing fee under this paragraph if the recommendation of the external appeal entity is to reverse or modify the denial of a claim for benefits which is the subject of the appeal.

(b) GENERAL ELEMENTS OF EXTERNAL APPEALS PROCESS.—

(1) CONTRACT WITH QUALIFIED EXTERNAL APPEAL ENTITY.—

(A) CONTRACT REQUIREMENT.—Except as provided in subparagraph (D), the external appeal process under this section of a plan or issuer shall be conducted under a contract between the plan or issuer and one or more qualified external appeal entities (as defined in subsection (c)).

(B) LIMITATION ON PLAN OR ISSUER SELECTION.—The applicable authority shall implement procedures—

(i) to assure that the selection process among qualified external appeal entities will not create any incentives for external appeal entities to make a decision in a biased manner, and

(ii) for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

(C) OTHER TERMS AND CONDITIONS.—The terms and conditions of a contract under this paragraph shall be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external appeal activities. Such contract shall provide that all costs of the process (except those incurred by the participant, beneficiary, enrollee, or treating professional in support of the appeal) shall be paid by the plan or issuer, and not by the participant, beneficiary, or enrollee. The previous sentence shall not be construed as applying to the imposition of a filing fee under subsection (a)(4).

(D) STATE AUTHORITY WITH RESPECT QUALIFIED EXTERNAL APPEAL ENTITY FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers offering health insurance coverage in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in a manner determined by the State to assure an unbiased determination.

(2) ELEMENTS OF PROCESS.—An external appeal process shall be conducted consistent with standards established by the appropriate Secretary that include at least the following:

(A) FAIR AND DE NOVO DETERMINATION.—The process shall provide for a fair, de novo determination. However, nothing in this paragraph shall be construed as providing for coverage of items and services for which benefits are specifically excluded under the plan or coverage.

(B) STANDARD OF REVIEW.—An external appeal entity shall determine whether the plan's or issuer's decision is in accordance with the medical needs of the patient involved (as determined by the entity) taking into account, as of the time of the entity's determination, the patient's medical condition and any relevant and reliable evidence the entity obtains under subparagraph (D). If the entity determines the decision is in accordance with such needs, the entity shall affirm the decision and to the extent that the entity determines the decision is not in accordance with such needs, the entity shall reverse or modify the decision.

(C) CONSIDERATION OF PLAN OR COVERAGE DEFINITIONS.—In making such determination, the external appeal entity shall consider (but not be bound by) any language in the plan or coverage document relating to the definitions of the terms medical necessity, medically necessary or appropriate, or experimental, investigational, or related terms.

(D) EVIDENCE.—

(i) IN GENERAL.—An external appeal entity shall include, among the evidence taken into consideration—

(I) the decision made by the plan or issuer upon internal review under section 102 and any guidelines or standards used by the plan or issuer in reaching such decision;

(II) any personal health and medical information supplied with respect to the individual whose denial of claim for benefits has been appealed; and

(III) the opinion of the individual's treating physician or health care professional.

(ii) ADDITIONAL EVIDENCE.—Such entity may also take into consideration but not be limited to the following evidence (to the extent available):

(I) The results of studies that meet professionally recognized standards of validity and replicability or that have been published in peer-reviewed journals.

(II) The results of professional consensus conferences conducted or financed in whole or in part by one or more government agencies.

(III) Practice and treatment guidelines prepared or financed in whole or in part by government agencies.

(IV) Government-issued coverage and treatment policies.

(V) Community standard of care and generally accepted principles of professional medical practice.

(VI) To the extent that the entity determines it to be free of any conflict of interest, the opinions of individuals who are qualified as experts in one or more fields of health care which are directly related to the matters under appeal.

(VII) To the extent that the entity determines it to be free of any conflict of interest, the results of peer reviews conducted by the plan or issuer involved.

(E) DETERMINATION CONCERNING EXTERNALLY APPEALABLE DECISIONS.—A qualified external appeal entity shall determine—

(i) whether a denial of claim for benefits is an externally appealable decision (within the meaning of subsection (a)(2));

(ii) whether an externally appealable decision involves an expedited appeal; and

(iii) for purposes of initiating an external review, whether the internal review process has been completed.

(F) OPPORTUNITY TO SUBMIT EVIDENCE.—Each party to an externally appealable decision may submit evidence related to the issues in dispute.

(G) PROVISION OF INFORMATION.—The plan or issuer involved shall provide timely access to the external appeal entity to information and to provisions of the plan or health insurance coverage relating to the matter of the externally appealable decision, as determined by the entity.

(H) TIMELY DECISIONS.—A determination by the external appeal entity on the decision shall—

(i) be made orally or in writing and, if it is made orally, shall be supplied to the parties in writing as soon as possible;

(ii) be made in accordance with the medical exigencies of the case involved, but in no event later than 21 days after the date (or, in the case of an expedited appeal, 72 hours after the time) of requesting an external appeal of the decision;

(iii) state, in layperson's language, the basis for the determination, including, if relevant, any basis in the terms or conditions of the plan or coverage; and

(iv) inform the participant, beneficiary, or enrollee of the individual's rights (including any limitation on such rights) to seek further review by the courts (or other process) of the external appeal determination.

(I) COMPLIANCE WITH DETERMINATION.—If the external appeal entity reverses or modifies the denial of a claim for benefits, the plan or issuer shall—

(i) upon the receipt of the determination, authorize benefits in accordance with such determination;

(ii) take such actions as may be necessary to provide benefits (including items or services) in a timely manner consistent with such determination; and

(iii) submit information to the entity documenting compliance with the entity's determination and this subparagraph.

(c) QUALIFICATIONS OF EXTERNAL APPEAL ENTITIES.—

(1) IN GENERAL.—For purposes of this section, the term "qualified external appeal entity" means, in relation to a plan or issuer, an entity that is certified under paragraph (2) as meeting the following requirements:

(A) The entity meets the independence requirements of paragraph (3).

(B) The entity conducts external appeal activities through a panel of not fewer than 3 clinical peers.

(C) The entity has sufficient medical, legal, and other expertise and sufficient staffing to conduct external appeal activities for the plan or issuer on a timely basis consistent with subsection (b)(2)(G).

(D) The entity meets such other requirements as the appropriate Secretary may impose.

(2) INITIAL CERTIFICATION OF EXTERNAL APPEAL ENTITIES.—

(A) IN GENERAL.—In order to be treated as a qualified external appeal entity with respect to—

(i) a group health plan, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting the requirements of paragraph (1)—

(I) by the Secretary of Labor;

(II) under a process recognized or approved by the Secretary of Labor; or

(III) to the extent provided in subparagraph (C)(i), by a qualified private standard-setting organization (certified under such subparagraph); or

(ii) a health insurance issuer operating in a State, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting such requirements—

(I) by the applicable State authority (or under a process recognized or approved by such authority); or

(II) if the State has not established a certification and recertification process for such entities, by the Secretary of Health and Human Services, under a process recognized or approved by such Secretary, or to the extent provided in subparagraph (C)(ii), by a qualified private standard-setting organization (certified under such subparagraph).

(B) Recertification process.—The appropriate Secretary shall develop standards for the recertification of external appeal entities. Such standards shall include a review of—

(i) the number of cases reviewed;

(ii) a summary of the disposition of those cases;

(iii) the length of time in making determinations on those cases;

(iv) updated information of what was required to be submitted as a condition of certification for the entity's performance of external appeal activities; and

(v) such information as may be necessary to assure the independence of the entity from the plans or issuers for which external appeal activities are being conducted.

(C) Certification of qualified private standard-setting organizations.—

(i) For external reviews under group health plans.—For purposes of subparagraph (A)(i)(III), the Secretary of Labor may provide for a process for certification (and periodic recertification) of qualified private standard-setting organizations which provide for certification of external review entities. Such an organization shall only be certified if the organization does not certify an external review entity unless it meets standards required for certification of such an entity by such Secretary under subparagraph (A)(i)(I).

(ii) For external reviews of health insurance issuers.—For purposes of subparagraph (A)(ii)(II), the Secretary of Health and Human Services may provide for a process for certification (and periodic recertification) of qualified private standard-setting organizations which provide for certification of external review entities. Such an organization shall only be certified if the organization does not certify an external review entity unless it meets standards required for certification of such an entity by such Secretary under subparagraph (A)(ii)(II).

(3) Independence requirements.—

(A) In general.—A clinical peer or other entity meets the independence requirements of this paragraph if—

(i) the peer or entity does not have a familial, financial, or professional relationship with any related party;

(ii) any compensation received by such peer or entity in connection with the external review is reasonable and not contingent on any decision rendered by the peer or entity;

(iii) except as provided in paragraph (4), the plan and the issuer have no recourse against the peer or entity in connection with the external review; and

(iv) the peer or entity does not otherwise have a conflict of interest with a related party as determined under any regulations which the Secretary may prescribe.

(B) Related party.—For purposes of this paragraph, the term "related party" means—

(i) with respect to—

(I) a group health plan or health insurance coverage offered in connection with such a plan, the plan or the health insurance issuer offering such coverage, or

(II) individual health insurance coverage, the health insurance issuer offering such coverage,

or any plan sponsor, fiduciary, officer, director, or management employee of such plan or issuer;

(ii) the health care professional that provided the health care involved in the coverage decision;

(iii) the institution at which the health care involved in the coverage decision is provided;

(iv) the manufacturer of any drug or other item that was included in the health care involved in the coverage decision; or

(v) any other party determined under any regulations which the Secretary may prescribe to have a substantial interest in the coverage decision.

(4) Limitation on liability of reviewers.—No qualified external appeal entity having a contract with a plan or issuer under this part and no person who is employed by any such entity or who furnishes professional services to such entity, shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if due care was exercised in the performance of such duty, function, or activity and there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

(d) External Appeal Determination Binding on Plan.—The determination by an external appeal entity under this section is binding on the plan and issuer involved in the determination.

(e) Penalties Against Authorized Officials for Refusing To Authorize the Determination of an External Review Entity.—

(1) Monetary penalties.—In any case in which the determination of an external review entity is not followed by a group health plan, or by a health insurance issuer offering health insurance coverage, any person who, acting in the capacity of authorizing the benefit, causes such refusal may, in the discretion in a court of competent jurisdiction, be liable to an aggrieved participant, beneficiary, or enrollee for a civil penalty in an amount of up to $1,000 a day from the date on which the determination was transmitted to the plan or issuer by the external review entity until the date the refusal to provide the benefit is corrected.

(2) Cease and desist order and order of attorney's fees.—In any action described in paragraph (1) brought by a participant, beneficiary, or enrollee with respect to a group health plan, or a health insurance issuer offering health insurance coverage, in which a plaintiff alleges that a person referred to in such paragraph has taken an action resulting in a refusal of a benefit determined by an external appeal entity in violation of such terms of the plan, coverage, or this subtitle, or has failed to take an action for which such person is responsible under the plan, coverage, or this title and which is necessary under the plan or coverage for authorizing a benefit, the court shall cause to be served on the defendant an order requiring the defendant—

(A) to cease and desist from the alleged action or failure to act; and

(B) to pay to the plaintiff a reasonable attorney's fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

(3) Additional civil penalties.—

(A) In general.—In addition to any penalty imposed under paragraph (1) or (2), the appropriate Secretary may assess a civil penalty against a person acting in the capacity of authorizing a benefit determined by an external review entity for one or more group health plans, or health insurance issuers offering health insurance coverage, for—

(i) any pattern or practice of repeated refusal to authorize a benefit determined by an external appeal entity in violation of the terms of such a plan, coverage, or this title; or

(ii) any pattern or practice of repeated violations of the requirements of this section with respect to such plan or plans or coverage.

(B) Standard of proof and amount of penalty.—Such penalty shall be payable only upon proof by clear and convincing evidence of such pattern or practice and shall be in an amount not to exceed the lesser of—

(i) 25 percent of the aggregate value of benefits shown by the appropriate Secretary to have not been provided, or unlawfully delayed, in violation of this section under such pattern or practice, or

(ii) $500,000.

(4) Removal and disqualification.—Any person acting in the capacity of authorizing benefits who has engaged in any such pattern or practice described in paragraph (3)(A) with respect to a plan or coverage, upon the petition of the appropriate Secretary, may be removed by the court from such position, and from any other involvement, with respect to such a plan or coverage, and may be precluded from returning to any such position or involvement for a period determined by the court.

(f) Protection of Legal Rights.—Nothing in this subtitle shall be construed as altering or eliminating any cause of action or legal rights or remedies of participants, beneficiaries, enrollees, and others under State or Federal law (including sections 502 and 503 of the Employee Retirement Income Security Act of 1974), including the right to file judicial actions to enforce actions.

SEC. 104. ESTABLISHMENT OF A GRIEVANCE PROCESS.

(a) Establishment of Grievance System.—

(1) In general.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall establish and maintain a system to provide for the presentation and resolution of oral and written grievances brought by individuals who are participants, beneficiaries, or enrollees, or health care providers or other individuals acting on behalf of an individual and with the individual's consent or without such consent if the individual is medically unable to provide such consent, regarding any aspect of the plan's or issuer's services.

(2) Grievance defined.—In this section, the term "grievance" means any question,

complaint, or concern brought by a participant, beneficiary or enrollee that is not a claim for benefits (as defined in section 101(f)(1)).

(b) GRIEVANCE SYSTEM.—Such system shall include the following components with respect to individuals who are participants, beneficiaries, or enrollees:

(1) Written notification to all such individuals and providers of the telephone numbers and business addresses of the plan or issuer personnel responsible for resolution of grievances and appeals.

(2) A system to record and document, over a period of at least 3 previous years, all grievances and appeals made and their status.

(3) A process providing for timely processing and resolution of grievances.

(4) Procedures for follow-up action, including the methods to inform the person making the grievance of the resolution of the grievance.

Grievances are not subject to appeal under the previous provisions of this subtitle.

Subtitle B—Access to Care

SEC. 111. CONSUMER CHOICE OPTION.

(a) IN GENERAL.—If a health insurance issuer offers to enrollees health insurance coverage in connection with a group health plan which provides for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the issuer to provide such services, the issuer shall also offer to such enrollees (at the time of enrollment and during an annual open season as provided under subsection (c)) the option of health insurance coverage which provides for coverage of such services which are not furnished through health care professionals and providers who are members of such a network unless enrollees are offered such non-network coverage through another group health plan or through another health insurance issuer in the group market.

(b) ADDITIONAL COSTS.—The amount of any additional premium charged by the health insurance issuer for the additional cost of the creation and maintenance of the option described in subsection (a) and the amount of any additional cost sharing imposed under such option shall be borne by the enrollee unless it is paid by the health plan sponsor through agreement with the health insurance issuer.

(c) OPEN SEASON.—An enrollee may change to the offering provided under this section only during a time period determined by the health insurance issuer. Such time period shall occur at least annually.

SEC. 112. CHOICE OF HEALTH CARE PROFESSIONAL.

(a) PRIMARY CARE.—If a group health plan, or a health insurance issuer that offers health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating primary care provider, then the plan or issuer shall permit each participant, beneficiary, and enrollee to designate any participating primary care provider who is available to accept such individual.

(b) SPECIALISTS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary or appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care professional who is available to accept such individual for such care.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating health care professionals with respect to such care.

SEC. 113. ACCESS TO EMERGENCY CARE.

(a) COVERAGE OF EMERGENCY SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides any benefits with respect to services in an emergency department of a hospital, the plan or issuer shall cover emergency services (as defined in paragraph (2)(B))—

(A) without the need for any prior authorization determination;

(B) whether or not the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee—

(i) by a nonparticipating health care provider with or without prior authorization, or

(ii) by a participating health care provider without prior authorization,

the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) DEFINITIONS.—In this section:

(A) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON STANDARD.—The term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) EMERGENCY SERVICES.—The term "emergency services" means—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition (as defined in subparagraph (A)), and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(C) STABILIZE.—The term "to stabilize" means, with respect to an emergency medical condition, to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility.

(b) REIMBURSEMENT FOR MAINTENANCE CARE AND POST-STABILIZATION CARE.—If benefits are available under a group health plan, or under health insurance coverage offered by a health insurance issuer, with respect to maintenance care or post-stabilization care covered under the guidelines established under section 1852(d)(2) of the Social Security Act, the plan or issuer shall provide for reimbursement with respect to such services provided to a participant, beneficiary, or enrollee other than through a participating health care provider in a manner consistent with subsection (a)(1)(C) (and shall otherwise comply with such guidelines).

SEC. 114. ACCESS TO SPECIALTY CARE.

(a) SPECIALTY CARE FOR COVERED SERVICES.—

(1) IN GENERAL.—If—

(A) an individual is a participant or beneficiary under a group health plan or an enrollee who is covered under health insurance coverage offered by a health insurance issuer,

(B) the individual has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist, and

(C) benefits for such treatment are provided under the plan or coverage,

the plan or issuer shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

(2) SPECIALIST DEFINED.—For purposes of this subsection, the term "specialist" means, with respect to a condition, a health care practitioner, facility, or center that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

(3) CARE UNDER REFERRAL.—A group health plan or health insurance issuer may require that the care provided to an individual pursuant to such referral under paragraph (1) be—

(A) pursuant to a treatment plan, only if the treatment plan is developed by the specialist and approved by the plan or issuer, in consultation with the designated primary care provider or specialist and the individual (or the individual's designee), and

(B) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

Nothing in this subsection shall be construed as preventing such a treatment plan for an individual from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

(4) REFERRALS TO PARTICIPATING PROVIDERS.—A group health plan or health insurance issuer is not required under paragraph (1) to provide for a referral to a specialist that is not a participating provider, unless the plan or issuer does not have an appropriate specialist that is available and accessible to treat the individual's condition and that is a participating provider with respect to such treatment.

(5) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a plan or issuer refers an individual to a nonparticipating specialist pursuant to paragraph (1), services provided pursuant to the approved treatment plan (if any) shall be provided at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist that is a participating provider.

(b) SPECIALISTS AS GATEKEEPER FOR TREATMENT OF ONGOING SPECIAL CONDITIONS.—

(1) IN GENERAL.—A group health plan, or a health insurance issuer, in connection with the provision of health insurance coverage,

shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition (as defined in paragraph (3)) may request and receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's care with respect to the condition. Under such procedures if such an individual's care would most appropriately be coordinated by such a specialist, such plan or issuer shall refer the individual to such specialist.

(2) TREATMENT FOR RELATED REFERRALS.—Such specialists shall be permitted to treat the individual without a referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment (referred to in subsection (a)(3)(A)) with respect to the ongoing special condition.

(3) ONGOING SPECIAL CONDITION DEFINED.—In this subsection, the term "ongoing special condition" means a condition or disease that—

(A) is life-threatening, degenerative, or disabling, and

(B) requires specialized medical care over a prolonged period of time.

(4) TERMS OF REFERRAL.—The provisions of paragraphs (3) through (5) of subsection (a) apply with respect to referrals under paragraph (1) of this subsection in the same manner as they apply to referrals under subsection (a)(1).

(c) STANDING REFERRALS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the plan or issuer, or if the primary care provider in consultation with the medical director of the plan or issuer and the specialist (if any), determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to such a specialist if the individual so desires.

(2) TERMS OF REFERRAL.—The provisions of paragraphs (3) through (5) of subsection (a) apply with respect to referrals under paragraph (1) of this subsection in the same manner as they apply to referrals under subsection (a)(1).

SEC. 115. ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

(a) IN GENERAL.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for a participant, beneficiary, or enrollee to designate a participating primary care health care professional, the plan or issuer—

(1) may not require authorization or a referral by the individual's primary care health care professional or otherwise for coverage of gynecological care (including preventive women's health examinations) and pregnancy-related services provided by a participating health care professional, including a physician, who specializes in obstetrics and gynecology to the extent such care is otherwise covered, and

(2) shall treat the ordering of other obstetrical or gynecological care by such a participating professional as the authorization of the primary care health care professional with respect to such care under the plan or coverage.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to—

(1) waive any exclusions of coverage under the terms of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(2) preclude the group health plan or health insurance issuer involved from requiring that the obstetrical or gynecological provider notify the primary care health care professional or the plan or issuer of treatment decisions.

SEC. 116. ACCESS TO PEDIATRIC CARE.

(a) PEDIATRIC CARE.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for an enrollee to designate a participating primary care provider for a child of such enrollee, the plan or issuer shall permit the enrollee to designate a physician who specializes in pediatrics as the child's primary care provider.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to waive any exclusions of coverage under the terms of the plan or health insurance coverage with respect to coverage of pediatric care.

SEC. 117. CONTINUITY OF CARE.

(a) IN GENERAL.—

(1) TERMINATION OF PROVIDER.—If a contract between a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, and a health care provider is terminated (as defined in paragraph (3)(B)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who is a participant, beneficiary, or enrollee in the plan or coverage is undergoing treatment from the provider for an ongoing special condition (as defined in paragraph (3)(A)) at the time of such termination, the plan or issuer shall—

(A) notify the individual on a timely basis of such termination and of the right to elect continuation of coverage of treatment by the provider under this section; and

(B) subject to subsection (c), permit the individual to elect to continue to be covered with respect to treatment by the provider of such condition during a transitional period (provided under subsection (b)).

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) DEFINITIONS.—For purposes of this section:

(A) ONGOING SPECIAL CONDITION.—The term "ongoing special condition" has the meaning given such term in section 114(b)(3), and also includes pregnancy.

(B) TERMINATION.—The term "terminated" includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

(b) TRANSITIONAL PERIOD.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the transitional period under this subsection shall extend up to 90 days (as determined by the treating health care professional) after the date of the notice described in subsection (a)(1)(A) of the provider's termination.

(2) SCHEDULED SURGERY AND ORGAN TRANSPLANTATION.—If surgery or organ transplantation was scheduled for an individual before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such surgery or transplantation, the transitional period under this subsection with respect to the surgery or transplantation shall extend beyond the period under paragraph (1) and until the date of discharge of the individual after completion of the surgery or transplantation.

(3) PREGNANCY.—If—

(A) a participant, beneficiary, or enrollee was determined to be pregnant at the time of a provider's termination of participation, and

(B) the provider was treating the pregnancy before date of the termination,

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

(4) TERMINAL ILLNESS.—If—

(A) a participant, beneficiary, or enrollee was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, and

(B) the provider was treating the terminal illness before the date of termination,

the transitional period under this subsection shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness or its medical manifestations.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the individual notifying the plan of the election of continued coverage and upon the provider agreeing to the following terms and conditions:

(1) The provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) CONSTRUCTION.—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

SEC. 118. ACCESS TO NEEDED PRESCRIPTION DRUGS.

If a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits with respect to prescription drugs but the coverage limits such benefits to drugs included in a formulary, the plan or issuer shall—

(1) ensure participation of participating physicians and pharmacists in the development of the formulary;

(2) disclose to providers and, disclose upon request under section 121(c)(5) to participants, beneficiaries, and enrollees, the nature of the formulary restrictions; and

(3) consistent with the standards for a utilization review program under section 101, provide for exceptions from the formulary limitation when a non-formulary alternative is medically indicated.

SEC. 119. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term "qualified individual" means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate, or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term "approved clinical trial" means a clinical research study or clinical investigation approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(A) The National Institutes of Health.

(B) A cooperative group or center of the National Institutes of Health.

(C) Either of the following if the conditions described in paragraph (2) are met:

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health, and

(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

Subtitle C—Access to Information

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) DISCLOSURE REQUIREMENT.—

(1) GROUP HEALTH PLANS.—A group health plan shall—

(A) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries as of such date), and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to participants and beneficiaries, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to participants and beneficiaries, the applicable authority, and prospective participants and beneficiaries, the information described in subsection (b) or (c) in printed form.

(2) HEALTH INSURANCE ISSUERS.—A health insurance issuer in connection with the provision of health insurance coverage shall—

(A) provide to individuals enrolled under such coverage at the time of enrollment, and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to enrollees, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to the applicable authority, to individuals who are prospective enrollees, and to the public the information described in subsection (b) or (c) in printed form.

(b) INFORMATION PROVIDED.—The information described in this subsection with respect to a group health plan or health insurance coverage offered by a health insurance issuer includes the following:

(1) SERVICE AREA.—The service area of the plan or issuer.

(2) BENEFITS.—Benefits offered under the plan or coverage, including—

(A) covered benefits, including benefit limits and coverage exclusions;

(B) cost sharing, such as deductibles, coinsurance, and copayment amounts, including any liability for balance billing, any maximum limitations on out of pocket expenses, and the maximum out of pocket costs for services that are provided by nonparticipating providers or that are furnished without meeting the applicable utilization review requirements;

(C) the extent to which benefits may be obtained from nonparticipating providers;

(D) the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the types of providers participating in the plan or issuer network;

(E) process for determining experimental coverage; and

(F) use of a prescription drug formulary.

(3) ACCESS.—A description of the following:

(A) The number, mix, and distribution of providers under the plan or coverage.

(B) Out-of-network coverage (if any) provided by the plan or coverage.

(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

(D) The procedures for participants, beneficiaries, and enrollees to select, access, and change participating primary and specialty providers.

(E) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

(F) The name, address, and telephone number of participating health care providers and an indication of whether each such provider is available to accept new patients.

(G) Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section 112(b)(2).

(H) How the plan or issuer addresses the needs of participants, beneficiaries, and enrollees and others who do not speak English or who have other special communications needs in accessing providers under the plan or coverage, including the provision of information described in this subsection and subsection (c) to such individuals.

(4) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan or issuer.

(5) EMERGENCY COVERAGE.—Coverage of emergency services, including—

(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

(B) the process and procedures of the plan or issuer for obtaining emergency services; and

(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

(6) PERCENTAGE OF PREMIUMS USED FOR BENEFITS (LOSS-RATIOS).—In the case of health insurance coverage only (and not with respect to group health plans that do not provide coverage through health insurance coverage), a description of the overall loss-ratio for the coverage (as defined in accordance with rules established or recognized by the Secretary of Health and Human Services).

(7) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in noncoverage or nonpayment.

(8) GRIEVANCE AND APPEALS PROCEDURES.—All appeal or grievance rights and procedures under the plan or coverage, including the method for filing grievances and the time frames and circumstances for acting on grievances and appeals, who is the applicable authority with respect to the plan or issuer.

(9) QUALITY ASSURANCE.—Any information made public by an accrediting organization in the process of accreditation of the plan or issuer or any additional quality indicators the plan or issuer makes available.

(10) INFORMATION ON ISSUER.—Notice of appropriate mailing addresses and telephone numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

(11) NOTICE OF REQUIREMENTS.—Notice of the requirements of this title.

(12) AVAILABILITY OF INFORMATION ON REQUEST.—Notice that the information described in subsection (c) is available upon request.

(c) INFORMATION MADE AVAILABLE UPON REQUEST.—The information described in this subsection is the following:

(1) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, time frames, and appeal rights) under any utilization review program under section 101, including under any drug formulary program under section 118.

(2) GRIEVANCE AND APPEALS INFORMATION.—Information on the number of grievances and appeals and on the disposition in the aggregate of such matters.

(3) METHOD OF PHYSICIAN COMPENSATION.—A general description by category (including salary, fee-for-service, capitation, and such other categories as may be specified in regulations of the Secretary) of the applicable method by which a specified prospective or treating health care professional is (or would be) compensated in connection with the provision of health care under the plan or coverage.

(4) SPECIFIC INFORMATION ON CREDENTIALS OF PARTICIPATING PROVIDERS.—In the case of each participating provider, a description of the credentials of the provider.

(5) FORMULARY RESTRICTIONS.—A description of the nature of any drug formula restrictions.

(6) PARTICIPATING PROVIDER LIST.—A list of current participating health care providers.

(d) CONSTRUCTION.—Nothing in this section shall be construed as requiring public disclosure of individual contracts or financial arrangements between a group health plan or health insurance issuer and any provider.

Subtitle D—Protecting the Doctor-Patient Relationship

SEC. 131. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

(b) NULLIFICATION.—Any contract provision or agreement that restricts or prohibits medical communications in violation of subsection (a) shall be null and void.

SEC. 132. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSURE.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(b) CONSTRUCTION.—Subsection (a) shall not be construed—

(1) as requiring the coverage under a group health plan or health insurance coverage of particular benefits or services or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer;

(2) to override any State licensure or scope-of-practice law; or

(3) as requiring a plan or issuer that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan or issuer.

SEC. 133. PROHIBITION AGAINST IMPROPER INCENTIVE ARRANGEMENTS.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in clauses (i), (ii)(I), and (iii) of subparagraph (A) of such section are met with respect to such a plan.

(b) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting all capitation and similar arrangements or all provider discount arrangements.

SEC. 134. PAYMENT OF CLAIMS.

A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for prompt payment of claims submitted for health care services or supplies furnished to a participant, beneficiary, or enrollee with respect to benefits covered by the plan or issuer, in a manner consistent with the provisions of sections 1816(c)(2) and 1842(c)(2) of the Social Security Act (42 U.S.C. 1395h(c)(2) and 42 U.S.C. 1395u(c)(2)), except that for purposes of this section, subparagraph (C) of section 1816(c)(2) of the Social Security Act shall be treated as applying to claims received from a participant, beneficiary, or enrollee as well as claims referred to in such subparagraph.

SEC. 135. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this title.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established for the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) General exception.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) Notice of internal procedures.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) Internal procedure exception.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) Additional considerations.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) Notice.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) Constructions.—

(A) Determinations of coverage.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) Enforcement of peer review protocols and internal procedures.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) Relation to other rights.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) Protected health care professional defined.—For purposes of this subsection, the term "protected health care professional" means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

Subtitle E—Definitions

SEC. 151. DEFINITIONS.

(a) Incorporation of General Definitions.—Except as otherwise provided, the provisions of section 2791 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) Secretary.—Except as otherwise provided, the term "Secretary" means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the term "appropriate Secretary" means the Secretary of Health and Human Services in relation to carrying out this title under sections 2706 and 2751 of the Public Health Service Act and the Secretary of Labor in relation to carrying out this title under section 713 of the Employee Retirement Income Security Act of 1974.

(c) Additional Definitions.—For purposes of this title:

(1) Actively practicing.—The term "actively practicing" means, with respect to a physician or other health care professional, such a physician or professional who provides professional services to individual patients on average at least two full days per week.

(2) Applicable authority.—The term "applicable authority" means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this title, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(3) Clinical peer.—The term "clinical peer" means, with respect to a review or appeal, an actively practicing physician (allopathic or osteopathic) or other actively practicing health care professional who holds a nonrestricted license, and who is appropriately credentialed in the same or similar specialty or subspecialty (as appropriate) as typically handles the medical condition, procedure, or treatment under review or appeal and includes a pediatric specialist where appropriate; except that only a physician (allopathic or osteopathic) may be a clinical peer with respect to the review or appeal of treatment recommended or rendered by a physician.

(4) Enrollee.—The term "enrollee" means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

(5) Group health plan.—The term "group health plan" has the meaning given such term in section 733(a) of the Employee Retirement Income Security Act of 1974 and in section 2791(a)(1) of the Public Health Service Act.

(6) Health care professional.—The term "health care professional" means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

(7) Health care provider.—The term "health care provider" includes a physician or other health care professional, as well as an institutional or other facility or agency that provides health care services and that is licensed, accredited, or certified to provide health care items and services under applicable State law.

(8) Network.—The term "network" means, with respect to a group health plan or health insurance issuer offering health insurance coverage, the participating health care professionals and providers through whom the plan or issuer provides health care items and services to participants, beneficiaries, or enrollees.

(9) Nonparticipating.—The term "nonparticipating" means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(10) Participating.—The term "participating" means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

(11) Prior authorization.—The term "prior authorization" means the process of obtaining prior approval from a health insurance issuer or group health plan for the provision or coverage of medical services.

SEC. 152. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) Continued Applicability of State Law With Respect to Health Insurance Issuers.—

(1) In general.—Subject to paragraph (2), this title shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers (in connection with group health insurance coverage or otherwise) except to the extent that such standard or requirement prevents the application of a requirement of this title.

(2) Continued preemption with respect to group health plans.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(b) Definitions.—For purposes of this section:

(1) State law.—The term "State law" includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) State.—The term "State" includes a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any political subdivisions of such, or any agency or instrumentality of such.

SEC. 153. EXCLUSIONS.

(a) No Benefit Requirements.—Nothing in this title shall be construed to require a group health plan or a health insurance issuer offering health insurance coverage to include specific items and services (including abortions) under the terms of such plan or coverage, other than those provided under the terms of such plan or coverage.

(b) Exclusion From Access to Care Managed Care Provisions for Fee-for-Service Coverage.—

(1) IN GENERAL.—The provisions of sections 111 through 117 shall not apply to a group health plan or health insurance coverage if the only coverage offered under the plan or coverage is fee-for-service coverage (as defined in paragraph (2)).

(2) FEE-FOR-SERVICE COVERAGE DEFINED.—For purposes of this subsection, the term "fee-for-service coverage" means coverage under a group health plan or health insurance coverage that—

(A) reimburses hospitals, health professionals, and other providers on the basis of a rate determined by the plan or issuer on a fee-for-service basis without placing the provider at financial risk;

(B) does not vary reimbursement for such a provider based on an agreement to contract terms and conditions or the utilization of health care items or services relating to such provider;

(C) does not restrict the selection of providers among those who are lawfully authorized to provide the covered services and agree to accept the terms and conditions of payment established under the plan or by the issuer; and

(D) for which the plan or issuer does not require prior authorization before providing coverage for any services.

SEC. 154. COVERAGE OF LIMITED SCOPE PLANS.

Only for purposes of applying the requirements of this title under sections 2707 and 2753 of the Public Health Service Act and section 714 of the Employee Retirement Income Security Act of 1974, section 2791(c)(2)(A), and section 733(c)(2)(A) of the Employee Retirement Income Security Act of 1974 shall be deemed not to apply.

SEC. 155. REGULATIONS.

The Secretaries of Health and Human Services and Labor shall issue such regulations as may be necessary or appropriate to carry out this title. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this title.

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

"SEC. 2707. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Each group health plan shall comply with patient protection requirements under title I of the Bipartisan Consensus Managed Care Improvement Act of 1999, and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

"(b) NOTICE.—A group health plan shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) and a health insurance issuer shall comply with such notice requirement as if such section applied to such issuer and such issuer were a group health plan.".

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg-21(b)(2)(A)) is amended by inserting "(other than section 2707)" after "requirements of such subparts".

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following new section:

"SEC. 2753. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Each health insurance issuer shall comply with patient protection requirements under title I of the Bipartisan Consensus Managed Care Improvement Act of 1999 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

"(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of such title as if such section applied to such issuer and such issuer were a group health plan.".

TITLE III—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

"SEC. 714. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title I of the Bipartisan Consensus Managed Care Improvement Act of 1999 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

"(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

"(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title I of the Bipartisan Consensus Managed Care Improvement Act of 1999 with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

"(A) Section 112 (relating to choice of providers).

"(B) Section 113 (relating to access to emergency care).

"(C) Section 114 (relating to access to specialty care).

"(D) Section 115 (relating to access to obstetrical and gynecological care).

"(E) Section 116 (relating to access to pediatric care).

"(F) Section 117(a)(1) (relating to continuity in case of termination of provider contract) and section 117(a)(2) (relating to continuity in case of termination of issuer contract), but only insofar as a replacement issuer assumes the obligation for continuity of care.

"(G) Section 118 (relating to access to needed prescription drugs).

"(H) Section 119 (relating to coverage for individuals participating in approved clinical trials.)

"(I) Section 134 (relating to payment of claims).

"(2) INFORMATION.—With respect to information required to be provided or made available under section 121, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

"(3) GRIEVANCE AND INTERNAL APPEALS.—With respect to the internal appeals process and the grievance system required to be established under sections 102 and 104, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such process and system (and is not liable for the issuer's failure to provide for such process and system), if the issuer is obligated to provide for (and provides for) such process and system.

"(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section 103, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

"(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections, the group health plan shall not be liable for such violation unless the plan caused such violation:

"(A) Section 131 (relating to prohibition of interference with certain medical communications).

"(B) Section 132 (relating to prohibition of discrimination against providers based on licensure).

"(C) Section 133 (relating to prohibition against improper incentive arrangements).

"(D) Section 135 (relating to protection for patient advocacy).

"(6) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

"(7) APPLICATION TO CERTAIN PROHIBITIONS AGAINST RETALIATION.—With respect to compliance with the requirements of section 135(b)(1) of the Bipartisan Consensus Managed Care Improvement Act of 1999, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

"(c) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

"(1) COMPLAINTS.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 135(b)(1) of the Bipartisan Consensus Managed Care Improvement Act of 1999 may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

"(2) Investigation.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

"(d) Conforming Regulations.—The Secretary may issue regulations to coordinate the requirements on group health plans under this section with the requirements imposed under the other provisions of this title.".

(b) Satisfaction of ERISA Claims Procedure Requirement.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting "(a)" after "Sec. 503." and by adding at the end the following new subsection:

"(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of subtitle A of title I of the Bipartisan Consensus Managed Care Improvement Act of 1999 in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial.".

(c) Conforming Amendments.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking "section 711" and inserting "sections 711 and 714".

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

"Sec. 714. Patient protection standards.".

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting "(other than section 135(b))" after "part 7".

SEC. 302. ADDITIONAL JUDICIAL REMEDIES.

(a) Cause of Action Relating to Denial of Health Benefits.—Section 502(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)) is amended—

(1) by striking "or" at the end of paragraph (8);

(2) by striking "amounts." at the end of paragraph (9) and inserting "amounts; or"; and

(3) by adding at the end the following new paragraph:

"(10) by a participant or beneficiary of a group health plan (or the estate of such a participant or beneficiary), for relief described in subsection (n), against a person who—

"(A) is a fiduciary of such plan, a health insurance issuer offering health insurance coverage in connection with such plan, or an agent of such plan or the plan sponsor,

"(B) under such plan, has authority to make the sole final decision described in subsection (n)(2) regarding claims for benefits, and

"(C) has exercised such authority in making such final decision denying such a claim by such participant or beneficiary in violation of the terms of the plan or this title and, in making such final decision, failed to exercise ordinary care in making an incorrect determination in the case of such participant or beneficiary that an item or service is excluded from coverage under the terms of the plan,

if the denial is the proximate cause of personal injury to, or the wrongful death of, such participant or beneficiary.".

(b) Judicial Remedies for Denial of Health Benefits.—Section 502 of such Act (29 U.S.C. 1132) is amended by adding at the end the following new subsections:

"(n) Additional Remedies for Denial of Health Benefits.—

"(1) In general.—In an action commenced under paragraph (10) of subsection (a) by a participant or beneficiary of a group health plan (or by the estate of such a participant or beneficiary) against a person described in subparagraphs (A), (B), and (C) of such paragraph, the court may award, in addition to other appropriate equitable relief under this section, monetary compensatory relief which may include both economic and noneconomic damages (but which shall exclude punitive damages). The amount of any such noneconomic damages awarded as monetary compensatory relief—

"(A) in a case in which 2 times the amount of the economic damages awarded as monetary compensatory relief is less than or equal to $250,000, may not exceed the greater of—

"(i) 2 times the amount of such economic damages so awarded, or

"(ii) $250,000; and

"(B) in a case in which 2 times the amount of the economic damages awarded as monetary compensatory relief is greater than $250,000, may not exceed $500,000.

"(2) Application to decisions involving medical necessity and medical judgment.—This subsection and subsection (a)(10) apply only with respect to final decisions described in section 103(a)(2) of the Bipartisan Consensus Managed Care Improvement Act of 1999.

"(3) Definitions.—For purposes of this subsection and subsection (a)(10)—

"(A) Group health plan; health insurance issuer; health insurance coverage.—The terms 'group health plan', 'health insurance issuer', and 'health insurance coverage' shall have the meanings provided such terms under section 733, respectively.

"(B) Final decision.—The term 'final decision' means, with respect to a group health plan, the final decision of the plan under section 102 of the Bipartisan Consensus Managed Care Improvement Act of 1999.

"(C) Personal injury.—The term 'personal injury' means loss of life, loss or significant impairment of limb or bodily function, significant disfigurement, or severe and chronic physical pain, and includes a physical injury arising out of a failure to treat a mental illness or disease.

"(D) Claim for benefits.—The term 'claim for benefits' has the meaning provided in section 101(f)(1) of the Bipartisan Consensus Managed Care Improvement Act of 1999.

"(E) Failure to exercise ordinary care.—The term 'failure to exercise ordinary care' means a negligent failure to provide—

"(i) the consideration of appropriate medical evidence, or

"(ii) the regard for the health and safety of the participant or beneficiary,

that a prudent individual acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with same or similar circumstances.

"(4) Exception for denials in accordance with recommendation of external appeal entity.—No person shall be liable under subsection (a)(10) for additional monetary compensatory relief described in paragraph (1) in any case in which the denial referred to in subsection (a)(10) is upheld by the recommendation of an external appeal entity issued with respect to such denial under section 103 of the Bipartisan Consensus Managed Care Improvement Act of 1999.

"(5) Exception for employers and other plan sponsors.—

"(A) In general.—Subject to subparagraph (B), subsection (a)(10) does not authorize—

"(i) any cause of action against an employer or other plan sponsor maintaining a group health plan (or against an employee of such an employer or sponsor acting within the scope of employment), or

"(ii) a right of recovery or indemnity by a person against such an employer or sponsor (or such an employee) for relief assessed against the person pursuant to a cause of action under subsection (a)(10).

"(B) Special rule.—Subparagraph (A) shall not preclude any cause of action under subsection (a)(10) commenced against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment), if—

"(i) such action is based on the direct participation of the employer or sponsor (or employee) in the sole final decision of the plan referred to in paragraph (2) with respect to a specific participant or beneficiary on a claim for benefits covered under the plan or health insurance coverage in the case at issue; and

"(ii) the decision on the claim resulted in personal injury to, or the wrongful death of, such participant or beneficiary.

"(C) Direct participation.—For purposes of this subsection, in determining whether an employer or other plan sponsor (or employee of an employer or other plan sponsor) is engaged in direct participation in the sole final decision of the plan on a claim under section 102 of the Bipartisan Consensus Managed Care Improvement Act of 1999, the employer or plan sponsor (or employee) shall not be construed to be engaged in such direct participation solely because of any form of decisionmaking or conduct, whether or not fiduciary in nature, that does not involve the final decision with respect to a specific claim for benefits by a specific participant or beneficiary, including (but not limited to) any participation in a decision relating to:

"(i) the selection or retention of the group health plan or health insurance coverage involved or the third party administrator or other agent, including any related cost-benefit analysis undertaken in connection with the selection of, or continued maintenance of, the plan or coverage involved;

"(ii) the creation, continuation, modification, or termination of the plan or of any coverage, benefit, or item or service covered by the plan affecting a cross-section of the plan participants and beneficiaries;

"(iii) the design of any coverage, benefit, or item or service covered by the plan, including the amount of copayments and limits connected with such coverage, and the specification of protocols, procedures, or policies for determining whether any such coverage, benefit, or item or service is medically necessary and appropriate or is experimental or investigational;

"(iv) any action by an agent of the employer or plan sponsor (other than an employee of the employer or plan sponsor) in making such a final decision on behalf of such employer or plan sponsor;

"(v) any decision by an employer or plan sponsor (or employee) or agent acting on behalf of an employer or plan sponsor either to authorize coverage for, or to intercede or not to intercede as an advocate for or on behalf of, any specific participant or beneficiary (or group of participants or beneficiaries) under the plan; or

"(vi) any other form of decisionmaking or other conduct performed by the employer or plan sponsor (or employee) in connection with the plan or coverage involved, unless the employer makes the sole final decision of the plan consisting of a failure described in paragraph (1)(A) as to specific participants or beneficiaries who suffer personal injury or wrongful death as a proximate cause of such decision.

“(6) REQUIRED DEMONSTRATION OF DIRECT PARTICIPATION.—An action under subsection (a)(10) against an employer or plan sponsor (or employee thereof) for remedies described in paragraph (1) shall be immediately dismissed—

“(A) in the absence of an evidentiary demonstration in the complaint of direct participation by the employer or plan sponsor (or employee) in the sole final decision of the plan with respect to a specific participant or beneficiary who suffers personal injury or wrongful death,

“(B) upon a demonstration to the court that such employer or plan sponsor (or employee) did not directly participate in the final decision of the plan, or

“(C) in the absence of an evidentiary demonstration that a personal injury to, or wrongful death of, the participant or beneficiary resulted.

“(7) TREATMENT OF THIRD-PARTY PROVIDERS OF NONDISCRETIONARY ADMINISTRATIVE SERVICES.—Subsection (a)(10) does not authorize any action against any person providing nondiscretionary administrative services to employers or other plan sponsors.

“(8) REQUIREMENT OF EXHAUSTION OF ADMINISTRATIVE REMEDIES.—

“(A) IN GENERAL.—Subsection (a)(10) applies in the case of any cause of action only if all remedies under section 503 (including remedies under sections 102 and 103 of the Bipartisan Consensus Managed Care Improvement Act of 1999 made applicable under section 714) with respect to such cause of action have been exhausted.

“(B) EXTERNAL REVIEW REQUIRED.—For purposes of subparagraph (A), administrative remedies under section 503 shall not be deemed exhausted until available remedies under section 103 of the Bipartisan Consensus Managed Care Improvement Act of 1999 have been elected and are exhausted.

“(C) CONSIDERATION OF ADMINISTRATIVE DETERMINATIONS.—Any determinations under section 102 or 103 of the Bipartisan Consensus Managed Care Improvement Act of 1999 made while an action under subsection (a)(10) is pending shall be given due consideration by the court in such action.

“(9) SUBSTANTIAL WEIGHT GIVEN TO EXTERNAL REVIEW DECISIONS.—In the case of any action under subsection (a)(10) for remedies described in paragraph (1), the external review decision under section 103 shall be given substantial weight when considered along with other available evidence.

“(10) LIMITATION OF ACTION.—Subsection (a)(10) shall not apply in connection with any action commenced after the later of—

“(A) 1 year after (i) the date of the last action which constituted a part of the failure, or (ii) in the case of an omission, the latest date on which the fiduciary could have cured the failure, or

“(B) 1 year after the earliest date on which the plaintiff first knew, or reasonably should have known, of the personal injury or wrongful death resulting from the failure.

“(11) COORDINATION WITH FIDUCIARY REQUIREMENTS.—A fiduciary shall not be treated as failing to meet any requirement of part 4 solely by reason of any action taken by the fiduciary which consists of full compliance with the reversal under section 103 of the Bipartisan Consensus Managed Care Improvement Act of 1999 of a denial of a claim for benefits.

“(12) CONSTRUCTION.—Nothing in this subsection or subsection (a)(10) shall be construed as authorizing an action—

“(A) for the failure to provide an item or service which is not covered under the group health plan involved, or

“(B) for any action taken by a fiduciary which consists of compliance with the reversal or modification under section 103 of the Bipartisan Consensus Managed Care Improvement Act of 1999 of a final decision under section 102 of such Act.

“(13) PROTECTION OF MEDICAL MALPRACTICE UNDER STATE LAW.—This subsection and subsection (a)(10) shall not be construed to preclude any action under State law not otherwise preempted under this section or section 503 or 514 with respect to the exercise of a specified professional standard of care in the provision of medical services.

“(14) REFERENCES TO THE BIPARTISAN CONSENSUS MANAGED CARE IMPROVEMENT ACT OF 1999.—Any reference in this subsection to any provision of the Bipartisan Consensus Managed Care Improvement Act of 1999 shall be deemed a reference to such provision as in effect on the date of the enactment of such Act.

“(o) EXPEDITED COURT REVIEW.—In any case in which exhaustion of administrative remedies in accordance with section 102 or 103 of the Bipartisan Consensus Managed Care Improvement Act of 1999 otherwise necessary for an action for injunctive relief under paragraph (1)(B) or (3) of subsection (a) has not been obtained and it is demonstrated to the court by clear and convincing evidence that such exhaustion is not reasonably attainable under the facts and circumstances without any further undue risk of irreparable harm to the health of the participant or beneficiary, a civil action may be brought by a participant or beneficiary to obtain such relief. Any determinations which already have been made under section 102 or 103 in such case, or which are made in such case while an action under this paragraph is pending, shall be given due consideration by the court in any action under this subsection in such case.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) occurring on or after the date of the enactment of this Act.

SEC. 304. AVAILABILITY OF BINDING ARBITRATION.

(a) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (as amended by the preceding provisions of this Act) is amended further by adding at the end the following new subsection:

“(p) BINDING ARBITRATION PERMITTED AS ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—

“(1) IN GENERAL.—This subsection shall apply with respect to any adverse coverage decision rendered under a group health plan under section 102 or 103, if—

“(A) all administrative remedies under section 503 required for an action in court under this section have been exhausted,

“(B) under the terms of the plan, the aggrieved participant or beneficiary may elect to resolve the dispute by means of a procedure of binding arbitration which is available with respect to all similarly situated participants and beneficiaries (or which is available under the plan pursuant to a bona fide collective bargaining agreement pursuant to which the plan is established and maintained), and which meets the requirements of paragraph (3), and

“(C) the participant or beneficiary has elected such procedure in accordance with the terms of the plan.

“(2) EFFECT OF ELECTION.—In the case of an election by a participant or beneficiary pursuant to paragraph (1)—

“(A) decisions rendered under the procedure of binding arbitration shall be binding on all parties to the procedure and shall be enforceable under the preceding subsections of this section as if the terms of the decision were the terms of the plan, except that the court in an action brought under this section may vacate any award made pursuant to the arbitration for any cause described in paragraph (1), (2), (3), (4), or (5) of section 10(a) of title 9, United States Code, and

“(B) subject to subparagraph (A), such participant or beneficiary shall be treated as having effectively waived any right to further review of the decision by a court under the preceding subsections of this section.

“(3) ADDITIONAL REQUIREMENTS.—The requirements of this paragraph consist of the following:

“(A) ARBITRATION PANEL.—The arbitration shall be conducted by an arbitration panel meeting the requirements of paragraph (4).

“(B) FAIR PROCESS; DE NOVO DETERMINATION.—The procedure shall provide for a fair, de novo determination.

“(C) OPPORTUNITY TO SUBMIT EVIDENCE, HAVE REPRESENTATION, AND MAKE ORAL PRESENTATION.—Each party to the arbitration procedure—

“(i) may submit and review evidence related to the issues in dispute;

“(ii) may use the assistance or representation of one or more individuals (any of whom may be an attorney); and

“(iii) may make an oral presentation.

“(D) PROVISION OF INFORMATION.—The plan shall provide timely access to all its records relating to the matters under arbitration and to all provisions of the plan relating to such matters.

“(E) TIMELY DECISIONS.—A determination by the arbitration panel on the decision shall—

“(i) be made in writing;

“(ii) be binding on the parties; and

“(iii) be made in accordance with the medical exigencies of the case involved.

“(4) ARBITRATION PANEL.—

“(A) IN GENERAL.—Arbitrations commenced pursuant to this subsection shall be conducted by a panel of arbitrators selected by the parties made up of 3 individuals, including at least one physician and one attorney.

“(B) QUALIFICATIONS.—Any individual who is a member of an arbitration panel shall meet the following requirements:

“(i) There is no real or apparent conflict of interest that would impede the individual conducting arbitration independent of the plan and meets the independence requirements of subparagraph (C).

“(ii) The individual has sufficient medical or legal expertise to conduct the arbitration for the plan on a timely basis.

“(iii) The individual has appropriate credentials and has attained recognized expertise in the applicable medical or legal field.

“(iv) The individual was not involved in the initial adverse coverage decision or any other review thereof.

“(C) INDEPENDENCE REQUIREMENTS.—An individual described in subparagraph (B) meets the independence requirements of this subparagraph if—

“(i) the individual is not affiliated with any related party,

“(ii) any compensation received by such individual in connection with the binding arbitration procedure is reasonable and not contingent on any decision rendered by the individual, "(iii) under the terms of the plan, the plan has no recourse against the individual or entity in connection with the binding arbitration procedure, and

"(iv) the individual does not otherwise have a conflict of interest with a related party as determined under such regulations as the Secretary may prescribe.

"(D) RELATED PARTY.—For purposes of subparagraph (C), the term 'related party' means—

"(i) the plan or any health insurance issuer offering health insurance coverage in connection with the plan (or any officer, director, or management employee of such plan or issuer),

"(ii) the physician or other medical care provider that provided the medical care involved in the coverage decision,

"(iii) the institution at which the medical care involved in the coverage decision is provided,

"(iv) the manufacturer of any drug or other item that was included in the medical care involved in the coverage decision, or

"(v) any other party determined under such regulations as the Secretary may prescribe to have a substantial interest in the coverage decision .

"(E) AFFILIATED.—For purposes of subparagraph (C), the term 'affiliated' means, in connection with any entity, having a familial, financial, or professional relationship with, or interest in, such entity.

"(5) ALLOWABLE REMEDIES.—The remedies which may be implemented by the arbitration panel shall consist of those remedies which would be available in an action timely commenced by a participant or beneficiary under section 502, taking into account the administrative remedies exhausted by the participant or beneficiary under section 503.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to adverse coverage decisions initially rendered by group health plans on or after the date of the enactment of this Act.

TITLE IV—APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986

SEC. 401. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

"Sec. 9813. Standard relating to patient freedom of choice.";

and

(2) by inserting after section 9812 the following:

"SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

"A group health plan shall comply with the requirements of title I of the Bipartisan Consensus Managed Care Improvement Act of 1999 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.".

TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 501. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by sections 201(a), 301, and 401 (and title I insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after January 1, 2000 (in this section referred to as the "general effective date") and also shall apply to portions of plan years occurring on and after such date.

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by sections 201(a), 301, and 401 (and title I insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this Act shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The amendments made by section 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

SEC. 502. COORDINATION IN IMPLEMENTATION.

The Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Treasury shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under the provisions of this Act (and the amendments made thereby) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

TITLE VI—HEALTH CARE PAPERWORK SIMPLIFICATION

SEC. 601. HEALTH CARE PAPERWORK SIMPLIFICATION.

(a) ESTABLISHMENT OF PANEL.—

(1) ESTABLISHMENT.—There is established a panel to be known as the Health Care Panel to Devise a Uniform Explanation of Benefits (in this section referred to as the "Panel").

(2) DUTIES OF PANEL.—

(A) IN GENERAL.—The Panel shall devise a single form for use by third-party health care payers for the remittance of claims to providers.

(B) DEFINITION.—For purposes of this section, the term "third-party health care payer" means any entity that contractually pays health care bills for an individual.

(3) MEMBERSHIP.—

(A) SIZE AND COMPOSITION.—The Secretary of Health and Human Services shall determine the number of members and the composition of the Panel. Such Panel shall include equal numbers of representatives of private insurance organizations, consumer groups, State insurance commissioners, State medical societies, State hospital associations, and State medical specialty societies.

(B) TERMS OF APPOINTMENT.—The members of the Panel shall serve for the life of the Panel.

(C) VACANCIES.—A vacancy in the Panel shall not affect the power of the remaining members to execute the duties of the Panel, but any such vacancy shall be filled in the same manner in which the original appointment was made.

(4) PROCEDURES.—

(A) MEETINGS.—The Panel shall meet at the call of a majority of its members.

(B) FIRST MEETING.—The Panel shall convene not later than 60 days after the date of the enactment of the Bipartisan Consensus Managed Care Improvement Act of 1999.

(C) QUORUM.—A quorum shall consist of a majority of the members of the Panel.

(D) HEARINGS.—For the purpose of carrying out its duties, the Panel may hold such hearings and undertake such other activities as the Panel determines to be necessary to carry out its duties.

(5) ADMINISTRATION.—

(A) COMPENSATION.—Except as provided in subparagraph (B), members of the Panel shall receive no additional pay, allowances, or benefits by reason of their service on the Panel.

(B) TRAVEL EXPENSES AND PER DIEM.—Each member of the Panel who is not an officer or employee of the Federal Government shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(C) CONTRACT AUTHORITY.—The Panel may contract with and compensate government and private agencies or persons for items and services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(D) USE OF MAILS.—The Panel may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(E) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Panel, the Secretary of Health and Human Services shall provide to the Panel on a reimbursable basis such administrative support services as the Panel may request.

(6) SUBMISSION OF FORM.—Not later than 2 years after the first meeting, the Panel shall submit a form to the Secretary of Health and Human Services for use by third-party health care payers.

(7) TERMINATION.—The Panel shall terminate on the day after submitting the form under paragraph (6).

(b) REQUIREMENT FOR USE OF FORM BY THIRD-PARTY CARE PAYERS.—A third-party health care payer shall be required to use the form devised under subsection (a) for plan years beginning on or after 5 years following the date of the enactment of this Act.

The CHAIRMAN. Pursuant to House Resolution 323, the gentleman from New York (Mr. HOUGHTON) and the gentleman from Michigan (Mr. DINGELL) will each control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. HOUGHTON).

Mr. HOUGHTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I, together with my colleagues the gentleman from South Carolina (Mr. GRAHAM), the gentleman from Tennessee (Mr. HILLEARY) and the gentleman from Nevada (Mr. GIBBONS) rise to offer an amendment in the nature of a substitute to the Norwood-Dingell bill, and I will make this really quite short, this introduction of mine. I am an original cosponsor of the Norwood-Dingell bill.

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I absolutely support what it is trying to do. It is thoughtful; it corrects a wrong which has been around since the beginning of the health maintenance organizations. And all three gentlemen who are supporting this and promoting it are superb legislators and believers in health care reform.

But I have only one problem with the bill in that what it does, it slides over another very, very important issue. What it does, frankly, is to open a huge gap for those who are simply providing the money to fund these plans.

So while supporting the concept and the aim of the Norwood-Dingell bill, because of this huge void in funding, we almost surely will, in effect, be hurting the people we are trying to help. And I say this autobiographically from my experience in the business field.

So I think it is irresponsible for us to ignore this issue in this great wave of enthusiasm for this bill. Despite the emotions of the day, if we do not do something, and I feel that it will be appropriate through our amendment, it will come back to haunt us.

Mr. Chairman, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I rise in opposition to this well-intentioned but, I think, flawed substitute. There are three deficiencies in the substitute which I believe compel its rejection and the adoption of the underlying Norwood-Dingell-Ganske bill.

First is that this substitute usurps States' rights and States' causes of action with respect to tort law. One of the pieces of wisdom of the regulatory system in the United States is that different States have the authority to set different standards of care and different causes of action according to their State law. Each of our several States is very different. There are different needs of the people, there are different legal problems, and we recognize this by recognizing the fact that tort law causes of action typically, and sometimes exclusively, come from State law.

This substitute creates one single Federal cause of action, and I believe that one-size-fits-all approach is inappropriate to solving the problem that is before us.

The second defect is that this substitute does not provide full relief for people who are wronged. The limitation on damages is a very meaningful limitation on damages. For example, by tying the limitation to a multiple of economic damages, what about the case of a person who is a stay-at-home parent who does not have a job that pays in remuneration, but pays in psychic rewards, and that person is severely harmed by the actions of a managed care company. The damages that person would be able to recover would be significantly limited by this amendment, and I believe that is another reason for its rejection.

Finally, the cause of action has some technical flaws in it which could exclude some managed care decision-makers from accountability. By creating the requirement that the decision-maker both have the authority to make the final decision and exercise that authority, there are certain decision-makers and certain decisions which would be exempt from accountability under this process.

So although I congratulate the author for frankly offering a substitute that moves much closer in the direction of the underlying bill, I believe for these three reasons it should be rejected; and I urge the defeat of the substitute.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would ask Members to refrain from using cell phones and other telecommunications devices on the floor of the House.

Mr. HOUGHTON. Mr. Chairman, I yield 5 minutes to the gentleman from South Carolina (Mr. GRAHAM), my great friend.

Mr. GRAHAM. Mr. Chairman, I thank the gentleman for yielding me this time. I would like to say I have thoroughly enjoyed working with the gentleman from New York (Mr. HOUGHTON) and the other two Members who are Norwood-Dingell cosponsors on trying to bring some common sense reform to a very important issue.

Where are the American people? The American people, whether one is Republican or Democrat alike, believe HMOs should be sued when they hurt people. The American people believe one should be able to choose one's own doctor even if one has to pay more money out of their own pocket. The American people believe that one should not have to call the insurance company before one can take a kid to the emergency room, and they should not be able to deny treatment and payment because one did not call them.

The American people are very much for a lot of the reforms in this bill. The American people are also for limiting our tort system in a way that keeps people in business. The American people are very much for common sense legal reform. That is what this bill does.

Here is the question of the 29 Republicans who have voted "no," and here is the question to the Democratic Party: What if we kept the health care in Norwood-Dingell the same? What if we did not change it one word? What if we gave all of the patient protections that Norwood-Dingell give the American people? What would my colleagues do if we asked them to move a little bit toward the American business community by giving them a chance to keep their employees with health care in the area of liability?

My question is, can we tear down the legal wall that unfairly protects HMOs from liability and keep people in the health care business? Yes, we can, if people will work together. The answer will be no if we continue on this confrontational track.

What do we do differently? We do nothing different in health care. Here is what we do in liability. I address my friend, the gentleman from New Jersey (Mr. ANDREWS), and his comments. We keep it at the Federal level. Do my colleagues know why we keep it at the Federal level? Because uniformity is helpful in controlling costs.

ERISA is a Federal law that protects employees' retirement benefits. If one has a claim under ERISA for one's retirement, one does not go to 50 different States. We do not let 50 different States write 401K plans. One goes to Federal court, and one has their day in Federal court because it is a Federal law that is uniform to make sure employers who do business in more than one State can have one set of rules to live by so that they know the rules of the road. We give a uniform forum to the people who may be aggrieved, and we give them a fair day in Federal court.

Mr. Chairman, I say to my colleagues, if Norwood-Dingell passes the way it is today, here is what is going to happen in corporate America. If one can be sued as a multi-State business in 50 different States with 50 different legal theories of holding people accountable in the health care industry, we are going to have lawyers meet with the corporate board and say, you are going to be chasing jury verdicts all over this country. Get out of this business. This is voluntary on your part; you do not have to do it.

You are going to spend more time in State court on lawyer fees than you are going to spend on health care. If we allow 50 different theories of being sued, we are going to not only tumble down the liability wall, we are going to tumble down the benefits that go to the people who need it the most, and that is the employees.

What do we do in this bill? We limit damages in two areas. Economic damages are fully recovered.

Let me say this to the gentleman from New Jersey (Mr. ANDREWS). I have represented housewives, people who do not have the traditional job. Let me tell my colleague, if we put down what it cost to run a family, we can add up some serious damages, because people who stay at home and take care of families have a job, and we can turn that into money as a lawyer, because I have done it. One can get one's full range of damages under this bill, but we are not going to let people make up numbers called pain and suffering beyond a half a million dollars to keep people in business.

Punitive damages are taken off the table. If we leave that as a form of damages, the cost of premiums are going to go through the roof. Punitive damages helps no one have a better quality of life except the lawyer who puts the money in their pocket, and I have been a lawyer seeking punitive damages.

Mr. Chairman, we can have common sense legal reform that gives people a fair day in court, that allows businesses to be sued, but in a uniform manner with a national standard so that they do not get out of this business chasing 50 different juries.

If we want to help patients keep the health care the same, if we want to help business, give them a chance to understand the rules of the road no matter where they do business; give them some commonsense legal protection so that they do not get sued to death.

Mr. Chairman, this bill as currently written is going nowhere. With some common sense changes, it can become the law of the land and people can have the health care they deserve and paid for; they can have their day in court, and people like the gentleman from New York (Mr. HOUGHTON) who have been in business and offered employee benefits can continue to do that if we will work together.

Mr. BROWN of Ohio. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I indeed thank the gentleman for yielding me this time, and I would like to take a moment to talk about the gentleman from New York (Mr. HOUGHTON) and the gentleman from South Carolina (Mr. GRAHAM), not only two good friends, but two cosponsors of our bill, and I want both of them to know how much I appreciate the work they have done with us. The gentleman from New York (Mr. HOUGHTON) knows that we have spent many hours trying to, within our bill, reach accommodation with him.

I will just submit for the RECORD a CRS report that agrees that the changes that he has worked so hard to get in our bill we were able to do that and accommodate him.

CONGRESSIONAL RESEARCH SERVICE,
LIBRARY OF CONGRESS,
Washington, DC, October 5, 1999.

To: Hon. Charlie Norwood, Attention: Rodney Whitlock.

From: Kimberly D. Jones, Legislative Attorney, American Law Division.

Subject: Legal Analysis of Whether the Amendment in the Nature of a Substitute To H.R. 2723 offered by Representatives Norwood, Dingell, Ganske and Berry Addresses Concern Raised by Representative Houghton.

This memorandum is in response to your request for a legal opinion whether concerns raised in regard to H.R. 2723 by Representative Houghton in a document provided by your office have been addressed by a substitute amendment being offered by Representatives Norwood, Dingell, Ganske and Berry (Substitute Amendment). H.R. 2723 would amend Section 514 of ERISA to prevent ERISA's preemption provision from interfering with a state law that seeks to recover damages for personal injury or wrongful death resulting from acts connected to or arising out of an arrangement regarding "the provision of insurance, administrative services, or medical services" by a group health plan. In addition, the bill establishes standards of internal review and creates an external review process. Under the bill, no punitive damages may be awarded if the defendant complied with external review in a timely manner, as defined under the bill. It bars from review those decisions denying coverage for items specifically excluded from the plan.

In a document provided by your office, Representative Houghton raises a number of concerns with H.R. 2723. The first concern is that the liability clause in Section 302(a)(1) of H.R. 2723 shows "no connection between wrongdoing and who is sued." Section 302(a)(1) states:

(1) NON-PREEMPTION OF CERTAIN CAUSES OF ACTION.—

(A) IN GENERAL.—Except as provided in this subsection, nothing in this title shall be construed to invalidate, impair, or supersede any cause of action by a participant or beneficiary (or the estate of a participant or beneficiary) under State law to recover damages resulting from personal injury or for wrongful death against any person—

(i) in connection with the provision of insurance, administrative services, or medical services by such person to or for a group health plan . . ., or

(ii) that arises out of the arrangement by such person for the provision of such insurance, administrative services, or medical services by other persons.

Specifically, Representative Houghton's letter expresses concern about the potentially broad definition of the term "any person" and the potential activities that could be grounds for a cause of action under the bill. Representative Houghton also expresses concern about the bill permitting a suit based on any act of the plan, whether "good or bad."

The language of section 302(a)(1) is the same in both H.R. 2723 and the substitute amendment. Therefore, both would allow claims under state law. The potential parties to a suit and the basis of a suit would be determined by state law. Ultimately, the participant or beneficiary would have to satisfy the elements of a state law claim and meet the standard of proof required to prevail under state law.

Another concern raised by Representative Houghton is that state law may not provide an adequate remedy. Currently, many states have laws that allow only a "natural person" to be licensed as a doctor or to practice medicine. As a result, many states prohibit a corporation or similar professional entity from giving medical advice or practicing medicine.[1] In states where these corporate practice of medicine laws exist, HMOs (and other managed care plans) are legally prohibited from and are not considered to be practicing medicine or making medical decisions, even if they contract with licensed physicians to perform services on their behalf and/or make benefit decisions that affect the doctor's treatment. These laws could present an obstacle to HMO enrollees who seek to sue their HMO for medical malpractice or negligence. However, other state claims that do not address the standards for practicing medicine could be brought, i.e., negligent processing of a benefit, or "bad faith" denials. It should also be noted that some states have acted to remove the shield that managed care plans have against state medical malpractice claims. Texas, California and Missouri have enacted laws that would give patients the right to sue their managed care plan for injuries resulting from acts of the plan.

Another issue raised by Representative Houghton is that H.R. 2723 would allow an individual to go to court without exhausting internal and external review. H.R. 2723 states:

(3) FUTILITY OF EXHAUSTION.—An individual bringing an action under this subsection is not required to exhaust administrative processes [internal and external review] . . . where the injury to or death of such individual has occurred before completion of such processes.

The language of the substitute amendment states:

(e) FUTILITY OF EXHAUSTION.—An individual bringing an action under this subsection is required to exhaust administrative processes [internal and external review] . . ., unless the injury to or death of such individual has occurred before the completion of such processes.

The substitute amendment clarifies the language of H.R. 2723 to require a participant or beneficiary to exhaust internal and external review before commencing an action under state law, unless the injury or death has already occurred.

The final concern raised in the letter is the possibility that an employer may be liable for under H.R. 2723 for "any exercise of discretionary authority including hiring the insurance company." Under H.R. 2723, no cause of action may be brought against an employer or plan sponsor (or its employees) which provides a group health plan. This provision also expressly prohibits a person from seeking indemnification from the employer or plan sponsor (or its employees) for damages awarded under the Act. However, the bill also includes an exception to these provisions where the employer or plan sponsor (or its employees) exercised its discretionary authority to make a benefits decision and the decision resulted in harm. The exercise of discretionary authority does not include the decision to include or exclude certain benefits from the plan, to provide extra-contractual benefits, or a decision not to provide a benefit while internal or external review is being conducted. The bill does not permit a cause of action under state law for failing to provide a benefit or service that is not covered by the plan.

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[1] Footnotes at the end of article.

Under H.R. 2723, it is possible that an employer who has a self-insured plan could be liable under a state cause of action. If the employer in the administration of the plan or the provision of benefits uses discretionary authority to make a benefits decision, it would fall under the exception to the employer protection provision of the bill. This is more likely to happen if the employer chooses to administer the plan itself. If the employer contracts with an insurance company to provide these benefits, the bill could be used to protect the employer if it did not exercise discretionary authority on a claims decision. It is less likely than an employer would be directly involved if the administration of the plan has been contracted to an insurance company. However, if the employer becomes involved in a claims decision it would be liable. Also, it could be argued that, although the insurance company made the decision, the company is an agent of the employer and acting on the employer's behalf. As the employer's agent, the argument could be made that the actions of the insurance company could be imputed to the employer. It is not clear if this argument would be successful.

The language of the employer provision in the substitute amendment is similar to H.R. 2723, except the term "group health plan" is included in the category of parties that may not be sued under this Act. The provision states, [Section 302(a)] "does not authorize—(i) any cause of action against a group health plan or an employer or other plan sponsor maintaining the plan, or (i) a right to recovery, indemnity, or contribution by a person against a group health plan or an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action under [Section 302(a)(1)]. The term "group health plan" is also included in the exception to the employer provision which states:

Subparagraph (A) shall not preclude any cause of action described in [Section 302(a)] against [a] group health plan or an employer or other plan sponsor (or against an employee of such a plan, employer, or sponsor acting within the scope of employment) if—(i) such action is based on the exercise by the plan, employer, or sponsor (or employee of discretionary authority to make a decision on a claim for benefits covered under the plan or health insurance coverage in the case at issue; and (ii) the exercise by the plan, employer, or sponsor (or employee) of such authority resulted in personal injury or wrongful death.

The inclusion of the term "group health plan" would clarify the bill's application to fully-insured plans. The term "group health plan" is defined under ERISA as "an employee welfare benefit plan to the extent that the plan provides medical care . . . to employees or their dependents . . . directly or through insurance, reimbursement, or otherwise."2 Therefore the employer provision would protect a group health plan from liability, unless it exercised discretionary authority to make a decision on a claim for benefits covered under the plan or health insurance coverage in the case at issue.

In a fully-insured plan, a company will contract with an insurance company to provide coverage for its employees. This company is known as a "health insurance issuer" under ERISA. The term "health insurance issuer" is defined under ERISA as "an insurance company, insurance service, or insurance organization 9including a health maintenance organization . . .) which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance. . . . Such term does not include a group health plan."3 In essence, in the case of a fully-insuredd plan, the plan and the health insurance issuer are two distinct entities. By including group health plans in the employer exception and special rule provisions of the substitute amendment, it is unlikely that the actions of the health insurance issuer will be imputed to the plan. However, a fully-insured plan could face liability if it exercises discretionary authority to make a decision on a claim for benefits covered under the plan or health insurance coverage in the case at issue.

In the case of a self-insured plan, the result is the same under both H.R. 2723 and under the substitute amendment. Where the employer assumes the risk of providing health insurance to its employees, the employer and the plan are for practical purposes the same. As such the acts of a self-insured plan could subject the employer to liability due to the high probability that the employer will have and use discretionary authority to make a decision on a claim for benefits covered under the plan or coverage in the case at issue.

KIMBERLY D. JONES,
Legislative Attorney.

FOOTNOTES

[1] D. Cameron Dobbins, *Survey of State Laws Relating to the Corporate Practice of Medicine*, 9 Health Lawyer 18 (1997). Approximately 15 states have corporate practice of medicine laws.

[2] 29 U.S.C.A. §1191b(a) (West Supp. 1999).

[3] 29 U.S.C.A. §1191b(b)(2).

The Houghton amendment would make insurers liable in Federal court rather than State court. That is sort of the bottom line. H.R. 2723 and every bill, incidentally, I have introduced on liability ensures we want them to face State liability.

I would just like my colleagues to consider a thought, consider this quote from Chief Justice William Rehnquist, and he says, and I quote, "Congress should commit itself to conserving the Federal courts as a distinctive judicial forum of limited jurisdiction in our system of Federalism. Civil and criminal jurisdictions should be assigned to the Federal courts only to further clearly define and justify national interests, leaving to the State courts the responsibility for adjudicating all other matters."

Should HMO liability be considered a national interest warranting Federal jurisdiction?

In the Federal courts today, there are 65 vacancies and the courts anticipate another 16 vacancies forthcoming. Twenty-two courts are considered to be emergency status, under emergency status. They do not have appropriate coverage from the bench to consider the cases before them. To this situation we are going to add a new Federal tort?

The Speedy Trial Act of 1974 requires the Federal bench to give priority to criminal cases over civil cases. In 1998, criminal case filings were up 15 percent. A single mother whose child needs constant care because of a decision made by an HMO will have to stand in line behind all of the drug dealers before she can try to hold the HMO liable for its action.

State courts are easier for patients to access. Almost every town in America has a State court. Federal courts are few and far between. States like Texas and Georgia and California already have moved to make insurers accountable for their actions. State courts are a more appropriate and accessible venue for personal injury and wrongful death.

Considering the problems that patients will have in accessing Federal court, it is hard to imagine that HMO liability meets the Chief Justice's definition of a national interest. It certainly does not meet the single mother's definition.

Like all politics, all health care really is local. H.R. 2723 holds insurers liable for their decisions that harm or kill someone in the most appropriate venue: State courts.

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My dear friend, and I do mean that sincerely, my dear friend, the gentleman from South Carolina (Mr. GRAHAM), he knows Frogmore, South Carolina, is a long way from a Federal court. You just cannot get there from here. We just need to do this at home. We also need to consider that the companies that do have a business in all 50 States, my goodness, they have to deal with 50 States now. Because you have a business in all 50 States does not preempt you from ever going into State court.

What about slip and fall? That happens every day. They have to be ready in every State. I am not even going to ask Members to vote against my friends, just vote for H.R. 2723 intact on the next vote.

Mr. Chairman, I include for the RECORD the following statement on physician pathology services:

It is the intent of this legislation that the access to care subtitle apply to clinical pathology and specialized clinical pathology services. However, I am aware that the language may not be specific enough on this particular issue. Therefore, when we go to conference with the Senate, I am willing to work to further clarify this issue by including clarifying language on access to clinical pathology and specialized clinical pathology services in sections 111 and 112 of this legislation

It is the intent of this legislation that the access to care subtitle apply in the same manner to clinical pathology and specialized clinical pathology services as it would to other specialty medical services in this legislation.

It is my intention that when we go to conference with the Senate that I will work to further clarify this issue by including explicit language on access to clinical pathology and specialized clinical pathology services in section 114 of the legislation.

CHARLIE NORWOOD.

Mr. HOUGHTON. Mr. Chairman, I yield 11/2 minutes to the gentleman from South Carolina (Mr. GRAHAM).

Mr. GRAHAM. Mr. Chairman, I appreciate those kind comments from my friend across the river in Georgia. We agree on most everything.

One thing I am not going to do when this is over, go practice dentistry. I promise the Members that today. I appreciate all these doctors wanting to rewrite this liability section, but let me ask one question of my friends on the other side. Are they suggesting that if a fiduciary mismanages the retirement benefits of a company or employees, that they should be sued in State court? Is that what they are telling us?

Under current law under ERISA, if there is a mismanagement by the fiduciary of the employees' retirement benefits, is it the gentleman's belief that State court is the proper place to sue?

Mr. NORWOOD. Mr. Chairman, will the gentleman yield?

Mr. GRAHAM. I yield to the gentleman from Georgia.

Mr. NORWOOD. The gentleman wins. I am not a lawyer. I am not sure. I just know when one has liability under our bill, it has to be in State court.

Mr. GRAHAM. The reason the gentleman cannot answer the question, Mr. Chairman, if we had that as a rule, every 401(k) plan in America would fold, because nobody in their right mind is going to offer these benefits so they can be sued in 50 States under 50 different theories of plan management.

The reason we have this law at the Federal level is to encourage employers to offer health care and retirement benefits so they know what the rules are, and they cannot be nickeled and dimed in every State.

This is an emotional topic from the plaintiff's point of view and from the business point of view. If Members want to destroy health care, allow 50 different theories of liability. People are going to get out of the business.

Mr. HOUGHTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, the Commission on Health Care Dispute Resolution, formed by the American Bar Association, the American Medical Association, and the American Arbitration Association, issued a draft report in 1998 recommending the use of alternative dispute resolutions for medical insurance disputes.

The Houghton-Graham substitute amendment allows this, using binding arbitration as an alternative option for a patient to appeal the decisions of their health insurers, and follows the standards set by the commission, which include independent and impartial arbitrators with sufficient medical or legal expertise, appropriate credentials, and who have no conflicts of interest.

Additionally, the arbitration process must include a fair de novo determination, the opportunity to submit evidence, have representation, and make oral presentation. The health insurer must also provide all records and provisions of the plan relating to the matter.

Arbitration is a voluntary option to operate in lieu of court. Some people just do not want to go to court. Because arbitration is voluntary for the patient to choose, it will not take away from the patient's right to sue in court, but instead, adds a choice to the accountability process. I think we should expand choice for patients who are harmed by wrongful decisions. The Norwood-Dingell bill does not offer this choice.

Mr. Chairman, I urge Members to support the Houghton-Graham substitute.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, we have indeed been making history since we started this debate last evening. Americans do not have to wait for their State to catch up in protecting them when they become ill, in protecting their interests. If there is hurt, then HMOs are going to have to withstand the scrutiny that doctors and hospitals withstand right now.

I applaud the efforts of the gentleman from New York (Mr. HOUGHTON). There are a tremendous amount of similarities between what he wants to do and what is in the Dingell-Norwood bill, no doubt about it. I detect, if I may, and I hear the fears portrayed by my good friend, the gentleman from South Carolina (Mr. LINDSEY), from the proponents of this substitute.

But I also hear the fears and the anxiety of actual human beings who have to deal with the bureaucratic maze that is in front of them when they are ill. If I have to err, if I have to make a mistake, I believe, in good faith, we should make it on the side of the patient.

What that means is that all the things that we agree upon in similar pieces of legislation should not be shortstopped because we cannot agree on where that limit is if one has to go to court. There are built-in processes right within this legislation internally that protect us from those fears and those anxieties which Members have expressed.

That is why I cannot vote for this substitute, but I applaud the gentleman's efforts.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the Houghton-Graham substitute and in support, strong support, of the Dingell-Norwood legislation. I commend both of those gentlemen for their courageous leadership.

Nothing, I think, speaks more eloquently to the need for their proposal than the case of my constituent, Stephen Parrino, from San Francisco. Stephen was diagnosed with a brain tumor. His HMO referred him to Loma Linda Medical Center, which successfully removed the tumor.

Stephen's treating physician then ordered him to undergo proton beam therapy no later than 2 or 3 weeks following the operation, but Stephen's HMO refused to pay for the therapy, saying that it was experimental, unapproved, and not medically necessary. For those reasons, it did not fall within the managed care guidelines.

After repeated calls to the claims reviewer, Stephen was told that the HMO would ask for a second opinion. Seven weeks after surgery was completed, the second opinion came back. It was medically necessary. But it was now too late. Two weeks later, Stephen was informed his brain tumor had spread; it had reoccurred to the same place, and spread to the rest of his body, including his lungs. He subsequently brought suit against the HMO in State court, but claiming ERISA preemption, the HMO had the action removed to the U.S. District Court, which dismissed his case. With no remedy against the HMO, Stephen Parrino ultimately died as a result of the tumor.

Mr. Chairman, this story has been told over and over again in our country, of desperately sick people who thought they had access to the best health care in the world, and who find themselves at the mercy of the managed care bureaucrats in a judicial system that provides them with less assistance than they need and no compensation after the damage has been done.

We have a responsibility to stop this. Health care consumers must be able to hold their health care plans accountable and get lifesaving care. That is why the American Psychological Association writes that the Norwood-Dingell bill is the only legislation that holds HMOs accountable for negligent acts.

Mr. Parrino's HMO did not provide him with the remedy to save his life. His family has no remedy against that HMO.

Mr. HOUGHTON. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina (Mr. GRAHAM).

Mr. GRAHAM. Mr. Chairman, I would like to address the case previously mentioned on the floor. It is a very emotional topic.

Under our bill, they would have a legal remedy. They would have a wrongful death claim brought in Federal court. They would get a full range of what has been lost: the future wages, past wages, past medical bills, the entire package that goes with a wrongful death claim, plus a half a million dollars for pain and suffering, which in a wrongful death claim is very hard to get anyway. They would get that whole range. The liability wall would come down.

Let me just make this one statement. I am asking every member of this House who has voted for products liability reform, where we limit damages, just like we do here, to ask themselves, are they being honest with themselves? What is the deal, here? If someone gets hurt by a machine, we are entitled to limit damages, but if they get hurt by an HMO, for some strange reason and they go through the roof, 280 people in this House have voted for liability reform just like we have today, including the gentleman from Iowa (Mr. GANSKE) and including the gentleman from Georgia (Mr. NORWOOD).

They were willing to limit damages then, but not now. Why?

Mr. HOUGHTON. Mr. Chairman, I yield 4 minutes to the gentleman from Tennessee (Mr. HILLEARY).

Mr. HILLEARY. Mr. Chairman, I am proud to be in the House today as a coauthor and principle cosponsor of this legislation, the Houghton-Graham-Hilleary-Gibbons substitute to the Norwood-Dingell bill.

Our substitute would clarify and close the loopholes that presently exist, in our opinion, in the liability section of the base bill before us. I, like the drafters of the base bill, do believe that some sort of accountability mechanism must exist in order to improve today's managed care plans. I support holding managed care plans that make negligent decisions accountable in a court of law.

However, the bill ignores to a serious level, I believe, concerns about the potential liability that employers will face. This problem must be resolved or literally millions more Americans will join the ranks of the uninsured.

I know that adding millions of Americans to the ranks of the uninsured is absolutely not the intent of anybody on the other side, or who supports the Norwood-Dingell bill. They do not mean to expose innocent employers to liability, I am quite sure. However, the language they use to protect the employers does not achieve their goal, and therefore, we will try to correct it in our substitute.

Under the base bill, a business cannot be sued if they use discretionary authority in making coverage decisions. The problem is that the phrase "discretionary authority" is, in my opinion, much too broad.

Let us first guess what is meant by "discretionary authority." What if an employer sets up a clerical system that simply provides information on coverage decisions? Can that employer be sued under the base bill? Yes, it could be, under discretionary authority.

What if a plan simply selects a third-party administrator or a certain type of health care plan. Can they be sued? Yes, under discretionary authority.

What if an employer reverses the decision of a plan on behalf of an employee? Could they be sued? Shockingly, possibly, yes, under the phrase "discretionary authority." It is too broad.

With discretionary authority, we are, in reality, creating a system where lawyers can find loopholes to go after innocent companies. We cannot accept such loopholes that allow innocent businesses to be dragged into court just because they have the deepest pocket, which in turn incentivizes businesses to drop health care policies for their employees.

Our substitute plugs this loophole. Under this substitute, only the business that has direct participation in making the sole, final decision of the plan is liable. Those are the key words, "Sole and final decision." The loophole is closed. This will force the people in charge of the plan to make a good decision or be on the wrong end of monetary damages.

Meanwhile, innocent employers, which had nothing to do with the decision on health care, will not be forced into court, as is the case with the base bill.

I truly commend the gentleman from Michigan who supports the Norwood-Dingell bill and our great friend, the gentleman from Georgia (Mr. NORWOOD). We appreciate how he has pushed this issue, pushed the issue of patient protections in health care, accountability in managed care. In my opinion, every option on the floor today has the fixes to these problems, in one way or another.

In my view, part of that accountability must include having one's day in court, if one happens to be an employee who has been wronged. Three of the options we have considered today have that as a possible option, but we cannot let a legislative vehicle which fixes these problems also be used to create unlimited lawsuits, even against employers that had nothing to do with the health care decision.

Our substitute leaves Norwood-Dingell's patient protections intact, but closes the loopholes in the liability section.

This is the size of the Norwood-Dingell bill, a pretty thick bill. This is the size of the changes that we make to Norwood-Dingell. There are very few changes that we make. We just consider those closing those loopholes to the base business that might be an innocent bystander in this situation.

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Everybody here that I know of is interested in the same thing, trying to get more patient protections into the law of the land, but we just believe in different solutions to the problem. Vote for our substitute.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I thank the gentleman from Michigan for yielding me this time.

Mr. Chairman, I have been rather interested about the attacks on discretionary authority. Of course, I am not a lawyer, but I took a minute, and I tried to look up what in the world are they hanging their hat on. I mean, all discretionary authority really means is that an employer can make an independent decision. He has the power to do that about a health care plan.

What we do in this bill with the discretionary authority, we say that it is about a claim for benefits covered under the plan. That is what they have the authority to do. We are saying, "do not use your authority to go in and deny care under this claim if it is a benefit in your claim, and you have to answer to that if you kill somebody." It is pretty simple.

I say to the gentleman from South Carolina (Mr. GRAHAM) I am all for limiting liability. Now, he knows that. That is why we have limited liability in our bill once one gets passed external review. I thought that it would make good sense. There is great limitation of liability at the State level. We see about half the States have really good punitive. Half the States, and sometimes not the same ones, have very good limitations on noneconomic. I think I am for limiting liability.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me thank the distinguished gentleman from Michigan for this time and his patience and his leadership on this legislation, along with the gentleman from Iowa (Mr. GANSKE) and the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Arkansas (Mr. BERRY).

This has not come about overnight, and I think it is important to emphasize that because I have the greatest respect for the gentleman from New York (Mr. HOUGHTON). We have worked together. We understand the value of bipartisanship.

But on the floor of the House today, I have heard doctors maligned, I have heard unions maligned, I have heard lawyers maligned. I thought it would be best if someone got up and spoke about the American people, spoke about the young man that is joining us, children, or little Steve Olson that I spoke about yesterday, the little 3-year-old who needed a brain scan and was denied that by his HMO; or 11-year-old Paige Lancaster who for a long time had headaches, and her brain tumor grew for 4 years because her HMO denied her the service; or maybe Phyllis Cannon, a woman who died because of a lack of the ability to get the service she needed because of the HMO.

Although the intentions are good for this amendment, I believe that we will respond to the American people, and we will not malign them if we pass straight up the Norwood-Dingell bill that allows the patient-physician relationship to be the relationship that so many physicians who our Members of Congress have spoken about, the singular relationship of trust and respect and knowledge, so that that patient will have the ability to get the care that they need.

My good friend who is on the Committee on the Judiciary knows what this amendment does. This is the back door of tort reform. This gives one a single Federal action, and it closes the door to those citizens located in Oklahoma, in Texas, and Georgia who can go to their State courts. It is the same thing as the reform on the class action.

Mr. Chairman, the only bill that will respond to the American people is the Norwood-Dingell act. Save our children. Pass the Norwood-Dingell health reform package.

Mr. Chairman, today I rise to voice my strong opposition to the three substitute amendments to H.R. 2723, the Bipartisan Consensus Managed Care Improvement Act. H.R. 2723 amends current law to establish new patient protections, set nationwide standards for health insurance, and expand medical liability. The measure establishes basic standards for utilization review (i.e., establishing guidelines for how a plan reviews the medical decisions of its practitioner). In instances where the insurer and practitioner disagree about a patient's treatment, the insurer must disclose the reason for the negative coverage decision and inform the patient of his right to appeal. The bill establishes basic standards for the internal appeal process. If the internal appeal upholds the coverage denial, the patient may request an external review. The bill allows any decision involving a medical judgment to be appealed; however, if a benefit is specifically excluded from a health plan contract, it may not be appealed.

The measure expands health plan tort liability by permitting state causes of action under the 1974 Employment Retirement Income Security Act (ERISA; P.L. 93–406) to recover damages resulting from personal injury or for wrongful death for any action "in connection with the provision of insurance, administrative services, or medical services" by a group health plan. The bill prohibits insurers from retaliating against a patient or provider based on that individual's use of the review or appeals process and establishes other whistleblower protections.

The bill also includes a number of provisions designed to protect patients' rights and ensure access to health care. Specifically, the measure: Lifts so-called "gag rules" to allow free and open communications between patients and doctors in order for the patient to make fully-informed decisions about the best course of treatment; requires insurers to provide coverage, without prior authorization, for emergency care if a "prudent layperson" would consider the situation an emergency (resulting in serious injury or death); requires health plans and insurers to allows patients to choose their own primary care professional from the plan or insurer's network; requires HMOs to provide direct access to a participating physician that specializes in obstetrics and gynecology (OB–GYN) and allows parents to designate a pediatrician as a child's primary care provider; allows patients who have an ongoing special condition to have continued access to their treating specialist for up to 90 days in cases where the provider is terminated from the plan or if the plan is terminated; requires HMOs to provide a referral to a specialist for patients with conditions that require ongoing treatment; and requires health plans to disclose information to that patients are able to learn what their plan specifically covers, including benefits, doctors, and facilities, in addition to information on premiums and claims procedures.

In my home state of Texas, we already have effective laws that addresses this concern. The Health Care Liability Act, codified as Tex, Civ. Prac. & Rem. Code Ann. §§ 88.001–88.003 (West 1998) allows an individual to sue a health insurance maintenance organization, or other managed care entity for damages proximately caused by the entity's failure to exercise ordinary care when making a health care treatment decision.

In upholding portions of this forward thinking law that allows injured patients to bring suits for damages against health insurers for substandard quality medical care, District Judge Vanessa Gilmore wrote, "[I]n light of the fundamental changes that have taken place in the health delivery system, it may be that the Supreme Court has gone as far as it can go in addressing this area and it should be for Congress to further define what rights a patient has when he or she has been negatively affected by an HMOs decision to deny medical care . . . .

"If Congress wants the American citizens to have access to adequate health care, then Congress must accept its responsibility to define the scope of ERISA preemption and to enact legislation that ensures every patient has access to that care." Corporate Health Insurance v. The Texas Dept. of Insurance, 12 F. Supp. 2d, 597 (S. Tx. 1998). I could not agree more.

The three amendments made in order, appropriately called poison pills, would kill the bipartisan crafted Norwood-Dingell Bill. The first amendment, the Boehner bill would allow no new lawsuits, while the Norwood-Dingell measure would provide patients relatively open ability to sue in state courts. This is not acceptable. A patient's right to sue to address the denial of care by HMO is at the heart of Norwood-Dingell.

The second amendment, the Coburn-Shadegg amendment, is a wolf in sheep's clothing. It permits patients the right to sue. Should we applaud? I think not. Upon careful reading one finds that patients, under the Coburn-Shadegg amendment, can sue in either state or federal court, but not both, and would limit non-economic damages to $500,000.

The Graham-Houghton measure does not attempt to hide its attack on a patient's right to sue. It would limit damages in most cases to $250,000 and limit suits to federal court. This is outrageous. Think of the economic hardship that a family would endure if they have a loved one who is permanently and catastrophically disabled as a result of an HMO's negligence. To cap damages to $250,000 at a time when health care costs continue to rise smacks of callous indifference on the part of the sponsors of this measure.

These amendments would deny patients legal redress when he or she has been negatively affected by an HMOs decision to deny medical care. The first lawsuit to cite Texas' pioneering HMO liability law, filed against NYLCare of Texas, shows why the measure needed to be passed, according to physicians. HMOs here and around the country have argued that they shouldn't be liable for medical malpractice because they only determine insurance coverage and don't make medical care decisions. But the Texas suit, filed in district court in Fort Worth on Oct. 19, charges that a decision by NYLCare's reviewers to end hospital coverage for a suicidal patient led to his death. Despite his psychiatrist's objections, the patient did not protest the HMO's decision to release him from the hospital, and, shortly after discharge, he killed himself. "HMOs may say otherwise, but they are quite clearly practicing medicine," said Robert G. Denney, MD, a Fort Worth psychiatrists familiar with the case. The lawsuit could spark interest in many state legislatures and Congress, where legislation similar to Texas' HMO liability law failed this year but is expected to be reintroduced.

Only Texas and Missouri have passed such laws, and Missouri officials reported that no suits have been filed yet under their 1997 law. Meanwhile, psychiatrists said a victory in Texas could help reverse massive cuts in mental health services in the past decade, as employers and managed care companies imposed tight coverage limits. "HMOs and behavioral health companies are really going to take notice of this case because it's going to change how they manage their care," Dr. Denney predicted. At the time of filing, defendants in the lawsuit wouldn't comment on the case. In addition to NYLCare, which was acquired in July by Aetna U.S. Healthcare, the suit names Merit Behavioral Care Corp., which allegedly made the coverage decision as a subcontractor for NYLCare. Merit was acquired in February by Magellan Health Services, now the nation's largest behavioral health care provider.

Look at the Fort Worth patient, 68-year-old Joseph W. Plocica, who became suicidal after he was diagnosed with prostate cancer and lost his job of 11 years. Plocica was admitted to a mental health facility in late June by psychiatrist Harold Eudaly Jr., MD. About a week later, according to the lawsuit filed, Gary K. Neller, DO, a psychiatrist working for Merit in Dallas, told Dr. Eudaly by telephone that Plocica had "used up his [hospital] days," even though the HMO's limit had not been reached.

Upon discharge, Plocica went home, drank a half gallon of antifreeze that night and died of the effects eight days later. "This case appears to be very strong and raises some serious questions about promises made by the

HMO," said Donald P. Wilcox, general counsel of the Texas Medical Association. In a TV ad for NYLCare 65, the Medicare product that Plocica enrolled in, the HMO asserts that, "Some health insurance companies limit hospital days. NYLCare 65 will give you as many hospital days as your doctor will authorize," according to a transcript filed with the lawsuit. Wilcox added that since Plocica was covered by Medicare, the case will not be affected by the Employee Retirement Income Security Act of 1974, which shields self-insured companies from state actions.

It's no surprise that the first lawsuit under the Texas liability law involves mental health services, because "the managed care industry has been arbitrarily cutting benefits," said Jefferson Nelson, MD, president of the Texas Society of Psychiatric Physicians. Nationwide, spending for behavioral health care benefits in the past 10 years has fallen by 54%, to $69.61 per person, compared with a 7.4% drop for general health care benefits, according to a 1997 study by the Hay Group for the National Association of Psychiatric Health Systems.

Although some states have passed mental health parity laws requiring coverage at the same levels as other care, the Hay Group found that by 1997, more than half of health plans had imposed limits on mental health hospital stays, typically 30 days. Coverage decisions are not typically made by behavioral care companies under contract to HMOs. Their reviewers "constantly second-guess complicated cases that take a great deal of clinical judgment," said Houston psychiatrist Bernard Gerber, MD. When the HMO stops hospital coverage, patients often refuse to pick up the bill because they lack the funds to pay for the hospital stay and often want to be released, as in Plocica's case, Dr. Denney added. Such cases are "frightening for psychiatrists because the liability rests with them," said Joanne Ritvo, MD, a Colorado psychiatrist and chair of the managed care committee at the American Psychiatric Association. The Texas lawsuit "is one of the first cases to expose what is under the rock" in managed mental health care.

Critics of the Texas law predicted an avalanche of HMO suits. With only one lawsuit filed under the Texas law, which went into effect in September 1997, there is hardly the avalanche of claims that some HMOs predicted when the measure was being debated, said Fort Worth attorney George Parker Young, who represents the Plocica family in the suit.

In other states where no such laws are on the books, there is little legal redress for patients suffering from negligent medical or reckless decisions made by their health insurance plans. Take for instance, Steven Olson—a once healthy, thriving two-year-old child. After falling on a stick while hiking with his parents, two-year-old Steven was rushed to the emergency room where he was treated. His mother returned him a week later because he was in great pain. He was treated for meningitis and sent home. Steven continued to complain about pain, but despite his parents' protests, the HMO doctors refused to perform a brain scan, even though it was a covered benefit. Steven eventually fell into a como due to a brain abscess that herniated. He now has cerebral palsy. An $800 brain scan would have prevented this tragedy.

In an even more tragic case, a woman attempted to switch doctors when it became clear that her original doctor would not fully examine a growing and discolored mole on her ankle. Paperwork and bureaucracy resulted in a six-month wait. Once the women finally visited a second doctor, she was immediately sent to a dermatologist who determined that the mole was a malignant melanoma. The woman died one year later.

Mr. Chairman, under the current federal law, many patients whose lives have been devastated or destroyed by negligent or reckless decisions made by their health insurance plans cannot go to court to obtain appropriate remedies under state law. The federal law—the 1974 Employee Retirement Income Security Act (ERISA)—was originally intended to protect the interests of employees covered by pension and health benefit plans offered by their private-sector employers. But the law is not being used as a shield against state tort liability by HMOs and other health insurers who claim that ERISA preempts state lawsuits against health insurers who cover private sector employees. Based on rulings of some courts, participants in ERISA-covered employee health plans are deprived of the protections afforded by the state common law of negligence and medical malpractice and state wrongful death statutes.

Although the courts do not all agree, many patients injured or killed by negligent or even deliberately reckless decisions of their HMO or other ERISA-covered health insurers have been unable to sue their health plan for damages. Injured patients and their families are limited to a narrow federal remedy under ERISA, which covers only the cost of the procedure that the plan failed to pay for, but does not include compensation for injuries or death resulting from the denial of a medical treatment.

Mr. Chairman, this year, it should be a top priority of Congress to remove the ERISA preemption. Legal accountability for health insurance plans that make life-and-death decisions about medical care must be a part of any "Patients' Rights" bill that passes the Congress. Requiring plans to be legally accountable forces them to suffer consequences when they deny care on the basis of cost and harm results. If health plans are not accountable to patients for their decisions when harm results, they have no financial incentive to make appropriate medical decisions in the first instance.

Mr. Chairman, this is a historic time to stand up for the rights of patients. I ask my Colleagues to join with me in rejecting these poison pill amendments. I urge my Colleagues to support the bipartisan Norwood-Dingell measure which would take away the ERISA shield health insurers currently hide behind.

Mr. HOUGHTON. Mr. Chairman, I yield 3 minutes to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, I thank the gentleman from New York for his willingness to share a little bit of his time for us folks.

What we are trying to do today is simply avoid a catch-22 provision which we are all knowingly pushing this country toward. Truly, if one looks at the Houghton amendment, it is the most balanced approach to the whole question we have got here today. For those of us who talk about patient reform, needed patient reforms, and HMO reforms, let me say that I agree with my colleagues. That is why I and all the colleagues who have joined on in this amendment are cosponsors of H.R. 2723, and we preserve those patient reforms. We do not change them at all.

But let me say that the 1.2 million constituents that I have in the Second Congressional District of Nevada sent me here to make this bill a little better. They sent me here to try to make the Norwood-Dingell better by adopting this substitute.

We have heard a lot of claims go about today about, yes, we are closing the door to States' lawsuits, that people will not have the chance, if they are in California, Texas, or Georgia, or whatever, to address those legal remedies that they have. Well, what about the other 44 States who do not have those same provisions?

By passing this bill without a uniform common approach to this law, we have shut the door to the citizens of those other 44 States. We are denying them the access to have and to seek damage and remedies that maybe some of these States do not have that we grant, that we allow, that we give this uniform approach under this bill here today.

Let me tell my colleagues a little bit about why we need to control the cost in this. If we look at the overall rise in health care, and I am sure the gentleman from Georgia (Mr. NORWOOD) knows about the rise in health care premiums, and I think it looks like double digit and has been double digits for a number of years.

In fact, in Nevada we just took a survey, and 12 percent of the employers, in the last year, said they have dropped their health-care coverage for employees because of the continual rise in premiums. That survey also showed that 49 percent of those employers would also drop their health care coverage if these premiums continued to rise.

What we are trying to do here is to get to the issue of controlling the cost by giving them uniformity and certainty about damages that they have to estimate in their payment of premiums that continually rise, that put them out.

Let me say that for every 1 percent of premium increase, approximately 400,000 people around America go off of the insured roles on to the uninsured.

What we are doing here, Mr. Chairman, of course, is trying to give certainty to our employers that they know what their exposure to liability is. We all know that punitive damages cannot be insured, that this comes out of pocket of the employer. That is why we take punitive damages off the table. That is why we give a uniform approach to liability, to the remedies that are here. That is very important in this bill.

I would encourage all of my colleagues to support this amendment because I think it gives uniformity to a much needed piece of legislation.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I thank the distinguished gentleman from Michigan (Mr. DINGELL), the ranking member, who is the senior Member of this House, for yielding me this time.

His father introduced health care legislation long before I knew anything about what Congress was doing. He has followed in that distinguished tradition.

I congratulate the gentleman from Georgia (Mr. NORWOOD) for his courage, his commitment, his focus to ensuring that patients and families and doctors had the opportunity to provide the medical care that the patients needed.

I rise in opposition to this amendment offered by one of the most distinguished and conscientious and honest Members of this House, the gentleman from New York (Mr. HOUGHTON) and the gentleman from South Carolina (Mr. GRAHAM).

I say to the gentleman, with all due respect, that we stand on the edge of an opportunity to pass historic legislation. This amendment will undermine that, not because this amendment, per se, is inherently bad, but because this amendment raises very complicated issues that, frankly, could have been raised in another way and could have been considered, in my opinion, much more straightforwardly and honestly as an amendment to the bill as opposed to a substitute to the bill.

I am reminded somewhat of what we did on campaign finance reform, not what the gentleman is doing, but the procedure that is being followed.

I urge my colleagues who have come this far to ensure that we complete this historic effort with the Norwood-Dingell bill and reject this amendment.

Vote overwhelmingly to pass this legislation. Let it go to conference where it will be worked on by, not only the Senate and the House, but by the President as well.

We will have an opportunity this year to do something that the American public will say is the best thing that we have done this year in ensuring that patients and doctors have the right and the opportunity to provide health care that the patients and doctors believe is necessary, not some third party. Defeat this substitute.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, first, I would like to salute all the Members that have worked so hard to bring forward the Dingell-Norwood bill. I would like to say some things today that really will remind us of some of the greatest things that have happened in this Chamber in the past chapters of American history: when a Congress and a President put together Social Security, when a Congress and a President put together Medicare.

In our day and our time, we, too, can do something noble. The American people are really pleading with us. They are saying to us in our town hall meetings, wherever we gather in our congressional districts all over the country, fix the ills in this system. There are parts of it that are broken. We need access. We need fairness. We want our physicians, our doctors, that sacred relationship between a patient and a doctor. We want the doctor to make the calls.

There is interference in the system, and we know what we need to do. The Patients' Bill of Rights is the bill that the American people genuinely support. We know that.

There is politics of special interests here that take amendments and debates one way or another. But I am convinced that the American people still respect access to the courts, not overuse of the courts, but access to the courts, and that they want the laws to be enforceable ultimately if that is where it has to go.

We can cast a vote that is going to keep faith with the American people. I believe that when they come back to judge us, that this will be the yardstick by which they will measure Members of the 106th Congress.

I ask my colleagues to defeat the substitute. There is no substitute for the Norwood-Dingell bill. Let us pass the Patients' Bill of Rights and do ourselves proud in this Congress.

Mr. HOUGHTON. Mr. Chairman, I yield 5 minutes to the gentlewoman from Missouri (Mrs. EMERSON).

Mrs. EMERSON. Mr. Chairman, before I even begin my formal remarks, let me say that the Houghton substitute incorporates all of the good in good work, the excellent benefits, the excellent changes in the health care delivery system that Norwood-Dingell has. It only changes the liability portion. Let me say that again. The entire Norwood-Dingell bill stays intact except for the liability provision. I just thought I ought to say that in response to the remarks of the gentlewoman from California (Ms. ESHOO).

Let me also say, Mr. Chairman, that, since I have been in Congress, I have had to intervene on behalf of many, many of my constituents, one of whom has been denied or was denied health care access when she had to have a hysterectomy. At least three doctors told her she had to have a hysterectomy.

This 43-year-old cafeteria worker from New Madrid was denied coverage and denied coverage and denied coverage. Her coverage said she can only have a uterectomy. She said, "Well, if this is the only thing I can have, I will take this." But she had it, and she had pain and suffering, and she was even worse off after she had the uterectomy.

She went back to the three doctors, two of whom by the way were part of her health plan, one of whom was an outside doctor. All three doctors said once again, if she did not have a hysterectomy immediately, this woman is going to die. But the plan argued, "No, she had a uterectomy. She does not need further surgery," even though it was obvious she was still suffering and was in great pain.

□ 1530

And only after I intervened and I threatened the plan with exposure to the news media did they finally relent and say, okay, go ahead. Well, my colleagues all know that that should not happen. Plans should not be threatened by Members of Congress in order to provide needed services to our constituents. But this has happened on many occasions. And for all the good health plans out there, there are some bad ones.

And let me say, as a former lobbyist for a small business and also as a former lobbyist for the insurance industry, that plans should be held liable in a court of law for acting irresponsibly and providing health care to consumers. I say that. But it should be responsible liability.

And let me say that after talking with employers in my district as well as a very, very close personal friend of mine who was both a trial attorney and a Taft Hartley Trust Fund attorney that I think the liability language in Norwood-Dingell does not protect labor unions or employers who provide quality health care coverage for their employees.

Let me give my colleagues an example. Let us say Joe Smith is denied coverage by his HMO. He is in a life-threatening situation and his doctor recommends experimental surgery; and because the HMO does not cover experimental medical practices, his coverage is denied. Now, the employer at this time inserts himself in the process because Joe is a long-time employee, his life is threatened; and, quite frankly, he wants to give Joe help. So the HMO grants Joe coverage because the employer has said I want Joe covered.

Now, another situation comes up with a different employee where the employer says, I am going to stay out of this and let the HMO do its job. So that coverage is denied. However, in this case the employer is liable because he acted out of compassion in the very first case.

This same thing happens on a daily basis with Taft Hartley Trustees each and every day. They grant coverage, where maybe they should not have granted coverage, but they did it out of compassion, and under Norwood-Dingell they would expose themselves to liability because of this compassion.

Now, Mr. Chairman, I have a couple of questions I would like to address to the gentleman from New York (Mr. HOUGHTON), if I might. It is my understanding that the Houghton substitute has added language now to section 302 of the liability provisions that make sure that companies and unions who do intervene on behalf of their employees are not held liable.

Mr. HOUGHTON. Mr. Chairman, will the gentlewoman yield?

Mrs. EMERSON. I yield to the gentleman from New York.

Mr. HOUGHTON. I would say to the gentlewoman, Mr. Chairman, that she is correct, we have added language that ensures that employers and unions who intervene on behalf of a patient in one circumstance are not held liable for actions committed and decisions made directly by the plan. Furthermore, employers and unions are not held liable for not intervening on behalf of their patients.

Mr. EMERSON. So, then, it is also my understanding that one of the key differences between Norwood-Dingell and the Houghton substitute is that Houghton clarifies that employers and unions cannot be held liable if they did not make the decision to deny medical care.

Mr. HOUGHTON. That is right.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, we should reject this amendment and pass the underlying bill. We should do it because America knows one thing in this debate with certainty. The amendment would divide this chamber. The Norwood-Dingell bipartisan would unite it.

This is a bipartisan bill, intended to unite us across the aisle. And the one thing we should know for sure, bills that unite us are superior to those that divide us. And if we think about why we are here, it is Congress, and Congress, by its meaning, is coming together. That is an American value.

If we look at the five values, and I encourage my colleagues to do this some day, carved on the bar of the House, there are five values: peace, justice, liberty, tolerance, and union. Let us vote for union today, union to do something meaningful for patients. It is what America wants.

Mr. DINGELL. Mr. Chairman, I yield myself 30 seconds for a colloquy with the distinguished gentleman from Georgia.

Mr. Chairman, I would like to engage my colleague to clarify the scope of the bill. I would say to my colleague that it is my understanding that our objective today here is to improve the delivery of health services, including medical, dental, and vision benefits for millions of Americans.

I also understand there is no intention for the provisions of this bill, including the claims provision of section 301, to govern other lines of insurance, such as disability income insurance or long-term insurance. Is that correct?

Mr. NORWOOD. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Georgia.

Mr. NORWOOD. The gentleman's understanding is exactly correct, Mr. Chairman.

Mr. DINGELL. Reclaiming my time, Mr. Chairman, I fully agree with my good friend.

Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Chairman, I keep hearing the only difference between Houghton and the Norwood-Dingell amendment is that it only changes the liability. It only changes the liability. When a lawsuit is brought, the only thing that matters is liability. No liability, no lawsuit, no damages. Why penalize the American public by restricting their ability to seek damages?

The other thing that does not seem to want to be discussed on this floor today is the issue that someone who may be a victim of a violation of a claim or denial of a claim may be suing the doctor, may be suing the hospital, and the plan. The lawsuit against the doctor is in State court, the lawsuit against the hospital is in State court, the lawsuit against the plan should be in State court. Why require American citizens to go into Federal Court on the plan and the State court on the doctor and State court on the hospital?

Again, it only changes the liability. That is it, everybody. Liability. Keep it in State court. Support Norwood-Dingell.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, after fighting for almost 2 years, this House is finally poised to pass meaningful managed care reform. The American people want us to do this, and I am delighted that this House is rising to the occasion. We are almost there.

We have been hearing some stories, though, about how HMO reform will make the sky fall. I want my colleagues to know that in my State of California our governor, Governor Gray Davis, recently signed landmark legislation that will provide HMO participants with major consumer protections and give health decisions back to 20 million patients and their doctors.

Now Californians have HMO accountability. Now Californians have a fair, timely, external grievance process. It should be an eye opener for all of us here today, because California, a large and diverse State, in fact with the population and the economy of a country, has patients first when they think of health care.

Mr. HOUGHTON. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina (Mr. GRAHAM).

Mr. GRAHAM. Mr. Chairman, where common ground exists, let me explain it. We are on the verge of doing something positive, but we are about to blow it. This bill, according to CBO, costs $7 billion to the Treasury. We have to work somehow to make that up.

Let me say this about liability and be as direct as I know how. 280 Members of this body have voted in the products liability area to limit damages, even economic damages, and change every law in every State and trump every court lawsuit anywhere in the country because they thought it was good for business and fair to plaintiffs.

We have passed the Cox amendment that would limit damage recoveries if medical malpractice occurred because we want to lower the cost of medicine and still give people a fair day in court.

Let me say this to my friends on the other side. We have a nice young man here who has probably a sad, bad story to tell. I want to help to make sure these things never happen again by getting the health care that people need. I do not want to drive people out of ERISA coverage. ERISA is designed at the Federal level to encourage people to have retirement plans and health care plans.

What have we done in the past? If somebody gets hurt by a doctor, this body was willing to say nationally that a plaintiff could only get this much money for the good of medicine. If somebody was blown up by a product, and I have had those cases, and I can show my colleagues files that would make them sick to their stomach, emotional things happen in lawsuit situations. I can show my colleagues product liability cases, but this House was willing to say this is all a plaintiff gets for the good of the Nation.

My colleagues, we are going to blow it if we do not reform the liability measure to keep it so people have a fair day in court but we do not drive well-meaning people out of business. It costs $7 billion already. This is the one area we have shown in the past we were willing to limit recovery for the greater good.

And I do not want to discount the fact that health care needs to be improved, but I am a lawyer and I know what we are setting up with a 50-State lawsuit form. We are going to drive people out of business.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Chairman, we are coming to the end of a long debate. We are coming to the end of 5 years of work.

This bill, the Norwood-Dingell bill, is not about the gentleman from Georgia (Mr. NORWOOD), nor is it about the gentleman from Michigan (Mr. DINGELL), the gentleman from Iowa (Mr. GANSKE), the gentleman from New York (Mr. HOUGHTON), or the gentleman from South Carolina (Mr. GRAHAM). It is about the people out in the country.

I want to tell a story about this little boy right here who is tugging on his sister's sleeve before he received HMO care. One night his mother found that he had a temperature of 104, 105. He was really sick. She phoned her HMO. The HMO said she could take him to one hospital, but only one, and that if she went to another one they would not pay for it. His mom asked where it was. And the person said, I do not know; find a map.

Well, it was a long ways away. And halfway there, 30-some miles into the drive, with more than that to go, they were passing one emergency room after another, one pediatric care after another, and this little boy is sick. But his mom and dad, they are not doctors; they do not know how sick. Before he gets to that emergency room, he has a cardiac arrest. His mom is trying to keep him alive and his dad is driving him there, and they pull into the emergency room and his mom leaps out and says, save my baby, save my baby. And a nurse comes out and starts resuscitation and they save his life.

But they do not save all of this little boy. Because of that HMO's medical judgment and decision, making him go 70 some miles instead of to the nearest emergency room, he ends up with gangrene of both hands and both feet. And this is that little boy after his HMO care.

The Norwood-Dingell bill would have prevented that. We do not want lawsuits; we want to prevent this. This little boy has a big heart, and he is going to do just fine. And his mama and dad, who are here today, they are making a place for him and making sure that he gets the kind of care he needs. But this little boy, if he had a finger and we pricked it, it would bleed. He is not an anecdote.

☐ 1545

We need to fix this problem so that these cases do not happen. This little boy has met a lot of my colleagues today, and I encourage others to meet him. His name is James Adams.

I will tell my colleagues what we need to defeat this last substitute. We need to get a big vote for the Norwood-Dingell bill, and we need to send it to the conference. And instead of calling it the Talent bill, I have a suggestion. Let us call this bill the James Adams bill. Vote for the Norwood-Dingell bill. Vote against the substitute.

Mr. HOUGHTON. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee (Mr. HILLEARY).

Mr. HILLEARY. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I am sitting here, and I am very conflicted about the fact that this young man is here today. I think the reason I am conflicted is because I think it borders, but probably does not go over, but borders exploitation of his condition.

But in a way, on final analysis, I guess I am glad that our friend the gentleman from Iowa (Mr. GANSKE) brought this up and really focuses exactly on what this is about. And it is about this young man.

We only have so much money in this country to focus on health care, and we should focus every bit of it that we can on young men like this one sitting right here. The bill that is the base bill here, in my opinion, and I am an attorney who has never tried a case in my life, but I believe I could drive a Sherman tank through that discretionary authority in the base bill.

So much money is available and that is it to help this young man. Now, if we can get to that deep pocket, which is that base company that contracts with that HMO, a good portion of that money available for this young man is going to go out the door to trial lawyers, who I do not malign. But if we have a choice between that limited funding of where that money should go, it seems to me that money should not go to the trial lawyers, it ought to go to young men like this young man right here.

I urge a vote for the substitute.

Mr. HOUGHTON. Mr. Chairman, I yield 30 seconds to the gentleman from South Carolina (Mr. GRAHAM).

Mr. GRAHAM. Mr. Chairman, I can show my colleagues cases of people that have lost their lives, lost their limbs in product liability suits that were treated by a doctor who was drunk. This House has in the past limited damage recoveries not because they are mean but because they want to keep people in business and lower the cost of medicine.

This young man, under this bill, would have a full range of damages available to him to treat him in the future to make him as best he can be in terms of damages.

What my colleagues are doing is they are not helping him. They are taking people with health care coverage and for no good reason letting 50 States with unlimited damages take his mom and dad out of the health care market for no good reason.

Mr. DINGELL. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this has been a long and exciting debate. It has been, I think, one of the finest I have had the privilege of seeing. I want to pay tribute to all of my colleagues on whatever side of the issue they might have been. It has been a strong and vigorous debate, but it has not been one which has been bitter or acrimonious. It is a real credit to the sincerity of the Members on both sides of the issue and it reflects great credit on this institution.

Now, my dear colleagues, if we defeat the substitute, we will move to vote on final passage. If we send this legislation to the other body for a conference, its final success is not assured. But I can tell my colleagues we have done our job and have done it well. We will pursue and try to see to it that the conference is completed to give this House and this Congress and this people a piece of legislation in which they may be proud and in which they will know that we have again made the HMOs of this country responsive to the needs and wishes of the people.

Members of both parties are concerned that if we vote for this legislation, we will not observe the customary budget requirements. I offer my colleagues firm assurance that we will, in this process, observe the customary budget requirements.

I have a letter from the President here in my hand, which I will insert into the RECORD, saying that we will do so and that the legislation will be paid for and offer my promise that that also will be so and that I will do everything that I can to see that nothing comes out of conference which does not pay the cost of the legislation.

I do not want to say anything bad about any piece of legislation. I am sure they have all been offered sincerely. I want to pay a particular word of compliment to my good friend the gentleman from New York (Mr. HOUGHTON). He is a great gentleman, and he is a man which I much admire and respect.

I also want to say a word of thanks to my good friends the gentleman from Iowa (Mr. GANSKE) and the gentleman from Georgia (Mr. NORWOOD) and to their fine staff and to that of ours who have worked so hard to bring us to where we are. There are many here who deserve great credit for what it is that we have accomplished today, and I want them to know that this legislation is something which is good.

Many members on both sides of the aisle worked to make this day happen. Along with Dr. NORWOOD and Dr. GANSKE, several other Republican members labored long and hard. And on the Democratic side, I'd be remiss if I didn't mention MARION BERRY and my other good friends in the Blue Dogs, the cochairs of the health care task force, FRANK PALLONE, EVA CLAYTON, and CHRIS JOHN, and, of course, SHERROD BROWN, the subcommittee ranking member, and the other tireless Commerce Committee Democrats. We were well served by very capable staff, including Bridgett Taylor, Amy Droskoski, and Karen Folk of the Commerce Committee Democratic staff, and numerous excellent staffers from the personal offices of all involved on both sides of the aisle.

The remarkable thing is that the House has moved to a point where we now have agreement on all things save the question of litigation. But we have an example of what litigation means in matters involving HMOs in Texas under similar proposals of law, and that is that in 2 years, 4 million people have been involved in five lawsuits.

The total cost of those programs is less than 13 cents a month per subscriber. That tells us the system works, not at excessive costs but in a fashion which affords rights which have been denied to HMO subscribers and to allow them to be heard and get redressed for grievances and to get the abuses and the concerns which confront them adjusted.

I urge my colleagues to vote against the amendment. I urge my colleagues to support the bill.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair must ask all Members to refrain from alluding to any guest who might be on the floor of the House.

Mr. HOUGHTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank the gentleman from Michigan (Mr. DINGELL) for his courteousness, the dean of our House, a very distinguished man, a great and dear friend.

This is the final vote to keep Norwood-Dingell intact and yet save the caregivers. I understand that the American people are pleading for something like this, and we are also.

I wish, as my friend from Maryland has said, that this had been an amendment. But it just was not. It was in the form of a substitute. I have no control over that. But I can only talk from personal experience that the Norwood-Dingell bill means that the health care is now going to be provided at a very scary cost.

My colleagues have got to believe me. They may not agree with me. They may be able to tear some of my statements apart. But having lived through this process and taking a look at what is now available, the basic thrust of my argument is absolutely right, no question about it.

The problem is that these people who have had problems, such as the gentleman from Iowa (Mr. GANSKE) has indicated earlier, if they do not have any health care, they cannot be helped at all.

I worked for many, many years, more than I would like to recount, for a company that was one of the first five in the country to offer health care to its employees. And I never thought in terms of employers or employees. We were members of the same corporation. I really believe that these people felt that we treated them correctly.

But as I looked over that plan, and if I put on my other hat and I was now a businessman, I would have to change my thinking. I could not stand the liability provision hanging over my head. And I would do a couple of things.

One of them might be to just give individual grants to employees, but that would not be good. We would not have the pooling. Many people would not have the money when they needed it. But the problem that I would have in being exposed to the liabilities, no matter how you want to define them, is they would be so great I could not continue the present plan as it is.

Now, let me just say one other thing. We have heard from people who care very much about this. We have heard from lawyers. We have heard from doctors. I would like in pleading here, as others have, to plead for the employees and employers of corporations and the small companies who are going to be dramatically affected unless something can be done to refine this bill.

Mr. Chairman, I yield back the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, I rise in support of H.R. 2723.

Mr. Chairman, I rise in support of the Bipartisan Consensus Managed Care Act, offered by Representatives CHARLIE NORWOOD and JOHN DINGELL. While I do have some remaining concerns with some of the provisions in this legislation, I believe that Dr. NORWOOD and Mr. DINGELL have made a sincere effort to work with me and others to address the legitimate concerns with their bill. Whenever issues were brought to their attention, they took the time to consider these suggestions and worked to resolve them. I commend both the Members and their very capable staffs for their diligent efforts to develop bipartisan, meaningful managed care reform. I am pleased that they have been able to put together a bill which is much improved from the legislation considered by the House during the 105th Congress.

Our health care system poses a challenging area of public policy. I believe that is it important that we try to strike a balance between the rights of patients, the duties of physicians, the operations of insurance companies, and the ability of employers to provide health insurance for their employees. One of the most difficult issues to address throughout this debate has been the matter of liability. If a health plan's actions cause harm to a patient, the plan should be held accountable. I believe that the internal and external appeals processes included in this bill will enable patients to get the care that they need and therefore preclude the need for litigation. In fact, this bill clarifies that a patient must go through an external appeals process before going to court unless they already have suffered an injury or death. Furthermore, this bill includes provisions which ensure that employers will not be subject to liability unless they specifically act as an insurer and decide that a specific enrollee shall not receive a certain benefit that is covered. I have long supported tort reform, and I certainly do not want to see an increase in litigation. I believe that the limited scope of this bill's liability provisions make lawsuits a last resort that is available only in egregious cases where all other avenues have been exhausted.

I believe that the managed care plans in my district, First Care, offered by Hendrick Health System, and HMO Blue, offered by Abilene Regional, are doing a good job. I hope that the Bipartisan Consensus Managed Care Act will highlight the work of these responsible plans. In fact, the bill contains a number of provisions that these managed care plans already are using to provide better care for their patients.

I am disappointed that the majority party did not allow the sponsors of this legislation the opportunity to pay for their bill. I believe that it is extremely important that we follow the budget rules that require us to pay for the legislation we pass. I continue to oppose any legislation that would use any of the budget surplus until we have an overall budget plan that protects Social Security and Medicare. I know that the authors of this bill agree with this position and offered a proposal to pay for the costs of the bill. The only reason that this bill is not paid for is because the majority leadership prevented the authors of the bill from doing so. I am voting for this bill today with the understanding and expectation that provisions paying for it will be added in conference. I am pleased to that the President has indicated he will not sign it unless its costs are fully offset by the conference committee.

Even if we pass this legislation to ensure patients have rights in their health care, there is still much work to be done. The rising cost of health care and the growing number of uninsured citizens in our nation are alarming. In addition to giving patients who already have access to health care the ability to have a say in their health care decisions, we also have an obligation to work to see that everyone has access to health insurance.

There are many valid and difficult issues to resolve as we seek to improve our health care system. H.R. 2723 isn't the final answer but it moves us in the right direction. I urge my colleagues to support the Norwood-Dingell bill.

Mr. DINGELL. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Illinois (Mr. COSTELLO).

Mr. COSTELLO. Mr. Chairman, I rise in opposition to the substitute and in strong support for the Norwood-Dingell bill.

Mr. Chairman, I rise today in strong opposition to the process imposed in the House today by the Republican leaders. Once again the Republican-led Congress has made in order a rule they know will defeat the bipartisan Norwood-Dingell bill, the only bill that could provide real managed care reform for 32 million Americans. This is the Republicans clever way of fooling the public into thinking they would like to pass a real managed care bill.

Mr. Chairman, the rule does not allow the bipartisan Norwood-Dingell bill to be offered in its original form and then links it with another poorly crafted bill that will deny access to the 32 million uninsured individuals in the lowest income bracket. This scheme is unacceptable, the Republican Leadership should be ashamed.

The "access bill" that will be tied to the real managed care bill is for the healthiest and wealthiest of individuals. By expanding Medical Savings Account (MSAs), the access bill discourages preventive care, and undermines the very purpose of insurance. When we voted on the Kennedy-Kassebaum Health Insurance Portability Protection Act in 1996 I supported the MSA demonstration project. However, this demonstration project turned out to be a failure. Of the 750,000 policies available only 50,000 have been sold. In my own Congressional District in Southwestern Illinois my constituents do not have access to these policies.

This access bill and the rule is just another attempt by the Republican-led Congress to undermine a bipartisan bill that could provide relief for millions of Americans. I am outraged that the Rules Committee denied Representative DINGELL's request to offer an amendment to pay for this legislation. As a general rule the Republican leadership demands that legislation not bust the budget caps imposed in 1997. While the Norwood-Dingell bill was not expected to require additional spending, the Congressional Budget Office estimated it would cost $7 billion. Representative DINGELL offered to offset the bill so that Members like myself who wish to protect Social Security could cast their vote in support of real managed care reform while ensuring the Social Security Trust Fund would not be touched.

As a cosponsor of the Bipartisan Consensus Managed Care Improvement Act—legislation strongly supported by doctors and by the American Medical Society and the Illinois State Medical Society—I believe it is the only real reform bill that will provide a comprehensive set of consumer rights that includes guaranteed access to emergency care and specialists, choice of providers, and strong enforcement provisions against health plans that put patient's lives in jeopardy. I am pleased the bill protects our small business owners by excluding businesses from liability if they do not make the decisions. This bill contains provisions that create safe harbors to ensure that no trial lawyer will accuse an employer of making a decision by simply choosing what benefits are in a plan or providing a patient benefit not in a plan. I am encouraged by the State of Texas who gave their citizens the right to sue HMO's for the past two years. In that time there have only been four cases filed.

I urge my colleagues to oppose this rule and support real managed care reform legislation. Vote for the bipartisan Norwood-Dingell legislation.

Mr. DINGELL. Mr. Chairman, I yield 3½ minutes to the gentleman from Georgia (Mr. NORWOOD) who has worked long and hard on this matter and shown extraordinary skill, ability, dedication, and energy. And those are characteristics I have seen in the gentleman from Iowa (Mr. GANSKE).

Mr. NORWOOD. Mr. Chairman, well, it is almost over. I think it has been a great 2 days, frankly. There are so many good ideas and so many good people in here, all of whom have brought the most interesting points of view to this debate. I am proud of this House. I agree with the gentleman from Michigan (Mr. DINGELL) that it has been a very civilized, correct type of debate.

Mr. Chairman, I have had the strangest feelings. This has been going on for me for a long time. I woke up today and I felt, well, it must be May 1969. The 101st Airborne Division was ready to take Hamburger Hill in a place far away in Vietnam. It had been their tenth try. They had to fight on bad ground. And they had to win.

That division one more time locked and loaded and went straight uphill to take Hamburger Hill, and that day they won for America.

I feel like we are running uphill our tenth time today, and we are going to get to the top of the mountain, and we are going to do it for America.

I have tried, interestingly enough, for 4 years to make this a partisan debate. I did everything I could do, I think, to try to get the Republicans to take this issue. This is such an important issue to America, so important to so many people. Each one of us, each member of our families, each one of our constituents, every American is what this issue really was all about.

I realized this year that we will not succeed that way, that for us to change the law in this country to protect our patients, we have to do it in a bipartisan fashion. That is the only thing that will work. That is the only thing that will really give us the new law that we need.

I am asking my colleagues today, do not vote for this because they are a Republican, do not vote for this because they are a Democrat. That is not what this is about. I want them to vote for this bill, I want every one of them to vote for this bill today as an American.

Let us show this country that on issues of this high quality and importance for the American people, we are going to come out of this House. And we are going to produce a good bill. We are going to conference, and we are going to face an uphill battle.

Everybody knows that. We are going to go to conference and listen to my friend the gentleman from New York (Mr. HOUGHTON) and the gentleman from South Carolina (Mr. GRAHAM) and the gentleman from Tennessee (Mr. HILLEARY) and others, and we are going to try to make it even better. And we can do that, and we can do that if we work together.

I mean, everything maybe does not have to be bipartisan, but today's vote is an American vote. I ask every one of my colleagues, if they possibly can, vote for this bill today. And if they cannot, I respect them. And their opinion is important. But if you can, do.

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Mr. Chairman, I thank my colleague, an interesting hard-working gentleman, a man that will tell it straight, and, boy, do I admire that. I thank the gentleman from Iowa (Mr. GANSKE) for his hard work. I thank the gentleman from Oklahoma (Mr. COBURN). As my colleagues know, we are going to pass a bill out in an few minutes that the gentleman from Oklahoma wrote, or he certainly helped write. He will probably fuss about me saying that, maybe one or two things. But I thank the staffs in our offices, all of our offices that have worked so hard.

Everybody, cast that American vote.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. NORWOOD) has expired.

Mr. HOUGHTON. Mr. Chairman, have I any time left?

The CHAIRMAN. The gentleman from New York has 1 minute remaining.

Mr. HOUGHTON. Mr. Chairman, if the gentleman from Georgia would like another minute, I will yield him the balance of my time.

The CHAIRMAN. The gentleman from Georgia is recognzied for 1 minute.

Mr. NORWOOD. Mr. Chairman, I thank the gentleman from New York for yielding this time to me, but I will tell my colleagues I am sort of tired of hearing myself talk. It has all been said, and it has all been done, and what we need to do now is mount the top of Hamburger Hill.

Mrs. CHRISTENSEN. Mr. Chairman, and my colleagues, while the Houghton-Graham amendment is a bit more reasonable than the previous two, and I think is an attempt at promoting a compromise—I still must oppose it.

I will admit that as a physician, I may be biased on this issue. Why should I as a physician be liable to be sued for a decision that was made by an HMO plan I work for, but the plan only be subject to arbitration.

This will not bring the kind of accountability necessary to make sure that plans act in the best interest of the health of the patient, and not just on cost.

Once again I must restate, that a lot of work and compromise went into crafting the bipartisan Norwood-Dingell bill. No one got everything they wanted in the bill. In fact, I am particularly disappointed that my own managed care bill—to ensure access to managed care plans for residents and physicians living and working in medically underserved areas—was not included in the Dingell-Norwood bill.

However, in spite of this, I still say that it is the best managed care reform bill that we could get because it addresses, in a comprehensive way, the problems that the corporations will not address without legislation.

So while my friends, Mr. HOUGHTON and Mr. GRAHAM may mean well in offering their substitute, they don't go far enough.

The Norwood-Dingell bill is the only proposal that offers real managed care reform. Let us not amend it. Let us vote for the Norwood-Dingell-Ganske bill and against any and all amendments.

Mr. CLAY. Mr. Chairman, I rise in opposition to the Houghton amendment. This amendment is no different than the Coburn substitute. It makes it so difficult for an individual to bring a lawsuit that in effect there is no right to sue. Only if an individual can jump over the high hurdles that this substitute puts up, can anyone receive a modicum of redress.

Under Houghton, an individual has to prove three key points. First, that a person who had sole final authority exercised that sole final authority. Second, that that person failed to exercise ordinary care in making an incorrect determination. And third, that the denial was the proximate cause of the injury of death. In most health plans, it is unclear who has the final authority and individuals will be hard pressed to know and prove who was the person who actually denied their care.

Houghton furthermore, requires that the court give the plan's decision substantial weight. This means that there is a presumption that the plan was right. Individuals and courts will be hard pressed to override this presumption. Only in the most egregious cases will there ever be any relief.

Most of the other provisions in Houghton are similar to the Coburn substitute. Both of these substitutes make it so difficult to bring a suit that only a few individuals will ever be able to meet its tough standards. This isn't what the American people want. The American people want a reasonable way to hold health plans accountable. Americans deserve the same protection against health plans that they have when they buy a car or go to the supermarket. Oppose the Houghton substitute.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. HOUGHTON).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DINGELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 160, noes 269, not voting 5, as follows:

[Roll No. 489]

AYES—160

Aderholt
Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Blunt
Bono
Brady (TX)
Bryant
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth-Hage
Coble
Coburn
Collins
Combest
Cooksey
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Dickey
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fossella
Fowler
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goodling
Goss
Graham
Green (WI)
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hill (MT)
Hilleary
Hoekstra
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Kelly
Kingston
Kolbe
Kuykendall
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
McCrery
McHugh
McInnis
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Myrick
Nethercutt
Northup
Nussle
Ose
Packard
Pease
Pickering
Pitts
Porter
Portman
Pryce (OH)
Radanovich
Ramstad
Regula
Reynolds
Riley
Rogan
Rogers
Rohrabacher
Ryun (KS)
Salmon
Sensenbrenner
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Smith (MI)
Smith (TX)
Souder
Spence
Stearns
Stump
Sweeney
Talent
Tancredo
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—269

Abercrombie
Ackerman
Allen
Andrews
Bachus
Baird
Baldacci
Baldwin
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bass
Becerra
Bentsen
Berkley
Berman
Berry
Biggert
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Boehner
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Burr
Burton
Buyer
Campbell
Capps
Capuano
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Cook
Costello
Cox
Coyne
Cramer
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Foley
Forbes
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Gonzalez
Goodlatte
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Herger
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Hooley
Horn
Hostettler
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kasich
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Lantos
Larson
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntosh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Ney
Norwood
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickett
Pombo
Pomeroy
Price (NC)
Quinn
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Sabo
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaffer
Schakowsky
Scott
Serrano
Sessions
Sherman
Shows
Sisisky
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Sununu
Tanner
Tauscher
Taylor (MS)
Terry
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Whitfield
Wise
Woolsey
Wu
Wynn

NOT VOTING—5

Fletcher
Granger
Kaptur
Scarborough
Traficant

☐ 1622

Mrs. McCARTHY of New York and Messrs. BACHUS, MANZULLO, SANFORD, KASICH, CROWLEY and PETRI changed their vote from "aye" to "no."

Messrs. CRANE, CHABOT and ADERHOLT and Mrs. NORTHUP changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. FLETCHER. Mr. Chairman, on rollcall No. 489, I voted in the machine but it did not record my vote. I voted "aye."

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise today in support of the Norwood-Dingell Bipartisan Consensus Managed Care Improvement Act of 1999 and in support of effective use of the National Practitioner Data Bank.

Unfortunately, the Republican leadership, in restricting the debate on managed care reform, has prevented many promising ideas from being discussed, including an amendment I submitted to the Rules Committee about the National Practitioner Data Bank. The purpose of my amendment was to encourage health care providers to use the existing National Practitioner Data Bank. This would allow health consumers to make accurate and informed decisions about their health care.

We've all read about these terrible stories where doctors, whose licenses have been suspended by one state, to relocate to another state and start their harmful medical practices all over.

The National Practitioner Data Bank was established as part of the Health Care Quality Improvement Act of 1986 to try to prevent this from happening.

The purpose of the data bank is simple: to help prevent incompetent doctors, dentists, or other practitioners from moving from one state to another without a state discovering their previous history of unethical or incompetent medical practice.

The data bank contains information on malpractice payments, licensure actions taken by state medical boards, professional review actions taken by hospitals or HMOs, actions taken by the Drug Enforcement Agency, and Medicare/Medicaid exclusions.

Information is made available only to registered entities such as state licensing boards, professional societies, HMOs, PPOs, and group practices.

Hospitals are required to query the NPDB when hiring medical staff and at least once every 2 years for those already on staff or having clinical privileges.

However, other health care entities may consult NPDB but are not required to.

My amendment would have encouraged the use of NPDB by health plans and HMOs in order to give consumers confidence that bad actors are not employed or covered by their health plan. The amendment simply stated, that in the "Patient Access to Information" section of the bill, along with a doctor's name and address and availability to new patients, an HMO or a health care plan must indicate whether the National Practitioner Data Bank has been consulted—essentially, whether a background check has been done on the doctors in their list. The amendment did not require HMOs or health plans to consult the data base.

The fact is, more and more Americans are now covered by HMOs.

Many have little choice in the matter—80% of small businesses and over 50% of large businesses offer one and only one health care plan to their employees.

In the past, most of us were able to choose a family doctor or a specialist because someone we knew or trusted—a relative, a family friend—recommended them to us.

Under most HMOs, we are handed a list of participating doctors and told these are the only doctors we can pick.

Yet we may have no idea who they are—it may be a list of complete strangers.

Are they licensed? Has their license been suspended in another state? Has another state taken a disciplinary action? Have they been sued for malpractice in the past? If so, was it an aberration or is it a regular occurrence?

It seems the very least we should expect is that our health care plan or HMO has run a background check on these doctors. These are legitimate questiions the health plan or HMO should know the answer to.

Practically speaking, I had hoped such disclosure would serve as an incentive for health plans and HMOs to check up on who they are hiring, or who they are including in their list of covered physicians. My amendment would not have done everything, but it would have represented a small step forward in the area of consumer access to information that will help us move ahead for a more open health care system with access to the information people need to make informed medical decisions.

I urge my colleagues to pass the Norwood-Dingell bill today to begin the long process of reforming our health care system, expanding coverage, and bringing quality health care to all our people. I hope that we can move quickly in the near future to discuss ways of making the National Practitioner Data Bank effective, and to consider related legislation to prevent medical malpractice and give consumers the confidence that unethical or illegal practitioners are not hiding out in the medical system, waiting to prey on their next unsuspecting patients.

Mr. CUMMINGS. Mr. Chairman, an historic American tale teaches us the traits necessary to follow the road to your dreams—a brain, a heart and courage. Today, we must use these traits to knock down the GOP Substitutes that are roadblocks placed on our path toward making the American people's dream of a meaningful patients' bill of rights a reality.

As lawmakers, we have a duty to use our brains and hearts, and to have the courage:

To knock down GOP roadblocks to expanded access to specialists who have the requisite expertise to treat patients;

To knock down GOP roadblocks to ensuring that individuals have access to emergency care, without prior authorization, if a "prudent lay person" deems it an emergency;

To knock down GOP roadblocks to increased access to prescription drugs through participation of plan physicians and pharmacists in the development of any drug formulary;

To knock down roadblocks to prohibiting gag rules that would allow patients to be informed of all of their treatment options; and

To knock down roadblocks to holding health plans accountable for decisions about patient treatment that result in injury or death.

To knock down roadblocks to allowing provisions, as requested by the Democratic leaders on the bill, in the bipartisan managed care legislation that would ensure that the Social Security Trust Fund is protected by including revenue offsets.

These GOP roadblocks have been placed to steer us down an alternate route filled with hidden, poisonous traps and leading to a dead end, with no real access for the 837,000 Marylanders and 44 million nationwide who are uninsured.

So, I urge my colleagues—use your brain, listen to your heart, and have the courage to pass the managed care reform the American people have mandated.

Knock Down the GOP substitutes and support the Norwood-Dingell bill.

Mr. CROWLEY. Mr. Chairman, I rise today in support of H.R. 2723, the Bi-partisan Consensus Managed Care Reform Improvement Act of 1999 and against any attempts to weaken its provisions. I also want to express my dismay at the political maneuvering by the Republican leadership to defeat this bipartisan legislation before it even came to the floor.

Mr. Chairman, the American public needs our help. All too often, a constituent will contact my office at the end of their rope. They, or someone in their close family, will have received a devastating medical diagnosis. They attempt treatment, only to have their insurance company deny coverage—coverage they are entitled to! Our constituents are facing a declining quality of care and have basic medical decisions being made not by qualified medical professionals, but by insurance plan administrators. As United States Representatives, we cannot allow this to continue.

Quality health care is a right, not a privilege. Those who have coverage by a Health Maintenance Organization deserve better than bureaucratic decisions. Additionally, access to health care is something that should be available to all Americans, not just those who can afford it. I am proud to be a cosponsor of the Norwood-Dingell bill which extends patient protections to the 161 million Americans who are covered by private health plans. Norwood-Dingell will make health plans accountable, offer more protections for women and children and prohibit gag rules. Overall, the Norwood-Dingell bill provides comprehensive reform which assures individuals of emergency services coverage; access to specialty care; chronic care referrals; ob/gyn services; continuity of care' access to clinical trials; access to prescription medications; internal and external appeals processes plus a utilization review; anti-gag and provider incentives; payment of health claims in a timely manner; paperwork simplification; and importantly, insurer liability—giving patients the right to sue over insurance made treatment decisions that result in injury or death.

The three substitutes do not provide the comprehensive reforms contained in H.R. 2723. The Boehner substitute fails to cover all privately insured Americans. It leaves out millions in the individual market. Additionally, its external appeals process does not provide for an independent and timely appeal. The Boehner substitute does not provide for access to specialty care. It provides for clinical trials for cancer victims, but not for those suffering from other debilitating diseases, such as multiple sclerosis. And finally, the Boehner substitute does not allow patients to hold their plan accountable if it causes injury or death. It allows HMOs to remain immune from accountability for their actions.

The Coburn substitute grants sweeping judicial powers to private medical review bodies to determine harm and proximate cause, with no rights or due process requirements for the patient. The finding by the entity would not be subject to challenge or appeal, but would become legally binding in all judicial venues. Additionally, the Coburn substitute purports to add an untested federal remedy to the current range of judicial remedies under both ERISA and state law for cases involving patient injury. But the substitute would effectively give managed care companies a complete shield against any further medical malpractice cases under state law. Finally, the Coburn substitute only permits actions against individuals who have the authority to make the final determination of coverage. This provision could shield from liability a utilization review company under subcontract to the HMO, thereby undercutting any incentive to ensure better utilization review procedures.

Lastly, here is the Houghton substitute, which is basically Coburn-Shadegg revisited. It would strike the Norwood-Dingell state court accountability and put in its place a very limited and untested federal cause of action. The Houghton substitute does not allow for punitive damages at all, even compensatory damages are unavailable if the external review agrees with the HMO. The Houghton substitute in effect creates yet another system for hearing these claims by also allowing for binding arbitration.

Mr. Chairman, the only true Patient's Bill of Rights is contained in the Norwood-Dingell Bi-Partisan Consensus Managed Care Improvement Act. I urge all my colleagues to put aside the partisanship and the political maneuvering and institute reforms that will help the majority of Americans.

Mr. LEVIN. Mr. Chairman, I rise in strong support of the Dingell-Norwood "Patients' Bill of Rights" legislation.

Well, here we are again. More than a year has passed since the last time the House debated HMO reform. Last year the decision before the House was between the half-hearted, watered-down approach offered by the House Leadership and a strong, enforceable patients' bill of rights that would empower patients and allow health care professionals to perform their jobs without interference from the health insurance bureaucracy.

The choice before the House is the same today. We can vote for real HMO reform by voting for the Dingell/Norwood bill or we can vote for something much less. Medical decisions should be made by doctors and patients, not by insurance companies. In addition, HMO's must be held accountable when their decisions cause a patient's injury or death. A right without an enforceable remedy is no right at all.

The story of one of my constituents, Timothy, painfully illustrates the importance that this House pass the right reform package. After an accident at work, Timothy developed a rare nerve disorder, Reflex Sympathetic Dystrophy. People with this disease experience extreme pain when their skin is blown or even touched. If the condition is diagnosed and treated within the first few weeks, the patient can usually expect great relief and often complete remission of the disease.

Reflex Sympathetic Dystrophy is treated with special injections given by an anesthesiologist. Both Timothy's primary care physician and orthopedist agreed that this treatment was needed.

When Timothy went for treatment he was told his managed care plan would not cover the injections. He was told that the HMO was not confident that his condition warranted treatment and an appointment would be made to get a second opinion.

The appointment did not occur for 3 months! By that time it was too late for treatment. Timothy was in constant agony. Some months later, Timothy had a massive heart attack and died. His cardiologist found no sign of heart disease, and suspected that the heart attack was directly related to the stress and pain caused by his condition—a condition that may have been cured with prompt medical treatment.

Today we have a chance to do what the Congress failed to do last year and give the American people a strong, enforceable Patients' Bill of Rights. Vote for real reform and support Dingell/Norwood.

Mr. EVANS. Mr. Chairman, I rise to express my strong support for H.R. 2723, the Bipartisan Managed Care Improvement Act of 1999.

Today, Democrats and Republicans have joined together to advocate for reforms that will restore control over medical decisions to patients and doctors and make the health care system more responsive for all Americans.

The Bipartisan Managed Care Improvement Act institutes meaningful, common sense reforms of managed care. It will ensure that people may seek care in emergencies without having to wait for prior authorization from an insurer. It will guarantee that patients who need specialized care will have access to appropriate specialists. It will improve the quality of care for women and children, allowing women to see obstetrician/gynecologists without referral and ensuring that children can see pediatricians as their primary care physicians and pediatric specialists if necessary.

This bill establishes real accountability for health insurance companies when they make medical decisions, accountability that has been lacking under ERISA. With a strong, two-stage process of internal and external appeals for denial of care, patients will now have recourse to challenge decisions and have their cases resolved by an independent board of health professionals. And in those extreme cases when a patient suffers injury or death due to denial of care by a health plan, patients and their families will have the same access to state courts for damages that is currently available to all patients whose plans are not covered by ERISA.

I am also proud that H.R. 2723 will help people in the most dire of situations receive coverage for routine care during clinical trials. This issue was brought to light for me by a constituent, LaDonna Backmeyer, who is bravely fighting a rare form of cancer, renal leiomyosarcoma. LaDonna has participated in a clinical trial at a National Cancer Institute-designated Comprehensive Cancer Center, and under the bill, the costs of routine care during a clinical trial would be covered. I want to thank LaDonna for educating me, for inspiring all of us with her courage, and for being willing to speak out for the need for reform of our health care system.

At its core, this bill is about giving back control over medical decisions to real people and their doctors, and restoring faith in the American health care system as the best in the world. I urge my colleagues to vote for H.R. 2723 and to enact these critical reforms.

Mr. COYNE. Mr. Chairman, it is time for Congress to act on the Bipartisan Managed Care Improvement Act. American families have already waited far too long for us to pass these common-sense consumer protections.

Over half of American workers are not given a choice of health insurance plans by their employer. Under current law, many of those workers and their families have no place to turn if they are harmed or killed by their HMO's decisions.

The consumer protection bill we are currently debating would guarantee basic health rights for these workers. If this bill passes, families will know they can see specialists when they need to, appeal unfair denials, and seek emergency care when they experience severe pain. Doctors will be free to tell their patients all the options and to make medical decisions without fear of retribution from health plans. Health plans will be accountable if they make medical decisions, just as doctors are now.

Some would suggest that this bill undermines our long-held goal of health coverage for all Americans. They say that if we don't let HMOs reduce the quality of health care, health insurance will be too expensive for families to afford. They would have us believe that a health insurance plan that protects basic health care rights is out of reach for the average American. That is wrong. It is our responsibility to find a better way to help the uninsured than telling them to buy bad health coverage, coverage which may not be there when they need it.

I urge my colleagues to join me in supporting this important legislation. By enacting this legislation, we will make sure that health insurance coverage is worth having. Once we have done that, I hope we can work together on a bipartisan basis to extend that coverage to every American.

Mr. SANDLIN. Mr. Chairman, I rise in strong support of H.R. 2723, the Bipartisan Consensus Managed Care Improvement Act of 1999 introduced by Representatives Norwood and Dingell. This is the only bill that would enact consumer protections through responsible health care reform.

The Norwood-Dingell managed care bill provides Americans with many important patient protections such as access to needed health care specialists; access to emergency room services when and where the need arises; assurance that doctors and patients can openly discuss treatment options; an external, third-party appeals process for service denials; access to personal medical information; legal redress for injury or death due to the denial of care covered under a managed care plan. I am a cosponsor of H.R. 2723 because it will provide comprehensive and enforceable protections that American's health care consumers demand and deserve.

By 1997, more than 80 percent of privately insured Americans were enrolled in managed care plans-up from just 13 percent in 1987. As we increase access to health care, we must not allow unqualified parties to make critical decisions about patient treatment. Patients needed to feel confident that their doctors are giving them all necessary information, without concern of retaliation by a health insurance provider.

Insurance bureaucrats want to tell patients they know medicine better than their doctors. Let's tell them they do not. The Norwood-Dingell bill would prohibit health plans fro silencing any health care professional from advising a patient about the patient's health status or available treatment, regardless of whether the plan covers such a treatment or care.

Americans also deserve access to emergency care services. Let me give an example of why this protection is so important. Jess Reed suffered a stroke at home. He was rushed to the closet hospital. The HMO insisted he be taken to another hospital, causing a 2–3 hour delay in treatment. Delay seriously exacerbated his condition and prevented full recovery from his stroke. The Norwood-Dingell bill would require health plans to cover the emergency care of a "prudent layperson" in any hospital emergency room, without prior authorization.

Another reason I support the Norwood-Dingell bill is to assure patients access to necessary prescription drugs. Prescription medications should not be one-sized-fits all. For plans that use a formulary, Norwood-Dingell provides that beneficiaries must be able to access medications that are not on the formulary when the prescribing physician dictates.

One of the most important distinctions in this debate is whether or not we truly hold health plans accountable. Opponents of real accountability argue that patients who have been unfairly denied health care should be limited to external appeals. But external reviews is simply not enough to protect patients against the worst managed care abuses. Accountability is the ultimate deterrent and is an essential last resort when all else fails. Only legal accountability gives injured patients what they need to ensure that managed care does the right thing and puts patients first. And only Norwood-Dingell ensures legal accountability. Such accountability exists in all other sectors of our society, yet we continue to exempt health plans.

Health plans are not currently held accountable for decisions about patient treatment that result in injury or death. Currently, ERISA preempts state laws and provides essentially no remedy for injured individuals whose health plans' decisions to limit care ultimately cause harm. If the plan was at fault, the maximum remedy is the denied benefit itself. Norwood-Dingell would remove ERISA's preemption and allow patients to hold health plans accountable according to state law. However, plans that comply with an external reviewer's decision may not be held liable for punitive damages. Additionally, any state law limits on damages or legal proceedings would apply.

My home State of Texas was the first State in the Nation to pass a patient protection act. But because many large employers insure their workers themselves, giving them Federal protection from State insurance laws under ERISA, only about 25 percent of Texans are covered by the act. It is fundamentally unfair to deny this group of individuals the rights my State has afforded to all other Texans who do not belong to an ERISA health plan. Norwood-Dingell would allow Texas' liability laws and patient protections to apply to all Texans.

The liability provision in Norwood-Dingell also protects employers from liability when they were not involved in the treatment decision. It explicitly states that discretionary authority does not include a decision about what benefits to include in the plan, or a decision not to address a case while an external appeal is pending or a decision to provide an extra-contractual benefit.

Now, I have heard a great deal of rumbling about the impact of Norwood-Dingell on health care costs. During the debate in the Texas Capitol, business and insurance groups routinely warned that costs would skyrocket. In fact, Texas' health insurance premiums continue to trail the rest of the country even though our fellow Texans enjoy some of the most stringent patients' rights laws in the country. Opponents said, repeatedly, that holding HMOs accountable for harming patients would provoke a flood of lawsuits. The reality is that no more than five suits have been filed since the law took effect in September 1997.

Instead of defending good, comprehensive, enforceable patients' rights legislation to insurance bureaucrats, we should be firing some questions of our own at the insurers. If managed care is supposed to make health care more affordable and therefore more available, why is it that, as HMO penetration increased in Texas, the percentage of working uninsured increased proportionately? Other than skyrocketing CEO compensation, where have all the millions of dollars in profits gone?

Mr. Chairman, it's time to stop the insurance companies from putting profits above patients. I urge my colleagues to vote for H.R. 2723, the Norwood-Dingell bipartisan managed care reform bill.

Mr. POMEROY. Mr. Chairman, I rise today in support of H.R. 2723, the Bipartisan Consensus Managed Care Improvement Act of 1999.

Mr. Chairman, I believe that this legislation would ensure genuine accountability of health plans and put patient care ahead of profits. Today Congress has an historic opportunity to take steps to ensure that doctors and patients are in charge of health care decision-making.

I do have serious concerns, however, that the spending offsets originally designated in this legislation were not permitted under the rule. Managed care consumer protections must be enacted, but not while spending the surplus generated by the Social Security trust funds. While I support this legislation today, I certainly hope that spending offsets can be designated during the conference process, and I will not support a conference agreement that does not do so. Congress can and should ensure both quality health care and a secure retirement income for our nation's seniors.

Ms. KILPATRICK. Mr. Chairman, I rise today in strong support of H.R. 2723, the Bipartisan Consensus Managed Care Improvement Act, also referred to as the Norwood-Dingell Act. We must help the poor, the uninsured, and all American citizens, in obtaining more accessible and more affordable health care. Over 60 percent of the U.S. population and over 75 percent of insured employees were covered by some form of managed care in 1997, and the numbers are growing. H.R. 2723, the Bipartisan Managed Care Improvement Act would enact important changes that are necessary to improve managed care.

Individuals should be assured that if they have a health emergency, the necessary services will be covered by their plan. The Bipartisan Consensus Act states, individuals must have access to emergency care, without prior authorization, in any situation that a "prudent lay person" would regard as an emergency. Patients with special conditions must have access to providers who have the requisite expertise to treat their problem. This Act allows for referrals for enrollees to go out of the plan's network for specialty care if there is no appropriate provider available in the network for covered services. It provides a process for individuals to select a specialist when they are seriously ill or require continued care by a specialist. It provides direct access to ob/gyn care and services, as well as access for children to pediatric specialists. The Bipartisan Consensus Act provides special protections for pregnancy, terminal illness, and individuals on a waiting list for surgery. The Act prohibits plans from gagging doctors regarding the discussion of treatment options with their patients. Consumers have the right to know all of their treatment options. In addition, patients should be protected against disruptions in care due to a change in plan or a change in a provider's network status.

The Bipartisan Consensus Act provides for a strong and efficient review process, using the insurer's internal appeals process, while ensuring that a health professional performs the review. If the patient is denied care in a decision by the plan's internal appeals process, they can then appeal to an external review body that is independent of the health plan. This review process should ensure excellent care, as grievances are effectively reviewed.

The Republican Health Care Access Bill does not improve health care access to those who most need improved access to health care. It does not improve the affordability of health care unless you have the extra cash to pay up front. It does not help our poor. It digs into our social security surplus by an estimated $48 billion over ten years. It does not improve access to preventative health care.

The Bipartisan Consensus Act protects patients and strengthens assurances that managed care programs will improve access to emergency care, specialists and doctor information on treatment options. Furthermore, the Act provides for an improved review process that works with current insurers' appeals processes. The Act is supported by doctors. It is supported by patients. And I support it. I urge my colleagues to join me in voting in support of the Bipartisan Consensus Managed Care Improvement Act. We must protect the health care needs of our patients and constituents, preserve social security, and ensure adequate access to health care for the poor.

Mr. FILNER. Mr. Chairman, I can't believe how beholden to special interests the majority is. We are presented with a bipartisan bill, H.R. 2723, which is supported by the American Medical Association and 300 other organizations, yet the Republican leadership is trying to sink it.

Our bill offers vital patient protections in a way that has been shown to not raise costs. H.R. 2723 will return control of our health care to physicians. We, as patients, will have access to specialists and an appeals process. And managed care operations will be held accountable for any decisions that endanger our health. These important provisions must be embraced, not feared. Mr. Speaker, I urge support for H.R. 2723.

Mr. LARSON. Mr. Chairman, I rise today in support of a Patient's Bill of Rights. I had hoped, however, that an amendment version of Connecticut's Patient's Bill of Rights could have been considered. Unfortunately, the debate here has been hamstrung by the rules of the House, which makes it nearly impossible to have a policy debate on the issues, and prevents amendments from being offered that would enable the legislative process to respond to the primary concerns of patients.

In Connecticut, the Legislature demonstrated that if you work in a bi-partisan manner you can write legislation that is balanced, and gets to the heart of the matter, which is the protection for the patent, and thus, provide the care that is needed. Moreover, what most people don't understand is that under current law, HMOs can already be sued.

The vote today should be about a Patient's Bill of Rights, but in many respects it is about the tactical differences between various partisan proposals.

I remain committed to the fundamental principle that has guided me, which is that doctors and patients should determine how patients are treated and cared for, not bureaucrats. I have always tried to level the playing field for patients, and so has Connecticut.

The HMOs should be held accountable and liable for their actions without opening a Pandora's box of unlimited litigation. Companies in my home state of Connecticut have operated under the Connecticut law and are to be commended for their compliance. Connecticut has demonstrated that it can work.

Managed care is not without its problems, and we will need to work toward the goal of improvement. Fortunately, there are many fine people who represent the insurance industry who are working every day toward the goal, so that we can improve the health care delivery, control costs, and help the patient and family in time of need.

Ms. RIVERS. Mr. Chairman, while I plan to cast my vote today in favor of the protections given by the Patients Bill of Rights, I am greatly concerned with the partisan politics that have worked great mischief in the preparation of this proposal. Specifically, I condemn the House majority's manipulation of the rules process to exclude the funding mechanism advanced by the bipartisan sponsors of this bill. In light of this indefensible action by the opponents of the Patients Bill of Rights, H.R. 2723 comes before the House without compensatory new revenues or budget offsets attached to it. In short, it is unclear where the dollars to implement this bill will come from. And, inevitably, the cynical and strategically constructed attack of "spending social security money" will be leveled against those who vote in support of these protections. I cannot emphasize enough how dishonest, manipulative, and irresponsible the House majority strategy is. It puts a serious initiative support by the majority of Americans at risk for no other reason that partisan politics. This is among the most shameful things I have witnessed during my time in Congress.

I am voting yes on H.R. 2723 because I support the protections contained in it. I am not voting in favor of invading the Social Security Trust Fund. I have made a practice of voting against unfunded proposals, sham emergency spending, and budget gimmicks of all types. In this particular case, I firmly believe the Senate will not behave in the egregious manner of the House. I believe the Senate will attach appropriate funding to this bill before it returns to the House. If that is done, I will happily vote to send H.R. 2721 on to the President for his signature. If it is not done, I will unflinchingly vote against it.

Mr. DAVIS of Florida. Mr. Chairman, I rise today in strong support of the Bipartisan Consensus Managed Care Improvement Act, H.R. 2723. I commend Congressmen DINGELL and NORWOOD for putting aside partisan rhetoric and developing a bipartisan compromise designed to provide strong patient protections and to ensure that managed care companies are held accountable for their decisions.

As a member of the Florida House of Representatives, I played an active role in writing the Florida law on managed care. I remain a strong supporter of our managed care system of health care, but I believe that changes are needed to the current system to make the insurance companies accountable to their patients and that medical professionals rather than insurance companies' bureaucrats are making decisions on health care treatment.

The Norwood-Dingell bill provides strong patient protections, many of which have already been implemented in states throughout this country, including my home state of Florida. I applaud these very needed protections. However, the focus of this bipartisan bill is by far its emphasis on holding managed care companies accountable for medical treatment decisions through a new independent review process and providing patients access to state courts to ensure the enforcement of the decisions of the independent review panel. The Norwood-Dingell bill is the only option available to this House that will remove the preemption currently given to managed care health plans covered under the Employee Retirement and Security Act (ERISA).

Throughout the debate on managed care reform, we have all heard extensive arguments about the impact that providing patients the right to hold their health plans accountable will have on monthly premiums. I do not believe, however, that monthly health insurance premiums will significantly increase as a result of passage of the Bipartisan Consensus Managed Care Improvement Act of 1999. The liability provisions contained in this legislation are very similar to those included in a law passed by the State of Texas. In the two years since the enactment of their managed care law, Texas has experienced only minor increases in health insurance premiums.

We have also heard that if we pass any liability provisions our court dockets will explode as patients rush to sue their managed care plans. Again, I refer to the experience in Texas—where in the last two years only five lawsuits have resulted from their law allowing patients to hold their managed care plans accountable. Let me repeat that statistic, from over four million Texans who are covered by health maintenance organizations (HMOs) only five lawsuits have been filed as a result of the Texas managed care law.

I think it is commendable that unlike the tactics in this body, the Texas Legislature rose above partisan politics and worked in a bipartisan manner to ensure the safety of their citizens participating in managed care plans.

I urge my colleagues to think of our constituents who are being denied treatment for very serious illnesses. I urge you to think of our constituents who are seriously injured or die as a result of an insurance company clerk either denying or delaying necessary medical treatment.

I strongly urge my colleagues to support meaningful managed care reform. Support the Norwood-Dingell Bipartisan Consensus Managed Care Improvement Act.

Mrs. MINK of Hawaii. Mr. Chairman, I rise to express my support for H.R. 2723, the "Bipartisan Consensus Managed Care Improvement Act of 1999."

Everyone should feel confident and assured that their managed care organization will fulfill what is perceived by the general public to be basic and reasonable health coverage in times of need. However, what patients consider reasonable, has often been called unjustified or unnecessary by health plans. These frequent disputes have resulted in a stream of cases where patients and their families are forced to jump through hoops, chase carrots, and fight tooth and nail, for benefits they felt they outright deserved in the first place. This is wrong.

H.R. 2723 establishes basic rights for patients when dealing with managed care organizations and will help to restore public confidence and trust in their doctors and health care professionals. The bill will facilitate patients' access to care, improve doctor-patient relationships, provide patients with defined rights to appeal coverage denials, and hold health plans accountable for erroneous coverage decisions that have adverse effects on patients' health.

First, the Bipartisan Consensus Managed Care Improvement Act tears down barriers to health care access. The bill requires plans to improve access by providing coverage for services that the general population commonly feels to be the most basic of benefits but plans often fail to provide. These benefits include: emergency care in any hospital emergency room, including outside of the health plan, and without prior authorization; access to specialists for patients with special conditions; access to outside specialists if none are available in the plan; the option of going outside of the plan for care as long as the patient agrees to pay any additional costs; and permitting patients with special conditions to have continued access to their specialists when the plan terminates the specialists or the plan is terminated.

The bill further improves access by eliminating prerequisites of going through a gatekeeper before seeing certain specialists. Specifically, women will have direct access to Ob-Gyns and children could have pediatricians as their primary care providers. This will eliminate the burdensome and often unnecessary step of visiting a general practitioner for something that should obviously be handled by one of these specialists.

Furthermore, H.R. 2723 will facilitate patients' access to the latest health care treatments. It requires health plans to: allow patients to participate in clinical trials while the health plan pays for routine patient costs associated with the trials; and provide access to medications that are not on the plan's drug formulary when it is prescribed by a physician.

Second, the bill would restrict certain managed care plan practices that interfere with doctor-patient relationships. Health plans would be prohibited from: restricting health professionals from advising a patient about a treatment option regardless of whether the plan covers the treatment; providing doctors with incentives to limit medically necessary services; and from retaliating against health care professionals who advocate on behalf of patients or disclose information about quality of care to regulatory or accrediting agencies. Freeing doctors and health professionals from these pressures imposed upon by health plans will enable them to practice medicine as it should be, without outside intervention.

Third, the bill would provide patients with appeal rights when coverage for treatment is denied. Health plans would be required to meet certain guidelines when considering treatment authorizations and provide patients and their families with specific appeal options. If coverage is denied, the bill provides for internal appeal processes involving a health professional, who was not involved in the original decision, followed by an external appeals process based on objective standards of professional medical practice. The bill sets time limitations on how long the plan can take to render a decision in each step of the appeal process and requires that the reasons for the denial be communicated to the patient. Patients and their families are too often bewildered by the complex procedures they must endure to obtain coverage for care they thought was included in their health care insurance. These new rights will provide relief to all families in these situations and will accelerate the appeals process.

Finally, the bill would enable patients who are wrongfully denied care by health plans governed by the Employee Retirement Income Security Act (ERISA) to sue their plan for damages. Persons in such situations currently may only sue to recover the cost of the care but not for damages. It is time that health plans be held accountable for the adverse effects their decisions have on patients' health and lives.

I have always felt that health plans should not impede access to health care but rather they should facilitate it. H.R. 2723 will provide patients with the basic rights necessary to assure that they are treated fairly when dealing with managed care organizations. No one in the United States should ever again be forced to face managed care organizations without these rights and I urge immediate passage of H.R. 2723, the "Bipartisan Consensus Managed Care Improvement Act of 1999."

Mr. MORAN of Virginia. Mr. Chairman, I rise in strong support of the Dingell-Norwood bill and in opposition to the substitute alternatives. I am not going to address the specifics of the bill because I am confident my colleagues will do a good job of that but instead I want to just share with you the kind of trauma that I hope this bill will address.

I received a letter from one of my constituents, a police officer in Alexandria, who was compelled to write about her problems with her own managed care company. "The entire ordeal was hideous." she wrote. Kris Gulden suffered a spinal chord injury in an accident which resulted in paralysis below the waist. After the accident, Kris began the grueling work of occupational and physical therapy that can make such a difference in quality of life. Her therapists told her that her hard work was paying off and that more therapy could continue to make a difference. Unfortunately, her managed care company disagreed. They refused to extend the standard 90 days of coverage through their internal appeals process because it was a "quality of life issue" and not a "life and death issue." Kris appealed as many times as she could through the managed care organization's internal appeals and then had no further recourse.

Fighting over late bills and arguing with the managed care company became the focus of her life when she should have been focusing on exercise and therapy that would have made her stronger. Fortunately, Officer Gulden has a compassionate employer in the City Manager of Alexandria who helped her deal with the unpaid bills, and a compassionate family and community who helped her raise additional money for further therapy. But she wrote because she doesn't want to see the same thing happen again to anyone. "It's ridiculous that what most prevented me from getting better was my HMO." she wrote:

> Not being able to walk, not being able to stand up to take a shower, living with abnormal bowel and bladder function . . . in general, living with a disability is a walk in the park compared to what they put me through. Truly, dealing with them has been the worst part of this whole ordeal.

Finally, the most important point of Kris' letter was to say that "I am vehemently opposed to any compromise on the Patient's Bill of Rights." I close by asking my colleagues to do what Kris, and so many of our constituents like her wish. I urge you to support the Dingell-Norwood bill without amendment.

Mr. VENTO. Mr. Chairman, I rise today in support of H.R. 2723, the Bipartisan Consensus Managed Care Improvement Act of 1999. I'm pleased to have joined as a cosponsor of this measure, which acknowledges that all Americans deserve a strong standard of protection in managed care and other health insurance programs.

There is general agreement that managed care reform should address the fundamental concerns of all American families that have health insurance. Access to specialty care, emergency care, clinical trials and continuity of care are just a few of the widely lauded provisions of this proposal. In addition to these core access provisions, H.R. 2723 will also ensure that medical judgments are made by medical experts.

Although managed care has played an important role in helping to efficiently utilize finite health care resources, managed care policy needs more balance and accountability. It is time for Congress to remove the current ERISA shield and permit the judicial system process to hold health care plans fully responsible for their negligent decisions and actions whether intra stat or interstate health insurance.

Mr. Chairman, meaningful reform should include meaningful protections. Only a national policy can address the deficiencies of current law, which leaves too many patients without adequate recourse. While critics portray this legislation as the precursor to a proliferation of capricious lawsuits, I have more faith that the American public and legal system which are interested foremost in timely and appropriate medical care, not litigation. We need not invent a new medical police force, rather just permit the time tested legal system and rights of the individual to reasonable due process.

Health care consumers should have aces to necessary medical treatment, as well as objective remedies if a health plan decision is alleged to cause harm. During a time of unprecedented prosperity, H.R. 2723 reaffirms that equity and quality should be the unquestioned foundation of our health care system. I urge my colleagues to support this sound managed care reform proposal encompassed in the Dingle-Norwood measure and as we defeat the gauntlet of amendments and detours to sound health insurance finally vote to pass the base bill, the patients healthcare bill of rights.

Mr. MCGOVERN. Mr. Chairman, I rise today in strong support of the Norwood/Dingell Bipartisan Consensus Managed Care Improvement Act.

Today we are debating a very simple issue: whether we will provide the proper protection for patients who pay good money for their health insurance. We have all heard the horror stories from patients, doctors, nurses and employers about the need to improve basic HMO coverage. This bill will do that.

We are addressing basic rights that patients should receive from their health plan—the right to appeal to an external review panel, the right to have access to a gynecologist or other specialist, and the right to hold an HMO accountable for its decisions. The Norwood/Dingell bill provides the strongest patient protections and holds HMOs accountable for their actions, just like doctors. The Republican amendments offered today are insurance protection bills and do not protect the patient.

The bottom line must not dictate the amount or quality of car a patient receives. Profit margins should not dictate whether an injured person can go to the emergency room or visit a medical specialist. This bill will ensure that patients receive the best care and coverage from their HMO. We owe our constituents nothing less.

Mr. Chairman, I urge my colleagues to support this bill, vote against the poison pill substitutes and vote for Norwood/Dingell.

Mr. BENTSEN. Mr. Chairman, I rise today to express my strong support for H.R. 2723, the Bipartisan Consensus Managed Care Improvement Act of 1999 or the Patient's Bill of Rights, that is sponsored by Representative NORWOOD and Representative DINGELL. Today, we will consider four different approaches to reform managed health care plans. I am a strong supporter and co-sponsor of H.R. 2723 because I believe that this bill provides essential consumer protections to all Americans. I urge my colleagues to reject all three versions of the Republican Leadership sponsored legislation, and vote for the real Patients' Bill of Rights.

Today, there are more than 160 million Americans enrolled in managed care plans, such as Health Maintenance Organizations (HMOs). Of these enrollees, approximately 125 million Americans are enrolled in managed care health plans that are governed by federal law, the Employee Retirement and Insurance Security Act (ERISA). Under ERISA, these Americans cannot seek legal remedy if their health plans denies or delays access to care. In a time when many Americans believe that their health plans are arbitrarily denying care and services, the Norwood-Dingell bill would ensure that health plans must provide an appeals process to their decisions. Under the Norwood-Dingell bill, patients would be guaranteed the right to seek both an internal and external appeals process with a deadline for decisions to be made. If both of these appeals are denied, consumers would have the right to hold their plans accountable for their decisions through a legal case in our court system. In my state of Texas, where a state law has been in effect for two years, our experience has been that these external reviews have been decided on behalf of consumers in 50 percent of these cases, while the rest of these cases have been decided on behalf of the health plans. We have also seen that very few consumers have decided to use their new right to sue, with very few lawsuits filed to date.

The Norwood-Dingell bill provides critical reforms that patients need. It guarantees that decisions will remain in the hands of doctors and nurses, not insurance companies. It guarantees access to specialists and ensures that doctors and nurses can talk freely with patients without interference from their health plans. The Norwood-Dingell bill also prohibits the use of financial incentives to limit medical care. The Norwood-Dingell bill also ensures that patients can seek care in emergency rooms without prior approval and when they are suffering severe pain.

I would like to highlight one main difference between these bills. The Norwood-Dingell bill also includes an important provision to ensure that all Americans can enroll in cutting-edge cancer clinical trials if they need them. As the sponsor of legislation to ensure that Medicare beneficiaries can enroll in cancer clinical trials, I believe we must guarantee this right to ensure that patients have access to the best, most-advanced care. As the Representative for the Texas Medical Center, where many of these cancer clinical trials are conducted, I believe that this guarantee must be included as any consumer-protection. The Norwood-Dingell bill would require managed care plans to pay for the routine costs associated with cancer clinical trials.

I wish to be clear why I opposed the House Rule that was imposed by the Republican majority on this bill. This rule was fatally flawed in many respects. Most important was its failure to include offsetting provisions to pay for the costs associated with this bill. This is important because it would ensure that this bill if fully paid and would not add to the on-budget deficit. I will be supporting final passage of H.R. 2723 in order to ensure that this federal uniform consumer protections will be provided to managed care enrollees. I am pleased to note President Clinton's letter of October 7 in which he states that he will not sign a bill whose costs are not fully offset. Indeed, it is my hope during the conference process that these offsetting provisions can be added to this necessary bill. It is my understanding that the Senate bill on managed care reform legislation already includes these offsetting provisions and therefore this issue could be addressed as part of the conference process.

I also opposed the rule because it linked final passage of H.R. 2723 to another bill, H.R. 2990, a bill providing new tax deductions for health care costs. Although I support many provisions included in H.R. 2990, such as providing 100 percent tax deductibility for health insurance costs for self-employed persons, yesterday I opposed H.R. 2990 because of several provisions included in H.R. 2990 such as Association Health Plans (AHPs). These AHPs plans would not be subject to state insurance regulations or to the federal ERISA law. I am concerned that we would be establishing a loophole for employers to create health insurance plans without adequate regulations and solvency standards. Although I will support final passage of these two combined bills if the Norwood-Dingell bill remains in tact, I want to express my strong concern that this tax legislation should not have been linked to the Patient's Bill of Rights, I would have preferred that these two bills were considered separately, on their own merits. However, we in the House of Representatives will not have this option.

I urge my colleagues to reject the three Republican alternative bills and vote for the Bipartisan Managed Care Improvement Act.

Mr. DIXON. Mr. Chairman, I rise in strong support of H.R. 2723, the Dingell-Norwood Bipartisan Consensus Managed Care Improvement Act of 1999, and in opposition to the substitute amendments being offered. I am proud to be a cosponsor of this important legislation, which will protect consumers in managed care plans.

I have heard from many residents of California's 32nd Congressional district as they become increasingly skeptical of the motives behind the treatment decisions made by their health plans and fearful of the consequences of those decisions. Fortunately, the accountability provisions in the Dingell-Norwood bill will allow patients to hold health plans liable when a decision about patient treatment results in injury or death. At the same time, the bill protects employers who provide health insurance from liability when they are not involved in medical treatment decisions.

The Dingell-Norwood bill ensures that health care decisions are made by medical experts, not insurance company administrators. The bill offers protection important to my constituents, including access to needed health care specialists, assurance that doctors and patients can openly discuss treatment options, and access to a timely internal and external appeals process when a health plan denies or delays doctor-prescribed care.

Mr. Chairman, the Dingell-Norwood bill is an excellent, bipartisan response to the problems facing health care consumers. The substitute measures masquerading as patients' rights legislation which will be offered by opponents of this bill do not offer Americans the patient protection they are asking for in their managed care plans. The House cannot squander this chance to pass meaningful managed care reform legislation; it is essential that we pass the Dingell-Norwood bill and reject any attempt to weaken its important provisions.

Mr. CAPUANO. Mr. Chairman, I rise in support of The Bipartisan Consensus Managed Care Improvement Act of 1999 sponsored by Representatives NORWOOD and DINGELL. This bill modeled after the Democratic Patient Bill of Rights, would ensure strong patient protections for people enrolled in Health Maintenance Organizations.

I strongly oppose efforts by the Republican leadership to dictate the debate by promoting a rule that is designed to kill the Norwood-Dingell reform bill. I urge my colleagues to oppose the rule as it attaches the Quality Care for the Uninsured Act to the managed care bill. While I support its intent to reduce the number of Americans who are currently without health insurance, the tax breaks contained in the legislation benefit the wealthy and would have little effect on working Americans who have no health insurance. According to the General Accounting Office, more than 32 million of the uninsured fall within the 0–15 percent income tax brackets. These tax deductions would do nothing to help them. H.R. 2990 is a poison pill that must be defeated.

The Bipartisan Managed Care Improvement Act of 1999 stands in stark contrast to H.R. 2990. H.R. 2723 offers real managed care reform by providing a comprehensive, enforceable set of consumer rights. Under current federal law, patients covered by private employer-sponsored health insurance are barred from suing health plans for damages caused by wrongful denials. No other industry enjoys such legal immunity. H.R. 2723 would close this loophole by giving consumers the right to sue health plans in state courts for injuries and deaths caused by improper denials of care. Furthermore, the bill guarantees patients' access to such critical services as emergency care, specialty care, clinical trials, as well as obstetrician and gynecological services for women. The Norwood-Dingell reform plan also would allow patients to choose their health plans and ensure the continuity of care when people change jobs.

It is time for Congress to address the issue of managed care reform. I have heard time and time again from my constituents in Massachusetts who support these rational HMO reforms that are designed to hold these organizations accountable for bad decisions. The Norwood-Dingell proposal represents an important step in overhauling managed care and enabling patients and their doctors to regain control of critical medical decisions. Doctors and patients know best—not HMO bureaucrats. I urge my colleagues to vote in favor of H.R. 2723 and pass meaningful managed care reform.

Mr. DOYLE. Mr. Chairman, I rise today in strong support of true and meaningful managed care reform that H.R. 2723 provides to all Americans. On behalf of my constituents back in Western Pennsylvania, I am proud to say I am a cosponsor of this vital bipartisan legislation which confronts the real problems many families face with HMO's

My colleagues, supporting this bill is the only responsible choice for us to make certain that everyone in America has proper access to medical care, can see a medical specialist when necessary, and will ensure timely access to emergency room care.

The Bipartisan Managed Care Improvement Act guarantees medical decisions are made by qualified health care professionals, and not by insurance company bureaucrats. It returns to the American people that which has been denied for too long; the right to hold managed care companies accountable if they choose to make decisions regarding medical treatment.

Lately, there has been much concern expressed regarding employer liability provision in this bill. The overwhelming majority of employers rely on a third-party health plan to make medical decisions. Under our bill, only organizations that make negligent medical treatment decisions on individual claims are subject to liability. Independent legal analyses have confirmed that employer liability allegations are simply a non-issue. Managed care and insurance company bureaucrats have to stop shunning responsibility and realize that if they choose to make harmful discretionary treatment decisions, they will be held accountable by the public.

Most importantly, our bill would help all American families, like my constituent Ellen Gasparovic, who was diagnosed with breast cancer, only to have her HMO refuse to pay to have the cancerous lumps removed from her chest. Fortunately, Mrs. Gasparovic is doing well today, but only after having to endure needless financial and emotional hardships, all because of the negligence of her HMO.

It is on behalf of my constituents in Western Pennsylvania that I urge my colleagues to support H.R. 2723, and defeat any attempts to weaken this much needed legislation.

Mr. SANDLIN. Mr. Chairman, the insurance companies are at it again. They are trying to deceive the American public and in the process are attempting to take away a fundamental right of each and every American.

Clearly, a right without a remedy is absolutely meaningless. The Norwood-Dingell bill comes down to one word—Fairness. This bipartisan bill guarantees patient protections such as the right to choose the doctor that best serves your needs; the right to have medical decisions made by physicians and their patients, not HMO bureaucrats interested in the bottom line; the right to know that our families will be able to use the emergency room when needed; the right to obtain the information we need to make informed decisions about our own medical care.

But what if our families are denied medical service? What if a delay in a service causes harm to our children, our spouses, our parents, our families? Where is the fairness then?

The Norwood-Dingell bill would allow patients (or the estates of patients) who are injured or die as a result of their health plan's denial of care to sue the health plan in State courts for damages. This is what the real world calls accountability. That's fairness.

As a strong supporter of local control, I support the Norwood-Dingell bill because, unlike the Coburn-Shadegg substitute, it will not override protections already enacted by the states. These protections in state laws are currently applicable to all non-ERISA employer-sponsored health insurance and to individually purchased insurance. It is not fair that these protections afforded by the states to their residents, do not have the force of law for everyone in the state. The Norwood-Dingell bill would restore those protections to everyone by removing the preemption provision in ERISA so that state laws prevail.

In contrast, Coburn-Shadegg would continue to preempt state liability law with respect to health plans and insurers. Rather than maintain the states' traditional role in regulating insurance by allowing state causes of action, Coburn-Shadegg creates an entirely new federal cause of action.

Mr. Chairman, federal courts are already overburdened, particularly in light of the fact that the Republican majority in the other body refuses to confirm President Clinton's nominations to the bench, creating more than 50 vacancies in the federal courts. In addition to this obstacle, patients seeking redress for injury or death will have to wait in line behind drug dealers and thieves because the Speedy Trial Act of 1974 gives criminal cases priority in the federal court docket. Those criminal cases should be given priority because that's where they belong—in federal courts. Liability suits against HMOs, however, belong in state courts.

In my home state of Texas, we have 372 state courts, but only 39 federal courts. Obviously, Coburn-Shadegg creates so many barriers to a trial that patients will never want to exercise the right we are trying to give them. The Norwood-Dingell bill is the only bill that restores states' rights and provides patients with real protections under the law.

Will there be a flood of litigation if Norwood-Dingell is enacted? Hardly. In Texas, we enacted a law in 1997 creating an external appeals process and allowing lawsuits against HMOs. In the two years since that law took effect, only five lawsuits have been filed against health plans in Texas. That's five lawsuits in two years—hardly an explosion.

And contrary to all the allegations, there is no employer liability in the Norwood-Dingell bill. Clearly, employers cannot be held liable for the decisions of insurance companies and/or the decisions of others. This bill does not create a new cause of action. It simply removes the provision of ERISA that protects insurance companies from being sued. It specifically states that employers cannot be held liable unless they exercise discretionary authority—in other words, if the employer acts like a doctor and makes a medical decision on an employee's claim for benefits covered under the plan, then the employer must accept the accountability that comes along with playing doctor.

I should point out that I have met with many representatives of the business community and I have repeatedly asked them to bring language to me that they believe would prevent employers from being sued. I assured them that I would work with Mr. DINGELL and Mr. NORWOOD to address their concerns. Not one of those people has taken me up on my offer. That is because there is no employer liability in the bill. Their answer instead is to oppose the entire bill and threaten Members who support Norwood-Dingell.

So why are the insurance companies so worried about the liability provisions of Norwood-Dingell? Because legal accountability will force HMOs to provide quality care, and some insurance company bean counters are afraid that might mean a smaller profit margin for them. They argue that Norwood-Dingell would force managed care plans to practice defensive medicine that would increase their costs and cause them to raise our premiums. This argument is ridiculous and actually underlines the need for reform. Norwood-Dingell specifically provides that plans are not required to cover any services beyond those provided in the contract. So with the liability provision in place, costs of care should not increase significantly as these costs are already covered by premiums. Care is being paid for, but not provided. Legal accountability will give HMOs the incentive to provide a quality of care that patients have every right to expect.

Mr. Chairman, I urge my colleagues to support the Norwood-Dingell bill and reject this disingenuous attempt by insurance companies to pull the wool over the eyes of the American people.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PEASE) having assumed the chair, Mr. HASTINGS of Washington, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2723) to amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage, pursuant to House Resolution 323, he reported the bill, as amended pursuant to that rule, back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. JOHN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 275, noes 151, not voting 8, as follows:

[Roll No. 490]

AYES—275

Abercrombie
Ackerman
Allen
Andrews
Bachus
Baird
Baldacci
Baldwin
Barcia
Barr
Barrett (WI)
Bateman
Becerra
Bentsen
Berkley
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Callahan
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chambliss
Clay
Clayton
Clement
Coble
Coburn
Condit
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Foley
Forbes
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Graham
Green (TX)
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hefley
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley
Horn
Hoyer
Hunter
Hyde
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Minge
Mink
Moakley

Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Norwood
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Pickett
Pomeroy
Porter
Price (NC)
Quinn
Rahall
Rangel
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Scott
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shows
Sisisky
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Spence
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thornberry
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velázquez
Vento
Visclosky
Vitter
Walsh
Wamp
Waters
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Weygand
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOES—151

Aderholt
Archer
Armey
Baker
Ballenger
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Biggert
Bliley
Blunt
Boehner
Bonilla
Bryant
Burr
Burton
Buyer
Calvert
Camp
Campbell
Chabot
Chenoweth-Hage
Collins
Combest
Cox
Crane
Cubin
Cunningham
Deal
DeLay
DeMint
Dickey
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Fossella
Fowler
Gekas
Gillmor
Goode
Goodlatte
Goodling
Goss
Green (WI)
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hutchinson
Isakson
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lucas (OK)
Manzullo
McCrery
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Myrick
Nethercutt
Ney
Northup
Nussle
Ose
Oxley
Packard
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pryce (OH)
Radanovich
Ramstad
Regula
Riley
Rogan
Rogers
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Schaffer
Sensenbrenner
Shadegg
Shimkus
Simpson •
Skeen
Smith (MI)
Smith (TX)
Souder
Stearns
Stump
Sununu
Talent
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thune
Tiahrt
Toomey
Upton
Walden
Watkins
Watts (OK)
Weller
Whitfield
Wicker
Young (AK)

NOT VOTING—8

Clyburn
Granger
Hulshof
Kaptur
Portman
Sabo
Scarborough
Shuster

☐ 1641

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. CLYBURN. Mr. Speaker, I was unavoidably detained in a meeting of the Committee on Standards of Official Conduct. Had I been present on the vote, I would have voted in favor.

Mr. SABO. Mr. Speaker, I was detained by the previously mentioned in a meeting of the Committee on Standards of Official Conduct. If I had been present, I would have voted "yes."

Stated against:

Mr. PORTMAN. Mr. Speaker, I was detained in a meeting with the Committee on Standards of Official Conduct during the vote on the Norwood-Dingell legislation. Had I been present, I would have voted "no."

Mr. HULSHOF. Mr. Speaker, I was detained in the very same meeting of the Committee on Standards of Official Conduct during the vote on the Dingell legislation. Had I been present, I would have voted "no."

PERMISSION TO HAVE UNTIL MIDNIGHT, FRIDAY, OCTOBER 8, 1999, TO FILE CONFERENCE REPORT ON H.R. 2561, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2000

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight, Friday, October 8, 1999, to file the conference report on the bill (H.R. 2561) making appropriations for the Department of Defense for the fiscal year ending September 30, 2000, and for other purposes.

The SPEAKER pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MENENDEZ asked and was given permission to address the House for 1 minute.)

Mr. MENENDEZ. Mr. Speaker, I yield to the gentleman from New York (Mr. LAZIO) for an explanation of next week's schedule.

Mr. LAZIO. Mr. Speaker, I am pleased to announce that we have completed legislative business for the week. The House will meet for a pro forma session tomorrow. Of course, there will be no legislative business and no votes tomorrow.

The House will meet again on Tuesday, October 12, at 12:30 p.m. for morning hour and at 2 p.m. for legislative business. We will consider a number of bills under suspensions of the rules, a list of which will be distributed to Members' offices tomorrow. On Tuesday, we do not expect recorded votes until 6 p.m.

On Wednesday, October 13, and the balance of next week, the House will take up the following measures which will be subject to rules: H.R. 1993, the Export Enhancement Act, and the Department of Labor, Health and Human Services and Education Appropriations Act. We also expect a number of appropriations conference reports to become available for consideration in the House early next week, but possibly throughout the entire week.

☐ 1645

Mr. Speaker, on Friday, October 15, no votes are expected after 2 p.m. I just want to wish all of my colleagues happy Columbus Day weekend, and pray that everybody has a safe travel back, and that they have an opportunity to celebrate the discovery of Columbus, that great Italian American.

Mr. MENENDEZ. Mr. Speaker, I thank the gentleman, and I would ask him if he would be able to answer a question or two about the schedule. We certainly all wish our colleagues a safe journey and a good Columbus day celebration.

Mr. Speaker, does the gentleman expect any late nights next week, in view of the schedule as the gentleman has announced it? And in terms of our effort to make this place family-friendly, does the gentleman expect any late nights next week?

Mr. LAZIO. If the gentleman will yield further, it looks as though we will have no late nights next week. We expect to have our business concluded relatively early.

Mr. MENENDEZ. I thank the gentleman. That would be helpful to our families.

We have heard about a November schedule from some of our colleagues on the other side who are wondering, and we are wondering, when that might be available to the minority so that Members can plan. If our expectation is to be here in November, we would like to know that schedule as well, if the gentleman would be so kind as to respond.

Mr. LAZIO. If the gentleman would continue to yield, Mr. Speaker, right now it is the expectation of the Speaker of the House that the House will adjourn October 29, so the target adjournment still is in this month. Of course, anything is possible as we struggle through these last few weeks in the appropriations cycle.

As soon as we have additional information, we would be happy to share it with the gentleman. Right now, the target adjournment date continues to be October 29.

Mr. MENENDEZ. We certainly all hope that we can achieve an agreement on our budgetary needs by that time. But if not, and if there is to be a schedule for November that is already out there, we certainly would appreciate it as quickly as possible.

If I may ask the gentleman one last question, Mr. Speaker, is there a chance that Friday may be given away, in view of the schedule at this point, with only two stated pieces of legislation for the week? Does the gentleman expect that Friday may be given away?

Mr. LAZIO. I would say to the gentleman from New Jersey that Members should expect and plan on being in session on Friday. We have conference reports, appropriations conference reports, that need to be completed. That may include Friday. We expect it will include Friday. We have two votes scheduled. Members right now should plan to be in until 2 p.m. on Friday.

Mr. MENENDEZ. I thank my friend, the gentleman from New York.

ANNOUNCEMENT REGARDING AMENDMENT PROCESS FOR H.R. 1993, EXPORT ENHANCEMENT ACT OF 1999

Mr. DREIER. Mr. Speaker, today I sent a Dear Colleague to all Members informing them that the Committee on Rules is planning to meet next week to grant a rule for the consideration of H.R. 1993, the Export Enhancement Act of 1999.

The Committee on Rules may grant a rule which would require that amendments be preprinted in the CONGRESSIONAL RECORD. In this case, amendments must be preprinted prior to their consideration on the floor.

Amendments should be drafted to the version of the bill reported by the Committee on International Relations. Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted, and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

I join in extending happy Columbus Day to all of our colleagues.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 189

Mr. UNDERWOOD. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of House Concurrent Resolution 189.

The SPEAKER pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from Guam?

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. LAZIO. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

ADJOURNMENT FROM FRIDAY, OCTOBER 8, 1999, TO TUESDAY, OCTOBER 12, 1999

Mr. LAZIO. Mr. Speaker, I ask unanimous consent that when the House adjourns on Friday, October 8, 1999, it adjourn to meet at 12:30 p.m. on Tuesday, October 12, 1999, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. LAZIO. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

A MINNESOTA HERO DIES, BUT CONNIE EDWARDS' LEGACY WILL LIVE ON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. RAMSTAD) is recognized for 5 minutes.

Mr. RAMSTAD. Mr. Speaker, Connie Edwards taught physical education at Countryside Elementary School in Edina, Minnesota, for 14 years. Her fourth and fifth grade students loved her. She was a great teacher, a wonderful friend, and a true hero.

This past Wednesday Connie, who fought a courageous battle with ovarian cancer, left this Earth, but her spirit will live forever through the many young people whose lives she touched.

As Connie's good friend and former co-worker, Diane Morris, put it, and I am quoting, now, "Connie had such a huge impact on so many people, from students to staff and the entire community. She had an energy that rubbed off on everybody. The school was her stage, and she shined."

To show their affection and respect, Mr. Speaker, Connie's students, past and present, along with her staff members, fellow staff members, and parents of Countryside Elementary School, recently renamed the gymnasium in her honor. Despite her serious illness and treatments which left her weak, Connie Edwards visited Countryside School frequently during her extended sick leave just to be with her beloved students.

As recently as last Monday, two days before she died, Connie visited Countryside to cheer on her students during a district-wide cross-country race. Connie was mobbed by the students, who loved her so dearly.

Countryside principal Ken Hatch commented, and I am quoting again, "There is no way in the world Connie should have been there. The courage and strength this woman had was astonishing. She displayed that right up to the very end. We loved her dearly and will miss her very much," concluded Principal Hatch.

Mr. Speaker, it is impossible to measure the great impact of Connie Edwards' life on Countryside's young people over the past 14 years. Connie's courage, energy, and spirit will live on in the hearts and minds of everyone who knew her. Connie was not only a dedicated educator, loyal friend, and role model, she was a true Minnesota hero.

You might be gone, Connie, but Countryside will never forget you. As your beloved students told you in that poem they wrote for you, "Thank you, thank you for all you have done. Our lives are forever changed because of Connie Edwards, a special one."

IN RECOGNITION OF THE LIFE OF SAMUEL C. GRASHIO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. NETHERCUTT) is recognized for 5 minutes.

Mr. NETHERCUTT. Mr. Speaker, I want to take a moment today to recognize the life of Samuel C. Grashio, who died this past Sunday in Spokane, Washington, my hometown, and a major part of the Fifth Congressional District of Washington.

Samuel Grashio was a retired Air Force Colonel and was a highly decorated World War II veteran. While many years have passed since that great struggle for peace, we still remember Samuel Grashio's escape from a Japanese prisoner of war camp during the Bataan Death March. He, along with many others, made that very difficult trek and survived. America's spirit was lifted by the courage that Sam and nine other soldiers showed by escaping the prison camp and for evading their captors in enemy territory for so long.

They continued their struggle for many months, alongside friendly Filipino guerillas who fought bravely to make sure that this group of Americans was able to survive.

Family and friends of Samuel Grashio remember him to be a man of great faith, great courage, and great patriotism. America will remember him for being our hero and our strength during World War II.

An article appeared in the Spokesman Review newspaper in Spokane after the death of Sam, and quoted in that article was a very close friend of mine, Seaton Daly, Senior, who has been a longtime Spokane lawyer and a great, great friend whose son and I, whose late son and I, were very, very close friends. We went through law school together and practiced law together for years.

Seaton said at the time of Sam's death that this was a great man of faith, Samuel Grashio, and he had as his priorities in life three influences: God, family, and country, in that order. He was a great man of stature in eastern Washington and nationally for his service in World War II, and he cultivated friends like Seaton Daly, Senior, who were lifelong friends, and who grieve as Sam passed away.

Sam Grashio led a wonderful life in service to our country. We certainly wish all of Sam's family well, and all of God's blessings in this time of reflection and mourning for them.

I must say, too often we do not recognize deeply enough those heroes who fought for freedom in World War II and have survived, many in this country, to this day as veterans and as proud veterans, and proud supporters of the freedom that this country so much enjoys.

Sam Grashio was one of those people. It is sad that he has passed away, but it is an honor for our community that he lived as long as he did and was able to enjoy not only the freedom he fought for, but the great, great benefits that this country offers to all of its citizens.

Mr. Speaker, I join many others in paying tribute and offering deep sympathy at the death of Samuel Grashio, as do many, many, in Spokane Washington and the State of Washington.

NATIONAL BREAST CANCER AWARENESS MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. TOWNS) is recognized for 5 minutes.

Mr. TOWNS. Mr. Speaker, we took the extraordinary action in the last Congress of creating an opportunity for States to provide health insurance to the children of the working poor. As we commemorate October as National Breast Cancer Awareness Month, we should take the opportunity to pass H.R. 1070 to expand Medicaid coverage to screen for breast and cervical cancer.

This bill will provide cancer screening for the mothers and grandmothers of the children that we covered under the child health initiative. These women are the waitresses, the domestic workers, and the farmers' wives who do not have the financial ability to take advantage of preventative cancer screenings.

Their low-paying jobs do not provide them with the insurance coverage that would cover the costs of breast and cervical cancer screenings, but they also make them ineligible for Medicaid. If they were unemployed or on welfare they would be covered by Medicaid, and thus receive the screening services.

Mr. Speaker, I cannot overstate the relationship between cancer screening and early detection. We all know that early detection saves the lives of women who are impacted by breast and cervical cancer. For example, the American Cancer Society estimates that of the 46,000 breast cancer deaths in 1994, 14,000 women, almost one-third, could have been saved with early detection. That means that approximately one in three women died needlessly.

□ 1700

That is why I fought so hard to convince the National Cancer Institute to maintain the age for mammography at 40 rather than pushing it back to age 50.

I am very pleased that, in 1997, NCI finally, finally agreed to restore their guidelines to the recommended biennial mammograms for women aged 40 to 49. This screening tool definitely needs to be readily available to women in this age group.

In fact, 29,000 women between the age of 40 and 49 are diagnosed with breast cancer every year. Of these 29,000, a disproportionate percentage will be African-American women, minority women. Particularly, black American women have a 25 percent higher mortality rate because their cancer is not detected early enough.

In addition to screening for breast cancer, H.R. 1070 will also provide reimbursement for cervical cancer screenings. Testimony before the Committee on Commerce also confirmed that cervical cancer is 95 percent treatable and curable if detected in time.

Working poor women are not receiving these screening services simply because they fall between the cracks of being too young for Medicare, not poor enough for Medicaid, and no access to commercial health insurance.

It is not often that we have a chance to save lives simply by improving access to prevention tools. Through the expansion of Medicaid coverage this month, we have that opportunity with H.R. 1070.

I would hope that my colleagues will support the inclusion of the important measure in whatever budget initiatives we enact this session. The working women of this Nation deserves a fighting chance against breast and cervical cancer.

In honor of National Breast Cancer Awareness Month, let us give them this chance by enacting H.R. 1070. That is the way to say "thank you" to people like Laura Brown and the Magic Johnson Foundation for all the work that they do.

Mrs. MORELLA. Mr. Speaker, October is Breast Cancer Awareness Month, and we have joined together tonight to urge our colleagues to work with us to increase funding for breast cancer research, treatment, and prevention, and to expand insurance coverage for screening and treatment. Each year, more than 180,000 new cases of breast cancer are diagnosed in the United States. One in eight women will develop breast cancer in their lifetimes, and it is the second leading cause of cancer deaths in women. Last year, about 46,000 of our grandmothers, mothers, aunts, nieces, sisters, cousins, dear friends, and colleagues died from this devastating disease.

Tonight, I will be receiving the Yetta Rosenbert Humanitarian Service Award from the Gloria Heyison Breast Cancer Foundation, Inc. at a special reception to launch Breast Cancer Awareness Month. In 1992, Marc Heyison created the Gloria Heyison Breast Cancer Foundation in love and honor of his mother, a breast cancer survivor. The Foundation also will be raising funds for The Check It Out Program presented by Suburban Hospital, the mobile mammography program at The George Washington University, and other programs that educate the public about the importance of early detection in breast cancer.

I mention this to highlight the role of organizations that advocate on behalf of breast cancer funding and education programs. Without organizations, such as the Gloria Heyison Breast Cancer Foundation, we would not have made the tremendous advances in funding for breast cancer research over the past decade.

Federal funding for breast cancer research totaled $91 million in 1993; it grew to $500 million in 1997. However, despite the increases in funding for breast cancer research and prevention in recent years, we still have few options for prevention and treatment. The National Cancer Institute received the highest funding increase of all of the institutes in last year's appropriations bill, and I hope that we will be able to make even greater strides in the Fiscal Year 2000 bill. I particularly thank Chairman John Porter for his leadership in working to bolster our federal investment in biomedical research, including breast cancer research, as well as the members of his subcommittee.

Earlier this year, Congresswoman NITA LOWEY and I circulated a congressional letter urging the Appropriations National Security Subcommittee to provide $175 million for the peer-reviewed breast cancer research program at the Department of Defense, a letter co-signed by 225 of our colleagues. The peer-reviewed breast cancer research program has gained a well-deserved reputation for its innovation and efficient use of resources, with over ninety percent of program funds going directly to research grants. We must continue to increase our investment in this important program.

We must also work to better translate new research findings to clinical applications, both through a greater focus on clinical research and through technology transfer. As Chair of the Technology Subcommittee, I have been working to facilitate technology transfer between government agencies and the private sector. Efforts such as the "missiles to mammograms" project between the Public Health Service, the Department of Defense, the intelligence community, and NASA, are critically important in applying new technologies to the fight against breast cancer.

Access to mammography screening is another critical issue. The Congressional Caucus on Women's Issues had a major victory during the last Congress when the Balanced Budget Act included annual coverage for mammography screening under Medicare.

As of last year, the breast and cervical cancer screening program had provided more than 1.2 million breast and cervical cancer screenings, education, and follow-up services for low-income women across the country. While this program has been very successful, we must ensure that efforts are expanded to better reach disadvantaged and minority populations.

As an increasing number of mastectomies and lymph node dissections are performed as outpatient surgery, Congress should ensure that women receive the hospital care and insurance coverage they need. We must hold hearings and pass legislation to require health plans to provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer. Congresswoman ROSA DELAURO and Congresswoman SUE KELLY have each introduced legislation that would provide 48 hours of inpatient care following a mastectomy and 24 hours of inpatient care following a lymph node dissection for the treatment of breast cancer. I am a cosponsor and strong supporter of this critical legislation. Women and their doctors—not their insurance companies—should determine whether a shorter stay is sufficient.

These initiatives are just a few of the many important efforts underway to address the critical issue of breast cancer. For as long as I serve in Congress, I will continue to work with my colleagues on programs that will provide fuel for the hopes of patients and scientists alike and move us forward in the battle against breast cancer.

REPORT ON H.R. 3037, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

Mr. YOUNG of Florida, from the Committee on Appropriations, submitted a privileged report (Rept. No. 106-370) on the bill (H.R. 3037) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2000, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

GENERAL LEAVE

Ms. PELOSI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of the special order I am about to give.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

DEBT FORGIVENESS FOR THIRD-WORLD COUNTRIES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentlewoman from California (Ms. PELOSI) is recognized for 60 minutes as the designee of the minority leader.

Ms. PELOSI. Mr. Speaker, today was a very historic day in this body, and Congress has finished its business at a reasonable time. I wish that many more of my colleagues were in town to hear our special order, because it addresses an issue that came up in our foreign operations bill the other day; and that is the issue of debt forgiveness in the developing world.

In the course of a debate on the legislative bill, an appropriations bill like the foreign operations bill, all we had was an hour on the rule and an hour on the bill, which is the regular order. But because so many Members want to express their support or their opposition to the legislation, the most any of us gets to speak is a few minutes if we are lucky if we are ranking member, or one or two if we are not.

The bill covers a wide range of issues. The foreign operations bill is the bill which funds our diplomatic efforts abroad. The pillars of our foreign policy are promoted in that bill: stopping the proliferation of weapons of mass destruction, promoting democratic values, growing our economy through exports, looking out for our national security, and the assistance that we provide for other countries is in the national interest of the United States.

So this is not about charity. It is about acting in our own self interest. It also, though, taps the well of generosity and concern that the American people have to alleviate poverty in the world and to make the world a safer place, promoting our democratic values, which are universal, so that the world is a safer place in which we can raise our children and our grandchildren.

That brings us to the point of, making the world a safer place means making the world a better place for all of the children of the world. I know my colleagues have heard me say the three most important issues facing this Congress are our children, our children, our children. By that, I mean, not only our children in America, but the fate of children throughout the world. They are affected by the economic well-being of the countries in which they live.

Many of the countries in the Third World, particularly in Africa, some in Latin America, mostly all in the southern hemisphere, have been burdened by debt that has been incurred by previous regimes. For instance, in South Africa, there is a heavy debt load that has been carried over from the apartheid government. Now this new government of the last few years has that burden to carry. How can they succeed with this drag on their economies? That is repeated over and over.

I think we have a responsibility in this area because, during the Cold War, the Soviets and the United States excerpted their influence on the continent of Africa. When the Cold War was over, we up and left, leaving the continent awash in weapons and, in many cases, burdened down by debt.

There is a movement afoot. This is not just a U.S. effort to alleviate this debt, this is an international issue. There is a movement afoot in the religious community. Bishop Desmond Tutu, the Nobel Prize winner from South Africa, was well-known to everyone in the world, I believe, a champion of reconciliation in South Africa, is part of something called the Jubilee, Jubilee 2000.

That is an effort to have debt forgiveness in the developing world so that these new emerging democracies can proceed to meet the needs of their people in terms of education and health and the well-being of their people, unburdened by debts, especially those incurred by previous regimes in their countries and not the democratically elected governments that prevail now.

In our foreign operations bill, there had been a request made by President Clinton for several hundred million dollars over a 3-year period to forgive debt in that region. During the debate, it was contended that, oh, forgiving debt in the Third World was just sending checks to these, what did they call them, turbans and tyrants, or something, so that they could then put this money into Swiss banks and abscond with that money. That is not what we are talking about here. That is not what President Clinton was advocating.

So it was an unfortunate characterization of the purpose of debt forgiveness and the very important initiative that President Clinton was taking. He was doing it on behalf of our own country, but in conjunction with multilateral efforts that have been made by the G-7 and G-8 in order to alleviate debt in the Third World so that these economies could have a chance to prevail and these new democracies would be able to enjoy some of the benefits of democratic reform and market reform in their countries.

So when we ask for this debt forgiveness and this funding for the debt forgiveness, it is part of a multilateral effort which we are one part, and it is in conjunction with efforts that the people in these countries are taking to help themselves.

This is not about charity. It is about cooperation. This is not about something that is only for the benefit of the recipient. This is about initiatives that will redound to the benefit of the American people, both in providing markets for our goods, if we need a pragmatic reason, but also in addressing the concerns that we have about poverty throughout the world, starvation, famines that we would have come in at a later time and spend much more money, never be able to make for up for the human loss of the people that have died and the malnutrition of those who suffer from starvation.

Of course it would also prevent conflict. Any time that we can prevent conflict, I believe that that is our mission, mission of this great country.

I said in the course of the debate that, being from San Francisco and having the privilege to represent that magnificent area in this Congress, I wanted also, any chance I get, to share with my colleagues the message of Saint Francis, who is the patron saint of San Francisco. The song of Saint Francis is our anthem. Everyone is familiar with it, but I do not know if they know it is the song of Saint Francis. It begins: "Make we a channel of thy peace. Where there is a darkness may we bring light. Despair, may we bring love. Hatred, may we bring love."

Well, that is a big order, and we may not be able to do that, but we certainly can be a channel of God's peace to these countries. Helping these countries alleviate poverty and get on with the future and their economic well-being I think is a force for peace and promoting democratic values in those areas.

Therefore, this Jubilee effort, one that is undertaken by the people affected by it, as a way to help them unburden themselves of the debt and alleviate poverty, is very important one.

The President's initiative is a very wise one. The President says that these funds would be used to help alleviate the debt, forgive the debt if the government itself will spend the money on education and health care for the children, the people of their countries. That is a very important initiative. In fact, nothing is more important than that.

I do not think that most people in America need to be told how important it is for them to have disease controlled where it exists abroad so it does not come into our country. The environmental measures that this money could be used on to improve the health and the air that the people breathe in those areas prevents that pollution from coming into our country.

So, again, it taps the well of good intentions in our country, and it has a practical benefit to us. So, again, the Jubilee 2000 is a very noble effort, alleviating the Third World debt, forgiving it, because there is a good deal of talk about reducing and forgiving some, but we want to eliminate the Third World debt, which will be is a very important initiative that I believe a country as great as ours can cooperate with very readily. It is money very well spent.

Many of our colleagues are interested in this issue, but this being the end of the day, the end of the session for this week and the beginning of the Columbus Day weekend, we start today, and we will have other special orders on this subject, because there simply was not enough time to present the full enthusiasm that we have for this debt relief, debt forgiveness, elimination.

But I am pleased that a very distinguished leader in the Congress and the House of Representatives is here tonight. She has worked her whole life on the alleviation of poverty in our country and throughout the world. She has worked her whole life for economic justice issues. Fortunately for us, she is the Ranking Democrat on the Subcommittee on Domestic and International Monetary Police of the Committee on Banking, which is the committee of jurisdiction on the Third World debt. Our committee is the appropriating committee. The committee of the gentlewoman from California (Ms. WATERS) is the committee of authorization where this issue is being debated right now and an authorization bill is being prepared.

So I am very pleased to yield to the gentlewoman from California (Ms. WATERS), an international leader on this issue and a person well positioned to help very much promote the policy and the funding that President Clinton recommended.

Ms. WATERS. Mr. Speaker, I am very pleased and proud to join the gentlewoman from California (Ms. PELOSI) here on the floor this evening to talk about a subject that I believe is the number one issue confronting the world today.

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I would also like to thank the gentlewoman for all of the years that she has put in not only on the issues of debt relief but on the issues of foreign affairs and foreign assistance and foreign relations.

The gentlewoman has become one of our prémier experts, and she has provided leadership to this House. And it is because of the gentlewoman and the knowledge that she brings to these discussions that we are all able to advance and to move forward. So I truly appreciate everything that the gentlewoman has done and the gentlewoman's leadership in pulling together this time tonight for us to further talk about debt relief and these very poor countries who are depending on us to come to their aid and to their assistance.

I am so pleased and proud to be a Member of Congress at this particular time. Yes, there are many frustrating moments; and, yes, there are many disappointing moments, but I am here in this Congress at a time when I see both sides of the aisle coming together around debt relief. I am the ranking member on the Subcommittee on Domestic and International Monetary Policy of the Committee on Banking and Financial Services, but I serve on that committee with the chair of that committee, the gentleman from Alabama (Mr. BACHUS), a man who is obviously a Republican, and I am obviously a Democrat.

I am considered to be much more liberal; he is considered to be conservative. But when we hear the gentleman from Alabama (Mr. BACHUS) on this issue, and we see the work that he has brought to this issue, it really does make us proud that there are moments and there are periods in this great body of ours where we can put aside our philosophical differences and come together in the most humane fashion to do something good and send out the best messages from us to others about who we are and what we care about.

So the gentlewoman has referenced and referred to Jubilee 2000. This is a wonderful moment and a wonderful time. Just as I and the gentleman from Alabama have come together, and others from both sides of the aisle on the Committee on Banking and Financial Services, on the Committee on International Relations, on the Committee on Appropriations, all over the world various religious denominations have come together as well, and all of these nongovernment organizations, all of these nonprofit organizations, consumer-related organizations have come together all over the world to embrace debt relief.

We have all come to the point in time where we understand that it is absolutely illogical for us to think that many of these countries are able to repay debt that is owed to us and to others. Whether we are talking about bilateral or multilateral debt, many of these nations are spending a disproportionate amount of their revenue trying to make this payment, to the point oftentimes of starving the children and not being able to provide for health care, not being able to have anything that approaches decent education systems.

So we sit here at a time when the economy is performing rather well, at a time when we are able to spread prosperity, and we are taking advantage of this time to say this is the time to do it. So we are moving forward and everybody is coming on board. As a matter of fact, we had some people who started out saying, well, we can do something; we can do a little bit of this, a little bit of that. And now we have more people moving toward 100 percent. The President of the United States, when he addressed the International Monetary Fund conference that was here in Washington, D.C., made us proud with his commitment to do 100 percent debt relief.

I know not everybody is there. And even on the appropriations subcommittee we do not have the money that has been allocated to the tune of what was asked for by this administration. But I am convinced that we are going to get there. One way or the other we are going to get there. I do believe there is enough of us who are focused, and we are focused on this issue, to be able in negotiations, that I know will take place no matter what has happened on our appropriations bill. I do believe that we will get to negotiations that will help us to understand that there must be more money for debt relief.

I know that there are those who make the argument that somehow we are taking all of the taxpayers' money to give to somebody else. And I think the gentlewoman made the point the other day that it is less than 1 percent.

Ms. PELOSI. It is 6.8 percent that is in the bill. If we did the President's request, it would be .8 percent. Less than 1 percent still.

Ms. WATERS. Less than 1 percent. And I think that should be said over and over again so that we can get rid of the notion that somehow we are bankrupting our country in order to make this very humane gesture.

We see pictures of children with extended bellies; we see pictures of people who live in remote villages who carry water for miles because they do not have running water. We saw, when we traveled to Africa, children in makeshift classrooms who have little in the way of books or materials but who want to learn. We see countries that are confronted with the problem of AIDS, such as we are seeing in Third World countries and in Africa.

Right next door to us, right in our own hemisphere, we see countries that are struggling to make sure that people just have one little piece of bread and maybe a little something to drink. Milk is out of the question for many of these children. So I do not think any of us can be proud that despite that which we do not have, and we would like to have for everybody, we have enough that we can share with these very desperate souls around the globe. And that is what we are all about in America.

One of the things that we are proudest of is the fact that we believe that we are spiritual people; that we believe in a higher being; that we worship in so many different ways, in whatever fashion. We feel it is important for us to worship. But central to all of that is the belief that we can share; that we can help out; that we can extend a helping hand. And how better to demonstrate that than through this wonderful Jubilee 2000.

And what a wonderful name for what we are doing. We are celebrating our humanity. We are celebrating that, no matter what the distances are around this globe, we are one people. We are one people, and we should all care about each other. So this debt relief is one of the most important actions that we can take.

We are going to send a message to Zambia, for example, who is spending one-third of its government revenue to servicing the debt. We are going to send a message to Mozambique, whose debt service payments in 1997 absorbed about half of all government revenue. We are going to send a message to Nicaragua, where over half of the government's revenue was allocated to debt service payments in 1997. We are going to send a message to all of these children that we care.

We are going to proudly attack the fact that almost 200,000 children die annually in Mozambique from preventable illnesses, such as malaria, measles, and respiratory infection; and only half of the rural population has access to safe water. So this is work that we can be proud of. This is work that everybody can take part in.

And, again, I thank the gentlewoman for her leadership, and I am proud to be a member of the House Committee on Banking and Financial Services offering some leadership in this area. And I look forward to the negotiations and the passage of the appropriations line item that will fully fund the bilateral debt relief and to using our leverage at IMF and the World Bank to make sure that we have multilateral debt relief and we work out all of the questions of how we are going to reap the benefit of the gold, through gold sales, in a way that will satisfy everybody and allay the fears about what it means to be involved in utilizing this possibility for helping to pay for this debt relief.

So I really do appreciate the gentlewoman's leadership.

Ms. PELOSI. Mr. Speaker, I thank the gentlewoman from California for participating in this special order this evening. But more important, I thank her for her leadership on this issue and the voice that she gives to the concerns that she expressed this evening. They are concerns that she has used every forum at her disposal to espouse this debt relief and poverty alleviation throughout the world.

I did want to reference the gentlewoman's comment about her chairman, the gentleman from Alabama (Mr. BACHUS), and his cooperation on this and also recognize the chairman of the full committee, the gentleman from Iowa (Mr. LEACH), who introduced a bill to provide debt relief to ensure that funds released go to anti-poverty programs, including education in the beneficiary nations.

So while we have been talking about some level of debt forgiveness all along, and in June the G–7 agreed to cancel up to 90 percent of bilateral debt, President Clinton upped the ante on the poor-country debt relief the end of September when he announced in his speech at the World Bank-IMF annual meeting that the U.S. would forgive 100 percent of the debts owed to the United States.

Of course, we have to have an act of Congress in order to do that. And, hopefully, this Congress will support the bipartisan efforts that have proceeded largely because of the efforts of the gentlewoman from California.

I wanted to just focus, because the gentlewoman brought up the excitement and the enthusiasm that the gentlewoman has for Jubilee 2000, and give a little background on it. We are part of the USA platform for the Jubilee 2000. But before I go into that, the religious community, as the gentlewoman mentioned, is very, very involved in this. In fact, on the subject of debt forgiveness, Pope John Paul, when he met with the President earlier this year, raised the issue when he met with President Clinton in St. Louis.

The Christian Science Monitor has editorialized about this by beginning, "and forgive us our debts as we forgive our debtors." And they go on to say that, "The rich predominantly christian industrial nations have had a hard time putting into practice the latter part of the Lord's prayer phrase in regard to the world's poorest countries." They said that at the end of April.

But since that time, with the action of the G–7 and the President's statement the other day, I think we are well on our way to a recognition that the only way that we are going to help these countries reach their fulfillment for their own people and their countries and in our own interest is to forgive the debt.

Jubilee 2000 springs from a biblical tradition. It calls for a jubilee year, and now we have one coming up, the Year 2000. In a jubilee year, slaves were set free and debts were cancelled. As a new millennium approaches, we are faced with a particularly significant time for such a jubilee. Many impoverished countries carry such high levels of debt that economic development is stifled and scarce resources are diverted from health care, from education, and all other socially beneficial programs to make debt service payments.

Imagine having to pay interest on the debt. They are not even paying down the principal; they are just paying interest on the debt instead of educating the children and giving them health care and, as the gentlewoman said, providing some of the infrastructure necessary to even bring water into their villages much less their homes.

Much of the debt they carry is the result of ill-conceived development, flawed policies that creditors required of recipient countries in exchange for assistance, and shortsighted decisions by their own leaders. Many times these leaders were from previous regimes. So we have Democratic reform in some of these countries, and these new leaders and these fragile democracies are weighted down by debts incurred and funds used up by a previous regime, in many cases that they have ousted.

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Much of the borrowing benefited only the elites in the receiving countries. Whereas, the burden of paying the debt is falling upon the most impoverished members of society. Recognizing that these debts are unpayable and exact a great social and environmental toll, the Jubilee 2000 USA Campaign calls for a time of jubilee and cancellation of the debts, and that would be definitive forgiveness of the crushing international debt in situations where countries burdened with high levels of human needs and environmental distress are unable to meet the basic needs of their people; definitive debt cancellation that benefits ordinary people and facilitates their participation in the process of determining the scope, timing, and conditions of debt relief, as well as future direction and priorities for a decent quality of life, definitive debt cancellation that is not conditioned on policy reforms perpetuate or deepen poverty or environmental degradation and acknowledge the responsibility of both lenders and borrowers and action to recover resources that were diverted to corrupt regimes, institutions and individuals.

And finally, establishment of a transparent and participatory process to develop mechanisms to monitor international monetary flows and prevent recurring destructive cycles of indebtedness.

So there is a vision about where these debt forgiveness can take these countries. There is knowledge about how we got to where we were and what we can do to make a difference. There is a plan of action well planned out. And there is an excitement about this that is building consensus in our country and throughout the world, developing a grassroots network, conducting this advocacy campaign. This Jubilee 2000 Campaign is about leadership.

Ms. WATERS. Mr. Speaker, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentlewoman from California.

Ms. WATERS. Mr. Speaker, I thought since my colleague had given the background and history of Jubilee 2000 that I would just note some of the participants in this coalition that we have around the world on this very important issue. So I am going to call off a few of these names. Maybe I can get most of them in.

The supporters of the Jubilee 2000 Campaign in support of debt relief include the following:

The Pope
Africa Faith and Justice Network
Africa Fund
Africa Policy Information Center (APIC)
American Friends Service Committee
Bread for the World
Catholic Relief Services
Center of Concern
Church of the Brethren/Washington Office
Church World Service (CWS)/National Council of the Churches of Christ in the USA
Columban Justice & Peace Office
Conference of Major Superiors of Men
Episcopal Church
Episcopal Peace Fellowship
Evangelical Lutheran Church in America
50 Years Is Enough US Network for Global Economic Justice
Friends of the Earth (FOE)
Leadership Conference of Women Religious
Lutheran World Relief
Maryknoll Office for Global Concerns
Medical Mission Sister's Alliance for Justice
Mennonite Central Committee (MCC)
Missionary Oblates of Mary Immaculate
Nicaragua-US Friendship Office
OXFAM-America
Preamble Center
Presbyterian Church/USA
Sisters of Notre Dame de Namur
Sojourners
United Church of Christ
United Methodist Church
US Catholic Mission Association
Washington Office on Africa
Witness for Peace
African Methodist Episcopal Church
Church of the Brethren/General Board
Church Women United
Dominican Sister of Hope
Ecumenical Program on Central America & the Caribbean (EIPCA)
Fellowship of Reconciliation (FOR)
Interreligious Foundation for Community Organizations, Inc. (IFCO)
Lewis Metropolitan C.M.E. Church
Lutheran World Relief (LWR)
National Summit on Africa
NETWORK B A National Catholic Social Justice Lobby
Progressive National Baptist Convention
Rainbow-PUSH
RESULTS USA
Sister of Charity of St. Vincent de Paul/New York
Sisters of St. Joseph of Carondelet/Albany Province
Sisters of St. Joseph/Brentwood, NY Leadership Team
Sisters of Charity of Leavenworth
Swedenborgian Church/Social Concerns Education Committee
Unitarian Universalist Service Committee
United Methodist Church/General Board of Global Ministries
Washington Office on Africa

Is that not a wonderful coalition of people both in the United States and from other parts of the world who have joined hands in this great Jubilee 2000 celebration by putting substance in a real way to the word "celebration in jubilee" in this wonderful push that we have to relieve the debt of the world?

Ms. PELOSI. Mr. Speaker, that is a wonderful list.

I was taught by some of those organizations that my colleague has named, and we all have benefitted from their grassroots activism on it.

Many of those same organizations support, for example, microlending, which benefits alleviation of poverty among women and lifts up families and increases literacy rates, etcetera. So we are talking about new approaches, and that is what we need as we go into the new millennium.

My colleague listed those names, and I just wanted to reference two other points before we close here. And that is, I am going to quote my colleague as she joined the gentleman from Iowa (Mr. LEACH) and our own ranking member the gentleman from New York (Mr. LAFALCE) who has been a leader on this issue, too; the gentleman from Alabama (Mr. BACHUS) my colleague referenced, the chair of the subcommittee; and the gentlewoman from California (Ms. WATERS) in introducing the debt relief for poverty reduction act:

"Relieving the unsustainable debt burdens of the world's poorest countries is one of the foremost humanitarian and moral challenges of our time. Debt relief can also benefit the U.S. economy."

So, again, it is helping us as we help others.

I want to also quote, this is a Jubilee Call for Debt Forgiveness. This pamphlet is put out by a statement by the Administrative Board of the U.S. Catholic Conference. This is the Catholic Conference of Bishops in the United States, the voice of the church in the United States, and it is the Catholic Campaign on Debt.

In here, among other things, the bishops say, "The coming of the great Jubilee in 2000 offers us a time to make new beginnings and to right old wrongs. Pope John Paul, II, has called repeatedly for forgiving international debt as a sign of true solidarity. In this statement, we join our voice to his to inform the public about the moral urgency of the debt question and to offer some considerations about responding to it."

So, as I said before, it is the vision, the knowledge, the plan of action, and the enthusiasm and excitement that is being engendered by this.

Again, this is in the context of these countries taking actions to help themselves. We must lend a helping hand. We cannot ignore the efforts that they are making, if not for political reasons or economic reasons that benefit the United States, but for the children.

Those of us who profess to value our religion know that the gospel of Matthew is one that we carry heavily on our shoulders, to feed the hungry and to minister to the needs of the least of God's brethren.

OXFAM is another organization that is in their pamphlet, Education Now: Breaking the Cycle of Poverty, talks about debt and education and it is much easier to have the education without the debt.

Ms. WATERS. Mr. Speaker, the gentlewoman mentioned and I failed to mention but I must underscore her recognition of the chairman of the full committee the gentleman from Iowa (Mr. LEACH). I do not know if there could have been anyone else that could have executed this in the way that he has done.

As my colleague knows, the gentleman from Iowa (Mr. LEACH) is a highly respected Member of this House who has given leadership to that overall committee on many very important issues, none more important than this one. And it is because of his patience, it is because of the high esteem in which he is held in this House that he was able to work so well with all of these groups that make up Jubilee 2000.

So I would like to thank my colleague for the special recognition she has paid to him and to say on my behalf that the gentleman from Iowa (Mr. LEACH) probably will mark this success that we are going to have as one of the highlights of his career.

I know that he has done many things and he has been involved in many complicated pieces of legislation that have had far-reaching effects. But this molding and shaping and moving of debt relief for the world and the countries that need it so desperately will go down in history as one the most important efforts that he has made.

Ms. PELOSI. Mr. Speaker, I join my colleague in saluting the gentleman from Iowa (Chairman LEACH). I do not know where he is on total debt forgiveness, but I know that he is a champion of debt relief. I do not want to speak for him to associate him here with the Jubilee 2000. But he certainly has taken us a long way down the road.

Those of us who are concerned about this issue, as my colleagues knows, are very blessed to have him in this position that he is in because he understands financial institutions, international financial institutions, but he is also an expert on foreign policy and what is in the national interest of our country. So his two main committee assignments converge on this issue and his understanding of that will serve the poor people of the world well.

And the ranking member on the committee the gentleman from New York (Mr. LAFALCE) has a very clear understanding of the foreign policy implications. He understands the financial institutions. But he also understands the domestic situation in the United States. That is why I was so pleased that he joined the gentleman from Iowa (Chairman LEACH) and others of us to meet with representatives of the IMF, the World Bank, the Inter-American Development Bank, the Treasury Department to impress upon them how important the alleviation of poverty is to Congress in a bipartisan fashion.

I was very pleased with the comments that the gentleman from New York (Mr. LAFALCE) made that day, which the gentleman from Alabama (Mr. BACHUS) the ranking member made that day and the gentleman from Iowa (Chairman LEACH) to the representatives of the banks so that they knew that this thrust that we had about alleviating poverty and providing for the humanitarian needs should be the thrust of the actions of the international financial institutions in addition to the debt forgiveness.

This effort is bipartisan. It is bicameral. We have champions in the Senate, as well. And it now has the added benefit of the President of the United States weighing in very heavily on this issue, again speaking to the international financial institutions, last week when they were in Washington.

It is also an international effort. It is ecumenical. All of the religions are joining in and working together. I cannot think of another issue that had such consensus across the board among so many divergent groups.

So where there is a will there is, hopefully, a way for us to do this; and in doing so, we will make a very serious difference.

Let us hear it. Bravo for Jubilee 2000 to use this landmark, this milestone, this date of the year 2000 for us to say, okay, we have talked about it a long time. We have nipped at the edges about it for a number of years. Now let us just put it behind us so that we and these countries can go into the next year, the next century, the next millennium with a chance of doing the right thing by the people and especially the children.

Ms. WATERS. Mr. Speaker, the gentleman from Massachusetts (Mr. FRANK) who really has been working on this for a long time, he preceded me and once was the chair of the subcommittee and he has been working very closely with the gentleman from New York (Mr. LAFALCE) working at some very important details of shaping and forming the final legislation in this effort. So I want to say bravo to them.

Once again, let me just conclude my remarks by saying bravo to my colleague for all the time and effort that she has spent even until tonight staying late to take this issue up. And, of course, she certainly did not have to add one more hour to her schedule.

Ms. PELOSI. Mr. Speaker, I thank the gentlewoman for that. I am glad that she mentioned the gentleman from Massachusetts (Mr. FRANK) because he is a champion on this.

There are many champions on the House on both sides of the aisle on this issue, and we are going to have to have another special order so that they can speak to the issue and, if not, that we can speak to their efforts. We are grateful to all of them for what they have done.

I thank the gentlewoman for joining me here this evening.

Mr. Speaker, in the spirit of ecumenism, of bipartisanship, and in helping the poor people of the world, as we help ourselves, I yield back the balance of my time.

☐ 1745

AMERICA'S DIGITAL FUTURE

The SPEAKER pro tempore (Mr. SIMPSON). Under a previous order of the House, the gentleman from Louisiana (Mr. TAUZIN) is recognized for 5 minutes.

Mr. TAUZIN. Mr. Speaker, I do not often do special orders, but something recently occurred that has caused me to come to the floor of the House today and to announce a very special project that will occur on Monday in Baton Rouge, Louisiana, at Louisiana State University.

And many of the Members of the House have recently seen copies of this map published in the local newspaper, The Hill, and the local newspaper, the Congress Daily and others in this area, and it is a map that indicates the U.S. Internet POPs, the points of presence of broadband hubs in America.

What is interesting about the map is that an awful lot of our country does not have the presence of an Internet, a broadband high-speed hub, located on their map. The map becomes more interesting when it is compared to a report that was recently published on the new economy index, an attempt by the Democratic Leadership Council to identify the States of our country where the high technology or digital economy has really arrived and is achieving great results for its citizens and the places around our country where the high technology economy, the digital economy, the Internet economy, however you want to call it, has yet to arrive and may be very slow in arriving.

The State new economy index ranked the States of America in terms of the high-technology connects, the connectivity of our people, of homes, of businesses, to the Internet and the presence of broadband capable structures that are going to allow those States and those economies to do well in the new millennium.

In that list of States are listed, of course, the real winners, the States where the high technology economy has really arrived and where high technology hook-ups, the connections to the Internet, the capacity of the systems are really very present. The top two States are Massachusetts and California. The lower States, the lower 25 States include Georgia, Hawaii, Kansas, Maine, Rhode Island, North Carolina, Tennessee, Wisconsin, Ohio, Michigan, Missouri, Nebraska, Indiana, South Carolina, Kentucky, Oklahoma, Wyoming, Iowa, South Dakota, Alabama, North Dakota, Montana, my own State of Louisiana, West Virginia, Arkansas and Mississippi. We are ranked 47th in Louisiana in high-technology connects.

Now why did I find that so alarming, and why this event in Baton Rouge next Monday?

I found it so alarming because, as chairman of the Subcommittee on Telecommunications, Trade, and Consumer Protection of the Committee on Commerce, I have seen the high-technology economy at work in other parts of the country and around the world. I have seen how connecting to the Internet makes a difference in the education of children. I have seen how connecting to the Internet makes a business prosper or fail. I have seen the promise of the broadband technologies, in effect high-speed Internet connects, to an economy are going to make the difference between whether some economies succeed or fail.

And I have lived in the State of Louisiana that I love dearly and yet I know suffers from a high illiteracy rate and a need for children to be uplifted, an economy that desperately needs a connect to this high-technology economy; and yet I see these numbers that say we are 47th, and I see so many other States lingering near the bottom of this list.

And so on next Monday we have convened what might be the last big high-technology summit conference of this millennium where on October 11 in Baton Rouge we are going to feature such speakers as:

Bill Kennard, the Chairman of the Federal Communications Commission,

Robert Pitofsky, the chairman of the Federal Trade Commission,

Barry Diller, the chairman and CEO of USA Networks,

Charlie Ergen, chairman of Echostar Satellite Communications,

Bob Coonrod, chairman of the Corporation for Public Broadcasting,

Greg Maffei, the Senior Vice President of Microsoft,

Afshin Mohebbi, the President and CEO of Quest Communications,

Mike McCurry, former White House spokesman, now a cochairman with our own Susan Molinari of the broadband Coalition, an organization formed to try to make sure every part of America, not just the few States that have high-technology connects, but every part of America is brought together; that we do not have a digital divide in the new economy of the future; along with folks like Hal Krisbergh, chairman and CEO of Worldgate Communications, a company that is manufacturing equipment that can put every child in this country on the Internet on television without the necessity of a computer for about $5 a month rental, technologies that mean the difference between children being left behind, and businesses being left behind and economies being left behind or being a part of the new fast economy that is being described as the new economy of the new millennium.

This summit conference will be available to all of America on the Internet, and I want to tell you how you can log in, how you can tune in. If you are interested in knowing how critical it is for your homes and your businesses to be connected to the Internet and to be, more importantly, connected to the high-speed Internet of the future, the broadband services that are going to combine all the new economies on the Internet with the high-speed visual and audio and data services that are going to be available on those services. If you are interested, you can tune in. It will be broadcast live on the Internet all day long next Monday, and you can find it at www.mobiletel.com.

That site is connected to other ISPs or Internet service providers.

You can tune in, you can get a sense of how your State can do what Louisiana, I hope, will do, and that is start a major effort to connect every family, every business to this new economy and to the high speed Internet. Join us at www.mobiletel.com on Monday all day at LSU and learn what the future looks like for your State.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. KAPTUR (at the request of Mr. GEPHARDT) for today on account of personal business.

Ms. GRANGER (at the request of Mr. ARMEY) for today after 3:30 p.m. on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. TOWNS) to revise and extend their remarks and include extraneous material:

Mr. HILL of Indiana, for 5 minutes, today.

Ms. CARSON, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. TOWNS, for 5 minutes, today.

Ms. WATERS, for 5 minutes, today.

(The following Members (at the request of Mr. RAMSTAD) to revise and extend their remarks and include extraneous material:)

Mr. RAMSTAD, for 5 minutes, today.

Mr. TAUZIN, for 5 minutes, today.

Mr. NETHERCUTT, for 5 minutes, today.

ADJOURNMENT

Mr. TAUZIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 52 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, October 8, 1999, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4710. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Special Local Regulations: Winston Offshore Cup, San Juan, Puerto Rico [CGD07 99–056] (RIN: 2115–AE46) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 748. A bill to amend the Act that established the Keweenaw National Historical Park to require the Secretary of the Interior to consider nominees of various local interests in appointing members of the Keweenaw National Historical Parks Advisory Commission; with amendments (Rept. 106–367). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1615. A bill to amend the Wild and Scenic Rivers Act to extend the designation of a portion of the Lamprey River in New Hampshire as a recreational river to include an additional river segment (Rept. 106–368). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2140. A bill to improve protection and management of the Chattahooche River National Recreation Area in the State of Georgia; with an amendment (Rept. 106–369). Referred to the Committee of the Whole House on the State of the Union.

Mr. PORTER: Committee on Appropriations. H.R. 3037. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2000, and for other purposes (Rept. 106–370). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. HANSEN:

H.R. 3035. A bill to designate certain lands in the State of Utah as wilderness, and for other purposes; to the Committee on Resources.

By Mr. SHUSTER (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. RAHALL):

H.R. 3036. A bill to provide for interim continuation of administration of motor carrier functions by the Federal Highway Administration; to the Committee on Transportation and Infrastructure.

By Mr. ANDREWS (for himself, Mr. GRAHAM, and Mr. OWENS):

H.R. 3038. A bill to amend the Fair Labor Standards Act of 1938 to clarify the exemption from the minimum wage and overtime compensation requirements of that Act for certain computer professionals; to the Committee on Education and the Workforce.

By Mr. BATEMAN:

H.R. 3039. A bill to amend the Federal Water Pollution Control Act to assist in the restoration of the Chesapeake Bay, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mrs. CHENOWETH-HAGE (for herself, Mr. Young of Alaska, Mr. Duncan, Mr. Doolittle, Mr. Peterson of Pennsylvania, Mr. Hill of Montana, Mr. Schaffer, Mr. Sherwood, and Mr. Hayes):

H.R. 3040. A bill to require the appointment of the Chief of the Forest Service by the President, by and with the advice and consent of the Senate; to the Committee on Agriculture.

By Mr. DEUTSCH:

H.R. 3041. A bill to provide for a demonstration project to allow certain organizations that provide care under Medicare to purchase home-care services from self-employed caregivers through home-care referral agencies; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOODE:

H.R. 3042. A bill to designate the facility of the United States Postal Service located at 1031 Volens Road in Nathalie, Virginia, as the "Susie A. Davis Post Office"; to the Committee on Government Reform.

By Mr. GREEN of Wisconsin:

H.R. 3043. A bill to amend title 10, United States Code, to direct the Secretary of the Army to establish a combat artillery medal; to the Committee on Armed Services.

By Mr. HILL of Indiana (for himself, Mr. Dingell, Mr. Frost, Mr. Duncan, Mr. Cramer, Mr. Pastor, Mr. Roemer, Mr. Scott, Mr. Stupak, Mr. Etheridge, Mr. Barrett of Wisconsin, Mr. Sandlin, Ms. Hooley of Oregon, Ms. Carson, Mrs. Tauscher, Mr. Larson, Mrs. Jones of Ohio, Mr. Baird, Mr. Hoeffel, Mr. Phelps, Mr. Gonzalez, Mr. Lucas of Kentucky, Mr. Wu, and Mr. Moore):

H.R. 3044. A bill to provide grants to local educational agencies to develop smaller schools; to the Committee on Education and the Workforce.

By Mr. LAZIO (for himself, Mr. Barrett of Wisconsin, Mrs. Kelly, Mr. Ehlers, and Mr. McHugh):

H.R. 3045. A bill to amend title XIX of the Social Security Act to extend the authority of State Medicaid fraud control units to investigate and prosecute fraud in connection with Federal health care programs and abuse of residents of board and care facilities; to the Committee on Commerce.

By Mr. LEACH (for himself, Mr. LaFalce, Mrs. Roukema, and Mr. Vento):

H.R. 3046. A bill to preserve limited Federal agency reporting requirements on banking and housing matters to facilitate congressional oversight and public accountability, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. MATSUI (for himself, Mr. Weller, Mr. Andrews, Mr. Bentsen, Mr. Gejdenson, Mrs. Kelly, and Mr. Pomeroy):

H.R. 3047. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to require plans which adopt amendments that significantly reduce future benefit accruals to provide participants with adequate notice of the changes made by such amendments; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McCOLLUM:

H.R. 3048. A bill to amend section 879 of title 18, United States Code, to provide clearer coverage over threats against former Presidents and members of their families, and for other purposes; to the Committee on the Judiciary.

By Ms. MCKINNEY (for herself and Mr. Rohrabacher):

H.R. 3049. A bill to cancel the bilateral debt owed to the United States by the heavily indebted poor countries, to prohibit United States funding of the International Monetary Fund until debt owed to the International Monetary Fund by the heavily indebted poor countries has been canceled, and for other purposes; to the Committee on Banking and Financial Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SPRATT (for himself, Mr. Spence, and Mr. Skelton):

H.R. 3050. A bill to provide for the posthumous advancement of Rear Admiral (retired) Husband E. Kimmel and Major General (retired) Walter C. Short on the retired lists of their respective services; to the Committee on Armed Services.

By Mr. UDALL of New Mexico (for himself, Mr. Skeen, Mrs. Wilson, Mr. Kildee, Mr. Hayworth, Mr. Kennedy of Rhode Island, Mr. Young of Alaska, Mr. George Miller of California, and Mr. Becerra):

H.R. 3051. A bill to direct the Secretary of the Interior, the Bureau of Reclamation, to conduct a feasibility study on the Jicarilla Apache Reservation in the State of New Mexico, and for other purposes; to the Committee on Resources.

By Mr. VITTER:

H.R. 3052. A bill to amend the Internal Revenue Code of 1986 to allow certain coins to be acquired by individual retirement accounts and other individually directed pension plan accounts; to the Committee on Ways and Means.

By Mr. WELDON of Pennsylvania (for himself and Mr. Andrews):

H.R. 3053. A bill to provide for assessments and contingency planning relating to emerging missile threats to the United States; to the Committee on Armed Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WEYGAND:

H.R. 3054. A bill to support the fiscal year 2000 proposed budget; to the Committee on Banking and Financial Services.

H.R. 3055. A bill to support the fiscal year 2000 proposed budget; to the Committee on Banking and Financial Services.

By Mr. DEAL of Georgia:

H. Con. Res. 194. Concurrent resolution recognizing the contributions of 4-H Clubs and their members to voluntary community service; to the Committee on Education and the Workforce.

By Mr. LANTOS (for himself, Mr. Sawyer, Mr. LaHood, Mr. Burton of Indiana, Mr. Waxman, Mr. Condit, Ms. DeGette, Mr. Houghton, Mr. Inslee, Mr. Jackson of Illinois, Mr. Lipinski, Mrs. Myrick, Mr. Oxley, Mr. Packard, Mr. Schaffer, Mr. Udall of Colorado, Mrs. McCarthy of New York, and Mr. Scarborough):

H. Res. 324. A resolution supporting National Civility Week, Inc. in its efforts to restore civility, honesty, integrity, and respectful consideration in the United States; to the Committee on Government Reform.

By Mr. LAFALCE (for himself, Mr. Nethercutt, Ms. DeGette, and Mr. Weldon of Pennsylvania):

H. Res. 325. A resolution expressing the sense of the House of Representatives regarding the importance of increased support and funding to combat diabetes; to the Committee on Commerce.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

261. The SPEAKER presented a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 222 memorializing the United States Congress to continue to support and fund the United States-Asia Environmental Partnership, the Environmental Partnership, the Environmental Technology Network for Asia, and the Council of State Governments' State Environmental Initiative; to the Committee on International Relations.

262. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 257 memorializing the Congress of the U.S. to limit the appellate jurisdiction of the federal courts regarding the specific medical partice of partial-birth abortions; to the Committee on the Judiciary.

263. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 56 memorializing the United States Congress to appropriate sufficient funds to install lighting on Interstate Highway 10 and Interstate Highway 310 in the vacinity of the intersection of Jefferson Parish, and St. Charles Parish, Louisiana; to the Committee on Transportation and Infrastructure.

264. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 266 memorializing the U.S. Congress to appoint a task force to close the Mississippi River Gulf Outlet; to the Committee on Transportation and Infrastructure.

265. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 342 memorializing Congress to take measures which would allow receipients of Social Security benefits and other government benefits to marry or remarry without fear of losing or experiencing a reduction in such benefits or other adverse financial consequences; to the Committee on Ways and Means.

266. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 284 memorializing the United States Congress to take such actions as are necessary to allow social security recipients born between 1917 and 1921 to

receive an equal amount of social security benefits as those recipients born between 1910 and 1916; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII:

Mr. FLETCHER introduced A bill (H.R. 3056) for the relief of Margaret M. LeBus; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 72: Mr. TOWNS.

H.R. 123: Mr. SHAYS and Mr. BATEMAN.

H.R. 218: Mr. REYES.

H.R. 303: Mr. FLETCHER, Ms. PELOSI, and Mr. GOODLATTE.

H.R. 354: Mr. BASS, Mr. GALLEGLY, Mr. SESSIONS, Mr. DOOLITTLE, Mr. MALONEY of Connecticut, Mr. TANCREDO, Mrs. BIGGERT, and Mr. BARR of Georgia.

H.R. 460: Mr. POMBO and Mr. BARCIA.

H.R. 688: Mr. KING.

H.R. 699: Mr. WEXLER.

H.R. 718: Mr. BALLENGER.

H.R. 721: Mr. BRADY of Texas.

H.R. 761: Mr. WEINER.

H.R. 864: Mr. STRICKLAND.

H.R. 1071: Mr. UNDERWOOD and Mr. COSTELLO.

H.R. 1103: Mr. FILNER.

H.R. 1180: Mr. HALL of Ohio, Mr. LATHAM, and Mr. BURTON of Indiana.

H.R. 1248: Mr. RAHALL and Mr. SANDLIN.

H.R. 1274: Mr. McGOVERN and Ms. JACKSON-LEE of Texas.

H.R. 1285: Mr. LoBIONDO.

H.R. 1304: Mr. MORAN of Kansas and Mrs. EMERSON.

H.R. 1325: Mr. RAMSTAD.

H.R. 1329: Mr. SHERWOOD.

H.R. 1362: Ms. LEE.

H.R. 1389: Mr. DIAZ-BALART.

H.R. 1482: Mr. EVANS.

H.R. 1590: Mr. QUINN.

H.R. 1592: Ms. DUNN.

H.R. 1606: Mr. SHAYS.

H.R. 1640: Mr. BRADY of Texas, Ms. STABENOW, Mr. ABERCROMBIE, Mr. GONZALEZ, Mr. MENENDEZ, Mr. MEEKS of New York, Mr. LAMPSON, Mr. DOYLE, and Mr. LaFALCE.

H.R. 1644: Mr. EDWARDS.

H.R. 1708: Mr. BOYD, Mr. BARTLETT of Maryland, and Ms. STABENOW.

H.R. 1732: Mr. KIND and Mr. WATT of North Carolina.

H.R. 1754: Mr. HALL of Texas.

H.R. 1777: Mr. REYES.

H.R. 1785: Mr. FILNER, Mr. McDERMOTT, and Mr. FRANK of Massachusetts.

H.R. 1870: Mr. DUNCAN, Mr. SCHAFFER, and Mr. McHUGH.

H.R. 1987: Mr. ISAKSON, Mrs. NORTHUP, Mr. HERGER, Mr. HEFLEY, Mr. ROGAN, Mr. BURTON of Indiana, Mr. PICKERING, Mr. KNOLLENBERG, and Mr. PETERSON of Pennsylvania.

H.R. 1990: Mr. DOYLE and Mr. BACHUS.

H.R. 1998: Mr. WATKINS and Mr. McINNIS.

H.R. 2059: Mr. FORBES.

H.R. 2068: Mr. VITTER.

H.R. 2100: Mr. TOOMEY.

H.R. 2106: Mrs. CAPPS.

H.R. 2121: Ms. WATERS, Mr. UDALL of Colorado, and Mr. LUTHER.

H.R. 2162: Mr. ROYCE.

H.R. 2221: Mr. DeLAY.

H.R. 2247: Mr. STUMP.

H.R. 2282: Mr. ARMEY.

H.R. 2294: Mrs. LOWEY.

H.R. 2300: Mr. CHABOT and Mr. SHADEGG.

H.R. 2370: Mrs. LOWEY.

H.R. 2387: Mr. ETHERIDGE and Ms. LOFGREN.

H.R. 2418: Mr. SANFORD, Mrs. MINK of Hawaii, and Mr. LoBIONDO.

H.R. 2451: Mr. CALVERT.

H.R. 2463: Mr. THOMPSON of Mississippi and Mr. RANGEL.

H.R. 2500: Ms. PELOSI and Ms. McKINNEY.

H.R. 2505: Mrs. TAUSCHER and Mrs. JONES of Ohio.

H.R. 2534: Mr. CALVERT.

H.R. 2539: Mr. ROHRABACHER and Mr. PACKARD.

H.R. 2541: Mr. WICKER, Mr. SHOWS, Mr. PICKERING, and Mr. THOMPSON of Mississippi.

H.R. 2573: Mr. WEINER and Mr. UNDERWOOD.

H.R. 2640: Mr. BARCIA.

H.R. 2655: Mr. YOUNG of Alaska and Mr. MICA.

H.R. 2660: Mr. PETERSON of Minnesota.

H.R. 2662: Mrs. MALONEY of New York, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SHAYS, Mr. RANGEL, Mr. THOMPSON of Mississippi, and Mr. LEWIS of Georgia.

H.R. 2687: Mr. SHAYS.

H.R. 2711: Mr. RANGEL.

H.R. 2733: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. LIPINSKI.

H.R. 2735: Mr. McCRERY.

H.R. 2749: Mr. DOOLITTLE.

H.R. 2759: Mr. DOYLE.

H.R. 2783: Mr. FOSSELLA and Mr. OXLEY.

H.R. 2785: Mr. BLAGOJEVICH.

H.R. 2798: Mr. GALLEGLY, Mr. GREENWOOD, Mr. DIXON, Mrs. CAPPS, and Mr. KUYKENDALL.

H.R. 2801: Mr. WU, Mr. SCOTT, and Ms. SÁNCHEZ.

H.R. 2807: Mr. OWENS.

H.R. 2814: Mr. MATSUI.

H.R. 2383: Mr. HINCHEY.

H.R. 2870: Mrs. LOWEY.

H.R. 2899: Mr. HINOJOSA and Mr. BERMAN.

H.R. 2907: Mr. DEAL of Georgia, Ms. McKINNEY, and Mr. GEORGE MILLER of California.

H.R. 2925: Mr. WALSH, Mr. GILMAN, Mr. PICKERING, Mr. THOMPSON of Mississippi, Mr. KING Mr. ENGLISH, and Mr. CANADY of Florida.

H.R. 2934: Mr. KENNEDY of Rhode Island.

H.R. 2939: Mr. ENGLISH, Mr. CAMPBELL, Mr. HINCHEY, and Mr. JACKSON of Illinois.

H.R. 2960: Mr. TANCREDO.

H.R. 2962: Mrs. TAUSCHER, Mr. GEORGE MILLER of California, and Mr. MARTINEZ.

H.R. 2966: Mr. BARCIA, Mr. BILBRAY, Mr. BONIOR, Mr. CUNNINGHAM, Ms. DANNER, Mr. EHRLICH, Mrs. EMERSON, Mr. FILNER, Mr. PETERSON of Minnesota, Mr. PICKERING, Mr. RAHALL, Mr. ROGAN, and Mr. THOMPSON of Mississippi.

H.R. 2991: Mr. POMEROY, Mr. ENGLISH, Mr. OSE, Mr. HAYES, Mr. FOLEY, Mr. MORAN of Kansas, and Mrs. EMERSON.

H.R. 2999: Mr. FROST.

H.J. Res. 48: Mr. MINGE and Mr. LARSON.

H.J. Res. 56: Mr. FOSSELLA.

H.J. Res. 70: Mr. BROWN of Ohio.

H. Con. Res. 51: Mr. McGOVERN and Mr. WOLF.

H. Con. Res. 89: Mr. HALL of Texas and Mr. HORN.

H. Con. Res. 141: Mr. FARR of California, Mrs. KELLY, Ms. NORTON, Ms. BALDWIN, Mr. KING and Ms. MILLENDER-McDONALD.

H. Con. Res. 166: Mr. SESSIONS.

H. Con. Res. 186: Mr. CALVERT, Mr. COLLINS, Mr. MICA, Mr. POMBO and Mr. RADANOVICH.

H. Con. Res. 189: Mr. KUYKENDALL.

H. Con. Res. 190: Mr. PACKARD.

H. Res. 82: Mr. THOMPSON of California.

H. Res. 213: Mr. KLECZKA.

H. Res. 298: Mr. HOYER, Ms. ROYBAL-ALLARD, Mr. CONDIT, Mr. ENGEL, Mr. HALL of Ohio, Mr. MOAKLEY, Mr. POMEROY and Mr. SKELTON.

H. Res. 303: Mr. CALVERT, Mr. LARGENT and Mr. GILLMOR.

H. Res. 315: Mr. FARR of California, Mr. WAXMAN, Mr. DIXON, Ms. PELOSI, Mr. GEORGE MILLER of California, Mr. CLAY, Mr. FROST, Mr. PORTMAN and Ms. ROYBAL-ALLARD.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H. Con. Res. 189: Mr. UNDERWOOD.

SENATE—*Thursday, October 7, 1999*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Dr. John C. Compton, First Baptist Church of Alexandria, VA. He is the guest of Senator HELMS.

We are delighted to have you with us.

PRAYER

The guest Chaplain, Dr. John C. Compton, offered the following prayer:

Let us pray.

Heavenly Father, we thank You for the privilege of bowing our heads today and acknowledging You as our Creator Lord. We confess that we are dependent upon You completely for everything. Father, we ask for Your leadership on this day. We pray for each man and woman in the Senate, Father, that You would give them wisdom and courage and insight as they are about to deliberate on national and international affairs. Heavenly Father, we thank You for the wisdom of Your word that teaches us that the supreme principle of life is to love the Lord our God with all our heart, mind, and soul and to love our neighbors as ourselves. Father, may this principle of love guide everything the Senate does today. And, Dear Lord, we ask that You bless each Senator with a measure of health and fulfillment as they serve You, for we pray in Jesus' name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN ASHCROFT, a Senator from the State of Missouri, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I thank the Chair. I compliment the distinguished leader of the prayer, and I compliment the President pro tempore.

I will be glad to yield to my distinguished colleague from North Carolina.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from North Carolina is recognized.

GUEST CHAPLAIN JOHN C. COMPTON

Mr. HELMS. Mr. President, the inspiring prayer which Senators just heard was delivered by the remarkable Dr. John C. Compton, whose church is the home church for Dot Helms and me when the Senate is in session.

The congregation at First Baptist Alexandria includes many good folks from North Carolina, with relatives in our State. Dr. Compton has been senior pastor at First Baptist Alexandria since June 1997, and what an enormous impact he has had. His powerful sermons are always meaningful and helpful. Young adults are flocking to the various services and other events at his church. Dr. Compton's messages to all who hear him are straight from the Bible. He dares to address with candor the moral and spiritual breakdown so evident in America today. That is because his message, without exception, emphasizes the hope available to all who will follow and embrace the precepts and faith of our Founding Fathers.

John and Teresa Compton have two daughters, Sarah and Rachel. Dr. Compton's father, deceased, and his mother served as missionaries in Brazil for a quarter of a century beginning in 1950.

Numerous staff members from Capitol Hill attend First Baptist Alexandria, including several from my own office. A warm welcome is extended to the Senate's guest Chaplain for today, Dr. John C. Compton. And for my part, Mr. President, I am genuinely grateful for what this remarkable minister has meant to Dot Helms and me and countless others.

I thank the Chair and I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1650, which the clerk will report.

The legislative assistant read as follows:

A bill (S. 1650) making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2000, and for other purposes.

Pending:

Abraham (for Coverdell) amendment No. 1828, to prohibit the use of funds for any program for the distribution of sterile needles or syringes for the hypodermic injection of any illegal drug.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, on behalf of the leader, I have been asked to announce that we will proceed now to the consideration of the bill on Labor, Health and Human Services, and Education. The pending amendment is one offered by the distinguished Senator from Michigan, Mr. ABRAHAM.

We are culling the list, and we have it now in reasonable shape so that I do believe that if we are able to have a couple of very contentious amendments not acted upon and proceed promptly, we can complete action on this bill today.

The leader has asked me to announce that following completion of the Labor-HHS appropriations bill, it is the intention of the leader to consider the Agriculture appropriations conference report, and the Senate may also consider any other conference reports available for action.

When we move beyond Senator ABRAHAM's amendment, the next amendment to be offered is by Senator BINGAMAN. It is hoped that we could get reasonably short time agreements.

I would ask if we may proceed now, as we had on so many matters yesterday, with a 30-minute time agreement equally divided on this pending amendment.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Mr. President, reserving the right to object for just a moment, could we look at it for a second, the second degree?

Mr. ABRAHAM. Here is a copy.

Mr. SPECTER. While the Senator from Minnesota and the Senator from Nevada are taking a look at it, Mr. President, this would be a good time for me to say that we hope that anyone who wishes to offer amendments will come to the floor promptly so that we can inventory the amendments and try to establish time agreements. We are going to have to move very expeditiously without quorum calls if we do have any realistic chance of finishing the bill today.

Mr. WELLSTONE. Mr. President, the time agreement is fine on our side.

Mr. SPECTER. Thirty minutes equally divided, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Thirty minutes equally divided on the second degree.

Mr. SPECTER. The same agreement we had yesterday with respect to 30 minutes on second degrees.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The PRESIDING OFFICER. Without objection, the time on the second-degree amendment will be 30 minutes equally divided.

Under the previous order, the Senator from Michigan, Mr. ABRAHAM, is recognized to speak on amendment No. 1828.

Mr. ABRAHAM. Mr. President, before I speak, may I clarify, I believe I am speaking on the second-degree amendment?

The PRESIDING OFFICER. The second-degree amendment has not been offered.

AMENDMENT NO. 2269 TO AMENDMENT NO. 1828

(Purpose: To prohibit the use of funds for any program for the distribution of sterile needles or syringes for the hypodermic injection of any illegal drug)

Mr. ABRAHAM. Mr. President, I call up amendment No. 2269.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative assistant read as follows:

The Senator from Michigan [Mr. ABRAHAM], for himself, Mr. COVERDELL, Mr. GRASSLEY, Mr. ASHCROFT, and Mr. SMITH of New Hampshire, proposes an amendment numbered 2269 to amendment No. 1828.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert the following:

Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug. This provision shall become effective one day after the date of enactment.

Mr. ABRAHAM. Mr. President, I rise to join Senator COVERDELL in offering this amendment to the Labor, Health and Human Services appropriations bill. Our amendment would prohibit the expenditure of taxpayer dollars on programs that provide free hypodermic needles to drug addicts.

In the past, President Clinton, through his Secretary of Health and Human Services, Donna Shalala, has tried to lift the ongoing ban on federal funds for needle exchange programs. His reasoning? Such programs could reduce the rate of HIV infection among intravenous (IV) drug users without increasing the use of drugs like heroin.

Unfortunately, the evidence we have to date suggests that each of these suspicions is wrong. We now know beyond a reasonable doubt that needle exchange programs actually increase both the rate of HIV infection and the use of IV drugs.

What is more, they send the wrong message to our children. And they hurt our communities.

This administration has claimed a great deal of credit for the recent drop in some categories of drug use.

I don't want to downplay the progress that has been made over the last year.

But we must keep in mind that the improvements were small, and that this administration has a lot of work to do before it can bring us back to the levels of drug use achieved in 1992, the year before President Clinton took office.

The percentage of 8th, 10th, and 12th graders who had used an illicit drug during the previous 30 days dropped between 1997 and 1998, by 0.8 for 8th graders, 1.5 for 10th graders and 0.6 for 12th graders percentage points.

But levels of drug use remain substantially higher than in 1992—in some instances almost twice as high.

In 1992, 6.8 percent of 8th graders, 11 percent of 10th graders, and 14.4 percent of 12th graders reported having used an illicit drug within the past 30 days.

By 1998, even with recent dips, those figures ranged from 12.1 percent for 8th graders to 21.5 percent for 10th graders to 25.6 percent—more than one in four 12th graders.

Now is not the time, Mr. President, to let our guard down in the war on drugs. As we continue to fight our difficult battle with drug abuse, the last thing we need is for Washington to send the message that drug use is okay.

Let me very quickly review some of the overwhelming evidence that has made it crystal clear that needle exchange programs are inherently ill-considered and doomed to failure.

First, we now know that needle exchange programs encourage drug use: Deaths from drug overdoses have increased over five times since 1988.

In addition, we now have clinical studies, including one conducted in Vancouver and published in the Journal of AIDS. That study showed that deaths from drug overdoses have increased over five times in that city since needle exchanges began in 1988. Vancouver now has the highest death rate from heroin in North America.

Such terrible statistics should not surprise us given the lack of basic, commonsense logic in needle exchange programs.

Mr. President, giving an addict a clean needle is equivalent to giving an alcoholic a clean glass.

And once we lose sight of this logic, we have already lost the war on drugs. We have, in effect, handed our streets over to people who do not believe that we should win that war.

Let me cite just one example of the recklessness with which so many of these programs are run. The New York Times magazine in 1997 reported that one New York City needle exchange program gave out 60 syringes to a single person, little pans to "cook" the heroin, instructions on how to inject the drug, and a card exempting the user from arrest for possession of drug paraphernalia.

But needle exchange programs do not have to be run recklessly in order to encourage drug use.

Dr. Janet Lapey with Drug Watch International recently quoted pro-needle activist Donald Grove, who pointed out that "most needle exchange programs . . . Serve as sites of informal organizing and coming together. A user might be able to do the networking needed to find drugs in the half an hour he spends at the street-based needle exchange site—networking that might otherwise have taken half a day."

It's just common sense, Mr. President. If you give an addict more needles, he will use them, drug use will increase, and so will the dying.

And that includes deaths from HIV/AIDS. We now know that needle exchange programs actually increase the spread of this dread disease.

For example, a Montreal study was published in the American Journal of Epidemiology. It found that intravenous drug users in a needle exchange program were more than twice as likely to become infected with HIV as addicts not using such a program.

And the figures from the Vancouver study are astounding. When the Vancouver needle exchange program started in 1988, 1 to 2 percent of drug addicts in that city had HIV. Now 23 percent of drug addicts in Vancouver have HIV.

To put it succinctly, Mr. President, we now know that needle exchange programs are bad for drug users. They promote this deadly habit and they promote the spread of HIV.

But we know more, Mr. President. We also know that needle exchange programs send the wrong message to our kids:

Let me quote President Clinton's own drug czar, General Barry McCaffrey, who said "the problem is not dirty needles, the problem is heroin addiction. . . . The focus should be on bringing help to this suffering population—not giving them more effective means to continue their addiction. One doesn't want to facilitate this dreadful scourge on mankind."

Mr. President, needle exchange programs undermine our drug fighting efforts, and they undermine the very rule of law we all depend on for our safety and freedom.

I urge my colleagues to support our amendment to prohibit taxpayer dollars from being spent on needle exchange programs.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, in the absence of anyone seeking recognition, I ask unanimous consent that the quorum call be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, the Senate bill language, as it currently reads, is as follows: Notwithstanding any other provision of this act, no funds appropriated under this act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug unless the Secretary of Health and Human Services determines that such programs are effective in preventing the spread of HIV and do not encourage the illegal use of drugs.

The amendment, which is now pending, would strike the discretion of the Secretary to make a determination that such a program would be effective in preventing the spread of HIV and would not encourage the use of illegal drugs.

This issue on needle exchange is a highly emotional issue. There is no doubt the reuse of needles by drug addicts does result in the infection of more people with HIV/AIDS. The Secretary of Health and Human Services has never used this waiver language to make a determination that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs. There is dispute on whether clean needles would, in fact, prevent the spread of HIV and whether clean needles would—in fact, could—be used without the encouragement of the use of illegal drugs.

It is the view of the subcommittee and the full committee, which passed this in its present form, that question ought to be left open to the Secretary of Health and Human Services, who has never used this exception and is not likely to use it promiscuously but only if there was a very sound scientific base for doing so. My own preference is to continue the discretion of the Secretary to be able to make this waiver, if the facts and figures show that such a needle exchange would not encourage the use of illegal drugs, that such a legal exchange would prevent the spread of HIV/AIDS.

There is some concern within the community that is interested in having needle exchange that raising this issue again may lead to some broader prohibition, which might even reach private groups. I think that is highly unlikely. But those are concerns that we are trying to resolve in deciding what step to take with response to the Abraham amendment.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. Mr. President, with the support of this side, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, let me just support the remarks of my colleague from Pennsylvania, Senator SPECTER. I understand all the emotion that surrounds this issue, but I think it would be a profound mistake on our part to now pass an amendment that would take away an important discretion from the Secretary of Health and Human Services as to whether or not the needle exchange program is badly needed and would be effective in some of our local communities. I think to have an across-the-board prohibition without taking a really close look at this question could have tragic consequences.

So I say to my colleagues I think if we no longer enable the Secretary of Health and Human Services to have some discretion and to know when Federal funds would make a huge difference, and to make sure this is all being done in an above-board manner, then I think we are passing a prohibition which, in personal terms, will translate into more of our citizens—many of them inner city, many poor, and too many of them children—becoming HIV infected and dying from AIDS. I rise to support the comments of my colleague from Pennsylvania.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, after consulting with the distinguished ranking member, Senator HARKIN, and listening to the comments of the Senator from Minnesota, it is the judgment of the managers that prudence would warrant accepting the Abraham amendment on a voice vote, if that is acceptable to the distinguished Senator from Michigan.

Mr. ABRAHAM. Mr. President, I appreciate the offer. I think we would be prepared to accept a voice vote. My colleague from Georgia is here and had planned to speak briefly on the amendment. So I defer to him if he wishes to have up to 5 minutes.

Mr. SPECTER. Mr. President, before the Senator from Georgia speaks, I want to propound a unanimous consent request. We have Senator BINGAMAN present now. His amendment will be the next one offered. I ask unanimous consent that there be 40 minutes equally divided on the Bingaman amendment, subject to the same terms and conditions on the other time agreements.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, I will just be a moment and yield to the Senator from Michigan so he might call for a voice vote on his amendment.

I want to just quote the administration's own drug czar, General McCaffrey. He said:

> As public servants, citizens, and parents, we owe our children an unambiguous no use message. And if they should become ensnared in drugs, we must offer them a way out, not a means to continue addictive behavior.
>
> The problem is not dirty needles, the problem is heroin addiction . . . the focus should be on bringing help to this suffering population—not giving them more effective means to continue their addiction. One doesn't want to facilitate this dreadful scourge on mankind.

James Curtis, a professor of psychiatry at Columbia University Medical School and Director of Psychiatry at Harlem Hospital, said:

> [Needle exchange programs] should be recognized as reckless experimentation on human beings, the unproven hypothesis being that it prevents AIDS.
>
> Addicts are actively encouraged to continue to inject themselves with illegal drugs, and are exempted from arrest in areas surrounding the needle exchange program.

I can go on and on with expert people involved in the drug war. This is a good amendment. I am pleased that the other side has decided to adopt it. I compliment the Senator from Michigan for bringing it to the floor.

I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ABRAHAM. Mr. President, I believe we had a previous acknowledgment of moving to a voice vote.

Before we do, I thank the Senator from Georgia for his leadership on this issue. Again, our goal is to send a clear message to the children of this country that the Federal Government will not be supporting, in any way, programs that would seem to lead to increases in the uses of drugs, as well as HIV, as it appears in studies.

At this point, I am prepared to yield the remainder of our time.

Mr. REID. The minority yields back our time.

Mr. COVERDELL. As does the majority.

The PRESIDING OFFICER. Without objection, the second-degree amendment is agreed to.

The amendment (No. 2269) was agreed to.

The PRESIDING OFFICER. Without objection, the first-degree amendment, as amended, is agreed to.

The amendment (No. 1828), as amended, was agreed to.

Mr. ABRAHAM. Mr. President, I move to reconsider the vote.

Mr. COVERDELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized.

AMENDMENT NO. 1861

(Purpose: To ensure accountability in programs for disadvantaged students)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, Mr. REED, Mr. KERRY, and Mr. KENNEDY, proposes an amendment numbered 1861.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 52, line 8, after "section 1124A", insert the following: "*Provided further*, That $200 million of funds available under section 1124 and 1124A shall be available to carry out the purposes of section 1116(c) of the Elementary and Secondary Education Act of 1965."

Mr. BINGAMAN. Mr. President, first let me yield myself 6 minutes off of my time at this point.

I am offering this amendment on behalf of myself, Senator JACK REED from Rhode Island and JOHN KERRY from Massachusetts, and I believe they will both be here, I hope, to speak on behalf of the amendment as well.

This amendment is intended to ensure greater accountability in our educational system and in the expenditure of title I funds. Let me make it very clear to my colleagues at the very beginning of this debate, this amendment does not add money to the bill. Instead, it tries to ensure that a small portion of the title I funds that we are going to appropriate in this bill are spent to achieve greater accountability and improvement in the schools that are failing, about which we are all so concerned.

I think we can all agree that greater accountability in our schools is an imperative. It is particularly important to have this accountability where high concentrations of disadvantaged students are in order to ensure that all students have some semblance of equal educational opportunity. Although most States have adopted statewide standards, they have not directed adequate resources to schools that are failing to meet those new standards. Dedicated funds are necessary in order to develop improved strategies in those schools and create rewards and penalties that will hold schools accountable for continuous improvement in their students.

The Federal Government directs over $8 billion, nearly $9 billion, in Federal funding to provide critical support for disadvantaged students under title I. But the accountability provisions in title I have not been adequately implemented due to insufficient resources. Title I authorizes State school support teams to provide support for schoolwide programs and to provide assistance to schools in need of improvement through activities such as professional development or identifying resources for changing the instruction in the school or the organization of the school.

In 1998, however, only eight States reported that school support teams have been able to serve the majority of the schools identified as needing improvement. Less than half of the schools identified as being in need of improvement in the 1997-1998 school year reported that this designation of being a school needing improvement led to additional professional development or assistance.

Schools and school districts need additional support and resources to address weaknesses soon after those weaknesses are identified. They need that support to promote a progressively intensive range of interventions, continuously assess the results of those interventions and implement incentives and strategies for improvement.

The bill before the Senate does not identify specific funds for accountability enforcement efforts. I believe we need to ensure that a significant funding stream is provided to guarantee these accountability provisions are enforced.

This amendment seeks to ensure that 2.5 percent of the funds appropriated to LEAs under title I—that is $200 million in this year's bill—is directed toward this objective. This money is to be used to ensure that States and local school districts have the necessary resources available to implement the corrective action provisions of title I by providing immediate and intensive interventions to turn around low-performing or failing schools.

The type of intervention that the State and the school district could provide using these funds includes a variety of things. Let me mention a few:

One would be purchasing necessary materials such as updated textbooks and curriculum technology.

The second would be to provide intensive, ongoing teacher training. Inadequate training of teachers has been a problem in many of the failing schools.

A third would be providing access to distance learning where they don't have the teachers on site who can provide that instruction.

Fourth, extending the learning time for students through afterschool or Saturday programs or summer school programs so students can catch up to the grade level at which they should be performing.

Next, providing rewards to low-performing schools that show significant improvements, including cash awards or other incentives such as release time for teachers.

Sixth, intensive technical assistance from teams of experts outside the schools to help develop and implement school improvement plans in failing schools. The teams would determine the causes of low performance—for example, low expectations, an outdated curriculum, poorly trained teachers or unsafe conditions—and provide assistance in implementing research-based models for improvement.

One example of the type of research-based school improvement model that needs to be introduced in failing schools and can be introduced in failing schools with the resources we are earmarking in this amendment is the Success for All Program. This program is a proven early grade reading program in place now in over 1,500 schools around the country, some in my own State of New Mexico. At the end of the first grade, Success for All Program schools have average reading scores almost 3 months ahead of those in matching controlled schools. By the end of the fifth grade, students read more than 1 year ahead of their control group peers. This program can reduce the need for special education placements by more than 50 percent and virtually eliminate retention of students in the grade they have just completed.

This Success for All Program incorporates small classes, regular assessments, team learning, and parental involvement into a comprehensive reading program based on phonics and contextual learning techniques. In order to implement this program, however, schools need resources, particularly in the first year. The estimated costs is about $62,000 for 500 students in that first year; that decreases substantially to about $5,000 per year in the third year the program is in place. They must provide the initial training for the school's principal, the facilitators, the teachers, and 23 days of onsite training and curriculum materials.

This is the kind of program of which we need to see more. It is the kind of program for which the funds we would earmark in this amendment would be made available. In my view, this is the type of thing the American people want to see. Instead of just sending another big check, let's try to attract some attention to the strategies we know will work so the failing schools can move up and the students who attend these schools can get a good education.

I see my colleague, Senator REED. I reserve the remainder of my time and yield 5 minutes to the Senator from Rhode Island, Mr. REED.

Mr. REED. Mr. President, I rise to support the amendment sponsored by my colleague from New Mexico. I commend him for his commitment and dedication.

During the 1994 reauthorization of the Elementary and Secondary Education Act, I was a member of the other body. There I proposed an accountability amendment in committee which strengthened our oversight and accountability for title I and other elementary and secondary school programs. When we came to the conference, it was Senator JEFF BINGAMAN of New Mexico who was leading the fight on the Senate side to ensure accountability was part and parcel of the 1994 reauthorization of the Elementary and Secondary Education Act. I am pleased to work with him today on this very important amendment.

What we propose to do is to provide $200 million so the States can move from talking about accountability and intervening in low-performing schools to actually taking the steps to do just that. There are scarce Federal dollars that we provide for elementary and secondary education programs, the principal program being title I. Although we allocate $8 billion a year for title I, there still appears to be insufficient resources to ensure that accountability reforms and oversight are effectively taking place in our schools.

This amendment provides for those resources. It ensures we get the best value for the money we invest in title I. It allows schools to not only provide piecemeal services to students but to look and seek out ways to reform the way they educate the students in their classrooms.

We will continue as the reauthorization of the Elementary and Secondary Education Act approaches to stress this issue of accountability. But today we have an opportune moment to invest in accountability and school reform. What we find is that the States, either through lack of financial resources, lack of focus, or due to other commitments and priorities, are not intervening in low-performing and failing schools as they should. They are not directing the kind of school improvement teams, for example, that have been authorized under title I. This amendment gives them not only the incentive but the resources to do that. In effect, what we are trying to do is make title I not just a way to distribute money to low-income schools but to stimulate the reform and improvement of these schools.

It should be noted that the amendment targets the lowest performing schools to try to lift up those schools which are consistently failing their students. We all know if the schools are not working, these young people are not going to get the education they need and require to be productive citizens and workers and to contribute to our community and to our country. That is at the heart of all of our efforts on both sides of the aisle in the Senate.

It is vitally important to turn around the lowest performing and failing schools. The 1994 reauthorization focused attention in the States on accountability, improvement, and reform. The States have taken steps to adopt accountability systems. But today we are here to give States and school districts the tools to ensure the job of turning around failing schools can be done effectively and completely. I urge passage of this amendment.

Once again, I commend the Senator from New Mexico for his leadership and look forward to working with him as we undertake the reauthorization of the Elementary and Secondary Education Act in the months ahead.

I yield whatever time I have.

Mr. BINGAMAN. Mr. President, how much time remains on our side?

The PRESIDING OFFICER (Mr. ROBERTS). The Senator has 8 minutes 10 seconds remaining.

Mr. BINGAMAN. I yield 3 minutes to the Senator from Massachusetts, Mr. KENNEDY.

The PRESIDING OFFICER. The distinguished Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I congratulate Senator BINGAMAN, Senator REED, and Senator WELLSTONE for this particular proposal. Effectively, what they are saying is we want to improve low-performing schools and we want to do it now—not wait until next year. It is reasonable to ask whether this kind of effort can be productive and whether it can be useful. I want to raise my voice and say: Absolutely.

I had the opportunity to visit the Harriet Tubman Elementary School in New York City, one of the lowest-performing schools in the city, where 99 percent of the children come from low-income families. After being assigned to the Chancellor's District—a special school district created for the lowest-performing schools—school leaders, parents, and teachers devised a plan for comprehensive change. The school adopted a comprehensive reform program including an intensive reading program.

By 1997–98, it had been removed from the state's list of low-performing schools and reading scores had improved; the percentage of students performing at or above grade level on the citywide assessment had risen from 30 percent in 1996, to 46 percent.

We have instance after instance where that has happened. At Hawthorne Elementary school in Texas, 96 percent of the students qualify for free lunch and 28 percent of the students have limited English language skills.

In 1992–93, Hawthorne implemented a rigorous curriculum to challenge students in the early grades. In 1994 only 24 percent of students in the school passed all portions of the Texas Assessment of Academic Skills. In 1998, almost 63 percent of students passed this test, with the largest gains over the period being made by African American students.

The States themselves have been reluctant to use scarce resources when we have not had adequate funding for the Title I program. The Bingaman amendment sets aside a specific amount of resources that will be out there and available to help those particular schools. This makes a great deal of sense.

I hope our colleagues will support the Bingaman-Reed-Wellstone amendment. These students have spent enough time in low-performing schools, and deserve much better. The time is now to take action to fix these schools. The nation's children deserve no less.

Mr. BINGAMAN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Chair will observe if neither side yields time, the time will be taken from both sides and equally charged.

Mr. BINGAMAN. Mr. President, I yield 2 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The distinguished Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I probably will not even take 2 minutes.

I rise to support the Bingaman amendment. I appreciate what my colleague from New Mexico said earlier in his remarks, which was that the focus on accountability is terribly important. We also have to make sure we invest the resources that will enable each child to have the same opportunity to succeed. I think that is extremely important as well. The two go together.

But I do believe this is very helpful to States. It is very helpful to low-income children. I think it is terribly important that States devise and put into effect strategies that make sure we have the highest quality title I programs, which are, after all, all about expanding opportunities for low-income children, dealing with the learning gap, enabling a child to do well in school and therefore well in his or her life.

I applaud his emphasis on accountability and rise to indicate my support.

Mr. KERRY. Mr. President, the amendment before us today provides a chance not just to make this spending bill better and stronger, not just to move forward by completing another stage of the budget process the American people are already unsure we can complete, but to take this spending bill and use it as a real vehicle for reform of our public schools. Today we can make the single largest investment in accountability ever at the Federal level—today we can help serve as a catalyst for the innovative and, I think, critical reform efforts taking shape around this country. The amendment would reserve $200 million of title I funds for disadvantaged children to provide assistance and support to low-performing schools. This amendment will compel school districts to take strong corrective actions to improve consistently low-performing schools. Passage of this amendment signals our commitment to the public schools. Our commitment to their success. And our commitment to ensuring failing schools turn around.

For too long in this Nation we have tolerated low standards and low expectations for our poor children. The standards movement has begun to turn the tide on low expectations and we must build on that momentum and demand accountability from schools that fail our children. We have this opportunity at a time when the American people are telling us that—for their families, for their futures—in every poll of public opinion, in every survey of national priorities—one issue matters most—and it's education. Good news for all of us who care about education, who care about our kids. But the bad news is, the American people aren't so sure we know how to meet their needs anymore. They aren't even so sure we know how to listen.

Every morning, more and more parents—rich, middle class, and even the poor—are driving their sons and daughters to parochial and private schools where they believe there will be more discipline, more standards, and more opportunity. Families are enrolling their children in charter schools, paying for private schools when they can afford them, or even resorting to home schooling—the largest growth area in American education.

This amendment comes at an important time for our schools, you might say it comes at an even more important time for this Congress. We have to break out of the ideological bind we've put ourselves in—we can't just talk about education—it's more than an issue for an election—we've got to do something about it. Parents in this country believe that public schools are in crisis and despite a decade of talk about reform, they give them no higher grade than a decade ago. 67 percent are dissatisfied with the way public education is working; 66 percent use the word crisis to describe what's going on in our schools today. But the American people—at times more than we seem to be in the Senate—are firmly committed to fixing our public schools—fixing our schools—not talking about fixing them, not using kids as pawns in a political chess game.

It boils down to one fundamental, overriding concern: Americans want accountability for performance and consequences for failure in the public school system. Americans support a variety of innovative approaches to improving education—it's actually Washington that is more afraid of change than the citizens who sent us here. And it is time for us to be a catalyst for change—to help facilitate more innovation, not less—to improve the state of education in America: to address the problem of reading scores that show that of 2.6 million graduating high school students, one-third are below basic reading level, one-third are at basic, only one-third are proficient and only 100,000 are at a world class reading level.

The time to lay down the marker of accountability for student performance is now. That's why today's discussion is so important—because we have the opportunity today to do it—to stop talking past each other—and to deliver on the most important principle of real education reform—accountability.

When schools begin to fail, when there is social promotion, when kids are being left behind, we need to hold those schools accountable for taking those best practices and turning around low performing schools not 5 years from now, not some time in the future, not after another study, but today—now. And if we can commit ourselves to that kind of accountability then we will have taken an incredible leap forward, not just building public confidence in public education, but in making all our schools better. It is past time that we coalesce around an approach to reform grounded in four simple concepts: high standards; teaching to those standards; giving every student the opportunity to meet those standards; and building strict accountability into the system to make those standards meaningful.

Mr. President, 49 States have embraced or will soon embrace meaningful standards; there should be no partisan divide over this issue—and now is the time for us all to embrace the policies which empower our teachers to teach to standards and give every student the real opportunity to meet high standards. Now is the time for us to embrace the accountability that has worked so well for real leaders like Gov. Tom Carper in Delaware, and Mayor Daley in Chicago—now is the time for us to say not just that we hope schools will meet high standards, but that we'll work with them—holding them accountable—to get them there. It's time for us to say that we're willing—in our title I spending—to hold schools accountable for meeting those high benchmarks—to reach out to low performing schools and give them the intensive help they need to turn things around and help raise student performance. It boils down to real accountability—to acknowledging that though the Federal role in education, in terms of pure spending, has been relatively small, it does provide the leverage—if we are willing to embrace it—to empower schools in need of reform to turn themselves around rapidly—to cut through layers of bureaucracy—to access new resources—to shake up staff—and, if need be, to reconstitute itself—to become a new school in a fundamental sense—or to turn itself into, essentially, a charter school within the public school system. We know that title I itself, with the early accountability reforms already in place have raised accountability—but I would say that in this amendment we could do so much more—and we should.

Consider the impact more accountability would make—the ability we would have to truly adhere to high standards throughout the system: to raise teacher quality; reform certification; provide mentoring and ongoing education; embrace merit pay; higher salaries; and end teacher tenure as we know it.

Consider the ability to hold schools accountable for our childrens' needs—to say that we will not allow schools to be the dumping ground for adult problems—and to acknowledge that we need to fill those hours after school with meaningful study—curriculum—and mentoring.

Consider the ability to hold students accountable for discipline and violence: to allow schools to write discipline codes and create second chance schools: to eliminate the crime that turns too many hallways and classrooms into arenas of violence.

We need to do these things now—to be willing to challenge the status quo—to do more for our schools, to help every student achieve, to guarantee reform when they don't—and—in no small measure—to renew the promise of public education for the 21st century.

This will not happen overnight, but it will happen. I look forward to joining with all of my colleagues in that effort: to pass this amendment, to make accountability the foundation of reform, and to face the challenge of fixing our public schools together.

Mr. BINGAMAN. Mr. President, I ask unanimous consent two letters be printed in the RECORD at this point, one from Michael Davis, who is the superintendent of public instruction from my home State of New Mexico, and the other from Gordon Ambach, who is the head of the Council of Chief State School Officers. The first letter from Mr. Davis is in support of the amendment. The second letter supports providing additional funds to States to implement the accountability provisions of title I. Mr. Ambach had not seen the amendment yet when he wrote that letter.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STATE OF NEW MEXICO,
DEPARTMENT OF EDUCATION,
Santa Fe, NM, October 6, 1999.

Hon. JEFF BINGAMAN,
U.S. Senate, Washington, DC.

DEAR SENATOR BINGAMAN: I write to applaud your efforts to secure a dedicated source of funding for States and local school districts to implement the accountability provisions of Title I. As you know, we have been working hard in New Mexico to raise standards and implement a rigorous accountability system. We will be unable to successfully implement high standards and accountability, however, unless we are able to provide local districts with additional resources to help them address weaknesses in their educational programs and to turn around failing schools. I believe that your amendment seeking to direct $200 million for this purpose will go a long way towards ensuring proper enforcement of the accountability provisions under Title I.

Thank you for your efforts. Please let me know if I can be of assistance to you.

Sincerely,

MICHAEL J. DAVIS,
State Superintendent of Public Instruction.

COUNCIL OF CHIEF STATE SCHOOL OFFICERS,
Washington, DC, June 22, 1999.

Member, House Education and the Workforce Committee,
U.S. House of Representatives, Washington, DC.

RE: Provisions for Program Improvement in Reauthorization of ESEA Title I—The need for greater funding

DEAR REPRESENTATIVE: Title I of the Elementary and Secondary Education Act (ESEA) now includes very important provisions for the identification in each state of those schools with lowest levels of student achievement and most in need to program improvement. This provision earmarks funds for the state education agency (SEA) to assist local education authorities and these schools with their strategies to improve achievement. This state role is authorized on the assumption that if the district and school had the capacity internally to improve; improvement would have occurred and be reflected by increased achievement scores. Unfortunately, the analysis of Title I school by school test scores reveals that nearly 7,000 schools have continuing low performance over the years and need "external" program improvement help. The problem is that the federal appropriation for program improvement is far too small to serve 7,000 schools effectively.

An increase in the state education agency (SEA) set-aside for program improvement is urgently needed to help the 7,000 lowest performing schools in the nation build capacity, improve student achievement and meet new accountability requirements for student progress. As your Committee develops a bill to reauthorize Title I for introduction and markup, we urge a substantial increase in the funds set-aside for improving programs in schools where students are not making adequate progress toward achieving state standards. The current ½ of 1% of each state's total Title I allocation which may be set-aside for program improvement provides only $40 million of the $8 billion program for SEAs to fulfill the required activities for schools identified as needing improvement. An increase to 2.5% by FY2001 and 3.5% by FY 2004 as proposed by the Administration is critical to provide $200 million to $300 million to serve the 7,000 schools with support teams, mentors, distinguished educators, additional comprehensive school reform efforts, professional development and other forms of technical assistance called for in the bill.

Increased program improvement funding is the right strategy for these reasons:

(1) All program improvement funds are used directly to raise quality in the classrooms of the lowest performing Title I schools. Under the Administration proposal for ESEA reauthorization, 70% of the funds authorized for program improvement must be allocated by the SEA to the LEA to carry out its program improvement activities in failing schools according to its local plan approved by the SEA. The remaining 30% of the program improvement funds will be used by the SEA for direct support and assistance to the classrooms of such schools. This state service assures that both the state and local districts are partners in bringing external resources to help teachers and leaders in those schools. All of the uses of funds for program improvement are defined as the "Dollars to the Classroom" bill of the same title. All of these funds support improvement in the classrooms which most need the help.

(2) The current $40 million which is available under the .5% set-aside is woefully inadequate for SEAs and districts to serve and improve low-performing schools. This amount is grossly insufficient to fulfill the requirements and needs of the almost 7,000 schools already identified as needing improvement. The average amount available now per school is only $5,715 per year. New provisions expected in the reauthorization for school support teams, distinguished educators and mentors, technical assistance to adopt and implement research-based models for improved instruction, and professional development for teachers and school leaders in methods which assure student success require more resources per school. The need will increase substantially for schools identified as needing improvement as states and districts continue to implement challenging standards and assessments for all students. Proposed accountability requirements to assure all students are continually learning the skills necessary to achieve on grade level and comparability of teacher quality in each school will add to the challenges for schools in need of improvement and must be met with increased external support.

(3) Although Title I is the single largest federal elementary and secondary program, Title I has the smallest proportion of funds devoted to administration, support and assistance, and quality control monitoring of any of the major federal programs. The Individuals with Disabilities Education Act (IDEA) has 25%, and the Perkins Vocational-Technical Education Act has 15% with an additional 10% directed by the state to rural and urban areas through competitive grants. Only 1% of the Title I total is authorized for states to operate and support all eligible schools in a program which expends $8 billion in federal taxpayers' funds to serve 11 million students in 45,000 schools in 90% of the nation's school districts. The amount of funds devoted to state and locally assisted program improvement in the lowest-performing schools is an additional 0.5%. State capacity for helping title I districts and schools is significantly underfunded and therefore underused. Congress should rely on state level assistance for Title I, as it does for IDEA, Perkins Vocational-Technical Education, Technology Challenge Grants, and other federal programs. Leveraging substantial, sustained gains in student achievement in these schools requires a far stronger investment in state assistance than in the current law.

We hope these comments are helpful as you develop this critical piece of legislation. We urge you to act on them. Please feel free to call us at (202) 336-7009 if you have any questions or find we can be of further assistance.

Respectfully Submitted,

GORDON M. AMBACH,
Executive Director.

Mr. BINGAMAN. Mr. President, let me read a few sentences from the letter from Michael Davis. He is a very capable, respected, State school superintendent from my State. He writes:

DEAR SENATOR BINGAMAN: I write to applaud your efforts to secure a dedicated source of funding for States and local school districts to implement the accountability provisions of Title I. As you know, we have been working hard in New Mexico to raise standards and implement a rigorous accountability system. We will be unable to successfully implement high standards and accountability, however, unless we are able to provide local districts with additional resources to help them address weaknesses in their educational programs and to turn around failing schools. I believe that your amendment seeking to direct $200 million for this purpose will go a long way towards ensuring proper enforcement of the accountability provisions under Title I.

Then, in the letter from the executive director, Mr. Ambach, of the Council of Chief State School Officers, the point that is made strongly is that the current $40 million that is available under the 0.5-percent set-aside for States is woefully inadequate for local school districts to serve and improve low-performing schools. I think those two letters speak very strongly in favor of what we are trying to do.

I very much appreciate the support of Senator KENNEDY, Senator WELLSTONE, Senator REED, and Senator KERREY.

Let me say a few other things before my time is up. How much time remains on my side?

The PRESIDING OFFICER. The Senator has 1 minute 50 seconds.

Mr. BINGAMAN. Mr. President, this amendment, as I have said before, should not be a partisan issue. I know many of the amendments that have been brought to the Senate floor in recent days and weeks and even months have been voted along partisan lines. This amendment should not be. The need for accountability is not a partisan issue.

Just yesterday, Governor Bush from Texas talked about his plan for improving accountability in title I schools. Under his plan, school districts and schools would have to show improvement in test performance. If schools improved, they would be rewarded with additional funds. If schools did not improve in 5 years, those funds would be taken and given to parents or students in vouchers of $1,500 each.

The problem with this proposal is it provides the stick, a very big stick with dire consequences for schools that do not perform, but it does not provide resources to help those schools avoid that failure. This proposal says if you can figure out how to turn your school around with the meager resources you have, fine; if you cannot, then we will let the clock run out and then take the money away, so your odds against succeeding become insurmountable.

What this amendment will do is provide that assistance to those schools immediately when the failing nature of that school is recognized. I think this is an extremely important amendment. It is something we ought to do. I hope this is considered by each Senator as a good-faith effort to better use the funds we are spending in this bill.

Once again, I remind all my colleagues, this amendment does not add money to the bill. This is not a question of whether we are going to spend more or less on education. It is a question of how effectively we can spend the funds we are going to spend.

Mr. President, I gather my time is up. I yield the floor at this time and wait for the response, if there is any opposition to the amendment, which I certainly hope there is not.

The PRESIDING OFFICER. Who yields time in opposition?

Without objection, the Chair, acting in my capacity as an individual Senator from Kansas, notes the absence of a quorum, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, the Bingaman amendment will provide $200 million from the funds the committee provided for basic and concentration grants to support State and local accountability efforts to identify school failure and provide progressively more interventions to turn around the performance of the local school. Under the current law, States may now reserve 0.5 percent for such activity. This amendment would set aside $200 million, or 2.5 percent, specifically for State and local accountability efforts. States would not, therefore, be given the choice of whether or not to spend funds for accountability purposes which resemble very much a mandate. This amendment would take education funds away from States to educate low-income students. Most States already have adopted statewide accountability systems that include State assessments to measure whether students are meeting State standards, report cards that summarize performance of individual schools, and rating systems that determine whether a school's performance is adequate.

The authorizing committees have not had the opportunity to carefully examine the issue of whether to increase the amount set aside for accountability. Hearings should be held where States can express their views, and this issue should be addressed during the reauthorization of the Elementary and Secondary Education Act.

Mr. President. how much time remains on our side?

The PRESIDING OFFICER. The Senator from Georgia has 12 minutes 42 seconds.

Mr. BINGAMAN. Mr. President, may I ask if the Senator will yield for a question?

Mr. COVERDELL. I would be glad to yield for a question.

Mr. BINGAMAN. Mr. President, I was informed that the Governors Association supports this amendment, and that the States would want the initial ability to use these funds. Does the Senator have information to the contrary? I know he raised a concern about requiring States to do something different. My information is that this is the authority they would want.

Mr. COVERDELL. I am advised by the committee staff that we don't have the same information the Senator has just expressed, so I cannot comment one way or the other.

Mr. BINGAMAN. Mr. President, I might just respond that we will try to get that information to the Senator from Georgia before the vote occurs at 11:30.

Mr. COVERDELL. Very good. I appreciate the comment of the Senator.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Would it be in order for me to call up my amendment in order to move on? I ask unanimous consent to set aside the pending amendment and call up amendment numbered 1842.

The PRESIDING OFFICER. Is there an objection to setting aside the amendment?

Mr. COVERDELL. Mr. President, reserving the right to object——

Mr. WELLSTONE. Just to be clear to colleagues, I thought we were finished and were trying to move along. I am willing to wait, if Senator BINGAMAN wishes to continue.

Mr. COVERDELL. We may wish to continue.

Mr. WELLSTONE. Very well.

Mr. COVERDELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I wonder whether I could ask unanimous consent for 3 minutes as in morning business to make a statement while we are in deliberations. I ask unanimous consent to be able to do that.

The PRESIDING OFFICER. Is there objection?

Mr. COVERDELL. Mr. President, I do not object to yielding 3 minutes of time as in morning business, and that following that we go back to this.

Mr. WELLSTONE. Absolutely. I am trying to make the best use of our time, Mr. President.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

MERGERS IN THE MEDIA AND COMMUNICATIONS INDUSTRIES

Mr. WELLSTONE. Mr. President, we are in the midst of an unprecedented wave of mergers and concentration in the media and the communications industries. We are talking about the flow of information in democracy and whether a few are going to control this. But instead of doing anything about it, to protect American consumers or to safeguard the flow of information that our democracy depends upon, I am troubled by efforts underway to undermine protections that are already on the books.

I cite that the CBS-Viacom merger announced last month would be the biggest media deal ever. Today, the FCC announced its approval of a merger between SBC and Ameritech. On Tuesday, Clear Channel Communications announced that it is buying AMFM to create a huge radio conglomerate with 830 stations that will dominate American radio.

I am amazed so few people are concerned about these developments. The reason I rise to speak about this is that when FCC Chairman Bill Kennard is so bold as to point out that the MCI-Sprint deal would undermine competition, he is simply doing his job. I want to say on the floor of the Senate, he should not be punished for doing his job.

Last year, when the FCC approved the merger of Worldcom and MCI, Chairman Kennard said the industry was one merger away from undue concentration. Now this merger would be the one that pushes us over the top.

So when Antitrust Division Chief Joel Klein of the Justice Department brings some very difficult cases to enforce our country's antitrust laws, he is simply doing his job. When FCC Chairman Bill Kennard raises these kinds of questions, he is simply doing his job.

We cannot expect these agencies to enforce our laws, to do their job, if we take away their budgets or their statutory authority every time they do it. We need to strengthen our review of these mergers. We need to strength our antitrust laws, on which I think we have to do much better. And we need to give the Justice Department, the FTC, and the FCC the resources they need to enforce the law.

So more than anything else, I rise to support Bill Kennard's concerns, to tell him he is doing his job, and urge my colleagues to understand that he has an important responsibility to protect the consumers. The flow of information in our democracy is the most important thing we have. He certainly should not be punished for doing his job and doing his job well.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—Continued

Mr. BINGAMAN. Mr. President, is there time remaining on the amendment I have offered?

The PRESIDING OFFICER. There is not. All time has expired.

Mr. BINGAMAN. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the vote occur in relation to the Bingaman amendment at 11:15, with 2 minutes equally divided prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. BINGAMAN. Mr. President, may we have 4 minutes equally divided?

Mr. COVERDELL. I change the unanimous consent to ask that we have 4 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Minnesota.

AMENDMENT NO. 1842

(Purpose: To express the sense of the Senate regarding the importance of determining the economic status of former recipients of temporary assistance to needy families)

Mr. WELLSTONE. I ask unanimous consent to set aside the pending amendment, and I call up amendment No. 1842.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 1842.

The amendment is as follows:

At the appropriate place add the following:

SEC. . It is the sense of the Senate that it is important that Congress determine the economic status of former recipients of assistance under the temporary assistance to needy families program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

Mr. WELLSTONE. Mr. President, let me first explain this amendment to colleagues and then marshal my evidence for it.

I believe we will have a good, strong vote on the floor of the Senate for this amendment. I have introduced a similar amendment in the past, which lost by one vote, but I have now changed the amendment which I think will make it more acceptable to colleagues.

In the 1996 welfare law we passed, we set aside $1 billion for high-performance bonuses to go to States, and currently this money goes to States. The way it works is, it uses a formula that takes into account the State's effectiveness in enabling TANF recipients to find jobs, which is terribly important. The whole goal of the welfare bill was to move families from welfare dependency to becoming economically independent.

This amendment would add three more criteria. We have had, in the last year or two, a dramatic decline in food stamp participation, about a 25-percent decline. This should be of concern to all of us because the Food Stamp Program has been the most important safety net program for poor children in our country. Indeed, it was President Nixon, a Republican President, who, in 1972, federalized this program and said: One thing we are going to do as a national community is make sure children aren't going hungry in our country. We are going to make sure we have a program with national standards and that those families who are eligible to participate are, indeed, able to obtain this assistance.

In addition, what we want to find out is the proportion of families leaving TANF who were covered by Medicaid or health insurance. Families USA, which is an organization that has tremendous credibility with all of us, issued a disturbing report a few months ago. To summarize it, because of the welfare bill, there are about 670,000 Americans who no longer have any health care coverage.

Maybe that is worth repeating. Because of the welfare bill, there are about 670,000 Americans who no longer have any coverage. Since about two-thirds of welfare recipients have always been children—this was, after all, mainly for mothers and children—we want to make sure these children and these families still have health care coverage.

We want to also make sure we get some information about the number of children in these working families who receive some form of affordable child care. In other words, again, what we want to find out is, as families move from welfare to work, which is the goal—and I think work with dignity is terribly important—we also want to make sure the children are OK.

Again, I will use but one of many examples. It will take me some time to develop my argument, but one very gripping example, I say to the Chair, is when I was in east LA, I was meeting with a group of Head Start mothers. As we were discussing the Head Start Program and their children, one of the mothers was telling me she had been a welfare mother and was emphasizing that she was working. Indeed, she was quite proud of working. In the middle of our discussion, all of a sudden she became upset and started to cry.

I asked her: If I am poking my nose into your business, pay no attention to me, but can you tell me why you are so upset? She said: The one problem with my working is when my second grader goes home—she lived in a housing project; later I visited that housing project—it is a pretty dangerous area. It used to be I could walk my second grader to school, and then I could walk her home, make sure she was OK. I was there with her. Now I am always frightened, especially after school. I tell her to go home, and I tell her to lock the door. I tell her not to take any phone calls because no one is there.

It makes us wonder how many children are in apartments where they have locked the door and can't take any phone calls and can't go outside to play, even when it is a beautiful day. I think we do need to know how the children are faring and what is going on. Again, this is a matter of doing some good policy evaluation.

Finally, for those States that have adopted the family violence option, which we were able to do with the help of my wife Sheila and Senator PATTY MURRAY, we want to know how well they are doing in providing the services for victims of domestic violence. This is important. The family violence option essentially said we are not saying these mothers should be exempt. What we are saying is there should be an opportunity for States to be able to say to the Federal Government—it would be up to States, and they would not be penalized for that—look, this woman has been battered and beaten over and over again and we are not going to get her to work as quickly as we are other mothers; there are additional support services she needs. When she goes to work, this guy is there threatening her. Because of these kinds of circumstances, please give us more flexibility.

We want to find out how these States are dealing with that. Otherwise, what happens is if you don't have that kind of flexibility, then a mother finds herself sanctioned if she doesn't take the job; but she can't really take the job and, therefore, the only thing she ends up doing is going back into a very dangerous home. She has left, she has tried to get away, and she is trying to be safe. If you cut off her assistance, then she has no other choice but to go back into a very dangerous home.

That should not happen in America. By the way, colleagues, I know it is an incredible statistic, but October is the month we focus on violence in homes. I wish it didn't happen. About the most conservative statistic is that every 13 seconds a woman is battered in her home in our country. I can't even grasp the meaning of that. A home should be a safe place.

As I have said before—and I hope my colleagues, Senator HOLLINGS and Senator JUDD GREGG, will help me keep this in conference committee—about 5 million children see this violence. So we talk about the fact children should not see the violence in movies and on television. A lot of them see the violence right in their homes. It has a devastating impact on their own lives. We need to make sure these kids don't fall between the cracks and that we provide some services.

I am going to start out in a moment with some examples. I am talking about nothing more than good policy evaluation. Let me wear my teacher hat. All I am saying—and we can disagree or agree about the bill, on should we have passed it or not, and some things are working well but some have questions; I have questions—let's at least do some good thorough policy evaluation. We are saying that the States just merge their tapes —they have the data—and present it to Health and Human Services. We have a report. We know what is going on in these areas.

This is a sense-of-the-Senate amendment because, otherwise, I would have been subject to a rule XVI point of order. I hoped I would not have had to do a sense of the Senate because, under normal circumstances, we would have had the House bill over here. If the House bill had been over here, then I could have introduced this amendment, and I would not have been subject to any rule XVI challenge. Since that has not happened, what I am doing is bringing this amendment out, getting, I hope, a good, strong vote, and if the House does, in fact, move forward with some work and gets the Labor-Health and Human Services Appropriation bill passed, then I will bring this amendment back as a regular amendment. I say to colleagues, all the time I spend today will have been well spent, and we can have 5 minutes of debate and then vote on it. In a way, I am trying to move us forward in an expeditious manner.

When we are talking about families that are worried about whether they can put food on the table or worried about whether they can pay the rent at the end of the month, I don't think they much care whether or not my amendment is subject to rule XVI; I don't think they much care whether or not this is an amendment on an appropriations bill; I don't think they much care about why the House hasn't sent an appropriations bill over to the Senate. What they care about are more pressing issues.

What I am concerned about is that there is, indeed, a segment of our population who are very poor, the majority of whom are children, who are, indeed, falling between the cracks. Let me also say at the very beginning that I think this is the question: Since the welfare bill passed, we have reduced the rolls by about 4.5 million people, the majority of them children. That has been about a 50-percent reduction in the welfare population. The question is whether or not the reduction of the welfare rolls has led to a reduction of poverty because the goal of the legislation was to move these families to some kind of economic self-sufficiency and certainly not to put them in a more precarious situation.

I think we ought to have the data. I think we ought to do the policy evaluation. I have said it before on the floor of the Senate, and I think it is worth saying again: One of my favorite sociologists, Gunnar Myrdal, a Swedish sociologist, once said, "Ignorance is never random; sometimes we don't know what we don't want to know." I think we ought not to be ignorant about this. We ought to have the data.

My appeal is to do the policy evaluation. This amendment will not cost additional money. It can be absorbed into the existing amount of money, according to CBO. There is no reason why we should not want to know—especially since, in many States, the drop-dead date certain is approaching where everyone will have used up the number of years they can receive an AFDC benefit and will be cut off assistance. Before we do that with the rest of the population, let's at least have some kind of policy evaluation. Let's understand what is happening to these families.

By the way, I think among those families that are still on welfare, we are talking about a fair number of children who had children and who need, therefore, to get a high school diploma or are in need of job training. We are talking about single parents with severely disabled children. We are talking about a fair number of single parents who are women who struggle with substance abuse. I am being blunt about it. This is an issue I know well from work I have done all of my adult life in local communities. We are talking about women who have been victims of domestic violence. We need to be careful about what we are doing. Sometimes we forget it, but this is about the lives of people in the country and, in particular, poor women and children. I think we ought to have an honest policy evaluation.

I want to put this in a very personal context now. Before I do this, I wish to start out with some art work that will speak to this part of my presentation. We had a group of high school students from Minneapolis here—it was incredible—who were working with the Harriet Tubman Center, which is a very special shelter. These high school kids—I think 300 or 400 of them submitted their art, and these 11 or 12 students were the ones who had the best art, but all of it was exceptional—came to Washington, DC, 2 days ago. This display is now in the Russell Building Rotunda for a week. Every year, for the last 6 or 7 years, Sheila and I have brought different works from around the country—sometimes from Minnesota and sometimes from other States—to the Nation's Capitol. I want to show a little bit of these students' work.

So often the focus on students is so negative. These are inner-city high school students. It was a wonderful diversity, with all sorts of nationalities, cultures, histories, different colors, a great group of students. I was so pleased they came to Washington. This work I think speaks for itself. I will read from the top:

> Is a corner in your home the only place your child felt safe today? Why is it always my fault? Stop it. Speak up. Seeing or hearing violence among family members hurts children in many ways. They do not have to be hit to feel the pain of violence.

I am going to hold this up for a moment so it can be seen by people who are watching this presentation. My colleagues can see this in the Russell Rotunda.

Next picture. I will hold it up. It says:

> In the time it takes you to tie your shoe, a woman is beaten. . ..Go ahead, now tie your other one! Speak up! Domestic violence causes almost 100,000 days of hospitalization, 30,000 emergency room visits, and 40,000 trips to the doctor every single year.

I will just hold this up for a moment so it can be seen. This is pretty marvelous work. This is art from the heart. This is art from the heart of high school students. I say that to the pages; they are high school students.

The next work:

> If we hear the violence and see the violence, why is it so hard to speak of the violence?
>
> Is being a passer-by keeping a secret? "Speak up."

Ninety-two percent of women who are physically abused by their partners do not discuss these incidents with a physician. Fifty-seven percent do not discuss the incidents with anyone.

Finally, this is really powerful. I will show it this way, too.

> So . . . how do your kids behave on a date? Love isn't supposed to hurt.

Two high school kids.

On average, 100 out of 300 school students are or have been in an abusive dating relationship. Only 4 out of 10 of these relationships end when the violence and abuse begin. One out of three high school students is or has been in an abusive dating relationship.

I say to my colleague from Nevada this is marvelous artwork done by high school students in inner-city Minneapolis. Twelve of them came to Washington, DC. I thank my colleague, Senator REID from Nevada, for having the courtesy and graciousness to acknowledge this work.

I want to tell you about a conversation I had. Maureen, who works with Interchange Food Pantry in Milwaukee, WI, told me about a phone call she received on Monday of this week—Monday this week. On Monday, Maureen received a phone call. It was a woman who was well known at the food pantry, a woman who has a file about an inch and a half thick documenting the domestic violence she has endured at the hands of an abusive husband.

Yesterday, this woman—we are talking about this week, right now. I want everyone to understand that this debate is about people's lives.

Yesterday, this woman ran out of her home with her 3-year-old child in her arms, fleeing her abusive husband. She went to school, and she picked up her three other young children. She went to a laundromat. She called Maureen. She was looking for help, and she didn't know where else to turn.

The people at the food pantry tried to place this woman in a domestic violence shelter. But homelessness right now seems to have reached epidemic proportions in Milwaukee. So many women are becoming homeless that all of the battered women's shelters are full to overflowing, and desperate women are presenting themselves as victims of domestic violence so they can be placed in shelters. The shelters don't have any room because there are so many homeless women and children. Some of these women are basically pretending as if they are victims. Plenty of them are. Because they are so battered, they try to find shelter. What this means is there is no place left to go for homeless women and women who are victims of domestic violence.

She couldn't find a shelter at this food pantry. They could find no shelter to place this woman. On the phone, they couldn't find anything for her.

This is 1999 in America. The economy is booming. We don't have this kind of discussion on the floor of the Senate enough.

All that food pantry was able to do was to give her some food vouchers and a bus ticket so they could go spend the night with her mother. But her mother lives in senior housing. She is not supposed to have overnight guests, and she could actually end up losing her house if they get caught.

So this woman, who has a 15-year history of abuse, is going to have to return to her home. That is where she is going. She will have to go back to this abusive, violent, dangerous situation for herself and for her children because she lacks the economic independence to do anything else.

No one should be forced to risk their life or the lives of their children because they are poor. This woman's story is a welfare nightmare. She is doing all she can. Her children are clean, and they are well cared for. But she is not making it economically. Her husband isn't willing to work. Therefore, the family has been sanctioned by the welfare department on and off. She has been forced to rely on the food pantry for help.

So she sells her plasma as often as possible—about three times a week. She doesn't have a high school degree. But the welfare agency, instead of making sure she gets her GED and the training she needs to get some kind of a living-wage job, has put her into a training program so she can become a housekeeper in a hotel. Their idea of getting this woman to a life of economic independence is to place her as a housekeeper in a hotel.

She has been in an abusive, dangerous situation for 15 years. Her caseworker is aware of her situation. But there is no help. There is no effort to make her economically independent so she can leave the marriage, and she is now being forced back into this home. She does not have the economic wherewithal to leave her home.

This woman has tried. She went to the welfare office. She asked to be placed in a job. They put her to work in a light manufacturing job, a job for which she had no training whatsoever. Making the situation even worse, they placed her in a job that was way out in the suburbs with a 45-minute commute each way on a bus.

Listen to this. This is why I think we need to know what is going on in the country. She had to get up at 4:30 in the morning, drop her kid off at child care—child care is hard to find at 4:30 in the morning—travel to her job, put in a full day's work, and ride all the way home, pick up her kids, and go back home to face her abusive husband. When she went to the welfare worker and explained the situation, she was told that if she quit this job, she would be sanctioned and she would lose her benefits.

This woman's life and the lives of her children are not going to get better until she can get out of her situation. But under the current welfare program—at least the way it is working in one State, in one community—this isn't going to happen.

Let me give a few examples from some of the studies that have been done. Then let me go into the overall debate.

Applying for cash assistance has become difficult in many places. In one Alabama county, a professor found that intake workers gave public assistance applications to only 6 out of 27 undergraduate students who requested them despite State policy that says anyone who asks for an application should get one.

This was from a Children's Defense Fund study. The study cited was by the professor who was doing fieldwork research on the application process in two Alabama counties.

Before I actually give the examples, let me go to the debate. There are those who argue that we don't need to do any policy evaluation because we have cut the rolls in half. But the goal was never cutting the rolls in half. The goal was to reduce poverty.

Let me cite some disturbing evidence: The reduction in the roles is not bringing a reduction in poverty. We want to know, what kind of jobs do the mothers have? What kind of wages? Are the families still receiving medical coverage? Is there affordable child care? Are children still participating in the Food Stamp Program? This is what we need to know.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALLARD). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, I ask consent that following the vote which is to occur momentarily, Senator WELLSTONE be recognized for an additional 45 minutes, and following the use of or yielding back of time, Senator COVERDELL be recognized to move to table amendment No. 1842, no second-degree amendment be in order prior to the vote, and the vote would occur at 1:50.

Mr. WELLSTONE. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I agree with the request and I am pleased to work within this framework. I have a judge I have to meet; he is going to be appearing before an important committee. I do not get done with that until a little bit after 2 o'clock. Could we say 2:15 instead of 1:50?

Mr. COVERDELL. I wonder if it could be 1:45? What I am dealing with is a total sequence of time. There are other amendments. I wonder if we voted at 1:45, would it give the Senator time to get to his introduction? It would be very helpful if we could do that.

Mr. WELLSTONE. Mr. President, I will figure out how to do it.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1861

Who yields time on the Bingaman amendment?

Mr. BINGAMAN. Mr. President, how much time is there at this point?

The PRESIDING OFFICER. There are 4 minutes equally divided.

Mr. BINGAMAN. Mr. President, let me sum up what the amendment does.

It is an amendment to set aside $200 million of title I funds to be targeted at helping schools that are failing. We give a lot of speeches about how we need to help failing schools. This is a chance to vote to help failing schools. The amendment does not add money to the bill. The amendment says we are serious about accountability. We are giving the States some funds, earmarking some funds so they also can be serious about accountability in the expenditure of title I funds.

I have a letter from the National Governors' Association. I ask unanimous consent it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> NATIONAL GOVERNORS' ASSOCIATION,
> *Washington, DC, October 7, 1999.*
>
> Hon. Senator JEFF BINGAMAN,
> *703 Hart Senate Office Building,*
> *U.S. Senate, Washington, DC.*
>
> DEAR SENATOR BINGAMAN: On behalf of the nation's Governors, I write to express our strong support for your amendment to provide states with additional funds to help turn around schools that are failing to provide a quality education for Title I students.
>
> As you know, under current law, states are permitted to reserve one-half of one percent of their Title I monies to administer the Title I program and provide schools with additional assistance. However, this small set-aside does not provide the states with sufficient funds to improve the quality of Title I schools. A recent study by the U.S. Department of Education noted that the "capacity of state school support teams to assist schools in need of improvement of Title I is a major concern." The programs authorized to fund such improvement efforts have not been funded. As a result, states have been unable to provide such services. According to "Promising Results, Continuing Challenges: The Final Report of the National Assessment of Title I," in 1998, only eight states reported that school support teams had been able to serve the majority of schools identified as needing improvement. In twenty-four states, Title I directors reported more schools in need of school support teams than Title I could assist.
>
> Earlier this year, the National Governors' Association (NGA) adopted an education policy that recognizes the important role of the states in providing technical assistance to local school districts to help them implement federal education programs. In addition, the policy calls for full implementation of the current Title I accountability provisions, including the requirements that states intervene in low performing schools. However, the policy calls on the federal government to provide states with sufficient funds to enable states to provide school districts with the tools to meet federal program requirements. Your amendment would provide such funding. Therefore, NGA supports your amendment and will urge other Senators to support the adoption of it.
>
> We look forward to working with you towards the enactment of this and other provisions that will help states improve the quality of services provided to Title I students.
>
> Sincerely,
>
> RAYMOND C. SCHEPPACH.

Mr. BINGAMAN. Let me read a few sentences from it. This is addressed to me, Senator BINGAMAN.

> On behalf of the nation's Governors, I write to express our strong support for your amendment to provide states with additional funds to help turn around schools that are failing to provide a quality education for Title I students.

It goes on to say:

> Earlier this year, the National Governors' Association (NGA) adopted an education policy that recognizes the important role of the states in providing technical assistance to local school districts to help them implement federal education programs.

It goes on to say:

> . . . the policy calls on the federal government to provide states with sufficient funds to enable states to provide school districts with the tools to meet federal program requirements. Your amendment would provide such funding. Therefore, NGA supports your amendment and will urge other Senators to support the adoption of it.

This is a good amendment. The States support it. It will help dramatically in improving our schools. We should not postpone this. We should not kick this down the road and say we will deal with it sometime in the future. We should do it today.

I urge my colleagues to adopt the amendment.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Georgia.

Mr. COVERDELL. Mr. President, the amendment would take money that currently goes directly to school districts and give it to States for accountability purposes. The authorizing committee, chaired by Senator JEFFORDS of Vermont, wants to have an opportunity to take a careful look at this issue during reauthorization of the Elementary and Secondary Education Act. While the letter from the National Governors' Association states that the association supports the amendment, the fact remains that funds would still be taken from local school districts. While this may be a decision the authorizing committee may ultimately make, it needs to be decided at the authorizing committee level. This is a significant decision, to take money directly from classrooms, and should be carefully reviewed.

I yield the remainder of the majority's time, if any remains, and I move to table the Bingaman amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 1861.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

Mr. REID. I announce that the Senator from Connecticut (Mr. DODD) is absent because of family illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 317 Leg.]

YEAS—53

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Cochran
Collins
Coverdell
Craig
Crapo
DeWine
Domenici
Enzi
Fitzgerald
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kyl
Lott
Mack
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—45

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Bryan
Byrd
Cleland
Conrad
Daschle
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
Mikulski
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Schumer
Torricelli
Wellstone
Wyden

NOT VOTING—2

Dodd
McCain

The motion was agreed to.

AMENDMENT NO. 1842

Mr. COVERDELL. Mr. President, it is my understanding of the previous unanimous consent that we now are ready to hear Senator WELLSTONE from Minnesota for up to 45 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank my colleague from Georgia.

Mr. President, since I had a chance to speak on this amendment, I can be brief and probably will not need to take anywhere near the full amount of time.

Let me remind Senators what the vote on this amendment will be: To express the sense of the Senate regarding the importance of determining the economic status of former recipients of temporary assistance to needy families. I am hoping not one Senator votes against this.

Again, the purpose of this amendment is to express the sense of the Senate that we want to know, what is the economic status of welfare mothers no longer on welfare? What is happening with this legislation? It is called policy evaluation.

It is a sense of the Senate because otherwise I would be subject to rule XVI. If the House had done their work and had sent over the Labor, Health and Human Services appropriations bill, I could do this amendment and I wouldn't have to do a sense-of-the-Senate amendment. I certainly hope there is not a motion to table this. I can't imagine why it would be controversial.

The Senate goes on record that we need to determine the economic status of these former recipients. We need to know how this legislation is working. We need to know whether or not these mothers, who have been sanctioned, actually have jobs. We need to know whether the jobs pay a living wage. We need to know whether these families have been cut off medical assistance when they are still eligible. We need to know whether or not families have been cut from food stamp assistance even when they are eligible, and we need to know what the child care situation is. We need to know the status of 2-year-olds and 3-year-olds.

This sense-of-the-Senate amendment has the support of some 120 different organizations: from Catholic Charities USA; Center for Community Change; Food Research and Action Center; National Center on Poverty Law; National Coalition Against Domestic Violence; NETWORK, a National Catholic Social Justice Lobby; YWCA of America—the list goes on and on—Children's Defense Fund; Women for Reform Judaism. There is a long list of organizations to which I think all of us give some credibility as important justice organizations.

Again, I had a chance to speak about this amendment earlier. I will just summarize. Yes, the welfare rolls have been reduced by about half. There are 4.5 million fewer Americans receiving any assistance. But the goal wasn't to basically reduce the welfare rolls; the goal was to reduce poverty. There are still some 34-, 35 million poor Americans. Unfortunately, some 6.5 million children live in households with incomes less than half of the official poverty level. Among one subgroup of our population, the poorest of poor people, poverty has gone up.

Today, about 20 percent of all the children in our country and about a third of the children of color under the age of 6 are growing up poor. Still today the largest poverty-stricken group of Americans are children. Still today we have a set of social arrangements that allow children to be the most poverty-stricken group in our country. I cite as evidence, again, some disturbing studies. Families USA says we have about 670,000 fewer people who no longer receive medical coverage because of the welfare bill; 670,000 citizens no longer receiving any medical assistance because of the welfare bill. We have the U.S. Department of Agriculture telling us there has been about a 20- to 25-percent drop in food stamp participation, which has been the most important safety net program for children.

In addition, we have any number of different studies—NETWORK, Catholic Justice Organization being but one—which point out that most of the jobs these mothers are getting pay about $7 an hour. But if they don't have any health care coverage, they are worse off. There are too many examples I can give. Again, I want to make sure we have the data about children, 2 and 3 years old, who are not receiving adequate child care.

The question I am asking is embodied in the wording of this amendment: To express the sense of the Senate regarding the importance of determining the economic status of these former recipients.

What has happened to these women and children? How are they doing? Is this welfare bill working? We should do some honest policy evaluation. Today, at about quarter to 2, we will have a vote on an amendment every Senator should support. How can a Senator argue that it isn't important to know the economic status of these women and children? I don't see the case against it. I hope we get a strong vote, and then that will give us some momentum for finally moving forward with some legislation that eventually will have some teeth that will, in fact, call for this kind of policy evaluation.

I say to colleagues I could give many State-by-State examples of ways in which I don't think this is working quite the way we want it to. I won't. I could say to Democrats and Republicans that, in some cases, in some communities, there is success; in other cases, in other communities, what is going on it is rather brutal.

I can certainly say to all of my colleagues, in very good faith, we need to understand the drop in food stamp participation; they are so important to meeting the nutritional needs of children. We need to understand why so many people have been dropped from medical assistance. We need to know whether there is decent child care for these children, and we need to know whether or not these families are moving toward economic independence.

It is extremely important that we do this policy evaluation. That is all this amendment calls for. It is a sense-of-the-Senate amendment. It is to get Senators on record with a good, strong vote that we "express the sense of the Senate regarding the importance of determining the economic status of former recipients of temporary assistance in needy families."

Mr. President, I don't know that more needs to be said about this amendment. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAMS). The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, we will allow the majority to go to another amendment and we will reserve the time of the Senator from Minnesota.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. A vote is set for 1:50 on the Wellstone amendment.

The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1825

(Purpose: To prohibit the use of funds for the promulgation or issuing of any standard relating to ergonomic protection)

Mr. BOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 1825.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . (a) FINDINGS.—Congress makes the following findings:

(1) The Department of Labor, through the Occupational Safety and Health Administration (referred to in this section as "OSHA") plans to propose regulations during 1999 to regulate ergonomics in the workplace. A draft of OSHA's ergonomics regulation became available on February 19, 1999.

(2) A July 1997 report by the National Institute for Occupational Safety and Health that reviewed epidemiological studies that have been conducted of "work related musculoskeletal disorders of the neck, upper extremity, and low back" showed that there is insufficient evidence to assess the level of risk to workers from repetitive motions. Such evidence would be necessary to write an efficient and effective regulation.

(3) An August 1998 workshop on "work related musculoskeletal injuries" held by the National Academy of Sciences reviewed existing research on musculoskeletal disorders. The workshop showed that there is insufficient evidence to assess the level of risk to workers from repetitive motions.

(4) In October 1998, Congress and the President agreed that the National Academy of Sciences should conduct a comprehensive study of the medical and scientific evidence regarding musculoskeletal disorders. The study is intended to evaluate the basic questions about diagnosis and causes of such disorders.

(5) To complete that study, Public Law 105-277 appropriated $890,000 for the National Academy of Sciences to complete a peer-reviewed scientific study of the available evidence examining a cause and effect relationship between repetitive tasks in the workplace and musculoskeletal disorders or repetitive stress injuries.

(6) The National Academy of Sciences currently estimates that this study will be completed late in 2000 or early in 2001.

(7) Given the uncertainty and dispute about these basic questions, and Congress' intention that they be addressed in a comprehensive study by the National Academy of Sciences, it is premature for OSHA to propose a regulation on ergonomics as being necessary or appropriate to improve workers' health and safety until such study is completed.

(b) PROHIBITION.—None of the funds made available in this Act may be used by the Secretary of Labor or the Occupational Safety and Health Administration to promulgate or issue, or to continue the rulemaking process of promulgating or issuing, any standard or regulation regarding ergonomics prior to September 29, 2000.

AMENDMENT NO. 2270 TO AMENDMENT NO. 1825

(Purpose: To prohibit the use of funds for the promulgation or issuing of any standard, regulation, or guideline relating to ergonomic protection)

Mr. BOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 2270 to amendment No. 1825.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1 of the amendment, strike all after the first word and insert the following:

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Labor, through the Occupational Safety and Health Administration (referred to in this section as "OSHA") plans to propose regulations during 1999 to regulate ergonomics in the workplace. A draft of OSHA's ergonomics regulation became available on February 19, 1999.

(2) A July 1997 report by the National Institute for Occupational Safety and Health that reviewed epidemiological studies that have been conducted of "work related musculoskeletal disorders of the neck, upper extremity, and low back" showed that there is insufficient evidence to assess the level of risk to workers from repetitive motions. Such evidence would be necessary for OSHA and the Administration to write an efficient and effective regulation.

(3) An August 1998 workshop on "work related musculoskeletal injuries" held by the National Academy of Sciences reviewed existing research on musculoskeletal disorders. The workshop showed that there is insufficient evidence to assess the level of risk to workers from repetitive motions.

(4) In October 1998, Congress and the President agreed that the National Academy of Sciences should conduct a comprehensive study of the medical and scientific evidence regarding musculoskeletal disorders. The study is intended to evaluate the basic questions about diagnosis and causes of such disorders.

(5) To complete that study, Public Law 105-277 appropriated $890,000 for the National Academy of Sciences to complete a peer-reviewed scientific study of the available evidence examining a cause and effect relationship between repetitive tasks in the workplace and musculoskeletal disorders or repetitive stress injuries.

(6) The National Academy of Sciences currently estimates that this study will be completed late in 2000 or early in 2001.

(7) Given the uncertainty and dispute about these basic questions, and Congress' intention that they be addressed in a comprehensive study by the National Academy of Sciences, it is premature for OSHA to propose a regulation on ergonomics as being necessary or appropriate to improve workers' health and safety until such study is completed.

(b) PROHIBITION.—None of the funds made available in this Act may be used by the Secretary of Labor or the Occupational Safety and Health Administration to promulgate or issue, or to continue the rulemaking process of promulgating or issuing, any standard, regulation, or guideline regarding ergonomics prior to September 30, 2000.

Mr. BOND. Mr. President, the perfecting amendment corrects an error in the date in the language we provided in the original amendment.

This is an amendment with respect to ergonomics. The issue of protecting employees against workplace injuries is critically important. We all can and must agree to that. However, we are concerned about the proposed actions of OSHA. Small businesses and concerned employers know that ensuring safe workplaces is critical to their employees and to their businesses. It is in their best interest to protect employees from workplace injury, but they can only accomplish that goal without regulations that are unduly harsh. They need to proceed on a basis that is carefully thought out, makes sense, and is based on sound science.

Since the 1990s, OSHA has been trying to develop a rule that would tell employers what they are supposed to do to protect employees from ergonomic injuries. But the agency still has no answers to fundamental questions that need to be answered before a regulation can be issued or will be effective. These questions are basic: How much lifting is too much? How many repetitions are too many? How can an employer determine what part of an injury is due to workplace factors? And, perhaps most important: What can an employer do to prevent injuries or to cure an injury that has happened?

After all the effort and time OSHA has spent on developing their proposal, there is not a single threshold or recommendation contained in it. Instead, it basically says to employers. "We know there's a problem, and we can't figure it out. So we expect you to figure it out for us, and we will inspire you with fines and penalties if you don't."

That doesn't make much sense.

As I said before, employers—particularly small businesses—know how much they can lose in lost time and lost employees through ergonomic injuries. They want help and good guidance. They don't want to say: Take your best guess and we will fine you if you are wrong. That is no way to do business.

The amendment I propose today delays the Occupational Safety and Health Administration's (OSHA) proposed standard on ergonomic protection until the essential scientific research to support this standard has been completed. Sound science to support a sound safety standard.

Some opponents have tried to deflect attention from the flaws and lack of scientific basic for OSHA's proposal by mischaracterizing this amendment as "anti-women." Nothing could be further from the truth. To use the words of several women construction business owners representing the Associated General Contractors of America (AGC): "Safety has no gender."

We all want to promote safe and healthy workplaces. To date, voluntary efforts by the business community have led to a 17 percent decline in repetitive stress injuries over the past 3 years, according to the Bureau of Labor Statistics. This includes a 29 percent decline in carpal tunnel syndrome cases and a 28 percent decline in tendinitis cases—two of the most commonly cited ergonomic injuries. Such injuries make up just 4 percent of all workplace injuries and illnesses.

There are too many. We need to do better. But we need to do so based on sound science so employers, and particularly small businesses, will know what reasonable standards they should meet so they can protect their employees, which they, I believe, not only want to do but which is in their economic self-interest to do.

Despite this decline in ergonomic injuries, OSHA is on a rampage to impose new mandates with no clear thresholds or guidance to address the causes of these injuries. This irresponsible behavior helps no employee—woman or man.

Some proponents of OSHA's ergonomics standard have argued that because many large companies have been able to spend significant resources of time and money to solve ergonomic problems in their workplaces, all employers should now be required to do this. The problem with using these examples as the basis of a regulation is that each one of these companies approached the problem differently, and was able to address the problem in a way that made sense for them in their workplace and in their business with their employees. It does not follow from these examples that OSHA should seek to impose on all employers a regulation that will have to fit a wide variety of companies. There is a vast difference between Ford Motor Company being able to implement an ergonomics program and a small business being able to hire the necessary consultants, purchase the necessary equipment, and possibly redesign its processes to address ergonomic questions.

OSHA'a ergonomics rule is different from all other OSHA regulations that establish a threshold for exposure to a specific hazard and then tell the employer that if an employee exceeds that threshold, certain measures must be taken, or exposure must be reduced.

Because of this vagueness of OSHA's proposed standard, and the impact it would have on small businesses which would be forced to comply with it, I introduced the Sensible Ergonomics Needs Scientific Evidence Act—the SENSE Act—S. 1070 on May 18 of this year.

The amendment I offer today is fundamentally the same as that bill. It is simple and direct—it tells OSHA that it may not proceed with publishing a proposed rule on ergonomics until after fiscal year 2000. Why?

Because by that time National Academy of Sciences is expected to have completed a study that Congress and the President agreed upon last year. This study is intended to determine whether there is sufficient evidence to answer those questions I just laid out and to support a regulation on ergonomics.

We agreed to pay $890,000 for a study. As I said, Congress agreed, and the President signed it. If we are to disregard that, we waste the money, and we don't get the benefit of the investigation that has been going on during this period of time and is expected to make a sound basis for proceeding in a scientific manner to do something about workplace ergonomic injuries. But if OSHA publishes its proposal first, that is a classic example of what I have described as the bureaucracy's desire for, ready, fire, and aim. You need to figure out what you need to accomplish, and how you can do it before you start out and do it.

My amendment would not preclude OSHA from continuing its study of this issue, and I urgently call on the agency to redouble its efforts, especially in light of the report of the SBA Chief Counsel for Advocacy, which I received last week.

That report is very critical of OSHA's estimates outlined in the agency's Preliminary Regulatory Flexibility Analysis of the proposed ergonomics standard. In fact, the report concludes that "OSHA's estimates of the benefits of the proposed standard may be significantly overstated." In other words, this standard may not help employees—women and men—as much as OSHA would have us believe.

Equally troubling is the report's conclusion that the cost of the ergonomics standard to all businesses could be as much as 15 times more than what OSHA estimates. Moreover, the report emphasizes that the cost of the ergonomics standard could be as much as 10 times higher for small businesses than for large companies.

So for what a large company would have to do for employees, if it had to pay $1,000 per employee, a small business might have to pay $10,000 per employee. Those are some pretty significant margins of error. If this rule goes forward, small business, once again, is left holding the bag.

The report also points out that "a small business is not simply a large business with fewer employees. Many factors affect how a standard may impact a small business much differently than a large business." It goes on to discuss the fact that small businesses often have higher employee turnover rates meaning that any training requirement will have a more significant impact on the small firm than the large one.

For women business owners, the cost issue is particularly worrisome. As AGC's women construction business owners put it: "Women-owned companies are the fastest growing sector of our economy. Unfortunately, burdensome regulations are a barrier to women starting their own businesses. Often, these regulations discourage women from starting a new business or expanding an existing one."

Mr. President, one thing is very clear—this is an extremely complicated issue. And we must have more reliable cost and benefit estimates—not to mention sound science and thorough medical evidence—before we push the Nation's small businesses into another maze of redtape.

If there are regulations which are burdensome but which are necessary on the basis of sound science to protect against ergonomic injuries, then let OSHA set them out. Let everybody abide by those standards. But when we don't even know what best medical and scientific evidence provides, why are we going forward down a blind alley with nothing but a huge cost at the other end?

Employees have a right to expect regulations will achieve realistic benefits to them—not exaggerated lofty goals that miss the mark and help no one.

Let me be clear about something. When you talk to workers who are in businesses or in jobs where they do lifting and work, they are very much concerned about their medical care.

They are very much concerned about their pension. They are also concerned about their job.

We are talking about something that could be a job killer. If we are telling this employee—because we have issued a standard without scientific basis—the cost may be so great that your employer can't afford to continue to hire you, what favor have we done that employee? If she is put out of work because the unknown requirements of a very expensive regulation are too much for the employer to bear, that woman could lose her job and lose the means of livelihood in the name of lessening ergonomic injuries, without any proof that they do so.

Let me stress again, we all agree in protecting employees from workplace injuries, it is extremely important. That is something we must do, we must assure. Employers want employees to be safe. If your mother, father, sister, or brother is working in a job with lifting or repetitive motions, the employers want them to be safe. However, small firms cannot accomplish the goal of worker protection through ill-conceived and poorly supported proposals such as OSHA's ergonomic standard which has such potential burden for small business. If the burdens are too high, the business may not survive.

As I indicated earlier, this has been a concern that women-owned businesses have shared. If a business folds, there are no employees to protect. Where is the sense in that? OSHA is doing everything in its power to get its proposal published soon. The House passed legislation on this issue, the Workplace Preservation Act, H.R. 987, by a vote of 217-209. I think it is time for the Senate to add its voice to the call for OSHA to act responsibly, to act dispassionately, but to act in good science.

To summarize: We don't have the science; we don't have the medical evidence; we don't have accurate cost figures; we don't know the benefits to employees; and we don't know what works in preventing injuries. Moreover, OSHA doesn't know those either. All we have is a potentially burdensome standard that small businesses, whether owned by a woman or a man, can ill afford.

I urge my colleagues to support this amendment to make certain that OSHA's ergonomic standard is based on sound science and ensure that we are protecting men and women in the workplace. I hope we can get a reasonable time agreement so views on both sides can be expressed and we can proceed to a vote on this very important amendment.

Mr. SPECTER. Mr. President, I seek to propound a unanimous-consent request for a time limit. I have already had some informal indications that Members on the other side of the aisle intend to speak at some length. I will propound a request for consent when the manager returns to the floor.

Mr. DURBIN. Will the Senator yield?

Mr. SPECTER. For a question.

Mr. DURBIN. I am happy to propound a question. Does the Senator from Pennsylvania not understand, the complexity of this issue virtually prohibits a time agreement? We will continue the debate until it is fully explored.

I think the Senator from Pennsylvania and Senator from Missouri are forewarned: Bringing an issue of this complexity to the floor invites a lengthy debate regarding worker safety, and we will object to a time limit.

Mr. SPECTER. This Senator does not understand how this matter—for that matter, any matter—is so complicated as not to be subject to a time agreement. We are all here under time limitations. I only have 5 years 3 months left on my term, for example. We all have some time limitations.

I think it is possible to have a time agreement. However, if the other side intends to talk at length—I do not want to inject the word "filibuster" into the discussion, but if the other side wishes to talk at length and is unwilling to enter into a time agreement, I do understand that; I do not understand that any matter is so complicated as to preclude a time agreement.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. SPECTER. I will speak since I have the floor and I am manager of the bill.

Mr. President, this issue has been the subject of very contentious debate for years. Last year in the conference committee in the House and Senate, we debated at great length; the year before, we debated at great length. There is no doubt about emotions running high.

The subject of ergonomics is an effort to have some way to stop repetitious motions which cause physical injury to workers. Many of the big companies have adopted procedures which will protect their employees because it is cost effective to do so in the long run. Small businesses face a little different situation, which I understand. The distinguished chairman of the Small Business Committee has offered this amendment. I understand the point he is making.

I point out that there have been many studies on the issue. In 1998, a peer review of the National Academy of Sciences involving 85 of the world's leading ergonomic experts found "research clearly demonstrates" that specific interventions can reduce or prevent musculoskeletal disorders. The 6-month study answered the same seven questions the National Academy of Sciences is now reviewing.

A 1997 review by NIOSH of 600 studies produced the same result and found that ergonomic solutions were being successfully applied in many work settings. During last year's negotiations, Congress and the administration agreed, by funding the study, they did not intend to delay OSHA's ruling. House Appropriations Chairman Livingston and ranking member OBEY—I think, on the record—made it clear that the Director of the Office of Management and Budget, Jack Lew, also concurred. We have had a letter from the Secretary of Labor with a veto threat. That is not unusual.

However, I believe there is a balance which can be obtained to protect workers and not to unduly burden businesses, including small businesses. That is why, as chairman of the subcommittee involved in the conference for several years, I have tried to work this out so we can find a way not to overburden small business and at the same time to protect workers from these musculoskeletal problems.

Right now, the Office of Management and Budget has the regulation and we do not know what form it will finally take. But someday we have to come to grips with the issue and stop studying it. Studies are very important to find out what the facts are, and then we must act on the facts. When studies are used to interminably delay, it doesn't become a study; it is a filibuster by study on one side, as it is filibuster by an assertion that it is too complicated, too intricate, to be able to come to grips with it and decide.

We are sent here to try to decide the issues. It is my hope we can debate the facts, try to understand what the underlying issues are, and then try to find a consensus on public policy. At some date, we will have to go ahead and act one way or another on the protection of the workers.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I appreciate the comments made by the manager of the bill, and I also understand the Senate lingo that means if we offer this amendment, you will filibuster. That disappoints me greatly.

I ask unanimous consent to be a cosponsor of the Bond amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. I thank and compliment the Senator from Missouri for offering this amendment. It is needed. This amendment is needed because the administration is getting ready to promulgate some regulations in the near future that will cost hundreds of millions, if not billions, of dollars for American industry. When I say American industry, I am talking about small business, as well as, big business. I am talking about an unbelievably complex set of regulations and there is no telling how much it will cost to implement these regulations.

These regulations consist of how many motions you should make. That if you do more than a certain amount, then maybe that is not safe; or if you lift something, it cannot be lifted more than this number of times, or it will be too heavy or too stressful. OSHA and the Department of Labor try to make these very regulations and at the same time they say they honestly do not know what they are doing, so in many cases they will wait until laborers complain and then they will try to come up with regulations to alleviate their pain. These methods are not successful.

We have in fact already addressed this issue. The Senate houses the Congressional Research Service, a nonpartisan group, to research complex issues. There is a CRS study that was updated August 31, 1999. I will read from a copy of this report that addresses further ergonomic regulation:

> Due to the wide variety of circumstances, however, any comprehensive standard would probably have to be complex and costly, while scientific understanding of the problem is not complete.
>
> It would be costly, it would be complex, and, frankly, it would not be understandable. It would not be workable.
>
> The state of scientific knowledge about ergonomics—and especially the role of nonwork and psychological factors in producing observed syndromes—has become a key issue in the debate over how OSHA should proceed.
>
> Even if the problem were fully understood, the wide variety of circumstances will bedevil efforts to frame simple cost-effective rules. What are called "ergonomic" injuries are actually a range of distinct problems, much as "cancer" is not one but a family of diseases.

Throughout the summary of this report, the point is that, due to a lot of circumstances, any comprehensive rules would have to be complex and costly while scientific understanding of the problem is not complete.

What about a scientific study? Why don't we ask the scientists? If Congress' research arm says this is going to be costly, we do not have the scientific basis to do it, why don't we have scientific basis? Why don't we ask the experts to take a look at it and see if there is something they can come up with that would be workable?

Well, we did do that. Last year, Congress passed and almost every Member of this body, or the majority of the Members of both Houses of Congress, passed a bill that funded $900,000 for the National Academy of Sciences to complete a study and review the scientific literature as mandated by Congress and the President on ergonomics. They have not completed that study. They should complete the study in about a year, January 2001; in 13 or 14 months.

We are spending almost a million dollars on the study to ask the scientists to do an in-depth review. Yet many people say they want OSHA to go forth and come up with these complex rules in spite of the unfinished study. They are saying that they trust OSHA to come up with rules and regulations without this study, without the basis for making such rules? You talk about repetitive motions—OSHA often tells companies that they may possibly be doing something wrong and a company could ask OSHA whether or not they are in violation of certain standards and OSHA would reply: "We don't know."

These standards are almost impossible to define. What is repetitive motion? Standing at a machine on the job for 8 hours a day—that is ergonomic—is that too much? I grew up in a machine shop. I grew up in Nickles Machine Corporation. We lifted and moved a lot of heavy equipment. There is no way in the world some Federal bureaucrat knows what is the proper amount of weight that individuals should be moving around. There is no way to create a uniform standard that applies to each individual.

Are they going to come in and supervise and say: You should not be standing there for that period of time? Maybe you should not be working at your computer for this amount of time. Maybe you should not be engaged in moving heavy objects.

We are going to have the heavy hand of the Federal Government, Federal bureaucrats running all across the country trying to make those kinds of determinations, saying: If you do not comply with our infinite wisdom, we are going to fine you. We are going to close you down. Amazing. It is amazing that we would do such a thing.

The proposed regulations by OSHA are not workable. They are unbelievably complex. Anybody who has looked at them from a standpoint of real-life experience in the workforce agrees that this is not workable. So what have we done if we succeed with this amendment? We have passed restrictions keeping this administration from going forward on this enormously complex, expensive, regulatory scheme.

Last year, we said let's have this study, let's let this study go forward; let's look at real scientific facts before we implement a standard that could cost billions of dollars, and no telling how many jobs would be lost as a result. Let's let that happen. I regret that this was not already included in the committee bill.

I think most people will acknowledge we have a majority vote on this. We have the votes to do this. We have Democrats and Republicans who will support this amendment. We have a majority; we have a majority vote in the House as well. Now we have this implied senatorial discussion: If you have this amendment, due to its complexity, we will discuss it for a long time; i.e. we will filibuster this amendment. We will not let this bill pass. We don't care if we bring down the largest appropriations bill, that deals with Education, Labor, Health and a multitude of Governmental agencies—we don't care if we bring down the whole thing.

Why? Because organized labor wants this rule to go forward. I guess if the leadership of AFL/CIO wants this rule to go forward, we should absolutely let it go forward. That is what a few people are saying, although masked with niceties, in senatorial discussion: If you insist on a vote on this amendment, we are going to talk for a long time and not let this bill pass.

As I said, we passed related legislation in 1998. We authorized the study I previously mentioned, to look deeper into the problems employees and industry face. Let's let the study work. Let's find out what the scientists have to say. Let's listen to the experts.

We had a couple of congressional hearings regarding this very issue. The following was concluded from a hearing in 1997:

> Any attempt to construct an ergonomic standard as a remedy for regional musculoskeletal injuries in the workplace is not just premature, it is likely to be counterproductive in its application and enforcement.

It is likely to be counterproductive. Does this give unions a chance to file complaints for harassment purposes? Has anybody thought of that? Of course they have. Does this increase people's leverage? "If you work with us, maybe, a little bit, we will not be quite as vigorous in our complaints." Is this what we really want?

Another statement was made by Dr. Stephen Atcheson and others with the American Medical Association:

> The debate concerning whether certain occupations actually cause repetitive motion disorders is now well over a century old and far from settled.

This is complex business. You are talking about movements and actions in the workforce, and there are an unlimited number of movements and actions. Now we are going to have that regulated by the Federal Government? We are going to turn loose the Department of Labor, OSHA, to come up with regulations that have the force and the power to fine and assess and have bureaucrats telling people how to operate their businesses? As if people running those businesses could care less about their employees?

The whole premise of this regulation is Government knows best; employers certainly don't care about their employees—which I do not believe. I have been an employer. You show me an employer who doesn't care about his employees, and I will show you somebody who is going out of business in a very short period of time and probably deservedly so. It is this presumption—the Government knows best; we need Government as the caretaker for business operations—that I think is absurd. And we trust some bureaucrat in OSHA, who probably knows nothing about a particular operation, to come in and say: Here is how you should run your business. We know better than the people that have been managing that plant, working in that plant for years. There is no telling how much it will cost. No telling how many jobs will be lost, the costs that could be imposed, the costs that could result from unfair, unworkable regulations.

I compliment my colleague from Missouri, and I urge my colleagues to support the Bond amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I am going to be brief because other colleagues are going to speak, and then I will come back later as we go forward in this debate.

I say to my colleagues on the other side, what Senator DURBIN from Illinois said is right on the mark. As ranking minority member on the Labor Committee, now called HELP, which has jurisdiction over OSHA and occupational health and safety issues which are very important to working people, I have a lot to say about this amendment. What I will say, as this debate goes forward, will be substantive, and it will be important in determining how all of us vote. This is an incredibly important issue.

I will start out for a few brief minutes right now and then turn it over to other colleagues. I will come back later as this debate develops.

This Bond amendment will basically stop OSHA from doing its job, which is the mission of the mandate of keeping American workers from getting injured at work. It basically stops OSHA from doing its job, and OSHA's job is to prevent workers from being injured at work.

This amendment will shut down the normal rulemaking process and stop OSHA from doing anything at all about ergonomic job hazards that are seriously injuring over 600,000 workers every year. That is a statistic my colleagues do not like to talk about. I have heard the arguments about bureaucrats and big government and all of the rest, but we ought not be too generous with the suffering of others. We are talking about 600,000 workers who are seriously injured every year. That is what this debate is all about.

Ergonomic injuries are serious injuries from repetitive motions, overexertion, and physical stress. They include carpal tunnel syndrome, back injuries, and tendonitis. The amendment before us will stop OSHA from issuing a standard to prevent these injuries until the National Academy of Sciences completes a new study which will take somewhere between 18 to 24 months. This amendment will stop OSHA from issuing not only a regulation, but even voluntary guidelines or standards. This amendment is an extreme amendment, extremely harsh in its impact on working people.

Last week, Secretary of Labor Herman wrote that she would recommend a veto of S. 1650 if this amendment is adopted. By the way, I also say to my colleagues, the reason Senator DURBIN was right in what he said earlier—that this debate will take some time—is because it is important to put a focus on the people and their lives and who is going to be affected by this.

With all due respect, quite often—and this particular case is a perfect example—when we talk about OSHA or NIOSH, when we talk about occupational health and safety, we are talking about a group of Americans who are rarely in the Senate or the House. These are not in the main, our sons or daughters. These are not in the main, our brothers or sisters or our parents. In fact, I think if they were, this amendment would not even be before the Senate. I do not want to lose sight of about whom we are talking.

There are four points I want to make as this debate develops. I will not develop any of these points right now, but I will mention them.

First, I want to spend some time later on talking about the people, real people who are affected by this debate. As we speak, there are workers who are injured needlessly because of the continuing efforts by this Congress, as represented by the Bond amendment, to keep OSHA from doing its job. These are real people with real health problems who are hurt at the workplace with disabling injuries. I want to spend a lot of time talking about who these people are. I want to present stories. I want to talk about these people in the most personal terms possible so we know what is at stake.

Second, I want to make the case that something can be done to stop people from being injured in this way, from stopping these physically disabling injuries, from stopping the pain. There is no need to wait another 2 years for another study. We do not need another study to show that ergonomic hazards cause injuries and these injuries can be prevented. We already know it. There are already reams of scientific evidence to prove it, and one more review of the scientific literature is not going to change anything. Later on in this debate, I will talk about the studies that have already taken place and what their conclusions are, all of which say we need to go forward right now.

Third, I want to dispel the mistaken impression among some Senators that a deal was worked out last year whereby OSHA would delay this rulemaking until the National Academy of Sciences completes its second study. Actually, that appears to be just the opposite of what happened.

According to the parties involved in those negotiations, there was an understanding that this new NAS study would not prevent OSHA from going forward. There was a clear understanding that this new NAS study would not prevent OSHA from going forward.

Finally, I want to make it clear that the issue is not the substance of OSHA's proposal. There is already a process in place for addressing any criticisms or any modifications that Senators and others may have. It is the same rulemaking process that is used for any other regulation: Interested parties are encouraged to comment and suggest changes. Criticisms or quibbles with OSHA's current proposal should not be used as an excuse to stop OSHA from doing anything whatsoever, and that is exactly what is happening. This ergonomic standard has been delayed for far too long.

It was first proposed in 1990 by then-Secretary of Labor Elizabeth Dole. I will go back through that history as well, but I will conclude right now by saying that this amendment just shuts down the normal rulemaking process. It stops OSHA from doing its job. It does not speak to the 600,000 workers right now who are being injured and who are struggling because, in fact, we do not have ergonomic job standards. These injuries are serious injuries. They are disabling injuries. Surely, we can take action right now.

This is all about working people. It is all about making sure there is some safety at the workplace. It is all about our responsibility to move forward with a standard that will provide some protection. It is all about making sure OSHA is not gutted. It is all about making sure this amendment, which I view as a direct threat to many hard-working people, does not go forward.

Yes, we are here to debate this. My colleague, Senator DURBIN, is ready to speak. Senator HARKIN is going to speak. Senator KENNEDY will be here. And later on in the debate, I will come back and lay out story after story of families that will be affected by this amendment. I will talk about what this means in personal terms. I will talk about all the studies that have already taken place and what the science clearly suggests to us. We will have a major debate on this. I have no doubt the vast majority of people in this country expect the Senate to be on the side of providing some decent protection for hard-working Americans. I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I rise in support of the Bond amendment, and I ask unanimous consent to be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUTCHINSON. Mr. President, it is my understanding there are a number of colleagues on both sides of the aisle who want to speak on the amendment. I ask unanimous consent that we limit the debate to 1 hour on this amendment.

Mr. DURBIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HUTCHINSON. Mr. President, I will speak for a moment about why I think this amendment is so important.

When I travel through Arkansas and with the opportunities I have had to be in other parts of the country where we have had hearings on workforce protections, one of the complaints I hear so frequently from my constituents is that regulatory agencies in general exceed the authority that has been delegated by the Congress. One of the frustrations I hear expressed from so many small businesspeople and others is: If you in the Senate and the House are the ones elected by us to represent us, why do these regulatory agencies seem to go off on their own, contrary to what you have expressed in legislation?

It is a question that is always difficult to answer. Frankly, too often we have allowed, whether it be OSHA or the IRS, regulatory agencies to exceed their statutory authority, and we have done an insufficient job in reining in what they are doing.

In this particular case, I think we see exactly that. OSHA is an agency to which we have delegated power. It seems to be determined to extend its regulatory power in a negative way through the imminent implementation of this ergonomic standard, regardless of that standard's effectiveness in protecting workers or its cost to American industry.

So, yes, there is an issue of safety; yes, there is an issue of cost; and, yes, there is an issue of what is the scientific basis for what OSHA is propounding to do.

So often what we find regulatory agencies doing ends up having unintended consequences which the Congress must go back and try to rectify at some later date or which results in a reversal of the rulemaking process in these various agencies.

We have already heard, in evidence presented on the floor of the Senate today, that there is concern that a premature ergonomic standard could have counterproductive consequences.

I say to my colleagues, if you are concerned about the health and welfare of the American workplace, if you are concerned about the safety of the American worker, then let's be sure that when OSHA implements a rule, they do so with a sound scientific basis for what they are doing.

Now, I don't know. If we can't count on the nonpartisan, highly respected Congressional Research Service, then who do we look to? That is why we pay them. That is why we have established them. They are well-respected. This is what they said. Senator NICKLES earlier quoted part of the CRS report. Let me quote an additional part of what they said. They said:

> . . . because of the wide variety of tasks, equipment, stresses and injuries involved, any comprehensive standard would probably have to be complex and costly.

They continue:

> . . . ergonomics is a difficult issue because, while there is substantial evidence of a problem, it is very complex and only partially understood.

I think it is not prudent to move forward with a rule when the CRS has concluded the issue is complex and we do not understand it. It is only partially understood. How can you implement a rule that is in the best interest of the American worker, much less the American economy, if we do not understand what the problem is and we can only acknowledge it is partially understood and it is complex?

As an example, the CRS cites that while a whole "host of new products and services have become popular—such as back braces and newly designed keyboards—there is little in the way of scientific evidence about whether they do any good."

What the opponents of this amendment are suggesting is that though we do not understand the issue, though it is acknowledged to be complex, though the CRS says we have a host of new products and services out there but there is no scientific evidence as to whether they do any good or not, we should nonetheless give the green light for OSHA to move ahead in a rulemaking process without substantial scientific basis for that rule.

Proponents of the ergonomics standard claim this issue has been adequately studied, if not overstudied—and that is what my friend and colleague from Minnesota was just saying—but it is simply not the case.

The National Institute for Occupational Safety and Health, NIOSH, after conducting an extensive review of the literature, stated that there are "huge, fundamental gaps in our understanding" which "make it clear how little we really know about ergonomics."

So those who would say, well, we have studied it—we have studied it and studied it—we have studied it enough, so let's go ahead with the rule, they are ignoring the basic conclusion, the overwhelming conclusion of the evidence and the literature on this issue, which concludes we simply do not understand ergonomics.

There are "huge, fundamental gaps in our understanding."

To my colleagues, I say it is for that reason that the Congress wisely, I believe, last year, in the omnibus appropriations bill, appropriated $890,000 so that we could fill those huge, fundamental gaps in our understanding concerning the issue of ergonomics—$890,000 for a more thorough review of literature by the National Academy of Sciences, a thorough study by the NAS, which, if there is a more respected group than the CRS, certainly in the area of science, it would be the NAS.

We want a rule, but we want a rule to be based upon good science, not something that is moved forward without adequate study and without adequate scientific basis, that could have negative impacts upon workers, and certainly will have negative impacts upon the workplace and the economics of the workplace.

Nonetheless, in spite of the fact that we authorized, we spent, we appropriated $890,000, OSHA has refused to wait for the results of that study. They already released a discussion draft of the ergonomic standard in February of this year.

I simply find it inexplicable why OSHA cannot wait for this definitive study to be completed. To me, it does not seem prudent to rush to judgment. To me, it does not seem prudent to rush to implement a rule without knowing exactly what the consequence of that rule would be, how much it would help workers, or how much it might hurt workers, or exactly how much of a burden it would be to businesses. We do not know the answers to those questions. We need to know the answers before we allow OSHA to move forward with the rule.

Finally, I do not know that I can justify to my constituents in Arkansas, and to the average Arkansas worker who makes a median income of $27,000, how the Federal Government effectively wasted $890,000 of their hard-earned tax dollars by not even waiting for the completion of this study.

Therefore, I urge my colleagues to adopt the Bond amendment and make OSHA await the outcome of the NAS study so they can devise an ergonomics standard that will be effective in protecting American workers without unnecessarily burdening American businesses.

I thank the Chair and yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I rise in opposition to the amendment of my friend from Missouri and the Chairman of the Small Business Committee. I heard not all but most of the opening comments by the offerer of the amendment, Senator BOND. What I heard mostly was the concerns expressed by Senator BOND regarding its impact on small businesses.

While I happen to serve on the Small Business Committee, Senator BOND is the chairman of that committee. It goes without saying that Senator BOND has had a long and intense interest in the impact of rules and regulations on small businesses. I think I can say without fear of contradiction that Senator BOND has done a very good job in protecting and defending the rights of small businesses. Quite frankly, I believe I have, too, and others on the committee. I can understand Senator BOND's concern, legitimate concern about what would happen with the small businesses.

In that regard, I support his thrust in terms of making sure that we do not impact unduly on small businesses and that we fulfill our obligation to ensure that small businesses get the support whatever it might be, to help change and redesign a workplace that would be injurious to workers suffering from ergonomic types of illnesses.

To say that it would have an impact on small businesses does not mean we can't do anything about it because I think we have an obligation to protect the health and the safety and the welfare of the workers of this country. Whether they work for IBM or General Motors or whether they work for a small concern that employs five people, I believe we have an obligation to be concerned about their health and their safety.

Obviously, we also have an obligation to be concerned about the small businesses in this country. That is why I say, to the extent we can, we better be prepared to help small businesses to cut down on the illnesses and injuries to workers from musculoskeletal disorders and the results of ergonomic illnesses.

•So again, I hope this is not just the reason someone might vote against this, because of the impact on small businesses; think about the impact on the workers, what is happening to workers out there.

I would also like to point out that if a small business has no workers with work-related musculoskeletal disorders (MSDs), is not in manufacturing and does not have workers with significant handling duties, that small business doesn't have to do a thing. Millions of small businesses (drycleaners, banks, advertising agencies, shoe repair) will have no obligation to comply unless a worker gets hurt. Then let us have a meeting of the minds to do both. Let's protect our workers, and then meet our obligation to help small businesses. It seems to me this is the way to go.

I know the Senator from Illinois has been waiting to speak, but let me also comment upon the fact that Senator BOND had said something about women-owned businesses, that women-owned businesses will be at risk. Quite frankly, women are at risk.

Here is a study done on ergonomics, called A Women's Issue, from the Department of Labor. The title says: Who is at Risk? Women experienced 33 percent of all serious workplace injuries—those who required time off of work—in 1997, but they suffered 63 percent of repetitive motion injuries, including 91 percent of injuries resulting from repetitive typing or keying and 61 percent from repetitive placing. Women experienced 62 percent of work-related cases of tendonitis and 70 percent of carpal tunnel syndrome cases. So this is a women's issue. It is women who are suffering more from repetitive injury diseases and illnesses than men are. We should keep that in mind.

Secondly, we hear about doing a study and that we shouldn't promulgate or have these rules prior to the study being done. Well, first of all, for the record, there is no new study being done. The study being done by the National Academy of Sciences, which is referred to often, is just a study or a review of existing literature. They are not conducting any new research. All of the literature being reviewed by the

National Academy of Sciences is already available to OSHA. The study the NAS is doing is a review of all the existing studies. We have studied this issue to death. There have been more than 2,000 ergonomic studies, and there have been 600 epidemiological studies done on ergonomics. We have more than enough information to move ahead in protecting workers. The study we keep hearing about is simply a study of all the studies. Let us keep that in mind.

We have been a long time in this rulemaking process. We have had over 8 years of study. I think it is well to note, too, the first Secretary of Labor who committed the agency to issuing an ergonomic standard. It was then-Labor Secretary Elizabeth Dole, who committed the agency to issuing an ergonomic standard. We have been studying it ever since.

Also, keep in mind, no rule has been issued, not even a proposed rule. Again, that is all we are talking about, letting OSHA go ahead with a proposed rule. That is not the end of it. Once the proposal is issued, the public, people on all sides of the debate will have ample opportunity to comment on the proposal.

Lastly, this really does kind of break the agreement we had last year. Our word is our bond around this place. If we don't keep our word, this place disintegrates. Last year, we had an agreement made with the House Members, Congressman Livingston, who at that time was chairman of the Appropriations Committee, and DAVID OBEY, who was the ranking member. They signed a letter dated October 19, 1998. What they said was: We understand that OSHA intends to issue a proposed rule on ergonomics late in the summer of 1999. We are writing to make clear that by funding the NAS study, it is in no way our intent to block or delay issuance by OSHA of a proposed rule on ergonomics. It was signed by Chairman Livingston and ranking member OBEY.

I happen to be a member of the Appropriations Committee. Obviously, we are on an appropriations bill. I was involved in the discussions on that last year. The agreement was made to go ahead and let the National Academy of Sciences do a review—that is all it is; it is not a new study—of the studies that have already been done.

Let's keep that in mind; this is not a new study. During that time, OSHA was not prevented from going ahead and issuing a proposed rule—not a final rule, a proposed rule, which I have pointed out, then, allows everyone to have their input and allows us in Congress to see it. Again, people talked about this study, and we had this agreement. We should live up to the agreement.

They talk about the cost. Here is a whole packet—I will have them here if anybody wants to read them—of ergonomic changes made by companies, both large and small, to help reduce the significance and the number of injuries. These are what companies on their own did.

One caught my eye. This is from Sun Microsystems. They make computer equipment and systems in California. Problem: In 1993, the average work-related musculoskeletal disorder disability claim was $45,000 to $55,000. The solution: Sun Microsystems purchased ergonomic chairs and provided education and work station assessments to all who requested them. The company also encouraged workers to adopt proper posture while working with computers. The impact: The average repetitive-strain-injury-related claim dropped from $45,000 to $55,000 in 1993 to $3,500 in 1997.

Does it work? Yes, it does. It works well. We ought to get on with it. Let OSHA issue their proposed rule. These delays hurt workers. More than 600,000 workers lose work each year because of ergonomic-related injuries. These are our cashiers, nurses, cleaning staff, assembly workers in manufacturing and processing plants, computer users, clerical staff, truck drivers, and meat cutters.

This amendment should be defeated because the workers of this country deserve to have their health and their safety protected.

I yield the floor.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Illinois.

Mr. DURBIN. Mr. President, I rise in opposition to the amendment offered by the Senator from Missouri, Mr. BOND.

During the course of this debate, we will hear many terms, which sound technical in nature, about the issue at hand. It has been described as ergonomics, musculoskeletal disorders. I think we ought to try to get this down to the real-world level of what this debate concerns.

I have before me a study from the Centers for Disease Control and the U.S. Department of Health and Human Services relative to this particular problem. They state, early in the study, the term "musculoskeletal disorders" refers to conditions that involve the nerves, tendons, muscles, and supporting structures of the body.

Another definition says: Ergonomic injuries have many names. They are called musculoskeletal disorders, repetitive stress injuries, cumulative trauma disorders, or just simply strains and sprains. These injuries occur when there is a mismatch between the physical requirements of a job and the physical capacity of a worker.

I wanted to make sure we said that at the outset, so those who are following this debate will understand that what is at issue is not a highly technical, scientific issue but something that every one of us who do manual chores at home or at the workplace understands. If you sit there and have to peel a bag of potatoes, when it is all over your hand is a little sore. What if you had to peel a bag of potatoes every half hour, 8 hours a day, 40 hours a week, 12 months a year? How would your hands react to it? That is what we are talking about—ergonomics; musculoskeletal disorders.

I note that the Republican majority wants to limit this debate. They have asked on two occasions that we agree to a limitation. I hope they will reflect on the fact that we are talking about injuries that occur to 600,000 workers a year. It is only fair to those workers, when we consider this amendment by Senator BOND of Missouri, that this debate reflect the gravity of the issue. I will not make a unanimous consent request at this time, but I think it is reasonable that we allot in this debate perhaps 1 minute for every 250 workers who were injured each year by one of these conditions.

That is 1 minute of debate for every 250 workers. By my calculation, that comes out to about 24,000 minutes, and it turns out to be a 40-hour work week. Wouldn't it be interesting if the Members of the Senate had to stand in their workplaces 4 and 5 hours at a time debating this amendment and then talk about the aches and pains they suffer. Imagine the worker who puts up with that every single day.

Each of us in the Senate brings our own personal experiences to this job. I am sure there are many colleagues in support of this amendment who have been engaged in manual labor. I oppose this amendment. I have had the experience, in my youth, of some pretty tough jobs. My folks were pretty adamant that I take on tough jobs so I would want to go back to school and finish my college and law school education.

Well, it worked. I grew up in East St. Louis, IL, and spent several summers working in the stockyards, sometimes working the graveyard shift, from midnight until 8 in the morning, and other times during the day. I did all sorts of manual labor, such as moving livestock, cleaning up in areas that needed to be cleaned up. It was a lot of hard, tough work. At the end of each summer, I was darn glad to go back to school.

But there were two jobs I had that educated me more than others about the workplace, and dangers, and why this debate is not about some dry concept but about real people who get up every single morning, pull themselves out of bed, brush their teeth, and head off to work to earn a paycheck to pay for their families' needs and maybe to realize the American dream.

One job I had was on a railroad. It was considered a clerical job. It involved a lot of moving back and forth, sometimes in the middle of the night, in Brooklyn, IL, between trains that stopped. I was a bill clerk walking up and down with a lantern, trying to keep track of these trains. One night, in the middle of the night, I climbed a ladder on the side of one of these gondolas to see if it was empty or full. As I started to jump down from that ladder, my college graduation ring caught on a burr on the ladder, causing a pretty serious injury and a scar I still carry. That was a minor injury. I was back at work in a few days. Some workers aren't so lucky.

But the job I had really educated me about this issue, so I understand it personally. I hope my colleagues can come to understand it. It is a fact that I worked four straight summers in a slaughterhouse, the Hunter Packing Company of East St. Louis, processing hogs and pork products. We were unionized, the Amalgamated Meat Cutters and Butcher Workers of Greater North America, and we had a contract. Thanks to that contract, I think I received $3.50 an hour, which, in the early 1960s, was a great wage for a college student. I could finish that summer and take $1,500 back to school and do my best to pay my bills. My kids, and a lot of college students today, laugh when they consider that amount of money, but that was a large amount of money in my youth. When you came to the slaughterhouse as a college student, you expected the worst jobs, and you took them if you wanted to make the salary you needed. So I worked all over this slaughterhouse.

The union had entered into an agreement with the company, Hunter Packing Company, which said: You will work an 8-hour day, but we define an 8-hour day in terms of the number of hogs that are processed. If I recall correctly, our contract said we would process 240 hogs an hour, which meant slaughtering or processing on 2 different floors, 2 different responsibilities.

Some people who worked there said: Wait a minute, if 240 hogs equals an hour, and we are supposed to work 8-hour days, and at the end of the day we are supposed to have processed or slaughtered 1,920 hogs, if we can speed up the line that carries these hogs, or speed up the conveyor belt that carries the meat products, we might be able to get out in 7 hours.

So it was a race every day to get to 1,920 hogs. Hundreds of men and women who were standing on these processing lines were receiving that piece of the animal or piece of meat to process it, knowing another one was right behind it, just as fast as they could move—repetitive action, day in and day out.

I saw injuries in that workplace because of the repetition and the speed. I can remember working on what we called the "kill floor," where the first processing of a hog took place. I worked next to an elderly African American gentleman, a nice guy. He joked with me all the time because I was this green college student doing everything wrong. One day, I looked over as he slumped and fell to the floor; he passed out.

I can recall another day when I was working on a line where they were putting hams on a table to be boned and then stuck into a can so we could enjoy them at home. These men were—it was all men at that time—paid by the ham. The faster they could bone the hams, the more money they made. The knives they used were the sharpest they could possibly get their hands on. They covered the other hand with a metal mesh glove, and they would set out to bone the ham as quickly as they could. There were hams flying in every direction and hands flying in every direction. The next thing you know, there were injuries and cuts.

Of course, if your hand is cut and you work as a piece worker, you really don't make much money until it heals. You can't go back too soon into an environment with a lot of meat juices and water because it won't heal. I would see these men with bandaged hands standing over to the side waiting for another chance to make a living for their family.

These images are as graphic in my mind today, in 1999, standing on the floor of the Senate, as they were in my experience as a kid in that packing house. As I looked around at the men and women who got up every single day and went to work—hard work, dirty work, but respectable work—and brought home a good paycheck for a hard day's work, I saw time and time again these injuries on the job.

The amendment offered by the Senator from Missouri, Mr. BOND, says to the Federal Government—in this case, it says to the Secretary of Labor—not to study and not to come up with regulations that would protect workers in the workplace from repetitive injuries.

It is a common question in legislatures and on Capitol Hill: Who wants this amendment? Who is pushing for this amendment? Who would want to leave millions of American workers vulnerable in the workplace from repetitive stress injuries when we know that over 600,000 workers a year are injured? Who is it who wants to stop or slow down this process?

Well, I am virtually certain it is some business interest. I don't know which one, because the curious thing is that every business that comes to talk to this Senator, or others, is quick to say: We care about our workers. We put things in place to protect our workers. We don't need the Federal Government to come in because safety in the workplace is No. 1 at our plant.

I hear that over and over again. I don't dispute it. When I talk to you a little later on about some of the companies that have responded to this particular challenge, you are going to find big names, Fortune 500 names, such as Caterpillar Tractor Company of Illinois, a big employer in my State. I am proud of what this company makes and exports around the world. You will hear about what they have done to deal with the problem. Chrysler Motor Company in Belvidere, IL. I have been there. We will talk about what they did.

Finally, you are going to say, if the Fortune 500 companies and the ones that talk to you are the good guys, the companies that are really trying to protect workers and understand how expensive and serious it is to have injuries in the workplace, who in the world is pushing for this amendment that would eliminate holding every business in America responsible for safety in the workplace?

My conclusion is that some bad actors out there in the business community who are not living up to the same standard as these companies are the ones behind this amendment. And the sad reality is, the larger companies, through the organizations that represent them in Washington, have joined ranks with the bad actors.

They are playing down the lowest common denominator. They are trying in a way to protect their competitors that aren't living up to the same good standards for their workers. I think that is shameful. I think it is disgraceful.

This Bond amendment—make no mistake—I want to read to you what it does—says after a lot of preparatory language:

> None of the funds made available in this act may be used by the Secretary of Labor, or the Occupational Safety and Health Administration, to promulgate, or to issue, or to continue the rulemaking process of promulgating or issuing any standard regulation or guideline regarding ergonomics prior to September 30, 2000.

In other words, turn out the lights downtown on establishing standards that you send down to businesses to protect workers.

Mr. SCHUMER. Mr. President, will the Senator from Illinois yield for a question?

Mr. DURBIN. I am happy to yield to the Senator from New York for a question.

Mr. SCHUMER. I thank the Senator for yielding.

As I go around my State of New York, I meet all kinds of people who are unable to use their hands anymore because of the kinds of jobs they have had. We have had, for instance, in New York City, workers from a variety of jobs come together to talk about the need for some kind of standard. Many have been disabled by workplace injuries and have had to limit the amount of hours they work. One woman, for instance, an editor for a local TV station, says she can't use her hands for cooking, for opening doors, or for carrying anything.

I ask my colleague from Illinois, how would this amendment affect people in that position?

Mr. DURBIN. The Bond amendment, offered by the Senator from Missouri, would basically say to those workers: Your Government can't establish a standard to protect you in the workplace. It stops the Government from establishing a standard for workers.

Mr. SCHUMER. Mr. President, if the Senator might yield for another question, I guess there is some talk about whether we need to study further; that they are not yet ready to have standards. Yet it is my understanding that scientific and medical journals have had over 2,000 articles about the need for some kinds of standard, about what the problems are, and that it is pretty clear cut that in many new kinds of industries the problems that have developed at the workplace are so real that we have far more than enough information to develop standards.

Would the Senator care to comment on whether or not the argument that we are not ready to have standards in ergonomics washes?

Mr. DURBIN. I say to the Senator from New York, he is correct. Over 2,000 studies have established a causal relationship between certain work patterns and certain injuries.

I also say to the Senator from New York that this large volume I referred to earlier from the Centers for Disease Control, which is not a political organization—it is an organization dedicated to public health in America—concluded after one of their more recent studies as follows:

> A substantial body of credible epidemiological research provides strong evidence of an association between musculoskeletal disorders and certain work-related physical factors when there are high levels of exposure, and especially in combination with exposure to more than one physical factor; that is to say, repetitive lifting of heavy objects in extreme or awkward postures.

So the Senator from New York is correct. The evidence is in. There is need for standard of protection.

Mr. SCHUMER. Mr. President, will the Senator yield for a further question?

Mr. DURBIN. I would be happy to yield.

Mr. SCHUMER. Mr. President, I thank the Senator. I respect his expertise on this issue. I know he has been involved in it for a long time.

It is my understanding that in 1990 the Secretary of Labor, Elizabeth Dole—not a member of our party, now a candidate for President—said that OSHA must take all the needed steps to develop an ergonomics standard. That was virtually 10 years ago. There has been lots of planning since. Am I correct in assuming that even at the beginning of the decade it was pretty clear we needed some kind of standard, and that we have delayed and delayed to the harm of thousands, tens of hundreds, and hundreds of thousands of workers?

Mr. DURBIN. The Senator from New York is accurate. At the conclusion of my remarks, I will ask unanimous consent to enter into the RECORD a news release from the U.S. Department of Labor that is dated Thursday, August 30, 1990, a release from then-Secretary of Labor, Elizabeth Dole, that says as follows in the opening paragraphs:

> Secretary of Labor, Elizabeth Dole——

The same person who is now a Republican candidate for President, I might add——

> * * * today launched a major initiative to reduce repetitive motion trauma, one of the Nation's most debilitating across-the-board worker safety and health illnesses of the 1990s.

She goes on with a quote that says:

> These painful and sometimes crippling illnesses now make up 48 percent of all recordable industrial workplace illnesses. We must do our utmost to protect workers from these hazards, not only in the red meat industry, but all U.S. industries.

That was Secretary Elizabeth Dole, Republican administration, 1990.

Mr. President, I ask unanimous consent to have printed in the RECORD this news release in its entirety from the Department of Labor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Secretary Dole Announces Ergonomics Guidelines to Protect Workers from Repetitive Motion Illnesses/Carpal Tunnel Syndrome

Secretary of Labor Elizabeth Dole today launched a major initiative to reduce repetitive motion trauma, once of the nation's most debilitating across-the-board worker safety and health illnesses of the 1990's.

"These painful and sometime crippling illnesses now make up 48 percent of all recordable industrial workplace illnesses. We must do our utmost to protect workers from these hazards, not only in the red meat industry but all U.S. industries," Secretary Dole said.

"We are publishing these guidelines now because we want to eliminate as many illnesses as possible, as quickly as possible.

"The Department is committed to taking the most effective steps necessary to address the problem of ergonomic hazards on an industry-wide basis. Thus, I intend to begin the rulemaking process by asking the public for information about ergonomic hazards across all industry. This could be accomplished through a Request for Information or an Advanced Notice of Proposed Rulemaking consistent with the Administration's Regulatory Program.

"We are emphasizing the need for employers to fit the job to the employee rather than the employee to the job," Secretary Dole said. "This involves such measures as designing flexible work stations which can be adjusted to suit individuals and relying on tools developed to minimize physical stress and eliminate crippling injuries. It begins with organizing work processes with the physical needs of the workers in mind."

Repetitive motion trauma, also referred to as cumulative trauma disorders (CTD's), are disorders of the musculoskeletal and nervous systems resulting from the repeated exertion, or awkward positioning, of the hand, arm, back, leg or other muscles over extended periods daily.

They include lower back injuries, carpal tunnel syndrome, (a nerve disorder of the hand and wrist), and various tendon disorders, among others.

"We are initially focussing on the red meat industry because its problems are well-documented and very severe," Secretary dole said.

The guidelines for the red meat industry, being issued in the form of a booklet by the Labor Department's Occupational Safety and Health Administration (OSHA), were developed to assist employers in the industry in developing ergonomic hazard abatement programs.

"The message in the guidelines is simple: repetitive motion illnesses can be minimized through proper workplace engineering and job design and by effective employee training and education," Secretary Dole said. "The guidelines list the keys for success: commitment by top management, a written ergonomics program, employee involvement and regular program review and evaluation.

"We will be closely monitoring and assessing the success of the Red Meat Guidelines in addressing ergonomic hazards to give us more information on which to proceed as we deal with these issues on an industry-wide basis.

"We owe a debt of thanks to the United Food and Commercial Workers, AFL-CIO; the American Meat Institute, and the National Institute for Occupational Safety and Health for their expert assistance in developing these guidelines. Their willingness to join with us in finding and implementing solutions to ergonomic problems has been most encouraging."

Assistant Secretary of Labor Gerard F. Scannel, who heads OSHA, said his agency would begin an inspection program early next year in the red meat industry as another phase of the special emphasis program initiated by the issuance of the guidelines.

He said the special emphasis program for the meat industry has been designed to ensure that the well-recognized ergonomic hazards in the industry are being adequately addressed and that ergonomic programs are in place in all major meatpacking plants.

Each red meat plant in the U.S. will be sent a copy of the meatpacking guidelines. As part of the special emphasis program, employers will be offered the opportunity to enter into agreements with OSHA to abate their ergonomic hazards.

Though those who sign such an agreement will be subject to monitoring visits and OSHA inspections in response to complaints, they will not be cited or penalized on ergonomic issues if the monitoring visits show a comprehensive effort and satisfactory progress in abating such hazards.

Scannell said that while the guidelines are advisory, "compliance with them could demonstrate to an OSHA inspection team that an employer is committed to addressing ergonomic hazards."

Scannell said the guidelines include a list of questions and answers about common problems to provide more specific assistance to small businesses.

"Ergonomics Program Management Guidelines for Meatpacking Plants," the official title of the booklet, builds on the cooperative approach of OSHA's safety and health program management guidelines issued in January 1989. Although strict adherence to today's guidelines is not mandatory, OSHA believes following them can produce significant reductions in repetitive motion illnesses.

The recommended program begins with analysis of the worksite to identify potential ergonomic problems. Ergonomic solutions may include: engineering controls such as proper work stations, work methods and tool designs, work practice controls such as proper cutting techniques, new employee training, monitoring adjustments and modifications, personal protective equipment such as assuring proper fit of gloves and appropriate protection against cold and administrative controls such as reducing the duration, frequency and severity of motions; slowing production rates; limiting overtime; providing adequate rest pauses; increasing the number of workers assigned to a particular task; rotating workers among jobs with different stressors; ensuring availability of relief workers; and maintaining equipment and tools in top condition.

Further, meatpackers need to develop an effective training program to explain to employees the importance of working in ways that limit stress and strain, and the need to report symptoms of CTDs early so that preventive treatment can forestall permanent damage.

Employers must also instruct employees in the proper techniques for their individual jobs. Annual retraining is necessary to assure that employees continue to do their jobs correctly.

An effective ergonomics program also includes medical management with trained health care providers to work with those implementing the ergonomics program and to treat employees. The guidelines describe helpful steps including periodic workplace walkthroughs, symptoms surveys and lists of light-duty jobs for employees recovering from repetitive motion injuries.

They stress the importance of a good health surveillance program; the need to encourage early reporting of symptoms; appropriate protocols for health care providers; and evaluation, treatment and follow-up for repetitive motion illnesses.

Finally, the booklet offers suggestions for recordkeeping and monitoring injury and illness trends.

The guidelines also include a glossary of terms and a list of references. Employers may contact OSHA regional offices with questions about ergonomics, recordkeeping or other safety and health issues by consulting the directory at the end of the booklet.

Single copies of "Ergonomics Program Management Guidelines for Meatpacking Plants" are available free from OSHA Publications, Room N3101, Frances Perkins Building, 200 Constitution Ave., NW, Washington, D.C. 20210 by sending a self-addressed mailing label.

Mr. SCHUMER. Mr. President, I rise today to state my opposition to this amendment.

When people say government is not responsive to people's problems or that it gets nothing done—they are talking about this amendment which bars OSHA from issuing a standard on ergonomics.

We know the facts. Ergonomics is no longer the mystery it once was. Over 2,000 articles related to this appear in scientific and medical journals.

We do not need new studies. How many studies do we need before everyone recognizes the obvious—ergonomic injury is real?

The 600,000 workers who experience severe back pain or hand and wrist pain have been studied ad nauseam.

So let's move forward and develop a standard. It will ultimately save businesses money and it will protect workers, because a standard will keep people in the workplace.

The Department of Labor has worked on formulating a standard since former-Secretary Elizabeth Dole said in 1990 that OSHA must take all the needed steps to develop an ergonomics standard. That's 10 years of planning. We don't need another year of delay.

This shouldn't be a partisan issue. We need not pit business versus labor. All sides will benefit.

If not now, I predict eventually we will develop an ergonomics standard. Because as this economy becomes more dependent on the computer, and more top level managers spend much of their day in front of a screen—they will develop the same injuries that are reserved now only for secretaries.

And that will be impetus to develop a standard for them and for those in construction and factories that develop repetitive motion stress.

Last April in New York City, workers from a variety of jobs came together to talk about the need for an ergonomics standard. Some have been permanently disabled by workplace injuries. Some have had to limit the hours they work.

One woman, an editor at a local television station, said can't use her hands "not for cooking, opening doors, carrying anything."

Passing this amendment means we believe these people are faking it. No wonder people are so frustrated by government.

Let's defeat this amendment.

Mr. President, will the Senator also answer another question?

Mr. DURBIN. Certainly.

Mr. SCHUMER. This is one other problem that I have heard from my constituents in New York. Workers who have labored long and hard who show up at the job day in, day out develop certain types of problems, and because there are no standards, all too often when they go to their supervisor, when they go to their boss, when they go to somebody of some authority in the company in which they work—it could be a large company, it could be a small company—and complain of these problems, they are told they are faking because these injuries are different. Many of them are the kinds of injuries we are used to where, God forbid, you see blood or bone or some bruise. These are injuries that hurt and affect their ability to work just as much, but they can't be seen in the same way.

Has the Senator from Illinois come across the same type of problem, and wouldn't the promulgation and maintenance of standards help these people prove they have a real problem?

Mr. DURBIN. I think the Senator from New York identifies the real problem here in defining the issue because in many cases we are talking about what is characterized as a "soft tissue injury." In other words, examination by an x ray or an MRI may not disclose any problem and yet there is a very serious and real problem.

I used to find in my life experience people suffering neck and back injuries. You couldn't point to objective evidence of why this person was crippling up or why this person had a problem. In fact, the problem was very real.

What we are trying to do is establish a standard so the worker is not accused of malingering and the worker is not accused of faking it, but the worker has a recourse when there is a very real and serious injury to at least get time off and at least go for some medical attention.

The Senator from Missouri, Mr. BOND, with this amendment wants to stop this process, wants to say that this Government will not establish that standard of protection for American workers. The net result of it, of course, is that 600,000 victims of these injuries each year will not have the protection to which the Senator from New York has alluded.

Mr. SCHUMER. I thank the Senator.

Mr. DURBIN. Mr. President, let me go on to say that the objective of continuing to study this matter is one of the oldest strategies on Capitol Hill. It is the way many people who object to a certain thing occurring delay the inevitable and prolong the process of review.

I have been involved for years in the battle against the tobacco companies. I can't think of a product in America that has been studied more than tobacco. It shouldn't be. It is the No. 1 preventable cause of death in America today.

When the tobacco companies ruled the roost on Capitol Hill, they would postpone health standards and warning labels, and banning smoking on airplanes, for example, by saying: We just need another study. If we can get another study, then maybe we will arrive at the truth about what to deal with, what to do in dealing with tobacco products.

This is another good illustration. I listened to the Senator from Missouri. He said in his conclusion supporting this amendment, which I rise in opposition to: "It is time for OSHA to act compassionately."

I understand the virtue of compassion, and I hope I have some in my life. But there is no compassion for millions of American workers if we do not set out to establish a standard of protection when it comes to these types of injuries.

To postpone this for another year—which is what this amendment would do—is to put their health and safety at risk. For what? So that bad companies that care less about their worker injuries don't have to improve the workplace? That is what it is all about. That is the bottom line on this debate.

As I said earlier, major companies already recognize the problem and respond to it. Go into many of your discount stores and one sees workers wearing back brace belts. I have seen them at Wal-Mart and other stores. Their employers understand reaching over and pulling groceries hour after hour can cause some back strain, so they have done something about it. Voluntarily, on their own, they have done something. They don't want the workers to be off work and an expense to the company. They want them to continue on the job with good morale and they provide them some protection.

When I went to the Belvidere Chrysler plant where they make the Neon automobile in my State of Illinois, I was pleasantly surprised to see all the changes that had taken place on the assembly line. In the old days, a worker would turn around and pick up a piece of an automobile, move around, and put it on the automobile to fix it in place. That has changed. There are all sorts of cranes and devices so parts can be moved without strain or stress to the employee. That was done not just to protect the employee but to protect the bottom line of the company.

Frankly, worker injuries cost the companies in terms of time lost and in terms of productivity as the experienced workers leave the line and someone new takes their place. That is being done by conscientious companies. OSHA needs to develop a standard for those that are not conscientious. The Bond amendment is not compassionate. The Bond amendment stops the Department of Labor from establishing that standard of protection.

As I mentioned earlier, over 6 million workers have been injured in the course of keeping records on this particular type of injury, 600,000 each year. Over 2,000 studies on these hazards have detailed how the hazards in the workplace harm people and put them out of work, and the devastating impact they have had on the American workforce.

Yet the Bond amendment delays, stops it, says to the workers who go to work every single day, put your life and your earning capacity at risk in the workplace. And we in Congress, each year, for the sake of a handful of companies that refuse to act responsibly in dealing with their workers, will stop you from any standard of protection.

The following disorders in 1997 accounted for more than 600,000 workplace injuries. One is fairly common. In fact, some people who work in my office have dealt with this problem because of the nature of working on a keyboard. This type of musculoskeletal disorder is called carpal tunnel syndrome. It accounts for $20 billion annually in workers' compensation costs. As I am speaking now, there is a court reporter standing in front of me working away at her machine; she does that every single day. If she is not careful, she can develop problems, as people in ordinary clerical situations do on a regular basis.

I don't think these people are malingerers. I don't think these people are faking. Ever seen the scars from the surgery? That strikes me as a great length to go to to fake an injury. I think these people are in real pain and seeking real relief.

One of the things I have noticed, some of the keyboards have been changed now so there is less stress on the hands of workers who use them. Companies have decided in redesigning the keyboard that they will address that problem directly. It could be that the development of a standard by the Department of Labor will move our country in that direction and reduce the $20 billion paid out every year by American businesses for workers' compensation cases involving those with carpal tunnel syndrome.

Who is affected the most by the Bond amendment? Which workers will be hurt the most by the Bond amendment? Women across America. Women workers suffer a much higher rate of carpal tunnel syndrome. According to the Bureau of Labor Statistics, 86 percent of repetitive motion injury increases were suffered by women; 78 percent of tendinitis increases were suffered by women. Yet women make up 46 percent of the workforce.

What kind of jobs are these women in? We have talked about clerical jobs, obviously. But there are nurses, nurse's aides, cashiers, assemblers, maids, laborers, custodians, and, yes, many of these jobs employ minority workers. It is estimated between 25 and 50 percent of the workforce are Hispanic and African American workers in those particular jobs.

A 6-month study by the National Academy of Sciences in 1998 stated, "The positive relationship between the occurrence of musculoskeletal disorders and the conduct of work is clear."

We heard the Senator from Arkansas, we heard the Senator from Missouri—I am sure we hear others—stand up and defy this scientific conclusion. Despite 2,000 studies and this clear language, some would lead Members to believe that it is still a mystery how 600,000 workers could complain of this type of injury in America every single year. We know better. We know better from our life experience. That is why this amendment is so bad, why this amendment, in delaying protection for those workers, ignores the obvious, the injuries and the scientific conclusion that leads us to at least a standard of care to protect those same workers.

A few minutes ago, I made reference to the press release from the Department of Labor, 1990, at a time when the Secretary was Elizabeth Dole. Elizabeth Dole is a person I came to know and respect when she was Secretary of Transportation and appeared before my subcommittee in the House of Representatives. There was a time when we spoke of worker protection issues as bipartisan issues. Sadly, with a very few exceptions, that is not the case anymore.

If we are talking about increasing the minimum wage, which historically was a bipartisan issue—both Democrats and Republicans understanding that people who went to work every day deserve a living wage—that has changed. It has changed for the worse.

This amendment, if it comes to a vote, will evidence that this has become a very partisan matter. Those offering the amendment on the Republican side of the aisle will generally, if not exclusively, vote in support of the amendment; those on the Democratic side of the aisle will generally vote against it. We have broken down on partisan lines.

The sad reality is the workers we are talking about and the workers who were injured do not break down on partisan lines. The workers who come off that job with neck and back injuries and carpal tunnel syndromes are Republicans, Democrats, Independents, and nonvoters. They deserve better than to let this issue break down to the partisan battle which it has.

Secretary of Labor Elizabeth Dole said in August of 1990:

> We must do our utmost to protect workers from these hazards in all U.S. industries.

She said at that time, 9 years ago:

> We are publishing these guidelines now because we want to eliminate as many illnesses as possible as quickly as possible.

She goes on to say:

> The Department [of Labor] is committed to taking the most effective steps necessary to address the problem of ergonomic hazards on an industry-wide basis.

That was 9 years ago. Here we are today, without those standards of protection, and an effort underway by Senator BOND of Missouri to, once again, delay the establishment of these standards.

Secretary Elizabeth Dole said in 1990:

> We are emphasizing the need for employers to fit the job to the employee, rather than the employee to the job. This involves such measures as designing flexible workstations which can be adjusted to suit individuals and relying on tools developed to minimize physical distress and eliminate crippling injuries. It begins by organizing work processes with the physical needs of the workers in mind.

That is basically what I have seen applied to businesses in my home State of Illinois, by companies that care. This entire news release has now been agreed to be part of the RECORD. Those who review this debate will see that Secretary Dole was on the right track—a Republican Secretary of Labor.

Why, today, the Republican Party, through the amendment of Senator BOND of Missouri, wants to take a different venue, a different tack, and to eliminate this responsibility, I cannot explain.

This press release is from a different Labor Secretary, not our current Secretary of Labor, Alexis Herman, who said if the Bond amendment is adopted, she will veto this entire important bill; it is from Secretary Elizabeth Dole. But it is from Secretary Elizabeth Dole. Secretaries Dole, Reich, and Herman have support this issue, but they are not alone. Other endorsements establishing the standard of protection for American workers come from the American Nurses Association, the American Academy of Orthopedic Surgeons, the National Academy of Sciences, the American Public Health Association, and the National Advisory Committee on Occupational Safety and Health.

I received a letter from the American Public Health Association, which I would like to make part of this record as well.

I ask unanimous consent this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN PUBLIC
HEALTH ASSOCIATION,
Washington, DC, September 27, 1999.

U.S. Senate,
Washington, DC.

DEAR SENATOR: We are deeply concerned about S. 1070, legislation that would not only block OSHA from issuing an ergonomics standard, but even from issuing voluntary guidelines to protect working men and women from ergonomic hazards, the biggest safety and health problem facing workers today.

We strongly support OSHA's efforts to promulgate a standard to protect workers from ergonomic injuries and illnesses. These disorders are real, they are serious and they account for nearly a third of all serious job related injuries (more than 600,000 workers a year); moreover, they are preventable. One type, carpal tunnel syndrome, alone results in workers losing more time from their jobs than any other type of injury, including amputations. The workers' compensation costs of ergonomic injuries are estimated at $20 billion annually, the overall costs at $60 billion.

For women workers, OSHA's efforts are particularly important, because nearly half of all injuries and illnesses among women workers result from ergonomic hazards. Though these hazards are present in a variety of jobs, many of the occupations predominantly occupied by women are among the hardest hit by ergonomic injuries.

Workplace musculoskeletal disorders can be prevented. There is a clear and adequate foundation of scientific and practical evidence, including a 1998 congressionally requested National Academy of Sciences study demonstrating that these disorders are work-related and that ergonomic solutions in the workplace can prevent injuries. These workplace solutions can protect workers, decrease workers' compensation costs, and produce gains in productivity and workplace innovation.

We recognize that there is another National Academy of Sciences study pending, and that this is the reason for the legislation. We also recognize that useful information will come out of that study that can be applied to improve protections for workers. However, sufficient data already exists to protect workers. Failure to act on adequate data in this regard is irresponsible.

After almost a decade of work, OSHA is finally moving forward with a proposed ergonomics standard to prevent work-related musculoskeletal disorders. Upon official publication, this proposal will allow a public debate on ergonomics before a final rule is issued. We are aware of the differing views surrounding this proposal. However, such debate is not unique to ergonomics. Such differences in views have existed in almost all of OSHA's major rulemaking, including other serious workplace hazards such as asbestos, benzene and lead.

The rulemaking process—the proper forum for debate over regulatory proposals—will provide the opportunity for all parties to present their views, opinions and evidence.

We urge you to resist efforts to block OSHA from working on the development and adoption of an ergonomics standard by voting "no" on S. 1070 or any other effort to prevent OSHA from protecting workers from ergonomic hazards. Blocking these necessary safeguards will needlessly risk the health of millions more working people.

Sincerely,

ORGANIZATIONS

9–5, National Association of Working Women.

Alaska Health Project.

American Association of Occupational Health Nurses, Inc.

American Nurses Association.

American Public Health Association.

Central New York Occupational Health Clinical Center.

Chicago Area Committee on Occupational Safety and Health.

Connecticut Council on Occupational Safety and Health.

Johns Hopkins Education and Research Center.

Montana Tech of the University of Montana, Safety, Health and Industrial Hygiene Department.

National Organization for Women.

National Partnership for Women and Families.

National Women's Law Center.

New Hampshire Coalition for Occupational Safety and Health.

New York Committee for Occupational Safety and Health.

North Carolina Occupational Safety and Health Project.

Northwest Center for Occupational Health and Safety (University of Washington).

Rhode Island Committee on Occupational Safety and Health.

Rochester Council on Occupational Safety and Health.

San Diego State University, Graduate School of Public Health.

South Central Wisconsin Committee on Occupational Safety and Health.

Southeast Michigan Coalition on Occupational Safety and Health.

University of Puerto Rico School of Public Health.

Western New York Council on Occupational Safety and Health.

Wider Opportunities for Women.

Wisconsin Committee on Occupational Safety and Health.

Women Work! The National Network for Women's Employment.

Mr. DURBIN. Mr. President, this letter is dated September 27, 1999. It comes from a long list of organizations that comprise the American Public Health Association.

Reading the introductory paragraphs will make it clear where they stand, in opposition to the Bond amendment:

> We are deeply concerned about S. 1070, legislation that would not only block OSHA from issuing an ergonomics standard, but even from issuing voluntary guidelines to protect working men and women from ergonomic hazards, the biggest safety and health problem facing workers today.
>
> We strongly support OSHA's efforts to promulgate a standard to protect workers from ergonomic injuries and illnesses. These disorders are real, they are serious and they account for nearly a third of all serious job related injuries (more than 600,000 workers a year); moreover, they are preventable. One type, carpal tunnel syndrome, alone results in workers losing more time from their jobs than any other type of injury, including amputations. The worker's compensation costs of ergonomic injuries are estimated at $20 billion annually, the overall costs at $60 billion.
>
> For women workers, OSHA's efforts are particularly important, because nearly half of all injuries and illnesses among women workers result from ergonomic hazards. Though these hazards are present in a variety of jobs, many of the occupations predominantly occupied by women are among the hardest hit by ergonomic injuries.

Why is it when it comes to this floor and the battle is worth fighting, if the well-heeled special interest groups with the strongest lobbies can come in, whether it is an oil company trying to avoid paying its fair share of royalties to drill for oil on public lands or other large companies, we take the time and end up giving the special favors, but when it comes to women in the workplace, minorities in the workplace, time and time again this Senate, this Congress, will cut a corner and say, ultimately: Perhaps we ought to give the benefit of the doubt to the employer, perhaps we ought to ignore the 600,000 who are injured?

As one who spent a small part of my life in the workplace, that standard is upside down. If the Senate in Washington, DC, is not here to protect those who are voiceless, then we have lost our bearings completely. This issue goes to the heart of that debate.

The General Accounting Office has found employers can reduce costs and injuries associated with musculoskeletal disorders and improve not only employee health but productivity and product quality.

When workers know their employer cares enough about them to make the workplace safer for them, it is a clear and strong message to them that increases employee morale. The time has come for the other side of the aisle to make good on its promise to the American people. The leader in the candidacy for the Presidency on the Republican side, Gov. George W. Bush of Texas, claims he is a compassionate conservative. During the course of this campaign, we will try to figure out what that means.

Today, we can ask ourselves if we are seeing an exhibition of compassionate conservatism from the Republican side of the aisle. I think not. With this amendment, I think we see an effort to turn our backs on people who need compassion, understanding, and protection.

Last year, the chairman of the House Appropriations Committee, Robert Livingston of Louisiana, and his ranking Democratic member, DAVID OBEY of Wisconsin, made it clear in a letter to the Secretary of Labor:

> . . . by funding the National Academy of Sciences study [on this issue], it is no way our intent to block or delay issuance by OSHA of a proposed rule on ergonomics.

The reason I raise that is so those who are following the debate understand that this attempt at delay is nothing new. I have the letter. The letter makes it clear that both the Democratic and Republican leaders on the House Appropriations Committee last year made it clear they wanted to go forward with the rule or a standard of protection on these types of injuries.

I ask unanimous consent the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, October 19, 1998.

Hon. Alexis Herman,
Secretary of Labor,
Washington, DC.

DEAR MADAM SECRETARY: Congress has chosen not to include language in the Fiscal Year 1999 Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act that would prohibit OSHA from using funds to issue or promulgate a proposed or final rule on ergonomics. As you are well aware, the Fiscal Year 1998 Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act did contain such a prohibitiion, though OSHA was free to continue the work required to develop such a rule.

Congress has also chosen to provide $890,000 for the Secretary of Health and Human Services to fund a review by the National Academy of Sciences (NAS) of the scientific literature regarding work-related musculoskeletal disorders. We understand that OSHA intends to issue a proposed rule on ergonomics late in the summer of 1999. We are writing to make clear that by funding the NAS study, it is in no way our intent to block or delay issuance by OSHA of a proposed rule on ergonomics.

Sincerely,

BOB LIVINGSTON,
Chairman.
DAVID OBEY,
Ranking Member.

Mr. DURBIN. Here we have the Bond amendment which says the deal is off. For the sake of some companies which do not protect their workers in the workplace and do not care to spend the money to do it, we are basically going to say we will establish no standards for workplaces across America. Senator GREGG, my colleague, proposed the new National Academy of Sciences study last September in committee. Then he stated, ". . . the study does not in any way limit OSHA" in moving forward with the ergonomic standard.

By the way, this study asks exactly the same seven questions the previous study asked. Even Chairman STEVENS of Alaska stated, "There is no moratorium under this agreement."

So we are told the Department is supposed to go forward in establishing these standards. Along comes the Bond amendment. I remind my colleagues, the Bond amendment stops the Department of Labor in its tracks. It prohibits that department, OSHA, from promulgating or continuing the rulemaking process, issuing any standard, regulation, or guidelines regarding ergonomics for a year.

So the deal has been changed. The losers in this bargain are the workers across America who expect us to care and expect us to respond. I think it is time to bring an end to this charade. We have a real problem. We need real solutions. Workers across this country need real protection. The Bond amendment removes the possibility of establishing this standard of protection.

A few weeks ago I was visited by Madeleine Sherod. Madeleine is a victim of these injuries, a mother of five children who are now all grown. She has worked for an Illinois paint company for 20 years.

When she started, she literally lifted and moved work stations from one area of the plant to another. This job consisted of lifting several different sizes and weights of boxes. After several months of this type of work she transferred to the shipping department where she performed the duties of a warehouse worker. Her job consisted of driving a material handling truck and lifting cartons of paint that were packaged in various sizes and weights (5 gallon pails weighing approximately 20 lbs–90 lbs). She performed this job for at least 13 years. She later transferred to a job where she now operates several different pieces of machinery: She must keep the equipment operating efficiently—if the machinery breaks down then manual labor must be performed.

Her first injury occurred about 15 years ago. She was diagnosed with carpal tunnel syndrome and had surgery to relieve the pain. As a mother of 5 children her ability to perform the normal tasks as a parent was an everyday struggle. She was unable to comb her three daughters hair, wash dishes, sweep floors, or many other day-to-day tasks that working moms must perform.

Her second injury occurred about 7 years ago. Madeleine was diagnosed with tendinitis and this time had tenon release surgery. Even today she has to wear a wrist brace to help strengthen her wrist. Being extra cautious has become part of her everyday life when it comes to the use of her wrist.

She recently found a lump on her left wrist, and is preparing herself for yet another surgery.

The company has not been able to make any adjustments for her at this time. They say that there really is nothing they can do to change the work that is preformed in the shipping department to curtail repetitive use of the hands, knees and back.

And here's the clincher: the majority of the women who have worked for this company for more than 10 year have had similar surgeries for their injuries.

The PRESIDING OFFICER. If the Senator will suspend, we have an order to vote on the Wellstone amendment at 1:50.

Mr. DURBIN. I will suspend.

VOTE ON AMENDMENT NO. 1842

Mr. COVERDELL. Mr. President, I ask for the yeas and nays on the Wellstone amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1842. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Connecticut (Mr. DODD) is absent because of family illness.

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 318 Leg.]

YEAS—98

Abraham
Akaka
Allard
Ashcroft
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bunning
Burns
Byrd
Campbell
Chafee
Cleland
Cochran
Collins
Conrad
Coverdell
Craig
Crapo
Daschle
DeWine
Domenici
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NAYS—1

Enzi

NOT VOTING—1

Dodd

The amendment (No. 1842) was agreed to.

AMENDMENT NO. 1825

Mr. NICKLES. Mr. President, parliamentary inquiry: What is the pending business before the Senate?

The PRESIDING OFFICER (Mr. VOINOVICH). Amendment No. 2270, in the second degree, offered by Senator BOND.

Mr. BURNS. Mr. President, I am pleased to support an amendment that I feel to be extremely important to the small business owners of Montana. That amendment is the Sensible Ergonomics Needs Scientific Evidence Act, the SENSE Act. This amendment makes the Occupational Safety and Health Administration, OSHA, to do the sensible thing—wait for a scientific report before OSHA can impose any new ergonomics regulations on small business.

According to the Bureau of Labor Statistics, BLS, the overall injury and illness rate is currently at its lowest level. Date shows that musculoskeletal disorders have declined by 17 percent over the past 3 years. But OSHA continues to aggressively move forward with an ergonomics regulation and ignoring the intent of Congress.

I have been hearing from small business owners of across the State of Montana. Businesses that range from construction companies to florists that fall under OSHA's mandated ergonomics regulations are telling me something has to be done. They are being forced to comply with ridiculous rules and regulations that OSHA cannot prove to be harmful to employees.

Before OSHA can move forward with any new regulations a few things need to be proven. First, OSHA needs to objectively define the medical conditions that should be addressed, not a broad category of all soft tissue and bone pains and injuries that might have resulted. Second, they need to identify the particular exposures in magnitude and nature which cause the defined medical conditions. Last they need to prescribe the changes necessary to prevent their recurrence. Right now OSHA cannot prove any of these things.

We need to make sure that OSHA is not running free and loose. They cannot have free rein to enact new rules and regulations without having significant scientific evidence to back up their new mandate. This amendment, to put it simply, will delay moving forward with any ergonomics rule or guideline until completion of an independent study of the medical and scientific evidence linking on-the-job activities and repetitive stress injuries.

This is a very complicated issue, and we need to make sure that there is sound science and through medical evidence to protect our small business and employees from misguided rules and regulations. The SENSE Act does not prohibit OSHA from continuing to research ergonomics or from exercising its enforcement authority, it just puts the small business owner on a level playing field. I yield the floor.

Mrs. MURRAY. Mr. President, I strongly oppose this amendment. It is our responsibility as the Nation's leader to reduce the hazards that America's workers face—not putting roadblocks in the way of increased workers safety. Ergonomic injuries are the single largest occupational health crisis faced by men and women in our workforce today. We should let the OSHA issue an ergonomics standard.

Ergonomic injuries hurt America's workers. Each year, more than 600,000 private sector workers in America are forced to miss time from work because of musculoskeletal disorders, MSDs. These injuries hurt our America's companies because these disorders can cause workers to miss three full weeks of work or more. Employers pay over $20 billion annually in worker's compensation benefits due to MSDs and up to $60 billion in lost productivity, disability benefits, and other associated costs.

The impact of MSDs on women workers is especially serious. While women make up 46 percent of the total workforce and only make up 33 percent of total injured workers, they receive 63 percent of all lost work time ergonomic injuries and 69 percent of lost work time carpal tunnel syndrome.

In addition, women in the health care, retail and textile industries are particularly hard hit by MSDs and carpal tunnel syndrome. In fact women suffer over 90 percent of the MSDs among nurses, nurse aides, health care aides, and sewing machine operators. Women also account for 91 percent of the carpal tunnel cases that occur among cashiers.

Despite all the overwhelming financial and physical impacts of MSDs and the disproportionate impact they have on our Nation's women, there have been several efforts over the years to prevent the Occupational Safety and Health Administration, OSHA from issuing an ergonomics standard.

Let's be clear, this amendment is intended to delay OSHA's ergonomic standard until yet another scientific study is performed on ergonomic injuries. We have examined the merits of this rule over and over again. Contrary to what those on the other side of this issue say, the science supports an ergonomics standard. We also had a bipartisan agreement that the current National Academy of Sciences, NAS, study would—in no way—impede implementation by OSHA.

NAS has already studied this issue. The new study would address the exact same issues that were dealt with in the previous study. They are also using the same science. No new science. It is mind boggling.

The National Institute for Occupational Safety and Health, NIOSH, studied ergonomics and conclude that there is "clear and compelling evidence" that MSDs are caused by work and can be reduced and prevented through workplace interventions. The American College of Occupational and Environmental Medicine, the world's largest occupational medical society, agreed with NIOSH and saw no reason to delay implementation. The studies and science are conclusive in the Senator's mind.

Further—and possibly most persuasive—last year, the administration and leaders in Congress on this side of the aisle only agreed to a new study because those on the other side said that this new study would not delay the issuance by OSHA of a rule on ergonomics. Now they are not standing by their word.

We cannot afford to delay an important standard which will greatly improve workplace safety.

I urge my colleagues to oppose this amendment. We should allow OSHA to issue an ergonomics standard. It will be an important first step in protecting our Nation's workers from crippling injuries.

Mr. KERRY. Mr. President, I want to spend some time this afternoon speaking to my colleagues to vote against the amendment before us today, the amendment that would prohibit the Department of Labor or the Occupational Safety and Health Administration from issuing any standard or regulation addressing ergonomic concerns in the workplace for one year.

Mr. President, this prohibition would come just as OSHA prepares, in the next few weeks, to publish its proposed rule on ergonomics for public comment. This would be a blow to American workers and a real step backwards for the kind of cooperative approach to business and the workplace that we need in this country.

Mr. President, let's be clear about the issue before us, the question of ergonomics and which workplace injuries will continue to occur if this amendment becomes law.

Ergonomics is the science of fitting workplace conditions and job demands to the capabilities of the working population. The study of ergonomics is large in scope, but generally, the term refers to the assessment of those work-related factors that may pose a risk of musculoskeletal disorders. It is well-settled that effective and successful ergonomics programs assure high productivity, avoidance of illness and injury risks, and increased satisfaction among the workforce.

Many businesses and trade associations have already implemented safety and health programs in the workplace and have seen productivity rise as fewer hours on the job are lost. According to Assistant Secretary of Labor

Charles N. Jeffress in his testimony before the House Committee on Small Business, programs implemented by individual employers reduce total job-related injuries and illnesses by an average of 45 percent and lost work time injuries and illnesses by an average of 75 percent.

Ergonomic disorders include sprains and strains, which affect the muscles, nerves, tendons, ligaments, joints, cartilage, or spinal discs; repetitive stress injuries, that are typically not the result of any instantaneous or acute event but are usually chronic in nature, and brought on as a result of a poorly designed work environment (these injuries are common causes of muscoskeletal problems such as chronic and disabling lower-back pain); and carpal tunnel syndrome.

And let's be clear that this, Mr. President, is a real problem for American businesses and workers. Industry experts have estimated that injuries and illnesses caused by ergonomic hazards are the biggest job safety problem in the workplace today, as each year more than 600 thousand workers suffer from back injuries, tendinitis, and other ergonomic disorders. In fact, OSHA, estimates that injuries related to carpal tunnel syndrome alone result in more workers losing their jobs than any other injury. The worker compensation cost of all ergonomics injuries is estimated at over 20 billion dollars annually.

What is most troubling, Mr. President, is that these types of injuries are preventable. There is something that can be done to protect the American worker. It should be noted that in drafting its proposed rule—a rule Mr. President, that is scheduled to be issued in just a few weeks—OSHA worked extensively with a number of stakeholders, including representatives from industry, labor, safety and health organizations, State governments, trade associations, and insurance companies. OSHA has drafted an interactive, flexible rule that allows managers and labor to work in unison to create a safer workplace environment. OSHA even placed on its Website a preliminary version of the draft proposed rule, in order to facilitate comments from the public. Mr. President, this is not a "command and control" regulatory action.

As noted by Assistant Secretary Jeffress: "An employer [should] work credibly with employees to find workplace hazards and fix them . . . the rule creates no new obligations for employers to control hazards that they have not already been required to control under the General Duty Clause under Section 5 of the Occupational Safety Act or existing OSHA standards."

In other words, Mr. President, this rule is simply an interactive approach between employee and manager to protect the assets of the company in ways that are either already being done, or should be done under existing rules. This new rule is a guide and a tool, not an inflexible mandate.

According to the Department of Labor, thirty-two states have some form of safety and health program. Four States (Alaska, California, Hawaii, and Washington) have mandated comprehensive programs that have core elements similar to those in OSHA's draft proposal. In these four states, injury and illness rates fell by nearly 18 percent over the five years after implementation, in comparison with national rates over the same period.

I'd like to share with my colleagues two examples from my home state of Massachusetts that show how business and labor can benefit from successful ergonomics programs. Crane & Company, a paper company located in Dalton, Massachusetts signed an agreement with OSHA to establish comprehensive ergonomics programs at each of their plants. According to the company's own report, within three years of starting this program, the company's musculoskeletal injury rate was almost cut in half.

Lunt Silversmiths, a flatware manufacturer in Greenfield, was troubled by high worker's compensation costs. One OSHA log revealed that back injuries were the number one problem in three departments. By implementing basic ergonomic controls, lost workdays dropped from more that 300 in 1992 to 72 in 1997, and total worker's compensation costs for the company dropped from $192,500 in 1992 to $27,000 in 1997.

That's the difference this common sense approach can make. And, Mr. President, in spite of the arguments for the Bond amendment, there bulk of the science and the research proves that an ergonomic standard is needed in the American workplace.

The National Academy of Sciences, the same group directed in this amendment to complete a study on this issue, already has compiled a report entitled Work-Related Musculoskeletal Disorders. And the report tells us that workers exposed to ergonomic hazards have a higher level of pain, injury and disability, that there is a biological basis for these injuries, and that there exist today interventions to prevent these injuries.

In 1997, the National Institute for Occupational Safety and Health completed a critical review of epidemiologic evidence for work-related musculoskeletal disorders of the neck, upper extremity, and lower back. This critical review of 600 studies culled from a bibliographic database of more than 2,000 found that there is substantial evidence for a causal relationship between physical work factors and musculoskeletal disorders.

Furthermore, Mr. President, we are not talking about a new phenomenon, or the latest fad. In 1990, Secretary of Labor Elizabeth Dole, in response to evidence showing that repetitive stress disorders (such as carpal tunnel syndrome) were the fastest growing category of occupational illnesses, committed the agency to begin working on an ergonomics standard. This rulemaking has been almost ten years in the making. Now is the time to put something in place for the American worker.

This rule has been delayed for far too long. In 1996, the Senate and the House agreed to language in an appropriations conference report that would prevent OSHA from developing an ergonomics standard in FY 1997. In 1997, Congress prevented OSHA from spending any of its FY 1998 budget on promulgating an ergonomics standard. Last year, money in the FY 1999 budget was set aside for the new NAS study cited in this amendment, and the then-Chairman and Ranking Members of the House Appropriations Committee sent a letter to Secretary of Labor Alexis Herman, stating that this study "was not intended to block or delay OSHA from moving forward with its ergonomics standard."

Mr. President, we should wait no longer for this standard to be proposed, and workers should not have to wait until a new study is completed to be directed from preventable injuries. The time to protect the American workplace is now.

People on the other side of this issue may argue that this is an expensive rule, or that the science is inadequate. This is simply not true. The changes envisioned by the rule will increase productivity and save costs. The studies have been numerous. Preventing OSHA from even working on an ergonomic standard, much less issuing one, at the eleventh hour is not the right approach for American workers.

This standard is a win-win for workers and management: the better that workers are protected, the more time they spend on the job. The more time they spend on the job, the more productive the workplace. And it is obvious, but it bears restating, the more productive the workplace, the more productive this country. Workers want to be at work, and their bosses want them at work.

We ought to be capable—as a Senate—to put that common sense approach and this simple ergonomics standard into place and we all be able to vote against the Bond amendment and help out workers and our businesses move forward together.

Mrs. FEINSTEIN. Mr. President. I rise in opposition to the amendment offered by the Senator from Missouri. This amendment would needlessly delay OSHA from implementing regulations to prevent one of the leading causes of work place injuries, musculoskeletal disorders (MSDs).

Each year, more than 600,000 American workers suffer work related MSDs and it is costing businesses $15 to $20 billion in workers' compensation costs alone. It is estimated that one out of every three dollars spent on worker's compensation is related to repetitive motion injuries.

Many of the jobs that are disproportionately subject to ergonomic injuries are held by women. In fact, while women experience 33 percent of all serious workplace injuries, they suffer 61 percent of repetitive motion injuries. This includes:

91 percent of all injuries related to repetitive typing;

61 percent of repetitive placing injuries;

62 percent of work related cases of tendinitis; and

70 percent of carpal tunnel syndrome cases.

The supporters of this amendment argue that OSHA should delay ergonomic protection until the National Academy of Sciences completes a second review of existing studies. This comes despite the fact that there is already substantial scientific evidence linking MSDs to the workplace.

The first study completed by the National Academy of Sciences found that "research clearly demonstrates that specific interventions can reduce the reported rates of musculoskeletal disorders for workers who perform high-risk tasks." That peer reviewed study was conducted just last year.

The National Institute for Occupational Safety and Health reviewed more than 2,000 studies of work-related musculoskeletal disorders. They concluded that "compelling scientific evidence shows a consistent relationship between musculoskeletal disorders and certain work related factors."

In a letter to the Department of Labor, William Grieves, president of the American College of Occupational and Environmental Medicine, notes that "there is an adequate scientific foundation for OSHA to proceed with a proposal and, therefore, no reason for OSHA to delay the rulemaking process while the National Academy of Science panel conducts its review."

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN COLLEGE OF OCCUPATIONAL AND ENVIRONMENTAL MEDICINE,
February 15, 1999.

CHARLES N. JEFFRESS,
Assistant Secretary of Labor, Occupational Safety and Health, U.S. Department of Labor, Washington, DC.

DEAR MR. JEFFRESS: The American College of Occupational and Environmental Medicine (ACOEM) urges you to move forward with a proposed Ergonomics Program Standard.

The College represents over 7,000 physicians and is the world's largest occupational medical society concerned with the health of the workforce. Although the College and its members may not agree with all aspects of the draft proposal, we support the Occupational Safety and Health Administrations's (OSHA) efforts to promulgate a standard. An ergonomics program standard that ensures worker protection and provides certainty to employers is preferable to the uncertainties of the general duty clause. As physicians, the College's members will vigorously participate during rulemaking to ensure that a final standard is protective of workers, represents the best medical practices and is supported by the science of musculoskeletal diseases.

It is incumbent on OSHA to carefully consider the science and to give all due consideration to the results that will come from the National Academy of Science panel's review of the scientific literature regarding musculoskeletal disorders. However, there is an adequate scientific foundation for OSHA to proceed with a proposal and, therefore, no reason for OSHA to delay the rulemaking process while the National Academy of Science panel conducts its review.

The College looks forward to its active participation in this rulemaking. In the interim, please do not hesitate to contact me or Dr. Eugene Handley, Executive Director.

Sincerely,

WILLIAM GREAVES,
President.

Mrs. FEINSTEIN. All of these studies have found links between repetitive motion injuries and workplace factors and suggest that OSHA must be permitted to go forward with sensible regulations to insure a safe workplace.

Ergonomic programs have proven to be effective in reducing repetitive motion injuries in the workplace. Many businesses which have voluntarily instituted an ergonomic program have found the long term benefits to far outweigh the short term costs.

Red Wing Shoes in Minnesota found that their workers' compensation costs dropped 75 percent in the 4 years after they began an ergonomic program.

Fieldcrest-Cannon in Columbus, Georgia, saw the number of workers' suffering from repetitive motion injuries drop from 121 in 1993 to 21 in 1996.

By redesigning its workstations, OshKosh B'Gosh reduced workers' compensation costs by one-third.

Mr. President, I certainly agree that decisions on government regulations should be based on sound science. In this case, there is already a substantial body of scientific evidence which concludes that there is a relationship between MSDs and the workplace and that ergonomic programs can significantly reduce these injuries.

During this decade, more than 6.1 million workers have suffered from serious workplace injuries as a result of ergonomic hazards. As we move into the next century, American workers must be given adequate protection from these preventable injuries. Congress must allow OSHA to move forward with sensible ergonomic regulations. I urge my colleagues to vote to defeat this amendment.

Ms. MIKULSKI. Mr. President, I rise in opposition to the Bond Amendment. It's bad for American workers and bad for our economy.

OSHA must move forward with an ergonomics standard. Each year, more than 600,000 individuals in our private sector work force miss time due to ergonomic injuries, or musculoskeletal disorders (MSDs). These injuries cost our economy over $80 billion annually, including approximately $60 billion on lost productivity costs. Nearly $1 out of every $3 in worker's compensation payments result from MSDs.

More importantly, these injuries cause terrible pain and suffering—as well as increased health care costs. OSHA's ergonomics standard is supported by overwhelming scientific evidence. The National Academy of Sciences (NAS) study concluded that workplace interventions can reduce the incidence of MSDs. When this study was funded in 1998, the Appropriations Committee and the Administration agreed that funding this study was not a mechanism for delaying the OSHA standard. We must honor our agreement and let OSHA do it's work on behalf of working men and women in our country.

Mr. President, ergonomics is also a women's issue. Women account for nearly 75% of lost work time due to carpal tunnel syndrome and 62% of lost time due to tendinitis. Many of the women affected by MSDs are in the health care industry, including nurses, nurse aides and health care aides. Women in the retail industry are also disproportionately affected by ergonomic injuries.

I strongly urge my colleagues to help improve workplace safety by joining me in opposing this amendment. As a great nation, it is our duty to protect our most valuable resource—our working men and women.

Mr. NICKLES. Mr. President, for the information of my colleagues, we have been debating for the last hour or so—although we did have a discussion on the Wellstone amendment—the issue of the Bond amendment dealing with ergonomics. We have been debating it for a significant period of time. I personally am ready to vote on the amendment. I know there has been some discussion on both sides, but I ask unanimous consent that we have 30 additional minutes equally divided on the Bond amendment.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. NICKLES. Mr. President, again, I think most things have been said on this amendment that need to be said. I don't know if Members want more debate. I will make an additional request, and that is that we have 2 hours of debate on the Bond amendment equally divided.

Mr. REID. Reserving the right to object, Mr. President, I say to my friend from Oklahoma, this deserves some attention. We have 600,000 people a year who are injured as a result of these accidents. We had over 2,000 studies. The time is here to go forward with some rules and regulations to protect American workers. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. NICKLES. Mr. President, I will make one additional try. I ask unanimous consent that we have 4 hours equally divided on this bill.

Mr. REID. Reserving the right to object, I have been on the floor—this is the fifth or sixth day—trying to work with the majority to move this bill along. We have worked with the Members on the minority. We have moved a significant number of amendments, probably 65 or 70. We are to a point now where this bill could be completed but for this one contentious issue. From the very beginning, we have said this is an issue that deserves a lot of attention. We say, again, we are willing to work with the majority on this bill, but if this matter is here, we are going to have to discuss it. The American people, 600,000 a year, are injured with these accidents. It deserves more than 2 hours or 4 hours. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Pennsylvania.

Mr. SPECTER. Senator KENNEDY.

Mr. KENNEDY. Mr. President, I ask unanimous consent that a minimum wage amendment be in order and that we have 1 hour of debate on that.

Mr. NICKLES. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, in light of the fact that we are not going to get a time agreement on ergonomics, on the Bond amendment, in a moment I will move to table, as manager. First, I would like to move ahead on sequencing after the vote.

I ask unanimous consent that the Senator from West Virginia, Mr. BYRD, be recognized at the conclusion of the vote and then, following Senator BYRD's statement, we move to the amendment to be offered by the Senator from New Hampshire, Mr. SMITH, so we will be on notice that that will be the next order of business.

The PRESIDING OFFICER. Is there objection? Is there objection to the request?

Mr. KENNEDY. Mr. President, reserving the right to object, is it the intention to withdraw the amendment, then, if it is not tabled?

Mr. NICKLES. Let's have the vote.

Mr. KENNEDY. Is it the intention to withdraw the amendment if it is not tabled?

Mr. SPECTER. If I may respond to the Senator from Massachusetts, it is not my amendment, but it is my hope, as manager of the bill, that that would happen. But that is up to the offeror of the amendment.

Mr. KENNEDY. Well, unless such is clear, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. Mr. President, I move to table the Bond amendment No. 1825 and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, was the unanimous consent request agreed to?

The PRESIDING OFFICER. The request was objected to.

Mr. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the vote, I be recognized for not to exceed 30 minutes to speak on another matter.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The Senator will have 30 minutes following the vote.

The PRESIDING OFFICER. The question is on the motion to table.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Connecticut (Mr. DODD) is absent because of family illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 2, nays 97, as follows:

[Rollcall Vote No. 319 Leg.]

YEAS—2

Jeffords
Specter

NAYS—97

Abraham
Akaka
Allard
Ashcroft
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bunning
Burns
Byrd
Campbell
Chafee
Cleland
Cochran
Collins
Conrad
Coverdell
Craig
Crapo
Daschle
DeWine
Domenici
Dorgan
Durbin
Edwards
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NOT VOTING—1

Dodd

The motion to table was rejected.

Mr. LOTT. Mr. President, in view of the time that has been spent discussing this very important issue, and also the fact there have been several attempts to find ways to limit the debate, and now in view of the vote on the motion to table which was unanimous against tabling it, putting the Senate back to exactly the position we were in before, I think the thing to do at this time is to withdraw this amendment and move forward.

I think that is a mistake. I want to say to one and all, this issue will be joined further, and we will find a way for the content of this amendment to be in some legislation and passed through the Congress this year.

Mr. BOND. Mr. President, it has become clear to me that my amendment, which would force OSHA to do their job correctly instead of hastily, is a bigger concern to those on the other side than the wide range of benefits that the underlying Labor/HHS appropriations bill provides. This disappoints me tremendously.

However, because the Labor/HHS appropriations bill will provide funding for so many programs that will help causes I support, I will not allow my amendment to prevent passage of this bill.

By allowing OSHA to go forward at this moment, we are saying that it is acceptable for an agency charged with protecting employees to promulgate a regulation that has insufficient scientific and medical support. We are saying that it is acceptable for OSHA to tell employers that we don't have the answers, but we expect you to come up with them, and we will fine you if you don't. We are saying that it is acceptable for an agency that should be focusing on helping employers protect their employees from hazards, instead to tell them that they have no idea how to help them do this, but it would be OK for them to be cited just the same.

The heart of this issue is that although there have indeed been many studies conducted, they have not managed to answer the critical questions that employers need to know to be able to protect their employees: "How much lifting is too much?", How many repetitions are too many?", and "What interventions can an employer implement to protect his or her employees?" This is what we mean by saying that there is not sufficient sound science to support this regulation.

This regulation, whenever it comes out and takes effect, will be the most far reaching regulation ever issued by OSHA. It will be one of the most far reaching regulations from any agency and will ultimately effect every business in this country. To say that we will allow OSHA to proceed with a regulation of this nature, that we know is horribly flawed and without adequate scientific and medical support, borders on a dereliction of our duty.

Many speakers opposed to my amendment have focused on the number of workers who are believed to be suffering from ergonomics injuries. One of the great uncertainties about this issue is that we don't even know what it means to be in that group. That number includes many people who suffer from common problems like back pain which may or may not have any connection to the workplace. What constitutes a musculoskeletal disorder is one of those questions around which there is still no consensus within the medical and scientific communities.

Under the Occupational Safety and Health Act, OSHA has jurisdiction only over workplace safety questions. If the condition which represents a hazard is not part of the workplace, OSHA has no authority to compel an employer to address the problem. With ergonomics, there is no way for an employer to be able to tell when a condition has arisen because of exposures at the workplace or because of activities or conditions that have nothing to do with the workplace. Many factors such as age, physical condition, diet, weight, and even family history can influence whether someone is vulnerable to an ergonomic injury. We still don't know why two workers doing the same work for the same amount of time will have different experiences with injuries. It is simply beyond an employer's role and ability to ask them to determine how much of an injury may have been caused by factors outside their control. I do not believe that we should be telling employers that they should intrude into their employee's private lives to the degree that would be necessary to eliminate all possibility of suffering an ergonomic injury.

I will continue to seek opportunities to come back to this issue because I believe so strongly that without sound science on this issue, OSHA's regulation on ergonomics will force many small businesses to choose between complying and staying in business. Under this decision everyone loses. However, in the interest of moving the Labor/HHS appropriations bill, I will allow my amendment to be withdrawn.

AMENDMENT NO. 1825 WITHDRAWN

Mr. LOTT. I ask unanimous consent that amendment 1825 be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1825) was withdrawn.

The PRESIDING OFFICER. The Senator from West Virginia.

THE COMPREHENSIVE TEST BAN TREATY

Mr. BYRD. Mr. President, the Senate tomorrow is scheduled to begin debate on one of the most important and solemn matters that can come before this body—a resolution of ratification of a Treaty of the United States. The Treaty scheduled to come before us on Friday is the Comprehensive Nuclear Test Ban Treaty, commonly referred to as the CTBT.

Consideration of a Treaty of this stature is not—and it should never be—business as usual. A Treaty is the supreme law of this land along with the Constitution and the Laws that are made by Congress pursuant to that Constitution. Article VI of the Constitution so states: "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution of Laws of any State to the Contrary notwithstanding."

Mr. President, consideration of a Treaty is not business as usual.

And yet, Mr. President, I regret to say that the Senate is prepared to begin consideration of the Comprehensive Test Ban Treaty under a common, garden-variety, unanimous consent agreement, the type of agreement that the Senate has come to rely upon to churn through the nuts-and-bolts legislation with which we must routinely deal, as well as to thread a course through the more contentious political minefields with which we are frequently confronted.

In fact, unanimous consent agreements have become so ubiquitous that silence from a Senator's office is often automatically assumed to be acquiescence. So it was the case when this unanimous consent request came to my office. I was not in the office at the time. We are very busy doing other things, working on appropriations bills, and so on. And so at the point when this unanimous consent agreement proposal reached my office, I was out of the office. When I came back to the office a little while later, the request was brought to my attention. But by the time it was brought to my attention, it was too late. I notified the Democratic Cloakroom that I would object to the unanimous consent agreement, but I was informed that the agreement had already been entered into.

I make this point not to criticize the well-intentioned objective of this unanimous consent agreement, which was to seek consensus on the handling of a controversial matter. I do not criticize the two leaders who devised the agreement. I criticize no one. I do, however, point out the unfortunate repercussions of the agreement as it affects the Senate's ability to consider the ratification of a treaty.

In short, unanimous consent is a useful tool, and it is a practical tool of the Senate. I suppose I may have, during the times I was majority leader of the Senate, constructed as many or more unanimous consent agreements than perhaps anybody else; I certainly have had my share of them, but it is not an all-purpose tool.

The unanimous consent agreement under which the Comprehensive Test Ban Treaty is to be considered reads as follows, and I now read from the Executive Calendar of the Senate dated Thursday, October 7, 1999.

> *Ordered*, That on Friday, October 8, 1999, at 9:30 a.m., the Senate proceed to executive session for consideration of the Comprehensive Nuclear Test-Ban Treaty; that the treaty be advanced through the various parliamentary stages, up to and including the presentation of the resolution of ratification; that it be in order for the Majority Leader and the Democratic Leader to each offer one relevant amendment; that amendments must be filed at the desk 24 hours before being called up; and that there be a time limitation of four hours equally divided on each amendment.
>
> *Ordered further*, That there be fourteen hours of debate on the resolution of ratification equally divided between the two Leaders, or their designees; that no other amendments, reservations, conditions, declaration, statements, understandings or motions be in order.
>
> Ordered further, That following the use or yielding back of time and the disposition of the amendments, the Senate proceed to vote on adoption of the resolution of ratification, as amended, if amended, all without any intervening action or debate.

So if one reads the agreement, it is obvious that the treaty itself will not be before the Senate for consideration. I allude to the words in the unanimous consent request, namely:

> . . . that the treaty be advanced through the various parliamentary stages, up to and including the presentation of the resolution of ratification.

So the Senate will not have any opportunity to amend the treaty, itself, but it is the resolution of ratification that will be before the Senate.

Mr. President, the foregoing unanimous consent agreement may be expedient and there may be some who would even consider it to be a savvy way to dispose of a highly controversial and politically divisive issue in the least amount of time with the least amount of notoriety. The politics of this issue are of no interest to me. I am not interested in the politics of the issue. I have not been contacted by the administration in any way, shape, form, or manner. Nobody in the administration has talked with me about this. I am not interested in the politics of it. Not at all. There has been some politics, of course, abroad, about this agreement, but I am not a part of that. I did join in a letter to the chairman of the Foreign Relations Committee urging that there be hearings, but I have not been pressing for a vote on the treaty.

The politics of the issue do not interest me. But the propriety of this unanimous consent agreement does. Simply put, it is the wrong thing to do on a matter as important and as weighty as an arms control treaty.

The Senate Armed Services Committee began a series of hearings on the CTBT just this week, and I commend the distinguished chairman of the Committee, Senator WARNER, and the distinguished ranking member, Senator CARL LEVIN, for their efforts and commitment to bring this matter before the Senate and to have hearings conducted thereon.

The first hearing, on Tuesday, was a highly classified and highly informative briefing by representatives of the CIA and the Department of Energy. I wish that all of my colleagues had the opportunity to hear the testimony given at that hearing, and to question the witnesses. Unfortunately, only the members of the Senate Armed Services Committee were privy to that information. I should say the distinguished ranking member of the Senate Foreign Relations Committee, Mr. BIDEN, was present also.

The second hearing, yesterday, brought before the Committee Defense Secretary Bill Cohen; General Henry Shelton, the chairman of the Joint Chiefs of Staff; Dr. James Schlesinger, the former Secretary of Defense and Energy; and General John Shalikashvili, former Chairman of the Joint Chiefs. Again, their testimony was very illuminating. I wonder how many of my colleagues, outside of the Armed Services Committee, and Mr. BIDEN, had the opportunity to follow that hearing—which lasted almost five hours—given the crush of other important business on the Senate floor?

My coilleagues simply haven't had the opportunity to do it, other than those of us on the Armed Services Committee.

I wonder how many of my colleagues have had an opportunity, since the vote on the CTBT was scheduled last week, to analyze, question, and digest the testimony and the opinions of the distinguished officials that the Committee heard from yesterday? I wonder, for example, how many of my colleagues heard from Secretary Cohen that a new National Intelligence Estimate that will have a major bearing on the consideration of this Treaty is due to be completed early next year? It is my judgment that the Senate should have that assessment in hand before it considers imposing a permanent ban—a permanent ban—on nuclear testing.

The Armed Services Committee held its third, and I believe final, hearing on the CTBT this morning. The witnesses included Energy Secretary Bill Richardson, as well as the current directors of the nuclear weapons laboratories, and a selection of arms control experts, including a former director of one of the labs. Again, it was an extraordinarily informative hearing.

I was there for most of it. Unfortunately, I was scheduled to go elsewhere near the close of the hearing. But it was an extraordinarily informative hearing. The laboratory directors were candid and forthcoming in their observations. They raised a number of important issues. I wonder how many of our colleagues here, outside the membership of the Armed Services Committee, heard those.

I have attended every hearing and every briefing available this week in order to prepare myself for tomorrow's debate. But I did not prepare myself before this agreement was entered into. When the agreement came to my office and I objected and found that I objected too late, then I bestirred myself to learn more about this treaty. I have listened to witnesses, and I have questioned witnesses. I still have many questions—more now than when I started.

I wonder how many of my colleagues—particularly those who have not had the same entree that members of the Senate Armed Services Committee have had to this week's hearings—have questions about this treaty. With the exception of Senator BIDEN—and, incidentally, Senator BIDEN is very knowledgeable about the treaty. He has studied it thoroughly and is very conversant with the details of the treaty. Perhaps some of the other members of the Foreign Relations Committee have done likewise. But other than that committee and the Committee on Armed Services, I daresay that few Senators have had an opportunity to engage themselves in a study of the treaty and even fewer, perhaps, have had the opportunity to hear witnesses and to question those witnesses.

But, with the exception of Senator BIDEN, not even the members of the Senate Foreign Relations Committee have had the opportunity to hear and question the witnesses who appeared before the Armed Services Committee this week. I wonder how many of my colleagues will participate in the debate tomorrow and how many will participate in the debate next Tuesday. These days are bookends around the holiday weekend when no votes are scheduled after this evening until 5:30 p.m. Tuesday at the earliest. I am confident that many Senators have important commitments in their home States that may conflict with this debate. Does anyone in this Chamber seriously believe we can give the Comprehensive Test Ban Treaty the consideration it deserves in the amount of time that has been set aside to debate it?

Beyond the question of time, Mr. President, is an even more disturbing question: The propriety of considering a major treaty under the straitjacket of procedural constraints in which only two amendments, one by each leader, will be in order. I have questions since I have read this treaty. I have reservations. Perhaps they will be put to rest by the debate. Or, it may be, as I continue to study the treaty and listen to the debate, that I would want to offer an amendment myself. I might want to offer an understanding or a condition.

I might want to offer a reservation. I have done so on other treaties. It may be that some of my colleagues would wish to do likewise. We do not have that opportunity under this unanimous-consent agreement, with the exception of our two fine leaders. I know that they will go the extra mile, as they always do, to accommodate the concerns of the Members. But they, too, are in a cul-de-sac—only one way in, one way out. They are limited to one amendment each. Without exception, the other 98 Members of the Senate are effectively shut out from expressing, in any meaningful and binding way, reservations or concerns about this treaty.

Mr. President, that is not the way to conduct the business of weighing a resolution dealing with the supreme law of the land. We might do that on an agriculture bill. We might do it on a bill making appropriations for the Department of the Interior. But this is a treaty we are talking about. A law can be repealed a year later but not a treaty.

For the good of the Nation, this unanimous consent agreement ought to be abandoned, and there are ways to do it. It is a unanimous-consent agreement, I understand that, and ordinarily a unanimous-consent agreement can only be vitiated by unanimous-consent, or it can be modified by unanimous consent. But there are ways to avoid this vote. I urge my colleagues to put politics aside in this instance, at least, and to seek a consensus position on considering a comprehensive test ban treaty that upholds the dignity of the United States Senate and accords the right to United States Senators to debate and to amend.

One need only read Madison's notes concerning the debates at the Convention to understand the importance of treaties in the minds of the framers. We are talking here not about an appropriations bill; we are not talking about a simple authorization bill; we are talking about something that affects the checks and balances, the separation of powers that constitutes the cornerstone of our constitutional system in this Republic. This is one of those checks and balances; this involves the separation of powers. The Senate, under the Constitution, has a voice in the approval of treaties. The President makes the treaty, by and with the consent of the United States Senate.

I was here when we considered the Test Ban Treaty of 1963. I was on the Armed Services Committee at that time. I listened to Dr. Edward Teller, an eminent scientist who opposed that treaty. I voted against that treaty in 1963. I opposed it largely on the basis of the testimony of Dr. Edward Teller.

We need to listen to the scientists. We need to listen to others in order that we might make an appropriate judgment. Who knows how this will affect the security interests of the United States in the future. This is a permanent treaty. It is in perpetuity, so it is not similar to a bill. As I say, we can repeal a law. But not this treaty. This treaty is in perpetuity—permanent. Maybe that is all right, but we need more time to study and consider it.

We are told that the polls show the people of the Nation are overwhelmingly in favor of this treaty. I can trust the judgment of the people generally, but the people have not had the opportunity to study the fine print in this treaty. Most Senators have not. This is not a responsibility of the House of Representatives. This is the responsibility solely of the Senate under the Constitution of the United States. It is a great burden, a great responsibility, a very high duty, and we must know what we are doing.

I have heard dire warnings as to what a rejection of the treaty might mean. One way to have it rejected fast, I am afraid, is to go through with this vote. But then how can we make up for it if we find we have made a mistake? If we find that we are wrong, it may be too late then. We had better stop, look, and listen and understand where we are going. We need more hearings.

I hope we will put politics aside in this instance and seek a consensus position on considering a comprehensive test ban treaty that upholds the dignity of the United States Senate. I am an institutionalist. I have an institutional memory. I have been in this body for 41 years, and I have taken its rules seriously. I believe the framers knew what they were doing when they vested the responsibility in the Senate to approve or to reject treaties. We ought not take that responsibility lightly. The very idea of the unanimous-consent request says Senators cannot offer reservations; they cannot offer conditions; they cannot offer amendments; they cannot offer understandings.

Let us so act that we reflect the importance of the treaty. Reject it if you will or approve it if you will, but let's do it with our eyes open. Let's not put on blinders. Let's not bind our hands and feet and mouths and ears and minds with a unanimous-consent agreement that will not allow unfettered debate or amendments.

Let the Senate be the institution the framers intended it to be.

I have not said how I shall vote on the treaty. I want to understand more about it. But I want other Senators to have an opportunity to understand it as well.

Mr. President, I thank Senators for listening, and for their patience in indulging these remarks.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, first let me commend the distinguished Senator from West Virginia for those very thoughtful remarks on the Comprehensive Test Ban Treaty.

I share his concern about the timing of the vote. I think the Senate is not yet ready to vote. My view is that there should have been hearings a long time ago. I attended part of the hearings—closed-door hearings—in S-407 on Tuesday of this week. They lasted about 5 hours.

I concur with the Senator from West Virginia that it is a very complex subject. I had studied the matter and had decided to support it. But I do think more time is necessary for the Senate as a whole—not just to have a day of debate on Friday and a day of debate on Tuesday and to vote on it. I think the Senate ought to ratify, but only after adequate consideration has been given to it. While the United States has been criticized for not taking up the treaty, if we were to reject it out of hand on what appears to be a partisan vote, it would be very disastrous for our foreign policy.

So I thank the Senator from West Virginia for his customary very erudite remarks on the Senate floor.

Mr. BYRD. I thank the distinguished Senator for his enlightened remarks. And, as always, he approaches a matter with an open mind, devoid of politics, and with only the interest of doing good, not harm; and that is his response in this instance.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—Continued

Mr. SPECTER. Mr. President, we are now prepared to move on to our next amendment. I ask unanimous consent that there be 30 minutes equally divided prior to a motion to table on the amendment to be offered by the distinguished Senator from New Hampshire, Mr. SMITH, relative to Davis-Bacon, and no amendments be in order prior to a vote in relation to the amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SMITH of New Hampshire addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 1844

(Purpose: To limit the applicability of the Davis-Bacon Act in areas designated as disaster areas)

Mr. SMITH of New Hampshire. Mr. President, I call up my amendment No. 1844 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. SMITH) proposes an amendment numbered 1844.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . No funds appropriated under this Act may be used to enforce the provisions of the Act of March 3, 1931 (commonly known as the Davis-Bacon Act (40 U.S.C. 276a et seq.)) in any area that has been declared a disaster area by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

Mr. SMITH of New Hampshire. Mr. President, this is a very simple, straightforward amendment that would prohibit enforcing Davis-Bacon prevailing wage requirements in areas designated by the President as natural disaster areas. Section 6 of the Federal Davis-Bacon Act allows the President to suspend this act in the event of a national emergency.

I think all of us would agree, especially those Senators in North Carolina and in Virginia as well, that we did have a national emergency with Hurricane Floyd.

Pursuant to this authority, President Bush suspended Davis-Bacon in 1992 to help speed up and lower the cost of rebuilding the communities ravaged by Hurricanes Andrew and Iniki.

So Hurricane Floyd has dealt this tremendous blow to the residents of the eastern seaboard, from Florida to North Carolina, even as far as New York. FEMA has called this one of the biggest multistate disasters in U.S. history. Many States believe cleanup costs from Hurricane Floyd will far exceed the costs of either Hurricanes Fran or Hugo. So relaxing the Davis-Bacon provisions in these hard-hit States will lower tremendously the cost of rebuilding these communities and help create job opportunities for those in need of work.

Many people come to these communities and volunteer their time to help their friends and relatives and neighbors in need, and others cut their costs of services to help these unfortunate victims of the hurricanes. Davis-Bacon's prevailing wage requirements will increase the cost of construction, forcing the taxpayers to pay more and receive less in return. Not only that, it will cost the victims more. So that is why there is a provision, a waiver provision, the President may exercise to bring these costs down in times of disasters.

Government estimates, economic studies, and those involved in the construction industry believe Davis-Bacon actually inflates the cost of a construction project by an estimated 5 to 38 percent. For people who are the victims of these hurricanes—where there is Federal help—to have to pay more in these construction projects and for it to cost the taxpayers that much more money is outrageous. CBO estimates that Davis-Bacon adds $9.6 billion over 10 years to the cost of all Federal construction projects.

The historic floodwaters of Floyd have resulted in hundreds of millions of dollars in property damage and created a huge swath of human misery that will last for months. The Davis-Bacon Act should be suspended to aid disaster relief in the areas designated as natural disasters. It is reasonable. That is why there is a provision for a waiver. It is unfortunate President Clinton has decided not to waive it, or at least has not waived it to this point.

On September 21, 1999, the Wall Street Journal, in an editorial entitled "Hurricane Davis-Bacon," stated:

> Folks whose electricity shorted out when floodwaters hit their circuit box or shopkeepers sweeping the mud and debris out from once-vibrant businesses need no reminders about the costs imposed by Hurricane Floyd. But as they go about their repairs they may find that the destructive powers of Mother Nature are nothing compared with those of Washington.

Continuing to quote:

> Start with the Davis-Bacon Act, which effectively requires that workers on federally subsidized construction projects receive union wages—even though only about a quarter of the construction industry is unionized. Davis-Bacon looms large in the wake of Floyd because so much disaster relief comes from the federal government. It was for precisely this reason in 1992 that President George Bush ordered the relaxation of Davis-Bacon rules to hasten repairs in Florida, Louisiana and Hawaii after hurricanes devastated those states.

Continuing to quote from the Wall Street Journal:

> The happy result was twofold: Not only did the work get done faster, between 5,000 and 11,000 new construction jobs, mostly to semi-skilled minority workers, were created. Alas, the jobs didn't last long. Within days of becoming President in 1993, Bill Clinton revoked the Bush waivers on Davis-Bacon as a payback for organized labor's support. Mr. Clinton's continued defense is particularly galling to many minority workers, conscious of the law's origins in the Jim Crow attitudes of the 1930s. "People can't see the jobs and buildings that aren't created because of Davis-Bacon, but it is a major factor in the low-income housing crisis," says Elzie Higginbottom, a low-income housing builder from Chicago's South Side.
>
> Clearly the priority after any natural disaster must be getting help to the people who need it. But as we help the victims of Floyd pump water out of their basements and get their lives back on track, let's be careful not to contribute to the structural damage with . . . Davis-Bacon that only raise costs and make it that much harder to do the work that needs to be done.

I think that editorial sums it up about as well as it can be summed up. The bottom line is, this act, which, ironically, discriminated against minorities—and that was the purpose of the act when it was first originated—will cost taxpayers millions of dollars and take advantage of an unfortunate situation where people have suffered through a disaster.

I ask, what would be the problem of the President granting a waiver of Davis-Bacon? As I said before—and I think the Wall Street Journal said it better than I—the answer is, because the President owes a lot to organized labor, he is not about to do it. I think it is outrageous because the intent was clear.

I will read from a letter from 80 organizations in support of my amendment. The list includes a number of outstanding national organizations. It also includes several State organizations representing some of the States that have been hit hardest by Hurricane Floyd and other disasters. It is the Coalition to Repeal the Davis-Bacon Act.

> It is unfair to further burden the local communities devastated by Hurricane Floyd and other disasters with the inflated costs of Davis-Bacon.

Mr. President, I think Senators will recognize some of the organizations—I will not read them all; there are 80—the American Society of Civil Engineers, the American Trucking Association, Associated Builders and Contractors, Citizens Against Government Waste, Citizens for a Sound Economy, Free Enterprise Institute, National Association of Home Builders, National Association of Manufacturers, National Center for Neighborhood Enterprise, National Federation of Independent Business, National League of Cities, National School Boards Association, National Tax Limitation Committee, National Taxpayers Union, U.S. Chamber of Commerce, to name a few of the 80.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COALITION TO REPEAL THE
DAVIS-BACON ACT,
October 5, 1999.

Hon. ROBERT C. SMITH,
U.S. Senate,
Washington, DC.

DEAR SENATOR SMITH: The Coalition to Repeal the Davis-Bacon Act urges you to support the amendment by Senator Bob Smith (R–NH) to relax the 1931 Davis-Bacon Act for disaster stricken areas across the country, during the debate on the Fiscal Year 2000 Labor/Health and Human Services and Education Appropriations legislation.

Hurricane Floyd has devastated states along the eastern seaboard, from Florida to North Carolina to New York, which now face major reconstruction demands. It is clearly one of the largest multi-state disasters in U.S. history. Relaxing Davis-Bacon in these hard hit states will lower the cost of rebuilding these communities and will help create job opportunities for those in need of work.

Section 6 of the Davis-Bacon Act [40 U.S.C. 276a-5], allows the suspension of the Act in the event of a "national emergency." Pursuant to this, President George Bush relaxed Davis-Bacon rules in 1992 to hasten repairs in Florida, Louisiana and Hawaii and lower the cost of rebuilding the communities ravaged by Hurricanes Andrew and Iniki. As a result, the work was completed faster and between 5,000 and 11,000 new construction jobs were created, mostly to semi-skilled minority workers.

It is unfair to further burden the local communities devastated by Hurricane Floyd and other disasters with the inflated costs of Davis-Bacon. The Davis-Bacon Act has been demonstrated to inflate construction costs by 5 to 38 percent above what the project would have cost in the private sector. Lifting Davis-Bacon restrictions would reduce unnecessary federal spending and guarantee more construction for the dollar as communities try to rebuild in the wake of devastating disasters. Forcing disaster stricken communities to be saddled with Davis-Bacon will just raise their costs and make it harder to do the work that needs to be done.

The September 21, 1999, editorial in The Wall Street Journal, "Hurricane Davis-Bacon" summarized, "Clearly the priority after any natural disaster must be getting help to the people who need it. But as we help the victims of Floyd pump the water out of their basements and get their lives back on track, let's be careful not to contribute to the structural damage with . . . Davis-Bacon that only raise costs and make it that much harder to do the work that needs to be done."

We strongly urge you to waive Davis-Bacon and truly help communities that are trying to reconstruct their public infrastructure after a disaster.

Sincerely,

APAC, Inc.
APAC Alabama, Inc.
APAC Arkansas, Inc.
APAC Carolina, Inc.
APAC Florida, Inc.
APAC Georgia, Inc.
APAC Mississippi, Inc.
APAC Tennessee, Inc.
APAC Virginia, Inc.
American Concrete Pipe Association
American Legislative Exchange Council
Amerian Society of Civil Engineers
American Trucking Associations
Americans for Responsible Privatization
Ashburn & Gray Construction
Associated Builders & Contractors
Associated General Contractors of the Carolinas
BE & K, Inc.
Barrus Construction Company
Brick Institute
Business Leadership Council
Cajun Contractors, Inc.
Capital City Asphalt Company
Citizens Against Government Waste
Citizens for a Sound Economy
Complete Building Services—A division of the Donahoe Co.
Construction Industry Manufacturers Association
Contract Services Association
Council of 100
Council of State Community Development Agencies
Finley Construction
Fluor Corporation
Free Enterprise Institute
Harmony Corporation
Hays Mechanical Contractors
Hodges Construction
Independent Bakers Association
Independent Electrical Contractors, Inc.
Institute for Justice

ITT
Joule, Inc.
KCI Constructors, Inc.
Labor Policy Association
Land Improvement Contractors of America
Lauren Constructors, Inc.
Louisiana Association of Business and Industry
MacGougald Construction
McClinton Anchor Construction
M.W. Kellogg Company
N.C. Monroe Construction Company
National Aggregates Association
National Association of Home Builders
National Association of Manufacturers
National Association of the Remodeling Industry
National Center for Neighborhood Enterprise
National Federation of Independent Business
National Frame Builders Association
National Industrial Sand Association
National League of Cities
National Ready Mixed Concrete Association
National School Boards Association
National Slag Association
National Society of Professional Engineers
National Stone Association
National Tax Limitation Committee
National Taxpayers Union
Niagara County Business Association
Printing Industries of America
Public Service Research Council
Reno Construction Company
Repcon, Inc.
Small Business Survival Committee
Southern Roadbuilders
Southern Roadbuilders Concrete Paving
Texas Bitulithic Construction Company
Thompson-Arther Construction
Thompson & Thompson
TIC/The Industrial Company
Trotti & Thomson Construction Co.
U.S. Business and Industrial Council
U.S. Chamber of Commerce
Wilkerson Maxwell Construction

Mr. SMITH of New Hampshire. Mr. President, I am going to reserve the remainder of my time. It is my understanding that each side has 15 minutes on this debate; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. SMITH of New Hampshire. How much do I have remaining?

The PRESIDING OFFICER. The Senator has 6½ minutes.

Mr. SMITH of New Hampshire. I will yield the floor at the moment.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Massachusetts.

Mr. KENNEDY. How much time do we have, Mr. President?

The PRESIDING OFFICER. Fifteen minutes.

Mr. SPECTER. How much time does the Senator from Massachusetts want?

Mr. KENNEDY. I will take 6 minutes.

Mr. SPECTER. Fine.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as we get started with this debate on the question of Davis-Bacon, it is kind of interesting. Over the course of recent days, we see a series of actions that have been directed at working families. The problem that most working families in our Nation face is that they have not participated in the great economic surge we have seen over recent times. Nonetheless, there is a continued effort to undermine their wages.

Let's start with the continuing denial by the majority to permit us a vote on the minimum wage. Then everyone in the country saw the actions of the Republican leadership recently, diverting the earned-income tax credit in order to be used for balancing the budget. We have had recent debates on the floor of the Senate about undermining the National Labor Relations Board, which tries to work out legitimate disputes on the basis of laws that have been in effect for years. There was also action taken on the floor of the Senate which cut back on the total number of OSHA inspections to protect workers in their workplaces in this country.

Beyond that, there have been the efforts to pass what is called comp time, which would have eliminated the 40-hour workweek and abolished overtime. All of that has been happening over the last 2 years.

I don't know why the other side has it in for, in this instance, construction workers. But the attacks seem to be fairly uniform, if we look over the facts of the record in terms of working families. That is true with regard to pensions as well. We will have another time to debate and discuss this. But those are the facts.

Rather than speculate on what is in an editorial or what is in a particular report, the best way to look at this is, first, the average wage of a construction worker in this country is $28,000 a year. Maybe that is too much for some Members of this body, but that is the average in terms of a construction worker. Yet the Senator from New Hampshire, in this amendment, says, in some parts of this country that isn't necessary for a worker to be able to bring up a family. It seems to me that $28,000, which is the average construction wage, is not an excessive wage in this country.

Secondly, if you read the Davis-Bacon Act you will see that the President already has discretion to suspend the Davis-Bacon Act if he believes there is a national emergency and its in the national interest. Presidents have in fact exercised this authority: President Bush waived the Davis-Bacon Act in 1992 after Hurricanes Andrew and Iniki. So the President has some flexibility if there are particular emergencies, but that is effectively being denied with the amendment of the Senator from New Hampshire.

Thirdly, if you look at various studies on Davis Bacon, including one by the University of Utah looking at 9 States that have repealed State Davis-Bacon laws, you see two very important facts: No. 1, there is a dramatic reduction in terms of training programs for construction workers; and, No. 2, the quality of the work by construction workers deteriorates, so the cost of doing business, rather than going down, actually goes up. Isn't that interesting? Now, with the amendment, we are trying to effectively undermine the wages construction workers would receive in these circumstances.

And what do we find in the States that have actually repealed State Davis-Bacon? They may get a little bump in the first few months in terms of some bidding, but what happens is, with the dramatic reduction in training programs and dramatic reduction in skill, the costs of various contracts go up. We will have a chance to go through that.

That is the issue: Whether at this time we are going to say men and women who are earning $28,000 a year are to see their wages cut. Many of them lost their homes, too; many of the workers who would be affected by this amendment live in areas where there has been devastation; many of these people have been wiped out completely and now, not only are they trying to get back on their feet, but as a result of this amendment, they will be denied at least the reasonable compensation which they had received at other times. Of course, this has implications in terms of the payment of taxes. This has important implications in terms of health care costs because in most of these contracts where you have Davis-Bacon, they have health care insurance.

You are going to find additional kinds of burdens on local communities. This hasn't been talked about. Workers will see insufficient payments into their pension funds, which is going to mean that retirement programs for these various workers are going to be compromised, all under the guise that somehow we are helping the areas where many of our fellow citizens have suffered and suffered extensively as a result of these extraordinary acts of nature.

I am all set to support whatever is necessary to help those families in any of these areas—and no one can watch what has happened to people in North Carolina and along those flood zones and not be moved—but let us do it right. Let us do it correctly, and let us not take it out on construction workers who, in many instances, have been devastated. Let us make sure they are going to get a reasonable day's pay for a reasonable day's work.

If I may have 30 more seconds, I want to include in the RECORD that after Hurricane Andrew, in 1992, the GAO tried to assess the savings from suspending Davis-Bacon, but the GAO report was unable to conclude there were any savings.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? Who yields time?

Mr. SPECTER. How much time does the Senator from Minnesota want?

Mr. WELLSTONE. Five minutes.

Mr. SPECTER. We only have 15 minutes. How much time remains, Mr. President?

The PRESIDING OFFICER. Eight minutes 26 seconds remain.

Mr. WELLSTONE. I will use 3 minutes.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I find this amendment to be very troubling, and I hope colleagues will support our effort to table it. This amendment plays off hard-working people who are trying to make a decent wage against people in communities that are faced with disaster.

In 1999, so far, there have been 72 disaster declarations in 36 States, including Minnesota. The Smith amendment would suspend the Davis-Bacon application to all contracts in these areas for the entire year.

I think what people in Minnesota and in our country are saying to us is, when there is a disaster in our community and we need the help, please help us. I think what people in Minnesota and in the country are saying to us is that the prevailing wage is important, a living wage is important, a family wage is important, so please don't go cutting our wages.

There is absolutely no reason in the world to play off construction workers and the need to make a decent wage and support your family with whether or not we are going to be able to provide disaster relief to communities. This is a false choice. It is, in many ways, an outrageous choice. This amendment should be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. SMITH of New Hampshire. Mr. President, I find some of the remarks of my colleagues very interesting. To say this is a partisan attack against working people is so outrageous and so untrue that it barely deserves a response. People who don't belong to unions also have families. They also need to feed those families. Let's understand what is happening, if we can tone down the rhetoric a little bit. Nonunion workers who want to stand side by side with the volunteers, who perhaps are putting sandbags up to stop the floodwaters from coming into somebody's home, are asking to work at a lesser wage than the union worker to help these people out. And they can't do it under the Davis-Bacon provision.

That is what we are talking about. There is no concern expressed on the other side about the nonunion worker's family; it is only the union worker's family. We have people who are volunteering for no money, no pay, to stand and help these victims of floods and other disasters, and then we have nonunion people who are saying, look, maybe I am off from school, or maybe I am taking off a few days from my own job to help my friends, and I am willing to work for $5, $6, or $7 an hour, something less than the prevailing union wage. They can't do it. That is what we are talking about. This is the issue.

This is nothing more than a payback for the huge contributions that come in from the labor unions, pure and simple. That is all it is. There is no excuse for this. The provisions in the law are very clear. The President could easily waive Davis-Bacon under the law, if he wished, but he doesn't want to do that. That is what we are hearing from the other side—lack of concern for the working man, unless he is a union man. If he is a union man, we have to protect him. If he is a nonunion man, who cares, we don't care about his family.

Mr. President, I will submit for the RECORD a September 30 letter to President Clinton, interestingly, signed by 20 Members of Congress, including 7 from flood-damaged North Carolina. I ask unanimous consent that it be printed in the RECORD, along with an editorial from the Washington Times.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 30, 1999.

Hon. WILLIAM JEFFERSON CLINTON,
President of the United States of America,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing to urge you to relax Davis-Bacon prevailing wage requirements to facilitate repairs in states hardest hit by Hurricane Floyd. As you know, Hurricane Floyd has dealt a devastating blow to residents along the eastern seaboard from Florida to North Carolina to New York. The Federal Emergency Management Agency (FEMA) has called this one the biggest multi-state disasters in U.S. history. Many states believe that clean-up costs from Hurricane Floyd will far exceed the cost of either Hurricane Fran or Hugo.

In North Carolina some 1,000 roads and 40 bridges remain closed, as are sixteen school systems. Thousands remain without electricity and an estimated 30,000 homes were damaged or destroyed by the storm and flooding with 1,600 beyond repair. Agricultural impacts are estimated at more than $1 billion in North Carolina with more than 110,000 hogs and 1,000,000 chickens and turkeys killed by the storms. Water systems in nine counties are contaminated and many wastewater treatment plants are wholly or partly out of operation. FEMA estimates that nearly 7,100 homes are reported to be either destroyed or heavily damaged in South Carolina, Virginia, Pennsylvania, and other states. And while nearly a week has gone by since Floyd's arrival, it is anticipated that even more damage will be uncovered as the flood waters retreat.

As you may recall, President George Bush suspended to the Davis-Bacon Act in 1992 to help speed up and lower the cost of rebuilding the communities ravaged by Hurricanes Andrew and Iniki. President Bush took this action pursuant to Section 6 of the Act [40 U.S.C. 276a–5] which allows the President to suspend the Act in the event of a "national emergency."

The economic effects of this hurricane are significant. Many businesses have been damaged or destroyed. Thousands of individuals have either lost their livelihoods or can not make it to work because of impassable roads. It may be months or years before these communities are rebuilt and a record amount of federal assistance will be needed to do so.

Relaxing Davis-Bacon in these hard hit states will lower the cost of rebuilding these communities and will help create job opportunities for those in need of work. Davis-Bacon prevailing wage requirements increase the cost of construction—forcing taxpayers to pay more and receive less in return. Government estimates, economic studies, and those involved in the construction industry believe that the Davis-Bacon Act inflates the cost of a construction project by an estimated 5 to 38 percent. The Congressional Budget Office estimates that Davis-Bacon adds about $9.6 billion (over 10 years) to the cost of all federal construction projects.

The historic floodwaters of Floyd has resulted in hundreds of millions of dollars in property damage and created a huge swath of human misery that will last for months. We urge you to suspend the application of Davis-Bacon for disaster relief in the areas affected by Hurricane Floyd.

Sincerely,

Bill Goodling, Bill Barrett, Vernon J. Ellers, Sue Myrick, Charles H. Taylor, ——— ———, Matt Salmon, ——— ———, Tillie K. Fowler, Pete Hoekstra, Cass Ballenger, Richard Burr, Walter B. Jones, Howard Coble, Joe Knollenberg, Ron Paul, Tom Tancredo, Bob Schaffer, Robin Hayes, Nathan Deal.

[From the Washington Times, October 1999]

FLOOD RELIEF FOR UNIONS

Bailing out after Hurricane Floyd was bad enough. What the Federal Emergency Management Agency called one of the biggest disasters in history destroyed or damaged more than 30,000 homes and closed some 1,000 roads, 40 bridges and 16 school systems in North Carolina alone. But now the victims of Hurricane Floyd must also deal with a man-made problem: North Carolina residents and those of other states may have to endure union attempts to gouge them out of their flood relief. The Davis-Bacon Act dictates that persons working on federally subsidized projects receive the so-called prevailing wage. In practice, of course, that means the prevailing union wage, which is invariably higher than whatever wage employer and employee might agree to without government interference. Big Labor's friends in Congress passed Davis-Bacon to price out of the market low-wage competition and thereby protect the union cartel on federal projects.

So effective has this union-only requirement been that by some government estimates Davis-Bacon arbitrarily boosts the price of construction projects as much as 38 percent. Since taxpayers rather than lawmakers must absorb the cost of this shakedown, Congress has seen little need for reform.

But applying Davis-Bacon to flood-relief work necessarily means shifting flood relief from persons in desperate need of help to paychecks for organized labor. Some lawmakers have now written to President Clinton asking him to relax Davis-Bacon for flood relief so hurricane victims, not unions, are its beneficiaries. "The economic benefits of this hurricane are significant," said lawmakers in their Sept. 30 letter. "Many businesses have been damaged or destroyed.

> Thousands of individuals have either lost their livelihoods or cannot make it to work because of impassable roads. It may be months or years before these communities are rebuilt and a record amount of federal assistance will be needed to do so. Relaxing Davis-Bacon in these hard-hit states will lower the cost of rebuilding these communities and will help create job opportunities for those in need of work." Among the signatories are North Carolina lawmakers Sue Myrick, Charles Taylor, Cass Ballenger, Walter Jones, Howard Coble, Robin Hayes and Richard Burr.
>
> There is a precedent for relaxing Davis-Bacon. President George Bush suspended the law in 1992 to speed relief work in communities rebuilding after hurricanes Andrew and Iniki. The statute provides that the president may suspend the law in the event of a national emergency.
>
> On the off chance that Mr. Clinton may be more sensitive to the pleas of campaign supporters in organized labor than he is to those of persons in need of flood aid, Sen. Bob Smith has said he would offer an amendment to the Department of Labor appropriations bill forbidding the department from using federal funds to enforce Davis-Bacon in places the president has designated as natural disaster areas, including North Carolina and other hard-hit states. A vote could come as early as today. Says Mr. Smith, "The historic floodwaters of Floyd have resulted in hundreds of millions of dollars in property damage and created a huge swath of human misery that will last for months," says Mr. Smith. "The Davis-Bacon Act should be suspended to aid disaster relief.
>
> It should not be a difficult vote, nor should it be a difficult decision for Mr. Clinton, to agree to protect flood victims from union gouging. With the national spotlight focused on the anguish of those in North Carolina and elsewhere, do the Clinton administration and its supporters want to argue that Big Labor's bottom line is the only line that matters? It's time to show some compassion. It's time to suspend Davis-Bacon.

Mr. SMITH of New Hampshire. Mr. President, I yield the floor.

Mr. SPECTER. Mr. President, I am opposed to the amendment offered by the distinguished Senator from New Hampshire.

The Davis-Bacon Act was passed in 1931, and it was enacted in order to see to it that the Federal projects would not pay lower than the prevailing wage rate in a given area. That is not necessarily a union rate, but may be a nonunion rate as well. The Federal Government has moved in this direction in order to assure the quality of the work that would be done. In order to have quality work done and to see to it that people in a local area receive the work, the Federal Government has established this standard.

Federal contracts are awarded on a low bid proposition, to who makes the lowest bid. If an out-of-area contractor were to come forward and make a lower bid, that would deprive people in the area of that employment and would not provide the kind of quality work that would be assured.

Robert Reischauer, head of the CBO, testified a few years ago that the payment of the prevailing wage rate is designed to help the Federal Government get the kind of quality necessary. This was the quote of the Director of the Congressional Budget Office, Robert Reischauer, when he testified before Congress on May 4, 1993.

> Higher rates do not necessarily increase costs. If these differences in wages were offset by hiring more skilled and productive workers, no additional construction costs would be involved.

It is also important to note that Davis-Bacon creates a financial incentive for contractors to fund and support apprenticeship training by allowing them to pay employees in registered apprenticeship programs less than the prevailing wage rate otherwise required.

When we have had votes on this matter—and I have looked for a contested vote—as recently as 1996, there was bipartisan support to uphold Davis-Bacon. There is also a concern that if this exception were to be enacted on disaster areas, there would be a problem in finding skilled workers to come into the disaster areas and do the work. Thirty-seven States are involved in disaster areas, including my State of Pennsylvania; and if the prevailing wage rate were to be disrupted for the purposes of their Federal contracts, it would not be possible to get the same skilled laborers from the immediate area to come in and perform the necessary services.

As I say, Davis-Bacon has been enacted since 1931. It has a very important purpose—for the Federal Government to get quality work, including the considerations advanced by others on paying a fair wage. It has been challenged from time to time, and while I respect the arguments made by Senator SMITH, it seems to me that this amendment ought to be rejected.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 3 minutes 10 seconds.

Mr. SPECTER. Mr. President. I thank the Senator.

The PRESIDING OFFICER. The Senator from New Hampshire has 3 minutes 21 seconds.

Mr. SPECTER. Mr. President, I yield 1 minute to Senator REID of Nevada.

Mr. REID. Mr. President, what this amendment would do is a number of things that are not good for working men and women. It would be an automatic suspension of the Davis-Bacon enforcement in areas where there have been disasters. It would mean hundreds of thousands of construction workers who typically go to these areas to work would lose the wage protections currently afforded them under the law. The President of the United States already has the authority to waive Davis-Bacon in the event of a national emergency.

So far this year disasters have been declared in 36 States, including Nevada.

This amendment is ill timed, ill advised, especially in light of the disasters that we had to deal with throughout the country.

Mr. SMITH of New Hampshire. Mr. President, it is interesting that in those 36 disasters that the Senator from Nevada spoke of, the President has not decided to waive Davis-Bacon.

The history on it is remarkable. We have had bipartisan votes on this floor on Davis-Bacon in the past in terms of some disasters. Presidents Roosevelt and Nixon also suspended Davis-Bacon to alleviate administrative confusion and delay, and to control inflation.

There is a long—as I mentioned earlier, President Bush—history of bipartisan waivers and relaxation of the Davis-Bacon provisions.

There is also an interesting editorial in the Detroit News. I ask unanimous consent to have it printed in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. SMITH of New Hampshire. Mr. President, I will read a brief excerpt from that editorial, called "End of Payoff." It says:

> Here in Michigan, former deputy state treasurer and Hillsdale College economics professor Gary Wolfram has estimated that the prevailing wage law costs State taxpayers $70 million to $100 million more than they would necessarily have to pay each year for State and local public works projects.

I am having a hard time understanding how it helps working men and women to increase their taxes to pay to clean up disaster areas. If somebody could explain that to me, I might exchange my position.

For the life of me, I don't understand how it makes sense to charge the taxpayers more money to clean up in unfortunate situations where we have disasters. It makes no sense to me.

I conclude by saying that the Davis-Bacon Act is a Depression-era wage subsidy law. Its intent was demonstrated in the CONGRESSIONAL RECORD, which was to preserve northern construction jobs for white union men, and to prevent them from being taken by less expensive southern black labor.

That was the original intent of that law, and its impact on taxpayers wastes valuable Federal tax dollars. It is a discriminatory law that limits equal access to work opportunities.

Finally, no one should take unfair advantage of people who are the victims of disasters.

As I said to you earlier, volunteers give their time, and nonunion people would like to come and help. They are going to be denied the right. They are not going to be able to work for the taxpayers or the Federal Government at a wage less than the prevailing union wage. It is going to cost the taxpayers.

Those people who would like to help and who also have families to feed are going to be denied work. They are going to be told: Go home. You can't work because we have to pay a wage higher than for which you are willing to work.

That is un-American. In America, it is an agreement between the employer and the employee. If an employee wants to work for less, then the employee has the right to do it.

I urge support of my amendment and oppose the motion to table.

EXHIBIT 1

END THE PAYOFF

For close to 35 years, Michigan taxpayers have been paying more than they should for public works projects because of a political payoff known as Public Act 166 of 1965, commonly called the "prevailing wage" law. State Rep. Wayne Kuipers has proposed an elegant solution to this problem. Rep. Kuipers has a bill that simply states that Public Act 166 of 1965 "is repealed."

Rep. Kuipers' bill, HB 4193, should be promptly enacted. The prevailing wage law requires that all state and local governments pay union wages on their public works projects, regardless of whether they can get the work done using less costly nonunion labor. It is an act of pure economic protectionism for one special interest.

In fact, it is a clone of the federal Davis-Bacon Act, adopted by Congress in the 1930s for the odious purpose of freezing lower-wage minority bidders out of federal public works contracts. The U.S. General Accounting Office has long advocated the repeal of the Davis-Bacon Act.

Here in Michigan, former deputy state treasurer and Hillsdale College economics professor Gary Wolfram has estimated that the prevailing wage law costs state taxpayers $70 million to $100 million more than they would necessarily have to pay each year for state and local public works projects.

The law was held in abeyance between 1994 and 1997. A federal judge in Midland threw out the prevailing wage act, but in 1997 a federal appellate court panel reinstated it. During the interregnum, several school districts sold construction bonds. When the law was upheld, they were left with shortages because their bonds did not account for the prevailing wage requirement.

The Legislature, instead of repealing the act, voted to make up the difference for the affected school districts at a cost of $20 million over 10 years. As we noted at the time, this amounted to a $20 million bribe to organized labor interests.

The Michigan Supreme Court, in a particularly benighted and anti-taxpayer ruling last year, extended the prevailing wage law to the construction of a student activity center, funded by student fees and other nonstate appropriations, at Western Michigan University. The court's majority acknowledged that it was overturning a trial judge and two rulings by the state Court of Appeals as well as a longstanding state Labor Department interpretation, to reach this ruling.

Unions contend that the premium pay supported by the prevailing wage is the result of their better-trained workers and the superior quality of their work. Rep. Kuipers, R-Holland, a former contractor has a different opinion: Let the unions prove their case by competing for public construction dollars without the artificial support of the prevailing wage act.

The bill is in the House Employment Relations Committee. Surely, this measure is one of the reasons for a Republican-controlled Legislature.

OUR VIEW

The prevailing wage act imposes unnecessary costs on taxpayers and should be repealed.

OPPOSING VIEW

The act guarantees high-quality workmanship on public works projects.

Mr. SPECTER. Mr. President, by way of a very brief reply, I think that Davis-Bacon is American. It has been American since 1931, almost as long as I have been in America; right about the same time. It has worked very well.

There is merit to what the Senator from New Hampshire has argued in some respects. But to say that it is not American, this has been the Federal law for a very long time.

How much time remains, Mr. President?

The PRESIDING OFFICER. Forty-five seconds.

Mr. SPECTER. I yield the remainder of time to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, prevailing wage means just that. That is in a given area. The fact is that the average, as I mentioned, construction worker who will be affected by this earns $28,000 a year. That is what it comes down to.

I refer to that University of Utah study which showed that injuries went up and the cost of the buildings went up because there was a deterioration in productivity and the skills that were necessary for completion.

It doesn't make any sense to bring this up as an amendment on this particular bill.

Let's bring it back to committee. If the Senator has an argument to make, let's follow the regular legislative process. Let us table this amendment.

Mr. SPECTER. Mr. President, I move to table the amendment, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 1844. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative assistant called the roll.

Mr. REID. I announce that the Senator from Connecticut (Mr. DODD) is absent because of family illness.

The result was announced—yeas 59, nays 40, as follows:

[Rollcall Vote No. 320 Leg.]

YEAS—59

Abraham
Akaka
Boxer
Breaux
Bryan
Byrd
Campbell
Cleland
Conrad
Daschle
DeWine
Domenici
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Gorton
Graham
Baucus
Bayh
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Moynihan
Murkowski
Biden
Bingaman
Murray
Reed
Reid
Robb
Rockefeller
Santorum
Sarbanes
Schumer
Shelby
Smith (OR)
Snowe
Specter
Stevens
Torricelli
Voinovich
Wellstone
Wyden

NAYS—40

Allard
Ashcroft
Bennett
Bond
Brownback
Bunning
Burns
Chafee
Cochran
Collins
Coverdell
Craig
Crapo
Enzi
Frist
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
Mack
McCain
McConnell
Nickles
Roberts
Roth
Sessions
Smith (NH)
Thomas
Thompson
Thurmond
Warner

NOT VOTING—1

Dodd

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. COVERDELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, I believe we are near the conclusion of this bill. We are about to move to the Wellstone amendment. We are very close to completion of this bill. We are now going to move to the Wellstone amendment, and there are no further amendments on the Republican side.

Mr. REID. I say to the manager of the bill, on this side, we have the Wellstone amendment we need to complete and the manager of the bill has an amendment. I say to the manager, we also have Bingaman-Domenici which needs to be worked out or offered.

Mr. SPECTER. We are very close, Mr. President. I ask unanimous consent that there be 1 hour of debate equally divided in relation to the Wellstone amendment on mental health prior to a motion to table.

Mr. REID. Reserving the right to object. I ask the Senator be allowed to offer his amendment before we enter into the time agreement. We will do that as soon as he offers the amendment.

Mr. WELLSTONE. If I may offer the second-degree amendment——

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Pennsylvania has the floor.

Mr. SPECTER. Mr. President, I yield so the Senator may offer his amendment, and then I will repropound the unanimous consent request.

AMENDMENT NO. 1880

(Purpose: to increase funding for the mental health services block grant)

Mr. WELLSTONE. Mr. President, I call up my amendment No. 1880.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 1880.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, line 9, strike "$2,750,700,000" and insert "$2,799,516,000, of which $70,000,000 shall be made available to carry out the mental health services block grant under subpart I of part B of title XIX of the Public Health Service Act, and".

AMENDMENT NO. 2271 TO AMENDMENT NO. 1880

(Purpose: To increase funding for the mental health services block grant)

Mr. WELLSTONE. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative assistant read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 2271 to amendment No. 1880.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 1 of the amendment, strike "$70,000,000" and all that follows and insert the following: "$358,816,000 shall be made available to carry out the mental health services block grant under subpart I of part B of title XIX of the Public Health Service Act ($48,816,000 of which shall become available on October 1, 2000 and remain available through September 30, 2001), and".

Mr. SPECTER. Mr. President, I ask unanimous consent that there be 1 hour of debate equally divided in relation to the Wellstone amendment on mental health prior to a motion to table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SPECTER. Mr. President, for the information of all Senators, it is not anticipated that this side of the aisle will use very much time. So Senators should be prepared to vote perhaps even in advance of 5 o'clock.

Mr. WELLSTONE. I say to my colleague, I will be pleased to use his additional time if he wants me to.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I will shortly outline my amendment, which is a very important amendment dealing with community block grant mental health services. I want to start out, however, in a very personal way.

Mr. President, the Governor of Minnesota, Governor Ventura, in an interview with Playboy magazine said that he did not read books by Ernest Hemingway because the writer killed himself. And he want on to say:

> I've seen too many people fight for their lives. I have no respect for anyone who would kill himself. If you're a feeble, weak-minded person to begin with, I don't have time for you.

At Harvard University yesterday Governor Ventura was asked about his remarks, that suicide was for the feeble, weak-minded. And he said:

> I do upwards of 25 interviews a week . . . over 1,000 interviews a year. I'm human. You got good days; you got bad days.

He continued:

> I don't have sympathy, is what my feelings are on suicide. . . . To me it's something that doesn't have to happen if people take a positive attitude on life like I do.

Today the Surgeon General, David Satcher, gave a very eloquent speech. Today is the ninth annual National Depression Screening Day. He pointed out that suicide is the ninth leading cause of mortality in the United States, responsible for 31,000 deaths.

Mr. President, 85 Americans die every day having taken their lives. Suicide is the fourth leading cause of death for children ages 10 to 14.

I want to respond to these remarks by Governor Ventura because I have devoted so much of my work as a Senator in the mental health area, with Senator DOMENICI, my colleague from New Mexico, who is a Republican, and Senator REID from Nevada.

First of all, let me acknowledge the work of Al and Mary Kluesner. The Kluesners are wonderful people. Al and Mary Kluesner started an organization 10 years ago called SA/VE. This is an organization made up of family members. Many of them are parents who have lost their children. Al and Mary Kluesner have lost two children to suicide.

The Governor of Minnesota and all Americans need to understand that suicide is directly linked to mental illness. The form of mental illness we are talking about is severe depression. When people struggle with severe depression, they lose hope.

I want the Governor of Minnesota to understand that this mental illness is not a moral failing. I want Governor Ventura to understand that all these families that have gone through so much pain need support. They do not need ridicule.

Today is the ninth annual National Depression Screening Day. This is when communities set up free confidential screening opportunities for people to talk privately with mental health professionals, receive educational material about the symptoms and treatment for depression and, when appropriate obtain referrals for care.

Clinical depression is one of the most common illnesses. It affects more than 19 million Americans a year. These educational programs are to be commended. But if we do not have the resources to fund proper treatment for mental health illnesses, then all of this research and all of this education and all of this information may be for nothing.

The clinical care that is needed may never reach those who need it the most.

Why? Because they cannot afford it.

Why? Because we do not have fairness—parity—in mental health coverage.

Why? Because we drastically underfund public programs for mental health care, such as the mental health block grant program.

Why? Because of problems with mental health services provided through the Medicaid programs, which represent 19 percent of nationwide mental health care.

Why? Because it seems we would rather incarcerate children with mental illness than to provide community treatment programs that are so desperately needed.

Why? Because we do not provide coverage for medication in so many health care programs.

Untreated mental illness so often leads to tragedy such as suicide. We know from today's congressional briefing on depression and the elderly an outstanding fact: The highest suicide rate—often the result of undiagnosed and untreated depression—is for white men over 85 years old—65.3 per 100,000 persons.

Suicide is the third leading cause of death among young people ages 15 to 24.

We need to increase funding for mental health services, not decrease it.

This amendment, which I will summarize in a moment——

Mr. REID. Will the Senator yield for a question?

Mr. WELLSTONE. I am pleased to yield for a question.

Mr. REID. I have heard with—I do not know if the word is "horror" but certainly with disgust the statements made by the Governor of Minnesota. The Senator knows—because we have spoken—that 31,000 people each year kill themselves. The Senator knows that; isn't that true?

Mr. WELLSTONE. That is true.

Mr. REID. Isn't it true that during the time we are going to be debating this very important matter, there will be four people in our country during this hour's period of time who will kill themselves?

Mr. WELLSTONE. That is correct.

Mr. REID. And for the Governor of the State of Minnesota to say—I am sorry to report—that these people in effect deserve to die because they have problems, is not understandable. The Senator understands. We have held hearings in the Senate dealing with suicide. We have heard from academics, we have heard from people from the entertainment industry, we have heard from people from all walks of life because suicide does not discriminate among people; it does not affect only one age group; it does not affect one economic group more than others; it affects everyone.

It is true, is it not, I say to my friend, that the vast majority of suicides could be avoided if that person had some counseling and many times a little bit of medication? Isn't that true?

Mr. WELLSTONE. My colleague from Nevada is absolutely correct. That is why I had to respond to these comments by Governor Ventura from Minnesota. This is an illness. This is an illness that affects many Americans. This is an illness that has led to such pain for so many families.

I mentioned Al and Mary Kluesner from Minnesota who started an organization. Sheila and I have been to their gatherings, I say to my colleague, for the last 3 years. Hundreds of people come, including parents who have lost their children to suicide. They do not need ridicule. We need to understand this is not a moral failing. This is an illness. Suicide is the result of this illness. With treatment, we can prevent these deaths.

Mr. REID. I will make one last statement, if I could.

The illness that leads people to commit suicide, it is no different than someone that has tuberculosis, someone who has cancer; isn't that true?

Mr. WELLSTONE. Mr. President, I say to my colleague from Nevada, he is absolutely correct. The research over especially this last decade—which has focused on brain diseases—over and over and over again points out that these diseases are comparable to physical illnesses. They are diagnosable and they are treatable, but the big challenge for us is to overcome the stigma, to overcome the discrimination. That is why I am so outraged by these remarks by Governor Ventura.

Mr. REID. Mr. President, I very much appreciate, admire, and respect the Senator from Minnesota, who is on the floor now talking about these issues. We need to talk more about them.

We don't know why people kill themselves. We have some understanding, but we need to study this. Thank goodness the Centers for Disease Control is now studying suicide. The Federal Government, for the first time, has directed research to determine why 31,000 Americans, young and old, kill themselves every year.

Again, I appreciate very much the Senator from Minnesota having the courage to talk about an issue some people refuse to acknowledge.

Mr. WELLSTONE. I thank my colleague.

I point out to the Senator from Nevada, this is the fourth leading cause of death among children, ages 10 to 14, suicide, among white males. There are other populations as well. The rate of suicide among African American males, ages 15 to 19, has increased 105 percent between 1980 and 1996.

Senator SPECTER and Senator HARKIN have done a yeoman's job of getting more support for these mental health services. What I am trying to do is take this mental health performance partnership block grant program, which supports comprehensive community-based treatment for adults with serious mental illnesses and children with serious emotional disturbances, back to the level of funding the President requested. This is administered through the Substance Abuse and Mental Health Services Administration, SAMHSA.

I say to my colleague from Pennsylvania, if I could have 5 more minutes to summarize this, we want to go to a voice vote, and this amendment will be accepted. I will be honored.

Let me simply talk about the services that are so important. This is funding for communities for programs that include treatment, rehabilitation, case management, outreach for homeless individuals, children's mental health services, and community-based treatment services that have everything in the world to do with providing treatment to people and enabling people to live lives with as much independence and dignity as possible.

Right now the mental health block grant is funded at $310 million. That is a small amount compared to the tremendous need. This amendment would add $50 million. With this amendment, we could provide support for some important community services that would make a tremendous amount of difference.

I went over some of the gaps earlier. My colleague from Pennsylvania, who is managing this bill on the Republican side, said there is an indication to accept this amendment. I will be very pleased. I know colleagues want to move this along.

I say to my Republican colleagues and Democratic colleagues, I appreciate the support for this. I know Senator SPECTER is committed to this. I know Senator HARKIN is as well. I would like to have this amendment approved. I would like to see the additional resources. This is an extremely important program. We have to do a lot better in this area. We can do it at the community level, but for those adults—and we are, in particular, talking about adults with serious mental illnesses and children with serious emotional disturbances—all too often, they wind up out on the streets or they wind up in prison or they wind up not receiving the care. So much of this illness is diagnosable. So much of it is treatable. There are so many ways we can help people.

I think accepting this amendment and making sure we can keep this level of funding as we go to the conference committee would be extremely important.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, we have been reviewing this amendment for additional funding for the mental health block grant. It is obviously a good program, beyond any question. The key issue is how far we can stretch in this bill. I have talked to the Senator from Minnesota and told him that after consulting with some of my colleagues on this side of the aisle, we would be prepared to accept it on a voice vote.

The PRESIDING OFFICER. Is all time yielded back?

Mr. SPECTER. I yield back my time.

Mr. WELLSTONE. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment No. 2271.

The amendment (No. 2271) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the first-degree amendment No. 1880.

The amendment (No. 1880) was agreed to.

Mr. WELLSTONE. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Utah.

APPOINTING JUDICIAL NOMINEES

Mr. HATCH. Mr. President, the Constitution provides that the President "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint * * * Judges of the Supreme Court, and all other Officers of the United States * * *" Thus, the President has the power to nominate persons to serve as federal judges and the Senate has the power to render advice and consent on these nominations. And the Constitution requires that the President's power to nominate be exercised "with" the Senate's power to advise and consent in order for a final appointment to be made. To the extent such cooperation occurs, the appointment process will be fair, orderly, and timely. To the extent such cooperation does not occur, the appointment process will break down.

When I assumed the Chair of the Judiciary Committee, I inherited a process rocked by public strife and private in-fighting. I was determined to lower the temperatures on both sides of the Committee and to preside over a process that did not allow personal attacks on a nominee's character. To accomplish this I turned to the Constitution itself and its requirement that the President and the Senate work "with" each other in the appointment process and the Constitution's limits on the power of federal judges.

And it has worked. When the President has consulted with the Committee and with home-state Senators, a nominee has moved through the process smoothly. Under my Chairmanship, the Committee has focused its review on each nominee's, integrity, temperament, competence, and respect for the rule of law. To date Republicans have confirmed 325 of President Clinton's nominees to the federal bench.

When there have been problems with a nominee, or a potential nominee, the President's consultation with the Committee has enabled us to address those problems privately. For example, a senator on the Committee recently asked me to examine a potential nominee, and when there were problems with that nominee, that Senator and I were able to deal with the problem privately and I expect another candidate will be forthcoming soon. Thus, the process has worked without damaging a candidate's reputation or his family.

When the President works with the Senate the process will adequately staff the federal Judiciary. Indeed, after last year's extraordinary number of confirmations, the vacancy rate in the federal Judiciary was reduced to a very low 5.9%. The Chief Justice in his most recent report on the state of the federal Judiciary congratulated the President and the Senate, stating "I am pleased to report on the progress made in 1998 by the Senate and the President in the appointment and confirmation of judges to the federal bench ...."

As of today, the Judiciary Committee has held 5 hearings for judicial nominees and have reported 30 nominees to the floor of the Senate. There are currently just 62 vacancies, yielding a vacancy rate of only 7.4%. This is 1 vacancy less than existed at the end of the 103rd Congress when Democrats controlled the Judiciary Committee. Further, should the Senate confirm the 8 nominees that are currently on the floor and the 4 nominees for which we held a hearing today, the number of vacancies will fall to 51, yielding a vacancy rate of just 6%. This will be the lowest vacancy rate for any first session of Congress since the expansion of the judiciary in 1990. Moreover, it is virtually equivalent to the vacancy rate at the end of the last Congress, which was the lowest vacancy rate for any session of Congress since the expansion of the judiciary in 1990. When the President works with us and respects the constitutional advice and consent duties of the Senate, the process has, in fact, worked smoothly.

When the President fails to work with the Senate, however, the process does not work smoothly. This was the unfortunate case with Judge Ronnie White. The record shows that Judge White is a fine man. However, he has written some questionable opinions on death penalty cases. The record resulted in both Missouri Senators opposing his nomination on the floor. This record resulted in local and national law enforcement agencies opposing his nomination as well. Here are just some of the letters expressing concern or opposition to Judge White's nomination:

The Missouri Federation of Police Chiefs oppose the nomination; the National Sheriff's Association opposed the nomination; the Mercer County, Missouri prosecutor opposed the nomination; the Missouri Sheriffs' Association expressed deep concern over one of Judge White's dissents in a death penalty case involving the murder of one sheriff, two deputies, and the wife of another sheriff, and asked the Senate to consider that dissent in voting on Judge White's nomination. Indeed, 77 of 114 of Missouri's sheriffs asked for serious consideration of Judge White's record. The sheriff of Moniteau County, Missouri, whose wife was murdered by the criminal for whom Judge White would have reversed the death sentence wrote in opposition to the nomination.

Mr. President, I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, October 4, 1999.

Hon. JOHN ASHCROFT,
U.S. Senate, Washington, DC.

DEAR SENATOR ASHCROFT: I am writing to ask you to join the National Sheriffs' Association (NSA) in opposing the nomination of Mr. Ronnie White to the Federal Judiciary. NSA strongly urges the United States to defeat this appointment.

As you know, Judge White is a controversial judge in Missouri while serving in the Missouri Supreme Court. He issued many opinions that are offensive to law enforcement; one on drug interdiction and several involving the death penalty. Judge White feels that drug interdiction by law enforcement is too intimidating. He is more concerned with his personal view of drug interdiction practices than with the legitimate law enforcement effort to prevent the trafficking of illegal drugs. Drug interdiction is a cornerstone in the fight against crime, and this reckless opinion undermines the rule of law.

Additionally, judge White wrote an outrageous dissenting opinion in a death penalty case. In 1991 Pam Jones, the wife of Sheriff Kenny Jones of Miniteau, Missouri, was gunned down with three other law enforcement officials while hosting a church service at home. The assailant, who was targeting the Sheriff, was tried and convicted of murder in the first degree. He was subsequently sentenced to death for the four murders. During the appeals process, the case came before the Missouri Supreme Court where six of the seven judges affirmed the conviction and the sentence. Judge White was the court's lone dissenter urging a lower legal standard to allow this brutal cop killer a second chance at acquittal. In our view, this opinion alone disqualifies Judge White from service in the Federal courts. He is irresponsible in his thinking, and his views against law enforcement are dangerous. Please read Judge White's dissenting opinion in this case.

We urge you in the strongest possible terms to actively oppose the nomination of Judge White. He is clearly an opponent of law enforcement and does not deserve an appointment to the Federal Judiciary. His views and opinions are highly insulting to law enforcement, and we look forward to working with you to defeat this nomination.

Respectfully,

PATRICK J. SULLIVAN, Jr.,
Sheriff, Chairman, Congressional Affairs Committee and Member, Executive Committee of the Board of Directors, NSA.

SHERIFF'S DEPARTMENT,
MONITEAU COUNTY,
California, MO, August 11, 1999.

DEAR FELLOW SHERIFF: I am writing to you about Judge Ronnie White of the Missouri Supreme Court, who has been nominated to be a federal district judge. As Sheriffs' we go to work for the people of Missouri every day. Our lives are on the line. Every law enforcement, and every law-abiding citizen, needs judges who will enforce the law without fear or favor. As law enforcement officers, we need judges who will back us up, and not go looking for outrageous technicalities so a criminal can get off. We don't need a judge like Ronnie White on the federal court bench.

In addition to being Sheriff of Moniteau County, I am a victim of violent crime. So are my children. In December 1991, James Johnson murdered my wife, Pam, the mother of my children. He shot Pam by ambush, firing through the window of our home during a church function she was hosting. Johnson also killed Sheriff Charles Smith of Cooper County. Deputy Les Roark of Moniteau County and Deputy Sandra Wilson of Miller County. He was convicted and sentenced to death. When the case was appealed and reached the Missouri Supreme Court, Judge White voted to overturn the death sentence of this man who murdered my wife and three good law officers. He was the only judge to vote this way.

Please read Judge White's opinion. It is a slap in the face to crime victims and law enforcement officers. If he cared about protecting crime victims and enforcing the law, he wouldn't have voted to let Johnson off death row.

The Johnson case isn't the only anti-death penalty ruling by Judge White. He has voted against capital punishment more than any other judge on the court. I believe there is a pattern here.

To me, Ronnie White is clearly the wrong person to entrust with the tremendous power of a federal judge who serves for life. Please write to our U.S. Senators, Christopher S. Bond and John Ashcroft, and ask them to oppose the White nomination. Ask them to persuade other Senators to do likewise. Effective law enforcement saves lives. The deterrent value of capital punishment saves lives. As a federal judge, Ronnie White would hurt law enforcement and he would oppose effective death penalty enforcement.

You can write to Senator Bond and Senator Ashcroft at U.S. Senate, Washington, DC 20510. Please speak up before it's too late.

Sincerely,

KENNY JONES,
Moniteau County Sheriff.

MISSOURI FEDERATION OF POLICE CHIEFS,
St. Louis, MO, September 2, 1999.

Senators JOHN ASHCROFT, and CHRISTOPHER BOND,
Kansas City, MO.

DEAR SENATOR ASHCROFT AND SENATOR BOND: We have just learned of the nomination of Judge Ronnie White to be a federal district judge.

After reading Sheriff Kenny Jones' letter and seeing Judge White's record, we were absolutely shocked that someone like this would even be nominated to such an important position.

We want to go on record with your offices as being opposed to his nomination and hope you will vote against him. A copy of Sheriff Jones' letter is attached.

Sincerely,

BRYAN KUNZE,
Vice President, MFPC.

MISSOURI SHERIFFS' ASSOCIATION,
Jefferson City, MO, September 27, 1999.

Sen. ORRIN HATCH,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR HATCH: Attached please find a copy of the dissenting opinion rendered by Missouri Supreme Court Judge Ronnie White in the case State of Missouri, Respondent, v. James R. Johnson, Appellant.

Also, please find attached a copy of a petition signed by 92 law enforcement officers in Missouri, including 77 Missouri sheriffs.

In December 1991, James Johnson murdered Pam Jones, wife of Moniteau County Sheriff Kenny Jones. He shot Pam by ambush, firing through the window of her home during a church function she was hosting. Johnson also killed Sheriff Charles Smith of Cooper County, Deputy Les Roark of Moniteau County and Deputy Sandra Wilson of Miller County. He was convicted and sentenced to death. When the case was appealed and reached the Missouri Supreme Court, Judge White voted to overturn the death sentence of this man who murdered Mrs. Jones and three good law officers.

As per attached, the Missouri sheriffs strongly encourage you to consider this dissenting opinion in the nomination of Judge Ronnie White to be a U.S. District Court Judge.

Sincerely,

JAMES L. VERMEERSCH,
Executive Director.

We, the undersigned, understand that Judge Ronnie White of the Missouri Supreme Court, has been nominated to be a United States District Court Judge.

We need judges who can balance the duty of the law enforcement officer to enforce the law with the preservation of the Constitutional rights of the accused.

In 1993, one James Johnson was convicted and sentenced to death for the ambush and murder of Pam Jones, the wife of the Moniteau County Sheriff Kenny Jones and three other law enforcement officers. Judge White rendered the only dissenting opinion to reverse this conviction.

We respectfully request that consideration be given to this dissenting opinion as a factor in the appointment to fill this position of U.S. District Judge.

Position Agency:

Sheriff, Mississippi County; Sheriff, Pulaski County; Dade County Sheriff; Sheriff of Vernon County.; Barry County Sheriff; Barry County Deputy Sheriff; Franklin County Sheriff; Sheriff, Mercer County.

MERCER COUNTY PROSECUTING ATTORNEY,
Princeton, MO, September 3, 1999.

Hon. JOHN D. ASHCROFT,
U.S. Senator, Washington, DC 20510

DEAR SENATOR ASHCROFT: As Missouri Prosecutors, we work to enforce the laws of our cities, counties, and the state of Missouri on a daily basis. We are aware of significant concern among law enforcement officials regarding the nomination of Missouri Supreme Court Judge Ronnie White to the federal bench. We share this concern.

Judge White's record is unmistakably anti-law enforcement, and we believe his nomination should be defeated. His rulings and dissenting opinions on capital cases and on Fourth Amendment issues should be disqualifying factors when considering his nomination.

Judge White has evidenced clear bias against the death penalty from his seat on the Missouri Supreme Court. He has voted against the death penalty more than any other judge has. In capital cases, he has dissented more than any other judge. Further, he has filed more lone dissents in capital cases than any other judge. Without question Judge White has displayed an anti-capital punishment bias that is second to none on the Missouri Supreme Court.

One of the most terrible examples of this bias came in State v. Johnson, when Judge White filed a lone dissent, supporting reversal of the capital sentence imposed on Jim Johnson. Johnson was sentenced to death for the murders of Cooper County Sheriff Charles Smith, Moniteau County Deputy Les Roark, Miller County Deputy Sandra Wilson, and Pam Jones, the wife of Moniteau County Sheriff Kenny Jones. Except for Judge White's dissent, the ruling against this brutal cop killer was unanimous. Judge White was the lone member of the Court to vote to give Johnson a new trial and a second chance to go free.

In State v. Damask, and State v. Alvarez, the Supreme Court ruled 6–1 that drug checkpoints on main highways in Franklin and Texas Counties were constitutional. Judge White, again, disagreed alone. Judge White voted to throw out evidence against accused drug traffickers who were arrested at checkpoints on Interstate 44 and U.S. 60.

Another troubling concern, while not in itself sufficient reason to disqualify, is Judge White's lack of significant experience in trial courts. Certainly the nomination would be less flawed if he had significant experience as either a criminal litigator or trial judge. He has neither.

On the Missouri Supreme Court, the other six members of the Court routinely override Judge White's outlandish dissenting opinions. In Missouri, we are fortunate to have a Supreme Court that is sympathetic to law enforcement, and prone to interpreting the law as it is written. However, if Judge White is placed on the federal bench, he will be a one-person majority. His flawed opinions will be the only ones that count, and barring an appeal to higher courts, he will be accountable to no one.

People in the law enforcement community are rightly concerned by Judge White's votes in cases like Johnson and Damask. We urge you to show your support for the hard work of Sheriffs, police officers, prosecutors, and other law enforcement officials, and help defeat the nomination of Judge White to the federal bench.

JAY HEMENWAY,
Mercer County Prosecuting Attorney.

TEXAS COUNTY PROSECUTING ATTORNEY,
Houston, MO, October 4, 1999.

Hon. JOHN ASHCROFT,
U.S. Senator, Washington, DC.

SENATOR ASHCROFT, It is my understanding that the nomination of Ronnie White to the United States Federal Court is coming up for a vote soon in the United States Senate. I have serious concerns about this nomination.

Judge White's voting record has given law enforcement officials cause for alarm. While on the Supreme Court he has consistently voted against use of the death penalty, even in the most brutal and clear-cut cases. In fact, White has voted against use of the death penalty more than any other judge on the Court.

White's was also the lone dissenting vote on the case allowing drug checkpoints of major highways in our state. There are other causes of concern, but I think it is best summed up as follows: The Judiciary exists to interpret the law, not make it. Judge White's opinions as a member of the Missouri Supreme Court have caused me to fear more judicial activism and pro-criminal jurisprudence that would run contrary to the will of our founding fathers and to the good of our country.

Please examine Judge White's record closely, Senator. This is an enormously important decision with the most serious of implications. Thank you for taking the time and making the effort to cast a wise vote on the nomination.

Most sincerely,

DOUG GASTON.

Mr. HATCH. Mr. President, had the White House worked with these home-State Senators and with other Senators to achieve broad support for the nominee, perhaps Judge White would not have been defeated. I don't know. I might add, had both home-State Senators been opposed to Judge White in committee, Judge White would never have come to the floor under our rules. I have to say, that would be true whether they are Democrat Senators or Republican Senators. That has just been the way the Judiciary Committee has operated. Had the President diligently worked with Senators to determine that there would not be broad support for the candidate, he could have found an alternative, consensus candidate. But the President did not. Thus, Judge White's nomination failed on the floor of the Senate.

To compound the problem, the President and some of my colleagues in this body made the grave error of suggesting that race was the reason that Senate Republicans voted against Judge White. This transparently political accusation has, as the administration is well aware, no basis in fact. The Judiciary Committee, under my chairmanship, has not kept formal statistics on the race of any of these nominees, nor would we have informed Democrat or Republican members that Judge

White is an African American. Many of my Republican colleagues were literally unaware of Judge White's race, and that is the way it has been. We just haven't made notice of anybody's race as we have confirmed these 325 judges that President Clinton has nominated.

Instead, they were aware of his record in death penalty cases. I admit that that awareness happened at a relatively late time in this matter. It caught me by surprise as well—the opposition at least. They were aware of the opposition of State and national law enforcement communities that arose after his committee hearing. They were aware of the opposition of both home-State Senators that was announced after his hearing. Indeed, I even had a Democratic Senator inform me that had that Senator known of the recent law enforcement opposition to Judge White's nomination, that Senator would have opposed the nomination as well. Senator BOND did support this judge at the hearing but later changed his position on this as he became more and more aware of the opposition by law enforcement. It was not race that defeated Judge White; it was his record and the opposition of the elected leaders of his State.

These same Republican Senators who opposed Judge White overwhelmingly supported the nomination of Charles Wilson, an African American, to the Eleventh Circuit Court of Appeals in Florida. While Senate Republicans were mostly unaware of Judge Wilson's race, Members were informed of his outstanding record as a Federal Magistrate and U.S. Attorney, the strong Florida support for Mr. Wilson, and the support of both home-State Senators—1 Republican and 1 Democrat—for Mr. Wilson. Most members were not informed of his race. But these home-State Senators were for Mr. Wilson. And there was broad support in the Senate for Mr. Wilson's candidacy. It was not race that confirmed Mr. Wilson; it was his record and the support of the elected leaders of his State.

The same is true for other minority nominations. To mention a few, Victor Marrero, Carlos Murguia, Adalberto Jordan—nominees whose records show they were qualified and respected the rule of law, who had the support of home-State Senators, and who had broad support in the Senate. Thus, the suggestion that the Republicans in this body voted against Judge White on the basis of race is no more true than a parallel accusation that my Democratic colleagues voted against Clarence Thomas because of his race. I don't think any of us have made that suggestion.

I am also deeply disappointed by the patently false suggestions from the administration, and some in this body, that Republicans intentionally delay the processing of minority and women nominees based on their race and gender. This would be a surprise to Charles Wilson, who was nominated on May 27, reported by the Judiciary Committee to the floor of the Senate on July 22, and confirmed on July 30. This would also be a surprise to Marryanne Trump Barry, who was nominated on June 17, reported by the Judiciary Committee to the floor of the Senate on July 29, and confirmed on September 13. Both of these nominees had outstanding records reflecting respect for the law, strong home-State support, the support of both home-State Senators, and broad support in the Senate. Mr. Wilson, Judge Barry, and most of these other nominees proceeded smoothly through the confirmation process because the President worked with the Senate, not against the Senate.

The administration is very proud of its record of placing women and minorities on the bench, and it makes a point of informing the public of its work in this regard. In an address to the American Bar Association this summer, President Clinton called the collection of judges he has nominated to the Federal bench "the most diverse group in American history." Nearly half are women and minorities, he said.

But each of these judges was confirmed by the Senate, and all were confirmed with Republican support. How can it be that a Senate which has directly participated in this record of accomplishment can become an institution of bias simply by opposing one nominee—a nominee opposed by both home-State Senators and by an overwhelming number of State and national law enforcement leaders? It cannot be. It simply cannot be. The record and the Department of Justice's own numbers speak for themselves.

According to the Clinton administration's own data, the Senate—whether it was under Democratic or Republican control—has done its duty and confirmed qualified women and minorities. For example, in 1998, based on Department of Justice data, approximately 32 percent of judicial nominees were women, and 21.5 percent were minorities. Even though the committee does not keep formal statistics, I had my staff manually compute the proportion of women and minorities reported to the Senate floor. So far this year, over 45 percent of the judicial nominees reported to the Senate floor are women or have been minorities.

Yes, some nominees take longer than others—but it is not because of their race or gender. My colleagues, I believe, know that. I believe the President and his people at the White House know that. Indeed, several of the nominees of the past that took longer to confirm had my strong support. These included Anne Aiken, Margaret Murrow, and Susan Mollway. I have been condemned for that by certain people on the far right almost on a daily basis ever since.

In the end, those who make these troubling accusations either, one, believe them to be true or, two, know they are not true, but want to politicize the issue. Either motivation is evidence of a serious problem within our noble institution, which I hope we, as leaders, can work to rectify. That is one reason I am taking this time today. Using race as a political tactic to advance controversial nominees is especially troubling. I care too much about the Senate and the Federal judiciary to see these institutions become the victims of base, cheap, wedge politics.

I would urge my colleagues and the President to reconsider this destructive and dangerous ploy. Instead, they should put aside this destructive rhetoric and work with us to do what is best for the Judiciary, the Senate, and the American people.

The Ronnie White nomination is an unfortunate example of what I believe is an increasing pattern on the part of the Clinton White House. I am referring to what appears to be a fire-sale strategy of knowingly sending up nominees who lack home-State support. Some time ago, I sent the White House Counsel a letter stating clearly that consultation was an essential prerequisite to a smoothly functioning confirmations process. But over the past several months, a number of nominees have been forwarded to the Senate over the objection—both private and public—of home-State Senators. Is this a pattern the aim of which is to get nominees confirmed, or is this a strategy, the object of which, is to create a political show down with the Senate. My concern is with the latter.

To find the answer to the current political crisis, I turn once again to the Constitution and its requirement that the President and the Senate work "with" each other in the nomination and advice and consent process. To enable us to return to working together instead of against each other, I propose that we take time for both sides to cool off. The President and the Senate should take a step back, cool off, and then return to working with each other in the nomination and confirmation process as the Constitution so plainly requires.

Mr. President, we have worked well with this President up to now. I have certainly taken my share of criticism for being as fair to this administration as I can possibly be. But this administration knows the rules up here—that when two home State Senators oppose a district court nominee, that district court nominee is not going to make it. That is the way it is. There is nothing I can do to change that because it is the correct rule. It is important that we work together and work with home State Senators in order to resolve this.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished chairman of the Judiciary Committee for that statement. I have just a word or two to say about the same subject.

The White House made a comment—Mr. Lockhart—that I was one of three Republican Senators who voted for Judge White in committee and then voted against him on the floor. It is inaccurate to say I voted for him in committee because I did not. What happened was, the Judiciary Committee had a very abbreviated session off the floor and I went there to see if there was a quorum. When there was a quorum, Justice White was voted out of committee on a voice vote, but I was not present for that voice vote.

I was especially sensitive to Judge White because Judge Massiah-Jackson came before the Senate last year and withdrew her nomination in the face of very considerable opposition by the State District Attorneys Association.

So I took a close look at the letters, and even had a brief conversation with the ranking Democrat before casting my vote, which I did at the tail end of the vote on Justice White.

But contrary to what Mr. Lockhart of the White House said, and contrary to what has appeared in a number of press accounts, I did not vote for Justice White in the committee.

DEPARTMENT OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—Continued

Mr. SPECTER. Mr. President, I ask unanimous consent that we turn to the Senator from——

Mr. REID. Mr. President, will the Senator yield?

Mr. SPECTER. Florida for 15 minutes.

Mr. REID. Mr. President, will the Senator yield for a brief statement?

Mr. SPECTER. Pardon me. I withdraw that because the Senators from New Mexico were here sequenced ahead of Senator GRAHAM.

Mr. REID. Mr. President, I appreciate the statements of the chairman of the Judiciary Committee and the statement of the Senator from Pennsylvania on the judicial controversy. I hope we can end all of that this afternoon and get this bill completed because now we have people on our side wanting to come and talk about this matter dealing with Judge White. I hope we can move and get this bill finished before we have further speeches on this judicial controversy.

Mr. SPECTER. Mr. President, I ask unanimous consent that the remainder of the time on this bill be directed to the amendment of the Senators from New Mexico, then 15 minutes to Senator GRAHAM of Florida, then 10 minutes to be equally divided between the managers of the bill, and then go to final passage.

Mr. REID. Reserving the right to object, if the ranking member of the Judiciary Committee wants to come over and speak on the judicial controversy, I want him to have 15 minutes, the same amount of time the chairman of the Judiciary Committee had.

Mr. SPECTER. I incorporate that in the unanimous consent request.

Mr. KENNEDY. If I could have 2 minutes.

Mr. SPECTER. Two minutes for Senator KENNEDY.

Mr. INHOFE. Mr. President, reserving the right to object, for what purpose would the Senator be yielding to the Senator from Florida? Are we back on the judicial nominations?

Mr. SPECTER. He is speaking on the bill.

Mr. INHOFE. Is this on the nomination?

Mr. SPECTER. Unless Senator LEAHY comes and claims the time which Senator REID has asked for.

Mr. INHOFE. No objection.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object.

Mr. SPECTER. We added 5 more minutes for Senator HARKIN: the managers, 15 minutes; Senator HARKIN, 10; myself, 5.

Mr. REID. And Senator KENNEDY for 2 minutes.

Mr. DOMENICI. I ask if Senator KENNEDY is on the bill or something else?

Mr. KENNEDY. All I want to do, indirectly on the bill, is just to announce that the House of Representatives passed the Patients' Bill of Rights 275–149.

This is a hard-won victory for millions of patients and families throughout America, and a well-deserved defeat for HMOs and the Republican extremists in the House who put managed care profits ahead of patients' health.

The Senate flunked this test in July, but the House has given us a new chance to do the right thing. The House-Senate conference should adopt the Norwood-Dingell provisions, without the costly and ineffective tax breaks added by House Republicans.

Mr. DOMENICI. The Senator did it. Does he still need the 2 minutes?

Mr. KENNEDY. No. I don't need the 2 minutes. I thank the Senator very much.

Mr. SPECTER. Mr. President, exclude Senator Kennedy from the unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask that we turn to the Senators from New Mexico.

Mr. DOMENICI. Senator BINGAMAN has the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 2272

(Purpose: To require the Secretary of Health and Human Services to conduct a study on the geographic adjustment factors used in determining the amount of payment for physicians' services under the medicare program)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. BINGAMAN), for himself, and Mr. DOMENICI, proposes an amendment numbered 2272.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title II, add the following:

SEC. 216. STUDY AND REPORT ON THE GEOGRAPHIC ADJUSTMENT FACTORS UNDER THE MEDICARE PROGRAM.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study on—

(1) the reasons why, and the appropriateness of the fact that, the geographic adjustment factor (determined under paragraph (2) of section 1848(e) (42 U.S.C. 1395w–4(e)) used in determining the amount of payment for physicians' services under the medicare program is less for physicians' services provided in New Mexico than for physicians' services provided in Arizona, Colorado, and Texas; and

(2) the effect that the level of the geographic cost-of-practice adjustment factor (determined under paragraph (3) of such section) has on the recruitment and retention of physicians in small rural states, including New Mexico, Iowa, Louisiana, and Arkansas.

(b) REPORT.—Not later than 3 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report to Congress on the study conducted under subsection (a), together with any recommendations for legislation that the Secretary determines to be appropriate as a result of such study.

Mr. BINGAMAN. Mr. President, this is an amendment that Senator DOMENICI and I are offering to direct the Secretary of Health and Human Services to conduct a study of and the appropriateness of the geographic adjustment factor that is used in Medicare reimbursement calculations as it applies particularly to our State of New Mexico.

We have a very serious problem in our State today; many of our physicians are leaving the State. The reimbursement that is available under Medicare, and accordingly under many of the health care plans in our State, is less for physicians performing procedures and practicing medicine in our State than it is in all of our surrounding States. We believe this is traceable to this adjustment factor, this geographic adjustment factor.

This is a system that was put into place in 1992. It now operates, as I understand it, such that we have 89 geographic fee schedule payment areas in the country. We are not clear on the precise way in which our State has been so severely disadvantaged, but we believe it is a serious problem that needs attention.

Our amendment directs that the Secretary conclude this study within 90 days, or 3 months, report back, and make recommendations on how to solve the problem. We believe it is a very good amendment. We recommend that Senators support the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, first, I am pleased to say I am a cosponsor of this amendment. I have helped Senator BINGAMAN with it.

This is a good amendment. We aren't asking for any money. We are not asking that any law be changed. We are merely saying that something is not right for our State.

The reimbursement—or some aspect of how we are paying doctors under Medicare—is causing us to have much lower fees than the surrounding States, and as a result two things are happening: One, doctors are leaving. In a State such as ours, we can ill afford that. Second, we are being told it is harder and harder to get doctors to come to our State. That was not the case years ago. They loved New Mexico. They came for lots of reasons. But certainly we cannot be an underprivileged State in terms of what we pay our doctors—be a poor State in addition—and expect our citizens to get good health care.

We want to know what the real facts are: Why is this the case? Is it the result of the way the geographic evaluation is applied to our State because maybe rural communities aren't getting the right kind of emphasis in that formula?

Whatever it is, we want to know. When we know, fellow Senators, we can assure Members, if we find out it is not right and it is not fair, we will be on the floor to talk about some real changes. Until we have that, we ask Members for help in obtaining a study.

I yield the floor.

Mr. SPECTER. The managers have taken a look at this amendment and are prepared to accept it. It is a good amendment.

There is one concern, and that is a jurisdictional concern with respect to the Finance Committee. We have attempted to contact the chairman of the Finance Committee to see if there was any substantial reason we should not accept it. If it went to a vote, it would clearly be adopted. It merely asks for a report for a very good purpose. Therefore, the amendment is accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2272) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I am here today, as I was in July, to point out to my colleagues another stealth effort to kill competition within the Medicare program. Title I, section 214, buried in the middle of this long appropriations bill on page 49, carries the following statement:

> None of the funds provided in this Act or in any other Act making appropriations for fiscal year 2000 may be used to administer or implement in Arizona or in Kansas City, Missouri or in the Kansas City, Kansas area the Medicare Competitive Pricing Demonstration Project operated by the Secretary of Health and Human Services under authority granted in the Balanced Budget Act of 1997.

If that statement sounds familiar, it is. Almost the same language was buried in the HMO Patients' Bill of Rights bill as it passed the Senate back in July. It passed then undebated and undiscussed as to its implications—just as we are about to do here tonight. July's action was outrageous. This action is even more so.

There is a certain irony here. We have just heard that the House of Representatives passed, by an overwhelming vote, a version of the HMO Patients' Bill of Rights which is very similar to the bipartisan bill offered but not considered in the Senate. Our bipartisan bill was strongly opposed by the HMO industry. Their basic argument is: let's keep government out of our business, let us operate based on a competitive model that will allow the consumer, the beneficiary of the HMO contract, to negotiate without government standards, without government sanctions for failure to deliver on those standards with the HMO industry. They wanted to have laissez-faire free enterprise; Adam Smith roams the land.

However, today we are about to pass a provision that says when the HMOs are dealing with their pocketbook and the question of how they will get reimbursed, how much money they are going to get paid from Medicare, they don't want to have a free market of competition; they don't want to have a means by which the taxpayers can be assured what they are paying for the HMO product is what the market says they should be paying.

There is a certain amount of irony there which I think underscores the motivations of a significant portion of this industry. There also is a procedural ploy here. If this provision I just quoted were to be offered as an amendment to this bill, it would be ruled out of order under rule XVI in part because it purports not only to control action in this act but in any other act that Congress might consider making in an appropriations bill. But this is not an amendment; this is in the bill itself as it has come out of the Appropriations Committee, and therefore rule XVI does not apply.

Normally under the procedures the Congress has followed traditionally, we would be dealing with a House bill because the House traditionally has led in the appropriations process; therefore, we would be amending a House bill. Thus, we could have excised this provision. However, because we are violating tradition and taking up a Senate bill first, we do not have the opportunity to remove it by a point of order.

I will state for the record that henceforth, when it is proposed we take up a Senate appropriations bill before a House bill, I am going to stand here and object. This is exactly the kind of procedural abuse we can expect in the future as is happening right now.

If that isn't bad enough, this is just plain bad policy. It stifles innovation by eliminating the competitive demonstration which hopefully would have led to a competitive process of compensating HMOs. It forces Medicare to pay more than necessary for some services in certain areas of the country while it denies managed care to other areas of the country.

This HMO pricing is not without its own history. The Balanced Budget Act of 1997 included the competitive pricing demonstration program for Medicare. That provision was fought in the committee and fought in the Senate in 1997 by the HMO industry and certain Members of this body, but it prevailed. One by one, the HMO industry has been able to kill or has attempted to kill demonstrations which have been scheduled in many communities across the country. Today it is Arizona and Kansas City.

The equation is pretty simple. It does not take rocket science to understand what is happening. Who benefits by continuing a system of paying Medicare HMOs that are not subject to competition? The HMOs benefit. Who loses when the same system is open to competition? The HMOs, because they no longer have the gravy train that exists today. Who gains by competition? Beneficiaries gain, particularly in rural areas which don't have managed care today. It would be the marketplace that would be establishing what the appropriate reimbursement level should be for an HMO in a currently unserved or underserved rural area—not a formula which underpays what the real cost of providing managed care would be in such an area. And the taxpayers lose because they do not get the benefit of the marketplace as a discipline of what the HMO's compensation should be.

It is curious that out of one side of their mouth, they are screaming the current system of reimbursement is putting them out of business and causing them to have to leave hundreds of thousands of former HMO beneficiaries high and dry and also to curtail benefits such as prescription drugs, but at the same time, they are saying out of the left side of their mouth they are doing everything they can to prevent the insertion of competitive bidding as a means of establishing what their HMO contracts are really worth and what they should be paid.

They cannot have it both ways.

It takes a certain degree of political courage to make this reform happen. Let me give an example. In my own State of Florida, we were part of this demonstration project. We were selected to have a demonstration for Part B services for what are referred to as durable medical equipment. Lakeland, FL, was selected as the place to demonstrate the potential savings for medical equipment such as oxygen supplies and equipment, hospital beds and accessories, surgical dressings, enteral nutrition, and urological supplies.

The savings that have been achieved in this project are impressive.

They are 18-percent savings for oxygen supplies. I know the Senator from Iowa has stood on this floor and at times has even wrapped himself in medical bandages to demonstrate how much more Medicare was paying than, for instance, the Veterans' Administration for the same items. This competitive bidding process is attempting to bring the forces of the market into Medicare, and an 18-percent savings by competitively bidding oxygen supplies and equipment over the old formula we used to use. There were 30-percent savings for hospital beds and accessories, 13-percent savings for surgical dressings, 31 percent for enteral nutrition products, and 20 percent for urological supplies. It has been estimated if that Lakeland, FL, project were to be applied on a nationwide basis, the savings over 10 years would be in excess of $1 billion. We are not talking about small change.

Beneficiaries have saved money from this demonstration, and access and quality have been preserved and protected.

I find it troubling we are again today, as we were in July, debating, at the end of a major piece of legislation, a silently, surreptitiously included item which has the effect of sheltering HMOs from the marketplace. We might find some HMOs cannot compete and others will thrive, but that is what the marketplace should determine. That is what competition is all about.

I urge my colleagues to examine this provision, to examine the implications of this provision in this kind of legislation and the restraints it imposes upon us, as Members of the Senate, to excise it as inappropriate legislative language on an appropriations bill.

I hope our conferees, as they meet with the House, will resist the inclusion of this in the final legislation we might be asked to vote upon when this measure comes back from conference. This disserves the beneficiaries of the Medicare program. It disserves the taxpayers of America. It disserves the standards of public policy development by the Senate. I hope we will not have a further repetition of this stealth attack on the Medicare program.

Mr. ASHCROFT. Mr. President, I took great interest in the statement that Senator from Florida (Mr. GRAHAM) made expressing his displeasure that this legislation contains a provision—Section 214—halting implementation of the Medicare Prepaid Competitive Pricing Demonstration Project both in Arizona and in the Kansas City metropolitan area.

The Senator from Florida claimed that the inclusion of this provision was accomplished by HMOs. I would like to take this opportunity to point out to him that it was Medicare beneficiaries and doctors who alerted me to their grave concerns that the project would create huge patient disruption in the Kansas City area.

In fact, after the Senator from Florida made similar remarks during debate on the Patient's Bill of Rights legislation regarding a similar provision in that bill, the Metropolitan Medical Society of Greater Kansas City wrote him a letter conveying their concerns with the implementation of the demonstration project in Kansas City, and expressing support for congressional efforts to stop the demonstration in their area. I ask unanimous consent that a copy of this letter be inserted in the record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ASHCROFT. After hearing from a number of doctors and patients in my State over the past few months, I concluded that Kansas City is an inappropriate location for this project and that it will jeopardize the health care benefits that seniors currently enjoy in the area. I believe that halting this project is necessary to protect the health care of senior citizens and to assure that Medicare beneficiaries continue to have access to excellent health care at prices they can afford. HCFA's project is a clear and present danger to the health and well-being of my constituents.

The Balanced Budget Act of 1997 created the Medicare Prepaid Competitive Pricing Demonstration Project to use competitive bidding among Medicare HMOs. Through the appointment of a Competitive Pricing Advisory Committee, HCFA was to select demonstration sites around the nation. Kansas City was one of the selected cities.

As I understand it, the intent of the project was to bring greater competition to the Medicare managed care market, to address concerns that Medicare HMO reimbursement rates in some areas are too high, to expand benefits for Medicare HMO enrollees, and to restrain the cost of Medicare to the taxpayers. When considering these factors, it is clear that the Kansas City metropolitan area is not an appropriate choice for this demonstration.

First, managed care competition in the Kansas City market is already vigorous, with six managed care companies currently offering Medicare HMOs in the area. Participation in Medicare HMOs is also high: As of July 1 of this year, nearly 23% of Medicare recipients in the Kansas City metropolitan area were in Medicare+Choice plans—approximately 50,000 of 230,000 total beneficiaries. Nationally, only 17% of Medicare recipients are enrolled in such plans.

Second, Medicare managed care payments in the Kansas City area are below the national average. According to a recent analysis by the Congressional Research Service of the Library of Congress, 1999 payment rates per Medicare+Choice enrollee in Kansas City are $511, while the national rate is $541. Documents provided to me by HCFA also demonstrate that 75 other cities had a higher adjusted average per capita cost (AAPCC) rate for 1997 than Kansas City. I wonder why Kansas City was chosen for this experiment, when so many other cities have higher payment rates.

Third, I am concerned that this demonstration project will not provide expanded benefits to Medicare HMO enrollees, but will instead cause severe disruption of Medicare services. It is important to note that customer dissatisfaction is low in current Medicare managed care plans in the Kansas City area. Only one in twelve seniors disenrolls from Medicare HMOs each year.

Currently, 33,000, or 66% of the seniors in Medicare managed care plans in the Kansas City area do not pay any premium. Under the bidding process set up by CPAC for the demonstration, a plan that bids above the enrollment-weighted median—which becomes the reimbursement rate for all plans—will be forced to charge seniors a premium to make up the difference between the plan's bid and the reimbursement rate paid by the government. In essence, the penalty for a high bid will be imposed upon seniors. Under this scenario, it is virtually assured that some seniors who pay no premium today will be required to start paying one.

Moreover, seniors who cannot afford to pay a premium would be forced to abandon their regular doctor when it becomes necessary to change plans. Both individual doctors as well as the Metropolitan Medical Society of Greater Kansas City have warned that the demonstration could cause extreme disruption of beneficiaries away from current doctor-patient relationships.

I have also heard concerns that both health plans and physicians may withdraw from the Medicare program if reimbursements under the demonstration project prove financially untenable. As a result, Medicare beneficiaries may be left with fewer choices in care. This would be intolerable. I question why we should implement a project that will create more risk and uncertainty for my State's seniors, who are already satisfied with what they have.

Finally, I question how the demonstration project would be able to provide us with useful information on how to improve the Medicare program if fee-for-service plans—which are generally the most expensive Medicare option—are not included in the project. In its January 6, 1999 Design Report, the Competitive Pricing Advisory Committee expressed the judgment that the exclusion of fee-for-service might "limit HCFA's ability (a) to measure the impact of competitive pricing and (b) to generalize demonstration results to the entire Medicare program."

After studying this issue, I concluded that implementation of the Medicare Managed Care Demonstration Project in the Kansas City metropolitan area should be halted immediately. HCFA must not be allowed to risk the ability of my State's seniors to continue to receive high quality health care at affordable costs. I have been working closely with my Senate colleagues from Missouri and Kansas to protect our Kansas City area seniors from the dangers and uncertainty of a planned federal experiment with their health care arrangements.

So, I want to make clear to my colleague from Florida that patients and doctors speaking on behalf of their patients were the ones who approached me and asked for my assistance in stopping the Medicare managed care demonstration project in the Kansas City area. I heard from a number of individual doctors, as well as medical societies in the State, expressing grave concerns about the project. The President of the Metropolitan Medical Society of Greater Kansas City even made the prediction that the unintended risk of the demonstration "could dictate 100% disruption of beneficiaries away from their current relationships" with their doctors. Clearly, this is unacceptable.

Inclusion, Mr. President, I would like to quote from some of the letters I received from the seniors themselves, voicing their opposition to the Medicare managed care demonstration project coming to their area.

Elizabeth Weekley Sutton, of Independence, Missouri, wrote to me:

DEAR SENATOR ASHCROFT: We need help. My husband, my friends, and I are very concerned and worried that our health care will be very limited by the end of the Competitive Pricing Demonstration that will be starting in January. Of all the HMO's in the U.S., only the entire K.C. area and Maricopa County in Arizona will be conducting this competition for the next 5 years!

And here are some excerpts from a letter sent by Edward Smith of Platte City, Missouri:

I am totally opposed to the Health Care Financing Administration competitive pricing demonstration project to take place here in the Kansas City area. My health will not permit me to be a guinea pig for a total of five years when the rest of the country will have business as usual.

He continues:

Instead of the Health Care Financing Administration determining what is best for the beneficiaries I would prefer to do that myself.

And finally, Mr. Smith says:

If this plan is adopted my HMO could choose to leave the market. Then what is gained? Certainly not my health.

Mr. President, we need to listen to the voice of our seniors. We cannot afford to jeopardize their health with a risky experiment that could raise costs, limit choices, and cause doctor-patient disruption. For this reason, I have continued—and will continue—to work to halt this project in its present form in the Kansas City area.

EXHIBIT 1

METROPOLITAN MEDICAL SOCIETY
OF GREATER KANSAS CITY,
July 21, 1999.

Hon. BOB GRAHAM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAHAM: I was concerned to read in the July 16, 1999, Congressional Record your dissatisfaction about the Senate's passage of the moratorium on the Medicare Prepaid Competitive Pricing Demonstration Project in Kansas City and Arizona. On behalf of the more than 2500 physicians of the Metropolitan Medical Society of Greater Kansas City and its affiliated organizations, I want to assure you that doctors strongly support the moratorium that was passed in the Senate Patient Bill of Rights legislation last week.

The physicians of Kansas City have expressed serious concerns about the demonstration project since April, and we continue to be concerned. We believe the experiment will bring unacceptable levels of disruption to our Medicare patients and the local health care market. Additionally, I worry that quality care, which is often more expensive, will be less available to Medicare patients. In Kansas City, the opposition to the project is widespread. Our senators acted on behalf of our entire health care community, including patients, doctors, hospitals, and health care plans.

The medical community has participated in the discussions about the demonstration with the Health Care Financing Administration (HCFA) and the local Area Advisory Committee for the demonstration project. Despite these discussions, problems with the experiment remain. We support congressional efforts to stop the demonstration project in the Kansas City area.

I remain concerned that under-funded HMOs place our most vulnerable Medicare recipients at risk of getting less attention to their health care needs. I expect to hear more cases of catastrophes to Medicare recipients when the care given is too little, too late. You may be aware that Jacksonville, Florida is another potential site for the demonstration.

Thank you for your consideration of my concerns. I hope I've helped to clarify the existence of broad based support in Kansas City for the moratorium on the competitive pricing demonstration.

Sincerely,
RICHARD HELLMAN, MD,
President-Elect and Chair, National Government Relations Committee.

AMENDMENT NO. 1845

(Purpose: To express the sense of the Senate regarding school infrastructure)

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Iowa.

Mr. HARKIN. Mr. President, Senator ROBB and I have an amendment at the desk. I call it up at this time, No. 1845.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, and Mr. ROBB, proposes an amendment numbered 1845.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title III, add the following:

SEC. . SENSE OF THE SENATE REGARDING SCHOOL INFRASTRUCTURE.

(a) FINDINGS.—The Senate makes the following findings:

(1) The General Accounting Office has performed a comprehensive survey of the Nation's public elementary and secondary school facilities and has found severe levels of disrepair in all areas of the United States.

(2) The General Accounting Office has concluded that more than 14,000,000 children attend schools in need of extensive repair or replacement, 7,000,000 children attend schools with life threatening safety code violations, and 12,000,000 children attend schools with leaky roofs.

(3) The General Accounting Office has found the problem of crumbling schools transcends demographic and geographic boundaries. At 38 percent of urban schools, 30 percent of rural schools, and 29 percent of suburban schools, at least one building is in need of extensive repair or should be completely replaced.

(4) The condition of school facilities has a direct affect on the safety of students and teachers and on the ability of students to learn. Academic research has provided a direct correlation between the condition of school facilities and student achievement. At Georgetown University, researchers have found the test scores of students assigned to schools in poor condition can be expected to fall 10.9 percentage points below the test scores of students in buildings in excellent condition. Similar studies have demonstrated up to a 20 percent improvement in test scores when students were moved from a poor facility to a new facility.

(5) The General Accounting Office has found most schools are not prepared to incorporate modern technology in the classroom. Forty-six percent of schools lack adequate electrical wiring to support the full-scale use of technology. More than a third of schools lack the requisite electrical power. Fifty-six percent of schools have insufficient phone lines for modems.

(6) The Department of Education has reported that elementary and secondary school

enrollment, already at a record high level, will continue to grow over the next 10 years, and that in order to accommodate this growth, the United States will need to build an additional 6,000 schools.

(7) The General Accounting Office has determined the cost of bringing schools up to good, overall condition to be $112,000,000,000, not including the cost of modernizing schools to accommodate technology, or the cost of building additional facilities needed to meet record enrollment levels.

(8) Schools run by the Bureau of Indian Affairs (BIA) for Native American children are also in dire need of repair and renovation. The General Accounting Office has reported that the cost of total inventory repairs needed for BIA facilities is $754,000,000. The December 1997 report by the Comptroller General of the United States states that, "Compared with other schools nationally, BIA schools are generally in poorer physical condition, have more unsatisfactory environmental factors, more often lack key facilities requirements for education reform, and are less able to support computer and communications technology.".

(9) State and local financing mechanisms have proven inadequate to meet the challenges facing today's aging school facilities. Large numbers of local educational agencies have difficulties securing financing for school facility improvement.

(10) The Federal Government has provided resources for school construction in the past. For example, between 1933 and 1939, the Federal Government assisted in 70 percent of all new school construction.

(11) The Federal Government can support elementary and secondary school facilities without interfering in issues of local control, and should help communities leverage additional funds for the improvement of elementary and secondary school facilities.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should provide at least $3,700,000,000 in Federal resources to help communities leverage funds to modernize public school facilities.

Mr. HARKIN. Mr. President, Senator ROBB and I are going to take a few minutes. I know the time is late. I know people want to get to a final vote on this. I want to talk about how good this bill is and to urge people to vote for it.

This is a sense-of-the-Senate resolution. I will not go through the whole thing. It basically is a sense-of-the-Senate resolution saying Congress should appropriate at least $3.7 billion in Federal resources to help communities leverage funds to modernize public school facilities, otherwise known as public school construction.

What we have in this country is schools that are on the average 40 to 50 years old. We are getting great teachers, new methodologies, new math, new science, new reading programs, and the schools are crumbling down around us. They are getting older every day. Day after day, kids go to schools with leaky ceilings, inadequate heat, inadequate air conditioning for hot summer days and the fall when the school year is extended. They are finding a lot of these buildings still have asbestos in them, and it needs to be taken out. Yet we are shirking our responsibilities to refurbish, renovate, and rebuild the schools in this country. The General Accounting Office estimates 14 million American children attend classes in schools that are unsafe or inadequate. They estimate it will cost $112 billion to upgrade existing public schools to just "good" condition.

In addition, the GAO reports 46 percent of schools lack adequate electrical wiring to support the full-scale use of technology. We want to get computers in the classrooms, we want to hook them to the Internet, and yet almost 50 percent of the schools in this country are inadequate in their internal wiring so kids cannot hook up with the Internet.

The American Society of Civil Engineers reports public schools are in worse condition than any other sector of our national infrastructure. Think about that. According to the American Society of Civil Engineers—they are the ones who build our buildings, build our bridges and roads and highways and streets and sewers and water systems, and our schools—they say our schools are in the worst state of any part of the physical infrastructure of this country.

Mr. HARKIN. Mr. President, if the nicest things our kids ever see or go to is shopping malls and sports arenas and movie theaters, and the most run-down places are their schools, what kind of signal are we sending them about the value we place on education and their future?

This is a sense-of-the-Senate resolution which simply outlines the terrible situation we have in this country and calls on the Senate and the Congress to respond by providing at least $3.7 billion, a small fraction of what is needed but a step in the right direction—$3.7 billion in Federal resources to modernize our Nation's schools.

I yield the floor to my distinguished colleague and cosponsor, Senator ROBB.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, I thank my friend and colleague from Iowa. Senator HARKIN and I have offered a sense of the Senate amendment relating to school construction, as Senator HARKIN has just explained. The amendment is not unlike the amendment Senators LAUTENBERG, HARKIN, and I offered to the Budget Resolution earlier this year. That amendment assumed that given the levels in the budget resolution, Congress would enact "legislation to allow States and school districts to issue at least $24.8 billion worth of zero-interest bonds to rebuild and modernize our nation's schools, and to provide Federal income tax credits to the purchasers of those bonds in lieu of interest payments." The actual cost as it was scored was referred to by the Senator from Iowa. That amendment was accepted and put the entire Senate on record as supporting the concept of providing federal assistance in the area of school construction and renovation.

Understanding that Rule 16 prevents us from doing anything of significance at this time with respect to school construction, Senator HARKIN and I in just a moment will withdraw our amendment. But every day that passes, this Congress misses an opportunity to help our States and localities fix the leaky roofs, get rid of all the trailers, and install the wiring needed to bring technology to all of our children. These are real problems—problems that our nation's mayors, school boards, and families simply need some help in addressing.

While school infrastructure improvement is typically a local responsibility, it is now a national need. Our schools, as the Senator from Iowa has indicated, are over 40 years old, on average; our school-aged population is at record levels; and our States and localities can't keep up, despite their surpluses.

Abstract talk about State surpluses provides little solace to our nation's teachers and students who are forced to deal with wholly inadequate conditions. In Alabama, the roof of an elementary school collapsed. Fortunately, it occurred just after the children had left for the day. In Chicago, teachers place cheesecloth over air vents to filter out lead-based paint flecks. In Maine, teachers have to turn out the lights when it rains because their electrical wiring is exposed under their leaky roofs.

Mr. President, we are missing an opportunity to help our States and localities with a pressing need.

I will continue to work for and press forward on this issue because I think it's an area where the Federal Government can be extremely constructive. When our children are asked about "Bleak House," they should refer to a novel by Dickens and not the place where they go to school.

In my own State of Virginia, there are over 3,000 trailers being used to educate students. And there are over $4 billion worth of unbudgeted, unmet needs for our schools. This is a problem that is not going to go away, and it's a problem that our nation's schools need our help to solve. And I regret that Rule 16 precludes us from considering legislation which would reaffirm the commitment that we made earlier this year.

I thank the distinguished Senator from Iowa for his continued work on the subject of school construction, and I yield the floor.

AMENDMENT NO. 1845 WITHDRAWN

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I understand this amendment is not acceptable to the other side. It is late in the day. I know people have to get on with other things, and we want to get to a final vote on the bill. I believe strongly in this. It is a sense-of-the-Senate amendment. Also, Senators KENNEDY, REID, MURRAY, and JOHNSON are added as cosponsors.

In the spirit of moving this bill along and trying to wrap this up as quickly as possible, I ask unanimous consent to withdraw the amendment at this time, but it will be revisited.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank my distinguished colleague. I am very sympathetic to the purpose of the sense-of-the-Senate amendment. He is correct; there would be objection, and I think it would not be adopted. I thank him for withdrawing the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENTS NOS. 2273 THROUGH 2289, 1852, 1869, AND 1882

Mr. SPECTER. Mr. President, I now submit the managers' package which has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] for himself, and others proposes amendments, en bloc, numbered 2273 through 2287, 1852, 1869 and 1882.

The amendments are as follows:

AMENDMENT NO. 2273

At the appropriate place in the bill add the following:

SEC. . CONFOUNDING BIOLOGICAL AND PHYSIOLOGICAL INFLUENCES ON POLYGRAPHY.

(a) FINDINGS.—The Senate finds that—

(1) The use of polygraph tests as a screening tool for federal employees and contractor personnel is increasing.

(2) A 1983 study by the Office of Technology Assessment found little scientific evidence to support the validity of polygraph tests in such screening applications.

(3) The 1983 study further found that little or no scientific study had been undertaken on the effects of prescription and non-prescription drugs on the validity of polygraph tests, as well as differential responses to polygraph tests according to biological and physiological factors that may vary according to age, gender, or ethnic backgrounds, or other factors relating to natural variability in human populations.

(4) A scientific evaluation of these important influences on the potential validity of polygraph tests should be studied by a neutral agency with biomedical and physiological expertise in order to evaluate the further expansion of the use of polygraph tests on federal employees and contractor personnel.

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that the Director of the National Institutes of Health should enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation into the scientific validity of polygraphy as a screening tool for federal and federal contractor personnel, with particular reference to the validity of polygraph tests being proposed for use in proposed rules published at 64 Fed. Reg. 45062 (August 18, 1999).

AMENDMENT NO. 2274

(Purpose: To provide funding for a dental sealant demonstration program)

At the end of title II, add the following:

DENTAL SEALANT DEMONSTRATION PROGRAM

SEC. . From amounts appropriated under this title for the Health Resources and Services Administration, sufficient funds are available to the Maternal Child Health Bureau for the establishment of a multi-State preventive dentistry demonstration program to improve the oral health of low-income children and increase the access of children to dental sealants through community- and school-based activities.

AMENDMENT NO. 2275

(Purpose: To limit the withholding of substance abuse funds from certain States)

At the end of title II, add the following:

WITHHOLDING OF SUBSTANCE ABUSE FUNDS

SEC. . (a) IN GENERAL.—None of the funds appropriated by this Act may be used to withhold substance abuse funding from a State pursuant to section 1926 of the Public Health Service Act (42 U.S.C. 300x-26) if such State certifies to the Secretary of Health and Human Services that the State will commit additional State funds, in accordance with subsection (b), to ensure compliance with State laws prohibiting the sale of tobacco products to individuals under 18 years of age.

(b) AMOUNT OF STATE FUNDS.—The amount of funds to be committed by a State under subsection (a) shall be equal to one percent of such State's substance abuse block grant allocation for each percentage point by which the State misses the retailer compliance rate goal established by the Secretary of Health and Human Services under section 1926 of such Act, except that the Secretary may agree to a smaller commitment of additional funds by the State.

(c) SUPPLEMENT NOT SUPPLANT.—Amounts expended by a State pursuant to a certification under subsection (a) shall be used to supplement and not supplant State funds used for tobacco prevention programs and for compliance activities described in such subsection in the fiscal year preceding the fiscal year to which this section applies.

(d) The Secretary shall exercise discretion in enforcing the timing of the State expenditure required by the certification described in subsection (a) as late as July 31, 2000.

AMENDMENT NO. 2276

(Purpose: To express the sense of the Senate that funding for prostate cancer research should be increased substantially)

At the appropriate place add the following:

SEC. . (a) FINDINGS.—Congress makes the following findings:

(1) In 1999, prostate cancer is expected to kill more than 37,000 men in the United States and be diagnosed in over 180,000 new cases.

(2) Prostate cancer is the most diagnosed nonskin cancer in the United States.

(3) African Americans have the highest incidence of prostate cancer in the world.

(4) Considering the devastating impact of the disease among men and their families, prostate cancer research remains underfunded.

(5) More resources devoted to clinical and translational research at the National Institutes of Health will be highly determinative of whether rapid advances can be attained in treatment and ultimately a cure for prostate cancer.

(6) The Congressionally Directed Department of Defense Prostate Cancer Research Program is making important strides in innovative prostate cancer research, and this Program presented to Congress in April of 1998 a full investment strategy for prostate cancer research at the Department of Defense.

(7) The Senate expressed itself unanimously in 1998 that the Federal commitment to biomedical research should be doubled over the next 5 years.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) finding treatment breakthroughs and a cure for prostate cancer should be made a national health priority;

(2) significant increases in prostate cancer research funding, commensurate with the impact of the disease, should be made available at the National Institutes of Health and to the Department of Defense Prostate Cancer Research Program; and

(3) these agencies should prioritize prostate cancer research that is directed toward innovative clinical and translational research projects in order that treatment breakthroughs can be more rapidly offered to patients.

AMENDMENT NO. 2277

On page 59, line 25, strike "$1,404,631,000" and insert "$1,406,631,000" in lieu thereof.

On page 60, before the period on line 10, insert the following: ": *Provided further*, That $2,000,000 shall be for carrying out Part C of Title VIII of the Higher Education Amendments of 1998."

On page 62, line 23, decrease the figure by $2,000,000.

AMENDMENT NO. 2278

(Purpose: To clarify provisions relating to the United States-Mexico Border Health Commission)

At the appropriate place, insert the following:

SEC. . The United States-Mexico Border Health Commission Act (22 U.S.C. 290n et seq.) is amended—

(1) by striking section 2 and inserting the following:

"SEC. 2. APPOINTMENT OF MEMBERS OF BORDER HEALTH COMMISSION.

"Not later than 30 days after the date of enactment of this section, the President shall appoint the United States members of the United States-Mexico Border Health Commission, and shall attempt to conclude an agreement with Mexico providing for the establishment of such Commission."; and

(2) in section 3—

(A) in paragraph (1), by striking the semicolon and inserting "; and";

(B) in paragraph (2)(B), by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

AMENDMENT NO. 2279

On page 50, line 17, strike "$459,000,000" and insert in lieu thereof "$494,000,000".

AMENDMENT NO. 2280

On page 66, line 24, strike out all after the colon up to the period on line 18 of page 67.

AMENDMENT NO. 2281

On page 42, before the period on line 8, insert the following: ": *Provided further*, That sufficient funds shall be available from the Office on Women's Health to support biological, chemical and botanical studies to assist in the development of the clinical evaluation of phytomedicines in women's health".

AMENDMENT NO. 2282

(Purpose: To provide for a report on promoting a legal domestic workforce and improving the compensation and working conditions of agricultural workers)

On page 19, line 6, insert before the period the following: ": *Provided further*, That funds made available under this heading shall be used to report to Congress, pursuant to section 9 of the Act entitled 'An Act to create a Department of Labor' approved March 4, 1913 (29 U.S.C. 560), with options that will promote a legal domestic work force in the agricultural sector, and provide for improved compensation, longer and more consistent work periods, improved benefits, improved living conditions and better housing quality, and transportation assistance between agricultural jobs for agricultural workers, and address other issues related to agricultural labor that the Secretary of Labor determines to be necessary".

AMENDMENT NO. 2283

(Purpose: To express the sense of the Senate concerning women's access to obstetric and gynecological services)

Beginning on page 1 of the amendment, strike all after the first word and insert the following:

. SENSE OF THE SENATE ON WOMEN'S ACCESS TO OBSTETRICAND GYNECOLOGICAL SERVICES.

(a) FINDINGS.—Congress makes the following findings:

(1) In the 1st session of the 106th Congress, 23 bills have been introduced to allow women direct access to their ob-gyn provider for obstetric and gynecologic services covered by their health plans.

(2) Direct access to ob-gyn care is a protection that has been established by Executive Order for enrollees in medicare, medicaid, and Federal Employee Health Benefit Programs.

(3) American women overwhelmingly support passage of federal legislation requiring health plans to allow women to see their ob-gyn providers without first having to obtain a referral. A 1998 survey by the Kaiser FamilyFoundation and Harvard University found that 82 percent of Americans support passage of a direct access law.

(4) While 39 States have acted to promote residents' access to ob- gyn providers, patients in other State- or in Federally-governed health plans are not protected from access restrictions or limitations.

(5) In May of 1999 the Commonwealth Fund issued a survey on women's health, determining that 1 of 4 women (23 percent) need to first receive permission from their primary care physician before they can go and see their ob-gyn provider for covered obstetric or gynecologic care.

(6) Sixty percent of all office visits to ob-gyn providers are for preventive care.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should enact legislation that requires health plans to provide women with direct access to a participating health provider who specializes in obstetrics and gynecological services, and that such direct access should be provided for all obstetric and gynecologic care covered by their health plans, without first having to obtain a referral from a primary care provider or the health plan.

Mrs. MURRAY. Mr. President, included in the Manager's amendment is an important provision relating to women's health and access to reproductive health care services. I am pleased to have worked with the managers of this bill to send a strong message on the importance of direct access for women to their OB/GYN.

I was disappointed that we were unable to address the rule XVI concerns with the amendment I had originally filed. My original amendment would simply allow women and their OB/GYNs to make important health care decisions without barriers or obstacles erected by insurance company policies. My amendment would have required that health plans give women direct access to their OB/GYN for all gynecological and obstetrical care and would have prohibited insurance companies from standing between a woman and her OB/GYN.

However, it has been determined that my amendment would violate rule XVI. As a result of the announcement by the chairman of the Senate Appropriations Committee that he will make a point of order against all amendments that may violate rule XVI, I have modified my amendment. The modification still allows Members of the Senate to be on record in support of women's health or in opposition to removing barriers that hinder access for women to critical reproductive health care services.

I am offering a sense-of-the-Senate that puts this question to each Member. I realize that this amendment is not binding, but due to opposition to my original amendment, I have been forced to offer this sense-of-the-Senate.

I am disappointed that we could not act to provide this important protection to women, but I do believe this amendment will send an important message that the U.S. Senate does support greater access for women to quality health care benefits.

I have offered this amendment due to my frustration and disappointment with managed care reform. I have become frustrated by stalling tactics and empty promises. The managed care reform bill that passed the Senate has been referred to as an empty promise for women. I can assure my colleagues that women are much smarter than they may expect and will not be fooled by empty promises or arguments of procedural discipline. When a woman is denied direct access to the care provided by her OB/GYN, she will not be interested in a discussion on ERISA or rule XVI. She wants direct access to her OB/GYN. She needs direct access, and she should have direct access.

My amendment also reiterates the importance of ensuring that the OB/GYN remains the coordinating physician. Any test or additional referral would be treated as if made by the primary care physician. This amendment does not call for the designation of an OB/GYN as a primary care physician, it simply says that if the OB/GYN decides additional care is necessary, the patient is not forced to seek approval from a primary care physician, who may not be familiar with her overall health care status.

Why is this amendment important? The number one reason most women enter the health care system is to seek gynecological or obstetric care. This is the primary point of entry for women into the health care system. For most women, including myself, we consider our OB/GYN our primary care physician—maybe not as an insurance company defines it—but, in practice, that's the reality.

Does a woman go to her OB/GYN for an ear infection? No. But, does a pregnant woman consult with her OB/GYN prior to taking any antibiotic for the treatment of an ear infection? Yes, most women do.

I know the policy endorsed in this amendment has in the past enjoyed bipartisan support. The requirements are similiar to S. 836, legislation introduced by Senator SPECTER and cosponsored by several Senators both Republican and Democrat. This amendment is similar to language that was adopted during committee consideration in the House of the fiscal year 1999 Labor, HHS appropriations bill. A similar directive is contained in the bipartisan House Patients' Bill of Rights legislation. It has the strong support of the American College of Obstetricians and Gynecologists and I know I have heard from several OB/GYNs in my own state testifying to the importance of direct access to the full range of care provided, not just routine care.

I would also like to point out to my colleagues, that 39 states have similar requirements and that as participants in the Federal Employees Health Benefit Plan, all of us—as Senators—have this same guarantee as well as our family members. If we can guarantee this protection for ourselves and our families, we should do the same for women participating in a manager care plan.

I realize that this appropriations bill may not be the best vehicle for offering this amendment. However, I have waited for final action on a Patients' Bill of Rights for too long. I have watched as patient protection bills have been stalled or delayed. Last year we were told that we would finish action on a good Patients' Bill of Rights package prior to adjournment.

Well, here we sit—almost 12 months later—with little hope of finishing a good, comprehensive managed care reform bill prior to our scheduled adjournment this year.

I also want to remind my colleagues that we have in the past used appropriations bills to address deficiencies in current law or to address an urgent need for action. I believe that addressing an urgent need in women's health care qualifies as a priority that we must address. I realize that the authorizing committee has objected to the original amendment I filed. As a member of the authorizing committee as well, I can understand this objection. But, again I have little choice but to proceed on this appropriations bill.

We all know that it was only recently on the fiscal year 1999 supplemental appropriations bill that we authorized a significant change in Medicaid recoupment provisions despite strong objections from the Finance Committee.

In last year's omnibus appropriations bill, we authorized a requirement that insurance companies must cover breast reconstruction surgery following a mastectomy. I can assure my colleagues that this provision never went through the authorizing committee. I would also point out that there are several antichoice riders contained in this appropriations bill that represent a major authorization.

As these examples show, when we have to address these types issues through appropriations bills—we can do it. We have done it in the past, and we should do it today to meet this need.

I urge my colleagues to support this amendment. We all talk about the need to ensure access for women to health care. I applaud Chairman SPECTER's efforts in this appropriations bill regarding women's health care. Adopting this amendment gives us the opportunity to do something that does ensure greater access for women. This is what women want. This is the chance for Senators to show their commitment to this critical benefit.

I would like to quote a statement made by our subcommittee chairman that I believe more eloquently explains why I am urging this amendment. "I believe it is clear that access to women's health care cuts across the intricacies of the complicated and often divisive managed care debate." I could not agree more.

We know from the current state requirement and the Federal Employee Health Benefit Program requirement, this provision does not have a significant impact on costs of health care. We also know from experience that it has a positive impact on health care benefits. Since 60 percent of office visits to OB/GYNs are for preventive care, we could make the argument that adoption of this policy would reduce the overall costs of health care.

I urge my colleagues to support this amendment and ask that we do more than simply make empty promises to women. We need an honest and fair debate on this policy.

I would ask my colleagues to seek further education or advice from women as to the importance of direct access and ask their female constituents about the relationship they have with their own OB/GYN. Let women speak for themselves. If you listen, you will hear why this policy is so important and why women trust their OB/GYN far more than their insurance company or their Member of Congress.

Mr. ROBB. Mr. President, I want to discuss my support for an amendment Senator MURRAY and I offered which puts the entire Senate on record in favor of removing one of the greatest obstacles to quality care that women face in our insurance system today: inadequate access to obstetricians and gynecologists.

I understand that our provision will be included in the manager's amendment to this bill, and I want to thank the chairman of the Senate Appropriations Subcommittee on Labor, HHS and Education, Senator SPECTER, for his work both in including our amendment in his bill, as well as his leadership on this issue. He has been one of the most outspoken members in this body in favor of helping women have better access to women's health services.

We know today that for many women, their OB/GYN is the only physician they see regularly. While they have a special focus on women's reproductive health, obstetricians and gynecologists provide a full range of preventative health services to women, and many women consider their OB/GYN to be their primary care physician.

Unfortunately, some insurers have failed to recognize the ways which women access health care services. Some managed care companies require a woman to first visit a primary care doctor before she is granted permission to see an obstetrician or gynecologist. Others will allow a woman to obtain treatment directly from her OB/GYN, but then prohibit her from obtaining any follow-up care that her OB/GYN recommends without first visiting a primary care physician who serves as a "gatekeeper".

This isn't just cumbersome for women, it's bad for their health. According to a survey by the Commonwealth Fund, women who regularly see an OB/GYN are more likely to have had a complete physical exam and other important preventative services like mammograms, cholesterol tests and Pap smears. At a time when we need to direct our health care dollars more toward prevention, allowing insurers to restrict access to the health professionals most likely to offer women preventative care only increases the possibility that greater complications—and greater expenditures—will arise down the road. We ought to grant women the right to access medical care from obstetricians and gynecologists without any interference from remote insurance company representatives.

Earlier this year, Senator MURRAY and I offered an amendment which would do just that. Unfortunately, a number of my colleagues from the other side of the aisle objected to some of the specific wording in our bill, and the amendment was defeated.

Since that vote, we have reworked our amendment to address these concerns. We had hoped to offer an amendment which was identical to language included in a patient protection bill crafted by a Republican Congressman, CHARLIE NORWOOD, and that was approved by the House earlier today by an overwhelming vote of 275–151.

Yet despite this consensus on this issue by Republicans and Democrats on the House side, my colleagues from the other side of the aisle threatened to challenge our amendment under Senate Rule 16. Senator MURRAY and I are cognizant of the problem this created, and we've opted to offer a Sense of the Senate resolution in place of the amendment we had hoped to see approved.

This Sense of the Senate, which has been accepted by both sides, puts the entire Senate on record in favor of legislation which requires health plans to provide women with direct access to obstetrical and gynecological services, without first having to obtain a referral from a primary care provider or their health plan. It is a strong step forward in our efforts to improve women's access to the type of health care they need.

To my Republican colleagues who objected, I say: your party joined with Democrats to hammer out this compromise language on the House side. Now that the Senate is on record as well, let's get behind this same amendment at the earliest available opportunity in the Senate and pass a provision which will help all women in this country get better care.

AMENDMENT NO. 2284

(Purpose: To extend filing deadline for compensation of worker exposed to mustard gas during World War II)

At the appropriate place, insert the following:

SEC. . The applicable time limitations with respect to the giving of notice of injury and the filing of a claim for compensation for disability or death by an individual under the Federal Employees' Compensation Act, as amended, for injuries sustained as a result of the persons exposure to a nitrogen or sulfur mustard agent in the performance of official duities as an employee at the Department of the Army's Edgewood Arsenal before March 20, 1944, shall not begin to run until the date of enactment of this Act.

AMENDMENT NO. 2285

(Purpose: To correct a definition error in the Workforce Investment Act of 1998)

At the appropriate place in TITLE V—GENERAL PROVISIONS of the bill insert the following new section:

SEC. 5 . Section 169(d)(2)(B) of P.L. 105–220, the Workforce Investment Act of 1998, is amended by striking "or Alaska Native villages or Native groups (as such terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)).", and inserting in lieu thereof," or Alaska Natives."

AMENDMENT NO. 2286

(Purpose: To increase funds for the Centers for Disease Control and Prevention to provide grants regarding childhood asthma)

At the end of title II, add the following:

CHILDHOOD ASTHMA

SEC. . In addition to amounts otherwise appropriated under this title for the Centers for Disease Control and Prevention, 8.7 in addition to the $1 million already provided for asthma prevention programs which shall become available on October 1, 2000 and shall remain available through September 30, 2001, and be utilized to provide grants to local communities for screening, treatment and education relating to childhood asthma.

Mr. DURBIN. Mr. President, I rise today to offer this amendment regarding childhood asthma. For the next 15 minutes imagine breathing through a tiny straw the size of a coffee stirrer, never getting enough air. Now imagine suffering through this process three to six times a day. This is asthma.

Today, asthma is considered the worst chronic health problem plaguing this nation's children, affecting nearly 15 million Americans. That figure includes more than 700,000 Illinoisans, of whom 213,000 are children under the age of 18. Illinois has the nation's highest asthma-related death rate for African-American males, and Chicago has one of the highest rates of childhood asthma in the country.

During a recent visit to Children's Memorial Hospital in Chicago, I met a wonderful little boy whose life is a daily fight against asthma. He told me he can't always participate in gym class or even join his friends on the playground. Fortunately, Nicholas is receiving the medical attention necessary to manage his asthma. Yet for millions of children, this is not the case. Their asthma goes undiagnosed and untreated, making trips to the emergency room as common as trips to the grocery store.

In an effort to help the millions of children who live every day with undiagnosed or untreated asthma, I am offering this amendment with my colleague Sen. MIKE DEWINE. It would provide $50 million in grants through the Center for Disease Control, for community-based organizations including hospitals, community health centers, school-based programs, foster care programs, childhood nutrition programs to support asthma screening, treatment, education and prevention programs.

Despite the best efforts of the health community, childhood asthma is becoming more common, more deadly and more expensive. In the past 20 years, childhood asthma cases have increased by 160 percent and asthma-related deaths have tripled despite improved treatments.

Chicago has the dubious distinction of having the second highest rate of childhood asthma in the country. Only New York City has higher rates. According to a study published by the Annals of Allergy, Asthma & Immunology, of inner-city school children in Chicago, researchers found that the prevalence of diagnosed asthma was 10.8 per cent, or twice the 5.8 per cent the federal Centers for Disease Control and Prevention estimates in that age group nationally. The study also found that most of the children with diagnosed asthma were receiving medical care, but it may not be consistent with what asthma care guidelines recommend. Researchers questioned parents of kindergartners and found 10.8 per cent of the children had been found to have asthma. The researchers estimated an additional 6 to 7 percent had undiagnosed asthma. By comparison, the nationwide asthma rate for children 5 to 14 is 7.4 per cent. Moreover, many of the asthma cases were severe: 42 per cent had trouble sleeping once or twice a week because of wheezing, and 87 per cent had emergency room visits during the previous year.

Asthma disproportionately attacks many of society's most vulnerable those least able to fight back, children and minorities. A recent New York Times article described a study in the Brooklyn area where it was found that a staggering 38 per cent of homeless children suffer from asthma.

Some of the factors known to contribute to asthma such as poor living circumstances, exposure to cockroach feces, stress, exposure to dampness and mold are all experienced by homeless children. They are also experienced by children living in poor housing or exposed to urban violence. There are other factors such as exposure to second hand smoke and smog that also exacerbate or trigger asthma attacks.

For minorities, asthma is particularly deadly. The Asthma death rate for African-Americans is more than twice as high as it is for other segments of the population. Illinois has the highest asthma-related death rate in the country for African-American males. The death rate is 3 times higher than the asthma-related death rate for whites in Illinois. Nationwide, the childhood asthma-related death rate in 1993, was 3 to 4 times higher for African Americans compared to Caucasian Americans. The hospitalization rate for asthma is almost three times as high among African-American children under the age of 5 compared to their white counterparts The increased disparity between death rates compared to prevalence rates has been partially explained by decreased access to health care services for minority children.

Even though asthma rates are particularly high for children in poverty, they are also rising substantially for suburban children. Overall, the rates are increasing. Every one of us knows of a child whether our own, a relative's or a friend's who suffers from asthma.

Asthma-related death rates have tripled in the last two decades. My state of Illinois has the highest asthma-related deaths in the country for African American men.

The effects of asthma on society are widespread. Many of you may be surprised to learn that asthma is the single most common reason for school absenteeism. Parents miss work while caring for children with asthma. Beyond those days missed at school and parents missing work, there is the huge emotional stress suffered by asthmatic children. It is a very frightening event for a small child to be unable to breathe. A recent US News article quoted an 8-yr old Virginian farm girl, Madison Benner who described her experience with asthma. She said "It feels like something was standing on my chest when I have an asthma attack." This little girl had drawn a picture of a floppy-eared, big footed elephant crushing a frowning girl into her bed.

In many urban centers, over 60 per cent of childhood admissions to the emergency room are for asthma. There are 1.8 million emergency room visits each year for asthma. Yet the emergency room is hardly a place where a child and the child's parents can be educated in managing their asthma. In 1994, 466,000 Americans were hospitalized with asthma, up from 386,000 in 1979.

Asthma is one of the most common and costly diseases in the US. In contrast to most other chronic diseases, the health burden of asthma is increasing rapidly. The financial burden of asthma was $6.2 billion in 1990 and is estimated to increase to more than $15 billion in 2000.

Most children who have asthma develop it in their first year, but it often goes undiagnosed or as the study I mentioned earlier, the children may not receive the best treatment. The National Institutes of Health is home to the National Asthma Education and Prevention board. This is a large group of experts from all across the fields involved in health care and asthma. They have developed guidelines on both treating asthma and educating children and their parents in prevention. It is very important that when we spend money on developing such guidelines that they actually get out to communities so that they can take advantage of this research.

CDC has been working in collaboration with NIH to make sure that health professionals and others get the most up to date information. My amendment could further help this effort by providing grantees with this information.

We do have treatments that work for most people. Early diagnosis, treatment and management are key to preventing serious illness and death. There are several wonderful models for success already available to some communities. Take for example the "breathmobile" program in Los Angeles that was started 2 years ago. This program provides a van that is equipped with medical personnel, asthma education materials, and asthma treatment supplies. It goes out to areas that are known to have a high incidence of childhood asthma and screens children in those areas. This "Breathmobile" program has reduced trips to the emergency room by 17 per cent in the first year of operation. This program is being expanded to sites in Phoenix, Atlanta, and Baltimore. I hope that we can be as successful in Illinois and other parts of the country. Children in these Breathmobile programs are also enrolled in the Children's Health Program if they are income eligible. We have all heard of how slow enrollment in the children's health program has been and anything that we can do to speed enrollment up is vitally important.

In West Virginia, a Medicaid "disease management" program which seeks to coordinate children with asthma's care so that they get the very best care has been found to be very cost effective. It has reduced trips to the emergency room by 30 per cent.

In Illinois, the Mobile CARE Foundation is setting up a program in Chicago based on the Los Angeles initiative. In addition, the American Association of Chest Physicians has joined with other groups to form the Chicago Asthma Consortium to provide asthma screening and treatment. Efforts like these need our amendment. This Childhood Asthma Amendment would expand these programs to help ensure that no child goes undiagnosed and every asthmatic child gets the treatment he or she needs.

I am offering this amendment here today with my colleague from Ohio, so that we can expand these programs to other areas of the country. It is a very simple amendment. It adds $10 million to the Centers for Disease Control's appropriations for local community grants to screen children for asthma and if they are found to have it, to provide them with treatment and education into how to manage their asthma.

CDC has current authority to carry out such programs and as the Bill Report already notes on page 93 of the report: "The Committee is pleased with the work that CDC has done to address the increasing prevalence of asthma. However the increase in asthma among children, particularly among inner-city minorities, remains alarming. The Committee urges CDC to expand its outreach aimed at increasing public awareness of asthma control and prevention strategies, particularly among at risk minority populations in underserved communities." I couldn't agree more. We do need to do more in this area.

No child should die from asthma. We need to make sure that people understand the signs of asthma and that all asthmatic children have access to treatment and information on how to lessen their exposure to things that trigger asthma attacks.

My amendment responses to the alarming increase in childhood asthma cases and asthma-related deaths. It would provide funds to community and state organizations that serve areas with the largest number of children who are at risk of developing asthma and areas with the highest asthma-related death rates. The grantees could use the funds to develop programs to best meet the needs of their residents. The funds could be targeted to those communities where there are the highest number of children with asthma or where there is the highest number of asthma-related deaths.

This amendment is a small step toward addressing this the single greatest chronic health illness of children today. $10 million is a pretty small sum. I am glad that this amendment has been accepted.

The Amendment is supported by the American Lung Association, the National Association for Children's Hospitals and Research Institutions, the Academy of Pediatrics, the Asthma and Allergy Foundation of America and others who support children's health.

I thank my colleagues on behalf of the 5 million children who suffer from asthma today in America for accepting this amendment that can make some progress to combat this the most preventable childhood illness.

Mr. DEWINE. Mr. President, today I rise to support the Durbin-DeWine pediatric asthma amendment. This amendment would appropriate $10 million for the Centers for Disease Control and Prevention, CDC, to award grants to local communities for screening, treatment, and education relating to childhood asthma.

On May 5th of this year, the Allergy and Asthma Network's Mothers of Asthmatics organized an asthma awareness day to educate everyone about asthma. As most of you probably know, asthma is a chronic lung disease caused by inflammation of the lower airways. During an asthma attack, these airways narrow—making it difficult and sometimes impossible to breathe. Fortunately, we have the "tools" to handle asthma attacks once they occur. The most common way, of course, is to use an asthma inhaler that millions of us use every day. We also know a lot about how to prevent asthma attacks in the first place—through drug therapy and by avoiding many well-known asthma triggers.

With asthma prevalence rates—and asthma death rates—on the rise, especially in inner-city populations, it is important for us to raise national awareness, so we can educate families on how to detect, treat, and manage asthma symptoms. Of the more than 15 million Americans who suffer from asthma, over five million are children. The American Lung Association estimates that in my home state of Ohio, 212,895 children under the age of 18 suffer from asthma. That's about two percent of the entire population in Ohio. Asthma is the most common chronic illness affecting children and is the leading cause of missed school days due to chronic illness.

Asthma is hitting the youngest the hardest. Nationwide, the most substantial prevalence rate increase for asthma occurred among children 4 years-old and younger. Hospitalization rates due to asthma were also highest in this young age group, rising 74 percent between 1979 and 1992. These increases in hospitalization rates are especially affecting the inner city populations, where asthma triggers, like air pollutants, are more concentrated.

An August 29 Akron Beacon Journal article cites statistics from the CDC that show the ratio of children under age four with asthma increased from one in forty-five in 1980 to one in seventeen in 1994. Every year, more than 5,000 Americans die from this disease—these are PREVENTABLE deaths. A July 27 New York Times article described the results of a study performed by a team at the Center for Children's Health and the Environment at Mount Sinai School of Medicine. This study found that hospitalization rates were as much as 21 times higher in poor, minority areas than in the hardest-hit areas of wealthier communities. The article quotes Dr. Claudio, an assistant professor in the division of neuropathology at Mount Sinai, who said, "The outcomes in the poor Latino and African-American areas, especially among children, are tragic." This Mount Sinai report cited previous studies that suggest that poor African-American and Latino children are suffering at higher rates because the poor often rely on care in emergency rooms, where doctors have little time to educate families on how to control the disease and where there is little follow-up care. Without receiving adequate care and medication, the asthma victims eventually suffer such severe attacks that they need immediate hospitalization.

Those are some of the reasons why I joined my colleague, Senator DURBIN, in introducing S.805, the "Children's Asthma Relief Act." This bill will help ensure that children with asthma receive the care they need to live normal lives. It provides grants that will be used to develop and expand asthma services to children, equip mobile health care clinics that provide diagnosis and asthma-related health care services, educate families on asthma management, and identify and enroll uninsured children who are eligible for, but not receiving, health coverage under Medicaid or the State Children's Health Insurance Program. By requiring coordination with current children's health programs, this bill will help us identify children—in programs such as supplemental nutrition programs, Maternal and Child Health Programs, child welfare and foster care and adoption assistance programs—who are asthmatic, but might otherwise remain undiagnosed and untreated.

By increasing local asthma surveillance activities through legislation, such as S.805, and by better educating the public on the importance of asthma awareness and management through events like Asthma Awareness Day, we can help reverse the distressing increase in hospitalization rates and mortality rates due to asthma. As a person with asthma, and as the father of 3 children with asthma, I know firsthand how important diagnosis, treatment, and management are to ensuring that this manageable disease will not prevent children and adults from carrying on normal lives. We can make a big difference.

Asthma is a serious health concern that simply must be addressed.

I commend my colleague, Senator FRIST, for the outstanding children's health hearing that his Public Health Subcommittee held on September 16. A very articulate 13-year old named Robert Jackson from South Euclid, OH, testified at that hearing. He described how important early diagnosis and treatment plans are for children who suffer from asthma. According to Robert, doctors at Rainbow Babies and Children's Hospital in Cleveland explained to him how he could avoid asthma "triggers"—like cigarette smoke and strong odors like bleach—to avoid having serious asthma attacks. By learning how to manage his asthma through an asthma treatment plan, Robert now plays sports, attends school regularly, and maintains a newspaper route.

At a time when States, like Ohio, finally are passing laws that allow students to take their asthma inhalers to school, we need to provide the federal public health dollars to the CDC for childhood asthma screening, treatment, and education. The states gradually are realizing the severity of this disease and the need for children to access their inhalers to manage their asthma. It is now time for the Federal Government to help local communities stem the rising prevalence of the worst chronic health problem affecting children.

I commend my colleagues for supporting this very important amendment as it will help the nearly 5 million children who have been diagnosed with asthma, as well as those children who suffer from asthma, but remain undiagnosed and—sadly—untreated.

AMENDMENT NO. 2287

(Purpose: To rename the Centers for Disease Control and Prevention as the Thomas R. Harkin Centers for Disease Control and Prevention)

At the appropriate place, insert the following:

SEC. (a) The Centers for Disease Control and Prevention shall hereafter be known and designated as the "Thomas R. Harkin Centers for Disease Control and Prevention".

(b) Effective upon the date of enactment of this Act, any reference in a law, document, record, or other paper of the United States to the "Centers for Disease Control and Prevention" shall be deemed to be a reference to the "Thomas R. Harkin Centers for Disease Control and Prevention".

(c) Nothing in this section shall be construed as prohibiting the Director of the Thomas R. Harkin Centers for Disease Control and Prevention from utilizing for official purposes the term "CDC" as an acronym for such Centers.

AMENDMENT NO. 2288

(Purpose: To designate the National Library of Medicine building in Bethesda, Maryland, as the "Arlen Specter National Library of Medicine")

At the appropriate place, insert the following:

SEC. ___. DESIGNATION OF ARLEN SPECTER NATIONAL LIBRARY OF MEDICINE.

(a) IN GENERAL.—The National Library of Medicine building (building 38) at 8600 Rockville Pike, in Bethesda, Maryland, shall be known and designated as the "Arlen Specter National Library of Medicine".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the Arlen Specter National Library of Medicine.

AMENDMENT NO. 2289

(Purpose: To increase funding for senior nutrition programs and rural community facilities, offset with administrative reductions)

On page 39, line 8, strike "$6,682,635,000" and insert "$6,684,635,000".

On page 40, line 20, strike "$928,055,000" and insert "$942,355,000".

On page 41, line 14, reduce the figure by $10,300,000.

On page 62, line 23, strike "$378,184,000" and insert "$372,184,000".

AMENDMENT NO. 1852

(Purpose: To express the sense of the Senate concerning needlestick injury prevention)

At the appropriate place, insert the following:

SENSE OF THE SENATE ON PREVENTION OF NEEDLESTICK INJURIES

SEC. ___. (a) FINDINGS.—The Senate finds that—

(1) the Centers for Disease Control and Prevention reports that American health care workers report more than 800,000 needlestick and sharps injuries each year;

(2) the occurrence of needlestick injuries is believed to be widely under-reported;

(3) needlestick and sharps injuries result in at least 1,000 new cases of health care workers with HIV, hepatitis C or hepatitis B every year; and

(4) more than 80 percent of needlestick injuries can be prevented through the use of safer devices.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate should pass legislation that would eliminate or minimize the significant risk of needlestick injury to health care workers.

Mr. ENZI. Mr. President, I rise in opposition to Senator REID's amendment No. 1852 as offered to S. 1650. As chairman of the Senate Subcommittee on Employment, Safety and Training, I have had the opportunity to follow this issue first-hand. Make no mistake, ensuring the safety of our Nation's health care workers is a priority—as it is for all of our Nation's workforce. How we can best capitalize on occupational safety, however, is the basis for my opposition to this amendment. I do not feel that this amendment is appropriate on a spending bill. Nor is our agreeing to future legislation—sight unseen. Moreover, the Occupational Safety and Health Administration is already examining this matter and has not commented to my request as to why legislation is now warranted.

"Sharp" injuries by exposed needles have a long history. Not only has Senator REID been interested in occupational injuries caused by unprotected syringes, but Senator BOXER has also shared her concerns as well. As chairman of the subcommittee with jurisdiction, I am a bit disappointed that my colleagues have yet to approach me on this issue. I am always eager to discuss occupational safety with members of this body. Instead, I first learned of this issue when the San Francisco Chronicle ran a series of articles in April, 1998. One article depicted a nurse practitioner who tried to catch three blood-collection tubes as they rolled toward a counter's edge. At the same time, she held a syringe in her right hand that had just drawn blood from a patient infected with HIV. The exposed needle pierced the side of her left index finger. Working with HIV infected patients is dangerous business, but the risk compounds when medical devices designed to improve health care end up doing just the opposite.

At the request of the Service Employees International Union (SEIU) and other interested groups representing health care workers, federal OSHA announced last year that it was issuing a formal request for information pertaining to injuries caused by unprotected syringes. Senators JEFFORDS, FRIST and I wrote to Secretary Herman. We sought answers concerning potential enforcement action by OSHA with regard to medical devices that could conflict with FDA's traditional and statutory jurisdiction. The FDA is statutorily charged with the nationwide regulation of medical devices. All syringes are defined as Class II medical devices in Section 513(a)(1) of the Federal Food, Drug and Cosmetic Act. According to Sections 510(k), 519(e) and 705(a), the FDA has the statutory jurisdiction to review, approve and recall medical devices as well as to disseminate information regarding the potential health dangers caused by any medical device.

FDA's jurisdiction over medical devices pertains to the patient. Since OSHA's jurisdiction covers workers, the agency is already moving forward to modify its Bloodborne Pathogens Standard to include regulation of medical "sharp" devices. In terms of worker safety, we are talking about nurses, doctors and other health care professionals and workers that regularly use or handle these medical devices. The regulatory lines between the two agencies are difficult to define in this setting. Moreover, the question of reusing medical devices designed for one-time use only is also a matter that requires careful consideration. Generally speaking, safer devices cost more money—raising the potential for re-use by providers. The FDA has not yet indicated that it will begin to examine this issue, but it is certainly a matter of importance that includes the very medical devices we're debating in this amendment.

A medical device that has been determined by the FDA to meet the "reasonable assurance of safety and efficacy" standard of the Federal Food, Drug and Cosmetic Act can be lawfully marketed. Nonetheless, it is conceivable, given its authority over the domain of worker safety and health that OSHA might prevent the use of that medical device in the workplace, thereby creating an environment of confusion for the regulated public. This confusion could result in diminished worker safety and health and jeopardize patient safety as well. At the very least, this duplication of effort promises to waste the scarce resources of both the FDA and OSHA.

I recognize Section 4(b) of the Occupational Safety and Health Act of 1970 and the problems inherent in conflicting regulations which are promulgated by different federal agencies and affect occupational safety and health. Although OSHA arguably might have sufficient jurisdiction to proceed in the indirect regulation of the aforementioned medical devices, I feel that it would be the best course for OSHA and the FDA to delineate boundaries of jurisdiction and coordinate efforts pertaining to the regulation and use of these medical devices. This is of particular importance because the FDA has the specific scientific expertise in the evaluation of medial devices—not OSHA and not the National Institute for Occupational Safety and Health (NIOSH). Despite Secretary Herman's assurances that agency cooperation is ongoing, I am not convinced that these boundaries have been properly addressed at this time. This amendment does nothing to address the lack of communication between these agencies.

There are currently two manufacturers that are actively marketing protected syringes. If OSHA is instructed to regulate this matter by statutory instruction, I am concerned that a shortage of supply could occur. Not only does this raise questions of antitrust, it also places providers in the difficult position of being held liable for using medical devices that are short in supply. The market and what it can currently sustain would not be a matter of consideration if this amendment passes. Moreover, providers (hospitals) could be put in a position to determine what devices are safe and effective if their participation is not adequately included in this process.

As OSHA moves forward on its own accord in a fashion that could lead to its regulation of medical devices, Senator JEFFORDS and I continue to wait for a formal explanation from the agency as to how legislation would impact their current efforts to flush out many of the concerns I have raised. We are still waiting for that response. Moreover, Chairman JEFFORDS has voiced his interest in examining this issue within the authorizing committee. In doing so, we would be better positioned to address this emotional and complex issue rather than haphazardly legislating on an appropriations bill.

I am committed to finding ways to enhance worker safety. If I thought legislating through the appropriations process was such a wonderful option, I have a few bills that I wouldn't mind spending a little time debating on the floor of the Senate. In terms of improving occupational safety, I respect the role of our committee to examine these complex issues. Last Congress, I had the opportunity to amend the Occupational Safety and Health Act of 1970 three separate times. That was the first time the Act had been amended in 28 years. All of the bills were carefully considered prior to passage and not one of them were tagged to an appropriations bill. I ask that this issue be handled by its authorizing committee and not be attached to the underlying bill. I am committed to doing just that.

AMENDMENT NO. 1869

(Purpose: To increase funding for the leveraging educational assistance partnership program)

At the end of title III, add the following:

LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM

SEC. . (a) IN GENERAL.—Notwithstanding any other provision of this title, amounts appropriated in this title to carry out the leveraging educational assistance partnership program under section 407 of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) shall be increased by $50,000,000, and these additional funds shall become available on October 1, 2000.

Mr. REED. Mr. President, I am pleased that Chairman SPECTER and Ranking Member HARKIN as part of the managers amendment have included an additional $50 million for the Leveraging Educational Assistance Partnership (LEAP) program.

I had offered an amendment to provide this level of funding along with Senators COLLINS, GORDON SMITH, SNOWE, JEFFORDS, KENNEDY, MURRAY, LEVIN, CONRAD, HUTCHINSON, DEWINE, CHAFEE, BINGAMAN, KERRY, FEINGOLD, and LAUTENBERG.

Since 1972, the Federal-State partnership now embodied by LEAP, with modest federal support, has helped states leverage grant aid to needy undergraduate and graduate students.

When this program was funded at greater than $25 million, nearly 700,000 students across the nation, including almost 12,000 students from my home state of Rhode Island, benefitted from LEAP grants. At $25 million, the amount included in the Committee's original bill, we estimate that many of these students lose their grants.

Without this important federal incentive, many states would not have established or maintained their need-based financial aid programs, and many students would not have attended or completed college.

Indeed, as my colleagues, students, parents, and those involved in higher education know, the purchasing power of our main need-based aid program—the Pell Grant, created by and named for my predecessor, Senator Claiborne Pell—has fallen drastically in comparison to inflation and skyrocketing education costs.

Students have searched for other sources of need-based higher education grants and have come to rely on LEAP.

Two years ago, this program was on the brink of elimination. But it was this body which recognized the importance of LEAP and overwhelmingly voted—84 to 4—for an amendment I offered with my colleague from Maine, Senator COLLINS, to save it from elimination.

Then, just last year, the Senate reaffirmed its support for LEAP by approving the Higher Education Act Amendments of 1998, which updated and added several key reforms to this program to leverage additional state dollars for grant aid.

Prior to the reforms, federal funding for LEAP was matched by the states only on a dollar for dollar basis. Now, every dollar appropriated over the $30 million level leverages two new state dollars.

States in turn gain new flexibility to use these funds to provide a broader array of higher education assistance to needy students, such as increasing grant amounts or carrying out community service work-study activities; early intervention, mentorship, and career education programs; secondary to postsecondary education transition programs; scholarship programs for students wishing to enter the teaching profession; and financial aid programs for students wishing to enter careers in information technology or other fields of study determined by the state to be critical to the state's workforce needs.

The $25 million included in the Committee's bill falls far short of the funding level necessary to increase student aid and trigger the reforms included in the Higher Education Act Amendments of 1998.

In fact, LEAP, if funded at $75 million, as called for in our amendment, would leverage at least $120 million in new state funding—thereby securing almost $200 million in grant aid for our nation's neediest students.

Let me emphasize, LEAP is the only federal aid program that contains this leveraging component. It is the only program for needy college students that is a state-federal partnership.

The bill does provide increased funding for many of the other student aid programs, but without providing additional funding for LEAP, the Senate will miss an opportunity to expand access to college and make higher education more affordable for some of our neediest students.

LEAP is a vital part of our student aid package, which includes Pell Grants, Work Study, and SEOG, that make it possible for deserving students to achieve their higher education goals. All of the student aid programs must be well-funded if they are truly going to help students.

Moreover, since there are no federal administrative costs connected with LEAP, all grant funds go directly to students, making it one of the most efficient federal financial aid programs.

All higher education and student groups support $75 million in funding for LEAP, including the American Council on Education (ACE), the National Association of Independent Colleges and Universities (NAICU), the National Association of State Student Grant and Aid Programs (NASSGAP), the United States Student Association (USSA), and the U.S. Public Interest Research Group (USPIRG).

By providing $75 million for LEAP, the Senate has an opportunity to help states leverage even more dollars to help students go to college. As college costs continue to grow, and as the grant-loan imbalance continues to widen—just 25 years ago, 80% of student aid came in the form of grants and 20% in the form of loans; now the opposite is true—funding for LEAP is more important than ever.

I thank Chairman SPECTER and ranking member HARKIN for their willingness to accept this amendment. I look forward to working with them during the Conference to retain this level of funding, which is critical to providing greater access to higher education for our Nation's neediest students.

Mr. JEFFORDS. Mr. President, I express my appreciation to Senators SPECTER and HARKIN for including in the manager's package an amendment cosponsored by my colleague from Rhode Island, Senator REED, myself and others increasing funding for the LEAP program.

LEAP is an extraordinarily program that provides grant aid to needy undergraduate and graduate students. This federal program can be credited in large part with encouraging States to create, maintain and grow their own need-based financial aid programs. It is a program that relies on a partnership for its strength by matching the federal investment in grant aid with State dollars. The end result is a good one: increasing the pool of funds available to assist low income students who are struggling to pay for college.

As part of the 1998 Higher Education Amendments, we made significant changes to the LEAP program with the goal of making additional grant aid and a greater array of services available to post-secondary students. We challenged States to increase the match that they contribute by offering $2 for every one federal dollar that we make available for this program. With the additional funds, States will have greater flexibility to provide more services to meet the diverse needs of low income students who are working to make the dream of a higher education degree a reality.

I am proud to stand with the National Association of State Student Grant Aid, NASSGAP; the National Association of Independent Colleges and Universities, NAICU, the American Council on Education, ACE, the American Association of State Colleges and Universities, AASCU; the United States Public Interest Research Group, USPIRG; and the United States Student Association, USSA in support of this amendment that I believe will provide significant assistance to the students of this nation.

AMENDMENT NO. 1882

(Purpose: To express the sense of the Senate regarding comprehensive education reform)

At the appropriate place, insert:

SEC. , SENSE OF THE SENATE REGARDING COMPREHENSIVE PUBLIC EDUCATION REFORM.

(a) FINDINGS.—The Senate finds the following:

(1) Recent scientific evidence demonstrates that enhancing children's physical, social, emotional, and intellectual development before the age of six results in tremendous benefits throughout life.

(2) Successful schools are led by well-trained, highly qualified principals, but many principals do not get the training that the principals need in management skills to ensure their school provides an excellent education for every child.

(3) Good teachers are a crucial catalyst to quality education, but one in four new teachers do not meet state certification requirements; each year more than 50,000 under-prepared teachers enter the classroom; and 12 percent of new teachers have had no teacher training at all.

(4) Public school choice is a driving force behind reform and is vital to increasing accountability and improving low-performing schools.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the federal government should support state and local educational agencies engaged in comprehensive reform of their public education system and that any education reform should include at least the following principals:

(A) that every child should begin school ready to learn by providing the resources to expand existing programs, such as Even Start and Head Start;

(B) that training and development for principals and teachers should be a priority;

(C) that public school choice should be encouraged to increase options for students; and

(D) that support should be given to communities to develop additional counseling opportunities for at-risk students.

(E) school boards, administrators, principals, parents, teachers, and students must be accountable for the success of the public education system and corrective action in underachieving schools must be taken.

Mr. KERRY. Mr. President, I thank my distinguished colleagues, Mr. SPECTER from the State of Pennsylvania and Mr. HARKIN from the State of Iowa, for accepting in the manager's amendment of S. 1650 the sense of the Senate that my friend from Oregon, Mr. SMITH and I offered on comprehensive education reform. Our amendment expresses the sense of the Senate that the federal government should support state and local efforts to reform and improve our nation's public schools, and further, that every child should begin school ready to learn; that training and development for principals and teachers should be a priority; that public school choice should be encouraged to increase options for students; that support should be given to communities to develop additional counseling opportunities for at-risk students; and that school boards, administrators, principals, parents, teachers, and students must be accountable for the success of the public education system.

I appreciate that my distinguished colleagues have acknowledged the importance of a bipartisan, comprehensive approach to reforming the public education system that emphasizes the principles enumerated above. If education reform is to succeed in America's public schools, we must demand nothing less than a comprehensive reform effort. We cannot address only one challenge in education and ignore the rest. We must make available the tools for real comprehensive reform so that every aspect of public education functions better and every element of our system is stronger. We must empower low-performing schools to adopt all the best practices of our nation's best schools—public, private, charter or parochial. We must give every school the chance to quickly and easily put in place the best of what works in any other school—and with decentralized control, site-based management, parental engagement, and real accountability. Numerous high-performance school designs have been created such as the Modern Red Schoolhouse program and the Success for All program. The results of extensive evaluations of these programs have shown that these designs are successful in raising student achievement.

We must also restore accountability in public education—demanding that each school embracing comprehensive reform set tangible, measurable results to gauge their success in raising student achievement. We must reward schools which meet high standards and demand that those which fall short of their goals take immediate corrective action—but the setting of high standards must undergird comprehensive reform.

In order to do this, we must break out of the ideological bind we have put ourselves in. We cannot only talk about education—it's more than an issue for an election—we must do something about it. We have the opportunity to implement comprehensive education reform at a time when the American people are telling us that—for their families, for their futures—in every poll of public opinion, in every survey of national priorities, one issue matters most, and it's education. That is good news for all of us who care about education, who care about our kids. But the bad news is, the American people are not so sure that we know how to meet their needs anymore. They are not even sure we know how to listen. Every morning, more and more parents—rich, middle class, and even the poor—are driving their sons and daughters to parochial and private schools where they believe there will be more discipline, more standards, and more opportunity. Families are enrolling their children in Charter schools, paying for private schools when they can afford them, or even resorting to home schooling—the largest growth area in American education.

Earlier in this debate, I supported two amendments offered by the distinguished Senator and my senior colleague from the State of Massachusetts, Mr. KENNEDY. I am deeply disappointed that neither of these worthy amendments were adopted by the Senate. Mr. KENNEDY's amendments would have exempted education from the across the board cuts in discretionary spending that Republicans have proposed and provided increased funding for teacher quality. We know the American people are willing to spend more on public education. Yet the Senate voted to allow cuts. And we know that the American people want qualified teachers in their children's schools. Yet the Senate did not appropriate the fully authorized level of the Teacher Quality Enhancement Grants program.

I am also distressed that an amendment offered by my distinguished colleagues, Mr. BINGAMAN and Mr. REED, and myself was not adopted by this body. Our amendment would have, for the first time, provided real accountability to poor children and ensure they attend successful schools. The American people have said time and again that education is their top policy concern. And we have heard time and again that the American people want their public schools held accountable. Yet we rejected this important amendment, that would have appropriated no new funding and would have ensured low-performing schools would be turned around, was rejected.

Given our inability to pass these important amendments, I am particularly pleased that Mr. SMITH and I could come together and offer this bipartisan amendment. The sense of the Senate we offered is the essence of our bill, S. 824, the "Comprehensive School Improvement and Accountability Act." Our bill emphasizes the principles embodied in this sense of the Senate, such as early childhood development programs, challenge grants for professional development of principals, second chance schools for violent and disruptive students, and increased funding for the Title I program. We contend that these and other tenets are fundamental to the comprehensive reform of public schools.

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

The amendments (Nos. 2273 through 2289, 1852, 1869, and 1882) were agreed to.

INDIAN-CHICANO HEALTH CENTER

Mr. KERREY. I thank the Chairman and Ranking Member of the Subcommittee for their continued support for community health centers and other programs within the consolidated health centers account. I firmly believe that these centers represent the best investment the Federal government can make in health care for underserved populations and under-served areas. These centers provide an invaluable service to our communities and our citizens—they provide comprehensive primary and preventive services to a broad spectrum of persons without health insurance and members of under-served populations. I note that the bill before us increases funding for these centers by nearly $100 million, and exceeds the President's request by $79 million.

It is my hope that the Department of Health and Human Services will use at least part of this new funding to establish new community health centers to address the needs of under-served populations. I am particularly interested in guaranteeing that a proposal from the Indian-Chicano Health Center of Omaha, Nebraska, be fully and fairly considered during any review of new health center applications. This organization has made an extraordinary effort to serve a unique community of low-income, uninsured Nebraskans who otherwise would go without health care.

Mr. SPECTER. The Labor/HHS/Education Subcommittee made a particular effort within the constraints of this bill to increase funding for the consolidated health centers account. The Subcommittee strongly supports the provision of comprehensive health services to persons without health insurance through these important providers. I am pleased that we were able to increase funding for these critical services, and I encourage HHS to consider the proposal from the Indian-Chicano Health Center.

Mr. HARKIN. I have long supported the work of the Iowa-Nebraska Primary Care Association and specific community health centers in the Midwest. These providers serve as models for effectively and efficiently providing access and quality care to under-served populations. I will also support full and fair consideration of the Indian-Chicano Health Center proposal.

THE MARYLAND CHILDREN'S HEALTH INSURANCE PROGRAM

Mr. SARBANES. Mr. President, as the Senate continues its consideration of the Labor-HHS Appropriations bill today, I rise to discuss a problem the State of Maryland is struggling to overcome as it seeks to extend health care coverage to the 158,000 uninsured children in our State. This issue is particularly timely in light of the Census Bureau report issued earlier this week which shows that the ranks of the uninsured grew by approximately 1 million in 1998 to a total of 44.3 million. The Census report also shows that the number of uninsured children has not decreased despite the establishment of a new Federal program designed to encourage States to expand health insurance coverage to more low-income children. Moreover, Maryland experienced one of the highest increases in uninsured people last year bringing the total number of uninsured to 837,000 or one-sixth of the population. A quarter of these uninsured Marylanders are children.

To address the growing number of uninsured children throughout the United States, Congress enacted the Children's Health Insurance Program (CHIP) in 1997, and Maryland eagerly applied to participate in this new Federal-State partnership. However, over the past couple of years, Maryland has been penalized under this program for having previously extended partial Medicaid coverage under a five year demonstration program to a class of low-income children who would not otherwise have qualified for Medicaid. These children should now be eligible for CHIP funding, but the Department of Health and Human Services (HHS) is blocking Maryland from accessing its CHIP funds for the benefit of these kids.

The law establishing the CHIP program prohibits the States from enrolling children into the State's CHIP program if those children were previously covered by the State's Medicaid program. HHS has made the decision to treat all children once eligible for the

Maryland demonstration program, called the Maryland Kids Count program, as though they were covered under Medicaid. As a result of this discretionary decision by HHS, the majority of Maryland's uninsured children are ineligible for CHIP funding. In addition, Maryland has been unable to access most of the CHIP funding allocated to it.

The Maryland demonstration program should not be used to disqualify the State from accessing its CHIP funds because this demonstration cannot be equated with covering this group of children with full Medicaid coverage. The Maryland demonstration offered only partial Medicaid benefits (primary and preventive care). Hospitalization as well as dental and medical equipment were not covered. Thus, for each child in the demonstration program, Maryland spent less than half the amount it would have spent had Medicaid been extended to these children.

In addition, this demonstration program was conducted under a time-limited waiver which was scheduled to expire at about the same time the CHIP program was launched. In fact, HHS informed Maryland that it would not renew the waiver because Congress was establishing a more comprehensive children's insurance program and also because the Maryland demonstration had been rather unsuccessful. Only 5,000 children were enrolled, largely because the benefits offered were so limited.

HHS has used its discretionary authority in implementing the CHIP program to equate the Maryland demonstration program with full Medicaid coverage. Since they used discretionary authority to make this erroneous determination, HHS clearly has the authority to reverse this decision administratively. Would the Senator from Delaware, the Chairman of the Finance Committee, agree that the Department of Health and Human Services has authority to allow Maryland to access its CHIP funds to extend health insurance coverage to those low-income children previously eligible for the Maryland Kids Count demonstration program without additional legislative action?

Mr. ROTH. I understand the Senator from Maryland's concerns. It is my view that the Secretary of Health and Human Services has authority, without additional legislative direction, to determine that children who had been covered under Maryland's expired, limited-benefit demonstration program were not receiving true Title XIX coverage, and could therefore be considered uninsured for the purposes of CHIP eligibility.

Mr. SARBANES. I thank the Chairman for that clarification. Do you agree that HHS may use its section 1115 waiver authority to allow Maryland to use its CHIP funds to cover those children previously eligible for the Maryland Kids Count program?

Mr. ROTH. I concur with the Senior Senator from Maryland that HHS could use its section 1115 waiver authority to address Maryland's concerns.

Mr. SARBANES. Thank you, Mr. Chairman.

DANIEL J. EVANS SCHOOL OF PUBLIC AFFAIRS

Mr. GORTON. Mr. President, the current political climate in our society is becoming increasingly disillusioned and thus less involved in public life and civil discourse. More than ever, we need public servants who combine vision, integrity, compassion, analytic rigor and practicality. As the first school of public affairs at a public university, the Graduate School of Public Affairs at the University of Washington has trained public servants and leaders in the Northwest for 37 years. The school's mission is motivating a new generation towards excellence in public and non-profit service and restoring the confidence, involvement and investment in public service.

Recently, the school was renamed for Daniel J. Evans, a longtime public servant for the people of Washington state who embodies the Graduate School of Public Affairs focus and values. As a governor, U.S. Senator and regent for the University of Washington, Dan Evans has stood for effective, responsible, balanced leadership. His public service legacy has touched so many citizens and has greatly impacted the state of Washington. Dan Evans' involvement in the Graduate School of Public Affairs will provide students the opportunity to learn from someone who represents effective, responsible and balanced leadership and who embodies the school's ideals.

The Graduate School of Public Affairs at the University of Washington has played a vital role in public policy and management and is now positioned to become the region's primary source of expertise and outreach on public issues. I have strongly endorsed these efforts and believe it is worthy of our support and investment.

Mr. SPECTER. There certainly is a need for additional leaders in public service. I appreciate the opportunity to learn about the work at the University of Washington and will take a close look at this worthwhile project during the conference with the House.

Mr. GORTON. I appreciate your commitment to developing highly skilled, principled individuals dedicated to service and leadership.

MEDICARE CONTRACTORS

Mr. CRAIG. I am concerned about the funding level for Medicare contractors. The Senate Committee mark reduced the FY 2000 funding level by $30 million below the President's Budget recommendation. I want to be sure that this funding reduction will not adversely impact fee-for-service claims processing activities or the ability of contractors to provide critical beneficiary and providers services.

In the recent past, we have seen the effect that inadequate funding levels can have on services. In 1998 payments were slowed down, and beneficiaries and providers were forced to deal with more voice mail rather than human beings when they called their contractors with questions about claims.

Looking only at numbers, I see funding $21 million less than FY 1999 and $30 million less than the President's request. However, I understand this funding level reflects $30 million in savings from changes in the processing of dates. Therefore, am I correct in saying this would reflect efficiency and technological improvement, not a policy change in fee-for-service claims processing or beneficiaries and provider services? Furthermore, this $30 million in savings should not result in decreased funding to services for beneficiaries or providers, should it?

Mr. DORGAN. I want to make it clear that funding to assure the timely and accurate processing of Medicare claims also is a high priority for me and the beneficiaries in my state.

I also would like a reassurance that the mark will not affect access to health care services in rural America.

Mr. SPECTER. The Senators have correctly described the Committee's intent. These savings would be realized as a result of a change in direction by HCFA for a managed care related project, and is not at all related to fee-for-service Medicare. I understand the Senators' concerns and want to assure them Medicare contractor services will not be harmed. These savings of $30 million for HCFA's managed care project will not result in any related funding cut to the Medicare contractor budget.

I understand the issues both Senators are raising and the importance of adequately funding the Medicare contractor program. Let me assure my colleagues that the savings reflected in this bill will not hamper Medicare contractors' ability to fulfill their responsibilities as Medicare administrators.

PARKINSON'S RESEARCH

Mr. COCHRAN. Mr. President, I want to thank the Chairman for his strong leadership and support for the medical research in our nation. I strongly support his efforts to double funding for the National Institutes of Health, and I am heartened by the increases in this bill. I also want to thank him for his leadership in increasing funding for Parkinson's research and holding the September 28, 1999, hearing on the promise of Parkinson's research and the need for increased funding. Michael J. Fox put it best when he said that "this is a winnable war" as long as the funding is there to match the scientific promise.

Mr. SPECTER. Mr. President, that's right. Dr. Fischbach testified that he sincerely believes that we are close to solving Parkinson's. The scientific research community believes that it is realistic to think that we will conquer Parkinson's in 5 to 10 years. Dr. William Langston, President of the Parkinson's Institute told the Subcommittee at the hearing that we have an historic opportunity with Parkinson's because the research is at a point where a focused, adequately funded effort will produce a cure. He also testified that once we understand and unravel Parkinson's, we will have answers to many other neurodegenerative diseases such as Alzheimer's and Lou Gehrig's disease.

Mr. WELLSTONE. Mr. President, the Parkinson's hearing was great news for all those who suffer from this disease. The advocacy community was well-represented by actor Michael J. Fox, Joan Samuelson—President of the Parkinson's Action Network, and Jim Cordy—a Parkinson's advocate from Pennsylvania. Their personal stories underscore the need for Congress to ensure that there is increased funding for Parkinson's research. Parkinson's is the most curable neurological disorder and the one most likely to produce a breakthrough. Congress passed the Morris K. Udall Research Act, making clear that Parkinson's should receive the funding it needs to eradicate this truly dreadful disease. Now it is time to fulfill that promise.

Mr. COCHRAN. Mr. President, I agree. At the hearing, we were asked to increase funding for Parkinson's research $75 million over current funding levels by increasing funding levels at two institutes, the National Institute of Neurological Disorders and Stroke (NINDS) and the National Institute of Environmental Health Sciences (NIEHS), at $50 million and $25 million respectively. The research community thinks that this will provide enough funding to quicken seriously the pace of research on Parkinson's—a down payment, if you will—on a fully funded Parkinson's research agenda that scientific experts in the community conservatively estimate to be over $200 million. I believe NIH should be able to do this from the funds provided in our bill.

Mr. SPECTER. Mr. President, as I said at the hearing, I think the scientific community can find a cure in even less time, as few as 2 to 4 years, if they have the resources. With the overall $2 billion increase in NIH funding provided in this bill, those institutes will have sufficient funds to provide the increases to Parkinson's focused research.

Mr. HARKIN. As Ranking Member of the Subcommittee I want to express my strong support for substantially increasing NIH support for Parkinson's research. We have a tremendous opportunity for real break through in the fight against this horrible disease and we cannot pass that up.

YOUTH LEADERSHIP INITIATIVE

Mr. WARNER. Mr. President, I have a second degree amendment to Senator DEWINE's amendment on higher education, amendment No. 1847.

Senator SPECTER, Senator HARKIN and my other distinguished colleagues on the Labor, Health and Human Services, Education Subcommittee certainly have your work cut out in crafting S. 1650, the Labor-HHS appropriations bill. The subcommittee was faced with a difficult task of appropriating limited funds to hundreds of programs.

I commend the subcommittee for its hard work and for its dedication to education funding. This bill provides $37.6 billion for the Department of Education. This amount is more than $2 billion above fiscal year 1999 levels and $537 million above the Administration's request.

Of this $37.6 billion, the committee bill provides over $139.5 million for the fund for the improvement of education. This amount is $500,000 over fiscal year 1999 appropriations. These funds are provided to support significant programs and projects to improve the quality of education, help students meet high academic standards and contribute to the achievement of educational goals.

During the appropriations process, Senator SPECTER, I submitted a letter requesting that the subcommittee provide $1.5 million in funds for an innovative educational program known as the Youth Leadership Initiative ("YLI") at the University of Virginia. I am thankful for the subcommittee's consideration of my request and am grateful that the subcommittee recognized the importance of YLI by including report language on this invaluable educational program.

The goal of YLI is to work with America's middle and high school students to prepare them for a lifetime of political participation. YLI seeks to transform the way students view their role in our democracy, develop their trust in and awareness of our system, and instill in our students the core values of good citizenship and democracy.

To achieve its goal, YLI teaches students in the functional components of America's political process. Among other things, YLI students will learn how to run student-forged mock campaigns, organize political events, conduct election analysis, and hold mock elections.

Senator SPECTER, these lessons need to be taught and are of paramount importance. In 1998, voter participation during the mid-term Congressional elections was the lowest since 1942. Almost every survey of public opinion shows growing disinterest in the American electoral process, and disinterest is strongest among our young people.

Thomas Jefferson once warned Americans about the ramifications of such disinterest in our political system, stating, "Lethargy is the forerunner of death to other public liberty." America's form of government is uniquely dependent upon the active participation of its citizens. Therefore, if voter participation continues to decrease, then our democracy will suffer.

By combining academic excellence with hands-on civic activity, YLI will help turn our schools and communities into hotbeds for the rejuvenation of our democracy. Since its launch last spring, YLI has attracted national attention for its unique approach to teaching our young people about democracy. In a pilot program currently in progress in several Virginia communities, thousands of students in hundreds of classrooms are experiencing the wonders of this pioneering program. Students and teachers have participated in YLI training sessions and members of the inaugural class of youth leaders are already hard at work organizing public debates between actual legislative candidates which they will host in the coming weeks.

On Tuesday, October 26, 1999, nearly 35,000 middle and high school students will be eligible to participate in the largest internet ballot ever conducted. On this day, YLI students will be voting on-line using a secure, encrypted state-of-the-art "cyber-ballot" that is specifically tailored to each student's voting precinct.

These achievements are only the beginning. YLI is a national crusade. This year's pilot program in Virginia is laying the foundation for next year's expansion throughout Virginia. Plans are already underway to make this program available to every middle and high school in the United States soon after the 2000 elections.

YLI already has the financial support of the Commonwealth of Virginia and many of America's leading corporations, foundations and individuals. YLI is a model public-private partnership that will make available to all Americans students a program which will increase participation in our democracy for future generations. Senator SPECTER, a small investment today will pay dividends for many generations to come.

Again, I say to the Senator from Pennsylvania, I certainly understand the difficult task facing your subcommittee in crafting a bipartisan, fiscally responsible appropriations bill. I know you recognize the importance of YLI and that's why report language was included in the Committee's report. I ask my distinguished colleague, however, to ensure that YLI receives the requested funding in the eventual bill that emerges from conference.

Mr. SPECTER. I thank my distinguished colleague for his kind remarks and for his strong statement in support of the Youth Leadership Initiative. The Youth Leadership Initiative is certainly an innovative program designed to enhance public participation in our democracy. I share the goal of enhancing participation in our democracy, and I recognize that this is a priority for the senior senator from Virginia. As we conference with the House, I will keep in mind that this project helps us achieve our mutual goal of increasing voter participation in our democracy.

Mr. WARNER. Thank you Senator SPECTER for your support of YLI.

STAR SCHOOLS GRANTS

Mr. BENNETT. Mr. President, there has been some uncertainty in my state about the continuation of Star School grants. For my colleagues who are not familiar with Star Schools, it is a grant program that has helped distance learning move forward in many parts of the country. The beneficiaries in my state include many students in the San Juan school district, a small, rural, and remote school district in southeastern Utah. Many Star School grants have been awarded to the winners of a competition. Often these grants are multi-year grants. Some recipients are fearful about losing funding for the continuation of their grants if new projects are funded. Is it the intent of the chairman that continuing grants will receive a high priority in funding allocations?

Mr. SPECTER. It was my intent to include enough funding in this bill to continue grants that have been awarded if at all possible. I believe the amount recommended by the Senate will provide the means to do so. While I do not know what the conference committee's final recommendation will be for Star Schools, it is my desire that there be enough dollars allocated to fund ongoing grants as planned.

Mr. BENNETT. I thank the chairman for clarifying his intent, and for his efforts to provide adequate funding for these projects.

HEARTLAND MANOR

Mr. LEVIN. Mr. President, Senator ABRAHAM and I have come to the floor to seek assurance from Senator ROTH and Senator SPECTER that they will include our amendment concerning Heartland Manor in any Medicare BBA fix bill that is taken up by the Finance Committee.

Mr. SPECTER. I understand the Finance Committee will be working on a Medicare BBA repair bill and will review this amendment for possible inclusion in any such legislation and I believe he will give you such assurance directly.

Mr. LEVIN. I appreciate the assurance that the Senator from Pennsylvania has given on this issue. I would like to ask the Chairman of the Finance Committee, Senator ROTH, will he review our amendment for possible inclusion in any Medicare BBA legislation that he takes up this year?

Mr. ROTH. Yes, we will review the amendment through the committee process to determine inclusion in any Medicare BBA package that the Finance Committee takes up this year. I recognize how important this amendment is to the Senators from Michigan.

Mr. LEVIN. I thank Senators ROTH and SPECTER for their help in this matter and I look forward to working with Senator ROTH as we move forward with this amendment.

Mr. ABRAHAM. I also thank Senators ROTH and SPECTER for their help and appreciate their assurances.

Mr. LEVIN. I would like to describe this amendment and why it is so necessary. Our amendment concerns Heartland Manor, a nursing home located in Flint, Michigan, that provides care to an underserved population. Heartland Manor is not out to make money—it is owned by the Hurley Foundation which is not for profit 501(c)(3) subsidiary of Hurley Medical Center. Hurley Medical Center is a not for profit public hospital with an excellent reputation. Hurley Medical Center is one of the few city owned hospitals left in the country, and it is the largest hospital in Flint, Michigan.

On July 27, 1989, Chateau Gardens, a privately owned nursing home facility, was terminated from the Medicare program. On January 1, 1994, Hurley Foundation, a not for profit 501(c)(3) subsidiary of Hurley Medical Center, purchased Chateau Gardens at the request of the state. In 1994 Heartland Manor applied for certification into the Medicare program as a new or prospective provider. Heartland Manor had never before entered into a Medicare participation agreement and had never been issued a provider number. However, HCFA treated Heartland as a re-entry provider and Heartland was subsequently denied participation into the Medicare program based in large part on violations which HCFA carried over from Chateau Gardens, the previous owner. If Heartland Manor had been treated as a new provider, it would have been approved and would presently be in the Medicare program.

This amendment would allow the facility to come into the Medicare program as a prospective provider which is exactly how the facility should be treated.

Heartland Manor has the backing of Citizens for Better Care, a nonprofit agency, 'funded by the United Way, which monitors nursing home care in Michigan. Moreover, the Mayor of Flint, Woodrow Stanley, the Congressman representing Flint, Representative DALE KILDEE, and State Senator BOB EMERSON all want to keep this nursing home open. These organizations and I wouldn't all be supportive of the facility if this nursing home were not meeting the needs of the Flint community.

I have visited Heartland manor and I believe that it should not be closed. I would not make such a bold assertion if I could not honestly say that this is a nursing home that has made great strides in recent years and which is now providing an important service to the Flint community.

Mr. President, I look forward to working with my colleagues to ensure that this amendment is part of any Medicare BBA package.

DENTAL SEALANTS

Mr. BINGAMAN. I rise today in strong support of the use of dental sealants for children for purposes of oral health promotion and disease prevention. They have been proven to be safe and effective in the prevention of dental caries in children, and when coupled with fluoridated water systems can virtually eliminate dental decay and reduce tooth loss. I believe that the most successful dental sealant programs for our children covered in the EPSDT programs in Medicaid could be those that are school linked and community based. Analyses show that an amount of $1,000,000 is a reasonable amount to begin a demonstration project such as this.

Mr. HARKIN. I am pleased that the Labor HHS Appropriations bill contains language to provide for a multistate dental sealant demonstration project. I feel that the Maternal Child Health Bureau of the Health Resources and Services Administration will be the most appropriate entity to conduct a quality demonstration program. I concur with the Senator from New Mexico that this amount seems reasonable.

Mr. SPECTER. I thank my colleague from New Mexico for raising this important public health matter. Prevention is a high priority for our subcommittee as we have invested significant amounts of resources in bolstering the agencies of the U.S. Public Health Service. The amount the Senator suggests is reasonable for a demonstration project and I concur that the Maternal Child Health Bureau of the Health Resources and Services Administration is an appropriate agency to conduct a quality demonstration program.

Mr. BINGAMAN. I thank the Senators from Pennsylvania and Iowa and urge the department to conduct the demonstration project in an expeditious manner. Despite the fact that dental sealants have been available for over 25 years, their use remains low and children deserve this preventive service.

PEDIATRIC RESEARCH INITIATIVE

Mr. DEWINE. Mr. President, I rise to thank my colleague from Pennsylvania, Senator SPECTER, and his subcommittee, for the tremendous job they have done in putting together this $312 billion bill. It is not easy to work within tight budget caps and fund so many agencies and institutes at levels that will make all members—and constituents—happy. I'd like to take this opportunity to especially thank Senator SPECTER for his hard work and dedication in providing start-up funding for the Ricky Ray Fund. Even though we would have all liked to have seen full funding, I realize that Senator SPECTER and his subcommittee performed a monumental task in funding $50 million to make the Ricky Ray Fund a reality. I look forward to working with my colleagues next year to finish the job we are beginning in this appropriations bill and fund the remaining amounts for the Ricky Ray Fund that we authorized last year.

As for the appropriations bill that is before us, I would like to ask my colleague from Pennsylvania, Senator SPECTER, to clarify the "Pediatric Research Initiative" provision that is on page 138 of the Committee Report. It is my understanding that the Report should state that the "Committee further encourages the Director of NIH to expand extramural research directly related to the illnesses and conditions affecting children." The Report currently states that the National Institute of Child Health and Human Development (NICHD) should expand extramural research, but it should state that the Committee encourages the Director of NIH to expand extramural pediatric research—is that correct?

Mr. SPECTER. Yes, that is correct. The Office of the Director currently funds the Pediatric Research Initiative at NIH, and we are encouraging the Director to expand extramural pediatric research.

Mr. DEWINE. The Committee Report also currently states that the Committee also encourages the Institute to provide additional support for institutional and individual research training grants for medical schools' departments of pediatrics. It is my sense that the Report should state that the Committee encourages the NICHD to provide additional support for institutional and individual research training grants for medical schools' departments of pediatrics. Is that correct?

Mr. SPECTER. Yes, my colleague is correct. The NICHD supports such pediatric research training grants, and the Committee is encouraging NICHD to expand its support for such pediatric research training grants. I will work to ensure that the Conference Report for this bill accurately reflects these clarifications, which my colleague from Ohio and I have just discussed.

Mr. DEWINE. Again, I thank my friend from Pennsylvania for his clarifications and for his tremendous effort in increasing the funds for NIH to ensure that medical research, including pediatric research, remains a top priority for our country.

TREATMENT OF CHILD AND ADOLESCENT VIOLENCE RELATED TRAUMA

Mr. KENNEDY. As you know, it is well documented that domestic, school, and community violence survived or witnessed by children and adolescents causes psychological trauma with very real and serious consequences. These consequences can be physical (changes in the brain, delayed development), psychological (anxiety, depression, learning difficulty), or interpersonal (aggressive and violent behavior, affected individuals passing on the problems to their children). Fortunately, there is a growing body of knowledge that attests to the effectiveness of treating this psychological trauma. While the course of treatment may vary depending on the type of trauma, the length of exposure, and the age of the child, it undoubtedly requires staff with the specialized training needed to identify the signs and symptoms of trauma, and to provide the appropriate therapeutic interventions. In the wake of the violent tragedies in schools, community centers, churches, and increasingly in communities and homes across this country, the desperate need to develop this specialized expertise and to make it more widely available could not be clearer.

Mr. STEVENS. I could not agree more with my friend from Massachusetts and I have been pleased to work with him on this vitally important issue. Research has shown that children exposed to negative brain stimulation in the form of physical abuse or community violence causes the brain to be miswired making it difficult for the child to learn, develop healthy family relationships, reduce peer pressure, and to control violent impulses. Early intervention and treatment is much more successful than adult rehabilitation. This certainly points to a need for more early intervention and treatment programs for children and adolescents who suffer from violence related trauma. It also highlights the need for more professional training in the best practices for treating this psychological trauma.

Mr. KENNEDY. I appreciate the remarks from my friend from Alaska and thank him for his interest in children and in child development. I would also like to thank my friend from Pennsylvania, the Chairman of the Labor-HHS-Education Sub-Committee, for his longstanding commitment to children. I understand that bill before us includes $10 million for the creation of national centers of excellence on youth violence. I also understand that a key aspect of these centers is going to be the development of effective treatments for violence related psychological trauma in children, youth, and families, and the provision of training and technical assistance needed to make these best practices more widely available. Is that the Sub-Committee Chairman's understanding.

Mr. SPECTER. Yes it is. My friend from Massachusetts has identified a critically important need and this activity is intended to be an integral function of these centers of excellence.

Mr. STEVENS. I have worked closely on this with both the Sub-Committee Chairman and Senator from Massachusetts, and this is certainly my understanding as well.

Mr. KENNEDY. I thank both the Full Committee Chairman and the Sub-Committee Chairman for that clarification, and I hope that as we move forward with this process, should additional funding become available, that it could be targeted to this effort. I thank my colleagues and I yield the floor.

GENDER-BASED DIGESTIVE DISEASES

Mr. REID. I rise today to address an issue of great concern to me. I was recently made aware of the findings contained in a recent report from the Office of Research on Women's Health (ORWH) regarding gender-based differences in digestive diseases. The report identifies irritable bowel syndrome, functional bowel disorder and colorectal cancer treatment and detection as serious health problems that disproportionately affect women.

Mr. SPECTER. I am aware of this report and also am very concerned about gender based differences in digestive diseases.

Mr. REID. The ORWH report recommends that Federal research efforts focus on the need to: (1) develop a better understanding of the mechanisms of gastrointestinal motility and altered sensitivity to sensory dysfunction that will help explain why irritable bowel syndrome so disproportionately affects women more than men; (2) examine the relationship between hereditary colon cancer and gynecologic malignancy in women; and (3) determine the relationship between functional bowel diseases and pelvic floor dysfunction. As a result of these findings and recommendations, I hope that the Office on Women's Health will work with NIDDK to address these digestive diseases that so disproportionately affect women.

Mr. HARKIN. I strongly believe that NIH should respond to the recommendations in this ORWH report and examine this problem as soon as possible.

CDC FUNDING

Mr. CLELAND. Mr. President, I would like to engage the distinguished Ranking Member of the Labor/HHS/Education Subcommittee on funding for the Centers for Disease Control (CDC) and Prevention's building and facilities project. The CDC's physical plant facilities are in dire need of expansion and renovation. The lack of adequate laboratory and research facilities is crippling one of the nation's critical resources. Some of the infectious disease laboratories which conduct research on deadly organisms are 60-year old temporary wooden structures. This raises serious concerns regarding safety for employees and the public. The existing CDC's buildings and facilities threatens the United States' position as the world's last line of defense for protecting the health of the public.

Mr. SPECTER. Mr. President. I concur with Senator CLELAND's concerns and share in his support of the CDC and its vital role in research and public safety. The Senate Labor/HHS/Education Appropriations Subcommittee had one of its most challenging years developing the FY 2000 budget. The Subcommittee recommended a total of $60 million for CDC, $40 million in regular line item building and facilities construction and an additional $20 million in emergency funding. This represents a significant portion of the funding needed by the CDC.

Mr. CLELAND. I commend the Chairman and Ranking Member and the Labor/HHS/Education Appropriations Subcommittee for the FY 2000 appropriations bill. Under the circumstances, The Subcommittee has done a more than adequate job than others in addressing CDC's needs. The Administration's FY 2000 budget request was $39.8 million for all of CDC's buildings and facilities activities, including the repair and improvement of existing structures. The House Labor/HHS/Education Subcommittee mark was for $40 million for buildings and facilities. The Ranking Member is correct in stating that the Senate Subcommittee exceeded the Administration and marks by $20 million. I want to state for the record that, given the need, the initial funding request was set far too low. The CDC needs $141 million or an additional $81 million to modernize the substandard existing buildings and laboratories. I would request that Senate conferees examine all possible sources to obtain additional funding for CDC, and at the very least, hold firm behind the Senate's funding level in conference.

Mr. HARKIN. I thank you Senator CLELAND for clarifying the funding needs for the CDC building infrastructure. We will continue to seek ways to provide funding to adequately bring the CDC physical plant to not only meet standard safety levels, but to exceed those levels. We have an obligation to maintain this world renowned institution and to facilitate its ability to attract highly skilled scientists, provide a safe environment for the research of highly pathogenic organisms and to fulfill its intended objectives.

Mr. CLELAND. I thank the Senator. One last point: does the Chairman and Ranking Member believe that it would be appropriate for the Administration to submit a more adequate proposal for CDC buildings and facilities in its FY 2001 budget?

Mr. SPECTER. The Senator is correct. I would hope that the FY 2001 Administration budget will appropriately address CDC's need for facilities expansion and renovation.

Mr. HARKIN. I too agree that the FY 2001 budget will address this issue.

VOCATIONAL EDUCATION

Mr. DORGAN. I am concerned about the funding level in the Senate bill for vocational education. While the Senate bill generally increases our investment in education, unfortunately funding for vocational education basic state grants would remain at the President's request of $1,030,650,000.

Funding for vocational education basic state grants has been virtually frozen over the last several years by both the Congress and the President. Consequently funding for vocational, career, and technical programs has not kept pace either with inflation or with funding for other education programs. In fact, if vocational education funding had simply kept pace with inflation over the last eight years, it would be $220 million greater than is being proposed for FY2000. I would suggest an additional $100 million in funding for basic state grants, which represents about a 10 percent increase, but realistically, I believe $50 million would represent a reasonable step in the correct direction.

Mr. DEWINE. I share the concerns of the Senator from North Dakota about the proposed funding level for vocational education. As the Chairman of the Senate Subcommittee that had the responsibility for reauthorizing the Perkins Act, I can assure my colleagues that the reauthorization of this law, which Congress enacted last year with strong bipartisan support updated the Perkins programs. The authorized funding level for the Perkins Act was increased by $10 million from $1.14 billion to $1.15 billion. Now that this work is done, now is the appropriate time to increase funding for vocational education.

Mr. DORGAN. I appreciate the Senator from Ohio's leadership on this issue and the Senator from Alaska's comments in support of vocational education funding at the Appropriations Committee mark-up. I wonder if the Senator from Alaska would give his assurance that he will work to secure additional funding for vocational education as the Labor-HHS-Education appropriations bill moves forward?

Mr. STEVENS. I share the concerns that the Senators are raising and join in their support of vocational education. I want to assure them that I am committed to work with the senior Senator from Pennsylvania to try to find additional funds for vocational education during Conference. I also want to encourage the Administration to request an increase in funds for vocational education in its FY2001 budget submission.

Mr. HARKIN. I want to add my support to the comments that have been made here. I, too, feel strongly that additional funding for vocational education is urgently warranted, and I will do what I can as the ranking member on the Labor-HHS-Education Appropriations Subcommittee to direct more resources to basic state grants in this area. Will the Chairman of the Subcommittee also join me in this effort?

Mr. SPECTER. I recognize that funding for vocational education has not kept up with inflation or with funding for other education programs. I will work with Chairman STEVENS, Senator DORGAN, Senator DEWINE, and Senator HARKIN to try to obtain additional funding for vocational education.

THE UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW JERSEY'S CHILD HEALTH INSTITUTE

Mr. TORRICELLI. Mr. President, I rise to ask the distinguished managers of the bill if they would consider a request I have concerning the conference. Knowing the great difficulty they faced in reporting a bill that would not exceed this year's stringent budget restrictions, I understand why they were not able to provide funding for the University of Medicine and Dentistry of New Jersey's (UMDNJ) Child Health Institute. However. I hope that funding for the Children's Health Institute can be found in conference.

The increased attention to childhood disease clusters in various communities throughout New Jersey and other states require molecular studies for an explanation and solution. In that regard, UMDNJ of the Robert Wood Johnson Medical School developed the Child Health Institute of New Jersey as a comprehensive biomedical research center focused on the development, growth and maturation of children.

The mission of the Institute is to improve child health and quality of life by fostering scientific research that will produce new discoveries about the causes of many childhood diseases and new treatments for these diseases. Researchers will direct their efforts toward the prevention and cure of environmental, genetic and cellular diseases of infants and children. The Institute will work closely with both the Cancer Institute of New Jersey and the Environmental and Occupational Health Science Institute—two NIH-designated centers of excellence. Organizations which also played a part in developing the Child Health Institute.

The Institute is seeking funds to develop three components: a program in Molecular Genetics and Development; (2) a program in Development and Behavior; and (3) a program in Environment and Development. These programs will study human development and its disorders, noting the changing environmental conditions which alter gene function during development, maturation and aging. Institute scientists will also study human growth and development and the emergence of cognition, motion, consciousness and individuality.

The hospitals in central New Jersey birth nearly 20,000 babies each year. The founding of the Child Health Institute has created an extraordinary health care resource for those hospitals and the patients they serve. The new Children's Hospital at Robert Wood

Johnson University Hospital is scheduled to open in 2000 and the Child Health Institute in 2001. Together these institutions will provide state of the art clinical and scientific research and treatment complex to serve children and their families, not only in New Jersey, but throughout the nation with cutting edge care and the latest scientific developments.

Mr. LAUTENBERG. Indeed, New Jersey is poised to become a regional and national resource for research into the genetic and environmental influences on child development and childhood disease. Working in close partnership with the pharmaceutical and biotechnology industries, the Child Health Institute of New Jersey will become a force for healthy children nationwide. I thank my fellow Senator from the State of New Jersey and join him in giving my highest recommendation for this project.

Mr. TORRICELLI. I thank the Senator from New Jersey for his efforts on this project. I believe that the work of the Institute is an appropriate focus for the committee because the research focus will be of enormous value for the nation as a whole. Indeed, the Child Health Institute will be one of the world's only research centers to examine not only the biological and chemical effects on childhood, but also the effects of behavioral and societal influences as well.

The Child Health Institute's request is for $10 million in one time funding from the federal government for the construction of the Institute building. Total building costs are estimated at $27 million. The Institute has already raised more than $13 million from private sources including $5.5 million from the Robert Wood Johnson Foundation and $5.5 million from Johnson and Johnson. Also, the Robert Wood Johnson University Hospital has made a $2 million in-kind contribution of the land on which the Institute will be built. At maturity, the Child Health is expected to attract $7 to $9 million in new research funding annually, as well as provide $52 million in revenue for the local economy.

Mr. President, funding for the Child Health Institute in this bill would be entirely appropriate under Health Resources and Services Administration (HRSA) account. Indeed, it would be money well spent.

Senator LAUTENBERG and I simply ask that when the bill goes to conference the managers remember this request for funding the UMDNJ Child Health Institute.

Mr. SPECTER. We have received numerous requests for funding of health facilities. In the past, we have faced difficult choices in making a determination of funding priorities and this year promises to be no exception. We are aware of the request by the Child Health Institute and commend its efforts toward enhancing its research and service capacity. In conference, we will keep in mind its request as well as those with similar meritorious characteristics and goals.

Mr. HARKIN. I, too, am aware of the Child Health Institute request for assistance and share Senator SPECTER's views on this matter.

Mr. TORRICELLI. I thank both my distinguished colleagues for their assistance with this matter.

Mr. LAUTENBERG. I also would like to thank my colleagues for their help.

MEDICARE INTEGRITY PROGRAM

Mr. HARKIN. I am very concerned about the proposed $70 million funding cut to the Medicare Integrity Program (MIP) approved by the House Appropriations Committee. The Senate has recommended that MIP be funded at $630 million, the amount authorized in the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

In 1998, Medicare contractors saved the Medicare Trust Fund nearly $9 billion in inappropriate payments—about $17 for every dollar invested. Any funding cut to MIP is tantamount to the government throwing money out the window. In fact, I believe, because of the tremendous need to reduce an estimated $13 billion in Medicare waste, we should increase MIP funding. Therefore, I will work hard to ensure that the Senate funding level for this important program is not compromised.

Mr. ROTH. I've long been committed to the effective and efficient management of the Medicare program, specifically the detection of fraud and abuse. I supported the creation of the MIP program, established under HIPAA, to provide a stable and increasing funding source for fraud and abuse detection efforts. Prior to MIP, Medicare contractor funding for anti-fraud and abuse activities was often reduced because of other spending priorities in the annual appropriations process. MIP was created to prevent that from happening again. The House Appropriations Committee recommendation is in clear disregard of congressional intent.

Mr. SPECTER. I understand the importance of the MIP program to the integrity of the Medicare Trust Fund, and I will work to ensure that MIP is funded at the Senate recommended level of $630 million.

PREVENTION AND TREATMENT OF FETAL ALCOHOL SYNDROME AND FETAL ALCOHOL EFFECTS

Mr. DASCHLE. Mr. President, I have worked closely with my colleagues Senator STEVENS, Senator SPECTER and Senator HARKIN to make treatment and prevention of fetal alcohol syndrome (FAS) and fetal alcohol effect (FAE) more of a federal priority and to place language in the report accompanying the Fiscal Year 2000 Labor, Health and Human Services and Education Appropriations bill to underscore this commitment. I appreciate their efforts to support programs that will prevent and address this important public health problem and their commitment to continuing those efforts as they serve on the conference committee.

There is a dramatic need for an additional infusion of resources to address alcohol-related birth defects, which are the leading known cause of mental retardation. These funds are needed for the development of public awareness and education programs, health and human service provider training, standardized diagnostic criteria and other strategies called for in the competitive grant program authorized under the Fetal Alcohol Syndrome and Fetal Alcohol Effect Prevention and Services Act. These resources will complement the excellent work that has been started by grass-roots organizations like the National Organization for Fetal Alcohol Syndrome and the Family Resource Institute.

I look forward to working with Senator STEVENS, Senator SPECTER and Senator HARKIN to promote treatment and prevention of FAS and FAE. It should be a priority for the Fiscal Year 2000 conference committee to fund these much-needed programs, and I am hopeful that the conferees will be able to find additional resources for this purpose. I believe it is critical that we provide line item funding for the competitive program that this Congress authorized last year. I look forward to working with the Administration and my colleagues in the Senate toward that end as they begin to draft the Fiscal Year 2001 Labor, Health and Human Services, and Education Appropriations bill.

Mr. STEVENS. Mr. President, I share the sentiments expressed by my colleague from South Dakota. I have witnessed first hand the devastating effects of FAS and FAE in Alaska, which has the highest rate of FAS/FAE in the nation. Our Alaska Native people are especially at risk for these entirely preventable conditions. It has been estimated that the lifetime cost of treating and providing necessary services for a single victim of FAS/FAE is in excess of $1 million. I am pleased that the bill before us contains language encouraging the Department of Health and Human Services to provide necessary resources to fund comprehensive FAS/FAE prevention, education and treatment programs for Alaska and for a four-state region including South Dakota and will work with the conference committee to ensure that funds are available for these programs. I also support language in the report mandating development of a nationwide, comprehensive FAS/FAE research, prevention and treatment plan. I know that federal support can make a difference. In Alaska, federal assistance has allowed two residential treatment programs for pregnant women and their children—the Dena A Coy program in Anchorage and the Lifegivers program in Fairbanks—to make a positive difference in the lives of numerous Alaska Native women and their children. I look forward to working with my colleague to find real solutions to the problems of alcohol-related birth defects.

Mr. SPECTER. Mr. President, I have worked closely with my colleagues to find creative ways to address FAS and FAE at the federal level while drafting the Fiscal Year 2000 Labor, Health and Human Services and Education Appropriations bill. I agree that it is critical to continue that effort during the conference with members from the House of Representatives in order to further improve the federal commitment to individuals with FAS and FAE and their families.

Mr. HARKIN. Mr. President, I would like to add my voice in support of the comments expressed by my colleagues from South Dakota, Alaska and Pennsylvania. FAS and FAE are 100 percent preventable. Our country should be doing everything it can to put an end to alcohol-related birth defects and help individuals and families trying to copy with the disease.

IDEA FUNDING AT NIH

Mr. NICKLES. I would like to address a question to my friend from Pennsylvania regarding the Institutional Development Awards (IDeA) Program funding within the National Institutes of Health (NIH) budget. I am joined by my colleagues Senators LOTT, DASCHLE, and REID in support of the House level of funding for IDeA in the Labor, Health and Human Services, and Education, and related agencies Appropriations bill. It is my understanding that the Senate level is $20,000,000 while the House level is $40,000,000.

Mr. LOTT. It is my understanding that movement to the House level is not an increase in the NIH budget, is that correct? As I understand it, this would reallocate money within the NIH budget and that this would not be additional funding. This would set aside a portion of NIH research money for those states, Mississippi included, to more fully exploit the opportunities to develop a competitive biomedical research base.

Mr. NICKLES. The distinguished Majority Leader is correct. The point of this inquiry is to ask the chairman if he would reserve some resources for those IDeA states that receive the least among of research money.

Mr. DASCHLE. I agree with my colleagues that this program is of tremendous benefit to rural states and to our nation's ability to produce top quality research. In recent years, five states have received 48 percent of the NIH research money. We need to broaden this distribution. In my state of South Dakota, universities have benefitted from this program in the past, but we need to continue this investment so that they may compete for research monies on an equal footing. Increasing IDeA funding would help to meet this goal.

Mr. REID. I would also like to point out that according to the NIH's own figures, an average IDeA state, such as Nevada, receives $67 per person in research money while the other states receive, on average, $258 per person. This program helps to disburse this vital research money to those states who traditionally do not fair well but can perform this research for much lower overhead and indirect costs.

Mr. NICKLES. I would also add that Oklahoma only receives, an average, $45 per person of research money.

Mr. SPECTER. Mr. President, I would agree with Senators LOTT, DASCHLE, and REID on the value of the IDeA program. As Senator NICKLES mentioned before, we did increase this allocation from fiscal year 1999 in order to broaden the geographic distribution of NIH funding of biomedical research by enhancing the competitiveness of biomedical and behavioral research institutions which historically have had low rates of success in obtaining funding. With their concern in mind, I would therefore like to assure my fellow Senators that when we conference, we will take a very close look at the House funding level of $40,000,000 for IDeA.

Mr. NICKLES. I would like to thank the Chairman for his assistance.

Mr. KENNEDY. Mr. President, in the interest of moving this appropriations bill forward, I will withdraw my amendment to increase the funding for the successful GEAR-UP program. However, I urge the conferees to fund this program at $240 million— $60 million over the Senate bill—so that now needy students can get the support they need to attend college.

More than 130,000 students will be denied services if GEAR UP is funded at $180 million rather than at the President's request of $240 million. $154 million is needed just to fully fund continuation grants for this year's grantees. We must uphold our commitment to these students, and extend the opportunity that this program offers to every needy student.

This year, 678 applications for both state and local partnerships were received and we were only able to fund 185—only 1 out of 4 applications. We have to do more to help children early so that college is accessible for every child.

Many low-income families do not know how to plan for college, often because they have not done it before. We should do more to ensure that schools and communities can provide the academic support, early college awareness activities, and information on financial aid and scholarships so that students and their families can plan for a better future. We must encourage our young people to have high expectations, to stay in school, and to take the necessary courses so that they can succeed in college. We cannot abandon the five-year commitment that we made to these families last year.

I commend my colleagues on the appropriations committee for making hard choices between important programs. But, I urge you to give GEAR UP your highest consideration in conference.

Ms. MIKULSKI. Mr. President, I rise to speak on the Fiscal Year 2000 Appropriations bill funding the Departments of Labor, Health and Human Services and Education. I would like to thank Senator SPECTER and Senator HARKIN for the tremendous job they and their staffs have done on an extremely large, complex, and vitally important appropriations bill. This bill is important because it meets the day-to-day needs of Americans as well as the long-range needs of our country.

However, I am concerned that the Senate has had to resort to gimmicks and tricks such as "forward funding" and "emergency spending." When Congress resorts to these tricks, it means we're not doing our job right. The GM worker in Baltimore can't "forward fund" or declare his next trip to the grocery store "emergency spending." If a mother can't pay for her children's health care using such devices, then Congress should not be able to resort to them to pay for our children's education, health care for the underserved, or job training.

I am pleased with a number of funding levels in this bill. I know that Senators SPECTER and HARKIN had a difficult task in funding so many programs that meet compelling human needs. As the Senator for and from the National Institutes of Health, I am very glad to see the $2 billion increase in NIH funding, which keeps us on pace to double NIH's budget over five years. I am particularly pleased with the $680.3 million for the National Institute on Aging (NIA). This is an increase of more than $80 million over last year. As we double NIH's budget, I believe that it is especially important to double NIA's budget. Our population is aging; by 2030 there will be about 70 million Americans age 65 and older, more than twice their number in 1997. This is clearly an investment in the future health of our nation.

Many of the day-to-day needs of our nation's seniors are met by the Older Americans Act (OAA). It is heartening to see the $35 million increase in funding for home delivered meals because it is greatly needed. We are seeing an increased demand for home delivered meals which assist more older persons in remaining in their homes and communities. The Committee has also provided a $1 million increase for the ombudsman program and an $8 million increase to $26 million for state and local innovations/projects of national significance (Title IV).

I am disappointed that other programs under the Older Americans Act did not see needed increases in funding. OAA programs have been level funded and losing ground for too long. I am also deeply concerned that there is no provision to fund the National Family Caregiver Support Program. This program would offer valuable services to assist our nation's caregivers by providing respite care, counseling, information, and assistance among other services. This program has strong bipartisan support. I would urge that we look at ways to provide the necessary resources for this program in Fiscal Year 2000 so that it can be funded once it is authorized. As the Ranking Member of the Subcommittee on Aging, I will continue to work with my colleagues on the HELP Committee to reauthorize the OAA during Fiscal Year 2000.

In addition, I was distressed by the drastic cut of almost $860 million to the Social Services Block Grant. However, I'm pleased that the Senate has restored these funds. The Social Services Block Grant provides help to those who practice self help. In Maryland, this program funds adoption, case management, day care, foster care, home based services, information and referral, prevention and protective services to more than 200,000 people.

I must also mention the importance of funding for the Centers for Disease Control and Prevention (CDC). I am very aware of the funding constraints the we have been operating under and believe that the $30 million increase for CDC is a step in the right direction. However, it is below the President's budget request and does not go far enough. While I am appreciative of the efforts to increase funding to modernize CDC's facilities and improve public health infrastructure, CDC has been revenue starved for too long. Improving public health in our country requires investments in NIH, CDC, and FDA. I am thrilled with our support of NIH, but I believe that if we do not provide sufficient resources to CDC and FDA we are only doing part of the job. I would urge that we consider this as we move to conference on this bill and when we look at funding for these agencies next year.

I am also pleased at the funding levels of many of our national education programs and this bill is certainly better than the one that passed the House. I am very concerned that the funding level for the bill overall has been reduced to pay for other programs. The spending caps put us in a tough position. And it is education that always suffers the most.

Like I said, even though the Senate funding levels are much better than the House, there are at least two major problems with the Senate bill. There is no funding in this bill for school construction and there is no funding in this bill for lowering class size and hiring 100,000 new teachers. Last year, we passed a bipartisan bill, and we all agreed to lower class size. We agreed that this is one of the most important things we can do for our kids and our classrooms. Yet this bill contains no money for class size.

There is also no funding for school construction. What happened to our commitment to make sure our kids are not attending classes in crumbling schools? I see there is $1.2 billion in the bill for something called "Teacher Assistance Initiative." As far as I know, no one knows what this means exactly. Like Senator MURRAY said on the floor of the Senate last week, it clearly isn't class size reduction.

I have serious reservations about this bill. It does not live up to the commitment we made here in the Senate to reduce class size and hire 100,000 teachers. It does nothing to fix our broken down schools. And the House bill is even worse.

The House bill cuts $2.8 billion out of the President's education agenda to improve public schools. It denies 42,000 additional children the opportunity to participate in Head Start. It repeals last year's bipartisan agreement to fund 100,000 new teachers to create smaller classes. It combines Class Size Reduction, Eisenhower Teacher Training and Goals 2000 into a block grant funded at $200 million less than the authorized level and $396 million less than the President's request for comparable programs.

Given our recent tragedies in our schools, it is a shame that the House bill denies after school services to an additional 850,000 "latch key" children in 3,300 communities during the critical 2–6 p.m. hours when children are most likely to get into trouble. The bill also freezes federal funding to help schools to create safer learning environments and denies funding for an additional 400 drug and school violence coordinators serving 2,000 middle schools.

We need to work hard in conference. We are going to have to fight to keep our stand behind our kids. We cannot allow the House to gut these important programs. We cannot let the Senate ignore class size and school construction. I look forward to working with my colleagues to make sure we increase the Federal investment in education.

Mrs. MURRAY. Mr. President, this evening we will vote on what is arguably the most important of our 13 appropriations bills, the Labor, Health and Human Services and Education Appropriations Act. When it comes to funding for education, the Congress has fundamentally ignored the messages of the American people. In this bill, education spending remains in the neighborhood of 1.6 percent of overall federal spending, a very poor neighborhood indeed. The American people cannot understand why, if education is their first priority, it is the last bill passed and the lowest funding priority of their Congress. They cannot fathom why, in a year when school districts across the country are hiring highly-qualified teachers to reduce class size, the Congress is walking away from its commitment.

The House, regrettably, has done far worse by education than any of us could have imagined. The drastic cuts to education that would take effect under the House bill would send America back into the 19th century, not forward into the 21st. The House bill would cause 142,000 fewer children to be served in Head Start, would keep 50,000 students out of after-school programs, and would deprive 2.1 million children in high-poverty communities of extra help in mastering the basics of reading and math.

The Senate has done better by our schools, but only through smoke-and-mirrors budgeteering that should give our school communities no long-term confidence. Advance funding is not without effect on the local school budget, which demands consistency and predictability.

The numbers in the Senate bill are a better level from which to negotiate in the conference committee, but even these funding levels ignore the grim reality that our schools face a fundamentally tougher job than they did even five years ago, with skyrocketing enrollment, of students who are more expensive to educate, and who have less support at home and in the community.

Despite all this, at least the Senate provides current funding for most educational services, makes some effort toward meeting the higher needs in others, and does a good job of providing new investments in a few areas. Funding for the Individuals with Disabilities in Education Act is increased by more than $900 million, a good start toward meeting our national commitment to fund forty percent of a local school district's costs of educating a disabled child.

The $200 per student increase for Pell grants is a good investment, but only about half of what is needed this year. I'm particularly proud that we were able to increase funding for adult and family literacy, by increasing the adult basic education program by more than $100 million. This means that thousands more adults and their families will be able to take the first steps toward increased viability in our changing economy.

The failures in this bill are many, however. As an example, let's look at funding for vocational and technical education. Current funding or freezes in funding are not sufficient in a world where the economy changes as rapidly as ours is changing. Young people need the skills not only to survive but to thrive. All young people need access to applied skills as well as theoretical ones, in order for them to succeed in the workplace, the classroom, and in life. And yet, we do not make the significant investments needed.

The largest failure of all, of course, is the backward step the majority is taking on class size reduction. Reducing class size by helping school districts hire 100,000 high-quality teachers nationwide is an investment in our schools that is paying dividends right now. The first 30,000 teachers are in the classroom, and what a classroom it is. To walk from a class with 25 or 28 first graders into one of the smaller classes I've been visiting this fall is a stark contrast. Improved achievement, increased time on task, more individual attention, and a lack of discipline problems are obvious in the smaller class. The teacher in the larger class looks as if he is running to catch up, and the student must keep her hand in the air for too long a time. This is a very real, tangible investment we have made in our schools. The Senate and the House, on a completely partisan basis, are reneging on the most common-sense investment in school improvement made in recent history. The reason that the Republicans are so afraid of these 30,000 teachers is that this program is actually working.

Pili Wolfe, Principal at Lyon Elementary School in Tacoma, Washington, where federal class size funds are being used to dramatically reduce class size in first grade, and to provide high-quality professional development for teachers through a program called Great Start, says: "Children in our first-grade Great Start classrooms have shown more growth within the first month of school than any previous first-grade class."

Andrea Holzapfel, a first-grade teacher at Lyon, says: "Smaller numbers allow me to spend significantly more time in individual and small-group instruction. Having fewer children allows more participation by the kids in discussion and classroom activities."

The program works. The one-page, on-line application form means no paperwork, no bureaucracy. Two-hundred and sixty-one of Washington state's two-hundred and ninety-six school districts have already put class size reduction and teacher professional development into effect in their schools. The accountability is to the local community, through a school report card describing how many teachers were hired and in which grades. Improved student achievement will be the ultimate measure of the success of this year's investment.

But the investment cannot stop here.

The President has said that this bill is headed for a veto, because of the lack of continued investment in class size reduction, and other key education efforts.

One such effort is GEAR UP, which enables low-income schools and their neighboring colleges to form partnerships to get mentors to help students study hard, stay in school, and go on to college. Funding for this program is only $180 million, not the $240 necessary to get this important investment to the communities where it is needed most.

Increased funding for after-school programs was given short shrift, despite what the research shows about the link between young people having no positive pursuits in the afternoon and evening, and the related increase in crime.

Education technology has been cut by the House, and the Senate numbers are not sufficient to meet the growing need in an area where the federal government is the primary funding source in most schools and communities, far beyond the investments made by states and localities.

When it comes to education, this Congress has not stepped up to the very challenge we are asking the educators, students, families and communities across America to meet. When the expectations on Congress increased, the level of commitment and vision decreased.

I am voting for this bill to move the process along. If class size funding and other key investments are not restored, the conference report will be vetoed. If it is vetoed, I and many of my colleagues will vote to sustain that veto. This bill in its current form is only a vehicle through which we may negotiate higher numbers in conference.

The American people have a stake in this battle. We need to hear their voices now.

This has been a difficult vote for me. While the bill does provide a significant investment in public health and safety, it does so on the backs of our children and retreating from our commitment to improve class size. This bill cannot survive in its current form.

I do want to point out what I believe are positive aspects of this bill. I applaud the efforts of Chairman SPECTER and Senator HARKIN in preparing an appropriations bill that meets important public health priorities. I know how difficult this appropriations process has been and know their job was not easy. As a member of the Labor, Health & Human Services & Education Subcommittee, I am pleased that our product does maintain our commitment and investment in public health.

The additional $2 billion investment for NIH alone will bring us that much closer to finding a cure for diseases like cancer, Parkinson's, cardiovascular, Alzheimer's, MS and AIDS. Every dollar invested in NIH reaps greater savings in health care dollars as well as greater savings in human lives. This additional investment will ensure that we remain on a course to double NIH funding. I know how important this funding is and am proud to represent outstanding research institutions like the University of Washington and the Fred Hutchinson Cancer Research Center who receive significant research funding from NIH.

I am also pleased that we have provided funding for trauma care planning and development for the states. This is an essential program that assists the states in efforts to effectively develop trauma care strategies. We have neglected trauma care and we have lost ground in life saving delivery of critical care. I was pleased that the Subcommittee recognized the importance of trauma care planning.

As many of my colleagues know, I have been pushing for federal funding to establish a national poison control plan. My allegiance to "Mr. Yuk" is well known within this chamber, as well as within the HELP Committee. It was only two years ago that I offered an amendment during FDA reform to protect voluntary poison control labeling like Mr. Yuk from possible elimination. I have used my position on the Appropriations Committee to push for funding for poison control centers and for a national 1–800 hotline. I am pleased that this legislation includes $3 million for poison control efforts. This line-item within HRSA is a major victory for children and their parents. We have taken a huge step forward in developing a national poison control plan that builds on successful efforts in all of the states, like those made in Washington state.

As one of the most vocal women's health care advocates in the Senate, I am pleased that the Committee report to accompany this Appropriations bill addresses several women's health issues and enhances programs to eliminate gender bias or discrimination. I want to thank the Chairman for his support of funding for the CDC Breast and Cervical Cancer Screening Program for low income women. This continued commitment will save lives and improve survival rates for women who often have little or no access to cancer screening. We know that early dedication offers the greatest hope of survival.

I am pleased that we have been able to provide additional funding to expand the WISE WOMEN program to screen for cardiovascular disease as well as breast and cervical cancer. Cardiovascular disease is the number one killer of American women. Twice as many women die from cardiovascular disease than breast and cervical cancers combined. I was disappointed that we could not find additional monies to expand this program in all 50 states, and will continue to work to secure additional funding for FY2000.

There are many reasons why I consider the Labor, HHS Appropriations bill one of the most important appropriations bills and the one piece of legislation that truly effects all Americans and offers hope to the most vulnerable. But, perhaps one of the most critical programs funded in this appropriations bill is funding for battered women's shelters. This funding does save lives. This funding is the life line for battered and abused women and children. I am proud to have worked with the Chairman of the Subcommittee to increase our investment in battered women's shelters. I am working for the day when we need no more battered women's shelters. Unfortunately, we have a long way to go. But, by increasing the funds available by $13.5 million for FY2000, we have offered communities more resources to assist victims of domestic violence find a vital, life-saving safe shelter.

I am hopeful that these important public health investments will survive what will likely be a difficult conference with the House.

Mrs. FEINSTEIN. Mr. President, I am pleased today to support the FY 2000 Labor-HHS-Education Appropriations bill, H. R. 1650, because it addresses important priorities of the American people.

Among other increases, this bill increases funding for the National Institutes of Health (NIH) by $2 billion, including a $384 million increase for the National Cancer Institute. This will continue us on the path of doubling the funding of NIH over five years. The President requested only a 2.1 percent increase over FY 1999, which does not keep pace with medical research inflation, projected to be 3.5 percent next year.

The National Institutes of Health—often called the "crown jewel" of the federal government—offers hope to millions of Americans who suffer from diseases like diabetes, arthritis, Alzheimers, Tourette's Syndrome, Parkinson's and on and on. Sadly, NIH can now only fund 31 percent of applications. Under the Presidents's FY 2000 proposal, it could have fallen to 28 percent, a 10 percent drop. This is the wrong direction, especially at a time when research is opening many new scientific doors.

Federal support for curing diseases and finding new treatments is not a partisan issue. Federal spending on health research is only 1 percent of the federal budget. Sixty eight percent of Americans support doubling medical research over five years; 61 percent of Americans support spending part of the surplus on medical research. Fifty five percent of Californians said they would pay more in taxes for more medical research, in a Research America poll.

NIH is especially important to my state where some of the nation's leading research is conducted. The University of California received $1.7 billion in NIH funds in 1998. The federal government supports over 55 percent of UC's research.

I am pleased that the bill includes $ 3.28 billion for the National Cancer Institute. This is an increase of $384 million or 13 percent over last year. With this, NCI will be able to fund at least 10 percent more grants. If we had gone along with the President proposed 2 percent increase for cancer research, NCI would have been able to fund 10 percent fewer grants. That is the wrong direction, at a time when cancer incidence and deaths are about to explode.

Today, one in every four deaths is due to cancer. Cancer costs over $100 billion a year. Because of the aging of the population, the incidence of cancer will explode by 2010, with a 29 percent increase in incidence and a 25 percent increase in deaths, at a cost of over $200 billion per year. The cancer burden will hit America the hardest in the next 10 to 25 years as the country's demographics change. (These are the findings of the September 1999 Cancer March Research Task Force.) Cancer deaths can be reduced from 25 to 40 percent over the next 20 year period, saving 150,000 to 225,000 lives each year if we do the right thing.

I want to thank the chairman of the subcommittee for including in the committee report language indicating that we need to increase cancer research funding consistent with the recommendations of the Research Task Force of the Cancer March. The Cancer March called for increasing the National Cancer Institute budget by 20 percent each year for four years, to get to $10 billion by 2005. This bill with its 12 to 13% increase in funds is a step on the way.

The National Cancer Dialogue, a national group representing leaders of the entire cancer community and over 120 cancer organizations, recommended that NCI be funded at $5 billion in FY 2000 and CDC cancer activities at $516 million.

What can be accomplished with $5 billion for research?

More drugs: NCI could bring 40 new cancer drugs from the laboratory to clinical trials. In NIH's entire history, only 70 drugs have been approved for treating cancer.

Cancer Genetics: Continuing to identify genes involved in cancer. Improving our understanding of the interaction between genes and environmental exposures.

Imaging: Finding new ways to detect cancers earlier when they are small, not invasive and more easily treated.

Clinical Trials: Increase participation from 2 percent currently. Medicare beneficiaries account for more than 50 percent of all cancer diagnoses and 60 percent of all cancer death.

Prevention: 70 percent of all cancers are preventable says the American Cancer Society. By expanding the CDC's efforts to provide cancer screening, cancer registries and other measures to help people prevent cancer screening, cancer registries and other measures to help people prevent cancer. For example, tobacco-related deaths are the single most preventable cause of death and disability and account for 30 percent of all US cancer death.

I am also pleased to see an increase of $200 million over last year and $100 million over the President's request for Ryan White AIDS, as well as a 12 percent increase for AIDS research at NIH.

California has the second highest incidence of HIV/AIDS in the US. While the AIDS death rate has declined it is still too high. Over 40,000 new infections develop each year. In California, 100,000 people are living with HIV/AIDS. Half of all HIV-infected people do not receive regular medical care according to the Rand study, December 1998.

We face serious challenges. We must find a cure. We must find new treatments. HIV lingers in cells so long that the "virus cannot be eradicated at all with current treatments * * * it remains tucked away longer than though," according to the New England Journal of Medicine, May 1999.

This funding bill also includes important funding for education at all levels. There is hardly a more important function of government than providing a solid education for our youngsters.

The bill raises education by $2 billion over last year. This is important in light of the decline in the federal share of total education funding from 14 percent in 1980 to six percent in 1998, according to the Office of Management and Budget.

No doubt we need to do more. Our nation's schools face unprecedented challenges. My state is fraught with problems: California has 6 million students, more students than 36 states have in total population and one of the highest projected enrollments in the country, California will need 210,000 new teachers by 2008. We have about 30,000 teachers on emergency credentials. We have the most diverse student body in the county. In some schools, over 50 languages are spoken. While this diversity is one of my state's great strengths, in the classroom, it places huge responsibilities on teachers.

Buildings: We need to build 6 new classrooms per day, $809 million per year. Some elementary schools have over 5,000 students. Our schools are too big.

In higher education, California is preparing for "Tidal Wave II," the demographic bulge created by children of the baby boomers which will inundate our colleges and universities between 2000 and 2010.

And so our needs are huge. Our challenges are great.

I am disappointed that the Senate did not adopt the Murray amendment that would have ensured that $1.4 billion be used to hire teachers and reduce class size. By adding $200 million and raising the allocation from $1.2 billion to $1.4 billion and specifying that it be used to hire teachers and reduce class sizes, California could have hired 1,100 new teachers, on top of the 3,322 that will provide funding for last year. I hope the conference will see the importance of this.

One area of this bill that I have given my attention to is ESEA Title I, the program that provides over $8 billion for educating poor children. Unfortunately, despite my efforts in the Appropriations Committee, I was unable to delete what is known as the "hold harmless" provisions. Also, the committee would not accept my amendment to clarify and insure that any new or additional funds, over last year, go to states that are hurt by the hold harmless provision.

The Title I hold harmless provisions (there are two in the bill, for basic grants and for concentration grants) hold states and districts "harmless." They say in essence that no state or district will receive less than it did the previous year despite changes in the number of poor children. In the bill, these apply to the Title I basic grants and the concentration grants. These provisions freeze funding in place despite the number of poor children, despite their eligibility.

I tried to delete these provisions in the committee, but because, frankly, there are more low-growth states than high-growth states like mine, in the Senate, did not have the votes to completely eliminate them.

Here is why the hold harmless provisions are wrong: One, they violate the purpose of the program since 1965, to target funds on poor children, two, they contravene the census update requirement. The authorizing law requires the Department to update child poverty data every year so that each state will receive funds according to the number of poor children. The hold harmless renders that requirement virtually meaningless.

Secretary Riley wrote, April 29, 1999: "I do share your concern that the 100 percent hold-harmless provision undermines the apparent statutory intent that allocations for Title I and other programs be based on the most recent census data."

Three, a poor child is a poor child. Congress recognized that poor children need extra help, wherever that child may be. A poor child in California is as worthy as a poor child in Mississippi and should not be deprived of funding.

A July 1999 study found that students in poor school districts (West Fresno, Mendota, Farmersville) ranked at or near the bottom of California's achievement tests. "Most of the lowest-scoring school districts * * * are in rural areas with high unemployment and poverty and have many children from migrant farm worker families who speak little English and have little education." (Fresno Bee, 7/25/99)

Four, hold harmless provisions disproportionately hurt states with high growth rates in poor children, states like California, Arizona, New Mexico, Texas, Hawaii, South Carolina, Maryland, Nevada, Virginia, Georgia, Florida, New York, North Carolina, Oklahoma.

Here are some examples of losses of Title I Funds under FY 1999 hold harmless: California $36 million; Florida $32 million; New Mexico $4.5 million; New York $48 million; North Carolina $8 million; Texas $32 million.

Last year, under the bill's Title I hold harmless, California lost $32 million. California has 14 percent of all Title I children and gets 11 percent of Title I funds. (US Dept of Education). California has a 22 percent poverty rate for children; The US rate is 18.7 percent. (9 states exceed California's). California's number of poor students grew 53 percent from 1990 to 1995; nationally, it grew 22 percent. In total federal dollars, California pays 12.5 percent of federal taxes but gets back only 11.2 percent.

California receives $656 in Title I funds per poor child. The national average is $745. Some states receive as much as $1,289, according to the US Department of Education. California has almost 40 percent of the nation's immigrants. The poverty rate for immigrants grew by 123 percent from 1979 to 1997. (Center for Immigration Studies, 9/2/99). Income inequality is growing in California faster than the rest of the country (Public Policy Institute of California, 2/9/99)

Five, the hold harmlesses freeze in the status quo, even for those not eligible. The hold harmless provision gives funds to states and districts that may not even be eligible for funds, merely because they got funds in the past. What good are eligibility rules if we ignore them, override them willy-nilly. We either have eligibility rules or we don't.

If Congress believes the formula is not properly structured or targeted, Congress should change it in the authorizing statute. Congress will have that opportunity next year when ESEA is reauthorized.

I am grateful that the committee agreed, at my request, to modify the bill so that the Title I hold harmless will not apply in FY 2000 to the eight federal programs have funding formulas based in whole or in part on the Title I formula. Those programs are: Safe and Drug-free Schools; Even Start Family Literacy; Comprehensive School Reform; Eisenhower Professional Development (Teacher training); Technology Literacy; Class Size Reduction; Goals 2000, Title III; and McKinney Homeless Education.

This amendment was needed because, in FY 1998 and 1999, the Department of Education applied the 100 percent hold harmless to 8 other education programs, thus compounding the harm of the Title I hold harmless provision and the cuts that result from it.

I believe in the current bill, Congress is giving the Department clear guidance that the Title I hold harmless provision should not be applied to other programs.

Because last year the Department applied the hold harmless to other programs, my state lost funds under the following programs: Teacher Training $40,000; School Reform $700,000; Technology Literacy $5.4 million; Goals 2000 $3 million; EvenStart/Literacy $1 million.

I thank the committee for remedying this inequity.

I am disappointed that the Committee did not provide funding for the President's English Language and Civics Education Initiative, under the Adult Education program. This is an effort to help states and local communities provide instruction to adults who want to learn English as a Second Language (ESL) programs, as well as instruction in civics and life skills. If adequately funded, this initiative would help ensure that those who seek to become American citizens learn not only the words of the citizenship oath, but also the broader language of our civic life. Simply put, this initiative would help our nation's newcomers become full participants in American life.

In 1990, there were about 25.5 million U.S. adults age 18 and older who spoke a language other than English at home. Many of these non-English speakers were new immigrants. Some immigrants have lived here for many years. Still, other non-English speakers were born in the United States but grew up without mastering the English language. Many of these adults reported that they have difficulty speaking English, but were highly motivated to learn the language, especially to obtain jobs and gain access to educational opportunities.

As the number of non-English speaking residents has increased, so has the demand for placement in English-as-a Second-Language (ESL) classes. In the last five years, enrollment for ESL classes has jumped from 1.2 million in 1994 to nearly 2 million in 1998. In the state of California, more than 1.2 million adult students enrolled in these classes in 1998, accounting for 38.2 percent of the adult education students in the state.

The increased demand for ESL classes have resulted in long waiting lists for ESL classes in many parts of the country. For example, Los Angeles has a waiting list of 50,000 people for ESL classes. Chicago's ESL programs are filled to capacity as soon as they open their doors. And, New York State has resorted to a lottery system to select individuals who wish to learn English.

I have visited several immigrant communities throughout California and have been impressed by the high work force participation rates, the strong sense of family, and a tireless commitment to their community. However, during these visits and in letters from my constituents, I have been often told about the lack of opportunities to participate in adult English education courses. This is particularly troublesome, given the large number of people in my state seeking to become American citizens, and to otherwise more fully participate in our civic life.

More support for programs like English Language and Civics Education Initiative would help states and communities throughout California and the rest of the nation that are struggling to keep up with this demand. Providing $70 million requested by the Administration would not merely be an expenditure, but an investment in our nation's future.

While this bill cannot address all the health and education needs of our nation or even those that are a federal responsibility, allocations are good—$2 billion more for education and $3 billion more for health (for the discretionary programs). It does not do all I wish it would do. For example, it does not adequately fund afterschool programs, health professions training, or educational technology as much as I would like, but it does address many important needs and I will vote for it.

I urge my colleagues to give it their strong support.

Mr. SPECTER. Mr. President, we are under very heavy time constraints because some of our Members are about to depart. On two personal notes, I had said earlier that I had recused myself from consideration of the funding for the National Constitution Center because my wife is the director of development there. I want to repeat that and include, again, a copy of a letter to Senator COCHRAN who took over on that issue as the next senior ranking Republican.

I ask unanimous consent to print the letter in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, September 17, 1999.

Hon. THAD COCHRAN,
U.S. Senate, Washington DC.

DEAR THAD: As a precautionary matter, I think it is advisable for me to recuse myself on the issue of the appropriation for the National Constitution Center since my wife, Joan Specter, is director of fundraising.

I would very much appreciate it if you would substitute for me on that issue since you are the senior Republican on the Subcommittee for Labor, Health and Human Services and Education.

Sincerely,

ARLEN SPECTOR.

Mr. SPECTER. I have one other item on a personal note. Senator INOUYE for some time has urged the naming of a building for me, which I had resisted. After my wife heard about it and the grandchildren, I have succumbed to the majority vote on the naming of the building the National Library of Medicine.

In conclusion, I hope we will have a very strong vote in favor of this bill. This bill stretches about as far as it can and is about as low cost as it can be with the chance of getting the President's signature. This is only one step along the way toward conference, and we need a very strong vote in favor of this bill if we are to take care of the important funding, especially for not only worker safety but health and education.

I yield to my colleague.

Mr. REID. Will the Senator yield to this Senator?

Mr. HARKIN. Are we in our 10 minutes of time on which we had a unanimous consent agreement?

Mr. SPECTER. That time might have already been used. Why don't we proceed with Senator HARKIN's closing statement until Senators, who have planes to catch, arrive.

Mr. HARKIN. I yield such time as he may want to the majority whip.

Mr. REID. Mr. President, I state for the record that the issue of class size reduction is of vital importance to everyone on this side of the aisle, as the case has been made very clear. There are going to be enough votes to pass this bill by virtue of the Democrats voting in favor of it, but we want to at this time alert the conferees that if they fail to adequately address this matter, it will be extremely difficult to support this Labor-HHS conference report.

Further, the two managers of this bill have worked very hard. They have shown compassion, courage, and expertise in getting the bill to this point, and I congratulate and commend both of them for their diligent work.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank Senator REID for all of his support and his help and great work in moving this bill along. We appreciate it very much.

We have had a good debate, a long debate, a good exchange of amendments on this bill. We have had amendments that have been approved and rejected on both sides of the aisle.

I thank and commend my chairman, Senator SPECTER, for his leadership, his skill, and his persistence, his dogged persistence in managing this bill and getting it through. Senator SPECTER had tried time and time again during the long, hot, dog days of summer and coming into this fall, never giving up, always pushing us to get this bill up and get it through. Again, I commend him and thank him for his leadership and also thank Senator SPECTER and his staff for always working closely with us. I can honestly say that at no time were we ever surprised about anything. We have had a very good working relationship. We may not have always agreed on everything—that is the nature of things around here—but we always had a good, open, fair, and thoughtful relationship. I appreciate that very much on the part of my chairman.

This is always the toughest appropriations bill to get through. It was tough when I was chairman and Senator SPECTER was ranking member. Things have not changed a bit. This year was a greater challenge than ever. But I say to my colleagues on this side of the aisle, we have produced a very good bill—not just a good bill, a very good bill. It is not perfect. Maybe there are some things I would like to have seen different. Perhaps we can improve it a little bit in conference. But it is a very good bill.

Let me just give a few of the highlights of what we were able to accomplish in this bill:

First of all, an overall increase of $4 billion over last year; a $2.2 billion increase for education programs. That is $500 million more than the President asked for. So if anyone says we did not take care of education, they do not know what they are talking about, and I say that in all candor; $500 million more than what the President asked for.

A $2 billion increase for the National Institutes of Health—$2 billion last year, $2 billion this year, keeping our promised goal of doubling NIH funding in 5 years.

We have had a very important increase for community health centers, a $100 million increase for community health centers. Community health centers in rural areas and in some of our poorer areas of this country are the health care system for a lot of poor people in our country, and they are doing a great job. This bill has a $100 million increase for community health centers.

We maintain the funding for all the job training and worker protection provisions in the Department of Labor. We have over a $600 million increase for Head Start. Maybe I would like to see a little bit more, but it is good progress. We are moving in the right direction towards getting all 4-year-olds covered in Head Start programs.

The Dodd amendment almost doubles the child care development block grant to $2 billion for child care. That is very important.

We double the funding for afterschool programs. Again, I know how strongly Senator SPECTER feels about this. He authored a bill, the youth antiviolence bill, of which I am a cosponsor, taking care of these kids after school. We doubled from $200 million to $400 million the afterschool programs.

We raised the maximum Pell grant from $3,150 to $3,325, the highest it has ever been.

Let me cut to the quick. I know many of my colleagues on this side of the aisle have signed a letter expressing their concern over the lack of authorization of reducing class size. We have the money in there for it, but we do not have the authorization.

As I have said repeatedly, reducing class size is critical. I am personally disappointed that Senator MURRAY's amendment was not adopted. But I want to be very clear, though, that there is absolutely no inconsistency with signing that letter and voting for passage of this bill.

We vote to send bills with problematic issues to conference all the time around here. Maybe there is one little thing we do not agree with, but overall we agree with the major thrust of the bill, and we send it to conference.

Do not let the perfect be the enemy of the good. This is a good bill. We should send it to conference. If you are concerned about class size, the best and quickest way to have those concerns resolved is to vote the bill out and send it to conference. We will have a chance there to make improvements. If you still have problems after that, you can vote against the conference report.

But this bill is too important to the health, the well-being, and the education of the American people to kill it on the Senate floor. Everyone who votes for this bill can be proud of their vote, proud of the investments that we have made in the human infrastructure of this country.

Lastly, people have said there are a lot of gimmicks in this bill. There are no gimmicks in this bill. We advance funds because of the unique way that education is funded in this country. We do not pay it out until the next year anyway. So there are no gimmicks in this bill. This is straightforward. This is a sound bill. I strongly urge my colleagues to vote for this bill.

Again, I thank Senator SPECTER, his staff: Bettilou Taylor, Jim Sourwine, Mary Dietrich, Kevin Johnson, Mark Laisch, Jack Chow, and Aura Dunn for all of their hard work. I also thank my minority staff: Ellen Murray and Jane Daye; also my personal staff: Bev Schroeder on education; Chani Wiggins on labor; Sabrina Corlette on health; Katie Corrigan on disabilities; Rosemary Gutierrez on child labor; and, of course, my outstanding leader, legislative director, Peter Reinecke, for all of his hard work.

So again I urge my colleagues on this side of the aisle to give this bill their "yes" vote and send it to conference resoundingly because it is a good bill, and it is good for America.

I ask unanimous consent that several letters in support of passage of this bill be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF CHILD CARE RESOURCE AND REFERRAL AGENCIES,
Washington, DC, October 7, 1999.

Hon. TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: On behalf of the Board of Directors and the more than 700 members of the National Association of Child Care Resource and Referral Agencies (NACCRRA), this letter urges the U.S. Senate to pass the FY2000 budget bill. NACCRRA appreciates the inclusion of a set-aside for child care resource and referral and school-age child care in the Child Care and Development Block Grant (CCDBG), even though we sought an increase in the CCDBG to provide more and improved services to children and families throughout the country.

NACCRRA especially thanks the Senate for including language for the Child Care Aware service in the budget bill. Child Care Aware is the only national hot-line for parents, families and community persons interested and involved in child care and early education to get connected to the CCR&R in their community. We continue to request inclusion of a funding amount for CCA: $500,000.

Thank you once again.

Sincerely,

YASMINA VINCI,
Executive Director.
EDNA RANCK,
Director of Public Policy and Research.

STUDENT AID ALLIANCE,
Washington, DC, October 7, 1999.

Hon. TOM HARKIN,
Ranking Member, Labor, Health and Human Services Subcommittee, Washington, DC.

DEAR SENATOR HARKIN: We write on behalf of the Student Aid Alliance—a coalition of 60 organizations representing colleges and universities, students, and parents—to thank you for your leadership in crafting a Labor-HHS-Education appropriations bill for FY 2000 that recognizes the need for increased investment in student aid programs.

Despite the constraints of a woefully inadequate 302(b) allocation and stringent budget caps, your bill will help maintain access to postsecondary education for low-income students. It clearly recognizes the need for sustained federal investment in proven student aid programs. We appreciate the central role you have played in bringing about increases for student aid programs in FY 2000.

At the outset of this year's appropriations process, the Student Aid Alliance set important goals for student aid funding. As you will recall, we have advocated for a $400 increase in the maximum Pell Grant, substantial increases in campus-based aid (SEOG, Perkins Loans, and Work-Study), LEAP, TRIO, and graduate education programs. Your bill takes a step in the right direction toward achieving our funding goals.

During the final weeks of the Congressional session, we will continue to seek additional opportunities to help achieve the funding recommendations of the Student Aid Alliance. We hope that by working together we can build upon your good work to make even more funding available for your subcommittee's priorities.

Again, thank you for your work on behalf of all college students. We look forward to working with you as the appropriations process continues.

Sincerely,

STANLEY O. IKENBERRY,
Co-Chair.
DAVID L. WARREN,
Co-Chair.

MEMBERS OF THE STUDENT AID ALLIANCE

American Association for Higher Education
American Association of Colleges for Teacher Education
American Association of Colleges of Nursing
American Association of Colleges of Pharmacy
American Association of Collegiate Registrars and Admissions Officers
American Association of Community Colleges
American Association of Dental Schools
American Association of State Colleges and Universities
American Association of University Professors
American College Personnel Association
American College Testing
American Council on Education
American Psychological Association
American Society for Engineering Education
American Student Association of Community Colleges
APPA: The Association of Higher Education Facilities Officers
Association of Academic Health Centers
Association of Advanced Rabbinical and Talmudic Schools
Association of American Colleges and Universities
Association of American Law Schools
Association of American Medical Colleges
Association of American Universities
Association of Catholic Colleges and Universities
Association of Community College Trustees
Association of Governing Boards of Universities and Colleges
Association of Jesuit Colleges and Universities
Career College Association
Council for Christian Colleges and Universities
Coalition of Higher Education Assistance Organizations
College and University Personnel Association
College Board
College Fund/UNCF
College Parents of America
Council for Advancement and Support of Education
Council for Higher Education Accreditation
Council of Graduate Schools
Council of Independent Colleges
Educational Testing Service
Hispanic Association of Colleges and Universities
Lutheran Educational Conference of North America
NAFSA: Association of International Educators
National Association for Equal Opportunity in Higher Education
National Association for College Admission Counseling
National Association of College and University Attorneys
National Association of College and University Business Officers
National Association of Graduate-Professional Students
National Association of Independent Colleges and Universities
National Association of State Universities and Land-Grant Colleges

National Association of Student Financial Aid Administrators
National Association of Student Personnel Administrators
National Collegiate Athletic Association
National Council of University Research Administrators
NAWE: Advancing Women in Higher Education
National Education Association
The Council on Government Relations
The Council for Opportunity in Education
United States Public Interest Research Group
United States Student Association
University Continuing Education Association
Women's College Coalition

NATIONAL COALITION FOR
CANCER RESEARCH,
Washington, DC, October 7, 1999.

Hon. TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: On behalf of the National Coalition for Cancer Research, a coalition of 25 national organizations of cancer researchers, patients, and research advocates dedicated to eradicating cancer through a vigorous publicly and privately-supported research effort; I want to thank you and your colleagues on the Labor-HHS Appropriations Committee for your strong support of the National Institutes of Health (NIH) with regard to the FY 2000 appropriations.

It is very important that the Senate make a strong statement regarding the continued commitment to double the budget of the NIH in order to sustain the momentum of this historic initiative. It is vitally important that the Senate pass this legislation in order to provide the necessary leverage to maintain the Senate's position in conference negotiations and to move this important legislation to the next process. Thank you for your strong support and consideration of this important issue.

Sincerely,

CAROLYN R. ALDIGE,
President.

NATIONAL ALLIANCE FOR EYE
AND VISION RESEARCH,
Washington, DC, October 7, 1999.

Hon. TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: Thank you for your continued strong commitment to biomedical research demonstrated by the $2 billion increase provided for the NIH in the Fiscal Year 2000 spending bill moving through the Senate.

On behalf of the National Alliance for Eye and Vision Research (NAEVR), I urge you and your colleagues to hold firm to your commitment through the conclusion of the budget process in order to stay on track towards doubling the NIH budget by 2003. Your efforts have given renewed hope to millions of Americans afflicted with disease and disabling conditions that improved treatments and cures may be close at hand.

It is critical that the Senate pass the Labor-HHS-Education spending bill in order that the nation's commitment to biomedical research is not weakened in the negotiations to determine the final funding outcome for NIH.

Once again, thank you for your strong support and for your consideration of this important issue.

Sincerely,

STEPHEN J. RYAN, MD,
President.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. I will be brief because I know we need to go to final passage.

I must say that, amazingly, in a moment we are going to be voting on final passage of the Labor-HHS appropriations bill. I think this is the first time in 3 years that we have done that. I know we did not have one last year. I cannot recall for sure about 1997. I know we did in 1996. Regardless, this is the 13th and last of the appropriations bills. We are going to get to final passage. I hope it will pass.

I have to extend my congratulations to the chairman of the subcommittee, the Senator from Pennsylvania, and the Senator from Iowa. A lot of people thought we could not get it done, but here we are. I want to say a special thanks to PAUL COVERDELL, who acted as one of my assistants on this matter, working with the whip on our side, and HARRY REID, who did a great job. In fact, I had asked Senator COVERDELL if he would do this every week, and he has respectfully declined.

Having said that, following this bill—the last appropriations bill—there will be no further votes this evening, and no votes will occur on Friday of this week. In addition, the Senate will not be in session on Monday, in light of the Columbus Day holiday.

On Friday, the Senate will begin consideration of the Comprehensive Test Ban Treaty at 9:30 a.m. Obviously, this is a very important treaty, a very important matter, so I urge my colleagues to participate in the debate tomorrow. I think we have somewhere between 10 and 20 speakers who are going to speak on this tomorrow. I hope the Senators will watch it from their offices or review the debate that occurs on Friday.

This evening, the Senate will shortly begin the Agriculture appropriations conference report. Additional debate on that issue will occur this evening. Several votes will occur on Tuesday, October 12, beginning at 5:30. There could be one vote or more. I think it is very possible there could be a couple votes at that time on Tuesday dealing with the Agriculture appropriations conference report and possibly with the Comprehensive Test Ban Treaty.

So I thank all my colleagues for their cooperation. We have had a very successful week. We passed the FAA reauthorization, confirmed two judicial nominations, passed the foreign operations conference report. Now we are hopefully fixed to pass the Labor-HHS appropriations bill, and we will file cloture tonight, since it seems it is necessary, on the Agriculture appropriations conference report.

The bottom line: No further votes tonight; the next vote, 5:30 on Tuesday.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I have a good bit to say, but since colleagues want to get to the airport, I shall say it after the final vote takes place.

I yield the floor.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. COVERDELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from New York (Mr. SCHUMER) is necessarily absent.

I also announce that the Senator from Connecticut (Mr. DODD) is absent because of family illness.

The PRESIDING OFFICER (Mr. SESSIONS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 25, as follows:

[Rollcall Vote No. 321 Leg.]

YEAS—73

Abraham
Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Bryan
Burns
Byrd
Campbell
Chafee
Cleland
Cochran
Collins
Coverdell
Daschle
DeWine
Domenici
Dorgan
Durbin
Feinstein
Frist
Gorton
Grassley
Gregg
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Mack
McConnell
Mikulski
Moynihan
Murkowski
Murray
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Smith (OR)
Snowe
Specter
Stevens
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—25

Allard
Ashcroft
Bayh
Brownback
Bunning
Conrad
Craig
Crapo
Edwards
Enzi
Feingold
Fitzgerald
Graham
Gramm
Grams
Hagel
Helms
Inhofe
Kyl
McCain
Nickles
Sessions
Smith (NH)
Thomas
Voinovich

NOT VOTING—2

Dodd
Schumer

The bill (S. 1650), as amended, was passed.

The text of the bill will be printed in a future edition of the RECORD.

Mr. SPECTER. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, I thank my colleagues on both sides of the aisle.

I ask unanimous consent when the Senate completes all action on S. 1650, it not be engrossed and be held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I thank my colleagues on both sides of the aisle for the very strong vote in support of this bill. I thank my distinguished colleague, Senator HARKIN, ranking member, for his cooperation, for his leadership, and for his extraordinary diligence. We have had an extraordinary process in moving through this bill.

It is very difficult to structure funding for the Department of Education, the Department of Health and Human Services, and the Department of Labor which can get concurrence on both sides of this aisle. The bill came in at $91.7 billion. There have been some additions. It is hard to have enough spending for some, and it is hard not to have too much spending for others. I think in its total we have a reasonably good bill to go to conference.

The metaphor that I think is most apt is running through the raindrops in a hurricane. We are only partway through. We are now headed, hopefully, for conference. I urge our colleagues in the House of Representatives to complete action on the counterpart bill so we may go to conference.

We have already started discussions with the executive branch. I had a brief conversation with the President about the bill. He said his priorities were not recognized to the extent he wanted. I remind Senators that the Constitution gives extensive authority to the Congress on the appropriations process. We have to have the President's signature, but we have the constitutional primacy upon establishing the appropriations process at least to work our priorities. I am hopeful we can come to an accommodation with the President.

We have had extraordinarily diligent work done by the staff: Bettilou Taylor, to whom I refer as "Senator Taylor," has done an extraordinary job in shepherding this bill through and taking thousands of letters of requests from Senators; Jim Sourwine has been at her side and at my side; I acknowledge the tremendous help of Dr. Jack Chow, as well as Mary Dietrich, Kevin Johnson, Mark Laisch, and Aura Dunn. On the minority staff, Ellen Murray has been tremendous, as has Jane Daye.

There is a lot more that could be said, but there is a great deal of additional business for the Senate to transact. I thank my colleagues for passing this bill.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—CONFERENCE REPORT

Mr. LOTT. Mr. President, I ask consent that the Senate proceed to the conference report to accompany the Agriculture appropriations bill, the conference report be considered as read, and immediately following the reporting by the clerk and granting of this consent, Senator JEFFORDS be recognized.

Mr. JEFFORDS. I object.

Mr. LOTT. In light of the objection, I now move to proceed to the conference report of the committee of conference on the bill (H.R. 1906) an act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2000, and for other purposes.

The PRESIDING OFFICER. The report will be stated.

The clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1906), have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

(The conference report is printed in the House proceedings of the RECORD on September, 30, 1999.)

Mr. LOTT. Mr. President, I ask consent following my remarks, Senator JEFFORDS be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I say to the membership, if an agreement cannot be reached for a total time limitation that is reasonable, I will file a motion for cloture on the Agriculture conference report, and that a cloture vote will occur on Tuesday of next week at 5:30 unless a consent can be worked out to conduct the vote at an earlier time or unless something can be worked out to just have the vote on final passage.

I ask the Senator from Vermont if he is in a position to agree to a time limitation for debate at this time on the pending Agriculture conference report?

Mr. JEFFORDS. I believe I can't make that agreement at this time.

Mr. LOTT. I thank my colleague for his frankness. I understand his feeling about it. I know there are Senators on both sides of the aisle who have some reservations about going forward with this bill. I know they can understand the need to move this very important bill on through the conference process and to the President for his signature.

CLOTURE MOTION

I send now a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the conference report to accompany H.R. 1906, the Agriculture appropriations bill.

Trent Lott, Thad Cochran, Tim Hutchinson, Conrad Burns, Christopher S. Bond, Ben Nighthorse Campbell, Robert F. Bennett, Craig Thomas, Pat Roberts, Paul Coverdell, Larry E. Craig, Michael B. Enzi, Mike Crapo, Frank H. Murkowski, Don Nickles, and Pete Domenici.

Mr. LOTT. I ask consent that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I ask consent that the cloture vote occur at 5:30 p.m. on Tuesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is now recognized.

Mr. JEFFORDS. Mr. President, it is with great disappointment and reluctance that I stand before the Senate to express my reasoning for opposing the fiscal year 2000 Agriculture appropriations bill. This bill provides funding for agricultural programs, research, and services for American agriculture. In addition, it provides billions of dollars of aid for farmers and ranchers throughout America who have endured natural and market disasters.

However, and most unfortunately, it neglects our Nation's dairy farmers. I understand the importance of funding these programs and the need to provide for farmers. However, dairy farmers throughout the country, drought-stricken farmers in the Northeast, have been ignored in this bill. Congress is willing to provide billions of dollars in assistance to needy farmers across the country. Dairy farmers in States are not asking for Federal dollars but for a fair price structure for how their products are priced.

Vermonters are generally men and women of few words. Given that the State's heritage is so intertwined with agriculture and the farmer's work ethic, whether fighting the rocky soil or the harsh elements, Vermonters have developed a thick skin. If Vermonters want advice, they will ask it. Until then, it is best to keep one's mouth shut.

Indeed, a Vermonter will rarely meet a problem with a lot of discussion but, rather, with a wry grin and perhaps a shrug. If there is a blizzard and the temperature is below zero, the Vermonter will most likely put on his boots and grab a shovel. Talking isn't going to make the snow melt, but hard work will clear a path so the mailman can get to the door.

A Vermonter will always speak his or her mind with the fewest words possible. President Calvin Coolidge was a native Vermonter to the core. A woman told Calvin Coolidge, that taciturn 30th President who hailed from Vermont, she bet she could get him to say more than two words. Coolidge thought a moment and then replied, "You lose."

Vermonters know I must speak my mind about the importance of protecting the farm families in our State. They expect me to be generous with my thoughts and expressions on just how critical the Northeast Dairy Compact is to Vermont. I will not let them down. The clock is ticking on the dairy compact and Federal order reform. Every moment is valuable.

As Governor Aiken, a true Vermonter, said:

> People ask what's the best time of the year for pruning apple trees. I say, when the saw is sharp.

In other words, procrastination has no place in a Vermonter's mindset. Assuming every Vermonter owns a sharp saw, the best time to get to work pruning an apple tree is right about now.

America's dairy farmers need our help. Now is the time to help them. Congress has the tools and the means, so let us not procrastinate on protecting the future of one of our most important resources. The farmers in New England have a program that works. It is called the Northeast Dairy Compact. Because the dairy pilot program has worked so well, no fewer than 25 States have approved compacts and are now asking Congress for approval.

Unlike other commodities such as wheat, cotton, or soybeans, milk cannot be stored to leverage a better price from the market. Milk must be bottled and shipped to the grocery store as soon as it is taken from the cow. Because of the unique situation milk is in compared to other commodities and ensuring there is a fresh local supply of milk in every region of the country, Congress established a pricing structure to protect farmers and consumers. There have been several modifications of the 1937 Agricultural Marketing Adjustment Act over the years to comply with changes at the marketplace, but the structure of the Federal milk marketing orders is as solid and important both to farmers and consumers today as in 1937.

The Federal milk marketing orders have assisted dairy farmers in surviving the economy and weathering prices. The Federal milk marketing orders over the last 60 years have been, and continue to be, supplying the Nation with sufficient supplies of a wholesome product and at very reasonable prices. You ought to compare the prices over time with other things such as soft drinks and things such as that and you will realize what a deal you have. To those who say they do not understand them, who make fun of their seeming complexity, I can only reply: They work. Because they work, dairy is not looking for a bailout in the form of disaster relief; no.

But dairy farmers do need relief of a different kind. There is no need for the expenditure of money. The compact we need to have does not cost the Government money; it saves the Government money. It also brings about a calm structure to the pricing aspects. It protects the producers, protects also the manufacturers, and has worked out especially well for consumers, giving them an average price for their milk which is lower than the average in the country. Where commodity farmers are asking their Government for relief from natural and market disasters, dairy farmers are asking for relief from the promised Government disaster in the form of a fair pricing structure from the Secretary of Agriculture.

This chart, which I will have here in a moment, will demonstrate so those who can see it will understand better what I am talking about. What we are here about today is that, basically, we have a very reasonable request for the continuation of a compact which has worked for many years now, and is so good that, first of all, it has 25 States that have passed laws to have another compact. But, most importantly, it also, unfortunately I should say at the same time, is keeping farmers in business. For some reason or other, those up in the Midwest, who have this compulsion to believe they can provide the milk for the whole Nation if they just had the chance, they don't like it. Why? It is keeping the farmers in business and they want them out of business so they can take away their markets.

Second, you have people who do not like it—although those in the area who are using it like it very much—but others outside the area are very concerned about it; that is, those who buy the milk are concerned because they no longer have a monopoly or they are at the mercy of the market. Because when dairy sits there, it spoils, so you have to get it right away. If nobody takes it, it is not worth much. So the processors do not like this because they do not set the price. They do not have a monopoly.

How does it work? We put together a system for the dairy farmer up in northeastern Vermont. They worked out this arrangement. That is why Massachusetts, which has very few farms, and Rhode Island, agreed to join together, because they found out it would work out for their processors, it would work out for the consumers, and it would work out for the farmers. But dairy farmers do need relief of a different kind.

There is no need for an expenditure of money where commodity farmers are asking for relief from natural and market forces. They are asking for relief in the form of a fair pricing structure from the Secretary of Agriculture. This chart says it all. I hope my colleagues remember, I had this chart before this body some time ago. It helps us get the necessary votes to show a majority understood. From this chart, which is the revenue loss resulting from the Federal USDA order proposed—that is 1–B—you can see why we are having such conflict and why we are having a difficult time getting the dairy bill through.

On this chart, those States in red are the ones that will lose under 1–B. The States in green are the ones that will gain. Guess where those are that will gain. They are in the upper Midwest. Everybody else in the country, with a few exceptions, loses. So what does the Secretary do? He sets up this scam way of approving the order by saying it is 1–B or disaster. How would you vote? Would you vote for 1–B or would you vote for disaster? Guess what. 1–B won, but was that the preference of the farmers? No. We have gone to court on that and the court agreed and said that was a farce. So there is a restraining order to stop the imposition of 1–B. But remember that chart because it shows why and what this is all about.

Unless relief is granted by correcting the Secretary's final rule and extending the Northeast Dairy Compact, dairy farmers in every single State will sustain substantial losses, not because of Mother Nature or poor market conditions but because of the Clinton administration and the few in Congress who have prevented this Nation's dairy farmers from receiving a fair deal.

Unfortunately, Secretary Glickman's informal rulemaking process developed pricing formulas that are fatally flawed and contrary to the will of Congress. The Nation's dairy farmers are counting on this Congress to prevent the dairy industry from being placed at risk, and to instead secure a sound future.

Secretary Glickman's final pricing order, known as option 1–B, which I just talked about, was scheduled to be implemented on October 1 of this year. However, the U.S. district court has prevented the flawed pricing system from being implemented by issuing a 30-day temporary restraining order on the Secretary's final rule. That will expire at the end of this month. Hopefully, it will be extended.

The court found the Secretary's final order and decision violates Congress' mandate under the Agriculture Marketing Agreement Act of 1937, and the plaintiffs who represent the dairy farmers would suffer immediate and irreparable injury from implementation of the Secretary's final decision.

The court finds the plaintiffs have a likelihood of success in their claim that the Secretary's final order and decision violates the AMAA by failing adequately to consider economic factors regarding the marketing of milk in the regional orders across the country.

Again, this chart shows why the court said we had better take another look at this. If this is what is going to happen with this order by the Secretary of Agriculture, that does not seem to be consistent with talking about the regions, making sure the regions are handled fairly.

The temporary restraining order issued by the U.S. district court has given Congress valuable additional time to correct Secretary Glickman's rule. We must act now. With the help of the court, Congress can now bring fairness to America's dairy farmers and consumers. Instead of costing dairy farmers millions of dollars in lost income, Congress should take immediate action by extending the dairy compact and choosing option 1-A for the Secretary.

The Agriculture appropriations bill, which includes billions of dollars in disaster aid, seems to be a logical place to include provisions that would help one of this country's most important agricultural resources without any cost to the Federal Government. Again, I repeat that over and over again—without any cost to the Federal Government. Giving farmers and consumers a reliable pricing structure and giving the States the right to work together, at no cost to the Federal Government—again, at no cost to the Federal Government—to maintain a fresh supply of local milk is a novel idea.

If you learn about agricultural problems in this country, you will realize much of the aid in this bill does not go for disasters of the kind of weather or whatever. It is low prices. So what is going to happen? The Federal Government is going to put up billions of dollars because the farmers did not get the price that they thought was fair. That is fine, but why in the world could you, then, deny the area of New England an order which helps them to keep their farmers in business and doesn't cost any money to the Federal Government?

That sounds like a convoluted way of running a system, but we may be getting used to it.

It is an idea towards which Congress should be working. Instead, a few Members in both the House and Senate continue to block the progress and the interest of both consumers and dairy farmers.

The October 1, 1999, deadline for the implementation of the Secretary's rule has come and gone, but with the help of a U.S. Federal district court, Congress still has time to act. We must seize this opportunity to correct the Secretary of Agriculture's flawed pricing rules and at the same time maintain the ability of the States to help protect their farmers without additional costs to the Federal Government.

Federal dairy policy is difficult to explain at best. I have been here 24, 25 years. When I was in the House, I was fortunate enough, or unfortunate as you might say, to be the ranking member on a subcommittee dealing with dairy. I point back to that time because that was the Watergate years. The reason I got that job was because there were not many Republicans left, and all of us received ranking jobs of some sort.

At that time, we had problems, and we have had problems every year I have been here. We finally have come across a program that works that will prevent the travesties we have witnessed over the years. I have seen it for 24, 25 years now, and I finally see there are programs that will work, programs that will keep us out of disasters, programs that will make us proud of agriculture and protect the consumers' costs and protect all the others who work with it. Why do we want to do away with it?

Federal dairy policy is difficult to explain at best. As a Member who has served many years, and during my years in the House, I worked very closely with dairy programs that impacted dairy farmers and consumers. The Federal Milk Marketing Program may be difficult to explain, but its intent is simple. The Federal milk marketing orders, which are administered by USDA, were instituted in the 1930s to promote orderly regional marketing conditions by, among other things, establishing a regional system of uniform classified pricing throughout the country's milk markets. Milk marketing policy is defined by the fact that milk is a unique commodity. It is not something such as grain which is put in a storage bin or put in a freeze locker or canned. When you want it, you want it fresh and you want to be able to drink it.

Fluid milk is perishable and must be worked quickly through the marketing chain and reach consumers within days of its production. That is why if a farmer goes to the person from whom he normally purchases milk and he says we don't want it, they are at their mercy: "Well, we'll take it up $2, $3 less a hundredweight if you really want to get rid of it."

Unlike other commodities, this means that dairy farmers are in a poor bargaining position with respect to the price they can obtain from milk handlers. In addition, persistent price instability, particularly when prices are depressed, serves to drive producers from the market and damage the market's ability to provide a dependable supply of quality milk to consumers.

We get this up and down. If there is too much, farmers go out of business; if there is too little, then farmers either come back or they put more cows out. The interesting thing is, if you look at the charts—consumers should be very interested in this—you will see a ratchet effect. Every time the price to the farmer goes down, the retail price stays up there because the processors keep it up there. The farmers lose and the consumers lose. That price should go down if the demand goes down, but that does not happen. That is another reason why this compact has worked so well because it takes that ratchet situation out of the system.

Based on the Agriculture Marketing Agreement Act of 1937, the major objectives of the Federal milk marketing orders are as follows: to promote orderly marketing conditions for dairy farmers; to equalize the market power of dairy farmers and processors within a market and thereby obtain reasonable competition; to assure consumers of adequate and dependable supplies of pure and wholesome fluid milk products from the least costly sources; and to complement the efforts of cooperative associations of dairy farmers, processors, and consumers; and to provide maximum freedom of trade with proper protection of established dairy farmers against loss of the market.

For dairy farmers increasing production to adjust to market conditions is not a matter of sowing more seeds. Price stability is a key to dairy farmers' success. That makes sense to me and should make sense to anyone who values having a local supply of fresh milk available at their local market at reasonable prices.

Yet while the market order system is basically sound, it still needs improvement. It is for this reason that the Congress in the 1996 farm bill directed the Secretary of Agriculture to revise the pricing system.

This Congress has made its intention abundantly clear with regard to what is needed for the new dairy pricing rules. Sixty-one Senators and more than 240 House Members signed letters to Secretary Glickman last year supporting what is known as option 1-A for the pricing of fluid milk.

On August 4 of this year, you will recall the Senate could not end a filibuster from the Members of the upper Midwest but did get 53 votes, showing a majority of the Senate supports option 1-A and keeping the Northeast Dairy Compact operating. Most recently, the House passed their version of option 1-A by a vote of 285-140.

The House and Senate have given a majority vote on this issue. Thus, I was very hopeful that its inclusion would have been secured in the Agriculture appropriations bill.

This unified statement of congressional intent reflected the fact that the majority of the country and the dairy industry support option 1-A. It has a broad support of Governors, State departments of agriculture, the American Farm Bureau, and dairy cooperatives and coalitions from throughout the country. Even the Land-O-Lakes Cooperative in the upper Midwest supports option 1-A and the compacts.

You can imagine the surprise and disappointment of so many of my colleagues and dairy farmers around the country when Secretary Glickman instead chose option 1-B for the pricing structure for fluid milk. Simply stated, if this option is allowed to be implemented, it will put the future of this country's dairy industry at severe risk.

The pricing provisions of the Secretary's final rule will result in lower producer prices by as much as a $1/2 million a day and will unnecessarily force farmers out of business. Adequate local supplies of fresh milk in our region will then be threatened and consumers will pay higher prices for fresh milk which is transported great distances from other areas of our country.

I see my good friend from New Jersey is here. I am ready to go on at length. I expect he wants to express himself.

Mr. President, I yield the floor at this time.

Mr. TORRICELLI. Mr. President, I thank the Senator from Vermont for yielding. I thank him in behalf of the dairy farmers in New Jersey and agricultural interests in our State and region for his extraordinary leadership in what is a defining moment for those of us in the Senate as to whether or not we will stand with agriculture in the Northeast or the dairy farmers and the farmers who remain in our region of the country are simply to dwindle and die as did so many who came before them.

I could not feel more strongly about this issue at this moment in the Senate. As the Senator from Vermont, year after year I have come to this well—or in my service in the House of Representatives—as an American feeling the need and the pain of others who suffered from hurricanes in Florida, earthquakes in California, tornadoes in the Midwest, floods in the upper Northwest to get assistance to people in need.

Through the years, I voted for agricultural appropriation after agricultural appropriation because I understood the hard work of American farmers in our heartland and the difficulties they face in flood or in diseases to crops, whatever the problem might be.

You can imagine my surprise to find, when the State of New Jersey, New England, and the Mideastern States have suffered the worst drought in generations, that our farmers are not receiving the same consideration.

From June through August, in a normal year, the State of New Jersey would receive 8 inches of rain. This year, New Jersey received 2 inches of rain. Our reservoirs were severely drained. The crops of many fruit and vegetable growers were devastated with losses of 30 to 100 percent.

Yesterday, Senator SANTORUM noted that this legislation deals with the falling prices of crops in the Midwest and offers relief. He appropriately said: We wish we had falling prices at which to sell our crops.

The crops of New Jersey farmers are destroyed. Yet this legislation, which offers $8.7 billion in relief, goes largely for low crop prices in the South and to a lesser degree in the Midwest. Only 10 percent is for natural disaster assistance for the entire Nation.

Not only is it not adequate, it is an insult to the hard-working farmers in New Jersey and New England who have been devastated by the drought. In my State, 400,000 acres of farmland, on 7,000 farms, have sustained what is estimated to be up to $100 million worth of damage.

Secretary Glickman has estimated there could be $2 billion worth of damage in the entire Northeast. The Governors of our States, including Governor Whitman in my own State, have estimated it could be $2.5 billion. That was before Hurricane Floyd brought its own damage to North Carolina and New Jersey and other agricultural interests. This legislation offers but 10 percent—less than half, probably less than a third—of what the need really is at the moment.

It will surprise some around our country to understand why a Senator from New Jersey would take this stand attempting to block the entire agricultural appropriations for the whole Nation because of farmers in New Jersey.

New Jersey has not been identified as the Garden State by chance. Agriculture in New Jersey is a $56 billion industry. It is the third largest industry in the entire State. It matters. The nursery industry alone is a $250 million annual business. The sale of vegetables, such as tomatoes, peppers, and cucumbers, is a $166 million industry. And the sale of fruits, such as cranberries, peaches, and blueberries, is a $110 million business. Our field crops, such as corn, winter wheat, and soybeans, generate $66 million in sales while our dairy industry is a $41 million business.

This is not some ancillary problem in the State of New Jersey. It is the economic life of whole counties, entire communities, and thousands of people. At $8,300 for an average acre of land in New Jersey, our farmland is the most valuable in the Nation, growing 100 different kinds of fruits and vegetables for local and national consumption.

I take a stand against this legislation because I have no choice. I join with the Senator from Vermont because of the devastation of our agriculture industry but also because I share the Senator's deep concern for the future of dairy. The dairy industry was once one of the largest and most important in the State of New Jersey. There are now no more than 180 dairy farms left, with hard-working people in Salem, Warren, Sussex, and Hunterdon Counties.

I know if the Senator from Vermont does not get consideration for his dairy farmers, his dairy industry will become tomorrow what the dairy industry has come to be today—prices that do not sustain a quality of life and do not allow people to keep the land. Those dairy farms will be destroyed.

In the last decade alone, 42 percent of the dairy farms in New Jersey have been destroyed—beautiful lands that sustained families and communities and are now parking lots and shopping centers or simply vacant, idle land. The fact is, a dairy farmer today in New Jersey cannot get a price to sustain the costs of his business. Without the compact that the Senator from Vermont is advocating, they never will. New Jersey dairy farms have experienced a 37-percent drop in the price of their product. It is not sustainable.

So I thank the Senator from Vermont for yielding the time. I pledge to return to this floor with him to fight for disaster assistance for New Jersey farmers who have lost their crops and need help—not a loan, because they cannot sustain a loan; they cannot pay interest on a loan. These are small family farms that simply need a Federal grant, a fraction of the kind of expenditures that will go to the South and the Midwest—a fraction—so they can plant their crops again in the spring and have a new crop next year to feed their families and feed our communities. For this dairy compact, we need to make sure these few remaining dairy farmers are not lost and the 20 percent of the fresh milk that goes to New Jersey families can continue to come from our own farms.

For those people who live in the urban areas of New Jersey and in suburban communities, who think they are far away from these dairy and agricultural needs, this remaining agricultural land in New Jersey must not be destroyed, because with every dairy farmer who goes out of business, every family farmer who has to sell their land, that open space is lost to suburban sprawl, and it affects the quality of life of every family in our State.

So I thank the Senator from Vermont for yielding the time. I pledge to return again and again with him to try to fight this legislation and, if by chance we should fail, to urge the President to veto it. I thank the Senator for yielding the time.

I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. I commend the Senator from New Jersey for his very realistic look at this bill. I would like to emphasize that there is so much more than the ordinary disaster in here. It has nothing to do with hurricanes and the drought. And the billions of dollars for the Northeast, which had the drought and problems and all, have nothing to do with farmers. Not only that, the program they have—which costs no money and which has given security to the farmers and helped the consumers—will not go forward. They rejected our attempts to put it in there.

The Senator from Oregon, I believe, desires to speak on another matter. I would like to finish up with a few more remarks, and then I would be happy to yield. We may have one other Member coming over to speak on dairy. But I know he also supports this effort, and I appreciate that very much.

Let me remind my colleagues that unlike years ago, the Federal pricing program has essentially no Federal cost and no Federal subsidy. So here we are arguing for something to protect our farmers, to protect consumers, to protect the processors with a reasonable price, and we cannot get it approved, when billions of dollars are being spent in the disaster bill for nondisasters—except a lower price. That is a disaster, but it is not the kind of disaster we look to for protection by the Federal Government.

The overall loss to dairy farmers caused by the overall final rule is even more startling. We are back on 1–B, the one the Secretary of Agriculture jammed down the farmers' throats. Fortunately, the courts have put a stop to that.

The Secretary's final rule will drop the price paid for cheese by as much as 40 cents per hundredweight of milk. That is the way we look at how we reward the farmers for each hundredweight of milk. Dairy economists estimate that U.S. dairy farm annual income will fall in total by at least $400 million or more under the Secretary's final decision.

Who benefits from that? Do the consumers? No. There is no evidence whatsoever that they will benefit. Who will benefit? The processors, the ones that buy the milk. Their profits will go up. The farmers' profits will go down. And the consumer prices will go up. What we are trying to set up is a system where that does not occur. The Northeast is projected to lose $80 million to $120 million per year under 1–B. The Southeast loses $40 to $60 million. The upper Midwest will lose upwards of $70 million, even though, as the chart in red shows, they lose a lot less. In fact, they gain. On the other hand, most areas of the country will be better off under option 1–A, including the upper Midwest. Marginally increasing producer income in most regions of the country, option 1–A is based on solid economic analysis, benefiting both farmers and consumers. It takes into account transportation costs for moving fluid milk, regional supply and demand needs, the cost of producing and marketing milk, and the need to attract milk to regions that occasionally face production deficits.

In early August, dairy farmers were given the opportunity to vote for option 1–B or reject the Federal Milk Marketing Order Program. That is right. There were two choices given to dairy farmers: Either approve option 1–B or have no Federal order program. Which is it? It is not a surprise that the farmers overwhelmingly chose the lesser of two evils.

There was no sense to this. There was no reason to allow it to occur. Correcting the Secretary's final rule, as part of the Agriculture appropriations bill, would have prevented dairy farmers across the Nation from losing millions of dollars in income.

Let me also explain briefly, before I turn to my friend from Oregon, the votes were in the conference committee to put in what we are trying to do. They were there. However, what happened? Just as we were about to have that vote, people from processors and others came in, and the leaders who were behind this move were able to convince those Members not to vote for what we want here, which is basically real help to farmers and consumers.

With that, Mr. President, I yield the floor, at least until my good friend from Oregon has finished.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I want to take a few minutes tonight—Senator GRAHAM of Florida will be joining me, and Senator GORDON SMITH of my home State, my friend and colleague, will be joining me as well tonight—the three of us want to take a few minutes to talk about the important amendment we were able to have added to the HHS appropriations bill during the course of the last week.

In the beginning, we especially express our appreciation to Senator SPECTER and Senator HARKIN. They worked with the three of us and our staffs over the last week on this particular issue.

What our agricultural labor amendment does is require the Department of Labor to report to the Congress on how the Department plans to promote a legal, domestic workforce—specifically, to improve compensation, working conditions, and other benefits for agricultural workers in the United States.

Today's agricultural labor program is a disaster for both farm workers and for farmers. We have a system that is completely broken. Estimates are that well over half of the farm workers in this country are illegal. As a result of their status, they can have no power at all. They can't even vote. They are subjected to the worst possible conditions imaginable, horrendous housing, and, in many instances, thrown into the back of pickup trucks and moved by people called coyotes, who, for a profit, bring them from other countries. The conditions to which our agricultural workers are subjected in so many instances are nothing short of immoral.

At the same time, the growers, who have a dependable supply of workers to pick their crops, are also in a completely untenable situation, the growers who want to do the right thing. Senator SMITH and I represent a great many of those growers and farmers in our home State of Oregon, who don't know where to turn to find legal workers.

The General Accounting Office did a report a couple of years ago on the farm worker situation in our country. They said there really are enough farm workers, but they came to that conclusion only by counting the illegal farm workers in our country. Well over half of the farm workers in the United States are illegal. It is a situation that essentially turns those farmers, when they want to do the right thing, into people who have to make a choice as to whether or not they want to be felons and not comply with the law or simply another individual in the bankruptcy line in our country.

To give you an idea how absolutely unacceptable this situation is, just this week I had berry farmers from my home State in Oregon telling me they had recently had meetings with the Department of Justice and the Immigration and Naturalization Service. They were told, in effect, how to work the system, but they weren't given any hope that what they were doing was within the law. In effect, the administration was telling the berry farmers in my State, with a wink and a nod, they should tolerate this system that is based on workers who can have no power and farmers who lack a system that is dependable and reliable so they can find legal workers.

In the last session of Congress, Senator GRAHAM, Senator SMITH, and I put together a bipartisan proposal to change this wholly unacceptable situation and produce a new system for dealing with agricultural labor that would be in the interest of both the farm worker and the farmer. Under our proposal, workers who were legal would get a significant increase in their benefits. Just how significant was documented in a report done for us by the Library of Congress, October 21, 1998. At page 2 of that report, it states specifically that the Library of Congress found that under our proposal—it received 67 votes in the Senate—the legal farm worker would get significantly higher wages, under what the Senate voted for. In addition, there would be benefits for housing, transportation, a variety of benefits that are so critical to the farm workers.

But after 67 Members of the Senate voted for our proposal, the administration said: It is unacceptable. We are going to veto it. It is not good enough. We have other ideas.

At that time, Senator SMITH, Senator GRAHAM, and I entered into a series of discussions with the Clinton administration asking them for their plan on how to produce this system that would address the legitimate concerns of both the farm workers and the growers. We have been at that for more than a year.

I see our good friend Senator GRAHAM coming to the floor, and I will yield to him in just a moment.

Senator GRAHAM, Senator SMITH, and I have been at the task of trying to get from the administration their plan to deal with agricultural labor for more than a year. We told them, if they don't like our proposal—67 votes in the Senate; the Library of Congress said it will produce higher benefits, wages, improved transportation, and improved housing for so many legal workers—since it wasn't good enough for the Clinton administration, we would like to see their proposal. We decided we would, in the spirit of comity and a desire to get an agreement with the executive branch, wait for their proposal.

We are still waiting to this day. The administration remains on the sideline to this day, unwilling to come forward with any specific ideas that would be in the interests of both the workers and the growers. Just this week, they told the berry farmers in my home State—and we do a lot of things in Oregon well; frankly, what we do best is grow things; our farmers are very important to our State—the administration basically told them, just wink and nod at the rules that are out there today.

In December of 1998, Alexis Herman, Secretary of Labor, sat in a meeting in Senator GRAHAM's office with Senator GRAHAM, Senator SMITH, and myself. Alexis Herman told us, three Members of the Senate, that the administration would give us a specific proposal for dealing with this agricultural labor situation by the end of February 1999.

No such proposal has ever been delivered. In a moment, I am going to yield to my friend from Florida because he has essentially laid out a timeline that demonstrates how many times we have tried to get the administration off the sidelines and to join us in a bipartisan effort to produce a system that would work for the farm worker and for the grower.

By its inaction, the administration is perpetuating a system that is a disaster for both the farm worker and the farmer. It is a system that is totally broken—a system that has condemned the vast majority of farm workers to some of the most terrible and immoral conditions imaginable. It is a system that has made it impossible for the farmers who want to do the right thing to know where to turn.

In the last Congress, Senator GRAHAM, Senator SMITH, and myself brought a legislative proposal that would change that, which the Library of Congress said would produce a significant amount of additional benefits for the legal farm worker. The Clinton administration said that wasn't good enough, and we have waited and waited for their ideas.

Well, tonight, as a result of the action taken in the Labor-HHS bill, we are calling, as a matter of law, on the Clinton administration to give us their plan as to how to produce a legal domestic workforce, which would have improved compensation, improved working conditions, and improved benefits that those farm workers are entitled to as a matter of simple justice.

So I am hopeful that we will get the administration off the sidelines soon. I am hopeful that they will do what they promised to do well over a year ago.

If the Senator from Vermont is willing, I would like to break my remarks off at this point and allow the Senator from Florida to speak for a few minutes. We want to be courteous to our colleague from Vermont because he is dealing with an issue of great importance to him. We will be brief.

I ask unanimous consent that a memorandum be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
LIBRARY OF CONGRESS,
Washington, DC, October 21, 1998.

[Memorandum]

To: The Honorable Ron Wyden; Attention: David Blan.
From: American Law Division.
Subject: Agricultural Labor Proposal.

In your letter of October 15, 1998, you asked for a memorandum comparing the basic federal protections available to farm workers with the protections that would have been extended to farm workers under the proposed conference agreement to the Commerce State Justice bill/H2A provision. The letter stated that you are "especially interested in whether the agricultural labor proposal before the Appropriations Conference Committee would have offered farm workers, and particularly the more than 99.5% of U.S. farm workers who work on non-H-2A farms new or expanded benefits compared to current law."

The proposal would have required the Secretary of Labor to establish state and regional registries containing a database of eligible United States workers seeking temporary or seasonal agricultural jobs, in order to inform those workers of available agricultural jobs and to grant them the right of first refusal for available jobs. Basically, farmers would have to apply to the registry for U.S. workers, and hire all referred U.S. workers, before they could seek nonimmigrant alien temporary agricultural workers under the immigration program known as "H-2A." Agricultural employers could not import any workers unless the registry failed to refer a sufficient number of registered workers to fill all of the employer's job opportunities. Therefore, the employer could only acquire as many imported workers as would be needed in addition to those U.S. workers referred.

The proposal would have had an impact on domestic farm workers in addition to its effect on alien workers. The general legislative scheme was to condition the right of an agricultural employer to request and hire temporary alien workers on the employer's requirement, first, to seek domestic workers from the registries maintained by the Labor Department, and, then, to extend the protections granted to H-2A aliens under the proposal to all workers in the same occupation on the same farm. Under the proposal, agricultural employers seeking domestic and foreign workers through the registries were required to assure that they would not refuse to employ qualified individuals, and would not terminate them unless there were "lawful job-related reasons, including lack of work." Employers were also required to comply with the following specific assurances.

WAGES

Under current law, agricultural employers, unless they are exempt as small farmers, must pay the applicable minimum wage and overtime rates under the federal Fair Labor Standards Act (FLSA) or 1938, as amended. 29 U.S.C. §§201–19. Under that law, farm workers must receive the greater of the applicable federal or state minimum wage.

Under the conference agreement, the employer must pay the greater of the prevailing wage in the occupation or the adverse effect wage rate to the workers. The employer using the registry must provide assurances that the wages and benefits promised to the workers hired from the registry would be provided "to all workers employed in job opportunities for which the employer has applied [from the registry] and to all other workers in the same occupation at the place of employment."

MIGRANT WORKER PROTECTION

Under current law, agricultural employers who hire migrant and seasonal workers must comply with the provisions of the Migrant and Seasonal Agricultural Worker Protection Act (MSWPA). 29 U.S.C. §§1801–72. The MSWPA, however, does not cover any temporary nonimmigrant alien authorized to work in agriculture employment under the H–2A program. See 29 U.S.C. §1802(8)(B)(ii).

Under the proposal agricultural employers were required to comply with all applicable federal, state, and local labor laws, including laws affecting migrant and seasonal agricultural workers, for all United States workers as well as all alien workers on the farm.

HOUSING

Under current law, employers have no responsibility to provide housing or housing assistance to their workers. Under the Migrant and Seasonal Agricultural Worker Protection Act (MASWPA), any person who owns or controls housing must comply with substantive federal and state safety and health standards applicable to that housing. 29 U.S.C. §1823.

Under the conference proposal, employers are required to provide housing at no cost to all workers in jobs for which the employer has applied to the registry, and to all other workers in the same occupation as the place of employment, if the workers' permanent place of employment is beyond normal commuting distance. The employer may provide a housing allowance as an alternative.

WORKERS COMPENSATION

Under current law, workers compensation coverage is exclusively a subject of state law, which may not cover all agricultural employees, especially those considered casual or temporary.

Under the proposal, the employer was required to provide insurance coverage providing benefits equivalent to those under state law, at no expense to the worker, for any job that was not covered by the state workers compensation law.

HEAD START

Under current law, migrant employees find barriers to participation in Head Start programs.

Under the proposal, the Migrant and Seasonal Head Start Program would have been established, removing barriers to participation by the children of migrant farmworkers.

TRANSPORTATION

Under current law, employers are not obliged to provide transportation to workers. If transportation is furnished, the employer and any farm labor contractor must comply with the motor vehicle safety requirements of the MSWPA. 29 U.S.C. §1841.

Under the conference proposal, a worker who completed 50 percent of the period of employment would be reimbursed for transportation expenses to the job, and a worker who completed the period of employment would be reimbursed for the cost of transportation back to the worker's permanent place of residence.

ENFORCEMENT OF LABOR LAWS

Under current law, labor laws are enforced primarily by the U.S. Department of Labor and by the responsible state labor enforcement agencies.

Under the proposal, the Secretary of Labor was required to establish an expedited complaint process, including a written determination of whether a violation has been committed within 10 days of the receipt of a complaint.

Workers on farms where the employer did not seek workers through the Labor Department registry would not have been affected by the proposal. Agricultural employers who hire migrant and seasonal workers must comply with the provisions of the Migrant and Seasonal Agricultural Worker protection Act (MSWPA). 29 U.S.C. §§1801–72.

In conclusion, the proposed agricultural registry program would have required farmers to extend the protections of the federal migrant and seasonal worker law to all workers in the same occupation on the site. The proposed agricultural employment bill could well have expanded employment protections for U.S. workers beyond current law. If an agricultural employer applied to a registry and found enough U.S. workers for some or all of the available job opportunities, then those U.S. workers would have been entitled to the enhanced wage, housing, transportation, and other benefits and protections made applicable to all employees in the same work on the same site.

Mr. WYDEN. I am going to yield the floor at this time.

Mr. JEFFORDS. Mr. President, the Senator from Maine has a brief statement to make on the bill that we are talking about. I know the Senator from Florida has a brief statement, and I have no objection to the Senator from Florida leading. I also thank my friend from Oregon for his remarks about a very serious topic.

I yield to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I thank my colleagues from Vermont and Maine for their always courteous generosity, and my colleague from Oregon, with whom I have been working so closely for approximately 2 years-plus now on this important issue.

There is one thing I believe we can agree on, and that is that the status quo of agricultural farm workers in America is unacceptable. It is unacceptable to have somewhere between 35 and 50 percent of all of our migratory farm work done by people who are here illegally. It is unfair to the individuals involved because it puts them in the shadows of our society.

If I may, I will state a personal experience. Immediately after Hurricane Andrew, which hit south Florida in August of 1992, there was great concern about communicable diseases such as cholera; therefore the Public Health Service wanted to inoculate the whole population against the potential of these diseases. There is a substantial migrant farm worker population that lives in the southern part of our State, and many of those people refused to come forward to be inoculated, nor would they allow their children to be protected against communicable diseases because they live in such a dark shadow because of their undocumented status. They were fearful that if they came forward, even with firm promises and commitments by the Public Health Service that they would not be reported for any other purpose, they were still not willing to take the risk. So they put themselves, their families, and the entire community at risk. That is one anecdote of the degree to which, by our acceptance of the status quo, we have placed hundreds of thousands of people into a status of servitude and in the dark closet of our society.

We also have placed honest farmers in an extremely difficult situation. They are frequently presented with documents that appear to be credible. They hire people to do necessary work during the brief period that is available to harvest the crops, and then they find out later that these people had fraudulent documents, were undocumented, and that they might be subject to various sanctions.

We also know that because of the current system, we have farm workers—both those who are legal citizens or residents of the United States, as well as those who are undocumented—living in horrendous circumstances of housing, being transported in vehicles that don't meet basic safety standards, being placed in a position where their salaries are held each week in order to pay off previous debts, and they live in conditions that are reminiscent not of the 21st century but of the 17th or 18th century. These people are doing extremely difficult work, work that is vital to our Nation and vital to our Nation's economy. They deserve better from us, the policymakers of America, than we have done for them in the past.

One thing we also know, in addition to the fact that the status quo is unacceptable, is the status quo will continue until we decide that this issue is important enough to engage in a serious debate in which we can analyze what the problems are with the status quo, and what the range of solutions to those problems are, and which of those solutions appear to be most appropriate. And it is regarding that which the Senator from Oregon has mentioned that we have had a series of efforts to try to elicit from the administration their plan.

Now, why have we focused so much on the administration? Well, first, they happen to have a unique perspective on the problem, since they are responsible to the Department of Labor, and, secondarily, the Department of Agriculture, for the implementation of the status quo. Therefore, they should be in a specially advantaged position to analyze and recommend alteration to the status quo.

We also know in this form of government we have that while the legislature's responsibility is to enact law, the President, because of his role and because of his constitutional veto authority, plays a key position in terms of legislation and the law.

So beginning in June of 1997, we have been meeting with representatives of the administration, heads of departments, as well as representatives of the White House. Senator WYDEN and myself, sometimes accompanied by others, have met face-to-face, occasionally by conference telephone call, and occasionally by correspondence with the administration on 12 separate occasions between June of 1997 and May of 1999.

Each one of those had a common theme: What is your proposal? What is your diagnosis of the problem? What is your prescription against this problem? As of today, in early October of 1999, we have yet to receive a credible response to that question.

Thus, the amendment that was accepted to the bill we have just adopted directs the administration to submit to the Congress such a plan. It is my hope that the administration will do so with a sense of expedition. I hope within a period of 60 or 90 days we receive its recommendations so that, if not at their first session of the 106th Congress, then at the earliest point in the second session of the 106th Congress, we would be in a position to have the administration's views as to how this very vexatious problem could be resolved.

I might say that the fact we have made this request, and have made it now for the better part of 30 months, is not an indication that we are going to desist until we have heard the administration's plan. While we would like to have their guidance and suggestions, we consider it to be our ultimate responsibility, as we did in 1998 when we presented to the Senate and the Senate adopted by a margin of well over 2 to 1, the proposal that we submitted. We will continue to take effective action to keep this issue on America's agenda because we cannot tolerate a continuation of the status quo which places hundreds of thousands of human beings into a position of servitude and which places hundreds of thousands of legitimate farmers in a position in which they must operate at the fringe of the law when what they want to do is to be law-abiding citizens.

Before this 106th Congress concludes, I hope we will have had the wisdom to reject the status quo and to have adopted humane, effective public policy which will erase the stain of the status quo of American farm workers, which will have lifted this cloud of illegality from American farmers, which will assure standards of treatment that we as fellow human beings would consider to be dignified and respectful for other human beings, and that we can move forward with a new era in America agriculture.

I appreciate the work of my colleague from Oregon. I also commend our other colleague from Oregon, Senator GORDON SMITH. It is an outstanding example of the people of Oregon who have sent to us these two Members of the Senate, who happen to be from different parties but understand their ultimate commitment is to America and to what is best for this great Nation. They are giving us, in this case, as in other areas, an example of what bipartisanship means and what bipartisanship can accomplish. For that, as well as for their friendship, I extend my gratitude.

The PRESIDING OFFICER. The Senator from Maine.

Mr. JEFFORDS. Mr. President, I know my good friend from Maine is desirous to speak, and I certainly appreciate that.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. I thank the Senator.

Mr. President, I rise today in opposition to the Agriculture conference report. I rise in strong opposition to the conference report.

First, I wish to commend my colleague from Vermont, Senator JEFFORDS, for his leadership, for his perseverance, for his hard work and determination on behalf of all the small dairy farmers, not only in his State of Vermont but in the State of Maine and throughout New England. I thank him. I commend him for the extraordinary effort he has displayed and exhibited throughout this process.

It is only regrettable that those members of the conference committee in resolving the differences between the House and the Senate on the Agriculture conference report did not recognize the position that has been held by all of us who represent the New England States for the Northeast Dairy Compact. That is why I rise in strong opposition to the Agriculture appropriations conference report because it does not extend a reauthorization of the Northeast Dairy Compact.

This issue is a States rights issue more than anything else. Quite simply, it addresses the needs of the States in the Northeast, and most specifically those in New England, that have organized in a way that we can allow fair prices for locally produced supplies of fresh milk.

All the legislatures have approved the compact in New England, and in the Northeast, and all that is required is the sanction of Congress to reauthorize this compact. The compact has protected New England farmers against the loss of their small family dairy farms and consumers against the decrease in the fresh supply of local milk. The compact has proven to be an effective approach to address farm insecurity. The compact has stabilized the dairy industry in this entire region and has protected farmers and consumers against volatile price swings.

As I say, we are talking about small dairy farmers. In my State of Maine, the farmer has an average of 50 cows on their farm. They are trying to preserve a way of life, a way of life that has been there for families for generations. We are trying to protect them through this dairy compact.

All we are asking from this Congress is a reauthorization so we can extend this way of life to small dairy farmers—not agribusiness, not big business, not co-ops, just small dairy farmers who want to produce milk so they can sell it to the consumers in my State of Maine, to Senator JEFFORDS' State of Vermont, and within the New England region.

Over 97 percent of the fluid milk market in New England is self-contained. Fluid milk markets are local due to the demand for freshness and high transportation cost. So any complaints raised from other parts of the country about unfair competition is quite disingenuous.

All we are asking for is a continuation of the Northeast Dairy Compact, the existence of which does not threaten or financially harm any other dairy farmer in the country—not any other dairy farmer in the country. It is to help our dairy farmers within New England, to help the consumers, to help a way of life. The Northeast Dairy Compact currently encompasses the New England States and only applies to fluid milk sold on grocery store shelves in the Northeast.

Only the consumers and the processors in the New England region pay to support the minimum price to protect a fair return to the areas' family dairy farmers and to protect a way of life important to the people of Northeast.

All six of the New England States have supported this through the acts of the legislature, and through all of their Governors, because each Governor has signed a resolution supporting the Northeast Dairy Compact.

Let me repeat. Every Governor and every State legislature in New England have supported the dairy compact. Republicans, Democrats, and Independents support the dairy compact through acts of the legislatures because they recognize how important this compact is to the small dairy farmers in the Northeast.

Under the compact, New England retail milk prices have been among the lowest and the most stable in the country. The opposition—again, we have heard it day in and day out—has manufactured arguments against the compact, saying that increased milk prices.

Let's look at dairy prices over the past few months around the country for a gallon of fresh milk. The price in Augusta, ME, ranged from $2.89 to $2.99 per gallon from February to April of 1999; in Boston, MA, the market price stayed perfectly stable at $2.89 from February to April of 1999; the price in Seattle ranged from $3.39 to $3.56 over the same time period. Washington State is not in the compact. Yet their milk was approximately 50 cents higher per gallon than in the State of Maine. The range in Los Angeles was from $3.19 to $3.29; in San Diego, the range was from $3.10 to $3.62. California is not in the compact. Las Vegas prices were $2.99 all the way up to $3.62 in that time period; not much price stability there. And then Nevada is not in the compact. In Philadelphia the range was $2.78 to $3.01 per gallon, not as wide a shift as Nevada but a much wider price shift than the Northeast Compact States.

That is why Pennsylvania dairy farmers want to join us. That is why Pennsylvania supports joining the compact.

Denver, CO, on the other hand, is not in the compact. A gallon of milk in Denver has cost consumers anywhere from $3.45 to $3.59 over the past few months, over one half a dollar more than in New England.

The Northeast Dairy Compact has not resulted in higher milk prices in New England in spite of what the opposition has said, but milk prices are among the lowest in the country and are among the most stable.

Opponents also say consumers are getting a raw deal having to spend more on milk. Obviously, based on what I have said thus far in terms of prices around the country, this claim is inaccurate, as prices are among the lowest in the Northeast Compact area and reflect greater price stability.

Also, where is the consumer outrage from the compact States for spending a few extra pennies for fresh fluid milk so as to ensure a safety net for dairy farmers so they can continue in an important way of life. Where is that consumer outrage? It isn't in New England. I have not heard of consumer complaints in my State over the last 3 years as a result of this dairy compact, even in instances where milk prices might have gone up a few pennies because consumers support our dairy farmers. They realize that this pilot program is very important to a way of life, to the kind of milk they want in their region, and they are willing to support it. They recognize this dairy compact has been a huge success.

The Compact Commission sent out over $4 million in checks to Northeast dairy farmers this past month. That averages to over $1,000 for each dairy farmer—enough to help keep small family farmers in business and continue a historical way of life that is so important.

The Northeast Interstate Dairy Compact has provided the very safety net that we have hoped for when the compact passed as part of the Freedom to Farm Act, the omnibus farm bill of 1996. The dairy compact has helped farmers maintain the stable price for fluid milk during times of volatile swings in farm milk prices.

In the spring and summer months of 1997 and 1998, for instance, when milk prices throughout most of the country dropped at least 20 cents a gallon while consumers' prices remained constant, the payments to the Northeast Interstate Compact dairy farmers remained above the Federal milk marketing prices for class 1 fluid milk because of the dairy compact and I might add, at no expense to the Federal Government. The costs to operate the dairy compact are borne entirely by the farmers and the processes of a compact region.

Also, consider what has happened to the number of dairy farmers staying in business since the formation of the dairy compact. Another goal of the compact is to preserve a way of life of the small dairy farmer. It is now known throughout New England there has been a decline in dairy farmers going out of business. This is a clear demonstration that with the dairy compact, the dairy producers were provided a safety net, which is what we had hoped for. The results have been just that.

In addition, the compact requires the Compact Commission to take such action as necessary to ensure that a minimum price set by the commission for the region does not create an incentive for producers to generate additional supplies of milk. There has been no rush to increase milk production in the Northeast, as has been stated. Oh, we heard time and time again by the opposition that it would increase milk production.

We inserted in the compact legislation back in 1996 compensation producers that have been implemented by the New England Dairy Commission specifically to protect against increased production of fresh milk. That legislation in the 1996 farm bill required the commission to reimburse the USDA for any portion of the Government's cost of purchasing surplus dairy products that could be attributed to an increase in milk production in the Northeast in excess of the projected national average. This provision was included in the farm bill in response to critics' concern that the compact price would lead to overproduction of milk in the Northeast and thus cause Government purchases of surplus milk under the dairy support program to rise.

Between March and September of 1998, the commission placed $2 million in escrow in anticipation of a potential liability to USDA for surplus purchases. The commission ended up paying $1.76 million to the USDA toward the end of the fiscal year and returned unused escrow funds of $400,000 to the Northeast producers who did not increase milk production during fiscal year 1998.

I welcome anybody in this Chamber to cite any other commodity farm program that actually paid back the Federal Government money, that didn't cost the Government any money. I daresay there is no other instance of any other commodity farm program that actually reimbursed the Federal Government, that didn't cost the Government one dime—other than the New England Dairy Compact.

How can other regions of the country feel threatened by a Northeast Dairy Compact for fluid milk produced and sold mainly at home in our region of the country? This compact did what it said it would do: Preserve its way of life, create price stability; it didn't cost the Government money; it didn't increase production, and if it did in any small way, we reimbursed the Government so it wouldn't cost any money.

Despite what has been stated by the opposition, again there has been no additional cost to the Federal nutrition programs, no adverse price impact in the WIC Program—the Women's, Infants and Children Program—or the Federal school lunch and breakfast program. In fact, the advocates of the programs support the compact and serve on its commission.

It should be noted that in the farm bill conference in 1996, the Secretary of Agriculture was required to review the dairy compact legislation before implementation to determine if there was compelling public interest for the compact within the compact region. In August 9, 1996, and only after a public comment period, Secretary Glickman authorized the implementation of the dairy compact, finding that it was, indeed, in the compelling public interest to do so.

In addition, another mechanism for guaranteeing that this was in their interest, that it wasn't going to cost money to the Federal Government, the Agricultural Appropriations Act of 1998 directed the Office of Management and Budget to study the economic effects of the compact and especially its effect in the Federal food and nutrition programs. Key findings of the OMB study released in February 1998 showed that, for the first 6 months of the compact, the New England retail milk prices were 5 cents per gallon lower than retail milk prices nationally.

Also, a GAO study stated that the compact economically benefited the dairy producers, increasing their income from milk sales by about 6 percent, with no adverse effects to dairy farmers outside the compact region.

These were independent studies. We had OMB, GAO, we had every safety mechanism and precaution in this legislation, and it has demonstrated time and time again it is in the best interests of our small dairy farmers, not costing the Government money—in fact, to the contrary.

The consumers in the Northeast Compact area are showing their willingness to support this compact, to pay a little more for milk if the additional money is going directly to the dairy farmer. Because we are not talking about big corporate farms, we are talking about the small dairy farmer whose family has been in business 100 years, 150 years—generational. That is what they want to do—to maintain their families, to maintain a way of life, and to sell their milk to their local consumers.

Environmental organizations have supported dairy compacting as the compact helps to preserve dwindling agricultural land and open spaces that help combat urban sprawl.

I will ask unanimous consent to have printed in the RECORD a joint resolution from the Legislature of the State of Maine that was passed last spring. I have it here on this board. It shows strong support, on a bipartisan basis, in the Maine State Legislature, and how enormously important this compact is to the near 500 dairy farmers in Maine who produce annually over more than $100 million in the State of Maine, and how it is in the best interests of Maine's consumers and businesses that this compact be reauthorized. It is that important.

So we have Republicans and Democrats in the State legislatures, we have an independent Governor who supports it, we have everybody across the political spectrum who supports this dairy compact because they understand the value of it.

I also will ask unanimous consent to have printed in the RECORD a July 15, 1999, letter from Maine's Commissioner of Agriculture, who wrote:

> I am writing to urge your continued support of Maine's dairy farmers. As you know there is legislation pending before Congress

> relating to the reauthorization of the Northeast Dairy Compact Commission, and reorganization of the Federal Milk Marketing Orders. These issues are of the utmost importance to Maine dairy farmers and the dairy industry and the infrastructure in this State as a whole.
>
> We need only look at the recent volatility of milk prices to see the Northeast Dairy Compact has been a great success.

He goes on to say:

> I cannot stress enough the importance of this issue to the Maine dairy industry.

I also will ask unanimous consent to have printed in the RECORD a September 29, 1999, letter from the Council of State Governments, Eastern Regional Conference, signed by Senators and Representatives and heads of the departments of agriculture of Maine, Connecticut, Delaware, Massachusetts, New Hampshire, New York, New Jersey, Pennsylvania, Rhode Island, and Vermont.

These State elected officials from States all over the Northeast wrote:

> The Northeast Interstate Dairy Compact, in setting minimum regional prices for milk, has been an essential stabilizing force with respect to the price that the northeast dairy farmers receive for the milk they produce. Because of its regional focus, it has been extremely successful in promoting adequate local milk production to meet the needs of consumers for fresh milk at an affordable price.

I am also submitting for the RECORD the Council of State Governments' resolution of August 11, 1999, in support of the reauthorization of the compact.

Last, I will ask consent to have printed in the RECORD a September 30 editorial from the Bangor Daily News in my State of Maine, which states:

> The compact helps keep local farmers in business, not only through price support but also by keeping enough other farmers at work. That means a dairy infrastructure of grain dealers, truck drivers, and farm machinery salespeople will remain. And that means jobs where they are needed most, in the smallest towns whose residents cannot simply turn to alternative industries. This is not mere nostalgia for the bucolic past, but an immediate dollars and cents issue.

The editorial goes on to say:

> Certainly there would be less support for the compact as it stood alone as the sole agricultural support states enjoyed. But the sheer number and variety of Federal programs for crops or for not growing crops, for research and marketing, for electricity, grazing water, etc., makes singling out this relatively small program seem more than a little short-sighted.

That raises an important point. We do not get any support. We do not get the kinds of subsidies that other parts of the country, other commodity programs, have received. Our dairy farmers work hard. They work hard for the sole interest of producing a small amount, so they can sell to their local consumers, to their neighbors, to their community, to their State. That is all they ever want.

This editorial goes on to say:

> None of the Midwestern representatives so angry about the compact have suggested, for instance, that Congress end the millions of dollars spent on local farm research or cut the power lines at the Hoover dam.
>
> Yet the dairy compact is in no sense different than these programs—or it is different only in the sense it helps farmers in this region rather than the usual pattern of helping farmers in the Midwest. Unless Congress has some hidden reason to single out punishment for New England dairy farmers, it should support the compact as a sensible part of our Nation's agricultural policies.

That is an important final point. As one who served 16 years in the House of Representatives, and now in my fifth year in the Senate, I have seen a huge disparity in our farm programs between the policies and programs providing support for the big, the very big, farmers, and the lack of support for the small family farmer, who is so indicative and characteristic of my State and I know the State of Vermont that my colleague, Senator JEFFORDS, represents. It is the small family farmer who just wants to survive, wants to go about doing his business each and every day. Yet we are not going to allow them to do that and to continue a way of life.

The pattern I have seen in these agricultural programs that are supported here in this conference report, time and time again over my 20 years, has been to the exclusion of the small family farmer and to the benefit of the big agribusiness in America. I say that is a travesty of justice. I say it is unfair. I say it is not right.

That is why this dairy compact is so important. Indeed, it is shortsighted on the part of the conferees who did not support the reauthorization in this conference report. It is shortsighted of those who are unwilling to give it their support once again, raising the most bogus of arguments, which we have dispelled. We have refuted all of their arguments, not just based on our hearsay alone, but we have had OMB studies, we have had GAO studies—by everybody's reckoning. We even have legislatures in all the New England States and in the Northeast that support this dairy compact, and the Governors. Can they be all wrong? Could they be misrepresenting their constituency? I say not.

I hope we can defeat this conference report. It simply is not right. It is simply not fair. I ask you to support the small farmers and the way of life they want to embrace, that they cherish, and that they want to sustain. We owe them that much.

Again, I thank my colleague from Vermont, Senator JEFFORDS, for doing yeoman's work on behalf of these small dairy farmers in his State and my State, throughout New England and the other States that want to join because they have seen the success of this compact over the last 3 years. It was a very effective and successful pilot program, and it deserves to be continued.

Mr. President, I now ask consent that the material I referred to be printed in the RECORD, and I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF MAINE JOINT RESOLUTION

Whereas, Maine has nearly 500 dairy farms producing milk valued annually at over $100,000,000; and

Whereas, maintaining a sufficient supply of Maine-produced milk and milk products is in the best interest of Maine consumers and businesses; and

Whereas, Maine is a member of the Northeast Interstate Dairy Compact; and

Whereas, the Northeast Interstate Dairy Compact will terminate at the end of October 1999 unless action is taken by the Congress to reauthorize it; and

Whereas, the Northeast Interstate Dairy Compact's mission is to ensure the continued viability of dairy farming in the Northeast and to ensure consumers of an adequate, local supply of pure and wholesome milk; and

Whereas, the Northeast Interstate Dairy Compact has established a minimum price to be paid to dairy farmers for their milk, which has helped to stabilize their incomes; and

Whereas, in certain months the compact's minimum price has resulted in dairy farmers receiving nearly 10% more for their milk than the farmers would have otherwise received; and

Whereas, actions taken by the compact have directly benefited Maine dairy farmers and consumers; now, therefore, be it

Resolved: That We, your Memorialists, respectfully urge and request that the United States Congress reauthorize the Northeast Interstate Dairy Compact; and be it further

Resolved: That suitable copies of the Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, each member of the United States Congress who sits as chair on the United States House of Representatives Committee on Agriculture or the United States Senate Committee on Agriculture, Nutrition and Forestry, the United States Secretary of Agriculture and each Member of the Maine Congressional Delegation.

STATE OF MAINE, MAINE DEPARTMENT OF AGRICULTURE, FOOD & RURAL RESOURCES

Augusta, ME, July 15, 1999.

Sen. OLYMPIA J. SNOWE,
Washington, DC.

DEAR SENATOR SNOWE: I am writing to urge your continued support of Maine dairy farmers. As you know, there is legislation pending before Congress relating to reauthorization of the Northeast Dairy Compact Commission and reorganization of the Federal Milk Marketing Orders. These issues are the utmost importance to Maine dairy farmers and the dairy industry and infrastructure in this state as a whole.

We need only look at the recent volatility in milk prices to see that the Northeast Dairy Compact has been a great success. The Compact was designed to provide dairy farmers with a safety net against huge drops in prices. While much of the rest of the country saw recent reductions in prices by up to one third, the blow to dairy farmers of the northeast, while substantial, was cushioned by the floor price established through the Compact. The Compact worked! For many Maine dairy farmers, the Compact has been the difference between existence and extinction.

There is no question that the Federal Milk Marketing Orders needed reform. Consolidation of orders and updating of standards and definitions was long overdue. However, adoption of the pricing changes to the different classes of milk as proposed by USDA will have enormous impacts for Maine dairy farmers. Even by the most conservative estimates produced by USDA, farm income in the northeast will decrease $84 million dollars per year under the new proposed pricing system. Most estimates indicate the loss to farmers will be in excess of $100 million dollars.

Pending legislation would reauthorize the Northeast Compact (along with authorization of a Southern Compact), require USDA to adopt the so called 1–A option of pricing class I milk and require USDA to hold rulemaking hearing on pricing of class III milk. I urge your continued support and hope you will encourage uncommitted colleagues to support the Jeffords/Leahy amendment legislation. I can not stress enough the importance of this issue to the Maine dairy industry.

Please contact me with any concerns or questions you have regarding these important matters.

Sincerely,

ROBERT W. SPEAR,
Commissioner.

COUNCIL OF GOVERNMENTS,
Septembver 29, 1999.

Re: Northeast Interstate Dairy Compact.

The Northeast Interstate Dairy Compact, in setting minimum regional prices for milk, has been an essential stabilizing force with respect to the price that northeast dairy farmers receive for the milk they produce. Because of its regional focus, it has been extremely successful in promoting adequate local milk production to meet the needs of consumers for fresh milk at an affordable price.

As you know, the Dairy Compact is due to expire on October 1, 1999. Twenty five states, including all of those in the Northeast, have adopted the Dairy Compact. If it is not reauthorized, the resulting volatility in milk prices will cause regional dairy farmers to suffer devastating financial consequences. Therefore, we urge you to promote the extension of the Northeast Dairy Compact, as well as ratification of the Southern Dairy Compact, by Congress in an effort to secure the financial future of our region's dairy farmers.

In summary, we believe prompt action is necessary on both of these matters that are so critical to maintaining he viability of the region's agriculture industry and, thereby, our overall economy and quality of life. The financial losses endured by our farmers are substantial and immediate. We respectfully request that you and your Congressional colleagues from the Northeast support the measures we are proposing and promote regional solidarity to assist the struggling northeast farmers.

Please feel encouraged to contact any of the signatories below or our staff in the Council of State Governments' Eastern office with responses to this letter and any recommendations for immediate follow-up action.

Sincerely,

Representative Jessie G. Stratton, Co-Chairwoman, Joint Environment Committee, CT.

John F. Tarburton, Secretary, Department of Agriculture, DE.

Representative V. George Carey, Chairman, Environment & Natural Resources Committee, DE.

Senator John M. Nutting, Co-Chairman, Joint Agriculture, Conservation & Forestry Committee, ME.

Jonathan Healy, Secretary, Department of Agriculture, MA.

Stephen Taylor, Commissioner, Department of Agriculture, Markets & Food, NH.

Assemblyman William Magee, Chairman, Assembly Agriculture Committee, NY.

Representative Italo Cappabianco, Minority Chairman, Agriculture & Rural Affairs Committee, PA.

Ken Ayars, Chief, Division of Agriculture & Marketing, Department of Environmental Management, RI.

Representative Douglas W. Petersen, Co-Chairman, Joint Natural Resources & Agriculture Committee, MA.

Assemblywoman Connie Myers, Vice-Chair, Agriculture & Natural Resources Committee, NJ.

Representative Thomas E. Armstrong, Member, House Agriculture & Rural Affairs Committee, PA.

Senator William ·Slocum, Minority Chairman, Senate Agriculture & Rural Affairs Committee, PA.

Leon C. Graves, Commissioner, Department of Agriculture, VT.

COUNCIL OF STATE GOVERNMENTS,
EASTERN REGIONAL CONFERENCE,
Burlington, VT, August 11, 1999.

REAUTHORIZATION OF THE NORTHEAST INTERSTATE DAIRY COMPACT AND THE RATIFICATION OF A SOUTHERN COMPACT

Whereas, the Northeast Interstate Dairy Compact has maintained a successful track record of stabilizing the price dairy farmers receive for the milk they produce and has created a beneficial partnership between consumers and dairy farmers; and

Whereas, it is in the best interest of the general public to perpetuate our existing dairy industry and insure the continuance of local production to adequately meet the demand of all consumers for fresh milk at an affordable price; and

Whereas, dairy compacts have received the support of diverse coalitions, representing state and local governments, consumers, environmentalists, land conservation interests, financial institutions, equipment and feed dealers, veterinarians, the tourism industry, and agricultural organizations; and

Whereas, compacts are complimentary to the Federal Milk Marketing Order System, which provides the basis for orderly milk marketing through a uniform federal minimum pricing structure; and compacts take into account regional differences in the cost of producing fluid milk, and therefore permit a more localized determination of milk prices, allowing the compact to work in concert with the Federal Order System; and

Whereas, there has recently been a drop in the Basic Formula Price of $6 cwt, emphasizing the volatility that exists within the dairy industry; and

Whereas, the Constitution of the United States expressly authorizes the states to enter into interstate compacts with the approval of Congress and twenty-five states have passed legislation seeking authority to enter into an interstate dairy compact; and

Now, therefore be it *Resolved*, That, we request that the 106th Congress of the United States take immediate action to reauthorize the Northeast Interstate Dairy Compact and ratify a Southern Compact.

[From the Bangor Daily News, Sept. 30, 1999]

MILK AND MONEY

As a strict measure of its faithfulness to letting the market choose winners and losers, the Northeast Interstate Dairy Compact fails entirely. As policy for promoting economic diversity, food safety and open space, however, it is an important program for the region.

The compact helps dairy farmers by guaranteeing a minimum price for milk. Though it has cost consumers approximately 15 cents per gallon since 1996, it returns to them at least that much value through other means. As members of Congress debate the future of the compact—which was set to end tomorrow but has been postponed by a judge's ruling Tuesday—they should keep in mind that their decision affects far more than a few small farmers.

The compact helps keep local farms in business not only through the price support but also by keeping enough other farmers at work. That means a dairy infrastructure of grain dealers, truck drivers and farm machinery salespeople will remain. And that means jobs where they are needed most, in the smallest towns whose residents cannot simply turn to alternative industries. This is not mere nostalgia for the bucolic past, but an immediate dollars and cents issue.

Having a healthy dairy industry is far more useful and considerably less expensive to Maine taxpayers than sitting by and watching these farms go under, then setting loose its retraining programs and hoping for the best. On a national level, the compact prevents an overdependence on a few large Midwestern sources for this important and highly perishable food. And it gives New England states more local say on controversial issues such as bovine growth hormone.

Certainly, there would be less support for the compact if it stood alone as the sole agricultural support states enjoyed. But the sheer number and variety of federal programs for crops or for not growing crops, for research and marketing, for electricity, grazing and water, etc., makes singling out this relatively small program seem more than a little short-sighted. None of the Midwestern representatives so angry about the compact have suggested, for instance, that Congress end the millions of dollars spent on local farm research or cut the power lines at the Hoover Dam.

Yet the dairy compact is in no sense different than these programs—or it is different only in the sense that it helps farmers in this region rather than the usual pattern of helping farmers in the Midwest. Unless Congress has some hidden reason to single out for punishment New England dairy farmers, it should support the compact as a sensible part of the nation's agricultural policies.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I will be finishing quickly. I would like to point out—exactly where the Senator from Maine left off—why we are here. It may be a little confusing why we are involved in a conference report, but it was pointed out in the farm bill of 1996, we got agreement that we should run a pilot program in New England of a very exciting idea, of a compact where the States would get together and handle the problems of their dairy farmers by having an organized marketing system.

We would show this kind of a system where people from the States would sit down on a commission and make sure the price of milk was held at a level which would guarantee a supply of fresh fluid milk, which is a basic part of agricultural law, and that the demonstration program would be reviewed when the milk orders were to be implemented.

What happened? Did the program work? That was the problem, it did. That is why we are here tonight because the program did work.

As the Senator from Maine pointed out, the opponents of this, in the Midwest in particular, were so confident it was going to fail, they went out and got the OMB, who they figured would be most friendly to them being of the administration, many Democrats—whatever, that is beside the point—but so certain were they that it would be a failure, they got OMB to do a study.

Lo and behold, what happened? The study came back, and the GAO later came back and said it worked great, it is a wonderful program. That is why 25 States now have said that ought to be a program in which they can get involved. Half the States in the country have already said it is a success. OMB said it is a success.

What is the problem now? Why? Because of the desire of those in the Midwest to take over and supply these areas with milk themselves and not the local dairy farmers, which helps make sure we have that fresh quality milk available, they decided they will put them out of business.

They cannot put them out of business because it is working. The processors, who have been used to setting the price themselves—in many cases there are one or two; there are not many processors, so when there is a good supply of milk, they can go to zero. That has stopped. It is working well.

The Department of Agriculture was not going to do the pilot program. We had to get it extended.

That is where we are. We wanted to extend it, and when we had one, at least we thought we had one in the conference committee that we would have approved because the majority in the House and Senate agreed it was a good program and ought to be extended, what happened? Forces came in and put pressure on Members and we ended up without a majority in the committee. Therefore, we got thrown out into the cold.

We are here to make sure this bill, which belonged on that conference report, that everyone seemed to agree to, goes forward. That is why we are now trying to hold up this bill to get action. We are not going to try to hold up the bill for the disaster payments. We will get into a further discussion of this whole bill and the stuff in it.

The one part that worked so well that does not cost any money and prevents disasters, we cannot get it put into law. That is why we are here. We are going to continue. We are going to fight as long as we possibly can to make sure the dairy farmers in our States, the family farms, the small, beautiful hillsides that have their nice wonderful cows will be there for people to look at, and we will have a fresh supply of milk from our local farms.

Hopefully, since it was such a successful program, the 25 States that have already passed laws through their legislatures to participate in the compact will have the wonderful opportunities that have been so successful in New England.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

MORNING BUSINESS

Mr. SMITH of New Hampshire Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONFERENCE REPORT ON FOREIGN OPERATIONS APPROPRIATIONS

Mr. McCAIN. Mr. President, I supported passage of the Conference Report on H.R.2606, the Foreign Operations Appropriations bill for Fiscal Year 2000.

Foreign aid programs, which constitute a mere one percent of federal spending, are an important and underappreciated component of United States foreign and national security policy. Passage of the annual appropriations bill for foreign operations is, consequently, an imperative. It is for this reason that I voted for its passage, and anticipate its being signed into law by the President.

Despite my support for passage of the Conference Report, this legislation is not without its flaws. While it includes essential economic and military assistance for Israel and Egypt, it contains none of the funding associated with implementation of the Wye River accords involving Israel, Jordan, and the Palestinian Authority. It is anticipated that such funding will be included in a supplemental appropriations bill at some point in the not-too-distant future, but I question the fiscal and political wisdom of budgeting in this manner. Smoke and mirrors rarely provide for sound budgeting practices or a coherent foreign policy.

I am also concerned about the continued inclusion in this legislation of unrequested earmarks and adds. While the Conference Report represents a vast improvement over the bill passed by the Senate in June, it still represents the legislature's continued refusal to desist from earmarking in spending bills. Such earmarks in the bill include $500,000 for what by any other name remains the Mitch McConnell Conservation Fund, $15 million for American universities in Lebanon, and a requirement to establish a $200 million maritime fund using United States commercial maritime expertise. The bill essentially mandates the establishment of an International Law Enforcement Academy in Roswell, New Mexico, thereby demonstrating yet again that fiscal prudence and operational necessity remain alien concepts to members of this body.

There are more examples, but I think I have made my point. As I have stated in the past, there is undoubtedly considerable merit to some of the programs for which funding is earmarked at the request of members of Congress. My concern is for the integrity of the process by which the federal budget is put together. Merit-based competitive processes ensure that the interests of the American taxpayer are protected, and that the most cost-effective approach is employed. Absent such procedures, I will continue to have no choice but to highlight the practice of adding and earmarking funds for programs and activities not requested by the respective federal agencies.

Finally, I must register my strong opposition to language in the bill prohibiting any direct assistance to Cambodia and requiring U.S. opposition to loans from international lending institutions for that impoverished country. Cambodia's election was not perfect; in fact, the months leading up to the vote were characterized by numerous efforts on the part of the Cambodian People's Party to intimidate its political opposition. Cambodia, however, is experiencing its first period of relative peace and stability in many years, and it is regrettable that some in the Senate remain committed to isolating the government in Phnom Penh during a time when we should be working within that country to strengthen democratic institutions while facilitating economic growth. Section 573 of the Conference Report, consequently, represents a significant impediment to our ability to help Cambodia move forward from an enormously painful past.

Despite these flaws, Mr. President, I reiterate my support for passage of the bill and request the accompanying list, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2000, AND FOR OTHER PURPOSES—DIRECTIVE LANGUAGE AND EARMARKS

BILL LANGUAGE PROVISIONS

Not less than $500,000 should be made available for support of the United States Telecommunications Training Institute;

$19.6 million shall be available for the International Fund for Ireland;

$10 million shall be available for the Russian Leadership Program;

$1 million shall be available for the Robert F. Kennedy Memorial Center for Human Rights;

Sense of Congress that the Overseas Private Investment Corporation shall create a maritime fund with total capitalization of up to $200 million. The fund shall leverage U.S. commercial maritime expertise;

REPORT LANGUAGE PROVISIONS

The Agency for International Development is "encouraged" to provide assistance for the Morehouse School of Medicine to establish an International Center for Health and Development;

$250,000 shall be made available to the International Law Institute;

AID is directed to restore biodiversity funding, which benefits the agricultural and pharmaceutical industries;

$700,000 is earmarked for Historically Black Colleges and Universities for implementation of a distance learning program;

AID is directed to "uphold its commitment" to American Schools and Hospitals Abroad by providing at least $15 million for fiscal year 2000, with the money allocated to institutions operating in Lebanon;

The bill directs that $500,000 shall be provided for research, training and related activities in the Galapagos Islands. Usually referred to as the Mitch McConnell Conservation Fund, the money will likely be allocated for the Charles Darwin Research Station and the Charles Darwin Foundation;

$861,000 is earmarked for the Seeds of Peace program;

$5 million is earmarked for the Irish Peace Process Cultural and Training Program.

$19 million is earmarked for the International Fund for Ireland;

$10 million is earmarked for the Russian Leadership Program;

$3 million is earmarked for Carelift International to support social transition initiatives in Central Europe and the new independent states;

The Department of State is directed to take measures ensuring the establishment of the International Law Enforcement Academy of the Western Hemisphere at the deBremmond Training Center in Roswell, New Mexico;

$35.8 million is earmarked for the Global Environment Facility.

Total: $321 million.

RESEARCH AND EXPERIMENTATION TAX CREDIT

Mrs. FEINSTEIN. Mr. President, I rise to note that since June 30 of this year, the Research and Experimentation Tax Credit has, once again, been allowed to lapse. As this body considers whether to enact a so-called "extenders" package, I want to urge my colleagues to include and pass a permanent extension of the Research and Experimentation tax credit.

The research and experimentation tax credit provides business an incentive to fund development of the technologies of tomorrow by providing a tax credit for investments in research.

The research and experimentation tax credit is an important element in the creation of strong economic growth and rising productivity. Industry leaders have credited it with spawning private enterprise investments. It is especially important to the high-tech and emerging growth industries that are driving the California economy. And, because it creates jobs and spurs economic activity, the research and experimentation tax credit helps to increase the tax base, paying back the benefit of the credit.

Yet, despite its many benefits, for 18 years the research and experimentation tax credit remains, inexplicably, a temporary tax provision requiring regular renewal.

In fact, since 1981, when it was first enacted, the Research and Experimentation Tax Credit has been extended nine times. In four instances the research credit had expired before being renewed retroactively and, in one instance, it was renewed for a mere six months.

This is not a process which is conducive to encouraging business investment in the innovative industries—high technology, electronics, computers, software, and biotechnology, among others—which will provide future strength and growth for the U.S. economy.

Earlier in this decade California was faced with its severest economic downturn since the Great Depression. Today, the California economy is healthy and vibrant, and it is so in no small part because of the critical role played by innovative research and development efforts in nurturing new "high tech" industries.

Today the 150 largest Silicon Valley companies are valued at well-over $500 billion, $500 billion which did not exist two decades ago. Much of this growth is a result of ability of companies to undertake long-range and sustained research in cutting-edge technologies. Scores of California companies—and companies across the country—owe much of their success and growth to the incentive provided by the research and experimentation tax credit.

Research and experimentation is the lifeblood of high technology development, and if we want to continue to replicate the successful growth that has characterized the U.S. economy during this past decade it is crucial that we create a permanent research and experimentation tax credit.

For example, Pericom Semiconductor, located in San Jose, has expanded from a start-up company in 1990 to a company with over $50 million in revenue and 175 employees by the end of last year and is ranked by Deloitte Touche as one of the fastest growing companies in Silicon Valley. According to a letter I received from Pericom, utilization of the research and experimentation tax credit has been key to their success, enabling them to add engineers, conduct research, and expand their technology base.

Indeed, according to a 1998 study conducted by the national accounting firm Coopers & Lybrand, a permanent credit will increase GDP by nearly $58 billion (in 1998 dollars) over the next decade. The productivity gains from a permanent extension will allow workers throughout the Nation to earn higher wages, and the additional tax revenue created by these new jobs will help pay back the benefit of the credit.

Whether it is advances in health care, information technology, or environmental design, research and development are critical ingredients for fueling the process of economic growth.

Moreover, aggressive research and experimentation is essential for U.S. industries fighting to be competitive in the world marketplace. For example, American biotechnology is the world leader in developing effective treatments and biotech is considered one of the critical technologies for the 21st century. With other countries heavily-subsidizing research and development, it is critical that U.S. companies also receive incentive to invest the necessary resources to stay on top of breakthrough developments.

I recently received a letter from the CEO of Genentech, for example, in which he wrote:

> The R&D tax credit is especially important to Genentech and our patients. Our newest therapy, Herceptin, which is used to treat metastatic breast cancer, is a prime example. The early clinical trials for Herceptin showed that it was a somewhat effective treatment for metastatic breast cancer, but the results were not particularly robust. It was a classic case of a research project being "on the bubble" in terms of deciding whether to go forward into the most expensive phase of human clinical trials. However, because the value of the tax credit to Genentech directly means that we are able to move one additional drug candidate each year into clinical trials, we were able to move forward with the Phase III Herceptin clinical trial in late 1994. I dare say that without the R&D credit, Herceptin might well not have become a reality. Today, thousands of patients are receiving this important treatment.

I ask unanimous consent that the full text of the September 30, 1999 letter from Genentech Chairman Arthur Levinson be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GENENTECH, INC.,
San Francisco, CA, September 30, 1999.

Hon. DIANNE FEINSTEIN,
Hon. BARBARA BOXER,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR FEINSTEIN AND SENATOR BOXER. On behalf of Genentech, I would like to thank you both for your long-standing leadership and support for the Research and Experimentation Tax Credit, more commonly known as the R&D tax credit. Once again, however, we find ourselves in the perilous position of the Congressional session quickly coming to an end without providing an extension of the credit, which expired on June 30, 1999. As you are well aware, the credit is critical to California's economy, as the high technology and biotechnology sectors count on the value of the credit to continue the economic expansion our sectors have enjoyed for the past few years.

The R&D tax credit is especially important to Genentech and our patients. Our newest therapy, Herceptin, which is used to treat metastatic breast cancer, is a prime example. The early clinical trials for Herceptin showed that it was a somewhat effective treatment for metastatic breast cancer, but the results were not particularly robust. It was a classic case of a research project being "on the bubble" in terms of deciding whether to go forward into the most expensive phase of human clinical trials. However, because the value of the tax credit to Genentech directly means that we are able to move one additional drug candidate each year into clinical trials, we were able to move forward with the Phase III Herceptin clinical trial in late 1994. I dare say that without the R&D credit, Herceptin might well not have become a reality. Today, thousands of patients are receiving this important therapy.

Clearly, Genentech is among the most research intensive companies in the world. In 1996, we invested $471 million, or 49% of our revenue, on research and development and have consistently devoted more than 30% of revenues to R&D in the subsequent years. But research is our lifeblood. It gives life to the ideas we test to treat serious, unmet medical needs. Our strong portfolio of products is a direct reflection of the ideas our scientists have brought from the lab to the patient. And, as evidenced by our exciting pipeline, I firmly believe the best of our science is yet to come.

Direct federal support for overall research has, for the most part, been declining for over a decade. While a long-term commitment to increasing funds available to the federal government for basic research is important, maximizing private industry innovation through a permanent R&D tax credit is perhaps the most cost-effective means of ensuring that high levels of private-sector investment will continue to be made.

Your leadership and commitment to the R&D tax credit, has resulted in great economic benefit for both our country and for California. I encourage you to, once again, redouble your efforts to extend the credit now so that greater economic benefits and new therapies can benefit all Americans.

I have attached a couple of op-ed pieces regarding the credit which I and others wrote, and which ran in the San Jose Mercury over the last two years. I look forward to continuing to work with you and your staffs in support of the R&D tax credit.

Sincerely,

ARTHUR D. LENINSON, Ph.D.,
Chairman and Chief Executive Officer.

Mrs. FEINSTEIN. Most biotech research and development efforts are long term projects spanning five to ten years, sometimes more. The uncertainty created by the temporary and sporadic extensions is incompatible with the basic needs of biotech innovation—providing companies with a stable time frame to plan, launch, and conduct research activities. In the case of a promising but financially intensive research project, such unpredictability can make the difference as to whether the project is completed or abandoned.

Anyone who has watched the growth of America's high tech sector in the past two decades—much of it in California—has seen first hand how research and development investment leads to new jobs, new businesses, and even entire new industries. And anyone who has benefitted from breakthrough products—from new treatments for genetic disorders to cleansing contaminated groundwater—has felt the effect of this tax credit.

Over the past two decades the research and experimentation tax credit has proven its worth in creating new technologies and jobs and in growing tax revenues for this country. It should not be imperilled by remaining a temporary credit, subject to termination because of the uncertainty of a given political moment. I urge my colleagues to work to make sure that any Senate tax bill contains a permanent extension for the Research and Experimentation Tax Credit.

INCREASING THE FEDERAL RESPONSE TO THE AIDS EPIDEMIC

Mr. KERRY. Mr. President, we are now entering the third decade of the AIDS epidemic and while we have made some progress in fighting this devastating disease, our federal response is still lacking.

More than 400,000 people have died of complications associated with acquired immunodeficiency syndrome since 1981. Last year, more than 54,000 new cases of AIDS were reported in this country. This trend is staggering and belies the misperception that somehow the AIDS epidemic in this country or abroad has abated. While it is true that therapeutic and treatment breakthroughs have led to longer and more productive fulfilling lives for those living with HIV, and that the death rate from AIDS has fallen in recent years, the fact remains that this epidemic has no cure and the rate of new infections has not slowed.

But these are days of great hope, Mr. President, in the fight against AIDS. During the years of inaction by the Reagan and Bush Administrations during the 1980s, we entered the second decade of the epidemic on a much different note: treatments were few, toxic and largely ineffective; training of physicians in the care of patients with HIV was incomplete, uneven and erratic; discrimination and abuse of people living with AIDS in housing, employment and medical care was rampant and abhorrent. It was difficult to have much hope as we entered the 1990s.

But this decade has seen great promise. We have made significant strides. No longer an immediate death sentence, AIDS has lost some—but certainly not all—of its social stigma. In that dark dawn of the epidemic, Mr. President, who would have believed that we would see a decade in which two Miss Americas would be AIDS activists, touring the country and speaking out on AIDS prevention and care? In the early 1980s, who would have believed that we would have an Office of AIDS Research at the National Institutes of Health, that funding for the Ryan White program would increase by 260 percent, or that funding for AIDS research would increase by 67 percent?

And yet, Mr. President, the rumbling of the epidemic has not been stilled. In the early 1980s, who would have believed that some African countries would have 25 or 35 percent infection rates, or that an entire generation of gay men in the United States would be lost? Who would have believed that infection rates would continue at staggering paces at the same time leading voices would declare the epidemic over? Have we truly become victims of our own success?

I certainly hope not, for as Tony Kushner wrote at the end of his monumental play, Angels in America, "great work remains to be done."

Until we have an AIDS-free day in America, I will not become complacent. As ranking member of the Housing subcommittee, I know that great work remains to be done in finding shelter for people living with AIDS. I was pleased that my colleague from Missouri, Senator BOND, and my friend from Maryland, Senator MIKULSKI, were able to answer my request positively to increase funding by $7 million for the Housing Opportunities for People With AIDS program in the VA–HUD and Independent Agencies appropriations bill for fiscal year 2000. This money is crucial as people living with AIDS have a fundamental need for adequate and safe housing. I will continue to work with all of my colleagues to keep the HOPWA program sufficiently funded.

Great work remains to be done on HIV prevention. We are lacking in our commitment to adequately fund the Centers for Disease Control in their anti-HIV efforts. Until a cure is found, we must ensure that the federal government issues information widely which is accurate, blunt and unequivocal. Prevention efforts work, Mr. President. I have seen the work of the AIDS Action Committee in Boston and I can tell you that their innovative programs are working to slow the spread of AIDS. Unlike the increase in funding which the National Institutes of Health has received, the CDC's prevention efforts have remained at roughly the same level in the past few years. It was my hope that the appropriators would have recognized the unmet needs related to HIV prevention in this country and it is my fear that the failure to keep pace with that need portends a disaster.

For example, in this legislation as in other legislation this year, we again were subjected to the perennial ill-informed debate on the issue of needle exchange. I am dismayed that the

Labor-HHS-Education appropriations bill will include language which deprives the Secretary of Health and Human Services from using her discretion based on science and empirical academic study to determine if needle exchange programs reduce the transmission of HIV without encouraging illicit drug abuse. This is bad public policy, when Senators act like scientists, and it is bad health policy. It is my hope that the conferees on this bill will restore the Secretary's discretion.

Great work remains to be done in combating AIDS abroad. We are a failure in our policy toward Africa. Our international efforts need to be bolstered to assist developing countries crippled by the effects of HIV disease. My distinguished colleague and friend from Vermont, Senator LEAHY, has been stalwart in raising the funding levels to fight AIDS abroad in the Foreign Operations appropriations bill and the Congress needs to follow his guidance by continuing to increase these levels. In addition, tomorrow I will introduce the Lifesaving Vaccine Technology Act of 1999 to spur research of vaccines to combat diseases which kill more than one million people every year, and I will have much more to say on this topic at that time.

Great work remains to be done for hemophiliacs. There is perhaps no greater neglect by the federal government in responding to the AIDS epidemic than the ignoring of our hemophiliac population. On November 11, 1998 the Ricky Ray Hemophilia Relief Act was signed into law. The bill, authored by the Senator from Ohio, Senator DEWINE, received overwhelming bipartisan support, and I was proud to be an original co-sponsor of the bill. When it passed, hemophiliacs felt their thirteen year battle to be compensated for the lapse in regulation of our nation's blood supply was over.

In the early 1980s, it became apparent that HIV was being improperly screened, and HIV-tainted blood product was being distributed to patients across the country. At the time, there were 10,000 Americans suffering with hemophilia, an illness which requires regular infusions of blood clotting agents.

According to the Institute of Medicine's report on HIV and the Blood Supply, "meetings of the FDA's Blood Product Advisory Committee in January, February, July and December 1983 offered major opportunities to discuss, consider, and reconsider . . . and review new evidence and to reconsider earlier decisions, [yet] blood safety policies changed very little during 1983." In effect, the report found the FDA was at fault for not responding to clear evidence of transmission dangers. As a result, more than sixty percent of all Americans with hemophilia were infected with HIV through blood products contaminated by the AIDS virus. Currently, more than 5,000 have died and more are dying each day. In my office, I have been visited by courageous hemophiliacs and when they leave, I never know if I will ever see them again. This population has been decimated, Mr. President, and the personal tragedy is unspeakable.

We must fully fund the Ricky Ray Relief Act. The Senate version of the Labor-HHS-Education bill appropriates $50 million out of the $750 million needed to fund the Ricky Ray Trust Fund, and that is certainly better than the inadequate level of the other body, but it is a far cry from the level needed by the hemophiliac community. Members of this community never anticipated the one-time compensation from the trust fund, intended to assist with staggering medical bills and improve the quality of their lives, would turn out to be a pay-out to their estates.

You need only to speak to some of my constituents, like Therese MacNeill. She will tell you, as a mom, the hardship she has experienced in coping with the tragedy of losing one son to AIDS and caring for another who is HIV-positive. Terri MacNeill will let you know in no uncertain terms why we must fully fund Ricky Ray to help families who for years were storing HIV-infected blood product in their family refrigerators next to the lettuce and milk, and now are struggling under mountains of medical bills.

Other countries have recognized the plight of hemophiliacs who were infected by poorly screened blood. Australia, Canada, Denmark, France, Italy, and Switzerland are just some of the countries which have established compensation programs. Sixty Senators signed on as co-sponsors of the legislation authorizing the establishment of the Ricky Ray Trust Fund. Now is the time to realize our commitment to the hemophiliac population on par with other countries as well as our own actions in authorizing the bill. I hope that when the appropriations conference committee meets on this bill, the funding levels for the Ricky Ray act are raised substantially.

Mr. President, let me conclude by saying that I am heartened by the response of my friends, the distinguished Senator from Pennsylvania, Senator SPECTER, and the able Senator from Iowa, Senator HARKIN, in crafting this legislation. They have risen to an incredible challenge in the funding of programs designed for AIDS care, research and treatment, and I remain committed to work with them during this year and next to finish some of the great work that remains to be done, especially in regard to HIV prevention programs and the Ricky Ray Trust Fund.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, October 6, 1999, the Federal debt stood at $5,654,882,997,504.81 (Five trillion, six hundred fifty-four billion, eight hundred eighty-two million, nine hundred ninety-seven thousand, five hundred four dollars and eighty-one cents).

One year ago, October 6, 1998, the Federal debt stood at $5,536,217,000,000 (Five trillion, five hundred thirty-six billion, two hundred seventeen million).

Five years ago, October 6, 1994, the Federal debt stood at $4,690,449,000,000 (Four trillion, six hundred ninety billion, four hundred forty-nine million).

Ten years ago, October 6, 1989, the Federal debt stood at $2,877,626,000,000 (Two trillion, eight hundred seventy-seven billion, six hundred twenty-six million) which reflects a doubling of the debt—an increase of almost $3 trillion—$2,777,256,997,504.81 (Two trillion, seven hundred seventy-seven billion, two hundred fifty-six million, nine hundred ninety-seven thousand, five hundred four dollars and eighty-one cents) during the past 10 years.

MOTIVES OF VOTE

Mr. SMITH of New Hampshire. Mr. President, a couple of days ago on the Senate floor, one of my colleagues, Senator LEAHY from Vermont, made some remarks regarding the possible motives of some of us who made a vote on a particular nominee, Ronnie White of Missouri to the Federal court. I want to read from the Senate manual what we all know as rule XVIIII. I want to indicate before reading that I do not believe Senator LEAHY violated that rule. That is not the purpose of bringing this up.

The rule says:

> No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators—

Plural—

> any conduct or motive unworthy or unbecoming of a Senator.

That rule is very clear, and it is not very often throughout the history of the Senate that rule has been violated.

I want to quote what Senator LEAHY said on October 5 on the Senate floor after the vote on Ronnie White. He said:

> Mr. President, I have to say this with my colleagues present. When the full history of Senate treatment of the nomination of Justice Ronnie White is understood, when the switches and politics that drove the Republican side of the aisle are known, the people of Missouri and the people of the United States will have to judge whether the Senate was unfair to this fine man and whether their votes served the interests of justice and the Federal courts.

Then the Senator from Vermont concluded by saying:

> I am hoping—and every Senator will have to ask himself or herself this question—the United States has not reverted to a time in

its history when there was a color test on nominations.

The reason why I say rule XVIIII was not violated in that case, I believe, although the Senator from Vermont may have walked up to the line—he did not cross it—is because he said "I am hoping." I, therefore, will not make any contest at this point on that.

It concerned me deeply that those comments were made. I want to say for the record, and it is interesting because I spoke to at least a dozen colleagues who voted the same way I did, in opposition to this nominee—not that it matters—who did not even know what race Mr. White was. I didn't know. I had no idea, and I had numerous conversations about this nominee over the course of several weeks and months, as his nomination was pending. I never knew what his race was nor would I care because I wouldn't want to look, frankly. What difference does it make? It doesn't make any difference to me.

This went further than the Senate floor, which is quite disturbing. In the Washington Post today is in an article, "Deepening Rift Over Judge Vote, Minorities Confirmed At a Lower Rate." That was the Washington Post story. Very prominently pictured in the article is a picture of Ronnie White, and in addition, Senators ASHCROFT and BOND. There is an implication there that I don't like.

In the article, we have Governor Mel Carnahan, who happens to be the opponent of Senator ASHCROFT in the election in Missouri for the Senate, who said:

> "Judge White is a highly qualified lawyer and judge and the [death penalty] figures were manipulated by Senator Ashcroft to undermine him," Carnahan said.

Then it got a little worse from the Chief Executive of the United States of America. I want to point out, if President Bill Clinton were Senator Bill Clinton, and he said what I am about to read, in my view, he would have violated rule XVIIII. That is why I bring it up. Here is what the President said about all of us who voted against Mr. White's nomination:

> Yesterday's defeat of Ronnie White's nomination for the federal district court judgeship in Missouri was a disgraceful act of partisan politics. The Republican-controlled Senate is adding credence to the perception that they treat minority and women judicial nominees unfairly and unequally.

That basically is a direct attack on all of us and our motives, basically accusing us of being—the implication is that we are racists, that we do not treat minorities fairly, and that we discriminate against women as well.

That came from the President of the United States.

I will also quote from an article in the Washington Times today in relation to J.C. Watts, the most prominent African American Republican in the Congress of the United States, who was also deeply offended, as he should have been, by these remarks. It is interesting what Chairman Watts of the House Republican Conference said. This is J.C. Watts talking:

> "It is fascinating to me that racism often is defined, not by your skin color, but by your ideology," said Mr. Watts, the lone black Republican in the House, in a luncheon with editors and reporters at The Washington Times.

He said further:

> Unless you're a Democrat. It's OK to do it to black Republicans, black conservatives. But don't do it to a black Democrat.

Then it is racial.

It really is troublesome to me that we create these barriers between us.

President Clinton said:

> [By voting down] the first African American judge to serve on the Missouri State Supreme Court, the Republican-controlled Senate is adding credence to the perceptions that they treat minority and women judicial nominees unfairly and unequally.

But anyway, it is troubling to me that these kinds of things happen. I voted against the nominee because of his views on some issues. I spoke to this on the Senate floor on the same day. I am quoting myself now:

> In the case of Justice White, who now serves on the Supreme Court in Missouri, he has demonstrated that he is an activist, and has a political slant to his opinions in favor of criminal defendants and against prosecutors. It is my belief that judges should interpret the law, and not impose their own political viewpoints.

That is why I voted against Ronnie White.

Prominent law enforcement people in Missouri were also opposed to him, and said so, as Senator ASHCROFT made very clear.

It is troubling to me that this issue raises its ugly head when somebody happens to be African American. I thought really we would get beyond this. It would have been nice if the President of the United States had said: Ninety-two percent of the minority nominations that have come through this Senate have been confirmed, most of them unanimously without even a recorded vote. It would have been nice if the President said that was pretty good on the part of this Senate, instead of singling out one who had not been confirmed for, I believe, good reason.

One of the things you find out in the Senate, if you stay here long enough, is that you probably have said something somewhere along the line you would like to take back. I am going to say up front regarding my colleague from Vermont, I do not impugn his motives, but it is interesting that Senator LEAHY did not vote to confirm Clarence Thomas. He voted against Clarence Thomas, a very prominent member of the Supreme Court who happens to be African American—a man I was proud to support. I did not hear the President mention any of us who voted for Clarence Thomas, an African American. The reason is very simple: Clarence Thomas is a conservative. That is the reason.

I would never impugn my colleague's motives for voting against Clarence Thomas. I assume he voted against Clarence Thomas because he was a conservative, he did not like his politics, did not like his views on abortion and other issues. I believe that.

I say, without any hesitation, if my colleague were here on the floor now, I would look at him and say: Absolutely, I believe you, that that is your motive, and no other motive.

There was also another vote in 1989 in committee, for a gentleman by the name of William Lucas. Lucas was President Bush's pick for Assistant Attorney General for Civil Rights. He happens to be African American. Lucas's nomination never got to the Senate floor. The vote in Judiciary was 7–7. The Senator from Vermont voted no. Again, I would never use the issue of race to say that was the reason for his vote. I would not even imply it.

So I think it is important that we move beyond this, stop this divisiveness, and give people the benefit of the doubt, and particularly Senator HATCH who so many times has brought nominees whom you and I—I would say to the Senator in the Chair, I myself have often disagreed with Senator HATCH on some of the nominations he has brought, but he has brought them forth I think probably more fairly than he should have in terms of the nominations he brings forth.

So to throw that blanket over 54 individuals who voted the way they did, or even to imply it, is unfortunate.

So I say, to set the record straight, I am going to vote against a person who I think is an activist, who does not represent the views that I believe should be on the court, no matter what the color, and, most frankly, without knowing the color if I can help it because I do not think it matters. It is unfortunate in this case that we came to that.

Mr. President, I want to touch on one other issue before we close up the Senate.

THE PANAMA CANAL

Mr. SMITH of New Hampshire. A few days ago, on October 4, I indicated that there were 88 days until the Panama Canal would be turned over to the Chinese—to the Panamanians and ultimately into the hands of the Chinese Communists. That was October 4.

Today is the 7th, so we have 87, 86, 85—we are down to 85 days before the canal is closed, will be turned over to the Chinese. I have a chart here on which I will put some stickers to cross those days off. The days go fast. I point out that we are going to see this canal in the hands of a nation that does not have positive feelings toward the United States—to put it as nicely as I can. So this is the flag of Communist China. So now 3 more days have gone by.

I recently addressed this issue of Panama and the impending turnover on October 4, a few days ago. Again, 3 more days have passed. The countdown continues. On December 31, this canal leaves the control of the United States and will come into the hands of the Chinese Communists.

In his book, "The Path Between the Seas," David McCullough's history of the canal reminds us of its historic importance:

> The creation of the Panama Canal was far more than a vast, unprecedented feat of engineering. It was a profoundly important historic event and a sweeping human drama not unlike that of war. . . .
>
> Great reputations were made and destroyed. For numbers of men and women, it was the venture of a lifetime. . . . Because of it, one nation, France, was rocked to its foundations. Another, Colombia, lost its most prized possession, the Isthmus of Panama. . . . The Republic of Panama was born. The United States was embarked on a role of global involvement.

So while the United States has no assurances it may remain in Panama after December 31, despite overwhelming public opinion in Panama in support of a continued U.S. presence—we are going to be leaving—the Chinese firm of Hutchison Whampoa will be there in the ports of Cristobal and Balboa on both sides of the canal, having won, through what was widely regarded as a corrupt bidding practice, the right to lease the ports for 25 years and beyond. Both sides of the canal will now be in the control of the Chinese.

After the United States withdraws from Panama, December 31, there is no doubt that a security vacuum will be created. Who is going to fill it? We have less than 3 months, 85 days, a very short window of time to try to work out a solution that is mutually acceptable to us and to the Panamanians.

Let us look at the status of the transition. What bothers me is that this administration is doing nothing to try to renegotiate those leases or to somehow talk with the Panamanians to try to get us to remain there. To date, we have transferred to the Government of Panama 57,000 acres—remember, we spent $32 billion building that canal—57,000 acres and 3,000 buildings controlled by our military, including schools, hospitals, houses, airports, seaports, roads, and bridges. It represents about 62 percent of the total property.

As of July 1 of this year, U.S. troop strength was down from 10,000 in February 1994 to a little over 1,200, so we are just about finished. All U.S. presence on the Atlantic side was terminated on 30 June with the transfer of Fort Sherman and Pina Range. The remaining 36,000 acres and 1,900 facilities will be transferred to the Government of Panama as follows: On the 28th of July, the Empire Range for the Army and the Balboa West Range for the Air Force will go. On the 13th of August, the U.S. Army mortuary—these are what has already happened—on the 17th of August, the Curundu Middle School; on the 1st of November, Fort Kobbe, Howard Air Force base, Farfan housing and radio site will go; Curundu Laundry; Fort Clayton, West and East Corozal; Building 1501, Balboa, and Ancon Hill communications site; and on December 31, the grand enchilada, the big prize, the Panama Canal itself, gone, without a whimper.

It troubles me this issue has not even entered the Presidential debate in this country. There is no one at the State Department or in the Defense Department or in the White House talking to the Panamanians about reopening the bidding process or renegotiating leases to try to get in there ahead of the Chinese company. As if to rub it in, to rub salt in the wound even more, the actual turnover is going to take place on December 10. Perhaps they advanced the date so it wouldn't interfere with our Christmas or New Year's Eve parties or maybe they were afraid of Y2K. Maybe they were afraid we would get stuck there.

The bottom line is, on December 10 we will turn it over, which is about 21 days earlier than we should. So I want to elaborate, again, on the significance of the canal to seapower, to our Navy, and to the importance of preserving both the spirit and the letter of the neutrality treaty.

I will now discuss the background of a controversial law in Panama known as Law 5.

President Teddy Roosevelt was a reader and admirer of Alfred Thayer Mahan, a gentleman regarded by many as the father of the modern American Navy. Mahan's book, "The Influence of Sea Power," had a profound impact on Theodore Roosevelt. Mahan traced the rise and decline of past maritime powers and concluded that supremacy at sea translated into national greatness and commercial success. We are essentially an island or, more specifically, a peninsula nation. The Navy is very important to us.

Roosevelt, whose first published work was "The Naval War of 1812," had read Mahan's book and understood its importance. It prompted him to be a strong advocate of constructing the canal, to be sure the United States would have easy access through the isthmus of Panama and into the Pacific from the Atlantic and vice versa.

In World War II, damage to the canal could have and would have delayed the buildup of our war efforts in the Pacific big time. I can't imagine what it would be like to not have been able to use the canal. It would have delayed the flow of supplies to Great Britain, the Soviet Union, the dispatch of essential war materials from South America to the United States, and on and on.

I am concerned that some officials in Panama might be somewhat naive about the canal's security and about world history. In June, the then Panamanian Foreign Minister disagreed sharply with General Wilhelm, head of SOUTHCOM, who had testified before the Senate Foreign Relations Committee that Panamanian security forces were undermanned and ill equipped to deal with growing threats from Colombian guerrilla incursions and drug traffickers. Panama's Foreign Minister at that time, Jorge Ritter, said the general's statements were inadmissible and argued that "never have the U.S. military forces been here to guard our borders, and they have even less to do with the security of Panama, nor do they have anything to do with the security of the canal."

Even more surprisingly, the Foreign Minister alleged that the growth of drugs in Panama did not begin with withdrawal of U.S. troops but, instead, grew while there were military bases in Panama.

Perhaps this gentleman, with all due respect, has forgotten what happened in 1989. During questioning before the Senate Foreign Relations Committee, Adm. Thomas Moorer, former Chairman of the Joint Chiefs of Staff, was asked if the 1977 treaty had been more helpful or more harmful to U.S. interests. Moorer's immediate response was that 26 soldiers had died in Operation Just Cause in 1989. Among the reasons for the military intervention—to thwart drug trafficking, to preserve democracy in Panama, and to defend the canal—26 Americans gave their lives. To have Mr. Ritter make those kinds of statements is outrageous.

Part of the Senate Foreign Relations Committee hearing testimony includes some interesting commentary on the background of Mr. Ritter. He was the president of the Panama Canal Authority. He was also the chief Panamanian negotiator who reportedly torpedoed the base talks in Panama. He was tied by the Panamanian press and outside press to the highest levels of drug cartels and served as Panama's ambassador to Colombia during the time that Manuel Noriega was doing business with the drug cartels in Colombia. He was Noriega's point man, bottom line.

It was also reported to the press that Ritter had issued a Panamanian ID card for Jorge Escobar, which was found on him when he died in Colombia in a shoot-out with law enforcement. I am not surprised that Mr. Ritter downplayed the importance of the canal and U.S. military base rights. It doesn't surprise me at all.

Hopefully, with the recent inauguration of President Moscoso, that attitude, as expressed by the former Foreign Minister, has changed. I hope it has. I am told that the new Panamanian President was planning to visit but, for whatever reason, I am not sure, canceled her trip. I had hoped to have the opportunity to meet with her. Hopefully, we will be able to do that at some point in the future.

I have been informed that, unlike her predecessor, President Moscoso would like to do business with the United States and would like to be above board with the negotiations. I wish her much success. I hope she realizes how important her actions are. It would be nice if some in the State Department and the administration would talk with her and encourage her in the next few weeks and months.

I also hope that it is not too late for her to weigh in on the decision about the leases at Cristobal and Balboa. I realize that would take a lot of political courage for her, but I hope she will give a thorough review of the bidding process, its known irregularities, and its compliance with both the spirit and the letter of the canal and neutrality treaty.

In conclusion, this Law 5 reportedly does the following: It gives responsibility for hiring new pilots for the canal who control the ships passing through the canal. It gives Hutchison Whampoa, the Chinese company, the right to possess Rodman Naval Station when it reverts to Panama this year. It gives the authority to control the order of ships utilizing the entrance to the canal and to deny ships access to the ports and entrances of the canal, if they are deemed to be interfering with Hutchinson's business operations. Contrast this with the explicit grant of expeditious passage in the 1977 treaty, which the Panama Canal treaty gave to the U.S. Navy.

Now we are seeing the Chinese Communists—and there are thousands of Chinese now in Panama. People say: Well, it is private business. There is no private business in China. It is all controlled by the government, whatever they do. So this is government business in China. It is Chinese Communist government in Panama by the Chinese. Law 5 gives the right to transfer unilaterally its rights to a third party to any company or any country they select. This ought to be troublesome, and yet it is not even on the radar screen in the political debates around our country today.

Certain public roads could become private in a hurry, which could impact canal access.

This Hutchison Whampoa deal includes U.S. Naval Station Rodman, as mentioned previously; U.S. Air Station Albrook; Diablo; Balboa, a Pacific U.S.-built port; Cristobal, an Atlantic U.S.-built port; the island of Telfers, strategically located adjacent to Galeto Island, a critical communications center.

Telfers Island is said to be the future home of a Chinese work in progress, an export zone, called the "Great Wall of China" project.

I cannot understand how we can ignore this presence into the Western Hemisphere. Monroe would turn over in his grave. The Monroe Doctrine said that foreign European nations, and other nations around the world, should stay out of the Western Hemisphere. Yet, here they are.

Law 5 is subservient to the 1977 treaty. But if we fail to notice the discrepancies and fail to act upon those discrepancies, or to point out there are potential compliance problems, then we lose the opportunity to respond.

As I said before, I don't have the easel here now, but it's 84 more days. We will come back next week, and I will come back with the chart and it will be 79 days, or whatever it happens to be. But as each day ticks off, another day goes by—another day we haven't talked to President Moscoso and we haven't tried to reopen the negotiations, and we are another day closer to turning the Panama Canal not over to the Panamanians, but to the Chinese Communists—and not a whimper from anybody in the State Department, or the President, the Defense Department, Presidential campaigns, or anywhere. So the days are getting short. I think that I have an obligation to tell the American people, on a day-to-day basis—remind them—about what is going on.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on October 7, 1999, he had presented to the President of the United States, the following enrolled bill:

S. 559. An act to designate the Federal building located at 300 East 8th Street in Austin, Texas, as the "J.J. 'Jake' Pickle Federal Building."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5528. A communication from the Deputy General Counsel, Federal Bureau of Investigation, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Federal Bureau of Investigation, Criminal Justice Information Services Division Systems and Procedures" (RIN1105–AA63), received October 4, 1999; to the Committee on the Judiciary.

EC–5529. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "National Flood Insurance Program; Procedures and Fees for Processing Map Changes; 64 FR 51461; 09/23/99", received September 30, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–5530. A communication from the Chairman, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the annual report for calendar year 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5531. A communication from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Safety of Nuclear Explosive Operations" (AL 452.2A), received October 4, 1999; to the Committee on Energy and Natural Resources.

EC–5532. A communication from the Principal Deputy Assistant Secretary for Congressional Affairs transmitting a draft of proposed legislation entitled "Veterans Programs Improvement Act of 1999"; to the Committee on Veteran's Affairs.

EC–5533. A communication from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Enrollment-Provision of Hospital and Outpatient Care to Veterans" (RIN2900–AJ18), received October 4, 1999; to the Committee on Veteran's Affairs.

EC–5534. A communication from the Director, National Science Foundation, transmitting, pursuant to law, the 1998 biennial report of the Committee on Equal Opportunities in Science and Engineering; to the Committee on Health, Education, Labor, and Pensions.

EC–5535. A communication from the Commissioner of Social Security transmitting a draft of proposed legislation entitled "Civil Monetary Penalty Extension Act of 1999"; to the Committee on Finance.

EC–5536. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update" (Notice 99–49), received September 27, 1999; to the Committee on Finance.

EC–5537. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Appeals Customer Service Program" (Announcement 99–98, 1999–412 I.R.B.—, dated October 18, 1999), received October 4, 1999; to the Committee on Finance.

EC–5538. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Ethalfluralin; Reestablishment of Tolerance for Emergency Exemptions" (FRL #6383–2), received October 4, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5539. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Tebuconazole; Extension of Tolerance for Emergency Exemptions" (FRL #6386–4), received October 4, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5540. A communication from the Director, Office of Procurement and Property Management, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Agriculture Acquisition Regulation: Part 415 Reorganization; Contracting by Negotiation" (RIN0599–AA07), received September 30, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5541. A communication from the Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Avocados Grown in South Florida and Imported Avocados; Revision of the Maturity Requirements for Fresh Avocados" (Docket No. FV99–915–2 FR), received October 4, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5542. A communication from the Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Fresh Bartlett Pears Grown in Oregon and Washington; Increased Assessment Rate" (Docket No. FV99–931–1 FR), received September 30, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5543. A communication from the Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Vidalia Onions Grown in Georgia; Decreased Assessment Rate" (Docket No. FV98–955–1 FIR), received September 30, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5544. A communication from the Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Modification of Procedures for Limiting the Volume of Small Red Seedless Grapefruit" (Docket No. FV99–905–4 IFR), received September 30, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5545. A communication from the Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Voluntary Egg, Poultry and Rabbit Grading Regulations" (Docket No. PY–99–904), received September 30, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5546. A communication from the Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Interim Final Rule-Revision of Regulation for Mandatory Inspection (Flue-Cured Tobacco)" (Docket No. TB–99–07), received September 30, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5547. A communication from the Manager, Federal Crop Insurance Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Final Rule: General Administrative Regulations; Interpretations of Statutory and Regulatory Provisions" (RIN0563–AB74), received October 4, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5548. A communication from the Acting Inspector General, Department of Defense, transmitting, pursuant to law, a report relative to the DoD annual financial audit of the uses of the Superfund; to the Committee on Environment and Public Works.

EC–5549. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Indiana" (FRL #6452–6), received September 30, 1999; to the Committee on Environment and Public Works.

EC–5550. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Santa Barbara County Air Pollution Control District and South Coast Air Quality Management District" (FRL #6448–5), received October 4, 1999; to the Committee on Environment and Public Works.

EC–5551. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Final Authorization of State Hazardous Waste Management Program Revision" (FRL #6448–5), received October 4, 1999; to the Committee on Environment and Public Works.

EC–5552. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Technical Support Document for the Evaluation of Aerobic Biological Treatment Units with Multiple Mixing Zones", received October 4, 1999; to the Committee on Environment and Public Works.

EC–5553. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "USEPA Region 2 Draft Interim Policy on Identifying EJ Areas; June 1999; Parts I, II and III", received October 4, 1999; to the Committee on Environment and Public Works.

EC–5554. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Changes, Tests, and Experiments" (RIN3150–AF94), received October 4, 1999; to the Committee on Environment and Public Works.

EC–5555. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Moundsville, WV; Docket No. 99–AEA–11 (9–29/10–4)" (RIN2120–AA66) (1999–0319), received October 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5556. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Raton, NM; Direct Final Rule; Confirmation of Effective Date; Docket No. 99–ASW–11 (9–29/9–30)" (RIN2120–AA66) (1999–0317), received October 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5557. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Perry, OK; Direct Final Rule; Confirmation of Effective Date; Docket No. 99–ASW–15 (9–29/10–4)" (RIN2120–AA66) (1999–0321), received October 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5558. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Class D Airspace; Bullhead City, AZ; Direct Final Rule; Confirmation of Effective Date; Docket No. 99–AWP–8 (9–20/10–4)" (RIN2120–AA66) (1999–0320), received October 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5559. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Burkhart Grob Luft-Und Raumfahrt GmbH and CO KG Models G103 TWIN II and G103A TWIN II ACRO Sailplanes; Request for Comments; Docket No. 99–CE–68 (9–29/10–4)" (RIN2120–AA64) (1999–0379), received October 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5560. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; MD Helicopters Inc. Model 369D, 369E, 369FF, 500N, and 600N Helicopters; Docket No. 98–SW–80 (9–30/10–4)" (RIN2120–AA64) (1999–0378), received October 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5561. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A330–301, and Model A340–211, –212, –311, and –312 Series Airplanes; Docket No. 99–NM–119 (10–1/10–4)" (RIN2120–AA64) (1999–0377), received October 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5562. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Short Brothers SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA Series Airplanes; Docket No. 99–NM–29 (1–1/10–4)" (RIN2120–AA64) (1999–0375), received October 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5563. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Empressa Brasileira de Aeronautica S.A. Model EMB–145 Series Airplanes; Request for Comments; Docket No. 99–NM–198 (10–1/10–4)" (RIN2120–AA64) (1999–0376), received October 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5564. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Fokker Model F.28 Mark 0070 and Mark 0100 Series Airplanes; Docket No. 99–NM–346 (–28/10–4)" (RIN2120–AA64) (1999–0373), received October 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5565. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Allied Signal Inc. TFE731 Series Turbofan Engines; Docket No.

99–ANE–51 (9–29/10–4)'' (RIN2120–AA64) (1999–0374), received October 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5566. A communication from the Chief Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ``Inseason Adjustment for the D Fishing Season Directed Pollock Fishery in Statistical Area 630 of the Gulf of Alaska'', received September 30, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5567. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ``Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Central Aleutian District and Bering Sea Subarea of the Bering Sea and Aleutian Islands'', received September 30, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5568. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ``Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Vessels Catching Pollock for Processing by the Mothership in the Bering Sea Subarea'', received September 30, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5569. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ``Prohibition of Directed Fishing for Pollock in Statistical Area 610 of the Gulf of Alaska'', received September 30, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5570. A communication from the Deputy Assistant Administrator for Fisheries, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ``Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 11'' (RIN0648–AL52), received October 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5571. A communication from the Associate Chief, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ``Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, Order on Reconsideration and Petitions for Forbearance'' (CC Docket No. 96–114) (FCC 99–223), received September 30, 1999; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. Res. 179. A resolution designating October 15, 1999, as ``National Mammography Day.''

EXECUTIVE REPORTS OF A COMMITTEE

The following executive reports of a committee were submitted:

By Mr. HATCH, for the Committee on the Judiciary:

Ellen Segal Huvelle, of the District of Columbia, to be United States District Judge for the District of Columbia.

Anna J. Brown, of Oregon, to be United States District Judge for the District of Oregon.

Charles A. Pannell, Jr., of Georgia, to be United States District Judge for the Northern District of Georgia.

Florence-Marie Cooper, of California, to be United States District Judge for the Central District of California.

Ronald M. Gould, of Washington, to be United States Circuit Judge for the Ninth Circuit.

Richard K. Eaton, of the District of Columbia, to be a Judge of the United States Court of International Trade.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CRAIG (for himself and Mr. Crapo):

S. 1705. A bill to direct the Secretary of the Interior to enter into land exchanges to acquire from the private owner and to convey to the State of Idaho approximately 1,240 acres of land near the City of Rocks National Reserve, Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. HUTCHISON (for herself and Mr. Gramm):

S. 1706. A bill to amend the Federal Water Pollution Control Act to exclude from stormwater regulation certain areas and activities, and to improve the regulation and limit the liability of local governments concerning co-permitting and the implementation of control measures; to the Committee on Environment and Public Works.

By Mr. THOMPSON (for himself and Mr. Frist):

S. 1707. A bill to amend the Inspector General Act of 1978 (5 U.S.C. App.) to provide that certain designated Federal entities shall be establishments under such Act, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN (for himself, Mr. Jeffords, Mr. Leahy, Mr. Kerrey, Mr. Robb, Mr. Rockefeller, Mr. Sarbanes, Mr. Grams, and Mr. Lieberman):

S. 1708. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to require plans which adopt amendments that significantly reduce future benefit accruals to provide participants with adequate notice of the changes made by such amendments; to the Committee on Finance.

By Mr. KYL (for himself, Mr. McCain, Mrs. Hutchison, Mr. Domenici, Mr. Bingaman, and Mrs. Feinstein):

S. 1709. A bill to provide Federal reimbursement for indirect costs relating to the incarceration of illegal aliens and for emergency health services furnished to undocumented aliens; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. SNOWE (for herself, Mr. Helms, Mr. Sarbanes, Mr. Biden, and Mr. Byrd):

S. Res. 198. Expressing sympathy for those killed and injured in the recent earthquakes in Turkey and Greece and commending Turkey and Greece for their recent efforts in opening a national dialogue and taking steps to further bilateral relations; considered and agreed to.

By Mr. REED (for himself, Ms. Collins, Mr. Torricelli, Mr. Reid, Mr. Levin, Mr. Wellstone, Mr. Lieberman, Mr. Kerry, Mr. Kennedy, Mr. Sarbanes, Mr. Dorgan, Mr. Schumer, Mr. Akaka, Mr. Inouye, Mr. Chafee, Mrs. Boxer, Ms. Mikulski, Mr. Dodd, Mr. Wyden, Mr. Conrad, Mr. Graham, Mr. Durbin, Mr. DeWine, Ms. Landrieu, Mr. Johnson, Mr. Jeffords, Mr. Smith of Oregon, Mr. Robb, and Mr. Frist):

S. Res. 199. A resolution designating the week of October 24, 1999, through October 30, 1999, and the week of October 22, 2000, through October 28, 2000, as ``National Childhood Lead Poisoning Prevention Week''; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRAIG (for himself and Mr. Crapo):

S. 1705. A bill to direct the Secretary of the Interior to enter into land exchanges to acquire from the private owner and to convey to the State of Idaho approximately 1,240 acres of land near the City of Rocks National Reserve, Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

CASTLE ROCK RANCH/HAGERMAN FOSSIL BEDS LAND EXCHANGE

• Mr. CRAIG. Mr. President, I rise today to introduce a bill to authorize the Castle Rocks Ranch/Hagerman Fossil Beds Land Exchange in my home state of Idaho.

Mr. President, in Idaho we have one of the foremost rock climbing destination sites in the world. It is called the City of Rocks National Reserve and is located in South Central Idaho. Most of the Reserve is owned by the National Park Service with parts of it being owned by the State of Idaho, the Forest Service, the Bureau of Land Management, and private landowners. The State of Idaho runs the Reserve with a cooperative agreement with the National Park Service.

The Reserve has unique geologic features—essentially, large rock formations jut out of the ground. I can't give it justice with my description—it is really something that must be seen, so I invite everyone to come to Idaho and visit the City of Rocks. Besides the rock formations, many of which are used extensively and known internationally for rock climbing, the site has unique historic significance. The California Trail, one of the major trails for Westward expansion during the 19th Century, passes through the Reserve. One of the Reserve's major attractions, Twin Sisters, was a landmark for this trail and is currently being protected for historic significance. Additionally, wagon trains often stopped in the area to maintain their wagons. During these stops, pioneers wrote their names on the rocks with wagon grease. Many of these names are still visible on the rocks today and serve as a record of our ancestors who passed through the area.

Near the Reserve exists the Castle Rock Ranch, an approximately 1,240 acre ranch containing similar rock formations, which are ideal for fork climbing. Additionally, the Ranch contains irrigated pasture land. The Ranch was recently purchased by The Conservation Fund and other conservation groups in order to put it into the public domain for recreation. It is currently being operated as a working ranch. However, the State of Idaho would like to acquire this Ranch to make it into a state park. They would open up the rock formations for rock climbing, provide for camping and hiking, and, where irrigated pasture land exists, trade that irrigated land for dry land inholdings within the Reserve. This would help local ranchers acquire irrigated land, which is more valuable than gold in Southern Idaho, and allow the state to consolidate inholdings within the Reserve.

A couple of counties to the West and across the mighty Snake River exists the Hagerman Fossil Beds National Monument. This National Monument contains the Hagerman Fossil Beds, which is important because it contains the world's most important fossil deposits from a time period known as the late Pliocene epoch, 3.5 million years ago. They represent the last glimpse of time before the Ice Age. Additionally, the beds contain the largest concentration of Hagerman Horse fossils in North America. While the State of Idaho owns the actual fossil beds, the National Park Service runs and maintains the facility.

The State of Idaho wants to divest its interest in the fossil beds and acquire the Castle Rock Ranch. Additionally, the National Park Service wants to acquire the Fossil Beds. This would make it easier for everyone to work to protect the resources we have and open up opportunities for recreation. Consequently, I am introducing this legislation.

In brief, the legislation would authorize the National Park Service to acquire the Castle Rock Ranch, exchange the Ranch with the State of Idaho for the Hagerman Fossil Beds, and mandate that the State exchange land within the Ranch for inholdings within the City of Rocks. In the end, the National Park Service would run and own the Hagerman Fossil Beds, the State of Idaho would own and run a state park in part of the Castle Rock Ranch, and voluntary inholders in the City of Rocks would be able to trade their inholdings for irrigated land on the Castle Rock Ranch.

The only concern I have is the existence of an easement on the Hagerman Fossil Beds for the local irrigation company. This is the only way for farmers in the local area to get water to their farms—a necessity in that region. Section 4(e) of this legislation was included to ensure that this easement will continue to exist. It is vital to the existence of family farms in the area, and, for the record, it is not my intent to harm—and I will do all in my power to prevent this legislation from harming—this easement or the irrigation in the local area.

Mr. President, this is a unique proposal that makes fiscal sense for taxpayers and has garnered the support of the National Park Service, the State of Idaho, The Conservation Fund, The Access Fund (a national climbing group), other conservation groups, local legislators, and many local residents. I hope that my colleagues will recognize the importance of this legislation and work for its enactment.●

By Mr. MOYNIHAN (for himself, Mr. JEFFORDS, Mr. LEAHY, Mr. KERREY, Mr. ROBB, Mr. ROCKEFELLER, Mr. SARBANES, Mr. GRAMS, and Mr. LIEBERMAN):

S. 1708. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to require plans which adopt amendments that significantly reduce future benefit accruals to provide participants with adequate notice of the changes made by such amendments; to the Committee on Finance.

THE PENSION REDUCTION DISCLOSURE ACT OF 1999

Mr. MOYNIHAN. Mr. President, I rise today, joined by Senators JEFFORDS, LEAHY, GRAMS, KERREY, ROBB, ROCKEFELLER, and SARBANES, to introduce legislation to provide greater disclosure of the impact of pension plan conversions.

This is the second bill I have sponsored this session aimed at achieving transparency of the effects of traditional pension plan conversions to "cash balance" plans, which have become extremely controversial in recent months. At least 300 large U.S. companies have converted to cash balance plans in the last few years.

Cash balance plans combine certain features of "defined benefit" and "defined contribution" plans. Like defined contribution plans, cash balance plans provide each employee with an individual account representing a lump-sum benefit. Like traditional defined benefit plans, cash balance plan contributions are made primarily by the employer and are insured by the Pension Benefit Guaranty Corporation.

The calculation of benefits under cash balance plans, however, differs from other defined benefit plans. Whereas a traditional defined benefit plan grows slowly in the early years and more rapidly as one approaches retirement, cash balance plans de-accelerate this later-year growth and increase the early-year growth. Consequently, younger employees tend to do better under cash balance plans than under traditional plans, while older employees typically do worse. In some cases, an older worker's starting account balance may remain static for years—typically referred to as the "wear away" period.

The controversy over cash balance plans arises in part because present disclosure requirements are inadequate. Under present law, when an employer amends a defined benefit pension plan in a manner which significantly reduces the rate of future benefit accrual, the employer must provide participants with an advance written notice of the amendment. The law does not, however, require employers to disclose the effect the amendment will have on participants. In fact, it does not even require employers to disclose that benefits will be reduced. All that present law requires is that employers provide participants with a summary or copy of the plan amendment. Consequently, current law can be satisfied with a summary buried in an obscure document. In some cases, workers have complained that their employers purposefully obscured benefit reductions. As a result, employee anger over cash balance plans has grown, resulting in several class action lawsuits being filed in just the last three years.

The Pension Reduction Disclosure Act will strengthen existing law by requiring disclosure of information which will enable employees to determine the effects of benefit reductions. Specifically, before the plan is changed, each adversely-affected employee must receive illustrative examples showing the effects of the change on various employee groups. Moreover, each employee must have the opportunity to receive the benefit formulas for the old and new versions of the plan so that he or she can make specific comparisons of both plans. Then, 90 days after the plan is changed, each adversely-affected employee must have, upon request, the opportunity to receive an individual benefit comparison prepared by the employer. This information will provide employees with the knowledge they need regarding pension benefit reductions, while imposing minimal burden on employers.

The Pension Reduction Disclosure Act, is a modified version of legislation I introduced in March entitled The

Pension Right to Know Act (S. 659). The new measure attempts to address concerns raised by employers concerning S. 659. For example, the new measure requires disclosure only for adversely-affected employees, not all employees, in order to meet employer concerns that S. 659 was too broad in its reach. Moreover, the new bill addresses employer concerns that it would be difficult to provide individual benefit comparisons before the amendment effective date due to a lack of individual data. Under the bill introduced today, individual benefit comparisons would be required no earlier than 90 days after the effective date, and then only upon request. (To enable employees to compare the old and new plans before the effective date, this bill provides illustrative examples and, upon request, the benefit formulas for the old and new plans.) Another change is that the new bill allows the Secretary of Treasury to develop alternative and simplified compliance methods where appropriate, as in cases where there is no fundamental change in the manner in which benefits are determined. Moreover, the Secretary may reduce the advance notice period from 45 days to 15 days in cases in which the 45-day requirement would be unduly burdensome because the amendment is contingent on a merger, acquisition, disposition or other similar transaction.

I believe that such disclosure not only is in the best interest of employees, but also of the employer. Several class action lawsuits have been filed in the last three years challenging conversions to cash balance plans. These suits will likely cost millions of dollars in attorneys' fees, but with proper disclosure they might not have occurred.

I want to acknowledge the work of the Clinton Administration in helping to craft this measure. The bill largely follows the outline of a proposal suggested by the Administration in July which was developed in collaboration with my staff. The Departments of Treasury and Labor have provided great insight and creativity in developing this bill, and I thank them for their assistance. Two of our distinguished House colleagues, Congressman ROBERT MATSUI of California and Congressman JERRY WELLER of Illinois, are introducing this legislation in the other chamber, so hopefully it will become law this year.

In closing, let me repeat what I have said in the past. I take no position on the underlying merit of cash balance plans. Ours is a voluntary pension system, and companies must do what is right for them and their employees. But I feel strongly that companies must fully and comprehensibly inform their employees regarding whatever pension benefits the company offers. Companies have no right to misrepresent or obfuscate the projected benefit employees will receive under a cash balance plan or any other pension arrangement, notwithstanding the fact that some pension consultants have advocated cash balance plans for that very purpose.

As I said upon introduction of my earlier legislation on this topic, it is time to let the sun shine on pension plan conversions. I urge the Senate to support this important measure.

I ask unanimous consent that a copy and summary of the bill be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1708

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pension Reduction Disclosure Act of 1999".

SEC. 2. NOTICE REQUIRED FOR CERTAIN PLAN AMENDMENTS REDUCING FUTURE BENEFIT ACCRUALS.

(a) GENERAL NOTICE REQUIREMENTS.—Section 204(h) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(h)) is amended to read as follows:

"(h) NOTICE REQUIREMENTS FOR PENSION PLAN AMENDMENTS REDUCING ACCRUALS.—

"(1) IN GENERAL.—If an applicable pension plan is amended so as to provide for a significant reduction in the rate of future benefit accrual of 1 or more applicable individuals, the plan administrator shall—

"(A) not later than the 45th day before the effective date of the amendment, provide the written notice described in paragraph (2) to each applicable individual (and to each employee organization representing applicable individuals), and

"(B) in the case of a large applicable pension plan—

"(i) include in the notice under paragraph (2) the additional information described in paragraph (3),

"(ii) make available the information described in paragraph (4) in accordance with such paragraph, and

"(iii) provide individual benefit statements in accordance with section 105(e).

"(2) BASIC WRITTEN NOTICE.—The notice under paragraph (1) shall include a summary of the important terms of the amendment, including—

"(A) the effective date of the amendment,

"(B) a statement that the amendment is expected to significantly reduce the rate of future benefit accrual,

"(C) a description of the classes of applicable individuals to whom the amendment applies, and

"(D) a description of how the amendment significantly reduces the rate of future benefit accrual.

"(3) ADDITIONAL INFORMATION TO BE PROVIDED BY LARGE APPLICABLE PENSION PLANS.—

"(A) IN GENERAL.—The information described in this paragraph is—

"(i) a description of the plan's benefit formulas (including formulas for determining early retirement benefits) both before and after the amendment and an explanation of the effect of the different formulas on applicable individuals,

"(ii) an explanation of the circumstances (if any) under which (for appropriate categories of applicable individuals) the amendment is reasonably expected to result in a temporary period after the effective date of the amendment during which there are no or minimal accruals,

"(iii) illustrative examples of normal or early retirement benefits meeting the requirements of subparagraph (B), and

"(iv) notice of each applicable individual's right to request, and of the procedures for requesting, the information required to be provided under paragraph (4) and under section 105(e).

"(B) ILLUSTRATIVE EXAMPLES.—Illustrative examples meet the requirements of this subparagraph if such examples illustrate the adverse effects of the plan amendment. Such examples shall be prepared by the plan administrator in accordance with regulations prescribed by the Secretary of the Treasury, and such regulations shall require that the examples—

"(i) reflect fairly the different categories of applicable individuals who are similarly affected by the plan amendment after consideration of all relevant factors,

"(ii) show a comparison of benefits for each such category of applicable individuals under the plan (as in effect before and after the effective date) at appropriate future dates, and

"(iii) illustrate any temporary period described in subparagraph (A)(ii).

Such comparison shall be based on benefits in the form of a life annuity and on actuarial assumptions each of which is reasonable (and is so certified by an enrolled actuary) when applied to all participants in the plan.

"(4) SUPPORTING INFORMATION RELATING TO CALCULATION OF BENEFITS.—

"(A) IN GENERAL.—Each individual who receives or who is entitled to receive the information described in paragraph (3) may (after so receiving or becoming so entitled) request the plan administrator to provide the information described in subparagraph (B).

"(B) INFORMATION.—The plan administrator shall, within 15 days after the date on which a request under subparagraph (A) is made, provide to the individual information (including benefit formulas and actuarial factors) which is sufficient—

"(i) to confirm the benefit comparisons in the illustrative examples described in paragraph (3)(B), and

"(ii) to enable the individual to use the individual's own personal information to make calculations of the individual's own benefits which are similar to the calculations made in such examples.

Nothing in this subsection shall be construed to require the plan administrator to provide to an individual such individual's personal information for purposes of clause (ii).

"(C) TIME LIMITATION ON REQUESTS.—This paragraph shall apply only to requests made during the 12-month period that begins on the later of the effective date of the amendment to which it relates or the date the notice described in paragraph (2) is provided.

"(5) SANCTIONS.—

"(A) IN GENERAL.—In the case of any egregious failure to meet any requirement of this subsection with respect to any plan amendment, the provisions of the applicable pension plan shall be applied as if such plan amendment entitled all applicable individuals to the greater of—

"(i) the benefits to which they would have been entitled without regard to such amendment, or

"(ii) the benefits under the plan with regard to such amendment.

"(B) EGREGIOUS FAILURE.—For purposes of subparagraph (A), there is an egregious failure to meet the requirements of this subsection if such failure is—

"(i) an intentional failure (including any failure to promptly provide the required notice or information after the plan administrator discovers an unintentional failure to meet the requirements of this subsection),

"(ii) a failure to provide most of the individuals with most of the information they are entitled to receive under this subsection, or

"(iii) a failure which is determined to be egregious under regulations prescribed by the Secretary of the Treasury.

"(B) Excise tax.—For excise tax on failure to meet requirements, see section 4980F of the Internal Revenue Code of 1986.

"(6) Special rules.—

"(A) Plain language.—The notice required under paragraph (1) shall be written in a manner calculated to be understood by the average plan participant who is an applicable individual.

"(B) Notice to designees.—The notice and information required to be provided under this subsection may be provided to a person designated, in writing, by the person to which it would otherwise be provided.

"(7) Alternative methods of compliance with enhanced disclosure requirements in certain cases.—The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this subsection. The Secretary of the Treasury may—

"(A) prescribe alternative or simplified methods of complying with paragraphs (3) and (4) in situations where—

"(i) there is no fundamental change in the manner in which the accrued benefit of an applicable individual is determined under the plan, and

"(ii) such other methods are adequate to reasonably inform plan participants who are applicable individuals of the impact of the reductions,

"(B) reduce the advance notice period in paragraph (1)(A) from 45 days to 15 days before the effective date of the amendment for cases in which compliance with the 45-day advance notice requirement would be unduly burdensome because the amendment is contingent on a merger, acquisition, disposition, or other similar transaction involving plan participants who are applicable individuals or because 45 days advance notice is otherwise impracticable,

"(C) permit the comparison of benefits under paragraph (3)(B)(i) to be based on a form of payment other than a life annuity, or

"(D) specify actuarial assumptions that are deemed to be reasonable for purposes of the benefit comparisons under paragraph (3)(B)(i).

"(8) Applicable individual.—For purposes of this subsection, the term 'applicable individual' means, with respect to any plan amendment—

"(A) each participant in the plan, and

"(B) each beneficiary who is an alternate payee (within the meaning of section 206(d)(3)(K)) under a qualified domestic relations order (within the meaning of section 206(d)(3)(B)(i)),

whose future benefit accruals under the plan may reasonably be expected to be reduced by such plan amendment.

"(9) Terms relating to plans.—For purposes of this subsection—

"(A) Applicable pension plan.—The term 'applicable pension plan' means—

"(i) a defined benefit plan, or

"(ii) an individual account plan which is subject to the funding standards of section 302.

"(B) Large applicable pension plan.—The term 'large applicable pension plan' means an applicable pension plan which had 100 or more active participants as of the last day of the plan year preceding the plan year in which the plan amendment becomes effective."

(b) Individual Statements.—Section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended by adding at the end the following new subsection:

"(e)(1) The plan administrator of a large applicable pension plan shall furnish an individual statement described in paragraph (2) to each individual—

"(A) who receives, or is entitled to receive, under section 204(h) the information described in paragraph (3) thereof from such administrator, and

"(B) who requests in writing such a statement from such administrator.

"(2) The statement described in this paragraph is a statement which provides information which is substantially the same as the information in the illustrative examples described in section 204(h)(3)(B) but which is based on data specific to the requesting individual and, if the individual so requests, information as of 1 other future date not included in such examples.

"(3) Paragraph (1) shall apply only to requests made during the 12-month period that begins on the later of the effective date of the amendment to which it relates or the date the notice described in section 204(h)(2) is provided. In no case shall an individual be entitled under this subsection to receive more than one such statement with respect to an amendment.

"(4) Notwithstanding section 502(c)(1), the statement required by paragraph (1) shall be treated as timely furnished if furnished on or before—

"(A) the date which is 90 days after the effective date of the plan amendment to which is relates, or

"(B) such later date as may be permitted by the Secretary of Labor.

"(5) Any term used in this subsection which is used in section 204(h) shall have the meaning given such term by such section.

"(6) A statement under this subsection shall not be taken into account for purposes of subsection (b)."

SEC. 3. EXCISE TAX ON FAILURE TO PROVIDE NOTICE BY DEFINED BENEFIT PLANS SIGNIFICANTLY REDUCING FUTURE BENEFIT ACCRUALS.

(a) In General.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding at the end the following new section:

"SEC. 4980F. FAILURE OF DEFINED BENEFIT PLANS REDUCING BENEFIT ACCRUALS TO SATISFY NOTICE REQUIREMENTS.

"(a) Imposition of Tax.—There is hereby imposed a tax on the failure of a plan administrator of an applicable pension plan to meet the requirements of subsection (e) with respect to any applicable individual.

"(b) Amount of Tax.—

"(1) In general.—The amount of the tax imposed by subsection (a) on any failure with respect to any applicable individual shall be $100 for each day in the noncompliance period with respect to such failure.

"(2) Noncompliance period.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period beginning on the date the failure first occurs and ending on the date the failure is corrected.

"(c) Limitations on Amount of Tax.—

"(1) Overall limitation for unintentional failures.—

"(A) In general.—In the case of failures that are due to reasonable cause and not to willful neglect, the tax imposed by subsection (a) for failures during the taxable year of the employer (or, in the case of a multiemployer plan, the taxable year of the trust forming part of the plan) shall not exceed $500,000 ($1,000,000 in the case of a large applicable pension plan).

"(B) Taxable years in the case of certain controlled groups.—For purposes of this paragraph, if all persons who are treated as a single employer for purposes of this section do not have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

"(2) Waiver by secretary.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) Liability for Tax.—The following shall be liable for the tax imposed by subsection (a):

"(1) In the case of a plan other than a multiemployer plan, the employer.

"(2) In the case of a multiemployer plan, the plan.

"(e) Notice Requirements for Pension Plan Amendments Reducing Accruals.—

"(1) In general.—If an applicable pension plan is amended so as to provide for a significant reduction in the rate of future benefit accrual of 1 or more applicable individuals, the plan administrator shall—

"(A) not later than the 45th day before the effective date of the amendment, provide the written notice described in paragraph (2) to each applicable individual (and to each employee organization (as defined in section 3(4) of the Employee Retirement Income Security Act of 1974) representing applicable individuals), and

"(B) in the case of a large applicable pension plan—

"(i) include in the notice under paragraph (2) the additional information described in paragraph (3), and

"(ii) make available the information described in paragraph (4) in accordance with such paragraph.

"(2) Basic written notice.—The notice under paragraph (1) shall include a summary of the important terms of the amendment, including—

"(A) the effective date of the amendment,

"(B) a statement that the amendment is expected to significantly reduce the rate of future benefit accrual,

"(C) a description of the classes of applicable individuals to whom the amendment applies, and

"(D) a description of how the amendment significantly reduces the rate of future benefit accrual.

"(3) Additional information to be provided by large applicable pension plans.—

"(A) In general.—The information described in this paragraph is—

"(i) a description of the plan's benefit formulas (including formulas for determining early retirement benefits) both before and after the amendment and an explanation of the effect of the different formulas on applicable individuals,

"(ii) an explanation of the circumstances (if any) under which (for appropriate categories of applicable individuals) the amendment is reasonably expected to result in a temporary period after the effective date of the amendment during which there are no or minimal accruals, "(iii) illustrative examples of normal or early retirement benefits meeting the requirements of subparagraph (B), and

"(iv) notice of each applicable individual's right to request, and of the procedures for requesting, the information required to be provided under paragraph (4) and under section 105(e) of Employee Retirement Income Security Act of 1974.

"(B) ILLUSTRATIVE EXAMPLES.—Illustrative examples meet the requirements of this subparagraph if such examples illustrate the adverse effects of the plan amendment. Such examples shall be prepared by the plan administrator in accordance with regulations prescribed by the Secretary, and such regulations shall require that the examples—

"(i) reflect fairly the different categories of applicable individuals who are similarly affected by the plan amendment after consideration of all relevant factors,

"(ii) show a comparison of benefits for each such category of applicable individuals under the plan (as in effect before and after the effective date) at appropriate future dates, and

"(iii) illustrate any temporary period described in subparagraph (A)(ii).

Such comparison shall be based on benefits in the form of a life annuity and on actuarial assumptions each of which is reasonable (and is so certified by an enrolled actuary) when applied to all participants in the plan.

"(4) SUPPORTING INFORMATION RELATING TO CALCULATION OF BENEFITS.—

"(A) IN GENERAL.—Each individual who receives or who is entitled to receive the information described in paragraph (3) may (after so receiving or becoming so entitled) request the plan administrator to provide the information described in subparagraph (B).

"(B) INFORMATION.—The plan administrator shall, within 15 days after the date on which a request under subparagraph (A) is made, provide to the individual information (including benefit formulas and actuarial factors) which is sufficient—

"(i) to confirm the benefit comparisons in the illustrative examples described in paragraph (3)(B), and

"(ii) to enable the individual to use the individual's own personal information to make calculations of the individual's own benefits which are similar to the calculations made in such examples.

Nothing in this subsection shall be construed to require the plan administrator to provide to an individual such individual's personal information for purposes of clause (ii).

"(C) TIME LIMITATION ON REQUESTS.—This paragraph shall apply only to requests made during the 12-month period that begins on the later of the effective date of the amendment to which it relates or the date the notice described in paragraph (2) is provided.

"(5) SPECIAL RULES.—

"(A) PLAIN LANGUAGE.—The notice required under paragraph (1) shall be written in a manner calculated to be understood by the average plan participant who is an applicable individual.

"(B) NOTICE TO DESIGNEES.—The notice or information required to be provided under this subsection may be provided to a person designated, in writing, by the person to which it would otherwise be provided.

"(6) ALTERNATIVE METHODS OF COMPLIANCE WITH ENHANCED DISCLOSURE REQUIREMENTS IN CERTAIN CASES.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection. The Secretary may—

"(A) prescribe alternative or simplified methods of complying with paragraphs (3) and (4) in situations where—

"(i) there is no fundamental change in the manner in which the accrued benefit of an applicable individual is determined under the plan, and

"(ii) such other methods are adequate to reasonably inform plan participants who are applicable individuals of the impact of the reductions,

"(B) reduce the advance notice period in paragraph (1)(A) from 45 days to 15 days before the effective date of the amendment for cases in which compliance with the 45-day advance notice requirement would be unduly burdensome because the amendment is contingent on a merger, acquisition, disposition, or other similar transaction involving plan participants who are applicable individuals or because 45 days advance notice is otherwise impracticable,

"(C) permit the comparison of benefits under paragraph (3)(B)(i) to be based on a form of payment other than a life annuity, or

"(D) specify actuarial assumptions that are deemed to be reasonable for purposes of the benefit comparisons under paragraph (3)(B)(i).

"(7) APPLICABLE INDIVIDUAL.—For purposes of this subsection, the term 'applicable individual' means, with respect to any plan amendment—

"(A) each participant in the plan, and

"(B) each beneficiary who is an alternate payee (within the meaning of section 414(p)(8)) under a qualified domestic relations order (within the meaning of section 414(p)(1)),

whose future benefit accruals under the plan may reasonably be expected to be reduced by such plan amendment.

"(8) TERMS RELATING TO PLANS.—For purposes of this subsection—

"(A) APPLICABLE PENSION PLAN.—The term 'applicable pension plan' means—

"(i) a defined benefit plan, or

"(ii) an individual account plan which is subject to the funding standards of section 412.

Such term shall not include any governmental plan (within the meaning of section 414(d)) or any church plan (within the meaning of section 414(e)) with respect to which the election provided by section 410(d) has not been made.

"(B) LARGE APPLICABLE PENSION PLAN.—The term 'large applicable pension plan' means an applicable pension plan which had 100 or more active participants as of the last day of the plan year preceding the plan year in which the plan amendment becomes effective."

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 of such Code is amended by adding at the end the following new item:

"Sec. 4980F. Failure of defined benefit plans reducing benefit accruals to satisfy notice requirements."

SEC. 4. EFFECTIVE DATES.

(a) IN GENERAL.—The amendments made by this Act shall apply to plan amendments taking effect after the date of the enactment of this Act.

(b) SPECIAL RULES.—

(1) IN GENERAL.—The amendments made by this Act shall not apply to any plan amendment for which there was written notice before July 12, 1999, which was reasonably expected to notify substantially all of the plan participants or their representatives.

(2) TRANSITION.—Until such time as the Secretary of the Treasury issues regulations under sections 4980F(e)(3) and (4) of the Internal Revenue Code of 1986 and section 204(h)(3) and (4) of the Employee Retirement Income Security Act of 1974 (as added by the amendments made by this section), a plan shall be treated as meeting the requirements of such sections if it makes a good faith effort to comply with such requirements.

(3) NOTICE AND INFORMATION NOT REQUIRED TO BE FURNISHED BEFORE 120TH DAY AFTER ENACTMENT.—The period for providing any notice or information required by the amendments made by this section shall not end before the date which is 120 days after the date of the enactment of this Act.

THE PENSION REDUCTION DISCLOSURE ACT OF 1999

Present Law.—Under present law, when an employer amends a defined benefit pension plan in a manner which significantly reduces the rate of future benefit accrual, the employer must provide participants with an advance written notice of the amendment. The law does not, however, require employers to disclose the effect the amendment will have on participants.

SUMMARY OF PROVISIONS OF THE PENSION REDUCTION DISCLOSURE ACT

Notice Requirements for Pension Plan Amendments Reducing Future Benefit Accruals.—At least 45 days before the effective date of a pension plan amendment that reduces the rate of future benefit accruals, employees adversely affected by the amendment must receive notice of a reduction, as described below.

Basic Notice.—Pension plans with fewer than 100 participants must provide a basic written notice including: the effective date of the amendment; a statement that the amendment is expected to significantly reduce the rate of future benefit accrual; a description of the classes of applicable individuals to whom the amendment applies; and a description of how the amendment significantly reduces the rate of future benefit accrual.

Enhanced Notice.—Pension plans with 100 or more participants must provide the following information in addition to the basic written notice.

A description of the plan's benefit formulas before and after the amendments, and an explanation of the effects of the different formulas on participants;

An explanation of the circumstances under which any "wearaway" or other temporary suspension of benefit accruals may occur;

Illustrative examples showing the adverse effects of the plan amendment by comparing expected benefit accruals for various categories of participants (e.g., participants of similar age and years of service) under the old and new versions of the plan.

Alternative methods of compliance with enhanced notice in certain cases. The Secretary of the Treasury may prescribe alternative or simplified methods of compliance with the enhanced notice requirements in situations where there is no fundamental change in the manner in which benefits are determined (e.g., where the benefit formula is reduced from 1.25 percent of compensation to 1.0 percent of compensation). The Secretary may also reduce the advance notice period from 45 days to 15 days for cases in which compliance with the 45-day requirement would be unduly burdensome because the amendment is contingent on a merger, acquisition, disposition, or other similar transaction or because 45 days advance notice is otherwise impracticable.

In the case of plans with 100 or more participants, the plan must provide adversely-affected participants, within 15 days of request, the specific benefit formulas and actuarial factors used in the preparation of the illustrative examples. The information must be sufficient to confirm the benefit comparisons provided in the illustrative examples and to enable participants to make calculations of their own benefits under the old and new versions of the plan that are similar to the calculations made in the examples.

Individual Benefit Statements.—In the case of plans with 100 or more participants, an adversely-affected participant may request and receive an individual benefit statement providing information which is substantially the same as the information in the illustrative examples described above, but which is based on data specific to the requesting individual. If the individual so requests, the individual statement must reflect one other future date not included in the examples. As with current law regarding accrued benefit calculations, individual statements must be provided within 30 days of request. The earliest required date for providing individual statements shall be 90 days after the amendment effective date.

SANCTIONS FOR NONCOMPLIANCE

Egregious Failure to Supply Notice.—Employers failing to provide most of the required notice information to most affected participants, or intentionally failing to provide notice information to any affected participant, shall provide the greater of the benefits available under the old and new versions of the plan and shall also be subject to an excise tax of $100 per day for every day of the noncompliance period.

Nonegregious Failure to Supply Notice.—Employers failing to provide the required notice information, but not in the egregious manner described above, shall be subject to an excise tax of $100 per day for every day of the noncompliance period.

Maximum Excise Tax Where Failure Due to Reasonable Cause.—In a case where the failure was due to reasonable cause and not willful neglect, the excise tax is limited to $1 million for plans with 100 or more participants and $500,000 for plans with fewer than 100 participants.

• Mr. JEFFORDS. Mr. President, I am pleased to join Senators MOYNIHAN, LEAHY, ROBB, KERREY, ROCKEFELLER and GRAMS of Minnesota in the introduction of the Pension Reduction Disclosure Act. This bill greatly expands current law and will provide improved disclosure of the impact of the conversion of a traditional defined benefit pension plan to a cash balance or other hybrid pension plan. We believe that current law protections are insufficient to protect the interests of plan participants. The Pension Reduction Disclosure Act is an important first step in improving worker pension protections. I am also pleased that the President supports this bill.

Appropriate disclosure for cash balance pension plans is a serious public policy issue affecting the retirement benefits of millions of Americans. At a minimum, employees should have meaningful notice when their employer plans to reduce pension benefits in the switch from a traditional to a cash balance plan.

This bill does that.

First, employers have not always been candid with employees about what the changes in pension plans will mean for the employee's retirement. Our bill will require that they spell it out in black and white, and do so in language that anyone who is not an actuary or tax attorney can understand.

Second, plan sponsors will have to provide this information in a timely manner, so that employees can engage their employer and seek changes if they choose to do so. As we have seen at IBM and elsewhere, companies can misjudge the impact of these changes on their workforce.

Third, plan sponsors will be required to provide their employees with specifics about the effect that the change will have on their retirement benefits so that individuals can understand the financial impact that the conversion will have on their pension. Once we pass this bill, my guess is that employers will think long and hard about what changes they want to make to their pension plans.

Long-serving, loyal employees should not wake up to find their pension benefits slashed without even the chance to confront their employer. We can't expect people to save for retirement if the sand is forever shifting under their feet.

This bill addresses but one part of the conversion issue. But I think it deserves widespread bipartisan support. I believe that there are more issues at stake for workers, such as my own concerns regarding the pension benefit "wear away". However, the Pension Reduction Disclosure Act is a good first step we ought to take to address the legitimate concerns that have been raised about these plans.

We don't have a lot of time, but I hope we can send this bill to the President for his signature before we adjourn this fall.•

Mr. LEAHY. Mr. President, I am pleased to join Senator MOYNIHAN and Senator JEFFORDS as a cosponsor of the Pension Reduction Disclosure Act of 1999. I believe this bill is a good first step to providing American workers with the information they deserve to know about changes to their pensions. President Clinton has endorsed our legislation and is ready to sign it into law.

As the controversy surrounding IBM's decision to convert its traditional pension plan to a cash balance plan taught many Vermonters, Congress needs to revise our laws to require greater disclosure of pension changes. When IBM first announced its pension switch, many Vermont IBMers told me that they did not have enough information to judge the new plan's impact on their pensions. They discovered that current Federal law does not even require an employer to explain to its employees how any future pension benefits will be reduced. This is not right.

Unfortunately, Vermont IBMers are not alone. At least 325 companies, with more than $330 billion in pension-defined benefit assets, have adopted cash-balance plans in recent years. This phenomenon is the biggest development in the pension world in years. But, as we all know now thanks to the tireless efforts of IBMers in Vermont and elsewhere, there is a dark side to this corporate trend: the fact that many experienced workers face deep cuts in their promised pensions when their company switches to a cash-balance plan.

The Pension Reduction Disclosure Act would require all employers, regardless of the size of their pension plan, to notify their employees of pension plan changes that would reduce the future benefit accrual rate at least 45 days in advance of the change. In addition, this legislation would require employers to explain any differences in future accrual rates between the old and new plan in a clear and meaningful fashion, by providing employees with detailed examples showing the difference between the old and new plans.

This bill complements the Pension Right to Know Act, which Senator MOYNIHAN and I introduced earlier in the year. Our earlier bill would require employers to provide employees with individualized comparisons of future benefits under the old and new plans 15 days prior to the conversion for pension plans covering 1000 or more employees. Our legislation today also complements the Older Workers Pension Protection Act, S. 1600, which Senator HARKIN, Senator JEFFORDS and I introduced last month to prevent the wear away of an employee's promised pension benefits after a cash balance plan conversion.

Now is the time for Congress to act to ensure that all employers fully disclose the negative effects of their pension plan changes. Employees have a right to know how their futures will be affected by a company's decision to change its pension plan.

By Mr. KYL (for himself, Mr. MCCAIN, Mrs. HUTCHISON, Mr. DOMENICI, Mr. BINGAMAN, and Mrs. FEINSTEIN):

S. 1709. A bill to provide Federal reimbursement for indirect costs relating to the incarceration of illegal aliens and for emergency health services furnished to undocumented aliens; to the Committee on the Judiciary.

THE STATE CRIMINAL ALIEN ASSISTANCE PROGRAM II AND LOCAL MEDICAL EMERGENCY REIMBURSEMENT ACT

Mr. KYL. Mr. President, I rise today to introduce the State Criminal Alien Assistance Program II and Local Medical Emergency Reimbursement Act. Senators MCCAIN, HUTCHISON, DOMENICI, BINGAMAN, and FEINSTEIN join me.

Border counties and other jurisdictions throughout the Southwest are incurring overwhelming costs to process and incarcerate illegal immigrants who commit crimes. Hospitals are also bearing steep costs to treat illegal immigrants for medical emergencies.

Regarding the first issue, it should be pointed out that, when states and localities do not have the resources to deal with criminal illegal immigrants, *disasters can happen. Just last week*, it was discovered that illegal immigrants who, in some cases, had committed serious crimes in Maricopa County, Arizona—including first degree murder in one of the cases—were permitted to post bond to the county, were then released to the Immigration and Naturalization Service, and were then allowed to return to their home country. Needless to say, those cases did not go to trial. Because the alleged criminal aliens never returned for their court date, justice was not served.

I continue to work toward better cooperation between the INS and local criminal justice systems, to make sure that illegal immigrants who are charged with crimes prosecuted under state law—and murder is prosecuted under state law—are held in Arizona. That means before, during, and after trial. It means, if the person is convicted, serving out his time in Arizona.

I will continue to work toward full funding for the federal program Congress created in 1995 to reimburse states and localities for the costs of incarcerating criminal illegal immigrants, the State Criminal Alien Assistance Program (SCAAP). Incarceration of criminal illegal immigrants costs state and local governments over $1 billion a year. Last year's Commerce-Justice-State Appropriations bill provided $585 million for the program, and reimbursed states approximately 39 cents on the dollar for such costs. I will work to increase federal funding for SCAAP, and will work to ensure that the FY 2000 C–J–S funding bill maintains, at the very least, the FY 1999 funding level of $585 million.

It is my hope that the bill I am introducing today will further enhance the ability of states and localities to prevent the release of criminal illegal immigrants by giving them the resources they need, not only to incarcerate but to process and sentence such individuals. My bill creates SCAAP II and provides an additional authorization of $200 million per year between 2001 and 2004 to states and localities for such expenditures. When illegal immigrants commit crimes and are then caught, they drain the budgets of a locality's sheriff, justice court, county attorney, clerk of the court, superior and juvenile court, and juvenile detention departments, as well as using up a county's indigent defense budget. And, even though illegal immigration is a federal responsibility, states and local jurisdictions all along the southwestern border have incurred 100 percent of specifically processing-related costs to date. This bill will change that.

Unfortunately, we do not yet know the full financial burden the states and localities are bearing. I am hopeful that the FY 2000 Commerce-Justice-State Appropriations bill conference report will include funding for a study that will lay out realistic estimates of these costs.

What is known is that such expenditures comprise approximately 39 percent of the aforementioned budgets of just one Arizona county, Santa Cruz, with a population of just 36,000 residents. As a recent report conducted by the University of Arizona detailed, "such illegal entry pressures place inequitable demands on the resources and taxpayers of Santa Cruz County."

Other counties throughout the Southwest are in the same boat. Maricopa County, Arizona, for example, incurs costs of $9 million to incarcerate illegal criminal immigrants. It is unclear what its costs are to process and sentence such aliens. Cochise County incurs costs of approximately $406,000 per year to incarcerate criminal illegal immigrants and, therefore, must also incur significant costs to process and sentence these individuals. Providing resources to states and localities with such burdens will help prevent the release of criminals onto our nation's streets, and is clearly the financial responsibility of the federal government.

The second issue addressed by this bill is the burden borne by hospitals in southwestern states. The federal government is obligated to fully reimburse states, localities, and hospitals for the emergency medical treatment of illegal immigrants.

According to a preliminary Congressional Budget Office estimate provided two years ago, the total annual cost to treat illegal immigrants for medical emergencies is roughly $2.8 billion a year. It is roughly estimated that the federal government reimburses states for approximately half of those costs. That means states must pay the remaining $1.4 billion. The state of Arizona estimates that it incurs unreimbursed costs of $20 million annually to treat undocumented immigrants on an emergency basis.

This legislation will provide states, localities, and hospitals an additional $200 million per year to help absorb the costs of adherence to federal law, under which all individuals, regardless of immigration status or ability to pay, must be provided with medical treatment in a medical emergency. I have heard from individual doctors in Arizona, and hospitals as well, conveying their frustration in the face of these daunting costs.

Mr. President, I hope we can address these very pressing issues in the coming months, and that Members will consider joining my cosponsors and me in support of this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1709

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State Criminal Alien Assistance Program II and Local Medical Emergency Reimbursement Act".

TITLE I—STATE CRIMINAL ALIEN ASSISTANCE PROGRAM II

SEC. 101. SHORT TITLE.

This Act may be cited as the "State Criminal Alien Assistance Program II Act of 1999".

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Federal policies and strategies aimed at curbing illegal immigration and criminal alien activity implemented along our Nation's southwest border influence the number of crossings, especially their location.

(2) States and local governments were reimbursed approximately 60 percent of the costs of the incarceration of criminal aliens in fiscal year 1996 when only 90 jurisdictions applied for such reimbursement. In subsequent years, the number of local jurisdictions receiving reimbursement has increased. For fiscal year 1999, 280 local jurisdictions applied, and reimbursement amounted to only 40 percent of the costs incurred by those jurisdictions.

(3) Certain counties, often with a small taxpayer base, located on or near the border across from sometimes highly populated areas of Mexico, suffer a substantially disproportionate share of the impact of criminal illegal aliens on its law enforcement and criminal justice systems.

(4) A University of Arizona study released in January 1998 reported that at least 2 of the 4 counties located on Arizona's border of Mexico, Santa Cruz, and Cochise Counties, are burdened with this problem—

(A) for example, in 1998, Santa Cruz County had 12.7 percent of Arizona's border population but 50 percent of alien crossings and 32.5 percent of illegal alien apprehensions;

(B) for fiscal year 1998, it is estimated that, of its total criminal justice budget of 5,000,000 ($5,033,000), Santa Cruz County spent $1,900,000 (39 percent) to process criminal illegal aliens, of which over half was not reimbursed by Federal monies; and

(C) Santa Cruz County has not obtained relief from this burden, despite repeated appeals to Federal and State officials.

(5) In the State of Texas, the border counties of Cameron, Dimmit, El Paso, Hidalgo, Kinney, Val Verde, and Webb bore the unreimbursed costs of apprehension, prosecution, indigent defense, and other related services for criminal aliens who served more than 142,000 days in county jails.

(6) Throughout Texas nonborder counties bore similar unreimbursed costs for apprehension, prosecution, indigent defense, and other related services for criminal aliens who served more than 1,000,000 days in county jails.

(7) The State of Texas has incurred substantial additional unreimbursed costs for State law enforcement efforts made necessary by the presence of criminal illegal aliens.

(8) The Federal Government should reimburse States and units of local government for the related costs incurred by the State for the imprisonment of any illegal alien.

(b) Purpose.—The purpose of this title is—

(1) to assist States and local communities by providing financial assistance for expenditures for illegal juvenile aliens, and for related costs to States and units of local government that suffer a substantially disproportionate share of the impact of criminal illegal aliens on their law enforcement and criminal justice systems; and

(2) to ensure equitable treatment for those States and local governments that are affected by Federal policies and strategies aimed at curbing illegal immigration and criminal alien activity implemented on the southwest border.

SEC. 103. REIMBURSEMENT OF STATES FOR INDIRECT COSTS RELATING TO THE INCARCERATION OF ILLEGAL ALIENS.

Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365) is amended—

(1) in subsection (a), by striking "for" and all that follows through "State" and inserting "for—

"(1) the costs incurred by the State for the imprisonment of any illegal alien or Cuban national who is convicted of a felony by such State; and

"(2) the indirect costs related to the imprisonment described in paragraph (1).";

(2) by striking subsection (c) and inserting the following:

"(c) Indirect Costs Defined.—In subsection (a), the term 'indirect costs' includes—

"(1) court costs, county attorney costs, and criminal proceedings expenditures that do not involve going to trial;

"(2) indigent defense; and

"(3) unsupervised probation costs."; and

(3) by amending subsection (d) to read as follows:

"(d) Authorization of Appropriations.—There are authorized to be appropriated $200,000,000 to carry out subsection (a)(2) for each of the fiscal years 2001 through 2004.".

SEC. 104. REIMBURSEMENT OF STATES FOR COSTS OF INCARCERATING JUVENILE ALIENS.

(a) In General.—Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365), as amended by section 103 of this Act, is further amended—

(1) in subsection (a)(1), by inserting "or illegal juvenile alien who has been adjudicated delinquent or committed to a juvenile correctional facility by such State or locality" before the semicolon;

(2) in subsection (b), by inserting "(including any juvenile alien who has been adjudicated delinquent or has been committed to a correctional facility)" before "who is in the United States unlawfully"; and

(3) by adding at the end the following:

"(f) Juvenile Alien Defined.—In this section, the term 'juvenile alien' means an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act) who has been adjudicated delinquent or committed to a correctional facility by a State or locality as a juvenile offender.".

(b) Annual Report.—Section 332 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1366) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following:

"(5) the number of illegal juvenile aliens (as defined in section 501(f) of the Immigration Reform and Control Act) that are committed to State or local juvenile correctional facilities, including the type of offense committed by each juvenile.".

(c) Conforming Amendment.—Section 241(i)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(3)(B)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; or"; and

(3) by adding at the end the following:

"(iv) is a juvenile alien with respect to whom section 501 of the Immigration Reform and Control Act of 1986 applies.".

SEC. 105. REIMBURSEMENT OF STATES BORDERING MEXICO OR CANADA.

Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365), as amended by sections 103 and 104 of this Act, is further amended by adding at the end the following new subsection:

"(g) Manner of Allotment of Reimbursements.—Reimbursements under this section shall be allotted in a manner that takes into account special consideration for any State that—

"(1) shares a border with Mexico or Canada; or

"(2) includes within the State an area in which a large number of undocumented aliens reside relative to the general population of the area.".

TITLE II—REIMBURSEMENT OF STATES AND LOCALITIES FOR EMERGENCY HEALTH SERVICES TO UNDOCUMENTED ALIENS.

SEC. 201. AUTHORIZATION OF ADDITIONAL FEDERAL REIMBURSEMENT OF EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS.

(a) Total Amount Available for Allotment.—To the extent of available appropriations under subsection (e), there are available for allotments under this section for each of fiscal years 2002 through 2005, $200,000,000 for payments to certain States under this section.

(b) State Allotment Amount.—

(1) In general.—The Secretary shall compute an allotment for each fiscal year beginning with fiscal year 2001 and ending with fiscal year 2004 for each of the 17 States with the highest number of undocumented aliens. The amount of such allotment for each such State for a fiscal year shall bear the same ratio to the total amount available for allotments under subsection (a) for the fiscal year as the ratio of the number of undocumented aliens in the State in the fiscal year bears to the total of such numbers for all such States for such fiscal year. The amount of allotment to a State provided under this paragraph for a fiscal year that is not paid out under subsection (c) shall be available for payment during the subsequent fiscal year.

(2) Determination.—For purposes of paragraph (1), the number of undocumented aliens in a State under this section shall be determined based on estimates of the resident illegal alien population residing in each State prepared by the Statistics Division of the Immigration and Naturalization Service as of October 1992 (or as of such later date if such date is at least 1 year before the beginning of the fiscal year involved).

(c) Use of Funds.—

(1) In general.—From the allotments made under subsection (b) for a fiscal year, the Secretary shall pay to each State amounts described in a State plan, submitted to the Secretary, under which the amounts so allotted will be paid to local governments, hospitals, and related providers of emergency health services to undocumented aliens in a manner that—

(A) takes into account—

(i) each eligible local government's, hospital's or related provider's payments under the State plan approved under title XIX of the Social Security Act for emergency medical services described in section 1903(v)(2)(A) of such Act (42 U.S.C. 1396b(v)(2)(A)) for such fiscal year; or

(ii) an appropriate alternative proxy for measuring the volume of emergency health services provided to undocumented aliens by eligible local governments, hospitals, and related providers for such fiscal year; and

(B) provides special consideration for local governments, hospitals, and related providers located in—

(i) a county that shares a border with Mexico or Canada; or

(ii) an area in which a large number of undocumented aliens reside relative to the general population of the area.

(2) Special rules.—For purposes of this subsection:

(A) A provider shall be considered to be "related" to a hospital to the extent that the provider furnishes emergency health services to an individual for whom the hospital also furnishes emergency health services.

(B) Amounts paid under this subsection shall not duplicate payments made under title XIX of the Social Security Act for the provision of emergency medical services described in section 1903(v)(2)(A) of such Act (42 U.S.C. 1396b(v)(2)(A)).

(d) Definitions.—In this section:

(1) Hospital.—The term "hospital" has the meaning given such term in section 1861(e) of the Social Security Act (42 U.S.C. 1395x(e).

(2) Provider.—The term "provider" includes a physician, another health care professional, and an entity that furnishes emergency ambulance services.

(3) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

(4) State.—The term "State" means the 50 States and the District of Columbia.

(e) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $200,000,000 for each of fiscal years 2001 through 2005.

Mr. McCain. Mr. President, I rise today in support of legislation Senator Kyl and I are introducing with a number of our border-state colleagues to provide appropriate Federal reimbursement to states and localities whose budgets are disproportionately affected by the costs associated with illegal immigration. The premise of our bill, and of current law governing this type of Federal reimbursement to the states, is that controlling illegal immigration is principally the responsibility of the Federal government, not the states.

Our legislation would expand the amount and scope of Federal funding to the states for incarceration and medical costs that arise from the detention or treatment of illegal immigrants. Such funding currently flows to all 50 states, the District of Columbia, and two U.S. territories. Although our bill gives special consideration to border States and States with unusually high concentrations of illegal aliens in residence, it would benefit communities across the Nation. It deserves the Senate's prompt consideration and approval.

Many of my colleagues are probably not aware that the Federal government, under the existing State Criminal Alien Assistance Program (SCAAP), reimbursed states and counties burdened by illegal immigration for less than 40 percent of eligible alien incarceration costs in Fiscal Year 1998. Border counties estimate that more than 25 percent of their criminal justice budgets are spent processing criminal aliens. In my State of Arizona, Santa Cruz County last year spent 39 percent of its total criminal justice budget to process criminal illegal aliens, of which over half was not reimbursed by the Federal government. In its last budget cycle, New Mexico's tiny Luna County spent $375,000 on immigrant detention costs but received only $32,000 from the Federal government to offset jail expenses. Overall, SCAAP reimbursed states and counties along the border for only 33.7 percent of the cost of incarcerating illegal aliens in FY 1997 and 39.9 percent in FY 1998.

The State of California spent nearly $600 million last year to keep criminal aliens behind bars, but was reimbursed for only $183 million of those expenses. In Texas, prosecution of drug and immigration crime, principally in the form of illegal entry into the United States, accounted for an astonishing 70 percent of criminal filings during fiscal 1998. That figure represents a one-year increase of 58 percent in the number of immigration cases brought before the courts, an increase that was not matched by Federal reimbursement for associated legal expenses and incarceration costs to the state and its counties.

Earlier this year, the House voted to fund SCAAP at $585 million for FY 2000. This level is insufficient, but would at least roughly maintain existing levels of Federal support to states and localities for alien incarceration costs. Astonishingly, the Senate, in its version of the fiscal year 2000 Commerce, Justice, State, and the Judiciary Appropriations bill, proposed to slash SCAAP funding by 83 percent, to only $100 million, for reasons that escape me. In the words of the U.S./Mexico Border Counties Coalition, "Given this program's history of not meeting its obligations to state and local governments even at higher levels of funding, this latest action will in essence leave state and local taxpayers to foot the Federal government's bill for the incarceration of criminal undocumented immigrants."

A June 21, 1999, letter from the Governors of Arizona, California, New York, New Jersey, and Illinois to members of the United States Senate makes the same point: "Control of the nation's borders is under the exclusive jurisdiction of the Federal government, yet State and local governments bear the brunt of the costs when the Federal government fails to meet its responsibility to prevent illegal immigration. By cutting funding for SCAAP by 83 percent, the Senate is abandoning its responsibility and forcing the states to pay for a Federally mandated service." It is my hope that Congress will restore SCAAP funding to at least $500 million, as the President requested for fiscal 2000 to help meet the needs of local communities across the country.

The legislation Senator KYL and I are introducing today would actually expand the State Criminal Alien Assistance Program by authorizing funding for state and local needs that currently go unmet. Although states receive Federal reimbursement for part of the cost of incarcerating illegal adult aliens, the Federal government does not reimburse States or units of local government for expenditures for illegal juvenile aliens. Nor does it reimburse states and localities for costs associated with processing criminal illegal aliens, including court costs, county attorney costs, costs for criminal proceedings that do not involve going to trial, indigent defense costs, and unsupervised probation costs. Our legislation would authorize the Federal government to reimburse such costs to States and localities that suffer a substantially disproportionate share of the impact of criminal illegal aliens on their law enforcement and criminal justice systems. It would also authorize additional Federal reimbursement for emergency health services furnished by States and localities to undocumented aliens.

Reimbursement to States and localities for criminal alien incarceration is woefully underfunded according to the existing limited criteria for SCAAP, which do not take into account the full detention and processing costs for illegal aliens. Nor does the existing SCAAP provide necessary support to local communities for the cost of emergency care for illegal immigrants, a growing problem in the Southwest, and one exacerbated by the increasingly desperate measures taken by undocumented aliens to cross our border with Mexico. Our legislation thus authorizes the expansion of SCAAP to cover costs wrongly borne by local communities under current law—costs which are a Federal responsibility and should not be shirked by those in Washington who do not live with the problem of illegal immigration in their midst.

As my colleagues know, illegal immigrants who successfully transit our Southwest border rapidly disperse throughout the United States. That SCAAP funds flow to all 50 states reflects the pressures such aliens place on public services around the country. I hope the Senate will act expeditiously on this important legislation to alleviate those pressures by compensating state and local units for the costs they incur as unwitting hosts to undocumented aliens, even as we continue to fund border enforcement measures to reduce the flow of illegal immigrants into this country.

Mr. BINGAMAN. Mr. President, I rise to join with my colleagues from Arizona, California, and Texas in introducing the "State Criminal Alien Assistance Program II and Local Medical Emergency Reimbursement Act of 1999."

The purpose of the bill is to expand to scope of the current SCAAP law to allow counties and states to be reimbursed not only for the costs of incarcerating illegal aliens, but also for the costs of prosecuting them, defending them and detaining them. Currently, SCAAP only pays for the costs of incarcerating illegal aliens convicted of a felony in the United States. This means that counties and states do not get reimbursed for the indirect and direct costs leading to such a conviction. Because many illegal aliens arrested for drug smuggling or alien smuggling by federal agents are prosecuted by the county prosecutors, this has put an enormous strain on the county's prosecution budgets and has burdened the already struggling indigent defense programs. With the expansion of SCAAP, the counties will finally get some relief.

Another positive change to the SCAAP law is the addition of juvenile incarceration as a reimbursable expense. Many drug traffickers are using teenagers to transport drugs across the border, knowing that we do not currently have a good system for dealing with criminal illegal juvenile aliens. Because these teens' parents are not living in the United States, the county jails are required to detain the teens pending adjudication. The other option is to let the teens go. Neither option is good from a law enforcement perspective, but the cost of detaining a juvenile places an enormous burden on the counties' juvenile detention facilities. I am pleased that this bill considered the counties' concerns and included the costs of detaining juveniles as a reimbursable expense.

In 1994 I supported the original SCAAP bill. Between 1996 and 1999, the federal government has reimbursed the State of New Mexico $4.5 million for costs incurred in incarcerating criminal illegal aliens under this program. New Mexico counties have been reimbursed more than $1.4 million for similar costs. However, this $6 million reimbursement represents but a small fraction of the actual costs expended by New Mexico jails and prisons. This bill seeks to increase the amount available for reimbursement by raising the amount authorized to $200 million between 2002 and 2005.

The second part of this bill addresses another problem facing the border states. Because many towns near the US–Mexico border are a mere stones throw away from much larger Mexican towns and cities, many Mexican nationals often cross the border illegally in search of emergency medical services due to the lack of adequate facilities in Mexico. This bill will reimburse the health care providers required to provide emergency medical services to illegal aliens.

The border counties in New Mexico have repeatedly expressed their concern about the lack of federal assistance for emergency medical services provided to undocumented immigrants. Yet, under current law, New Mexico border communities are not eligible to be reimbursed for providing such emergency medical services. This has placed a significant financial burden on the public and private hospitals who are just trying to do what they think is right—provide emergency treatment to those in need. This lack of federal assistance has been very detrimental to New Mexico because the number of undocumented immigrants seeking medical attention in New Mexico is very high compared with the population of the New Mexico border community.

Between January 1, 1999 and August 31, 1999, Mimbres Memorial Hospital in Deming, New Mexico reported that 22 percent of its patients that were unable to pay for their medical care were residents of Mexico. These individuals accounted for $379,311 in charges that had to be absorbed by this hospital. In a town of roughly 10,000 people, this is a sizeable amount for a local hospital to write-off as uncollectible.

With the passage of this bill, New Mexico will be eligible to participate in this federal reimbursement program. Because the authorized amount for this program will be increased to $200 million between 2002 and 2005, this change will not affect the reimbursements to other states. This increase in funding is sorely needed to adequately address the financial burdens that illegal immigration imposes on the border communities.

I commend my fellow members of the Senate Southwest Border Caucus for working together on a bill what will make these necessary changes to the SCAAP program and address the financial hardship that illegal immigration imposes on our border communities.

I thank Senator KYL for introducing this bill and I encourage the Senate to take up this bill and pass this worthwhile legislation.

• Mrs. FEINSTEIN. Mr. President I am pleased to join my colleague Senator KYL in introducing the "State Criminal Alien Assistance Program II and Local Medical Emergency Reimbursement Act."

The control of illegal immigration is a Federal responsibility. However, more and more, this burden is shifting to the states. The "State Criminal Alien Assistance Program II and Local Medical Emergency Reimbursement Act" (SCAAP II), properly shifts the fiscal burden of illegal immigration into the hands of the Federal Government. This bill builds upon the existing Federal obligations under the "State Criminal Alien Assistance Program" (SCAAP I) by providing $200 million for each of the fiscal years 2002 through 2005 to help border communities defray the indirect costs of illegal immigration, and an additional $200 million to help state and local governments cope with the cost of providing emergency medical care to illegal immigrants.

The issue of illegal immigration, is one of national consequence that requires a Federal response. Unfortunately, Federal reimbursements have consistently failed to cover the actual costs borne by States and local communities confronting the effects of illegal immigration. For those communities that continue to shoulder this burden, the control of illegal immigration has become an unfunded mandate.

Mr. President, while I consider illegal immigration an issue that pervades communities across the nation, I would like to share with my colleagues how this issue has affected my home State of California. As you might imagine, the border counties in California are among the hardest hit in terms of dollars spent on incarceration, court costs, and emergency medical care for those who have entered the U.S. illegally.

San Diego County, for example, spent an estimated $10.1 million in 1998 to cover the costs of illegal alien incarceration and spends an estimated $50 million annually to provide emergency medical care for illegal immigrants. Imperial County estimates that it spent more than $4 million last year in detention costs and another $1.36 million in emergency medical expenses.

I am greatly concerned about the disproportionate burden these costs impose on the criminal justice system, hospitals and residents of San Diego and Imperial Counties, especially given the counties' limited tax base and fiscal resources. Given what I have witnessed in my own state, it is not hard for me to understand the frustration and concern of communities in a growing number of other states. Similar burdens have fallen on border communities in states like Arizona, New Mexico, and Texas. Each year, the costs borne by states to respond to illegal immigration continue to soar, while Federal involvement remains minimal at best.

Unfortunately, we can only expect these costs for border states to swell over the next few years as border enforcement initiatives force illegal migration to shift further eastward from San Diego County to neighboring southern States and counties as well as to the more porous northern state borders. In launching Operation Gatekeeper, for example, the INS has achieved considerable success in deterring illegal border crossings along the San Diego border.

At the same time, Gatekeeper has had the effect of shifting a large volume of migrant crossings to the more rugged East San Diego County mountain area and the desert region of Imperial County where there have been numerous instances of illegal immigrants in need of emergency care. One county hospital in El Centro, for example, reports that the Border Patrol has dropped off countless numbers of undocumented aliens found in the desert suffering from hypothermia or dehydration, or from broken limbs and fractured skulls as result of failed attempts at scaling the fence along the San Diego border.

The more "fortunate" border crossers are being detained at state and county jails. Although states receive Federal reimbursement for some of the direct costs of incarcerating adult illegal immigrants, the Federal Government does not reimburse states and localities for the indirect costs relating to the incarceration or the control of illegal aliens, including: court costs, county attorney costs, indigent defense, criminal juvenile detention, and unsupervised probation costs. Nor does it compensate state and local hospitals for the emergency medical care provided to illegal immigrants who are not in Federal custody.

Mr. President, I join my colleagues in introducing the SCAAP II bill in hopes that it will alleviate some of the fiscal strains illegal immigration has imposed on border states and communities. I look forward to working with my colleagues to move it through the Senate.•

ADDITIONAL COSPONSORS

S. 59

At the request of Mr. THOMPSON, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 59, a bill to provide Government-wide accounting of regulatory costs and benefits, and for other purposes.

S. 80

At the request of Ms. SNOWE, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 80, a bill to establish the position of Assistant United States Trade Representative for Small Business, and for other purposes.

S. 472

At the request of Mr. GRASSLEY, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 472, a bill to amend title XVIII of the Social Security Act to provide certain medicare beneficiaries with an exemption to the financial limitations imposed on physical, speech-language pathology, and occupational therapy services under part B of the medicare program, and for other purposes.

S. 484

At the request of Mr. CAMPBELL, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 484, a bill to provide for the granting of refugee status in the United States to nationals of certain foreign countries in which American Vietnam War POW/MIAs or American Korean War POW/MIAs may be present, if those nationals assist in the return to the United States of those POW/MIAs alive.

S. 659

At the request of Mr. MOYNIHAN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 659, a bill to amend the Internal Revenue Code of 1986 to require pension plans to provide adequate notice to individuals whose future benefit accruals are being significantly reduced, and for other purposes.

S. 792

At the request of Mr. MOYNIHAN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 792, a bill to amend title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide States with the option to allow legal immigrant pregnant women, children, and blind or disabled medically needy individuals to be eligible for medical assistance under the medicaid program, and for other purposes.

S. 914

At the request of Mr. SMITH, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of S. 914, a bill to amend the Federal Water Pollution Control Act to require that discharges from combined storm and sanitary sewers conform to the Combined Sewer Overflow Control Policy of the Environmental Protection Agency, and for other purposes.

S. 1017

At the request of Mr. MACK, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1017, A bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on the low-income housing credit.

S. 1029

At the request of Mr. COCHRAN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1029, a bill to amend title III of the Elementary and Secondary Education Act of 1965 to provide for digital education partnerships.

S. 1044

At the request of Mr. KENNEDY, the names of the Senator from Nevada (Mr. REID) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1044, a bill to require coverage for colorectal cancer screenings.

S. 1053

At the request of Mr. BOND, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 1053, a bill to amend the Clean Air Act to incorporate certain provisions of the transportation conformity regulations, as in effect on March 1, 1999.

S. 1091

At the request of Mr. DEWINE, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 1091, a bill to amend the Public Health Service Act to provide for the establishment of a pediatric research initiative.

S. 1144

At the request of Mr. VOINOVICH, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1144, a bill to provide increased flexibility in use of highway funding, and for other purposes.

S. 1187

At the request of Mr. DORGAN, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Louisiana (Mr. BREAUX), the Senator from South Dakota (Mr. DASCHLE), and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1187, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Lewis and Clark Expedition, and for other purposes.

S. 1263

At the request of Mr. JEFFORDS, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 1263, a bill to amend the Balanced Budget Act of 1997 to limit the reductions in medicare payments under the prospective payment system for hospital outpatient department services.

S. 1277

At the request of Mr. GRASSLEY, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 1277, a bill to amend title XIX of the Social Security Act to establish a new prospective payment system for Federally-qualified health centers and rural health clinics.

S. 1384

At the request of Mr. ABRAHAM, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1384, a bill to amend the Public Health Service Act to provide for a national folic acid education program to prevent birth defects, and for other purposes.

S. 1419

At the request of Mr. MCCAIN, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 1419, a bill to amend title 36, United States Code, to designate May as "National Military Appreciation Month."

S. 1485

At the request of Mr. NICKLES, the names of the Senator from Maryland (Mr. SARBANES) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1485, a bill to amend the Immigration and Nationality Act to confer United States citizenship automatically and retroactively on certain foreign-born children adopted by citizens of the United States.

S. 1500

At the request of Mr. HATCH, the names of the Senator from North Carolina (Mr. EDWARDS), the Senator from Virginia (Mr. WARNER), and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of S. 1500, a bill to amend title XVIII of the Social Security Act to provide for an additional payment for services provided to certain high-cost individuals under the prospective payment system for skilled nursing facility services, and for other purposes.

S. 1536

At the request of Mr. DEWINE, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1536, a bill to amend the Older Americans Act of 1965 to extend authorizations of appropriations for programs under the Act, to modernize programs and services for older individuals, and for other purposes.

S. 1547

At the request of Mr. BURNS, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 1547, a bill to amend the Communications Act of 1934 to require the Federal Communications Commission to preserve low-power television stations that provide community broadcasting, and for other purposes.

S. 1555

At the request of Mr. KENNEDY, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1555, a bill to provide sufficient funds for the research necessary to enable an effective public health approach to the problems of youth suicide and violence, and to develop ways to intervene early and effectively with children and adolescents who suffer depression or other mental illness, so as to avoid the tragedy of suicide, violence, and longterm illness and disability.

S. 1618

At the request of Mr. GRAHAM, the names of the Senator from Virginia (Mr. ROBB) and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of S. 1618, a bill to promote primary and secondary health promotion and disease prevention services and activities among the elderly, to amend title XVIII of the Social Security Act to add preventive benefits, and for other purposes.

S. 1633

At the request of Mr. MCCAIN, the names of the Senator from Alaska (Mr.

MURKOWSKI) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 1633, a bill to recognize National Medal of Honor sites in California, Indiana, and South Carolina.

S. 1638

At the request of Mr. GRAMS, his name was added as a cosponsor of S. 1638, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to extend the retroactive eligibility dates for financial assistance for higher education for spouses and dependent children of Federal, State, and local law enforcement officers who are killed in the line of duty.

S. 1678

At the request of Mr. DASCHLE, the names of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 1678, a bill to amend title XVIII of the Social Security Act to modify the provisions of the Balanced Budget Act of 1997.

S. 1701

At the request of Mr. SESSIONS, the name of the Senator from Florida (Mr. MACK) was added as a cosponsor of S. 1701, a bill to reform civil asset forfeiture, and for other purposes.

SENATE RESOLUTION 118

At the request of Mr. REID, the names of the Senator from Wyoming (Mr. ENZI) and the Senator from Montana (Mr. BURNS) were added as cosponsors of Senate Resolution 118, a resolution designating December 12, 1999, as "National Children's Memorial Day."

SENATE RESOLUTION 190

At the request of Mr. CAMPBELL, the names of the Senator from Nevada (Mr. REID) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of Senate Resolution 190, a resolution designating the week of October 10, 1999, through October 16, 1999, as National Cystic Fibrosis Awareness Week.

AMENDMENT NO. 1825

At the request of Mr. SESSIONS his name was added as a cosponsor of amendment No. 1825 proposed to S. 1650, an original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

AMENDMENT NO. 1842

At the request of Mr. DOMENICI his name was added as a cosponsor of amendment No. 1842 proposed to S. 1650, an original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

AMENDMENT NO. 1845

At the request of Mr. HARKIN the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Nevada (Mr. REID), the Senator from Washington (Mrs. MURRAY), and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of amendment No. 1845 proposed to S. 1650, an original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

AMENDMENT NO. 1861

At the request of Ms. LANDRIEU her name was added as a cosponsor of amendment No. 1861 proposed to S. 1650, an original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

SENATE RESOLUTION 198—EXPRESSING SYMPATHY FOR THOSE KILLED AND INJURED IN THE RECENT EARTHQUAKES IN TURKEY AND GREECE AND COMMENDING TURKEY AND GREECE FOR THEIR RECENT EFFORTS IN OPENING A NATIONAL DIALOGUE AND TAKING STEPS TO FURTHER BILATERAL RELATIONS

Ms. SNOWE (for herself, Mr. HELMS, Mr. SARBANES, Mr. BIDEN, and Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 198

Whereas in the wake of the tragic earthquakes which struck Turkey on August 17, 1999, leaving up to 16,000 dead, 24,000 injured, and 100,000 homeless, and Greece on September 7, 1999, killing 143, injuring 1,600, and leaving 16,000 homeless, an improvement of relations between Turkey and Greece has occurred;

Whereas within hours of the earthquake hitting Turkey, Greece sent rescue teams, doctors, firemen, and emergency supplies to Turkey;

Whereas immediately after the earthquake struck Greece, Turkey, already dealing with its own devastation, sent rescue personnel to Greece;

Whereas in July, senior foreign ministry officials of Greece and Turkey held talks, the first talks at this level since 1994, to discuss bilateral cooperation in the fields of tourism, the environment, trade, and the economy as well as cooperation in combating organized crime, illegal immigration, drug-trafficking, and terrorism;

Whereas in September 1999, a second round of talks between senior foreign ministry officials of Greece and Turkey were held as a follow-up to the July meeting, and a third round has been planned for October 1999;

Whereas this spirit of cooperation has led to a warming of relations and confidence building measures, including—

(1) a naval vessel of Greece calling at a port of Turkey for the first time in more than a century;

(2) Greek and Turkish news commentators agreeing to publish their columns in each other's newspapers;

(3) Greece indicating that it is prepared to accept the candidacy of Turkey for membership in the European Union as long as Turkey meets all criteria for membership in the Union; and

(4) Turkey and Greece praising the other for earthquake assistance; and

Whereas the desire to further cultivate relations between Turkey and Greece has created an atmosphere of hope: Now, therefore, be it

Resolved, That the Senate—

(1) expresses sympathy for those killed and injured in the recent earthquakes in Greece and Turkey;

(2) commends, encourages, and supports recent efforts by Greece and Turkey to improve bilateral relations between those countries; and

(3) reiterates the importance of promoting positive bilateral relations between Greece and Turkey, which are of paramount interest to the United States.

SENATE RESOLUTION 199—DESIGNATING THE WEEK OF OCTOBER 24, 1999, THROUGH OCTOBER 30, 1999, AND THE WEEK OF OCTOBER 22, 2000, THROUGH OCTOBER 28, 2000, AS "NATIONAL CHILDHOOD LEAD POISONING PREVENTION WEEK"

Mr. REED (for himself, Ms. COLLINS, Mr. TORRICELLI, Mr. REID, Mr. LEVIN, Mr. WELLSTONE, Mr. LIEBERMAN, Mr. KERRY, Mr. KENNEDY, Mr. SARBANES, Mr. DORGAN, Mr. SCHUMER, Mr. AKAKA, Mr. INOUYE, Mr. CHAFEE, Mrs. BOXER, Ms. MIKULSKI, Mr. DODD, Mr. WYDEN, Mr. CONRAD, Mr. GRAHAM, Mr. DURBIN, Mr. DEWINE, Ms. LANDRIEU, Mr. JOHNSON, Mr. JEFFORDS, Mr. SMITH of Oregon, Mr. ROBB, and Mr. FRIST) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 199

Whereas lead poisoning is a leading environmental health hazard to children in the United States;

Whereas according to the United States Center for Disease Control and Prevention, 890,000 preschool children in the United States have harmful levels of lead in their blood;

Whereas lead poisoning may cause serious, long-term harm to children, including reduced intelligence and attention span, behavior problems, learning disabilities, and impaired growth;

Whereas children from low-income families are 8 times more likely to be poisoned by lead than those from high income families;

Whereas children may become poisoned by lead in water, soil, or consumable products;

Whereas most children are poisoned in their homes through exposure to lead particles when lead-based paint deteriorates or is disturbed during home renovation and repainting; and

Whereas lead poisoning crosses all barriers of race, income, and geography: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of October 24, 1999, through October 30, 1999, and the week of October 22, 2000, through October 28, 2000, as "National Childhood Lead Poisoning Prevention Week"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe such day with appropriate programs and activities.

Mr. REED. Mr. President, I rise today to submit a resolution which would designate October 24–30, as "National Childhood Lead Poisoning Prevention Week." Despite steady progress over the past two decades to regulate inappropriate uses of lead, the tragedy of childhood lead poisoning remains very real for nearly one million preschoolers in the U.S.

Most children are poisoned in their own homes by deteriorating lead-based paint and lead-contaminated dust. While lead poisoning crosses all barriers of race, income, and geography, most of the burden of this disease falls disproportionately on low-income families or families of color who generally live in older, poorer quality housing. In the United States, children from low-income families are eight times more likely to be poisoned than those from high income families. African American children are five times more likely to be poisoned than white children. Nationwide, almost 22 percent of African American children living in older housing are lead poisoned, a staggering statistic, particularly given the overall decline in blood lead levels in the last decade.

Unfortunately, many communities have not experienced a major decline in blood lead levels. In fact, in some communities, more than half of the preschool children are lead poisoned. Baltimore, Providence, Philadelphia, Milwaukee, St. Louis, and Chicago all have lead poisoning rates that are three to nine times the national average.

Even low levels of exposure to lead impair a child's ability to learn and thrive, causing reductions in IQ and attention span, reading and other learning disabilities, hyperactivity, aggressive behavior, hearing loss, and coordination problems. These effects are persistent and interfere with their success in school and later in life. Research shows that children with elevated blood lead levels are seven times more likely to drop out of high school and six times more likely to have reading disabilities. State health officials believe that the need for certain education services is 40 percent higher among children with significant lead exposure.

Mr. President, lead poisoning is entirely preventable, making its prevalence among children all the more frustrating. In addition, lead poisoning has many dimensions, and therefore we have to tackle it from all directions. Specifically, our efforts should include screening and treating poisoned children, identifying and removing the source of their exposure, educating parents, landlords and entire communities about the dangers of lead, and ensuring that resources to address the problem are available and accessible to all who need them.

I have been working on a number of initiatives in the Senate to address this problem including urging Senate leaders to provide for more funding for lead abatement. Last year, I sponsored an amendment that resulted in an increase of $20 million in funding to eliminate lead hazards in the homes of young children. This year, the Senate has supported a similar figure.

Also, I have become deeply concerned, along with my colleague Senator TORRICELLI, about recent reports that children at risk for lead poisoning are not adequately screened or treated for the disease, even if they are enrolled in Medicaid. Although children enrolled in Medicaid are three times more likely than other children to have high amounts of lead in their blood, the General Accounting Office (GAO) recently reported that less than 20 percent of these young children have been screened for lead poisoning. Even more disconcerting is that half of the states do not have screening policies that are consistent with federal requirements. For this reason, we have introduced the Children's Lead SAFE Act (S. 1120) to ensure that all children at risk of lead poisoning receive their required screenings and appropriate follow-up care by holding states accountable.

Mr. President, I have been working on making important, yet commonsense, policy changes to ensure that children are screened and treated for lead poisoning and to provide critical funding for leadsafe housing. Beyond these efforts, I believe we need to take further steps to raise pubic awareness about the dangers of lead poisoning. Last month, Senator COLLINS and I hosted a Public Health Subcommittee hearing in Rhode Island to highlight the importance of the issue and to hear about the successful approaches undertaken by organizations in my home state to address the problem. We plan to hold a similar hearing in Maine next month. Because lead poisoning is a national problem, we believe it deserves national attention.

That is why Senator COLLINS and I, along with 26 original co-sponsors are introducing this bipartisan resolution that would commemorate the week of October 24-30, 1999 as "National Childhood Lead Poisoning Prevention Week." Designation of a national week for lead poisoning prevention would raise public awareness about the issue and highlight the need to protect children from lead poisoning to ensure their healthy development.

The Senate resolution would serve to further our efforts to recognize lead poisoning as a national problem and declare lead poisoning prevention as a national priority. The proposed resolution would also acknowledge the suffering of the many children with lead poisoning and their parents whose active involvement individually and through grassroots organizations has been instrumental in efforts to reduce lead poisoning. The resolution is supported by the Alliance to End Childhood Lead Poisoning, the Children's Defense Fund, the Environmental Defense Fund, and more than one hundred state and local organizations. Mr. President, I ask unanimous consent that letters of support from the Children's Defense Fund and the Alliance to End Childhood Lead Poisoning, along with the list of the 100 supporting organizations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHILDREN'S DEFENSE FUND,
Washington, DC, September 27, 1999.

Hon. JACK REED,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR REED: I am writing in strong support of resolution to commemorate the week of October 24–30, 1999 as "National Childhood Lead Poisoning Prevention Week."

Lead poisoning in children can cause learning disabilities, behavioral problems, and at extremely high levels of poisoning, seizures, coma, and death. According to the Centers for Disease Control (CDC), about 890,000 children in the United States have elevated blood lead levels, including one in five African-American children living in housing built before 1946. Infants and toddlers are most susceptible because they spend so much of their time with their hands in their mouths—hands that may have been on the floor, on the windowsill, on the wall, along the stairway, places where lead paint particles exist.

Over 80% of the homes and apartments built before 1978 in the United States have lead-based paint in them. Paint doesn't have to be peeling to cause a health problem; particles can circulate in dust and air circulation systems. Although elevated blood lead levels in children have declined in the last few decades, lead poisoning is preventable; any level of lead poisoning in children is too high.

Your resolution will highten awareness of this tragic and preventable health problem. I commend your attention to the issue and look forward to working with you to ensure that all children have the chance to grow up healthy and reach their fullest potential.

Sincerely yours,

MARIAN WRIGHT EDELMAN.

ALLIANCE TO END
CHILDHOOD LEAD POISONING,
Washington, DC, October 7, 1999.

Hon. JACK REED,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR REED: I am writing in support of your resolution to designate the last week of October "National Childhood Lead Poisoning Prevention Week." This measure is supported by over 100 local health departments, housing agencies, community-based organizations and lead poisoning prevention programs from across the country (see attached list).

Despite steady progress over the past two decades to regulate inappropriate uses of lead, the tragedy of childhood lead poisoning remains very real for nearly one million preschoolers in the United States. Children are most often poisoned in their own homes by lead-contaminated dust from lead-based paint that is deteriorating or disturbed by repainting or renovation projects.

While lead poisoning crosses all barriers of race, income, and geography, the burden of this disease falls disproportionately on low-income families or families of color, who generally live in older, poorer quality housing. In some communities, more than half of preschool children are lead-poisoned. Even low levels of exposure to lead can impair young children's ability to learn and thrive, causing reduced IQ and attention span, learning difficulties and behavior problems. These effects are persistent and interfere with success in school and later life.

Formal designation of a national week for lead poisoning prevention will instrumentally advance national, state, and local efforts to educate communities about the threat of lead to children. Thank you again for supporting designation of the last week of October "National Childhood Lead Poisoning Prevention Week."

Sincerely,

DON RYAN,
Executive Director.

MEMBERS

Alabama State CLPPP, Montgomery, AL.
Alliance To End Childhood Lead Poisoning, Washington, DC.
Anne Arundel Co. Department of Health, Annapolis, MD.
Arab Community Center for Economic and Social Services, Dearborn, MI.
Association of Parents to Prevent Lead Exposure, Cleveland, OH.
Baltimore City Health Department, Baltimore, MD.
Bethel New Life, Inc., Chicago, IL.
Brooklyn Lead Safe House, Brooklyn, NY.
California State CLPPP, Oakland, CA.
California State Dept. of Community Services and Development, Sacramento, CA.
Center for Human Development, Pleasant Hill, CA.
Charlotte Organizing Project, Charlotte, NC.
Chesterfield Health Department, Chesterfield, VA.
Chicago Lawyers' Committee for Civil Rights, Chicago, IL.
Childhood Lead Action Project, Providence, RI.
Citizen Action of New York, Buffalo, NY.
City of Buffalo Division of Neighborhoods, Buffalo, NY.
City of Charlotte Neighborhood Development, Charlotte, NC.
City of Columbus, Columbus, OH.
City of Fort Worth Public Health Department, Fort Worth, TX.
City of Providence Mayor's Office, Providence, RI.
City of Springfield Office of Housing, Springfield, MA.
CLEAR Corps, Baltimore, MD.
Cook County CLPPP, Chicago, IL.
Detroit Health Department; LPPCP, Detroit, MI.
Dorchester Bay Economic Development Corporation, Dorchester, MA.
Douglas County Health Department, Omaha, NE.
Dover Office of LPPP, Dover, DE.
Dubuque Housing Services, Dubuque, IA.
Durham Department of Housing, Durham, NC.
Duval County Health Department, Jacksonville, FL.
Economic and Employment Development Center, Los Angeles, CA.
Ecumenical Social Action Committee, Jamaica Plain, MA.
Environmental Defense Fund, Washington, DC.
Esperanza Community Housing Corporation, Los Angeles, CA.
Greater Minneapolis Day Care Association, Minneapolis, MN.
Hawaii State Department of Health, Honolulu, HI.
Healthy Children Organizing Project, San Francisco, CA.
Houston CLPPP, Houston, TX.
Houston Department of Health and Human Services, Houston, TX.
Hunter College Center for Occupational and Environmental Health, New York, NY.
Indiana State Department of Health, Indianapolis, IN.
Infant Welfare Society, Chicago, IL.
Ironbound Community Corporation, Newark, NJ.
Just a Start Corporation, St. Cambridge, MO.
Kansas City, MO, Health Department—CLPPP, Kansas City, MO.
Kentucky State CLPPP, Frankfort, KY.
LaSalle University Neighborhood Nursing Center, Philadelphia, PA.
Lead-Safe Cambridge, Cambridge, MA.
Lead-Safe Cuyahoga, Cleveland, OH.
Lead Action Collaborative, Boston, MA.
Lead Poisoning Prevention Education and Training Program, Stratford, NJ.
LeadBusters, Inc., Kansas City, KS.
Lisbon Avenue Neighborhood Development, Milwaukee, WI.
Los Angeles County CLPPP, Los Angeles, CA.
Malden Redevelopment Authority, Malden, MA.
Maryland Department of Housing, Crownsville, MD.
Massachusetts State Housing and Community Reinvestment, Boston, MA.
Michigan ACORN, Detroit, MI.
Michigan Department of Community Health, Lansing, MI.
Michigan League for Human Services, Lansing, MI.
Minneapolis Lead Hazard Control Program, Minneapolis, MN.
Missouri Coalition for the Environment, St. Louis, MO.
Missouri State CLPPP, Jefferson City, MO.
Montgomery County Lead Hazard Reduction Program, Dayton, OH.
Mothers of Lead Exposed Children, Richmond, MO.
National Center for Lead-Safe Housing, Columbia, MD.
National Health Law Program, Chapel Hill, NC.
Natural Resources Defense Council, New York, NY.
New Haven Health Department, New Haven, CT.
New Jersey Citizen Action, Highland Park, NJ.
New York City CLPPP, New York, NY.
Ohio Department of Health, Columbus, OH.
Palmerton Environmental Task Force, Palmerton, PA.
Petersburg Health Department, Petersburg, VA.
Phillips Neighborhood Healthy Housing Collaborative, Minneapolis, MN.
Phoenix Lead Hazard Control Program, Phoenix, AZ.
Project REAL—Richmond Redevelopment Agency, Richmond, CA.
Quincy-Weymouth Lead Paint Safety Initiative, Quincy, MA.
Rhode Island Department of Health—CLPPP, Providence, RI.
Rhode Island State Housing, Providence, RI.
Richmond Department of Public Health—Lead-Safe Richmond, Richmond, VA.
San Francisco Mayor's Office of Housing, San Francisco, CA.
Savannah NPCD, Savannah, GA.
Scott Co. Health Department—CLPP, Davenport, IA.
South Jersey Lead Consortium, Bridgeton, NJ.
Southeast Michigan Coalition on Occupational Safety and Health, Detroit, MI.
St. Louis County Government, Clayton, MO.
Syracuse Department of Community Development, Syracuse, NY.
Tenants' Action Group, Philadelphia, PA.
The Way Home, Manchester, NH.
United for Change CDC, Washington, DC.
United Parents Against Lead of Michigan, Paw Paw, MI.
University of Massachusetts Dartmouth Lead Program, New Bedford, MA.
University of Nevada at Las Vegas Harry Reid Center, Las Vegas, NV.
Urban League of Portland, Portland, OR.
Vermont Public Interest Research Group, Montpelier, VT.
West County Toxics Coalition, Richmond, CA.
West Dallas Coalition for Environmental Justice, Dallas, TX.
Wisconsin State CLPPP, Madison, WI.
Wyoming Department of Health—Lead Program, Cheyenne, WY.

• Ms. COLLINS. Mr. President, I am very pleased today to join my colleague, Senator JACK REED, in submitting a resolution designating October 24th–30th as National Childhood Lead Poisoning Prevention Week. This designation will help increase awareness of the significant dangers and prevalence of child lead poisoning across our nation.

Recently, Senator REED and I held a hearing in Rhode Island to address the impact exposure to lead paint can have on children's health and development, and to explore ways to improve our efforts to prevent and eventually eliminate lead poisoning in children.

Great strides have been made in the last 20 years to reduce the threat lead poses to human health. Most notably, lead has been banned from many products including residential paint, food cans and gasoline. These commendable steps have significantly reduced the incidence of lead poisoning. But the threat remains, and continues to imperil, the health and welfare of our nation's children.

In fact, lead poisoning is the most significant and prevalent environmental health threat to children in the U.S. today. Even low levels of lead exposure can have serious developmental consequences including reductions in IQ and attention span, reading and learning disabilities, hyperactivity and behavioral problems. The Centers for Disease Control and Prevention currently estimates that 890,000 children aged 1–5 have blood levels of lead that are high enough to affect their ability to learn.

Today, the major lead poisoning threat to children in found in interior paint that has deteriorated. Unfortunately, it is all too common for older homes to contain lead-based paint. In fact, more than half the entire housing stock—and three quarters of the stock built prior to 1978—contain some lead-based paint. Paint manufactured prior to the residential lead paint ban often remains safely contained and unexposed for decades, but over time, often through the remodeling process or through normal wear and tear, the paint can become exposed, contaminating the home with dangerous lead dust.

Because of the prevalence of older homes in the Northeast, lead poisoning exposure is a significant problem in our region. In Maine, 42 percent of our homes were built prior to 1950. Although screening rates nationally and in my state are considered to be too low, the sampling that has been done in my state shows that in some areas of the state 7–15 percent of children tested have high blood lead levels. In some areas of our country, the percentage is even higher.

Next month, I will hold a hearing in Maine to address the lead-based paint threat in our homes, and what parents can do to protect their children from the risks associated with lead exposure.

Once childhood development is impaired by exposure to lead, the effect is largely irreversible. However, if the presence of lead is detected prior to exposure, then remedial steps can be taken, such as lead containment or abatement, to prevent children from ever being harmed by lead's presence in the home.

We are not helpless to stop this insidious threat. By raising awareness of the prevalence of lead paint in homes, and the steps that can be taken to prevent poisoning, we can stop the life-impairing effects of childhood lead poisoning. I urge my colleagues to support me in raising awareness about childhood lead poisoning by co-sponsoring Childhood Lead Paint Poisoning Prevention Week.●

AMENDMENTS SUBMITTED

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT 2000

BOND (AND OTHERS) AMENDMENT NO. 2270

Mr. BOND (for himself, Mr. NICKLES and Mr. HUTCHINSON) proposed an amendment to amendment No. 1825 proposed by Mr. BOND to the bill (S. 1650) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2000, and for other purposes; as follows:

On page 1 of the amendment, strike all after the first word and insert the following:

. (a) FINDINGS.—Congress makes the following findings:

(1) The Department of Labor, through the Occupational Safety and Health Administration (referred to in this section as "OSHA") plans to propose regulations during 1999 to regulate ergonomics in the workplace. A draft of OSHA's ergonomics regulation became available on February 19, 1999.

(2) A July 1997 report by the National Institute for Occupational Safety and Health that reviewed epidemiological studies that have been conducted of "work related musculoskeletal disorders of the neck, upper extremity, and low back" showed that there is insufficient evidence to assess the level of risk to workers from repetitive motions. Such evidence would be necessary for OSHA and the administration to write an efficient and effective regulation.

(3) An August 1998 workshop on "work related musculoskeletal injuries" held by the National Academy of Sciences reviewed existing research on musculoskeletal disorders. The workshop showed that there is insufficient evidence to assess the level of risk to workers from repetitive motions.

(4) In October 1998, Congress and the President agreed that the National Academy of Sciences should conduct a comprehensive study of the medical and scientific evidence regarding musculoskeletal disorders. The study is intended to evaluate the basic questions about diagnosis and causes of such disorders.

(5) To complete that study, Public Law 105-277 appropriated $890,000 for the National Academy of Sciences to complete a peer-reviewed scientific study of the available evidence examining a cause and effect relationship between repetitive tasks in the workplace and musculoskeletal disorders or repetitive stress injuries.

(6) The National Academy of Sciences currently estimates that this study will be completed late in 2000 or early in 2001.

(7) Given the uncertainty and dispute about these basic questions, and Congress' intention that they be addressed in a comprehensive study by the National Academy of Sciences, it is premature for OSHA to propose a regulation on ergonomics as being necessary or appropriate to improve workers' health and safety until such study is completed.

(b) PROHIBITION.—None of the funds made available in this Act may be used by the Secretary of Labor or the Occupational Safety and Health Administration to promulgate or issue, or to continue the rulemaking process of promulgating or issuing, any standard, regulation, or guideline regarding ergonomics prior to September 30, 2000.

WELLSTONE AMENDMENT NO. 2271

Mr. WELLSTONE proposed an amendment to amendment No. 1880 proposed by Mr. WELLSTONE to the bill, S. 2271, supra; as follows:

Beginning on page 1 of the amendment, strike "$70,000,000" and all that follows and insert the following: "$358,816,000 shall be made available to carry out the mental health services block grant under subpart I of part B of title XIX of the Public Health Service Act ($48,816,000 of which shall become available on October 1, 2000 and remain available through September 30, 2001), and".

BINGAMAN (AND OTHERS) AMENDMENT NO. 2272

Mr. BINGAMAN (for himself, Mr. DOMENICI, and Mr. FEINGOLD) proposed an amendment to the bill, S. 1650, supra; as follows:

At the end of title II, add the following:

SEC. 216. STUDY AND REPORT ON THE GEOGRAPHIC ADJUSTMENT FACTORS UNDER THE MEDICARE PROGRAM.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study on—

(1) the reasons why, and the appropriateness of the fact that, the geographic adjustment factor (determined under paragraph (2) of section 1848(e) (42 U.S.C. 1395w–4(e)) used in determining the amount of payment for physicians' services under the medicare program is less for physicians' services provided in New Mexico than for physicians' services provided in Arizona, Colorado, and Texas; and

(2) the effect that the level of the geographic cost-of-practice adjustment factor (determined under paragraph (3) of such section) has on the recruitment and retention of physicians in small rural states, including New Mexico, Iowa, Louisiana, and Arkansas.

(b) REPORT.—Not later than 3 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report to Congress on the study conducted under subsection (a), together with any recommendations for legislation that the Secretary determines to be appropriate as a result of such study.

BINGAMAN AMENDMENT NO. 2273

Mr. HARKIN (for Mr. BINGAMAN) proposed an amendment to the bill, S. 1650 supra; as follows:

At the appropriate place in the bill add the following:

SEC. . CONFOUNDING BIOLOGICAL AND PHYSIOLOGICAL INFLUENCES ON POLYGRAPHY.

(a) FINDINGS.—The Senate finds that—

(1) The use of polygraph tests as a screening tool for federal employees and contractor personnel is increasing.

(2) A 1983 study by the Office of Technology Assessment found little scientific evidence to support the validity of polygraph tests in such screening applications.

(3) The 1983 study further found that little or no scientific study had been undertaken on the effects of prescription and non-prescription drugs on the validity of polygraph tests, as well as differential responses to polygraph tests according to biological and physiological factors that may vary according to age, gender, or ethnic backgrounds, or other factors relating to natural variability in human populations.

(4) A scientific evaluation of these important influences on the potential validity of polygraph tests should be studied by a neutral agency with biomedical and physiological expertise in order to evaluate the further expansion of the use of polygraph tests on federal employees and contractor personnel.

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that the Director of the National Institutes of Health should enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation into the scientific validity of polygraphy as a screening tool for federal and federal contractor personnel, with particular reference to the validity of polygraph tests being proposed for use in proposed rules published at 64 Fed. Reg. 45062 (August 18, 1999).

BINGAMAN (AND FEINGOLD) AMENDMENT NO. 2274

Mr. HARKIN (for Mr. BINGAMAN (for himself and Mr. FEINGOLD)) proposed an amendment to the bill, S. 1650, supra; as follows:

At the end of title II, add the following:

DENTAL SEALANT DEMONSTRATION PROGRAM

SEC. . From amounts appropriated under this title for the Health Resources and Services Administration, sufficient funds are available to the Maternal Child Health Bureau for the establishment of a multi-State preventive dentistry demonstration program to improve the oral health of low-income children and increase the access of children to dental sealants through community- and school-based activities.

BOND (AND OTHERS) AMENDMENT NO. 2275

Mr. SPECTER (for Mr. BOND (for himself, Mr. HARKIN, Mr. ASHCROFT, Mr. GRASSLEY, Mr. CHAFEE, Mr. BIDEN, Mr. WELLSTONE, and Mr. SMITH of Oregon)) proposed an amendment to the bill, S. 1650, supra; as follows:

At the end of title II, add the following:

WITHHOLDING OF SUBSTANCE ABUSE FUNDS

SEC. . (a) IN GENERAL.—None of the funds appropriated by this Act may be used to withhold substance abuse funding from a State pursuant to section 1926 of the Public Health Service Act (42 U.S.C. 300x–26) if such State certifies to the Secretary of Health and Human Services that the State will commit additional State funds, in accordance with subsection (b), to ensure compliance with State laws prohibiting the sale of tobacco products to individuals under 18 years of age.

(b) AMOUNT OF STATE FUNDS.—The amount of funds to be committed by a State under subsection (a) shall be equal to one percent of such State's substance abuse block grant allocation for each percentage point by which the State misses the retailer compliance rate goal established by the Secretary of Health and Human Services under section 1926 of such Act, except that the Secretary may agree to a smaller commitment of additional funds by the State.

(c) SUPPLEMENT NOT SUPPLANT.—Amounts expended by a State pursuant to a certification under subsection (a) shall be used to supplement and not supplant State funds used for tobacco prevention programs and for compliance activities described in such subsection in the fiscal year preceding the fiscal year to which this section applies.

(d) The Secretary shall exercise discretion in enforcing the timing of the State expenditure required by the certification described in subsection (a) as late as July 31, 2000.

BOXER AMENDMENT NO. 2276

Mr. HARKIN (for Mrs. BOXER) proposed an amendment to the bill, S. 1650, supra; as follows:

At the appropriate place add the following:

SEC. . (a) FINDINGS.—Congress makes the following findings:

(1) In 1999, prostate cancer is expected to kill more than 37,000 men in the United States and be diagnosed in over 180,000 new cases.

(2) Prostate cancer is the most diagnosed nonskin cancer in the United States.

(3) African Americans have the highest incidence of prostate cancer in the world.

(4) Considering the devastating impact of the disease among men and their families, prostate cancer research remains underfunded.

(5) More resources devoted to clinical and translational research at the National Institutes of Health will be highly determinative of whether rapid advances can be attained in treatment and ultimately a cure for prostate cancer.

(6) The Congressionally Directed Department of Defense Prostate Cancer Research Program is making important strides in innovative prostate cancer research, and this Program presented to Congress in April of 1998 a full investment strategy for prostate cancer research at the Department of Defense.

(7) The Senate expressed itself unanimously in 1998 that the Federal commitment to biomedical research should be doubled over the next 5 years.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) finding treatment breakthroughs and a cure for prostate cancer should be made a national health priority;

(2) significant increases in prostate cancer research funding, commensurate with the impact of the disease, should be made available at the National Institutes of Health and to the Department of Defense Prostate Cancer Research Program; and

(3) these agencies should prioritize prostate cancer research that is directed toward innovative clinical and translational research projects in order that treatment breakthroughs can be more rapidly offered to patients.

DEWINE AMENDMENT NO. 2277

Mr. SPECTER (for Mr. DEWINE) proposed an amendment to the bill, S. 1650 supra; as follows:

On page 59, line 25, strike "$1,404,631,000" and insert "$1,406,631,000" in lieu thereof.

On page 60, before the period on line 10, insert the following: ": *Provided further*, That $2,000,000 shall be for carrying out Part C of title VIII of the Higher Education Amendments of 1998."

On page 62, line 23, decrease the figure by $2,000,000.

HUTCHISON (AND BINGAMAN) AMENDMENT NO. 2278

Mr. SPECTER (for Mrs. HUTCHISON (for herself and Mr. BINGAMAN)) proposed an amendment to the bill, S. 1650, supra; as follows:

At the appropriate place, insert the following:

SEC. . The United States-Mexico Border Health Commission Act (22 U.S.C. 290n *et seq.*) is amended—

(1) by striking section 2 and inserting the following:

"SEC. 2. APPOINTMENT OF MEMBERS OF BORDER HEALTH COMMISSION.

"Not later than 30 days after the date of enactment of this section, the President shall appoint the United States members of the United States-Mexico Border-Health Commission, and shall attempt to conclude an agreement with Mexico providing for the establishment of such Commission."; and

(2) in section 3—

(A) in paragraph (1), by striking the semicolon and inserting "; and";

(B) in paragraph (2)(B), by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

SPECTER AMENDMENTS NOS. 2279–2280

Mr. SPECTER proposed two amendments to the bill, S. 1650, supra; as follows:

AMENDMENT NO. 2279

On page 50, line 17, strike "$459,500,000" and insert in lieu thereof "$494,000,000".

AMENDMENT NO. 2280

On page 66, line 24, strike all after the colon up to the period on line 18 of page 67.

COCHRAN AMENDMENT NO. 2281

Mr. SPECTER (for Mr. COCHRAN) proposed an amendment to the bill, S. 1650 supra; as follows:

On page 42, before the period on line 8 insert the following: ": *Provided further*, That sufficient funds shall be available from the Office on Women's Health to support biological, chemical and botanical studies to assist in the development of the clinical evaluation of phytomedicines in women's health".

WYDEN (AND OTHERS) AMENDMENT NO. 2282

Mr. SPECTER (for Mr. WYDEN (for himself, Mr. GRAHAM, and Mr. SMITH of Oregon)) proposed an amendment to the bill, S. 1650, supra; as follows:

On page 19, line 6, insert before the period the following: ": *Provided further*, That funds made available under this heading shall be used to report to Congress, pursuant to section 9 of the Act entitled 'An Act to create a Department of Labor' approved March 4, 1913 (29 U.S.C. 560), with options that will promote a legal domestic work force in the agricultural sector, and provide for improved compensation, longer and more consistent work periods, improved benefits, improved living conditions and better housing quality, and transportation assistance between agricultural jobs for agricultural workers, and address other issues related to agricultural labor that the Secretary of Labor determines to be necessary".

MURRAY (AND OTHERS) AMENDMENT NO. 2283

Mr. SPECTER (for Mrs. MURRAY (for herself, Ms. MIKULSKI, Mr. ROBB, Mrs. LINCOLN, and Mr. REID)) proposed an amendment to the bill, S. 1650, supra; as follows:

Beginning on page 1 of the amendment, strike all after the first word and insert the following:

. SENSE OF THE SENATE ON WOMEN'S ACCESS TO OBSTETRICAND GYNECOLOGICAL SERVICES.

(a) FINDINGS.—Congress makes the following findings:

(1) In the 1st session of the 106th Congress, 23 bills have been introduced to allow women direct access to their ob-gyn provider for obstetric and gynecologic services covered by their health plans.

(2) Direct access to ob-gyn care is a protection that has been established by Executive Order for enrollees in medicare, medicaid, and Federal Employee Health Benefit Programs.

(3) American women overwhelmingly support passage of federal legislation requiring

health plans to allow women to see their ob-gyn providers without first having to obtain a referral. A 1998 survey by the Kaiser FamilyFoundation and Harvard University found that 82 percent of Americans support passage of a direct access law.

(4) While 39 States have acted to promote residents' access to ob- gyn providers, patients in other State- or in Federally-governed health plans are not protected from access restrictions or limitations.

(5) In May of 1999 the Commonwealth Fund issued a survey on women's health, determining that 1 of 4 women (23 percent) need to first receive permission from their primary care physician before they can go and see their ob-gyn provider for covered obstetric or gynecologic care.

(6) Sixty percent of all office visits to ob-gyn providers are for preventive care.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should enact legislation that requires health plans to provide women with direct access to a participating health provider who specializes in obstetrics and gynecological services, and that such direct access should be provided for all obstetric and gynecologic care covered by their health plans, without first having to obtain a referral from a primary care provider or the health plan.

REED AMENDMENT NO. 2284

Mr. SPECTER (for Mr. REED) proposed an amendment to the bill, S. 1650, supra; as follows:

At the appropriate place, insert the following:

SEC. . The applicable time limitations with respect to the giving of notice of injury and the filing of a claim for compensation for disability or death by an individual under the Federal Employees' Compensation Act, as amended, for injuries sustained as a result of the person's exposure to a nitrogen or sulfur mustard agent in the performance of official duties as an employee at the Department of the Army's Edgewood Arsenal before March 20, 1944, shall not begin to run until the date of enactment of this Act.

STEVENS AMENDMENT NO. 2285

Mr. SPECTER (for Mr. STEVENS) proposed an amendment to the bill, S. 1650, supra; as follows:

At the appropriate place in Title V—GENERAL PROVISIONS of the bill insert the following new section—

SEC. 5 . Section 169(d)(2)(B) of P.L. 105-220, the Workforce Investment Act of 1998, is amended by striking "or Alaska Native villages or Native groups (as such terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)).", and inserting in lieu thereof, "or Alaska Natives."

DURBIN (AND OTHERS) AMENDMENT NO. 2286

Mr. SPECTER (for Mr. DURBIN (for himself, Mr. DEWINE, Mr. ABRAHAM, and Mr. SPECTER)) proposed an amendment to the bill, S. 1650, supra; as follows:

At the end of title II, add the following:

CHILDHOOD ASTHMA

SEC. . In addition to amounts otherwise appropriated under this title for the Centers for Disease Control and Prevention, 8.7 in addition to the $*** already provided for asthma prevention programs which shall become available on October 1, 2000 and shall remain available through September 30, 2001, and be utilized to provide grants to local communities for screening, treatment and education relating to childhood asthma.

INOUYE AMENDMENTS NOS. 2287-2288

Mr. SPECTER (for Mr. INOUYE) proposed an amendment to the bill, S. 1650, supra; as follows:

AMENDMENT NO. 2287

At the appropriate place, insert the following:

SEC. (a) The Centers for Disease Control and Prevention shall hereafter be known and designated as the "Thomas R. Harkin Centers for Disease Control and Prevention".

(b) Effective upon the date of enactment of this Act, any reference in a law, document, record, or other paper of the United States to the "Centers for Disease Control and Prevention" shall be deemed to be a reference to the "Thomas R. Harkin Centers for Disease Control and Prevention".

(c) Nothing in this section shall be construed as prohibiting the Director of the Thomas R. Harkin Centers for Disease Control and Prevention from utilizing for official purposes the term "CDC" as an acronym for such Centers.

Mr. HARKIN (for Mr. INOUYE) proposed an amendment to the bill, S. 1650, supra: as follows:

AMENDMENT NO. 2288

At the appropriate place, insert the following:

SEC. . DESIGNATION OF ARLEN SPECTER DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) IN GENERAL.—The National Library of Medicine building (building 38) at 8600 Rockville Pike, in Bethesda, Maryland, shall be known and designated as the "Arlen Specter National Library of Medicine".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the Arlen Specter National Library of Medicine.

HARKIN AMENDMENT NO. 2289

Mr. HARKIN proposed an amendment to the bill, S. 1650, supra; as follows:

On page 39, line 8, strike "$6,682,635,000" and insert "$6,684,635,000".

On page 40, line 20, strike "$928,055,000" and insert "$942,355,000".

On page 41, line 14, reduce the figure by $10,300,000.

On page 62, line 23, strike "$378,184,000" and insert "$372,184,000".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce that a Full Committee hearing has been scheduled before the Committee on Energy and Natural Resources. The hearing will take place Thursday, October 14, 1999, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of this hearing is to receive testimony on S. 1683, a bill to make technical changes to the Alaska National Interest Lands Conservation Act, and for other purposes; S. 1686, to provide for the conveyances of land interests to Chugach Alaska Corporation to fulfill the intent, purpose, and promise of the Alaska Native Claims Settlement Act, and for other purposes; S. 1702, a bill to amend the Alaska Native Claims Settlement Act to allow shareholder common stock to be transferred to adopted Alaska Native Children and their descendants, and for other purposes; H.R. 2841, to amend the Revised Organic Act of the Virgin Islands to provide for greater fiscal autonomy consistent with other United States jurisdictions, and for other purposes; and H.R. 2368, the Bikini Resettlement and Relocation Act of 1999. There will be testimony from the Administration, and other interested parties.

Those who wish to testify or to submit written testimony should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. Presentation of oral testimony is by Committee invitation only. For further information, please contact Jo Meuse or Brian Malnak at (202) 224-6730.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Ms. COLLINS. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold a hearing entitled "Conquering Diabetes: Are We Taking Full Advantage of the Scientific Opportunities For Research?" This Subcommittee hearing will examine the devastating impact that diabetes and its resulting complications have had on Americans of all ages in both human and economic terms. Additionally, we will review the recent recommendations of the Congressionally-established Diabetes Research Working Group and will look at the current Federal commitment to diabetes research to determine if sufficient funding has been provided to take advantage of the unprecedented opportunities to ultimately conquer this disease and its complications.

The hearing will take place on Thursday, October 14, 1999, at 9:30 a.m., in Room 628 of the Dirksen Senate Office Building. For further information, please contact Lee Blalack of the Subcommittee staff at 224-3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Thursday, October 7, 1999. The purpose of this meeting will be to discuss the regulation of products of biotechnology and new challenges faced by farmers and food businesses.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9:30 a.m. on Thursday, October 7, 1999, in open and closed sessions, to receive testimony on the ability of the Stockpile Stewardship Program to adequately verify the safety and reliability of the U.S. nuclear deterrent under a comprehensive test ban treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. COVERDELL. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Thursday, October 7, 10:00 a.m., Hearing Room (SD–406), on water infrastructure legislation, including the following three bills: S. 968, Alternative Water Sources Act of 1999; S. 914, Combined Sewer Overflow Control and Partnership Act of 1999; and the Clean Water Infrastructure Financing Act of 1999, a bill to be introduced by Senator VOINOVICH.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 7, 1999 at 10:30 a.m. and 2:00 p.m. to hold two hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. COVERDELL. Mr. President, the Committee on the Judiciary requests unanimous consent to conduct a hearing on Thursday, October 7, 1999 beginning at 10:00 a.m. in Dirksen Room 226.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. COVERDELL. Mr. President, the Committee on the Judiciary requests unanimous consent to conduct a markup on Thursday, October 7, 1999 beginning at 10:00 a.m. in Dirksen Room 226.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. COVERDELL. Mr. President, the Committee on the Judiciary requests unanimous consent to conduct a hearing on Thursday, October 7, 1999 beginning at 2:00 p.m. in Dirksen Room 226.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON THE YEAR 2000 TECHNOLOGY PROBLEM

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Special Committee on the Year 2000 Technology Problem be permitted to meet on October 7, 1999 at 9:30 a.m. for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 7, 1999 at 2:00 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH, DEVELOPMENT, PRODUCTION AND REGULATION

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research, Development, Production and Regulation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, October 7, for purposes of conducting a subcommittee hearing, which is scheduled to begin at 2:30 p.m. The purpose of this hearing is to receive testimony on S. 1183, a bill to direct the Secretary of Energy to convey to the city of Bartlesville, Oklahoma, the former site of the NIPER facility of the Department of Energy; and S. 397, a bill to authorize the Secretary of Energy to establish a multiagency program in support of the Materials Corridor Partnership Initiative to promote energy efficient, environmentally sound economic development along the border with Mexico through the research, development, and use of new materials.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION AND FEDERAL SERVICES

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee Subcommittee on International Security, Proliferation and Federal Services be permitted to meet on Thursday, October 7, 1999, at 2:00 p.m. for a hearing on Guidelines for the Relocation, Closing, Consolidation or Construction of Post Offices.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Finance, Subcommittee on International Trade be permitted to meet on Thursday, October 7, 1999 at 10:00 a.m. to hear testimony on the United States Agricultural Negotiating Objectives for the Seattle WTO Ministerial Conference.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

1999 REUNION OF MEMBERS OF FOX DIVISION, USS "ROCHESTER"

• Mr. ABRAHAM. Mr. President, I rise today to recognize the fighting men of the Fox Division, United States Navy, USS *Rochester* (CA–124), who bravely served our country in the Korean Conflict from June, 1950 to March, 1953. Aboard the USS *Rochester*—the flagship of the Commander Seventh Fleet—the men of the Fox Division participated in nearly every major naval engagement along the Korean Peninsula. The Fox Division's three teams: the Main Plot, the Sky Plot, and the Mark 56 directors, shared the critical responsibility of operating, repairing, and maintaining the complex equipment which ensured the accuracy of the *Rochester*'s weapons systems. They accomplished these tasks with outstanding success.

The Fox Division recently celebrated their 1999 reunion in Frankenmuth, Michigan. Some of these reunited shipmates had not seen each other in over 45 years. Included among their ranks were:

Jerry Barca; John Brothers; Robert Cadden; Russell Daniels; Farrell Ferguson; Sheri Holman, representing her late husband Bob Holman; Bill Hontz; Marv Hufford; Larry Kobie; Tony Kontowicz; Leo Lane; Charles Newsham; Bobby Page; Carl Ray; Ronald Richards; Pete Russell; Roland Schneider; Donald Spencer; and Joe West.

Today I join my colleagues in thanking the men of the Fox Division for defending the cause of democracy, and for preserving our country's national security. I am proud to say that these veterans are an inspiration to all of us. By dedicating a portion of their lives to the service of their country, they have helped guarantee the freedom we Americans hold so dear. Our nation is grateful to each and every member of the Fox Division, USS *Rochester*, for their outstanding dedication and commitment to the United States of America.•

VIOLENCE IN MICHIGAN

• Mr. LEVIN. Mr. President, this week, students at Erickson Elementary School and Willow Run High School are mourning the deaths of their peers. On Sunday afternoon, gun fire cut short the lives of two young boys in Ypsilanti Township. Sixteen year old Ernest Earl Lemons was shot in plain daylight, after a fight broke out between young people. Nine year old Cullen Ethington, who was a half a block away, was also killed by a stray bullet from that fight.

Both young people are now being remembered by their classmates and teachers. The tree where Lemons fell, after he was shot, is now decorated with teddy bears. Students at Erickson are planning to plant a tree or flowers in honor of the short life of fourth grader Cullen Ethington, who will be memorialized by his classmates as a peer mediator who helped students resolve their disputes without violence.

School children are too often the victims of senseless gun violence. Gun violence results in injury and death, destroys families, and causes lasting psychological and emotional harm. In Michigan, each school is now forced to handle the trauma of children losing other children to gunfire. As many other school districts now know, violence and the fear of violence is not only tragic for individuals and families involved, it also interferes tremendously with the educational process. Students at Erickson, for example, are now spending time at school with trauma teams learning how to cope with death while their peers at other schools are learning about the pilgrims and practicing for the school play.

Congress must act now to end the proliferation of gun violence. Like young Cullen, we must not only make a pledge to live our lives without violence, but must also send a message to others that violence is never the answer.

My thoughts and prayers go out to the both the Ethington and the Lemons families.●

WILDERNESS DESIGNATIONS

● Mr. CRAIG. Mr. President, given the recent creation of the Wilderness and Public Lands Caucus and the ongoing debate on public land management, I think that all views on this complicated and emotional issue are vital to the discussion. Therefore, I ask that a brief statement from the Wilderness Act Reform Coalition, a group from my home State of Idaho be printed in the RECORD for all Senators to read and consider.

The article follows:

THE WILDERNESS ACT REFORM COALITION

WHY WE ARE ORGANIZING

September 3, 1999 marks the 35th anniversary of the passage of the Wilderness Act. During those 35 years, it has never been substantively amended. Yet, the history of the application of the Wilderness Act to the public's lands and resources provides overwhelming evidence that it must be significantly reformed if the public interest is to be served.

September 3, 1999 also marks the launch of the Wilderness Act Reform Coalition (WARC), the first serious effort to reform this antiquated and poorly-conceived law. Much has changed since the Wilderness Act became law in 1964. Dozens of other laws have been passed since then to protect and responsibly-manage all of the public's lands and resources. Underpinning all of these laws—and guaranteeing their enforcement—is a public sensitivity and commitment to wise resource management which was not present two generations ago when the Wilderness Act was enacted.

Over this same time period our knowledge and understanding of how to accomplish this kind of wise and responsible resource management has increased exponentially. The demand side of the public's interest in their lands and resources has also increased exponentially. Recreation demand, for example, has increased far beyond what anyone could have anticipated 35 years ago and it has done so in directions which could not have been foreseen in 1964. Demand for water, energy and minerals, timber and other resources continues to go up as well.

All of this means that as the 21st Century dawns we find ourselves facing more complex natural resources realities and challenges than ever before in our history. Meeting these challenges while at the same time serving the broad public interest will require careful and thoughtful balancing of all resource values with other social goals. It will also require integrating them all into a comprehensive management approach which will provide the greatest good for the greatest number of Americans over the longest period of time.

These lands and resources, after all, belong to all of the American people. They deserve to enjoy the maximum benefits from them. Yet, the Wilderness Act, with its outdated, inflexible, and anti-management requirements, presently locks away over 100 million acres of the public's lands and resources from this kind of intelligent and integrated resource management. The inevitable result is the numerous negative impacts and damage to other resource values which are becoming increasingly apparent on the public's lands. The Wilderness Act remains frozen in another era. Due to the exponential changes which have occurred since it was passed, that era lies much further in the past than a mere 35 year linear time line would suggest.

OUR GOALS AND OBJECTIVES

The Wilderness Act Reform Coalition is being organized by members of citizen's groups and local government officials who have experienced firsthand the limitations and problems the Wilderness Act has caused. It has a simple mission: to reform the Wilderness Act. In carrying out that mission, the Coalition has identified two primary goals towards which it will initially work.

The first goal is to make those changes in the wilderness law which are essential to mitigate the most serious resource and related problems it is causing. These problems range from prohibiting the application of sound resource management practices where needed to hampering important scientific research and jeopardizing our national defense.

The second goal of the coalition is to use the failings of the Wilderness Act to help educate the public, the media and policy makers on the fundamentals of natural resource management. Most of the "conventional wisdom" about natural resource management to which most of them presently subscribe is simply wrong. It is essential that the public be better educated on the facts, the realities, the challenges and the options before there can be any responsible or useful policy debate on the most fundamental problems with the Wilderness Act or, for that matter, any of the other federal management laws and policies which also need to be reformed. That is why the Coalition has chosen a comparatively limited reform agenda for this opening round in what we recognize ultimately must be a broader and more comprehensive national policy debate.

OUR REFORM AGENDA

The Coalition currently advocates the following reforms of the Wilderness Act:

1. Developing a mechanism to permit active resource management in wilderness areas to achieve a wide range of public benefits and to respond to local needs. The inability or unwillingness of managers to intervene actively within wilderness areas to deal with local resource management problems or goals has resulted in economic harm to local communities and damage to other important natural resource and related values and objectives. The Coalition supports the creation of committees composed of locally-based federal and state resource managers, local governments, local economic interests and local citizens which will initiate a process to override the basic non-management directive of the Wilderness Act on a case-by-case basis.

2. Establishing a mechanism for appeal and override of local managers for scientific research. Wilderness advocates often tout the importance of wilderness designation to science. The reality, however, is that agency regulations make it difficult or impossible to conduct many scientific experiments in wilderness, particularly with modern and cost-effective scientific tools. Important scientific experiments have been opposed simply because they would take place within wilderness areas. A simple, quick and cheap appeal process must be created for scientists turned down by wilderness land managers.

3. Making it clear that such things as use of mechanized equipment and aircraft landings can occur in wilderness areas for search and rescue or law enforcement purposes. There have been incidents where these have been prevented by federal wilderness managers.

4. Requiring that federal managers use the most cost-effective management tools and technologies. These managers have largely imposed upon themselves a requirement that they use the "least tool" or the "minimum tool" to accomplish tasks such as noxious weed control, wildfire control or stabilization of historic sites. In practice, this means that hand tools are often used instead of power tools, horses are employed instead of helicopters and similar practices which waste tax dollars.

5. Clarifying that the prohibition on the use of mechanized transportation in wilderness areas refers only to intentional infractions. This would be, in effect, the "Bobby Unser Amendment" designed to prevent in the future the current situation in which he is being prosecuted by the federal government for possibly driving a snowmobile into a wilderness area in Colorado while lost in a life-threatening blizzard.

6. Pulling the boundaries of wilderness areas and wilderness study areas (WSA's) back from roads and prohibiting "cherrystemming." In many cases, the boundaries of wilderness areas and WSA's come right to the very edge of a road. Lawsuits have been filed or threatened against counties for going literally only a few feet into a WSA when doing necessary road maintenance work. It is clearly impossible to have a wilderness recreational experience in close proximity of a road. When formal wilderness areas are designated, the current practice is to pull the boundaries back a short distance from roads, depending on how the roads are categorized. That distance should be standardized and extended, probably to at least a quarter of a mile. The practice of "cherrystemming," or drawing wilderness boundaries right along both sides of a road to its end, sometimes for many miles, is a clear violation of the intent of the Wilderness Act that wilderness areas must first and foremost be roadless. It must be eliminated.

7. Permitting certain human-powered but non-motorized mechanized transport devices in wilderness areas. This would include mountain bikes and wheeled "game carriers" and similar devices. The explosion of mountain biking was not envisioned by the Congress when the Wilderness Act was passed. Opening up those wilderness areas which are suitable to mountain biking would provide a high quality recreation experience to more of the Americans who own these areas. Use of these human-powered conveyances would also reduce pressure on these areas in a number of ways, such as by dispersing recreation use over a wider area. At the same time opening these areas can also reduce the current or potential conflicts between various recreation uses on land outside of designated wilderness. The impact on the land from these types of mechanized recreation uses would be minimal to non-existent. Their presence in wilderness areas would not cause problems on aesthetic grounds for any but the most extreme wilderness purists and they represent only a tiny fraction of the Americans who own these lands.

8. Requiring that the resource potential in all WSA's and any other land proposed for wilderness be updated at least every ten years. For example, mineral surveys and estimates of oil and gas potential completed on many of the WSA's on BLM-managed land which have been recommended for wilderness designation are now 10 to 15 years old and in some cases even older. These reviews were often not very thorough even by the standards and technology available then, much less what is available now. Before any additional land is locked up in wilderness, Congress and the American people should at least have the best and most up-to-date information on which to weigh the resource trade offs and make decisions.

9. Stating clearly that wilderness designation or the presence of WSA's cannot interfere with military preparedness. In a number of instances, conflicts related to military overflights of designated or potential wilderness areas, or to the positioning of essential military equipment on the ground in these areas, poses a threat or a potential threat to our defense preparedness. The Coalition will push for clarification that when considering the impacts of any mission certified by the military as essential to the national defense, wilderness areas or WSA's will be treated exactly the same as any other land administered by that agency.

10. Clarifying that wilderness designation or WSA designation will not in and of itself result in any management or regulatory changes outside the wilderness or WSA boundaries. This change is essential to prohibit federal agencies or the courts from taking actions to impose any type of "buffer zones" around these areas, including such things as special management of "viewsheds" or asserting wilderness-based water rights.●

RECOGNIZING THE AMERICAN ASSOCIATION ON MENTAL RETARDATION ILLINOIS CHAPTER'S 1999 DIRECT SERVICE PROFESSIONAL AWARD WINNERS

● Mr. DURBIN. Mr. President, I take this opportunity to honor those who have enriched the lives of men and women with disabilities. Each year the Illinois chapter of the American Association on Mental Retardation recognizes the work of Illinoisans who have dedicated and committed their lives to helping people with disabilities.

These award winners live in Illinois and play an important role in the lives of Illinoisans with disabilities. A 1999 Direct Service Award winner is someone who devotes more than 50 percent of their time working hands-on with their client. These award winners work directly with their clients with commitment, sensitivity, professionalism, and patience. These qualities set them apart and increase their value to their patients.

It is important we recognize these individuals who go beyond the call of duty to improve the lives of others. We should note that these individuals do not only enrich the lives of those for whom they care, but enrich our lives as well. They represent the true spirit of community service.

It is my honor and privilege to recognize the achievements of the following distinguished Illinois direct service professionals: Linda Barnes, Karen Catt, Candace Fulgham, Ross Griswold, Delores Hardin, Cathey Hardy, Raterta Kalish, Eldora Madison, Anita Martin, Vickie Mckenny, Ida Mitchell, Michael Peters, Noreen Przislicki, Douglas S. Revolinski, Angelo Reyes, Karie Rosenown, Laureen Saathoff, Ruby Sandefur, Emma Smith, and Kathie Tillman. It is a privilege to represent these award winners in the United States Senate.

Again, I applaud them for their lifetime effort and their dedication to better the lives of others who are less fortunate. These distinguished men and women are heroes in their field, and I am proud to recognize their work.●

DAVID "MOOSE" MILLER

● Mr. BURNS. Mr. President, I rise today to pay tribute to David "Moose" Miller, husband, father, friend, community leader, sports enthusiast, and owner of the nationally known watering hole, Moose's Saloon, who lost his life to cancer recently. Moose had battled cancer for the last year and convinced himself and others that he would beat it. Today, in Kalispell, Montana, family and friends are remembering Moose Miller and I would like to take a moment to make a special acknowledgement to such a great man.

Moose played football for the University of Montana, served his country in the U.S. Army, and with his wife, converted the Corral Bar to the famous Moose's Saloon. Swinging doors, sawdust on the floor, initials carved into the heavy tables, the best pizza around, and the rustic atmosphere attracted people from all walks of life and all ages. Whether you're from Kalispell, Montana, Peoira, Illinois, or Washington, D.C., you likely know someone who knows of Moose's Saloon and Moose Miller.

I had the privilege of knowing Moose. Moose not only owned and ran a successful business in the Flathead Valley, he gave back to the community in many ways. The Kalispell Chamber of Commerce honored him as its Great Chief in 1986, recognizing his years of community service. He and his "elves" made Christmas special for many people, especially the handicapped, each year for several years, he donated proceeds from the kitchen to support the March of Dimes, was an active supporter of the University of Montana and helped administer the Flathead Youth Foundation.

Moose is leaving behind a wife, Shirley; his children; Bruce, Wallis, Royce, Lexie, Lee and Aimee; his grandchildren, Zach, Anne, Lexie, Leah, Alicia, Hannah, and Zane; and his sister, Marcie.

I know that Moose will be missed by his family and friends, as well as the entire community. May God bless them all and may his memory live on.●

JOHN "JACK" J. DRISCOLL

● Mrs. BOXER. Mr. President, on the occasion of his retirement as executive director of the Los Angeles World Airports, LAWA, I would like to recognize the important contribution Jack Driscoll has made to the City of Los Angeles and to the economy of Southern California over the past seven years.

Jack Driscoll was appointed executive director in December of 1992. His record of accomplishment can best be shown in the outstanding quality of management and development at the city's four airports: Los Angeles International, LAX, Ontario International, Palmdale Regional, and Van Nuys.

Under Mr. Driscoll's financial management, LAWA has increased its operating income by an overwhelming 329 percent through the combination of reorganization, streamlining measures, and renegotiating contracts with airport tenants. Revenues from non-aviation sources, including updated concessions and new vendor contracts, have nearly equaled revenues from aviation sources. In fact, leading investment rating agencies have rewarded LAX with their highest ratings for a stand-alone airport.

Even in adversity, Mr. Driscoll worked to maintain quality in service and operations. He was at the reins of LAWA during a major dispute between the City of Los Angeles and the airlines over landing fees. During litigation at LAX, he revived the dormant, 12-year-old plans to build new terminals at Ontario International Airport. With Mr. Driscoll's direction, this $270-million project was completed four months ahead of schedule and $26 million under budget. These new terminals put ONT in position to bring regional solutions to meet Southern California's ever-growing air transport needs and made it the only airport in the region with new facilities to do so.

In addition, Mr. Driscoll initiated the LAX Master Plan, a long-term process to guide development of LAX to meet air passenger and cargo demands for the next 20 years. Since 1992, LAX has become the third busiest passenger airport in the world and the second busiest air cargo airport in the world.

To offset this growth, Mr. Driscoll committed LAWA to undertake major noise reduction and management programs, including nearly $500 million in programs for residential soundproofing and compatible land-use; recycle water programs; and a variety of clean air programs, including alternative-fuel vehicles and traffic mitigation. All of these programs have received awards from environmental organizations and regulatory agencies for outstanding achievement.

I wish Jack Driscoll well and thank him for his contribution towards improving Southern California's aviation gateway.•

IN MEMORY OF JIM DeFRANCIS

• Mr. ABRAHAM. Mr. President, I rise today in memory of Jim Upton DeFrancis: a great politician, a great historian, and a great family man, who died on January 1 of this year.

Jim DeFrancis was one of the most influential people in the political field, always maintaining political savvy—but not sacrificing perspective, an incredible sense of humor, and a belief that politics was an avenue for serving others. Very early in my career, I had the good fortune of working for Jim in Senator Bob Griffin's office. I will never forget the many lessons I learned from him—both directly and simply by working near him. One couldn't help but learn from Jim DeFrancis.

In addition to his 10 years with Senator Griffin, Jim DeFrancis was an integral member of the presidential campaigns of Gerald Ford and George Romney. As a member of the staff of these politicians, Jim was able to avoid the spotlight while serving Michigan and national politics, in the honorable and professional manner for which now he is recognized as a very significant member of Michigan political history.

Jim's love of politics was rooted in his love of history. He especially enjoyed reading about Winston Churchill. An avid reader, Jim collected any book on Winston Churchill that he could find, as well as other artifacts related to the late Prime Minister. During difficult times, Jim would look at Churchill's life as a model, gaining inspiration and guidance.

And while Jim's contribution to politics is exceptional—in his very actions, he inspired us to work for others through politics—his true love was his family. More than anything else, Jim DeFrancis was a family man. Survived by his wife, three sons, his mother and sister, his family was the real focus of his life. Everyone who came in contact with him would quickly learn about his family—as he always found a way to bring them up in a conversation.

Jim DeFrancis' devotion to his family, his friends, and his career was matched by few and will be deeply missed by those who knew him. We will never forget Jim—crossing paths with Jim DeFrancis was sure to leave a lasting impact. And it is this lasting, far-reaching impact that Jim's life has had on those who knew him which calls to mind a quote that I think Jim would appreciate, not only because it is a quote by Winston Churchill, but because I believe Jim would be moved to know what an influence he had on us:

"This is not the end. It is not even the beginning of the end. But it is, perhaps, the end of the beginning."•

BUDDY CHARLES

• Mr. DURBIN. Mr. President, I rise today to take note of an upcoming milestone in the career of a man from Illinois whose musicianship, warmth and exuberance have brought joy to all who have heard him play and sing over the past 52 years.

On Saturday, October 9th, Mr. Buddy Charles will play the final night of his most recent engagement—a 9-year stand at the Drake Hotel in Chicago. Buddy Charles is no less than a living encyclopedia of what critics call the "Golden Age" of American popular music. During the period from about 1920 to 1950, the Gershwins, Arlens, Berlins and Carmichaels of the world produced a rich legacy of songs. Although recorded versions of these songs are numerous, they are kept alive in a special way by entertainers such as Buddy Charles.

Buddy is a lifelong Chicagoan, born there 72 years ago, raised on the North Side, and a graduate of Loyola University. The roster of clubs in which he has performed since 1946 reads like a history of night life and entertainment in Chicago: London House, Spaghetti Bowl, Dubonnet, Casino, Drum Lounge. . . .

Perhaps his most memorable stand—chronicled frequently by the Chicago news media—was his 18-year engagement, from 1972 to 1990, at the Acorn on Oak. There he could be found, as the Chicago Tribune wrote, "shouting and singing when most sensible people are sleeping and dreaming, the most devilishly delightful creature of the city night."

And it was there that Buddy became the favorite entertainer of two of Chicago's most famous personalities—Mike Royko and Harry Caray. When Mike's memorial service was held two years ago in Wrigley Field, there was Buddy at home plate, playing and singing Royko's favorite song.

Buddy's music and personality have provided refuge, relief and delight to four generations of music lovers. And through all those years, he has also been a loving husband to his wife of 45 years, Pat, a caring father to their now-grown children Teresa, Christopher, Tabitha and Amanda, and a daily churchgoer and teacher of catechism.

He has given himself to thousands of people through his music. Although it is a little sad that he won't be dispensing his brand of joy on a nightly basis any more, it is reassuring to know he is available to play when someone asks.

My sincerest good wishes to Buddy Charles and his family on this important occasion.•

FREDERIK MEIJER GARDENS DEDICATION OF LEONARDO DA VINCI SCULPTURE, IL CAVALLO

• Mr. ABRAHAM. Mr. President, I rise today to acknowledge and congratulate Frederik Meijer and the Frederik Meijer Gardens as they unveil and dedicate the Da Vinci sculpture Il Cavallo (the horse).

Frederik Meijer's incredible generosity and foresight enabled Il Cavallo to be seen at its permanent home in the Frederik Meijer Gardens. In an effort to fulfill his dream of creating a world class sculpture garden Frederik Meijer and the City of Milan, Italy (where an identical sculpture is located) allowed for the work of Da Vinci to be recommissioned and created. Il Cavallo was originally sketched and commissioned by Da Vinci in 1482 and he continued to work on it for fourteen years. However, the bronze intended to cast the sculpture was used to make cannons to defend the city of Milan, therefore Da Vinci never completed the work.

In 1977, after reading an article about the horse that Da Vinci never had the chance to create, amateur sculpture and pilot, Charles Dent created the first model of Il Cavallo. After his death in 1994 Nina Akamu sculpted the Il Cavallo that is on display today. The sculpture was cast using twenty thousand pounds of bronze, stands twenty-four feet tall and weighs fifteen tons.

Frederik Meijer is to be thanked and commended for carrying out his vision and giving a world class gift to the city of Grand Rapids and the people of Michigan. Nearly five hundred years ago Da Vinci had the vision for this great horse. Due to the acts of Frederik Meijer, a great humanitarian, this rare and magnificent work of art will stand tall in the Frederik Meijer Gardens for all to see for many years to come.•

EXPRESSING SYMPATHY FOR THOSE KILLED AND INJURED IN EARTHQUAKES IN TURKEY AND GREECE

Mr. SMITH of New Hampshire. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 198, submitted earlier by Senator SNOWE.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 198) expressing sympathy for those killed and injured in the recent earthquakes in Turkey and Greece and commending Turkey and Greece for their recent efforts in opening a national dialog and taking steps to further bilateral relations.

The Senate proceeded to consider the resolution.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 198) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 198

Whereas in the wake of the tragic earthquakes which struck Turkey on August 17, 1999, leaving up to 16,000 dead, 24,000 injured, and 100,000 homeless, and Greece on September 7, 1999, killing 143, injuring 1,600, and leaving 16,000 homeless, an improvement of relations between Turkey and Greece has occurred;

Whereas within hours of the earthquake hitting Turkey, Greece sent rescue teams, doctors, firemen, and emergency supplies to Turkey;

Whereas immediately after the earthquake struck Greece, Turkey, already dealing with its own devastation, sent rescue personnel to Greece;

Whereas in July, senior foreign ministry officials of Greece and Turkey held talks, the first talks at this level since 1994, to discuss bilateral cooperation in the fields of tourism, the environment, trade, and the economy as well as cooperation in combating organized crime, illegal immigration, drug-trafficking, and terrorism;

Whereas in September 1999, a second round of talks between senior foreign ministry officials of Greece and Turkey were held as a follow-up to the July meeting, and a third round has been planned for October 1999;

Whereas this spirit of cooperation has led to a warming of relations and confidence building measures, including—

(1) a naval vessel of Greece calling at a port of Turkey for the first time in more than a century;

(2) Greek and Turkish news commentators agreeing to publish their columns in each other's newspapers;

(3) Greece indicating that it is prepared to accept the candidacy of Turkey for membership in the European Union as long as Turkey meets all criteria for membership in the Union; and

(4) Turkey and Greece praising the other for earthquake assistance; and

Whereas the desire to further cultivate relations between Turkey and Greece has created an atmosphere of hope: Now, therefore, be it

Resolved, That the Senate—

(1) expresses sympathy for those killed and injured in the recent earthquakes in Greece and Turkey;

(2) commends, encourages, and supports recent efforts by Greece and Turkey to improve bilateral relations between those countries; and

(3) reiterates the importance of promoting positive bilateral relations between Greece and Turkey, which are of paramount interest to the United States.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Majority Leader, pursuant to Public Law 105–277, announces the appointment of the following individuals to serve as members of the Parents Advisory Council on Youth Drug Abuse: Robert L. Maginnis, of Virginia (two-year term); June Martin Milam, of Mississippi (Representative of a Non-Profit Organization) (three-year term).

DESIGNATING OCTOBER 15, 1999, AS "NATIONAL MAMMOGRAPHY DAY"

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 179, designating October 15, 1999, as "National Mammography Day."

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 179) designating October 15, 1999, as "National Mammography Day."

There being no objection, the Senate proceeded to consider the resolution.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 179) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 179

Whereas according to the American Cancer Society, in 1999, 175,000 women will be diagnosed with breast cancer and 43,300 women will die from this disease;

Whereas in the decade of the 1990's, it is estimated that about 2,000,000 women will be diagnosed with breast cancer, resulting in nearly 500,000 deaths;

Whereas the risk of breast cancer increases with age, with a woman at age 70 years having twice as much of a chance of developing the disease as a woman at age 50 years;

Whereas at least 80 percent of the women who get breast cancer have no family history of the disease;

Whereas mammograms, when operated professionally at a certified facility, can provide a safe and quick diagnosis;

Whereas experts agree that mammography is the best method of early detection of breast cancer, and early detection is the key to saving lives;

Whereas mammograms can reveal the presence of small cancers up to 2 years or more before a regular clinical breast examination or breast self-examination, reducing mortality by more than 30 percent; and

Whereas the 5-year survival rate for localized breast cancer is currently 97 percent: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 15, 1999, as "National Mammography Day"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe such day with appropriate programs and activities.

EXECUTIVE CALENDAR

Mr. SMITH of New Hampshire. Mr. President, in executive session, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of the following nomination; and further, the Senate proceed to its immediate consideration:

Andrew Fish, to be Assistant Secretary of Agriculture.

I further ask unanimous consent that the Senate proceed, en bloc, to the following nominations on the calendar:

Nos. 236, 250, 251, and 252.

Finally, I ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, that any statements relating to the nominations be printed in the RECORD, and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF AGRICULTURE

Andrew C. Fish, of Vermont, to be an Assistant Secretary of Agriculture.

DEPARTMENT OF THE TREASURY

John D. Hawke, Jr., of the District of Columbia, to be Comptroller of the Currency for a term of five years.

DEPARTMENT OF JUSTICE

Robert Raben, of Florida, to be an Assistant Attorney General.

Robert S. Mueller, III, of California, to be United States Attorney for the Northern District of California for a term of four years.

John Hollingsworth Sinclair, of Vermont, to be United States Marshal for the District of Vermont for the term of four years.

ORDERS FOR FRIDAY, OCTOBER 8, 1999

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Friday, October 8.

I further ask unanimous consent that on Friday, immediately following the prayer, the Journal of the proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate then proceed to executive session for consideration of the Comprehensive Nuclear Test Ban Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT FILING DEADLINE

Mr. SMITH of New Hampshire. Mr. President, in executive session, I ask unanimous consent that the deadline for amendments to be filed at the desk on the Nuclear Test Ban Treaty be 9:45 a.m. on Tuesday, October 12.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—AGRICULTURE APPROPRIATIONS CONFERENCE REPORT

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that debate resume on the Agriculture appropriations conference report at 4:30 p.m. on Tuesday, October 12, and the time be equally divided between the two leaders.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SMITH of New Hampshire. Mr. President, for the information of all Senators, the Senate will begin consideration of the Nuclear Test Ban Treaty at 9:30 a.m. on Friday. By previous consent, debate time is limited to 14 hours equally divided between the two leaders. Debate on the treaty is expected to take place throughout the day tomorrow and will resume at 9:30 a.m. on Tuesday.

As a reminder, cloture was filed on the conference report to accompany the Agriculture appropriations bill today.

By a previous consent, the Senate will proceed to the cloture vote Tuesday, October 12, at 5:30 p.m. It is hoped that the vote regarding the Nuclear Test Ban Treaty can be stacked to follow that 5:30 vote. Therefore, the next rollcall vote will occur at 5:30 p.m. on Tuesday, October 12.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SMITH of New Hampshire. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:15 p.m., adjourned until Friday, October 8, 1999, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 7, 1999:

DEPARTMENT OF THE TREASURY

JOHN D. HAWKE, JR., OF THE DISTRICT OF COLUMBIA, TO BE COMPTROLLER OF THE CURRENCY FOR A TERM OF FIVE YEARS.

DEPARTMENT OF AGRICULTURE

ANDREW C. FISH, OF VERMONT, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

ROBERT RABEN, OF FLORIDA, TO BE AN ASSISTANT ATTORNEY GENERAL.

ROBERT S. MUELLER, III, OF CALIFORNIA, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA FOR A TERM OF FOUR YEARS.

JOHN HOLLINGSWORTH SINCLAIR, OF VERMONT, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF VERMONT FOR THE TERM OF FOUR YEARS.

EXTENSIONS OF REMARKS

HONORING RETIRING STAFF OF THE ARCHITECT OF THE CAPITOL

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. HOYER. Mr. Speaker, on Friday, October 1, 1999, I celebrated a final day of work with twenty-seven members of the Architect of the Capitol staff from the House Office Buildings. Of the twenty-seven employees leaving us, eighteen are my constituents. These valued employees are retiring under a buyout program developed earlier this year by the Architect of the Capitol and approved by the House Administration Committee, of which I am the Ranking Member. The buyout program has provided excellent retirement opportunities, while at the same time creating new avenues of advancement for the staff of the Architect who continue with us.

The staffers retiring today have an average of twenty-nine years of service each, and together, they have provided 798 years of service! The Architect of the Capitol fields a work force that is indispensable to us, and often labors unnoticed in the shadows, or more aptly, in the basements and tunnels of these buildings. Like public employees everywhere, they do some of the toughest jobs under the most adverse conditions in the country. They do it always with smiles and friendly greetings, and a job well done. These employees were never looking to get rich and they do not do it for public acclaim. They do their jobs and they do them well because they know we all rely on them. Lyndon Johnson understood this. He said of public service "so much of what we achieve as people depends upon the caliber and the character of the civil service."

I would like to take this opportunity to say thank you on behalf of all my colleagues, both Democrat and Republican. Farewell to those employees leaving us today, we will miss them and we thank them for their contribution to our daily lives. They are: Lewis Bowles, Jr., John Callahan, Jr., Douglas Colbert, Ernest Cook, Margaret Donnelly, Lillie Drayton, Alvin Gayan, Hubert Gray, David Ingram, Solomon Landers, Earl Lemings, Carroll Lumpkins, Jr., Norman Lynch, James Mattingly, Luke Mattingly, William McWilliams, Bernard Merritt, Robert Merryman, Walter Montgomery, Allen Nichols, Talmadge Nowden, Anthony Pilkerton, James Quade, Robert Quade, Raymond Stager, George Stein, and Leonard Vanryswick.

"FIFTY YEARS OF SERVICE" TO THE GREATER DUNDALK COMMUNITY

HON. ROBERT L. EHRLICH, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. EHRLICH. Mr. Speaker, on October 14, 1949, twenty-five members of the Dundalk community formed a new organization known as the Optimist Club of Dundalk, sponsored by the Optimist Club of Baltimore. They established their motto as "Friend of the Boy" and began to sponsor sports programs, oratorical contests, and archery programs in the schools to honor the male students that excelled in academics and athletics.

In 1950, The Dundalk Optimist Foundation, Inc. was formed to ensure the planned and approved programs were financially assured, and to plan for the construction of a building they could call their own. Through the years, the club grew in size and effectiveness. The club became a Century Club in 1969, and earned the District Achievement Award for the first time. Over the years, the programs began serving girls and the motto was changed to "Friends of Youth." In January of 1988, the Optimist Club membership voted to allow women to be eligible for membership, and the Club continued to expand and increase their outreach in the community. The dream of a building was realized in 1995, with the opening of their Clubhouse at 4528 Northpoint Boulevard in Dundalk.

Today, the Optimist Club of Dundalk, Inc. continues to provide wonderful opportunities for the community's youth to learn, grow, and excel both in academics and athletics. I commend this organization for these first fifty years of excellent and dedicated service, and I join in looking forward to the next fifty.

PROFILES OF SUCCESS HONORS MR. ED DELCI

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. PASTOR. Mr. Speaker, I rise before you today to pay tribute to an outstanding fellow Arizonan who is an exemplary role model for Arizona and the nation, Mr. Ed Delci.

Ed Delci is a committed and tenacious individual who recently received the Exemplary Leadership Award at Valley del Sol's Annual Profiles of Success Leadership Awards in Phoenix. Valle's award ceremony is the premiere Latino recognition event in Arizona each year that acknowledges Arizona's leaders and their contributions.

As an academic advisor at Arizona State University, Ed has dedicated himself to helping young people succeed in their pursuits of higher education. He inspires young Hispanics to succeed in their studies, graduate from ASU and maintain an active involvement in their community. I believe he has positively impacted the graduate rate of Latinos at ASU.

He also has been the principal advisor of ASU's MEChA (Movimiento Estudiantil Chicanos de Aztlan) chapter for many years. Due to Ed's dedication, the group has become a vibrant and forceful organization that received the Student Organization of 1999 and Social Conscience of 1998 and 1999 awards. At ASU, he also is involved in the Cesar Chavez Leadership Institute for Youth and the ASU Concilio, a student-led council of Hispanic students.

But his work does not end off campus. A former Peace Corps volunteer, Ed is one of the hardest working Latino "activistas," or activist in Arizona who truly exemplifies the "servant leader" concept. Originally from Chandler, Ariz., he galvanized the community to fight against the city of Chandler for the unfair detainment of Mexican–American citizens by city police. In 1998, Ed organized the Chandler Coalition for Civil and Human Rights to help Chandler residents explore issues around immigration and to launch a lawsuit against the city government. He has also championed for issues significant to the Latino community as part of the Arizona Hispanic Community Forum. In addition, he works with the Arizona Friends of the United Farm Workers and Centro de Amistad in Guadalupe, Ariz.

Not only is Ed a tireless worker in education and civil rights issues, he spends many hours volunteering for voter registration and political campaigns. He leads by example, working hard in any type of activity that is needed, such as setting up sound systems, driving and talking to voters, walking door-to-door to obtain petition signatures, setting up tables and chairs and putting them away. He is not afraid of doing the "dirty work" when needed.

As you can see, Ed leads by example. He is truly an outstanding individual who deserves to be recognized. Therefore I ask you to please join me in thanking my friend Ed Delci and wishing him continued success.

TRIBUTE TO RICHARD MIZE, A TRUE COMPETITOR

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. McINNIS. Mr. Speaker, it is with great pleasure that I take this moment to recognize a man who has proven himself as one of the most successful mountaineers of our time. This man, who is now 63, is still competing and winning. He is a dedicated individual whose hard work deserves to be honored.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Richard Mize has always had a love for skiing. At Western State College in Gunnison, Colorado he took advantage of every opportunity to go skiing. It paid off when he was awarded the 1956 Don Johnson Memorial trophy, which is given to the outstanding American skier in the NCAA cross country championships. He also became a two time, All-American cross country skier. Since college, Richard has gone on to accomplish feats that are equally, if not more, impressive. He competed in the World Biathlon Championship in 1958 and 1959. Also, in 1960 he earned a spot on the U.S. Olympic Biathlon Team, where he placed 21st in the inaugural year of the event in the Olympics. Since 1983, Richard Mize has competed on the Masters Circuit and, in every year since 1988 he has earned at least one first place finish in the U.S. Masters Division. In 1988, at the World and U.S. Championships in Lake Placid, New York he won the World Championship in the 20K freestyle and 10K classic races. As you can see, this man is a fierce competitor—his accolades however, do not stop there. Richard has won his age group seven times in the last nine years at the Tour of Anchorage 50K Freestyle competition.

Mr. Speaker, there are few people in our time that have accomplished so many amazing feats. Richard has done this and he has continued to do this well into his later years. So it is with this that I say congratulations to this man on his induction into the Mountaineer Sports Hall of Fame.

CELEBRATING THE LIFE OF MURIEL DARLENE GIST WINGATE

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. DIXON. Mr. Speaker, today I want to recognize and celebrate the life of Muriel Darlene Gist Wingate, a wonderful and loving mother and grandmother, who for more than 25 years served with distinction as a loyal and outstanding assistant to internationally acclaimed Howard University Hospital oncologist and general surgeon Dr. LaSalle D. Leffall, Jr.

Muriel, or "Meme" as she was affectionately known to her family and many friends, passed away on Tuesday, June 8, 1999. Kind, patient, and always ready with a reassuring word, Muriel was the person to whom hundreds of Dr. Leffall's patients turned in times of difficulty. She was the glue that helped many of them hold sway while dealing with troubling medical diagnoses.

For the hundreds of residents and medical students who secured a coveted spot on Dr. Leffall's rotation, she was the surrogate mother, the woman who provided constant encouragement and assurance that with determination, perseverance, stamina, and the same trademark sense of humor which had endeared her to so many and helped her too during periods of difficulty, they would indeed make it through their medical school and/or surgical residency program. As a show of how much she was loved, many of the young doctors and medical students whom she supervised while working with Dr. Leffall, returned to pay their respects at the service celebrating her life, which was held on Thursday, June 17, 1999, at Hemingway Memorial A.M.E. Church in Chapel Oaks, Maryland.

"Miss Wingate," as she was respectfully and fondly known to so many of Dr. Leffall's patients, was born in Washington, D.C., on November 11, 1941, to Ruby N. Gist and the late Sherwood Gist. She graduated from Fairmont Heights High School in 1959 and set course on a career in the field of health care. She loved to travel to exotic places, and often regaled others with stories about her adventures. She had a smile that simply illuminated the room, and an eternally optimistic outlook that would become an important and essential asset in her work with Dr. Leffall's patients.

Muriel Darlene Gist Wingate was beloved by many, but cherished most of all by her lovely daughters, Joy Arminta Diggs and Kelly Lynn Wingate, and granddaughter, Camille Nicole Wingate. Her untimely passing also leaves to mourn her loving mother, Mrs. Ruby N. Gist; three sisters: Shirley A. Courtney, Elaine T. Johnson, and Janiero L. Dougans; three brothers: Dennis, Milton, and Gregory, and a host of other relatives.

Mr. Speaker, to have the love, admiration, and respect of your family, friends, and colleagues, is, I believe the ultimate measure of success. Muriel Wingate was blessed with all of these. I am proud to have the occasion to celebrate her memory with my colleagues, and ask that you join me in extending our heartfelt condolences to her family, friends, and colleagues on the passing of a truly exceptional woman.

RECOGNIZING COMMANDER ARTHUR J. OHANIAN

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. TANNER. Mr. Speaker, I rise today to recognize Commander Arthur J. Ohanian, United States Navy. Commander Ohanian will retire after 20 years of distinguished and superior service to our country.

In his most recent position he served as the Manpower and Personnel analyst for the Programming, Planning and Development Branch, Chief of Naval Operations Staff. A P-3 Instructor Pilot, Commander Ohanian served in a number of leadership positions in the fleet, including the Commander Naval Education and Training Mobil Training Team. He also served in a number of different positions within squadrons deployed in the Mediterranean.

Commander Ohanian is the recipient of the Meritorious Service Medal, Navy Commendation Medal, and the Navy Achievement Medal.

Again, Mr. Speaker, I am proud to extend my best wishes to Commander Arthur J. Ohanian. May you continue the success you have enjoyed and thank you for your faithful service from a grateful Nation.

CONFERENCE REPORT ON H.R. 1906, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

SPEECH OF

HON. SAXBY CHAMBLISS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 1, 1999

Mr. CHAMBLISS. Mr. Speaker, I rise in support of H.R. 1906. H.R. 1906 contains funding for many vitally important programs in agriculture. This bill provides appropriations for those programs that were authorized in the 1996 farm bill. Furthermore, this bill provides important funding for the foundation of agriculture research. Continued research will provide answers that enable farmers to continue to improve efficiency in providing food for our table.

Specifically the bill includes funds for the National Center for Peanut Competitiveness, a program that establishes a broad-based research program directed toward assuring the competitiveness of U.S. peanuts in the world market. Also included is funding to allow the University of Georgia to research tomato spotted wilt virus, a plant virus that has become a major yield-limiting constraint on many important food crops in South Georgia. The bill also contains funds for peanut allergy collaborative research as well as onion research.

In addition, our farmers have once again faced another disastrous year. Farmers who were fortunate to have a crop are faced with the lowest prices in decades. Adverse weather conditions have resulted in another disaster. This bill also contains disaster assistance for farmers who have suffered yet another crop failure. My farmers cannot afford to wait any longer on relief.

Mr. Speaker, I am disappointed that dairy and sanction provisions were not included in the current appropriations bill. The funds appropriated in the bill will aid farmers in surviving another year of adverse weather conditions and low commodity. Peanut and tobacco farmers will all receive aid in the form of market assistance payments, market loss payments or direct payments. The bill also includes funds to replenish the step two cotton program. In addition fruit and vegetable growers along with dairy and livestock producers will receive assistance from this package and other essential measures that are critical to our producers.

This bill is not a cure all. However, it is imperative that we don't delay this funding any longer. I urge all my colleagues to support passage of conference report.

A SALUTE TO BOSTON LAW SCHOOL

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

HON. ROBERT C. SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. MARKEY. Mr. Speaker, My colleagues, Messrs. DELAHUNT, CAPUANO, SCOTT and I submit the following proclamation:

Whereas, Boston College Law School was officially founded on September 26, 1929, in the Lawyer's Building at 11 Beacon Street with a class of 22 students, one full-time faculty and three part-time faculty members.

Whereas, after spending nearly 25 years in downtown Boston, the Law School continued its march toward the Heights by joining the Boston College campus community in 1954 at St. Thomas More Hall, under the leadership of the Rev. William J. Kenealy, S.J., the Dean who was charged with building a law school for a new era.

Whereas, it was Rev. Robert F. Drinan, S.J., the sixth dean of the Law School and later member of the United States House of Representatives from Massachusetts, whose foresight and indefatigable spirit brought about the Law School's rise in statute and transformation from a regional to a highly-respected national law school.

Whereas, Dean Richard G. Huber built upon these traditions in expanding the law school faculty and program, and in 1975 secured the eventual move of the Law School to its current site on the Newton campus, providing urgently needed space for the educational component as well as for students and faculty offices and meeting facilities.

Whereas, under the leadership of Deans Daniel R. Coquillette and Aviam Soifer, the University embarked on a campaign to build a new physical plant for the Law School on its present site, which facility would reflect the breadth and statute of the law school's programs, and which would allow for the full integration of technology in legal teaching and research.

Whereas, we also celebrate a revered member of the Law School faculty, Professor Emil Slizewski, who this year retires from his teaching responsibilities at Boston College Law School after 56 years of distinguished service to the Law School and the legal profession.

Whereas, on October 8, 1999, members of the Law School and the Boston College communities join together in celebration of an institution which has launched the careers of illustrious government officials and leaders in the profession, and which has inspired an unwavering commitment to social justice among its esteemed graduates. After 70 years of academic excellence, students, administrators, alumni and faculty join together today to celebrate the opening of a new academic wing at Boston College Law School.

Now, therefore, I, Congressman Edward J. Markey, hereby request that my colleagues in the United States House of Representatives join me in saluting Boston College Law School as it celebrates 70 years of excellence in legal education.

PROFILES OF SUCCESS HONORS MS. LORRAINE LEE

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. PASTOR. Mr. Speaker, I rise before you today to draw attention to the accomplishments of a woman who has long been an activist for all Arizonans and who has is at the ready when it comes to championing for the Latino community and the issues that affect them. The woman of whom I speak is Ms. Lorraine Lee, a good friend and an invaluable community leader in southern Arizona.

Ms. Lee has been the vice president of Chicanos Por La Causa in Tucson for the past 15 years. She is a much esteemed leader who has worked diligently on empowerment, self-sufficiency and goal attainment for not only members of the Tucson community but, Chicanos nationwide.

Recently, Lorraine was recognized at Valle del Sol's Annual Profiles of Success Leadership Awards. Valle's award ceremony is the premiere Latino recognition event in Arizona each year that acknowledges Arizona's leaders and their contributions.

Lorraine received the Special Recognition Award for her efforts in spearheading the anit-Unz initiative in southeastern Arizona and nationwide. This initiative is named after the man who started the movement against bilingual education in California. In Tucson, Unz is trying to bring the same movement to Arizona. But in Tucson, the birthplace of the first official bilingual education program, Lorraine has initiated efforts to raise social awareness in ethnically diverse segments of the community. She is currently working with several community representatives in organizing a coalition to ensure that the Unz initiative does not appear on this year's upcoming ballot. This effort consists of educating citizens from the public and private sector, including politicians and youth, about the importance of bilingual education programs.

But beyond the issue of bilingual education, Ms. Lee has been a well-respected activist in Arizona who does not shy from leadership roles and is ready to take on new challenges to strengthen the Latino community.

That is why I ask you to join me in paying tribute to my friend Lorraine Lee and in wishing her great success.

QUALITY CARE FOR THE UNINSURED ACT OF 1999

SPEECH OF

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. PAUL. Mr. Speaker, as an MD, I know that when I advise on medical legislation I may be tempted to allow my emotional experience as a physician to influence my views, but nevertheless I am acting the role of legislator and politician. The MD degree grants no wisdom as to the correct solution to our managed care mess. The most efficient manner to deliver medical services, as it is with all goods and other services, is determined by the degree the market is allowed to operate. Economic principles determine efficiency of markets, even the medical care market; not our emotional experiences dealing with managed care.

Contrary to the claims of many advocates of increased government regulation of health care, the problems with the health care system do not represent market failure, rather they represent the failure of government policies which have destroyed the health care market. In today's system, it appears on the surface that the interest of the patient is in conflict with rights of the insurance companies and the Health Maintenance Organizations (HMOs). In a free market this cannot happen. Everyone's rights are equal and agreements on delivering services of any kind are entered into voluntarily, thus satisfying both sides. Only true competition assures that the consumer gets the best deal at the best price possible, by putting pressure on the providers. Once one side is given a legislative advantage, in an artificial system, as it is in managed care, trying to balance government dictated advantages between patient and HMOs is impossible. The differences cannot be reconciled by more government mandates which will only makes the problem worse. Because we are trying to patch up an unworkable system, the impasse in Congress should not be a surprise.

No one can take a back seat to me regarding the disdain I hold for the HMOs' role in managed care. This entire unnecessary level of corporatism that rakes off profits and undermines care is a creature of government interference in health care. These non-market institutions and government could have only gained control over medical care through a collusion among organized medicine, politicians, and the HMO profiteers, in an effort to provide universal health care. No one suggests that we should have "universal" food, housing, TV, computer and automobile programs and yet many of the "poor" do much better getting these services through the marketplace as prices are driven down through competition.

We all should become suspicious when it is declared we need a new "Bill of Rights" such as a Taxpayer's Bill of Rights, or now a Patient's Bill of Rights. Why don't more Members ask why the original Bill of Rights is not adequate in protecting all rights and enabling the market to provide all services. If over the last fifty years we had a lot more respect for property rights, voluntary contracts, state jurisdiction and respect for free markets, we would not have the mess we're facing today in providing medical care.

The power of special interests influencing government policy has brought us this managed care monster. If we pursue the course of more government management—in an effort to balance things—we're destined to make the problem much worse. If government mismanagement, in an area that the government should not be managing at all, is the problem, another level of bureaucracy—no matter how well intended—cannot be helpful. The law of unintended consequences will prevail and the principle of government control over providing a service will be further entrenched in the nation's psyche. The choice in actuality is government provided medical care and it's inevitable mismanagement or medical care provided by a market economy.

Partial government involvement is not possible. It inevitably leads to total government control. Plans for all the so-called Patient's Bill of Rights are a 100% endorsement of the principle of government management and will greatly expand government involvement, even if the intention is to limit government management of the health care system to the extent "necessary" to curtail the abuses of the HMOs. The Patients' Bill of Rights concept is based on the same principles that have given us the mess we have today. Doctors are unhappy, HMOs are being attacked for the wrong reasons, and the patients have become a political football over which all sides demagogue.

The problems started early on when the medical profession, combined with tax code provisions making it more advantageous for individuals to obtain first-dollar health care coverage from third-parties rather than pay for health care services out of their own pockets, influenced the insurance industry into paying for medical services instead of sticking with the insurance principle of paying for major illnesses and accidents for which actuarial estimates could be made. A younger, healthier and growing population was easily able to afford the fees required to generously care for the sick. Doctors, patients and insurance companies all loved the benefits until the generous third-party payment system was discovered to be closer to a Ponzi scheme than true insurance. The elderly started living longer, and medical care became more sophisticated, demands because benefits were generous and insurance costs were moderate until the demographics changed with fewer young people working to accommodate a growing elderly population—just as we see the problem developing with Social Security. At the same time governments at all levels become much more involved in mandating health care for more and more groups.

Even with the distortions introduced by the tax code, the markets could have still sorted this all out, but in the 1960s government entered the process and applied post office principles to the delivery of medical care with predictable results. The more the government got involved the greater the distortion. Initially there was little resistance since payments were generous and services were rarely restricted. Doctors liked being paid adequately for services that in the past were done at discount or for free. Medical centers, always willing to receive charity patients for teaching purposes in the past liked this newfound largesse by being paid by the government for their services. This in itself added huge costs to the nation's medical bill and the incentive for patients to economize was eroded. Stories of emergency room abuse are notorious since "no one can be turned away."

Artificial and generous payments of any service, especially medical, produces a well-known cycle. The increase benefits at little or no cost to the patient leads to an increase in demand and removes the incentive to economize. Higher demands raises prices for doctor fees, labs, and hospitals; and as long as the payments are high the patients and doctors don't complain. Then it is discovered the insurance companies, HMOs, and government can't afford to pay the bills and demand price controls. Thus, third-party payments leads to rationing of care, limiting choice of doctors, deciding on lab tests, length of stay in the hospital, and choosing the particular disease and conditions that can be treated as HMOs and the government, who are the payers, start making key medical decisions. Because HMOs make mistakes and their budgets are limited however, doesn't justify introducing the notion that politicians are better able to make these decisions than the HMOs. Forcing HMOs and insurance companies to do as the policitians say regardless of the insurance policy agreed upon will lead to higher costs, less availability of services and calls for another round of government intervention.

For anyone understanding economics, the results are predictable: Quality of medical care will decline, services will be hard to find, and the three groups, patients, doctors and HMOs will blame each other for the problems, pitting patients against HMOs and government, doctors against the HMOs, the HMOs against the patient, the HMOs against the doctor and the result will be the destruction of the cherished doctor-patient relationship. That's where we are today and unless we recognize the nature of the problem Congress will make things worse. More government meddling surely will not help.

Of course, in a truly free market, HMOs and pre-paid care could and would exist—there would be no prohibition against it. The Kaiser system was not exactly a creature of the government as is the current unnatural HMO-government-created chaos we have today. The current HMO mess is a result of our government interference through the ERISA laws, tax laws, labor laws, and the incentive by many in this country to socialize medicine "American style," that is the inclusion of a corporate level of management to rake off profits while draining care from the patients. The more government assumed the role of paying for services the more pressure there has been to managed care.

The contest now, unfortunately, is not between free market health care and nationalized health care but rather between those who believe they speak for the patient and those believing they must protect the rights of corporations to manage their affairs as prudently as possible. Since the system is artificial there is no right side of this argument and only political forces between the special interests are at work. This is the fundamental reason why a resolution that is fair to both sides has been so difficult. Only the free market protects the rights of all persons involved and it is only this system that can provide the best care for the greatest number. Equality in medical care services can be achieved only by lowering standards for everyone. Veterans hospital and Medicaid patients have notoriously suffered from poor care compared to private patients, yet, rather than debating introducing consumer control and competition into those programs, we're debating how fast to move toward a system where the quality of medicine for everyone will be achieved at the lowest standards.

Since the problem with our medical system has not been correctly identified in Washington the odds of any benefits coming from the current debates are remote. It looks like we will make things worse by politicians believing they can manage care better than the HMO's when both sides are incapable of such a feat.

Excessive litigation has significantly contributed to the ongoing medical care crisis. Greedy trial lawyers are certainly part of the problem but there is more to it than that. Our legislative bodies throughout the country are greatly influenced by trial lawyers and this has been significant. But nevertheless people do sue, and juries make awards that qualify as "cruel and unusual punishment" for some who were barely involved in the care of the patient now suing. The welfare ethic of "something for nothing" developed over the past 30 to 40 years has played a role in this serious problem. This has allowed judges and juries to sympathize with unfortunate outcomes not related to malpractice and to place the responsibility on those most able to pay rather than on the ones most responsible. This distorted view of dispensing justice must someday be addressed or it will continue to contribute to the deterioration of medical care. Difficult medical cases will not be undertaken if outcome is the only determining factor in deciding lawsuits. Federal legislation prohibiting state tort law reform cannot be the answer. Certainly contractual arrangements between patients and doctors allowing specified damage clauses and agreeing on arbitration panels would be a big help. State-level "loser pays" laws, which discourage frivolous and nuisance lawsuits, would also be a help.

In addition to a welfare mentality many have developed a lottery jackpot mentality and hope for a big win through a "lucky" lawsuit. Fraudulent lawsuits against insurance companies now are an epidemic, with individuals feigning injuries in order to receive compensation. To find moral solutions to our problems in a nation devoid of moral standards is difficult. But the litigation epidemic could be ended if we accepted the principle of the right of contract. Doctors and hospitals could sign agreements with patients to settle complaints before they happen. Limits could be set and arbitration boards could be agreed upon prior to the fact. Limiting liability to actual negligence was once automatically accepted by our society and only recently has this changed to receiving huge awards for pain and suffering, emotional distress and huge punitive damages unrelated to actual malpractice or negligence. Legalizing contracts between patients and doctors and hospitals would be a big help in keeping down the defensive medical costs that fuel the legal cost of medical care.

Because the market in medicine has been grossly distorted by government and artificially managed care, it is the only industry where computer technology adds to the cost of the service instead of lowering it as it does in every other industry. Managed care cannot work. Government management of the computer industry was not required to produce great services at great prices for the masses of people. Whether it is services in the computer industry or health care all services are best delivered in the economy ruled by market forces, voluntary contracts and the absence of government interference.

Mixing the concept of rights with the delivery of services is dangerous. The whole notion that patient's "rights" can be enhanced by more edicts by the federal government is preposterous. Providing free medication to one segment of the population for political gain without mentioning the cost is passed on to another segment is dishonest. Besides, it only compounds the problem, further separating medical services from any market force and yielding to the force of the tax man and the bureaucrat. No place in history have we seen medical care standards improve with nationalizing its delivery system. Yet, the only debate here in Washington is how fast should we proceed with the government takeover. People have no more right to medical care than they have a right to steal your car because they are in need of it. If there was no evidence that freedom did not enhance everyone's well being I could understand the desire to help others through coercive means. But delivering medical care through government coercion means not only diminishing the quality of care, it undermines the principles of liberty. Fortunately, a system that strives to provide maximum freedom for its citizens, also supports the highest achievable standard of living for the greatest number, and that includes the best medical care.

Instead of the continual demagoguery of the issue for political benefits on both sides of the debate, we ought to consider getting rid of the laws that created this medical management crisis.

The ERISA laws requiring businesses to provide particular programs for their employees should be repealed. The tax codes should give equal tax treatment to everyone whether working for a large corporation, small business, or is self employed. Standards should be set by insurance companies, doctors, patients, and HMOs working out differences through voluntary contracts. For years it was known that some insurance policies excluded certain care and this was known up front and was considered an acceptable provision since it allowed certain patients to receive discounts. The federal government should defer to state governments to deal with the litigation crisis and the need for contract legislation between patients and medical providers. Health care providers should be free to combine their efforts to negotiate effectively with HMOs and insurance companies without running afoul of federal anti-trust laws—or being subject to regulation by the National Labor Relations Board (NLRB). Congress should also remove all federally-imposed roadblocks to making pharmaceuticals available to physicians and patients. Government regulations are a major reason why many Americans find it difficult to afford prescription medicines. It is time to end the days when Americans suffer because the Food and Drug Administration (FDA) prevented them from getting access to medicines that were available and affordable in other parts of the world!

The most important thing Congress can do is to get market forces operating immediately by making Medical Savings Accounts (MSAs) generously available to everyone desiring one. Patient motivation to save and shop would be a major force to reduce cost, as physicians would once again negotiate fees downward with patients—unlike today where the government reimbursement is never too high and hospital and MD bills are always at maximum levels allowed. MSAs would help satisfy the American's people's desire to control their own health care and provide incentives for consumers to take more responsibility for their care.

There is nothing wrong with charity hospitals and possibly the churches once again providing care for the needy rather than through government paid programs which only maximizes costs. States can continue to introduce competition by allowing various trained individuals to provide the services that once were only provided by licensed MDs. We don't have to continue down the path of socialized medical care, especially in America where free markets have provided so much for so many. We should have more faith in freedom and more fear of the politician and bureaucrat who think all can be made well by simply passing a Patient's Bill of Rights.

CONGRATULATING PROFESSOR KAY KAUFMAN SHELEMAY

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. CAPUANO. Mr. Speaker, I rise today to extend my congratulations to Professor Kay Kaufman Shelemay. Yesterday, Professor Shelemay was appointed to the Board of Trustees of the American Folklife Center at the Library of Congress; a position she had long sought and no doubt deserved.

Professor Shelemay is profoundly accomplished in the arts. Most of her life has been dedicated to the study and education of music and ethnomusicology. The distinguished author of several publications reflecting the relationship between ethnicity and music, Professor Shelemay has recently served as president of the Society for Ethnomusicology. On two occasions, she has served as a fellow for the National Endowment for Humanities. She was also chairwoman of the Fromm Music Foundation, and she has taught music at several prestigious universities including Harvard, Columbia, and NYU.

Professor Shelemay began her association with AFC as a panelist during 1987 and 1988 in the midst of her burgeoning career. Her involvement with the AFC has spanned over a decade, hence, overseeing operations at the American Folklife Center will come easily for her.

With her background, experience, and passion for ethnomusicology and the folk arts, I am certain Professor Shelemay will be a valuable addition to AFC's Board of Trustees as it pursues programs in the areas of multicultural education, preservation of national archives, and documentation of American Folklife and music.

I wish Professor Shelemay the best of luck in her new role at the American Folklife Center.

RECOGNITION OF OPPORTUNITY, INC.: AN ORGANIZATION THAT LIVES UP TO ITS NAME

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. PORTER. Mr. Speaker, I am pleased to rise today to recognize Opportunity, Inc., an outstanding organization located in Highland Park, Illinois. This is truly a remarkable enterprise and a magnificent example of the initiative needed to help people move welfare to work and a better life.

Opportunity, Inc. is a unique, not-for-profit contract manufacturer of single-use medical products that has been registered with the FDA since 1977, and that employs persons with developmental physical and/or emotional disabilities. Founded in 1976 by local construction executive John Cornell, who still serves as an Emeritus member of the Board of Directors, the company will hold its annual "Handicapable Leadership" Award Dinner in Chicago on Tuesday, October 16, 1999. The keynote speaker will be Ted Kennedy, Jr., a nationally known spokesperson and a leading advocate for the civil rights of people with disabilities.

The company's mission is twofold: (1) to provide a mainstream plant environment in which Handicapable people can work and earn a paycheck as well as the dignity that comes from being employed productively on a full-time basis; and (2) to provide its private sector customers with the best possible quality, price and service.

As everyone understands, budget constraints compel us to look for ways to effectively address important needs without government subsidies, and Opportunity, Inc. is leading the way in this regard. A model of community response and innovation, the company demonstrates how competitive and productive handicapable employees can be. Opportunity, Inc. built and continues to operate the nation's only not-for-profit, certified class 100,000 "clean rooms" for medical and surgical packaging.

When I visited Opportunity, Inc., however, I learned that its business success, while impressive, pales in significance to the positive contributions it has made to its employees' lives. I experienced firsthand how proud, dedicated and competitive they are. As one man said to me, "Congressman, all we need is a fair chance to compete. That's what we get there at Opportunity and just look at the results!" Clearly, Opportunity, Inc. is an organization that lives up to its name.

Mr. Speaker, I am proud to represent a congressional district that includes enterprises of this caliber. It is my pleasure to salute the employees, management and directors of Opportunity, Inc., and the Grand Marshall of Ceremonies John Cortesi on the occasion of their annual dinner, and to extend my personal congratulations to Sage Products and Allegiance Healthcare, who are the recipient of this-year's Handicapable Leadership Award.

CONFERENCE REPORT ON H.R. 2606, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2000

SPEECH OF

HON. ROBERT WEXLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. WEXLER. Mr. Speaker, I rise in strong opposition to the Foreign Operations conference report.

America loses when we fail to properly fund our foreign operations budget. The report we are considering is almost $2 billion below the level requested by President Clinton and $1 billion below last year's budget.

Without adequate funding for our international affairs operations, we will not be equipped to protect the security and the prosperity of Americans at home and abroad, and we risk losing our status as the world's remaining superpower.

American foreign policy should not embrace the short-sighted views of isolationists. Instead, we should meet the myriad of challenges facing the global community. America is at its best when we promote our values abroad by supporting struggling democracies and their efforts to make the transition to market economies.

Mr. Speaker, this conference report provides no Wye Aid funding which we promised our partners in the Middle East. It fails to provide adequate funding for emerging democracies in Africa and fails to assist our neighbors in the Western Hemisphere. It also ignores the needs of Asian countries recovering from financial devastation.

But the greatest disgrace of this conference report is our failure to lend a helping hand to the world's children. The children of Sierra Leone, for example, who have suffered the violent amputation of their limbs, sexual abuse, displacement from their homes, and the ravaging to their innocence and youth, lose yet again when we cut our foreign aid and humanitarian assistance. Programs to provide them food and medical intervention and to return them to their homes and neighborhoods can never succeed. And yet, what greater humanitarian purpose can our foreign policy serve than to bring prosthetic arms and hands to babies whose entire lives lie ahead of them?

I urge my colleagues to join me today and defeat this poorly funded conference report. America's front line of foreign policy should not be shortchanged.

RECOGNIZING BISHOP CHARLES BUSWELL

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. McINNIS. Mr. Speaker, I would like to take a moment to recognize a man whose dedication to his faith and community is unparalleled. Bishop Charles Buswell served selflessly as a priest for 60 years and this year marks 40 years since he was ordained bishop.

Bishop Buswell was born in Kingfisher, Oklahoma in July 1939. There, he served in a variety of positions in the diocese and also founded a parish, Christ the King. In September 1959, he was ordained Bishop of Pueblo. It was at this point in time he was elected to the Second Vatican Council in Rome, which he called the most significant event of his lifetime. There, during his service from 1962 to 1965, he was one of 2,500 Catholic bishops who discussed possible liturgical changes with Pope John XXIII. For Bishop Buswell it was an exciting time in which he felt he could truly make a difference. He is now one of only thirty living American bishops who attended the Council.

Bishop Buswell took on tough issues of the time. He led the way on issues such as antiwar, racism, just wages, and women's causes both in and out of the Church. Today, long after his 1979 resignation, he is regarded as a prominent clerical figure in the peace movement.

It is with this, Mr. Speaker, that I say thank you to a man who had a truly remarkable career of giving his time to help others. I would also like to recognize the 40th anniversary of his consecration as a bishop. The people of Colorado and every corner of the United States owe a debt of gratitude to this man who has fought so hard to make a difference.

TRIBUTE TO LEWIS E. PLATT

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Ms. ESHOO. Mr. Speaker, I rise today to honor Lewis E. Platt, Chairman of the Board, President and Chief Executive Officer of Hewlett-Packard who is retiring after 33 years of service to the Company.

Hewlett-Packard has flourished under Lew Platt's leadership. The Company, based in the heart of Silicon Valley, Palo Alto, has increased its revenues every year since Mr. Platt was elected President and Chief Executive Officer.

But Lew Platt's success cannot be measured by sales figures only. Lew Platt took it upon himself to create a workplace second-to-none in its acceptance of women and minorities. Because of his passion and commitment to create a level playing field for all his employees, he built upon the established "HP Way," to the much-celebrated corporate values instituted by the Company's founders Bill Hewlett and David Packard. And because of Lew Platt's leadership, Hewlett-Packard is consistently among the top ten of Fortune's Best Companies to Work For in America.

Mr. Platt has focused Hewlett Packard's corporate giving on three objectives: significantly improving K–12 science and math achievement, increasing the number of women and minorities studying and teaching science and mathematics, and ensuring that all children are ready to learn when they begin school. Under Mr. Platt's guidance, the Company has donated approximately $55 million each year to education.

Lew Platt's leadership has extended well beyond Hewlett-Packard. In 1995, he was appointed by President Clinton to the Advisory Committee on Trade Policy Negotiations. He has served as Chairman of one of its three task forces, the World Trade Organization Task Force. He also serves on the Cornell University Council and the Wharton School Board of Overseers.

Lew Platt has also exemplified the best in leadership in his own community—Silicon Valley. In 1996, he was elected Co-Chair of the Board of Directors of Joint Venture: Silicon Valley, an organization formed to strengthen our local economy and help make our region a better place to live for everyone. Under his leadership, Joint Venture: Silicon Valley has launched a number of initiatives that bring people together from business, government, and education to identify and act on regional issues affecting our economic vitality and our quality of life. He has also served as a member of the California Business Roundtable.

Mr. Platt's leadership in California's 14th Congressional District and Silicon Valley which I'm so privileged to represent is a model for all to follow. Through his extraordinary leadership of H–P and the industry, Lew Platt has contributed mightily to our community and our country.

I ask my colleagues to join me in saluting Lew Platt for who he is and all he has done. We are indeed a better country and a better people because of this man.

CONGRATULATING MR. LEWIS E. PLATT

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. LOFGREN. Mr. Speaker, today I wish to congratulate Mr. Lewis E. Platt, Chairman of the Board, President, and Chief Executive Officer of the Hewlett-Packard Company, who is retiring after six years as Chairman of the Board and 33 years of service to the Hewlett-Packard Company. A friend and a neighbor in Silicon Valley from the beginning of his tenure with HP, Lew Platt has understood the importance both of giving back to the community that has given so much to his company and of improving the cities in which he lives and does business. In 1996 Mr. Platt was elected Co-chair, along with San Jose Mayor Ron Gonzales, of the Joint Venture Silicon Valley (Calif.) Network, an organization formed in 1991 to strengthen the local economy and make the area a better place in which to live.

Yet by far, Mr. Platt's greatest contributions to my constituents in Silicon Valley and to the nation as a whole have come through the educational programs he has established and sponsored through Hewlett-Packard, aiding students at all levels of school. Lewis Platt has focused HP's national efforts around three stated company goals: significantly improving K–12 science and math achievements, increasing the number of women and minorities studying and teaching science and mathematics, and ensuring that all children are ready to learn when they begin school.

These platitudes might ring hollow were they not backed by substantive action, but under Mr. Platt's guidance Hewlett-Packard has established a tremendous philanthropy program in order to truly provide help to students of all ages. Because of Lew Platt's efforts and commitment, HP currently donates approximately $55 million each year to education, with $8 million going towards K–12 education. In my district, for instance, Hewlett-Packard has helped sponsor the San Jose Diversity in Education Partnership with San Jose State University, East Side Union High School District and Alum Rock Elementary School District. This initiative aims to increase the number of students who are prepared for college and interested in careers in engineering, and has worked with HP's Email Mentor Program, another initiative begun under Lew Platt, encouraging 5th through 12th graders to remain interested in math and science.

Mr. Platt has also helped establish a partnership between Hewlett-Packard and Independence, Silver Creek, and Overfelt High Schools in San Jose to encourage students to stay in school and continue their education after graduation from high school. The benefits of Lew Platt's belief in education, however, stretch far beyond the neighborhood of Hewlett-Packard's corporate headquarters in California. Under the guidance of Mr. Platt, Hewlett-Packard has undertaken and funded similar educational initiatives in Washington, Oregon, Colorado, Idaho, Georgia, Maryland, Delaware, and Massachusetts.

These broad educational efforts, which have meant so much to my constituents and to students across the country, have in many ways been a direct result of Lew Platt's vision, and for this all people who care about the education of our children owe him a debt of gratitude. Wrote Mr. Platt in an open company letter, "At HP, we recognize that supporting education is one of the most important things we can do to realize success for future generations, for our company, and for society as a whole." Lew Platt's corporate achievements at the Hewlett-Packard Company will be long remembered, the successes of the children he helped educate through HP will remain as an even stronger living reminder of the fine work he has done.

TRIBUTE TO MICHAEL CATANEO

HON. ROBERT L. EHRLICH, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. EHRLICH. Mr. Speaker, recently the City of Baltimore lost a beloved and respected gentleman, Mr. Michael Cataneo. "Big Mike" as he was widely known throughout his long career on the docks of Baltimore owned Cataneo Line Service, truly an example of the American Dream. His family immigrated from Italy, built the business from scratch and became a leading force in the development of the Port of Baltimore.

Those who knew "Big Mike" often referred to him as the walking encyclopedia of the Baltimore waterfront—not only could he relate every facet about every ship that had ever been in the port of Baltimore, but he could provide one with all of his information, be it good or bad, about every person who worked on the waterfront, and all the politicians downtown, as well!

"Big Mike" will be remembered for his hard work, compassion, and sense of humor; for being a respected business leader; and for his contributions on behalf of the working men and women of the Port of Baltimore. The priest who presided at his funeral characterized Mike as a person who related to the little guy. His treated everyone with the same respect others showed him. Mike would help a needy person because he wanted that person to then be able to help others.

He and his lovely wife, Annie, were residents of Lutherville, Maryland and the Second Congressional District of Maryland for 38 years, and it has been my honor to represent them in Congress.

HONORING IRENE HANSON

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. KILDEE. Mr. Speaker, I rise today to recognize the accomplishments of a woman, who, for nearly 40 years, has worked to improve the quality of life for our citizens. On Tuesday, October 12, members of Flint's International Institute will gather to present to Mrs. Irene Hanson, its prestigious Golden Door Award, given annually to an individual who has made a positive impact on the greater Flint community and the Institute itself.

Born in December of 1920, in Breslau, Germany, what is now Wroclaw, Poland, Irene spent her early years as an apprentice in a wholesale paper company, and upon completing her apprenticeship, remained with the company as its bookkeeper.

After the war, Irene and her family, including her mother and two daughters lived in Hanover, West Germany, until the Displaced Persons Act brought them to Flint in 1952, under the sponsorship of Calvary Lutheran Church. Soon after, a third child, a son, was born.

After settling in Flint, Irene sought out and forged a relationship with the International Institute, a relationship that has continued to this day. She has served a great number of roles, including teacher, presenter, activities chair, and board member. It is in each of these positions that she has excelled in her efforts to enhance the lives of those she comes into contact with. Other positions followed, such as in 1962, where she worked as a receptionist, bookkeeper, and fitter at Flint Limb and Brace Company. In 1964, Irene began teaching German for Mott Adult Education, which she still continued to do.

In addition to her work with the International Institute, Irene has also been involved and remains active with the German American National Congress, the American Association of Teachers of German, and the St. Cecilia Society. She has also been an avid supporter of the Flint Institute of Music, Flint Institute of Arts, and the Sloan Museum.

Mr. Speaker, I am always fascinated by stories such as Irene Hanson's. Through tremendous adversity, she was able to fulfill the true American Dream, and find success in her new homeland. She is truly an inspiration to all who come into contact with her. I ask my colleagues in the 106th Congress to please join me to congratulate and wish Irene the very best.

HONORING BISHOP VERNON RANDOLPH BYRD, 105TH BISHOP OF THE AFRICAN METHODIST EPISCOPAL CHURCH

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Ms. McCARTHY of Missouri. Mr. Speaker, I rise to honor the newly elected and consecrated Bishop of the African Methodist Episcopal (AME) Church, the Right Reverend Vernon Randolph Byrd. He joins Rev. Dr. W. Bartalette Finney, Sr., Presiding Elder, Rev. Ralph J. Crabbe, and leaders in our community who contribute to the spiritual needs of our greater metropolitan area.

Bishop Byrd's spiritual education began at the age of twelve when he received his call to preach. By the time he was a teenager, he was ordained to preach by the late Bishop Frank Madison Reed, Sr. Bishop Byrd was a success In school and graduated from the public schools of South Carolina, and earned degrees at Allen University, and Boston University.

Prior to his tenure at the Northwest Missouri Conference Fifth District AME Church in Kansas City, Bishop Byrd served as a Pastor and Presiding Elder at several churches. His ministry served congregations including the Macedonia AME Church in Delware, the St. Paul AME Church in Bermuda, the Newark District-New Jersey Conference, the Macedonia AME Church in New Jersey, the Morris Brown AME Church in Pennsylvania, and the St. James AME Church in New Jersey.

In 1984, Bishop Byrd was elevated to the episcopacy at the seat of the Forty-Second Quadrennial Session of the General Conference. A recipient of numerous awards, he has been honored with the Trumiunz Award for outstanding work with retarded children in Delaware. He was recognized as an Honorary Member of the British Empire Medal by Her Majesty Queen Elizabeth II, who bestowed the award to him for helping bring order to the Bermuda Isles during a period of civil unrest in 1964. Byrd was also named the 1966 Outstanding Young Man of the Year by the Bermuda Chamber of Commerce and given an Honorary Doctorate Degree from the Payne Theological Seminary in 1994.

Always involved with his community, he is an active member of civil and fraternal organizations, the Phi Beta Sigma Fraternity, the Royal Masonic Lodge of Scotland, and the NAACP. Bishop Byrd is married to retired school teacher, Theora Lindsey Byrd who serves the Church as the Women's Missionary Society Supervisor where they teach to others that "Unless Souls Are Saved * * * Nothing Is Saved!" They are the parents of two daughters and two sons and grandparents to six grandchildren.

Mr. Speaker, I am proud to acknowledge and congratulate Bishop Vernon Randolph Byrd as the 105th Bishop of the African Methodist Episcopal Church.

RECOGNIZING RILEY HOSPITAL FOR CHILDREN'S 75TH BIRTHDAY

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Ms. CARSON. Mr. Speaker, it is with a great deal of pleasure that I rise today to celebrate Riley Hospital for Children's 75th birthday.

Founded in 1924, Riley Hospital is named after the famous Hoosier poet, James Whitcomb Riley. Upon his death in 1916, Mr. Riley's heartfelt love for children inspired his friends to decide that a children's hospital would be a perfect memorial for Mr. Riley. More than 40,000 Hoosiers gave over 1.2 million dollars to build the James Whitcomb Riley Hospital for children.

As the New York Times observed on October 10, 1924, "Indiana has made her monument [to Riley] one of ministry rather than of mourning . . . The institution which bears his name will do much to make the children of Indiana what he imagined them to be. Indiana has made, as human monuments go, the perfect memorial to her poet."

Since opening its doors on October 7, 1924, Riley Hospital for Children has cared for thousands of children from the City of Indianapolis, the State of Indiana, and indeed across the country. Annually, there are more than 135,000 patient visits, including 7,100 admissions and more than 128,000 outpatient visits. Riley Hospital cares for children from each of Indiana's 92 counties. In 75 years, no Hoosier child has been turned away because of an inability to pay.

To continue to meet the needs of children and families, Riley Hospital has grown as it spanned the decades of the 20th century. Today, Riley Hospital is one of the ten largest children's hospitals in the nation, and is Indiana's only children's hospital located on a university campus. It is also one of the two most care-bedded children's hospitals in the United States.

As it has grown, Riley Hospital has endeavored to maintain a standard of excellence respecting patient care. In 1971, Indiana's only pediatric burn unit opened at Riley Hospital. In 1989, Riley Hospital performed Indiana's first newborn and infant heart transplants. Eighty to Ninety percent of Indiana's children with cancer are treated at Riley Hospital's—and Indiana's only—Children's Cancer Center. In addition, Riley Hospital houses the only pediatric dialysis center and pediatric stem cell transplant unit in the State of Indiana.

Though the medical technology at Riley Hospital is remarkable, it is the caring staff that the children and their families depend on to see them through difficult circumstances and turbulent times. Whether it be a doctor, nurse, therapist, social worker, teacher, administrative staff or maintenance worker, their professionalism is unparalleled.

Mr. Speaker, the children, families, and communities of Indiana have been enriched by the life-saving work of Riley Hospital for Children. As we approach the threshold of the 21st Century, I am confident that this wonderful tribute to James Whitcomb Riley will continue to make a brighter horizon for our children.

LEGISLATION TO AUTHORIZE REHABILITATION OF THE MUNICIPAL WATER SYSTEM ON THE JICARILLA APACHE RESERVATION

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. UDALL of New Mexico. Mr. Speaker, today I rise to introduce a bill to authorize and direct the Bureau of Reclamation to conduct a feasibility study with regards to the rehabilitation of the municipal water system of the Jicarilla Apache Reservation, located in the State of New Mexico. I am very pleased to be joined by several of my colleagues in the introduction of this important bill—including the other two Representatives from New Mexico, Congressman SKEEN and Congresswoman WILSON; as well as Congressmen KILDEE, HAYWORTH, YOUNG, MILLER, KENNEDY, and BECERRA.

Sadly, Mr. Speaker, the Jicarilla Apache Reservation relies on one of the most unsafe municipal water systems in the country. While the system is a federally owned entity, the Environmental Protection Agency has nevertheless found the system to be in violation of national safe drinking water standards for several years running—and, since 1995, the water system has continually failed to earn renewal of its National Pollutant Discharge Elimination permit.

The sewage lagoons of the Jicarilla water system are now operating well over 100 percent capacity—spilling wastewater into the nearby arroyo that feeds directly into the Navajo River. Since this river serves as a primary source of groundwater for the region, the resulting pollution of the stream not only affects the Reservation but also travels downstream—creating public health hazards for families and communities both within and well beyond the Reservation's borders. Alarmingly, Jicarilla youth are now experiencing higher than normal incidences of internal organ diseases affecting the liver, kidneys and stomach—ailments suspected to be related to the contaminated water.

Moreover, because of the lack of sufficient water resources, the Jicarilla Tribe is not only facing considerable public health concerns, but it has also necessarily had to put a brake on other important community improvement efforts, including the construction of much needed housing and the replacement of deteriorating public schools. For all of these reasons, the Tribal Council has declared a state of emergency for the Reservation and has already appropriated over $4.5 million of its own funds to begin the process of rehabilitating the water system.

Following a disastrous 6-day water outage last October, the Jicarilla investigated and discovered the full extent of the deplorable condition of the water system. Acting immediately to address the problem, the tribe promptly contacted the Bureau of Indian Affairs, the Indian Health Service, the Environmental Protection Agency and other entities for help in relieving their situation. Yet, due to budget constraints and other impediments, these agencies were unable to provide financial assistance or take any other substantial action to address the problem. In particular, the Bureau of Indian Affairs, having found itself to be poorly suited for the operation and maintenance of tribal water systems, has discontinued its policy of operating its own tribal water systems in favor of transferring ownership directly to the tribes. Unfortunately, however, the dangerous condition of the Jicarilla water system precludes its transfer to the tribe until it has been rehabilitated.

Fortunately, the Bureau of Reclamation is appropriately suited to assist the Jicarilla Apache and the BIA in assessing the feasibility of rehabilitating the tribe's water system. In consultation with the Jicarilla Tribe, the Bureau of Reclamation has indicated both its willingness and its ability to complete the feasibility study should it be authorized to do so as required by law. Recognizing this as the most promising solution for addressing the serious water safety problems plaguing the Jicarilla, I and my fellow cosponsors are introducing this important bill to allow this process to move forward. I hope the rest of our colleagues will similarly join us in passing this bill to remedy this distressing situation.

A TRIBUTE IN HONOR OF BAY COUNTY WOMEN'S CENTER

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute to an organization which has done much to increase awareness of domestic violence in the United States as well as in my home town of Bay City, Michigan. The Bay County Women's Center provides essential support services for victims of physical or sexual assault, many of whom are women in violent domestic situations.

The Women's Center was established in 1975 by twelve dedicated volunteers who had recognized the need for a local support organization which provided essential services for abused persons. The Center now offers victims a wide range of crisis intervention services, such as counseling, advocacy, information and referral services, as well as extensive community education services. This means that a woman who is being abused has someone to turn to twenty-four hours a day, 365 days a year. The Women's Center has truly proved to be the saving grace for thousands upon thousands of women.

Mr. Speaker, the statistics on domestic violence are staggering. Approximately one family in three will experience domestic violence. And in our country, four women are killed each day by their husband or partner. The victim is killed by someone who, if one uses traditional marriage vows, has promised "to cherish and honor until death do us part"—which, of course, is a far cry from "to cherish and honor until I decide to kill you". Battery and abuse are particularly horrific because they destroy a sacred bond through violence, and leave these women isolated from their community, their family and in mortal fear of their partner.

The Bay County Women's Center, funded in part by the United Way of Bay County, and sustained by many dedicated and caring individuals, is an organization which is a model for all community agencies devoted to protecting adults and child victims against domestic violence and sexual assault. This month is designated National Domestic Violence Awareness Month, and to mark this, the Women's Center plans their annual Candlelight Vigil for survivors to domestic violence. The Center is committed to ending domestic violence in Bay County, and for that very fact, it deserves our respect. Mr. Speaker, I invite you and all our colleagues to join me in honoring the work of the Bay County Women's Center. May I also offer my deepest condolences to the victims of domestic violence, and my support for all the survivors. It is my sincerest hope that with the guiding example of the Bay County Women's Center, we can all join together to work against the horrific crime of domestic violence and abuse.

PERSONAL EXPLANATION

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. KENNEDY of Rhode Island. Mr. Speaker, on October 4, 1999, I was unavoidably detained and consequently missed two votes. Had I been here I would have voted: "Yes" on the passage of H. Res. 181. "Yes" on the passage of H.R. 1451.

CONGRATULATIONS TO FRANZ FRUEHWIRTH ON HIS INDUCTION TO THE FLORICULTURE HALL OF FAME

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. CUNNINGHAM. Mr. Speaker, my district in San Diego is home to some of our nation's largest flower growers. This industry plays a key role in the economy of San Diego County, the state of California, and the entire country. Flower growers, wholesalers, and retail shops produce a product that makes all of our lives more beautiful.

Last week, the Society of American Florists recognized the achievements of two outstanding individuals in the floral industry. I want to personally commend one of those individuals, who also happens to be my constituent. The Society of American Florists gave out its highest award—induction into the Floriculture Hall of Fame—to Franz Fruehwirth, a scientist, inventor and breeder for the Paul Ecke Ranch, in Encinitas, California.

We should thank Franz every time a poinsettia—the number one flowering potted plant in the United States—is bought, sold and enjoyed. As one of the premier poinsettia breeders in the world, Franz has created many "firsts," including Lilo, the first long-lasting, dark leaf poinsettia that set the standard for all future varieties. He also created the first yellow poinsettia, "Lemon Drop." He bred the classic Freedom poinsettia, which now represents more than 60 percent of the poinsettia production in the United States.

Franz is more than a plant breeder. He is also responsible for developing the first hanging basket container and the first self-watering container. He also premiered a technique to produce the poinsettia in a tree form. He has shown his dedication to the floral industry as a 31-year member of the Ohio Florists' Association and the San Diego County Flower Growers Association.

In his acceptance speech, Franz simply said that he had been privileged to spend his life doing what he really considers to be fun: playing with his plants and seeing what new and exciting varieties he can develop. What a great lesson for all of us: here is a man who, by loving his work and devoting his life to that love, has given a great gift to us all.

Few of us can remember a time when Christmas celebrations did not include the poinsettia, but we would not have poinsettias at Christmas time without Franz Freuhwirth. The floral industry, my good friend Paul Ecke, of the Paul Ecke Ranch, and all of us in America are fortunate to have Franz Fruehwirth, who has changed American floriculture forever. And I am very proud to have him as my constituent.

I have attached an article from the San Diego Union Tribune that further highlights Mr. Fruehwirth's career.

POINSETTIA BREEDER RECOGNIZED WITH A SLOT IN HORTICULTURAL HALL OF FAME

(By Dan Kraft)

Ecke, now that's a name synonymous with poinsettias.

Franz Fruehwirth's name may not be as well-known, but he, too, has been instrumental in the proliferation of the popular plants.

Fruehwirth's contributions to the floral industry were recognized in Tucson last week, when he was inducted into the Society of American Florists' Floriculture Hall of Fame at the group's annual convention.

Fruehwirth, 66, is the chief breeder, or hybridizer, at the Paul Ecke Ranch in Encinitas, which claims to be the world's largest producer and breeder of poinsettias. For the latter half of that claim, they have Fruehwirth to thank.

Although Ecke sells about 500,000 poinsettias grown in its own greenhouses each Christmas season, its genetic work has been licensed to growers around the globe and accounts for about 80 percent of poinsettias sold in the world. That genetic work is largely Fruehwirth's.

"Until he started breeding, almost all the poinsettias in the world had been mutations," said Marc Cathey, president emeritus of the American Horticultural Society and one of those who wrote letters recommending Fruehwirth for induction. "He is unique because he has no scientific training to do what he does, yet he has beat all the big boys in the world."

Fruehwirth, a native of Hungary, immigrated to the United States from Germany in 1960 with his wife, Lilo, and their daughter Monika. He was 27 at the time and did not speak English. He worked at a tailor's shop in Oceanside when Paul Ecke Jr., a customer at the shop, hired Lilo as a housekeeper and nanny and offered Fruehwirth a job caring for his plants. That was in 1962, at a time when the ranch was converting from field-grown plants to greenhouses.

"Very quickly it became obvious that he was intelligent and creative, and Dad and Grandpa began promoting him," said Paul Ecke III. "He was instrumental in figuring out how to grow the poinsettias inside."

In 1968, Fruehwirth introduced the first new poinsettia genetics created at the Ecke Ranch. In 1991, a new variety he bred, called Freedom, was introduced. Today, it accounts for 60 percent of the poinsettias sold in the United States and Canada.

"I feel there are a lot of people who deserve recognition like this, and I'm very fortunate that I have the honor," Fruehwirth said. "I love my work and am humbled to get (the Hall of Fame induction)."

According to the Society of American Florists, induction into its Hall of Fame is reserved for those who have made a unique contribution to the industry and changed the way it does business.

"Most of those honored have a Ph.D. or are owners of major floral companies," Cathey said. "It's very rare for someone like Franz to receive this award."

During his 37-year tenure with the Eckes, Fruehwirth's "cultivars" have become increasingly dark in color and hearty, which enables florists to ship the plants greater distances and gives them a longer shelf life.

Fruehwirth, who lives in Encinitas with his wife, has no plans to retire. He is still hard at work evaluating the potential of 6,000 to 10,000 seedlings each year.

"As long as I have a positive influence, I'll keep working", he said in Tucson last week. "I still can't believe (the honor)."

A TRIBUTE TO PAYNE & DOLAN, INC., WINNER OF A 1999 EXEMPLARY VOLUNTEER EFFORTS AWARD FROM THE U.S. DEPARTMENT OF LABOR

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. KLECZKA. Mr. Speaker, I rise today to bring attention to an exemplary act of community spirit and corporate citizenship. A company located in Wisconsin's Fourth Congressional District, Payne & Dolan, Incorporated, a Waukesha, Wisconsin-based highway construction company, has been named a 1999 recipient of the prestigious Exemplary Volunteer Efforts (EVE) Award from the U.S. Department of Labor.

The Department of Labor has recognized Payne & Dolan for an innovative minority hiring, training and development program that has provided outstanding opportunities for more than 160 minorities and women and invested more than $3 million into Milwaukee's central city.

Payne & Dolan is the first highway construction company ever to receive this award. The company's comprehensive equal opportunity program includes proactive hiring efforts in Milwaukee's central city, community involvement and partnerships, scholarships, employee training and development, minority business mentoring and more.

The company has worked with the YWCA of Greater Milwaukee, the Wisconsin Department of Transportation and other community partners to develop a pilot program called Transportation Alliance for New Solutions, or TrANS. This program recruits and raises awareness of industry opportunities among minorities and women.

In addition, Payne & Dolan helped spearhead development of the Central City Workers' Center (CCWC), a centralized "one-stop shop" to link highway contractors with potential employees. This one-of-a-kind collaboration among unions, government, industry and community-based organizations seeks to provide family-sustaining incomes to a minimum of 150 central city residents over the next two years.

Payne & Dolan's success stories are the life stories of people like Sean McDowell, who began working for Payne & Dolan in 1993 and today, with the company's guidance and support, owns his own asphalt company. People like Roger Carson, who was hired as a laborer in 1991 and has been a foreman for two years. And people like Wendy Young, who was hired as an unskilled laborer in 1994 and is now an apprentice operating engineer.

Mr. Speaker, I would like to recognize the contributions and commitment of Payne & Dolan and its CEO, Ned Bechthold, as well as salute the employees who have worked hard to make this equal opportunity program succeed and to make the EVE award possible. It is clear that Payne & Dolan is building much more than highways—it is also building a direct path to opportunity. I commend Payne & Dolan, and I commend the United States Department of Labor for its recognition of this outstanding corporate citizen.

GERMAN-AMERICAN DAY

HON. ROD R. BLAGOJEVICH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. BLAGOJEVICH. Mr. Speaker, I rise today to celebrate German-American Day and the many great contributions German-Americans made to our society. Through their loyalty, determination, spirit, and culture, German-Americans have significantly enriched the lives of all Americans.

In 1987, Congress formally recognized the achievements of German-Americans by proclaiming October 6th to be German-American Day. As we celebrate this October 6th, the thirteenth celebration of German-American Day, all Americans have the opportunity to reflect upon the cultural legacy of German-Americans.

America's German heritage predates our nation's independence. Our first German immigrants arrived in Philadelphia in 1683. Since that time, America has enjoyed the immeasurable contributions of such creative German-American minds as Carl Schurtz, Baron von Steuben, Levy Strauss, John Jacob Astor, and Peter Zenger. More recently, the works of Albert Einstein, Wernher von Braun, and Henry Kissinger are testimony to the industriousness, loyalty, and talent of German-Americans.

In addition to the contributions of these German-Americans, 57 million Americans of German descent have helped enrich America through their participation in the workforce and the arts. In the 1990s, when my home city of Chicago experienced rapid growth, German immigrants arrived in their largest numbers. By sharing their industry and arts with our city, they helped Chicago become one of the world's great cities. Although Germans were only twenty-nine percent of the city's population, they constituted fifty percent of the city's bakers, forty-four percent of brick and tile makers, and thirty-seven percent of machinists. While German-American craftsmen and skilled workers fueled Chicago's industrial growth, German art, music, and literature also helped mold the cultural developments of the city.

After the Great Fire of 1871, German-Americans took an active role in rebuilding Chicago. Their efforts can be seen even today in the city's world renowned architectural beauty. The Chicago Symphony Orchestra was founded by a German-American violinist and flourished due to talented German musicians who made Chicago's Symphony Orchestra into one of the world's greatest musical institutions. In addition, German theater introduced the classical works of Schiller and Geothe as well as many other European works.

While the contributions of German-Americans have shaped American cultural and industrial development, they are easily overlooked, largely because they have been overwhelmingly embraced by Americans and are now thought of as simply "American." October 6, 1999 once again calls attention to all Americans of German descent and their contributions to the vibrancy and strength of the United States.

ABRAHAM LINCOLN BICENTENNIAL COMMISSION ACT

SPEECH OF

HON. BARON P. HILL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 1999

Mr. HILL of Indiana. Mr. Speaker, I want to offer my full support of H.R. 1451, the Abraham Lincoln Bicentennial Commission Act.

This bill would authorize the creation of the Abraham Lincoln Bicentennial Commission, a group charged with the responsibility of recommending to Congress activities to celebrate the bicentennial of President Lincoln's birth.

I am particularly pleased that the bill has been amended to include commission members from my home state of Indiana.

This is important because many people don't realize President Lincoln spent 14 years of his life on a small farm in Lincoln City, Indiana. There he helped his father on the farm and developed his love of reading. It was in Lincoln City that he also lost his mother, Nancy Hanks Lincoln, when he was nine years old. These events during his formative years in Indiana contributed greatly to the development of President Lincoln's extraordinary character.

Mr. Speaker, the residents of Indiana are proud of this heritage. H.R. 1451 will help highlight the extraordinary life of our 16th president. No commemoration would be complete without noting southern Indiana's part in the Abraham Lincoln story. I encourage all Americans wishing to learn more about this American hero to visit Lincoln City, Indiana, and the Lincoln Boyhood National Memorial.

I am pleased Congress is taking the initiative to promote and support the commemoration of such a remarkable figure in our American history.

RAY SAUL HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to a distinguished journalist, community leader, and close friend from my District in Hazleton, Pennsylvania—Ray Saul. This month, the Sons of Italy Lodge 1043 will honor Ray as "Italian American of the Year." I am pleased to have been asked to participate in this event.

A native of Hazleton, Ray is a graduate of Hazleton High School and Penn State, where he earned a Bachelor's degree in journalism. He was the editor of his college yearbook and was cited by the All College Board for outstanding achievement as a student leader. A Navy veteran of World War II, Ray entered the service as an apprentice seaman and retired as a Lieutenant Commander after a combined 21 years of active and reserve service.

Ray is best known to the community for his 47 years of dedicated journalism at the Hazleton Standard-Speaker newspaper. Ray was sports editor at the Standard-Speaker for twenty-seven years and managing editor for the last fifteen years. Since his retirement in 1997, he continues to write sports columns and other features for the newspaper. As a journalist, Ray was an active member of the Associated Press Sports Editors Association and the Managing Editors Association.

In 1995, he was honored by the Department of Defense for his feature stories of various Hazletonians serving in World War II. Ray received an Associated Press Citation for a story on a local basketball team's success. In recognition of his writing and participation in sports, he was honored by several chapters of the Pennsylvania Sports Hall of Fame and the PIAA District 2.

Ray Saul has always recognized the unique responsibilities inherent in leading a local newspaper which is truly the voice of its community. Under his leadership, the Standard-Speaker could be relied on for fair and accurate reporting of stories important to the Greater Hazleton area. Ray always put the interests of the community first.

Ray's accomplishments are far reaching into the community as well. He is an active Kiwanian and has been awarded the International Tablet of Honor once and the Kiwanian of the Year twice. He has been an active Penn State alum, helping to raise funds for new buildings on the Hazleton Campus. In 1984, he was the fifth person in the then-50 year history of the Hazleton campus to receive the Penn Stater Award, for outstanding service to the university.

Mr. Speaker, Ray is the son of the late Santo Saul and Genevieve DeJoseph. All four of his grandparents were Italian immigrants. From his distinguished Navy career his beloved journalism career, Ray is a true example of an American success story. Even in retirement, he and his wife Nell are respected, active members of the community. I applaud the Sons of Italy for their choice of this year's honoree and am proud to congratulate Ray on yet another prestigious award. I send him my heartiest best wishes for continued health and happiness.

PERSONAL EXPLANATION

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. ETHERIDGE. Mr. Speaker, on Monday, October 4, I was unavoidably detained and missed four votes on the House floor. Had I been present, I would have voted "yes" on rollcall votes 470–473.

HONORING BILL WALTERS

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. GOODLING. Mr. Speaker, I rise today to honor Mr. Bill Walters, who holds the office of Registrar of Wills in York, Pennsylvania. Mr. Walters has never lost an election, primary or general, and has been on the ballot 38 consecutive times as either a candidate for Springettsbury township, Register of Wills, or Republican Committeeman. After years of committed service to the people of York and York County, he will be retiring at the end of this term.

Bill Walters came to York, Pennsylvania from Connecticut, but regards York as his home and plans to remain here after retirement. He has always been a big supporter of mine as well as good friend.

Mr. Speaker, I salute Bill Walters as he steps down from his position with the City of York, and wish him well in his upcoming retirement from a life of public service.

IN HONOR OF GEORGE LYKOURETZOS, 1999 CHARLES E. PIPER AWARD RECIPIENT

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. LIPINSKI. Mr. Speaker, I rise today to honor Mr. George Lykouretzos, a business owner in Berwyn, Illinois. Mr. Lykouretzos will be receiving the Charles E. Piper Award for Business Achievement.

The Charles E. Piper Award is named for one of Berwyn's original developers. Each year, the Berwyn Development Corporation honors business men and women from the community who contribute to the growth and economic development of the community. This year, George Lykouretzos has been chosen because of his commitment to the community.

George Lykouretzos is the owner of Skylite Family Restaurant and the Skylite West Banquets located in Berwyn, Illinois. Because of his outstanding business practices and his commitment to the investing back into the community, the Berwyn Development Corporation chose to honor George Lykouretzos with the Charles E. Piper Award on October 23, 1999.

I would like to commend George Lykouretzos and his family and staff on their excellent service to their customers. I would also like to extend my personal congratulations on Mr. Lykouretzos' achievement and wish him and his family well with their future success and their commitment to the community.

20 YEARS OF AFFORDABLE HOUSING

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. FILNER. Mr. Speaker, I rise today to pay tribute to the San Diego Housing Commission on the occasion of its 20th anniversary. During these two decades, the Housing Commission has helped to provide approximately a half million San Diegans with quality housing opportunities. In the process, neighborhoods have been revitalized and the economy vastly improved.

The Housing Commission has invested billions of dollars in San Diego, resulting in the development of 10,000 apartment units—including nearly 5,500 designed for lower income San Diegans—and in the stabilization of rents for thousands of San Diegans through rental assistance.

The Housing Commission has been a leader in our nation. Its approach to developing and managing its 1,860 public housing units has earned it acclaim and national awards. The awards recognize the Commission for the design and maintenance of its properties and for the Commission's philosophy of distributing public housing throughout the city.

The residents in San Diego public housing benefit from the Housing Commission's programs that have set national standards in helping residents achieve self-sufficiency. The six learning opportunity centers at the Commission's sites provide a way for residents to escape dependence on welfare.

The residents are active partners with the Commission in improving their lives—the Small Business Administration and San Diego Chamber of Commerce Welfare-to-Work Entrepreneur of the Year in 1998 was won by a Housing Commission resident, Yohannes Miles, who became a painting contractor. Needless to say, Mr. Miles is now a former client of the Commission—he has moved into his own home!

The Housing Commission has improved our whole City. It has helped more than 8,000 families rehabilitate their homes and has paved the way for 3,100 low- to moderate-income people to purchase their first home.

The Housing Commission employees are dedicated—15 have been with the agency since its founding. In its 20 years, Commission employees have helped the agency win countless national awards and honors, including high performance ratings each year from the Department of Housing and Urban Development, the first Award of Excellence for Enduring Design from the National Association of Redevelopment Officials, and an award for consensus building in developing public housing.

I want to wish the employees and the officials of the San Diego Housing Commission, and the forward thinking city leaders who started the agency, a happy anniversary. May you provide many others with the basic opportunity and right of housing in San Diego in the years to come.

CALVARY CHILDREN'S CENTER

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. BARR of Georgia. Mr. Speaker, it is my distinct honor today to recognize an exceptional organization that has made a significant difference in the lives of hundreds of Georgia's children. That organization is Calvary Children's home.

The Calvary Children's Home was founded in 1966 by Reverend Ben F. Turner, and has been located in Cobb County, Georgia, for 33 years. Rev. Turner's first vision of Calvary took place on the streets of Jerusalem, when a poor woman offered to sell her baby to his tour group for money to support her other children. Then, in 1965 a local father and mother of six were returning from shopping when both were killed in an automobile accident. However, as much as the children were disturbed by the loss of their parents, they were equally upset with the prospect of being separated from each other in the foster care system, especially after such a great loss.

In September 1997, Rev. Turner's ultimate dream was finally realized, as the Calvary Children's Home moved from its original dormitory-style complex into three beautiful homes located on 13 acres of land near Powder Springs, Georgia. In January a new administrative center featuring a dining hall, library, and counseling center was completed on the property under the direction of Administrator Snyder Turner. The home has always been funded entirely by generous private funding from churches, businesses, organizations, and individuals dedicated to giving children in need a second chance.

The Calvary Children's Home presently houses 26 children, and has housed more than 400 children since first opening its doors 33 years ago. The center is a nonprofit, charitable organization providing long-term residential care for children who are victims of broken homes, abuse, neglect, or abandonment. The majority of its residents are brothers and sisters who otherwise would have been separated from each other and placed into separate homes through the foster care system.

The Calvary Children's Home is an excellent example of private individuals reaching out and making a difference in the lives of our youth, without public mandates or tax dollars. It speaks well of Georgia's Seventh District that such an organization can survive. I wish Administrator Turner, the staff, residents, and donors well in continuing their commitments to love, spiritual values, and improving the lives of our young people.

IN HONOR OF YOLANDA'S ACADEMY OF MUSIC AND DANCE ON ITS 25TH ANNUAL RECITAL AND ITS FOUNDER, MS. YOLANDA FERNANDEZ-QUINCOCES

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize Yolanda's Academy of Music and Dance on the celebration of its 25th Annual Recital and its founder, Ms. Yolanda Fernandez-Quincoces, for her many accomplishments. She has made every effort to provide a forum in which the young people of Hudson County, and particularly of Union City, NJ, are able to express their interest in the arts.

Born in Havana, Cuba, Ms. Fernandez demonstrated tremendous artistic ability at a very young age. After moving to the United States with her family, Ms. Fernandez begun taking lessons in ballet and piano at the age of five. She continued her training at the New Jersey Ballet, Oneida's Dance Studio, and the American Ballet Theater, where she also excelled in Flamenco dance and piano while attending classes with renowned leaders in the fields of study.

Ms. Fernandez, since receiving her bachelor's degree in Music Education from New York University, has served as a music and dance educator at the Woodrow Wilson School for the Integrated Arts in my hometown of Union City, NJ, where she is known for her remarkable commitment to her student's education.

Ms. Fernandez has demonstrated her dedication to the arts and education through her involvement in such associations as the Dance Educators of America, the Dance Masters of America, the National Guild of Piano Teachers, and the National Education Association. Her participation in the advancement of the arts includes making personal appearances at the New Jersey Opera and on various television broadcasts. In addition, she produced and hosted her own television program called "Art Beat."

Ms. Fernandez's artistic contributions to the community and her unwavering commitment to promoting the arts in our schools have not gone unnoticed. In 1996, she was named "Teacher of the Year" by Union City, Hudson County, and the Governor of the State of New Jersey. In 1996 and 1997, she received the prestigious "Outstanding Choreographer" Award from the Dance Educators of America in New York City.

In recognition of Ms. Fernandez's impassioned devotion to promoting the arts in our schools and communities, I ask that my colleagues join me in congratulating her, as well as Yolanda's Academy of Music and Dance, on this occasion, the 25th Annual Recital, and wishing Ms. Fernandez continued success in her endeavors.

IN TRIBUTE TO SENIOR MASTER SERGEANT ALBERT M. ROMANO, JR.

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. GALLEGLY. Mr. Speaker, I rise to pay tribute to Senior Master Sergeant Albert M. Romano, Jr., one of 12 U.S. Air Force Outstanding Airmen of the Year.

"Buddy" Romano hails from Oxnard, California, in my district, where he starred in varsity football and baseball at Santa Clara High School and was ranked 32nd in California for motocross racing.

He married his high school sweetheart, the former Jennifer Suytar, also of Oxnard. The couple now have three children, 12-year-old Tyler, 9-year-old Megan, and 5-year-old Zachary, who must be very proud of their father for all he has achieved.

The Outstanding Airmen Award program began in 1956 during the Air Force Association's national convention as a way to highlight an Air Force military manpower crisis at the time. It proved so popular that it became an official Air Force award the following year.

Competition for Airman of the Year is strenuous. Nominations are sent from each command, separate operating agency, direct reporting unit, Air Force Reserve and Air National Guard to the Air Force Manpower Personnel Center. A high-ranking selection board narrows the field, then the final selections are validated and approved by the U.S. Air Force Chief of Staff.

The criteria for this honor is "unique, unusual, or outstanding individual involvement and achievement within the preceding 12 months." Selection considerations include: superior general job performance; job knowledge and leadership qualities applied to a specific Air Force problem or situation; development of new techniques or procedures resulting in increased mission effectiveness; noteworthy self-improvement through on- or off-duty educational studies, participation in professional or cultural societies/associations, or development of creative abilities; participation in social, cultural, or religious activities in the military and/or civilian community which contribute directly or indirectly to community or group welfare, morale, or status; other significant achievements on- or off-duty which by their nature or results clearly distinguish the Airman from others of equal or higher grade; Air Force or civilian awards in recognition of personal service or contribution; and demonstrated ability as an articulate and positive Air Force spokesperson.

Buddy Romano must have been an easy selection.

He joined the Air Force in 1981 and quickly established himself as an outstanding airman. In 1983, he was named NCO of the Year. In 1984, he earned the Distinguished Graduate Award from the 15th Air Force NCO Leadership School at Ellsworth Air Force Base in South Dakota. He maintained a 96 percent fully mission capable rating during his first year—his unit's highest—as Dedicated Crew Chief at the 388th Fighter Wing, Hill Air Force Base, Utah. In 1987, he served in Operation Desert Storm. In 1988, he earned the NCO of the Year for the 548th Aircraft Generation Squadron, while maintaining a place on the Dean's List for Embry Riddle Aeronautical University. In 1992, he earned his degree in Aircraft Maintenance from the Community College of the Air Force.

Somehow, he has free time. Buddy has filled it by coaching or umpiring during almost every intramural varsity, high school, or youth basketball and baseball season since he became an airman. He has volunteered countless hours to the Equal Opportunity and Treatment Program, Anglo American sports day, Special Olympics, Arrive Alive Program, Toys for Tots Program, Top Three events, and countless other Air Force-sponsored events.

His military decorations include the Meritorious Service Medal, with two clusters; the Air Force Commendation Medal, with one cluster; the Air Force Achievement Medal; the Air Force Good Conduct Medal, with five oak leaf clusters; the National Defense Service Medal; the Armed Forces Expeditionary Medal; the Southwest Asia Service Medal, the Humanitarian Service Medal; and the Kuwait Liberation Medal.

Mr. Speaker, I had the pleasure of recently meeting with Senior Master Sergeant and Jennifer Romano. They serve as a model for military couples, dedicating their lives to their family and their country. I know my colleagues will join me in saluting Albert M. Romano, Jr., for earning the respect and gratitude of his peers, his officers, and his country.

RECOGNIZING BORUNDA INC. AND PLAZA VENTANA RESTAURANT

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. RADANOVICH. Mr. Speaker, I rise today to recognize David Borunda as President and CEO of Borunda Inc., along with

Plaza Ventana Restaurant. Borunda Inc. is a corporation specializing in the food service business; and Plaza Ventana is a product of David's perseverance to become an entrepreneur.

David Borunda originally established his business in 1977 by opening Plaza Mexican Restaurant. Due to the tremendous success of the restaurant, Borunda was invited to join the food court at Fresno's Manchester Mall, in which his operation became the largest volume food operation in the facility. Borunda's career further escalated in 1984 when he was invited to join the food court at Fresno's Fashion Faire Shopping Center. Thus, he opened his third location and immediately assumed the number one volume store in the food court. Branching away from food courts, Borunda opened a full sit down restaurant located in the Times Square Shopping Center in Fresno. Plaza Ventana was well received and immediately became a success. As a result, this location was expanded by an additional one thousand square feet, which included a full service bar and an additional dining area.

Borunda was born and raised in Fresno, California and is well rooted in the community. He served as president of the California Restaurant Association Fresno Chapter in 1993 and 1994, and has over 50 employees. As proof of Borunda's enormous success, one has to look no further than the three Best Mexican Restaurant award, given by the California Restaurant Association, he has won.

Mr. Speaker, it is my pleasure to honor David Borunda for his tremendous success as an entrepreneur. I urge my colleagues to join me in wishing David many more years of continued success.

QUALITY CARE FOR THE UNINSURED ACT OF 1999

SPEECH OF

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. McKEON. Mr. Speaker, I join my colleagues today in supporting this bill that addresses the problem of the rising number of Americans who cannot afford health insurance. Under this plan, we will be able to extend health care options to the 44 million people in our country who remain uninsured.

We know that most people without health insurance have one thing in common: they cannot afford health care. They are either self-employed or they work in a small business that cannot afford to pay for health benefits.

The Quality Care for the Uninsured Act creates Association Health Plans to combat the high cost of health care in our country. Small businesses and self-employers will now have the ability to join together under the umbrella of trade and professional organizations to buy health insurance for themselves and their employees.

Association Health Plans will bring more choices and greater flexibility to those who need it most. Estimates show that small businesses will save between 10 and 20 percent on health care costs with Association Health Plans. By cutting costs, we can expand health care coverage for the millions of hard-working Americans that are currently uninsured.

I commend Representative TALENT and Representative SHADEGG for their dedication to this important issue, and I urge my colleagues to support this bill.

THE PENSION REDUCTION DISCLOSURE ACT OF 1999

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. MARSUI. Mr. Speaker, I am pleased to introduce bipartisan legislation, developed with my colleague on the Ways and Means Committee Mr. WELLER and in conjunction with the Administration, which will provide increased notice to employees when their employers convert their pension plans from traditional defined benefit plans to so-called "cash balance" plans.

The Pension Reduction Disclosure Act of 1999 revises existing section 204(h) of ERISA and adds related ERISA and tax provisions providing for the following: (1) a basic advance notice must be given for amendments that reduce the rate of future benefit accrual in a pension plan; (2) an enhanced advance notice must be given when applicable large plans are converted to cash balance plans or otherwise amended to reduce the rate of future benefit accrual; (3) individuals receiving the enhanced notice have the right to receive supporting general plan information, such as the plan's benefit formula and actuarial factors; and (4) individuals receiving the enhanced notice also have the right to receive individual benefit statements relating to the projected effect of the amendment on them. In general, the information required to be provided under the Act must be written in a manner calculated to be reasonably understood by the average plan participant. The Act imposes minimum notice and information requirements; employers may choose to provide information (in the required notice or otherwise) that is in addition to that required under the Act.

Basic advance notice: Current law requires 15 days' advance notice for amendments that reduce the rate of future benefit accrual in a pension plan. Pension plans subject to the Act requirements are those plans subject to existing section 204(h) of ERISA. The Act increases this to 45 days before the effective date. The Act eliminates the current law requirement that notice be provided only after the plan amendment has been adopted. A plan is not to be treated as failing to meet the notice requirements of the Act merely because notice is provided before the adoption of the amendment if no modification of the amendment occurs before the amendment is adopted that would affect the information required to be in the notice. The notice must include the effective date and the classes of individuals under the plan to which the amendment applies. The notice must state that the amendment significantly reduces the rate of future benefit accrual and must summarize the important terms of the amendment. For example, in the case of a money purchase pension plan in which the rate of future contributions for all salaried employees is reduced from 7% of compensation to 4% of compensation, the basic notice must state that the plan is being amended to significantly reduce the rate of future contributions, that the rate of future contributions is being reduced from 7% of compensation to 4% of compensation, and that the amendment applies to all participants who are salaried employees on or after the effective date, which must be specified in the notice.

- Enhanced advance notice: The enhanced advance notice applies to plans with at least 100 active participants at the end of the prior plan year (this information is on the Form 5500). This notice must provide the following additional information concerning the amendment: (1) a more detailed description of the plan amendment; (2) illustrative examples; (3) supporting information; and (4) individual benefit statements.

More detailed description. The enhanced notice provided to an affected participant must be describe the normal and, if applicable, the early retirement benefit formulas under which the participant had been earning benefits before the amendment, describe the formulas under the plan as amended, and explain the effect of the amendment on the participant's normal and early retirement benefits. The enhanced notice, like the basic notice, must also state that the amendment is expected to significantly reduce the rate of future benefit accrual.

In addition, the enhanced notice must explicitly disclose any "wearaway" or "benefit plateau" or temporary period, expected to result from the amendment, during which there are no accruals or only minimal accruals. For example, if a large pension plan were amended from a traditional defined benefit plan to a cash balance plan through an amendment that reduced the rate of future benefit accrual, and the amendment provided for the establishment of an opening account balance using a formula or factors that resulted in the opening account balance being less than certain participants' section 417(e) lump sum value, the enhanced notice would have to identify the participants likely to experience a temporary cessation of accruals and explain why the wearaway occurred (for example, because the opening account balance was established using a different interest rate than required by the law to value lump sum benefits or because the formula used to establish the opening account balance did not take into account early retirement subsidies).

Illustrative examples. The enhanced notice must also include illustrative examples showing at representative future dates the estimated effect of the amendment on the participants in the examples. The illustrative examples will include estimates that provide a meaningful comparison of benefits that would be earned under the amended plan with benefits that would have been earned assuming the plan had not been amended. At a minimum, for a comparison to be meaningful, it must show benefits under the old and new formulas in the same form and at the same time. Accordingly, a comparison of an immediate lump sum under a new cash balance formula with an age 65 annuity under the pre-amendment final average pay formula would not satisfy the requirement that the comparison be meaningful; instead, the comparison must be in a life annuity form or a form authorized under Treasury regulations (which may, for example, authorize the comparison to be based on a lump sum form provided that that form is used for both the old and the new formulas). The notice (including the basic notice, but not including the supporting information) must be written in a manner reasonable calculated to be understood by the average plan participant.

Representative categories: The examples must be selected in a manner that is fully and fairly representative of the various categories of adversely affected individuals depending on whether the amendment results in similar reductions. While the classes of participants identified in the basic notice will generally be able to be determined under the plan document (e.g. salaried vs. hourly, Subsidiary A vs. Subsidiary B), it is intended that the categories used in the enhanced notice be more refined. While the determination of differing categories will depend on the plan's formulas before and after the amendment, the factors relevant to the determination of the number of categories appropriate to illustrate the effects of the amendment may include age, service and early or normal retirement eligibility. For example, in the case of an amendment that reduces the normal and early retirement benefits, employees who are already eligible for early retirement might be grouped together in a single category.

Supporting information required to be made available at time of advanced enhanced notice: The supporting information required to be made available upon a participant's request will include the factors used to convert the cash balance to an annuity, early retirement reduction factors, and similar assumptions for benefit projections, but the employer will not be required to make available the participant's personal information, such as the participant's date of hire, service history, or compensation. It is understood that, because the information may contain formulas and definitions of plan terms, it may not be practical for this information to be presented in a manner that can be readily understood by the average plan participant, but this information, along with the personal information, should be sufficient so that a professional advisor for the participant can perform the calculations. It is expected that employers could satisfy these requirements by making available appropriate computer programs or other appropriate technology, or providing a plan document with necessary supplemental schedules of current interest and mortality assumptions.

Individual benefit statements: Each individual to whom the enhanced advance notice has been, or is required to have been, furnished can make one request for an individual benefit statement at any time up to one year after the effective date of any amendment that requires section 204(h) enhanced disclosure. As under current law, no charge may be imposed for furnishing the required individual benefit statement. Under section 502(c)(2) of ERISA, an administrator is subject to liability up to $100 a day if the individual benefit statement is not provided within 30 days after the date of the request. In no event is the statement required to be provided earlier than 90 days after the effective date of the plan amendment. The Secretary of Labor may in her discretion determine that the statement may be provided at a later date. For example, the Secretary of Labor may determine in a particular case or by guidance of general applicability that the statement can be provided up to 60 days after the request (or, if later, six months after the effective date) in exceptional circumstances. Such exceptional circumstances might include, for example, cases in which the participant's accrual credit is in part based on periods during which the participant has worked for a predecessor or another party other than the plan sponsor, and the participant's work history with the other party is not readily available.

However, it is not intended that any such extension of time is to be permitted to be used as a pretext for a broad-based delay in delivering individual benefit statements that can reasonably be furnished at an earlier date.

Anti-abuse intent: It is intended that the protections of the Act are not to be evaded, so that, for example, if a plan seeks to evade the enhanced notice requirements by freezing benefits and then resuming accruals at a reduced accrual rate, a second enhanced notice would be required (taking into account the new accrual rate).

No inference: The fact that enhanced disclosure is required as to certain effects of an amendment on certain classes of participants is not intended to imply that the amendment or the plan design change effected by the amendment complies with current law.

Alternative methods of compliance: The Secretary of the Treasury is authorized to prescribe alternative or simplified methods of compliance with section 204(h) for the enhanced notice and related information, including and exemption, from some or all of these requirements, in situations not involving a fundamental change in the manner in which accruals are calculated where such other methods are adequate to reasonably inform applicable individuals of the nature of the reductions (such as a complete suspension of accruals under the plan, certain uniform reductions in the benefit accrual formula, or an incremental change in the period taken into account to determine career average or other plan compensation). A fundamental change in the manner in which accruals are calculated would not include certain changes in the compensation taken into account or a uniform reduction in the percentage of compensation on which contributions or accruals are based, but would include, for example, a conversion from a traditional plan (i.e., a flat dollar benefit, career average pay or final pay defined benefit pension plan) to a hybrid pension plan, such as a cash balance plan. A simplified or alternative method may also be permitted in order to ensure that the Act does not discourage consolidation of an individual's plan benefits, for example, if a buyer's plan is involved in a merger or consolidation with the seller's plan or if the buyer's plan receives a transfer from the seller's plan, the buyer is not subject to requirements that would not apply if the buyer's plan had not accepted a transfer from the seller's plan.

The Secretary of the Treasury may also issue guidance under which a plan may provide the notice only 15 days before the effective date in cases in which a 45-day advance notice would be unduly burdensome either because the amendment is contingent on a merger, acquisition, disposition or other similar transaction or because 45-day advance notice would be impracticable (such as where benefits are being reduced as part of a liquidation or reorganization in bankruptcy or insolvency proceedings).

Sanctions: An excise tax applies to a failure to satisfy the notice requirements and, in the case of an egregious violation, the individual is entitled to the greater of the benefit under the amended plan or the plan before the amendment. Except in the case of a multiemployer plan, the tax is imposed on the employer. If a plan (other than a multiemployer plan) is sponsored by a party other than an employer, it is intended that the plan sponsor will be treated as the employer for this purpose. An egregious violation includes a situation in which there has been no intentional failure to provide notice, but the employer fails to take reasonable corrective steps after discovering that there was a failure to provide notice to some individuals.

Effective date exception where information provided within 120 days of enactment: The notice and information required under the Act is not required to be provided earlier than 120 days after the date of enactment of the Act. For example, if a large pension plan is amended to reduce benefits effective on the day after the enactment of the Act, the amendment could go into effect on the day after the enactment of the Act, but the plan could provide the required enhanced notice and related information (and also furnish any requested individual benefit statements) as late as 120 days after the date of enactment.

HONORING THE BROOKLYN CHINESE-AMERICAN ASSOCIATION'S EIGHTH AVENUE SENIOR CENTER ON ITS SIX YEARS OF SERVICE

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Ms. VELÁZQUEZ. Mr. Speaker, I rise today to recognize the achievements of the Brooklyn Chinese-American Association, and the sixth anniversary of its Eighth Avenue Senior Center.

For more than a decade, the Brooklyn Chinese-American Association has provided vital assistance to tens of thousands of the Chinese-American residents who constitute one of New York's fastest-growing communities. Six years ago, recognizing a critical need in this community, the Association opened the Eighth Avenue Senior Center, which provides daily congregate meals, citizenship classes, medical check-ups and screenings, monthly birthday parties, field trips and many other services.

Operating out of modest facilities but with exceptional heart and dedication, the center has a membership of almost 2,000 and offers services to over 160 senior members daily.

The centerpiece of this year's sixth anniversary commemoration is the Millennial Roundtable Celebration. Fulfilling an extraordinary and touching ceremony, tables will be organized with seating for 12 seniors who are each at least 84 years of age—totaling 1,000 years. For the first time, to commemorate the end of the century and the turn of the millennium, a Double Millennial Roundtable will be featured, with seating for 23 seniors who are at least 87 years of age and totaling 2,000 years of age.

A poet wrote, "I like spring, but it is too young. I like summer, but it is too proud. So I like best of all autumn, because its tone is mellower, its colors are richer, and it is tinged with a little sorrow. Its golden richness speaks not of the innocence of spring, nor the power of summer, but of the mellowness and kindly wisdom of approaching age."

Mr. Speaker, I urge all my colleagues to join me when I commend the Eighth Avenue Senior Center, and the Brooklyn Chinese-American Association, for its work to ensure golden richness in the lives of our seniors.

PROVIDING FOR CONSIDERATION OF H.R. 2990, QUALITY CARE FOR THE UNINSURED ACT OF 1999, AND H.R. 2723, BIPARTISAN CONSENSUS MANAGED CARE IMPROVEMENT ACT OF 1999

SPEECH OF

HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. INSLEE. Mr. Speaker, I rise in opposition to the rigged rule for debate on the patients' bill of rights. Ever since this session began, I have been working with my colleagues to bring 'bipartisan patients'bill of rights to the floor for a vote. But now that Republicans have been forced to allow a vote on the bipartisan consensus managed care bill, they have written a rule designed to kill the measure.

Instead of providing a fair and open rule considering the patients' bill of rights, the Republican Leadership has stacked the deck by writing a rule that blends the managed care bill with a measure riddled with special interest "poison pills" designed to kill the measure, and that denies us the opportunity to offset any potential revenue losses from the measure.

The Republican Leadership is combining the bipartisan managed care bill with a so-called insurance access bill, which is not paid for. In addition, the Republican leadership is denying a bipartisan group of members the right to offer an amendment to offset the cost of the bill and be fiscally responsible.

If we can defeat this flawed rule, bipartisan advocates of managed care reform will return with a fair and open rule that will permit enactment of managed care reform. My constituents deserve patients' bill of rights. I urge my colleagues to vote down this rule and to support real managed care reform and bipartisan patients' bill of rights.

HONORING THE RAMSEY FIRE DEPARTMENT ON ITS 100TH ANNIVERSARY

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mrs. ROUKEMA. Mr. Speaker, I rise to congratulate the Ramsey Fire Department on its 100th Anniversary. This volunteer unit is one of the finest in New Jersey and deserves the thanks and support of every resident of our community.

Volunteer firefighters are among the most dedicated public servants in our communities. They set aside their own convenience—indeed, their own safety—to protect the lives and property of their neighbors and ask nothing in return. Volunteer firefighters turn out to do their duty in the darkness of freezing winter nights and in the heat of suffocating summer days without hesitation.

The Ramsey Fire Department was established in 1899 with 32 original members. The new fire company made a $25 deposit on their first fire engine, an 1885 Babcock Chemical Wagon purchased second-hand from the Rutherford Fire Department. The Dater family of Ramsey donated property near the railroad tracks for the first firehouse, built at a cost of $197, and the Ramsey Fire Department was in business. The first alarm was a brush fire near the tracks in April and the first building fire followed in January 1900.

The department grew quickly during the early years of the century, soon adding a horse-drawn ladder wagon and going to motorized fire trucks in 1912. A modern pumper was added in 1927 and the Ladies Auxiliary was founded in 1935 with 23 charter members. Additional equipment was purchased in subsequent years and the Island Avenue fire station constructed in 1951 to accommodate the growing fleet. A substation in the form of a three-bay addition to the borough garage was added in the 1960s. The 1970s saw the formation of the Junior Fire Brigade to encourage young people to become involved and a conversion from the traditional "fire engine red" paint scheme on equipment to lime yellow.

The Ramsey Fire Department has twice received the Box 54 Unit Citation Award from the New Jersey-New York Volunteer Firemen's Association for daring rescues, once in 1975 and again in 1984. In 1981, the department found itself the victim of arson when fire destroyed the second floor of the Island Avenue building. The building was repaired and rededicated the next year.

Major renovations of the fire department headquarters on Island Avenue were completed in 1992, including a room to display antique fire apparatus, a new radio room, a chief officer's room, an office for administrative officers and a 150-foot radio communications tower. Since 1996, the headquarters building has been known as the Robert E. Litchult Fire Safety Building in honor of Litchult, who served a record 63 years with the department.

Responding to nationwide difficulties in recruiting volunteer firefighters, the department in 1994 formed a Recruitment and Retention Program to solicit new members.

Throughout its long and distinguished history, the Ramsey Fire Department has protected both lives and property through professionalism, dedication and skill of its many members. The department has grown vastly in personnel, equipment and other resources. Today, it is among the finest firefighting organizations in the State of New Jersey. Members constantly train to improve performance in order to do their jobs as safely and efficiently as possible.

The Ramsey Fire Department has come a long way from its founding. Today's state-of-the-art fire engines and high-tech equipment put Ramsey on par with any other fire department in the region. But it takes more than equipment and buildings to run a fire department. It takes dedicated, hard-working individuals willing to put the safety and property of their neighbors first. People like President Ken Bell and Fire Chief George Sutherland and all the officers and firefighters of the Ramsey Fire Department deserve our most special thanks.

The Ramsey Fire Department was founded 100 years ago on the principle of neighbors helping neighbors. That principal has made the department a success and will continue to do so in the future.

I would like to ask my colleagues in the House to join me in congratulating the Ramsey Fire Department on 100 years of meritorious service to the community, and in paying tribute to the brave and dedicated firefighters who have sacrificed personal safety in response to the needs of others. All past and present members of this very professional "volunteer" fire department deserve our deepest thanks for their work on the behalf of our community.

THE SENIOR CITIZENS PROTECTION ACT

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. LAZIO. Mr. Speaker, I rise today to introduce a bill to cut fraud and abuse in our Medicare system, restore balance in our health care system, and give us all a better quality of life. Federal, state, and local governments need more tools at their disposal to crack down on rampant health care fraud. Congress needs to empower law enforcement to preserve and protect Medicare, decrease the crime rate, and let each and every one of us feel safe and secure in our retirement years.

The Health and Human Services' Office of the Inspector General recently released startling information on their audit of the Health Care Financing Administration (HCFA). According to the audit, the Medicare Program lost $20 billion in fraud and improper payments in Fiscal Year 1997. What is unconscionable is that only $4 billion was recovered.

A recently published Focus Group Study of Medicare Insurance Counselors found that most officials believe a significant amount of fraud exists and continues to undermine the Medicare program. In the study, many experts said HCFA took no action after being notified of fraud. The May 1998 study further cited that HCFA did not have adequate systems and procedures in place to root out fraud.

A major reason health care fraud is at historic levels is because current law bars state officials from even investigating Medicare fraud. They are limited to investigating suspected fraud in the Medicaid. This creates an enforcement gap because an entity defrauding Medicaid is often linked to fraud in other federal health programs.

An example from my district on Long Island illustrates this predicament perfectly. A provider was suspected of defrauding Medicaid. The state and its Medicaid Fraud Control Unit began an investigation. That investigation spilled over into allegations of Medicare fraud and the state could not investigate because it lacked the requisite authority. Despite repeated requests from the state, the Federal Government did not investigate or prosecute the allegations. While the state was trying to wrest control of the investigation for the Federal Government, the provider billed nearly $2 million. If the state had the power to investigate, some fraud could have been stopped and stolen money would have been recovered and returned to the government coffers.

My bill, the Senior Citizens Protection Act of 1999, will empower the states and their Medicaid Fraud Control Units by allowing them to investigate Medicare fraud cases when Medicaid fraud has been alleged.

A second reason health care fraud remains unchecked is because current law prohibits states from investigating patient abuse in assisted living and residential-care facilities. Currently, a state only has the authority to investigate patient abuse in facilities that receive Medicaid reimbursement, usually nursing facilities. Yet today, more and more of our friends and family reside in assisted living and other residential-care facilities. Normally, federal and local governments do not investigate suspected patient abuse in these non-traditional health care facilities and the state lacks the power to delve into these cases. The result is a high number of cases falling through the cracks.

My bill would authorize the states and the Medicaid Fraud Control Units to investigate these patient abuse cases in long-term care facilities.

The government should be doing more—much more—to combat fraud and abuse. "White collar" crimes in the health care industry can be stopped. The Senior Citizens Protection Act requires coordination of anti-fraud efforts, keeps our senior citizens safe, returns all recoveries to the Federal Government, and does not cost the Federal Government anything.

Our government should be given all the tools necessary to combat fraud in our health care system and give Americans the peace of mind that their moms and dads are well cared for in their retirement years. We need to ferret out providers who rip off the system, and Americans need to rest comfortably at night knowing our family members and friends receive the highest quality health care without the fear of being physically, mentally, or financially abused. I urge my colleagues to support the Senior Citizens Protection Act of 1999 because it will provide health care security to our seniors and restore their trust in the people who care for them from morning until night.

HONORING THE MADERA COLLEGE CENTER

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. RADANOVICH. Mr. Speaker, I rise today to honor the Madera College Center for the State Center Community College District. The Board of Trustees for the college held a groundbreaking ceremony for the first permanent building on their campus on September 24, 1999.

The Madera Center has been in existence for approximately 15 years. The college offers a wide variety of programs and opportunities for students. The full-service campus includes a library, bookstore, distance learning classroom, cafeteria, and computer laboratories. Utilizing services and course catalogs from its sister institution, Reedley College, the Madera Community College Center is able to afford its students a choice of more than 40 Associate Degrees and Certificates of Achievement.

The building for which ground was broken will consist of a lecture hall, library, classrooms, laboratories and offices. It is projected that the facility will be completed by August 2000, allowing for the attendance of students for the fall 2000 semester. In addition, parking lots and play fields will be installed as a part of this $12.7 million development project.

Mr. Speaker, I rise to recognize the Madera College Center and its Board of Trustees, for their dedication to providing quality education to students in the Madera area. I urge my colleagues to join me in wishing the Madera Center many more years of success and continued growth.

IN HONOR OF CAPT. CLELL NEIL AMMERMAN, U.S. NAVY (RET.)

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. GALLEGLY. Mr. Speaker, I rise to honor Capt. Clell Neil Ammerman, U.S. Navy (Ret.), who passed away last week.

Captain Ammerman had a long and distinguished career serving his country in the United States Navy. He graduated with honors from the U.S. Naval Academy in 1954 and quickly proved himself as a capable officer. In 1957, he commanded the USS *Ely*, one of the first ships to transit the new St. Lawrence Seaway. In 1958, he was assigned to the National Security Agency, and in 1961 received his master's degree in applied mathematics and physics.

Captain Ammerman returned to the sea, and in August 1964 was involved in the initial action in the Gulf of Tonkin as an officer aboard the USS *Oklahoma City*. In 1967, he completed his work in the field of nuclear weapons effects at the Lawrence Radiation Laboratory in Livermore, California, for which he received the Joint Services Commendation Medal.

After another year at sea, Captain Ammerman served as Assistant to the Deputy Director, Research and Technology, ODDR&E. That stint earned him the Legion of Merit for outstanding management of research and development programs. But a Navy man belongs to the sea, and in September 1971, Captain Ammerman assumed command of the USS *John S. McCain*. Between April and October 1972, Captain Ammerman actively engaged the enemy off the coast of the Republic of Vietnam and was awarded the Bronze Star with the Combat "V."

He then entered the academic life, serving as professor of naval science and commanding officer for the NROTC Unit at UCLA. In 1976, he again returned to sea, then moved to Newport, Rhode Island, in 1978 to command the Navy's prestigious Surface Warfare Officer's School. Finally, he served as Chief of Staff of Battle Force Seventh Fleet, homeported in Subic Bay, the Philippines.

In June of 1984, Captain Ammerman retired from the Navy and settled in Camarillo, California, which is in my district. Until 1995, he continued his relationship with the Navy through his work with naval contractors.

His wife of 20 years, Pamela, is national director of the Navy League of the United States. She has also served as my campaign manager for years. Aside from Pam, Captain Ammerman is survived by six children and four grandchildren.

Mr. Speaker, I know my colleagues will join me for a moment of prayer for Capt. Clell Neil Ammerman, and in sending our condolences to Pam and all of his family.

IN HONOR OF THE IRONBOUND COMMUNITY CORPORATION FOR 30 YEARS OF SERVICE TO NEWARK, NEW JERSEY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize the Ironbound Community Corporation as it celebrates its 30th anniversary of service and dedication to the people of the "Ironbound" and East Ward sections of Newark, NJ.

Serving one of the most ethnically and culturally diverse neighborhoods in the State, the Ironbound Community Corporation (ICC) has been a progressive and vocal force in the community since it opened its door in 1969. it has led the way in addressing the particular needs and concerns faced by a multicultural and multilingual community.

For 30 years, the ICC has planned, implemented, and operated a number of vital programs for residents of the Ironbound. From a nationally accredited preschool child care program to an extensive "Meals on Wheels" delivery service for seniors to environmental clean-ups to GED, English, and college courses, the ICC has worked diligently to improve the quality of life in Newark's Ironbound.

This weekend, led by President Susanna Stradiotti and Executive Director Joseph Della Fave, the ICC will commemorate its 30th anniversary by honoring three members of the community who embody the intent and purpose of the organization and three individuals who directly benefited from ICC's various programs.

This year's three honorees are: Patricia Moreira, Preschool Teacher for 30 years at the Ironbound Children's Center: June Kruszewski, resident of the community for 72 years, volunteer for 20 years, co-chair of the Ironbound Committee Against Toxic Waste, and member of the ICC Board of Trustees; and, Joseph Rendeiro, principal of the Hawkins St. School and former teacher at the Ironbound Adult Education Project.

This year's ICC Success Story honorees are: Rosa Coneicao, graduate of the ICC Adult Education Project, Director of Work First at Essex County College, Fellow at Leadership Newark, and member of the ICC Board of Trustees; Fred Linhares, graduate of the Ironbound Childern's Center, President of the Portuguese American Congress, and Municipal Judge; Ed Norton, graduate of the ICC Community School and Owner/Operator of the Dalfen Printing Co.

For its unwavering commitment to the Ironbound and East Ward sections of Newark, and for its continued leadership in community service, I ask my colleagues to join me in congratulating the Ironbound Community Center on its 30th anniversary.

YWCA OF COBB COUNTY

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

Mr. BARR of Georgia. Mr. Speaker, it is my distinct honor today to recognize the YWCA, and particularly the YWCA of Cobb County for its efforts to combat violence, by celebrating a "Week Without Violence,"from October 17–23.

The YWCA "Week Without Violence"is a public awareness campaign that seeks to advocate practical and sustainable alternatives to violence in our homes, schools, workplaces, and neighborhoods. Since it was launched in 1995, the YWCA "Week Without Violence" has grown from a grassroots initiative into a global movement with women, men, and children participating in events throughout all 50 dates and in more than 20 countries on six continents.

I especially applaud the YWCA of Cobb County for its efforts to bring together people from throughout the community to fight violence against all people, regardless of age, race, income, or sex. The grassroots efforts are an excellent example of Americans joining together to fight for what is right about our great nation. By devoting time and effort to this cause YWCAs across America are demonstrating a widespread desire to improve our communities.

SENATE—*Friday, October 8, 1999*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, all power and authority belongs to You. You hold the universe in Your hands and focus Your attention on the planet Earth. We humble ourselves before You, for You alone are Lord of all nations, and You have called our Nation to be a leader in the family of nations. By Your providence, You have brought to this Senate the men and women through whom You can rule wisely in soul-sized matters that affect the destiny of humankind. With awe and wonder at Your trust in them, the Senators enter executive session today to confront the issues of the Comprehensive Nuclear Test-Ban Treaty.

Grip their minds with three great assurances to sustain them especially today and next Tuesday: You are Sovereign of this land, and they are accountable to You; You are able to guide their thinking, speaking, and decisions if they will but ask You; and You will bring unity so that they may lead our Nation in its strategies of defense, and the world in its shared obligation to use nuclear power for creative and not destructive purposes.

O God of peace, hear our prayer, for You are our Lord and Savior. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MIKE DEWINE, a Senator from the State of Ohio, led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. DEWINE). The acting majority leader is recognized.

SCHEDULE

Mr. KYL. Mr. President, today the Senate will begin consideration of the Comprehensive Nuclear Test-Ban Treaty with debate taking place throughout the day. Debate time is limited to 14 hours and will resume at 9:30 a.m. on Tuesday, October 12. I encourage my colleagues to come to the floor to discuss this important issue.

As a reminder, cloture was filed on the conference report to accompany the Agriculture appropriations bill on Thursday, and by previous consent the Senate will proceed to that cloture vote on Tuesday at 5:30 p.m. It is hoped that the vote regarding the treaty can be stacked to follow the 5:30 vote.

I thank my colleagues for their attention.

PRIVILEGE OF THE FLOOR

Mr. KYL. Mr. President, I ask unanimous consent that Brad Sweet, staff assistant on the Government Affairs Subcommittee on International Security, Proliferation, and Federal Services be given floor privileges during consideration of the Comprehensive Nuclear Test-Ban Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, the Chairman of the Senate Foreign Relations Committee, Senator HELMS, has asked that I manage the time until he is able to arrive, and in that regard I would like to make an opening statement.

EXECUTIVE SESSION

COMPREHENSIVE NUCLEAR TEST-BAN TREATY

The PRESIDING OFFICER. The clerk will report the resolution of ratification.

The legislative clerk read as follows:

> *Resolved, (two-thirds of the Senators present concurring therein),*
>
> That the Senate advise and consent to the ratification of the Comprehensive Nuclear Test-Ban Treaty, opened for signature and signed by the United States at New York on September 24, 1996, including the following annexes and associated documents, all such documents being integral parts of and collectively referred to in this resolution as "Treaty", (contained in Senate Treaty Document 105–28):
>
> (1) Annex 1 to the Treaty entitled "List of States Pursuant to Article II, Paragraph 28";
>
> (2) Annex 2 to the Treaty entitled "List of States Pursuant to Article XIV".
>
> (3) Protocol to the Comprehensive Nuclear Test-Ban Treaty.
>
> (4) Annex 1 to the Protocol.
>
> (5) Annex 2 to the Protocol.

Mr. KYL. Mr. President, let me just pose one unanimous-consent request before we begin. To the extent that it is possible with respect to people in the Chamber ready to make statements, I ask unanimous consent that the debate on the proposition be divided in a way that proponents and opponents speak in opposition to each other, one following the other.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. It has been raised whether or not that is a good idea. As I understand the unanimous-consent request, it is to the extent possible we will try to alternate between Democrat and Republican, opponents and proponents. That is the same as saying, with one exception, for and against. I do not expect that to mean that we would not engage each other in colloquy and debate so we don't just have statement after statement.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. That is precisely why I framed it the way I did.

Mr. DORGAN. Reserving the right to object——

Mr. KYL. It would not be appropriate to say Republican and Democrat, since I know Senator SPECTER would like to speak not in opposition.

Mr. DORGAN. Mr. President, reserving the right to object, I hope the Senator would not put forth any unanimous-consent request. I hope we would simply have an agreement among the two leaders in the Chamber that they will alternate back and forth. The difficulty with a unanimous-consent agreement is you may get a circumstance where you have no one on one side and three or four speakers on the other side.

I think it is practical to manage it the way the Senator has suggested.

Mr. KYL. With the understanding that Senator BIDEN and I just reached, and the Senator just articulated, I withdraw the request, and I assume we can proceed in that fashion.

Mr. President, I rise today to explain why I strongly oppose the Comprehensive Test Ban Treaty that has been submitted to the Senate for its advice and consent.

I think the words of six distinguished Americans who formerly bore the responsibility for safeguarding our nation's security as Secretary of Defense frame the issue before the Senate quite well. In a letter to the majority leader this week, James Schlesinger, Dick Cheney, Frank Carlucci, Caspar Weinberger, Donald Rumsfeld, and Melvin Laird who served as Secretaries of Defense in the Reagan, Bush, Ford, and Nixon administrations, stated:

> As the Senate weighs whether to approve the Comprehensive Test Ban Treaty (CTBT), we believe Senators will be obliged to focus on one dominant, inescapable result were it to be ratified: over the decades ahead, confidence in the reliability of our nuclear weapons stockpile would inevitably decline.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

> thereby reducing the credibility of America's nuclear deterrent.

For this reason, these former Secretaries of Defense conclude that the CTBT is "incompatible with the Nation's international commitments and vital security interests . . . Accordingly, we respectfully urge you and your colleagues to preserve the right of this nation to conduct nuclear tests necessary to the future viability of our nuclear deterrent by rejecting approval of the present CTBT."

I couldn't agree more with the considered judgment of these distinguished Americans who have had the awesome responsibility of maintaining the U.S. nuclear deterrent throughout the cold war and beyond.

Before discussing some of the flaws of the CTBT and how it will undermine the credibility of our nuclear deterrent, a few words on the importance of nuclear deterrence, and the limits of arms control I think are in order.

As my colleagues recall, during the cold war, the Soviet Union enjoyed a tremendous advantage in conventional military forces in Europe. The United States was able to offset this advantage in conventional forces, and to guarantee the security of Western Europe until the cold war ended peacefully, through the maintenance of a credible nuclear deterrent. Our nuclear "umbrella," as it is called, was extended to our allies in other parts of the world as well.

Since the end of the cold war, some have argued that nuclear deterrence is an outdated concept, and the U.S. no longer needs to retain a substantial nuclear weapons capability. However, deterrence is not a product of the cold war and has been around since the beginning of diplomacy and war. Over 2,500 years ago, the Chinese philosopher Sun Tzu wrote about the value of deterrence stating, "To win one hundred victories in one hundred battles is not the acme of skill. To subdue the enemy without fighting is the acme of skill."

Furthermore, the end of the cold war does not mean national security threats to the United States have evaporated. James Woolsey, President Clinton's first Director of Central Intelligence, aptly described the current security environment when he said, "We have slain a large dragon [the Soviet Union]. But we live now in a jungle filled with a bewildering variety of poisonous snakes."

Rogue nations like North Korea, Iran, and Iraq have weapons of mass destruction programs and are hostile to the United States. China is an emerging power whose relationship with the United States has been rocky at best. And Russia retains significant military capabilities, including over 6,000 strategic nuclear warheads.

The gulf war is an excellent case study of the continuing importance of nuclear deterrence in the post-cold-war world. In that conflict, the maintenance of a credible nuclear weapons capability, coupled with the understanding that it was possible that the United States would respond with nuclear weapons if attacked with other weapons of mass destruction, saved lives by deterring such an attack.

As my colleagues recall, Iraq possessed a large arsenal of chemical weapons that it had used against its Kurdish population, and against Iranian troops during the Iran-Iraq war in the 1980s. It is widely acknowledged that Iraq did not use chemical weapons against the United States-led coalition during the gulf war because we possessed a credible nuclear deterrent.

Prior to the start of the gulf war, U.S. leaders practiced the art of deterrence by issuing clear warnings to Saddam Hussein. Secretary of Defense Dick Cheney stated:

> He [Saddam Hussein] needs to be made aware that the President will have available the full spectrum of capabilities. And were Saddam Hussein foolish enough to use weapons of mass destruction, the U.S. response would be absolutely overwhelming and it would be devastating. He has to take that into consideration, it seems to me, before he embarks upon a course of using those kinds of capabilities.

President Bush also sent a strongly worded message to Saddam Hussein which said:

> Let me state, too, that the United States will not tolerate the use of chemical or biological weapons. . . . The American people would demand the strongest possible response. You and your country will pay a terrible price if you order unconscionable acts of this sort.

Iraqi officials have confirmed that these statements deterred Baghdad from using chemical and biological weapons. In 1995, Foreign Minister Tariq Aziz reported to Rolf Ekeus, chairman of the U.N. commission charged with inspecting Iraqi weapons of mass destruction facilities, that Iraq was deterred from using its arsenal of chemical and biological weapons because the Iraqi leadership had interpreted Washington's threats of devastating retaliation as meaning nuclear retaliation.

Aziz's explanation is corroborated by a senior defector, General Wafic Al Sammarai, former head of Iraqi military intelligence, who stated:

> Some of the Scud missiles were loaded with chemical warheads, but they were not used. We didn't use them because the other side had a deterrent force. I do not think Saddam was capable of taking a decision to use chemical weapons or biological weapons, or any other type of weapons against the allied troops, because the warning was quite severe, and quite effective. The allied troops were certain to use nuclear arms and the price will be too dear and too high.

Mr. President, as these statements show, a credible nuclear deterrent remains vitally important to our nation. I would hope that we could begin this debate on the CTBT by agreeing that a strong U.S. nuclear deterrent remains essential and that the Senate should reject any actions that would undermine the credibility of this deterrent.

To the second preliminary point, the fallacy of arms control:

Unfortunately, the CTBT negotiated by the Clinton administration would do just that. This is not surprising since the Clinton administration has sought to protect our national security with a fixation on arms control that columnist Charles Krauthammer aptly calls "Peace through Paper."

Of course, arms control is not a new idea. After all, in the year 1139, the Roman Catholic Church tried to ban the crossbow. Like so many other well-intentioned arms control measures, this one was doomed to failure from the start.

And who can forget the Kellog-Briand treaty, ratified by the United States in 1929, that outlawed war as an instrument of national policy. This agreement and others spawned in its wake left the United States and Britain unprepared to fight and unable to deter World War II.

Yet despite these and many other notable failures, the Clinton administration still looks to arms control as the best way to safeguard our security. Under Secretary of State John Holum explained this philosophy during a speech in 1994, stating.

> The Clinton Administration's policy aims to protect us first and foremost through arms control—by working hard to prevent new threats—and second, by legally pursuing the development of theater defenses for those cases where arms control is not yet successful.

The administration continues to cling tenaciously to the ABM Treaty, which prevents us from defending ourselves against missile attack, and numerous other arms control measures have been proposed by senior officials like Secretary of State Madeleine Albright, such as bans of shoulder-fired surface-to-air missiles, laser weapons, anti-satellite weapons, landmines, and even a proposal to limit the availability of assault rifles.

As George Will has said of the administration's arms control philosophy, "The designation 'superstition' fits because the faith of believers in arms control is more than impervious to evidence, their faith is strengthened even by evidence that actually refutes it."

There is enduring wisdom in President Reagan's statement of "Peace through strength."

In 1780, our Nation's first President, George Washington said, "There is nothing so likely to produce peace as to be well prepared to meet an enemy." Two hundred years later another President, Ronald Reagan, called this doctrine "Peace Through Strength."

I urge Senators to think about the enduring wisdom of these statements in the coming days as we debate the

Comprehensive Test Ban Treaty and the negative effects its ratification would have on our Nation's security.

Let me turn now to a discussion of the CTBT's many flaws.

America's nuclear weapons are the most sophisticated in the world. This was the point of the letter of the former Secretaries of Defense. They pointed out that each one typically has thousands of parts, and over time in nuclear materials and high-explosive triggers in our weapons deteriorate, and we lack the experience predicting the effect of these changes.

Some of the materials used in our weapons, like plutonium, enriched uranium, and tritium, are radioactive materials that decay, and as they decay they also change the properties of other materials within the weapon. We lack experience predicting the effects of such aging on the safety and reliability of our weapons.

We did not design our weapons to last forever. The shelf life of our weapons was expected to be about 20 years. In the past, we did not encounter problems with aging weapons, because we were fielding new designs and older designs were retired. But under the CTBT, we could not field new designs to replace older weapons, because testing would be required to develop new designs.

Remanufacturing components of existing weapons that have deteriorated also poses significant problems. Over time, manufacturing processes will change, some chemicals previously used in the production of our weapons have been banned by environmental regulations, and our documentation of the technical characteristics of older weapons, in some cases, is incomplete. Furthermore, as James Schlesinger—who formerly served as Secretary of defense and Secretary of Energy—has testified to the Senate, the plutonium pits in some of our weapons are approaching the end of this life-span. According to Dr. Schlesinger, one of our national laboratories estimates the pits used in some of our weapons will last 35 years. Since many of the pits used in the current arsenal are about 30 years old, this means that we will soon need to replace these pits. But without testing, we will never know if these replacement parts will work as their predecessors did.

As the former Director of the Lawrence Livermore National Laboratory, Dr. John Nuckolls said last month in a letter to me:

> Key components of nuclear warheads are "aging" by radioactive decay and chemical decomposition and corrosion. Periodic remanufacture is necessary, but may copy existing defects and introduce additional defects. Some of the remanufactured parts may differ significantly from the original parts—due to loss of nuclear test validated personnel who manufactured the original parts, the use of new material and fabrication processes, and inadequate specification of original parts. There are significant risks of reducing stockpile reliability when remanufactured parts are involved in warhead processes where there are major gaps in our scientific understanding.

The fact is that, despite our technical expertise, there is much we still do not understand about our own nuclear weapons. As C. Paul Robinson, Director of the Sandia National Laboratory has aid, "some aspects of nuclear explosive design are still not understood at the level of physical principles."

These gaps in our knowledge do not merely present a theoretical problem. As President Bush noted in a report to Congress in January 1993, "Of all U.S. nuclear weapons designs fielded since 1958, approximately one-third have required nuclear testing to resolve problems arising after deployment."

Furthermore, in 1987, Lawrence Livermore Lab produced a report titled "Report to Congress on Stockpile Reliability, Weapon Remanufacture, and the Role of Nuclear Testing" in which it extolled the importance of testing, noting that ". . . there is no such thing as a 'thoroughly tested' nuclear weapon." The report also goes on to state that of the one-third of weapons designs introduced into the stockpile since 1958 that have required testing to fix, "In three-fourths of these cases, the problems were discovered only because of the ongoing nuclear testing." This report went on to say that "Because we frequently have difficulty understanding fully the effects of changes particularly seemingly small changes on the nuclear performance, nuclear testing has been required to maintain the proper functioning of our nation's deterrent."

Secretary of Defense Caspar Weinberger summed this point up nicely in 1986 when he said:

> The irreducible fact is that nuclear testing is essential to providing for the safety and security of our warheads and weapons systems. It also is essential if we are to maintain their reliability. This is not a matter of conjecture, but a lesson learned through hard experience. For example, in the case of one nuclear system—the warhead for the Polaris [SLBM]—testing allowed us to fix defects that were suddenly discovered. Until corrected, these defects could have rendered the vast majority of weapons in our sea-based deterrent completely inoperable.

The importance of testing to the maintenance of any complex weapon or machine cannot be underestimated. As the six former Secretaries of Defense noted in this letter opposing the CTBT,

> The history of maintaining complex military hardware without testing demonstrates the pitfalls of such an approach. Prior to World War II, the Navy's torpedoes had not been adequately tested because of insufficient funds. It took nearly two years of war before we fully solved the problems that caused our torpedoes to routinely pass harmlessly under the target or to fail to explode on contact. For example, at the Battle of Midway, the U.S. launched 47 torpedo aircraft, without damaging a single Japanese ship. If not for our dive bombers, the U.S. would have lost the crucial naval battle of the Pacific war.

The Clinton administration has proposed a program that it hopes will replace actual nuclear tests with computer simulations and a much greater emphasis on science-based experiments. It is called the Stockpile Stewardship Program. According to the Fiscal Year 2000 Stockpile Stewardship Plan Executive Overview, released by the Department of Energy in March this year:

> The overall goal of the Stockpile Stewardship program is to have in place by 2010 . . . the capabilities that are necessary to provide continuing high confidence in the annual certification of the stockpile without the necessity for nuclear testing.

I support the Stockpile Stewardship Program because it will improve our knowledge about our nuclear weapons. But as former Secretary of State Henry Kissinger, former National Security Advisor Brent Scowcroft, and former CIA Director John Deutch said in a letter this week, "the fact is that the scientific case simply has not been made that, over the long term, the United States can ensure the nuclear stockpile without nuclear testing."

First, the Stockpile Stewardship Program faces tremendous technical challenges. As the Director of Sandia National Laboratories, Dr. Robinson has said, "the commercially available and laboratory technologies of today are inadequate for the stockpile stewardship tasks we will face in the future. Another hundred-to-thousand-fold increase in capability from hardware and software combined will be required."

Dr. Victor Reis, the architect of the stewardship program, said this about it during a speech in Albuquerque:

> Think about it—we are asked to maintain forever, an incredibly complex device, no larger than this podium, filed with exotic, radioactive materials, that must create, albeit briefly, temperatures and pressures only seen in nature at the center of stars; do it without an integrating nuclear test, and without any reduction in extraordinarily high standards of safety and reliability. And, while you're at it downsize the industrial complex that supports this enterprise by a factor of two, and stand up critical new manufacturing processes.
>
> This within an industrial system that was structured to turn over new designs every fifteen years, and for which nuclear explosive testing was the major tool for demonstrating success.

Senior officials at the Department of Energy and our nuclear labs are generally careful in how they couch their remarks about the Stockpile Stewardship Program. They typically state that the stewardship program is the best approach to maintaining our weapons in the absence of testing. But they are also careful not to guarantee that, despite the unquestioned brilliance of the scientists, the Stockpile Stewardship Program will succeed in replacing testing.

In fact, the Stockpile Stewardship Program has already experienced setbacks. For example, the National Ignition Facility, which is the linchpin of the program, has recently fallen behind schedule and is over budget. It still faces a critical technical uncertainty about a major goal of its design: will it be able to achieve thermonuclear ignition?

Another problem with relying on computer simulation to replace testing is the increased risk of espionage. Former Lawrence Livermore National Lab Director John Nuckolls made this point in his letter to me as well: "Espionage is facilitated when U.S. progress is frozen, and classified information is being concentrated and organized in electronic systems." In short, in order to achieve the vast increases in computing power required for the stewardship program, much of the computer code required for the program will be written by hundreds of people at participating universities and colleges—in many cases by people who are not even American citizens.

Mr. President, the bottom line is that a credible nuclear deterrent is just too important to put all our eggs in the stewardship basket.

In addition to impairing the reliability of our nuclear arsenal, the CTBT will prevent us from making our nuclear weapons as safe as they can be. This is extraordinarily important.

Nuclear weapon safety has always been a paramount concern of the United States. Throughout the history of our nuclear weapons program, we have made every effort to ensure that even in the most violent of accidents there would be the minimum chance of a nuclear explosion or radioactive contamination. The results of such an accident would be catastrophic.

That's why President Clinton's Secretary of Defense, Bill Cohen, opposed a test moratorium when he was a Senator. During debate on an amendment imposing a moratorium on testing, August 3, 1993, then-Senator Cohen said,

> A vote to halt nuclear testing today is a vote to condemn the American people to live with unsafe nuclear weapons in their midst for years and years—indeed until nuclear weapons are eliminated. Not just a few unsafe nuclear weapons, but a nuclear stockpile in which most of the weapons do not have critical safety features.

I digress a moment to note when he was asked about this statement this week, now-Secretary Cohen said, we have replaced those weapons with weapons in our inventory now that are safe.

I know defense Secretary Cohen would agree, that is not a correct statement. All of the weapons in our current inventory lack one or more of the essential safety features that we have been talking about here.

As the Director of Los Alamos National Lab, Dr. Sig Hecker, indicated in a letter to me in 1997, "with a CTBT it will not be possible to make some of the potential safety improvements for greater intrinsic warhead safety that we considered during the 1990 time frame." The reason is that nuclear tests must be done in many cases to confirm that once new safety features are incorporated, the weapons are reliable and still operate as intended. The CTBT makes it pointless to try to invent new, improved safety features because they could not be adopted without nuclear testing. Even worse, the CTBT eliminates the possibility of improving the safety of current weapons through the incorporation of existing, well understood safety features.

Safety features include items such as insensitive high explosive and fire resistant pits. Insensitive high explosive in the primary of a nuclear weapon is intended to prevent the premature detonation of the high explosive trigger, resulting in a potential nuclear explosion should the weapon be subjected to unexpected stress, like being dropped or penetrated by shrapnel or a bullet. Fire resistant pits are intended to prevent the dispersal of plutonium resulting in radioactive contamination of an area should the weapon be exposed to a fire, such as an accidental blaze during loading of a weapon on an aircraft.

Unfortunately, few people know that many of our current weapons do not contain all the safety features that already have been invented by our National Laboratories. Only one of the nine weapons in the current stockpile incorporates all six available safety features. In fact, three of the weapons in the stockpile—the W78 warhead, which is used on the Minuteman III ICBM, and the W76 and W88 warheads, which sit atop missiles carried aboard Trident submarines—incorporate only one of the six safety features. Another weapon, the W62 warhead, does not have any of the six safety features incorporated into its design.

The bottom line is that a ban on nuclear testing prevents us from making our weapons as safe as we know how to make them and creates a disincentive to making such safety improvements.

Mr. President, another point I think is extraordinarily important as we debate this CTBT is that the purpose of the treaty cannot be achieved by its ratification. In addition to undermining our nuclear deterrent, as I have just spoken to, the treaty will not achieve its goal of halting nuclear proliferation.

Supporters of the treaty say the United States must lead by example, and that by halting nuclear tests ourselves, we will persuade others to follow our example. Yet the history of the last eight years shows this theory is false. Since the United States halted testing in 1992, India, Pakistan, Russia, China, and France have all conducted tests.

Furthermore, the CTBT will not establish a new international norm against nuclear weapons testing or possession. The Nuclear Nonproliferation Treaty, the NPT ratified by 185 countries has already established such a norm. The NPT calls for parties to the treaty, other than the five declared nuclear powers—the United States, the United Kingdom, Russia, China, and France—to pledge not to pursue nuclear weapons programs.

Yet North Korea and Iraq, to name two who are parties to the NPT, have, of course, violated it. They have pursued nuclear weapons programs despite their solemn international pledge never to do so. The CTBT will not add anything useful to the international nonproliferation regime since these nations, in effect, would be pledging not to test the nuclear weapons they have already promised never to have under the NPT. So much for the international norm.

Nor will the CTBT pose a significant impediment to the acquisition of nuclear weapons by rogue nations since, although nuclear testing is essential to maintaining the sophisticated nuclear weapons in the U.S. arsenal today, it is not required to develop relatively simple first-generation nuclear devices, like those needed or being developed by Iran and Iraq. For example, the United States bomb dropped on Hiroshima was never tested, and the Israeli nuclear arsenal has been constructed without testing.

Incidentally, the Clinton administration does not dispute this point. In Senate testimony in 1997, CIA Director George Tenet stated:

> Nuclear testing is not required for the acquisition of a basic nuclear weapons capability (i.e. a bulky, first-generation device with high reliability but low efficiency.) Tests using high-explosive detonations only ([with] no nuclear yield) would provide reasonable confidence in the performance of a first generation device. Nuclear testing becomes critical only when a program moves beyond basic designs to incorporate more advanced concepts.

I believe Director Tenet is absolutely correct, based on the letter of the Secretary of Defense that I quoted earlier. We can't afford to underestimate the weapon described by Director Tenet—a "bulky, first generation device with high reliability but low efficiency" is a lot like the bomb we dropped on Hiroshima to change world history. It is a strategic weapon—if North Korea or Iran were able to deploy such a weapon, they could—to put it mildly—severely reduce our ability to protect our interests in East Asia or the Persian Gulf. These are weapons that would be designed to intimidate and kill large numbers of people in cities, not destroy purely military targets, as the United States weapons are designed to do.

Another problem with the CTBT is that it is totally unverifiable. It cannot be verified despite the vast array of expensive sensors and detection technology being established under the treaty, so it will be possible for other nations to conduct militarily significant nuclear testing with little or no risk of detection. Effective verification requires high confidence that militarily significant cheating will be detected in a timely manner. The United States cannot now, and will not in the near future, be able to confidently detect and identify militarily significant nuclear tests of one kiloton or less by the way, that is roughly 500 times larger than the blast which destroyed the Murrah Building in Oklahoma City. We cannot detect a test of that magnitude.

What is "militarily significant" nuclear testing? Definitions of the term might vary, but I think we'd all agree that any nuclear test that gives a nation information to maintain its weapons or to develop newer, more effective weaponry is militarily significant.

In the course of U.S. weapons development, nuclear tests with yields between 1 kiloton and 10 kilotons have generally been large enough to provide "proof" data on new weapons designs. Other nations might have weaponry that could be assessed at even lower yields. As we know, crude but strategically significant weapons, like the bomb we dropped on Hiroshima, don't need to be tested at all. But for the sake of argument, let's be conservative and assume that other nations would also need to conduct tests at a level above 1 kiloton to develop a new nuclear weapon design.

The verification system of the CTBT is supposed to detect nuclear blasts above 1 kiloton, so it would seem at first glance that it will be likely that most cheaters would be caught. But look at the Treaty's fine print—the CTBT's International Monitoring System will be able to detect tests of 1 kilotons or more if they are nonevasive. This means that the cheater will be caught only if he does not try to hide his nuclear test.

But what if he does want to hide it? What if he conducts his test evasively?

It is a very simple task for Russia, China, or others to hide their nuclear tests. One of the best known means of evasion is detonating the nuclear device in a cavity such as a salt dome or a room mined below ground. Because it surrounds the explosion with empty space, this technique—called decoupling—reduces the noise, or the seismic signal, of the nuclear detonation.

The signal of a decoupled test is so diminished—by as much as a factor of 70—that it will not be possible to reliably detect it. For example, a 1,000-ton hidden test would have a signal of a 14-ton open test. This puts the signal of the illicit test well below the threshold of detection.

Decoupling is a well-known technique and is technologically simple to achieve. In fact, it is quite possible that Russia and China have continued to conduct nuclear testing during the past 7 years, while the United States has refrained from doing so. They could have done so by decoupling.

There are also other means of cheating that can circumvent verification. One is open-ocean testing. A nation could put a device on a small boat or barge, tow it into the ocean, and detonate it anonymously. It would be virtually impossible to link the test to the cheater.

While evasive techniques are expensive and complex, the costs are relatively low compared to the expense of a nuclear weapons program, and no more complicated than weapons design. Further, established nuclear powers are well positioned to conduct clandestine testing to assure the reliability and undertake at least modest upgrades of their arsenals. Russia and China do not have good records on compliance with arms control and nonproliferation commitments. In addition, according to the Washington Times, United States intelligence agencies believe China conducted a small underground nuclear test in June and Russia is believed to have conducted a nuclear test earlier this month. While neither country has ratified the CTBT, both have signed the treaty and have promised to adhere to a testing moratorium. Again, so much for the norm.

The bottom line is that a determined country has several means to conceal its weapons tests and the CTBT is not effectively verifiable.

Let me stress here that my assessment is not based on opinions. Our inability to verify a whole range of nuclear testing is well-known and has been affirmed by the U.S. Intelligence Community. As the Washington Post reported earlier this week, our intelligence agencies lack the ability to confidently detect low-yield tests. We would be irresponsible in the extreme to ratify an unverifiable arms control treaty—especially when that treaty will inevitably reduce our confidence in our own nuclear deterrent.

President Clinton's first Director of the Central Intelligence Agency, James Woolsey, summed up the problems with verification of the treaty stating in Senate testimony that,

> I believe that a zero-yield Comprehensive Test Ban Treaty is extraordinarily difficult, to the point of near impossibility—and possibly to the point of impossibility—to verify from afar.

In addition to the negative consequences that would result from treaty ratification, I would also point out that this accord is very poorly crafted. The CTBT is weakest at its very foundation—it actually fails to say what it bans. Nowhere in its 17 articles and 2 annexes are the terms "nuclear weapon test explosion" or "nuclear explosion" defined or quantified and these are the terms used in the treaty's basic obligations.

Acting Under Secretary of State John Holum admitted this point in responses to questions for the record on June 29 of this year stating:

> The U.S. decided at the outset of negotiations not to seek international agreement on a definition of "nuclear weapon test explosion" in the Treaty text. The course of negotiations confirmed our judgment that it would have been extremely difficult, and possibly counterproductive, to specify in technical terms what is prohibited by the Treaty.

May I read that again:

> The course of negotiations confirmed our judgment that it would have been extremely difficult, and possibly counterproductive, to specify in technical terms what is prohibited by the Treaty.

But another nation might choose to apply a less restrictive definition and conduct very low-yield testing, what we call hydronuclear testing. While the United States interprets the treaty to ban all nuclear explosives testing—that is why they call it a zero ban test—other nations could conduct very low-yield testing, as I said, which we could not verify but which they would consider in compliance with the treaty. This so-called hydronuclear testing is very useful to nuclear weapons programs by helping improve the understanding of fundamental nuclear weapons physics, develop new weapons concepts, ascertain existing weapons' reliability, and exercise the skills of scientists, engineers, and technicians. The nuclear energy released in a hydronuclear test can be less than the equivalent released by four pounds of conventional high explosives. This is virtually nothing, and such a low-yield test would almost certainly escape detection.

This is where the treaty's vagueness is actually harmful to our interests. Even if we were able to detect it, the nation conducting a hydronuclear test could simply argue that it was legal under the treaty. And they would have the historical CTBT negotiating record on their side. Many drafts of the CTBT prior to the Clinton administration allowed for low-yield "permitted experiments."

The verification regime of the CTBT—centered around the International Monitoring System, or IMS—will not be able to detect tests with far greater yields than hydronuclear tests. These tests can be conducted with virtually no risk of detection by either the IMS system or U.S. technical means.

There is much more to say about this treaty, but I believe I have outlined the primary reasons why the only prudent course for the Senate is to reject the CTBT. It will jeopardize rather than enhance our national security. It will undermine our vital nuclear deterrent by jeopardizing the reliability of our nuclear stockpile. It will prevent us from making our weapons as safe as they can be. It will not stop nuclear proliferation, and it is not verifiable. It is not worthy of Senate approval.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Delaware.

Mr. BIDEN. Mr. President, I am anxious to respond point by point to my friend. I suggest, to believe his arguments, as the old saying goes, requires the suspension of disbelief. I find them to be well intended but half true. I will be very specific about each one of them, beginning with this notion of the value of deterrence.

I find it fascinating, my colleagues talk about these other nations can have a Hiroshima-type bomb and build without testing and that would radically affect our security; yet we cannot rely in the future on our certainty of 6,000 sophisticated nuclear weapons in the stockpile. I urge my friends to read today's New York Times and Washington Post where our allies are apoplectic about the fact my colleagues are going to reject this treaty.

The absolute notion that this idea is—don't let them kid you about this debate, folks, anybody watching this. You do not have to be a nuclear scientist to understand. You do not have to be a sophisticated foreign policy specialist to grasp what is at stake.

Think of it this way when they tell you the security of our nuclear stockpile is going to become so unreliable over time, that, as Dr. Schlesinger has said and my friend from Arizona has alluded, our enemies are going to know we do not have confidence in it and that is going to embolden them, and our allies such as Germany and Japan are going to go nuclear because they cannot count on us.

That is fascinating. Why did all of our allies sign and ratify this treaty? Why are they apoplectic about the prospect that we will not sign this treaty? I ask my colleagues when is the last time they can remember the Prime Minister of Great Britain or the President of France saying publicly: My Lord, I hope the Senate doesn't do that.

You cannot have it both ways. This is an argument that I find absolutely preposterous. Although one can technically make it, it does require the suspension of disbelief in order to arrive at that conclusion.

One has to be an incredible pessimist to conclude that the 6,000 nuclear weapons configured in nine different warheads are going to atrophy after spending $45 billion over the next 10 years, and after having been able to certify without testing for the last 3 years that it is in good shape, that some nation is going to say: We got them now, guys; I know they don't believe their system is adequate; maybe one of those bombs won't go off, maybe 10 of them, maybe 100 of them, maybe 1,000 of them, maybe 3,000 of them.

We still have 3,000 left. Back when the Senator from Nebraska and I were kids and Vietnam was kicking up, we used to see bumper stickers: One atom bomb can ruin your day.

I am going to go into great detail on every point my friend raised and talk about, for example, the idea we cannot modernize these weapons when we find a defect; we cannot deal with them without testing.

Dr. Garwin yesterday—one of the most brilliant scientists we have had, who has been involved in this program since 1950—says, you can replace the whole physics package without changing.

By the way, I am going to yield to my friend from Pennsylvania.

Names are mentioned here: Dr. Robinson, of Sandia; Victor Reis, the architect of the program, whom I spent 2½ hours with the other day. They do not tell you the end of the sentence. The end of the sentence is: They both are for this treaty. They both are for this treaty, along with 32 Nobel laureates in physics. I ask unanimous consent that the list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A Letter From Physics Nobel Laureates

To Senators of the 106th Congress:

We urge you to ratify the Comprehensive Test Ban Treaty.

The United States signed and ratified the Limited Test Ban Treaty in 1963. In the years since, the nation has played a leadership role in actions to reduce nuclear risks, including the Non-Proliferation Treaty extension, the ABM Treaty, STARTs I and II, and the Comprehensive Test Ban Treaty negotiations. Fully informed technical studies have concluded that continued nuclear testing is not required to retain confidence in the safety, reliability and performance of nuclear weapons in the United States' stockpile, provided science and technology programs necessary for stockpile stewardship are maintained.

The Comprehensive Test Ban Treaty is central to future efforts to halt the spread of nuclear weapons. Ratification of the Treaty will mark an important advance in uniting the world in an effort to contain and reduce the dangers of nuclear arms. It is imperative that the CTBT be ratified.

Philip W. Anderson, Princeton University, 1977 Nobel Prize; Hans A. Bethe, Cornell University, 1967 Nobel Prize; Nicolaas Bloembergen, Harvard University 1981 Nobel Prize; Owen Chamberlain, UC, Berkeley, 1959 Nobel Prize; Steven Chu, Stanford University, 1997 Nobel Prize; Leon N. Cooper, Brown University, 1972 Nobel Prize; Hans Dehmelt, University of Washington, 1989 Nobel Prize; Bal L. Fitch, Princeton Unversity, 1980 Nobel Prize; Jerome Friedman, MIT, 1990 Nobel Prize; Donald A. Glaser, UC, Berkeley, 1960 Nobel Prize; Sheldon Glashow, Harvard University, 1979 Nobel Prize; Henry W. Kendall, MIT, 1990 Nobel Prize; Leon M. Lederman, Illinois Institute of Technology, 1988 Nobel Prize; David M. Lee, Cornell University, 1996 Nobel Prize; T.D. Lee, Columbia University, 1957 Nobel Prize; Douglas D. Osheroff, Stanford University 1996 Nobel Prize;

Arno Penzias, Bell Labs, 1978 Nobel Prize; Martin L. Perl, Stanford University, 1995 Nobel Prize; William Phillips, Gaithersburg, 1997 Nobel Prize; Norman F. Ramsey, Harvard, 1989 Nobel Prize; Robert C. Richardson, Cornell University, 1996 Nobel Prize; Burton Richter, Stanford University, 1976 Nobel Prize; Arthur L. Schawlow, Stanford University, 1981 Nobel Prize; J. Robert Schrieffer, Florida State University, 1972 Nobel Prize; Mel Schwartz, Columbia University, 1988 Nobel Prize; Clifford G. Shull, MIT, 1994 Nobel Prize; Joseph H. Taylor, Jr., Princeton University, 1993 Nobel Prize; Daniel C. Tsui, Princeton, 1998 Nobel Prize; Charles Townes, UC, Berkeley, 1964 Nobel Prize; Steven Weinberg, Univ. of Texas, Austin, 1979 Nobel Prize; Robert W. Wilson, Harvard-Smithsonian, 1978 Nobel Prize; Kenneth G. Wilson, Ohio State University, 1982 Nobel Prize.

Mr. BIDEN. Five of the last six Chairmen of the Joint Chiefs of Staff are for this treaty, along with people such as Paul Nitze of the Reagan administration, Stansfield Turner, Charles Curtis, and so on. I ask unanimous consent that a list of those in support of the treaty be printed in the RECORD

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Prominent Individuals and National Groups in Support of the CTBT

CURRENT CHAIRMAN AND FORMER CHAIRMEN OF THE JOINT CHIEFS OF STAFF

General Hugh Shelton, Chairman of the Joint Chiefs of Staff.

General John Shalikashvili, former Chairman of the Joint Chiefs of Staff.

General Colin Powell, former Chairman of the Joint Chiefs of Staff.

General David Jones, former Chairman of the Joint Chiefs of Staff.

Admiral William Crowe, former Chairman of the Joint Chiefs of Staff.

FORMER MEMBERS OF CONGRESS

Senator John C. Danforth.
Senator J. James Exon.
Senator Nancy Kassebaum Baker.
Senator Mark O. Hatfield.
Senator John Glenn.
Representative Bill Green.
Representative Thomas J. Downey.
Representative Michael J. Kopetski.
Representative Anthony C. Beilenson.
Representative Lee H. Hamilton.

DIRECTORS OF THE THREE NATIONAL LABORATORIES

Dr. John Browne, Director of Los Alamos National Laboratory.

Dr. Paul Robinson, Director of Sandia National Laboratory.

Dr. Bruce Tarter, Director of Lawrence Livermore National Laboratory.

OTHER PROMINENT NATIONAL SECURITY OFFICIALS

Ambassador Paul H. Nitze, arms control negotiator, Reagan Administration.

Admiral Stansfield Turner, former Director of the Central Intelligence Agency.

Charles Curtis, former Deputy Secretary of Energy.

OTHER PROMINENT MILITARY OFFICERS

General Eugene Habiger, former Commander-in-Chief of Strategic Command.

General John R. Galvin, Supreme Allied Commander, Europe.

Admiral Noel Gayler, former Commander, Pacific.

General Charles A. Horner, Commander, Coalition Air Forces, Desert Storm, former Commander, U.S. Space Command.

General Andrew O'Meara, former Commander U.S. Army Europe.

General Bernard W. Rogers, former Chief of Staff, U.S. Army; former NATO Supreme Allied Commander.

General William Y. Smith, former Deputy Commander, U.S. Command, Europe.

Lt. General Julius Becton.

Lt. General John H. Cushman, former Commander, I Corps (ROK/US) Group (Korea).

Lt. General Robert E. Pursley.

Vice Admiral William L. Read, former Commander, U.S. Navy Surface Force, Atlantic Command.

Vice Admiral John J. Shanahan, former Director, Center for Defense Information.

Lt. General George M. Seignious, II, former Director Arms Control and Disarmament Agency.

Vice Admiral James B. Wilson, former Polaris Submarine Captain.

Maj. General William F. Burns, JCS Representative, INF Negotiations, Special Envoy to Russia for Nuclear Dismantlement.

Rear Admiral Eugene J. Carroll, Jr., Deputy Director, Center for Defense Information.

Rear Admiral Robert G. James.

OTHER SCIENTIFIC EXPERTS

Dr. Hans Bethe, Nobel Laureate, Emeritus Professor of Physics, Cornell University; Head of the Manhattan Project's theoretical division.

Dr. Freeman Dyson, Emeritus Professor of Physics, Institute for Advanced Study, Princeton University.

Dr. Richard Garwin, Senior Fellow for Science and Technology, Council on Foreign Relations; consultant to Sandia National Laboratory, former consultant to Los Alamos National Laboratory.

Dr. Wolfgang K.H. Panofsky, Director Emeritus, Stanford Linear Accelerator Center, Stanford University.

Dr. Jeremiah D. Sullivan, Professor of Physics, University of Illinois at Urbana-Champaign.

Dr. Herbert York, Emeritus Professor of Physics, University of California, San Diego; founding director of Lawrence Livermore National Laboratory; former Director of Defense Research and Engineering, Department of Defense.

Dr. Sidney D. Drell, Stanford Linear Accelerator Center, Stanford University.

MEDICAL AND SCIENTIFIC ORGANIZATIONS

American Association for the Advancement of Science.

American Medical Students Association/Foundation.

American Physical Society.

American Public Health Association.

American Medical Association.

PUBLIC INTEREST GROUPS

20/20 Vision National Project.

Alliance for Nuclear Accountability.

Alliance for Survival.

Americans for Democratic Action

Arms Control Association.

British American Security Information Council.

Business Executives for National Security.

Campaign for America's Future.

Campaign for U.N. Reform.

Center for Defense Information.

Center for War/Peace Studies (New York, NY).

Council for a Livable World.

Council for a Livable World Education Fund.

Council on Economic Priorities.

Defenders of Wildlife.

Demilitarization for Democracy.

Economists Allied for Arms Reduction (ECAAR).

Environmental Defense Fund.

Environmental Working Group.

Federation of American Scientists.

Fourth Freedom Forum.

Friends of the Earth.

Fund for New Priorities in America.

Fund for Peace.

Global Greens, USA.

Global Resource Action Center for the Environment.

Greenpeace, USA.

The Henry L. Stimson Center.

Institute for Defense and Disarmament Studies (Saugus, MA).

Institute for Science and International Security.

International Association of Educators for World Peace (Huntsville, AL).

International Physicians for the Prevention of Nuclear War.

International Center.

Izaak Walton League of America.

Lawyers Alliance for World Security.

League of Women Voters of the United States.

Manhattan Project II.

Maryknoll Justice and Peace Office.

National Environmental Coalition of Native Americans (NECONA).

National Environmental Trust.

National Commission for Economic Conversion and Disarmament.

Natural Resources Defense Council.

Nuclear Age Peace Foundation.

Nuclear Control Institute.

Nuclear Information & Resource Service.

OMB Watch.

Parliamentarians for Global Action.

Peace Action.

Peace Action Education Fund.

Peace Links.

PeacePAC.

Physicians for Social Responsibility.

Plutonium Challenge.

Popualtion Action Institute.

Population action International.

Psychologists for Social Responsibility.

Public Citizen.

Public Education Center.

Safeworld.

Sierra Club.

Union of Concerned Scientists.

United States Servas, Inc..

Veterans for Peace.

Vietnam Veterans of America Foundation.

Volunteers for Peace, Inc.

War and Peace Foundation.

War Resistors League.

Women Strike for Peace.

Women's Action for New Directions.

Women's Legislators Lobby of WAND.

Women's International League for Peace and Freedom.

World Federalist Association.

Zero Population Growth.

RELIGIOUS GROUPS

African Methodist Episcopal Church.

American Baptist Churches, USA.

American Baptist Churches, USA, National Ministries.

American Friends Service Committee.

American Jewish Congress.

American Muslim Council.

Associate General Secretary for Public Policy, National Council of Churches.

Catholic Conference of Major Superiors of Men's Institutes.

Church Women United.

Coalition for Peace and Justice.

Columbian Fathers' Justice and Peace Office.

Commission for Women, Evangelical Lutheran Church in America.

Covenant of Unitarian Universalist Pagans.

Christian Church (Disciples of Christ) in the United States and Canada.

Christian Methodist Episcopal Church.

Church of the Brethren, General Board.

Division of Church in Society, Evangelical Lutheran Church in America.

Division for Congressional Ministries, Evangelical Lutheran Church in America.

Eastern Archdiocese, Syrian Orthodox Church of Antioch.

The Episcopal Church.

Episcopal Peace Fellowship, National Executive Council.

Evangelicals for Social Action.

Evangelical Lutheran Church in America.

Fellowship of Reconciliation.

Friends Committee on National Legislation.

Friends United Meeting.

General Board Members, Church of the Brethren.

General Board of Church and Society, United Methodist Church.

General Conference, Mennonite Church.

General Conference of the Seventh Day Adventist Church.

Jewish Peace Fellowship.

Lutheran Office for Governmental Affairs, Evangelical Lutheran Church in America.

Mennonite Central Committee.

Mennonite Central Committee, U.S.

Mennonite Church.

Methodists United for Peace with Justice.

Missionaries of Africa.

Mission Investment Fund of the ELCA, Evangelical Lutheran Church in America.

Moravian Church, Northern Province.

National Council of Churches.

National Council of Churches of Christ in the USA.

National Council of Catholic Women.

National Missionary Baptist Convention of America.

NETWORK: A National Catholic Social Justice Lobby.

New Call to peacemaking.

Office for Church in Society, United Church of Christ.

Orthodox Church in America.

Pax Christi.

Presbyterian Church (U.S.A.).

Presbyterian Peace Fellowship.

Progressive National Baptist Convention, Inc.

Religious Action Center of Reform Judaism.

The Shalom Center.

Sojourners.

Union of American Hebrew Congregations.

United Church of Christ.

United Methodist Church.

United Methodist Council of Bishops.

Unitarian Universalist Association.

Washington Office, Mennonite Central Committee.

Women of the ELCA, Evangelical Lutheran Church in America.

Sources: Coalition to Reduce Nuclear Dangers and Statement by President Clinton, 7/20/99.

Mr. BIDEN. Mr. President, this idea that the stockpile is not going to be reliable, that you can't—we have thousands of parts, and the Russians have missiles with bombs with only 100 parts, and that has some significance. I have said it before.

I will yield now. I used to practice law with a guy named Sidney Balick—a good trial lawyer. Every time he would start a jury trial, he would start off by saying: I want you to take a look at my client. I want you to look at him. They're going to tell you he's not such a good looking guy. He's not. They're going to tell you you would not want to invite him home for dinner to meet your daughter. I wouldn't either. They're going to tell you—and he would go on like that. But he would say: I want you to keep your eye on the ball. Keep your eye on the ball. Follow the bouncing ball. Did he kill Cock Robin? That is the question.

The question is, At the end of the day, if we reject this treaty, are we better off in terms of our strategic interest and our national security or are we better off if we accept and ratify the treaty that all our allies have ratified? Which is better? Keep your eye on the ball.

I will respond, as I said, in due time to every argument my friend has made, from "the safety features argument" to "the purpose can't be achieved" to "nations that don't have sophisticated weapons are going to be able to cheat," and so on and so forth. But in the meantime, out of a matter of comity, which is highly unusual, because I should do a full-blown opening statement, I will yield to my friend from Pennsylvania because he has other commitments. Then I will come back to a point-by-point rebuttal of the statement by my friend from Arizona.

How much time is the Senator seeking?

Mr. SPECTER. I think I can do it in 20 minutes. It might take a little longer.

Mr. BIDEN. It can't take any longer. I will yield 20 minutes to the Senator.

PRIVILEGE OF THE FLOOR

I ask unanimous consent that Patrick Cottrell be able to be on the floor for the remainder of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. SPECTER. I thank the Senator from Delaware for yielding me time at this time.

Mr. President, this debate on the Comprehensive Test Ban Treaty may one day be classified as a historic debate. The issue which is being framed today, in my opinion, is the most important treaty issue, international issue which has faced this Senate since the Treaty of Versailles, which was rejected by the Senate, setting off an era of isolationism and, for many, enormous international problems resulting in World War II.

It is my hope this treaty will be ratified. I do not expect it to be ratified in a vote on Tuesday because the picture is clear that there are not enough Senators to provide the two-thirds constitutional balance. But it is my hope before that scheduled vote arises on Tuesday that we will have worked out an operation to defer the vote on this treaty.

I agree with my distinguished colleague from Arizona, Senator KYL, that a nuclear deterrent is vital for the national security of the United States. When he cites the Comprehensive Test Ban Treaty as being negotiated by the Clinton administration—really an idea of the Clinton administration—I would point to the statements of President Eisenhower more than 40 years ago when he articulated the national interest in a comprehensive test ban treaty.

In a speech on August 22, 1958, President Eisenhower said this:

> The United States . . . is prepared to proceed promptly to negotiate an agreement with other nations which have tested nuclear weapons for the suspension of nuclear weapons tests. . . .

In a very succinct statement in a letter to Bulganin, on January 12, 1958, President Eisenhower said:

> . . . that, as part of such a program which will reliably check and reverse the accumulation of nuclear weapons, we stop the testing of nuclear weapons, not just for two or three years, but indefinitely.

It is hard to give a more emphatic bipartisan flavor than President Eisenhower's specific statements.

When the Senator from Arizona cites a list of six preeminent former Secretaries of Defense, I say that is, indeed, impressive. I would look to the assurances which we have today from Gen. Hugh Shelton, the Chairman of the Joint Chiefs of Staff, and the Secretary of Defense, William Cohen, in analyzing the two basic issues which have been set forth in the parameters by Senator KYL. And they are: Can we assure stability of our stockpile? Can we reasonably verify compliance by others?

There is a balance of risks. There is no test which will be absolute in its terms. But the essential question on balancing the risks and balancing the judgment is whether we would be better off with the Comprehensive Test Ban Treaty or without it.

The United States has an enormous lead on nuclear weapons. We have the nuclear deterrent. We have seen other nations—India and Pakistan—starting the test process. We have reason to be gravely concerned about North Korea's capacity with nuclear weapons. We worry about rogue nations such as Iraq, Iran, Libya, and others. So that, at least as I assess the picture, on a balance of risks, we are much better off if we limit testing than if we proceed to have testing.

The Stockpile Stewardship Program, I think, is reasonably effective. Is it perfect? No, it is not. The issue of verification, I think, is reasonably effective. It does not get some of the low-yield weapons. And activities are underway to try to solve that.

Secretary of Energy Richardson was in Moscow within the past week working with the Soviets on the so-called transparency test—illustrative of one of the efforts among many being undertaken to narrow the gap on verification. But again, it is a matter of balancing the risks. With or without the treaty, where are we better off?

I had an occasion to talk to Gen. Hugh Shelton, Chairman of the Joint Chiefs of Staff, earlier this week. I asked General Shelton the details of these questions, about the stability of our nuclear stockpile and the verification procedures. General Shelton said that we were in good shape on both issues.

Then I asked General Shelton the obvious question: Was his view, was his judgment colored to any extent by being in the administration of President Clinton as President Clinton's Chairman of the Joint Chiefs of Staff? It is not unheard of for even four-star generals to be a little concerned about what the Commander in Chief might prefer. General Shelton looked me in the eye and said: Senator, these are my honest views. If they weren't, I wouldn't state them; and rather than state views I didn't believe in, I could always retire.

I had occasion to talk at some length with Secretary of Defense William Cohen. It is true, as the Senator from Arizona outlines, at one point then-Senator Cohen had a different view. And as Secretary Cohen testified in hearings this week, a number of factors have led him to a different conclusion.

The question might also be raised as to whether the Commander in Chief of the Secretary of Defense might color, to some extent, his views. I am satisfied that Bill Cohen, with whom I worked in this body for some 16 years, would not put America at risk if he didn't believe what he said, that this Comprehensive Test Ban Treaty, balancing all considerations, was appropriate.

Once moving beyond the study of the treaty, which I have done, having announced my support for the treaty some time ago, after study and after looking at some of the experts, the question, in my judgment, is essentially a political question. I believe the lessons of history support arms control. That is a view I have held for some time.

I started my own personal studies of the United States-Soviet relations as a college senior, majoring in international relations at the University of Pennsylvania, and wrote my college thesis on United States-U.S.S.R. relations. One of the first resolutions I offered, coming to the Senate in early 1982, was a resolution for arms control. In 1982, Senators were pretty well lined up on philosophical grounds, those who favored arms control and those who did not favor arms control.

I recall that as a very tough debate against the chairman of the Armed Services Committee, John Tower. Who is ARLEN SPECTER to tell the President what to do in pushing for a summit agreement? Senator Tower put me through the paces, so to speak, and we talked about our nuclear deterrence.

Fortunately, I had been to Grand Forks, ND, taken a look at the Minuteman silo, absolutely terrified to see that enormous missile, looked down; about 100 feet into the ground it went. I had gone to Charleston, SC, to take a look at our nuclear submarines. I had been to Edwards Air Force Base to take a look at some of our latest bombers. The Senate decided with my position, on a vote of 90–8, we ought to have a summit. President Reagan was a major proponent of arms control, and President Reagan then pushed the summit concept. So the idea of arms control is not an idea which has originated with President Clinton, with President Eisenhower, President Reagan foursquare behind it.

I have not hesitated to buck the arms control concept if I thought the United States had some technical advantage to be gained by stepping out on our own, if that would promote our national security. Attending the Geneva arms control talks in the mid-1980s, I became persuaded that the Strategic Defense Initiative was a sound proposition, though very controversial, that turned on our ability to develop the SDI, the Strategic Defense Initiative, as to whether the Anti-Ballistic Missile Treaty was subject to the broad interpretation or the narrow interpretation.

There were some very heated debates on the floor of the Senate. Senator MOYNIHAN was involved. Senator NUNN, a leading expert in the entire field, argued very strenuously for the narrow interpretation of the Anti-Ballistic Missile Treaty. I argued for the broad interpretation, which I thought was legitimate, because it would give leave to develop the strategic arms initiative. That was a complex issue. Many people said it was Star Wars, spy in the sky, couldn't be done.

I recollected, historically, that Vanevar Bush, a leading expert in the field, testified before Congress during World War II, actually in 1945, that it would be "impossible to develop intercontinental ballistic missiles." Fanciful as it may have been in 1945, we now know they have been developed.

Then-Secretary of Defense Robert McNamara said, in 1945, that the United States had such a tremendous lead, the Soviets could never catch us. He was wrong, too. They caught us and surpassed us. We know the story that is not apocryphal, that a clerk in the Patent Office resigned at the turn of 19th century because there was nothing new to be discovered. I agreed with President Reagan's vision on the Strategic Defense Initiative that we spent a lot of money on it, and I don't think the money was wasted because we still are working and, more recently, with some success on missile defense.

In that context, President Reagan had an idea for control. President Reagan spoke out about sharing what we would learn with the Soviets to give them our defense system so there would not be an imbalance, so the nuclear deterrence on both sides, that balance of power, would not be affected.

I had occasion to have a long discussion with President Reagan on September 17, 1987, the 200th anniversary of the signing of the Constitution of the United States. President Reagan went to my hometown, Philadelphia. We had a long plane ride and a fair-sized car ride. I asked the President how he could see to it that the Soviet Union had our secrets when it really wouldn't be a matter during his Presidency and really it is a matter up to Congress. Candidly, President Reagan had no absolute answer to that point. But it was his vision that we would have the Strategic Defense Initiative and that we would share it with the Soviet Union.

When we take a look at the specifics and the technicalities, my sense is, there are reasonable assurances but it is a matter of balancing the risks.

We had a remarkable closed session of 5 hours in S–407 upstairs, which is the room where we have our secret briefings. After 5 hours, there was no doubt that it is a complicated subject. The distinguished chairman of the Arms Services Committee, Senator WARNER, came to the Republican luncheon caucus on Tuesday and said there is an adequate record to assure a negative vote on the Comprehensive Test Ban Treaty. I later had a chance to discuss with my distinguished colleague from Virginia the converse question. May the RECORD show he is on the floor now; nothing behind his back.

Mr. WARNER. Mr. President, no, indeed; I am right here. At such point as the Senator will entertain a question, I will be happy to put it to my colleague.

Mr. SPECTER. We may come to that.

I will repeat the assurances that Senator WARNER gave me, that while he said there was an adequate record for a negative vote, he also said there was an adequate record for an affirmative vote, depending on how one looked at the evidence. So my view is, it comes down to a judgment call. It comes down to an issue which is essentially a political question as to how the national security of the United States is better served by relying on our superiority today and stopping other nations from achieving superiority.

I believe the United States would be well advised to move ahead to ratify this treaty and to show the world we still have a preeminent role of world leadership in moral terms as well as in armament terms.

We have the unprecedented event just this morning, where we have the op-ed piece appearing in the New York Times with the Prime Minister of Britain, the President of France, Chancellor of Germany, all urging this Senate to ratify the Comprehensive Test-Ban Treaty.

I had occasion to travel to Ukraine in August; I talked to the President of Ukraine, Foreign Minister, and other ranking officials. The ratification of the Comprehensive Test-Ban Treaty was high on their agenda. Ukraine has taken a unique attitude in giving up nuclear weapons. Many nations around the world seek nuclear weapons as a sign of their national power. Ukraine is prepared to give them up. I asked the leader of that country why. President Kuchma responded: Well, we prefer the Japanese model of economic strength. Also, we have had the terrible experience at Chernobyl, and we do not want to have nuclear weapons for fear of what happened at Chernobyl. But high on the agenda of the Ukraine top officials is ratification by the United States.

Senator HANK BROWN and I had occasion to travel to the subcontinent in 1995. We talked to Indian Prime Minister Rao.

He told us that he would be very interested in seeing the subcontinent nuclear free. A day or two later, we were in Pakistan talking to Prime Minister Benazir Bhutto, and we related to Prime Minister Bhutto what Premier Rao had to say. She said, "Did you get it in writing?" We thought it was a little flip, perhaps.

We said, "No," and countered with, perhaps, an equally flip question: "When was the last time you talked to the Prime Minister of India?" She said, "We don't talk." Senator BROWN and I said, "Well, we think you should."

The next day, August 28, we had departed for Damascus. Senator Brown and I sent a letter to the President urging him to call into the Oval Office the Prime Minister of India and the Prime Minister of Pakistan.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 28, 1995.

The PRESIDENT
The White House, Washington, DC.

DEAR MR. PRESIDENT: I think it important to call to your personal attention the substance of meetings which Senator Hank Brown and I have had in the last two days with Indian Prime Minister Rao and Pakistan Prime Minister Benazir Bhutto.

Prime Minister Rao stated that he would be very interested in negotiations which would lead to the elimination of any nuclear weapons on his subcontinent within ten or fifteen years including renouncing first use of such weapons. His interest in such negotiations with Pakistan would cover bilateral talks or a regional conference which would include the United States, China and Russia in addition to India and Pakistan.

When we mentioned this conversation to Prime Minister Bhutto this morning, she expressed great interest in such negotiations. When we told her of our conversation with Prime Minister Rao, she asked if we could get him to put that in writing.

When we asked Prime Minister Bhutto when she had last talked to Prime Minister Rao, she said that she had no conversations with him during her tenure as Prime Minister. Prime Minister Bhutto did say that she had initiated a contact through an intermediary but that was terminated when a new controversy arose between Pakistan and India.

From our conversations with Prime Minister Rao and Prime Minister Bhutto, it is my sense that both would be very receptive to discussions initiated and brokered by the United States as to nuclear weapons and also delivery missile systems.

I am dictating this letter to you by telephone from Damascus so that you will have it at the earliest moment. I am also telefaxing a copy of this letter to Secretary of State Warren Christopher.

Sincerely,

ARLEN SPECTER.

Mr. SPECTER. There is great power in the Oval Office. No one declines an invitation to the Oval Office—at least, I don't know of anybody who has declined an invitation to the Oval Office. I had occasion to speak to the President about it later in 1995, and he said he thought it was a good idea, but he wanted to defer it until after the 1996 election. I talked to him after the 1996 election, and he said he still wasn't ready to do it, and what would happen with China and India.

I am not going to criticize the President for not calling them in. I hope he will yet. But I think when India and Pakistan tested nuclear weapons in the spring of 1998, it was a very dangerous sign for the world. How can the United States ask India and Pakistan not to test nuclear weapons when we won't ratify the Comprehensive Test-Ban Treaty? It simply doesn't make any sense. And that is why I think the national security of the United States would be enhanced on a balance of risks. It may not be perfect on verification, or it may not be perfect on the stability of our stockpiles, but whatever risk is involved there, I believe it is minimal. It is a small risk compared to having India and Pakistan test nuclear weapons and set off an arms race there that can be duplicated around the world.

The failure of the United States to ratify the Comprehensive Test-Ban Treaty has caused a ripple around the world. People wonder why the United States has not ratified this treaty. But if the Senate were to reject the treaty on a Senate vote, there would be a wave around the world, and it would be a tidal wave. What is now a ripple of wonderment would turn into a tidal wave of disbelief and could cause a chain reaction, which would be——

The PRESIDING OFFICER. The 20 minutes yielded to the Senator has expired.

Mr. SPECTER. I ask unanimous consent for an additional 5 minutes.

Mr. MOYNIHAN. With great pleasure. We are listening and learning.

Mr. WARNER. Mr. President, I will ask for an additional minute on our side, to be charged to our time, to ask a question of my good colleague.

The PRESIDING OFFICER. The entire debate is evenly divided. There are many hours on each side.

Mr. MOYNIHAN. I think the Senator from Virginia will have all the time he wishes.

The PRESIDING OFFICER. The Senator from Pennsylvania may continue.

Mr. SPECTER. To repeat my last thought, which might have been lost in the UC request, the failure of the United States, up to date, to ratify the Comprehensive Test-Ban Treaty has caused a ripple of wonderment. A vote by the Senate rejecting the Comprehensive Test-Ban Treaty would cause a tidal wave of astonishment. It might set off a chain reaction around the world, which would be even more serious than the chain reaction of the atomic bombs in Nagasaki and Hiroshima.

When we take a look at what is scheduled for next Tuesday, where we have the vote, it is my hope that we will find a way yet to work our way out of the unanimous consent request. I believe that a vote of rejection on Tuesday—and I have used this word before, and I use it advisedly, but I think it is accurate—I think rejecting the treaty would be catastrophic.

We are in a situation where our distinguished majority leader, Senator LOTT, is unwilling to defer the vote if he is going to have to face a crescendo of demands during next year. Senator LOTT did not want to schedule the Comprehensive Test-Ban Treaty vote at this time. I know because I had asked him to do so. I had asked him to do so in private conversations. When he had given me his reasons, I awaited his judgment. There was substantial urging, maybe even agitation, maybe even goading on the Senate floor by some that Senator LOTT should schedule this vote. He finally responded to it. He responded to it in a context where the treaty is assured to be defeated.

President Clinton held a dinner last Tuesday evening, which was attended by a number of people here, including Senators WARNER, BIDEN, HAGEL, myself, and others. I think it is fair to comment, as it has been in the media.

The President declined to ask that the vote be deferred on the condition that the President not ask that it be taken up all during the year 2000. I think the President felt that would signify backing off, and he thought some events might develop where he had to call for the treaty to be ratified. He said, candidly, he would have a hard time explaining it to our allies.

Well, I can understand Senator LOTT not wanting to see this matter become a political football in the year 2000. It has that potential, whether the parties intend it or not. If there is a crescendo of demand for the treaty to be ratified, taken up in the spring, fall, or summer of next year, it could have an affect on the election in 2000. I think it is realistic to take it out of the election.

Senator LEVIN, the distinguished ranking member of Armed Services, made a public comment in the hearings that he thought the treaty should not come up for ratification before the election. I think that is a sound judgment. There may be a way out of that dilemma by scheduling the treaty debate and vote on November 15 of the year 2000. That will take it out of the election cycle and it would allow President Clinton, who has advocated the treaty, to be a spokesman and have it decided on his watch.

There is another alternative, which is not as good as doing it in November of 2000, but that would be to schedule the debate and vote between January 3 and January 20 of 2001. We would not have a lame duck Senate, and it would be out of the election cycle.

I think it is very important to take this treaty out of politics and out of partisanship. There is an overhang that we should not ignore—a partisan overhang to this debate. All 45 Democrats are said to be in favor of the treaty. The number of Republicans is unknown precisely, but very, very limited. That is bad for America and that is bad for the world. When we had the vote on the use of force in the Gulf in January of 1991, it was largely partisan, where 42 Republicans and only 10 Democrats backed a Republican President. When we had a vote on the use of airstrikes in Yugoslavia earlier this year, it was 58 to 41. Only 17 of 55 Republicans joined the Democrats. That partisanship is highly undesirable.

I ask for one additional minute.

Mr. BIDEN. Mr. President, I will do that. We have 7 hours of debate, and we have 31 people. This is the last minute, and not one second over. I love him, but I will object.

Mr. SPECTER. Love doesn't last very long if it is only up to a minute.

I think there ought to be a recognition of another problem, which I will state in 20 seconds. There is a certain lack of trust between Capitol Hill and the White House, and that is a fact that we have to take into account in our calculations. Within 20 seconds, I can't recount why.

In conclusion—the two most popular words in any speech—I think we ought to avoid playing nuclear roulette with the Comprehensive Test-Ban Treaty. Russian roulette is a great sport, played with a revolver in which one chamber has the bullet.

But I think in this matter, we are playing with nuclear roulette if we go to a vote next Tuesday and reject this treaty.

I urge my colleagues to work hard to find a way to debate and vote this issue at a later time.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield time.

Mr. KYL. Mr. President, I yield to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, on the time allocated to those in opposition, I want to ask my good friend a question.

First, we joined this institution at about the same time a number of years ago. I very much respect the Senator. So much of the Senator's career has been devoted to international relations, and he reflects very warmly one of the great teachers he had, and that was Senator Tower, former chairman of the Senate Armed Services Committee.

But I want to go back to a particular reference that the Senator made in his opening remarks to the support by the uniformed officers of the chairman of the Joint Chiefs and others for this treaty. It is true that there is a division of opinion between the Joint Chiefs. I don't speak in terms of those in opposition today, but I mean those who precede.

We have letters on both sides pointing out how men and women of good conscience—men and women who have had extensive experience in these fields—are different on this treaty. But the question I put to my good friend relates to the President's letter of transmittal of this treaty on September 22, 1997. I am reading from that document which accompanied the treaty to the Senate. There is a provision in there called "the safeguards."

I recite a sentence of that.

> The understanding that if the President of the United States is informed by the Secretary of Defense and the Secretary of Energy (DOE)—advised by the Nuclear Weapons Council, the Directors of DOE's nuclear weapons laboratories, and the Commander of the U.S. Strategic Command—that a high level of confidence in the safety or reliability of a nuclear weapon type that the two Secretaries consider to be critical to our nuclear deterrent could no longer be certified, the President, in consultation with the Congress, would be prepared to withdraw from the CTBT under the standard "supreme national interests" clause in order to conduct whatever testing might be required.

Speaking for myself—and I have in the course of the last several days as Chairman of the Armed Services Committee dealt extensively with this entire issue before the Senate today—I have time and time again referred to the fact that it is my conclusion, drawn from talking with a number of these senior military officers who have given their support, and who in years past have given their support, that it is this clause that is the foundation for their opinion of support.

But I say to my good friend that were we to ratify this treaty, and if it would go into force, then many nations could rely on the act of the United States—as a matter of fact, one of the principal reasons for this treaty is to induce other nations to follow—and then 8, 10, or 15 years down the road we exercise the right under this, what happens to those nations? They are left out there stripped of protection that they could, with their own systems, have developed. And, worse yet, if we were ever compelled to announce to the world that we have concern about the credibility and safety of our nuclear arsenal, that would send a frightening message across the land that what we have had in place these 50 years, referred to as the "nuclear umbrella," which umbrella preserved the peace from major conflict in Europe for 50 years, is now in doubt.

Mr. President, as you talk about who is supporting the treaty, let's go back and examine the reasons.

I say that the military relied very heavily on that clause. In my judgment, if that clause were ever utilized, this country would be in a far worse position than if the Senate were to exercise its right and withhold the advice and consent on ratification.

I ask my good friend, if that clause were invoked, what would be the reality among the world's community of nations? What would be the reality of the signal going out that our credible deterrent is in question?

Mr. SPECTER. Mr. President, I am delighted to respond to that question from the distinguished chairman of the Armed Services Committee on a number of levels.

First of all, the clause is there, so that when the Chairman of the Joint Chiefs and others support the treaty because of the presence of that clause, that is a very important factor. And that clause is worth relying upon.

That is the reason, if there should be a problem either with the stability of our stockpile, or with the verification, and we felt it was necessary for national security to invoke that clause and withdraw, that we would do so.

With respect to other nations which might ratify the treaty based on our leadership, they do so with the full knowledge that that clause is present, and that we have the right to withdraw in our supreme national interest, so that if we should exercise the right of this entire affair in our dealings with those nations because they have known from the very outset that is a distinct possibility, there is nothing hidden about that.

When you ask the pointed question at the very end of the series of implicit questions, when you ask the question, how would it look for our national security if we made a concession that we had a test, and withdrew from the treaty, I would say to my distinguished colleague from Virginia that is no worse than if we did not have the treaty and we started to test.

The only reason we would exercise that clause and withdraw from the treaty would be so that we could start to test.

Assume that we don't have the treaty. Assume down the road that we start to test. That is going to be a loud signal, an explosive signal, to the world that we are not satisfied with the status quo when we have to test.

I think that exercising that clause would be no more emphatic or no more of a problem for the United States than not doing so.

But I think when you take a look behind General Shelton, and other Chairmen of the Joint Chiefs—General Shalikashvili, Colin Powell, David Jones, Bill Crowe, only Admiral Vessey, Chairman Vessey, was on the other side.

I think that is a very weighty consideration.

Mr. WARNER. Mr. President, I simply focus your attention on one or more nations, should this treaty be ratified, saying there is no necessity for us to launch our own program because there stands the United States, the leader. And nowhere in the history of the United States have we ever exercised such a clause as this, I say to my good friend. I don't think there is a precedent in our 200-year history of ever pulling out. But, nevertheless, we could be faced with those facts. Otherwise, there would have been no reason to have put that clause in there.

It was a real situation to the President at that time in transmitting the treaty to the Senate that these conditions could arise, and he put that clause in. I daresay it was put in there such as the military uniformed community could lend their support.

But what happens to that nation that did not start this program and 10 or 12 years hence is left out there? Take, for example, Japan. It has the capacity to generate a program in a matter of a few years. They have relied in many respects on our nuclear deterrent. But if that is ever put in doubt, that nation and others would want to start this program. But it would take a decade for them—perhaps not Japan but most nations—to put into place any credible nuclear deterrent.

I say to my good friend—I know other Senators want to speak; it is important, and we are going to have a good debate today—in my opinion, you jeopardize substantially the world community if at any time you say we might pull out pursuant to that clause.

Mr. SPECTER. Mr. President, if I may respond briefly, I think that Japan is well advised to rely on the

United States and our nuclear deterrent for whatever risk there may be of pulling out. But Japan has, up to the present time, as the Senator from Virginia knows, relied upon the United States. Japan has had ample opportunity to develop whatever nuclear system they could have wanted. They have made the decision to the present time not to. There is no reason to believe they are about to change, regardless of what the United States does.

However, when we talk about the withdrawal provision, that is not unique to the Comprehensive Test Ban Treaty. We have debated repeatedly on the floor of this Senate the provisions of the Anti-Ballistic Missile Treaty which allows withdrawal on notice—again, for supreme national interests. So the insertion of this clause in the treaty is no signal that we are considering using it. I think that is a standard provision.

Mr. WARNER. Mr. President, in fairness to other Senators, we must yield the floor. However, I hope at some point this issue is revisited with my good friend, the distinguished Senator from Delaware.

I yield the floor.

Mr. BIDEN. I yield myself 2 minutes, and then I yield to my friend from New York.

First, the very essential safeguards the chairman indicated all military guys want, I find it fascinating that the Republican leadership would not allow the Senate to include those in the treaty. That indicates what a stacked deck this is and how outrageous is this approach of how we are proceeding on this is.

The very things all the Joint Chiefs and the President of the United States said they wanted in the treaty as the six safeguards when we brought this up in the unanimous consent agreement, we were not allowed to include those as part of the treaty. I think that is telling.

The second point. The Senator says, Have we ever exercised this clause? The appropriate question is, Have we ever needed to? The answer is, we have never concluded we needed to. Such a clause, or a variation, is in every treaty the United States of America signs. This is a bit of a red herring. In every treaty we sign of consequence relating to our national security, there is a supreme national interest clause. The reason we haven't exercised it is that no President has concluded there was a need.

The third point I make, if my friend is concerned—as I know he is—about our friends at one point not being able to rely upon the United States and deciding to go their own route, I ask him why Tony Blair and Jacques Chirac are making a personal appeal to the President of the United States, for goodness sake, pass this treaty. Japan and Germany are saying please, please, pass a treaty. We signed it; we ratified it.

How much time does the Senator from New York require?

Mr. MOYNIHAN. Twenty minutes.

Mr. BIDEN. I am delighted to yield 20 minutes to my friend from New York.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from New York.

Mr. MOYNIHAN. Mr. President, to continue on the point made by our distinguished ranking member that the leaders of Britain, France, and Germany are appealing to the Senate this very day to sign this treaty, I make a point to the Senate which I don't know has ever been made. That is that in the aftermath of the Cold War we find ourselves the one nation on Earth that has the power to shape events all over the Earth.

Coral Bell, of the Australian National University, wrote about this in an article in the recent issue of "The National Interest," called "American Ascendancy." There is a striking passage. She writes:

> During the 1990s, the United States has mostly tiptoed through the current unipolar structure of the society of states with a sort of ponderous tact, like a benign Ferdinand-type bull making its way delicately around a china shop of unknown value. That prudence has been well justified: the situation is still quite new and of uncertain import to all the world's policymakers. History is not much help, for no equal degree of unipolarity has existed since the high point of the Roman world, almost two millennia ago.

I repeat, there has been no such unipolarity since the high point of the Roman world, two millennia ago.

> The central balance of power had seen the main agenda of world politics for more than five centuries.

We think of the Congress of Vienna of 1815, of the British role in the balance of power in Europe, and such the like.

> Bell continues, ". . . this 'intermission,' even for a time whose length remains a matter of speculation, is a truly transformatory event."

A truly transformatory event. Nothing such has happened in two millenia.

As if evidence were required, in this morning's New York Times, Jacques Chirac, the President of France, and Tony Blair, Prime Minister of Britain, and Gerhard Schroeder, Chancellor of Germany, wrote an op-ed article pleading with the Senate to ratify this treaty. I ask unanimous consent to have that article printed after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. MOYNIHAN. At any time in our history, can anyone imagine the effective heads of the Governments of the United Kingdom, France, and Germany pleading with the Senate in our own press to do what we had led the world to do in the first place.

The point has been made that the idea of a Comprehensive Test Ban Treaty was first proposed by President Eisenhower in 1958. I note that when we finally got around to drafting one, the United States was the first signatory on that same day in New York. The other four of the five declared nuclear powers also signed. However, we were the first to propose it, as we were the first to develop nuclear power as a weapon; the first to propose ending tests to continue expanding our arsenals; and now the first to sign such a treaty, almost a generation after Eisenhower proposed it.

There were increments along the way. I was in the Kennedy administration at the time the Atmospheric Test Ban Treaty was signed. It seemed such a large event, and it was.

Governor Harriman was a negotiator in Moscow and made the point—I had served him in Albany, and we talked about this—he said that when he arrived, the Soviets had already decided to sign this treaty, but of course we had to have days of intense negotiations to reach the point where they would agree to do what they had already decided to do. The Soviets had said yes, there is too much danger to mankind.

That was something they had not previously concerned themselves over much with, save as a revolutionary state.

Just a line from the article by the three heads of government:

> The decisions we take now will help determine, for generations to come, the safety of the world we bequeath to our children. As we look to the next century, our greatest concern is proliferation of weapons of mass destruction, and chiefly nuclear proliferation. We have to face the stark truth that nuclear proliferation remains the major threat to world safety.

They are speaking to us in this near-empty Chamber. Some of our most distinguished authorities in these matters are here. Most Senators are not. The powers that dominated the last 500 years of politics: England, France, Germany—Spain somehow not there for the moment—pleading with us.

May I be specific, if I can, on the matter of particular interest? You may be sure it was on the minds of the leaders who have written to us today, and that is the situation in the subcontinent, which is to say India and Pakistan. I was Ambassador to India in 1974 when the Indians set off what they called a "peaceful nuclear explosion." They intended it as such. In conversations with Prime Minister Gandhi, she was persuasive that they were not going to build a bomb; they simply wanted to establish that they had the capacity to do so. It was a matter of prestige. It was a matter of reminding Westerners that Indian physicists, such as Satyendranath Bose, had been as much a part of the great era of discovery early in the century as the Europeans, and more than Americans.

A quarter century goes by. The Congress Party with its universalist tendencies and professions has gone into a minority. A new party, a Hindu party, as it calls itself, the BJP, came to power in March of 1998. Two months later, India set off a series of five nuclear explosions. That was followed almost instantly with Pakistan doing the same. At the same time, they demonstrated a missile, probably of North Korean origin, which they named the Ghauri, in honor of the first Islamic invader of Hindu India.

Here you have all those things that conspire to destruction. This spring there was a Pakistan offensive in the Kargil mountains of Kashmir. The Indian Government quite successfully held it back and repulsed it, I believe, but not before Pakistani military officers had said: Keep this up and there are other options available to us.

Those other options of course include the nuclear option.

Here an important distinction is to be made. In India, to its great credit, nuclear development is a matter directly under the control of the Prime Minister and is not under the control of the military. The Indian military have been very apolitical, kept out of politics, and have followed civilian command from the beginning. Not so Pakistan. The Pakistan bomb is in the armamentarium of the Pakistan military.

Here, if I can make a point on which I do have total confidence, but I believe is a shared judgment: It is not clear that the Indian tests last year were all that successful. They probably did not achieve a hydrogen bomb as they proclaimed. Even the 1974 test was exaggerated in its volume. The Indians have kept the military out of nuclear matters, but their scientists know they have not sufficiently succeeded, and they want to test more.

In the report from India in this morning's press announcing the BJ Party has been returned to office with a very solid coalition, it was noted that the outgoing government, which will now be coming back in, had committed itself to further testing. They need to do that because they are, obviously, at a disadvantage as regards their adversary, the Pakistanis. They need, as it were, to show the Pakistanis they have the weapons that they have claimed to have. In turn, the Pakistanis will respond.

Pakistan is not a stable country, not a country with civil authority very secure, and an impoverished country, a country that will be selling nuclear weapons. They will be selling them to the Middle East. A Saudi prince has recently visited Pakistan and was shown nuclear facilities. We have to expect this migration. It is ineluctable, unless we get this treaty.

The point I finally make is we dare not reject the treaty but we need not instantly ratify it. The treaty, very carefully drawn, provides that 44 states must have ratified this treaty before it goes into effect—44. As of today, of the 44 states required, 41 have signed the treaty but only 26 have ratified it, which is to say another 18 countries, including the United States, have to do so before it goes into effect. Of these countries, the most significant clearly are India and Pakistan. I assure you—well, I withdraw that remark—I prophesy that, should we turn this treaty down, the forces in New Delhi and in Islamabad will say: "You see, there are the Western imperialists demanding their own liberties to do anything they wish—tests, they have already the 1,030 tests—and they want now to deny them to us? No. That day is over."

Can we not listen to our closest friends and allies? We cannot ratify today. Someday we will, but we must not reject this treaty. It would be sending a ruinous signal. The complexities of our procedures in the Senate are not understood abroad, and they need not be in that sense. The word will be we said no, just as in 1919 we said no to the Treaty of Versailles, we would not become involved in the affairs of Europe. And how many years was it until D-Day when we had to land our forces there?

Mr. WARNER. Mr. President, will the Senator yield for a question on my time?

Mr. MOYNIHAN. I am happy to do so and honored.

Mr. WARNER. Mr. President, I have had some discussions with the distinguished senior Senator from New York, as have others, on the question of the timing of the Senate's final deliberation of the treaty. Indeed, I think our leadership and all of us are looking at this in a very serious way. But it seems to me—and this is my judgment—that an element of such consideration has to be a recognition that under our Constitution, next year elections are held across this Nation for the Office of the Presidency, one-third of the Senate, and the entire House. To inject a treaty which, in the minds of many—not this Senator, but I respect the views of others—is so vital to our security interests into that atmosphere and the dynamics of an election year, in my judgment, would not give a fair and objective opportunity for this treaty to be considered solely on its merits. I use the phrase "solely on its merits." Does my colleague agree with me?

Mr. MOYNIHAN. I entirely agree with the Senator, if we can preface his remarks by the statement that we do not have the votes to ratify the treaty today.

Mr. WARNER. I say to my friend, I will work during the course of the day, and he has indicated a willingness to join me in this venture.

Mr. MOYNIHAN. I most certainly have.

Mr. WARNER. I thank the Senator. I yield the floor because I know others are anxious to speak.

Mr. MOYNIHAN. I shall be honored to work with the Senator from Virginia and the Senator from Delaware. This may be a very productive moment in what looks like a perilous time.

Mr. President, I have spoken at some length. I am happy to yield the floor.

EXHIBIT 1

[From the New York Times, Oct. 8, 1999]

A Treaty We All Need

(By Jacques Chirac, Tony Blair and Gerhard Schröder)

During the 1990's, the United States has made a vital contribution to arms control and nonproliferation. Thanks to the common resolve of the world's powers, we have achieved a substantial reduction in nuclear arsenals, the banning of chemical weapons, the indefinite and unconditional extension of the Nuclear Non-Proliferation Treaty and, in 1996, the conclusion of negotiations on the Comprehensive Test Ban Treaty. South Africa, Ukraine, Kazakhstan and Belarus have renounced nuclear weapons in the same spirit.

The decisions we take now will help determine, for generations to come, the safety of the world we bequeath to our children. As we look to the next century, our greatest concern is proliferation of weapons of mass destruction, and chiefly nuclear proliferation. We have to face the stark truth that nuclear proliferation remains the major threat to world safety.

Failure to ratify the Comprehensive Test Ban Treaty will be a failure in our struggle against proliferation. The stabilizing effect of the Non-Proliferation Treaty, extended in 1995, would be undermined. Disarmament negotiations would suffer.

Over half the countries that must ratify the new treaty to bring it into force have now done so. Britain, France and Germany ratified last year. All the political parties in our countries recognize that the treaty is strongly in our interests, whether we are nuclear powers or not. It enhances our security and is verifiable.

The treaty is an additional barrier against proliferation of nuclear weapons. Unless proliferators are able to test their devices, they can never be sure that any new weapon they design or build is safe and will work.

Congress realized this in 1992 when it compelled the United States Presidential Administration to seek the conclusion of a Comprehensive Test Ban Treaty by 1996. It was a welcome move for the world's strongest power to show the way.

The treaty is effectively verifiable. We need have no fear of the risk of cheating. We will not be relying on the good will of a rogue state to allow inspectors onto its territory. Under the treaty, a global network of stations is being set up, using four different technologies to identify nuclear tests. The system is already being put in place. We know it will work.

Opponents of the treaty claim that, without testing, it will not be possible to guarantee the continuing safety and reliability of nuclear weapons. All nuclear powers, including the United States, Britain and France, examined this issue carefully. All reached the same conclusion. With the right investment and modern technology, the necessary assurance of safety and reliability can be maintained without further nuclear tests.

Rejection of the treaty in the Senate would remove the pressure from other states still hesitating about whether to ratify it. Rejection would give great encouragement to proliferators. Rejection would also expose a fundamental divergence within NATO.

The United States and its allies have worked side by side for a Comprehensive Test Ban Treaty since the days of President Eisenhower. This goal is now within our grasp. Our security is involved, as well as America's. For the security of the world we will leave to our children, we urge the United States Senate to ratify the treaty.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I yield 12 minutes to the Senator from Nebraska, Mr. HAGEL.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. I thank the Chair.

Mr. President, what is the objective of a comprehensive test ban treaty? What is the objective of what we are about? The objective is to stop nuclear proliferation. The objective is to make the world safer for mankind. Unfortunately, this noble effort now must be rescued from partisan politics. We are trapped in a political swamp as we attempt to compress a very important debate on a very important issue.

A few minutes ago, there was an exchange about timing. We only have a few hours to debate. My goodness, is that any way to responsibly deal with what may, in fact, be the most critical and important vote any of us in this Chamber will ever make? It is not. We cannot have a serious debate about nuclear proliferation when artificial timelines prevent that important debate. Unfortunately, the political environment has captured this issue.

Aside from all the technical debate that will go on, as has begun this morning, and rightfully so, about this treaty, this treaty is symbolic. It represents 50 years of America's leadership throughout the world in dealing with our allies and, yes, our adversaries, in trying to curb nuclear proliferation.

Much has been said this morning by my distinguished colleagues about our allies, Great Britain and France. They moved forward in good faith last year and ratified this treaty. Consequently, they are dismantling their nuclear testing facilities. What do we say to them if we defeat this treaty? What do we say to the rest of the world, and what is that symbol, what is the message we project?

We are far better off to take the time necessary to work our way through the critical questions and issues. This debate needs to be taken down many layers, many levels in the questions that are relevant. We have forced hearings this week in three committees. The committee on which I serve, Foreign Relations, had more than 6 hours of hearings yesterday. They were informative and important. There is a great amount of doubt and question and concern about the governance language in this treaty: Who governs the implementation of this treaty, who is in charge, aside from all the technical questions. We could take days on the provisions for site inspections alone, and we should.

What are the consequences of us pulling out of this treaty? I hear from a number of my friends: If it is a bad treaty, we sign it and go ahead, and if the President of the United States says in the supreme national security interests of America we will pull out of the treaty—my goodness, do we think it is that easy to arbitrarily pull out of a treaty we led for over 50 years under the leadership of President Eisenhower, that was further anchored by the actions of President Kennedy with the first ban on nuclear testing in 1963? Do we think the political environment would be such that we could just arbitrarily pull out when we wanted? Do we not understand the consequences of that?

What about side agreements? We learned yesterday, for example, in the Foreign Relations Committee hearings that there are side agreements. That does not mean it is bad, but what are those side agreements? How do they affect us? What is the management? What is the governance? Who makes the deal? Do those side agreements have force behind them? What happens in 10 years when there are new governments?

My colleagues understand and share with me the same fundamental responsibility to this country, and that is, America's security is paramount; nothing else is more important. That is our premier responsibility as Senators as we debate this issue. The fundamental principle we must follow is not to jeopardize the security of our people and our country.

The U.S. nuclear deterrent has prevented a worldwide conflagration for over 40 years. As former Secretary of Defense Caspar Weinberger said yesterday in the hearings, that effective deterrence depends entirely on the assurance that our nuclear arsenal will work when it needs to work. It is a huge issue, a huge question. The safety and reliability of the nuclear arsenal, therefore, must be maintained above all.

We might be able to do that with computers and other means, other than testing. That may well be feasible. But I want to be assured a lot more than I am now that, in fact, can be done without jeopardizing the security of the United States.

We heard much about intelligence reports in all three committees that held hearings this week. The administration says those intelligence reports are not yet complete. Why are we rushing to a vote when we do not have all the intelligence, when we do not have all the information? Why is there this arbitrary test timeline that we must have a vote?

What about the next administration? There will be a new administration, Democrat or Republican. I read this morning Donald Trump is interested in a Trump administration. There may be a Jesse Ventura administration, I say to Senator BIDEN. We do not know.

Mr. BIDEN. Will the Senator yield?

Mr. HAGEL. Certainly.

Mr. BIDEN. Never mind; I withdraw it.

Mr. HAGEL. I suspect his contribution would not be relevant to the debate. The very serious fact is, we will have a new administration.

Is this treaty, essentially born 50 years ago from Eisenhower forward, relevant to the challenges of today?

Is it relevant to the new challenges of this next new century, the new challenges that this new administration, this new President will have to deal with? Are we boxing in this new administration? Shouldn't this new administration coming in, in January 2001, have an opportunity to review arms control, look at what those needs are, what is relevant?

The world has changed. It has changed in 10 years. The world used to be rather simple when we took this issue up 50 years ago, 20 years ago, 10 years ago: Two superpowers, the Soviets, the Americans; they were the ones with the nukes. Therefore, we created a structure, a protocol, a treaty that dealt with that. That has changed.

I strongly urge the President of the United States, as I did the other night—telling him directly, and my leader and the Democratic leader, and all of my colleagues—to not allow us to get into a box we cannot get out of and take a vote on Tuesday. It is irresponsible. It will surely go down. There will be consequences for that vote. It is the wrong thing to do for America. It is not responsible governance.

What do we do? Why not continue to hold hearings on this very important issue, take this down to as many levels as we need, get the answers? Maybe we have to restructure; I don't know. But the way it is now, we are not prepared to vote. Why not inform the American public? Why not allow the American public to understand what we are doing? Why not allow all of our Senators to understand a little bit more than we do now about this issue?

The tough questions must be asked, the consequences played out. We must not allow ourselves to get trapped again in a timeline.

I heard this morning, Why not take a vote right after the election next year? That is interesting. Why not float it out? Why not do this up or down? But why force an artificial timeline? If the political environment is not right to have an honest, open, legitimate debate, it is not right. That is a fact of life. But do not rush something that is going to have dire consequences for the future of the world to satisfy some political dynamic or someone's interest in driving a timeline or driving a political determination. That is irresponsible.

Regrettably, I must say to my colleagues, if that vote is held on Tuesday, I will have to vote against this treaty. That will be regrettable because I would like to have more time to ask more questions, to understand what we are doing, because I, as do all my colleagues, take this responsibility very seriously. I say again, this vote, if it does come Tuesday or next year or in 2001, may in fact be the most critical vote any of us ever cast.

With that, I yield the floor.

Mr. MOYNIHAN. Mr. President, would the Senator yield for a question?

Mr. HAGEL. I surely will, I say to the Senator.

Mr. MOYNIHAN. Do I take it, from what the Senator so ably set forth about his concerns on both sides, that he would be receptive to a proposal to put off this vote?

Mr. HAGEL. That is correct, I say to the Senator. I think it is a wise course of action. I so informed the President the other night at the White House. I so informed my colleagues. I again say, as I did, if I have to vote Tuesday, I will vote against it. That will be regrettable because I believe arms control, the focused management of nuclear proliferation, is a responsibility this country has had.

We have taken the lead position on that for 50 years. I am proud of that. You are proud of that. To box ourselves in, surely knowing the impending defeat, I think would be a catastrophe for our leadership in the world.

Mr. MOYNIHAN. I agree "catastrophic" is not too strong a term. And the Senator would be receptive to postponing a foregone catastrophe on Tuesday?

Mr. HAGEL. I would, sir.

Mr. MOYNIHAN. I thank the Senator.

Mr. KYL. I yield 15 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 15 minutes.

Mr. INHOFE. I thank the Chair and thank the Senator from Arizona for giving me this valuable time because we do not have a lot of time.

First of all, let me say I respect the Senator from Nebraska so much, and yet I have to disagree with him. I respect certainly the senior Senator from New York as well as the Senator from Delaware. But the reason I disagree with them is, it is not as if this came up all of a sudden and we did not have any time to look at it. This treaty has been here for 2 years. We could read it. We could study it. We could prepare amendments. We could spend time evaluating it, talk to the experts. I have been doing this. I assume many of my colleagues have been doing this.

So procedurally let me just explain, so there is no misunderstanding where we are, what my position is.

We had a unanimous-consent request propounded—it was agreed to a few days ago—that said we were going to have possibly up to two amendments, not necessarily, but if we did, it would be 4 hours of debate equally divided. Then we would have a vote on the treaty. There would be 14 hours of debate, which we are in the process of having right now.

This was done by unanimous consent. That means any one of these Senators we have been listening to this morning could have objected to that unanimous-consent request. Certainly, the senior Senator from New York could have done it, the Senator from Nebraska, the Senator from Delaware. Anyone could have done it. Only one Senator has said he would not have done it if he had been on the floor or if he had been aware of it. That was the Senator from West Virginia, Mr. BYRD.

That is the way the Senate is run. It is run by unanimous consent. So anyone could have stopped it. And they did not do it. But they could have.

It takes unanimous consent to vitiate that unanimous consent agreement. If this happens, I made an announcement yesterday and the day before, sitting on the Armed Services Committee—with such distinguished witnesses as our Secretary of Defense, Bill Cohen; as General Shelton, the Chairman of the Joint Chiefs of Staff; as the Directors of all the labs, all three of them—and I said in the event someone asks for a unanimous-consent agreement to delay this vote, I will object. I want everybody to know right now, I will object to that.

There may be some parliamentary maneuvering where they can figure out a way to get around my objection. If they do, I am sure it will have to be passed on by the Parliamentarian. And that might happen. I might lose this thing.

But we have been looking at this right now for over 2 years. Certainly we have had ample time to study it and digest it. It is not something that just jumped up. Any Senator, of 100 Senators, could have stopped the vote that is supposed to take place on Tuesday or Wednesday when the debate time expires. So let me just serve notice I will be here to object to that, so we get down to it. The reason is, we do not need to keep delaying and delaying this thing.

The President has been yelling for 2 years: Bring it up. Bring it up. We want to bring this up for a vote. Yet now that it is up and he knows—he suspects; he does not know—he suspects he does not have the votes for ratification, he wants to bring it back. So anyway, that is where we are today.

Let me just respond to a few of the comments that have been made on the floor. The distinguished Senator from Delaware talked about the distinguished list of supporters of this test ban treaty. I would like to submit for the RECORD a list of those who are opposed to the ratification of this treaty. They include six former Secretaries of Defense—Schlesinger, Cheney, Rumsfeld, Laird, Carlucci, Weinberger—and several former Directors of Central Intelligence; 13 generals, commanding generals, who are now retired.

In fact, I would suggest—I might be challenged on this so I will say probably most of the military officials who are supporting the ratification of this treaty now are serving in the capacity in which they are serving at the will of the President.

So I ask unanimous consent this distinguished list of some 33 leaders saying we should oppose and vote down this treaty be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

PARTIAL LIST OF OPPONENTS OF CTBT

Jim Schlesinger (Former Secretary of Defense); Dick Cheney (Former Secretary of Defense); Don Rumsfeld (Former Secretary of Defense); Melvin Laird (Former Secretary of Defense); Frank Carlucci (Former Secretary of Defense); Caspar Weinberger (Former Secretary of Defense); Jim Woolsey (Former Director of Central Intelligence); Bob Dole; Governor George W. Bush; Elizabeth Dole; Judge William Clark (Reagan National Security Adviser); Richard Allen (Reagan National Security Advisor); Jeane Kirkpatrick (Former US Ambassador to the United Nations); William Graham (Reagan Science Adviser); Gen. Russ Dougherty, USAF (Former Commander, Strategic Air Command).

Gen. Louis Wilson (Former Commandant, US Marine Corps); Gen. Jim Johnson (Former Commanding General, 1st US Army); Gen. Albion Knight (Former Director, Atomic Energy Commission); Gen. Larry Skantze (Former Vice Chief of Staff, US Air Force); Gen. Tom Kelly (Former Director for Operations, Joint Chiefs of Staff); Gen. Jack Singlaub (Former Chief of Staff, US Forces in Korea); Gen. Mike Loh (Former Commander, Air Combat Command); Gen. Fred Kroesen (Former Commander, US Army in Europe); Gen. Don Starry (Former Commander, US Readiness Command); Gen. Milnor Roberts (Former Chief, US Army Reserve); Gen. Lewis Wagner (Former Commander, Army Materiel Command); Gen. Joseph Went (Former Assistant Commandant, US Marine Corps); Admiral Jerry Miller (Former Deputy Director, Strategic Planning Staff); Troy Wade (Former Assistant Secretary of Energy for Defense Programs); Edwin Meese (Former Attorney General); William Middendorf (Former Secretary of the Navy); Midge Decter (Former President, Free World Committee); Norman Podhoretz (Former Editor, Commentary Magazine).

Mr. INHOFE. Secondly, the Senator from Delaware is talking about our allies—I am very sensitive to our allies—and our allies have signed this treaty, so if our allies have signed this treaty, we have to do it.

Frankly, I am not concerned about our allies. I am concerned about our adversaries. I am not at all concerned that Great Britain is going to send a missile over to the United States. I am concerned about China and Russia and now North Korea. Right now, as we speak, the President is sending money and making promises to North Korea so they will not test a missile they have called a Taepo Dong 2 that will reach Washington, DC, from anyplace in the world, take 35 minutes to get over here, and we do not have any defense against this thing. So those are the ones about whom I am concerned. Have they ratified this treaty? No, certainly not China, not Russia, not North Korea. North Korea hasn't even signed it. Those are the ones about whom I am concerned.

Thirdly, certification. Certification doesn't mean we have weapons we know will be operative at any point in the future. It merely says we don't know that they won't be; we don't know of any. We can certify we don't know of any problems. How can they know of problems, if they are not testing them? I think that is a very weak argument.

Lastly, I would like to address the reference made by the Senator from Delaware to Dr. Paul Robinson. He is the Director of the Sandia Laboratory. He is the one the Senator from Delaware talked about as being, apparently, a credible source, or he would not have mentioned his name in his opening statement. Dr. Robinson says:

> We know today that a test ban cannot prevent states from acquiring nuclear weapons if they are determined to do so. Credible nuclear weapons can be constructed without nuclear testing, as several nations, including South Africa, have demonstrated. The underground nuclear tests by India and Pakistan in 1998 are another example. These events were not developmental tests. They were demonstrations of nuclear capability that had been developed much earlier with little or no testing.
>
> Those who claim that by ending nuclear testing we will close off the threat of terrorist development and use of nuclear explosives mislead themselves. Congress should not accept such arguments as a basis for endorsing the test ban.

Further, Dr. Paul Robinson said:

> It is indeed correct that the United States would be ill-advised to place a sophisticated nuclear explosive design into the stockpile that had not been previously tested and validated. There is no question that actual testing of designs to confirm their performance is the desired regimen of any high technology device, from cars and airplanes to medical equipment and computers. For a device as highly consequential as a nuclear weapon, testing of the complete system, both when it is first developed and periodically throughout its lifetime to ensure that aging effects do not invalidate its performance, is also the preferred methodology. I and others who are or have been responsible for the safety and reliability of the United States stockpile for nuclear weapons have testified to this obvious conclusion many times in the past. To forgo that validation through testing is, in short, to live with uncertainty.

I don't want to live with uncertainty. There is no way of knowing that we have a nuclear deterrent if we have to live with uncertainty.

There is no one I respect more highly than Secretary Bill Cohen, our Secretary of Defense. I served with him on the Armed Services Committee of the Senate, and he is certainly a most knowledgeable individual. I do have to say this: He has certainly changed his story since he was in the Senate. I am going to quote what Secretary Cohen said in 1992, when at that time he was the most vigorous opponent of a ban on nuclear testing we had in the Senate. This is Secretary Bill Cohen when he was a Senator:

> Many of these nuclear weapons which we intend to keep in our stockpile for the indefinite future are dangerously unsafe. Equally relevant is the fact that we can make these weapons much safer if limited testing is allowed to be conducted. So when crafting our policy regarding nuclear testing, this should be our principal objective—to make the weapons we retain safe. The amendment that was adopted last week [speaking of 1992] does not meet this test, because it would not permit the Department of Energy to conduct the necessary testing to make our weapons safe.

When I asked that question, there was some suggestion that maybe we are talking about different weapons. We are not talking about different weapons. These are the nine weapons we are talking about today. These same nine weapons were there in 1992, the same ones to which Secretary Cohen alluded.

This chart tells us that there are five tests for safety features. These are the five tests. The most significant ones are the intensive high explosive and the fire resistance pit. That is to make sure they don't inadvertently explode during use or during storage; the same with the fire. If we look right here, we see that only one of these weapons—that is the W84—has any type of safety. I guess all five of the hazards are listed. The W62 has none. So this was true in 1992. It is true again today.

Some people have said, well, in the worst-case scenario, if something happens to the safety of this thing, we have a way of getting out of this thing. It is called safeguard F. Safeguard F is one sentence in the treaty. That sentence says that there is a way out in the event that it becomes a supreme national interest to get out. So that would be interpreted by our Commander in Chief or President, whoever is President at that time. I have often said—I don't think anyone is going to refute it—that we have a President who has a very difficult time telling the truth. Let us assume he is telling the truth. This is what he said his interpretation would be in his application of safeguard F: In the event that I were informed by the Secretary of Defense, the Secretary of Energy, advised by the Nuclear Weapons Council, the directors of the Energy Department's nuclear weapons labs and the commander of the U.S. Strategic Command that a high level of confidence in the safety or reliability of a nuclear weapons type, which the two Secretaries consider to be critical to our nuclear deterrent, could no longer be certified, I would be prepared, in consultation with Congress, to exercise the supreme national interest under the CTBT in order to conduct whatever testing might be required.

He is saying, even if these five people; that is, everyone who has anything to do with or any knowledge of these nuclear weapons, even if all of them insist on it, he didn't say he would do it. He said he would be prepared to do it. That is a very weak statement. It doesn't mean he would do it at all. I don't find any comfort at all in what he stated.

Coming close to the end of my time, let me share a couple other thoughts about which I do have strong feelings. We had all three Directors of our three labs before our committee yesterday. All three of them testified that we have to test these nuclear weapons in order to make sure they will continue to work if called upon. These are the ones who are responsible for doing that. Verification has to be talked about.

It is kind of interesting. I will read an article that was in the paper a couple of days ago. It was an article in the Washington Post by Robert Suro, entitled "CIA Unable to Precisely Track Testing." This was last Sunday, I believe, talking about something that might have occurred on Saturday, less than a week ago right now. Again, it was entitled "CIA Unable to Precisely Track Testing." Among the troubling facts uncovered:

> According to senior officials, the CIA has concluded that it cannot monitor low-level nuclear tests by Russia precisely enough to ensure compliance with the CTBT. . . . Twice last month, the Russians carried out what might have been nuclear explosions at its Novaya Zemlya testing site in the Arctic. The CIA found that the data from the seismic sensors and other monitoring equipment were insufficient to allow analysts to reach a firm conclusion about the nature of the events.

Having read that and then having had Gen. Henry Shelton and Secretary Cohen on the same panel, I asked them the question: Can you sit here and tell us that the Russians did not conduct those tests just a few months ago referred to in the article in last Sunday's Washington Post? They said: No, we can't.

We asked the same question of the Directors of the lab. They said: No, there is no way of knowing it.

Verification has always been a real serious problem with me.

Mr. President, I ask for 5 more minutes. I think that will be acceptable. The time I am asking for is from our side.

Mr. KYL. How much time does the Senator wish?

Mr. INHOFE. About 4 minutes should be enough.

Mr. KYL. I ask that the Senator from Oklahoma conclude his remarks in 4 minutes, after which the time would go to that side.

Mrs. HUTCHISON. Mr. President, parliamentary inquiry. I wonder what the other timetable is. I have a flight I have to catch at 12:15. Is there a short time that would be available to me soon?

Mr. BIDEN. Mr. President, we have been alternating. We have had two Republicans, and the Senator from Michigan needs additional time.

Mr. LEVIN. If it is all right with the others in line, that is all right with me.

Mr. BIDEN. If the Senator is brief, we will be happy to yield to you. That will have been three Republicans in a row, but to accommodate, we are happy to do that.

Mr. LEVIN. Mr. President, after the Senator from Texas goes ahead of us—which is fine if she has to catch a flight—could there be two Democrats at that point?

Mr. KYL. Mr. President, I have no objection to that. Senator ALLARD is waiting. Unfortunately, about three people have gone ahead of him. He has also presided. Maybe he can have some time.

Mr. ALLARD. I would not want to lose my time. I have an appointment I need to attend, so I hope I can get out of here by 1:30.

Mr. KYL. Mr. President, after their two speakers, Senator ALLARD will be next.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 4 minutes.

Mr. INHOFE. I will conclude in less time than that. I want to accommodate the wishes of others who want to be heard.

As I look at this, if we allow ourselves to be put in a situation where we do not know whether we have a nuclear deterrent, that is nothing short of unilateral disarmament. I know there are differing philosophies around here. I believe in the White House they honestly believe that if we all stand in a circle and hold hands and disarm, everybody is going to be happy. But I am not at all satisfied with that. I believe we need to have a nuclear deterrent.

Right now, we are faced with a situation where, because of the vetoes of this President, we don't have a national missile defense system. That is to say, if they should deploy one of these missiles from North Korea, China, or Russia, which takes 35 minutes to get here, we have no way of knocking it down. We would be dependent upon a nuclear stockpile to have something to send back that is more significant. And not knowing whether or not those weapons would work would be worse than knowing they would not work.

So the time is here to do it. I have applied this to my "wife test," which I often apply to things. I asked, "Can we take a chance on not being able to fire missiles?" She agrees with me, and she is never wrong.

Seeing the junior Senator from Texas, I recall something the senior Senator from Texas has said many times, which I think is very appropriate to quote at this time:

> We have to remain strong. We all wish for the day and hope for the day when the lion and the lamb can lie down together. But when that day comes, I want to make sure we are the lion.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I thank my colleagues across the aisle for allowing me to go forward.

This is such an important debate. It is an important issue for our country but also for the world. There is no question the cold war ended with communism in full retreat and democracy on the rise throughout the world largely because the United States maintained an awesome military capability that deterred war.

No American should forget that our stockpile of safe and reliable nuclear weapons has deterred nuclear conflict for these past 50 years. When Saddam Hussein threatened to use weapons of mass destruction prior to Desert Storm, it was the certain knowledge that the United States would respond overwhelmingly that prevented Saddam Hussein from unleashing his own chemical and biological weapons.

This is a question of whether or not we, as a nation, intend to maintain our nuclear deterrent capability—so vitally important to us over the last 50 years in maintaining peace in the world—or if we intend to unilaterally disarm. Make no mistake, that is the question before us.

Our founders purposely made it hard to enter into treaties and required a two-thirds majority in the Senate for ratification. Thomas Jefferson wrote, "We had better have no treaty than a bad one."

I am afraid this test ban treaty is a bad one and it would be better not to have it. A treaty is permanent. It requires great vision and caution. Ratification of this test ban treaty would ultimately endanger our national security. I hope our citizens are paying close and careful attention.

There are really two questions before us: First, if we ratify this treaty, will the United States be able to maintain a safe, reliable, and credible nuclear capability? Second, will we be able to verify that this treaty is being enforced by other countries that have joined us? Unless both questions can be answered "yes," then we cannot possibly ratify this treaty.

On the issue of reliability, nuclear tests are the only proven method to assure confidence in the reliability and safety of our nuclear weapons. We have heard testimony to this effect from scientists and other experts. They worry that as we make advances in material science and component technology for these very complex weapons, the inability to test these advances through actual detonations will leave us with doubt about whether they will work if used.

This treaty prohibits all nuclear tests, even of the lowest yield. The new diagnostic tools are still unbuilt and unproven. Scientists admit with humility that actual tests have often radically altered their chalkboard theories drawn out in the laboratory. At this point, anything short of testing is not sufficient to assure reliability and safety. Reliability of our weapons means they will work as intended. So it is clear that reliability is key to our national strategy.

My second concern is that once the United States ratifies this treaty, we will stop testing our weapons because we abide by treaties, but rogue nations will not. Several countries that signed the Nuclear Non-Proliferation Treaty, agreeing not to produce nuclear weapons, violated the treaty. They built the nuclear weapons anyway. Now we are expecting them to sign this treaty and agree not to test.

I agree with Dr. Kathleen Bailey of Lawrence Livermore Labs, who noted in testimony before the Armed Services Committee that this treaty expects nations to "agree not to test weapons they previously agreed not to acquire."

The Secretary of Defense has acknowledged in his own testimony that "we would not be able to detect every evasively conducted test."

In fact, I pursued this direct line of questioning with former Chairman of the Joint Chiefs of Staff, John Shalikashvili, in Defense appropriations hearings on March 5, 1997. He was the Joint Chiefs Chairman at the time, and he did his best. But even then, he could not say he would guarantee the safety.

General Shalikashvili said, "With each year that goes by and we are further and further away from having done the last test, it will become more and more difficult. That is why it is very important that we do not allow the energy budget to slip, but continue working on this science-based stockpile verification program and that we get this thing operating. But even then, Senator, we won't know whether that will be sufficient not to have to test. What we are talking about is the best judgment by scientists that they will be able to determine the reliability through these technical methods."

I then asked him, "Do you think we should have some time at which we would do some testing just to see if all of these great assumptions are, in fact, true?"

General Shalikashvili responded, "I don't know. I won't pretend to understand the physics of this enough. But I did meet with the nuclear laboratory directors and we talked about it at great length. They are all convinced that you can do that. But when I ask them for a guarantee, they cannot give it to you until all of the pieces are stood up."

He continued, "Obviously if we stand it up and we cannot do that, then we will have to back the President and say we will have to test. Hopefully it will work out. But we are still a number of years away before we will have that put together so that we can tell you for sure it will not work or it will."

I said, "Well, mark one Senator down as skeptical."

General Shalikashvili responded, "Mark one Chairman of the Joint Chiefs of Staff joining in that skepticism. I just don't know."

Mr. President, "just don't know" is being unsure. Close is not good enough. It is not good enough when you are talking about a permanent treaty and when it comes to nuclear safety.

The recent letter to the majority and minority leaders from six former Secretaries of Defense of both parties was even more chilling. This letter from six former Secretaries of Defense from both parties:

> As the Senate weighs whether to approve the Comprehensive Test Ban Treaty (CTBT), we believe Senators will be obliged to focus on one dominant, inescapable result were it to be ratified: over the decades ahead, confidence in the reliability of our nuclear weapons stockpile would inevitably decline, thereby reducing the credibility of America's nuclear deterrent.

They go on to say:

> The nuclear weapons in our nation's arsenal are sophisticated devices, whose thousands of components must function together with split-second timing and scant margin for error. A nuclear weapon contains radioactive material, which in itself decays, and also changes the properties of other materials within the weapon. Over time, the components of our weapons corrode and deteriorate, and we lack experience predicting the effects of such aging on the safety and reliability of the weapons. The shelf life of U.S. nuclear weapons was expected to be some 20 years. In the past, the constant process of replacement and testing of new designs gave some assurance that weapons in the arsenal would be both new and reliable. But under the CTBT, we would be vulnerable to the effects of aging because we could not test "fixes" of problems with existing warheads.

I think it is clear from the experts, from former Secretaries of Defense and from former Chairmen of the Joint Chiefs that they cannot give us a guarantee.

We are talking about nuclear safety. We are talking about the major tool we have for deterrence. We are talking about the security of the United States of America, and we have a treaty before us that is permanent.

How could we go forward with a treaty such as this with these kinds of questions? Close is not good enough when we are talking about permanence, and when we are talking about our own national security.

In fact, when it came to a test-ban treaty, President Reagan and other Cold War Presidents supported a ban only on high-yield nuclear tests. These tests would be of sufficient explosive power to be detected and identified by the sophisticated equipment designed to monitor underground explosions.

Under that proposal, lower yield tests would be permitted, to help ensure that our weapons were reliable. It makes sense not to ban low-yield tests because they're too small to detect and identify with the monitoring equipment. That was a sensible approach that has unfortunately been discarded by the Clinton Administration.

In fact, just last month, it appears the Russians may have conducted low-level nuclear tests at an Arctic test site. I say "may have" because the Central Intelligence Agency has concluded that seismic sensors and other monitoring equipment simply can not provide the data needed to know for sure.

Supporters of the treaty say it will result in a more extensive monitoring program, including inspections by experts. But a more extensive inspection system is not going to increase our capability to detect violations in advance. And having the right to request on-site inspections of test facilities doesn't give any added assurance of verification either. Let's face it: We've had that right in Iraq for the last eight years, and it's not worth the paper it's printed on.

Look at recent events in North Korea as an example of this Administration's policy of buying compliance with treaties and agreements. That policy has actually promoted nuclear and missile proliferation.

When the administration became convinced North Korea was building a nuclear device, in violation of their commitments under the Nuclear Non-Proliferation Treaty, it threatened a variety of sanctions.

The North Koreans responded that sanctions were tantamount to a declaration of war and soon we were at the negotiating table with this rogue nation. Prior to their possession of a nuclear weapon, it had been a tenet of our foreign policy for over 40 years that the United States would not negotiate directly with the North Koreans without our South Korean allies at the table.

However, once it became clear that North Korea was trying to enter the nuclear club, we began to negotiate. We set a lavish buffet of incentives—cash transfers, fuel, helping them build safer nuclear reactors. This began a dangerous cycle in which the North Koreans threaten to act badly and we bribe them not to.

After that pattern, despite our warnings and threats, Pakistan soon thereafter tested a nuclear weapon and claimed membership in the nuclear club.

As former Majority Leader Bob Dole has pointed out, "We refer to states as rogue regimes because they regularly violate international law and refuse to be held accountable to international norms. The best way to deal with them is to deter them."

This treaty will not end nuclear testing. A "feel good treaty" doesn't make the world a safer place. The world is safer only when America is strong. A critical element of our military strength is a credible nuclear capability. This treaty will not result in a nuclear weapons free world. It will only result in a nuclear weapons free America, and that would be a much more dangerous world.

I urge my colleagues not to go forward with this treaty that we will have to abide by, on a permanent basis, not knowing if we will be able to keep our arsenal up to date and safe. This is a chance we cannot afford to take as the stewards of the national defense of our country.

I urge my colleagues to vote no on this treaty if it does come forward.

Once again, Mr. President, I thank Senator ALLARD from Colorado, Senator LEVIN, Senator DORGAN, and all who have allowed me to speak.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank the Chair.

I wish to begin also by thanking the chairman of the Senate Armed Services Committee, Senator WARNER, for holding 3 days of hearings on the Comprehensive Nuclear Test-Ban Treaty. These hearings were well balanced and very informative. They were also very much overdue. But at least we have begun the process of exploring this treaty.

What do we know after 3 days of those hearings?

We know the best professional judgment of our senior military leaders is that the Comprehensive Nuclear Test-Ban Treaty is in our Nation's national security interest. The best professional judgment of our senior military leaders, civilian and uniform, is that we are better off with this treaty than without it. We know after these hearings that the Comprehensive Test Ban Treaty will make it harder and more expensive for other countries to maintain existing stockpiles. We know the treaty would make it harder and more expensive for nations that do not yet have nuclear weapons to develop and deploy those weapons. We know that the treaty, as all treaties, is not perfectly verifiable. But we also know that tests conducted below our level of detection would not militarily disadvantage the United States.

That doesn't come from me, although I believe it. It comes from our senior military leaders.

We know that our overall monitoring and verification capabilities are very capable today and will improve with the entry into force of the treaty. We know, despite a 7-year moratorium on nuclear testing, that the U.S. nuclear stockpile remains safe and reliable today. We haven't tested in 7 years. We have relied on our Stockpile Stewardship Program. That program is up and running. We rely on it every year for a certification that our stockpile is safe and reliable.

This isn't some future concept that is being discussed. It is a Stockpile Stewardship Program that is, of course, not finished. It may never be finished. But it has made significant progress. We rely on it. We have invested billions in it. And our lab Directors have said three times, based on a Stockpile Stewardship Program that we now have up and running, that our nuclear inventory is safe and reliable. Without that stewardship program, they cannot make those certifications now on which we so heavily rely.

So the Stockpile Stewardship Program is already serving as a basis for certifying safety and reliability of this stockpile. We also know that its capabilities will improve substantially in the future, but that if at any point in the future the Stockpile Stewardship Program is not adequate to certify the safety and reliability of our stockpile at that point under the guarantees that are in the letter from the President—and that we will write into the ratification resolution—then the United States will exercise its supreme national interest clause and begin testing again.

We have informed every signatory that is what we will have the right to do. We have put all the parties on notice as to what our supreme national interest is. We have said that if we can't certificate safety and reliability without testing—and we believe that we can do it without testing—we will then return to testing.

We also know there is no military requirement for the United States to resume testing at the present time and there are no plans to resume testing with or without a Comprehensive Nuclear Test-Ban Treaty.

Most important of all, we know that if we do not ratify this treaty, we will miss an opportunity, which is a historic opportunity, to stem the tide of nuclear proliferation, and we will instead be encouraging a new and possibly worldwide nuclear arms race.

Prohibition of nuclear weapons tests have been the goal of Presidents since President Eisenhower. It was President Eisenhower who said almost 40 years ago that not achieving a nuclear test ban, in his words, "would have to be classed as the greatest disappointment of any administration of any decade of any time and of any party."

The whole world, including nuclear weapons powers and countries that might want to become nuclear weapons powers, will be watching what the Senate does with this treaty. Our action is going to affect the willingness of other nations to ratify the treaty and our ability to persuade other nations to refrain from future nuclear testing. Rejection of this treaty will have a profound negative impact on the battle against proliferation of nuclear weapons.

We urge other countries—particularly, most recently India and Pakistan—to give up nuclear testing, to sign this treaty. India and Pakistan test weapons and we say: Stop it for your sake, for the world's sake. It is a road you should no longer walk. It is a road which could lead to your mutual total destruction and could spread to other parts of the world.

We make those pleas to India, Pakistan, and other countries. How in the world can we expect other countries to refrain from nuclear testing if we are unwilling to do so? How will we have any standing to ask India, Pakistan, China, and other countries to stop nuclear testing for the sake of the world, for the sake of our kids, and their kids? How would we have the gall to ask other countries to refrain from testing if we, ourselves, are unwilling to do so?

Our Secretary of Defense, our Joint Chiefs, four former chairmen of the Joint Chiefs—including General Shalikashvili, General Powell, Admiral Crowe, General Jones—have reviewed this treaty and have told the Senate Armed Services Committee that they also support this test ban treaty. General Shalikashvili's name was brought in by the Senator from Texas. I want to read what General Shalikashvili said this week. We heard what he said 2 years ago; now let's see what he says today. By the way, it is even stronger than where he was leading 2 years ago.

> In short, the chief and I have supported this treaty, together with the safeguards package, because it answered our military concerns and because our country is better off with this treaty than it is without it.

That is General Shalikashvili putting in a nutshell what the issue is: Is this country better off with or without this treaty? His answer is, it is.

General Shelton, who is the current Chairman of our Joint Chiefs, testified as follows before our committee:

> This treaty will help limit the development of more advanced and destructive weapons and inhibit the ability of more countries to acquire nuclear weapons. It is true that the treaty cannot prevent proliferation or reduce current inventory, but it can restrict nuclear weapons progress and reduce the risk of proliferation.

In short, our top uniform military official says the world will be a safer place with the treaty than without it, and it is in our national security interests to ratify the treaty.

Secretary Cohen, at the same hearings this week, testified that the treaty would restrain other nations from creating and building nuclear arsenals. He said:

> By banning nuclear explosive testing, the treaty removes a key tool that a proliferator would need in order to acquire high confidence in its nuclear weapons design. Further, the treaty helps make it more difficult for Russia, China, India and Pakistan to improve existing types of nuclear weapons and to develop advanced new types of nuclear weapons. In this way, the treaty contributes to the reduction of the global nuclear threat. Thus, while the treaty cannot prevent proliferation or reduce the current nuclear threat, it can make more difficult the development of advanced new types of nuclear weapons and thereby help cap the nuclear threat.

Opponents of ratification have raised two major arguments. They contend other nations could cheat because a low-yield nuclear test might not be picked up by our sensors; and second, we need to conduct nuclear tests in order to maintain the safety and reliability of our nuclear stockpile.

General Shelton and Secretary Cohen, on the basis of current intelligence information, have said that we would be able to detect any militarily significant level of nuclear testing. Secretary Cohen explained the conclusion this way:

> Is it possible for States to cheat on the treaty without being detected? The answer is, yes. We would not be able to detect every evasively conducted nuclear test, and from a national security perspective we do not need to.

This is his conclusion.

Secretary Cohen said:

> I believe that the United States will be able to detect a level of testing, the yield and the number of tests by which a state could undermine the U.S. nuclear deterrent.

General Shelton also pointed out that the treaty, if it comes into effect, will increase our ability to observe and monitor tests because it will create an international monitoring system of over 300 monitoring stations in 90 countries.

Some refer to information developed by the intelligence community over the last 18 months. I specifically asked the Chairman of the Joint Chiefs and the Secretary of Defense whether or not their testimony, their opinion, includes consideration of all of the intelligence community's information that has been gathered in the last 18 months and before.

Secretary Cohen states:

> I have been apprised of all the developments. I am not aware of any information at this point that would call into question our ability to maintain our strong nuclear deterrent, that any balance has shifted or would call into question our ability to defend ourselves.

With regard to the safety of the stockpile, it is now safe, it is certified as safe, even though we have done no testing since 1992.

The answer of the heads of our laboratories—when I directly asked them this question: Are you signed on to this treaty?—was:

> Yes, provided the safeguards are written into the ratification resolution and providing there is robust funding of our safeguards and our stockpile security program.

The lab Directors are, in the words of one of them, "on board" under those conditions and those conditions now exist.

My friend from Virginia apparently has a question, and I yield.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Virginia.

Mr. WARNER. Earlier, my distinguished colleague referred to General Powell. I have had the opportunity to be counseling with General Powell, soliciting his views, and he has been soliciting mine for some several days. He just telephoned me because he is watching this debate. He authorized me to say the following, that in view of the mounting conflicting testimony—primarily before the Senate Armed Services Committee in the course of the three hearings which my colleague is now addressing and I shall address at some point here—in view of the mounting conflict of testimony, particularly as it relates to the credibility of this deterrent and, indeed, safety issues—we need only look at the testimony by the lab Directors yesterday—he has authorized me to say at this time he joins those who recommended the delay of final consideration of the treaty at this point in time.

That should be clearly understood. He feels it should not be killed because he thinks, hopefully, if it is modified in certain ways, that it can be another brick in our walkway leading towards nonproliferation and stronger arms control regimes. However, at this time, he wishes to be on record as saying the Senate should not act and should not act because of the mounting conflicting testimony on the key essential elements that he and other uniformed officers—I addressed this earlier in the safeguards provision and likewise, which says at some point in time a President could withdraw from this treaty because of information brought to his attention.

So that is an important part of the treaty. It is under the "supreme" clause, which is in all of our treaties, but it is amplified. So I just wanted to correct the record.

Mr. LEVIN. You are not correcting the record at all. You are amplifying the record, if I may say to my good friend from Virginia.

Mr. WARNER. You said he supported the treaty but at this point in time——

Mr. LEVIN. I said he supported the treaty; and I am glad to hear he supports delay in the vote, and I hope our colleagues will listen to both of his statements, both that we should not now vote on this treaty—because he is correct for many reasons—and also I hope they will listen to his statement of January 27, 1998, when he, along with General Shalikashvili, former Chairman Crowe, and former Chairman Jones said the following:

> On September 22, 1997, President Clinton submitted the Comprehensive Nuclear Test Ban (CTB) Treaty to the United States Senate for its advice and consent, together with six Safeguards that define the conditions under which the United States will enter into this Treaty. These Safeguards will strengthen our commitments in the areas of intelligence, monitoring and verification, stockpile stewardship, maintenance of our nuclear laboratories, and test readiness. They also specify the circumstances under which the President would be prepared, in consultation with Congress, to exercise our supreme national interest rights under the CTB to conduct necessary testing if the safety or reliability of our nuclear deterrent could no longer be certified.

This is his conclusion, General Powell, on January 27, 1998:

> With these Safeguards, we support Senate approval of the CTB Treaty.

Those are his words. I am glad to have this printed in the RECORD and I am happy to hear at this point, at least, General Powell does support the delay in the vote. I think that is a wiser course to take for three reasons, and I will conclude with those reasons.

Mr. WARNER. The reasons he gave me are in view of the conflicting testimony that has evolved since the point in time at which he made that statement. That is the predicate on which he now thinks the vote should be delayed.

Mr. LEVIN. There are at least three predicates I would support for delaying this treaty. I am glad to hear he reaches the same conclusion for whatever reason he wants to give now.

Mr. WARNER. They are very important reasons, Mr. President.

Mr. LEVIN. I am not going to comment on his reasons. I am delighted he reached the conclusion he did. I disagree with his reasoning as to how he reached his conclusion because I think the evidence is overwhelming, and the testimony, if anything, has grown stronger. In fact, one of the arguments against this treaty is that we need somehow to defeat it in order to protect our allies; that they are relying on our deterrent—which, of course, they are—that somehow or other our allies would be disadvantaged if we ratified this treaty.

Yet three key allies have taken an unusual step. I do not remember when this has ever happened, when the heads of three states closely allied with us have urged this Senate directly to ratify a treaty. Yet that is what they are now doing.

We have heard arguments for the last few days: Look how important our strategic deterrent is, not just to us, which it is, but to our allies, which it has been and will continue to be.

What does President Chirac say and what does Prime Minister Blair say and what does Chancellor Schroeder say? They say: We need this treaty, Senate. They are directly addressing the U.S. Senate. I do not remember that ever happening.

Mr. MOYNIHAN. Never.

Mr. LEVIN. Directly, directly asking the U.S. Senate to ratify the comprehensive test ban.

What do they say:

> Rejection of the treaty in the Senate would remove the pressure from other states still hesitating about whether to ratify it. Rejection would give great encouragement to proliferators. Rejection would also expose a fundamental divergence within NATO.
>
> The United States and its allies [they say] have worked side by side for a Comprehensive Test Ban Treaty since the days of President Eisenhower. This goal is now within our grasp. Our security is involved as well as America's. For the security of the world we will leave to our children, we urge the U.S. Senate to ratify the treaty.

So much for the argument that somehow or other defeating this treaty is not only good for us but it is good for our allies. Not in their view, it is not. Not in my view, it is not. And I hope not in the view of the majority of this Senate.

But I want to go back to the delay, and I am going to wind up because I do happen to agree, we should not vote on this treaty at this time—for a number of reasons.

First of all, because it would be tragic to reject this treaty, and if it comes to a vote now, it is going to be rejected. It would be tragic for our security—that is our top military leaders saying that, and I feel that keenly. It would be tragic for the world for us to defeat this treaty. It would reverse the direction in which we are heading, which is an ongoing effort to try to reduce the threat of proliferation of nuclear weapons. That effort, which I hope all of us share, will be damaged severely if we reject this treaty. And because we will reject this treaty if it comes to a vote, I think we should delay it.

No. 2, this treaty should not be involved in any way in Presidential politics, partisan politics, political meanderings, conflicts. We ought to be looking at this treaty based on its merits without this political environment being heeded. We cannot and are not doing that at this moment. It is a good reason to delay this treaty.

We delayed the Chemical Weapons Convention. The reason we delayed our vote, even though it was scheduled—and I tell my good friend who is presiding, even though we had actually scheduled a vote on the Chemical Weapons Convention, by unanimous consent I believe, too—when Senator Dole came out against that Chemical Weapons Convention shortly before we were voting, and while he was running for President, we decided as a Senate we would delay that vote until after that Presidential election.

We then, taking calm deliberation, adding conditions, reservations—we then ratified that treaty. We took the time to do it. In fact, we spent a lot of time in the Old Senate Chamber, as I remember, as part of that deliberation. We should do that here.

The third reason we should not proceed to vote at this time is that we as a Senate have a responsibility to deliberate on a treaty. We put ourselves in a position, through a unanimous consent agreement, where we could not do that adequately. I think that was a mistake. But we do not have to compound our mistakes and make a worse mistake by voting on it just because we agreed to a unanimous consent agreement that we would begin the debate on it. That does not force us to proceed to vote on that treaty.

We have done some good with this unanimous consent agreement already, although I believe, looking back, it was a mistake to constrain ourselves as we did—that we could not add amendments other than one on each side, could not add reservations, could not add conditions, and so forth. What we have done as an institution is to put ourselves in a straitjacket with this unanimous consent reservation, which is not in keeping with the great traditions of the Senate. Senator BYRD, Senator MOYNIHAN, and others made that point. I think they made it eloquently. I keenly believe it. We have a responsibility here to deliberate on a treaty, to be open to considering conditions, qualifications, reservations, statements—to complete our committee work.

My good friend from Virginia knows—in fact he was the one, I think, who brought this out—we are currently in the middle of receiving a national intelligence estimate which is not yet completed. We should see that completed. We should have whatever hearings are needed.

By the way, we should have a committee report. I cannot remember a treaty which has ever come to the floor of the Senate—at least of this magnitude—without a committee report. On the Chemical Weapons Convention, we had a committee report of 350 pages for consideration by this body. We do not have one page from any of the committees.

So it seems to me it makes the most sense for us, under these circumstances—I am going to be perfectly candid; one of the reasons that compels me is that I believe if we voted now, this would be defeated. I think that would be a tragic setback in the fight against proliferation. But there are other very important institutional reasons, which I hope will appeal to others, that we should not ever as a body put ourselves in a position where we need to vote, or have to vote, on something which is not ready to be voted on.

Mr. WARNER. Mr. President, if the Senator will yield on our time. The distinguished ranking member of the Armed Services Committee and I, the distinguished ranking member of the Foreign Relations and Senator MOYNIHAN—a group of us are trying to work on a framework for the purpose of our two respective leaders, and, indeed, the President is involved.

Yesterday, in the course of our hearings, I addressed my concern—I support the delay of the final consideration, as now under the UC, but I am also very concerned that whenever the Senate resumes consideration of this treaty it be done in a time period after careful records have been created on this treaty and questions that concern General Powell about the conflict of testimony have been resolved to the best of our ability, and that it not be done under the dynamics of the U.S. constitutional process of electing a President and the Members of the Congress. That is the thing that concerns me. Those dynamics might, in all fairness, affect the outcome of this treaty which could be adverse to the national security interests of this Nation and our allies who depend upon us.

In searching for the format of a consensus to move off the UC consent of having the vote next week, we need to address that issue. Will my dear colleague say exactly what he did in open session yesterday about how he basically endorses my concerns over the year of the national elections under our Constitution?

Mr. LEVIN. As I said yesterday, indeed, the day before, in the absence of circumstances that I cannot foresee——

Mr. WARNER. Primarily, Mr. President, international intervention of some type.

Mr. LEVIN. No, I do not limit it to that.

Mr. WARNER. Each Senator has an opportunity to address that.

Mr. LEVIN. That is correct. But in the absence of circumstances I cannot foresee, I would oppose bringing this treaty up next year for the reasons I have given. In conclusion, at a minimum, I believe we should do no harm. At least let us do no harm in the battle against proliferation. Bringing this treaty up now for a vote—not for debate, which we are doing under a UC, but for a vote—in my judgment, would do harm to the battle against the proliferation of nuclear weapons. I hope we will be able to find a way that we not reach that vote. I yield the floor.

Mr. WARNER. Mr. President, I concur in my good friend's comments. In other words, I have been urging him to say these things for some time. I thank him because this is very helpful as I and other Senators, hopefully with him, continue to work to provide our leadership with a framework within which this can be achieved.

Mr. LEVIN. If I can have 10 more seconds, I have not been reluctant at all to say this over the last few days. I have been very open about my feelings on this issue and that bringing this treaty to a vote now would do harm. I join my friend from Virginia in that belief.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, if it will help my colleagues, we have been trying to equalize this. I am about to yield to Senator DORGAN for 15 minutes, but I say to Democrats who are waiting to speak, we have Tuesday as well. I will be yielding in the 5-to-7-minute range for people who wish to speak after this, if people want to speak. We will reserve enough time at the conclusion of this debate.

I yield 15 minutes to Senator DORGAN who has been, quite frankly, the leader on our side of this issue who has been trying very hard for a year to get us to this point of debate. I yield 15 minutes to my friend from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, for all the anxiety that is expressed in this Chamber about when we might vote and the consequences of that vote, I at least observe that we are finally on the right subject. This is an important issue. This is an important matter for the Senate to consider. There are big issues and then there are small issues. There are important issues and some not so important. Stopping the spread of nuclear weapons, in my judgment, is a big, important issue.

Will the United States of America be a leader, will it assume its moral responsibility in the world to provide leadership to stop the spread of nuclear weapons and reduce the risk of nuclear war? That is the question before the Senate.

Sadly, some in this Chamber answer that question by saying: No, not us, not now. In fact, some, if you look at their record on arms control agreements say: Not us, never.

This treaty is not so difficult to understand, despite the protestations of some.

Forty years ago, President Eisenhower called for a treaty of this type. Seven years ago, the United States decided we would unilaterally stop the testing of nuclear weapons. Nearly 5 years ago, our country was a leader in convening nations to negotiate a comprehensive test ban treaty. Two years ago, that Comprehensive Test Ban Treaty was sent to the Senate for ratification. Not 1 day of hearings was held in the Senate Foreign Relations Committee in 2 years—not 1.

Then abruptly, 10 days ago, we were told there would be 14 hours of debate and 10 days hence we would have a vote on the Comprehensive Test Ban Treaty.

That was not and is not a thoughtful way for the Senate to deal with this issue, especially an issue of this importance.

Now to the debate. Mark Twain once said when asked if he would participate in a debate: Absolutely, provided I can take the negative side.

They said: We have not told you what the debate is about.

He said: It doesn't matter, you don't need time to prepare for the negative side.

I will not ascribe those motives to those who are strongly in opposition to this treaty, but some of the charges and allegations made just seem, to me, to be preposterous. I heard an hour or so ago in this Chamber the term "unilateral disarmament" applied to the U.S. ratifying this treaty. What a preposterous charge, unilateral disarmament.

Let's look at who supports this treaty. I heard a discussion about Gen. Colin Powell. Gen. Colin Powell supports this treaty. He said so. We have the date, the time, the place, the statement. He now, apparently, in a telephone call he said he would like to defer the vote because of questions raised in hearings, hearings that were 2 years in the making. Gen. Colin Powell, General Shalikashvili, the last four Chairmen of the Joint Chiefs of Staff; General Shelton, the present Chairman and the Secretary of Defense—all of whom say they support this treaty. Why? Because they believe this treaty protects this country's security interests. They believe this treaty is in this country's interest.

I will read some statements because those who come to the floor talking about the military consequences of this treaty need to understand to what all the senior military leaders in this country now testify.

The Joint Chiefs, the senior military leaders in this country, say:

> In a very real sense, one of the best ways to protect our troops and our interests is to promote arms control. . . . In both the conventional and nuclear realms, arms control can reduce the chances of conflict. . . . Our efforts to reduce the number of nuclear weapons coincide with the efforts to control testing of nuclear weapons. . . . The Joint Chiefs support the ratification of this treaty.

Colin Powell and others in January 1998 said:

> We support Senate approval of the CTBT.

Gen. Colin Powell supports the ratification of this treaty. We are told he wants the vote delayed. So that does not change the fact that he is on record saying he supports the ratification of the Comprehensive Test Ban Treaty.

What about monitoring? We hear all this noise about if we ratify this treaty, countries will cheat.

Our military leaders—and certainly the scientists—but especially our military leaders say that if we ratify this treaty, we will have monitors all around the world.

I show the situation on these charts: Here are the monitors without ratification; here are the monitors with ratification. The number of monitors is dramatically enhanced. The ability to detect nuclear tests, detect cheating will be dramatically enhanced. No one that I know of can credibly or thoughtfully argue that we are not enhancing our capability in this country by ratifying this treaty.

What about the scientists? Thirty-two Nobel laureates in physics and chemistry, the most powerful intellects in this country were at the White House a couple of days ago. One who testified yesterday worked on developing the first nuclear bomb; one who testified the day before invented radar and then invented the laser—what do these scientists tell us about this treaty? They say: Ratify this treaty. This treaty is in the country's best interest.

Scientifically, they tell us that we can safeguard our nuclear stockpile; we can more effectively monitor tests around the world. They say, without equivocation: Ratify this treaty. That is from scientists.

What about the American people? Surveys show 80 percent of the American people say: Ratify this.

It is interesting to me, military leaders do not count; scientists do not count; the American people do not count. There is this cold war mentality, I guess, that nothing has changed. Some who have never supported an arms control agreement are back here again today saying this will not work either.

Other arms control agreements have worked, and we know it. We have seen the destruction of nuclear weapons by sawing wings off bombers, by destroying missiles and warheads, and not by hostility but by arms control agreements that call for reducing the numbers of nuclear weapons. That has happened. These arms control agreements have been successful. This treaty will be successful if this Senate will ratify it.

The support of military leaders and scientists—and, for that matter, the American people—seems to matter little in this Chamber. The scientific opinion of the most respected scientists in the world are second-guessed by those who believe they can understand this issue in a matter of a day or two.

Thirty-two Nobel Prize winners, two seismology organizations, three current weapons lab Directors, the Secretary of Energy, the Joint Chiefs of Staff, and the Secretary of Defense all have a common position on this country's ability to solve the scientific and technical tasks required in this test ban treaty; and all of them say that this treaty is in the country's interests.

The spread of nuclear weapons, that is what all this is about—stopping the spread of nuclear weapons. India and Pakistan detonated nuclear weapons not too long ago under each other's chin. These are two countries that do not like each other. Ought that not send some fear all around the world about the proliferation of nuclear weapons?

Or maybe some do not understand nuclear weapons. They think that they are just bombs. There is an Indian author named Arundahti Roy who is one of the most acclaimed young authors in the world right now. She writes about a nuclear attack and nuclear weapons. Let me read some of this for a moment. She talks about the sentiments of survivors of a nuclear attack:

> What shall we do then, those of us who are still alive? Burned and blind and bald and ill, carrying the cancerous carcasses of our children in our arms, where shall we go? What shall we eat? What shall we drink? What shall we breathe?
>
> . . . There's nothing new or original left to be said about nuclear weapons. . . . (But) under the circumstances, silence would be indefensible. Let's not forget that the stakes we're playing for are huge. Our fatigue and our shame could mean the end of us.

We have a responsibility as a country. Those who raise arguments I have heard today—I wonder how can they sleep at night, if they believe our nuclear weapons are unsafe.

A physicist yesterday said: We have had them for 40 and 50 years. We know how they work. We know how to safeguard them. We know how to keep them over time. Yet we have people on the floor of the Senate talking about the fact that the stockpile may not be safe.

One of my colleagues said: Drop some of them on your State. You think they'd work? Of course they would. You would not, in a million years, guess about whether it would detonate on your State if a nuclear weapon were aimed at your State. We know our stockpile works and is maintained at great cost.

Cannot monitor? Nonsense. That does not even deserve much of a response. Everybody says our monitoring will be enhanced.

Unilateral disarmament? Rubbish. There is nothing here that suggests that. This country already decided we were not going to test 7 years ago.

The question now is, Will we give others a green light to test? We decide that we won't test, but we will refuse to ratify a treaty that says to others: We don't want you to test either.

It is a curious set of circumstances by which this comes to the floor.

Every other arms control issue has been dealt with seriously.

The ABM Treaty: 8 days of Foreign Relations Committee hearings, and 18 days of Senate debate on the floor of the Senate.

The Intermediate Nuclear Forces Treaty in 1988: 23 days of committee hearings in the Foreign Relations Committee; 2 days of Senate floor consideration.

START I: 19 days of hearings; 5 days on the Senate floor.

START II: 8 days of Foreign Relations Committee hearings; 3 days on the Senate floor.

Chemical weapons: 14 days of hearings; 3 days on the Senate floor.

NATO enlargement: 7 days of hearings; 8 days on the floor.

The Comprehensive Test Ban Treaty: 2 years it was here. Not 1 day of hearings in the Senate Foreign Relations Committee during 2 years; and then we are told, 14 hours of debate.

The New York Times today has the spectacle—welcomed from my standpoint, by the way—but the spectacle of the leaders of England, France, and Germany asking us to assume our role as a leader, asking us to ratify the Comprehensive Test Ban Treaty.

No one ought to ask us to do what we have a responsibility to do. We ought not to be in the position of having other countries have to ask us to assume leadership in trying to stop the spread of nuclear weapons and reduce the risk of nuclear war. We ought to be leading on this issue, not following.

Omar Bradley, that great general said some many years ago, and it applies especially today, it seems to me:

> The world has achieved a brilliance without conscience. Ours is a world of nuclear giants and ethical infants. If we continue to develop our technology without wisdom or prudence, our servants may prove to be our executioner.

Everyone in this Chamber knows our responsibility. Our duty—as the nuclear superpower on this Earth—our duty is to lead. And we cannot and we must not shrink from that duty ever.

There is great anxiety about what happens at the end of 14 hours, and what if, as some now speculate, many Senators, especially on the other side of the aisle, decide they cannot support this treaty. Some say that would be a chilling, chilling result, with devastating results around the rest of the world.

I know this: This is a difficult, uncertain time, with many countries wishing to possess and acquire nuclear weapons. It is a difficult time, with India and Pakistan detonating nuclear weapons. It is a difficult time, with rogue nations and terrorist groups that want to threaten much of civilization.

We have unloosed the nuclear genie, and we must assume responsibility in providing an opportunity for the entire world to stop the spread of nuclear weapons. One way to do that—an important and effective way to do that—is to decide as a Senate to ratify this treaty.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DORGAN. Mr. President, I yield the floor.

Mr. KYL. Mr. President, I yield 15 minutes to the Senator from Colorado, Mr. ALLARD.

Mr. ALLARD. If the Chair will notify me when I have a minute left, I would appreciate it.

The PRESIDING OFFICER. The Chair recognizes the patient Senator from Colorado.

Mr. ALLARD. Mr. President, there are three areas I will respond to, contained in previous comments made on the floor. One has to do with the number of hearings we have had in relation to this issue. Another is what previous Presidents have accepted. Another is our ability to monitor what has happened as far as nuclear testing is concerned.

We have had hearings in the Armed Services Committee. I have served on that committee. I have been there personally. I know they have been there. We have had hearings in the Intelligence Committee. To make a statement that this has been brought to the floor without a hearing and discussion in committee is false. We have had those hearings. I believe I have been adequately briefed, as a Member of the Senate, on the pros and cons of moving ahead with the ratification of this particular treaty.

As far as previous Presidents pushing for a nuclear test ban, none of the Presidents, except for this President, has worked for zero tolerance. That is unprecedented. Because of that zero tolerance, it creates special problems for this country when it comes to monitoring. We have shown, through our own scientific testing, that it is possible, with low-level nuclear testing, it can be camouflaged. One can let off a low-level test without any kind of detection. When we get to a zero-tolerance level, this all becomes a problem, as far as monitoring. We do have real problems with monitoring.

This week we have begun the very important debate regarding the Comprehensive Test Ban Treaty, better known as the CTBT, and whether its ratification is in the best interest of the United States. I believe this debate is timely. I have been studying the issue during the course of the last year; attended as many of the hearings as possible; carefully reviewed much of the record; and I listened closely to all my colleagues and the experts with their many varied opinions. After all this, I have come to the conclusion that the CTBT is not in the best interest of this country at this time.

As we move into the 21st century, America is confronting new and improved threats. More countries have acquired and are attempting to acquire weapons of mass destruction. This despite all the treaties in place today. Unfortunately, the reality of this threat means that the United States needs not a weakened nuclear deterrent but a stronger and more reliable nuclear deterrent.

During the cold war, we were in a bipolar strategic stance. It was the U.S. versus the Soviet Union. When we signed up to treaties, we were really only negotiating with the USSR. However, with the fall of the USSR, we are in a completely different strategic situation. Our main threats are rogue states whose goals are completely different than the former Soviet Union. I do not believe that these rogue states—Iran, Iraq, North Korea, and the like—really care if we ratify the CTBT. They will do what they believe is in their best interest.

For example, what do we do if we ratify the treaty and Iraq conducts a nuclear test? Some would say that we can punish them or shame them. How? Are we going to bomb them? Are we going to place heavy economic sanctions on them? To me, this treaty will do nothing to stop the people we want to stop from testing. While we do not need to go "mano y mano" anymore with another state in numbers of warheads, we do need to have a strong nuclear deterrent and to do this we need the technology and industrial base capable of assuring that our weapons stay strong. I believe we use the deterrent approach until we have the technology available to destroy a nuclear threat over the country of origin at which time it becomes a liability to the rogue country.

These requirements cannot be confidently met if the United States is obliged to adhere to a zero-yield and permanent CTBT. Despite what we have heard, no other administration has called for this treaty. President Eisenhower proposed a test ban but only for a limited duration. Neither President Kennedy nor President Johnson supported a zero yield test ban. President Nixon agreed to limit test above 150 kilotons and President Carter sought only a ten year ban with tests up to two kilotons. Presidents Reagan and Bush did not pursue a test ban at all.

The permanent zero-yield treaty has only been sought by President Clinton. And from my understanding, this has not been the position for the entirety of his administration. As recently as 1995, the Department of Defense position was that it could support a CTBT only if tests of up to 500 tons were permitted. However, the military chiefs were overruled by the civilian leadership after President Clinton agreed to a zero yield test ban.

This treaty prohibits all underground nuclear tests, even those so low that they cannot be confidently detected. If this treaty is ratified, we would be permanently prohibited from conducting the sorts of tests we have relied upon in the past to assure the safety, reliability, and effectiveness of our nuclear people.

Some of the CTBT proponents believe that the Stockpile Stewardship Program is the antidote to nuclear testing. This program supposes to be able to simulate nuclear explosions through the use of computer modeling. The estimate is that the program will cost at least $4.5 billion a year over 10 years.

While Stockpile Stewardship may be the answer in the future, the problem is that with any scientific experiment you must have a comparable element, and in this case a nuclear test. The best way to ensure that the Stockpile Stewardship program is working is to ensure that the results of the model match the results of a test. We must be able to caliberate the model before we should end all testing. I believe this is the height of irresponsibility.

With this being said, let me stress one major concern I have about the treaty, and regarding the 6 safeguards proposed by the President.

First, as a member of the Intelligence Committee and the Armed Services Committee, I believe the Comprehensive Test Ban Treaty submitted to this Senate by President Clinton is not verifiable. This means that, despite the vast array of expensive sensors and detection technology being established under the treaty, it will be possible for other nations to conduct militarily significant nuclear testing with little or no risk of detection.

What is militarily significant nuclear testing? The definitions of the term might vary, but I think we'd all agree that any nuclear test that gives a nation information to develop newer, more effective weaponry is military significant.

In the case of the United States, nuclear tests will yields between between 1,000 tons and 10,000 tons are generally large enough to provide "proof" data on new weapons designs. Other nations might have weaponry that could be assessed at even lower yields. For the sake of argument, however, lets be conservative and assume that other nations would also need to conduct tests at a level above 1,000 tons to develop a new nuclear weapon design.

The verification system of the CTBT is supposed to detect nuclear blasts above 1,000 tons, so it would seem at first glance that it will be likely that most cheaters would be caught. We need to look at the fine print, however. In reality, the CTBT system will be able to detect tests of 1,000 tons or more if they were nonevasive and take place at known test sites. This means that the cheater will be caught only if he does not try to hide his nuclear test. But, what if he does want to hide it? What if he conducts his test evasively?

From the hearings I have attended, it seems that evasive testing may be a very simple task for Russia, China, or others. One of the best known means of evasion is detonating the nuclear device in a cavity such as a salt dome or a room mined below ground. This technique—called decoupling—reduces the noise, or the seismic signal, of the nuclear detonation.

The change in the signal of a decoupled test is so significant—it can be reduced by as much as a factor of 70—that it will be impossible for any known technology to detect it. For example, a 1,000-ton evasive test would have a signal of a 14-ton nonevasive test. This puts the signal of the illicit test well below the threshold of detection. Decoupling is a well-known technique and is technologically simple to achieve. In fact, it is quite likely that Russia and China have continued to conduct nuclear testing during the past 7 years, while the United States has refrained from doing so.

If the CTBT were not going to affect U.S. capabilities, it would not be important whether the treaty were verified or not. The fact is, however, that the CTBT will freeze the U.S. nuclear weapons program and will make it impossible to assess with high confidence whether modifications made to the current stockpile will function as intended. And because there are limits to verifying compliance with the treaty, it will not effectively constrain other nations in the same way. That means they will ultimately be able to gain advantage, at the expense of the United States and our defensive posture.

Second, I want to touch on an issue that does not regard the text of the treaty, but the so-called six safeguards. I will not be able to get into detail on all of them, but it seems these safeguards have been discussed as if they were part of the treaty itself. In reality, these safeguards are just promises made by President Clinton. Even if they are contained in the Resolution of Ratification, these safeguards are still subject to congressional and budgetary pressures.

For instance, safeguard A states that the Stockpile Stewardship Program must be able to ensure a high level of confidence in the safety and reliability of nuclear weapons in the active stockpile. My concern is, what if the program runs into budgetary programs and a few Congressmen decide we are spending too much money on the program and attempt to kill the program?

Also, I know there are special interest groups that support the CTBT but oppose the Stockpile Stewardship Program and will put domestic political pressure on all of us to reduce and end the Stockpile Stewardship Program and instead fund other programs.

Another example of budgetary and political pressures can be associated with a safeguard E. This safeguard insists on the continuing development of a broad range of intelligence gathering and analytical capabilities. This safeguard is already being tested. This administration already attempted to cancel the WC-135 aircraft, citing funding considerations. The WC-135 is essential to U.S. monitoring of nuclear tests. As a member of the Intelligence Committee, I fought for its continued funding. If safeguard E were taken seriously by this administration, they would not be attempting to cancel a program that is essential to monitoring, but would be fully funding these important programs.

For these reasons and many others, I must oppose this treaty —not because I want testing, but for the fact that I cannot yet rely upon an untested future program for the safety of our nuclear deterrent. Maybe one day I can support a zero-yield plan. But now is not the time.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I would like to ask my friend one question on my time, if he is willing.

Does the Senator believe that if we defeat this treaty and allow for continued testing, there will be the consensus in this Congress, or in any future Congress, to spend $4.5 billion a year for the next 10 years to fund the Stockpile Stewardship Program?

Mr. ALLARD. I think that, right now, we have the desire within this Congress to continue to fund the stockpile program. I think many of us believe it is an option. It needs to be scientifically developed. We don't have the science there. I personally have that commitment. I also believe we are developing the technology where we can take our own defense systems—we can take our own rocket and meet it with another rocket that has a nuclear warhead on it, intercept it. Lately, we have begun to demonstrate our ability to do that.

I think ultimately we will be able to stop nuclear proliferation when we eliminate the threat of the nuclear warhead going over any other country other than the country from which it was shot. So if we shoot it off over the country from which the missile was launched, then the only hazard is to the country that has the warhead. When we develop that technical capability, then I think we will have a real deterrence. And I don't believe that is far away, by the way.

Mr. BIDEN. Mr. President, regarding that, I point out to my friend that the ability to do that is in direct proportion to the lack of a MIRV'd capability on the part of other countries—that is, other countries being able to put multi-reentry nuclear missiles on a vehicle to fire at us.

All of the technology and testimony from all sources has indicated that for countries that don't have that capability now to be able to move to that capability, which requires them to have a much lighter physics package, or nuclear package on top of a missile—it must be lighter, and it must have a boost capacity—in order for them to develop that, they will have to have testing which is detectable beyond anybody's doubt.

So I make the point that the ability to establish a credible missile defense is directly dependent upon the ability of us to keep other nations from developing the ability to have MIRV'd reentry vehicles.

I yield 10 minutes now to my friend from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, my father, Leon Wellstone, was born in Odessa in the Ukraine. His family moved several times to stay ahead of the pogroms. Most of his earlier years he spent in Khabarovsk, Siberia, Far East Russia. He came to our country in 1914. He fled persecution. He never could go back home. In all likelihood, his parents were murdered by Stalin.

Mr. President, my father spent most of his life in our country in Washington, DC, and during the night of August 7, 1945, he wrote this essay to himself:

I ask unanimous consent it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> On the day after Hiroshima, I endlessly wandered around town, dazed, lost, adrift. Like a man who suddenly lost all his earthly possessions, his family, his hopes; who is completely and inconsolably bereft; who is stupefied with misery of a depth and poignancy beyond words; who no longer knows where he is going to or why; who can think of nothing but appalling ruin, and nothing save the keenest anxiety and travail and death.
>
> Then, too tired to walk any more, I headed for an old hotel downtown and came in and sat down. Some months ago I had discovered its lobby. It was shabby and ancient, full of old and creaky furniture that spoke of in numerable years of service bolstered by many fixings and patchings and new coats of paint.
>
> Everywhere was evidence of age and wear and tear and fatigue. And yet, for all that, the lobby radiated an air of confidence and determined survival.
>
> Whatever else was in question—an endless list!—one thing at least had appeared certain: that, though changing with the years in manner and pace, life would go on. It was infinitely comforting and appealing to think that it would.
>
> Now that thought was rudely and cruelly shaken by the blast of a bomb. It was a thing we had only imagined in myths and fables. A fiery augury of the world's end. A revelation, stunning and merciless and naked, that this seemingly solid and enduring world of iron, brick, concrete, flesh and bone can vanish as quickly as a sizzling drop of moisture on a hot stove.
>
> Try as I might I could not rid myself of direst premonitions, nor halt my urgent questionings, nor feel a measure of security any longer, nor imagine how the outlook might brighten, nor decide how some peace of mind could be recaptured.
>
> I sat there miles deep in searching thought, unaware of time's passing, hating to return to normal duties. What was the sense of hurrying now? Or the need or purpose to any activity? Why was I, of all men, so shocked and grieved? A life of doubt is possible. But a life of the keenest distress is not. I had found life and the society of men greatly wanting. I had been a pessimist, but now all this was pointless, irrelevant, outlandish.
>
> Only he finds life wanting who also loves it. The idea that this world might soon be no more was an outrage on all logic. It made no sense that a thing of such scope and infinite variety should be doomed to final erasure. I did not care about my own life; I have lived most of it and might not live much longer. But there were the children. And natural beauty. And pictures in the galleries. And fine musical scores. And great books.
>
> I thought of all this and looked about. Never had I felt the lobby so quaint, dear, beguiling. Now I liked its creaking chairs—music to my ears. I liked the shabby walls that have watched so long people drift in and out. I liked the ridiculous pictures on the walls with their flavor of bygone days. I liked the wornout rugs.
>
> Why should I care if the world were turned to cinders? I, who had in the past thought on occasion that it had abundantly merited such a fate? Yet I cared—fiercely, greatly, vehemently. And I could not still my indignation or contain my bitter revulsion.
>
> Finally I left the lobby. I could see nothing ahead but ruin. But outside, on the street, life was astir as ever. Oh, the wonder, stimulation, the comfort of the living scene when you had just thought of charred nullity!
>
> There were tears in my heart.

Many people then were cheering after they dropped that bomb. I think my father was profound.

Leon, your words are part of the official CONGRESSIONAL RECORD, part of the Senate deliberations, and I believe your words have a poignancy and a relevancy to this historic debate on the floor of the U.S. Senate today.

Mr. President, three years ago, President Clinton became the first world leader to sign the Comprehensive Test Ban Treaty. On that day, the President praised the treaty as the "longest-sought, hardest-fought prize in the history of arms control."

We as a nation cannot afford to lose this valuable prize. With the ratification of the Comprehensive Test Ban Treaty, we have a unique opportunity in the Senate to help end nuclear testing once and for all. Ratification is the single most important step we can take—here and now—to reduce the threat of nuclear war, which is what my father was talking about.

The Comprehensive Test Ban Treaty is in the interest of the American people and it has widespread public support. It will strengthen our nuclear nonproliferation efforts by reassuring non-nuclear weapon states that states with nuclear weapons will be unable to develop and deploy new types of nuclear weapons. It will keep non-nuclear countries from deploying advanced nuclear weapons systems even if they have the capability to design them. Further, it will improve our ability to detect any nuclear weapons test, with other countries paying 75 percent of the bill for the International Monitoring System.

Ratification will help push India and Pakistan to sign and ratify the Test Ban Treaty. This may be one of the few steps taken to bring these two countries back from the brink of nuclear war, until there is a resolution of the terrible conflict in Kashmir. Further, ratification by the Senate will encourage Russia, China, and other states to follow suit, just as we witnessed when the United States first ratified the Chemical Weapons Convention.

Some say ratification of the treaty is a bad idea because it would be too risky. They say the treaty is too risky because countries might cheat. As Secretary Albright said yesterday in the Foreign Relations Committee, "By approving the treaty, what exactly would we be risking? With no treaty, other countries can test without cheating, and without limit."

In 1963, President Kennedy negotiated the landmark Limited Test Ban Treaty with the Soviet Union to ban tests in the atmosphere. That year, he spoke of his vision of a broader treaty in his commencement address at American University. As he said:

> The conclusion of such a treaty, so near and yet so far, would check the spiraling arms race in one of its most dangerous areas. It would place the nuclear powers in a position to deal more effectively with one of the greatest hazards which man faces in 1963, the further spread of nuclear arms. It would increase our security—it would decrease the prospects of war. Surely this goal is sufficiently important to require our steady pursuit, yielding neither to the temptation to give up the whole effort nor the temptation to give up our insistence on vital and responsible safeguards.

These words are as true today as they were in 1963. Some of the geopolitical circumstances have changed, the Soviet empire has collapsed, as have the names and the faces of those on the floor debating today. But, in other very important ways, the debate today is quite similar:

Then, as now, there were concerns about our ability to maintain a strong nuclear deterrent under the treaty;

Then, as now, there were questions about whether Moscow would cheat; and,

Then as now, there were concerns about the ability of the United States to effectively verify the Treaty.

Fortunately, the forces in favor of nonproliferation won that battle. The story since 1963 has been one in which our deterrent posture did not suffer, even though we gave up certain types of testing. Further, we gained the respect of the world for reining in the nuclear arms race. That achievement led five years later to U.S. diplomatic success in negotiating the Nuclear Non-Proliferation Treaty and the treaty banning nuclear weapons in Latin America—treaties that have been profoundly successful in constraining the proliferation of nuclear weapons.

Like our colleagues in the Senate in 1963, we must put away partisan politics and ratify the treaty before us. This Comprehensive Test Ban Treaty is a good treaty. It is not perfect, but no treaty produced by over a hundred countries will ever be. The benefits outweigh the risk. We must act on it.

I hope my colleagues who now oppose the CTBT, or who are undecided, will think hard about what the consequences would be if the treaty were not approved. I believe it is not an exaggeration to say that there will be jubilation among our foes and despair among our friends. North Korea, Iran, and Iraq will feel entirely without constraints in pursuing their nuclear aspirations. With China, we will have thrown away a valuable tool for slowing the modernization of its nuclear arsenal. We will have reduced our credibility on nonproliferation issues with Moscow when we have continually urged it to take proliferation seriously.

No matter what some of my colleagues in this body might believe, we cannot do this alone. We need cooperation from our European allies in controlling exports if we are to prevent states from acquiring nuclear weapons. France, for instance, which has ratified the CTBT, will be even less inclined to listen to us, if we walk away from the treaty, when we implore them to contain Iraq and Iran.

I urge each of my colleagues to think carefully before voting, put partisan politics aside, and to cast your vote on behalf of a safer world, and in favor of the Comprehensive Test Ban Treaty.

Mr. KYL. Mr. President, I ask unanimous consent that a series of letters be printed at an appropriate place in the RECORD.

These are letters from the six former secretaries of defense, former majority leader, Bob Dole, and Dr. Edward Teller, among others.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 8, 1999.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR LOTT: We write to express the strong opposition of our organizations and the millions of Americans we represent to the Comprehensive Test Ban Treaty (CTBT).

As conservatives, we believe that the first responsibility of government is to provide for the common defense. This treaty will make it difficult, if not impossible, to maintain the safety and reliability of our nuclear deterrent—a military capability that has for fifty years been central to our defense, and that is likely to continue to do so for the foreseeable future.

President Clinton has explicitly embraced a policy he and former Energy Secretary Hazel O'Leary have called "denuclearization." In a 1996 report issued by the House National Security Committee, its chairman, Rep. Floyd Spence, warned that the effect of this policy is "erosion [of our nuclear deterrent] by design."

Were the United States to become party to a binding prohibition on nuclear testing, this policy would be made practically irreversible and its insidious effects accelerated. Unfortunately, nations whose nuclear weapons programs cause us concern (e.g., Russia, China, North Korea, Pakistan, Iran, Iraq, etc.), however, would likely not be similarly affected. They generally are less concerned than we about the need for safety and effectiveness that has driven America's nuclear arsenal to be comprised of the world's most sophisticated weapons. Alternatively, they can always cheat without fear of detection, thanks to the CTBT's unverifiability.

We are also troubled by the evidence that many proponents of the CTBT seem to have more than unilateral American disarmament in mind. In a manner all to reminiscent of the nuclear freeze movement of the 1980s, left-wing activists and their allies appear intent on using the effort to compel the Senate to approve this Treaty as a device for energizing their political base. The stakes associated with this misbegotten accord are too great for it to be addressed in such a cynical way.

For all these reasons, we commend you for your strong opposition to the ratification of the Comprehensive Test Ban Treaty. We urge your colleagues to join you in taking the steps necessary to ensure that a safe and reliable nuclear deterrent remains a key ingredient in our common defense.

Sincerely,

Frank J. Gaffney, Jr., President, Center for Security Policy; David Horowitz, President, Center for the Study of Popular Culture; David A. Keene, Chairman, American Conservative Union; Grover Norquist, President, Americans for Tax Reform; Paul Weyrich, President, Free Congress Foundation; Morton C. Blackwell, Virginia Republican National Committeeman; Felita Blowe, Legislative Coordinator, Concerned Women for America; James H. Broussard, Citizens Against Higher Taxes; Kelly Anny Fitzpatrick, CEO & President, The Polling Company; Mark Green, Editorial Writer, Daily Oklahoman; Barbara Ledeen, Executive Director, Independent Women's Forum; Telly Lovelace, Director, External Affairs, Coalition on Renewal and Education; Martin Mawyer, President, This Nation; Mayor F. Andy Messing, Jr., USA (Ret.), Executive Director, National Defense Council Foundation; William J. Murray, Chairman, Government Is Not Good—PAC; C. Preston Noell III, President, Tradition, Family, Property Inc.; Ronald W. Pearson, President, Pearson & Pipkin, Inc.; Denesha Reid, Director, Public Policy and Research, Concerned Women for America; Phyllis Schlafly, President, Eagle Forum; Robert A. Schadler, President, Center for First Principles; Dick Simms, Director, Cornerstone; Rev. Louis P. Sheldon, Chairman, Traditional Values Coalition; Ann Stone, CEO, The Stone Group, Inc.; Jeff Taylor, Director, Government Relations, Christian Coalition; Timothy Teepel, Executive Director, Madison Project; Harry Valentine, President, Capitol Hill Prayer Alert.

October 6, 1999.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
Washington, DC.

Hon. TOM DASCHLE,
Democratic Leader, U.S. Senate,
Washington, DC

DEAR SENATORS LOTT AND DASCHLE: As the Senate weighs whether to approve the Comprehensive Test Ban Treaty (GTBT), we believe Senators will be obliged to focus on one dominant, inescapable result were it to be ratified: over the decades ahead, confidence in the reliability of our nuclear weapons stockpile would inevitably decline, thereby reducing the credibility of America's nuclear deterrent. Unlike previous efforts at a CTBT, this Treaty is intended to be of unlimited duration, and though "nuclear weapon test explosion" is undefined in the Treaty, by America's unilateral declaration the accord is "zero-yield," meaning that all nuclear tests, even of the lowest yield, are permanently prohibited.

The nuclear weapons in our nation's arsenal are sophisticated devices, whose thousands of components must function together with split-second timing and scant margin for error. A nuclear weapon contains radioactive material, which in itself decays, and also changes the properties of other materials within the weapon. Over time, the components of our weapons corrode and deteriorate, and we lack experience predicting the effects of such aging on the safety and reliability of the weapons. The shelf life of U.S. nuclear weapons was expected to be some 20 years. In the past, the constant process of replacement and testing of new designs gave some assurance that weapons in the arsenal would be both new and reliable. But under the CTBT, we would be vulnerable to the effects of aging because we could not test "fixes" of problems with existing warheads.

Remanufacturing components of existing weapons that have deteriorated also poses significant problems. Manufacturers go out of business, materials and production processes change, certain chemicals previously used in production are now forbidden under new environmental regulations, and so on. It is a certainty that new processes and materials—untested—will be used. Even more important, ultimately the nuclear "pits" will need to be replaced—and we will not be able to test those replacements. The upshot is that new defects may be introduced into the stockpile through remanufacture, and without testing we can never be certain that these replacement components will work as their predecessors did.

Another implication of a CTBT of unlimited duration is that over time we would gradually lose our pool of knowledgeable people with experience in nuclear weapons design and testing. Consider what would occur if the United States halted nuclear testing for 30 years. We would then be dependent on the judgment of personnel with no personal experience either in designing or testing nuclear weapons. In place of a learning curve, we would experience an extended unlearning curve.

Furthermore, major gaps exist in our scientific understanding of nuclear explosives. As President Bush noted in a report to Congress in January 1993, "Of all U.S. nuclear weapons designs fielded since 1958, approximately one-third have required nuclear testing to resolve problems arising after deployment." We were discovering defects in our arsenal up until the moment when the current moratorium on U.S. testing was imposed in 1992. While we have uncovered similar defects since 1992, which in the past would have led to testing, in the absence of testing, we are not able to test whether the "fixes" indeed work.

Indeed, the history of maintaining complex military hardware without testing demonstrates the pitfalls of such an approach. Prior to World War II, the Navy's torpedoes had not been adequately tested because of insufficient funds. It took nearly two years of war before we fully solved the problems that caused our torpedoes to routinely pass harmlessly under the target or to fail to explode on contact. For example, at the Battle of Midway, the U.S. launched 47 torpedo aircraft, without damaging a single Japanese ship. If not for our dive bombers, the U.S. would have lost the crucial naval battle of the Pacific war.

The Department of Energy has structured a program of experiments and computer simulations called the Stockpile Stewardship Program, that it hopes will allow our weapons to be maintained without testing. This program, which will not be mature for at least 10 years, will improve our scientific understanding of nuclear weapons and would likely mitigate the decline in our confidence in the safety and reliability of our arsenal. We will never know whether we should trust Stockpile Stewardship if we cannot conduct nuclear tests to calibrate the unproven new techniques. Mitigation is, of course, not the same as prevention. Over the decades, the erosion of confidence inevitably would be substantial.

The decline in confidence in our nuclear deterrent is particularly troublesome in light of the unique geopolitical role of the United States. The U.S. has a far-reaching foreign policy agenda and our forces are stationed around the globe. In addition, we have pledged to hold a nuclear umbrella over our NATO allies and Japan. Though we have abandoned chemical and biological weapons, we have threatened to retaliate with nuclear weapons to such an attack. In the Gulf War, such a threat was apparently sufficient to deter Iraq from using chemical weapons against American troops.

We also do not believe the CTBT will do much to prevent the spread of nuclear weapons. The motivation of rogue nations like North Korea and Iraq to acquire nuclear weapons will not be affected by whether the U.S. tests. Similarly, the possession of nuclear weapons by nations like India, Pakistan, and Israel depends on the security environment in their region, not by whether or not the U.S. tests. If confidence in the U.S. nuclear deterrent were to decline, countries that have relied on our protection could well feel compelled to seek nuclear capabilities of their own. Thus, ironically, the CTBT might cause additional nations to seek nuclear weapons.

Finally, it is impossible to verify a ban that extends to very low yields. The likelihood of cheating is high. "Trust but verify" should remain our guide. Tests with yields below 1 kiloton can both go undetected and be militarily useful to the testing state. Furthermore, a significantly larger explosion can go undetected—or be mistaken for a conventional explosion used for mining or an earthquake—if the test is "decoupled." Decoupling involves conducting the test in a large underground cavity and has been shown to dampen an explosion's seismic signature by a factor of up to 70. The U.S. demonstrated this capability in 1966 in two tests conducted in salt domes at Chilton, Mississippi.

We believe that these considerations render a permanent, zero-yield Comprehensive Test Ban Treaty incompatible with the Nation's international commitments and vital security interests and believe it does not deserve the Senate's advice and consent. Accordingly, we respectively urge you and your colleagues to preserve the right of this nation to conduct nuclear tests necessary to the future viability of our nuclear deterrent by rejecting approval of the present CTBT.

Respectfully,

JAMES R. SCHLESINGER.
FRANK C. CARLUCCI.
DONALD H. RUMSFELD.
RICHARD B. CHENEY.
CASPAR W. WEINBERGER.
MELVIN R. LAIRD.

WASHINGTON, DC,
October 5, 1999.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR TRENT: I am responding to your October 4 letter, in which you ask for my views on the Comprehensive Test Ban Treaty (CTBT).

As you know, I believe that matters of foreign policy and national security should be approached from a nonpartisan perspective. As such, I have supported a number of Clinton administration initiatives when I believed them to be in the national interest—for example, NATO action in Kosova and ratification of the Chemical Weapons Convention. Unfortunately, in this substance, I cannot support President Clinton's effect to secure Senate approval of the CTBT.

In my view, ratifying the CTBT would endanger the national security of the United States, primarily by preventing nuclear testing essential to maintaining the safety and reliability of our nuclear deterrent. It is through explosive testing that the United States has maintained its confidence in the safety and reliability of the U.S. nuclear stockpile and, thus, the credibility of our nuclear arsenal. Without explosive testing, the credibility of our arsenal will, with time, erode. As credibility erodes, the deterrent effect of our nuclear force erodes, leaving not only America increasingly vulnerable, but also our allies who depend on the American nuclear umbrella.

While the Stockpile Stewardship program is worth pursuing, it should be viewed as a complement to our nuclear testing program—not a substitute for it. Explosive nuclear testing is a proven method of identifying stockpile problems. The Stockpile Stewardship Program is not yet in place and is therefore unproved. Deciding in 1999 to forego testing and instead to rely on a program that will be in place in 2010—it all goes well—is, in short, irresponsible.

Furthermore, agreeing to the CTBT would most certainly lead to a false sense of security. The Administration has argued that by embracing the CTBT, the United States will persuade other countries, including notable proliferators such as North Korea, to halt their quest for nuclear weapons and the means to deliver them. If a regime like Pyongyang has been susceptible to moral suasion or felt bound by international norms, it would never have violated the Nuclear Nonproliferation Treaty (NPT). The idea that rogue regimes are persuaded by American or broader international adherence to legal obligations is wishful thinking. These regimes are called rogue regimes for the very reason that they regularly violate international law and refuse to be held accountable to international norms. The only way to deal effectively with threats from rogue states is to deter them.

There should be no doubt that the best way to protect the United States from the consequences of proliferation is to develop and deploy effective missile defenses. There is no arms control treaty that can protect American territory from nuclear attack. And, with each day, America's enemies come closer to acquiring the capabilities to attack the United States with nuclear, chemical, and biological weapons. The best deterrents are a credible nuclear stockpile and a national missile defense system.

Neither President Reagan nor President Bush pursued a zero-yield test ban treaty of unlimited duration, and for good reason. The CTBT is an ill-conceived and misguided arms control agreement, the ultimate result of which will be the de-nuclearization by other means, of the United States. This treaty is hardly the "longest sought, hardest fought prize in arms control history," as claimed by this Administration.

I support arms controls that increase the security of the United States, not ones that increase the vulnerability of our nation to terrorists and regimes bent on nuclear proliferation.

Sincerely,

BOB DOLE.

GARRISON, MN,
October 5, 1999.

Hon. JOHN W. WARNER,
Chairman, Armed Services Committee, U.S. Senate,
Washington, DC.

DEAR SENATOR WARNER: If the news reports are correct, the Armed Services Committee will be addressing the proposed Comprehensive Test Ban Treaty (CTBT) in the next few days. Although I will not be able to be in Washington during the hearings, I want you to have at least a synopsis of my views on the matter.

I believe that ratifying the treaty requiring a permanent, zero-yield ban on all underground nuclear tests is not in the security interest of the United States.

From 1945 through the end of the Cold War, the United States was clearly the preeminent nuclear power in the world. During much of that time, the nuclear arsenal of the Soviet Union surpassed ours in numbers, but friends and allies, as well as potential enemies and other nations not necessarily friendly to the United States, all understood that we were the nation with the very modern, safe, secure, reliable, nuclear deterrent force which provided the foundation for the security of our nation and for the security of our friends and allies, and much of the world. Periodic underground nuclear tests were an essential part of insuring that our nuclear deterrent force remained modern, safe, secure, reliable and usable. The general knowledge that the United States would do whatever was necessary to maintain that condition certainly reduced the proliferation of nuclear weapons during the period and added immeasurably to the security cooperation with our friends and allies.

Times have changed; the Soviet Union no longer exists; however, much of its nuclear arsenal remains in the hands of Russia. We have seen enormous political, economic, social and technological changes in the world since the end of the Cold War, and these changes have altered the security situation and future security requirements for the United States. One thing has not changed. Nuclear weapons continue to be with us. I do not believe that God will permit us to "uninvent" nuclear weapons. Some nation, or power, will be the preeminent nuclear power in the world, and I, for one, believe that at least under present and foreseeable conditions, the world will be safer if that power is the United States of America. We jeopardize maintaining that condition by eschewing the development of new nuclear weapons and by ruling out testing if and when it is needed.

Supporters of the CTBT argue that it reduces the chances for nuclear proliferation. I applaud efforts to reduce the proliferation of nuclear weapons, but I do not believe that the test ban will reduce the ability of rogue states to acquire nuclear weapons in sufficient quantities to upset regional security in various parts of the world. "Gun type" nuclear weapons can be built with assurance they'll work without testing. The Indian and Pakistani "tests" apparently show that there is adequate knowledge available to build implosion type weapons with reasonable assurance that they will work. The India/Pakistan explosions have been called "tests", but I believe it be more accurate to call them "demonstrations", more for political purposes than for scientific testing.

Technological advances of recent years, particularly the great increases in computing power coupled with improvements in modeling and simulation have undoubtedly reduced greatly the need for active nuclear testing and probably the size of any needed tests. Some would argue that this should be support for the United States agreeing to ban testing. The new technological advantages are available to everyone, and they probably help the "proliferator" more than the United States.

We have embarked on a "stockpile stewardship program" designed to use science, other than nuclear testing, to ensure that the present weapons in our nuclear deterrent remain safe, secure and reliable. The estimates I've seen are that we will spend about $5 billion each year on that program. Over twenty years, if the program is completely successful, we will have spent about $100 billion, and we will have replaced nearly every single part in each of those complex weapons. At the end of that period, about the best that we will be able to say is that we have a stockpile of "restored" weapons of at least thirty-year-old design that are probably safe and secure and whose reliability is the best we can make without testing. We will not be able to say that the stockpile is modern, nor will we be assured that it is usable in the sense of fitting the security situation we will face twenty years hence. To me that seems to foretell a situation of increasing vulnerability for us and our friends and allies to threats from those who will not be deterred by the Nonproliferation Treaty or the CTBT, and there will surely be such states.

If the United States is to remain the preeminent nuclear power, and maintain a modern safe, secure, reliable, and usable nuclear deterrent force, I believe we need to continue to develop new nuclear weapons designed to incorporate the latest in technology and to meet the changing security situation in the world. Changes in the threat, changes in intelligence and targeting, and great improvements in delivery precision and accuracy make the weapons we designed thirty years ago less and less applicable to our current and projected security situation. The United States, the one nation most of the world looks to for securing peace in the world, should not deny itself the opportunity to test the bedrock building block of its security, its nuclear deterrent force, if conditions require testing.

To those who would see in my words advocacy for a nuclear buildup or advocacy for large numbers of high-yield nuclear tests, let me say that I believe we can have a modern, safe, secure, reliable and usable nuclear deterrent force at much lower numbers than we now maintain. I believe we can keep it modern and reliable with very few actual nuclear tests and that those tests can in all likelihood be relatively low-yield tests. I also believe that the more demonstrably modern and usable is our nuclear deterrent force, the less likely are we to need to use it, but we must have modern weapons, and we ought not deny ourselves the opportunity to test if we deem it necessary.

Very respectfully yours,

JOHN W. VESSEY,
General, USA (Ret.),
Former Chairman, Joint Chiefs of Staff.

WASHINGTON, DC,
October 5, 1999.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate

Hon. THOMAS A. DASCHLE,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR SENATORS LOTT AND DASCHLE: The Senate is beginning hearings on the Comprehensive Test Ban Treaty ("CTBT"), looking to an October 12 vote on whether or not to ratify. We believe, however, that it is not in the national interest to vote on the Treaty, at least during the life of the present Congress.

The simple fact is that the Treaty will not enter into force any time soon, whether or not the United States ratifies it during the 106th Congress. This means that few, if any, of the benefits envisaged by the Treaty's advocates could be realized by Senate ratification now. At the same time, there could be real costs and risks to a broad range of national security interests—including our nonproliferation objectives—if Senate acts prematurely.

Ratification of the CTBT by the U.S. now will not result in the Treaty coming into force this fall, as anticipated at its signing. Given its objectives, the Treaty wisely requires that each of 44 specific countries must sign and ratify the document before it enters into force. Only 23 of those countries have done so thus far. So the Treaty is not coming into force any time soon, whether or not the U.S. ratifies. The U.S. should take advantage of this situation to delay consideration of ratification, without prejudice to eventual action on the Treaty. This would provide the opportunity to learn more about such issues as movement on the ratification process, technical progress in the Department of Energy's Stockpile Stewardship Program, the political consequences of the India/Pakistan detonations, changing Russian doctrine toward greater reliance on nuclear weapons, and continued Chinese development of a nuclear arsenal.

Supporters of the CTBT claim that it will make a major contribution to limiting the spread of nuclear weapons. This cannot be true if key countries of proliferation concern do not agree to accede to the Treaty. To date, several of these countries, including India, Pakistan, North Korea, Iran, Iraq, and Syria, have not signed and ratified the Treaty. Many of these countries may never join the CTBT regime, and ratification by the United States, early or late, is unlikely to have any impact on their decisions in this regard. For example, no serious person should believe that rogue nations like Iran or Iraq will give up their efforts to acquire nuclear weapons if only the United States signs the CTBT.

Our efforts to combat proliferation of weapons of mass destruction not only deserve but are receiving the highest national security priority. It is clear to any fair-minded observer that the United States has substantially reduced its reliance on nuclear weapons. The U.S. also has made or committed to dramatic reductions in the level of deployed nuclear forces. Nevertheless, for the foreseeable future, the United States must continue to rely on nuclear weapons to contribute to the deterrence of certain kinds of attacks on the United States, its friends, and allies. In addition, several countries depend on the U.S. nuclear deterrent for their security. A lack of confidence in that deterrent might itself result in the spread of nuclear weapons.

As a consequence, the United States must continue to ensure that its nuclear weapons remain safe, secure, and reliable. But the fact is that the scientific case simply has not been made that, over the long term, the United States can ensure the nuclear stockpile without nuclear testing. The United States is seeking to ensure the integrity of its nuclear deterrent through an ambitious effort called the Stockpile Stewardship Program. This program attempts to maintain adequate knowledge of nuclear weapons physics indirectly by computer modeling, simulation, and other experiments. We support this kind of scientific and analytical effort. But even with adequate funding—which is far from assured—the Stockpile Stewardship Program is not sufficiently mature to evaluate the extent to which it can be a suitable alternative to testing.

Given the absence of any pressing reason for early ratification, it is unwise to take actions now that constrain this or future Presidents' choices about how best to pursue our non-proliferation and other national security goals while maintaining the effectiveness and credibility of our nuclear deterrent. Accordingly, we urge you to reach an understanding with the President to suspend action on the CTBT, at least for the duration of the 106th Congress.

Sincerely,

BRENT SCOWCROFT.
HENRY A. KISSINGER.
JOHN DEUTCH.

Mr. KYL. Mr. President, I am going to take just a couple of minutes until Senator COVERDELL arrives, at which point I will suspend my remarks so that he can make some comments.

I want to talk a little bit about a common thread of the remarks of many of the people who are in opposition to the treaty; that is, that it is difficult for the United States to sustain our position as the world leader, that many in the international community would find it objectionable if the United States rejected the Comprehensive Test Ban Treaty, and that this would hurt our ability to lead with respect to proliferation of nuclear weapons in the world.

Let me quote from a newspaper story today in the Washington Post, the headline of which is, "U.S. Allies Urge Senate To Ratify Test Ban."

It is certainly true that they have done that. There are a variety of them that made comments hoping we would adopt the treaty, not defeat it. Let me quote a couple of things.

> International anxiety also has been compounded by new worries over U.S. efforts to escape constraints imposed by the Anti-Ballistic Missile (ABM) Treaty, which limits the ability of the United States to build systems to defend against missile attack.
>
> Russia and China say it would destabilize the strategic balance if the United States built a missile defense system, because

> Washington could be tempted to attack others if it felt invulnerable to retaliation.
>
> Jayantha Dhanapala, the U.N. under secretary for disarmament affairs, said many countries agreed to a permanent inspection regime four years ago only on the basis of a written guarantee by the nuclear powers to negotiate and ratify a worldwide test ban as one of several key steps toward nuclear disarmament.

I read two parts of the Washington Post story to suggest the world community, which does not want the United States to develop a ballistic missile defense, which doesn't want the United States to do anything that requires an amendment to the ABM Treaty, and some of which is very much in favor of total nuclear disarmament and has agreed to participate in this treaty only after leaders promised them this Comprehensive Test Ban Treaty would be one of several key steps toward nuclear disarmament, all of those people in the world, I submit, are not people who we want to make U.S. national defense policy. Their goals are not the same as our goals.

We have an obligation as the leader of the free world to ensure our nuclear deterrent is safe and reliable; they don't. We may have to do things they could never dream of doing, including nuclear testing to ensure the safety and reliability of our nuclear stockpile. They don't have to worry about that, but we do. While they can lament the fact that the United States is not willing to sign onto the treaty, they don't have the same responsibility as we do, just as they can call for us not to amend the ABM Treaty or to build a national missile defense or even theater missile defenses without the obligations that The United States has.

The United States has to defend our troops around the world—which most of these countries don't have to do—to defend allies around the world and, of course, even to defend the United States. I, frankly, don't care much if people around the world who don't want the United States to defend itself against ballistic missile attack are going to criticize the Senate for rejecting a flawed unverifiable ineffective CTBT.

Finally, quoting from the last two paragraphs of this article:

> I don't like to talk about any country exercising world leadership, but in this case we see that the United States must play a special role, Sha Zukang, China's top arms control official, said in an interview. Sha added that China is even more alarmed by U.S. efforts to develop a regional missile defense system than by the Senate's reluctance to approve a test ban treaty.

So I presume that next, in order to assuage the concerns of the Chinese, we will forego the development of a regional missile defense system because it would upset them if we proceeded with that. Why would it upset them? Because, of course, they wouldn't be able to threaten Taiwan. We have obligations that other countries don't have. If we are to be the great leader that people on this side of the aisle have urged the United States to be, then we have to exercise leadership. Sometimes that means doing things other people in the world are uncomfortable with.

> Boris Kvok, Russia's deputy chief of disarmament issues, said the U.S. decision on the test ban treaty would not affect the deliberations of Russia's parliament on the pact or alter his country's test moratorium. "But if the U.S. moves ahead with ballistic missile defense, it would be a disaster . . . and we would have to start developing new weapons. . . ."

He is saying we don't really care about the CTBT in terms of what we are going to do, but if the United States moves ahead with ballistic missiles, that would be a disaster. I presume next we hear people come to the Senate floor and say international opinion says we should not develop a missile defense to protect the people of the United States so we should not move forward with that.

My point is this: The United States cannot be held hostage to world opinion. We have obligations they don't have, and if they don't care about building a defense for their people, we need to because we can be a target of rogue nations whereas other countries may not be. They are not making the decisions and actions in the world that may cause these terrorists or rogue states to want to retaliate against them. However, the United States, by taking a world leadership role, has put itself in that position.

It is not a political issue; it is a physics issue. We have to have confidence in our nuclear stockpile.

The whole world thought Ronald Reagan was wrong, that he had left his senses when he said no to Mikhail Gorbachev at Reykjavik. They both talked about trying to rid the world of nuclear weapons. When Gorbachev said the price of that agreement was that the United States would have to forego the development of the Strategic Defense Initiative, Reagan said no. All of the world leaders gasped—except Margaret Thatcher. But the rest of the world leaders gasped and said: Mr. President, you should reconsider that.

All of the arms control advocates said it was a bad mistake for President Reagan to have said no. Of course, it later transpires that George Shultz mentioned the fact that Mikhail Gorbachev told him that was the turning point of the cold war. That is when Gorbachev concluded that he could not win the cold war and called it the turning point.

Ronald Reagan, in calling the Soviet Union the evil empire, upset a lot of the world leaders, but he stood his ground and history has proven him correct. I submit that history will prove us correct if we return this flawed treaty and say let's go back to the drawing board.

We can do better. We can persuade world leaders it is in the best interest of long-term peace that we do better than this flawed treaty.

Mr. BIDEN. Mr. President, I yield myself a few minutes to respond. I will take no more than 3 minutes.

I hope all Members have observed why my friend from Arizona is such a good lawyer. He did get your eye off the ball. He started off talking about England and France and our allies and Japan and then shifted to Sri Lanka, China, and Russia and talked about why we should not yield to international opinion. No one has suggested we yield to Sri Lanka, China, and Russia in international opinion.

The suggestion made is exactly stated: Allies urge ratifying a test ban treaty. Why? Because they believe it is in their critical interest. They don't lack confidence in our ability to maintain our stockpile. They signed and ratified the treaty.

This circular argumentation going on is we should not ratify because we won't be able to protect our allies; but our allies say you should ratify because we want you to ratify, we feel fully protected.

Who do you believe? Our allies saying they want us? They signed; we want to sign.

Second, I point out this missile defense rests upon our allies in Great Britain and in France and in Norway allowing us to be able to put sensors in their country in order to be able to have a missile defense. That is the way it will work.

What will happen is, we turn down this treaty that they signed, that they think is in their interests, and now we go to them and say: By the way, we want you to help us with a missile defense for our country—not yours, a theater missile defense for our country. How about it, fellows, what do you think?

The third point I would make is: China can only be a threat to our theater missile defense. They have about 18 weapons right now. They can only be a threat to us if they are able to MIRV their missiles, if they are able to get sophisticated. Under this agreement, the intelligence community uniformly concludes that we could detect anything they are doing to get to the point where they were MIRVing those missiles, taking any of the stolen data they have gotten from us and using it. So what are we going to do? We reject this treaty, thereby giving a green light to them to do what they want to do without violation of any international law, thereby putting in jeopardy the very missile defense system my friend from Arizona thinks is so critical for our security.

I find it fascinating. Keep your eye on the ball.

I yield the floor. I see the leader. Welcome, leader.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I will have a full statement on Tuesday. But I did want to get into the RECORD today some of the facts I think are very important for Senators to have access to, some views of a number of important experts.

I would entitle this statement with these words, a quote from Churchill: Facts are better than dreams. And the facts in this case argue against this treaty. The underlying premise of this treaty is flawed. The argument is, if we ratify this Comprehensive Test Ban Treaty, then the rest of the world will be nice and follow suit.

Do you really believe that is applicable to North Korea, Iraq, Iran, India, Pakistan, China, Russia? We are going to act on faith? There are those who will say we must lead, we must show the way, but that is a very dangerous thing to do when you are dealing with something of this importance.

Just in the last 2 days, in hearings before the Armed Services Committee and the Foreign Relations Committee, it has become apparent that this treaty is flawed, should not be ratified now or in the foreseeable future. When you look at yesterday's testimony of the leaders of the country's three nuclear weapons laboratories, it makes it very clear that, as far as safety and reliability are concerned, without testing at this time we do not have the ability to make sure our weapons are safe and would be reliable if there were a need for them.

The headline, even in the New York Times, says, "Experts Say Test Ban May Impair Nuclear Arms Safety." That is a fact. That is a scary fact. Do the American people want us to have nuclear arms that are not tested, that are not safe? I do not think so. So I think we need to be very careful about going forward with a treaty that has the problems this treaty has now, in terms of what it would do and the fact that we do not have the ability to detect or verify what other countries may be doing. Just this past week, the CIA said they could not guarantee they could detect low-level testing in Russia. Then you add to that the testimony of the labs experts. We should defeat this treaty.

Let me correct the record, or remind our colleagues and the country a little bit about why we are where we are. Why is this up? Why did we get a unanimous consent agreement to bring up this treaty, debate it, and have a vote? The President has been demanding it for 2 years. In his State of the Union Addresses and on other occasions, he has been saying: Call it up, have a debate, and vote. Quote after quote I have here with me. The President said in remarks on the 50th anniversary of the Chairman of the Joint Chiefs of Staff, August 9, 1999:

> I ask the Senate . . . to vote for ratification as soon as possible.

He has said:

> . . . give its advice and consent to the Comprehensive Test Ban Treaty this year.

In his State of the Union Address in 1998, he said:

> . . . approve the CTBT this year.

That was last year.

The Vice President, Mr. GORE has said:

> The U.S. Congress should act now to ratify the Comprehensive Test Ban Treaty.

"Act now." That was July 23, 1998.

Forty-five Democrats sent a letter to Senator HELMS saying a number of things, but basically this is the upshot of it: Give the Senate the opportunity to consider ratification of the CTBT before the conference begins. That is a conference of ratifying states. That conference is underway now. They wanted to have it up. We got it up and started the debate today. They were demanding that it be called up and considered before then.

The minority leader has said:

> [W]e are certainly willing to have a debate and have the vote.

Not call it up and pass it; he said have a debate, have a vote.

On September 30, 1999, he said:

> I still think, one way or the other, we ought to get to this treaty, get it to the floor, debate it, and vote on it.

What I am saying is for 2 years there has been this agitation to get this treaty up and have a vote on it. So finally they got what they said they wanted, and then they didn't want what they said they wanted.

Then they said: Wait a minute, wait a minute, no, we didn't mean "now." Like this thing was just sprung on us. For 2 years we have been hearing about it. Senators are not uninformed on this treaty. There are hearings underway right now, excellent hearings by the chairman of the Armed Services Committee, Senator WARNER, and the Foreign Relations Committee, Senator HELMS. What happened was they found, when they actually got what they said they wanted—that is, the treaty was going to come up—that the treaty is flawed and it is going to be defeated. This treaty is not going to be ratified. It is not going to happen. They say: Wait, wait, wait; not now; it's too quick; we need more time; it is being given short shrift.

I have some interesting facts on that, too. You talk about the amount of time. When we get through with this treaty and have a vote, we will have probably somewhere around 16 to 18 hours discussing it, debating it, listening to each other, excellent statements on both sides, men and women very serious about this, treating it the way it should be treated. Today, the problem has not been to get speakers. It is that we have so many people who want to speak. We are going to have a good debate today. But let's compare it to other treaties in the past.

The CFE, the Conventional Forces in Europe Treaty, we debated for 6 hours and voted on. The START treaty, 9½ hours; START II, 6 hours; Chemical Weapons Convention—which I know a lot about and showed, during the debate on that issue and the vote, that I was willing to do what I thought was right for the country even under a lot of pressure opposing it. I still get criticized for that.

But when you come to treaties of this magnitude of international import, you have to look at the substance and you have to do what is right for your country, for the world situation, and for your children. Actually, it should be in the reverse order: For your children and your grandchildren. We spent 18 hours on it, and we voted on it.

The CFE flank agreement, 2 hours. As a matter of fact, we are going to have more time spent debating this issue, when it is over, than any recent treaty, with the exception of chemical weapons, which I presume would be about the same time.

So that is how we got to where we are. Because it was demanded. Senators were threatening to hold up Senate floor action if we did not have a vote. Senators had resolutions they wanted to offer with regard to this treaty that were unrelated to other matters being considered on the floor, including the Labor-HHS-Education appropriations bill.

So I really thought, in view of the demands and the discussion that had gone on and the overall best interests of the Senate and the country, that this treaty should come up. So we got a unanimous consent agreement. It was not one that was sprung on anybody. I suggested it on Wednesday. We did not get it finally agreed to and locked in until Friday. So the discussions went on for 2 days. Nobody was surprised. The White House knew full well what we were about to agree to. Now they say set it aside.

I am very worried; should this issue not be voted on now, it might be set aside to be brought back next year and that it become much more of a political issue. And it should not be. We have for a long time worked together in this Senate on a bipartisan basis, and bicameral, and with administrations, on trying to do the right thing on arms control. We should continue to do that. This treaty should not come up next year during a Presidential campaign and be used for political purposes on either side. So I called this up, as was demanded. We got a reasonable time agreement, more than was usually granted for treaties.

There have been hearings underway. The Senators are not uninformed. Senators know what is in this treaty as they get to know more and listen to experts, such as Senator LUGAR yesterday who had a six-page statement about how this treaty was wrong.

To my colleagues I say, we have done what was requested by the President and by Senators. Let's have this debate and, as for myself, I am ready to vote.

Mr. President, proponents and opponents of the Comprehensive Test Ban Treaty find themselves in agreement on the starting point for this debate: That nuclear deterrence is fundamental to the national security of the United States. In his May of 1997 report entitled "A National Security Strategy for a New Century," President Clinton states, and I quote, "The United States must continue to maintain a robust triad of strategic forces sufficient to deter any hostile foreign leadership with access to any nuclear forces and to convince it that seeking a nuclear advantage would be futile." While the United States must be prepared for the prospect that nuclear deterrence may not always work, in no way does the possibility of failure render deterrence valueless.

Nuclear deterrence was crucial to U.S. security in the past, and will continue to be in the future.

It was, for example, nuclear deterrence which helped guarantee the security of Western Europe from the late 1940s until the Soviet Union collapsed and the cold war ended peacefully. President Eisenhower called on the U.S. nuclear deterrent to stop Chinese attacks against the islands of Quemoy and Matsu in 1958. In 1962 it was the U.S. nuclear deterrent that enabled President Kennedy to demand that the Soviet Union peacefully withdraw its nuclear missiles from Cuba. Again, President Nixon called on the U.S. nuclear deterrent to stop Soviet armed intervention into the Middle East during the 1973 Yom Kippur War. And, most recently, the U.S. nuclear deterrent was essential in persuading Saddam Hussein not to use chemical or biological weapons during the 1991 gulf war, undoubtedly saving thousands of lives. Time and again nuclear deterrence has effectively protected U.S. security without a shot being fired, and, along with the President and many others, I expect our deterrent to continue to be vital for the indefinite future.

Credibility is the key to deterrence. Our nuclear deterrent must be credible not only to would-be aggressors, but also to America's leaders. To contemplate the use of nuclear weapons, our leaders must be confident in the safety and reliability of our nuclear arsenal. Our adversaries must believe that U.S. leaders possess the will to use the nuclear force if need be, and must also believe that our nuclear weapons can be used—that they are safe and reliable enough for U.S. leaders to consider seriously the possibility of their use. Without these conditions American threats of retaliation become less than credible, and the contribution of nuclear deterrence to the national security strategy of the United States would be unacceptably eroded.

It is the paradox of the nuclear age that ensuring nuclear weapons are never used depends on ensuring they can be used.

It is through testing of the U.S. nuclear stockpile that the United States has maintained its confidence in the safety and reliability of our nuclear weapons. In 1987 the Lawrence Livermore Lab produced a reported entitled Report to Congress on Stockpile Reliability, Weapon Remanufacture, and the Role of Nuclear Testing. This report, though 12 years old, remains the single best explanation of the need for nuclear testing.

According to the Livermore report, and I quote, ". . . there is no such thing as a 'thoroughly tested' nuclear weapon." The report gives several reasons for testing, to include, and I quote, ". . . testing is done to maintain the proper functioning of the current stockpile of weapons," and, "testing is done to modernize the existing stockpile for enhanced safety, security, or effectiveness. . . ."

Moreover, on many occasions the Labs have discovered problems with weapons only because of testing. According to the Livermore report,

Nuclear weapons are fabricated from chemically and radiologically active materials. Much as a piece of plastic becomes brittle when it is left in the sunlight, nuclear weapons age and their characteristics change in subtle, often unpredictable ways. Testing is sometimes required to find problems and to assess the adequacy of the fixes that are implemented. Experience has shown that testing is essential. One-third of all the weapon designs introduced into the stockpile since 1958 have required and received post-deployment nuclear tests to resolve problems related to deterioration or aging or to correct a design that is found not to work properly under various conditions. In three-fourths of these cases, the problems were discovered only because of the ongoing nuclear testing. Because we frequently have difficulty understanding fully the effects of changes, particularly seemingly small changes on the unclear performance, nuclear testing has been required to maintain the proper functioning of our nation's deterrent.

Accordingly to Dr. John Nuckolls, Director Emeritus of the Lawrence Livermore Lab, in a September 2, 1999, letter to Senator JON KYL, "Nuclear testing has been essential to the discovery and resolution of many problems in the stockpile." Testing has been important in ensuring that our weapons work and are safe. It has been important in finding problems in our weapons. It has been important in certifying the solutions to the problems that have been found.

It is because of this testing that the United States has been able to maintain its confidence in the safety and reliability of the nuclear stockpile, which is a fundamental requirement of nuclear deterrence.

In promoting the Comprehensive Test Ban Treaty, the Clinton administration asserts it can assure the requisite level of confidence in the safety and reliability of America's nuclear stockpile—that is, of the weapons comprising our deterrent, upon which nuclear deterrence is based—without testing.

To do this the administration has embarked upon the "Stockpile Stewardship Program." According to the Fiscal Year 2000 Stockpile Stewardship Plan Executive Overview, released by the Department of Energy in March of 1999, and I quote, "The overall goal of the Stockpile Stewardship program is to have in place by 2010 * * * the capabilities that are necessary to provide continuing high confidence in the annual certification of the stockpile without the necessity for nuclear testing."

The Stockpile Stewardship Program is an excellent program, and my comments should not be misunderstood as criticism of the program, per se. In fact, the United States has always had some form of stockpile stewardship even while testing. The fundamental question with respect to this program, however, is whether and when it will provide the requisite confidence in the safety and reliability of the stockpile even if it meets all of its design goals. As stated by the Department of Energy in the FY 2000 Stockpile Stewardship Plan Executive Overview, "At the heart of the Stockpile Stewardship Program is the issue of confidence."

To their credit, senior officials at the Department of Energy and the nuclear labs are generally careful in how they couch their remarks about the Stockpile Stewardship Program. The usual formulation is to state the belief in Stockpile Stewardship as the "best approach" in the absence of testing. That is a responsible reply, as it would be unreasonable to argue that the Department of Energy or our labs should be able to guarantee the success of the Stockpile Stewardship Program. The scientists and engineers at the heart of stockpile stewardship are, in many cases, engaged in activities that are at the cutting edge of the science and technology of nuclear weapons. They can't guarantee success.

According to the administration's estimates, it won't even be completely in place until the year 2010. But proponents of the Comprehensive Test Ban Treaty are willing to put the Stockpile Stewardship cart before the nuclear horse, willing to gamble that the United States can give up nuclear testing now in the hope that Stockpile Stewardship will work in the *future.*

Proponents try to reassure us by saying that if the Stockpile Stewardship Program ends up being insufficient, the United States can exercise the "supreme national interest" clause in the treaty to resume testing. Given the unwillingness of administrations to make use of this standard clause in other arms control agreements even when compelling facts exist, there is little reason to believe it would be used with the Comprehensive Test Ban Treaty.

It may surprise some that we cannot be certain of the future success of the Stockpile Stewardship Program. But we should all understand that this lack of certainty comes from a lack of detailed knowledge of many of the key processes in our nuclear weapons, even after all these years of studying, designing, building, and testing nuclear weapons. Accordingly to the FY 2000 Stockpile Stewardship Plan Executive Overview, "The science and engineering of nuclear weapons are extremely complex, requiring the integration of over 6,000 components. There are many parameters and unknowns that greatly influence the performance of nuclear warheads." This report goes on to state, "There are many areas of warhead operation that cannot be adequately addressed with existing tools and the current knowledge base of the weapons scientists and engineers." Thus the need for the several components of the Stockpile Stewardship Program, each of which is, in its own right, a major program.

The importance of major components of Stockpile Stewardship being on schedule and on budget is made clear in the administration's FY 2000 Stockpile Stewardship Plan Executive Overview. This report states that the success of the Stockpile Stewardship plan is, "dependent on a highly integrated and interdependent program of experimentation, simulation, and modeling. . . ." The report also states, "The success of this strategy depends on the effective integration of every major activity described in this Executive Overview . . ." and, "Full implementation of the Stockpile Stewardship Program is required to sustain a safe and reliable nuclear deterrent. . . ." Simply put, this means that each of the major parts of the Stockpile Stewardship Program must work if, as stated by the administration, our country can do without nuclear testing while ensuring the safety and reliability of our nuclear deterrent.

I will not go through each part of the Stockpile Stewardship Program, but I will take a moment to discuss the National Ignition Facility, which has been described by senior Department of Energy officials as one of the key elements of Stockpile Stewardship. In fact, a senior Energy Department official has briefed Senate staff that the Stockpile Stewardship Program cannon succeed if the National Ignition Facility does not succeed.

The purpose of the National Ignition Facility, being built by the Lawrence Livermore National Lab, is to achieve a better understanding of the part of the nuclear weapon known as the "primary." The primary is the first and most critical stage in a nuclear explosion, and also happens to be the least understood part of our nuclear weapons. While other problems can affect the reliability of our nuclear weapons, we know that a nonfunctioning or deficient primary means that the weapon will either not work or not work as planned. In either case, this would be a major problem for our nuclear deterrent, and, hence, for our strategy of nuclear deterrence.

Senate staff were briefed at length on the National Ignition Facility during a visit to the Livermore Lab last January. During this briefing they were told explicitly that the National Ignition Facility was on schedule for completion in October of 2003 and on budget. This program at that time was estimated to cost $1.2 billion.

We have recently learned that the National Ignition Facility is not on schedule and budget, contrary to the representations that were made last January to staff. The same representation was made in testimony in March of 1999 to the Senate Armed Services Committee by Dr. C. Bruce Tarter, Director of the Lawrence Livermore Lab, when he stated, "I am pleased to report that NIF [National Ignition Facility] construction is on budget and on schedule." In fact, however, the Washington Post reported on September 6, 1999, that, "Energy Department officials said mismanagement may cause the project's cost to soar as much as $350 million above the originally projected $.2 billion and delay completion by as much as two years." Dr. Tarter's statement demonstrates that each part of the Stockpile Stewardship Program is a complex undertaking, the success of which cannot be assured, whether for reasons of technological or managerial deficiencies.

It shouldn't be a surprise that the Stockpile Stewardship Program is having difficulties. After all, nearly every aspect of this program is attempting to push the borders of our scientific and engineering knowledge of nuclear weapons. Additionally, the Department of Energy's record of successful completion of major programs leaves much to be desired. According to the General Accounting Office, "From 1980 through 1996, DOE terminated 9 of 18 major Defense Program projects after spending $1.9 billion and completed only 2 projects—one behind schedule and over budget with the other behind schedule but under budget. 'Schedule slippages' and cost overruns had occurred on many of the remaining 7 projects ongoing in 1996." In the FY 2000 Stockpile Stewardship Plan Executive Overview Dr. Vic Reis states, "Maintaining the U.S. nuclear weapons stockpile without nuclear testing will continue to challenge DOE's best capabilities."

Mr. President, there are many other reasons to be concerned about whether the Stockpile Stewardship Program is a sufficient alternative to testing. I will not address these questions in detail, but hope other Senators will.

First, even if Stockpile Stewardship works as planned, and on time, and is affordable, is it good enough?

Second, will Stockpile Stewardship accurately tell us about the effects of aging on nuclear weapons, which is one of the key challenges in stockpile whose weapons are being extended far beyond their design life? Will it tell us for example, what happens to plutonium as it ages? The issue of aging and its effects on the nuclear stockpile is particularly important, and is recognized as such in the FY 2000 Stockpile Stewardship Plan Executive Overview, which makes the following important statements about aging.

1. "The DOE has never before had large numbers of 30 to 50 year-old warheads in the stockpile. Until last year, the average age of a stockpile warhead had always been less than 13 years. As a result, new types of aging-related changes and problems in these older warheads are expected to be encountered."

2. "Some changes may have little or no effect, whereas others could make a major difference."

3. "Nuclear warheads are not static objects. Materials change over time (e.g., radioactive decay, embrittlement, corrosion). Some of these changes do not adversely affect warhead safety or reliability, but others may. In addition, not all changes have reached current detection thresholds, but nonetheless may potentially impact safety or reliability."

4. "* * * warheads will remain in the stockpile well beyond their anticipated design life and beyond DOE's base of experience."

Third, will Stockpile Stewardship be good enough to certify the many new manufacturing processes, to include those for new plutonium pit production? And how will we know that the Stockpile Stewardship certifications of new manufacturing processes are accurate?

Fourth, will Stockpile Stewardship enable the United States to make its weapons as safe as the technology allows, which used to be the standard against which nuclear weapons safety was measured? We have already received testimony, for example, that insensitive high explosives—an important safety measure—cannot be put in all of our deployed nuclear weapons without testing.

Fifth, how will we know the answers to any of these questions without calibrating the finished Stockpile Stewardship product, if or whenever we get to that point, against actual tests of aged weapons currently in the stockpile? Though the United States performed 1,030 nuclear tests, much of the data is of such low quality or on weapons no longer in the stockpile that it can't be used in Stockpile Stewardship.

The Advanced Strategic Computing Initiative, one of the major parts of the Stockpile Stewardship Program, has made impressive advances in supercomputing capability. But it still must improve the capabilities of its supercomputers by many orders of magnitude above what it has already attained. If this can be affordably accomplished—something that has not yet been determined—the United States will still be in the position of then having to rely upon computer simulations to integrate all the data being produced out of the other pieces of Stockpile Stewardship. As we all know, computer simulations can always be made to work; the question is whether they faithfully model reality. And without calibrating these models against actual tests of weapons currently in the stockpile, the United States will be forced into the position of hoping its models and simulations are accurate.

Sixth, will Stockpile Stewardship incorporate and replace the experience base in Department of Energy and Lab personnel as most of the scientists and engineers with design, manufacturing, and test experience retire in the next 10 years? According to the FY 2000 Stockpile Stewardship Plan Executive Overview, "Many of the scientists and engineers with actual weapons design, production, and test experience have already retired, and most of those remaining will likely retire within the next decade. A new generation of weapons scientists and engineers must be trained and their competence validated before the current generation leaves the workforce."

Seventh, is Stockpile Stewardship's funding sufficient and sustainable? This question is asked because the lab directors originally told the administration they needed $4.8 billion per year, but were told to design a $4.5 billion per year program. After doing so they were then told the $4.5 billion per year would be in current dollars, and would therefore not be adjusted over time for inflation. And most recently, the labs were told that the cost of producing tritium would have to be accommodated within the $4.5 billion per year, though it was not included by the labs in their $4.5 billion per year budget. In testimony before the Senate Assistant Secretary of Energy Vic Reis stated, "A production source of tritium would be in addition to" the $4.5 billion per year for Stockpile Stewardship. Dr. Reis, however, is directly contradicted by the FY 2000 Stockpile Stewardship Plan Executive Overview, which states, "FY '00 funding for the tritium source is included within this level" of $4.5 billion. Thus, the labs are getting less than they said they needed for the Stockpile Stewardship Program; they're sustaining funding reductions because of inflation; and, their program is being further reduced by having additional requirements levied upon Stockpile Stewardship without the provision of additional resources.

Finally, and most important, since Stockpile Stewardship is supposed to tell us about problems, many of which we've never seen before—such as those caused by aging—how will we know if Stockpile Stewardship "works"? How will we know we're finding problems that we've never seen before?

According to the President's statement of August 11, 1995, "I am assured by the Secretary of Energy and directors of our nuclear labs that we can meet the challenge of maintaining our nuclear deterrent under a CTB through a science-based stockpile stewardship program without nuclear testing."

The directors of the labs have not "assured" the President that the Stockpile Stewardship Program will maintain the U.S. nuclear deterrent, in the President's words, "without nuclear testing." What the lab directors actually have said in quite different: that Stockpile Stewardship represents the best chance to maintain the deterrent without testing. But there was absolutely no assurance given the President by the lab directors concerning Stockpile Stewardship. They have never said, individually or collectively, "we can maintain the safety and reliability of our nuclear weapons without testing." In a letter to Senator JON KYL of September 24, 1997, the director of the Los Alamos Lab, Dr. Sigfried Hecker, stated, "We agreed with the Department of Energy that without nuclear testing, the SSMP [Stockpile Stewardship and Management Program] provides the most logical approach for certifying the stockpile today and decades from now. We said that we could not guarantee that the SSMP would work, although we had reasonable confidence that it would * * *." That certainly doesn't sound like an "assurance" to me.

Recognizing that the eventual success of the Stockpile Stewardship Program is not a self-evident fact, during a visit to the Los Alamos National Lab on February 3rd, 1998, President Clinton said, "* * * I don't think we can get the Treaty ratified unless we can convince the Senate that the Stockpile Stewardship Program works * * *." As good as this program is, we do not know if Stockpile Stewardship will be good enough. We do not know when, if ever, the Stockpile Stewardship Program will be good enough, particularly as its promised completion is still over a decade away. And until we know, it would be irresponsible to foreswear nuclear testing. Stockpile Stewardship is simply not a proven alternative to nuclear testing. Nuclear deterrence is too important to the security of the United States for our nuclear deterrent to be propped up by hopes instead of set in a foundation of facts.

The CTBT purports to ban an activity it does not define.

My opposition to the Comprehensive Test Ban Treaty is not derived solely from the questions emanating from the unfinished Stockpile Stewardship Program, though these uncertainties constitute more than sufficient grounds to object to the treaty. The CTBT is itself seriously flawed in many ways, four of which I will discuss.

First, the Comprehensive Test Ban Treaty purports to ban an activity it does not define. Nowhere in the treaty can the definition of "test" be found. That is not to say that negotiators didn't spend a significant amount of time trying to define this most fundamental of terms. They did, but left the word undefined purposely because they simply found it too difficult to reach consensus on its meaning.

So, the Senate is being asked to render advice and consent to ratification of a treaty that not only bans an activity, but does so comprehensively. We just don't quite know what activity is being banned.

The Comprehensive Test Ban Treaty does state in Article I, "Each State Party undertakes not to carry out any nuclear weapon test explosion or any other nuclear explosion * * *." The Clinton administration has interpreted this to mean the CTBT is a "zero-yield" treaty, so one could expect that the treaty bans nuclear explosions from which a nuclear yield is derived. Unfortunately, the truth is not that simple, which is why the word "test" in the Comprehensive Test Ban Treaty is undefined.

In fact, for the first two-and-a-half years of the Clinton administration, negotiators pursued a comprehensive test ban treaty that would allow some level of yield from tests; that is, the Clinton administration's position was to negotiate a comprehensive test ban that would allow low-yield testing. Until August 11, 1995, when President Clinton decided to pursue a zero-yield CTBT, the Defense Department position was that it could agree to a comprehensive test ban treaty only if it permitted tests with nuclear yields of up to 500 tons. Other parts of the administration resisted a zero-yield treaty because they knew such a treaty couldn't be verified. But the nuclear weapon states couldn't agree on how much yield should be allowed, and the non-nuclear weapon states viewed this approach as an attempt by members of the nuclear club to enjoy the rhetorical benefits of being part of a nuclear test ban treaty while continuing to have the ability to improve their nuclear arsenals. So ultimately, in large part because some believed the indefinite extension of the Nuclear Nonproliferation

Treaty hung in the balance, the United States endorsed a zero-yield Comprehensive Test Ban Treaty while leaving the meaning of "test" undefined and "zero-yield" ambiguous. In fact, the phrase "zero-yield" is not even in the treaty.

Hydro nuclear testing is a perfect example of this problem. Hydronuclear testing is very low-yield testing, and is particularly useful in assessing nuclear weapon safety issues. Until the Clinton administration adopted its "zero-yield" position, it held that hydronuclear tests would be permissible under a comprehensive test ban treaty. After the administration adopted zero-yield as its position, though, American representatives declared hydronuclear testing to be contrary to this standard. Other countries, such as Russia, however, have declared hydronuclear testing to be consistent with its understanding of the treaty. Victor Mikhailov, formerly the Russian Minister of Atomic Energy and currently the First Deputy Minister at that ministry, stated on April 23, 1999, that the Russian nuclear program has to focus on, in his words, "three basic directions" in a CTBT environment: "new computer equipment, non-test-site 'simulation' experiments, and so-called test-site hydronuclear experiments, where there is practically no release of nuclear energy." Neither Russia nor, for that matter, China, has agreed even to the U.S. definition of what constitutes a hydronuclear test.

After Russia signed the Comprehensive Test Ban Treaty in 1996, Arzamas-16, one of Russia's two nuclear weapons labs, published a book in 1997 entitled Nuclear Tests of the USSR. According to this book, "Explosive experiments with nuclear charges in which the amount of nuclear energy released is comparable to energy of the HE [high explosive] charge, belong to the category of hydronuclear tests, and they also are not nuclear tests * * *." In plain English this means that one of Russia's two nuclear design labs does not consider low-yield testing to be a violation of the Comprehensive Test Ban Treaty.

The Russian position is not without merit, as the treaty's failure to define the meaning of the word "test" or even to include the phrase "zero-yield" gives rise to these kinds of fundamental ambiguities. Indeed, in testimony to the Senate, Mr. Spurgeon Keeny, President of the Arms Control Association, stated that during President Eisenhower's nuclear testing moratorium of 1958–1961, the President authorized a number of hydronuclear tests, ". . . related to some very specific safety problems that existed at the time." So during President Eisenhower's zero-yield nuclear testing moratorium he authorized the conduct of tests which this administration says would violate today's zero-yield Comprehensive Test Ban Treaty. It's not hard to see why other nations could think hydronuclear tests are permissible.

This ambiguity will lead to greater tensions as some accuse others of violating the treaty. It will enable some countries to improve their weapons and cloak the activities of other nations as they pursue acquisition of nuclear weapons, while the United States abides strictly by the treaty. While arms control proponents suggest that arms control treaties enhance relations between nations, the failure to define the Comprehensive Test Ban Treaty's most fundamental term can hardly be expected to build confidence between nations; instead, it's likely to create discord.

There is no evidence that the CTBT will reduce proliferation.

The second key problem with the treaty is that, contrary to assertions by treaty proponents, there is no evidence that the Comprehensive Test Ban Treaty will reduce proliferation.

Nations acquire nuclear weapons to enhance their national security. Will America's failure to test change that? The evidence indicates not. Indeed, though the United States hasn't tested since 1992—and didn't resume testing even after France and China conducted their tests in the mid-1990s—India and Pakistan chose to conduct nuclear tests in the spring of 1998. Each country did this for the simple reason that they found such conduct to be consistent with their national security interests.

The idea that the Comprehensive Test Ban Treaty will be an effective nonproliferation barrier should be examined in the context of the Nuclear Nonproliferation Treaty, or NPT. Except for the United States, Britain, France, Russia and China—the so-called "P–5"—the NPT establishes a norm against the development or acquisition of nuclear weapons. Yet, despite the establishment of this norm more than 30 years ago, nations other than the P–5 have continued to seek and acquire nuclear weapons. This pursuit and acquisition of nuclear weapons has occurred by both members and non-members of the NPT. Thus, while some of these nations, by virtue of their NPT membership, have explicitly violated the terms of that treaty—North Korea and Iraq immediately come to mind—the rest, though not NPT members, have flouted the NPT-established international norm.

So, the CTBT-established "norm" against testing is essentially superfluous. To violate this norm, nations, except for the P–5, must first violate the NPT-established norm against acquiring nuclear weapons. And if they are willing to violate the first norm, why not the second, and lesser, CTBT-established norm? Nations willing to violate the NPT norm to acquire the weapon in the first place can hardly be expected not to violate the CTBT norm of testing their ill-gotten weapon. Mr. Spurgeon Kenny, President of the Arms Control Association, even testified to the Senate that the NPT, "is the principal constraint on testing by non-nuclear weapon states." Which would seem to make the CTBT extraneous.

Nonetheless, CTBT proponents contend the treaty will be an effective tool against "horizontal proliferation"—that is, against the acquisition of nuclear weapons by nations that don't already have them—and also against "vertical proliferation," or the improvement of nuclear arsenals by those nations already possessing these weapons.

According to Dr. Kathleen Bailey, the former Assistant Director of the Arms Control and Disarmament Agency and now retired from the Lawrence Livermore Laboratory, in testimony before the Senate, "It is quite feasible for a nation to develop a device that will work as long as it does not matter if the yield is exactly known and there are no exacting specifications which must be met." Nations that do not now have nuclear weapons can build relatively unsophisticated nuclear weapons. The knowledge necessary to build these weapons is readily available, in textbooks, classrooms, libraries, and on the Internet. Treaty proponents do not dispute this; in testimony before the Senate, Mr. Keeny of the Arms Control Association, said, ". . . a rogue state could develop a first generation nuclear weapon without testing."

For proliferating nations seeking a nuclear weapon capability, first generation nuclear weapons need not be tested for the user to have adequate confidence in their utility. The United States would not have sufficient confidence in an untested or marginally tested weapon because of its requirements for weapon safety and reliability, but other nations will not necessarily have the same stringent requirements. Even if a country has low confidence that its relatively unsophisticated nuclear weapon will work if used militarily, in a crisis the United States cannot take the chance that another country's weapon, however unsophisticated, won't work. In this respect, mere possession of a nuclear weapon could be enough to dissuade the United States from acting. As a minimum, this possession will be enough to constrain America's options in time of crisis.

With respect to "vertical" proliferation, were the CTBT to receive consent to ratification by the Senate I am confident it would constrain the ability of the United States to modernize its nuclear arsenal. But other nations that already possess nuclear weapons will improve their arsenals—by exploiting the ambiguity inherent in the treaty's failure to define "test," or embarking upon testing which we can't detect though it provides militarily useful data, or by espionage, as we have already seen in the case of China. China's acquisition of information on our most modern nuclear warhead, the W-88, demonstrates that some nuclear powers can improve their arsenals without extensive testing.

The Comprehensive Test Ban Treaty could also have the perverse effect of engendering proliferation. There are several advanced nations, most of which are U.S. allies, that decided to forego their own nuclear arsenals for the explicit reason that their safety would be guaranteed under the American nuclear umbrella. If these allies lose their confidence in the safety and reliability of the U.S. nuclear deterrent, then they could also lose faith in the idea of finding their own protections within America's extended deterrent. These nations could then decide it to be in their own national security interests to acquire nuclear weapons; at a minimum, U.S. participation in the CTBT would require them to examine the question of whether they need their own nuclear deterrent.

The Comprehensive Test Ban Treaty's supposed nonproliferation benefits are based on hope, not fact. The CTBT adds nothing to the NPT. The evidence simply does not support the assertion that the CTBT would be an effective nonproliferation tool.

The CTBT verification scheme will have little effect.

The third significant deficiency of the Comprehensive Test Ban Treaty is its verification provisions. As the treaty is supposed to be a "zero yield" test ban, this is particularly troubling. While it is reasonable to hope that a nation's assumption of treaty obligations is sufficient to bind it by the treaty's terms and conditions, it is an unfortunate fact that some nations violate arms control treaties when convenient. The Senate recognized this problem, for example, when it provided advice and consent to ratification of the START II agreement, declaring its concern about, ". . . the clear past pattern of Soviet noncompliance with arms control agreements and continued cases of noncompliance by the Russian Federation. . . ." This is why effective verification of arms control treaties is so important, and I will explain three of the ways the CTBT's verification regime is deficient.

First, treaty supporters hope that the International Monitoring System set up under the CTBT will enable detection with high confidence of very low yield nuclear tests. We know, however, that it is possible to conduct a nuclear test with the intention of evading systems designed to detect the explosion's telltale seismic signature. This can be done through a technique known as "decoupling," whereby a nuclear test is conducted in a large underground cavity, thus muffling the test's seismic evidence. In a speech to the Council on Foreign Relations last year, Dr. Larry Turnbull, Chief Scientist of the Intelligence Community's Arms Control Intelligence Staff, said,

> The decoupling scenario is credible for many countries for at least two reasons: First, the worldwide mining and petroleum literature indicates that construction of large cavities in both hard rock and salt is feasible, with costs that would be relatively small compared to those required for the production of materials for a nuclear device; second, literature and symposia indicate that containment of particulate and gaseous debris is feasible in both salt and hard rock.

So not only is this "decoupling" judged to be "credible" by the Intelligence Community, but, according to Dr. Turnbull, the technique can reduce a nuclear test's seismic signature by up to a factor of 70. This means a 70-kiloton test can be made to look like a 1-kiloton test, which the CTBT monitoring system will not be able to detect. And a 70-kiloton test, even much less than a 70-kiloton test, can be extraordinarily useful both to nations with nuclear weapons and to nations seeking nuclear weapons. Bear in mind that the first atomic bomb used in combat had a yield of only 15 kilotons.

The final verification problems I will discuss is one that is present in, though not particular to, this treaty, and has to do with the ability of proliferators to utilize information gained from the verification system. In short, the verifications regime could serve as a training ground for those who wish to use the treaty to mask their continued pursuit of new or improved nuclear weapons. We have seen this problem in the past, and the aftermath of the Gulf War provides an excellent example.

Mr. David Kay, the first head of the UNSCOM inspection team in Iraq, has recounted on various occasions his experiences in searching for the Iraqi missile and weapons of mass destruction programs. One such experience involves UNSCOM's search for Iraq's nuclear weapons program. The UNSCOM inspectors searched long and hard, knowing the evidence was well hidden, and over many months, despite the best efforts of Iraq to frustrate UNSCOM's efforts, gradually uncovered much information about the broad scope of the Iraqi nuclear program.

The UNSCOM inspectors were particularly interested in learning how Iraq had managed to fool the International Atomic Energy Agency for so long. According to Dr. Kay, the response they received from the director of Iraq's Atomic Energy Commission "Nuclear Safeguards Department"—someone who had repeatedly lied to UNSCOM inspectors until he was confronted with incontrovertible evidence—was that he had learned how to beat the IAEA system of inspections from his experience as an IAEA inspector. After all, Iraq is a member of the NPT, and Iraqis therefore have every right to work at the IAEA.

Mr. President, we must expect that the same will happen under the CTBT. The treaty's own implementation mechanisms could teach some countries how to appear to be adhering to this treaty while actually using it to shield the advancement of their clandestine nuclear programs.

It is important to understand that our ability to verify a treaty is confined to the limits and fallibility of intelligence collection and analysis. In a 1998 speech to the National Defense University Foundation, Dr. Kay, stated, "We ought to remember in the case of Iraq, we [UNSCOM] found in the nuclear area a program that had sucked up $10 billion in the 1980s; 15,000 people working on it; 25 sites of production of various components, 12 really major ones; elaborate deception and denial operations . . . Can you imagine, if you had the DCI in here and asked him, 'Is there a country that can engage over ten years in a program to build nuclear weapons, spend $10 billion, have 15,000 people working in it, five major avenues of enriching uranium, and get within 18 months of building the program and you will not have detected it?' " Sometimes, unfortunately, our Intelligence Community will miss even very large clandestine programs.

The CTBT verification problem is compounded by the fact that it is supposed to be a "zero-yield" treaty. Commenting on this in testimony this year before the Senate Foreign Relations Committee, James Woolsey, President Clinton's first Director of Central Intelligence, stated, "I do not believe that the zero level is verifiable. Not only because it is so low, but partially because of the capability a country has that is willing to cheat on such a treaty, of decoupling its nuclear tests by setting them off in caverns or caves and the like. . . . And to my mind, that makes it a worse than a weak reed on which to rely." Mr. Woolsey is correct; the false assurance of the CTBT's verification system is in many ways worse than no assurance at all. The treaty's verification flaws alone are sufficient reason to vote against the Comprehensive Test Ban Treaty.

The CTBT prevents the United States from making our weapons safer and from adapting our nuclear stockpile to new threats.

The fourth major deficiency of the Comprehensive Test Ban Treaty is that it will prevent the United States from both improving its current arsenal and building new types of weapons, should the need arise. Though treaty proponents view this as a positive development, I will briefly explain why it is in fact a problem.

Dr. Robert Barker recently retired from the Lawrence Livermore National Lab after spending his entire professional life as part of the U.S. nuclear complex, as a weapon designer, tester, and as the Assistant to the Secretary of Defense for Atomic Energy for three different secretaries. According to Dr. Barker, the safety standard for U.S. nuclear weapons has always been to make these weapons as safe as our technology will permit. This means that as technology improves, so too should the safety features of our nuclear weapons.

But some safety features, such as insensitive high explosives, cannot be added to some of the weapons in our stockpile without testing. Therefore, the effect of the CTBT on the U.S. nuclear stockpile is to make it less safe than it otherwise would be. According to Dr. Barker in testimony to the Senate, "The history of U.S. nuclear weapon development is that with the design of each new weapon, efforts were made to incorporate the latest safety features in a steadily evolving technology of safety. When weapons remained in the stockpile so long that their safety features were too deficient with respect to then current standards, these systems were retired solely because of this deficiency."

So because the CTBT does not allow testing for safety or for any other reason, the United States will face the dilemma of fielding weapons that aren't as safe as they should be or doing without the weapons. For those whose ultimate objective is the denuclearization of the United States, this is a good reason to support the treaty. But it is not a good reason for those of us who understand the continuing necessity of nuclear deterrence to the national security of the United States.

It is also risky to insist that the United States will not have a future need for new types of nuclear weapons. Our nuclear deterrent must be configured such that it contains weapons to meet all conceivable needs. Over the years, in fact, one of the reasons the United States has continued to produce new types of weapons has been to respond to new requirements. Assuming the immutability of the current U.S. nuclear weapon requirements is, in my view, an unacceptable gamble. According to an unclassified March 1999 report by the Los Alamos Nuclear Laboratory entitled The U.S. Nuclear Stockpile: Looking Ahead, "[The] CTBT has reduced our flexibility and options to meet future nuclear deterrent requirements."

The major problem with an outmoded nuclear stockpile is that it reduces the credibility of the U.S. nuclear deterrent and, hence, undermines America's strategy of nuclear deterrence. As new threats develop for which the United States has no weapon that can be used, our adversaries will grow to view U.S. deterrent threats as less than credible. Obviously no one wants to use our nuclear weapons; but ensuring nuclear weapons are never used depends on ensuring they can be used. When they become unusable, or when we are faced with a situation for which we don't have the proper weapon, the American nuclear deterrent will have lost its relevance. This is good news for those who view the CTBT as an important step on the path to denuclearization, but bad news for everyone who understands the continuing importance of nuclear deterrence to America's national security.

The four deficiencies I have just discussed are by no means the only faults of the Comprehensive Test Ban Treaty, but I will leave it to others to examine additional treaty shortcomings. While I'm sure some will take issue with my characterization of the CTBT as replete with problems, the simple fact of the matter is that even President Clinton recognizes that the Comprehensive Test Ban Treaty is brimming with serious deficiencies. This is why the President announced that the United States would sign the CTBT subject to the establishment of so-called "safeguards," and this is why the administration and treaty supporters are asking that these safeguards be made part of the resolution of ratification. What these safeguards tell us is that the administration does not want the Senate to consider the Comprehensive Test Ban Treaty on its own: that the administration does not believe the Comprehensive Test Ban Treaty to be capable of standing on its own merits.

These so-called "safeguards" are themselves deficient.

On August 11, 1995, President Clinton released a statement which said, "The United States will now insist on a test ban that prohibits any nuclear weapons test explosion, or any other nuclear explosion. I am convinced this decision will speed the negotiations so that we can achieve our goal of signing a comprehensive test ban next year. As a central part of this decision, I am establishing concrete, specific safeguards that define the conditions under which the United States will enter into a comprehensive test ban."

This announcement marked President Clinton's decision to seek a zero-yield test ban treaty, and part of what the President said is worth repeating, "As a central part of this decision, I am establishing concrete, specific safeguards that define the conditions under which the United States will enter into a comprehensive test ban."

The six conditions that President Clinton announced are not part of the Comprehensive Test Ban Treaty, but entirely separate from the treaty. The safeguards were announced for the simple reason that the treaty is itself inadequate, or there would have been no need for the so-called safeguards. Indeed, the support of the Joint Chiefs of Staff for the Comprehensive Test Ban Treaty is conditioned on these safeguards. As stated in their Posture Statement of February 2, 1999, "The Joint Chiefs of Staff support the ratification of this Treaty, with the safeguards package, that establishes conditions under which the United States would adhere to the Treaty," So the Joint Chiefs support the ratification of the treaty only with the safeguards package. And the President supports U.S. entry into the CTBT with the safeguards package. But the fact of the matter is that the safeguards package, upon which the President and the Joint Chiefs have invested so much importance, is not part of the treaty.

The secret of the Comprehensive Test Ban Treaty is that it does not stand on its own merits, but is propped up by this "safeguards package" which has been accepted by no other nation that has signed or ratified the CTBT. So the Senate is being asked, essentially, to provide advice and consent to ratification of this treaty because of words that are not in the treaty. The Senate is being asked to provide its consent to something that no other nation understands to be the Comprehensive Test Ban Treaty. Even worse, the so-called "safeguards package" is itself inadequate in several ways, three of which I will now describe.

Safeguard A calls for, "The conduct of a Science Based Stockpile Stewardship Program to insure a high level of confidence in the safety and reliability of nuclear weapons in the active stockpile. . . ." I have already explained why this safeguard is inadequate.

Safeguard C calls for, "The maintenance of the basic capability to resume nuclear test activities prohibited by the CTBT should the United States cease to be bound to adhere to this treaty." But when Senate staff visited the Nevada Test Site earlier this year they found funding and personnel problems which call into question the sincerity of this safeguard.

Safeguard F calls for,

> The understanding that if the President of the United States is informed by the Secretary of Defense and the Secretary of Energy (DOE)—advised by the Nuclear Weapons Council, the Directors of DOE's nuclear weapons laboratories and the Commander of the U.S. Strategic Command—that a high level of confidence in the safety or reliability of a nuclear weapon type which the two Secretaries consider to be critical to our nuclear deterrent could no longer be certified, the President, in consultation with Congress, would be prepared to withdraw from the CTBT under the standard "supreme national interests" clause in order to conduct whatever testing might be required.

This safeguard is particularly important. Each of the nuclear weapons lab directors has testified that this safeguard is of critical importance to them because it reassured them that President Clinton was not eliminating the possibility of resuming testing despite agreeing to a comprehensive, and in his interpretation zero-yield, test ban treaty. According to Dr. C. Bruce Tarter, the director of the Lawrence Livermore National Lab, in a letter to Senator JON KYL of September 29, 1997, "I regard of utmost importance the ability to exercise the 'supreme national interest' clause of the CTBT to address concerns that I have outlined here in my answers. This option mitigates the risks in pursuing a no-nuclear-testing strategy. We must be prepared for the possibility that a significant problem could arise in the stockpile that we will be unable to resolve. The fact that the President's Safeguard F specifically cites this provision reinforces its importance."

In essence, the lab directors rendered their technical judgment on entering into the Comprehensive Test Ban Treaty based upon a political commitment. But the fact is that Safeguard F isn't even a commitment; it doesn't say the United States will resume testing if the lab directors can't certify a high level of confidence in the safety or reliability of a weapon in our nuclear stockpile. It doesn't say the "supreme national interest" clause will be invoked to resume testing if a problem is found which requires testing. Rather, it says that several different levels of interested parties all have to agree that there is a problem, and that they have to agree that the problem is in a weapon that the United States can't do without. So this opens the door for responding to a problem in our nuclear stockpile by deciding to eliminate from our stockpile entire types of our nuclear weapons. Removing weapons types with problems is a convenient way, after all, of eliminating problems from the stockpile. But it ignores the fact that we have these weapons in the stockpile because we need them.

Furthermore, Safeguard F is of little, if any, value because it doesn't commit to resume testing even if a problem is found in a weapon that it is determined the United States cannot do without. Safeguard F only makes this commitment: That, ". . . the President, in consultation with Congress, would be prepared to withdraw from the CTBT under the standard 'supreme national interests' clause in order to conduct whatever testing might be required."

To my knowledge, the United States has never made use of this clause in any treaty. But more importantly, we must recognize that neither the lab directors nor the United States Senate has received a commitment under this safeguard that testing will be resume if necessary. The only commitment here is that the President will consult with Congress and be prepared to leave the treaty to test. This safeguard should reassure no one.

It is a falsehood to say that this CTBT is "The longest sought, hardest fought prize in arms control history."

President Clinton has said that the Comprehensive Test Ban Treaty is, "The longest sought, hardest fought prize in arms control history." The phrase has a nice ring to it; unfortunately, it is not true.

President Eisenhower, who imposed a testing moratorium from 1958 to 1961, supported the idea of a comprehensive test ban treaty. Except that the test ban he proposed was of limited duration (four to five years), and would have allowed low-yield testing. And during the 1958–1961 moratorium President Eisenhower authorized Hydro nuclear low-yield tests for safety reasons, which the Clinton administration maintains would violate the CTBT now before the Senate.

During the Kennedy administration the Limited Test Ban Treaty, which banned nuclear testing in the atmosphere, space, or underwater, was negotiated. No serious attempt was made to negotiate a comprehensive test ban treaty; this was also the case during the Johnson administration.

President Nixon's administration negotiated the Threshold Test Ban Treaty, but also didn't make any serious attempt to negotiate a comprehensive test ban treaty. There was no activity on this subject during the Ford administration.

During the Carter administration, the Peaceful Nuclear Explosion Treaty was signed. Serious consideration was given to a comprehensive test ban treaty, though, in Senate testimony in 1997, Dr. James Schlesinger, President Carter's Secretary of Energy, stated, "[when] President Carter dealt with the issue of the CTBT, it was at a time when we were seeking a 10-year treaty and the yields of up to two kilotons would be permissible." In other words, President Carter favored a limited-term treaty that allowed for low-yield testing.

Neither President Reagan nor President Bush pursued a comprehensive test ban treaty. In fact, responding to the Hatfield-Exon-Mitchell amendment on testing in the Fiscal Year 1993 Energy and Water Appropriations Act, President Bush stated in a report to Congress,

> . . . the administration has concluded that it is not possible to develop a test program within the constraints of Public Law 102–377 [the FY '93 Energy and Water Appropriations Act] that would be fiscally, militarily, and technically responsible. The requirement to maintain and improve the safety of our nuclear stockpile and to evaluate and maintain the reliability of U.S. forces necessitates continued nuclear testing for those purposes, albeit at a modest level, for the foreseeable future. The administration strongly urges the Congress to modify this legislation urgently in order to permit the minimum number and kind of underground nuclear tests that the United States requires, regardless of the action of other States, to retain safe, reliable, although dramatically reduced deterrent forces.

Only the Clinton administration has actively sought an unlimited duration comprehensive test ban treaty. And only the Clinton administration has sought a zero-yield test ban treaty, though until August of 1995—two and a half years into President Clinton's first term—even his administration's proposals in the Conference on Disarmament allowed for low-yield testing.

President Clinton's statement that "The CTBT is the longest sought, hardest fought prize in arms control history" is false. I hope my colleagues will not be misled by the administration's transparent attempt to imbue this treaty with historical legitimacy it does not deserve.

Mr. President, we all agree that nuclear deterrence continues to be essential to the national security strategy of the United States. Where proponents and opponents of the Comprehensive Test Ban Treaty begin to diverge is over the question of whether nuclear testing continues to be vital to ensure the safety and reliability of America's nuclear deterrent.

The administration says that Stockpile Stewardship will provide us with the requisite confidence in our nuclear deterrent, and that this confidence will therefore be sufficient for our deterrent to continue to form the foundation of deterrence. It is my judgement that the Stockpile Stewardship is a well conceived and an important program, but we don't yet know whether it will become an adequate replacement for testing. And until we know this, it would be dangerous to bind our nation to a treaty that prohibits testings.

I have pointed out some of the more significant shortcomings in the Comprehensive Test Ban Treaty to explain that the Stockpile Stewardship Program's uncertainty, while itself sufficient justification to oppose the treaty, is not the only reason for such opposition. In failing to define the word "test" the treaty leaves ambiguous its most fundamental terms. There is no factual basis upon which to determine that the CTBT will be an effective nonproliferation tool. The CTBT is not verifiable. And it constrains the United States from maintaining high safety standards for the nuclear stockpile and from ensuring that our stockpile, in its configuration, is credible, a necessary condition for nuclear deterrence.

Furthermore, the so-called "safeguards" announced by the President are nothing but a crutch, demonstrating that the Comprehensive Test Ban Treaty cannot stand on its own merits.

Finally, I have taken the time to dispel the myth that this treaty before us is the "longest sought, hardest fought prize in arms control history." This zero-yield test ban treaty is unlike any treaty attempted by any previous administration. While a few sporadic and mostly half-hearted attempts have been made to attain some form of a comprehensive test ban treaty in the past none of these efforts was in pursuit of a zero-yield, indefinite duration treaty. There is not an unbroken lineage, extending back some 40 years, for this treaty, and it is factually incorrect to suggest otherwise.

Mr. President, arms control treaties must be judged by the straightforward standard of whether or not they enhance the national security of the United States. The Comprehensive Test Ban Treaty fails to attain this standard.

Given the limitations of current technology, it is simply not possible to be simultaneously for nuclear deterrence and for this Comprehensive Test Ban Treaty. The two positions are mutually exclusive.

In his book The Gathering Storm, Winston Churchill observed, "Facts are better than dreams." "Facts are better than dreams." Applying this observation to the Comprehensive Test Ban Treaty leaves one no choice but to oppose this treaty.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I find the leader's comment extremely fascinating. I want to set the record straight on a couple of minor details, as they are.

No. 1: The letter we sent was on July 20. The opening paragraph said:

> We urge you to hold hearings on the Comprehensive Nuclear Test-Ban Treaty and report it to the full Senate for debate. Most importantly, we ask this be done in sufficient time to allow the United States to actively participate in the treaty's inaugural conference of ratifying states to be held in early September.

We wrote that in July. The assumption, anyone in good faith would assume, was we have hearings now—July, August, and September. We had none. We did not have any. Zip. None.

The majority leader said, "Hearings are underway now." That is his quote. They are not underway now. The day before the treaty, the Foreign Relations Committee held its first hearing, on the day after we are discharged of responsibility. With all due respect to my friend from the great State of Virginia, chairman of the powerful Armed Services Committee, the only committee of jurisdiction under the rules is the Foreign Relations Committee. Their input is important. We love to hear their opinion, as we do the Intelligence Committee. They have no jurisdiction. It gets sent to our committee, not to theirs. And we have 1 day of hearings after we are discharged? Give me a break.

Mr. WARNER. Will the Senator——

Mr. BIDEN. I will not yield now. The Anti-Ballistic Missile Treaty had 8 days; SALT I, 8 days of Foreign Relations Committee hearings, 18 days on the floor of the Senate; the INF Treaty in 1988, 23 days of Foreign Relations Committee hearings, 9 days on the Senate floor; Conventional Forces in Europe Treaty, 1991, 5 days of Foreign Relations Committee hearings, 2 days on the floor; START I, 19 days of hearings in the Foreign Relations Committee, 5 days on the floor; START II, 1996, 8 days in the committee, 3 days on the floor; chemical weapons, 14 days in committee, 3 days on the floor; NATO enlargement, 7 days in committee, 8 days on the floor; Comprehensive Test Ban Treaty, 1 day of hearings after we are discharged. No committee report.

Look on your desks, I say to my colleagues. Find the report. Find me a report that makes any recommendation. Come on. Come on, this is a stacked deck. The idea that we are going to vote on a treaty that everyone acknowledges, opponents and proponents, is maybe the single most significant treaty we will vote on to determine the direction of this country in terms of strategic rationale, and we do not even have a committee report?

If you want to go down the list, the number of months between the time the treaty was sent to us and the time it got to the floor, we are talking over 2 years. In the case of ABM, 2 months; INF, 4 months; CFE, 8 months; START I, 13; START II, 32; chemical weapons, 37. We keep going higher and higher. Look at who is in charge when we have these.

But, my Lord, the idea we have had hearings, we have had sufficient time to consider it, don't get me wrong; in each of these other treaties, an incredible, valuable contribution and report was filed by the Armed Services Committee and an incredible, valuable position was taken and a report by the Intelligence Committee. They were absolutely necessary and needed, neither of which are available now. That is why Senators are arguing about the determinations.

For example, I just spoke to General Powell, as my friend from Virginia spoke to General Powell. I wrote down exactly what he said. I just got off the phone with him.

He said the most important reason why he wants this delay is so it does not get defeated. That is an important little point.

The second point he said was: I still support this treaty.

The third point was: But in light of the way this is being taken up and the confusion raised, it is better for the country and everybody to have all this sorted out in an orderly fashion so we all know what we are talking about.

He knows what he is talking about. He still supports the treaty, but he made a central point, the point Senator HAGEL made, and that was: We have not had sufficient debate. Therefore, we can have the kinds of comments made, honest disagreements, my friends from Virginia can say: This is not verifiable. And the Senator from Delaware says: It is verifiable.

For example, my friend from the Intelligence Committee, the distinguished Senator from Arizona, quoted in his opening statement the Washington Times with regard to verifiability. I will discuss this in detail later. He is on the Intelligence Committee. He knows nobody in the intelligence community came in and said they have evidence that Russia has, in fact, detonated a nuclear weapon. He knows that.

Mr. KYL. Since the Senator says I know certain things, may I simply interject to make this point: As Senator BIDEN is well aware, it is important for Senators to quote only open-source material, such as newspapers, and never to refer to matters in the Intelligence Committee which are classified. So this Senator will refrain from quoting classified material and will be bound by our rules only to refer to articles and newspapers, such as the Washington Times.

Mr. BIDEN. I respectfully suggest if you quote newspaper articles and you have some reason to believe a newspaper article is not consistent with what you know, then maybe we should not quote the newspaper articles.

The point I am making is a very simple one: Nobody in here has enough evidence, based upon a record, other than the probably 10 or 12 of us to whom responsibility is assigned to know this material; I doubt whether if you poll this Senate, intelligent women and men, that their degree of confidence—and I will be devil's advocate—for or against the treaty is as high as it has been in the past with other treaties because we have had extensive debate before.

When we talk about this notion that we are, in fact, in a position where what we asked for—and I wish the majority leader was still here. It was the Biden resolution that was going to be attached to an education bill that called for a sense of the Senate that we, in fact, hold hearings. Standing in this well, the leader—and he has acknowledged this and he made a point of this—walked up to me and said: If you will withhold that resolution, we can work out giving you a vote on this. He did say that, and I said fine.

The point is, we were not asking for a vote without hearings, ever. The point is also, accurately stated by many, in retrospect, in hindsight, should some of us have objected to the unanimous consent agreement? The answer is yes. Yes.

Here is where we are, and it is true, it is totally within the power of any single Senator to insist we vote. If that is the case, so be it. I am ready to debate the last few hours we have, and we vote. But I defy anyone to suggest this is the way in which they want the Senate in the future on other treaties of any nature, arms control or not, to proceed, which is to wait 2 years, do nothing, have no hearings in the committee of jurisdiction, wait until the committee of jurisdiction is discharged, hold 1 day of hearings, leave 14 hours of debate with one amendment available to each leader. I do not ever remember any treaty on which we restricted amendments or covenants. I do not remember that.

On the chemical weapons treaty, we had a whole range of amendments, all developed in the Foreign Relations Committee after extensive hearings.

So, folks, this is not the way to do business. But if we are going to do business this way, so be it. I cannot do anything about it except agree with the Senator from Virginia that we should not go forward. I agree with former General Powell. I agree; we should not go forward. If we do, we do. But it is going to be upon those who conclude that this is the way we should conduct business.

I think we are setting bad precedent after bad precedent after bad precedent by the way in which we are proceeding. Again, it is true, tactically those who oppose the treaty are in a very strong position now. I give them credit for their tactic. But I hope they will put tactical advantage beneath substantive responsibility.

If their case is as strong as they say, I would assume they would feel even better to have it debated at length, have the committees thoroughly explore it, and have it made clear to the American people so that when they vote it down, the American people—on average, 80 percent of whom support the treaty, based on all the polling data anybody has read—will not have to wonder why they went against the public will. They will be able to make their case, even if it is for no other reason than that.

So, Mr. President——

Mr. WARNER. Would the Senator yield for a question?

Mr. BIDEN. On his time, I am happy to yield. Again, I apologize to my friend from Georgia. I told him he could come and speak. I will yield to him. I did not anticipate the majority leader coming to characterize the circumstances different than—he is entitled to do that; I am not criticizing him—the views of the Senator from Delaware of the characterization.

Mr. WARNER. On our time, Mr. President.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, this is the time for cool heads, sound minds, to make most difficult decisions. I listened very carefully to our distinguished majority leader. And I have listened to my colleague and friend from Delaware.

My colleague from Delaware dwells on the process. This situation today is solely the result of the unanimous consent agreement, proposed at first by the majority leader of the Senate, and studied for a period of 3 days. Our majority leader has a right to believe that 3-day period of study enabled my good friend from Delaware and all others to examine this situation and determine, on the fairness, the propriety and, indeed, the national interest of bringing this treaty up today and Tuesday for floor debate.

And for having hearings in the Senate Armed Services Committee—I am sorry that my friend somewhat disparages the jurisdiction of this committee. But we have the jurisdiction. And I can point to the rules over the critical part of this debate, and that is the stockpile of nuclear weapons; that is the exclusive province of our committee. It is an integral part.

In that vein, we held 3 days of hearings. One was behind closed doors, when the intelligence community, to the extent I can reveal it, on their own initiative brought up the need to start a total new survey about the ability of this country, and indeed others, to monitor the terms of this treaty. We did not ask for it. They did it on their own initiative. They brought it up. That survey and study will take a period of some months and go into next year.

But the point is, I say to my distinguished friend from Delaware, this institution operates on the basis of rules. It was total comity between the distinguished majority leader and the distinguished minority leader for a period of 3 days; and finally the Senate—all 100 Senators—participated either by being on the floor or consultation with their respective leaders in the unanimous consent agreement. So process is behind us.

To me, to constantly bring up, as the Senator from Delaware did, the issue of the process, it has been covered by our distinguished leader today. It has been covered by the Senator from Delaware. We should move forward at this moment with this serious debate on the fundamental issue; and that is whether or not this treaty is in America's national security interest.

I think the press is accurately reporting the facts of the hearing held yesterday, again in the Armed Services Committee, when the Directors of the laboratories—these are not politicians, these individuals who have served in their capacity as top scientists for our country for 10, 12, 15 years—came before the Senate Armed Services Committee and told us, with the Secretary of Energy, their boss, sitting right there, their own opinions.

Any reasonable individual, in examining their statements in their totality, must come to the conclusions which are accurately reported in the very article that appeared today in the New York Times: They cannot give that degree of opinion that is needed to move forward on this treaty. They simply cannot do that.

Mr. BIDEN. Will the Senator yield on my time?

Mr. WARNER. Yes, of course.

Mr. BIDEN. I want to make two points.

What I said about the lack of an intelligence community, CIA conclusion that Russia has exploded a nuclear device was cleared by the CIA to be able to be said. The operative word is "conclusion." They reached no such conclusion, and that was cleared. I did not speak out of turn.

No. 2, with regard to yesterday's—and through the kindness of my friend from Virginia, he has allowed a lowly member of the Foreign Relations Committee to sit in on his hearings. Yesterday, in front of the Armed Services Committee, all three lab Directors testified that our stockpile today is safe and reliable.

Let me read what Dr. Browne said. Dr. Browne said:

> I am confident that a fully supported and sustained program will enable us to continue to maintain America's nuclear deterrent without nuclear testing.

Let me further lay out for you that each Director—all three—answered this when Senator LEVIN asked the following question. Senator LEVIN asked the following question to all three Directors:

> Are you on board with this treaty?

Every single one of the lab Directors said, "Yes."

People will say: How can the honorable Senator from Virginia—and he is—say what he said and the Senator from Delaware say what he said? How can they be in disagreement? I will answer the question for you.

Remember, I said at the beginning "keep your eye on the ball here." It is true, if we do not fully fund the stockpile at $4.5 billion per year for 10 years, that all three of them lose confidence in the ability to do that.

It is kind of ironic. The main reason why we fear that we will fund this—and I challenge anyone to show me this is wrong—is because a Republican-controlled House of Representatives is balking at funding it, not because we have not; we have funded it. The distinguished ranking member of the Appropriations Committee is sitting behind me. We did our part.

Mr. WARNER. Mr. President, I believe the Senator from Virginia has the floor for the purposes of a question. But the distinguished Senator from Georgia—it had been indicated he could speak.

Mr. BIDEN. If we will all yield, I will yield. I just wanted to set the record straight.

Mr. WARNER. We will resume our colloquy thereafter. I think it is important that we have our colleague's remarks.

Mr. BIDEN. I do, too. I think it is very important we have the benefit of precision—precision—precision.

Mr. WARNER. Following that, we could resume our colloquy.

Mr. BIDEN. Following that, I will yield to my friend from New Mexico.

Mr. WARNER. Having had the floor, I have to reply to the assertions you made about yesterday's hearings over which I presided and sat there for 5 hours and 10 minutes.

Mr. BIDEN. Mr. President, I challenge my friend between now and the time——

Mr. WARNER. I will reply to that challenge, Mr. President.

Mr. BIDEN. Let me say it another way. I respectfully request my friend answer two questions while he is getting ready to respond: Did or did not Dr. Browne say: "I am confident that a fully supported and sustained program will enable us to continue to maintain America's nuclear deterrent without nuclear testing"? I will give him that. Secondly, would he be able to respond and tell me how I am wrong, that when all three Directors were asked, "Are you on board with this treaty?" and every single one answered: "Yes."

Mr. WARNER. I will provide that. We have to extend Senatorial courtesy to our colleague.

Mr. BIDEN. I yield the floor.

Mr. WARNER. I will be here throughout the entire day, Mr. President.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I compliment the Senator. The debate is now beginning to occur on this very important subject. I associate myself with the remarks of the Senator from Virginia, as he explained to the Senate and to the public the nature of the procedure by which we have arrived at this event and this process that the leadership of both sides of the aisle, over a 3-day period, concluded, which was agreed to by unanimous consent, would be the process for discussing the treaty. It is very important, in light of certain debates that had more to do with the process than the treaty. That was decided by the leadership. We are now debating the treaty, not the number of hearings, et cetera.

In the modern Senate, in my judgment, individual Senators come to decisions on monumental issues, such as this treaty, far more from their personal and internal counsel than they do whether or not there have been a series of hearings. Not very many Senators are able to attend those hearings, but they are gathering the information unto themselves, and they have been weighing the facts about this treaty for a long, long time. That is where the personal decision is likely to be made. I know that is the case in my case.

Therefore, I rise in strong opposition to the Comprehensive Test Ban Treaty. Despite what we are hearing from the other end of Pennsylvania Avenue and the other side of the aisle, ratification of this treaty is dangerous and would jeopardize the national security of the United States. President Clinton, the strongest proponent of this treaty, claims it would "constrain the development of nuclear weapons, contribute to preventing nuclear proliferation, and enhance the ability of the United States to monitor suspicious nuclear activities in other countries."

I believe the President and those advocates of that point of view are wrong on every count. The treaty will not prevent countries from obtaining or developing nuclear weapons. Take the 1970 Nuclear Non-Proliferation Treaty, a treaty designed to stop the proliferation of nuclear weapons. Despite its good intentions, which, of course, this treaty also embraces, nuclear proliferation continues today for one simple reason—nations act in accordance with their own national security interests.

The 1970 Nuclear Non-Proliferation Treaty did not prevent countries such as China, Iran, and Pakistan from acquiring or transferring nuclear technology. We cannot be so naive as to believe that such countries will behave differently if we pass this treaty. We must also take into account that our own conventional arms superiority will encourage other nations to cheat on the treaty.

My point is this: As the world understands that the United States cannot be challenged in conventional warfare—we are clearly the most powerful Nation in the world on any conventional act of warfare—that means other nations which may be adversaries will be pushed toward the need to have nuclear capacity as a quid pro quo to the United States. Strangely enough, even the administration admits that the treaty does not represent an effective deterrent for nuclear proliferation or modernization. In testimony before the Senate in 1998, the Acting Under Secretary of State for Arms Control and International Security Affairs said he could not identify a single nation that wouldn't seek nuclear weapons, if the treaty were to enter into force.

Second, the treaty is not verifiable. Former Director of Central Intelligence, James Woolsey, testified before the Senate Foreign Relations Committee last year that "a zero yield Comprehensive Test Ban Treaty is extraordinarily difficult to the point of impossibility to verify from afar."

The distinguished chairman of the Foreign Relations Committee recently brought to this body's attention a Washington Post article which reported that the CIA cannot monitor low-level nuclear tests by Russia. So while our Central Intelligence Agency is telling us it can't verify compliance with the treaty, our administration persists in its misguided efforts to ratify the treaty. In effect, this administration is proposing that the United States adhere scrupulously to such a treaty while other nations will not be verifiably doing so by continuing to develop and acquire nuclear weapons. Ratification, then, means that the rogue and other nations would be gaining militarily over the United States.

Third, despite what the administration would have us believe, nuclear testing is essential to maintaining a strong and credible U.S. nuclear arsenal and deterrent. Most experts agree that nuclear tests are necessary to maintain the proper functioning of nuclear weapons and warheads and to modernize the existing stockpile for enhanced safety and effectiveness.

I want to digress a moment. If the world ever begins to believe that our arsenal is less than effective, it encourages bad behavior. If we ever come to believe we are not certain about our nuclear arsenal and its capacity, we become destabilized as a nation.

Many weapons believed to be reliable and thoroughly tested nevertheless developed problems which were only discovered and could only be fixed through nuclear testing. One-third of all the weapon designs placed in the stockpile since 1958 have required and received postdeployment nuclear tests to resolve problems. In three-quarters of these cases, the problems were only identified and assessed as a result of nuclear testing and could only be fixed by nuclear testing.

The proponents of the treaty think we can do this through computer modeling, but most experts will quickly tell us that we don't know whether the computer modeling will work and probably won't know for another 10 years.

In short, only by testing will the United States be able to maintain a nuclear stockpile that is able to defend against threats from abroad, rogue nations, to provide a credible deterrent to hostile nations and maintain confidence in the safety and reliability of our nuclear weapons, and to make sure those other nations understand we have a reliable, effective nuclear deterrent.

It is important to note that the value of America's nuclear arsenal diminishes dramatically if nations, rogue or otherwise, come to believe our deterrent is not safe and not reliable. The nuclear umbrella extended for decades to cover allies such as Germany and Japan has been an important factor in convincing these technologically proficient nations not to acquire their own weapons, precisely because of the safety and reliability of our weapons. So what kind of decisions do they begin to make if they ever believe they cannot count on the U.S. nuclear deterrent?

Mr. President, I want to make a couple of closing comments.

The other day, Senator BIDEN of Delaware, in his earlier remarks about the treaty, said something to the effect that this decision would "hang over the heads" of each of us who will be called upon to vote. The inference was, well, if those of us who oppose the treaty make an error, that will hang over all of our heads. I point out to the Senator from Delaware that this decision will live with each of us, no matter what decision we make.

Mr. BIDEN. Will the Senator yield on my time?

Mr. COVERDELL. Yes.

Mr. BIDEN. The inference was not that those who voted no were the only ones who would be taking a chance; the inference was that whomever among us turned out to be wrong is going to, in fact, have a long time to pay.

These are big stakes. If, in fact, you vote no, and if proliferation accelerates, whether or not because of this, mark my words, those who voted no will pay. Conversely, if you vote yes and we find out a year or 2 or 3 from now that all those horrible concerns about the treaty turned out to be true and the Soviets have a superiority and the Chinese are doing this, then those of us who voted for the treaty will be held accountable, as we should. I wasn't applying it to one side.

Mr. COVERDELL. He has clarified and made the very point I was going to make—that, clearly, if somehow proliferation accelerated, those who have voted no would have to feel they made an error in judgment. On the other hand, if those who voted for it found themselves in a situation where the U.S. deterrent had diminished, that the new testing procedures were not as effective, and that world rogues had suddenly become very weighty in the world, much would hang over their heads.

My closing point is this: Which mistake is worse? In other words, if the mistake is another nation has a weapon that it didn't today, that would not be good. I personally don't think this treaty is going to stop those nations. But, on the other hand, if the conclusion of the error is that we are unable to defend ourselves, first—or secondarily, we have somehow destabilized our allies and have made the world less safe, which is a worse error? I think of a poster I have seen in the office of Senator GRAMM of Texas. It says: When the day comes, if the lion lies down with the lamb, we better be darn sure we are the lion.

The emotion the Senator has expressed today is laudable. It is a weighty decision. I think the Senator gives more to the reports and the process than I would, from my limited experience. He has been here a lot longer. As I said, while he was off the floor, I think personal counsel has a weightier importance on these kinds of issues. In the limited time I have been here, we have been through three of them now in the process. But if I were to have to pick between where we would be on the balance of mistakes, I would pick the safer one, where we have the capacity to defend ourselves.

Mr. BIDEN. Mr. President, on my time, in response, I think the Senator from Georgia has narrowed it precisely. Let me tell you why I think the side on which he errs is the biggest chance. There is a safeguard F in this treaty which says that if at any time those laboratory Directors certify that they cannot certify the reliability of our stockpile—and they must do it once a year—and communicate that to the Secretary of Defense and the Secretary of Energy, and they concur with that judgment, which most assuredly they would, barring their place in history being besmirched in a significant way, then we have in this treaty the absolute authority, under safeguard F, to withdraw.

So the reason I believe we should err on the side of not testing nuclearly—knowing that if, in fact, it becomes necessary to safeguard us, we can get out legally in a moment's notice—is that failing to take that very small chance, we open up a door that cannot be closed, or is difficult to close. If, as a consequence of no treaty, China begins significant testing and MIRVs ICBMs and moves them from 18 to 800, or 8,000, or 5,000, if in fact Pakistan and India test further so they can deploy their weapons on the nose cones of missiles that can be fired, it is incredibly more difficult to turn that clock back, to put that genie back in the bottle, than it is for a President of the United States, upon the recommendation of the Secretaries of Defense and Energy, saying, Mr. President, get out, get out.

The last point I will make is this: I know of no program—and I stand to be corrected—where there has been a quantum leap in the capacity of a country that has taken us by total surprise, where we have had less than a year's notice. The likelihood of any fundamental change in the strategic balance during the year period, during the last certification and the next certification, is not reasonable. We are the only Nation in the world with the sophisticated capability to even approach that possibility. So that is why I respect my friend from Georgia, and he knows I do. That is why I decided we are taking very little chance relative to a gigantic chance if we turn the treaty down.

I yield the floor.

Mr. COVERDELL. Mr. President, the Senator from Delaware knows the respect is mutual. I just point out that people of honor and good faith can come down on very different sides of these questions, as we have seen among experts.

Ultimately, each of us will have to personally balance this equation. The political process that has already developed this treaty is the very thing that worries me about the escape clause you talk about. I don't have any confidence in it. I just don't believe, as you do, that this treaty will put any genie in the bottle. I will close with that. I admire the Senator from Delaware for his work. We simply have come to two different conclusions in this matter.

I yield the floor.

Mr. BIDEN. Again, as usual, my friend from Georgia goes to the heart of the issue. If you put everything else aside, you take all the detail away, you will find at its root—I am not suggesting that everybody who opposes this treaty doesn't believe everything they are saying; they do. But at its root, it comes down to a belief that has been the case in almost all the debates on treaties—and I am not suggesting that everybody has opposed every treaty. But they have argued one final piece, and that is simply that they lack faith in the political will of this country to do whatever is required. That has been the closing and legitimate argument raised. It was raised in START I, START II, SALT I, and SALT II.

The issue was whether or not we would so change the political climate that we lull ourselves to sleep. My friend from New Mexico remembers the argument that we would not have the political will to reengage. It is a legitimate argument. I do not give it short shrift. I think it is the single most serious argument against this treaty.

I will close by saying, as the kids say, I will put my experts up against your experts. I have more of them, numerically.

Mr. President, I think it is our turn. I yield 10 minutes to Senator BINGAMAN.

Mr. BINGAMAN. Mr. President, I thank the Senator from Delaware, Mr. BIDEN, for yielding time and also for his eloquent statements in opposition to going to a vote on this treaty.

First, I know everyone says we shouldn't talk about the process, that the process is history. But I think we should talk about the process and talk about the fact that next Tuesday is not the time this Senate should dispose of this issue. The reality is that there is a lot of uncertainty and a lot of confusion.

I learned early in my career that when you are uncertain, the best thing to do is sleep on it, take a little time, and let the issue resolve itself in your mind before you move ahead. And clearly there are a lot of unknowns out there that we need to know before we finally vote on this issue.

I hope that leadership—particularly the majority leader—will find a way to step back from this vote and give the Senate time to get the newest estimate from the intelligence community about what the capabilities of Russia are with regard to low-yield weapons development and also to get other expert advice.

Clearly, this is an issue of monumental importance. As we start a new century, we should not rush to judgment before we have given every Senator an opportunity to learn the issue and to understand the implications of it.

Our nuclear arsenal was developed, and has been maintained, because we believe having a safe and credible and reliable nuclear arsenal has improved and continues to improve U.S. security. I believe that. I am sure we will continue to maintain that nuclear arsenal as long as we still have that judgment.

The Comprehensive Test Ban Treaty, which is the issue now before us, raises the question of whether we can continue to maintain our nuclear deterrent and maintain our national security through having that nuclear deterrent under a regime of no additional nuclear testing. I believe we can.

I believe the benefits we derive from going ahead with this treaty and in slowing the spread, and the improvement, of nuclear weapons around the world by others make this treaty very much in our national interest.

Some have argued that without the ability to test nuclear weapons, we cannot have 100-percent confidence that those weapons will work as intended. I agree with that. I think it is undoubtedly true that an unlimited testing regime will give us a higher degree of confidence in our own nuclear weapons than no testing at all. Clearly, that is true for all of our potential adversaries as well. They will do better at developing weapons, and they will have a more capable, reliable nuclear arsenal to point at us—potential adversaries will—if we go ahead and have them pursue unconstrained testing.

But we can, in my view, have sufficient confidence in the reliability of our weapons through the work we have labeled the Stockpile Stewardship Program. This is a program that has been discussed frequently on the Senate floor. It is one I have spent many hours studying and trying to understand in the nuclear weapons laboratories in my State—Los Alamos and Sandia.

I think we need to balance against this concern about lack of 100-percent confidence. We need to balance against that the consequences that would result from a rejection of this treaty by the Senate.

Senator MOYNIHAN spoke about the likely reaction of a rejection of this treaty in India and Pakistan, both countries which have demonstrated their nuclear capability already and are on the way toward developing a real nuclear arsenal that can be used against each other or other countries.

Other Senators have talked on the floor about the likely effect of a rejection of this treaty on China or on Russia. The simple fact is that the United States is far ahead of any other country in the world in our ability to maintain our nuclear deterrent under a no-testing regime.

Our allies—and that includes our allies who have nuclear weapons—believe it is in their interest and in the interest of the world for us to go forward with this treaty and believe that, on balance, their security will be enhanced if we go forward with this treaty. If that is their judgment—those nuclear-capable countries depend much more on testing than we do—that a no-testing regime will, on balance, improve their national security, then I have trouble seeing how entry into a test ban treaty can put us at a comparative disadvantage when we have tremendous capability to determine the reliability and safety of our weapons without testing—not 100-percent capability, but we have great capability and capability that far exceeds that of any other potential adversary.

Let me say, in closing, I would like to go back to this issue of procedure and where we go. Since it is clear to me, and I think to all Senators and all observers of the Senate, that the two-thirds votes necessary under our Constitution to ratify this treaty are not present today in the Senate and are not likely to be on Tuesday, I think it would be a tragic mistake for us to go ahead with that vote next week. I hope very much that cooler heads prevail, as the Senator from Virginia said earlier in the discussion. I hope cooler heads prevail and we find a way to put this off to a time when we can approach it with more knowledge and better judgment.

In the final analysis, the question we must decide is whether this treaty will reduce the proliferation of nuclear weapons, reduce the number of states with nuclear arsenals, and lessen the likelihood of nuclear weapons being used in the next century. That is the issue before us. I believe it will accomplish each of those end results. I believe the treaty will have that effect. When it does come to a vote, I hope very much that two-thirds of the Members of this Senate have the good judgment to support the treaty.

Mr. President, I see there is another Senator wishing to speak. I yield the floor, and I yield the remainder of our time.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I am excited and optimistic about our next century and about the next millennium. We made great human technical progress in the 19th century. A lot of things happened in that century that were good. We continued that technological progress in the 20th century. Unfortunately, the forces of totalitarianism, war, fascism, and communism have run loose in the 20th century to an unprecedented degree. Millions died as a result. I do believe, though, the next century, the 21st century, can be the greatest in the history of mankind.

Hitler and his forces of national socialism were crushed in this century. Communism and the "Evil Soviet Empire" collapsed. The world is a better place with even greater possibilities. We can work together and promote peace, order, stability, and ensure economic, technological, and medical progress to an unprecedented degree. This, I believe, can and will happen.

Yes, there will be problems. Ambition, ignorance, greed, and hatred will not be eliminated from the face of this Earth. These will abide. But from a global perspective, they can be contained, and peace and progress can be expanded in the next century to an unprecedented degree. For this to happen, however, the United States must lead. It cannot be Russia. They have deep economic and political problems. It can't be China. They are driven by the Communist chimeras and old ambitions. It can't be Europe, for they have not achieved the political unity or the military strength to act quickly and decisively. The United States has the burden to lead for peace. And not just peace—we need peace with justice, a much harder goal.

We are a nation composed of immigrants from all the nations of the Earth. People from all over the world came here to live in freedom. We have also been blessed with the economic, technological, and military strength in addition to the cultural diversity that enables America to be a unique world leader.

Yes, many criticize the United States, but they all fundamentally recognize our critical role in a stable and healthy world order. This doesn't mean we are to be the world's policeman for every little matter, but we must lead with confidence and strength. It is necessary, therefore, for our country to have credibility when we speak, to be respected by all, to be feared by expansionist and dangerous forces, and to continue, with even more skill, our self-confident world leadership that we have shown in recent years.

That is why I have decided it is necessary for me to oppose the Comprehensive Test Ban Treaty. I am of the firm opinion this treaty will do at least two things. It will certainly cause our current nuclear stockpiles to be degraded. Simulated tests, all agree, can never be as good as actual tests. Secondly, it will reduce our capacity and, more importantly, perhaps, our will to improve our weapons systems—to keep up with scientific advancements. The result, therefore, will be that the United States will see its nuclear power degraded and its capacity for world leadership eroded. This means less stability in the world. Our allies will have less confidence in our nuclear umbrella. Our adversaries will be more confident, more active, more willing to be aggressive and to push the limits. In addition, our confidence in our own ability to act and lead will be diminished. Our President and Congress must be certain of our ability to act.

Senator WARNER, chairman of the Armed Services Committee, a tremendous patriot with extraordinary experience in matters military, a man who loves his country, who supports our President when he can and believes he should, who opposes this treaty steadfastly, recently said there can be no doubt in the credibility of that stockpile. That is it, fundamentally. We can't have doubts, our adversaries can't have doubts, and our allies can't have doubts.

There have been a lot of discussions about verification. This treaty cannot be adequately verified. We have talked about a lot of other issues today. Safety—how can we be sure of safety if we are not testing our weapons?

I will discuss for a few minutes specifically what I believe is a fundamental danger or effect of a complete ban of all testing forever, which this treaty does. In effect, the goal of this treaty will be and is to cap, to freeze, to stop improvements in weapons systems. It will include our weapons systems.

Some say: JEFF, we can still do research and they don't have to do all this testing.

That is not entirely accurate. Yesterday, as the Director of the Sandia Laboratory testified, they have design data at this time that could be used to produce a new weapon, but they cannot test it to bring it online. That is a significant statement, I believe. We have that capability now, and we are not going to use it.

Of course, basic weapons, the Hiroshima-type bomb, do not need to be tested. Everybody who is of scientific sophistication in the world—and there are 44 countries today that are either estimated to be or are actually nuclear-capable—all over the world people have the capability of building a basic nuclear bomb. We ought to know this ban would have no impact on that. This treaty would have no impact on buying and selling of nuclear weapons from a country that has already produced.

What this treaty is doing—and I want Members to think about this—is attempting an act that is extraordinary. We will attempt to stop research and testing on new materials and new weapons. If the United States signs such a treaty, we know we will comply with it; we will comply with the spirit and we will not continue to research and develop through testing. Such a decision, I believe, would be unwise and would be contrary to human nature and our tendency to progress, improve, and advance —characteristics of humanity.

To pass a treaty such as this will certainly slow our interest in modernization, but it is not likely to slow the research of other capable nuclear nations. They are behind. They—many, at least—will be determined to catch up. They will use this treaty to catch up, similar to the yellow caution flag when there is an accident on a race course—allowing those off the lead lap to catch up to the leaders. CTBT will allow other states that opportunity.

Secondly, in their efforts to catch up, our adversaries may well even achieve a breakthrough, a technological advancement that could leapfrog them even beyond the United States into nuclear leadership in this world. That will not only be bad for America, it will be a setback for stability and peace and justice for the whole world. We have an obligation to work to promote peace and stability.

The goal of this Nation, I so strongly believe, is to be a preeminent world power. We have to understand what comes with that: The responsibility to be strong.

President Reagan said a number of years ago:

> Our policy is simple: We are not going to betray our friends, reward the enemies of freedom, or permit fear and retreat to become American policies, especially in this hemisphere. None of the four wars in my lifetime came about because we were too strong. It is weakness—weakness that invites adventurous adversaries to make mistaken judgments.

I think that is the history of mankind. Winston Churchill warned England about that when Nazi Germany was on the early march and they could have been stopped earlier at much less cost.

I have seen it argued by some that the passage of this treaty will freeze our nuclear leadership in place. I believe that is not sound reasoning. That is a foolhardy concept. It will stop America from improving our arsenal. It will stop America from improving our technology. It will allow, I submit, our adversaries to catch up and, God forbid, pass us.

Some may believe all the world powers are the same. They used to say we are just a bunch of scorpions in a bottle. I disagree. The United States has a unique role in the world, a unique ability to lead for good. Our leadership has been good for the world. I defy anyone to dispute it. When historians write of our role in the next century, I want them to write that we used our power to lead the world in great progress toward peace, with justice and economic and technological and medical prosperity.

This goal is not going to be furthered by fuzzy thinking. It will not be achieved if we just sign away, by this treaty, capabilities we have that enable America to lead. That is why we are able to lead—because we have superiority. If there are two football teams—and in Alabama we have a lot of them—some of them like to throw a pass and some maybe cannot throw a pass so well. It would be nice to have a treaty beforehand that the one with the ability to pass would sign away that ability. That doesn't happen on a football field, and it won't happen in the world.

Our leadership is important, and our military power is crucial to it. That is the solid foundation on which we have to build. We benefited from a certain number of treaties with the Soviet Union that dealt with nuclear weapons in the past. I believe we can continue our efforts to reduce the number of weapons in our arsenal. I believe we can perhaps reduce by 50 percent the nuclear stockpile we have. Yes, we can do that. There are a lot of things we can do that promote peace. But to ban all testing of all nuclear weapons? That is a mistake. I do not believe that will promote peace.

I do not believe so. I favor our doing all we can do to stop proliferation, the spread of nuclear weapons around the world. The truth is, this will probably be done best on a nation-by-nation basis. When Pakistan and India had their fuss earlier last year and one tested, then the other one tested. Why? Because they felt their existence at stake, and no piece of paper is going to stop any nation from developing what it believes it has to develop to maintain its freedom, to maintain its autonomy, its independence as a nation. That will not happen.

What we have done, as the United States, is provide a nuclear umbrella. We have been able to say to nations: We are not going to let other nuclear powers do you in. Don't develop weapons, we will be there, we will stand firm. We have the capability to destroy anyone who attempts to destroy you.

People have relied on that. Many nations have. Germany and Japan could easily develop nuclear weapons. They have declined to do so based on our assurances.

Mr. BIDEN. Will the Senator yield for a question?

Mr. SESSIONS. Yes.

Mr. BIDEN. Why did they ratify the treaty, then, and why did they directly contact us in an extraordinary way through their leadership and say: Please, U.S. Senate, ratify it?

Mr. SESSIONS. I appreciate that question. It is my view—sometimes it is internal politics. Sometimes, though, it is a lack of being able to walk in our shoes.

This is a very significant time for us. We need to ask ourselves who we are as a nation. We are in a class of one. A treaty such as this would be good for Japan. It would be good for Germany, perhaps. But it would constrain us and, in the long run—they may not realize it—it could jeopardize our ability to guarantee their freedom.

So on the proliferation question, 44 nations have this ability to develop nuclear weapons and have them. It is already out there. Others are going to continue to get it. It will not stop.

I say to America: Please listen. We are a unique world power. We must use that power for good. We must maintain nuclear leadership in the world, and we cannot forfeit our power by signing it away for a treaty at the urging of politically correct and fuzzy thinkers.

I have a vision in my mind about treaties. We have to watch them, I think. It is Gulliver in the land of Lilliputians, stretched out, unable to move because he has been tied down by a whole host of threads. Powerful Gulliver, unable to move, tied down by strings and threads of multiple numbers.

We are not one of equals. The United States is in a category of its own at this point in history. This treaty might be good for Japan, England, France. It will not be good for us, and in the long term, the long run, I am convinced for world peace.

I remember—I wasn't in this body—a number of years ago in Europe there was a fuss—Senator WARNER remembers it, and Senator BIDEN—about whether or not to put Pershing nuclear missiles and intermediate-range missiles into Germany. The Germans, despite the most intense anti-nuke Greens and so forth who were there, agreed with President Reagan to do so. Critics said it would cause war and could lead to nuclear war. But the truth is, it led to peace. That strength, that commitment unequivocally made, saying we will not allow Germany, we will not allow Europe—we are willing to put our necks on the line, our nuclear power on the line, to guarantee the independence and freedom of Western Europe. It was a blow for peace. It helped lead to the collapse of the Soviet Union.

I recall a few years ago a discussion on Firing Line between William Buckley, Jr. and a liberal editor. At the end of the wonderful discussion, the editor poured forth his hopes and dreams for a more peaceful world.

Mr. Buckley paused respectfully for a while and then he said:

> Well, friend, I hope you won't mind if I work to defend the Republic while you are working on these grand plans.

That is where we are today. I believe we have a burden. I believe we ought not to sign away the unique capacity that we have as a nation to improve our nuclear arsenal. One of the things we do so well, and most people may not know, is that we have produced sophisticated, highly targetable weapons—weapons capable of being very accurately targeted to attack military targets, hardened defensive targets, not just aiming them at population centers. So the extent to which we can improve our arsenal may give us the ability to be stronger militarily and actually avoid any more loss of life than would be necessary in such a conflict.

I think we are at an important time. The President asked for and wanted this debate. It is not as if anybody did not know it was out there. It had been discussed for quite a number of years. The truth is, there are not votes to pass this treaty. Some say maybe we ought to pass on it and not vote on it this time and keep it alive. I thought about that. Some good people think that may be the right idea. But I have my doubts.

I think it might be a good thing for the world to see the Senate vote this treaty down. It is not a good treaty. I think it would send the world the word, and I think around the capitals of the globe we would have some hard-headed world leaders saying: Wow, we thought the United States could be moved by all this anguish and talk and pleas and political correctness. This is odd. They are able to act in their own self-interest and show leadership. I am impressed.

I think that might be the long-term result of this, instead of some of the calamities our friends would say will happen. I just do not think the world is so fragile that the United States, acting in its own rational self-interest that this treaty is not good, turns it down, that we are going to head for a nuclear holocaust. I think, indeed, it could cause us to go back once again to perhaps craft a treaty that is justifiable, that will work, that will allow us to modernize and innovate and at the same time promote security and peace in the world.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. BIDEN addressed the Chair.

Mr. WARNER. I think I have recognition.

Mr. BIDEN. Will the Senator withhold for a moment? We were going back and forth. I assured the Senator from New Jersey that he would be able to go next. He is not going to take all that long. Since you and I are going to be here, is it appropriate?

Mr. WARNER. Mr. President, we are going to be here. But as a matter of courtesy, I just wanted to thank my colleague for his very valuable contribution.

He is a member of our committee. He attended the hearings that we have had in the course of this week, and he referred, with great accuracy, to the testimony that was given to our committee.

But clearly, good, sound, public servants, nonpoliticians, having spent anywhere from a decade to three decades of their lives working in their respective fields—whether it was the technical field, with the laboratory directors, or the military field, they had honest differences of opinion. There was no consensus, no strong consensus except the case, the weight of the case against the treaty grew day, by day, by day from that testimony, culminating, as you know, in this article in the New York Times this morning, which addresses the very heart of this treaty in which these lab directors—I don't know whether they are Republicans or Democrats or what they are; they are not wrapped up in this process of the Senate; they are not arguing a unanimous consent—are simply telling their fellow scientists the world over, the citizens of this country, the scientists in charge of maintaining the safety and reliability of the Nation's nuclear arsenals, they might not be able to do their job without nuclear tests. That is actual firing of weapons that would be outlawed—outlawed, they used the word—under this treaty.

I thank the Senator. I want to come back to the laboratory, the testimony my colleague from Delaware and I were in colloquy about. We intermittently yield to other Senators. I yield at this time.

Mr. SESSIONS. Will the chairman yield? I would like to say how much I enjoyed serving with Senator WARNER, the chairman of the Armed Services Committee. He has had full hearings on this matter. I have seen his conviction grow as day, after day, testimony in hearings has indicated this is not a good treaty.

I know the Senator from Virginia would support it if he believed it was the right thing. I know he has developed a firm view that it is not the right thing. I certainly respect that. It certainly has impacted my view of it, and I agree with him.

My instincts are that this is not good for America, and when we say no, it is not going to hurt us in the world. People are going to respect us because we are acting in our legitimate, just interests. We are acting for peace and stability, as a great leader of the world ought to act, and we ought not to be pushed around by some polling data to pass some treaty that is going to undermine our strength as a nation. I thank the chairman for his leadership.

Mr. WARNER. I thank the Senator, and I yield the floor.

Mr. BIDEN. I yield to my friend from New Jersey—how much time would he like?

Mr. TORRICELLI. Seven minutes.

Mr. BIDEN. I yield 10 minutes to my friend from New Jersey.

The PRESIDING OFFICER (Mr. FRIST). The Senator from New Jersey is recognized for 10 minutes.

Mr. TORRICELLI. Mr. President, I first note my appreciation, and I suspect all Senators, for the manner in which Senator WARNER and Senator BIDEN have conducted a debate of profound national importance. It speaks well of the quality and tone of debate in the Senate.

There are always moments in our lives we suspect we will always remember, those times that punctuate our activities and our experiences. Several nights ago, on the eve of the Senate's consideration of this treaty, President Clinton, sitting in the residence, reminded some of us that the last time the Senate rejected a treaty was in 1920, the Treaty of Versailles. The Treaty called for the establishment of a League of Nations. The United States, as reflected by the Senate, was so traumatized by the First World War, so anxious for the creation of a time that it would never visit again, that it drew all the wrong lessons from the First World War. As a consequence, it defeated the Treaty. A Treaty that was, in Woodrow Wilson's words, "the last hope of mankind."

We now find ourselves in this debate 80 years later. Yet having emerged from the cold war, the trauma and sacrifices of generations in dealing with that enormous national struggle, I fear that, once again, we are drawing all the wrong lessons. Essentially, it is the belief of many of my colleagues that the arms control regimes of the last 40 years were successful; that the bipartisan foreign policy from Eisenhower to Clinton, based on a concept of nonproliferation and arms control regimes, could provide real security for the United States; and, that seeking security in arms races and technological military dominance was illusory.

It is extraordinary that, during this debate, we demonstrate a lack of confidence in arms control regimes or believe the United States is better defended outside of these treaties because that is such a contradiction with national experience.

In the last 40 years, the United States, from Eisenhower to Nixon, Kennedy, Johnson, Carter, Bush, and Reagan have ratified START I and II, SALT I and II, the ABM Treaty, the Chemical Weapons Convention, Biological Weapons Convention, the Nonproliferation Treaty, the Limited Test Ban Treaty, the Conventional Forces in Europe Treaty, Partial Test Ban Treaty, the Open Skies Agreement, the Outer Space Agreement, and signed the Missile Technology Control Regime. The nation is profoundly more secure because of each and every one of those treaties and regimes.

Every Senate and each President at a moment in history faced the same judgment we face today. Are we better off by allowing other nations and ourselves to develop weapons outside of these regimes or should we have confidence in our ability to verify and be more secure within their limits?

It appears the Senate may, for the first time in a generation and for the second time in this century, believe that it is better to reject a treaty negotiated by an American President and operate outside of its regime. It is a profound decision with enormous consequences. The simple truth is, arms control regimes have enhanced the security of the United States; indeed, they have enhanced the security of all nations.

Since 1945, despite their development, possession, and deployment by a variety of nations, nuclear weapons have never been used in a hostile environment. It may be the first or certainly the longest period in human history that weapons were developed and not used. Indeed, nations have even gone to war with each other or been in severe conflict and not used these weapons. It is the ultimate testament that arms control works to protect national security.

I would understand if the leader of the Iranian Parliament or the North Korean Supreme People's Assembly were to rise in their respective chambers and argue passionately against this treaty. They would have their reasons. The treaty will allow the United States to maintain the preeminent nuclear stockpile in the world, having the only effective means of continuing to test its weapons by simulation, while the treaty would make it difficult for those nations to continue to develop and modernize their nuclear arsenal. Their opposition would be rational. Our opposition is irrational.

It would be understandable if members of the National People's Congress in Beijing would rise in indignation against China becoming a signatory to the treaty. The thought that China, a great power, possessing 18 missiles capable of delivering a weapon, now on the verge of developing important new and dangerous technology both to deliver these weapons and to miniaturize them to threaten a potential adversary in the United States or Russia or Europe, would join this treaty would be troubling to them.

The Chinese, by entering into this treaty, would be unable to test those weapons, making it difficult to know their effectiveness or their reliability. Their opposition would be understandable; it would be rational. Ours is not.

This treaty is an endorsement of the international military status quo, and at this snapshot in time in the life of this planet, the military status quo is that the United States is the preeminent military power with an abundance of weapons, sophistication of weapons, delivery of weapons. If this current arrangement and distribution of power is to be preserved for a generation, it means that every nation is accepting American preeminence. By their endorsement of this treaty and their signature of this treaty, extraordinarily, every other nation seems to be willing to accept that preeminence, ironically except us. We would reject the treaty and allow other nations at a relative disadvantage to test, develop, or deploy effective weapons.

There are several important consequences in the defeat of this treaty the Senate needs to consider: first, the damage, not necessarily militarily, but diplomatically to the leadership of the United States. This country has recognized for more than 50 years the only real security of this country is an alliance based principally on the foundation of NATO rested on the credibility of American political leadership.

The defeat of this treaty will put us at variance with the leaders of Germany, France, and Britain, who even on this day have appealed to the Senate to endorse this treaty. France and Britain have communicated their strong desire. They have reminded us that they have made changes in their own doctrine, and their own weapons choices, based on this treaty. They have also reminded us that if we defeat this treaty, we are in some measure separating not simply our judgments but our future planning and security from our traditional allies—the foundation of our international alliance system of our security. It will cause damage to our credibility and our leadership that will not be easily repaired.

Second, defeat of this treaty, for all practical purposes, is an end to our efforts, undertaken on a bipartisan basis for a generation, on nonproliferation. It is a practical end to our nonproliferation efforts because it sends a message to each rogue regime, every nation that possesses the capability to develop nuclear weapons, that there is this new sense of legitimacy in them doing so, because the United States has rejected a treaty that would have contained this threat. The United States will lose credibility with nations, like India and Pakistan, when we argue that they should not test again or deploy weapons.

Third—perhaps most profoundly and immediately—it will lead to the possibility of the testing and the development of the technologies that China has obtained from the United States, through espionage or other means, and allow them to develop a full capability.

There is a final factor. The Senate has convened to debate the question of a treaty on a comprehensive test ban. But it is not the only treaty that is at issue. The defeat of this Comprehensive Test Ban Treaty will certainly mean that the START agreement pending before the Russian Duma will never be adopted.

Our chance, with a stroke of a pen, to destroy thousands of Russian nuclear warheads, potentially aimed at the United States—the greatest single threat to the security of this Nation under changed political circumstances—will never be destroyed. We debate one treaty, but we are deciding the future of two.

Earlier in this day debates centered on procedures and hearings, whether or not the treaty was fully considered. I serve as a member of the Foreign Relations Committee. I, too, must express my profound disappointment, as a representative of the State of New Jersey, and as a member of that committee, of not being given the opportunity to fully debate, to consider, to hear witnesses on what potentially could be the most important vote I will ever cast as a Senator.

People of good judgment might be able to differ on the merits of this treaty, but no one can defend that an issue of this profound importance to the life of this country did not receive the consideration it deserved or Senators within the comity of this institution were not given the due consideration to learn, debate, and be heard.

Because I believe, however, this issue is so important—while I am convinced of its merits and the need for immediate ratification—I end much as I began with that memory of 1920.

Most of us are probably convinced the Senate made the wrong judgment on the League of Nations, setting the world on a dangerous downward spiral of confrontation, having come to the false conclusion that America would be secure alone behind her oceans, that in isolation somehow we would find peace. It was wrong.

But in truth, if the moment could be revisited, President Wilson, while right on the issue, should have been less proud, more willing to meet his adversaries, and given them extra consideration on the treaty. While I profoundly believe President Clinton was right to endorse this treaty and to urge its adoption, I urge him to do the same today.

Let us make it unequivocally clear that the President of the United States, upon being told by the Director of the CIA that he cannot provide complete assurances that any unexplainable explosions of any source within Russia or China—by our national technical means—that it cannot be identified, it will cause the United States, unless explanations and inspections are made immediately available, to abrogate the treaty.

Second, the President make abundantly clear that any refusal to allow inspections, even if not absolutely required by the treaty, because it is in the national interest, would cause us to abrogate the treaty.

Third, the President commit the United States immediately to develop a national technical means to distinguish between different forms of explosions and small-level nuclear testing, and a program begin immediately.

And fourth, that if, indeed, as I believe is provided in the treaty, this President is informed by lab Directors that they can no longer assure the safety or the operational capability of our weapons, we will abrogate the treaty.

Let that be clear to the Senate and to the American people, let there be no question. And if there is no question on those issues, then there is no argument against this treaty.

I can remember as a boy asking a history teacher why it was, if history occurred as a continuum, from generation to generation through the centuries, history was written in chapters and in volumes, which both began and ended? And I remember she told me: Because that is how it occurs.

We are between the volumes of history. If this Senate is to decide that the bipartisan commitment to arms control as an element of national security for the last 40 years has been an error, we are ending not only a chapter but a volume of the military and diplomatic history of this country, we are entering into a very uncertain future, for our security is dictated only by what weapons are designed, deployed, and used—a lawless time that is not safer than the 20th century, but where the 21st century will be profoundly less safe.

It will be a time in which, I believe, Members of this Senate will have difficulty looking in the eyes of their children and their children's children explaining how there was a brief moment when we could commit all the nations of the world not to test these nuclear weapons and therefore as a practical matter to be unable, by many nations, to deploy them or ever to use them—and we lost the moment.

You may feel confident in your vote today; it may make political sense. You may be convinced of your own rhetoric, but you will never ever—if one of these weapons is ever used in a hostile environment; if one of these rogue regimes, from North Korea to Iran, ever tests one of these weapons—you will never look your own children in the eye with confidence in your judgment or feeling that you served them or your country. I have not been in this institution long, but long enough to know this treaty does not have enough votes to be ratified.

The President of the United States, recognizing the enormous potential diplomatic damage of its defeat and the consequences militarily of sending a message to other nations that there will be no further proliferation efforts or control on testing, has asked, as the Commander in Chief, the elected representative of the American people, that this vote not occur. What have we come to as a Senate, if the President of the United States makes such a request in the interest of our national security and our diplomatic position in the world and we turn a deaf ear? If you cannot do good by voting for this treaty, do not do harm by defeating it. Allow the moment to pass. At least allow the world to live with an ambiguous result rather than a definitive conclusion to our national commitment to arms control.

We vote on this treaty, but, indeed, we vote on whether to ratify or reject a national strategy of a generation and whether arms control will continue to be part of the security of the United States and our strategy of dealing with potentially hostile nations. It is not a judgment I would have had to mark the beginning of the 21st century. It shows a profound failure to learn the lessons of the 20th century, but it is what it is. At least we should be able to lose this moment and go on to debate and make judgments another day. I beseech of other Members of the Senate, do not hold this vote.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I don't see my Republican colleague on the floor. If there is no Republican wishing to speak, with the permission of my friend from Arizona, I yield to Senator BYRD.

Mr. KYL. Mr. President, may I inquire about the time remaining on both sides. I think we are roughly equal at this point.

The PRESIDING OFFICER. The majority has 4 hours 11 minutes; the minority, 4 hours 20 minutes.

Mr. BIDEN. I yield 15 minutes to the Senator from West Virginia. If he needs more, I am happy to yield as well.

Mr. BYRD. I thank Senator BIDEN. He is certainly one of the most knowledgeable of all Senators on this particular subject. I appreciate the fact that he has sat in on the hearings that the Armed Services Committee has held in the past 2 to 3 days.

Mr. President, the debate on which we embark today is of far-reaching consequence. We are deliberating a major treaty, the Comprehensive Nuclear Test Ban Treaty. Unfortunately, we embark on this debate effectively shackled, gagged, and, to a considerable extent, blindfolded.

I have had the privilege of hearing three days of extremely detailed and complex testimony on this Treaty—three days! And I am one of a select few Senators, members of the Senate Armed Services Committee, together with Senator BIDEN, ranking member of the Foreign Relations Committee, who were exposed to that information. In a similar vein, the Senate Foreign Relations Committee conducted one full scale hearing on the Treaty this week. But the fact remains that many, if not most, of my colleagues have had little opportunity to hear from the experts testimony on the pros and cons of this Treaty.

To be sure, there are a number of Senators who are well versed in the details of the Comprehensive Test Ban Treaty, but they are few in number. Senator LEVIN is one of those. Senator WARNER is one of those Senators. The rest of us are flying virtually blind. I wonder how many Senators have taken the time to read the Treaty? I wonder how many Senators have consulted with foreign leaders, those who will have to join the United States in ratifying this Treaty if it is to go into force, to get their opinions of the Treaty?

Mr. President, when I was majority leader, I visited other capitals and took

Senators with me to talk with the leaders in foreign capitals about a treaty.

The Washington Post reported this morning that envoys from nearly 100 nations have implored the United States not to reject the CTBT. I wonder how many Senators fully understand the concerns of those nations? I wonder how many Senators fully understand our concerns?

Those who have read the text of the Treaty may be familiar with the broad brush strokes of the Treaty. But for even those Senators, the details—the implications of the Articles, the Annexes, and the Protocols to the Treaty—may be murky at best.

Mr. President, the hearings that the Chairman and Ranking Member of the Senate Armed Services Committee, Senator WARNER and Senator LEVIN, organized this week were extremely informative. So informative that I am overwhelmed by the amount of detail that I have heard.

I have often said that the Senator from Michigan, Mr. LEVIN, is a Senator who is exact. He scrupulously and agonizingly, it seems, peers through a microscope at every bit of minutia when it comes to details. That is the kind of study we need to give a treaty of this nature.

The President may sign a bill into law today. If, per chance, both Houses suddenly realized that that bill had to be repealed, we can do it. We could pass a repealer in one day in both Houses. We could do it, if the emergency existed. But not a treaty; it isn't that way with a treaty. We cannot approve the resolution of ratification today, send it to the President, the President cannot enter into the treaty formally tomorrow, and then on the second day or third day of next week, we adopt a new treaty or we take action to negate the treaty we have entered into. So a treaty is much different from a bill.

From Secretary William Cohen and General Shelton, Chairman of the Joint Chiefs, I heard that this treaty is in the national security interests of the United States. I respect their judgments. But from former Defense Secretary James Schlesinger, whom I also respect, and whose judgment I also respect, I heard that the treaty is flawed in terms of its duration—a permanent ban on nuclear weapons testing—and in its premise that only testing that can meet a so-called zero yield threshold is acceptable. I do respect Dr. Schlesinger's judgment. I heard confidence in the Stockpile Security Program expressed by Energy Secretary Bill Richardson, and I heard some caution expressed by the directors of the Energy Department's nuclear laboratories. Some caution there. Some caution. In short, I have heard some complex and conflicting testimony in a short period of time.

I must ask, why on earth is the United States Senate allowing a treaty of this magnitude and complexity to be rammed through the body with a maximum of 14 hours of debate, and with a limit of two leadership amendments? Have we totally lost all sense of responsibility? What would be wrong with having the vote next year after we have seen the new assessment, which we were told is on its way and will be completed somewhere around the first of the year, as I remember. What would be wrong? Or even, as some would prefer, what would be wrong with putting it off until the following year? Why do we have to do it now? Why do we have to do it next week? I am not one of those who have been saying we have to have a vote on the treaty. I don't cast any aspersions on anybody by that statement. But lest there be some here who think I am one of those who have been clamoring for a vote, I am not; and lest there be some who think that I have been prevailed upon by the administration to express opposition to our voting next week. I have not been contacted by the administration.

I am concerned about my country. I have heard various Senators say, well, if I am wrong, this will happen, or if he is wrong, that will happen; or which would you want to bet on, or some such. I am not interested in who is right or who is wrong, for the sake of this Senator or that Senator. I am interested from the standpoint of my country if we make the wrong decision. It is my country. And then, being one who is dedicated to this institution, having served in it for 41 years, I am also concerned that this institution is not doing its duty in connection with the approval of the ratification of a treaty. I said something to the effect that we are talking about the separation of powers here. And we are, because the constitutional framers did not feel it wise to leave in the hands of a chief executive alone the making and the carrying into effect of a treaty. And so the framers formulated this great system that we have of the separation of powers.

Hence, the approval of the ratification of treaties by the U.S. Senate is a facet of the separation of powers, in the great scheme of things. Now, are we, as Members of the Senate—we who have taken an oath to support and defend that Constitution of the United States—are we, who are the trusted legatees of those framers who met in Philadelphia in 1787, to put aside our portion, our responsibility in that system of separation of powers and say, oh, well, the President is right, the administration is right, give it to them, and wash our hands of it, let's not spend anymore time on it? I don't think it is my proper responsibility to say I am ready to vote on it just because an administration—whether it be my party or somebody else's party—says I should vote on it.

We Senators have a responsibility under our separation of powers to do our share of the work. The Senate is supposed to have that responsibility by virtue of the Constitution. I say that we are shirking our duty if we fail to uphold our end of the separation of powers doctrine, if we don't take the time to know what we are doing here. There have been questions raised.

Are we seriously going to cede, without a murmur, our duty to advise and consent to the ratification of treaties? Are we seriously going to allow this travesty of the separation of powers to occur? It would be nobody's fault but ours if we do. I am not saying reject the treaty nor am I saying we should approve it. I have to hold my hand up before my Creator and say I don't honestly know how I shall vote on this treaty. I will not be pressured by anybody. And politics has nothing to do with it, in my view; in this instance, certainly.

Mr. President, I bring before the Senate two issues that were raised by Dr. Schlesinger that I believe merit consideration. The first is the duration of the treaty. It imposes a permanent ban on the testing of nuclear weapons. Now, we are all for nonproliferation. That is not the argument here. We are all for nonproliferation, but there are other things involved here.

First is the duration of the treaty. It imposes a permanent ban on the testing of nuclear weapons. Frankly, I would be delighted to see a permanent ban on the testing of nuclear weapons—if we could be sure that the United States could maintain the reliability of its nuclear weapons stockpile without testing. But what I have heard this week from some people is that the Stockpile Stewardship Program is not far enough along in development to be absolutely certain, or even almost certain, that it will be an effective substitute for testing.

Our weapons are aging, and the nuclear scientists who developed and tested those weapons are aging also. For every year that the weapon ages, the scientist who tested that weapon ages a year. We can replace components of the weapons, but as Dr. Schlesinger and Dr. Paul Robinson, Director of Sandia National Laboratories, pointed out in their testimony, it is not so easy to replace the knowledge, the skill, and the judgment of the scientists who built those weapons. Can we really replace seasoned physicists with computer scientists? That is a question that I have, and an answer that I do not yet have.

Dr. Schlesinger also questions the advisability of the zero-yield threshold for nuclear weapons testing. Now, I am fairly certain that most American families will not be discussing over the dinner table this evening the relative merits of zero-yield versus low-yield testing. I doubt that many of my colleagues in the Senate will be discussing such matters over this Columbus Day holiday. But it is a vital issue in the deliberation of this treaty. I don't know enough about it, and I have read, I have listened, and I have researched, to a limited degree, the issue. I still have questions. I have doubts. It may be that my doubts are unfounded. It may be that my questions can be satisfactorily answered. But not in the time constraints and under the procedural constraints with which we are faced.

Mr. President, the Senate has a solemn duty to offer its advice and consent in the matter of treaties.

We are not only not offering our advice, but we may be offering the wrong consent if we vote next week. We may be going the wrong way. We may be ill advised in the consent that we give.

Not just consent, as I say, but advice as well. Advice comes in the form of understandings, reservations, amendments, conditions, and the like. But not on this treaty under these circumstances. On this treaty under these circumstances, amendments, understandings, reservations, motions, or any other binding expression of opinion are out of bounds. They are off limits, save for one amendment each to be offered by the two leaders of the Senate. On a treaty binding the United States of America to a permanent ban on the testing of the very weapons that form the core of our national security; on a treaty of such incredible importance, the Senate is proceeding to a vote under a self-imposed—a self-imposed—gag order.

Has this body lost all sense of proportion? Has the Senate become so absolutely blind to its constitutional duties and so dedicated to its partisan political objectives that it is willing to abdicate to the executive branch the Senate's responsibility to give both its advice and consent on the ratification of treaties? Is the Senate truly willing to limit its role in the consideration of treaties to that of either rubber-stamping whatever the executive branch chooses to send us, or, alternatively, jettisoning it out of hand? That is no way to deliberate on a treaty, particularly one such as the Comprehensive Test Ban Treaty, which holds such promise, and likewise, perhaps, such peril for the future of America's national security.

I respect the passion with which many of my colleagues view this treaty. They can state with absolute certitude that it is in the best interests of this country to approve the ratification of this treaty. And I respect that view. If I thought like they do, I would also express with absolute certitude that I was confident in the treaty. But they have spent more time—far more time—than I have spent on it. And I admire them for that and compliment them for it. Conversely, others with equal certitude say that the treaty should be rejected.

I compliment Senator LEVIN, I compliment Senator WARNER, and others on the leadership they have demonstrated. I compliment my great friend from New York, the Senior Senator from New York, before whom I bow with great reverence. But think of the experience the Senator from New York has had in the field of foreign affairs. I don't know what his position on the treaty is. But I daresay that he, too, would say we need more time.

What is the driving force that says we absolutely cannot wait for a few more months, or even another year? I am not bound on having a vote next year. But this treaty is permanent. This is for keeps.

I respect the strongly held views of others. I wish I could share their certainty either in the merits or dangers of this treaty. If we wait 6 months, I might still be uncertain. But I would have had my chance. I would have had my day in court. The Senate would have fulfilled its duty under the Constitution. To me that is important.

I have spent 41 years of my 82 years right here in this Senate, and I have respected its rulings, its precedents, its rules, its history, and its customs. And I have to say to Senators that I often bow my head in sorrow at the way this Senate has changed since I came here.

I cannot imagine that Senator Russell, Senator Dirksen, Senator Fulbright, Senator McClellan—I cannot imagine that those Senators would have been happy, would have been satisfied. They would have been restless. They would have been very uncomfortable with saying that we have to go through with this unanimous consent request which was sent around on the telephone to all Senators' offices—on a Friday—I believe it was Friday. All Senators are busy. It is all right with an ordinary bill, an ordinary matter, that comes before the Senate. But when it comes to a major treaty, everybody recognizes a major treaty.

That is not a simple treaty with one or two other nations—which can be very important, however. But this is a major treaty, a far-reaching treaty. It involves the security interests of our country. It involves our children, and our grandchildren.

Why shouldn't we take a little more time to be sure that Senators know that this is what we are about to do? We are about to take from every Senator his normal right to offer a reservation or an understanding or an amendment on a major treaty. But, as Shakespeare says, "What's done 'tis done." Yet can we not rectify this horrible mistake and give this Senate a few more months so that we can have some hearings, so that we can have more experts, so that we can take time to read the treaty and to understand it and to talk with foreign leaders? I cannot understand why we have thrown away our rights so cavalierly.

Mr. President, I come not to bury Caesar nor do I come here to call Lazarus from the tomb. I do not come here today to make a case for or against this treaty. I am here only to plead that we have more time so we can study it and be better prepared to render a proper and right judgment. That is why I am here on this floor today.

I joined with other Senators in a letter some time ago urging the chairman of the Foreign Relations Committee to hold hearings. That is the extent of the efforts that I have put forth in either direction.

I want to state for the RECORD, I am only here to urge that this Constitution requires this Senate to advise and consent to treaties that have been made by the President of the United States. That is all I am urging—and that we be given sufficient additional the time. We are moving toward what appears to be a sure rejection of the treaty next week for all the wrong reasons.

It may be that this treaty is not in the best interests of the United States. It may be that it is in the best interests of the United States. Only one thing is sure: It is not in the best interests of the United States or the Senate to be driven by little more than political gamesmanship—and all sides, I suppose, to some extent, have been tarnished by that.

This is not necessarily leveling an arrow from my bow toward any particular side—political gamesmanship, I say, to an all-or-nothing vote on the treaty next week with 3 days' worth of hearings, less than 2 full days' worth of debate, and virtually no opportunity to improve or to modify the Resolution of Ratification.

I close by urging the Senate to put off what promises to be a fatal vote on the Comprehensive Test Ban Treaty, and proceed, instead, with educating the Senate and the American people, so we can deliberate and decide the fate of this treaty and, who knows, this country and perhaps the world, with a better understanding of the consequences of our action.

I thank all Senators for their indulgence.

Mr. WARNER. Mr. President, could I ask my dear colleague and friend a question in the friendliest of veins?

Mr. BYRD. Yes.

Mr. WARNER. We serve together on the Armed Services Committee. The Senator from West Virginia came to every hearing and listened. And he asked the question that elicited a critical answer which indicated that the intelligence community needed time within which to complete this analysis regarding the ability of our country tomorrow or in the future to monitor another nation's testing if that testing constituted cheating under the treaty. The Senator was there yesterday throughout the laboratory hearing, and he had the courage to stand on this floor and say that he listened to those Directors, and, indeed, those raised the legitimate concerns.

Mr. BYRD. They did in my mind.

Mr. WARNER. They did in my mind also. The Senator from West Virginia knows in private conversations I have had with him and other colleagues that this Senator on this side of the aisle is doing what I can, although I will vote against that treaty today, and tomorrow, and the next day, as it is currently written. I recognize its importance.

I stayed here until 9:30 last night working with others to see what we can do to adopt a framework. I just left the Press Gallery. They asked me, Senator, what are the components? I said the essential component is for the President to share equally the responsibility of the very serious decision that our two leaders, Democrat and Republican, are faced with about vitiating this time agreement. The Senator from West Virginia recognizes that as a former majority leader himself.

I have just been handed this document.

Mr. BIDEN. Will the Senator yield? Is he speaking on his own time?

Mr. WARNER. Absolutely. Do not worry about small matters. Worry about what I am about to tell my dear friend.

We are all making the best of efforts. I am listening to Senator BYRD, in a very clear and precise way, an evenhanded way, state his case. Then I am handed the President's speech in Ottawa.

A Reuters report states:

> It is clear now that the level of opposition to the treaty and the time it would take to craft the necessary safeguard to get the necessary votes are simply not there. So I hope the Senate will reach an agreement to delay that vote.

That expresses our common purpose.

All I have called upon the President to do is to share the burden the leaders would bear should this decision go forward.

I turn the page. Again, quoting:

> Establish an orderly process, a nonpolitical orderly process to systematically deal with all the issues that are out there and take whatever time is necessary to do it.

As I told the press a few minutes ago, the President, each day, is taking a step in realization of what has to be done. His National Security Adviser is quoted this morning saying the President asked the vote be delayed. The day before, the Secretary of State said for another day this treaty should be decided by the Senate.

I say to my good friend, Senator BYRD, the last quote of the President: "The whole thing is about politics."

Is everything you are saying today about politics?

Mr. BIDEN. Will the Senator read the whole letter?

Mr. WARNER. I am reading a press report.

Mr. BIDEN. If the Senator will yield, the remainder of that comment was:

> . . . and to systematically deal with all the issues that are out there and to take whatever time is necessary to do it. With this treaty other nations will find it hard to acquire and to modernize nuclear weapons and we will gain the means to detect and deter. If we don't have the treaty for the United States, we will continue to refrain from testing and giving a green light to every other country in the world to develop and modernize nuclear weapons. I think it is clear what we ought to do but it is also clear we ought not rush to this vote until there has been an appropriate process in the Senate.

Mr. WARNER. Put it in context; is the Senator reading from the Ottawa speech?

Mr. BIDEN. I am reading from the President's statement on CTBT, October 8, 1999, in Ottawa as reported, a copy of which was made and given to me.

Mr. WARNER. I add to it this phrase in which he concluded: "The whole thing is about politics."

I have been here since 9 o'clock this morning, and the Senator has been here the same period; we are working throughout the day. We will be the last Senators to leave this floor tonight and return on Tuesday.

This is not about politics. This is about trying to help our colleagues reach a correct decision on the security interests of this country, I say to Senator BYRD.

Mr. BIDEN. Will the Senator yield?

Mr. WARNER. Yes.

Mr. BIDEN. He was at the same dinner as I was with the President of the United States when two present colleagues said: "Mr. President, I'm sad to say the political process has taken this over. This is about politics."

The truth of the matter is, politics is implicated in this. No one is suggesting the politics is good or bad on either side, that one side is better than the other. But two of our Republican colleagues at that dinner—the Senator heard them—said the same thing the President said.

We are acknowledging reality. We can all pretend here, with all the niceties, that politics has no part in this. Let's be real simple: The honest-to-God truth is, this is similar to the guy who says the emperor has no clothes on who usually gets shot after he acknowledges that.

Mr. BYRD. That was a child.

Mr. BIDEN. I am no child, but I may get shot politically for saying this.

Mr. WARNER. I say to my colleague from Delaware, I will not comment on the comments made at the dinner. I was there, but I think what was said there was confidential. I have always, as a policy when dealing with Presidents, not commented.

I am not criticizing the Senator.

I ask unanimous consent to have printed remarks by President Clinton from October 8, 1999.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> So they want me to give them a letter to cover the political decision they have made that does severe damage to the interest of the United States and the interest of nonproliferation in the world? I don't think so. That's not what this is about. They have to take responsibility for whether they want to reverse 50 years of American leadership in nonproliferation that the Republicans have been just as involved in as the Democrats, to their everlasting credit.
>
> Now, they have to make that decision. I cannot bring this treaty up again unless they want to. I have asked them to put it off because we don't have the votes. I have talked to enough Republicans to know that some of them have honest, genuine reservations about this treaty, and they ought to have the opportunity to have them resolved, instead of being told that they owe it to their party to vote against the treaty and that the leadership of their party will do everything they can to keep us from writing safeguards into the treaty which answer their reservations, which is what we do on every other thing.
>
> So I don't want to get into making this political. But they shouldn't tie the Senate up or themselves up in knots thinking that some letter from me will somehow obscure from the American people next year the reality that they have run the risk of putting America on the wrong side of the proliferation issue for the first time in 50 years. And they want to do it and then they don't want to get up and defend it before the American people in an election year. That's what this whole thing is about. That is the wrong thing to do.
>
> We don't have the votes. I'm not going to try to bring it up without the votes. Let them take it down, but also agree on a legitimate process to take this out of politics. I will not criticize them as long as they are genuinely working through the issues, the way we did in the Chemical Weapons Treaty.

Mr. KYL. Mr. President, I ask unanimous consent a letter dated October 6 to the majority and minority leaders signed by two former Secretaries of Energy, John Herrington and James Watkins, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 6, 1999.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate, Washington, DC.

Hon. TOM DASCHLE,
Democratic Leader, U.S. Senate, Washington, DC.

DEAR SENATORS LOTT and DASCHLE: We are writing to urge the Senate to reject the Comprehensive Test Ban Treaty (CTBT). We were each formerly responsible for managing the United States' nuclear weapons programs in our role as Secretary of Energy. We believe that unless and until the United States can ensure and prove the safety and reliability of its nuclear stockpile without testing, it should refrain from ratifying the current "zero-yield" CTBT, which is intended to be of unlimited duration.

Over the course of our history with nuclear weapons, testing has been essential for maintaining the performance of the stockpile, as well as the key to designing and certifying new weapons. As President Bush noted in a report to Congress in January 1993, "Of all

U.S. nuclear weapons designs fielded since 1958, approximately one-third have required nuclear testing to resolve problems arising after deployment."

A modern nuclear weapon has about the same number of parts as an automobile, but it is much more complex. Some materials in our weapons, such as plutonium, are radioactive. Over time, these materials radioactively decay, altering both their own properties and contributing to changes age makes in the properties of other materials in the weapon. Even today, major gaps exist in our scientific understanding of nuclear explosives and how these weapons change as they age. These gaps in our knowledge increase the risk of undetected problems that could make our weapons unsafe or unreliable.

In 1992, the United States adopted a self-imposed moratorium on nuclear testing. The following year, the Administration and Congress initiated the Stockpile Stewardship Program. According to the FY 2000 Stockpile Stewardship Plan Executive Overview released by the Department of Energy (DOE) in March 1999, "The overall goal of the Stockpile Stewardship program is to have in place by 2010 . . . the capabilities that are necessary to provide continuing high confidence in the annual certification of the stockpile without the necessity for nuclear testing." This report also states that the success of the program is "dependent on a highly integrated and interdependent program of experimentation, simulation, and modeling."

We support the Stockpile Stewardship Program and the important research and development work that is being conducted at American weapons laboratories. But no one can state with a high degree of certainty that this program of experiments and computer simulations will be able to provide the same level of confidence in the safety and reliability of our nuclear weapons as we have historically achieved through testing. Therefore, the United States must retain the option of testing; not only to be able to verify the safety and reliability of our nuclear deterrent, but also to validate the Stockpile Stewardship Program itself. In 1987, the Congress required the Energy Department to craft a program that would ". . . prepare the stockpile to be less susceptible to unreliability during long periods of substantially limited testing." DOE was also required to ". . . describe ways in which existing and/or new types of calculations, non-nuclear testing, and permissible but infrequent low yield nuclear testing might be used to move toward these objectives." DOE responded to this requirement by designing a test-ban readiness program which anticipated a 10 year, 10 nuclear test per year program, which included comparing the results from new calculational tools and non-nuclear testing facilities to the results of nuclear tests. This program was never pursued because, throughout the Reagan and Bush Administrations, further limitations on nuclear testing were not viewed as necessary or desirable.

The Stockpile Stewardship Program is already falling short of its goal. For example, the National Ignition Facility, the flagship of the stewardship program, faces a key technical uncertainty: will it be able to reach thermonuclear ignition, a major goal for which it was designed? Furthermore, this important facility has recently fallen behind schedule and over budget. And, there may be new security risks because classified information under the Stockpile Stewardship Program will be concentrated in consumer systems, and much of the new computer code required for the program will be written by hundreds of people at participating colleges and universities.

Besides replacing testing, the Stockpile Stewardship Program is aimed at ensuring effective production capability. Even with the end of the Cold War, many production tasks remain essential for weapons maintenance. These include disassembly for inspection or repair, and the fabrication of components to replace those that have decayed or corroded. Some remanufactured components may be significantly different from the original parts due to the use of new manufacturing processes and materials. We risk introducing new defects into the stockpile if we are not permitted to conduct nuclear tests, when analysis clearly so demands, in order to verify that these remanufactured components do not affect the safety or reliability of the original design.

Responsible stewardship of the nuclear weapons stockpile has provided the foundation for U.S. deterrent strategy for the past half-century and, despite dramatic transformations in the geopolitical and international security environment, the stockpile will continue to make a critical contribution to U.S. security for the foreseeable future. Although we ascribe to the existing moratorium, the jury is still out as to whether nuclear testing should be eliminated by treaty. We consider it premature to make such a move at this time.

As a result, we are of the unqualified opinion that the United States should not ratify the Comprehensive Test Ban Treaty.

Sincerely,

JOHN S. HERRINGTON.
JAMES D. WATKINS.

Mr. KYL. In this letter, the two former Secretaries of Energy urge the Senate to reject the Comprehensive Test Ban Treaty.

I also note, part of my submission for the RECORD earlier was letters from various former public officials who urged rejection of the treaty. Behind me is a chart detailing who some of these people are. I thought it important, since I didn't read the entire list to Senator BIDEN earlier, to acknowledge who some of these people are.

These are people who believe it would be a bad idea for this treaty to be ratified and who speak from experience based upon their positions in the U.S. Government. I mentioned earlier the six former Secretaries of Defense. Secretary Schlesinger testified, and his testimony was just cited by Senator BYRD as important testimony in opposition to the treaty. People such as Dick Cheney and others are in that list of six. Secretary Weinberger testified, as well.

In addition to that, four former National Security Advisers; in addition to that, four former Directors of the Central Intelligence Agency. In addition to that, four former Directors of the National Laboratories—this is important because once an individual is no longer in the position of the lab Director, accountable to the Congress, to the Secretary of Energy, and to the President, that person is free to speak his mind—have been very clear about the reasons the National Laboratory Stockpile Stewardship Program cannot be an adequate substitute for testing, in addition to the former Secretaries of Energy I mentioned, former Chairmen of the Joint Chiefs of Staff, and the former Commanders of the U.S. Strategic Command.

Let me also make a point I think the majority leader tried to make a few minutes ago but several people have reiterated a contrary view; that is, we have not had enough time to learn about this treaty. The message from the President of the United States transmitting this treaty was dated September 23, 1997, but the treaty was open for signature and signed by the United States a year before that, September 24, 1996. So the President waited over a year to send this treaty to the Senate for its action. Not long after that, however, the President began urging us to take it up, in two State of the Union Messages and in a variety of comments thereafter.

I took the President at his word, and I began studying the treaty, and I began talking to experts. I daresay there are not very many people in this body who know more about the treaty, as Senators, than I do. I know people such as Senator BIDEN and Senator LEVIN have done the same thing. They went to school and they became experts on this treaty. I recognize them as having an enormous quantity of information about it. I did, too, for a couple of years. All Senators had that opportunity. If they listened to the President, he was asking them to understand it and to bring it up.

There have been a variety of hearings, not just in the Foreign Relations Committee but in other committees as well. I have committee reports here. Let's see; this is from the Committee on Governmental Affairs. I have three different reports here, I believe: March 18, 1998; October 27, 1997; February 12, 1997; the Armed Services Committee hearings that have been specifically held, and so on. Of course, our knowledge does not need to exclusively come from hearings; we do have the ability to read and to talk to experts.

The point is, we have had ample opportunity to learn about this treaty. The problem is, there are many in this body who for months demanded a vote, but what they really want is to only have a vote when they think they can win. They do not want a vote when they are going to lose. That is why you had this cacophony of voices calling for a vote and all of a sudden, when the majority leader accommodated them and they realized they did not have the votes to win, they began saying: Oh, we need more time. We need to put this off. We need to study it more.

There was ample opportunity to study it. I spent a lot of time studying this treaty. I suppose I could have been doing something else, but I spent the time studying it. And every one of my colleagues could have done the same.

Finally, there is this notion, the President says: This is the longest-sought, hardest-fought prize in arms control history. Every President has sought this. That is simply not true. Let's go through the record.

President Eisenhower, who imposed a testing moratorium for 3 years, supported the idea of a test ban treaty. But his test ban treaty would have been of limited duration, 4 to 5 years, and would have allowed for low-yield testing. As Senator BYRD noted a moment ago, two of the most salient points of former Secretary Schlesinger's testimony were to impress upon us the fact that this is a treaty in perpetuity that the President is asking us to sign. President Clinton's test ban treaty is for a zero yield, and everyone acknowledges you cannot verify a zero-yield treaty. That was not the treaty President Eisenhower wanted, so let's not say this all started with President Eisenhower and this is a treaty he wanted.

During the Kennedy administration, the Limited Test Ban Treaty which banned nuclear testing in the atmosphere, space, or underwater, was negotiated. But there was no serious effort to negotiate a Comprehensive Test Ban Treaty as of the kind President Clinton submitted. Incidentally, the Johnson administration took the same position as the Kennedy administration.

President Nixon's administration negotiated the Threshold Test Ban Treaty but also did not make any attempt to negotiate a Comprehensive Test Ban Treaty of the kind President Clinton has submitted.

There was no activity on the subject during the Ford administration.

During the Carter administration—and Secretary Schlesinger has presented some very interesting comments on this—the Peaceful Nuclear Explosion Treaty was signed and consideration was given to a Comprehensive Test Ban Treaty, though the United States at that time was seeking a 10-year treaty where yields of up to 2 kilotons would have been permissible.

Neither President Reagan nor President Bush pursued a Comprehensive Test Ban Treaty. In fact, responding to the Hatfield-Exon-Mitchell prohibition on testing in the 1993 Energy and Water Appropriations Act, here is what President Bush said to the Congress:

> The administration has concluded that it is not possible to develop a test program within the constraints of Public Law 102-377 that would be fiscally, militarily and technically responsible. The requirement to maintain and improve the safety of our nuclear stockpile, and to evaluate and maintain the reliability of U.S. forces, necessitates continued nuclear testing for those purposes, albeit at a modest level, for the foreseeable future. The administration strongly urges the Congress to modify this legislation urgently in order to permit the minimum number and kind of underground nuclear tests that the United States requires, regardless of the action of other states, to retain safe, reliable, although dramatically reduced deterrent forces.

So much for the proposition that all of the Presidents from Eisenhower through Bush support the notion of the Clinton forever zero yield Comprehensive Test Ban Treaty. It is simply not true.

There is another important point that President Kennedy made. President Kennedy was asked to comment on his experience with the 1958–1961 test moratorium. The reason this is important is, of course, we are looking at an 8-year moratorium on testing already here in the United States. This treaty would impose upon us a moratorium in perpetuity, with only one possible way out, and that is, it would be at least theoretically possible for the United States, if it believed, in its supreme national interest, it was required to do so—for the President to, in effect, step out of the treaty for the purpose of conducting one or more tests.

Here is what President Kennedy had to say about the difficulty of doing that. He said:

> Some may urge us to try a moratorium again, keeping our preparations to test in a constant state of readiness. But in actual practice, particularly in a society of free choice, we cannot keep top-flight scientists concentrating on the preparation of an experiment which may or may not take place or on an uncertain date in the future, nor can large technical laboratories be kept fully alert on a standby basis, waiting for some other nation to break an agreement. This is not merely difficult or inconvenient; we have explored this alternative thoroughly and found it impossible of execution.

That is what scientists tell me would be the result of a Comprehensive Test Ban Treaty. We already know it would take at least 2 years to regenerate the support for a nuclear test at the Nevada Test Site. There is already significant testimony on the record that it would be exceedingly difficult to get the scientific expertise concentrated for the development of such a test. There is also significant comment on the fact that, obviously, this would send a very dangerous signal to our potential adversaries because there is only one reason to conduct such a test. Under the terms of the safeguard President Clinton has offered up here, it would be in the event of concern about the safety or reliability of our stockpile. So the whole world would know, if the United States began preparations to conduct a test, we had a problem. That would be a problem.

One of my friends at one of the National Laboratories has in fact said, regardless of our need to do so—although we can always gain significant scientific knowledge from a test—we ought to remain capable of conducting a test and have at least one a year, just so we avoid the problem of nations believing we have problems with our stockpile. That way, we would not only have the benefit of a test but we would never signal to anyone in the outside world we were testing because we had a problem.

There is another reason to have a test. When the United States began thinking about this moratorium, there was a request of the laboratories to design a way to substitute for testing, and the Stockpile Stewardship Program came from that request. But as part of that, the Directors of the laboratories recommended that a series of 10 tests a year for 10 years be conducted to validate the Stockpile Stewardship Program. Those tests have never been held.

One of the reasons there is great discomfort with the notion that the Stockpile Stewardship Program could actually be a substitute for testing is that it has never been validated. I note that some of our allies, countries Senator BIDEN referred to earlier such as France, that conducted tests within the last 3 years, as well as some that perhaps would not be categorized as allies, such as China, that also conducted tests within the last 3 years, as well as other countries, could well have concluded—and part of this would have to get into classified information—could well have concluded that it was in their national interests to conduct tests in order to validate scientific experiments, in order to prepare for a long period of time in which they could not test, in order to develop warheads of the kind the Russians have developed, which are very robust and which can be reproduced every several years without the necessity of testing, something which the United States never did.

Our moratorium was imposed, in effect, in the middle of our nuclear development program. Our weapons have all been designed to be replaced with new designs on the assumption that there would always be testing.

We never did this testing to get us to the point where we could prepare for a moratorium, let alone an absolute ban on any testing in perpetuity. That is why the argument is absolutely false some make that we need to freeze in our advantage before others acquire the weapon; exactly the opposite is the case.

Some countries have developed what they believe will hold them for a long period of time in the future based on testing, while the United States rather abruptly stopped its program with President Bush and others suggesting we should go forward with testing for a variety of reasons, but we did not do so.

We are now caught in the position where we have aging stockpiles with several of our warheads exceeding their shelf life, with all the problems attendant with that, and a moratorium in which we have not tested for 8 years and a prospect we would have a treaty to bind us, never to test again, never having validated the substitute program.

This is a reason why I think those who heard testimony from lab Directors, from people such as Johnny Foster and Robert Barker and other experts who have been involved in this area for years, have been rather shocked at what they have heard and why many of them have suggested they think they need to hear more about this.

There is, indeed, a great body of scientific evidence that suggests it could be a very bad thing for the United States to adopt this zero-yield test in perpetuity, and no amount of more time is going to change that result. That is why, again, there is no reason to extend the time of this treaty in order to refute these scientific facts. These scientists are not going to change their views. The science does not change. Plutonium and uranium radioactively decay. That is a scientific principle, so there is some constant here and nothing, including the passage of time, is going to change that.

Mr. President, I ask Senator WARNER if he wants to make a comment.

Mr. WARNER. Mr. President, the Senator can go right ahead and take all the time he wants.

Mr. KYL. I certainly do not want to do that.

There is one thing Senator BIDEN said with which I must take a little bit of issue. He noted we have some 6,000 warheads in our inventory, that this was a lot of warheads and certainly they would not all atrophy; in any event, we would always have enough, even if they were not all good.

I think it important to understand what our stockpile consists of right now, again, without getting into classified material. There are nine types of nuclear weapons in our arsenal. We used to have many more than that. We used to have redundant systems. Now, however, we have nine types, each of which are different. They have a different mission, and they are delivered on different delivery vehicles or by means of different platforms.

The total number of warheads can be divided, in effect, by nine. If any one or two or three of those classes of warheads have defects in them, it is a matter that affects all of the warheads of that category. It is not as if you have one car that is a lemon. Instead, it is as if you have a car that has to be recalled because every one of that make and model has the same problem. That is the way we have found our weapon defects to have existed in the past.

Let's say one-third of the weapon types have some defect. Roughly, that means about one-third of the weapons. What that means is that about one-third of the ability of the United States to respond with respect to certain targets would be inhibited, but more than that, there may be many targets that are unique to that particular kind of warhead against which we have no capability. It is not as if these warheads are fungible and we can throw any of them at any target with any delivery system. Each one has a specific purpose, and it is delivered on a specific platform. That is why we should not be so cavalier about concluding that since we have a lot of warheads we, in effect, can roll the dice.

I have a final point, since Senator WARNER is about ready, on a comment made by my friend, Senator SPECTER, who talked about the chain reaction if India and Pakistan should begin to detonate these devices and how can we ask them to sign on to this treaty if we are not willing to set the norm, set the standard of signing.

I remind my colleagues, for 8 years we have been setting the norm. We have had a moratorium; we are not testing. Did that stop India? Did it stop Pakistan? Has it stopped any other number of countries that believe in their national interest they want to acquire these weapons? No. Are many of these countries signatories to the NPT? Yes. They have already forsworn these weapons. We would be asking them to also forswear the testing of weapons that we now know they already have.

I believe we ought to do what is in the best interest of the United States for our own security and not get into this business of questioning what other people in the world will think of us if we do not go along with what they think is a great idea. Internationally, there are a lot of great ideas in the United Nations among countries, some of whom are not friendly and some are, but the United States has tried to be a leader in the world. I suggest we lead best if we go back to the drawing board and try to do this right, perhaps along the lines of some previous Presidents, rather than the unique way President Clinton proposes to do it with the zero-yield testing in perpetuity.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I commend my colleague. He has been steadfast throughout this period of the week when we had hearings and attended some of the hearings himself. Throughout the day, he has been very skillful and evenhanded in the way he has helped me and others, the leadership, Senator HELMS, who is going to join us momentarily in handling this floor situation. I thank my colleague.

Mr. WARNER. Our distinguished chairman of the Foreign Relations Committee has joined us. He has been in contact with me frequently through this day.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. While the chairman of the Foreign Relations Committee is assuming his seat, I wish to say to my colleagues, I know of no one else on this side who wishes to speak today. I am anxious to hear what my friend from North Carolina has to say. I will sit here and listen to all of it. And I sincerely am anxious to hear it. But I want my colleagues to know for scheduling purposes, I indicated to Senator KYL I am going to respond specifically to some of the points he raised because—again, I am not being solicitous—I think he is one of the best lawyers in this place. He knows this area very well. I think each of his points warrants a very specific response. But I will attempt to do that on Tuesday when we are back in. So I want to put people on notice, I am prepared to debate the issue if people wish to, but as far as I am concerned, we do not intend on using any more time today, unless for some reason my colleagues conclude I should.

I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER (Mr. WARNER). The Senator from Alabama.

PRIVILEGE OF THE FLOOR

Mr. SESSIONS. Mr. President, I ask unanimous consent that Steve Shope be granted floor privileges in the proceedings today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I want to share a few additional thoughts.

Earlier today I discussed my belief that if the United States is going to be a leader for peace, it needs to be a leader militarily in the world. It has fallen uniquely to be our responsibility, our burden, our role to do that. I think if we fail to do that, history will record that we abdicated a responsibility. That is critically important.

Presiding in the chair is the chairman of the Armed Services Committee. We have had a number of days of hearings—some top-secret, code-word briefings and hearings. Some have been public.

I want to share a few things, as I interpret what occurred in those hearings. It is consistent with the headline as has been cited earlier in the New York Times: "Experts Say Test Ban Could Impair Nuclear Arms Safety." That is the way it was interpreted by a New York Times reporter. That is the way I believe it is fair to be concluded.

The lab Directors were pressed aggressively by Senator LEVIN, one of the finer questioners that I have ever observed in this body. He asked them firmly and consistently: Were they on board? They maneuvered around a bit, but they eventually did say they were on board. But Senator ROBERT BYRD astutely noted they were "uneasy" with those answers. In fact, they indicated they were on board only after a good deal of insistence and debate about signing on to the CTBT concept. They indicated that they would sign on and be on board, if the six safeguards could be included. These are employees of the executive branch of the United States Government. They work for the President. They know the Secretary of Energy was testifying there at the same time.

The chairman of the committee noted that their testimony was inconsistent with the testimony of the Secretary of Energy at the same hearing on the same day. The Secretary of Energy is a fine person, but he is not a nuclear engineer. He has not been given the responsibility to monitor the safety and security of our weapons. He says they are OK. The President says they are OK. But the experts didn't quite say that. In fact, they said it could impair nuclear arms safety. I think that is important. We do not have one voice about this matter.

They talked about the Stockpile Stewardship Program, and they were not nearly so confident in that program as some would suggest. In fact, it almost seemed, I suggest, that they were saying that the President, in 1993, just unilaterally said: We are not going to test, so they are not doing that. This apparently gave them some belief that they could have some other kind of testing, so that is better than nothing. I may be misinterpreting those comments, but I don't think so. I think they basically said stockpile stewardship was not a guaranteed thing, but that they would do their best with it, as patriotic Americans. They said they could not be sure the Stockpile Stewardship Program would work, and they admitted there would be no way to validate the Stockpile Stewardship Program other than through live-fire tests—tests of explosions, nuclear explosions.

I ask, is this, indeed, in the best interest of the United States to tie our invaluable deterrent responsibility to an undeveloped, untested, and unvalidated simulation regime?

The preamble to the treaty states that cessation of testing is an effective measure of nuclear disarmament. Dr. Robinson, Director of the Sandia Lab, testified that nonnuclear components in today's weapons will ultimately become obsolete and irreproducible—they cannot be reproduced. That is, without testing, our nuclear capability will vanish. If it does, it is a distinct possibility that other states will find the world's situation having changed significantly, and they may decide to determine to expand their own capability. It will, in fact, be, and these words irritate a number of people, but it has a ring of truth to it. It will be a form of unilateral disarmament, we, being the world leader, signing a piece of paper that ultimately leads us to a point where we cannot continue to be the world leader.

We know a test ban can't prevent nations from acquiring nuclear weapons. Tests by India and Pakistan showed that. The Sandia Lab Director further testified that, "[t]hose who claim that by ending nuclear testing, we will close off the threat of terrorist development and use of nuclear explosives mislead themselves." And Congress should not accept such arguments as a basis for endorsing a test ban treaty.

I hope, Mr. President, we can develop a way to continue to reduce the presence of nuclear weapons. This Congress, this Senate has supported massive reductions in the number of weapons we possess. We have continued to explore other treaties and agreements.

I like limited, bilateral agreements with nations such as Russia or China or England or France, where we know what we are doing and it has an end time. We have an agreement. We have a precise understanding of the benefits and risks involved. These broad treaties, to which we are committing with the whole world of nations, many of whom are not going to comply with them, make me nervous. It is not necessarily good for a great nation to do that. A great nation has to be cautious. A great nation can't blithely go out and start signing up to a bunch of treaties and thinking that it will all work out sometime in the future. It is a serious matter.

I am glad the chairman and others, Senator KYL, Senator HELMS, have taken such a lead in this. I am glad to see Chairman HELMS here. Chairman HELMS has said consistently, this treaty is not good for America. He has refused to endorse it. He opposes it. Now we have had hearings and debate, and a growing number in this Senate are agreeing with him. I don't believe there are votes sufficient to pass it, because I do not believe that it is good for the country. I think the opinion of Senator HELMS on that is being validated daily by the experts, as well as Members of this body.

Mr. President, I thank the chairman for his leadership. I appreciate Senator BIDEN's ability to articulate and to advocate. It makes us all think carefully about what we are doing. I think it has been a good debate. I think we have learned a lot. In the end, I think this Senate will conclude this is not the time to ratify this treaty.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I am going to take about 5 minutes to respond to my friend from Alabama. He may have to catch a plane or something. I hope he will understand that, if he is not on the floor.

First of all, I find it fascinating. I think he may want to amend the record—I am being a bit facetious, a little tongue in cheek—amend the record by suggesting that he has greater faith in headline writers and reporters than he does in the transcript I am about to read.

I don't know whether he has ever been bitten by a headline. We all know headline writers read—and no one knows this better than my friend from North Carolina—the part of the copy that is given to them, and they get to write the headline they want. Sometimes it bears little resemblance to what happened. I hope we don't put any faith in a headline. I am not suggesting we shouldn't put faith in what is written by reporters sometimes. What was said in this article is accurate, but it is not complete. As my friend from Alabama said, we do not have one voice speaking on this, but we do have one record, one record from the hearing. I have a copy of the record from the hearing conducted in the Armed Services Committee yesterday, page 59. I will read the whole thing. It will take a minute.

> Senator LEVIN. Therefore, what you are telling us is that if this safeguard [the Strategic Stockpile Program] and other safeguards are part of this process that you can rely upon, that in your words, Dr. Robinson, you are on board in terms of this treaty; is that correct?
>
> Dr. ROBINSON. I am on board that science-based stockpile stewardship has a much higher chance of success and I will accept it as a substitute.

Going on to page 60.

> Dr. ROBINSON. As a substitute for requiring yield tests for certification.

The tests he is referring to are nuclear tests. Then further on down, Dr. Tarter says:

> I can only testify to the ability of stockpile stewardship to do the job. It is your job, about the treaty.
>
> Senator LEVIN. Are you able to say that, providing you can rely on safeguard F—

My description: Safeguard F is the safeguard that allows the President to get out of the treaty if the lab Director certifies that he is not able to certify the safety and reliability.

> Senator LEVIN. Are you able to say that, providing you can rely on safeguard F and at some point decide that you cannot certify it, that you are willing under that condition to rely on this stewardship program as a substitute for actual testing?
>
> Dr. TARTER. Yes.

Further down, same page:

> Dr. BROWN. Senator LEVIN, if the government [the laboratories] provides us with the sustained resources, the answer is yes, and if safeguard F is there, yes.

Now I am not suggesting all else that is quoted is not accurate. But it is useful to have a punchline at the end of the quotes. It may be viewed as tortuous; it may be viewed in any way you want. I don't think my friend from Alabama means that because these renowned scientists happen to work for the Federal Government—they also, by the way, are in the employ, if I am not mistaken, of outside laboratories and industries as well, or at least on loan from them—I hope nobody is suggesting—and I am sure he is not—that they would alter their testimony because the President of the United States or the Secretary of Energy takes a position that is consistent with theirs, and that is why they are taking it.

I know my friend from Virginia will want to respond to this today, or Tuesday, or whenever he wants to do it. We will have plenty of time. I did not want there to be a hiatus between the comments of my friend from Alabama and my responding. I will conclude. I say to my friend from North Carolina. I think we should be—and believe me, I need this admonition for myself as well—a little careful about some of the words we use, such as "unilateral disarmament." I don't think anybody is arguing we are unilaterally disarming.

At any rate, I see my friend from Virginia has come down from on high and I assume wants to respond.

I yield the floor.

(Mr. INHOFE assumed the Chair.)

Mr. WARNER. Mr. President, I am anxious to receive the remarks of our distinguished chairman. But I was right there when Senator LEVIN asked the questions. I will put in the RECORD my edification of their replies.

We have to understand, this Stockpile Stewardship Program, SSP, is basically a computer and other adjuncts, scientific devices that we are going to put in place—that is the key, "put in place"—at the minimum, 5 or 6 years from now, but more likely 10 years from now. In the opinion of the Director of Sandia Laboratories, it could be 20 years. That is all in the RECORD in response to my question.

These Directors carefully said: Yes, we are meeting the current milestones in putting together this computer and other high-tech test programs, but we are a long way away. It could be as much as 20 years. So we could go to a period of, at a minimum, 8 to 10 years without any testing of the type that is a substitute for actual testing. Today, the stockpile is safe. Tomorrow, it is credible and safe. But as the years go on—and Senator BYRD used the words, as the years go on—the natural degrading under the law of physics of metallic parts, of chemical parts, and other parts takes place.

Therefore, this hope for SSP, in sum, is almost a dream, but these men conscientiously are working on it day and night. Hopefully, in a period of anywhere from 6, 7, 8, 9, 10, maybe 20 years, it will be on line for that type of database which actual testing will give.

In the meantime, we are going through with part of the SSP program, but not all of it—bits and pieces of it—largely relying on the test data of a bank of information we have in this country developed over the period of 50 years in which we did actual tests.

I thank my colleague.

Mr. BIDEN. Mr. President, I will pursue this more on Tuesday. I respectfully suggest that argument was based on a fallacy, and that is, the Stockpile Stewardship Program will not stay at zero until it is completed. We began this years ago. It is already working. We already use testing methods that do not require nuclear explosions.

The Senator will remember the chart James Schlesinger had with the arrows going up and down, and I quote from Dr. Sig Hecker, the Director of Los Alamos in 1997, whom everybody quotes these days, wrote a letter to the Senator from Arizona and said:

> . . . there have been several instances since the cessation of nuclear testing in September 1992, where we have found problems . . . for which in the past we would have turned to a nuclear test in the kiloton range to resolve. In the absence of testing, we have used the methodology of [Stockpile Stewardship] to evaluate the problem and suggest fixes if required.
>
> This has included more extensive calculations, non-nuclear laboratory experiments, comparison to previous nuclear test data, and the extensive experience of our designers and engineers. Moreover, our assessment has been checked against the rigors of peer review by the Lawrence Livermore National Laboratory. We have examined several problems of this nature during this year's certification cycle.
>
> At this time, we have sufficient confidence in our solutions to certify the stockpile without a resumption of nuclear testing. If our confidence in the fixes were not sufficiently high, we would not certify the stockpile.

He is no longer the lab Director, but I assume my colleagues all believe him to be an honorable man. When they say testing is not needed at this time—that is, the Directors—I ask my colleagues whether or not they agree with Jim Schlesinger, who said it is not needed at this time and he doubts it will be needed in the future.

Let me explain. We are using data from 1,000 past nuclear tests—as my friend says, from nonnuclear subcritical experiments and from high-tech simulations to understand what is happening and what may happen in the weapons stockpile.

Four facilities that will not be ready until 2005 are—they are called the National Ignition Facilities—a contained firing facility, dual-access radiographic hydrodynamics test facility, and the Atlas Plus power facilities. These facilities—and this is important—are all logical successors to older, less capable facilities. Our scientists are pushing the envelope but are not engaging in flights of fancy. That is why our labs and the Department of Energy are confident the National Ignition Facility will work, even though it has cost overruns. These facilities will serve several purposes and increase knowledge of basic physics of nuclear weapons. That new knowledge will lead to more accurate and precise computer simulations. The facilities can also be used to test the particular weapons problems. That is why I say our weapons will still be tested, even without full-scale nuclear weapons testing.

Another key tool we are developing is this advanced supercomputing accelerated strategic computing initiative, another generation of supercomputers that will be able to synthesize test data from the past, and all of the testing done on weapons components, to provide three-dimensional simulations of all aspects of nuclear weapons and how they react. Already, our scientists and engineers are working with industry and several universities to develop computers that are capable of running more than 3 trillion operations per second. That is a new record level of computing power, and it gives us new safety.

Our goal, admittedly, over the next 5 years is for those supercomputers to be able to do 100 trillion operations per second. That is not something we need in our stockpile today. In fact, it represents a 100,000-fold increase in today's computational ability, and everybody says today's computational ability is sufficient to guarantee the stockpile. But when our weapons reach their so-called shelf life, then it is going to be needed, and we anticipate needing that sophisticated modeling. No one thinks that sophisticated modeling is needed now.

Finally, I have real questions about my colleagues' concern that the stockpile stewardship cannot work. Our scientists are the best in the world. They know what they are doing. They define scientific challenges that must meet the military performance and reliability standards. After defining these challenges, they believe they can meet them. I believe they know what they are talking about. But I see one problem. The one problem the Stockpile Stewardship Program faces now and in the future is that some may not fund it. That is what our colleagues at the laboratories are talking about.

Let me quote and conclude from a news release released today by the Department of Energy. I will submit it for the RECORD. It is "For Immediate Release," dated October 8, 1999, and is a joint statement by Directors of three nuclear weapons laboratories—I note parenthetically that my guess is they probably read the New York Times article—C. Paul Robinson, Sandia; John C. Browne, Los Alamos; C. Bruce Tarter, Lawrence Livermore National Lab.

I will read only from the fourth paragraph:

> While there can never be a guarantee that the stockpile will remain safe and reliable indefinitely without nuclear testing, we have stated that we are confident that a fully supported and sustained stockpile stewardship program will enable us to continue to maintain America's nuclear deterrent without nuclear testing.

Mr. President, I ask unanimous consent that the entire statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the DOE News, October 8, 1999]

JOINT STATEMENT BY THREE NUCLEAR WEAPONS LABORATORY DIRECTORS

(C. Paul Robinson, Sandia National Laboratories; John C. Browne, Los Alamos National Laboratory; and C. Bruce Tarter, Lawrence Livermore National Laboratory)

"We, the three nuclear weapons laboratory directors, have been consistent in our view that the stockpile remains safe and reliable today.

"For the last three year, we have advised the Secretaries of Energy and Defense through the formal annual certification process that the stockpile remains safe and reliable and that there is no need to return to nuclear testing at this time.

"We have just forwarded our fourth set of certification letters to the Energy and Defense Secretaries confirming our judgment that once again the stockpile is safe and reliable without nuclear testing.

"While there can never be a guarantee that the stockpile will remain safe and reliable indefinitely without nuclear testing, we have stated that we are confident that a fully supported and sustained stockpile stewardship program will enable us to continue to maintain America's nuclear deterrent without nuclear testing.

"If that turns out not to be the case, Safeguard F—which is a condition for entry into the Test Ban Treaty by the U.S.—provides for the President, in consultation with the Congress, to withdraw from the Treaty under the standard "supreme national interest" clause in order to conduct whatever testing might be required."

Mr. BIDEN. Mr. President, let me conclude by pointing out that I find it kind of interesting. The very people who stand up here and say, as I happen to believe, that they have confidence that our scientists in the future are going to be able to shoot out of the sky like a bullet meeting a bullet incoming nuclear weapons over the ocean traveling at multithousand miles per hour and do it with certainty and accuracy—they have faith in the ability of that to occur, but they don't have faith in the ability of our scientists at the three laboratories, who say they are well on their way to doing that, to be able to say what they need.

I find it kind of interesting. I must admit it is a double-edged sword. I find my Democratic colleagues who do not support any national defense initiative—because they say this star wars notion can't work, it is too far out—I do not know how they come and rely so easily upon the likelihood that a $45 billion investment is going to guarantee these supercomputers will function to the degree they are needed to when these weapons reach their shelf life. But let's be fair. You can't have it both ways. I would respectfully submit that the ability to guarantee MIRV nuclear warheads fired in the hundreds or the thousands at the United States could be blown out of the sky with impunity by a missile defense initiative on our part is a mildly greater scientific feat than what the stockpile requires.

As someone said: "The faith of our father"—"the faith of our father"—has always been that if we put our mind to it, if we invest the money, we have the intelligence, the ingenuity, and the know-how to get it done. I would respectfully suggest our three present laboratory Directors and all the doubts they express are primarily related to whether or not safeguard F and funding of $45 billion for the stockpile would be forthcoming.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the best deterrent from keeping those thousands of missiles coming in is precisely what we have had these 50-plus years—a credible safe deterrent in our stockpile. And the person whose finger is on the button firing those missiles knows that.

I am reading from yesterday's proceedings of the Senate Armed Services Committee on page 50 where the chairman, myself, asked the following questions. This is one of the laboratory Directors testifying:

"We moved this year toward the development of the SSP, and last year toward putting in place the supercomputers on a path that we think we need to have. We are on a path that by 2004 we will have a supercomputer in place that begins"—begins—"to get us into the realm of what we need to do this job"—namely certifying the stockpiling.

"The issue that I think you are trying to address"—this is the hardest point I think as a scientist—"is that we cannot predict that by such and such a date we will know everything we need to know."

"It is an evolving process. Each year we learn something else."

Bit by bit, year by year.

I then asked: "My time is running out."

And it is running out. We want to control time.

"Give us your best estimate, doctor," Senator WARNER said.

"Dr. Brown: I think we are going to be in the best position sometime between 2005 and 2010."

"Chairman WARNER: Dr. Tarter."

"Dr. Tarter: I agree with Dr. Brown."

"Dr. Robinson: My guess is somewhere in the 10 years hence to 20 years hence period."

There it is, short answers directed to the question.

Mr. BIDEN. Would my friend yield for a question? From what page of the record was he reading?

Mr. WARNER. Page 50 of the official transcript of the Armed Services Committee.

Mr. BIDEN. I don't doubt it. I read from page 59 to get the significance?

Do you get the significance?

That was stated on 50 and 51 and 52. This is 59. After all is said and done, the question was asked: Do you believe with the safeguards you can rely upon the stockpile, the strategic stockpile, approach as opposed to nuclear testing?

They said yes.

It follows. Page 59 and 60, I am reading from. Maybe there is something after page 61 in the testimony that would undermine what I have just said. I respectfully suggest I am unaware of it if it is. I stand ready to hear it if it has been.

It is one of those deals, folks. You have to go to the end. It "ain't over until the fat lady sings." It ain't over until you read the whole transcript. The last thing stated was: We have confidence.

Then, after the testimony, after the testimony and after the New York Times article, the Department of Energy and in the name of the three scientists quoted—and I will read it again.

"While there can be no guarantee"—the point he is making on page 50—"that the stockpile remains safe and reliable indefinitely without nuclear testing, we have stated that we are confident that a fully supported and sustained stockpile stewardship program will enable us to continue to maintain America's nuclear deterrent without nuclear testing."

I yield the floor.

Mr. WARNER. Mr. President, it is 117 pages. I sat there for 5 hours 10 minutes. How well I know the various parts of this system. I was weary after 3 days of testimony. But it is all here for all Senators to read. I invite them to spend as much time as they can on the record.

It comes down to honest men, well-intentioned individuals—men and women on both sides of the issue—cannot agree, and should we move forward with a treaty that will vitally affect our security interests, unless the preponderance of the evidence is overwhelming, and beyond a reasonable doubt? Give us the certainty to make that step.

I yield the floor.

The PRESIDING OFFICER (Mr. WARNER). The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I have a few brief comments to make in response to the very eloquent remarks from the Senator from West Virginia, in which I thought he covered it quite well. He had a concern for whether the intelligence estimate was going to be forthcoming.

I would suggest, and get into the RECORD at this time, that back in December of 1995 we were waiting for the NEI report to come out. And it came out.

That report said we would not have to defend ourselves in the United States of America for a limited attack in terms of—the discussion, of course, was the national missile defense—until approximately 15 years, not any less than 15 years.

We found out later that was actually imminent at that time.

I can recall so well writing the Chairman and Joint Chiefs of Staff, General Shelton, on the 24th of August of this last year—1998—and asking him to be specific in terms of taking the national intelligence estimate and all the information that he could garner and tell me at approximately what date North Korea would be able to fire a missile, a multiple-stage rocket. He came back and said it would be more than 5 years.

Seven days later—on the 31st of August, 1998—they fired one.

I think we all know right now that they have another type of missile that can reach Washington, DC, from anyplace in the world in about 35 minutes, and we don't have any defense against that.

I don't think, if we are going to rely on the NEI information, we are relying on something that is going to be in the best interests of defending our country.

The Senator from West Virginia also talked about the ratification process and about needing more time.

We hear over and over again from every single person who stood up to defend the CTBT we need more time, we have to have more time. Yet if one reads what those same individuals are saying, the President of the United States said on the 16th of May, 1998:

> Now it's all the more important that the Senate act quickly, this year, so we can increase the pressure on, and isolation of, other nations that may be considering their own nuclear test explosions.

Also the President said:

> . . . I ask the Senate to approve it [CTBT] this year.

That was 1998—last year; here it is 1999.

Vice President AL GORE said the same thing:

> The U.S. Congress should act now to ratify the Comprehensive Test Ban Treaty.

That is July of 1998.

Secretary Albright said:

> We need this Treaty now.

That was on September 23, a few days ago, this year.

She said, further:

> For American leadership, for our future, the time has come to ratify CTBT—this year, this session, now.

I could go on and on; the leaders have said we have to do it now.

As far as taking up this treaty, knowing what is in it, the treaty has been there for 2 years. We have all had an opportunity. Have I read the entire treaty? No, but I read the areas that concern me on verification, on zero-yield thresholds, things where I know we cannot verify what would be done. Verification is not there.

I remind Members, every Senator, including the illustrious Senator from Delaware, had the opportunity to object to the unanimous consent request propounded and agreed to a few days ago calling for the vote to take place after the 14 hours of debate which should be some time on Tuesday or Wednesday.

The only Senator from that side who is not openly supporting this yet is the Senator from West Virginia who said, by his own mistake, he was not able to get down in time to object to the unanimous consent request.

We had an opportunity for every Senator to have slowed this train down so they wouldn't have to vote on it and they elected not to do it.

I think it is very important we all keep that in mind. This is significant. It is something we have reviewed over a long period of time. It is something we understand. We have heard the professional testimony. We have attended many meetings. I along with the Presiding Officer, have sat through hours of committee meetings and subcommittee meetings that I have held in my committee on this very subject. I think we understand it and I agree with the statements of all of those, including the President, Vice President, and the Secretary of State, who I quoted. We need to do it now.

I will be here to object to any unanimous consent that would in some way vitiate the vote that we believe should be imminent next week.

I yield the floor.

Mr. BIDEN. Mr. President I will take 1 minute.

The President doesn't need any more time; he read it and negotiated it. I don't need any more time; I spent over 100 hours on that. It is my job on the committee of responsibility. The Senator presiding doesn't need more time; he spent hundreds of hours. The Senator from Oklahoma doesn't need more time because he spent hundreds of hours on it. I defy anyone to find five other Members of the Senate who have spent as much time.

Usually what happens is we take on the responsibility to inform our colleagues based on our committees because we have more expertise when assigned the job. When it is tax policy, I don't know what the Tax Code says on major changes, but I rely upon the committee headed on the Democratic side by my friend from New York to tell me what is in it from spending hundreds of hours going through the detail.

This is a different way to do business. I don't ever remember Members having voted on a treaty without there being a significant report from the relevant committees on the floor.

The President doesn't need any more time. I don't need any more time. Senator BYRD says he needs more time, and I don't know anybody more conscientious than Senator BYRD. But the reason for more time is there haven't been any hearings.

I yield the floor.

The PRESIDING OFFICER. The chairman of the Senate Foreign Affairs Committee, the Senator from North Carolina.

Mr. HELMS. Mr. President, I assure my friend from Delaware, the ranking Democrat on the Foreign Affairs Committee, I enjoy hearing him and hearing him and hearing him.

I guess it is sort of similar to what the President said in one of his strong moments not long ago: I guess it depends on what the definition of "is" is.

This afternoon in Canada, President Clinton held a press conference in which he explicitly rejected the offer I made along with a number of other Republican Senators that the Senate would put off a vote on the CTBT if the President requested in writing (a) that the treaty be withdrawn and (b) that it not be considered for the duration of his presidency.

Considering that the President acknowledged he does not have the votes to ratify the treaty, this seemed to many of us a generous offer which the President rejected with a strange rhetorical outburst.

When asked about our offer today, he said:

> They want me to give them a letter to cover the political decision they have made that does severe damage to the interest of the United States and the interest of nonproliferation in the world? I don't think so.

The Mr. President further suggested, strangely and absurdly, that the reason we made the offer in the first place was because, as he put it, Republicans are afraid to go though with a vote. He said:

> . . . they want to [kill the treaty] and don't want to get up and defend it before the American people in an election year. . . . [They think] that some letter from me will somehow obscure [that fact] . . .

Mr. President, among those who are urging that the Senate kill this dangerous treaty are: six former Secretaries of Defense, four former National Security Advisors, four former Directors of Central Intelligence, and two former Chairmen of the Joint Chiefs of Staff.

Yet, Mr. Clinton suggests that Republicans are afraid to vote? The fact is, the President and his advisors have done everything possible to discourage a solution.

Let's make it clear so the President can get his confusing rhetoric straightened out: Since he has rejected our offer, I will object, along with many of my Republican colleagues, to any effort to put off next week's vote on the Comprehensive Test Ban Treaty.

This is a dangerous treaty, contrary to the national security interests of the American people. The Senate should go on record as planned: The Senate should vote this treaty down.

Mr. President, may I make an inquiry how much time has expired on each side since this morning when the Senate convened?

The PRESIDING OFFICER. The Chair advises the distinguished chairman of a remarkable coincidence: The opponents have used 204 minutes, the proponents, 208 minutes.

Mr. HELMS. Mr. President, pursuant to the unanimous-consent agreement by the Senate, consideration has begun regarding an arms control treaty that has been the longest-sought, hardest-fought item on the unilateral nuclear disarmament agenda. Strangely, the Clinton administration has used every fanciful reasoning in its attempt to portray the Comprehensive Test Ban Treaty (CTBT) as an agreement long pursued by every administration since President Eisenhower, a claim that is bewilderingly untrue. Even the administration's own negotiator acknowledged that the administration's claims are "hyperbole."

You see, Mr. President, the truth of the matter is that not one administration (prior to the current one) ever proposed a zero-yield, unverifiable, permanent duration test ban. Indeed, as Ambassador Ledogar admitted, even the Clinton administration itself did not want such a treaty initially.

Someone has commented that the CTBT now before the Senate is the clearest case of "parchment worship" ever seen. It was neither carefully negotiated nor well-thought through. It does not even define exactly what it bans.

Instead, the CTBT is the product of a mad scramble to: (1) Create an arms control "legacy" for the Clinton-Gore administration; or (2) provide an excuse for this administration's lack of any nonproliferation policy; or (3) obscure the fact that this administration presided over the collapse of the single-most significant reduction in nuclear weapons with Russia ever negotiated—the START II Treaty—which would have eliminated all MIRVed ICBMs and the SS-18 missile. (The likelihood is that all three played a major role in the administration's decision to try to ram through this Senate this unwise and dangerous treaty.)

Unfortunately, in the race to fashion a last-minute rickety "legacy", the Clinton administration abandoned longstanding United States policy on nuclear testing and signed up to a "zero yield," unverifiable, permanent duration test ban. As several of us have noted, for a number of reasons relating to verification and U.S. nuclear weapons requirements, this is something to which no other administration ever agreed. For instance, President Eisenhower—who has been repeatedly and mistakenly blamed with authorship of the CTBT—insisted that nuclear tests with a seismic magnitude of less than 4.75 be permitted.

The reason that the United States historically has refused to sign on to a zero yield test ban is that five problems are created by such a prohibition. First, confidence in the safety and the reliability of the weapons stockpile will erode. Second, warheads cannot be "remanufactured" to capitalize upon modern technologies. Third, no further designs or capabilities can be added to the nuclear stockpile. Fourth, critical infrastructure and hardware cannot be thoroughly "hardened" against nuclear weapons effects. Fifth, the U.S. can have no confidence that other countries are abiding by the CTBT because a zero yield ban cannot be verified.

By preventing the United States from testing, the CTBT will erode our ability to discover and fix problems with the nuclear stockpile and to make safety improvements. Confidence that the weapons will perform as needed will erode. Already, leaders of our own nuclear weapons design laboratories have stated that problems with the stockpile have arisen that formerly would have prompted nuclear tests.

Further, several of the weapons are not as safe as they could be. As this chart demonstrates, only one warhead of the nine in the stockpile is equipped with all of the modern surety features available. One weapon—the W62—does not have any safety features at all, and three of the weapons—the W76, W78, and W88—are only equipped with "enhanced detonator safety" measures.

Mr. President, several important safety improvements cannot be made to these weapons unless subsequent nuclear testing is allowed to ensure that modified devices will function properly with these changes. I will underscore that for Senators. The CTBT will prevent the United States from making critical safety improvements to its warheads. I, for one, agree with the Governor of North Dakota who wrote to me opposing the CTBT stating:

> As a governor of a state that hosts a sizable percentage of our nation's nuclear weapons, I have an obligation to the people of North Dakota to ensure that these warheads are as safe and reliable as they can be made. It troubles me that several U.S. warheads do not contain the most modern safety features available, such as fire-resistant pits and insensitive high explosives. Yet these warheads cannot capitalize upon such improvements without nuclear testing.

I hope Senators will understand that the CTBT will gradually undermine the safety of the U.S. deterrent by precluding the incorporation of modern safety features.

Moreover, nuclear testing is essential if the United States is to discover and fix problems with the stockpile. These problems usually are associated with aging. The materials and components of weapons can degrade in unpredictable ways and can cause the weapon to fail. Many weapons believed to be reliable and thoroughly tested nevertheless developed problems which were only discovered, and could only be fixed, through nuclear testing. In fact, one-third of all the weapon designs placed in the stockpile since 1958 have required and received post-deployment nuclear tests to resolve problems.

In three quarters of these cases, the problems were identified and assessed only as a result of nuclear testing, and only could be fixed through testing.

The United States has chosen to remanufacture aging weapons in the enduring stockpile rather than designing and building new ones. This presents problems because many of the materials and processes used in producing the original weapon are no longer available. New materials and processes need to be substituted, but they can only be validated to assure that the remanufactured weapon works as intended through nuclear testing.

Exact replication, especially of older systems, is impossible without testing. In part, this is because documentation has never been sufficiently exact to ensure replication. Nuclear testing is the most important step in product certification; it provides the data for valid certification. As a case in point, the United States attempted to remanufacture both the W52 and W68 warheads on the basis of simulations. However, when actually tested, both weapons had a measured yield well short of what test-experienced weapons designers predicted. This is a lesson that the administration, in supporting the CTBT, seems willing to forget.

The CTBT also will prevent the United States from developing new weapons to counter new technological advances by adversaries. Nuclear testing is essential to such modernization. Without it, the nuclear triad will become obsolete.

I fail to see the logic behind the argument that the United States has no need to modernize its deterrent if Russia, China, and others are similarly constrained. Such a claim just won't fly; in fact, given the demonstrable inability to verify a total test ban, I am persuaded that such assertions are founded upon the mistaken presumption that nuclear weapons modernization is driven by the evolution of other nuclear deterrents. Historically, this simply has not been the case.

Indeed, nuclear weapons modernization is generally driven either by new mission requirements, or by non-nuclear technological evolution in defensive systems. For instance, during the cold war, advances in air defense and anti-submarine warfare created needs for new weapons. Nuclear testing was needed to create the B83 bomb, a gravity bomb—a "laydown weapon" because it enabled the B-1B to drop its payload, at low altitude and high speed, and thereby escape the resulting explosion.

This weapon was needed in response to advances in air defense capability. For the same reason, the U.S. developed the nuclear air-launched cruise missile, which allows U.S. bombers to fulfill their mission outside of air defense ranges.

Nuclear testing was needed for the Trident II missile's warheads, W76 and W88. Testing was essential to optimize the system, giving the missile, and thus the submarine as well, increased striking range. This was needed in response to advances in anti-submarine warfare. Without the ability to test and modernize, the airmen and sailors aboard our bombers and submarines will be put at increased risk as they try to perform their duties with obsolete technology. Senators should think carefully about the implications of the CTBT, and the risk it poses—not just to the nuclear weapons themselves—but to our servicemen.

Our clear, future need facing the United States is the requirement to develop new or modified warheads to respond to developments in missile defense—particularly in the area of directed energy. It would be impossible to adapt to such developments under a complete test ban.

Further, without the ability to design new weapons, such as a warhead optimized to kill biological plagues or to destroy deeply-buried targets, the U.S. will be unable to respond to serious emerging threats to our security. I could not agree more with one of the former Directors of Lawrence Livermore National Laboratory, Dr. Roger Batzel, who warned that: "A nuclear arsenal which is unable to keep pace with a changing security environment is unlikely, in the long run, to prove much of a deterrent."

Fourth, the CTBT would make the United States increasingly vulnerable to foreign nuclear programs. Critical systems such as satellites cannot be hardened and thoroughly protected against electro-magnetic pulse attack without nuclear testing. Computers cannot simulate a nuclear environment. Neither can controlled radiation sources. It takes a nuclear explosion to create the heat and complex interplay of radiation needed to evaluate the resistance of systems to these nuclear effects.

Historically, the United States often has been surprised by how systems which seemingly performed as needed during non-nuclear simulations then failed to function properly in an actual nuclear environment. Indeed, surprises have been found in the vulnerability to nuclear effects of all U.S. strategic nuclear systems except the Minuteman II. The CTBT will allow counties to exploit a growing U.S. vulnerability brought about by an increasing reliance on high-tech weaponry and a decision not to test in order to harden systems.

Finally, a "zero yield" test ban is not verifiable. While the exact thresholds are classified, it is commonly understood that the United States cannot detect nuclear explosions below a few kilotons of yield. Countries are able to resort to a number of techniques, ranging from "unattended detonations" to seismic decoupling, that will enable them to conduct significant nuclear explosions with little chance of being detected.

The proposed verification regime under the CTBT offers scant reassurance in this matter. The seismic detection thresholds of the International Monitoring System are sufficiently high that a large amount of clandestine testing could occur without fear of seismic detection. Moreover, the onsite inspection regime is riddled with loopholes and deficiencies.

The bottom line is that if the Senate were to make the mistake of approving this treaty, the United States would scrupulously adhere to the CTBT, thereby losing confidence in its nuclear deterrent. Other nations, however, most likely would violate the treaty and escape detection, building new weapons to capitalize upon the U.S. deficiencies and vulnerabilities created by the CTBT. For these reasons, I oppose the CTBT and I am gratified that more and more Senators are making clear their opposition to ratification of an unwise, even dangerous, proposal to deprive the American people of the protection they need and deserve.

Mr. President, for just a moment I suggest the absence of a quorum and then I will resume.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Mr. President, I ask unanimous consent that it be in order for me to suggest the absence of a quorum and the time be divided equally from both sides.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise simply to express the thanks of this Senator to the eminent chairman of the Committee on Foreign Relations for the careful discourse he has presented to us, for the facts, they are complex. No one understands complexity better than he or is more willing to live with it. If we do not come to the same conclusions, it is not for lack of respect and, indeed, a reverence.

Mr. HELMS. Mr. President, I do thank my friend from New York—our friend from New York—whom we will sorely miss before very long.

I thank the Senator and suggest the absence of a quorum.

The PRESIDING OFFICER. Hearing no objection to the unanimous consent request from the Senator from North Carolina, without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HELMS). Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, the Senate will soon exercise its constitutional duty of "advice and consent" for international treaties. This is a solemn task. And the treaty before us, the Comprehensive Test Ban Treaty or "CTBT," relates to an issue of utmost importance, the proliferation of nuclear weapons.

As I have evaluated this treaty, I have kept one question first and foremost in my mind: Will ratification of this treaty by the United States serve to protect the national security of the United States? And after careful consideration, my position is that the CTBT weakens the national security of the United States, and I will therefore oppose ratification.

Although I support the lofty goals of the Test Ban Treaty—preventing the spread of nuclear weapons—I think only the good guys will play by the rules. Test ban advocates argue that setting a good example will lead others to play by the rules. The United States has not tested a bomb since 1992, but India and Pakistan went ahead with testing bombs, despite U.S. sanctions and condemnation.

Test Ban advocates also argue that the threat of sanctions will keep countries in line. As my colleagues will recall, North Korea violated the Nuclear Non-Proliferation Treaty—in fact, are still violating the NPT—and the Clinton Administration has rewarded the DPRK with aid, and more recently, with the removal of sanctions. I suspect the same pattern if rogue nations like North Korea even ratify the CTBT.

But even more fundamentally, I believe this zero-yield treaty of unlimited duration fundamentally threatens the United States' nuclear deterrent by preventing nuclear testing essential to maintaining the safety and reliability of our nuclear stockpile. Our nuclear weapons are the most sophisticated designs in the world, yet over time, the nuclear materials and high explosives triggers deteriorate, and we lack the experience in predicting the effects of these changes.

According to expert testimony; one-third of all weapons designs introduced into the nuclear weapons stockpile since 1985 have required and received post-deployment nuclear tests to resolve problems. In three-fourths of these cases, the problems were discovered only because of on-going nuclear tests. In each case, the weapons were thought to be reliable and thoroughly tested.

How confident can we be in the reliability of our nuclear stockpile if we are unable to test these weapons to determine the degradation effects of aging? If we cannot be confident in our own weapons' effectiveness, what do you suppose other nations will conclude? The use of nuclear weapons as a deterrent is only effective when other parties believe in their capability as well.

Although the Stockpile Stewardship Program should be pursued, we must remember that the Program is in its infancy. Deciding in 1999 to rely on an untested program that will be operational in 2010 is reckless. In the future, I hope that nuclear tests can be replaced by computer simulations and laboratory-based experiments. But I am not willing to bet my grandchildren's security on it.

In light of hearings this past year before the Energy and Natural Resources Committee on Chinese espionage allegations, I also am not comfortable placing the results of our nuclear testing in the memory banks of the National Labs' computers which are vulnerable to espionage or sabotage.

Finally, I would like to address the problem of verifying other nations' compliance with the Comprehensive Test Ban Treaty. Recent reports from the intelligence community indicate that we are unable to monitor low-level nuclear tests precisely enough to distinguish between a conventional explosion, a low-level nuclear test, or even natural seismic activity. The United States cannot now, and may not in the foreseeable future, be able to confidently detect and identify militarily significant nuclear tests of one kiloton or less. That is roughly 500 times the size of the blast which destroyed the Murrah Building in Oklahoma City.

Twice last month Russia carried out what might have been nuclear explosions at its Novaya Zemlya testing site in the Arctic. It was reported that U.S. surveillance satellites have repeatedly observed the kind of activity that usually precedes and follows a low-level nuclear test. Yet, data from the CIA's seismic sensors and other monitoring equipment were reportedly insufficient to reach a firm conclusion as to the true nature of the explosions. If it is not possible to confirm tests such as these, how are we going to verify that countries such as Russia and China are complying with the Comprehensive Test Ban Treaty?

Mr. President, this Treaty is not in the national interest and I urge my colleagues to reject its ratification.

Mr. LUGAR. Mr. President, the Senate has begun consideration of the Comprehensive Test Ban Treaty. I regret that the Senate is taking up the treaty in an abrupt and truncated manner that is so highly politicized. Admittedly, the CTBT is not a new subject for the Senate. Those of us who over the years have sat on the Foreign Relations, Armed Services, or Intelligence Committees are familiar with it. The Senate has held hearings and briefings on the treaty in the past.

But for a treaty of this complexity and importance a more sustained and focused effort is important. Senators must have a sufficient opportunity to examine the treaty in detail, ask questions of our military and the administration, consider the possible implications, and debate at length in committee and on the floor. Under the current agreement, a process that normally would take many months has been reduced to a few days. Many Senators know little about this treaty. Even for those of us on national security committees, this has been an issue floating on the periphery of our concerns.

Presidential leadership has been almost entirely absent on the issue. Despite having several years to make a case for ratification, the administration has declined to initiate the type of advocacy campaign that should accompany any treaty of this magnitude.

Nevertheless, the Senate has adopted an agreement on procedure. So long as that agreement remains in force, Senators must move forward as best they can to express their views and reach informed conclusions about the treaty.

In anticipation of the general debate, I will state my reasons for opposing ratification of the CTBT.

The goal of the CTBT is to ban all nuclear explosions worldwide: I do not believe it can succeed. I have little confidence that the verification and enforcement provisions will dissuade other nations from nuclear testing. Furthermore, I am concerned about our country's ability to maintain the integrity and safety of our own nuclear arsenal under the conditions of the treaty.

I am a strong advocate of effective and verifiable arms control agreements. As a former Vice-Chairman of the Senate Arms Control Observer Group and a member of the Foreign Relations Committee, I have had the privilege of managing Senate consideration of many arms control treaties and agreements.

I fought for Senate consent to ratification of the INF Treaty, which banned intermediate range nuclear weapons in Europe; the Conventional Forces in Europe Treaty, which created limits on the number of tanks, helicopters, and armored personnel carriers in Europe; the START I Treaty, which limited the United States and the Soviet Union to 6,500 nuclear weapons; the START II Treaty, which limited the U.S. and the former Soviet Union to 3,500 nuclear weapons; and the Chemical Weapons Convention, which outlawed poison gas.

These treaties, while not ensuring U.S. security, have made us safer. They have greatly reduced the amount of weaponry threatening the United States, provided extensive verification measures, and served as a powerful statement of the intent of the United States to curtail the spread of weapons of mass destruction.

I understand the impulse of the proponents of the CTBT to express U.S. leadership in another area of arms control. Inevitably, arms control treaties are accompanied by idealistic principles that envision a future in which international norms prevail over the threat of conflict between nations. However, while affirming our desire for international peace and stability, the U.S. Senate is charged with the constitutional responsibility of making hard judgments about the likely outcomes of treaties. This requires that we examine the treaties in close detail and calculate the consequences of ratification for the present and the future. Viewed in this context, I cannot support the treaty's ratification.

I do not believe that the CTBT is of the same caliber as the arms control treaties that have come before the Senate in recent decades. Its usefulness to the goal of non-proliferation is highly questionable. Its likely ineffectuality will risk undermining support and confidence in the concept of multi-lateral arms control. Even as a symbolic statement of our desire for a safer world, it is problematic because it would exacerbate risks and uncertainties related to the safety of our nuclear stockpile.

The United States must maintain a reliable nuclear deterrent for the foreseeable future. Although the cold war is over, significant threats to our country still exist. At present our nuclear capability provides a deterrent that is crucial to the safety of the American people and is relied upon as a safety umbrella by most countries around the world. One of the most critical issues under the CTBT would be that of ensuring the safety and reliability of our nuclear weapons stockpile without testing. The safe maintenance and storage of these weapons is a crucial concern. We cannot allow them to fall into disrepair or permit their safety to be called into question.

The Administration has proposed an ambitious program that would verify the safety and reliability of our weapons through computer modeling and simulations. Unfortunately, the jury is still out on the Stockpile Stewardship Program. The last nine years have seen improvements, but the bottom line is that the Senate is being asked to trust the security of our country to a program that is unproven and unlikely to be fully operational until perhaps 2010. I believe a National Journal article, by James Kitfield, summed it up best by quoting a nuclear scientist who likens the challenge of maintaining the viability of our stockpile without testing to "walking an obstacle course in the dark when your last glimpse of light was a flash of lightning back in 1992."

The most likely problems facing our stockpile are a result of aging. This is a threat because nuclear materials and components degrade in unpredictable ways, in some cases causing weapons to fail. This is compounded by the fact that the U.S. currently has the oldest inventory in the history of our nuclear weapons programs.

Over the last forty years, a large percentage of the weapon designs in our stockpile have required post-deployment tests to resolve problems. Without these tests, not only would the problems have remained undetected, but they also would have gone unrepaired.

The Congressional Research Service reported last year that: "A problem with one warhead type can affect hundreds of thousands of individually deployed warheads; with only 9 types of warheads expected to be in the stockpile in 2000, compared to 30 in 1985, a single problem could affect a large fraction of the U.S. nuclear force." If we are to put our faith in a program other than testing to ensure the safety and reliability of our nuclear deterrent and thus our security, we must have complete faith in its efficacy. The Stockpile Stewardship Program falls well short of that standard.

The United States has chosen to remanufacture our aging stockpile rather than creating and building new weapon designs. This could be a potential problem because many of the components and procedures used in original weapon designs no longer exist. New production procedures need to be developed and substituted for the originals, but we must ensure that the remanufactured weapons will work as designed.

I am concerned further by the fact that some of the weapons in our arsenal are not as safe as we could make them. Of the nine weapon designs currently in our arsenal, only one employs all of the most modern safety and security measures. Our nuclear weapons laboratories are unable to provide the American people with these protections because of the inability of the Stockpile Stewardship Program to completely mimic testing.

At present, I am not convinced the Stockpile Stewardship Program will permit our experts to maintain a credible deterrent in the absence of testing. Without a complete, effective, and proven Stockpile Stewardship program, the CTBT could erode our ability to discover and fix problems with the nuclear stockpile and to make safety improvements.

In fact, the most important debate on this issue may be an honest discussion of whether we should commence limited testing and continue such a program with consistency and certainty.

President Reagan's words "trust but verify" remain an important measuring stick of whether a treaty serves the national security interests of the United States. The U.S. must be confident of its ability to detect cheating among member states. While the exact thresholds are classified, it is commonly understood that the United States cannot detect nuclear explosions below a few kilotons of yield. The Treaty's verification regime, which includes an international monitoring system and on-site inspections, was designed to fill the gaps in our national technical means. Unfortunately, the CTBT's verification regime will not be up to that task even if it is ever fully deployed.

Advances in mining technologies have enabled nations to smother nuclear tests, allowing them to conduct tests with little chance of being detected. Similarly, countries can utilize existing geologic formations to decouple their nuclear tests, thereby dramatically reducing the seismic signal produced and rendering the test undetectable. A recent Washington Post article points out that part of the problem of detecting suspected Russian tests at Novaya Zemlya is that the incidents take place in a large granite cave that has proven effective in muffling tests.

The verification regime is further bedeviled by the lack of a common definition of a nuclear test. Russia believes hydro-nuclear activities and sub-critical experiments are permitted under the treaty. The U.S. believes sub-critical experiments are permitted but hydro-nuclear tests are not. Other states believe both are illegal. A common understanding or definition of what is and what is not permitted under the treaty has not been established.

Proponents point out that if the U.S. needs additional evidence to detect violations, on-site inspections can be requested. Unfortunately, the CTBT will utilize a red-light inspection process. Requests for on-site inspections must be approved by at least 30 affirmative votes of members of the Treaty's 51-member Executive Council. In other words, if the United States accused another country of carrying out a nuclear test, we could only get an inspection if 29 other nations concurred with our request. In addition, each country can declare a 50 square kilometer area of its territory as off limits to any inspections that are approved.

The CTBT stands in stark contrast to the Chemical Weapons Convention in the area of verifiability. Whereas the CTBT requires an affirmative vote of the Executive Council for an inspection to be approved, the CWC requires an affirmative vote to stop an inspection from proceeding. Furthermore, the CWC did not exclude large tracts of land from the inspection regime, as does the CTBT.

The CTBT's verification regime seems to be the embodiment of everything the United States has been fighting against in the UNSCOM inspection process in Iraq. We have rejected Iraq's position of choosing and approving the national origin of inspectors. In addition, the 50 square kilomater inspection-free zones could become analogous to the controversy over the inspections of Iraqi presidential palaces. The UNSCOM experience is one that is best not repeated under a CTBT.

Let me turn to some enforcement concerns. Even if the United States were successful in utilizing the laborious verification regime and non-compliance was detected, the Treaty is almost powerless to respond. This treaty simply has no teeth. Arms control advocates need to reflect on the possible damage to the concept of arms control if we embrace a treaty that comes to be perceived as ineffectual. Arms control based only on a symbolic purpose can breed cynicism in the process and undercut for more substantive and proven arms control measures.

The CTBT's answer to illegal testing is the possible implementation of sanctions. It is clear that this will not prove particularly compelling in the decision-making processes of foreign states intent on building nuclear weapons. For those countries seeking nuclear weapons, the perceived benefits in international stature and deterrence generally far outweigh the concern about sanctions that could be brought to bear by the international community.

Further, recent experience has demonstrated that enforcing effective multilateral sanctions against a country is extraordinarily difficult. Currently, the United States is struggling to maintain multilateral sanctions on Iraq, a country that openly seeks weapons of mass destruction and blatantly invaded and looted a neighboring nation, among other transgressions. If it is difficult to maintain the international will behind sanctions on an outlaw nation, how would we enforce sanctions against more responsible nations of greater commercial importance like India and Pakistan?

In particularly grave cases, the CTBT Executive Council can bring the issue to the attention of the United Nations. Unfortunately, this too would most likely prove ineffective, given that permanent members of the Security Council could veto any efforts to punish

CTBT violators. Chances of a better result in the General Assembly are remote at best.

I believe the enforcement mechanisms of the CTBT provide little reason for countries to forego nuclear testing. Some of my friends respond to this charge by pointing out that even if the enforcement provisions of the treaty are ineffective, the treaty will impose new international norms for behavior. In this case, we have observed that "norms" have not been persuasive for North Korea, Iraq, Iran, India, and Pakistan, the very countries whose actions we seek to influence through a CTBT.

If a country breaks the international norm embodied in the CTBT, that country has already broken the norm associated with the Non-Proliferation Treaty (NPT). Countries other than the recognized nuclear powers who attempt to test a weapon must first manufacture or obtain a weapon, which would constitute a violation of the NPT. I fail to see how an additional norm will deter a motivated nation from developing nuclear weapons after violating the longstanding norm of the NPT.

On Tuesday the Senate is scheduled to vote on the ratification of the CTBT. If this vote takes place, I believe the treaty should be defeated. The Administration has failed to make a case on why this treaty is in our national security interests.

The Senate is being asked to rely on an unfinished and unproven Stockpile Stewardship Program. This program might meet our needs in the future, but as yet, it is not close to doing so. The treaty is flawed with an ineffective verification regime and a practically nonexistent enforcement process.

For these reasons, I will vote against ratification of the CTBT.

Mr. DASCHLE. Mr. President, today the Senate formally begins consideration of whether to ratify the Comprehensive Nuclear Test Ban Treaty, CTBT. Each party to this treaty pledges not to carry out any nuclear weapons tests and to refrain from helping others to carry out such tests. CTBT has been signed by over 150 nations, 51 of which have already ratified the treaty. The question before the Senate now is whether we should join this group in an international effort to limit the spread of nuclear weapons.

Although I will have more extensive remarks on the substance of the treaty shortly before the Senate votes, I would like to say a few words now about why I believe the Senate should ratify this important treaty. As in the case of previous arms control agreements, each Senator must ask himself or herself the following series of questions: Is U.S. national security enhanced by Senate ratification of the CTBT? Is this nation better off with the CTBT? Will Senate ratification of CTBT lead to a safer world for our children?

In my view Mr. President, the answer to each of these questions is an unequivocal, unqualified yes for one simple, straightforward reason: a world with fewer countries possessing nuclear weapons is a safer, more secure world for our national security interests, our nation and our children. Senate ratification of CTBT will help us achieve just such a world.

Opponents of the treaty raise two issues: can we verify that other nations are complying with the treaty and would U.S. compliance with the treaty permit this nation to maintain a safe and reliable nuclear deterrent? On the first issue, opponents assert that it is impossible to verify a prohibition of all nuclear tests. Mr. President, let me state now that they are absolutely correct on that point. The intelligence community has confirmed that neither the United States nor the International Monitoring System that would be established under CTBT would ensure the detection of every single nuclear explosion, regardless of size and location.

However, this feature is not unique to CTBT. No arms control treaty is 100 percent verifiable. In just the last two decades, the Senate has ratified numerous treaties knowing full well at the time that it would be possible for a country to successfully skirt one provision or another for some period of time or another. The standard for the Senate on previous treaties and the standard we should apply to this treaty is "effective" verification. In the case of CTBT, effective verification means we will be able to detect, with a high degree of confidence, any tests that could undermine our nuclear deterrent. After examining the information and analysis provided by our intelligence community, our senior military leaders have testified that we can effectively verify this treaty.

Furthermore, with or without CTBT, we need to monitor the nuclear testing activities of other countries and will face the exact same problems people are assigning exclusively to CTBT —with one major difference. In a world of CTBT, the United States would have additional tools at its disposal to determine what has happened. The treaty would permit us to have access to data collected at any of the 321 monitoring sites established as part of the CTBT's International Monitoring System. Under the treaty, we will also be able to conduct on-site inspections of facilities when we suspect questionable activity has occurred. These are resources available to us only if we ratify CTBT.

As for the safety and reliability of our existing nuclear weapons, I am convinced that the science-based stockpile stewardship program will permit us to preserve our nuclear deterrent without testing. I acknowledge up front that this program, for which we are spending $4.5 billion annually, is still evolving and it will be a few more years before we will know for certain its effectiveness. However, critics must also acknowledge three other facts. First, our nuclear weapons are safe and reliable today and are likely to remain so for another decade—with or without a stockpile program. Second, although not fully up and running, the stockpile stewardship program has already demonstrated its viability. Although we stopped testing nuclear weapons seven years ago, for the past four years the Department of Energy has been able to certify that our nuclear stockpile is safe and reliable. In order to make this certification, the Department has relied in part on data generated by the early phases of the stockpile stewardship program. Third, the President submitted, and I strongly support, a condition to the treaty that would permit the United States to withdraw from the treaty and resume nuclear testing if we have anything other than the highest confidence in the safety and reliability of our nuclear weapons.

Having said all of this, I would like to raise another important issue today. Regardless of where members stand on the merits of the CTBT, I think there are two things every member of this body should agree upon. The process of treaty ratification is one of the most important responsibilities our founding fathers vested in the United States Senate. In the course of this nation's history, the Senate has never taken this responsibility lightly. It would be a mistake to do so now. Second, it is hard to imagine a treaty with more significant ramifications for our national security for decades to come than the treaty before the Senate today. In the few brief days that this issue has been before us, I have heard senior Senators, members who have cast thousands of votes, state that their vote on CTBT could well be one of the most consequential of their Senate careers. I agree with that assessment.

Unfortunately, we are on the verge of ignoring these two truths. For some unknown reason, the CTBT has become a political football in a high stakes, highly partisan debate. It appears that some are seeking to score political points instead of carefully weighing this nation's national security interests and our role and responsibilities in the world. If politics should stop at the waters' edge, so too should it stop at the door to this chamber when we are deliberating treaties with such tremendous national and international ramifications.

Instead, after over 2 years of inaction, the Senate now finds itself locked in a sprint to a vote that is equally unfair to both the opponents and proponents of this treaty. No member of this body can truly believe he or she has all the information needed to render such a momentous decision. No member can truly state that the Senate has lived up to the founding fathers' expectations of how this chamber should conduct itself when giving its advice and consent on treaties. No member can really assert with a clear conscience that this was a fair and thorough process for dealing with any issue, let alone one of this magnitude.

Proceeding before we have given full airing to the numerous and complex issues surrounding the CTBT is unfair to the Senate, unfair to our national security and unfair to the American people. Before we begin the calling of the roll asking where we stand on this treaty, we should all take a step back and give ourselves time to study these issues. For the good of our nation's security and Americans for generations to come, I ask members on both sides of the aisle to join me in this effort.

LEGISLATIVE SESSION

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRAION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—CONFERENCE REPORT

Mr. WARNER. I ask the Chair to report the pending business.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A conference report to accompany H.R. 1906, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2000, and for other purposes.

The Senate resumed consideration of the conference report.

CLOTURE MOTION

Mr. WARNER. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

> CLOTURE MOTION
>
> We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the conference report to accompany H.R. 1906, the Agriculture appropriations bill.
>
> Trent Lott, Thad Cochran, Tim Hutchinson, Conrad Burns, Christopher Bond, Ben Lighthorse Campbell, Robert F. Bennett, Craig Thomas, Pat Roberts, Paul Coverdell, Larry E. Craig, Michael B. Enzi, Mike Crapo, Frank Murkowski, Don Nickles, and Pete Domenici.

MORNING BUSINESS

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each, with the exception of the distinguished Senator from West Virginia, who will take such time as he may require to deliver a very important address to the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

KEEPING ALCOHOL OFF CAMPUS AND ON THE SHELF

Mr. BYRD. Mr. President, over the years, the culture of college has gradually changed from one of academics and concentrated study to one consumed with partying. Gathering at the library with classmates to prepare for an exam has taken a back seat to sitting around swilling beers at keg parties or ordering a round of shots at the closest bar.

Sadly, the process does not always begin in college. Often times, experimentation with alcohol begins in high school, or even earlier. Large numbers of young people are drinking. According to the 1998 Monitoring the Future Study conducted by the University of Michigan, approximately thirty-three percent of high school seniors, twenty-one percent of tenth graders, and eight percent of eighth graders reported being drunk at least once in a given month. Yes, Mr. President, drunk.

With such startling statistics at the pre-college level, it has become increasingly important for institutions of higher education to take an even more active role in informing and educating highly impressionable, yet extremely vulnerable, college freshmen about the many dangers of this practice. Last year, I added a provision to the Higher Education Act Amendments of 1998 to establish a National Recognition Awards program to identify a select number of colleges and universities with innovative and effective alcohol and drug prevention programs in place on campus. Under the program, each award recipient receives a grant ranging from $40,000 to $75,000 to assist in the continuation of its important efforts. I am pleased that I was able to obtain $850,000 in the Senate's Fiscal Year 2000 Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations bill to continue funding for this important initiative.

The U.S. Department of Education has recently named seven colleges and universities as recipients of this first-ever grant award. Mr. President, it is encouraging to know that institutions of higher education from all corners of the country are taking aim at the problem of alcohol abuse among our nation's youth through new and creative approaches.

The six recipients of this award include Bowling Green State University at Bowling Green, Ohio; Hobart and William Smith College at Geneva, New York; the University of Arizona at Tucson, Arizona; Pennsylvania State University at University Park, Pennsylvania; the University of Northern Colorado at Greeley, Colorado; the University of Missouri at Columbia, Missouri; and Utah State University at Logan, Utah. The Bowling Green State University Peer-Based Misperception program, for example, is designed to change attitudes, behaviors, and the campus social environment with an emphasis on first-year students, members of Greek fraternal organizations, and athletes. This program incorporates small group survey research to uncover and dispel misperceptions among peer groups such as a sorority, fraternity, athletic team, or members of a residence hall. Award funds will be used to continue the program, to implement it at other institutions, and to reduce the overall binge drinking rate.

Pennsylvania State University has been recognized for its alcohol-free "HUB Late Night" program, a model alternative activity program offering students multiple forms of free entertainment as a means of curbing high-risk drinking. The goals of the program involve delivering quality entertainment, providing a variety of alcohol-free programs for a diverse student body, encouraging student involvement in designing and implementing programs, and increasing awareness of the program. Approximately 71 percent of participants reported that participation in this program resulted in less drinking for themselves and for other students.

I am pleased that a higher education institution in my state, West Virginia University (WVU), has adopted an approach similar to that at Pennsylvania State University in addressing alcohol abuse among students. West Virginia University recently created the WVUp All Night program which each Thursday, Friday, and Saturday night offers students concerts, games, movies, free food, and study rooms as attractive alternatives to bars and nightclubs. According to WVU President David Hardesty, the program has been a great success from the start, attracting an average of 4,000 students each Thursday, Friday, and Saturday night.

While this grant program will certainly serve these seven schools well in providing them with the means to administer and expand their prevention programs, it is my true hope that this grant program will span far beyond dollars and cents. Soon, the Department of Education will be producing a publication highlighting these model programs, and will make this document available to high school counselors throughout the nation. When thinking about college, it is important for students and parents alike to be informed about good alcohol and drug prevention programs. This document will serve as an important tool in helping students and their parents to make even wiser decisions about where to pursue their college education.

Moreover, the grant recipients of this year's award ought to serve as models to all higher education institutions throughout the country. Each August, many schools face the formidable challenge of determining how best to address the use and abuse of alcohol by underage students. With these model schools, new information will be available to schools still grappling with alcohol abuse problems. I encourage all Senators to pass along this information to institutions of higher education in their respective states.

Mr. President, this program will only begin to touch upon some of the fundamental areas which must be addressed in halting alcohol from rearing its evil head on other vulnerable college campuses. The work now lies ahead for all schools to endorse these noteworthy approaches and ideas which are working on select campuses throughout the United States. Let these seven schools be models for all institutions of higher education today and in the future. I congratulate the awardees of the program, and look forward to a strong, prosperous future for all college-going students, a future that is free from alcohol and other drugs.

Mr. President, I yield the floor.

THE WORK INCENTIVES IMPROVEMENT ACT OF 1999

Mr. JEFFORDS. Mr. President, right now, my home state of Vermont is celebrating Disability Employment Awareness Month. For that reason, I am delighted to speak about the "Work Incentives Improvement Act of 1999," legislation that I developed with my colleagues, Senators KENNEDY, ROTH and MOYNIHAN. This Act, also known as the Work Incentives Improvement Act (WIIA), is the most important piece of legislation for individuals with disabilities since the Americans with Disabilities Act. This legislation is bipartisan. This legislation was brought to the floor of the United States Senate with 80 cosponsors. And, most importantly, this legislation passed through the Senate on June 15th with a unanimous vote of 99–0.

The "Work Incentives Improvement Act" addresses a fundamental flaw in current law. Today, individuals with disabilities are forced to make a choice, an absurd choice. They must choose between working and receiving health care. Under current law, if people with disabilities work and earn over $500 per month, they will lose their cash payments and health care coverage under Medicaid or Medicare. This is health care coverage that they need. This is health care coverage that they can not get in the private sector. This is not right.

Individuals with disabilities want to work. They have told me this. In fact, national surveys over the past 10 years have consistently confirmed that people with disabilities want to be part of the American workforce. But only one-third of them do work. With the enactment of WIIA, these individuals would not need to worry about losing their health care if they choose to work a forty-hour week, to put in overtime, or to pursue a career advancement. Individuals with disabilities are sitting at home right now, waiting for this legislation to become law. Having a job would provide them with a sense of self-worth. Having a job would allow them to contribute to our economy. Having a job would provide them with a living wage, which is not what one has through Social Security.

Currently, there are 7.5 million individuals with disabilities across the nation who receive health care coverage and cash payments from the federal government. 24,000 of these people live in Vermont. Only, one-half of one percent of the 7.5 million work to their full potential, because, when they earn over $500 per month, they lose their access to health care coverage. The first part of my legislation tackles this problem. In states that elect to take up this option, WIIA provides continuing access to health care for Social Security Income and Social Security Disability Insurance beneficiaries who work and exceed the income threshold.

Recognizing that some SSI and SSDI recipients will need job training and job placement assistance, the second part of my bill provides these incentives. People with disabilities would have more choices in where to obtain vocational rehabilitation and employment services. In addition, we would increase the incentives to public and participating private providers serving these individuals.

This legislation makes sense. When I came to Congress in 1975, one of my legislative priorities was to provide individuals with disabilities access to the American dream. Through the Individuals with Disabilities Education Act, the Rehabilitation Act, the Americans with Disabilities Act, and the Assistive Technology Act, we have consistently improved the lives of people with disabilities. Unfortunately, one major flaw remains, providing health care to individuals who want to work. The enactment of the Work Incentives Improvement Act would diminish this flaw in federal policy.

The Work Incentives Improvement Act reflects what individuals with disabilities say they need. Over 100 national organizations have given us their input and endorsed our bill. The President has made it clear that he would like to sign this legislation into law by the end of the current year. The Incentives Improvement Act provides the opportunity to bring responsible change to federal policy and to eliminate a misguided result of the current system—if you don't work, you get health care; if you do work, you don't get health care. The Work Incentives Improvement Act makes living the American dream a reality for millions of individuals with disabilities, who will no longer be forced to choose between the health care coverage they so strongly need and the economic independence they so dearly desire.

I am looking forward to having my colleagues in the House of Representatives finish their work on the Work Incentives Improvement Act. Let's send this bill to President Clinton by the end of this session of the 106th Congress.

CONFIRMATION OF COL. JOHN H. SINCLAIR TO BE UNITED STATES MARSHAL FOR DISTRICT OF VERMONT

Mr. LEAHY. Mr. President, I congratulate Col. John Sinclair on his Senate confirmation as the next United States Marshal for the District of Vermont.

As a 30-year veteran of the Vermont State Police, Col. Sinclair has served as a uniformed trooper at both the Colchester and Bethel Barracks, later joined the Fraud Unit and the Governor's security detail, and then was promoted to the post of Station Commander at the Brattleboro Barracks. He has also commanded both the Criminal Division and the Field Force. In 1996, he was appointed to his present position as director of the Vermont State Police, the department's highest-ranking uniformed post.

I have known Col. Sinclair for nearly 30 years, since the time when he was a new State trooper and I was Chittenden County's new State's attorney. We worked closely together on a number of investigations, trials, and law enforcement education programs. I have watched his career for the past three decades and consider him to be one of the finest police officers with whom I have ever worked. He is a police officer's police officer. He is a strong component of our law enforcement team in Vermont.

He has gained extensive experience with State, federal, and local law enforcement matters. It is fitting that his longstanding service to the people of Vermont culminate in this important law enforcement position. His practical experience, background and training qualify him to be Vermont's 34th United States Marshal.

Again, I congratulate Col. Sinclair and his wife, Barbara, who live in Charlotte, and their two sons, on receiving Senate confirmation as United States Marshal for the District of Vermont.

SESQUICENTENNIAL OF THE SALT LAKE COUNTY SHERIFF'S OFFICE

Mr. HATCH. Mr. President, this month the Salt Lake County Sheriff's Office is celebrating their sesquicentennial anniversary. The Sheriff's Office is a proud tradition of Utah, and I am grateful to them for keeping Salt Lake County a safe place to live and visit.

Pioneers first settled the Salt Lake Valley in 1847. In March 1849, they elected Brigham Young to be their Governor. Then, in October of the same year, John D. Parker was elected to serve as the first sheriff of what would become the state of Utah. Later, in 1852, after the federal government ratified the creation of the office of county sheriff, James B. Ferguson became John D. Parker's successor. Sheriff Ferguson was the first officially elected sheriff of Salt Lake County. This makes the Salt Lake County Sheriff's Office one of the oldest law enforcement agencies in the west. Today, the 1,254 employees of the Sheriff's Office continue that tradition.

Today, there are more than 835,000 citizens of Salt Lake County. These citizens are served by the Sheriff's Office through patrols, investigations, jails—which have held Ted Bundy, Mark Hoffman, and Charles Manson among others—court security, civil service, and specialized services, including K-9, air support, SWAT, and search and rescue units. The Sheriff's Office also coordinates local, state, and federal task forces.

Some of the more heroic deeds have received national recognition. Captain Lloyd Prescott is just one example of the kind of person we have working for the people of Utah. During a hostage situation at a Salt Lake County library, then Lieutenant Lloyd Prescott offered himself as an additional hostage to see if he could defuse the situation. After almost five hours, it was obvious that the suspect was becoming more agitated and that he would likely harm one of the hostages. Lieutenant Prescott then announced himself as a police officer and was forced to shoot the suspect. For this act of bravery and courage, Lieutenant Prescott was awarded the Presidential Commendation from President Clinton, the Governor's Commendation from Governor Leavitt, Officer of the Year from the International Association of the Chiefs of Police, Officer of the Year from the International Foot Printers Association, and Deputy Sheriff of the Year from the National Sheriff's Association. Captain Prescott continues to serve the citizens of Salt Lake County and the Sheriff's Office as the Division Commander for the Special Operations Division.

This is just one example of the many acts of courage, bravery, and simple acts of service performed daily by employees of the Salt Lake County Sheriff's Office. I want to extend a public thank you to all the employees and deputies of the Sheriff's Office for their hard work, service, and dedication to upholding justice and the rule of law. I offer my hearty congratulations to them on this landmark anniversary.

MEDICARE BENEFICIARIES ACCESS TO CARE ACT OF 1999

Mr. FEINGOLD. Mr. President, I rise today to express my strong support for S. 1678, the Medicare Beneficiaries Access to Care Act of 1999, a bill to ensure that Medicare beneficiaries across our nation continue to have access to the health care services that they need. The package that has been introduced addresses some of the most troubling areas in implementation of the Balanced Budget Act of 1997, and I commend the Senate Democratic Leader, Senator DASCHLE, for the hard work that he and his staff put into the creation of this bill.

I joined my Senate colleagues to vote in favor of the Balanced Budget Act of 1997, with the expectation that we would save $100 billion that would help preserve the solvency of the Medicare program. Yet the magnitude of cuts in BBA of 1997 have been much deeper than anyone intended. Present projections indicate that actual reductions have been in the area of $200 billion, twice as much as originally anticipated.

The unintended consequences of the Balanced Budget Act of 1997 have been severe indeed. And while there is a lot of publicity about the impact of BBA 1997 cuts on entities like hospitals, nursing homes and home health agencies, the real issue here is that the cuts are threatening the ability of our constituents—patients who rely on these entities to provide care, rehabilitation, and life-saving services—to gain access to the care they need.

Take for example the impact of the BBA 1997 Interim Payment System for home health agencies in Medicare. IPS was designed as a way to counteract fraud, waste and abuse within the Medicare program. Unfortunately, the way in which IPS was implemented created a counterintuitive and unfair system that penalizes low-cost areas for their thrift by basing reimbursement on past spending. More than 40 home health agencies in 22 counties have closed in Wisconsin since the implementation of Medicare home health IPS. IPS has ratcheted Medicare home health payments so low that Wisconsin home health agencies are losing hundreds of dollars per patient per day treating Medicare patients. Agencies in Wisconsin are not closing just because the business isn't profitable, they are closing to reduce the devastating rate of loss.

BBA 1997 cuts have also been devastating for our nursing homes and patients' ability to gain access to outpatient therapy services. Reimbursements to some nursing homes in Wisconsin has been so low that one nursing home administrator in La Crosse, Wisconsin, informed me that his agency, one of the few Medicare-certified ventilator-dependent programs in the region, was losing between $150 and $300 per patient per day treating patients who depend on ventilators to breathe. That agency had no choice but to stop new admissions of ventilator-dependent patients. Similarly, residents of nursing homes who require physical therapy, occupational therapy or speech pathology services are faced with an arbitrary $1500 cap on their services, an amount that is grossly inadequate to provide the necessary rehabilitation to patients recovering from a stroke, an amputation or other life-altering event. These arbitrary caps on the provision of rehabilitative therapy, have the effect—though inadvertently—of placing a cap on the extent to which these patients can regain their independence.

One final area that I would like to raise is the expected impact on hospitals of BBA 1997 changes such as cuts to Graduate Medical Education payments and the impact of a Prospective Payment System on hospital outpatient departments. Preliminary estimates from my constituents at the Wisconsin Health and Hospital Association, WHA, indicate that Wisconsin's 28 teaching hospitals will lose almost $25 million per year from GME cuts. In addition, WHA projects that Wisconsin hospitals will lose $30 million over the next three years if PPS is implemented—a loss of such magnitude that several rural hospitals in Wisconsin would likely be forced to close.

S. 1678 speaks directly to these concerns by increasing payments to Medicare Dependent Hospitals and Critical Access Hospitals, of which my home state of Wisconsin has 44. S. 1678 also includes stop-loss protection to ensure that hospitals do not suffer dramatic losses under the Outpatient Prospective Payment System. Lastly, S. 1678 freezes Indirect Medical Education cuts at 6.5% over 8 years and increases the number of residency slots available in rural areas.

The provisions of S. 1678 are important to ensuring continued access to care, and I hope my colleagues will join me in supporting this legislation.

INTRODUCTION OF S. 1714

Mr. WARNER. Mr. President, I ask unanimous consent that the Senator from Virginia may proceed for not to exceed 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I thank the Chair.

(The remarks of Mr. WARNER pertaining to the introduction of S. 1714 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE CONTINUED PRODUCTION OF THE NAVAL PETROLEUM RESERVES BEYOND APRIL 5, 2000—MESSAGE FROM THE PRESIDENT—PM 62

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Armed Services.

To the Congress of the United States:

In accordance with section 201(3) of the Naval Petroleum Reserves Production Act of 1976 (10 U.S.C. 7422)(c)(2), I am informing you of my decision to extend the period of production of the naval petroleum reserves for a period of 3 years from April 5, 2000, the expiration date of the currently authorized period of production.

Attached is a copy of the report investigating the necessity of continued production of the reserves as required by 10 U.S.C. 7422(c)(2)(B). In light of the findings contained in that report, I certify that continued production from the naval petroleum reserves is in the national interest.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 8, 1999.*

MEASURE REFERRED

The following bill, previously received from the House of Representatives for the concurrence or the Senate, was read the first and second times by unanimous consent and referred as indicated:

H.R. 1907. An act to amend title 35, United States Code, to provide enhanced protection for inventors and innovators, protect patent terms, reduce patent litigation, and for other purposes; to the Committee on the Judiciary.

MEASURE PLACED ON THE CALENDAR

The following measure was discharged from the Committee on Rules and Administration and ordered placed on the calendar:

S. 1593. A bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

S. 1232. A bill to provide for the correction of retirement coverage errors under chapters 83 and 84 of title 5, United States Code (Rept. No. 106–178).

By Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

S. 935. A bill to amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to authorize research to promote the conversion of biomass into biobased industrial products, and for other purposes (Rept. No. 106–179).

By Mr. GRAMM, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 1712. An original bill to provide authority to control exports, and for other purposes (Rept. No. 106–180).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HARKIN (for himself and Mr. GRAMS):

S. 1710. A bill to require the Secretary of the Treasury to mint coins in conjunction with the minting of coins by the Republic of Iceland in commemoration of the millennium of the discovery of the New World by Leif Ericson; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MCCAIN (for himself and Mr. BURNS):

S. 1711. A bill to amend the Internal Revenue Code of 1986 to provide for a deferral of tax on gain from the sale of telecommunications businesses in specific circumstances or a tax credit and other incentives to promote diversity of ownership in telecommunications businesses; to the Committee of Finance.

By Mr. GRAMM:

S. 1712. An original bill to provide authority to control exports, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

Mr. ABRAHAM (for himself and Mr. KENNEDY):

S. 1713. A bill to amend the Immigration and Nationality Act to extend for an additional 2 years the period for admission of an alien as a nonimmigrant under section 101(a)(15)(S) of such Act, and to authorize appropriations for the refugee assistance program under chapter 2 of title IV of the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. WARNER:

S. 1714. A bill to amend the Internal Revenue Code of 1986 to allow penalty-free distributions from qualified retirement plans of individuals residing in presidentially declared disaster areas; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 1715. A bill to provide for an interim census of Americans residing aboard, and to require that such individuals be included in the 2010 decennial census; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRAMS:

S. Res. 200. A resolution designating the week of February 14-20 as "National Biotechnology Week."; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARKIN (for himself and Mr. GRAMS):

S. 1710. A bill to require the Secretary of the Treasury to mint coins in conjunction with the minting of coins by the Republic of Iceland in commemoration of the millennium of the discovery of the New World by Leif Ericson; to the Committee on Banking, Housing, and Urban Affairs.

LEIF ERICSON MILLENNIUM COMMEMORATIVE COIN ACT

Mr. HARKIN. Mr. President, I am pleased to introduce the Leif Ericson Millennium Commemorative Coin Act along with my colleague Senator ROD GRAMS from Minnesota. This bipartisan legislation would authorize the U.S. Mint to issue a coin jointly with the Icelandic National Bank in commemoration of Leif Ericson and his voyage and exploration of North America. The famous Viking explorer is regarded as the first European to set foot on North American soil in the year 1000 AD. Next year marks the 1000th anniversary of Leif Ericson's Voyage of Discovery and this coin will commemorate this landmark event in North American history. This same legislation passed the House on July 19, 1999, and passed both the House and the Senate as amendments during the 105th Congress.

The Government of Iceland is an important North Atlantic Treaty Organization (NATO) ally and this action would reiterate our strong relationship with and support for their nation. Iceland votes with the United States on virtually all United Nations and NATO issues and has formulated foreign policies parallel to ours. They also are cutting costs at our military base in Keflavi. Iceland has refrained from whaling, encouraged more U.S. trade and investment and initiated a partnership with the State of Alaska. The Government of Iceland has already approved a silver 1000 Kronor Icelandic coin to be produced by the U.S. Mint that will be packaged and issued simultaneously with the U.S. Leif Ericson

Commemorative Coin. We believe jointly issuing these coins will help further relations between our nations.

Mr. President, the United States Congress strengthened United States-Icelandic relations by presenting a Leif Ericson statue as a gift to Iceland in 1930 as a gesture of memorializing Ericson's Voyage of Discovery. In 1964, President Lyndon B. Johnson made October 9 "Leif Ericson Day" in commemoration of this famous Norwegian Viking explorer. The Leif Ericson Commemorative Coin in the year 2000 would commemorate the millennial anniversary of Ericson's voyage and would display our commitment to continuing this relationship for the coming millennium.

Mr. President, the Leif Ericson Millennium Commemorative Coin Act allows a simultaneous issuance of a commemorative U.S. silver dollar coin and a silver 1000 Kroner Icelandic coin. Both coins are to be produced in limited mintages, with U.S. Mint issuing a boxed set. Mint and surcharge proceeds from the coins will fund scholarships and student exchange programs between Iceland and United States. The U.S. Mint has read and approved the identical House version as meeting all the guidelines contained in the 1995 Congressional House Banking Committee Commemorative Coins Reforms Act, which protects the taxpayer from any costs. We feel such a coin is an important step in recognizing the important role Iceland has played in North American history. In the coming days, I will be talking to my colleagues in joining me in supporting this legislation. Mr. President, I ask for unanimous consent for a copy of this bill to be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1710

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Leif Ericson Millennium Commemorative Coin Act".

SEC. 2. COIN SPECIFICATIONS.

(a) $1 SILVER COINS.—In conjunction with the simultaneous minting and issuance of commemorative coins by the Republic of Iceland in commemoration of the millennium of the discovery of the New World by Leif Ericson, the Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue not more than 500,000 $1 coins, which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION.

The Secretary may obtain silver for minting coins under this Act from any available source, including stockpiles established under the Strategic and Critical Materials Stock Piling Act.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the millennium of the discovery of the New World by Leif Ericson.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year "2000"; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Leifur Eirikson Foundation and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) COMMENCEMENT OF ISSUANCE.—The Secretary may issue coins minted under this Act beginning January 1, 2000.

(d) TERMINATION OF MINTING AUTHORITY.—No coins may be minted under this Act after December 31, 2000.

SEC. 6. SURCHARGES.

(a) IN GENERAL.—All sales of coins minted under this Act shall include a surcharge of $10 per coin.

(b) DISTRIBUTION.—All surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Leifur Eirikson Foundation for the purpose of funding student exchanges between students of the United States and students of Iceland.

(c) AUDITS.—The Leifur Eirikson Foundation shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received by the Foundation under subsection (b).

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

By Mr. MCCAIN (for himself and Mr. BURNS):

S. 1711. A bill to amend the Internal Revenue Code of 1986 to provide for a deferral of tax on gain from the sale of telecommunications businesses in specific circumstances or a tax credit and other incentives to promote diversity of ownership in telecommunications businesses; to the Committee on Finance.

THE TELECOMMUNICATIONS OWNERSHIP DIVERSITY ACT OF 1999

Mr. MCCAIN. Mr. President, I rise today to introduce legislation that will make sure that new entrants and small businesses will have the chance to enter and grow in today's megacorporation-dominated telecommunications marketplace. Together with my good friend and colleague, Communications Subcommittee Chairman CONRAD BURNS, I am pleased to bring forward for the Senate's consideration The Telecommunications Ownership Diversity Act of 1999.

Yesterday's Washington Post had it exactly right in reporting that, "the telecommunications world is being remade by technology, deregulation, and a relentless momentum toward greater and greater size." In the past week alone MCI/WorldComm and Sprint announced what could be the largest merger on record, the FCC approved a merger that will create the country's largest local telephone company, and it has pending before it many other major mergers, including those that would unite CBS with Viacom and Bell Atlantic with GTE.

Although this industry restructuring is unprecedented, it is not unexpected. Digital technology enables formerly-separate voice, video and data services to be offered in combination with each other. This "convergence" makes it possible for many more telecommunications companies to compete with each other. And so some telecommunications businesses sell parts of their companies in an effort to focus on specific markets, while others acquire new companies to expand into new markets.

This has opened the door for large companies to improve their business prospects. But what about new entrants and small businesses? Unfortunately, for them the story has been quite different.

Mr. President, no one needs to be told that any small business faces significant barriers in trying to enter the telecommunications industry. These barriers are even more formidable when the entrepreneur happens to be a woman or a member of a minority group, due to their historically more difficult job of obtaining needed financing. Therefore, in this current telecom industry mixer, small businesses, especially those owned by minorities or women, are often left without partners, watching as bigger, more established companies, get to dance.

That's not right, but there is an answer. The answer isn't to forbid mergers out-of-hand, or to retain hopelessly outdated FCC ownership restrictions, or to pursue constitutionally or economically doomed set-aside programs. The answer is to give established industry players economic incentives to deal with new entrants and small businesses that counterbalance the incentives they have to deal with larger companies.

And that's what our bill does. The Telecommunications Ownership Diversity Act will promote entry into the telecommunications industry during this period of unprecedented restructuring by providing carefully-limited changes to the tax law. These changes to the tax law are an indispensable component of the solution. Under current law, smaller companies typically must purchase properties for cash, and cash transactions are fully taxable to the seller. So naturally sellers of telecommunications businesses prefer to sell for stock, which is tax-deferred, and which large companies have to offer.

The act will level the playing field for new entrants and small businesses by giving telecommunications business sellers a tax deferral when the property is bought for cash by a small business telecom company. The act will also encourage the entry of new players and the growth of existing small businesses by enabling the seller of a telecom business to claim the tax deferral or gain if it invests the proceeds of any sale of its business in purchasing an interest in an eligible small business.

In recognition of the convergence of telecommunications services and the growing importance of wireless and Internet-based services as an essential component of the telecommunications market, the telecommunications businesses eligible for this capital gains tax deferral are broadly defined to include not only broadcast and cable TV-type businesses, but also wireline and wireless telephone service providers and resellers, Internet service providers, information technology hardware and software companies, and video service providers.

The Secretary of the Treasury is directed to establish the eligibility criteria for small businesses and individuals to qualify, based on the characteristics of the different types of telecommunications businesses and on actual data from recent marketplace transactions. In setting these limits the Secretary is empowered to establish different qualifications for different classes of eligible purchasers, such as minorities and women, to the extent consistent with law. To eliminate the potential for abuse, the act would require the eligible purchaser to hold any property acquired for three years, during which time it could only be sold to an unrelated eligible purchaser. The General Accounting Office is required to thoroughly audit and report on the administration and effect of the act every two years.

Mr. President, I could say that, by utilizing tax deferral options in this way, we are sharing with smaller companies a portion of the investment benefits our tax laws give to major telecom companies. That would be accurate, but the real need for this act is much more fundamental and much simpler than that. Hallmark developments in the telecommunications industry have been made by gifted individuals with small companies and unlimited vision. In this sense the telecommunications industry is a true microcosm of the American free-market system, in which the benefits produced by its entrepreneurs generate benefits that extend to all of us. It is therefore critically important that new entrants and small businesses have a chance to participate across the broad spectrum of industries that will make up the telecommunications industry in the Information Age. The act will help them do that, and Senator BURNS and I are proud to sponsor it and to work for its enactment.

By Mr. ABRAHAM (for himself and Mr. KENNEDY):

S. 1713. A bill to amend the Immigration and Nationality Act to extend for an additional 2 years the period for admission of an alien as a nonimmigrant under section 101(a)(15)(S) of such Act, and to authorize appropriations for the refugee assistance program under chapter 2 of title IV of the Immigration and Nationality Act; to the Committee on the Judiciary.

S VISA AND REFUGEE ASSISTANCE AUTHORIZATION ACT

Mr. ABRAHAM. I rise to introduce a bill, the "S Visa and Refugee Assistance Authorization Act," to extend the authorization for two provisions of the Immigration and Nationality Act. The bill is cosponsored by Senator KENNEDY and is supported by the administration and the House immigration subcommittee. The legislation simply would extend for an additional two years the authorization of "S" temporary visas, which are used to allow individuals to stay in the United States to assist in criminal investigations. A sense of the Congress on the need to use these visas in more alien smuggling cases is also included. The bill also would extend for three years the authorization of refugee assistance. Such assistance is provided to localities and community-based organizations to help refugees upon their arrival in the United States. My hope is that these noncontroversial provisions can be passed expeditiously. I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1713

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "S Visa and Refugee Assistance Authorization Act".

SEC. 2. SENSE OF CONGRESS.

In light of the increasing problem of alien smuggling into the United States, it is the sense of the Congress that the Attorney General should use the provision of nonimmigrant status under section 101(a)(15)(S) of the Immigration and Nationality Act in a greater number of alien smuggling investigations per year than has been done in the past.

SEC. 3. EXTENSION OF AUTHORIZATION FOR ADMISSION OF "S" VISA NONIMMIGRANTS.

Section 214(k)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(k)(2)) is amended by striking "5" and inserting "7".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR REFUGEE ASSISTANCE.

Section 414(a) of the Immigration and Nationality Act (8 U.S.C. 1524(a)) is amended by striking "1998 and 1999" and inserting "2000 through 2002".

By Mr. WARNER:

S. 1714. A bill to amend the Internal Revenue Code of 1986 to allow penalty free distribution from qualified retirement plans of individuals residing in presidentially declared disaster areas; to the Committee on Finance.

RETIREMENT PENALTY RELIEF FOR DISASTER VICTIMS

Mr. WARNER. Mr. President, I introduce a bill to amend the Internal Revenue Code of 1986 to allow penalty-free distributions from qualified retirement programs of individuals residing in Presidentially declared disaster areas.

I and so many of my colleagues have been visiting our States and working with our Governors and State legislators, city councilpersons and mayors particularly with regard to the devastation of floods we have seen as a consequence of the most recent hurricane.

I looked into the faces of these suffering people. And one of them—this was not my idea—one of them came to me with the simplest type of request. I thought it merited the attention of the Senate. I put it into this bill that I now introduce in the Senate.

Despite an individual's or family's best efforts to plan for the future, sometimes the unexpected strikes—hurricanes and natural disasters. When that happens, people need all the tools available to rebuild their lives, the lives of their families, and to become an integral part of those communities.

One community, Franklin, VA, which is in the central part of the State, in the old rural part of the State, dependent largely on agriculture, which has flat land—I say to my distinguished colleague, Senator HELMS, how badly his State was hit by the same storm—had 18 inches of rain in less than 2 hours. There is no large riverbed there or drainage ditches. And as a result, the water rose in this town up to the second level of the stores and the houses. It went into a railyard and toppled enormous freight cars, particularly tank cars with petroleum. And suddenly this whole community was awash in foul water of 8 to 10 to 12 feet some places in height. There was no place for the water to run off, except gradually over this flat territory.

These people need to rebuild their lives and their homes. Families are faced with repairing and replacing damaged property and lost property. Many are forced to draw on savings, including their retirement accounts, to meet expenses. However, if they choose to tap upon their retirement plans or accounts, they are saddled with a 10-percent additional Federal tax for early distribution. That was put in the law for good reason—to deter people from going into these plans where they had some tax benefits. But let's stop to think: That may be the only recourse to financial salvation in the wake of an act of God Almighty.

They need help. Taxpayers coping with these disasters should not have to face the burden of a Federal tax penalty. This bill is very simple. It waives the 10 percent additional tax levied on early distributions from qualified retirement plans or retirement accounts for residents of federally declared disaster areas—that means the President of the United States has declared that county a disaster area—designated after July 31, 1999.

It is my intention that these distributions will be used for the repair or replacement of property destroyed or damaged by an unforeseen natural disaster or for emergency expenses arising from such a tragic event.

The taxpayer must be a resident of an area declared eligible. I point that out: a resident of an area eligible by the President for Federal disaster assistance, and the distribution must be taken within 1 year of the disaster declaration.

The current Tax Code waives the 10-percent penalty for distribution for certain medical expenses, health insurance premiums for the unemployed, higher education expenses, and the purchase of a first home. In my view, eliminating this additional tax for individuals and families suffering from the effects of unforeseen natural disasters makes plain common sense.

How grateful all of us are for our constituents coming to the great city of Washington, DC, and supplying us with ideas which probably are before us every day but somehow we overlook them.

Tropical Storm Dennis and Hurricane Floyd have had a devastating effect on my State. People in Southside and Tidewater, VA, are attempting to rebuild their lives and to recover some of what they lost. We should remove any disincentive, any roadblock that may hinder rebuilding and recovery.

By Mr. ROCKEFELLER:

S. 1715. A bill to provide for an interim census of Americans residing aboard, and to require that such individuals be included in the 2010 decennial census; to the Committee on Governmental Affairs.

CENSUS OF AMERICANS ABROAD ACT

Mr. ROCKEFELLER. Mr. President, millions of Americans live and work abroad. While living abroad, they continue to pay taxes and vote. They are Americans, and they want and deserve to be counted in the decennial Census. In order to achieve this important goal, we must plan and prepare.

The legislation introduced today directs the Secretary of Commerce to use existing authority to conduct a special census of Americans abroad in 2003 to determine how to include this population in the next decennial Census in 2010. While we wish that Americans abroad could be part of the 2000 Census, there unfortunately not the time or opportunity to do so. But it is vital that we act now to ensure that plans are in place for the future.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1715

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Census of Americans Abroad Act".

SEC. 2. FINDINGS; SENSE OF CONGRESS.

(a) FINDINGS.—Congress finds that—

(1) an estimated 3,000,000 to 6,000,000 Americans live and work overseas while continuing to vote and pay taxes in the United States;

(2) Americans residing abroad help increase exports of American goods because they traditionally buy American, sell American, and create business opportunities for American companies and workers, thereby strengthening the United States economy, creating jobs in the United States, and extending United States influence around the globe;

(3) Americans residing abroad play a key role in advancing this Nation's interests by serving as economic, political, and cultural "ambassadors" of the United States; and

(4) the major business, civic, and community organizations representing Americans and companies of the United States abroad support the counting of all Americans residing abroad by the Bureau of the Census, and are prepared to assist the Bureau of the Census in this task.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Bureau of the Census should undertake a census of all Americans residing abroad in a special census, and that the necessary funding should be appropriated for this purpose;

(2) the Bureau of the Census should, after completing that special census, review the means by which Americans residing abroad may be included in the 2010 decennial census; and

(3) the Bureau of the Census should take appropriate measures to provide for the inclusion of Americans residing abroad in the 2010 decennial census and decennial censuses thereafter.

SEC. 3. COUNTING OF AMERICANS RESIDING ABROAD.

(a) IN GENERAL.—The Secretary of Commerce shall—

(1) using any authorities available to the Secretary under section 182 or any other provision of title 13, United States Code, take a special census of all Americans residing abroad as of April 1, 2003 (in this Act referred to as the "special census");

(2) submit the final tabulations under the special census to the President and Congress within 9 months after the date specified in paragraph (1), broken down into all appropriate categories, including—

(A) Americans residing abroad affiliated with the Federal Government, and their dependents; and

(B) Americans residing abroad not affiliated with the Federal Government, and their dependents;

(3) not later than June 30, 2005, submit to the President and Congress a report containing any recommendations the Secretary may have with respect to the inclusion of Americans residing abroad in future decennial censuses, including—

(A) counting methodologies;

(B) the purposes for which any information could or should be used; and

(C) whether Americans residing abroad can be included in the 2010 decennial census for purposes of the apportionment of Representatives in Congress among the several States and, if so, how that should be done; and

(4) take appropriate measures—

(A) to provide for the inclusion of Americans residing abroad in the 2010 decennial census and decennial censuses thereafter; and

(B) to make use of the information obtained from such censuses for such purposes as, and to the maximum extent that, the Secretary considers feasible and appropriate.

(b) INTERIM REPORT ON SPECIAL CENSUS.—Not later than June 30, 2002, the Secretary of Commerce shall submit to the committees of Congress having legislative jurisdiction over the census a report which shall include—

(1) a summary of how the plans and preparations for carrying out the special census are proceeding;

(2) a brief description or outline of how the tabulations in the special census are to be carried out; and

(3) information identifying any experts, consultants, interest groups, or other persons outside the Bureau of the Census who were consulted in connection with the special census.

(c) CONFIDENTIALITY OF INFORMATION; PENALTIES.—The provisions of section 9 and chapter 7 of title 13, United States Code, shall apply with respect to the special census.

(d) LIMITED USE OF DATA.—The data obtained from the special census may not be used for any purpose not specifically provided for under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.

ADDITIONAL COSPONSORS

S. 315

At the request of Mr. ASHCROFT, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 315, a bill to amend the Agricultural Trade Act of 1978 to require the President to report to Congress on any selective embargo on agricultural commodities, to provide a termination date for the embargo, to provide greater assurances for contract sanctity, and for other purposes.

S. 758

At the request of Mr. ASHCROFT, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 758, a bill to establish legal standards and procedures for the fair, prompt, inexpensive, and efficient resolution of personal injury claims arising out of asbestos exposure, and for other purposes.

S. 868

At the request of Mr. GRAHAM, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 868, a bill to make forestry insurance plans available to owners and operators of private forest land, to encourage the use of prescribed burning and fuel treatment methods on private forest land, and for other purposes.

S. 935

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 935, a bill to amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to authorize research to promote the conversion of biomass into biobased industrial products, and for other purposes.

At the request of Mr. BURNS, his name was added as a cosponsor of S. 935, supra.

S. 1020

At the request of Mr. GRASSLEY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1020, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1109

At the request of Mr. MCCONNELL, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1109, a bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes.

S. 1187

At the request of Mr. DORGAN, the name of the Senator from Nevada (Mr. BRYAN) was added as a cosponsor of S. 1187, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Lewis and Clark Expedition, and for other purposes.

S. 1263

At the request of Mr. JEFFORDS, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 1263, a bill to amend the Balanced Budget Act of 1997 to limit the reductions in medicare payments under the prospective payment system for hospital outpatient department services.

S. 1310

At the request of Ms. COLLINS, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1310, a bill to amend title XVIII of the Social Security Act to modify the interim payment system for home health services, and for other purposes.

S. 1333

At the request of Mr. WYDEN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1333, a bill to expand homeownership in the United States.

S. 1448

At the request of Mr. HUTCHINSON, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 1448, a bill to amend the Food Security Act of 1985 to authorize the annual enrollment of land in the wetlands reserve program, to extend the program through 2005, and for other purposes.

S. 1485

At the request of Mr. NICKLES, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 1485, a bill to amend the Immigration and Nationality Act to confer United States citizenship automatically and retroactively on certain foreign-born children adopted by citizens of the United States.

S. 1491

At the request of Mr. GRAMS, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 1491, a bill to authorize a comprehensive program of support for victims of torture abroad.

S. 1558

At the request of Mr. BAUCUS, the names of the Senator from Maryland (Mr. SARBANES) and the Senator from Nevada (Mr. BRYAN) were added as cosponsors of S. 1558, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit for holders of Community Open Space bonds the proceeds of which are used for qualified environmental infrastructure projects, and for other purposes.

S. 1580

At the request of Mr. ROBERTS, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1580, a bill to amend the Federal Crop Insurance Act to assist agricultural producers in managing risk, and for other purposes.

At the request of Mr. ROBERTS, the name of the Senator from Georgia (Mr. CLELAND) was withdrawn as a cosponsor of S. 1580, supra.

S. 1652

At the request of Mr. ROBERTS, his name was added as a cosponsor of S. 1652, a bill to designate the Old Executive Office Building located at 17th Street and Pennsylvania Avenue, NW, in Washington, District of Columbia, as the Dwight D. Eisenhower Executive Office Building.

S. 1673

At the request of Mr. DEWINE, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1673, a bill to amend titles 10 and 18, United States Code, to protect unborn victims of violence.

SENATE RESOLUTION 190

At the request of Mr. CAMPBELL, the names of the Senator from Delaware (Mr. ROTH), the Senator from Nevada (Mr. BRYAN), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of Senate Resolution 190, a resolution designating the week of October 10, 1999, through October 16, 1999, as National Cystic Fibrosis Awareness Week.

SENATE RESOLUTION 200—DESIGNATING THE WEEK OF FEBRUARY 14-20 AS "NATIONAL BIOTECHNOLOGY WEEK"

Mr. GRAMS submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 200

Whereas biotechnology is increasingly important to the research and development of medical, agricultural, industrial, and environmental products;

Whereas biotechnology has been responsible for breakthroughs and achievements which have benefited people for centuries and, in the 20th century, has contributed to increasing the lifespan of Americans by 25 years through the development of vaccines, antibiotics, and other drugs;

Whereas biotechnology is central to research for cures to diseases such as cancer, diabetes, epilepsy, multiple sclerosis, heart and lung disease, Alzheimer's disease, Acquired Immune Deficiency Syndrome (AIDS), and innumerable other medical ailments;

Whereas biotechnology contributes to crop yields and farm productivity and enhances the quality, value, and suitability of crops for food and other uses which are critical to America's agricultural system;

Whereas biotechnology promises environmental benefits including protection of water quality, conservation of topsoil, improvement of waste management techniques, and reduction of chemical pesticide usage;

Whereas biotechnology contributes to the success of the United States in international commerce and trade;

Whereas biotechnology will be an important catalyst for creating jobs in the 21st century; and

Whereas it is important for all Americans to understand the role biotechnology contributes to their quality of life: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of February 14–20 of the year 2000 as "National Biotechnology Week"; and

(2) requests that the President issue a proclamation calling on the people of the United States to observe this week with appropriate programs, ceremonies, and activities.

• Mr. GRAMS. Mr. President, I rise today to submit a resolution which would designate the week of February 14–20 as "National Biotechnology Week."

I'm submitting this resolution because I believe it is important for our nation to recognize the role biotechnology has played in enhancing, saving and extending our lives. Indeed, biotechnology has extended the average American's life by nearly 25 years.

Mr. President, the 20th century has shown the most significant advancements in all fields of biotechnology and there is reason to believe it will continue to deliver great hope and promise well into the 21st century. This industry is one of our fastest growing and will add thousands of new job opportunities to our economy. Just as the weeks of January and February, 2000 represent the start of a countdown to a new millennium beginning in 2001, they also represent the countdown to breakthroughs we all once thought were impossible.

Already, advances made in agricultural biotechnology have given us increased crop yields and promises of new uses for our agricultural commodities as well as the higher quality, more nutritious products to improve the competitiveness of our farmers. Great strides have been made through the use of biotechnology and health care and hold the keys to successfully treating or curing diseases such as cancer, diabetes and countless other conditions. Biotechnology has assisted us in improving water quality, conserving precious topsoil and reducing the need for pesticides which helps us improve our environment for future generations.

Mr. President, these are just a few examples of the impact biotechnology has had on our lives. I believe Americans should understand the importance of biotechnology in our way of life. With the passage of the resolution I introduce today, we provide a forum for many events in February to salute and promote this industry of the future.

I urge my colleagues to join me in recognizing this important industry.●

AMENDMENTS SUBMITTED

DISTRICT OF COLUMBIA COURT EMPLOYEES WHISTLEBLOWER PROTECTION ACT OF 1999

THOMPSON AMENDMENT NO. 2290

Mr. WARNER (for Mr. THOMPSON) proposed an amendment to the bill (H.R. 858) to amend title 11, District of Columbia Code, to extend coverage under the whistleblower protection provisions of the District of Columbia Comprehensive Merit Personnel Act of 1978 to personnel of the courts of the District of Columbia; as follows:

On page 5, strike lines 5 through 12.

On page 5, line 13, strike "(e)" and insert "(d)".

On page 5, line 18, strike "(f)"and insert "(e)".

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce that on Wednesday, October 13, 1999, the Committee on Energy and Natural Resources and the Committee on Governmental Affairs will hold a joint oversight hearing on the Department of Energy's implementation of provisions of the Department of Defense Authorization Act which create the National Nuclear Security Administration. The hearing will begin at 10 a.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

ADDITIONAL STATEMENTS

TRIBUTE TO SGT. JOHN M. FEILER

● Mr. CRAIG. Mr. President, I rise to pay tribute to an Idaho native and his contributions to this nation. Early next week Sgt. John Feiler will be recognized here in Washington D.C. as Fort Hood's Noncommissioned Officer and Soldier of the third quarter of 1999.

Let me to tell you a little about this wonderful Idahoan. John Feiler, a native of Burley, Idaho enlisted in the Army shortly after graduating from Burley High School. He began his training as a Combat Engineer in Fort Leonard Wood, Missouri. He was then assigned to the Engineer Battalion at Camp Eschborn in Germany. While in Germany he was an active participant in Operations Desert Shield, Desert Storm, and Provide Comfort in Southwest Asia, for which he earned several awards and decorations.

After the Persian Gulf War, John was reassigned to Fort Stewart, Georgia. While there, he was promoted to the rank of sergeant, and a short time later he attended the Staff Sergeant Selection Board. During his assignment in Fort Stewart, he was selected as the Commandant's Inspection Awardee, made the Commandant's list, was nominated as the 24th ID Engineer Brigade NCO of the Year for two consecutive years ('93 & '94), and nominated to represent the 24th ID as their NCO of the Year for the XVIII Airborne Corps NCO of the Year competition.

In August of 1994 Sgt. Feiler pursued and completed the Army Recruiters Course. He served three years as a recruiter and was awarded the Gold Recruiter Badge as a permanent award.

In December of 1997 he arrived in Fort Hood, Texas and was assigned to his current unit, A Company 299th Engineer Battalion. During the eighteen months that he has served in the battalion, he has been awarded the Army Commendation Medal, two Army Achievement medals, and was chosen as one of the "Heroes of Battle" during the battalion's 99–05 NTC rotation. He is currently serving as a squad leader there.

His awards include the following: the Army Commendation Medal with four oak leaf clusters, the Army Achievement Medal with nine oak leaf clusters, the Army Good Conduct Medal (third award), the National Defense Service Medal, the Southwest Asia Service Medal (Saudi Arabia), and the Liberation of Kuwait Medal (Kuwait).

Idaho and the nation are proud of the way in which Sgt. John Feiler has served our country. I am pleased to draw the Senate's attention to the outstanding contributions he has made and hope all my colleagues will join me in honoring him.●

C.B. KING UNITED STATES COURTHOUSE

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of Calendar No. 291, S. 1567.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1567) to designate the United States courthouse located at 223 Broad Street in Albany, Georgia, as the "C.B. King United States Courthouse."

There being no objection, the Senate proceeded to consider the bill.

Mr. WARNER. Mr. President, I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1567) was read the third time and passed, as follows:

S. 1567

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located at 223 Broad Street in Albany, Georgia, shall be known and designated as the "C.B. King United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "C.B. King United States Courthouse".

SANDRA DAY O'CONNOR UNITED STATES COURTHOUSE

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 292, S. 1595.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1595) to designate the United States courthouse at 401 West Washington Street in Phoenix, Arizona, as the "Sandra Day O'Connor United States Courthouse".

There being no objection, the Senate proceeded to consider the bill.

Mr. WARNER. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1595) was read the third time and passed, as follows:

S. 1595

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF SANDRA DAY O'CONNOR UNITED STATES COURTHOUSE.

The United States courthouse at 401 West Washington Street in Phoenix, Arizona, shall be known and designated as the "Sandra Day O'Connor United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Sandra Day O'Connor United States Courthouse".

JOSE V. TOLEDO FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 294, H.R. 560.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 560) to designate the Federal building and United States courthouse located at the intersection of Comercio and San Justo Streets, in San Juan, Puerto Rico, as the "Jose V. Toledo Federal Building and United States Courthouse."

There being no objection, the Senate proceeded to consider the bill.

Mr. WARNER. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 560) was read the third time and passed.

DISTRICT OF COLUMBIA COURT EMPLOYEES WHISTLEBLOWER PROTECTION ACT OF 1999

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 295, H.R. 858.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 858) to amend title 11, District of Columbia Code, to extend coverage under the whistleblower protection provisions of the District of Columbia Comprehensive Merit Personnel Act of 1978 to personnel of the courts of the District of Columbia.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Government Affairs, with an amendment, as follows:

(The part of the bill intended to be stricken is shown in boldface brackets and the part of the bill intended to be inserted in shown in italic.)

H.R. 858

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "District of Columbia Court Employees Whistleblower Protection Act of 1999".

[SEC. 2. WHISTLEBLOWER PROTECTION FOR PERSONNEL OF THE COURTS OF THE DISTRICT OF COLUMBIA.

[(a) IN GENERAL.—Subchapter II of chapter 17 of title 11, District of Columbia Code, is amended by adding at the end the following new section:

["§ 11–1733. Whistleblower protection for court personnel

["Notwithstanding any other provision of law, section 1503 of the District of Columbia Comprehensive Merit Personnel Act of 1978 (DC Code, sec. 1–616.3) shall apply to court personnel, except that court personnel may institute a civil action pursuant to subsection (c) of such section in the Superior Court of the District of Columbia or the United States District Court for the District of Columbia.".

[(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 17 of title 11, District of Columbia Code, is amended by adding at the end the following new item:

["11–1733. Whistleblower protection for court personnel.".**]**

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Court Employees Act of 1999".

SEC. 2. COMMUNICATIONS WITH CONGRESS BY DISTRICT OF COLUMBIA COURTS PERSONNEL.

(a) IN GENERAL.—Subchapter II of chapter 17 of title 11, District of Columbia Code, is amended by adding at the end the following new section:

"§ 11–1733. Court personnel communications with Congress

"(a) In this section, the term—

"(1) 'Congress' means the United States Congress and includes any member, employee, or agent of Congress; and

"(2) 'District of Columbia court' means the Superior Court of the District of Columbia and the District of Columbia Court of Appeals.

"(b) Nonjudicial employees of the District of Columbia court shall be treated as employees of the Federal Government solely for purposes of section 7211 of title 5, United States Code (relating to employees' right to petition Congress).

"(c)(1) An employee or former employee may file a civil action in the United States District Court for the District of Columbia for relief of a violation of subsection (b), if—

"(A) the employee or former employee reasonably believes that such a violation occurred;

"(B) the employee or former employee files a grievance relating to such violation with the Joint Committee on Judicial Administration of the District of Columbia not later than 270 days after the violation occurred;

"(C) the Joint Committee—

"(i) makes a final decision; or

"(ii) makes no decision within 60 days after the filing of the grievance; and

"(D) the employee or former employee files such civil action not later than 1 year after the date of the violation.

"(2) Relief in an action filed under paragraph (1) may include—

"(A) an injunction to restrain continued violation of this section;

"(B) rescission of a retaliatory action;

"(C) the reinstatement of the employee or former employee to the same position held before the retaliatory action, or to an equivalent position;

"(D) the reinstatement of the employee's or former employee's full fringe benefits and seniority rights;

"(E) compensation for lost wages and benefits; and

"(F) the payment by the District of Columbia court of the employee's or former employee's reasonable costs and attorney fees, if the employee or former employee is the prevailing party.

"(d) In any civil action filed under subsection (c), the District of Columbia court may file a motion for an award of reasonable attorney fees and court costs. The presiding judge may order such fees and costs to be awarded to the District of Columbia court, if the judge determines that an action brought by an employee or former employee under this section was not well grounded in fact and not warranted by law.

"(e) The filing of a civil action in accordance with this section shall constitute the employee's or former employee's exclusive remedy under the laws of the United States or the District of Columbia for violation of this section.

"(f) The District of Columbia court shall conspicuously display notices of an employee's protections and obligations under this section, and shall use other appropriate means to keep all employees informed of such protections and obligations.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for subchapter II of chapter 17 of title 11, District of Columbia Code, is amended by adding at the end the following new item:

"11–1733. Court personnel communications with Congress.".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall take effect as if included in the enactment of title XI of the Balanced Budget Act of 1997.

Amend the title so as to read: "An Act to amend chapter 17 of title 11, District of Columbia Code, to provide for personnel protection for District of Columbia court employees.".

AMENDMENT NO. 2290

(Purpose: To make certain technical and conforming amendments, and for other purposes)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. THOMPSON, proposes an amendment numbered 2290.

The amendment is as follows:

On page 5, strike lines 5 through 12.

On page 5, line 13, strike "(e)" and insert "(d)".

On page 5, line 18, strike "(f)" and insert "(e)".

Mr. WARNER. Mr. President, I ask unanimous consent that the amendment be agreed to, the committee amendment, as amended, be agreed to, the bill be read the third time and passed, the title amendment be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2290) was agreed to.

The committee amendment, as amended, was agreed to.

The bill, as amended, was read the third time, and passed.

The title was amended so as so read:

An Act to amend chapter 17 of title 11, District of Columbia Code, to provide for personnel protection for District of Columbia court employees.

MEASURE PLACED ON CALENDAR—S. 1593

Mr. WARNER. Mr. President, I ask unanimous consent that S. 1593 be discharged from the Rules Committee and placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, OCTOBER 12, 1999

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9 a.m. Tuesday, October 12. I further ask unanimous consent that on Tuesday, immediately following the prayer, the Journal of the proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume executive session to resume consideration of the Comprehensive Nuclear Test-Ban Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. WARNER. Mr. President, for the information of all Senators, the Senate will resume consideration of the Comprehensive Nuclear Test Ban Treaty at 9 a.m. on Tuesday, October 12. On Tuesday, there will be approximately 6 hours of debate remaining on the treaty. Therefore, that debate will consume the day until 4:30 p.m., at which time the Senate will resume consideration of the conference report to accompany the Agriculture appropriations bill. Cloture was filed on the conference report on Thursday with a vote scheduled to occur at 5:30 on Tuesday. It is expected that the vote on the CTBT will occur on Wednesday, at some point following the adoption of the Agriculture Appropriations conference report. Therefore, the next rollcall vote will occur at 5:30 p.m. on Tuesday, October 12.

Mr. President, in addition, as a reminder, the two amendments in order to the CTBT must be filed at the desk by 9:45 a.m. on Tuesday, October 12.

ORDER FOR ADJOURNMENT

Mr. WARNER. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate turn to the remarks of the distinguished Senator from West Virginia and thereafter stand in adjournment under the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. MOYNIHAN). The Chair recognizes the distinguished Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair. I thank the distinguished Senator from Virginia, Mr. WARNER, for the great patriot, fine citizen, and extraordinary American that he is.

Mr. WARNER. Mr. President, I thank my colleague for those kind remarks. I return the same.

Mr. BYRD. I thank the Senator.

SENATOR PAT MOYNIHAN PRESIDING

Mr. BYRD. Mr. President, I call attention to something that I have not seen in the Senate, now, in over 5 years. It has been 5 years since I saw a Democrat in that chair. But who better than the distinguished senior Senator from New York, PAT MOYNIHAN, to grace that chair. This is truly a record day. We will be celebrating Columbus Day on next Tuesday, but I am ready to start now because there sits Senator MOYNIHAN—in the chair.

Let me comment just a little further on that. Imagine our good Republican friends allowing a Democrat to sit in the Presiding Officer's chair. They trust him. I think it was with great grace that JESSE HELMS, the senior Senator from North Carolina, the State in which I was born and the State whose motto is "to be rather than to seem," that he chose PAT MOYNIHAN to preside over these last few minutes.

COLUMBUS DAY 1999

Mr. BYRD. Mr. President, many Americans are preparing to enjoy a three-day weekend. Most could tell you that their holiday was to honor Christopher Columbus, and a fair number might be able to recite "in fourteen-hundred and ninety-two, Columbus sailed the ocean blue" on his way to discovering America. An even smaller number might be able to recount the ongoing controversy over just where along the continent Columbus first came to land. But few, I hazard to guess, can truly appreciate the magnitude of his great daring, though we all appreciate the bounty of his great mistake. Few may even realize that it is next Tuesday, October 12, that is the true anniversary of Christopher Columbus' discovery of the New World, some 507 years ago.

Oh, Columbus, that scion of Eratosthenes, that son of Ptolemy, that kin in spirit to Marco Polo, what fascinating history he built upon when first he set out on his great journey. Although he was surely a brave man, Columbus did not sail blindly off to the west not knowing whether he would drop off the edge, as some children's books might lead one to believe. No, Columbus had the wisdom of the ancients to guide him and the lure of another adventurer's tales to entice him. He had history, mathematics, and science as his guides and greed as his goad to whip him along his journey.

Long before Columbus' day, Eratosthenes, the ancient Greek scholar commonly called the Father of Geography, had determined with amazing accuracy the circumference of the earth. Born around 276 B.C. at a Greek colony in Cyrene, Libya, Eratosthenes was educated at the academies in Athens and was appointed to run the Great Library at Alexandria, in what is now Egypt, in 240 B.C. During his time there, he wrote a comprehensive volume about the world, called "Geography," the first known coining of that word. Eratosthenes used known distances and geometry on a grand scale to calculate the circumference of the earth to within 100 miles of its true girth at the equator, 24,901 miles. His work was still available in Columbus' time.

A later Greek geographer, Posidonius, felt that Eratosthenes' circumference was too large and recalculated the figure at 18,000 miles, some 7,000 miles too short. What is interesting about this fact is that Christopher Columbus deliberately used Posidonius's shorter figure to convince his backers that he could quickly reach Asia by sailing west from Europe. It may not have been the first time that financial backers have been duped using doctored numbers, but I am confident that it has not been the last!

So, we know that Columbus knew the earth was round—no fear of falling off the edge—and that it was between 18,000 or 25,000 miles around at its midpoint—still a very long journey in either case for ships the size that Columbus sailed on. But what led him to think sailing west from Europe to Asia was feasible? For that, Columbus would have looked to a Roman scholar, Claudius Ptolemaeus, more commonly known as Ptolemy. Like Eratosthenes before him, Ptolemy, who lived from approximately 90 to 170 A.D., worked in the Great Library at Alexandria, from 127 to 150 A.D. Perhaps inspired by Eratosthenes' work, Ptolemy also published a scholarly work called "Geography," in addition to a volume on astronomy and geometry, and a work on astrology. Ptolemy's "Geography" consisted of eight volumes, and it introduced critical elements of map-making to the world. Ptolemy advanced the efforts of mapmakers in representing the spherical world on flat paper, in what are known as map projections. He is responsible for the now universal practice of placing north at the top of the map. Ptolemy also invented latitude and longitude—that is, he created a grid system to lay over the globe in order to chart locations. His volumes charted some eight thousand places around the world he knew, revealing for future generations a geographic knowledge of the Roman empire of the second century.

Like many ancient works, Ptolemy's "Geography" was lost for over a thousand years after it was first published. But in the early fifteenth century, his work was rediscovered, translated into Latin, and published in multiple editions. It would have been readily available to Christopher Columbus, who was influenced both by Ptolemy's erroneous shorter circumference of the earth and by his depiction of the Indian Ocean as a large inland sea, bordered on the south by beguiling Terra Incognita, the unknown land. I think there can be few things more mysterious, more alluring, than an old map with large blank land masses labeled simply "terra incognita" or, on some medieval maps, by the phrase "here be dragons."

Marco Polo's fantastic tales of Cathay and the exotic spices and goods that he brought back to Italy sparked a huge appetite for such things, which only increased when the returning Crusaders opened the overland trade routes between Europe and the Orient. However, when Constantinople fell to the Turks in 1453, two years after Columbus was born, the overland spice routes between Europe and Asia were closed off. Every power in Europe was eager—eager—to reopen the very profitable trade, by land or by some unknown sea route. Seeking an eastern sea route, Bartholomeu Dias reached the Cape of Good Hope in Africa in 1488, and Vasco da Gama reached India in 1498, but the eastern voyages were long and perilous. Anyone who could find a shorter route would make a fortune for himself and his backers.

Columbus himself was born in Genoa in 1451 to Susanna Fontanarossa and Domenico Colombo, the eldest of their five children. Growing up in a major port city, Columbus would have learned a lot about the sea, in addition to hearing and reading the tales of riches beyond the horizon.

True to his adventurous inclinations, Christopher Columbus took to the sea. After an attack by the French at sea in the Strait of Gibraltar in 1476, the ship Columbus was sailing on was sunk, forcing him to swim to land. He was able to grab an oar and swim to land in Portugal. Three years later, he married into the Portuguese aristocracy when he wed Felipa Perestrelo. The marriage resulted in one son, Diego, and an entré into the financial backing of the Portuguese and Spanish nobility. In the simple history of Christopher Columbus that we may recall from elementary school, which was a long time ago for me, it was King Ferdinand and Queen Isabella of Spain who finally provided the ships, the fabled *Niña*, *Pinta*, and *Santa Maria*, in which Columbus set off on August 3, 1492, to discover the western shortcut to the fabled wealth of the Indies. At roughly 2 a.m. on October 12, 1492, after 71 grueling days at sea trusting in God, Eratosthenes, Ptolemy, and Polo, Columbus made landfall in what he believed was the Indies.

Columbus found no gold, silks, spices or valuable wood in his misnamed Indies, but he did bring tobacco back to Europe. After establishing a fort called Natividad, built of timbers from the wrecked *Santa Maria*, Columbus returned to Spain.

Columbus made three other journeys to his new-found land, which he named Hispaniola. His second voyage left Spain in September 1493 and returned to Spain in 1496 after establishing a more substantial colony. His third voyage led to his return to Spain in chains, prisoner of the colonists who rose up against his bad management. Columbus was able to clear his name and made a fourth and final voyage to the New World before he died in Spain on May 20, 1506. The great irony, however, is that Christopher Columbus believing that he had discovered some untouched part of the Indies, or distant outpost of China, not a continent previously unknown to the Europeans. He had made a mistake, but what a glorious mistake it was! For us, it was a very fortunate mistake. Christopher Columbus had discovered what for Europeans was truly Terra Incognita, a new and unknown land, a treasury of natural riches that we, as his heirs, enjoy to this day.

I am glad that we celebrate this brave man. We celebrate a man who made a great gamble, a man who set off to seek a back door to the Far East by setting his sights west and trusting in ancient scholars. We celebrate a man who appreciated the romance of a traveler's tales and who sensed the riches and wonders that await the bold. We celebrate an imperfect man, a man who failed in his goal but who achieved much nonetheless. We celebrate a man whose daring, whose courage, who sheer persistence, moved history forward.

We talk about profiles in courage. These are profiles in political courage. Here was an intrepid man who perhaps could claim the greatest—or one of the greatest—profiles ever written on the record of humankind. Imagine him out there on the deep waters. He had no wireless telegraph; he had no radio; he had no weather forecasters. All he had was the compass. There were no ships in the area to rescue him if his ship sank. There was no way to hear back from home or to speak to those back home if he became ill. There was no helicopter to take him to the nearby hospital or to a sister ship. There he was, alone on the great blue waters.

Just imagine what courage he must have had, never knowing whether he would be able to return against the winds that were blowing from the east, no refrigerator in which to keep the hard tack. His son, Ferdinand, who accompanied him on his fourth journey, I believe it was, wrote that he, Ferdinand, had seen the sailors wait until after dark before they ate the hard tack so it would not be possible to see the maggots on the hard tack. No sanitation with respect to the water and the food was cooked in an open stove with wood on the decks of the small ship.

What intrepidity. But how fortunate we are today that there was a man who was so intrepid as to face down the mutinous crew and who persisted in his faith to say an oath.

Today we look forward to that weekend and to next Tuesday, which is actually the day, 507 years later, when Columbus made the great discovery. We will celebrate the life and the accomplishments of Christopher Columbus, the first European to see the low green land on the horizon that was North America.

I would like to close with the words of Joaquin Miller:

Behind him lay the gray Azores,
Behind the gates of Hercules!
Before him not the ghost of shores,
Before him only shoreless seas.
The good mate said: "Now must we pray,
For lo! The very stars are gone.
Brave Adm'rl, speak; what shall I say?"
"Why, say: 'Sail on! sail on! and on!' "

"My men grow mutinous day by day;
My men grow ghastly wan and weak."
The stout mate thought of home; a spray
Of salt wave washed his swarthy cheek.
"What shall I say, brave Admiral, say,
If we sight naught but seas at dawn?"
"Why you shall say at break of day,
Sail on! sail on! sail on! and on!' "

They sailed and sailed, as winds might blow,
Until at last the blanched mate said:
"Why, now not even God would know
Should I and all my men fall dead.
These very winds forget their way.
For God from these dread seas is gone.
Now speak, brave Admiral; speak and say."
He said: "Sail on! sail on! and on!"

They sailed. They sailed. Then spake the mate:
"This mad sea shows his teeth tonight.
He curls his lip, he lies in wait,
With lifted teeth, as if to bite!
Brave Adm'rl, say but one good word:
What shall we do when hope is gone?"
The words leapt like a leaping sword:
"Sail on! sail on! sail on! and on!"

Then pale and worn, he kept his deck,
And peered through darkness. Ah, that night
Of all dark nights! And then a speck—

A light! a light! a light! a light!
It grew, a starlet flag unfurled.
It grew to be Time's burst of dawn.
He gained a world; he gave that world
It's grandest lesson: "On! sail on!"

The PRESIDING OFFICER. The Chair wishes to express the gratitude of the Senate to the revered senior Senator from West Virginia for his eloquent and moving address on this easily overlooked occasion.

Mr. BYRD. I thank the chair.

ADJOURNMENT UNTIL TUESDAY, OCTOBER 12, 1999

The PRESIDING OFFICER. The Senate, under the previous order, will stand adjourned until 9 a.m., Tuesday, October 12, 1999.

Thereupon, the Senate, at 6:05 p.m, adjourned until Tuesday, October 12, 1999, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 8, 1999:

DEPARTMENT OF STATE

ALAN PHILLIP LARSON, OF IOWA, TO BE UNDER SECRETARY OF STATE (ECONOMIC, BUSINESS AND AGRICULTURAL AFFAIRS), VICE STUART E. EIZENSTAT.

CAROL MOSELEY-BRAUN, OF ILLINOIS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO NEW ZEALAND.

OFFICE OF PERSONNEL MANAGEMENT

AMY L. COMSTOCK, OF MARYLAND, TO BE DIRECTOR OF THE OFFICE OF GOVERNMENT ETHICS FOR A TERM OF FIVE YEARS, VICE STEPHEN D. POTTS.

HOUSE OF REPRESENTATIVES—*Friday, October 8, 1999*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. PEASE).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 8, 1999.

I hereby appoint the Honorable EDWARD A. PEASE to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

Let us pray using the words of Psalm 92:

It is good to give thanks to the Lord,
To sing praises to Your name, O most high;
to declare Your steadfast love in the morning,
And Your faithfulness by night,
to the music of the lute and the harp,
to the melody of the lyre.
For you, O God, have made me
glad by Your work;
at the works of Your hands I sing for joy.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Guam (Mr. UNDERWOOD) come forward and lead the House in the Pledge of Allegiance.

Mr. UNDERWOOD led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

U.S. NAVY AND MSC SEND AMERICAN SHIPYARDS JOBS OVERSEAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam (Mr. UNDERWOOD) is recognized for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, for years in this Nation we have passed all kinds of laws and regulations to help protect American jobs and America's industrial base. Indeed, the U.S. military has long supported this assertion, and has been an integral part of maintaining a high level of readiness through the preservation and maintenance of a strong domestic industrial base. Along with this capacity comes the value and know-how of America's skilled work force.

In a day and age where the American skilled worker has sometimes become an endangered species, the Federal Government, in particular the Department of Defense, should try to preserve and defend these jobs. For 80 years these types of jobs were the backbone of the middle class in many communities throughout our country, including my home island of Guam.

Mr. Speaker, one would think that U.S. tax dollars would be spent here in this country to preserve this legacy. One would think that the Department of Defense would sooner spend these tax dollars here to preserve American jobs. But sadly, it seems that the U.S. military would rather spend these tax dollars in Japan or Korea or Singapore, to the loss of U.S. jobs.

Here is the outrageous truth, Mr. Speaker: The U.S. Navy and the Military Sealift Command annually send U.S. jobs overseas so they can save a few bucks. This is the truth. The MSC asks every year the Navy permission to have U.S.-flagged, U.S.-crewed, U.S.-owned and operated military ships to be repaired in foreign shipyards because it is cheaper.

We may ask ourselves, will lower costs to the Navy mean my tax dollars may go further? This is what the Navy and the MSC say. They tell me that they are cost-driven.

The fact is that foreign shipyards can always beat U.S. shipyards in terms of price for several reasons, primarily because foreign shipyards are subsidized by their central governments. Foreign shipyards do not have to pay their workers decent wages. Foreign shipyards do not have to comply with health and safe work environments.

We tried to solve this problem by an amendment that I introduced in the 104th Congress to title X which requires the Navy, including MSC, their vessels, to make sure that their ships are repaired in American shipyards. My amendment added Guam to that, because Guam is part of the United States.

But in recent years, the Navy has adopted a subterfuge in this. They have established an internal waiver policy that essentially defeats the congressional intent of title X, and the Navy has implemented a policy of not designating any home port for Military Sealift Commands, so they can undermine the intent of this law. This has resulted in the denial of Navy MSC work to Guam, Hawaiian, Alaskan, and Californian shipyards.

Mr. Speaker, this sham that the Navy and MSC purports will save money is a farce. It may save money, but at the cost of thousands of jobs. This will then increase reliance on unemployment insurance and welfare rolls, and further erode America's industrial capacity.

In summary, the Navy and MSC are doing two things. They are violating the congressional spirit and intent of the law to preserve jobs and save a few dollars. Two, they are handing U.S. shipyards jobs overseas.

I will be sending a Dear Colleague letter around to sign onto a letter to Secretary of Defense Bill Cohen to tell him that this practice is wrong, it is harmful to the national security of this Nation, and impedes readiness. I hope Members of this body will join me in this endeavor.

THE PROBLEMS WITH THE DINGELL-NORWOOD HEALTH CARE REFORM BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. NETHERCUTT) is recognized for 5 minutes.

Mr. NETHERCUTT. Mr. Speaker, yesterday the House of Representatives voted on different versions of health care reform. I believe that every one of our colleagues who spoke on this issue and voted on this issue had the best interests of patients in mind as they cast their votes.

There were two issues that were discussed this week in connection with health care reform and patient care. First, we passed legislation this week to increase the access of patients to health care insurance coverage. That was a very important effort that was

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

undertaken by the House of Representatives.

Second and most recently, yesterday we considered changes in the law to deal with the problems that patients have had with their health maintenance organizations, a problem that was illustrated time and time again by Members who stood here on the floor of the House.

For me, I believe insurers should be held accountable for their actions if they cause actions that hurt a patient or inactions that hurt a patient that is covered by a plan. I happen to support the coalition substitute amendment introduced by the gentleman from Florida (Mr. GOSS) and the gentleman from California (Mr. THOMAS), the gentleman from Oklahoma (Mr. COBURN) and the gentleman from Arizona (Mr. SHADEGG), among others.

This legislation provided the protection I felt patients needed, and encourages care rather than lawsuits. It contained an internal and external appeals process that requires a faster response than required by the bill which ultimately passed the House yesterday afternoon, as sponsored by the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Michigan (Mr. DINGELL).

The coalition bill, the bill that I supported, requires expedited appeals to be resolved in 48 hours, as opposed to the 72 hours that are set forth in the Norwood bill. I want my colleagues and others, Mr. Speaker, to understand that there were many similarities in the Norwood bill and the coalition bill, which I will call it.

Both guarantee patients the right to choose a doctor outside their network. Both guarantee women direct access to obstetrical-gynecological care. Both guarantee access to specialists. Both guarantee children direct access to pediatric care. Both guarantee coverage for emergency medical services without prior authorization, which is an important issue. Both guarantee coverage of a terminated provider for patients undergoing a course of treatment. Both prohibit so-called gag clauses. Both forbid insurers from offering providers incentives for denying coverage. Both provided a grievance process for beneficiaries to file complaints.

Both allow patients to appeal denial of benefits, but the coalition bill actually requires a faster response than mandated by the Norwood bill, the difference between the 48-hour expedited appeals process and the 72-hour process in the Norwood bill.

Both allow patients to sue their health maintenance organizations if they are hurt by them. The coalition bill allows patients to sue their HMOs in Federal court once they have exhausted the internal and external appeals process. The Norwood bill allows patients to bring lawsuits in State courts, which have 50 different States with 50 different sets of rules. To me, that was a cumbersome process, and very difficult for employers to try to deal in 50 different States with 50 different laws relative to liability.

The Norwood bill puts employers at risk for lawsuits. I know there was a great deal of debate on that issue, and interpretation of language and counter-interpretation of language. But the facts are that the Norwood bill puts employers at risk for lawsuits, greater risk, without having a more extensive, exhaustive process before we ever get to a lawsuit.

Employers offer health insurance benefits voluntarily. I fear that if the stability of their business is at risk due to a threat of a lawsuit, under the measure that was passed yesterday, employers would just say, no, we are not going to offer health insurance any longer.

Washington State, my State, is currently facing a crisis in its individual insurance market. Excessive regulations have driven insurers out of our State. Those who have remained are no longer taking new enrollees. That is a problem for people in my State who seek insurance coverage. Individuals can no longer buy insurance in most of our State, even if they have the money.

So excessive regulation, frivolous lawsuits, and risk to employers created by the Norwood bill will create the same problem in the group insurance market across the country. I think that would be an unintended consequence of our debate that occurred here yesterday and earlier this week.

The last thing we need, Mr. Speaker, is a government-run, massively complicated health care program. I fear we are heading toward that if the Norwood bill becomes law.

So my hope would be that those who are conferees on this issue and others who have an interest in this debate would work hard to get the facts out about the potential consequences or unintended consequences of an extensive, mandated legislation for health care that will drive people off the insurance rolls and then lead to, ultimately, the unintended consequence of a massive health care plan run by the Federal Government that was rejected so forcefully in 1993 and 1994.

□ 1015

NORTH CAROLINA IN AFTERMATH OF HURRICANE FLOYD

The SPEAKER pro tempore (Mr. PEASE). Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, the sunshine is shining in eastern North Carolina, the rivers have crested, and the water has receded. People are beginning to have a sense of hope. But at the same time, there is great devastation as a result of the floods of the century having occurred in eastern North Carolina.

More than 32 counties were affected by Hurricane Floyd. Out of the 32 counties, there was severe flooding in at least 20 or more of those counties. Fourteen of those counties happen to be in my district. At the last count, more than 54,000 persons had called FEMA's telephone on-line intake service indicating they needed service. At the peak of this hurricane, there were more than 46,000 individuals huddled in various makeshift shelters throughout the district. People were sleeping in cars, neighbors took other people in, and roads were in great devastation. The lives that were lost, the last count as of last Friday, there were 48 persons who were dead in North Carolina as a result of Hurricane Floyd. In fact, some 66 from the East Coast, including persons who died in Pennsylvania and New York as well as in Virginia.

This hurricane has brought great devastation and has taken the lives of a lot of people. Teshika Vines I have here is one of those casualties, but her story is the story of a neighbor helping neighbors. The story is that her grandfather had taken she and three other members of the family out on a boat to safety, saw their neighbors and took onto their boat four other persons. When the boat landed on the shore, it was missing six persons. The grandfather and Teshika, one person from the other family, and only one person from Teshika's family still lives. Actually towns became rivers. We have the scene of Tarboro here. East Tarboro was completely flooded. That was the area that the President visited, in that area. The waters have now receded, yet those businesses cannot function because they stayed underwater so long. Right next to East Tarboro is a town called Princeville. Princeville is a town that was founded by newly freed slaves in 1884, became incorporated in 1885, in fact was the first town of American free slaves to be incorporated. That whole town was flooded and stayed underwater at least 10 days. That whole town is lost. Forty percent of Edgecombe County was lost. Princeville is not the only community. There was Kinston. Much of that town was lost. It is a town of 35,000 people. Downtown, they had six hotels. Only two were not flooded. Many of the shopping centers in Rocky Mount were flooded. Water systems were closed down. Wastewater systems became nonfunctional and may not function for many years to come unless they are really improved.

Our infrastructure also was greatly damaged. This one is the road of 301 which was the main highway going north and south before we had Interstate 95. I–95 was flooded. I–95 is where people go as they go to Disney World. You can imagine, they did not build I-95 inadequately. But I-95 was flooded from Emporia to Benson. This is 301, the road that used to be the main north and south thoroughfare. This big gaping hole also undergirded the Amtrak trains, the water system. We have a tremendous amount of devastation that happened to our roads, to our water system, our wastewater system, to the houses. It is reported more than 35,000 houses had some impact from actually the storm. Some 10,000 houses are reported to be uninhabitable, that they will be destroyed. They are nonfunctional to the extent they need to be destroyed. There was great, great devastation and a need for rebuilding and reconstruction.

This week, this floor, and I want to express appreciation to my colleagues, unanimously supported a resolution that said they empathized, sympathized with the people affected by Hurricane Floyd and they went on record as saying, further than just sympathy, they wanted to provide support. They will have that opportunity very, very soon. Hopefully there will be an emergency spending bill that will be adequate not only to respond to North Carolina's needs but the East Coast, from New York, Pennsylvania, New Jersey, Virginia, Florida, as well as North Carolina.

North Carolina alone has a need for $2.5 billion just for emergency. The agricultural needs in North Carolina are said to be $1.3 billion. We have erosion of land. We have lost more than 2.3 million chickens. More than 120,000 pigs were destroyed. Wildlife was destroyed. Horses were destroyed. There was a tremendous loss in terms of forestry, an untold amount of loss in terms of fisheries. As if that were not enough, the impact that was made on the environment and the water system, the fertilizers, the poisons, the pollutants that are in the water. So in addition to having structural loss and having loss of human life, we also have the potential of environmental loss that would be there for years to come. It is yet not known how much there would be.

I want to keep before my colleagues this urgent need of the citizens in eastern North Carolina for emergency relief certainly, and hopefully we will do the right thing for them. But beyond the emergency relief, there needs to be a commitment on the part of this Congress that we will rebuild and restore, we will put the kind of resources, bring some sort of normalcy and a sense of community as we do with our foreign investment, that here is an opportunity to respond to American people as we do, appropriately I think, in foreign countries. We need a plan that says not only do we sympathize and empathize, but we recognize that we have a commitment to restore their lives and their communities.

ON TRUCK SAFETY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Virginia (Mr. WOLF) is recognized for 60 minutes as the designee of the majority leader.

Mr. WOLF. Mr. Speaker, today I stand up for the 5,374 families who lost loved ones in truck accidents last year and to note that the Congress could be about ready to walk away from them.

Last week, Mr. Speaker, this House voted overwhelmingly for the transportation appropriations conference report which included a provision requiring a change in the way the Federal Government conducts oversight of the trucking industry. For the record, the vast majority of truck drivers and trucking companies do their level best to operate safely and efficiently and they are an important part of our commerce. But it is those few on the margins, Mr. Speaker, who last year took the lives of 5,374 people and 5,398 the year before that, a decade high. That is like a major airplane crash taking place every 2 weeks with regard to the deaths in the trucking industry.

Section 338 of the bill, which the President is expected to sign soon, prohibits the Department of Transportation from funding the Office of Motor Carrier and Highway Safety, the OMC, within the Federal Highway Administration. The Federal Highway Administration does a good job at maintaining and building our Nation's infrastructure but they have fallen woefully behind in the area of truck safety. This means that Congress can pass legislation directing the DOT to move the Office of Motor Carrier and Highway Safety to a better place, or the administration can do it by executive order. Either way, Mr. Speaker, someone has got to do something and the language in the appropriations conference report requires action, action that has been lacking since myself and others have brought this issue to the attention of the Congress over the past year. The status quo where people are dying daily because of truck accidents is unacceptable.

Everyone in this Chamber and those who are watching on television, those who will later read the CONGRESSIONAL RECORD, have experienced the anxiety associated with being around large trucks on our Nation's highways. They are big, they are fast, they are heavy and they are dangerous. And when a truck is involved in an accident, regardless of who is at fault, it is likely someone is going to die or be seriously injured. Plain and simple, I think it is incumbent, therefore, to ensure that trucks are as safe as they can be. Under the current system, I do not think the Federal Government is doing a good enough job to make sure that is the case.

As I mentioned, last year 5,374 people died in truck-related accidents. The year before that, 5,398 people died, a decade high. Just think about those figures and let them sink in for a moment. The number of deaths associated with truck accidents is equal to a jetliner loaded with passengers crashing every other week. With an airplane crashing every other week, the Congress would be outraged. People would be calling their Congressmen on the telephones and the Congress would say, "We're committed to do something about it." The Nation would be up in arms. Hearings would be held, accident investigations would be taking place, and grieving families would be on television to illustrate the sorrow of losing a loved one.

Why, then, does the issue of truck safety, where over 5,000 people a year have died, not command the same attention? Why is the Federal office responsible for the regulation of the trucking industry, which some say is larger than the aviation industry, buried in the Federal Highway Administration with only .06 of the budget? Could it be because of the lobbyists and others who have been hired by the trucking companies?

Last year, Mr. Speaker, the Department of Transportation appropriations conference report included a similar provision. But in the dead of the night and in the waning hours of the Congress, the trucking lobbyists prevailed. As a result of that, since that time in the middle of the night when this provision was taken out, thousands have died on the road.

The Department of Transportation Inspector General looked at this issue and found that not only were lobbyists hired working against this proposal, which would force greater scrutiny on truck safety, but several of the employees of the Office of Motor Carriers, which is responsible for regulating the trucking industry, were afraid of this provision and what would be found when we looked at truck oversight, and they, the employees of the Department of Transportation, conspired to defeat this measure. The Inspector General noted that employees of the Office of Motor Carriers who regulate the trucking industry had contacted those that they regulated soliciting their help in staving off additional scrutiny. A few employees, these are government employees, paid by the families of the people that have died, then drafted letters for the trucking industry to send to Members of Congress to defeat this proposal.

□ 1030

That is right, the regulators at the Office of Motor Carriers, these employees, paid for by the taxpayer, were meeting with the lobbyists for the trucking industry, drafting letters for them to send to Members of Congress to keep this provision from taking place, whereby thousands would continue to die.

As a result of these unfortunate circumstances, the Department of Transportation disciplined four people. They were disciplined. One left. A couple are still there, but they were disciplined.

Why did top employees of the Office of Motor Carriers, which regulates the industry, work to stymie the move? Because they knew that the state of the trucking industry was in such poor condition that it was they who would be called to account. How do we explain that deaths were up, inspections were down? At the same time that deaths were rising, the number of inspections was decreasing.

Three years ago, each safety inspector at the Office of Motor Carriers conducted five reviews per month of the companies. Two years ago each inspector did an average of 2.5 reviews per month. Last year, each inspector did only one per month. When inspections over the course of 2 years dropped from 5 inspections to one inspection per month, something must be wrong and sorely needs to be changed.

In fact, the Inspector General found one truck that left California going to Virginia, the State that I live in, made the trip in 48 hours, and when the guy pulled in, the driver, had several bottles of urine in the cab. He had not even stopped to go to the bathroom.

Mr. Speaker, I hope that the trucking lobbyists, every time they see an accident where someone dies, think in terms of how they made this happen, and those employees know because of this lack of inspections, that more people are dying.

The Office of Motor Carriers knows it. The IG conducted a survey of the Office of Motor Carriers employees asking them if they thought the Office of Motor Carriers should move, and where. Mr. Speaker, less than 20 percent of those employees surveyed were opposed to moving, only 20 percent. Of those people responsible for trucking oversight, only 20 percent wanted the status quo.

The employees of OMC deserve credit for the work they do. Most work very hard, and they are very dedicated. Unfortunately, there are some in the management who have not caught the vision. If the employees of the Office of Motor Carriers do not favor the status quo, why should the Congress?

In 3 short months, trucks from Mexico may be able to cross the border to the U.S. under NAFTA. The IG recently found that Mexico has no hours of service requirements, no log books requirements for truckers, no vehicle maintenance standards, no roadside inspections, and no safety rating systems. Can we be sure these trucks will not present a safety problem on our highways come January? All of these trucks will cross the border and be able to go throughout the entire United States.

Mr. Speaker, we cannot stop the drugs coming across the border on the trucks, and I will tell the Members, those trucks will be unsafe and many, many more people could die.

When the IG conducted a survey of the effects of NAFTA, he found today 3.5 million trucks are crossing the border from Mexico, only to designated commercial zones in the U.S. Of those 3.5 million trucks crossing the border, the Office of Motor Carriers only inspected 17,332. Of those inspected, 44 percent were in such poor condition that they were taken off the road immediately.

Some of these trucks are intended only to serve border traffic, but many others may be driving on all the highways in America, come January. If the Congress and others feel comfortable about this, allowing this situation to persist, so be it. But I in good conscience cannot. We can no longer sit idly by while thousands of Americans are dying every year on our roads and do nothing about it.

If others claim to be concerned about the provision contained in the Department of transportation appropriations conference report, I welcome the company. But do something about it. To this date, more than a year after this terrible problem was brought to America's attention, not one bill bringing relief to this situation has been brought before this House, let alone been signed into law, not one.

If Members do not like the provision contained in this year's Department of Transportation appropriations conference report, do something about it, but the status quo is unacceptable.

Let me just address for a minute some of the allegations regarding section 338 of the conference report. Some have suggested that this provision harms safety. It is nonsense and they know it. I have been urging improvements to truck safety for over a year now, and I have been out on several truck inspections where, when we go out, we see lug nuts sheared off, bald tires, brakes that are not working.

To really let the American people understand this, one out of every five trucks that we see on the highway today is so unsafe that if it would be inspected, it would be taken off the road.

The last truck inspection we went out to, we found bald tires. We found air brake systems rotted out and rusted out. There were so many violations, and they then go on and are involved in accidents that kill people.

Yesterday the Department of Transportation's general counsel testified that section 338 would prevent the DOT from conducting only two functions in truck safety, the assessment of civil penalties, and protection of migrant worker transportation, which the States have taken the lead on, anyhow. So that leaves DOT with one real shortcoming, which could have been very easily fixed in a minor technical correction bill, the ability to levy civil penalties.

DOT can still conduct border inspections, they can still place unsafe vehicles out of service, and they can still conduct an effective oversight program. To suggest otherwise is nothing more than an effort to scare this body in returning to the status quo.

Others have said, let us give the OMC time. They will make the necessary changes on their own. This Congress has given them time. If Members think times have changed, every Member should know that they are wrong. Earlier this week, the Office of Motor Carrier Management sent out an e-mail memo to all its employees suggesting that section 338 would prevent the organization from conducting further oversights.

Without judging whether the memo was intentionally false or not, it is clear the OMC still does not get it. The memo was 180 degrees inaccurate. Indeed, the Secretary had to order that a correcting memo be distributed.

When my staff called the Office of Motor Carriers to clarify the memo's inaccuracies, they were told that the Office of Motor Carrier staff would not take the call. When they asked to speak with the head of the office, which is standard procedure, they were informed that she was out of town. When they asked for who, therefore, was in charge, they were told it was one of those punished for their improper efforts last year. The person that was running the Office of Motor Carriers responsible for the memo to go out was one of the people cited by the Inspector General who was disciplined by the Department of Transportation.

When we drive on the highways today, on the Beltway, when we drive on I–81 in the Shenandoah Valley, when we drive on I–95, whether north and south of Washington, think of all those trucks, and think about how some employees who are now running the office which inspects these trucks have been so close to the trucking industry that it has been basically an incestuous relationship, and therefore, they are trying to undermine a provision which will bring about truck safety.

In closing, Mr. Speaker, next week the Congress may consider on the suspension calendar a bill to overturn section 338 of the conference report. I urge Members to vote against the bill. If the reorganization of the motor carrier office does not take place, more people will die. We will get into next year, and next year is an election year. The contributions will begin flowing from the trucking industry to the Congress, and they will make up reasons why we do not have time to deal with truck safety.

We will also be faced with the trucks from Mexico coming across the border. Some 80 thousand more trucks could enter the market next year than this year. Many families will experience the pain and agony of getting that telephone call to say that a loved one has been involved in an accident with regard to trucks.

Mr. Speaker, the bottom line to this entire issue is safety.

So if a bill comes up, I urge Members to vote no.

CONFERENCE REPORT ON H.R. 2561

Mr. LEWIS of California submitted the following conference report and statement on the bill (H.R. 2561) making appropriations for the Department of Defense for the fiscal year ending September 30, 2000, and for other purposes.

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2561) "making appropriations for the Department of Defense for the fiscal year ending September 30, 2000, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2000, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

Military Personnel, Army

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $22,006,361,000.

Military Personnel, Navy

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $17,258,823,000.

Military Personnel, Marine Corps

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $6,555,403,000.

Military Personnel, Air Force

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $17,861,803,000.

Reserve Personnel, Army

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,289,996,000.

Reserve Personnel, Navy

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,473,388,000.

Reserve Personnel, Marine Corps

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $412,650,000.

Reserve Personnel, Air Force

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $892,594,000.

National Guard Personnel, Army

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $3,610,479,000.

National Guard Personnel, Air Force

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,533,196,000.

TITLE II

OPERATION AND MAINTENANCE

Operation and Maintenance, Army

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $10,624,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, $19,256,152,000 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund: Provided, That of the funds made available under this heading, $5,000,000, to remain available until expended, shall be transferred to "National Park Service—Construction" within 30 days of enactment of this Act, only for necessary infrastructure repair improvements at Fort Baker, under the management of the Golden Gate Recreation Area: Provided further, That of the funds appropriated in this paragraph, not less than $355,000,000 shall be made available only for conventional ammunition care and maintenance: Provided further, That of the funds appropriated under this heading, $4,000,000 shall not be available until thirty days after the Secretary of the Army provides to the congressional defense committees the results of an assessment, solicited by means of a competitive bid, on the prospects of recovering costs associated with the environmental restoration of the Department of the Army's government-owned, contractor-operated facilities: Provided further, That of the funds made available under this heading, $7,000,000 shall only be available to the Secretary of the Army, acting through the Chief of Engineers, only for demolition and removal of facilities, buildings, and structures used at MOTBY (a Military Traffic Management Command facility): Provided further, That *notwithstanding section 2215 of title 10, United States Code, of the funds appropriated in this paragraph, $975,666 is authorized to be transferred to the Presidential Advisory Commission on Holocaust Assets in the United States, to remain available until March 31, 2001.*

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $5,155,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, $22,958,784,000 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, $2,808,354,000.

OPERATION AND MAINTENANCE, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,882,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, $20,896,959,000 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund: Provided, That notwithstanding any other provision of law, of the funds available under this heading, $950,000 shall only be available to the Secretary of the Air Force for a grant to Florida Memorial College for the purpose of funding minority aviation training.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, $11,489,483,000, of which not to exceed $25,000,000 may be available for the CINC initiative fund account; and of which not to exceed $32,300,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: Provided, That of the amount appropriated under the heading "Operation and Maintenance, Defense-Wide" in division B, title I, of Public Law 105–277, the amount of $202,000,000 not covered as of July 12, 1999, by an official budget request under the fifth proviso of that section is available, subject to such an official budget request for that entire amount, only for the following accounts in the specified amounts:

"Other Procurement, Air Force", $102,000,000; and

"Procurement, Defense-Wide", $100,000,000: Provided further, That none of the amount of $202,000,000 described in the preceding proviso may be made available for obligation unless the entire amount is released to the Department of Defense and made available for obligation for the accounts, and in the amounts, specified in the preceding proviso: Provided further, That of the amounts provided under this heading, $20,000,000 to remain available until expended, is available only for expenses relating to certain classified activities, and may be transferred as necessary by the Secretary of Defense to operation and maintenance, procurement, and research, development, test and evaluation appropriations accounts, to be merged with and to be available for the same time period as the appropriations to which transferred: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority provided in this Act: Provided further, That of the funds made available under this heading, $10,000,000 shall be available only for retrofitting security containers that are under the control of, or that are accessible by, defense contractors.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,469,176,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $958,978,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $138,911,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,782,591,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), $3,161,378,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things, hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, $3,241,138,000.

OVERSEAS CONTINGENCY OPERATIONS TRANSFER FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses directly relating to Overseas Contingency Operations by United States military forces, $1,722,600,000, to remain available until expended: Provided, That the Secretary of Defense may transfer these funds only to operation and maintenance accounts within this title, the Defense Health Program appropriation, and to working capital funds: Provided further, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this Act.

UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, $7,621,000, of which not to exceed $2,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, ARMY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $378,170,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, $284,000,000, to remain available until transferred: Provided, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that *all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.*

Environmental Restoration, Air Force

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, $376,800,000, to remain available until transferred: Provided, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Environmental Restoration, Defense-Wide

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, $25,370,000, to remain available until transferred: Provided, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Environmental Restoration, Formerly Used Defense Sites

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $239,214,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Overseas Humanitarian, Disaster, and Civic Aid

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2547, and 2551 of title 10, United States Code), $55,800,000, to remain available until September 30, 2001.

Former Soviet Union Threat Reduction

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, $460,500,000, to remain available until September 30, 2002: Provided, That of the amounts provided under this heading, $25,000,000 shall be available only to support the dismantling and disposal of nuclear submarines and submarine reactor components in the Russian Far East.

Quality of Life Enhancements, Defense

For expenses, not otherwise provided for, resulting from unfunded shortfalls in the repair and maintenance of real property of the Department of Defense (including military housing and barracks), $300,000,000, for the maintenance of real property of the Department of Defense (including minor construction and major maintenance and repair), which shall remain available for obligation until September 30, 2001, as follows:

Army, $77,000,000;
Navy, $77,000,000;
Marine Corps, $58,500,000;
Air Force, $77,000,000; and
Defense-Wide, $10,500,000:

Provided, That notwithstanding any other provision of law, of the funds appropriated under this heading for Defense-Wide activities, the entire amount shall only be available for grants by the Secretary of Defense to local educational authorities which maintain primary and secondary educational facilities located within Department of Defense installations, and which are used primarily by Department of Defense military and civilian dependents, for facility repairs and improvements to such educational facilities: Provided further, That such grants to local educational authorities may be made for repairs and improvements to such educational facilities as required to meet classroom size requirements: Provided further, That the cumulative amount of any grant or grants to any single local educational authority provided pursuant to the provisions under this heading shall not exceed $1,500,000.

Pentagon Renovation Transfer Fund

For expenses, not otherwise provided for, resulting from the Department of Defense renovation of the Pentagon Reservation, $222,800,000, for the renovation of the Pentagon Reservation, which shall remain available for obligation until September 30, 2001.

TITLE III

PROCUREMENT

Aircraft Procurement, Army

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,451,688,000, to remain available for obligation until September 30, 2002.

Missile Procurement, Army

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,322,305,000, to remain available for obligation until September 30, 2002.

Procurement of Weapons and Tracked Combat Vehicles, Army

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,586,490,000, to remain available for obligation until September 30, 2002.

Procurement of Ammunition, Army

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,204,120,000, to remain available for obligation until September 30, 2002.

Other Procurement, Army

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of not to exceed 36 passenger motor vehicles for replacement only; and the purchase of 3 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $3,738,934,000, to remain available for obligation until September 30, 2002.

Aircraft Procurement, Navy

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval *of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $8,662,655,000, to remain available for obligation until September 30, 2002.*

Weapons Procurement, Navy

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $1,383,413,000, to remain available for obligation until September 30, 2002.

Procurement of Ammunition, Navy and Marine Corps

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $525,200,000, to remain available for obligation until September 30, 2002.

Shipbuilding and Conversion, Navy

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

NSSN (AP), $748,497,000;

CVN–77 (AP), $751,540,000;

CVN Refuelings (AP), $345,565,000;

DDG–51 destroyer program, $2,681,653,000;

LPD–17 amphibious transport dock ship, $1,508,338,000;

LHD–8 (AP), $375,000,000;

ADC(X), $439,966,000;

LCAC landing craft air cushion program, $31,776,000; and

For craft, outfitting, post delivery, conversions, and first destination transportation, $171,119,000;

In all: $7,053,454,000, to remain available for obligation until September 30, 2004: Provided, That additional obligations may be incurred after September 30, 2004, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: Provided further, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: Provided further, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards: Provided further, That the Secretary of the Navy is hereby granted the authority to enter into a contract for an LHD–1 Amphibious Assault Ship which shall be funded on an incremental basis.

Other Procurement, Navy

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 50 passenger motor vehicles for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $4,320,238,000, to remain available for obligation until September 30, 2002.

Procurement, Marine Corps

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 43 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, $1,300,920,000, to remain available for obligation until September 30, 2002.

Aircraft Procurement, Air Force

For construction, procurement, lease, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $8,228,630,000, to remain available for obligation until September 30, 2002.

Missile Procurement, Air Force

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $2,211,407,000, to remain available for obligation until September 30, 2002.

Procurement of Ammunition, Air Force

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $442,537,000, to remain available for obligation until September 30, 2002.

Other Procurement, Air Force

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 53 passenger motor vehicles for replacement only; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $7,146,157,000, to remain available for obligation until September 30, 2002.

Procurement, Defense-Wide

(INCLUDING TRANSFER OF FUNDS)

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 103 passenger motor vehicles for replacement only; the purchase of 7 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $250,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $2,249,566,000, to remain available for obligation until September 30, 2002: Provided, That of the funds available under this heading, not less than $39,491,000, including $6,000,000 derived by transfer from "Research, Development, Test and Evaluation, Defense-Wide", shall be available only to support Electronic Commerce Resource Centers.

National Guard and Reserve Equipment

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, $150,000,000, to remain available for obligation until September 30, 2002: Provided, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

Defense Production Act Purchases

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), $3,000,000 only for microwave power tubes and to remain available until expended.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $5,266,601,000, to remain available for obligation until September 30, 2001.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $9,110,326,000, to remain available for obligation until September 30, 2001: Provided, That funds appropriated in this paragraph which are available for the V–22 may be used to meet unique requirements of the Special Operation Forces: Provided further, That of the funds available under this heading, no more than $7,000,000 shall be available only to initiate a cost improvement program for the Intercooled Recuperated Gas Turbine Engine program: Provided further, That the funds identified in the immediately preceding proviso shall be made available only if the Secretary of the Navy certifies to the congressional defense committees that binding commitments to finance the remaining cost of the ICR cost improvement program have been secured from non-federal sources: Provided further, That should the Secretary of the Navy fail to make the certification required in the immediately preceding proviso by July 31, 2000, the Secretary shall make the funds subject to such certification available for DD–21 ship propulsion risk reduction: Provided further, That the Department of Defense shall not pay more than one-third of the cost of the Intercooled Recuperated Gas Turbine Engine cost improvement program.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $13,674,537,000, to remain available for obligation until September 30, 2001.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, $9,256,705,000, to remain available for obligation until September 30, 2001: Provided, That of the amount appropriated in section 102 of division B, title I, of Public Law 105–277 (112 Stat. 2681–558), the amount of $230,000,000 not covered as of July 12, 1999, by an official budget request under the third proviso of that section is available, subject to such an official budget request for that entire amount, only for the following programs in the specified amounts:

"Theater High-Altitude Area Defense System—TMD-EMD", $38,000,000;

"PATRIOT PAC–3 Theater Missile Defense Acquisition—EMD", $75,000,000; and

"National Missile Defense Dem/Val", $117,000,000:

Provided further, That none of the amount of $230,000,000 described in the preceding proviso may be made available for obligation unless the entire amount is released to the Department of Defense and made available for obligation for the programs, and in the amounts, specified in the preceding proviso.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Director, Test and Evaluation in the direction and supervision of developmental test and evaluation, including performance and joint developmental testing and evaluation; and administrative expenses in connection therewith, $265,957,000, to remain available for obligation until September 30, 2001.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, $31,434,000, to remain available for obligation until September 30, 2001.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds, $90,344,000: Provided, That during fiscal year 2000, funds in the Defense Working Capital Funds may be used for the purchase of not to exceed 295 passenger motor vehicles for replacement only for the Defense Security Service.

NATIONAL DEFENSE SEALIFT FUND

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), $717,200,000, to remain available until expended: Provided, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: Provided further, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: Provided further, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, $11,154,617,000, of which $10,522,647,000 shall be for Operation and maintenance, of which not to exceed 2 per centum shall remain available until September 30, 2001; of which $356,970,000, to remain available for obligation until September 30, 2002, shall be for Procurement; and of which $275,000,000, to remain available for obligation until September 30, 2001, shall be for Research, development, test and evaluation.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $1,029,000,000, of which $543,500,000 shall be for Operation and maintenance to remain available until September 30, 2001, $191,500,000 shall be for Procurement to remain available until September 30, 2002, and $294,000,000 shall be for Research, development, test and evaluation to remain available until September 30, 2001: Provided, That of the funds available under this heading, $1,000,000 shall be available until expended each year only for a Johnston Atoll off-island leave program: Provided further, That the Secretaries concerned shall, pursuant to uniform regulations, prescribe travel and transportation allowances for travel by participants in the off-island leave program.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, $847,800,000: Provided, That of the funds appropriated under this heading, $10,800,000 is hereby transferred to appropriations available for "Military Construction, Air Force" for fiscal year 2000, and the transferred funds shall be available for study, planning, design, architect and engineer services at forward operating locations in the area of responsibility of the United States Southern Command: Provided further, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: Provided further, That the transfer authority provided under this heading is in addition to any transfer authority contained elsewhere in this Act.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $137,544,000, of which $136,244,000 shall be for Operation and maintenance, of which not to exceed $700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which $1,300,000 to remain available until September 30, 2002, shall be for Procurement.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $209,100,000.

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, $158,015,000, of which $34,923,000 for the Advanced Research *and Development Committee shall remain available until September 30, 2001: Provided, That of the funds appropriated under this heading, $27,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, $1,500,000 for Procurement shall remain available until September 30, 2002, and $1,000,000 for Research, development, test and evaluation shall remain available until September 30, 2001.*

PAYMENT TO KAHO'OLAWE ISLAND CONVEYANCE, REMEDIATION, AND ENVIRONMENTAL RESTORATION FUND

For payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund, as authorized by law, $35,000,000, to remain available until expended.

NATIONAL SECURITY EDUCATION TRUST FUND

For the purposes of title VIII of Public Law 102–183, $8,000,000, to be derived from the National Security Education Trust Fund, to remain available until expended.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: Provided, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: Provided further, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: Provided further, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: Provided, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $1,600,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: Provided further, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That transfers may be made between such funds: Provided further, That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: Provided, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: Provided further, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: Provided further, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: Provided further, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

Longbow Apache Helicopter; Javelin missile; Abrams M1A2 Upgrade; F/A–18E/F aircraft; C–17 aircraft; and F–16 aircraft.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: Provided, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: Provided further, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 2000, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2001 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2001 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2001.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the 50 United States, its territories, and the District of Columbia, 125,000 civilian workyears: Provided, That workyears shall be applied as defined in the Federal Personnel Manual: Provided further, That workyears expended in dependent student hiring programs for disadvantaged youths shall not be included in this workyear limitation.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8013. (a) None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 3015(d) of title 38, United States Code, for any member of the armed services who, on or after the date of the enactment of this Act, enlists in the armed services for a period of active duty of less than three years, nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Secretary of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Secretary of Veterans Affairs pay such benefits to any such member: Provided, That these limitations shall not apply to members in combat arms skills or to members who enlist in the armed services on or after July

1, 1989, under a program continued or established by the Secretary of Defense in fiscal year 1991 to test the cost-effective use of special recruiting incentives involving not more than nineteen noncombat arms skills approved in advance by the Secretary of Defense: Provided further, That this subsection applies only to active components of the Army.

(b) None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: Provided, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: Provided further, That this subsection applies only to active components of the Army.

SEC. 8014. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: Provided, That this section and subsections (a), (b), and (c) of 10 U.S.C. 2461 shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is planned to be converted to performance by a qualified firm under 51 per centum Native American ownership.

(TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2301 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: Provided, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): Provided further, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: Provided further, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: Provided, That this limitation does not apply in the case of inpatient mental health services provided under the program for the handicapped under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8018. Funds available in this Act may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

SEC. 8019. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by executive agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: Provided, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: Provided further, That the Department of Defense's budget submission for fiscal year 2001 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: Provided further, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: Provided further, That each such executive agreement with a NATO member host nation shall be reported to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate 30 days prior to the conclusion and endorsement of any such agreement established under this provision.

SEC. 8020. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M–14 rifles, .22 caliber rifles, .30 caliber rifles, or M–1911 pistols.

SEC. 8021. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 per centum of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 8022. No more than $500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8023. A member of a reserve component whose unit or whose residence is located in a State which is not contiguous with another State is authorized to travel in a space required status on aircraft of the Armed Forces between home and place of inactive duty training, or place of duty in lieu of unit training assembly, when there is no road or railroad transportation (or combination of road and railroad transportation between those locations): Provided, That a member traveling in that status on a military aircraft pursuant to the authority provided in this section is not authorized to receive travel, transportation, or per diem allowances in connection with that travel.

SEC. 8024. In addition to the funds provided elsewhere in this Act, $8,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): Provided, That contractors participating in the test program established by section 854 of Public Law 101–189 (15 U.S.C. 637 note) shall be eligible for the program established by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544).

SEC. 8025. During the current fiscal year, funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5, United States Code, or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the Armed Forces, as described in section 10101 of title 10, United States Code, or the National Guard, as described in section 101 of title 32, United States Code;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under sections 331, 332, 333, or 12406 of title 10, or other provision of law, as applicable; or

(B) full-time military service for his or her State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, if such employee is otherwise entitled to such annual leave:

Provided, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, and such leave shall be considered leave under section 6323(b) of title 5, United States Code.

SEC. 8026. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 48 months after initiation of such study for a multi-function activity.

SEC. 8027. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8028. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

Sec. 8029. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC–130 Weather Reconnaissance mission below the levels funded in this Act.

SEC. 8030. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase "qualified nonprofit agency for the blind or other severely handicapped" means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46–48).

SEC. 8031. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

SEC. 8032. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: Provided, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

SEC. 8033. Of the funds made available in this Act, not less than $26,588,000 shall be available for the Civil Air Patrol Corporation, of which $22,888,000 shall be available for Civil Air Patrol Corporation operation and maintenance to support readiness activities which includes $1,418,000 for the Civil Air Patrol counterdrug program: Provided, That funds identified for "Civil Air Patrol" under this section are intended for and shall be for the exclusive use of the Civil Air Patrol Corporation and not for the Air Force or any unit thereof.

SEC. 8034. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: Provided, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2000 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2000, not more than 6,206 staff years of technical effort (staff years) may be funded for defense FFRDCs: Provided, That of the specific amount referred to previously in this subsection, not more than 1,105 staff years may be funded for the defense studies and analysis FFRDCs.

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2001 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

SEC. 8035. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: Provided, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: Provided further, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

SEC. 8036. For the purposes of this Act, the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8037. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: Provided, That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: Provided further, That Office of Management and Budget Circular A–76 shall not apply to competitions conducted under this section.

SEC. 8038. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2000. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8039. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8040. Amounts deposited during the current fiscal year to the special account established under 40 U.S.C. 485(h)(2) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 485(h)(2)(A) and (B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

SEC. 8041. During the current fiscal year, appropriations available to the Department of Defense may be used to reimburse a member of a reserve component of the Armed Forces who is not otherwise entitled to travel and transportation allowances and who occupies transient government housing while performing active duty for training or inactive duty training: Provided, That such members may be provided lodging in kind if transient government quarters are unavailable as if the member was entitled to such allowances under subsection (a) of section 404 of title 37, United States Code: Provided further, That if lodging in kind is provided, any authorized service charge or cost of such lodging may be paid directly from funds appropriated for operation and maintenance of the reserve component of the member concerned.

SEC. 8042. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for *salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the Defense agencies.*

SEC. 8043. Notwithstanding any other provision of law, funds available for "Drug Interdiction and Counter-Drug Activities, Defense" may be obligated for the Young Marines program.

SEC. 8044. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act: Provided, That none of the funds made available for expenditure under this section may be transferred or obligated until thirty days after the Secretary of Defense submits a report which details the balance available in the Overseas Military Facility Investment Recovery Account, all projected income into the account during fiscal years 2000 and 2001, and the specific expenditures to be made using funds transferred from this account during fiscal year 2000.

SEC. 8045. Of the funds appropriated or otherwise made available by this Act, not more than $119,200,000 shall be available for payment of the operating costs of NATO Headquarters: Provided, That the Secretary of Defense may waive this section for Department of Defense support provided to NATO forces in and around the former Yugoslavia.

SEC. 8046. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $100,000.

SEC. 8047. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2001 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2001 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2001 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8048. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2001: Provided, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended.

SEC. 8049. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8050. Of the funds appropriated by the Department of Defense under the heading "Operation and Maintenance, Defense-Wide", not less than $8,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8051. Amounts collected for the use of the facilities of the National Science Center for Communications and Electronics during the current fiscal year pursuant to section 1459(g) of the Department of Defense Authorization Act, 1986, and deposited to the special account established under subsection 1459(g)(2) of that Act are appropriated and shall be available until expended for the operation and maintenance of the Center as provided for in subsection 1459(g)(2).

SEC. 8052. None of the funds appropriated in this Act may be used to fill the commander's position at any military medical facility with a health care professional unless the prospective candidate can demonstrate professional administrative skills.

SEC. 8053. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8054. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8055. (a) Except as provided in subsections (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to field operating agencies funded within the National Foreign Intelligence Program.

SEC. 8056. Funds appropriated by this Act and in Public Law 105–277, or made available by the transfer of funds in this Act and in Public Law 105–277 for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2000 until the enactment of the Intelligence Authorization Act for Fiscal Year 2000.

SEC. 8057. Notwithstanding section 303 of Public Law 96–487 or any other provision of law, the Secretary of the Navy is authorized to lease real and personal property at Naval Air Facility, Adak, Alaska, pursuant to 10 U.S.C. 2667(f), for commercial, industrial or other purposes: Provided, That notwithstanding any other provision of law, the Secretary of the Navy may remove hazardous materials from facilities, buildings, and structures at Adak, Alaska, and may demolish or otherwise dispose of such facilities, buildings, and structures: Provided further, That notwithstanding any other provision of law, not more than $4,650,000 of the funds provided under the heading "Operation and Maintenance, Army" in title II of this Act shall be available to the Secretary of the Army, acting through the Chief of Engineers, only for demolition and removal of facilities, buildings, and structures formerly used as a District Headquarters Office by the Corps of Engineers (Northwest Division, CENWW, Washington State), as described in the study conducted regarding the headquarters pursuant to the Energy and Water Development Appropriations Act, 1992 (Public Law 102–104; 105 Stat. 511).

(RESCISSIONS)

SEC. 8058. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded as of the date of the enactment of this Act, from the following accounts and programs in the specified amounts:

"Other Procurement, Navy, 1998/2000", $2,167,000;

"Aircraft Procurement, Air Force, 1998/2000", $15,800,000;

"Other Procurement, Army, 1999/2001", $13,700,000;

"Aircraft Procurement, Navy, 1999/2001", $41,500,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1999/2003":

New Attack Submarine, $32,400,000;

CVN–69, $11,400,000;

"Other Procurement, Navy, 1999/2001", $13,784,000;

"Aircraft Procurement, Air Force, 1999/2001", $29,729,000;

"Missile Procurement, Air Force, 1999/2001", $130,000,000;

"Research, Development, Test and Evaluation, Army, 1999/2000", $5,400,000;

"Research, Development, Test and Evaluation, Navy, 1999/2000", $14,900,000;

"Research, Development, Test and Evaluation, Air Force, 1999/2000", $15,900,000; and

"Research, Development, Test and Evaluation, Defense-Wide, 1999/2000", $23,500,000.

SEC. 8059. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8060. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8061. During the current fiscal year, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: Provided, That during the performance of such duty, the members of the National Guard shall be under State command and control: Provided further, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602(a)(2) and (b)(2) of title 10, United States Code.

SEC. 8062. Funds appropriated in this Act for operation and maintenance of the Military Departments, Unified and Specified Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Unified Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) aggregate: Provided, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8063. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 1999 level: Provided, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8064. (a) None of the funds appropriated in this Act may be transferred to or obligated from the Pentagon Reservation Maintenance Revolving Fund, unless the Secretary of Defense certifies that the total cost for the planning, design, construction and installation of equipment for the renovation of the Pentagon Reservation will not exceed $1,222,000,000.

(b) The Secretary shall, in conjunction with the Pentagon Renovation, design and construct secure secretarial offices and support facilities and security-related changes to the subway entrance at the Pentagon Reservation.

SEC. 8065. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(TRANSFER OF FUNDS)

SEC. 8066. Appropriations available in this Act under the heading "Operation and Maintenance, Defense-Wide" for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8067. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: Provided, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8068. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8069. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8070. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act.

SEC. 8071. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8072. During the current fiscal year, the Army shall use the former George Air Force Base as the airhead for the National Training Center at Fort Irwin: Provided, That none of the funds in this Act shall be obligated or expended to transport Army personnel into Edwards Air Force Base for training rotations at the National Training Center.

SEC. 8073. (a) The Secretary of Defense shall submit, on a quarterly basis, a report to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate setting forth all costs (including incremental costs) incurred by the Department of Defense during the preceding quarter in implementing or supporting resolutions of the United Nations Security Council, including any such resolution calling for international sanctions, international peacekeeping operations, and humanitarian missions undertaken by the Department of Defense. The quarterly report shall include an aggregate of all such Department of Defense costs by operation or mission.

(b) The Secretary of Defense shall detail in the quarterly reports all efforts made to seek credit against past United Nations expenditures and all efforts made to seek compensation from the United Nations for costs incurred by the Department of Defense in implementing and supporting United Nations activities.

SEC. 8074. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8075. To the extent authorized by subchapter VI of chapter 148 of title 10, United States Code, the Secretary of Defense may issue loan guarantees in support of United States defense exports not otherwise provided for: Provided, That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed $15,000,000,000: Provided further, That the exposure fees charged and collected by the Secretary for each guarantee, shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: Provided further, That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services and Foreign Relations of *the Senate and the Committees on Appropriations, Armed Services and International Relations in the House of Representatives on the implementation of this program: Provided further, That amounts charged for administrative fees and deposited to the special account provided for under section 2540c(d) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code.*

SEC. 8076. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8077. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions or agents to the Johnston Atoll for the purpose of storing or demilitarizing such munitions or agents.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition or agent of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

SEC. 8078. None of the funds provided in title II of this Act for "Former Soviet Union Threat Reduction" may be obligated or expended to finance housing for any individual who was a member of the military forces of the Soviet Union or for any individual who is or was a member of the military forces of the Russian Federation.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8079. During the current fiscal year, no more than $10,000,000 of appropriations made in this Act under the heading "Operation and Maintenance, Defense-Wide" may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8080. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading "Shipbuilding and Conversion, Navy" shall be considered to be for the same purpose as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in any prior year, and the 1 percent limitation shall apply to the total amount of the appropriation.

SEC. 8081. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510, as amended (31 U.S.C. 1551 note): Provided, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: Provided further, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

(TRANSFER OF FUNDS)

SEC. 8082. Upon enactment of this Act, the Secretary of Defense shall make the following transfers of funds: Provided, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period as the appropriation from which transferred: Provided further, That the amounts shall be transferred between the following appropriations in the amount specified:

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1988/2001":

SSN–688 attack submarine program, $6,585,000;

CG–47 cruiser program, $12,100,000;

Aircraft carrier service life extension program, $202,000;

LHD–1 amphibious assault ship program, $2,311,000;

LSD–41 cargo variant ship program, $566,000;

T–AO fleet oiler program, $3,494,000;

AO conversion program, $133,000;

Craft, outfitting, and post delivery, $1,688,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1995/2001":

DDG–51 destroyer program, $27,079,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1989/2000":

DDG–51 destroyer program, $13,200,000;

Aircraft carrier service life extension program, $186,000;

LHD–1 amphibious assault ship program, $3,621,000;

LCAC landing craft, air cushioned program, $1,313,000;

T–AO fleet oiler program, $258,000;

AOE combat support ship program, $1,078,000;

AO conversion program, $881,000;

T–AGOS drug interdiction conversion, $407,000;

Outfitting and post delivery, $219,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1996/2000":

LPD–17 amphibious transport dock ship, $21,163,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1990/2002":

SSN–688 attack submarine program, $5,606,000;

DDG–51 destroyer program, $6,000,000;

ENTERPRISE refueling/modernization program, $2,306,000;

LHD–1 amphibious assault ship program, $183,000;

LSD–41 dock landing ship cargo variant program, $501,000;

LCAC landing craft, air cushioned program, $345,000;

MCM mine countermeasures program, $1,369,000;

Moored training ship demonstration program, $1,906,000;

Oceanographic ship program, $1,296,000;

AOE combat support ship program, $4,086,000;

AO conversion program, $143,000;

Craft, outfitting, post delivery, and ship special support equipment, $1,209,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1990/2002":

T–AGOS surveillance ship program, $5,000,000;

Coast Guard icebreaker program, $8,153,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1996/2002":

LPD–17 amphibious transport dock ship, $7,192,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1998/2002":

CVN refuelings, $4,605,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1991/2001":

SSN–21(AP) attack submarine program, $1,614,000;

LHD–1 amphibious assault ship program, $5,647,000;

LSD–41 dock landing ship cargo variant program, $1,389,000;

LCAC landing craft, air cushioned program, $330,000;

AOE combat support ship program, $1,435,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1998/2001":

CVN refuelings, $10,415,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1992/2001":

SSN–21 attack submarine program, $11,983,000;

Craft, outfitting, post delivery, and DBOF transfer, $836,000;

Escalation, $5,378,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1998/2001":

CVN refuelings, $18,197,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1993/2002":

Carrier replacement program (AP), $30,332,000;

LSD–41 cargo variant ship program, $676,000;

AOE combat support ship program, $2,066,000;

Craft, outfitting, post delivery, and first destination transportation, and inflation adjustments, $2,127,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1998/2002":

CVN refuelings, $29,844,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1999/2002":

Craft, outfitting, post delivery, conversions, and first destination transportation, $5,357,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1994/2003":

LHD–1 amphibious assault ship program, $23,900,000;

Oceanographic ship program, $9,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1994/2003":

DDG–51 destroyer program, $18,349,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1995/1999":

DDG–51 destroyer program, $5,383,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1996/2000":

LPD–17 amphibious transport dock ship, $168,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1999/2003":

Craft, outfitting, post delivery, conversions, and first destination transportation, $9,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1996/2000":

SSN–21 attack submarine program, $10,100,000;

LHD–1 amphibious assault ship program, $7,100,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1996/2000":

DDG–51 destroyer program, $3,723,000;

LPD–17 amphibious transport dock ship, $13,477,000.

SEC. 8083. The Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees by February 1, 2000, a detailed report identifying, by amount and by separate budget activity, activity group, subactivity group, line item, program element, program, project, subproject, and activity, any activity for which the fiscal year 2001 budget request was reduced because Congress appropriated funds above the President's budget request for that specific activity for fiscal year 2000.

SEC. 8084. Funds appropriated in title II of this Act and for the Defense Health Program in title VI of this Act for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects may be obligated at the time the reimbursable order is accepted by the performing activity: Provided, That for the purpose of this section, supervision and administration costs includes all in-house Government cost.

SEC. 8085. During the current fiscal year, the Secretary of Defense may waive reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Asia-Pacific Center for Security Studies for military officers and civilian officials of foreign nations if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the United States: Provided, That costs for which reimbursement is waived pursuant to this subsection shall be paid from appropriations available for the Asia-Pacific Center.

SEC. 8086. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8087. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: Provided, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: Provided further, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8088. Notwithstanding 31 U.S.C. 3902, during the current fiscal year, interest penalties may be paid by the Department of Defense from funds financing the operation of the military department or defense agency with which the invoice or contract payment is associated.

SEC. 8089. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: Provided, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: Provided further, That this restriction does not apply to programs funded within the National Foreign Intelligence Program: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

(RESCISSIONS)

SEC. 8090. Of the funds provided in the Department of Defense Appropriations Act, 1999 (Public Law 105–262), $452,100,000, to reflect savings from revised economic assumptions, is hereby rescinded as of the date of enactment of this Act, or October 1, 1999, whichever is later, from the following accounts in the specified amounts:

"Aircraft Procurement, Army", $8,000,000;

"Missile Procurement, Army", $7,000,000;

"Procurement of Weapons and Tracked Combat Vehicles, Army", $9,000,000;

"Procurement of Ammunition, Army", $6,000,000;

"Other Procurement, Army", $19,000,000;

"Aircraft Procurement, Navy", $44,000,000;

"Weapons Procurement, Navy", $8,000,000;

"Procurement of Ammunition, Navy and Marine Corps", $3,000,000;

"Shipbuilding and Conversion, Navy", $37,000,000;

"Other Procurement, Navy", $23,000,000;

"Procurement, Marine Corps", $5,000,000;

"Aircraft Procurement, Air Force", $46,000,000;

"Missile Procurement, Air Force", $14,000,000;

"Procurement of Ammunition, Air Force", $2,000,000;

"Other Procurement, Air Force", $44,400,000;

"Procurement, Defense-Wide", $5,200,000;

"Chemical Agents and Munitions Destruction, Army", $5,000,000;

"Research, Development, Test and Evaluation, Army", $20,000,000;

"Research, Development, Test and Evaluation, Navy", $40,900,000;

"Research, Development, Test and Evaluation, Air Force", $76,900,000; and

"Research, Development, Test and Evaluation, Defense-Wide", $28,700,000:

Provided, That these reductions shall be applied proportionally to each budget activity, activity group and subactivity group and each program, project, and activity within each appropriation account.

SEC. 8091. The budget of the President for fiscal year 2001 submitted to Congress pursuant to section 1105 of title 31, United States Code, and each annual budget request thereafter, shall include budget activity groups (known as "subactivities") in all appropriations accounts provided in this Act, as may be necessary, to separately identify all costs incurred by the Department of Defense to support the North Atlantic Treaty Organization and all Partnership For Peace programs and initiatives. The budget justification materials submitted to Congress in support of the budget of the Department of Defense for fiscal year 2001, and subsequent fiscal years, shall provide complete, detailed estimates for all such costs.

SEC. 8092. None of the funds made available in this Act may be used to approve or license the sale of the F–22 advanced tactical fighter to any foreign government.

SEC. 8093. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

(d) None of the funds appropriated or otherwise provided for the Department of Defense in this or any other Act for any fiscal year may be obligated or expended for procurement of a nuclear-capable shipyard crane from a foreign source. Subsection (a) does not apply to the limitation in the preceding sentence.

SEC. 8094. Funds made available to the Civil Air Patrol in this Act under the heading "Drug Interdiction and Counter-Drug Activities, Defense" may be used for the Civil Air Patrol Corporation's counterdrug program, including its demand reduction program involving youth programs, as well as operational and training drug reconnaissance missions for Federal, State and local government agencies; for administrative costs, including the hiring of Civil Air Patrol Corporation employees; for travel and per diem expenses of Civil Air Patrol Corporation personnel in support of those missions; and for equipment needed for mission support or performance: Provided, That of these funds, $300,000 shall be made available to establish and operate a distance learning program: Provided further, That the Department of the Air Force should waive reimbursement from the Federal, State and local government agencies for the use of these funds.

SEC. 8095. Notwithstanding any other provision of law, the TRICARE managed care support contracts in effect, or in final stages of acquisition as of September 30, 1999, may be extended for two years: Provided, That any such extension may only take place if the Secretary of Defense determines that it is in the best interest of the Government: Provided further, That any contract extension shall be based on the price in the final best and final offer for the last year of the existing contract as adjusted for inflation and other factors mutually agreed to by the contractor and the Government: Provided further, That notwithstanding any other provision of law, all future TRICARE managed care support contracts replacing contracts in effect, or in the final stages of acquisition as of September 30, 1999, may include a base contract period for transition and up to seven one-year option periods.

SEC. 8096. None of the funds in this Act may be used to compensate an employee of the Department of Defense who initiates a new start program without notification to the Office of the Secretary of Defense, the Office of Management *and Budget, and the congressional defense committees, as required by Department of Defense financial management regulations.*

SEC. 8097. In addition to the amounts provided elsewhere in this Act, notwithstanding any other provision of law, $5,000,000 is hereby appropriated to the Office of the Secretary of Defense, and is available only for a grant to the Women in Military Service for America Memorial Foundation, Inc., only for costs associated with completion of the "Women in Military Service For America" memorial at Arlington National Cemetery.

SEC. 8098. TRAINING AND OTHER PROGRAMS. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8099. The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental equipment of the Department of Defense, at no cost to the Department of Defense, to Indian health service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

SEC. 8100. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by $123,200,000 to reflect savings from the pay of civilian personnel, to be distributed as follows:

"Operation and Maintenance, Army", $30,900,000;

"Operation and Maintenance, Navy", $66,600,000;

"Operation and Maintenance, Air Force", $9,200,000; and

"Operation and Maintenance, Defense-Wide", $16,500,000.

SEC. 8101. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by $171,000,000 to reflect savings from favorable foreign currency fluctuations, to be distributed as follows:

"Military Personnel, Army", $19,100,000;

"Military Personnel, Navy", $2,200,000;

"Military Personnel, Air Force", $9,900,000;

"Operation and Maintenance, Army", $80,700,000;

"Operation and Maintenance, Navy", $13,700,000;

"Operation and Maintenance, Air Force," $26,900,000;

"Operation and Maintenance, Defense-Wide", $8,700,000; and

"Defense Health Program", $9,800,000.

SEC. 8102. Notwithstanding any other provision of law, the Secretary of Defense may retain all or a portion of the family housing at Fort Buchanan, Puerto Rico, as the Secretary deems necessary to meet military family housing needs arising out of the relocation of elements of the United States Army South to Fort Buchanan.

SEC. 8103. From within amounts made available in title II of this Act, under the heading "Operation and Maintenance, Army", and notwithstanding any other provision of law, $12,500,000 shall be available only for repairs and safety improvements to the segment of Fort Irwin Road which extends from Interstate 15 northeast toward the boundary of Fort Irwin, California and the originating intersection of Irwin Road: Provided, That these funds shall remain available until expended: Provided further, That the authorized scope of work includes, but is not limited to, environmental documentation and mitigation, engineering and design, improving safety, resurfacing, widening lanes, enhancing shoulders, and replacing signs and pavement markings: Provided further, That these funds may be used for advances to the Federal Highway Administration, Department of Transportation, for the authorized scope of work.

SEC. 8104. Funds appropriated to the Department of the Navy in title II of this Act may be available to replace lost and canceled Treasury checks issued to Trans World Airlines in the total amount of $255,333.24 for which timely claims were filed and for which detailed supporting records no longer exist.

SEC. 8105. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the ADC(X) class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8106. From within amounts made available in title II of this Act under the heading "Operation and Maintenance, Defense-Wide", and notwithstanding any other provision of law, $2,500,000 shall be available only for a grant for "America's Promise—The Alliance for Youth, Inc.", only to support, on a dollar-for-dollar matching basis with non-departmental funds, efforts to mobilize individuals, groups and organizations to build and strengthen the character and competence of the Nation's youth.

SEC. 8107. Of the funds made available in this Act, not less than $47,100,000 shall be available to maintain an attrition reserve force of 23 B–52 aircraft, of which $3,100,000 shall be available from "Military Personnel, Air Force", $34,500,000 shall be available from "Operation and Maintenance, Air Force", and $9,600,000 shall be available from "Aircraft Procurement, Air Force": Provided, That the Secretary of the Air Force shall maintain a total force of 94 B–52 aircraft, including 23 attrition reserve aircraft, during fiscal year 2000: Provided further, That the Secretary of Defense shall include in the Air Force budget request for fiscal year 2001 amounts sufficient to maintain a B–52 force totaling 94 aircraft.

SEC. 8108. Notwithstanding any other provision in this Act, the total amount appropriated in title II is hereby reduced by $100,000,000 to reflect savings resulting from reviews of Department of Defense missions and functions conducted pursuant to Office of Management and Budget Circular A–76, to be distributed as follows:

"Operation and Maintenance, Army", $34,300,000;

"Operation and Maintenance, Navy", $22,800,000;

"Operation and Maintenance, Marine Corps", $1,400,000; and

"Operation and Maintenance, Air Force", $41,500,000:

Provided, That none of the funds appropriated or otherwise made available by this Act may be obligated or expended for the purpose of contracting out functions directly related to the award of Department of Defense contracts, oversight of contractors with the Department of Defense, or the payment of such contractors including, but not limited to: contracting technical officers, contact administration officers, accounting and finance officers, and budget officers.

SEC. 8109. (a) REPORT ON OMB CIRCULAR A–76 REVIEWS OF WORK PERFORMED BY DOD EMPLOYEES.—The Secretary of Defense shall submit a report not later than 90 days after the enactment of this Act which lists all instances since 1995 in which missions or functions of the Department of Defense have been reviewed by the Department of Defense pursuant to OMB Circular A–76. The report shall list the disposition of each such review and indicate whether the review resulted in the performance of such missions or functions by Department of Defense civilian and military personnel, or whether such reviews resulted in performance by contractors. The report shall include a description of the types of missions or functions, the locations where the missions or functions are performed, the name of the contractor performing the work (if applicable), the cost to perform the missions or functions at the time the review was conducted, and the current cost to perform the missions or functions.

(b) REPORT ON OMB CIRCULAR A–76 REVIEWS OF WORK PERFORMED BY DOD CONTRACTORS.—The report shall also identify those instances in which work performed by a contractor has been converted to performance by civilian or military employees of the Department of Defense. For each instance of contracting in, the report shall include a description of the types of work, the locations where the work was performed, the name of the contractor that was performing the work, the cost of contractor performance at the time the work was contracted in, and the current cost of performance by civilian or military employees of the Department of Defense. In addition, the report shall include recommendations for maximizing the possibility of effective public-private competition for work that has been contracted out.

(c) COMPTROLLER GENERAL REVIEW.—Not later than 90 days after the date on which the Secretary submits the annual report, the Comptroller General shall submit to the House and Senate Committees on Appropriations the Comptroller General's views on whether the Department has complied with the requirements for the report.

SEC. 8110. The budget of the President for fiscal year 2001 submitted to Congress pursuant to section 1105 of title 31, United States Code, and each annual budget request thereafter, shall include separate budget justification documents for costs of United States armed forces' participation in contingency operations for the Military Personnel accounts, the Procurement accounts, and the Overseas Contingency Operations Transfer Fund: Provided, That these budget justification documents shall include a description of the funding requested for each *anticipated contingency operation, for each military service, to include active duty and Guard and Reserve components, and for each appropriation account: Provided further, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for ongoing contingency operations, and programmatic data including, but not limited to troop strength for each active duty and Guard and Reserve component, and estimates of the major weapons systems deployed in support of each contingency.*

(INCLUDING TRANSFER OF FUNDS)

SEC. 8111. In addition to amounts appropriated or otherwise made available in this Act, $35,000,000 is hereby appropriated, only to initiate and expand activities of the Department of Defense to prevent, prepare for, and respond to a terrorist attack in the United States involving weapons of mass destruction: Provided, That funds made available under this section shall be transferred to the following accounts:

"Reserve Personnel, Army", $2,000,000;

"National Guard Personnel, Army", $2,000,000;

"National Guard Personnel, Air Force", $500,000;

"Operation and Maintenance, Army", $24,500,000; and

"Research, Development, Test and Evaluation, Army", $6,000,000:

Provided further, That funds transferred pursuant to this section shall be merged with and be available for the same purposes and for the same time period as the appropriation to which transferred: Provided further, That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense: Provided further, That of the funds transferred to "Operation and Maintenance, Army", not less than $3,000,000 shall be made available only to establish a cost effective counter-terrorism training program for first responders and concurrent testing of response apparatus and equipment at the Memorial Tunnel Facility: Provided further, That of the funds transferred to "Operation and Maintenance, Army", not less than $2,000,000 shall be made available only to support development of a structured undergraduate research program for chemical and biological warfare defense designed to produce graduates with specialized laboratory training and scientific skills required by military and industrial laboratories engaged in combating the threat of biological and chemical terrorism: Provided further, That of the funds transferred to "Operation and Maintenance, Army", not less than $3,500,000 shall be made available for a National Guard Bureau and Department of Justice collaborative training program only to enhance distance learning technologies and develop related courseware to provide training for counter-terrorism and related concerns: Provided further, That of the funds transferred to "Research, Development, Test and Evaluation, Army", not less than $3,000,000 shall be made available only to continue development and presentation of advanced distributed learning consequence management response courses and conventional courses.

SEC. 8112. (a) The Secretary of Defense shall, along with submission of the fiscal year 2001 budget request for the Department of Defense, submit to the congressional defense committees a report, in both unclassified and classified versions, which contains an assessment of the advantages or disadvantages of deploying a ground-based National Missile Defense system at more than one site.

(b) This report shall include, but not be limited to, an assessment of the following issues:

(1) The ability of a single site, versus multiple sites, to counter the expected ballistic missile threat;

(2) The optimum basing locations for a single and multiple site National Missile Defense system;

(3) The survivability and redundancy of potential National Missile Defense systems under a single or multiple site architecture;

(4) The estimated costs (including development, construction and infrastructure, and procurement of equipment) associated with different site deployment options; and

(5) Other issues bearing on deploying a National Missile Defense system at one or more sites.

SEC. 8113. The Secretary of the Navy and the Secretary of the Air Force each shall submit a report to the congressional defense committees within 90 days of enactment of this Act in both classified and unclassified form which shall provide a detailed description of the dedicated aggressor squadrons used to conduct combat flight training for the Navy, Marine Corps and Air Force covering the period from fiscal year 1990 through the present. For each year of the specified time period, each report shall provide a detailed description of the following: the assets which comprise dedicated aggressor squadrons including both aircrews, and the types and models of aircraft assigned to these squadrons; the number of training sorties for all forms of combat flight training which require aggressor aircraft, and the number of sorties that the dedicated aggressor squadrons can generate to meet these requirements; the ratio of the total inventory of attack and fighter aircraft to the number of aircraft available for dedicated aggressor squadrons; a comparison of the performance characteristics of the aircraft assigned to dedicated aggressor squadrons compared to the performance characteristics of the aircraft they are intended to represent in training scenarios; an assessment of pilot proficiency by year from 1986 to the present; Service recommendations to enhance aggressor squadron proficiency to include number of dedicated aircraft, equipment, facilities, and personnel; and a plan that proposes improvements in dissimilar aircraft air combat training.

SEC. 8114. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business: Provided, That the Department of Defense Office of the Inspector General shall provide a report to the House and Senate Committees on Appropriations not later than 90 days after the enactment of this Act which assesses the compliance of each of the military services with applicable appropriations law, Office of Management and Budget circulars, and Undersecretary of Defense (Comptroller) directives which govern funding for maintenance and repairs to flag officer quarters: Provided further, That this report shall include an assessment as to whether there have been violations of the Anti-Deficiency Act resulting from instances of improper funding of such maintenance and repair projects.

SEC. 8115. Notwithstanding any other provision of law, funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide" for any advanced concept technology demonstration project may only be obligated thirty days after a report, including a description of the project and its estimated annual and total cost, has been provided in writing to the congressional defense committees: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so: Provided further, That none of the funds appropriated under the heading "Research, Development, Test and Evaluation, Defense-Wide" in the Department of Defense Appropriations Act, 1999 (Public Law 105–262) which remain available for obligation are available for the Line of Sight Anti-Tank Program: Provided further, That of the funds appropriated under the heading "Research, Development, Test and Evaluation, Defense-Wide" in Public Law 105–262, $10,027,000 shall be available only for the Air Directed Surface to Air Missile.

SEC. 8116. None of the funds appropriated under the heading "Research, Development, Test and Evaluation, Defense-Wide" in the Department of Defense Appropriations Act, 1999 (Public Law 105–262) which remain available for obligation are available for the Medium Extended Air Defense System or successor systems.

SEC. 8117. Of the funds appropriated in title II of this Act under the heading "Operation and Maintenance, Army", $250,000 shall be available only for a grant to the Nebraska Game and Parks Commission for the purpose of locating, identifying the boundaries of, acquiring, preserving, and memorializing the cemetery site that is located in close proximity to Fort Atkinson, Nebraska. The Secretary of the Army shall require as a condition of such grant that the Nebraska Game and Parks Commission, in carrying out the purposes of which the grant is made, work in conjunction with the Nebraska State Historical Society. The grant under this section shall be made without regard to section 1301 of title 31, United States Code, or any other provision of law.

SEC. 8118. Notwithstanding any other provision of law, for the purpose of establishing all Department of Defense policies governing the provision of care provided by and financed under the military health care system's case management program under 10 U.S.C. 1079(a)(17), the term "custodial care" shall be defined as care designed essentially to assist an individual in meeting the activities of daily living and which does not require the supervision of trained medical, nursing, paramedical or other specially trained individuals: Provided, That the case management program shall provide that members and retired members of the military services, and their dependents and survivors, have access to all medically necessary health care through the health care delivery system of the military services regardless of the health care status of the person seeking the health care: Provided further, That the case management program shall be the primary obligor for payment of medically necessary services and shall not be considered as secondarily liable to Title XIX of The Social Security Act, other welfare programs or charity based care.

SEC. 8119. During the current fiscal year—

(1) refunds attributable to the use of the Government travel card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance accounts of the Department of Defense which are current when the refunds are received; and

(2) refunds attributable to the use of the Government Purchase Card by military personnel and civilian employees of the Department of Defense may be credited to accounts of the Department of Defense that are current when the refunds are received and that are available for the same purposes as the accounts originally charged.

SEC. 8120. During the current fiscal year and hereafter, any Federal grant of funds to an institution of higher education to be available solely for student financial assistance or related administrative costs may be used for the purpose for which the grant is made without regard to *any provision to the contrary in section 514 of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 1997 (10 U.S.C. 503 note), or section 983 of title 10, United States Code.*

SEC. 8121. (a) Registering Information Technology Systems With DOD Chief Information Officer.—After March 31, 2000, none of the funds appropriated in this Act may be used for a mission critical or mission essential information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. An information technology system shall be considered a mission critical or mission essential information technology system as defined by the Secretary of Defense.

(b) Certifications as to Compliance With Clinger-Cohen Act.—(1) During fiscal year 2000, a major automated information system may not receive Milestone I approval, Milestone II approval, or Milestone III approval within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1). Each such notification shall include, at a minimum, the funding baseline and milestone schedule for each system covered by such a certification and confirmation that the following steps have been taken with respect to the system:

(A) Business process reengineering.

(B) An analysis of alternatives.

(C) An economic analysis that includes a calculation of the return on investment.

(D) Performance measures.

(E) An information assurance strategy consistent with the Department's Command, Control, Communications, Computers, Intelligence, Surveillance, and Reconnaissance (C4ISR) Architecture Framework.

(c) Definitions.—For purposes of this section:

(1) The term "Chief Information Officer" means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

(2) The term "information technology system" has the meaning given the term "information technology" in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(3) The term "major automated information system" has the meaning given that term in Department of Defense Directive 5000.1.

SEC. 8122. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: Provided, That this restriction shall not apply if the Department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8123. (a) Recovery of Certain DOD Administrative Expenses in Connection With Foreign Military Sales Program.—Charges for administrative services calculated under section 21(e) of the Arms Export Control Act (22 U.S.C. 2761(e)) in connection with the sale of defense articles or defense services shall (notwithstanding paragraph (3) of section 43(b) of such Act (22 U.S.C. 2792(b)) include recovery of administrative expenses incurred by the Department of Defense during fiscal year 2000 that are attributable to (1) salaries of members of the Armed Forces, and (2) unfunded estimated costs of civilian retirement and other benefits.

(b) Reimbursement of Applicable Military Personnel Accounts.—During the current fiscal year, amounts in the Foreign Military Sales Trust Fund shall be available in an amount not to exceed $63,000,000 to reimburse the applicable military personnel accounts in title I of this Act for the value of administrative expenses referred in subsection (a)(1).

(c) Reductions To Reflect Amounts Expected To Be Recovered.—(1) The amounts in title I of this Act are hereby reduced by an aggregate of $63,000,000 (such amount being the amount expected to be recovered by reason of subsection (a)(1)).

(2) The amounts in title II of this Act are hereby reduced by an aggregate of $31,000,000 (such amount being that amount expected to be recovered by reason of subsection (a)(2)).

SEC. 8124. (a) The Communications Act of 1934 is amended in section 337(b) (47 U.S.C. 337(b)), by deleting paragraph (2). Upon enactment of this provision, the FCC shall initiate the competitive bidding process in fiscal year 1999 and shall conduct the competitive bidding in a manner that ensures that all proceeds of such bidding are deposited in accordance with section 309(j)(8) of the Act not later than September 30, 2000. To expedite the assignment by competitive bidding of the frequencies identified in section 337(a)(2) of the Act, the rules governing such frequencies shall be effective immediately upon publication in the Federal Register, notwithstanding 5 U.S.C. 553(d), 801(a)(3), 804(2), and 806(a). Chapter 6 of such title, 15 U.S.C. 632, and 44 U.S.C. 3507 and 3512, shall not apply to the rules and competitive bidding procedures governing such frequencies. Notwithstanding section 309(b) of the Act, no application for an instrument of authorization for such frequencies shall be granted by the Commission earlier than 7 days following issuance of public notice by the Commission of the acceptance for filing of such application or of any substantial amendment thereto. Notwithstanding section 309(d)(1) of such Act, the Commission may specify a period (no less than 5 days following issuance of such public notice) for the filing of petitions to deny any application for an instrument of authorization for such frequencies.

(b)(1) Not later than 15 days after the date of the enactment of this Act, the Director of the Office of Management and Budget and the Federal Communications Commission shall each submit to the appropriate congressional committees a report which shall—

(A) set forth the anticipated schedule (including specific dates) for—

(i) preparing and conducting the competitive bidding process required by subsection (a); and

(ii) depositing the receipts of the competitive bidding process;

(B) set forth each signficant milestone in the rulemaking process with respect to the competitive bidding process;

(C) include an explanation of the effect of each requirement in subsection (a) on the schedule for the competitive bidding process and any post-bidding activities (including the deposit of receipts) when compared with the schedule for the competitive bidding and any post-bidding activities (including the deposit of receipts) that would otherwise have occurred under section 337(b)(2) of the Communications Act of 1934 (47 U.S.C. 337(b)(2)) if not for the enactment of subsection (a);

(D) set forth for each spectrum auction held by the Federal Communications Commission since 1993 information on—

(i) the time required for each stage of preparation for the auction;

(ii) the date of the commencement and of the completion of the auction;

(iii) the time which elapsed between the date of the completion of the auction and the date of the first deposit of receipts from the auction in the Treasury; and

(iv) the dates of all subsequent deposits of receipts from the auction in the Treasury; and

(E) include an assessment of how the stages of the competitive bidding process required by subsection (a), including preparation, commencement and completion, and deposit of receipts, will differ from similar stages in the auctions referred to in subparagraph (D).

(2) Not later than October 5, 2000, the Director of the Office of Management and Budget and the Federal Communications Commission shall each submit to the appropriate congressional committees the report which shall—

(A) describe the course of the competitive bidding process required by subsection (a) through September 30, 2000, including the amount of any receipts from the competitive bidding process deposited in the Treasury as of September 30, 2000; and

(B) if the course of the competitive bidding process has included any deviations from the schedule set forth under paragraph (1)(A), an explanation for such deviations from the schedule.

(3) The Federal Communications Commission may not consult with the Director in the preparation and submittal of the reports required of the Commission by this subsection.

(4) In this subsection, the term "appropriate congressional committees" means the following:

(A) The Committees on Appropriations, the Budget, and Commerce of the Senate.

(B) The Committees on Appropriations, the Budget, and Commerce of the House of Representatives.

(C) Nothing in this section shall be construed to supercede the requirements placed on the Federal Communications Commission by 47 U.S.C. 337(d)(4).

SEC. 8125. (a) Report Required.—Not later than January 31, 2000, the Secretary of Defense shall submit to the congressional defense committees in both classified and unclassified form a report on the conduct of Operation Desert Fox and Operation Allied Force (also referred to as Operation Noble Anvil). The Secretary of Defense shall submit to such committees a preliminary report on the conduct of these operations not later than December 15, 1999. The report (including the preliminary report) should be prepared in consultation with the Chairman of the Joint Chiefs of Staff, the Commander in Chief of the United States Central Command, and the Commander in Chief of the United States European Command.

(b) Review of Successes and Deficiencies.—The report should contain a thorough review of the successes and deficiencies of these operations, with respect to the following matters:

(1) United States military objectives in these operations.

(2) With respect to Operation Allied Force, the military strategy of the North Atlantic Treaty Organization (NATO) to obtain said military objectives.

(3) The command structure for the execution of Operation Allied Force.

(4) The process for identifying, nominating, selecting, and verifying targets to be attacked

during Operation Desert Fox and Operation Allied Force.

(5) A comprehensive battle damage assessment of targets prosecuted during the conduct of the air campaigns in these operations, to include—

(A) fixed targets, both military and civilian, to include bridges, roads, rail lines, airfields, power generating plants, broadcast facilities, oil refining infrastructure, fuel and munitions storage installations, industrial plants producing military equipment, command and control nodes, civilian leadership bunkers and military barracks;

(B) mobile military targets such as tanks, armored personnel carriers, artillery pieces, trucks, and air defense assets;

(C) with respect to Operation Desert Fox, research and production facilities associated with Iraq's weapons of mass destruction and ballistic missile programs, and any military units or organizations associated with such activities within Iraq; and

(D) a discussion of decoy, deception and counter-intelligence techniques employed by the Iraqi and Serbian military.

(6) The use and performance of United States military equipment, weapon systems, munitions, and national and tactical reconnaissance and surveillance assets (including items classified under special access procedures) and an analysis of—

(A) any equipment or capabilities that were in research and development and if available could have been used in these operations' respective theater of operations;

(B) any equipment or capabilities that were available and could have been used but were not introduced into these operations' respective theater of operations; and

(C) any equipment or capabilities that were introduced to these operations' respective theater of operations that could have been used but were not.

(7) Command, control, communications and operational security of NATO forces as a whole and United States forces separately during Operation Allied Force, including the ability of United States aircraft to operate with aircraft of other nations without degradation of capabilities or protection of United States forces.

(8) The deployment of United States forces and supplies to the theater of operations, including an assessment of airlift and sealift (to include a specific assessment of the deployment of Task Force Hawk during Operation Allied Force, to include detailed explanations for the delay in initial deployment, the suitability of equipment deployed compared to other equipment in the U.S. inventory that was not deployed, and a critique of the training provided to operational personnel prior to and during the deployment).

(9) The use of electronic warfare assets, in particular an assessment of the adequacy of EA-6B aircraft in terms of inventory, capabilities, deficiencies, and ability to provide logistics support.

(10) The effectiveness of reserve component forces including their use and performance in the theater of operations.

(11) The contributions of United States (and with respect to Operation Allied Force, NATO) intelligence and counterintelligence systems and personnel, including an assessment of the targeting selection and bomb damage assessment process.

(c) The report should also contain:

(1) An analysis of the transfer of operational assets from other United States Unified Commands to these operations' theater of operations and the impact on the readiness, warfighting capability and deterrence value of those commands.

(2) An analysis of the implications of these operations as regards the ability of United States armed forces and intelligence capabilities to carry out the current national security strategy, including—

(A) whether the Department of Defense and its components, and the intelligence community and its components, have sufficient force structure and manning as well as equipment (to include items such as munitions stocks) to deploy, prosecute and sustain operations in a second major theater of war as called for under the current national security strategy;

(B) which, if any aspects, of currently programmed manpower, operations, training and other readiness programs, and weapons and other systems are found to be inadequate in terms of supporting the national military strategy; and

(C) what adjustments need to be made to current defense planning and budgets, and specific programs to redress any deficiencies identified by this analysis.

SEC. 8126. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of "armor penetrator", "armor piercing (AP)", "armor piercing incendiary (API)", or "armor-piercing incendiary-tracer (API–T)", except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either (1) rendered incapable of reuse by the demilitarization process or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

SEC. 8127. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under 10 U.S.C. 2667, in the case of a lease of personal property for a period not in excess of one year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8128. In the current fiscal year and hereafter, funds appropriated for the Pacific Disaster Center may be obligated to carry out such missions as the Secretary of Defense may specify for disaster information management and related supporting activities in the geographic area of responsibility of the Commander in Chief, Pacific and beyond in support of a global disaster information network: Provided, That the Secretary may enable the Pacific Disaster Center and its derivatives to enter into flexible public-private cooperative arrangements for the delegation or implementation of some or all of its missions and accept and provide grants, or other remuneration to or from any agency of the Federal government, state or local government, private source or foreign government to carry out any of its activities: Provided further, That the Pacific Disaster Center may not accept any remuneration or provide any service or grant which could compromise national security.

SEC. 8129. Notwithstanding any other provision in this Act, the total amount appropriated in Title I of this Act is hereby reduced by $1,838,426,000 to reflect amounts appropriated in Public Law 106–31. This amount is to be distributed as follows:

"Military Personnel, Army", $559,533,000;

"Military Personnel, Navy", $436,773,000;

"Military Personnel, Marine Corps", $177,980,000;

"Military Personnel, Air Force", $471,892,000;

"Reserve Personnel, Army", $40,574,000;

"Reserve Personnel, Navy", $29,833,000;

"Reserve Personnel, Marine Corps", $7,820,000;

"Reserve Personnel, Air Force", $13,143,000;

"National Guard Personnel, Army", $70,416,000; and

"National Guard Personnel, Air Force", $30,462,000.

SEC. 8130. Notwithstanding any other provision of law, that not more than thirty-five per centum of funds provided in this Act, may be obligated for environmental remediation under indefinite delivery/indefinite quantity contracts with a total contract value of $130,000,000 or higher.

SEC. 8131. Of the funds made available under the heading "Operation and Maintenance, Air Force", $5,000,000 shall be transferred to the Department of Transportation to enable the Secretary of Transportation to realign railroad track on Elmendorf Air Force Base.

SEC. 8132. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: Provided further, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8133. MULTI-YEAR AIRCRAFT LEASE PILOT PROGRAM. (a) The Secretary of the Air Force may establish a multi-year pilot program for leasing aircraft for operational support purposes, including transportation for the combatant Commanders in Chief, on such terms and conditions as the Secretary may deem appropriate, consistent with this Section.

(b) Sections 2401 and 2401a of Title 10, United States Code shall not apply to any aircraft lease authorized by this Section.

(c) Under the aircraft lease Pilot Program authorized by this Section:

(1) The Secretary may include terms and conditions in lease agreements that are customary in aircraft leases by a non-government lessor to a non-government lessee.

(2) The term of any individual lease agreement into which the Secretary enters under this section shall not exceed ten years.

(3) The Secretary may provide for special payments to a lessor if either the Secretary terminates or cancels the lease prior to the expiration of its term or aircraft are damaged or destroyed prior to the expiration of the term of the lease. Such special payments shall not exceed an amount equal to the value of one year's lease payment under the lease. The amount of special payments shall be subject to negotiation between the Air Force and lessors.

(4) Notwithstanding any other provision of law, any payments required under a lease under this Section, and any payments made pursuant to Subsection (3) above may be made from:

(A) Appropriations available for the performance of the lease at the time the lease takes effect;

(B) Appropriations for the operation and maintenance available at the time which the payment is due; and

(C) Funds appropriated for those payments.

(5) The Secretary may lease aircraft, on such terms and conditions as the Secretary may deem appropriate, consistent with this section, through an operating lease consistent with OMB Circular A–11.

(6) The Secretary may exchange or sell existing aircraft and apply the exchange allowance or sale proceeds in whole or in part toward the cost of leasing replacement aircraft under this Section.

(7) Lease arrangements authorized by this Section may not commence until:

(A) The Secretary submits a report to the congressional defense committees outlining the plans for implementing the Pilot Program. The Report shall describe the terms and conditions of proposed contracts and the savings in operations and support costs expected to be derived from retiring older aircraft as compared to the expected cost of leasing newer replacement aircraft; and

(B) A period of not less than 30 calendar days has elapsed after submitting the Report.

(8) Not later than one year after the date on which the first aircraft is delivered under this Pilot Program, and yearly thereafter on the anniversary of the first delivery, the Secretary shall submit a report to the congressional defense committees describing the status of the Pilot Program. The Report will be based on at least six months of experience in operating the Pilot Program.

(9) No lease of operational support aircraft may be entered into under this Section after September 30, 2004.

(d) The authority granted to the Secretary of the Air Force by this Section is separate from and in addition to, and shall not be construed to impair or otherwise affect, the authority of the Secretary to procure transportation or enter into leases under a provision of law other than this section.

(e) The authority provided under this section may be used to lease not more than a total of six (6) aircraft for the purposes of providing operational support.

SEC. 8134. Notwithstanding any other provision in this Act, the total amount appropriated in this Act for "Operation and Maintenance, Air Force" is hereby reduced by $100,000,000 to reflect supplemental appropriations provided under Public Law 106–31 for Readiness/Munitions.

SEC. 8135. Section 8106(a) of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under section 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note), is amended—

(1) by striking "not later than June 30, 1997,"; and

(2) by striking "$1,000,000" and inserting "$500,000".

SEC. 8136. None of the funds provided for the Joint Warfighting Experimentation Program may be obligated until the Vice Chairman of the Joint Chiefs of Staff reports to the congressional defense committees on the role and participation of all unified and specified commands in the Joint Warfighting Experimentation Program.

SEC. 8137. In addition to the amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense, $5,000,000, to remain available until September 30, 2000 is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $5,000,000 to the American Red Cross for Armed Forces Emergency Services.

SEC. 8138. The Department of the Army is directed to conduct a live fire, side-by-side operational test of the air-to-air Starstreak and air-to-air Stinger missiles from the AH–64D Longbow helicopter. The operational test is to be completed utilizing funds provided for in this Act in addition to funding provided for this purpose in the Fiscal Year 1999 Defense Appropriations Act (P.L. 105–262): Provided, That notwithstanding any other provision of law, the Department is to ensure that the development, procurement or integration of any missile for use on the AH–64 or RAH–66 helicopters, as an air-to-air missile, is subject to a full and open competition which includes the conduct of a live-fire, side-by-side test as an element of the source selection criteria: Provided further, That the Under Secretary of Defense (Acquisition & Technology) will conduct an independent review of the need, and the merits of acquiring an air-to-air missile to provide self-protection for the AH–64 and RAH–66 from the threat of hostile forces. The Secretary is to provide his findings in a report to the congressional defense committees, no later than March 31, 2000.

SEC. 8139. During the current fiscal year, under regulations prescribed by the Secretary of Defense, the Center of Excellence for Disaster Management and Humanitarian Assistance may also pay, or authorize payment for, the expenses of providing or facilitating education and training for appropriate military and civilian personnel of foreign countries in disaster management and humanitarian assistance: Provided, That not later than April 1, 2001, the Secretary of Defense shall submit to the congressional defense committees a report regarding the training of foreign personnel conducted under this authority during the preceding fiscal year for which expenses were paid under the section: Provided further, That the report shall specify the countries in which the training was conducted, the type of training conducted, and the foreign personnel trained.

SEC. 8140. Of the funds appropriated in title II under the heading "OPERATION AND MAINTENANCE, DEFENSE-WIDE" for the Office of the Special Assistant to the Deputy Secretary of Defense for Gulf War Illnesses, up to $10,000,000 may be made available for carrying out the first-year actions under the 5-year research plan outlined in the report entitled "Department of Defense Strategy to Address Low-Level Exposures to Chemical Warfare Agents (CWAs)", dated May 1999, that was submitted to committees of Congress pursuant to section 247(d) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1957).

SEC. 8141. (a) The Department of Defense is authorized to enter into agreements with the Veterans Administration and federally-funded health agencies providing services to Native Hawaiians for the purpose of establishing a partnership similar to the Alaska Federal Health Care Partnership, in order to maximize Federal resources in the provision of health care services by federally-funded health agencies, applying telemedicine technologies. For the purpose of this partnership, Native Hawaiians shall have the same status as other Native Americans who are eligible for the health care services provided by the Indian Health Service.

(b) The Department of Defense is authorized to develop a consultation policy, consistent with Executive Order 13084 (issued May 14, 1998), with Native Hawaiians for the purpose of assuring maximum Native Hawaiian participation in the direction and administration of governmental services so as to render those services more responsive to the needs of the Native Hawaiian community.

(c) For purposes of this section, the term "Native Hawaiian" means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

SEC. 8142. None of the funds appropriated or otherwise made available by this or any other Act may be made available for reconstruction activities in the Republic of Serbia (excluding the province of Kosovo) as long as Slobodan Milosevic remains the President of the Federal Republic of Yugoslavia (Serbia and Montenegro).

SEC. 8143. In addition to the amounts provided elsewhere in this Act, the amount of $5,000,000 is hereby appropriated for "OPERATION AND MAINTENANCE, DEFENSE-WIDE", to be available, notwithstanding any other provision of law, only for a grant to the United Service Organizations Incorporated, a federally chartered corporation under chapter 2201 of title 36, United States Code. The grant provided for by this section is in addition to any grant provided for under any other provision of law.

SEC. 8144. None of the funds in this Act shall be available to initiate a multiyear procurement contract for the Abrams M1A2 Tank Upgrade Program until 30 days after the Department of the Army has submitted a report to Congress detailing its efforts to reduce the costs of the tank upgrade program, to include the effects and potential savings that would result from any alternate fixed price or fixed quantity option contracts.

SEC. 8145. The multi-year authority for the C-17 granted in this Act shall become effective once the Secretary of the Air Force certifies to the congressional defense committees that the average unit flyaway price of C–17 aircraft P121 through P180 purchased under a multi-year contract will be at least twenty-five (25) percent below the average unit flyaway price of the C-17 under the current 80 aircraft multiyear procurement program, with both prices calculated in fiscal year 1999 dollars.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8146. (a) In addition to amounts appropriated elsewhere in this Act, $1,000,000,000 is hereby appropriated for the F–22 program: Provided, That these funds shall only be available for transfer to the appropriate F–22 program R-1 and P–1 line items of Titles IV and III of this Act for the purposes of F–22 program research, development, test and evaluation, and advance procurement: Provided further, That of this amount, not more than $277,100,000 may be transferred to the "Aircraft Procurement, Air Force" account only for advance procurement of F–22 aircraft: Provided further, That any funds transferred for F–22 advance procurement shall not be available for obligation until the Secretary of Defense certifies to the congressional defense committees that all 1999 Defense Acquisition Board exit criteria have been met: Provided further, That the transfer authority provided in this section is in addition to any other transfer authority contained elsewhere in this Act.

(b) Notwithstanding any other provision of law, the Secretary of Defense may use funds provided under this section and transferred to Titles IV and III of this Act to continue acquisition of F–22 test aircraft for which procurement funding has been previously provided.

(c) The Secretary of the Air Force shall adjust the amounts of the limitations set forth in subsections (a) and (b) of section 217, Public Law 105–85 accordingly, and may modify any F–22 contracts to inplement the requirements of this section.

(d) Funds appropriated in this Act or any other prior Act for "Research, Development, Test and Evaluation, Air Force" and "Aircraft Procurement, Air Force" may not be used for acquisition of more than a total of 17 flight-capable test vehicles for the F–22 aircraft program.

(e) The Secretary of the Air Force may not award a full funding contract for low-rate initial production for the F–22 aircraft program until—

(1) the first flight of an F–22 aircraft incorporating Block 3.0 software has been conducted;

(2) the Secretary of Defense certifies to the congressional defense committees that all Defense Acquisition Board exit criteria for the award of low-rate initial production of the aircraft have been met; and

(3) upon completion of the requirements under (e)(1) and (e)(2) the Director of Operational Test and Evaluation submits to the congressional defense committees a report assessing the adequacy of testing to date to measure and predict performance of F–22 avionics systems, stealth characteristics, and weapons delivery systems.

(f) The funds transferred under the authority provided within this section shall be merged with and shall be available for the same purposes, and for the same time period, as the appropriation to which transferred.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8147. (a) In addition to the amounts appropriated elsewhere in this Act, $300,000,000 is hereby appropriated for F–22 program termination liability or for other F–22 program contractual requirements in lieu of termination liability obligations: Provided, That these funds shall only be available for transfer to the appropriate F–22 program R–1 and P–1 line items of Titles IV and III of this Act for the purposes specified in this section: Provided further, That the transfer authority provided in this section is in addition to any other transfer authority contained elsewhere in this Act: Provided further, That these funds shall not be available for expenditure until October 1, 2000.

(b) The funds transferred under the authority provided within this section shall be merged with and shall be available for the same purposes, and for the same time period, as the appropriation to which transferred.

SEC. 8148. In addition to the amounts provided elsewhere in this Act, the amount of $5,500,000 is hereby appropriated for "OPERATION AND MAINTENANCE, DEFENSE-WIDE", to be available, notwithstanding any other provision of law, only for a grant to the High Desert Partnership in Academic Excellence Foundation, Inc., for the purpose of developing, implementing, and evaluating a standards and performance based academic model at schools administered by the Department of Defense Education Activity.

SEC. 8149. None of the funds appropriated in this Act may be used for the payment of a fine or penalty that is imposed against the Department of Defense or a military department arising from an environmental violation at a military installation or facility unless the payment of the fine or penalty has been specifically authorized by law. For purposes of this section, expenditure of funds to carry out a supplemental environmental project that is required to be carried out as part of such a penalty shall be considered to be a payment of the penalty.

SEC. 8150. Section 8145 of the Department of Defense Appropriations Act, 1999 (Public Law 105–262; 112 Stat. 2340), is amended by inserting before the period at the end the following: ", and for such additional environmental restoration activities at such former base as may be accomplished within such total amount".

SEC. 8151. Of the funds made available in this Act under the heading "Operation and Maintenance, Defense-Wide", up to $5,000,000 shall be available to provide assistance, by grant or otherwise, to public school systems that have unusually high concentrations of special needs military dependents enrolled: Provided, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in states that are considered overseas assignments.

SEC. 8152. Funds appropriated by the paragraph under the heading "MILITARY CONSTRUCTION TRANSFER FUNDS" in the 1999 Emergency Supplemental Appropriations Act (Public Law 106–31; 113 Stat. 85) may be transferred to military construction accounts, as authorized by that paragraph, and shall be merged with and shall be available for the same purposes and for the same time period as the account to which transferred.

SEC. 8153. Section 127 of the Military Construction Appropriations Act, 1995 (Public Law 103–307; 108 Stat. 1666) is amended—

(1) in subsection (B)(1), by striking "an amount" and all that follows and inserting "$3,400,000."; and

(2) by adding at the end the following:

"(i) COMPLETION OF CONVEYANCE BY END OF FISCAL YEAR 2000.—The Secretary shall endeavor to complete any conveyance under this section not later than September 30, 2000.".

SEC. 8154. Notwithstanding any other provision of law, funds appropriated in this Act under the heading "Operation and Maintenance, Army" shall be available for expenses associated with characterization and remediation activities at the Massachusetts Military Reservation, Cape Cod, Massachusetts, resulting from environmental problems pertaining to use of Camp Edwards as a training range and impact area and any administrative orders issued by the U.S. Environmental Protection Agency to address those problems.

SEC. 8155. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) The Operation Walking Shield program shall resolve any conflicts among request of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under paragraph (b).

(d) INDIAN TRIBE DEFINED.—In this section, the term "Indian tribe" means any recognized Indian tribe included on the current list published by the Secretary of Interior under Section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103–454; 108 Stat. 4792; U.S.C. 479a–1).

SEC. 8156. Of the amounts appropriated in the Act under the heading "Research, Development, Test and Evaluation, Defense-Wide", $45,000,000 shall be available for the purpose of adjusting the cost-share of the parties under the Agreement between the Department of Defense and the Ministry of Defence of Israel for the Arrow Deployability Program.

SEC. 8157. The Secretary of Defense shall fully identify and determine the validity of healthcare contract additional liabilities, requests for equitable adjustment, and claims for unanticipated healthcare contract costs: Provided, That the Secretary of Defense shall establish an equitable and timely process for the adjudication of claims, and recognize actual liabilities during the Department's planning, programming and budgeting process, including fiscal year 2000 supplemental appropriation requests if appropriate: Provided further, That not later than December 1, 1999, the Secretary of Defense shall submit a report to the congressional defense committees on the scope and extent of healthcare contract claims, and on the action taken to implement the provisions of this section: Provided further, That nothing in this section should be construed as congressional direction to liquidate or pay any claims that otherwise would not have been adjudicated in favor of the claimant.

SEC. 8158. Of the funds appropriated in title II of this Act under the heading "Operation and Maintenance, Defense-Wide", $8,000,000 shall be available only for a community retraining, reinvestment, and manufacturing initiative to be conducted by an academic consortia with existing programs in manufacturing and retraining: Provided, That the $8,000,000 made available in this section shall be obligated by grant not later than fifteen days after enactment of this Act.

SEC. 8159. (a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the management of the chemical weapons demilitarization program.

(b) REPORT ELEMENTS.—The report under subsection (a) shall include the following:

(1) A description and assessment of the current management structure of the chemical weapons demilitarization program, including the management of the assembled chemical weapons assessment (ACWA) program.

(2) An assessment of the feasibility and advisability for the management of the chemical weapons demilitarization program of the assignment of a panel for oversight of the management of program, which panel would—

(A) consist of officials of the Department of Defense and of other departments and agencies of the Federal Government having an interest in the safe and timely demilitarization of chemical weapons; and

(B) prepare annual reports on the schedule, cost, and effectiveness of the program.

(3) Any other matters relating to the management of the chemical weapons demilitarization program, including the improvement of the management of the program, that the Secretary considers appropriate.

SEC. 8160. Notwithstanding any other provision of law, all military construction projects for which funds were appropriated in Public Law 106–52 are hereby authorized.

SEC. 8161. The Secretary of Defense may treat the opening of the National D-Day Museum in New Orleans, Louisiana, as an official event of the Department of Defense for the purposes of the provision of support for ceremonies and activities related to that opening.

SEC. 8162. DWIGHT D. EISENHOWER MEMORIAL. (a) FINDINGS.—Congress finds that—

(1) the people of the United States feel a deep debt of gratitude to Dwight D. Eisenhower, who served as Supreme Commander of the Allied Forces in Europe in World War II and subsequently as 34th President of the United States; and

(2) an appropriate permanent memorial to Dwight D. Eisenhower should be created to perpetuate his memory and his contributions to the United States.

(b) COMMISSION.—There is established a commission to be known as the "Dwight D. Eisenhower Memorial Commission" (referred to in this section as the "Commission").

(c) MEMBERSHIP.—The Commission shall be composed of—

(1) 4 persons appointed by the President, not more than two of whom may be members of the same political party;

(2) 4 Members of the Senate appointed by the President Pro Tempore of the Senate in consultation with the Majority Leader and Minority Leader of the Senate, of which not more

than two appointees may be members of the same political party; and

(3) 4 Members of the House of Representatives appointed by the Speaker of the House of Representatives in consultation with the Majority Leader and Minority Leader of the House, of which not more than two appointees may be members of the same political party.

(d) CHAIR AND VICE CHAIR.—The members of the Commission shall select a Chair and Vice Chair of the Commission. The Chair and Vice Chair shall not be members of the same political party.

(e) VACANCIES.—Any vacancy in the Commission shall not affect its powers if a quorum is present, but shall be filled in the same manner as the original appointment.

(f) MEETINGS.—

(1) INITIAL MEETING.—Not later than 45 days after the date on which a majority of the members of the Commission have been appointed, the Commission shall hold its first meeting.

(2) SUBSEQUENT MEETINGS.—The Commission shall meet at the call of the Chair.

(g) QUORUM.—A majority of the members of the Commission shall constitute a quorum but a lesser number of members may hold hearings.

(h) NO COMPENSATION.—A member of the Commission shall serve without compensation, but may be reimbursed for expenses incurred in carrying out the duties of the Commission.

(i) DUTIES.—The Commission shall consider and formulate plans for such a permanent memorial to Dwight D. Eisenhower, including its nature, design, construction, and location.

(j) POWERS.—The Commission may—

(1) make such expenditures for services and materials for the purpose of carrying out this section as the Commission considers advisable from funds appropriated or received as gifts for that purpose;

(2) accept gifts to be used in carrying out this section or to be used in connection with the construction or other expenses of the memorial; and

(3) hold hearings, enter into contracts for personal services and otherwise, and do such other things as are necessary to carry out this section.

(k) REPORTS.—The Commission shall—

(1) report the plans under subsection (i), together with recommendations, to the President and Congress at the earliest practicable date; and

(2) in the interim, make annual reports on its progress to the President and Congress.

(l) APPLICABILITY OF OTHER LAWS.—The Federal Advisory Committee Act (5 U.S.C. App) shall not apply to the Commission.

(m) APPROPRIATION OF FUNDS.—In addition to amounts provided elsewhere in this Act, there is appropriated to the Commission $300,000, to remain available until expended.

SEC. 8163. (a) The Secretary of the Air Force may accept contributions from the State of New York for the project at Rome Research Site, Rome, New York authorized in section 2301(a) of the National Defense Authorization Act for Fiscal Year 2000, for purposes of carrying out military construction relating to the consolidation of Air Force Research Laboratory facilities at the Rome Research Site, Rome, New York. Any contributions received from the State of New York shall be in addition to the funds authorized for the project in section 2304(a)(1) of the National Defense Authorization Act for Fiscal Year 2000.

(b) The item for "New York, Rome Research Site", in the table in Section 2301(a) of the National Defense Authorization Act for Fiscal Year 2000 is amended by striking "12,800,000" and inserting in lieu thereof "25,800,000".

SEC. 8164. Chapter 1 of title I of division B of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277; 112 Stat. 2681–553) is amended in the paragraph under the heading "Operation and Maintenance, Defense-Wide" by inserting before the period at the end the following: ": Provided further, That an amount not to exceed $75,000,000 of the funds provided under this heading shall remain available without fiscal year limitation after transfer from this account: Provided further, That, notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer the funds referred to in the immediately preceding proviso to other activities of the Federal Government pursuant to section 1535 of title 31, United States Code (referred to as the 'Economy Act')".

SEC. 8165. REVIEW OF LOW DENSITY, HIGH DEMAND ASSETS. (a) REPORT TO CONGRESSIONAL DEFENSE COMMITTEES.—The Secretary of Defense shall submit to the congressional defense committees a report assessing the requirements, plans, and resources needed to maintain, update, modernize, restore, and expand the Department of Defense fleet of specialized aircraft and related equipment commonly described as "Low Density, High Demand Assets". The report shall be submitted no later than May 15, 2000 and shall be submitted in both classified and unclassified versions.

(b) ASSETS TO BE COVERED.—The report shall cover the following aircraft and equipment:

(1) Electronic warfare aircraft and specialized jamming equipment.

(2) Intelligence, surveillance, and reconnaissance (ISR) platforms and major systems, including—

(A) U–2 aircraft;

(B) AWACS aircraft;

(C) JSTARS aircraft;

(D) RIVET JOINT aircraft;

(E) tactical unmanned aerial vehicles (UAVs);

(F) interoperable/secure communications;

(G) command and control systems;

(H) new data links; and

(I) data fusion capability.

(3) Strategic and tactical airlift aircraft.

(4) Aerial refueling aircraft.

(5) Strategic bomber aircraft.

(c) REPORT ELEMENTS.—The report shall include for each asset specified in subsection (b) the following:

(1) A description of—

(A) inventory, age, capabilities, current deficiencies, usage rates, current and remaining service life, and expected rates of fatigue;

(B) ability to provide logistical support;

(C) planned replacement dates; and

(D) number of sorties, percentage of inventory used, and overall effectiveness in Operation Desert Fox and in Operation Allied Force.

(2) A comparison of the Department's plans and resource requirements to update, replace, modernize, or restore the asset as contained in the Future Years Defense Plan for fiscal year 2000 with those plans and resource requirements for that asset as contained in the Future Years Defense Plan for fiscal year 2001, and an explanation for any significant difference in those plans and requirements.

(3) A detailed listing, by fiscal year, of—

(A) the total amount required to fulfill mission needs statements and documented inventory objectives for the asset in order to improve critical warfighting capabilities over the next 10 years; and

(B) of that total amount for each such year, the portion (stated as an amount and as a percentage) that is not included in the fiscal year 2001 Future Years Defense Plan.

SEC. 8166. Of the funds appropriated in Title II of this Act under the heading "Operation and Maintenance, Army", $5,000,000 shall be available only for a grant to the Chicago Public Schools for conversion and expansion of the former Eighth Regiment National Guard Armory (Bronzeville).

SEC. 8167. Notwithstanding any other provision of law, $10,000,000, is hereby appropriated and authorized for "Military Construction, Army National Guard", to remain available until September 30, 2004, for construction, and, contributions therefor, of an Army Aviation Support Facility at West Bend, Wisconsin.

SEC. 8168. (a) PURPOSE.—The purpose of this section is to evaluate and demonstrate methods for more efficient operation of military installations through improved capital asset management and greater reliance on the public or private sector for less-costly base support services, where available.

(b) AUTHORITY.—(1) The Secretary of the Air Force may carry out at Brooks Air Force Base, Texas, a demonstration project to be known as the "Base Efficiency Project" to improve mission effectiveness and reduce the cost of providing quality installation support at Brooks Air Force Base.

(2) The Secretary may carry out the Project in consultation with the Community to the extent the Secretary determines such consultation is necessary and appropriate.

(3) The authority provided in this section is in addition to any other authority vested in or delegated to the Secretary, and the Secretary may exercise any authority or combination of authorities provided under this section or elsewhere to carry out the purposes of the Project.

(c) EFFICIENT PRACTICES.—(1) The Secretary may convert services at or for the benefit of the Base from accomplishment by military personnel or by Department civilian employees (appropriated fund or non-appropriated fund), to services performed by contract or provided as consideration for the lease, sale, or other conveyance or transfer of property.

(2) Notwithstanding section 2462 of title 10, United States Code, a contract for services may be awarded based on "best value" if the Secretary determines that the award will advance the purposes of a joint activity conducted under the Project and is in the best interest of the Department.

(3) Notwithstanding that such services are generally funded by local and State taxes and provided without specific charge to the public at large, the Secretary may contract for public services at or for the benefit of the Base in exchange for such consideration, if any, the Secretary determines to be appropriate.

(4)(A) The Secretary may conduct joint activities with the Community, the State, and any private parties or entities on or for the benefit of the Base.

(B) Payments or reimbursements received from participants for their share of direct and indirect costs of joint activities, including the costs of providing, operating, and maintaining facilities, shall be in an amount and type determined to be adequate and appropriate by the Secretary.

(C) Such payments or reimbursements received by the Department shall be deposited into the Project Fund.

(d) LEASE AUTHORITY.—(1) The Secretary may lease real or personal property located on the Base and not required at other Air Force installations to any lessee upon such terms and conditions as the Secretary considers appropriate and in the interest of the United States, if the Secretary determines that the lease would facilitate the purposes of the Project.

(2) Consideration for a lease under this subsection shall be determined in accordance with subsection (g).

(3) A lease under this subsection—

(A) may be for such period as the Secretary determines is necessary to accomplish the goals of the Project; and

(B) may give the lessee the first right to purchase the property at fair market value if the lease is terminated to allow the United States to sell the property under any other provision of law.

(4)(A) The interest of a lessee of property leased under this subsection may be taxed by the State or the Community.

(B) A lease under this subsection shall provide that, if and to the extent that the leased property is later made taxable by State governments or local governments under Federal law, the lease shall be renegotiated.

(5) The Department may furnish a lessee with utilities, custodial services, and other base operation, maintenance, or support services performed by Department civilian or contract employees, in exchange for such consideration, payment, or reimbursement as the Secretary determines appropriate.

(6) All amounts received from leases under this subsection shall be deposited into the Project Fund.

(7) A lease under this subsection shall not be subject to the following provisions of law:

(A) Section 2667 of title 10, United States Code, other than subsection (b)(1) of that section.

(B) Section 321 of the Act of June 30, 1932 (40 U.S.C. 303b).

(C) The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(e) PROPERTY DISPOSAL.—(1) The Secretary may sell or otherwise convey or transfer real and personal property located at the Base to the Community or to another public or private party during the Project, upon such terms and conditions as the Secretary considers appropriate for purposes of the Project.

(2) Consideration for a sale or other conveyance or transfer of property under this subsection shall be determined in accordance with subsection (g).

(3) The sale or other conveyance or transfer of property under this subsection shall not be subject to the following provisions of law:

(A) Section 2693 of title 10, United States Code.

(B) The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(4) Cash payments received as consideration for the sale or other conveyance or transfer of property under this subsection shall be deposited into the Project Fund.

(f) LEASEBACK OF PROPERTY LEASED OR DISPOSED.—(1) The Secretary may lease, sell, or otherwise convey or transfer real property at the Base under subsections (b) and (e), as applicable, which will be retained for use by the Department or by another military department or other Federal agency, if the lessee, purchaser, or other grantee or transferee of the property agrees to enter into a leaseback to the Department in connection with the lease, sale, or other conveyance or transfer of one or more portions or all of the property leased, sold, or otherwise conveyed or transferred, as applicable.

(2) A leaseback of real property under this subsection shall be an operating lease for no more than 20 years unless the Secretary of the Air Force determines that a longer term is appropriate.

(3)(A) Consideration, if any, for real property leased under a leaseback entered into under this subsection shall be in such form and amount as the Secretary considers appropriate.

(B) The Secretary may use funds in the Project Fund or other funds appropriated or otherwise available to the Department for use at the Base for payment of any such cash rent.

(4) Notwithstanding any other provision of law, the Department or other military department or other Federal agency using the real property leased under a leaseback entered into under this subsection may construct and erect facilities on or otherwise improve the leased property using funds appropriated or otherwise available to the Department or other military department or other Federal agency for such purpose.

(g) CONSIDERATION.—(1) The Secretary shall determine the nature, value, and adequacy of consideration required or offered in exchange for a lease, sale, or other conveyance or transfer of real or personal property or for other actions taken under the Project.

(2) Consideration may be in cash or in-kind or any combination thereof. In-kind consideration may include the following:

(A) Real property.

(B) Personal property.

(C) Goods or services, including operation, maintenance, protection, repair, or restoration (including environmental restoration) of any property or facilities (including non-appropriated fund facilities).

(D) Base operating support services.

(E) Improvement of Department facilities.

(F) Provision of facilities, including office, storage, or other usable space, for use by the Department on or off the Base.

(G) Public services.

(3) Consideration may not be for less than the fair market value.

(h) PROJECT FUND.—(1) There is established on the books of the Treasury a fund to be known as the "Base Efficiency Project Fund" into which all cash rents, proceeds, payments, reimbursements, and other amounts from leases, sales, or other conveyances or transfers, joint activities, and all other actions taken under the Project shall be deposited. All amounts deposited into the Project Fund are without fiscal year limitation.

(2) Amounts in the Project Fund may be used only for operation, base operating support services, maintenance, repair, or improvement of Department facilities, payment of consideration for acquisitions of interests in real property (including payment of rentals for leasebacks), and environmental protection or restoration, in addition to or in combination with other amounts appropriated for these purposes.

(3) Subject to generally prescribed financial management regulations, the Secretary shall establish the structure of the Project Fund and such administrative policies and procedures as the Secretary considers necessary to account for and control deposits into and disbursements from the Project Fund effectively.

(4) All amounts in the Project Fund shall be available for use for the purposes authorized in paragraph (2) at the Base.

(i) FEDERAL AGENCIES.—(1)(A) Any Federal agency, its contractors, or its grantees shall pay rent, in cash or services, for the use of facilities or property at the Base, in an amount and type determined to be adequate by the Secretary.

(B) Such rent shall generally be the fair market rental of the property provided, but in any case shall be sufficient to compensate the Base for the direct and overhead costs incurred by the Base due to the presence of the tenant agency on the Base.

(2) Transfers of real or personal property at the Base to other Federal agencies shall be at fair market value consideration. Such consideration may be paid in cash, by appropriation transfer, or in property, goods, or services.

(3) Amounts received from other Federal agencies, their contractors, or grantees, including any amounts paid by appropriation transfer, shall be deposited in the Project Fund.

(j) REPORTS TO CONGRESS.—(1) Section 2662 of title 10, United States Code, shall not apply to transactions at the Base during the Project.

(2)(A) Not later than March 1 each year, the Secretary shall submit to the appropriate committees of Congress a report on any transactions at the Base during the preceding fiscal year that would be subject to such section 2662.

(B) The report shall include a detailed cost analysis of the financial savings and gains realized through joint activities and other actions under the Project authorized by this section and a description of the status of the Project.

(k) LIMITATION.—None of the authorities in this section shall create any legal rights in any person or entity except rights embodied in leases, deeds, or contracts.

(l) EXPIRATION OF AUTHORITY.—The authority to enter into a lease, deed, permit, license, contract, or other agreement under this section shall expire on September 30, 2004.

(m) DEFINITIONS.—In this section:

(1) The term "Project" means the Base Efficiency Project authorized by this section.

(2) The term "Base" means Brooks Air Force Base, Texas.

(3) The term "Community" means the City of San Antonio, Texas.

(4) The term "Department" means the Department of the Air Force.

(5) The term "facility" means a building, structure, or other improvement to real property (except a military family housing unit as that term is used in subchapter IV of chapter 169 of title 10, United States Code).

(6) The term "joint activity" means an activity conducted on or for the benefit of the Base by the Department, jointly with the Community, the State, or any private entity, or any combination thereof.

(7) The term "Project Fund" means the Base Efficiency Project Fund established by subsection (h).

(8) The term "public services" means public services (except public schools, fire protection, and police protection) that are funded by local and State taxes and provided without specific charge to the public at large.

(9) The term "Secretary" means the Secretary of the Air Force or the Secretary's designee, who shall be a civilian official of the Department appointed by the President with the advice and consent of the Senate.

(10) The term "State" means the State of Texas.

(n) The authorities provided in this section shall not take effect until June 15, 2000.

SEC. 8169. Notwithstanding any other provision of this Act, the total amount appropriated in this Act is hereby reduced by $400,000,000, to be distributed as follows:

"Operation and Maintenance, Army", $115,000,000;

"Operation and Maintenance, Navy", $150,000,000;

"Operation and Maintenance, Marine Corps", $20,000,000; and

"Operation and Maintenance, Air Force", $115,000,000:

Provided, That of the unobligated amounts made available in Section 2008 of title II, chapter 3 of Public Law 106–31, $400,000,000 shall be made available only for depot level maintenance and repair, as follows:

"Operation and Maintenance, Army", $115,000,000;

"Operation and Maintenance, Navy", $150,000,000;

"Operation and Maintenance, Marine Corps", $20,000,000; and

"Operation and Maintenance, Air Force", $115,000,000.

SEC. 8170. Notwithstanding any other provision of this Act, the total amount appropriated in this Act is hereby reduced by $550,000,000, to be distributed as follows:

"Operation and Maintenance, Army", $170,000,000;

"Operation and Maintenance, Navy", $170,000,000;

"Operation and Maintenance, Marine Corps", $40,000,000; and

"Operation and Maintenance, Air Force", $170,000,000:

Provided, That of the unobligated amounts made available in Section 2007 of title II, chapter 3 of Public Law 106–31, $550,000,000 shall be made available only for spare and repair parts and associated logistical support necessary for the maintenance of weapons systems and equipment, as follows:

"Operation and Maintenance, Army", $170,000,000;

"Operation and Maintenance, Navy", $170,000,000;

"Operation and Maintenance, Marine Corps", $40,000,000; and

"Operation and Maintenance, Air Force", $170,000,000.

Sec. 8171. Notwithstanding any other provision of this Act, the total amount appropriated in this Act is hereby reduced by $100,000,000, to be distributed as follows:

"Operation and Maintenance, Army", $60,000,000;

"Operation and Maintenance, Navy", $20,000,000; and

"Operation and Maintenance, Air Force", $20,000,000:

Provided, That of the unobligated amounts made available in Section 2011 of title II, chapter 3 of Public Law 106–31, $100,000,000 shall be made available only for base operations support costs at Department of Defense facilities, as follows:

"Operation and Maintenance, Army", $60,000,000;

"Operation and Maintenance, Navy", $20,000,000; and

"Operation and Maintenance, Air Force", $20,000,000.

Sec. 8172. Notwithstanding any other provision of this Act, the total amount appropriated in this Act is hereby reduced by $356,400,000, to be distributed as follows:

"Weapons Procurement, Navy", $50,900,000;

"Procurement of Ammunition, Navy and Marine Corps", $113,500,000;

"Aircraft Procurement, Air Force", $20,800,000; and

"Procurement of Ammunition, Air Force", $171,200,000:

Provided, That the Secretary of Defense shall allocate these reductions to reflect savings available as a result of the increased procurement of munitions resulting from funds made available in Title II, chapter 3 of Public Law 106–31.

Sec. 8173. (a) Notwithstanding any other provision of this Act, amounts otherwise provided by this Act in title II for the following accounts and activities are reduced by the following amounts:

"Operation and Maintenance, Army", $1,572,947,000;

"Operation and Maintenance, Navy", $1,874,598,000;

"Operation and Maintenance, Marine Corps", $228,709,000;

"Operation and Maintenance, Air Force", $1,707,150,000;

"Operation and Maintenance, Defense-Wide", $939,341,000;

"Operation and Maintenance, Army Reserve", $120,072,000;

"Operation and Maintenance, Navy Reserve", $77,598,000;

"Operation and Maintenance, Marine Corps Reserve", $11,346,000;

"Operation and Maintenance, Air Force Reserve", $145,393,000;

"Operation and Maintenance, Army National Guard", $258,115,000;

"Operation and Maintenance, Air National Guard", $264,731,000;

in all: $7,200,000,000.

(b) In addition to amounts appropriated elsewhere in this Act there are hereby appropriated the following amounts for the following accounts:

"Operation and Maintenance, Army", $1,572,947,000;

"Operation and Maintenance, Navy", $1,874,598,000;

"Operation and Maintenance, Marine Corps", $228,709,000;

"Operation and Maintenance, Air Force", $1,707,150,000;

"Operation and Maintenance, Defense-Wide", $939,341,000;

"Operation and Maintenance, Army Reserve", $120,072,000;

"Operation and Maintenance, Navy Reserve", $77,598,000;

"Operation and Maintenance, Marine Corps Reserve", $11,346,000;

"Operation and Maintenance, Air Force Reserve", $145,393,000;

"Operation and Maintenance, Army National Guard", $258,115,000;

"Operation and Maintenance, Air National Guard", $264,731,000;

in all: $7,200,000,000:

Provided, That the entire amount shall be available only to the extent an official budget request for $7,200,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

Sec. 8174. None of the funds appropriated or otherwise made available in this Act may be used for the American Heritage Rivers Initiative.

Sec. 8175. Notwithstanding any other provision of law, the Department of Defense shall make progress payments based on progress no less than 12 days after receiving a valid billing and the Department of Defense shall make progress payments based on cost no less than 19 days after receiving a valid billing.

Sec. 8176. Notwithstanding any other provision of law, the Department of Defense shall make adjustments in payment procedures and policies to ensure that payments are made no less than 29 days after receipt of a proper invoice.

TITLE IX

WAIVER OF CERTAIN SANCTIONS AGAINST INDIA AND PAKISTAN

(a) Waiver Authority.—Except as provided in subsections (b) and (c) of this section, the President may waive, with respect to India and Pakistan, the application of any sanction contained in section 101 or 102 of the Arms Export Control Act (22 U.S.C. 2799aa or 22 U.S.C. 2799aa–1), section 2(b)(4) of the Export Inport Bank Act of 1945 (12 U.S.C. 635(b)(4)), or section 620E(e) of the Foreign Assistance Act of 1961, as amended, (22 U.S.C. 2375(e)).

(b) Exception.—The authority to waive the application of a sanction or prohibition (or portion thereof) under subsection (a) shall not apply with respect to a sanction or prohibition contained in subparagraph (B), (C), or (G) of section 102(b)(2) of the Arms Export Control Act, unless the President determines, and so certifies to Congress, that the application of the restriction would not be in the national security interests of the United States.

(c) Termination of Waiver.—The President may not exercise the authority of subsection (a), and any waiver previously issued under subsection (a) shall cease to apply, with respect to India or Pakistan, if that country detonates a nuclear explosive device after the date of enactment of this act or otherwise takes such action which would cause the President to report pursuant to section 102(b)(1) of the Arms Export Control Act.

(d) Targeted Sanctions.—

(1) Sense of the congress.—

(A) It is the sense of the Congress that the broad application of export controls to nearly 300 Indian and Pakistani entities is inconsistent with the specific national security interests of the United States and that this control list requires refinement; and

(B) export controls should be applied only to those Indian and Pakistani entities that make direct and material contributions to weapons of mass destruction and missile programs and only to those items that can contribute to such programs.

(2) Reporting requirement.—Not later than 60 days after the date of enactment of this Act, the President shall submit both a classified and unclassified report to the appropriate congressional committees listing those Indian and Pakistani entities whose activities contribute to missile programs or weapons of mass destruction programs.

(e) Congressional Notification.—The issuance of a license for export of a defense article, defense service, or technology under the authority of this section shall be subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act (22 U.S.C. 2776(c)), including the transmittal of information and the application of congressional review procedures.

(f) Repeal.—The India-Pakistan Relief Act (title IX of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, as contained in section 101(a) of Public Law 105–277) is repealed effective October 21, 1999.

This Act may be cited as the "Department of Defense Appropriations Act, 2000".

And the Senate agree to the same.

Jerry Lewis,
C.W. Bill Young,
Joe Skeen,
David L. Hobson,
Henry Bonilla,
George R. Nethercutt, Jr.,
Ernest J. Istook, Jr.,
Randy "Duke" Cunningham,
Jay Dickey,
Rodney P. Frelinghuysen,
John P. Murtha,
Norman D. Dicks,
Martin Olav Sabo,
Julian C. Dixon,
Peter J. Visclosky,
James P. Moran,
Managers on the Part of the House.

Ted Stevens,
Thad Cochran,
Arlen Specter,
Pete V. Domenici,
Christopher S. Bond,
Mitch McConnell,
Richard C. Shelby,
Judd Gregg,
Kay Bailey Hutchison,
Daniel K. Inouye,
Ernest F. Hollings,
Robert C. Byrd,
Patrick J. Leahy,
Frank R. Lautenberg,
Tom Harkin,
Byron L. Dorgan,
Richard J. Durbin,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2561), making appropriations for the Department of Defense for the fiscal year ending September 30, 2000, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on the Department of Defense Appropriations Act, 2000, incorporates some of the provisions of both the House and Senate versions of the bill. The language and allocations set forth in House Report 106–244 and Senate Report 106–53 should be complied with unless specifically addressed in the accompanying bill and statement of the managers to the contrary.

Senate Amendment: The Senate deleted the entire House bill after the enacting clause and inserted the Senate bill. The conference agreement includes a revised bill.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

The conferees agree that for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) and by the Budget Enforcement Act of 1990 (Public Law 101–508), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 2000, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the Committee of Conference, the related classified annexes and reports, and the P–1 and R–1 budget justification documents as subsequently modified by Congressional action. The following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act. At the time the President submits his budget for fiscal year 2001, the conferees direct the Department of Defense to transmit to the congressional defense committees budget justification documents to be known as the "M–1" and "O–1" which shall identify, at the budget activity, activity group, and subactivity group level, the amounts requested by the President to be appropriated to the Department of Defense for operation and maintenance in any budget request, or amended budget request, for fiscal year 2001.

CONGRESSIONAL SPECIAL INTEREST ITEMS

The conferees direct that projects for which funds are provided as indicated in the tables or paragraphs of the Conference Report in any appropriation account are special interest items for the purpose of preparation of the DD Form 1414. The conferees also direct that the funding adjustments outlined in the tables shall be provided only for the specific purposes outlined in the table.

TITLE I—MILITARY PERSONNEL

The conferees agree to the following amounts for the Military Personnel accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
Active Personnel:				
Army	22,006,632	21,475,732	22,041,094	22,006,361
Navy	17,207,481	16,737,072	17,236,001	17,258,823
Marine Corps	6,544,682	6,353,622	6,562,336	6,555,403
Air Force	17,899,685	17,565,811	17,873,759	17,861,803
Reserve Personnel:				
Army	2,270,964	2,235,055	2,278,696	2,289,996
Navy	1,446,339	1,425,210	1,450,788	1,473,388
Marine Corps	409,189	403,822	410,650	412,650
Air Force	881,170	872,978	884,794	892,594
National Guard Personnel:				
Army	3,570,639	3,486,427	3,622,479	3,610,479
Navy	1,486,512	1,456,248	1,494,496	1,533,196
Total Military Personnel	73,723,293	72,011,977	73,855,093	73,894,693

PAY INCREASE AND RETIREMENT REFORM

The conferees recommend an increase of $165,000,000 to the Active, Reserve, and Guard Military Personnel accounts to provide for a 4.8 percent military pay raise, effective January 1, 2000. This is an increase of 0.4 percent over the budget request of 4.4 percent. In addition, the National Defense Authorization Act for Fiscal Year 2000 revised the budget's legislative proposal to repeal the Redux retirement system which results in savings to the personnel accounts. Accordingly, the conferees recommend a total reduction of $136,000,000 to the Active, Reserve, and Guard Military Personnel accounts for modifications to the 1986 Military Retirement Reform Act.

PERSONNEL UNDEREXECUTION SAVINGS

The conferees recommend a total reduction of $219,000,000 to the Active Military Personnel accounts due to lower than budgeted fiscal year 1999 end strengths, and differences in the actual grade mix of officers and enlisted recommended in the budget request. The General Accounting Office estimates that the active components will have approximately 9,700 fewer personnel on board to begin fiscal year 2000, and as a result, the fiscal year 2000 pay and allowances requirements for personnel are incorrect and the budgets overstated.

FORCE STRUCTURE CHANGES

The conferees recommend a total of $103,600,000 in the Military Personnel and Operation and Maintenance accounts for force structure that was not included in the budget request, as follows:

[In thousands of dollars]

	Milpers	O&M	Proc.	Total
Navy AOE–1 replenishment ships	5,000			5,000
Marine Corps Security Guards	6,600	4,100		10,700
Air Force B–52 aircraft	3,100	25,000	8,900	37,000
Air Force Reserve Test Support Mission	2,300			2,300
Army National Guard civilian technicians		20,000		20,000
Army National Guard RAID Teams AGR's	7,000			7,000
Army National Guard AGR's	15,000			15,000
Air National Guard RAID Teams AGR's	4,600			4,600
Air National Guard C–130 restoration	500	1,500		2,000

DFAS SALARY MISALIGNMENT

At the request of the Air Force, the conferees recommend realigning $39,200,000 from "Military Personnel, Air Force" to "National Guard Personnel, Air Force" due to a Defense Finance and Accounting Service error involving Air Force personnel salaries.

BASIC ALLOWANCE FOR HOUSING REFORM

The conferees recommend an increase of $100,000,000 across the Active Military Personnel accounts for Basic Allowance for Housing (BAH) reform. The additional funds will allow the Department to complete the transition phase of BAH reform, as directed by the National Defense Authorization Act for Fiscal Year 2000.

ARMY CONTINGENCY OPERATIONS

The conferees recommend a reduction of $80,000,000 to "Military Personnel, Army" to reflect the reduced U.S. troop levels in Bosnia, and the associated military personnel pay and allowance costs requested in the fiscal year 2000 budget request.

RECRUITING AND RETENTION

The conferees recommend an additional $399,200,000 in the Military Personnel and Operation and Maintenance accounts to support the Department's recruiting, advertising, and retention programs. The conferees are aware that some of the Services are experiencing difficulty in meeting accession goals and that first and second term retention rates, along with pilot retention rates, are of major concern. Therefore, the conferees recommend additional funds to improve the Services' recruiting and retention efforts in the following programs:

[In thousands of dollars]

Enlistment Bonuses	$88,200
Selective Reenlistment Bonuses	74,000
Student Loan Repayment Program	4,000
Navy College Fund	5,000
Recruiting and Advertising	78,000
Recruiting Support	27,000
College First Program	7,000
Tuition Assistance	6,000
Aviation Continuation Pay	110,000

ACTIVE END STRENGTH

[Fiscal year 2000]

	Budget	Conference	Conference vs. Budget
Army	480,000	480,000	
Navy	371,781	372,037	+256
Marine Corps	172,148	172,518	+370
Air Force	360,877	360,877	
Total, Active Personnel	1,384,806	1,385,432	+626

Military Personnel, Army

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
50 MILITARY PERSONNEL, ARMY				
100 ACTIVITY 1: PAY AND ALLOWANCES OF OFFICER				
150 BASIC PAY	3,628,563	3,628,563	3,628,563	3,628,563
200 RETIRED PAY ACCRUAL	1,163,712	1,163,712	1,163,712	1,163,712
350 BASIC ALLOWANCE FOR HOUSING	619,968	619,968	619,968	619,968
400 BASIC ALLOWANCE FOR SUBSISTENCE	149,286	149,286	149,286	149,286
450 INCENTIVE PAYS	77,071	77,071	77,071	77,071
500 SPECIAL PAYS	203,815	203,815	203,815	203,815
550 ALLOWANCES	86,756	86,756	86,756	86,756
600 SEPARATION PAY	87,929	87,929	87,929	87,929
650 SOCIAL SECURITY TAX	275,798	275,798	275,798	275,798
700 TOTAL, BUDGET ACTIVITY 1	6,292,898	6,292,898	6,292,898	6,292,898
750 ACTIVITY 2: PAY AND ALLOWANCES OF ENLISTED PERSONNEL				
800 BASIC PAY	7,774,659	7,774,659	7,774,659	7,774,659
850 RETIRED PAY ACCRUAL	2,493,248	2,493,248	2,493,248	2,493,248
1000 BASIC ALLOWANCE FOR HOUSING	1,298,062	1,298,062	1,298,062	1,298,062
1050 INCENTIVE PAYS	69,232	69,232	69,232	69,232
1100 SPECIAL PAYS	374,543	423,543	374,543	453,543
1150 ALLOWANCES	506,601	506,601	506,601	506,601

(In thousands of dollars)

	Budget	House	Senate	Conference
1200 SEPARATION PAY	270,039	270,039	270,039	270,039
1250 SOCIAL SECURITY TAX	586,232	586,232	586,232	586,232
1300 TOTAL, BUDGET ACTIVITY 2	13,372,616	13,421,616	13,372,616	13,451,616
1350 ACTIVITY 3: PAY AND ALLOWANCES OF CADETS				
1400 ACADEMY CADETS	39,646	39,646	39,646	39,646
1500 ACTIVITY 4: SUBSISTENCE OF ENLISTED PERSONNEL				
1550 BASIC ALLOWANCE FOR SUBSISTENCE	826,782	826,782	826,782	826,782
1600 SUBSISTENCE-IN-KIND	459,889	459,889	459,889	459,889
1650 TOTAL, BUDGET ACTIVITY 4	1,286,671	1,286,671	1,286,671	1,286,671
1700 ACTIVITY 5: PERMANENT CHANGE OF STATION TRAVEL				
1750 ACCESSION TRAVEL	129,429	129,429	129,429	129,429
1800 TRAINING TRAVEL	47,289	47,289	47,289	47,289
1850 OPERATIONAL TRAVEL	136,305	136,305	136,305	136,305
1900 ROTATIONAL TRAVEL	575,093	575,093	575,093	575,093
1950 SEPARATION TRAVEL	162,933	162,933	162,933	162,933
2000 TRAVEL OF ORGANIZED UNITS	6,409	6,409	6,409	6,409
2050 NON-TEMPORARY STORAGE	28,752	28,752	28,752	28,752
2100 TEMPORARY LODGING EXPENSE	10,605	10,605	10,605	10,605
2200 TOTAL, BUDGET ACTIVITY 5	1,096,815	1,096,815	1,096,815	1,096,815

(In thousands of dollars)

	Budget	House	Senate	Conference
2250 ACTIVITY 6: OTHER MILITARY PERSONNEL COSTS				
2300 APPREHENSION OF MILITARY DESERTERS....................	795	795	795	795
2350 INTEREST ON UNIFORMED SERVICES SAVINGS................	487	487	487	487
2400 DEATH GRATUITIES......................................	2,856	2,856	2,856	2,856
2450 UNEMPLOYMENT BENEFITS.................................	102,292	102,292	102,292	102,292
2500 SURVIVOR BENEFITS.....................................	7,883	7,883	7,883	7,883
2600 ADOPTION EXPENSES.....................................	252	252	252	252
2700 TOTAL, BUDGET ACTIVITY 6............................	114,565	114,565	114,565	114,565
2750 LESS REIMBURSABLES....................................	-196,579	-196,579	-196,579	-196,579
2755 LESS PAY INCREASE PROVIDED IN P.L. 106-31.............	---	-559,533	---	---
2770 PERSONNEL UNDEREXECUTION..............................	---	-15,000	-15,000	-35,000
2790 4.8% PAY RAISE INCREASE...............................	---	49,533	49,462	49,462
2800 RETIREMENT REFORM.....................................	---	-127,500	---	-46,000
2805 BASIC ALLOWANCE FOR HOUSING...........................	---	72,600	---	32,267
2810 CONTINGENCY OPERATIONS UNDEREXECUTION.................	---	---	---	-80,000
2840 TOTAL, MILITARY PERSONNEL, ARMY.....................	22,006,632	21,475,732	22,041,094	22,006,361

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 2: Pay and Allowances of Enlisted Personnel:	
1100 Special Pays/Enlistment Bonuses	35,000
1100 Special Pays/Selective Reenlistment Bonuses	44,000
Undistributed:	
2770 Personnel Underexecution	−35,000
2790 4.8 Percent Pay Raise	49,462
2805 Retirement Reform	−46,000
2805 Basic Allowance for Housing Reform	32,267
2810 Contingency Operations Underexecution	−80,000

Military Personnel, Navy

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
2850 MILITARY PERSONNEL, NAVY				
2900 ACTIVITY 1: PAY AND ALLOWANCES OF OFFICER				
2950 BASIC PAY	2,519,847	2,519,847	2,519,847	2,519,847
3000 RETIRED PAY ACCRUAL	809,915	809,915	809,915	809,915
3150 BASIC ALLOWANCE FOR HOUSING	557,691	557,691	557,691	557,691
3200 BASIC ALLOWANCE FOR SUBSISTENCE	102,631	102,631	102,631	102,631
3250 INCENTIVE PAYS	152,274	152,274	152,274	152,274
3300 SPECIAL PAYS	221,949	221,949	221,949	221,949
3350 ALLOWANCES	51,472	51,472	51,472	51,472
3400 SEPARATION PAY	50,517	50,517	50,517	50,517
3450 SOCIAL SECURITY TAX	191,297	191,297	191,297	191,297
3500 TOTAL, BUDGET ACTIVITY 1	4,657,593	4,657,593	4,657,593	4,657,593
3550 ACTIVITY 2: PAY AND ALLOWANCES OF ENLISTED PERSONNEL				
3600 BASIC PAY	6,177,863	6,177,863	6,177,863	6,177,863
3650 RETIRED PAY ACCRUAL	1,976,919	1,976,919	1,976,919	1,976,919
3800 BASIC ALLOWANCE FOR HOUSING	1,428,369	1,428,369	1,428,369	1,428,369
3850 INCENTIVE PAYS	94,723	94,723	94,723	94,723
3900 SPECIAL PAYS	578,254	578,254	578,254	611,254
3950 ALLOWANCES	373,344	373,344	373,344	373,344
4000 SEPARATION PAY	123,654	123,654	123,654	123,654
4050 SOCIAL SECURITY TAX	467,633	467,633	467,633	467,633
4100 TOTAL, BUDGET ACTIVITY 2	11,220,759	11,220,759	11,220,759	11,253,759

(In thousands of dollars)

	Budget	House	Senate	Conference
4150 ACTIVITY 3: PAY AND ALLOWANCES OF MIDSHIPMEN				
4200 MIDSHIPMEN	38,518	38,518	38,518	38,518
4300 ACTIVITY 4: SUBSISTENCE OF ENLISTED PERSONNEL				
4350 BASIC ALLOWANCE FOR SUBSISTENCE	538,334	538,334	538,334	538,334
4400 SUBSISTENCE-IN-KIND	265,304	265,304	265,304	265,304
4450 TOTAL, BUDGET ACTIVITY 4	803,638	803,638	803,638	803,638
4500 ACTIVITY 5: PERMANENT CHANGE OF STATION TRAVEL				
4550 ACCESSION TRAVEL	56,062	56,062	56,062	56,062
4600 TRAINING TRAVEL	60,220	60,220	60,220	60,220
4650 OPERATIONAL TRAVEL	141,795	141,795	141,795	141,795
4700 ROTATIONAL TRAVEL	230,389	230,389	230,389	230,389
4750 SEPARATION TRAVEL	101,158	101,158	101,158	101,158
4800 TRAVEL OF ORGANIZED UNITS	19,620	19,620	19,620	19,620
4850 NON-TEMPORARY STORAGE	13,357	13,357	13,357	13,357
4900 TEMPORARY LODGING EXPENSE	5,556	5,556	5,556	5,556
4950 OTHER	4,710	4,710	4,710	4,710
5000 TOTAL, BUDGET ACTIVITY 5	632,867	632,867	632,867	632,867

(In thousands of dollars)

	Budget	House	Senate	Conference
5050 ACTIVITY 6: OTHER MILITARY PERSONNEL COSTS				
5100 APPREHENSION OF MILITARY DESERTERS	839	839	839	839
5150 INTEREST ON UNIFORMED SERVICES SAVINGS	100	100	100	100
5200 DEATH GRATUITIES	1,806	1,806	1,806	1,806
5250 UNEMPLOYMENT BENEFITS	63,992	63,992	63,992	63,992
5300 SURVIVOR BENEFITS	3,173	3,173	3,173	3,173
5350 EDUCATION BENEFITS	9,341	9,341	9,341	14,341
5400 ADOPTION EXPENSES	272	272	272	272
5500 TOTAL, BUDGET ACTIVITY 6	79,523	79,523	79,523	84,523
5550 LESS REIMBURSABLES	-225,417	-225,417	-225,417	-225,417
5555 LESS PAY INCREASE PROVIDED IN P.L. 106-31	---	-436,773	---	---
5580 PERSONNEL UNDEREXECUTION	---	-51,300	-9,000	-38,000
5595 4.8% PAY RAISE INCREASE	---	37,464	37,520	37,520
5605 RETIREMENT REFORM	---	-96,400	---	-33,000
5610 BASIC ALLOWANCE FOR HOUSING	---	71,600	---	31,822
5615 AOE-1 REPLENISHMENT SHIPS	---	5,000	---	5,000
5620 AVIATION CONTINUATION PAY	---	---	---	10,000
5640 TOTAL, MILITARY PERSONNEL, NAVY	17,207,481	16,737,072	17,236,001	17,258,823

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 2: Pay and Allowances of Enlisted Personnel:	
3900 Special Pays/Enlistment Bonuses	30,000
3900 Special Pays/Special Duty Assignment Pay	3,000
Budget Activity 6: Other Military Personnel Costs:	
5350 Education Benefits/Navy College Fund	5,000
Undistributed:	
5580 Personnel Underexection	−38,000
5595 4.8 percent Pay Raise	37,520
5605 Retirement Reform	−33,000
5610 Basic Allowance for Housing Reform	31,822
5615 AOE–1 Replenishment Ships	5,000
5620 Aviation Continuation Pay	10,000

Military Personnel, Marine Corps

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
5650 MILITARY PERSONNEL, MARINE CORPS				
5700 ACTIVITY 1: PAY AND ALLOWANCES OF OFFICER				
5750 BASIC PAY	811,861	811,861	811,861	811,861
5800 RETIRED PAY ACCRUAL	260,434	260,434	260,434	260,434
5950 BASIC ALLOWANCE FOR HOUSING	145,075	145,075	145,075	145,075
6000 BASIC ALLOWANCE FOR SUBSISTENCE	34,253	34,253	34,253	34,253
6050 INCENTIVE PAYS	39,638	39,638	39,638	39,638
6100 SPECIAL PAYS	1,572	1,572	1,572	1,572
6150 ALLOWANCES	17,183	17,183	17,183	17,183
6200 SEPARATION PAY	13,925	13,925	13,925	13,925
6250 SOCIAL SECURITY TAX	61,402	61,402	61,402	61,402
6300 TOTAL, BUDGET ACTIVITY 1	1,385,343	1,385,343	1,385,343	1,385,343
6350 ACTIVITY 2: PAY AND ALLOWANCES OF ENLISTED PERSONNEL				
6400 BASIC PAY	2,738,038	2,738,038	2,738,038	2,738,038
6450 RETIRED PAY ACCRUAL	876,634	876,634	876,634	876,634
6600 BASIC ALLOWANCE FOR HOUSING	410,051	410,051	410,051	410,051
6650 INCENTIVE PAYS	9,960	9,960	9,960	9,960
6700 SPECIAL PAYS	82,846	82,846	82,846	92,846
6750 ALLOWANCES	147,334	147,334	147,334	147,334
6800 SEPARATION PAY	58,998	58,998	58,998	58,998
6850 SOCIAL SECURITY TAX	209,367	209,367	209,367	209,367
6900 TOTAL, BUDGET ACTIVITY 2	4,533,228	4,533,228	4,533,228	4,543,228

(In thousands of dollars)

	Budget	House	Senate	Conference
6950 ACTIVITY 4: SUBSISTENCE OF ENLISTED PERSONNEL				
7000 BASIC ALLOWANCE FOR SUBSISTENCE	249,032	249,032	249,032	249,032
7050 SUBSISTENCE-IN-KIND	136,522	136,522	136,522	136,522
7100 TOTAL, BUDGET ACTIVITY 4	385,554	385,554	385,554	385,554
7150 ACTIVITY 5: PERMANENT CHANGE OF STATION TRAVEL				
7200 ACCESSION TRAVEL	28,409	28,409	28,409	28,409
7250 TRAINING TRAVEL	6,819	6,819	6,819	6,819
7300 OPERATIONAL TRAVEL	63,604	63,604	63,604	63,604
7350 ROTATIONAL TRAVEL	83,189	83,189	83,189	83,189
7400 SEPARATION TRAVEL	45,199	45,199	45,199	45,199
7450 TRAVEL OF ORGANIZED UNITS	994	994	994	994
7500 NON-TEMPORARY STORAGE	4,158	4,158	4,158	4,158
7550 TEMPORARY LODGING EXPENSE	5,565	5,565	5,565	5,565
7600 OTHER	1,698	1,698	1,698	1,698
7650 TOTAL, BUDGET ACTIVITY 5	239,635	239,635	239,635	239,635

(In thousands of dollars)

	Budget	House	Senate	Conference
7700 ACTIVITY 6: OTHER MILITARY PERSONNEL COSTS				
7750 APPREHENSION OF MILITARY DESERTERS....................	880	880	880	880
7800 INTEREST ON UNIFORMED SERVICES SAVINGS................	14	14	14	14
7850 DEATH GRATUITIES......................................	996	996	996	996
7900 UNEMPLOYMENT BENEFITS.................................	27,917	27,917	27,917	27,917
7950 SURVIVOR BENEFITS.....................................	1,200	1,200	1,200	1,200
8000 EDUCATION BENEFITS....................................	959	959	959	959
8050 ADOPTION EXPENSES.....................................	46	46	46	46
8150 TOTAL, BUDGET ACTIVITY 6............................	32,012	32,012	32,012	32,012
8200 LESS REIMBURSABLES....................................	-31,090	-31,090	-31,090	-31,090
8205 LESS PAY INCREASE PROVIDED IN P.L. 106-31.............	---	-177,980	---	---
8240 4.8% PAY RAISE INCREASE...............................	---	15,520	15,454	15,454
8242 INCREASE IN MARINE SECURITY GUARDS....................	---	6,600	2,200	6,600
8250 RETIREMENT REFORM.....................................	---	-38,700	---	-14,000
8255 BASIC ALLOWANCE FOR HOUSING...........................	---	19,500	---	8,667
8260 MARINE CORPS EXECUTION REPRICING......................	---	-16,000	---	-16,000
8290 TOTAL, MILITARY PERSONNEL, MARINE CORPS............	6,544,682	6,353,622	6,562,336	6,555,403

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 2: Pay and Allowances of Enlisted Personnel:	
6700 Special Pays/Selective Reenlistment Bonuses	10,000
Undistributed:	
8240 4.8 Percent Pay Raise	15,454
8242 Increase in Marine Security Guards	6,600
8250 Retirement Reform	−14,000
8255 Basic Allowance for Housing Reform	8,667
8260 Marine Corps Execution Repricing	16,000

Military Personnel, Air Force

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
8300 MILITARY PERSONNEL, AIR FORCE				
8350 ACTIVITY 1: PAY AND ALLOWANCES OF OFFICER				
8400 BASIC PAY	3,407,110	3,407,110	3,407,110	3,407,110
8450 RETIRED PAY ACCRUAL	1,093,419	1,093,419	1,093,419	1,093,419
8600 BASIC ALLOWANCE FOR HOUSING	618,694	618,694	618,694	618,694
8650 BASIC ALLOWANCE FOR SUBSISTENCE	136,599	136,599	136,599	136,599
8700 INCENTIVE PAYS	178,002	178,002	178,002	178,002
8750 SPECIAL PAYS	186,448	186,448	186,448	186,448
8800 ALLOWANCES	48,713	48,713	48,713	48,713
8850 SEPARATION PAY	118,845	118,845	118,845	118,845
8900 SOCIAL SECURITY TAX	258,272	258,272	258,272	258,272
8950 TOTAL, BUDGET ACTIVITY 1	6,046,102	6,046,102	6,046,102	6,046,102
9000 ACTIVITY 2: PAY AND ALLOWANCES OF ENLISTED PERSONNEL				
9050 BASIC PAY	6,024,073	6,024,073	6,024,073	6,024,073
9100 RETIRED PAY ACCRUAL	1,931,774	1,931,774	1,931,774	1,931,774
9250 BASIC ALLOWANCE FOR HOUSING	1,157,649	1,157,649	1,157,649	1,157,649
9300 INCENTIVE PAYS	38,135	38,135	38,135	38,135
9350 SPECIAL PAYS	241,882	241,882	241,882	266,882
9400 ALLOWANCES	341,848	341,848	341,848	341,848
9450 SEPARATION PAY	70,251	70,251	70,251	70,251
9500 SOCIAL SECURITY TAX	460,840	460,840	460,840	460,840
9550 TOTAL, BUDGET ACTIVITY 2	10,266,452	10,266,452	10,266,452	10,291,452

(In thousands of dollars)

	Budget	House	Senate	Conference
9600 ACTIVITY 3: PAY AND ALLOWANCES OF CADETS				
9650 ACADEMY CADETS	38,269	38,269	38,269	38,269
9750 ACTIVITY 4: SUBSISTENCE OF ENLISTED PERSONNEL				
9800 BASIC ALLOWANCE FOR SUBSISTENCE	687,956	687,956	687,956	687,956
9850 SUBSISTENCE-IN-KIND	108,685	108,685	108,685	108,685
9900 TOTAL, BUDGET ACTIVITY 4	796,641	796,641	796,641	796,641
9950 ACTIVITY 5: PERMANENT CHANGE OF STATION TRAVEL				
10000 ACCESSION TRAVEL	55,680	55,680	55,680	55,680
10050 TRAINING TRAVEL	57,596	57,596	57,596	57,596
10100 OPERATIONAL TRAVEL	145,410	145,410	145,410	145,410
10150 ROTATIONAL TRAVEL	455,330	455,330	455,330	455,330
10200 SEPARATION TRAVEL	105,980	105,980	105,980	105,980
10250 TRAVEL OF ORGANIZED UNITS	26,450	26,450	26,450	26,450
10300 NON-TEMPORARY STORAGE	23,662	23,662	23,662	23,662
10350 TEMPORARY LODGING EXPENSE	37,431	37,431	37,431	37,431
10400 OTHER	2,859	2,859	2,859	2,859
10450 TOTAL, BUDGET ACTIVITY 5	910,398	910,398	910,398	910,398

(In thousands of dollars)

	Budget	House	Senate	Conference
10500 ACTIVITY 6: OTHER MILITARY PERSONNEL COSTS				
10550 APPREHENSION OF MILITARY DESERTERS	100	100	100	100
10600 INTEREST ON UNIFORMED SERVICES SAVINGS	595	595	595	595
10650 DEATH GRATUITIES	1,506	1,506	1,506	1,506
10700 UNEMPLOYMENT BENEFITS	42,474	42,474	42,474	42,474
10750 SURVIVOR BENEFITS	4,155	4,155	4,155	4,155
10800 EDUCATION BENEFITS	4,646	4,646	4,646	4,646
10850 ADOPTION EXPENSES	800	800	800	800
10920 OTHER	50	50	50	50
10950 TOTAL, BUDGET ACTIVITY 6	54,326	54,326	54,326	54,326
11000 LESS REIMBURSABLES	-212,503	-212,503	-212,503	-212,503
11005 LESS PAY INCREASE PROVIDED IN P.L. 106-31	---	-471,892	---	---
11020 PERSONNEL UNDEREXECUTION	---	-146,000	-70,000	-146,000
11030 B-52 FORCE STRUCTURE	---	---	3,100	3,100
11040 4.8% PAY RAISE INCREASE	---	40,518	40,974	40,974
11070 RETIREMENT REFORM	---	-105,800	---	-37,000
11080 BASIC ALLOWANCE FOR HOUSING	---	61,300	---	27.244
11090 AVIATION CONTINUATION PAY	---	300,000	---	100,000
11100 TERA REPHASING	---	-12,000	---	-12,000
11110 DFAS SALARY MISALIGNMENT	---	---	---	-39,200
11140 TOTAL, MILITARY PERSONNEL, AIR FORCE	17,899,685	17,565,811	17,873,759	17,861,803

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 2: Pay and Allowances of Enlisted Personnel:	
9350 Special Pays/Selective Reenlistment Bonuses	25,000
Undistributed:	
11020 Personnel Underexecution	−146,000
11030 B–52 Force Structure	3,100
11040 4.8 Percent Pay Raise	40,974
11070 Retirement Reform	−37,000
11080 Basic Allowance for Housing Reform	27,244
11090 Aviation Continuation Pay	100,000
11100 TERA Rephasing	−12,000
11110 DFAS Salary Misalignment	−39,200

NATIONAL GUARD AND RESERVE FORCES

The conferees agree to provide $10,212,303,000 in Reserve Personnel appropriations, $10,752,172,000 in Operation and Maintenance appropriations, and $150,000,000 in the National Guard and Reserve Equipment appropriation. These funds support a Selective Reserve end strength of 865,298, as shown below.

SELECTED RESERVE END STRENGTH

[Fiscal year 2000]

	Budget	Conference	Conference vs. budget
Selected Reserve:			
Army Reserve	205,000	205,000	
Navy Reserve	90,288	90,288	
Marine Corps Reserve	39,624	39,624	
Air Force Reserve	73,708	73,708	
Army National Guard	350,000	350,000	
Air National Guard	106,678	106,678	
Total	865,298	865,298	
AGR/TARS:			
Army Reserve	12,804	12,804	
Navy Reserve	15,010	15,010	
Marine Corps Reserve	2,272	2,272	
Air Force Reserve	1,078	1,134	+56
Army National Guard	21,807	22,430	+623
Air National Guard	11,091	11,162	+71
Total	64,062	64,812	+750
Technicians:			
Army Reserve	6,474	6,474	
Air Force Reserve	9,785	9,785	
Army National Guard	23,161	23,957	+796
Air National Guard	22,589	22,596	+7
Total	62,009	68,812	+803

NATIONAL GUARD RAID TEAMS

The conferees support the establishment of 17 Rapid Assessment and Initial Detection (RAID) teams. Accordingly, the conferees provided funding for an additional 198 Army National Guard and 66 Air National Guard full-time (AGR) personnel to facilitate this mission. Operation and maintenance funding of $79,635,000 for RAID teams is provided within the amounts allocated to combating terrorism.

ARMY NATIONAL GUARD CENTER

The conferees understand that the armory used by Headquarters, 53rd Support Battalion, Army National Guard is in extensive need of repair and renovation. The conferees have provided additional funds for Real Property Maintenance for the Army National Guard's backlog of repair and maintenance projects, and directs that $1,000,000 be designated for repair of the armory in Florida.

C–130 OPERATIONS

The conferees recommend a total of $13,450,000 for personnel and operation and maintenance costs to support Air Force Reserve and Air National Guard C–130 operational support aircraft and those standalone aircraft currently utilized by selected States.

Reserve Personnel, Army

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

		Budget	House	Senate	Conference
11150	RESERVE PERSONNEL, ARMY				
11200	ACTIVITY 1: UNIT AND INDIVIDUAL TRAINING				
11250	PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)	927,080	927,080	927,080	927,080
11300	PAY GROUP B TRAINING (BACKFILL FOR ACTIVE DUTY)	20,495	20,495	20,495	20,495
11350	PAY GROUP F TRAINING (RECRUITS)	112,579	112,579	112,579	112,579
11400	PAY GROUP P TRAINING (PIPELINE RECRUITS)	8,551	8,551	8,551	8,551
11500	TOTAL, BUDGET ACTIVITY 1	1,068,705	1,068,705	1,068,705	1,068,705
11550	ACTIVITY 2: OTHER TRAINING AND SUPPORT				
11600	MOBILIZATION TRAINING	10,011	10,011	10,011	10,011
11650	SCHOOL TRAINING	89,586	89,586	89,586	89,586
11700	SPECIAL TRAINING	96,636	96,636	96,636	96,636
11750	ADMINISTRATION AND SUPPORT	879,417	881,617	879,417	881,617
11800	EDUCATION BENEFITS	25,761	25,761	25,761	25,761
11850	ROTC - SENIOR, JUNIOR, SCHOLARSHIP	42,592	42,592	42,592	42,592
11900	HEALTH PROFESSION SCHOLARSHIP PROGRAM	24,516	24,516	24,516	24,516
11950	OTHER PROGRAMS	33,740	33,740	33,740	33,740
12000	TOTAL, BUDGET ACTIVITY 2	1,202,259	1,204,459	1,202,259	1,204,459
12005	LESS PAY INCREASE PROVIDED IN P.L. 106-31	---	-40,574	---	---
12030	4.8% PAY RAISE INCREASE	---	4,765	4,732	4,732
12045	JROTC PROGRAM	---	2,400	3,000	6,100
12050	RETIREMENT REFORM	---	-4,700	---	-1,000
12055	COLLEGE FIRST PROGRAM	---	---	---	7,000
12090	TOTAL RESERVE PERSONNEL, ARMY	2,270,964	2,235,055	2,278,696	2,289,996

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

Budget Activity 2: Other Training and Support:	
11750 Administration and Support/Enlistment Bonuses	2,200
Undistributed:	
12030 4.8 Percent Pay Raise	4,732
12045 JROTC Program	6,100
12050 Retirement Reform	−1,000
12055 College First Program	7,000

Reserve Personnel, Navy

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
12100 RESERVE PERSONNEL, NAVY				
12150 ACTIVITY 1: UNIT AND INDIVIDUAL TRAINING				
12200 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)	585,998	585,998	585,998	585,998
12400 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
12450 MOBILIZATION TRAINING	3,352	3,352	3,352	3,352
12500 SCHOOL TRAINING	6,291	6,291	6,291	6,291
12550 SPECIAL TRAINING	33,906	33,906	33,906	33,906
12600 ADMINISTRATION AND SUPPORT	768,903	777,903	768,903	777,903
12650 EDUCATION BENEFITS	3,756	3,756	3,756	3,756
12700 ROTC - SENIOR, JUNIOR, SCHOLARSHIP	23,571	23,571	23,571	23,571
12750 HEALTH PROFESSION SCHOLARSHIP PROGRAM	16,522	16,522	16,522	16,522
12800 OTHER PROGRAMS	4,040	4,040	4,040	4,040
12850 TOTAL BUDGET ACTIVITY 2	860,341	869,341	860,341	869,341
12855 LESS PAY INCREASE PROVIDED IN P.L. 106-31	---	-29,833	---	---
12880 CONTRIBUTORY SUPPORT TO CINCS	---	---	---	10,000
12895 4.8% PAY RAISE INCREASE	---	3,004	3,049	3,049
12899 JROTC PROGRAM	---	1,400	1,400	6,000
12910 RETIREMENT REFORM	---	-4,700	---	-1,000
12940 TOTAL, RESERVE PERSONNEL, NAVY	1,446,339	1,425,210	1,450,788	1,473,388

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 2: Other Training and Support:	
12600 Administration and Support/Enlistment Bonuses	5,000
12600 Administration and Support/Selective Reenlistment Bonuses	4,000
Undistributed:	
12880 Contributory Support to CINCs	10,000
12895 4.8 Percent Pay Raise	3,049
12899 JROTC Program	6,000
12910 Retirement Reform	−1,000

Reserve Personnel, Marine Corps

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
12950 RESERVE PERSONNEL, MARINE CORPS				
13000 ACTIVITY 1: UNIT AND INDIVIDUAL TRAINING				
13050 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)	148,044	148,044	148,044	148,044
13100 PAY GROUP B TRAINING (BACKFILL FOR ACTIVE DUTY)	15,822	15,822	15,822	15,822
13150 PAY GROUP F TRAINING (RECRUITS)	60,698	60,698	60,698	60,698
13200 PAY GROUP P TRAINING (PIPELINE RECRUITS)	311	311	311	311
13300 TOTAL, BUDGET ACTIVITY 1	224,875	224,875	224,875	224,875
13350 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
13400 MOBILIZATION TRAINING	2,073	2,073	2,073	2,073
13450 SCHOOL TRAINING	9,131	9,131	9,131	9,131
13500 SPECIAL TRAINING	20,593	20,593	20,593	20,593
13550 ADMINISTRATION AND SUPPORT	123,120	123,120	123,120	123,120
13600 EDUCATION BENEFITS	16,157	16,157	16,157	16,157
13650 ROTC - SENIOR, JUNIOR, SCHOLARSHIP	3,403	3,403	3,403	3,403
13700 OTHER PROGRAMS	9,837	9,837	9,837	9,837
13750 TOTAL, BUDGET ACTIVITY 2	184,314	184,314	184,314	184,314
13755 LESS PAY INCREASE PROVIDED IN P.L. 106-31	---	-7,820	---	---
13780 JROTC PROGRAM	---	2,600	600	2,600
13790 4.8% PAY RAISE INCREASE	---	853	861	861
13795 RETIREMENT REFORM	---	-1,000	---	---
13840 TOTAL, RESERVE PERSONNEL, MARINE CORPS	409,189	403,822	410,650	412,650

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Undistributed:		
13780	JROTC Program	2,600
13790	4.8 Percent Pay Raise	861

Reserve Personnel, Air Force

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
13850 RESERVE PERSONNEL, AIR FORCE				
13900 ACTIVITY 1: UNIT AND INDIVIDUAL TRAINING				
13950 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)........	430,956	430,956	430,956	430,956
14000 PAY GROUP B TRAINING (BACKFILL FOR ACTIVE DUTY)......	79,061	79,061	79,061	79,061
14050 PAY GROUP F TRAINING (RECRUITS)......................	11,313	11,313	11,313	11,313
14150 TOTAL, BUDGET ACTIVITY 1............................	521,330	521,330	521,330	521,330
14200 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
14250 MOBILIZATION TRAINING................................	1,600	1,600	1,600	1,600
14300 SCHOOL TRAINING......................................	66,283	66,283	66,283	66,283
14350 SPECIAL TRAINING.....................................	130,000	130,000	130,000	130,000
14400 ADMINISTRATION AND SUPPORT...........................	95,994	95,994	95,994	95,994
14450 EDUCATION BENEFITS...................................	6,517	6,517	6,517	6,517
14500 ROTC - SENIOR, JUNIOR, SCHOLARSHIP...................	35,289	35,289	35,289	35,289
14550 HEALTH PROFESSION SCHOLARSHIP........................	24,157	24,157	24,157	24,157
14600 TOTAL, BUDGET ACTIVITY 2............................	359,840	359,840	359,840	359,840
14605 LESS PAY INCREASE PROVIDED IN P.L. 106-31............	---	-13,143	---	---
14620 4.8% PAY RAISE INCREASE..............................	---	1,751	1,724	1,724
14626 JROTC PROGRAM..	---	1,900	1,900	7,400
14630 RETIREMENT REFORM....................................	---	-1,000	---	---
14635 TRANSFER OF TEST SUPPORT MISSION/AGR'S...............	---	2,300	---	2,300
14690 TOTAL, RESERVE PERSONNEL, AIR FORCE.................	881,170	872,978	884,794	892,594

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Undistributed:	
14620 4.8 Percent Pay Raise	1,724
14626 JROTC Program	7,400
14635 Transfer of Test Support Mission/AGR's	2,300

National Guard Personnel, Army

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
14700 NATIONAL GUARD PERSONNEL, ARMY				
14750 ACTIVITY 1: UNIT AND INDIVIDUAL TRAINING				
14800 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)	1,556,109	1,556,109	1,556,109	1,556,109
14850 PAY GROUP F TRAINING (RECRUITS)	195,613	195,613	195,613	195,613
14900 PAY GROUP P TRAINING (PIPELINE RECRUITS)	11,739	11,739	11,739	11,739
15000 TOTAL, BUDGET ACTIVITY 1	1,763,461	1,763,461	1,763,461	1,763,461
15050 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
15100 SCHOOL TRAINING	166,882	166,882	166,882	166,882
15150 SPECIAL TRAINING	89,814	89,814	89,814	89,814
15200 ADMINISTRATION AND SUPPORT	1,493,797	1,500,797	1,493,797	1,500,797
15250 EDUCATION BENEFITS	56,685	56,685	56,685	56,685
15350 TOTAL, BUDGET ACTIVITY 2	1,807,178	1,814,178	1,807,178	1,814,178
15355 LESS PAY INCREASE PROVIDED IN P.L. 106-31	---	-70,416	---	---
15370 4.8% PAY RAISE INCREASE	---	7,704	7,840	7,840
15375 STUDENT LOAN REPAYMENT PROGRAM	---	---	6,000	4,000
15380 TUITION ASSISTANCE	---	---	9,000	---
15385 ENLISTED BONUSES	---	---	7,000	---
15390 ADDITIONAL FULL-TIME SUPPORT (AGR)	---	---	22,000	22,000
15395 RETIREMENT REFORM	---	-8,500	---	-3,000
15400 REDUCTION IN WORKYEARS/AT	---	-20,000	---	-8,000
15410 TRAINING DEPLOYMENTS	---	---	---	10,000
15445 TOTAL, NATIONAL GUARD PERSONNEL, ARMY	3,570,639	3,486,427	3,622,479	3,610,479

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 2: Other Training and Support:	
15200 Administration and Support/Enlistment Bonuses	7,000
Undistributed:	
15370 4.8 Percent Pay Raise	7,840
15375 Student Loan Repayment Program	4,000
15390 Additional Full-Time Support (AGR)	22,000
15395 Retirement Reform	−3,000
15400 Reduction in Workyears/AT	−8,000
15410 Training Deployments	10,000

National Guard Personnel, Air Force

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
15450 NATIONAL GUARD PERSONNEL, AIR FORCE				
15500 ACTIVITY 1: UNIT AND INDIVIDUAL TRAINING				
15550 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)........	616,338	616,338	616,338	616,338
15600 PAY GROUP F TRAINING (RECRUITS)......................	28,707	28,707	28,707	28,707
15650 PAY GROUP P TRAINING (PIPELINE RECRUITS)............	1,823	1,823	1,823	1,823
15750 TOTAL, BUDGET ACTIVITY 1...........................	646,868	646,868	646,868	646,868
15800 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
15850 SCHOOL TRAINING......................................	104,054	104,054	104,054	104,054
15900 SPECIAL TRAINING.....................................	67,705	67,705	67,705	67,705
15950 ADMINISTRATION AND SUPPORT...........................	655,209	655,209	655,209	655,209
16000 EDUCATION BENEFITS...................................	12,676	12,676	12,676	12,676
16100 TOTAL, BUDGET ACTIVITY 2...........................	839,644	839,644	839,644	839,644
16105 LESS PAY INCREASE PROVIDED IN P.L. 106-31............	---	-30,462	---	---
16130 4.8% PAY RAISE INCREASE..............................	---	3,398	3,384	3,384
16136 ADDITIONAL FULL-TIME SUPPORT (AGR)...................	---	---	4,600	4,600
16140 RETIREMENT REFORM....................................	---	-3,700	---	-1,000
16145 C-130 PERSONNEL......................................	---	500	---	500
16150 DFAS SALARY MISALIGNMENT.............................	---	---	---	39,200
16200 TOTAL, NATIONAL GUARD PERSONNEL, AIR FORCE..........	1,486,512	1,456,248	1,494,496	1,533,196

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Undistributed:	
16130 4.8 Percent Pay Raise	3,384
16136 Additional Full-Time Support (AGR)	4,600
16140 Retirement Reform	−1,000
16145 C–130 Personnel	450
16150 DFAS Salary Misalignment	39,200

TITLE II – OPERATION AND MAINTENANCE

A summary of the conference agreement on the items addressed by either the House or Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
50000 RECAPITULATION				
50050 O & M, ARMY	18,610,994	19,629,019	19,161,852	19,256,152
50100 TRANSFER - STOCKPILE	(50,000)	(50,000)	(50,000)	(50,000)
50150 O & M, NAVY	22,188,715	23,029,584	22,841,510	22,958,784
50200 TRANSFER - STOCKPILE	(50,000)	(50,000)	(50,000)	(50,000)
50250 O & M, MARINE CORPS	2,558,929	2,822,004	2,758,139	2,808,354
50300 O & M, AIR FORCE	20,313,203	21,641,099	20,760,429	20,896,959
50350 TRANSFER - STOCKPILE	(50,000)	(50,000)	(50,000)	(50,000)
50400 O & M, DEFENSEWIDE	11,419,233	11,402,733	11,537,333	11,489,483
50500 O & M, ARMY RESERVE	1,369,213	1,513,076	1,438,776	1,469,176
50550 O & M, NAVY RESERVE	917,647	969,478	946,478	958,978
50600 O & M, MARINE CORPS RESERVE	123,266	143,911	126,711	138,911
50650 O & M, AIR FORCE RESERVE	1,728,437	1,788,091	1,760,591	1,782,591
50700 O & M, ARMY NATIONAL GUARD	2,903,549	3,103,642	3,156,378	3,161,378
50750 O & M, AIR NATIONAL GUARD	3,099,618	3,239,438	3,229,638	3,241,138

(In thousands of dollars)

	Budget	House	Senate	Conference
50790 OVERSEAS CONTINGENCY OPERATIONS TRANSFER FUND.........	2,387,600	1,812,600	2,087,600	1,722,600
50800 UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES...	7,621	7,621	7,621	7,621
50850 ENVIRONMENTAL RESTORATION, ARMY.......................	378,170	378,170	378,170	378,170
50900 ENVIRONMENTAL RESTORATION, NAVY.......................	284,000	284,000	284,000	284,000
50950 ENVIRONMENTAL RESTORATION, AIR FORCE..................	376,800	376,800	376,800	376,800
51000 ENVIRONMENTAL RESTORATION, DEFENSE-WIDE...............	25,370	25,370	25,370	25,370
51050 ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES	199,214	209,214	239,214	239,214
51200 OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID........	55,800	55,800	55,800	55,800
51300 FORMER SOVIET UNION THREAT REDUCTION..................	475,500	456,100	475,500	460,500
51350 PENTAGON RENOVATION TRANSFER FUND.....................	---	---	246,439	222,800
51450 QUALITY OF LIFE ENHANCEMENTS, DEFENSE.................	1,845,370	800,000	---	300,000
51600 GRAND TOTAL, O & M..................................	91,268,249	93,687,750	91,894,349	92,234,779
51650 TRANSFERS...	(150,000)	(150,000)	(150,000)	(150,000)
51700 TOTAL FUNDS AVAILABLE, O & M....................	91,418,249	93,837,750	92,044,349	92,384,779

ARMS CONTROL PROGRAMS

The conferees have agreed to reduce funding for certain arms control activities in the Army and the Air Force. If additional funds prove necessary to meet emergent requirements stemming from valid treaty obligations, the conferees expect the Department of Defense to submit a reprogramming request subject to normal, prior approval reprogramming procedures.

COMBATING TERRORISM

Within the operation and maintenance appropriations, the conferees have provided significant resources for the antiterrorism activities of the Department. No later than June 30, 2000, the Secretary of Defense shall submit to the congressional defense committees a report which describes the use of all funds appropriated for combating terrorism activities.

HOMESTEAD AIR FORCE BASE

It has been more than seven years since the devastation of Homestead Air Force Base by Hurricane Andrew. The region was further impacted by the subsequent decision of the Base Realignment and Closure Commission to close and realign the installation in 1993. This, coupled with the delay in economic redevelopment, has created a devastating economic impact throughout the local area. This region is also experiencing extremely high unemployment rates far above the national average. The conferees recognize these adverse economic conditions and urge the Air Force to expeditiously complete requisite environmental studies prior to conveying certain real property parcels on the installation to facilitate interim use activities that will benefit the local economy.

DOD WORKER SAFETY ENHANCEMENT

The conferees are frustrated by the Department's poor record on safety and worker incident rates relative to private industry and other federal agencies. Accordingly, the conferees direct the Department to initiate programs funded from within existing Operation and Maintenance accounts at designated DOD facilities that employ alternative, private sector proven, models of safety to determine the best way to improve the Department's record with respect to injury incidence rates and associated costs.

RAILROAD SAFETY STUDY

The conferees direct the Corps of Engineers to study the feasibility of realigning the railroad tracks between Fort Wainwright and Eielson Air Force Base to improve the overall safety and efficiency of the line. The report should be provided to the Committees on Appropriations no later than June 15, 2000.

SMALL BUSINESS ADVERTISING

The conferees understand that there are many qualified minority-owned businesses, women-owned businesses, and small businesses that design and place advertising and advertising campaigns, which can assist the Department in its recruiting efforts using print, electronic, and the radio media. The conferees believe these firms can provide valuable new insights and expertise to service wide recruiting programs. The conferees expect the Department to increase the use of these qualified businesses in the initiation, design and placement of its advertising in the print, radio and electronic media.

OPERATION AND MAINTENANCE, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
100 OPERATION AND MAINTENANCE, ARMY				
150 BUDGET ACTIVITY 1: OPERATING FORCES				
200 LAND FORCES				
250 DIVISIONS	1,151,351	1,185,351	1,151,351	1,168,351
300 CORPS COMBAT FORCES	342,122	342,122	342,122	342,122
350 CORPS SUPPORT FORCES	341,220	341,220	341,220	341,220
400 ECHELON ABOVE CORPS FORCES	476,924	476,924	476,924	476,924
450 LAND FORCES OPERATIONS SUPPORT	928,628	970,728	928,628	970,728
500 LAND FORCES READINESS				
550 FORCE READINESS OPERATIONS SUPPORT	1,090,532	1,114,516	1,090,532	1,102,532
600 LAND FORCES SYSTEMS READINESS	465,195	465,195	450,195	450,195
650 LAND FORCES DEPOT MAINTENANCE	645,714	681,514	641,714	661,914
700 LAND FORCES READINESS SUPPORT				
750 BASE SUPPORT	2,658,717	2,679,517	2,658,717	2,678,517
800 MAINTENANCE OF REAL PROPERTY	490,964	490,964	497,964	497,964
850 MANAGEMENT AND OPERATIONAL HEADQUARTERS	126,563	122,563	122,563	122,563
900 UNIFIED COMMANDS	78,490	78,490	98,490	78,490
950 MISCELLANEOUS ACTIVITIES	77,921	77,921	77,921	77,921
1045 TOTAL, BUDGET ACTIVITY 1	8,874,341	9,027,025	8,878,341	8,969,441

(In thousands of dollars)

	Budget	House	Senate	Conference
1050 BUDGET ACTIVITY 2: MOBILIZATION				
1100 MOBILITY OPERATIONS				
1200 STRATEGIC MOBILIZATION	326,228	326,228	326,228	326,228
1250 ARMY PREPOSITIONED STOCKS	134,797	134,797	134,797	134,797
1300 INDUSTRIAL PREPAREDNESS	69,947	69,947	69,947	69,947
1325 MAINTENANCE OF REAL PROPERTY	29,069	29,069	29,069	29,069
1350 TOTAL, BUDGET ACTIVITY 2	560,041	560,041	560,041	560,041
1400 BUDGET ACTIVITY 3: TRAINING AND RECRUITING				
1450 ACCESSION TRAINING				
1500 OFFICER ACQUISITION	65,423	65,423	65,423	65,423
1550 RECRUIT TRAINING	14,160	14,160	14,160	14,160
1600 ONE STATION UNIT TRAINING	13,924	13,924	13,924	13,924
1650 RESERVE OFFICER TRAINING CORPS (ROTC)	134,842	136,092	136,092	136,092
1700 BASE SUPPORT (ACADEMY ONLY)	73,009	73,009	73,009	73,009
1750 MAINTENANCE OF REAL PROPERTY (ACADEMY ONLY)	27,358	27,358	27,358	27,358
1800 BASIC SKILL/ ADVANCE TRAINING				
1850 SPECIALIZED SKILL TRAINING	230,145	233,645	231,645	231,645
1900 FLIGHT TRAINING	269,609	269,609	269,609	269,609
1950 PROFESSIONAL DEVELOPMENT EDUCATION	87,429	88,929	87,429	88,929
2000 TRAINING SUPPORT	466,975	470,915	466,975	470,915
2050 BASE SUPPORT (OTHER TRAINING)	865,351	865,663	865,351	865,663
2100 MAINTENANCE OF REAL PROPERTY (OTHER TRAINING)	176,026	176,026	176,026	176,026
2150 RECRUITING/OTHER TRAINING				
2200 RECRUITING AND ADVERTISING	255,417	272,917	255,417	265,417
2250 EXAMINING	77,464	77,464	77,464	77,464
2300 OFF-DUTY AND VOLUNTARY EDUCATION	87,660	87,660	87,660	87,660

(In thousands of dollars)

	Budget	House	Senate	Conference
2350 CIVILIAN EDUCATION AND TRAINING......................	65,375	65,375	64,375	64,375
2400 JUNIOR ROTC..	74,282	80,282	85,282	77,982
2450 BASE SUPPORT (RECRUITING LEASES).....................	187,393	202,893	187,393	194,393
2500 TOTAL, BUDGET ACTIVITY 3.............................	3,171,842	3,221,344	3,184,592	3,200,044
2550 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
2600 SECURITY PROGRAMS				
2650 SECURITY PROGRAMS....................................	426,729	416,862	426,729	421,729
2700 LOGISTICS OPERATIONS				
2750 SERVICEWIDE TRANSPORTATION...........................	546,861	546,861	516,861	516,861
2800 CENTRAL SUPPLY ACTIVITIES............................	419,672	424,672	419,672	424,672
2850 LOGISTIC SUPPORT ACTIVITIES..........................	321,696	312,744	321,696	312,244
2900 AMMUNITION MANAGEMENT................................	360,210	360,210	360,210	360,210
2950 SERVICEWIDE SUPPORT				
3000 ADMINISTRATION.......................................	320,944	312,594	315,944	315,944
3050 SERVICEWIDE COMMUNICATIONS...........................	662,827	642,827	642,827	642,827
3100 MANPOWER MANAGEMENT..................................	154,769	154,769	154,769	154,769
3150 OTHER PERSONNEL SUPPORT..............................	147,606	147,606	147,606	147,606
3200 OTHER SERVICE SUPPORT................................	674,400	665,350	677,400	668,350
3250 ARMY CLAIMS ACTIVITIES...............................	116,617	73,217	116,617	73,217
3300 REAL ESTATE MANAGEMENT...............................	71,312	71,312	71,312	71,312
3350 BASE SUPPORT...	1,106,387	1,111,037	1,005,987	1,056,437
3375 COMMISSARY OPERATIONS................................	346,154	346,154	346,154	346,154
3400 MAINTENANCE OF REAL PROPERTY.........................	104,815	104,815	116,815	112,815
3550 SUPPORT OF OTHER NATIONS				
3600 INTERNATIONAL MILITARY HEADQUARTERS..................	224,685	224,685	222,685	222,685

(In thousands of dollars)

		Budget	House	Senate	Conference
3650	MISC SUPPORT OF OTHER NATIONS	49.086	49.086	49.086	49.086
3700	TOTAL, BUDGET ACTIVITY 4	6,054,770	5,964,801	5,912,370	5,896,918
3710	CLASSIFIED PROGRAMS UNDISTRIBUTED	---	2,500	8,500	4,500
3720	GENERAL REDUCTION, NATIONAL DEFENSE STOCKPILE FUND	-50,000	-50,000	-50,000	-50,000
3775	BASE SUPPORT	---	154,600	---	65,000
3835	MEMORIAL EVENTS	---	400	---	400
3940	REAL PROPERTY MAINTENANCE	---	625,808	688,008	625,808
3960	CONTRACT AND ADVISORY SERVICES	---	-10,000	-20,000	-20,000
4070	MANAGEMENT HEADQUARTERS	---	-55,000	---	-55,000
4080	REDUCTION IN JCS EXERCISES	---	-10,000	---	-10,000
4085	SPARES/WRM	---	213,500	---	85,000
4090	COMMUNICATIONS REDUCTION	---	-16,000	---	-16,000
4100	TOTAL, OPERATION AND MAINTENANCE, ARMY	18,610,994	19,629,019	19,161,852	19,256,152
4150	TRANSFER	(50,000)	(50,000)	(50,000)	(50,000)
4200	TOTAL FUNDING AVAILABLE	(18,660,994)	(19,679,019)	(19,211,852)	(19,306,152)

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity Operating Forces:	
250 Soldier Support—Extended Cold Weather Clothing System (ECWCS)	8,000
250 Military Gator	4,000
250 Soldier Support—Field Kitchen Modern Burner Units (MBU)	3,000
250 Soldier Support—Soldier Modernization	2,000
450 Rotational Training—NTC Prepo Fleet Maintenance	28,000
450 Rotational Training—Korea Training Area	4,100
450 Rotational Training—CMTC Mission Support	4,000
450 Rotational Training—FORSCOM Deployments to National Training Center	4,000
450 Rotational Training—JRTC Prepo Fleet Maintenance	2,000
550 Training Area Environmental Management	12,000
600 AWE unjustified program growth	−15,000
650 Depot Maintenance/System Sustainment Tech Support	20,000
650 Humanitarian Airlift Aircraft maintenance	200
650 Post production software support	−4,000
750 Transportation Improvements—Ft. Irwin Road	12,450
750 Ft. Baker Repairs and Maintenance	5,000
750 NTC Airhead	2,000
750 Security Improvements—NTC Heliport	300
800 Fort Wainwright utilidors	7,000
850 Headquarters growth	−4,000
Budget Activity 3: Training and Recruiting:	
1650 Air Battle Captain Program	1,250
1850 Joint Assessment of Neurological Equipment	1,450
1950 Center for Hemispheric Defense Studies	1,450
2000 University of Mounted Warfare	3,000
2000 Armor Officers Distance Learning	600
2000 Training Area Environmental Management	440
2050 Training Area Environmental Management	312
2200 Recruiting and Advertising	10,000
2350 DLAMP	−1,000
2400 Junior ROTC	3,700
2450 Recruiting Leases	7,000
Budget Activity 4: Administration and Servicewide Activities:	
2650 Security Programs (Arms Controls, DSS)	−5,000
2750 Service wide transport, over ocean transport	−30,000
2800 Pulse technology	5,000
2850 Supercomputing Work	6,000
2850 Logistics and Technology Project	1,100
2850 Power Projection C4 Infrastructure	−16,552
3000 Headquarters growth	−5,000
3050 Service-wide communication underexecution	−20,000
3200 Ft. Atkinson Preservation	250
3200 DFAS Reduction	−9,300
3200 Army conservation and ecosystem management	3,000
3250 Claims Underexecution	−43,400
3350 Corps of Engineers Building Demolition	4,650
3350 BOS-Dugway Proving Ground, Utah	4,000
3350 Pentagon renovation	−76,400
3350 UC–35A Basing and Sustainment	17,800
3400 Rock Island Bridge Repairs	2,450
3400 White Sands Missile Range UXO Fence	3,450
3400 Fort Des Moines-Historic OCS Memorial	2,000
3600 Support of NATO	−2,000
Undistributed:	
3710 Classified Undistributed	4,450
3775 Base Operations Support	65,000
3835 Memorial Events	600
3940 Real Property Maintenance (Transfer from Quality of Life Enhancements)	625,808
3960 Contract and Advisory Services	−20,000
4070 Management Headquarters	−55,000
4080 Reduction in JCS Exercises	−10,000
4085 Spares/War Reserve Material	−85,000
4090 Communications Reduction	−16,000
CECOM telecommunications upgrades	(10,000)

GENERAL PURPOSE TENTS

Of the funds made available in Operation and Maintenance, Army the conferees direct that $14,000,000 be made available for the purpose of meeting prospective requirements for modular general purpose tents (M.G.P.T.) associated with wartime and other mobilizations as described in the report accompanying the House Department of Defense Appropriations bill for fiscal year 2000.

REAL PROPERTY MAINTENANCE

The conferees direct the Secretary of the Army to submit a report to the Appropriations Committees no later than thirty days after the enactment of this Act which details the allocation of funds appropriated for real property maintenance. The report shall detail the allocation of real property maintenance funding by major command.

FIREFIGHTING EQUIPMENT CONVEYANCE

The Secretary of the Army may, notwithstanding title II of the Federal Property and Administrative Services Act of 1949, convey without consideration to the Bayonne Local Redevelopment Authority, Bayonne, New Jersey, and to the City of Bayonne, New Jersey, jointly, all right, title, and interest of the United States in and to the firefighting equipment from the Military Ocean terminal, Bayonne, New Jersey as described below: a Pierce Dash 2000 Gpm Pumper, manufactured September 1995; a Pierce Arrow 100-foot Tower Ladder, manufactured February 1994; a Pierce Hazardous Materials truck, manufactured 1993; Ford E–350, manufactured 1992; a Ford E–302, manufactured 1990; and a Bauer Compressor, manufactured November 1989. The conveyance and delivery shall be at no cost to the Department of Defense.

The Secretary may require such additional terms and conditions in connection with this conveyance as he considers appropriate to protects the interests of the Department.

TOUSSAINT RIVER

The conferees direct that of the funds provided in Operations and Maintenance, Army, $450,000 be provided for a study of the costs and feasibility of a project to remove ordnance from the Toussaint River.

AVTEC FIBERS FACILITY

Of the funding available in Operation and Maintenance, Army, the conferees agree to provide $5,000,000 for cleanup activities at this facility.

JOINT COMPUTER-AIDED ACQUISITION AND LOGISTICS SYSTEM

The conferees have provided the full amount requested in the President's Budget for the Joint Computer-Aided Acquisition and Logistics System (JCALS). Consistent with the Senate's intent, the $20,000,000 provided in JCALS defense information infrastructure (DII) funds are allocated to the JCALs southeast regional technical center. Of these funds, $11,450,000 is for standard JCALS DII activities only and $8,450,000 is transferred to the core JCALS program for expansion of the southeast regional center's activities beyond the center's current location.

YUMA PROVING GROUND

The conferees encourage the Army to go forward with necessary studies to determine federal interest in creating a public-private partnership to establish and maintain a hot weather test track and free fall simulator.

OPERATION AND MAINTENANCE, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
4250 OPERATION AND MAINTENANCE, NAVY				
4300 BUDGET ACTIVITY 1: OPERATING FORCES				
4350 AIR OPERATIONS				
4400 MISSION AND OTHER FLIGHT OPERATIONS	2,232,508	2,261,908	2,232,508	2,254,508
4450 FLEET AIR TRAINING	693,133	698,233	693,133	696,633
4500 INTERMEDIATE MAINTENANCE	48,792	48,792	48,792	48,792
4550 AIR OPERATIONS AND SAFETY SUPPORT	91,823	91,823	91,823	91,823
4600 AIRCRAFT DEPOT MAINTENANCE	746,924	788,024	746,924	773,124
4650 AIRCRAFT DEPOT OPERATIONS SUPPORT	20,649	20,649	20,649	20,649
4800 SHIP OPERATIONS				
4850 MISSION AND OTHER SHIP OPERATIONS	1,859,279	1,859,279	1,859,279	1,859,279
4900 SHIP OPERATIONAL SUPPORT AND TRAINING	536,641	536,641	536,641	536,641
4950 INTERMEDIATE MAINTENANCE	379,253	379,253	379,253	379,253
5000 SHIP DEPOT MAINTENANCE	2,365,144	2,420,144	2,377,144	2,432,144
5050 SHIP DEPOT OPERATIONS SUPPORT	1,143,818	1,143,818	1,166,818	1,166,818
5200 COMBAT OPERATIONS/SUPPORT				
5250 COMBAT COMMUNICATIONS	253,524	253,524	253,524	253,524
5300 ELECTRONIC WARFARE	7,600	7,600	7,600	7,600
5350 SPACE SYSTEMS AND SURVEILLANCE	156,329	156,329	156,329	156,329
5400 WARFARE TACTICS	121,645	126,645	126,645	129,645
5450 OPERATIONAL METEOROLOGY AND OCEANOGRAPHY	244,484	244,484	254,484	254,484
5500 COMBAT SUPPORT FORCES	486,993	484,993	485,993	484,993
5550 EQUIPMENT MAINTENANCE	168,216	168,716	168,216	169,216
5600 DEPOT OPERATIONS SUPPORT	764	764	764	764
5750 WEAPONS SUPPORT				
5800 CRUISE MISSILE	146,555	146,555	146,555	146,555

(In thousands of dollars)

	Budget	House	Senate	Conference
5850 FLEET BALLISTIC MISSILE	812,619	812,619	802,619	807,619
5900 IN-SERVICE WEAPONS SYSTEMS SUPPORT	47,113	47,113	47,113	47,113
5950 WEAPONS MAINTENANCE	375,190	404,190	394,190	400,690
6100 WORKING CAPITAL FUND SUPPORT				
6150 NWCF SUPPORT	40,643	40,643	40,643	40,643
6200 BASE SUPPORT				
6210 REAL PROPERTY MAINTENANCE	391,856	391,856	391,856	391,856
6220 BASE SUPPORT	2,180,714	2,180,714	2,180,714	2,180,714
6230 TOTAL, BUDGET ACTIVITY 1	15,552,209	15,715,309	15,610,209	15,731,409
6250 BUDGET ACTIVITY 2: MOBILIZATION				
6300 READY RESERVE AND PREPOSITIONING FORCES				
6350 SHIP PREPOSITIONING AND SURGE	434,624	434,624	434,624	434,624
6400 ACTIVATIONS/INACTIVATIONS				
6450 AIRCRAFT ACTIVATIONS/INACTIVATIONS	2,966	2,966	2,966	2,966
6500 SHIP ACTIVATIONS/INACTIVATIONS	281,229	281,229	281,229	281,229
6550 MOBILIZATION PREPAREDNESS				
6600 FLEET HOSPITAL PROGRAM	23,018	23,018	23,018	23,018
6650 INDUSTRIAL READINESS	1,089	1,589	1,089	1,589
6700 COAST GUARD SUPPORT	18,975	18,975	18,975	18,975
6750 TOTAL, BUDGET ACTIVITY 2	761,901	762,401	761,901	762,401
6800 BUDGET ACTIVITY 3: TRAINING AND RECRUITING				
6850 ACCESSION TRAINING				
6900 OFFICER ACQUISITION	79,873	79,873	79,873	79,873
6950 RECRUIT TRAINING	5,096	5,096	5,096	5,096
7000 RESERVE OFFICERS TRAINING CORPS (ROTC)	66,278	66,278	66,278	66,278

(In thousands of dollars)

	Budget	House	Senate	Conference
7150 BASIC SKILLS AND ADVANCED TRAINING				
7200 SPECIALIZED SKILL TRAINING	251,459	251,459	251,459	251,459
7250 FLIGHT TRAINING	320,486	320,486	320,486	320,486
7300 PROFESSIONAL DEVELOPMENT EDUCATION	85,374	92,874	87,074	94,074
7350 TRAINING SUPPORT	212,318	220,318	212,318	220,318
7500 RECRUITING, AND OTHER TRAINING AND EDUCATION				
7550 RECRUITING AND ADVERTISING	187,852	192,852	187,852	197,852
7600 OFF-DUTY AND VOLUNTARY EDUCATION	79,609	79,609	79,609	79,609
7650 CIVILIAN EDUCATION AND TRAINING	46,632	46,632	45,632	45,632
7700 JUNIOR ROTC	23,048	26,548	26,548	26,448
7820 REAL PROPERTY MAINTENANCE	47,303	47,303	47,303	47,303
7830 BASE SUPPORT	317,198	317,198	317,198	317,198
7850 TOTAL, BUDGET ACTIVITY 3	1,722,526	1,746,526	1,726,726	1,751,626
7900 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
7950 SERVICEWIDE SUPPORT				
8000 ADMINISTRATION	648,209	638,909	617,435	605,509
8050 EXTERNAL RELATIONS	16,765	16,765	17,265	17,065
8100 CIVILIAN MANPOWER AND PERSON MANAGEMENT	120,677	120,677	120,677	120,677
8150 MILITARY MANPOWER AND PERSON MANAGEMENT	88,319	88,319	88,319	88,319
8200 OTHER PERSONNEL SUPPORT	203,096	203,096	203,096	203,096
8250 SERVICEWIDE COMMUNICATIONS	369,665	365,665	365,665	365,665
8425 COMMISSARY OPERATIONS	263,070	263,070	263,070	263,070
8450 LOGISTICS OPERATIONS AND TECHNICAL SUPPORT				
8500 SERVICEWIDE TRANSPORTATION	161,738	161,738	161,738	161,738
8550 PLANNING, ENGINEERING AND DESIGN	329,808	329,808	329,808	329,808
8600 ACQUISITION AND PROGRAM MANAGEMENT	681,715	686,715	681,715	685,215
8650 AIR SYSTEMS SUPPORT	271,426	271,426	256,426	261,426
8700 HULL, MECHANICAL AND ELECTRICAL SUPPORT	50,073	50,073	50,073	50,073
8750 COMBAT/WEAPONS SYSTEMS	46,671	48,671	46,671	47,671
8800 SPACE AND ELECTRONIC WARFARE SYSTEMS	70,288	70,288	70,288	70,288

(In thousands of dollars)

	Budget	House	Senate	Conference
8950 SECURITY PROGRAMS				
9000 SECURITY PROGRAMS	584,390	577,490	584,390	580,890
9150 SUPPORT OF OTHER NATIONS				
9200 INTERNATIONAL HEADQUARTERS AND AGENCIES	8,431	8,431	8,431	8,431
9220 REAL PROPERTY MAINTENANCE	101,868	101,868	121,868	120,868
9230 BASE SUPPORT	185,870	185,870	193,370	193,370
9350 TOTAL, BUDGET ACTIVITY 4	4,202,079	4,188,879	4,180,305	4,173,179
9355 REAL PROPERTY MAINTENANCE	---	508,369	598,369	493,369
9357 FORCE PROTECTION ASHORE	---	36,400	12,000	20,000
9360 CLASSIFIED PROGRAMS UNDISTRIBUTED	---	5,500	2,000	2,500
9370 GENERAL REDUCTION, NATIONAL DEFENSE STOCKPILE FUND	-50,000	-50,000	-50,000	-50,000
9395 BASE SUPPORT	---	91,200	---	50,000
9540 NAVY ENVIRONMENTAL LEADERSHIP PROGRAM	---	5,000	---	4,000
9590 EXECUTIVE EDUCATION DEMONSTRATION PROJECT	---	1,000	---	1,000
9600 SPARES	---	85,000	---	85,000
9700 MANAGEMENT HEADQUARTERS	---	-35,000	---	-35,000
9705 REDUCTION IN JCS EXERCISES	---	-2,000	---	-2,000
9710 CONTRACT AND ADVISORY SERVICES	---	-10,000	---	-10,000
9725 COMMUNICATIONS REDUCTION	---	-19,000	---	-19,000
9730 MARITIME FIRE TRAINING CENTER	---	---	---	300
9750 TOTAL, OPERATION AND MAINTENANCE, NAVY	22,188,715	23,029,584	22,841,510	22,958,784
9800 TRANSFER	(50,000)	(50,000)	(50,000)	(50,000)
9850 TOTAL FUNDING AVAILABLE	(22,238,715)	(23,079,584)	(22,891,510)	(23,008,784)

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
4400 Flying Hours (Marine Aviation Logistics CH-46/T-58)	20,000
4400 UAV Flight Hours	2,000
4450 Contractor Maintenance Support (Marine Corps Aviation)	1,450
4450 Rotational Training—Naval Air Strike Airwarfare Center	2,000
4600 Depot Maintenance—Aircraft and Support Equipment Rework	24,000
4600 Depot Maintenance—EA-6B Depot Support (Marine Corps Aviation)	1,600
4600 Depot Maintenance—EA-6B Pod Repair (Marine Corps Aviation)	600
4500 Depot Maintenance—Ship Depot Maintenance	55,000
4500 Shipyard Apprentice Program	12,000
5050 Ship Depot Operations Support PHNSY ship repair	23,000
5400 Joint Warfare Analysis Center	3,000
5400 Warfare Tactics PMRF facilities improvements	5,000
5450 Operational Meteorology and oceanography	7,000
5450 UNOLS	3,000
5450 Unjustified Growth for USACOM	-2,000
5550 Reverse Osmosis Desalinators	1,000
5850 Fleet Ballistic missile underexecution	-5,000
5950 Depot Maintenance—Aegis Cruiser Upgrade Program	7,450
5950 Depot Maintenance—MK-45 Overhaul	10,000
5950 Depot Maintenance—CWIS Overhaul	4,000
5950 Pioneer UAV Flight Hours/Weapons Maintenance	4,000
Budget Activity 2: Mobilization:	
6650 NWS Concord	450
Budget Activity 3: Training and Recruiting:	
7300 Center for Non-Proliferation Studies, Monterey	4,000
7300 Naval Postgraduate School—Facility Maintenance	2,000
7300 Defense Language Institute	1,000
7300 Professional Development Education Asia Pacific Center	1,700
7350 CNET	4,000
7350 Navy Electricity and Electronics Training	4,000
7550 Recruiting and Advertising	10,000
7650 Civilian Education and Training	-1,000
7700 Junior ROTC	3,400
Budget Activity 4: Administration and Servicewide Activities:	
8000 DFAS Reduction	-9,300
8000 Pentagon Renovation	-33,400
8050 Public Service Initiative	300
8250 Servicewide Communications	-4,000
8600 ATIS	2,450
8600 Object Oriented Simulations/Reengineering	1,000
8650 Air Systems Support underexecution	-10,000
8750 Integrated Combat Systems Test Facility Support	1,000
9000 Security Programs (DSS)	-3,450
9220 Barrow landfill	3,000
9220 Ford Island improvements	8,000
9220 USS Iowa relocation	3,000
9220 Adak facilities remediation	5,000
9230 Adak base support	7,450
Undistributed:	
9355 Real Property Maintenance (Transfer from Quality of Life Enhancements)	493,369
9357 Force Protection (Afloat)	12,000
9357 Force Protection (Ashore)	8,000
9360 Classified Programs Undistributed	2,450
9395 Base Operations Support	50,000
9540 Navy Environmental Leadership Program	4,000
9590 Executive Education Demonstration Project	1,000
9600 Spares	85,000
9700 Management Headquarters	-35,000
9705 Reduction in JCS Exercises	-2,000
9710 Contract and Advisory Services	-10,000
9725 Communications Reduction	-19,000
9730 Maritime Fire Training Center	300

MARITIME FIRE TRAINING CENTER

Of the funds provided in Operation and Maintenance, Navy, $300,000 shall be used only for final design, site planning, preparation and development, and materials and equipment acquisition for the Maritime Fire Training Center at MERTS.

EXECUTIVE EDUCATION DEMONSTRATION PROGRAM

The conference agreement provides $1,000,000 of the funds from Operation and Maintenance, Navy for the Executive Education Demonstration Program at the University of San Diego. This initiative provides local executive education to naval personnel in the region including an enhanced doctoral program in leadership and an intensive executive management training in global leadership for senior line officers. The program will be offered on-site, at naval installations, and by means of distance learning at remote sites and at sea.

REGIONAL TELECOMMUNICATIONS SYSTEM

The conferees direct that of the funds provided in Operation and Maintenance, Navy not less than $2,000,000 shall be available only for the Integrated Regional Telecommunications System in the Pacific Northwest.

PACIFIC MISSILE RANGE FACILITY

The conferees agree to increase funding for Tactical Warfare by $5,000,000 to improve facilities at the Pacific Missile Range as recommended by the Senate. This increase is in addition to the funding which shall be provided to sustain base and range operations at PMRF at the fiscal year 1999 level.

CONCORD NWS JOINT USE REPORT

The conferees agree that the due date for the joint use report specified in the House report shall be January 15, 2000.

OCEANOGRAPHIC RESEARCH

Within the funds provided for Operation and Maintenance, Navy, the conferees direct that $7,450,000 be used only to fund backlogs in oceanographic research.

OPERATION AND MAINTENANCE, MARINE CORPS

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
9900 OPERATION AND MAINTENANCE, MARINE CORPS				
9950 BUDGET ACTIVITY 1: OPERATING FORCES				
10000 EXPEDITIONARY FORCES				
10050 OPERATIONAL FORCES	378,762	451,162	394,862	433,562
10100 FIELD LOGISTICS	231,138	246,038	231,138	238,238
10150 DEPOT MAINTENANCE	96,685	116,685	96,685	116,685
10200 BASE SUPPORT	712,187	712,187	712,187	712,187
10250 MAINTENANCE OF REAL PROPERTY	247,401	247,401	247,401	247,401
10300 USMC PREPOSITIONING				
10350 MARITIME PREPOSITIONING	81,849	83,849	81,849	83,849
10400 NORWAY PREPOSITIONING	3,770	3,770	3,770	3,770
10450 TOTAL, BUDGET ACTIVITY 1	1,751,792	1,861,092	1,767,892	1,835,692
10500 BUDGET ACTIVITY 3: TRAINING AND RECRUITING				
10550 ACCESSION TRAINING				
10600 RECRUIT TRAINING	9,917	9,917	9,917	9,917
10650 OFFICER ACQUISITION	294	294	794	794
10700 BASE SUPPORT	55,333	55,333	55,333	55,333
10750 MAINTENANCE OF REAL PROPERTY	18,557	18,557	18,557	18,557
10800 BASIC SKILLS AND ADVANCED TRAINING				
10850 SPECIALIZED SKILLS TRAINING	31,443	31,443	31,443	31,443
10900 FLIGHT TRAINING	162	162	162	162
10950 PROFESSIONAL DEVELOPMENT EDUCATION	8,575	8,575	8,575	8,575
11000 TRAINING SUPPORT	84,800	84,800	85,800	85,800
11050 BASE SUPPORT	57,212	57,212	57,212	57,212
11100 MAINTENANCE OF REAL PROPERTY	24,262	24,262	24,262	24,262

(In thousands of dollars)

	Budget	House	Senate	Conference
11150 RECRUITING AND OTHER TRAINING EDUCATION				
11200 RECRUITING AND ADVERTISING	90,953	95.953	90.953	100.953
11250 OFF-DUTY AND VOLUNTARY EDUCATION	14.879	17.879	14.879	16.379
11300 JUNIOR ROTC	9.506	11,506	10.856	11.106
11350 BASE SUPPORT	8,032	8,032	8.032	8.032
11400 MAINTENANCE OF REAL PROPERTY	2,447	2,447	2.447	2.447
11450 TOTAL, BUDGET ACTIVITY 3	416.372	426.372	419.222	430,972
11500 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
11550 SERVICEWIDE SUPPORT				
11650 SPECIAL SUPPORT	229.433	227.433	209.468	227.433
11700 SERVICEWIDE TRANSPORTATION	28.632	28.632	28.632	28.632
11750 ADMINISTRATION	25,241	25,241	25,241	25,241
11800 BASE SUPPORT	14.569	14,569	14,569	14,569
11850 MAINTENANCE OF REAL PROPERTY	2,056	2,056	2,056	2,056
11875 COMMISSARY OPERATIONS	90,834	90,834	90,834	90,834
11900 TOTAL, BUDGET ACTIVITY 4	390,765	388,765	370,800	388,765
11905 REAL PROPERTY MAINTENANCE	---	120,225	200,225	120,225
11945 BASE SUPPORT	---	10,000	---	10,000
12030 REDUCTION IN JCS EXERCISES	---	-2.400	---	-2,400
12070 MARINE CORPS SECURITY GUARDS	---	4.100	---	4,100
12075 SPARES/WRM	---	25,000	---	25,000
12085 COMMUNICATIONS REDUCTION	---	-150	---	-150
12090 IRV TRANSFER	---	-11,000	---	-3,850
12300 TOTAL, OPERATION AND MAINTENANCE, MARINE CORPS	2,558,929	2,822,004	2,758,139	2,808,354

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
10050 Soldier Support—Initial Issue	15,000
10050 Rotational Training—MCAGCC Improvements	25,700
10050 Training and OPTEMPO (III MEF Airlift Requirements)	10,000
10050 Soldier Support—Body Armor	3,000
10050 NBC Defense Equipment	1,100
10100 Corrosion Control	6,000
10100 Fuel Conversion to JP 5/8	1,100
10150 Depot Maintenance	20,000
10350 Care in Storage (WRM Materials)	2,000
Budget Activity 3: Training and Recruiting:	
10650 Naval ROTC-Marine Option	450
11000 Distance Learning	1,000
11200 Recruiting and Advertising	10,000
11250 Off-Duty and Voluntary Eduation	1,450
11300 Junior ROTC	1,600
Budget Activity 4: Administration and Servicewide Activities:	
11650 DFAS Reduction	−2,000
Undistributed:	
11905 Real Property Maintenance (Transfer from Quality of Life Enhancements)	120,225
11945 Base Operations Support	10,000
12030 Reduction in JCS Exercises	−2,400
12070 Marine Corps Security Guards	4,100
12075 Spares/War Reserve Materiel	25,000
12085 Communications Reductions	−150
12090 IRV Transfer	−3,850

SOLDIER SUPPORT INITIATIVES

Within the adjustments provided for Soldier Support, the conferees recommend that continued requirements for enhanced pack systems be sustained at current levels.

OPERATION AND MAINTENANCE, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
12450 OPERATION AND MAINTENANCE, AIR FORCE				
12500 BUDGET ACTIVITY 1: OPERATING FORCES				
12550 AIR OPERATIONS				
12600 PRIMARY COMBAT FORCES	2,401,247	2,405,247	2,436,247	2,430,247
12650 PRIMARY COMBAT WEAPONS	264,665	265,665	264,665	265,165
12700 COMBAT ENHANCEMENT FORCES	204,091	204,091	203,091	203,091
12750 AIR OPERATIONS TRAINING	657,352	699,652	657,352	699,652
12775 DEPOT MAINTENANCE	1,096,870	1,130,370	1,096,870	1,117,870
12800 COMBAT COMMUNICATIONS	936,390	934,390	934,390	934,390
12850 BASE SUPPORT	1,835,256	1,835,256	1,835,256	1,835,256
12900 MAINTENANCE OF REAL PROPERTY	577,565	577,565	577,565	577,565
12950 COMBAT RELATED OPERATIONS				
13000 GLOBAL C3I AND EARLY WARNING	665,827	665,827	645,827	650,827
13050 NAVIGATION/WEATHER SUPPORT	136,485	136,485	141,485	141,485
13100 OTHER COMBAT OPS SUPPORT PROGRAMS	247,715	252,976	257,715	251,976
13150 JCS EXERCISES	34,588	34,588	34,588	34,588
13200 MANAGEMENT/OPERATIONAL HEADQUARTERS	123,289	123,289	123,289	123,289
13250 TACTICAL INTEL AND OTHER SPECIAL ACTIVITIES	254,547	254,547	254,547	254,547

(In thousands of dollars)

	Budget	House	Senate	Conference
13300 SPACE OPERATIONS				
13350 LAUNCH FACILITIES	218,743	228,743	218,743	228,743
13400 LAUNCH VEHICLES	112,504	112,504	97,504	112,504
13450 SPACE CONTROL SYSTEMS	259,203	259,203	234,203	244,203
13500 SATELLITE SYSTEMS	52,753	52,753	52,753	52,753
13550 OTHER SPACE OPERATIONS	90,461	90,461	90,461	90,461
13600 BASE SUPPORT	324,539	324,539	324,539	324,539
13650 MAINTENANCE OF REAL PROPERTY	55,960	55,960	55,960	55,960
13700 TOTAL, BUDGET ACTIVITY 1	10,550,050	10,644,111	10,537,050	10,629,111
13750 BUDGET ACTIVITY 2: MOBILIZATION				
13800 MOBILITY OPERATIONS				
13850 AIRLIFT OPERATIONS	1,359,999	1,759,499	1,359,999	1,361,999
13900 AIRLIFT OPERATIONS C3I	30,401	30,401	30,401	30,401
13950 MOBILIZATION PREPAREDNESS	142,983	142,983	142,983	142,983
13975 DEPOT MAINTENANCE	312,062	317,462	312,062	316,062
14000 PAYMENTS TO TRANSPORTATION BUSINESS AREA	312,237	312,237	312,237	312,237
14050 BASE SUPPORT	455,730	455,730	455,730	455,730
14100 MAINTENANCE OF REAL PROPERTY	72,147	72,147	72,147	72,147
14150 TOTAL, BUDGET ACTIVITY 2	2,685,559	3,090,459	2,685,559	2,691,559

(In thousands of dollars)

	Budget	House	Senate	Conference
14200 BUDGET ACTIVITY 3: TRAINING AND RECRUITING				
14250 ACCESSION TRAINING				
14300 OFFICER ACQUISITION	60,067	60,067	60,067	60,067
14350 RECRUIT TRAINING	4,494	4,494	4,494	4,494
14400 RESERVE OFFICER TRAINING CORPS (ROTC)	58,012	58,012	58,012	58,012
14450 BASE SUPPORT (ACADEMIES ONLY)	20,263	20,263	18,263	18,263
14500 MAINTENANCE OF REAL PROPERTY (ACADEMIES ONLY)	63,119	63,119	63,119	63,119
14550 BASIC SKILLS AND ADVANCED TRAINING				
14600 SPECIALIZED SKILL TRAINING	240,449	240,449	240,449	240,449
14650 FLIGHT TRAINING	471,526	471,526	471,526	471,526
14700 PROFESSIONAL DEVELOPMENT EDUCATION	98,868	98,868	98,868	98,868
14750 TRAINING SUPPORT	69,964	69,964	69,964	69,964
14775 DEPOT MAINTENANCE	14,532	14,532	14,532	14,532
14800 BASE SUPPORT (OTHER TRAINING)	411,644	411,644	401,644	401,644
14850 MAINTENANCE OF REAL PROPERTY (OTHER TRAINING)	63,610	63,610	63,610	63,610
14900 RECRUITING, AND OTHER TRAINING AND EDUCATION				
14950 RECRUITING AND ADVERTISING	102,502	111,802	102,502	112,502
15000 EXAMINING	3,036	3,036	3,036	3,036
15050 OFF DUTY AND VOLUNTARY EDUCATION	87,587	87,587	87,587	87,587
15100 CIVILIAN EDUCATION AND TRAINING	72,475	72,475	71,475	71,475
15150 JUNIOR ROTC	26,095	41,095	30,095	30,095
15200 TOTAL, BUDGET ACTIVITY 3	1,868,243	1,892,543	1,859,243	1,869,243

(In thousands of dollars)

	Budget	House	Senate	Conference
15250 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
15300 LOGISTICS OPERATIONS				
15350 LOGISTICS OPERATIONS	744,819	750,254	744,819	748,819
15400 TECHNICAL SUPPORT ACTIVITIES	398,063	398,063	398,063	398,063
15450 SERVICEWIDE TRANSPORTATION	217,401	217,401	217,401	217,401
15475 DEPOT MAINTENANCE	58,334	58,334	58,334	58,334
15500 BASE SUPPORT	1,109,593	1,109,593	1,037,093	1,068,193
15550 MAINTENANCE OF REAL PROPERTY	245,214	245,214	280,114	275,114
15600 SERVICEWIDE ACTIVITIES				
15650 ADMINISTRATION	150,381	146,200	150,381	146,200
15700 SERVICEWIDE COMMUNICATIONS	346,821	342,821	342,821	342,821
15750 PERSONNEL PROGRAMS	130,710	119,310	130,710	119,310
15800 RESCUE AND RECOVERY SERVICES	60,228	60,228	60,228	60,228
15900 ARMS CONTROL	35,477	35,477	27,477	27,477
15950 OTHER SERVICEWIDE ACTIVITIES	619,830	610,430	615,830	606,430
16000 OTHER PERSONNEL SUPPORT	31,812	31,812	28,812	28,812
16050 CIVIL AIR PATROL CORPORATION	13,970	21,470	26,470	21,470
16075 COMMISSARY OPERATIONS	309,061	309,061	309,061	309,061
16100 BASE SUPPORT	158,343	158,843	158,343	158,843
16150 MAINTENANCE OF REAL PROPERTY	18,277	18,277	18,277	18,277
16200 SECURITY PROGRAMS				
16250 SECURITY PROGRAMS	596,798	589,498	596,798	593,198
16300 SUPPORT TO OTHER NATIONS				
16350 INTERNATIONAL SUPPORT	14,219	14,219	14,219	14,219
16400 TOTAL, BUDGET ACTIVITY 4	5,259,351	5,236,505	5,215,251	5,212,270

(In thousands of dollars)

	Budget	House	Senate	Conference
16410 CLASSIFIED PROGRAMS UNDISTRIBUTED	---	-800	12,500	6,400
16420 GENERAL REDUCTION, NATIONAL DEFENSE STOCKPILE FUND	-50,000	-50,000	-50,000	-50,000
16480 BASE SUPPORT	---	109,300	---	65,000
16670 FORCE PROTECTION INFRASTRUCTURE	---	5,000	---	5,000
16680 REAL PROPERTY MAINTENANCE	---	400,826	500,826	400,826
16700 SPARES	---	115,000	---	85,000
16775 REAL PROPERTY SUPPORT	---	34,900	---	---
16795 NBC HIGH LEVERAGE PROGRAMS	---	18,800	---	9,000
16800 C130J LOGISTICS AND TRAINING	---	6,055	---	3,000
16810 ICBM PRIME CONTRACT	---	16,300	---	8,000
16825 AEF JOINT EXPERIMENTATION (JEFX)	---	35,600	---	---
16835 MANAGEMENT HEADQUARTERS	---	-20,000	---	-20,000
16840 REDUCTION IN JCS EXERCISES	---	-10,000	---	-10,000
16845 CONTRACT AND ADVISORY SERVICES	---	-10,000	---	-10,000
16850 RIVET JOINT SUPPORT	---	32,400	---	15,000
16855 AIR FORCE MTAP	---	4,000	---	4,000
16865 AIR FORCE ICS TRANSFER	---	106,100	---	---
16870 COMMUNICATIONS REDUCTION	---	-16,000	---	-16,000
16875 ADMINISTRATIVE UNDEREXECUTION	---	---	---	-450
16910 TOTAL, O&M, AIR FORCE	20,313,203	21,641,099	20,760,429	20,896,959
16920 TRANSFER	(50,000)	(50,000)	(50,000)	(50,000)
16940 TOTAL FUNDING AVAILABLE	(20,363,203)	(21,691,099)	(20,810,429)	(20,946,959)

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
12600 Battlelabs	4,000
12600 B–52 attrition reserve	25,000
12650 Reverse Osmosis Desalinators	450
12700 Enhancement Forces mission planning system	–1,000
12750 Rotational Training—AETC Mission Essential Equipment	14,000
12750 Rotational Training—Utah Test and Training Range Support	11,700
12750 Rotational Training—Funding for Air Warfare Center Range Support	6,100
12750 Rotational Training—AETC Range Improvements	5,900
12750 Rotational Training—Funding for Air Warfare Center Fiber Link	4,600
12775 Depot Maintenance	20,000
12775 Object Oriented Simulations/Reengineering	1,000
12800 Communications, Other Contracts	–2,000
13000 Global C3I, Early Warning underexecution	–15,000
13050 University Partnering for Operational Support	5,000
13100 Power Scene	3,000
13100 SIMVAL	1,261
13350 Launch Facility Enhancements	10,000
13450 Space Control Systems underexecution	–15,000
Budget Activity 2: Mobilization:	
13850 Airlift Operations (C–17 Sustainability)	2,000
13975 Depot Maintenance	4,000
Budget Activity 3: Training and Recruiting:	
14450 RPM	–2,000
14800 Base Support and Other Training	–10,000
14950 Recruiting and Advertising	10,000
15100 Civilian education and training	–1,000
15150 Junior ROTC	4,000
Budget Activity 4: Administration and Servicewide Activities:	
15350 REMIS	3,000
15350 Joint Service ammo management automated info system JAMSS	1,000
15450 Pentagon renovation	–41,400
15550 RPM-Eielson utilidors	9,900
15550 Tinker and Altus base repairs	20,000
15650 Acquisition Travel and Contracts	–4,181
15700 Servicewide Communications	–4,000
15750 Personnel Programs	–11,400
15900 Arms control underexecution	–8,000
15950 DFAS Reduction	–9,400
15950 Other servicewide activities, other contracts	–4,000
16000 Personnel Support underexecution	–3,000
16050 Civil Air Patrol Corporation	7,450
16100 William Lehman Aviation Center	450
16250 Security Programs (DSS)	–3,600
Undistributed:	
16410 Classified Undistributed	6,400
16480 Base Operations Support	65,000
16670 Force Protection Infrastructure	5,000
16680 Real Property Maintenance (Transfer from Quality of Life Enhancements)	400,826
16700 Spares	85,000
16795 NBC High Leverage Programs	9,000
16800 C130J Logistics and Training	3,000
16810 ICBM Prime Contract	8,000
16835 Management Headquarters	–20,000
16840 Reduction in JCS Exercises	–10,000
16845 Contact and Advisory Services	–10,000
16850 Depot Maintenance—Rivet Joint #15–16/COBRA BALL 3	15,000
16855 Air Force MTAP	4,000
16870 Communications Reduction	–16,000
16875 Administrative underexecution	–450

RADIOACTIVE IODINE EXPERIMENTATION

The conferees strongly support the Air Force in its efforts to provide funding for the North Slope Borough for costs and expenditures associated with health care, monitoring and other issues arising from experimentation conducted in the 1950s. The conferees direct the Air Force to resolve this matter as soon as possible.

MTAPP

The conference agreement includes $4,000,000 above the budget request for MTAPP program. Of this amount, not less than $2,000,000 shall be available to the current pilot program manager, and $2,000,000 to expand the program to Pennsylvania.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
16950 OPERATION AND MAINTENANCE, DEFENSE-WIDE				
17000 BUDGET ACTIVITY 1: OPERATING FORCES				
17050 JOINT CHIEFS OF STAFF	382,269	347,269	389,269	379,269
17100 SPECIAL OPERATIONS COMMAND	1,219,698	1,217,198	1,219,698	1,217,698
17150 TOTAL, BUDGET ACTIVITY 1	1,601,967	1,564,467	1,608,967	1,596,967
17200 BUDGET ACTIVITY 2: MOBILIZATION				
17250 DEFENSE LOGISTICS AGENCY	38,312	41,312	48,312	39,812
17350 BUDGET ACTIVITY 3: TRAINING AND RECRUITING				
17450 AMERICAN FORCES INFORMATION SERVICE	9,512	9,512	9,512	9,512
17460 DEFENSE ACQUISITION UNIVERSITY	100,380	102,380	100,380	101,380
17470 DEFENSE FINANCE AND ACCOUNTING SERVICE	18,000	18,000	18,000	18,000
17480 DEFENSE HUMAN RESOURCES ACTIVITY	58,100	58,100	58,100	58,100
17490 DEFENSE SECURITY SERVICE	7,254	7,254	7,254	7,254
17510 DEFENSE THREAT REDUCTION AGENCY	913	913	913	913
17600 SPECIAL OPERATIONS COMMAND	44,344	44,344	44,344	44,344
17650 TOTAL, BUDGET ACTIVITY 3	238,503	240,503	238,503	239,503
17700 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
17750 AMERICAN FORCES INFORMATION SERVICE	95,865	95,865	95,865	95,865
17775 CIVIL MILITARY PROGRAMS	87,503	73,803	88,503	88,803
17800 CLASSIFIED AND INTELLIGENCE	4,067,679	4,079,279	4,100,579	4,133,629
17900 DEFENSE CONTRACT AUDIT AGENCY	340,624	333,624	340,624	336,624
17950 DEFENSE FINANCE AND ACCOUNTING SERVICE	27,138	27,138	27,138	27,138
18000 DEFENSE HUMAN RESOURCES ACTIVITY	190,226	155,026	190,226	153,026
18050 DEFENSE INFORMATION SYSTEMS AGENCY	822,904	822,904	822,904	822,904
18150 DEFENSE LEGAL SERVICES AGENCY	9,483	9,483	9,483	9,483

(In thousands of dollars)

		Budget	House	Senate	Conference
18200	DEFENSE LOGISTICS AGENCY	1,186,236	1,207,736	1,188,236	1,227,236
18300	DEFENSE POW/MISSING PERSONS OFFICE	14,505	14,505	14,505	14,505
18310	DEFENSE SECURITY ASSISTANCE AGENCY	65,638	63,638	65,638	63,638
18320	DEFENSE SECURITY SERVICE	84,395	84,395	84,395	84,395
18475	DEFENSE THREAT REDUCTION AND TREATY COMPLIANCE AGENCY	195,533	189,033	180,033	180,033
18500	DEPARTMENT OF DEFENSE DEPENDENTS EDUCATION	1,376,909	1,378,909	1,387,309	1,387,309
18600	JOINT CHIEFS OF STAFF	158,647	158,147	158,647	157,647
18650	OFFICE OF ECONOMIC ADJUSTMENT	30,940	42,940	50,940	77,940
18700	OFFICE OF THE SECRETARY OF DEFENSE	423,493	429,293	448,793	429,593
18850	SPECIAL OPERATIONS COMMAND	40,263	40,263	40,263	40,263
18900	WASHINGTON HEADQUARTERS SERVICE	322,470	282,970	322,470	294,470
18950	TOTAL, BUDGET ACTIVITY 4	9,540,451	9,488,951	9,616,551	9,624,501
18960	LEGACY	---	---	15,000	15,000
18965	SECURITY LOCKS	---	---	10,000	---
19110	IMPACT AID	---	35,000	---	30,000
19250	JCS MOBILITY ENHANCEMENT FUND	---	50,000	---	25,000
19295	HUMAN RESOURCES ENTERPRISE STRATEGY	---	7,500	---	4,000
19305	MANAGEMENT HEADQUARTERS REDUCTION	---	-40,000	---	-30,000
19335	CONTRACT AND ADVISORY SERVICES	---	-10,000	---	-10,000
19336	COMMUNITY RETRAINING INITIATIVE	---	---	---	8,000
19341	UNITED SERVICE ORGANIZATIONS	---	25,000	---	---
19347	PENTAGON RENOVATION TRANSFER	---	---	---	-68,300
19348	ARMED FORCES RETIREMENT HOME RPM	---	---	---	5,000
19349	PACIFIC COMMAND REGIONAL INITIATIVE	---	---	---	10,000
19350	TOTAL, OPERATION AND MAINTENANCE, DEFENSE-WIDE	11,419,233	11,402,733	11,537,333	11,489,483
19450	TOTAL FUNDING AVAILABLE	(11,419,233)	(11,402,733)	(11,537,333)	(11,489,483)

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the Budget Activities are as follows:

[In thousands of dollars]

Budget Activity I: Operating Forces:	
17050 JCS—Joint Exercises	−10,000
17050 JCS—Exercise Northern Edge	7,000
17100 SOCOM—ASDS Slip/Realignment	−3,000
17100 SOCOM—NSWG—1	450
17100 SOCOM—JTT/CIBS—M	450
Budget Activity 2: Mobilization:	
17250 DLA—Warstopper	1,450
Budget Activity 3: Training and Recruiting:	
17460 DAU—IT Organizational Composition Research	1,000
Budget Activity 4: Administration and Servicewide Activities:	
17775 Civil—Military Programs	1,300
17800 Classified and Intelligence	65,950
17900 DCAA—Low priority program growth	−4,000
18000 DHRA—DIMHRS transfer	−41,200
18000 DHRA—DEERS	4,000
18200 DLA—Automated Document Conversion	30,000
18200 DLA—Security Locks	10,000
18200 DLA—Performance Measures	−5,000
18200 DLA—Improved Cargo Methods	4,000
18200 DLA—Midway Fuel Resupply	2,000
18310 DSCA—Performance Measures	−2,000
18475 DTRA—OSIA Treaty Implementation	−13,450
18475 DTRA—Performance Measures	−2,000
18450 DoDEA—Math Teacher Leadership	400
18450 DoDEA—WIC Program Overseas	1,000
18450 DoDEA—Special Education Support	5,000
18450 DoDEA—Technology Innovation and Teacher Education	4,000
18600 JCS—JMEANS	4,000
18600 JCS—Management Support	−5,000
18650 OEA—Fitzsimmons Army Hospital	10,000
18650 OEA—Pico Rivera	2,000
18650 OEA—Fort Ord conversion support	5,000
18650 OEA—San Diego Conversion Center	5,000
18650 OEA—Philadelphia Naval Shipyard	7,450
18650 OEA—Charleston Naval Shipyard	7,450
18650 OEA—Charleston Macalloy site	10,000
18700 OSD—C4ISR	3,000
18700 OSD—NE/SA Center for Security Studies	1,000
18700 OSD—Middle East Regional Security Issues	1,000
18700 OSD—Energy Savings Contracts	4,000
18700 OSD—Job Placement Program	4,000
18700 OSD—Youth Development and Leadership Program	300
18700 OSD—Performance Measures	−10,000
18700 OSD—Youth Development Initiative	2,450
18700 OSD—Management and Contract Support	−8,000
18700 OSD—(A&T) Travel and Contracts	−10,000
18700 OSD—Commercial Technology for Maintenance Activities	8,000
18700 OSD—Pacific Disaster Center	4,000
18700 OSD—Clara Barton Center	1,300
18700 OSD—Funeral Honors for Veterans	5,000
18900 WHS—Low priority programs	−10,000
18900 WHS—Defense Travel Service	−19,000
18900 WHS—Emergency Notification	1,000
Undistributed:	
18960 Undistributed—Legacy	15,000
19110 Undistributed—Impact Aid	30,000
19250 Undistributed—Mobility Enhancements	25,000
19295 Undistributed—Human Resources Enterprise Strategy	4,000
19305 Undistributed—Headquarters and Management	−30,000
19335 Undistributed—Contract and Advisory Services	−10,000
19336 Undistributed—Community Retraining Initiative	8,000
19347 Undistributed—Pentagon Renovation Transfer Fund	−68,300
19348 Undistributed—Armed Forces Retirement Homes (RPM)	5,000
19349 Undistributed—Pacific Command Regional Initiative	10,000

DEFENSE ACQUISITION UNIVERSITY

From within the funds provided for the Defense Acquisition University, up to $5,000,000 may be spent on a pilot program using state-of-the-art training technology that would train the acquisition workforce in a simulated government procurement environment.

CIVIL/MILITARY PROGRAMS

The conferees recommend a total of $83,803,000 for the Department's civil/military programs for fiscal year 2000 as shown below. The conferees direct the Department to report to the Committees on Appropriations on the status of the obligation of these funds not later than March 15, 2000.

[Dollars in thousands]

National Guard Youth Challenge Program	$62,503
Innovative Readiness Training Program	20,000
Starbase Program	6,300
Total	88,803

IMPROVED CARGO METHODS

The conferees recommend $4,000,000, only to test, develop and implement cost saving opportunities identified in ongoing studies of private sector logistics technology, practices and procedures to move military cargo more cheaply, with greater speed and with greater reliability. To ensure diverse views of the state of the art in third party logistics management and other emerging techniques are brought to bear, the conferees intend that these funds be used to provide the Government access to a range of qualified organizations or entities having detailed knowledge of commercial logistics processes that may have value for the military.

CHILD CARE FACILITIES

The conferees are concerned that service members in some career fields with extended duty requirements are experiencing problems with access to day care facilities. The conferees direct the Department to report, no later than April 1, 2000, on the day care access policies of the various services, with particular attention to the problems generated by extended duty requirements.

In addition, the conferees direct the Department to review how the Services could expand the use of the Family Child Care subsidy program. The report should include options to address the needs of families who require extended hours of child care as a result of irregular duty hours or temporary duty deployments, and the costs associated with any such policy changes.

UNALLOCATED REDUCTIONS

The House report included language in Operation and Maintenance, Defense-wide, specifically exempting the Joint Vision 2010 initiative and the Office of Net Assessment from any unallocated reductions. The Senate had no such provision. The House recedes to the Senate.

ARMED FORCES RETIREMENT HOMES

The conferees provide $5,000,000 to be available for real property maintenance and repair requirements at the Armed Forces Retirement Homes.

PACIFIC COMMAND REGIONAL INITIATIVE

The conferees agree to provide $10,000,000 to be available for the U.S. Pacific Command to enhance regional cooperation, military training, readiness and exercises. The Commander in Chief, U.S. Pacific Command, shall report to the House and Senate Committees on Appropriations on plans and priorities to utilize these funds to achieve key mission readiness and warfighting priorities not later than December 1, 1999.

STUDY GROUP ON MULTILATERAL EXPORT CONTROLS

The conferees direct that the Department convene a Study Group of senior-level executive branch and congressional officials, as well as outside experts, to develop the framework for a new effective, COCOM-like agreement that would regulate certain military useful goods and technologies on a multilateral basis. The final product shall be a written final report to be completed by January, 2001. The Department shall make available up to $1,000,000 from within the funds available in Operation and Maintenance, Defense-wide for this purpose.

Operation and Maintenance, Army Reserve

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
19500 OPERATION AND MAINTENANCE, ARMY RESERVE				
19550 BUDGET ACTIVITY 1: OPERATING FORCES				
19560 LAND FORCES				
19570 DIVISION FORCES	12,469	12,469	12,469	12,469
19580 CORPS COMBAT FORCES	26,496	26,496	26,496	26,496
19590 CORPS SUPPORT FORCES	196,704	196,704	196,704	196,704
19595 ECHELON ABOVE CORPS FORCES	99,091	99,091	99,091	99,091
19600 MISSION OPERATIONS				
19610 LAND FORCES OPERATIONS SUPPORT	299,852	299,852	299,852	299,852
19620 INCREASED OPTEMPO	---	20,000	---	10,000
19630 LAND FORCES READINESS				
19640 FORCES READINESS OPERATIONS SUPPORT	128,297	129,297	128,297	129,297
19650 LAND FORCES SYSTEM READINESS	32,172	32,172	32,172	32,172
19660 DEPOT MAINTENANCE	33,174	36,574	33,174	36,574
19670 LAND FORCES READINESS SUPPORT				
19680 BASE SUPPORT	314,261	324,261	314,261	319,261
19690 MAINTENANCE OF REAL PROPERTY	78,295	78,295	88,295	78,295
19710 UNIFIED COMMANDS	40	40	40	40
19720 ADDITIONAL ACTIVITIES	1,354	1,354	1,354	1,354
19900 TOTAL, BUDGET ACTIVITY 1	1,222,205	1,256,605	1,232,205	1,241,605

(In thousands of dollars)

	Budget	House	Senate	Conference
19950 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
20000 ADMINISTRATION AND SERVICEWIDE ACTIVITIES				
20025 ADMINISTRATION	31,108	31,108	31,108	31,108
20050 SERVICEWIDE COMMUNICATIONS	23,199	23,199	23,199	23,199
20060 PERSONNEL/FINANCIAL ADMINISTRATION	46,346	46,346	46,346	46,346
20070 RECRUITING AND ADVERTISING	46,355	71,355	46,355	64,355
20075 TOTAL, BUDGET ACTIVITY 4	147,008	172,008	147,008	165,008
20080 TRAINING DEPLOYMENTS	---	---	20,000	10,000
20090 REAL PROPERTY MAINTENANCE	---	10,000	---	10,000
20120 RECRUITING SUPPORT	---	3,500	---	3,000
20360 QOLE(D) RPM TRANSFER	---	39,563	39,563	39,563
20365 INFORMATION MANAGEMENT/OPERATIONS	---	31,400	---	---
20700 TOTAL, OPERATION AND MAINTENANCE, ARMY RESERVE	1,369,213	1,513,076	1,438,776	1,469,176

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
19620 Mission Operations/Increased Optempo	10,000
19640 Forces Readiness Operations Support/Training Area Environmental Management	1,000
19660 Depot Maintenance	3,400
19680 Base Support	5,000
Budget Activity 4: Administration and Servicewide Activities:	
20070 Recruiting and Advertising	18,000
Undistributed:	
20080 Training Deployments	10,000
20090 Real Property Maintenance	10,000
20120 Recruiting Support	3,000
20360 Real Property Maintenance/Transfer from Quality of Life Enhancements	39,563

Operation and Maintenance, Navy Reserve

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
20850 OPERATION AND MAINTENANCE, NAVY RESERVE				
20900 BUDGET ACTIVITY 1: OPERATING FORCES				
20950 RESERVE AIR OPERATIONS				
21000 MISSION AND OTHER FLIGHT OPERATIONS	283,792	283,792	283,792	283,792
21100 INTERMEDIATE MAINTENANCE	17,232	17,232	17,232	17,232
21150 AIR OPERATION AND SAFETY SUPPORT	3,829	3,829	3,829	3,829
21200 AIRCRAFT DEPOT MAINTENANCE	104,087	104,087	104,087	104,087
21250 AIRCRAFT DEPOT OPS SUPPORT	267	267	267	267
21400 RESERVE SHIP OPERATIONS				
21450 MISSION AND OTHER SHIP OPERATIONS	72,200	72,200	72,200	72,200
21500 SHIP OPERATIONAL SUPPORT AND TRAINING	615	615	615	615
21550 INTERMEDIATE MAINTENANCE	9,323	9,323	9,323	9,323
21600 SHIP DEPOT MAINTENANCE	92,988	92,988	92,988	92,988
21650 SHIP DEPOT OPERATIONS SUPPORT	2,760	2,760	2,760	2,760
21700 RESERVE COMBAT OPERATIONS SUPPORT				
21800 COMBAT SUPPORT FORCES	26,678	26,678	26,678	26,678
21950 RESERVE WEAPONS SUPPORT				
22000 WEAPONS MAINTENANCE	5,224	5,224	5,224	5,224
22030 REAL PROPERTY MAINTENANCE	21,469	21,469	31,469	21,469
22040 BASE SUPPORT	155,805	155,805	155,805	155,805
22050 RECRUITING AND ADVERTISING	---	3,000	---	5,000
22060 RECRUITING SUPPORT	---	5,000	---	5,000
22090 TOTAL, BUDGET ACTIVITY 1	796,269	804,269	806,269	806,269
22100 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
22150 ADMINISTRATION AND SERVICEWIDE ACTIVITIES				
22200 ADMINISTRATION	6,768	6,768	6,768	6,768
22250 CIVILIAN MANPOWER AND PERSONNEL MANAGEMENT	1,299	1,299	1,299	1,299

(In thousands of dollars)

	Budget	House	Senate	Conference
22300 MILITARY MANPOWER AND PERSONNEL MANAGEMENT............	24,551	24,551	24,551	24,551
22400 SERVICEWIDE COMMUNICATIONS............................	82,260	82,260	82,260	82,260
22550 COMBAT/WEAPONS SYSTEMS................................	5,899	5,899	5,899	5,899
22600 GENERAL DEFENSE INTELLIGENCE PROGRAM..................	601	601	601	601
22750 TOTAL, BUDGET ACTIVITY 4..............................	121,378	121,378	121,378	121,378
22794 QOLE(D) RPM TRANSFER..................................	---	13,831	13,831	13,831
22796 BASE OPERATIONS.......................................	---	10,000	5,000	7,500
22810 REAL PROPERTY MAINTENANCE.............................	---	10,000	---	10,000
22815 CONTRIBUTORY SUPPORT TO CINCS.........................	---	10,000	---	---
23150 TOTAL, OPERATION AND MAINTENANCE, NAVY RESERVE......	917,647	969,478	946,478	958,978

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
22050 Recruiting and Advertising	5,000
22060 Recruiting Support	5,000
Undistributed:	
22794 Real Property Maintenance/Transfer from Quality of Life Enhancements	13,831
22796 Base Operations	7,450
22810 Real Property Maintenance	10,000

Operation and Maintenance, Marine Corps Reserve

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

		Budget	House	Senate	Conference
23300	OPERATION AND MAINTENANCE, MARINE CORPS RESERVE				
23350	BUDGET ACTIVITY 1: OPERATING FORCES				
23400	MISSION FORCES				
23450	TRAINING	18,121	18,121	18,121	18,121
23500	OPERATING FORCES	38,529	38,529	38,529	38,529
23550	BASE SUPPORT	14,588	14,588	14,588	14,588
23600	MAINTENANCE OF REAL PROPERTY	6,054	10,054	7,054	8,054
23650	DEPOT MAINTENANCE	11,350	11,350	12,850	11,350
23700	TOTAL, BUDGET ACTIVITY 1	88,642	92,642	91,142	90,642
23750	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
23800	ADMINISTRATION AND SERVICEWIDE ACTIVITIES				
23850	RECRUITING AND ADVERTISING	7,841	7,841	7,841	8,841
23900	SPECIAL SUPPORT	11,116	11,116	11,116	11,116
23950	SERVICEWIDE TRANSPORTATION	476	476	476	476
24000	ADMINISTRATION	7,441	7,441	7,441	7,441
24050	BASE SUPPORT	7,750	7,750	7,750	7,750
24105	TOTAL, BUDGET ACTIVITY 4	34,624	34,624	34,624	35,624

(In thousands of dollars)

	Budget	House	Senate	Conference
24110 INCREASED USE OF GUARD AND RESERVE	---	1,200	---	1,200
24220 QOLE(D) RPM TRANSFER	---	945	945	945
24250 INITIAL ISSUE	---	10,000	---	8,000
24260 782 GEAR ISSUE	---	3,000	---	---
24270 SPARES	---	1,500	---	1,500
24280 RECRUITING SUPPORT	---	---	---	1,000
24600 TOTAL, O&M, MARINE CORPS RESERVE	123,266	143,911	126,711	138,911

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
23600 Maintenance of Real Property	2,000
Budget Activity 4: Administration and Servicewide Activities:	
23850 Recruiting and Advertising	1,000
Undistributed:	
24110 Increased Use of Guard and Reserve	1,200
24220 Real Property Maintenance/Transfer from Quality of Life Enhancements	945
24250 Initial Issue	8,000
24270 Spares	1,450
24280 Recruiting Support	1,000

Operation and Maintenance, Air Force Reserve

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
24750 OPERATION AND MAINTENANCE, AIR FORCE RESERVE				
24800 BUDGET ACTIVITY 1: OPERATING FORCES				
24850 AIR OPERATIONS				
24900 PRIMARY COMBAT FORCES	1,058,142	1,058,142	1,058,142	1,058,142
24950 MISSION SUPPORT OPERATIONS	45,972	45,972	45,972	45,972
24970 DEPOT MAINTENANCE	265,429	280,429	265,429	275,429
25000 BASE SUPPORT	235,907	235,907	235,907	235,907
25050 MAINTENANCE OF REAL PROPERTY	38,474	38,474	48,474	38,474
25150 TOTAL, BUDGET ACTIVITY 1	1,643,924	1,658,924	1,653,924	1,653,924
25200 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
25250 ADMINISTRATION AND SERVICEWIDE ACTIVITIES				
25300 ADMINISTRATION	46,819	46,819	46,819	46,819
25350 MILITARY MANPOWER AND PERSONNEL MANAGEMENT	20,254	20,254	20,254	20,254
25400 RECRUITING AND ADVERTISING	10,418	11,918	10,418	12,418
25410 RECRUITING SUPPORT	---	1,000	---	2,000
25450 OTHER PERSONNEL SUPPORT	6,390	6,390	6,390	6,390
25500 AUDIOVISUAL	632	632	632	632
25505 TOTAL, BUDGET ACTIVITY 4	84,513	87,013	84,513	88,513
25510 REAL PROPERTY MAINTENANCE	---	10,000	---	10,000
25520 BASE OPERATIONS	---	10,000	10,000	10,000
25558 QOLE(D) RPM TRANSFER	---	12,154	12,154	12,154
25570 C-130 OPERATIONS	---	10,000	---	8,000
25950 TOTAL, O&M, AIR FORCE RESERVE	1,728,437	1,788,091	1,760,591	1,782,591

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
24970 Depot Maintenance	10,000
Budget Activity 4: Administration and Servicewide Activities:	
25400 Recruiting and Advertising	2,000
25410 Recruiting Support	2,000
Undistributed:	
25510 Real Property Maintenance	10,000
25529 Base Operations	10,000
25558 Real Property Maintenance/Transfer from Quality of Life Enhancements	12,154
25570 C–130 Operations	8,000

Operation and Maintenance, Army National Guard

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
26100 OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD				
26120 BUDGET ACTIVITY 1: OPERATING FORCES				
26140 LAND FORCES				
26180 DIVISIONS	367,379	367,379	367,379	367,379
26200 CORPS COMBAT FORCES	773,892	773,892	773,892	773,892
26220 CORPS SUPPORT FORCES	183,763	183,763	183,763	183,763
26240 ECHELON ABOVE CORPS FORCES	139,382	139,382	139,382	139,382
26260 LAND FORCES OPERATION SUPPORT	94,098	94,098	94,098	94,098
26280 LAND FORCES READINESS				
26320 LAND FORCES SYSTEM READINESS	5,889	5,889	5,889	5,889
26340 DEPOT MAINTENANCE	187,327	197,327	187,327	189,327
26360 LAND FORCES READINESS SUPPORT				
26400 BASE OPERATIONS	468,029	474,293	468,029	473,029
26420 REAL PROPERTY MAINTENANCE	111,716	111,716	131,716	111,716
26440 MANAGEMENT AND OPERATIONAL HEADQUARTERS	400,988	400,988	400,988	400,988
26580 TOTAL, BUDGET ACTIVITY 1	2,732,463	2,748,727	2,752,463	2,739,463

(In thousands of dollars)

	Budget	House	Senate	Conference
26600 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
26620 ADMINISTRATION AND SERVICEWIDE ACTIVITIES				
26660 STAFF MANAGEMENT	58,902	58,902	58,902	58,902
26680 INFORMATION MANAGEMENT	18,981	36,481	63,981	63,481
26720 PERSONNEL ADMINISTRATION	50,840	50,840	50,840	50,840
26740 RECRUITING AND ADVERTISING	42,363	48,863	42,363	49,363
26760 TOTAL, BUDGET ACTIVITY 4	171,086	195,086	216,086	222,586
26860 MILITARY (CIVILIAN) TECHNICIANS SHORTFALL	---	48,000	48,000	48,000
26863 ADDITIONAL FULL-TIME SUPPORT (TECHNICIAN)	---	---	26,000	20,000
26864 TRAINING DEPLOYMENTS	---	---	20,000	---
26865 OPTEMPO INCREASE	---	10,000	20,000	15,000
26866 SCHOOL HOUSE SUPPORT	---	10,000	10,000	10,000
26867 QOLE(D) RPM TRANSFER	---	60,629	60,629	60,629
26868 PROJECT ALERT	---	---	3,200	---
26880 REAL PROPERTY MAINTENANCE	---	10,000	---	20,000
26900 EXTENDED COLD WEATHER CLOTHING SYSTEM	---	14,000	---	7,000
26910 ANGEL GATE ACADEMY	---	4,200	---	4,200
26920 NGB PROJECT MANAGEMENT SYSTEM	---	3,000	---	1,500
26930 TUITION ASSISTANCE	---	---	---	6,000
26940 RECRUITING SUPPORT	---	---	---	7,000
26980 TOTAL, OPERATION AND MAINTENANCE, ARMY NAT. GUARD	2,903,549	3,103,642	3,156,378	3,161,378

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
26340 Land Forces Readiness/Depot Maintenance	2,000
26400 Base Operations/Training Area Environmental Management	5,000
Budget Activity 4: Administration and Servicewide Activities:	
26680 Information Management/Distance Learning	42,000
26680 National Guard Fiber Optics Study	2,450
26740 Recruiting and Advertising	7,000
Undistributed:	
26860 Military (civilian) Technicians Shortfall	48,000
26863 Additional Full-Time Support (Technicians)	20,000
26865 Optempo Increase	15,000
26866 School House Support	10,000
26867 Real Property Maintenance/Transfer from Quality of Life Enhancements	60,629
26880 Real Property Maintenance	20,000
26900 Extended Cold Weather Clothing System	7,000
26910 Angel Gate Academy	4,200
26920 NGB Project Management System	1,450
26930 Tuition Assistance	6,000
26940 Recruiting Support	7,000

Operation and Maintenance, Air National Guard

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
27500 OPERATION AND MAINTENANCE, AIR NATIONAL GUARD				
27550 BUDGET ACTIVITY 1: OPERATING FORCES				
27600 AIR OPERATIONS				
27650 AIRCRAFT OPERATIONS	1,977,442	1,977,442	1,992,442	1,992,442
27660 AIRCRAFT SPARES	---	10,000	---	7,500
27700 MISSION SUPPORT OPERATIONS	357,487	357,487	357,487	357,487
27750 BASE SUPPORT	299,089	308,889	301,089	305,889
27800 MAINTENANCE OF REAL PROPERTY	38,130	48,130	48,130	48,130
27850 DEPOT MAINTENANCE	415,185	435,185	435,185	435,185
27860 F-16 FLIGHT TRAINING HOURS	---	15,000	---	---
27900 TOTAL, BUDGET ACTIVITY 1	3,087,333	3,152,133	3,134,333	3,146,633
27950 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
28000 SERVICEWIDE ACTIVITIES				
28050 ADMINISTRATION	2,656	2,656	2,656	2,656
28100 RECRUITING AND ADVERTISING	9,629	13,629	9,629	14,629
28110 TOTAL, BUDGET ACTIVITY 4	12,285	16,285	12,285	17,285
28150 QOLE(D) RPM TRANSFER	---	63,020	63,020	63,020
28160 C-130 OPERATIONS	---	5,000	5,000	5,000
28170 BASE OPERATIONS	---	---	10,000	4,000
28175 RECRUITING SUPPORT	---	2,000	5,000	2,000
28180 NATIONAL GUARD STATE PARTNERSHIP PROGRAM	---	1,000	---	1,000
28185 PROJECT ALERT	---	---	---	2,200
28550 TOTAL, O&M, AIR NATIONAL GUARD	3,099,618	3,239,438	3,229,638	3,241,138

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
27650 Aircraft Operations/Optempo	15,000
27660 Aircraft Spares	7,450
27750 Base Support	2,000
27750 Base Support/Buckley ANG Base	4,800
27800 Maintenance of Real Property	10,000
27850 Depot Maintenance	20,000
Budget Activity 4: Administration and Servicewide Activities:	
28100 Recruiting and Advertising	5,000
Undistributed:	
28150 Real Property Maintenance/Transfer from Quality of Life Enhancement	63,020
28160 C–130 Operations	5,000
28170 Base Operations	4,000
28175 Recruiting Support	2,000
28180 National Guard State Partnership Program	1,000
28185 Project Alert	2,200

OVERSEAS CONTINGENCY OPERATIONS TRANSFER FUND

The conferees agree to provide $1,722,600,000 for the Overseas Contingency Operations Transfer Fund. This amount provides for continuing operations in Bosnia and Southwest Asia and takes into account amounts which carry over due to the early cessation of the air campaign in Kosovo.

UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

The conference agreement provides $7,621,000 for the United States Court of Appeals for the Armed Forces.

ENVIRONMENTAL RESTORATION, ARMY

The conference agreement provides $378,170,000 for Environmental Restoration, Army.

ENVIRONMENTAL RESTORATION, NAVY

The conference agreement provides $284,000,000 for Environmental Restoration, Navy.

ENVIRONMENTAL RESTORATION, AIR FORCE

The conference agreement provides $376,800,000 for Environmental Restoration, Air Force.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

The conference agreement provides $25,370,000 for Environmental Restoration, Defense-Wide.

ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES

The conference agreement provides $239,214,000 for Environmental Restoration, Formerly Used Defense Sites.

Environmental Contracting

The conferees are concerned about the effect of the Department's use of large indefinite contracts on small businesses. Therefore, the conferees included a general provision (Section 8130) which directs that not more than 35 percent of the funds obligated by the Department of Defense for environmental remediation shall be executed through IDIQ contracts with a total contract amount of $130,000,000. Furthermore, the conferees direct that the Secretary of Defense provide a report to the congressional defense committees no later than January 15, 2000 on the Department's use of IDIQ contracts during fiscal year 1999 and that this information be provided quarterly throughout fiscal year 2000. The January 15th report should also include an analysis comparing IDIQ contracts with other contract options in terms of cost, involvement of small businesses, and the inclusion of local companies.

Joliet Army Ammunition Plant

The Department of the Army manufactured munitions and explosives at the Joliet Ammunition Plant from the 1940s until approximately 1976. Portions of the property became heavily contaminated as a result of this use. The U.S. Environmental Protection Agency listed a portion of the arsenal on the National Priority List in 1987. In consultation with the U.S. Environmental Protection Agency and the Illinois Environmental Protection Agency, the Army developed a Record of Decision (ROD) outlining the remediation of the arsenal. The Army and the Joliet Arsenal Development Authority continue to work closely to better coordinate those issues concerning the Army's cleanup of the Joliet Arsenal. The conferees strongly encourage the Army to continue to fully support the cleanup and conversion projects at this site and ensure the cleanup is completed in a timely manner.

Iowa Army Ammunition Plant

The Secretary of the Army shall conduct a review of past nuclear weapons activities of the Iowa Army Ammunition Plant in order to determine possible environmental contamination, and possible exposure of former nuclear weapons workers and the local community to such activities. This review shall be conducted in coordination with the Department of Energy and provided to the congressional defense committees not later than June 15, 2000.

Massachusetts Military Reservation

The conferees are aware that the Massachusetts Military Reservation (MMR) located on Cape Cod, Massachusetts is undergoing extensive environmental characterization and remediation. The portion of MMR leased to the Army and licensed back to Massachusetts for training and support of the MA Army National Guard, known as Camp Edwards, is subject to two administrative orders issued in 1997 by the U.S. Environmental Protection Agency—Region 1 under the authority of the Safe Drinking Water Act. Those orders specifically require characterization activities at and near the training range/impact area at Camp Edwards to determine the impact of military-related activities on the underlying groundwater. In order to facilitate compliance with those orders, the conferees include a general provision (Section 8154) that provides for the use of funds appropriated to Operation and Maintenance, Army to pay for costs associated with such characterization and any ensuing remediation.

El Toro

The conferees are concerned about the status of the former Marine Corps Air Station El Toro and encourage the Department to take all necessary environmental remediation measures.

Newmark

The conferees continue to have serious concern about the Department's failure to respond at a senior level to groundwater contamination at the Newmark and Muscoy Superfund sites in California. The conferees understand that both the Environmental Protection Agency (EPA) and the City of San Bernardino believe that the contamination is a direct result of industrial waste from Camp Ono, a World War II depot and maintenance facility. The EPA has reported that there is "no other reasonable source for the contamination," than the former Army base, and, more recently, that the Army is "a likely source of the contamination."

Report language in the conference reports accompanying the fiscal year 1997 and 1998 Defense Appropriations Bills highlighted the urgency of this program and requested adequate funding and prompt action by the Department to remediate this site. The conferees are disappointed with the Department's response. The Department has effectively ignored a September, 1998 court order to mediate the dispute. The conferees are particularly concerned by the Department's lack of a response to the conferees November, 1998 request for senior-level medication involving the Department and the Environmental Protection Agency. As a result, the conferees strongly believe that the Department should, within 60 days of enactment of this Act, initiate senior-level mediation in this matter with the EPA, the City of San Bernardino, and the State of California and report to the congressional defense committees fully explaining the Department's plan to reach a timely resolution to this matter.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

The conference agreement provides $55,800,000 for Overseas Humanitarian, Disaster, and Civic Aid.

FORMER SOVIET UNION THREAT REDUCTION

The conference agreement provides $460,450,000 for the Former Soviet Union Threat Reduction program.

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
Strategic Nuclear Arms Elimination Ukraine	33,000	43,000	33,000	35,000
Strategic Offensive Arms Elimination Russia	157,300	177,300	157,300	157,300
Weapons Transportation Russia	15,200	15,200	15,200	15,200
Weapons Storage Security Russia	40,000	90,000	40,000	84,000
Warhead Dismantlement Processing Russia	9,300	9,300	9,300	9,300
Reactor Core Conversion	20,000	20,000	20,000	0
Fissile Material Storage Russia	64,450	60,900	64,450	64,450
Biological Weapons Proliferation Prevention Russia	2,000	14,000	2,000	14,000
Chemical Weapons Destruction Russia	130,400	24,600	130,400	0
Defense and Military Contacts	2,000		2,000	2,000
Other Assessments	1,800	1,800	1,800	2,000
Submarine Dismantlement			[25,000]	25,000
Security enhancements at Chemical Weapons sites				20,000
Cooperative program to eliminate weapons grade plutonium				32,200

QUALITY OF LIFE ENHANCEMENTS, DEFENSE

The conference agreement provides $300,000,000 for Quality of Life Enhancements, Defense. The conference agreement, which distributes funding as indicated below, includes funding both to reduce the substantial backlog of real property maintenance, and to provide for certain requirements associated with local educational authorities.

[In thousands of dollars]

Quality of Life Enhancements, Defense: Program Increase:	
Army	$77,000,000
Navy	77,000,000
Marine Corps	58,450,000
Air Force	77,000,000
Defense-wide	10,450,000

TITLE III – PROCUREMENT

The conference agreement is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
SUMMARY				
ARMY:				
AIRCRAFT	1,229,888	1,590,488	1,440,788	1,451,688
MISSILES	1,358,104	1,272,798	1,267,698	1,322,305
WEAPONS, TRACKED COMBAT VEHICLES	1,416,765	1,556,665	1,526,265	1,586,490
AMMUNITION	1,140,816	1,228,770	1,145,566	1,204,120
OTHER	3,423,870	3,604,751	3,658,070	3,738,934
TOTAL, ARMY	8,569,443	9,253,472	9,038,387	9,303,537
NAVY:				
AIRCRAFT	8,228,655	9,168,405	8,558,684	8,662,655
WEAPONS	1,357,400	1,334,800	1,423,713	1,383,413
AMMUNITION	484,900	537,600	510,300	525,200
SHIPS	6,678,454	6,656,554	7,178,454	7,053,454
OTHER	4,100,091	4,252,191	4,184,891	4,320,238
MARINE CORPS	1,137,220	1,333,120	1,236,620	1,300,920
TOTAL, NAVY	21,986,720	23,282,670	23,092,662	23,245,880
AIR FORCE:				
AIRCRAFT	9,302,086	8,298,313	9,918,333	8,228,630
MISSILES	2,359,608	2,329,510	2,338,505	2,211,407
AMMUNITION	419,537	481,837	427,537	442,537
OTHER	7,085,177	6,958,227	7,198,627	7,146,157
TOTAL, AIR FORCE	19,166,408	18,067,887	19,883,002	18,028,731
DEFENSE-WIDE	2,128,967	2,286,368	2,327,965	2,249,566
NATIONAL GUARD AND RESERVE EQUIPMENT	---	130,000	250,000	150,000
DEFENSE PRODUCTION ACT PURCHASES	---	5,000	---	3,000
TOTAL PROCUREMENT	51,851,538	53,025,397	54,592,016	52,980,714

REPROGRAMMING POLICY

The conferees direct the Secretary of Defense not to implement any reprogramming actions (including notification reprogrammings) submitted to the congressional defense committees unless the Committees on Appropriations communicate approval of the reprogrammings. This direction applies to all defense accounts.

INTERIM CONTRACTOR SUPPORT

The conference agreement retains funding in Air Force procurement accounts for Interim Contractor Support (ICS) for Fiscal Year 2000. For the C–17, E–8, and B–2 programs, the conferees provided ICS funding in separate procurement line-items to facilitate better oversight in Congress and in the Department of Defense of the large levels of ICS in these programs. These line-items are subject to the same reprogramming procedures as other line-items in these accounts. The conferees direct the Secretary of Defense to ensure procurement programs expeditiously transition these efforts to operation and maintenance accounts. In particular, the conferees direct the Secretary of Defense to transition C–17 ICS (known as Flexible Sustainment) to the operations and maintenance account in the fiscal year 2001 budget submission. The conferees further direct that ICS be clearly identified in procurement budget documentation.

AIRCRAFT PROCUREMENT, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Qty	Conference
AIRCRAFT PROCUREMENT, ARMY					
UTILITY F/W (MR) AIRCRAFT.............................	---	---	27,000	1	5,400
UH-60 BLACKHAWK (MYP).................................	86,140	207,140	207,140	19	202,340
AH-64 MODS..	22,565	116,565	67,565	--	33,065
CH-47 CARGO HELICOPTER MODS (MYP).....................	70,738	126,838	73,738	--	111,738
UTILITY/CARGO AIRPLANE MODS...........................	6,308	9,308	9,308	--	8,808
LONGBOW...	729,536	774,536	717,836	--	752,836
UH-60 MODS..	12,087	13,587	12,087	--	13,087
KIOWA WARRIOR...	39,046	39,046	45,646	--	42,346
AIRBORNE AVIONICS.....................................	43,690	47,090	43,690	--	45,390
ASE MODS (ATIRCM).....................................	---	---	8,100	--	5,000
AIRCRAFT SURVIVABILITY EQUIPMENT......................	88	24,188	12,588	--	15,588
AVIONICS SUPPORT EQUIPMENT............................	---	---	5,000	--	2,500
COMMON GROUND EQUIPMENT...............................	35,915	37,915	19,315	--	20,315
AIRCREW INTEGRATED SYSTEMS............................	4,394	14,894	12,394	--	13,894

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
UH-60 BLACKHAWK (MYP)	86,140	207,140	207,140	202,340
UH-60L Blackhawks (+6)	....	54,000	54,000	54,000
(Note: UH-60L aircraft are only for the National Guard)				
UH-60Q (+3)	....	67,000	67,000	40,200
(Note: UH-60Q aircraft are only for the National Guard)				
UH-60L Firehawk (+2)	....	....	....	22,000
(Note: UH-60L Firehawk aircraft only for the National Guard)				
AH-64 MODS	22,565	116,565	67,565	33,065
LOLA boost pump	....	3,000	0	1,450
Vibration management enhancement program	....	7,000	0	4,450
(Note: Only for the National Guard)				
Oil debris detection system	....	3,000	0	1,450
(Note: Only for the National Guard)				
Apache second generation FLIR	....	75,000	0	0
(Note: funds transferred to RDT&E)				
HF radio integration	....	6,000	0	3,000
Longbow Processor Obsolesence	....	0	45,000	0
CH-47 CARGO HELICOPTER MODS	70,738	126,838	73,738	111,738
Accelerate reengining effort	....	56,100	....	40,000
NRE costs for troop safety enhancements	....	....	3,000	1,000
LONGBOW	729,536	774,536	717,836	752,836
Processor obsolescence	....	45,000	0	35,000
Deferral of air-to-air program efforts	....	0	−6,900	−6,900
Reduction in gfe/other funds based on late award	....	0	−4,800	−4,800
KIOWA WARRIOR	39,046	39,046	45,646	42,346
Crew station mission equipment trainer program	....	0	2,600	1,300
Switchable eyesafe laser rangefinder/designator	....	0	4,000	2,000
AIRCRAFT SURVIVABILITY EQUIPMENT	88	24,188	12,588	15,588
ASET IV	....	18,100	12,450	12,450
AN/AVR-2A laser detection sets	....	6,000	0	3,000
COMMON GROUND EQUIPMENT	39,915	37,915	19,315	20,315
Helicopter external lift enhancer	....	2,000	0	1,000
Delays in aircraft cleaning and deicing system	....	....	−2,450	−2,450
Delays in DoD Advanced Automation Systems	....	....	−10,100	−10,100
Delays in Airfield Status Automation System	....	....	−4,000	−4,000
AIRCREW INTEGRATED SYSTEMS	4,394	14,894	12,394	13,894
UH-60 A/L cockpit air bag system	....	10,450	0	5,000
Digital source collector	....	0	3,000	1,450
HGU-56/P aircrew integrated helmet system for the Army National Guard	....	0	5,000	3,000

MISSILE PROCUREMENT, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Qty	Conference
MISSILE PROCUREMENT, ARMY					
AVENGER SYSTEM SUMMARY	33,750	35,050	33,750	20	35,050
JAVELIN (AAWS-M) SYSTEM SUMMARY (AP-CY)	98,406	---	---	--	40,000
MLRS ROCKET	3,338	3,338	3,838	--	3,838
MLRS LAUNCHER SYSTEMS	130,634	138,134	130,634	47	138,134
MLRS LAUNCHER SYSTEMS (AP-CY)	15,993	15,993	15,993	--	---
PATRIOT MODS	30,840	30,840	30,840	--	50,840
STINGER MODS	17,392	17,392	24,892	--	22,392
AVENGER MODS	---	4,300	---	--	4,300

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
JAVELIN ADVANCE PROCUREMENT	98,406	0	0	40,000
Economic order quantity		−98,406	−98,406	40,000
MLRS LAUNCHER SYSTEMS	130,634	138,134	130,634	138,134
Vehicular intercommunications system (AN/VIC–3) cordless		2,450	0	2,450
Loader launch module and fire control system		5,000	0	5,000
PATRIOT MODS	30,840	30,840	30,840	50,840
Patriot anti-cruise missile system		0	(35,000)	0
Patriot service life extension program		0	0	20,000

PATRIOT UPGRADE

The conferees have provided $50,840,000 for the Patriot missile upgrade program, an increase of $20,000,000 only for a service life extension program. The conferees direct that none of the additional funds may be obligated until the Secretary of Defense provides an assessment of various Patriot missile modification programs, including, but not limited to, the Patriot Anti-Cruise Missile and the GEM upgrade programs. The assessment is to include the capability of each system against all potential target sets, to include cruise missiles and the development and acquisition costs associated with each modification program. Thirty days after the Secretary's findings are submitted to the defense committees, the funds may be used to upgrade/extend the life of Patriot missiles in the Army inventory.

JAVELIN

The conferees agree to provide the authority for the Army to enter into a Javelin multi-year contract. However, the conferees direct that the Army may not enter into such a contract until thirty days after the Secretary of Defense certifies the quantities purchased are correct and that any outstanding technical and manufacturing issues have been resolved and tested.

STARSTREAK

The conferees urge the Department of the Army to reprogram the funds necessary to complete a live fir, side-by-side operational test and evaluation of the air-to-air Starstreak and air-to-air Stinger missiles fired from the AH–64D Apache helicopter.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Qty	Conference
PROCUREMENT OF W&TCV, ARMY					
BRADLEY BASE SUSTAINMENT	308,762	392,762	315,762	--	383,762
BRADLEY BASE SUSTAINMENT (AP-CY)	27,675	27,675	27,675	--	---
COMMAND & CONTROL VEHICLE	54,545	54,545	60,545	12	60,545
CARRIER, MOD	53,463	68,463	53,463	--	63,463
BFVS SERIES (MOD)	7,087	7,087	40,087	--	32,087
HOWITZER, MED SP FT 155MM M109A6 (MOD)	6,259	7,259	27,259	--	27,259
HEAVY ASSAULT BRIDGE (HAB) SYS (MOD)	67,312	67,312	82,812	--	82,812
ARMOR MACHINE GUN, 7.62MM M240 SERIES	12,204	40,004	12,204	1,304	40,004
MACHINE GUN, 5.56MM (SAW)	---	10,100	5,000	--	10,100
GRENADE LAUNCHER, AUTO, 40MM, MK19-3	18,290	18,290	23,290	1,085	23,290
ITEMS LESS THAN $5.0M (WOCV-WTCV)	1,206	1,206	16,206	--	1,206

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
BRADLEY BASE SUSTAINMENT	308,762	392,762	315,762	383,762
AO to ods conversion (Note: Only for the National Guard)		80,000	0	80,000
Vehicular intercommunications system (AN/VIC–3)		4,000	4,000	4,000
DSESTS		0	3,000	3,000
Maintain fiscal year 99 quantities		0	0	–12,000
BRADLEY BASE SUSTAINMENT	27,675	27,675	27,675	0
Cancel multi-year procurement		0	0	–27,675
HOWITZER, 155MM M109A6 (MOD)	6,259	7,259	27,259	27,259
Vehicular intercommunications system (AN/VIC–3)		1,000	1,000	1,000
Paladin (National Guard)		0	20,000	20,000
HEAVY ASSAULT BRIDGE MODIFICATIONS	67,312	67,312	82,812	82,812
DSESTS		0	1,450	1,450
Advance Procurement		0	14,000	14,000
ITEMS LESS THAN $5.0M (WOCV–WTCV)	1,206	1,206	16,206	1,206
PI combat vehicle crewman's headsets (Note: Transfer to OPA)		0	15,000	0

ABRAMS TANK UPGRADE MULTI-YEAR PROCUREMENT

With some reluctance, the conferees have approved the Army's request to renew multi-year procurement authority to continue the M1A2 Abrams tank upgrade program subject to the condition described below. The conferees seriously question the Army's proposal to enter a new follow-on multi-year agreement that would increase the average unit cost of a tank upgrade (M1 to M1A2 SEP) from $5.6 million per tank in FY 1999 to $6.7 million per tank starting in FY 2001. The conferees note that, in general, the trend throughout the Department has been that follow-on multi-year agreements show significant unit price decreases as production efficiencies improve and mature. While much of the cost increase for this program can be attributed to lower planned production rates, the conferees remain puzzled why greater efforts have not been made to lower unit costs, especially when the cost of this upgrade now threatens to equal the cost of procuring a new tank.

The conferees agree that the Army shall not enter into a new multi-year procurement agreement for the M1A2 SEP program until it has conducted a detailed and thorough reexamination of the costs of this program and has reevaluated the overall program structure in light of the Army's ongoing reevaluation of its overall modernization strategy and plan. The conference agreement therefore restricts approval of the new MYP agreement until 30 days after the Army has submitted a report to Congress detailing the results of its M1A2 SEP cost and program structure review. The conferees expect this report to:

Describe renewed efforts by the Army and by industry to reduce production cost in all areas;

Recommend ways to improve cost accounting practices to shift overhead costs not directly attributable to production of this tank upgrade to the proper accounts;

Reexamine options (in concert with any new armored force revisions made as part of the larger strategic review) to use newer tank chassis' for the upgrade that might significantly lower unit cost;

Reexamine the planned rates of production for this program;

Reassess the cost and benefits of installing an auxiliary power unit as part of this upgrade;

Review ways to further reduce the cost of the second generation FLIR system; and provide a detailed description of the terms and conditions of its proposed multi-year procurement agreement.

The conferees believe the Army should revisit its decision to commit to inefficient rates of 80 tanks per year over three years and only 43 tanks in year four and 24 tanks in year five.

With respect to revaluation of the APU, the conferees are disturbed that more consideration and priority has not been given to upgrades that would reduce the very high cost of operation of this tank. The one proposed modification to reduce cost was the on-board auxiliary power unit, which was subsequently dropped from the package for "affordability" reasons. Given the well known problems with the Abrams power plant, the conferees would think that any modification that would reduce the significant O&S costs for the equipment would receive high priority. The conferees strongly urge the Army to revise its plan to include this equipment.

The conferees also direct the Secretary of the Army to submit a report, no later than June 15, 2000, that outlines the additional costs required to completely equip the "first to fight corps" with top line equipment and the Army's reasons for adopting a plan that deviates from this concept. The conferees do not expect the time required to submit this additional report to impact on the award of the multi-year contract.

PROCUREMENT OF AMMUNITION, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Qty	Conference
PROCUREMENT OF AMMUNITION, ARMY					
CTG, 25MM, ALL TYPES	46,618	48,618	46,618	--	47,618
60MM MORTAR, ALL TYPES	15,616	15,616	24,616	--	20,616
CTG MORTAR 60MM SMOKE WP M722	---	4,000	---	--	3,000
CTG MORTAR 81MM PRAC 1/10 RANGE M880	1,906	3,306	1,906	30	2,906
CTG MORTAR 120MM ILLUM XM930 W/MTSQ FZ	---	10,000	---	--	6,000
CTG 120MM WP SMOKE M929A1	51,819	59,619	56,819	56	59,619
CTG 120MM APFSDS-T M829A2/M829E3	---	32,000	---	--	32,000
CTG 120MM HEAT-MP-T M830A1	---	22,000	---	--	15,000
CTG ARTY 105MM DPICM XM915	---	5,000	10,000	--	5,000
PROJ ARTY 155MM SADARM M898	54,546	---	30,546	227	15,000
REMOTE AREA DENIAL ARTILLERY MUNITION (RADAM)	48,250	48,250	---	100	8,000
MINE AT M87 (VOLCANO)	---	15,000	18,000	--	18,000
WIDE AREA MUNITIONS	10,387	20,387	20,387	79	15,387
BUNKER DEFEATING MUNITION (BDM)	---	10,000	---	--	10,000
GRENADES, ALL TYPES	11,431	16,431	11,431	--	13,431
PROVISION OF INDUSTRIAL FACILITIES	46,139	53,439	46,139	--	53,439
ARMS INITIATIVE	4,775	4,775	18,775	--	18,775

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
PROJ ARTY 155MM SADARM M898	54,546	0	30,546	15,000
Terminate basic SADARM production		– 54,546	0	0
SADARM Production		0	– 24,000	– 39,546
(Note: Funds may not be obligated unitl OPTEC has certified in writing that 80% reliability has been demonstrated)				

OTHER PROCUREMENT, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Qty	Conference
OTHER PROCUREMENT, ARMY					
TACTICAL TRAILERS/DOLLY SETS	15,277	20,277	21,277	632	25,277
FAMILY OF HEAVY TACTICAL VEHICLES (FHTV)	190,399	196,399	190,399	450	194,399
HVY EXPANDED MOBILITY TACTICAL TRUCK EXT SERV	4,901	11,701	4,901	23	11,701
MODIFICATION OF IN SVC EQUIP	29,769	33,269	29,769	--	31,769
SHF TERM	31,950	---	31,950	16	14,000
SAT TERM, EMUT (SPACE)	1,547	1,547	1,547	--	6,547
SMART-T (SPACE)	61,761	31,761	51,761	--	31,761
SCAMP (SPACE)	5,033	---	5,033	--	5,033
ARMY DATA DISTRIBUTION SYSTEM (DATA RADIO)	38,763	58,763	53,763	--	53,763
ACUS MOD PROGRAM (WIN T/T)	109,056	115,956	149,056	--	155,956
PRODUCT IMPROVED COMBAT VEHICLE CREWMAN HEADSET	---	15,000	---	--	15,000
MEDICAL COMM FOR CBT CASUALTY CARE (MC4)	20,600	21,600	20,600	--	21,600
INFORMATION SYSTEM SECURITY PROGRAM-ISSP	28,750	39,450	41,250	--	57,450
WW TECH CON IMP PROG (WWTCIP)	2,891	2,891	7,991	--	2,891
INFORMATION SYSTEMS	56,915	56,915	101,915	--	97,915
LOCAL AREA NETWORK (LAN)	100,018	116,570	100,018	--	116,570
TACTICAL UNMANNED AERIAL VEHICLE (TUAV)	45,863	---	45,863	--	---
JOINT STARS (ARMY) (TIARA)	82,176	107,176	82,176	12	96,176
CI HUMINT AUTOMATED TOOL SET (CHATS) (TIARA)	3,137	4,637	3,137	--	4,137
SHORTSTOP	---	28,000	---	--	20,000
NIGHT VISION DEVICES	20,977	67,777	70,977	9,448	60,977
LTWT VIDEO RECON SYSTEM (LWVRS)	3,436	5,936	4,936	145	4,936
COMBAT IDENTIFICATION / AIMING LIGHT	9,486	---	9,486	--	---
MOD OF IN-SVC EQUIP (TAC SURV)	6,533	29,533	14,633	--	25,633

(In thousands of dollars)

	Budget	House	Senate	Qty	Conference
DIGITIZATION APPLIQUE................................	66,423	56,423	66,423	--	56,423
MORTAR FIRE CONTROL SYSTEM...........................	3,740	---	3,740	--	---
FAADC2I MODIFICATIONS................................	5,880	5,880	8,380	--	7,880
STRIKER-COMMAND AND CONTROL SYSTEM...................	12,307	12,307	22,307	30	22,307
MANEUVER CONTROL SYSTEM (MCS)........................	52,049	10,000	30,349	--	25,000
STAMIS TACTICAL COMPUTERS (STACOMP)..................	33,711	15,611	33,711	--	33,711
AUTOMATED DATA PROCESSING EQUIP......................	138,607	176,607	138,607	--	154,607
PRODUCTION BASE SUPPORT (C-E)........................	378	2,878	378	--	2,878
HEAVY DRY SUPT BRIDGE SYSTEM.........................	13,980	17,980	13,980	3	15,480
RIBBON BRIDGE..	12,077	12,077	25,577	65	25,577
EXPLOSIVE ORDNANCE DISPOSAL EQPMT (EOD EQPMT).........	4,989	10,989	4,989	--	8,989
LIGHTWEIGHT MAINTENANCE ENCLOSURE (LME)...............	2,128	3,728	5,328	197	3,728
DISTRIBUTION SYS, PET & WATER........................	10,716	13,716	10,716	--	13,716
WATER PURIFICATION SYS...............................	10,396	10,396	13,396	--	10,396
COMBAT SUPPORT MEDICAL...............................	25,250	40,250	29,250	--	36,250
ROLLER, VIBRATORY, SELF-PROPELLED (CCE)...............	---	10,300	---	--	10,300
COMPACTOR, HIGH SPEED................................	9,798	12,398	9,798	67	12,398
CRANE, WHEEL MTD, 25T, 3/4 CU YD, RT.................	12,089	20,089	12,089	47	18,089
ITEMS LESS THAN $2.0M (CONST EQUIP)..................	4,286	6,286	4,286	--	6,286
PUSHER TUG, SMALL....................................	---	9,000	---	--	9,000
GENERATORS AND ASSOCIATED EQUIP......................	78,639	81,639	78,639	--	79,639
COMBAT TRAINING CENTERS SUPPORT......................	2,450	9,050	12,450	--	17,550
TRAINING DEVICES, NONSYSTEM..........................	67,374	75,124	70,874	--	72,874
SIMNET/CLOSE COMBAT TACTICAL TRAINER.................	75,367	40,367	75,367	--	65,367
INTEGRATED FAMILY OF TEST EQUIPMENT (IFTE)...........	41,602	56,602	41,602	--	51,602
MODIFICATION OF IN-SVC EQUIPMENT (OPA-3)..............	24,852	39,352	32,852	--	41,852
LIGHTWEIGHT CAMOUFLAGE SYSTEM........................	---	20,000	---	--	13,000

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
TACTICAL TRAILERS/DOLLY SETS	15,277	20,277	21,277	25,277
Trailer modernization/life cycle sustainment SLOT		5,000	0	5,000
SLOT		0	6,000	5,000
MODIFICATION OF INSERVICE EQUIPMENT	29,769	33,269	29,769	31,769
HET air-conditioning		1,450	0	1,000
Fuel injection test stand upgrade (A8020)		2,000	0	1,000
ACUS MOD PROGRAM (WIN T/T)	109,056	115,956	149,056	155,956
High speed multiplexers (HSMUX) (Note: Only for the National Guard)		900	0	900
Facsimile machines (TS-21 Blackjack)		6,000	0	6,000
AN/TTC-56 Single Shelter Switches		0	40,000	40,000
Product Improvement Combat Vehicle Crewman	0	15,000	0	15,000
(Note: Senate provided funds in WTCV, A)		15,000	0	15,000
INFORMATION SYSTEM SECURITY PROGRAM-ISSP	28,750	39,450	41,250	57,450
Secure terminal equipment		2,000	6,000	3,450
AIRTERM AND MINTERM security devices		8,700	0	8,700
Assessment of biometrics systems (Note: Only MX5T biometrics computer prototype, pilot, and study for combing and consolidating biometrics and other information assurance technologies).		0	15,000	15,000
Portable interruptible universal power supply system		0	1,450	1,450
WW TECH CON IMP PROG (WWTCIP) (Note: Funds are provided under the heading Combat Training Services Support)	2,891	2,891	7,991	2,891
Camp Shelby		0	5,100	0
NIGHT VISION DEVICES	20,977	67,777	70,977	60,977
25mm gen III tubes		25,000	0	18,000
Night vision goggles (AN/PVS-7D)		10,000	0	8,000
AN/PEQ-2A TPIALS devices		5,200	0	3,450
AN/PAQ-4C infrared aiming lights		6,600	0	3,450
Senate add for "suggested" items		0	50,000	0
AN/PAS 13 (Note: Senate included item in report language)		0	0	3,450
AN/VAS-5 drivers vision enhancer (Note: Senate include item in report language)		0	0	3,450
MOD OF IN-SVC EQUIP (TAC SURV)	6,533	29,533	14,633	25,633
Firefinder—additional systems		23,000	0	11,000
Firefinder modifications		0	8,100	8,100
STRIKER-COMMAND AND CONTROL SYSTEM	12,307	12,307	22,307	22,307
Striker hmmwv—combat laser teams		0	5,000	5,000
Striker test program sets		0	5,000	5,000
MANEUVER CONTROL SYSTEM (MCS)	52,049	10,000	30,349	25,000
Program delay		−27,049	0	−5,349
Transfer to PE 0203759A		−15,000	−21,700	−21,700
AUTOMATED DATA PROCESSING EQUIP	138,607	176,607	138,607	154,607
Ammunition AIT		15,000	0	10,000
National Guard Distance Learning		15,000	0	0
National Guard Distance Learning Courseware		8,000	0	6,000
PRODUCTION BASE SUPPORT (C-E)	378	2,878	378	2,878
Tobyhanna (Note: Only for production base support)		2,450	0	2,450
HEAVY DRY SUPT BRIDGE SYSTEM	13,980	17,980	13,980	15,480
Vehicular intercommunications system (AN/VIC-3) (Note: Senate added funds in WTCV)		4,000	0	1,450
DISTRIBUTION SYS, PET & WATER	10,716	13,716	10,716	13,716
Tactical water purification systems (Note: Senate provided funds in Water Purification Sys)		3,000	0	3,000
WATER PURIFICATION SYS	10,396	10,396	13,396	10,396
3,000 gallon water purification system (Note: Funds moved to Distribution Systems, Pet and Water)		0	3,000	0
COMBAT SUPPORT MEDICAL	25,250	40,250	29,250	36,250
Advance surgical suite for trauma		15,000	0	8,000
LSTAT		0	4,000	3,000
GENERATORS AND ASSOCIATED EQUIP	78,639	81,639	78,639	79,639
Small generators		600	0	0
5-60k generators		2,450	0	1,000
COMBAT TRAINING CENTERS SUPPORT	2,450	9,050	12,450	17,550
JTRC MOUT instrumentation		6,600	3,000	3,000
DFIRST pilot program		0	7,000	7,000
Camp Shelby (Note: Senate provided funds under WWTCIP)		0	0	5,100
TRAINING DEVICES, NONSYSTEM	67,374	75,124	70,874	72,874
GUARDFIST (Note: Only for the National Guard)		3,750	0	2,000
BEAMHIT		4,000	0	1,000
Improved moving target simulator		0	3,450	2,450
MODIFICATION OF IN-SVC EQUIPMENT (OPA-3)	24,852	39,352	32,852	41,852
D-7 Dozer service life extension program (Note: Only for the National Guard)		10,000	0	10,000
Laser leveling equipment		4,450	0	3,000
Commercial Equipment SLEP		0	8,000	4,000

FAMILY OF MEDIUM TACTICAL VEHICLES

The conferees support the Army's competition strategy and their desire to engage in practices which seek to lower acquisition costs and improve the quality of the Family of Medium Tactical Vehicle truck. Additionally, the conferees understand that the Army must use funds appropriated for the FMTV program to establish and conduct any competition that will determine the future producers of FMTV trucks. The conferees direct that there be no delay in the competition for follow-on FMTV contract awards.

The conferees direct the Secretary of Army to develop an acquisition strategy using competitive procedures for the next FMTV production contract based on, but not limited to, a validated FMTV technical data package which will serve as the baseline for the FMTV configuration. Furthermore, the conferees direct the Army to provide a report on the status of the acquisition strategy no later than March 15, 2000.

GLOBAL COMBAT SUPPORT SYSTEM—ARMY

The conferees are concerned about the Department's tendency to begin fielding an information technology system prior to the system actually passing Milestone III. Therefore the conferees direct the Army not to spend $11,900,000 of the funds provided in Other Procurement, Army for the Global Combat Support System—Army until after the system has received Milestone III approval.

PACIFIC MOBILE EMERGENCY RADIO SYSTEM (PACMERS)

The conferees are concerned that the existing emergency radio capability of the Pacific Command may have become an inadequate stovepipe system, consisting mainly of analog technology non-interoperable with the new and emergency technologies used by other federal, State and local governments. The maintenance and operation of existing equipment is no longer feasible nor cost effective.

The proposed follow-on system, the Pacific Mobile Emergency Radio Systems (PACMERS), will allow total interoperability with all military services, federal law enforcement, and State and local agencies. PACMERS will provide the capabilities to insure emergency communications for first-responders to weapons of mass destruction and counter-terrorism activities, consequence management, as well as other situations derived by civil disobedience or natural disaster. The capabilities of PACMERS will support Presidential Directive 62 and 63.

True cost savings will be realized by utilization of a total turn-key, leased system, which will negate government risk associated with the maintenance, technological obsolescence, and capital investment of a procured system. The anticipated cost-savings and economies of scale associated with the anticipated enhancements of PACMERS are of great interest to the conferees. In an expression of support for the PACMERS system concept, the Department of Defense is encouraged to accelerate installation, leading to a full operational capability as soon as is feasible.

AIRCRAFT PROCUREMENT, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Qty	Conference
AIRCRAFT PROCUREMENT, NAVY					
AV-8B (V/STOL)HARRIER (AP-CY)	30,832	30,832	30,832	--	40,832
F/A-18E/F (FIGHTER) HORNET	2,691,989	2,691,989	2,681,989	36	2,691,989
F/A-18E/F (FIGHTER) HORNET (AP-CY)	162,240	162,240	176,240	--	162,240
V-22 (MEDIUM LIFT)	796,392	856,392	919,392	12	856,392
UC-35	---	---	---	2	12,000
C-40A	49,029	49,029	98,058	1	49,029
JPATS	44,826	55,826	44,826	12	55,826
KC-130J	12,257	576,257	77,157	1	77,157
EA-6 SERIES	161,047	272,047	201,047	--	240,047
F-18 SERIES	308,789	281,789	300,589	--	311,789
AH-1W SERIES	13,726	16,726	20,726	--	18,726
H-53 SERIES	45,240	45,240	26,840	--	26,840
SH-60 SERIES	56,824	60,324	60,324	--	57,824
H-1 SERIES	6,339	16,339	18,839	--	15,339
EP-3 SERIES	27,433	44,433	27,433	--	39,433
P-3 SERIES	276,202	361,202	300,402	--	342,202
S-3 SERIES	94,119	94,119	84,119	--	84,119
E-2 SERIES	28,201	55,101	28,201	--	76,101
C-2A	19,524	19,524	24,524	--	25,524
E-6 SERIES	86,950	85,250	86,950	--	85,250
COMMON ECM EQUIPMENT	50,584	58,584	50,584	--	54,584
SPARES AND REPAIR PARTS	871,820	871,820	821,820	--	871,820
COMMON GROUND EQUIPMENT	413,732	379,782	416,732	--	380,932
WAR CONSUMABLES	11,683	11,683	14,183	--	14,783
OTHER PRODUCTION CHARGES	39,991	64,991	39,991	--	64,991

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
EA-6 SERIES	161,047	272,047	201,047	240,047
Modified Band 9/10 (7/8) jammers		0	25,000	18,000
Night vision devices		31,000	15,000	31,000
Simulators		60,000	0	30,000
Refurbish test aircraft to operational configuration		20,000	0	0
F-18 SERIES	308,789	281,789	300,589	311,789
F-18A AN/APG-73 RUG avionics upgrade for ECP 583		0	23,600	23,600
F-18C AN/APG-73 RUG avionics upgrade		0	15,200	15,200
Allowance for correction of deficiencies		0	−20,000	−10,000
ATFLIR premature award		−27,000	−27,000	−27,000
Joint helmet mounted cueing system		0	0	2,000
SH-60 SERIES	56,824	60,324	60,324	57,824
AQF-13F dipping sonar		3,450	7,450	5,000
Integrated mechanical diagnostic system delay		0	−4,000	−4,000
H-1 SERIES	6,339	16,339	18,839	15,339
AN/AQQ-22 thermal imaging system		10,000	10,000	8,000
Improved engine torque pressure system		0	2,450	1,000
EP-3 SERIES	27,433	44,433	27,433	39,433
Specific emitter identification/LPI		12,000	0	12,000
Assessment study for additional sensors		5,000	0	0
P-3 SERIES	276,202	361,202	300,402	342,202
Additional AIP modification kits		60,000	24,200	48,000
Lightweight environmentally sealed parachutes		5,000	0	3,000
Advanced digital recorders		5,000	0	3,000
Specific emitter identification		15,000	0	12,000
E-2 SERIES	28,201	55,101	28,201	76,101
Hawkeye 2000 upgrades		0	0	24,000
Lightweight environmentally sealed parachutes		5,000	0	2,000
Cooperative engagement capability		21,900	0	21,900
COMMON ECM EQUIPMENT	50,584	50,584	50,584	54,584
AN/ALR-67A(V)2 radar warning receivers		6,000	0	3,000
AN/APR-39 radar warning receivers		2,000	0	1,000
COMMON GROUND EQUIPMENT	413,732	379,782	416,732	380,932
Consolidated Avionics Support System		−2,900	0	0
High pressure pure air generators		3,750	0	0
Jet start units		−35,800	0	−35,800
Direct support squadron readiness training		1,000	3,000	3,000
WAR CONSUMABLES	11,683	11,683	14,183	14,783
High pressure pure air generators		0	2,450	3,100

AV-8B

The conferees agree to provide an additional $10,000,000 for AV-8B advance procurement and encourage the Department of the Navy to budget for at least 16 additional remanufactured AV-8B aircraft starting in fiscal year 2001, at the end of the current multiyear contract. Additional aircraft are needed by the Marine Corps to maintain its inventory level until the Joint Strike Fighter is field.

ADVANCED TACTICAL AIR RECONNAISSANCE SYSTEM (ATARS)

The conferees agree that no reduction should be applied to the ATARS program. Additionally, the conferees agree that 50 percent of the fiscal year 2000 funding shall not be obligated until the Operational Evaluation is complete.

WEAPONS PROCUREMENT, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Qty	Conference
WEAPONS PROCUREMENT, NAVY					
JSOW	154,913	135,913	154,913	518	115,613
STANDARD MISSILE	198,867	155,267	198,867	91	198,867
HELLFIRE	---	---	25,000	--	20,000
PENGUIN	---	10,000	---	--	10,000
AERIAL TARGETS	21,177	51,177	51,177	--	46,177
DRONES AND DECOYS	---	---	20,000	--	10,000
SIDEWINDER MODS	29,387	29,387	---	--	---
WEAPONS INDUSTRIAL FACILITIES	20,199	20,199	27,899	--	27,899
MK-48 TORPEDO ADCAP MODS	52,755	52,755	37,755	--	45,255
SMALL ARMS AND WEAPONS	880	880	880	--	2,380
MK-45 GUN MOUNT MODS	---	---	28,000	--	28,000

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
JSOW	154,913	135,913	154,913	115,613
Delay BLU-108 variant		− 39,300	0	− 39,300
Baseline variant		20,300	0	0
SMALL ARMS AND WEAPONS	880	880	880	2,380
MK-43 machine guns		0	(3,000)	1,450

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Qty	Conference
PROCUREMENT OF AMMO, NAVY & MARINE CORPS					
AIR EXPENDABLE COUNTERMEASURES........................	34,259	39,259	34,259	--	37,759
5.56 MM, ALL TYPES..................................	12,958	21,958	19,958	--	21,958
7.62 MM, ALL TYPES..................................	7	5,007	4,007	--	5,007
.50 CALIBER...	16,364	18,364	16,364	--	17,364
40 MM, ALL TYPES....................................	11,247	12,547	12,647	--	12,547
CTG 25MM, ALL TYPES.................................	3,194	11,394	3,194	--	6,194
GRENADES, ALL TYPES.................................	2,270	4,270	2,270	--	3,270
DEMOLITION MUNITIONS, ALL TYPES......................	14,733	21,933	14,733	--	18,233

SHIPBUILDING AND CONVERSION, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Qty	Conference
SHIPBUILDING & CONVERSION, NAVY					
CVN REFUELING OVERHAULS (AP-CY)........................	345,565	323,665	345,565	--	345,565
LHD-1 AMPHIBIOUS ASSAULT SHIP (MYP)...................	---	---	500,000	--	375,000

OTHER PROCUREMENT, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Qty	Conference
OTHER PROCUREMENT, NAVY					
OTHER NAVIGATION EQUIPMENT	67,516	87,516	86,516	--	100,516
POLLUTION CONTROL EQUIPMENT	113,506	116,506	113,506	--	115,006
STRATEGIC PLATFORM SUPPORT EQUIP	6,070	21,070	6,070	--	21,070
MINESWEEPING EQUIPMENT	16,302	20,802	16,302	--	18,302
ITEMS LESS THAN $5.0M	126,133	154,533	132,633	--	132,133
RADAR SUPPORT	---	22,300	16,000	--	20,000
SSN ACOUSTICS	227,042	227,042	229,642	--	227,042
SURFACE SONAR WINDOWS AND DOME	---	5,000	---	--	3,000
UNDERSEA WARFARE SUPPORT EQUIPMENT	2,605	11,205	2,605	--	8,605
SONAR SUPPORT EQUIPMENT	---	3,000	---	--	3,000
C-3 COUNTERMEASURES	---	10,000	---	--	---
SHIPBOARD IW EXPLOIT	48,031	21,531	48,031	--	48,031
COMMON HIGH BANDWIDTH DATA LINK	40,083	31,283	40,083	--	40,083
NAVY TACTICAL DATA SYSTEM	---	25,000	---	--	22,500
COOPERATIVE ENGAGEMENT CAPABILITY	60,494	60,494	38,594	--	60,494
OTHER TRAINING EQUIPMENT	44,229	54,229	44,229	--	51,429
TADIX-B	6,248	23,548	6,248	--	20,548
NAVAL SPACE SURVEILLANCE SYSTEM	6,634	7,834	6,634	--	7,834
GCCS-M EQUIPMENT TACTICAL/MOBILE	7,077	17,077	7,077	--	14,077
RADIAC	7,778	4,278	7,778	--	4,278
ITEMS LESS THAN $5.0M	5,206	10,206	5,206	--	9,206
SUBMARINE COMMUNICATION EQUIPMENT	85,368	53,268	85,368	--	83,668
SATCOM SHIP TERMINALS (SPACE)	237,722	247,722	237,722	--	247,722
JEDMICS	---	17,000	9,000	--	17,000

(In thousands of dollars)

	Budget	House	Senate	Qty	Conference
NAVAL SHORE COMMUNICATIONS	114,339	92,439	114,339	--	114,339
INFO SYSTEMS SECURITY PROGRAM (ISSP)	64,139	64,139	67,639	--	67,139
PASSIVE SONOBUOYS (NON-BEAM FORMING)	15,933	23,933	18,933	--	19,933
AN/SSQ-57 (SPECIAL PURPOSE)	---	---	---	--	1,000
AN/SSQ-62 (DICASS)	17,111	17,711	20,111	--	16,711
AN/SSQ-101 (ADAR)	12,773	18,773	15,773	--	16,773
WEAPONS RANGE SUPPORT EQUIPMENT	12,166	12,166	23,166	--	23,166
AVIATION LIFE SUPPORT	17,053	23,053	35,153	--	37,053
AIRBORNE MINE COUNTERMEASURES	40,455	40,455	40,455	--	31,502
AEGIS SUPPORT EQUIPMENT	86,668	93,668	86,668	--	91,668
ANTI-SHIP MISSILE DECOY SYSTEM	20,446	20,446	32,446	--	32,446
COMMAND SUPPORT EQUIPMENT	14,471	16,471	14,471	--	16,471

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
OTHER NAVIGATION EQUIPMENT	67,516	87,516	86,516	100,516
WSN–7B ring laser gyroscopes	....	0	15,000	15,000
WQN–2 doppler sonar velocity logs	....	10,000	0	5,000
Thermal imagers for MSC ships	....	0	4,000	3,000
Computer aided dead reckoning tracers	....	10,000	0	10,000
ITEMS LESS THAN $5.0M	126,133	154,533	132,633	132,133
Afloat force protection	....	24,400	0	0
Integrated condition assessment system	....	4,000	6,450	6,000
RADAR SUPPORT	0	22,300	16,000	20,000
AN/BPS–15H/15J/16 submarine navigation radar upgrade	....	8,000	8,000	8,000
AN/SPS–73 surface search radar	....	14,300	8,000	12,000
UNDERSEA WARFARE SUPPORT EQUIPMENT	2,605	11,205	2,605	8,605
Surface ship torpedo defense (Note: In addition to the directives in the House report, the conferees agree that up to $2,000,000 of the funds provided shall be available for the distributed engineering capability that captures the SSTD products in a simulation-based acquisition toolset both to support the system integration with large deck engineering activities and to provide an affordable, cost-efficient approach for system acquisition.)	....	8,600	0	6,000
NAVY TACTICAL DATA SYSTEM	0	25,000	0	22,450
LHA combat display console upgrades	....	20,000	0	20,000
Display emulators for land based sites	....	5,000	0	2,450
OTHER TRAINING EQUIPMENT	44,229	54,229	44,229	51,429
BFTT air traffic control trainers for aircraft carriers	....	5,800	0	3,000
BFTT electronic warfare trainers	....	4,200	0	4,200
TADIX–B:	6,248	23,548	6,248	20,548
Joint Tactical Terminals—Navy (Note: Funds are only for procurement of joint tactical terminals and/or common integrated broadcast service-module upgrade kits.)	....	17,300	....	14,300
ITEMS LESS THAN $5.0M	5,206	10,206	5,206	9,206
Shipboard display emulators for surface ships	....	5,000	0	4,000
SUBMARINE COMMUNICATION EQUIPMENT	85,368	53,268	85,368	83,668
Submarine high data rate antennas	....	−30,400	0	0
Submarine antenna distribution system	....	−1,700	0	−1,700
AN/SSQ–62 (DICASS)	17,111	17,711	20,111	16,711
Unit price savings based on FY 99 actual costs	....	−4,400	0	−4,400
Additional sonobuoys	....	5,000	3,000	4,000
WEAPONS RANGE SUPPORT EQUIPMENT	12,166	12,166	23,166	23,166
Mobile remote emitter simulator	....	0	6,000	6,000
PMRF upgrades	....	0	5,000	5,000
AVIATION LIFE SUPPORT	17,053	23,053	35,153	37,053
Omni IV/V night vision goggles	....	0	18,100	14,000
Inertial reels	....	6,000	0	6,000
AIRBORNE MINE COUNTERMEASURES	40,455	40,455	40,455	31,502
Combat Survivor Evader Locator	....	....	....	−8,953
AEGIS SUPPORT EQUIPMENT	86,668	93,668	86,668	91,668
CAST lesson authoring system	....	2,000	0	1,000
Wireless sensors	....	5,000	0	4,000

PROCUREMENT, MARINE CORPS

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Qty	Conference
PROCUREMENT, MARINE CORPS					
LAV PIP	1,706	1,706	5,706	--	1,706
GENERAL PURPOSE ELECTRONIC TEST EQUIP	7,863	7,863	9,863	--	10,663
NIGHT VISION EQUIPMENT	9,032	17,532	14,032	--	17,532
RADIO SYSTEMS	82,881	82,881	93,781	--	93,781
COMM SWITCHING & CONTROL SYSTEMS	65,125	98,025	65,125	--	65,125
COMM & ELEC INFRASTRUCTURE SUPPORT	81,770	139,070	81,770	--	126,770
MOD KITS MAGTF C41	13,821	18,821	13,821	--	16,821
FIRE SUPPORT SYSTEM	---	6,000	---	--	5,000
COMMAND SUPPORT EQUIPMENT	---	2,000	---	--	2,000
MATERIAL HANDLING EQUIP	50,010	66,510	60,010	--	66,510
FIELD MEDICAL EQUIPMENT	2,445	7,645	6,445	--	7,945
MODIFICATION KITS	---	2,000	---	--	1,000
ITEMS LESS THAN $5.0M	9,102	9,102	12,102	--	12,102

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
GENERAL PURPOSE ELECTRONIC TEST EQUIP	7,863	7,863	9,863	10,663
k-band test obstrucation pairing system	....	0	2,000	0
k-band test obstrucation pairing system and its associated range instrumentation for the USMCR	....	0	(800)	2,800
FIELD MEDICAL EQUIPMENT	2,445	7,645	6,445	7,945
Chemical Biological Incident Response Team	....	0	4,000	3,000
Small unit biological detector	....	5,200	0	2,450

COMMUNICATIONS AND ELECTRONICS INFRASTRUCTURE

The conferees recommend an increase of $45,000,000 to the Communications and Electronics Infrastructure line for the upgrading and replacement of key information transfer components located inside buildings on Marine Corps bases/stations, to include Camp Smith, Barstow, 29 Palms, Camp Pendleton, and Quantico.

AIRCRAFT PROCUREMENT, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Qty	Conference
AIRCRAFT PROCUREMENT, AIR FORCE					
F-22 RAPTOR	1,574,981	---	1,574,981	--	---
F-22 RAPTOR (AP-CY)	277,094	---	277,094	--	---
F-15	---	440,000	220,000	5	275,000
F-15 ADV PROC	---	---	---	--	25,000
F-16 C/D (MYP)	252,610	350,610	302,610	10	245,610
C-17 (MYP)	3,080,147	2,671,047	3,080,147	15	2,671,047
C-17 (MYP) (AP-CY)	304,900	301,700	304,900	--	303,300
C-17 INTERIM CONTRACTOR SUPPORT	---	---	---	--	396,600
EC-130J	---	---	87,800	1	87,800
C-130J	30,618	17,718	54,818	--	46,818
JPATS	88,232	106,332	142,232	29	113,232
V-22 OSPREY	29,203	16,736	29,203	--	22,203
OPERATIONAL SUPPORT AIRCRAFT	---	63,000	---	1	63,000
TARGET DRONES	36,152	31,652	36,152	--	31,652
E-8C	280,265	468,465	280,265	1	231,465
E-8C (AP-CY)	---	---	46,000	--	36,000
E-8C INTERIM CONTRACTOR SUPPORT	---	---	---	--	25,800
PREDATOR UAV	38,003	58,003	38,003	3	58,003
B-1B	130,389	147,039	121,989	--	127,039
B-52	15,973	15,973	24,873	--	24,873
F-117	34,646	34,646	39,646	--	37,646
A-10	24,360	29,360	24,360	--	25,860
F-15	263,490	321,818	255,190	--	307,990
F-16	249,536	295,536	294,936	--	283,036

(In thousands of dollars)

	Budget	House	Senate	Qty	Conference
C-17A	95,643	93,543	99,143	--	97,043
T-38	94,487	43,987	94,487	--	43,987
KC-10A (ATCA)	53,366	29,757	53,366	--	29,757
C-130	207,646	165,546	207,646	--	167,296
C-135	347,088	552,988	347,088	--	448,988
DARP	138,436	302,936	208,436	--	237,736
E-3	124,061	94,561	124,061	--	105,061
E-4	19,985	9,985	19,985	--	14,985
PASSENGER SAFETY MODIFICATIONS	---	75,000	40,000	--	48,000
SPARES AND REPAIR PARTS	420,921	420,921	355,921	--	423,421
COMMON SUPPORT EQUIPMENT	171,369	183,369	181,369	--	177,697
B-2A	106,882	75,482	106,882	--	67,482
B-2 INTERIM CONTRACTOR SUPPORT	---	---	---	--	47,600
F-16 POST PRODUCTION SUPPORT	30,010	50,010	30,010	--	45,010
WAR CONSUMABLES	29,282	54,282	8,429	--	29,282
MISC PRODUCTION CHARGES	339,624	339,624	369,624	--	369,624

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
F–16 C/D (MYP)	252,610	350,610	302,610	245,610
Excess ECO and NRE		− 17,000		− 7,000
Additional aircraft		115,000	50,000	0
C–130J	30,618	17,718	54,818	46,818
Spares and Modifications			24,200	12,100
Transfer ICS to O&M		− 12,900		
Simulator upgrade				4,100
JPATS	88,232	106,332	142,232	113,232
Additional aircraft		21,000	54,000	25,000
Transfer ICS to O&M		− 2,900		0
E–8C	280,265	468,465	280,265	231,465
Funds budgeted for shutdown		− 13,000		− 13,000
Refurbishment cost savings based on acquisition of German VIP aircraft		− 23,000		− 10,000
Transfer ICS to separate line		− 25,800		− 25,800
PREDATOR UAV	38,003	58,003	38,003	58,003
Additional air vehicles and other support		20,000		20,000
B–1B	130,389	147,039	121,989	127,039
Excess Link 16 funds		− 8,350		− 8,950
Delays in Block E Computer Upgrade Program			− 8,400	0
Conventional Bomb Modules		25,000		5,000
F–15	263,490	321,818	255,190	307,990
Excess funds for APG–63 radar nonrecurring		− 22,000	− 28,300	− 20,000
Excess funds for mods per GAO		− 8,672		− 3,000
E-Kit engine upgrades for the Air National Guard		25,000	20,000	20,000
E-Kit engine upgrades for the active		25,000		20,000
Fighter data link (active)		21,000		10,000
Fighter data line (guard)		18,000	(17,450)	17,450
F–16	249,536	295,536	294,936	283,036
Unjustified modification cost growth		− 7,100		0
Litening II		30,000		0
600 gallon fuel tanks			4,000	2,450
Onboard oxygen generating system (OBOGS)			5,000	3,000
Digital Terrain System (DTS)		12,000	12,000	10,000
Theater Airborne Reconnaissance System (TARS)			13,450	7,000
F–16 digital engine control & engine modifications		11,100	10,900	11,000
C–17A	95,643	93,543	99,143	97,043
Unjustified cost growth in electronic flight control		− 2,100		− 2,100
C–17 maintenance trainer and cargo compartment trainer			3,450	3,450
T–38	94,487	43,987	94,487	43,987
Schedule delays in Avionics Upgrade Program		− 50,000		− 50,000
Engine program		− 450		− 450
Note: The Conferees agree that the Air Force may enter into a low rate production contract for the Avionics Upgrade Program				
C–130	207,646	165,546	207,646	167,296
Transfer to RDTEAF for Avionics Modernization Program		− 38,600		− 38,600
Excess ECO funding in Airlift Defensive Systems		− 3,450		− 1,750
C–135	347,088	552,988	347,088	448,988
KC–135 reengine for Air National Guard		208,000		104,000
Excessive cost growth in Pacer Crag installs		− 2,100		− 2,100
DARP	138,436	302,936	198,436	237,736
Additional RC–135 reenginings		60,000	60,000	60,000
TAWS on RC–135 Rivet Joint		17,300		10,800
SYERS on U–2		9,000		5,000
Common Data Link on U–2		5,000		3,450
Quick Reaction Capabilities for RC–135 Rivet Joint		13,400		10,000
U–2 upgrades/cockpit and defensive systems		22,000		10,000
Program transfer from GDIP		37,800		0
U–2 Defensive System Modernization			(10,000)	0
E–3	124,061	94,561	124,061	105,061
Proper phasing of SATCOM integration funding		− 6,000		− 6,000
Restructured computer upgrade program		− 16,700		− 14,200
Accelerate Block 30/35 installations		11,200		11,200
Excess RSIP NRE, ECO, and OGC funds		− 6,000		− 3,000
Proper phasing of RSIP SE/PM funding		− 12,000		− 7,000
PASSENGER SAFETY MODIFICATIONS	0	75,000	40,000	48,000
TAWS (Note: Funding includes, but is not limited to upgrade of the KC–135)		40,000		30,000
GATM		35,000		18,000
SPARES AND REPAIR PARTS	420,921	420,921	355,921	423,421
C–12 Spare Parts			5,000	2,450
Program reduction			− 70,000	0
COMMON SUPPORT EQUIPMENT	171,369	183,369	181,369	177,697
Modular Airborne Firefighting System for ANG		6,000		3,450
Common, multi-platform boresight equipment		1,400	10,000	3,000
LANTIRN Support and Bomb Damage Assessment		10,600		5,300
Self Generating Nitrogen Servicing Cart		4,000		2,000
JSECTS production delayed to FY 2001		− 7,472		− 7,472
CAPRE		− 2,528		0
B–2A	106,882	75,482	106,882	67,482
B–2 shelters		16,200		8,200
Transfer ICS to separate line		− 47,600		− 47,600
F–16 POST PRODUCTION SUPPORT	30,010	50,010	30,010	45,010
IAIS Active		10,000		5,000
IAIS Guard		5,000		5,000
IAIS Reserves		5,000		5,000

JOINT STARS

The conferees agree with the Senate direction regarding the initiation of a pilot program to re-engine the JSTARS fleet with leased commercial engines. The conferees note that lease authority applies only to JSTARS and not to KC–135 aircraft.

ON-BOARD OXYGEN GENERATING SYSTEM (OBOGS)

The House recedes to the Senate with modifications. The conferees concur with the Senate report language directing the Secretary of the Air Force to provide a report on compliance with previous Congressional direction regarding installation of OBOGS on various aircraft, including implementation costs and potential cost savings. The Senate report further directs that OBOGS purchases from qualified vendors, including small business, be conducted on a competitive basis. The conferees fully support the competitive procurement of OBOGS for those aircraft models for which OBOGS procurement action has not been initiated.

C–135 MODIFICATIONS

The conferees have provided $104,000,000 for re-engining of KC–135 tankers. The conferees are aware of multiple options for re-engining KC–135 aircraft. A number of options exist, including a new proposal to shift modified C–141 engines to these aircraft.

The conferees believe that the KC–135 re-engining program should proceed under a comprehensive plan based on requirements and cost, utilizing competition and commercial practices to the maximum extent practicable. The conferees direct the Department of Defense to analyze all options for re-engining KC–135 aircraft. The conferees direct that the plan assess the annual and total cost of all options and the range of capability improvements offered by each option. The conferees direct that this plan be provided to the congressional defense committees no later than February 25, 2000, and prior to the obligation of the added funds.

DEFENSE AIRBORNE RECONNAISSANCE PROGRAM

The conferees agree to provide $10,800,000 for the Theater Airborne Warning System (TAWS) on the RC–135 Rivet Joint. The conferees direct that no more than fifty (50) percent of these funds may be obligated prior to the Secretary of the Air Force providing a letter to the congressional defense committees which certifies that the TAWS program is fully funded in the fiscal year 2001–2006 budget submitted to Congress and identifies all of the outyear funds budgeted for the TAWS program.

MISSILE PROCUREMENT, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Qty	Conference
MISSILE PROCUREMENT, AIR FORCE					
JOINT STANDOFF WEAPON	79,981	60,981	79,981	74	40,681
AMRAAM	97,279	190,279	97,279	210	90,279
SIDEWINDER (AIM-9X)	31,103	31,103	---	--	---
MM III MODIFICATIONS	242,960	277,960	282,960	--	280,460
AGM-65D MAVERICK	2,800	12,800	2,800	--	9,800
SPACEBORNE EQUIP (COMSEC)	9,594	4,594	9,594	--	4,594
GLOBAL POSITIONING (SPACE)	139,049	103,349	139,049	--	126,849
GLOBAL POSITIONING (SPACE) (AP-CY)	31,798	---	31,798	--	---
NUDET DETECTION SYSTEM	11,375	1,575	11,375	--	1,575
DEF METEOROLOGICAL SAT PROG(SPACE)	38,223	34,223	38,223	--	36,223
DEFENSE SUPPORT PROGRAM(SPACE)	111,609	106,609	111,609	--	109,109
EVOLVED EXPENDABLE LAUNCH VEH(SPACE)	70,812	66,812	70,812	1	68,812
SPECIAL PROGRAMS	716,703	636,703	716,703	--	666,703
SPECIAL UPDATE PROGRAMS	199,640	75,840	169,640	--	199,640
MILSTAR (SPACE)	---	150,000	---	--	---

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
JOINT STANDOFF WEAPON	79,981	60,981	79,981	40,681
Delay procurement of BLU–108 variant		−39,300		−39,300
Baseline variant		20,300		0
AMRAAM	97,279	190,279	97,279	90,279
Transfer funds to RDTEAF for P31 phase III		−7,000		−7,000
Procure additional AMRAAMs		100,000		0
MM III MODIFICATIONS	242,960	277,960	282,960	280,460
Guidance Replacement Program		40,000	40,000	40,000
Pricing of Propulsion Replacement Program		−5,000		−2,450
GLOBAL POSITIONING (SPACE)	139,049	103,349	139,049	126,849
Rubidium Clock Build		−5,450		−3,000
Premature GPS Block IIF launch services and on-orbit support		−25,200		−25,200
Delays in GPS IIF crosslink		−5,000		−5,000
Satellite Telecommunication Simulator				17,000
EELV Integration				4,000

PROCUREMENT OF AMMUNITION, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Qty	Conference
PROCUREMENT OF AMMUNITION, AIR FORCE					
SENSOR FUZED WEAPON...................................	61,334	73,634	69,334	203	79,334
JOINT DIRECT ATTACK MUNITION..........................	125,605	175,605	125,605	5,410	130,605

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
PRACTICE BOMBS	24,325	24,325	24,325	24,325
Cast Ductile Bomb		(6000)		(3000)
SENSOR FUZED WEAPON	61,334	73,634	69,334	79,634
Provide for minimum SFW (baseline variant) sustaining rate		12,300	8,000	18,300

OTHER PROCUREMENT, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Qty	Conference
OTHER PROCUREMENT, AIR FORCE					
60K A/C LOADER	81,163	82,363	93,663	39	93,663
INTELLIGENCE COMM EQUIP	5,495	28,395	5,495	--	26,395
AIR TRAFFIC CTRL/LAND SYS (ATCALS)	887	5,887	887	--	3,387
NATIONAL AIRSPACE SYSTEM	54,394	45,394	54,394	--	45,394
THEATER AIR CONTROL SYS IMPROVEMENT	37,917	23,417	31,917	--	27,917
AUTOMATIC DATA PROCESSING EQUIP	71,173	84,173	71,173	--	80,173
COMBAT TRAINING RANGES	17,503	17,503	45,503	--	45,503
C3 COUNTERMEASURES	13,275	13,275	18,275	--	15,775
THEATER BATTLE MGT C2 SYS	47,648	44,548	47,648	--	47,648
BASE INFORMATION INFRASTRUCTURE	122,839	179,339	122,839	--	137,839
DEFENSE MESSAGE SYSTEM (DMS)	14,025	4,125	14,025	--	14,025
NAVSTAR GPS SPACE	14,614	13,314	14,614	--	13,314
AF SATELLITE CONTROL NETWORK SPACE	33,591	17,591	33,591	--	31,591
EASTERN/WESTERN RANGE I&M SPACE	83,410	107,910	83,410	--	83,410
MILSATCOM SPACE	46,257	37,757	46,257	--	42,257
TACTICAL C-E EQUIPMENT	49,710	49,710	84,710	--	79,710
COMM ELECT MODS	56,195	53,995	56,195	--	56,195
BASE/ALC CALIBRATION PACKAGE	10,157	7,557	10,157	--	8,857
NIGHT VISION GOGGLES	2,800	4,800	2,800	--	3,800
ITEMS LESS THAN $5.0M	3,559	6,559	5,959	--	5,959
BASE PROCURED EQUIPMENT	14,035	25,035	14,035	--	19,535
INTELLIGENCE PRODUCTION ACTIVITY	40,047	16,247	40,047	--	49,047
TECH SURV COUNTERMEASURES EQ	2,976	3,976	2,976	--	3,776
SELECTED ACTIVITIES	5,352,231	5,163,331	5,376,031	--	5,288,961

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
THEATER AIR CONTROL SYS IMPROVEMENT	37,917	23,417	31,917	27,917
Reduced requirements for interface units		−8,450		−4,000
Transfer to RDTEAF for Expert Missile Tracker		−6,000	−6,000	−6,000
AUTOMATIC DATA PROCESSING EQUIP	71,173	84,173	71,173	80,173
SPARES		10,000		6,000
Battlelab Collaborative Network		3,000		3,000
BASE INFORMATION INFRASTRUCTURE	122,839	179,339	122,839	137,839
Information assurance		30,000		15,000
Communication infrastructure		26,450		0
EASTERN/WESTERN RANGE I&M SPACE	83,410	107,910	83,410	83,410
Air Force identified shortfall in space ranges		27,000		0
Transfer ICS to O&M		−2,450		0
MILSATCOM SPACE	46,257	37,757	46,257	42,257
Program delays		−6,300		−3,000
Delay hardware pending software maturity		−2,200		−1,000
BASE PROCURED EQUIPMENT	14,035	25,035	14,035	19,535
Master Cranes for ANG		5,000		2,450
Ultimate building machines for ANG		1,000		600
Ultimate building machines for Reserve		1,000		600
Laser leveling		2,000		1,000
Hazardous gas detection equipment		2,000		1,000
INTELLIGENCE PRODUCTION ACTIVITY	40,047	16,247	40,047	49,047
Cobra Upgrades		10,000		7,000
Software Development and Training Facility		+4,000		2,000
Program transfer to JMIP		−37,800		0

The U–2 is the premier tactical reconnaissance asset requested by the CINCs around the world. This system of aircraft, pilot, ground crew and equipment is tasked daily to support military operations, monitor conflicts, and maintain peace agreements. The recent NATO campaign in Kosovo, where the U–2 provided 24-hour in-theater coverage, showcased the capabilities of the system. The conferees understand that the U–2 was considered by many to be the "backbone" of the airborne Intelligence, Surveillance, and Reconnaissance (ISR) mission in Kosovo.

The conferees are concerned that the increased number of missions, along with the limited number of U–2 aircraft and the declining number of qualified pilots in the Air Force, will adversely affect the ability of the U–2 to meet future ISR requirements.

Therefore, the conferees request the Secretary of Defense submit a report to the defense subcommittees of the House and Senate Committees on Appropriations, which addresses the following:

1. The performance and contributions of the U–2 aircraft in Operation Allied Force;
2. The status of qualified U–2 pilots and training needs for new pilots;
3. The number of U–2 aircraft required to maintain current capabilities, train new pilots, and continue to fulfill the Air Force's high altitude reconnaissance mission; and
4. The Air Force's plan to sustain the U–2 weapon system, with its multi-sensor payloads, and sensor-to-shooter flexible targeting assets until such time as a replacement with equal or greater capability can be operationally fielded.

This report is due to the Committees within 90 days of enactment of this Act.

The conferees agree to provide a total of $10,000,000 for U–2 cockpit and defensive systems. The Air Force should prioritize these upgrades and apply the $10,000,000 as necessary to meet the most pressing requirements.

PROCUREMENT, DEFENSE-WIDE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Qty	Conference
PROCUREMENT, DEFENSE-WIDE					
MAJOR EQUIPMENT, OSD	88,976	166,976	88,976	--	126,976
DEFENSE SUPPORT ACTIVITIES	47,455	56,455	47,455	--	56,455
AUTOMATIC DOCUMENT CONVERSION SYSTEM	---	12,500	50,000	--	20,000
PATRIOT PAC-3	300,898	300,898	360,898	32	345,898
NAVY AREA TBDM PROGRAM	55,002	55,002	---	--	18,200
SOF ROTARY WING UPGRADES	41,233	83,233	41,233	--	83,233
C-130 MODIFICATIONS	98,893	98,893	116,893	--	106,893
ADVANCED SEAL DELIVERY SYS	21,213	7,400	21,213	--	7,400
ADVANCED SEAL DELIVERY SYS (AP-CY)	17,286	8,000	17,286	--	8,000
SOF ORDNANCE REPLENISHMENT	37,876	37,876	43,876	--	37,876
SOF INTELLIGENCE SYSTEMS	19,154	21,154	19,154	--	20,154
SOF SMALL ARMS & WEAPONS	23,355	30,355	28,355	--	25,355
CLASSIFIED PROGRAMS	110,147	110,147	200,147	--	110,147
INDIVIDUAL PROTECTION	124,612	125,612	124,612	--	125,612
DECONTAMINATION	10,920	10,920	15,920	--	13,920
CLASSIFIED PROGRAMS	438,263	459,763	458,263	--	444,763
HUMAN RESOURCES ENTERPRISE STRATEGY	---	7,500	---	--	5,000

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
MAJOR EQUIPMENT, OSD: Procurement investment in High Performance Computing	88,976	166,976	88,976	126,976
[Note: $20,000,000 is only for the Army High Performance Research Center		75,000		35,000
Mentor-protege		3,000		3,000
MAJOR EQUIPMENT, DLA				
DEFENSE SUPPORT ACTIVITIES	47,455	62,455	47,455	62,455
Electronic Commerce Resource Centers		9,000		9,000
[Transfer of $6,000,000 from RDTE, DW for ECRCs.]		6,000		6,000
SOF SMALL ARMS AND WEAPONS	23,355	30,355	28,355	25,355
Nightstar binoculars		7,000		2,000
INOD			5,000	
CHEMICAL/BIOLOGICAL DEFENSE				
INDIVIDUAL PROTECTION	124,612	125,612	124,612	125,612
M42 protective mask reclamation		1,000		1,000

NATIONAL GUARD AND RESERVE EQUIPMENT

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Qty	Conference
NATIONAL GUARD & RESERVE EQUIPMENT					
RESERVE EQUIPMENT					
ARMY RESERVE MISCELLANEOUS EQUIPMENT................................	---	30,000	42,000	--	30,000
NAVY RESERVE MISCELLANEOUS EQUIPMENT................................	---	20,000	25,000	--	20,000
MARINE CORPS RESERVE MISCELLANEOUS EQUIPMENT................................	---	20,000	25,000	--	20,000
AIR FORCE RESERVE MISCELLANEOUS EQUIPMENT................................	---	20,000	33,000	--	20,000
NATIONAL GUARD EQUIPMENT					
ARMY NATIONAL GUARD MISCELLANEOUS EQUIPMENT................................	---	20,000	62,500	--	30,000
AIR NATIONAL GUARD MISCELLANEOUS EQUIPMENT................................	---	20,000	62,500	--	30,000

MISCELLANEOUS EQUIPMENT

The conferees agree that each of the Chiefs of the Reserve and National Guard components should exercise control of modernization funds provided in this account including aircraft and aircraft modernization. The conferees further agree that separate submissions of a detailed assessment of its modernization priorities by the component commanders is required to be submitted to the defense committees. The conferees expect the component commanders to give priority consideration to the following items: Modular airborne fire fighting systems, F–16 ALR–56M radar warning receivers, ALR–56 radar warning receivers, Deployable rapid assembly shelters, FAASV ammunition carriers, Mobile radar approach control (RAPCON), F/A–18 modernization including avionics and engineering upgrades, Bradley AO–A2ODS, KC–135 reengining, Paladin, P–3 modernization including P–3C Update III BMUP Kits, Night vision devices and goggles, CH–47 helicopters, AN/PEQ–2A TPIALs, AN/PAQ–4C Infrared aiming lights, Master crane aircraft component hoisting systems, Aluminum mesh gas tank liners for C–130 aircraft and Army ground vehicles, A/B FIST 21 training systems, CH–60S combat search and rescue kits, Super scooper aircraft, C–40A aircraft, C–22 replacement aircraft, Secure communications and data systems, CH–60 helicopters, M270A1 long-range surveillance launchers, AN/AVR–2A(V) laser detecting sets, ALQ–184(V)9 electronic countermeasure pods, Extended cold weather clothing systems, HEMTT trucks, Multi-role bridge companies, Medium tactical wreckers, Rough terrain container cranes, CH–47 cargo compartment expanded range fuel systems, C–38A aircraft, C–17 communication suite upgrades, Internal crashworthy fuel cells, DFIRST, UH–60Q kits, MLRS launchers, Meteorological measuring systems, Improved target simulators, C–17 Maintenance training systems, Multiple launch rocket systems, Onboard oxygen generating systems field evaluation, LITENING II targeting pod systems, F–16 mid-life upgrade, SINCGARS radios, UH–1 modernization, UH–60 upgrades, C–130E, C–130 H2/H3 ATS-Eng. changes, C–130 Carry-on SADL, F–16 color display, F–16 SADL "D", B–1 weapons modules, Aircraft lighting systems, Logistics service support, JANUS, M915A4 Upgrade kits, Rough terrain container handlers, E–2C SATCOM, ALR–67 radar warning receivers, KC–130T avionics modernization, Bradley fighting vehicle upgrades, F–15 modernization, C–130J support, MT ANG–RACTS pods rangeless training systems, HMMWV striker vehicles, Tactical construction equipment, Eagle vision antennas, Advanced surgical suite for trauma casualties, Modern burning units, AN/TMQ41 meteorological measuring systems, Vehicle intercom systems, Air defense brigade automated command and control equipment, Avenger table top trainers (ATTT), Ground bases sensors for Avenger battalions, Support equipment for Patriot missile air defense battalions and Sandbagger.

SUPPORT TO NON-PROFIT ORGANIZATIONS

The conferees have included a general provision (Section 8127) which allows National Guard units to assist with the use or transportation of equipment to youth, social, fraternal, and other non-profit organizations, and allows the Chief of the National Guard Bureau to waive payment for this assistance. The conferees urge the Secretary of Defense to review current regulations and policy guidelines concerning the leasing of equipment to non-profit organizations, and provide a report to the defense committees no later than June 1, 2000, on the implementation of this waiver authority.

DEFENSE PRODUCTION ACT

The conference agreement on items addressed by either the House or the Senate is as follows: $3,000,000 only for microwave tubes.

TITLE IV – RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The conference agreement is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
RECAPITULATION				
RDTE, ARMY	4,426,194	5,148,093	4,914,294	5,266,601
RDTE, NAVY	7,984,016	9,080,580	8,421,976	9,110,326
RDTE, AIR FORCE	13,077,829	13,709,233	13,489,909	13,674,537
RDTE, DEFENSE-WIDE	8,609,289	8,935,149	9,327,155	9,256,705
DEVELOPMENTAL TEST AND EVALUATION	253,457	271,957	251,957	265,957
OPERATIONAL TEST AND EVALUATION	24,434	29,434	34,434	31,434
GRAND TOTAL, RDTE	34,375,219	37,174,446	36,439,725	37,605,560

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST & EVAL, ARMY				
DEFENSE RESEARCH SCIENCES............................	125,613	125,613	126,613	126,613
UNIVERSITY AND INDUSTRY RESEARCH CENTERS.............	47,066	47,066	69,366	65,066
MATERIALS TECHNOLOGY.................................	13,849	13,849	16,349	16,349
SENSORS AND ELECTRONIC SURVIVABILITY.................	22,978	25,978	22,978	24,978
MISSILE TECHNOLOGY...................................	32,892	43,892	44,092	48,392
MODELING AND SIMULATION TECHNOLOGY...................	24,955	24,955	29,955	29,955
COMBAT VEHICLE AND AUTOMOTIVE TECHNOLOGY.............	39,749	42,249	53,249	55,249
BALLISTICS TECHNOLOGY................................	36,287	42,287	36,287	42,287
CHEMICAL, SMOKE AND EQUIPMENT DEFEATING TECHNOLOGY....	3,996	3,996	5,996	4,996
WEAPONS AND MUNITIONS TECHNOLOGY.....................	34,687	37,187	34,687	36,687
ELECTRONICS AND ELECTRONIC DEVICES...................	25,796	37,596	31,396	37,096
COUNTERMINE SYSTEMS..................................	10,321	14,121	13,121	14,521
ENVIRONMENTAL QUALITY TECHNOLOGY.....................	12,758	81,258	24,758	80,258
MILITARY ENGINEERING TECHNOLOGY......................	41,085	61,085	45,385	47,885
WARFIGHTER TECHNOLOGY................................	23,971	26,971	23,971	25,971
MEDICAL TECHNOLOGY...................................	70,136	169,636	87,636	176,636
DUAL USE APPLICATIONS PROGRAM........................	18,222	10,000	18,222	10,000
WARFIGHTER ADVANCED TECHNOLOGY.......................	31,287	42,773	31,287	45,287
MEDICAL ADVANCED TECHNOLOGY..........................	10,539	69,339	35,039	74,539
WEAPONS AND MUNITIONS ADVANCED TECHNOLOGY............	39,893	67,643	39,893	58,643
COMBAT VEHICLE AND AUTOMOTIVE ADVANCED TECHNOLOGY.....	90,941	137,441	103,941	131,941
COMMAND, CONTROL, COMMUNICATIONS ADVANCED TECHNOLOGY..	20,883	20,883	30,883	27,883
MANPOWER, PERSONNEL AND TRAINING ADVANCED TECHNOLOGY..	3,030	3,030	6,030	5,030
MISSILE AND ROCKET ADVANCED TECHNOLOGY...............	43,639	51,639	48,639	51,639

(In thousands of dollars)

	Budget	House	Senate	Conference
JOINT SERVICE SMALL ARMS PROGRAM......................	4,869	4,869	9,869	8,869
LINE-OF-SIGHT TECHNOLOGY DEMONSTRATION................	41,619	---	41,619	38,000
NIGHT VISION ADVANCED TECHNOLOGY......................	36,628	45,628	36,628	42,628
ADVANCED TACTICAL COMPUTER SCIENCE AND SENSOR TECH....	22,610	27,610	24,610	27,610
ARMY MISSILE DEFENSE SYSTEMS INTEGRATION (DEM/VAL)....	12,353	24,853	57,553	63,553
LANDMINE WARFARE AND BARRIER - ADV DEV................	4,099	12,099	4,099	11,099
ARMAMENT ENHANCEMENT INITIATIVE.......................	36,937	56,937	51,937	56,937
TACTICAL ELECTRONIC SURVEILLANCE SYSTEM - ADV DEV.....	---	2,500	---	---
AVIATION - ADV DEV....................................	5,746	5,746	10,746	8,746
WEAPONS AND MUNITIONS - ADV DEV.......................	1,751	4,751	1,751	4,751
LOGISTICS AND ENGINEER EQUIPMENT - ADV DEV............	6,514	9,514	6,514	8,514
MEDICAL SYSTEMS - ADV DEV.............................	12,723	12,723	18,523	16,723
ARTILLERY SYSTEMS - DEM/VAL...........................	282,937	282,937	282,937	268,137
COMANCHE..	427,069	427,069	483,069	467,069
EW DEVELOPMENT..	78,603	78,603	82,603	80,603
ALL SOURCE ANALYSIS SYSTEM............................	49,684	57,684	49,684	53,684
FAMILY OF HEAVY TACTICAL VEHICLES.....................	---	1,400	---	1,400
AIR TRAFFIC CONTROL...................................	1,981	5,981	1,981	4,981
TACTICAL UNMANNED GROUND VEHICLE (TUGV)...............	---	7,000	---	5,000
NIGHT VISION SYSTEMS - ENG DEV........................	30,644	36,544	30,644	38,644
COMBAT FEEDING, CLOTHING, AND EQUIPMENT...............	110,829	84,329	84,329	60,829
NON-SYSTEM TRAINING DEVICES - ENG DEV.................	71,034	74,234	71,034	73,034
AUTOMATIC TEST EQUIPMENT DEVELOPMENT..................	10,252	20,252	10,252	16,252
TACTICAL EXPLOITATION OF NATIONAL CAPABILITIES - EMD..	70,940	70,940	70,940	72,440
BRILLIANT ANTI-ARMOR SUBMUNITION (BAT)................	128,026	144,026	138,026	144,026

(In thousands of dollars)

	Budget	House	Senate	Conference
JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM.........	11,535	27,535	21,535	26,035
AVIATION - ENG DEV....................................	6,312	13,312	6,312	13,312
WEAPONS AND MUNITIONS - ENG DEV.......................	54,943	73,143	64,143	69,143
LANDMINE WARFARE/BARRIER - ENG DEV....................	40,916	30,120	40,916	30,120
SENSE AND DESTROY ARMAMENT MISSILE - ENG DEV..........	19,366	19,366	29,366	24,366
ARMY TACTICAL COMMAND & CONTROL HARDWARE & SOFTWARE...	35,299	39,799	35,299	39,799
FIREFINDER..	32,353	32,353	40,253	40,253
ARTILLERY SYSTEMS - EMD...............................	65,806	65,806	65,806	4,800
THREAT SIMULATOR DEVELOPMENT..........................	13,680	13,680	21,380	19,880
CONCEPTS EXPERIMENTATION PROGRAM......................	16,990	19,990	19,990	20,990
ARMY TEST RANGES AND FACILITIES.......................	137,193	147,193	144,693	147,193
ARMY TECHNICAL TEST INSTRUMENTATION AND TARGETS.......	30,470	31,670	30,470	31,670
SURVIVABILITY/LETHALITY ANALYSIS......................	30,138	40,138	30,138	35,138
DOD HIGH ENERGY LASER TEST FACILITY...................	14,230	34,230	28,230	31,230
MUNITIONS STANDARDIZATION, EFFECTIVENESS AND SAFETY...	10,537	19,037	16,037	19,037
ENVIRONMENTAL COMPLIANCE..............................	---	8,000	---	4,000
MANAGEMENT HEADQUARTERS (RESEARCH AND DEVELOPMENT)....	5,191	5,191	28,191	28,191
MLRS PRODUCT IMPROVEMENT PROGRAM......................	36,540	67,440	67,140	67,440
ADV FIELD ARTILLERY TACTICAL DATA SYSTEM..............	36,222	42,722	36,222	41,222
COMBAT VEHICLE IMPROVEMENT PROGRAMS...................	29,544	42,544	51,944	84,544
MANEUVER CONTROL SYSTEM...............................	45,125	46,125	45,125	46,125
AIRCRAFT MODIFICATIONS/PRODUCT IMPROVEMENT PROGRAMS...	51,644	51,644	66,644	81,644
AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM.........	2,900	4,900	2,900	3,900
FORCE XXI BATTLE COMMAND, BRIGADE AND BELOW (FBCB2)...	44,225	59,225	65,925	65,925
FORCE TWENTY-ONE (XXI), WARFIGHTING RAPID ACQUISITION.	55,921	36,621	55,921	36,621

(In thousands of dollars)

	Budget	House	Senate	Conference
MISSILE/AIR DEFENSE PRODUCT IMPROVEMENT PROGRAM.......	29,985	34,985	29,985	32,485
OTHER MISSILE PRODUCT IMPROVEMENT PROGRAMS............	9,914	20,914	9,914	17,914
INFORMATION SYSTEMS SECURITY PROGRAM..................	9,426	15,426	9,426	15,426
DIGITAL INFORMATION TECHNOLOGY TEST BED...............	---	2,000	---	---
SECURITY AND INVESTIGATIVE ACTIVITIES.................	---	10,000	---	7,000
TACTICAL UNMANNED AERIAL VEHICLES.....................	3,866	43,866	3,866	43,866
END ITEM INDUSTRIAL PREPAREDNESS ACTIVITIES...........	66,167	102,667	80,167	100,667
CLASSIFIED PROGRAMS...................................	---	---	4,500	8,500
ARMY GROUND INTELLIGENCE CENTER.......................	---	35,000	---	4,000

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

	Budget	House	Senate	Conference
DEFENSE RESEARCH SCIENCES	125,613	125,613	126,613	126,613
Cold regions military research		0	1,000	1,000
Vehicle mobility research		(3,000)	0	(3,000)
UNIVERSITY AND INDUSTRY RESEARCH CENTERS	47,066	47,066	69,366	65,066
Adv and interactive displays consortium		0	1,300	1,000
Basic research in counter terrorism		0	15,000	12,000
Electro and hypervelocity physics research		0	3,000	2,000
National Automotive Center		0	3,000	3,000
MISSILE TECHNOLOGY	32,892	43,392	44,092	48,392
Scramjet		2,000	2,000	2,000
Aero-optic evaluation center		5,000	0	3,000
GPS/IMU		4,000	0	2,450
COMBAT VEHICLE AND AUTOMOTIVE TECHNOLOGY	39,749	42,249	53,249	55,249
"Smart truck" initiative		0	3,450	3,450
Full spectrum active protection		2,450	0	2,000
Alternative vehicle propulsion		0	10,000	10,000
BALLISTICS TECHNOLOGY	36,287	42,287	36,287	42,287
Electro-thermal chemical technology		(2,450)	0	(2,450)
Electromagnetic (EM) gun pulsed power technology		6,000	0	6,000
WEAPONS AND MUNITIONS TECHNOLOGY	34,687	37,187	34,687	36,687
Electro-rheological fluid recoil system		1,450	0	1,000
Extended range DPICM mortar munition, XM984		1,000	0	1,000
ELECTRONICS AND ELECTRONIC DEVICES	25,796	37,596	31,396	37,096
Display Performance and Environmental Evaluation Laboratory		5,000	(5,000)	3,000
(Note: House title this project: ARL, Electronics and Electronic Devices).				
Improved high rate alkaline cell		1,000	1,000	1,000
Low cost reusable alkaline manganese-zinc		1,400	1,400	1,400
Rechargeable coin cells		600	600	600
Lithium carbon monfluoride coin cell		600	600	600
"AA" zinc battery		600	700	600
Diesel fuel reformer technology		3,000	0	3,000
Hybrid fuel cell		0	1,450	1,450
COUNTERMINE SYSTEMS	10,321	14,121	13,121	14,521
Humanitarian demining		0	1,800	1,800
Non-linear, acoustic technology		0	1,000	1,000
Standoff, multi-sensor mine system		3,800	0	1,400
ENVIRONMENTAL QUALITY TECHNOLOGY	12,758	81,258	24,758	80,258
Plasma Energy Pyrolysis system		9,000	8,000	8,000
Phyto-remediation in arid lands		0	3,000	3,000
Sustainable Green Manufacturing Initiative		7,000	0	5,450
Computer based land management model (TRIES)		3,000	1,000	2,000
Commercialization of Technologies to Lower Defense Costs		8,000	0	7,000
Demanufacturing of Electronic Equipment for Reuse and Recycling		13,000	0	13,000
Demanufacturing—Recycling site		3,000	0	3,000
Corrosion measurement and control project		9,000	0	9,000
Range Safe technology demonstration		10,000	0	10,000
Watervliet Arsenal		4,450	(6,000)	4,000
Vessel plating technology		2,000	0	1,000
NDCEE Pollution Prevention Initiative		0	(3,000)	2,000
MILITARY ENGINEERING TECHNOLOGY	41,085	61,085	45,385	47,885
GEOSAR		15,000	0	0
Climate change fuel cells		5,000	0	2,450
University Partnering for Ops support		0	3,000	3,000
Cold regions R&D		0	1,300	1,300
MEDICAL TECHNOLOGY	70,136	169,636	87,636	176,636
Disaster Relief and Emergency Medical Services (DREAMS)		10,000	5,000	10,000
Center for Innovative Minimally Invasive Therapy (CIMIT)		12,000	10,000	10,000
Osteoporosis and bone disease research		5,000	2,450	4,000
Polynitroxylated hemoglobin		4,000	0	2,000
Tissue regeneration for combat casualty care (TRC3)		2,450	0	2,450
Informatics-based medical emergency decision tools		4,450	0	4,450
Ovarian cancer		15,000	0	12,000
Molecular Genetics and Musculoskeletal Research Program (Note: $6,000,000 is only to continue the Army Molecular Genetics and Musculoskeletal Research Program.)		6,000	0	6,000
National Medical Testbed		15,000	0	15,000
Synchrotron-based high energy radiation beam cancer treatment (Note: $5,000,000 is only to continue the Army synchrotron-based radiaion beam cancer treatment program.)		5,000	0	5,000
Blood research (Note: $5,000,000 is only for improved blood products and safety in systems compatible with military field use.)		5,450	0	5,450
Neurofibromatosis		15,000	0	15,000
Dye targeted laser fusion		0	(4,000)	3,000
Neurotoxin Exposure Treatment Program (NETRP)		0	0	10,000
Eye research (Note: Only to support a collaborative, multi-disciplinary effort to achieve advancements in low-vision research)		0	0	2,000
WARFIGHTER ADVANCED TECHNOLOGY	31,287	42,773	31,287	45,287
Transfer from other procurement (CIDS)		9,486	0	7,000
Army metrology		2,000	0	1,000
Biosystems technology (Note: Senate provided funds in RDT&E, Defense-wide)		0	0	6,000
MEDICAL ADVANCED TECHNOLOGY	10,539	69,339	35,039	74,539
Center for Prostate Disease Research at WRAMC		0	7,450	7,450
Intravenous membrane oxygenator		0	1,000	1,000
Volume Angio CAT		0	6,000	6,000
Diabetes Project (Joslin)		7,000	5,000	7,000
Diabetes Project (Pittsburgh)		7,000	5,000	7,000
Gallo Cancer Center		5,000	0	3,000
Alcoholism research		7,000	0	7,000
HIV research		10,000	0	10,000
LSTAT		7,450	0	3,450
Advanced cancer detection		3,450	0	3,450
Laser vision correction		4,000	0	2,000
Enzymatic wound disinfectant		3,800	0	2,000
Epidermolysis Bullosa		1,000	0	1,000
Smart aortic arch catheter		3,000	0	1,450
Recombinant vaccine research		0	(2,000)	2,000
WEAPONS AND MUNITIONS ADVANCED TECHNOLOGY	39,893	67,643	39,893	58,643
Precision guided mortar munitions		8,000	0	5,000
Warhead and Energetics Center of Excellence		5,000	0	5,000
120mm, one-tenth training round		1,800	0	1,000
Future direct support weapons system		5,000	0	5,000
Microchip lasers		750	0	750
Future combat vehicle		4,000	0	2,000
Program increase		3,000	0	0
COMBAT VEHICLE AND AUTOMOTIVE ADVANCED TECHNOLOGY	90,941	137,441	103,941	131,941
Advanced Combat Automotive Technology		10,000	0	3,000
Silicon carbide fiber research		13,450	0	7,000
Mobile parts hospital		6,000	0	3,000
Diesel engine		6,000	0	6,000
Composite armor vehicle		3,000	0	3,000

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS—Continued
[In thousands of dollars]

	Budget	House	Senate	Conference
Combat vehicle research		8,000	0	8,000
(Note: Only for a technology transfer center to identify and transfer weight reduction technologies and processes for ground vehicles)				
Future Combat vehicle		0	5,000	0
Improved HMMWV research		0	8,000	6,000
Abrams engine (Note: Funds are only to accelerate activities for the insertion of a new engine in the Abrams fleet)		0	0	5,000
NIGHT VISION ADVANCED TECHNOLOGY	36,628	45,628	36,628	42,628
Helmet mounted sensors for firefighters and damage control		3,000	0	2,000
Wire detection and obstacle avoidance		5,000	0	3,000
Lightweight Man-portable Unmanned Aerial Vehicle		1,000	0	1,000
ADVANCED TACTICAL COMPUTER SCIENCE AND SENSOR TECH	22,610	27,610	24,610	27,610
Telemaintenance		5,000	0	3,000
Digital situation mapboard		0	2,000	2,000
ARMY MISSILE DEFENSE SYSTEMS INTEGRATION (DEM/VAL)	12,353	24,853	57,553	63,553
Microelectromechanical (MEMS) systems process technology		6,450	0	6,450
Missile systems integration		3,000	0	3,000
Aero-acoustic instrumentation		3,000	0	2,000
Missile Defense Flight Experiment Support		0	14,700	14,700
Tactical High Energy Laser		0	15,000	10,000
Acoustic Technology Research		0	4,000	4,000
Radar Power Technology		0	4,000	4,000
Family of System Simulators		0	1,450	1,000
Small, fast, chembio detectors		0	1,000	1,000
SMDC Battlelab		0	5,000	5,000
ARTILLERY SYSTEMS—DEM VAL	282,937	282,937	282,937	268,137
Program delay		0	0	−14,800
NIGHT VISION SYSTEMS—ENG DEV	30,644	36,544	30,644	38,644
Combustion driven eyesafe laser		4,000	0	3,000
Enhanced night vision goggle		1,900	0	1,000
MELIOS—Eyesafe laser range finder				4,000
COMBAT FEEDING, CLOTHING, AND EQUIPMENT	110,829	84,329	84,329	60,829
Landwarrior		−26,450	−26,450	−50,000
TENCAP	70,940	70,940	70,840	72,440
Semi-automated Imagery Processor		0	0	1,450
(Note: House appropriated fund under Tactical Surveillance)				
JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM	11,535	27,535	21,535	26,035
Common Ground Station—Target Attack Radar		13,000	10,000	13,000
(Note: $10 million is only for SCDL and other programs, $3 million is for the development of new requirements).				
Joint service wideband datalink		3,000	0	1,450
WEAPONS AND MUNITIONS—ENG DEV	54,943	73,143	64,143	69,143
Small arms fire control system		4,450	0	2,450
Mortar anti-personnel/anti-material round		7,200	7,200	7,200
M2HB .50 caliber with quick change barrel		3,000	2,000	2,000
M795E1 extended range high explosive base burner		2,450	0	1,450
Rifle launch munition		1,000	0	1,000
ARTILLERY SYSTEMS—EMD	65,806	65,806	65,806	4,800
Program slip				−61,006
THREAT SIMULATOR DEVELOPMENT	13,680	13,680	21,380	19,880
Threat EO/IR simulator		0	2,450	2,000
Threat mine simulator		0	1,200	1,200
Virtual threat simulator		0	4,000	3,000
CONCEPTS EXPERIMENTATION PROGRAM	16,990	19,900	19,990	20,990
Mounted maneuver battlespace lab		3,000	0	2,000
Digital information technology testbed		0	3,000	2,000
ARMY TEST RANGES AND FACILITIES	137,193	147,193	144,693	147,193
White Sands Missile Range instrumentation		10,000	7,450	10,000
Program reduction		0	−9,000	0
General Provision		0	9,000	0
DOD HIGH ENERGY LASER TEST FACILITY	14,320	34,230	28,230	31,230
HELSTF		10,000	14,000	10,000
Solid state laser		10,000	0	7,000
MUNITIONS STANDARDIZATION, EFFECTIVENESS AND SAFETY	10,537	19,037	16,037	19,037
Contained detonation technology		3,000	3,000	3,000
Bluegrass Army depot		2,450	2,450	2,450
Cyrofracture disposal of anti-personnel mines		3,000	0	3,000
ENVIRONMENTAL COMPLIANCE	0	8,000	0	4,000
Natural gas boilers		3,000	0	1,450
Natural-term climate change fuel cells		5,000	0	2,450
COMBAT VEHICLE IMPROVEMENT PROGRAMS	29,544	42,544	51,944	84,544
Lightweight vehicle track development		2,000	0	1,000
M1 large area flat panel displays		8,000	8,000	8,000
VIS AN/VIC–3, cordless		3,000	0	1,000
Abrams 1st and 2nd generation health check system		0	1,400	1,400
Abrams legacy fleet on-vehicle diagnostics		0	10,000	9,000
Abrams test programs sets enhancement		0	3,000	3,000
Bradley IOT&E		0	0	22,000
(Note: Funds transferred from WTCV)				
Abrams engine upgrades (Note: Funds are to upgrade/sustain the existing engine)				10,000
AIRCRAFT MODIFICATIONS/PROJECT IMPROVEMENT PROGRAMS	51,644	51,644	66,644	81,644
Blackhawk SLEP		0	15,000	10,000
Apache Second Gen FLIR		0	0	20,000
(Note: House Provided funds in Aircraft Procurement, Army)				
END ITEM INDUSTRIAL PREPAREDNESS ACTIVITIES	66,167	102,667	80,167	100,667
Munitions manufacturing technology		15,000	0	15,000
Rotary wing sustainment technology		3,000	0	1,450
Instrumental Factory for Gears (INFAC)		4,000	4,000	4,000
Totally Integrated Munitions Enterprise (TIME)		7,000	10,000	8,450
Optics Center		1,450	0	1,450
Natural gas engine driven air compressors		4,000	0	2,000
Army Sustainment Center (Note: Project was titled "Best Practices" in House Report)		2,000	0	2,000

WARFIGHTER ADVANCED TECHNOLOGY

The conferees support the development of environmentally compatible products and services essential for the efficient operation of the military and civilian sectors and recognize the unique factors in tropical and subtropical regions that provide the technological and resource base for these products and services. The conferees agree to provide $6,000,000, as recommended by the Senate, to pursue the applied research, development, and demonstration of biosystems-derived food, fiber, textile, biomedical, industrial and environmentally compatible products and services to meet military and civilian needs under the cooperative management of the U.S. Army Natick Soldier Center and the U.S. Department of Agriculture Sustainable Economic Activity Program.

CRUSADER

The conferees support the Army's continued development of the Crusader advanced field artillery system to address support deficiencies. The conferees have reduced funding for the Crusader program by $75,806,000 due to schedule delays. The conferees do not view the decrement as a lack of support for the Crusader program and strongly encourage the Army to adequately fund the program in subsequent budget requests.

Lightweight 155 Towed Howitzer Program

The conferees are concerned that the Lightweight 155mm Towed Howitzer program has been suffering from contractor and program deficiencies, which has led to a two-year delay in the program. The program has failed to fully utilize the expertise of Army arsenals in the development and design of the howitzer. Considering the long history of the arsenals in advancing howitzer producibility techniques, it is important that they be actively involved in the program, especially during the crucial EMD/prototype phase to ensure that efficient production techniques are designed at the earliest possible stage of the program. In addition, the arsenals constitute an important resource in providing spare parts and special development items for howitzer forces in time of war and national emergencies.

The conferees direct the Army and the Marine Corps to develop a plan to include Rock Island Arsenal in producibility and manufacturing aspects of howitzer production, including recoil mechanisms and carriages for the Lightweight 155mm Towed Howitzer Program and other Army/Marine Corps future towed artillery programs. The conferees expect the Army and the Marine Corps to issue a report to the Senate and House Appropriations Subcommittees on Defense no later than sixty days after the enactment of this Act outlining the plan.

ANTI-ARMOR WEAPONS MASTERPLAN

Last year, the conferees directed the Secretary of Defense to provide an Anti-Armor Weapons Masterplan with the fiscal year 2000 budget request. The plan, which was delivered five months after the budget submission, did not address the concerns outlined in the statement of the managers. The conferees are disappointed in the plan because it showed no evidence or future prospects of reducing the number of programs being pursued, no evidence of authority or control being exercised by OSD, and little evidence of rigorous critique of claimed requirements. OSD was directed to submit a report "with the purpose of identifying and eliminating excess capabilities." The report does not outline a strategy for the future, but merely justifies the current anti-armor weapons budget.

Therefore the conferees direct the Secretary of Defense to provide an analysis with the fiscal year 2001 budget request that evaluates the joint effectiveness of the existing anti-armor weapons in addressing the threat depicted in the defense planning guidance and how the planned anti-armor weapons are expected to fill shortfalls in current capability in the defense planning guidance scenarios. Based on this analysis, the Secretary should prioritize the Department's anti-armor weapon acquisition programs. The analysis is to be submitted with the fiscal year 2001 budget request.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST & EVAL, NAVY				
AIR AND SURFACE LAUNCHED WEAPONS TECHNOLOGY..........	37,616	54,616	42,616	51,616
SHIP, SUBMARINE & LOGISTICS TECHNOLOGY...............	43,786	64,586	48,786	61,786
MARINE CORPS LANDING FORCE TECHNOLOGY................	10,534	10,534	15,534	17,534
COMMUNICATIONS, COMMAND AND CONTROL, INTEL, SURVEILLAN	68,823	78,073	77,823	82,823
HUMAN SYSTEMS TECHNOLOGY.............................	30,586	37,086	35,786	30,586
MATERIALS, ELECTRONICS AND COMPUTER TECHNOLOGY........	77,957	90,457	92,857	104,107
ELECTRONIC WARFARE TECHNOLOGY........................	24,659	24,659	37,659	36,159
OCEANOGRAPHIC AND ATMOSPHERIC TECHNOLOGY.............	60,334	71,084	62,734	73,084
UNDERSEA WARFARE WEAPONRY TECHNOLOGY.................	34,066	39,066	39,066	41,066
DUAL USE APPLICATIONS PROGRAM........................	18,390	10,000	18,390	10,000
AIR SYSTEMS AND WEAPONS ADVANCED TECHNOLOGY..........	42,046	51,046	42,046	49,046
PRECISION STRIKE AND AIR DEFENSE TECHNOLOGY..........	52,580	82,080	52,580	72,580
SURFACE SHIP & SUBMARINE HM&E ADVANCED TECHNOLOGY....	41,515	75,515	57,015	76,515
MARINE CORPS ADVANCED TECHNOLOGY DEMONSTRATION (ATD)..	56,943	62,943	67,943	67,943
MEDICAL DEVELOPMENT..................................	15,064	81,864	19,564	77,064
MANPOWER, PERSONNEL AND TRAINING ADV TECH DEV........	20,632	39,632	25,132	40,132
ENVIRONMENTAL QUALITY AND LOGISTICS ADVANCED TECH....	23,809	28,809	26,809	29,809
NAVY TECHNICAL INFORMATION PRESENTATION SYSTEM.......	41,840	19,940	---	41,840
UNDERSEA WARFARE ADVANCED TECHNOLOGY.................	57,956	57,956	60,456	59,956
MINE AND EXPEDITIONARY WARFARE ADVANCED TECHNOLOGY....	48,711	48,711	57,711	57,711
ADVANCED TECHNOLOGY TRANSITION.......................	75,635	96,535	109,635	110,535
C3 ADVANCED TECHNOLOGY...............................	23,808	39,808	33,808	41,808
C2W REPLACEMENT FOR EA-6B............................	---	16,000	---	---
SOFTWARE DEVELOPMENT AND MANAGEMENT..................	---	2,000	---	1,000

(In thousands of dollars)

	Budget	House	Senate	Conference
AVIATION SURVIVABILITY................................	7,280	16,280	7,280	14,280
ASW SYSTEMS DEVELOPMENT...............................	17,780	23,780	17,780	21,780
SURFACE AND SHALLOW WATER MINE COUNTERMEASURES........	82,465	94,465	100,465	107,465
ADVANCED SUBMARINE COMBAT SYSTEMS DEVELOPMENT.........	---	10,000	---	5,000
SURFACE SHIP TORPEDO DEFENSE..........................	640	5,640	640	4,640
SHIPBOARD SYSTEM COMPONENT DEVELOPMENT................	108,334	114,484	110,334	113,334
PILOT FISH..	94,085	94,085	96,585	96,585
ADVANCED SUBMARINE SYSTEM DEVELOPMENT.................	115,767	124,267	118,067	121,067
SHIP CONCEPT ADVANCED DESIGN..........................	5,318	29,818	20,318	28,818
ADVANCED SURFACE MACHINERY SYSTEMS....................	17,727	22,727	20,227	26,727
COMBAT SYSTEM INTEGRATION.............................	46,740	79,740	51,740	78,740
CONVENTIONAL MUNITIONS................................	34,309	43,309	34,309	39,309
MARINE CORPS ASSAULT VEHICLES.........................	94,843	112,843	121,243	114,843
MARINE CORPS GROUND COMBAT/SUPPORT SYSTEM.............	42,654	45,654	42,654	46,654
COOPERATIVE ENGAGEMENT................................	114,931	190,931	129,931	190,931
ENVIRONMENTAL PROTECTION..............................	70,793	84,793	74,793	82,793
NAVY ENERGY PROGRAM...................................	4,984	7,984	4,984	6,984
NAVY LOGISTIC PRODUCTIVITY............................	---	27,500	---	18,000
SHIP SELF DEFENSE - DEM/VAL...........................	5,654	10,654	5,654	8,654
LAND ATTACK TECHNOLOGY................................	101,489	111,489	117,789	117,489
NONLETHAL WEAPONS - DEM/VAL...........................	23,277	23,277	26,277	26,277
SPACE AND ELECTRONIC WARFARE (SEW) ARCHITECTURE/ENGINE	35,170	37,170	39,170	38,170
OTHER HELO DEVELOPMENT................................	48,776	80,776	64,776	75,776
STANDARDS DEVELOPMENT.................................	74,325	78,825	74,325	77,325
S-3 WEAPON SYSTEM IMPROVEMENT.........................	2,095	7,095	2,095	5,095

(In thousands of dollars)

	Budget	House	Senate	Conference
P-3 MODERNIZATION PROGRAM	3,010	18,010	3,010	11,010
TACTICAL COMMAND SYSTEM	41,599	45,599	41,599	44,599
H-1 UPGRADES	157,683	157,683	184,283	184,283
AIR CREW SYSTEMS DEVELOPMENT	6,801	14,301	10,301	14,301
EW DEVELOPMENT	163,077	237,577	163,077	209,077
SURFACE COMBATANT COMBAT SYSTEM ENGINEERING	204,480	244,480	229,480	257,980
AIRBORNE MCM	50,642	50,642	52,642	52,642
SSN-688 AND TRIDENT MODERNIZATION	48,896	76,896	48,896	76,896
AIR CONTROL	8,696	8,696	15,696	13,696
ENHANCED MODULAR SIGNAL PROCESSOR	970	970	11,970	970
SUBMARINE COMBAT SYSTEM	6,546	9,546	6,546	9,546
SWATH (SMALL WATERPLANE AREA TWIN HULL) OCEANOGRAPHIC SHIP	---	---	9,000	9,000
NEW DESIGN SSN	241,456	251,456	251,456	249,456
SHIP CONTRACT DESIGN/ LIVE FIRE T&E	61,135	61,135	63,135	61,135
NAVY TACTICAL COMPUTER RESOURCES	3,300	58,300	3,300	58,300
JOINT STANDOFF WEAPON SYSTEMS	30,567	15,000	30,567	30,567
SHIP SELF DEFENSE - EMD	96,580	111,580	115,980	130,480
MEDICAL DEVELOPMENT	4,285	10,285	4,285	15,485
DISTRIBUTED SURVEILLANCE SYSTEM	14,910	38,910	36,910	36,910
COMMERCIAL OPERATIONS AND SUPPORT SAVINGS INITIATIVE	18,729	16,500	18,729	21,729
MAJOR T&E INVESTMENT	42,621	49,621	47,621	46,621
STUDIES AND ANALYSIS SUPPORT - NAVY	8,531	6,031	8,531	6,031
TEST AND EVALUATION SUPPORT	270,992	270,992	261,992	261,992
MARINE CORPS PROGRAM WIDE SUPPORT	8,198	28,398	18,198	28,398
STRATEGIC SUB & WEAPONS SYSTEM SUPPORT	45,907	60,407	45,907	59,907

(In thousands of dollars)

	Budget	House	Senate	Conference
F/A-18 SQUADRONS	315,714	373,214	320,714	322,714
E-2 SQUADRONS	16,132	55,132	16,132	36,532
TOMAHAWK AND TOMAHAWK MISSION PLANNING CENTER (TMPC)	147,223	142,223	147,223	142,223
HARM IMPROVEMENT	23,642	43,642	23,642	38,642
SURFACE ASW COMBAT SYSTEM INTEGRATION	16,633	16,633	24,633	23,633
AVIATION IMPROVEMENTS	53,293	63,293	53,293	53,293
NAVY SCIENCE ASSISTANCE PROGRAM	---	---	13,000	13,000
MARINE CORPS COMMUNICATIONS SYSTEMS	90,293	94,293	90,293	92,293
MARINE CORPS GROUND COMBAT/SUPPORTING ARMS SYSTEMS	39,941	36,741	32,741	35,741
TACTICAL UNMANNED AERIAL VEHICLES	69,742	77,242	69,742	75,742
AIRBORNE RECONNAISSANCE SYSTEMS	4,958	18,958	8,958	18,958
MANNED RECONNAISSANCE SYSTEMS	30,958	39,958	30,958	39,958
NAVAL SPACE SURVEILLANCE	712	2,712	712	1,712
MODELING AND SIMULATION SUPPORT	9,621	9,621	12,621	12,121
INDUSTRIAL PREPAREDNESS	59,104	74,104	69,104	71,604
MARITIME TECHNOLOGY (MARITECH)	19,681	24,681	19,681	21,681
CLASSIFIED PROGRAMS	516,472	523,472	518,972	536,972

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
AIR AND SURFACE LAUNCHED WEAPONS TECHNOLOGY	37,616	54,616	42,616	51,616
Free electron laser		3,000	0	0
Phased array weather radar		10,000	0	10,000
Pulse detonation engine technology		4,000	5,000	4,000
SHIP, SUBMARINE & LOGISTICS TECHNOLOGY	43,786	64,586	48,786	61,786
Stainless steel double hull		5,000	5,000	5,000
Modernization through remanufacturing and conversion		2,000	0	0
Curved plate double hull technology		8,000	0	8,000
Bioenvironmental hazards		1,800	0	1,000
Three dimensional printing metalworking technology at Puget Sound		4,000	0	4,000
MARINE CORPS LANDING FORCE TECHNOLOGY	10,534	10,534	15,534	17,534
Non-traditional military operations		0	5,000	4,000
Polymer case ammunition		0	(3,000)	3,000
COMMUNICATIONS, COMMAND AND CONTROL, INTEL, SURVEILLANCE	68,823	78,073	77,823	82,823
Hybrid fiberoptic wireless communication technology		2,450	0	1,000
Optically multiplexed wideband radar beamformer		4,700	0	4,000
Hyperspectral research		0	4,000	3,000
UESA signal processing support		0	5,000	5,000
Optoelectric high definition camera		2,000	0	1,000
HUMAN SYSTEMS TECHNOLOGY	30,586	37,086	35,786	36,586
Coastal cancer control (MUSC)		0	5,000	0
Retinal pigment laser damage		0	200	0
Biological hazard detection system		6,450	0	6,000
MATERIALS, ELECTRONICS AND COMPUTER TECHNOLOGY	77,957	90,457	92,857	104,107
Heatshield research		0	2,000	2,000
Silicon carbide semiconductor substrates		3,000	2,000	2,000
Ultra-high thermal conductivity fibers/thermal management materials		2,450	2,000	2,000
Photomagnetic material research		0	600	600
Innovative communications materials		0	2,250	2,000
Advanced material processing center		0	5,000	5,000
ADPICAS		0	1,150	1,150
Materials micronization techology		0	0	2,450
Engineered wood composite lumber		5,000	0	5,000
Smart wiring technology		2,000	0	1,000
Advanced Composite Materials Processing		0	(3,000)	3,000
ELECTRONIC WARFARE TECHNOLOGY	24,659	24,659	37,659	36,159
Free electron laser		0	10,000	10,000
Superconducting waveform generator		0	3,000	1,450
OCEANOGRAPHIC AND ATMOSPHERIC TECHNOLOGY	60,334	71,084	62,734	73,084
Distributed marine environmental forecast system		0	2,400	2,000
Autonomous UUV		10,000	0	10,000
Completion of PM–10 air quality study		750	0	750
UNDERSEA WAFARE WEAPONRY TECHNOLOGY	34,066	39,066	39,066	41,066
Microelectromechanical systems		2,000	0	1,000
Computational engineering design		0	3,450	3,450
SAUVIM		0	1,450	1,450
6.25′ multimission weapon		3,000	0	1,000
AIR SYSTEMS AND WEAPONS ADVANCED TECHNOLOGY	42,046	51,046	42,046	49,046
Aircraft affordability project (DP–2)		5,000	0	4,000
Note: Conferees direct that within these funds, the necessary model unmanned testing, and evaluation must be conducted to ensure the aircraft is safe for vertical takeoff and transition to normal flight before proceeding to full scale or manned aircraft tests.				
RAMJET propulsion NAWC China Lake		4,000	0	3,000
PRECISION STRIKE AND AIR DEFENSE TECHNOLOGY	52,580	82,080	52,580	72,580
Small combatant craft		18,000	0	12,000
Note: Funds are only for the purchase, test, and evaluation of one high-speed, variable freeboard, low radar signature craft and one high effective operational speed craft, to be used as test beds for integrated low signature technologies to support development of littoral warfare tactics.				
Extending the littoral battlespace		7,450	0	6,000
Hybrid LIDAR/RADAR technology		4,000	0	2,000
SURFACE SHIP AND SUBMARINE HM&E ADVANCED TECHNOLOGY	41,515	75,515	57,015	76,515
Power node control centers		3,000	3,000	3,000
Project M		5,000	0	5,000
Virtual test bed for advanced electrical ship systems		3,000	5,000	5,000
Composite helicopter hanger		0	5,000	5,000
Reconfigurable ship simulation		0	2,450	2,000
Electromagnetic propulsion systems		3,000	(3,000)	3,000
High temperature superconducting AC synchronous motor		5,000	0	2,000
Permanent magnet motor		5,000	0	5,000
Note: $5,000,000 is only to finish development of two competing preliminary motor designs, which are to be available no later than the end of fiscal year 2000 so that the technology could be utilized in the DD–21 program and other Naval platforms.				
Superconducting DC motor		10,000	0	5,000
MARINE CORPS ADVANCED TECHNOLOGY DEMONSTRATION (ATD)	56,943	62,943	67,943	67,943
Advanced lightweight grenade launcher		3,000	1,000	2,000
BURRO		3,000	5,000	4,000
Project Albert		0	4,000	4,000
Vehicle technology demonstration		0	1,000	1,000
Chemical biological incident response force				(2,000)
MEDICAL DEVELOPMENT (ADVANCED)	15,064	81,864	19,564	77,064
Military dental research		6,000	3,000	3,000
Prostate cancer immunotherapy		0	1,450	1,450
Bone marrow		34,000	0	34,000
Improved bone marrow transplantation		2,000	0	2,000
Note: Funds are only for the unrelated donor marrow transplantation clinical trials of graft engineering.				
Teleradiology		3,000	0	3,000
Disaster management		3,000	0	3,000
Medical readiness telemedicine initiative		9,000	0	9,000
Rural health		3,000	0	3,000
Naval blood research lab		5,000	0	2,450
National biodyanmics research		1,800	0	1,000
MANPOWER, PERSONNEL AND TRAINING ADV TECH DEV	20,632	39,632	25,132	40,132
Integrated manufacturing studies		0	3,000	0
Remanufacturing and resource recovery		3,000	0	2,000
T-STAR		0	1,450	1,450
Advanced distributed learning		10,000	0	10,000
Distributed simulation, warfighting concepts		6,000	0	6,000
ENVIRONMENTAL QUALITY AND LOGISTICS ADVANCED TECH	23,809	28,809	26,809	29,809
Visualization of technical information		0	3,000	3,000
Aviation depot maintenance technology demonstrations at NADEP Jacksonville		3,000	0	2,000
Allegheny Ballistics Laboratory		2,000	0	1,000
NAVY TECHNICAL INFORMATION PRESENTATION SYSTEM	41,840	19,940	0	41,840
Joint warfighting experimentation program		−21,900		
Note: Up to $520,000 is only to establish the Center for Defense Technology and Education for the military services at the Naval Postgraduate School to focus on the impact of emerging technologies on joint warfare.				
ADVANCED TECHNOLOGY TRANSITION	75,635	96,535	109,635	110,535
Littoral warfare fast patrol craft		5,000	0	5,000
Low observable stack		0	10,000	8,000
Vectored thrust ducted propeller		5,900	6,000	5,900

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS—Continued

[In thousands of dollars]

	Budget	House	Senate	Conference
Note: Funds are only to collect flight test data including speed, range, and reduced vibrations and fatigue loads of an H–60 modified with VTDF, lifting wing, and supplementary power system for multimission effectiveness and life cycle cost analysis of conceptual operational designs of VTDP compound variants of the CH–60S and SH–60R.				
Advanced trailer research		0	6,000	6,000
Advanced hull form in-shore demonstrator		0	12,000	10,000
Advanced sub carrier modulation/magnetic resonance		10,000	0	0
C3 ADVANCED TECHNOLOGY	23,808	39,808	33,808	41,808
National technology alliance		5,000	10,000	10,000
Dominant battlespace command initiative		6,000	0	6,000
SPAWAR/NATAC program		5,000	0	2,000
C2W REPLACEMENT FOR EA–6B	0	16,000	0	0
ANALYSIS OF ALTERNATIVES		16,000	0	0
NOTE: Funded in RDT&E, Defensewide				
AVIATION SURVIVABILITY	7,280	16,280	7,280	14,280
Smart aircrew integrated life support system		3,000	0	2,000
Dynamic flow ejection seat facility improvements		3,000	0	3,000
Lightweight environmentally sealed parachute assembly sealing		1,450	0	1,000
Pilot vehicle interface center upgrades		1,450	0	1,000
SURFACE AND SHALLOW WATER MINE COUNTERMEASURES	82,465	94,465	100,465	107,465
Integrated combat weapons system for MCM ships		0	18,000	15,000
Remote minehunting system		12,000	0	10,000
ADVANCED SUBMARINE COMBAT SYSTEMS DEVELOPMENT	0	10,000	0	5,000
conformal array velocity sensor		6,800	0	3,000
Common towed array program		3,200	0	2,000
SHIPBOARD SYSTEM COMPONENT DEVELOPMENT	108,334	114,484	110,334	113,334
Man overboard indicator		3,150	0	3,000
Ship survivability and personnel protection		2,000	0	1,000
Advanced waterjet technology		1,000	2,000	1,000
ADVANCED SUBMARINE SYSTEM DEVELOPMENT	115,767	124,267	118,067	121,067
Affordable advanced acoustic arrays		5,000	0	3,000
Enhanced performance motor bush		3,450	2,300	2,300
SHIP CONCEPT ADVANCED DESIGN	5,318	29,818	20,318	28,818
Smart propulsor model		1,450	0	1,450
Standard for exchange of product model data		0	2,000	2,000
Trident SSGN design		13,000	13,000	10,000
Automated maintenance environment		10,000	0	10,000
ADVANCED SURFACE MACHINERY SYSTEMS	17,727	22,727	20,227	26,727
Naval ship survivability		0	2,450	2,000
Intercooled gas turbine recuperator		5,000	0	7,000
COMBAT SYSTEM INTEGRATION	46,740	79,740	51,740	78,740
Common command and decision system		30,000	5,000	30,000
NAVSEA methodology for fleet legacy systems		3,000	0	2,000
CONVENTIONAL MUNITIONS	34,309	43,309	34,309	39,309
Environmentally safe energetic materials		2,000	0	1,000
Optical correlation technology for automatic target recognition		7,000	0	4,000
MARINE CORPS GROUND COMBAT/SUPPORT SYSTEM	42,654	45,654	42,654	46,654
Lightweight 155 howitzer		3,000	0	1,000
SMAW–CS system level qualification test and evaluation		3,000	0	3,000
COOPERATIVE ENGAGEMENT	114,931	190,931	129,931	190,931
CEC space		0	15,000	0
Low cost data distribution system/cooperative engagement processor		15,000	0	15,000
CEC network capacity expansion		12,700	0	12,700
System protection/TBMD integration/advanced architecture		10,000	0	10,000
Low cost planar array		5,000	0	5,000
Forward pass/remote launch		5,000	0	5,000
Modeling and simulation		7,450	0	7,450
One additional land based unit to evaluate CEC/Patriot		6,800	0	6,800
Airborne antenna improvement		4,000	0	4,000
Area air defense commander risk reduction		10,000	0	10,000
ENVIRONMENTAL PROTECTION	70,793	84,793	74,793	82,793
Asbestos conversion pilot program		4,000	4,000	4,000
Resource preservation initiative at Puget Sound Naval Shipyard		10,000	0	8,000
NAVY LOGISTICS PRODUCTIVITY	0	27,450	0	18,000
Virtual system implementation program		10,000	0	7,000
Rapid retargeting of electronic circuits		10,000	0	7,000
Compatible processor upgrade program		7,450	0	4,000
LAND ATTACK TECHNOLOGY	101,489	111,489	117,789	117,489
ERGM guidance system cost reduction		10,000	10,000	10,000
Projectile common guidance and control		3,000	0	0
Proximity fuze for DPICM submunitions		2,000	0	0
Continuous processor, NSWC Indian Head		5,000	6,300	6,000
Land attack standard missile, program delays		−10,000	0	0
OTHER HELO DEVELOPMENT	48,776	80,776	64,776	75,776
Parametric airborne dipping sonar		0	15,000	15,000
Sentient sensors		0	1,000	1,000
SH–60 third test asset		19,000	0	0
Development, construction, and system integration of a CH–60 AMCM engineering development model		10,000	0	10,000
Ship-air mission system integration		3,000	0	1,000
TACTICAL COMMAND SYSTEM	41,599	45,599	41,599	44,599
GCCS–M		4,000	0	3,000
NOTE: Funds are only for improving search functionality in data bases (OSIS)				
AIR CREW SYSTEMS DEVELOPMENT	6,801	14,301	10,301	14,301
Front line ejection equipment testing		4,000	0	4,000
Ejection seat stability, enhancements in fins, booms, trailing after-bodies, drogue parachutes, and pintal propulsion systems		3,450	3,450	3,450
EW DEVELOPMENT	163,077	237,577	163,077	209,077
Location of GPS system jammers		4,450	0	4,000
EA–6B connectivity (link 16)		60,000	0	30,000
Integrated defensive integrated electronic countermeasures		10,000	0	7,000
ICAP III spray cooling technology				5,000
SURFACE COMBATANT COMBAT SYSTEM ENGINEERING	204,480	244,480	229,480	257,980
Cruiser conversion, flight I ships		7,450	0	5,000
Interoperability		0	25,000	25,000
interoperability/tactical display services		25,000	0	25,000
Advanced food service technology		7,450	0	3,000
Transfer to ship self-defense				−4,450
SSN–688 AND TRIDENT MODERNIZATION	48,896	76,896	48,896	76,896
Multipurpose processors and middleware software		25,000	0	25,000
BQ–5 wide aperture array		3,000	0	3,000
NAVY TACTICAL COMPUTER RESOURCES	3,300	58,300	3,300	58,300
Submarine communications/computer infrastructure		20,000	0	20,000
Computer aided dead reckoning tracer		5,000	0	5,000
UYQ–70 improvements/technology refreshment		25,000	0	25,000
Advanced digital logistics integrated data capture and analysis		5,000	0	5,000
SHIP SELF DEFENSE—EMD	96,580	111,580	115,980	130,480
Nulka anti-ship missile decoy		0	4,400	4,400
Volume search radar		0	15,000	12,000

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS—Continued

[In thousands of dollars]

	Budget	House	Senate	Conference
AIEWS for DDG–91 and LPD–22		12,000	0	10,000
AIEWS middleware/multi-purpose processors		3,000	0	3,000
Transfer from surface combatant combat system engineering (CVN–68 ship self-defense		0	0	4,450
MEDICAL DEVELOPMENT (ENGINEERING)	4,285	10,285	4,285	15,485
Voice interactive device		6,000	0	6,000
Coastal cancer control (MUSC)		0	0	5,000
Retinal pigment laser damage		0	0	200
DISTRIBUTED SURVEILLANCE SYSTEM	14,910	38,910	36,910	36,910
Advanced deployable system improved detection/tracking algorithms		19,000	0	0
Advanced deployable system IOC acceleration		0	22,000	22,000
Note: Within this amount, $5,000,000 is only for web centric warfare,				
Web centric warfare		5,000	0	0
COMMERCIAL OPERATIONS AND SUPPORT SAVINGS INITIATIVE	18,729	16,450	18,729	21,729
Program reduction		−2,229	0	0
MTTC/IPI		0	0	3,000
Note: Funded in industrial preparedness in the Senate bill.				
MAJOR T&E INVESTMENT	42,621	49,621	47,621	46,621
NAWC, PAX range tracking system upgrades		3,500	0	2,000
Advanced virtual environment		3,500	0	2,000
MARINE CORPS PROGRAM WIDE SUPPORT	8,198	28,398	18,198	28,398
Acquifer vulnerability/contamination assessment		1,450	0	1,450
Chemical biological individual sampler		4,800	4,800	4,800
Small unit biological detector		4,100	4,000	4,100
Consequence management information system/chem-bio integrated information system		4,800	1,200	4,800
Probable cause detection system		3,000	0	3,000
Human Effects Advisory Panel		2,000	0	2,000
STRATEGIC SUB & WEAPONS SYSTEM SUPPORT	45,907	60,407	45,907	59,907
Models for radiation hardened electronics/upgrade integrated circuit fabrication facility at SPAWAR Systems Center		14,450	0	14,000
F/A–18 SQUADRONS	315,714	373,214	320,714	322,714
LAU–138A/A BOL chaff countermeasures		2,450	0	2,000
Joint helmet mounted cueing system		0	5,000	0
EA–6B follow-on support jammer, F/A–18E/F variant		40,000	0	0
Radar ECCM improvements		15,000	0	5,000
E-2 SQUADRONS	16,132	55,132	16,132	36,532
Radar/computer modernization program		15,000	0	12,000
Advanced support aircraft (follow-on to E–2/C–2)		9,000	0	3,000
Satellite communications		15,000		0
UHF electronically scanned antenna		0	0	5,400
NAVY SCIENCE ASSISTANCE PROGRAM		0	13,000	13,000
LASH		0	12,000	12,000
Airship/LASH study for range enhancements		0	1,000	1,000
MARINE CORPS GROUNDS COMBAT/SUPPORTING ARMS SYSTEMS	39,941	36,741	32,741	35,741
Improved recovery vehicle		−7,200	−7,200	−7,200
Shortstop		4,600	0	3,000
TACTICAL UNMANNED AERIAL VEHICLES	69,742	77,242	69,742	75,742
Multifunction self-aligned gate		4,450	0	3,000
Tactical control system—UAV		3,000	0	3,000
System integration lab		4,450	0	0
Tactical control system—program office		−4,450	0	0
AIRBORNE RECONNAISSANCE SYSTEMS	4,958	18,958	8,958	18,958
EO framing technologies		10,000	0	10,000
Hyperspectral modular airborne reconnisance system		4,000	4,000	4,000
MANNED RECONNAISSANCE SYSTEMS	30,857	39,958	30,958	39,958
SHARP		9,000	0	9,000
Note: Funds are only for the auquisition and testing of a lightweight SAR and for other related program requirements such a software integration for the F/A–18C/D.				

ATLANTIC COMMAND EXPERIMENTATION

The conferees agree to restrictions recommended by the House concerning use of fiscal year 1999 and 2000 funds which should be noted on the Base for Reprogramming (DD Form 1414) for fiscal year 2000. The conferees recognize, however, that the Atlantic Command will work in areas such as the Single Integrated Air Picture, which facilitate improved attack of critical mobile targets. Funds provided in this Act for Atlantic Command Experimentation are only for an integrated program which addresses the short, mid, and long terms and may not be used on a program which fails to consider short and near term war fighting improvements. The conferees do not agree to House language requiring quarterly reports to the defense congressional committees, but direct instead that the Secretary of Defense provide semiannual reports for the next two years.

SURFACE EFFECTS SHIP

The conferees urge the Department of the Navy to procure a 110 foot surface effects ship if needed to fulfill a fast patrol craft requirement.

MARITIME TECHNOLOGY

In the fiscal year 1999 DoD Appropriations Conference Report, the conferees directed the Secretary of the Navy to provide funds to the Maritime Administration to complete testing of the potential interim solution to remediate potential damage resulting from oil spills from existing tank vessels. Based on additional information, the conferees have determined that the Maritime Administration is not the appropriate organization to execute this effort. Therefore, the conferees direct the fiscal year 1999 RDT&E funds be redirected to the office of Naval Reserve for program execution.

COMMERCIAL OPERATIONS AND SUPPORT SAVINGS INITIATIVE (COSSI)

The conferees have provided $3,000,000 for MTTC/IPI in COSSI. The conferees fully expect MTTC/IPI to abide by program cost-sharing requirements in the future consistent with OSD requirements. However, for the initial award, the intent is for the requirement for cost sharing to be waived.

SOFTWARE PROGRAM MANAGERS NETWORK

The conferees continue to support service programs and related activities provided by the Software Program Managers Network (SPMN). The conferees direct the Department to continue this program at last year's level of effort and, in addition, the conferees provide $1,000,000 to develop pilot projects to attract, train and retain skilled software personnel.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST & EVAL, AF				
DEFENSE RESEARCH SCIENCES	209,505	216,505	209,505	216,305
MATERIALS	63,334	74,234	84,161	78,811
AEROSPACE FLIGHT DYNAMICS	43,898	49,298	41,398	45,718
HUMAN EFFECTIVENESS APPLIED RESEARCH	51,512	72,412	62,612	71,012
AEROSPACE PROPULSION	62,012	77,212	78,787	77,712
AEROSPACE SENSORS	64,988	75,688	58,131	64,331
HYPERSONIC TECHNOLOGY PROGRAM	---	16,600	16,000	16,000
PHILLIPS LAB EXPLORATORY DEVELOPMENT	115,313	147,813	128,318	147,118
CONVENTIONAL MUNITIONS	42,205	42,205	38,205	38,205
COMMAND CONTROL AND COMMUNICATIONS	46,448	47,548	54,248	52,148
DUAL USE SCIENCE AND TECHNOLOGY PROGRAM	17,927	10,000	12,927	10,000
ADVANCED MATERIALS FOR WEAPON SYSTEMS	25,890	31,890	30,390	34,390
AEROSPACE PROPULSION SUBSYSTEMS INTEGRATION	29,825	8,925	29,825	19,825
ADVANCED AEROSPACE SENSORS	29,405	47,805	24,805	38,405
FLIGHT VEHICLE TECHNOLOGY	5,992	11,992	5,992	5,992
AEROSPACE STRUCTURES	13,749	13,749	17,749	16,749
AEROSPACE PROPULSION AND POWER TECHNOLOGY	38,778	39,378	39,028	39,178
PERSONNEL, TRAINING AND SIMULATION TECHNOLOGY	4,827	7,027	6,627	6,327
CREW SYSTEMS AND PERSONNEL PROTECTION TECHNOLOGY	14,841	34,341	22,841	31,341
ELECTRONIC COMBAT TECHNOLOGY	27,334	34,434	27,334	32,334
SPACE AND MISSILE ROCKET PROPULSION	11,231	26,531	11,231	16,731
BALLISTIC MISSILE TECHNOLOGY	---	23,000	10,000	23,000
ADVANCED SPACECRAFT TECHNOLOGY	76,229	67,259	118,129	103,529
SPACE SYSTEMS ENVIRONMENTAL INTERACTIONS TECHNOLOGY	3,677	4,177	3,677	4,077

(In thousands of dollars)

	Budget	House	Senate	Conference
CONVENTIONAL WEAPONS TECHNOLOGY......................	21,479	23,033	21,479	21,033
ADVANCED WEAPONS TECHNOLOGY..........................	38,995	56,495	44,695	57,495
ENVIRONMENTAL ENGINEERING TECHNOLOGY.................	---	3,000	5,000	5,500
C3I SUBSYSTEM INTEGRATION............................	9,122	7,922	9,122	7,922
ADVANCED COMPUTING TECHNOLOGY........................	4,507	4,507	4,507	---
SPACE-BASED LASER....................................	63,840	35,000	63,840	63,840
NATIONAL POLAR-ORBITING OPERATIONAL ENVIRONMENTAL SATE	80,137	40,137	80,137	60,137
SPACE CONTROL TECHNOLOGY.............................	9,822	9,822	14,822	12,822
SPACE BASED INFRARED ARCHITECTURE (SPACE) - DEM/VAL...	151,378	---	151,378	---
JOINT STRIKE FIGHTER.................................	235,374	335,374	250,374	250,374
INTERCONTINENTAL BALLISTIC MISSILE - DEM/VAL.........	28,628	28,628	47,828	47,828
C-130..	---	43,600	---	40,600
WIDEBAND MILSATCOM (SPACE)...........................	53,344	44,344	53,344	50,344
AIR FORCE/NRO PARTNERSHIP (AFNP).....................	2,905	---	2,905	---
SPACE-BASED LASER....................................	---	---	10,000	10,000
B-1B...	203,544	183,544	163,544	178,544
SPECIALIZED UNDERGRADUATE PILOT TRAINING.............	38,656	41,156	38,656	41,156
B-2 ADVANCED TECHNOLOGY BOMBER.......................	201,765	344,165	238,765	301,765
EW DEVELOPMENT.......................................	90,347	89,047	100,347	86,847
SPACE BASED INFRARED SYSTEM (SBIRS) HIGH EMD.........	328,653	328,653	420,653	420,653
SPACE BASED INFRARED SYSTEM (SBIRS) LOW EMD..........	77,651	229,029	127,651	229,029
MILSTAR LDR/MDR SATELLITE COMMUNICATIONS (SPACE)......	361,308	214,308	361,308	362,808
ARMAMENT/ORDNANCE DEVELOPMENT........................	8,887	27,887	8,887	23,887
SUBMUNITIONS...	4,798	10,798	9,298	7,798
AGILE COMBAT SUPPORT.................................	946	---	946	---

(In thousands of dollars)

	Budget	House	Senate	Conference
JOINT DIRECT ATTACK MUNITION..........................	1,385	20,385	1,385	6,385
LIFE SUPPORT SYSTEMS..................................	6,135	9,135	8,635	11,635
COMBAT TRAINING RANGES................................	6,220	17,820	6,220	12,020
COMPUTER RESOURCE TECHNOLOGY TRANSITION (CRTT)........	196	6,396	2,996	6,096
JOINT INTEROPERABILITY OF TACTICAL COMMAND & CONTROL..	5,837	2,837	5,837	5,837
COMMERCIAL OPERATIONS AND SUPPORT SAVINGS INITIATIVE..	30,485	15,937	30,485	20,485
EVOLVED EXPENDABLE LAUNCH VEHICLE PROGRAM (SPACE).....	324,803	322,803	324,803	322,803
TARGET SYSTEMS DEVELOPMENT............................	192	---	192	---
MAJOR T&E INVESTMENT..................................	47,334	69,534	53,334	57,934
INITIAL OPERATIONAL TEST & EVALUATION.................	23,819	30,569	23,819	27,219
TEST AND EVALUATION SUPPORT...........................	392,104	400,104	365,504	382,104
SPACE TEST PROGRAM (STP)..............................	51,658	51,658	61,658	51,658
INFORMATION OPERATIONS TECHNOLOGY.....................	491	---	491	---
B-52 SQUADRONS..	32,139	47,539	47,539	40,139
ADVANCED CRUISE MISSILE...............................	688	---	688	---
AIR AND SPACE COMMAND AND CONTROL AGENCY (ASC2A)......	2,946	---	2,946	---
F-16 SQUADRONS..	112,520	127,520	118,520	115,520
F-15E SQUADRONS.......................................	112,670	152,670	112,670	127,670
MANNED DESTRUCTIVE SUPPRESSION........................	5,402	3,402	5,402	3,402
F-117A SQUADRONS......................................	4,807	4,807	24,807	11,807
TACTICAL AIM MISSILES.................................	41,007	41,007	36,007	41,007
ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE (AMRAAM).....	49,783	52,783	49,783	52,783
AF TENCAP...	10,102	---	10,102	13,102
SPECIAL EVALUATION PROGRAM............................	85,168	95,168	81,268	85,168
AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM.........	160,212	175,212	160,212	160,212

(In thousands of dollars)

	Budget	House	Senate	Conference
AIRBORNE WARNING AND CONTROL SYSTEM (AWACS)...........	33,393	36,393	33,393	36,393
ADVANCED COMMUNICATIONS SYSTEMS.......................	2,864	---	2,864	---
ADVANCED PROGRAM TECHNOLOGY...........................	54,046	64,046	54,046	63,546
THEATER BATTLE MANAGEMENT (TBM) C4I...................	43,727	43,727	48,727	46,727
JOINT SURVEILLANCE AND TARGET ATTACK RADAR SYSTEM.....	130,488	161,988	130,488	148,488
ADVANCED PROGRAM EVALUATION...........................	248,342	259,842	266,342	260,342
USAF MODELING AND SIMULATION..........................	19,299	23,799	19,299	21,249
WARGAMING AND SIMULATION CENTERS......................	5,192	26,692	5,192	19,192
MISSION PLANNING SYSTEMS..............................	16,764	20,764	16,764	18,264
WAR RESERVE MATERIEL - EQUIPMENT/SECONDARY ITEMS......	1,467	---	1,467	1,467
SPECIAL EVALUATION SYSTEM.............................	61,198	68,298	61,198	61,198
DEFENSE SATELLITE COMMUNICATIONS SYSTEM (SPACE).......	8,985	3,985	6,485	5,485
INFORMATION SYSTEMS SECURITY PROGRAM..................	7,992	12,492	17,992	19,492
AIR TRAFFIC CONTROL, APPROACH, AND LANDING SYSTEM.....	5,588	5,588	5,588	7,344
MEDIUM LAUNCH VEHICLES (SPACE)........................	1,179	---	1,179	---
SECURITY AND INVESTIGATIVE ACTIVITIES.................	466	1,466	466	1,466
NATIONAL AIRSPACE SYSTEM (NAS) PLAN...................	1,756	---	1,756	---
TACTICAL TERMINAL.....................................	239	---	239	---
NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE AND CONTROL).	98,890	98,890	98,890	108,890
SPACELIFT RANGE SYSTEM (SPACE)........................	43,186	60,986	43,186	51,686
ENDURANCE UNMANNED AERIAL VEHICLES....................	70,835	89,800	57,600	79,800
AIRBORNE RECONNAISSANCE SYSTEMS.......................	124,608	144,008	134,608	139,608
MANNED RECONNAISSANCE SYSTEMS.........................	9,388	12,488	21,888	20,388
DISTRIBUTED COMMON GROUND SYSTEMS.....................	12,820	33,820	12,820	24,820
NCMC - TW/AA SYSTEM...................................	16,408	4,524	16,408	13,408

(In thousands of dollars)

	Budget	House	Senate	Conference
SPACE ARCHITECT	9,898	---	9,898	---
AF/NATIONAL PROGRAM COOPERATION (TENCAP)	---	23,500	---	10,882
MODELING AND SIMULATION SUPPORT	1,069	---	1,069	---
C-5 AIRLIFT SQUADRONS	63,041	60,041	44,172	60,041
KC-10	---	23,609	---	23,609
C-17 AIRCRAFT	170,718	149,918	170,718	160,918
AIR CARGO MATERIAL HANDLING (463-L) (NON-IF)	502	---	502	502
DEPOT MAINTENANCE (NON-IF)	1,500	5,000	1,500	4,800
INDUSTRIAL PREPAREDNESS	51,814	51,814	53,144	52,314
PRODUCTIVITY, RELIABILITY, AVAILABILITY, MAINTAIN	9,382	9,382	23,382	22,382
JOINT LOGISTICS PROGRAM - AMMUNITION STANDARD SYSTEM	11,333	13,268	11,333	11,333
SUPPORT SYSTEMS DEVELOPMENT	22,383	37,383	31,383	33,383
COBRA BALL (FLD)	---	---	4,000	4,000
CLASSIFIED PROGRAMS	4,360,261	4,392,111	4,341,361	4,274,661

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

Program	Budget	House	Senate	Conference
DEFENSE RESEARCH SCIENCES	209,505	216,505	209,505	216,305
National Solar Observatory		(600)	(650)	(600)
Astronomical active optics		4,000		3,800
Coal based advanced thermally stable jet fuels		3,000		3,000
MATERIALS	63,334	74,234	84,161	78,811
Deferral of New Material and Processes for Radar and Space Sensor Systems			−3,773	−3,773
Structural Monitoring of Aging Aircraft			1,450	1,000
Friction stir welding		2,000	2,000	2,000
Thermal management for space structures		2,450	2,450	2,450
Titanium Matrix Composites			2,200	1,800
Materials—High Temperature Ceramic Fibers			2,400	1,000
Resin Systems for AF Engine Applications			2,000	1,000
Metals Affordability Initiative Consortium			9,000	5,000
Electrochemical fatigue sensor development and field use test			3,000	2,400
Carbon foam development for aircraft and spacecraft		1,450		750
Materials and processes for metal cleaning, corrosion control, and coatings		1,000		800
High Temperature materials		1,900		600
Advanced composite materials and processing technology transfer (NCC)		2,000		600
AEROSPACE FLIGHT DYNAMICS	43,898	49,298	41,398	45,718
Deferral of Component Test of a Powered Lift System for a Transport Aircraft			−2,450	−2,450
Autonomous control technology		2,100		1,680
Extreme environment structures		1,200		960
Virtual development and demonstration environment		2,100		1,680
HUMAN EFFECTIVENESS APPLIED RESEARCH	51,512	72,412	62,612	71,012
Solid electrolyte oxygen separator		3,000	6,000	3,000
Behavioral Science Research under Air Force Research Lab			5,100	3,600
Environmental quality technology, Tyndall AFB		4,000		2,000
Materials and processes for metal cleaning, corrosion control, and coatings		1,000		800
Sustained operations		2,450		2,000
Oxygen research (ATD)		2,100		1,700
Spatial disorientation		900		700
Altitude protection		600		600
Physiology		1,450		1,200
Information training		3,200		2,400
Space training		2,100		1,700
AEROSPACE PROPULSION	62,012	77,212	78,787	77,712
High Thermal Stability Fuel Technology			1,000	600
KC–135 Variable Displacement Vane Pump			4,000	2,000
High Power, Advanced low mass systems prototype			6,000	2,000
More electric aircraft program			3,000	1,800
Thermophotovoltaic (TPV)			2,000	800
ISSES/AFRL			775	600
Magnetic bearing cooling turbine technology		8,450		4,000
Aircraft and weapon power		3,400		2,000
Fuels, lubes, combustion		3,300		2,000
AEROSPACE SENSORS	64,988	75,688	58,131	64,331
Deferral of Radio Frequency Power Amplifiers for Space-Based Sensors			−2,437	−2,437
Deferral of Automatic Target Recognition for Air and Space Vehicles			−2,281	−2,281
Deferral of Feasibility of a Space-Based Radar Array			−2,139	−2,139
Connectivity and collaboration infrastructure among modeling, simulation, and computer resources		6,000		3,000
Space protection		2,200		1,400
Automatic target recognition		2,450		1,800
PHILLIPS LAB EXPLORATORY DEVELOPMENT	115,313	147,613	128,318	147,118
IHPRPT		5,300		2,800
Hyperspectral imaging technology		6,400		4,450
Deferral of payload systems for space based radar			−2,395	−2,395
Reduced growth in ground and small satellite integration technologies			−3,450	−3,450
HAARP			10,000	10,000
Radio Frequency Applications Development			5,000	2,450
Tropo-weather		2,450	2,450	2,450
Space survivability		600	600	600
HIS Spectral Sensing			800	600
Terabit		5,000		5,000
Post boost control system		2,900		2,000
Missile propulsion technology		1,700		1,200
Tactical missile propulsion		3,000		2,300
Orbit transfer propulsion		2,300		1,700
Space optics relay mirror concept		1,000		800
Laser remote optical sensing		1,600		1,200
COMMAND CONTROL AND COMMUNICATIONS	46,448	47,548	54,248	52,148
Deferral of space based radar subsystem technologies and concepts			−1,450	−1,450
Electromagnetic technology			9,300	7,000
Defer bistatic effort		−2,600		−2,600
Distributed agent based C2 planning		1,000		800
Common battle space algorithms/processing		800		600
Intelligent networks for global information assurance		900		600
Computer forensics		600		600
Real time knowledge based sensor to shooter decision making		600		600
ADVANCED MATERIALS FOR WEAPON SYSTEMS	25,890	31,890	30,390	34,390
Composite space launch payload dispensers			4,450	4,450
Advanced low observable coatings		6,000		4,000
ADVANCED AEROSPACE SENSORS	29,405	47,805	24,805	38,405
Defer EO sensors to detect deep hide targets			−4,600	−2,300
Multispectral battlespace simulation for IDAL		15,000		9,000
Combat ID AGRI ATD		3,400		2,300
AEROSPACE PROPULSION AND POWER TECHNOLOGY	38,778	39,378	39,028	39,178
More electric aircraft program			250	
Aircraft and weapon power		600		600
PERSONNEL, TRAINING AND SIMULATION TECHNOLOGY	4,827	7,027	6,627	6,327
Behavioral Science Research under Air Force Research Lab			1,800	1,450
Night vision training		2,200		0
CREW SYSTEMS AND PERSONNEL PROTECTION TECHNOLOGY	14,841	29,841	22,841	31,341
High brightness helmet mounted visual system components and mini-CRT		4,450	5,000	3,000
Panoramic Night Vision Goggles for Aircrews			3,000	1,450
Accelerate subsystem qualification testing for next generation ejection seats		15,000		12,000
ELECTRONIC COMBAT TECHNOLOGY	27,334	34,434	27,334	32,334
CLIRCM		7,100		2,000
IDAL C3NI				3,000
SPACE AND MISSLE ROCKET PROPULSION	11,231	26,531	11,231	16,731
IHPRPT		11,000		5,450
Missile propulsion technology		2,600		0
Orbit transfer propulsion		1,700		0
ADVANCED SPACECRAFT TECHNOLOGY	76,229	67,259	118,129	103,529
Discoverer II		−28,670		−15,400
Deferral of space based radar antenna technologies			−2,100	−2,100
Deferral of Warfighter 2 demo			−6,000	−6,000

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS—Continued

[In thousands of dollars]

Program	Budget	House	Senate	Conference
Miniature Satellite Threat Reporting System (MSTRS)		4,000	5,000	4,000
Upper Stage Flight Experiment			15,000	15,000
Space Maneuver Vehicles			25,000	15,000
Digital radiation hardened microelectronics		10,000		5,000
Hyperspectral imaging		1,200		800
Scorpius			5,000	3,000
Composite space launch payload dispensers		4,450		3,000
Microsat Technology (Transfer from 0605864F)				5,000
CONVENTIONAL WEAPONS TECHNOLOGY	21,479	23,033	21,479	21,033
Defer PIOS II technology for AMRAAM		−2,446		−2,446
Optical correlator technology		4,000		2,000
ADVANCED WEAPONS TECHNOLOGY	38,995	56,495	44,695	57,495
Reduce growth in advanced solid state lasers for advanced applications			−5,300	−2,000
LaserSpark		2,450	5,000	2,450
Field laser radar upgrade			6,000	6,000
GLINT		15,000	(7,450)	12,000
ENVIRONMENTAL ENGINEERING TECHNOLOGY		3,000	5,000	5,450
E-SMART Environmental Monitoring Tool			5,000	4,000
Environmental quality technology		3,000		1,450
JOINT STRIKE FIGHTER	235,374	335,374	250,374	250,374
Alternative Engine Development			15,000	15,000
Risk reduction		100,000		0
INTERCONTINENTAL BALLISTIC MISSILE—DEM/VAL	28,628	28,628	47,828	47,828
Quick reaction launch demonstration under RSLP			19,200	19,200
C–130		43,600		40,600
Transfer from aircraft procurement for Avionics Improvement Program		39,600		38,600
AC–130 Leading Edge		4,000		2,000
WIDEBAND MILSATCOM (SPACE)	53,344	44,344	53,344	50,344
Excessive program support costs		−6,000		−3,000
Excessive Joint Terminal Program Office funding		−3,000		0
B–1B	203,544	203,544	163,544	178,544
Delays in Block E Computer Upgrade Program			−20,000	−10,000
Delays in IDECM/Block F Defensive System Upgrade Program		−20,000	−20,000	−15,000
B–2 ADVANCED TECHNOLOGY BOMBER	201,765	344,165	238,765	301,765
JASSM contract savings		−31,600		−31,600
Delay of AV–3 Block 30 mods		−37,000		−10,000
Classified program		30,100		30,100
Link 16/Display		92,000		68,700
EGBU–28		35,900		16,800
Inflight replanning		35,000		20,000
Stealth enhancement		16,000		4,000
Next generation bomber study		2,000		2,000
B–2 Upgrades and Maintainability Enhancements			37,000	0
EW DEVELOPMENT	90,347	89,047	100,347	86,847
Delay in IDECM program		−15,000		−15,000
Precision location and ID program (PLAID)		13,700	10,000	11,450
Space-based infrared system (SBIRS)	77,651	229,029	127,651	229,029
Transfer from 0603441F		151,378		151,378
SBIRS low EMD (for one flight demo)			50,000	0
MILSTAR LDR/MDR SATELLITE COMMUNICATIONS (SPACE)	361,308	214,308	361,308	362,808
Integrated Satellite Communication Control		3,000		1,450
Transfer MILSTAR procurement to missile procurement		−150,000		0
LIFE SUPPORT SYSTEMS	6,135	9,135	8,635	11,635
Life support systems			2,450	2,450
Arm, torso, head & neck wind blast shielding and other aircraft inflatable restraint configurations		3,000		3,000
COMBAT TRAINING RANGES	6,220	17,820	6,220	12,020
Advanced Data Oriented Security Module		6,000		3,000
Mini-MUTES modernization program		5,600		2,800
COMPUTER RESOURCE TECHNOLOGY TRANSITION (CRTT)	196	6,396	2,996	6,096
Asset software reuse program			2,800	2,800
NPLACE National Product Line Software Initiative		5,200		2,600
AF product line engineering		1,000		600
MAJOR T&E INVESTMENT	47,334	69,534	53,334	57,934
MARIAH II Hypersonic Wind Tunnel program		6,000	6,000	4,000
Unjustified growth in propulsion wind tunnel hardware		−3,000		−3,000
Eglin range improvements		9,000		4,450
Modify B–52H as launch platform for experimental space vehicles and new weapon systems		10,200		5,100
Laser Induced Surface Improvement				(1000)
TEST AND EVALUATION SUPPORT	392,104	600,104	365,504	382,104
Authorization transfer to S&T			−1,600	0
Program reduction			−30,000	−15,000
Big Crow program office		8,000	5,000	5,000
SPACE TEST PROGRAM (STP)	51,658	51,658	61,658	51,658
Micro Satellite Technology (transfer to 0603401F)			10,000	0
B–52 SQUADRONS	32,139	47,539	47,539	40,139
Situational awareness upgrades		15,400	15,400	8,000
F–16 SQUADRONS	112,250	127,520	118,520	115,520
Adv Identification Friend or Foe (AIFF) for F–16			6,000	3,000
Radar ECCM improvements		15,000		0
F–15E SQUADRONS	112,670	152,670	112,670	127,670
F–15 service life extension		20,000		0
Radar ECCM improvements		20,000		15,000
AF TENCAP	10,102	0	10,102	13,102
Consolidate AF/NRO activities		−10,102		0
Authorized TENCAP project				3,000
JOINT AIR-TO-SURFACE STANDOFF MISSILE (JASSM)	166,408	166,408	166,408	166,408
Alternative missile engine source development			(1,000)	(1,000)
AIRBORNE WARNING AND CONTROL SYSTEM (AWACS)	33,393	36,393	33,393	36,393
Transfer from aircraft procurement for AWACS computers		3,000		3,000
AWACS Cooperative Engagement Funding		(15,800)		(15,800)
JOINT SURVEILLANCE AND TARGET RADAR SYSTEM	130,488	161,988	130,488	148,488
Properly phase Link 16 funding		−15,000		−15,000
Unjustified growth of management support funding		−2,000		−2,000
RTIP		48,450		35,000
USAF MODELING AND SIMULATION	19,299	23,799	19,299	21,249
STORM		2,450		1,250
Powerscene		2,000		700
DEFENSE SATELLITE COMMUNICATIONS SYSTEM (SPACE)	8,985	3,985	6,485	5,485
Authorization transfer to S&T			−2,450	−2,450
EELV integration delays and savings		−5,000		−1,000
INFORMATION SYSTEMS SECURITY PROGRAM	7,992	12,492	17,992	19,492
Lighthouse cyber security program			10,000	7,000
Computer coordinated distribution attack detection		4,450		4,450
NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE AND CONTROL)	98,890	98,890	98,890	108,890
Operational Control Segment (OCS) shortfalls				10,000
SPACELIFT RANGE SYSTEM (SPACE)	43,186	60,986	43,186	51,686

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS—Continued

[In thousands of dollars]

Program	Budget	House	Senate	Conference
Universal Spaceport at Vandenburg AFB		8,450		8,450
Fund shortfalls in space ranges		9,300		0
ENDURANCE UNMANNED AERIAL VEHICLES	70,835	89,800	57,600	79,800
Dark Star		−6,035	−6,035	−6,035
Global Hawk		25,000	−7,200	15,000
AIRBORNE RECONNAISSANCE SYSTEMS	124,608	144,008	134,608	139,608
Data Rate Laser Comms		2,000		0
JSAF		17,400		0
JSAF LBSS and HBSS			10,000	15,000
MANNED RECONNAISSANCE SYSTEMS	9,388	12,388	21,888	20,388
MSAG on RC-135		3,000		3,000
Prototype pre-processor			4,450	4,450
U–2 Dual data link II upgrade			8,000	3,450
AF/NRO Consolidated Activities	0	23,450	0	10,882
AF/NRO consolidate activities		19,450		10,882
Note: The conferees agree to consolidate funds for AF/NRO Partnership and the Space Architect Program authorized in TENCAP		4,000		0
C-5 AIRLIFT SQUADRONS	63,041	60,041	44,172	60,041
Unjustified mission support growth in Avionics Modernization Program		−3,000		−3,000
C–5 Program		0	(63041)	
C-17 AIRCRAFT	170,718	149,918	170,718	160,918
Rephase communications avionics		−15,000		−4,000
Unjustified funding for "other" on-going improvements		−5,800		−5,800
PRODUCTIVITY, RELIABILITY, AVAILABILITY, MAINTAIN	9,382	9,382	9,382	22,382
Aging aircraft & landing gear extension program			7,000	7,000
Blade repair facility			7,000	6,000
SUPPORT SYSTEMS DEVELOPMENT	22,383	37,383	31,383	33,383
Simulation Based Forecasting Decision Support Systems (SBFDSS)		3,000		1,450
Integrated Maintenance Data Systems		9,000	9,000	8,000
Reengineering and enabling technologies		2,000		1,000
Air Resource Rapid Reapplication Tools		1,000		600
Air Force Knowledge Management Program				(2000)
COBRA BALL			4,000	4,000
Advanced Airborne Sensor			4,000	4,000

MATERIALS

The conferees are aware of the potential for fuel cells to reduce the logistics requirements for batteries and liquid fuels, and improve operational effectiveness of various systems. The conferees note that a full-scale demonstration of an advanced solid polymer electrolyte fuel cell that uses PBO based membranes holds great promise in increasing the performance of and reducing the cost of fuel cells. The conferees request that the Secretary of the Air Force provide a report by February 1, 2000 reviewing PBO fuel cell technology and evaluating its potential to meet the demanding requirements of the 'Air Expeditionary Force Deployment' concept of operation.

CREW SYSTEMS AND PERSONNEL PROTECTION TECHNOLOGY

The conference agreement includes $12,000,000 only for ejection seat risk reduction efforts. These funds shall be divided equally between all viable competitors and are to be used to bring each candidate seat to a common qualification standard consistent with joint Air Force-Navy requirements. This effort is to be designated as a Joint Ejection Seat Program, with program management responsibilities to rotate between the Air Force and Navy in accordance with a schedule specified by the Secretary of Defense. The conferees direct the Air Force and the Navy, in conjunction with their fiscal year 2001 budget requests, to provide a program and associated funding plans that will bring each candidate seat to a common qualification standard in an expeditious manner. The Air Force and the Navy should include sufficient funds for each ejection seat, consistent with that plan, in their budget requests. The conferees expect this program will lead to development of fully qualified seats that can be competed for installation into the Joint Strike Fighter and other current and future aircraft.

MILSTAR

The conference agreement funds the MILSTAR program in the Research, Development, Test, and Evaluation, Air Force account as in past years. While the Air Force has indicated that the sixth and last satellite will not be used for Independent Operational Test and Evaluation and therefore would have been more appropriately funded in procurement, the conferees acknowledge that this satellite is now 60% assembled. The conferees therefore believe that it is impractical to transfer funding for this satellite to the procurement account at this stage in the program.

F–22

The conferees have included $1,222,232,000, the budget request amount, for the F–22 engineering and manufacturing development program. In addition, the conferees have included two general provisions providing funds for the F–22 program. The first provision appropriates an additional $1,000,000,000 which is available for transfer for the purposes of F–22 program research, development, test and evaluation, and advance procurement. This provision includes a prohibition on the award of a full funding contract for low-rate initial production for the F–22 aircraft program until the first flight of an F–22 aircraft incorporation Block 3.0 software has been conducted. The conferees agree that up to $277,100,000 of the funds appropriated by this provision may be transferred to the "Aircraft Procurement, Air Force", account only for advance procurement of F–22 aircraft. The conferees further agree that any funds transferred for F–22 advance procurement shall not be available for obligation until the Secretary of Defense certifies to the congressional defense committees that all 1999 Defense Acquisition Board exit criteria have been met. The conferees direct the Air Force to establish cost accounting procedures which allow the accurate tracking of the cost of the additional test aircraft apart from other F–22 development efforts. The conferees further direct that costs associated with the additional test aircraft be separately identified in future research and development budget documents using the budget categories of the F–22 "P–5" budget exhibit. A second provision appropriates an additional $300,000,000 for F–22 program termination liability or for other F–22 program contractual requirements in lieu of termination liability obligations. The conferees agree that the funds provided under this provision are not available for expenditure until October 1, 2000.

SPACE BASED INFRARED SYSTEM (SBIRS)—HIGH

The conferees direct that no more than $100,000,000 of the funds provided for SBIRS High shall be obligated until the Secretary of Defense certifies that the production program complies with all DoD full funding policies (including the policy against funding more than 20% of the end-item cost using advance procurement) and that the program concurrency risk has been reduced relative to the acquisition strategy proposed by the Joint Estimating Team. The conferees further direct that concurrent with the Secretary of Defense certification above, the Director of Operational Test and Evaluation submit an assessment of whether the SBIRS high acquisition strategy allows for adequate testing to support a production decision.

GLOBAL POSITIONING SYSTEM SPECTRUM HARMONIZATION

The conferees continue to support the development of global positioning system technologies as being vital to the national security and economic interests of the United States. It has come to the attention of the conferees that increases in the aggregate noise that is generated into the spectrum band restricted for the delivery of GPS by users of spectrum in other frequency bands may pose a significant threat to the delivery of GPS. The conferees once again recognize the critical national security, public safety and economic interests that are implicated by this threat to the delivery of GPS, and therefore direct the DOD to initiate a spectrum harmonization study to be conducted by the National Telecommunications and Information Administration of the United States Department of Commerce to be delivered to the defense appropriations committees no later than January 31, 2000.

THEATER AIR COMMAND AND CONTROL SIMULATION FACILITY (TACCSF)

Of the amount appropriated for infrastructure upgrades at TACCSF's new facility, $450,000 will be made available to Sandia National Laboratories and Los Alamos National Laboratories to initiate a process to leverage their scientific, analytical, and computational capacities to advance and expand the simulation and modeling activities at TACCSF.

MARIAH II WIND TUNNEL

In 1998, Congress combined the Air Force's and NASA's Hypervelocity Wind Tunnel programs under the name of Mariah II. This was done in recognition of the Air Force's requirements for Air Defense as well as the reputation of Arnold Engineering Development Center in the development and use of wind tunnels. The conferees believe that a hypervelocity ground test facility is critical for the development of the next generation of space and re-entry vehicles. The conferees are also concerned that the Air Force has been hesitant to adequately fund this successful high technology project. Any delays in this program would not only defeat the research momentum of all of the partners, but it would destroy the excellent teaming that has enabled the success to date. The conferees encourage the Department of the Air Force to support this necessary research and urge the Department of Defense to budget funds for fiscal year 2001 and beyond.

HIGH ALTITUDE ENDURANCE VEHICLE

GLOBAL HAWK UNMANNED AERIAL VEHICLE

The conferees are very concerned that the Air Force is planning to proceed with a revised Global Hawk program that has not been formally presented to Congress for approval. Additionally, it is unclear how this new program, if approved, would be funded in the out-years. The conferees understand that the total cost of the program could exceed $800,000,000 and that the Air Force may divert funds budgeted or appropriated for other Intelligence, Surveillance, and Reconnaissance (ISR) assets, to fully fund the revised Global Hawk program. The conferees agree that using other ISR assets as a "bank" from which to draw funds for the Global Hawk program would likely not serve the best interests of the Department of Defense.

Therefore, while the conferees have agreed to provide an increase of $15,000,000 for Global Hawk, this should not be perceived as an approval of the revised Global Hawk program. The conferees agree that if the revised Global Hawk program is what the Administration plans to pursue, the program should be presented in a future budget request. Any shortfall in funding in fiscal year 2000 may be accommodated by approval of a reprogramming request.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST & EVAL, DEFWIDE				
DEFENSE RESEARCH SCIENCES	64,293	66,293	66,293	67,893
UNIVERSITY RESEARCH INITIATIVES	216,778	227,278	221,778	231,378
GULF WAR ILLNESS	19,185	19,185	19,185	25,185
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	31,386	45,386	35,386	44,886
NEXT GENERATION INTERNET	40,000	41,000	31,000	36,000
SUPPORT TECHNOLOGIES - APPLIED RESEARCH	65,328	80,328	90,328	89,328
HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU)	14,329	16,329	14,329	16,329
COMPUTING SYSTEMS AND COMMUNICATIONS TECHNOLOGY	322,874	330,874	317,874	324,874
EXTENSIBLE INFORMATION SYSTEMS	70,000	30,000	45,000	30,000
BIOLOGICAL WARFARE DEFENSE	145,850	101,850	145,850	132,350
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	64,780	99,280	74,780	94,780
TACTICAL TECHNOLOGY	137,626	137,626	129,126	129,126
INTEGRATED COMMAND AND CONTROL TECHNOLOGY	31,296	43,996	41,296	38,296
MATERIALS AND ELECTRONICS TECHNOLOGY	235,321	248,821	234,821	243,821
WMD RELATED TECHNOLOGY	203,512	215,512	218,512	216,512
EXPLOSIVES DEMILITARIZATION TECHNOLOGY	11,183	22,383	18,183	25,183
COUNTERTERROR TECHNICAL SUPPORT	52,223	57,223	59,223	57,223
SUPPORT TECHNOLOGIES-ADVANCED TECHNOLOGY DEVELOPMENT	173,704	196,317	215,704	214,704
KE ASAT	---	---	---	7,500
ADVANCED AEROSPACE SYSTEMS	19,664	19,664	14,664	17,164
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - ADVANCED DEV	40,910	45,910	42,410	42,410
VERIFICATION TECHNOLOGY DEMONSTRATION	58,455	76,455	59,955	74,455
GENERIC LOGISTICS R&D TECHNOLOGY DEMONSTRATIONS	17,336	30,536	26,336	27,336
STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM	53,506	59,506	59,506	58,506

(In thousands of dollars)

	Budget	House	Senate	Conference
JOINT WARFIGHTING PROGRAM	7,872	7,872	59,712	7,872
COOPERATIVE DOD/VA MEDICAL RESEARCH	---	---	10,000	8,000
ADVANCED ELECTRONICS TECHNOLOGIES	246,023	256,523	229,523	254,523
ADVANCED CONCEPT TECHNOLOGY DEMONSTRATIONS	117,969	88,569	121,969	107,969
HIGH PERFORMANCE COMPUTING MODERNIZATION PROGRAM	159,099	167,099	166,099	168,099
COMMAND, CONTROL AND COMMUNICATIONS SYSTEMS	222,888	222,888	187,888	190,888
SENSOR AND GUIDANCE TECHNOLOGY	232,319	182,658	207,319	181,519
MARINE TECHNOLOGY	22,538	23,538	22,538	23,288
LAND WARFARE TECHNOLOGY	97,825	97,825	93,825	93,825
JOINT WARGAMING SIMULATION MANAGEMENT OFFICE	68,456	68,456	69,456	69,206
PHYSICAL SECURITY EQUIPMENT	37,107	25,792	32,107	26,107
JOINT ROBOTICS PROGRAM	12,937	16,937	17,937	17,937
ADVANCED SENSOR APPLICATIONS PROGRAM	15,345	26,845	26,345	27,345
CALS INITIATIVE	1,652	1,652	5,652	5,652
NAVY THEATER WIDE MISSILE DEFENSE SYSTEM	329,768	419,768	379,768	379,768
MEADS CONCEPTS - DEM/VAL	48,597	---	48,597	48,597
BOOST PHASE INTERCEPT THEATER MISSILE DEFENSE ACQ	---	---	20,000	5,000
NATIONAL MISSILE DEFENSE - DEM/VAL	836,555	761,555	986,555	836,555
JOINT THEATER MISSILE DEFENSE - DEM/VAL	195,722	200,722	215,722	198,222
FAMILY-OF SYSTEMS ENGINEERING AND INTEGRATION	141,821	141,821	136,821	146,821
BMD TECHNICAL OPERATIONS	190,650	200,650	193,650	216,150
INTERNATIONAL COOPERATIVE PROGRAMS	36,650	36,650	78,650	81,650
THREAT AND COUNTERMEASURES	16,497	16,497	20,497	19,497
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - DEM/VAL	62,033	69,533	69,033	69,033
HUMANITARIAN DEMINING	15,847	20,647	18,847	18,847

(In thousands of dollars)

	Budget	House	Senate	Conference
COALITION WARFARE......................................	12,781	---	12,781	---
TECHNICAL STUDIES, SUPPORT AND ANALYSIS...............	353	---	353	---
JOINT SYSTEMS EDUCATION AND TRAINING SYS DEV..........	---	5,000	---	3,500
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - EMD.........	116,365	120,865	116,365	119,365
JOINT ROBOTICS PROGRAM - EMD..........................	12,004	12,004	17,004	15,004
COMMERCIAL OPERATIONS AND SUPPORT SAVINGS INITIATIVE..	16,976	8,000	16,976	11,976
THEATER HIGH-ALTITUDE AREA DEFENSE SYSTEM - TMD - EMD.	577,493	---	---	45,755
PATRIOT PAC-3 THEATER MISSILE DEFENSE ACQUISITION - EM	29,141	77,641	181,141	104,141
NAVY AREA THEATER MISSILE DEFENSE - EMD...............	268,389	310,189	310,189	308,389
DIMHRS..	---	41,200	---	41,200
ASSESSMENTS AND EVALUATIONS...........................	4,900	---	4,900	---
TECHNICAL STUDIES, SUPPORT AND ANALYSIS...............	29,506	---	29,506	---
TECHNICAL STUDIES, SUPPORT AND ANALYSIS...............	588	---	588	---
USD(A&T)--CRITICAL TECHNOLOGY SUPPORT.................	2,215	---	2,215	2,215
OSD TECHNICAL STUDIES AND ASSESSMENTS.................	---	30,021	---	30,021
GENERAL SUPPORT TO C3I................................	2,000	2,000	2,000	8,000
FOREIGN MATERIAL ACQUISITION AND EXPLOITATION.........	34,937	34,937	74,937	64,937
INDUSTRIAL CAPABILITIES ASSESSMENTS...................	3,299	---	3,299	---
JOINT THEATER AIR AND MISSILE DEFENSE ORGANIZATION....	17,079	17,079	27,079	27,079
CLASSIFIED PROGRAM USD(P).............................	---	11,842	---	11,842
DEFENSE TECHNOLOGY ANALYSIS...........................	4,974	4,974	9,974	9,974
INFORMATION SYSTEMS SECURITY PROGRAM..................	232,661	232,661	234,461	234,461
NETWORK SECURITY......................................	---	12,000	---	12,000
DEFENSE IMAGERY AND MAPPING PROGRAM...................	88,401	101,401	99,201	104,201
DEFENSE RECONNAISSANCE SUPPORT ACTIVITIES (SPACE).....	---	---	6,000	---

(In thousands of dollars)

	Budget	House	Senate	Conference
C3I INTELLIGENCE PROGRAMS	9,480	15,480	9,480	15,480
MANNED RECONNAISSANCE SYSTEMS	8,494	16,994	8,494	14,494
TACTICAL CRYPTOLOGIC ACTIVITIES	109,540	106,840	109,540	109,540
INDUSTRIAL PREPAREDNESS	6,665	10,415	6,665	9,665
SPECIAL OPERATIONS TACTICAL SYSTEMS DEVELOPMENT	106,671	149,370	127,271	150,270
SPECIAL OPERATIONS INTELLIGENCE SYSTEMS DEVELOPMENT	1,407	6,507	1,407	5,407
SOF MEDICAL TECHNOLOGY DEVELOPMENT	2,039	6,039	2,039	4,039
TECHNOLOGY INSERTION PROGRAM	---	5,000	---	5,000
SUPERSONIC AIRCRAFT NOISE MITIGATION	---	---	---	15,000
CLASSIFIED PROGRAMS	1,048,214	1,172,414	1,155,214	1,171,414
PENTAGON RENOVATION TRANSFER	---	---	---	-3,300

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST & EVAL, DEFENSE-WIDE				
DEFENSE RESEARCH SCIENCES	64,293	66,293	66,293	67,893
Spectral hole burning applications			2,000	1,700
Nanoelectric research [Note: $1,900,000 is only for molecular and Quantum-Dot Cellular Automata nanoelectronic research.]		2,000		1,900
UNIVERSITY RESEARCH INITIATIVES	216,778	227,278	221,778	231,378
Anticorrosion studies			1,450	800
Advanced high yield software development			1,450	800
Active hyperspectral imaging sensor research			2,000	2,000
DEPSCOR		[25,000]	[25,000]	[25,000]
Personnel research institute			[2,000]	[2,000]
Remote sensing		5,000		2,000
Defense commercialization research initiative		5,450		5,450
Comprehensive Test Ban Treaty Verification				1,450
Virtual parts engineering research center				2,000
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	31,356	44,386	35,386	44,886
Chemical and biological detection programs			4,000	3,450
Laboratory-based and analytical threat assessment research (non-agent specific) (USAMRIID)		10,000		7,000
Chemical and biological point detectors		3,000		2,000
Chemical and biological detection programs		1,000		1,000
NEXT GENERATION INTERNET	40,000	41,000	31,000	36,000
Program reduction			−10,000	−5,000
Next generation internet		1,000	1,000	1,000
SUPPORT TECHNOLOGIES—APPLIED RESEARCH	65,328	80,328	90,328	89,328
Wide band gap materials—gallium nitride		10,000	10,000	5,000
Wide band gap materials—silicon carbide [Note: The conferees recommend and increase of $4 million to support the production of epitaxy for silicon carbide semiconductor device research to support design and fabrication of advanced sensors and processing systems.]			4,000	4,000
Photoconduction on Active Pixel Sensors			8,000	8,000
Laser communications experiment			3,000	3,000
High Frequency Surface Wave Radar (HFSWR)		5,000		4,000
HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU)	14,329	16,329	14,329	16,329
Minority research program (HSI) Note: $2,000,000 is only for hispanic-serving institutions.]		2,000		2,000
COMPUTING SYSTEMS AND COMMUNICATIONS TECHNOLOGY	322,874	330,874	317,874	324,874
Image understanding for force protection			−8,000	−5,000
Reuse technology adoption program		3,000	3,000	2,000
Computer security demos using RNP and redundancy			[450]	[300]
Systems engineering for miniature devices		5,000		5,00
BIOLOGICAL WARFARE DEFENSE	145,850	101,850	145,850	132,350
Program reduction		−12,000		
Aerogel special silica material		4,000		3,000
Asymmetrical protocols for biological warfare defense		4,000		3,450
Program reduction due to excessive growth		−40,000		−20,000
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	64,780	99,280	74,780	94,780
Chemical and biological detection programs			10,000	8,000
Protocols to enhance biological defense		10,000		5,000
Countermeasures to biological and chemical threats		13,000		13,000
Safeguard		3,000		
Chemical and biological point detectors		4,450		2,000
Chemical and biological chemical hazard detection		4,00		2,000
TACTICAL TECHNOLOGY	137,626	137,626	129,126	129,126
Simulated battlefield imagery			−5,000	−5,000
Affordable rapid response missile demonstration			−6,000	−6,000
Micro adaptive flow control			−2,450	−2,450
Variable diameter tiltrotor			−2,000	−2,000
Ceros			7,000	7,000
INTEGRATED COMMAND AND CONTROL TECHNOLOGY	31,296	43,996	41,296	38,296
High definition systems/flat panel displays		8,700	10,000	7,000
Flat panel displays and schott glass technology		4,000		
MATERIALS AND ELECTRONICS TECHNOLOGY	235,321	248,821	234,821	243,821
Reconfigurable aperture			−6,000	−6,000
Fabrication of 3-D micro structures, including research on materials processing		4,000	2,000	2,000
Biodegradable plastics			1,450	1,000
Strategic materials			2,000	2,000
Materials in sensors (MINSA)		9,450		9,450
WMD RELATED TECHNOLOGY	203,512	215,512	218,512	216,512
Thermionics		5,000	3,000	3,000
Nuclear weapons effects			7,000	4,000
Deep digger			5,000	4,000
Discrete particle methods		2,000		1,000
Nuclear weapons effects (x-ray simulator)		5,000		1,000
EXPLOSIVES DEMILITARIZATION TECHNOLOGY	11,183	22,383	18,183	25,183
Explosives demilitarization technology		7,000	7,000	7,000
Hydrothermal oxidation of explosives waste		3,000		3,000
Waterject Cutting Technology		1,200		1,000
Hot Gas Decontamination			[4,450]	3,000
COUNTERTERROR TECHNICAL SUPPORT	52,223	57,223	59,223	57,223
Facial recognition technology		5,000	3,000	3,000
Testing of air blast and improvised explosives			4,000	2,000
SUPPORT TECHNOLOGIES-ADVANCED TECHNOLOGY DEVELOPMENT	173,704	196,317	215,704	214,704
Atmospheric interceptor technology		20,000	30,000	25,000
Excalibur		5,000	5,000	5,000
Scorpius		5,000	5,000	5,000
Silicon thick film mirror coatings			2,000	2,000
Space based laser		−16,187		
PRIME		1,300		1,000
Cruise missile defense initiative		[7,000]		[6,000]
Lightweight x-based radar				3,000
KE SEAT		7,450		
VERIFICATION TECHNOLOGY DEMONSTRATION	58,455	76,455	59,955	74,455
Nuclear detection, analysis		6,000		6,000
Center for monitoring research		[10,000]	1,450	[10,000]
Basic and applied research to support nuclear testing		12,000		10,000
GENERIC LOGISTICS R&D TECHNOLOGY DEMONSTRATIONS	17,336	30,536	26,336	27,336
Microelectronics (DMEA)		4,700	3,000	3,000
Computer assisted technology transfer (CATT)		6,000	6,000	6,000
Competitive sustainment demonstration		2,450		1,000
STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM	53,506	59,506	59,506	58,506
Biosystems technology			6,000	
Environmental cleanup workers safety		3,000		3,000
Toxic chemical cleanup		3,000		2,000
ADVANCED ELECTRONICS TECHNOLOGIES	246,023	256,523	229,523	254,523
Change detection technology			3,000	2,000
Distributed robotics			−5,000	−5,000
Microelectromechanical systems (MEMS)			−20,000	
Defense techlink		1,450	1,450	1,450
Center for advanced microstructure and devices (CAMD)		4,000	4,000	4,000
Laser plasma x-ray		5,000		5,000

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS—Continued

[In thousands of dollars]

	Budget	House	Senate	Conference
X-ray lithography stepper technology				1,000
ADVANCED CONCEPT TECHNOLOGY DEMONSTRATIONS	117,969	88,569	121,969	107,969
Magnetic bearing cooling turbine			4,000	
Reduction per House Authorization		– 29,400		– 10,000
HIGH PERFORMANCE COMPUTING MODERNIZATION PROGRAM	159,099	167,099	166,099	168,099
Multithread architecture system for high performance computing modem		8,000	4,000	6,000
High performance visualization center			3,000	3,000
COMMAND, CONTROL AND COMMUNICATIONS SYSTEMS	222,888	222,888	187,888	190,888
Advanced intelligence, surveillance and reconnaissance; active templates and JFACC			– 10,000	– 7,000
Command post of the future			– 5,000	– 5,000
Agile control environment			– 20,000	– 20,000
SENSOR AND GUIDANCE TECHNOLOGY	232,319	182,658	207,319	181,519
Large millimeter telescope		3,000	2,000	2,000
Organic ground moving target radar			– 3,000	– 3,000
Low cost cruise missile defense		– 4,000	– 4,000	– 4,000
Affordable moving surface target engagement			– 20,000	– 10,000
Discoverer II		– 50,661		– 37,300
Underground facilities detection [Note: $1.5 million is only for MOLES.]		2,000		1,450
PHYSICAL SECURITY EQUIPMENT	37,107	25,792	32,107	26,107
Force protection COTS equipment			– 5,000	– 5,000
Program growth reduction		– 11,315		– 6,000
JOINT ROBOTICS PROGRAM	12,937	16,937	17,937	17,937
Lightweight robotic vehicles			5,000	3,000
Joint robotics		4,000		2,000
ADVANCED SENSOR APPLICATIONS PROGRAM HAARP	15,345	26,845	26,345	27,345
Solid state dye laser applications (ASAP)		6,000	6,000	4,450
High power mid-infrared laser		2,000		1,000
Remote Operating Minehunting sonar		3,450		1,450
NAVY THEATER WIDE MISSILE DEFENSE SYSTEM	329,768	419,768	379,768	379,768
NTW acceleration		40,000		
Radar improvements competition		50,000	50,000	50,000
[Note: House bill provides an additional amount of $35,000,000 to be derived from previously appropriated, fiscal year 1999, funds (P.L. 105–277) only for NTW acceleration.]		[+35,000]		
NATIONAL MISSILE DEFENSE—DEM/VAL	836,555	761,555	986,555	836,555
National missile defense—dem/val		– 75,000	150,000	
[Note: The conferees provide an additional amount of $117,000,000 to be derived from previously appropriated, fiscal year 1999, funds (P.L. 105–277) only for NMD.]		[+75,000]		[+117,000]
JOINT THEATER MISSILE DEFENSE—DEM/VAL	195,722	200,722	215,722	198,222
Liquid surrogate target development program		5,000	5,000	2,450
Pacific missile range facility TMD upgrades			10,000	
Optical-electro sensors			5,000	
Kauai Test Facility			[4,000]	
FAMILY OF SYSTEMS ENGINEERING AND INTEGRATION	141,821	141,821	136,821	146,821
Delayed obligation of prior year funds			– 5,000	– 5,000
CEC space				10,000
BMD TECHNICAL OPERATIONS	190,650	200,650	193,650	216,150
Advanced research center			3,000	2,450
IR sensor data		[10,000]		[5,000]
Development of wide bandwidth information infrastructure		10,000		8,000
Pacific misile range facility TMD upgrades				10,000
Optical-electro sensors				5,000
Kauai Test Facility				[4,000]
INTERNATIONAL COOPERATIVE PROGRAMS	36,650	36,650	78,650	81,650
Arrow third battery			42,000	45,000
[Note: House bill provides an additional amount of $45,000,000 to be derived from previously appropriated, fiscal year 1999, funds (P.L. 105–277) only for the Arrow Third Battery.]			[+45,000]	
THREAT AND COUNTERMEASURES	16,497	16,497	20,497	19,497
Comprehensive advanced radar technology			4,000	3,000
Phase IV of the long range missile feasibility assessment, including additional counter-measures hands-on-program missions			[3,000]	
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM—DEM/VAL	62,033	69,533	69,033	69,033
Bioadhesion research to combat biological warfare			2,000	1,450
M93A1 Fox Simulation Training Suites		5,000	5,000	4,000
Counterterror research		2,450		1,450
HUMANITARIAN DEMINING	15,847	20,647	18,847	18,847
Demining technology for unexploded land mines			3,000	3,000
Humanitarian demining			[1,800]	[1,800]
Demining		3,000		
Humanitarian demining		1,800		
THEATER HIGH-ALTITUDE AREA DEFENSE SYSTEM—TMD—EMD	83,755	0	0	45,755
THAAD—Engineering, Manufacturing and Development		0	0	45,755
[Note: The conferees provide an additional amount of $38,000,000 to be derived from previously appropriated, fiscal year 1999, funds (P.L. 105–277) only for THAAD EMD once it meets exit criteria.]			[+83,755]	[+38,000]
PATRIOT PAC–3 THEATER MISSILE DEFENSE ACQUISITION—EM	29,141	77,641	181,141	104,141
Program cost overruns		48,450	152,000	75,000
[Note: The conferees provide an additional amount of $75,000,000 to be derived from previously appropriated, fiscal year 1999, funds (P.L. 105–277) only for the PAC 3 cost overruns.]		[+75,000]		[+75,000]
NETWORK SECURITY		12,000		12,000
Protection of vital data [Note: The conferees direct the Department to transfer the funds provided for this project to the National Security Agency for execution.]		12,000		12,000
DEFENSE IMAGERY AND MAPPING PROGRAM	88,401	101,401	99,201	104,201
Pacific Imagery Program for Exploitation			2,800	2,800
NIMA Viewer		8,000	8,000	8,000
National technology alliance		5,000		5,000
DEFENSE RECONNAISSANCE SUPPORT ACTIVITIES (SPACE)			6,000	
Pacific Disaster Center			6,000	
GENERAL SUPPORT TO C31	2,000	2,000	2,000	8,000
Pacific Disaster Center				6,000
SPECIAL OPERATIONS TACTICAL SYSTEMS DEVELOPMENT	106,671	149,370	127,271	150,270
Classified Programs			11,600	6,000
CV–22 Modifications		9,000	9,000	9,000
CV–22 Second Digital Map		3,600		
Small Craft Propulsion Systems Improvements		4,000		2,450
Advanced Seal Delivery Systems		26,099		26,099
SPECIAL OPERATIONS INTELLIGENCE SYSTEMS DEVELOPMENT	1,407	6,507	1,407	5,407
SOTVS underwater camera		2,100		1,300
Joint Threat Warning System		3,000		2,700

SEISMIC RESEARCH

Last year's nuclear tests in South Asia raises serious concerns about the Department's ability to support a robust operational nuclear test monitoring program. The conferees direct that from within available funds, $10,000,000 shall be available only for peer-reviewed basic and applied research only to support operational nuclear test monitoring. Of this amount, $2,450,000 shall be available only for peer-reviewed seismic research; and $7,450,000 shall be available only for peer-reviewed basic research—$6,450,000 of which is only for explosion seismology research. The conferees direct that the basic and applied seismic research program consider the specific prioritized research topics recommended to the Department by the National Research Council.

The conferees direct the Defense Threat Reduction Agency to award these funds through a competitive peer panel review process; to segregate the basic and applied research funds for this program into clearly identifiable projects within the 6.1 and 6.2 budget categories; and to improve integration of the basic and applied components of the program. Further, the conferees direct the Department to provide, by December 1, 1999, a detailed report to the Congressional Defense Committees on the plan for obligating these funds. Finally, the conferees direct the Department to sustain funding for these activities in future budgets to ensure the expertise needed in this critical operational program.

NATIONAL MISSILE DEFENSE RISK REDUCTION

To take full advantage of joint ballistic missile defense efforts with allied nations, the conferees direct the Director of the Ballistic Missile Defense Organization to provide a report to the Appropriations Committees of the House and Senate by February 1, 2000, on those technologies, designs, or technical approaches developed by, or in cooperation with, allied ballistic missile defense programs that would help reduce the level of technical, schedule, or cost risk to any element of the U.S. national missile defense program.

ADVANCED RESEARCH CENTER

The conferees direct the Ballistic Missile Defense Organization not to establish any new missile defense data centers.

Further, the conferees have provided an additional $2,450,000 for the operational support of the Army's Advanced Research Center (ARC) for a total level of funding of $14,450,000. The conferees understand this level to be sufficient to maintain modeling and simulation capability at the facility in support of Theater and National Missile Defense Programs while providing the necessary infrastructure support for the facility. As such, users should not be required to offset operational costs with program funding in any form. Only peculiar and unique support should require such contributions and under no condition should such fees be assessed or required by higher commands. The conferees direct BMDO to maintain and plan for adequate levels of operational support for the ARC without reliance upon program user fees.

TRANSPORTATION TECHNOLOGIES

The House report recommended that the Center for Commercial Deployment of Transportation Technologies be considered for up to $15,000,000 of the funds provided in Operation and Maintenance, Defense-wide. To be consistent with United States Transportation Command's established funding mechanism and management system the conferees believe that the Center should be considered for up to $15,000,000 of the funds provided in Research, Development, Test and Evaluation, Defense-wide instead.

Discoverer II

The conferees agree to provide a total of $40,000,000 for the Discoverer II satellite technology demonstration program, a reduction of $68,450,000 to the budget request. The conferees agree that this funding shall be provided in equal portions to the Air Force, and Defense Advanced Research Project Agency (DARPA), and the National Reconnaissance Office (NRO).

The conferees direct that the funding provided in fiscal year 2000 may only be used to complete the Phase I study portion of the program, and any associated program management costs.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
DEVELOPMENTAL TEST & EVAL, DEFENSE				
CENTRAL TEST AND EVALUATION INVESTMENT DEVELOPMENT....	121.741	140,241	120,241	134,241

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
CENTRAL TEST AND EVALUATION INVESTMENT DEVELOPMENT	121,741	140,241	120,241	134,241
Roadway simulator		8,450	13,450	10,000
Resource enhancement project			−15,000	−5,000
Airborne separation video system		5,000		4,000
Magdalena ridge observatory		5,000		3,450

OPERATIONAL TEST AND EVALUATION, DEFENSE

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
OPERATIONAL TEST & EVALUATION, DEFENSE				
LIVE FIRE TESTING.....................................	9,832	14,832	19,832	16,832

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
Live fire testing	9,832	14,832	19,832	16,832
Live fire testing and training initiative		5,000	10,000	7,000

TITLE V—REVOLVING AND MANAGEMENT FUNDS

The conferees agree to the following amounts for Revolving and Management Funds programs:

[In thousands of dollars]

	Budget	House	Senate	Conference
Defense Working Capital Funds	90,344	90,344	90,344	90,344
National Defense Sealift Fund	354,700	729,700	354,700	717,200
Total, Revolving and Management Funds	445,044	820,044	445,044	807,544

DEFENSE WORKING CAPITAL FUNDS

The conferees agree to provide $90,344,000 for the Defense Working Capital Fund.

NATIONAL DEFENSE SEALIFT FUND

The conferees agree to provide an additional $320,000,000 for procurement of a new Large Medium-Speed Roll-on roll-off (LMSR) ship for the Army; $30,000,000 for conversion of an existing LMSR ship to meet Marine Corps requirements for a maritime prepositioning force ship; and $12,450,000 to convert an RRF sealift vessel into a training ship for the Massachusetts Maritime Academy.

TITLE VI—OTHER DEPARTMENT OF DEFENSE PROGRAMS

The conference agreement is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Defense Health Program	10,834,657	11,078,417	11,184,857	11,154,617
Armed Forces Retirement Home	0	0	68,295	0
Chemical Agents and Munitions Destruction, Army	1,169,000	781,000	1,029,000	1,029,000
Drug Interdiction and Counter-Drug Activities, Defense	788,100	883,700	842,300	847,800
Office of the Inspector General	140,844	140,844	137,544	137,544
Total, Other Department of Defense Programs	12,932,011	12,883,961	13,261,996	13,168,961

DEFENSE HEALTH PROGRAM

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
Alaska Federal Health Care (AFHCAN) Partnership Telemedicine Network			1,400	1,400
Uniformed Services University of the Health Sciences			(6,300)	(6,300)
Graduate School of Nursing			2,300	2,300
Tri Service Nursing Research Service			6,000	6,000
Pacific Island Health Care			5,000	5,000
Center for Disaster Management and Humanitarian Assistance			5,000	5,000
Casualty Care Research Center			(760)	(760)
Military Health Services Information Management			10,000	10,000
Brown Tree Snakes			1,000	1,000
PACMEDNET			12,000	12,000
Automated Clinical Practice Guidelines			7,450	7,450
DOD Center for Medical Informatics			(2,000)	2,000
Computational neuroscience		3,000		3,000
Lung cancer program [Note: $7,000,000 only to explore multiple avenue of research, prevention, diagnosis, and therapy that would yield new treatment options for lung cancer.]		7,000		7,000
Post-polio		1,300		1,300
Neuroscience research [Note: $3,000,000 only to establish West Coast Functional MRI brain research capabilities.]		3,000		3,000
Neuroscience research [Note: $5,000,000 only to continue neurological research under cooperative agreement DAMD 17-99-2-9007.]		5,000		5,000
Digital Mammography		5,000		4,000
Nutrition research		3,760		3,760
Periscopic surgery for the spine [Note: $2,000,000 only for research into the development of minimally invasive surgical procedures for the brain, spinal cord, and spine under DAMD 17-99-1-9022.]		2,000		2,000
Comprehensive breast cancer clinical care project [Note: $7,450,000 only for the Walter Reed Army Medical Center to establish a peer-reviewed research program by the Uniformed Services University for the Health Sciences to test and improve the Department's ability to provide comprehensive breast care risk assessment, diagnosis, treatment, and research. This program shall be a multi-disciplinary public/private effort in coordination with the USUHS, a not for profit research center, and a rural primary care center.]		7,450		7,450
Coronary and prostate disease reversal [Note: $5,000,000 only to continue the non-invasive coronary and prostate disease reversal program.]		5,000		5,000
Chronic disease management		10,000		10,000
Computer based patient records [Note: $4,200,000 is only for the further development of the Government Computer-based Patient Record program.]		4,200		4,200
Budget execution savings		-63,000		-63,000
RESEARCH, DEVELOPMENT, TEST AND EVALUATION (DHP)		250,000	300,000	275,000
Peer-reviewed Breast Cancer research program		175,000	175,000	175,000
Peer-reviewed Prostate Cancer research program		75,000	75,000	75,000

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS—Continued

[In thousands of dollars]

	Budget	House	Senate	Conference
Peer-reviewed medical research	....	....	50,000	25,000

MEDICAL RESEARCH

The conferees applaud the medical research and development efforts and accomplishments of the Department of Defense, and, within funding provided for the Defense Health Program, $275,000,000 for medical RDT&E efforts to be conducted by the Department. Within these funds, $175,000,000 is for the Army's peer reviewed Breast Cancer Research Program (BCRP), and $75,000,000 is for the Army's peer reviewed Prostate Cancer Research Program (PCRP).

The remaining funds of $25,000,000 are to be made available for peer reviewed medical research grants and activities. The conferees direct that the Secretary of Defense, in conjunction with the service Surgeons General, establish a process to select medical research projects of clear scientific merit and direct relevance to military health.

Such projects could include: acute lung injury research; advanced soft tissue modeling; alcohol abuse prevention research; Defense and Veterans Head Injury Program; Dengue fever vaccine research; childhood asthma; diabetes; digital mammography imagining; Gulf War Illnesses; Padget's disease; retinal display technology; smoking cessation; stem cell research; and volumetrically controlled manufacturing.

The conferees direct the Department to provide a report by March 1, 2000, on the status of this peer reviewed medical research program, to include the corresponding funds provided in fiscal year 1999.

CUSTODIAL CARE

The conference agreement includes a general provision clarifying the definition of custodial care as it pertains to the delivery of health care services provided by and financed under the military health care system's case management program. This provision also sets the overall policy for access of military health care system beneficiaries in the case management program. The House bill included a similar provision. The Senate bill contained no similar provision. The conferees expect the Department to expeditiously revise its regulations to comply with this provisions.

ANTHRAX VACCINE IMMUNIZATION PROGRAM (AVIP)

The Comptroller General shall study the immunization program and report on the following: effects on military morale, retention, and recruiting; the civilian costs and burdens associated with adverse reactions for members of the reserve components; adequacy of long- and short-term health monitoring; assessment of the anthrax threat, including but not limited to foreign doctrine, weaponization, quality of intelligence, and other biological threats. A classified annex may be submitted to meet this requirement.

The Department is directed to enter into a contract with the National Research Council to independently study the effectiveness and safety of the anthrax vaccine. The following issues shall be considered in the report: the types and severity of adverse reactions, including gender differences; long-term health implications; inhalational efficacy of the vaccine against all known anthrax strains; correlation of animal models to safety and effectiveness in humans; validation of the manufacturing process focusing on, but not limited to discrepancies identified by the Food and Drug Administration in February 1998; definition of vaccine components in terms of the protective antigen and other bacterial products and constituents; identification of gaps in existing research.

Preliminary reports addressing these issues will be submitted to the Committee on Appropriations and the Committee on Armed Services of both the House and the Senate by April 1, 2000.

OXFORD HOUSE

The conferees direct the Department to conduct a pilot project to improve treatment outcomes for alcoholism and drug addiction. The pilot project should evaluate the effectiveness and cost efficiency of Oxford House recovery homes in improving recovery without relapse following treatment for alcoholism and drug addiction among active and retired military personnel and their dependents. The conferees direct the Department to provide a report by March 1, 2000 on the status of this pilot project.

TRISERVICE NURSING RESEARCH PROGRAM

The conferees recommend $6,000,000 for the TriService Nursing Research Program (TSNRP). Within these funds, the conferees encourage the Department to leverage telehealth and distance learning capabilities, and to continue efforts in developing telemetered passive physiological monitoring for field conditions. Further, the conferees encourage the Department to begin funding the TSNRP in the Department's annual budget.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

The conference agreement is as follows:

(In thousands of dollars)

	Budget	House	Senate	Qty	Conference
CHEM AGENTS & MUNITIONS DESTRUCTION, ARMY					
CHEM DEMILITARIZATION - O&M	593,500	492,000	543,500	--	543,500
CHEM DEMILITARIZATION - PROC	241,500	116,000	191,500	--	191,500
CHEM DEMILITARIZATION - RDTE	334,000	173,000	294,000	--	294,000

CHEMICAL MUNITIONS DESTRUCTION, ARMY

The conferees concur with the decision of the Department of Defense to conduct evaluations of three additional alternative technologies under the Assembled Chemical Weapons Assessment (ACWA) Program. The conferees direct that $40,000,000 of the funds made available for Chemical Agents and Munitions Destruction, Army are only to conduct the additional ACWA evaluations. The conferees direct that the ACWA program is to proceed under the same guidelines as contained in Public Law 104-208, and continue to use the Dialogue process and Citizens Advisory Technical Teams and their consultants.

The conferees agree that the current budget execution rates for the Chemical Agents and Munitions Destruction program are unacceptable and hopes that the Army improves the budget execution rates in fiscal year 2000. In the event that program budget execution rates improve during the fiscal year, and additional funds are required to sustain the establishment and operation of the nine chemical demilitarization facilities, the conferees expect the Army to submit a reprogramming request subject to normal, prior approval reprogramming procedures.

The conferees disagree with the House direction with regard to an Inspector General report on the Chemical Agents and Munitions Destruction Program, Army. The conferees agree with House language directing the General Accounting Office to submit a report on the budget activities and management of the program.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

The conference agreement is as follows:

[In thousands of dollars]

Drug Interdiction and counter-drug activities:	
Budget	788,100
House	883,700
Senate	842,300
Conference	847,800

SUMMARY OF CONFERENCE AGREEMENT

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

National Guard Counter-drug Support	+20,000
Gulf States Initiative	+10,000
RCTA	+2,000
Marijuana Eradication/Guard Counter-drug activities	
Kentucky	+3,200
Hawaii	+2,450
Counter-drug Intelligence and Infrastructure Support	+30,000
Northeast Regional Counter-drug Training Center	+2,000
Counter-narcotics Center at Hammer	+5,000
Technologies Assessment	+2,450
Southwest Border Fence	+4,000
Lake County HIDTA	+1,000
MJTFTC	+4,000
Southwest Border States Initiative	+6,000
NICI	+2,000
Young Marines	+1,450
Forward Operating Locations	−27,000
Ground Based Radars	−4,000
Tethered Aerostat Radar System	−5,000

TECHNOLOGIES ASSESSMENT

The conferees agree to provide $2,450,000 to assess technologies to detect air, land and maritime platforms which are evading currently operating detection and monitoring systems either because of their technological deficiencies or their locations. The conferees specifically direct that the assessment consider the utility of an additional Relocatable Over The Horizon Radar site, a Wide Aperture Radar Facility, and a ground station to support a tropical remote sensing radar. The conferees direct that the assessment be concluded by April 1, 2000 and that its findings be included in a report to the defense committees not later than May 15, 2000.

COUNTER-DRUG INTELLIGENCE AND INFRASTRUCTURE SUPPORT

The conferees agree to provide $30,000,000 for Counter-drug Intelligence and Infrastructure Support in order to support numerous initiatives including those outlined by the Senate in the Drug Free Century Act and those identified in House Report 105-244 to include Operation Caper Focus, P-3 FLIRs, observation aircraft, mothership operations, A-10 aircraft, and other joint military intelligence programs. The conferees direct the Deputy Assistant Secretary of Defense for Drug Enforcement Policy to provide a plan for utilization of these funds to the defense committees within 60 days of the enactment of this Act.

A-10 LOGISTICAL AND DEMILITARIZATION SUPPORT

The conferees direct the Deputy Assistant Secretary of Defense for Drug Enforcement Policy and Support and the Assistant Secretary of State, Bureau of International Narcotics and Law Enforcement Affairs to submit a joint report to Congress within thirty days of enactment of the accompanying Act assessing the cost effectiveness of using refurbished A-10 aircraft (currently in storage at AMARC) for the Department of State's coca eradication mission in Colombia. This report shall also discuss the time saved in returning such upgraded aircraft to combat condition should they be needed, compared to the time to bring a storage aircraft to the same combat configuration, and assess the fiscal and operational impacts on the active A-10 combat force of such a transfer. The conferees agree that, if this report contains a joint recommendation to use these aircraft for this mission, $5,000,000 shall be made available from the sums provided under "Counter-drug Intelligence and Infrastructure Support" only for this purpose, in accordance with the directive of the House.

FORWARD OPERATING LOCATIONS

The conferees agree to a reduction of $27,000,000 to the budget request for Forward Operating Locations (FOLs). The conferees agree to provide $10,800,000 to be transferred to Military Construction, Air Force for planning and design of FOLs. The conferees also agree to provide $5,000,000 for transfer to Operation and Maintenance, Air Force only to be used for improvement and repair at the Curacao, Aruba, and Ecuador FOLs. Although the conferees are aware that the Commander in Chief of the U.S. Southern Command recommends that construction at these locations begin as soon as possible, the conferees are concerned that no formal permanent binding long-term agreements for the use of these facilities have been executed between any of the FOL host nations and the United States. Funding beyond that needed for planning and design activities is premature without such agreement in place. The conferees direct that future requests for Military Construction funding for these projects be contained in budget requests for Military Construction.

OFFICE OF THE INSPECTOR GENERAL

The conferees agree to provide $137,544,000 for the Office of the Inspector General. Of this amount, $136,244,000 shall be for operation and maintenance activities and $1,300,000 shall be for procurement.

EMERGENCY AND EXTRAORDINARY EXPENSES

The conferees have agreed to increase the amount made available for emergencies and extraordinary expenses to $700,000 and direct the Inspector General to submit an expenditures report in compliance with the requirements contained in section 127 of Title 10, United States Code.

TITLE VII—RELATED AGENCIES

The conferees agree to the following amounts for Related Agencies:

[In thousands of dollars]

	Budget	House	Senate	Conference
Intelligence Community Management Account	149,415	144,415	149,415	158,015
Central Intelligence Agency Retirement and Disability System Fund	209,100	209,100	209,100	209,100
Payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Trust Fund	15,000	15,000	35,000	35,000
National Security Education Trust Fund	8,000	8,000	8,000	8,000

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

Details of the adjustments to this account are addressed in the classified annex accompanying this report.

TITLE VIII—GENERAL PROVISIONS

The conference agreement incorporates general provisions of the House and Senate versions of the bill which were not amended. Those general provisions that were amended in conference follow:

The conferees included a general provision (Section 8005) which amends language to provide authority to the Department to transfer not more than $1.6 billion of working capital funds or funds made available in this Act.

The conferees included a general provision (Section 8008) which amends language authorizing multi-year procurements.

The conferees included a general provision (Section 8034) which amends language that governs the activities of defense federally funded research and development centers (FFRDCs).

The conferees included a general provision (Section 8044) which amends language regarding funds available in the Department of Defense Overseas Military Facility Investment Recovery Account.

The conferees included a general provision (Section 8058) which amends language recommending rescissions. The rescissions agreed to are:

	Conference
FISCAL YEAR 1998	
Other Procurement, Navy:	
Combat Survivor Evader Radio	–$2,167,000
Aircraft Procurement, Air Force:	
F–16 savings	–4,000,000
C–130 Avionics Modernization Program	–1,800,000
JSTARS contract savings	–10,000,000
FISCAL YEAR 1999	
Other Procurement, Army:	
CSEL	–13,700,000
Aircraft Procurement, Navy:	
Universal Jet Air Start Unit	–41,450,000
Under the heading, Shipbuilding and Conversion, Navy:	
New Attack Submarine overhead savings	–32,400,000
CVN–69 Overhaul contract savings	–11,400,000
Other Procurement, Navy:	
Combat Survivor Evader Radio	–6,384,000
MK–12 IFF contract savings	–1,900,000
FFG upgrades	–5,450,000
Aircraft Procurement, Air Force:	
F–16 savings	–3,000,000
C–130 Avionics Modernization Program	–2,700,000
T–38 Avionics Upgrade Program	–10,000,000
C–17 prior year savings	–7,300,000
B–1 prior year savings	–6,729,000
Missile Procurement, Air Force:	
Classified program	–130,000,000
Research, Development, Test and Evaluation, Army:	
Mines	–4,000,000
Force XXI initiative	–1,400,000
Research, Development, Test and Evaluation, Navy:	
AV–8B Mods, termination of life extension program	–11,000,000
NTACMS	–3,900,000
Research, Development, Test and Evaluation, Air Force:	
GBS reduced receiver suites	–5,300,000
B–2 JASSM savings	–7,000,000
B–1B prior year savings	–3,600,000
Research, Development, Test and Evaluation, Defense-Wide:	
ACTD	–7,000,000
Computing Systems and Communications	–5,000,000
Tactical Technology	–7,000,000
Sensors and Guidance	–4,450,000

The conferees included a general provision (Section 8079) which amends House language that allows for the transfer of funds to provide services and support to organizations and activities outside of the Department, if they are incidental to training.

The conferees included a general provision (Section 8082) which amends language to reflect the latest ship cost adjustment proposed by the Navy.

The conferees included a general provision which amends (Sectiuon 8093) language concerning Buy American requirements to address shipyard cranes.

The conferees included a general provision (Section 8100) which amends Senate language to reduce funding available to the Operation and Maintenance accounts by $123,200,000 due to civilian personnel underexecution.

The Conferees included a general provision (Section 8103) which amends House language to repair and upgrade the road providing access to the National Training Center.

The Conferees included a general provision (Section 8105) which amends House language concerning restrictions on the procurement of main propulsion engines and propulsors for the ADC(X) class of ships.

The Conferees included a general provision (Section 8107) which amends House language earmarking funds in support of the B–52 force structure.

The Conferees included a general provision (Section 8111) which amends House language to appropriate funds only for Weapons of Mass Destruction Domestic (WMD) Preparedness.

The conference agreement provides an additional $35,000,000 to enhance efforts underway within the Department to develop a comprehensive and integrated domestic emergency response capability against terrorist attacks using weapons of mass destruction. The conference agreement also includes bill language specifying certain expenditures as amended by the conferees. These funds are provided, as follows:

Military Support Detachment (Light).—To provide the training and preliminary equipment issue to field an initial operating capability for traditional drilling Military Support Detachments (Light).

Appropriation	*Amount*
National Guard Personnel, Army	$2,000,000
National Guard Personnel, Air Force	450,000
Operation and Maintenance, Army	12,180,000

Additional Training/Exercises/Interagency Integration and Interoperability.—To enhance the training, organization, and support of DoD response forces to prepare for and respond to WMD terrorism, and enhance interoperability and connectivity between local, state, and federal interagency WMD response forces.

Appropriation	*Amount*
Reserve Personnel, Army	$2,000,000
Operation and Maintenance, Army	12,320,000
Research, Development, Test and Evaluation, Army	6,000,000

The Conferees included a general provision (Section 8114) which amends House language that prohibits the Department of Defense from using funds provided in Department of Defense Appropriations Acts for the repair and maintenance of military family housing, and requires a review of Department of Defense practices by the DoD Office of the Inspector General.

The Conferees included a general provision (Section 8115) which amends House language which requires the Secretary of Defense to report on Advanced Concept Technology Demonstrations (ACTDs) prior to the obligation of funds, prohibits the further obligation of fiscal year 1999 funds for Line-of-Sight Anti-Tank (LOSAT) and provides that of funds available under the heading, "Research, Development, Test and Evaluation, Defense-Wide" in Public Law 105–262, $10,027,000 is only available for the Air Defense Surface to Air Missile.

The conferees included a general provision (Section 8116) which amends House language which provides that none of the funds under the heading, "Research, Development, Test and Evaluation, Defense-Wide" in Public Law 105–262 are available for the Medium Extended Air Defense System.

The conferees included a general provision (Section 8121) which amends House language to enhance DoD oversight of information technology systems.

The conferees included a general provision (Section 8124) which amends House language that permits competitive auction of communication frequencies.

The new subsection (subsection (c)) reaffirms Congressional intent, as reflected in section 337(d)(4) of the Balanced Budget Act of 1997, that the FCC must ensure that the spectrum to be used for public safety is protected from interference. Section 337(a)(1) of that Act directed the FCC to allocate 24 megahertz for public safety uses, while the current legislation would accelerate the timing of the auction of 36 megahertz of neighboring spectrum which had been allocated in section 337(d)(2) of the 1997 Act. Because the public safety spectrum is adjacent to the spectrum now being auctioned, it is important to affirm that the interference directive in section 337(d) is not being superceded by the current legislation.

The Congress, in the Balanced Budget Act of 1997, required that public safety services be permitted to operate free from interference from neighboring spectrum. This subsection will reiterate, along with the statutory direction that the auction will be accelerated, that such protection for public safety spectrum must be maintained.

The conferees included a general provision (Section 8126) which amends House language prohibiting the transfer of armor piercing ammunition to any non-governmental entity.

The conferees included a general provision (Section 8127) which amends Senate language to provide for the waiver of payments by the National Guard for the use of equipment by certain non-profit organizations.

The conferees included a general provision (Section 8129) which amends Senate language that reflects the amounts appropriated for military personnel pay and retirement reform in the Fiscal Year 1999 Supplemental Appropriations Act.

The conferees included a general provision (Section 8130) which amends Senate language to limit the funding that can be obligated through indefinite delivery/indefinite quantity environmental contracts.

The conferees included a general provision (Section 8133) as proposed by the Senate and amended, providing the Secretary of the Air Force the authority to lease aircraft for operational support purposes. The conferees direct that aircraft leased under this pilot program shall be commercially available, serving similar purposes in the commercial marketplace. The conferees believe that the Department of Defense could realize significant operations and support savings through employing the fewest aircraft types of a common configuration. In that regard, the Secretary shall make every attempt to lease aircraft of the type and configuration common to the DoD inventory and use accompanying logistics support mechanisms already in place. Modifications to these aircraft should be kept to a minimum to allow timely conversion to a marketable, civilian configuration, at minimum cost, if the aircraft are subsequently replaced.

The conferees included a new general provision (Section 8134) which reduces funding for Operation and Maintenance, Air Force to reflect unobligated amounts available in Public Law 106–31 for Readiness/Munitions.

The conferees included a general provision (Section 8136) which amends Senate language on the U.S. Atlantic Command joint experimentation program.

The conferees included a general provision (Section 8137) which amends Senate language concerning the American Red Cross for Armed Forces Emergency Services.

The conferees included a new general provision (Section 8143) which provides funds for the United Service Organizations (USO).

The conferees included a new general provision (Section 8144) which directs the Department of the Army to submit a report to the Congress detailing its efforts to reduce the costs the Abrams M1A2 Tank Upgrade program before initiating a multi-year procurement contract.

The conferees included a new general provision (Section 8145) which conditions the new C–17 multiyear authority provided in this Act upon certification by the Secretary of the Air Force that the average unit flyaway price of C–17 aircraft in a new multiyear contract will be at least twenty-five percent less than the average unit flyaway price of aircraft in the current multiyear contract.

The conferees included a new general provision (Section 8146) which establishes a transfer account for additional F–22 test aircraft and advanced procurement.

The conferees included a new general provision (Section 8147) which provides $300,000,000 for F–22 termination liability.

The conferees included a new general provision (Section 8148) which provides a grant for evaluating a standards and performance based academic model at DoD schools.

The conferees included a new general provision (Section 8149) which prohibits the payment of environmental fines or penalties unless specifically authorized by law.

The conferees included a new general provision (Section 8150) which amends Section 8145 of the fiscal year 1999 Department of Defense Appropriations Act concerning the demolition of buildings at the former Norton Air Force Base.

The conferees included a new general provision (Section 8151) which provides a grant for public schools with a high concentration of special needs military dependents.

The conferees included a new general provision (Section 8152) which makes a technical correction regarding the transfer of Military Construction funds appropriated in the fiscal year 1999 Emergency Supplemental Appropriations Act.

The conferees included a new general provision (Section 8153) which amends Section 127 of the fiscal year 1995 Military Construction Appropriations Act regarding the conveyance of Navy Reserve Center, Seattle, Washington.

The conferees included a new general provision (Section 8154) which permits the Army to use Operation and Maintenance, Army funds for remediation activities at Camp Edwards.

The conferees included a new general provision (Section 8155) which allows the Air Force to convey surplus relocatable housing.

The conferees included a new general provision (Section 8156) which allows the Department of Defense to adjust the cost-share for the Arrow Deployability Program.

The conferees included a new general provision (Section 8157) that directs the Department of Defense to identify additional liabilities and requests for equitable adjustments and provide a report to the congressional defense committees on the extent of health care contract claims.

The conferees included a new general provision (Section 8158) which provides funds for a community retraining, reinvestment and manufacturing initiative.

The conferees have included a new general provision (Section 8159) which directs the Secretary of Defense to submit a report on the management of the chemical weapons demilitarization program.

The conferees included a new general provision (Section 8160) regarding fiscal year 2000 military construction projects.

The conferees included a new general provision (Section 8161) which allows the Secretary of Defense to treat the opening of the National D–Day Museum as an official event.

The conferees included a new general provision (Section 8162) which establishes the Dwight D. Eisenhower Memorial Commission.

The conferees included a new general provision (Section 8163) which allows the Secretary of the Air Force to accept contributions from the State of New York for the Rome Research Site.

The conferees included a new general provision (Section 8164) which is a technical correction related to funds provided in Public Law 105–277.

The conferees included a new general provision (Section 8165) requiring a report from the Secretary of Defense on the status and adequacy of planned expenditures for low density, high demand military assets.

The conferees included a new general provision (Section 8166) which provides funds for Chicago Public Schools for the conversion and expansion of the former Eighth Regiment National Guard Armory.

The conferees included a new general provision (Section 8167) which provides $10,000,000 for an aviation support facility for the Army National Guard.

The conferees included a new provision (Section 8168), as proposed by the Senate, and amended by the House, which provides for the Brooks Air Force Base Demonstration Project known as the "Base Efficiency Project". Implementation of this provision is delayed until June 15, 2000. It is the conferees' intention that the Committees on Appropriations conduct a thorough review to ensure that this legislation is in the best interest of the Department of Defense and does not prejudice the Base Realignment and Closure process.

The conferees included a new general provision (Section 8169) which reduces the amounts provided in title II of the conference report for depot level maintenance and repair by $400,000,000, and directs that $400,000,000 of the funds appropriated in section 2008 of title II, chapter 3 of Public Law 106–31 (the fiscal year 1999 Emergency Supplemental Appropriations Act) that remain unobligated be made available to fund these requirements.

The conferees included a new general provision (Section 8170) which reduces the amounts provided in title II of the conference report for spare and repair parts and associated logistical support by $550,000,000, and directs that $550,000,000 of the funds appropriated in section 2007 of title II, chapter 3 of Public Law 106–31 that remain unobligated be made available to fund these requirements.

The conferees included a new general provision (Section 8171) which reduces the amounts provided in title II of the conference report for base operations support costs by $100,000,000, and directs that $100,000,000 of the funds appropriated in section 2011 of title II, chapter 3 of Public Law 106–31 that remain obligated be made available to fund these requirements.

The conferees included a new general provision (Section 8172) which reduces funding for various accounts in the title III of the conference report for procurement of munitions, taking into account various munitions procurements which will be accomplished with funds provided in title II, chapter 3 of Public Law 106–31. These reductions are to be allocated as follows, consistent with the increased funding for these items which was provided in Public Law 106–31 and since has been designated as emergency appropriations by the President:

Weapons Procurement, Navy—Tomahawk

Procurement of Ammunition, Navy and Marine Corps—General Purpose Bombs, JDAM

Aircraft Procurement, Air Force—ALE–50

Procurement of Ammunition, Air Force—General Purpose Bombs, JDAM

The conferees included a new general provision (Section 8173) which reduces operation and maintenance funding, and provides emergency funding for the same activities.

The conferees included a new general provision (Section 8174) which prohibits the use of any funds in this bill for the American Heritage Rivers Initiative.

The conferees included a new general provision (Section 8175) to adjust the payment of progress payments.

The conferees included a new general provision (Section 8176) to adjust payment procedures and policies.

The conferees included a new title IX, as proposed by the Senate (Senate title X) as amended, relating to sanctions on India and Pakistan.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2000 recommended by the Committee of Conference, with comparisons to the fiscal year 1999 amount, the 2000 budget estimates, and the House and Senate bills for 2000 follow:

[In thousands of dollars]

New budget (obligational) authority, fiscal year 1999	$250,520,548
Budget estimates of new (obligational) authority, fiscal year 2000	263,265,959
House bill, fiscal year 2000	268,661,503
Senate bill, fiscal year 2000	264,693,100
Conference agreement, fiscal year 2000	267,795,360
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1999	+17,274,812
Budget estimates of new (obligational) authority, fiscal year 2000	+4,529,401
House bill, fiscal year 2000	−866,143
Senate bill, fiscal year 2000	+3,102,260

Jerry Lewis,
C.W. Bill Young,
Joe Skeen,
David L. Hobson,
Henry Bonilla,
George R. Nethercutt, Jr.,
Ernest J. Istook, Jr.,
Randy "Duke" Cunningham,

JAY DICKEY,
RODNEY P. FRELINGHUYSEN,
JOHN P. MURTHA,
NORMAN D. DICKS,
MARTIN OLAV SABO,
JULIAN C. DIXON,
PETER J. VISCLOSKY,
JAMES P. MORAN,
Managers on the Part of the House.

TED STEVENS,
THAD COCHRAN,
ARLEN SPECTER,
PETE V. DOMENICI,
CHRISTOPHER S. BOND,
MITCH MCCONNELL,
RICHARD C. SHELBY,
JUDD GREGG,
KAY BAILEY HUTCHISON,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
ROBERT C. BYRD,
PATRICK J. LEAHY,
FRANK R. LAUTENBERG,
TOM HARKIN,
BYRON L. DORGAN,
RICHARD J. DURBIN,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. UNDERWOOD) to revise and extend their remarks and include extraneous material:)

Mr. UNDERWOOD, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

(The following Members (at the request of Mr. NETHERCUTT) to revise and extend their remarks and include extraneous material:)

Mr. NETHERCUTT, for 5 minutes, today.

ADJOURNMENT

Mr. WOLF. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 40 minutes a.m.), under its previous order, the House adjourned until Tuesday, October 12, 1999, at 12:30 p.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4711. A communication from the President of the United States, transmitting a report to Congress, consistent with the War Powers Resolution, regarding U.S. military forces in East Timor; (H. Doc. No. 106–141); to the Committee on International Relations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LEWIS of California: Committee of Conference. Conference report on H.R. 2561. A bill making appropriations for the Department of Defense for the fiscal year ending September 30,2000, and for other purposes (Rept. 106–371). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X, the Committee on Commerce discharged. H.R. 354 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

Pursuant to clause 5 of rule X, the Committee on the Judiciary discharged. H.R. 1858 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

Pursuant to clause 5 of rule X, the Committee on the Judiciary discharged. H.R. 2130 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

267. The SPEAKER presented a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 205 memorializing the United States Congress to amend federal law relating to the compensation of retired military personnel to permit full, concurrent receipt of military longevity pay and service-connected disability compensation pay; to the Committee on Armed Services.

268. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 157 memorializing the United States Congress to take such actions as are necessary to ensure that the United States military service personnel under the age of twenty-one are not sent to participate in any combat operations carried out by ground troops in Yugoslavia; to the Committee on Armed Services.

269. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 215 memorializing the U.S. Congress to condemn and reject an article in the July 1998 Psychological Association (Vol. 124, No. 1, pp. 22–53) which suggests that sexual relations between adults and children may not always be harmful to children; to the Committee on Education and the Workforce.

270. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 185 memorializing the United States Congress to restore budget cuts to the U.S. Geological Survey's water resources programs, particularly the State-Federal Cooperative program; to the Committee on Resources.

271. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 159 memorializing the United States Congress to support the efforts of United States Senators MARY LANDRIEU and JOHN BREAUX and United States Representatives CHRIS JOHN, BILLY TAUZIN, JIM MCCRERY, WILLIAM JEFFERSON, and JOHN COOKSEY to enact the Conservation and Reinvestment Act of 1999; to the Committee on Resources.

272. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 107 memorializing the United States Congress to amend the Federal Migratory Bird Conservation Act to authorize certain states to issue temporary federal duck stamp privileges through electronic license issuance systems; to the Committee on Resources.

273. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 216 memorializing the United States Congress to take such actions as are necessary to adequately fund and staff the DeRidder Automated Flight Service Station; to the Committee on Transportation and Infrastructure.

274. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 134 memorializing the United States Congress to enact legislation to allow Louisiana to impose requirements on the storage and transportation of hazardous materials by rail car that are more stringent than federal requirements; to the Committee on Transportation and Infrastructure.

275. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 197 memorializing the Congress of the United States to preserve the right of state and local govenments to operate pension plans for their employees in the federal social security system and to develop legislation for responsible reform of the federal social security system that does not include mandatory participation by employees of state and local governements; to the Committee on Ways and Means.

276. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 128 memorializing the United States Congress to enact the Estuary Habitat Restoration Partnership Act; jointly to the Committees on Transportation and Infrastructure and Resources.

ADDITIONAL SPONSORS

Under clause 7 of the rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Ms. BERKLEY.
H.R. 809: Mr. MCHUGH.
H.R. 2822: Mr. GOODE.

DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petition was filed:

Petition 6, October 5, 1999, by Mr. BONIOR on House Resolution 301 has been signed by the following Members: David E. Bonior, Robert A. Borski, Robert A. Brady, Gene Green, Robert E. Wise, Jr., James P. McGovern, Eliot L. Engel, Michael E. Capuano, Carolyn B. Maloney, Anna G. Eshoo, Albert Russell Wynn, Rosa L. DeLauro, Sam Gejdenson, John Elias Baldacci, Martin Frost, Ciro D. Rodriguez, Eddie Bernice Johnson, Anthony D. Weiner, Nancy Pelosi, Tom Lantos, Steny H. Hoyer, Jim McDermott, Tammy Baldwin, Charles A. Gonzalez, Max Sandlin, Alcee L. Hastings, Julian C. Dixon, John B. Larson, Thomas M. Barrett, Joseph Crowley, Ron Klink, William (Bill) Clay, Lynn C. Woolsey, Barbara Lee, Donald M. Payne, Danny K. Davis, Nydia M. Velázquez, Bruce F. Vento, Joseph M. Hoeffel, Zoe Lofgren, Robert A. Weygand, Rush D. Holt, Bob Clement, Earl F. Hilliard, Juanita Millender-McDonald, James E. Clyburn, Bennie G. Thompson, Sanford D. Bishop, Jr., Bobby L. Rush, Stephanie Tubbs Jones, Karen McCarthy, Eva M. Clayton, Charles B. Rangel, Jose E. Serrano, Paul E. Kanjorski, Michael P. Forbes, Jay Inslee, Ted Strickland, Patsy T. Mink, Brian Baird, Thomas C. Sawyer, Shelley Berkley, Janice D. Schakowsky, Bernard Sanders, Carolyn C. Kilpatrick, Major R. Owens, Robert T. Matsui, Maurice D. Hinchey, Carrie P. Meek, Corrine Brown, Thomas H. Allen, John J. LaFalce, Bart Gordon, Jerrold Nadler, John W. Olver, John F. Tierney, Louise McIntosh Slaughter, Nick J. Rahall II, Michael R. McNulty, Karen L. Thurman, Maxine Waters, Gerald D. Kleczka, Ed Pastor, Frank Pallone, Jr., Bill Pascrell, Jr. William D. Delahunt, Dale E. Kildee, Robert E. Andrews, George Miller, Ron Kind, Dennis Moore, Ronnie Shows, Nita M. Lowey, Jesse L. Jackson, Jr., Tom Udall, Xavier Becerra, Patrick J. Kennedy, Jerry F. Costello, Lane Evans, Fortney Pete Stark, Peter A. DeFazio, William J. Coyne, Martin T. Meehan, Henry A. Waxman, Robert Wexler, John Conyers, Jr., Lynn N. Rivers, Bill Luther, Sherrod Brown, Barney Frank, Debbie Stabenow, Melvin L. Watt, David D. Phelps, Brad Sherman, James L. Oberstar, Darlene

Hooley, James H. Maloney, Sheila Jackson-Lee, Elijah E. Cummings, Chaka Fattah, Nick Lampson, Marcy Kaptur, Edolphus Towns, Norman D. Dicks, James P. Moran, Robert Menendez, Rod R. Blagojevich, Edward J. Markey, John Lewis, Julia Carson, Frank Mascara, Carolyn McCarthy, Martin Olav Sabo, Dennis J. Kucinich, Earl Blumenauer, Benjamin L. Cardin, Lucille Roybal-Allard, Matthew G. Martinez, Harold E. Ford, Jr., Chet Edwards, Bob Filner, Loretta Sánchez, Grace F. Napolitano, Gregory W. Meeks, Vic Snyder, Sander M. Levin, Earl Pomeroy, Luis V. Gutierrez, John D. Dingell, Gary L. Ackerman, Richard A. Gephardt, David E. Price, William O. Lipinski, Ike Skelton, Steven R. Rothman, Tony P. Hall, David Wu, Cynthia A. McKinney, Bart Stupak, James A. Barcia, and Howard L. Berman.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petition:

Petition 4 by Ms. DEGETTE on House Resolution 192: David Wu.

SENATE—*Tuesday, October 12, 1999*

The Senate met at 9:01 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear Father, today we focus our attention on a question we need to ask every day: Who gets the glory? Our purpose is to glorify You in all we say and do. And yet so often we grasp the glory for ourselves. Help us to turn attention from ourselves to You and openly acknowledge You as the source of our strength. You have taught us that there is no limit to what we can accomplish when we do give You the glory. May our realization that we could not breathe a breath, think a thought, or give leadership without Your blessing, free us from so often seeking recognition. Make us so secure in Your up-building esteem that we are able to build up others with whom we work.

We glorify You, gracious God. We consecrate the decisions of this day, and when the Senators come to the end of the day, may they experience that sublime joy of knowing it was You who received the glory. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CONRAD BURNS, a Senator from the State of Montana, led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. BURNS). The Senator from Arizona.

SCHEDULE

Mr. KYL. Mr. President, today the Senate will resume consideration of the Comprehensive Nuclear Test-Ban Treaty, with approximately 6 hours of debate time remaining. As a reminder, the two amendments in order to the treaty must be filed at the desk by 9:45 a.m. today.

By previous consent, at 4:30 p.m. the Senate will resume debate on the conference report to accompany the Agriculture appropriations bill. Following 1 hour of debate, the Senate will proceed to a cloture vote on the conference report. Therefore, the first rollcall vote of the day will occur at approximately 5:30 p.m.

For the information of all Senators, this week will be extremely busy so that action on the CTBT and the Agriculture appropriations conference report can be completed. The Senate will also begin consideration of the campaign finance reform legislation and take up any conference reports available for action. Senators may expect votes throughout the day and into the evening.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

COMPREHENSIVE NUCLEAR TEST-BAN TREATY

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and resume consideration of Executive Calendar No. 3, which the clerk will report.

The legislative clerk read as follows:

> Resolution to Advise and Consent to the Ratification of treaty document No. 105–28, Comprehensive Nuclear Test-Ban Treaty.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Will the Chair inform the two managers what time is remaining for both sides on the debate.

The PRESIDING OFFICER. The Chair advises the Senator from Nevada that the majority has 2 hours 53 minutes; the minority, 3 hours 23 minutes.

Mr. REID. I say to my friends from Arizona and Virginia that we will try to speak now and even out the time.

Mr. President, I give myself such time as I may consume.

We have heard a lot about nuclear testing recently, but no one has experienced nuclear testing as has the State of Nevada. Just a few miles from Las Vegas is the Nevada Test Site. There we have had almost 1,000 tests, some above ground and some below ground. You can travel to the Nevada Test Site now and go and look at these test sites. You can see where the above-ground tests have taken place. You can drive by one place where bleachers are still standing where people—press and others—would come and sit to watch the nuclear tests in the valley below. You can see some of the buildings that still are standing following a nuclear test. You can see large tunnels that are still in existence where scores and scores of tests were set off in the same tunnels. You can go and look at very deep shafts where underground tests were set off.

The State of Nevada understands nuclear testing. At one time, more than 11,000 people were employed in the Nevada desert dealing with nuclear testing. Now, as a result of several administrations making a decision to no longer test nuclear weapons, there are only a little over 2,000 people there. Those 2,000 people are there by virtue of an Executive order saying we have to be ready if tests are deemed necessary in the national interest. So the Nevada Test Site is still there. The people are standing by in case there is a need for the test site to again be used.

The cessation of testing caused the largest percentage reduction of defense-related jobs in any Department of Energy facility. Today, as I indicated, there are a little over 2,000 of those jobs.

The State of Nevada is very proud of what we have done for the security of this Nation. Not only have we had the above-ground nuclear tests and the below-ground nuclear tests, but we have Nellis Air Force Base which is the premier fighter training center for the U.S. Air Force—in fact, it is the premier fighter training center for all allied forces around the world. I had a meeting recently with the general who runs Nellis Air Force Base. He was preparing for the German Air Force to come to Las Vegas to be involved in the training systems available for fighting the enemy in fighter planes.

Also, 400 miles from Las Vegas and Nellis Air Force Gunnery Range, you have Fallon Naval Air Station. It is the same type of training facility, not for the Air Force but the Navy. Virtually every pilot who lands on a carrier has been trained at Fallon. It is the premier fighter training center for naval aircraft—Fallon Naval Air Station.

There are many other facilities that have been used over the years. Today, we have Indian Springs Air Force Base which is 50 miles out of Las Vegas—actually less than that—where they are testing drones, the unmanned aircraft. So we have given a lot to the security of this Nation; we continue to do so.

When we talk about nuclear testing, I can remember as a young boy, I was raised 60 miles from Las Vegas.

We were probably 125 miles from where the actual detonations took place. We would get up early in the morning at my home in Searchlight and watch these tests. They would announce when the tests were coming.

We always saw the flash of light with the above-ground tests. Sometimes we did not hear the sound because it would sometimes bounce over us.

We were the lucky ones, though, because the winds never blew toward Searchlight or Las Vegas. The winds blew toward southern Utah and Lincoln County in Nevada.

As a result of these above-ground tests, many people developed radiation sickness. They did not know it at the time. People did not understand what fallout was all about.

Yes, in Nevada, we understand nuclear testing as well as anyone in the world.

Nevada is going to continue its national service whether this treaty is ratified or not. We have already stopped testing in the traditional sense.

I want everyone to understand that even though I am a supporter of this treaty, I believe it would be much better, rather than having everyone march in here tonight and vote up or down on this treaty, that we spend some more time talking about it. I am convinced it is a good thing for this country, a good thing for this Nation, but I have some questions. We should answer some questions.

I have the good fortune of serving on the Energy and Water Subcommittee of the Appropriations Committee. I am the ranking Democrat on that subcommittee, with the head Republican on the subcommittee, Senator DOMENICI of New Mexico. It is our responsibility to appropriate the money for the nuclear defense capabilities of this country. We do that. We spend billions of dollars every year.

One of the things we have tried to do, recognizing we do not have traditional testing—that is underground testing or above-ground testing; of course, we do not do above-ground testing—is to provide other ways to make sure our nuclear stockpile is safe and reliable. No matter what we have done in the past, we have to make sure our weapons are safe and reliable.

How can we do that? We are attempting in this country to do the right thing. We have the Stockpile Stewardship Program under which we are conducting tests now. They are not explosions. We are doing it through computers. We have some names for some of our tests.

One of them is subcritical testing. What does that mean? It means we set off an explosion involving nuclear materials, but before the material becomes critical, we stop it. There is no nuclear yield. Then through computerization, in effect, we try to determine what would have happened had this test gone critical. That is an expensive program, but it is a program that is absolutely necessary, again, for the safety and reliability of our nuclear stockpile.

About 2 years ago, I gave a statement before our subcommittee. This was a statement on the Comprehensive Test Ban Treaty on which we had a hearing. In that statement, I wrote about the loss of confidence in new weapons that could not be tested under the treaty and how this loss of confidence would prevent recurrence of the costly and dangerous nuclear arms race of the past 50 years.

I wrote about the confidence between former adversaries that would come from the treaty because no longer would we or they have to worry about significant new imbalances in deterrent forces, because no new weapons could be built.

I wrote about how that confidence would lead to more and more reductions in nuclear stockpiles and move the world even further away from nuclear annihilation.

I wrote about how the international example of refraining from nuclear testing, along with stockpile reductions, would reduce the incentives for non-nuclear states to develop nuclear weapons.

I did not write 2 years ago about the upcoming Comprehensive Test Ban Treaty review conference in which only states that have ratified the treaty will have effective membership.

That review conference will be able to change the conditions under which the treaty goes into force, and the United States, I am sorry to report, will have no place at that table unless the treaty is ratified by this Senate before that conference.

I wrote about more than the benefits of this treaty. I also wrote about some of its uncertainties and some of the concerns, I believe, we need to study and review, and about the debate that is needed for their resolution.

I pointed out that a prohibition against any and all nuclear explosions would reduce confidence in stockpile reliability and safety unless some other means was developed to maintain that confidence.

I noted that the Stockpile Stewardship Program was conceived to provide that other means. We have had 2 years of experience with this program, but I wrote about the uncertainties faced by science-based stockpile stewardship. I noted the plan depends critically on dramatic increases in computational capability. That is why in our subcommittee we have worked very hard to spend hard-earned tax dollars to develop better computers. The development of computers is going on around the world, but no place is it going on at a more rapid pace than with the money we have provided through this subcommittee. We are doing it because we believe through computerization, we can have a more safe and more reliable stockpile.

It is only through, as I wrote, these dramatic increases in computational capability and equally dramatic increases in resolution with which nonnuclear experiments can be measured that we can go forward with certainty of having a safe and reliable nuclear stockpile.

I noted persistent support by Congress and the administration was absolutely necessary, not on a short-term basis but on a long-term basis. I noted Congress and the administration had to support the science-based Stockpile Stewardship Program; that we must set the pattern for the world; it can be done, and we can do it.

I did say that the support of Congress and the administration was absolutely necessary but not necessarily sufficient because the stewardship program is being developed at the same time that its architects are learning more about it. It is a study in progress. I wrote then, and I believe now, the learning process will continue.

I pointed out that the test ban treaty would not prevent nuclear weapons development. It would only inhibit the military significance of such development. We are not going to develop new weapons. We have not developed new weapons.

Let's talk, for example, about what can be done. You can have the development of crude nuclear explosives that are difficult to deliver, but these could be developed with confidence without testing. We know, going back to the early days of things nuclear, that "Fat Man" had not been tested. That was the bomb that was dropped on Hiroshima. There was no test. It was a huge weapon, as large as the side of a house. They had to build a pit in the runway to load it. They had to reconfigure the B–29 so it could drop this huge weapon, but it was not tested.

Stopping testing is not going to stop the development of nuclear weapons. Rogue nations and other nations can develop these weapons if they see fit. But these crude weapons will not upset the deterrent balance.

Also, some say the treaty would prevent the introduction of new modern weapons that could weaken strategic deterrence. For example, nations could not build sophisticated new weapons; they would be stuck with what they have. What they have may be good, may be bad.

I pointed out the treaty could not guarantee total cessation of nuclear testing because very low-yield tests and higher yield "decoupled" tests might not be detected with confidence. You could have small, very small tests. It would be very hard to detect.

You could also have the situation where a signatory nation could execute a high-yield "unattended" explosion. What does that mean? What it means is that for a high-yield "unattended" explosion in a clandestine operation—nobody could identify the signatory nation that was being noncompliant.

For example, let's say someone developed a nuclear device and secretly dropped it in the ocean and then left. When the device went off someplace deep in the ocean, the country that dropped it in the ocean could certainly know that it exploded. But others could not identify who did it. It would be very hard to develop or make a new stockpile doing it this way, but it is possible. There are ways around everything.

But in spite of all these things that you could throw up as ways to get around the treaty—the "decoupled" tests and dropping them in the ocean, of course, you can do those kinds of things—but in spite of that, the positive nature of this treaty far outweighs any of these things that I have mentioned.

I did say in that statement I made before our subcommittee that the United States takes its treaty obligations seriously. We would not in any manner do what I have just outlined. But other nations might conduct themselves in that fashion. You cannot conduct your foreign policy believing that everybody is going to do everything the right way.

I do say that in all of these areas of uncertainty, I wrote about the need of the United States for a prolonged, comprehensive investigation and debate. That is where we have failed. We should have had hearings that went over a period of years, not a few days.

It is through consultation and the testimony of experts, and debate among Members of this body and the other body, that the issues and questions can be properly framed, examined, and resolved.

I was overly optimistic when I wrote in the conclusion of my statement to the hearing as follows:

> These uncertainties and their associated issues will be the subject of intense debate by the Senate as we move toward a policy decision that will define an appropriate balance between the treaty's costs, its risks, and its promised benefits.

There has been no intense debate. I was too optimistic because we did not "move" toward a policy decision; we did not do anything. We stumbled, lurched perhaps. I was too optimistic because intense debate has not been conducted by the Senate. There have been a few little things that have gone on. For example, in my subcommittee we have done a few things. But we have needed extensive debate.

What have we had in the last few days, literally? We have had some experts come in. We have had some hurriedly conducted hearings. That isn't the way you approach, perhaps, one of the most important treaties this country has ever decided.

I think the chairmen and the ranking members of both the Armed Services Committee and the Foreign Relations Committee, during the last few days, have done the best they could under the circumstances. I commend them for trying. But I do not think we should base this treaty on what has gone on in the last few days.

I was too optimistic because I did not realize we would enter a time agreement to debate this most important issue for 14 hours. I do not think it is appropriate. I think it prevents amendments that may be necessary.

I indicate that I rise in support of this treaty. I do it without any reluctance. I do say, however, that we should have more debate. We should have more consultation. We should have more hearings. That would allow us to arrive at a better, more informed decision.

I have heard some people speak on this floor saying they want more information. They are entitled to that. I think we are rushing forward on a vote on this. We should step back. I think if there is an opportunity today to avoid the vote this afternoon or tomorrow, we should do that. I do not think we need to rush into this.

The President has written a letter indicating, for the good of the country, this vote should be put off. I agree with that. I am not afraid to cast my vote. I have indicated several times this morning that I will vote in favor of the treaty. I do not, for a moment, believe that there are others who feel any differently than I in our responsibility. Our job is to cast votes. I only wish Members were given the time and opportunity to become as informed as possible so that all Members are given an opportunity to improve this treaty—through debate, through dialogue, and perhaps even through amendment.

Again, I rise in support of this treaty, not because I had an opportunity to consider all the issues and the expert opinion on these issues. I rise in support of the treaty because on the whole we are much, much, much better off with it than without it.

I have only a partial list of prominent individuals and national groups in support of this test ban treaty: Current and former Chairmen and Vice Chairmen of the Joint Chiefs of Staff; former Secretaries of Defense; former Secretaries of State; former Secretaries of Energy; former Members of Congress; Directors of the three National Laboratories; we have other prominent national security officials; arms control negotiators; we have many prominent military officers who have been members of the Chiefs of Staff; scientific experts from all over the United States with the greatest academic institutions; we have Nobel laureates—more than a score of Nobel laureates who support this treaty—former senior Government officials and advisors; ambassadors; national groups; medical and scientific groups; public interest groups; religious groups.

I have eight or nine pages of prominent individuals and national groups in support of the Comprehensive Nuclear Test-Ban Treaty that I ask unanimous consent be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PARTIAL LIST OF PROMINENT INDIVIDUALS AND NATIONAL GROUPS IN SUPPORT OF THE CTBT—OCTOBER 9, 1999

CURRENT AND FORMER CHAIRMEN/VICE-CHAIRMEN OF THE JOINT CHIEFS OF STAFF

General Hugh Shelton, Chairman of the Joint Chiefs of Staff.

General John Shalikashvili, former Chairman of the Joint Chiefs of Staff.

General Colin Powell, former Chairman of the Joint Chiefs of Staff.

General David Jones, former Chairman of the Joint Chiefs of Staff.

Admiral William Crowe, former Chairman of the Joint Chiefs of Staff.

General Joseph Ralston, Vice Chairman.

Admiral William Owens, former Vice Chairman.

FORMER SECRETARIES OF DEFENSE

Robert McNamara.
Harold Brown.
William Perry.

FORMER SECRETARIES OF STATE

Warren Christopher.
Cyrus Vance.

FORMER SECRETARIES OF ENERGY

Hazel O'Leary.
Federico Peña.

FORMER ACDA DIRECTORS

Ambassador Ralph Earle II.
Major General William F. Burns.
Lt. General George M. Seignious II.
Ambassador Paul Warnke.
Kenneth Adelman.

FORMER MEMBERS OF CONGRESS

Senator Dale Bumpers.
Senator Alan Cranston.
Senator John C. Danforth.
Senator J. James Exon.
Senator John Glenn.
Senator Mark O. Hatfield.
Senator Nancy Landon Kassebaum.
Senator George Mitchell.
Representative Bill Green.
Representative Thomas J. Downey.
Representative Michael J. Kopetski.
Representative Anthony C. Bellenson.
Representative Lee. H. Hamilton.

DIRECTORS OF THE THREE NATIONAL LABORATORIES

Dr. John Browne, Director of Los Alamos National Laboratory.

Dr. Paul Robinson, Director of Sandia National Laboratory.

Dr. Bruce Tarter, Director of Lawrence Livermore National Laboratory.

OTHER PROMINENT NATIONAL SECURITY OFFICIALS

Ambassador Paul H. Nitze, arms control negotiator, Reagan Administration.

Admiral Stansfield Turner, former Director of the Central Intelligence Agency.

Charles Curtis, former Deputy Secretary of Energy.

Anthony Lake, former National Security Advisor.

PROMINENT MILITARY OFFICERS—SERVICE CHIEFS

General Eric L. Shinseki, Army Chief of Staff.

General Dennis J. Reimer, former Army Chief of Staff.

General Gordon Russell Sullivan, former Army Chief of Staff.

General Bernard W. Rogers, former Chief of Staff, U.S. Army; former NATO Supreme Allied Commander.

General Michael E. Ryan, Air Force Chief of Staff.

General Merrill A. McPeak, former Air Force Chief of Staff.

General Ronald R. Fogleman, former Air Force Chief of Staff.

General James L. Jones, Marine Corps Commandant.

General Charles C. Krulak, former Marine Corps Commandant.

General Carl E. Mundy, former Marine Corps Commandant.

Admiral Jay L. Johnson, Chief of Naval Operations.

Admiral Frank B. Kelso II, former Chief of Naval Operations.

Admiral Elmo R. Zumwalt, Jr., former Chief of Naval Operations.

General Eugene Habiger, former Commander-in-Chief of Strategic Command.

General John R. Galvin, Supreme Allied Commander, Europe.

Admiral Noel Gayler, former Commander, Pacific.

General Charles A. Horner, Commander, Coalition Air Forces, Desert Storm, former Commander, U.S. Space Command.

General Andrew O'Meara, former Commander U.S. Army Europe.

General Bernard W. Rogers, former Chief of Staff, U.S. Army; former NATO Supreme Allied Commander.

General William Y. Smith, former Deputy Commander, U.S. Command, Europe.

Lt. General Julius Becton.

Lt. General John H. Cushman, former Commander, I Corps (ROK/US) Group (Korea).

Lt. General Robert E. Pursley.

Vice Admiral William L. Read, former Commander, U.S. Navy Surface Force, Atlantic Command.

Vice Admiral John J. Shanahan, former Director, Center for Defense Information [19].

Lt. General George M. Seignious II, former Director Arms Control and Disarmament Agency.

Vice Admiral James B. Wilson, former Polaris Submarine Captain.

Maj. General William F. Burns, JCS Representative, INF Negotiations, Special Envoy to Russia for Nuclear Dismantlement.

Rear Admiral Eugene J. Carroll, Jr., Deputy Director, Center for Defense Information.

Rear Admiral Robert G. James.

OTHER SCIENTIFIC EXPERTS

Dr. Hans Bethe, Nobel Laureate; Emeritus Professor of Physics, Cornell University; Head of the Manhattan Project's theoretical division.

Dr. Freeman Dyson, Emeritus Professor of Physics, Institute for Advanced Study, Princeton.

Dr. Richard Garwin, Senior Fellow for Science and Technology, Council on Foreign Relations; consultant to Sandia National Laboratory, former consultant to Los Alamos National Laboratory.

Dr. Wolfgang K.H. Panofsky, Director Emeritus, Stanford Linear Accelerator Center, Stanford University.

Dr. Jeremiah D. Sullivan, Professor of Physics, University of Illinois at Urbana-Champaign.

Dr. Herbert York, Emeritus Professor of Physics, University of California, San Diego; founding director of Lawrence Livermore, National Laboratory; former Director of Defense Research and Engineering, Department of Defense.

Dr. Sidney D. Drell, Stanford Linear Accelerator Center, Stanford University.

NOBEL LAUREATES

Philip W. Anderson.
Hans Bethe.
Nicolaas Bloembergen.
Owen Chamberlain.
Steven Chu.
Leon Cooper.
Hans Dehmelt.
Val F. Fitch.
Jerome Friedman.
Donald A. Glaser.
Sheldon Glashow.
Henry W. Kendall.
Leon M. Lederman.
David E. Lee.
T.D. Lee.
Douglas D. Osheroff.
Arno Penzias.
Martin Perl.
William Phillips.
Norman F. Ramsey.
Robert C. Richardson.
Burton Richter.
Arthur L. Schawlow.
J. Robert Schrieffer.
Mel Schwartz.
Clifford G. Shull.
Joseph H. Taylor, Jr.
Daniel C. Tsui.
Charles Townes.
Steven Weinberg.
Robert W. Wilson.
Kenneth G. Wilson.

FORMER SENIOR GOVERNMENT OFFICIALS AND ADVISORS

Ambassador George Bunn, NPT Negotiations and former General Counsel of ACDA.

Ambassador Jonathan Dean, MBFR negotiations.

Ambassador James E. Goodby, Ambassador to Finland and to U.S.-Russian Nuclear negotiations.

Ambassador Thomas Graham, Jr., Special Representative of the President for Arms Control, Non-Proliferation and Disarmament.

The Honorable Paul Ignatius, Secretary of the Navy.

The Honorable Spurgeon Keeny, Deputy Director of ACDA.

The Honorable Lawrence Korb, Assistant Secretary of Defense.

Ambassador Steven Ledogar, CTBT negotiations.

Ambassador James Leonard, Deputy U.N. Representative.

Jack Mendelsohn, senior arms control negotiator.

Lori Murray, Assistant Director of ACDA.

Ambassador Michael Newlin, Deputy Assistant Secretary of State for Export Controls and Policy.

Ambassador Robert B. Oakley, U.S. Ambassador to Pakistan.

Daniel B. Poneman, Senior Director, National Security Council.

The Honorable Stanley Resor, Secretary of the Army and Undersecretary of Defense for Policy.

The Honorable John Rhinelander, Legal Adviser to SALT I Delegation.

Elizabeth Rindskopf, General Counsel of CIA and National Security Agency.

Ambassador Robert Gallucci, DPRK Agreed Framework negotiations.

The Honorable Lawrence Scheinman, Assistant Director of ACDA.

Ambassador James Sweeney, Special Representative of the President for Non-Proliferation.

Ambassador Frank Wisner, U.S. Ambassador to India.

FORMER GOVERNMENT ADVISERS

Paul Doty.
Richard Garwin.
John Holdren.
Wolfgang Panokfsky.
Frank Press.
John D. Steinbruner.
Frank N. von Hippel.

NATIONAL GROUPS

MEDICAL AND SCIENTIFIC ORGANIZATIONS

American Association for the Advancement of Science.
American Geophysical Union.
American Medical Students Association/Foundation.
American Physical Society.
American Public Health Association.
American Medical Association.

PUBLIC INTEREST GROUPS

20/20 Vision National Project.
Alliance for Nuclear Accountability.
Alliance for Survival.
Americans for Democratic Action.
Arms Control Association.
British American Security Information Council.
Business Executives for National Security.
Campaign for America's Future.
Campaign for U.N. Reform.
Center for Defense Information.
Center for War/Peace Studies (New York, NY).
Council for a Livable World.
Council for a Livable World Education Fund.
Council on Economic Priorities.
Defenders of Wildlife.
Demilitarization for Democracy.
Economists Allied for Arms Reduction (ECAAR).
Environmental Defense Fund.
Environmental Working Group.
Federation of American Scientists.
Fourth Freedom Forum.
Friends of the Earth.
Fund for New Priorities in America.
Fund for Peace.
Global Greens, USA.
Global Resource Action Center for the Environment.
Greenpeace, USA.
The Henry L. Stimson Center.
Institute for Defense and Disarmament Studies (Saugus, MA).
Institute for Science and International Security.
International Association of Educators for World Peace (Huntsville, AL).
International Physicians for the Prevention of Nuclear War.
International Center.
Izaak Walton League of America.
Lawyers Alliance for World Security.
League of Women Voters of the United States.
Manhattan Project II.
Maryknoll Justice and Peace Office.
National Environmental Coalition of Native Americans (NECONA).
National Environmental Trust.
National Commission for Economic Conversion and Disarmament.
Natural Resources Defense Council.
Nuclear Age Peace Foundation.
Nuclear Control Institute.
Nuclear Information & Resource Service.
OMB Watch.
Parliamentarians for Global Action
Peace Action.
Peace Action Education Fund.
Peace Links.
PeacePAC.
Physicians for Social Responsibility.

Plutonium Challenge.
Population Action Institute.
Population Action International.
Psychologists for Social Responsibility.
Public Citizen.
Public Education Center.
Saferworld.
Sierra Club.
Union of Concerned Scientists.
United States Servas, Inc.
Veterans for Peace.
Vietnam Veterans of America Foundation.
Volunteers for Peace, Inc.
War and Peace Foundation.
War Resistors League.
Women Strike for Peace.
Women's Action for New Directions.
Women's Legislators' Lobby of WAND.
Women's International League for Peace and Freedom.
World Federalist Association.
Zero Population Growth.

RELIGIOUS GROUPS

African Methodist Episcopal Church.
American Baptist Churches, USA.
American Baptist Churches, USA, National Ministries.
American Friends Service Committee.
American Jewish Congress.
American Muslim Council.
Association General Secretary for Public Policy, National Council of Churches.
Catholic Conference of Major Superiors of Men's Institutes.
Church Women United.
Coalition for Peace and Justice.
Columbian Fathers' Justice and Peace Office.
Commission for Women, Evangelical Lutheran Church in America.
Covenant of Unitarian Universalist Pagans.
Christian Church (Disciples of Christ) in the United States and Canada.
Christian Methodist Episcopal Church.
Church of the Brethren, General Board.
Division for Church in Society, Evangelical Lutheran Church in America.
Division for Congregational Ministries, Evangelical Lutheran Church in America.
Eastern Archdiocese, Syrian Orthodox Church of Antioch.
The Episcopal Church.
Episcopal Peace Fellowship, National Executive Council.
Evangelicals for Social Action.
Evangelical Lutheran Church in America.
Fellowship of Reconciliation.
Friends Committee on National Legislation.
Friends United Meeting.
General Board Members, Church of the Brethren.
General Board of Church and Society, United Methodist Church.
General Conference, Mennonite Church.
General Conference of the Seventh Day Adventist Church.
Jewish Peace Fellowship.
Lutheran Office for Governmental Affairs, Evangelical Lutheran Church in America.
Mennonite Central Committee.
Mennonite Central Committee, U.S.
Mennonite Church.
Methodists United for Peace with Justice.
Missionaries of Africa.
Mission Investment Fund of the ELCA, Evangelical Lutheran Church in America.
Moravian Church, Northern Province.
National Council of Churches.
National Council of Churches of Christ in the USA.
National Council of Catholic Women.
National Missionary Baptist Convention of America.
NETWORK: A National Catholic Social Justice Lobby.
New Call to Peacemaking.
Office for Church in Society, United Church of Christ.
Orthodox Church in America.
Pax Christi.
Presbyterian Church (U.S.A.).
Presbyterian Peace Fellowship.
Progressive National Baptist Convention, Inc.
Religious Action Center of Reform Judaism.
The Shalom Center.
Sojourners.
Union of American Hebrew Congregations.
United Church of Christ.
United Methodist Church.
United Methodist Council of Bishops.
Unitarian Universalist Association.
Washington Office, Mennonite Central Committee.
Women of the ELCA, Evangelical Lutheran Church in America.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thought it was understood that we would alternate sides as we proceeded this morning.

Mr. REID. I would only say to my friend from Virginia, I am happy to alternate. The only thing is, you will have to speak less than we do. Your speeches will have to be shorter because you have less time. I spoke with the Senator from Arizona. What is the time now?

The PRESIDING OFFICER. The majority has 2 hours 53 minutes; the minority, 3 hours 2 minutes.

Mr. REID. So it has narrowed down to about the same time. Fine, we will alternate back and forth.

Mr. WARNER. The time—

Mr. REID. Is very close to being equal.

Mr. WARNER. As an opponent to the treaty, I would like to proceed, Mr. President.

The PRESIDING OFFICER. Is that all right with the Senator from Wisconsin?

Mr. FEINGOLD. My understanding is, I would be next in line after the Senator from Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia.

Mr. WARNER. I thank the Senator from Wisconsin.

During the period of last week, a number of Senators sought to obtain from the President a letter addressing his views on the timing of a vote on this treaty. Over the weekend, in consultation with the White House staff, I learned that this letter would be delivered. It was delivered to the Senate leadership yesterday afternoon.

I shall now read it and place it in the RECORD:

DEAR MR. LEADER:

Tomorrow, the Senate is scheduled to vote on the Comprehensive Test Ban Treaty. I firmly believe the Treaty is in the national interest. However, I recognize that there are a significant number of Senators who have honest disagreements. I believe that proceeding to a vote under these circumstances would severely harm the national security of the United States, damage our relationship with our allies, and undermine our historic leadership over 40 years, through administrations Republican and Democratic, in reducing the nuclear threat.

Accordingly, I request that you postpone consideration of the Comprehensive Test Ban Treaty on the Senate floor.

Sincerely,

BILL CLINTON.

Throughout this debate, the hallmark has been differing views, differing views by honestly motivated colleagues on both sides of the aisle. I am not suggesting everyone on this side, in other words, is opposed to the treaty, but the practical matter is, there seems to be a division along this aisle.

In addition, as recited by my good friend, the deputy leader of the Democrat side, the Senate has received communications from a wide range of individuals, again, on both sides of this issue. The Armed Services Committee held three consecutive hearings. Secretary Schlesinger came forward with a very clear statement in opposition to the treaty and expressed, on behalf of five other former Secretaries of Defense, the same viewpoint. That occurred immediately following the current Secretary of Defense, Secretary Cohen, appearing before the Armed Services Committee, together with General Shelton, and taking the view in support of the treaty. All through last week intermittently these communications came to the Senate in writing, orally or otherwise—former Secretary of State Kissinger, former National Security Adviser Brent Scowcroft, again, communicating their desire to see that the treaty not be voted upon at this time.

I mention that because of the seriousness of the treaty, one that lasts in perpetuity—theoretically, in perpetuity—asking this Nation to take certain steps with regard to our ability to monitor the effectiveness and the safety of our nuclear arsenal. To me, it is clear such a treaty should only be voted on when those types of conflicting opinions have been, as nearly as possible, resolved. The laboratory Directors, likewise, came before our committee; they are not involved in the political arena. But one after the other in testimony tried to indicate where they are in the test program. We are not there yet. It could be anywhere from 5 and, one even said, 20 years before the milestones now scheduled are put in place for this substitute scientific, largely computerized test program will take the place of the actual tests.

Against that background—and I speak only for myself—I have joined with Senator MOYNIHAN and, hopefully, others in preparing a Dear Colleague letter, which will be circulated this morning, with the Senator from Virginia opposed to the treaty, prepared tonight to vote against it or tomorrow, whenever the case may be, and my distinguished colleague, the senior Senator from New York, who spent much of his lifetime in foreign affairs, a recognized expert, steadfastly in favor of the treaty and prepared to vote in support of it. I find on both sides of the aisle there are Senators of a like mind who believe that in the interest of national security, today is not the time to vote for that treaty.

The letter from the President, it was hoped by some, would refer to his belief as to the scheduling of when this treaty should next be addressed in terms of a vote by the Senate. It is clear; his last paragraph does not address that issue. He simply says: Accordingly, I request that you postpone consideration on the Senate floor.

Given that situation, it seems to me it is incumbent upon, hopefully, a majority of Senators, hopefully 25 or more from each side, to come forward and state that they firmly believe the final consideration of this treaty should be laid at a time beyond the current Congress and that final vote should not take place until the convening of the 107th Congress. The Senate at that time would review the entirety of the record. A new President will be in office, and the combination of a new President and his perspective, the Senate constituted, as it will be in the 107th, and that point in time is the critical moment for this Senate to determine the merits and demerits of this treaty to the extent that, through reservations and other means, changes could be brought about and then, if it is the desire of the majority of the Senate, to move towards a vote.

That, to me, is a reasonable course of action. Next year constitutional elections of the United States take place. We all are very familiar with the dynamics of that critical period in American history, particularly in the months preceding the election. Should this treaty be subjected to the rifts of the dynamics of an election year, given its importance to our national security? Clearly in this Senator's mind, I say no. My distinguished colleague from New York has joined me in the same conclusion. This country has exercised a leadership role in arms control for 40 years. Indeed, this treaty has—not in my judgment in its present form—in the minds of others a potential to be another milestone in our progress towards arms control and the reduction of the threat of nuclear weapons.

In fairness to all sides, would it not be wiser to delay the vote and make certain it is the consensus of a majority of this Chamber, before that decision is finalized today or tomorrow, the majority of this Chamber saying we concur in the observation for a number of reasons, one of which clearly came before the Armed Services Committee, and that is, that the Intelligence Committee, on its own initiative, has initiated a new study of the capabilities of the United States to monitor low-level tests of actual weapons, should some nation, a signatory to this treaty or otherwise, decide to test live weapons.

We are at a crossroads in history which will affect this Nation for decades to come. What possible rush to judgment compels a vote tonight or tomorrow? Would it not be more prudent that such a vote now be by a majority of the Senate in support of the two leaders, Senator LOTT and Senator DASCHLE, both of whom have handled this matter, in my judgment, conscientiously, always foremost in mind the security interests of this country today, tomorrow, and the indefinite future? I salute both leaders.

That is my brief opening. I wish to continue and summarize what our committee did last week. We received over 15 hours of testimony from a wide range of witnesses, from the Secretary of Defense and the Chairman of the Joint Chiefs to current and former National Laboratory Directors and career professionals in the field of nuclear weapons. We also received letters from many public officeholders, former Secretaries of Defense, State, Secretaries of Energy, Chairmen of the Joints Chiefs, Directors of Central Intelligence, and former lab Directors on the merits and the pitfalls of the CTB Treaty. Other public officeholders came forward in favor, but there is a strong division.

I don't think anyone, the President or, indeed, the Senate, could have foreseen the outpouring of conscientious opinion, opinions directed solely in the best interests of this country, not politics, by these former officials. They are in the RECORD for all to see. These are people with decades of experience in national security. Their statements reflect honest disagreements, disagreements primarily with the stance taken by the President and senior members of his administration.

In my view, the body of facts that the Armed Services Committee has accumulated over the past several days clearly puts the arguments of many of the administration officials in serious question. We have learned we do not have the full confidence in the United States' technical capability to verify this treaty to the zero-yield threshold that President Clinton unilaterally imposed, more or less, on this country. And other countries can conduct military-significant live bomb tests at levels below our detection capability. That is the essence of it. We do not have all of the seismic equipment, in the judgment of the Intelligence Committee, in place and ready to meet the deadlines of this treaty so we could detect another nation that desired to use live tests in violation of their commitments under this treaty.

We have learned that our nuclear weapons will, to some degree, deteriorate over time. That is pure science. The physical properties of the materials deteriorate over a period of time. We cannot guarantee the safety and reliability of our highly sophisticated nuclear weapons in perpetuity—always remember, in perpetuity. Testing is needed.

The Stockpile Stewardship Program is the concept of a substitute for the live testing that we have had these 50 years. That 50-year record of testing gives us the confidence today, and for a number of years forward, in the reliability and safety of our stockpile. But there is some point in time, due to the deterioration of weapons, and other factors, that we will have to shift to a new means of testing. The administration's proposal under this treaty is the Stockpile Stewardship Program. It is a computer simulation substitute for actual testing. The scientists tell us this will not be proven—this substitute—for perhaps 5, 10, maybe up to 20 years. I repeat, milestones are being put in place, but there is no certainty as to when, collectively, those milestones will constitute a system to replace actual testing. The estimates vary from 5, 6, 7 years, perhaps out to 20.

Yet we are being asked to ratify a treaty affirming that we shall never again, in perpetuity, actually test any of our nuclear weapons. We have learned the CTBT will do nothing—not a single thing—to stop proliferation by rogue nations and terrorists. Iraq and Iran will sit back and laugh. Right now, Iraq is defying the world over similar arms control agreements, similar U.N. sanctions, and the United Nations is entangled in what appears to be a hopeless debate over how to resolve the need to continue to monitor Saddam Hussein's program of weapons of mass destruction. A clear example of how the most well-intentioned international agreements have failed is right there, today.

Rogue nations can easily develop and field, with a high degree of confidence, a single stage device—a "dirty old bomb," as they refer to it—without any testing. Ironically, the first weapon dropped by the United States was never tested with an actual test.

Many of my colleagues, again, honestly disagree on the conclusions, pointing out that reasonable people can examine the same body of facts and reach different conclusions. That is my grave concern. We should not be ratifying a treaty as long as reasonable doubt to that degree exists as to whether the treaty is in the national security interest of the United States. The stakes are far too high.

The Armed Services Committee began its hearings with a closed hearing, where we heard from career professionals and experts with decades of experience, from the Department of Energy, the National Laboratories, and the Intelligence Committee. Their testimony focused on recent facts—facts that were not fully known at the time this treaty was signed by the President some 2 years ago. Their assessment is they would have to go back and reexamine a lot of facts to determine the viability, or lack of viability, of the capability of this Nation to monitor low-level tests.

Much of that information we learned was developed over the last 18 months. Therefore, those facts were not available to the Congress or the President when the CTBT was signed in 1996. The information presented to the Armed Services Committee on Tuesday is highly classified and, of course, cannot be discussed in open session. But one fact is very relevant. Because of disturbing new information, the Intelligence Committee—on its own initiative—decided to revisit and update the 1997 NIE, national intelligence estimate, on the U.S. ability to monitor the CTBT. I have been informed, as have other members of the committee, that it will take until next year to complete that work. That is a clear, credible basis for not moving forward today or tomorrow on a vote.

I advised Secretary Cohen and General Shelton on the following day, Wednesday morning, when they testified before the Armed Services Committee that they had the opportunity to make their case for this treaty before the elected representatives of the American people, and that they did. I believe the burden is on the administration to prove—maybe beyond a reasonable doubt—that ratification of this treaty is in the national security interest of our Nation. They simply did not make that case. And I say that with all due respect to my good friend and former colleague, Secretary Cohen.

We are being asked to give up—permanently—our tried and true, proven ability to maintain the safety and reliability of our nuclear stockpile and to rely instead on a computer simulation and modeling capability that will not be fully developed or proven for many years—if at all. We are being asked today to put at some degree of risk our nuclear deterrent capability, in exchange for the promise that we may have a way to adequately certify that capability at some uncertain future date. The question before the Senate is, Can we afford to take such a gamble? This Senator believes the answer is no.

For more than 50 years, one of the top national security priorities of every American President has been to maintain a credible nuclear arsenal and deterrent to aggression against ourselves and our allies, and it has worked. The credibility of the United States in the world is a direct reflection of our military capability. If that credibility is ever called into question by our inability to ensure the safety and reliability of nuclear weapons—a vital segment of our military capability—then we have done our Nation a great disservice. The stakes for this debate are very high.

For 50 years, our nuclear umbrella—the deterrent provided by the U.S. nuclear arsenal—has kept peace in Europe. Unquestionably, the threats in Europe following World War II were deterred by this capability. Yet it is that very deterrent that could be jeopardized by this treaty. Dr. Schlesinger stated it clearly when he asked, "Do we want a world that lacks confidence in the U.S. deterrent or not?"

I hope all Members will take the time to examine carefully the body of facts that the Armed Services Committee and, indeed, the Foreign Relations Committee have accumulated and recorded for Senators.

Simply put, the CTBT, at this time, jeopardizes our ability to maintain the safety and reliability of our nuclear arsenal—perhaps not right away but almost certainly over the long run. According to Dr. James Robinson, Director of Sandia National Laboratory: "To forego testing is to live with uncertainty."

Much has been said about what other Presidents have done. They have all examined the possibility of entering into some type of international treaty. But no previous President has ever opposed a test ban of zero yield and unlimited duration. President Eisenhower insisted that nuclear tests of less than 4.75 kilotons be permitted and, in fact, continued low-yield testing through his administration's test ban moratorium. President Kennedy terminated a 3-year moratorium on testing when the adverse consequences of the moratorium were realized, and he declared that "never again" would the United States make such a mistake. President Kennedy then embarked on the most aggressive series of nuclear tests in the history of the U.S. nuclear weapons program. President Carter also opposed a zero-yield test ban while in office.

To have an effective nuclear deterrent, we must have confidence in the safety and reliability of our nuclear weapons. These weapons are the most sophisticated designs in the world. It is a certainty that, over time, these arsenals, high explosives, and electronic components contained in these weapons will experience some level of deterioration. That is simple science. The nature of our nuclear weapons program over the past five decades provides little practical experience in predicting the effects of these changes.

What do we say to our sailors, soldiers, airmen, and marines, who live and work in close proximity with these nuclear weapons? What do we say to the people of our Nation, and indeed nations around the world, who live in the vicinity of our nuclear weapons? These are weapons that are stored in various locations around the world, that rest in missile tubes literally several feet away from the bunks of our submarine crews, that are regularly moved across roads and airfields around the world. How can we take any action which in any way jeopardizes or calls into question the safety of these weapons? As Dr. Bob Barker, former Assistant to the Secretary of Defense for Atomic Energy, told the Armed Services Committee on Thursday, "to leave in place weapons that are not as safe as they could be is unconscionable."

History tells us that weapons believed to be reliable and thoroughly tested, nevertheless, develop problems which, in the past were only discovered, and could only be fixed, through nuclear testing. As President Bush noted in a report to Congress in January 1993: "Of all U.S. nuclear weapons designs fielded since 1958, approximately one-third have required nuclear testing to resolve problems arising after deployment." In three-quarters of these cases, the problems were identified and assessed only as a result of nuclear testing, and could be fixed only through testing. Let me emphasize, most of these problems were related to safety.

The Clinton administration has proposed remanufacturing aging weapons rather than designing and building new ones. The problem is that we simply don't know if this new approach is possible. Almost every weapons designer we have heard from over the past 3 years has raised concerns with any attempts to change components, such as plutonium and high explosives, in the heart of the weapon. Many of the materials and methods used in producing the original weapons are no longer available. To assure that the remanufactured weapons work as intended most agree the new weapons would have to be validated through underground nuclear testing.

Every system will become obsolete at some point in time—if for no other reason, for deterioration due to aging. CTBT will not allow us to replace aging or unsafe systems in the future.

Supporters of the treaty, argue that if a problem with the stockpile is identified, the President can always exercise "Safeguard F" and withdraw from the treaty and test. The military leaders and the three lab directors have all conditioned their support for CTBT on the guarantee that the President would exercise "Safeguard F" and withdraw from the treaty if a problem develops with our nuclear stockpile. But how realistic is that? It is highly unlikely that this safeguard would ever be used by the United States to withdraw from the treaty even if serious problems should occur in the stockpile. Has the United States ever withdrawn from a treaty? We are struggling today under the weight of the ABM Treaty which was signed in 1972 with a nation that no longer exists: withdrawing from the treaty is simply without precedent.

And what would the international ramifications be of such a withdrawal from the treaty? Wouldn't it be worse to withdraw years down the road, after other nations have presumably followed our lead, than to simply not ratify in the first place?

In addition, the notion of being able to test quickly in an emergency is unrealistic. Even if the United States should decide to withdraw from CTBT, the lab directors report that it would take at least 2 to 3 years of preparation before a test could be conducted, and our testing infrastructure continues to deteriorate. By withdrawing, the United States would be announcing to the world that we have such a serious problem with our nuclear deterrent that we have lost confidence in the reliability of our nuclear stockpile, and that we must initiate a program to repair or replace the weapon or weapons and conduct tests to confirm the results. Such an action would be highly destabilizing.

Proponents of the CTBT have asserted that the treaty will have no adverse impacts on U.S. national security, that we will be able to confidently maintain and modernize U.S. strategic and theater nuclear forces to the extent necessary without ever conducting another nuclear explosive test. In fact, the CTBT will force the United States to forgo any number of important initiatives that may be required to ensure the long-term viability and safety of our strategic and theater nuclear deterrent forces.

The CTBT will lock the United States into retention of a nuclear arsenal that was designed at the height of the cold war. Many of the nuclear systems that we developed to deter the Soviet Union are simply not suited to the subtle, and perhaps more difficult, task of deterring rogue states from using nuclear, chemical, or biological weapons. Such deterrence will require the United States to possess nuclear weapons that pose a credible threat to targets such as rogue state biological weapon production facilities that may be located deep underground in hardened shelters. At the same time, for such weapons to be credible deterrents, they must not threaten to create significant collateral damage or radioactive fallout. Such weapons do not exist today in the U.S. arsenal.

I am also concerned that this treaty's zero yield test ban is not verifiable. It is difficult, if not impossible, to detect tests below a certain level. And testing at yields below detection may allow countries, such as Russia, to develop new classes of low-yield, tactical nuclear weapons. This possibility makes recent statements by senior Russian officials claiming that they are now developing tactical nuclear weapons especially troubling. For example, this August, the Russian Deputy Minister for Atomic Energy, Lev Ryabev, stated that a key Russian objective was the development of a tactical nuclear system. This April, President Yeltsin reportedly approved a blueprint for the development and use of non-strategic nuclear weapons. Would we be able to detect tests of such tactical weapons? The development of any nuclear weapon, regardless of its yield, is militarily significant to this Senator.

Further, countries that want to evade detection can do so by masking or muffling tests in mines, underground cavities, salt domes, or other geological formations. I am convinced that the United States and the international community cannot now, and will not in the foreseeable future, be able to detect such cheating or testing below a certain level.

Proponents of the CTBT argue that the International Monitoring System established under the treaty will put in place capabilities exceeding those that the United States and its allies can field today. These monitoring sites will be owned and operated by the host countries, which I believe calls into serious question the reliability of the information collected and, thus, its value to our ability to detect a nuclear test.

Proponents of CTBT also argue that although the treaty may not be verifiable through detection methods, the on-site inspections make the CTBT verifiable. I disagree. The treaty requires an affirmative vote of 30 of 51 members of the Executive Council to initiate an inspection. The likelihood of obtaining that number, which could include such countries as Iran and North Korea, is remote, if not impossible. Further, the United States would have to present a case to the Executive Council which would most likely compromise sensitive U.S. intelligence sources and methods. The timelines imposed by the treaty for on-site inspections permit considerable coverup and deterioration of evidence. In addition, there is no guarantee that Americans will be on the inspection teams. In fact, any state is explicitly permitted to block inspectors from countries it does not like. The treaty gives the inspected state the final say in any dispute with inspectors.

Finally, ambiguities in the CTBT may allow other nations to legally circumvent the clear intent of the treaty. The treaty does not define what constitutes a nuclear test. However, President Clinton has said that the United States will interpret nuclear test to mean any nuclear explosion, thus all tests are banned unless they are zero-yield. However, if other signatory nations interpret a less restrictive definition, they could conduct very low-yield tests and argue that they are not violating the language of the treaty.

I am concerned that while the United States would adhere to the CTBT, thereby losing confidence over time in our nuclear deterrent, other countries would capitalize upon U.S. deficiencies and vulnerabilities created by the CTBT and violate the treaty, by escaping detection and building new weapons.

I believe the risk the CTBT poses to U.S. national security by far outweighs any of the benefits that have been identified.

Mr. President, I shall reengage in this debate as the day progresses. I will pursue with Senator MOYNIHAN the final presentation of our Dear Colleague letter in the hopes that a number of Senators will see the wisdom in giving the leadership of the Senate the support they deserve should a decision be made not to go forward today. That decision should embrace very clearly that it would be in the Senate's interest, in the Nation's interest, and our security interest to revisit this treaty in terms of a final vote in the balance of this Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. I thank the Chair.

Mr. President, I rise today in strong support of Senate advice and consent to the ratification of the Comprehensive Nuclear Test Ban Treaty.

As a member of the Senate Committee on Foreign Relations, I have advocated for consideration of this treaty since President Clinton submitted it to this body for advice and consent on September 22, 1997. Now, more than 2 years later, this important treaty is being considered on the Senate floor. While I am pleased that we are having this debate, I am concerned about the manner in which we reached this point. I regret that the Foreign Relations Committee, of which I am a member, had only one day of hearings on this important arms control agreement and that the committee did not consider and mark up a resolution of ratification.

I am concerned that this debate is too limited in duration and scope. This is obviously serious business. And I hope that the manner in which this treaty was brought to the floor does not doom it to failure. This treaty should be fully debated on its merits. And this body should have the opportunity to offer any statements, declarations, understandings, or conditions that we deem necessary. But this treaty should not be defeated simply because the Senate has backed itself into a corner in which the choice is to vote up or down now without the option to postpone this important vote in favor of further consideration. Some of our colleagues have expressed their desire for further consideration. But they have said that if they are forced to vote today, they will oppose this treaty—not necessarily because they do not support the treaty, but rather because they feel they cannot yet fully support it without further study.

I think putting Senators in this position is an irresponsible course of action.

As my colleagues know, I support this treaty. And I will vote in favor of it today should it come to that. But I hope we will consider the consequences of defeating this treaty, not on its merits, but because of the political box in which we find ourselves. This treaty must not fall victim to politics. The consequences of its defeat will be felt from Moscow to New Delhi to Beijing to Baghdad. And this body, the greatest deliberative body in the world, would be sending the message that we did not want to spend more time on one of the most important issues facing the world today.

We do live in dangerous times, Mr. President. Weapons capable of mass destruction have replaced more conventional weapons in our world. New threats continue to emerge. But we have the power to stem the tide of nuclear proliferation. Perhaps we cannot stop it completely. But we can make sure that the nuclear arms race is stopped in its tracks and we can make it extremely difficult for those with nuclear aspirations to develop a weapon in which they can have high confidence.

And we should do everything in our power to make the world safer for future generations. And if that includes delaying the vote on this treaty, then we should swallow our political pride and do that.

As a number of my colleagues have already said, both in committee and on this floor, the idea of a nuclear test ban dates back to the Eisenhower administration. For more than 40 years, Presidents of both parties have advocated for such a treaty.

In a speech delivered on June 10, 1963, President John F. Kennedy discussed his support for the negotiation of a comprehensive test ban treaty. He said—and I quote:

> The conclusion of such a treaty, so near and yet so far, would check the spiraling arms race in one of its most dangerous areas. It would place the nuclear powers in a position to deal more effectively with one of the greatest hazards which man faces in 1963, the further spread of nuclear arms. It would increase our security—it would decrease the prospects of war. Surely this goal is sufficiently important to require our steady pursuit, yielding neither to the temptation to give up the whole effort nor the temptation to give up our insistence on vital and responsible safeguards.

Mr. President, those words are as relevant today as they were when President Kennedy spoke them 36 years ago. Nuclear weapons are still one of the greatest hazards on the planet. And they have been joined by chemical, biological, and other weapons of mass destruction. President Kennedy spoke from the perspective of the cold war and the still escalating arms race with the Soviet Union. Now, in 1999, the cold war is over and the Soviet Union is no more. But we are on the brink of another nuclear arms race, this time in south Asia. India and Pakistan are watching, Mr. President. And we have the opportunity to end their nuclear aspirations once and for all. Or to give them the cover they need to continue testing.

We have the opportunity today at long last to become a party to a comprehensive nuclear test ban treaty that will both stop the nuclear arms race in its tracks and maintain our option to withdraw from its provisions if our national security is threatened.

I hope that will be our paramount consideration in the coming hours as we decide whether to put this treaty up for a vote today or tomorrow.

Mr. President, as many of my colleagues have noted throughout this debate, there are many reasons why the United States should become a party to this important treaty. I will address three of them here.

First, this treaty will allow the United States to maintain our strong nuclear deterrent. This treaty does not require the parties to dismantle their existing nuclear stockpiles. It does not prevent them from maintaining those stockpiles through scientific means. Rather, this treaty prohibits further nuclear testing. The United States has not conducted any nuclear tests for 7 years, and the administration has testified that we have no intention of performing any further tests. The Departments of Defense and Energy already have a substantial database of information on the more than 1,000 nuclear tests that we have already performed. And this information has been the basis for the development of the Stockpile Stewardship Program, which the high-ranking administration officials have testified is an effective mechanism for maintaining the safety and reliability of our nuclear arsenal.

Second, this treaty will help to create a worldwide nuclear status quo. Parties to the CTBT will be unable to conduct nuclear explosive tests to improve their existing weapons or develop stronger ones. This means that the nuclear arms race will be literally frozen where it is. This is beneficial to the United States for several reasons. It will allow us to maintain our nuclear superiority. It will protect us from the threat of stronger weapons in the future. And, in fact, it ensures that we will have the dubious distinction of having won the nuclear arms race.

The third point in favor of this treaty I will make is this: the CTBT is effectively verifiable. Some have argued that this treaty is not verifiable. It seems that argument echoes in these halls every time we debate an arms control treaty. But, again, that argument rings hollow. Verification is a tricky thing. All treaties, including arms control treaties, are largely based on good faith among the parties to them. Good faith in the sense that the parties who have ratified the treaty have promised to comply with the treaty's provisions. Collectively, the parties have agreed to a set of provisions, in the case of the CTBT to not perform nuclear tests. Alone, a country can decide to no longer perform nuclear tests—as the United States has already done—but no other nation knows for sure if that country is living up to its promise.

Under a multilateral treaty such as the CTBT, all parties have agreed to the provisions and are subject to a verification regime that otherwise would not exist. The CTBT says that if one party to the treaty has evidence that a test has occurred, that party can request an onsite inspection. This inspection will occur if 30 of the 51 members of the CTBT's Executive Council agree that the evidence warrants such an inspection. This type of onsite inspection cannot occur outside the CTBT regime, Mr. President. And this inspection will allow the parties to the treaty to obtain information that cannot be obtained outside the treaty regime.

No one here will claim that any treaty is 100 percent verifiable or that some countries may try to cheat. But the Pentagon has said that this treaty is effectively verifiable. And that is the key. The International Monitoring System created by this treaty includes 230 data gathering stations around the world in addition to those already operating in the United States. Last week, Secretary of Defense William Cohen told the Senate Armed Services Committee that "the information collected by these sensor stations would not normally be available to the U.S. intelligence community." In addition to this enhanced capability, the United States is also permitted, under the provisions of the treaty and in accordance with international law, to use our own national technical means to detect nuclear tests.

Mr. President, some people say that, because the United States has already made the decision not to do any further nuclear testing—and indeed that we have not tested in seven years—that this treaty is unnecessary. They claim that the CTBT merely reinforces what we have already done and that there is no real benefit to our ratification. In fact, as many of my colleagues have already addressed during this debate, and as I have already noted, there are many benefits to this treaty. We retain our leadership in the arms control arena. We maintain our nuclear superiority. And, importantly, we gain the ability to request and participate in onsite inspections of suspected nuclear testing abroad. And, if the President is unable to certify that our nuclear arsenal is sound, we have the option to withdraw from the treaty.

Mr. President, in urging my colleagues to support this important treaty, I will again quote President Kennedy:

> The United States, as the world knows, will never start a war. We do not want a war. We do not now expect a war. This generation of Americans has already had enough—more than enough—of war and hate and oppression. We shall be prepared if others wish it. We shall be alert to try to stop it. But we shall also do our part to build a world of peace where the weak are safe and the strong are just. We are not helpless before that task or hopeless of its success. Confident and unafraid, we labor on—not toward a strategy of nuclear annihilation but toward a strategy of peace.

Thank you, Mr. President.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield to the Senator from Arizona such time as he may consume.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Thank you, Mr. President.

Mr. President, a number of us have concluded that we cannot support ratification of the CTBT, that it will be defeated. But some have urged that we put the vote off out of concern that rejection would send an undesirable message to the world.

I believe, however, that we should vote precisely because the world would get a desirable message that the Senate took a stand that treaties such as this must meet at least minimum standards for sensible arms control. The CTBT fails that test. It is a sloppy, altogether substandard piece of work, and it deserves rejection.

Our colleague, DICK LUGAR, opposes the CTBT ratification, as he has explained, because he does not believe the treaty is of the same caliber as arms control agreements that have come before the Senate in recent decades. He cites two of the CTBT's many deficiencies: "an ineffective verification regime and a practically nonexistent enforcement process."

Contrary to what treaty supporters have argued, the CTBT's rejection would strengthen the hands of U.S. diplomats on such matters in future negotiations. When they insist on more effective provisions, citing the need to satisfy a rigorous U.S. Senate, their warnings would become credible and influential. Such warnings would help free the United States from having to go along with wrong-headed treaty terms dictated by countries that lack U.S. responsibilities around the world.

I note that as a good example of our negotiators changing their position from that originally supported by the administration to go directly to the heart of key objections to this particular treaty. As you know, no President had ever sought a zero-yield test ban treaty in perpetuity. In this case, the Joint Chiefs of Staff argued that we should not have such a treaty.

The original position of the administration in the negotiations was to grant the United States an option without having to invoke the supreme national interest clause to retire from the treaty after 10 years and not to insist upon a zero-yield but, rather, to permit low-yield, what are called hydronuclear tests. Over time, our negotiators' position was undercut, and in the end, according to the very people who negotiated the treaty, in order to reach an agreement with other countries, the United States conceded on those and other important points. Those are two of the critical deficiencies in this treaty.

By rejecting the treaty now, the Senate would strengthen the hands of our future diplomats who negotiate these arms control agreements to enable them to make the point to their counterparts that the United States is serious about treaties at least achieving minimal standards; we consider these to be the kinds of minimal standards that are necessary to bind the American people; and those negotiators would know that Senate ratification would not occur unless the terms were as proposed by the United States.

As I said, no other President ever supported a zero-yield treaty, let alone one that would bind the United States forever, and neither should the Senate.

If we proceed today to reject the CTBT, future U.S. negotiators will be more inclined to seek the Senate's advice before the deal is finalized and the administration demands our consent. This will serve the U.S. national interests in various ways.

First, the Senate was never intended to be a rubber stamp, approving any ill-advised treaty negotiated by an administration. Our constitutional duty in treaty-making is to perform the equivalent of quality control. Under the Constitution, the Senate's role is of equal stature with the President's. We in the Senate are entitled—indeed, we are obliged—to second guess the President's national interest calculations regarding treaties.

There would inevitably be complaints from abroad, including from friends, if we upset the CTBT apple cart. But that unpleasantness would be minor and transitory, especially in light of the permanent harm the CTBT would do to our national security. The embarrassment of the President for buying into such a flawed treaty in the first place is not desirable, but the Senate cannot avert it at any price.

Consider again Senator LUGAR's words:

> [The CTBT] is problematic because it would exacerbate risks and uncertainties related to the safety of our nuclear stockpile.

Those are the stakes, and they are serious. That crucial observation should put into perspective the issue of likely complaints from foreign foes and friends.

The Senate must fulfill its constitutional duty to ensure that treaties meet at least minimum standards. We do the Presidency no favors by shirking, and we do the Senate and the Nation harm if we accede to the President's diplomatic recklessness simply to spare him the chore of mollifying the other states that forged the flawed treaty.

A query to my colleagues who are interested in delaying this vote to avoid the embarrassment of rejecting a treaty negotiated by the administration: Will the Senate defer to the President on the Kyoto Global Warming Treaty or the ABM multilateralization or demarcation treaties?

Some administration spokesmen have used the offensive argument that Senate rejection of the CTBT would be a message to the world that we are not serious about arms control. To the contrary, rejecting this treaty will help establish that we demand real arms control—not the show, not the empty symbols, not the flimflam treaties that cannot accomplish their purposes. In rejecting the CTBT, we will be asking the world to join in real antiproliferation measures, such as enforcement of the nonproliferation treaty which Russia, China, and North Korea violate every time they spread nuclear weapons technology.

I quote again from Senator LUGAR:

> If a country breaks the international norm embodied in the CTBT, the country has already broken the norm associated with the nonproliferation treaty.

Mr. President, that is because 185-some nations have agreed not to possess these nuclear weapons, except for the nuclear powers. The testing is simply a redundant violation of the possession in the first place, which is already a violation of the NPT. So this treaty won't accomplish its minimal objective.

Second, enforcement of the United States resolutions requiring inspection of Iraq: It would be very helpful if our allies would help in this very meaningful and important activity rather than undercutting the United States at every turn.

Again, Senator LUGAR hit the point squarely:

> The CTBT verification regime seems to be the embodiment of everything the United States is fighting against in the UNSCOM inspection process in Iraq . . . [which is] best not repeated under the CTBT.

Third, perhaps we could get their support in our efforts to free U.S. policy from the dead hand of the ABM Treaty and to deploy missile defenses.

These are real, meaningful actions against the proliferation of weapons of mass destruction rather than empty symbolic gestures.

In asking the Senate to postpone the vote on this treaty until he has the votes, the President is asking, first, to spare him personal embarrassment; and, second, to give him a chance to bind the United States to a treaty that most do not think should ever go into force. The CTBT will not improve with age.

Most Senators would have been content never to have voted on the treaty. But the President has now denied the Senate that option. He will not agree to forbear demanding consideration of the treaty next year when he hopes to have the votes to pass it. Republicans have not politicized this debate, but it is clear that unless we defeat this treaty now, it will be a political issue next year when allegedly changed circumstances—created, for example, by a new test by India or Pakistan—will give the President the pretext to revive the debate.

It has become clear that the assurances we may now get from the President and our Democratic colleagues will not be the ironclad commitments we recently agreed were necessary to induce the Senate to defer this vote. Therefore, to avoid the President politicizing the issue next year, we should vote now.

Sometimes it is necessary to say or do the right thing and just let the chips fall where they may. Ronald Reagan knew he would ruffle lots of foreign feathers—including some of our respected allies—when he called the Soviet Union an evil empire and when he stood his ground against Gorbachev in Reykjavik in favor of strategic defense. These messages he sent were criticized by many as disruptive. They were sound. They served our national interests and the interests of decent people around the world, and history has judged them favorably.

The Senate now has a chance to demonstrate strength and the good sense worthy of Ronald Reagan. If we do it, we will be flouting much conventional thinking, but we will, in fact, enhance our Nation's diplomatic strength, protecting our national security and vindicating the wisdom of America's founding fathers who assigned to the Senate the duty to protect the country from ill-conceived international obligations.

Let the Senate vote to reject the CTBT.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Nebraska.

Mr. KERREY. Mr. President, in the waning days of his administration, President Eisenhower proposed a test ban treaty to end all nuclear tests in the atmosphere, in the oceans, and under the ground. Nearly four decades later, the Senate stands on the verge of a vote on ratification of the Comprehensive Test Ban Treaty. I will vote in favor of ratification. I regret the move to postpone a vote because I am of the firm conviction this treaty will help end the proliferation of nuclear weapons and increase the safety of the American people.

President Eisenhower proposed the test ban having recognized the increasing danger posed by nuclear weapons. At that time, the threat was very real. The American people had a vivid understanding of the devastating consequences of nuclear weapons.

Those of us in our fifties remember the threat and the fear that we had as children—the duck and cover drills, the constant reminders of the devastation that a single nuclear weapon could produce to our cities and to our communities. In many ways, the problem we have today comes from our success because the fear we once had has been displaced by a false sense of complacency, a sense of security that, in my view, is not justified, given the facts.

I would like to illustrate this danger by a realistic scenario, in my view, with a single Russian nuclear weapon. It is possible for a small band of discontented or terroristic members of either the Russian society or some other nation to raid a silo of Russian missiles in the Russian wilderness. Soldiers who are poorly trained, sparsely equipped, and irate at not having been paid in a year are easily overtaken or are willing to cooperate.

Let's pick one city to illustrate the damage. I, again, call to my colleagues' attention that this kind of game playing, this kind of example was quite common as recently as 10 years ago. But today, when you ask what kind of damage could occur as a result of a single nuclear blast, you are apt to have people scratching their heads, wondering what could happen. So let me take Chicago as an example.

First of all, unlike many of the other threats in the world, if a rocket left Russia, it would arrive in Chicago within an hour, probably taking a trajectory over the top of the world across the Arctic pole. It would detonate in Chicago within an hour, and on a bad day it would hit a target within a few hundred yards off Lake Michigan.

We spent a great deal of time assessing the danger of the nation of China. Their missiles are not connected to their warheads. Their warheads are disconnected; they are not together. It would take them several days and they are not targeted with the accuracy and would not arrive with the same swiftness as an unauthorized or accidental launch coming from Russia.

The first effect of the blast would be the nuclear flash. The air would be heated to 10 million degrees Celsius. The blast would move out at a few hundred kilometers a second and its heat would be sufficient to set fire to anything combustible at a distance of 14 kilometers. People within 80 kilometers would be blinded. The blast effect would follow. It would travel out from ground zero. Within 3 kilometers, those who had not already been killed would die from this percussive force.

The details of this kind of a blast needs to be understood by the American people as this debate goes forward, because the good news of the end of the cold war has been replaced with the bad news that we are increasingly at risk of individuals or nonnation state people who choose to do damage to the United States of America and do not care if they die in the execution of their mission. They are willing to attack the United States of America and they are willing to take American lives without regard to the fact that they may die in the execution of their mission.

A single Russian nuclear weapon launched accidentally, or a single nuclear weapon assembled by some rogue nation and delivered by whatever the means to the United States of America, would do more damage than any other threat we currently have on the horizon. A single Russian submarine that was taken over by a similar sort of dissident faction could launch 64 one-hundred-kiloton weapons at the United States. I do not come here to alarm anybody about this. I come simply to remind people that nuclear weapons are still the only threat that could kill every single American. It would not take thousands to bring the United States of America to its knees. It would not take the kind of total attack we once feared from the Soviet Union to bring America from being the most powerful economic and military force on the Earth to being somewhat short of No. 1, not only putting us at increasing risk but putting the rest of the world at risk as well.

CTBT is by no means the only thing we must do in order to reduce the risk of proliferation. I would like to go through a few ideas prior to talking about both our capacity to verify and the confidence I have that we can maintain our stockpile without the need to test.

First, we have to maintain our intelligence capabilities: our ability to collect intelligence, to process, to disseminate, to deliver that intelligence to warfighters is far and away the best in the world. Talk to our allies in Kosovo, in Bosnia, in Desert Storm; talk to any of those whose lives were at risk and were allied with the United States of America in a military effort and they will tell you our intelligence collection and dissemination capability gave us the capacity to do the impossible.

Our intelligence agencies, from time to time, make very highly publicized mistakes. Unfortunately, the publicity given to those mistakes gives some a lack of confidence in our capability of doing our mission. That lack of confidence is misplaced. We are an open society. As a consequence, we tend—correctly so—to examine the things we do when we make mistakes. Unfortunately, at times it produces a situation where we are afraid of doing things because we are worried we are going to make a highly publicized mistake and therefore that mistake is going to ruin our career or make it difficult for us to advance. As a consequence, we sometimes are a little too cautious.

Americans should not suffer the illusion we currently have the intelligence capacity to know everything that is going on in the world; we simply do not. Indeed, we should not. We are not, as well, allocating enough resources, in my view, to make certain policymakers of the future are informed so conflicts that might occur can be avoided and so nuclear threats can be confronted before they emerge to be challenges.

The second tool that must be maintained to confront the emerging nuclear threat is not only a strong military but an intent to use that military to meet any individual or nation state that threatens the United States of America. Our military is the envy of the world. While we must avoid the temptation of using our military forces in situations not vital to U.S. interests, we must also continue to maintain the will to use military force in instances in which our national security is at risk.

The third tool is national missile defense. I support the creation of a limited national missile defense designed to protect the United States of America from rogue state ballistic missile launches and accidental launches. While the success of the recent test of a prototype missile defense system demonstrates that limited national missile defense is possible, we must also realize it is not a panacea for the dangers we will confront.

The fourth tool in our effort to secure the post-cold-war peace is further reductions in the American and Russian nuclear arsenals. I have argued on the Senate floor previously the President should immediately take bold action to restart the arms control process. If we do not drastically reduce U.S. and Russian nuclear arsenals, the danger of their accidental use or proliferation will increase exponentially. I recognize that deep reductions—while decreasing the chance of unauthorized or accidental launch—could actually increase the danger of material proliferation. Therefore, any such parallel reductions in our nuclear forces must include arrangements and a U.S. commitment to provide funding to secure and manage the resultant nuclear material. This is the fifth tool. We are fortunate we will not begin from scratch on this problem. We can build on one of the greatest acts of the post-cold-war statesmanship, the Nunn-Lugar Cooperative Threat Reduction Program.

The final piece of the nuclear safety puzzle is the Comprehensive Test Ban Treaty. I support the CTBT because I believe it will enhance U.S. national security, reduce nuclear dangers, and keep the American people safe. Let me explain how.

First, a fully implemented CTBT will all but halt the ability of threshold states from establishing an effective and reliable strategic nuclear force. The inability of nations such as Iran and North Korea to conduct nuclear tests will make it much less likely for them to become nuclear powers. Along the same line, the inability of existing nuclear states to conduct further nuclear tests will impede, if not stop, their efforts to make technological advances in yields and miniaturization, advances already achieved by the United States.

Bluntly speaking, we have the most effective and deadly nuclear force in the world. Therefore, to maintain our existing nuclear edge, it is in our interest to ratify the CTBT and to halt the nuclear development advancement of other nations.

In addition, we all have experienced coming to this Chamber to vote on a sanction imposed upon an individual nation as a consequence of us judging correctly that that nation poses a threat and, in many cases, a potential nuclear threat to the United States of America.

We struggle with that vote because we know a unilateral sanction by the United States of America will oftentimes be used by our allies as a means for them to capture the market share of some product we were selling to that nation. With this treaty, it is far more likely the Security Council will support multilateral sanctions that will enable us to get the desired effect without us having to suffer adverse consequences as a consequence of unilateral sanctions.

In the post-cold-war era, nuclear weapons have become the Rolex wristwatch of international security, a costly purchase whose real purpose is not the service it provides but the prestige it confers. Ratification and implementation of the CTBT is in our national security interest precisely because it will help slow the expansion of the nuclear club and make it more difficult for nations to acquire these deadly weapons.

Opponents of the CTBT focus their criticisms on two main points: verifiability of the treaty and the safety of our nuclear stockpile. Let me address each of these issues separately.

First, we can effectively monitor and verify CTBT. I purposely say "effectively monitor and verify" because absolute verification is neither attainable nor a necessary standard. But it is the standard that some have attempted to establish as a benchmark for ratification. No treaty is absolutely verifiable.

My support for this treaty comes from my firm conviction that by using existing assets, the United States can effectively monitor and verify this treaty. I base my convictions on the testimony of Gen. John Gordon, Deputy Director of Central Intelligence, and on the briefings on this topic received by the Intelligence Committee over the years and, most important, the performance of those men and women who work in a variety of agencies whose task it is to collect, to process, to evaluate, to analyze, and to disseminate intelligence to national customers, as well as war fighters who are defending the people of the United States of America.

The United States has the capability to detect any test that can threaten our nuclear deterrence. The type of test that could be conducted without our knowledge could only be marginally useful and would not cause a shift in the existing strategic nuclear balance. In addition, the United States has the capability to detect the level of testing that would be required for another country to develop and to weaponize an advanced thermonuclear warhead.

Our intelligence community is the best in the world. This gives us an enormous lead over every other signatory. Public disclosures of intelligence community problems may have shaken confidence in our intelligence capabilities, but let me assure my colleagues that their confidence should not be shaken. U.S. intelligence has the ability to know what is occurring around the world regarding the development of nuclear weapons. It is our intelligence community that largely gives Secretary Cohen and General Shelton their confidence to say the treaty should be ratified because it is in our national interest to do so.

I will briefly describe how we will know what is happening when someone tries to cheat. I will use all caution to make certain I give away nothing that will provide our enemies with indications of what our sources or our methods are, but I urge colleagues who doubt this to get full briefings on what our collection capability is and what we are able to do to determine whether or not somebody is in violation of this treaty.

I will briefly describe, as I said, and because the existence of this highly secretive organization, the National Reconnaissance Office, has finally been declassified—we are able now to admit that from space, the United States can see you and can gather signals intelligence. I urge colleagues to get a full briefing on what the NRO can do in a classified fashion. I believe my colleagues fully understand the significance of what I just said.

Every part of the globe is accessible from space. There you will find satellite reconnaissance either watching or collecting electrical signals from those who would do damage to the United States of America. That is a tremendous capability that no one else can equal. This global accessibility from space is just one feature of a very complicated and complex system of collecting and analyzing information.

The National Security Agency is a second feature. They exploit foreign communications. That is the official unclassified description of its mission: NSA exploits foreign communications. Recently, Hollywood has enjoyed making a couple of movies showing how NSA is a threat to our Nation. Nothing could be further from the truth. It is a Hollywood make-believe story that is completely inaccurate and false. NSA is not a threat to us. If you are an unfriendly foreign government wanting to cheat on CTBT, NSA is certainly a threat to you.

To quote from their official unclassified agency description: "They are on the cutting edge of information technology." They know what is going on in the explosion of information technology.

There is a third area beyond NSA, and that is called MASINT. It is a pretty strange term for most people. It means measurement and signatures intelligence, the recognition that in addition to being seen and being heard, objects, especially electronic objects, have other signatures. Like your personal signature—if we collect enough information about someone's signature, it is not like anything else, it is unique, and we know exactly what it is, and we are collecting MASINT.

The Central Intelligence Agency gives us a fourth important feature. The CIA employs a network of agents around the world who constantly provide what is called HUMINT, human intelligence. HUMINT is a term of art which simply recognizes people tend to talk, and when they do talk, we try to have an agent listening. If an agent hears something, it is fed into a fifth and important feature of the agency, and that is the CIA Directorate of Intelligence.

The men and women of the CIA DI sift through enormous amounts of data every day and separate fact from fiction, truth from lies. Through their analysis of all intelligence sources, they provide policymakers with crisp statements of what our potential adversaries are doing and not doing. If information is out there to get, we will get it. If it is important, we will analyze it and understand it. Once we understand it, policymakers will make sound decisions if someone decides to cheat on the CTBT.

I am trying to paint a picture of just how sophisticated our intelligence community is. It is a community that on occasion has been fooled, but it has not been fooled often, and it has rarely been fooled for very long. We have a world-class intelligence capability. We can count on the intelligence community to monitor the CTBT and effectively verify it.

A second argument that has been used against the treaty by some is based upon the suspension of nuclear testing required by the CTBT and the argument that this will jeopardize the safety and reliability of the U.S. nuclear weapons stockpile. I have an extremely high level of confidence in the nuclear stockpile even without continued testing.

The science-based Stockpile Stewardship Program, on which the United States is spending $4.5 billion a year, is maintaining our technological edge without the need for further testing for the foreseeable future. This program is based on the most advanced science in the world. It is based on over 50 years of nuclear experience. It is based on the results of over 1,000 American nuclear tests. It is a program that relies on the ability and ingenuity of U.S. scientists to maintain our nuclear edge. But it is also a program that recognizes the need to build in adequate safeguards to ensure safety and reliability.

The Stockpile Stewardship Program requires a rigorous annual review of the entire nuclear stockpile. As a part of this regime, both the Secretary of Defense and the Secretary of Energy must certify to the President on an annual basis the stockpile is safe and is reliable. Should either Secretary be unable to offer this certification, the President, in consultation with Congress, is prepared to exercise the right of the United States to withdraw from the treaty and to resume testing.

The United States has not conducted a nuclear test for over 7 years, but the American people should understand our nuclear stockpile is safe. Both the safeguards and the science exists to continue to assure its safety well into the future. And since we have made the decision we do not need to test, it only makes sense that we use the CTBT to end testing throughout the world.

Reflecting on his time in office, and his failure to achieve the goal of a nuclear test ban, President Eisenhower stated: "Disarmament . . . is a continuous imperative. . . . Because this need is so sharp and apparent, I confess I lay down my official responsibilities in this field with a definite sense of disappointment."

The Senate now has the opportunity to ratify the Comprehensive Test Ban Treaty. We should ratify this treaty because, just as when it was first proposed nearly 4 decades ago, it is a positive step toward reducing nuclear dangers and improving the safety of the American people.

I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I see my friend from the great State of Montana is up to speak. I ask the chairman of the——

Mr. SPECTER. Will the Senator from Delaware yield for a question?

Mr. BIDEN. Yes, I would be happy to yield.

Mr. SPECTER. Mr. President, the question that I have for the Senator relates to the letter from President Clinton to our distinguished majority leader, Senator LOTT, where President Clinton has asked that the Senate not consider consideration of the Comprehensive Test Ban Treaty.

I believe it is very much in the national interest that we not vote on the treaty today because it would undermine national security by sending a message to the world that we are not for this treaty. I think it would encourage nations such as India and Pakistan, and perhaps rogue nations such as Libya, Iraq, and Iran, to test.

But the first of two questions which I have for the Senator from Delaware is whether the President might go further. The Senator and I attended a dinner last Tuesday night with the President. We both had occasion to talk to the majority leader and have heard the public pronouncements. The majority leader has set a threshold, asking that the President commit in writing that he would not ask to have the treaty brought up next year. I believe we have to find a way to work this out so the treaty is not voted on.

The first question I have of the Senator from Delaware is, What are the realities of getting the President to make that request? He has come pretty close in this letter. Why not make that additional request?

Mr. BIDEN. In response to my friend from Pennsylvania, I will say that I, obviously, cannot speak for the President. But he has gone awfully far. He says: "I believe that proceeding to a vote under these circumstances would severely harm the national security of the United States, damage our relationship with our allies, and undermine our historic leadership," et cetera. "Accordingly, I request that you postpone consideration of [this] Test Ban Treaty on the Senate floor."

Unless there is something incredible that is likely to happen in the next 8 months, the President is not going to be—and I realize this is a legitimate worry on the part of some; that the President will wait until the middle of an election year and raise a political issue by forcing people to vote for or against this treaty—but the likelihood of changing the votes of 22 Republican Senators between now and the election is zero, I would respectfully suggest.

So what the President has done here is done the only thing I think a chief executive—Democrat or Republican—

should do; that is, he did just as Jimmy Carter did when he asked for SALT II to be taken down. He did not make a commitment he would not try to have it brought up. That is not what his letter said. What he said is: Bring it down. Don't vote on it now. It is not in the national interest.

To have a President of the United States say, the treaty I, in fact, negotiated—I want to go on record as saying you should not consider it at all during the remainder of my term in office, surely damages his ability to deal internationally.

So I think he is observing the reality of the circumstance, which means that there will be no vote next year on the floor of the Senate—for if that were the case, you might as well go ahead and have the vote now.

The letter Jimmy Carter sent—and I shall read it—said:

> In light of the Soviet invasion of Afghanistan, I request that you delay consideration of the SALT II Treaty on the Senate floor.
>
> The purpose of this request is not to withdraw the Treaty from consideration, but to defer the debate so that the Congress and I as President can assess Soviet actions and intentions, and devote our primary attention to the legislative and other measures required to respond to the crisis.
>
> As you know, I continue to share your view that the SALT II Treaty is in the national security interest of the United States and the entire world, and that it should be taken up by the Senate as soon as these more urgent issues have been addressed.
>
> Sincerely,
>
> JIMMY CARTER.

This letter of the President of the United States—this President—goes a lot further than President Carter went in pulling down SALT II. But for the President to go beyond that, it seems to me, is to be beyond what we should be asking any executive.

The Senator from Virginia has worked mightily to try to resolve this. He has gone so far as to draft a letter which a number of Senators are likely to sign, if they have not already signed, saying: In addition to the President asking this be brought down, we the undersigned Senators ask that it be brought down. And we have no intention of bringing that treaty up next year. We do not think the treaty should be brought up in the election year.

To make the President, from an institutional standpoint, guarantee that he is now against the treaty that he ratified, it seems to me, is to be going beyond institutional good taste.

Mr. HELMS. Will the Senator yield?

Mr. BIDEN. For a question, I would be happy to yield.

Mr. HELMS. I want to ponder a question to the Chair.

Mr. BIDEN. Surely.

Mr. HELMS. It was my understanding—perhaps mistakenly—that we were to go from side to side in our discussions. If that is not the case, I ask unanimous consent that it be the case, when both sides are on the floor seeking the floor.

The PRESIDING OFFICER. The Chair will respond. There has been a unanimous consent request that has been agreed to that to the extent possible that will be done. In this case, the ranking member sought recognition, and no other person sought recognition.

Mr. HELMS. The Senator has been on his feet 20 minutes here. And two Senators have taken the floor from him. I want it to be understood I do not want that to happen again.

Mr. BIDEN. Mr. President, it was not my intention—I thought the Senator from North Carolina, in effect, acknowledged that I should take the question from the Senator from the State of Pennsylvania. I apologize.

Mr. HELMS. I did not think it would be four questions.

Mr. BIDEN. Mr. President, I am not propounding the questions. I am just trying to answer the question. I hope I answered the Senator's question.

Mr. SPECTER. I believe I asked one question.

Mr. BIDEN. Yes.

Mr. SPECTER. I had one more.

I believe I asked one question. I had one more. I would like leave to ask one more question.

The question I have for Senator BIDEN is, Is there any other way procedurally that this vote can be put off? We are considering the treaty. There is a unanimous consent request, and while I do not agree with what the Senator said in his first response—I believe the President can say more without being against the treaty. And I believe there are political considerations which are behind not having the matter brought up in fair consideration to Senator LOTT's request there be a commitment not to take it up all year. I think it highly unlikely that there would be a shift among Republicans on a procedural matter to find 51 votes—50 votes plus the Vice President. But we are dealing here with matters of extraordinary gravity. I hope this matter can be worked out short of a procedural vote.

But I direct this question to the Senator from Delaware, whether there is any other procedural alternative to getting this vote off the Senate agenda.

Mr. BIDEN. Mr. President, I will respond very briefly and then yield to my friend from North Carolina.

My knowledge of Senate procedure pales in comparison to the Senator from North Carolina. I am not being solicitous. That is a statement of fact. But it is my understanding that the only procedural means by which we could move from this treaty to other business without a vote would be if there were a motion to move from the Executive Calendar to the legislative calendar. That would, as I understand it, require 51 votes. That is the only thing of which I know. I do not know if anyone is going to do that.

Mr. HELMS. Will the Senator yield?

Mr. BIDEN. I yield the floor to my friend.

Mr. HELMS. I ask the Parliamentarian for his views on it now, to get that settled.

The PRESIDING OFFICER. The Parliamentarian advises that the Senator's statement is correct.

Mr. BIDEN. Mr. President, that may be the first time my procedural judgment has ever been ruled to be correct on the floor of the Senate. I am very happy the Senator suggested I ask that.

Mr. HELMS. I think the Senator has forgotten many times when he was correct.

Mr. BIDEN. The Senator is very nice to say that. Seldom procedurally. I yield the floor.

Mr. HELMS. I ask the distinguished Senator from Montana, who has been awaiting a chance to speak, be recognized for such time as he may require.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. I thank the chairman of the Foreign Relations Committee and the Chair.

I listened to the exchange. It is very interesting. Why we are in this debate was not initiated by this side of the aisle. This whole process was not initiated by this side of the aisle. It was a reaction that was initiated by our friends on the other side. That is irrelevant right now. What is relevant is our Nation's security and the merits of this treaty and how it affects us and our national security. We have but one deterrent for the safety of the people who live in this country, and that is our reliable nuclear capability. Once it is questioned, then our ability to deter in this world of uncertainty would be damaged.

I rise to record my opposition to Senate passage of the Comprehensive Test Ban treaty. This treaty bans all nuclear testing forever. Thus, it is a ban on "bang" for all time; it is not a ban on bombs. No one ought to be under the illusion that this treaty ends nuclear weapons development by America's foes. At home, an essential part of the administration's plan to implement the treaty is a "safeguards package". The mere existence of the safeguards package speaks for itself: without them, the treaty poses too many risks. Unfortunately, the treaty we are asked to vote upon contains none of the safeguards because the terms of the treaty expressly preclude making the safeguards package part of the treaty. In other words, the treaty prohibits meaningful reservations. Consequently, we are asked to bet on the come that the administration can deliver all that is promises in the safeguards package, not only in the next few years but far into the future. We are told that the

Joint Chiefs of Staff support the treaty with the safeguards and is unable to comment on the merits of the treaty without the safeguards. I fully understand the Chain of Command. Our leaders also understand the Chain of Command. We do not have to read too much between the lines to conclude that without the safeguards package, this treaty poses unacceptable risks to our national security.

A total ban on all nuclear testing for all time has never been supported by prior Presidents-and for sound reasons. This administration's best sales pitch for a total ban on bangs for all time is that it is an important step in the direction of doing away with the threat of nuclear war. This is a nice dream and a great idea for another planet. But on earth it is a downright dangerous false hope. The complete ban treaty has a fatal flaw in the real world: the treaty is unenforceable. In one sentence, the fatal flaw is that violations cannot be verified.

The best intentions humans can conceive are of no use if the treaty is not implemented not only by us but also by the other nuclear players. And what is the score? Well Russia and China have not ratified this treaty and they are unlikely to do so. Even if they did, either one could veto any attempts at enforcement by the U.N. Security Council. North Korea did not even participate in the negotiations about the treaty. India and Pakistan have not signed on to the treaty. The score on rogue nations such as Iraq and Libya varies but we have to ask whether they could be trusted to keep their commitments anyway. The administration has, once again, gone off and negotiated a deal that is not acceptable to the Senate. I suppose the White House media spin will again be that the United States will suffer a loss of world leadership if the Senate does not buy this pig in a pike treaty. Well maybe the negotiators should have thought of that before they put American's credibility on the line. The spinmeisters should re-read our Constitution. Treaties must be acceptable to two thirds of the Senators. That requirement has been there since the founding of the Republic. The White House should not pretend to be shocked when the Senate turns down a treaty that it does not like because the treaty has no teeth. there are too many undefined characters in the world who are unaffected by this treaty.

This treaty is not a good idea for a number of other reasons. The agreement puts international handcuffs on nuclear technology testing by the United States. Our country needs to have access to the testing of current and possible future nuclear weapons, defensive as well as offensive. We know that some nations play fast and loose with nuclear weapons technology. This is not the case generally in the United States and is not the case specifically in Montana where we maintain many Minutemen III missiles. Part of the Safeguard Stewardship and Management Program proposed by the Administration to sell this treaty is to assure us that the nuclear stockpile remains safe and reliable. But tests needed to create the data base and methodologies for stockpile stewardship have not been done during the seven year moratoria our nation has voluntarily followed on testing and would not be done under the mandatory terms of the treaty before us. Simply stated, the technology for stockpile stewardship is unproven. Key safety and reliability data can only be obtained from the actual testing of weapons. We cannot take a chance on when or whether our nuclear weapons will go off. Can you imagine putting all your faith in an airplane flying right without making actual flight tests.? The pilots I know still think an aircraft has to be flown before they are convinced of its safety and reliability. Likewise, data from past tests cannot adequately predict the impacts of ongoing problems such as aging taking into account the highly corrosive nature of materials with a shelf life of 20 years. What do we do in 25 years? The administration's answer is to rely upon computer simulations or, as a last resort, to withdraw from the treaty. The stakes are too high to depend upon theoretical models and any treaty can be killed by a later law. But I submit these actions are closing the barn door after the horses are gone. Montanans as well as all Americans must have confidence in the safety and reliability of the refurbished nuclear warheads remaining in our country. Our troops in the field must also have confidence in the nuclear weapons they carry. This test ban treaty precludes us from undertaking the technology testing that is essential for keeping confidence in our nuclear deterrent capability.

The cold war may be over but the threat posed to the United States from nuclear weapons in hostile hands is far from over. Russia refuses to ratify Start II and continues to insist (along with the administration) on strict compliance with the 1972 ABM Treaty. If ever there was a lesson about not freezing nuclear technology in time, the ABM Treaty is the model. Most Americans still do not know that our country is absolutely defenseless against ballistic missile attack not only from Russia but also from any where else. There is mounting evidence that China has stolen priceless nuclear secrets from our national laboratories. Only a complete fool would think that the actions of the Chinese indicate that they would curtail their rapid advancement towards being a nuclear power, with or without this test ban treaty. Neither India nor Pakistan have signed on to this treaty and I suppose the administration will try to blame that on the Senate somehow. I submit, however, that the positions of Pakistan and India on their nuclear status have nothing whatsoever to do with this debate in the Senate. We are aware that there are half dozen rogue nations out there. They must really lick their lips when they think about America not testing nuclear weapons anymore. Who seriously thinks this treaty will slow down despots who pose current and future irresponsible and, perhaps, irrational nuclear threats to the United States? The administration is making a serious error in judgment in mixing up what States say at diplomatic conferences with what they go back home. This is not the time to handicap ourselves by assuming test ban obligations that we would keep but others would either violate or ignore.

I have been called by many representatives of other states and heads of states. I asked one question: Will the signing of this test ban treaty change the attitude of the Russians? Answer: No. By the PRC, the Chinese? No. Will it change the attitude in India or Pakistan or North Korea or other suspected rogue entities? No. Then why do we put ourselves in jeopardy by not testing?

In conclusion, I believe this treaty is fatally flawed because it is not enforceable and will be ignored by the very nations we distrust. Moreover,. to retain a credible nuclear deterrent capability, we must retain our ability to test our weapon systems for safety and reliability. Therefore, this treaty hurts us while helping our potential enemies. My vote is to oppose advice and consent.

I yield the floor.

Mr. REED. Mr. President, I rise to express my support for the Comprehensive Test Ban Treaty. I believe the real question before us is whether or not the world will be safer with or without the nuclear test ban treaty. I believe we are safer.

From a very self-interested standpoint, if this treaty is adopted, it gives us the very real potential of locking all of our potential adversaries into permanent nuclear inferiority because they will not be able to conduct the sophisticated tests necessary to improve their technology, particularly when it comes to the miniaturization of nuclear warheads. It will, also, I think, contribute to an overall spirit which is advancing the cause of nuclear disarmament and also ending the proliferation of nuclear weapons.

On the other side of the coin, if we step back from this treaty today and vote it down, I think we will set back this progress in trying to reduce nuclear arms throughout the world. All of us have come to this floor with different viewpoints, but I suspect we would all say the process we have undertaken is somewhat suspect. I spent 12 years in the Army, and I learned to grow up under the rule of "hurry up and wait." Well, this process resembles "wait and hurry up." The President submitted this treaty to the Senate over 2 years ago. Yet for months, no action was taken. Then last week, suddenly it was announced that we would conduct a very limited debate, that we would have hastily constructed hearings, and that we would move to a vote.

I think that process alone suggests that we wait, at least—as we consider more carefully this treaty to discharge our obligations under the Constitution—for a thorough and detailed analysis of all the consequences. Indeed, this is a very complex subject matter, as the debate on the floor today and preceding days has indicated.

I believe we need to take additional time. I hope we can take additional time. But if the measure were to come before this body for a vote, I would vote to support the treaty because, as I have said, I think passing this treaty would provide a safer world. Rejecting this treaty would, I think, disrupt dramatically any further attempts at a significant comprehensive reduction of nuclear weapons throughout the world.

I think it is somewhat naive to suggest that if this Senate rejected the treaty, we could simply go back next week and begin to negotiate again on different terms. I think we would be sending a very strong and dangerous signal to the world that we, rather than carefully considering this treaty, have rejected it almost outright. I think, also, together with other developments, such as our genuine attempts to look for a relaxation of the ABM Treaty, rejection could be construed as not suggesting we are serious about nuclear disarmament but, quite the contrary, that we ourselves are beginning to look at nuclear weapons and nuclear technology in a different light, a light less favorable.

Let me suggest something else. This treaty will not prevent us from testing our nuclear technology. It will prevent us, though, from conducting tests involving nuclear detonation. We can in fact go on and test our technology. We have been testing our technology constantly over the last 7 years without a nuclear detonation.

This treaty would not ban nuclear weapons. This treaty also would provide for an extensive regime of monitoring sites—over 300 in 90 countries. It would allow for onsite inspection if, in fact, a significant number of signatories to the treaty were convinced that a violation took place. These additional monitoring sites, together with the onsite inspections, are tools that do not exist today to curb the proliferation of nuclear weapons and the development of new nuclear weapons.

There has been some discussion about our ability to monitor the development of nuclear weapons and, indeed, to monitor clandestine tests of nuclear devices. I think the suggestion has been made—and I think it is inaccurate—that a nuclear detonation could take place without anybody knowing anything at all about it. That is not the case at all. Just last week, there was an article in the Washington Post entitled "CIA Unable To Precisely Track Testing." If you read the article, it is clear that the CIA was able to detect two suspicious detonations at a Russian test site in the Arctic from seismic data and other monitoring devices. What they could not determine is whether this detonation was high explosives of a nonnuclear category or a nuclear detonation. But certainly we will have indications, if there is a clandestine test, that the possibility of a nuclear detonation has taken place. That alone will give us, I believe, the basis to go forward and ask for onsite inspections and for an explanation, to use the levers of this treaty which we do not have at this moment.

So the issue of verification, I think, is something that is quite obvious and prominent within this treaty, and the means of verification were discussed at length by my colleague from Nebraska who pointed out all the different techniques our intelligence service has to identify possible violations of this treaty and, with this treaty, to be able to press those violations in a world forum so we can ascertain whether the treaty has been adhered to or violated.

The whole notion of controlling nuclear testing is not new. Throughout this debate, my colleagues have discussed the initiatives that began as early as the 1950s with President Eisenhower. Then, in 1963, President Kennedy was able to sign, and the Senate ratified, the Limited Test Ban Treaty which outlawed nuclear explosions in the sea, atmosphere, and in outer space. In 1974, we entered into a treaty with the Soviet Union—the Threshold Test Ban Treaty—which prohibited underground testing with yields greater than 150 kilotons. In 1992, Congress passed the Hatfield-Exon-Mitchell amendment which called for a moratorium on testing. We are still observing today.

Also, I think it would be appropriate to point out that in fact for the last 7 years, we have not detonated nuclear devices. Yet each and every year, our scientists, the experts in the Department of Defense and Department of Energy, have certified that our nuclear stockpile is both safe and reliable. So the assertion that we can never assure the reliability and safety of our nuclear stockpile without testing has been disproven over the last 7 years. We have done that.

Now, I believe we can in fact maintain a nuclear stockpile that is both safe and reliable. We can do it using the new technology we are developing, including but not exclusively related to, computer simulations. We can do it by investing, as we are each year, billions of dollars—over $4 billion—so we can ensure that we have a safe nuclear stockpile and that these weapons would be reliable if we were forced to use them.

There is something else I think should be pointed out. This treaty has been endorsed and recommended to us by the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the Secretary of Energy. These are individuals who take very seriously their responsibility for the national security of the United States. But some might suggest, well, they are part of this administration and we really know that, reading between the lines, their recommendation might not be as compelling as others.

But such logic would not suggest or explain why individuals such Gen. John Shalikashvili, a former Chairman of the Joint Chiefs of Staff; Gen. Colin Powell; Gen. David Jones; or Adm. William Crowe would in fact be supportive of the Comprehensive Test Ban Treaty. Nobody would suggest why other prominent military officers, such as John Galvin, former Supreme Allied Commander in Europe; Gen. Charles Horner, who commanded the air forces in Desert Storm; Bernard Rogers, another former Commander of NATO and Supreme Commander in Europe, would also recommend and support this treaty. These individuals are concerned about security and have spent their lives in uniform dedicated to the security of this Nation and the protection of our people. They believe, as I do, that this will be a safer world with this treaty rather than if we reject this treaty. With this treaty, I think we can curtail dramatically the development of nuclear weapons by opposing powers to the United States.

It is true that you can develop a nuclear weapon without a test. You can develop the unsophisticated rudimentary weapons that were used in World War II. But you cannot develop the sophisticated technology which is the key to strategic nuclear power without nuclear testing.

If we accept this treaty, if we join with other nations, then we will be in a much stronger position, and the world will be in a much stronger position, to ensure that countries such as India, Pakistan, and North Korea will be very challenged to develop the kind of sophisticated nuclear weapons that will alter the strategic balance throughout the world. That in and of itself, I believe, will make it a safer world.

Of course, the elimination of testing will have a positive environmental effect. Even though our tests now throughout the world are restricted underground, there is always the possibility of leakage of radioactive material. And we know how devastating that can be.

There are those who have been here today who argued that we should reject this treaty because it is not 100 percent verifiable. I would suggest that we can, in fact, verify this treaty—that 100 percent is not the standard we would reasonably use. As I have indicated previously, we have already detected what we suspect are suspicious detonations in Russia. We would be even better prepared to do that with 300 more monitoring stations in 90 countries around the world. In fact, we would then have an international forum to take our complaints and to force an explanation, and, if necessary, an onsite inspection of a test.

I think we have an obligation to carefully review and consider this treaty. I believe that we do. And that consideration would be enhanced by additional time. I think it would be appropriate to take additional time. But it would be a terrible, I think, disservice to the process of nuclear disarmament, of nuclear nonproliferation, and of a saner world if we were to reject this treaty out of hand. And the world is watching.

President Clinton was the first head of state to sign this treaty. One-hundred and fifty nations followed. Forty-one nations have ratified the treaty, and several more, including Russia, are waiting again for our lead in ratifying. Unless we are part of this treaty, this treaty will never go into effect because it requires all of the nuclear powers—those with nuclear weapons or with nuclear capabilities—to be a party to the treaty before it can go into effect. I hope we either in our wisdom consider this more, or in our wisdom accept ratifying this treaty.

Thirty-six years ago when the Limited Test Ban Treaty came to this floor, a great leader of this Senate, Senator Everett Dirksen, was one of the forces who decided to take a very bold step that was as equally daunting and challenging as the step we face today. His words were:

> A young President calls this treaty the first step. I want to take a first step, Mr. President. One my age should think about his destiny a little. I should not like to have written on my tombstone, "He knew what happened at Hiroshima, but he did not take a first step."

The treaty is not the first step. But it is, I believe, the next logical step that we must take. I believe none of us want to look back and say that we were hesitant to take this step, that we were hesitant to continue the march away from the nuclear apocalypse to a much saner and a much safer world.

I yield my time.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I yield time to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Thank you, Mr. President. I thank Senator HELMS.

Mr. President, this whole debate reminds me of what the great philosopher Yogi Berra once said: It is like "deja vu all over again."

I thought we pretty well settled this argument years ago—back in the 1970s and the 1980s—when the idea of unilateral disarmament through a nuclear freeze was proposed as the only way to end the nuclear arms race between the United States and Russia. We rejected the nuclear freeze concept. We put national security first. We won the cold war, not through unilateral disarmament and symbolic gestures but through strength, and we defeated the evil empire. The world is safer and we have been able to substantially reduce the number of nuclear warheads and the threat of nuclear conflict.

So it is difficult to understand why this argument is back before the Senate today. It is difficult to understand why a U.S. President is back before us asking us to ratify an agreement which would tie this Nation's hands behind its back and jeopardize our national security.

None of us support nuclear war. We are all against nuclear proliferation. But agreeing to forego all future testing of nuclear weapons is not the way to get there. It is a matter of national security, of safety, and of common sense.

Because we refused to accept the siren call of the nuclear freeze movement in the 1970s, we won the cold war, and we have subsequently been able to reduce our arsenal of nuclear warheads from 12,000 to 6,000 under the START II treaty. The number is expected to be reduced further to 3,000 warheads by the year 2003. But despite these reductions and this progress, the United States must maintain a reliable nuclear deterrent for the foreseeable future.

Although the cold war is over, significant threats to our country still exist. At present, our nuclear capability provides us a deterrent that is critical to our Nation and is relied on as a safety umbrella by most countries around the world.

As long as our national security and our own nuclear deterrent rely on the nuclear capability, we must be able to periodically test our existing weapons as necessary to ensure their reliability and their safety.

Reliability is essential. If our nuclear weapons are not reliable, they are not much of a credible deterrent, and the nuclear umbrella that we and our allies count on for our mutual defense will have gaping holes in it.

We have to face reality. Our nuclear stockpile is aging. Our nuclear inventory is older than it has ever been, and nuclear materials and components degrade in unpredictable ways—in some cases causing the weapons to fail. Without testing, those potential problems will go undetected. Upgrades will not be possible. Reliability will suffer.

Safety is also essential. A permanent ban on testing would jeopardize the safety of our nuclear arsenal by preventing us from integrating the most modern advanced safety measures into our weapons. Even now our nuclear arsenal is not as safe as we can make it. Of the nine weapons systems currently on hand, only one employs all of the most modern and secure measures available. Safety modifications of this kind would require testing to make sure they worked as intended.

Sure, advocates of this treaty argue there are some other measures of testing a weapon—safety and reliability. The Clinton administration has proposed an ambitious program known as the Stockpile Stewardship Program which would use computer modeling and simulations to detect reliability and safety. However, many of the components of this system are unbuilt and untested. The National Ignition Facility, which is the centerpiece of this program, is not scheduled to be completed until the year 2003. There are already reports that it is years behind schedule. It would be foolhardy to entrust our nuclear security to an unproven program which probably won't even be fully operational by the year 2010. Reliability and safety: There must be certainty; at this point only live testing provides that kind of certainty.

This treaty is based on a very noble, well-intentioned goal. There is no question that if the Senate were to ratify this treaty, it would be a grand symbolic gesture, but noble goals and symbolic gestures are no substitute for good policy and hard reality.

I have already talked about a couple of reasons why this treaty is not good policy—safety and reliability. But there are a couple of other reasons this treaty fails the hard-reality test, as well: Verification and enforcement. The hard reality is that the United States usually tries to live up to the agreements it signs. If we ratify this treaty, we will live by it; we have no guarantee other nations will be so inclined to follow the letter of the law.

Under this treaty, verification would be very difficult and enforcement would be impossible. It has no teeth. It is difficult now to detect nuclear tests with any confidence, and the verification monitoring provisions in this treaty don't add to that confidence level at all. Yes, we could request onsite inspections if we thought someone had been cheating, but that request would have to be approved by a supermajority in the 51-member executive council. In addition, each country under the treaty has the right to declare 50-square-kilometer areas off limits to any inspection.

Even if we did catch a cheater, the treaty has almost no teeth—possible trade sanctions. That's it, possible trade sanctions. And we know how difficult it is to maintain multilateral trade sanctions against Iraq, a country that blatantly invaded and looted a neighboring country and which consistently defies international inspection teams. No one can believe we would be more effective at enforcing sanctions against more responsible nations of greater commercial importance such as India and Pakistan. There are no teeth.

That brings us back to the hard reality. Would we obey the treaty? Yes, we would obey the treaty because that is the way we are. And others would obey the treaty if it suited their whims of the moment. The hard reality is if we ratify this treaty, we sacrifice our national security, jeopardize the safety and reliability of our nuclear arsenal. And what do we get in return? A noble, symbolic gesture. Nothing more. It is not worth it.

I urge my colleagues to vote no. Unilateral disarmament was a bad idea in the 1970s and 1980s; it is a bad idea for the 21st century.

I yield the floor.

Mr. BIDEN. I yield to the Senator from Montana.

Mr. BAUCUS. Mr. President, I strongly support the Comprehensive Test Ban Treaty. Why? Various reasons.

First, we have an opportunity to vote this week. I will cast my vote in favor of ratification because I believe to do otherwise would be a tragic mistake with extremely dire consequences for our Nation and equally dire consequences for the world. However, given the likelihood the Senate will fall short of the two-thirds majority required under the Constitution for ratification, I will support efforts to postpone this vote. We cannot tell the world the United States of America, the leader of the free world, opposes this treaty. It would be a travesty.

The Comprehensive Test Ban Treaty gives America a unique opportunity to leave a safer world for our children and for our grandchildren. We cannot prevent earthquakes; we can't prevent hurricanes or tornadoes, not yet. I hope over time our ability to predict them—minimizing the destruction of human life and property—will improve. But we can prevent nuclear war. We can halt the spread of nuclear weapons. We can prevent nuclear fallout and environmental destruction caused by nuclear testing. And we can reduce the fear of a nuclear holocaust that all Americans have lived with since the start of the cold war 50 years ago. We can do all this, and we should.

Let me review some of the benefits we get from the Comprehensive Test Ban Treaty, and let me explain why this treaty will make the world safer for our children and grandchildren. First, under the CTBT, there is an absolute prohibition against conducting nuclear weapon test explosions by the signators. This would include all countries that possess nuclear weapons, as well as those countries that have nuclear power or research reactors. It would also include countries that do not yet have nuclear facilities. This absolute prohibition of testing makes it much harder for countries that already have advanced nuclear weapons to produce new and more sophisticated nuclear weapons. Russia and China are prime examples.

The CTBT prevents the kind of arms competition we had during the cold war. For example, without nuclear tests the Chinese will be unable to MIRV ICBMs with any degree of reliability. The Chinese have no assurance of the effectiveness of putting multiple warheads on missiles because they would not be able to test. Many believe China has made enormous strides in their nuclear weapons capability because of decades of espionage, but the CTBT provides one way to limit further sophisticated development.

The absolute prohibition on nuclear testing also helps prevent countries with smaller and less advanced nuclear weapons from developing more advanced nuclear warheads. This applies especially to India and to Pakistan. The strategy of using advanced nuclear weapons depends on confidence. It depends on reliability. India and Pakistan would not be able to build reliable and sophisticated nuclear weapons under the treaty.

The treaty's terms also help prevent nations that are seeking nuclear arms from ever developing them into advanced sophisticated weapons. I refer to countries such as Iran and Iraq.

The second major reason for adopting this treaty is that ratification is critical to our ability to enforce and maintain the Non-Proliferation Treaty, another treaty. The NPT is the bedrock of our efforts to stop the spread of nuclear arms to non-nuclear weapon states. Many of the nations that signed the NPT, the Non-Proliferation Treaty, and agreed to its indefinite extension did so on the understanding that there would be a Comprehensive Test Ban Treaty.

The third reason for support is the CTBT will improve the ability of the United States to detect nuclear explosions. Let me repeat that. It will improve our ability to detect current explosions, the status quo compared with today. The international monitoring system will have 321 monitoring stations, including 31 in Russia, 11 in China, and 17 in the Middle East. These stations will be able to detect explosions down to about 1 kiloton, the equivalent of 1,000 tons of TNT—much lower than the kinds of explosions we are talking about in this Chamber. In the case of a suspicious event—that is, a report of an explosion that could be nuclear, a mine site, or even an earthquake—any party can request an onsite inspection. With or without a treaty, we must continue all efforts at monitoring nuclear developments worldwide, but the treaty provides a system that far exceeds current capabilities of inspection.

Now, turning to two of the major objections to those who oppose the treaty: First, they claim actual nuclear tests—that is, explosions—are necessary to ensure that our stockpile of weapons works. We have put in place a science-based Stockpile Stewardship Program. Its purpose is to provide a high level of confidence in the safety and reliability of America's inventory of nuclear weapons. Under this program, our National Weapons Laboratories spend $4.5 billion each year to check and to maintain these weapons. We can still test; we do test. We just cannot explode. The Secretaries of Defense and Energy, with the help of the Directors of the National Laboratories, the Commander of the U.S. Strategic Command, and the Nuclear Weapons Council, must certify every year to the President that the necessary high level of confidence exists.

Do not forget, $4.5 billion a year is spent on this. If they cannot give that certification to the President, the President can then use the so-called Safeguard F. What is that? That is the United States will be able to withdraw from the treaty and test the weapon that is in doubt; that is, if the President is not confident, the President can withdraw.

The Directors of our weapons labs, the Chairman of the Joint Chiefs of Staff, along with four of his predecessors, and an impressive array of Nobel Prize winners believe the Stewardship Program will provide appropriate protection for our national security.

The second objection against the treaty is that it is impossible to verify that all nations are complying with the treaty. That is true. It is true we cannot detect every conceivable explosion at low yields. But our defense agencies have concluded—the Department of Defense—that we will be able to detect tests that will have an impact on our national security, and that is the threshold of concern to us.

Let me go through a few likely scenarios that would occur if we reject the treaty. First and most immediate would be on the Indian subcontinent. India and Pakistan matched each other with nuclear tests. Kashmir remains one of the world's most dangerous trigger points. U.S. rejection of the test ban treaty would destroy our ability to pressure those two countries to halt further nuclear tests. Those countries would likely begin to develop more sophisticated nuclear weapons, heightening the probability of their actual use in the region.

The second adverse consequence of rejection is this: China would certainly prepare for more tests to increase the sophistication of its nuclear arsenal.

At present, Chinese nuclear weapons do not pose a strategic threat to the United States. Our rejection of the CTBT would allow them to begin a long-term development program with testing that would make them such a threat.

The PRESIDING OFFICER. The Senator's 8 minutes have expired.

Mr. BAUCUS. I ask unanimous consent to proceed for 2 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. The third adverse consequence is American efforts to promote nuclear nonproliferation would become much more difficult because other nations would believe America's moral authority and its leadership were destroyed by our rejection of the CTBT.

The United States has been the world's leader in promoting arms control. If we do not lead, no one else will. It is that simple. Our ratification of the Chemical Weapons Convention led to its approval by Russia, by China, and others. Our ratification of the Comprehensive Test Ban Treaty will lead other countries to agree to a complete ban on nuclear explosions.

As a footnote, let me add the American people, by an overwhelming margin, understand the need to control nuclear testing. In a recent poll, 82 percent of Americans responded that they would like to see the treaty approved. That is not a sufficient reason to vote for ratification, but we should take note the public well understands the dangers of nuclear testing.

President Eisenhower began the first comprehensive test ban negotiations in 1958 with the goal of constraining the nuclear arms race and halting the spread of nuclear weapons. Mr. President, 31 years later we have an opportunity to make this goal a reality. That is the legacy I want to leave my son and all the children of Montana, of the United States, and of the world.

In sum, I think each of us has a moral obligation to leave this world in as good shape or better shape than we found it, and certainly ratification of the test ban treaty fulfills that moral obligation.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. HELMS. Mr. President, the distinguished Senator from Maine is here. I yield 15 minutes to the gracious Senator.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maine.

Ms. SNOWE. Mr. President, I thank the distinguished chairman of the Senate Foreign Relations Committee for his effort and cooperation.

With this debate on the Comprehensive Nuclear Test-Ban Treaty, the Senate discharges one of its most fundamental and solemn duties, the stewardship of our national defense. I think there is little question among us that a world free of nuclear weapons would be a world more secure. Obviously, we all look forward to the day when we do not have to rely on our nuclear stockpile as a necessary deterrent. We know full well over 80 percent of the American people share that point of view. But the fact is, that day has not yet arrived. Until it does, as the world's last remaining superpower, we walk a line both fine and blurred. This debate must be about how we walk that line. It should be about how we balance our clear and shared interests in a nuclear-free planet within the reality of a post-cold-war world.

The reality is this: At the same time the world looks to us to provide leadership in stopping the proliferation of nuclear weapons, so, too, does it rely upon us for a credible nuclear deterrent that will keep in check international aggressors, nations that seek to undermine democracy and freedom. That is the challenge before us, to move towards our shared goal in a responsible and measured manner, ever mindful that a post-cold-war world does not mean a world devoid of duplicity or danger. That is the dynamic we can neither escape nor ignore. That is the dynamic that must inform each and every one of us as we consider the ramification of a zero-yield treaty of unlimited duration.

The question is not whether we support nonproliferation measures. We obviously make that as one of our key national security objectives. The question is, Are we going to support a treaty that is a significant departure from what every Chief Executive of the atomic age, except President Clinton, has laid down for criteria in any test ban treaty? Are we going to support a treaty predicated on a program that is yet to be tested and may remain unproven for decades? Are we going to support a treaty that assumes reliable verification when we know we cannot always detect low-level tests, when we know that rogue nations such as North Korea, Iraq, or Iran could develop crude first-generation nuclear devices with no testing at all? In fact, the CIA Director George Tenet stated, back in 1997, in response to questions submitted to him by the Senate Select Committee on Intelligence:

> Nuclear testing is not required for an acquisition of a basic nuclear weapons capability. Tests using high explosive detonations only could provide reasonable confidence in the performance of a first generation device. Nuclear testing becomes critical only when a program moves beyond basic designs, incorporating more advanced concepts.

We cannot even verify what is going on in Iraq with Saddam Hussein. We all recall we set up an onsite inspection program as a condition for his surrender in the Persian Gulf war. Today he has systematically and unilaterally dismantled the U.N. weapons inspection system regime.

So these are the pressing issues that confront us about the ratification of the Comprehensive Test Ban Treaty. That is why I am disappointed, regretting that we have had politics permeate both sides of the political aisle, both ends of Pennsylvania Avenue with respect to this debate. Because the ratification of any treaty, and certainly this one, is a solemn and unique responsibility for the Senate, and we should accord this debate the level of gravity it deserves. It is not just about process and procedure. It is certainly not about politics. It is about policy; what is in the best interests of this country as well as the security interests of the world. What is at stake is no less than our ability to stop proliferation and to ensure at the same time the continued viability of our stockpile.

When we get into debates about procedure and process, I think it ignores the overwhelming magnitude and gravity of the centerpieces of this treaty. We should not be making this agreement a political football. Duty, a constitutional duty, compels us to look at the facts before us.

I can tell you, after I sat through hours of deliberations and testimony on the Armed Services Committee last week, the facts are not reassuring. I know there is an honest difference of opinion among experts, among former Secretaries of Defense. But you have to look at the honest difference of opinion and take pause when you have six former Secretaries of Defense, two former Clinton administration CIA Directors, four former National Security Advisers, and three former National Weapons Lab Directors, all opposing the treaty before us.

Why? Because they believe a no-testing, unlimited duration policy at this time would fatally undermine confidence in the reliability of the U.S. nuclear stockpile as a sturdy hedge against the aggressive intent of once and future tyrants. That is a risk we simply cannot afford to take.

Consider the backdrop of the Rumsfeld Commission report in 1998. We are all too familiar with the stark fact that North Korea, Iran, and Iraq, to name a few, would be able to inflict major destruction on the United States within 5 to 10 years of making a decision to acquire ballistic missile capabilities.

Thanks to the testimony last week of three current National Weapons Laboratory Directors, we also know full well that the very program the administration proposes to rely on to monitor the safety, effectiveness, efficiency, and accuracy of the arsenal is between 10 and 20 years away from being fully validated and operational, and that is assuming it will work. That is 10 to 20 years. We could have weapons in our stockpile left untested and unproven for decades while rogue states acquire the means of mass destruction.

That is what we are addressing today fundamentally: a treaty that has ultimately been negotiated by this administration with a noble long-range goal that almost everyone accepts but one which requires this country to accept an unproven and incomplete computer-model-based system for the security of our nuclear deterrent in this age of weapons proliferation. In other words, we put the cart before the horse. We ought to know that our Stockpile Stewardship Program works first before we commit to any zero-yield, unlimited-duration treaty.

As the Director of the Lawrence Livermore Laboratory, Dr. Tarter, testified to the committee last week, the program is an approach that the country must pursue "short of a return to a robust schedule of nuclear testing." By closing the door entirely, we would be making a question mark of our nuclear stockpile.

As President Bush reminded us in 1993, one-third of all U.S. nuclear weapons designs fielded since 1958—one-third—have required nuclear testing to correct deficiencies after deployment.

In his words:

> The requirement to maintain and improve the safety of our nuclear stockpile and to evaluate and maintain the reliability of U.S. forces necessitates continued nuclear testing for those purposes, albeit at a modest level, for the foreseeable future.

Even within the Clinton administration, these conditions found a voice. According to Mr. Robert Bell, a member of the National Security Council staff, soon before President Clinton released his August 1995 statement of support for the treaty, Defense Department officials argued that the United States should continue to reserve the right to conduct underground nuclear tests at a threshold of 150 kilotons or below.

That would seem to be the prudent course on what we know at this moment in time. It is yet another fact today that we face a real danger of fewer and fewer scientists with the first-hand knowledge that comes from a testing process. Indeed, of the 85 remaining nuclear weapons experts at the Los Alamos and Livermore Laboratories today, only 35 have coordinated live underground tests.

Even as early as 1994, barely 18 months after the United States stopped underground nuclear testing, a report from the Congressional Research Service sounded an alarm, and my colleagues would be wise to read it. Back in 1994, it sounded the alarm that:

> These trends . . . threaten to undercut U.S. ability to maintain the safety, reliability, and performance of its warheads; to correct defects that are discovered or that result from aging; and to remanufacture warheads. They also work at cross-purposes with President Clinton's declaration that the United States will maintain the capability to resume testing if needed.

Again, we must remember that these considerations must be made in the context of a treaty that raises the bar by allowing absolutely no testing at any level in perpetuity.

As Dr. John Nuckolls, the former Director of the Lawrence Livermore Laboratory, put it, even an "extended duration test ban" would trigger the loss of all nuclear trained expert personnel as well as "major gaps in our understanding of scientific explosives."

Again, the CRS in 1994 in its report said:

> This skills loss is in its greatest jeopardy.

Director Tarter, the current Director of Lawrence Livermore Laboratory, testified before our committee last week. What did he say in his testimony?

> It is a race against time. Before long, our nuclear test veterans will be gone.

We are counting on our current cadre of experienced scientists to help develop and install the new tools that are only now starting to come online.

We have now heard from our Directors: A minimum of 10 years and maybe as high as 20 years from now, the Stockpile Stewardship Program will be determined to be workable.

We have the loss of our nuclear scientists trained in the testing field. That is a safety net we cannot do without as we walk the tightrope of sustaining a credible strategic nuclear deterrent and aggressively promoting global arms control. Consider that our successive agreements with the Soviet Union, and now Russia, will eventually reduce the entire American nuclear warhead stock to about 25 percent of its peak size in the cold war. Consider also that we maintain only 9 categories of nuclear weapons today from a level of more than 30 in 1985.

We are making remarkable strides, as we should, on our priorities in the arms control arena. But knowledge about the arms we must sustain as bulwarks against future military conflicts cannot be lost, and this fact suggests that time has not ripened for the United States to sacrifice a 50-year, fool-proof position to keep the testing option open as unprecedented arms reductions have occurred and must continue. Indeed, the administration itself agrees we need a viable strategic nuclear arsenal to deter conflicts that could arise in critical areas such as the Middle East, the western Pacific, or northern Asia.

In the view of the vast majority of treaty opponents and supporters alike who submitted opinions and testimony to the Armed Services Committee last week, the Stockpile Stewardship Program will produce low levels of confidence in many aspects of nuclear warhead capability for at least a decade to come and perhaps more.

Perhaps Dr. Robinson, the Director of the Sandia National Laboratory, put it best and simplest when he told the committee:

> Confidence on the reliability and safety of the nuclear weapons stockpile will eventually decline without nuclear testing.

It was expert scientists, not politicians, who told the committee that the Stockpile Stewardship Program brings the U.S. nuclear weapons complex into uncharted waters of reliability.

So, too, is confidence key when it comes to another vital component of this treaty, and that is verification. At first glance, the technology behind the treaty's verification regime seems airtight. Article IV of the accord establishes a joint international monitoring system and international data center with a total of 337 facilities around the world. If these installations detect a potentially illegal underground explosion that subsequent diplomacy cannot resolve, the accusing state may request an onsite inspection.

Fair enough, you might say, until you read the fine print. Then you discover that the onsite inspection provision requires an affirmative vote by 30 of the 51 members of the Executive Council of the Comprehensive Nuclear Test-Ban Treaty Organization authorized under article II, an awfully high threshold. Article II does not give the United States or any of its allies permanent or rotating seats on the Council.

That is not all. Science itself throws a wrench into the treaty's verification mechanism.

According to a 1995 study by the Mitre Corporation, an established scientific research center, neither the National Technical Means of the United States nor the Monitoring System envisioned by the treaty can detect very low-yield or zero-yield tests.

Finally, article V of the treaty establishes "measures to ensure compliance." The most important of these measures entrusts the Conference of States Parties, the treaty's ratifying governments, to refer urgent cases to the United Nations Security Council, a forum in which Russia or China could exercise a unilateral veto.

In other words, article V could mean if the United States diagnosed an imminent nuclear danger in a strategic region of the world, Moscow or Beijing might emerge as the final courts of appeal for sanctions or other punitive acts.

The day for a Comprehensive Test Ban Treaty may come where we could have a zero-nuclear testing regime for an unlimited period of time. It may arrive. And we may be confident that we will be able to verify that level, as well as the low-level detections of other countries when it comes to explosions. But I think we have to consider the facts as we know them now.

I think we have to look very carefully at the troubling aspects of the Stockpile Stewardship Program and whether it is a viable alternative to nuclear testing. In the strategic and scientific communities many say it is not, and maybe we will not know for 10 to 20 years. That is what we are predicating our nuclear deterrent strategy on.

So we have to vote—if we do vote today or tomorrow—on what we know today. We may know something differently in the future. But I submit that we cannot subject our security interests to what we might know 20 years from now.

I hope we will defer the vote on ratification because of all the current concerns that I and others have cited. We would do well to heed the advice of the letter that was submitted to the majority leader asking for deferral, the letter that was written by Henry Kissinger; John Deutch, a former CIA Director for the administration; and Brent Scowcroft, that we should defer until we can give more consideration to all of the issues that are before the Senate with respect to this treaty.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I yield myself 10 minutes.

I respect the Senator from Maine very much, as I do the Senator from Indiana, who put out the five-page statement on why he opposes the treaty. I want to speak to some of the things that some Senators have spoken to.

First of all, the Senator from Maine says we have to deal with the facts as we know them. I hope she will keep that in mind when she votes on missile defense. I hope the rest of my colleagues, who say we have to deal with the facts as we know them, keep that in mind when we vote on missile defense.

I find it fascinating some of the very people who push the missile defense and the abandonment of the ABM Treaty—where we have only had basically one successful test, which is a far cry from what we are going to need to be able to develop a missile defense initiative—are the same ones saying: But we can't go ahead with this treaty because we don't know everything.

I respectfully suggest the ability of the scientific community to shoot multiple nuclear weapons out of the sky in the stratosphere and make sure not a single one gets through is an even more daunting and challenging program than the Stockpile Stewardship Program. But they seem to have no problem to be ready to abandon the ABM Treaty, which has been the cornerstone, since Nixon was President, for our arms control regime. But they have no faith. I find that fascinating, No. 1.

No. 2, I also find it very fascinating that everybody keeps talking about nonverifiability. I have heard more than once this morning—not from the Senator from Maine but from others —the dictum of President Ronald Reagan: Trust, but verify. That is constantly brought up: There is a reason why we can't be for this treaty. We can't verify it.

They say this treaty is not perfectly verifiable. That is true. But it is a red herring. This body has never demanded perfect verification.

Consider Ronald Reagan's treaty, the INF Treaty, that eliminated land-based intermediate-range missiles. That treaty was signed by President Reagan, the same man who coined the phrase: Trust, but verify.

Was the INF Treaty verifiable? Give me a break. No; it was not verifiable. It was not.

Listen to what the Senate Intelligence Committee said in response to Ronald Reagan's assertion: Trust, but verify my INF Treaty. The Intelligence Committee said at the time:

> Soviet compliance with some of the Treaty's provisions will be difficult to monitor. This problem is exemplified by the unresolved controversy between DIA [the Defense Intelligence Agency] and other intelligence agencies over the number of SS-20's in the Soviet inventory.
>
> Ground-launched cruise missiles pose a particularly difficult monitoring problem as they are interchangeable with long-range Soviet sea-launched cruise missiles.

This the INF Treaty did not ban.

> We are concerned that the Soviets could covertly extend the range capability of a cruise missile, or covertly develop a new ground-launched cruise missile which prohibited long-range capability. . .
>
> In an INF/START environment. . .the Soviet incentive to cheat could increase because of a greater difficulty in meeting targeting requirements.

Still, this Senate and my Republican colleagues—from DICK LUGAR, who quotes that he fought for the INF Treaty, and others, had no problem saying that was a verifiable treaty. The ability to hide these things in barns, to hide them in haystacks, was greater than the ability of someone to muffle a nuclear explosion.

But no, I did not hear anything over on that side. I did not hear anybody saying: No, that's not verifiable. I guess that was a Republican treaty. Maybe this is a Democrat's treaty. Maybe that is how they think about it.

But I find this absolutely fascinating. It really—if my staff gives me one more suggestion, I am going to kill them. It says: The INF was approved 93-5. I thought I kind of made that point clear.

But at any rate, let me point out what else the Intelligence Committee said about that INF Treaty. It said:

> Since no verification and monitoring regime can be absolutely perfect—

Let me read it again:

> Since no verification and monitoring regime can be absolutely perfect, a central focus for the Committee—

That is the Intelligence Committee—

> has been to determine whether any possible infractions would be of sufficient military significance to constitute a threat to our national security interests. This calculus is one which the Senate should bear in mind in its consideration of the treaty.

The Senate Intelligence Committee was right in 1988, and their standard is right today, even though this is pushed forward by a Democratic President instead of a Republican President.

To impose this utterly unrealistic standard of verifiability on Bill Clinton's test ban treaty, when no such standard was imposed on Ronald Reagan's INF Treaty, may be an effective "gotcha" in politics, but it clearly does not look to the national interest of the United States.

No inspection—no inspection—by the way, for onsite inspections in the INF Treaty, unless it was on prearranged sites. By the way, those of my colleagues who point out that we have to get 30 or 50 votes, our negotiators are pretty smart. We have 30 to 50 votes based on categories.

Let me tell you how membership on that committee would be determined.

The Executive Council is the decisionmaking body of the Treaty Organization. Among other things, it authorizes on-site inspections.

There are 51 seats on the Council, divided geographically. Ten seats are allocated to parties from North America and Western Europe.

Of these, the treaty provides that "at least one-third of the seats allocated to each geographical region shall be filled taking into account political and security interests, by States Parties in that region designated on the basis of the nuclear capabilities relevant to the Treaty. . . .

The chief negotiator, Stephen Ledogar, told the Foreign Relations Committee on Thursday that "this is diplomatic language" that assures that the United States gets a de facto permanent seat on the Council.

Moreover, he said that there was an agreement among the Europeans and us that we would always have a seat.

Makeup of the Council is: Africa, 10 seats; Eastern Europe, 7 seats; Latin America, 9 seats; Middle East/South Asia, 7 seats; N. America/W. Europe, 10 seats; East Asia/Pacific, 8 seats.

There are 2-year terms.

A quick review of the candidates for seats that we should expect, in almost all instances, to get all the votes of the West Europe/North America group. So we start with 10.

Aside from Yugoslavia, Russia, and one of two others, the Eastern Europe group comprises strong United States allies. So that's another 5-7 votes.

Similarily, many of the Latin American states are either: (1) strong allies or (2) strongly favor the test ban. So we should usually get most of those 9 votes.

That gets us very quickly to the low-mid-20s, in most instances—even being conservative and assuming that we don't get all the votes in the above 3 groups.

That leaves Africa, 10 seats; Middle East/South Asia group, 7 seats; and the East Asia, 8 seats. There is where our work, depending on the makeup of the Council at the particular time, could get a little harder.

But even there the rosters have U.S. allies, or proponents of non-proliferation.

It is hard to see how we will not get to 30 in most instances.

In truth, it is more likely that most U.S. inspection requests, based on our intelligence and the data from the International Monitoring System, will be easily approved.

It should also be noted that, unlike the U.N., Israel is a member of a regional group, and will automatically get a seat on the Council under a special rule that guarantees that one seat within each region be filled on a rotational basis.

We can get 30 votes. We can get 30 votes any time we want. The reason why is we set up the committees the way we did. The flip side of that is, it will be hard for them to get 30 votes because the fact is that our intelligence community is saying we do not want onsite inspections in the United States. I don't know what treaty these folks are reading.

Let me make a second point. Here is the one lately that really gets me: The Soviet Union is going to be able to develop very small tactical nuclear weapons that, in fact, will lead to a different strategy in terms of their conventional defense. Guess what. We should all be standing up on this floor going hooray, we did it, because I remember last time we debated this issue of strategic weapons. What were we saying?

I watched, by the way, with great interest Dr. Edward Teller last night. I watched a long documentary because I used to have to debate him around the country on SALT. He was wrong then; he is wrong now.

We used to argue that the real concern—I have been here for 27 years—was the Soviets seeking a first strike capability. Remember? The Soviets are seeking a first strike capability. And all of their actions were designed to do that. That is why they were building these new massive SS-18s with 10 nuclear warheads, independently targeted, et cetera, et cetera. Through the leadership of a Republican President, we have an agreement whereby they are going to dismantle those if we get the treaty, the START treaty, passed. So guess what we are worried about now. The exact opposite. We are worried now that they don't have a first strike capability, that they aren't seeking nuclear predominance, but they are acknowledging their conventional forces are so bad they need tactical nuclear defense on their territory.

As they say in my church, examine your conscience, folks. Take a look at what this is. We hear this thing, and the public says: Is it true, Joe, they really are developing a new tactical weapon? My response is, it probably is true. But guess what. They now have 10,000 tactical nuclear weapons.

I yield myself such time as I may consume.

They are worried now that they are going to be able to develop another smaller tactical nuclear weapon, as if this treaty has anything to do with that. Come on. Come on. What we should be doing is rejoicing in the fact that the whole emphasis in the Soviet program has shifted to a recognition that they have to defend their homeland—their judgment—and they do not have the conventional forces capable of doing that—their judgment—and so they are developing, allegedly, a very small tactical nuclear weapon—their judgment. Does that shift the strategic balance? Give me a break. Give me a break.

I find this one of the most fascinating debates in which I have ever been engaged. I don't know what we are talking about. When my friend from Kentucky stands up and says, I thought we decided against unilateral disarmament, me, too—an are-you-still-beating-your-wife kind of question. Who is talking about unilateral disarmament? Where is that anywhere in this treaty? Where does it say that? Where does it imply that? That is like my standing up and saying: I am very surprised my friends who oppose this treaty want to go to nuclear war; I am very surprised they are advocating nuclear war. That would be equally as unfounded and outrageous a statement as the assertion this treaty is unilateral disarmament.

I will repeat this time and again, and I will yield the floor in a moment. My problem is, we have a President of the United States of America who has sent a formal message to the Republican leader asking that a vote on this treaty be delayed. Apparently, there is a consensus on the other side, thus far at least, not to allow it to be delayed. This is the total politicization of a national security debate. Could anyone have imagined before this came up, if a President of the United States of any party said: This issue, which is of the gravest consequence to the United States of America, I respectfully ask that you delay a vote on it, could anyone have imagined anything other than a response that says: Mr. President, we will concur with the delay, unless it was for stark political reasons? I can't fathom this one. I can't fathom this. I wasn't sure the President should have sent the letter in the first place.

If this treaty is defeated and India and Pakistan test, we are going to find ourselves in the ugliest political brawl we have seen in this place since Newt Gingrich left the House. You are going to have Democrats standing up on the floor saying: The reason why India and Pakistan have tested is because the Republicans defeated this treaty and gave a green light. That is not a provable assertion, but mark my words, we are going to hear it. Then the response is going to be even more political.

We ought to take a deep breath. My mom always said, when you lose your temper, take a deep breath, count to 10. Not that I have ever lost my temper in my life. You can tell I am not at all passionate about any of these issues. But let us count to 10. The President of the United States has asked this treaty vote be delayed. It seems to me it is common courtesy and totally consistent with national interests to grant that request.

I will speak to other aspects of this. Let me conclude by saying two things: One, to move to a very small tactical nuke on the part of the Russians is an absolute outward admission that they lack the capability in their minds for fighting the conventional war. Twenty years ago, we would have paid billions of dollars, if the Russians had come to us—I say to my friend from Massachusetts who knows a great deal about this—we would have been prepared to vote to pay them $10-, $20 billion if they would stop developing intercontinental range missiles that had the capacity to penetrate our airspace and in all probability hit hardened targets here. If they had said to us, we won't do that but we are going to build a very small tactical nuke, we would have paid them to do that. Now we hear on this side, if we pass this treaty, they are going to build tactical nuclear weapons that are very small, smaller than the 10,000 they now have and are able to have and legally can have. That is a very bad thing. That is why we should reject this treaty. So we encourage the Chinese to go from 18 to 800 or 8,000 nuclear weapons that have MIRV capability and are thermonuclear in capacity. That is wonderful reasoning.

There are legitimate arguments against this treaty, which I believe do not rise to the level of being against a treaty, but I haven't heard them made this morning, with all due respect.

I yield the floor.

Mr. HELMS. Mr. President, I yield to the Senator from Arizona.

Mr. KYL. Mr. President, I want 30 seconds to respond to the challenge of my friend from Delaware with respect to unilateral disarmament. I think the point the Senator from Kentucky was making was that the United States will consider itself bound to the zero-yield standard. We will abide. But we know that certain other countries don't see the treaty that way, don't interpret the language that way. We suspect they have reason to and probably will be conducting so-called hybrid nuclear tests and, second, couldn't verify whether those kinds of tests are conducted. As a result, the United States would not be conducting any kind of nuclear tests, whereas other countries would have the capability and, indeed, the motivation to do so.

I believe that is what the Senator was talking about when he talked about the concept of unilateral disarmament.

Mr. BIDEN. Mr. President, I will take a minute to respond. I understand the point made. We have 6,000 intercontinental ballistic missiles that are on line right now. The Russians have a similar number. After you get by that, the numbers drop off precipitously. China is down in the teens. This unilateral disarmament notion or, as explained by the distinguished Senator from Arizona, I understand his point, but what are we doing? Are we going to give up? Are we freezing in place the fact that we stay at 6,000, and if they take the worst case of a stockpile that is in atrophy versus the dozen or more that the Chinese have? I mean, come on. Come on. You know, if you told me the Chinese had 6,000 nuclear weapons, MIRV capability, thermonuclear yield, or if you told me the Koreans and Libyans had that and the Russians had that, then you would have an argument. After the Soviet Union and then our allies, it drops off precipitously into double digits, max—max.

Mr. President, I yield 10 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts, Mr. KERRY.

Mr. KERRY. Mr. President, I want to thank the Senator from Delaware for his terrific leadership on this issue over the last few days, and for a long period of time.

Let me quickly address, if I may, one point. The Senator from Delaware a few moments ago referred to the strange dynamic that has set in here in the Senate. I just want to underscore that, if I may, for a moment.

I grew up, as many of us did, looking at the Senate with a sense of great respect and awe for the capacity of the Senate to come together around the most significant national security issues that faced the country. I think all of us always looked at this institution as the place that, hopefully, could break through the emotions and find the most common sense solution that is in the interests of the American people.

Some of the great history of the Senate has been written about those moments where Senators crossed the aisle and found commonality in representing the interests of the Nation. I must say that in the 15 years I have been privileged now to serve here, representing Massachusetts, I have never seen the Senate as personally and ideologically and politically divided and willing to subvert what we most easily can define as the common national interest for those pure ideological or political reasons. And I don't think that is mere rhetoric when I say that.

I noticed when Presidents Reagan and Bush were in office, there was a considerable thirst on the other side of the aisle for adventures in Granada, Panama, and Somalia, and the obvious need to respond to the threat in Iraq and the Middle East. But suddenly, with President Clinton, we saw those very people who were prepared to support those efforts, even in a Granada or in a Panama, suddenly people argued that Kosovo didn't have any meaning, Bosnia didn't have meaning, and even Haiti, where there was an incredible influx of refugees and chaos right off our shore, failed to elicit the same kind of responsible international reaction as we had seen in those prior years. Now, regrettably, this treaty finds itself being tossed around as the same kind of "political football," to a certain degree. And I think that is unfortunate, and it certainly does not serve the best interests of the Nation.

Mr. President, preventing the proliferation of nuclear weapons is one of the most important issues facing the United States today. Since the end of the Cold War, we have made great strides in reducing the danger to the American people of the vast nuclear arsenal of the former Soviet Union. But the nuclear danger persists, and the job of nuclear arms control is far from finished. Multiple nuclear tests detonated by India and Pakistan emphasize the need for greater U.S. leadership on this critical issue—not less.

In the last week, we have been told by critics of the CTBT that, for a variety of reasons, it will increase, rather than reduce the danger from nuclear proliferation. I believe that a careful examination of the criticism of this treaty will show that, on balance, it will enhance—not undermine—U.S. national security interests.

First, critics argue that, in their desire to conclude a comprehensive test ban, the Clinton administration made key concessions resulting in a flawed Treaty that is worse than no Treaty at all. Let me say at the beginning that I believe the CTBT is far from perfect. I am not going to argue with my colleagues on the other side that you can't find a legitimate point of disagreement about the Treaty. I'm not going to argue with those who don't like the way a particular compromise was arrived at in the treaty, or that think a particular principle might have been fought for harder and the absence of victory on that particular principle somehow weakens the overall implementation of the Treaty.

The negotiating record—which has been subject to great scrutiny in recent days—reflects as many compromises from the original U.S. position as triumphs in achieving our objectives. There are legitimate reasons for concern that we did not achieve all of the original goals of the United States in negotiating this Treaty. I certainly take to heart Secretary Weinberger's admonition that you should not want the end goal so much that you give up certain substance in arriving at that end goal. I think that is a laudable and very important principle around which one ought to negotiate.

But my colleagues in this body understand better than most the necessity of compromise in finding pragmatic solutions to the many difficult problems we face. And the compromises we agreed to in the CTBT will allow us to achieve the nonproliferation goals we seek.

What has often been lost throughout this debate is that the United States enjoys a tremendous technological advantage over the other nuclear powers in both the sophistication of our weapons and our ability to maintain them reliably. The Administration and the Congress initially agreed to seek a test ban that would permit only the lowest-yield nuclear tests, which was soundly rejected by our negotiating partners because it would essentially ensure that only the United States, with the technical capacity the others lack to conduct those low-yield tests, would be permitted to continue testing its nuclear stockpile.

As Ambassador Stephen Ledogar—the head of the U.S. negotiating team—testified before the Foreign Relations Committee last Thursday, the other four nuclear powers argued that they needed a higher threshold in order to gain any useful data. Russia argued that, if a testing threshold were to be established for the five nuclear powers, it should allow for nuclear yields of up to ten tons of TNT equivalent, hardly a level that constituted an effective testing restriction.

Our negotiators quickly rejected that idea, and President Clinton decided the best way to resolve the impasse and protect U.S. interests would be to pursue a policy of zero-yield—a ban should be a ban. The Russians were not happy with this proposal, but eventually were persuaded to accept a total ban on any nuclear test that produced any nuclear yield.

Clearly, the United States would have been better off if we had been able to negotiate a test ban that allowed us to continue testing. But it is ridiculous to argue that, because the CTBT does not protect the U.S. advantage it represents a dangerous capitulation on our part. To implement and verify a zero-yield test ban, we need not be worried about distinguishing between a low-yield test and a medium-yield test to determine if the Treaty has been violated. Any test of any yield is a violation. In this regard, the Treaty's strength is in its simplicity.

Second, critics argue that we shouldn't ratify the CTBT because we can't verify compliance. There has never been an arms control treaty that is 100% verifiable, and the CTBT is no exception. We will not be able to detect nuclear tests down to the most minute level of nuclear yield. But we will be able to verify that the Test Ban is accomplishing what it is meant to accomplish: an end to nuclear testing that advances the sophistication of current nuclear stockpiles or the development of new nuclear stockpiles.

The key to a successful verification system is that a potential violator must believe that the risk of getting caught is greater than the benefit of the violation. The lower the yield of the nuclear test, the smaller the chance of detection by seismic means. But at the same time, the amount of useful information a nation would get by conducting a low-yield clandestine test would be limited. As a result, a potential violator would likely decide that the risk of getting caught is greater than the benefit of conducting the test. In addition, clandestine testing will not allow any developing weapons program to approach current U.S. capabilities.

For those who are concerned about the danger from low-yield nuclear testing, I would also argue that defeating this treaty will make it more difficult, not less, for the United States to detect those tests by denying us the benefits of the International Monitoring System that will verify the CTBT. The International Monitoring System will include 50 primary seismic monitoring stations and an auxiliary network of 120 stations, 80 radionuclide stations for atmospheric measurements, 11 hydroacoustic stations to detect underwater signals, and infrasound monitoring as well. This system will be augmented by the very powerful national intelligence-gathering technologies currently operated by the U.S. and others.

The CTBT also allows any state party to request an on-site inspection of a questionable seismic event. The Treaty calls for on-site inspection requests to be submitted to the Executive Council of the CTBT Organization—the body charged with implementing the Treaty—along with supporting data, collected either from the monitoring and data mechanisms established under the Treaty or from national technical means. The Executive Council will have representatives from every region, and nations within each region will rotate membership on the Executive Council on a set schedule. The United States has reached agreement with the nations in our region that we will always be one of the 10 nations representing our region, so we will always have a vote on the Executive Council.

Thirty of the 50 members of the Executive Council must approve an on-site inspection request. Critics have argued that it will be very difficult for the United States to garner the support of 30 nations to allow for an on-site inspection. They argue that our traditional adversaries will use the Executive Council to block inspections that are necessary to protecting the U.S. national interest.

It is true that countries such as North Korea, Iran, Iraq and their few supporters can be counted on to block U.S. and other requests for on-site inspections. However, most of the nations of the world have no interest either in pursuing nuclear weapons or allowing their neighbors to pursue them unchecked, which is why this Treaty enjoys such strong support throughout the international community.

Rogue nations would have to find support among more than 40 percent of the Executive Council to block our request for an on-site inspection. But it is unlikely that the United States would not be able to persuade at least 30 members of the merits and importance of our inspection request.

The CTBT will give us access to tools we otherwise would not have for monitoring nuclear tests, and an option for on-site inspection of seismic events that we do not fully understand. Defeating the treaty would deny our intelligence community the additional benefits of those additional tools.

Third, critics argue that the CTBT will not end nuclear proliferation, because key countries of proliferation concern will not sign or ratify. This is an important argument, because it goes to whether this Treaty can accomplish the fundamental purpose for which it is designed—stopping the proliferation of nuclear weapons.

It is true that countries will halt nuclear testing, or not, based on a calculation of their own national interest. But by creating an international norm against nuclear testing, the CTBT will add a powerful factor in a rogue nation's assessment of whether its national interest will be helped or harmed by the conduct of a nuclear weapon. A nation that chooses to test will face considerable costs to its political, economic and security interests. U.S. ratification of the CTBT will lay the basis for universal enforcement of the Treaty, even against the few nations that may not sign.

The CTBT is a critical component of broader U.S. strategy on nuclear nonproliferation, which has the Nuclear Non-Proliferation Treaty (NPT) at its core. In 1995, states parties to the NPT agreed to extend that Treaty indefinitely, in large part based on the commitment of the declared nuclear weapons states to conclude a CTBT. The failure of the United States to ratify the CTBT will seriously undercut our ability to continue our critical leadership role in the global nuclear non-proliferation regime.

Formal entry-into-force of the Treaty requires ratification by the 44 countries that have nuclear power reactors or nuclear research reactors and are members of the Conference on Disarmament. And in my mind, it is altogether appropriate that a treaty banning the testing of nuclear weapons requires the participation of all the nuclear-capable states before it can enter into force. Of those 44, 41 have signed the CTBT, and 23 have ratified. All of our allies have signed the Treaty. Russia and China have signed the Treaty. Only India, Pakistan and North Korea have not signed.

Now, some have argued that the United States should be in no hurry to ratify the Treaty, that we should wait until Russia, China, India, Pakistan and North Korea have ratified. They worry that the United States will forfeit its ability to conduct nuclear tests with no guarantee that the countries we are most concerned about will make the same commitment. But the United States has already concluded that we do not need to conduct nuclear tests to maintain our vast nuclear superiority.

No one on the other side of the aisle is arguing we should go out and test tomorrow. Why? Because we don't need to test tomorrow. We don't need to test next year. We don't need to test for the foreseeable future, according to most scientists in this country, because we don't test the nuclear explosion itself for the purpose of safety and for making judgments about the mechanics of both the electrical and mechanical parts of a nuclear warhead.

The CTBT binds us to a decision we have already made, because it is in our national interests to stop testing. And if, at some point down the line, it becomes necessary to resume testing to preserve the reliability of our nuclear deterrent, we can withdraw from the Treaty to do so.

Clearly, we want countries like India and Pakistan to ratify the Treaty and commit themselves to refraining from nuclear testing. Aren't we more likely to convince them to do this if we ourselves have already ratified the Treaty? As Secretary Albright correctly pointed out on Thursday, waiting is not a strategy. During the debates on the Chemical Weapons Convention, there were those who advocated taking this passive approach to protecting our interests. But in fact, after the United States ratified the CWC, Russia, China, Pakistan, Iran and Cuba followed our lead. The best chance for achieving the nonproliferation goals of the CTBT is for the United States to lead. If the Senate were to reject the Treaty, international support for the test ban would be gravely undermined, and countries like India and Pakistan would have no reason to refrain from continued testing.

Aren't we better off with a treaty that gives us the capacity to monitor, the capacity to continue to show leadership with India and Pakistan, the capacity to set up a process with China before the Chinese test in a way that gives them the ability to translate the information stolen—referred to in the Cox commission report—into a real threat to the United States?

That seems to me to be a very simple proposition. The Cox Report, and others, all acknowledge that at this point in time China has not created a new weapon or changed its nuclear capacity, using our information. And we know that, in order to do so, using on our information, they have to test. China has signed the treaty, and is prepared to adopt the restraints of this treaty. Those who argue that we are better off allowing China the window to go out and test and now profit from what it has stolen elude all common sense, in my judgment. How would the United States be better off with a China that is allowed to test and translate the stolen information into a better weapons system? That is not answered on the floor of the Senate. But some argue that that is the way they would like to proceed.

U.S. ratification of the CTBT won't end nuclear proliferation, but U.S. rejection of the Treaty undermine the credibility of U.S. leadership on nonproliferation, which will jeopardize U.S. work to prevent North Korea from developing nuclear weapons, to eliminate weapons of mass destruction in Iraq, and to block the sale of sensitive technologies that could contribute to proliferation.

Finally, critics argue that the United States will not be able to maintain a reliable nuclear deterrent without nuclear tests. I take very seriously the argument that, without nuclear testing, the credibility of the U.S. nuclear deterrent will be undermined. The security of the American people—and the security of our friends and allies around the world—depends on maintaining the credible perception that an act of aggression against us will be met with an overwhelming and devastating response. If I thought for a minute that U.S. ratification of the CTBT would undermine this deterrent, I would not—I could not—support it.

In fact, the United States has today and will continue to have in the future high confidence in the safety, reliability and effectiveness of our nuclear stockpile. This confidence is based on over 50 years of experience and analysis of over 1,000 nuclear tests, the most in the world.

Most of the nuclear tests the United States has conducted have been to develop new nuclear weapons; for the most part, we use non-nuclear tests to ensure the continued reliability of our nuclear arsenal.

This is a key point—even with no test ban, the United States would not rely primarily on detonating nuclear explosions to ensure the safety and reliability of our nuclear stockpile. Most of the problems associated with aging nuclear weapons will relate to the many mechanical and electrical components of the warhead, and the CTBT does not restrict testing on these nonnuclear components. Moreover, we have already proven that we can make modifications to existing designs without nuclear testing. In 1998, we certified the reliability of the B–61 Mod 11, which replaced an older weapon in the stockpile, without conducting a nuclear test.

Looking to the future, the center of U.S. efforts to maintain our nuclear stockpile is the Science Based Stockpile Stewardship program, initiated by President Clinton in 1992. This 10 year, $45 billion program has four major objectives: to maintain a safe and reliable stockpile as nuclear weapons age; to maintain and enhance capability to replace and certify nuclear weapons components; to train new weapon scientists; and to maintain and further develop an operational manufacturing capability.

And it is already working. Since our last test in 1992, the Secretaries of Defense and Energy and the Commander-in-Chief of Strategic Command have certified 3 times (and are about to certify for the fourth time) that the U.S. nuclear stockpile is safe and reliable. It is only in the distant future—2010 perhaps, but we don't know the answer to this yet—that conceivably the physics package of a nuclear weapon might provide the level of deterioration that might not be able to be replaced with totally new parts and therefore might somehow lessen our nuclear deterrent capacity. To enable us to respond to such a situation, President Clinton has established six Safeguards that define the conditions under which the U.S. will remain a party to the CTBT.

Presidential Safeguards A through F, as they are known, outline the U.S. commitment to maintaining a science-based stockpile stewardship program to insure a high degree of confidence in the reliability of the U.S. nuclear stockpile. The final safeguard, Safeguard F, states U.S. policy—as embodied in the official negotiating record of the CTBT—that, if the President is advised that the safety or reliability of the U.S. nuclear stockpile can no longer be certified, the President, in consultation with the Congress, will withdraw from the CTBT under the "supreme national interests" clause of the Treaty.

Now, critics of this Treaty have suggested that a future President, upon learning from his Secretaries of Defense and Energy that the nuclear stockpile can not be certified, and upon confronting all the scientific data that tells him our nuclear deterrent is eroding, will somehow fail to act—fail to invoke the "supreme national interest" clause—and withdraw the United States from the Treaty. I ask my colleagues, Is there one among us who, when confronted with this information, would hesitate to act? When the Congress is informed of the status of the nuclear arsenal—and those reports are given in full to the Congress—is there anyone who doubts that the Congress would immediately demand that the White House take action to protect our nuclear deterrent?

Surely, the critics of this Treaty who doubt that a President could find the political will to withdraw the United States from the CTBT when our "supreme national interests" are at stake aren't suggesting that there is a confluence of political factors that could possibly place the sanctity of a treaty above the sanctity of the lives of the American people. No one can tell me that any President of the United States is going to diminish the real national security interests of this country against some desire to keep a treaty in effect for the sake of having a treaty if, indeed, doing so will threaten the real interests of this Nation.

U.S. ratification of, and adherence to, the CTBT will not jeopardize our nuclear deterrent, because the United States does not today, and will not tomorrow, rely on nuclear explosions to ensure the safety and reliability of our nuclear stockpile. We have embarked on a high-tech, science-based Stockpile Stewardship Program that will allow the United States to maintain the superiority of its nuclear arsenal. And in the event that we can not certify the reliability of our nuclear deterrent, we have given notice to our negotiating partners that we will not adhere to the CTBT at the expense of our supreme national interests.

So, in effect, we are talking about what we could achieve by passing this treaty and showing leadership on the subject of implementing an international regime of monitoring and of nonproliferation, versus continuing the completely uncontrolled capacity of nations to provide a true threat to the United States.

Mr. President, critics of this Treaty argue that the United States today faces too many uncertainties in the realm of nonproliferation to commit ourselves to a leadership position on the CTBT. I can not speak to those uncertainties, but of the following, I am absolutely certain: if the Senate rejects the Comprehensive Test Ban Treaty, there will be more nuclear tests conducted around the world, not fewer, and we will be no better equipped than we are today to detect and monitor those tests; the U.S. nuclear arsenal will not be made more reliable—and other nuclear nations will have the freedom to conduct the necessary tests to bring their weapons on a technological par with our own, undermining the strength of our nuclear deterrent; and finally, the American people will be more vulnerable, not less, to the nuclear danger, because we will have undercut more than 30 years of work to build and fortify international norms on nuclear nonproliferation.

The Senate has before it today an opportunity to send a signal to the world that the United States will continue to lead on international efforts to reduce the nuclear danger. We also face the prospect of acting too soon, after too little time for deliberation, and sending a signal that the United States can no longer be counted on to stand against the forces of nuclear proliferation.

It seems to me that when the President of the United States makes a request in the interest of our Nation to the Senate to delay a vote, it is only politics that would drive us to have that vote notwithstanding that request.

My plea would be to my colleagues in the Senate that we find the capacity to cool down a little bit, to have a vote that delays the consideration of this treaty so that we may proceed to answer properly each of the questions raised by those who oppose it, and, if need be, make changes that would not send the message that the United States of America is rejecting outright this opportunity to embrace a policy that from Eisenhower on we have fought to try to adopt.

I hope that the leadership of the Senate on both sides of the aisle can be prevailed upon to prevent a tragic misstep that I fear will have grave consequences for the strategic interests of the United States and our friends and allies.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, parliamentary inquiry, please. Somewhere down the line we are going to find it wise to yield back time. That would not forbid a Senator on this side from suggesting the absence of a quorum or any other routine motion of the Senate. Is that correct?

The PRESIDING OFFICER. That is not correct. The Senator would have to have debatable time left or there would have to be a nondebatable motion. There would have to be debatable time left or there would have to be a nondebatable motion before a Senator would be able to suggest the absence of a quorum.

Mr. HELMS. Very well. I thank the Chair for the information.

The PRESIDING OFFICER. Who yields time?

The Senator from Delaware.

Mr. BIDEN. Mr. President, I say to my colleagues on the Democratic side who want to speak on this treaty, if I am not mistaken, there is less than 1 hour—approximately 1 hour—left under the control of the Senator from Delaware, and 13 Members wish to speak to it; and, further, if my Republican colleagues conclude that they wish to yield back their time, the time is going rapidly as we approach this vote. I urge Senators, if they wish to speak, to be prepared, as my friend from the State of Connecticut is, to speak for 5 minutes.

I yield 5 minutes to my friend from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my friend from Delaware.

As I have listened to my colleagues during this debate, I feel as if the Senate has backed itself at least into a procedural corner in the midst of a policy disagreement.

This is not the first time this has happened in the history of the Senate—not even in the 10½ years I have been here. But this is one of the most consequential times we have done so. For it seems to be a combination of reasons that are part ideological, part partisan, and part just plain personal. I hope we can find a way to work ourselves out of this corner because the stakes here are high.

As the debate has been going on, I have been thinking about the two big debates that have occurred here in the decade that I have been privileged to serve in this body. One was the gulf war debate and the other was the Middle East peace accords, the Oslo accords.

I think of the gulf war debate because I remember as President Bush dispatched a half million troops to the gulf that I was dismayed at how the reaction to that act by President Bush was dividing along partisan lines. It didn't seem like a partisan question to me. People could have good faith opinions on both sides, but the opinions were not based on party affiliation.

I have the same feeling as I listen to this debate, and watch the lines harden. Something unusual and unsettling has happened to our politics when party lines divide us so clearly and totally on a matter of national security. That is not the way it used to be in the Senate. And that is not the way it ought to be.

The same is true of the procedural dilemma to which we have come. We have a President—and those of us who support this treaty—acknowledging that the votes are not there to ratify it now. That says that the opponents of the treaty have won for now.

So why push for the vote? If the President of the United States has asked that it be delayed because of his fear of the consequences of a vote failing to ratify on nuclear proliferation, this is not political. This goes to the heart of our security and the hopes and fears we have for our future and our children's future.

But I will say if there is one thing, in my opinion, that would be worse than going ahead and voting, even though we know those who oppose ratification of the treaty have won. That would be for us as a majority to voluntarily say that we will prohibit the President or ourselves from raising the question of this critical and progressive treaty again for the next year and a half. I think to do that would send an even worse signal to India, to Pakistan, to China, and to Russia.

Let's keep the hope of a more secure world alive. Let's acknowledge that we have a common goal.

Is anybody for nuclear proliferation? Don't we all agree that the atmosphere is cleaner and the likelihood of nuclear proliferation less if nations can't test? Can't we find a way across party lines to do what we have done with other treaties—to adopt reservations or safeguards or conditions which allow enough of us to come together to ratify this treaty? Why are we heading toward a wall from which there will be no good return and no good result?

I have also been thinking of the Middle East peace accords and the Oslo accords because I remember what Prime Minister Rabin said.

> If you are strong you can take risks for peace.

We are the strongest nation today in the history of the world. When it comes to strategic nuclear weapons, we are dominant. We have more than 6,000. If, tragically, for whatever reason, a few of them don't work we have such—in the marvelous term of the Pentagon—"redundancy" that we have thousands of others that we can rely on in the dreadful occasion that we might need to use them.

This treaty promises to freeze our advantage in nuclear weapons. Since we are the strongest nation in history and this treaty may well make us more dominant in the crucial, terrible arena of nuclear weapons, why would we not want to take the risk of ratifying this treaty? It is, in my opinion, a very small risk for increasing peace and security for all—for our children, for our grandchildren. If we decide that testing is once again required by the United States in pursuit of our national interests, that option is protected. The treaty language is very clear: We can—and I am sure we will—withdraw.

My appeal in closing is to say, Can't we find a way to come back to some sense of common purpose and shared vision of a future? Both sides have said on the floor that nuclear proliferation is one of the great threats to our future. We are hurtling down a path, as this dreadful power spreads to other countries of the world, many of them rogue nations, where we cannot rely on the bizarre system of mutual assured destruction that saved the United States from nuclear war during the cold war. If an accident becomes more likely, the consequences will be dreadful. Can't we find a way to avoid good old-fashioned gridlock, which is survivable on most occasions in this Senate, but I think potentially devastating on this occasion?

I appeal to my colleagues on the other side, whether there is or is not a vote now on this treaty, let's get together and figure a way we can sit, study the matter, talk to people in the Pentagon and people in allied countries, and see if we cannot find a way to agree on enough reservations, safeguards, and conditions to come back, hopefully next year, and ratify this treaty.

I yield the floor.

Mr. BIDEN. Parliamentary inquiry: If we go into a quorum call at this point, the time is taken out equally from the opponents and proponents; is that right or wrong?

The PRESIDING OFFICER. It takes unanimous consent to be charged equally. Otherwise, the time will be charged against the side which suggests the absence of a quorum.

Mr. BIDEN. I thank the Chair.

Mr. President, I yield 10 minutes to the Senator from Massachusetts, Mr. KENNEDY.

Mr. KENNEDY. Mr. President, this may be one of the most important debates the Senate will have in this recent time. In my view, the ratification of the Comprehensive Test Ban Treaty is the single most important step we can take today to reduce the danger of nuclear war. Surely we are in no position to hold a premature vote today or tomorrow on this.

After 2 years of irresponsible stonewalling, the Senate has finally begun a serious debate on this treaty. This debate should be the beginning—not the end—of a more extensive and thoughtful discussion of this extremely important issue. The stakes involved in whether to ratify or reject this treaty are clear. Our decision will reverberate throughout the world, and could very well determine the future of international nuclear weapons proliferation for years to come.

We have a unique opportunity to help end nuclear testing once and for all. The United States is the world's premiere nuclear power. The Comprehensive Test Ban Treaty locks us into that position. No other nations have the capability to assure that their nuclear arsenals are safe and reliable without testing. We have that capability now, and the prospects are excellent that we can retain that capability in the future.

Over the past 40 years, we have conducted over 1,000 nuclear tests. We currently have extensive data available to us from these tests—data that would provide us with an inherent advantage under the Treaty. As Hans A. Bethe, the Nobel Prize winning physicist and former Director of the Theoretical Division at Los Alamos Laboratory, stated in an October 3 letter to President Clinton,

> Every thinking person should realize that this treaty is uniquely in favor of the United States. We have a substantial lead in atomic weapons technology over all other countries. We have tested weapons of all sizes and shapes suitable for military purposes. We have no interest in and no need for further development through testing. Other existing nuclear powers would need tests to make up this technological gap. And even more importantly, a test ban would make it essentially impossible for new nuclear powers to emerge.

As the foremost nuclear power, other nations look to us for international leadership. We led the negotiations for this treaty. We were the first of the declared nuclear powers to sign the Treaty. Yet, now, because of our inaction and irresponsibility, we have made it necessary for the leaders of three of our closest allies to plead with us not to defeat the Treaty.

These three leaders—Prime Minister Chirac of France, Prime Minister Blair of Britain, and Chancellor Schroeder of Germany—wrote in an OpEd article in the New York Times last Friday that, "Failure to ratify the Comprehensive Test Ban Treaty will be a failure in our struggle against proliferation. The stabilizing effect of the Non-Proliferation Treaty, extended in 1995, would be undermined. Disarmament negotiations would suffer." They also go on to say that, "Rejection of the treaty in the Senate would remove the pressure from other states still hesitating about whether to ratify it. Rejection would give great encouragement to proliferators. Rejection would also expose a fundamental divergence within NATO."

Our relationship with our most valuable allies is on the line. It would be the height of irresponsibility for the United States Senate to send the world a message that we don't care if other nations test nuclear weapons, or develop their own nuclear arsenals. Surely, the risks of nuclear proliferation are too great for us to send a message like that.

The United States stopped conducting nuclear tests in 1992. Doing all we can to see that other nations follow suit is critical for our national security. Russia and China have both indicated that they are prepared to ratify the Treaty if the U.S. ratifies it. If the Senate fails to ratify it, the likely result is a dangerous new spiral of nuclear testing and nuclear proliferation.

Many of my colleagues have spoken about the fact that there is no guarantee about this Treaty. I argue that there is one guarantee—if we fail to ratify the Treaty, the consequences are grave, and could be catastrophic for our country and for all nations.

Last week, we held hearings in the Armed Services Committee on the Treaty, and I commend the distinguished Chairman and Ranking Member of that Committee for taking the lead on this extremely important issue. We listened to expert witnesses on both sides of the aisle, as they presented testimony on the Treaty and the Stockpile Stewardship Program.

General Shelton, the Chairman of the Joint Chiefs of Staff, testified that it was the unanimous conclusion of all of the Joint Chiefs, that the Treaty is in our national interest. General Shelton said, "The CTBT will help limit the development of more advanced and destructive weapons and inhibit the ability of more countries to acquire nuclear weapons. In short, the world will be a safer place with the treaty than without it, and it is in our national security interests to ratify the CTBT."

Some of my colleagues have referred to the Treaty as "unilateral disarmament." This characterization is grossly inaccurate, both in policy and in practice. A key element of our adherence to the Treaty, with the Administration's safeguards, is the Stockpile Stewardship Program.

Last Thursday, in the Armed Services Committee, each of the directors of our nuclear labs testified about that program. John Browne, the director of Los Alamos National Laboratory, said, "Through the Stockpile Stewardship program, we intend to demonstrate a technical excellence in weapons-relevant science and engineering that will project confidence in our nuclear capability. This technical excellence will be evident in our unclassified publications and presentations at scientific conferences. Other countries will see these accomplishments and will understand their connection to the quality of our weapons programs." With the Stockpile Stewardship Program, we will still be able to maintain a powerful nuclear deterrent.

Critics argue that the Treaty's not 100 percent verifiable. In reality, the Treaty enhances our current ability to monitor nuclear testing worldwide. It establishes an International Monitoring System, which creates a global network of 321 testing monitors. We would get all of the benefits of this larger system and only have to pay 25 percent of its total cost. The Treaty also establishes an on-site inspection system. Perhaps most important, it will hold other nations accountable for their actions, and require them to provide explanations for suspicious conduct.

We also have a safety valve in the Treaty—Safeguard F. The Administration didn't send this Treaty to the Senate as a stand-alone document. They sent it here with six Safeguards under which, and only under which, the United States will adhere to the Treaty.

As Safeguard F states, adherence to the Treaty is explicitly conditioned on:

> . . . the understanding that if the President of the United States is informed by the Secretary of Defense and the Secretary of Energy that a high level of confidence in the safety or reliability of our nuclear weapons

> can no longer be certified, the President, in consultation with Congress, can withdraw from the Treaty.

The importance of this safeguard cannot be overstated. It ensures that we will be able to do what is necessary to maintain our nuclear arsenal.

President Kennedy, in his address to American University on June 10, 1963, spoke about the issue of verification while discussing the Limited Test Ban Treaty. He said,

> No treaty, however much it may be to the advantage of all, however tightly it may be worded, can provide absolute security against the risks of deception and evasion. But it can—if it is sufficiently effective in its enforcement and if it is sufficiently in the interests of its signers—offer far more security and far fewer risks than an unabated, uncontrolled, unpredictable arms race.

These words still hold true today. The risks posed by ratification of the Comprehensive Test Ban Treaty pale in comparison to the risks posed if we reject it. We have the opportunity, with this treaty, to open the door to a world without nuclear testing—a world that will be far safer from the danger of nuclear war.

Voting on the Comprehensive Test Ban Treaty is one of the most important decisions that many of us will ever make. This vote holds profound implications not only for our generation, but for all the generations in the future. It makes no sense to risk a premature vote now that could result in rejection of the Treaty. As the poet Robert Frost pointed out, "Two roads diverged in a wood"—and the one we take may well make all the difference between peace and nuclear war.

I reserve the remainder of my time and yield it back to Senator BIDEN.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. Mr. President, I will yield myself 5 minutes.

The argument has been made that the United States will not be able to modernize its deterrent arsenal to meet new threats or encounter new technologies under the Strategic Stockpile Stewardship Program, and that is why some of my colleagues are saying we cannot go ahead with this treaty.

I want to make it clear, the test ban treaty does not prevent us from adapting most operational characteristics of a nuclear weapons system to changing military missions, should we determine we have to do that. Many important parts of a nuclear weapon can confidently be developed, tested, and integrated into nuclear weapons without any nuclear tests because they do not involve changes in the primary or secondary components of the warhead; that is, the so-called physics package.

Dr. Paul Robinson, the Director of the Sandia National Laboratory, told the Armed Services Committee on Thursday night:

> Adapting deployed nuclear designs to new delivery systems, or even other delivery modes, is not constrained by the elimination of nuclear yield testing.

Let me put this in ordinary English. We keep being told here what has happened is, if we sign on to this treaty without this Stockpile Stewardship Program being fully completed, we are going to put ourselves at great disadvantage, amounting to nuclear disarmament; we will not be able to modernize our systems, and our systems are going to atrophy.

Dr. Robinson, the Director of Sandia, went on to describe a prominent success in the Stockpile Stewardship Program that is working now. We have nine deployed systems, nine different kinds of nuclear bombs. One of them is the B61 Mod-7 strategic bomb. That was adapted without any nuclear tests.

I have a photograph of that I will hold up now. That is a B–1 bomber. That red missile that is being dropped out of the belly of that bomber is a change in the B61 Mod-7 to a B61 Mod-11, in response to a different requirement.

What was the different requirement? The military said they needed a nuclear weapon that could destroy targets that were buried very deeply in the ground, and that Mod-7 version of the B61 nuclear warhead could not do that. So without any nuclear test, they tested a new system. It is called the Mod-11. That can penetrate the Earth deeply and destroy deeply buried targets.

This picture illustrates an important fact. You can test nearly everything in a nuclear weapon so long as you do not put enough nuclear material in it to cause an uncontrolled chain reaction. We did not set off this bomb, but we did test the bomb. You can take the plutonium out of the bomb, and put uranium in the bomb, and you can test it. It just doesn't set off this uncontrolled chain reaction. So this idea that we cannot change anything in our arsenal if we sign on to this is simply not correct.

By the way, the JASON Group, which is the most prestigious group of nuclear scientists in the United States of America, studied this, and they said the Strategic Stockpile Stewardship Program can maintain all of our systems. One particular member of that group, testifying before the committee, Dr. Garwin, points out that we can even exchange entire physics packages; that is the plutonium and that secondary package, that device that explodes it, that blows up. In my visual image of it, the best way to explain it, as I was trying to explain it to my daughter who is a freshman in college, what happens is you get this plutonium, and you have to have something to ignite it, set it off. So there is a secondary explosion that takes place, and it shoots all these rods into this plutonium at incredible speeds.

I yield myself 2 more minutes.

What happens is it detonates the weapon, this chain reaction starts, and you have a thermonuclear explosion.

The question has been raised whether or not, if we figured out that this plutonium was no longer either stable or functional or was not reliable, could you take out of the warhead the thing that makes it go boom, the thing that causes the chain reaction, the thermonuclear explosion, and put a new package in? Dr. Garwin says you sure can do that, without testing, without nuclear tests.

This year, the first W–87—that is another warhead—life extension unit was assembled in February for the Air Force at the Y12 plant in Oak Ridge. It met the first production milestone for the W–87 life extension.

These are major milestones and successes in the Stockpile Stewardship Program. I might add, as my friend from Massachusetts knows, nobody is suggesting we start to test now—nobody that I am aware of. I should not say nobody. Nobody I am aware of. There may be somebody suggesting it.

Preservation of the option of modernizing U.S. nuclear weapons to counter emerging defensive technologies, the phrase you hear, does not require ongoing nuclear testing. The most likely countermeasures would involve changes to the missile and its reentry system, not to the nuclear explosive.

It is a red herring to suggest if we sign on to this treaty, we are locking ourselves into a system that is decaying and moving into atrophy and we are going to find ourselves some day essentially unilaterally disarmed. That is a specious argument.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. BIDEN. I will be happy to yield.

Mr. KENNEDY. There were some questions raised in the Armed Services Committee.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. BIDEN. I yield time to the Senator.

Mr. KENNEDY. What assurances will we have that there will be continued funding for the Stockpile Stewardship Program? I imagine that the Senator agrees, if this is indeed a concern, that we would be glad to make funding for the Stockpile Stewardship Program mandatory. And, I doubt that there would be any hesitancy, on the part of our colleagues, to get broad support for this in the Senate, if that was what was needed so that ensuring funding for this important program wasn't an issue or a question.

Many of the witnesses at the hearings said: "How do we know there will be continued funding? They may very well cut back that program." Is this another area about which the Senator is concerned, that we don't know whether, year-to-year, the funds will be available for the Stockpile Stewardship Program.

Can he give us some insight about his own thinking on how we can give assurances to the lab directors that there will be adequate funding for that program in the future?

Mr. BIDEN. The Senator, as usual, puts his finger on one of the incredible flaws in our opponents' reasoning. They engage in circular reasoning. It goes like this: Without spending money on the Stockpile Stewardship Program, roughly $4.5 billion a year for 10 years, we will not be able to attain, when the shelf life of these weapons is reached 10 years out or more, a degree of certainty that they are reliable and safe.

You say: OK, we will fund it; we are for it, and the President sends up that number.

Then they say: But we have a problem. Our Republican friends in the House won't vote for that much money, and we had to fight too hard to get it and they probably won't do it next year. The reason why, they go on to say, I am against this, although I think if we funded it, it would work and it would make sense, is my Republican colleagues in the House probably won't fund it; therefore, I can't be for this treaty because you guys are not funding the stockpile.

I find that absolutely fascinating, but it is the circular reasoning which is being engaged. It strings together a group of non sequiturs that end up leading to a conclusion that makes no sense.

The Senator has been here longer than I. Can he imagine, if we vote this treaty down and other nations begin to test, and those who voted it down are saying, by doing that, we think the United States should be able to test, can you imagine this or future Congresses coming up with $45 billion to perfect a Stockpile Stewardship Program which purpose and design is to avoid nuclear testing, to spend $45 billion for the redundancy? Can the Senator imagine us doing that?

Mr. KENNEDY. I certainly cannot. The Senator has put his finger on one of the many reasons for supporting the Stockpile Stewardship Program which is to give the necessary assurances that funding for maintaining our weapons stockpile will be there year after year. This was something I noted was a concern during the course of our hearings—this question about the need for adequate funding. And, the Senator has responded to that concern. There is broad support, certainly on our side or for those who support this treaty, for giving the assurance that funding would be there. It is just one more of the arguments made by those who oppose this treaty that has now been rebutted. I thank the Senator.

Mr. BIDEN. I thank the Senator for his response. I will raise this when we get to the amendments. I wish to point out there is one other ultimate safeguard. The ultimate safeguard is in the amendment, our last provision, which says, if, in fact, we do not fund the stockpile and that causes the laboratory Directors to say, "We cannot certify," and that means the Secretary of Energy says, "We cannot certify," the President of the United States, upon that determination, must withdraw from the treaty and allow us to begin to test. I am amazed at the arguments that are being made on the other side.

Mr. KENNEDY. If the Senator will yield on that question, so the amendment makes a change to the safeguards and makes this a mandatory requirement on the President to exercise the Supreme National Interest if the stockpile cannot be certified?

Mr. BIDEN. Yes.

Mr. KENNEDY. And, that is the measure that is going to be advanced by the leadership, yourself included, to be a part of the Resolution of Ratification?

Mr. BIDEN. That is correct. By the way, it is much stronger than any President wants. It is section (E) of the amendment we sent. I will read it to the Senator:

> Withdrawal from Treaty.—If the President determines that nuclear testing is necessary—

The antecedent to that is the lab Directors say it—

> to assure, with a high degree of confidence, the safety and reliability of the United States nuclear weapons stockpile, the President shall consult promptly with the Senate and withdraw from the Treaty pursuant to Article IX (2) of the Treaty in order to conduct whatever testing might be required.

It is pretty strong.

Mr. KENNEDY. I thank the Senator. It is about as clear as can be. I see our ranking member of the Armed Services Committee ready to speak, but I welcome again the comments of the Senator from Delaware about the risks to our international position if we fail to ratify or defeat the CTBT in terms of security and stability around the world and the continued possibility of nuclear testing over time.

As a member of the Armed Services Committee, I am pleased that we held narrowly focused hearings on the many national security implications of this treaty. It is important that we narrowly focused our attention on our own national security issues. But, these broader international security issues are powerful, and in rereviewing and reading again the letters, statements, and editorials sent in opposition to the Treaty, I think the importance of the broader international security issues, of further testing by other countries, and what the implications are going to be has been missed. I know the Senator addressed those, but I hope before we get into the final hours of this debate the Senator from Delaware will review that for the benefit of the membership.

Mr. BIDEN. Mr. President, I say to my friend from Massachusetts, this is another part of the circular reasoning. What I heard this morning on the floor and heard all day on Friday went like this: Without us being able to test, our 6,000 strategic nuclear weapons are going to become unreliable—which is ridiculous in my view. I strike the word "ridiculous." Which is highly unlikely. I am trying to be polite. It is hard.

Then they say because it is going to become unreliable, two things are going to happen. One is that our allies are going to conclude that our deterrent is no longer credible and, therefore, they are going to lose faith in us. What they are then going to do is decide—Japan and Germany, which are nonnuclear powers—to become nuclear powers, and we are going to be escalating the arms race by passing this treaty.

The same day in an unprecedented move, to the best of my knowledge, the leader of Germany, the leader of France, and the leader of Great Britain sent an open letter to the Senate saying: We, Germany, Japan, and France, have ratified this treaty. We strongly urge you, the Senate, to ratify this treaty in the interest of your country as well as ours.

One of those signatories was the Chancellor of Germany, the very country my friends on the other side say, if we pass this treaty, Germany will go nuclear. I guarantee—I cannot guarantee anything. I will bet—I guess I am betting my career on this one—I will bet you anything that if we turn down this treaty and it is clear that it cannot be revived, within a decade Germany and Japan are likely to be nuclear powers, particularly Japan, because what is going to happen is, India and Pakistan are going to continue testing. They will not sign this treaty. They say they will sign it now if we do. They will not sign the treaty. As India tests more and they move to deployment, China will test more.

China will test in order to determine whether or not they can build smaller, lighter thermonuclear devices where multiple numbers can be put on missiles. They will move from 18 nuclear weapons to God knows how many. Then Japan, sitting there in the midst of that region, is going to say, mark my words: We, Japan, have no choice but to become a nuclear power.

We have spent 50 years of our strategic and foreign policy initiatives to make sure that does not happen. But that is what will happen. So now, at the end of the day, are we likely to be more secure 15 years from now with the scenario I paint? Which is more likely? Is it more likely that turning down this treaty is going to turn Japan and Germany into nuclear powers, increase the total nuclear capacity of China, and move India and Pakistan further along the nuclear collision path? Is that more likely?

Or is it more likely—which is their worst case scenario—that what is going to happen is we are not going to fund the stockpile, we are not going to be able, in 10 years, to count on the reliability of our weapons, the weapons lab Directors are going to come to the Secretary of Energy, the Secretary of Defense and say, we can't certify any more Messieurs Secretaries, and they go to the President of the United States and say, we can't certify, and the President is going to say, oh, that is OK; don't worry about it. We are going to be bound by the treaty.

Which is a more likely scenario? What do you think? Which is more likely, that even if the stockpile degrades, any country, from China to our allies, is going to say, gee, their B-60 M-11 may not function as they thought it would, and maybe they will only be able to fire off 4,900 strategic hydrogen bombs. Maybe they will only be able to do that; therefore, they have lost their deterrent capacity. They no longer have credibility.

That is what you have to accept. You have to accept those kinds of arguments to sign on to the notion that most of our Republican friends are arguing.

Which is the more likely scenario? I would respectfully suggest that 85 percent or 80 percent of the American people are right. They figured it out. They figured it out.

So I hope I have responded, in part at least, to the Senator's question.

Mr. KENNEDY. You did. I thank the Senator.

Mr. BIDEN. I yield to the ranking member of the Armed Services Committee, the Senator from Michigan, Mr. LEVIN.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

Mr. LEVIN. I thank my good friend from Delaware. I thank him also for the leadership he has shown, both on the floor and off the floor, in trying to bring this treaty to hearings before the Foreign Relations Committee, so that the full Senate could look at the pros and cons of this in a deliberative way.

I start with a reference that Senator BIDEN made to three of our good allies—France, Germany, and Great Britain. The chairman of the Foreign Relations Committee is here and perhaps he will recollect otherwise; and I would trust his recollection on this, if he does—but I cannot remember when three of our closest allies' leaders have addressed a direct plea to the Senate. At least in the 20 years I have been here, I do not remember a letter coming in from the Chancellor of Germany and the President of France, and the Prime Minister of Great Britain pleading with us to ratify a treaty. That is how serious the stakes are in this debate.

The world is looking to the Senate. Sometimes we say that and believe it is true; but in this case we say it and know it is true. Because the world has signed on both to a nonproliferation treaty and to a Comprehensive Test Ban Treaty.

There are a few exceptions, obviously. There are some states which will not sign any such treaty. But except for a few rogue nations, the world has signed on to a nonproliferation treaty and a Comprehensive Test Ban Treaty. The world is looking at us, expecting our leadership.

Even though the world is looking to us to ratify, that does not mean we should ratify this treaty if it makes us less secure. We should do what is in our security interests. But unless all of our allies and the rest of the world are wrong, the world will be a much more secure place if we stop testing nuclear weapons and if other countries stop testing nuclear weapons as well.

How do we tell India "don't test", if we ourselves want to test? How do we tell Pakistan, "don't test; for God's sake, for your security and the world, don't test", if we say, oh, but we want to continue to test?

What does that do to our argument? I would suggest it destroys it. It destroys our standing to try to persuade countries that want to become nuclear powers, that want to add to their inventories, that want to improve their inventories—it wipes out our standing to make the argument, if we say everybody else ought to stop testing but us.

We are the only superpower in this world. That gives us certain responsibilities. But one of those responsibilities is that we should be not just a superpower, but we should be superwise as well. We should realize that we are not always going to be the world's only superpower—nuclear or otherwise. We should behave with the realization that our actions today are going to affect the rest of the world, including the direction they go in terms of nonproliferation.

As I said, I would not care if every country in the world signed or ratified this treaty if it was not in our security interests. I think we ought to listen, we ought to understand what the rest of the world is saying to us, we ought to remember our own commitments. We signed up to the indefinite extension of the nonproliferation treaty, and made a commitment to the world to conclude a comprehensive test ban treaty. We should remember our own commitments. We should consider what our allies and the rest of the world are saying to us. But if it were not in our own security interest, I would not recommend that we ratify the treaty.

But we should surely listen to our top military leaders as to what they recommend to this Senate? What does the Chairman of the Joint Chiefs of Staff recommend strongly to the Senate? He says:

> The test ban treaty will help limit the development of more advanced and destructive weapons and inhibit the ability of more countries to acquire nuclear weapons. It is true that the treaty cannot prevent proliferation or reduce current inventories, but it can restrict nuclear weapons progress and reduce the risk of proliferation.

General Shelton said:

> In short, the world will be a safer place with the treaty than without it. And it is in our national security interest to ratify the CTBT.

Secretary Cohen said the following:

> By banning nuclear explosive testing, the treaty removes a key tool that a proliferator would need in order to acquire high confidence in its nuclear weapons designs.

Secretary Cohen said:

> Furthermore, the treaty helps make it more difficult for Russia, China, India, and Pakistan to improve existing types of nuclear weapons and to develop advanced new types of nuclear weapons.

Secretary Cohen said:

> In this way, the treaty contributes to the reduction of the global nuclear threat. Thus, while the treaty cannot prevent proliferation or reduce the current nuclear threat, it can make more difficult the development of advanced new types of nuclear weapons and thereby help cap the nuclear threat.

What the three world leaders, to whom I referred before and to whom Senator BIDEN referred earlier, said in their article and in their letter to us was the following:

> Rejection of the treaty in the Senate would remove the pressure from other states still hesitating about whether to ratify it. Rejection would give great encouragement to proliferators. Rejection would also expose a fundamental divergence within NATO. The United States and its allies have worked side by side for a comprehensive test ban since the days of President Eisenhower. This goal is now within our grasp. Our security is involved as well as America's. For the security of the world we will leave to our children, we urge the U.S. Senate to ratify the treaty. We have President Chirac, Prime Minister Blair, Chancellor Schroeder of Germany, from their perspective, pleading with us to ratify this treaty. We have our top military leadership, uniformed and civilian, urging us to ratify this treaty. That is the kind of assessment which has been made of the value of this treaty. That is the kind of analysis which has been made.

We should think carefully before we reject it; before we defeat a treaty that is aimed at reducing the proliferation of nuclear weapons in the world; before we give up our leadership in the fight against proliferation; and our efforts to go after proliferators. We keep saying the proliferation of weapons of mass destruction is the greatest threat this Nation faces; our military leaders tell us this treaty is an important step in the fight against proliferation. Before we give up that leadership and defeat a treaty which is adding momentum to the battle against proliferators, we surely should stop and assess what it is this Senate is about to do.

It has been argued that we need testing for the safety of our stockpile. The answer is that the stewards of the stockpile, the lab Directors, for the last 7 years have been certifying safety and reliability of the stockpile based not on testing, which we have given up for 7 years already, but based on a Stockpile Stewardship Program which has allowed them to certify with a high degree of confidence that our stockpile is safe and reliable, without one test in the last 7 years.

Will they be able to do that forever? They think they can, but they are not sure. They told us they believe they will be able to continue to certify the safety and reliability of our stockpile without testing. They have also told us something else. Here I want to read a letter from them because there has been such a misunderstanding about what these three lab Directors have told us at our hearing. After the hearing, they wrote a joint statement from which I want to read:

> While there can never be a guarantee that the stockpile will remain safe and reliable indefinitely without nuclear testing, we have stated that we are confident that a fully supported and sustained stockpile stewardship program will enable us to continue to maintain America's nuclear deterrent without nuclear testing. If that turns out not to be the case, Safeguard F—which is a condition for entry into the Test Ban Treat by the U.S.—provides for the President, in consultation with Congress, to withdraw from the treaty under the standard "supreme national interest" clause in order to conduct whatever testing might be required.

People can quote different parts of the lab Directors' testimony. I was there for it. The bottom line is, while they cannot guarantee that the Stockpile Stewardship Program will always allow them to certify safety and reliability, they believe it will be able to do so, and therefore they are, in the words of one of them, "signed onto" this treaty. That is because if they can't certify the safety and reliability of our nuclear stockpile in some future year they have the assurance in safeguard F, by which we can withdraw from the treaty if we need to conduct a nuclear test. We have incorporated that safeguard and, indeed, strengthened it in the amendment to this resolution, that we will withdraw from this treaty and begin nuclear testing again if necessary. We do not want our stockpile to be unsafe or unreliable. Nobody does—none of us.

The question then is, Can we join the rest of the world, at least the civilized world, in a comprehensive test ban to fight the proliferation of nuclear weapons, and at the same time assure ourselves that if we need to test again, we will be able to do so by notifying the rest of the civilized world in advance that we retain the right to withdraw from the treaty and test if our security requires it? In other words, in the event the day comes when testing is needed to certify safety and reliability, we are putting the world on notice now that we intend to exercise that withdrawal clause.

Could somebody cheat? That is the other argument which has been used, that somebody could cheat at a very low level of testing, that somebody might be able to get away with it, that our seismic detection capability is not such that we would be certain we would catch a very low level test.

This is what Secretary Cohen says about the cheating question:

> Is it possible for states to cheat on the treaty without being detected? The answer is yes. We would not be able to detect every evasively conducted nuclear test. And from a national security perspective, we do not need to. But I believe that the United States will be able to detect a level of testing, the yield and number of tests, by which a state could undermine the U.S. nuclear deterrent.

So the Secretary of Defense is testifying that militarily significant cheating would be caught, that a low-level test by a power would be taking a huge risk in cheating, because there are other means besides seismic detection to get evidence of a cheating. But most importantly, if a signatory to this treaty decided to cheat and take that risk, they could not undermine our nuclear deterrent. It would not be a militarily significant cheating that could occur without our knowing it seismically. We would not have to rely on other means in order to discover a militarily significant act of cheating. Plus, General Shelton and Secretary Cohen have both told us that the treaty, if it comes into effect, will increase our ability to observe and monitor tests because it will create over 300 additional monitoring stations in 90 countries specifically in order to detect nuclear testing.

I will conclude with two points. One, this Senate is not ready to ratify this treaty. Indeed, maybe it never will ratify the treaty. But it is clear now that this Senate will not ratify the treaty at this time. I believe at a minimum we should do no damage, do no harm.

There are many of us who have not focused adequately on these issues, by the way. This has been a very truncated period of time for consideration, with very few hearings focused directly on the treaty. I know we had three hearings in the Armed Services Committee, and there was one in Foreign Relations last week that focused directly on this treaty.

We are here under a unanimous consent agreement which allows only one amendment by the majority leader and one by the Democratic leader to this treaty, an unusual restriction for consideration and deliberation of a treaty. No other amendments are in order; no other restrictions, conditions on a resolution of ratification, but the one. So we are here in a very restricted circumstance and a very short time limit. It is not a deliberative way to address a treaty. This Senate should do better.

At a minimum, my plea is, do no harm. Do no harm to the cause of antiproliferation. The way to avoid doing harm, regardless of where people think they are on the merits of the treaty, is to delay consideration of this treaty.

My final point has to do with the delay issue. There is a precedent for delaying a vote on a treaty even though a vote had actually been scheduled. The precedent is the most recent arms control treaty we looked at, I believe, which is the Chemical Weapons Convention. There was a vote actually scheduled on the Chemical Weapons Convention. There was a vote that was scheduled on the Chemical Weapons Convention for September 12, 1996. Shortly before that vote, Senator Dole, who was then a candidate for President, announced his opposition to the Chemical Weapons Convention. It was decided on the 12th, which I believe was the actual day scheduled by unanimous consent for a vote on the convention, it was decided to vitiate that unanimous consent agreement and to delay the vote on the Chemical Weapons Convention. A vote was set, by unanimous consent agreement, but given the opposition of one of the Presidential candidates—similar to what we have going on now, by the way, where we have opposing positions taken by Presidential candidates of both parties—it was decided then that it was the wiser course for the Senate to delay the vote on the Chemical Weapons Convention.

I said before on this floor last week that I think we are in an analogous situation to what occurred back in September of 1996. I raise it again for a very specific point. At that time, there were no conditions attached to the decision to delay the vote. The Senate agreed to vitiate the unanimous consent agreement, to delay the vote; but there was no requirement, no condition attached as to when it would be brought up or not brought up. It was simply to vitiate. People decided—we decided in this body—that it was a wiser course of action not to proceed under the circumstances—one similar to what exists now, but there are different circumstances now that are, I think, additional reasons not to vote at this time, including the very narrow UC under which we are operating, with the strict consideration of a total of two amendments.

I suggest we look back—and we are going to do what each of us always does, which is follow our own consciences as to what is best for this Nation. In my judgment, ratification is best, but, clearly, that is not where the Senate is now. I hope there is a majority of us who believe, for various reasons, the better course of wisdom is that we not proceed to defeat this treaty at this time—whether it is because that defeat would constitute a blow to our leadership in the battle against proliferation in this world, as three major allies have told us, or whether it is because this institution has not had adequate time yet to fully understand and consider and deliberate over this very complicated treaty; for whatever reason—and many exist—I hope we will delay this vote. I cannot foresee a circumstance, as I have told my good friend from Virginia, where I would want to see this treaty brought up next year, given the fact that the election is at the end of next year. However, I can't preclude any circumstance from existing. I can't predict every world circumstance that would exist, where I would be comfortable saying we should under no circumstances consider this treaty, no matter what happens.

But I can, in good conscience, say I can't foresee any such circumstances because I can't. Will the world situation change? Will India and Pakistan begin testing because we fail to ratify? Will that then lead to China to begin their testing again? Will that have an impact on Russia? Will the political situation change in the United States where candidates of both parties will possibly decide that this treaty is in our best interest? Can I foresee any of that happening? No. Do I believe any of that will happen? No. But it could.

Circumstances can change. So I would not want to see us saying there are no circumstances under which anybody could even raise the question of consideration of this treaty next year. It is a very straightforward statement and, again, I conclude by saying, personally, I hope we delay the vote. Personally, I can foresee no circumstances under which this should be brought up next year. We should wait until after the Presidential elections, in the absence of some unforeseeable circumstance. But I hope that is what the Senate, in its deliberative wisdom, decides to do.

At this time, I have been authorized to yield 5 minutes to Senator DORGAN. I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, who will acquire nuclear weapons in the months and years ahead? Which countries? Which groups? Which individuals, perhaps, will acquire nuclear weapons? Many would like to acquire nuclear weapons. Terrorist groups would like access to nuclear weapons. Rogue countries would like access to nuclear weapons.

The cold war is over, the Soviet Union is gone, the Ukraine is nuclear free; the two nuclear superpowers are Russia and the United States. Between us, we have 30,000 nuclear weapons. What responsibility do we have as a country to try to prevent the spread of nuclear weapons to other countries and to reduce the nuclear weapons that now exist? Well, we have a lot of responsibility. It is our requirement as a country to exercise the moral leadership in the world, to reduce the dangers of nuclear war, and stop the spread of nuclear weapons.

Some have never supported any arms control agreements. I respect that. They have a right to do that. I don't agree with it. I think it is wrong. Nonetheless, there are those who have never supported any arms control agreements. Yet, arms control agreements work. We know they work.

I ask unanimous consent to show a piece of a Russian Backfire bomber wing on the floor of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. This is a piece of a wing sawed off of a Russian Backfire bomber. This bomber wasn't brought down from the skies with hostile fire. This bomber wasn't destroyed because of conflict. This piece of wing came from a Russian bomber because this country and the Russians have an agreement to reduce the number of bombers, missiles, and submarines in our arsenal, and reduce the number of nuclear warheads.

This other item is copper wiring, ground up from a Russian submarine that used to carry missiles with nuclear warheads aimed at the United States of America. Did we sink that submarine in hostile waters? No, it was destroyed and the wiring ground up by the Cooperative Threat Reduction Program, under which the United States assists in the destruction of bombers, missiles, and warheads in Russia. We bring down the number of weapons in our stockpile; they bring down the weapons in theirs. The delivery systems are brought down as well.

Does arms control work? Of course, it works. We know it works. That is why I am able to hold the part of a Russian bomber here in the U.S. Senate. Of course, it works. There are some who have never supported any of this. They have that right. But, in my judgment, the decision not to support aggressive arms control efforts is inappropriate and wrong.

Now we are debating the issue of whether we will have a Comprehensive Nuclear Test-Ban Treaty—something that was aspired to by President Eisenhower nearly 40 years ago. A Comprehensive Nuclear Test-Ban Treaty was something that President Eisenhower lamented he was not able to accomplish. Forty years later—after years of negotiation—2 years ago, it was sent to the Senate, signed by the President, and asked to be ratified in the Senate. It was sent to the Senate Foreign Relations Committee. I know there have been debates about it, but there was not one hearing in that Foreign Relations Committee in 2 years on the CTBT. And then, with 10 days' notice, it is brought to the floor of the Senate for a vote. Some say, well, that is fine. That is a consideration. That is not thoughtful consideration; that is a thoughtless way to handle this issue.

This is a serious issue, a big issue, an issue with great consequence. Ten days, no comprehensive hearings—that is a thoughtless way to handle this issue. India and Pakistan have detonated nuclear weapons literally under each other's chin. They don't like each other. That is an ominous development for the world. The question of whether it could result in a nuclear exchange or a nuclear war is a very real question. Can we as a country intervene to say, do not explode these nuclear weapons, do not test nuclear weapons? Do we have the ability to say to India and Pakistan that this is a dangerous step?

Mr. President, we had better have that resolve. That resolve must come from us.

I have heard a lot of reasons on the Senate floor why this should not be ratified all from the same folks who have never supported ratification of any treaty that would lead in the direction of arms control. All of the arguments I have heard, in my judgment, are not relevant to this treaty. It is proposed that somehow this treaty would weaken our country.

Here is what would happen when this treaty is ratified. The number of monitoring stations across the world will go to well over 300. We will substantially enhance our capability to monitor whether anyone explodes a nuclear weapon.

Here is what we have now. Here is what they will have if the CTBT enters into force.

How on Earth can anyone credibly argue that this doesn't strengthen our ability to detect nuclear explosions anywhere on the Earth? It is an absurd argument to suggest that somehow ratifying this treaty will weaken our country.

The last four Chairmen of the Joint Chiefs of Staff, all the senior military leadership now serving in this country, including Gen. Colin Powell, and previously retired Joint Chiefs of Staff support this treaty. Would they do so because they want to weaken this country? Of course not. They support this treaty because they know and we know this treaty will strengthen this country. It will strengthen our resolve to try to stop the spread of nuclear weapons. The Joint Chiefs of Staff say in a very real sense that one of the best ways to protect our troops and our interests is to promote arms control, in both the conventional and nuclear realms, arms control can reduce the chances of conflict.

Gen. Omar Bradley said, "We wage war like physical giants and seek peace like ethical infants."

There is not nearly the appetite that, in my judgment, must exist in this country—and especially in this Senate—to stand up for important significant issues—serious issues. That is what we have here.

The military leaders say this treaty is in this country's security interest. The scientists, 32 Nobel laureates, the chemists, physicists, support ratification. Dr. Garwin, who I was out on the steps of the Capitol with last week, who worked on the first nuclear bomb in this country, says this treaty is in this country's interest. We can safeguard this country's nuclear stockpile, the scientists say; we can do that, they say. And the detractors say, no, you can't. These detractors—let me talk for a minute about this.

National missile defense: They say: Let's deploy a national missile defense system right this minute. The Pentagon and the scientists say we can't, we don't have the capability. Our friends say: No. We don't agree with you. You can and you have the capability. They say: We demand you do it, and we want you to deploy it.

On the Comprehensive Nuclear Test-Ban Treaty, the detractors say: Well, it would weaken this country because we can't detect nuclear tests and we can't maintain our stockpile. And the military leaders and the scientists say: You are wrong. We can safeguard our stockpiles. We can detect nuclear explosions.

This selective choosing of when you are willing to support the judgment of the best scientists in this country or the military leaders of this country is very interesting.

Last week, Tony Blair, Jacques Chirac, and Gerhard Schroeder, the leaders of England, France, and Germany, sent an op-ed piece to the New York Times asking this country to ratify this treaty. That ought not be the position this country is in. This country ought to be a leader on this issue. Now, we are being asked by our allies to please lead. We ought not have to be asked to provide leadership to stop the spread of nuclear weapons. What are we thinking of?

Last week, the chairman of the Foreign Relations Committee referenced comments from the Governor of my State on the floor of the Senate, saying he is worried that the nuclear stockpile is not safe and pointing out that we have nuclear weapons in our State.

It is an interesting and brand new argument that I hear. I have not heard anyone stand on the floor of the Senate in recent months saying we have a real problem with the safety of the nuclear stockpile. This is just a straw man. That is what this is.

I know the majority leader thought it was probably an interesting strategy to bring up the treaty without comprehensive hearings, without comprehensive discussions and debate, and without much of an opportunity for the American people to be involved in the debate on a Comprehensive Nuclear Test-Ban Treaty, and then say we want to vote on it. We are going to kill this thing.

You know those who think that way I guess can grin all the way to the vote tally. But there won't be smiles on the faces of those around the world who rely on this country to be a leader in stopping the spread of nuclear weapons. This country has a greater responsibility in this area, and we can exercise that responsibility by voting to ratify this Comprehensive Nuclear Test-Ban Treaty.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Delaware.

Mr. BIDEN. Parliamentary inquiry: How much time is under the control of the Senator from Delaware?

The PRESIDING OFFICER. Twenty minutes.

Mr. BIDEN. Is there time on the amendment once the amendment is called up?

The PRESIDING OFFICER. There will be 4 hours equally divided on each of the two amendments that may be called up.

Mr. BIDEN. One last parliamentary inquiry. Am I able to call up the Democratic leader's amendment now, and would the time begin to run on that amendment now?

The PRESIDING OFFICER. The Senator may proceed.

AMENDMENT NO. 2291

(Purpose: To condition the advice and consent of the Senate on the six safeguards proposed by the President)

Mr. BIDEN. Mr. President, on behalf of the Democratic leader, I call up amendment No. 2291.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware (Mr. BIDEN), for Mr. DASCHLE, proposes an amendment numbered 2291.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the resolved clause and insert the following:

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO CONDITIONS.

The Senate advises and consents to the ratification of the Comprehensive Nuclear Test Ban Treaty, opened for signature and signed by the United States at New York on September 24, 1996, including the following annexes and associated documents, all such documents being integral parts of and collectively referred to in this resolution as the "Treaty," (contained in Senate Treaty document 105–28), subject to the conditions in section 2:

(1) Annex 1 to the Treaty entitled "List of States Pursuant to Article II, Paragraph 28".

(2) Annex 2 to the Treaty entitled "List of States Pursuant to Article XIV".

(3) Protocol to the Comprehensive Nuclear Test-Ban Treaty.

(4) Annex 1 to the Protocol.

(5) Annex 2 to the Protocol.

SEC. 2. CONDITIONS.

The advice and consent of the Senate to the ratification of the Treaty is subject to the following conditions, which shall be binding upon the President:

(1) STOCKPILE STEWARDSHIP PROGRAM.—The United States shall conduct a science-based Stockpile Stewardship program to ensure that a high level of confidence in the safety and reliability of nuclear weapons in the active stockpile is maintained, including the conduct of a broad range of effective and continuing experimental programs.

(2) NUCLEAR LABORATORY FACILITIES AND PROGRAMS.—The United States shall maintain modern nuclear laboratory facilities and programs in theoretical and exploratory nuclear technology that are designed to attract, retain, and ensure the continued application of human scientific resources to those programs on which continued progress in nuclear technology depends.

(3) MAINTENANCE OF NUCLEAR TESTING CAPABILITY.—The United States shall maintain the basic capability to resume nuclear test activities prohibited by the Treaty in the event that the United States ceases to be obligated to adhere to the Treaty.

(4) CONTINUATION OF A COMPREHENSIVE RESEARCH AND DEVELOPMENT PROGRAM.—The United States shall continue its comprehensive research and development program to improve its capabilities and operations for monitoring the Treaty.

(5) INTELLIGENCE GATHERING AND ANALYTICAL CAPABILITIES.—The United States shall continue its development of a broad range of intelligence gathering and analytical capabilities and operations to ensure accurate and comprehensive information on worldwide nuclear arsenals, nuclear weapons development programs, and related nuclear programs.

(6) WITHDRAWAL UNDER THE "SUPREME INTERESTS" CLAUSE.—

(A) SAFETY AND RELIABILITY OF THE U.S. NUCLEAR DETERRENT; POLICY.—The United States—

(i) regards continued high confidence in the safety and reliability of its nuclear weapons stockpile as a matter affecting the supreme interests of the United States; and

(ii) will regard any events calling that confidence into question as "extraordinary events related to the subject matter of the Treaty" under Article IX(2) of the Treaty.

(B) CERTIFICATION BY SECRETARY OF DEFENSE AND SECRETARY OF ENERGY.—Not later than December 31 of each year, the Secretary of Defense and the Secretary of Energy, after receiving the advice of—

(i) the Nuclear Weapons Council (comprised of representatives of the Department of Defense, the Joint Chiefs of Staff, and the Department of Energy),

(ii) the Directors of the nuclear weapons laboratories of the Department of Energy, and

(iii) the Commander of the United States Strategic Command, shall certify to the President whether the United States nuclear weapons stockpile and all critical elements thereof are, to a high degree of confidence, safe and reliable. Such certification shall be forwarded by the President to Congress not later than 30 days after submission to the President.

(C) RECOMMENDATION WHETHER TO RESUME NUCLEAR TESTING.—If, in any calendar year, the Secretary of Defense and the Secretary of Energy cannot make the certification required by subparagraph (B), then the Secretaries shall recommend to the President whether, in their opinion (with the advice of the Nuclear Weapons Council, the Directors of the nuclear weapons laboratories of the Department of Energy, and the Commander of the United States Strategic Command), nuclear testing is necessary to assure, with a high degree of confidence, the safety and reliability of the United States nuclear weapons stockpile.

(D) WRITTEN CERTIFICATION; MINORITY VIEWS.—In making the certification under subparagraph (B) and the recommendations under subparagraph (C), the Secretaries shall state the reasons for their conclusions, and the views of the Nuclear Weapons Council, the Directors of the nuclear weapons laboratories of the Department of Energy, and the Commander of the United States Strategic Command, and shall provide any minority views.

(E) WITHDRAWAL FROM THE TREATY.—If the President determines that nuclear testing is necessary to assure, with a high degree of confidence, the safety and reliability of the United States nuclear weapons stockpile, the President shall consult promptly with the Senate and withdraw from the Treaty pursuant to Article IX(2) of the Treaty in order to conduct whatever testing might be required.

Mr. BIDEN. Mr. President, to put this in context, one of the unfortunate ways in which this debate has developed, in my view, on this very important treaty is that the President of the United States when he put his signature on the Comprehensive Nuclear Test-Ban Treaty attached to it a number of conditions when he referred the treaty to the Senate. He sent up, along with the treaty, a total of six conditions that he said he wanted added to the treaty before we ratified the treaty.

As we all know, in previous arms control agreements, it has been our practice in the Senate to add conditions to treaties. When it was agreed that we were given essentially an ultimatum that if we wanted to debate this treaty at all, we had to agree to the following time constraints.

I was under the impression that the starting point for this debate would be what the President said he wanted, which was he wanted us to ratify the treaty itself and the six conditions. I found out later it was only the treaty.

Although we were entitled to an amendment on each side, the Democratic side, or in this case the Democratic leader's amendment would have to be what the President said he wanted as part of the package to begin with in order to be for the treaty.

Usually what has happened, as the chairman of the Foreign Relations Committee knows, we debated at length, for instance the treaty on the Chemical Weapons Convention we had extensive hearings in the Foreign Relations Committee. The outcome of those hearings was that we voted on, or agreed upon, or we negotiated a number of conditions. There were 28 conditions before we brought it to the Senate floor.

That is the usual process. But since we didn't have the first formal hearing on this treaty until after it was discharged—that is a fancy word for saying we no longer had any jurisdiction—and it was sent to the floor, here we are in the dubious position of having to use 2 hours on the one amendment we have available to us, an amendment to ask that the President's whole package be considered. That is where we are.

The amendment that has been submitted by the Democratic leader contains six conditions that corresponded to the six conditions that the President of the United States said were needed in order for him to be secure with the Senate ratifying this treaty. These conditions were developed in 1995 before the United States signed the treaty. They were critical to the decision by the executive branch to seek the test ban treaty in which the standard would be a zero yield; that is, zero yield resulting from an uncontrolled chain react—a nuclear explosion.

We in turn think it is critical that in providing the advice and consent to this treaty, the Senate codify these six safeguards that the President of the United States said were conditions to the Resolution of Ratification. Let me explain why.

The safeguards were announced by President Clinton in August of 1995. They were merely statements of policy by the President, and there is no way for President Clinton to bind future Presidents with such statements. However, we can.

Conditions in a Resolution of Ratification, by contrast—which is what I am proposing now—are binding upon all future Presidents. Therefore, approval of these conditions will lock them in for all time, so that any future President or future Congress, long after we are gone, will understand that these safeguards are essential to our continued participation in the Comprehensive Test Ban Treaty.

Administration witnesses who testified before the Armed Services Committee and the Foreign Relations Committee underscored the importance of these safeguards during the Senate hearings last week. I suspect that is why our Republican friends didn't allow Members to bring these up as part of the original instruments. So we started off as we would had it come out of committee, with the actual treaty, plus the conditions attached. I expect the reason they didn't want this side to do that is it would strengthen the hands of those who were for the treaty.

I understand the tactical move, but I think it is unfortunate because, as we all know, the witnesses who testified from the administration, others from the laboratories, and others who were with the laboratories and were in former administrations, all those people who testified underscored the importance of these safeguards. In other words, they didn't want the treaty without these safeguards.

During the testimony before the Armed Services Committee, Dr. Paul Robinson, Director of Sandia Laboratory, testified:

> The President's six safeguards should be formalized in the resolution of ratification.

General Shelton, Chairman of the Joint Chiefs of Staff, stated:

> The Joint Chiefs support ratification of CTBT with the safeguards package.

Of the six conditions, the first, the third, and the last are interrelated and probably the most important. The first condition relates to the Stockpile Stewardship Program. Anyone who has listened to this debate now understands what that is. The Stockpile Stewardship Program will be essential to ensuring the safety and reliability of our nuclear weapons in the future. It requires this condition: That the United States shall conduct a science-based Stockpile Stewardship Program to ensure a high level of confidence in the safety and the reliability of nuclear weapons in our active stockpile.

As we have all heard over the course of this debate, this Stockpile Stewardship Program is a 10-year, $45 billion, or $4.5 billion-a-year, project that is designed to maintain the nuclear stockpile, and it will involve cutting-edge science, as it already has. It is already underway, and the Directors of the three National Laboratories have testified they believe they can maintain the stockpile of our nuclear weapons if the funding is provided.

Already there have been difficulties, particularly in the other body, in securing this level of funding. This first condition our amendment contains will assure that the funding will be there. The third condition which is in the amendment before the Senate requires that the United States "maintain the basic capability to resume nuclear test activities prohibited by the treaty in the event that the United States ceases to be obliged to adhere to the committee." That means countries have to have a place to test the weapons underground.

We could let our underground test facilities go to seed and not maintain them, so that when the time came that we ever did have to pull out of this treaty, we would not be prepared to be able to resume testing. So we say as a further safeguard against the remote possibility that we will not be able to, through the Stockpile Stewardship Program, guarantee the reliability and safety of our weapons, a condition of the United States staying in this treaty is that the Congress appropriate the money and the President and future Presidents use the money to maintain the facilities necessary to be able to resume this testing if that event occurs.

The effort to maintain this capacity is also well underway, I might add. It is also tied to the Stockpile Stewardship Program. Subcritical experiments—and we use certain phrases so much around here, sometimes it is easy to forget that most Members don't have nuclear weapons as their primary responsibility, and people listening on C-SPAN or the press aren't—although many are—required to spend time to know what certain phrases mean. A subcritical experiment means a country can set off an explosion that doesn't start a chain reaction. It only becomes critical when there is a chain reaction, which makes it a nuclear explosion. Subcritical means before the rods go banging into the plutonium and something is started. That is a chain reaction.

The subcritical experiments at the Nevada Test Site, which are a vital part of our stockpile stewardship, also enable test site personnel to keep and hone their skills and practice the procedures for actual nuclear weapons tests. Translated, that means we have specialized scientists who in the past have participated in the over 1,000 nuclear detonations we have used over the history of our program, and that without having detonated a nuclear explosion since 1992, these skilled scientists still keep their skills honed by going into this test site facility and doing subcritical tests; for example, using uranium instead of plutonium or performing other tests that don't require a nuclear explosion.

We are not only maintaining the capability of being able to do a nuclear explosion; we are maintaining the necessary personnel. The fact that subcritical experiments are scientifically valid and challenging also serves to make work at the test site worthwhile and attractive to skilled personnel.

The reason I bother to mention that, in an argument against the treaty by one of the scientists who testified, I think before Senator HELMS' and my committee, the Foreign Relations Committee, he said: We really like to make things go boom. He said: I'm a scientist; I like to make them go to the end of the experiment. I like to conduct them that way. But I can do it without making them go boom.

What people worry about now, if you are not going to "make 'em go boom," if you are not going to explode them, some will say scientists won't want to be involved in that; it is not as exciting as if they could actually test. That is an argument that says we will lose a whole generation of nuclear scientists who know how to conduct these tests and know how to read them.

Other scientists come along and, with the laboratories, say: No, no, no; we can keep all the interest we need to keep in a group of young scientists who will replace the aging scientific community who have been performing the tests because we will do what we call subcritical tests at the sites where we used to do the critical tests.

Part of the agreement, part of the understanding, the requirement, is these facilities have to be maintained as opposed to saying we have a treaty now, we will not do nuclear explosions, so why spend the money on maintaining these facilities?

The answer is: To keep scientists interested and to bring a whole new next generation of brain power into this area so they will have something they believe is worthwhile to do, as opposed to them going out and inventing new widgets, or deciding they are going to develop a commercial product or something. That is one of the legitimate concerns.

The second concern has been: Once you pass this treaty, you know what you are going to do; you are going to stop funding the hundreds of millions of dollars it takes over time to maintain this place to be able to explode a nuclear weapon if we need to.

We said: Do not worry about that; we are going to pass a treaty, and we commit to spend money to continue to do it. If we do not, it is a condition not met and the President can leave the treaty. That is the third condition.

The sixth condition is a failsafe mechanism, available to future Presidents in case the critics of the stockpile program turn out to be right. Again, I might point out the critics of the stockpile program, including my good friend, and he is my good friend, are the very ones who have great faith in the Star Wars notion, great faith in the ability to put this nuclear umbrella over the United States so not a single nuclear weapon could penetrate and blow up and kill 5, 10, 20 million Americans. They have faith in that scientific capability, whether it is laser-based space weapons or whether it is land-based systems. But they do not have faith in the ability to be able to test a weapon that has not been exploded.

I understand that. It is a bit of a non sequitur for me to suggest you can have faith in one and not the other. I point out, as a nonscientist, as a plain old lawyer, it seems to me it takes a lot more to guarantee if somebody flies 2, 10, 20, 50, 100 nuclear weapons at the United States, you will be able to pick them all out of the sky before they blow up and America will be held harmless, than it would be to determine the reliability of this bomb you take out of a missile, sit on a table at a test site, and test whether or not it still works or not without exploding it. One seems more complicated than the other to me. But maybe not. At any rate, after spending $45 billion and all this scientific know-how, we have to continue to be able to guarantee the reliability of our weapons. We have a sixth condition.

Article IX of the treaty, I remind everyone, contains a standard withdrawal clause. I am talking not about the condition; I am talking about the treaty itself now. Article IX has a standard withdrawal clause, permitting any party who signs the treaty the right to withdraw 6 months after giving notice; that is, start testing.

We could ratify this tomorrow. We still have to wait for another 23 nations to ratify it, but we could reach the critical mass—no pun intended—where enough nations sign and the treaty is in effect, and 6 months after that the President of the United States says: I no longer think this is in the national interest of the United States of America. I am notifying you within 6 months we are going to start testing nuclear weapons and withdraw. That is what this article IX does.

But what we do is, if the President—and this is a quote:

> . . . decides that extraordinary events related to the subject matter of the treaty have jeopardized its supreme interests[,]

—he can withdraw from the treaty.

Every year pursuant to the safeguard—I am back on the safeguards now—every year, we are saying, if this amendment is adopted, pursuant to safeguard 6, the National Laboratories' Directors at Las Alamos, Sandia and Lawrence Livermore, all three of them have to go to the Secretary of Defense and the Secretary of Energy and certify that the Stockpile Stewardship Program is still working and they, the scientists at our three National Laboratories say: We certify the reliability and safety of our nuclear weapons.

The President, then, certifies to the Congress that there is a high degree of confidence in a safe and reliable stockpile.

If any one of those National Laboratory Directors—and there is a redundancy in what they check. By the way, do you know how it works now? The way it works now, we have nine deployed systems, nine different types of hydrogen bombs located in the bellies of airplanes, on cruise missiles, in the bellies of submarines, on longer range missiles, or in a silo somewhere in the United States of America. Every year these National Laboratory Directors go out and get 11 of these warheads from each of those nine deployed systems. They take them back to the laboratories and they dissect them, they open them up, they look at them—to overstate it—to see if there is any little corrosion there in the firing pin, that sort of thing. It is much more complicated, but they check it out.

They take one of them and they dissect it, similar to what a medical student does with a cadaver. They bring in 11 people, 10 of whom they give a thorough physical, the 11th they kill, cut up, and see if everything is working when they look inside. They do that now, and there is redundancy in the system. The three laboratories do that.

Then they have to go to the Secretary of Energy and the Secretary of Defense and say: We can certify that our arsenal out there is reliable and safe.

But, if, under our condition 6, any one of those lab Directors says, "No, I don't think I can certify this year, I don't think I can do that," then the Secretary of Energy has to be told that, and the Secretary of Energy, who is their immediate boss, has to then tell the President: No, no, we can't certify, Mr. President. And under No. 6, safeguard No. 6, the President shall consult with us and must withdraw from the treaty.

Let me read the exact language. It says this under E, page 5 of the amendment, "Withdrawal from the treaty." "If the President determines," and I just explained how he determines—if it is sent to him by the lab Directors and the Secretaries of Energy and Defense who say we can't certify:

> . . . if the President determines that nuclear testing is necessary to assure with a high degree of confidence the safety and reliability of the United States nuclear weapons stockpile, the President shall consult promptly with the Senate and withdraw from the treaty pursuant to article IX.

He doesn't have a choice. He has to withdraw. That is the ultimate safeguard.

So for those over there who say if it turns out this Stockpile Stewardship Program doesn't work, they have to assume one of two things if that conclusion is reached. They have to assume the lab Directors are going to lie and they are going to lie to the Secretary of Energy. They are going to say: We can't verify this, we can't certify it, but we are going to do it anyway. They then have to assume the Secretary of Defense and the Secretary of Energy will say: Although we know we can't certify, we are going to lie to the President, and we are going to tell the President our nuclear stockpile is no longer reliable, but don't say anything, Mr. President.

And they have to assume, then, that the President, knowing that this stockpile is no longer reliable, would look at the U.S. Congress and say: I, President Whomever, next President, certify that we can rely on our stockpile.

They either have to assume that or they have to assume their concern about our stockpile is not a problem because the moment the President is told that, he has to call us and tell us and withdraw from the treaty, which means he can begin nuclear testing.

Remember condition 3. We said you have to keep those big old places where they do the nuclear tests up to date. So he can begin to test.

So what is the big deal? What are we worried about, unless you assume future Presidents are going to lie to the American people, they are going to lie, they are going to say we can rely on this when we cannot?

At the end of the process, if the President determines resumption of testing is necessary, then he has to start testing. That is what section 6 says. So we put the world on notice that we have a program in place to maintain a reliable stockpile.

If that does not work and we need to test, we put the world on notice as well today that we will and are prepared, politically and in practical terms, to withdraw from this treaty. I should emphasize that the certification process, as I have said, is extremely rigorous: For 3 years running, the lab Directors have certified to the safety and reliability of our stockpile, but only after detailed review by thousands of people at our labs.

The other three conditions involve the need to maintain several key elements of our national infrastructure. They require us to maintain modern nuclear laboratory facilities and programs in theoretical and exploratory nuclear technology and infrastructure of equipment and personnel, if you will—that is required—the continuation of a robust research and development program for monitoring, and, finally, our amendment requires the development of a broad range of intelligence gathering and analytical capabilities and operations to ensure accurate information about nuclear programs around the world.

These six conditions should have been part of the treaty anyway, but they would not let us add them. We are going to add them now, with the grace of God and goodwill of our neighbors and 51 votes. These six conditions are essential to ratification of the treaty. If you do not want this treaty to work, then you will vote against this amendment.

I acknowledge if these safeguards are not there, nobody wants the treaty. The President does not want the treaty. The lab Directors do not want the treaty. No one wants the treaty. There may be others that would be useful to add or even necessary for ratification of the treaty, but the leadership has said we can only have one amendment.

They will recall that my own resolution, which led to this process, proposed only hearings and final adoption by March 31 of next year. I want to put that in focus. I see others want to speak, so I will yield, but I want to make it clear it has been said time and again on the floor by the leader himself—and I am sure he unintentionally misspoke—he said he received a letter from 45 Democratic Senators saying they wanted a vote.

Mr. HELMS. I don't want the Senator to yield at an improper time——

Mr. BIDEN. I will finish this one point, and I will be delighted to yield the floor.

Mr. HELMS. I have been following the amendment.

Mr. BIDEN. I know the Senator has, and I appreciate that. I appreciate the respect he has shown for the efforts I have been making, notwithstanding we disagree on this considerably.

I want to make this closing point at this moment, and that is, it has been said by the Republican leader, Senator LOTT, that 45 Senators demanded a vote on this treaty now. But 45 Senators signed a letter, including me. It was a Biden resolution—one that was about to be voted on when we were on another piece of legislation—that we have extensive hearings this year and that final action not occur until the end of March of next year, so everybody could have a chance to go through all of these hearings, so everybody could have a chance to debate what we are talking about at much greater length than today.

There has not been the bipartisan negotiation on conditions to this Resolution of Ratification that usually occurs during consideration of treaties.

Mr. President, I see my friend from North Carolina is seeking recognition. I will be delighted to yield the floor to him.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. If the Senator will yield.

Mr. BIDEN. I will be delighted to.

Mr. HELMS. Mr. President, I compliment the Senator on the explanation of his amendment. I have been following him as he has been going along. We are far from being opposed to the amendment. We do not have any problem with the safeguards.

Mr. President, I ask unanimous consent that the pending amendment No. 2291 be agreed to and the motion to reconsider be laid upon the table.

Mr. BIDEN. Mr. President, reserving the right to object—and I obviously do not want to object to my own amendment—we do have a time problem. I would be delighted to do that if the Senator would allow the remainder of the time on this amendment to be used on the Resolution of Ratification, so we do not use up—I have a number of Senators who wish to speak. That means I will only have 20 minutes left to debate this entire issue. I will be delighted to have it accepted. I probably have about an hour or 20 minutes or 30 minutes or 40 minutes left on the amendment; is that correct?

Parliamentary inquiry: How much time is left on the amendment?

The PRESIDING OFFICER. Ninety-one minutes.

Mr. BIDEN. Mr. President, I ask unanimous-consent that the Senator's unanimous consent request be agreed to, with the condition that the remaining 91 minutes and the 2 hours remaining on the side of the Republican leadership be added to the time remaining on the Resolution of Ratification.

Mr. HELMS. Mr. President, I have no objection to that.

Mr. BIDEN. I have no objection to the unanimous-consent request. I thank the Senator.

The PRESIDING OFFICER. Is there an objection to the request of the Senator from North Carolina with the proposed modification?

Without objection, it is so ordered.

The amendment (No. 2291) was agreed to.

Mr. SARBANES addressed the Chair.

Mr. BIDEN. Mr. President, we have been going back and forth. Senator SARBANES is seeking recognition, but I see our friend Senator BROWNBACK is here. It is his turn if he wishes to speak.

Mr. BROWNBACK. I am willing to yield to Senator SARBANES if he wishes to speak.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. BIDEN. How much time does the Senator need?

Mr. SARBANES. Ten or 12 minutes.

Mr. BIDEN. I yield 10 minutes to the Senator from Maryland.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Maryland.

Mr. SARBANES. Mr. President, parliamentary inquiry. The amendment was adopted; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. SARBANES. I thank the Chair.

Mr. BIDEN. There was a motion to reconsider made as part of the unanimous consent agreement and the motion to table.

The PRESIDING OFFICER. That is correct.

The Senator from Maryland.

Mr. SARBANES. Mr. President, I rise in support of the Comprehensive Nuclear Test-Ban Treaty, the CTBT, to which the Senate has been asked to give its advice and consent. This is a landmark agreement that will help stem the tide of nuclear proliferation and reduce the risk of nuclear confrontation. In my view, it is a treaty that, on balance, will serve U.S. interests and strengthen U.S. security.

The Comprehensive Test Ban Treaty is a product of nearly 40 years of labor. The idea was first endorsed in 1958 by President Eisenhower, who recognized that the most effective way of controlling the development and spread of nuclear weapons was to ban their testing.

In 1963, the United States took the first step toward this end by signing and ratifying the Limited Test Ban Treaty, which prohibits nuclear explosions in the atmosphere, outer space, and under water.

Further limitations were established through the Threshold Test Ban Treaty, signed in 1974, and the Peaceful Nuclear Explosion Treaty, signed in 1976. Under those treaties, the United States and the Soviet Union agreed to halt underground explosions larger than 150 kilotons.

When the cold war came to an end, sentiment began to build for a comprehensive ban on nuclear testing. President Bush signed legislation establishing a moratorium on such testing that was joined by France and Russia and continues to this day.

In January 1994, the Geneva Conference on Disarmament began negotiations on a treaty to forbid all nuclear explosions. An agreement was concluded in August of 1996, and the following month, President Clinton became the first world leader to sign the new treaty. It was submitted to the Senate for advice and consent to ratification just over 2 years ago, on September 24, 1997.

The Comprehensive Test Ban Treaty is relatively simple and straightforward.

First, it prohibits all explosions of nuclear devices. It does not ban the development or production of nuclear materials, nor does it affect activities to maintain a secure and reliable stockpile. By establishing a zero threshold on nuclear yield that affects all countries equally, the treaty draws a clear and consistent line between what is permitted and what is not.

Second, the treaty sets up a regime of verification and inspections, consultation and clarification, and confidence-building measures. An International Monitoring System of 321 monitoring facilities is to be established, and all data will be stored, analyzed, and disseminated by an International Data Center. In addition, information that the United States obtains through its own intelligence can be used as the basis for a short-notice, on-site inspection request.

Let me emphasize that. Information that the United States obtains through its own intelligence can be used as the basis for a short-notice, on-site inspection request.

Third, the treaty creates an organization to ensure proper implementation and compliance, and to provide a forum for consultation and cooperation among States Parties. The new body will have a Technical Secretariat responsible for day-to-day management and supervision of the monitoring and data-collection operations, as well as a 51-Member Executive Council, on which the United States would have a seat. Both the Technical Secretariat and the Executive Council are to be overseen by a Conference of States Parties, which will meet at least annually.

Finally, the treaty provides for measures to redress a situation and ensure compliance, including sanctions, and for settlement of disputes. Violations may result in restriction or suspension of rights and privileges under the treaty, as well as the recommendation of collective measures against the offending party and the referral of information and conclusions to the United Nations.

As Stephen Ledogar, who was the Chief Negotiator of the treaty for the U.S., testified before the Foreign Relations Committee, the United States objected to the inclusion of specific sanctions because of concerns about appointing an international organization "to be not just the investigator and special prosecutor, but also the judge, jury, and jailer." He explained, "we reserve for a higher body, the United Nations Security Council in which we have a veto, the authority to levy sanctions or other measures."

The CTBT, which has been signed by some 154 countries and ratified by 48, has drawn broad support not only from among the American population, but from key U.S. military and intelligence officials and from our key allies.

It has been endorsed by the Chairman of the Joint Chiefs of Staff, Gen. Hugh Shelton, as well as former Chairmen Gen. John Shalikashvili, Gen. Colin Powell, Gen. David Jones, and Adm. William Crowe, and the directors of all three national laboratories that conduct nuclear weapons research and testing.

NATO's Defense Planning Committee and Nuclear Planning Group called for ratification and entry into force "as soon as possible." Thirty-two Nobel laureates in physics have written to the Senate stating that "it is imperative that the CTBT be ratified," and noting that "fully informed technical studies have concluded that continued nuclear testing is not required to retain confidence in the safety, reliability and performance of nuclear weapons in the United States' stockpile, provided science and technology programs necessary for stockpile stewardship are maintained."

Despite the importance of the CTBT for U.S. national security, formal consideration of the treaty has not taken place over the last 2 years. Now we are suddenly called upon to register a judgment without the benefit of proper hearings and committee debate. While I have come to the conclusion that the merits of this treaty outweigh its risks, and that it is therefore deserving of Senate advice and consent to ratification, I do regret that an issue of such significance should be taken up without the normal course of hearings and proceedings leading up to the consideration of a measure of this magnitude.

Let me outline a few of the reasons why I support this treaty. First, it will help reduce threats to U.S. national security. A complete ban on testing makes it harder for countries already possessing nuclear weapons to develop and deploy more sophisticated new designs, and for those seeking nuclear capability to initiate a nuclear weapons program. As we know, relatively simple bombs can be built without testing, but creating smaller, lighter weapons that are easier to transport and conceal and that require less nuclear material is difficult without explosive tests.

With a global ban in place, a nation intent on conducting tests would take on the burdens not only of increased expenses and technical dangers, but also the risk of detection and imposition of international sanctions. In a very real sense, the CTBT locks in U.S. nuclear superiority while preventing reignition of arms races that constitute serious threats to our national security.

The CTBT also promotes U.S. security by strengthening the Nuclear Non-Proliferation Treaty, the NPT, which entered into force in 1970 and was extended indefinitely in 1995. The NPT is the bedrock of international arms control policy, representing a bargain in which non-nuclear weapons states promised to foreswear the acquisition of nuclear weapons and accede to a permanent inspection regime so long as the nuclear powers agreed to reduce their arsenals. In order to gain approval for permanent extension of the Nuclear Non-Proliferation Treaty, the five declared nuclear powers promised to negotiate and ratify a test ban treaty.

The CTBT further advances U.S. interests by providing additional tools to enhance our current monitoring and detection capability. The International Monitoring System will record data from 321 sensor stations—262 beyond what the United States possesses today.

The new facilities include 31 primary and 116 auxiliary seismic monitoring stations, 57 radionuclide stations to pick up traces of radioactivity, 8 hydroacoustic stations to detect explosions on or in the oceans, and 50 infrasound stations to detect sound pressure waves in the atmosphere. Thirty-one of the new or upgraded monitoring stations are in Russia, 11 in China, and 17 in the Middle East, all areas of critical importance to the United States.

And one of the burden-sharing advantages of the treaty is that the United States will have access to 100 percent of the information generated by these 321 sensor stations but will pay only 25 percent of the bill for obtaining it.

Since the United States has not conducted a nuclear explosion in 7 years, and is unlikely to test with or without this treaty, the major effect of the CTBT is to hold other countries to a similar standard. It includes surveillance to identify warhead problems, assessment to determine effects on performance, replacement of defective parts, and certification of remanufactured warheads. Our policy is to ensure tritium availability and retain the ability to conduct nuclear tests in the future, should withdrawal from the test ban regime be required.

Thus, under the treaty, the United States will be able to depend on its nuclear deterrent capability, while other nations will find it much more difficult to build weapons with the degree of confidence that would be needed to constitute an offensive military threat. Any country that should test would find itself the subject of international response; whereas in the absence of a treaty, such behavior carries no penalty.

It has been suggested that the United States should wait until more of the nuclear capable countries—whose ratification is essential for the treaty to go into effect—have ratified before moving forward on the treaty ourselves. Yet what incentive have the countries with only peaceful nuclear reactors to proceed, when the one country with the greatest number of deployed strategic warheads is unwilling to do so?

Just as with the Chemical Weapons Convention, where U.S. approval facilitated ratification by Russia, China, Pakistan and Iran, U.S. ratification of the Comprehensive Test Ban Treaty will create increased momentum and pressure for others to come along. The treaty cannot enter into force without us, but it needs our support to convince others to join.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SARBANES. Mr. President, I yield myself 4 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Indeed, all of our major allies have weighed in with their strong support for this treaty, which is particularly significant since they rely on our nuclear deterrent for their own defense.

An article in the Washington Post on October 8 reported that:

> The world's major powers, including America's closest allies, warned the United States today that failure to ratify the multinational nuclear test ban treaty would send a dangerous signal that could encourage other countries to spurn arms control commitments.

German Foreign Minister Joschka Fischer was quoted as saying:

> What is at stake is not just the pros and cons of the test ban treaty, but the future of multilateral arms control.

I ask unanimous consent the full text of that article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. SARBANES. Perhaps as compelling as the case in favor of the treaty are the potential consequences of a negative vote. Senate rejection of the treaty could severely weaken the Nuclear Non-Proliferation Treaty, for which a review conference is scheduled next April.

It is entirely possible, as the Washington Post reported, that "some non-nuclear countries might regard failure to ratify the treaty as a broken promise that would relieve them of the obligation to comply with key parts" of the Nuclear Non-Proliferation Treaty. Such a result would not only undercut U.S. leadership and credibility on non-proliferation, threatening our policy objectives in Iraq and North Korea, among other places, but could increase the likelihood of resumed testing and aggravate the situation in South Asia.

Resumed testing would not only threaten regional security and U.S. strategic interests but could pose new challenges to public health and the natural environment. According to the Energy Department, more than one out of seven underground U.S. nuclear tests since 1963 vented radioactive gases into the atmosphere, and the problem will obviously be much worse in countries that do not take or cannot afford the same level of environmental protections.

Some have objected that the treaty will be difficult to verify, that it will prevent the United States from maintaining a safe and reliable nuclear arsenal. While no treaty is completely verifiable, I believe the CTBT will increase, rather than decrease, our ability to monitor the development of nuclear weapons and preserve, not forfeit, our nuclear superiority.

In his statement before the Armed Services Committee on October 6, Secretary of Defense William Cohen addressed this point at length. I will quote the Secretary because I think his observations are extremely important.

> CTBT evasion is not easy; it would require significant efforts in terms of expertise, preparations and resources. In the end, the testing party has no guarantees that its preparation or its nuclear test will escape detection and possible on-site inspection, despite its best efforts. In addition, detection capability varies according to the location of the clandestine test and the evasion measures employed; a potential evader may not understand the full U.S. monitoring capability, thus adding to his uncertainty. Further, detection of a nuclear explosion conducted in violation of the CTBT, would be a very serious matter with significant political consequences. . . . Under CTBT, I believe the U.S. will have available sufficient resources to deter or detect, with confidence, the level of clandestine nuclear testing that could undermine the U.S. nuclear deterrent and take timely and effective counteraction to redress the effects of any such testing.

I yield myself 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Moreover, to the extent Members are concerned with the adequacy of procedures for onsite inspections, I would remind them that, as with the Chemical Weapons Convention, these procedures were crafted with an eye not only to gaining access to other countries' facilities, but also to guarding against overly intrusive inspections within the United States. The lead U.S. treaty negotiator, Stephen Ledogar, explained to the committee how those procedures were developed:

> This Treaty provides for on-site inspections on request by any Treaty party and with the approval of the Executive Council. No state can refuse an inspection. The U.S. position from the start was that on-site inspections were critical to provide us with added confidence that we could detect violations. And, if inspections were to be effective, they had to be conducted absolutely as

quickly as possible after a suspicion arose, using a range of techniques with as few restrictions as possible. However, the U.S. also had to be concerned with its defensive posture, as well as an offensive one. It was necessary to ensure that sensitive national security information would be protected in the event of an inspection on U.S. territory. The U.S. crafted a complicated, highly detailed, proposal that balanced our offensive and defensive needs. There was resistance from some of our negotiating partners. However, by the time we were through, the Treaty read pretty much like the original U.S. paper put together jointly by the Departments of Defense, Energy, and State, the Intelligence Community, and the then-existing Arms Control Agency.

With regard to the security of our nuclear arsenal, the President has proposed six safeguards which will define the conditions under which the United States enters into the CTBT, and which, as I understand it, have been incorporated into the Resolution of Ratification. I ask the ranking member, these have now been adopted; is that correct?

Mr. BIDEN. That is correct, with some modifications making them even stronger.

Mr. SARBANES. And those dealt with the conduct of the Stockpile Stewardship Program, the maintenance of modern nuclear laboratory facilities, the maintenance of a basic capability to resume testing, should it become necessary, the continuation of a comprehensive research and development program to improve our monitoring capabilities, the continued development of a broad range of intelligence gathering, and the ability to withdraw from the CTBT if the safety or reliability of a nuclear weapon type critical to our nuclear deterrent could no longer be certified.

I believe these safeguards will ensure that U.S. national security interests can be met within the context of the treaty.

Mr. President, I support ratification, but there do not appear to be enough votes to approve it. The President, in his letter requesting that action be delayed, stated that

> . . . proceeding to a vote under these circumstances would severely harm the national security of the United States, damage our relationship with our allies, and undermine our historic leadership over 40 years, through administrations Republican and Democratic, in reducing the nuclear threat.

I agree with the President's assessment. Therefore, I urge my colleagues to join in voting to postpone consideration of the treaty while we undertake to build the necessary understanding and political support that will lead to its ultimate ratification.

If we cannot approve the treaty, ratify it, then surely we should delay its consideration, postpone its consideration while we continue to explore the matter further, rather than, in my judgment, doing the grave harm that would come to the national security, as the President has outlined.

I ask unanimous consent that two editorials from the New York Times in support of the treaty be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 12, 1999]

FIGHTING FOR THE TEST BAN TREATY

Despite the important contribution it would make to a safer world, the nuclear Test Ban Treaty stands virtually no chance of mustering enough support to win Senate ratification this week. Allowing it to be voted down would deal a damaging blow to America's foreign policy and military security. The wiser course is to delay Senate action for at least a few months, as President Clinton requested yesterday, giving the White House more time to overcome the arguments of treaty critics.

But Republican senators are recklessly insisting on an immediate vote unless Mr. Clinton agrees to withdraw the treaty for the rest of his term. That is something he should avoid, because it would signal to the rest of the world that the White House, not just the Senate, is edging away from the Test Ban Treaty.

Mr. Clinton refuses to be bound by such conditions. Nevertheless some Senate treaty supporters, including Daniel Patrick Moynihan of New York, are trying to put together a deal under which Mr. Clinton would not give up on the treaty, while Senate Democrats would refrain from pushing it in this Congress. The White House suggests it could accept such an arrangement.

The message that Washington sends to the world matters a lot. One audience consists of countries like India and Pakistan, which are still trying to decide whether to sign the treaty and would be unlikely to do so if the Clinton White House gave up on eventual Senate ratification. For these countries to remain outside the test ban would encourage a dangerous nuclear arms race in south Asia that could easily draw in nearby countries like Iran and China. It could also fuel the ambitions of other intermediate powers, like Saudi Arabia and Taiwan, to join an expanding nuclear club.

Another group of countries includes established nuclear nations such as China and Russia. Like Washington, Beijing and Moscow have signed the treaty but not yet ratified it, and are observing a voluntary moratorium on nuclear tests.

As long as Mr. Clinton continues to campaign for the Test Ban Treaty and there remains a reasonable chance that Washington will someday ratify it, these countries are likely to refrain from further testing. But if hopes for eventual American ratification recede, China or Russia might be tempted to test again in an effort to improve their bomb designs and narrow America's present lead in nuclear weapons technology.

These considerations argue strongly for delaying the vote rather than giving up on it for this Congress. The treaty is backed by America's military leaders, public opinion and Washington's main allies. Good answers are available to the objections so far raised by Senate critics. True, the election-year political calculus is not favorable, and ultimately it may be necessary to wait until a new President and a new Senate take office early in 2001. But American interests are best protected if in the interim Washington does not disavow the treaty.

[From the New York Times, Oct. 8, 1999]

KEEPING THE TEST BAN TREATY ALIVE

If the nuclear Test Ban Treaty fails to win ratification next week, as it probably will, Senate Republicans will deserve much of the blame. The Republican leadership has behaved in a narrowly partisan fashion that paid little heed to America's international interests and trivialized the Senate's constitutional role in evaluating treaties. But the White House failed to put together a coherent strategy for assembling the needed two-thirds Senate majority, and then allowed itself to be outmaneuvered into a compressed timetable that left too little time for an intensive lobbying campaign.

The resulting failure will weaken American security. India and Pakistan will be more likely to develop their nuclear arsenals and China will be increasingly tempted to resume testing to exploit new weapons designs, some of which may have been stolen from the United States. The goal now should be to try to limit the damage by keeping open the possibility that the Senate can be persuaded to ratify the treaty in the months to come.

To that end, the White House must reject the terms the Republicans now offer for canceling next week's vote. These include the outrageous requirement that President Clinton not seek ratification during his remaining 15 months in office. That would make things worse than they already are, leaving other countries wondering whether Mr. Clinton has abandoned the treaty he signed three years ago. Unless the Republicans agree to a postponement without this timetable, the White House should let the Senate proceed toward a vote next week—trying, between now and then, to win as many extra Republican votes as possible. If that effort falls short, Mr. Clinton should concentrate his Presidential energies on building enough support to justify a new ratification effort as soon as possible.

Republican senators have raised several arguments against the treaty, most of which evaporate on close inspection. Some doubt whether American intelligence agencies can detect very-low-yield nuclear tests. Others worry that America's nuclear stockpile might deteriorate without testing. Some mistakenly believe that missile defenses will make arms control treaties unnecessary.

The Administration has answered these objections convincingly. Approving the treaty would speed creation of a stronger worldwide monitoring system. Despite doubts expressed yesterday by the heads of America's nuclear labs, Washington's stockpile stewardship program, based on computer simulations, can keep existing weapons reliable and nurture the scientific skills that could create new ones if the treaty ever broke down. Missile defense can at best supplement arms control, not replace it.

There is every reason for Republicans of conscience to vote for this treaty, but little chance that they will. Mr. Clinton's challenge now will be to sway enough Senate votes to make ratification possible before he leaves the White House.

EXHIBIT 1

[From the Washington Post, Oct. 8, 1999]

U.S. ALLIES URGE SENATE TO RATIFY TEST BAN

(By William Drozdlak)

VIENNA, Oct. 7—The world's major powers, including America's closest allies, warned the United States today that failure to ratify the multinational nuclear test ban treaty would send a dangerous signal that could encourage other countries to spurn arms control commitments.

With the Senate scheduled to begin debating the treaty Friday, envoys from nearly 100 nations at a conference here, including Russia, China, Britain and Germany, expressed alarm that the United States appears to be on the brink of rejecting the Comprehensive Test Ban Treaty. The pact, which President Clinton signed in 1996, would prohibit nuclear test explosions world-wide.

Diplomats said British Prime Minister Tony Blair and French President Jacques Chirac will soon make rare personal appeals to the United States to approve the accord, prior to a possible Senate vote next week.

In Washington, it was unclear if a compromise would be reached to postpone a vote on the treaty. Both sides agree that the pact will be defeated if it comes to a vote on Tuesday or Wednesday as scheduled. In the latest blow to the accord's prospects, Sen. Richard G. Lugar (R-Ind.), an influential arms control advocate, declared his opposition.

Majority Leader Trent Lott (R-Miss.) was sticking to his position late today that a vote can be delayed only if the Clinton administration promises not to try to revive the treaty before the president leaves office. The White House has rejected that proposal, and Sen. Joseph R. Biden Jr. (D-Del.), the ranking minority member of the Foreign Relations Committee, said he is "not hopeful" that the vote could be postponed.

Here in Vienna, diplomats said that Blair and Chirac will urge American treaty opponents to forgo partisan politics and weigh the damaging impact a negative vote would have on U.S. leadership in the effort to halt the spread of weapons of mass destruction.

There was particular concern here that some non-nuclear countries would regard failure to ratify the treaty as a broken promise that would relieve them of the obligation to comply with key parts of another accord, the Nuclear Non-proliferation treaty. That pact is considered the linchpin of international efforts to limit the spread of nuclear weapons.

International anxiety also has been compounded by new worries over U.S. efforts to escape constraints imposed by the Anti-Ballistic Missile (ABM) Treaty, which limits the ability of the United States to build systems to defend against missile attack.

Russia and China say it would destabilize the strategic balance if the United States built a missile defense system, because Washington could be tempted to attack others if it felt invulnerable to retaliation. That could trigger a new arms race as other nations sought ways to overwhelm missile defenses.

Many nations are surprised by the Senate's hesitation to approve the test ban treaty, in part because the accord is widely regarded abroad as locking in American nuclear superiority. Until recently, the treaty had gained strong momentum as the ratification process moved ahead and a world-wide sensor system was deployed to detect even the tiniest indication of a nuclear explosion.

More than half of the 44 nations with nuclear facilities whose ratification is necessary for the treaty to take effect have already done so. U.S. approval is deemed critical to persuade other nations, including Russia and China, to ratify. Even more important, India and Pakistan, who pledged to sign the test ban treaty under enormous international pressure, are said to be awaiting Senate action before making their final decision.

"It would be a highly dangerous step for the Senate to reject this treaty," said Peter Hain, Britain's minister of state for foreign affairs. "If the test ban treaty starts to unravel, all sorts of undesirable things could happen. It would send the worst possible signal to the rest of the world by giving a green light to many countries to walk away from promises not to develop nuclear arsenals." Hain and other delegates here spoke at a long-planned conference organized to discuss how to put the test ban treaty into effect.

German Foreign Minister Joschka Fischer said the rest of the world would be watching the Senate test ban vote closely because of its possible effect in eroding support for the non-proliferation treaty. "What is at stake is not just the pros and cons of the test ban treaty, but the future of multilateral arms control," Fischer said.

Diplomats fear that a failure to put the test ban treaty into effect soon would discourage some "threshold" countries—those close to developing nuclear weapons—from cooperating with intrusive inspections under the non-proliferation treaty. Such inspections are designed to prevent them from cheating and secretly developing nuclear weapons.

Jayantha Dhanapala, the U.N. undersecretary for disarmament affairs, said many countries agreed to a permanent inspection regime four years ago only on the basis of a written guarantee by the nuclear powers to negotiate and ratify a worldwide test ban as one of several key steps toward nuclear disarmament.

In a grand diplomatic bargain struck in 1995, the inspection program was made permanent for some 175 nations that have promised to forswear nuclear weapons. In exchange, the powers—the United States, France, Britain, Russia and China—pledged to reduce nuclear arsenals and approve a treaty that would ban test explosions that help upgrade their weapons.

"If the Senate rejects ratification, it would send a very negative signal that will act as a brake on the momentum we have achieved to control the nuclear threat, because some countries would see this vote as a betrayal of a promise," Dhanapala said.

The head of the U.S. delegation, Ambassador John B. Ritch III, said a main theme of the Vienna conference has been international alarm over isolationist thinking that has spurred Senate opposition to the treaty. He said foreign delegates found it difficult to understand how the Senate could consider backtracking from a ban on nuclear explosions even though polls show as much as 80 percent of the American public support the treaty.

China's representative here said that U.S. failure to ratify the test ban treaty would be "a very negative development" and joined others in expressing concern that the United States is shunning its obligations on global arms control.

"I don't like to talk about any country exercising world leadership, but in this case we see that the United States must play a special role," Sha Zukang, China's top arms control official, said in an interview. Sha added that China is even more alarmed by U.S. efforts to develop a regional missile defense system than by the Senate's reluctance to approve the test ban treaty.

Boris Kvok, Russia's deputy chief of disarmament issues, said the U.S. decision on the test ban treaty would not affect the deliberations of Russia's parliament on the pact or alter his country's test moratorium. "But if the U.S. moves ahead with ballistic missile defense, it would be a disaster for strategic stability in Europe and the world. And we would have to start developing new weapons to correct this imbalance," Kvok said.

Mr. SARBANES. Mr. President, I yield the floor.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I yield myself up to 10 minutes to speak on the Comprehensive Test Ban Treaty.

Mr. President, there have been a number of arguments put forward against and for the Comprehensive Test Ban Treaty. We have heard, most recently, arguments for ratification of the treaty. I join my colleague from Maryland in noting that I think there would be a wide basis of support saying we should not bring it up at this time. But neither should we bring it up next year. I know a number of my colleagues on this side of the aisle would say it would be a good thing if we could agree not to go ahead and go forward with a vote now, but not to do that during this session of Congress, either the rest of this year or next year, so we won't constantly be going back and visiting this issue during this Congress. We have it on the floor and it is time to discuss it. I think people can agree that we won't hear it again this Congress, and we can move forward with that discussion and have this debate and not proceed to a vote if people think that would do more harm than good.

I want to address a number of arguments put forward by the President and by others on this Comprehensive Test Ban Treaty. I note the President stated in his weekly radio address that every President since Eisenhower—a Kansan—has supported this treaty. The reality of this is actually that no previous administration, either Republican or Democrat, has ever supported the zero-yield test ban now in this treaty before the Senate. Eisenhower insisted that nuclear tests with a seismic magnitude of less than 4.75 be permitted. Kennedy terminated a 3-year moratorium on nuclear tests, declaring that "never again" would the United States make such a mistake. He then embarked upon the most aggressive series of nuclear tests in the history of the weapons program. Carter, Reagan, and Bush all opposed a zero-yield test ban while in office. Even the present administration initially opposed a permanent zero-yield test ban before signing onto the CTBT.

It has been claimed that the CTBT hasn't been given enough Senate floor time. The unanimous-consent agreement provides for 22 hours of debate on the CTBT. By contrast, the START treaty had 9.5 hours; START II had 6 hours; the Chemical Weapons Convention had 18 hours. We are going to put a lot of time in on this. The White House insisted for 2 years that the Senate vote on the CTBT, using terms such as "now," "immediately," "right away." Now when we are ready to vote, they don't seem to be willing to enter into that debate and vote.

Another thing the President said in his news conference in Canada was this was being "politically motivated." I reject that, Mr. President. You do not consider items such as this with any consideration for political motivation. This is nuclear testing we are talking about. This is a critical issue to the world—to my four children. That is something you don't interject any bit of politics into. I reject that notion altogether.

There are a couple of other arguments bantered about quite a bit—one that I have taken most note of because it causes me the most pause to think is what would other countries think if we voted down the treaty? Would that cause more proliferation? I cannot read the minds of the leaders in China, Russia, Pakistan, or India, but there are people with a great deal of wisdom and experience who did hazard a guess in that area and have put forward thoughtful statements. One was put forward by former Secretaries of Defense Weinberger, Cheney, Rumsfeld, Laird, Carlucci, and Schlesinger. All of them signed this quote:

> We also do not believe the CTBT will do much to prevent the spread of nuclear weapons.

Now, you have six former Secretaries of Defense saying that.

> The motivation of rogue nations like North Korea and Iraq to acquire nuclear weapons will not be affected by whether the U.S. tests. Similarly, the possession of nuclear weapons by nations like India, Pakistan, and Israel depends on the security environment in their region, not by whether or not the U.S. tests. If confidence in the U.S. nuclear deterrent were to decline, countries that have relied on our protection could well feel compelled to seek nuclear capabilities of their own. Thus, ironically, the CTBT might cause additional nations to seek nuclear weapons.

That was a quote from the six former Defense Secretaries—Weinberger, Cheney, Rumsfeld, Laird, Carlucci, and Schlesinger.

This is a quote from General Vessey, former Chairman of the Joint Chief of Staff:

> Supporters of the CTBT argue that it reduces the chances for nuclear proliferation. I applaud efforts to reduce the proliferation of nuclear weapons, but I do not believe that the test ban will reduce the ability of rogue states to acquire nuclear weapons in sufficient quantities to upset regional security in various parts of the world. "Gun-type" nuclear weapons can be built with assurance they'll work without testing. The Indian and Pakistani "tests" apparently show that there is adequate knowledge available to build implosion type weapons with reasonable assurance that they will work. The India/Pakistan explosions have been called "tests," but I believe it to be more accurate to call them "demonstrations," more for political purposes than for scientific testing.

A letter signed by John Deutch, Henry Kissinger, and Brent Scowcroft says:

> Supporters of the CTBT claim that it will make a major contribution to limiting the spread of nuclear weapons.

It is the same argument we hear time and time again, which I wish to be true because I want this to be a nuclear-free world. They say:

> This cannot be true if key countries of proliferation concern do not agree to accede to the treaty. To date, several of these countries, including India, Pakistan, North Korea, Iran, Iraq, and Syria, have not signed and ratified the treaty. Many of these countries may never join the CTBT regime, and ratification by the United States, early or late, is unlikely to have any impact on their decisions in this regard. For example, no serious person should believe that rogue nations like Iran or Iraq will give up efforts to acquire nuclear weapons if only the U.S. signs the CTBT.

If you think about that, they are not going to respond to what we do.

This is a letter from Edward Teller to Senator HELMS. He says this in the letter, dated February 4, 1998:

> The point I must make is that, in the long run, knowledge and ability to produce nuclear weapons will be widely available. To believe that, in the long run, proliferation of nuclear weapons is avoidable is wishful thinking and dangerous. It is the more dangerous because it is a point of view that the public is eager to accept. Thus, politicians are tempted to gain popularity by supporting false hopes.

This is a former Assistant Director, ACDA, Fred Eimer. He says this:

> In conclusion, Mr. Chairman, the proposed treaty will put our nuclear deterrent at risk without significant arms control or nonproliferation benefits. Other nations will be able to conduct militarily significant nuclear tests well below the verification threshold of the Treaty's monitoring system, and our own unilateral capability.

I make these statements simply because this is a big issue. It is an important issue, and a lot of people have thought a great deal about it. I think it to be an inappropriate time to enter into such a treaty that would so limit the United States, given all the great concerns and testing and things going on around the world.

I want to give some final quotes of former Directors of the National Weapons Laboratories. They also oppose the CTBT.

Roger Batzel, Director Emeritus, sent this letter on October 5:

> I urge you to oppose the Comprehensive Test Ban Treaty. No previous administration, either Democrat or Republican, ever supported the unverifiable, zero yield, indefinite duration CTBT now before the Senate. The reason for this is simple. Under a long-duration test ban, confidence in the nuclear stockpile will erode for a variety of reasons. I don't think it can be put forward any clearer than that. This is a key part of our deterrence. We simply cannot go ahead and enter into this treaty at this time at our own great loss and our own great peril.

I note again for my colleagues on the other side of the aisle that a number of us are very willing and interested that this not go forward for a vote. We don't want it to go forward for a vote in this session of Congress, either this year or next year.

The notion that it would be pulled down now, then somehow come back next year during the middle of a Presidential election, and be used as some sort of political tool at that time seems to many of us to be far more frightening, with what might happen in the political debate, with the atmosphere and the use of this treaty in its discussions for political purposes.

That is why we continue to support not voting on this now. Let's also agree that we will not do it during this session of Congress.

I have used up my allotted period of time. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I know that earlier the Democratic side proposed an amendment which was accepted by this side. I did want to speak to that for just a moment because I don't believe anyone should suffer any illusions that the so-called safeguards that are part of this amendment are going to in any way enhance the treaty and make it more palatable. We accepted it because it is what is being done anyway. It wouldn't have to be added to the treaty. The President theoretically is pursuing these things. He should pursue them. But they are not going to make the treaty any better or worse.

For example, the first item is the Stockpile Stewardship Program. It has been assumed all along that there would be a Stockpile Stewardship Program. We don't have to amend this in order to achieve that.

The problem is, the Stockpile Stewardship Program is very troublesome even if you assume there would be assurance at the end of the day that it could do the job it was designed to do because some people are assuming that design is a total replacement of testing. It was never designed to totally replace testing but merely to give us a greater degree of confidence in the reliability and safety of our nuclear weapons, not that it could totally replace testing.

But even if you laid that aside, the notion was that the Stockpile Stewardship Program would be ready in a decade. This was announced about 3 years ago. Now we are being told it will be ready by the year 2010.

There are slips along the way that suggest problems with the Stockpile Stewardship Program. It is behind budget. We haven't been budgeting the amount of money that was indicated as necessary to maintain it—the $4.5 billion a year. We have also not indexed for inflation. So each year that we supply the $4 billion or so, we are getting further behind because we are not indexing that to inflation.

We have also included other programs within the Stockpile Stewardship Program that were never intended to be funded out of it, such as the tritium production facility for our nuclear weapons. That was to be a separate area of funding. This administration has folded that into the Stockpile Stewardship Program, with the result that even more of the money necessary for the ASCI Program and other key parts of the Stockpile Stewardship Program will be shorted if we have to spend that money for tritium.

In addition to that, let me quote a letter I received from the former Director of one of our National Laboratories. This is a letter sent to me in September of this year from John Nuckolls who is the former Director at Livermore. Here is what he said:

> A post-CTBT or other funding reduction would increase the uncertainty in long-term stockpile reliability. Current and projected funding is inadequate. Substantial additional funding is needed for SSP experimental efforts including construction of an advanced hydro facility.

I also note that the so-called ignition facility, which is planned as a part of this, is also behind schedule and over budget.

As Mr. Nuckolls pointed out, we are already behind. We are getting further behind, and I don't think anyone should put that much reliance as a result in the Stockpile Stewardship Program.

Another safeguard is the nuclear laboratory facilities and programs. Of course, we are going to maintain our nuclear laboratories and facilities. I don't think anybody would ever assume we were not going to do that. So this adds nothing to the treaty. The question is, Can you maintain these without nuclear testing? It turns out it is much more difficult to do so.

Again, quoting from Mr. Nuckolls' letter to me, I will quote the first part of his answer:

> In an extended duration nuclear test ban, confidence in the stockpile would be adversely affected by loss of all nuclear test trained and validated expert personnel, major gaps in our scientific understanding of nuclear explosives, nuclear and chemical decay of warheads, accidents and inadequate funding of the Stockpile Stewardship Program.
>
> All nuclear test trained/validated expert personnel would eventually be lost. Training of the replacement workforce would be seriously handicapped without nuclear testing, and expert judgment could not be fully validated. A serious degradation of U.S. capabilities to find and fix stockpile problems, and to design and build new nuclear weapons would be unavoidable.

In other words, what is perceived as a good thing—these nuclear laboratory facilities and programs—is actually being allowed to deteriorate without testing. We simply won't have the people available in order to maintain those facilities and to be prepared to do the things he says are necessary to be done. A serious degradation of U.S. capabilities would be unavoidable.

We are not talking about something hypothetical and unimportant. We are talking about the U.S. nuclear stockpile. This is the person who used to run this National Laboratory. He is telling us we had better be careful putting our reliance on that program.

The third of the so-called safeguards is the maintenance of nuclear testing capability. That is fine, except that we are not doing it. This President should be doing it. He claims to be doing it. But it is not being done. We now know it would take 2 or 3 years to get back to the point where we could test.

I again quote from Mr. Nuckolls' letter:

> In an extended duration nuclear test ban, the nuclear test site infrastructure is likely to decay or become obsolete. Nuclear test experienced personnel would be lost. A series of nuclear tests to diagnose complex reliability problems and to certify a fix, or to develop new weapons could take several years. . . .
>
> Nuclear testing has been essential to the discovery and resolution of many problems in the stockpile.

The point he is making is that you can't just say you are going to be able to resume testing unless you take active and take serious steps to maintain that readiness. We are not doing it. And he says in a test ban of this kind, we would not be able to do it.

The fourth item is the continued comprehensive research and development program. Of course, we are going to be doing that. Intelligence gatherings, analytical capabilities—we will do the best we can on that, although, as has been pointed out, it is inadequate.

Senator RICHARD LUGAR, an arms control advocate and an expert in this body, has concluded reluctantly that this treaty is not verifiable and enforceable and, as a matter of fact, it cannot be made so.

Let me quote from the Washington Times of today because it talks about how we negotiated this treaty and how we negotiated the provisions for verification and enforcement. Let me read from the story which is headlined, "Moscow, Beijing balk at monitors. Testing sites not included in nuke treaty." I am quoting now:

> Russia and China refused to permit seismic monitoring near their nuclear weapons test sites that could have resolved some verification problems now troubling the Comprehensive Test Ban Treaty, according to U.S. government officials.
>
> Clinton administration officials and congressional aides said the failure of U.S. negotiators to win the cooperation of Moscow and Beijing was a "negotiating failure" that undermined the treaty. It also is a key reason U.S. intelligence agencies said both nations could conduct hidden nuclear tests without detection.

Before I finish this quotation, let me point out why this is important.

Mr. BIDEN. If the Senator will yield, from what document is he reading?

Mr. KYL. The Washington Times, Tuesday, October 12.

Mr. President, I ask unanimous consent that The Washington Times article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MOSCOW, BEIJING BALK AT MONITORS

(By Bill Gertz)

Russia and China refused to permit seismic monitoring near their nuclear weapons test sites that could have resolved some verification problems now troubling the Comprehensive Test Ban Treaty, according to U.S. government officials.

Clinton administration officials and congressional aides said the failure of U.S. negotiators to win the cooperation of Moscow and Beijing was a "negotiating failure" that undermined the treaty. It also is a key reason U.S. intelligence agencies said both nations could conduct hidden nuclear tests without detection.

The officials, who spoke on the condition of anonymity because of sensitive intelligence issues, said the treaty's international monitoring system that includes 50 "primary" seismic stations and 120 "auxiliary" seismic stations does not include stations close to China's remote northwestern Lop Nur testing site in Xinjiang province, or Russia's arctic Novaya Zemlya.

U.S. intelligence agencies suspect the two locations were used recently for small nuclear test blasts.

China's test on June 12 may have been part of efforts by Beijing to build smaller warheads for its short-range missiles, or multiple warheads for its intercontinental ballistic missiles (ICBMs), U.S. intelligence officials said.

Two suspected nuclear tests detected near Novaya Zemlya on Sept. 8 and Sept. 23 are believed to be part of Russia's secret nuclear testing program.

U.S. intelligence agencies reported recently to policy-makers and members of Congress that Russia and China are the two nations are most interested and capable of conducting covert tests. "Both have locations where they could conduct secret tests that would not be detected," said one intelligence official.

The official said that during treaty negotiations from 1994 to 1996 at the Conference on Disarmament in Geneva, U.S. negotiators failed to press for Russian and Chinese agreement to tougher monitoring provisions in the treaty that would satisfy the concerns of U.S. spy agencies about cheating.

According to the official, "if Russia had been convinced to have one facility at Novaya Zemlya and China agreed to have one near Lop Nur, the level of verification would have improved greatly."

Russia and China also blocked a treaty provision that would have required treaty signatories to allow small explosive tests that would have "calibrated" regional seismic stations so they accurately measure underground blasts, the officials said.

Without the calibration, the regional stations will provide misleading or confusing data that undermines more accurate data provided by primary stations, they said.

A National Intelligence Estimate, the consensus judgment of all U.S. intelligence agencies, presented a finding in 1997 that said verifying the test-ban treaty will be difficult.

That estimate is currently being revised and is expected to conclude that because of the lack of verification and the possibility that states could conduct secret tests without detection, the treaty is even more difficult to verify, said officials close to the intelligence community.

Under the treaty, Russia will have six primary seismic stations and 13 secondary stations; China will have two primary seismic posts and four secondary facilities.

None of these stations, however, is located close enough to the main Russian and Chinese testing facilities to be able to detect tests conducted covertly inside underground caves, or tests of very small nuclear blasts, the officials said.

By contrast, the United States has five primary seismic monitoring facilities under the treaty, including one in Nevada, where the main U.S. nuclear testing site is located. It will also have 11 secondary sites.

Michael Pillsbury, a former acting director of the U.S. Arms Control and Disarmament Agency, said China would have agreed to better seismic monitoring if Beijing were pushed into it.

"Chinese officials have told me that if the Clinton administration had pushed harder they would have agreed to a primary site near the test site," said Mr. Pillsbury, who also took part in a recent Defense Science Task Force study on nuclear weapons, "but the Chinese had the impression the Clinton administration didn't place as a high priority on treaty verification as they did on maintaining good trade relations.

A Senate defense specialist said Russia agreed to allow more sensitive seismic monitors to be placed near Novaya Zemlya, but only if the United States agreed to provide Moscow with advanced computers and U.S. nuclear weapons testing data. The administration refused.

On Russia, the aide said the administration faces a dilemma. "Either they accuse the Russians of violating the treaty or concede the treaty cannot be verified," the aide said.

U.S. intelligence agencies are now saying that "you can have militarily significant developments below the [seismic] detection threshold," the aide said.

Administration officials have said verification is not as important as promoting the agreement itself as a deterrent to nuclear weapons proliferation.

"The CIA has indicated that they cannot verify to a hundred percent whether or not someone has conducted a nuclear test," Defense Secretary William S. Cohen said Sunday on NBC's "Meet the Press."

"But we believe with this treaty, you're going to have at least an additional 320 sites that will help monitor testing around the world," he said. ". . . We are satisfied we can verify adequately, not a hundred percent, but satisfy ourselves that there is no testing doing on that would put us at any kind of a strategic disadvantage."

Asked about the fact, that the United States cannot detect unclear blasts below a few kiloton yield, Secretary of State Madeleine K. Albright said: "We can detect what we need to."

"Those that are below a certain level, we do not think would undercut our nuclear deterrent because they would be so small that they would not affect our nuclear deterrent capacity," Mrs. Albright said on ABC's "This Week."

A Pentagon official, however, said the Clinton administration is supporting anti-nuclear-weapons activists by supporting the test ban.

Mr. KYL. Mr. President, the Senate has a solemn obligation under our Constitution to be a backstop. We are not supposed to be a rubber stamp to treaties. If we were simply to rubber stamp whatever the President sent to us, our founding fathers wouldn't have provided a separate advice and consent responsibility for the Senate. As a matter of fact, we would be doing the Office of the Presidency a big favor by exercising that responsibility in a responsible way, saying that when we find treaties that lack even minimal standards, then we need to say no, so that our negotiators in the future will be able to negotiate stronger provisions—provisions that we seek because we understand their importance and necessity for sensible arms control.

If we simply ratify what is acknowledged to be a flawed treaty, then our negotiators are never going to be able to say no to bad terms and we are always going to have to then go to the lowest common denominator in these treaties—treaties which then become bad for the United States; treaties which are unverifiable and unenforceable. Those are concepts that used to cause the Senate to say no, to say we won't approve a treaty that doesn't have good verification or enforcement provisions. Those are minimally necessary for sensible treaties.

Our negotiators tried to avoid a zero-yield basis in this treaty but they couldn't so they gave up. They tried to have a 10-year limit rather than having this treaty be in effect in perpetuity, but they couldn't get it done. So in order to make a deal, they said: All right, we will agree to something less. If they knew and if their counterparts understood that the Senate at that point would say: No, we are not going to ratify such a treaty, they would more likely have stood firm and been able to hold their ground.

The same thing is true with respect to these monitors. Administration officials have tried to suggest that actually we will have a better chance of monitoring in the future than we do today, while many of the experts have debunked that. The fact that the treaty calls for monitoring sites around the world is irrelevant if the sites are not placed in the positions that are best for detection of nuclear weapon explosions. What this article is pointing out is that when the United States tried to interpose that requirement on Russia and China, the Russians and Chinese said no, and we backed down. So now we don't have monitoring stations in key locations in the world near the Chinese and Russian test sites that would enable the United States to understand whether or not they have violated the treaty by engaging in nuclear tests.

Let me quote further from the article, while it points out that Russia and China will have some seismic stations:

None of these stations, however, is located close enough to the main Russian and Chinese testing facilities to be able to detect tests conducted covertly inside underground caves, or tests of very small nuclear blasts, the official said.

By contrast, the United States has five primary seismic monitoring facilities under the treaty, including one in Nevada, where the main U.S. nuclear testing site is located. It will also have 11 secondary sites.

Michael Pillsbury, a former acting director of the U.S. Arms Control and Disarmament Agency, said China would have agreed to better seismic monitoring if Beijing were pushed into it.

"Chinese officials have told me that if the Clinton administration had pushed harder they would have agreed to a primary site near the test site," said Mr. Pillsbury, who also took part in a recent Defense Science Task Force study on nuclear weapons, "but the Chinese had the impression the Clinton administration didn't place as high a priority on treaty verification as they did on maintaining good trade relations."

A Senate defense specialist said Russia agreed to allow more sensitive seismic monitoring to be placed near Novaya Zemlya, but only if the United States agreed to provide Moscow with advanced computers and U.S. nuclear weapons testing data. The administration refused.

I think the point of this article and the point of the testimony of several of the people who came before the committees was that the people who negotiated this treaty gave up too soon on too many important provisions, and because they wanted a treaty more than they were concerned about the specific provisions—such as verification and enforcement—they were willing to commit the United States to a series of obligations that will have a profound negative impact on our nuclear stockpile and yet do very little, if anything, to ensure that other nations in the world will not proliferate nuclear weapons.

The President has signed the treaty. That doesn't mean the United States needs to ratify it. We should exercise our independent judgment, our constitutional prerogative, to provide, as I said, before the quality control. If we do that, this President and future Presidents' hands will be strengthened when they go to the negotiating sessions to talk about such things as where to place the monitors. Maybe the Chinese and the Russians and others at that time will understand they are not going to bamboozle our negotiators. Because the Senate provides a backstop, we will say no. That is the way the Founding Fathers understood we could ensure that the United States did not take on inadequate or offensive international arms obligations or limitations.

I have mentioned all the safeguards but the last one. These safeguards add nothing to the status quo. In fact, I hope they will be more robustly pursued than this administration has pursued.

Last is the withdrawal under the supreme interest clause. Even this was something that the administration sought to avoid when it negotiated the treaty initially. The negotiators understood how very difficult—in fact, how almost impossible—it is to invoke the supreme interest clause. There are two reasons for that. They are very simple. First, if a country hasn't tested for a decade and all of a sudden this clause is invoked, that country is, in effect, telling all the rest of the world, whoops, we have a problem; please excuse us while we test.

That is not a good message to send to the rest of the world. As difficult as the political inability to invoke this clause, if we think it is hard now to reject this treaty—which most on this side believe should be rejected—if we think it is difficult now because world opinion will react badly to a negative vote by the Senate, what do Members think world opinion will be after the treaty has been in effect for a decade and all of a sudden the United States tries to withdraw from it because we need to test?

That is real pressure. It is a virtual impossibility. In fact, President John F. Kennedy said exactly that in speaking about the moratorium that he inherited from the Eisenhower administration. He said never again should we do that because it is not only difficult, it is impossible to go back to testing without political ramifications after having had a moratorium condition.

The supreme interest clause is certainly something that would be part of any administration's options; whether or not it is added to the treaty is irrelevant. The administration always has that option. It adds nothing.

The reason we were happy to accept the amendment offered by the Senator from Delaware is that it adds nothing to the treaty. We assume those provisions would be extant and therefore there is no reason to object to it. There is also no reason to celebrate because it adds nothing to what we already have.

As I said, unless we are a lot more serious about providing the funding that is called for under the amendment and doing the science that is required, we are going to find ourselves getting further and further behind, especially with respect to the Stockpile Stewardship Program.

I don't think we should say that the safeguard package has made the treaty any better than it was to begin with.

I ask unanimous consent to have printed in the RECORD a letter from John H. Nuckolls.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JOHN H. NUCKOLLS,
Livermore, CA, September 2, 1999.

Hon. JON KYL,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KYL: This letter responds to your April 1, 1999 request for my answers to five questions concerning the effects of a nuclear test ban on the reliability and safety of the nuclear stockpile. My views do not represent LLNL.

1. To maintain confidence in the safety and reliability of the U.S. nuclear stockpile in absence of nuclear testing, the United States intends to rely on the Stockpile Stewardship Program to accomplish the goals previously achieved through nuclear testing. Setting aside the controversial issue of sustained funding for the Program, how confident should we be that the Program will achieve its goals? In your answer, please address not only the level of certainty we should have regarding the Program's technical goals, but also the goal of attracting and training nuclear weapons experts who could fix problems that may develop in the existing stockpile or design and build new nuclear weapons.

In an extended duration test ban, confidence in the stockpile would be adversely affected by loss of all nuclear test trained and validated expert personnel, major gaps in our scientific understanding of nuclear explosives, nuclear and chemical decay of warheads, accidents and inadequate funding of the Stockpile Stewardship Program (SSP).

All nuclear test trained/validated personnel would eventually be lost. Training of the replacement workforce would be seriously handicapped without nuclear testing, and expert judgment could not be fully validated. A serious degradation of U.S. capabilities to find and fix stockpile problems, and to design and build new nuclear weapons would be unavoidable.

There are major gaps in our scientific understanding of critically important processes essential to the operation of nuclear explosives. These gaps create a serious vulnerability to undetected problems. Uncertainties in performance margins increase this vulnerability. Consequently, there will be a growing uncertainty in long-term reliability.

It cannot be assured that the powerful computational and experimental capabilities of the Stockpile Stewardship Program will increase confidence in reliability. Improved understanding may reduce confidence in estimates of performance margins and reliability if fixes and validation are precluded by a CTBT.

Key components of nuclear warheads are "aging" by radioactive decay and chemical decomposition and corrosion. Periodic remanufacture is necessary, but may copy existing defects and introduce additional defects. Some of the remanufactured parts may differ significantly from the original parts—due to loss of nuclear test validated personnel who manufactured the original parts, the use of new material and fabrication processes, and inadequate specification of original parts. There are significant risks of reducing stockpile reliability when remanufactured parts are involved in warhead processes where there are major gaps in our scientific understanding.

In spite of extraordinary efforts to prevent accidents, sooner or later "accidents will happen." Accidents (very probably those of foreign nuclear forces) are likely to generate requirements for incorporating modern damage limitation technologies in our nuclear warhead systems which lack these safety features. Without nuclear tests, confidence in reliability would be substantially reduced by the introduction of some safety technologies.

A post-CTBT or other funding reduction would increase the uncertainty in long-term stockpile reliability. Current and projected funding is inadequate. Substantial additional funding is needed for SSP experimental efforts including construction of an advanced hydro facility.

The uncertainty in long-term stockpile reliability may be reduced somewhat by increasing performance margins. Depending on national security requirements, operational measures may be feasible which compensate for uncertain stockpile reliability, e.g., limit arms control agreements so that large and diverse reserves of warheads and delivery systems can be maintained, use multiple independent forces on each target and maximize use of shoot-look-shoot.

2. Certification of U.S. nuclear weapons, once achieved through nuclear testing, is now accomplished through a process of review by experts. How crucial is the nuclear testing experience of those experts to their ability to perform the certification task? What level of risk would you associate with having a certification process in the future that utilizes only individuals who have had no nuclear testing experience?

Stockpile confidence would be reduced if certification were performed by experts lacking nuclear test experience. The level of risk would be high unless arms control agreements were restrained, and substantially reserve forces maintained so that the capabilities of our nuclear forces substantially exceeded national security requirements.

3. Current U.S. plans are to maintain "the basic capability to resume nuclear test activities." In your view, is it technically possible to maintain the nuclear test site, together with the requisite skilled personnel, in a state whereby nuclear testing can readily be resumed if needed? How quickly do you believe that testing can be resumed?

In an extended duration nuclear test ban, the nuclear test site infrastructure is likely to decay and become obsolete. Nuclear test experienced personnel would be lost. A series of nuclear tests to diagnose complex reliability problems and certify a fix, or to develop new weapons could take several years.

4. In your experience, how vital has nuclear testing been to the discovery and resolution of problems with the U.S. stockpile?

Nuclear testing has been essential to the discovery and resolution of many problems in the stockpile.

5. Experts agree that nuclear testing can be conducted by other nations at low yields without its being detected. If other nuclear weapons states were to continue clandestine nuclear testing at low levels, do you believe that they could obtain significantly greater confidence in the reliability of their nuclear arsenals?

With a series of clandestine nuclear tests, Russia could increase confidence in the reliability of its nuclear stockpile. Advanced low-yield nuclear weapons could also be developed, e.g., tactical and BMD warheads.

China and other nations could improve their nuclear forces by clandestine tests of nuclear weapons, including tests of U.S. designs obtained through espionage? and Russian designs obtained through various means?

A "CTBT" with clandestine nuclear tests would incentivize and facilitate espionage. Achieving qualitative parity with a static U.S. stockpile would be a powerful incentive. Espionage is facilitated when U.S. progress is frozen, and classified information is being concentrated and organized in electronic systems.

These views are my own and do not represent LLNL.

Sincerely,

JOHN H. NUCKOLLS,
Director Emeritus, LLNL.

Mr. BIDEN. Mr. President, the Senator from Virginia would be next, but he has kindly yielded to the Senator from New Mexico.

My friend from Arizona keeps saying the "acknowledged flawed treaty." It is not acknowledged to be flawed by 32 Nobel laureates in physics. It is not acknowledged to be flawed by four of the last five Chairmen of the Joint Chiefs of Staff. It is not acknowledged to be flawed by the weapons lab Directors, et cetera.

I want to make it clear, he states some believe it is flawed. The majority of the people who are in command and have been in command—the Secretaries of Defense who have been mentioned—if we balance it out, clearly think this is not a flawed treaty.

I yield on the Republican time to my friend from New Mexico.

Mr. DOMENICI. Mr. President, there can be no question that this debate and the vote which might occur are very significant and historic events for the United States. I very much want to be in favor of the treaty but I cannot favor the treaty because I believe essentially it jeopardizes U.S. security.

I wish every Senator had the opportunities I have had for the last 5½ years. I say that knowing full well my friend from Arizona, while he is not on the committee that funds the stockpile stewardship, is one of the rare exceptions in that he and a few other Senators have learned and worked very diligently to understand what we have been doing since we decided on behalf of the Senate in a Mark Hatfield amendment that we would not test nuclear weapons.

What has been the U.S. response to our scientific and nuclear community?

Essentially, what we have been busy doing can be encapsulated in the words "science-based stockpile stewardship." One might say, since that pertains to the safety of the weapons system, what we used to do could be called nuclear testing stockpile stewardship. That occurred since the beginning of our nuclear weapons programs. The United States had a formidable, perhaps the world's best, system of underground testing.

Testing became very important to those laboratories—there are now three that are principally called nuclear deterrent or stockpile stewardship laboratories. I am privileged to have two of them in my State. When I come to the floor, go to meetings, and talk about the fact this is an important program and these laboratories are important, it hardly ever comes into focus like it is today, like it was in our conference at noon, and like it has been for the last week as Senator JON KYL and others have spoken to the fact that what the United States has been trying to do is develop a science-based system. This system means supercomputer simulation and other techniques and skills to see what is going on in a nuclear weapon without any testing to assure the parts that might be wearing out are discernible and can be replaced and that the weapon, indeed, is safe.

Frankly, if nothing else, I pray this debate will cause Senators and Representatives, in particular in the important committees of jurisdiction, to understand the importance of this program if the United States continues on a path of no testing, for whatever period of time—and who knows, we may do that in spite of this treaty not being ratified by the United States. I do not want to engage in a maybe-and-maybe-not discussion on that, but the United States is trying hard. Nonetheless, my principal concerns about this Treaty—and there are many—center around four reasons, and three of them have to do with science-based stockpile stewardship.

First, the science-based stockpile stewardship is new; it is nascent; it is just starting. It is not finished. It has not been completed. It is not perfected. As a matter of fact, to the Senators who are on the floor, probably some of the most profound testimony regarding America's stockpile of nuclear weapons occurred in the Armed Services Committee last week when sitting at the witness table was the Secretary of Energy, surrounded by the three National Laboratory Directors.

It goes without saying that our country owes them a high degree of gratitude and thanks for what they do, for they oversee the safety of our weapons under this new approach which is very different for them, and that is, no testing; they must certify that everything is OK without testing. Scientists and physicists steeped in knowledge about nuclear weapons—one of them is a nuclear weapons expert of the highest order—testified, and I will quote in a while some of the difficulties they see with reference to their responsibility.

Secondly, I do not know what to do about it, but the difficulty, as they testified, in securing the funding they need without new mandates imposed upon them is very uncertain. The difficulty is real and it is uncertain as to whether they will continually over time get sufficient resources.

Third is, and I say this with a clear hope that the Secretary of Energy and the President will listen, the unknown impact of the failure on the part of this administration to proceed with reorganizing the Department of Energy on stewardship efforts. I do not want to belabor in this speech the efforts that many of us went to in streamlining accountability of the nuclear weapons programs within the Energy Department. We called it a semiautonomous agency—so that Department, which is in charge of the nuclear weapons, including the profound things we are talking about with respect to their safety, will not be bogged down by rules, regulations, personnel, and other things from a Department as diverse as the Department of Energy.

As a matter of fact, the more I think about it, the more I am convinced they should get on with doing what Congress told them to do instead of this waffling out of it by putting Secretary Richardson in charge of both the Energy Department and a new independent agency—which was supposed to be created so it would be semiautonomous, and he will head them both under an interpretation that cannot be legal—just indicates to me that they are not quite willing in this Department of Energy to face up to the serious problems of our nuclear stockpile and such things as science-based stockpile stewardship.

Lastly, and for many who talked on the floor, the most important issue is the ambiguities and threats to our international security at the present time. I will talk about that a bit because some Senators are asking: How can you be against the treaty and at the same time say we ought to put it off?

Let me repeat, my last concern is the ambiguities and threats to our international security at present.

I will proceed quickly with an elaboration.

When the United States declared a unilateral moratorium in 1992, the onus was on the scientists and National Laboratories to design and implement a program that would ensure the safety, reliability, and performance of our nuclear arsenal without testing. This is an onerous, complicated task that has yet to be fully implemented and validated, and I just stated that.

Science-based stockpile stewardship was designed to replace nuclear tests through increased understanding of the nuclear physics in conjunction with unprecedented simulation capabilities. This requires a lot of money. In fact, full implementation of the stewardship program is more expensive than reliance on nuclear tests, and I do not say this as an excuse for moving back to testing. The truth of the matter is it proves we are very willing to keep our stockpiles safe, reliable, and sound, even if it costs us more money, so long as we do not do underground testing on the other side of the ledger.

There is no question that in addition, the validity of this approach remains unproven, and key facilities, such as the National Ignition Facility, are behind schedule and over budget, and it is supposed to be one of the integral parts of being able to determine the stockpile confidence.

This program will attempt to preserve the viability of existing weapons indefinitely. We no longer possess the production capabilities to replace the weapons, and maybe Senator KYL has referred to that. We have already gotten rid of our production facilities.

Currently, seven highly sophisticated warhead designs comprise our arsenal. Each weapon contains thousands of components, all of which are subject to decay and corrosion over time. Any small flaw in any individual component would render the weapons ineffective. In addition, because we intend to preserve, rather than replace, these weapons with new designs, aging effects on these weapons remains to be seen.

I quote Dr. Paul Robinson of Sandia National Laboratory in his testimony last week:

> Confidence in the reliability and safety of the nuclear weapons stockpile will eventually decline without nuclear testing. . . . Whether the risk that will arise from this decline in confidence will be acceptable or not is a policy issue that must be considered in light of the benefits expected to be realized [if you have a] test ban.

Are we ready today to accept a decline in confidence of our nuclear deterrent? Can we today accurately weigh the benefits on either side of the issue? I do not think so. On the other hand, we risk complete collapse of ongoing disarmament initiatives by prematurely rejecting this treaty. That is why I believe it is not inconsistent that I am not for it, but I would not like it to be voted on.

There are substantial risks with unknown consequences. Success of the Stockpile Stewardship Program requires recruiting the brightest young scientists. We have to begin to substitute for the older heads who know everything there is about it and contain all of the so-called corporate memory with reference to the science testing and the like.

My colleagues all know that I have fought very hard to get the money for the Stockpile Stewardship Program. We came perilously close this year to having this part of our budget cut by as much as $1 billion by the House. I think after weeks of saying we would not go to conference—it is not worth going to conference to fight—it was believed it would be better to stay at last year's level. They finally came to the point where we have a Stockpile Stewardship Program funded, but in an almost irreverent way.

Dr. Browne of Los Alamos said:

> I am confident that a fully supported and sustained program will enable us to continue to maintain America's nuclear deterrent without nuclear testing. However, I am concerned about several trends that are reducing my confidence level each year. These include annual shortfalls in planned budgets, increased numbers of findings in the stockpile that need resolution, an augmented workload beyond our original plans, and unfunded mandates that cut into the program.

It is pretty clear that it is not what they would like it to be.

He also said he was

> concerned about other significant disturbances this year in the stability of the support from the government, partially in response to concerns about espionage. This has sent a mixed message to the Laboratory that will make it more difficult to carry out

the stewardship program. According to this good doctor who heads Los Alamos, the task of recruiting and training the requisite talent is hindered by the current security climate at the laboratories.

I strongly believe that the establishment of a semi-independent agency for nuclear weapons activities will significantly enhance efforts to ensure the success of the Stockpile Stewardship Program. At the same time, this reorganization will require many months to accomplish. I ask my colleagues the following question: Should we make an international declaration regarding U.S. nuclear tests in the midst of a complete overhaul of the Department responsible for those weapons? I don't think so. Such an action would be premature.

Lastly, today we cannot clearly define the direction the world will take on nuclear issues. This concern speaks both for and against the treaty. Treaty proponents believe that U.S. ratification and the treaty's entry into force will curb proliferation. This treaty, if fully implemented, would enhance our ability to detect nuclear tests and create a deterrent to nations that may aspire to possess nuclear weapons capabilities.

However, others say, without question, this treaty is not a silver bullet. The administration has touted it as such. This treaty is only one measure of many that should comprise a solid nonproliferation agenda. For example, this treaty would be acceptable if accompanied by substantive bilateral commitments with Russia and multilateral commitments among the declared nuclear powers. A framework for international disarmament, nonproliferation, and stability may very well include a Test Ban Treaty, but it should also be accompanied by binding commitments on future disarmament objectives, such as the Fissile Materials Cutoff Regime, and the Anti-Ballistic Missile Treaty.

We have only one treaty—one facet of a complex picture—before us today. It may contribute to achieving other disarmament objectives, but we are being asked to wager our nuclear deterrent on the hope that formal commitments from other nuclear powers and threshold states will be forthcoming. We sign on the dotted line that we will not utilize testing to maintain our stockpile, and we plead with the world to follow suit.

Or we reject the Treaty now and eliminate others' potential hesitation regarding future tests.

Only 23 of the 44 nations required for the Treaty's entry into force have ratified it. India, Pakistan, North Korea, Russia and China have not ratified it. Neither India nor Pakistan have even signed the treaty.

We should not rush to vote on this matter.

Regardless of the vote count, we risk either permanent damage to our nonproliferation objectives or the safety and reliability of the U.S. nuclear arsenal. Continuing our moratorium on nuclear testing and not acting on this Treaty is the best course of action for now.

We have time. Time to observe international changes and formulate a nuclear posture suitable for a new era. Time to evaluate the future of our bilateral relations with Russia and China. And time to first ensure the success of Stockpile Stewardship.

U.S. ratification would provide a positive signal and increase our leverage at the negotiating table in our pursuit of many non-proliferation objectives. If the Senate does not ratify this Treaty, which appears highly likely at the present, many of our current foreign policy initiatives will unravel.

Most importantly, a negative vote on the CTBT will further erode the Nuclear Non-Proliferation Treaty, NPT, itself. We secured indefinite extension of the NPT in 1995 by committing to lead negotiations, sign and ratify the Test Ban Treaty. There is an explicit link between our Article VI commitments to disarm and the CTBT.

Many other steps could be taken to demonstrate a good faith effort toward nuclear disarmament. The Test Ban Treaty is just one element of a comprehensive strategy to reduce nuclear dangers. The U.S. and Russia have already radically reduced stockpiles from their Cold War levels. Progress has been made in the negotiations for a fissile materials cutoff regime. Currently, all of the declared nuclear powers have a moratorium on testing, and two of those, Britain and France, have signed and ratified the Test Ban Treaty.

If the Senate votes against this Treaty, we will send the signal to the world that the U.S. has no intent to make good on its earlier commitments. START II will wither in the Duma; negotiations with Russia on START III and the Anti-Ballistic Missile Treaty will most likely falter. We would most likely witness a rash of nuclear tests in response. Killing this Treaty would inevitably also impact upcoming elections in Russia. To the Russians our actions in Kosovo underscored NATO's willingness to engage in out-of-area operations, even in violation of sovereignty. Anti-U.S. sentiments in Russia soared. Not only would a down vote on this Treaty play into the hands of the Communists and Nationalists, U.S. actions would essentially give Russia the go-ahead to begin testing a new generation of tactical nuclear weapons to secure its border against NATO.

We risk little by postponing consideration of this Treaty. We put our most vital security interests at stake by rushing to judgement on it.

In sum, defeat of this Treaty at this point will have a devastating impact on numerous current foreign policy initiatives that are clearly in the U.S. national interest. We can anticipate an unraveling of initiatives toward bilateral disarmament with Russia, and we will forfeit any remaining hope of preventing a nuclear arms race between India and Pakistan. We will open wide the door for China to proceed with tests to validate any nuclear designs based on the alleged stolen W-88 blueprints.

At the same time, Stockpile Stewardship is as yet unproven. We still do not fully understand the aging effects on our nuclear arsenal. Such aging effects relate both to the components which comprise the nuclear weapons and the scientific experts who initially designed and tested them. Also, as witnessed again this year, the budget for the full implementation of Stockpile Stewardship is anything but secure. In light of the current situation, ratification of this Treaty may put us at risk.

The timing of this debate is such that I have to weigh very carefully between the negative impact of this Treaty's possible defeat and the annual budgetary struggles for Stockpile Stewardship in combination with the scientific community's own doubts about the Stockpile Stewardship program.

We should maintain the moratorium on testing and postpone the vote on this matter.

It is irresponsible and dangerous to proceed now with the debate and vote on this Treaty. We have nothing to lose by maintaining our current status of a unilateral moratorium and having signed but not yet ratified the Test Ban Treaty. But we have everything to lose regardless of the outcome of this vote.

I thank the Senate for listening and the leadership for granting me this time. I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I yield 10 minutes to my friend from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. I thank the Chair and thank the distinguished Senator from Delaware.

Mr. President, on balance I personally believe the arguments for ratification of the CTBT are far more persuasive than the arguments against ratification. But I recognize the legitimacy of some of the arguments made against ratification. I recognize the credibility of some of those making those arguments. I respect the sincerity of colleagues who believe that ratification would be a mistake.

Having said that, I will not repeat all of the reasons that I would vote for ratification, if we are, indeed, forced to go ahead with the vote scheduled for later this afternoon. I would simply appeal to colleagues who oppose ratification not to let their feelings—their personal feelings—toward our Commander in Chief or their desires for a decisive political victory to weaken the role of the U.S. leadership in the international community or encourage additional testing by nations that might not otherwise do so, and thus make the world less secure and more dangerous.

On the politics, opponents of ratification at this time have already won. No one contends that 67 Senators are prepared to vote for ratification. No one is suggesting that this President or any future President is going to bring the treaty up for ratification again unless and until they have those 67 votes.

I happen to be one of the 10 Senators who engaged in an extended discussion of this treaty with the President and his national security team last Tuesday evening. Many others have been actively engaged in the debate from the very beginning. As I recall, there were six Republicans and four Democrats; and we were equally divided on the question of ratification.

I wish to commend all of the Senators involved in that process and throughout, but particularly those Republicans who stated during that meeting, very forcefully, why they oppose the treaty and why a ratification vote would fail but nonetheless were willing to help find a way to pull us back from the brink—for the good of the country and in the interest of a safer world.

In this instance, the President has acknowledged that if we go ahead with the vote, he will lose. But he is asking us not to defeat our own national interest as well by voting down this treaty.

The Senate, in pressing its case, however, for an up-or-down vote at this point, in my judgment, injures the country's ability to lead and strikes a blow at American leadership around the world. Far more is at stake than defeating the policy and agenda of this particular President. Make no mistake, allies, friends, and enemies would view the defeat of the CTBT as a green light for more nuclear testing and further development of nuclear weapons, either strategic or tactical.

Defeat of the treaty will not be perceived as a signal of restraint. Just the opposite. Delay of consideration of the matter at least gives us the opportunity to address continuing concerns about monitoring and verification, as best we can, while delivering the message to other nations that we should proceed with yellow-light caution in regard to testing and development of their programs.

I have carefully reviewed the intelligence community's analysis of our CTBT monitoring capabilities—including the 1997 national intelligence estimate and the updating of that document—and admittedly, there are no absolutes when it comes to our ability to detect and identify some tests at low yields with high confidence. The more critical issue at hand, however, is the significance of possible evasion and the rationale that underlies such action and what it means for the inherent advantage we currently maintain with our nuclear arsenal.

I urge our colleagues to weigh very carefully the views of the intelligence community. The intelligence community believes we can effectively monitor the CTBT. We approved the Chemical Weapons Convention aware of the fact that denial and deception techniques would prevent us from confirming absolutely that production, development, and stockpiling were not going on. But as with the CTBT, we were able to approach the subject of monitoring with a high degree of confidence that signatories were not violating the CWC. As a result, implementation of that pact is contributing to our national security.

Senate hearings this past week suggest an emerging story at Novaya Zemlya but not outright violations of CTBT provisions. Transparency is lacking there, and perhaps a delay in consideration of the treaty will aid our efforts to sort out ongoing developments in this particular location. But defeating the CTBT on the concerns we have about this one site would represent a failure to understand what is in our broad national interest. Creating a normative global standard not to test will do enormous good and will act as a powerful force to stop would-be cheaters in their tracks.

It is reasonably clear to our intelligence community that Russia and perhaps others would not necessarily make gains in their thermonuclear weapons program through an evasive low-yield testing program without risking exposure of such tests to the international community. Given that reality, it simply begs the question: Under what substantive rationale would Russia or another country proceed in light of the outcry and condemnation that would surely follow?

I believe this matter is ripe for an agreement we can negotiate among ourselves in the Senate, through unanimous consent, that delays CTBT consideration until the next Congress. I am prepared to support CTBT regardless of the political affiliation of the Commander in Chief. But due to the untenable circumstances in which we now find ourselves, we should honor the request of this Commander in Chief and delay a vote.

With that, Mr. President, I yield the floor.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I yield myself 15 minutes to speak in opposition to the Comprehensive Test Ban Treaty.

I also sat through a week of hearings last week. I also, as a member of the Armed Services Committee, had the opportunity to hear our intelligence community, to hear representatives from the Department of Defense, and to hear the Directors of our laboratories. I respectfully reached a different conclusion as to what the evidence is. In fact, in my estimation, the evidence is strong enough to raise serious doubts about the wisdom of ratifying this treaty. The evidence, I believe, indicates that in fact Russia is currently testing low-level nuclear weapons and is seeking to develop, from their own public statements and the Russian media, a new type of tactical weapon, and there were suspected Russian tests as recently as September 8, 1999, and September 23, 1999.

I believe when we have these kinds of issues of the gravest weight to our Nation and to our Nation's security, when there are doubts about verification—and I think it is overwhelmingly clear from what I heard from the intelligence community—we cannot have assurance that we will be able to verify a zero-yield treaty. That was very plain and very clear from the testimony we heard. Verification is not possible. Therefore, it is not in the best interests of our Nation to ratify this treaty.

There are numerous reasons to oppose the treaty. We have heard many of them during the debate on the floor of the Senate. Many have been discussed very clearly. I will focus on one particular feature of this agreement which, in my view, is sufficient in and of itself to reject ratification of this treaty. That is the issue of the treaty's duration.

This is an agreement of unlimited duration. It is an agreement that is in perpetuity. That means if it is ratified, the United States will be committing itself forever not to conduct another nuclear test. It would make us dependent upon, totally reliant upon, the Stockpile Stewardship Program. From what we heard from the Directors of the labs last week, the Stockpile Stewardship Program is, by all accounts, a work in progress. Some said it would take 5 years to reach the point where we could have confidence in the program; some said 10. One said it would be as long as 15 to 20 years before we could know whether or not this program was going to be of a sufficient confidence level that we could count upon it without reliance upon tests.

There are two major questions about this program. One is, Will it work? We are not going to know that for many years. Will it work sufficiently that we can rely upon high-speed computers and modeling and annual examinations without any kind of test to have the confidence that they are reliant and safe and that, should they tragically ever need to be used, we could count on them actually working?

The second very big issue is whether it will be funded adequately so the program can be developed to that level of confidence. We have every indication that this will be an area in which Congress in the future will seek to cut, an area in which there will not be the kind of commitment, the kind of resources to ensure the development of this Stockpile Stewardship Program to a point we can have absolute confidence in it.

I want Members to think about the duration of this treaty—forever. Are we so confident today that we will never again need nuclear testing, so certain that we are willing to deprive all future Commanders in Chief, all future military leaders, all future Congresses of the one means that can actually prove the safety and reliability of our nuclear deterrent? Are we that confident? I suggest we are not.

Proponents of the treaty will say that that is not the case, that this commitment is not forever. They will point to the fact that the treaty allows for withdrawal if our national interest requires it. Proponents of the treaty promise that if we reach a point where the safety and reliability of our nuclear deterrent cannot be guaranteed without testing, then all we need to do is exercise our right to withdraw and we would, at that point, resume testing.

This so-called "supreme national interest" clause, along with safeguard F, in which President Clinton gives us his solemn word that he will "consider" a resumption of testing if our deterrent cannot be certified, is supposed to give us a sense of reassurance.

The fact is, this reassurance is a hollow promise. I think supporters of the treaty realize it. The fact is, if the critical moment arrives and there is irrefutable evidence that we must conduct nuclear testing to ensure our deterrent is safe, reliable, and credible, those same treaty supporters will be shouting from the highest mountain that the very act of withdrawing from this treaty would be too provocative to ever be justified, that no narrow security need of the United States could ever override the solemn commitment we made to the world in agreeing to be bound by this treaty.

If Members don't believe that will happen, they need only to look at our current difficulties with the 1972 ABM Treaty. I believe it provides a chilling glimpse of our nuclear future should we ratify an ill-conceived test ban at this time. As is the Comprehensive Test Ban Treaty, the ABM Treaty is of unlimited duration. There are many parallels. That is one of them. The ABM Treaty includes a provision allowing the United States to withdraw if our national interests so demand, another very clear parallel and treaty obligations are more clearly mismatched than with the ABM Treaty today. It is very difficult to imagine a situation in which the national security interests we have could be more clearly mismatched than with the ABM Treaty. Its supporters insist, though, that withdrawal is not just ill advised, but supporters would say it is unthinkable. The voices wailing loudest about changing this obsolete agreement are the same ones urging us today to entangle ourselves in another treaty of unlimited duration.

Earlier, Senator KYL rightly pointed out that the negotiators for this treaty originally wanted a 10-year treaty. Previous Presidents wanted a treaty of limited duration, but we have before us one that would lock us into a commitment in perpetuity.

Think of the ways in which the ABM Treaty is mismatched with our modern security needs. Yet we confront our absolute unwillingness to consider any option to withdraw. The treaty was conceived in a strategic context utterly unlike today's, a bipolar world in which two superpowers were engaged in both a global rivalry and an accompanying buildup in strategic nuclear forces. Now, today, is a totally different context and situation. One of those superpowers no longer exists at all. What remains of that superpower struggles to secure its own borders against poorly armed militants.

The arms race that supposedly justified the ABM Treaty's perverse deification of vulnerability has not just halted, it has reversed, no thanks to arms control. Today, Russian nuclear forces are plummeting due not to the START II agreement—which Russia has refused to ratify for nearly 7 years—but to economic constraints and the end of the cold war. In fact, their forces are falling far faster than treaties can keep up with; arms control isn't "controlling" anything; economic and strategic considerations are. Similar forces have led the United States to conclude that its forces can also be reduced. Thus, despite a strategic environment completely different from the one that gave birth to the ABM Treaty, its supporters stubbornly insist we must remain a party to it.

In 1972, only the Soviet Union had the capability to target the United States with long-range ballistic missiles. Today, numerous rogue states are diligently working to acquire long-range missiles with which to coerce the United States or deter it from acting in its interests, and these weapons are so attractive precisely because we have no defense against them; indeed, we are legally prohibited from defending against them by the ABM Treaty of 1972.

Technologically, too, the ABM Treaty is obsolete. The kinetic kill vehicle that destroyed an ICBM high over the Pacific Ocean on October 2 was undreamed of in 1972. So was the idea of a 747 equipped with a missile-killing laser, which is under construction now in Washington State, or space-based tracking satellites like SBIRS-Low, so precise that they may make traditional ground-based radars superfluous in missile defense. Yet this ABM Treaty, negotiated almost three decades ago, stands in the way of many of these technological innovations that could provide the United States with the protection it needs against the world's new threats.

Now proponents of this new treaty will say we can always pull out, that if situations and circumstances change, we can always invoke our national security provision and we can withdraw from this treaty. If in the future we find we must test in order to ensure the stability and reliability and safety of our nuclear deterrent, we can pull out and do that. I suggest that that is not even a remote possibility. Once we make this commitment, just as we did on the 1972 ABM Treaty, there will be no withdrawing, there will not even be consideration of the possibility that it might be in our national interest to withdraw from a treaty to which we have made a commitment.

These new threats today have led to a consensus that the United States must deploy a national missile defense system and a recognition that we are behind the curve in deploying one. The National Missile Defense Act, calling for deployment of such a system as soon as technologically feasible, passed this body by a vote of 97–3, with a similar ratio of support in the House.

Just as obvious as the need for this capability is the fact that the ABM Treaty prohibits us from deploying the very system we voted to deploy. But does anybody talk about withdrawing from the ABM Treaty because it is in our national security interests? Absolutely not. I suggest we will be in the same kind of context should we ratify the treaty that is before us today.

Clearly, the ABM Treaty must be amended or jettisoned. The Russians have so far refused to consider amending it, so withdrawal is the most obvious course of action if United States security interests are to be served.

Listen to the hue and cry at even the mention of such an option today. From Russia to China to France, and even to here on the floor of the Senate, we have heard the cry that the United States cannot withdraw from the ABM Treaty because it has become too important to the world community. Those who see arms control as an end in itself oppose even the consideration of withdrawal, claiming passionately that the United States owes it to the world to remain vulnerable to missile attack. Our participation in this treaty transcends narrow U.S. security interests, they claim; we have a higher obligation to the international community, they claim. After all, if the United States is protected from attack, won't that just encourage others to build more missiles in order to retain the ability to coerce us, thus threatening the simplistic ideal of "strategic stability"? That phrase, translated, means that citizens of the United States must be vulnerable to incineration or attack by biological weapons so other nations in the world may do as they please.

Even though the ABM Treaty is hopelessly outdated—almost 30 years old—and prevents the United States from defending its citizens against the new threats of the 21st century, supporters of arms control insist that withdrawal is unthinkable. Its very existence is too important to be overridden by the mere security interests of the United States.

Absurd as such a proposition sounds, it is the current policy of this administration, and it is supported by the very same voices who now urge us to ratify this comprehensive test ban.

The Clinton administration has been reluctantly forced by the Congress into taking serious action on missile defenses—thankfully. It admits that the system it needs to meet our security requirements cannot be deployed under the ABM Treaty. Yet so powerful are the voices calling on the United States to subjugate its own security interests to arms control that the administration is proposing changes to the ABM Treaty that, by its own admission, will not allow a missile defense system that will meet our requirements. It has declared what must be done as "too hard to do" and intends to leave the mess it created for another administration to clean up. All because arms control becomes an end in itself.

That sorry state of affairs is where we will end up if the Senate consents to ratification of the CTBT. Those treaty supporters who are saying now, "Don't worry, there is an escape clause," will be the same ones who, 5 or 10 years from now—when there is a problem with our stockpile and the National Ignition Facility is not finished and we find out we overestimated our ability to simulate the workings of a nuclear weapon—will be saying we dare not withdraw from this treaty because we owe a higher debt to the international community. That is what we will hear.

I don't represent the international community; I represent the people of the State of Arkansas. Our decision here must serve the best interests of the United States and its citizens. Our experience with the ABM Treaty is a perfect example of how arms control agreements assume an importance far beyond their contribution to the security of our Nation. The Comprehensive Test Ban Treaty's unlimited duration is a virtual guarantee that this agreement will prevent us from conducting nuclear testing long past the point at which we decide such testing is necessary. As our ABM experience shows, we should take no comfort from the presence of a so-called "supreme national interest" clause.

Now, should we just put it off or should we vote on it? I believe our responsibility is not the world opinion. Our responsibility is, frankly, not the public opinion polls of the United States. The American people, as a whole, have not had the benefit of hearing the Directors of our National Labs or the DOD come and testify before us as to the difficulties of verification and the difficulties of developing our Stockpile Stewardship Program. If it is a flawed treaty—and I believe it is—if it is a defective treaty—and I believe it is—if it is not in our national security interest—and I believe it is not—then we should vote, and we should vote to defeat the treaty and not ratify it.

This is a treaty that I believe will not get better with age. It will not get better by putting it on a shelf for consideration at some future date. I believe it is flawed. I believe it is defective. I believe it is not in our national security interest. I believe it is our constitutional responsibility not to put it off but to vote our conscience.

I urge the defeat of what I believe is a flawed treaty.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Delaware.

Mr. BIDEN. Mr. President, I yield myself 2 minutes, and then I would be happy to yield to the Senator.

I want my colleagues to note—they may not be aware of it, and I wasn't until a few minutes ago—as further consideration of how this may or may not affect the events around the world there apparently has been a coup in Pakistan where the Sharif government fired their chief military chief of staff when he was out of the country. He came back and decided he didn't like that. He surrounded the palace and surrounded the Prime Minister's quarters. The word I received a few moments ago—I suggest others check their own sources—was that there is going to be a civilian government installed that is not Sharif, and that the military will do the installing. I cite that to indicate to you how fluid world events are. We should be careful about what we are doing.

I also point out that today before the Foreign Relations Committee, Dr. William Perry, the President's Korean policy coordinator and former Secretary of Defense, testified that failure to ratify the CTBT will give North Korea "an obvious reason not to ratify the CTBT."

Dr. Perry, the Secretary of Defense in President Clinton's first term, endorsed ratification of the treaty. He said it serves well the security interests of the United States.

I cite that only because it is current.

Lastly, I would say that listening with great interest to the last several speakers I find it again fascinating that this is a lot more than about CTBT. It is about ABM. It is about what our nuclear strategy should be.

My friend from Arkansas, as well as others who have spoken, has great faith in our ability to erect a nuclear shield that can keep out incoming nuclear weapons in the scores, dozens, or potentially hundreds, which is a monumental feat, if it can be accomplished—we may be able to accomplish it—but don't have the confidence that those same scientists could figure out a way to take a weapon off the nose of a missile, look and determine whether or not it has deteriorated. I would suggest one is considerably more difficult to do than the other. But it is a little bit about where you place your faith.

Lastly, I, point out for those who are talking about verification—my friend from Arizona heard me say this time and again, and I would suggest you all go back and look at, if you were here, how you voted on the INF Treaty, the Reagan INF Treaty, or if you weren't here, what President Reagan said because many of my friends on the Republican side quote Ronald Reagan when he says "trust but verify." Nobody can verify the INF Treaty. The intelligence community—and I will not read again all of the detail; it is in the Record—indicated we could not verify the INF Treaty, and we said and the Reagan administration said and President Reagan said in his pushing the INF Treaty that no verification was possible completely. Yet with the fact that we didn't even know how many SS-20s they had, it was concluded that they could adapt those to longer range, interchange them with shorter-range missiles and longer-range missiles, and hide them in silos. But my Republican colleagues had no trouble ratifying that treaty, which was not verifiable, or was considerably less verifiable than this treaty.

If you quote President Reagan, please quote him in the context that he used the phrase "trust but verify." And he defined what he meant by "verify" by his actions.

The military under President Reagan said the INF Treaty was verifiable to the extent that they could not do anything that would materially alter the military balance. No one argues that we cannot verify to the extent as well. But it seems as though we apply one standard to Republican-sponsored treaties by Republican Presidents and a different standard to a treaty proposed by a Democratic President. I find that, as you might guess, fascinating. I will remind people of it now and again and again and again. But I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Arizona.

Mr. KYL. Mr. President, I think my colleague from New Hampshire wishes to speak. Let me take a minute before he does to respond to two things that the Senator from Delaware said.

I find it interesting that North Korea would be used as the example of a country that will pursue nuclear weapons if we don't ratify the test ban treaty, according to Secretary Perry.

Mr. BIDEN. That is not what he said, if I may interrupt, if I could quote what he said.

Mr. KYL. Please do.

Mr. BIDEN. He said it will give North Korea "an obvious reason not to ratify CTBT." He did not say it will give them reason to produce nuclear weapons.

Mr. KYL. I think that is a very important distinction. I thank my colleague for making it because, clearly, North Korea is not going to be persuaded to eschew nuclear weapons by the United States ratifying the CTBT. North Korea will do whatever it wants to do regardless of what we do. That is pretty clear. To suggest that we need to ratify this treaty in order to satisfy North Korea is absurd.

North Korea is a member of the nonproliferation treaty right now. By definition, North Korea is in violation of that treaty if it ever decides to test a nuclear weapon because it would be affirming the fact that it possesses a nuclear weapon which is in violation of the NPT. North Korea is not a country the behavior of which we can affect one way or the other by virtue of a moratorium on testing. If that were the case, then North Korea would have long ago decided to forego the development of nuclear weapons because the United States hasn't tested for 8 years. Clearly, our actions have had no influence on North Korea, except to cause North Korea to blackmail the United States by threatening to develop nuclear weapons and by threatening to develop missiles unless we will pay them tribute. I don't think North Korea is a very good example to be citing as a reason for the United States to affirm the CTBT.

Moreover, I remember this argument a couple of years ago when the chemical weapons treaty was being brought before the body. They said this was the only way to get North Korea to sign up to the CWC, and we certainly wanted North Korea to be a signatory to that treaty because they might use chemical weapons someday. We ratified it. They still haven't signed up—2 years later. I don't think North Korea is going to care one way or the other whether the United States ratifies the CTBT.

To my friend's other point on the comparison between nuclear weapons and missile defense, I think it makes our point. Missile defenses can work. They are not easy to develop. We have seen several tests that failed with the THAAD system. What it demonstrated to us was that testing is required to know that missile defense will work, just as the experts have all indicated testing is the preferred method of knowing whether our nuclear weapons will work.

So I think it makes the point that either for missile defense or for nuclear weapons testing it is the best way to know whether it will work. That is why we need to test both the missile defense systems that we have in development right now, and that is why we need the option of being able to test our nuclear weapons as well.

Mr. BIDEN. I wish to respond, if I may. I yield myself such time as I may consume.

Mr. KYL. We may put off the Senator from New Hampshire for a good time.

Mr. BIDEN. I hope not.

My friend from Arizona, as I said, is one of the most skillful debaters and lawyers in here. He never says anything that is not true. But sometimes he says things that do not matter much to the argument.

For example, he said nuclear testing is the preferred method. It sure is. Flying home is a preferred method to get there. But I can get there just as easily and surely by taking the train. It is preferred to fly home. I get home faster when I fly home. But the train gets me home. In fact, I can drive home. All three methods can verify for my wife that I have come from Washington to my front door. They are all verifiable. They all get the job done. It is the preferred method.

By the way, it is the preferred method to have underground testing. It is the preferred method to have aboveground testing. That is the preferred method to make sure everything is working.

If I took the logic of his argument to its logical extension, I would say, well, you know, my friend from Arizona wanting underground testing is, in fact, denying the scientists their total capacity to understand exactly what has happened by denying atmospheric testing. The preferred method is atmospheric testing. What difference does it make if we can guarantee the reliability of the weapon?

The question with regard to North Korea I pose this way: If we ratify the treaty, and my friend from Arizona is correct that North Korea does not, so what. There is no treaty. It does not go into force. They have to ratify the treaty for it to go into force. What is the problem? If a country is certain it will not matter, they are not going to ratify or abide. Then (a) they don't ratify, we are not in, we are not bound; (b) if they are in and they do a nuclear explosion underground, we are out, according to the last paragraph of our amendment. The President has to get out of the treaty. Must—not may, must. These are what we used to call in law school red herrings. They are effective but red herrings.

The last point, I heard people stand up on the floor and say: This country is already or is about to violate the NPT, the Nuclear Non-Proliferation Treaty, by exploding a nuclear weapon. Guess what. They are allowed, under the NPT, to blow up things: nuclear bombs, nuclear weapons, nuclear explosions. They don't call them "weapons"; they say it is a nuclear explosion, as long as it is for peaceful means. How does one determine whether or not an underground test which has plutonium imploded and has set off a chain reaction was for peaceful, as opposed to nonpeaceful, means? That is a nuclear test.

We ought to get our facts straight. The distinctions make a difference. It is true; it is hard to verify whether or not anybody violated the NPT because if they are caught, that country says it was for peaceful reasons, dealing with peaceful uses of their nuclear capability.

I have heard a lot of non sequiturs today. My only point in raising North Korea was the idea that anybody who thinks we are going to be in a position that if we turn this treaty down there is any possibility we will stop testing anywhere in the world is kidding themselves.

I say to my colleagues, ask yourself the rhetorical question. Do you want to be voting down a treaty on the day there is a coup in Pakistan. Good luck, folks. I am not suggesting that a vote one way or another is dispositive of what Pakistan would or wouldn't do. But I will respectfully suggest we will be answering the rest of the year, the rest of the decade, whether or not what we did at that critical moment and what is going on between India and Pakistan and within Pakistan was affected by our actions.

I conclude by saying, in the middle of the Carter administration there was a little debate about this notion of a neutron bomb. The American Government put pressure on Helmut Schmidt, Chancellor of Germany at the time, to agree to deployment of the neutron bomb in Europe—a difficult position for him to take as a member of the SPD. He made the decision, and then President Carter decided not to deploy the neutron bomb. I remember how upset the Chancellor of Germany was. The Chancellor of Germany was not inclined to speak to the President of the United States.

I was like that little kid in the commercial with the cereal sitting on the table. There are two 10-year-olds and a 6-year-old. The 10-year-old asks: Who eats that? Mom and dad. Is it any good? You try it. The other kid says: No, you try it. They both turn to the 6-year-old and say: Mikey will try it.

I was "Mikey." I got sent to Germany to meet with Schmidt, to sit down at the little conference table in the Chancellor's office to discuss our relationship. I will never forget something Chancellor Schmidt said—and I will not violate any security issue; it is probably long past a need to be secure—in frustration, while he was smoking his 19th cigarette similar to Golda Meir, a chain-smoker, he pounded his hand on the table and said: You don't understand, Joe; when the United States sneezes, Europe catches a cold. When the United States sneezes, Europe catches a cold.

When we act on gigantic big-ticket items such as a treaty affecting the whole world and nuclear weapons, whether we intend it or not, the world reacts. This is not a very prudent time to be voting on this treaty, I respectfully suggest.

I yield the floor.

Mr. KYL. Mr. President, I ask my colleague from New Hampshire to delay his remarks for a moment so I can make a point and perhaps ask Senator BIDEN, if he could answer a question regarding something he has said.

I think it is, first of all, dangerous to suggest that the Senate cannot do its business with respect to a treaty because a coup is occurring in another country. I fail to see, if the coup is occurring today and tomorrow, and we reject the CTBT, how anyone could argue our action precipitated this coup. Or somehow by failing to approve this treaty we caused unrest in Pakistan.

I ask the Senator to answer that question on his own time. First, I make another point. I wasn't trying to make a debater's point but trying to be absolutely conservative in what I said a moment ago.

Mr. BIDEN. I never thought the Senator was liberal in what he said.

Mr. KYL. And I appreciate that more than you know.

When I say that testing was the preferred method, what the lab Directors and former officials who have had responsibility for this have said with these highly complex weapons is that testing is the preferred method.

They have also said in contradiction to the Senator from Delaware that there is no certainty with respect to the other method, which is the Stockpile Stewardship Program, which is not complete and has not gone into effect and cannot provide certainty, in any event.

Dr. John Foster, who chairs the congressional committee to assess the efficacy of the Stockpile Stewardship Program, said this in his testimony last week:

> I oppose ratification of the CTBT because without the ability to perform nuclear weapons tests the reliability and safety of our Stockpile Stewardship Program will degrade.

There is nobody who is more respected in this field than Dr. John Foster.

He further said the testing, which has been performed over the years, "has clearly shown our ability to calculate and simulate their operation is incomplete. Our understanding of their basic physics is seriously deficient. Hence, I can only answer that a ban on testing of our nuclear weapons can only have a negative impact on the reliability of the stockpile."

Dr. Robert Barker, former assistant to the Secretary of Defense for Atomic Energy, who reported the certification of the stockpile to three Secretaries of Defense, said:

> Sustained nuclear testing is the only demonstrated way of maintaining a safe and reliable deterrent. Our confidence in the safety and reliability of nuclear weapons has already declined since 1992, the year we deprived ourselves of the nuclear testing tool. It should be of grave concern to us that this degradation in confidence cannot be quantified.

The point is that the reason testing is preferred is because it is the only demonstrable way of assuring ourselves of the safety and reliability of our nuclear stockpile. There could be, may be, in a decade or so, some additional confidence or assurance through a successful Stockpile Stewardship Program but we won't know that until the time. Until then, that is why testing is the preferred method. It is the only way to assure the safety and reliability of our stockpile.

To respond to that and to respond to the first question I asked, I am happy to yield to the Senator.

Mr. BIDEN. I will try to respond briefly.

No. 1, to suggest our actions would affect the international community should not be taken in the context and consideration of what is happening in the international community is naive in the extreme. It is not suggesting anyone should dictate what we should or should not do. It is suggesting that it makes sense to take into consideration what is happening around the world and what appropriate or inappropriate conclusion from our action will be drawn by other countries. We have always done that in our undertakings around the world. It is just responsible stewardship of our national security.

The suggestion was not that because there is a coup, failure to ratify this treaty, turning it down or ratifying it would have affected that coup. That is not the issue. The issue is there is a struggle today within Pakistan, evidenced by the coup, as there was within India, as evidenced by their recent elections, about what they should do with their nuclear capacity, whether they should test further, enhance it, and deploy it, or whether or not they should refrain from testing and sign the treaty.

The only point I am making is that our actions will impact upon that debate within those countries. The debate happens to be taking place in the context of a military coup right now in Pakistan. It took place in the context of an election where the BJP won and made significant gains in India just last week, but it does impact upon that.

We lose any leverage we have to impose upon Pakistan, which still wants to deal with us, still relies upon us or interfaces with us in a number of areas in terms of food, trade, and aid all the way through to military relationships. It does make a difference if we are able to say to them, I posit: We want you to refrain from testing and sign on to this treaty if, in fact, we have done it. If we say: We want you to refrain from testing and sign on to the treaty, but by the way, we already have 6,000 of these little things and we are going to test ourselves, it makes it very difficult to make that case.

Lastly, I say with regard to Pakistan, it is not so much what anyone will be able to prove; it will be what will be asserted. We all know in politics what is asserted is sometimes more important than what is provable. It should not be, but it is. It does have ramifications domestically and internationally, I suggest.

Also, with regard to this issue of the preferred versus the only method by which we can guarantee the reliability of our stockpile, nobody, including the present lab Directors, suggests that our present stockpile is, in fact, unreliable or not safe.

We have not tested since 1992. The issue is, and my colleague knows this, the intersection—and it is clear if we do not test, if we do nothing to the stockpile, it will over time degrade, just like my friend and I as we approach our older years, as a matter of medical fact, our memories fade. It is a medical fact.

To suggest that because our memories fade we should not listen to someone on the floor who is 8 years older than someone else would be viewed by everyone as mildly preposterous because when that older person was younger, their memory may have been so far superior to the person who is younger now that they still have a better memory. It does not make a point. It is a distinction without a difference.

It is the same way with regard to our stockpile degrading. At what point does the degradation occur that it is no longer reliable? I asked that of Secretary Schlesinger. He said he thinks we are down from 99 percent to about 85 percent now, and he thinks there is no worry at that 85-percent level. But what he worries about, and then he held up a little graph and the graph showed based on years and amount of reliability this curve going down like this, at the same time there was a dotted line showing the Stockpile Stewardship Program and how that mirrored that ability to intersect with where we would intersect our confidence that our Stockpile Stewardship Program would be able to assure that the stockpile was reliable.

It comes around where the shelf life of these weapons occur about 10 years out. Everyone has said that between now and then, the overwhelming body of opinion is, from the Jason Group to other leading scientists, including these 32 Nobel laureates in physics, the Stockpile Stewardship Program is working now and will if we make the commitment to intersect at a point where the shelf life begins to change where it continues to guarantee.

We are never going to be in that line where it is so degraded that any lab Director will have to say: Mr. President, I cannot certify anymore.

But as a fail safe, no pun intended, for that possibility—that is why the amendment was just adopted—the amendment says in the last paragraph, if that happens and a lab Director tells the President that has happened and it cannot certify in terms of reliability, the President must get out of the treaty.

It is true; we are stringing together a lot of true statements that are not particularly relevant to the question, and the question is: Is our stockpile now reliable and safe? Is it a deterrent still? Do other people believe it? Is it a deterrent so that our allies believe it and they do not go nuclear, such as Japan and Germany? And is it a deterrent so that our potential enemies, such as China and Russia and others, believe it so they will not try to do anything that will jeopardize our security? That is the second question.

The third question is: Are we able to verify this?

My answer to all three of those questions is, yes, yes, yes. And the answer of the overwhelming body of opinion is yes, yes, yes. But just in case it is no, the President has to get out. He has to get out. We just adopted a condition, so he has to get out.

By the way, I listened to people being quoted, like Edward Teller. God love him. I had the great honor of debating him around the country on four setup debates. It was intimidating because he would stand there with those bushy eyelashes and say: My young friend from Delaware does not know—here is the guy who invented the hydrogen bomb. What am I going to say? Yeah, right?

I would listen to him, and he would even get me thinking he was right for a while. Then I would listen to what he said. Last night, I watched a documentary that is 7 or 8—actually, it is older than that; it was President Reagan's last year—on the Star Wars notion. Dr. Teller was sitting there, a very distinguished man, saying things like—and I will get the exact quote for the RECORD tomorrow—but he said things like: We must act now because the Russians are on the verge of having a missile defense capability.

On the verge; they were on the verge of collapsing. He is never right about his predictions, so far. But he did invent the hydrogen bomb. That is a big deal. I cannot argue with that. As my mother would say, just because you can do one thing well does not mean you can do everything well. If I need to blow somebody up, I want him with me. If I need somebody to predict to me what is going to happen in terms of our interest, of our adversaries, or us, he "ain't" the guy I am going to because he has not been right.

Here we are, we are going to do this weight of authority—we all learned, and, again, I am not kidding when I say this. Senator KYL is not only a first-rate lawyer, he has a first-rate mind. We both went to undergraduate school and took courses in logic. We learned about the 13 logical falacies. We engage in them all the time. One is the appeal of authority. I will take my authority and trump your authority. I have 32 Nobel laureates. Are you going to raise me with six Secretaries of Defense? I have four of the last five Chairmen of the Joint Chiefs of Staff, with what are you going to raise me? This is crazy.

What is true is that it is better to test if you want to know for certain whether weapons are reliable. I hope if I acknowledge that, he will acknowledge it is better not to test on one area: If you want to discourage others from testing. Just discourage. He does not have to agree that it would do everything, just discourage. It is better not to test.

If you tell your kid he cannot smoke and you are standing there smoking and saying: By the way, you can't smoke, it kind of undermines your credibility.

On the other hand, if you do not smoke—like I don't—and say to your kid, you can't smoke, they may smoke anyway; but one thing is for certain: If you are smoking—as my friend who is presiding would say in a different context—you might lose your moral authority to make the case.

I think we lose our moral authority to make the case internationally when we say: By the way, we are unquestionably the most powerful nuclear nation in the history of the world, and in relative terms we are far in excess of anyone else, including the former Soviets—now the Russians—that the Chinese are not, as they say where I come from, a "patch on our trousers," that the Libyans and others may be able to get themselves a Hiroshima bomb, but they are going to have to carry it in a suitcase—it "ain't" close.

But I tell you what: Because we worry about our reliability—even though we are going to spend $45 billion, even though we have the best scientists in the world, the best scientists that we can attract from other parts of the world—we know we can put up a shield around America that can stop 10, 20, 100, 1,000 hydrogen bombs from dropping on the United States—but we believe that we have to test our nuclear weapons now or be able to test them in the near term in order to be able to assure that we are safe and secure and that you believe we are credible.

I will end where I began this debate a long time ago. When the Senator from New Hampshire and I were college kids, you used to ride along—he was heading off to Vietnam—and there used to be a bumper sticker which said: One hydrogen bomb can ruin your day. It just takes one. One hydrogen bomb can ruin your day.

We are not talking about one hydrogen bomb. No one is doubting that 1,000 people and 15 nations in the world can develop not a hydrogen bomb but a nuclear bomb like the one dropped on Hiroshima and Nagasaki. No doubt about that. This is not going to stop that. This isn't going to guarantee that because you do not, everyone has to test that. They can do that without testing. We dropped it without testing it. The second one we did not test. So they can test; they cannot test.

But, folks, this is high-stakes poker. All I am saying to you is, you take the worst case scenario my friends lay out, that we have the stockpile, but we cannot guarantee it, and we cannot detect testing, and we have an escape clause—you get out of it because the treaty is not working. That is their worst case scenario. The escape clause is we have to get out because it says we must get out.

Let me tell you my worst case scenario. My worst case scenario is we, in fact, do not sign this treaty, and the Chinese decide all moral restraints are off—even though they are not particularly a moral country—we can now, with impunity, go and test and not be buffeted by world opinion in terms of affecting our trade or our commerce and the rest. We can go from 16, 18, 20—however many intercontinental ballistic missiles they have—we can now test to build lighter, smaller ones with that information we stole from the laboratories. We can now MIRV our missiles.

The Pakistanis and the Indians agree that: Look, what we have to do is now deploy nuclear weapons because the restraints are off.

I do not know what we do with that worst case scenario. There is nothing the President can say, such as: By the way, stop. Out. I want to pull out. You all can't do that. China, you can't do that. There is no way out of that one.

This is not like us making the mistake on a tax bill. This is not like us making a mistake on a piece of welfare or social legislation. We can correct that in a day. I have been here when we passed reforms on health care that within 6 months we repealed because we thought it was a mistake.

You cannot legislate on this floor of the Senate a course of action that the world is engaged in, a road that has been been taken down away from nonproliferation to proliferation by a piece of legislation. I cannot guarantee the Presiding Officer that if this passes there will not be more proliferation of nuclear weapons.

But I am prepared to bet you anything, if we reject this treaty, there will be significantly more proliferation of nuclear capability than there was before because there would be no restraint whatsoever on the one thing every nation has to do to become a nuclear power that is not already a significant nuclear power—and that is to test.

I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Arizona.

Mr. KYL. Madam President, let me make a couple comments and then I will yield to the Senator from New Hampshire.

I appreciate the Senator from Delaware making a slight concession, and asking for one in return. His concession, of course, is that it is better to test. I think we would all agree it is better to test. The question is whether or not there is an adequate substitute if we do not test. And upon that the jury is still out.

He also asked the question: Isn't it also better not to test if we can persuade others not to do so by our own willingness to forego testing? I think that question has actually been answered because for 8 years we have had a moratorium seeking to persuade others not to test. During that time, we know of at least five countries that have tested: France, China, Russia, Pakistan, and India. So it is clear that our foregoing testing has not created the norm against testing that proponents of the treaty would like to see.

It is also not better to forego testing in an effort to get others to do so as well if, in fact, our own stockpile would be unduly jeopardized as a result. On that, there has been a variety of expert opinion testifying this past week suggesting that the reason it is better to test is precisely because we cannot confirm the safety and reliability of our stockpile to an adequate degree of certainty without that.

To the question of whether or not it is a fallacy of logic to quote experts, I would simply suggest that while it may not be the most persuasive argument in the world to quote experts in support of your position, it is at least some weight of evidence. Both sides have engaged in that. It is true that on many of these issues there are opinions on both sides of the issue.

Dr. Edward Teller certainly is an expert in nuclear weapons design and on many other matters that relate to it. But let's assume he does not know what he is talking about here and go to people whose job it was to verify a compliance with arms control treaties.

I ask unanimous consent to have printed in the RECORD a letter dated October 1, 1999, from Fred Eimer, Former Assistant Director of ACDA, the Arms Control Agency Verification and Implementation Office, to Senator HELMS.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 1, 1999.

Senator JESSE HELMS,
Chairman, Committee on Foreign Relations,
U.S. Senate.

DEAR MR. CHAIRMAN: I write to express my opposition to the Comprehensive Test Ban Treaty (CTBT) Numerous experts have noted that this treaty raises serious questions regarding the ability of the United States to maintain our nuclear deterrent. I am particularly concerned, however, that the United States will be disproportionately harmed by the test ban. Other nations will be able to conduct militarily significant nuclear test well below the verification threshold of the Treaty's monitoring system, and our own unilateral capability.

I have listened with concern to the various claims being made regarding the CTBT's International Monitoring System (IMS). It is important to note that the IMS will have serious limitations. While many in the U.S. recognize the IMS' technical limitations, it is being oversold internationally as a comprehensive, effective monitoring regime.

Supporters of the CTBT have sought to divert attention from the IMS' limitations by emphasizing that the United States will have its own national technical means (NTM) of verification and would have the right under the Treaty to request an on-site inspection. The United States cannot take comfort in these claims.

The U.S. has stated that an effective verification system "should be capable of identifying and attributing with high confidence evasively conducted nuclear explosions of about a few kilotons yield in broad areas of the globe". That degree of verifiability is a goal that is not achieved now, and it is far from certain that it will be met in the foreseeable future. It is very unlikely that the verification system will provide evidence sufficient for U.S. or collective action should tests of a few kilotons yield take place.

The capability of the U.S. and of the International Monitoring System (IMS) to detect seismic signals of possible nuclear test origin can be quantified. Charts can show what that capability is for the U.S. network, the current IMS and a possible future IMS for all areas of the world. Thousands of seismic events will be detected yearly by these systems. The verification task will be to determine which, if any, of these signals can be identified as being from nuclear tests.

The large underground tests conducted in past decades were easily verified as being of nuclear origin. However, identification of possible future tests in the kiloton yield range in violation of a CTBT will be a daunting task in most, if not all instances.

The relationship between detection and identification depends on a number of factors that will not be known. If charts are produced that purport to show the identification capability for areas of interest throughout the world, those charts would be a result of subjective judgements that are likely to of limited and uncertain dependability.

You may recall that over the decades of the TTBT that there was much controversy about the yields of tests that were deduced from seismic signal magnitudes. This was true even though the Soviet test sites were studied more than almost any other part of the world and the signals in question came from relatively large tests.

It is certain that whatever the minimum detectable yield capability is of a seismic network, the verification capability, that is, the ability for identification is substantially worse, by as much as a factor of ten or more in some instances.

Furthermore, possible Treaty violators can take steps to make detection and identification more difficult. For example, the technique of "decoupling", that is, testing in a sufficiently large cavity, can reduce the seismic magnitude of a test. Every country of concern to the United States is technically capable of decoupling at least its small nuclear explosions.

While in the past primary reliance for obtaining verification related intelligence was placed on systems that collected photographic, seismic and other data, the CTBT's verification system includes on-site inspection (OSI). I believe that the value of OSI is very limited for the CTBT.

The CTBT's on-site inspection regime is unlikely to provide evidence of noncompliance. However, it may permit a country falsely accused of a CTBT violation to help clear its name. Tests large enough to be unambiguously identified do not need OSI. For small tests the location of the source of the seismic signals would be so uncertain, that OSI would need to cover an impractical large area. Furthermore, it is highly dubious that the United States would get diplomatic approval for an on-site inspection since the treaty has a "red-light" requirement that 30 of 51 members must endorse such a step. The CTBT's negotiating record makes clear that an OSI request would be viewed as a hostile action.

Furthermore, the OSI regime associated with the Treaty has a number of as yet unsettled procedural and implementation issues. It is possible that some of these can be fixed. However, OSI has very little to offer for confirming that a nuclear test has been conducted, even if these issues are resolved.

In conclusion, Mr. Chairman, the proposed treaty will put our nuclear deterrent at risk without significant arms control or nonproliferation benefit. Other nations will be able to conduct militarily significant nuclear test well below the verification threshold of the Treaty's monitoring system, and our own unilateral capability.

Best regards.

FRED EIMER,
Former Assistant Director, ACDA,
Verification and Implementation.

Mr. KYL. In this letter he said:

> Other nations will be able to conduct militarily significant nuclear tests well below the verification threshold of the Treaty's monitoring system, and our own unilateral capability.

In other words, the treaty is not verifiable.

Testifying last week, one of the experts acknowledged by Senator BIDEN, Dr. Paul Robinson, who is the Director of the Sandia National Laboratories, said:

> The treaty bans any "nuclear explosion," but unfortunately, compliance with the strict zero-yield requirement is unverifiable.

Finally, the third and most prominent of all experts that I would like to suggest we pay some attention to with respect to verification is our own colleague, Senator RICHARD LUGAR from Indiana. I ask unanimous consent that his press release, dated October 7, 1999, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LUGAR OPPOSES COMPREHENSIVE TEST BAN TREATY

Senator Dick Lugar, a senior member of the Senate Intelligence Committee, Foreign Relations Committee and National Security Working Group, released the following statement today announcing his position on the Comprehensive Test Ban Treaty:

The Senate is poised to begin consideration of the Comprehensive Test Ban Treaty under a unanimous consent agreement that will provide for 14 hours of general debate, debate on two amendments, and a final vote on ratification.

I regret that the Senate is taking up the treaty in an abrupt and truncated manner that is so highly politicized. Admittedly, the CTBT is not a new subject for the Senate. Those of us who over the years have sat on the Foreign Relations, Armed Services, or Intelligence Committees are familiar with it. The Senate has held hearings and briefings on the treaty in the past.

But for a treaty of this complexity and importance a more sustained and focused effort is important. Senators must have a sufficient opportunity to examine the treaty in detail, ask questions of our military and the administration, consider the possible implications, and debate at length in committee and on the floor. Under the current agreement, a process that normally would take many months has been reduced to a few days. Many Senators know little about this treaty. Even for those of us on national security committees, this has been an issue floating on the periphery of our concerns.

Presidential leadership has been almost entirely absent on the issue. Despite having several years to make a case for ratification, the administration has declined to initiate the type of advocacy campaign that should accompany any treaty of this magnitude.

Nevertheless, the Senate has adopted an agreement on procedure. So long as that agreement remains in force, Senators must move forward as best they can to express their views and reach informed conclusions about the treaty.

In anticipation of the general debate, I will state my reasons for opposing ratification of the CTBT.

The goal of the CTBT is to ban all nuclear explosions worldwide: I do not believe it can succeed. I have little confidence that the verification and enforcement provisions will dissuade other nations from nuclear testing. Furthermore, I am concerned about our country's ability to maintain the integrity and safety of our own nuclear arsenal under the conditions of the treaty.

I am a strong advocate of effective and verifiable arms control agreements. As a former Vice-Chairman of the Senate Arms Control Observer Group and a member of the Foreign Relations Committee, I have had the privilege of managing Senate consideration of many arms control treaties and agreements.

I fought for Senate consent to ratification of the INF Treaty, which banned intermediate range nuclear weapons in Europe; the Conventional Forces in Europe Treaty, which created limits on the number of tanks, helicopters, and armored personnel carriers in Europe; the START I Treaty, which limited the United States and the Soviet Union to 6,500 nuclear weapons; the START II Treaty, which limited the U.S. and the former Soviet Union to 3,500 nuclear weapons; and the Chemical Weapons Convention, which outlawed poison gas.

These treaties, while not ensuring U.S. security, have made us safer. They have greatly reduced the amount of weaponry threatening the United States, provided extensive verification measures, and served as a powerful statement of the intent of the United States to curtail the spread of weapons of mass destruction.

I understand the impulse of the proponents of the CTBT to express U.S. leadership in another area of arms control. Inevitably, arms control treaties are accompanied by idealistic principles that envision a future in which international norms prevail over the threat of conflict between nations. However, while affirming our desire for international peace and stability, the U.S. Senate is charged with the constitutional responsibility of making hard judgments about the likely outcomes of treaties. This requires that we examine the treaties in close detail and calculate the consequences of ratification for the present and the future. Viewed in this context, I cannot support the treaty's ratification.

I do not believe that the CTBT is of the same caliber as the arms control treaties that have come before the Senate in recent decades. Its usefulness to the goal of nonproliferation is highly questionable. Its likely ineffectuality will risk undermining support and confidence in the concept of multilateral arms control. Even as a symbolic statement of our desire for a safer world, it is problematic because it would exacerbate risks and uncertainties related to the safety of our nuclear stockpile.

STOCKPILE STEWARDSHIP

The United States must maintain a reliable nuclear deterrent for the foreseeable future. Although the Cold War is over, significant threats to our country still exist. At present our nuclear capability provides a deterrent that is crucial to the safety of the American people and is relied upon as a safety umbrella by most countries around the world. One of the most critical issues under the CTBT would be that of ensuring the safety and reliability of our nuclear weapons stockpile without testing. The safe maintenance and storage of these weapons is a crucial concern. We cannot allow them to fall into disrepair or permit their safety to be called into question.

The Administration has proposed an ambitious program that would verify the safety and reliability of our weapons through computer modeling and simulations. Unfortunately, the jury is still out on the Stockpile Stewardship Program. The last nine years have seen improvements, but the bottom line is that the Senate is being asked to trust the security of our country to a program that is unproven and unlikely to be fully operational until perhaps 2010. I believe a National Journal article, by James Kitfield, summed it up best by quoting a nuclear scientist who likens the challenge of maintaining the viability of our stockpile without testing to "walking an obstacle course in the dark when your last glimpse of light was a flash of lightning back in 1992."

The most likely problems facing our stockpile are a result components degrade in unpredictable ways, in some cases causing weapons to fail. This is compounded by the fact that the U.S. currently has the oldest inventory in the history of our nuclear weapons programs.

Over the last forty years, a large percentage of the weapon designs in our stockpile have required post-deployment tests to resolve problems. Without these tests, not only would the problems have remained undetected, but they also would have gone unrepaired. The Congressional Research Service reported last year that: "A problem with one warhead type can affect hundreds of thousands of individually deployed warheads; with only 9 types of warheads expected to be in the stockpile in 2000, compared to 30 in 1985, a single problem could affect a large fraction of the U.S. nuclear force." If we are to put our faith in a program other than testing to ensure the safety and reliability of our nuclear deterrent and thus our security, we must have complete faith in its efficacy. The Stockpile Stewardship Program falls well short of that standard.

The United States has chosen to re-manufacture our aging stockpile rather than creating and building new weapon designs. This could be a potential problem because many of the components and procedures used in original weapon designs no longer exist. New production procedures need to be developed and substituted for the originals, but we must ensure that the re-manufactured weapons will work as designed.

I am concerned further by the fact that some of the weapons in our arsenal are not as safe as we could make them. Of the nine weapon designs currently in our arsenal, only one employs all of the most modern safety and security measures. Our nuclear weapons laboratories are unable to provide the American people with these protections because of the inability of the Stockpile Stewardship Program to completely mimic testing.

At present, I am not convinced the Stockpile Stewardship Program will permit our experts to maintain a credible deterrent in the absence of testing. Without a complete, effective, and proven Stockpile Stewardship Program, the CTBT could erode our ability to discover and fix problems with the nuclear stockpile and to make safety improvements.

In fact, the most important debate on this issue may be an honest discussion of whether we should commence limited testing and continue such a program with consistency and certainty.

VERIFICATION

President Reagan's words "trust but verify" remain an important measuring stick of whether a treaty serves the national security interests of the United States. The U.S. must be confident of its ability to detect cheating among member states. While the exact thresholds are classified, it is commonly understood that the United States cannot detect nuclear explosions below a few kilotons of yield. The Treaty's verification regime, which includes an international monitoring system and on-site inspections, was designed to fill the gaps in our national technical means. Unfortunately, the CTBT's verification regime will not be up to that task even if it is ever fully deployed.

Advances in mining technologies have enabled nations to smother nuclear tests, allowing them to conduct tests with little chance of being detected. Similarly, countries can utilize existing geologic formations to decouple their nuclear tests, thereby dramatically reducing the seismic signal produced and rendering the test undetectable. A recent Washington Post article points out that part of the problem of detecting suspected Russian tests at Novaya Zemlya is that the incidents take place in a large granite cave that has proven effective in muffling tests.

The verification regime is further bedeviled by the lack of a common definition of a nuclear test. Russia believes hydro-nuclear activities and sub-critical experiments are permitted under the treaty. The U.S. believes sub-critical experiments are permitted but hydro-nuclear tests are not. Other states believe both are illegal. A common understanding or definition of what is and what is not permitted under the treaty has not been established.

Proponents point out that if the U.S. needs additional evidence to detect violations, on-site inspections can be requested. Unfortunately, the CTBT will utilize a red-light inspection process. Requests for on-site inspections must be approved by at least 30 affirmative votes of members of the Treaty's 51-member Executive Council. In other words, if the United States accused another country of carrying out a nuclear test, we could only get an inspection if 29 other nations concurred with our request. In addition, each country can declare a 50 square kilometer area of its territory as off limits to any inspections that are approved.

The CTBT stands in stark contrast to the Chemical Weapons Convention in the area of verifiability. Whereas the CTBT requires an affirmative vote of the Executive Council for an inspection to be approved, the CWC requires an affirmative vote to stop an inspection from proceeding. Furthermore, the CWC did not exclude large tracts of land from the inspection regime, as does the CTBT.

The CTBT's verification regime seems to be the embodiment of everything the United States has been fighting against in the UNSCOM inspection process in Iraq. We have rejected Iraq's position of choosing and approving the national origin of inspectors. In addition, the 50 square kilometer inspection-free zones could become analogous to the controversy over the inspections of Iraqi presidential palaces. The UNSCOM experience is one that is best not repeated under a CTBT.

ENFORCEMENT

Let me turn to some enforcement concerns. Even if the United States were successful in utilizing the laborious verification regime and non-compliance was detected, the Treaty is almost powerless to respond. This treaty simply has no teeth. Arms control advocates need to reflect on the possible damage to the concept of arms control if we embrace a treaty that comes to be perceived as ineffectual. Arms control based only on a symbolic purpose can breed cynicism in the process and undercut support for more substantive and proven arms control measures.

The CTBT's answer to illegal nuclear testing is the possible implementation of sanctions. It is clear that this will not prove particularly compelling in the decision-making processes of foreign states intent on building nuclear weapons. For those countries seeking nuclear weapons, the perceived benefits in international stature and deterrence generally far outweigh the concern about sanctions that could be brought to bear by the international community.

Further, recent experience has demonstrated that enforcing effective multilateral sanctions against a country is extraordinarily difficult. Currently, the United States is struggling to maintain multilateral sanctions on Iraq, a country that openly seeks weapons of mass destruction and blatantly invaded and looted a neighboring nation, among other transgressions. If it is difficult to maintain the international will behind sanctions on an outlaw nation, how would we enforce sanctions against more responsible nations of greater commercial importance like India and Pakistan?

In particularly grave cases, the CTBT Executive Council can bring the issue to the attention of the United Nations. Unfortunately, this too would most likely prove ineffective, given that permanent members of the Security Council could veto any efforts to punish CTBT violators. Chances of a better result in the General Assembly are remote at best.

I believe the enforcement mechanisms of the CTBT provide little reason for countries to forego nuclear testing. Some of my friends respond to this charge by pointing out that even if the enforcement provisions of the treaty are ineffective, the treaty will impose new international norms for behavior. In this case, we have observed that "norms" have not been persuasive for North Korea, Iraq, Iran, India and Pakistan, the very countries whose actions we seek to influence through a CTBT.

If a country breaks the international norm embodied in the CTBT, that country has already broken the norm associated with the Non-Proliferation Treaty (NPT). Countries other than the recognized nuclear powers who attempt to test a weapon must first manufacture or obtain a weapon, which would constitute a violation of the NPT. I fail to see how an additional norm will deter a motivated nation from developing nuclear weapons after violating the longstanding norm of the NPT.

CONCLUSION

On Tuesday the Senate is scheduled to vote on the ratification of the CTBT. If this vote takes place, I believe the treaty should be defeated. The Administration has failed to make a case on why this treaty is in our national security interests.

The Senate is being asked to rely on an unfinished and unproven Stockpile Stewardship Program. This program might meet our needs in the future, but as yet, it is not close to doing so. The treaty is flawed with an ineffective verification regime and a practically nonexistent enforcement process.

For these reasons, I will vote against ratification of the CTBT.

Mr. KYL. Let me quote three or four lines from it.

He said:

> If we are to put our faith in a program other than testing to ensure the safety and reliability of our nuclear deterrent and thus our security, we must have complete faith in its efficacy. The Stockpile Stewardship Program falls well short of that standard. . . .
>
> At present, I am not convinced the Stockpile Stewardship Program will permit our experts to maintain a credible deterrent in the absence of testing.

He goes on the say:

> Unfortunately, the CTBT's verification regime will not be up to that task even if it is ever fully deployed.

He concludes his statement with this paragraph:

> The Senate is being asked to rely on an unfinished and unproven Stockpile Stewardship Program. This program might meet our needs in the future, but as yet, it is not close to doing so. The treaty is flawed with an ineffective verification regime and a practically nonexistent enforcement process.
>
> For these reasons, I will vote against ratification of the CTBT.

So spoke Senator RICHARD LUGAR. I do not suggest that any of us here in the Senate are as expert as other people I have quoted, but certainly Senator LUGAR has a reputation for being a very serious and well-informed student of arms control issues, a proponent of arms control treaties. When he says, as he did with respect to this treaty, that it is simply not of the same caliber as other arms control treaties for the variety of reasons he expresses in his release, I think all of us should pay serious attention to that.

Madam President, it is now my pleasure, at long last, to turn to the Senator from New Hampshire, who has been very patient in waiting for Senator BIDEN and me to conclude.

Mr. BIDEN. Madam President, I won't take the time.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. KYL. I yield to Senator BIDEN and then have a unanimous consent request.

Mr. BIDEN. Madam President, I want to print in the RECORD, without taking the time from the Senator from New Hampshire, some other quotes from Dr. Robinson from his testimony on October 7, 1999. I ask unanimous consent they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Written Testimony of Dr. Paul Robinson to the Armed Services Committee, Oct. 7, 1999

Nuclear effects tests carried out in underground test chambers were always a compromise to the actual conditions that warheads would experience in military use. Thus, this is not the first time that we have been challenged to do the best job simulating phenomena which cannot be achieved experimentally.

Mr. BIDEN. As well, I ask unanimous consent to print in the RECORD quotes from the October 7 testimony of Dr. Robinson, Dr. Tarter, Dr. Tarter again, Dr. Browne, Dr. Robinson, Mr. Levin, Dr. Robinson, Dr. Robinson, Dr. Tarter, Dr. Tarter and Dr. Browne; it is an exchange.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Lab Directors' Written Testimony—Key Quotes on Stockpile Stewardship, October 7, 1999, Armed Services Committee Hearing

Dr. Robinson, Page 5:

I believed then, as I do now, that it may be possible to develop the Science-Based Stockpile Stewardship approach as a substitute for nuclear testing for keeping previously tested nuclear weapons designs safe and reliable.

Dr. Tarter, Page 1:

The bottom line remains the same as it has been in my previous testimonies before this Committee. Namely, that a strongly supported, sustained Stockpile Stewardship Program has an excellent chance of ensuring that this nation can maintain the safety, security, and reliability of the stockpile without nuclear testing.

Dr. Tarter, Page 4:

In December 1998, we completed the third annual certification of the stockpile for the President and were able to conclude that nuclear tests were not required at this time to assure the safety and reliability of the nation's nuclear weapons.

Dr. Brown, Page 1:

I am confident that a fully supported and sustained program will enable us to continue to maintain America's nuclear deterrent without nuclear testing.

Senator LEVIN. . . . what you are telling us is that if this safeguard and the other safeguards are part of this process that you can rely on . . ., Dr. Robinson, you are on board in terms of this treaty; is that correct?

Dr. ROBINSON. I am on board that science-based stockpile stewardship has a much higher chance of success and I will accept it as the substitute.

Senator LEVIN. For what?

Dr. ROBINSON. I still had other reservations about the treaty—

Senator LEVIN. As a substitute for what?

Dr. ROBINSON. As a substitute for requiring yield tests for certification.

Senator LEVIN. Dr. Tarter?

Senator TARTER. A simple statement again: It is an excellent bet, but it is not a sure thing.

Senator LEVIN. My question is are you on board, given these safeguards?

Senator TARTER. I can only testify to the ability of stockpile stewardship to do the job. It is your job about the treaty.

Senator LEVIN. Are you able to say that, providing you can rely on safeguard F and at some point decide that you cannot certify it, that you are willing under that condition to rely on this stewardship program as a substitute for actual testing?

Senator TARTER. Yes.

Senator LEVIN. Dr. Browne?

Senator BROWNE. Senator Levin, if the government provides us with the sustained resources, the answer is yes, and if safeguard F is there, yes.

Mr. BIDEN. I thank the Chair, my colleagues, and my friend from New Hampshire.

Mr. KYL. Madam President, I ask unanimous consent to print in the RECORD a series of decision briefs and newspaper articles on the subject of the test ban treaty.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Center for Security Policy, Oct. 11, 1999]

Decision Brief No. 99–D 107

C.T.B.T. TRUTH OR CONSEQUENCES #1: A SAFE, RELIABLE NUCLEAR DETERRENT DEMANDS PERIODIC, REALISTIC UNDERGROUND TESTING

(Washington, D.C.): In various series settings over the past few days, President Clinton has made a number of pronouncements about the Comprehensive Test Ban Treaty in the hope of selling it to an unreceptive U.S. Senate. Many of his statements are misleading, some simply inaccurate; not a few fall into both categories.

Fortunately, the hearings held in the Senate Armed Services and Foreign Relations Committees last week provided needed rebuttals from respected former Cabinet and sub-Cabinet officers and other authorities. As a contribution to the Senate's deliberations, the Center offers highlights of these expert witnesses' testimony and other relevant information to help correct the record.

President Clinton: "Our experts have concluded that we don't need more tests to keep our own nuclear forces strong."

The Truth: The "experts" President Clinton cites may feel as he claims they do, but if so, they are ignoring historical experience and indulging in wishful thinking of the most dangerous kind. The more responsible among them make clear that their "confidence" in being able to keep the U.S. nuclear forces not only "strong" but safe and reliable is highly conditional—dependent upon an as-yet incomplete, unproven Stockpile Stewardship Program being fully funded for at least a decade (at a total cost of $45 billion or more) and no problems that would require testing to correct developing in the meantime. For example, Dr. John Browne, the current Director of the Los Alamos National Laboratory told the Armed Services Committee last week:

"The issue that we face is whether we will have the people, the capabilities and the national commitment to maintain this confidence in the stockpile in the future, when we expect to see more significant changes. Although we are adding new tools each year, the essential tool kits for stockpile stewardship will not be complete until sometime in the next decade."

Last week's testimony, moreover, made clear the views of other "experts" who believe that the American deterrent cannot be kept safe and relialbe—let alone strong—without periodic, realistic underground nuclear tests. These include the following:

Dr. James Schlesinger, former Secretary of Energy under President Carter (as well as former Secretary of Defense, Director of the CIA and Chairman of the Atomic Energy Commission): "In the absence of testing, confidence in the reliability of the stockpile will inevitably, ineluctably decline. In the seen years since our last test, confidence has declined. It is declining today and will continue to decline. . . .

"Why is such a decline in confidence unavoidable? Our nuclear weapons are highly sophisticated devices composed of thousands of components that must operate with split-second timing and with scant margin for error. Weapons are also radioactive, and thus subject to radioactive decay and chemical decomposition. Other components will age and will fail. All of the components must ultimately be replaced due to changes in material, changes in regulations, the disappearance of manufacturers, the changing of processes. That replacement can never be perfect."

Former Secretary of Defense Caspar Weinberger: "If we need nuclear weapons, we have to know that they will work. That is the essence of their deterrence. If there is uncertainty about that, the deterrent capability is weakened. The only assurance that you could have that they will work is to test them, and the only way to test them is the most effective way to test them."

"Since [U.S.] testing ended [in 1992] there have been no weapons "red-lined" [i.e., removed from operational status for safety and/or reliable reasons]. The assumption seems to be that since we stopped testing everything's fine. Well, I can't share that assumption, I don't think that's correct, and I don't want to take a chance. You just aren't allowed any margin for error in this business. And this treaty gives a very large margin for error."

"And all of the discussion in other committees and a great deal of the discussion in public has been an attempt to show that the stockpile stewardship program will be an effective way of testing them, although everyone agrees it's not as effective as testing them in the way that we have done in the past with underground explosions, with all precautions to prevent any of the escape of the material into the atmosphere.

"You will have all kinds of statements made that the stewardship stockpile program will be able to be tested by computer modeling. We've had some less than reassuring statements that the computers that can do this best will be available in 2005 or 2008, which is a tacit admission that in the meantime, the stockpile stewardship program, as it's presently constituted, is not an effective way of testing. And the only way to be sure that these weapons will work and will be able to do their horribly lethal task is to test them and test them in the most effective way possible."

Admiral Henry Chiles, President Clinton's former Commander-in-Chief, U.S. Strategic Forces Command: "We are going to have to remove and replace almost all, if not all, of the non-nuclear components in those weapons with newly designed components. The older components are not available. They were originally manufactured by technologies that are obsolete, and they are not supported in our evolving industrial base. And without testing I know of no other engineering unit of comparable complexity that anyone would consider safe and reliable in a modern world."

Dr. Paul Robinson, the current Director of the Sandia National Laboratory: "I can state with no caveats that to confirm the performance of high-tech devices—cars, airplanes, medical diagnostics, computers or nuclear weapons—testing is the preferred methodology . . . actually nuclear testing of the entire system. . . . To forego testing is to live with an uncertainty. And the question is, what is the risk, can one bound the uncertainty, and how does that work out?"

"In the past, we used to change out the nation's nuclear weapons about eight to 10 years; we would replace an old design with a completely new design at that point in time. And so we had really very little effects due to aging of the system sitting in there. Today the stockpile is the oldest one we've ever had in the 54-year history of the program, so we're watching for new effects due to aging that we haven't seen before."

Dr. John Nuckles, former Director of the Lawrence Livermore National Laboratory under President Clinton: "It cannot be assured that the powerful computational and experimental capabilities of the Stockpile Stewardship program will increase confidence and reliability. Improved understanding may reduce confidence in the estimates to performance margins and reliability if fixes and validations are precluded by the CTBT."

"The SSP will probably succeed in finding undetected stockpile defects and in narrowing the major gaps in our understanding of nuclear weapons which have eluded 50 years of nuclear testing. Nuclear testing would then be required to confirm this new understanding and validate the resulting stockpile fixes."

Dr. Troy Wade, former Assistant Secretary of Energy for Defense Programs and nuclear bomb designer: "Nuclear weapons are not like artillery shells. You cannot store them in a bottle or building and then get them whenever the exigencies of the situation prompt you to do so. Nuclear weapons are very complicated assemblies that require continued vigilance to assure reliability and safety.

"It is, therefore, a first-order principle that nuclear weapons that are now expected to be available in the enduring stockpile for much longer than was contemplated by the designers, will require enhanced vigilance to continue to ensure safety and reliability.

"I am a supporter, only because I believe it is a way to develop the computational capability to assure the annual certification process for warheads, that have not changed, or for which there is no apparent change. For nuclear weapons that do not fit that category, stockpile stewardship is merely—as we say in Nevada—a crap shoot. Nuclear testing has always been the tool necessary to maintain, with high confidence, the reliability and safety of the stockpile. I believe this treaty would remove the principle tool from the tool chests of those responsible for assuring safety and reliability."

"Maintaining the nuclear deterrence of the United States, without permitting needed testing, is like requiring the local ambulance service to guarantee 99 percent reliability any time the ambulance is requested, but with a provision that the ambulance is never to be started until the call comes. I believe this is a patently absurd premise."

Dr. Robert Barker, former Assistant for Atomic Energy to Secretaries of Defense Weinberger, Carlucci and Cheney and a nuclear weapon designer: "There are nine weapons in the continuing inventory; only three of those weapons have the three modern safety features of enhanced nuclear detonation safety, the fire resistant pit and insensitive high explosive. Three of the systems in the continuing inventory have only one of those features.

"Now, I believe to freeze an inventory in place in which every weapon is not as safe as it could be is unconscionable. I think that is a decision that the Senate really needs to take on and ask itself whether it is comfortable with making a decision to freeze the stockpile in a situation in which it is less safe than it could be. Should an accident happen, the loss of life, loss of property, as a result of not having included—it could have been precluded by the inclusion of one of these features—who is it that will take the credit or take the blame for that? I think any prudent program that called for a cessation in testing would have made sure that every weapon in the inventory was as safe as it could be before such a step was taken.

The bottom line

In his testimony before the Senate Armed Services Committee, Secretary Schlesinger cited remarks made by Dr. Victor Reis, President Clinton's erstwhile Assistant Secretary of Energy for Defense Programs and architect of the Stockpile Stewardship Program, in a speech delivered before he left office to the Sandia National Laboratory:

"Think about [the challenge of the Stockpile Stewardship Program]. We are asking to maintain forever an incredibly complex device no larger than this podium, filled with exotic radioactive materials, that must create, albeit briefly, temperatures and pressures only seen in the nature of the center of stars. Do it without an integrating nuclear test and without any reduction in extraordinarily high standards of safety and reliability. And while you're at it, downsize the industrial complex that supports this enterprise by a factor of two and stand up critical new manufacturing processes; this, within an industrial system that was structured to turn over new designs every 15 years and for which the nuclear explosive testing was the magic tool for demonstrating success."

Dr. Schlesinger observed dryly: "Now, this challenge was laid down by the architect of the SSP. He understood the risks. The only thing that he might add to that statement is that, in order to validate the SSP, we would require nuclear testing."

The ineluctable reality is that the United States has already run potentially grave risks by not testing its aging arsenal for the past seven years. It perpetuates this moratorium—let alone making it a permanent, international obligation—at its peril.

DECISION BRIEF NO. 99-D 108

C.T.B.T. TRUTH OR CONSEQUENCES #2: THIS TREATY IS UNVERIFIABLE—IT MAY MAKE MONITORING OTHERS' NUKE PROGRAMS MORE DIFFICULT

(Washington, D.C.): In a daily drumbeat of remarks aimed at selling the Comprehensive Test Ban Treaty (CTBT) to an unreceptive Senate, President Clinton has repeatedly made the claim that this treaty is "effectively verifiable." While he and his subordinates acknowledge that all testing will not actually be detectable, they insist that any that would undermine our nuclear deterrent would be picked up by U.S. and/or international monitoring systems—the latter, the CTBT's proponents assert, representing a significant augmentation of the former. For example, Mr. Clinton recently declared: "The treaty will also strengthen our ability to monitor if other countries are engaged in suspicious activities through global chains of sensors and on-site inspections, both of which the treaty provides for."

The truth

Fortunately, authoritative testimony in the Senate Intelligence, Armed Services and Foreign Relations Committees last week provided needed rebuttals to such claims. While the most sensitive of that testimony was taken by the Intelligence Committee in closed session, an invaluable summary was provided by the Chairman of the Senate Select Committee on Intelligence, Sen. Richard Shelby (R-AL), in an appearance before the Foreign Relations Committee on 7 October. Highlights of Chairman Shelby's authoritative statement include the following:

"It's my considered judgment, as chairman of the Intelligence Committee, based on a review of the intelligence analysis and on testimony this week from the intelligence community's senior arms control analyst, that it's impossible to monitor compliance with this treaty with the confidence that the Senate should demand before providing its advice and consent for ratification.

"I'm not confident that we can now or can in the foreseeable future detect any and all nuclear explosions prohibited under the treaty. While I have a greater degree of confidence in our ability to monitor higher-yield explosions in known test sites, I have markedly less confidence in our capabilities to monitor lower-yield and/or evasively conducted tests, including tests that may enable states to develop new nuclear weapons or improve existing weapons.

"At this point, I should point out too that while the proponents of the treaty have argued that it will prevent nuclear proliferation, the fact is that some of the countries of most concern to us—North Korea, Iran and Iraq—can develop and deploy nuclear weapons without any nuclear tests whatsoever.

"With respect to monitoring, in July of '97, the intelligence community issued a national intelligence estimate entitled: 'Monitoring the Comprehensive Test Ban Treaty Over the Next 10 Years.' . . . The NIE was not encouraging about our ability to monitor compliance with the treaty or about the likely utility of the treaty in preventing countries like North Korea, Iran and Iraq from development and fielding nuclear weapons. The NIE identified numerous challenges, difficulties and credible evasion scenarios that affect the intelligence community's confidence in its ability to monitor compliance.

"Because the details are classified and because of the inherent difficulty of summarizing a very highly technical analysis covering a number of different countries and a multitude of variables, I recommend that members, including the members of this committee, review this document with the following caution: Based on testimony before the committee this week, I believe that newly acquired information requires reevaluation of the 1997 estimate's assumptions and underlying analysis on certain key issues. The revised assumptions and analysis appear certain to lead to even more pessimistic conclusions."

"Many proponents of the treaty place their faith, in monitoring aids provided under the treaty such as the International Monitoring System—IMS—a multinational seismic detection system, and the CTBT's On-Site Inspection regime—OSI. Based on a review of the structure, likely capabilities and procedures of these international mechanisms, neither of which will be ready to function for a number of years, and based on the intelligence community's own analysis and statements, I'm concerned that these organizations will be of at best limited, if not marginal margin.

"I believe this IMS will be technically inadequate. For example, it was not designed to detect evasively conducted tests which, if you are Iraq or North Korea, are precisely the kind you're going to conduct. It was designed, as you know with diplomatic sensitivities rather than effective monitoring in mind. And it will be eight to 10 years before the system is complete.

"Because of these factors and for other technical reasons, I'm afraid that the IMS is more likely to muddy the waters by injecting questionable data into what will inevitably be highly charged political debate over possible non-compliance. As a result, the value of more accurate, independently obtained U.S. information will be undermined, making it more difficult for the U.S. to make its case for noncompliance if it were to become necessary.

"And with respect to on-site inspection, I believe that the on-site inspection regime invites delay and confusion. For example, while U.S. negotiators originally sought an automatic green light for on-site inspections as a result of the opposition of the People's Republic of China, now, the regime that was adopted allows inspections only with the approval of 30 of the 51 countries on the executive committee. Members of the Committee will appreciate the difficulty of rounding up the votes for such a supermajority.

"I am also deeply troubled by the fact that the inspected party has a veto, a veto over including U.S. inspectors on an inspection team and the right of the inspected party to declare areas up to 50 kilometers off limits to inspection. I understand these provisions mirror limitations sought by Saddam Hussein on the UNSCOM inspectors, which leads me to believe that some of the OSI standards could be what's cut out for Iraq. As a result of these and other hurdles even if inspectors do eventually get near the scene of a suspicious event, the evidence, which is highly perishable, may well have vanished.

In addition to Sen. SHELBY's summary of the information available to the Intelligence Committee, Dr. Kathleen Bailey—a highly respected former Associate Director of the Arms Control and Disarmament Agency—added the following points in her testimony before the Senate Armed Services Committee:

"The international monitoring system of the CTBT is designed or is capable of detecting greater than one kiloton of nuclear yield for a non-evasively conducted test. So, if Russia or someone else decides to conduct a test evasively, the IMS system will probably not be able to detect it.

"This is because there are various techniques that can be used to basically mask the fact that you tested. One of the most widely known is called decoupling, and I would here rely on an unclassified paper I heard a CIA official present last year in which he described the fact that a nation could put a nuclear device in a cavity, detonate it, and essentially the space around it in this cavity would muffle or mitigate the sound, so that the seismic signal is reduced by as much as a factor of 70. This means that a one-kiloton explosion could look like only 14 tons. So it would be well below the threshold of the international monitoring system."

The bottom line

The fact is that militarily significant covert nuclear testing can—and almost certainly will—be conducted at low-yields or in other ways aimed at masking the force of an explosion. Unfortunately, the history of arms control is riddled with examples of treaties where even clear-cut violations are excused or ignored by the other parties. Just as President Clinton has acknowledged a tendency on the part of his Administration to "fudge" the facts when the alternative of telling the truth will have hard policy implications, the Comprehensive Test Ban will prompt this government and others to take the most charitable view of ambiguous data, rather than conclude the treaty has been violated.

If anything, as Sen. SHELBY has noted, the very fact that a treaty is at stake will probably make it more likely, not less, that U.S. intelligence will be discouraged from ascertaining the true status of potentially hostile powers' nuclear weapons programs and behavior that may contravene the CTBT and/or the "international norm" it is supposed to establish and promote. Far from contributing to American security, the Comprehensive Test Ban would—in this fashion, among others—degrade that security.

DECISION BRIEF NO. 99–D 109

C.T.B.T. TRUTH OR CONSEQUENCES #3: PRESIDENT BUSH DID NOT 'IMPOSE' A TEST MORATORIUM—IT WAS IMPOSED ON HIM

(Washington, DC): One of the more pernicious misstatements being served up by Clinton Administration officials desperately trying to induce Republican Senators to agree to the ratification of the Comprehensive Test Ban Treaty (CTBT) is to the effect that former President George Bush "imposed a moratorium" on U.S. nuclear testing before leaving office. The most recent such misrepresentation was made on ABC News' "This Week" program on Sunday by Secretary of State Madeleine Albright. By so doing, they transparently hope to lend an otherwise almost wholly lacking patina of bipartisanship to this accord.

The fact is that President Bush was euchred on the eve of the 1992 election into accepting legislative restrictions on nuclear testing that he vehemently opposed. This point was made clear in testimony before the Senate Armed Services Committee last week by Dr. Robert Barker, a nuclear weapon designer who served as the Pentagon's top nuclear weapons expert during the Reagan and Bush Administrations.

There should be no doubt whatsoever that President Bush and the entire administration that stood behind him believed that nuclear testing was necessary for the maintenance of a safe and reliable stockpile. I don't believe the technical facts have changed since 1993. I believe we are faced with a Comprehensive Test Ban Treaty not because the technical facts have changed but because some political issues are different now than were true in 1993.

President Bush's legacy

President Bush's attitude towards nuclear testing is made express in an unclassified passage from a classified report he submitted to the Congress on his Administration's last full day in office. This report was written to explain why the Bush Administration found a statute mandating an end to all U.S. nuclear testing, following a final series of underground tests, to be incompatible with the national security. It read, in part:

". . . The Administration has concluded that it is not possible to develop a test program within the constraints of Public Law 102–377 that would be fiscally, militarily and technically responsible. The requirement to maintain and improve the safety of U.S. forces necessitates continued nuclear testing for those purposes, albeit at a modest level, for the foreseeable future. The Administration strongly urges the Congress to modify this legislation urgently, in order to permit the minimum number and kind of underground nuclear tests that the United States requires—regardless of the action of other states—to retain safe and reliable, although dramatically reduced, nuclear deterrent forces."

The reasons for President Bush's adamant position on the need to continue nuclear testing in order to assure the safety and reliability of the U.S. deterrent is not hard to comprehend in light of the experience described by Dr. Barker in his testimony on 7 October:

"During my six years in the Pentagon, from 1986 and 1992, the people in the nuclear weapons laboratories were even more experienced [than they are today since they] were doing nuclear testing. Well, every day of any year I could go to them and they would tell me my stockpile was safe, my stockpile was reliable—I could count on their judgment.

"Five times during that six-year period I was faced with catastrophic failures in the stockpile. The Department of Energy came to me on five occasions, and I found myself going to Secretaries Weinberger or Carlucci or Cheney, and telling them that a weapon in the inventory could not be trusted to do its job. And until we did further tests those weapons were basically non-operational, and we were faced with trying to deal with the situation of instantaneously having a weapons system not available to us . . . . In every case where a change had to be made in order to fix the problem, a nuclear test was required to be sure that the fix worked."

President Clinton's Legacy

Dr. Barker also pointed out to Senate how the Clinton Administrations' ideological attachment to the idea of banning all nuclear testing—without regard to the implications for the safety and reliability of the stockpile—had a singularly perverse effect:

"It's one of the great ironies that there was a thing in existence back in 1993 called a test ban readiness program, which called for a significant number of tests each year for a decade in order to prove whether or not a scheme of calculation and non-nuclear simulation would provide a reliable replacement for nuclear testing. . . . That is the reliable, scientific even business approach. You do not change your calibration tool without comparing the results.

"No business would change its accounting system without verifying that the new system gave the same results of the new. No scientist would change the calibration tool in his laboratory without validating that the new tool gave the same result as the old. And in 1993 we were embarked upon a process of developing a set of tools that we could assess whether or not they would prove to be a reliable replacement for nuclear testing.

"The cessation of nuclear testing cut that whole thing off, and instead we jumped into the replacement and have denied ourselves the ability to ever calibrate it if we ratify this Comprehensive Test Ban Treaty."

The bottom line

No President since John F. Kennedy has voluntarily imposed the kind of unilateral moratorium on nuclear testing upon which Bill Clinton has insisted over the past seven years—and for good reason. And President Kennedy declared when he ended the three year testing moratorium he had adopted:

"We know enough now about broken negotiations, secret preparations and the advantages gained from a long test series never to offer again an uninspected moratorium. Some may urge us to try it again, keeping our preparations to test in a constant state of readiness. But in actual practice, particularly in a society of free choice, we cannot keep top flight scientists concentrating on the preparation of an experiment which may or may not take place on an uncertain date in the undefined future.

"Nor can large technical laboratories be kept fully alert on a stand-by-basis waiting for some other nation to break an agreement. This is not merely difficult or inconvenient—we have explored this alternative thoroughly and found it impossible of execution."

The fact is that President George Bush, many of those who served in senior ranks of his administration—notably, his Secretary of Defense Dick Cheney, his National Security Advisor Brent Scowcroft and his Secretary of Energy James Watkins have all expressed their opposition to this treaty—and his son, George W. Bush, have formally counseled the Senate against permanent unilateral and/or multilateral bans on nuclear testing. This counsel should be heeded—not misrepresented or ignored.

DECISION BRIEF NO. 99–D 110

C.T.B.T. TRUTH OR CONSEQUENCES #4: THE ZERO-YIELD, PERMANENT TEST BAN'S PEDIGREE IS HARD LEFT, NOT BIPARTISAN OR RESPONSIBLE

(Washington, D.C.): President Clinton is fond of saying that the Comprehensive Test Ban Treaty (CTBT) is the "longest-sought, hardest-fought prize in the history of arms control." He and his subordinates and other CTBT proponents try, however, to confuse by whom the present, zero-yield, permanent ban on all nuclear tests has been so long sought and hard fought. This is not an accident. After all, as it has become clear that this arms control initiative has been the agenda not, as the CTBT's champions contend, for every President since Dwight Eisenhower, but rather for radical, left-wing anti-nuclear ideologies, its prospects for approval by the Republican Senate dwindle.

The fact is, as Senate Foreign Relations Committee Chairman Jesse Helms has observed "not a single president before the current one has ever sought a zero-yield, indefinite duration CTBT." Actually, every one of his predecessors rejected such an approach.

President Reagan's legacy

Particularly instructive is the forceful 1988 rejection of nuclear test bans and other limitations on nuclear testing beyond those currently on the books that was sent by President Reagan to the Congress in September of that year. The highlights of this carefully prepared, interagency-approved report entitled, The Relationship between Progress in Other Areas of Arms Control and More Stringent Limitations on Nuclear Testing should be required reading for Senators now confronting the decision whether to advise and consent to the CTBT:

The Requirement for Testing

"Nuclear testing is indispensable to maintaining the credible nuclear deterrent which has kept the peace for over 40 years."

"Thus we do not regard nuclear testing as an evil to be curtailed, but as a tool to be employed responsibly in pursuit of national security."

"The U.S. Tests neither more often nor at higher yields than is required for our security."

"As long as we must depend on nuclear weapons for our fundamental security, nuclear testing will be necessary."

Why the United States Tests Nuclear Weapons

"First, we do so to ensure the reliability of our nuclear deterrent."

"Second, we conduct nuclear tests in order to improve the safety, security, survivability, and effectiveness of our nuclear arsenal. Testing has allowed the introduction of modern safety and security features on our weapons. It has permitted a reduction by nearly one-third in the total number of weapons in the stockpile since 1960, as well as a reduction in the total megatonnage in that stockpile to approximately one-quarter of its 1960 value."

"Third, the U.S. tests to ensure we understand the effects of a nuclear environment on military systems."

"Finally, by continuing to advance our understanding of nuclear weapons design, nuclear testing serves to avoid technological surprise and to allow us to respond to evolving threat."

"These four purposes are vital national security goals. As companion reports by the Departments of Defense and Energy indicate, they cannot currently be met without nuclear testing."

Reductions in Nuclear and/or Conventional Arms May Actually Increase U.S. Testing Requirements

". . . It is important to recognize that there is no direct technical linkage between the size of the nuclear stockpile and the requirements for nuclear testing."

"Indeed, under [an agreement providing for] deep reductions in strategic offensive arms the reliability of our remaining U.S. strategic weapons could be even more important and the need for testing even greater. . . ."

"Similarly, neither reductions in strategic offensive arms themselves nor success in conventional arms reductions will eliminate the third reason for U.S. nuclear testing, the requirement to ensure we understand, from both an offensive and defensive standpoint, the effects of the environment produced by nuclear explosions on military systems. . . . Even in a world with reduced strategic arms and an improved balance in conventional forces, nuclear arms will exist. In such a world, understanding nuclear effects would be no less important."

Further Policy Caveats

". . . The U.S. recognizes that neither nuclear testing nor arms control per se are ends in themselves. They are tools to be employed in the interests of enhancing national security."

". . . It is clear that limitations as stringent as a complete ban on tests above either 1 kiloton- or 10 kilotons-yield pose serious risks and will almost certainly not prove to be compatible with our overall security interests. As the companion reports by the Departments of Defense and Energy make clear, such limitations have exceptionally severe effects on U.S. programs. In addition, we do not know how to verify such yield limitations."

The Bottom Line

The Reagan Administration report declared in closing that "A comprehensive test ban remains a long-term objective of the United States." It makes clear, however, that the circumstances under which such a ban might be acceptable are very different from those that applied at the time, or today: "We believe such a ban must be viewed in the context of a time when we do not need to depend on nuclear deterrence to ensure international security and stability, and when we have achieved broad, deep, and effectively verifiable arms reductions, substantially improved verification capabilities, expanded confidence-building measures, and greater balance in conventional forces."

Senators being asked to consider postponing a final vote on the Comprehensive Test Ban Treaty should understand that the practical effect of doing so would effectively be to agree that—despite its incompatibility with U.S. national security interests and its consistency with the sort of woolly-headed, radical disarmament notions Ronald Reagan eschewed—the CTBT's restraints would continue to bind the United States. For, under international legal practice, unless and until a nation formally gives notice of its intention not to ratify a treaty, it is obliged to refrain from actions that would undercut its object and purpose. Such notice should be given, and promptly.

DECISION BRIEF NO. 99–D 111

C.T.B.T. TRUTH OR CONSEQUENCES #5: OPPOSITION TO A ZERO-YIELD, PERMANENT TEST BAN IS ROOTED IN SUBSTANCE, NOT POLITICS

(WASHINGTON, D.C.).—Advocates for the Comprehensive Test Ban Treaty (CTBT) have recently engaged in a form of political contortionism that would impress Houdini. Having insisted on the Senate's immediate consideration of this accord in time for a CTBT review conference held last week in Vienna, they were initially surprised, then seemingly pleased when Senate Republicans agreed two weeks ago to a fixed period for debate and a near-term vote. Accordingly, every single Democratic Senator and those relatively few Republicans who have declared their support for the CTBT agreed—obviously with the Clinton White House's blessing—to a "unanimous consent" agreement designed to do just that. In other words, when they thought they had (or could get) the necessary votes, the CTBT's proponents were quite content with this arrangement.

As it became clear that the treaty's opponents had easily the 34 votes needed to defeat President Clinton's permanent, zero-yield Comprehensive Test Ban, however, the Administration and its allies began to complain that the arrangement they had agreed to was no longer satisfactory. Suddenly, they claimed the CTBT was in danger of falling victim to "partisan politics" and that only by delaying the vote would that accord receive the deliberate consideration due it.

Unfortunately for the pro-CTBT contortionists, the announcement on 7 October by Senator Richard Lugar (R–IN) of his adamant opposition to the present Comprehensive Test Ban Treaty makes such arguments untenable. Sen. Lugar is, after all, a man with a record of unwavering support for arms control and unfailing willingness to pursue bipartisan approaches to foreign policy issues. His closely reasoned and well-researched grounds for his declared intention to vote against this CTBT makes it clear that he and other like-minded Senators will do so for legitimate, substantive reasons.

Reduced to its essence, Sen. Lugar's critique—which is likely to prove highly influential with other centrist Senators—reads as follows:

"The goal of the CTBT is to ban all nuclear explosions worldwide: I do not believe it can succeed. I have little confidence that the verification and enforcement provisions will dissuade other nations from nuclear testing. Furthermore, I am concerned about our country's ability to maintain the integrity and safety of our own nuclear arsenal under the conditions of the treaty.

". . . While affirming our desire for international peace and stability, the U.S. Senate is charged with the constitutional responsibility of making hard judgments about the likely outcomes of treaties. This requires that we examine the treaties in close detail and calculate the consequences of ratification for the present and the future. Viewed in this context, I cannot support the treaty's ratification."

Highlights of Senator Lugar's critique should be required reading for Senators and their constituents alike:

Bad Arms Control: "I do not believe that the CTBT is of the same caliber as the arms control treaties that have come before the Senate in recent decades. Its usefulness to the goal of non-proliferation is highly questionable. Its likely ineffectuality will risk undermining support and confidence in the concept of multi-lateral arms control. Even as a symbolic statement of our desire for a safer world, it is problematic because it would exacerbate risks and uncertainties related to the safety of our nuclear stockpile."

No Safety Net on the SSP: "At present our nuclear capability provides a deterrent that is crucial to the safety of the American people and is relied upon as a safety umbrella by most countries around the world. One of the most critical issues under the CTBT would be that of ensuring the safety and reliability of our nuclear weapons stockpile without testing. The safe maintenance and storage of these weapons is a crucial concern. We cannot allow them to fall into disrepair or permit their safety to be called into question.

". . . Unfortunately, the jury is still out on the Stockpile Stewardship Program. The last nine years have seen improvements, but the bottom line is that the Senate is being asked to trust the security of our country to a program that is unproven and unlikely to be fully operational until perhaps 2010.

". . . The Congressional Research Service reported last year that: 'A problem with one warhead type can affect hundreds of thousands of individually deployed warheads; with only 9 types of warheads expected to be in the stockpile in 2000, compared to 30 in 1985, a single problem could affect a large fraction of the U.S. nuclear force.' If we are to put our faith in a program other than testing to ensure the safety and reliability of our nuclear deterrent and thus our security, we must have complete faith in its efficacy. The Stockpile Stewardship Program falls well short of that standard.

". . . I am concerned further by the fact that some of the weapons in our arsenal are not as safe as we could make them. Of the nine weapon designs currently in our arsenal, only one employs all of the most modern safety and security measures. Our nuclear weapons laboratories are unable to provide the American people with these protections because of the inability of the Stockpile Stewardship Program to completely mimic testing.

"At present, I am not convinced the Stockpile Stewardship Program will permit our experts to maintain a credible deterrent in the absence of testing. Without a complete, effective, and proven Stockpile Stewardship program, the CTBT could erode our ability to discover and fix problems with the nuclear stockpile and to make safety improvements."

An Unverifiable CTBT: "The U.S. must be confident of its ability to detect cheating among member states. While the exact thresholds are classified, it is commonly understood that the United States cannot detect nuclear explosions below a few kilotons of yield. The Treaty's verification regime, which includes an international monitoring system and on-site inspections, was designed to fill the gaps in our national technical means. Unfortunately, the CTBT's verification regime will not be up to that task even if it is ever fully deployed."

"The verification regime is further bedeviled by the lack of a common definition of a nuclear test. Russia believes hydro-nuclear activities and sub-critical experiments are permitted under the treaty. The U.S. believes sub-critical experiments are permitted but hydro-nuclear tests are not. Other states believe both are illegal. A common understanding or definition of what is and what is not permitted under the treaty has not been established."

"The CTBT's verification regime seems to be the embodiment of everything the United States has been fighting against in the UNSCOM inspection process in Iraq. We have rejected Iraq's position of choosing and approving the national origin of inspectors. In addition, the 50 square kilometer inspection-free zones could become analogous to the controversy over the inspections of Iraqi presidential palaces. The UNSCOM experience is one that is best not repeated under a CTBT."

Mission Impossible—Enforcement of the CTBT: "Even if the United States were successful in utilizing the laborious verification regime and non-compliance was detected, the Treaty is almost powerless to respond. This treaty simply has no teeth. Arms control advocates need to reflect on the possible damage to the concept of arms control if we embrace a treaty that comes to be perceived as ineffectual. Arms control based only on a symbolic purpose can breed cynicism in the process and undercut support for more substantive and proven arms control measures.

"The CTBT's answer to illegal nuclear testing is the possible implementation of sanctions. It is clear that this will not prove particularly compelling in the decision-making processes of foreign states intent on building nuclear weapons. For those countries seeking nuclear weapons, the perceived benefits in international stature and deterrence generally far outweigh the concern about sanctions that could be brought to bear by the international community."

Fraudulent "Norm": "I believe the enforcement mechanisms of the CTBT provide little reason for countries to forego nuclear testing. Some of my friends respond to this charge by pointing out that even if the enforcement provisions of the treaty are ineffective, the treaty will impose new international norms for behavior. In this case, we have observed that "norms" have not been persuasive for North Korea, Iraq, Iran, India and Pakistan, the very countries whose actions we seek to influence through a CTBT.

"If a country breaks the international norm embodied in the CTBT, that country has already broken the norm associated with the Non-Proliferation Treaty (NPT). Countries other than the recognized nuclear powers who attempt to test a weapon must first manufacture or obtain a weapon, which would constitute a violation of the NPT. I fail to see how an additional norm will deter a motivated nation from developing nuclear weapons after violating the long-standing norm of the NPT."

The Bottom Line

The Clinton Administration's transparent intent to use the CTBT as a political weapon against its critics makes Senator Lugar's statesmanship and courage in opposing this treaty as a matter of principle all the more commendable. Although the Indiana Senator has made clear his preference not to vote on the CTBT in the coming days, the substantive case he has made against this accord should be dispositive to his colleagues in deciding to reject the Comprehensive Test Ban Treaty now, rather than be subjected to endless political attacks until such time as the Treaty is once again placed on the Senate calendar.

Decision Brief No. 99–D 112

C.T.B.T. TRUTH OR CONSEQUENCES #6: HEED PAST AND PRESENT MILITARY OPPOSITION TO A ZERO-YIELD, PERMANENT TEST BAN

(Washington, D.C.): As the prospects for Senate rejection of the Comprehensive Test Ban Treaty (CTBT) on its merits have grown in recent days, the Treaty's proponents have become more reliant than ever on celebrity endorsements—especially those it has received for retired and serving senior military officers. Indeed, few advocates for the present, zero-yield, permanent test ban make their case for the CTBT without referring to the support it enjoys from past and present members of the Joint Chiefs of Staff, including a number of former JCS Chairmen (notably, Gen. Colin Powell).

Most recently, President Clinton declared in his Saturday radio address: "So I say to the Senators who haven't endorsed [the CTBT], heed the best national security advice of our military leaders." The trouble is, the best national security advice of our military leaders is to reject this permanent, all-inclusive test ban, not approve it.

Which Advice?

Setting aside the singularly unimpressive job the serving Chairman, Gen. Hugh Shelton, has done in his advocacy for the CTBT—at his reconfirmation hearing a few weeks ago, his endorsement was unintelligible; on NBC's Meet the press on 10 October, he gave a statement of support for the Treaty that was more articulate, but wholly inappropriate to the question he was asked, not once but twice—fans of the CTBT should be careful in relying too heavily upon their favorite officers to sell this Treaty.

Consider, for example, statements that three of the most prominent of these officers—General Powell, Admiral William Crowe and General David Jones—during their respective stints as chairmen of the Joint Chief of Staff

General Colin Powell, 30 September 1991: [In response to a question by Senator Malcolm Wallop (R–Wy) as to how Gen. Powell would respond to a Soviet proposal to halt testing.] I would recommend to the Secretary and the President [that] it's a condition we couldn't meet. I would recommend against it. We need nuclear testing to ensure the safety, [and] surety of our nuclear stockpile. As long as one has nuclear weapons, you have to know what it is they will do, and so I would recommend continued testing."

Gen. Powell, 1 December 1992: "With respect to a comprehensive test ban, that has always been a fundamental policy goal of ours, but as long as we have nuclear weapons we have a responsibility for making sure that our stockpile remains safe. And to keep that stockpile safe, we have to conduct a limited number of nuclear tests to make sure we know what a nuclear weapon will actually do and how it is aging and to find out a lot of other physical characteristics with respect to nuclear phenomenon.

"So I would like ultimately to go to a comprehensive test ban, but I don't think we'll get there safely and reliably until we also get rid of nuclear weapons. As long as we have to conduct testing."

Admiral William Crowe, 8 May 1986: [According to a contemporary press report] "Admiral William Crow, Chairman of the Joint Chiefs of Staff, said a comprehensive test ban—which many members of Congress have urged President Reagan to negotiate with Moscow—would 'introduce elements of uncertainty that would be dangerous for all concerned.

"Given the pressure from lawmakers for conventional weapons testing, 'I frankly do not understand why Congress would want to suspend testing on one of the most critical and sophisticated elements of our nuclear deterrent—namely the warhead's he told the Senate Foreign Relations Committee."

General David Jones per an Aviation Week article dated 29 May 1978: "General David Jones, Chairman of the Joint Chief of Staff, told a Senate Armed Services Committee meeting last week that he could not recommend an indefinite zero-yield test ban.

"He added that it is not verifiable, and that the U.S. stockpile reliability could not be assured. Gen. Jones said he is concerned over asymmetries that could develop through an unverifiable agreement with the USSR. He told Senators he is not convinced by the safeguards he has seen to date, and that it would not be difficult to overcome them."

Gen. Jones, according to a 27 May 1978 Washington Post article: Air Force Gen. David Jones, selected by [President] Carter to be chairman of the Joints chiefs, told the Senate Armed Services Committee at his recent confirmation hearing that "I would have difficulty recommending a zero[-yield] test ban for an extended period."

It falls to these individuals and those who are interested in their views to establish which position—their former ones opposing an open-ended, zero-yield test ban or their present ones endorsing it—actually reflect their "best national security advice." Suffice it to say that when they actually held positions of responsibility, all three went on record in favor of continued testing. Will their serving counterpart and his fellow members of the JCS undergo a reverse transformation after leaving office, in which capacity they have endorsed the CTBT? If so, which view will represent their best professional military advice (i.e., advice not influenced by political judgments or considerations)?

Leading Retired Military Officers Oppose the CTBT

Senators would do well to consider the views of other distinguished retired military officers. For example, in an open letter to Senate Majority Leader Trent Lott dated 9 September, ten retired four-star combat commanders (Marine Corps Commandant Gen. Louis H. Wilson and Assistant Commandants Gens. Raymond G. Davis and Joseph J. Went; Commander-in-Chief Strategic Air Command Gen. Russell E. Dougherty; Supreme Allied Commander, Atlantic Adm. Wesley McDonald; Commander-in-Chief, U.S. Army, Europe Gen. Frederick J. Kroesen; Commander of U.S. Air Combat Command Gen. John M. Loh; Air Force Vice Chief of Staff Gen. Lawrence A. Skantze; Commander-in-Chief, Army Readiness Command Gen. Donn A. Starry; Commanding General, Army Material Command Gen. Louis C. Wagner, Jr.) joined more than forty other experienced civilian and retired military policy practitioners in opposition to the CTBT. They wrote, in part:

"We consider the Comprehensive Test Ban Treaty signed by President Clinton in 1996 to be inconsistent with vital U.S. national interests. We believe the Senate must reject the permanent ban on testing that this treaty would impose so long as the Nation depends upon nuclear deterrence to safeguard its security."

Importantly, in a 5 October letter to Senate Armed Services Committee Chairman John Warner, one of the most highly regarded JCS Chairman in history, Gen. John Vessey, forcefully urged the Senate to reject the present CTBT. Highlight of Gen. Vessey's letter include the following:

"Supporters of the CTBT argue that it reduces the chances for nuclear proliferation. I applaud efforts to reduce the proliferation of nuclear weapons but I do not believe that the test ban will reduce the ability of rogue states to acquire nuclear weapons in sufficient quantities to upset regional stability in various parts of the world."

"If the United States is to remain the preeminent nuclear power and maintain a modern, safe, secure, reliable and useable nuclear deterrent force, I believe we need to continue to develop new nuclear weapons designed to incorporate the latest in technology and to meet the changing security situation in the world. . . . The United States, the one nation most of the world looks to for securing peace in the world, should not deny itself the opportunity to test the bedrock building block of its security, its nuclear deterrence force, if conditions require testing."

"I . . . believe that the more demonstrably modern and useable is our nuclear deterrent force, the less likely are we to need to use it, but we must have modern weapons, and we ought not deny ourselves the opportunity to test if we deem it necessary.

The Bottom Line

The case for the Clinton Comprehensive Test Ban Treaty fundamentally comes down to a question of "confidence"—in the judgments of those who say that they are "confident" in the future viability of the U.S. deterrent or, alternatively, in the judgment of those who warn that history suggests such confidence is unwarranted in the absence of periodic, realistic underground testing.

It should, at a minimum, shake the confidence of Senators whose support for the Treaty rests substantially upon the endorsement of prominent retired military leaders that those leaders previously held a far more dire (not to say, realistic) view of the implications of such an accord for the U.S. deterrent and security.

[From the Center for Security Policy, Oct. 12, 1999]

DECISION BRIEF NO. 99–D 112

C.T.B.T. TRUTH OR CONSEQUENCES #7: REALISTIC EXPLOSIVE TESTING IS REQUIRED TO 'RE-MANUFACTURE' EXISTING NUCLEAR WEAPONS.

(Washington, D.C.): One of the most pernicious misrepresentations being served up in recent days by the proponents of the Comprehensive Test Ban Treaty (CTBT) is the claim that the U.S. deterrent stockpile can be maintained for the indefinite future without further underground tests. Since they explicitly rule out modernization of the nuclear arsenal, however, the only way a stockpile comprised of weapons having the highest average age in history could possibly be preserved in a safe and reliable condition would be if existing weapons types were to be substantially (if not virtually completely) remanufactured.

While advocates of the zero-yield, permanent CTBT deny it, neither historical experience and common sense support the proposition that U.S. nuclear weapons—comprised as they are of as many as 6,000 exactingly manufactured parts, made of exotic and often dangerous materials and constantly exposed for years to high levels of radiation—will not undergo substantial changes over time. In fact as a result of such factors, former Assistant Secretary of Energy Victor Reis declared in congressional testimony in October 1997 that: "Just about all the parts [of those obsolescing devices] are going to have to be remade."

Why 'Remaking' of the Arsenal Cannot be Effected Without Testing

There a numerous, serious problems with undertaking such a program in the absence of nuclear testing. First, the production lines for building the stockpile's existing bombs and warheads were disassembled long ago. Reconstitution and recertifying them would take quite some time, would be very costly and probably won't be possible to effect with confidence absent realistic, explosive nuclear testing.

Second, it will not be possible to replicate some of the ingredients in weapons designed two decades or more ago; key components are technologically obsolete and no one would recommend using them when smaller, lighter, cheaper, more reliable and carcinogenic materials are now the state-of-the-art. In addition, federal safety and health guidelines prohibit the use of some of the materials utilized in the original designs.

Third, virtually everybody who was involved in designing and proving the original designs has left the industrial and laboratory complex, taking with them irreplaceable corporate memory that may spell the difference between success and failure in reproducing their handiwork.

An Authoritative Historical Review

These points were underscored in an authoritative report to Congress issued by the Lawrence Livermore National Laboratory in 1987. Among its relevant highlights are the following (emphasis added throughout):

"It has frequently been stated that non-nuclear and very-low yield (i.e., less than 1 kiloton) testing and computer stimulation would be adequate for maintaining a viable nuclear deterrent. A recent variant of this argument asserts that while such testing and computer stimulation may be insufficient for the development of new warheads, they would be adequate for indefinite maintenance of a stockpile of existing weapons. We believe that neither of these assertions can be substantiated.

"The major problem is that a nuclear explosive includes such a wide range of processes and scales that it is impossible to include all the relevant physics and engineering in sufficient detail to provide an accurate representation of the real world."

"A final proof test at the specified low-temperature extreme of the W80 (Air-Launched Cruise Missile) was done as the weapon was ready for deployment. The test results were a complete surprise. The primary gave only a small fraction of its expected yield, insufficient to ignite the secondary.

"Our experience with the W80 illustrates the inadequacy of non-nuclear and low-yield testing and the need for full-scale nuclear tests to judge the effects of small changes. Even though it has been argued that such a "thorough" test should have occurred earlier, the critical point is that computer simulation, non-nuclear testing, and less-than-full-scale nuclear testing are not always sufficient to assess the effects of deterioration, changes in packaging, or environmental conditions on weapons performance."

"Testing of newly produced stockpiled systems has shown a continuing need for nuclear tests. Even an "identical" rebuild should be checked in a nuclear test if we are to have confidence that all the inevitable, small and subtle differences from one production run to the other have not affected the nuclear performance. The current stockpile is extremely reliable, but only because continued nuclear testing at adequate yields has enabled us to properly assess and correct problems as they occur."

"Although tests of a complex system are expensive and time-consuming, one is hard-put to find an example anywhere in U.S. industry where a major production line was reopened and requalified without tests. Exact replication, especially of older systems, is impossible. Material batches are never quite the same, some materials become unavailable, and equivalent materials are never exactly equivalent. Different people—not those who did the initial work—do the remanufacturing.

"Documentation has never been sufficiently exact to ensure replication. A perfect specification has never yet been written. We have never known enough about every detail to specify everything that may be important.

"Tests, even with the limitations of small numbers and possibly equivocal interpretation of results, are the final arbiters of the tradeoffs and judgments that have been made. We are concerned that, if responsible engineers and scientists were to refuse to certify a remanufactured weapon, pressures could produce individuals who would. The Challenger accident resulted from such a situation and highlights an all-too-common tendency of human nature to override judgment in favor of expediency."

"Remanufacture of a nuclear warhead is often asserted to be a straightforward exercise in engineering and material science, and simply involves following well-established specifications to make identical copies. In the real world, however, there are many examples where weapon parts cannot be duplicated because of outmoded technologies, health hazards, unprofitable operations, out-of-business vendors, reproducible materials, lack of documentation, and myriad other reasons. . . . Not only must remanufacturing attempt to replicate the construction of the original weapon, it must also duplicate the performance of the original weapon."

"It is important to emphasize that in weapon remanufacture we are dealing with a practical problem. Idealized proposals and statements that we 'should be able to remanufacture without testing because expertise is not essential' are a prescription for failure."

The Bottom Line

Senators concerned about the Nation's ability to perform the needed modifications essential to any effort to "remanufacture" stockpiled weapon types should bear in mind a comment by one of the prominent scientists usually cited by CTBT proponents: Dr. Richard Garwin. In testimony before the Senate Foreign Relations Committee last week, Dr. Garwin declared: "I oppose modifying our nuclear weapons under the moratorium or under the CTBT."

Given historical experience and the scientific insights gleaned from it, no one who is serious about maintaining the U.S. deterrent for the indefinite future would argue that the existing inventory can be perpetuated without nuclear testing. Remanufactured weapons will have to be realistically tested, at least at low-yield levels, if we—and those we hope to deter—are to have confidence in their effectiveness.

[From the Center for Security Policy, Oct. 7, 1999]

Security Forum No. 99–F 23

SIX SECRETARIES OF DEFENSE URGE DEFEAT OF C.T.B.T.

(Washington, D.C.): In an unprecedented public statement of opposition to a signed arms control agreement, six former Secretaries of Defense—one of whom, Dr. James R. Schlesinger was also (among other things) a Secretary of Energy in the Carter Administration—have written the Republican and Democratic leaders of the U.S. Senate urging the defeat of the Comprehensive Test Ban Treaty (CTBT).

This authoritative description of the CTBT's defects and the deleterious repercussions its ratification would have for America's nuclear deterrent should be required reading for every Senator and every other participant in what is shaping up to be a momentous debate over the Nation's future security posture. In particular, this letter—which clearly benefits from Dr. Schlesinger's vast experience as a former Chairman of the Atomic Energy Commission, former Director of Central Intelligence as well as a former Secretary of Defense and Energy (in the latter capacity, he was instrumental in dissuading President Carter from pursuing the sort of permanent, zero-yield CTBT that the incumbent President hopes to ratify)—does much to rebut the putative "military" arguments being made on behalf of this accord.

OCTOBER 6, 1999.

DEAR SENATORS LOTT AND DASCHLE: As the Senate weighs whether to approve the Comprehensive Test Ban Treaty (CTBT), we believe Senators will be obliged to focus on one dominant, inescapable result were it to be ratified: over the decades ahead, confidence in the reliability of our nuclear weapons stockpile would inevitably decline, thereby reducing the credibility of America's nuclear deterrent. Unlike previous efforts at a CTBT, this Treaty is intended to be of unlimited duration, and though "nuclear weapon test explosion" is undefined in the Treaty, by America's unilateral declaration the accord is "zero-yield," meaning that all nuclear tests, even of the lowest yield, are permanently prohibited.

The nuclear weapons in our nation's arsenal are sophisticated devices, whose thousands of components must function together with split-second timing and scant margin for error. A nuclear weapon contains radioactive material, which in itself decays, and also changes the properties of other materials within the weapon. Over time, the components of our weapons corrode and deteriorate, and we lack experience predicting the effects of such aging on the safety and reliability of the weapons. The shelf life of U.S. nuclear weapons was expected to be some 20 years. In the past, the constant process of replacement and testing of new designs have some assurance that weapons in the arsenal would be both new and reliable. But under the CTBT, we would be vulnerable to the effects of aging because we could not test "fixes" of problems with existing warheads.

Remanufacturing components of existing weapons that have deteriorated also poses significant problems. Manufacturers go out of business, materials and production processes change, certain chemicals previously used in production are now forbidden under new environmental regulations, and so on. It is a certainty that new processes and materials—untested—will be used. Even more important, ultimately the nuclear "pits" will need to be replaced—and we will not be able to test those replacements. The upshot is that new defects may be introduced into the stockpile through remanufacture, and without testing we can never be certain that these replacement components will work as their predecessors did.

Another implication of the CTBT of unlimited duration is that over time we would gradually lose our pool of knowledgeable people with experience in nuclear weapons design and testing. Consider what would occur if the United States halted nuclear testing for 30 years. We would then be dependent on the judgment of personnel with no personal experience either in designing or testing nuclear weapons. In place of a learning curve, we would experience an extended unlearning curve.

Furthermore, major gaps exist in our scientific understanding of nuclear explosives. As President Bush noted in a report to Congress in January 1993, "Of all U.S. nuclear weapons designs fielded since 1958, approximately one-third have required nuclear testing to resolve problems arising after deployment." We were discovering defects in our arsenal up until the moment when the current moratorium on U.S. testing was imposed in 1992. While we have uncovered similar defects since 1992, which in the past would gave let to testing, in the absence of testing, we are not able to test whether the "fixes" indeed work.

Indeed, the history of maintaining complex military hardware without testing demonstrates the pitfalls of such an approach. Prior to World War II, the Navy's torpedoes had not been adequately tested because of insufficient funds. It took nearly two years of war before we fully solved the problems that caused our torpedoes to routinely pass harmlessly under the target or to fail to explode on contact. For example, at the Battle of

Midway, the U.S. launched 47 torpedo aircraft, without damaging a single Japanese ship. If not for our dive bombers, the U.S. would have lost the crucial naval battle of the Pacific war.

The Department of Energy has structured a program of experiments and computer simulations called the Stockpile Stewardship Program, that it hopes will allow our weapons to be maintained without testing. This program, which will not be mature for at least 10 years, will improve our scientific understanding of nuclear weapons and would likely mitigate the decline in our confidence in the safety and reliability of our arsenal. We will never know whether we should trust Stockpile Stewardship if we cannot conduct nuclear tests to calibrate the unproven new techniques. Mitigation is, of course, not the same as prevention. Over the decades, the erosion of confidence inevitably would be substantial.

The decline in confidence in our nuclear deterrent is particularly troublesome in light of the unique geopolitical role of the United States. The U.S. has a far-reaching foreign policy agenda and our forces are stationed around the globe. In addition, we have pledged to hold a nuclear umbrella over our NATO allies and Japan. Though we have abandoned chemical and biological weapons, we have threatened to retaliate with nuclear weapons to such an attack. In the Gulf War, such a threat was apparently sufficient to deter Iraq from using chemical weapons against American troops.

We also do not believe the CTBT will do much to prevent the spread of nuclear weapons. The motivation of rogue nations like North Korea and Iraq to acquire nuclear weapons will not be affected by whether the U.S. tests. Similarly, the possession of nuclear weapons by nations like India, Pakistan, and Israel depends on the security environment in the region not by whether or not the U.S. tests. If confidence in the U.S. nuclear deterrent were to decline, countries that have relied on our protection could well feel compelled to seek nuclear capabilities of their own. Thus, ironically, the CTBT might cause additional nations to seek nuclear weapons.

Finally, it is impossible to verify a ban that extends to very low yields. The likelihood of cheating is high. "Trust but verify" should remain our guide. Tests with yields below 1 kiloton can both go undetected and be militarily useful to the testing state. Furthermore, a significantly larger explosion can go undetected—or mistaken for a conventional explosion used for mining or an earthquake—if the test if "decoupled." Decoupling involves conducing the test in a large underground cavity and has been shown to dampen an explosion's seismic signature by a factor of up to 70. The U.S. demonstrated this capability in 1966 in two tests conducted in salt domes at Chilton, Mississippi.

We believe that these considerations render a permanent, zero-yield Comprehensive Test Ban Treaty incompatible with the Nation's international commitments and vital security interests and believe it does not deserve the Senate's advice and consent. Accordingly, we respectfully urge you and your colleagues to preserve the right of this nation to conduct nuclear tests necessary to the future of our nuclear deterrent by rejecting approval of the present CTBT.

Respectfully,

JAMES R. SCHLESINGER.
RICHARD B. CHENEY.
FRANK C. CARLUCCI.
CASPAR W. WEINBERGER.
DONALD H. RUMSFELD.
MELVIN R. LAIRD.

[From the Center for Security Policy, Oct. 7, 1999]

SECURITY FORUM

SENATOR LUGAR DELIVERS KISS-OF-DEATH TO CTBT

(Washington, DC): As the Senate prepares to open debate on the Comprehensive Test Ban Treaty (CTBT), arms control's preeminent Republican champion in the Senate, Sen. Richard Lugar (R-IN) has delivered what is surely the kiss-of-death for this accord. In a lengthy and detailed memorandum released today, Sen. Lugar declared "I will vote against the ratification of the CTBT."

The Senator's reasons for reaching what was clearly a wrenching decision are characteristically thoughtful and powerful explained in the following excerpts of his memorandum. The Center applauds Senator Lugar for his courageous leadership in this matter and commends his arguments to his colleagues—and to the American people on behalf of whose security they are made.

[Press Release from U.S. Senator Richard Lugar of Indiana, a Senior Member of the Senate Intelligence and Foreign Relations Committees and the Senate's National Security Working Group]

The Senate is poised to begin consideration of the Comprehensive Test Ban Treaty under a unanimous consent agreement that will provide for 14 hours of general debate, debate on two amendments, and a final vote on ratification. . . . In anticipation of the general debate, I will state my reasons for opposing ratification of the CTBT.

The goal of the CTBT is to ban all nuclear explosions worldwide: I do not believe it can succeed. I have little confidence that the verification and enforcement provisions will dissuade other nations from nuclear testing. Furthermore, I am concerned about our country's ability to maintain the integrity and safety of our own nuclear arsenal under the conditions of the treaty.

I am a strong advocate of effective and verifiable arms control agreements. As a former Vice-Chairman of the Senate Arms Control Observer Group and a member of the Foreign Relations Committee, I have had the privilege of managing Senate consideration of many arms control treaties and agreements.

* * * * *

I understand the impulse of the proponents of the CTBT to express U.S. leadership in another area of arms control. Inevitably, arms control treaties are accompanied by idealistic principles that envision a future in which international norms prevail over the threat of conflict between nations. However, while affirming our desire for international peace and stability, the U.S. Senate is charged with the constitutional responsibility of making hard judgments about the likely outcomes of treaties. This requires that we examine the treaties in close detail and calculate the consequences of ratification for the present and the future. Viewed in this context, I cannot support the treaty's ratification.

I do not believe that the CTBT is of the same caliber as the arms control treaties that have come before the Senate in recent decades. Its usefulness to the goal of nonproliferation is highly questionable. Its likely ineffectuality will risk undermining support and confidence in the concept of multilateral arms control. Even as a symbolic statement of our desire for a safer world, it is problematic because it would exacerbate risks and uncertainties related to the safety of our nuclear stockpile.

Stockpile Stewardship

The United States must maintain a reliable nuclear deterrent for the foreseeable future. Although the Cold War is over, significant threats to our country still exist. At present our nuclear capability provides a deterrent that is crucial to the safety of the American people and is relied upon as a safety umbrella by most countries around the world. One of the most critical issues under the CTBT would be that of ensuring the safety and reliability of our nuclear weapons stockpile without testing. The safe maintenance and storage of these weapons is a crucial concern. We cannot allow them to fall into disrepair or permit their safety to be called into question.

The Administration has proposed an ambitious program that would verify the safety and reliability of our weapons through computer modeling and simulations. Unfortuantely, the jury is still out on the Stockpile Stewardship Program. The last nine years have seen improvements, but the bottom line is that the Senate is being asked to trust the security of our country to a program that is unproven and unlikely to be fully operational until perhaps 2010. I believe a National Journal article, by James Kitfield, summed it up best by quoting a nuclear scientist who likens the challenge of maintaining the viability of our stockpile without testing to "walking an obstacle course in the dark when your last glimpse of light was a flash of lightning back in 1992."

The most likely problems facing our stockpile are a result of aging. This is a threat because nuclear materials and components degrade in unpredictable ways, in some cases causing weapons to fail. This is compounded by the fact that the U.S. currently has the oldest inventory in the history of our nuclear weapons programs.

Over the last forty years, a large percentage of the weapon designs in our stockpile have required post-deployment tests to resolve problems. Without these tests, not only would the problems have remained undetected, but they also, would have gone unprepaired. The Congressional Research Service reported last year that: "A problem with one warhead type can affect hundreds of thousands of individually deployed warheads; with only 9 types of warheads expected to be in the stockpile in 2000, compared to 30 in 1985, a single problem could affect a large fraction of the U.S. nuclear force." If we are to put our faith in a program other than testing to ensure the safety and reliability of our nuclear deterrent and thus our security, we must have complete faith in its efficacy. The Stockpile Stewardship Program falls well short of that standard.

The United States has chosen to re-manufacture our aging stockpile rather than creating and building new weapon designs. This could be a potential problem because many of the components and procedures used in original weapon designs no longer exist. New production procedures need to be developed and substituted for the originals, but we must ensure that the remanufactured weapons will work as designed.

I am concerned further by the fact that some of the weapons in our arsenal are not as safe as we could make them. Of the nine weapons designs currently in our arsenal, only one employs all of the most modern safety and security measures. Our nuclear weapons laboratories are unable to provide the American people with these protections because of the inability of the Stockpile Stewardship Program to completely mimic testing.

At present, I am not convinced the Stockpile Stewardship Program will permit our experts to maintain a credible deterrent in the absence of testing. Without a complete, effective, and proven Stockpile Stewardship program, the CTBT could erode our ability to discover and fix problems with the nuclear stockpile and to make safety improvements.

In fact, the most important debate on this issue may be an honest discussion of whether we should commence limited testing and continue such a program with consistency and certainty.

Verification

President Reagan's words "trust but verify" remain an important measuring stick of whether a treaty serves the national security interests of the United States. The U.S. must be confident of its ability to detect cheating among member states. While the exact thresholds are classified, it is commonly understood that the United States cannot detect nuclear explosions below a few kilotons of yield. The treaty's verification regime, which includes an international monitoring system and on-site inspections, was designed to fill the gaps in our national technical means. Unfortunately, the CTBT's verification regime will not be up to that task even if it is ever fully deployed.

Advances in mining technologies have enabled nations to smother nuclear tests, allowing them to conduct tests with little chance of being detected. Similarly, countries can utilize existing geologic formations to decouple their nuclear tests, thereby dramatically reducing the seismic signal produced and rendering the test undetectable. A recent Washington Post article points out that part of the problem of detecting suspected Russian tests at Novaya Zemlya is that the incidents take place in a large granite cave that has proven effective in muffling tests.

The verification regime is further bedeviled by the lack of a common definition of a nuclear test. Russia believes hydro-nuclear activities and sub-critical experiments are permitted under the treaty. The U.S. believes sub-critical experiments are permitted but hydro-nuclear tests are not. Other states believe both are illegal. A common understanding or definition of what is and what is not permitted under the treaty has not been established.

Proponents point out that if the U.S. needs additional evidence to detect violations, onsite inspections can be requested. Unfortunately, the CTBT will utilize a red-light inspection process. Requests for on-site inspections must be approved by at least 30 affirmative votes of members of the Treaty's 51-member Executive Council. In other words, If the United States accused another country of carrying out a nuclear test, we could only get an inspection if 29 other nations concurred with our request. In addition, each country can declare a 50 square kilometer area of its territory as off limits to any inspections that are approved.

The CTBT stands in stark contrast to the Chemical Weapons Convention in the area of verifiability. Whereas the CTBT requires an affirmative vote of the Executive Council for an inspection to be approved, the CWC requires an affirmative vote to stop an inspection from proceeding. Furthermore, the CWC did not exclude large tracts of land from the inspection regime, as does the CTBT.

The CTBT's verification regime seems to be the embodiment of everything the United States has been fighting against in the UNSCOM inspection process in Iraq. We have rejected Iraq's position of choosing and approving the national origin of inspectors. In addition, the 50 square kilometer inspection-free zones could become analogous to the controversy over the inspections of Iraqi presidential palaces. The UNSCOM experience is one that is best not repeated under a CTBT.

Enforcement

Let me turn some enforcement concerns. Even if the United States were successful in utilizing the laborious verification regime and non-compliance was detected, the Treaty is almost powerless to respond. This treaty simply has no teeth. Arms control advocates need to reflect on the possible damage to the concept of arms control if we embrace a treaty that comes to be perceived as ineffectual. Arms control based only on a symbolic purpose can breed cynicism in the process and undercut support for more substantive and proven arms control measures.

The CTBT's answer to illegal nuclear testing is the possible implementation of sanctions. It is clear that this will not prove particularly compelling in the decision-making processes of foreign states intent on building nuclear weapons. For those countries seeking nuclear weapons, the perceived benefits in international stature and deterrence generally far outweigh the concern about sanctions that could be brought to bear by the international community.

Further, recent experience has demonstrated that enforcing effective multilateral sanctions against a country is extraordinarily difficult. Currently, the United States is struggling to maintain multilateral sanctions on Iraq, a country that openly seeks weapons of mass destruction and blatantly invaded and looted a neighboring nation, among other transgressions. If it is difficult to maintain the international will behind sanctions on an outlaw nation, how would we enforce sanctions against more responsible nations of greater commercial importance like India and Pakistan?

In particularly grave cases, the CTBT Executive Council can bring the issue to the attention of the United Nations. Unfortunately, this too would most likely prove ineffective, given that permanent members of the Security Council could veto any efforts to punish CTBT violators. Chances of a better result in the General Assembly are remote at best.

I believe the enforcement mechanisms of the CTBT provide little reason for countries to forego nuclear testing. Some of my friends respond to this charge by pointing out that even if the enforcement provisions of the treaty are ineffective, the treaty will impose new international norms for behavior. In this case, we have observed that "norms" have not been persuasive for North Korea, Iraq, Iran, India and Pakistan, the very countries whose actions we seek to influence through a CTBT.

If a country breaks the international norm embodied in the CTBT, that country has already broken the norm associated with the Non-Proliferation Treaty (NPT). Countries other than the recognized nuclear powers who attempt to test a weapon must first manufacture or obtain a weapon, which would constitute a violation of the NPT. I fail to see how an additional norm will deter a motivated nation from developing nuclear weapons after violating the long-standing norm of the NPT.

Conclusion

On Tuesday the Senate is scheduled to vote on the ratification of the CTBT. If this vote takes place, I believe the treaty should be defeated. The Administration has failed to make a case on why this treaty is in our national security interests.

The Senate is being asked to rely on an unfinished and unproven Stockpile Stewardship Program. This program might meet our needs in the future, but as yet, it is not close to doing so. The treaty is flawed with an ineffective verification regime and a practically nonexistent enforcement process.

For these reasons, I will vote against ratification of the CTBT.

[From the Center for Security Policy, Oct. 12, 1999]

SECURITY FORUM NO. 99–F25

RICHARD PERLE DISCOUNTS ALLIES' OBJECTIONS TO SENATE REJECTION OF THE COMPREHENSIVE TEST BAN TREATY

(Washington, D.C.): In an op.ed. article slated for publication in a major British daily newspaper tomorrow, former Assistant Secretary of Defense Richard Perle puts in perspective recommendations made last week by the leaders of Britain, France and Germany that the Senate agree to the ratification of the Comprehensive Test Ban Treaty (CTBT). Mr. Perle—an accomplished security policy practitioner widely respected on both sides of the Atlantic and, indeed, around the world—powerfully argues that the objections heard from Messrs. Tony Blair, Jacques Chirac and Gerhard Schroeder in an op.ed. article published in the New York Times on 8 October should not dissuade the United States Senate for doing what American national security and interests dictate: defeating the CTBT.

PASSION'S SLAVE AND THE CTBT

(By Richard Perle)

Always generous with advice, a chorus of European officials has been urging the United States Senate to ratify the "Comprehensive Test Ban Treaty." Last Friday, Tony Blair, Jacques Chirac and Gerhard Schroeder (BC&S for short) issued what Will Hutton, writing in the Observer, called "a passionate appeal" to the American Senator whose votes will decide whether the United States signs up to the fanciful conceit that the CTBT will halt the testing of nuclear weapons.

Advice giving is contagious, and Hutton has some of his own: to encourage the U.S. to ratify the CTBT, he urged Britain and France to phase out their nuclear weapons entirely—a suggestion they will passionately reject.

Now, the prospect of crowning the Western victory in the Cold War with a piece of international legislation that will stop the spread of nuclear weapons is certainly appealing. After all, a signature on a piece of paper would be a remarkably cheap and efficient way to keep nuclear weapons out of the hands of Kim Jong-il, Saddam Hussein and the other 44 regimes now deemed capable of developing nuclear weapons.

So what explains the need for passionate appeals from politicians and strident comment from leader writers? Why doesn't the Senate congratulate its friends on their wise and timely counsel and vote to ratify the treaty?

I suspect that one reason is the Senators—or at least the more responsible among them—have actually read the treaty and understand how deeply flawed it is, how unlikely it is to stop nuclear proliferation or even nuclear testing, and how it has the potential to leave the United States with an unsafe, unreliable nuclear deterrent.

Arms control agreements—especially ones affecting matters as sensitive as nuclear weapons—must be judged both in broad concept and in the details of their implementation. As a device for ending all nuclear tests, the CTBT fails on both counts.

It is characteristic of global agreements like the CTBT that they lump together, under a single set of constraints, states that can be counted upon to comply and those which intend either to find and use loopholes—the CTBT is full of them—or to cheat to defeat the constraints of the agreement. To make matters worse, states joining global conventions, even if they do so in bad faith, obtain the same treatment as those who join in order to advance the proper purposes of the agreement.

There can be little doubt that Indian participation in the "atoms for peace program" facilitated New Dehli's acquisition of nuclear weapons by legitimating the construction of a Canadian designed reactor from which India extracted the nuclear material to make its first bomb. We now know that Saddam Hussein made full use of the information provided by Iraqi inspectors on the staff of the International Atomic Energy Agency (set up to police the Non-Proliferation Treaty) to conceal his clandestine nuclear weapons program. With knowledge of the sources and methods by which the IAEA attempts to ferret out cheating, Iraqis ensconced there (by virtue of Iraq's having signed the NPT) were better able to circumvent treaty's essential purpose.

In domestic affairs, no one would seriously propose that the police and criminals come together and sign agreements according to which they accept the same set of constraints on their freedom of action. Yet that is the underlying logic of the CTBT: a compact among nation states, some of which are current or likely criminals, others—the majority—respectful of international law and their treaty obligations. Because there can be no realistic hope of verifying compliance with the DTBT, this fundamental flaw, which is characteristic of global agreements, is greatly magnified. The net result of ratification of the CTBT would be (a) American compliance, which could leave the U.S. uncertain about the safety and reliability of its nuclear deterrent; and (b) almost certain cheating by one or more rogue states determined to acquire nuclear weapons.

Among the leaders in Congress who have taken a keen interest in arms control is Senator Richard Lugar from Indiana, a senior member of the Intelligence and Foreign Relations Committees. A frequent floor manager in favor of arms control legislation, he has supported every arms control treaty to come before the Senate and has often led the proponents in debate. Last week he announced that he would vote against ratification of the CTBT.

I would be willing to bet that Senator Lugar has spent more time studying this treaty than Blair, Chirac, Schroeder and Hutton combined—which may explain why his view of the treaty is one of reason and not passion. Senator Lugar opposes ratification—not because he shares my view that the treaty is conceptually flawed—but because he believes it cannot achieve its intended purpose but it could "risk undermining support and confidence in the concept of multi-lateral arms control."

Arguing that the CTBT is "not of the same caliber as the arms control treaties that have come before the Senate in recent decades." Lugar concludes that the treaty's usefulness is "highly questionable," and that it would "exacerbate risks and uncertainties related to the safety of our nuclear stockpile." He rightly points to the treaty's "ineffective verification regime" and "practically nonexistent enforcement process."

Senator Lugar's careful, detailed assessment of the treaty contrasts sharply with the rugby cheering section coming from the London, Paris and Berlin offices of BC&S. Do BC&S know that the treaty actually lacks a definition of the term "nuclear test?" Rushed to completion before the 1996 Presidential election, Clinton abandoned in midstream an effort to negotiate a binding definition. Do they know that advances in mining technology permit tests to be smothered so they cannot be detected? Do they understand the composition and complexities of the U.S. nuclear stockpile or the importance of future testing to overcome any potential problems? Can they get beyond their passion?

"Give me that man/That is not passion's slave, and I will wear him/In my heart's core . . ." Sound advice from Will (Shakespeare, not Hutton).

[From the Washington Times, Sept. 14, 1999]

THE COMPANY YOU KEEP

(By Frank Gaffney Jr.)

Today has been designated by proponents of the Comprehensive Test Ban Treaty (CTBT) to be the "CTBT Day of Action." The plan apparently is to use this occasion to flex the muscles of the unreconstructed anti-nuclear movement with phone calls barraging the Capitol Hill switchboard, a demonstration on the Capitol grounds, Senate speeches and other agitation aimed at intimidating Majority Leader Trend Lott and Foreign Relations Chairman Jesse Helms into clearing the way for this treaty's ratification.

An insight into the strategy was offered last Friday by Sen. Byron Dorgan, North Dakota Democrat, who suggested in the colloquy with Mr. Lott that he intended to tie the Senate into knots if hearings and action on the CTBT's resolution of ratification were not promptly scheduled. The Majority leader responded by indicating he had already spoke to Sen. Helms about scheduling such hearings. He added portentously, however, that "I cannot wait to hear how Jim Schlesinger describes the CTBT treaty. When he gets through damning it, they may not want more hearings."

Mr. Dorgan responded: "Mr. Schlesinger will be standing in a mighty small crowd. Most of the folks who are supporting this treaty are the folks who Sen. Lott and I have the greatest respect for who have served this country as Republicans and Democrats, and military policy analysts for three or four decades, going back to President Dwight D. Eisenhower."

This, then, is how the fight over the Comprehensive Test Ban Treaty is shaping up. It will be one in which the pivotal block of senators—mostly Republicans but possibly including a number of "New Democtats"—decide how they will vote less on the basis of the merits of this accord than on the company they will be keeping when they choose sides.

This is not an unreasonable response to a treaty that deals with a matter as complex as nuclear testing. Such testing is, after all, an exceedingly esoteric field, mostly science but with a fair measure of art thrown in. For the best part of the past 55 years, it has been recognized to be an indispensable methodology for ensuring the reliability, safety and effectiveness of America's nuclear deterrent.

Now, though, the Clinton administration would have us accept that it is no longer necessary, that our nuclear arsenal can continue to meet these exacting standards even if none of its weapons are tested via underground explosions ever again. This represents a stunning leap of logic (if not of faith), given the contrary argument made by many CTBT advocates in other contexts—notably, with respect to the F-22 and missile defenses. These weapons, we are told, cannot be tested enough; they should not be procured, let alone relied upon, the party line goes, unless and until the most exacting test requirements have been satisfied.

Whom is a senator to believe? The answer will not only determine his or her stance on the CTBT. It will also say a lot about the senator is question.

My guess—like Sen. Lott's—is that, at the end of the day, sufficient numbers of senators will be guided by James Schlesinger on a matter that threatens to propel the United States inexorably toward unilateral nuclear disarmament. Few people in the nation have more authority and credibility on this topic than he, the only man in history to have held the positions of chairman of the Atomic Energy Commission, director of central intelligence, secretary of defense and secretary of energy. Mr. Schlesinger's career has been made even more influential in the Senate by virtue of his service in both Republican and Democratic Cabinets.

Then there are the 50 or so senior security policy practitioners who last week wrote Mr. Lott an open letter advising him that "the nation must retain an arsenal comprising modern, safe and reliable nuclear weapons, and the scientific and industrial base necessary to ensure the availability of such weapons over the long term. In our professional judgment, the zero-yield Comprehensive Test Ban Treaty is incompatible with these requirements and, therefore, is inconsistent with America's national security interests.

Among the many distinguished signatories of this letter are: former U.N. Ambassador Jeane Kirkpatrick; two of President Reagan's National Security Advisers (Richard Allen and William Clark); former Attorney General Edwin Meese; and 10 retired four-star generals and admirals (including the former commandant of the Marine Corps, Gen. Louis Wilson). When these sorts of men and women challenge the zero-yield CTBT, as Mr. Schlesinger has done, on the grounds it will contribute to the steady erosion of our deterrent, will be impossible to verify and will make no appreciable contribution to slowing proliferation, responsible senators cannot help but be concerned.

To be sure, the Clinton administration and its arms control allies have generated their own letters offering "celebrity" endorsements of the CTBT. Senators weighing these endorsements, however, would be well-advised to consider the following, obviously unrehearsed statement of support for the Treaty given by one such prominent figure—the serving chairman of the Joint Chiefs of Staff, Gen. Hugh Shelton. It came last week in a congressional hearing in response to a softball question from Sen. Carl Levin, Michigan Democrat, about why Gen. Shelton thought the CTBT is in our national interest. The chairman responded by saying:

"Sir, I think from the standpoint of the holding back on the development of the testing which leads to wanting a better system, developing new capabilities, which then leads you into arms sales or into proliferation. Stopping that as early as we can, I think, is in the best interest of the international community in general, and specifically in the best interest of the United States."

Stripped of the veneer of this sort of support, the zero-yield Comprehensive Test Ban can be seen for what it is: the product primarily of the decades-long agitation of the looney left who, in their efforts to "disarm the ones they're with," have made themselves the kind of company few thoughtful senators should want to keep—on CTBT Day of Action or when the votes on this treaty ultimately get counted.

[From the Investor's Business Daily, Sept. 13, 1999]

Test Ban or Unilateral Disarmament Treaty?

(By Frank J. Gaffney Jr.)

The utopians in the Clinton camp have set their sights on another nuclear weapons treaty. It's not designed to preserve U.S. military capability, but rather to disarm it.

A major campaign is on to press the U.S. Senate to approve ratification of the controversial arms control accord, the Comprehensive Test Ban Treaty (CTBT). It's intended to ban permanently all nuclear weapons tests.

For the better part of 50 years, such testing has been relied upon by successive Republican and Democratic administrations to assure the safety, reliability and effectiveness of the nation's nuclear deterrent.

Now we are told by the Clinton team and its allies that our arsenal will be able to continue to meet this exacting standard for the indefinite future without conducting another underground detonation.

What is extraordinary is that the claim is being made by many of the same people who regularly rail that the Pentagon is not doing enough to test its weapons systems to ensure that they will perform as advertised.

For example, such critics challenge the realism of the two successful intercepts recently achieved by the Theater High Altitude Area Defense missile defense system. Then there is the complaint that too much computer modeling and too little rigorous pre-production testing has been done to permit further procurement of the Air Force's impressive next-generation fighter, the F–22.

So one might ask of CTBT proponents: Which is it going to be? Can we settle for computer modeling and simulations? Or is realistic testing essential if we are to trust our security and tax dollars to sophisticated weaponry?

Their answer? It depends: As long as the CTBT remains unratified, the administration position seems likely to remain that we can rely upon the current nuclear inventory, and simulations will assure their reliability. But simulations won't allow us to develop new weapons.

Thus, it would be hard to modernize the inventory as strategic circumstances change. For instance, how could we know if a new, deep-penetrating warhead will take out a hardened underground bunker if we can't test it?

Should the Senate give its advice and consent to this accord, however, that line seems sure to change. Then the CTBT's proponents will revert to form, free to acknowledge the obvious: The existing stockpile—comprised increasingly obsolescing weapons—cannot be maintained without testing, either. So by their logic, the next move would be to just retire all the weapons.

Consider the October 1997 congressional testimony of then-Assistant Secretary of Energy for Defense Programs Victor Reis: "Just about all the parts of our present nuclear weapons) are going to have to be remade." No responsible scientists could promise, in the absence of explosive testing, that completely remanufactured thermonuclear devices will work as advertised. And no one will be arguing that point more vociferously than the antinuclear activists who are pushing the CTBT.

When challenged on this score, the White House blithely asserts it is pursuing a $40 billion Stockpile Stewardship Program (SSP) to address such quality-control issues down the road.

Unfortunately, this capability will materialize—if at all—a long way down the road. It will take some 10 years to construct new facilities to house the various exotic experimental diagnostic technologies that are supposed to provide the same confidence about the performance of our nuclear stockpile as does nuclear testing.

Plus, no one knows for sure whether the SSP will actually pan out. Even before the CTBT is ratified, many of the treaty's supporters are urging Congress to delete the billions being sought each year for Lawrence Livermore Laboratory's National Ignition Facility and its counterpart facilities at the other nuclear labs.

Even if properly funded and brought on line as scheduled, though, it is unclear that the simulations provided by these experimental devices will be as accurate as underground detonations. And, of course, a test ban will preclude the one scientifically rigorous way of proving the simulations' accuracy.

The bottom line is that U.S. national security demands that we filed nothing but systematically and rigorously tested military systems, both conventional and nuclear. To be sure, computer simulations can contribute significantly to reducing the cost and the length of time it takes to develop and deploy such weapons. But we cannot afford to let any weapon—least of all the most important ones in our arsenal, our nuclear deterrent—go untested and unproven.

[From the Worldwide Weekly Defense News, Sept. 27, 1999]

Truth About Nuclear Testing Would Sink Test Ban Treaty

(By Frank Gaffney)

In the course of a Sept. 9 hearing before the U.S. Senate Armed Services Committee called to consider the nomination of Gen. Hugh Shelton to a second term as chairman of the Joint Chiefs of Staff, Sen. Carl Levin (D–Mich.) asked the general to explain why the Comprehensive Test Ban Treaty (CTBT) was in the national interest.

He responded in a halting, almost tortured fashion, saying: "Sir, I think from the standpoint of the holding back on the development of the testing which leads to wanting a better system, developing new capabilities, which then leads you into arms sales or into proliferation. Stopping that as early as we can, I think, is in the best interest of the international community in general, and specifically in the best interest of the United States."

Translation: Unless my staff gives me a written text, I can't begin to explain the logic of this arms control agreement, which would make it permanently illegal to test any U.S. nuclear weapons, even though we are going to rely upon such arms as the ultimate guarantor of our security for the foreseeable future. Still, the party line is that we support this treaty and I am going to do so, no matter what.

The administration of President Bill Clinton established in 1993, long before Shelton became Joint Chiefs chairman, that there would be no further testing of U.S. nuclear weapons, with or without a CTBT.

The general inherited a position adopted on his predecessor's watch and with the latter's support that would be politically costly at this late date to repudiate. The fact remains, however, that the idea of trying to ban all nuclear tests (the so-called zero-yield test ban) was opposed by the Joint Chiefs of Staff, among other relevant U.S. government agencies, before Clinton decided to embrace it.

The reason the U.S. military counseled against such an accord was elementary: It is widely understood that a zero-yield treaty cannot be verified. Other countries can, and must be expected to, exploit the inability of U.S. national technical means and international seismic monitors to detect covert, low-yield underground tests.

Since the United States would scrupulously adhere to a zero-yield ban, it would be enjoined from conducting experimental detonations necessary to maintaining the safety and reliability of its nuclear deterrent.

U.S. military leaders are not expected to be experts on nuclear nonproliferation or arms control. The government hires lots of other people to do those jobs. Unfortunately, many of the policy-makers responsible for those portfolios lack the integrity or common sense one expects of men and women in uniform, hence their claims that the CTBT will contribute to curbing the spread of nuclear weapons.

This is, of course, fatuous nonsense in a world in which a number of countries have acquired such weaponry without conducting known nuclear tests, and others seek to buy proven nuclear devices or the necessary know-how and equipment from willing sellers in Russia, China and Pakistan.

Neither should the leadership of the American armed forces be seen as adjuncts to an administration's political operation. Rather, what is expected from such leaders is their best professional military judgment, the unvarnished truth, no matter how politically incorrect or inconvenient it may be.

The United States cannot afford to allow its nuclear arsenal to continue to go untested (it has already been seven years since the last underground detonation occurred) any more than it could permit its national security to depend on untested conventional planes, tanks, missiles or ships.

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[From the Washington Post, Sept. 10, 1999]

A Test Ban That Disarms Us

When it comes to nuclear testing, nations will act in their perceived self-interest.

(By Charles Krauthammer)

Some debates just never go away. The Clinton administration is back again pressing Congress for passage of the Comprehensive Test Ban Treaty (CTBT). This is part of a final-legacy push that includes a Middle East peace for just-in-time delivery by September 2000.

The argument for the test ban is that it will prevent nuclear proliferation. If countries cannot test nukes, they will not build them because they won't know if they work. Ratifying the CTBT is supposed to close the testing option for would-be nuclear powers.

We sign. They desist, How exactly does this work?

As a Washington Post editorial explains, one of the ways to "induce would-be proliferators to get off the nuclear track" is "if the nuclear powers showed themselves ready to accept some increasing part of the discipline they are calling on non-nuclear others to accept." The power of example of the greatest nuclear country is expected to induce other countries to follow suit.

History has not been kind to this argument. The most dramatic counterexamples, of course, are rogue states such as North Korea, Iraq and Iran. They don't sign treaties and, even when they do, they set out to break them clandestinely from the first day. Moral suasion does not sway them.

More interesting is the case of friendly countries such as India and Pakistan. They are exactly the kind of countries whose nuclear ambitions the American example of restraint is supposed to mollify.

Well, then. The United States has not exploded a nuclear bomb either above or below ground since 1992. In 1993, President Clinton made it official by declaring a total moratorium on U.S. testing. Then last year, India and Pakistan went ahead and exploded a series of nuclear bombs. So much for moral suasion. Why did they do it? Because of this obvious, if inconvenient, truth: Nuclear weapons are the supreme military asset. Not that they necessarily will be used in warfare. But their very possession transforms the geopolitical status of the possessor. The possessor acquires not just aggressive power but, even more important, a deterrent capacity as well.

Ask yourself: Would we have launched the Persian Gulf War if Iraq had been bristling with nukes?

This truth is easy for Americans to forget because we have so much conventional strength that our nuclear forces appear superfluous, even vestigial. Lesser countries, however, recognize the political and diplomatic power conveyed by nuclear weapons.

They want the nuclear option. For good reason. And they will not forgo it because they are moved by the moral example of the United States. Nations follow their interests, not norms.

Okay, say the test ban advocates. If not swayed by American example, they will be swayed by the penalties for breaking an international norm.

What penalties? China exploded test after test until it had satisfied itself that its arsenal was in good shape, then quit in 1996. India and Pakistan broke the norm on nuclear testing and nonproliferation. North Korea openly flouted the Nuclear Non-Proliferation Treaty.

Were any of these countries sanctioned? North Korea was actually rewarded with enormous diplomatic and financial inducements—including billions of dollars in fuel and food aid—to act nice. India and Pakistan got slapped on the wrist for a couple of months.

That's it. Why? Because these countries are either too important (India) or too scary (North Korea). Despite our pretensions, for America too, interests trump norms.

Whether the United States signs a ban on nuclear testing will not affect the course of proliferation. But it will affect the nuclear status of the United States.

In the absence of testing, the American nuclear arsenal, the most sophisticated on the globe and thus the most in need of testing to ensure its safety and reliability, will degrade over time. As its reliability declines, it becomes unusable. For the United States, the unintended effect of a test ban is gradual disarmament.

Well, maybe not so unintended. For the more extreme advocates of the test ban, nonproliferation is the ostensible argument, but disarmament is the real objective. The Ban the Bomb and Nuclear Freeze movements have been discredited by history, but their adherents have found a back door. A nuclear test ban is that door. For them, the test ban is part of a larger movement: the war against weapons. It finds expression in such touching and useless exercises as the land mine convention, the biological weapons convention, etc.

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[From the Washington Post, June 7, 1998]

PAPER DEFENSE

(By George F. Will)

In the meadow of the president's mind, in the untended portion where foreign policy thoughts sprout randomly, this flower recently bloomed concerning the Indian and Pakistani nuclear tests: "I cannot believe that we are about to start the 21st century by having the Indian subcontinent repeat the worst mistakes of the 20th century."

What mistakes did he mean? Having nuclear weapons? Were it not for them, scores of thousands of Americans would have died in 1945 ending the fighting in the Pacific. And nuclear weapons were indispensable ingredients of the containment of the Soviet Union and its enormous conventional forces.

Perhaps the president meant that arms competitions were the "mistakes." But that thought does not rise to the level of adult commentary on the real historical contingencies and choices of nations.

This president's utterances on foreign policy often are audible chaff, and not even his glandular activities are as embarrassing as his sub-sophomoric pronouncement to India and Pakistan that "two wrongs don't make a right." That bromide was offered to nations weighing what they consider questions of national life and death.

U.S. policy regarding such tests has been put on automatic pilot by Congress's itch to micromanage and to mandate cathartic gestures, so the United States will now evenhandedly punish with economic sanctions India for its provocation and Pakistan for responding to it. Because India is stronger economically, the sanctions will be disproportionately injurious to Pakistan.

India has an enormous advantage over Pakistan in conventional military forces. (It has the world's fourth largest military establishment, although China's army is three times larger than India's.) That is one reason Pakistan believes it needs nuclear weapons. Economic sanctions will further weaken Pakistan's ability to rely on non-nuclear means of defense.

This should be a moment for Republicans to reassert their interest in national security issues, one of the few areas in which the public still regards them as more reassuring than Democrats. But the Republican who could be particularly exemplary, isn't. Arizona Sen. John McCain says the first thing to do is impose "sanctions which hurt" and the second is "to get agreements that they will not test again."

So, automatic sanctions having failed to deter either nation, Washington's attention turns, robotically, to an even more futile ritual—the superstition of arms control, specifically the Comprehensive Test Ban Treaty, which the United States signed in 1996, but which the Senate has prudently not ratified. The designation "superstition" fits because the faith of believers in arms control is more than impervious to evidence; their faith is strengthened even by evidence that actually refutes it.

Far from demonstrating the urgency of ratification, India's and Pakistan's tests demonstrate the CTBT's irrelevance. India had not tested since 1974. Pakistan evidently had never tested. Yet both had sufficient stockpiles to perform multiple tests. So the tests did not create new sabers, they were the rattling of sabers known to have existed for years. Indeed, in 1990, when fighting in the disputed territory of Kashmir coincided with Indian military exercises, the Bush administration assumed that both Pakistan and India had built weapons with their nuclear technologies and worried about a possible nuclear exchange.

The nonproliferation treaty authorizes international inspections only at sites declared to be nuclear facilities. Nations have been known to fib. The CTBT sets such a low-yield standard of what constitutes a test of a nuclear device, that verification is impossible.

Various of the president's policies, whether shaped by corruption, in competence of naivete, have enabled China to increase the lethality of its ICBMs. The president and his party are committed to keeping America vulnerable to such weapons: 41 senators, all Democrats, have filibustered legislation sponsored by Sens. Thad Cochran (R-Miss.) and Daniel Inouye (D-Hawaii) declaring it U.S. policy "to deploy effective anti-missile defenses of the territory of the United States as soon as technologically possible."

Instead, the administration would defend the nation with parchment—gestures like the CTBT, which is a distillation of liberalism's foreign policy of let's pretend. Let's pretend that if we forever forswear tests, other nations' admiration will move them to emulation. Diagnostic tests are indispensable for maintaining the safety and reliability of the aging U.S. deterrent inventory. So the CTBT is a recipe for slow-motion denuclearization. But let's pretend that if we become weaker, other nations will not want to become stronger.

Seeking a safer world by means of a weaker America and seeking to make America safe behind the parchment walls of arms control agreements, is to start the 21st century by repeating the worst fallacies of the 20th century.

[From the Wall Street Journal, Oct. 12, 1999]

. . . WOULD BE EVEN WORSE IF IT SUCCEEDED

(By Kathleen Bailey) .

It appears the Senate will either vote down the Comprehensive Test Ban Treaty or postpone a vote indefinitely. The treaty's supporters, led by President Clinton, argue that the CTBT is necessary to constrain nations that seek to acquire a workable nuclear weapons design. But the treaty would accomplish none of its proponents' nonproliferation goals. It would, however, seriously degrade the U.S. nuclear deterrent.

No treaty can stop a nation from designing and building a simple nuclear weapon with confidence that it will work. To do so doesn't require testing. One of the U.S. bombs dropped on Japan in 1945 was of a design that had never been tested, and South Africa built six nuclear weapons without testing.

By contrast, the U.S. today needs to test its nuclear weapons because they are more complex. They are designed to make pinpoint strikes against small targets such as silos. This dictates high-performance delivery systems, which, in turn, requires tight parameters on the allowable weight, size, shape, safety measures and yield.

Today's would-be proliferators are likely to target cities, not silos. The delivery vehicles may be ships, barges, trucks or Scud-type missiles. The exact yield of the weapon will not matter, and there will be no tight restrictions imposed by advanced delivery systems. Safety standards will not be a crucial issue.

CTBT proponents also contend that the treaty will promote nonproliferation by creating an international norm against nuclear weapons. But there is already a norm against additional nations acquiring nuclear weapons: the Nuclear Nonproliferation Treaty, signed by every major country except India, Israel and Pakistan.

The NPT norm against the pursuit of nuclear weapons, established when the treaty went into effect in 1970, has been broken repeatedly, and not just by the three countries that refused to sign it. The list of states that have broken or are thought to have broken the norm includes Argentina, Brazil, Iran, Iraq, North Korea, South Africa, South Korea and Taiwan.

It is true, as treaty proponents argue, that the CTBT will inhibit nuclear-weapons modernization. But this is not a plus. It would keep the U.S. from modernizing its nuclear arsenal to make it as safe as possible. Already there are new safety measures that could be incorporated into the American stockpile, making it less likely that weapons will explode accidentally—but the U.S. is not incorporating these new safety technologies because they would require low-yield nuclear testing.

Modernization is also needed to make U.S. weapons more effective against the ever-evolving countermeasures by opponents. We know that deeply buried targets are a new problem, as are biological weapons. America may need to tailor its arsenal to a totally different type of targets in the future, which would require nuclear testing.

While the treaty would inhibit U.S. modernization, it would not affect those that choose to cheat. It would be easy for Russia, China, and others to conduct nuclear tests without being detected. This is because the CTBT is not even minimally verifiable.

Effective verification entails having high confidence that militarily significant cheating will be detected in a timely manner. In the case of the CTBT, we need to know the answers to two questions: What yield nuclear test can provide militarily significant information? Can the CTBT verification system detect to that level?

Five hundred tons of yield is a very useful testing level, although not sufficient to gain full confidence in all aspects of an existing weapon's performance or to develop sophisticated new nuclear weapons. The latter goals could be achieved for most designs with tests at yields between one and 10 kilotons. Tests at levels as low as 500 tons may be militarily significant.

The International Monitoring System of the CTBT is expected to provide the ability to detect, locate and identify non evasive nuclear testing of one kiloton or greater. But most cheaters are likely to be evasive. By taking some relatively simple measures, they could test several kilotons with little risks of detection. One method by which they may do so is through energy decoupling—detonation of the device underground—that can reduce the seismic signal by as much as a factor of 70. Thus, a fully decoupled one-kiloton explosion would look seismically like at 14-ton explosion, or a 10-kiloton explosion like a 140-ton one.

On-site inspection will not solve the verification problem. Even if we knew that a test would conducted, we almost certainly would not know exactly where it took place. Without knowing the precise location, the search area would be too large for a meaningful inspection.

If the Senate ratified the CTBT, it's certain that the U.S. would comply with it, foreclosing America's ability to modernize its nuclear forces. But other nations have a history of noncompliance with arms-control treaties. Thus the limited political benefits of the CTBT are not worth the high cost to America's national security.

[From The New Republic, October 25, 1999]

THE FLAWED TEST BAN TREATY—POOR PACT

(By Frank J. Gaffney Jr.)

If current vote-counts prove accurate and no last-minute postponement is agreed to, the Senate will not provide the two-thirds support necessary to ratify the Comprehensive Test Ban Treaty (CTBT). Although the Clinton administration acts as if this would be disastrous for the struggle against nuclear proliferation, defeat of the CTBT would actually be a victory for American national security.

As the administration has implicitly conceded by sending Energy Secretary Bill Richardson on a last-minute trip to Russia to negotiate better verification procedures, many senators harbor deep concerns about the treaty's verifiability. They are right to do so. U.S. intelligence suspects (but cannot prove) that both the Russians and the Chinese have conducted covert nuclear tests in recent months. In fact, it is impossible to verify a total, or "zero-yield," ban on all nuclear testing, since foreign monitors cannot reliably differentiate covert low-yield explosions from earthquakes or conventional explosions.

This would be true even if the sort of worldwide seismic monitoring system to be established under the CTBT (thanks largely to the administration's decision to put U.S. intelligence assets at the service of a multilateral organization) were in place. For political, if not technical, reasons, the data compiled by the "international community" will probably be even less conducive to a finding of noncompliance than the iffy information the United States often gets on its own.

Treaty proponents point to the CTBT's provision for on-site inspections. Such inspections are far from automatic and can be stymied by U.N. Security Council members determined to block them. If nations exploit well-understood techniques for muffling the seismic shocks that such events precipitate ("decoupling"), they can increase the yield of their tests without getting caught—as the United States proved in its own 1960 experiment.

Even if the CTBT were fully verifiable, it would be irrelevant to the proliferation of nuclear weapons. Explosive testing is simply no longer the sine qua non of a nuclear development and acquisition program. From Israel to North Korea, countries have acquired atomic devices without conducting identified nuclear tests. (Pakistan and India conducted their recent tests for political, not technological, reasons, and the tests took place years after each of them had gotten the bomb.) Even Clinton's CTBT point man, National Security Council staffer Steve Andreason, has publicly stated that this treaty will not prevent countries from obtaining "simple" weapons—which can be all too useful for terrorism and blackmail.

While the CTBT will not have the benefits the administration claims, it will cost the United States dearly by making it impossible to maintain the U.S. nuclear deterrent over time. That will be the practical and ineluctable effect of denying those responsible for ensuring the safety, reliability, and effectiveness of this deterrent the tool that they have relied upon for the vast majority of the past 55 years: realistic, explosive testing. The exceedingly sophisticated nuclear weapons in the U.S. arsenal cannot prudently be kept "on the shelf" indefinitely. The current average age of these weapons is 14 years; they were only designed to be in service for 20. And none were planned or manufactured to remain viable in a no-test environment.

Indeed, experience suggests that problems with the nuclear deterrent probably exist already, going undetected ever since Congress voted to adopt a testing cutoff in 1992. On his last day in office, President Bush formally appealed for relief from this legislation, warning that "the requirement to maintain and improve the safety of our nuclear stockpile and to evaluate and maintain the reliability of the U.S. forces necessitates continued nuclear testing for those purposes, albeit at a modest level, for the foreseeable future." Although President Clinton tends to dissemble on this point, every administration until his recognized that periodic underground testing—at least at low levels of explosive "yield"—was necessary to detect and fix problems that unexpectedly, but chronically, appear even in relatively new weapons. Hence, no other president since World War II was prepared to accept the sort of permanent, zero-yield ban Clinton has embraced.

Moreover, the older the weapon, the more problematic it becomes to certify its safety and reliability through computer simulations alone. As complex nuclear arms age, their exotic metals, chemicals, and highly radioactive materials undergo changes that are exceedingly difficult to predict and model via computer methods. At a minimum, if such weapons are to be retained for the foreseeable future, they must be updated. As then-Assistant Secretary of Energy for Defense Programs Victor Reis told Congress in October 1997, "Just about all the parts [of the current arsenal's weapons] are going to have to be remade."

There are serious challenges to such a wholesale refurbishing program that even new experimental devices such as those being developed under the administration's more than $45 billion Stockpile Stewardship Program will not be able to address with certainty, at least not for the next decade or so. First, the production lines for building the stockpile's existing bombs and warheads were dismantled long ago. Reconstituting them would require a lot of time and money. And, even if the original designs could be faithfully replicated, one could never be certain they would work according to their specifications without realistic, explosive testing to validate the product.

Second, it is impossible to replicate some of the ingredients in weapons designed two decades ago or earlier; key components have become technologically obsolete, and no one would recommend using them when smaller, lighter, cheaper, and more reliable materials and equipment are now readily available. In addition, federal safety and health guidelines now prohibit the use of some of the components utilized in the original designs.

Third, most of those who were involved in designing and proving these weapons have left the industrial and laboratory complex, taking with them irreplaceable corporate memory. With continuing nuclear testing, all these problems could presumably be overcome. Without such testing, the United

States will be able neither to modernize its nuclear arsenal to meet future deterrent requirements nor to retain the high confidence it requires in the older weapons upon which it would then have to rely for the foreseeable future.

It is precisely for these reasons that the CTBT has been, to use Clinton's phrase, the "longest-sought, hardest-fought" goal of the anti-nuclear movement. Fortunately, more than 34 senators have figured out that, were it to be ratified, the CTBT would set the United States on the slippery slope to unilateral nuclear disarmament. Whenever the votes are finally tallied on this accord, will the "nays" include any of the Senate's self-described New Democrats—whose partisans brought Clinton and Al Gore to power on a platform that prominently featured a more tough-minded approach to national security and defense issues?

[From the Washington Times, Oct. 12, 1999]

TIME FOR A CTBT VOTE

(By Frank Gaffney, Jr.)

In 23 years of working on nuclear weapons policy and related arms control matters, I have never seen anything like what happened last Thursday. That was the day Sen. Richard Lugar, Indiana Republican, released a six-page press release detailing the myriad and compelling reasons that would cause him to vote against the Comprehensive Test Ban Treaty (CTBT).

What makes this development so extraordinary, of course, is that Dick Lugar has an unparalleled reputation in Washington for his commitment to arms control in particular and his willingness more generally to rise above politics in the interest of lending bipartisan heft to foreign policy initiatives he believes to be in the national interest. With apologies to the Smith Barney marketeers, when Mr. Lugar speaks on treaties, people listen.

Rarely has it been more important that his Senate colleagues do so. Indeed, the Indiana senator has offered a critique of the CTBT that should be required reading for anyone being asked to vote on this treaty. He summarizes the reasons why he will vote against this treaty as follows:

The goal of the Comprehensive Test Ban Treaty is to ban all nuclear explosions worldwide: I do not believe it can succeed. I have little confidence that the verification and enforcement provisions will dissuade other nations from nuclear testing. Furthermore, I am concerned about our country's ability to maintain the integrity and safety of our own nuclear arsenal under the conditions of the treaty.

The impact of so withering an assessment—backed up by pages of painstaking analysis—was evident on Sunday as syndicated columnist George Will accomplished the intellectual equivalent of rope-a-dope in an interview with Secretary of State Madeleine Albright on ABC News' "This Week" program. Mrs. Albright was reduced to sputtering as Mr. Will read from one section of Sen. Lugar's indictment after another, unable either to challenge the authority of the indicter or effectively to rebut his damning conclusions.

Instead, she worked rather tendentiously and unconvincingly through her talking points about how Senate opposition to the CTBT signals that "We are not as serious about controlling nuclear weapons as we should be." Nonsense. To the contrary, the opposition to this treaty can be justified as much on its adverse impact on "serious" efforts to control nuclear weapons as on the fact it will undermine the U.S. nuclear deterrent. As Sen. Lugar put it:

"I do not believe that the CTBT is of the same caliber as the arms control treaties that have come before the Senate in recent decades. Its usefulness to the goal of nonproliferation is highly questionable. Its likely ineffectuality will risk undermining support [for] and confidence in the concept of multilateral arms control. Even as a symbolic statement of our desire for a safer world, it is problematic because it would exacerbate risks and uncertainties related to the safety of our nuclear stockpile."

In short, by making it clear the Comprehensive Test Ban Treaty is incompatible with U.S. national security requirements and bad for arms control, Richard Lugar has delivered the kiss-of-death to the CTBT. Without his support, it is inconceivable that a two-thirds majority could be found in the Senate to permit ratification of this accord.

The question that occurs now is: Since the CTBT is so fatally flawed and so injurious, will the Senate's Republican majority agree to let it continue to bind the United States for the foreseeable future? That would be the practical effect of exercising the option a number of GOP senators (including, it must be noted, Mr. Lugar) hope President Clinton will allow them to exercise—unscheduling the vote this week and deferring further Senate action on the Comprehensive Test Ban until after the 2000 elections, at the earliest.

Under international law, that would mean only one thing: Until such time as our government makes it clear the CTBT will not be ratified, the United States will be obligated to take no action that would defeat the "object and purpose" of the CTBT. This would mean not only no resumption of testing. Under the Clinton administration, there will certainly be no preparations to conduct explosive tests either—or even actions to stop the steady, lethal erosion of the nation's technical and human capabilities needed to do so.

If national security considerations alone were not sufficiently compelling to prompt the Senate leadership to stay the course and defeat the treaty, the conduct of the president and his surrogates should be sufficient inducement. After all, administration spokesmen are using every available platform to denounce Republicans for playing "political" games with this treaty. (Never mind that the president and every one of his allies on CTBT in the Senate had a chance to reject the time-agreement that scheduled the vote. As long as they thought their side would prevail, the 14 hours of debate were considered to be sufficient; only when more accurate, and ominous, tallies were taken did the proponents begin to whine there was too little time for hearings and floor deliberation.)

Moreover, in refusing to date to commit not to push for a vote in an even more politically charged environment next year, the CTBT's champions are behaving in a manner that can only encourage GOP speculation that the president and his partisans have every intention of using whatever deferral they are granted to campaign against the Republican majority—with the hope not only of changing minds, but changing senators and even control of the Senate in the upcoming election.

With Dick Lugar arguing that the zero-yield, permanent Comprehensive Test Ban Treaty must be defeated, Senate Republicans can safely do what is right without fear of serious domestic political repercussions. And, while there will be much bellyaching around the world if the CTBT is rejected by the U.S. Senate, the real, lasting impact will not be to precipitate nuclear proliferation; it is happening now and will intensify no matter what happens on this treaty. Neither will it be to inflict mortal harm or "embarrassment" on the presidency. No one could do more to demean that office than the incumbent.

Rather, the most important—and altogether desirable—effect will be to re-establish the U.S. Senate as the Framers of the Constitution intended it to be: a co-equal with the president in the making of international treaties; a quality-control agent pursuant to the sacred principles of checks-and-balances on executive authority, one that if exercised stands to strengthen the leverage of U.S. diplomats in the future and assure that the arms control and other treaties they negotiate more closely conform to American security interests. Mr. Lugar put it very well in his formidable press release of last Thursday:

"While affirming our desire for international peace and stability, the U.S. Senate is charged with the constitutional responsibility of making hard judgments about the likely outcomes of treaties. This requires that we examine the treaties in close detail and calculate the consequences of ratification for the present and the future. Viewed in this context, I cannot support the [CTBT's] ratification."

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

PRIVILEGE OF THE FLOOR

Mr. SMITH of New Hampshire. Madam President, I ask unanimous consent that Cline Crosier on my staff be granted the privilege of the floor for the remainder of the debate on this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH of New Hampshire. Madam President, it was interesting to hear my colleague from Delaware. He is correct. I remember those signs, "One hydrogen bomb could ruin your day." I think the reason we are here today is a second hydrogen bomb that ruined their day. I think we need to make sure they understand we have the capability to respond in kind with weapons that will work. I think that is really the subject of the debate.

It takes a very confident person to criticize Edward Teller a little bit.

Mr. BIDEN. Madam President, if the Senator will yield, not on his scientific assessments, on his political judgment.

Mr. SMITH of New Hampshire. Right. The Senator from Delaware also said that if you can't verify the reliability or certify the reliability, you can always get out of the treaty. That is true. But my concern is, will it be too late to catch up at that point? How much time will have elapsed?

I wonder sometimes how the results of the cold war might have come out had we yielded to all of the arms control pressures and adopted every arms control agreement exactly as it was pushed upon us, not only in the Senate but also in the House over the years. I look at arms control agreements in the 1960s and 1970s and 1980s. In spite of the fact we had a full-scale Soviet expansion throughout the world and full-scale nuclear buildup and absolutely no verification for the most part and cheating year after year, time after time we still pushed hard for these arms control agreements.

Mr. BIDEN. Will the Senator yield for 30 seconds for me to respond? We did pass the ABM Treaty, SALT I treaty, the INF Treaty, the CFE Treaty, and we did it during the cold war.

Mr. SMITH of New Hampshire. And the Soviets violated every one of them.

Mr. BIDEN. They seem to work.

Mr. SMITH of New Hampshire. They work if you want to accept the fact that they violated it. We got lucky. That is the bottom line. As to the violations that President Reagan said trust but verify, in this particular case, I am not prepared to trust the North Koreans or the Libyans or the Iranians or the Iraqis or the Red Chinese, No. 1; and, No. 2, we cannot verify anything they are doing. That has been testified to over and over and over again.

I rise in very strong opposition to this Comprehensive Test Ban Treaty and, in doing so, know full well that we have one of the greatest communicators and spinners in American history in the White House. The idea will be that this will become a political debate in that how could anyone not be in favor of or how could anybody be opposed to a comprehensive test ban where we would ban the testing of nuclear weapons. That is the way it will be spun.

The answer is very simple. Because if you can't verify what the other side is doing, then you are at a disadvantage because we have the superiority of the arsenal. So if we don't verify that they are not testing, and we don't keep our stockpile up to speed because of that, and we don't know it is reliable and they do, then we are gradually losing that advantage. That is the issue.

In spite of all the spin we will hear over the next day or two after this treaty is voted on, that is the crux of the issue. Let us separate the spin. Let us take the politics out of this. Let us take the spin out of it and go right to the heart of it. We can't verify what they do, and if our stockpile is not reliable because we don't test, they gain on us.

The other point is, some of these nations, such as North Korea, might decide to test it on us and think nothing of it. Does anybody feel confident that the Iranians or the Iraqis would feel they had to test a nuclear weapon before they tried it on us? I don't feel that confident. I certainly don't think many in America do either. This treaty is wrong for our nuclear weapons program. It is wrong for America. It is wrong for the international community. It cannot be verified. It does not help us in maintaining our own stockpile.

Time after time the past several weeks, I have heard members of the administration try to spin this issue and claim that every President since Eisenhower has sought a comprehensive test ban. Basically, that is an attempt to hide the truth, to fool the American people into thinking this treaty would have had unanimous support from all of those Presidents. It wouldn't have had the unanimous support of those Presidents. To make those of us who oppose this treaty look as if we are standing out on the fringes is simply wrong. Yet that is the way it is reported. That is the way it is written. That is the way it will be spun tonight, tomorrow, and the next day by members of the administration as they move out on to the talk shows—at taxpayers' expense, I might add—and criticize those of us in the Senate who in good conscience vote against this treaty.

What they haven't told the American people about these Presidents is that not one single President—not Eisenhower, not Kennedy, Johnson, Nixon, Carter, no one, not Reagan—no one until Bill Clinton ever proposed a test ban of zero yield and unlimited duration—zero yield, unlimited duration.

In the past few days, the spin machines have been working overtime telling the American people this issue is far too critical to national security for the Senate to make such a rash decision on its ratification. The administration now wants to pull the treaty, saying we haven't had enough time to study it. For up until a week or two ago, they were pushing us for a vote on it.

My colleague from Delaware mentioned the coup in Pakistan, did that bother me. No, frankly. I don't think it has a heck of a lot to do with this decision. I don't like to see coups anywhere. They contribute to the instability in the world. But it has nothing to do, in my view, with the issue before us.

I would like to remind my colleagues, this treaty was signed by President Bill Clinton in 1996 and transmitted to the Senate in 1997. Over 2 years, we have had this treaty before us. One of the problems I have in the Senate is that it doesn't matter how much time you spend on something or how long something is before this body; the only time we try to get really involved in it is when we are about to vote on something. Then those who haven't done their homework want to come out here and say we need more time.

We have had plenty of time. I have had 5 years of hearings on this issue. I chaired them myself and have listened to people testify for the past 5 years on this issue. I remind my colleagues, just a few months ago the minority threatened to hold up every single piece of legislation that came to the Senate floor until we agreed to have a vote on the test ban treaty. Now they are criticizing us because we are having one. It was President Clinton and the minority who demanded the treaty be brought before the Senate; it was President Clinton and the minority who urged consideration; and it was President Clinton and the minority who scolded the majority for failing to act on this issue. That was 2, 3 weeks ago.

So when things go sour on the President, he has a unique way—and a very good way, frankly—of twisting things around to his benefit. We found that out here on the floor in a very important impeachment vote a few months ago. The President has been demanding a vote on this treaty for 2 years. Now he has it. But now it is our fault because he is not going to get the vote he wants. The President said in remarks on the 50th anniversary of the Chairmen of the Joint Chiefs of Staff, in August, 1999—not too many months ago—"I ask the Senate to vote for ratification as soon as possible." That was 2 months ago. He asked the Senate, "to give its advice and consent to the Comprehensive Test Ban Treaty this year."

The problem with the President is, he wants us to give consent, but he doesn't like our advice. That is the problem. The Constitution requires both advice and consent. This President needs to learn that the Senate is here to advise, and if you want the consent, then you need to advise and discuss. That is part of the process. It is part of the process in treaties, and it is part of the process in judicial nominations, and it is part of the process in other appointments in his administration. After 7 years, almost, he still hasn't learned that.

In his State of the Union, in 1998, President Clinton said, "Approve the Comprehensive Test Ban Treaty this year." That was last year. The Vice President, Mr. GORE, said, "The U.S. Congress should act now to ratify the Comprehensive Test Ban Treaty." That now was July 23, 1998.

Now, because the votes are going against him, he is now saying we need more time, don't vote now. It is just spin at its best, and he is good at it; there is no question about it. That was pure partisan politics because when the majority leader finally consented and offered to bring the treaty to the floor, it was objected to. Let's remind the American people of that. You can bet the President is not going to remind them of that. This treaty was objected to when the majority leader asked to bring it to the floor. Then he offered a second time to bring the treaty to the floor and this body agreed by unanimous consent to a debate and a vote.

Let me say again: Unanimously, we agreed to a debate and a vote.

The minority party had ample opportunity at that time to object on the grounds that we haven't had enough time to study the treaty. Why didn't they say so then? Because the answer is, that is not the issue. We have had plenty of time to study the treaty. "We haven't had enough time to have hearings," they said. The minority leader objected. Once the President sensed he was going to lose the vote, the spin machine began and he tried to figure out a way not to vote on what the President urged us so desperately to schedule in the first place—to avoid the vote he asked us to have.

I agreed with the President then that this treaty deserved consideration by the Senate. I wish we had more chance to advise, but he didn't choose that. So he asked for our consent. As it turns out, we are not going to give it to him. That is our constitutional right. It should not be spun and changed. It should be truthfully debated. We are all accountable. Some have said they don't want to vote on this treaty. I am not one of those people. We are here to be held accountable; we are here to vote. That is why we are here. If we disagree, we can vote against it. If we agree, we can vote for it.

My objection to this treaty is not based on partisan politics; it is based on careful, thoughtful study of the treaty and its implications both here in the United States and around the world. I believe the world will be more unstable—contrary to the feelings of my colleague from Delaware—not a more stable place, and America's nuclear deterrent capability will become more unreliable than at any time in the history of America if this treaty were to be ratified.

There are three points that would support that argument:

One, the Comprehensive Test Ban Treaty is not verifiable.

Two, the Comprehensive Test Ban Treaty will not stop proliferation.

Three—and perhaps most important—the Comprehensive Test Ban Treaty puts our nuclear arsenal at risk.

My job as chairman of the Strategic Subcommittee is to oversee that arsenal. I have been out to the labs, and I have had 5 or 6 years of hearings on these issues. Others will discuss the first two points in more depth than I will, and some have already. Let me focus on the third concern, which is that the Comprehensive Test Ban Treaty is not verifiable.

Last week, we saw reports in the media that the CIA admitted they were unable to verify key tests that may even be taking place today. We can't base our national security on an ability —which arguably may not exist—to detect an adversary's covert activity, and that the Comprehensive Test Ban Treaty will not stop proliferation. We already have a treaty in place to do that, the Non-Proliferation Treaty. This treaty has been violated repeatedly, over and over, year after year, by rogue nations that don't respect international law.

Do you think, with this kind of treaty, that every nation is going to have this great respect for international law and they are going to allow us total access to their country to verify this? When are we ever going to learn? Some have mentioned how futile the treaty would be in asking rogue nations not to test the same nuclear weapons they promised not to develop in the first place under the Non-Proliferation Treaty. And it is false hope that our adversaries will abide by international law if we just promise to do this treaty.

As I mentioned, the safety and reliability of the nuclear arsenal is my most serious concern. Rather than relying solely on the good intentions of other countries—and they may be good or they may not be—or on our ability to detect violations by other countries, my concern is ensuring that we remain capable of providing the safeguard and nuclear deterrent that won the cold war. That is what won the cold war—the fact that other nations knew what would happen. They knew what would happen if they messed with us; we had the arsenal.

The linchpin of this treaty, as I see it, is whether or not you believe the United States can maintain a safe, credible, and reliable nuclear arsenal, given a zero-yield ban in perpetuity. The Stockpile Stewardship Program is really at the heart of this matter. If you think that we can have a reliable nuclear arsenal, with a zero-yield ban, in perpetuity, you should be for this treaty. Even the Secretary of Defense, William Cohen, has illustrated this point. This was 2 days ago. I want this to be listened to carefully. During testimony before the Armed Services Committee.

> Senator SNOWE. Would you support ratification of this treaty without the Stockpile Stewardship Program?
>
> Secretary COHEN. No.
>
> Senator SNOWE. No? So then, obviously, you are placing a great deal of confidence in this program.
>
> Secretary COHEN. I oppose a unilateral moratorium, without some method of testing for the safety and security and reliability of our nuclear force. The question right now is, does the Stockpile Stewardship Program give us that assurance? If there is doubt about it, then, obviously, you would say we cannot rely upon it and we should go back to testing.

Let me repeat that last line:

> If there is doubt about it, then, obviously, you would say we cannot rely upon it and we should go back to testing.

Well, that is a critical point. Which of us would knowingly ratify a treaty that was advertised to put the safety, reliability, and credibility of the United States nuclear deterrent stockpile at risk and place the lives of the American people at risk? None of us would do that. Certainly not us, not the Secretary, not anybody. But that is the linchpin. If you believe in the Stockpile Stewardship Program, a series of computer simulations and laser experiments—that is what the program is, that we don't need to test, and that we do these computer tests and laser experiments—if you think that can sufficiently guarantee the safety and reliability of our nuclear weapons program, without testing of any kind forever—forever—then you should vote for the treaty because that is what this is about. As the Senator from Delaware said, you can get out of the treaty, but if you don't like what is going on, then it is too late.

If, however, you do not believe that the Stockpile Stewardship Program can sufficiently guarantee the safety and reliability of our nuclear weapons programs, then you should vote against the treaty.

Well—as Chairman of the Strategic Forces Subcommittee, I have oversight of all three of the Nation's nuclear laboratories—Los Alamos, Lawrence Livermore, and Sandia. I have been to the labs, I have seen the computer simulations, I have talked with the physicists and programmers. Just last February Senator LANDRIEU and I traveled to Lawrence Livermore Lab for a field hearing and a very productive set of tours and briefings.

Based on my experience—based on what I've seen, I don't have the confidence that the Stockpile Stewardship Program can sufficiently guarantee the safety and reliability of our nuclear weapons arsenal—forever—without any testing of any kind.

But don't just take my word for it—after all I'm not a physicist—I'm not a nuclear lab director. To settle the question about whether this Stockpile Stewardship Program can guarantee the safety and reliability of our nuclear weapons, we must turn to those lab directors, the men directly responsible for administering, executing, and overseeing the Stockpile Program.

Those three gentlemen testified before the Armed Services Committee just last week, and I think it is absolutely critical to share that testimony with my colleagues as we debate this treaty.

Dr. John Browne, Director of Los Alamos National Laboratory, had this to say about the condition and reliability of the Stockpile Stewardship Program:

> Maintaining the safety and reliability of our nuclear weapons without nuclear testing is an unprecedented technical challenge.
>
> The Stockpile Stewardship Program is working successfully toward this goal, but it is a work in progress.
>
> There are simply too many processes in a nuclear explosion involving too much physics detail to perform a complete calculation. At present, with the most powerful supercomputers on Earth, we know that we are not doing calculations with sufficient accuracy and with sufficient detail to provide maximum confidence in the stockpile.

> We know that we do not adequately understand instabilities that occur during the implosion process and we are concerned about the aging of high explosives and plutonium that could necessitate remanufacture of the stockpile.
>
> We do not know the details of how this complex, artificially produced metal (plutonium) ages, including whether pits fail gradually, giving us time to replace them with newly manufactured ones, or whether they fail catastrophically in a short time interval that would render many of our weapons unreliable at once.
>
> It is important to note that even with a complete set of tools we will not be able to confirm all aspects of weapons safety and performance. Nuclear explosions produce pressures and temperatures that cannot be duplicated in any current or anticipated laboratory facility. Some processes simply cannot be experimentally studied on a small scale because they depend on the specific configuration of material at the time of the explosion.
>
> On the basis of our experience in the last 4 years, we continue to be optimistic that we can maintain our nuclear weapons without testing. However, we have identified many issues that increase risk and lower our level of confidence.

Dr. Bruce Tarter, Director of Lawrence Livermore National Laboratory testified:

> We have not been able to meet the deadlines of the program as we thought we could.
>
> It (the stockpile stewardship program) hasn't been perfect—the challenge lies in the longer term.
>
> The stockpile stewardship program is an excellent bet—but it's not a sure thing.

Dr. Paul Robinson, director of Los Alamos National Laboratory, which is responsible for the engineering of more than 90 percent of the component parts of all U.S. nuclear warheads, provided an even more ominous testimony.

> There is no question from a technical point of view, actual testing of designs to confirm their performance is the desired regimen for any high-technology device.
>
> For a device as highly consequential as a nuclear weapon, testing of the complete system both when it is first developed and periodically throughout its lifetime to ensure that aging effects do not invalidate its performance, is also the preferred methodology.
>
> I could not offer a proof, nor can anyone, that such an alternative means of certifying the adequacy of the U.S. stockpile will be successful. I believe then as I do now that it may be possible to develop the stockpile stewardship approach as a substitute for nuclear testing for keeping previously tested nuclear weapon designs safe and reliable. However, this undertaking is an enormous challenge which no one should underestimate, and will carry a higher level of risk than at any time in the past.
>
> The difficulty we face is that we cannot today guarantee that stockpile stewardship will be ultimately successful; nor can we guarantee that it will be possible to prove that it is successful.
>
> Confidence in the reliability and safety of the U.S. nuclear weapons stockpile will eventually decline without nuclear testing.
>
> The stockpile stewardship program—though essential for continual certification of the stockpile—does not provide a guarantee of perpetual certifiability.
>
> I have always said actual testing is preferred method—to do otherwise is acceptable risk.
>
> I cannot ensure the program will mature in time to ensure safety and reliability of our nuclear weapons stockpile in the future.
>
> I have always felt if you are betting your country—you better be conservative.

I find this testimony absolutely chilling. I am not willing to "Bet my country" on the stockpile stewardship program. America's lab directors who are directly responsible for the execution of the stockpile stewardship program testified before Congress that this program cannot guarantee the future security or stability or our nuclear weapons. I am not willing to accept any risk. I will not risk the lies of the American people on a program who's director—empowered by the President with the responsibility for running that program—are so very uncertain about its reliability.

On the basis of the expert testimony of these three lab Directors alone, if any Senators had any doubt about how they would vote on this treaty—it should now be gone!

And I cannot for the life of me understand why the President would ask the Senate to ratify a treaty that lives or dies based on the stockpile stewardship program—a program that our lab Directors are telling us they cannot guarantee!

If we ratify this treaty, there is a very high probability we will have to start looking for a way out of it within 10–15 years—maybe even sooner. I don't understand entering into a treaty you know full well you may have to pull out of almost as soon as it goes into effect.

Now, supporters of the treaty will point out that if in fact the lab Directors, and the Secretary of Energy all agree in 10 years that the stockpile stewardship isn't working, the President, in consultation with Congress, can just pull us out of the treaty.

Well, treaties tend to take on a life of their own, and I do not believe it would be that easy. Just look at the ABM Treaty of 1972. Our co-signer, the U.S.S.R. doesn't even exist anymore, and although there is overwhelming agreement between the defense and intelligence communities, and the American public, that our national interests are at stake, the President still opposes pulling out of the ABM Treaty!

The Nuclear Test Ban Treaty of 1963 and the Nuclear Nonproliferation Treaty of 1968 are two more examples. These treaties have both been violated. But have we pulled out of either one despite the legal right to do so—absolutely not!

My friends and colleagues, it makes no sense to ratify a treaty that our own nuclear experts tell us we may have to negotiate a way out of within a decade.

This treaty is dangerous and ill-advised. It places our nuclear stockpile, and hence our nuclear deterrent capability, at considerable risk. This treaty is bad for America, and it is bad for the international community, and I will vote against it.

That is if I'm given the opportunity to vote against it. While Senate Democrats and the White House are back pedaling furiously, some in the Senate are anxious to rescue them from their miscalculation and deliver them from a major legislative defeat. It might be tempting to view this as a "win-win" situation for those who oppose the treaty. The reasoning goes like this: If we effectively kill this flawed treaty without a vote, we will have forced the White House to back down, and have won without letting the White House accuse us of killing the treaty. This is superficially appealing. But it is a strategy for, at best, a half-victory, and at worst, a partial defeat.

Postponing a vote on the CTBT will allow the White House to claim victory in saving the treaty, and will allow the White House to continue to spin the American people by blaming opponents for not ratifying the treaty. There is no conservative victory in that.

Every single Senator knows today how he or she will vote on this treaty. More debate and more hearings won't change that. It's time to put partisan politics aside and stand firm on our beliefs. The die is cast, and Republicans and Democrats alike have staked out their positions. It's time for Senators to stand by those positions and vote their conscience. Mr. President, I oppose postponing the vote on this treaty, and I urge my colleagues to do the same.

Mr. President, I yield the floor.

Mr. HELMS. I feel obliged to observe that the United States has already flirted with an end to nuclear testing—from 1958 to 1961. It bears remembering that the nuclear moratorium ultimately was judged to constitute an unacceptable risk to the nation's security, and was terminated after just three years. On the day that President Kennedy ended the ban—March 2, 1962—he addressed the American people and said:

> We know enough about broken negotiations, secret preparations, and the advantages gained from a long test series never to offer again an uninspected moratorium. Some urge us to try it again, keeping our preparations to test in a constant state of readiness. But in actual practice, particularly in a society of free choice, we cannot keep top flight scientists concentrating on the preparation of an experiment which may or may not take place on an uncertain date in the future. Nor can large technical laboratories be kept fully alert on a standby basis waiting for some other nation to break an agreement. This is not merely difficult or inconvenient—we have explored this alternative thoroughly and found it impossible of execution.

This statement is very interesting. It makes clear that the fundamental problems posed by a test ban remain unchanged over the past 27 years. The United States certainly faces a Russian

Federation that is engaging in "secret preparations" and likely is engaging in clandestine nuclear tests relating to the development of brand-new, low-yield nuclear weapons. The United States, on the other hand, cannot engage in such nuclear modernization while adhering to the CTBT.

Likewise, the Senate is faced with the same verification problem that it encountered in 1962. As both of President Clinton's former intelligence chiefs have warned, low-yield testing is undetectable by seismic sensors. Nor does the United States have any reasonable chance of mobilizing the ludicrously high number of votes needed under the treaty to conduct an on-site inspection. In other words, the treaty is unverifiable and there is no chance that cheaters will ever be caught.

This is not my opinion. This is a reality, given that 30 of 51 countries on the treaty's governing board must approve any on-site inspection. Even the President's own senior arms controller—John Holum—complained in 1996 that "treaty does not contain . . . our position that on-site inspections should proceed automatically unless two-thirds of the Executive Council vote "no." Instead of an automatic green light for inspections, the U.S. got exactly the opposite of what it requested.

But most importantly, in 1962 President Kennedy correctly noted that the inability to test has a pernicious and corrosive effect—not just upon the weapons themselves (which cannot be fully remanufactured under such circumstances)—but upon the nation's nuclear infrastructure. Our confidence in the nuclear stockpile is eroding even as we speak. Again, this is not my opinion. It is a fact which has been made over and over again by the nation's senior weapons experts.

In 1995, the laboratory directors compiled the following two charts which depict two simple facts: (1) that even with a successful science-based program, confidence will not be as high as it could be with nuclear testing; and (2) even if the stockpile stewardship program is completely successful by 2010, the United States will not be able to design new weapons, and will not be able to make certain types of nuclear safety assessments and stockpile replacements.

Senators will notice that, on both charts, there is mention of "HN" (e.g. hydronuclear) and 500 ton tests. The laboratory directors, in a joint statement to the administration in 1995, said: "A strong Stockpile Stewardship and Management Program is necessary to underwrite confidence. A program of 500-ton experiments would significantly reduce the technical risks."

This judgment has not changed over the past several years. Both weapons laboratory directors stated in 1997 that nuclear testing would give the United States greater confidence in the stockpile.

So as I listen to these claims that the United States is "out of the testing business," I make two basic observations. First, we are only out of the testing business because President Clinton has taken us out. There is no legal barrier today to conducting stockpile experiments. The reason is purely political. Indeed, the White House is using circular logic. The United States is not testing because the White House supports the test ban treaty; but the White House is claiming that because we are not testing, we should support the treaty.

Second, I remind all that the United States thought it was out of the testing business in 1958, only to discover how badly we had miscalculated. President Kennedy not only ended the 3-year moratorium, but embarked upon the most aggressive test series in the history of the weapons program. If Senators use history as their guide, they will realize that the CTBT is a serious threat to the national security of the United States.

Mr. McCAIN. Mr. President, I rise today to express my very grave concerns over the path down which we are heading. The United States Senate is on the verge of voting down a treaty the intent of which is consistent with U.S. national security objectives, but the letter and timing of which are fraught with serious implications for our security over the next decade.

Mr. President, I will vote against ratifying the Comprehensive Test Ban Treaty. This is not a vote I take lightly. I am not ideologically opposed to arms control, having voted to ratify the START Treaty and the Chemical Weapons Convention. But, my concerns about the flaws in this Treaty's drafting and in the administration's plan for maintaining the viability of the stockpile leave me no other choice.

On October 5, Henry Kissinger, John Deutch and Brent Scowcroft wrote to the majority and minority leaders stating their serious concerns with the Senate's voting on the treaty so far in advance of our being able to implement its provisions and relying solely on the Stockpile Stewardship Program. They noted that ". . . few, if any, of the benefits envisaged by the treaty's advocates could be realized by Senate ratification now. At the same time, there could be real costs and risks to a broad range of national security interests—including our nonproliferation objectives—if [the] Senate acts prematurely." These are sage words that should not be taken lightly by either party in the debate on ratification.

In the post-cold-war era, a strong consensus exists that proliferation of weapons of mass destruction is our single greatest national security concern. Unfortunately, a ban on nuclear testing, especially when verification issues are so poorly addressed, as in this treaty, will not prevent other countries from developing nuclear weapons. A number of countries have made major strides in developing nuclear weapons without testing. South Africa and Pakistan both built nuclear stockpiles without testing; North Korea may very well have one or two crude nuclear weapons sufficient for its purposes; and Iraq was perilously close to becoming a nuclear state at the time it invaded Kuwait. Iran has an active nuclear weapons program, and Brazil and Argentina were far along in their programs before they agreed to terminate them. Testing is not necessary to have very good confidence that a first generation nuclear weapon will work, as the detonation over Hiroshima, utilizing a design that had never been tested, demonstrated more than half-a-century ago.

Whenever an arms control agreement is debated, the issue of verification rightly assumes center stage. That is entirely appropriate, as the old adage that arms control works best when it is needed least continues to hold true. That the leaders of Great Britain, France, and Germany support ratification is less important than what is going on inside the heads of the leaders of Russia, China, India, Pakistan, Iraq, Iran, and North Korea. We don't need arms control agreements with our friends; we pursue arms control as a way of minimizing the threat from those countries that may not have our national interests at heart. Some of the countries with active nuclear weapons programs clearly fall into that category. On that count, the Comprehensive Test Ban Treaty falls dangerously short.

In order to fully comprehend the complexity of the verification issue, it is important to understand the distinction between monitoring and verifying. Monitoring is a technical issue. It is the use of a variety of means of gather information—in other words, detecting that an event took place. Verification, however, is a political process.

Even if we assume that compliance with the treaty can be monitored—and I believe very strongly, based in part on the CIA's recent assessment, that that is not the case—we are left with the age-old question posed most succinctly some 40 years ago by Fred Ikle: After Detection—What? What are we to make of a verification regime that is far from prepared to handle the challenges it will confront. For example, we are potentially years from an agreement among signatories on what technologies will be employed for monitoring purposes. More importantly, the treaty requires 30 disparate countries to agree to a challenge on-site inspection when 19 allies couldn't agree on how to conduct air strikes against Yugoslavia?

Furthermore, we are being asked to accept arguments on verification by an administration that swept under the rug one of the most egregious cases of proliferation this decade, the November 1992 Chinese transfer of M-11 missiles to Pakistan, and that continues to cling tenaciously to the ABM Treaty despite the scale of global change that has occurred over the last 10 years.

In determining whether to support this treaty at this time, it is essential that we examine the continued importance of nuclear weapons to our national security. Last week's testimony by our nuclear weapons lab directors that the Stockpile Stewardship Program will not be a reliable alternative to nuclear testing for five to 10 years is a clear and unequivocal statement that ratification of this treaty is dangerously premature. General John Vessey noted in his letter to the chairman of the Armed Services Committee that the unique role of the United States in ensuring the ultimate security of our friends and allies, obviating their requirement for nuclear forces in the process, remains dependent upon our maintenance of a modern, safe and reliable nuclear deterrent. As General Vessey pointed out, "the general knowledge that the United States would do whatever was necessary to maintain that condition certainly reduced the proliferation of nuclear weapons during the period and added immeasurably to the security cooperation with our friends and allies." This sentiment was also expressed by former Secretaries of Defense Schlesinger, Cheney, Carlucci, Weinberger, Rumsfeld, and Laird, when they emphasized the importance of the U.S. nuclear umbrella and its deterrent value relative not just to nuclear threats, but to chemical and biological ones as well.

The immensely important role that a viable nuclear deterrent continues to play in U.S. national security strategy requires the United States to be able to take measures relative to our nuclear stockpile that are currently precluded by the Test Ban Treaty. Our stockpile is older today than at any previous time and has far fewer types of warheads—a decrease from 30 to nine—than it did 15 years ago. A fault in one will require removing all of that category from the stockpile. The military typically grounds or removes from service all of a specific weapons system or other equipment when a serious problem is detected. Should they act differently with nuclear warheads? Obviously not.

Finally, this treaty will actually prevent us from making our nuclear weapons safer. Without testing, we will not be able to make essential safety improvements to our aging stockpile—a stockpile that has already gone seven years without being properly and thoroughly tested.

I hope the time does arrive when a comprehensive ban on nuclear testing will be consistent with our national security requirements. We are simply not yet there. I will consider supporting a treaty when alternative means of ensuring safety and reliability are proven, and when a credible verification regime is proposed. Until then, the risks inherent in the administration's program preclude my adopting a more favorable stance.

These are the reasons that I must vote against ratification of the Comprehensive Test Ban Treaty at this time. The viability of our nuclear deterrent is too central to our national security to rush approval of a treaty that cannot be verified and that will facilitate the decline of that deterrent. Preferably, this vote would be delayed until a more appropriate time, but, barring that, I cannot support ratification right now.

The operative phrase, though, is "right now." The concept of a global ban on testing has considerable merit. Defeating the treaty would not only imperil our prospects of attaining that objective at some future point, it would in all likelihood send a green light to precisely those nations we least want to see test that it is now okay to do so. Such a development, I think we can all agree, is manifestly not in our national interest.

In articulating his reasons for continuing to conduct nuclear tests, then-President Kennedy stated that, "If our weapons are to be more secure, more flexible in their use and more selective in their impact—if we are to be alert to new breakthroughs, to experiment with new designs—if we are to maintain our scientific momentum and leadership—then our weapons progress must not be limited to theory or to the confines of laboratories and caves." This is not an obsolete sentiment. It rings as true today as when President Kennedy uttered those words 37 years ago.

I thank the Chair.

Mr. HATCH. Mr. President, today the Senate debates an arms control treaty of idealistic intent, vague applicability, and undetermined effects. Given today's state of scientific, geopolitical and military affairs, I must vote against the resolution of ratification of the Comprehensive Test Ban Treaty, a treaty that will lower confidence in our strategic deterrent while creating an international regime that does not guarantee an increase in this country's security.

On balance—and these matters are often concluded on balance, as rarely are we faced with clear-cut options—it is my reasoned conclusion that the CTBT does not advance the security of this nation.

Some people think that, by passing the CTBT, we will be preventing the horrors of nuclear war in the future. There is great emotional content to this argument.

But in deliberations about a matter so grave, I had to apply a rational, logical analysis to the affairs of nations as I see them. And, on reflecting on half a century of the nuclear era, I can only conclude that it is the nuclear strategic deterrent of this country that is the single most important factor in explaining why this country has not been challenged in a major military confrontation on our territory. We emerged victorious from the cold war without ever engaging in a global "hot" war.

Despite the security we have bought with our nuclear deterrent, the world we live in today is more dangerous than the cold war era. Today, we are faced with the emergence of new international threats. These include rogue states, such as Iraq, Sudan, and North Korea; independent, substate international terrorists, such as Osama bin Laden; and international criminal organizations that may facilitate funds and, perhaps, nuclear materials to flow between these actors. Some of these actors, of course, can and have developed the "poor man's" nukes, as they are called: biological and chemical weapons.

It is to the credit of the serious proponents of this treaty that they have not argued that this treaty can effectively prevent these new actors on the global scene from developing primitive nuclear weapons—which can be built without tests. The CTBT does not prevent them from stealing or buying tactical nuclear weapons that slip unsecured out of Russian arsenals. The CTBT cannot prevent or even detect low-yield testing by rogue states which have a record of acting like treaties aren't worth the paper they're written on. These are the threats we face today.

In this new threat environment, the proponents of this treaty suggest that we abandon testing to determine the reliability of our weapons, to increase their safety, and to modernize our arsenal.

Yet we have recent historical evidence that our nuclear deterrent is a key factor in dealing with at least some of these actors. Recall that, in the gulf war, Saddam Hussein did not use his chemical and biological weapons against the international coalition. This was not because Saddam Hussein was respecting international norms. It was solely because he knew the United States had a credible nuclear deterrent that we reserved the right to use.

Proponents of the Comprehensive Test Ban Treaty argue that scientific tests at the sub-critical level can replace testing as the methodology to ensure the reliability and safety of our nuclear arsenal, which, we all know, has not been tested since 1992. The question of reliability of our deterrent is absolutely essential to this nation's security. And yet the proponents of our science-based alternative program to testing—known as the Stockpile Stewardship Program—all acknowledge that this critical replacement to testing is not in place today and will not be fully developed until sometime in the next decade.

Even if the Stockpile Stewardship Program is fully operational in 2005, as the most optimistic representations suggest, that will be more than 10 years since we have had our last tests. After a decade of no testing, the confidence in our weapons will have declined. Throughout this period, we will be relying on a scientific regime whose evolution and effectiveness we can only hope for.

This is the concern of numerous national security experts, and their conclusions were not supportive of the CTBT. Addressing this central issue, six former Secretaries of defense (Schlesinger, Cheney, Carlucci, Weinberger, Rumsfeld, Laird) said:

> The Stockpile Stewardship Program, which will not be mature for at least 10 years, will improve our scientific understanding of nuclear weapons and would likely mitigate the decline in our confidence in the safety and reliability of our arsenal. We will never know whether we should trust the Stockpile Stewardship if we cannot conduct tests to calibrate the unproven new techniques.

Former Secretary of State Henry Kissinger, former National Security Advisor Brent Scowcroft, and former Director of Central Intelligence John Deutch said recently:

> But the fact is that the scientific case simply has not been made that, over the long term, the United States can ensure the nuclear stockpile without nuclear testing . . . The Stockpile Stewardship Program is not sufficiently mature to evaluate the extent to which it can be a suitable alternative to testing.

I hasten to point out that the experts who have spoken against the CTBT have served in Republican and Democratic Administrations. Secretary Kissinger served in the Nixon administration, for example, which negotiated the Threshold Test Ban Treaty banning tests above 150 kilotons. This treaty was ratified during the Bush Administration. John Deutch, as we all know, was head of the CIA in the present Administration.

I support the Stockpile Stewardship Program, and will continue to support it. There may be a day when my colleagues and I can be convinced that science-based technology can ensure the reliability and safety of our arsenal to a level that matches what we learn through testing. That would be a time to responsibly consider a Comprehensive Test Ban. And that time is not now.

This central point on the reliability of our nuclear deterrent has not escaped the public's view of the current debate. Utahns have approached me on both sides of the argument.

Yes, we have seen numerous polls that suggest that the public supports the Comprehensive Test Ban Treaty. When people are asked, "do you support a global ban on nuclear testing?" majorities respond affirmatively. However, when people are asked, as some more specific polls have done, "Do you believe our nuclear arsenal has kept this country free from attack?" the majority always answers overwhelmingly affirmatively. When asked whether we need to continue to rely on a nuclear deterrent, the answer is always overwhelmingly affirmative, as it is when the public is asked whether we need to maintain reliability in our nuclear deterrent. Once again, I find the public more sophisticated than they are often given credit for.

When I speak with people about the limits of monitoring this global ban, and the numerous methods and technologies available to parties that wish to evade detection, confidence in the CTBT falls even lower. The fact is—and, once again, the proponents of the treaty concede this—that a zero-yield test ban treaty is unverifiable.

Small but militarily significant tests—that is, 500-ton tests, significant to the development and improvement of nuclear weapons—will not always be detectable. Higher yield tests—such as 5 kilotons—can be disguised by the techniques known as "decoupling," where detonations are set in larger, either natural or specially constructed, subterranean settings.

Today we are uncertain about a series of suspicious events that have occurred recently in Russia, a country that has not signed the CTBT. Some Russian officials have suggested that they would interpret the CTBT to allow for certain levels of nuclear tests, a view inimical to the Clinton administration's proponents of the CTBT. These are troubling questions, Mr. President, which should cast great doubt on the hopes of the proponents of the CTBT.

But the proponents say, under a CTBT regime we could demand an on-site inspection. But the on-site inspection regime is, by the terms of the treaty, weak. It is a "red-light" system, which means that members of the Executive Council of the Conference of States Parties must vote to get affirmative permission to inspect—and the vote will require a super-majority of 30 of 51 members of the Council for permission to conduct an inspection. The terms of the treaty allow for numerous obstructions by a member subject to inspection. Some of these codified instructions appear to have come out of Saddam Hussein's play book for defeating UNSCOM.

Some have suggested that Senate rejection of this treaty, which seems likely, will undermine this country's global leadership. It is said that, if we fail to ratify, critical states will not ratify the treaty. This assertion strikes me as highly suppositious.

Since the end of World War II, there are very few instances of the United States using its nuclear threat explicitly. Besides the Soviet Union, locked in a bipolar global competition with us until its collapse in 1991, other nations' decision to develop nuclear programs were based, not on following "U.S. leadership," but on their perception of regional balances of power, or on their desire to establish global status with a strategic weapon. Their decisions to cease testing will be similarly based.

The CTBT, it is argued, will prevent China from further modernizing its nuclear forces. It would be more accurate, in my opinion, to state that the treaty, if it works as its proponents wish, may constrain China from testing the designs for nuclear warheads it has gained through espionage. The debate over future military developments always hinges on the distinction between intentions and capabilities. China's current nuclear capabilities are modest, although it has a handful of warheads and the means to deliver them to the North American continent.

But I have to ask: Are the analysts in the Clinton administration confident that China's intentions are consistent with a view embodied in the CTBT that would lock China into substantive nuclear inferiority to the United States?

Is that what their espionage was about? Or their veiled threats—such as the famous "walk-in" in 1995, when a PRC agent showed us their new-found capabilities? And how about the PRC's explicit threat to rain missiles on Los Angeles? That was a reflection on intentions.

Those of us who study intentions and capabilities of such a key geopolitical competitor as China know that their capabilities are far inferior to us. But you have to wonder, based on their statements and other actions, whether the Chinese are willing to accept the current strategic balance that would be locked in with the CTBT.

And, does it make sound strategic sense for the defense of our country that the United States, in effect, unilaterally disarms our technological superiority by freezing our ability to modernize and test?

When we freeze our deterrent capability, we are, in effect, abandoning America's technological edge and mortgaging that deteriorating edge on the belief and hope that all of our geopolitical competitors will do the same. This reflects a view of the world that is far more optimistic than I believe is prudent. A substantial dose of skepticism should be required when thinking about the defense of our country.

To address these concerns, the administration has waived "Safeguard F," which it will attach to the treaty. This addendum states that it is its understanding that if the Secretaries of Defense and Energy inform the President that "a high level of confidence in the safety or reliability of a nuclear weapon type which the two Secretaries consider to be critical to our nuclear deterrent could no longer be certified, the President, in consultation with Congress, would be prepared to withdraw from the CTBT under the standard "supreme national interests" clause in order to conduct whatever testing might be required."

This vaguely worded escape clause is the manifestation of what is known in international law as rebus sic stantibus. This famous expression is attributed to Bismark, who declared: "At the bottom of every treaty is written in invisible ink—rebus sic stantibus—'until circumstances change'." This is a recognition common in international law, and now manifest in black-and-white in "Safeguard F," that agreements hold only as long as the fundamental conditions and expectations that existed at the time of their creation hold.

The fundamental conditions that the CTBT seeks to address are where my fundamental reservations lie. There are too many factors that we cannot control and that will not be restrained by the best intentions of a testing freeze.

The world is changing, and alliances are subtly changing. Geopolitical competitors such as China, Russia, Iran, and North Korea are undergoing radical—radical—social changes that are demonstrably affecting their governments, foreign policies, and militaries. An agreement on a test ban freeze today does not reconcile with these realities.

Even the most stalwart proponents of the treaty can only argue that U.S. ratification of the treaty may influence other states' behaviors. That is a hope, not a certainty. The need for a reliable nuclear deterrent, last tested in 1992, remains a certainty. I firmly believe that the CTBT will not control these external realities. While some countries may see a test ban regime in their interests, others, motivated not by the norms we hope for in the international community, but by the more historic realities of national interest and competition, may not.

The timing is simply wrong to pass this treaty. The science has not been sufficiently reassuring, and global developments have not been encouraging.

I must admit that my ongoing concerns about this administration's understanding of the world do not promote confidence in their support for this treaty. Under this administration, we have seen a precipitous decline in the funding of the military; we have seen an unacceptable resistance to missile defense; we have seen that it was Congress that had to promote sanctions on nuclear and missile proliferation from Russian firms spreading nuclear and missile technology to rough states. All of this belies confidence.

Combine this with a lack of confidence in the science-based alternative to testing promoted by the administration, which even its supporters recognize is not up to speed, and I must conclude that it is against the U.S. national interest to vote for the CTBT.

This vote is not about the horrors of Hiroshima and Nagasaki. It is about whether the nuclear deterrent that has kept this country secure for half a century and will keep this country secure for the foreseeable future.

Deterrence is not static, it is dynamic. The world is not static, it is unpredictable and dangerous. The CTBT is an attempt to impose a static arms control environment—to freeze our advantage—while gambling that our competitors abide by the same freeze. Today, that is unsound risk.

I will vote to oppose the resolution of ratification of the Comprehensive Test Ban Treaty.

Mr. ASHCROFT. Mr. President, I rise today to speak on the Comprehensive Test Ban Treaty (CTBT). Signed by the President on September 24, 1996, and submitted to the Senate approximately one year later, the CTBT bans all nuclear explosions for an unlimited duration.

Every member of the Senate would like to strengthen the national security of the United States. Every member of the Senate would like to leave this country more safe and secure. There are time-honored principles which undergrid genuine security, however. As George Washington stated over two centuries ago, "There is nothing so likely to produce peace as to be well prepared to meet an enemy." Washington believed that if we wanted peace, we must be prepared to defend our country.

The CTBT is not based on the national security principles of Washington or any other President who used strength and preparedness to protect our way of life and advance liberty around the globe. This treaty is based on an illusion of arms control, dependent on the unverifiable good will of signatory nations—some of which are openly hostile to the United States. The CTBT will do nothing to stop determined states from developing nuclear weapons and will degrade the readiness of the U.S. nuclear stockpile. The U.S. nuclear arsenal is still the most powerful deterrent to aggression against the United States, but this treaty would place the reliability of that arsenal in question.

Is such a step worth the risk? What does the CTBT give us in return? Is the treaty really the powerful weapon in the war against proliferation that the Administration claims? Several critical deficiencies of the CTBT make this treaty a genuine threat to U.S. national security.

First, the monitoring system of the treaty will not be able to detect many nuclear tests. The International Monitoring System (IMS) of the CTBT is designed to detect nuclear blasts greater than one kiloton, but tests with a smaller blast yield may be used to validate or advance nuclear weapons designs. Tests larger than one kiloton can be masked through certain testing techniques. By testing underground, for example, the blast yield from a nuclear test can be reduced by a factor of 70. The bottom line is that countries will be able to continue testing under this treaty and not be detected.

The unverifiability of the CTBT was highlighted by the Washington Post on October 3, 1999. In an article entitled "CIA Unable to Precisely Track Testing," Roberto Suro writes that "the Central Intelligence Agency has concluded that it cannot monitor low-level nuclear tests by Russia precisely enough to ensure compliance with the Comprehensive Test Ban Treaty. . ." Twice last month, Russia may have conducted nuclear tests, but the CIA was unable to make a determination, according the Post article.

Senator JOHN WARNER, the distinguished chairman of the Armed Services Committee, is quoted in the Post article concerning a broader pattern of Russian deception with regard to nuclear testing. According to a military assessment mentioned in the Post, Russia has conducted repeated tests over the past 18 months to develop a low-yield nuclear weapon to counter U.S. superiority in precision guided munitions.

Such behavior reinforces the central point that proponents of the CTBT seem to miss in this debate. When nations have to choose between the communal bliss of international disarmament or pursuing their national interest, they follow their national interest. Countries such as Russia have the best of both worlds with an unverifiable treaty like the CTBT: Russia can continue to test without being caught and the U.S. nuclear arsenal cannot be maintained or modernized and eventually deteriorates over time.

A second critical problem with the CTBT is that countries do not have to test to develop nuclear weapons. The case of India and Pakistan provides perhaps the best example that a ban on nuclear testing can be irrelevant. Pakistan developed nuclear explosive devices without any detectable testing, and India advanced its nuclear program without testing for twenty-five years.

Proliferation in South Asia also lends itself to a broader discussion of this Administration's nonproliferation record. The Administration's rhetoric on the CTBT has been strong in recent weeks, but has the Administration always been as committed to stop proliferation?

The case of Pakistan is particularly illustrative of this Administration's flawed approach to nonproliferation and arms control. In an unusually candid report in 1997, the CIA confirmed China's role as the "principal supplier" of Pakistan's nuclear weapons program. Although the Administration has been careful to use milder language in subsequent proliferation reports, China is suspected of continuing such assistance. Rather than take consistent steps to punish Chinese proliferation, however, the Administration is pushing a treaty to stop nuclear testing—testing which is not needed for the development of nuclear weapons in the first place.

This Administration would have more credibility in the area of nonproliferation if it had been taking aggressive steps to punish proliferators and defend America's interests over the last seven years. When China transfers complete M-11 missiles to Pakistan, this Administration turns a blind eye. When China is identified by the CIA in 1997 as the ". . . the most significant supplier of WMD-related goods and technology to foreign countries," the Administration rewards China with a nuclear cooperation agreement in 1998.

These severe lapses in U.S. nonproliferation policy cannot be covered over with the parchment of another unverifiable arms control treaty.

A third problem with the CTBT is that it places the reliability of the U.S. nuclear arsenal at risk. While other countries can develop simple nuclear weapons without testing, such tests are critically important for the maintenance and modernization of highly sophisticated U.S. nuclear weapons. In that it forbids testing essential to ensure the readiness of the U.S. stockpile, the CTBT is really a back door to nuclear disarmament. The preamble of the CTBT itself states that the prohibition on nuclear testing is "a meaningful step in the realization of a systematic process to achieve nuclear disarmament . . ."

Proponents of the CTBT argue that we have the technology and expertise to ensure the readiness of our nuclear arsenal through the Stockpile Stewardship Program. The truth of the matter is that only testing can ensure that our nuclear weapons are being maintained, not computer modeling and careful archiving of past test results. As Dr. Robert Barker, a strategic nuclear weapons designer and principal advisor to the Secretary of Defense on all nuclear weapons matters from 1986–92, stated, ". . . sustained nuclear testing . . . is the only demonstrated way of maintaining a safe and reliable nuclear deterrent."

Dr. James Schlesinger, a former Secretary of the Defense and Energy Departments, is one of the most competent experts to speak on the national security implications of the CTBT and the Stockpile Stewardship Program. His comments on the Stockpile Stewardship Program should be heeded by every Senator. In testimony before Congress, Dr. Schlesinger stated that the erosion of confidence in our nuclear stockpile would be substantial over several decades. Dr. Schlesinger states that "In a decade or so, we will be beyond the expected shelf life of the weapons in our nuclear arsenals, which was expected to be some 20 years."

The real effect of the CTBT, then, is not to stop the spread of nuclear weapons, for less developed countries can develop simple nuclear weapons without testing and countries like Russia and China can test without being detected. The real effect of the CTBT will be to degrade the U.S. nuclear arsenal, dependent on periodic testing to ensure readiness.

Modernization and development of new weapons systems, also dependent on testing, will be precluded. The need to modernize and develop new nuclear weapons should not be discounted. New weapons for new missions, changes in delivery systems and platforms, and improved safety devices all require testing to ensure that design modifications will and be effective. In supporting this treaty, the President is saying that regardless of the future threats the United States may face, we will surrender our ability to sustain a potent and effective nuclear deterrent. Mr. President, such shortsighted policies which leave America less secure are completely unacceptable and should be rejected.

It is difficult for me to understand how a President who determines that "the maintenance of a safe and reliable nuclear stockpile to be a supreme national interest of the United States" can support the CTBT, a treaty which could jeopardize the entire nuclear arsenal within years.

Those who favor the CTBT argue that the treaty will create an international norm against the development of nuclear weapons. If the United States will take the lead, advocates for the treaty state, then other countries will see our good intentions and follow our example.

Mr. President, moral suasion carries little weight with countries like North Korea, Iran, and Iraq. Moral suasion means little more to Russia, China, Pakistan, and India. These countries follow their security interests, not the illusory arms control agenda of another international bureaucracy.

It is folly to degrade the U.S. nuclear deterrent through a treaty that has no corollary security benefits. I am not opposed to treaties and norms which seek to reduce the potential for international conflict, but arms control treaties which are not verifiable leave the United States in a more dangerous position. When we can trust but not verify, the better path is not to place ourselves in a position where our trust can be broken, particularly when the security of the American people is at stake.

I thank the Chair for the opportunity to address this important matter and I urge my colleagues to oppose the Comprehensive Test Ban Treaty.

Mr. HELMS. Mr. President, the incredible and contrived rhetoric pouring forth constantly from the White House for the past few weeks has at times bordered on absurd and futile efforts to sell to the American people the Comprehensive Test Ban Treaty. For example, only this administration could attempt to put a positive spin on a Washington Post article reporting that the CTBT is unverifiable. It didn't work and once again it was demonstrable that you can't make a silk purse out of a sow's ear.

No administration, prior to the present one, has ever tried to argue with a straight face that a zero yield test ban would or could be verifiable. A treaty which purports to ban all nuclear testing is, by definition, unverifiable. In fact, previous administrations admitted that much less ambitious proposals, such as low-yield test ban, were also not verifiable.

This is not a "spin" contest. This is a fact.

There is one hapless fellow, at the other end of Pennsylvania Avenue, who is bound to know this, and he should not be lending his name to such shenanigans.

I am not referring to the President. This is his treaty—the only major arms control agreement negotiated on his watch—and its ratification is entirely about his legacy. No, I am talking about Vice President GORE, who took the correct, flat-out-position—when he was a United States Senator—he was opposed to even a 1-kiloton test ban. According to then Senator GORE, the only type of test ban that was verifiable was, in his estimation, one with no less than a 5-kiloton limit. He was quite clear, Mr. President, in saying that anything less—such as the CTBT treaty now before the Senate—would be unverifiable.

On May 12, 1988, Senator GORE objected to an amendment offered to the 1989 defense bill which called for a test ban treaty and which restricted nuclear tests above 1 kiloton. Then-Senator GORE declared:

> Mr. President, I want to express a lingering concern about the threshold contained in the amendment. Without regard to the military usefulness or lack of usefulness of a 1 kiloton versus the 5 kiloton test, purely with regard to verification, I am concerned that a 1 kiloton test really pushes verification to the limit, even with extensive cooperative measures. . . . I express the desire that this threshold be changed from 1 to 5.

In other words, the Vice President knows full well that a 1-kiloton limit—to say nothing of 0-kiloton ban—was unverifiable. In fact, at his insistence, the proposed amendment was modified upwards to allow for all nuclear tests below 5 kilotons.

Why then, is the administration, of which he is now a part, claiming that a zero-yield ban is "effectively verifiable"?

Numerous experts have cautioned the Senate that a "zero-yield" CTBT is fundamentally unverifiable. Other nations will be able to conduct militarily significant nuclear tests well below the detection threshold of the Treaty's monitoring system, and even below the United States' own unilateral capability.

President Clinton's own former Director of Central Intelligence, Jim Woolsey, testified before the Foreign Relations Committee, on May 13, 1998, that "With the yield of zero, I have very serious doubts that we would be able to verify."

On August 5, 1999, former Secretary of State Henry Kissinger noted: "When I was involved in test-ban negotiations, it was understood that testing below a certain threshold was required to ensure confidence in U.S. nuclear weapons. It also was accepted that very low-yield tests would be difficult to detect, and an agreement to ban them would raise serious questions about verifiability."

Most significantly, Fred Eimer, former Assistant Director of the Arms Control and Disarmament Agency and chief verification expert for both the Reagan and Bush administrations, wrote to me this past Sunday stating his opposition to the CTBT.

Dr. Eimer noted that: "Other nations will be able to conduct militarily significant nuclear tests well below the verification threshold of the Treaty's monitoring system, and well below that of our own National Technical Means."

Now, of course, the Administration has claimed on a variety of occasions that the CTBT is "effectively verifiable." It seems, however, that this administration is saying one thing to the Senate and the American people, and admitting quite another thing overseas. I will read into the RECORD the criticism that was leveled against the CTBT on August 1, 1996, by Mr. John Holum—President Clinton's ACDA Director—when he was in Geneva. Mr. Holum stated:

> The United States' views on verification are well known: We would have preferred stronger measures, especially in the decision-making process for on-site inspections, and in numerous specific provisions affecting the practical implementation of the inspection regime. I feel no need to defend this view. The mission on the Conference on Disarmament is not to erect political symbols, but to negotiate enforceable agreements. That require effective verification, not as the preference of any party, but as the sine quo non of this body's work. . . . On verification overall, the Treaty tilts toward the 'defense' in a way that has forced the United States to conclude, reluctantly, that it can accept, barely, the balance that Ambassador Ramaker has crafted.

"Reluctantly"?

"Accept, barely"?

Does this sound like a ringing endorsement of the CTBT's verification regime? I would say this is tantamount to "damnation by faint praise".

The fact of the matter is that the CTBT's much-vaunted international monitoring system (IMS) was only designed to detect "fully coupled" nuclear tests down to one kiloton, and cannot detect evasive nuclear testing. Any country so-inclined could easily muffle its nuclear tests by conducting them in natural cavities (such as salt domes or caverns) or in man-made excavations. This technique can reduce the seismic magnitude of a test by a factor of 70. In other words, countries can conduct tests of up to 60 kilotons without being detected by the IMS.

Every country of concerns to the United States is technically capable of decoupling its nuclear explosions. In other words, countries such as North Korea, China, and Russia will be able to conduct very significant work on their weapons programs without fear of detection by the IMS. I point out to Senators that, according to Department of Energy data, 56 percent of all U.S. nuclear tests were less than 20 kilotons in yield. Such tests, if decoupled, would all have been undetectable by the IMS. In other words, one out of every two nuclear tests ever conducted by the United States would not have been detected by the IMS—had the U.S. chosen to mask its program. I fail to see how the administration does not think this monitoring deficiency is not militarily significant.

Moreover, claims that the IMS will provide new seismic monitoring capabilities to the United States are ludicrous. The vast majority of seismic stations listed in the CTBT already exist, and were funded by the U.S. taxpayer; 68 percent of the "Primary Seismological Stations," and 47 percent of the "Auxiliary" stations called for under the treaty already are in place because the United States put them there years ago. I repeat, the only reason the IMS has any value to the United States is because it was already U.S. property long before the CTBT was negotiated.

So where are the additional 32 percent of the stations going to be located? In places such as the Cook Islands, the Central African Republic, Fiji, the Solomon Islands, Cameroon, Niger, Bolivia, Botswana, Costa Rica, Samoa, and so on and so forth. There is no benefit to having seismic stations in these places. In other words, Mr. President, the CTBT will provide zero benefit to our nuclear test monitoring.

In fact, it is going to make life more difficult for the United States. The same "overselling" of the IMS that is going on here in the United States is also occurring internationally. Ultimately, this is going to cause great problems for the United States in arguing that a country has violated the treaty when the much-vaunted IMS has not detected anything. Few nations are likely to side with the United States in situations where the IMS has not detected a test.

Moreover, the IMS also will complicate U.S. efforts by providing false or misleading data, which in turn will be used by countries to conceal treaty violations. Specifically, the CTBT fails to require nations to "calibrate" their regional stations to assess the local geology.

Naturally, countries such as Russia and China have refused to volunteer to do so. By consequence, these stations will record data that will be inconsistent with U.S. national information and will be used to argue against U.S. on-site inspection initiatives.

While it is important to realize the deficiencies of the CTBT's seismic monitoring regime, it also is a fact that several treaty provisions will severely impair the ability of any on-site inspection, if launched, to uncover credible evidence of a violation. First, the aforementioned failure to calibrate regional stations will introduce inaccuracies in the location of suspicious events, creating a broader inspectable area than otherwise would be the case. Second, if the United States requests an inspection, no U.S. inspectors would be allowed to participate, and the country in question can refuse to admit other specific inspectors. Third, the treaty allows for numerous delays in providing access to suspect sites, which will cause dissipation of most of the best technical signatures of a nuclear test.

Indeed, in the case of low-yield testing, there are few enough observable signatures to begin with, and on-site inspections are unlikely to be of use at all. Finally, the inspected party is allowed to restrict access under the treaty and to declare up to 50 square kilometers as being "off-limits." As UNSCOM found with Iraq, any time a country is given the right to designate sites as off-limits to inspectors, the inspection regime is undermined.

In conclusion, the IMS and the inspection regime is likely to be so weak that I would not be surprised if countries such as Iraq and North Korea did not ultimately sign and ratify. Because of the technical impossibility of verifying a zero-yield test ban, such rogue regimes can credibly claim to adhere to a fraudulent, unverifiable norm against testing without fear of ever getting caught.

The only puzzling question for me, Mr. President, is why, with a Vice President who knows the truth quite well, does the Clinton administration continue to insist otherwise?

Mr. AKAKA. Mr. President, I rise in support of the Senate giving its advice and consent to the Comprehensive Test Ban Treaty (CTBT).

Debate on the CTBT has unfortunately become politicized. It should not be. The series of hearings held in the Armed Services Committee and the Foreign Relations Committee were fair and serious. I was impressed by the intelligent discussion and debate. But I wish that we had heard more. As Senator HAGEL indicated in his statement on the floor, we should not be compressing debate on this issue. We should hold more extensive hearings.

This treaty is about the future. It is about making a world more secure from the threat of nuclear war. This issue is too important, too important for the Senate of the United States not to have held hearing after hearing on all aspects of the treaty. Such hearings would, in my view, have better clarified all the benefits of the Treaty.

I have supported the treaty, I continue to support the treaty, and I will vote for the treaty, not because it is perfect—the CTBT does not mean an end to the threat of nuclear war or nuclear terrorism or nuclear proliferation, but it does represent a step in the right direction of containing these threats.

Let us be clear on what not ratifying the CTBT means:

A vote against the CTBT is a vote for the resumption of nuclear testing by the United States.

A resumption of nuclear testing is the clear consequence of the criticism by opponents of the CTBT that the stockpile Stewardship Program is not sufficient to guarantee the safety, reliability and performance of the nation's nuclear weapon stockpile.

Critics of the Stockpile Stewardship Program argue that only actual testing can preserve our nuclear deterrence. Indeed at least one witness testifying before the Armed Services Committee advocated a resumption of 10 kiloton testing. That means testing a weapon almost the size of what was dropped on Hiroshima.

I do not believe that the American public wants to see the resumed testing of Hiroshima-sized nuclear weapons.

Nor do I believe such testing is necessary, not as long as America persists in investing sufficient resources in the Stockpile Stewardship Program.

Yes, there are uncertainties about the ability of the Stewardship Program over time to be successful. As the Director of Los Alamos National Laboratory, John Browne, has testified, "the average age of the nuclear stockpile is older than at any time in history, and nuclear weapons involve materials and technologies found nowhere else on earth." And as his colleague at the Lawrence Livermore laboratories, Bruce Tarter, stated, "the pace of progress must be quickened. Much remains to be accomplished, and the clock is running."

Indeed, the United States has no alternative to the Stockpile Stewardship Program unless we want to return to the level of nuclear testing that we saw prior to President Bush ordering a moratorium on testing in 1992.

I ask unanimous consent that a chart demonstrating the number of United States nuclear tests, from July 1945 through September 1992, be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. AKAKA. The United States needs to train people, design equipment, and to invent new techniques if it is going to preserve the safety and reliability of its nuclear deterrent. The Stockpile Stewardship Program can accomplish all of these objectives.

The Stockpile Stewardship Program has had problems but it has made great progress. As Director Tarter noted, it has opened up new possibilities for weapons science not even contemplated a few years ago.

This is the future: one of science, not one of testing.

As a strong advocate of National Missile Defense, I have been struck by how some are willing to have such extraordinary confidence in the ability of American scientist and engineers to overcome problems in missile defense but do not seem to place the same confidence in the ability of American scientists and engineers to do the same with stockpile stewardship.

Choosing the path of science does not mean the United States cannot test if science proves inadequate to practice. The assurances contained in the President's six safeguards attached to this treaty mean that, if necessary, we can resume testing. I have full confidence in this President or any future President being willing to take this extraordinary step, and I have full confidence that this or any future Congress will back that President up should such a decision to return to testing be necessary.

Supporting the CTBT does not preclude America from taking whatever steps are necessary to preserve our national security.

I would argue, as have many of my colleagues, and interestingly enough, many of our allies, that ratification of the treaty helps preserve American security by locking in our nuclear superiority and limiting the abilities of other nations to match our nuclear capability. Our allies, who benefit from the security of the American nuclear umbrella, want the CTBT because they know it enhances, not detracts, from their security.

Yes, it is true that the treaty will not prevent proliferation absolutely. A country does not need to conduct nuclear tests to have a nuclear capability. But will it have a reliable weapons system? I do not think so.

Yes, it is true that the CTBT will not prevent a country from trying to hide small scale nuclear tests. But I believe that the international monitoring system which will be in place as well as the United States' own national technical means will be so extensive that any test will be detected. That country will then be subject to an international inspection. Some suggest that the United States will not be able to gain a consensus for such an inspection. I do not see why not: it will be in the interest of all signatories to ensure that no countries violate the agreement. I cannot envision a majority of states not agreeing to an inspection of a suspected nuclear test.

I do not know if the CTBT will create a new international norm discouraging nuclear weapons development. I do know that the CTBT will make such development technically more difficult to do and politically more difficult to deny.

Let me conclude by asking this simple question: do my colleagues who oppose the CTBT want our country to resume nuclear testing?

If not, then I suggest that the only course is to invest in the Stockpile Stewardship Program. I say, give American science a chance. Invest in the future of weapons science, not in the past of weapons testing by ratifying the Comprehensive Test Ban Treaty.

EXHIBIT NO. 1

	U.S.	U.S.–U.K.
Total tests by calendar Year:		
1945	1	0
1946	2	0
1947	0	0
1948	3	0
1949	0	0
1950	0	0
1951	16	0
1952	10	0
1953	11	0
1954	6	0
1955	18	0
1956	18	0
1957	32	0
1958	77	0
1959	0	0
1960	0	0
1961	10	0
1962	96	2
1963	47	0
1964	45	2
1965	38	1
1966	48	0
1967	42	0
1968	56	0
1969	46	0
1970	39	0
1971	24	0
1972	27	0
1973	24	0
1974	22	1
1975	22	0
1976	20	1
1977	20	0
1978	19	2
1979	15	1
1980	14	3
1981	16	1
1982	18	1
1983	18	1
1984	18	2
1985	17	1
1986	14	1
1987	14	1
1988	15	0
1989	11	1
1990	8	1
1991	8	1
1991	7	1
1992	6	0
Total tests	1,030	24
Total tests by location:		
Pacific	4	0
Johnston Island	12	0
Enewetak	43	0
Bikini	23	0
Christmas Island	24	0
Total Pacific	106	0
Total S. Atlantic	3	0

	U.S.	U.S.-U.K.
Underground	604	24
Atmospheric	100	0
Total NTS	813	24
Central Nevada	1	0
Amchitka, Alaska	3	0
Alamogordo, New Mexico	1	0
Carlsbad, New Mexico	1	0
Hattiesburg, Mississippi	2	0
Farmington, New Mexico	1	0
Grand Valley, Colorado	1	0
Rifle, Colorado	1	0
Fallon, Nevada	1	0
Nellis Air Force Range	5	0
Total Other	17	0
Total tests	1,030	24
Total tests by type:		
Tunnel	67	0
Shaft	739	24
Crater	9	0
Total underground	815	24
Airburst	1	0
Airdrop	52	0
Balloon	25	0
Barge	36	0
Rocket	12	0
Surface	28	0
Tower	56	0
Total atmospheric	210	0
Total underwater	1,030	24
Total tests	1,030	24

Total detonations by purpose: Joint US-UK, 24 detonations; Plowshare, 35 detonations; Safety Experiment, 88 detonations; Storage-Transportation, 4 detonations; Vela Uniform, 7 detonations; Weapons Effects, 98 detonations; Weapons Related, 883 detonations.

176 detonations (1980-1992) 14 detonations (1980-1992).

Note: Totals do not include two combat uses of nuclear weapons, which are not considered "tests." The first combat detonations was a 15 kt weapon airdropped 08/05/45 at Hiroshima, Japan. The second was a 21 kt weapon airdropped 08/09/45 at Nagasaki, Japan.

Mr. HELMS. Mr. President, yesterday President Clinton sent a written request to the Senate asking that we "postpone" a vote on the CTBT. In light of the President's outburst on Friday lashing out at Senate Republicans, and his adamant declaration that he would never submit a written request asking the Senate to withdraw the CTBT from consideration, his decision to send just such a letter is interesting.

His letter, was a baby-step in the right direction, insufficient to avert a vote on the CTBT today. The President is clearly playing poker with the Senate, but he doesn't have a winning hand, and I think he knows it.

The President sent this letter only because he realizes he has failed to make a compelling case for the treaty, and failed to convince two-thirds of the Senate that this treaty is in the national interest. He knows that if we vote on the CTBT today, the treaty will be defeated.

His letter did not meet both the criteria set by me and others. For example, he requested: (a) that the treaty be withdrawn and (b) that it not be considered for the remainder of his presidency.

The President has repeatedly dismissed the critics of this treaty as playing politics. Look who's talking. In his mind, it seems, the only reason anyone could possibly oppose this treaty is to give him a political black eye. Putting aside the megalomania in such a suggestion, accusing Republicans of playing politics with our national security was probably not the most effective strategy for convincing those with substantive concerns about the treaty.

The fact is, we are not opposed to this treaty because we want to score political points against a lame-duck Administration. We are opposed because it is unverifiable and because it will endanger the safety and reliability of our nuclear arsenal. The White House and Senate Democrats have failed to make a compelling case to the contrary. That is why the treaty is headed for defeat.

Of course, treaty supporters want to preserve a way to spin this defeat into a victory, by claiming that they have managed to "live to fight another day." That's probably the same thing they said after President Carter requested the SALT II Treaty be withdrawn. But they will be fooling no one but themselves.

Before this debate is over, it must be made clear that to one and all this CTBT is dead—and that the next President will not be bound by its terms. The next administration must be left free to establish its own nuclear testing and nuclear non-proliferation policies, unencumbered by the failed policies of the current, outgoing administration.

Without such concrete assurances that this CTBT is dead, I will insist that the Senate proceed as planned and vote down this treaty.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the hour of 4:30 p.m. having arrived, the Senate will now return to legislative session.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—CONFERENCE REPORT

The PRESIDING OFFICER. The Senate will now resume consideration of the conference report to accompany H.R. 1906, which the clerk will report by title.

The legislative assistant read as follows:

A bill (H.R. 1906) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2000, and for other purposes.

The Senate resumed consideration of the conference report.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Madam President, I am pleased to present to the Senate the conference report on H.R. 1906, the Fiscal Year 2000 Agriculture Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act.

The conference agreement provides total new budget authority of $60.3 billion for programs and activities of the U.S. Department of Agriculture with the exception of the Forest Service, which is funded by the Interior appropriations bill.

The Food and Drug Administration and Commodity Futures Trading Commission are included also, and expenses and payments of the farm credit system are provided.

The bill reflects approximately $5.9 billion more in spending than the fiscal year 1999 enacted level and $6.6 billion less than the level requested by the President.

It is $418 million less than the House-passed bill level and $391 million less than the Senate-passed bill level.

I must point out that we, of course, are constrained with the adoption of this conference report by allocations under the Budget Act. The bill is consistent with the allocations that have been made to this subcommittee under the Budget Act, and it is consistent in other respects with the Budget Act.

The increase above the fiscal year 1999 enacted level reflects the additional $5.9 billion which the administration projects will be required to reimburse the Commodity Credit Corporation for net realized losses.

The conference report also provides an additional $8.7 billion in emergency appropriations to assist agricultural producers who experienced weather-related agricultural and market losses during 1999.

This was a difficult conference. We met on two occasions. House conferees at one point asked for a recess in our deliberations to discuss some of the difficult issues that were confronting the conferees. As a matter of fact, after the request for the recess for a conference among House conferees, we never were able to get back into a formal meeting with the House conferees. It was an unusual procedure because of that.

Negotiations took place Member to Member, Senator to conferee among a lot of interested Members of the House and Senate on a wide range of issues. Some of the most contentiously involved issues weren't in the bill, one of which was the dairy proposal for reauthorization of the Northeast Dairy Compact, and an authorization for additional regional compacts.

There was a discussion of the Senate-passed provision relating to sanctions and trying to change the policy by changing the statute with respect to the authority of the President to impose unilateral sanctions against the export of U.S. agricultural commodities.

These involve situations where we are trying to influence the conduct of other nations using interruption in trade from the United States to put pressure on these other countries. Senator ASHCROFT of Missouri had led the effort in the Senate to put language in the Senate bill on that subject.

The House conferees insisted on a provision that would have imposed special restrictions on trade with Cuba. This ended up being a very difficult issue to resolve, and finally was left out of the conference report at the insistence of the House.

We tried to work out other disagreements.

We think that it is a balanced bill, and it addresses a wide range of needs for funding for this next fiscal year—agricultural research, food and nutrition programs, agricultural support programs, conservation programs—trying to insist that we do an effective job to protect the environment as it relates to agricultural production and the needs of production agriculture.

I hope the Senate will look with favor on the bill. The House adopted the conference report on October 1, I believe, by a substantial margin. We hope the Senate will look with favor and act accordingly.

Including Congressional budget scorekeeping adjustments and prior-year spending actions, this conference agreement provides total non-emergency discretionary spending for fiscal year 2000 of just under $14 billion in budget authority and $14.3 billion in outlays. These amounts are consistent with the revised discretionary spending allocations established for this conference agreement.

It was a difficult conference. After two meetings, the House conferees requested a recess. Because of some intractable issues, the House proposed to bring the conference to a close without reconvening the conference committee. This was not a procedure I preferred, but one that was necessary to reach a conference agreement on this appropriations measure so that it could be approved by the Congress and sent to the President as close as possible to the start of the new fiscal year. I wish to thank the ranking member of the subcommittee, my colleague from Wisconsin, Senator KOHL, and the chairman of the House subcommittee, Congressman SKEEN for their hard work on this bill and their cooperation in achieving this conference product.

I am pleased to report that this conference report provides increased funding of $51.9 million for activities and programs in this bill which are part of the administration's "Food Safety Initiative." In addition, the conference report provides $649 million for the Food Safety and Inspection Service, an agency critical to maintaining the safety of our food supply, $32 million more than the fiscal year 1999 level.

This conference agreement also provides increased appropriations for agriculture research programs. An appropriation of $834 million is provided for the Agriculture Research Service, $49 million more than the fiscal year 1999 level and $25 million more than the Senate-passed bill level. Total funding of $950 million is provided for research, education, and extension activities of the Cooperative State Research, Education and Extension Service, $31 million more than the fiscal year 1999 level and $19 million more than the Senate-passed bill level.

Approximately $35 billion, close to 58 percent of the total new budget authority provided by this conference report, is for domestic food programs administered by the U.S. Department of Agriculture. These include food stamps; commodity assistance; the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); the school lunch and breakfast programs; and the new school breakfast pilot program funded at $7 million. The conference adopted an appropriations level of $4.032 billion for the WIC program, $6 million less than the Senate bill level and $27 million more than the level recommended by the House. More recent data on actual participation rates and food package costs indicates that this appropriation will be sufficient to maintain a 7.4 million average monthly WIC participation level in fiscal year 2000.

For farm assistance programs, the conference report provides $1.2 billion in appropriations. Included in this amount is the full increase of $80 million above the fiscal year 1999 level requested by the administration for Farm Service Agency salaries and expenses, as well as appropriations to meet or exceed the fiscal year 2000 farm operating and farm ownership loan levels included in the President's budget request.

Appropriations for conservation programs administered by the Natural Resources Conservation Service total $813 million, $13 million more than the House bill level and $5 million more than level recommended by the Senate.

For rural economic and community development programs, the conference report provides appropriations of $2.2 billion to support a total loan level of $7.6 billion. Included in this amount is $719 million for the Rural Community Advancement Program, $640 million for the rental assistance program, and a total rural housing loan program level of $4.6 billion.

A total of $1.1 billion is provided for foreign assistance and related programs of the Department of Agriculture, including $113 million in new budget authority for the Foreign Agricultural Service and a total program level of $976 million for the P.L. 480 Food for Peace Program, $39 million above the budget request.

Total new budget authority for the Food and Drug Administration is $1.1 billion, $70 million more than the fiscal year 1999 level and $5.1 million more than the Senate-passed bill level, along with an additional $145 million in Prescription Drug Act and $14.8 million in mammography clinics user fee collections. Included in the appropriation for salaries and expenses of the Food and Drug Administration is the full $30 million increase requested in the budget for food safety, along with the Senate-recommended increase of $28 million for premarket approval activities. The additional funding provided to the FDA for premarket approvals will hopefully enable the agency to speed up device, drug, food additive, and other product review times to prevent unnecessary delays in getting new products to the market.

For the Commodity Futures Trading Commission, $63 million is provided; and a limitation of $35.8 million is established on administrative expenses of the Farm Credit Administration.

Title VIII of this conference report provides emergency relief to agricultural producers and others who have suffered weather-related and economic losses. Senators may recall that during consideration of this bill in the Senate, an amendment was adopted providing over $7.6 billion in disaster assistance for agricultural producers. The conference agreement essentially retains the amendment adopted by the Senate and provides $1.2 billion for 1999 crop losses for a total of $8.7 billion.

Included in the emergency assistance provided is: $5.54 billion for market loss assistance; $1.2 billion for crop loss assistance; $475 million for soybean producers; $400 million for 2000 crop insurance discounts; $328 million for tobacco producers; $325 million for livestock and dairy producers; $82 million for producers of certain speciality crops; and reinstatement of the cotton step-2 program.

On May 14 of this year, the conferees on the Hurricane Mitch and Kosovo supplemental appropriations bill included language in the statement of managers recognizing the likelihood that additional disaster assistance would be needed for agricultural producers this year. The conferees called on the Administration to submit requests for supplemental appropriations once it determined the extent of the needs.

In June, 21 Senators joined me in writing the President to bring this statement of managers language to his attention and to invite the administration to submit a request for supplemental appropriations. As of today, we have received no response to our letter nor a request for any funds for farmers. Other Members of Congress have made similar requests of the administration with the same result.

On September 15, 1999, the Secretary of Agriculture testified before the House Agriculture Committee that the estimated needs for crop losses was between $800 million and $1.2 billion. This bill provides the full $1.2 billion that the Secretary estimated was needed.

While I understand that these estimates were issued prior to Hurricane Floyd, it is my understanding that damage estimates are still being formulated.

A USDA press release dated September 17, 1999, states:

> The Congress, along with the Clinton Administration, is also currently working on emergency farm legislation which, if enacted, could offer additional assistance to farmers and ranchers in North Carolina, as well as other states affected by natural disasters.

I do not believe we should delay disaster assistance until these estimates are complete. I believe we should take care of what we know is needed now and come back to address new estimates when they are received from the Administration.

Mr. President, this administration does not deserve credit for one penny of the emergency assistance in this bill. It has been "sitting on the fence." It has submitted no requests for funding, nor offered any assistance in formulating this plan.

Other Senators may be concerned that this legislation does not contain legislative provisions regarding dairy or to relax unilateral sanctions on food and medicine. Senators should remember that neither the House nor the Senate versions of this bill included legislative provisions regarding dairy policy. Therefore, it was beyond the scope of this conference.

With respect to sanctions reform, this Senator supports sanctions reform like the majority of other members who voted for the sanctions amendment during Senate consideration of this bill, but an appropriations bill is not the right vehicle for the enactment of this large policy issue. Further, on July 26, the Senate voted 53 to 45 to reinstate rule 16, which prohibits legislating on an appropriations bill.

Mr. President, this conference report was filed on Thursday night, September 30, and was passed the following morning by the House of Representatives. Senate passage of this conference report today is the final step necessary to send this fiscal year 2000 appropriations bill to the President for signature into law.

I urge my colleagues to adopt this conference report. Many of our farmers and ranchers continue to face an economic crisis. Others continue to suffer from extreme weather conditions, including severe drought and flooding. It is time we act now to provide them some relief and this conference report, when signed into law, will do that.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, at the outset, I compliment my distinguished colleague from Mississippi for the outstanding work that he has done as chairman of the Agriculture Subcommittee of Appropriations.

I have had the pleasure to work with Senator COCHRAN for some 19 years now. We have been on the subcommittee together for that time and the full committee for that time. There is no more difficult area in the Senate than working out a farm bill on the Agriculture appropriations bill because, candidly, the farmers are faced with so many problems. These are subjects very near and dear to my heart because I grew up in farm territory in the State of Kansas. I was born in Wichita and moved to Russell County, KS, when I was 12, worked on a farm as a teenager, drove a tractor, and have some firsthand experience with the problems which the agricultural community has.

I am very much concerned with a number of provisions in the bill. I declined to sign the conference report, and with great reluctance because of the hard work that the chairman has done and others have done. I intend to vote against the conference report, although I think there are enough votes present to pass it. There is a cloture motion pending. The issue has been raised as to whether there would be an attempt to filibuster. It may be that the issues can be worked out without a filibuster. I hope the issues can be worked out. But if the filibuster vote comes up I will vote against cloture to continue the consideration of this issue, even though I realize fully the importance of resolving our appropriations bills in the very immediate future.

The reasons that I am concerned about the provisions of the bill relate to two issues.

First, it is my view that Mid-Atlantic States, and my State of Pennsylvania specifically, have not gotten a fair share of the disaster assistance. The Agriculture appropriations bill provides for $8.7 billion in disaster assistance. But the vast majority of this money goes to farmers in the Midwest to compensate for low commodity prices. It may be that the disaster assistance is a broader category than you might expect, or perhaps the disaster assistance is modified by the fact that some $7.5 billion goes to the Midwest to compensate for low commodity prices. Only $1.2 billion is provided for natural disasters. That $1.2 billion must compensate not only for the drought but also the disasters including Hurricane Floyd, flooding in the Midwest, livestock loss, and fishery loss. Pennsylvania alone has sustained $700 million in drought loss. The Mid-Atlantic States have suffered $2.5 billion as a result of the drought this summer.

Year after year, Northeastern and Mid-Atlantic Senators have supported massive aid packages to farmers in the Midwest—some $17 billion between August 1998 and June 1999. Now that the Mid-Atlantic farmers are facing a real crisis, my view is the Congress has not provided sufficient compensation.

There is another issue of concern; that is, the amendment which I was prepared to offer in the conference. Senator COCHRAN has accurately described the conference. It was rather anomalous.

At about 7:15, the House conferees asked for a recess of 10 to 15 minutes. And more than an hour and a half later they had not returned.

Although many of the conferees wanted to vote to extend the Northeast Dairy Compact and to allow Pennsylvania, New York, Maryland, New Jersey, and Virginia to join, the leadership in the House was opposed. I believe the Northeast Compact ought to be reauthorized, and a number of States, including Pennsylvania, ought to be permitted to join.

Without going into elaborate arguments, this is to provide price stability without any cost to the Government, but to the benefit of consumers. The price fluctuated from as much as $17.34 in December of 1998 to a little over $10 in January of 1999. With that kind of instability, it is very difficult on the farmers.

There is another issue about option 1-A which some 60 Senators and 240 House Members have recommended; contrary to that very large majority, the Secretary of Agriculture proposed a rule which was different, 1-B. Dairy compact legislation was offered on April 27, 1999, by Senators JEFFORDS and LEAHY. I joined with 40 cosponsors. When the Senate considered the issue of dairy pricing and compacts on August 4, 1999 on a vote for cloture, we received 53 votes—short of the 60 majority.

It is my hope yet we will work out the compact for the Northeastern United States and also the 1-A pricing. These are matters which impact very heavily upon my State and upon the farmers far beyond my State as a national matter.

With reluctance, I intend to vote against the conference report and to support the postcloture for extended debate to try to bring about greater equities.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY. Madam President, I rise in support of the conference report, though I have many of the same reservations I heard the Senator from Pennsylvania express. I was not present to hear the comments of the Senator from Mississippi, but I suspect he has reservations about the conference report, as well.

As was pointed out, the conference was adjourned as a result of the decision by the House not to come back. Many matters that were not in this conference report such as sanctions, probably would have been in the report. My guess is we are moving toward some kind of resolution of that particular issue that did not make it into the conference report.

We did not get additional money in the legislation for Farm Service Agency employees. I think we will need that. I don't think it is fair to ask the Farm Service Agency to find the money from other programs, that basically the farmers will have to pay to deliver this program themselves.

There was an effort to get—and I think we have succeeded—bipartisan support to provide some resources for a very heavily attacked sector of our agricultural economy, the hog industry, where there are not only low prices but also significant structural changes going on. We had an innovative proposal for cooperatives that enabled Members to come up with a win-win solution without having to put a bunch of money in the program and enabled Congress to use some ideas that this very important part of our agricultural sector had worked out on their own. I regret that is not in this legislation.

There are a number of other things I would prefer to see included, and as a consequence I was disappointed that the conferees were not able to complete their work. Nonetheless, this is an extremely important piece of legislation for Nebraska. I appreciate in the Northeast there are some concerns there may not be a sufficient amount of resources in this bill to satisfy concerns, but the problem, of course, is that most of the disaster occurs as a consequence of problems with low prices that are affecting the feed grain section, and rice and cotton as well. That is where the big money is. Most of the crops are not grown in the Northeast and that tends to produce apparent inequities. There is almost nothing we can do about that kind of inequity.

In the legislation I appreciate the inclusion of mandatory price reporting. The chairman and I had a little colloquy on that a year or so ago. I appreciate that being included in this legislation. A great deal of effort has been made in the meantime since last year's Agriculture appropriations bill between lots of different sectors of the involved economy: the livestock producers, packers, and feedlot operators. I appreciate that is in the legislation because I think it is a very important part of trying to make the market work to enable people who are running cow-calf operations and feedlot operations to get good price discovery. It is simply a way to ensure that the restructuring that is going on in the industry doesn't prevent the kind of price discovery needed in order to get a good market functioning.

Last, I think this growing requirement to come back to Congress to fund disaster programs underscores the urgency of reexamining the Freedom to Farm contract that was not supposed to expire until 2002. Remember, in 1996, we promised the Freedom to Farm bill would be a lot less expensive than previous farm bills. We have already spent more than we anticipated for the entire 7 years of the program in the first 4 years alone. Obviously, we are not done. We are heading to a point where we will spend as much as we did at the peak of the 1980s.

Talking to farmers where I come from in Nebraska, I am hard pressed to find many that think Freedom to Farm has worked. They are not very enthusiastic about getting another big check from the Government. They would rather have modifications in the farm bill similar to what the Nebraska corn growers presented to the House agricultural committee hearing in Nebraska, saying bring back the farmer loan reserve, uncap the loan rates, make some adjustments in the center on trade, on sanctions. There are lots of things that can be done to make the program better. My hope as we consider this additional disaster payment is that we understand there is a way to operate this farm program and spend a lot less money.

In all the talk about the failed farm policies of the past, we never spent more than $6 billion a year through the 1970s when we had a system called normal crop acreage. It was not the heavy hand of government. There was a single base planted; farmers had flexibility coming in. If farmers wanted to have Freedom to Farm, they didn't have to sign up for the farm program. It ought to be voluntary. We had a program in the 1970s that was a lot more efficient, a lot less costly, and a lot more flexible for the farmer. This is getting more and more complicated, more and more difficult, with more and more trips to the Farm Service Agency than anybody anticipated.

My hope, as we debate this conference report, is that one of the things we start to consider is that in 2000 the Senate Agriculture Committee needs to take up, as the House Agriculture Committee will do, the question of whether or not we ought to rewrite Freedom to Farm in order to not only save the family farm but also to save the taxpayer getting repeatedly hit for the bills of agricultural disasters that may not be created by Freedom to Farm.

I see my good friend down here, Senator ROBERTS of Kansas. He heard me talking about Freedom to Farm and he rushed to the floor to defend himself. I am not saying that Freedom to Farm has caused the problem. I am simply saying I do think it is time to reexamine it. We should do it in a calm and bipartisan fashion. This Freedom to Farm is getting more and more expensive with fewer and fewer satisfied customers.

Last, I also hope the Senate Agriculture Committee will be able to resolve some differences that we have over crop insurance and we can enact crop insurance reform yet this year. The Senate conference with the House has already taken action. This is by no means the only thing we need to do to help people manage the risk, but Senator ROBERTS and I have listened to farmers, written a bill, we have almost 20 cosponsors, a majority of people on the Agriculture Committee. The distinguished chairman of the committee has some terrific ideas, as well, incorporated in his legislation.

My hope is, with 14 legislative days remaining, we can pass that out of the Senate Agriculture Committee and take it up on the floor, pass it here, get it to conference with the House, and get that signed and on to the President. There is money in the budget to do it. There is money in the disaster program to make it easier for people to afford the premiums.

It is consistent with what most of us have been talking about in terms of trying to give the farmers something they can use to manage their risk.

I say finally, I appreciate very much the difficulty the distinguished chairman of this subcommittee has had. Senator COCHRAN had no easy task of trying to produce a conference report. There are things in it I would love to change. I know I cannot change them. But I will vote for this legislation and hope the President will sign it and hope it gets into law as quickly as possible so cash can get into the hands of people who desperately need it in order to survive.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Vermont. Who yields time to the Senator from Vermont?

Mr. COCHRAN. Mr. President, on behalf of the leaders on this side, I yield such time as he may consume to the distinguished Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I thank the chairman of the subcommittee for all his tremendous work on this bill. Most of what I wanted, however, did not succeed. It was not because of his lack of effort. He has put a tremendous amount of time in trying to make the bill more acceptable to those of us who live in the Northeast.

It is with great disappointment that I stand before the Senate to express my reasoning for opposing the fiscal year 2000 Agriculture appropriations bill, the bill that provides funding for agriculture programs, research and services for American agriculture.

In addition, the bill provides billions of dollars of aid for farmers and ranchers throughout America who have endured natural and market disasters. However, and most unfortunately, it neglects our Nation's dairy farmers.

I understand the importance of funding these programs and the need to provide relief for farmers. However, dairy farmers throughout the country and the drought stricken Northeast and mid-Atlantic regions have been ignored in this bill. For these reasons, I must vote against this bill.

The Agriculture appropriations bill provides $8.7 billion in assistance to needy farmers across the country. I believe they should receive the help of the Federal Government. What is troubling is that dairy farmers are not asking for Federal dollars, but instead are asking for a fair pricing structure for their products, at no cost to the Government.

The drought-stricken Northeastern States are not asking for special treatment, just reasonable assistance to help deal with one of our region's worst drought.

Weather-related and market-related disasters do occur and we must as a nation be ready help those in need. In Vermont, in times of need, a neighbor does not have to ask another for help. Vermonters are willing to help, whether it is plowing out a neighbors snow covered driveway or delivering hay to Midwestern States during one of their worst droughts, which we did some years ago to save Wisconsin and Minnesota from terrible problems.

This summer weather conditions in the Northeastern and mid-Atlantic put a tremendous strain on the region's agricultural sector. Crops throughout the region were damaged or destroyed. Many farmers will not have enough feed to make it through this winter. Water for livestock and dairy operations dried up, decreasing production and health of the cows.

The Northeastern and mid-Atlantic States were not asking for much. Just enough assistance to help cope with the unpredictable Mother Nature.

America's dairy farmers need relief of a different kind. There is no need for the expenditure of Federal funds. Commodity farmers are asking the government for relief from natural and market disasters. Dairy farmers are asking for relief from the promised Government disaster in the form of a fair pricing structure from the Secretary of Agriculture. That is all we are asking.

Unless relief is granted by correcting the Secretary's Final rule and extending the Northeast Dairy Compact, dairy farmers in every single State will sustain substantial losses, but not because of Mother Nature or poor market conditions, but because of the Clinton administration and a few here in Congress have prevented this Nation's dairy farmers from receiving a fair deal.

Unfortunately, Secretary Glickman's pricing formulas are fatally flawed and contrary to the will of Congress. The Nation's dairy farmers are counting on this Congress to prevent the dairy industry from being placed at risk, and to instead secure its sound future.

Secretary Glickman's final pricing rule, known as Option 1-B, was scheduled to be implemented on October 1 of this year. However, the U.S. District Court in Vermont has prevented the flawed pricing rule from being implemented by issuing a 30 day temporary restraining order on Secretary Glickman's final rule. The court finds that the Secretary's final order and decision violates Congress' mandate under the Agriculture Marketing Agreement Act of 1937 and the plaintiffs who represent the dairy farmers would suffer immediate and irreparable injury from implementation of the Secretary's final decision.

The temporary restraining order issued by the U.S. district court has given Congress valuable additional time to correct Secretary Glickman's rule.

We must act now. With the help of the court, Congress can now bring fairness to America's dairy farmer and consumers.

Instead of costing dairy farmers millions of dollars in lost income, Congress should take immediate action by extending the dairy compact and choosing Option 1-A.

The Agriculture appropriations bill which includes billions of dollars in disaster aid seemed like the logical place to include provisions that would help one of this country's most important agricultural resources without any cost to the Federal Government.

Giving farmers and consumers a reliable pricing structure and giving the States the right to work together at no cost to the Federal Government to maintain a fresh supply of local milk is a noble idea, and it is a basic law of this Nation.

It is an idea that Congress should be working towards. Instead, a few Members in both the House and Senate continue to block the progress and interest of both consumers and dairy farmers.

This Congress has made its intention abundantly clear with regard to what is needed for the new dairy pricing rules. Sixty-one Senators and more than 240 House Members signed letters to Secretary Glickman last year supporting what is known as Option 1-A, for the pricing of fluid milk.

On August 4 of this year, you will recall the Senate could not end a filibuster from the Members of the upper Midwest, but did get 53 votes, showing a majority of the Senate supports Option 1-A and keeping the Northeast Dairy Compact operating. Most recently, the House passed their version of Option 1-A by a vote of 285 to 140.

Both the House and Senate have given a majority vote on this issue. Thus, I felt very hopeful that its inclusion would have been secured in the Agriculture appropriations bill or some other place.

Thanks to the leadership of Chairman COCHRAN, the Senate stood firm on these important dairy provisions in conference. For days he worked hard to hold the line to include these. His farmers should be very appreciative of his efforts to bring about another compact of a demonstration program for the Southeast. The Southeast is another special area of the country that needs help just to organize their pricing system better to help farmers survive.

Although the House would not allow the provisions to move forward, both Chairman COCHRAN and Senator SPECTER led the fight for the dairy provisions. Farmers from Mississippi and Pennsylvania should be proud of the work and commitment of their Senators.

In fact, dairy farmers throughout the country should be thankful for the tremendous support their livelihoods have received from Chairman COCHRAN, Senator SPECTER, Senator BOND, and others on the Agriculture appropriations conference. Since then, there have been opportunities supported by the Senate to extend the compact and both times it failed because of lack of support in the other body.

With the Senate's leadership, the dairy provisions had a fighting chance in the conference committee. Unfortunately, time and time again House Members rebutted our efforts to include Option 1-A and include our dairy compacts in this bill.

If not for the actions of the House conferees dairy farmers could embrace this bill.

The October 1, 1999, deadline for implementation of the Secretary's rule has come and gone, but with the help of the district court, Congress still has time to act.

We must seize this opportunity to correct the Secretary of Agriculture's flawed pricing rules and at the same time maintain the ability of the States to help protect their farmers, without additional cost to the Federal Government, through compacts.

I understand the significance of the disaster aid in this bill and do not want to prevent the farmers and ranchers throughout the country from receiving this aid. However, in order to protect dairy farmers in my State, as well as farmers throughout the country, I most oppose this bill.

Mr. President, I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The minority has 20 minutes 50 seconds.

Mr. DORGAN. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DORGAN. Mr. President, we are going to be voting on the cloture motion on the Agriculture appropriations conference report. I come without great enthusiasm for this bill, although

I admit there is much in this bill that is important and necessary. The process by which this conference report comes to the Senate is a horribly flawed process.

We face a very serious farm crisis. Part of this legislation deals with that crisis. This appropriations bill deals with the routine appropriations that we provide each year for a range of important things that we do in food safety and a whole range of issues at the U.S. Department of Agriculture and elsewhere dealing with agricultural research and more. But it also deals with what is called the emergency piece in the Agriculture appropriations bill to respond to the emergency in farm country these days.

We have seen prices collapse. We have seen flooding in North Dakota of 3 million acres that could not be planted this spring. We have seen some of the worst crop disease in a century. We have seen substantial problems with the import of grain coming into this country that has been traded unfairly. We have seen the shrinking of the export market with financial problems in Asia. The result has been a buffeting of family farmers in a very tragic way, many of whom are hanging on by their fingertips wondering whether they will be able to continue farming.

We attempted to include some emergency provisions in this piece of legislation. This legislation does, in fact, contain emergency help for family farmers. I wish it contained that help in a different manner than it does. It contains it in a payout called the AMTA payment. This bill will actually double the AMTA payment.

The problem with that is there will be a fair number of people across the country who will receive payments who are not even farming, are not even producing anything, yet they are going to get a payment. There will be people in this country who will get payments of up to $460,000. I expect taxpayers are going to be a little miffed about that. So $460,000 to help somebody? That is a crisis? That is not a family farm where I live. Taking the limits off, and allowing that kind of payment to go out, in my judgment, is a step backward.

Most important, the Senate passed, by 70 votes, a provision that says: Let us stop using food as a weapon. Let us no longer use food and medicine as part of the embargoes that we apply to those countries and governments around the world that we think are behaving badly. By 70 votes, this Senate said: Let us stop using food as a weapon. Let us not use food and medicine as part of an embargo. This conference report does not include that provision because it was dropped. That is a step backward, in my judgment. We ought to have adopted the Senate provision that says: Let us not use food as a weapon. Let us stop using food as part of an embargo.

There was no conference. It started. It went on for a couple of hours. The Senator from Mississippi, Mr. COCHRAN, who chaired it on our side, did the right thing. He opened it up for amendments. We had an amendment, had a vote, and the vote did not turn out right for some other folks in the conference, so they decided to adjourn. That was it. Never heard from them again. Then the leadership decided to put together this bill, and they coupled together a conference report. And so here it rests now for our consideration. I am not enthusiastic about it.

But having said that, I likely will support it because farmers need emergency help, and they need it now. I do want to say that as harsh as I was about this process—and it was an awful process—I made it clear some weeks ago, when I talked about this, that Senator COCHRAN from Mississippi was not part of the reason this process did not work. On our side, he chaired the conference. And he did, I think, what should have been done. He opened it up for discussion, the offering of amendments, and to hold votes. That is exactly the way conferences should work. I applaud the Senator from Mississippi. As always, even under difficult circumstances, he is someone with whom I enjoy working and someone for whom I have great respect.

But in this circumstance, we must pass some emergency help for farmers. This bill contains some of that emergency help. It fails to contain other things that I think are very important. It seems to me, all in all, on balance, this legislation will probably proceed forward; the President will sign it; we will get some help out to family farmers; and come back again and see if we can provide some additional assistance when prices collapse and when that assistance is necessary.

It is especially the case we will need additional disaster help. I do not think the $1.2 billion will do the job that is necessary all around the country to respond to disasters. Senator CONRAD has described on the floor, as have I, the 3 million acres that did not get planted this spring because of flooding. Those producers need help. To be a farmer and not to be able to farm, having all of your land under water, that is what I call a disaster. The amount of money in this bill is not enough to deal with all of these issues all around the country, so I think we are going to have to come back and add to that and try to provide the resources that are necessary.

But again, let me yield the floor because I know others would like to speak. I say to my colleague from Mississippi, I appreciate the fair manner in which he proceeded.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Vermont is recognized.

Mr. LEAHY. I thank the distinguished Senator from Kansas.

Mr. President, I know time is limited, so I would ask the indulgence of the senior Senator from Mississippi and assume that the RECORD stretched on for hours for the praise I would put upon his shoulders. Actually, I do not say that as facetiously as it may sound.

I have served here for a lot of years. I know of no Senator who is a finer Senator, with more integrity or greater abilities than the senior Senator from Mississippi. On top of that, he is one of the closest friends I have in the Senate. I know he has driven mightily in this bill to include a lot of things necessary for parts of the country, staying within the caps.

My concern is one in the Northeast, that while we hear of talk about supplementals to help us later on—the administration or whoever saying, the check is in the mail—this does not help us. In my little State of Vermont, we have witnessed over $40 million just in drought damage. Most of our feed grains were lost this year. Without some assistance, many of our farmers are not going to make it through the winter. In the last 2 years, they have suffered through an ice storm where it dropped to 30 below zero. There has been flooding and two summers of drought.

Congress authorized $10.6 billion in disaster payments in fiscal year 1999. The Northeast and the Mid-Atlantic got 2.5 percent of that. Today or tomorrow we will likely pass $8.7 billion in disaster assistance. Our farmers will get about 2 cents out of every dollar.

According to Secretary Glickman, the drought resulted in a total of $1.5 to $2 billion in damages already this year. The recent rains did not alleviate that. Our farmers need additional funding now that is targeted for crop, feed, and livestock losses caused by the drought. We need drought funding for the crop loss disaster assistance program to help cover crop losses, livestock feed assistance to address feed shortages, the Emergency Conservation Program to restore failed water supplies.

Without funding targeted drought recovery, most of the $1.2 billion will likely go to the Southern States to recover from Hurricane Floyd. And they need that funding. I am not asking we take that funding away from them. I am asking we take care of their needs, but let's not neglect the needs of the Northeast and the mid-Atlantic States.

I wish we would vote against cloture. Then the President would say, wait a minute, maybe we ought to put together a supplemental request for victims of Hurricane Floyd, so the $1.2 billion in the Agriculture appropriations bill could be used for drought relief.

We in the East, east coast Senators, Northeast Senators, have always been there to vote for disaster assistance for other parts of the country, even though it has not affected us: earthquake assistance for California, flood assistance for the Mississippi Valley, drought assistance in the Upper Plains.

When I became chairman of the Agriculture Committee, I brought the Agriculture Committee out to North and South Dakota and elsewhere to emphasize why we needed drought relief, even though what we did was going to cost us in the Northeast. Drought relief for Kansas or any other place cost us in increased feed prices, in taxes. But we did it because it was the right thing to do. We have done it in cases of hurricane assistance for Texas, Louisiana, North and South Carolina, Florida, Georgia, and other States. All we would like is somebody to step back and say, wait a minute, why don't we get back to the administration and say, what are you going to request so this actually takes care of everyone.

Obviously, I was disappointed that we did not have extended the Northeast Interstate Dairy Compact. But my concern would be the same today, whether it was there or not, because of the drought issues. I am concerned that lifting the Cuban embargo for food and medicine that was passed by the Senate by 74 or 75 votes, the Ashcroft amendment, was not included.

I would like to take a moment to reiterate the importance of the Northeast Interstate Dairy Compact and my disappointment that its extension is not in this bill. The Northeast Interstate Dairy Compact has proven itself to be a successful and enduring partnership between dairy farmers and consumers throughout New England. Thanks to the Northeast Compact, the number of farmers going out of business has declined throughout New England—for the first time in many years. If you are a proponent of states' rights, regional dairy compacts are the answer. Compacts are state-initiated, state-ratified and state-supported programs that assure a safe supply of milk for consumers.

Indeed, half the Governors in the nation, and half the state legislatures in the nation, asked that the Congress allow their States to set their own dairy policies—within federally mandated limits—through interstate compacts. And the dairy compact passed with overwhelming support in these States—in Arkansas, for instance, the Compact passed the Senate with a vote of 33 to 0 and the House passed it with a vote of 91 to 0. In North Carolina, the Compact passed the Senate with a vote of 49 to 0 and passed the House with the overwhelming majority of 106 to 1. Clearly, there is tremendous support for dairy compacts in these states.

Since the Federal policies are not working to keep farmers in business, these states acted to make sure that dairy farmers stay in business so that consumers can be assured of fresh, local supplies milk. If you support interstate trade, the Northeast Dairy Compact has proven itself to be the answer. Once the Compact went into operation, the Office of Management and Budget reported an 8 percent increase in sales of milk into the compact region from New York and other neighboring States to take advantage of the higher prices. If you support a balanced budget, dairy compacts are the answer. The Northeast Compact does not cost taxpayers a single cent.

This is very different from the costliness of many farm programs—including many which are being funded through this appropriations bill. If you support farmland protection programs, dairy compacts are the answer. Major environmental groups have endorsed the Northeast Dairy Compact because they know it helps preserve farmland and prevent urban sprawl. In fact, the New Times reported on the importance of the Compact for the environment. In an article entitled "Environmentalists Supporting Higher Milk Price for Farmers" it was explained that keeping farmers on the land maintains the beauty of New England.

And if you are concerned about the impact of prices on consumers, regional dairy compacts are the answer. Retail milk prices within the compact region are lower on average than in the rest of the nation. I would be pleased to compare retail milk prices in New England against retail milk prices in the Upper Midwest.

A GAO report, dated October, 1998, compared retail milk prices for various U.S. cities both inside and outside the Northeast Compact region for various time periods. For example, in February 1998, the average price of a gallon of whole milk in Augusta, ME, was $2.47. The price for Milwaukee, WI, was $2.63/gallon. Prices in Minneapolis, MN, were much higher—they were $2.94/gallon. Let's pick another New England city—Boston. In February 1998, the price of a gallon of milk was $2.54 as compared to Minneapolis, MN, which was $2.94/gallon. Let's look at the cost of 1 percent milk for November 1997, for another example.

In Augusta, ME, it was $2.37/gallon, the same average price as for Boston and for New Hampshire and Rhode Island. In Minnesota, the price was $2.82/gallon. I could go on and on comparing lower New England retail prices with higher prices in other cities for many different months. I invite anyone to review this GAO report. It is clear that our Compact is working perfectly by benefiting consumers, local economies and farmers. This major fact, that in many instances retail milk prices in the Compact region were much lower than in areas in the Upper Midwest, has been ignored by our opponents. I would also like to point out that before the Compact, New England lost 20 percent of its dairy farms from 1990 to 1996—we lost one-fifth of our farms in just 6 years. If farms had kept going under at that rate, the prices of milk in stores could have dramatically increased.

In June I received a letter from the National Grange strongly supporting the Northeast Dairy compact. They represent 300,000 members nationwide, and I want to read a few lines from their letter. It states that "regional dairy compacts offer the best opportunity to preserve family dairy farms." It continues by stating that:

> The heightened interest and support at the state level for dairy compacts is based largely on the outstanding accomplishments of the Northeast Dairy Compact. There is recognition in the dairy industry that states must work together to strengthen their rural economies and ensure fresh, local supplies of milk to their urban areas.

The Grange letter notes that "the Northeast Compact has been extremely successful in meeting this goal by balancing the interests of processors, retailers, consumers, and dairy farmers."

The Grange goes on to support the Southern Dairy compact since a Southern Compact would "provide dairy farmers in that region with a stable price structure for the milk they produce while assuring the region a viable supply of locally produced milk." I want to repeat that OMB studied the Compact and concluded that consumer prices in the region were on average five cents lower per gallon than the average for the rest of the nation and that farm income had increased significantly. OMB also reported that the Compact put more pregnant women, infants, and children on the WIC program than would have been the case without the Compact. The Compact has also been challenged in court and has been upheld as constitutional.

The Compact does not harm other States. Contrary to what some opponents may suggest, the Dairy Compact did not cause a drop in milk production in other regions of the country such as the Upper Midwest. In fact, in 1997, Wisconsin had an increase in production of 1.7 percent while the Compact was in operation. This fact refutes another incorrect criticism of the Compact. Contrary to allegations of Compact opponents, interstate trade in milk has greatly increased as a result of the Compact according to OMB. Milk sales into the Compact region increased by 8 percent—since neighboring New York and other farmers wanted to take advantage of the compact.

It should also be noted that farmers in the Compact region are now milking about the same number of cows over the past couple of years—they did not suddenly expand their herds to take advantage of the Compact as opponents had incorrectly feared. Comparing Vermont's milk cows and production from April of last year to April of this year, note that Vermont's milk production did increase—but by only 2.6 percent. This is slightly less than the increase for Wisconsin. However, the number of cows being milked remained the same for Vermont. Farmers were not buying more cows and expanding their operations under the Compact, and production increases were less than other States.

So if all these points are refuted by the facts, what is the real agenda of those from the Upper Midwest? Based on newspaper accounts from the Upper Midwest, I think I know the answer. I know that the Upper Midwest massively overproduces milk—they produce far more than they can consume—and thus want to sell this milk in the South. They do not even attempt to refute the point that they are trying to sell their milk outside the state. However, it is very expensive to ship milk because milk weighs a lot, it has to be refrigerated, and the trucks come back empty. I have read press reports about how they want to dehydrate milk—take the water out of milk—and then rehydrate it by adding water in distant states.

The Minneapolis Star Tribune explained that Minnesota farmers want to sell "reconstituted milk in Southern markets." The article from February 12, 1992, points out that "technology exists for them to draw water from the milk in order to save shipping costs, then reconstitute it."

Regular milk needs refrigeration and weighs a lot and is thus expensive to ship. Also, only empty tanker trucks can come back since nothing else can be loaded into the milk containers. But dehydrated milk can be shipped in boxes. By taking the water out of milk, the Upper Midwest can supply the South with milk.

I realize that according to a St. Louis Post-Dispatch article in 1990 that "Upper Midwest farmers say technological advances in making powdered milk and other concentrates has improved the taste and texture of reconstituted milk." However, the House National Security Committee had a hearing on this reconstituted milk issue in 1997. I will quote from the hearing transcript: "the Air Force on Okinawa decided that the reconstituted milk was not suitable for the military and as a quality of life decision they closed the milk plant and opted to have fluid milk transported in from the United States." There was a great article in the Christian Science Monitor a few years ago that talks about the school lunch program.

It mentions the first time the author, as a first-grader, was given reconstituted milk. He said: "Now, I like milk. . . . But not this stuff. Not watery, gray, hot, reconstituted milk that tasted more like rusty pump than anything remotely connected with a cow. We wept. We gagged. We choked." The second problem with the strategy of Wisconsin and Minnesota farmers selling their milk down South is what about ice storms or snow? What happens when flooding or tornado damage or other problems stop these trucks laden with milk?

Southern parents might not be able to buy milk at any price any time an ice storm hits the Upper Midwest if the South does not have fresh, local supplies of fresh milk.

Just remember the panic that affects Washington, DC, when residents think we might get what is called in Vermont a "dusting of snow." In this debate on the Northeast dairy compact, I was very hopeful a few months ago that we could work out an amendment on dairy which would be satisfactory to most members. The National Farmers Union made a great proposal which could have helped dairy farmers throughout America. The President of NFU, Leland Swenson, discussed the recent loss of millions of dollars by dairy farmers "when the milk price suddenly dropped by 37 percent" in 1 month. In a letter to many Members of Congress, he pointed out that "family dairy producers will be subject to even greater economic disaster when the support price is completely phased out at the end of the year." The National Farmers Union came up with an idea that would greatly benefit farmers in the Upper Midwest, the South, the West, the Northeast and the rest of the country. As their letter states, the proposal "will also help consumers by ensuring a steady supply of fresh milk and quality dairy products at reasonable prices."

The NFU proposal consisted of: dairy compacts for the South and the Northeast; amendments to the federal order system that help farmers; and, third, a dairy price support at $12.50 per hundredweight. NFU concludes by saying that this proposal would "provide a meaningful safety net for dairy farmers throughout the nation." Compacts for the Northeast and the South, a good support price for the Upper Midwest, the Midwest, Florida, the Southwest, and the West, and reform to Federal order system. All three components would have helped dairy farmers in every region. I know the huge processors launched a massive and expensive campaign against all elements of this NFU proposal. The processors, unfortunately, are for very low dairy prices. These giant multinational processors have bought dozens and dozens of full-page ads and sent snow globes to members of the Congress. Their ads demonstrate what they are against. They oppose: an extension of dairy price supports; increases in price supports; interstate dairy compacts; and other reforms to the federal order system designed to keep dairy farmers in business. They propose instead, as do other opponents of this compromise, nothing—they have no proposals that would help dairy farmers.

Time will show that the opponents of this National Farmers Union package, these large processors, are making a costly error. If their policies of extremely low prices for dairy farmers continue to drive thousands of farmers out of business each year—eventually milk prices will dramatically increase. Unfortunately, I may only be able to say at a later date that "I told you so."

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I will be very brief. The Senator from New York and the Senator from North Dakota want to speak.

On a personal level, I thank Senator COCHRAN from Mississippi for his fine work.

I am sympathetic to what my colleagues from the Northeast have to say. They do not believe they really have been in the picture when it comes to disaster relief. I make a commitment, as a Senator from the Midwest, to fight very hard with them to do better on disaster relief before we leave here over the next 4 weeks or 5 weeks. As a matter of fact, I have a lot of concerns about this disaster relief bill as well and this financial package. I am not sure the farmers in northwest Minnesota are going to figure in. We have had a lot of wet weather. They haven't been able to plant their crops.

I am very worried that they actually are not going to get this disaster assistance. I also worry about the formula. Altogether, this is an $8.7 billion relief package. I worry about the way in which it is delivered. As I have said before, I think the AMTA payments all too often go to those least in need without enough going to those most in need.

Finally, on the negative side, this is all a very painful way of acknowledging that our farm policy is not working. It is a price crisis. Our farmers can't make it on these prices. We are going to lose a whole generation of producers unless we get the loan rate up and get prices up and unless we have a moratorium on these acquisitions and mergers. I am determined to have a vote on the moratorium bill. I am determined to have a vote on doing something to get the prices up for family farmers. That is what speaks to the root of this crisis, which is a very painful economic crisis and a very painful personal crisis because an awful lot of good people are being driven off the land. The only thing this does is enable people to live to maybe farm another day.

I say one more time to the majority leader, I want the opportunity to come out with amendments and legislation that will alleviate some of this pain and suffering. I know other Senators feel the same way.

Finally, I think I lean heavily toward voting for this only because we need to get some assistance out to people. In Redwood County, which has really been through it, we get about $23 million more to cover production losses in beans and corn from AMTA payments. I am told by Tracy Beckman, who directs our FSA office, that Minnesota will receive about $620 million in AMTA payments to be distributed to about 62,000 eligible producers.

I don't think this emergency financial package is anywhere near close to perfect. I think it is flawed in a number of ways. I think we are going to have to do better on disaster relief. But I desperately want to get some help out to people. I think at least this is a step in that direction. We all can come back over the next couple of weeks and do more.

I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, under the authority of the leadership, I yield myself such time as I may consume.

I have received a number of letters from farm organizations and other groups supporting the adoption of the conference report or supporting invoking cloture so we can get to consideration of this conference report. Included among these groups are the American Farm Bureau Federation, asking for a vote on cloture this afternoon; the National Corn Growers Association; the National Association of Wheat Growers; the U.S. Rice Producers Association; the American Soybean Association; International Dairy Foods Association; the National Barley Growers Association; the Louisiana Cotton Producers Association, and others.

I ask unanimous consent that all of these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN FARM
BUREAU FEDERATION,
Park Ridge, IL, October 12, 1999.

DEAR SENATOR: The American Farm Bureau Federation supports passage of H.R. 1906, the conference report on FY 2000 Agriculture Appropriations. We urge you to vote for cloture this afternoon.

We are thankful to the members of the conference committee for their diligent work in securing much needed financial assistance for farmers who are suffering from this year's devastating drought and low commodity prices.

However, we remain disappointed by the process which rendered inadequate levels of funding for weather disaster assistance, excluded trade sanctions reform and did not make needed changes in dairy policy. We appreciate the efforts of members of the House and Senate who worked for these needed changes.

Farm Bureau will continue to work to secure these beneficial changes in farm policy.

Sincerely,
DEAN KLECKNER,
President.

NATIONAL CORN
GROWERS ASSOCIATION,
Washington, DC, October 8, 1999.

Hon. CHARLES S. ROBB,
U.S. Senate, Russell Building,
Washington, DC.

DEAR SENATOR ROBB. On behalf of the 30,000 members of the National Corn Growers Association (NCGA), I strongly urge the United States Senate to pass the fiscal year 2000 agriculture appropriations conference report. America's farmers are facing Depression-era low prices and the political posturing that continues to delay delivery of the desperately needed $8.6 billion farm assistance package puts these farmers at risk.

I cannot stress enough the importance of this farm aid package and the importance of its timely passage. In many cases, the market loss assistance payment will be the only way many of our farmers will meet their end-of-year expenses.

The NCGA urges Congress to vote "aye" on cloture, preventing an impending filibuster from further delaying the bill, and vote "aye" on final passage. Acting immediately on this bill will allow us to get this appropriations process behind us and to then turn our attention to the challenge of crafting long-term policy solutions that will restore the health of the agricultural economy and help us avoid the need for future emergency assistance packages.

NCGA looks forward to working with Congress on those long-term goals in the months to come. Thank you for your consideration.

Sincerely,
LYNN JENSEN,
President.

NATIONAL ASSOCIATION
OF WHEAT GROWERS,
Washington, DC, October 10, 1999.

Hon. THAD COCHRAN,
Chairman, Senate Subcommittee on Agriculture Appropriations, U.S. Senate, Washington, DC.

DEAR CHAIRMAN COCHRAN: As President of the National Association of Wheat Growers (NAWG), and on behalf of wheat farmers across the nation, I write to commend you and the subcommittee on your hard work in completing the FY2000 Agriculture Appropriations bill.

I believe that the emergency assistance package included in the bill will go a long way in meeting the needs of America's wheat producers. At the same time, however, I am very disappointed that the sanctions reform provisions of the Senate's version of the bill were not included in the conference report. NAWG remains committed to lifting all U.S. unilateral sanctions on food and will continue to work towards this goal.

It is my understanding that a handful of your colleagues are attempting to block the adoption of the conference report in an effort to address policy matters outside the bill's intended scope. This is unfortunate.

NAWG encourages all Senators to vote for cloture and final adoption of the conference report as soon as possible.

Sincerely,
JIM STONEBRINK,
President.

U.S. RICE PRODUCERS ASSOCIATION,
Houston, TX, October 1, 1999.

Hon. THAD COCHRAN,
Chairman, Subcommittee on Agriculture, Rural Development and Related Agencies, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The U.S. Rice Producers Association (USRPA) represents rice producers in Mississippi, Missouri, Texas, and California, as well as affiliate members that include rice millers, marketers, and other allied businesses. We are writing to express our strong support for the passage of the conference report on H.R. 1906, the fiscal year 2000 agricultural appropriations bill. While this bill is not perfect, it will help to address some of the critical concerns of American rice producers who are facing record low prices.

Emergency Assistance: H.R. 1906 includes a package of emergency economic assistance that will be critical to the economic survival of rice producers across the nation. With prices for rice projected to fall by more than one-third compared to last year's already low prices, the enactment of this direct emergency assistance is imperative.

Equitable Marketing Loan Payments: H.R. 1906 includes a provision to authorize the Secretary of Agriculture to correct the inequitable treatment received by a number of rice producers when the benchmark World Market Price for rice was significantly adjusted downward in August by the Department of Agriculture. For a number of producers, particularly in Texas and Louisiana, only the enactment of this provision can address this issue.

Comprehensive Sanctions Reform: We are disappointed that the conference report fails to enact reforms regarding our government's use of unilateral agricultural sanctions. We oppose restrictions on the free and open export of U.S. agricultural commodities that deny American farmers access to important export markets. In particular, Cuba was a very large and dependable market for U.S. rice prior to the imposition of sanctions. However, we do not believe that the failure of the bill to address the sanctions issue should be viewed as a reason to defeat this very important bill.

As such, we urge you and your colleagues to vote for final passage of the conference report on H.R. 1906.

Sincerely,
DENNIS R. DELAUGHTER,
Chairman.

AMERICAN SOYBEAN ASSOCIATION,
October 8, 1999.

Hon. THAD COCHRAN,
Chairman, Subcommittee on Agriculture, Rural Development, and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the American Soybean Association (ASA), I would like to express our strong support for immediate passage of the Conference Report on agricultural appropriations for FY-2000. Favorable consideration of this important legislation is even more urgent since it will provide emergency relief for producers of soybeans and other commodities who are suffering from historic low prices and from severe crop losses.

U.S. soybean farmers have seen prices fall 32% in the past three years, to a season average level of $5.00 per bushel for the 1999 crop, according to USDA. This represents a decline of $4.4 billion in the value of this year's harvest, compared to 1996.

While sluggish foreign demand is partly responsible for lower prices, another factor is the increase in U.S. soybean production under "Freedom to Farm." Since 1996, soybean plantings rose eight million acres, or 12%, from 66 to 74 million acres. This increase has disadvantaged traditional soybean producers, and particularly those who do not receive large payments under the AMTA formula.

With Congress prepared to again provide supplemental AMTA assistance to offset low prices received by producers of former program crops, ASA is pleased that the farm relief package includes $475 million to partially compensate producers of soybeans and other oilseeds. This amount will add an estimated 15 cents per bushel to farmers' income from the sale of this year's soybean crop and from marketing loan gains or Loan Deficiency Payments. ASA would like to express appreciation to you for your leadership in including and retaining this provision in the final Conference Report.

Sincerely yours,

MARC CURTIS,
President.

INTERNATIONAL DAIRY
FOODS ASSOCIATION,
Washington, DC, October 8, 1999.

DEAR SENATOR: Next Tuesday, you will be asked to vote on cloture to stop a filibuster of the final agriculture appropriations conference report as some members seek to force inclusion of controversial dairy compacts in the bill. Without question, dairy compacts artificially inflate milk prices, under the guise of helping dairy farmers.

Now is not the time to hold up this agriculture appropriations bill—which includes important farm relief measures. And it certainly isn't the time to unnecessarily increase milk prices to consumers.

Attached are numerous editorials from across the nation that strongly urge Congress to reject higher milk prices, and let modest free market reforms stabilize the industry. We urge you to vote for cloture and let the agriculture appropriations process move forward.

Sincerely,

CONSTANCE E. TIPTON,
Senior Vice President.

NATIONAL BARLEY
GROWERS ASSOCIATION,
Alexandria, VA, October 12, 1999.

Hon. THAD COCHRAN,
Chairman, Subcommittee on Agriculture, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR CHAIRMAN COCHRAN: On behalf of barley producers from across the United States, I am writing to urge Congress to expedite approval of the conference report for FY2000 agricultural appropriations (H.R. 1906). While the conference process was clearly imperfect and barley growers are frustrated by the refusal of the congressional leadership to allow conferees to consider provisions to enact much-needed reforms to US sanctions policy, this package contains several provisions of critical importance to barley producers and to the entire agricultural community. It is important that this package be approved immediately.

As such, barley growers urge you and your colleagues to vote for final passage of the conference report on H.R. 1906.

Sincerely,

JACK Q. PETTUS,
Washington DC Representative.

LOUISIANA COTTON
PRODUCERS ASSOCIATION,
Monroe, LA, October 11, 1999.

Hon. THAD COCHRAN,
U.S. Senate, Senate Russell Building, Washington, DC.

DEAR SENATOR COCHRAN: The Louisiana Cotton Producers Association strongly supports passage of the FY 2000 Ag Appropriations Bill. The financial aid provided for in this bill will to a large degree be the only means by which many are able to hold onto the family farm. Your leadership and support for agriculture is well documented and greatly appreciated.

I look forward to our continued partnership in 2000 as we attempt to improve upon a farm bill that is in dire need of reform.

Sincerely,

JON W. "JAY" HARDWICK.

NATIONAL GRAIN SORGHUM PRODUCERS,
Abernathy, TX, October 8, 1999.

Hon. THAD COCHRAN,
Chairman, Senate Subcommittee on Agriculture Appropriations, U.S. Senate, Washington, DC.

DEAR CHAIRMAN COCHRAN: On behalf of the National Grain Sorghum Producers we urge you to support the Agriculture Appropriations Bill as presented by the Conference and approved by the House.

Farmers across the United States need these funds now.

Sincerely,

DAN SHAW,
Washington Representative.

AMERICAN SUGAR ALLIANCE,
Washington, DC, October 8, 1999.

Hon. THAD COCHRAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR COCHRAN: The associations listed below, representing U.S. sugarbeet and sugarcane farmers, processors, and refiners, unanimously support the Agricultural Appropriations Bill Conference Report.

We thank you for your unfailingly support for American production agriculture and we look forward to continuing to work with you in the future.

Sincerely,

American Sugarbeet Growers Association; American Sugar Cane League; Florida Sugar Cane League; Gay & Robinson, Hawaii; Rio Grande Valley Sugar Growers; Sugar Cane Growers Cooperative of Florida; United States Beet Sugar Association.

AMERICAN TEXTILE
MANUFACTURERS INSTITUTE.
Washington, DC, October 12, 1999.

TUESDAY, OCTOBER 12 CLOTURE VOTE ON AG APPROPRIATIONS: VOTE YES ON INVOKING CLOTURE—VOTE YES ON FINAL PASSAGE

DEAR SENATOR: The FY 2000 Agriculture Appropriations Bill provides needed assistance to U.S. agriculture, including restoration of funds for the cotton competitiveness program, and we urge you to support the conference report. Specifically, we urge you to vote YES on Tuesday, October 12 on the motion to invoke cloture on consideration of this bill, and to vote YES on final passage of the conference agreement.

Funding for "Step 2" of the cotton competitiveness program was capped in the 1996 farm bill and the program ran out of funds in December of 1998, resulting in an immediate and sharp decline in already low raw cotton prices. As we have indicated to you previously, the surge over the last few years in cheap imports from China and other nations of the Far East, in large part because of Asia's economic difficulties, has had a severe impact on the American textile industry. Restoration of funding for Step 2 will help offset some of this damage by making the U.S. cotton and U.S. textile industries more competitive with foreign manufacturers.

As a final point, we understand and sympathize with the concerns of Senators from dairy producing states. However, we strongly urge that these issues be dealt with in an expeditious manner without holding up this badly needed agriculture spending bill. Please do everything you can to achieve such an outcome which will address the needs of dairy producers without holding American textile manufacturers and cotton producers hostage. We need this conference report to be signed into law as quickly as possible.

Sincerely,

CARLOS MOORE,
Executive Vice President.

CALCOT, LTD.,
Bakersfield, CA, October 11, 1999.

Hon. THAD COCHRAN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR COCHRAN: First, I want to thank you for all of your efforts to get the agricultural assistance package to where it is today. Calcot's membership, which totals over 2000 members who grow almost 50 percent of the cotton in Arizona and California, fully support the conference bill.

Growers are distressed at the delay in getting the conference passed by the Senate. Hopefully, the cloture vote tomorrow afternoon will be successful and this bill can be forwarded to the President shortly after that. Growers desperately need the benefits provided in the assistance package, and we really need Step 2 to prevent the loss of further sales of cotton.

Again, we appreciate your efforts to provide this package, but we need it passed by the Senate and signed by the President at the earliest possible date.

Sincerely,

T.W. SMITH.

USA RICE FEDERATION,
Arlington, VA, October 8, 1999.

Hon. THAD COCHRAN,
Chairman, Senate Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the USA Rice Federation, we want to express our support for the FY 2000 Agricultural Appropriations Conference Report. The programs funded by this legislation, and especially the economic assistance package, are urgently needed by America's farmers who are suffering a crisis due to low prices and weather-related disasters.

We urge you and other members of the Senate to support the Report and its quick implementation.

Sincerely,

A. ELLEN TERPSTRA,
President and Chief Executive Officer.

[News From Independent Community
Bankers of America]

ICBA WELCOMES HOUSE PASSAGE OF FARM
RELIEF PACKAGE

Washington, DC. (Oct. 1, 1999)—The Independent Community Bankers of America today welcomed the House of Representatives passage of H.R. 1906, the Fiscal Year 2000 Ag Appropriations bill on a 246-183 vote.

"The $8.7 billion bill will provide much needed economic assistance to struggling farmers who are trying to generate positive cash flows and repay their operating credit as well as plan for new loans. Congress will need to also consider providing additional funds to provide payments for disaster losses and additional money to ensure adequate guaranteed loan funding is available," said ICBA President Bob Barseness.

"While we realize the bill has generated considerable controversy lately, we are hopeful Congress will provide this much needed financial assistance to our farmers as soon as possible." ICBA added.

NATIONAL PEANUT GROWERS GROUP,
Gorman, TX, October 12, 1999.

Hon. THAD COCHRAN,
Chairman, Subcommittee on Agriculture, Rural Development and Related Agencies, Senate Appropriations Committee, Washington, DC.

DEAR MR. CHAIRMAN: The National Peanut Growers Group is a coalition representing peanut growers across the United States. We appreciate very much your hard work in developing the Fiscal Year 2000 Agriculture, Rural Development and Related Agencies appropriations bill. You have always supported our industry.

The bill contains several key provisions that assist peanut growers. In addition to important peanut research projects, the bill provides approximately $45 million in direct disaster payments to peanut growers based on the 1999 peanut crop.

Language was also added during the Conference that requests the Secretary of Agriculture use peanut growers marketing assessment monies to offset potential program losses in the 1999 peanut crop.

We support the FY 2000 Agriculture Appropriations bill and urge its immediate passage.

Sincerely,

WILBUR GAMBLE,
Chairman.

AMERICAN BANKERS ASSOCIATION,
Washington, DC, October 12, 1999.

Hon. THAD COCHRAN,
U.S. Senate, Washington, DC.

DEAR SENATOR COCHRAN: On behalf of the American Bankers Association (ABA), I am writing to express our support for the FY 2000 Agricultural Appropriations Conference Report (HR 1906). The ABA represents all categories of banking institutions which includes community, regional and money center banks and holding companies as well as savings associations, trust companies and savings banks. Our members are deeply concerned about the future of our agricultural and rural borrowers.

At the end of 1998, our members had over $70 billion in outstanding loans to farm and ranch customers. We provide American agriculture with the credit needed to produce our nation's safe and abundant food and fiber.

We join you in supporting the Conference Report because it will address the emergency needs of this vital national industry. Our nation's farmers and ranchers have been battered by low prices and, in some areas, by severe weather conditions. Many of our farmers and ranchers are losing hope and are deciding to leave agriculture.

For many of these farmers and ranchers the FY 2000 Agricultural Appropriations Conference Report can make the critical difference between staying on the farm or leaving it forever. We thank you for supporting the legislation, and we urge you to impress on your colleagues the urgent need to pass the legislation as quickly as possible.

Sincerely,

FLOYD E. STONER.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from North Dakota is recognized.

Mr. CONRAD. I thank the Chair.

Mr. President, I rise to urge my colleagues to support the cloture vote this afternoon. I acknowledge the work of our colleague, Senator COCHRAN, and our colleague, Senator KOHL, who are the chairman and ranking member of this committee. I have found in my time in the Senate that Senator COCHRAN is a very fair man. He is somebody who keeps his word. He always has time to listen. I appreciate that very much. I also appreciate the difficulty he has, along with Senator KOHL, in bringing this bill to the floor. This is not easy to do. It is a very difficult thing year after year, to deal with all of our colleagues on these very contentious issues. I thank my colleague, Senator COCHRAN, for his patience more than anything else because he has certainly demonstrated that. I also thank Senator KOHL because he has also listened carefully to the needs of our colleagues from around the country.

I represent one of the most agricultural States in the Nation. My producers there have been hit by a triple whammy of bad prices, bad weather, and bad policy. The prices are the lowest they have been in real terms in over 50 years. There is a price collapse occurring that is putting enormous financial pressure on our producers.

Bad weather. I guess the simple fact that we had 3 million acres in the State of North Dakota not even planted this year tells a story, not because it was too dry but because it was too wet. What an extraordinary circumstance. Back in 1988 and 1989, we had the worst drought since the 1930s. Now we have the wettest conditions in 100 years. Everywhere you go in North Dakota, at least in a big chunk of our State, there is nothing but water. Who could have believed this dramatic change? And we are hurt by bad trade policy and bad agriculture policy that has further burdened producers.

There are several parts of this package that I think are critically important. The 100-percent AMTA supplemental payment is going to mean that a North Dakota wheat farmer, instead of getting a transition payment of 64 cents a bushel on wheat, is going to get $1.28. It may not sound like much to many of my colleagues, and it isn't much in the great scheme of things. That is going to make the difference between literally thousands of farm families having to be forced off the land and being able to survive for another year. That is critically important.

Second, there is a 30-percent crop insurance discount. That is very important because we have not devised a crop insurance system that can work for the farmers of this country.

So those are two important provisions. They deserve our support.

As soon as I am positive about this bill, I also want to point out those parts of the bill that are deficient because there is inadequate disaster assistance in this bill. There is not enough money for those who are victims of Hurricane Floyd; there is not enough money for those who are the victims of the drought in the eastern part of the United States; there is not enough money for those farmers in my State who have been flooded out. These are farmers who didn't take a 30-percent loss or a 40-percent loss; they took a 100-percent loss because their land is under water.

Mr. President, we have to do better. We will have a further opportunity to do so in the legislative process later this year. I hope very much we will do that. But right now, the right vote is to vote for cloture.

I thank the Chair and I yield the floor.

Mr. SCHUMER addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I must respectfully disagree with my colleague from North Dakota. This bill is a disaster for the farmers in the Northeast. We have been hit, in this bill, by a triple whammy. No. 1, the dairy compact hangs by a thread. No. 2, the pricing support system for dairy 1–A is replaced by 1–B. And then, to add insult to double injury, what has happened is that there is so little disaster relief—given the hurricane in North Carolina, flooding in North Dakota, and the worst drought in a generation in the Northeast—it is hard to see how the money allocated here covers the needs of hard-pressed farmers.

So I urge my colleagues to vote against this bill. It just does not do the job for us. I have spoken to many on my side, including our minority leader, who shares our heartfelt concerns; and we are going to make an effort to do whatever we can to get extra disaster relief in other supplemental bills. But it is faint concern, little concern, to the people and farmers in the Northeast.

We have 220,000 farmers in the Northeast, according to the Secretary of Agriculture. We have a program, a dairy program, and fruits and vegetables as well, that are different from the majority of farming here in this country. It is not a row crop, and they are not large farms; they are family farms.

I will leave my colleagues with a plea: We need help. We need real help, particularly this year when low prices and the drought have severely affected us. We are not getting the help we need in this bill, and we hope we can come back another day and get it.

I yield the floor.

Mr. COCHRAN. Mr. President, on behalf of the leader, I yield the time that he may consume to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, because of the lowest commodity prices in a quarter century in the Midwest and probably every place else in the United States, I support the conference report we are considering this afternoon. While there are elements of the legislation that I might not support, or would rather not have in the bill, I think the greater good is served by passing this legislation as quickly as possible. The sooner we pass this legislation, the sooner we can assist the family farmer. That was our intention when we began this process the first week of August, and I am glad to see it will be accomplished in the near future.

As everyone is aware, there is a crisis in rural America due to these low commodity prices. I made a promise 3 years ago to guarantee a smooth transition from big government command and control to a market-driven agricultural economy. We predicted 3 years ago, in the 1996 farm bill, that that smooth transition would require about $5.5 billion for the year 1999. We didn't anticipate the lowest prices in 25 years and, obviously, that transition turned out to be more difficult than we anticipated. To remedy the situation we have added economic assistance in this bill that we did not predict was necessary three years ago.

A number of factors have contributed to the downturn in the agriculture economy that we have experienced over the last 18 months. I would like to tell you that the answer to our problem is as easy as changing the 1996 farm bill. But, in fact, the economics involved are complex and international. For example, we saw soybean prices take a nosedive a while back, not because of anything we did in this country, but because the Brazilian currency lost one-quarter of its value overnight. Brazil happens to be a major soybean producer and also an exporter. That action also shaved roughly a dollar a bushel off of U.S. soybean prices.

Another example is that Asia has been one of our fastest growing and strongest export markets. But when the Asian economy crashed, they could no longer buy American pork and our grain. The financial crisis Asia experienced hurt all our farmers in America, even my friends and neighbors back at New Hartford, Iowa.

Global trade manifested by exports has become a mainstay of our Nation's family farmers. Roughly one-fourth of farm receipts today come from overseas sales. Iowa is a significant supplier to the world, being the Nation's No. 2 exporter of agricultural commodities, after California. The solution is to increase our access to world markets by passing fast track and opening doors through the World Trade Organization and other trade agreements, not by limiting our ability to compete in the world market by choking our own production.

There are 100 million new mouths to feed every year, almost a billion in the next decade. Farmers someplace in the world are going to feed those new mouths. I would rather it be Iowa or United States products than Brazilian and Argentine products. We can do it and compete. In the short-term though, the most effective means of helping our family farmers in need is providing economic assistance as quickly as possible.

The fastest means to provide emergency relief to our farmers is through the AMTA mechanism. I would like to mention that some of my colleagues have criticized our plan to distribute income assistance through the AMTA payment mechanism. I have heard and witnessed statements that would lead some to believe that landowners who do not share in production risk or management are benefiting from this assistance. The 1996 farm bill states that payments are only available to those who "assume all or part of the risk of producing a crop."

Recently, 53 Senators signed a bipartisan letter asking Secretary Glickman whether there are payments being made to those who do not share risk in agriculture—risk in a specific farming operation. If that is occurring we have requested in the letter to Secretary Glickman that the proper disciplinary action for any official approving payments in this manner be administered. But if this is not happening, I apologize for my colleagues who have delayed the process by making baseless claims due to their own ignorance.

So the action we take today guarantees the future stability of the family farmer and the agricultural economy. It is with this in mind that I support this cloture motion and hope this bill passes, because within 10 days after getting this bill signed by the President, this money can be distributed to the farmers of America.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The distinguished Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I know we are close to running out of time. I will use my leader time to make a few comments on the pending conference report.

I come to the same conclusion as the distinguished Senator from Iowa, and I would like to elaborate, if I could, briefly on why I have come to that conclusion.

I believe we ought to be supportive of this conference report, but I must say I am deeply disappointed that we have to be in this position in the first place. This is a badly flawed bill from many perspectives. I strongly disagree with using the AMTA mechanism as the only mechanism by which we provide resources to those in need. As a result of our reliance on AMTA, there will be thousands of people no longer directly involved in agriculture who are going to get payments of over five and a half billion dollars. Our view is that that is a tragedy, given the limited resources we have available to us and the extraordinary need to ensure that resources are spent in the most prudent fashion. They will not be, in large measure, because of the formula incorporated in this language.

I also am very deeply concerned about the fact that there is no loan availability in this bill. There are going to be farmers who are going to be turned away from banks throughout the country. When they are turned away, as is happening on many occasions, farmers go to the Farm Service Agency to ensure they can get the resources they need.

Let us be clear. There is no recourse as a result of this legislation. Farmers have no opportunity to get alternative loan availability because there is no money in this bill for loans. For that reason, too, I am very concerned about the deficiencies in this legislation.

As most of us know, we have lost a substantial number of our pork producers. The number of pork producers in South Dakota has diminished substantially in recent years. In fact, we have lost a large portion of the percentage of our hog producers in the last year in large measure because of the disastrous crisis they are now facing. There is not $1 in here for livestock producers involved in pork production. As a result, our pork producers have no hope of obtaining any kind of assistance as a result of this legislation.

I must say we also are deeply concerned about the impact this legislation could have, if this is the last word on the circumstances those in the Northeast currently are facing. They have experienced serious drought. Other parts of the country have faced other serious farm disasters. The disaster assistance in this package is absolutely unacceptable. The $1.2 billion is a fraction of what will be required if we are going to meet all of the obligations this country should and must meet to address disaster needs, especially in the Northeast, in the coming 12 months. We have an extraordinary deficiency with regard to disaster assistance.

As a result of that as well, I am deeply troubled that we are faced with a very untenable choice: vote for this, and get some assistance out to those who will receive it, in time for it to do some good, or do nothing and hope that somehow in some way at some time we can resolve this matter before the end of the session.

I sadly come to the conclusion that what we have to do is take what we can get now, to take what we have been able to put in the bank now, and keep fighting to address all of these deficiencies before the end of this session. I have said just now to my colleagues in the Northeast that we will not rest, we will not be satisfied until we have adequately addressed their needs in disaster assistance before the end of this session. We will make that point with whatever vehicles we have available to us, appropriations or otherwise. It is absolutely essential that we provide that assistance before the end of this year and send a clear message that we understand the gravity of their circumstances and are prepared to address it.

I might also say that we have to look also at an array of policy considerations. My view is that we are in this box in large measure because we created it ourselves. Those who voted for Freedom to Farm are coming to the realization that clearly this is a situation that has to be resolved through public policy, in new farm policy, with the creation of a safety net, with the creation of market incentives to create more of a balance between supply and demand than what we have right now.

That is a debate for another day. We are left with a choice about whether or not we provide $8.7 billion in aid now, as poor as the vehicle may be, to people who need it so badly. I will vote yes, and I encourage my colleagues to do likewise.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Mississippi.

Mr. COCHRAN. Mr. President, I ask unanimous consent that a copy of a letter addressed to the chairman of the Appropriations Committee strongly endorsing the method of payment used for the disaster assistance portion of this bill from the American Soybean Association and other groups be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Hon. TED STEVENS,
Chairman, Senate Appropriations Committee,
Washington, DC.

DEAR CHAIRMAN STEVENS: We are well aware that some have encouraged conferees on the FY00 agricultural appropriations bill to use alternative forms of funding emergency farm income disaster assistance rather than supplemental Agricultural Market Transition Act (AMTA) payments.

In Secretary Glickman's September 15 testimony before the House Agricultural Committee, he says "To be sure, there is an immediate need to provide cash assistance to mitigate low prices, falling incomes, and in some areas, falling land values. Congress should enact a new program to target assistance to farmers of 1999 crops suffering from low prices. The Administration believes the income assistance component must address the shortcomings of the farm bill by providing counter-cyclical assistance." He goes on to say, "The income assistance should compensate for today's low prices and therefore they should be paid according to this year's actual production of the major field crops, including oilseeds, not a formula based on an artificial calculation done a decade ago."

Mr. Chairman, we strongly disagree with that philosophy. The current economic distress is partly a result of the unfulfilled promises of expanded export markets, reduced regulations, and tax reform that were part of the promises made during deliberation of the 1996 farm bill. The costs of these unfulfilled promises fall upon those people who were participating in farm programs at that time.

The AMTA payment process is in place and can deliver payments quickly. The administrative costs of developing an alternative method of payments would be very high and eat into funds that should go to farmers. Given the 7½ months it took the Department to issue weather disaster aid last year, we are unwilling to risk that producers might have to wait that long for development and implementation of a new farm economy disaster aid formula. Time is also critical for suppliers of goods and services to producers. They need payments for supplies now to stay in business, not just promises that something will happen in the future.

Supplemental AMTA payments provide income to producers of corn, wheat, cotton, rice, barley, and grain sorghum. Soybean producers will receive separate payments under the Senate Agricultural Appropriations language. Crop cash receipts for these producers in 1999 will be down over 20 percent from the 1995–97 yearly average. Producers who have smaller than normal crops due to weather problems will receive normal payment levels. This is better than using the loan deficiency payment program (LDPs) which are directly tied to this year's production.

We urge you to retain the $5.5 billion in supplemental AMTA payments as the method of distribution for farm economy aid in the agricultural appropriations conference agreement. Any alternative would certainly take additional time to provide assistance to producers—time which we cannot afford.

Sincerely,

American Farm Bureau Federation; American Soybean Association; National Association of Wheat Growers; National Corn Growers Association; Nation Cotton Council; National Grain Sorghum Producers; National Sunflower Association; U.S. Canola Association; USA Rice Federation.

FREEMAN LAKE DAM

Mr. McCONNELL. Mr. President, the conference report making appropriations for fiscal year 2000 for Agriculture, Rural Development, Food and Drug Administration and Related Agencies which is currently before the Senate contains language under the Watershed and Flood Prevention Operations account of the Natural Resources Conservation Service, NRCS, to utilize Emergency Watershed Protection Program monies to perform rehabilitation of designated dams constructed under the agency's watershed program. Is this correct?

Mr. COCHRAN. The gentleman from Kentucky is correct.

Mr. McCONNELL. I ask the distinguished Chairman of the Agriculture Appropriations Subcommittee if the conference report directs NRCS to provide financial assistance for the Freeman Lake Dam located in Elizabethtown, Kentucky?

Mr. COCHRAN. I assure the gentleman from Kentucky that the Conference Report does contain the language as he has described.

Mr. McCONNELL. I thank the Chairman for including this project in the conference report. The Freeman Lake Dam is in dire need of rehabilitation, and the safety of the community rests upon the integrity of this dam. Finally, I would ask the gentleman from Mississippi, is it the conference's intent that funding to rehabilitate this dam comes from existing Emergency Watershed Protection program funds, since this structure represents a serious threat to life and property.

Mr. COCHRAN. The gentleman from Kentucky is correct.

Mr. McCONNELL. I thank the chairman.

FOOD AND DRUG ADMINISTRATION

Mr. HATCH. Mr. President, I am deeply concerned about certain aspects of the FY 2000 funding level for the Food and Drug Administration. My greatest concern is that while the FY 2000 conference report provides about $70 million over FDA's 1999 funding level of $982,217 million, this is about $90 million below the agency's FY 1999 request of $1.142 billion.

While the conference report for FY 2000 does fund important new initiatives within the FDA such as food safety programs, other key priorities are not accommodated such as $20.4 million for phase I funding for construction of the agency's Los Angeles laboratory facility and $15.3 million for improvements to FDA's adverse event reporting system.

I thank the chairman for allowing me to bring these vital issues to his attention. If Congress can find resources to fund these important priorities, the American public will reap great benefits. Finally, I commend him for your demonstrated leadership and expertise in financing the operations FDA and I look forward to continuing to work with you on funding this key public health agency.

Mr. COCHRAN. I thank the Senator from Utah for his comments regarding funding for the Food and Drug Administration. As the Senator knows, the Congress is required to comply with fiscal year 2000 budget caps on discretionary spending. Unlike the President's budget, we do not have the luxury of being able to offset appropriations' increases with savings from questionable scoring tactics, or from new user fee and other proposed legislation which has not won the support of the appropriate authorizing committees of the Congress.

I understand the Senator's concern that this conference agreement does not provide the full fiscal year 2000 level requested for the FDA. However, it does provide the FDA with a substantial increase in funding from the fiscal year 1999 level to provide the amount requested for two of FDA's highest priority activities—food safety and premarket review. I can assure my colleague from Utah that we will continue to review the funding needs of this critical public health agency and consider future requests of the agency to enhance funding for its essential activities, including those which he has brought to our attention here today.

WIC PROGRAM REQUIREMENTS

Mr. LEVIN. Mr. President, we have before the Senate the conference report on H.R. 1906, the fiscal year 2000 Appropriations Act for Agriculture, Rural Development, and Related Agencies. Included in this Act is more than $4 billion for the Special Supplemental Nutrition Program for Women, Infants, and Children commonly known as the WIC program. This is one of the most successful programs provided by the federal government, and I am glad to see that an increase above last year's level is provided in this Act.

However, I have concerns about language in the statement of managers to accompany this conference report about the WIC program. This language relates to the so-called "sugar cap" and I would like to ask my friend from Wisconsin, the ranking member of the appropriations subcommittee, about this specific provision.

Mr. KOHL. I thank the Senator from Michigan, and he is correct, there is language in the statement of managers that instructs the Department of agriculture not to make any exceptions to the WIC sugar cap.

Mr. LEVIN. I ask the Senator, did this or any similar language appear in either the House or Senate measures before the conference committee convened?

Mr. KOHL. This particular language was offered in the conference committee, and it does not appear in either the House or Senate versions of the fiscal year 2000 appropriations bills or reports.

Mr. LEVIN. I thank the Senator. I was surprised to learn that language relating to specific nutritional policy of the USDA—policy that has been the subject of significant study and debate within the agency for years—that language which appears to reach a conclusion on the outcome of years of study has been slipped into the fiscal year 2000 appropriations report. This language appeared, *deus ex machina*, at the very last minute and without discussion by all the conferees. Thankfully, the language is not binding on USDA, so the agency can continue with their decision making process, without being bound by the language in the conference report.

Substantively, the report language conflicts with the USDA's own recommendations on children's diets. When the National Association of WIC Directors and the USDA's Center for Nutrition Policy and Promotion both urge people to add fruit to their cereal, it is irrational and incoherent to deny people the opportunity to obtain fruit in their cereal. But that is what the report language would accomplish.

USDA should make a determination on how the sugar cap on breakfast cereals in the WIC package of foods should be calculated and how best to incorporate fruit into WIC participants' diets. The agency should bring nutritional science and common sense to the task, and it should ensure that the rule is consistent with the nutritional recommendations that it makes regarding children's diets.

Mrs. FEINSTEIN. Mr. President, I agree with my colleague that the USDA, which has the expertise to make an informed decision about the value of fruit and other foods in children's diets should be left alone to design the composition of the WIC food packages. Over the past several years, the Agriculture, Rural Development, and Related Agencies appropriations bill has become a vehicle for the debate surrounding the content of sugar in certain foods eligible for inclusion in the WIC program. More recently, the fiscal year 1999 Statement of Managers instructed the Department to provide $300,000 for a study by the National academy of Sciences on this issue, which was not conducted. Now, the fiscal year 2000 Statement of Managers includes language directing that no exception to the sugar cap be made. I assume that this pattern of direction is as frustrating to all of us as it is to WIC program administrators, participants, and suppliers.

Our goal, quite simply, should be to promote a healthy diet for all Americans. USDA nutrition policy should consider the totality of U.S. eating habits and aim for consumer education and program implementation that deals with a person's overall diet rather than one burdened by requirements attached in a piecemeal fashion.

It is unfortunate that the grip of political consideration has taken hold of a matter best left to nutritionists and those trained in the science of public health. It is also unfortunate that the result has been inconsistent policy development where certain nutritional limitations have been imposed on some components of USDA nutrition programs, but not on others. This issue should be resolved by experts who can best determine dietary guidelines properly suited for all Americans. My intent also does not suggest that USDA nutrition programs should be made more complicated than they are, but that a simple injection of common sense should prove refreshing and, hopefully, a basis for sound public policy.

Mr. KOHL. I appreciate the view of the Senators from Michigan and California regarding this issue. For many years, I too have grown concerned by the trend away from healthy food choices and toward eating patterns that may lead to tremendous health care costs in the future. To the extent that human health is a result or human choices, there is probably no better example than in what we choose to eat.

In my opinion, American consumers receive too much persuasion regarding diet from our popular culture and far too little from those best qualified to provide good counsel. In the instance of the matter raised by the Senator from Michigan, I am not sure what benefits to public policy are achieved by an never ending discussion within political circles where expertise in human nutrition is probably lacking. Does this send a good strong message to the American consumer regarding the right choices to make regarding nutrition? I hardly think so.

It is time, it is long time, for politicians to step back and let the experts decide what is best for the American consumer. The Senator from Michigan makes some valid points regarding the need for a common sense approach to nutrition and public health. I hope the Department of agriculture recognizes that their responsibly transcends the political winds where some matters, such as sound nutritional advice, have no place. I would not expect doctors at the Mayo Clinic to take my advice on how to proceed with a delicate operation. Further, I would not expect nutrition experts at USDA to take my advice on what details best constitute a totally balance diet for a certain population beyond my suggestion that they use their best judgement base don their knowledge and experience. If they don't follow those standards it is unclear why they are there in the first place.

TOBACCO PROVISIONS

Mr. MCCONNELL. Mr. President, it is my understanding that the tobacco provisions of this bill, will provide an additional $328,000,000 in funds for farmers who produce the major cigarette tobaccos—burley and flue-cured tobacco. It is those farmers who have been the most affected by recent developments with respect to the manufacture and use of cigarettes. It is those farmers also who are the subject of the recent "Phase II Settlement" in which moneys are being made available to burley and flue-cured tobacco growers through the use of State trusts. It is also my understanding that the bill's reference to those farms who receive "quotas" under the Agriculture Adjustment Act of 1938, is intentional, and does limit the relief, to burley and flue-cured tobacco. The reference to "quotas" is to poundage quotas and burley and flue-cured tobacco are the only tobaccos under the current regulatory scheme that receive poundage "quotas" as opposed to acreage allotments. This limitation to burley and flue-cured tobaccos is intentional and reflects recent developments.

Mr. COCHRAN. The gentleman from Kentucky is correct.

Mr. McCONNELL. I thank the Senator.

Mr. DOMENICI. Mr. President, I rise in support of the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations conference report for fiscal year 2000.

The conference report provides $68.6 billion in new budget authority (BA) and $48.5 billion in new outlays to fund most of the programs of the Department of Agriculture and other related agencies. Within this amount, $8.7 billion in BA, and $8.3 billion in outlays is designated as emergency spending for farmers who have experienced weather-related disasters, and for additional market transition payments to compensate farmers for depressed commodity prices. All of the discretionary funding in this bill is nondefense spending. When outlays from prior-year appropriations and other adjustments are taken into account, the conference report totals $73.0 billion in BA and $55.7 billion in outlays for FY 2000.

The Agriculture Appropriations Subcommittee 302(b) conference allocation totals $73.0 billion in BA and $55.7 billion in outlays. Within this amount, $22.7 billion in BA and $22.6 billion in outlays is for nondefense discretionary spending, of which $8.7 billion in BA, and $8.3 billion in outlays are designated as emergency spending. For discretionary spending in the bill, and counting (scoring) all the mandatory savings in the bill, the conference report is at the Subcommittee's 302(b) allocation in BA and outlays. It is $8.7 billion in BA and $8.5 billion in outlays above the 1999 level for discretionary spending, $1.1 billion in BA and $1.0 billion in outlays above the Senate-passed bill, and $8.2 billion in BA and $7.7 billion in outlays above the President's request for these programs.

I recognize the difficulty of bringing this bill to the floor at its 302(b) allocation. I appreciate the committee's support for a number of ongoing projects and programs important to my home State of New Mexico as it has worked to keep this bill within its budget allocation.

Mr. President, I ask unanimous consent that a table displaying the Senate Budget Committee scoring of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 1906, AGRICULTURE APPROPRIATIONS, 2000, SPENDING COMPARISONS—CONFERENCE REPORT

[Fiscal year 2000, in millions of dollars]

	General Purpose	Crime	Mandatory	Total
Conference Report:				
Budget authority	22,687	....	50,295	72,982
Outlays	22,578	....	33,088	55,666
Senate 302(b) allocation:				
Budget authority	22,687	....	50,295	72,982
Outlays	22,578	....	33,088	55,666
1999 level:				
Budget authority	14,005	....	41,460	55,465
Outlays	14,093	....	33,429	47,522
President's request:				
Budget authority	14,520	....	50,295	64,815
Outlays	14,831	....	33,088	47,919
House-passed bill:				
Budget authority	13,882	....	50,295	64,177
Outlays	14,508	....	33,088	47,596
Senate-passed bill:				
Budget authority	21,619	....	50,295	71,914
Outlays	21,532	....	33,088	54,620
CONFERENCE REPORT COMPARED TO:				
Senate 302(b) allocation:				
Budget authority	....	....	....	....
Outlays	....	....	....	....
1999 level:				
Budget authority	8,682	....	8,835	17,517
Outlays	8,485	....	−341	8,144
President's request:				
Budget authority	8,167	....	....	8,167
Outlays	7,747	....	....	7,747
House-passed bill:				
Budget authority	8,805	....	....	8,805
Outlays	8,070	....	....	8,070
Senate-passed bill:				
Budget authority	1,068	....	....	1,068
Outlays	1,046	....	....	1,046

Note.—Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

Mr. THOMPSON. Mr. President, I rise today to express my disappointment that the agriculture appropriations conference report that Congress is sending to the President does not ratify a Southern Dairy Compact that 14 state legislatures have approved.

I recently met with several dairy farmers from Tennessee who stressed to me the importance of the Southern Dairy Compact to their farms' survival. Dramatic fluctuations in the price of milk continue, and it is increasingly difficult for these family farms, many of which have been passed down from one generation to the next, to hang on during the hard times. Let me illustrate how dire the situation is: in the last two years, 400 dairy farms in Tennessee have been forced out of business, reducing the total number of farms producing Grade-A milk in the state to under 1,000 for first time since anyone started counting.

Today I will vote to cut off a filibuster on the agriculture appropriations conference report because America's farmers are in urgent need of the disaster assistance the bill provides and cannot afford any delay in its delivery, but I am no less committed to the establishment of a Southern Dairy Compact. I believe it would provide the stability in milk prices that dairy farmers need to survive and would protect the region's local supply of milk. Fourteen southern states, including Tennessee, have voted to participate in the Southern Dairy Compact, and it's now up to Congress to ratify it. I will continue to work with my colleagues in the Senate to get that done.

Mr. BURNS. Mr. President, I thank Chairman COCHRAN and his staff for putting together a bill that encompasses the needs of agriculture. I also thank Chairman STEVENS for his cooperation during the agricultural appropriations process. I am pleased with the funding that went to my home State of Montana as well as to important national programs for agriculture.

During this economic crisis in agriculture, immediate funding needs of farmers and ranchers must be addressed. I believe this bill does that. The $8.7 billion package contains important funding for Agricultural Marketing Transition Act, AMTA payments for wheat and barley producers in Montana, as well as $322 million for livestock producers and $650 million in crop insurance.

Additionally, I am thrilled that price reporting was included in the final bill at my request. I have been trying to secure price reporting for our livestock producers for quite some time now. This legislation will provide producers with the information they need to make prudent marketing decisions, and take the control out of the hands of the meat packers.

Four major packers control 79% of the meat-packing industry. It is necessary to have this price reporting information accessible to producers so that they may take advantage of the best possible market opportunities available. Additionally, they must have the assurance that they are receiving accurate data.

The majority of livestock producers in Montana sell their feeder calves to feeder markets, which are highly concentrated. Increased concentration within the agricultural industry provides them fewer and fewer options open for marketing. Price reporting will increase market transparency and present producers an accurate view of the market.

The National Cattlemen's Beef Association, the American Sheep Industry, and the National Pork Producers Council worked extensively with State producer organizations and the packers to craft a bill that will work for everyone and directly benefit producers. The end result of this work is the legislation included in agricultural appropriations as ordered reported by the Senate Committee on Agriculture on July 29, 1999. I join all of these interested parties in directing the Department of Agriculture and the administration generally to this document for use in the correct interpretation and administration of this important law.

I am disappointed that policy issues such as dairy and food-related sanctions were eventually stripped from this bill. I believe these concerns must be addressed as soon as possible. I will support Option 1-A legislation in H.R. 1402, in order to ensure my dairy farmers are taken care of. Additionally, I will support Senator ASHCROFT in his efforts to exempt food and medicine from sanctioned countries. American farmers and ranchers stand much to lose by not having all viable markets open to them.

Again, I thank the fine chairman, Mr. COCHRAN, for all his good work on this bill. I will continue to work for Montana farmers and ranchers to make sure they make not only a decent living but one that is profitable and fulfilling.

I thank the Chair.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant bill clerk read as follows:

> CLOTURE MOTION
>
> We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the conference report to accompany H.R. 1906, the Agriculture appropriations bill:
>
> Trent Lott, Thad Cochran, Tim Hutchinson, Conrad Burns, Christopher S. Bond, Ben Nighthorse Campbell, Robert F. Bennett, Craig Thomas, Pat Roberts, Paul Coverdell, Larry E. Craig, Michael B. Enzi, Mike Crapo, Frank H. Murkowski, Don Nickles, and Pete Domenici.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule has been waived.

The question is, Is it the sense of the Senate that debate on the conference report to accompany H.R. 1906, the Agriculture appropriations bill, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Connecticut, Mr. DODD, is absent because of illness in the family.

The yeas and nay resulted—yeas 79, nays 20, as follows:

[Rollcall Vote No. 322 Leg.]

YEAS—79

Abraham
Akaka
Allard
Ashcroft
Baucus
Bayh
Bennett
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bunning
Burns
Byrd
Campbell
Cleland
Cochran
Conrad
Coverdell
Craig
Crapo
Daschle
DeWine
Domenici
Dorgan
Durbin
Edwards
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Gorton
Graham
Gramm
Grams
Grassley
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Levin
Lincoln
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Murray
Reid
Robb
Roberts
Rockefeller
Sessions
Shelby
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner
Wellstone
Wyden

NAYS—20

Biden
Chafee
Collins
Gregg
Jeffords
Lautenberg
Leahy
Lieberman
Mikulski
Moynihan
Nickles
Reed
Roth
Santorum
Sarbanes
Schumer
Smith (NH)
Snowe
Specter
Torricelli

NOT VOTING—1

Dodd

The PRESIDING OFFICER. On this vote, the yeas are 79, the nays are 20. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, on behalf of the leader, I will propound the following unanimous consent request which has been cleared, I am told, on both sides of the aisle. It relates to the further handling of the Agriculture conference report.

I ask unanimous consent that notwithstanding rule XXII, at 9:30 a.m. on Wednesday there be up to 5 hours equally divided for debate between Senator COCHRAN and the minority manager or his designee, with an additional hour under the control of Senator WELLSTONE, on the Agriculture appropriations conference report, and that following the use or yielding back of time, the Senate proceed to vote on adoption of the conference report without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I have been authorized, on behalf of the leader, to announce, for the information of all Senators, there will be no more votes tonight.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BROWNBACK). Without objection, it is so ordered.

MORNING BUSINESS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, October 8, 1999, the Federal debt stood at $5,660,032,556,386.77 (Five trillion, six hundred sixty billion, thirty-two million, five hundred fifty-six thousand, three hundred eighty-six dollars and seventy-seven cents).

One year ago, October 8, 1998, the Federal debt stood at $5,534,496,000,000 (Five trillion, five hundred thirty-four billion, four hundred ninety-six million).

Fifteen years ago, October 8, 1984, the Federal debt stood at $1,572,268,000,000 (One trillion, five hundred seventy-two billion, two hundred sixty-eight million).

Twenty-five years ago, October 8, 1974, the Federal debt stood at $477,151,000,000 (Four hundred seventy-seven billion, one hundred fifty-one million) which reflects a debt increase of more than $5 trillion—$5,182,881,556,386.77 (Five trillion, one hundred eighty-two billion, eight hundred eighty-one million, five hundred fifty-six thousand, three hundred eighty-six dollars and seventy-seven cents) during the past 25 years.

TITLE XX SOCIAL SERVICES BLOCK GRANTS

Mr. FEINGOLD. Mr. President, I rise to speak about some grave concerns I have regarding the dramatic and unprecedented cuts to Title XX, the Social Services Block Grant, in S. 1650, the Labor-Health and Human Services Appropriations bill.

As I am sure many of my colleagues are aware, the Social Services Block Grant is currently authorized at $2.38 billion, but the Senate bill provides for only $1.05 billion, a reduction of more than 50%, for Fiscal Year 2000. In addition, it appears that the bill would also accelerate the reduction in transferability of Temporary Assistance for Needy Families—or TANF—from 10% to 4.25%. In other words, not only has the appropriation been slashed in half, the ability of the states and counties to transfer other dollars into SSBG is also sharply reduced.

My immediate reaction when I learned about these cuts to SSBG was enormous disappointment. When I travel through each of Wisconsin's 72 counties each year holding town-meeting style listening sessions, many of my constituents have discussed with me the value and importance of SSBG funds in enabling the provision of vitally-needed services for some of our most vulnerable citizens. I have the benefit of a very engaged and active Counties Association to keep me informed about the importance of assuring SSBG funding.

But perhaps not all of my colleagues share my good fortune in this respect, perhaps some of our colleagues are not aware of the value of SSBG funds in their own states and communities—. that is the only reason I can think of why these cuts are included in the bill.

In the event that that is the case, please allow me a few moments to elaborate on the important services that SSBG dollars fund in my home state of Wisconsin:

Wisconsin counties received more than $42 million in SSBG dollars in FY 1997, the most recent year for which data is available. Those dollars provided services to Wisconsin's Seniors such as home meal delivery programs like meals-on-wheels, day programs for seniors, and supportive home care. SSBG dollars also help to provide crucial services to protect children, such as investigating potential child abuse cases and providing protective services for children who ARE being abused, and providing for after school programs so that children have a safe place to go in the afternoon. Throughout Wisconsin, SSBG dollars have enabled Wisconsin's counties to provide these services to 283,964 Wisconsinites—many of whom will lose access to these services if SSBG is further cut.

Lastly, let me illustrate what the impact of SSBG cuts means for some communities in Wisconsin: the Rainbow Center for Prevention of Child Abuse in Dane County, Wisconsin, will have to cut services for 130 families. In Milwaukee County, 428 patients will not receive outpatient mental health care, and 550 adults seeking drug and alcohol abuse treatment will be turned away. Milwaukee County will also lose funding for more than 2,000 shelter nights for the homeless and victims of domestic violence.

Mr. President, I hope that this short description of the many ways SSBG supports and strengthens counties and local communities helps to illustrate why a 50% reduction in funds will be so devastating. I hope that House and Senate conferees will restore SSBG to its authorized amount for Fiscal Year 2000 so that the counties who so rely on these funds will be able to provide the services our constituents need, services that are vital to supporting and strengthening our communities.

I thank the Chair.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE OPERATION OF THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT—MESSAGE FROM THE PRESIDENT—PM 63

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

As required by section 214 of the Caribbean Basin Economic Recovery Expansion Act of 1990 (19 U.S.C. 2702(f)), I transmit herewith to the Congress the Third Report on the Operation of the Caribbean Basin Economic Recovery Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 12, 1999.*

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. TORRICELLI (for himself and Mrs. MURRAY):

S. 1716. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to require local educational agencies and schools to implement integrated pest management systems to minimize the use of pesticides in schools and to provide parents, guardians, and employees with notice of the use of pesticides in schools, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BOND (for himself, Mr. BREAUX, Mr. MCCAIN, Mr. BAUCUS, and Mrs. LINCOLN):

S. 1717. A bill to amend title XXI of the Social Security Act to provide for coverage of pregnancy-related assistance for targeted low-income pregnant women; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. DURBIN):

S. 1718. A bill to amend the Internal Revenue Code of 1986 to provide a credit for medical research related to developing vaccines against widespread diseases; to the Committee on Finance.

By Mr. HUTCHINSON (for himself, Mr. SANTORUM, Mr. ABRAHAM, Mr. COVERDELL, Mr. MCCAIN, Mr. DEWINE, Mrs. HUTCHISON, and Mr. BROWNBACK):

S. 1719. A bill to provide flexibility to certain local educational agencies that develop voluntary public and private parental choice programs under title VI of the Elementary and Secondary Education Act of 1965; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COVERDELL (for himself, Mr. CLELAND, Mr. BUNNING, Mr. SESSIONS, Mr. KOHL, Mr. FEINGOLD, Mr. MACK, Mr. MURKOWSKI, Mr. STEVENS, Mr. LAUTENBERG, Mr. WYDEN, Mr. DEWINE, Mr. COCHRAN, Mr. CRAIG, Mr. MCCONNELL, Mr. TORRICELLI, Mr. MCCAIN, Mr. HAGEL, Mr. BURNS, Mr. DURBIN, and Mr. SCHUMER):

S. Res. 201. A resolution congratulating Henry "Hank" Aaron on the 25th anniversary of breaking the Major League Baseball career home run record established by Babe Ruth and recognizing him as one of the greatest baseball players of all time; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOND (for himself, Mr. BREAUX, Mr. MCCAIN, Mr. BAUCUS, and Mrs. LINCOLN):

S. 1717. A bill to amend title XXI of the Social Security Act to provide for coverage of pregnancy-related assistance for targeted low-income pregnant women; to the Committee on Finance.

MOTHERS AND NEWBORNS HEALTH INSURANCE ACT OF 1999

• Mr. BOND. Mr. President, I rise today to introduce a bill that I believe is vitally important to the health care of children and pregnant women in America. The goal of this legislation is simple—to make sure more pregnant women and more children are covered by health insurance so they have access to the health care services they need to be healthy.

The need is great—on any given day, almost 12 million children and almost half a million pregnant women do not have health insurance coverage. For many of these women and children, they or their family simply can't afford insurance. Many others are actually eligible for a public program like Medicaid or CHIP, but they don't know they are eligible and are not signed up.

Lack of health insurance can lead to numerous health problems, both for children and for pregnant women. A child without health coverage is much less likely to receive the health care services that are needed to ensure the child is healthy, happy, and fully able to learn and grow. An uninsured pregnant woman is much less likely to get critical prenatal care that reduces the risk of health problems for both the woman and the child. Babies whose mothers receive no prenatal care or late prenatal care are at-risk for many health problems, including birth defects, premature births, and low birthweight.

The bill I am introducing—along with Senators BREAUX, MCCAIN, and BAUCUS—deals with this insurance problem in two ways.

First, it allows states to provide prenatal care for low-income pregnant women under the state's CHIP program if the state chooses.

Through the joint federal-state Children's Health Insurance Program, states are currently expanding the availability of health insurance for low-income children. However, federal law prevents states from using CHIP funds to provide prenatal care to low-income pregnant women over age 19, even though babies born to many low-income women become eligible for CHIP as soon as they are born.

As many as 45,000 additional women could be covered for prenatal care. There are literally billions of dollars of CHIP funds that states have not used yet, so I would hope that most states would choose this option. This provision will not impact federal CHIP expenditures because it does not change the existing federal spending caps for CHIP. Babies born to pregnant women covered by a state's CHIP program would be automatically enrolled and receive immediate coverage under CHIP themselves. It is foolish to deny prenatal care to a pregnant mother and then—only after the baby is born—provide the child with coverage under CHIP. Prenatal care can be just as important to a newborn baby as postnatal care, and the prenatal care is of course important for the mother as well.

Second, the bill will help states reach out to women and children who are eligible for—but not signed up for—Medicaid or CHIP. 358,000 pregnant women and 3 million children are estimated to be eligible for but not enrolled in Medicaid. Millions of additional children are eligible for but not yet enrolled in CHIP. When Congress passed the welfare reform bill back in 1996, we created a $500 million fund that states could tap into to make sure that all Medicaid-eligible people stayed in Medicaid. The problem is that only about 10 percent of that fund has been used, and most states are about to lose their 3-year window of opportunity to use these funds. My bill would allow states continued access to these funds by eliminating the 3-year deadline, and it would give states more flexibility to use the funds to reach out to both Medicaid and CHIP-eligible women and children.

This legislation is a smaller piece of a bill I introduced earlier this year called Healthy Kids 2000. By extracting it from the larger bill, we get a chance to show the widespread support I believe exists for these measures. I believe this is crucial legislation, and urge my colleagues to join me in support of it so that we can pass this bill.●

● Mr. BREAUX. Mr. President, I rise today to join Senator BOND in introducing the Mothers and Newborns Health Insurance Act of 1999. This is important legislation regarding our children's health.

More than 12 million women of childbearing age—one in five—lacked health insurance in 1998, according to the Census Bureau. Lack of insurance leads to bad outcomes for pregnant woman and the children. Pregnant women without health insurance face barriers to care and do not receive the medical attention they need to have healthy babies. The Mothers and Newborns Health Insurance Act could provide insurance coverage to virtually all pregnant women in the United States. Such coverage will have an enormous impact on the health of children in our nation, by ensuring pregnant women have access to prenatal care and automatically enrolling their babies in their State Children's Health Insurance Program.

In the United States, 7.6 out of 1000 babies die before their first birthday. Our nation is ranked 25th, in the world for our infant mortality rate. The statistics in my home state are even more disheartening; in Louisiana where 24.7% of childbearing age women are uninsured, there are 9.8 deaths per 1000 births. Many of these deaths are preventable, and good prenatal care is the first step to ensuring that babies see their first birthday.

The Mothers and Newborns Health Insurance Act of 1999 addresses these concerns in three ways. One, it would amend Title XXI of the Social Security Act to give states the options to use Children's Health Insurance Program (CHIP) funds for health insurance coverage of uninsured low income pregnant women. Two, it would automatically enroll newborns to CHIP eligible women in CHIP for one year. And three, our bill would provide states additional opportunities to tap into a $500 million fund created by the 1996 welfare reform act to help expand Medicaid outreach efforts. This bill would allow the fund to be used for any Medicaid or CHIP outreach initiatives.

This Act could provide insurance coverage to 95% of currently uninsured women, by both increasing outreach efforts to pregnant women eligible for Medicaid and by giving states the option to extend CHIP coverage to low income pregnant women over the age of 18. Since the enactment of the welfare reform law, many people who are eligible for Medicaid or CHIP coverage do not realize it and remain unenrolled. It is estimated that 358,000 pregnant woman and 3 million children are eligible for but not enrolled in Medicaid. Millions of additional children are eligible for but not yet enrolled in CHIP.

This legislation has the potential to lower healthcare costs and keep our babies healthy. By removing barriers to prenatal care access and automatically enrolling babies in their State Children's Health Insurance Program, we can give our children a head start on good health. Research shows that access to appropriate prenatal care improves the outcome of pregnancy. According to the March of Dimes, prenatal care—especially among lower income women—reduces the risk of low birth weight threefold and results in decreased infant mortality rates and healthier babies. According to the Institute of Medicine, each dollar spent on prenatal care for women at high risk, saves $3.38 in medical care costs for low birth-weight babies.

This legislation is an important step to ensuring our children have bright and healthy future. I thank Senator BOND for his leadership on this bill, and I urge my colleagues to join us in supporting the Mothers and Newborns Health Insurance Act of 1999.●

By Mr. KERRY (for himself, and Mr. DURBIN):

S. 1718. A bill to amend the Internal Revenue Code of 1986 to provide a credit for medical research related to developing vaccines against widespread diseases; to the Committee on Finance.

LIFESAVING VACCINE TECHNOLOGY ACT OF 1999

Mr. KERRY. Mr. President, I rise today to introduce the Lifesaving Vaccine Technology Act of 1999 with my friend and colleague from Illinois, Senator DURBIN.

Mr. President, each year malaria, tuberculosis and AIDS kill more than 7 million people, disproportionately in the developing world. Each of these diseases is potentially preventable by vaccination.

A recent column in the Boston Globe by David Nyhan sums up the situation facing the developing world succinctly.

Tuberculosis causes more deaths than any other infectious disease, killing 3 million people annually. One hundred thousand children die from TB each year. The World Health Organization estimates that between now and 2020, "nearly one billion more people will be newly infected, 200 million people will get sick, and 70 million will die from tuberculosis, if control is not strengthened. Tuberculosis is not just an issue for some faraway countries; in the United States, more than 19,000 cases of tuberculosis are reported annually and increasingly we are seeing drug-resistant strains of tuberculosis in this country but especially in the states of the former Soviet Union where, according to one CDC doctor, an epidemic is taking place of "the worst situation for multidrug resistant tuberculosis ever documented in the world." Other areas of the world, such as central India, Bangladesh, Latvia, Congo, Uganda, Peru are also experiencing near-epidemic tuberculosis crises.

According to the World Health Organization, malaria kills more than 2 million people every year, and the disease is an important public health problem in 90 countries inhabited by almost half of the world's population. Each year, one million children under the age of five die from complications associated with malaria. Again, Mr. President, malaria is a disease we tend to associate with foreign exotic lands, and overlook the fact that in this country, more than one thousand people are stricken by malaria each year. Researchers at the National Institute of Allergies and Infectious Diseases contend that "conventional control measures . . . appear increasingly inadequate. . . As a result of drug-resistant parasites and insecticide-resistant mosquitoes, fewer tools to control malaria exist today than did 25 years ago."

Last year, the human immunosuppressant virus took the lives of 2.5 million, of which more than 500,000 were children under the age of 15. In the United States, almost one million are currently living with HIV-disease and 40,000 are newly infected each year. In Zimbabwe and Botswana, as many as 25 percent of the adult population is infected with HIV. In Zambia, 72 percent of households contain a child orphaned by AIDS. South Africa, which was largely isolated from HIV during its apartheid years, is now home to 10 percent of the new infections in Africa, and in the country's most populous province, KwaZulu-Natal, one-third of adults are HIV-infected. Analysts claim that India is an AIDS disaster-in-waiting: half a million people in one of India's smallest rural states (Tamil Nadu) are HIV-positive, as are fifteen percent of the women in one of India's more populous states (Maharashtra).

While AIDS is entirely preventable in this country and abroad, and while behavioral interventions for HIV have proven effective at reducing infection rates, many factors, including political obstacles, insufficient prevention funding, forced sexual encounters, and the difficulty of maintaining safe behavior over a lifetime, mean that a vaccine will be required for control of this worldwide epidemic.

And, yet, Mr. President, biotechnology and pharmaceutical companies in the United States, the home of the most innovative research and development in the world, are not working on vaccines to the world's largest killers. Market disincentives—especially the lack of a viable, cash-rich market—play against investment into these vaccines. Private-sector scientists and chief executive officers have a difficult time justifying to their boards an investment in developmental research toward these vaccines as long as other pharmaceutical research and development into products appealing to the developed world, like anti-depressants or Viagra, present more attractive investments.

This market failure and the need for incentives is shown most dramatically by last year's survey by the Pharmaceutical Research and Manufacturers of America. Of the 43 vaccine projects found to be in development by the survey not one was for HIV, malaria or tuberculosis. To find vaccines for the biggest infectious disease killers in the world, both the private and public sectors must be engaged in a bolder, more creative and dramatic way.

Mr. President, with that in mind, we are introducing the Lifesaving Vaccine Technology Act, which establishes an income tax credit for 30 percent of the qualified expenses for medical research related to the development of vaccines against widespread diseases like malaria, HIV and tuberculosis, which according to the World Health Organization, cause more than one million deaths annually.

This bill also declares that it is the sense of Congress that if the vaccine research credit is allowed to any corporation or shareholder of a corporation, the corporation should certify to the Secretary of the Treasury that, within one year after that vaccine is first licensed, the corporation will establish a good faith plan to maximize international access to high quality and affordable vaccines. In addition, the bill expresses the sense of Congress that the President and Federal agencies (including the Departments of State, Health and Human Services, and the Treasury) should work together in vigorous support of the creation and funding of a multi-lateral, international effort, such as a vaccine purchase fund, to accelerate the introduction of vaccines to which the vaccine research credit applies and of other priority vaccines into the poorest countries of the world. Lastly, the bill expresses the sense of Congress that flexible or differential pricing for vaccines, providing lowered prices for the poorest countries, is one of several valid strategies to accelerate the introduction of vaccines in developing countries.

Mr. President, this legislation has received the support of the American Public Health Association, the Global Health Council, AIDS Action, the AIDS Policy Center for Children, Youth and Families, the International AIDS Vaccine Initiative and the AIDS Vaccine Advocacy Coalition. And, I am especially pleased that the Clinton Administration has signaled their approval of our approach. At his most recent speech before the General Assembly of the United Nations, President Clinton committed "the United States to a concerted effort to accelerate the development and delivery of vaccines for malaria, TB, AIDS and other diseases disproportionately affecting the developing world."

This bill is highly targeted: it will cost relatively little to implement but would have a profound impact on America's response to international public health needs. And it would complement—certainly not supplant—current federal efforts at USAID, the NIH and other federal agencies to assist developing countries and to bolster vaccine research.

Mr. President, this legislation is a companion to a bipartisan bill introduced in the other body by my friend and colleague from San Francisco, Congresswoman NANCY PELOSI, and 36 co-sponsors. Over the years, I have had the honor to work with the distinguished Congresswoman on various pieces of legislation. The nation is in her debt for her tenacity and her overwhelming sense of duty to country. Her constituents benefit daily from her leadership, and I am pleased to be associated with her again today.

I am hopeful that the positive response Congresswoman PELOSI has found in the other body is replicated in the Senate and that our colleagues join the Senator from Illinois, Senator DURBIN, and I in passing the Lifesaving Vaccine Technology Act as quickly as possible.

Mr. President, I ask unanimous consent that the Nyhan column, an article which appeared in the Albany Times-Union about the market difficulties of developing an AIDS vaccine, and a Congressional Research Service study of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Oct. 1, 1999]

IT'S MOSTLY BAD NEWS FOR THE POOREST PEOPLE ON THE PLANET

(By David Nyhan)

Human nature being what it is, the hawkers of news prosper more off what arouses the customer than that which accurately informs.

That's why you get more sizzle than steak, particularly when matters "foreign" are addressed. Pictures of a boy dragged from the earthquake's rubble or a riot squad in action are more compelling than footage of some middle-aged bureaucrat rattling on about poverty statistics. But today we're holding the sizzle and serving you teak in the form of speeches made in Washington this week before the annual meeting of the World Bank and the International Monetary Fund, two outfits that have become punching bags for a lot of people who are convinced they know what's wrong with the planet.

What is really going on here on Spaceship Earth?

Some good things: Life expectancy, on average, has gone up more in the last 40 years than in the previous 4,000. The Internet means near-universal access to information. Then there are the not-so-good trends, World Bank chief James Wolfensohn said Tuesday:

"Per-capita incomes which will stagnate or decline this year in all regions except East and South Asia. . . . with the exception of China, 100 million more people living in poverty today than a decade ago. In at least 10 countries in Africa, the scourge of AIDS has reduced life expectancy by 17 years. More than 33 million cases of AIDS in the world, of which 22 million are in Africa. Some 1.5 billion people still lacking access to safe water, and 2.4 million children who die each year of waterborne diseases. Some 125 million children still not in primary school. . . . A world where the information gap is widening. And the forests are being destroyed at the rate of an acre a second."

These statistics are almost impossible to believe. In the time it takes to sneeze, three acres of forest are burned. And everything revolves around money. It is poverty that holds half of mankind in chains.

Next month the planet's ridership surpasses 6 billion human beings. How do they live now? Half of humanity gets along on the equivalent of $2 a day or less. Half of that half lives on less than $1 a day. When a child born today reaches the age of 25, there will be 2 billion more people fighting for air, water, food, space, roofs, jobs, schooling, roads, sewers, farmland. Only development will spare them a life of perilous poverty.

As the earthling more responsible than any single individual, perhaps even more obligated than the President of the United States, for the well-being of mankind and the development of economic structures to make mankind's future more secure, Wolfensohn asked: "What have we learned about development?"

"We have learned that development is possible but not inevitable, that growth is essential but not sufficient to ensure poverty reduction." And it is essential to help poor people with local institutions, controlled by them, insulated against the corruption, both petty and grand, that turns so many cops and bureaucrats in poor countries into petty despots or grand thieves on the scale of the Baligate thieves who sacked the treasury of Indonesia and pitched the world's fourth-largest nation into anarchy.

He quoted from a massive World Bank study, "Voice of the Poor," distilled from 60,000 poor people in 60 countries: "Poverty is much more than a matter of income alone. The poor seek a sense of well-being—which is peace of mind."

Here's the bulletin: The poor of the planet are just like us cozy Americans. What they want is what we've got. "It is good health, community, and safety. It is choice, and freedom, as well as a steady source of income." He quoted the old African woman: "to live in love without hunger"; the Eastern European survivor of communism: "to be well is to know what will happen to me tomorrow"; the mother in Southeast Asia: "When my child asks for something to eat, I say the rice is cooking until he falls asleep from hunger. For there is no rice."

The day after Wolfensohn laid out the challenge, President Clinton showed up to announce cancellation of that portion of the debt owed the United States by 36 of the poorest countries that had not already been forgiven. The Pope and a number of celebrities had been agitating for debt forgiveness.

The Clinton administration had already written off about 90 percent of that debt, and this final write-off of what once totaled nearly $6 billion will encourage the campaigners of Jubilee 2000 to press other lender nations to follow suit. Clinton has been a very good President, all things considered, for the poorest people of the planet. He alluded to the high-priced lobbying that goes on in the jousting between agricultural haves to carve out more elbow room at the trough of market share: "Because we want to fight over who sells the most food . . . are we supposed to accept the fact that nearly 40 million people a year die of hunger? That's nearly equal to the number of all the people killed in World War II."

He had more good lines, such as "the wealth of nations depends upon the health of nations." But you get the idea. We rich nations are our brother's keeper; sister's too.

[From the Albany Times Union, Mar. 14, 1999]

DRUG MAKERS STILL RELUCTANT TO INVEST IN HIV VACCINE

SCIENTIFIC UNCERTAINTY, DRUG ECONOMICS COMBINE TO DISCOURAGE EFFORTS

(By Eric Rosenberg)

WASHINGTON.—Soon after the AIDS epidemic exploded in the 1980s, Dr. Donald Burke, a senior researcher at Baltimore's Johns Hopkins University, began work on a vaccine against HIV, the virus that causes the deadly disease.

Burke made progress but knew he needed the financial backing and laboratory firepower of a pharmaceutical manufacturer in order to succeed.

"I went to all the major companies that were involved in AIDS work at the time," said Burke, now the director of the university's Center for Immunization Research. "I couldn't get anybody interested and I was shocked."

Burke's experience highlights the fact that, with a few exceptions, the pharmaceutical industry has been reluctant to commit resources toward such a goal, despite worldwide demand for a vaccine to protect against a disease that afflicts 35 million people and infects 16,000 more people daily.

According to the Pharmaceutical Research and Manufacturers of America, a trade organization that represents prescription drug makers, companies are sinking research dollars into 101 new treatments for people infected with HIV.

These include new classes of antiviral drugs to suppress the HIV virus once a person is infected; medications to fight AIDS-related diseases such as Kaposi's Sarcoma; and drugs to fend off opportunistic infections that attack when the immune system is suppressed by HIV.

Although President Clinton has made development of an AIDS vaccine a top priority and Congress has budgeted nearly $200 million this year alone for the effort, companies are investing in only 12 experimental vaccine proposals.

Nearly 20 years after the disease erupted, only one AIDS vaccine has received Food and Drug Administration approval for widespread human testing. That vaccine is under development by VaxGen, a small, 52-employee biotechnology firm, of South San Francisco, Calif.

More than 90 percent of the world's vaccines against other diseases are produced by five companies: Merck & Co., of Whitehouse Station, N.J., SmithKline Beecham and Wyeth-Lederle of Philadelphia, Pasteur Merieux Connaught of Swiftwater, Pa., and Chiron Corp. of Emeryville, Calif.

All are involved to varying degrees in AIDS vaccine research. For example, SmithKline Beecham has only a small AIDS vaccine effort underway. "At this point it's not one of the major efforts in our vaccine programs," said Richard Koenig, a SmithKline spokesman.

Pasteur, on the other hand, has aggressively pursued an experimental vaccine that is nearing government approval for a large-scale human study.

Other companies started, but then curtailed, AIDS vaccine programs. They include Bristol-Myers Squibb, British Biotech and Immuno AG.

Dr. Donald Francis, president of VaxGen and a former AIDS specialist at the federal Centers for Disease Control and Prevention, said that if VaxGen and Pasteur fail, "There's nothing five years behind us. That's it in the AIDS vaccine field."

Lagging science and drug economics are the two considerations underlying the modest corporate interest in AIDS vaccines.

Scientists have made strides unlocking the mysteries of how the virus operates after it infects a person. While the knowledge has been key to making new drugs that slow or halt the disease's deadly progression, it doesn't point to the discovery of a vaccine that would render a healthy person immune to HIV.

Dr. Peggy Johnston, the assistant director for AIDS vaccines at the National Institute for Allergy and Infectious Diseases, said company officials worry that not enough is known about how HIV works to warrant a large vaccine investment.

"There are enormous challenges that AIDS presents that are unparalleled compared with other viruses," said Johnston.

For example, HIV is proving more resilient than other viruses. Vaccines typically fend off disease by stimulating the body's production of antibodies which in turn destroy an invading virus. However, HIV appears to defend itself with a kind of sugar-based shield to fend off antibodies.

Another problem is that different strains of HIV exist in the West and in Africa and Asia. So a vaccine to protect against the North American variety might not work against other strains.

The economics of vaccines also are daunting.

The average vaccine costs about $100 million to develop. But because the scientific understanding of HIV is murky, a company could commit the resources and more than a decade of work and still fail to invent a vaccine.

In order to make a profit on vaccines, which are typically priced in the $1 to $5 per shot range, a drug maker must sell millions of inoculations. While industrialized countries could easily afford the price, much of the developing world, which is the largest potential market for an AIDS vaccine, would have difficulty.

The profitability issue is fueling a proposal by the International AIDS Vaccine Initiative (IAVI), an advocacy group based in New York, that is pressing wealthy nations to create a $1 billion AIDS vaccine purchase fund for the Third World, effectively assuring profit to a successful manufacturer.

"We think the fund would provide a very strong incentive for industry," said Victor Zonana, a vice president at IAVI. "The companies would know that in addition to their markets in industrialized countries, they would have a guaranteed paying market in developing countries."

But pharmaceutical executives believe that even with such a fund in place, a vaccine won't be as profitable as are AIDS therapeutic drugs, which are taken for the lifetime of a patient as opposed to only a few times, as are vaccines.

MEMORANDUM

CONGRESSIONAL RESEARCH SERVICE,
LIBRARY OF CONGRESS,
Washington, DC, October 6, 1999.

To: Hon. Nancy Pelosi and Hon. John Kerry; attention: Chris Collins and Ryan McCormick.

From: Gary Guenther, analyst in business taxation and finance, government and finance.

Subject: Effectiveness of the proposed tax credits for vaccine research in H.R. 1274.

Responding to your request, this memorandum assesses the likely effectiveness of the proposed tax credits for vaccine research in H.R. 1274. Effectiveness in this case signifies the likely rise in domestic investment in vaccine research and development (R&D) in response to the tax credits. This method of assessing the proposed credits' effectiveness boils down to comparing the additional vaccine R&D induced by one dollar of tax credit claimed, which is a way of analyzing the benefit-cost ratio for the credit. The proposed credits also raise the issue of whether such a subsidy can be justified on economic grounds. This issue is discussed briefly in the final section.

Two noteworthy conclusions emerge from the analysis presented here. One is that the proposed tax credits can be expected to spur increased investment in vaccine R&D by the private sector, by both increasing expected after-tax returns on this investment and improving the access of small startup firms to equity capital for investment in vaccine R&D. The second conclusion relates to the economic rationale for the proposed tax credits: they are justified on economic grounds to the extent that they attempt to correct failures in the market for vaccines that result in economically inefficient levels of domestic investment in vaccine R&D.

If you have any questions about this analysis, please call me at 7-7742.

THE ECONOMICS OF VACCINE INNOVATION

Vaccines are among the most cost-effective weapons in the arsenal of modern medicine against the spread of contagious diseases, lethal and non-lethal. By strengthening an individual's immune system to resist a wide range of infectious diseases, they offer a relatively inexpensive means of lowering a society's overall cost of medical care. While historically vaccines have been used to prevent a variety of diseases, intensive efforts are being made to develop vaccines that can treat certain diseases—mainly cancer and AIDS—after an individual contracts them.

On the whole, the development of new vaccines is a long, costly, and risky process. It typically takes 10 years and requires outlays of $100 million to bring a new vaccine from the research laboratory to the medical marketplace.[1] In addition, firms seeking to develop new vaccines face a considerable risk of failure. A 1989 study estimated that only 3 out of 10 vaccines that enter clinical trials end up being approved for general use.[2] For the most part, vaccine development passes through the same stages as the development of new therapeutic drugs: a period of basic research or discovery, followed by the filing of an investigational new drug application with the U.S. Food and Drug Administration (FDA), followed by three stages of clinical trials. Vaccine development, however, departs from the path of new drug development during the third phase of clinical trials, when a firm developing a new vaccine must file both a product license application and an establishment license application with the FDA; firms developing new therapeutic drugs only are required to file a new drug application at this stage. Once the FDA is satisfied that the vaccine is safe and effective and that the plant where it is produced meets the FDA's stringent standards for purity, cleanliness, and quality control, the vaccine can be marketed in the United States. This means that the FDA requires vaccine firms to construct and start up manufacturing facilities for new products several years before they can gain marketing approval—and thus begin to earn a return on the funds invested in their development.

The economics of vaccine innovation has important implications for the structure of the vaccine industry. High fixed costs for research, production setup, and obtaining and maintaining FDA marketing approval result in marginal vaccine production costs that are significantly below average vaccine production costs. Such a cost structure is not conducive to the existence of multiple sellers of the same vaccines. As a seller's output expands, its average costs decline; and as those costs fall, its ability to underprice its competitors and still cover its costs grows.[3] The degree of competition in the world vaccine industry seems to confirm this crucial point. Vaccine production in the United States and the rest of the world has been highly concentrated: in 1994, four firms (Institut Merieux, Merck, SmithKline Beecham, and American Cyanamid) accounted for between 65% and 80% of world sales of vaccines; and in 1993, the same four firms produced nearly all the pediatric vaccines purchased in the United States.[4]

In the United States, the federal government finances the lion's share of basic research in vaccines, where the emphasis is on understanding the fundamental mechanisms of infectious disease and the immune system. Once a vaccine research project advances to the level of applied research and development, where the emphasis is on producing and testing specific products with commercial potential, the private sector takes the lead in financing. Near the end of the development cycle for vaccines, the federal government becomes more involved again by helping fund clinical trials to test the safety and efficacy of new vaccines.[5] According to one estimate, the federal government provided $500 million (or 36%) of the $1.4 billion spent on U.S. vaccine R&D in 1995, and the private sector contributed the remaining $900 million (or 64%), with the lion's share coming from four large, established sellers of vaccines: Merck, the Wyeth-Lederle division of American Home Products, SmithKline Beecham, and the Pasteur Merieux Connaught division of Rhone Poulenc.[6]

In the past decade, the private sector has shown a vibrant interest in vaccine innovation, and investment in vaccine R&D has risen accordingly. While a number of factors have come together to spur this interest, a key driving force has been the revolutionary advances in the understanding of the molecular basis of the immune system and disease engineered by biotechnology. Recombinant technology is now being used to improve existing vaccines and to produce new ones, to design more efficient combinations of existing vaccines, and to find better ways of delivery than a shot in the arm. Moreover, most vaccine industry executives are convinced that the new vaccines developed through the application of recombinant technology will gain patent protection, unlike traditional vaccines which are derived from naturally occurring organisms and thus not eligible for patent protection. Patented vaccines tend to command much higher prices in private markets than those lacking patent protection. By one account, as of May 1998, at least 50 biotechnology firms had joined the large, established producers of vaccines in the search for new vaccines, and about 75 new vaccines were in various stages of development worldwide.[7] The economies of scale in vaccine production, however, make it unlikely that many of small startup firms now engaged in vaccine R&D will grow into large, independent producers. Although public data on vaccine R&D are sparse and not systematically collected, figures on pharmaceutical R&D reported by the Pharmaceutical Research and Manufacturers of America (PhRMA) appear to underscore the renewed interest in vaccine R&D in the pharmaceutical industry. In its latest profile of the U.S. pharmaceutical industry, PhRMA reports that domestic R&D investment in biologicals, a product class that is dominated by vaccines, rose from $274 million (or 4.7% of domestic pharmaceutical R&D) in 1989 to $716.8 million (or 5.3% of domestic pharmaceutical R&D) in 1996.

INTENDED PURPOSE OF H.R. 1274, THE LIFESAVING VACCINE TECHNOLOGY ACT OF 1999

The central aim of H.R. 1274 is to boost U.S. investment in the development of vaccines for diseases that kill large numbers of people each year, especially in developing countries. Its chief policy instrument for achieving this objective is a tax credit equal to 30% of qualified vaccine research expenses in a tax year. Under the bill, qualified vaccine research expenses are defined as a firm's in-house and contract research expenses related to the discovery and development of vaccines for malaria, tuberculosis, HIV, or any infectious disease that kills over one million persons annually, as determined by the World Health Organization. The definition of qualified research expenses under H.R. 1274 is identical to the definition of research expenses that qualify for the research and experimentation (R&E) tax credit, with one significant exception: the proposed vaccine research tax credit would apply to 75% of qualified contract research expenses, whereas the R&E tax credit applies to only 65% of such expenses—except in the case of contract research performed by certain research consortia, where 75% of the expenses qualify for the credit. Like the R&E tax credit, public or private grants for vaccine research are ineligible for the credit. In addition, any research expenses claimed for the vaccine research credit cannot also be claimed for the R&E tax credit, although qualified vaccine research expenses could be used to calculate the base amount for the R&E credit; and with the exception of expenses for human clinical testing conducted abroad, no credit is available for foreign vaccine research. H.R. 1274 also specifies that the proposed vaccine research credit would become part of the general business credit and thus subject to its limitations; any portion of the vaccine research credit that cannot be used in the tax year in which it is earned could be carried forward to a succeeding tax year, but the unused portion could not be carried back beyond the year in which the credit was enacted. Finally, like the R&E credit, qualified research expenses that are deducted under section 174 of the Internal Revenue Code (IRC) must be reduced by the amount of any vaccine research credit claimed. This requirement has important implications for the marginal effective rate of the credit, because whatever vaccine research credit is claimed in effect is taxed at a firm's marginal corporate income tax rate.

H.R. 1274 would also create a less direct tax subsidy for vaccine R&D. This subsidy is targeted at investors and is intended to make it easier for small firms involved in vaccine R&D to raise money in equity markets. Specifically, the bill would grant individuals or firms that purchase the "qualified research stock" of small firms undertaking or funding qualified vaccine research a tax credit equal to 20% of the amount they pay for the stock, provided two conditions are met. First, the firm whose stock is bought must use the proceeds within 18 months of the date of purchase to pay for research that qualifies for the vaccine reseach credit. Second, the firm must waive its right to claim a tax credit for the vaccine research funded by the stock purchases. Under H.R. 1274, qualified research stock is defined as any stock issued by a firm that is subject to the corporate income tax and has gross assets of $50 million or less; the stock must be issued after the date the bill is enacted and acquired "at its original issue in exchange for money or other property (not including stock)."

Footnotes at end of document.

LIKELY IMPACT OF H.R. 1274 ON U.S. VACCINE R&D

How are the proposed tax subsidies in H.R. 1274 likely to affect vaccine R&D? The answer hinges largely on the effect of the subsidies on two key determinants of business R&D investments: the expected after-tax rate of return on such investments and the availability and cost of capital to finance the investments.

For firms seeking to develop new or improved vaccines, the decision to invest in R&D is no different in principle from a decision to invest in any other capital asset, such as a new production facility. The key considerations are the expected after-tax returns on the proposed R&D projects, the cost of capital or funds for the projects, and the availability of funds to finance the projects. Small startup firms are more likey than large, well-established firms to have trouble funding R&D projects out of retained earnings or raising funds in debt or equity markets to finance these projects. In theory, a vaccine firm will invest in R&D projects up to the point where the expected after-tax rate of return on a possible project matches the firm's cost of capital. Projects with the largest gap between expected after-tax rates of returns and the cost of capital are likely to receive the highest priority.

H.R. 1274 can be expected to increase the level of domestic vaccine R&D by both increasing the expected after-tax rates of return on possible research projects and improving the access of smaller, newer vaccine firms to equity markets. The proposed flat 30-percent tax credit on qualified vaccine research would be one of the factors shaping the expected after-tax returns on vaccine R&D investments. Other important factors are the eventual size of the market for the vaccine, the predictability of prices and usage rates for the vaccine, expected production costs, exposure to liability suits for side effects of the vaccine, patent protection, the ease of entry into the market for the vaccine, and the cost of capital.[8] The proposed credit would increase expected after-tax rates of return. Under current tax law, firms performing vaccine R&D can claim the 20% R&E tax credit for qualified research. But because of the rules governing the use of the credit, the marginal effective rate of the credit is 6.5% or 13% on each additional dollar spent on vaccine research by firms in the 35-percent corporate tax bracket. If H.R. 1274 were enacted, the same firms could claim a tax credit for qualified research with a marginal effective rate of 19.5%; the rate would not be 30% because of the requirement that any credit claimed must be added to a firm's taxable income. All other things being equal, as a firm's marginal effective rate for the vaccine research credit goes up, the after-tax rate of return to this research rises.

In addition, vaccine firms that are constrained by a lack of funds in pursuing research opportunities could be expected to invest more in vaccine R&D if H.R. 1274 were enacted. Investors would be eligible for a flat 20% tax credit on purchases of common stock issued by small vaccine firms, provided the firms invest the proceeds from the stock purchases in qualified research within 18 months of the purchase. As a result, investors would face lower marginal tax rates on the returns to these investments than on the returns to alternative investments. This difference could lead them to invest more in small vaccine firms than they otherwise would, augmenting their available funds for R&D. Innovation is the main route of entry into the vaccine business for small firms.

How much is vaccine R&D spending likely to increase in response to the proposed credit? This is difficult to analyze in the absence of reliable estimates of the responsiveness of vaccine R&D to changes in its after-tax price. The proposed credit lowers the after-tax price of qualified R&D, and in theory vaccine firms can be expected to perform more R&D as a result. A variety of studies have estimated that in the 1980s the "tax price elasticity of total (U.S.) R&D spending" was unity or even higher, meaning that U.S. firms responded to a 1% decline in the after-tax price of R&D by increasing their R&D spending by 1% in that decade.[9] Assuming vaccine firms exhibit the same tax price elasticity today, a research tax credit with a marginal effective rate of 19.5% could lead to a rise of as much as 19.5% in domestic vaccine R&D spending. However, this estimate cannot be regarded as reliable and could be greatly exaggerated, because it is unlikely that the sensitivity of R&D investment to changes in its after-tax price remains constant over time and is the same for all kinds of R&D projects, and because vaccine firms would be likely to differ in their ability to use the credit in any given year.

Furthermore, there is some reason to believe that the proposed vaccine research tax credit would eventually be as cost-effective as direct spending by the federal government on vaccine R&D. A number of studies have concluded that the existing R&E tax credit yields roughly a dollar-for-dollar increase in reported R&D at the margin, but that in the early years of the credit firms were not as responsive as they were adjusting to the credit's availability.[10] In other words, these studies suggest that government spending programs and the R&E tax credit are equally effective in increasing the amount of qualified research performed in the United States.

ECONOMIC JUSTIFICATION FOR A TAX CREDIT FOR VACCINE RESEARCH

Under conventional economic theory, the use of a subsidy such as a research tax credit is justified if its ultimate aim is to correct some sort of market failure. In the case of R&D, the R&E tax credit is one way to offset the tendency of firms to underinvest in R&D because of the gap between the social and private returns to research. Economists argue that in the absence of government support for R&D, firms are likely to invest too little in R&D because they cannot appropriate all the returns to those investments. So the R&E tax credit, by lowering the after-tax cost of qualified research, is intended to spur firms to invest more in R&D than they otherwise would. Ideallly, the added R&D stimulated by the credit is enough to raise domestic R&D spending to the level commensurate with the social returns to R&D. The market failure that the R&E tax credit is attempting to remedy is underinvestment in R&D arising from the inability of firms performing R&D to capture all the profits generated by the investment.

These considerations raise the issue of whether the proposed tax credit for vaccine research in H.R. 1274 is justified on economic grounds. Is there a failure in the market for vaccines that would warrant the adoption of such a subsidy? As was suggested earlier, there are external economic benefits from controlling the spread of infectious diseases. The cost to society of preventing an outbreak of an infectious disease tends to be much lower than the cost of treating the outbreak that might occur in the absence of immunization. This raises the possibility that private firms invest less in vaccine R&D than its potential social benefits warrant. Partly in an effort to correct for such a market failure, the federal government supports vaccine R&D through its funding of basic research in vaccines and clinical trials for new vaccines. Its research support is also intended to direct vaccine investment to address current and future public health needs. In addition, it offers two tax subsidies for R&D, namely: the R&E tax credit and the expensing of R&D costs under IRC section 174. Although these subsidies are not targeted at vaccine research but are available to all firms that perform qualified research, they benefit vaccine firms by increasing their potential aftertax rate of returns on R&D investments. The proposed vaccine research tax credit would supplant the R&D tax credit for vaccine firms, but its treatment of qualified research would be more favorable, increasing the expected profitability of vaccine F&D investment relative to other kinds of R&D investment.

Thus, an important policy issued for Congress is whether the current level of domestic vaccine R&D investment is socially desirable or efficient. And if not, would the proposed tax credit in H.R. 1274 be more efficient than added federal funding of vaccine R&D or some other policy measure (such as government grants to international agencies that purchase and distribute needed vaccines in poor countries) in raising total investment to such a level. From the perspective of economic efficiency, the R&D projects that should be promoted are those with the largest gaps between the social and private rates of return. Yet vaccine firms are likely to use any research tax credits to fund first those projects with the highest expected private rates of return. At the same time, there is no certainty that the federal government could do a better job of targeting those vaccine R&D projects with the largest spillover effects. If it is determined that domestic vaccine R&D is less than socially optimal, perhaps a combination of a targeted tax credit like the one proposed in H.R. 1274 and increased government support for basic and applied vaccine research would be more attractive than relying solely on one instrument or the other.

Another policy issue for Congress raised by the proposed tax credits in H.R. 1274 relates to the external benefits of mass immunizations. The economic benefits to a society from vaccinations far outweigh the benefits to individual consumers, who in deciding whether or not to purchase vaccines for themselves or their children tend to consider only the costs and benefits to themselves and not the potential benefits to others in the community. Even if the market for vaccines were perfectly competitive, it is unlikely that immunization levels would be socially optimal.[11] Thus government intervention in the development and distribution of vaccines is certainly justified on economic grounds. The proposed tax credits would spur the development of new vaccines, but they would not lessen any of the barriers to the achievement of universal immunization with available vaccines. Low immunization rates are due to a variety of factors, including out-of-pocket costs, parental attitudes and knowledge, access to health clinics or doctors' offices, the perceived efficacy of vaccines, and the perceived risk of contracting diseases for which vaccines exist.[12] Clearly, other policy initiatives would be needed to address these factors.

FOOTNOTES

[1] Sing, Merrile and Mary Kaye Willian. "Supplying Vaccines." Supplying Vaccine: An Economic Analysis of Critical Issues. Pauly, Mark, et al., editors. Washington, D.C., IOS Press, 1996. P. 61.

[2] Grabowski, Henry G. and John M. Vernon. The Search For New Vaccines. Washington, D.C., American Enterprise Institute Press, 1997. P. 20.

[3] Pauly, Mark V. and Bridget E. Cleff. "The Economics of Vaccine Policy: A Summary of the Issues." Supplying Vaccines. P. 7.

[4] Sisk, Jane E. "The Relationship between Scientific Advances and the Research, Development, and Production of Vaccines in the United States." Supply Vaccines. p. 181; and FIND/SVP. The World Market for Vaccines. New York, October 1995. P. 169.

[5] Sisk, Jane E. Supplying Vaccines. P. 177.

[6] Marcuse, Edgar K., et. al. "United States Vaccine Research: A Delicate Fabric of Public and Private Collaboration." Pediatrics, December 1997. P. 1017.

[7] Vaccines: Big Shots. Economist. May 9, 1998. P. 63.

[8] Sisk, Jane E. Supplying Vaccines. P. 175.

[9] Hall, Bronwyn H. and John van Reenen. How Effective Are Fiscal Incentives for R&D: A Review of the Evidence. Working Paper 7098. Cambridge, MA, National Bureau of Economic Research, April 1999. P. 21.

[10] Hall, Bronwyn H. How Effective Are Fiscal Incentives for R&D? P. 21.

[11] Holtmann, Alphonse G. "The Economics of U.S. Immunization Policy." Supplying Vaccine. P. 155.

[12] Pauly, Mark V. and Bridget E. Cleff. "The Economics of Vaccine Policy." Supplying Vaccine. P. 12-16.

ADDITIONAL COSPONSORS

S. 26

At the request of Mr. FEINGOLD, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 26, a bill entitled the "Bipartisan Campaign Reform Act of 1999".

S. 51

At the request of Mr. BIDEN, the name of the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 51, a bill to reauthorize the Federal programs to prevent violence against women, and for other purposes.

S. 80

At the request of Ms. SNOWE, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 80, a bill to establish the position of Assistant United States Trade Representative for Small Business, and for other purposes.

S. 345

At the request of Mr. ALLARD, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 1110

At the request of Mr. LOTT, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 1110, a bill to amend the Public Health Service Act to establish the National Institute of Biomedical Imaging and Engineering.

S. 1264

At the request of Ms. SNOWE, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1264, a bill to amend the Elementary and Secondary Education Act of 1965 and the National Education Statistical Act of 1994 to ensure that elementary and secondary schools prepare girls to compete in the 21st century, and for other purposes.

S. 1265

At the request of Mr. COVERDELL, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1265, a bill to require the Secretary of Agriculture to implement the Class I milk price structure known as Option A-1 as part of the implementation of the final rule to consolidate Federal milk marketing orders.

S. 1277

At the request of Mr. GRASSLEY, the names of the Senator from Wyoming (Mr. ENZI) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 1277, a bill to amend title XIX of the Social Security Act to establish a new prospective payment system for Federally-qualified health centers and rural health clinics.

S. 1448

At the request of Mr. HUTCHINSON, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1448, a bill to amend the Food Security Act of 1985 to authorize the annual enrollment of land in the wetlands reserve program, to extend the program through 2005, and for other purposes.

S. 1539

At the request of Mr. DODD, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1539, a bill to provide for the acquisition, construction, and improvement of child care facilities or equipment, and for other purposes.

S. 1547

At the request of Mr. BURNS, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 1547, a bill to amend the Communications Act of 1934 to require the Federal Communications Commission to preserve low-power television stations that provide community broadcasting, and for other purposes.

S. 1619

At the request of Mr. DEWINE, the names of the Senator from Montana (Mr. BURNS), the Senator from Idaho, (Mr. CRAIG), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 1619, a bill to amend the Trade Act of 1974 to provide for periodic revision of retaliation lists or other remedial action implemented under section 306 of such Act.

S. 1644

At the request of Mr. ABRAHAM, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 1644, a bill to provide additional measures for the prevention and punishment of alien smuggling, and for other purposes.

SENATE CONCURRENT RESOLUTION 32

At the request of Mr. CONRAD, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of Senate Concurrent Resolution 32, a concurrent resolution expressing the sense of Congress regarding the guaranteed coverage of chiropractic services under the Medicare+Choice program.

SENATE RESOLUTION 190

At the request of Mr. CAMPBELL, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of Senate Resolution 190, a resolution designating the week of October 10, 1999, through October 16, 1999, as National Cystic Fibrosis Awareness Week.

SENATE RESOLUTION 201—CONGRATULATING HENRY "HANK" AARON ON THE 25TH ANNIVERSARY OF BREAKING THE MAJOR LEAGUE BASEBALL CAREER HOME RUN RECORD ESTABLISHED BY BABE RUTH AND RECOGNIZING HIM AS ONE OF THE GREATEST BASEBALL PLAYERS OF ALL TIME

Mr. COVERDELL (for himself, Mr. CLELAND, Mr. BUNNING, Mr. SESSIONS, Mr. KOHL, Mr. FEINGOLD, Mr. MACK, Mr. MURKOWSKI, Mr. STEVENS, Mr. LAUTENBERG, Mr. WYDEN, Mr. DEWINE, Mr. COCHRAN, Mr. CRAIG, Mr. MCCONNELL, Mr. TORRICELLI, Mr. MCCAIN, Mr. HAGEL, Mr. BURNS, Mr. DURBIN, and Mr. SCHUMER) submitted the following resolution; which was considered and agreed to:

S. RES 201

Whereas Henry "Hank" Aaron hit a historic home run in 1974 to become the all-time Major League Baseball home run leader;

Whereas Henry "Hank" Aaron over the course of his career created a lasting legacy in the game of baseball and continues to contribute to society through his Chasing the Dream Foundation;

Whereas Henry "Hank" Aaron hit more than 40 home runs in 8 different seasons;

Whereas Henry "Hank" Aaron appeared in 20 All-Star games;

Whereas Henry "Hank" Aaron was elected to the National Baseball Hall of Fame in his first year of eligibility, receiving one of the highest vote totals (406 votes) in the history of National Baseball Hall of Fame voting;

Whereas Henry "Hank" Aaron was inducted into the National Baseball Hall of Fame on August 1, 1982;

Whereas Henry "Hank" Aaron finished his career in 1976 with 755 home runs, a lifetime batting average of .305, and 2,297 runs batted in;

Whereas Henry "Hank" Aaron taught us to follow our dreams;

Whereas Henry "Hank" Aaron continues to serve the community through his various commitments to charities and as corporate vice president of community relations for Turner Broadcasting;

Whereas Henry "Hank" Aaron became one of the first African-Americans in Major League Baseball upper management, as Atlanta's vice president of player development; and

Whereas Henry "Hank" Aaron is one of the greatest baseball players: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Henry "Hank" Aaron on his great achievements in baseball and recognizes Henry "Hank" Aaron as one of the greatest professional baseball players of all time; and

(2) commends Henry "Hank" Aaron for his commitment to young people, earning him a permanent place in both sports history and American society.

AMENDMENTS SUBMITTED

THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY

DASCHLE EXECUTIVE AMENDMENT NO. 2291

Mr. BIDEN (for Mr. DASCHLE) proposed an amendment to the resolution to advise and consent to the Comprehensive Nuclear Test-Ban Treaty (Treaty Document 105–28); as follows:

Strike all after the resolving clause and insert the following:

"SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO CONDITIONS.

The Senate advises and consents to the ratification of the Comprehensive Nuclear Test Ban Treaty, opened for signature and signed by the United States at New York on September 24, 1996, including the following annexes and associated documents, all such documents being integral parts of and collectively referred to in this resolution as the "Treaty," (contained in Senate Treaty document 105–28), subject to the conditions in section 2:

(1) Annex 1 to the Treaty entitled "List of States Pursuant to Article II, Paragraph 28".

(2) Annex 2 to the Treaty entitled "List of States Pursuant to Article XIV".

(3) Protocol to the Comprehensive Nuclear Test-Ban Treaty.

(4) Annex 1 to the Protocol.

(5) Annex 2 to the Protocol.

SEC. 2. CONDITIONS.

The advice and consent of the Senate to the ratification of the Treaty is subject to the following conditions, which shall be binding upon the President:

(1) STOCKPILE STEWARDSHIP PROGRAM.—The United States shall conduct a science-based Stockpile Stewardship program to ensure that a high level of confidence in the safety and reliability of nuclear weapons in the active stockpile is maintained, including the conduct of a broad range of effective and continuing experimental programs.

(2) NUCLEAR LABORATORY FACILITIES AND PROGRAMS.—The United States shall maintain modern nuclear laboratory facilities and programs in theoretical and exploratory nuclear technology that are designed to attract, retain, and ensure the continued application of human scientific resources to those programs on which continued progress in nuclear technology depends.

(3) MAINTENANCE OF NUCLEAR TESTING CAPABILITY.—The United States shall maintain the basic capability to resume nuclear test activities prohibited by the Treaty in the event that the United States ceases to be obligated to adhere to the Treaty.

(4) CONTINUATION OF A COMPREHENSIVE RESEARCH AND DEVELOPMENT PROGRAM.—The United States shall continue its comprehensive research and development program to improve its capabilities and operations for monitoring the Treaty.

(5) INTELLIGENCE GATHERING AND ANALYTICAL CAPABILITIES.—The United States shall continue its development of a broad range of intelligence gathering and analytical capabilities and operations to ensure accurate and comprehensive information on worldwide nuclear arsenals, nuclear weapons development programs, and related nuclear programs.

(6) WITHDRAWAL UNDER THE "SUPREME INTERESTS" CLAUSE.—

(A) SAFETY AND RELIABILITY OF THE U.S. NUCLEAR DETERRENT; POLICY.—The United States—

(i) regards continued high confidence in the safety and reliability of its nuclear weapons stockpile as a matter affecting the supreme interests of the United States; and

(ii) will regard any events calling that confidence into question as "extraordinary events related to the subject matter of the Treaty" under Article IX(2) of the Treaty.

(B) CERTIFICATION BY SECRETARY OF DEFENSE AND SECRETARY OF ENERGY.—Not later than December 31 of each year, the Secretary of Defense and the Secretary of Energy, after receiving the advice of—

(i) the Nuclear Weapons Council (comprised of representatives of the Department of Defense, the Joint Chiefs of Staff, and the Department of Energy),

(ii) the Directors of the nuclear weapons laboratories of the Department of Energy, and

(iii) the Commander of the United States Strategic Command,

shall certify to the President whether the United States nuclear weapons stockpile and all critical elements thereof are, to a high degree of confidence, safe and reliable. Such certification shall be forwarded by the President to Congress not later than 30 days after submission to the President.

(C) RECOMMENDATION WHETHER TO RESUME NUCLEAR TESTING.—If, in any calendar year, the Secretary of Defense and the Secretary of Energy cannot make the certification required by subparagraph (B), then the Secretaries shall recommend to the President whether, in their opinion (with the advice of the Nuclear Weapons Council, the Directors of the nuclear weapons laboratories of the Department of Energy, and the Commander of the United States Strategic Command), nuclear testing is necessary to assure, with a high degree of confidence, the safety and reliability of the United States nuclear weapons stockpile.

(D) WRITTEN CERTIFICATION; MINORITY VIEWS.—In making the certification under subparagraph (B) and the recommendations under subparagraph (C), the Secretaries shall state the reasons for their conclusions, and the views of the Nuclear Weapons Council, the Directors of the nuclear weapons laboratories of the Department of Energy, and the Commander of the United States Strategic Command, and shall provide any minority views.

(E) WITHDRAWAL FROM THE TREATY.—If the President determines that nuclear testing is necessary to assure, with a high degree of confidence, the safety and reliability of the United States nuclear weapons stockpile, the President shall consult promptly with the Senate and withdraw from the Treaty pursuant to Article IX(2) of the Treaty in order to conduct whatever testing might be required.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. HELMS. Mr. President, I ask unamimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, October 12, 1999, at 2 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. without objection, it is so ordered.

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. HELMS. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 12, 1999, at 2 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HISPANIC HERITAGE MONTH

• Mr. CLELAND. This great nation, which was born as a nation of immigrants, is quickly becoming even more one of many faces, many voices, and many ideas, and it is this diversity which is one of our greatest assets. One of the fastest growing populations in our Nation today is the Hispanic American population. I rise before my colleagues today to bring attention to and celebrate the occasion of Hispanic Heritage Month.

This month of recognition is a wonderful opportunity to recognize the wide-ranging achievements and contributions of the Hispanic American population. This is a community with leadership which is notable in every facet of our society, a community filled with courage and persistence who have continually shown a commitment to family, business and education, and economic growth.

America's diverse and vibrant Hispanic population has made an enormous contribution to the building and strengthening of our nation, its culture, and its economic prowess. As the 21st century approaches, Hispanic Americans are poised to play an increasingly prominent role in our Nation's political, economic, and cultural life.

Look no further than Secretary of Energy Bill Richardson; or Small Business Administration head, Aida Alvarez; Chicago Cub Sammy Sosa; or entertainers Ricky Martin and Jennifer Lopez; or business leaders like Sal Diaz-Verson of Columbus, Georgia or the late Roberto Goizueta. Hispanic Americans offer a valuable and vital social, intellectual, and artistic component of American society and their culture deeply enriches the vast American landscape.

What unites Hispanic Americans is a fundamental respect for the traditions and values of their native lands combined with a strong commitment to the American dream. In return, we in the Congress must show a commitment to a legislative agenda that addresses the needs and priorities of Hispanic American families, which are in fact the same as the those of most Americans. We must continue the policies that have laid the foundation for the longest peacetime expansion of the economy, improve and strengthen our education system, provide access to quality healthcare, and protect this nation's children from crime and drugs.

Mr. President, I ask my colleagues to join me in recognizing the valuable contributions of the Hispanic American population and honoring Hispanic Heritage Month.●

TRIBUTE TO THE HOLOCAUST MEMORIAL CENTER

● Mr. ABRAHAM. Mr. President, I rise today to honor the Holocaust Memorial Center in West Bloomfield, Michigan, as they celebrate their 15th Anniversary, and to pay tribute to those whose lives have been affected by the Holocaust.

The work of the Holocaust Memorial Center and especially Executive Vice President Rabbi Charles Rosenveig is truly commendable. In working to keep alive the spirit of those who suffered, the Holocaust Memorial Center helps us remember. In highlighting the rich history and culture of the Jewish people, the Holocaust Memorial Center helps us learn.

The events of the Holocaust cast a dark shadow over history. And while it is painful to remember, the Holocaust Memorial Center will not let us forget. Indeed, their mission is expressed in their logo, which is composed of four Hebrew characters that spell the word Zachor, which means "remember."

On behalf of the United States Senate, I extend my warmest regards and best wishes to everyone in attendance at the 15th Anniversary Dinner and to all who have helped make the Holocaust Memorial Center an important educational resource for the State of Michigan and the country. I wish them continued success in their important mission.●

THE 6 BILLIONTH PERSON

● Mr. LEAHY. Mr. President, at 12:02 AM this morning the six billionth person was born. It was a boy, in Sarajevo.

It took hundreds of thousands of years for the world's population to reach 1 billion, but it has taken less than 40 years for it to double from 3 to 6 billion people. This is a staggering number with implications that are impossible to fully grasp or predict.

What we do know, however, is that 95 percent of new births are occurring in developing countries that are least equipped to deal with the consequences. From sub-Saharan Africa to Asia, people's most basic needs continue to go unmet.

Of the 4.8 billion people in developing countries, it is estimated that nearly 60 percent lack basic sanitation. Almost a third do not have access to clean water. A quarter do not have adequate housing and a fifth—about 1 billion people—have no access to modern health services.

We also know that population pressures threaten every aspect of the Earth's environment. Severe water shortages, shrinking forests, soil degradation, air and water pollution and the daily loss of animal and plant life have changed the face of the planet and contributed to famine, social unrest and massive displacement of people.

This is not to minimize the progress that has been made in slowing population growth rates. Thanks in large part to the availability of modern contraceptives, the average number of births per woman has declined from 6 to 3. In addition, people today enjoy longer, healthier lives than ever before. Women have more opportunities and choices. Technology has enhanced access to medical care, education and employment. In every corner of the globe, we have seen the dramatic successes that have been achieved through vigorous, well-funded foreign assistance programs.

But the disparities between haves and have nots is growing. Given what we know about the inextricable link between population growth, poverty, political instability, lack of social justice and environmental degradation, it is astonishing to me that every year there are those in Congress who continue to oppose funding for international family planning.

It is inexplicable that even though the world's population has doubled since 1960, Members of Congress, especially in the House, vociferously oppose funding the United Nations Population Fund which promotes access to voluntary reproductive health services for women around the world. They do so because UNFPA has a small program in China, which supports women's health, modern contraceptives, and other voluntary family planning services. It makes absolutely no sense, since these are precisely the interventions that reduce reliance on abortion as a method of family planning.

And this year's Foreign Operation's bill contains only $385 million for the Agency for International Development's family planning programs, a $150 million cut from what it was just five years ago.

It is a travesty that so many people around the world want family planning services and still cannot get them. Time and again it has been proven that when these services are available the number of abortions declines, lives are saved and opportunities for women, children and families dramatically increase.

It is also shortsighted. The decisions we make today will determine how long it will be before another billion people occupy this planet and whether our children and grandchildren are born into a world of poverty and deprivation or a world of opportunity and prosperity.

Mr. President, today is a sobering reminder of the need for the United States to resume its leadership in support of international family planning. We have the ability to help improve the lives of billions of people both now and in the future.●

TRIBUTE TO REAR ADMIRAL NORBERT RYAN, USN

● Mr. WARNER. Mr. President, I rise today to recognize and say farewell to an outstanding Naval Officer, Rear Admiral Norbert R. Ryan Jr., as he completes more than three years of distinguished service as the Navy's Chief of Legislative Affairs. It is a privilege for me to honor his many outstanding achievements and commend him for his devotion to the Navy and our great Nation.

A native of Mountainhome, Pennsylvania, Rear Admiral Ryan is a 1967 graduate of the United States Naval Academy. An outstanding aviator and officer, Rear Admiral Ryan was assigned as Chief of Legislative Affairs from August 1996 to October 1999. Through tireless effort, a keen sense of timing and decisive action, Admiral Ryan navigated Navy leadership through aggressive and demanding Congressional action on a wide variety of Navy programs during three complete legislative cycles. He ensured support for a difficult series of high profile and at times challenging issues to include the F/A-18 E/F, CVN-77/CVNX, DD-21 Acquisition Strategy, Tactical Tomahawk, *Virginia* Class Submarines, Shipyard maintenance, and the Navy's role in Kosovo.

Admiral Ryan initiated a groundbreaking series of Congressional Constituent Caseworker Workshops by geographical area to ensure congressional staff at the district level were provided the necessary tools and information on Navy and Marine Corps programs to be responsive to their constituents. He forged strong bonds with many key Members and their staffs ensuring the best interests of the Navy were fully understood and supported.

Admiral Ryan provided outstanding advice, recommendations, and strategies to the Secretary of the Navy and Chief of Naval Operations that have significantly and positively affected the future size, readiness, and capabilities of the Navy. As a result, Congress passed the FY00 Defense Authorization

Bill that has been lauded by many Members as the best defense bill ever written.

Rear Admiral Ryan is a dynamic and resourceful naval officer who, throughout his time in Navy Liaison, has proven to be an indispensable asset to our Nation. He is a passionate advocate of the Navy, our Sailors and their families understanding better than anyone that they are truly the backbone of our national defense. His superior contributions and distinguished service will benefit both the Navy and the country he so proudly serves for years to come. As Rear Admiral Ryan leaves, we will certainly miss him. I am proud to thank him for his service as the Chief of Legislative Affairs and look forward with pride and deepest respect as we continue to work with him in his new assignment as Chief of Naval Personnel. There is no better officer aptly suited to lead the officers and Sailors into the 21st century.●

HONORING THE MEL BLOUNT YOUTH HOME OF GEORGIA, INC.

● Mr. CLELAND. Mr President, I rise today to honor the contributions of the Mel Blount Youth Home of Georgia, Inc. The primary mission of the Mel Blount Youth Home is to provide youth with the guidance, education, and life skills needed to get their lives back on track, resulting in self sufficient, productive contributors to society.

The Mel Blount Youth Home of Georgia, Inc., was founded in 1983 by Melvin and Clinton Blount. It is located in Vidalia, Georgia, and offers an alternative for troubled youths who have not been successful in their home environment. The home is licensed by the State of Georgia and serves youth from all around the country to meet the spiritual, educational, physical, and emotional needs of all children participating in the program.

The Mel Blount Youth Home program places an emphasis on academics, discipline and hard work with a consistent effort to meet the spiritual and emotional needs of young men placed the program. The average stay is from nine to eighteen months. Residents attend school on the grounds of the home and can earn credits toward graduation upon returning to high school at home. A GED program in collaboration with Southeastern Technical Institute is also offered. The academic program consists of a curriculum designed for youth who have been left behind in public school, with tutors available to work with each child on an individual basis.

The Mel Blount Youth Home of Georgia provides young men of diverse backgrounds and cultures who have experienced difficulty adjusting during adolescence a secure and safe haven to grow and develop. The home provides a family setting with a spiritual base in addition to a foundation which places high emphasis on education, hard work and discipline. For some youth, the Mel Blount Youth home is the only place they can call home.

Every child deserves to grow and develop in an environment where they are nurtured and molded by hands and hearts that care. Different circumstances have brought each child to the Mel Blount Youth Home, but all have come with a quiet hope of restarting their lives. At this home, they get a second chance.

I ask my colleagues in this body to join me in recognizing the noteworthy and noble mission of this great institution.●

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

On October 7, 1999, the Senate passed S. 1650, as follows:

S. 1650

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2000, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

Employment and Training Administration

TRAINING AND EMPLOYMENT SERVICES

For necessary expenses of the Workforce Investment Act, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Workforce Investment Act; the Stewart B. McKinney Homeless Assistance Act; the National Skill Standards Act of 1994; and the School-to-Work Opportunities Act; $2,750,694,000 plus reimbursements, of which $1,380,266,000 is available for obligation for the period July 1, 2000 through June 30, 2001; of which $1,250,965,000 is available for obligation for the period April 1, 2000 through June 30, 2001; of which $53,463,000 is available for the period July 1, 2000 through June 30, 2003, for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers: and of which $55,000,000 shall be available from July 1, 2000 through September 30, 2001, for carrying out activities of the School-to-Work Opportunities Act: *Provided*, That $60,000,000 shall be for carrying out section 166 of the Workforce Investment Act, and $7,000,000 shall be for carrying out the National Skills Standards Act of 1994: *Provided further*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: *Provided further*, That funds provided to carry out section 171(d) of such Act may be used for demonstration projects that provide assistance to new entrants in the workforce and incumbent workers: *Provided further*, That funding appropriated herein for Dislocated Worker Employment and Training Activities under section 132(a)(2)(A) of the Workforce Investment Act of 1998 may be distributed for Dislocated Worker Projects under section 171(d) of the Act without regard to the 10 percent limitation contained in section 171(d) of the Act.

For necessary expenses of the Workforce Investment Act, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Workforce Investment Act; $2,720,315,000 plus reimbursements, of which $2,637,120,000 is available for obligation for the period October 1, 2000 through June 30, 2001; and of which $83,195,000 is available for the period October 1, 2000 through June 30, 2003, including $80,195,000 for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers.

In addition to the amounts appropriated under this heading in Public Law 105–277 to carry out the provisions of section 402 of the Job Training Partnership Act, an additional $1,551,000 is made available for obligation from October 1, 1999 through June 30, 2000.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, or to carry out older worker activities as subsequently authorized, $343,356,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, or to carry out older worker activities as subsequently authorized, $96,844,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of trade adjustment benefit payments and allowances under part I; and for training, allowances for job search and relocation, and related State administrative expenses under part II, subchapters B and D, chapter 2, title II of the Trade Act of 1974, as amended, $415,150,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For authorized administrative expenses, $196,952,000, together with not to exceed $3,161,121,000 (including not to exceed $1,228,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund including the cost of administering section 1201 of the Small Business Job Protection Act of 1996, section 7(d) of the Wagner-Peyser Act, as amended, section 461 of the Job Training Partnership Act, the Trade Act of 1974, as amended, the Immigration Act of 1990, and the Immigration and Nationality Act, as amended, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502–504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, shall be available for obligation by the States through December 31, 2000, except that funds used for automation acquisitions shall be available for obligation by the States through September 30, 2002; and of which $196,952,000, together with not to exceed $778,283,000 of the amount which may be expended from said trust fund, shall be available for obligation for the period July 1, 2000 through June 30, 2001, to fund activities under the Act of June 6, 1933, as amended, including the cost of penalty mail authorized under 39 U.S.C. 3202(a)(1)(E) made available to States in lieu of allotments for such purpose, and of which $151,333,000 shall be available only to the extent necessary for additional State allocations to administer unemployment compensation laws to finance increases in the number of unemployment insurance claims filed and claims paid or changes in a State law: *Provided*, That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 2000 is projected by the Department of Labor to exceed 2,638,000, an additional $28,600,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund: *Provided further*, That funds appropriated in this Act which are used to establish a national one-stop career center network may be obligated in contracts, grants or agreements with non-State entities: *Provided further*, That funds appropriated under this Act for activities authorized under the Wagner-Peyser Act, as amended, and title III of the Social Security Act, may be used by the States to fund integrated Employment Service and Unemployment Insurance automation efforts, notwithstanding cost allocation principles prescribed under Office of Management and Budget Circular A–87.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 2001, $356,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 2000, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $103,208,000, including $6,578,000 to support up to 75 full-time equivalent staff, to administer welfare-to-work grants, together with not to exceed $46,132,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

PENSION AND WELFARE BENEFITS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Pension and Welfare Benefits Administration, $99,831,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96–364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 2000, for such Corporation: *Provided*, That not to exceed $11,352,000 shall be available for administrative expenses of the Corporation: *Provided further*, That expenses of such Corporation in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $341,047,000, together with $1,740,000 which may be expended from the Special Fund in accordance with sections 39(c), 44(d) and 44(j) of the Longshore and Harbor Workers' Compensation Act: *Provided*, That $2,000,000 shall be for the development of an alternative system for the electronic submission of reports as required to be filed under the Labor-Management Reporting and Disclosure Act of 1959, as amended, and for a computer database of the information for each submission by whatever means, that is indexed and easily searchable by the public via the Internet: *Provided further*, That the Secretary of Labor is authorized to accept, retain, and spend, until expended, in the name of the Department of Labor, all sums of money ordered to be paid to the Secretary of Labor, in accordance with the terms of the Consent Judgment in Civil Action No. 91–0027 of the United States District Court for the District of the Northern Mariana Islands (May 21, 1992): *Provided further*, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(d) and 214) and for processing applications and issuing registrations under title I of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 percent of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $79,000,000 together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided*, That amounts appropriated may be used under section 8104 of title 5, United States Code, by the Secretary of Labor to reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: *Provided further*, That balances of reimbursements unobligated on September 30, 1999, shall remain available until expended for the payment of compensation, benefits, and expenses: *Provided further*, That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary determines to be the cost of administration for employees of such fair share entities through September 30, 2000: *Provided further*, That of those funds transferred to this account from the fair share entities to pay the cost of administration, $21,849,000 shall be made available to the Secretary as follows: for the operation of and enhancement to the automated data processing systems, including document imaging and medical bill review, in support of Federal Employees' Compensation Act administration, $13,433,000; for program staff training to operate the new imaging system, $1,300,000; for the periodic roll review program, $7,116,000; and the remaining funds shall be paid into the Treasury as miscellaneous receipts: *Provided further*, That the Secretary may require that any person filing a notice of injury or a claim for benefits under chapter 81 of title 5, United States Code, or 33 U.S.C. 901 et seq., provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

Beginning in fiscal year 2000 and thereafter, such sums as may be necessary from the Black Lung Disability Trust Fund, to remain available until expended, for payment of all benefits authorized by section 9501 (d)(1), (2), (4) and (7), of the Internal Revenue Code of 1954, as amended; and interest on advances as authorized by section 9501(c)(2) of that Act. In addition, the following amounts shall be available from the Fund for fiscal year 2000 for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501 (d)(5) of that Act: $28,676,000 for transfer to the Employment Standards Administration, "Salaries and Expenses"; $21,144,000 for transfer to Departmental Management, "Salaries and Expenses"; $318,000 for transfer to Departmental Management, "Office of Inspector General"; and $356,000 for payments into Miscellaneous Receipts for the expenses of the Department of Treasury.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $388,142,000, including not to exceed $83,501,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than 50 percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided*, That of the amount appropriated under this heading that is in excess of the amount appropriated for such purposes for fiscal year 1999, $16,883,000 shall be used to carry out the activities described in paragraph (1) and $16,883,000 shall be used to carry out paragraphs (2) through (6); and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to $750,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: *Provided further*, That, notwithstanding 31 U.S.C. 3302, the Secretary of Labor is authorized, during the fiscal year ending September 30, 2000, to collect and retain fees for services provided to Nationally Recognized Testing Laboratories, and may utilize such sums, in accordance with the provisions of 29 U.S.C. 9a, to administer national and international laboratory recognition programs that ensure the safety of equipment and products used by workers in the workplace: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost workday case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act: *Provided further*, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

Mine Safety and Health Administration

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $230,873,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; including not to exceed $750,000 may be collected by the National Mine Health and Safety Academy for room, board, tuition, and the sale of training materials, otherwise authorized by law to be collected, to be available for mine safety and health education and training activities, notwithstanding 31 U.S.C. 3302; and, in addition, the Mine Safety and Health Administration may retain up to $1,000,000 in fees collected for the approval and certification of equipment, materials, and explosives for use in mines, and may utilize such sums for such activities; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster.

Bureau of Labor Statistics

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $353,781,000, of which $6,986,000 shall be for expenses of revising the Consumer Price Index and shall remain available until September 30, 2001, together with not to exceed $55,663,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

Departmental Management

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of three sedans, and including up to $7,250,000 for the President's Committee on Employment of People With Disabilities, and including the management or operation of Departmental bilateral and multilateral foreign technical assistance, $247,001,000; together with not to exceed $310,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: *Provided*, That no funds made available by this Act may be used by the Solicitor of Labor to participate in a review in any United States court of appeals of any decision made by the Benefits Review Board under section 21 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 921) where such participation is precluded by the decision of the United States Supreme Court in Director, Office of Workers' Compensation Programs v. Newport News Shipbuilding, 115 S. Ct. 1278 (1995), notwithstanding any provisions to the contrary contained in Rule 15 of the Federal Rules of Appellate Procedure: *Provided further*, That no funds made available by this Act may be used by the Secretary of Labor to review a decision under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) that has been appealed and that has been pending before the Benefits Review Board for more than 12 months: *Provided further*, That any such decision pending a review by the Benefits Review Board for more than one year shall be considered affirmed by the Benefits Review Board on the one-year anniversary of the filing of the appeal, and shall be considered the final order of the Board for purposes of obtaining a review in the United States courts of appeals: *Provided further*, That these provisions shall not be applicable to the review or appeal of any decision issued under the Black Lung Benefits Act (30 U.S.C. 901 et seq.): *Provided further*, That notwithstanding any other provision of this Act, up to $10,000 of funding appropriated under title I of this Act for salaries and expenses may be used for receiving and hosting officials of foreign states and official foreign delegations in furtherance of Departmental functions or activities: *Provided further*, That funds made available under this heading shall be used to report to Congress, pursuant to section 9 of the Act entitled "An Act to create a Department of Labor" approved March 4, 1913 (29 U.S.C. 560), with options that will promote a legal domestic work force in the agricultural sector, and provide for improved compensation, longer and more consistent work periods, improved benefits, improved living conditions and better housing quality, and transportation assistance between agricultural jobs for agricultural workers, and address other issues related to agricultural labor that the Secretary of Labor determines to be necessary.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $185,613,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 4100–4110A, 4212, 4214 and 4321–4327, and Public Law 103–353, and which shall be available for obligation by the States through December 31, 2000.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $48,095,000, together with not to exceed $3,830,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this title for the Job Corps shall be used to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level III.

(TRANSFER OF FUNDS)

SEC. 102. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended) which are appropriated for the current fiscal year for the Department of Labor in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfer.

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, VII, VIII, X, XII, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V and section 1820 of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, the Native Hawaiian Health Care Act of 1988, as amended, and the Ricky Ray Hemophilia Relief Fund Act of

1998, $4,365,498,000, of which $150,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act, and of which $10,000,000 shall be available for the construction and renovation of health care and other facilities, and of which $25,000,000 from general revenues, notwithstanding section 1820(j) of the Social Security Act, shall be available for carrying out the Medicare rural hospital flexibility grants program under section 1820 of such Act: *Provided*, That the Division of Federal Occupational Health may utilize personal services contracting to employ professional management/administrative and occupational health professionals: *Provided further*, That of the funds made available under this heading, $250,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease Center: *Provided further*, That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act: *Provided further*, That no more than $5,000,000 is available for carrying out the provisions of Public Law 104–73: *Provided further*, That of the funds made available under this heading, $222,432,000 shall be for the program under title X of the Public Health Service Act to provide for voluntary family planning projects: *Provided further*, That amounts provided to said projects under such title shall not be expended for abortions, that all pregnancy counseling shall be nondirective, and that such amounts shall not be expended for any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office: *Provided further*, That $536,000,000 shall be for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act: *Provided further*, That notwithstanding any other provision of law, funds made available under this heading may be used to continue operating the Council on Graduate Medical Education established by section 301 of Public Law 102–408: *Provided further*, That of the funds made available under this heading, $50,000,000 shall remain available for the Ricky Ray Hemophilia Relief Fund until November 11, 2003: *Provided further*, That fees collected for the full disclosure of information under the "Health Care Fraud and Abuse Data Collection Program," authorized by section 221 of the Health Insurance Portability and Accountability Act of 1996, shall be sufficient to recover the full costs of operating the Program, and shall remain available to carry out that Act until expended.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $1,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM ACCOUNT

Such sums as may be necessary to carry out the purpose of the program, as authorized by Title VII of the Public Health Service Act, as amended. For administrative expenses to carry out the guaranteed loan program, including section 709 of the Public Health Service Act, $3,688,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: *Provided*, That for necessary administrative expenses, not to exceed $3,000,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

Centers for Disease Control and Prevention

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles II, III, VII, XI, XV, XVII, XIX and XXVI of the Public Health Service Act, sections 101, 102, 103, 201, 202, 203, 301, and 501 of the Federal Mine Safety and Health Act of 1977, sections 20, 21 and 22 of the Occupational Safety and Health Act of 1970, title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $2,751,838,000 of which $39,800,000 shall remain available until expended for equipment and construction and renovation of facilities, and in addition, such sums as may be derived from authorized user fees, which shall be credited to this account: *Provided*, That in addition to amounts provided herein, up to $109,573,000 shall be available from amounts available under section 241 of the Public Health Service Act, to carry out the National Center for Health Statistics surveys: *Provided further*, That none of the funds made available for injury prevention and control at the Centers for Disease Control and Prevention may be used to advocate or promote gun control: *Provided further*, That the Director may redirect the total amount made available under authority of Public Law 101–502, section 3, dated November 3, 1990, to activities the Director may so designate: *Provided further*, That the Congress is to be notified promptly of any such transfer.

In addition, $51,000,000, to be derived from the Violent Crime Reduction Trust Fund, for carrying out sections 40151 and 40261 of Public Law 103–322.

National Institutes of Health

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $3,286,859,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $2,001,185,000.

NATIONAL INSTITUTE OF DENTAL AND CRANIOFACIAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, $267,543,000.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney disease, $1,130,056,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, $1,019,271,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $1,786,718,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $1,352,843,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $848,044,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $445,172,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, $436,113,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $680,332,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis and musculoskeletal and skin diseases, $350,429,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, $261,962,000.

NATIONAL INSTITUTE OF NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $90,000,000.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

For carrying out section 301 and title IV of the Public Health Service Act with respect to alcohol abuse and alcoholism, $291,247,000.

NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, $682,536,000.

NATIONAL INSTITUTE OF MENTAL HEALTH

For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, $969,494,000.

NATIONAL HUMAN GENOME RESEARCH INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, $337,322,000.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $655,988,000: *Provided*, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants: *Provided further*, That $60,000,000 shall be for extramural facilities construction grants, of which $30,000,000 shall become available October 1, 2000, and remain available through September 30, 2001.

NATIONAL CENTER FOR COMPLEMENTARY AND ALTERNATIVE MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to complementary and alternative medicine, $56,214,000 to be available for obligation through September 30, 2001.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $43,723,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $210,183,000, of which $4,000,000 shall be available until expended for improvement of information systems: *Provided*, That in fiscal year 2000, the Library may enter into personal services contracts for the provision of services in facilities owned, operated, or constructed under the jurisdiction of the National Institutes of Health.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $299,504,000: *Provided*, That funding shall be available for the purchase of not to exceed twenty-nine passenger motor vehicles for replacement only: *Provided further*, That the Director may direct up to 1 percent of the total amount made available in this or any other Act to all National Institutes of Health appropriations to activities the Director may so designate: *Provided further*, That no such appropriation shall be decreased by more than 1 percent by any such transfers and that the Congress is promptly notified of the transfer: *Provided further*, That NIH is authorized to collect third party payments for the cost of clinical services that are incurred in National Institutes of Health research facilities and that such payments shall be credited to the National Institutes of Health Management Fund: *Provided further*, That all funds credited to the NIH Management Fund shall remain available for one fiscal year after the fiscal year in which they are deposited.

BUILDINGS AND FACILITIES

For the study of, construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, $100,732,000, to remain available until expended.

Substance Abuse and Mental Health Services Administration

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out titles V and XIX of the Public Health Service Act with respect to substance abuse and mental health services, the Protection and Advocacy for Mentally Ill Individuals Act of 1986, and section 301 of the Public Health Service Act with respect to program management, $2,799,516,000, of which $358,816,000 shall be made available to carry out the mental health services block grant under subpart I of part B of title XIX of the Public Health Service Act ($48,816,000 of which shall become available on October 1, 2000 and remain available through September 30, 2001), and of which $100,000,000 shall become available on October 1, 2000 and remain available until September 30, 2001.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan, for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

Agency for Health Care Policy and Research

HEALTH CARE POLICY AND RESEARCH

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, $19,504,000; in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided*, That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed $191,751,000.

Health Care Financing Administration

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $86,087,393,000, to remain available until expended: *Provided*, That beginning in fiscal year 2000 and thereafter, for expenses incurred by Medicaid under title XXI of the Social Security Act, Medicaid may accept as reimbursement in advance amounts from the "State Children's Health Insurance Fund," such amounts to remain available as provided under title XXI.

For making, after May 31, 2000, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 2000 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or in the case of section 1928 on behalf of States, under title XIX of the Social Security Act for the first quarter of fiscal year 2001, $30,589,003,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97-248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $69,289,100,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, XIX and XXI of the Social Security Act, titles XIII and XXVII of the Public Health Service Act, and the Clinical Laboratory Improvement Amendments of 1988, not to exceed $1,991,321,000, to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; together with all funds collected in accordance with section 353 of the Public Health Service Act and such sums as may be collected from authorized user fees and the sale of data, which shall remain available until expended, and together with administrative fees collected relative to Medicare overpayment recovery activities, which shall be transferred to the Health Care Fraud and Abuse Control (HCFAC) account and remain available until expended: *Provided*, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act shall be credited to and available for carrying out the purposes of this appropriation: *Provided further*, That $18,000,000 appropriated under this heading for the managed care system redesign shall remain available until expended: *Provided further*, That funds appropriated under this heading may be obligated to increase Medicare provider audits and implement the Department's corrective action plan to the Chief Financial Officer's audit of the Health Care Financing Administration's oversight of Medicare: *Provided further*, That the Secretary of Health and Human Services is directed to collect, in aggregate, $95,000,000 in fees in fiscal year 2000 from Medicare+Choice organizations pursuant to section 1857(e)(2) of the Social Security Act and from eligible organizations with risk-sharing contracts under section 1876 of that Act pursuant to section 1876(k)(4)(D) of that Act.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of outstanding obligations. During fiscal year 1999, no commitments for direct loans or loan guarantees shall be made.

Administration for Children and Families

PAYMENTS TO STATES FOR CHILD SUPPORT ENFORCEMENT AND FAMILY SUPPORT PROGRAMS

For making payments to States or other non-Federal entities under titles I, IV-D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), for the first quarter of fiscal year 2001, $650,000,000, to remain available until expended.

For making payments to each State for carrying out the program of Aid to Families with Dependent Children under title IV-A of the Social Security Act before the effective date of the program of Temporary Assistance to Needy Families (TANF) with respect to such State, such sums as may be necessary: *Provided*, That the sum of the amounts available to a State with respect to expenditures under such title IV-A in fiscal year 1997 under this appropriation and under such title IV-A as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not exceed the limitations under section 116(b) of such Act.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Reconciliation Act of 1981, $1,100,000,000, to be available for obligation in the period October 1, 2000 through September 30, 2001.

For making payments under title XXVI of such Act, $300,000,000: *Provided*, That these funds are hereby designated by the Congress to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That these funds shall be made available only after submission to the Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–422), $423,000,000, to remain available through September 30, 2002: *Provided*, That funds appropriated pursuant to section 414(a) of the Immigration and Nationality Act under Public 105–78 for fiscal year 1998 and under Public Law 105–277 for fiscal year 1999 shall be available for the costs of assistance provided and other activities through September 30, 2001.

For carrying out section 5 of the Torture Victims Relief Act of 1998 (Public Law 105–320), $7,500,000, to remain available until expended.

PAYMENTS TO STATES FOR THE CHILD CARE AND DEVELOPMENT BLOCK GRANT

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981 (The Child Care and Development Block Grant Act of 1990), to become available on October 1, 2000 and remain available through September 30, 2001, $2,000,000,000: *Provided*, That $19,120,000 shall be available for child care resource and referral and school-aged child care activities.

SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act, $1,050,000,000: *Provided*, That (1) notwithstanding section 2003(c) of such Act, as amended, the amount specified for allocation under such section for fiscal year 2000 shall be $1,050,000,000 and (2) notwithstanding subparagraph (B) of section 404(d)(2) of such Act, the applicable percent specified under such subparagraph for a State to carry out State programs pursuant to title XX of such Act for fiscal year 2000 shall be 5 percent.

CHILDREN AND FAMILIES SERVICES PROGRAMS

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Head Start Act, the Child Abuse Prevention and Treatment Act, the Native American Programs Act of 1974, title II of Public Law 95–266 (adoption opportunities), the Adoption and Safe Families Act of 1997 (Public Law 105–89), the Abandoned Infants Assistance Act of 1988, part B(1) of title IV and sections 413, 429A, 1110, and 1115 of the Social Security Act; for making payments under the Community Services Block Grant Act, section 473A of the Social Security Act, and title IV of Public Law 105–285; and for necessary administrative expenses to carry out said Acts and titles I, IV, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, section 5 of the Torture Victims Relief Act of 1998 (Public Law 105–320), sections 40155, 40211 and 40241 of Public Law 103–322 and section 126 and titles IV and V of Public Law 100–485, $6,684,635,000, of which $20,000,000, to remain available until September 30, 2001, shall be for grants to States for adoption incentive payments, as authorized by section 473A of title IV of the Social Security Act (42 U.S.C. 670–679); of which $500,000,000 shall be for making payments under the Community Services Block Grant Act; and of which $5,267,000,000 shall be for making payments under the Head Start Act, of which $1,900,000,000 shall become available October 1, 2000 and remain available through September 30, 2001: *Provided*, That to the extent Community Services Block Grant funds are distributed as grant funds by a State to an eligible entity as provided under the Act, and have not been expended by such entity, they shall remain with such entity for carryover into the next fiscal year for expenditure by such entity consistent with program purposes.

In addition, $105,000,000, to be derived from the Violent Crime Reduction Trust Fund for carrying out sections 40155, 40211 and 40241 of Public Law 103–322.

PROMOTING SAFE AND STABLE FAMILIES

For carrying out section 430 of the Social Security Act, $295,000,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities under title IV–E of the Social Security Act, $4,312,300,000.

For making payments to States or other non-Federal entities under title IV–E of the Social Security Act, for the first quarter of fiscal year 2001, $1,538,000,000.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, and section 398 of the Public Health Service Act, $942,355,000: *Provided*, That notwithstanding section 308(b)(1) of the Older Americans Act of 1965, as amended, the amounts available to each State for administration of the State plan under title III of such Act shall be reduced not more than 5 percent below the amount that was available to such State for such purpose for fiscal year 1995: *Provided further*, That in considering grant applications for nutrition services for elder Indian recipients, the Assistant Secretary shall provide maximum flexibility to applicants who seek to take into account subsistence, local customs, and other characteristics that are appropriate to the unique cultural, regional, and geographic needs of the American Indian, Alaska and Hawaiian Native communities to be served.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six sedans, and for carrying out titles III, XVII, and XX of the Public Health Service Act, and the United States-Mexico Border Health Commission Act, $182,903,000, together with $6,517,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund: *Provided*, That of the funds made available under this heading for carrying out title XX of the Public Health Service Act, $10,569,000 shall be for activities specified under section 2003(b)(2), of which $9,131,000 shall be for prevention service demonstration grants under section 510(b)(2) of title V of the Social Security Act, as amended, without application of the limitation of section 2010(c) of said title XX: *Provided further*, That $4,000,000 shall be available to the Office of the Surgeon General, within the Office of Public Health and Science, to prepare and disseminate the findings of the Surgeon General's report on youth violence, and to coordinate with other agencies throughout the Federal government, through the establishment of a Federal Coordinating Committee, activities to prevent youth violence: *Provided further*, That sufficient funds shall be available from the Office on Women's Health to support biological, chemical and botanical studies to assist in the development of the clinical evaluation of phytomedicines in women's health.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $35,000,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $18,845,000, together with not to exceed $3,314,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $15,000,000.

PUBLIC HEALTH AND SOCIAL SERVICES FUND

For expenses necessary to support activities related to countering potential biological, disease and chemical threats to civilian populations, $175,000,000: *Provided*, That this amount is distributed as follows: Centers for Disease Control and Prevention, $120,000,000, of which $30,000,000 shall be for the Health Alert Network; Office of the Secretary, $30,000,000, and Office of Emergency Preparedness, $25,000,000. In addition, for expenses necessary for the Global Health Initiative: $75,000,000: *Provided*, That this amount is distributed as follows: Centers for Disease Control and Prevention, $49,000,000, of which $35,000,000 shall be for international HIV/AIDS programs, $9,000,000 shall be for malaria programs, and $5,000,000 shall be for global micronutrient malnutrition programs; National Institutes of Health, $26,000,000, of which $15,000,000 shall be for international HIV/AIDS programs, $6,000,000 shall be for malaria programs, and $5,000,000 shall be for global micronutrient malnutrition programs. In addition, $150,000,000 for carrying out the Department's Year 2000 computer conversion activities, $35,000,000 for minority AIDS prevention and treatment activities, $20,000,000 for buildings and facilities at the Centers for Disease Control and Prevention, and $20,000,000 for the National Institutes of Health challenge grant program.

GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed $37,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated under this Act may be used to implement section 399L(b) of the Public Health Service Act or section 1503 of the National Institutes of Health Revitalization Act of 1993, Public Law 103–43.

SEC. 204. None of the funds appropriated in this Act for the National Institutes of Health and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level III.

SEC. 205. None of the funds appropriated in this Act may be expended pursuant to section 241 of the Public Health Service Act, except for funds specifically provided for in this Act, or for other taps and assessments made by any office located in the Department of Health and Human Services, prior to the Secretary's preparation and submission of a report to the Committee on Appropriations of the Senate and of the House detailing the planned uses of such funds.

(TRANSFER OF FUNDS)

SEC. 206. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended) which are appropriated for the current fiscal year for the Department of Health and Human Services in this Act may be transferred between appropriations, but no such appropriation (except the Public Health and Social Services Emergency Fund) shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfer.

SEC. 207. The Director of the National Institutes of Health, jointly with the Director of the Office of AIDS Research, may transfer up to 3 percent among institutes, centers, and divisions from the total amounts identified by these two Directors as funding for research pertaining to the human immunodeficiency virus: *Provided*, That the Congress is promptly notified of the transfer.

SEC. 208. Of the amounts made available in this Act for the National Institutes of Health, the amount for research related to the human immunodeficiency virus, as jointly determined by the Director of NIH and the Director of the Office of AIDS Research, shall be made available to the "Office of AIDS Research" account. The Director of the Office of AIDS Research shall transfer from such account amounts necessary to carry out section 2353(d)(3) of the Public Health Service Act.

SEC. 209. None of the funds appropriated in this Act may be made available to any entity under title X of the Public Health Service Act unless the applicant for the award certifies to the Secretary that it encourages family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities.

SEC. 210. None of the funds appropriated by this Act (including funds appropriated to any trust fund) may be used to carry out the Medicare+Choice program if the Secretary denies participation in such program to an otherwise eligible entity (including a Provider Sponsored Organization) because the entity informs the Secretary that it will not provide, pay for, provide coverage of, or provide referrals for abortions: *Provided*, That the Secretary shall make appropriate prospective adjustments to the capitation payment to such an entity (based on an actuarially sound estimate of the expected costs of providing the service to such entity's enrollees): *Provided further*, That nothing in this section shall be construed to change the Medicare program's coverage for such services and a Medicare+Choice organization described in this section shall be responsible for informing enrollees where to obtain information about all Medicare covered services.

SEC. 211. (a) MENTAL HEALTH.—Section 1918(b) of the Public Health Service Act (42 U.S.C. 300x–7(b)) is amended to read as follows:

"(b) MINIMUM ALLOTMENTS FOR STATES.—

"(1) IN GENERAL.—With respect to fiscal year 2000, the amount of the allotment of a State under section 1911 shall not be less than the amount the State received under section 1911 for fiscal year 1998.".

(b) SUBSTANCE ABUSE.—Section 1933(b) of the Public Health Service Act (42 U.S.C. 300x–33(b)) is amended to read as follows:

"(b) MINIMUM ALLOTMENTS FOR STATES.—

"(1) IN GENERAL.—With respect to fiscal year 2000, the amount of the allotment of a State under section 1921 shall not be less than the amount the State received under section 1921 for fiscal year 1999 increased by 30.65 percent of the percentage by which the amount allotted to the States for fiscal year 2000 exceeds the amount allotted to the States for fiscal year 1999.

"(2) LIMITATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a State shall not receive an allotment under section 1921 for fiscal year 2000 in an amount that is less than an amount equal to 0.375 percent of the amount appropriated under section 1935(a) for such fiscal year.

"(B) EXCEPTION.—In applying subparagraph (A), the Secretary shall ensure that no State receives an increase in its allotment under section 1921 for fiscal year 2000 (as compared to the amount allotted to the State in the fiscal year 1999) that is in excess of an amount equal to 300 percent of the percentage by which the amount appropriated under section 1935(a) for fiscal year 2000 exceeds the amount appropriated for fiscal year 1999.".

SEC. 212. Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.

SEC. 213. EXTENSION OF CERTAIN ADJUDICATION PROVISIONS.—The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167) is amended—

(1) in section 599D (8 U.S.C. 1157 note)—

(A) in subsection (b)(3), by striking "1997, 1998, and 1999" and inserting "1997, 1998, 1999, and 2000"; and

(B) in subsection (e), by striking "October 1, 1999" each place it appears and inserting "October 1, 2000"; and

(2) in section 599E (8 U.S.C. 1255 note) in subsection (b)(2), by striking "September 30, 1999" and inserting "September 30, 2000".

SEC. 214. None of the funds provided in this Act or in any other Act making appropriations for fiscal year 2000 may be used to administer or implement in Arizona or in the Kansas City, Missouri or in the Kansas City, Kansas area the Medicare Competitive Pricing Demonstration Project (operated by the Secretary of Health and Human Services under authority granted in section 4011 of the Balanced Budget Act of 1997 (Public Law 105–33)).

SEC. 215. Of the funds appropriated for the National Institutes of Health for fiscal year 2000, $3,000,000,000 shall not be available for obligation until September 29, 2000.

SEC. 216. SOCIAL SERVICES BLOCK GRANT. Notwithstanding any other provision of this title, the amount appropriated under this title for making grants pursuant to section 2002 of the Social Security Act (42 U.S.C. 1397a) shall be increased to $2,380,000,000: *Provided*, That (1) $1,330,000,000 of which shall become available on October 1, 2000, and (2) notwithstanding any other provision of this title, the amount specified for allocation under section 2003(c) of such Act for fiscal year 2001 shall be $3,030,000,000.

SEC. 217. EXPRESSING THE SENSE OF THE SENATE TO RAISE THE AWARENESS OF THE DEVASTATING IMPACT OF DIABETES AND TO SUPPORT INCREASED FUNDS FOR DIABETES RESEARCH. (a) FINDINGS.—Congress makes the following findings:

(1) Diabetes is a devastating, lifelong condition that affects people of every age, race, income level, and nationality.

(2) Sixteen million Americans suffer from diabetes, and millions more are at risk of developing the disease.

(3) The number of Americans with diabetes has increased nearly 700 percent in the last 40 years, leading the Centers for Disease Control and Prevention to call it the "epidemic of our time".

(4) In 1999, approximately 800,000 people will be diagnosed with diabetes, and diabetes will contribute to almost 200,000 deaths, making diabetes the sixth leading cause of death due to disease in the United States.

(5) Diabetes costs our nation an estimated $105,000,000,000 each year.

(6) More than 1 out of every 10 United States health care dollars, and about 1 out of every 4 Medicare dollars, is spent on the care of people with diabetes.

(7) More than $40,000,000,000 a year in tax dollars are spent treating people with diabetes through Medicare, Medicaid, veterans benefits, Federal employee health benefits, and other Federal health programs.

(8) Diabetes frequently goes undiagnosed, and an estimated 5,400,000 Americans have the disease but do not know it.

(9) Diabetes is the leading cause of kidney failure, blindness in adults, and amputations.

(10) Diabetes is a major risk factor for heart disease, stroke, and birth defects, and shortens average life expectancy by up to 15 years.

(11) An estimated 1,000,000 Americans have Type 1 diabetes, formerly known as juvenile diabetes, and 15,200,000 Americans have Type 2 diabetes, formerly known as adult-onset diabetes.

(12) Of Americans aged 65 years or older, 18.4 percent have diabetes.

(13) Of Americans aged 20 years or older, 8.2 percent have diabetes.

(14) Hispanic, African, Asian, and Native Americans suffer from diabetes at rates much higher than the general population, including children as young as 8 years-old, who are now being diagnosed with Type 2 diabetes, formerly known as adult-onset diabetes.

(15) In 1999, there is no method to prevent or cure diabetes, and available treatments have only limited success in controlling diabetes devastating consequences.

(16) Reducing the tremendous health and human burdens of diabetes and its enormous economic toll depend on identifying the factors responsible for the disease and developing new methods for treatment and prevention.

(17) Improvements in technology and the general growth in scientific knowledge have created unprecedented opportunities for advances that might lead to better treatments, prevention, and ultimately a cure.

(18) After extensive review and deliberations, the congressionally established and National Institutes of Health-selected Diabetes Research Working Group has found that "many scientific opportunities are not being pursued due to insufficient funding, lack of appropriate mechanisms, and a shortage of trained researchers".

(19) The Diabetes Research Working Group has developed a comprehensive plan for National Institutes of Health-funded diabetes research, and has recommended a funding level of $827,000,000 for diabetes research at the National Institutes of Health in fiscal year 2000.

(20) The Senate as an institution, and Members of Congress as individuals, are in unique positions to support the fight against diabetes and to raise awareness about the need for increased funding for research and for early diagnosis and treatment.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Federal Government has a responsibility to—

(A) endeavor to raise awareness about the importance of the early detection, and proper treatment of, diabetes; and

(B) continue to consider ways to improve access to, and the quality of, health care services for screening and treating diabetes;

(2) the National Institutes of Health, within their existing funding levels, should increase research funding, as recommended by the congressionally established and National Institutes of Health-selected Diabetes Research Working Group, so that the causes of, and improved treatments and cure for, diabetes may be discovered;

(3) all Americans should take an active role to fight diabetes by using all the means available to them, including watching for the symptoms of diabetes, which include frequent urination, unusual thirst, extreme hunger, unusual weight loss, extreme fatigue, and irritability; and

(4) national organizations, community organizations, and health care providers should endeavor to promote awareness of diabetes and its complications, and should encourage early detection of diabetes through regular screenings, education, and by providing information, support, and access to services.

SEC. 218. STUDY AND REPORT ON THE GEOGRAPHIC ADJUSTMENT FACTORS UNDER THE MEDICARE PROGRAM. (a) STUDY.—The Secretary of Health and Human Services shall conduct a study on—

(1) the reasons why, and the appropriateness of the fact that, the geographic adjustment factor (determined under paragraph (2) of section 1848(e) (42 U.S.C. 1395w–4(e)) used in determining the amount of payment for physicians' services under the medicare program is less for physicians' services provided in New Mexico than for physicians' services provided in Arizona, Colorado, and Texas; and

(2) the effect that the level of the geographic cost-of-practice adjustment factor (determined under paragraph (3) of such section) has on the recruitment and retention of physicians in small rural States, including New Mexico, Iowa, Louisiana, and Arkansas.

(b) REPORT.—Not later than 3 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report to Congress on the study conducted under subsection (a), together with any recommendations for legislation that the Secretary determines to be appropriate as a result of such study.

SEC. 219. DENTAL SEALANT DEMONSTRATION PROGRAM. From amounts appropriated under this title for the Health Resources and Services Administration, sufficient funds are available to the Maternal Child Health Bureau for the establishment of a multi-State preventive dentistry demonstration program to improve the oral health of low-income children and increase the access of children to dental sealants through community- and school-based activities.

SEC. 220. WITHHOLDING OF SUBSTANCE ABUSE FUNDS. (a) IN GENERAL.—None of the funds appropriated by this Act may be used to withhold substance abuse funding from a State pursuant to section 1926 of the Public Health Service Act (42 U.S.C. 300x–26) if such State certifies to the Secretary of Health and Human Services that the State will commit additional State funds, in accordance with subsection (b), to ensure compliance with State laws prohibiting the sale of tobacco products to individuals under 18 years of age.

(b) AMOUNT OF STATE FUNDS.—The amount of funds to be committed by a State under subsection (a) shall be equal to one percent of such State's substance abuse block grant allocation for each percentage point by which the State misses the retailer compliance rate goal established by the Secretary of Health and Human Services under section 1926 of such Act, except that the Secretary may agree to a smaller commitment of additional funds by the State.

(c) SUPPLEMENT NOT SUPPLANT.—Amounts expended by a State pursuant to a certification under subsection (a) shall be used to supplement and not supplant State funds used for tobacco prevention programs and for compliance activities described in such subsection in the fiscal year preceding the fiscal year to which this section applies.

(d) ENFORCEMENT OF STATE EXPENDITURE.—The Secretary shall exercise discretion in enforcing the timing of the State expenditure required by the certification described in subsection (a) as late as July 31, 2000.

SEC. 221. CHILDHOOD ASTHMA. In addition to amounts otherwise appropriated under this title for the Centers for Disease Control and Prevention, $8,705,947 in addition to the $1,294,053 already provided for the asthma prevention programs, which shall become available on October 1, 2000 and shall remain available through September 30, 2001, and be utilized to provide grants to local communities for screening, treatment and education relating to childhood asthma.

TITLE III—DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

EDUCATION REFORM

For carrying out activities authorized by titles III and IV of the Goals 2000: Educate America Act, the School-to-Work Opportunities Act, and sections 3122, 3132, 3136, and 3141, parts B, C, and D of title III, and part I of title X of the Elementary and Secondary Education Act of 1965, $1,655,600,000, of which $494,000,000 shall be for the Goals 2000 Act, of which $114,875,000 shall become available on July 1, 2000 and remain available through September 30, 2001, and $344,625,000 shall become available on October 1, 2000 and remain available through September 30, 2001, and $55,000,000 for the School-to-Work Opportunities Act shall become available on July 1, 2000 and remain available through September 30, 2001, and of which $87,000,000 shall be for section 3122: *Provided*, That none of the funds appropriated under this heading shall be obligated or expended to carry out section 304(a)(2)(A) of the Goals 2000 Act, except that no more than $1,500,000 may be used to carry out activities under section 314(a)(2) of that Act: *Provided further*, That section 315(a)(2) of the Goals 2000 Act shall not apply: *Provided further*, That up to one-half of 1 percent of the amount available under section 3132 shall be set aside for the outlying areas, to be distributed on the basis of their relative need as determined by the Secretary in accordance with the purposes of the program: *Provided further*, That if any State educational agency does not apply for a grant under section 3132, that State's allotment under section 3131 shall be reserved by the Secretary for grants to local educational agencies in that State that apply directly to the Secretary according to the terms and conditions published by the Secretary in the Federal Register.

EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965, and section 418A of the Higher Education Act, $8,750,986,000, of which $2,520,823,000 shall become available on July 1, 2000, and shall remain available through September 30, 2001, and of which $6,204,763,000 shall become available on October 1, 2000 and shall remain available through September 30, 2001, for academic year 2000–2001: *Provided*, That $6,894,000,000 shall be available for basic grants under section 1124: *Provided further*, That up to $3,500,000 of these funds shall be available to the Secretary on October 1, 1999, to obtain updated local-educational-agency-level census poverty data from the Bureau of the Census: *Provided further*, That $1,158.397,000 shall be available for concentration grants under section 1124A: *Provided further*, That $8,900,000 shall be available for evaluations under section 1501 and not more than $8,500,000 shall be reserved for section 1308, of which not more than $3,000,000 shall be reserved for section 1308(d): *Provided further*, That grant awards under sections 1124 and 1124A of title I of the Elementary and Secondary Education Act shall be made to each State and local educational agency at no less than 100 percent of the amount such State or local educational agency received under this authority for fiscal year 1999: *Provided further*, That notwithstanding any other provision of law, grant awards under section 1124A of title I of the Elementary and Secondary Education Act shall be made to those local educational agencies that received a Concentration Grant under the Department of Education Appropriations Act, 1998, but are not eligible to receive such a grant for fiscal year 2000: *Provided further*, That each such local educational agency shall receive an amount equal to the Concentration Grant the agency received in fiscal year 1998, ratably reduced, if necessary, to ensure that these local educational agencies receive no greater share of their hold-harmless amounts than other local educational agencies: *Provided further*, That the Secretary shall not take into account the hold harmless provisions in this section in determining State allocations under any other program administered by the Secretary in any fiscal year: *Provided further*, That $120,000,000 shall be available under section 1002(g)(2) to demonstrate effective approaches to comprehensive school reform to be allocated and expended in accordance with the instructions relating to this activity in the statement of the managers on the conference report accompanying Public Law 105–78 and in the statement of the managers on the conference report accompanying Public Law 105–277: *Provided further*, That in carrying out this initiative, the Secretary and the States shall support only approaches that show the most promise of enabling children served by title I to meet challenging State content standards and challenging State student performance standards based on reliable research and effective practices, and include an emphasis on basic academics and parental involvement.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by title VIII of the Elementary and Secondary Education Act of 1965, $892,000,000, of which $725,000,000 shall be for basic support payments under section 8003(b), $50,000,000 shall be for payments for children with disabilities under section 8003(d), $75,000,000, to remain available until expended, shall be for payments under section 8003(f), $7,000,000 shall be for construction under section 8007, $30,000,000 shall be for Federal property payments under section 8002 and $5,000,000 to remain available until expended shall be for facilities maintenance under section 8008.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by titles II, IV, V–A and B, VI, IX, X, and XIII of the Elementary and Secondary Education Act of 1965 ("ESEA"); the Stewart B. McKinney Homeless Assistance Act; and the Civil Rights Act of 1964 and part B of title VIII of the Higher Education Act; $2,886,634,000, of which $1,126,550,000 shall become available on July 1, 2000, and remain available through September 30, 2001, and of which $1,239,750,000 shall become available on October 1, 2000 and shall remain available through September 30, 2001 for academic year 2000–2001: *Provided*, That of the amount appropriated, $335,000,000 shall be for Eisenhower professional development State grants under title II–B and up to $750,000 shall be for an evaluation of comprehensive regional assistance centers under title XIII of ESEA: *Provided further*, That $1,200,000,000 is appropriated for a teacher assistance initiative pending authorization of that initiative. If the teacher assistance initiative is not authorized by July 1, 2000, the $1,200,000,000 shall be distributed as described in section 307(b)(1) (A) and (B) of the Department of Education Appropriation Act of 1999. School districts may use the funds for class size reduction activities as described in section 307(c)(2)(A) (i)–(iii) of the Department of Education Appropriation Act of 1999 or any activity authorized in section 6301 of the Elementary and Secondary Education Act that will improve the academic achievement of all students. Each such agency shall use funds under this section only to supplement, and not to supplant, State and local funds that, in the absence of such funds, would otherwise be spent for activities under this section.

READING EXCELLENCE

For necessary expenses to carry out the Reading Excellence Act, $90,000,000, which shall become available on July 1, 2000 and shall remain available through September 30, 2001 and $195,000,000 shall become available on October 1, 2000 and remain available through September 30, 2001.

INDIAN EDUCATION

For expenses necessary to carry out, to the extent not otherwise provided, title IX, part A of the Elementary and Secondary Education Act of 1965, as amended, $77,000,000.

OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, bilingual, foreign language and immigrant education activities authorized by parts A and C and section 7203 of title VII of the Elementary and Secondary Education Act of 1965, without regard to section 7103(b), $394,000,000: *Provided*, That State educational agencies may use all, or any part of, their part C allocation for competitive grants to local educational agencies.

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act, $6,035,646,000, of which $3,834,587,000 shall become available for obligation on July 1, 2000, and shall remain available through September 30, 2001, and of which $2,201,059,000 shall become available on October 1, 2000 and shall remain available through September 30, 2001, for academic year 2000–2001.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Assistive Technology Act of 1998, and the Helen Keller National Center Act, $2,692,872,000.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), $10,100,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $48,151,000, of which $2,651,000 shall be for construction and shall remain available until expended: *Provided*, That from the total amount available, the Institute may at its discretion use funds for the endowment program as authorized under section 207.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $85,500,000, of which $2,500,000 shall be for construction and shall remain available until expended: *Provided*, That from the total amount available, the University may at its discretion use funds for the endowment program as authorized under section 207.

OFFICE OF VOCATIONAL AND ADULT EDUCATION

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Technical Education Act, the Adult Education and Family Literacy Act, and title VIII–D of the Higher Education Act of 1965, as amended, and Public Law 102–73, $1,676,750,000, of which $3,500,000 shall remain available until expended, and of which $1,658,150,000 shall become available on July 1, 2000 and shall remain available through September 30, 2001: *Provided*, That of the amounts made available for the Perkins Act, $4,600,000 shall be for tribally controlled vocational institutions under section 117: *Provided further*, That $9,000,000 shall be for carrying out Section 118 of such act for all activities conducted by and through the National Occupational Information Coordinating Committee: *Provided further*, That of the amounts made available for the Adult Education and Family Literacy Act, $14,000,000 shall be for national leadership activities under section 243 and $6,000,000 shall be for the National Institute for Literacy under section 242: *Provided further*, That $19,000,000 shall be for Youth Offender Grants, of which $5,000,000, which shall become available on July 1, 2000, and remain available through September 30, 2001, shall be used in accordance with section 601 of Public Law 102–73 as that section was in effect prior to enactment of Public Law 105–220.

OFFICE OF POSTSECONDARY EDUCATION,

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 3 and 4 of part A, part C and part E of title IV of the Higher Education Act of 1965, as amended, $9,498,000,000, which shall remain available through September 30, 2001 and of which $1,176,400,000 shall become available on October 1, 2000 and remain available through September 30, 2001.

The maximum Pell Grant for which a student shall be eligible during award year 2000–2001 shall be $3,325: *Provided*, That notwithstanding section 401(g) of the Act, if the Secretary determines, prior to publication of the payment schedule for such award year, that the amount included within this appropriation for Pell Grant awards in such award year, and any funds available from the fiscal year 1999 appropriation for Pell Grant awards, are insufficient to satisfy fully all such awards for which students are eligible, as calculated under section 401(b) of the Act, the amount paid for each such award shall be reduced by either a fixed or variable percentage, or by a fixed dollar amount, as determined in accordance with a schedule of reductions established by the Secretary for this purpose.

FEDERAL FAMILY EDUCATION LOAN PROGRAM ACCOUNT

For Federal administrative expenses to carry out guaranteed student loans authorized by title IV, part B, of the Higher Education Act, as amended, $48,000,000.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, section 121 and titles II, III, IV, V, VI, VII, and VIII of the Higher Education Act of 1965, as amended, and the Mutual Educational and Cultural Exchange Act of 1961; $1,406,631,000, of which $12,000,000 for interest subsidies authorized by section 121 of the Higher Education Act, shall remain available until expended: *Provided*, That funds available for part A, subpart 2 of title VII of the Higher Education Act shall be available to fund awards for academic year 2000–2001 for fellowships under part A, subpart 1 of title VII of said Act, under the terms and conditions of part A, subpart 1: *Provided further*, That not more than 0.75 percent of the funds appropriated to carry out title II of the Higher Education Act may be used to conduct activities evaluating that program: *Provided further*, That $2,000,000 shall be for carrying out part C of title VIII of the Higher Education amendments of 1998.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $219,444,000, of which not less than $3,530,000 shall be for a matching endowment grant pursuant to the Howard University Endowment Act (Public Law 98–480), of which $3,530,000 shall remain available until expended.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For Federal administrative expenses authorized under section 121 of the Higher Education Act, $737,000 to carry out activities related to existing facility loans entered into under the Higher Education Act.

HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING PROGRAM ACCOUNT

The total amount of bonds insured pursuant to section 344 of title III, part D of the Higher Education Act shall not exceed $357,000,000, and the cost, as defined in section 502 of the Congressional Budget Act of 1974, of such bonds shall not exceed zero.

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to title III, part D of the Higher Education Act, as amended, $207,000.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For carrying out activities authorized by the Educational Research, Development, Dissemination, and Improvement Act of 1994, including part E; the National Education Statistics Act of 1994, including sections 411 and 412; section 2102 of title II, and parts A, B, and K and section 10601 of title X, and part C of title XIII of the Elementary and Secondary Education Act of 1965, as amended, and title VI of Public Law 103–227, $468,867,000: *Provided*, That $25,000,000 shall be available to demonstrate effective approaches to comprehensive school reform, to be allocated and expended in accordance with the instructions relating to this activity in the statement of managers on the conference report accompanying Public Law 105–78: *Provided further*, That the funds made available for comprehensive school reform shall become available on July 1, 2000, and remain available through September 30, 2001, and in carrying out this initiative, the Secretary and the States shall support only approaches that show the most promise of enabling children to meet challenging State content standards and challenging State student performance standards based on reliable research and effective practices, and include an emphasis on basic academics and parental involvement: *Provided further*, That $10,000,000 of the funds provided for the national education research institutes shall be allocated notwithstanding sections 912(m)(1)(B)–(F) and 931(c)(2)(B)–(C) of Public Law 103–227.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of two passenger motor vehicles, $370,184,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $71,200,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $34,000,000.

GENERAL PROVISIONS

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

(TRANSFER OF FUNDS)

SEC. 304. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended) which are appropriated for the Department of Education in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfer.

NATIONAL TESTING

SEC. 305. (a) IN GENERAL.—Part C of the General Education Provisions Act (20 U.S.C. 1231 et seq.) is amended by adding at the end the following:

"SEC. 447. PROHIBITION ON FEDERALLY SPONSORED TESTING.

"(a) GENERAL PROHIBITION.—Notwithstanding any other provision of Federal law and except as provided in subsection (b), no funds provided to the Department of Education or to an applicable program, may be used to pilot test, field test, implement, administer or distribute in any way any federally sponsored national test in reading, mathematics, or any other subject that is not specifically and explicitly provided for in authorizing legislation enacted into law.

"(b) EXCEPTIONS.—Subsection (a) shall not apply to the Third International Mathematics and Science Study or other international comparative assessments developed under the authority of section 404(a)(6) of the National Education Statistics Act of 1994 (20 U.S.C. 9003(a)(6) et seq.) and administered to only a representative sample of pupils in the United States and in foreign nations.".

(b) AUTHORITY OF NATIONAL ASSESSMENT GOVERNING BOARD.—Subject to section 447 of the General Education Provisions Act, the exclusive authority over the direction and all policies and guidelines for developing voluntary national tests pursuant to contract RJ97153001 previously entered into between the United States Department of Education and the American Institutes for Research and executed on August 15, 1997, and subsequently modified by the National Assessment Governing Board on February 11, 1998, shall continue to be vested in the National Assessment Governing Board established under section 412 of the National Education Statistics Act of 1994 (20 U.S.C. 9011).

SEC. 306. FUNDING. Notwithstanding any other provision of law—

(1) the total amount made available under this Act to carry out part A of title X of the Elementary and Secondary Education Act of 1965 shall be $39,500,000;

(2) the total amount made available under this Act to carry out part C of title X of the Elementary and Secondary Education Act of 1965 shall be $150,000,000; and

(3) the total amount made available under this Act to carry out subpart 1 of part A of title IV of the Elementary and Secondary Education Act of 1965 shall be $451,000,000, of which $111,275,000 shall be available on July 1, 2000.

SEC. 307. LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM. Notwithstanding any other provision of this title, amounts appropriated in this title to carry out the leveraging educational assistance partnership program under section 407 of the Higher Education Act of 1965 (20 U.S.C. 1070c et seq.) shall be increased by $50,000,000, and these additional funds shall become available on October 1, 2000.

TITLE IV—RELATED AGENCIES

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $293,261,000.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 2002, $350,000,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor Management Relations Act, 1947 (29 U.S.C. 171–180, 182–183), including hire of passenger motor vehicles; for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95–454 (5 U.S.C. ch. 71), $36,834,000, including $1,500,000, to remain available through September 30, 2001, for activities authorized by the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a): *Provided*, That notwithstanding 31 U.S.C. 3302, fees charged, up to full-cost recovery, for special training activities and other conflict resolution services and technical assistance, including those provided to foreign governments and international organizations, and for arbitration services shall be credited to and merged with this account, and shall remain available until expended: *Provided further*, That fees for arbitration services shall be available only for education, training, and professional development of the agency workforce: *Provided further*, That the Director of the Service is authorized to accept and use on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $6,159,000.

OFFICE OF LIBRARY SERVICES: GRANTS AND ADMINISTRATION

For carrying out subtitle B of the Museum and Library Services Act, $154,500,000.

MEDICARE PAYMENT ADVISORY COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1805 of the Social Security Act, $7,015,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345, as amended), $1,300,000.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, $2,400,000.

NATIONAL EDUCATION GOALS PANEL

For expenses necessary for the National Education Goals Panel, as authorized by title II, part A of the Goals 2000: Educate America Act, $2,250,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $210,193,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 percent of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $9,100,000: *Provided*, That unobligated balances at the end of fiscal year 1999 not needed for emergency boards shall remain available for other statutory purposes through September 30, 2000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $8,500,000.

RAILROAD RETIREMENT BOARD

FEDERAL WINDFALL SUBSIDY

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $175,000,000, which shall include amounts becoming available in fiscal year 2000 pursuant to section 224(c)(1)(B) of Public Law 98–76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds $175,000,000: *Provided*, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $150,000, to remain available through September 30, 2001, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98–76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board for administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, $90,000,000, to be derived in such amounts as determined by the Board from the railroad retirement accounts and from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $5,400,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: *Provided*, That none of the funds made available in any other paragraph of this Act may be transferred to the Office; used to carry out any such transfer; used to provide any office space, equipment, office supplies, communications facilities or services, maintenance services, or administrative services for the Office; used to pay any salary, benefit, or award for any personnel of the Office; used to pay any other operating expense of the Office; or used to reimburse the Office for any service provided, or expense incurred, by the Office.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $20,764,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, $383,638,000, to remain available until expended.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 2001, $124,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $21,553,085,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

From funds provided under the previous paragraph, not less than $100,000,000 shall be available for payment to the Social Security trust funds for administrative expenses for conducting continuing disability reviews.

In addition, $200,000,000, to remain available until September 30, 2001, for payment to the Social Security trust funds for administrative expenses for continuing disability reviews as authorized by section 103 of Public Law 104–121 and section 10203 of Public Law 105–33. The term "continuing disability reviews" means reviews and redeterminations as defined under section 201(g)(1)(A) of the Social Security Act, as amended.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For making benefit payments under title XVI of the Social Security Act for the first quarter of fiscal year 2001, $9,890,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed $10,000 for official reception and representation expenses, not more than $6,188,871,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That not less than $1,800,000 shall be for the Social Security Advisory Board: *Provided further*, That unobligated balances at the end of fiscal year 2000 not needed for fiscal year 2000 shall remain available until expended to invest in the Social Security Administration computing network, including related equipment and non-payroll administrative expenses associated solely with this network: *Provided further*, That reimbursement to the trust funds under this heading for expenditures for official time for employees of the Social Security Administration pursuant to section 7131 of title 5, United States Code, and for facilities or support services for labor organizations pursuant to policies, regulations, or procedures referred to in section 7135(b) of such title shall be made by the Secretary of the Treasury, with interest, from amounts in the general fund not otherwise appropriated, as soon as possible after such expenditures are made.

From funds provided under the first paragraph, not less than $200,000,000 shall be available for conducting continuing disability reviews.

In addition to funding already available under this heading, and subject to the same terms and conditions, $405,000,000, to remain available until September 30, 2001, for continuing disability reviews as authorized by section 103 of Public Law 104-121 and section 10203 of Public Law 105-33. The term "continuing disability reviews" means reviews and redeterminations as defined under section 201(g)(1)(A) of the Social Security Act as amended.

In addition, $80,000,000 to be derived from administration fees in excess of $5.00 per supplementary payment collected pursuant to section 1616(d) of the Social Security Act or section 212(b)(3) of Public Law 93-66, which shall remain available until expended. To the extent that the amounts collected pursuant to such section 1616(d) or 212(b)(3) in fiscal year 2000 exceed $80,000,000, the amounts shall be available in fiscal year 2001 only to the extent provided in advance in appropriations Acts.

From amounts previously made available under this heading for a state-of-the-art computing network, not to exceed $100,000,000 shall be available for necessary expenses under this heading, subject to the same terms and conditions.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $15,000,000, together with not to exceed $51,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

In addition, an amount not to exceed 3 percent of the total provided in this appropriation may be transferred from the "Limitation on Administrative Expenses", Social Security Administration, to be merged with this account, to be available for the time and purposes for which this account is available: *Provided*, That notice of such transfers shall be transmitted promptly to the Committees on Appropriations of the House and Senate.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $13,000,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

SEC. 504. The Secretaries of Labor and Education are each authorized to make available not to exceed $15,000 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 505. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug. This provision shall become effective one day after the date of enactment of this Act.

SEC. 506. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 507. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state: (1) the percentage of the total costs of the program or project which will be financed with Federal money; (2) the dollar amount of Federal funds for the project or program; and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

SEC. 508. (a) None of the funds appropriated under this Act, and none of the funds in any trust fund to which funds are appropriated under this Act, shall be expended for any abortion.

(b) None of the funds appropriated under this Act, and none of the funds in any trust fund to which funds are appropriated under this Act, shall be expended for health benefits coverage that includes coverage of abortion.

(c) The term "health benefits coverage" means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement.

SEC. 509. (a) The limitations established in the preceding section shall not apply to an abortion—

(1) if the pregnancy is the result of an act of rape or incest; or

(2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

(b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State's or locality's contribution of Medicaid matching funds).

(c) Nothing in the preceding section shall be construed as restricting the ability of any managed care provider from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State's or locality's contribution of Medicaid matching funds).

SEC. 510. (a) None of the funds made available in this Act may be used for—

(1) the creation of a human embryo or embryos for research purposes; or

(2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.208(a)(2) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)).

(b) For purposes of this section, the term "human embryo or embryos" includes any organism, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells.

SEC. 511. (a) LIMITATION ON USE OF FUNDS FOR PROMOTION OF LEGALIZATION OF CONTROLLED SUBSTANCES.—None of the funds made available in this Act may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established by section 202 of the Controlled Substances Act (21 U.S.C. 812).

(b) EXCEPTIONS.—The limitation in subsection (a) shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

SEC. 512. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with an entity if—

(1) such entity is otherwise a contractor with the United States and is subject to the requirement in section 4212(d) of title 38, United States Code, regarding submission of an annual report to the Secretary of Labor concerning employment of certain veterans; and

(2) such entity has not submitted a report as required by that section for the most recent year for which such requirement was applicable to such entity.

Sec. 513. None of the funds made available in this Act may be used to promulgate or adopt any final standard under section 1173(b) of the Social Security Act (42 U.S.C. 1320d–2(b)) providing for, or providing for the assignment of, a unique health identifier for an individual (except in an individual's capacity as an employer or a health care provider), until legislation is enacted specifically approving the standard.

Sec. 514. Section 520(c)(2)(D) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997, as amended, is further amended by striking "December 31, 1997" and inserting "December 31, 1999".

Sec. 515. It is the sense of the Senate that the conferees on H.R. 2466, the Department of Interior and Related Agencies Appropriations Act, shall include language prohibiting funds from being used for the Brooklyn Museum of Art unless the Museum immediately cancels the exhibit "Sensation", which contains obscene and pornographic pictures, a picture of the Virgin Mary desecrated with animal feces, and other examples of religious bigotry.

Sec. 516. Sense of the Senate Regarding Payments Under the Prospective Payment System for Hospital Outpatient Department Services. (a) Findings.—The Senate finds the following:

(1) The Balanced Budget Act of 1997, in order to achieve the objective of balancing the Federal budget, provided for the single largest change in the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) since the inception of such program in 1965.

(2) Reliable, independent estimates now project that the changes to the medicare program provided for in the Balanced Budget Act of 1997 will result in the reduction of payments to health care providers that greatly exceeds the level of estimated reductions when such Act was enacted.

(3) Congressional oversight has begun to reveal that these greater-than-anticipated reductions in payments are harming the ability of health care providers to maintain and deliver high-quality health care services to beneficiaries under the medicare program and to other individuals.

(4) One of the key factors that has caused these greater-than-anticipated reductions in payments is the inappropriate regulatory action taken by the Secretary in implementing the provisions of the Balanced Budget Act of 1997.

(5) The Secretary of Health and Human Services, contrary to the direction of 77 Members of the Senate and 253 Members of the House of Representatives (stated in letters to the Secretary dated June 18, 1999, and September 14, 1999, respectively), has persisted in interpreting the provisions of the prospective payment system for hospital outpatient department services under section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)) in a manner that would impose an unintended 5.7 percent across the board reduction in payments under such system.

(b) Sense of the Senate.—It is the sense of the Senate that the Secretary of Health and Human Services should carry out congressional intent and cease its inappropriate interpretation of the provisions of the prospective payment system for hospital outpatient department services under section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)).

Sec. 517. It is the sense of the Senate that it is important that Congress determine the economic status of former recipients of assistance under the temporary assistance to needy families program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

Sec. 518. Confounding Biological and Physiological Influences on Polygraphy. (a) Findings.—The Senate finds that:

(1) The use of polygraph tests as a screening tool for Federal employees and contractor personnel is increasing.

(2) A 1983 study by the Office of Technology Assessment found little scientific evidence to support the validity of polygraph tests in such screening applications.

(3) The 1983 study further found that little or no scientific study had been undertaken on the effects of prescription and nonprescription drugs on the validity of polygraph tests, as well as differential responses to polygraph tests according to biological and physiological factors that may vary according to age, gender, or ethnic backgrounds, or other factors relating to natural variability in human populations.

(4) A scientific evaluation of these important influences on the potential validity of polygraph tests should be studied by a neutral agency with biomedical and physiological expertise in order to evaluate the further expansion of the use of polygraph tests on Federal employees and contractor personnel.

(b) Sense of the Senate.—It is the sense of the Senate that the Director of the National Institutes of Health should enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation into the scientific validity of polygraphy as a screening tool for Federal and Federal contractor personnel, with particular reference to the validity of polygraph tests being proposed for use in proposed rules published at 64 Fed. Reg. 45062 (August 18, 1999).

Sec. 519. (a) Findings.—Congress makes the following findings:

(1) In 1999, prostate cancer is expected to kill more than 37,000 men in the United States and be diagnosed in over 180,000 new cases.

(2) Prostate cancer is the most diagnosed nonskin cancer in the United States.

(3) African Americans have the highest incidence of prostate cancer in the world.

(4) Considering the devastating impact of the disease among men and their families, prostate cancer research remains underfunded.

(5) More resources devoted to clinical and translational research at the National Institutes of Health will be highly determinative of whether rapid advances can be attained in treatment and ultimately a cure for prostate cancer.

(6) The Congressionally Directed Department of Defense Prostate Cancer Research Program is making important strides in innovative prostate cancer research, and this Program presented to Congress in April of 1998 a full investment strategy for prostate cancer research at the Department of Defense.

(7) The Senate expressed itself unanimously in 1998 that the Federal commitment to biomedical research should be doubled over the next 5 years.

(b) Sense of the Senate.—It is the sense of the Senate that—

(1) finding treatment breakthroughs and a cure for prostate cancer should be made a national health priority;

(2) significant increases in prostate cancer research funding, commensurate with the impact of the disease, should be made available at the National Institutes of Health and to the Department of Defense Prostate Cancer Research Program; and

(3) these agencies should prioritize prostate cancer research that is directed toward innovative clinical and translational research projects in order that treatment breakthroughs can be more rapidly offered to patients.

Sec. 520. The United States-Mexico Border Health Commission Act (22 U.S.C. 290n et seq.) is amended—

(1) by striking section 2 and inserting the following:

"SEC. 2. APPOINTMENT OF MEMBERS OF BORDER HEALTH COMMISSION.

"Not later than 30 days after the date of enactment of this section, the President shall appoint the United States members of the United States-Mexico Border Health Commission, and shall attempt to conclude an agreement with Mexico providing for the establishment of such Commission."; and

(2) in section 3—

(A) in paragraph (1), by striking the semicolon and inserting "; and";

(B) in paragraph (2)(B), by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

Sec. 521. Sense of the Senate on Women's Access to Obstetric and Gynecological Services. (a) Findings.—Congress makes the following findings:

(1) In the 1st session of the 106th Congress, 23 bills have been introduced to allow women direct access to their ob-gyn provider for obstetric and gynecologic services covered by their health plans.

(2) Direct access to ob-gyn care is a protection that has been established by Executive order for enrollees in medicare, medicaid, and Federal Employee Health Benefit Programs.

(3) American women overwhelmingly support passage of Federal legislation requiring health plans to allow women to see their ob-gyn providers without first having to obtain a referral. A 1998 survey by the Kaiser Family Foundation and Harvard University found that 82 percent of Americans support passage of a direct access law.

(4) While 39 States have acted to promote residents' access to ob-gyn providers, patients in other State- or federally-governed health plans are not protected from access restrictions or limitations.

(5) In May of 1999 the Commonwealth Fund issued a survey on women's health, determining that 1 of 4 women (23 percent) need to first receive permission from their primary care physician before they can go and see their ob-gyn provider for covered obstetric or gynecologic care.

(6) Sixty percent of all office visits to ob-gyn providers are for preventive care.

(b) Sense of the Senate.—It is the sense of the Senate that Congress should enact legislation that requires health plans to provide women with direct access to a participating health provider who specializes in obstetrics and gynecological services, and that such direct access should be provided for all obstetric and gynecologic care covered by their health plans, without first having to obtain a referral from a primary care provider or the health plan.

Sec. 522. Sense of the Senate Regarding Comprehensive Public Education Reform.

(a) FINDINGS.—The Senate finds the following:

(1) Recent scientific evidence demonstrates that enhancing children's physical, social, emotional, and intellectual development before the age of six results in tremendous benefits throughout life.

(2) Successful schools are led by well-trained, highly qualified principals, but many principals do not get the training that the principals need in management skills to ensure their school provides an excellent education for every child.

(3) Good teachers are a crucial catalyst to quality education, but one in four new teachers do not meet State certification requirements; each year more than 50,000 under-prepared teachers enter the classroom; and 12 percent of new teachers have had no teacher training at all.

(4) Public school choice is a driving force behind reform and is vital to increasing accountability and improving low-performing schools.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Federal Government should support State and local educational agencies engaged in comprehensive reform of their public education system and that any education reform should include at least the following principals—

(1) that every child should begin school ready to learn by providing the resources to expand existing programs, such as Even Start and Head Start;

(2) that training and development for principals and teachers should be a priority;

(3) that public school choice should be encouraged to increase options for students;

(4) that support should be given to communities to develop additional counseling opportunities for at-risk students; and

(5) school boards, administrators, principals, parents, teachers, and students must be accountable for the success of the public education system and corrective action in underachieving schools must be taken.

SEC. 523. The applicable time limitations with respect to the giving of notice of injury and the filing of a claim for compensation for disability or death by an individual under the Federal Employees' Compensation Act, as amended, for injuries sustained as a result of the person's exposure to a nitrogen or sulfur mustard agent in the performance of official duties as an employee at the Department of the Army's Edgewood Arsenal before March 20, 1944, shall not begin to run until the date of enactment of this Act.

SEC. 524. Section 169(d)(2)(B) of Public Law 105-220, the Workforce Investment Act of 1998, is amended by striking "or Alaska Native villages or Native groups (as such terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)).", and inserting in lieu thereof, "or Alaska Natives.".

SEC. 525. SENSE OF THE SENATE ON PREVENTION OF NEEDLESTICK INJURIES. (a) FINDINGS.—The Senate finds that—

(1) the Centers for Disease Control and Prevention reports that American health care workers report more than 800,000 needlestick and sharps injuries each year;

(2) the occurrence of needlestick injuries is believed to be widely under-reported;

(3) needlestick and sharps injuries result in at least 1,000 new cases of health care workers with HIV, hepatitis C or hepatitis B every year; and

(4) more than 80 percent of needlestick injuries can be prevented through the use of safer devices.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate should pass legislation that would eliminate or minimize the significant risk of needlestick injury to health care workers.

SEC. 526. (a) The Centers for Disease Control and Prevention shall hereafter be known and designated as the "Thomas R. Harkin Centers for Disease Control and Prevention".

(b) Effective upon the date of enactment of this Act, any reference in a law, document, record, or other paper of the United States to the "Centers for Disease Control and Prevention" shall be deemed to be a reference to the "Thomas R. Harkin Centers for Disease Control and Prevention".

(c) Nothing in this section shall be construed as prohibiting the Director of the Thomas R. Harkin Centers for Disease Control and Prevention from utilizing for official purposes the term "CDC" as an acronym for such Centers.

SEC. 527. DESIGNATION OF ARLEN SPECTER DEPARTMENT OF HEALTH AND HUMAN SERVICES. (a) IN GENERAL.—The National Library of Medicine building (building 38) at 8600 Rockville Pike, in Bethesda, Maryland, shall be known and designated as the "Arlen Specter National Library of Medicine".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the Arlen Specter National Library of Medicine.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2000".

CONGRATULATING HENRY "HANK" AARON

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 201, submitted earlier by Senators COVERDELL and CLELAND.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 201) congratulating Henry "Hank" Aaron on the 25th anniversary of breaking the Major League Baseball career home run record established by Babe Ruth and recognizing him as one of the greatest baseball players of all time.

There being no objection, the Senate proceeded to consider the resolution.

Mr. COVERDELL. Mr. President, I rise today to introduce a resolution commemorating one of the great heroes of American sport. Twenty-five years ago, Henry "Hank" Aaron broke one of baseball's most legendary records—the all time home run record set by George Herman "Babe" Ruth. In 1974 Hank Aaron hit his 715th career home run and forever etched his name in the annals of baseball history. But we should always remember that this record was only part of the story for an athlete whose impact on the game and society is still felt today.

From the time he first arrived in the major leagues with the Milwaukee Braves in 1954, Hank Aaron gained a reputation as one of the most feared hitters in the National League, prompting the rival Brooklyn Dodgers to quickly give him the nickname "Bad Henry." In 1957 he led the Braves to the World Series and earned himself the League's Most Valuable Player Award.

Aaron continued his consistently outstanding play through the 1960s and was with the Braves when they moved from Milwaukee to Atlanta in 1966. During these years, Hank Aaron continued to lead the Braves' offense and began amassing an impressive number of home runs. By the early 1970s it was clear that Aaron was on the verge of breaking a record many thought was unreachable—Babe Ruth's record of 714 career home runs.

Despite numerous threats to himself and his family from those who did not want to see him break the record, Hank Aaron persevered and made the record his own on the evening of April 8, 1974 at Atlanta Stadium. He went on to finish his career with the Milwaukee Brewers and retired with an amazing total of 755 career home runs, along with a .305 lifetime batting average and 2,297 career runs batted in, also a major league record. He entered baseball's Hall of Fame in 1982, receiving one of the highest vote totals in the history of Hall of Fame balloting.

After his playing days were over, Aaron returned to the Braves and became a pivotal part of the team's front office staff as their vice president of player development. He continues to serve the Atlanta community through various charities, including his own Chasing the Dream Foundation, and as corporate vice president of community relations for Turner Broadcasting.

Few players have had as large an impact on their sport and the cities where they played. As one of baseball's first African-American stars, Hank Aaron withstood prejudice and bigotry and helped to create the modern integrated game where stars like Ken Griffey, Jr., Ramon Martinez, Brian Jordan and Sammy Sosa flourish. His calm, quiet, methodical style is a lasting example that actions always speak louder than words. The game of baseball and society as a whole owes a debt of gratitude to Henry Aaron, and this resolution will show the Senate's appreciation for the all-time home run king on the anniversary of his greatest achievement on the field.

Mr. CRAIG. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 201) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 201

Whereas Henry "Hank" Aaron hit a historic home run in 1974 to become the all-time Major League Baseball home run leader;

Whereas Henry "Hank" Aaron over the course of his career created a lasting legacy in the game of baseball and continues to contribute to society through his Chasing the Dream Foundation;

Whereas Henry "Hank" Aaron hit more than 40 home runs in 8 different seasons;

Whereas Henry "Hank" Aaron appeared in 20 All-Star games;

Whereas Henry "Hank" Aaron was elected to the National Baseball Hall of Fame in his first year of eligibility, receiving one of the highest vote totals (406 votes) in the history of National Baseball Hall of Fame voting;

Whereas Henry "Hank" Aaron was inducted into the National Baseball Hall of Fame on August 1, 1982;

Whereas Henry "Hank" Aaron finished his career in 1976 with 755 home runs, a lifetime batting average of .305, and 2,297 runs batted in;

Whereas Henry "Hank" Aaron taught us to follow our dreams;

Whereas Henry "Hank" Aaron continues to serve the community through his various commitments to charities and as corporate vice president of community relations for Turner Broadcasting;

Whereas Henry "Hank" Aaron became one of the first African-Americans in Major League Baseball upper management, as Atlanta's vice president of player development; and

Whereas Henry "Hank" Aaron is one of the greatest baseball players: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Henry "Hank" Aaron on his great achievements in baseball and recognizes Henry "Hank" Aaron as one of the greatest professional baseball players of all time; and

(2) commends Henry "Hank" Aaron for his commitment to young people, earning him a permanent place in both sports history and American society.

ORDERS FOR WEDNESDAY, OCTOBER 13, 1999

Mr. CRAIG. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Wednesday, October 13. I further ask unanimous consent that on Wednesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume debate on the conference report to accompany the Agriculture appropriations conference report as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. CRAIG. Mr. President, for the information of all Senators, the Senate will resume consideration of the Agriculture appropriations conference report at 9:30 a.m. By previous consent, there will be 6 hours of debate with a vote to occur at approximately 3:30 p.m., if all time is used. For the remainder of the day, the Senate will resume executive session to complete consideration of the Comprehensive Test Ban Treaty. There are approximately 3 hours remaining for debate. Therefore, the vote is expected to occur prior to the adjournment on Wednesday. Also prior to the adjournment, the Senate is expected to begin consideration of the campaign finance reform legislation or any conference reports available for action.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. CRAIG. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:19 p.m., adjourned until Wednesday, October 13, 1999, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 12, 1999:

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 271:

To be captain

RICHARD B. GAINES, 9808

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

EDWIN C. SCHILLING III, 9458

To be lieutenant colonel

JOHN M. SMITH, 1327
CELINDA L. VAN MAREN, 7245

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

RONALD J. BOOMER, 0114

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. ANDERS B. AADLAND, 1667

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. JOHN T.D. CASEY, 8752

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. HANS A. VAN WINKLE, 8718

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

GARY A. BENFORD, 0306
STEPHEN L. DANNER, 1517
DAVID M. DEARMOND, 0169
DAVID N. DUNAGAN, 1675
DARREN G. OWENS, 5600
FRANCIS F. STROUSE, 6740
KENNETH A. YOUNKIN, 7168

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

DAVID A. COUCHMAN, 7540
TERRY J. DEJONG, 3672
WILLIAM N. DRAKE, JR., 5930
JAIME E. FUENTES, 4355
ROY C. GEDNEY, 9568
TALMON D. KUHNZ, 8908
CHARLES R. NESSMITH, 7784

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

REX H. CRAY, 6938
DANIEL J. DIRE, 8008
ALAN M. KOLLAR, 6399
RICHARD C. PERRY, 5969
ELDON P. REGUA, 3723
MARK C. RICKETTS, 5874
DAVID L. SHAKES, 3708
ARTHUR J. SIGSBURY, JR., 2381
LAWRENCE A. WEST, 5343

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

*DAVID M. ABBINANTI, 7377
*JOSSLYN L. ABERLE, 7450
*MARY E. ABRAMS, 6571
ALFRED F. ABRAMSON III, 0505
*ARIEL P. ABUEL, 0870
WILLIAM E. ACHESON, 9715
JAMES E. ADAMS, JR., 4490
*SKIP ADAMS, 7779
ROBERT C. AGANS, JR., 3780
JOHN S. AGOR, 4956
JESUS AGUIRRE, 8162
ALBERT L. ALBA, 4127
*TIMOTHY P. ALBERS, 1599
*EDWARD J. ALCOCK, 3818
*NUNEZ E. ALCON, 6404
*MICHAEL T. ALEXANDER, 5821
NATHANAEL L. ALLEN, 0154
STEVEN L. ALLEN, 0102
*SAMUEL M. ALLMOND, 3660
JOHN C. ALLRED, 3648
*RAMIRO A. ALONSO, 5626
SCOTT R. ALPETER, 0214
EDWARD J. AMATO, 1413
*MICHAEL D. AMMONS, 8697
*GINA M. ANDERSON, 6367
JEFFERY A. ANDERSON, 1292
MATTHEW D. ANDERSON, 7266
PATRICK S. ANDERSON, 7694
*PETER K. ANDERSON, 0324
THOMAS J. ANDERSON, 2531
JOHN C. ANDONIE, 6193
*RICHARD P. ANDRISE, 8649
*BRUCE A. ARCHAMBAULT, JR., 8939
*EDWARD P. ARDREY, 6709
JOSEPH D. ARMSTRONG, 8411
SCOTT C. ARMSTRONG, 4376
CHARLES B. ARNETT III, 1746
JOE E. ARNOLD, JR., 3426
QUINTON J. ARNOLD, 4908
WARREN S. ARONSON, 9966
*MICHAEL A. ASCURA, 2221
BOBBY R. ATWELL, JR., 2185
*JOHN N. AUBE, 6611
*ROXANNE R. AUSTIN, 3570
*CARL W. AXELSON, 8200
CHRISTOPHER L. BABCOCK, 4783
*DONALD R. BACHLER, 6320
*VERNON J. BAHM, 6843
ROBERT L. BAILES, 5410
DAVID E. BAILEY, 8123
*WILLIAM E. BAILEY, 3897
WILLIAM J. BAILEY, 2927
CHRISTOPHER D. BAKER, 1453
SCOTT R. BAKER, 8537
*JEFFERY M. BALI, 9383
ANTONIO E. BANCHS, 0147
JEANNE E. BANKARD, 5875
WILLIE T. BANKS, JR., 8918
*CREIGHTON R. BARBER, 4049
JOHN C. BARBER, 9585
KEITH A. BARCLAY, 7906
*MICHAEL T. BARKETT, 4994
JAMES C. BARLOW, 6191
MICHAEL R. BARNARD, 0950
*BRENT E. BARNES, 2997
*ROBERT L. BARNES, JR., 0505
ROY W. BARNES, 0104
CHRISTOPHER J. BARRETT, 7058
*THOMAS D. BARRETT, 3658
NATHAN D. BARRICK, 0357
*ERIC A. BARTO, 0746
ROBERT L. BATEMAN III, 3728
JONATHAN R. BATTLE, 6500
*GREGORY BAULDRICK, 9625
DENNIS J. BAY, 6494
*FRANCIS M. BEAUDETTE, 9015
*PAUL J. BECKER, 1620
*STANLEY H. BECKFORD, 2980
GREGORY P. BEDROSIAN, 6090
DARREN W. BEHM, 5753
*CARL M. BELGRAVE, 7451
GEORGE S. BELIN, 8956
MICHAEL J. BELL, 8288
RUTH BELLERIVE, 8932
TIMOTHY E. BELLON, 8624
SCOTT R. BEMIS, 5393
*GREGORY BENDEWALD, 3708

KENNETH W. BENIGNO, 8575
AMY E. BENNETT, 3984
ARNOLD A. BENNETT II, 0369
JAMES T. BENSON, 2599
DAVID C. BERG, 3966
*SHAWN M. BERGQUIST, 9875
*NICHOLAS O. BERNHARDT, 1834
SCOTT J. BERTINETTI, 8943
*JAMES A. BEST, 2741
*JEFFREY A. BHE, 6229
*HOWARD R. BIDDLE, 9941
*THOMAS W. BIGGERSTAFF, 5754
JUDE P. BILAFER, 7211
MICHAEL. E BILVAIS, 5372
JOHN E. BIRCHER IV, 2314
RALPH T. BLACKBURN, 0626
MICHAEL BLAHOVEC, 2773
*ERIC W. BLAIR, 3220
PATRICK E. BLAIR, 4321
TIMOTHY D. BLAIR, 4326
DENNIS W. BLAKER, 2262
*SCOTT R. BLEICHWEHL, 1283
LISA M. BLESKE, 9528
BRIAN G. BLEW, 6844
EVERRETT T. BLOCKER, 6576
GARY E. BLOOMBERG, 9030
*TIMOTHY J. BOCK, 9409
SCOTT A. BODINE, 9930
SHANNON L. BOEHM, 9230
RICHARD J. BOEHNING, 0237
*TIMOTHY J. BOEMECKE, 7046
EDWARD T. BOHNEMANN, 4476
GILLIAN S. BOICE, 9223
MAURICE F. BOLDUC, JR., 0022
JOSEPH E. BOLTON, 9117
DOUGLAS A. BOLTUC, 3892
*PATRICK BOND, 1515
EDWARD M. BONFOEY III, 4512
JAMES P. BOOTH, 4327
ERIK B. BORGESON, 6220
KARL W. BORJES, 0558
DWAINE K. BOTELER, 4799
*DANIEL A. BOWMAN, 9711
TERRELL C. BOYD, 0254
*ANTHONY C. BOZEMAN, 9613
ROBERT G. BOZIC, 6779
SHARON L. BRADY, 8834
*BRADLEY K. BRAGG, 9646
BRIAN M. BRANDT, 2757
JAMES T. BRASWELL, 9129
*PHILLIP A. BRATTON, SR., 4498
*GENE A. BRAVENEC, JR., 6749
*JOSEPH M. BRAY, 8996
ROBERT D. BREM, 0781
EDWARD T. BRESLOW, 6621
*KEVIN W. BREUERS, 8902
*BARNEY D. BREWINGTON, 9865
WILLIS D. BRICE, 1894
*DAVID E. BRIGHAM, 5386
*DAVID R. BRIGHAM, 2807
*HOWARD M. BRINKMAN, 3534
GREGORY J. BROECKER, 0494
JOHANNES BRONDUM, 9546
*WILLIAM T. BROOKS, 8234
*DANIEL D. BROPHY, 2366
AARON M. BROWN, 3713
*ANTONIO BROWN, 2532
*AUZZIE K. BROWN, 7964
CHRISTOPHER L. BROWN, 6634
*JOSEPH P. BROWN, 1927
*LESLIE F. BROWN, 3069
*RENE BROWN, 0129
*TRACY BROWN, 7526
*VICTOR S. BROWN, 5904
*WALTON M. BROWN, 7133
WILLIAM I. BROWN, 4507
*JAMES J. BRUHA, 9394
*RYAN A. BRUNK, 1610
XAVIER T. BRUNSON, 2250
*DERRICK B. BRYANT, 3240
JAMES A. BRYANT, 8977
*JAMES B. BRYANT, 2589
*TONYA R. BRYANT, 8912
HEATHER L. BRYN, 2867
*SCOTT A. BRYSON, 6012
*GLEN J. BUCHERT, 4884
JEFFREY S. BUCZKOWSKI, 7577
MARK S. BUEHLMAN, 6574
*HAROLD A. BUHL, JR., 6672
*JOHN J. BURBANK, 4455
ANTHONY P. BURGESS, 9714
*CHRISTOPHER T. BURGESS, 4651
*DANIEL S. BURGESS, 6431
JOHN E. BURGESS, 0192
EMMETT E. BURKE, 6422
*MICHELLE BURKHART, 8499
JONATHAN M. BURNS, 2740
TODD W. BURNS, 5811
*MAURENE F. BURROUGHS, 0403
WILLIAM L. BURRUSS III, 4709
*BRENT D. BUSH, 6115
MICHAEL J BUSH, 6230
TIMOTHY W. BUSH, 1218
*MICHAEL P. BUSTEED, 5713
*DAVIS L. BUTLER, 8989
JEFFREY A. BUTLER, 5353
KELLY B. BUTLER, 4031
RODNEY S. BUTLER, 8339
*ROBERT M. BUTTS, 6734
*JOSEPH M. BYERS, 5018
KEITH BYRD, 6848
*THOMAS H. BYRD, 2106
MATTHEW P. CADICAMO, 5353
*RONNIE K. CAIN, 8823
*TODD R. CALDERWOOD, 2729
MARK T. CALHOUN, 4369
STEVEN C. CALHOUN, 4492
*PATRICK M. CALLAHAN, 7382
*TIMOTHY J. CALLAHAN, 7719
*ERICH G. CAMPBELL, 2021
SHANA J. CAMPBELL, 3473
STEPHEN A. CAPPS, 6086
*SHAWN J. CARDELLA, 8730
MARK B. CARHART, 7952
THOMAS H. CARLISLE, 9034
HORACE R. CARNEY III, 5457
RICHARD T. CARNEY, 7612
*JEFFREY L. CARPENTER, 2220
*DONALD L. CARR, 1682
JAY T. CARR, 6201
MATTHEW R. CARRAN, 8858
KELLY M. CARRIGG, 9111
*DAVID D. CARTER, 0286
KENNETH R. CASEY, 8752
ROGER A. CASILLAS II, 8193
*TIMOTHY P. CASSIBRY, 6510
*HAROLD P. CATES, 8429
ROGER F. CAVAZOS, 0911
CHARLES E. CHADBOURNE, 7778
*JOHN P. CHADBOURNE, 9435
TIMOTHY A. CHAFOS, 5685
*KIM A. CHANEY, 5023
*BRYAN K. CHAPMAN, 4074
*DAVID K. CHAPMAN, 8226
JANET L. CHAPMAN, 6808
*CARLTON S. CHAPPELL, 3638
JAMES F. CHAPPLE, 9171
*CURTIS CHARLESTON, 0698
*ANTHONY R. CHAVEZ, 7921
*CHRISTOPHER K. CHESNEY, 4459
*DAVID W. CHESTERMAN, 3372
RONALD CHILDRESS, JR., 0937
RICHARD A. CHISM, 8182
SONG S. CHOI, 8227
*KIP M. CHOJNACKI, 3744
JAMES K. CHOUNG, 9531
KEVIN J. CHRISTENSEN, 3891
*DAVID A. CHRISTIE, 9655
JENNIFER C. CHRONIS, 3491
JEFFREY D. CHURCH, 8848
JOHN E. CLADY II, 3297
CHADWICK W. CLARK, 9550
JAMES L. CLARK, 0492
*JOSEPH M. CLARK, 0580
*WILLIAM J. CLARK, 6939
ALAN B. CLAYTON, 7443
ANDREW T. CLEMENTS, 4760
CHARLES H. CLEVELAND, 4649
*KEVIN M. COAKLEY, 0003
*MICHAEL J. COBB, 0266
CHARLES COBBS III, 8317
*DANIEL D. COCKERHAM, 3307
TONY COE, 2538
*DAVID S. COFFEY, 8871
*DWAYNE M. COFFMAN, 6933
BRIAN COLE, 7572
WALTER P. COLE, 3239
*JOSEPH P. COLEBAUGH, 7429
RAYMOND K. COMPTON, 2063
DARIN S. CONKRIGHT, 7818
JAMES W. CONRAD, JR., 4403
GREGORY J. CONTI, 1157
JOHN A. CONWAY, 6613
JOHN P. CONWAY, 2443
MICHAEL J. CONWAY, 9713
*JOHNNY COOK, 4414
PAUL J. COOK, 1208
STEVEN A. COOK, 0075
TERRY P. COOK, 5634
*JEFFREY R. COOPER, 4048
BRIAN K. COPPERSMITH, 5705
*JAMES M. CORCORAN, 9801
*JOSEPH R. CORLETO, 7343
*REGINALD W. COTTON, 2110
*SUSAN L. COVELL, 1773
CLEMENT S. COWARD, JR., 8014
BRIAN M. COX, 8661
RICHARD D. CREED, JR., 8480
*STEVEN L. CREIGHTON, 9713
PHILIPPE J. CRETTOL, 4018
JAMES R. CRIDER, 9130
RICARDO CRISTOBAL, 9490
*JOHN M. CROSBY, 6596
JOEL R. CROSS, 8652
*DENNIS V. CRUMLEY, 6535
*JOHN B. CRUMP, 3858
PHILLIP R. CUCCIA, 7994
DIANE T. CUMMINSLEFLER, 6247
*JOHN S. CUNNINGHAM, 7755
*JOHN F. CURLEY, 8309
*ROBERT W. CURRAN, 4879
STEPHAN J. CURRENCE, 4492
TODD V. CURTIS, 1751
GREGORY A. DADDIS, 9153
*GERALD M. DAILEY, 5600
*PATRICK J. DAILEY, 2136
*GERALD N. DAMRON, 1168
*ALIRA L. DANAHER, 8815
*TIMOTHY E. DANAHER, 1466
BRUCE O. DANIEL, 0594
*PATRICK L. DANIEL, JR., 6587
*JAMES L. DANIELS, 6169
MARTIN J. DANNATT, 3611
DAVID S. DANNER, 2148
STEPHEN A. DANNER, 9424
CHRISTOPHER D. DARE, 9394
*LOREN J. DARMOFAL, 2759
*MICHAEL R. DARROW, 0423
DOUGLAS D. DATKA, 2991
KIMBERLY J. DAUB, 7447
TROY A. DAUGHERTY, 4335
MICHAEL N. DAVEY, 1503
*JOSEPH D. DAVIDSON, 6547
*GERALD R. DAVIS, JR., 8042
JENNY W. DAVIS, 2978
THOMAS A. DAVIS, 5664
DARRELL K. DAY, 2894
*THOMAS A. DEAKINS, 9396
*MARK M. DEAN, 2220
*CHARLES P. DEASE, 4122
BRANDT H. DECK, 7547
JOHN D. DECK, 8099
JERRY W. DEJARNETT, 7355
JAMES P. DELANEY, 7618
*JOSE R. DELGADO, 4795
*WILLIAM DELGADO, 9745
DAVID L. DELLINGER, 5067
DAVID B. DELMONTE, 2009
RICHARD A. DELUDE II, 6709
RICHARD A. DEMAREE, 3301
ANTHONY G. DEMARTINO, 8085
MICHAEL J. DEMPSEY, 7552
KEVIN M. DEREMER, 1965
STEPHAN A. DEVILLE, 5448
*GUY M. DEWEES, 6367
*RUSSELL L. DEWELL, 3475
BARRY C. DICKERSON, 5958
MARK A. DICKSON, 4074
FRANK J. DIEDRICK, 0265
DAVID D. DILKS, 4016
*ANTHONY C. DILL, 5488
JEFFREY D. DILLEMUTH, 3689
*ROBERT N. DILLON, 0860
*ERIC J. DINDIA, 2889
DAVID W. DINGER, 7345
ROBERT A. DIONISIO, 1481
MANUEL C. DIWA, 1190
ALAN M. DODD, 9024
ANDREW D. DOEHRING, 4858
WADE R. DOENGES, 9332
*JAMES W. DOEPP, JR., 4280
IGNATIUS M. DOLATA, JR., 9432
*CARLOS V. DOMINGUEZ, 5075
CHRISTOPHER J. DONIEC, 3772
MICHAEL E. DONNELLY, 0245
SHARLENE J. DONOVAN, 6369
DONNA M. DORMINEY, 9403
*JOHN F. DOWNEY, 1724
*ROBERT H. DOYLE, JR., 1517
DANIEL E. DREW, 9943
*MARLEAN C. DRUCE, 8798
*JEFFREY W. DRUSHAL, 5066
*RICHARD L. DUBREUIL, 9880
*DARRELL DUCKWORTH, 5640
*THOMAS H. DUFFY, 8531
*DANNY A. DULAY, 5450
JOHN D. DUMOND, 0960
*RODNEY A. DUNHAM, 6864
ERNEST L. DUNLAP, JR., 4089
JOHN F. DUNLEAVY, 5658
*LARRY P. DUNN, 7429
*JOSEPH P. DUPONT, 1867
KEVIN L. DURBIN, 5457
MICHAEL W. DURHAM, 5474
*DAVID C. DUSTERHOFF, 0944
*ROBERT A. DUTCHIE, 0405
MICHAEL J. DUTCHUK, 4007
KENNETH J. DUXBURY, 6675
*WALTER M. DUZZNY, 7493
JOSEPH J. DWORACZYK, 8017
MICHAEL W. ECCLESTON, 5444
ADRIENNE M. ECKSTEIN, 3372
ROLAND M. EDWARDS, 9462
RONALD D. EDWARDS, 6879
MARGARET J. EGAN, 1124
*CHARLES B. ELDREDGE, 4916
MARK B. ELFENDAHL, 2947
MATTHEW G. ELLEDGE, 8391
*HAYES G. ELLIS, 3401
*KRISTIN A. ELLIS, 9877
*RICHARD A. ELLIS, 8856
*ROBERT A. ELMORE, 2304
CHARLES J. EMERSON, JR., 8090
*RICKY N. EMERSON, 0352
NELSON L. EMMONS, JR., 8523
MATTHEW L. ENGLAND, 3364
*WAYNE E. EPPS, 5775
*DAREN A. EPSTEIN, 8234
BRUCE A. ESTOK, 1078
CARMEN N. ESTRELLA, 4904
TROY A. FABER, 2953
WILLIAM L. FADDIS, 2681
GARY C. FAHRNI, 5998
DARRELL L. FAIRLEIGH, 3568
JOHN J. FARIA, 6553
*DAVID M. FARLEY, 4490
*DERRICK B. FARMER, 4911
NATHANIEL W. FARMER, 5508
ADRIAN R. FARRALL, 0295
*DOUGLAS M. FARRIS, 2845
SHERRI A. FARRIS, 0639
GARRETT P. FAWAZ, 6505
*DANIEL R. FEEMSTER, 5413
*JOSUWAY FERGUSON, 6841
MATTHEW D. FERGUSON, 3897
*MATTHEW J. FERGUSON, 8332

NORMAN K. FERNAAYS, 6317
BRIAN R. FESER, 7595
*JOHN D. FICKEL, 4348
DONALD P. FIELDS, JR., 8093
VICTOR FIGUEROACOLON, 3254
PAUL J. FINKEN, 0420
MARK D. FINLEY, 3936
NATALIE E. FINLEY, 8034
*ROBERT M. FINNEGAN, 1571
JEFFREY G. FISHACK, 2664
ROBERT L. FISHER, 5662
*WILLIAM L. FISKE, 3960
JOHN E. FITZGERALD IV, 6992
KEITH A. FLAIL, 6292
*NATHANIEL FLEGLER, JR., 9228
ANTONIO M. FLETCHER, 0933
ROBERT B. FLOERSHEIM, 7838
SAMUEL A. FLOYD III, 4994
*TROY D. FODNESS, 2090
THOMAS H. FOLSE, 3038
*ANDAMO E. FORD, 5283
MICHAEL J. FORSYTH, 1130
ROBERT A. FORTE, 0432
*WESLEY FOSTER, 3582
KEVIN J. FOWLER, 1126
PETER C. FOWLER, 4987
ROXANNE M. FOX, 7156
ALFRED E. FRANCIS, 9348
*GREGORY C. FRANKS, 6493
ANDREW W. FRASER, JR., 2039
*PAUL H. FREDENBURGH, 0907
*IVORY M. FREEMAN, 8819
*REBECCA M. FREEZE, 7646
MICHAEL G. FREIBURGER, 5048
*OTIS C. FRENCH, JR., 2463
JOELLE C. FROHBIETER, 6995
*ANTHONY M. FUNCHESS, 7685
TOD C. FURTADO, 1691
NORMAN H. FUSS III, 0358
*ROSS V. GAGLIANO, 7189
*JEAN R. GAIENNIE, JR., 7217
PAUL B. GALE II, 0998
MICHAEL P. GALLAGHER, 2883
JESSE D. GALVAN, 0275
DORIS L. GARCIA, 0296
*ROBERT A. GARDNER, JR., 8075
RICHARD GARLAND, JR., 3506
MARK W. GARRETT, 0616
CHRISTOPHER C. GARVER, 6324
*LOYE W. GAU, 1486
*NORMAND A. GAUTHIER, 6582
TIMOTHY J. GAUTHIER, 7439
JAMES A. GAVRILIS, 4138
*TERESA M. GEDULDIG, 0625
*WILLIAM A. GEIGER, 6014
DONALD F. GENTLES, 7425
ALPHONSO GENTRY, 8724
DAVID A. GEORGE, 3429
JOHN M. GEORGE, 4502
LOYD A. GERBER, 8972
*AXEL A. GEREDAPEREZ, 3887
CHRISTOPHER J. GERVAIS, 6014
PIERRE D. GERVAIS, 8573
LOUIS C. GIAMMATTEO, 9662
*ANTHONY J. GIANOPULOS, 1275
*KENNETH C. GILL, 6814
*ELUYN GINES, 4079
*PETER C. GIOTTA, 8061
BRYANT D. GLANDO, 7174
CYNTHIA A. GLENISTER, 1134
EARL R. GLOVER, 9847
GREGORY W. GLOVER, 4982
*FREDERICK V. GODFREY, 0173
KIRK W. GOHLKE, 4082
*MARIA G. GOINS, 5900
*JOE M. GOLDEN, JR., 6714
STUART P. GOLDSMITH, 3649
*LORRI A. GOLYA, 7250
BARBARA J. GOMOLL, 6350
GEORGE W. GONAS, 7741
*GREGORY A. GONDECK, 7889
*MATTHEW G. GOODMAN, 4448
*MATTHEW D. GOODRICH, 5273
WILLIAM J. GOODRICH, 1932
MARK V. GRABSKI, 5646
BARRY F. GRAHAM, 1491
*GORDON L. GRAHAM, 7731
WILLIAM P. GRAHAM, 5071
CHRISTOPHER T. GRANFIELD, 3901
DAVID W. GRAUEL, 6071
*MARK A. GRAZDAN, 0844
MARK N. GRDOVIC, 6956
*JOHN G. GREAVES, 4562
*ANTHONY L. GREEN, 9074
PAUL G. GREEN, 4399
STEPHEN J. GREEN, 6174
RICHARD G. GREENE, JR., 2754
*WILLIAM N. GREENE, 5784
*LEVY L. GREENHOWELL, 0356
*THOMAS W. GREENWALD, 9243
DARRELL R. GREGG, JR., 7752
*KEVIN F. GREGORY, 3101
*CHRISTOPHER P. GRELL, 6510
*SHAWN P. GRESHAM, 3888
*BRUCE E. GRIGGS, 6128
*KEITHON C. GRIGSBY, 3584
ADAM R. GRIJALBA, 2639
*JOHN P. GRIMES, 0098
CHARLES E. GRINDLE, 4721
WALTER M. GRISSOM III, 8690
*ZULMA I. GUERRERO, 7313
TERRY A. GUILD, 6600
*JEFFREY S. GULICK, 8197
*JOHN S. GUMPF, 9878
LEIF W. GUNHUS, 4744
*GORDON D. GUTHRIE, 4770
*STAN M. GUTHRIE, 7421
OMAR F. GUTIERREZ, 5768
*PATRICK A. GUZMAN, 9103
ROBERT A. GWINNER III, 6490
COLL S. HADDON, 1281
PAUL T. HAENLE, 9519
*ALLEN L. HAINES, 9084
*ROBERT B. HAINES, 0513
*TIMOTHY M. HALE, 0118
*JOSEPH G. HALISKY, 6094
ARTHUR L. HALL III, 5323
BILLY V. HALL II, 5863
*DOUGLAS J. HALL, 9307
MARK M. HALL, 5715
PATRICK D. HALL, 2865
THOMAS S. HALL, 5455
JOHN W. HALLAM, JR., 8745
JOEL E. HAMBY, 4634
JOHN S. HAMILTON, 4337
GEORGE S. HAMONTREE III, 1162
ERIC D. HANDY, 5218
RICHARD R. HANES, 3091
*KEITH F. HANLEY, 1268
ROBERT M. HANLEY, 5712
*FREDRICK J. HANNAH, 0259
TIMOTHY E. HANNON, 0763
*DIANA M. HANSEN, 1954
JAMES R. HANSON IV, 3734
*JOHN T. HANSON, JR., 4221
JOSEPH P. HANUS, 1977
COLIN C. HANZLIK, 9222
BRADLEY HARDER II, 6347
STEPHEN L. HARDY, 8422
*WAYNE E. HARDY, 5137
MARY F. HARKIN, 8180
WILLIAM T. HARMON, 7292
*DAVID W. HARRIMAN, 8910
*LOUIS L. HARRIS, 8940
*RANDALL L. HARRIS, 7400
*JOHN M. HARRISON, 8283
*JOE L. HART, JR., 0922
ERIC S. HARTER, 0500
GEORGE R. HARVEY IV, 4184
*ROBERT L. HATCHER, JR., 5839
*DAVID A. HATER, 7671
*RANDOLPH G. HAUFE, 8231
MICHAEL T. HAUSER, 0926
RANDALL I. HAWS, 8002
ROBERT J. HAYDEN IV, 4037
*JOHN M. HAYNICZ, 0511
TIMOTHY P. HEALY, 1368
JAMES J. HEATHER, 1624
*ALBERT J. HEDEEN, 8355
SCOTT W. HEINTZELMAN, 2376
*TIMOTHY C. HEINZE, 0121
PAUL E. HELMS, 9838
*KRISTI L. HELTON, 3820
CHARLES A. HEMPHILL, 1979
DALE L. HENDERSON, 6331
KEVIN D. HENDRICKS, 0011
TODD M. HENRY, 4355
WILLIAM D. HENSON, 9100
*ROBERT L. HERENDEEN, 5210
MATTHEW S. HERGENROEDER, 4136
DARYLE J. HERNANDEZ, 5452
TODD J. HERON, 5516
DAVID R. HERRIN, 2857
GLENN E. HERRIN, 3622
*JACQUELINE W. HESS, 0420
*TODD A. HEUSSNER, 4188
*ELIZABETH M. HIBNER, 9464
KEVIN C. HICKS, 3554
JAMES M. HIGGINS, 9041
TOMMY R. HIGGINS, 3859
CYNTHIA A. HILL, 6925
DAVID C. HILL, 1312
RONALD E. HILL, 0006
*STEVEN D. HILL, 2319
*JACQUELINE A. HILLIANCRAIG, 6214
*GARY B. HILMES, 5557
MARK A. HINDS, 9975
*JOHN C. HINRICHS, 6053
*DAVID F. HINZMAN, 0406
*STEVEN L. HITE, 0122
JOSEPH K. HITT, 2099
*JOHN B. HIXON, 7239
*BRADLEY A. HOCEVAR, 2845
WILLIAM A. HODGES, 8728
ANTHONY J. HOFMANN, 0094
*DARREN S. HOLBROOK, 3230
JEFFREY R. HOLCOMB, 1291
BRUCE B. HOLLAND, JR., 9566
*GEORGE A. HOLLAND, JR., 1829
JAMES P. HOLLEY, II, 4243
CHARLEY D. HOLSTEIN, JR., 7529
CLAYTON H. HOLT, 0074
TIMOTHY J. HOLTAN, 8217
*ROBERT K. HOLZHAUER, 3083
*LARRY L. HOMAN, 7016
MICHAEL A. HOMER, 0482
*KENNETH R. HOOK, 6663
*JOHN D. HOPSON, 5658
JOSEPH S. HORAB, 3051
GARTH M. HORNE, 6079
*ROBERT H. HOSS, 8066
TERRENCE L. HOWARD, 8015
MIGUEL D. HOWE, 9626
JAMES W. HOWELL, JR., 0362
*DAVID HUDAK, 8743
RICK L. HUESTON, 1024
JOHN C. HUGGINS, 8941
DIANA M. HUGHES, 6534
*KEITH W. HUNT, 9980
*VINCENT D. HUNTER, 9546
*ANN M. HUNTINGTON, 2318
*TERRY L. HURLEY, 1520
HEYWARD G. HUTSON, 3827
JAMES E. ILLINGWORTH, 3947
*PETER S. IM, 7335
*JOSEPH M. IMORDE, JR., 3441
*JERRY L. IVESTER, 7806
*TERRY A. IVESTER, 9426
ROBERT G. IVY, 7314
*FELICIA L. JACKSON, 8062
*HUGO JACKSON, 0445
MARK A. JACKSON, 1850
RANDLE K. JACKSON, 3779
*RENE JACKSON, JR., 2454
*TONIE D. JACKSON, 5654
*VALERIE D. JACKSON, 8728
DOUGLAS E. JACOBSON, 2750
*JACQUELIN JACOCKSCREVECOEUR, 4023
GREGORY M. JAKSEC, 2130
GREGORY K. JAMES, 5354
SELWYN R. JAMISON, 5789
VERNON L. JAMISON, 4904
*JOHN M. JAMKA, 3978
*NANCY W. JEANLOUIS, 6867
RICKY R. JEFFERSON, 7029
BRETT C. JENKINSON, 5918
*RAYMOND P. JENSEN, JR., 8993
*LAFONDA F. JERNIGAN, 6320
GREGORY R. JICHA, 2054
CHRISTOPHER B. JOHNSON, 3400
CHRISTOPHER S. JOHNSON, 3143
ERIC M. JOHNSON, 6087
*JOHNNIE L. JOHNSON, 0084
*KEVIN A. JOHNSON, 4234
MELANIE L. JOHNSON, 7499
MICHAEL C. JOHNSON, 2868
MICHAEL D. JOHNSON, 8905
*MORDECAI C. JOHNSON, 1659
JOEL S. JOHNSTON, 2945
EDWARD R. JOLLEY, 6277
*CRAIG A. JONES, 7856
*DAVID E. JONES, 1062
*JAMES E. JONES, 4945
JEFFREY A. JONES, 9280
JOHN R. JONES, 0765
JOHN W. JONES, 5256
KENT T. JONES, 0229
LLOYD C. JONES III, 1326
*MICHEL G. JONES, 8665
ROBERT A. JONES, 6348
*STANLEY R. JONES, JR., 5889
WILLIAM D. JONES III, 0542
*JOHN E. JORDAN, 4087
*JOSEPH R. JORDAN, 1515
*JOSEPH W. JURKOVAC, 0568
*DAVID M. KACZMARSKI, 7657
*BETH J. KALB, 8606
DAVID J. KALB, 4342
DAVID J. KAMMEN, 4429
KENNETH L. KAMPER, 9759
*KHALIL F. KARADSHI, 3862
MARK M. KARAS, 9498
BRYAN F. KARINSHAK, 8145
MATTHEW G. KARRES, 0238
*CHRISTIAN M. KARSNER, 9345
ROGER F. KASHANINEJAD, 5686
DENNIS K. KATER, 5239
*NICHOLAS W. KATERS, 4829
*LARRY A. KATHREIN, 0534
*AUSTIN KEATON, JR., 7267
*SEAN A. KEENAN, 0652
*TIMOTHY F. KEHOE, 1343
*ROBERT F. KEITH, 2529
RONALD L. KELLAR, 3187
LISA M. KELLER, 0588
THOMAS D. KELLER, 3358
ROBERT L. KELLEY, JR., 2099
*DANIEL D. KELLY, 5092
MARK B. KELLY, 1234
*DAVID A. KEMMERER, 5283
KEVIN E. KENNEDY, 3125
STEPHEN D. KENNEDY, 0617
ROBERT W. KETCHUM, 9514
TERRY P. KEY, 5241
*TODD E. KEY, 2822
JUSTIN E. KIDD, 9199
MARTHA E. KIENE, 3350
*CRAIG W. KILEY, 6688
HAIMES A. KILGORE, 8566
*LOUIS S. KILMON, JR., 9163
*DAVID T. KIM, 2473
JOHN S. KIM, 7873
ROBERT S. KIMBROUGH, 5579
*MICHAEL K. KINARD, 4071
*DANIEL J. KING, 3324
ROBERT E. KING, 9772
ROBERT D. KIRBY, 3516
DANIEL K. KIRK III, 7880
DOUGLAS J. KISER, 3157
*COYEA E. KIZZIE, 0336
HEINO KLINCK, 0672
LEONA C. KNIGHT, 6237
MERRELL D. KNIGHT, JR., 5546
CARL D. KNOTTS, 6925
BERNARD F. KOELSCH, 5361
JOHN S. KOLASHESKI, 7694

ROBERT M. KOLB, 8744
STEPHEN J. KONECNY, 8092
*DAVID A. KONTNY, 7813
*JOHN Y. KORNMAN, 4058
*WILLIAM M. KRAHLING, 5456
ANN K. KRAMARICH, 9082
CAMERON A. KRAMER, 0232
JUDITH M. KRAUSE, 4352
*KATHLEEN S. KRAVITZ, 1420
JOSEPH G. KREBS, JR., 5274
TROY D. KRINGS, 2106
*DUANE L. KRISTENSEN, 7912
*MATTHEW KRISTOFF, 1278
*ERIC J. KRUGER, 9843
*MARK A. KRZECZOWSKI, 8205
CHRISTIAN T. KUBIK, 9219
PHILIP KWONG, 9598
*ALAN D. LABORWIT, 3555
*JOSEPH E. LADNER, 3537
*DAVID A. LAGRAFFE, 1159
*ROBERT A. LAIDLAW, 6406
TODD F. LAMB, 0262
*CHRISTOPHER J. LANDFRIED, 9568
JOHN K. LANGE, 2972
*EDWARD A. LANGWINSKI, 8931
JOHN S. LASKODI, 8529
JONATHAN D. LAU, 8215
LESTER A. LAYMAN, 4963
*BRUCE E. LEAHY, 5585
TIMOTHY J. LEAKE, 2690
KYLE E. LEAR, 4853
DONALD W. LEATH, 9601
EMORY B. LEATHERMAN IV, 7835
WILLIAM M. LEDBETTER, 2281
SIOBAN J. LEDWITH, 5090
ERNEST C. LEE, 6954
MARC A. LEE, 6528
RICHARD D. LEE, JR., 8648
SEUNG J. LEE, 4672
*MICHAEL P. LEFEBVRE, 9007
DAVID A. LEINBERGER II, 4291
*GUY A. LEMIRE, 1265
*THEODORE M. LENNON, 4117
KEVIN L. LEONARD, 8482
*PERRY R. LEONARD, 5986
DAVID A. LESPERANCE, 2035
*CHRISTOPHER LESTOCHI, 0458
JOEL J. LEVESQUE, 5788
DAVID S. LEVINE, 7925
*JAMES C. LEWIS, 8795
MICHAEL A. LEWIS, 3837
MICHAEL T. LEWIS, 9093
MICHAEL J. LICATA, 6479
*LELAND A. LIEBE, 1354
BLAISE P. LIESS, 1536
*STEWART W. LILES, 4737
*MICHAEL T. LILLEY, 2867
REYNOLDS J. LILLIBRIDGE, 3585
*KARL E. LINDQUIST, 1796
ANDREW J. LIPPERT, 7391
THOMAS E. LIPPERT, 5722
*JEFFERY D. LIVINGSTON, 5763
*CARLOS M. LIZARDI, 5074
BRENDA K. LLOYD, 7173
*LAURENCE C. LOBDELL, 8570
*TROY A. LOEB, 7114
*MICHAEL S. LOFTON, 4954
ANDREW D. LOHMAN, 9453
*JONATHAN D. LONG, 4211
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*THOMAS A. LOPEZ, 1926
ARTUR M. LOUREIRO, 4619
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*NICOLAS J. LOVELACE, 2343
*JOHN M. LOWE, 3202
PETER P. LOZIS III, 9054
ALEX P. LUCAS III, 8489
*WILLIAM A. LUKASKIEWICZ, 4502
MARK D. LUKER, 6485
*SON H. LUU, 8621
MICHAEL R. LWIN, 5617
*TRENTON J. LYKES, 5180
WILLIAM H. LYNCH, JR., 8939
CAROLYN S. LYNN, 2748
MARK G. MAC GREGOR, 4577
THOMAS J. MACKEY, 9542
*LOUANNE L. MADDOX, 1425
WILLIAM B. MADDOX, 1857
*MICHAEL F. MAEDO, 0484
MICHAEL F. MAHONY, 7120
*JEFFREY F. MALLOY, 1385
VINCENT F. MALONE II, 9905
MICHAEL J. MAMMAY, 8845
STEPHEN C. MANNELL, JR., 7982
KENNETH R. MANNING, 8077
JENNIFER J. MANZO, 0003
JAMES C. MARKERT, 6577
*DAVID A. MARKOWSKI, 8624
ERIC D. MARRATTA, 5450
ALFRED MARRON, 8015
*EDGAR A. MARSHALL, 7978
PATRICK M. MARSHALL, 5336
*TED L. MARTENS, 3123
RANDY A. MARTIN, 4896
*MICHAEL E. MASLEY, 7604
*BRENDA F. MASON, 5408
*MELINDA M. MATE, 1107
JOHN W. MATLOCK, JR., 2989
*BENJAMIN M. MATTHEWS, 3889
JOHN C. MATTHEWS, 0865
WILLIAM B. MATTHEWS, 4460
BERTHA MAXIE, 0951
ANGELA E. MAXNER, 8877
*JAMES T. MAYER, 8443
DARIEL D. MAYFIELD, 3647
FERNANDO J. MAYMI, 6507
KEVIN M. MC ALLISTER, 2889
*WILLIAM MC CLOSKEY, 5958
*DENISE I. MC CLURE, 5659
*KENDRICK W. MC CORMICK, 8614
BRIAN T. MC COY, 7327
SHANNON J. MC COY, 6353
SCOTT E. MC CULLOCH, 2285
BRIAN R. MC CULLOUGH, 7076
*BROWN D. MC DERMOTT, 5640
*DAVID F. MC FADDEN, 9909
JOSEPH P. MC GEE, 3336
KIMBERLY S. MC GEE, 4924
*HUGH M. MC GLOIN, 5030
CHAD A. MC GOUGAN, 4476
*DANIEL C. MC GUFFEY, 7429
*ROBERT A. MC GUIRE, JR., 4089
OWEN E. MC KAY IV, 3365
DENNIS S. MC KEAN, 7136
*ANNE M. MC KENNA, 2830
*TROY D. MC KEOWN, 7971
*ANTONIO MC KOY, 2139
JOSEPH S. MC LAMB, 2820
EDWARD L. MC LARNEY, 9102
SCOTT A. MC LAUGHLIN, 6327
DEBORAH L. MC MANIGAL, 9138
*STANLEY D. MC MILLIAN, 8615
RONALD W. MC NAMARA, 7282
BRUCE B. MC PEAK, 7963
WILLIAM E. MC RAE, 4486
*MICHAEL R. MC SWEENEY, 3379
*DOUGLAS D. MC VEY, 9405
EDWARD A. MEAD, 1376
*JEFFREY L. MEEKER, 8988
LESLIE A. MEHALL, 6313
*SCOTT L. MEIER, 5136
*ROBERT A. MENDEL, 7919
CORY A. MENDENHALL, 6559
*ROBERT L. MENTI, 9505
GENE D. MEREDITH, 3653
MARK L. MERRELL, 8493
JOHN W. MERRIHEW, 3676
MATTHEW T. MICHAELSON, 6647
JEFFREY L. MILHORN, 8162
*PAUL W. MILLARD, 2704
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HERMAN K. MILLER, 1926
MARK A. MILLER, 8992
*MONICA M. MILLER, 4881
*RALPH E. MILLER, 4384
THEODORE C. MILLER, 3539
*THOMAS E. MILLER, 3039
DAVID B. MILLNER, 3281
STEPHEN T. MILTON, 4605
*MATTHEW C. MINGUS, 9278
*HOWARD T. MINNERS, 4899
STEVEN M. MISKA, 8149
*JONATHON R. MOELTER, 7245
KEVIN J. MOFFETT, 3943
*DAVID M. MOLAISON, 5089
*STEPHEN B. MOLSEED, 7361
RICHARD J. MONAHAN, JR., 2463
DANIEL R. MONSIVAIS, 0075
MANUEL A. MONTALVOCASABLANCA, 2428
ARMIDA MONTEMAYOR, 6862
RICHARD D. MONTIETH II, 1963
*ROBERT P. MOONEY, JR., 5677
EDMUND W. MOORE III, 8766
JAMES S. MOORE, JR., 3576
*PASCAL F. MOORE, 7725
*PETER R. MOORE, 9601
RICARDO O. MORALES, 4874
JOHN M. MORGAN, 8981
MICHAEL D. MORGAN, 0516
DANIEL L. MORRIS, 7064
*DEBORAH S. MORRIS, 0024
CAROLYN J. MORRISON, 5783
SCOTT A. MORRISON, 3302
MICHAEL T. MORRISSEY, 3635
*DOUGLAS J. MORSE, 7700
*BRUCE D. MOSES, 6401
ARIC W. MOSS, 1491
*JAMES A. MOSSER, 8607
BERNARD L. MOXLEY, JR., 5920
MARTY L. MUCHOW, 1291
*DANIEL M. MULCAHY, 8757
SEAN F. MULLEN, 3483
*KEVIN J. MULVIHILL, 2659
THOMAS W. MUNDELL, 4700
KATHERINE M. MURPHY, 2968
KENNETH S. MURPHY, 5252
*MICHAEL J. MURPHY, 0257
*THOMAS P. MURPHY, 8252
TIMOTHY E. MURPHY, 8081
DAVID L. MUSGRAVE, 7167
*DUANE A. MYERS, 0112
*JOHN H. MYERS, 2496
RONALD G. MYERS, 0998
*YVETTA A. MYERS, 4681
KRISTINE V. NAKUTIS, 7095
*MICHELLE NASSAR, 5598
JOHN C. NELSON, 0932
LYNDEL M. NELSON, 4321
*MICHAEL B. NELSON, 0240
PAUL M. NELSON, 5514
SCOTT NELSON, 6392
DAVID M. NERO, 1979
JONATHAN T. NEUMANN, 6037
CHARLES E. NEWBEGIN, 9128
MICHAEL W. NEWELL, 1420
THEODORE S. NEWMAN, 1232
*THOMAS D. NEWMAN, 9449
*CHRISTOPHER B. NICHOLS, 5542
SUZANNE C. NIELSEN, 7132
*PATRICK G. NIGL, 9195
SHAWN M. NILIUS, 8558
GERALD NIXON, 1306
FRANK R. NOCERITO, 8279
*KYLE P. NORDMEYER, 4525
ANGIE D. NORMAN, 8411
DERRICK J. NORMAN, 6935
TIMOTHY P. NORTON, 5513
GARTH R. NOTEL, 6011
GREGORY T. NUMANN, 6110
*BENJAMIN M. NUTT, 6006
*MICHAEL R. NYBERG, 4139
*PHILIP A. OAKLEY, 4175
*CARTER A. OATES, 2931
*DAVID M. OBERLANDER, 7142
*DAVID A. O CONNELL, 2031
LAWRENCE P. O CONNELL, 9943
MAUREEN J. O CONNOR, 9692
ANGELA M. ODOM, 8001
FRANK P. O DONNELL, 6078
FREDERICK M. O DONNELL, 9798
WESLEY R. ODUM, JR., 7599
*EUTEMIO R. OHNO, 9991
DAVID A. OKSENBERG, 2998
WALTER S. OLENICK, 0340
*TOMAS E. OLIVA, 0165
DOUGLAS A. OLLIVANT, 6742
*PAUL B. OLSEN, 6718
*CHRISTIAN B. OROURKE, 8378
*MARC A. ORR, 7649
JIMMY W. ORRICK, 6803
CHELSEA M. ORTIZ, 9547
WILLIAM B. OSTLUND, 9204
TROY D. OTTO, 3971
PAUL E. OWEN, 0398
WILLIAM G. OXTOBY, 4361
DOUGLAS L. OYLER, 8475
*MICHEAL V. PANNELL, 3336
RICHARD P. PANNELL, 3828
JEFFERSON R. PANTON, 7460
*DAVID H. PAPAS, 3026
*PAUL H. PARDEW, 5816
ROBERT L. PARK, 3323
*AMY J. PARKER, 4390
*CHARLES N. PARKER, JR., 3328
*DANIEL J. PARKER, 5647
STEVEN L. PARKER, 5313
*KENNETH W. PARKS, 3749
*LEON F. PARROTT, 2805
*ROBIN E. PARSONS, 7841
*DAVID M. PARTRIDGE, 3666
CRAIG A. PASKE, 3282
*JEFFREY S. PASQUINO, 1940
DENNIS N. PASTORE, 7768
PETER K. PATACSIL, 9367
BRIAN A. PATTERSON, 9068
*CHRISTOPHER A. PATTERSON, 0653
DONALD M. PATTON, 4533
*MICHAEL S. PATTON, 8765
WILLIAM E. PAYNE, 5426
*JOHN J. PEACHER, 6200
*TERRANCE S. PEARSON, 7188
WILLIAM R. PEASTER, 3917
GERRITT F. PECK, 0367
*MARK W. PEED, 4263
*KEVIN S. PEEL, 0208
WILLIAM Z. PENN, JR., 5828
ALLAN M. PEPIN, 9287
FRANCISCO C. PEREDA, 3631
CARLOS PEREZ, JR., 9101
*JOHN P. PERRIN, 5811
BRUCE PERRY, 9151
CHRISTOPHER D. PERRY, 3781
*DANIEL P. PERRY, 9330
*LISA K. PERRYMAN, 3519
ANDREW C. PETERS, 3557
*DALE G. PETERSEN, 2225
SCOTT A. PETERSEN, 5258
*DANIEL J. PETERSON, 7993
*JOSEPH W. PETERSON, 1124
EDWARD G. PETHAN, 8578
KEVIN S. PETIT, 8909
JOHN P. PETKOSEK, 8689
SALVATORE J. PETROVIA, 8249
PAUL R. PFAHLER, 4660
*CARLTON B. PHELPS, 5484
DONOVAN D. PHILLIPS, 1043
MARK A. PHILLIPS, 8804
SHAWN A. PHILLIPS, 6272
ERIC A. PHILLIPSON, 0902
*WILLIAM PIANKI, JR., 6059
*RAYMOND D. PICKERING, 7791
*STEVEN M. PIERCE, 8928
TIMOTHY J. PIKE, 5937
STACY P. PILGREEN, 3276
ALLEN M. PILGRIM, 5520
GEORGE S. PITT, 9673
GEORGE O. PITTMAN II, 2724
DIRK E. PLANTE, 1843
BENNIE J. POKEMIRE I, 6732
ROBERT M. POLLOCK, 0009
*SHANNON G. POOL, 3445
*JEFFREY C. POWELL, 6170
LEE A. POWELL, 8761
JOHN S. PRAIRIE, 8246
NOEL N. PRATAP, 7439
ALAN R. PREBLE, 7511

*EDWARD C. PREM. 1280
*STEPHEN W. PRESTON. 2164
DAVID A. PRIATKO. 4319
ERIC R. PRICE. 5808
*JEFFREY R. PRICE. 6490
CHRISTOPHER N. PRIGGE. 0677
*RAY E. PROSKE. 7485
JEFFREY S. PROUGH. 4271
DONALD A. PRUEFER. JR., 8355
*THOMAS A. PUGH. 8220
*JAMES G. PULOS. 4379
RICHARD S. QUAGLIATA. 3702
DOUGLAS L. RADDATZ. 8721
CAREY W. RADICAN. 4627
MICHAEL P. RAGAN. 7288
LOUIS B. RAGO II. 6406
MITCHELL L. RAMBIN. 7635
MICHAEL R. RAMIREZ. 5248
*PRISCILLA RAMSEY. 8573
*JON D. RANDEL. 1145
*FRANK Y. RANGEL. JR., 7926
ANTHONY J. RANKINS. 8409
*SHIRLEY T. RAPUES. 1076
ROBERT A. RASCH. JR., 6459
STEPHEN J. RASH. 2238
WILLIAM A. RASKIN. 8034
SCOTT J. RAUER. 2742
*EDWARD K. RAWLINS. 6198
DAVID R. RAYMOND. 5372
*JOHN T. REAVES. 7603
KENNETH A. RECTOR. 6061
*SCOTT W. REDD. 9411
LARRY J. REDMON. 6338
JAMES P. REESE. 9125
STEVEN D. REHN. 2830
BRENTON E. REINHARDT. 1819
*ERIC T. REINKOBER. 7437
BRETT E. REISTER. 3629
*CARMEN M. REYESAGUAYO. 0035
JOHN W. REYNOLDS II. 5079
*RICHARD G. RHYNE. 4330
*KEVIN R. RICE. 0825
*DAVID A. RICHARDS. 0868
*DUANE L. RICHARDS. 0746
*WARLINE S. RICHARDSON. 7588
ROBERT J. RICHTMYRE. 4833
*JON K. RICKEY. 9288
*RALPH J. RIDDLE. 3697
*GIB S. RIGG. 8788
KENNETH R. RIGGSBEE. 8075
*CHARLES C. RIMBEY. 9728
*GLORIA A. RINCON. 3021
*ANDREW S. RING. 8030
LARRY R. RITTER. 3560
*JASON W. ROBBINS. 0454
KENNETH L. ROBERTSON. 1051
WALTER R. ROBERTSON. 0107
BORIS G. ROBINSON. 4831
KELVIN L. ROBINSON. 2672
*LAWRENCE H. ROBINSON. 1217
*WILLIE E. ROBINSON. 9010
HAZEL A. RODGERS. 4341
MICHAEL RODIS. 8821
GEORGE RODRIGUEZ. 5137
*RENE R. RODRIGUEZ. 4471
ANGIE RODRIGUEZSMITH. 4778
EVERETT B. ROGERS III. 8286
*JAMES M. ROGERS. 9967
*STEPHEN M. ROGERS. 2381
ANDREW M. ROHLING. 7070
WILLIAM ROLDANPAGAN. 9528
JAMES S. ROMERO. 9619
ROBERT W. ROOKER. 9973
*RICHARD G. ROOS. 9108
THOMAS H. ROSELIUS. 8880
GARY A. ROSENBERG. 9570
PAUL H. ROSS. 5228
CHRISTOPHER ROTH. 3052
*THOMAS J. ROTHWELL. 6053
*JOSEPH F. ROYBAL. 7806
JAMES E. ROZZI. 6733
DAVID J. RUDE. 1910
*ROBERT P. RUFFOLO. 9397
WALTER T. RUGEN. 9462
JAMES A. RUPKALVIS. 1034
*CHOUNCE E. RUSSELL. JR., 3516
LAURA E. RUSSELL. 2369
*SAMUEL L. RUSSELL. 0116
MARTIN A. RYAN. 6645
THOMAS G. RYAN. 4250
GREGORY L. RYCKMAN. 1296
LEE A. RYSEWYK. 2059
LEE R. SALMON. 3030
MICHAEL J. SALUTO. 5447
*ROOSEVELT SAMUEL. SR., 9260
*STEVEN R. SAMUELSON. 5737
JEFFREY M. SANBORN. 1267
*RODERICK D. SANCHEZ. 3548
FRANK N. SANDERS. 3824
RICHARD D. SANDERS. JR., 9686
THOMAS L. SANDS. JR., 1625
GEORGE H. SARABIA. 8312
*ROBERT A. SAYRE. JR., 9746
SCOTT L. SCALES. 4570
CHRISTOPHER A. SCHIRNER. 4001
DANIEL E. SCHNOCK. 5815
*MARK R. SCHOENEMANN. 6397
*RICHARD G. SCHOLTES. 7074
CHARLES W. SCHRADER. 4334
CHARLES G. SCHRETZMAN. 6251
BRADLEY W. SCHRIEWER. 2686
ADAM J. SCHROEDER. 9254
*RICHARD A. SCHUENEMAN. 4926
*DOUGLAS A. SCHUETZ. 8072
MATTHEW B. SCHWAB. 2067
ERIC E. SCHWEGLER. 8654
JOHN M. SCOTT. 4563
*LANCE E. SCOTT. 0098
*TORY L. SCOTT. 9327
JOHN E. SEAMON. 5908
*JAMES F. SEARS. 2342
KIMBERLY J. SEBENOLER. 7212
*JEFFREY J. SECOR. 4942
THOMAS J. SEELIG. 2300
MICHAEL J. SELF. 2722
*ROGER E. SEVIGNY. 6850
*MARK C. SHADE. 2597
JEFFREY SHANNAHAN. 4499
*JAMES SHARP. 0861
LISA A. SHAY. 8037
*STEVEN W. SHEA. 9944
JON E. SHEAR. 6312
*MARK L. SHEPARD. 7775
*SETH L. SHERWOOD. 6462
BURTON K. SHIELDS. 1532
*DUKE C. SHIENLE. 3625
*THOMAS E. SHRADER. 1888
*DANIEL M. SHRIMPTON. 6002
MICHAEL S. SHROUT. 5527
JEROME T. SIBAYAN. 9961
*JOHN W. SILKMAN. 0461
JEFFREY M. SILVASY. 9183
JOHN P. SILVERSTEIN. 3673
PHILIP H. SIMARD. 0149
*MARK T. SIMERLY. 2032
MICHAEL D. SIMLEY. 8968
*RICKY L. SIMMONS. 3834
KENNETH C. SIMPKISS III. 9979
*JOHN R. SISARIO. 0352
*RODNEY E. SISSON. 0767
*WAYNE A. SKILL. 9866
*DARRIN C. SKINNER. 3926
TIMOTHY D. SLUSS. 8748
ALICIA G. SMITH. 0485
BRIAN N. SMITH. 3582
CHRISTOPHER P. SMITH. 8133
CLANNIE SMITH. 9292
CORY R. SMITH. 0629
*DANNY S. SMITH. 0107
*DENNIS C. SMITH. 8552
*DERRICK J. SMITH. 5178
*GORDIE A. SMITH. 3387
MELODY D. SMITH. 6692
*PHILIP J. SMITH. 9432
*ROBERT M. SMITH. 1854
SHARON E. SMITH. 5404
WILLIAM J. SMITH. 4154
*ROY G. SNODGRASS. JR., 5285
*ADAM C. SNOW. 0055
*CRAIG T. SNOW. 3654
*LYNDA M. SNYDER. 3494
*EUGENE SNYMAN. 9911
KENT B. SOEBBING. 5850
GREGG C. SOFTY. 9305
MARK W. SOLOMON. 6387
BENJAMIN O. SOLUM. 7312
*JAMES H. SOOS. 3254
MARGARET A. SOSINSKI. 8281
SCOTT H. SOSSAMAN. 0099
NORMAN A. SOUCY. 3654
ALLEN D. SOUKUP. 0331
*KIRBY A. SPAIN. 6411
*WALTER W. SPANGLER. 5755
JAMES A. SPARKES. 4144
SCOTT A. SPARKS. 5943
CHRISTOPHER S. SPEER. 3104
JAMES W. SPENCE. JR., 3026
*NANCY SPENCER. 4788
WILLIAM R. SPENGLER. 8018
BRIAN K. SPERLING. 4239
*JAMES T. SPRACKLING. 8714
*RICHARD D. SPRINGETT. 9893
JOHN P. STACK. JR., 4020
*JAMES B. STANFORD. 9502
TERRAL J. STANLEY. 9352
PETER J. STANONIK IV. 2272
LEONARD B. STAPLES III. 2588
JOSEPH E. STATON. 1080
*THOMAS H. STAUSS. 0008
BETH T. STEELE. 0820
*CLAIRE E. STEELE. 9073
DIANA J. STEELE. 3216
MICHAEL STEFANCHIK IV. 6409
EDWARD J. STEIN. 6822
*LINDA V. STEINHOLTZ. 2875
DANIEL S. STEMPNIAK. 5023
*DAMON E. STERN. 8950
*GEOFFREY D. STEVENS. 4899
ROBERT W. STEVENS. 6919
*JOHN H. STEVENSON. 7938
*JOHN P. STEVES. 3574
DEBRA L. STEWART. 7804
ERIC W. STEWART. 1374
LYNETTE M. STEWART. 2485
JASON L. STINE. 7394
SCOT F. STINE. 8520
*DAVID S. STOKES. 2159
MARTIN E. STOKES. 2363
CHARLES S. STONE. 7006
JAMES R. STONE. 2823
*MARK W. STONE. 3903
*ERIK L. STOR. 6928
*HOWARD J. STOVER. 4323
*STEVEN P. STOVER. 5652
*DOUGLAS A. STRAKA. 1592
*JACOB D. STRICKLAND. 0014
*FREDERICK G. STROKER. 9294
SILKE C. STUTZ. 7116
ADAM A. SUCH. 4531
TRENT M. SUKO. 4309
BRUCE A. SULLIVAN. 1675
PATRICK T. SULLIVAN. 8018
*TIMOTHY M. SULLIVAN. 2437
FERN O. SUMPTER. 4597
DOUGLAS S. SUTTER. 6607
*DANIEL L. SVARANOWIC. 6801
BRUCE R. SWATEK. 1878
MAYNARD J. SWEENEY. JR., 8701
NATHAN V. SWEETSER. 0694
*KEITH J. SYLVIA. 6048
TIMOTHY J. TALONE. 5240
*RANDY G. TATE. 5670
*HORATIO S. TAVEAU. 4793
*DONALD P. TAYLOR. JR., 7890
*MICHEAL D. TAYLOR. 3423
*THOMAS R. TAYLOR. 1402
*VINCENT X. TELFARE. 4125
JON E. TELLIER. 7425
BRIAN J. TEMPEST. 8772
KIRA M. TERHUNE. 9860
*RICHARD THEWES. JR., 4883
BRENT A. THOMAS. 4158
DONNIE L. THOMAS. 7181
LOUANN THOMAS. 7684
*MICHAEL R. THOMAS. 6064
*TODD E. THOMAS. 0793
BRIAN L. THOMPSON. 6650
GREG Z. THOMPSON. 9021
TOMMY G. THOMPSON. 5168
*VINCENT D. THOMPSON. 3093
WILEY C. THOMPSON. 3528
*MICHAEL J. THURSTON. 0454
ERIC D. TILLEY. 5308
JACQUELINE L. TILLOTSON. 7086
THOMAS H. TODD III. 7229
*GLENN A. TOLLE. 6184
*JAMES K. TRAVER. 1704
MARK D. TRIBUS. 5847
CRAIG A. TRISCARI. 4190
*BONITA E. TROTMANARTIS. 8683
*DAVID A. TROUTMAN. 8823
DAVID C. TRYBULA. 7650
PHILIP F. TULL. 2199
*ROBERT W. TURK. 4863
JOHN C. ULRICH. 7988
JAMES H. UTLEY II. 8629
*EDWARD T. UTZ. 8140
*DAVID T. VACCHI. 9383
*STEPHEN E. VALLEJOS. 5837
MARK T. VANDEHEI. 4791
*CHRISTOPHER S. VANEK. 6935
SANDRA L. VANNOLEJASZ. 2735
MICHAEL J. VASSALOTTI. 1567
JOHN A. VERDUGO III. 3426
ALBERT W. VERHEYN. 4805
*ALFREDO VERSOZA. 8364
SCOTT A. VEZEAU. 8366
GREG A. VIBBER. 9887
KEVIN A. VIZZARRI. 4333
*DONNA L. VOELKEL. 6655
JONAS VOGELHUT. 0839
MATTHEW J. VOITHOFER IV. 5794
KEVIN M. VOLK. 0448
JOHN G. VOORHEES. JR., 8550
*NORMAN M. WADE. 4122
*RODNEY K. WAGGONER. 9510
*ANTHONY Q. WALKER. 1393
*DONALD L. WALKER. 9777
*ROBERT R. WALKER. 7982
*STEPHEN R. WALKER. 8285
*WILLIAM E. WALKER. 7840
KENNETH L. WALKINGTON. 7543
CHRISTOPHER R. WALLACE. 2649
GORDON T. WALLACE. 4849
VINCENT M. WALLACE. 4578
CHARLES S. WALLS IV. 4664
JASON L. WALRATH. 7232
JOSEPH P. WALSH. 8660
WILLIAM A. WALSKI. 5897
*KAREN P. WALTERS. 3283
JAMES J. WALTON. 2931
GLENN A. WATERS. 4568
DALE E. WATSON. 5075
JOHN R. WATSON. 7018
JONATHAN E. WATSON. 6694
TIMOTHY F. WATSON. 5090
*GREGORY S. WAY. 2471
*DARRELL J. WEATHERFORD. 9328
*LARRY Q. WEAVER. 9929
*ROBERT W. WEAVER. 8500
THOMAS M. WEAVER. 4765
*PAUL L. WEBBER. 4398
*CHRISTOPHER J. WEBER. 7884
CATHERINE D. WEBSTER. 2156
*FLORIAN M. WEBSTER. 8039
ROBERT W. WEBSTER. 9840
ALICIA G. WEED. 0781
ARTHUR G. WEEKS I. 0728
*NORMAN G. WEEKS. 0148
MICHAEL K. WEGLER. 9323
STEVEN R. WEIK. 2733
DEAN M. WEILER. 6922
WILLIAM B. WELSH. 1048
*DARREN L. WERNER. 6476
KEVIN S. WEST. 8189
*DANIEL WHALEN. 2905

JOHN W. WHATLEY IV, 9218
RICHARD P. WHITAKER, 7960
*DARIUS M. WHITE, 4465
JOHN C. WHITE, 6480
RICHARD E. WHITE, 5050
WILLIAM F. WHITE, 3811
*DWIGHT D. WHITEHEAD, 5758
*SAMUEL E. WHITEHURST, 4922
*GEORGE W. WHITMIRE, 7389
MATTHEW D. WHITNEY, 5912
*ANTHONY K. WHITSON, 9904
*MELVIN T. WHITTENBURG, 3285
*ERIC R. WICK, 5241
ANDREW B. WILFONG, 8777
*PETER J. WILHELM, 3210
ARTIE S. WILLIAMS, 9859
AUDLEY F. WILLIAMS, 0450
*BRIAN W. WILLIAMS, 8839
*CONNIE WILLIAMS, 5946
*DERRIN E. WILLIAMS, 2363
*GORDON C. WILLIAMS, 5550
*KENNETH L. WILLIAMS, 7649
MAURICE L. WILLIAMS, 3663
*RICHARD L. WILLIAMS, 0371
ROBERT R. WILLIAMS, 6974
RODNEY G. WILLIAMS, 0183
*RODNEY V. WILLIAMS, 3654
WILBURN C. WILLIAMS, JR., 8515
*JOHN B. WILLIS, 4238
MONTY L. WILLOUGHBY, 1188
*RONALD P. WILMES, 3048
ISAIAH WILSON III, 0470
*DEAN F. WILT, 3484
*WAYNE S. WINEGLASS, 7855
GORDON R. WINES, 3916
*GEORGE D. WINGFIELD, 4393
WILLIAM T. WINKLBAUER, 2870
GREGORY S. WINSTON, 0967
*WESLEY A. WINTERS, 7279
*KEVIN J. WITHEE, 7268
*JOHN R. WITHERS, 0044
*STEPHEN C. WONG, 2874
*ALAN D. WOODARD, 3182
*JAMES A. WOODS, 4593
*JEFFREY K. WOODS, 4640
DOUGLAS D. WOOLLEY, 9516
*WILLIAM T. WORLEY, 2590
DARRON L. WRIGHT, 2606
*GARY WRIGHT, 5577
MICHAEL A. WRIGHT, 1071
ROGER E. WRIGHT, 4599
WILLIAM R. WYGAL, 2159
JOHN P. WYMAN, 4462
*KEENAN B. WYNN, 1063
HAROLD P. XENITELIS, 7634
*PAUL H. YAGER, 7820
LEAFAINA O. YAHN, 8220
WADE S. YAMADA, 8183
EUGENE A. YANCEY III, 7441
DENNIS W. YATES, 2065
EMMETT M. YATES, 9592
*HOWARD T. YATES, JR., 7059
RENEA C. YATES, 6954
KRISTOPHER J. YERGER, 0897
*HARRY M. YOCKEY, 2531
*MARK A. YODER, 8999
BRENT A. YORK, 7468
RICKY L. YOST, 2715
LELAND O. YOUNG, 8485
*STANLEY YOUNG, 9271
MICHAEL YUSCHAK, 8006
BRUCE W. ZARTMAN, 2408
*JORGE E. ZEQUEIRA, 1953
KARL D. ZETMEIR, 1457
DANIEL J. ZIMMERMAN, 4147
PETER J. ZIOMEK, 9250
*MICHAEL P. ZRIMM, JR., 9695
MARTIN A. ZYBURA, 8404
X379

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

FREDRIC M. OLSON, 7164

HOUSE OF REPRESENTATIVES—*Tuesday, October 12, 1999*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mrs. BIGGERT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 12, 1999.

I hereby appoint the Honorable JUDY BIGGERT to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mrs. McDevitt, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 560. An act to designate the Federal building and United States courthouse located at the intersection of Comercio and San Justo Streets, in San Juan, Puerto Rico, as the "José V. Toledo Federal Building and United States Courthouse".

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 858. An act to amend title 11, District of Columbia Code, to extend coverage under the whistleblower protection provisions of the District of Columbia Comprehensive Merit Personnel Act of 1978 to personnel of the courts of the District of Columbia.

The message also announced that the Senate has passed bills of the following titles in which concurrence of the House is requested:

S. 1567. An act to designate the United States courthouse located at 223 Broad Street in Albany, Georgia, as the "C.B. King United States Courthouse."

S. 1595. An act to designate the United States courthouse at 401 West Washington Street in Phoenix, Arizona, as the "Sandra Day O'Connor United States Courthouse."

The message also announced that pursuant to Public Law 105-277, the Chair, on behalf of the Majority Leader, announces the appointment of the following individuals to serve as members of the Parents Advisory Council on Youth Drug Abuse—

Robert L. Maginnis, of Virginia (two-year term); and

June Martin Milam, of Mississippi (Representative of a Non-Profit Organization) (three-year term).

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 19, 1999, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to 5 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. JONES) for 5 minutes.

CALLING FOR MORATORIUM ON ANTHRAX VACCINE UNTIL LONG-TERM SAFETY IS DETERMINED

Mr. JONES of North Carolina. Madam Speaker, for the past several months, I have taken a strong interest in the Department of Defense's mandatory anthrax vaccine program. The Third District of North Carolina, which I am proud to represent, has a large military presence that has increased my awareness to the anthrax vaccine. As a result, it has also raised my level of concern about the safety, the efficacy and necessity of the vaccine for our men and women in uniform. Given the lack of information we have about the shot, it is not surprising that a growing number of our Nation's Reserve, Guard and active duty members are choosing to leave the service rather than take a potentially unsafe vaccine. The harmful effects this issue is having on the readiness of our Nation's military is the driving force behind my efforts to change the mandatory nature of the program.

Recently the Washington Post featured an article about the overdue anthrax inoculations intended for our reserve force. The paper reported that these delays might threaten the effectiveness of the anthrax vaccine. However, even if the shots are administered on schedule, there is little, if any, evidence supporting an exact number of shots that are needed to reach immunity.

Despite the lack of information, the anthrax vaccine is currently being administered to our troops in a series of six shots followed by an additional shot each year the individual serves. A man or woman who serves our Nation for 20 years must receive over 25 separate anthrax vaccinations. As the Post reported, only 350,000 of the 2.4 million military personnel scheduled to take the vaccine have received their first shot. Current figures indicate that less than 1500 have received all six shots.

Madam Speaker, the Department of Defense reports that it has evidence of only 300, 300 adverse reactions and 200 personnel refusing the vaccine, but there are still millions of vaccines left to be administered. While we wait for every member of the military to receive their full course of shots, we risk losing even more military personnel who resign to avoid their anthrax vaccine date.

Madam Speaker, it costs millions of taxpayers' dollars to train each of our men and women in uniform to defend this Nation. We cannot afford to lose even one soldier, sailor, airman, or marine to a vaccine that has many questioning its safety and efficacy; but it seems that the more time passes, the more troops we lose and the more questions surface about the current program.

The relationship between the Department of Defense and BioPort, the only company that produces the anthrax vaccine, is beginning to draw concerns. BioPort is not even licensed by the Food and Drug Administration to manufacture the anthrax vaccination. Now despite its financial failings, the Department of Defense has doubled the amount of its original contract with BioPort. This aspect of the program alone has caused concerns among those who must take the shot.

Madam Speaker, the need to protect our United States military from potential chemical and biological warfare is critical, but we cannot accept the risk of exposure as the only reason to mandate the shot and ignore the lack of information on the long-term safety of the vaccine. If the anthrax vaccine is safe and can effectively combat the threat of anthrax for our military, the Pentagon has failed to convince the very people it is trying to protect. The questions being raised are serious, legitimate questions that must be addressed in order to ensure our military receives the answers it needs.

I introduced legislation this summer to make the current anthrax vaccine program voluntary. My colleague, the gentleman from New York (Mr. GILMAN), introduced a bill to institute a moratorium on the program until more testing can determine it is long-term safety.

Madam Speaker, we are becoming more reliant upon our reserve force to help defend the security and interests of this Nation. If these men and women

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

are concerned that the shot is unsafe, the morale and readiness of our military is severely threatened. Then we stand to lose more of the bright, capable, and trained individuals who represent the very strength of the country. I cannot stand by and watch this happen.

Let me assure our men and women in the military that I will continue with my colleagues to pursue the issue until we can be sure that the anthrax vaccine is safe, effective and necessary.

THE POST OFFICE COMMUNITY PARTNERSHIP ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Oregon (Mr. BLUMENAUER) is recognized during morning hour debates for 5 minutes.

Mr. BLUMENAUER. Madam Speaker, I am pleased by the national attention to ways to make our communities more livable by this I mean our families safe, healthy, and economically secure; and ways to give our citizens a real voice in the decisions that impact their communities; and a special emphasis on simple, low-tech, low-cost but high impact solutions.

The Federal Government can make a huge difference in the liveability of our communities without new rules, regulations, fees and taxes for Americans and business. We can do so by having the Federal Government simply lead by example; work that is being done by the General Services Administration, for instance, and how they manage over 300 million square feet of office space in our inventory. Another area with tremendous potential is the Post Office which touches over 40,000 different areas across the country and most Americans six times a week.

Momentum is growing with over 100 House cosponsors for H.R. 670, the Post Office Community Partnership Act. Last week before the Senate Government Affairs Committee, there was a hearing, and I could not agree more with the testimony provided by the National Association of Home Builders. They stated, and I quote: As home builders, our members abide by local zoning, permit, and building code laws in order to develop responsibly and preserve the integrity of communities. The United States Postal Service, however, is currently not required to adhere to State or local codes when relocating, closing, consolidating, or constructing facilities.

This noncompliance undermines the economic and social well-being of communities by permitting the Post Office to build new facilities or modify existing facilities without regard to local plans for growth or traffic management, environmental protection, and public safety. The National Association of Home Builders strongly believes that the Federal Government should follow the same rules as it expects the American public. That is why we support the Post Office Community Partnership Act.

I could have quoted from similar testimony from the Sierra Club, sort of a strange partnership that we do not see too often between the home builders and the Sierra Club, or a coalition composed of the National Association of Counties, League of Cities, Conference of State Historic Preservation Officers, Conference of Mayors, Preservation Action, American Planning Association and the International Downtown Association, the National Trust for Historic Preservation and the National Alliance of Preservation Commissions. They stated as recently as last year the Post Office attempted to evade local clean water standards in Tallahassee, Florida and ignore local laws put in place in Ball Ground, Georgia, which were an attempt to meet Federal clean air standards. These actions would be criminal if they were attempted by a private company but are merely shameful when pursued by the Postal Service.

Comedian Lilly Tomlin's annoying and sadistic telephone operator, Ernestine, made popular the notion we do not care because we do not have to, we are the phone company. Well, the laughter that that provided was a bit bittersweet in part because of the grain of truth that was embedded. In today's competitive world with higher citizen expectations, it is time for the Post Office to care because they want to and because they have to start leading by example.

I strongly urge my colleagues to join me and over 140 House cosponsors of H.R. 670, the Post Office Community Partnership Act.

SAY NO TO COMMUNIST CHINA'S ENTRY INTO THE WORLD TRADE ORGANIZATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from California (Mr. ROHRABACHER) is recognized during morning hour debates for 5 minutes.

Mr. ROHRABACHER. Madam Speaker, who is watching out for America? That is the question of the day. Supposedly that is our first responsibility as elected officials, watching out for the United States of America. Today, however, too many Americans with power and influence do not consider watching out for our country's interests and the well-being of our people to be their priority. Today we constantly hear about globalism, and we constantly hear the words world economy as if the development of this new world order is the goal of America's leadership. Madam Speaker, that is their goal, and sometimes that goal is antithetical to the best interests of the people of the United States. But our leaders move forward blithely as if they are part of an altruistic historic movement in which leaders throughout the planet are sheparding all of human kind into a homogenous world.

It is not working according to plan. The world is not becoming this one world place where idealism reigns and people are acting together in a peaceful manner and an honest manner. It just does not seem to be acting according to their plan. The dream of our globalists is becoming a nightmare, especially for the national security interests of the American people and the potential for the spread of real democracy and individual liberty throughout a substantial portion of this planet.

One of the problems the globalist dreamers in the United States refuse to acknowledge is that leaders of most of this world's power blocks are not playing the game. Surprise, surprise, surprise; those people, those leaders in other parts of the world, are basing their decisions on what is best for their own countries and their own peoples and not with some overall view of the planet.

America's relations with Communist China, with the Communist Chinese dictatorship, is a disgrace. It is a total rejection of the ideals upon which our country is founded, but again reflect the ideas that are the basis of our decision-making towards China. The fact that we have treated China in a way in order to harmonize our relations with the world with a new world order in order to make China part of a world trading organization, the fact that we have treated them in this way, which is often quite irrational for the moment, has this made us and made the world any more prosperous? Has it made peace any more likely? Is China any closer to democratic reform?

The answer is no, no, no; and yet we still have people here who are pushing to put China into the World Trade Organization, the equivalent of putting the local Chicago gangster into the Chamber of Commerce hoping that that would change that gangster's ways. Well, we do not need Al Capone in the Chamber of Commerce, and we do not need Communist China in an organization that will make the decisions about trade and commerce the production of wealth throughout the world.

But even our relations with our democratic European allies are working against us with China, with our relations with China because we have had a decision-making process based on some sort of global concepts rather than the interests of the United States. The people of the United States are being put at a disadvantage by trade and our national security is being gravely threatened.

□ 1245

But as I say, even our relations with our democratic European allies are working against the interests of the American people. Because as much as America's elite refuses to recognize it, our European friends are watching out for their own interests. They are not watching out for us; they are not watching out for the world. Our European allies are treating us like we are suckers, and, of course, we are.

Through NATO, we are subsidizing the defense of a portion of this planet that has a higher standard of living and higher gross national product than our own. We are fighting their battles. And, while we give most-favored-nation status to developing countries like China, and actually to the detriment of our own people, our European allies through the European Union are raping other countries, other developing countries, especially in Eastern Europe.

Madam Speaker, I would suggest that we need a new way of thinking in Washington that watches out for the interests of the people of the United States.

LET US NOT REIGNITE THE ARMS RACE

The SPEAKER pro tempore (Mrs. BIGGERT). Under the Speaker's announced policy of January 19, 1999, the gentleman from Massachusetts (Mr. MARKEY) is recognized during morning hour debates for 5 minutes.

Mr. MARKEY. Madam Speaker, the American public deserves a full, deliberate, considered, informative debate on the Comprehensive Test Ban Treaty. Instead, the Republican Senate is conducting a caricature of a debate structured to obscure understanding and to maximize political gamesmanship by springing the subject on to the Senate calendar and forcing a momentous vote on a moment's notice.

The Republican leadership is giving jack-in-the-box treatment to the ultimate black box subject of nuclear annihilation. Where is the statesmanship? Where is the sober and solemn consideration of the special role that the United States must play in the stewardship of the world's nuclear stockpiles? If we rush to judgment, we will crush the confidence of our cosigners and spur the proliferation of nuclear weapons in an unpredictable world.

We must not reignite the arms race. We must not let the nuclear bull out of the ring to run wild through the streets of the world.

The Cold War is over. This is a time to de-alert and dismantle nuclear weapons. Instead, the Republican leadership is bent on destroying the treaty to control them. This is not brinkmanship; this is not statesmanship. This is irresponsibility on a global scale.

We no longer test nuclear weapons in the United States. George Bush stopped the nuclear testing. So if we are not going to test nuclear weapons in the United States, which we have not, why in the world should we not sign a treaty 7 years later that allows us to monitor every other country in the world to guarantee that they are not testing nuclear weapons?

Madam Speaker, the reality is that without this treaty there can be clandestine tests that allow other countries in the world to catch up with us. The signing of this treaty ensures that we have hundreds of monitoring devices around the world strategically placed to ensure that there is no testing because, in fact, the treaty mandates onsite inspection. That is right.

If we detect, through the seismological equipment or any other means, that there is a suspicious activity taking place in any country in the world, that country must allow us and the world to go in and to look at what they are doing, if they are testing. Then, the United States, which has decided unilaterally during the Bush administration, and has continued right through the Clinton years, not to test, will have the ability to ensure that there has been a technological homeostasis, a technological stay which has been put in place where we keep our lead.

Madam Speaker, there is no more important issue which we can debate than whether or not at the end of the millennium, the gift which we can give to the next millennium, is that we have resolved this issue of whether or not the countries of the world will continue to test nuclear weapons. The disease, the famine, the wars of this millennium should be something which we do not pass on to the next millennium.

We should be trying to find ways of ensuring that we are going to deal with the AIDS crisis in Africa. We should try to find ways in which we are going to deal with the debt crisis of the Third World, and we should try to find some way in which we end the specter of nuclear weapons which has hung over this planet for the last 50 years of this millennium. There can be no more important issue.

So, Madam Speaker, let us hope that today in the Senate that enough Members stand up to be recognized in support of a treaty which will allow us to continue to spread a regime of controls which will limit, if not eliminate, the likelihood that we will face the day when we stand here and face the fact that a nuclear accident or a nuclear weapon was used.

The least that the Senate should be able to say, the least that all of us should be able to say when those nuclear weapons are about to be used is that we tried; we really tried to put an end to this nuclear threat which hangs over the world. Let us hope today that the United States Senate does the right thing.

CONGRESS MUST NOT ROLL BACK TRUCK INSPECTION SAFETY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Virginia (Mr. WOLF) is recognized during morning hour debates for 5 minutes.

Mr. WOLF. Madam Speaker, today I stand up for the 5,374 families who have lost loved ones in truck accidents last year, and to note that the Congress could be about ready to walk away from them. If we take a look at this photo, it is a photo of an accident involving a truck whereby individuals were seriously injured and perhaps killed.

This House voted overwhelmingly for the Transportation Appropriations Conference Report, which included a provision requiring change in the way the Federal Government conducts oversight of the trucking industry.

Each year, more and more commercial motor vehicles are driving more and more miles and more people are dying. Currently, these vehicles are involved in 13 percent of all traffic fatalities, even though they represent only 3 percent of all registered vehicles in the Nation. Whether one is concerned about this issue or not, I would hope that Congress would direct itself to what activity it may very well be unknowingly doing later on this afternoon.

Madam Speaker, 20 percent of the trucks on our roadways today, one in five are so unsafe that if they were stopped and inspected, they would be taken off the road. This problem is equally more serious at our southern borders where, on an average, 44 percent of these trucks are placed out of service. The Department of Transportation's IG has raised serious concerns about the vigor of our Nation's truck safety program. In the past 8 months, he has testified about the poor job that the Office of Motor Carriers has done to oversee truck safety. The Office of Motor Carriers is charged with monitoring and enforcing, and they are not doing a very good job at all.

The Federal Highway Administration, which controls the Office of Motor Carriers, has not been effective in inducing prompt and sustained compliance. Seventy-five percent of the carriers sampled did not sustain a satisfactory rating, and after a series of compliance reviews, 54 percent have been taken out of service.

I have now been out on three or four truck inspections in the last several months. More than one out of five, sometimes three out of 10 are so unsafe, bad brakes, rusted out, baloney skin tires and many other problems. The compliance reviews are down, meaning the Office of Motor Carriers used to do five compliance reviews per employee per month. Now it has gone down to one. They are trying to get it back up to two. When the IG testified at our hearings, he talked about one trucker who had driven from the West Coast to the State of Virginia in 48 hours, 48 hours, and in the cab there were jars of urine where he did not even stop to go to the bathroom. You wonder why we have such a miserable record, why so many people are dying.

And then, in three short months, under NAFTA, trucks are going to be able to cross the border in Mexico and come into the United States. All of these trucks will be able to go into all of the States in our country, and the IG found recently that Mexico has no hours-of-service requirements, no logbooks are required for truckers, no vehicle maintenance standards, no roadside inspections, no safety rating. When the IG conducted a survey of the effects of NAFTA, he found 44 percent of the trucks were in such poor condition that they were taken off the road immediately. So we can see if these trucks now are permitted to come across the border from Mexico in addition to the unsafe program that we now have.

Because of these findings, the Department of Transportation's IG has said we should move the Office of Motor Carriers, and the National Transportation Safety Board, and many, many others agree.

Today, there may be a vote on the floor under the suspensions calendar that will roll back the efforts that have been made with regard to truck safety. So on behalf of the 5,374 people and their families who have died in truck related deaths, I would hope that Congress would not roll it back. The question is, who controls this place? Will it be the special interests, or will it be the American interests? The Congress took the action it did in the conference report to advance safety. Hopefully, the Congress will not roll it back.

Madam Speaker, I ask people to focus, Members back in their offices, look at this and other pictures that I will bring up today to see if we really want to roll back truck inspection safety. I hope not.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Having reference to an earlier speech this morning, the Chair would remind all Members that it is not in order to urge or advocate action or inaction by the Senate.

QUESTIONING THE CONTINUANCE OF RUSSIAN AID

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Madam Speaker, here in Congress we must answer tough questions regarding the continuance of aid to Russia. We, along with the IMF, have pumped billions and billions of dollars into a corrupt system. Is it any wonder that the Russian economy is floundering? How can we stand by while this fraud continues?

Was anyone surprised to learn that Moscow's government and the Russian Central Bank were not following sound banking principles? The indicators have been there since the fall of the Soviet Union that an organized crime establishment was thriving under a weakened Russian Government. Yet, the U.S. Government has continued to loan billions of dollars to this high-risk government.

The amount of Russian aid and the numbers involved in embezzlement are staggering. According to Russian officials, capital flow from the USSR and Russia between 1985 and 1999 was over $120 billion, possibly as high as $200 billion. That is more than the entire foreign debt on the Russian Federation, in and up to 10 times more than the total foreign investment in Russia.

Now, sadly, Madam Speaker, a significant portion of this money was plundered by self-serving Federal and local government officials. We in Congress must acknowledge this catastrophe and take steps to prevent this from happening again.

□ 1300

Even more disturbing is that this money was siphoned off and funneled out of Moscow and mixed with the profit from activities such as prostitution and illegal weapons sales.

Moreover, a Lugano-based engineering and construction company, Mobitex, allegedly opened credit cards and deposited large sums in private accounts for the benefit of president Boris Yeltsin, as well as members of his family and close associates, according to the Swiss authorities.

Madam Speaker, as the scandal unfolds, we must re-evaluate our policy with Russia that has been pursued by the IMF and the Clinton administration. Congress should also review the lax standards applied by the U.S. Government and international financial institutions in the distribution of financial aid to post-Communist and developing nations.

Earlier this year, the IMF and Russian central bank acknowledged the diversion of IMF funds to private companies. There were other reports that the World Bank loans were also misused or embezzled by Russian officials. In fact, one disclosure was a $250 million loan made by the prime minister of Russia and a close ally of Boris Yeltsin at the time.

The extensive abuse of U.S. aid could not have happened had the President, Vice President, and other senior administration officials not aggressively pushed for multi-million dollar loans to keep Boris Yeltsin afloat.

The question, Madam Speaker, occurs with regard to how much did they know. Were there reports about the abuse from the intelligence communities and the FBI? How could this administration continue to support pumping billions more into this flawed system?

Another possibility is that the misuse was overlooked by bankers who had financial gains in assisting with the laundering of this money. They would potentially stand to gain the most if the United States and the IMF continued to prop up the Russian economy. Did political pressure from these bankers help keep the money flowing continually into the Russian economy?

The Committee on Banking and Financial Services has the unique opportunity to stop the abuse associated with Russian assistance. Congress should assess the damage that has been done by this corruption. We must ascertain whether the law has been broken by any U.S. officials or banks.

Within the IMF, what steps are being taken to improve obvious problems with Russian policy? Has the IMF bailout of 1998 significantly improved Russia's economy? I hardly see how the answer could be yes, since the $40 billion short-term bond market, GKO, collapsed, the ruble was devalued by 75 percent, and the rate of inflation increased from 6 percent annually to 60 percent.

Where are the accountability measures? Where are the preventative steps to avoid this happening again? Are due diligence standards or risk assessments being applied to foreign loans? How could between $4.5 to $10 billion, not million but billions, go unnoticed?

Congress must face the music and answer these questions. We cannot continue to line the pockets of corrupt officials.

RECESS

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 1 o'clock and 3 minutes p.m.), the House stood in recess until 2 p.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. STEARNS) at 2 p.m.

PRAYER

The Reverend Dr. Karl P. Donfried, Professor of Religion, Smith College, Northampton, Massachusetts, offered the following prayer:

Standing as we do in the large confusions of the world not accustomed to peace, we pray, O Lord, gird us with newness of vision that our steps may be straightened to Your will and our decisions enlightened by Your spirit. In the fog and fury of this anguished age, keep the inner world of heart and mind clear and strong, that we be not buffeted from our course by the wild winds of confusion and seas of bitterness. Discipline us to sharpen our insight and open our hearts on all sides and so guide us to make wise judgments. Lay Your hand upon us, O God, that we may be healed and made whole in the fullness of Your love. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Nevada (Mr. GIBBONS) come forward and lead the House in the Pledge of Allegiance.

Mr. GIBBONS led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING REVEREND KARL P. DONFRIED TO HOUSE OF REPRESENTATIVES

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, it is an honor for me today to speak this afternoon about a constituent of mine, Reverend Karl Donfried, who offered the opening prayer here in the House of Representatives on this day. I would like to use 60 seconds to both welcome and introduce him to the House of Representatives.

Reverend Donfried is a professor and chairman of the Department of Religion and Biblical Literature at Smith College in Northampton, Massachusetts. He has been a member of Smith's faculty for more than 30 years.

Reverend Donfried is deeply involved in the religious community at Smith College and in the ecumenical movement in western Massachusetts. He developed the Ecumenical School of Theology in Springfield's Christ Church Cathedral, where he has served as the Ecumenical Canon of the Cathedral since 1977.

He chaired the Lutheran Roman Catholic Committee of New England and was appointed to co-chair the New Testament Panel of the National Lutheran Roman Catholic Dialogue.

A theologian and a scholar, Reverend Donfried has taught at Brown University, Amherst College, Mount Holyoke College, and Assumption College.

I use this opportunity today on behalf of the House of Representatives to extend a heartfelt welcome to Reverend Karl Donfried.

REPUBLICANS STOP 30-YEAR RAID ON SOCIAL SECURITY—NO TURNING BACK NOW

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, every now and then we get to witness history. We all watched in awe as Mark McGwire and Sammy Sosa shattered the home-run record. We all watched with triumph as the Berlin Wall came down. And, Mr. Speaker, we all watched with splendid anticipation as AL GORE was inventing the Internet.

Well, Mr. Speaker, history has been made again today. This morning the Congressional Budget Office reported that because Republicans have held the line on spending in fiscal year 1999, there was $1 billion of on-budget surplus.

That is right. In fiscal year 1999, Republicans stopped the 30-year raid on Social Security. In fiscal year 1999, Republicans stopped President Clinton from spending Social Security and put the needs of seniors ahead of the needs of bureaucrats. Mr. Speaker, that means that $126 billion in debt reduction has taken place in fiscal year 1999.

Mr. Speaker, we did not spend one penny of Social Security in 1999. We stopped the raid. Mr. Speaker, there is no turning back now.

REGULATIONS COST TAXPAYERS $400 BILLION YEARLY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Gettysburg Address is 286 words. The Declaration of Independence is 1,322 words. Government regulations on the sale of cabbage is 27,000 words.

Mr. Speaker, now if that is not enough to stuff your cabbage roll, regulations cost taxpayers $400 billion a year, $4,000 per every family each and every year, year in and year out.

Unbelievable. It is so bad, if a dog urinates in a parking lot, the EPA declares it a wetland.

Beam me up, Mr. Speaker. I yield back 2,800,000 words in our Tax Code.

RUBY HILL MINE IN EUREKA, NEVADA, RECEIVES EXCELLENCE IN MINE RECLAMATION AWARD

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, for far too long now we only hear the misleading statements from the environmental extremists about the perils of mining.

Well, folks, there is more than fried cabbage here today. There is actually some good news worth listening to.

In my district outside of Eureka, Nevada, the Ruby Hill Mine, owned by the Homestake Mining Company, has received the Environmental Excellence in Mine Reclamation Award.

Yes, my colleagues heard it, mining is good for the environment. This award was given to Homestake Mining Company because they exhibited outstanding innovation in its design, mitigation, and concurrent reclamation progress.

Mr. Speaker, it is important to note that mining and the environment can coexist; they can work together and ensure that the environment is not hurt by mining and that we as Americans can still benefit from mining and enjoy the quality of life that we now know.

I would like to congratulate the Homestake Mining Company for their dedication, forethought, and hard work in demonstrating that mining has learned to work with the environment.

I yield back the balance of my time, Mr. Speaker, and all the negative misconceptions about mining and its importance to our country.

VOTE DOWN H.R. 3036

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, here is a picture that I used earlier today of a truck that killed people in a car. Here is another major truck accident.

Today in the House we may very well bring up H.R. 3036, which rolls back truck safety.

In 1998, there were 5,374 deaths with regard to trucks. In 1997, there were 5,398 deaths with regard to trucks.

It is like a major airplane crash taking place every two weeks. If that happened, the Congress would be up in arms.

Why would the Congress now be rolling back what the Congress did with regard to truck safety? H.R. 3036 takes a step backward.

If we do this, every time we pick up the newspaper and see that somebody is being killed in a truck accident, we are going to feel very bad.

I hope that the Congress votes this down if H.R. 3036 comes up.

WHY DID PRESIDENT CLINTON AND AL GORE VETO EFFORTS TO ELIMINATE MARRIAGE TAX PENALTY?

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, there is an important question that we should be asking every day; and that is, is it right, is it fair that under our Tax Code a married, working couple, a husband and wife, with two incomes pays higher taxes just because they are married? Is it right, is it fair that under our Tax Code 21 million married, working couples pay on average $1,400 more just because they are married?

Back home in the south suburbs of Chicago, a machinist and a school teacher making a combined income of $62,000 pay on average $1,400.

That is 1 year's tuition at Joliet Junior College. That is 3 months' daycare at a local day-care center.

The question of the day, my colleagues, is why did President Clinton and AL GORE veto our efforts to eliminate the marriage tax penalty? Is it because the President and AL GORE want to spend that money rather than eliminating the marriage tax penalty?

When Bill Clinton and AL GORE vetoed our efforts to eliminate the marriage tax penalty, they broke the hearts of 21 million hard-working, married, working couples who should have their marriage tax penalty eliminated.

Mr. Speaker, let us work together, let us work in a bipartisan way to eliminate the marriage tax penalty.

REASON TO CELEBRATE: CONGRESS HAS NOT SPENT ONE NICKEL OF SOCIAL SECURITY ON ANYTHING ELSE

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, take I-16 right out of Savannah, go about 20 miles west and make a left on Highway 280, go through Pembroke, go through Daisy, and approach Evans County, Georgia, and there on the left-hand side is a little, one-story greenhouse; and in there lives Ms. Edna Thompson. I am going to make up the name, but this is true.

Edna Thompson lives there. She has been a widow for 17 years. She is on a fixed income. We call it Social Security. She always talks to me and worries about what is happening to my Social Security. I hear they are spending money in Kosovo. I hear they are going to increase foreign aid. I hear a lot of things about spending money in new programs. But are they taking it out of Social Security?

Today I can look her in the eye and say, no, ma'am. In 1999, for the first time in modern history, Congress has not spent one nickel of her Social Security.

But do not take my word for it. Today they can get this from the official Congressional Budget Office that, for 1 year, Congress has not spent one nickel of Social Security on anything but Social Security.

It is reason to celebrate.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 20, 1999.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on October 8, 1999 at 3:20 p.m. and said to contain a message from the President whereby he transmits a report on the continued production of the naval petroleum reserves beyond April 5, 2000.

With best wishes, I am
Sincerely,
JEFF TRANDAHL.

CONTINUED PRODUCTION OF NAVAL PETROLEUM RESERVES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 106–142)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Armed Services and ordered to be printed:

To the Congress of the United States:

In accordance with section 201(3) of the Naval Petroleum Reserves Production Act of 1976 (10 U.S.C. 7422(c)(2)), I am informing you of my decision to extend the period of production of the naval petroleum reserves for a period of 3 years from April 5, 2000, the expiration date of the currently authorized period of production.

Attached is a copy of the report investigating the necessity of continued production of the reserves as required by 10 U.S.C. 7422(c)(2)(B). In light of the findings contained in that report, I certify that continued production from the naval petroleum reserves is in the national interest.

WILLIAM J. CLINTON.
THE WHITE HOUSE, *October 8, 1999.*

CORRECTIONS CALENDAR

The SPEAKER pro tempore. This is the day for the call of the Corrections Calendar.

The Clerk will call the bill on the Corrections Calendar.

ADDING MARTIN LUTHER KING, JR. HOLIDAY TO LIST OF DAYS ON WHICH FLAG SHOULD ESPECIALLY BE DISPLAYED

The Clerk called the bill (H.R. 576) to amend title 4, United States Code, to add the Martin Luther King, Jr. holiday to the list of days on which the flag should especially be displayed.

The Clerk read the bill, as follows:

H.R. 576

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6(d) of title 4, United States Code, is amended by inserting "Martin Luther King, Jr.'s birthday, the third Monday in January;" after "January 20;".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MCCOLLUM) and the gentleman from Virginia (Mr. SCOTT) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. MCCOLLUM).

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 576 would add the Martin Luther King, Jr., holiday to the list of days on which the flag should be especially displayed.

Currently, section 6 of title 4 of the United States Code, which designates the time and occasions for the display of the United States flag, provides that the flag of the United States of America should be displayed on all days and then lists certain days that it should especially be displayed. The list contains nine Federal holidays.

□ 1415

In fact, all of the Federal holidays, except for the holiday honoring the birthday of Dr. Martin Luther King, Jr., our Nation's great civil rights leader.

The nine other permanent Federal holidays are listed in the Flag Code to remind Americans to show respect and appreciation for the individuals and events that have had such a profound influence on the history and success of our great Nation. Regrettably, and apparently due to simple oversight at the time the King holiday became a Federal law in 1983, it was not added to the list in the Flag Code. And so it is right to take this measure up on the Corrections Calendar here today.

H.R. 576 is very simple. It will correct the oversight that left the Martin Luther King, Jr. holiday off the list in the U.S. Flag Code of days on which Americans are urged to display the American flag. Identical legislation passed the House last year. Unfortunately, it passed on the last day of the 105th Congress and did not become law.

H.R. 576 deserves our bipartisan support. I urge the Members of the House to join together in correcting this oversight in the Flag Code. By adding the King holiday to the Flag Code and asking Americans to display the flag on the day we honor Dr. King, we will encourage Americans to honor Dr. King and his magnificent efforts to advance civil and human rights in America.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT. Mr. Speaker, I yield 30 minutes to the gentleman from Texas (Mr. BENTSEN) and ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore (Mr. STEARNS). Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BENTSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 576, legislation which I introduced correcting an oversight that occurred in the 98th Congress during the establishment of the Federal holiday celebrating the birth of our Nation's greatest civil rights leader, Dr. Martin Luther King, Jr. Specifically, my legislation will add Dr. King's holiday to the list of Federal holidays in which the American flag should be displayed in honor of that person or event.

I would like to thank the gentleman from Michigan (Mr. CAMP) and the gentleman from California (Mr. WAXMAN) of the Speaker's Correction Day Advisory Group as well as the gentleman from Illinois (Mr. HYDE), the gentleman from Michigan (Mr. CONYERS), the gentleman from Florida (Mr. MCCOLLUM) and the gentleman from Virginia (Mr. SCOTT) for the work that they have done on the Committee on the Judiciary on this as well.

An identical bill which I also introduced in 1998 was adopted by the House on the last day of the 105th Congress last year. Unfortunately, the other body had not acted and therefore no law moved forward. Furthermore, the Senate has adopted an identical version, S. 322, in this Congress.

This legislation was first brought to my attention during the 105th Congress when a constituent from my district with a particular interest in vexillology, the study of flags, contacted my office after discovering that Dr. King's official holiday was not being observed through the U.S. Flag Code. This omission, while not intentional, should be offered to the American people as yet another avenue they can use to honor the memory and the legacy of Dr. King.

It is customary during the establishment of official Federal holidays to signify the importance of the date through its recognition in the U.S. Flag Code. The 77th Congress of the United States passed Public Law 623 which codified the U.S. Flag Code. This legislation also ensured that as new Federal holidays were added, like the Federal holiday honoring Dr. King, official notation in the Flag Code would occur without delay. Unfortunately, the legislation, Public Law 98-144, establishing the holiday recognizing Dr. King, failed to include language necessary to reference the U.S. Flag Code.

The U.S. Flag Code encourages all Americans to remember the significance of each Federal holiday through the display of our Nation's banner. The Flag Code reminds people that on certain days each year, displaying the flag will show respect for certain individuals and events that have shaped our great Nation. Dr. Martin Luther King, Jr., the greatest civil rights leader of our age, deserves the respect and reverence symbolized by the raising of our Nation's banner in his memory.

Mr. Speaker, another extraordinary aspect about this legislation is how this oversight was brought to my attention. A constituent, Mr. Charles Spain, a resident of Houston and president of the North American Vexillological Association, contacted me about this glaring oversight 2 years ago. In fact, he became aware of this legislative oversight 7 years ago. I am grateful for his diligence and assistance in helping my office and the Congress to correct this error. His effort demonstrates that all citizens have the ability to contact and petition their Congress and make important contributions to the legislative process. While I am certainly honored that my office could play a small part in furthering the efforts to raise public awareness of Dr. King's life and achievements, I am most pleased as well that a private citizen of the United States and a constituent has been able to utilize the levers of the House of Representatives to effect legislative change.

I believe the American people should be afforded the opportunity to pay their respects to the memory of Dr. King and all of his achievements through the display of our flag on his day. Of the 10 permanent Federal holidays, only the day honoring Dr. King lacks this specific honor, and I believe that as Dr. King's holiday fast approaches, it is now appropriate to correct this omission.

Mr. Speaker, the Corrections Calendar was designed to provide an expedited legislative procedure for correcting errors in the law. Today, the House can achieve that and two additional goals: one, ensuring that our Nation honors a true American hero who made the ultimate sacrifice in order to make our Nation and all people in the world a better place; and the second, proving that a single citizen, in Mr. Spain, can make a difference in the American democratic experiment.

Mr. Speaker, I urge my colleagues to support this measure to further honor the legacy of Dr. King and to continue to move forward with his dream.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I come to indicate my strong support for H.R. 576. I want to thank the gentleman from Texas, our colleague from Houston, and also the gentleman from Florida, the chairman of the subcommittee of the Committee on the Judiciary, for moving this forward with the speed at which it has come. I appreciate that very much, and on behalf of all of those in this country who realize that Dr. Martin Luther King, Jr. is probably the most significant figure in the 20th century, not only in America but in the world in terms of the understanding that he has brought to human rights and peace and justice.

Dr. King has been a very strong force in my life. He has been a good friend of Rosa Parks, who came from Montgomery, Alabama to Detroit to associate herself with my efforts for many, many years, and in the course of it, I had the honor of getting to know Mrs. Coretta Scott King and indeed the entire King family. There exists in Atlanta now a Martin Luther King Center for Nonviolence which is still a shrine to which people come from around the world to join in the understanding of justice and peace and humanitarian, the reaching out, and also to reflect on the civil rights struggle.

Dr. King will forever remain a symbol of what the best of America can be, and in a way what Charles Spain and the gentleman from Texas have done is really in the wake of and in the spirit of Dr. King himself. This is a small but critical correction. Every holiday encourages us to display the flag except this one, inadvertently left out. How it got left out after 15 years of struggle to get the bill passed, heaven only knows.

And so I am very delighted to join in what I am sure will be unanimous support for the measure that is before us now. I thank again all of the sponsors and those that have made it possible.

Mr. BENTSEN. Mr. Speaker, I thank the gentleman from Michigan for his kind words.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Speaker, I want to associate myself with the remarks of the gentleman from Michigan, the distinguished ranking member of the Committee on the Judiciary. What I would like to say, I was not here to speak on this issue, I am here on my legislation honoring the mother of Louis and Carl Stokes, but I want to say this. This is a bit of irony in the House today. Martin Luther King, Jr. was targeted by the Justice Department, the Federal Bureau of Investigation and much of our establishment. He was targeted basically because, in the gentleman from Michigan's words, he was a great man but he happened to be a great black man. As a result, America feared that power, and today we embrace the vision. That is what we should be doing. That is the essence of this legislation.

I am very glad that I was on the floor, Mr. Speaker, and I am very proud to be associated with this vote. I commend all those responsible.

Mr. BENTSEN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from Texas for yielding me this time. I thank the gentleman from Michigan (Mr. CONYERS), the gentleman from Illinois (Mr. HYDE), the gentleman from Florida (Mr. MCCOLLUM) and the gentleman from Virginia (Mr. SCOTT). This is long overdue. In fact, I followed the gentleman from Texas as his constituent raised this issue with him. I want to congratulate him for the effort to bring about this correction and acknowledgment of the life and legacy of Dr. Martin Luther King.

As the gentleman from Texas knows, Texas was one of the States that gathered early, although it was not an easy vote and debate, to make the Martin Luther King holiday a State holiday in the State of Texas, and, of course, supported it being a Federal holiday. It is well known that Dr. King was many things to many persons, but I think what we will all remember him for is being principled and being an advocate in the eye of the storm. Many times what he advocated was not in the popular poll. And even as he spoke about opening up opportunities that we might be able to participate in the accommodations of hotels and restaurants, I think his mind was thinking even further about how to make this Nation a better place.

And so as we acknowledge in the Flag Code his day by exhibiting the flag in all of our homes, this is a special acknowledgment, that even though you may be going in the eye of the storm and may not have the popular cause, it is right to have the right cause and the principled cause. I think we all can reflect on that now as Dr. King in the waning hours of his life went into Memphis and other places, one, to talk about the Vietnam War and, two, to talk about economic opportunity and prosperity. Now many of us reflect upon his words and his mission to realize that he was right, that we should seek peace in this world, and that we should seek economic prosperity.

So I congratulate the gentleman from Texas and join him in supporting this legislation and would hope my colleagues would support it.

Mr. BENTSEN. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I want to let the gentleman from Texas know how much I appreciate his sponsorship of this and to note that when we sing the Star Spangled Banner, we end up by talking about the land of the free and the home of the brave. There cannot be any finer tribute to Dr. Martin Luther King than when celebrating his day in this country that we display the flag and in a sense confirm his journey for freedom and his journey of bravery.

Mr. CAMP. Mr. Speaker, I rise today in support of H.R. 576, a bill introduced by the gentleman from Texas. The gentleman's legislation would amend the U.S. Flag Code to add the Martin Luther King Jr. Federal holiday to the list of days on which the flag should especially be displayed.

As chairman of the Corrections Advisory Group, it was my pleasure to work with Congressman BENTSEN and the minority ranking member, the gentleman from California, Mr. WAXMAN, and the test of the members of the committee to expedite consideration of this Corrections Day bill.

This bill was favorably reviewed by the Corrections Advisory Group and is fully supported by my colleagues on the other side of the aisle. The advisory group was able to work with the Speaker and the committees of jurisdiction to bring this bill to the floor today.

The Corrections Calendar was formed to provide a special forum to address unnecessary, outdated, and obsolete laws. Bills considered on our Corrections Calendar are first considered by the Corrections Day Advisory Group, which meets periodically to consider various legislative proposals designed to improve the federal government's efficiency and effectiveness.

The standing committee of jurisdiction must then act and report the bill before it can be placed on the Corrections Calendar. Only after the committees of jurisdiction have acted and the Speaker has consulted with the minority leader, can the legislation be placed on the Corrections Calendar.

Mr. Speaker, this bill is clearly a "corrections bill." Every other Federal holiday is listed in the Flag Code, and when Congress approved Martin Luther King Jr. Day in 1983, it was not added to the Flag Code through an unintended oversight. Similar legislation passed the House last year, but because it was passed on the last day of session, did not become law. This year, the Senate has also passed similar legislation, and it is high time to pass this bill and see it become law.

Mr. Speaker, this is a straightforward, bipartisan bill that corrects a glaring error in our Flag Code, and pays due respect to our Nation's greatest civil rights leader. I urge my colleagues to support H.R. 576.

Mrs. MEEK of Florida. Mr. Speaker, I rise in support of H.R. 576—To Amend the Act Commonly Called the "Flag Code" to Add the Martin Luther King, Jr. Holiday to the List of Days on Which the Flag Should Especially be Displayed. This bill adds the Martin Luther King, Jr. holiday to the list of days on which the U.S. flag should especially be flown.

The Martin Luther King, Jr. holiday was established in 1983 as a national holiday to celebrate his birthday. The laws relating to the flag of the United States are found in detail in the United States Code and designate on which national holidays the flag should particularly be flown.

Unfortunately, when the holiday for Martin Luther King, Jr. was designated, Congress inadvertently failed to include additional language in the legislation to list the new holiday in the Flag Code. We stand today to correct this wrong.

Our flag originated as a result of a resolution adopted by the Marine Committee of the Second Continental Congress at Philadelphia on June 14, 1777. The resolution read, "Resolved, that the flag of the United States be thirteen stripes, alternate red and white; that the union be thirteen stars, white in a blue field representing a new constellation." Little did they know when this resolution was passed that Martin Luther King, Jr. would live to represent one of the brightest stars in a new national constellation of freedom, liberty, racial equality and justice.

Mr. Speaker, there are those who have fought for liberty, there are those who have bled for liberty, and there are those who have even died for liberty. Martin Luther King, Jr. died fighting for the liberty of our people. We honor him and his legacy by flying the flag of the United States in memory of this great and shining star.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 576. This bill would amend the act commonly called the "Flag Code" to add the Martin Luther King, Jr. Holiday to the list of days on which the Flag should especially be displayed.

Our flag is more than scraps of colorful cloth because it symbolizes the country itself. On Monday, June 14th, our nation celebrated the 222nd birthday of the U.S. Flag. Since the adoption of the Stars and Stripes pattern by the Continental Congress our flag has been a symbol of unity. Unifying people of different backgrounds under a singular banner. Our Flag is recognized as a symbol of freedom and justice throughout the world.

When the flag was first adopted in 1777, the U.S. Continental Congress justified the flag's attributes this way: "White signifies purity and innocence; Red, hardiness and valor; Blue signifies vigilance, perseverance and justice," with the stars forming "a new constellation." With a description like that, it's no wonder that many associate the same values represented in the Flag with the activities of Martin Luther King, Jr. Dr. King's life was a unifying force during the civil rights struggle.

Dr. King's beliefs and actions are at the core of what it means to be an American. His words and actions changed American history and have left a lasting legacy for future generations to follow. King battled desegregation in Birmingham, recited his dream of racial harmony at the rally in Washington, marched for voting rights in Selma, Alabama, and provided inspiration for all Americans. I congratulate Mr. BENTSEN on his sponsorship of the legislation.

Mr. Speaker, I ask all my colleagues to support this bill.

Mr. BENTSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the rule, the bill is considered read for amendment and the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

☐ 1430

The SPEAKER pro tempore (Mr. STEARNS). The question is on passage of the bill.

The question was taken; and (three-fifths having voted in favor thereof) the bill was passed.

A motion to reconsider was laid on the table.

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 322) to amend title 4, United States Code, to add the Martin Luther King Jr. holiday to the list of days on which the flag should especially be displayed, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. BENTSEN. Reserving the right to object, Mr. Speaker, I yield to the gentleman from Florida (Mr. McCOLLUM) for an explanation.

Mr. McCOLLUM. Mr. Speaker, this text is virtually identical to the Martin Luther King corrections bill we just passed in the House. It has already passed the Senate. This way we can send it immediately to the President, and it becomes law, and it is purely technical in that regard. But I thank the gentleman for yielding.

Mr. BENTSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 322

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITION OF MARTIN LUTHER KING JR. HOLIDAY TO LIST OF DAYS.

Section 6(d) of title 4, United States Code, is amended by inserting "Martin Luther King Jr.'s birthday, third Monday in January;" after "January 20;".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 576) was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not before 6 p.m. today.

FEDERAL LAW ENFORCEMENT ANIMAL PROTECTION ACT OF 1999

Mr. McCOLLUM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1791) to amend title 18, United States Code, to provide penalties for harming animals used in Federal law enforcement, as amended.

The Clerk read as follows:

H.R. 1791

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Law Enforcement Animal Protection Act of 1999".

SEC. 2. HARMING ANIMALS USED IN LAW ENFORCEMENT.

(a) IN GENERAL.—Chapter 65 of title 18, United States Code, is amended by adding at the end the following:

"§ 1368. Harming animals used in law enforcement

"(a) Whoever willfully and maliciously harms any police animal, or attempts to conspires to do so, shall be fined under this title and imprisoned not more than one year. If the offense permanently disables or disfigures the animal, or causes serious bodily injury or the death of the animal, the maximum term of imprisonment shall be 10 years.

"(b) In this section, the term 'police animal' means a dog or horse employed by a Federal agency (whether in the executive, legislative, or judicial branch) for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of criminal offenders.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 65 of title 18, United States Code, is amended by adding at the end the following new item:

"1368. Harming animals used in law enforcement.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. McCOLLUM) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. McCOLLUM).

GENERAL LEAVE

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H.R. 1791, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

The Federal Law Enforcement Animal Protection Act of 1999 was introduced by the gentleman from Illinois (Mr. WELLER) and passed both the Subcommittee on Crime and the full Committee on the Judiciary by voice votes. This bill proposes to add a new section to the Federal Criminal Code that would make it a crime to willfully and maliciously harm any police animal or attempt to conspire or attempt or conspire to do so. The bill defines police animal as a dog or horse employed by a Federal agency for the principle purpose of detecting criminal activity, enforcing the laws or apprehending criminal offenders.

Under current law, harming an animal used by the Federal Government for law enforcement purposes can only be punished under the statute that punishes damage to government property. The statute imposes punishment based on the value of the damage done in monetary terms. Under that statute a criminal who kills a police dog might receive only a misdemeanor sentence due to the low monetary value of the dog; but, as we all know, the government spends a considerable amount of time and money to train these animals. And the government employees who use these dogs during the course of their law enforcement work often form a close bond with them, and so their work can suffer when the animal they work with each day is harmed.

In many cases these animals have prevented harm to citizens and even saved the lives of children, and so it is appropriate that we punish criminal acts towards these animals more harshly than we punish damage done to inanimate government property. Under the bill, the maximum punishment that could be imposed for harming a police animal is 1 year in prison. If the offense permanently disables or disfigures the animal or results in the serious bodily injury or death of the animal, the maximum punishment that can be imposed increases to 10 years imprisonment.

I support the bill. I believe the bill strikes the right balance. I thank the gentleman from Illinois (Mr. WELLER) for his leadership in bringing this issue to the attention of the Committee on the Judiciary, and I urge all my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Under current law, Mr. Speaker, as the gentleman has indicated, damage from an animal owned by the Federal Government is punishable as destruction of Federal property. More specifically, willful harm to an animal owned by the Federal Government whose damage or injury is valued at less than a thousand dollars and results in a 1-year maximum imprisonment if the damage exceeds the thousand dollars, the maximum punishment is 10 years.

One problem with the provision is that police dogs rarely have a technical value which exceeds a thousand dollars, so no matter how vicious or cruel the offense, under current law the felony provisions cannot be invoked. H.R. 1791, the Federal Law Enforcement Animal Protection Act of 1999, would make it a crime to willfully harm any police animal or attempt to do so. The maximum punishment would be 1 year imprisonment unless that harm inflicted disables or disfigures the animal, in which case the maximum penalty would increase to 10 years.

At full committee markup, the amendments were offered to specify that we are talking about an act done out of malice to the animal as opposed to simply responding to an attack by the animal and to establish a clear line between the felony injury and the misdemeanor. The amendments were accepted and were incorporated in the bill as we are now considering it.

With those changes, Mr. Speaker, I support H.R. 1791.

Mr. Speaker, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. WELLER), the author of this bill.

Mr. WELLER. Mr. Speaker, I particularly want to thank my friend, the gentleman from Florida (Mr. MCCOLLUM) for his help and assistance in moving this legislation forward.

Mr. Speaker, it is a simple question. Is it right that Federal law enforcement animals, dogs and horses, have no more protection under the law than a computer or a government desk? Is it right that if one maims or kills a drug sniffing dog that they are held no more accountable than if they smash a chair?

Well, under current law that is true. It is exactly the case, and our federal law enforcement animals, both dogs and horses, are afforded no more protection under the law than a piece of furniture. Today these highly-trained animals are covered under the same statutes that deal with the destruction of government property. While this is a tool, the problem with the destruction of government property statute is that it is very hard to prosecute in cases where a dog or horse is injured or assaulted but not killed. Additionally, the current statute does not include any mandatory jail time for those who would injure or kill these valuable animals.

Our legislation cosponsored with my friend, the gentleman from New Jersey (Mr. ROTHMAN), H.R. 1791, the Federal Law Enforcement Animal Protection Act which was drafted in cooperative effort with United States Border Patrol, United States Customs Service, United States Park Police, and other agencies as well as the Humane Society of the United States will address these problems. H.R. 1791 will use the same fine structure as the current destruction of government property statute but will add two sections to current law, one for assaults on police animals and one for disablement, disfigurement or death of the animal.

For the lesser assault violation, offenders will be subject for a fine of up to $1,000 with mandatory jail time of up to 1 year. For the more serious offense of death or disfigurement, violators will be subject to a fine in excess of $1,000 with mandatory jail time ranging from 1 to 10 years.

All federal law enforcement animals and all three branches of government will be covered by H.R. 1791 from the horses used in law enforcement here in Washington on the mall or at the Grand Canyon to agricultural inspection canines and drug-sniffing dogs used by the Customs Service and Border Patrol. These are highly trained animals and they are often a human officer's first line of defense when fighting crime. Federal canines, Federal police dogs cost the taxpayers up to $20,000 to train, up to $3500 to purchase and over a thousand dollars a year to feed and keep healthy every year. Park police tells me that it costs them almost $2,500 a year also to keep their horses maintained and healthy as well.

To illustrate the value of these animals who are a human officer's first line of defense in fighting drugs and other crimes, let me give these statistics:

In 1998 alone, 164 canine teams of the Border Patrol apprehended over 32,000 illegal aliens, uncovered over 4 tons of cocaine, 150 tons of marijuana, and over $2 million in illegal drug moneys. Customs Service canines have had similar success with 627 canine teams serving over 75 locations nationwide including most of our international airports and port cities. Customs Service has canine teams stationed at O'Hare Airport, my home State of Illinois, and it has also come to my attention that the Eleventh Congressional District which I have the privilege of representing is a source where federal law enforcement agencies go to get canines from local breeders in my home State of Illinois.

Mr. Speaker, just take a moment and listen to the people who know firsthand the value of these animals. Russ Hess, Executive Director of the United States Police Canine Association wrote me back in May, and I quote, the increase in assault on law enforcement animals is at an all time high. In 1998, we had eight dogs killed in the line of duty. The passage of H.R. 1791 will increase the penalty for injuring or killing these valuable animals.

Wayne Pacelle, of the Humane Society of the United States, writes quote, Officers often spend more hours of the day with their police animals than with family. As the first line of defense for an officer, police animals daily put themselves in dangerous positions on behalf of their officer and ultimately our communities as a whole.

Mr. Speaker, this is not ground breaking legislation. In fact, we here in the Congress at the Federal level are behind the eight ball. Already 27 States have similar laws on the books to protect their local and State law enforcement animals particularly police dogs. Fortunately, attacks on our federal law enforcement animals are not widespread; but, unfortunately, they are on the rise. In fact, just last week my office received a call from the United States Park Police because one of their dogs, one of their canines, was injured by a suspect attempting to flee arrest.

Passage of H.R. 1791 sends a strong message to the thugs who will think of causing harm to our law enforcement animals. Let us make it clear. Someone hits or kills a law enforcement animal, they go to jail just as if they hit any other law federal enforcement officer.

Mr. Speaker, this is good bipartisan legislation with a wide spectrum of support. I particularly want to thank my colleague, the gentleman from New Jersey (Mr. ROTHMAN) and the gentleman from Ohio (Mr. CHABOT) who both serve on the Committee on the Judiciary and helped move this legislation along. I also want to thank the gentleman from Florida (Mr. MCCOLLUM) and the gentleman from Illinois (Mr. HYDE) as well as the gentleman from Michigan (Mr. CONYERS) and the gentleman from Virginia (Mr. SCOTT) and their staffs for their quick action on H.R. 1791.

I also want to thank the assistance of director Carl Newcombe, the Customs Service Canine Center; associate chief, Bill Carter; and Manny Flores of the United States Border Patrol; Wayne Pacelle of the Humane Society; Russ Hess, United States Police Canine Association; and the officers of the Park Police and the U.S. Capitol Police who have helped with this legislation.

Mr. Speaker, our federal law enforcement has asked for this tool. I ask that this House answer their call and pass H.R. 1791 today. Please vote to hold accountable those who would maim, wound, or kill a police dog or police horse, Mr. Speaker.

Mr. SCOTT. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. ROTHMAN), a distinguished member of the Committee on the Judiciary and a cosponsor of the legislation.

Mr. ROTHMAN. Mr. Speaker, I first want to begin by thanking my dear colleague, the gentleman from Illinois (Mr. WELLER). He put together a wonderful bill to help protect Federal law enforcement animals, invited me to get on right away, and we worked together with our Subcommittee on Crime chair, the gentleman from Florida (Mr. McCOLLUM), and our ranking member, the gentleman from Virginia (Mr. SCOTT), and the entire committee to move this piece of legislation forward in a bipartisan manner.

□ 1445

Last week, we did the Patients' Bill of Rights in a bipartisan manner. This week we are going to do the Federal Law Enforcement Animal Protection Act in a bipartisan manner. Who knows what is next? Hopefully, this is the start of something good.

Mr. Speaker, I rise in support of H.R. 1791, the Federal Law Enforcement Animal Protection Act. Most people think of those who protect us in law enforcement as dedicated men and women who put their lives on the line daily, make innumerable sacrifices, take enormous risks, put their families and their lives in jeopardy, and that is true. They represent the thin, blue line that separates civilized society from anarchists and criminals; and we have to do all in our power to give law enforcement people the tools, the resources, and the support that they need to do their job.

But there are other living creatures who assist us in our law enforcement endeavors, and they are the dogs and the horses who work with our law enforcement personnel to sniff out drugs, to apprehend the bad guys who are fleeing the scene, and to otherwise keep order in our society.

Mr. Speaker, I spoke this morning at a high school in Wallington, New Jersey, and among the many other things we talked about, I told them I was coming today to work with the gentleman from Illinois (Mr. WELLER) and my other colleagues to pass this Federal Law Enforcement Animal Protection Act to protect those dogs and Federal police dogs and horses who are intentionally injured or killed by criminals. And they said, gee, is that not a law already? And I said, well, no, it is not. It is the law in several States in the United States, but it has never been the law of the land, the Federal law.

So I thank the gentleman from Illinois (Mr. WELLER) and others for bringing this matter to our attention, allowing us to work to put this matter finally to rest, to protect those brave police animals who do so much for our society.

Mr. Speaker, it is not just the cost of the animals, which is significant in a tight budget; there are tight budgets of the Federal level, State, county and local, and we know that there is a significant investment of thousands of dollars in the purchase and the training of police dogs and police horses. It is also the time and the energy of the humans who have to train them, care for them, and oversee their well-being, as well as lead them in the course of their daily work.

But beyond the mere costs, we can also, I think, recognize that these are the lives of animals. And so while this is a bill for law enforcement, to give law enforcement the tools, protect their resources that these animals certainly are, it is also to recognize that these are living creatures that we want to protect, not just like a desk or a chair that a criminal would destroy to flee a crime or to obstruct a pursuit of law enforcement men and women who are following him or her, but these are police animals who we want to protect as well.

So this law would give the discretion to a judge to impose a fine of up to $1,000 and the discretion to impose some kind of jail time if the animal was disabled or died, and that that was the intention of the perpetrator, to injure or disable or kill the animal. The offender would be subject to a fine not in excess of $1,000 and will be imprisoned for up to 10 years in the discretion of the judge.

Again, this is a law that was a long time in coming, and certainly very necessary. We live in a very dangerous, hostile world with lots of problems facing the United States of America. We have lots of problems here at home, and we need to deal with them as well. Last week was the Patient's Bill of Rights, and now the Federal Law Enforcement Animal Protection Act. Hopefully, we will get together in a bipartisan fashion to do who knows, maybe even to pass a budget.

Mr. Speaker, I strongly support H.R. 1791, and I thank my colleagues for their support as well, and I urge the entire House to do the same.

Mr. FARR of California. Mr. Speaker, I rise in support of H.R. 1791, the Federal Law Enforcement Animal Protection Act. This is a good bill because it enables us to convict criminals for harming police animals. As part of their job, police animals risk their lives side-by-side with their human partners in law enforcement. These animals patrol our national parks, our national borders, our airports, and even our United States Capitol is guarded by 30 K–9 units.

Police officers depend on these animals to do their job and therefore, it is critical that we protect them. The U.S. Border Patrol uses 164 K–9 Teams, which in 1998 alone detected over 4 tons of cocaine, 150 tons of marijuana and over $2 million in drug money. Unfortunately, last year 8 K–9 dogs were killed and many more sustained injuries from attacks while on the job. Mr. WELLER's bill would appropriately penalize this misconduct.

Under current Federal law, Federal K–9s and horses are only protected by the U.S. statutes that govern destruction of government property. Current law places fines of up to $1,000 if the act is under $1,000 with the option of jail for up to 1 year. If the damage exceeds $1,000, then the fine would be in excess of $1,000 with the option of jail for up to 10 years.

The Federal Law Enforcement Animal Protection Act makes it a Federal crime to willfully harm any police animal, or to attempt to conspire to do so. This would include simple assaults, bites, kicks, punches, and plots to injure animals. The penalty would be a fine up to $1,000 and mandatory jail for up to 1 year. The bill also recognizes the important law enforcement function these animals perform, the cost of training to the government, and the bond between handler and animal.

Twenty-seven States have passed similar legislation. The bill passed the Judiciary Committee by voice vote with 25 bipartisan cosponsors. I urge my colleagues to join me in supporting Mr. WELLER's bill.

Mr. SCOTT. Mr. Speaker, I yield back the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from Florida (Mr. McCOLLUM) that the House suspend the rules and pass the bill, H.R. 1791, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

WILLIAM H. AVERY POST OFFICE

Mr. McHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2591) to designate the United States Post Office located at 713 Elm Street in Wakefield, Kansas, as the "William H. Avery Post Office."

The Clerk read as follows:

H.R. 2591

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office located at 713 Elm Street in Wakefield, Kansas, shall be known and designated as the "William H. Avery Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the post office referred to in section 1 shall be deemed to be a reference to the "William H. Avery Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. McHUGH) and the gentleman from Pennsylvania (Mr. FATTAH) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. McHUGH).

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us, H.R. 2591, was introduced by our colleague, the gentleman from Kansas (Mr. MORAN) and is sponsored by each Member of the House delegation from the great State of Kansas, which is pursuant to a long-standing policy of the Committee on Government Reform. This legislation, as noted by the Clerk, designates the United States Post Office located at 713 Elm Street in Wakefield, Kansas as the William H. Avery Post Office.

Mr. Speaker, I want to begin by commending the gentleman from Kansas for his leadership on this issue, for bringing to our attention I think a very, very laudable, worthy designation and express my appreciation as well from the gentleman from Pennsylvania (Mr. FATTAH), the ranking member, and all of the members of the subcommittee and the committee and its Chairman, the gentleman from Indiana (Mr. BURTON), for processing this bill in a very timely manner.

As to the designee, Mr. Avery was born the son of a farmer and rancher near Wakefield, Kansas, in 1911 and attended Wakefield High School in that town. He later graduated from the University of Kansas in 1934, after which he returned home to raise crops and livestock on his family farm. During that time, he served on the local school board.

Mr. Avery was elected to the State House of Representatives and served from 1951 to 1955. He was a Member of the legislative council from 1953 to 1955. Mr. Avery won the Republican nomination for the United States Congress and served in this House from 1955 to 1965. In 1965, the people of Kansas elected him to serve one term as the 37th governor of Kansas. Mr. Avery continues to this day to live in his hometown of Wakefield, Kansas.

Mr. Speaker, it is, it seems to me, especially meaningful to honor a person during his or her lifetime. Quite often, we come to this floor and designate these facilities in honor of someone who is no longer with us and no longer able to be directly aware of our appreciation and the honor that they are about to receive. But in this instance, we are naming a facility in the hometown after a native son, a place which is visited daily by the neighbors and friends of that person, and naming it after someone who is identified with the town literally from birth. I certainly urge our colleagues to honor Governor Avery and this very worthy recipient.

Supporting this bill, the Congressional Budget Office indicates that enactment of the legislation would have no significant impact on the Federal budget and would not directly affect spending or receipts, and therefore pay-as-you-go procedures would not apply. Additionally, the legislation contains no governmental or private sector mandates that are defined in the unfunded mandates reform act, and as such, would impose no costs on State, local, or tribal governments.

In sum, Mr. Speaker, this is a very worthy piece of legislation, a very worthy designee, and I urge all of my colleagues to support it this afternoon.

Mr. Speaker, I reserve the balance of my time.

Mr. FATTAH. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to join with the gentleman from New York in moving today some five postal naming bills. This is the first, and it is indeed an honor for us to have the opportunity to participate. It really provides to the people of Kansas the notice that is appropriate for the service of a former Member by naming this post office, and the majority Chairman has walked through the tremendous public service that Congressman Avery provided, not just his service here in the Congress for more than a decade, but his service as a member of a local school board, his graduation from Wakefield high, his service in the State House, and then finally, his service as governor of the State of Kansas.

I think it is appropriate that we move this naming bill that was introduced on July 2 by the gentleman from Kansas (Mr. MORAN), and as the minority ranking member on the Subcommittee on Postal Service, I want to just offer my thanks to the cooperative working relationship that I have had with the gentleman from New York (Mr. MCHUGH).

And as we will see today, we have moved through the committee a number of these bills that are important not just to the Members who have introduced them but to the memory of those whose names these postal facilities will bear, because it represents I think the continuing hope that there will be others from those communities who will come and provide service, not just here in this House, but in a variety of roles of public service throughout our Nation, and that it is appropriate that the Congress recognize the achievements and accomplishments and the legacy of service of people like the gentleman from Kansas, Mr. Avery, who we honor today through this legislative proposal.

So Mr. Speaker, I thank the gentleman from New York, and I reserve the balance of my time.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume to first respond to the gentleman from Pennsylvania in saying that I value the working relationship we have had, and as he so, I think, accurately noted, the work product of that relationship will be shown on this floor today. It has been both an honor and a pleasure to work with him and the Members on his side who have joined us in putting aside partisan differences in attempting to rather just move legislation that serves the people.

In this instance, as I said, we do have the privilege of joining today in supporting a bill that is very worthy and recognizes a very worthy individual, as well as having with us on the floor today the gentleman who really has led the fight to put this bill together and to bring our attention to this very worthy opportunity.

Mr. Speaker, I yield 4 minutes to the gentleman from Kansas (Mr. MORAN), the chief advocate, chief sponsor of the legislation.

Mr. MORAN of Kansas. Mr. Speaker, I thank the gentleman from New York (Mr. MCHUGH) and the gentleman from Pennsylvania (Mr. FATTAH) for their work on this piece of legislation, and I thank the chairman for yielding me this time.

As indicated earlier, I rise to join my colleagues in recognizing a man who served for 20 years in public service. William H. Avery served as governor of our State and as Congressman for a portion of our State from 1950 to 1960s, and it is my honor to speak on behalf of this legislation which names the post office in his hometown of Wakefield, Kansas.

Bill Avery became the 37th governor of Kansas in 1965, but his public service first began over a decade earlier. However, he never intended to follow a career in politics or government service.

□ 1500

When he graduated from the University of Kansas, the country was in the midst of the Great Depression, so rather than going on to school, he went back to his family farm to raise crops and livestock. He made a life with his wife and four kids on that farm, the same farm that his family had worked since the Civil War.

In these early years he expanded the farm and served on the local school board. At the age of 39, Mr. Avery became involved in politics for the first time when construction of several big dams in our State threatened to take farmland of his and his neighbors out of production. A reservoir was being planned that would take his farm and force relocation of nearly two-thirds of his hometown.

Avery was encouraged to run then for the State House of Representatives, and he won, serving from 1951 to 1955. Effective and well-liked by all of his colleagues, he then went on to serve in the United States Congress in this House for 10 years.

As Governor, Mr. Avery was bold and direct. He took his job in public office very seriously. In his service, Governor Avery worked for everything that was important to Kansas: agriculture, rural communities, water conservation, and education. He was not afraid to make effective but unpopular policy decisions. Avery inherited a deficit when he came to the Kansas State House, and he worked to direct funds towards schools and economic growth. He effectively reformed education, and brought new industry to our State.

After serving as Governor, he became active in the oil and grain industries. Avery also served in both the Department of the Interior and the Agency for International Development.

For those who know Bill Avery, just mentioning his name often brings out a smile or a chuckle, and provokes a personal story about the Governor. Often described as a big, kindhearted, jovial fellow, Governor Avery is an extremely colorful, personable, and funny man.

Having great appreciation for farming and being near the people he grew up with, he returned to Wakefield when he retired in 1980. With his love for horses and agriculture, Avery bought a team of horses, collected a line of antique farm machinery, and worked a small piece of farm ground as a hobby. Members of the Wakefield community fondly tell his stories of antique machinery and his love for agriculture.

One community member recollects that in one parade, the press did not even recognize Governor Avery because he was wearing overalls and a straw hat behind his own team of horses. I have a feeling Governor Avery likes it that way. Bill Avery takes very great pride in being a farmer.

Bill Avery was born and grew up in a farm near Wakefield. Today, at the age of 89, he continues to reside in his hometown in a house overlooking the reservoir that took his farm. He still is active in public policy, and in fact, writes letters to me and other Members of Congress on a regular basis.

Governor Avery was a true farmer and family man who did not let politics change him. I admire both his integrity and his character, and I am honored to pay this small tribute to our Governor Avery.

This bill will name the Post Office in his hometown where he daily goes to collect his mail. I ask that this body pass this legislation.

Mr. FATTAH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think that the previous speaker has laid out for the House ample reason for us to swiftly pass this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCHUGH. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Speaker, I rise in support of H.R. 2591, naming the Post Office for Governor Avery, who also served in the House of Representatives.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have words of appreciation to the ranking member, the gentleman from Pennsylvania (Mr. FATTAH), and also a word of appreciation to the sponsor, the gentleman from Kansas (Mr. MORAN).

Mr. MOORE. Mr. Speaker, I rise today in support of H.R. 2591, legislation introduced by my colleague from Kansas, JERRY MORAN, that would designate the Wakefield, Kansas, post office as the William H. Avery Post Office.

Bill Avery served the people of Kansas with distinction in several public offices. Born in Wakefield in 1911, he attended public schools and earned an A.B. at the University of Kansas in 1934. A farmer and stockman since 1935, he became director of the Wakefield Rural High School Board of Education in 1946 and was elected to the Kansas House of Representatives in 1950. While in the legislature, he served on the Legislative Coordinating Council.

Bill Avery was elected to Congress five times, serving from 1955–1965. In 1964, he was elected governor of Kansas, where he served for two years until his defeat for reelection by Robert Docking, who went on to be the only Kansan elected to the governorship four times. During his tenure as governor, Bill Avery tackled several complicated, controversial issues, including enactment of a school funding program which provided broader state support for elementary and high schools through increases in the sales, liquor, cigarette and income taxes, including establishment of state income tax withholding. He also presided over implementation of a school unification statute that closed many rural schools.

After leaving the governorship, Bill Avery returned to Wakefield and became president of Real Petroleum Company. At age 88, he resides in Wakefield today.

I am pleased to cosponsor this legislation with my colleagues from the Kansas congressional delegation and I am glad to take this opportunity to commend Bill Avery for his distinguished career of public service on behalf of his fellow Kansans. I urge my colleagues to support this timely and well-deserved measure.

Mr. MCHUGH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from New York (Mr. MCHUGH) that the House suspend the rules and pass the bill, H.R. 2591.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2591, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

JAY HANNA "DIZZY" DEAN POST OFFICE

Mr. MCHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2460) to designate the United States Post Office located at 125 Border Avenue West in Wiggins, Mississippi, as the "Jay Hanna 'Dizzy' Dean Post Office."

The Clerk read as follows:

H.R. 2460

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office located at 125 Border Avenue West in Wiggins, Mississippi, shall be known and designated as the "Jay Hanna 'Dizzy' Dean Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the post office referred to in section 1 shall be deemed to be a reference to the "Jay Hanna 'Dizzy' Dean Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. MCHUGH) and the gentleman from Pennsylvania (Mr. FATTAH) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MCHUGH).

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to speak briefly on H.R. 2460, legislation that was introduced by our colleague, the gentleman from Mississippi (Mr. TAYLOR) on July 1 of this year, and as consistent, again, with the policy of Committee on Government Reform, it has been cosponsored by the entire House delegation of the great State of Mississippi.

Mr. Speaker, this bill does designate the United States Post Office located at 125 Border Avenue West in Wiggins, Mississippi, as the Jay Hanna 'Dizzy' Dean Post Office. Jay Hanna Dean was born on January 16, 1911. He made his home in Stone County, Mississippi, which is his wife's ancestral home.

Dizzy Dean, as most of us know him by, loved his adopted home and was an ardent supporter of the community of Bond, the city of Wiggins, Stone County, and the State of Mississippi, as a whole. The ancestral home was subsequently donated by Mrs. Dean to the Baptist Children's Village as a home for children in the Bond community of Stone County.

In addition to his outstanding record, his outstanding record as a major league baseball pitcher and a baseball telecaster featuring the major league baseball's Game of the Week, Dizzy made many contributions to his local community which was recognized by the mayor and Board of Aldermen of the city of Wiggins. It was they, Mr. Speaker, who recommended that the newly renovated and expanded post office in Wiggins be named after Dizzy Dean, who died on July 17 in 1974.

Mr. Speaker, I would certainly want to commend the gentleman from Mississippi (Mr. TAYLOR) for working so closely with the community in bringing this bill to the floor. Again, as is true on all of these proposals, I deeply appreciate the cooperation of the gentleman from Pennsylvania (Mr. FATTAH) and the entire Committee on Government Reform for their efforts in this matter.

I would certainly urge our colleagues to support a bill which recognizes, really, to those of us who grew up in the 1950s and 1960s who really spent many, many weekends watching the game of the week, sometimes to the distress of our English teachers, learning a bit of colorful and sometimes creative language from the great Dizzy Dean, to pass this bill and support what I think is a very, very worthy measure.

Mr. Speaker, I reserve the balance of my time.

Mr. FATTAH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to join with the chairman of the Subcommittee on Postal Service, the majority chair, in support of this legislation.

First and foremost, Mr. Speaker, it has been an honor to be able to work with my colleague, the gentleman from Mississippi, who we are going to hear from in just a few minutes, who was the prime sponsor of this legislation.

The gentleman from Mississippi (Mr. TAYLOR) I think represents not just the State of Mississippi but, in many respects, because of his concern in terms of national defense and a whole range of issues relative to the national interest, the best of what this Congress has to provide in terms of legislative leadership. He is principled and committed, and it was a pleasure to be able to help facilitate this bill coming to the floor because it is important to him.

Naming a postal facility is an appropriate honor to bestow upon someone who has done all of the things that we are going to hear about in a minute. I do not want to steal the thunder from the sponsor, but I do want to say that it says something about his life, that his wife would donate the home to the Baptist Children's Village as a home for children. It shows the continuing legacy that I think this naming of a postal facility will add to.

Mr. Speaker, I yield such time as he may consume to the gentleman from the great State of Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, I want to thank the chairman of the committee and the ranking member for their kind words. I want to thank Stacy Ballow from South Mississippi's congressional office for doing the research and putting this together.

Mr. Speaker, Jay Hanna Dean, known by all of us as Dizzy Dean, was elected to the baseball Hall of Fame in 1953. He was possibly the biggest pitching star in the National League in the 1930s. Dean burst onto the major league stage with stunning success, and dominated the league for 5 years.

A beloved figure in the history of the St. Louis Cardinals, Dean first appeared in the major leagues in 1930 at the age of 19, pitching a complete-game victory. He went back to the minors in 1931, and then started full-time with the Cardinals in 1932, winning 18 games for a 3.30 ERA and leading the National League in strikeouts. He gained notoriety not just for his clutch pitching, but also for his colorful personality, which earned him the nickname Dizzy.

That was just the beginning. Dean won 20 games in 1933, leading the league in strikeouts, again, as well as in games completed. He led the league with 30 victories in 1934, then again with 28 in 1935, adding strikeout championships both times.

Dean led the National League in shut-outs in 1932 and 1934, and had an astounding .811 winning percentage in 1934. That is 30 wins and seven losses. He ultimately led the National League for four consecutive years in both complete games and strike-outs. He won the National League most valuable player award in 1934 and, if the Cy Young Award had existed then, he no doubt would have won it at least twice.

Dizzy combined with his younger brother, Paul Daffy Dean, to win four games in the 1934 World Series. The Dean brothers won two games apiece. When Daffy pitched the no-hitter in the series, Dizzy said, "If you had only told me you was going to pitch a no-hitter, I would have pitched one, too."

□ 1515

Dizzy remained at the top of his form in 1936, winning 24 games with a 3.17 earned run average.

Throughout his career, the Cardinals used Dean, not just as a starter, but as a reliever as well. He unofficially led the league with 11 saves in 1936, despite starting 34 games and completing 28. The heavy usage finally caught up with him in 1937. Arm soreness limited him to 25 starts; and though he won 13 games and had a solid 2.69 ERA, it was clear that something was wrong.

An injury he suffered in the 1937 All-Star Game complicated matters. His toe was broken by a line drive off the bat of Earl Averill. Dizzy altered his pitching motion to compensate for the broken toe, injuring his throwing arm in the process. Dean left the Cardinals in 1938 and played for a while with the Chicago Cubs. Dizzy retired as a three-time, 20-game winner who finished with 150 career wins and 30 career saves.

Dean was active for many years as an announcer for radio and television baseball broadcasts for both CBS and NBC during the 1940s and 1950s. He entertained scores of fans with his country twang and erratic pronunciation.

He once said, "I always just went out there and struck out all the fellas I could. I did not worry about winnin' this number of games or that number, and I ain't woofin' when I say that either." He also said, "Them that ain't been fortunate enough to have a gander at 'ole Diz' in action can look at the records."

Dean was born in Lucas, Arkansas, in 1911. He married Patricia Nash of Bond, Stone County, Mississippi. The Deans lived in Mrs. Dean's ancestral home there. Jay Hanna Dean died in 1974. Mrs. Dean later donated their home to the Baptist Children's Village, and it is used today as a home for children in the Bond community of Stone County.

I want to thank young Seth Bond, a student at Perkinston Elementary School in Stone County for bringing this to the attention of the mayor and the Board of Aldermen in Wiggins that Dizzy Dean deserved a fitting local memorial in recognition of his life, accomplishments, and efforts on behalf of Stone County.

Wiggins is the county seat of Stone County, and the city officials and citizens of the county saw fit to take young Seth up on his suggestion. They sent me a resolution requesting that the newly renovated and expanded United States Post Office in Wiggins be named in his memory.

I am honored to help out in Seth's request and urge the support of my colleagues of H.R. 2460, a bill to name that facility the Jay Hanna Dizzy Dean Post Office.

Mr. Speaker, the gentleman from New York (Mr. MCHUGH) was correct in saying that the entire Mississippi delegation has sponsored this. But I would like to point out that the great gentleman from Tennessee (Mr. WAMP), the most valuable player in the congressional baseball game, was the sixth cosponsor. I want to thank him for that.

Mr. FATTAH. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Speaker, I think it is good that we name this post office for Dizzy Dean. We pay tribute to many great Americans. Dizzy Dean is a great American. He passed more mail by more major league baseball players than the Postal Service.

So I want to join and I want to commend the gentleman from Mississippi (Mr. TAYLOR) whom I understand worked with his constituent who brought this forward. I commend the Committee on Government Reform for paying tribute to this great American. He is not only a great baseball player; Dizzy Dean is a great American.

Mr. MCHUGH. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Speaker, I rise in strong support of this bill. It is the Federal Law Enforcement Animal Protection Act. It was introduced by our colleagues, the gentleman from Illinois (Mr. WELLER), the gentleman from New Jersey (Mr. ROTHMAN), and the gentleman from Ohio (Mr. CHABOT).

Mr. Speaker, what the legislation would do is it would increase the penalties for harming or killing a Federal law enforcement animal. There are hundreds of animals that are used in our country every day to protect and assist police officers. Every day dogs are used to conduct building searches for suspected explosives, assist officers with raids, find missing people.

Law enforcement officers that work with these animals consider them to be loyal partners who deserve respect and protection for their work. Criminals should not go unpunished for bringing intentional harm to police animals. This legislation sends a message that Federal law enforcement animals are valued and protected by the Federal Government.

Mr. Speaker, I particularly wanted to speak on this bill because I represent a district that has demonstrated its respect for animals in many ways. In August, the canine unit of the Montgomery County Police Department received several protective vests for their police dogs to better protect them during confrontations with criminals or explosives.

In this month, Maryland joins with 27 additional States in passing law enforcement animal protection laws. These States have laws that recognize police animals as valuable members of the law enforcement community. The time is far overdue to give the same Federal protection to our law enforcement animals, that kind of protection that many States already provide.

I am pleased that my colleagues have given support to this valuable legislation.

Mr. FATTAH. Mr. Speaker, we have no further requests for speakers on our side, and I would assume the case to be so on the majority side.

Mr. Speaker, I am pleased to yield back the balance of my time.

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not have any further requests for time. Let me in closing just again thank the gentleman from Pennsylvania (Mr. FATTAH), ranking member, and also to compliment the gentleman from Mississippi (Mr. TAYLOR) again. I appreciate his remarks about, indeed, the great gentleman from Tennessee (Mr. WAMP) as a teammate of his. In the spirit of bipartisanship that we strike on these bills, I will not mention the score of the game in which the gentleman from Tennessee (Mr. WAMP) was rightfully named the MVP. But I think his support of this bill lends an even greater credence.

I urge my colleagues that we support this bill and, indeed, honor a very colorful and very great American.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from New York (Mr. McHUGH) that the House suspend the rules and pass the bill, H.R. 2460.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2460, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

LOUISE STOKES POST OFFICE

Mr. McHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2357) to designate the United States Post Office located at 3675 Warrensville Center Road in Shaker Heights, Ohio, as the "Louise Stokes Post Office".

The Clerk read as follows:

H.R. 2357

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office located at 3675 Warrensville Center Road in Shaker Heights, Ohio, shall be known and designated as the "Louise Stokes Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the post office referred to in section 1 shall be deemed to be a reference to the "Louise Stokes Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. McHUGH) and the gentleman from Pennsylvania (Mr. FATTAH) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. McHUGH).

Mr. McHUGH. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, the bill before us, H.R. 2357, was introduced by the distinguished gentleman from Ohio (Mr. TRAFICANT) on June 24 of this year. Again, it has been cosponsored by the entire House delegation of the great State of Ohio in accordance with our policy on the Committee on Government Reform, which has moved this legislation.

The measure does, indeed, designate the United States Post Office located at 3675 Warrensville Center Road in Shaker Heights, Ohio, as the Louise Stokes Post Office.

Mr. Speaker, H.R. 2357 is a very special bill in that it honors the mother of two very remarkable men. Louise Cinthy Stone Stokes, mother of Louis and Carl, was born the eighth of 11 children of the Reverend Mr. William and Fannie Stone on October 27, 1895, in Wrons, Georgia.

She moved to Cleveland, Ohio, in 1918 where she met and married Charles Louis Stokes, a laundry worker. Charles Stokes died when his two sons were still infants. Louis was but 2 years old, and Carl only 13 months. Louise, now widowed, worked as a domestic worker, and her widowed mother, Fannie, lived with a family and helped with the children. They lived in public housing on meager earnings.

Louise Stokes insisted that her sons get jobs at an early age and that they, most of all, get an education, and they did. Louis Stokes graduated from Case Western Reserve and Cleveland Marshall Law School, and Carl Stokes graduated from Marshall Law School.

Louis served as a civil rights attorney; and, in 1968, he became the first African-American Congressman from Ohio. Also in 1968, Carl became the first African-American mayor of a major U.S. city and later became a United States ambassador.

Louise Stokes was selected Cleveland's Woman of the Year, Ohio Mother of the Year, and received numerous awards from religious and civic organizations throughout her lifetime. The guiding principles of Louis Stokes' life and his brother Carl's were really instilled in them by their mother. It was simply a value of hard work, education, and religion.

I suspect someday, Mr. Speaker, we may be on this floor honoring two very remarkable men in Louis and Carl Stokes, but I think it is most appropriate, before we designate post offices in recognition of their contributions, that we first recognize the woman who, indeed, instilled in them the kind of values, the kind of ethics that brought them to the high pinnacle of public service which we have seen over so many years.

Indeed, Louise Stokes was a remarkable woman, and she fully merits this kind of recognition. I would certainly urge my colleagues to support this bill, H.R. 2357, and place the name upon the post office in Shaker Heights of which all of us, not just the people from that community and the State of Ohio, but all of us as Americans can be very, very proud. She is a dedicated mother and, as I said, a very remarkable woman.

Mr. Speaker, I reserve the balance of my time.

Mr. FATTAH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an opportunity to recognize the extraordinary accomplishments of a woman who embodies the story of literally millions and millions of women throughout our country who struggled against tremendous odds and difficult circumstances to raise children.

Her two sons she raised after their father died, her husband died, when they were very young children. She worked as a domestic worker. She did what was necessary to feed and clothe and educate her children. One became a United States Congressman of some note because, not only was he the first African American to serve the great State of Ohio and the Congress, but a Congressman whose work and accomplishments and achievements are not equaled by many who serve in this House or have served in this House. The other son went on to be the mayor of a major city at a time in which no other African American had ever served in such a capacity.

So it is a remarkable woman that we acknowledge in this naming. But it is a story that is very important to the very fabric of our country that I think is acknowledged through her life's work.

I want to thank the gentleman from the great State of Ohio (Mr. TRAFICANT), the prime sponsor of this bill.

Mr. Speaker, I yield as much time as he may consume to the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Speaker, this is not a day to pay tribute to Carl and Lou Stokes; the first black mayor of a major city, later an ambassador, and Lou Stokes, the first black cardinal on the powerful Committee on Appropriations who used to go on junkets all around the world with the gentleman from Missouri (Mr. CLAY). That is a little off joke here. They are great, dear friends.

I decided to submit this legislation. I had some calls, and they troubled me. What troubled me was that some people felt well, maybe, we name our institutions for America's greatest; and that is exactly why I submitted this legislation.

I want to thank the gentleman from New York (Mr. MCHUGH), and I want to thank the distinguished gentleman from Philadelphia, Pennsylvania (Mr. FATTAH), for giving this its consideration.

This is a great American. She embodies the American experience, specifically the black experience, worked on her hands and her knees so her two boys who lost their father when they were infants could get an education and be somebody. God almighty, if that is not worthy of this designation, I do not know what is, because those two boys just did not get an education, they educated America and the world.

I would like to put across the RECORD a couple quotes, humble words from a humble American. One of them, she said, "There are three principles in our life: religion, education, and hard work." She said, "By God, my boys better learn that."

Another thing she said that impressed me very much is she said, "Yes, it is true I had to work on my hands and knees, but that made me all the more determined that my boys would get an education and would have a better life than me."

She later said the boys are there to do their share. They helped with cleaning and outside tasks, and they did chores just like I did when I was raised on the farm. She said they also had a paper route, and they did errands to help them get some spending money.

She says then later in a quote, "To teach them responsibility when they start making money, I made them pay room rent, not because I wanted that room rent, I wanted them to learn the responsibility, the value of hard work, and nothing comes easy."

But what is not written in that quote, is she saved every penny those two sons gave her and put it towards their education. Yes, I guess it is about Carl. I guess it is about Louis. I think it is about a great American woman, Louise Stokes, and it is fitting this post office be named for her.

Mr. FATTAH. Mr. Speaker, I thank the gentleman from Ohio (Mr. TRAFICANT). With his permission, I ask unanimous consent that the humorous reference to junkets by former and present Members be revised in his remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

□ 1530

Mr. FATTAH. Mr. Speaker, not having any further speakers, I yield back the balance of my time.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not have any further requests for time. I am not sure that any of us could add to the passion and eloquence and I think very fitting comments of the gentleman from Ohio (Mr. TRAFICANT).

If the actions of a truly remarkable woman such as this do not constitute what is a great American, I am not sure we know otherwise. So this is a truly fitting naming bill, and I would urge all of our colleagues to support it.

Mrs. MEEK of Florida. Mr. Speaker, I am pleased to join my colleagues in honoring Louise Cinthy Stone Stokes, the mother of two great men, the late Carl Stokes, Ambassador to Seychelles, and our former colleagues, Representative Louis Stokes.

I had the honor of serving with Louis Stokes on the VA–HUD Appropriations Subcommittee, where he was the ranking Democrat and formerly chairman—as well as the first African-American on the Appropriations Committee. I know that Louise Stokes must have been a remarkable mother, because Louis stokes is truly a remarkable man.

Working with him was like playing in the band with Duke Ellington. A master of the legislative process, he knew every agency and every program and how to make his points with quiet dignity and piercing logic. His focus was squarely on insuring that the government treated people fairly and that it help lift up those who had fallen behind. On issue after issue, from environmental justice in EPA, to fair housing and focused community development in HUD, to aid to HBCU and minority scholarships in the National Science Foundation, to science programs to build competence and get youngsters interested in math and physics in NASA . . . I could go on and on. Louis Stokes left his mark on every single program, bar none. His importance to the African-American community cannot be exaggerated.

Louis Stokes' mother, Louise Cinthy Stone Stokes, was born October 27, 1895, in Wrons, GA. She was the eighth of 11 children of Reverend William and Fannie Stone. She was raised on the family farm where she did the chores that were part of that life and time. Sunday school and church were a main part of their lives.

Louise moved to Cleveland, OH, in 1918. It was here she met Charles Louis Stokes, a laundry worker, and they were married July 21, 1923. From their union two fine sons were born; Louis and Carl. The young husband died early in their marriage, when the boys were 2 years and 13 months, respectively. Louise's widowed mother came to live with her to look after her family while she worked.

Three principles guided the Stone and Stokes families: Religion must be central in a person's life; education is the way to come up and go places, and the value of hard work. Whenever she talked of her 40 years as a domestic worker, she would say, "I had to work with my hands and this made me all the more concerned that my sons get the kind of education I didn't have."

Mrs. Stokes raised her sons in Cleveland public housing on meager earnings. When times were too difficult during the Depression, the family had to go on federal assistance. She often recalled the $25 a month and said, ". . . that wasn't even rent money." Whenever Mrs. Stokes spoke about the family days, she said it was a case of everyone doing his share. The boys helped with the cleaning and outside tasks. They also had a paper route and did errands to earn spending money. She recalled, "When the boys got their first jobs, I required a certain amount of their earnings as room rent. I wanted them to feel some responsibility for their home." What she didn't tell them is that she saved the money as a nest egg for them. Further evidence of the wisdom of a loving mother at work.

She always told her sons, "Get an education—get something in your head so that you don't' have to work with your hands like I do." The Stokes men did as mother told them. Louis graduated from Case Western Reserve and Cleveland Marshall Law School, served as a civil rights attorney and became in 1968 the first black Congressman from the State of Ohio. Carl Stokes graduated from Marshall Law School, in 1968 became the first black mayor of a major U.S. city and later a U.S. ambassador.

Louise Stokes' love and devotion to her sons gave them a strong foundation to achieve greatness. I am proud to be a cosponsor of H.R. 2357, a bill to designate the Post Office at Warrensville Center Road, Shaker Heights, OH, with her name.

Mr. KUCINICH. Mr. Speaker, it is a great pleasure to honor Mrs. Louise Stokes by designating the Louise Stokes Post Office Building. Louise Stokes was a great American. She raised two sons; one son became a U.S. Congressman, and one son became a mayor. Mrs. Louise Stokes had three themes that guided her life: religion, education, and hard work. She lived her principles and she imparted these guiding principles to her two sons.

The lives of Mrs. Louise Stokes' two sons represent an enduring tribute to her supreme love and care. The careers of Carl and Lou Stokes show that America's progress as a nation is measured not by what we do for the strong, but what we do for the weak; not by what we do for the haves, but what we do for the have-nots. Throughout their careers, Carl Stokes and Lou Stokes fought for voting rights, civil rights, education rights, and housing rights.

Somehwere in America, there is a child living in adverse circumstance, maybe not even having a home. Maybe they are just sitting on a stoop marking the time, wondering if things are ever going to get better in their life, because things are very tough right now. Now, that person in America today could be black, could be brown, could be yellow, could be white. And when he or she is sitting there and feeling low, feeling down, wondering what is going to come and if things could ever get better with their life, they could think about two young African-American children—Carl and Louis Stokes—who were born in poverty, who lived in public housing, who, through the grace of God and a mother who worked for them, were able to move through the ranks, come to power, reach the pinnacle, make American history, and through it all they always remembered where they came from.

I stand here with a great deal of humility, to join in honoring Mrs. Louise Stokes for her life, her accomplishments, her legacy, and her sons. It is fitting to honor her by designating the Louise Stokes Post Office Building.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 2357. This bill designates the post office located at 3675 Warrensville Center Road in Shaker Heights, Ohio as the "Louise Stokes Post Office."

Louise Stokes in the mother of former Representative Louis Stokes and the late Carl Stokes, the first black mayor of a major U.S. city and former ambassador to Seychelles. Louise Stokes, born on October 27, 1895, in Wrens, Georgia moved to Cleveland, Ohio in 1918 where she met and married Charles Louis Stokes in 1923. Louise's husband died early in their marriage, However, Mrs. Stokes was intent on ensuring that her children were provided for. She always told her son "get an education"—get something in your head so you don't have to work with your hands like I do."

The Stokes' boys followed their mother's advice. Both boys graduated from college and went on to law school. Louis Stokes served as a civil rights attorney and in 1968 became the first black Congressman to serve from the State of Ohio. Carl Stokes became the first black mayor of a major U.S. city and later a U.S. ambassador.

Louise Stokes in the ultimate example of how a mother's love can positively impact her children and change the lives of millions of people. Mr. Speaker, I would like to thank my colleague from Ohio, Mr. TRAFICANT for introducing the bill and urge my colleagues to give their full support for its passage.

Mr. McHUGH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from New York (Mr. McHUGH) that the House suspend the rules and pass the bill, H.R. 2357.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2357.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

AUGUSTUS F. HAWKINS POST OFFICE BUILDING

Mr. McHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 643) to redesignate the Federal building located at 10301 South Compton Avenue, in Los Angeles, California, and known as the Watts Finance Office, as the "Augustus F. Hawkins Post Office Building".

The Clerk read as follows:

H.R. 643

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 10301 South Compton Avenue, in Los Angeles, California, and known as the Watts Finance Office, shall be known and designated as the "Augustus F. Hawkins Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Augustus F. Hawkins Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. McHUGH) and the gentleman from Pennsylvania (Mr. FATTAH) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. McHUGH).

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before the House H.R. 643, a bill, as was noted, that was indeed introduced by our colleague, the gentlewoman from California (Ms. MILLENDER-McDONALD), honoring the very distinguished colleague from California, former Representative Augustus F. Hawkins.

I would note, Mr. Speaker, that if some of this sounds familiar, it is simply because the House in fact considered and overwhelmingly passed this bill during its deliberations last year.

Unfortunately, and in no way suggestive of the merits of the bill, the legislative calendar in the other body did not permit them sufficient time to consider it. So we are here again today attempting to rectify that occurrence. For that I want to commend the gentlewoman from California (Ms. MILLENDER-McDONALD) for her tenacity and for recognizing that what was good and owing last year remains so this year, and for the cooperative effort of the gentleman from Pennsylvania (Mr. FATTAH) and all the members of the Committee on Government Reform for once more bringing this House the opportunity to vote on a very worthy naming bill.

The history of Gus Hawkins I suspect in this body is well-known from his birth in Louisiana and his movement with his parents to California in 1918 when he was just 11 years old, a recipient of his AB from the University of California in 1931, with a major in economics, and later his graduation from the University of Southern California in 1932.

After working in the real estate business, he was elected to the California State Assembly, where he served from 1934 to 1963, and later elected to the 88th Congress and to 13 succeeding Congresses running from 1963 to 1991.

Simply put, Mr. Speaker, Gus Hawkins served his constituents of the Watts area of Los Angeles for 48 years in elective office, 28 years in the California State Assembly, and 20 years in the House of Representatives.

He became known at that time for the Humphrey-Hawkins Act, a bill to reduce unemployment, move ahead in job training and employment opportunities for all Americans. He served in this body on various committees and, in fact, rose to be a leader in this House on many issues that were important certainly to the people that he represented but more so to the people of this country.

We have had the opportunity in the past, Mr. Speaker, to honor our former colleagues with this naming for their community service and in this instance, of course, the service to their country.

Certainly, as happened on this House floor last year, I would again urge my colleagues to unanimously support this bill and designate a naming for a very, very worthy American and a great former colleague, Gus Hawkins.

Mr. Speaker, I reserve the balance of my time.

Mr. FATTAH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this measure.

Mr. Speaker, let me say that, on the floor today, we have the gentleman from Pennsylvania (Chairman GOODLING) and the gentleman from Missouri (Mr. CLAY), the ranking member who served in leadership positions on Gus Hawkins's former committee, the Committee on Education and Labor, as it was named then.

These are gentlemen who, like Chairman Hawkins, have dedicated a great deal of their work to education and employment issues. It is appropriate that Gus Hawkins be acknowledged, and in this way the California delegation and particularly the prime sponsor of this have offered the House this opportunity.

His work is acknowledged I think by a lot of people, but many of the people who have been helped by his work may never know his name.

We were together for the 25th anniversary of the Pell Grant bill, which he helped move through. I went to college on a Pell Grant, and so have tens of millions of other young people benefited from his efforts in this regard. So I am pleased to support this measure.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. MILLENDER-MCDONALD), the prime sponsor of this measure.

Ms. MILLENDER-McDONALD. Mr. Speaker, I would like to thank the gentleman from New York (Chairman MCHUGH) for, again, his leadership in bringing this bill to the floor and my dear friend and colleague, the gentleman from Pennsylvania (Mr. FATTAH), for his leadership in helping to bring this bill to the floor.

Mr. Speaker, we are talking about a man who spent 56 years in public service, a man who should have recognition in an area that he worked so hard to bring about a quality of life in the area of Watts. I am pleased to stand here as he listens to me in his home to pay homage to this great man, this educator, this leader of our country.

Mr. Speaker, I rise in yielding and paying tribute to my dear friend and a former member of the House by renaming the Federal building located at 10301 South Compton Avenue in the Watts area of Los Angeles, known as the Watts Finance Office, the Augustus F. Hawkins Post Office Building.

Mr. Speaker, H.R. 643 enjoys the bipartisan support of the entire California delegation, Congressman Hawkins' former colleagues, and complete support of the U.S. Senate.

Mr. Speaker, the Washington Post once called Gus Hawkins one of the most famous unknown men of our day. However, many of us knew him as a quiet fighter for racial justice, social equality, and education for minorities, women, and children.

I can recall when I came to this floor to be sworn in, Gus Hawkins was sitting right here on this floor with me, and he wanted me to so much get on the education committee because for years he and I had worked together in the Los Angeles Unified School District on education and on helping youngsters in the Watts area and in other deprived areas of getting a quality education.

While I could not go on this education committee, I really do appreciate the support that he has given me and indeed the support he has given youngsters throughout this Nation in trying to bring a quality education to those who otherwise would not have had that.

Gus committed his life to serving others, and his 56 years of public service spanned a period that included the Great Depression, World War II, McCarthyism, both the Korean and Vietnam wars, the civil rights movement, and the war on poverty. He witnessed an assassination of a President and the impeachment of another.

He was born in Shreveport, Louisiana, in 1907. When he was 11, he and his family moved to Los Angeles to escape the racial discrimination that was prevalent in the South at that time. His legislative career began in California's State Assembly, where he served for 28 years and was often the legislature's only black member. His record in Sacramento included the passage of the State's first law against discrimination in housing and employment.

He also carried successful State legislation concerning minimum wage and wages for women, child care centers, Workers' Compensation for domestic employees, and the removal of racial discrimination on State documents. This is the type of man he was.

After his remarkable tenure in the State Assembly of California, Gus was elected and sworn as a Member of this body in the 88th Congress in 1962. He served as chairman of the Joint Committee on Printing in the 97th Congress, the Joint Committee in the 97th Congress, as well as the Committee on House Administration in that same Congress. And he served in the 98th Congress as well on that committee before serving as chairman of the Committee on Education and Labor in the 101st Congress.

By and large, Mr. Speaker, Gus Hawkins was known by his colleagues as a hard working, trustworthy, low-key legislator who concentrated on issues of importance to his district, which included the Watts area.

He preferred to do his work behind the scenes and let others capture the headlines. He is the author of more than 17 Federal laws, including the Full Employment and Balanced Growth Act; Title VII of the Civil Rights Act, establishing the Equal Employment Opportunity Commission; the Job Training Partnership Act; the School Improvement Act, which rewrote virtually all major elementary and secondary education programs; and the Civil Rights Restoration Act.

In 1978, he coauthored and passed the Humphrey-Hawkins Full Employment Act, which pledged Federal Government efforts to reduce unemployment by four percent by 1983 if the private sector failed to do so.

The Humphrey-Hawkins can be seen as Gus's great effort, legislative accomplishments, because it established a real blueprint for moving this country ahead in job training and employment, the foundation to every other policy and an area that Gus Hawkins firmly believed that we had to have job training and quality education for quality employment.

Throughout his remarkable career in public service, Gus has championed the rights of children, the poor, the elderly, the working people, and minorities. But the one thing that is so noble about this man, he never forgot who he was and where he came from. Nor did he forget the people whom he served.

It is only fitting that we rise to pay tribute to him by redesignating this Federal building located in Watts. As my friend, the gentleman from Pennsylvania (Mr. FATTAH) said, a lot of children may not get to know him, but they will see his name on a building in the area that he solely wanted to make a better quality of life for all folk.

This Federal building will be located at 10301 South Compton Avenue in the Watts area of Los Angeles, and it will be known as the Gus Hawkins Post Office Building.

I would like to again thank all of my colleagues of the California delegation and all of the cosponsors, which were all the members of the California delegation, as well as other Members of this body, for this legislation and for joining me in a bipartisan fashion to pay tribute to a great man, a great American, a man who will want to be remembered by his friends and colleagues alike as someone who simply loved children. But he not only loved children, he loved the State of California; the State that he was born in, Louisiana; and, of course, he loved this country.

The Honorable Augustus F. Hawkins, distinguished Member of the United States House of Representatives, deserves no less.

□ 1545

Mr. FATTAH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McHUGH. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GOODLING) who has expressed, I think, a very understandable interest in this, a gentleman who served with the designee.

Mr. GOODLING. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, never has a finer gentleman entered the halls of the House of Representatives than Gus Hawkins. He was, and is, a perfect gentleman. I had the privilege and the learning experience of sitting beside him as the ranking member while he was chairman of our committee. My wife and I had the opportunity on numerous occasions to travel with Gus and Elsie, something that we truly enjoyed. Elsie learned a long time ago that to get to Gus's heart, you go through his stomach with some of her homemade apple pie, and I supplied her with the Goodling apples in order to make that apple pie even better.

Truly it is fitting that we honor a great gentleman like Gus Hawkins.

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

I would only state that I think as the gentlewoman from California (Ms. MILLENDER-McDONALD) has persistently now for 2 years in a row and as we heard here today very eloquently stated, along with the gentleman from Pennsylvania (Mr. GOODLING), that this is a very, very worthy recipient of this designation. I would certainly urge all of our colleagues to join us in supporting it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 643, a bill that would designate the Federal building located on 10301 South Compton Avenue in Los Angeles, California, currently known as the Watts Finance Office, as the "Augustus F. Hawkins Post Office Building."

Augustus Hawkins, a former member of this body for many years was born in Shreveport, Louisiana in 1907. When he was 11 years old, he and his family moved to Los Angeles to escape the racial discrimination that was prevalent in the South. It is those experiences that impacted heavily upon his life and prompted him to enter a life of public service.

Augustus Hawkins' career began in the California Assembly where he served for 28 years and was often the legislature's only black member. His record in Sacramento includes the passage of the State's first law against discrimination in housing and employment.

After his remarkable tenure in the Assembly, Gus was elected and sworn in as a Member of the 88th Congress in 1962. He served as Chairman of the Joint Committee on Printing in the 97th Congress, the Joint Committee in the 97th Congress, as well as the Committee on House Administration in the 97th and 98th Congresses before serving as Chairman of the Committee on Education and Labor in the 101st Congress.

Mr. Speaker, I commend my colleague Representative MILLENDER-McDONALD for introducing this bill and urge its passage.

Mr. McHUGH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from New York (Mr. McHUGH) that the House suspend the rules and pass the bill, H.R. 643.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 643, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

JOHN K. RAFFERTY HAMILTON POST OFFICE BUILDING

Mr. McHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1374) to designate the United States Post Office building located at 680 State Highway 130 in Hamilton, New Jersey, as the "John K. Rafferty Hamilton Post Office Building," as amended.

The Clerk read as follows:

H.R. 1374

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF JOHN K. RAFFERTY HAMILTON POST OFFICE BUILDING.

The United States Post Office building located at 680 U.S. Highway 130 in Hamilton, New Jersey, shall be known and designated as the "John K. Rafferty Hamilton Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, regulation, map, document, paper, or other record of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the "John K. Rafferty Hamilton Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. McHUGH) and the gentleman from Pennsylvania (Mr. FATTAH) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. McHUGH).

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this represents the fifth, final but certainly not the least of the proposed naming bills that we will have before us today. Indeed, I think this whole House owes the gentleman from New Jersey (Mr. SMITH) a debt of gratitude for bringing to us what in looking over the life of John K. Rafferty is certainly someone who is totally fitting for this kind of honor.

The gentleman from New Jersey brought this bill to the committee on April 12 of this year and, as with all of the other naming bills, it does bear the cosponsorship of the entire delegation here in the House from the great State of New Jersey. I do not want to undercut the sponsor's comments here in a moment, I know that he will have a great deal to say about Mr. Rafferty, but suffice it to say that he served his community for more than 30 years. He first worked on the Hamilton Committee for 6 years and then became Hamilton's first full-time mayor, serving continuously since 1976. In fact, Mr. Rafferty intends to retire from the office of mayor early next year at the completion of this term.

As we have heard today both in the bills that have been proposed and some of the comments, we would like to think that these post office designations are extended to great Americans. We heard earlier the gentleman from Ohio speaking, I thought, very forcefully about the very appropriate nature of the designation to Mrs. Louise Stokes, as someone who had a profound effect on America and someone who exemplifies what we think constitutes a good and wholesome life as a citizen of this great country. Certainly from the information that I have seen on Mr. Rafferty from the comments and submissions by the gentleman from New Jersey, in fact, Mr. Rafferty is a great American, someone who perhaps is not read about in the national newspapers or heard often about in the national news broadcasts but nevertheless a man who every day wakes up and thinks of one thing first beyond his family and his loved ones and, that is, service to his community, simply working to try to make today a little bit better than yesterday and hopefully tomorrow a little bit better than today. That is a great American.

I want to thank the gentleman from New Jersey for his leadership on this issue. As with all of the naming bills, again my deep appreciation to the gentleman from Pennsylvania (Mr. FATTAH), the ranking member, for not just his cooperation and support but for his leadership as well.

Mr. Speaker, I reserve the balance of my time.

Mr. FATTAH. Mr. Speaker, I yield myself such time as I may consume. I rise in support of H.R. 1374.

First of all I want to thank the gentleman from New York (Mr. McHUGH) who serves as the majority chair. The Subcommittee on Postal Service has had a great deal of responsibility over the course of this session. First, of course, the oversight of the largest postal service anywhere in the world and the finest, some 800,000 employees on a whole range of issues. Our committee has dealt with postal reform in macro. We have been working here more recently on the whole issue of fraudulent solicitation for sweepstakes in a bill that we hope to have considered on the floor very soon.

Some might think for the Congress to take time to honor individuals by naming post offices is some type of work that perhaps we could do in a different fashion, but I think that for this body, the Congress, to take the time to honor a mayor of a town in New Jersey, a widow who raised her children, saw one rise to be a Member of the Congress and another the mayor of a big city, to honor a Republican from Kansas and a Democrat from California and a baseball great is appropriate for this House, to take and pause a minute, because this country is made up of individuals who helped make us what it is that makes the rest of the world want to have some small part of the ideals that are represented here in America represented in their lives.

I want to thank the majority chairman for facilitating these bills coming to the floor. I would like to say we will be back, I am sure, with other legislation that will deal with some of these other matters, but today I think it is important that these were brought forward.

Mr. Speaker, I yield back the balance of my time.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Let me respond to the very, I think, appropriate and certainly gracious comments by the ranking member. I think these designations are worthy of this House floor. Certainly the cooperative effort that he and the members on his side bring to these kinds of initiatives very clearly underscores that. It has been both a pleasure and an honor to work with him. As he noted, we have much work before us that we are looking forward to on other endeavors. We will be back indeed.

Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from New Jersey (Mr. SMITH), the primary sponsor on this bill.

Mr. SMITH of New Jersey. Mr. Speaker, I want to thank my good friend the chairman from New York for yielding me this time and thank the ranking member from Pennsylvania for his very kind remarks about all of those great individuals being honored today but also and especially for Mayor Rafferty from Hamilton Township.

Mr. Speaker, as a member of Congress for the past 19 years, I believe there is no one in the entire State of New Jersey more deserving of recognition and praise than Jack Rafferty, a dedicated mayor, community leader, humanitarian and family man.

Thus, Mr. Speaker, I am privileged to recommend passage of H.R. 1374, cosponsored, as the gentleman pointed out, by the entire New Jersey delegation, a bill to designate the U.S. postal building located at 680 U.S. Highway 130 in Hamilton Township, New Jersey as the "John K. Rafferty Hamilton Post Office Building." Mayor Rafferty, who will be retiring from office in the next few months, has served the people of Hamilton with extraordinary distinction and honor as their mayor since 1976, and for 6 years prior to that time, he served on the Township Committee. Additionally, in 1986 and in 1987, Jack Rafferty served in the New Jersey State Assembly from the 14th District.

It is worth noting, Mr. Speaker, that in 1996, Jack Rafferty was inducted into the New Jersey Mayors' Hall of Fame. In 1997, the next year, the New Jersey Conference of Mayors selected him as the Mayor of the Year, another well-deserved accolade and honor. During his 30 years of dedicated public service, Mayor Rafferty has always been committed to the residents of Hamilton Township for whom he has worked tirelessly and effectively. His caring and commitment to the people of Hamilton never wavered during that service.

Mr. Speaker, Hamilton is a very large community. It is comprised of approximately 90,000 people, covering 39 square miles. Amazingly, Jack knows just about everybody in town and, significantly, he has always treated everyone, friend, acquaintance, stranger, even political opponents, with respect and dignity. He has always had a kind word for everybody and nobody has a better sense of humor than Jack Rafferty.

Mr. Speaker, as Hamilton's first full-time mayor, Jack has blazed a trail unsurpassed in accomplishment while he significantly improved the quality of life in the township, making it an example for other communities in New Jersey and around the country. And he always did it with style, good humor and class. Jack Rafferty was a mayor ahead of his time. In fact he was forging ahead with action items like preserving open space years before other politicians discovered the benefit of this enlightened initiative.

Almost everywhere you look in Hamilton Township, you will recognize Jack Rafferty's legacy and handiwork. From Hamilton's 310-acre Veterans Park, which Mayor Rafferty made a reality soon after being elected, to the botanical beauty of Sayen Gardens, Hamilton today is an oasis in New Jersey, a place set apart, a wonderful community to live and to raise a family.

Mr. Speaker, like other lawmakers at the County, State, and Federal level, I have worked very closely with Mayor Rafferty for years on joint Federal and local project initiatives to improve Hamilton's enviable quality of life. These initiatives include his determined effort to establish a single postal identity for his community to unite its various neighborhoods. In 1992, Mayor Rafferty accomplished this goal when the U.S. Postal Service finally recognized Hamilton as the name to be used when addressing letters to people and businesses. Mr. Speaker, that is why it is so fitting to name this postal facility on Route 130 in Hamilton after the mayor, if it were not for Jack, this postal identity, like scores of other things, would never have become a reality.

Most recently, Jack worked to bring a Northeast Corridor line train station to Hamilton. During the dedication ceremony for the station, Mayor Rafferty spoke with pride about meeting the needs of the growing number of commuters who live in our area, not just in Hamilton but in surrounding communities as well, and he also talked about the big landscaped hedge sign along the Northeast Corridor route that lets people know that they are in Hamilton Township. Quite literally, he put Hamilton on the map.

Mayor Rafferty worked hard, effectively and with a can-do type of vision to develop Hamilton's infrastructure, including its award-winning water pollution control system which has attracted ecology students and teachers from universities along with officials from other municipalities. He knows that a well-built, forward-thinking and properly maintained infrastructure is the key to balancing development, environmental protection and local prosperity.

While Mayor Rafferty realized the importance of roads, highways, and mass transit, he never forgot the life-enhancing advantages that open space and recreation bring to a community. Hamilton now operates several major parks, along with 25 baseball fields, 19 soccer fields, 38 tennis courts, 41 basketball courts and 39 neighborhood playgrounds to serve its residents. Veterans Park itself contains the State's largest municipal playground and the largest public tennis facility and it is the site of the annual SeptemberFest celebration to which over 100,000 people a year visit to enjoy the community of Hamilton. These things do not happen by accident. They are the result of careful planning and careful execution. We have our mayor to thank for it.

Keeping Hamilton beautiful, bursting with trees, shrubs and flowers and fostering a high standard of living has been another Jack Rafferty hallmark. Hamilton has planted 4,000 shade trees since Mayor Rafferty took office and the township continues to plant about 300 per year. Overall, Hamilton now has 3,500 acres of parkland. The infrastructure and open space improvements made by Mayor Rafferty have sparked important nonpolluting commercial growth and provide for a diverse and stable economy in Hamilton.

□ 1600

Along with serving as Hamilton's mayor, Jack has always found the time to be active in numerous civic associations as well, the township's VFW post, the Knights of Columbus, the YMCA, and the Grange Society. Mayor Rafferty also served as president of the New Jersey Conference of Mayors from 1984 to 1986, and as I indicated earlier, was the conference Mayor of the Year in 1997.

Mayor Rafferty received more awards than time permits me to mention on the floor today during his service to Hamilton, but just to name a few: the Young Mens Christian Association Man of the Year in 1992, the Boy Scouts of America Distinguished Citizen Award in 1996, and Project Freedom's Angel Award in 1998.

Mr. Speaker, finally just let me say that I have known Jack Rafferty and his wife Doris and their children, Megan and Daniel, for many years. They have been and are today a great first family. They are caring people. They epitomize what is good and honorable about public service, and they are class personified.

As mayor, Jack will be missed, but always appreciated. I believe that designating the post office on Route 130 as the John K. Rafferty Hamilton Post Office is the least that our citizens can do to say "thank you" to someone who has done so much for so many.

Mr. McHUGH. Mr. Speaker, I have no further requests for time but yield myself such time as I may consume.

Mr. Speaker, I cannot imagine any way in which I can add to the eloquence and the depth of the very appropriate comments by the gentleman from New Jersey (Mr. SMITH), and with that I would simply urge all of our colleagues to join with the ranking member and myself and all of the committee members in sponsoring the gentleman from New Jersey's very worthy initiative.

Mr. TIAHRT. Mr. Speaker, I am pleased to be an original co-sponsor of H.R. 2591, legislation designating the United States Post Office located on Elm Street in Wakefield, Kansas, as the "William H. Avery Post Office". Let me commend Congressman MORAN for sponsoring this legislation which is an appropriate honor well deserved by the recipient.

Mr. Speaker, my wife Vicki and I have enjoyed our friendship with Governor Avery over the past several years, and we are both excited that this honor is being bestowed upon a great public servant and good friend who has always placed the people of the great State of Kansas first.

When I think about the tremendous reputation Governor Avery still enjoys, I think about the moniker given to a past politician: The Happy Warrior. You cannot talk to Bill without feeling his zest for life and his indomitable spirit. It is not unusual to see Governor Avery at an event in Kansas, shaking hands, kissing babies and talking about the latest Republican strategy. Sometimes a few of us in this esteemed Body get tired and frustrated. At those moments I think of Governor Avery, his quick smile, his knowing wink, his kind words, his all-encompassing heart. Always smiling, always moving, always hopeful of the future, but respectful of the past. Governor Avery is truly Kansas's Happy Warrior.

Mr. Speaker I realize that at times the floor of the House can be partisan, and with your indulgence I am going to add to that partisan flame, just a bit. There is one memory I will always cherish, and it occurred in January of 1995. I was a new Member of Congress, full of hope, a little overwhelmed, and flush anticipation of the job ahead.

I had some friends and family in my office and in came Governor Avery. He came up to me and shook my hand, and told me why he had traveled back to D.C. You see Governor Avery is also appropriately called Congressman Avery. He served in this House from 1955–1965. He related to me that when he won his election in 1954, he thought he would be entering a Republican Congress, but he soon learned that the Democrats had regained the majority. Congressman Avery was destined to serve all his tenure in the minority. He always felt a little jilted by history, and that is why he wanted to be on the floor of the U.S. House when the gavel passed. At that moment I realized how fortunate I really was to be entrusted with a job representing the Fourth Congressional District of Kansas, and I realized just how historic a shift in Congress can be.

Mr. Speaker, I hope Governor Avery is enjoying the beautiful Autumn evening back home in Wakefield, Kansas. I want to thank him for all his words of inspiration, his dedication and his enduring attitude. When the history of Kansas is written, it will be as kind to Governor Avery as he has been to anyone who has had the good fortune to know him.

Mr. Speaker, I am honored to be able to call Governor Avery my friend and to help recognize him this day for the many accomplishments he has provided the people of Kansas and this great country.

Mr. McHUGH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from New York (Mr. McHUGH) that the House suspend the rules and pass the bill, H.R. 1374, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the United States Post Office building located at 680 U.S. Highway 130 in Hamilton, New Jersey, as the 'John K. Rafferty Hamilton Post Office Building'."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McHUGH. Mr. Speaker, I ask unanimous consent that all Members may be granted 5 legislative days in which to revise and extend their remarks on H.R. 1374, bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

SENSE OF THE HOUSE URGING 95 PERCENT OF FEDERAL EDUCATION DOLLARS BE SPENT IN THE CLASSROOM

Mr. GOODLING. Mr. Speaker, I move to suspend the rules and agree to the resolution (H.Res. 303) expressing the sense of the House of Representatives urging that 95 percent of Federal education dollars be spent in the classroom, as amended.

The Clerk read as follows:

H. RES. 303

Whereas effective teaching begins by helping children master basic academics, holding children to high standards, using effective, scientifically based methods of instruction in the classroom, engaging and involving parents, creating safe and orderly classrooms, and getting dollars to the classroom;

Whereas our Nation's children deserve an educational system that provides opportunities to excel;

Whereas States and localities must spend a significant amount of education tax dollars applying for and administering Federal education dollars;

Whereas the administrative costs of the United States are twice the average of other countries in the Organization for Economic Cooperation and Development (OECD);

Whereas it is unknown exactly what percentage of Federal education dollars reaches the classroom, but according to the Department of Education, in 1998, 84 percent of the Department's elementary and secondary education dollars were allocated to local educational agencies and used for instruction and instructional support;

Whereas the remainder of the Department's dollars was allocated to States, universities, national programs, and other service providers;

Whereas the total spent by the Department for elementary and secondary education does not take into account what States must spend to receive Federal dollars and comply with requirements, it also does not reflect what portion of the Federal dollars allocated to school districts is spent on students in the classroom;

Whereas American students are not performing up to their full academic potential, despite significant Federal education initiatives, which span multiple Federal agencies;

Whereas according to the Digest of Education Statistics, during the 1995–96 school year only 54 percent of $278,965,657,000 spent on elementary and secondary education was spent on "instruction";

Whereas according to the National Center for Education Statistics, in 1996, only 52 percent of staff employed in public elementary and secondary school systems were teachers;

Whereas according to the latest data available from the General Accounting Office, in fiscal year 1993, Federal education dollars funded 13,397 full-time equivalent positions in State educational agencies;

Whereas in fiscal year 1998, the Department of Education's paperwork and data reporting requirements totaled 40,000,000 "burden hours," which is the equivalent of 19,300 people working 40 hours a week for 1 full year;

Whereas too much of our Federal education funding is spent on bureaucracy, special interests, and ineffective programs, and too little is effectively spent on our Nation's youth;

Whereas getting 95 percent of all Federal elementary and secondary education funds to the classroom could provide substantial additional funding per classroom across the United States;

Whereas more education funding should be put in the hands of someone in a child's classroom who knows the child's name;

Whereas burdensome regulations, requirements, and mandates should be removed so that school districts can devote more resources to children in classrooms; and

Whereas President Clinton has stated: "We cannot ask the American people to spend more on education until we do a better job with the money we've got now.": Now, therefore, be it

Resolved, That the House of Representatives urges the Department of Education, States, and local educational agencies to work together to ensure that not less than 95 percent of all funds appropriated for the purpose of carrying out elementary and secondary education programs administered by the Department of Education is spent to improve the academic achievement of our children in their classrooms.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from Missouri (Mr. CLAY) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

I believe it is important that we go about the work of reauthorizing the Elementary and Secondary Education Act and also appropriating funds for education, that Congress renews its commitment to the principle that education dollars are most effectively spent in the classroom.

Two years ago the Dollars to the Classroom resolution was overwhelmingly supported by this chamber by a vote of 310 to 99. This resolution is a resolution that the gentleman from Pennsylvania (Mr. PITTS) has been tremendously influential in bringing before our committee and then to the floor of the House. It is difficult for me to think of what could be more noncontroversial than Congress recognizing the importance of sending dollars directly to the classroom. We want to make sure every tax dollar we spend on education makes a real difference in the life of a child.

Specifically, the Dollars to the Classroom resolution calls on the U.S. Department of Education to work with States and local school districts to ensure that 95 percent of funds for elementary and secondary education are spent to improve the academic achievement of our children in their classrooms. The United States spends twice as much; I repeat, the United States spends twice as much as any other country to administer education.

Too much is spent on bureaucracy at all levels of government. We need to do our part to make sure that Federal dollars do not enable bureaucracies at State and local levels to grow even larger. We know very little about what proportion of Federal dollars are spent in the classroom. The Department of Education says 84 percent. Others say even less. But we do not need to argue about the exact number.

The evidence of bureaucracy taking away resources from the classrooms are plentiful. For example, more than 13,000 employees are funded with Federal dollars and State education agencies to administer Federal programs. It would take 20,000 full-time employees a year to fill out all of the paperwork produced by the Department of Education. In just the Elementary and Secondary Education Act there are more than 60 programs. Overall there are more than 760 education programs.

I think we can all agree that Congress should be about the business of empowering parents and teachers to do their jobs as effectively as possible, and that means giving them the resources to educate children as effectively as possible. It is time to transform the Federal rule to make it student centered, not program centered, to make it results centered rather than process centered. At the end of the day what is more important is how these programs are working to improve student achievement. We want to make sure that every tax dollar counts and goes to helping children learn. We think this is best accomplished by moving resources to the people who do help children learn, parents and classroom teachers.

Mr. Speaker, I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, all of us agree that it is important to send the vast majority of education dollars to the classroom. In fact, that is exactly what the Federal Government is doing right now according to the new report by the GAO. On September 30, GAO released an analysis of the top 10 education programs and found that the Department of Education distributed over 99 percent of the money to the States.

The States, in turn, distributed an average of 94 percent of the funds they received to local school districts. Far from the bureaucratic nightmare of wasted Federal dollars repeatedly alleged by some in the Republican majority, GAO found that States used their funds on providing technical assistance to local educational agencies, to professional development for teachers, to program evaluation and to curricula development.

Mr. Speaker, GAO also surveyed local school administrators in nine representative school districts and made the following emphatic conclusion, and I quote: "We found that State staffs spent very little time administering the programs and that district office staff also generally spent little time administering them," end of quote.

Mr. Speaker, it is quite ironic that this GAO study was not requested by Democrats, but by the majority, Republican majority. Now I suspect that some of those who requested this study were hoping that it would be a hit job on the Department of Education. Instead, it confirms what we have said all along. The Department of Education spends less than 1 percent of funds on administration.

So I hope that this new GAO report will stop those who would falsely demagogue the administration of the Department of Education programs. We want solutions, not false and empty resolutions. The majority's funding plan for education is in shambles. We should get on with finishing the reauthorization of the Elementary and Secondary Education Act instead of wasting time on this blatant effort to undermine public support for Federal education spending.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. PITTS), who has worked so hard that this money does get down, in spite of what we just heard, to the classroom teacher.

Mr. PITTS. Mr. Speaker, first I want to commend the gentleman from Pennsylvania (Mr. GOODLING) for his leadership and support on behalf of this resolution and all education reform. I just want to mention first of all, in response to the gentleman from Missouri who cited a GAO report, that he did not continue reading from the report. I have a copy of it here. Let me continue reading what he failed to read:

"After saying that collectively the States distributed 94 percent of the Federal funds they received mainly to local agencies," it continues, "excluding the $7.3 billion Title I program, one of the largest elementary secondary education programs. The overall percentage of funds States allocated to local agencies by the remaining 9 programs was 86 percent."

I could read more, but that is the quote used in the resolution.

Also he mentioned the local administrators not complaining. Let me give my colleagues a quote from my school superintendent when he came to present testimony before the Committee on Education and the Workforce. He said, "The direct funding of dollars for classroom teachers' use would put the money in the hands of the people who would make the difference in districts like ours. Who better to decide what is needed in his or her classroom than the teacher."

Another one Dr. Linder Shingo, a superintendent from Georgia: "Administrators from Washington will never meet the needs of individual children. I cast my vote for returning as many dollars directly to the local schools as we are able. Less bureaucracy on all levels would allow more dollars to directly reach the students in the classroom."

In addition, one of the administrators said they do not even bother applying for the Federal funds because of the administrative requirements and the costs to them in the local level and the paperwork and the procedure necessary to apply for the Federal funds.

But, Mr. Speaker, let me go ahead and say that I rise in support, strong support, of the Dollars to the Classroom resolution today, an effort on which we have been working for a couple of years to ensure that our Federal elementary and secondary education dollars get to where they belong, in the classroom of our public schools where teachers who know a child's name has some control over the money.

Overall not a lot, a high percentage of our schools' funding is from the Federal Government. Most of it is State and local government funds, but about 6 to 7 percent does come from the Federal Government, and this is about in a day of tightening tax dollars the need for more efficient and effective use of our tax dollars. Currently, as I mentioned, it is estimated and depending on the programs some more some less, but it is estimated from between 65 to 86 percent of the Federal education dollars make it to the classroom for educational purposes.

Regardless of the exact amount, that is not enough. It is no secret that funds designated for the education of our kids are wasted when they are not funneled down to the level where they can actually play a supportive role in classroom activities, and instead they are often funneled off by bureaucracies at all levels. The importance of this Dollars to the Classroom resolution today is that we should set a standard to reduce bureaucratic and ineffective spending. We should work to get more money into the local classroom. We should prioritize the way we spend our education tax dollars and put children first.

This is about the kids. This is for them. We must get the dollars down to where they benefit, where the action is, into the classroom, and our kids deserve to be the prime beneficiaries of Federal funding. This resolution calls on Federal, State, and local agencies to ensure that 95 percent of the funds are used for classroom activities and services.

What could this mean for our kids? First, it would signal an important systemic shift in how Federal education dollars can be delivered to our Nation's schools. It could mean more books, more textbooks. I have had students from my district share that their textbooks are in some cases older than their teachers. In the words of an eighth grader who was here last year and who spoke, he said quote, "Our geography books are from the 1980s. A lot has happened in the world since then. Instead of calling the books Geography Today, they should be called Geography of the World 15 years ago," end quote.

□ 1615

That is a pretty astute comment for an eighth grader. More dollars to the classroom could also mean more teachers, more teacher aides. This money could be used for teachers' salaries. More dollars to the classroom could mean new computers, computer software, even microscopes so that students have new opportunities of discovery in science and physics and mathematics.

It is a little-known fact that most public schoolteachers now dip into their own pockets to provide supplies for their classrooms, sometimes spending hundreds and even thousands of dollars a year. Yet, consider this fact: according to the General Accounting Office study in fiscal year 1993, Federal education dollars funded 13,397 full-time equivalent positions in State education agencies. In fiscal year 1998, the Department of Education's paperwork and data reporting requirements totaled 40 million of what they call burden hours, which is the equivalent of 19,300 people working 40 hours a week for one full year.

If we are honestly going to discuss our priorities in Federal funding of elementary and secondary education, we must ask why so much funding goes to the bureaucracy instead of going right to the kids in the classroom. With the dollars to the classroom resolution, we aim to put priority back on our kids. This is a goal on which we all can agree. We should vote for the Dollars to the Classroom resolution, recognizing that local schools, not bureaucracies, are best suited to make decisions about allocating resources. They understand their students' backgrounds, their needs; they can respond to them most directly with proven methods of instructions. We should trust the parents and our teachers and our public schools to use money to meet their unique needs. Vote for the dollars to the classroom resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am at a loss to understand why the gentleman would exclude Title I from factoring in the administrative costs when it is the largest education program in the country, $8 billion. And when we factor in the ESEA to Title I funding, my figures are correct. Ninety-nine percent of the Federal money goes to the States, and 94 percent of that goes to the classroom.

The problem the gentleman from Pennsylvania has is with his State agency. IDEA, when we send Federal money to the State, the State keeps 25 percent of it instead of sending it on to the LEAs or the local LEAs or to the classroom. When the national average for that money is 13.5 percent, what is the State of Pennsylvania doing with the other 13.5 percent, the other 12.5 percent? That is where his problem is, and that is where he ought to be trying to get the State legislature to do something about that.

Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. MARTINEZ).

Mr. MARTINEZ. Mr. Speaker, I have to agree with the ranking member, the gentleman from Missouri (Mr. CLAY). The problem is not here in the Federal Government because the Federal Government does send most of the money to the local States and school districts, it is the local States' and school districts' options to do with that money what they will. In fact, there is a contradiction here. They are saying 95 percent goes to the classroom when in fact, more than 95 percent goes to the classroom already, 99 percent goes. The fact is, with this resolution one would think we are opting to give the locals the discretion to use more than the 1 percent they are using now for administration and use the 5 percent for administration, so in actuality, the resolution is counteracting what they are professing to do.

But more than that, the gentleman referred to the GAO study and the GAO study, in actually looking at the schools, it says, in the context of the government as it prepares to consider the reauthorization, and they asked to determine how the educational programs and the administration money was used for, and the final thing it says, we selected nine school districts to ensure that the districts were of varying sizes, were located in different parts of the country, and represented a mix of urban, suburban, and rural districts; and their conclusion was, in visiting the nine schools of the Nation's 16,000 school districts, they found that the school level staff spent very little time administering the programs and their district office staff, which also generally spent very little time administering the programs.

Mr. Speaker, I hate to be here on the floor wrangling about something that gives somebody a '30-second political soundbite that they can use in some way to enhance themselves in saying this is what we do for education. I rise in opposition to this resolution because it is a nonbinding resolution to begin with, and although it urges the Department of Education, the Federal Department of Education, the States and local educational agencies to strive to ensure that 95 percent of all Federal funds appropriated for educational programs are spent to improve academic achievement in the classroom, let me tell my colleagues that in those local school districts where the bulk of the money comes from, they are doing exactly that. They are trying to spend that money in a way that they can guarantee the academic achievement in the classroom of these young children, contrary to what my friends on the other side of the aisle say.

While it is a nice sentiment, I must express my dismay that we are wasting, as the chairman said, valuable time on the floor on this resolution when we could be doing so many other things that are more important such as providing monies for classroom construction in the local schools, something that we have been refusing to do which would go a long way in helping these kids achieve academic fulfillment. We are about 2 weeks into the fiscal year, and we only have about nine of the 13 annual appropriations bills, including the educational appropriations bill, still outstanding.

If the Republicans call for the Federal Government to shut down next week, no Federal money will be going to those classrooms where they want 95 percent to go. In addition, as the gentleman from Missouri (Mr. CLAY) pointed out, according to a recent study that they ordered by GAO that was done at the request of the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from Michigan (Mr. HOEKSTRA) and the gentleman from Pennsylvania (Mr. PITTS), 95 percent of all of the Federal education dollars are already being spent on improving that academic achievement.

So here we are today, wasting time on a resolution that does not do anything because it is nonbinding, urging the Department and the States and the districts to do something that they have already been doing for a good number of years. We in the Congress have a tendency to contradict and let us say over and over again to the public school districts that they are not doing what they should be doing in educating their children. There may be public school districts in some places that need a lot of improvement. But the fact of the matter is, 95 percent of all of the people that sit in this chamber and 95 percent of all of our staff are products of the public schools. If the public schools are so bad, then how did we all get here. I say we ought to let the locals do as they know best as they say so many times and take our nose out of their business.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume. I guess I should ask to have my statement brought back to me, because I cut out all that nonsense political partisanship that was written into it, but maybe after hearing all of this nonsense, I should bring it back and read that too. Obviously, some people have not read the resolution, because the resolution very specifically says that the Federal Secretary should work with State and local officials to bring this about.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. HOEKSTRA), and I ask unanimous consent that he control our time from this point on.

The SPEAKER pro tempore (Mr. STEARNS). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. HOEKSTRA. Mr. Speaker, I thank the chairman for yielding me this time and applaud the chairman for the work that over the years he has done on education. I also thank the chairman for the opportunity that he provided me over the last couple of years to take our subcommittee around the country and hold a series of hearings that we entitled education at a crossroads.

As we went around the country, as we heard from governors, as we heard from local officials, we did hear about the Federal money that goes to the local level, that goes to the State level. We consistently heard about the money that comes to the local level, the money that goes to the State level and how Federal strings are tied to that money. Not necessarily consuming dollars in Washington, but consuming lots of dollars at the State and local level, either in applying for the programs, finding out what programs existed, or meeting the reporting requirements of the various education programs.

So the requests from the States, the requests from the local agencies and the local departments of education was, send us the money, free us from the mandates, free us from the paperwork, give us a system that allows us to focus on educating our kids, free us up so that we can focus on meeting the educational needs of our local communities and our local schools. And that, in the bigger sense, is what dollars to the classroom is about. It is saying that number one, we want to target Federal education dollars to the States and to the local levels, eliminating bureaucracy.

But the larger component of dollars to the classroom encourages the Secretary to take a look at the total picture of the costs that we are imposing on States and local agencies where we are not spending Federal dollars, but where we are spending local and State dollars to meet Federal requirements. We need to endorse the direction of this approach; this is a good proposal, and I urge my colleagues to vote for it.

Mr. CLAY. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I rise in opposition to this resolution. If this was a debate about military policy, this would be like us ignoring the People's Republic of China and declaring war on the British Virgin Islands.

We are here today to discuss a problem that has largely been solved; at the same time, we are ignoring some very real problems in America's classrooms.

The chairman of the committee and the distinguished subcommittee chairman wrote to the General Accounting Office who calls them as they see them. And they said, we have heard all of these concerns that too many dollars are being kept in Washington and spent by the Washington bureaucrats and not getting back to the classroom. Tell us what the facts are. And the GAO did a study of it and the GAO came to this conclusion: in fiscal year 1996, the Department of Education distributed over 99 percent of its appropriations for the 10 programs to the States, the States in turn collectively distributed 94 percent of that money to the local districts.

Then we hear that, well, all the money is really being spent by the local districts in filling out papers and complying with all of these rules. The GAO sent investigators to nine school districts, they did in-depth evaluation and discussion with the personnel in those districts and here is what they concluded: this is not the Democratic Party concluding this or the Republican Party concluding this, this is the GAO, which I think has, as their motto is on the front page, a reputation for dependability and integrity, and here is what they said: we found that school level staff spent very little time administering the programs and the district office staff also generally spend little time administering them.

So it seems to me that we are here discussing, in large part, a problem that exists only in the minds of the majority. Title I, less than 1 percent of the funds spent in Washington. IDEA, less than 1 percent of the funds spent in Washington. The Perkins loan program, nothing spent in Washington. Safe and drug-free schools which the majority tried to eliminate a few years ago, less than 1 percent spent in Washington. Goals 2000, that terrible Federal takeover of our schools that they resisted so violently, less than 1 percent spent in Washington. The school-to-work program, maybe we should take a look at this, 7 percent spent in Washington, 93 in the States; the Eisenhower program, less than 1 percent spent in Washington. Innovative education, nothing spent in Washington, bilingual education, 1 percent; Even Start, 1 percent.

Now, I say to my colleagues, there are some real problems that we ought to be discussing. In my State of New Jersey, children today in over 50 schools went to schools that are more than 100 years old. Children went to 1,000 that were more than 50 years old that are falling apart, yet the majority has not seen fit to bring a school construction bill to this floor. My colleagues may disagree in the majority with school construction, but, Mr. Speaker, let us bring it to the floor and have an honest debate and a vote.

□ 1630

We are discussing the issue of class size reduction. There are children going to kindergarten, first and second grade, in schools with 36 and 37 children. They can learn successfully, but every valid piece of educational research we know says that children tend to do better when they are in with 17 or 18 children in the primary grades.

Bring to the floor legislation that will fund, not just talk about but fund, a class size reduction.

The majority's Committee on Appropriations is apparently about to propose an across-the-board cut in the Labor-HHS appropriation bills that will cut across-the-board Title I, IDEA, Perkins, Safe and Drug-Free Schools, Goals 2000, School-to-Work, Eisenhower, Innovative Education, bilingual, Even Start, and all the rest. So they want 95 percent of a smaller number, I would guess.

Mr. Speaker, this is a well-intentioned amendment, but it talks about a problem that largely has already been solved. I would suggest that we get to work solving one that really exists. Let us put our workers to work in this country building and repairing schools, let us put qualified teachers in every classroom, and let us put ourselves to work on the real issues of education.

Mr. HOEKSTRA. Mr. Speaker, I yield 2½ minutes to my colleague, the gentleman from South Carolina (Mr. DEMINT).

Mr. DEMINT. Mr. Speaker, I am real curious about the facts and statistics that we just heard, because I have been in about 20 schools over the last couple of months, and what I have heard does not bear up to teachers who even yesterday were telling me that they were spending so much of their time dealing with paperwork.

In Ohio, it is estimated that 50 percent of the paperwork burden was generated by Federal education programs, though the Federal resources provided only 5 percent of the funding. In Arizona, Lisa Graham Keegan, the State superintendent for public construction, says that while the Federal programs only account for 6 percent of the education spending in the State, 45 percent of the staff in the State Department of Education work with or manage Federal programs.

I was in a dilapidated school yesterday that would like to renovate, but they cannot because of Federal regs. If they touch one bit of that building, they have to bring the whole building into compliance with ADA, which means it is cheaper to tear it down and build another one than it is to renovate to make it a better building.

The things we do here in Washington, while well-intended, have a stranglehold on our schools. A special education student that is profoundly affected still has an education plan that is six pounds that a teacher has to use. There are only two pages they actually use for that student, but there are six pounds to cover themselves from lawsuits that come from the Federal level.

Mr. Speaker, I rise today in strong support of House Resolution 303, which urges that 95 cents of every Federal education dollar be spent in the classroom. I am a cosponsor of this important resolution because I believe it sets forth the vision that many of us have for education in this country, a vision in America where all children are achieving their fullest potential because they are taught by well-trained teachers in disciplined classrooms filled with educational resources.

Our children's education is most secure when the dollars and decisions are controlled back home by parents and teachers and local school districts. Spending 95 cents of every Federal dollar in the classroom is a worthy and attainable goal to improve education in our country. Our students deserve to have the money that we are setting aside for them actually work for them in the classroom.

The statistics that we hear here by whatever government agency are a far cry from what teachers and principals and people are telling us back home. Let us take our hands off of it and let the system work. Let teachers teach and principals take care of their schools.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am still having trouble understanding this non-debate about this non-educational issue. The very people who requested the GAO to study the problem and the allegations they are making claim that they do not like what they hear. Well, they asked this independent body to report, to study and report. Now, when the body reports back, they say they do not believe it or they do not like it or they do not understand it.

I do not understand what this issue is about. We know that the vast majority of funds from the Federal and State level go into the classroom. I think it is a political issue that they have hyped up and it is backfiring on them, because all credible evidence shows that the money is going into the classroom, so it is a non-issue. This is a non-debate.

Mr. Speaker, I yield back the balance of my time.

Mr. HOEKSTRA. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. Pitts), the sponsor of the resolution.

Mr. PITTS. Mr. Speaker, first of all, it is never a waste of time to talk about the money spent on our kids, educating our kids in the classroom.

As far as the statistics, reading from the gentleman's own report, he says that 99 percent, and I will read the same sentence, it does not say "to the classroom," it says, "distributed over 99 percent of the appropriations from the 10 programs to the States." It does not say "to the classrooms."

Now, if we read down lower on that page, page 3, it says if we exclude Title I, which is the most efficient program, and look at the other nine, we have an average of 86 percent in those nine programs. So from the gentleman's own report, and if the gentleman will look on page 10, it graphs each one as far as what is the administrative cost of the States, the States' use. If we just disregard the Federal use and look at the State agencies on page 10, only two programs meet the 5 percent or below. All the rest are above. That is just what the State administrative costs are, not the local administrative costs.

Our resolution states, "The local education agencies should work together to ensure that not less than 95 percent of all funds appropriated for the purpose of carrying out elementary and secondary education programs administered by the Department of education is spent to improve the academic achievement of our children in their classroom."

So what we are talking about is what is really important here. That is the kids in the classroom. That is what this resolution is all about, how are we going to impact the kids' learning and give the equipment, the tools to the teachers that directly impact the children, give them the aid that directly impacts their teaching so our kids can compete in this world. That is the goal of this resolution. I urge the Members to adopt it.

Mr. HOEKSTRA. Mr. Speaker, I yield myself such time as I may consume.

To close the debate, the direction that we are establishing for Federal involvement for education is that we want to move towards safe and drug-free schools. We want local schools that focus on basic academics. We want local control, and we want to drive dollars back to the classroom. That is where we believe and that is where we know we have the most leverage on improving our kids' education.

This resolution states that. It says that as a Federal Government, we are committed to moving Federal dollars back to the local level, where we can have the most impact. I urge my colleagues to support this resolution.

Ms. WOOSLEY. Mr. Speaker, I'm amazed that my colleagues on the other side of the aisle are supporting legislation to tell local communities how they should spend their education dollars.

Education in America has always been a local issue and I, for one, think it should stay local.

In the communities which I represent in Congress, Communities in Marin and Sonoma County, California, the decisions on how to use education funds are made by locally elected school boards, with input from parents, educators and students.

They don't need Washington, DC telling them where to spend their money!

Every community in my district already spends the majority of its education funds in the classroom.

But, sometimes a community needs to spend funds in other ways, such as teacher training activities, educational technology or coordinated services.

No matter how much money we spend in the classroom, children must come to school ready to learn; teachers need to advance their skills; and students should have the benefit of modern educational technology.

We have always relied on parents, educators and local community leaders to make local education decisions. I urge my colleagues to show their trust in the folks back home by voting against H. Res. 303.

Mr. PACKARD. Mr. Speaker, I would like to urge my colleagues to support H. Res. 303, a resolution which urges that 95 cents of every federal education dollar be send back to where they belong—in the hands of parents and teachers. The Dollars to the Classroom Resolution, H. Res. 303, calls on education agencies at all levels to ensure that 95 percent of federal spending for elementary and secondary education programs makes it into the classrooms of this country.

The Dollars to the Classroom Resolution recognizes the fact that learning takes place in a classroom, and thus student-focused expenditures on direct learning tools, such as books, computers, maps, and microscopes, should be prioritized. H. Res. 303 calls on education agencies to work together to ensure that federal elementary and secondary appropriations are put to use on instructional purposes for youth in classrooms. We must make a commitment to send more education dollars to schools, libraries, teachers, and students—not administrators and federal bureaucrats. The Dollars to the Classroom Resolution will require that 95 percent of federal education funds be used for classroom activities and services.

Mr. Speaker, I urge my colleagues to give teachers and parents the final authority over how education dollars are spent—not the federal government—and support H. Res. 303.

Mr. HOEKSTRA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from Pennsylvania (Mr. GOODLING) that the House suspend the rules and agree to the resolution, House Resolution 303, as amended.

The question was taken.

Mr. HOEKSTRA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HOEKSTRA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 303.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

FATHER THEODORE M. HESBURGH CONGRESSIONAL GOLD MEDAL ACT

Mr. BACHUS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1932) to authorize the President to award a gold medal on behalf of the Congress to Father Theodore M. Hesburgh, in recognition of his outstanding and enduring contributions to civil rights, higher education, the Catholic Church, the Nation, and the global community.

The Clerk read as follows:

H.R. 1932

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Father Theodore M. Hesburgh Congressional Gold Medal Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) Father Theodore M. Hesburgh, C.S.C., has made outstanding and enduring contributions to American society through his activities in civil rights, higher education, the Catholic Church, the Nation, and the global community;

(2) Father Hesburgh was a charter member of the United States Commission on Civil Rights from its creation in 1957 and served as chairperson of the Commission from 1969 to 1972;

(3) Father Hesburgh was president of the University of Notre Dame from 1952 until 1987, and has been president emeritus since 1987;

(4) Father Hesburgh is a national and international leader in higher education;

(5) Father Hesburgh has been honored with the Elizabeth Ann Seton Award from the National Catholic Education Association and with more than 130 honorary degrees;

(6) Father Hesburgh served as co-chairperson of the nationally influential Knight Commission on Intercollegiate Athletics and as chairperson, from 1994 to 1996, of the Board of Overseers of Harvard University;

(7) Father Hesburgh served under President Ford as a member of the Presidential Clemency Board, charged with deciding the fates of persons committing offenses during the Vietnam conflict;

(8) Father Hesburgh served as chairman of the board of the Overseas Development Council and in that capacity led fundraising efforts that averted mass starvation in Cambodia in 1979 and 1980;

(9) Father Hesburgh served from 1979 to 1981 as chairperson of the Select Commission on Immigration and Refugee Policy, which made recommendations that served as the basis of congressional reform legislation enacted 5 years later;

(10) Father Hesburgh served as ambassador to the 1979 United Nations Conference on Science and Technology for Development; and

(11) Father Hesburgh has served the Catholic Church in a variety of capacities, including his service from 1956 to 1970 as the permanent Vatican representative to the International Atomic Energy Agency in Vienna and his service as a member of the Holy See's delegation to the United Nations.

SEC. 3. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, a gold medal of appropriate design to Father Theodore M. Hesburgh in recognition of his outstanding and enduring contributions to civil rights, higher education, the Catholic Church, the Nation, and the global community.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (in this Act referred to as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

SEC. 4. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 3 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 5. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS; PROCEEDS OF SALE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be charged against the Numismatic Public Enterprise Fund an amount not to exceed $30,000 to pay for the cost of the medal authorized by this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sales of duplicate bronze medals under section 4 shall be deposited in the Numismatic Public Enterprise Fund.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alabama (Mr. BACHUS) and the gentlewoman from California (Ms. WATERS) each will control 20 minutes.

The Chair recognizes the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are not only here to honor a great American, a great university president, but in doing that, this Congress is also saluting and paying tribute to the Catholic higher education in America and its significant contribution.

Catholic universities and colleges constitute an extraordinary variety of institutions. The high quality of the education they provide is well known to most Americans, and the contribution they make to the life of this Nation and the world is tremendously positive. So we not only salute a great American, but the gentleman from Indiana, the chief sponsor of the bill, the gentlewoman from California and I and the entire Committee on Banking and Financial Services in doing so wish to salute Catholic higher education in America.

Mr. Speaker, I will be talking about some of those great institutions as we consider this coin.

Mr. Speaker, I reserve the balance of my time.

Ms. WATERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of bestowing the Congressional Gold Medal of Honor to a very worthy and outstanding American. Father Hesburgh was educated at Notre Dame and the Georgian University in Rome, for which he received a bachelor of philosophy degree in 1939. He was ordained a priest by the congregation of the Holy Cross in Sacred Heart Basilica on the Notre Dame campus June 24, 1943 by Bishop John F. Knoll of Fort Wayne.

Following his ordination, Father Hesburgh continued his study of sacred theology at the Catholic University of America, Washington, D.C., receiving his doctorate in 1945. In 1952 he was named the 15th president of Notre Dame, where he served until retiring in 1987, ending the longest tenure among active presidents of American institutions of higher learning.

Father Hesburgh has held 15 presidential appointments over the years, most recently to the U.S. Institute for Peace, and they involved him in virtually all of the major social issues: civil rights, peaceful issues of atomic energy, campus unrest, and Third World development, to name only a few.

His stature as an elder statesman in American higher education is reflected in his 133 honorary degrees, the most ever awarded to any American. Highlighting a lengthy list of awards to Father Hesburgh is the Medal of Freedom, the Nation's highest civilian honor, bestowed on him by president Lyndon JOHNSON in 1964.

Notre Dame's president emeritus has served four Popes, three as permanent Vatican city representative to the International Atomic Energy Agency in Vienna from 1956 to 1970.

Justice has been the focus of many of his outside involvements. He was a charter member of the U.S. Commission on Civil Rights, created in 1957, and he chaired the Commission from 1969 to 1972, when President Nixon replaced him as chairman for his criticism of the administration's civil rights record.

Among his more recent and visible off-campus activities has been as co-chairman of the nationally-influential Knight Commission on Intercollegiate Athletics, and his involvement with the Center for Civil and Human Rights.

□ 1645

There are 292 cosponsors of this legislation, and, of course, it is led by my colleague and friend the gentleman from Indiana (Mr. ROEMER), who has done a magnificent job in helping to organize and focus us on the fact that this human being has contributed so much we need to give him special recognition.

Mr. BACHUS. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. LEACH), the chairman of the Committee on Banking and Financial Services.

Mr. LEACH. Mr. Speaker, I thank my distinguished friend, the gentleman from Alabama (Mr. BACHUS) for yielding me this time, and also thank him for his leadership and that of the gentlewoman from California (Ms. WATERS) and, of course, the gentleman from Indiana (Mr. ROEMER), for bringing this bill before us.

The United States Congress rarely authorizes gold medals. In this case, it is choosing to do so for a man who symbolizes the most profound of American values, a faith-based commitment to civil rights, to quality education, to peace and the processes needed to produce a more civil world. Father Hesburgh is a man of and for all seasons. His life is worthy of admiration and, more importantly, replication. Heroes are many kinds, but if there is such a thing as a hero of faith, it is Father Hesburgh. He has ennobled his church, his university, his country. With this Congressional Gold Medal, we honor his life and his contribution to our times. By so doing, we also pay homage to the role of Catholic education and church leadership in America.

Mr. BACHUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there are approximately 230 Catholic institutions of higher education in our country. There are 600,000 students enrolled in those institutions; and, as I said, there is extraordinary variety in these institutions. They literally are spread across the map of the United States. If one goes to Maine, one will find Saint Joseph's College. If one goes to Honolulu, one will find Chaminade University; if one goes to Florida, one will find Barry University; St. Thomas in Miami. If one goes to Washington State, one will find Gonzaga in Spokane; Seattle University in Seattle, a tremendous number of these institutions making a tremendous contribution.

One of the premier institutions is Notre Dame and it is the president of that institution that we honor today.

Mr. Speaker, I reserve the balance of my time.

Ms. WATERS. Mr. Speaker, I proudly yield such time as he may consume to the gentleman from Indiana (Mr. ROEMER), the chief sponsor of the bill.

Mr. ROEMER. Mr. Speaker, first of all, we would not be here without the strong bipartisan support of the Committee on Banking and Financial Services that has jurisdiction over this issue. I want to thank the gentlewoman from California (Ms. WATERS) for her dedication and her commitment to bringing this bill honoring Father Hesburgh as a Holy Cross priest and the University of Notre Dame to the floor today.

I want to thank the chairman, the gentleman from Alabama (Mr. BACHUS) for his strong support and his commitment to Catholic education. I want to thank the chairman, the gentleman from Iowa (Mr. LEACH), who just had those eloquent words to say. I want to thank the gentleman from New York (Mr. LAFALCE), our ranking member. I also want to thank the Members who helped me get this resolution started. The gentleman from New York (Mr. KING) was very helpful, a Republican; the gentleman from Georgia (Mr. LEWIS), a Democrat; the gentleman from Indiana (Mr. VISCLOSKY), a Democrat; the gentleman from Indiana (Mr. SOUDER), a Republican, those were the people that started talking about many of these issues, and with my good friend who served with Father Hesburgh on the Civil Rights Commission, the gentleman from California (Mr. HORN), who took the case to the United States Congress to honor with distinction, with dedication, with integrity this great man and we now have 292 cosponsors on this bill.

It is interesting, and I say to my colleagues, about the history of the Congressional Gold Medal of Honor, that we have awarded it initially and primarily to military leaders for their bravery. We honored notables in science and math, explorers and space pioneers going up into the heavens. We have honored athletes and we have honored authors and poets and we have honored humanitarians and public servants. People such as George Washington, adorned right here on this wall; John Paul Jones and Charles Lindbergh; Thomas Edison and Jonas Salk garnered this high honor.

What is so unusual about Father Hesburgh, what is so unique about what he brings to this award is not just his devotion and passion for people and for equality and civil rights, it is not just his dedication to public service or his strong feelings about the importance of higher education and ethics and integrity and teaching those things at a Catholic University, but it is the three things that he has done with his life that we honor here today.

It is public service. It is devotion to higher education. It is passionate commitment to religion as a Holy Cross priest.

Now, the gentlewoman from California (Ms. WATERS) and the gentleman from Iowa (Mr. LEACH) and others have talked about these three areas. Let me just spend a bit more time on each of them.

First of all, his dedication to public service. He has held 15 different presidential appointments, and I think among them, the most proud times that I have spent with him at lunch and dinner he has talked so passionately about his charter membership on the U.S. Commission on Civil Rights and how he fought so diligently in the 1960s, with the Kennedy and the Johnson administration, for the passage of the historic 1964 Civil Rights Act. That is something that Father Hesburgh continues to fight hard for and feels passionately about those civil rights for each and every American.

He also joined, in 1971, the Board of the Overseas Development Council; and he led fund-raising efforts on that council in 1979 and 1980 that averted mass starvation in Cambodia. He saved thousands of lives with his commitment to try and prevent starvation and trying to encourage more access to food and relief around the world, especially for Third World nations. He also has been strongly committed to higher education, where he served for 35 years as the President of the University of Notre Dame.

When he came to Notre Dame, I think some had said it was a very good school, with a great football team. Well, today it is an internationally recognized research and teaching institution that attracts the best students and the best faculty and also, by the way, still has a great football team. He continues to emphasize the important things such as moral and intellectual dimensions and faith-based learning at the University of Notre Dame.

He also encourages the students at the University of Notre Dame through the center for social concerns to volunteer in the local community and around the United States, and globally in the world to help fight through volunteerism to make a difference with their lives, not only at Notre Dame but after they leave that institution.

By the way, 80 percent of Notre Dame graduates have volunteered in some capacity before they graduate from the University of Notre Dame.

Finally, the third area that Father Hesburgh has devoted so much of his life to, as a Catholic priest, as a CSC priest and his religious beliefs, he has taught the value of volunteering. He has stressed the issues of social justice, not just in South Bend, Indiana, not just in the United States but in Cambodia, in Africa, in the Middle East, where he continues to be very involved in trying to gain peace and tolerance there.

Father Hesburgh, through fighting for social justice, has always been amplifying the voice of the homeless, has always been advocating the concern of the poor and has always been trying to put a voice out there for those that are voiceless and poor and not able to lobby the government of the United States.

So I have deep admiration for Father Hesburgh, and it is with great joy that this bill, H.R. 1932, comes to the House Floor and that we recognize Father Hesburgh's achievements over the many years.

In conclusion, Father Hesburgh probably was a man for all seasons, a man of many causes, a man of deep devotion to the Catholic church, a man of dedication to higher education, a man of overwhelming commitment to public service and to justice for all.

I thank this body for bringing this bill to the House Floor.

Mr. Speaker, I rise in strong support of H.R. 1932, to award the Congressional Gold Medal to Rev. Theodore Hesburgh, C.S.C. Since I introduced this legislation with Representatives PETER KING, JOHN LEWIS, PETE VISCLOSKY, MARK SOUDER, ANNE NORTHUP and 85 original cosponsors in the U.S. House of Representatives, it has enjoyed strong bipartisan support. Currently, my legislation is cosponsored by 292 of my colleagues.

This bipartisan legislation recognizes Father Hesburgh for his many outstanding contributions to the United States and the global community. The bill authorizes the President to award a gold medal to Father Hesburgh on behalf of the United States Congress, and it also authorizes the U.S. Mint to strike and sell duplicates to the public.

The public service career of Father Hesburgh, president emeritus of the University of Notre Dame, is as distinguished as his many educational contributions. Over the years, he has held 15 Presidential appointments and he has remained a national leader in the fields of education, civil rights and the development of the Third World. Highlighting a lengthy list of awards to Father Hesburgh is the Medal of Freedom, our Nation's highest civilian honor, bestowed on him by President Lyndon Baines Johnson in 1964.

Mr. Speaker, justice has been the primary focus of Father Hesburgh's pursuits throughout his life. He was a charter member of the U.S. Commission on Civil Rights, created by Congress in 1957 as a compromise to end a filibuster in the U.S. Senate to prevent passage of any and all legislation concerning civil rights in general and voting rights in particular. Father Hesburgh chaired the commission from 1969 to 1972, until President Nixon replaced him as chairman because of his criticism of the Administration's civil rights record. Additionally, Father Hesburgh was a member of President Ford's Presidential Clemency Board, charged with deciding the fate of various groups of Vietnam offenders.

In 1971, he joined the board of the Overseas Development Council, a private organization supporting interests of the underdeveloped world, and chaired it until 1982. During this time, he led fund-raising efforts that averted mass starvation in Cambodia in 1979–80. Between 1979–81 he also chaired the Select Commission on Immigration and Refugee Policy, the recommendations of which became the basis of Congressional reform legislation five years later. In 1979, Father Hesburgh was appointed Ambassador to the United Nations Conference on Science and Technology for Development—the first time a priest has served in a formal diplomatic role for the U.S. government.

He was involved during the 1980s in a private initiative which sought to unite internationally known scientists and world religious leaders in condemning nuclear weapons. He helped organize an 1982 meeting in Vatican City of 58 world class scientists, from East as well as West, who called for the elimination of nuclear weapons and subsequently brought together in Vienna leaders of six faith traditions who endorsed the view of these scientists.

Father Hesburg stepped down as head of the University of Notre Dame in 1987, ending the longest tenure among active presidents of American institutions of higher learning. He continues in retirement as much as he did as the Nation's senior university chief executive officer—as a leading educator and humanitarian inspiring generations of students and citizens, and generously sharing his wisdom in the struggle for the rights of man.

During the period of unrest on American campuses, a time when educational leaders were at a loss to understand or deal with the inexplicable reactions of students, people like Father Hesburg stepped forward to explain the ethical purpose and goals of the campus: "Education is essentially a work of the spirit—the formation of intelligence, the unending search for knowledge. Why then be concerned with values? Because wisdom is more than knowledge; man is more than his mind, and without values man may be intelligent but less than fully human."

As a member of the U.S. Institute of Peace Board is presently working to find solutions for Middle East tensions as well as those in Eastern Europe. He recently participated in a fact-finding trip to Kosovo with the U.S. Association for the U.N. High Commissioner for Refugees, to view first-hand conditions facing refugees in the aftermath of last spring's NATO bombing campaign and subsequent UN-peacekeeping efforts. He met with senior members of the UNHCR missions and conducted briefings with NATO, Red Cross and other officials in Pristina. They also traveled in the countryside near Pristina to assess the rebuilding process. He recently collected his 140th and 141st honorary degrees this year, the most every bestowed upon one person, according to the Guinness Book of World Records. The latest came from the State University of New York and Connecticut College.

I am personally grateful to Father Hesburg for his friendship and guidance during my years as a student at the University of Notre Dame. My family shares my gratitude. My grandfather, William Roemer, was a professor of philosophy during the early years of Father Hesburg's presidency, and my parents, Jim and Mary Ann Roemer, also worked during his tenure at the University.

Mr. Speaker, I once asked Father Hesburg for advice about how to raise a happy healthy family with children. His reply was helpful, insightful and advice I continue to follow today: "Love their mother." I strongly believe Father Hesburg's response here was just one of many shining examples illustrating that his contributions to family values in American society are as numerous and meaningful as his devoted contributions to human rights, education, the Catholic Church and the global community.

Mr. Speaker, the Congressional Gold Medal has been awarded to individuals as diverse as George Washington, Bob Hope, Joe Louis, the Wright Brothers, Robert Frost, and Mother Teresa. These people, along with 250 individuals and the American Red Cross, share the common bond of outstanding and enduring contributions to benefit mankind. Through the award, Congress has expressed gratitude for distinguishing contributions, dramatized the virtues of patriotism, and perpetuated the remembrance of great events. This tradition, or authorizing individually struck gold medals bearing the patriots of those so honored or images of events in which they participated, is rich with history.

I believe that this is the most appropriate time for Congress and the entire Nation to join me in recognizing this remarkable man and living legend of freedom in America. I strongly encourage my colleagues to support this bipartisan legislation and urge the House of

Representatives to pass this important measure. I would like to thank my colleagues who have given their support and worked so hard to move this legislation forward. Additionally, I thank the leadership of the House and the Committee on Banking for their support and efforts to expedite consideration of this bill.

Mr. BACHUS. Mr. Speaker, there are 24 Catholic colleges and universities in the State of New York and among them is Saint Francis College in Brooklyn. One of the original cosponsors of this bill is a graduate not only of Saint Francis but also of Notre Dame.

Mr. Speaker, I yield 2½ minutes to the gentleman from New York (Mr. KING).

Mr. KING. Mr. Speaker, I thank the gentleman for yielding, and I want to commend him for the outstanding work he has done in bringing this resolution to the floor.

I also have to pay tremendous gratitude and express a great debt to the gentleman from Indiana (Mr. ROEMER) for the absolutely tireless job he has done in procuring the signatures, of working hard, of making the case of just being relentless in making sure that this resolution went forward and he certainly has every reason to be proud of himself for the great job he has done.

Most importantly, Mr. Speaker, I am very proud to stand up and speak on behalf of this resolution honoring Father Hesburgh. Father Hesburgh is an outstanding educator, an outstanding religious leader, and an outstanding American. As the gentleman from Indiana (Mr. ROEMER) and others have mentioned, he has done a truly magnificent job during the 35 years that he was president of the University of Notre Dame. I had the privilege of being a law student during the time that he was the President of the university and had firsthand knowledge of the tremendous impact he had on the campus, on all the schools, all its efforts but most importantly of imparting to the students of Notre Dame the obligation of the sense that they had to make a difference, that they had to put into practice what they learned, that religion was not just something that one spoke about in church but something that one lived every day of their life in every endeavor in which one was engaged.

Father Hesburgh did that. He did that by his commitment to civil rights, by his commitment to justice, by his commitment to peace, and by his dedication to his country which is why he is such an outstanding American serving President after President on so many issues, always making himself available to make this a better country and to make this a better world.

Certainly, as a religious leader, he realized the importance of using religion to bring people together, not to divide them, of exemplifying the very best of Christianity, of Catholicism, indeed of all religions, in showing the one God that binds us all, that brings us all together. That was Father Hesburgh, a man who even to this day is a renowned leader.

I was at the Notre Dame campus this weekend and even to this day his presence is still there, not just in the bricks and mortar of the enormous library that is named after him, not just the various programs that are named after him but as the gentleman from Indiana (Mr. ROEMER) said, in the spirit of volunteerism that the students at Notre Dame have accepted and have taken from the Hesburgh tradition; the acknowledgment, the realization that they have the obligation to go out and work among their fellow men and women, those who are not as fortunate as they are, to use the abilities and talents that were brought to fruition in Notre Dame on behalf of those less fortunate than themselves.

□ 1700

So to present the Congressional Gold Medal to Father Hesburgh, it is a great moment for Congress, it is a great moment for Notre Dame, it is a great moment for Father Hesburgh, it is a great moment for all of us who have had the opportunity to know him, to work with him, to meet with him, and to realize that he is getting this recognition which he so much deserves. I urge the adoption of the resolution.

Ms. WATERS. Mr. Speaker, I have no speakers, and I yield back the balance of my time.

Mr. BACHUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have several other speakers that wish to be heard. I also want to commend the gentleman from Indiana (Mr. ROEMER).

As I read this statement, I attribute this to the gentleman from Indiana (Mr. ROEMER) and his hard work, and that statement is that H.R. 1932 complies with all rules of the Committee on Banking for coin and medal bills and exceeds the requirement that two-thirds of the Members of the House sponsor the bill.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. HORN), former president of Long Beach State University, who worked with Father Hesburgh.

Mr. HORN. Mr. Speaker, I thank the gentleman from Alabama for the time.

I thank the gentleman from Indiana (Mr. ROEMER) for his legislation to award a Congressional Gold Medal to a very distinguished citizen.

Father Theodore "Ted" Hesburgh is one of the great citizens of America and the World.

He has served at the call of Presidents of both parties.

He was an original member of the United States Commission on Civil Rights, appointed by President Eisenhower in 1957. He served on that nonpartisan commission through the presidency of John F. Kennedy and Lyndon Baines Johnson and the first term of the presidency of President Richard M. Nixon.

Nixon had urged the then President of Notre Dame to accept the directorship of the Office of Economic Opportunity, the anti-poverty program.

When Father Hesburgh rejected the full-time offer because he wished to stay at his beloved Notre Dame, President Nixon then offered him the chairmanship of the Civil Rights Commission which was part-time.

At that time, 1969, the President also appointed me to the Commission as the vice chairman. I had an opportunity to see Father Ted's leadership skills close at hand. Believe me, his leadership skills are many and effective.

Father Ted is beloved by all who have known him. He spoke out for human rights and against dictatorships. He has secured the safety for individuals who had fought for human rights in different parts of the world.

Working together with our other four colleagues on the Commission, we were able to begin a systematic analysis of the degree to which cabinet departments and independent agencies were obeying and implementing the great laws—such as the Civil Rights Act of 1964, and the Voting Rights Act of 1965.

Father Hesburgh's inspirational leadership and steady optimism were appreciated by us all. We got things done. Presidents listened.

Father Hesburgh has served his Nation well, not only on matters of civil rights here and abroad, and unemployment, poverty, hunger and agriculture for developing nations so they can feed their people.

Although duties to American higher education off the campus, his door was always open to students when he was at Notre Dame. When the light was on, students knew he was in and climbed up the ladder or the stairs to his quarters for a 1 a.m. or 2 a.m. discussion on philosophy, ethics, and all the other things that he cared about in higher education.

Of course, with great affection, the students kidded about Father Ted's absence. They would ask "What is the difference between God and Father Ted?" Answer: "God is everywhere. Father Ted is everywhere but at Notre Dame."

Sometimes he would write the student body from "high over the Andes." But the fact was they knew that he was always approachable, both to students and alumni.

His goal was to serve as a parish priest. He had that role to help the veterans from the Second World War who returned or began at Notre Dame. Although he achieved many other accomplishments working with Presidents, Prime Ministers, potentates, kings, queens, dictators, he always remembered that all human begings should have human rights.

America and the World gained much from the dedication and the devotion of the man who saw his role as the local parish priest.

Mr. BACHUS. Mr. Speaker, I yield to myself such time as I may consume.

Mr. Speaker, I will enter into the RECORD a rollcall of the 230 Catholic institutions of higher education in our country. Among these colleges is Georgetown University, our oldest Catholic university, which celebrated its 250th birthday.

The gentleman from Indiana (Mr. ROEMER), the sponsor of this bill, I told him that I once heard a debate between two of my friends as to which was the premier Catholic university, and it was between Holy Cross and Georgetown. I asked them which one of those universities was the premier Catholic university. He told me both of them were wrong, that it was Notre Dame. Of course, the gentleman is from Indiana.

Among these colleges and universities is Spring Hill College in Mobile, Alabama. Spring Hill College was the oldest Catholic college in the Southeast, the fifth oldest in the United States. Among the original cosponsors of this bill today is the gentleman from Georgia (Mr. LEWIS). Spring Hill was praised by Martin Luther King, Jr., as one of the first colleges in the South to integrate racially. As an Alabaman, I am proud of that distinction.

Mr. Speaker, let me mention some of the universities and colleges throughout the Nation which contribute so mightily to the life of this Nation and to the world. I mentioned Georgetown and Holy Cross; Fordham University in New York; St. Louis University; Boston College; Catholic University here in Washington; University of Detroit; the three Loyolas in New Orleans, Los Angeles, and Chicago; DePaul University in Chicago; Marquette University, Creighton University in Omaha; the University of Santa Clara; Villanova, of Saint John's University in New York.

A college that one of my friends went to, and I saw it listed, I take sort of personal privilege in saying Manhattan College, a college that gave many youth on limited income a chance to get ahead with the scholarship.

Many fine women colleges, Catholic colleges for women: St. Mary's College, Notre Dame's sister institution; Trinity College here in Washington, D.C.; and a college that a good friend of mine attended, that being Manhattan in New York.

There are many, many others, but I will simply introduce into the RECORD all 230.

Mr. ROEMER. Mr. Speaker, will the gentleman yield?

Mr. BACHUS. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Speaker, I will not object to the gentleman from Alabama entering into the RECORD all 230 universities as long as Notre Dame is the first university entered in. Is that all right?

Mr. BACHUS. Mr. Speaker, he had told me that. The gentleman from New York (Mr. KING) has requested that Notre Dame also be first on the list with St. Francis College in Brooklyn to be added second. So I will consent to that request.

So I offer the list referred to into the RECORD, moving Notre Dame to the front of the list.

[From the association of Catholic Colleges and Universities, Washington, DC]

U.S. CATHOLIC COLLEGES AND UNIVERSITIES

Albertus Magnus College, Allentown College of Saint Francis de Sales, Alvernia College, Alverno College, Ancilla College, Anna Maria College, Aquinas College, Aquinas College, Inc., Assumption College, Assumption College for Sisters, Avila College, Barat College, Barry University, Bellarmine College, Belmont Abbey College, Benedictine College, Benedictine University, Boston College, Brescia University, Briar Cliff College, Cabrini College, Caldwell College.

Calumet College of Saint Joseph, Canisius College, Cardinal Stritch University, Carlow College, Carroll College, Castle College, Chaminade University of Honolulu, Chatfield College, Chestnut Hill College, Christendom College, Christian Brothers University, Clarke College, College Misericordia, College of Mount Saint Joseph, College of Mount Saint Vincent, College of New Rochelle, College of Notre Dame, College of Notre Dame of Maryland, College of Our Lady of the Elms, College of Saint Benedict, College of Saint Elizabeth, College of Saint Francis, College of Saint Mary, College of Saint Rose, College of Saint Thomas More, The College of Santa Fe, College of St. Catherine.

College of St. Joseph, College of St. Scholastica, College of the Holy Cross, Creighton University, D'Youville College, DePaul University, Divine Word College, Dominican College of Blauvelt, Dominican College of San Rafael, Dominican University, Donnelly College, Duquesne University, Edgewood College, Emmanuel College, Fairfield University, Felician College, Fontbonne College, Fordham University, Franciscan University of Steubenville, Gannon University, Georgetown University, Georgian Court College, Gonzaga University, Gwynedd-Mercy College, Heritage College, Hilbert College.

Holy Cross College, Holy Family College, Holy Name College, Immaculata College, Iona College, John Carroll University, King's College, La Roche College, La Salle University, Laboure College, Le Moyne College, Lewis University, Loras College, Lourdes College, Loyola College in Maryland, Loyola Marymount University, Loyola University New Orleans, Loyola University of Chicago, Madonna University, Manhattan College, Manor Junior College, Maria College, Marian College, Marian College of Fond du Lac, Marian Court College, Marist College, Marquette University.

Marygrove College, Marylhurst University, Marymount College, Marymount Manhattan College, Marymount University, Marywood University, Mater Dei College, Mercy College of Northwest Ohio, Mercyhurst College, Merrimack College, Molloy College, Mount Aloysius College, Mount Carmel College of Nursing, Mount Marty College, Mount Mary College, Mount Mercy College, Mount Saint Clare College, Mount Saint Mary College, Mount Saint Mary's College, Nazareth College of Rochester, Neumann College, Newman University, Niagara University, Notre Dame College, Notre Dame College of Ohio.

Ohio Dominican College, Our Lady of Holy Cross College, Our Lady of the Lake College, Our Lady of the Lake University, Pontifical Catholic University of Puerto Rico, Presentation College, Providence College, Queen of the Holy Rosary College, Quincy University, Regis College, Regis University, Rivier College, Rockhurst College, Rosemont College, Sacred Heart University, Saint Anselm College, Saint Gregory's University, Saint John's University, Saint John's University, Saint Joseph College, Saint Joseph's College, Saint Joseph's University, Saint Leo College, Saint Louis University, Saint Mary College.

Saint Mary's College, Saint Mary's College of CA, Saint Mary's University of Minnesota, Saint Mary-of-the-Woods College, Saint Michael's College, Saint Norbert College, Saint Peter's College, Saint Vincent College, Saint Xavier University, Salve Regina University, Santa Clara University, Seattle University, Seton Hall University, Seton Hill College, Siena College, Siena Heights University, Silver Lake College, Spalding University, Spring Hill College, Springfield College, St. Ambrose University, St. Bonaventure University, St. Catharine College, St. Edward's University, St. Elizabeth College of Nursing, St. Francis College.

St. Francis College, St. John Fisher College, St. Martin's College, St. Mary's University, St. Thomas Aquinas College, St. Thomas University, St. Vincent's College, Stonehill College, The Catholic University of America,

Thomas Aquinas College, Thomas More College, Trinity College, Trinity College of Vermont, Trocaire College, Universidad Central De Bayamon, University of Dallas, University of Dayton, University of Detroit Mercy, University of Great Falls, University of Mary, University of Notre Dame, University of Portland, University of Saint Francis, University of San Diego, University of San Francisco, University of Scranton, University of St. Thomas, University of St. Thomas, University of the Incarnate Word, University of the Sacred Heart, Ursuline College, Villa Julie College, Villa Maria College of Buffalo, Villanova University, Viterbo College, Walsh University, Wheeling Jesuit University, Xavier University, Xavier University of Louisiana.

Mr. Speaker, I want to comment on one other thing about Father Hesburgh, something I did not know about him until I studied about this coin bill, but something that I think is very striking to any of us that were on college campuses in 1969. In fact, not only was I attending the University of Alabama at that time, but I was also a member of the Army Reserves. So this really comes home to me.

Father Hesburgh has received numerous awards from educational groups and from others. We have heard about some of those. Among those was the prestigious John Nickel award given to him in 1970 by the American Association of University Professors. This award, which honors those who uphold academic freedom, recognizes Father Hesburgh's crucial role in blunting the attempt of the Nixon administration in 1969 to use Federal troops to quell campus disturbances.

Now, as someone who was both a university student and also a member of the Army Reserve, I want to commend Father Hesburgh personally. I know that there are a lot of other Americans that applaud his stand on this who know, looking back at this time in history, how great a contribution that was. But we know that it obviously could have avoided some tragic times in our country.

This is one of many, many contributions that he made.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN), Chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I want to commend the gentleman from Alabama (Mr. BACHUS), the gentleman from Indiana (Mr. ROEMER), the initial sponsor of this measure, and for introducing this legislation and for affording me this opportunity to speak today.

I want to commend the gentlewoman from California (Ms. WATERS) for her support on this measure honoring Father Hesburgh.

As a priest, the university president, and a public servant, Father Theodore Hesburgh dedicated his life to providing a better life for all of us and for the development of an improved society. Throughout his lifetime, Father Hesburgh has served on 15 presidential commissions, most recently to the U.S. Civil Rights Commission, peaceful uses of atomic energy, campus unrest, treatment of Vietnam offenders, Third World development, and immigration reform, to name just a few.

Father Hesburgh has significantly contributed to our Nation as a national leader in the field of education, serving on many commissions and study groups, examining matters ranging from public funding of independent colleges and universities to the role of foreign languages and international studies and higher education.

Father Hesburgh's stature as an elder statesman in America's higher education is reflected in his 135 honorary degrees, the most degrees ever awarded to any one American.

Throughout my tenure in the Congress, it has been a pleasure to work with Father Hesburgh to value his distinguished leadership on a number of worthy causes throughout the international spectrum. Accordingly, I am pleased to join with my colleagues in commending Father Hesburgh for his outstanding efforts and accomplishments. I strongly support this recognition of his achievements for our Nation with a Congressional Medal of Honor.

Mr. BACHUS. Mr. Speaker, may I inquire as to how much time we have remaining.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Alabama (Mr. BACHUS) has 1 minute remaining.

Mr. BACHUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when we think of Notre Dame, many of us think of Knute Rockne. They think of the 1913 game when an obscure team from an obscure college at that time, at least obscure to most Americans, played Army and upset them 35 to 13. They think of Knute Rockne and the fighting Irish. They think of that great coach. But that is what we think about on Saturday.

But there is another man we honor today, and that is a man that left his mark on the institution from Monday through Friday, which built Notre Dame into a great academic university. His contributions deserve to be discussed today.

□ 1715

It is for that reason, Mr. Speaker, that this Congress fittingly honors this man, Father Hesburgh.

I would just close by again thanking the gentleman from Indiana (Mr. ROEMER); his companion, the gentleman from Indiana (Mr. VISCLOSKY) in the Indiana Congressional delegation; the gentleman from New York (Mr. KING); the gentleman from Indiana (Mr. SOUDER); the gentleman from Georgia (Mr. LEWIS); and also the gentlewoman from Kentucky (Mrs. NORTHUP).

Mr. SOUDER. Mr. Speaker, I rise in strong support of legislation to award a Congressional Gold Medal to Reverend Theodore Hesburgh in recognition of his outstanding and enduring contributions to civil rights, higher education, the Catholic Church, and the nation. I want to thank my colleague from Indiana, TIM ROEMER, for his initiative in introducing this bill. It has been a pleasure to cosponsor this legislation.

Father Hesburgh is a man known for the wide scope of his influence. However, for me personally as a graduate of the University of Notre Dame, Father Hesburgh will remain etched in my mind as a legendary figure in the field of higher education. The tenacity and passion that he continues to carry into the academic arena are clearly evident.

Serving as Notre Dame's president from 1952–87, Father Hesburgh led the University in its rise to national prominence. When he stepped down as head of Notre Dame—after nearly 35 years—he ended the longest tenure among presidents of American colleges and universities. His position as a fixture in American higher education is reflected in his 135 honorary degrees, the most ever awarded to an American.

Father Hesburgh's influence as an educator goes far beyond measurable successes. His unique vision of the contemporary Catholic university as an institution responsible for touching the moral, as well as the intellectual dimensions, of scholarly inquiry has benefited countless university students—myself included. "The Catholic University should be a place," he wrote, "where all the great questions are asked, where an exciting conversation is continually in progress, where the mind constantly grows as the values and powers of intelligence and wisdom are cherished and exercised." Father Hesburgh instills in students that they have a moral obligation to make a positive contribution to society both inside the classroom as well as in the larger community. Today over eighty percent of Notre Dame students volunteer their time to serve those who are less fortunate.

The public service career of Father Hesburgh is as distinguished as his many educational contributions. Over the years, he has held 15 presidential appointments, served four popes, and he has remained a national leader in the fields of education, civil rights and the development of the third world. The lengthy list of awards honoring Father Hesburgh includes the Medal of Freedom, our nation's highest civilian honor, bestowed on him by President Johnson in 1964. Finally, social justice has been the focus of many of his involvements outside of the university. He was a charter member of the U.S. Commission on Civil Rights, created by Congress in 1957, and chaired the Commission from 1969 to 1972.

Mr. Speaker, as an original co-sponsor of this bill, I strongly encourage my colleagues to join me in bestowing this high honor upon this excellent American.

Mr. LAFALCE. Mr. Speaker, I rise today in support of H.R. 1932, a bill to award a Congressional gold medal to Father Theodore M. Hesburgh, C.S.C., in recognition of his contributions to civil rights, higher education, the Catholic Church, the Nation, and the global community. Before saying more, I would like to commend the bill's author, the gentleman from Indiana (Mr. ROEMER), for his leadership on this bill.

Father Hesburgh was the 15th president of the University of Notre Dame, holding that position from 1952 until 1987, and has been president emeritus since 1987. For half a century, Father Hesburgh has been one of our Nation's greatest public servants and his enormous humanitarian contributions have been widely recognized. In 1964, President Johnson awarded Father Hesburgh the Medal of Freedom, our nation's highest civilian honor.

He has held fifteen U.S. presidential appointments in such areas as the peaceful use of atomic energy, Third World development, immigration (having chaired the Select Commission on Immigration and Refugee Policy from 1979 to 1981), and civil rights (having chaired the U.S. Commission on Civil Rights from 1969 to 1972). In each case, Father Hesburgh has served with distinction.

It is not surprising, given this record of principled, dedicated public service, that the University of Notre Dame founded the Hesburgh Program in Public Service in 1987. The Hesburgh Program seeks to prepare Notre Dame students for an active life devoted to the pursuit of effective and just responses to issues in American society. In short, it encourages young men and women to emulate Father Hesburgh's years of selfless, devoted service.

Moreover, two buildings on the Notre Dame campus bear the Hesburgh name. In 1987, the Memorial Library was renamed the Hesburgh Library in recognition of his active role in the establishment of the library in 1959, the fulfillment of its goals in the years since, and the personal example he has set for Americans young an old as a lifelong learner.

The second building honored with his name is the Hesburgh Center for International Studies. Home to the Joan B. Kroc Institute for International Peace Studies and the Helen Kellogg Institute for International Studies, the Hesburgh Center reflects Father Hesburgh's vital contribution and desire to expand our understanding of the world around us, improve the resolution of violent conflicts, and promote human rights, equitable development, and social justice here and abroad.

It is with the utmost respect and admiration for Father Hesburgh and his life's work that I support today's recognition of his accomplishments which have benefitted our nation and urge unanimous passage of H.R. 1932.

Mr. BACHUS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Alabama (Mr. BACHUS) that the House suspend the rules and pass the bill, H.R. 1932.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BACHUS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1932.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

UPPER DELAWARE SCENIC AND RECREATIONAL RIVER MONGAUP VISITOR CENTER ACT OF 1999

Mr. SHERWOOD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 20) to authorize the Secretary of the Interior to construct and operate a visitor center for the Upper Delaware Scenic and Recreational River on the land owned by the State of New York.

The Clerk read as follows:

H.R. 20

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Upper Delaware Scenic and Recreational River Mongaup Visitor Center Act of 1999".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Secretary of the Interior approved a management plan for the Upper Delaware Scenic and Recreational River, as required by section 704 of Public Law 95–625 (16 U.S.C. 1274 note), on September 29, 1987.

(2) The river management plan called for the development of a primary visitor contact facility located at the southern end of the river corridor.

(3) The river management plan determined that the visitor center would be built and operated by the National Park Service.

(4) The Act that designated the Upper Delaware Scenic and Recreational River and the approved river management plan limits the Secretary of the Interior's authority to acquire land within the boundary of the river corridor.

(5) The State of New York authorized on June 21, 1993, a 99-year lease between the New York State Department of Environmental Conservation and the National Park Service for the construction and operation of a visitor center by the Federal Government on State-owned land in the Town of Deerpark, Orange County, New York, in the vicinity of Mongaup, which is the preferred site for the visitor center.

SEC. 3. AUTHORIZATION OF VISITOR CENTER FOR UPPER DELAWARE SCENIC AND RECREATIONAL RIVER.

For the purpose of constructing and operating a visitor center for the Upper Delaware Scenic and Recreational River and subject to the availability of appropriations, the Secretary of the Interior may—

(1) enter into a lease with the State of New York, for a term of 99 years, for State-owned land within the boundaries of the Upper Delaware Scenic and Recreational River located at an area known as Mongaup near the confluence of the Mongaup and Upper Delaware Rivers in the State of New York; and

(2) construct and operate such a visitor center on land leased under paragraph (2).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHERWOOD) and the gentleman from Puerto Rico (Mr. ROMERO-BARCELÓ) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. SHERWOOD).

GENERAL LEAVE

Mr. SHERWOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 20.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. SHERWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 20, introduced by my esteemed colleague from New York (Mr. GILMAN).

H.R. 20 authorizes the Secretary of the Interior to enter into a 99-year lease for State-owned land within the boundaries of the Upper Delaware Scenic and Recreational River located at Mongaup, New York.

The gentleman from New York (Mr. GILMAN) is to be commended for his hard work on this needed bill, which initiates construction of a visitor center for the Upper Delaware which will serve as an information point for area services and attractions, as well as supply basic traveler needs.

Because the act which established this recreational river limits the Federal authority to acquire lands, Congressional action is needed to authorize the expenditure of appropriated funds for the construction and subsequent operation of a visitor center on leased land.

H.R. 20 is supported by both the National Park Service and the minority. Besides being a necessary addition to an increasingly busy component of the National Park Service, the Mongaup Visitor Center is also important to my constituents because the Congressional district that I represent is bounded on the east by the Upper Delaware River.

I again commend the gentleman from New York (Mr. GILMAN) for his hard work in getting this bill to the floor, and I urge my colleagues to support H.R. 20.

Mr. Speaker, I reserve the balance of my time.

Mr. ROMERO-BARCELÓ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 1978, the Congress designated the Upper Delaware River in New York State as a Wild and Scenic River. Since then, hundreds of thousands of visitors from the New York/New Jersey area and around the world have visited the river to enjoy the natural beauty and recreational opportunities of the area.

H.R. 20, submitted and sponsored by the gentleman from New York (Mr. GILMAN), would authorize the construction and the operation of a visitor center for the Upper Delaware. Currently, the area has no such facility and a visitor's center would enable the National Park Service to offer visitors important information and services much more effectively.

The River Management plan, approved by the Department of the Interior a decade ago, calls for the construction and the operation by the National Park Service of such a facility; and the State of New York has agreed to a long-term lease of a State-owned, 55-acre tract for this purpose.

Construction of the facility will make a visit to this area more enjoyable and more educational, and we urge our colleagues to support H.R. 20.

Mr. Speaker, I yield back the balance of my time.

Mr. SHERWOOD. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. SHERWOOD) and the gentleman from Puerto Rico (Mr. ROMERO-BARCELÓ) for bringing this measure to the floor at this time and for their supporting remarks.

Mr. Speaker, as my colleagues may know, in 1978, along with our good friend and former colleagues, the gentleman from Pennsylvania (Mr. MCDADE) and the gentleman from New York (Mr. BINGHAM), I introduced legislation establishing the Upper Delaware Scenic and Recreational River as a component of the National Wild and Scenic River System. It is one of the few wild rivers in the Northeast for which so many people enjoy recreation.

The property proposed for the location of the Upper Delaware Scenic and Recreational River's primary visitors' facility, the Mongaup Visitor Center, is owned by the State of New York's Department of Environmental Conservation. That property was acquired by the State in 1990 as part of a much larger purchase of an 11,000-acre tract intended to provide habitat for a population of wintering bald eagles.

New York State legislation authorizing Federal development of the property as a visitors center by means of a long-term lease was adopted in 1993. A legislative support data package was prepared in 1994 for Federal legislation authorizing development of that site and authorizing appropriation of funds for development and to increase the Upper Delaware's operational base to provide for year-round operation.

The site for the Mongaup Visitor Center contains abundant natural and cultural resources, and this proposal will identify and develop strategies to protect the Mongaup area's natural resources, including the expanding bald eagle population, the half million migrating American shad, 200 species of birds, upland and flood plain forests, hemlock and laurel gorges, and a mile of river front with natural sand beaches.

Mr. Speaker, the visitor center will benefit the community in many respects. It will serve as an educational asset, a local museum, a classroom, and as a driving force in a promotion of the natural and historical resources of the entire region.

Moreover, with 85 percent of the Upper Delaware Scenic and Recreational River under private ownership, the region's struggles to maintain a balance between private property and recreation continues.

Bordered by the Delaware River, the Mongaup River, and New York State Highway Route 97, the visitors center would provide a central location to promote all the services and natural beauty that the region has to offer. The only center of its kind within an hour's drive of New York City, the Mongaup visitor center would open the Upper Delaware Valley to both the local and visiting public.

The National Park Service has been overseeing this area for some 20 years without any base of operations. The State of New York has dedicated funding to purchase the land for this project, to upgrade river services, and to restore the bald eagle population to the region.

As a final phase of the river management plan, the citizens of the Upper Delaware Valley have been apparently awaiting the commencement of this long overdue project.

Accordingly, I urge my colleagues to support this worthy measure.

Mr. SHERWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Upper Delaware is a national treasure. Through the efforts of the gentleman from New York (Mr. GILMAN), there will be thousands of people each year that will be able to view it and to kayak in it and to enjoy this beautiful scenic river.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHERWOOD) that the House suspend the rules and pass the bill, H.R. 20.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

LAMPREY WILD AND SCENIC RIVER EXTENSION ACT

Mr. SHERWOOD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1615) to amend the Wild and Scenic Rivers Act to extend the designation of a portion of the Lamprey River in New Hampshire as a recreational river to include an additional river segment.

The Clerk read as follows:

H.R. 1615

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lamprey Wild and Scenic River Extension Act".

SEC. 2. LAMPREY RECREATIONAL RIVER, NEW HAMPSHIRE.

(a) ADDITIONAL SEGMENT.—The paragraph entitled "LAMPREY RIVER, NEW HAMPSHIRE" in section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended—

(1) by striking "11.5-mile segment extending from the southern Lee town line" and inserting "23.5-mile segment extending from the Bunker Pond Dam in Epping"; and

(2) by striking "towns of" and inserting "towns of Epping,".

(b) MANAGEMENT.—Section 405 of division I of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104-333; 110 Stat. 4149; 16 U.S.C. 1274 note) is amended—

(1) in subsection (b)(2), by inserting "Epping," before "Durham"; and

(2) by striking subsection (c).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHERWOOD) and the gentleman from Puerto Rico (Mr. ROMERO-BARCELÓ) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. SHERWOOD).

GENERAL LEAVE

Mr. SHERWOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 1615.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. SHERWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of 1615, introduced by my colleague the gentleman from New Hampshire (Mr. SUNUNU). The gentleman is to be congratulated for his work in protecting a valuable and picturesque river.

Specifically, H.R. 1615 amends the Wild and Scenic Rivers Act to extend the Wild and Scenic River designation to a 12-mile segment of the Lamprey River running through New Hampshire. This new addition would be designated as a recreational river in accordance with the Wild and Scenic Rivers Act.

As part of the Omnibus Parks and Public Land Management Act of 1996, an 11½ mile segment of the Lamprey River was designated at that time as a recreational river. The study done for this segment also found that an additional 12-mile segment upstream warrants a like designation. Now that there is overwhelming local support, this section of the Lamprey River is ready for the designation.

This bill is supported by the National Park Service, and I urge my colleagues also to support H.R. 1615.

Mr. Speaker, I reserve the balance of my time.

Mr. ROMERO-BARCELÓ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 1991, the Congress directed the National Park Service to study the Lamprey River in New Hampshire to determine what portion of the river might be eligible for designation as a Wild and Scenic River.

In 1995, the National Park Service concluded that a little more than 23 miles met the requirements for such designation. However, at the time, there was local support for designating only 11½ miles of the river. As a result, in 1996, Congress abided by the wishes of the local community and designated only the 11.5-mile segment.

Just 3 years later, the designation is so popular in those areas which have it and the programs which grow out of this Wild and Scenic River designation are so successful that those communities where support was once lacking have now voted overwhelmingly to have their segment of the river included. H.R. 1615 would add the additional 12-mile segment to the portion of the Lamprey that is already designated a Wild and Scenic River.

Mr. Speaker, there are two very important things to note here. In designating the Lamprey, the National Park Service and the Congress have been very careful to listen to the wishes of the local communities and to abide by them. In addition, contrary to the views offered by critics of this program, when local communities have an opportunity to see firsthand the positive effects of the Wild and Scenic Rivers Program, they cannot wait to be included.

Mr. Speaker, this is a bipartisan bill that has bipartisan support, and we urge our colleagues to support H.R. 1615.

Mr. Speaker, I reserve the balance of my time.

Mr. SHERWOOD. Mr. Speaker, I yield 5 minutes to the gentleman from New Hampshire (Mr. SUNUNU).

Mr. SUNUNU. Mr. Speaker, I thank the gentleman very much for yielding me the time.

Mr. Speaker, I rise today in support of H.R. 1615, the Lamprey Wild and Scenic River Extension Act. This legislation seeks to fulfill the original intent of the 1996 Omnibus Parks and Public Lands Management Act by incorporating a 12-mile river segment that runs through the Town of Epping, New Hampshire, under the Lamprey River's existing Wild and Scenic designation. H.R. 1615 helps to put the finishing touch on a 29-year effort to protect the Lamprey as a valuable and historic natural resource.

The Lamprey is located in the southeast region of our State and continues to be among New Hampshire's important tributaries.

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As one of only two rivers to achieve Wild and Scenic status, it spans 60 miles and flows through six communities before emptying into the Seacoast Great Bay Estuarine Reserve. Over 300 species of plants and 150 species of birds inhabit its river banks as well as its neighboring marshes and forests, providing a diverse and scenic landscape. The Lamprey is also host to a large quantity of anadromous fish throughout the Great Bay watershed, which include Atlantic salmon, American shad, herring and sea Lamprey as well.

Apart from its impressive ecology, the Lamprey has long been a popular recreational resource for swimming, fishing, hiking and cross-country skiing. The watershed region also houses several historically significant sites including the Wiswall Dam, which is listed on the National Register of Historic Places.

Realizing the importance of the Lamprey as both a natural and economic resource, several organizations and local entities have collaborated in efforts to ensure its stability and long-term preservation. For years, the towns of Durham, Epping, Lee and Newmarket have worked with the New Hampshire Department of Environmental Services to ensure the safekeeping and quality of the Lamprey River. They have been joined by the Lamprey River Advisory Committee, the Stafford Regional Planning Commission and New Hampshire Fish and Game as well to ensure common-sense, local approaches to conservation. The coalition's hard work has led to State efforts to safeguard the river under the New Hampshire Rivers Management and Protection Program, and ultimately the 1996 Wild and Scenic River designation of the 11.5 mile portion of the Lamprey in Durham, Lee and Newmarket.

Most notably, the Lamprey River Advisory Committee, whose members are nominated by each town in the area and the New Hampshire Department of Environmental Services, has made significant strides in preserving and protecting the integrity of the Lamprey by implementing this river management plan. Two years ago, I had the pleasure of meeting with the members of the committee, touring the river's many scenic areas and historic sites and surveying some of the projects upon which the organization has focused its efforts.

Although the National Park Service determined in 1995 that Epping's portion of the Lamprey met the criteria of eligibility for the Wild and Scenic designation, the town opted to wait until the initiative received broad based local support through a town meeting and vote. Last March, with the backing of the Board of Selectmen and the local conservation commission, the citizens of Epping voted by a large margin in support of the expanded Wild and Scenic River designation. At their request, I have introduced H.R. 1615 to enable this community of over 5,000 to build upon the success of the original Lamprey designation and to ensure the continued integrity of this important historic tributary.

Again, I want to thank the members of the committee for their support in moving this legislation forward. I urge the passage of H.R. 1615.

Mr. ROMERO-BARCELÓ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHERWOOD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHERWOOD) that the House suspend the rules and pass the bill, H.R. 1615.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

WILDERNESS BATTLEFIELD LAND ACQUISITION ACT

Mr. SHERWOOD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1665) to allow the National Park Service to acquire certain land for addition to the Wilderness Battlefield in Virginia, as previously authorized by law, by purchase or exchange as well as by donation, as amended.

The Clerk read as follows:

H.R. 1665

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITION TO WILDERNESS BATTLEFIELD, VIRGINIA.

(a) REMOVAL OF CONDITION ON BATTLEFIELD ADDITION.—Section 2(a)(2) of Public Law 102-541 (16 U.S.C. 425k note; 106 Stat. 3565) is amended by striking ": Provided," and all that follows through "Interior".

(b) AUTHORIZED METHODS OF ACQUISITION.—

(1) LIMITATIONS ON ACQUISITION METHODS.—Section 3(a) of Public Law 101–214 (16 U.S.C. 425l(a)) is amended—

(A) by striking "The Secretary" and inserting "(1) Except as provided in paragraph (2), the Secretary"; and

(B) by adding at the end the following new paragraph:

"(2) The lands designated 'P04-04' on the map referred to in section 2(a) numbered 326–40072E/89/A and dated September 1990 may be acquired only by donation, and the lands designated 'P04–01', 'P04–02', and 'P04–03' on such map may be acquired only by donation, purchase from willing sellers, or exchange.".

(2) REMOVAL OF RESTRICTION ON ACQUISITION OF ADDITION.—Section 2 of Public Law 102-541 (16 U.S.C. 425k note; 106 Stat. 3565) is amended by striking subsection (b).

(c) TECHNICAL CORRECTION.—Section 2(a) of Public Law 101–214 (16 U.S.C. 425k(a)) is amended by striking "Spotslyvania" and inserting "Spotsylvania".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHERWOOD) and the gentleman from Puerto Rico (Mr. ROMERO-BARCELÓ) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. SHERWOOD).

GENERAL LEAVE

Mr. SHERWOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. SHERWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1665, introduced by the gentleman from Virginia (Mr. BATEMAN). The gentleman from Virginia has worked hard on this bill which will help the National Park Service protect additional Civil War battlefield land. H.R. 1665 allows the Park Service to acquire certain land for addition to the Wilderness Battlefield in Virginia by purchase or exchange as well as donation. Currently, the Park Service can acquire land only by donation, thereby preventing landowners from disposing of property the Park Service desires to include in the battlefield boundaries. Recently, however, the owners of three tracts of land have expressed their desire to dispose of property to the Park Service which is within the boundaries of the battlefield. Enactment of H.R. 1665 would allow the Park Service to acquire this land.

Mr. Speaker, an amendment was accepted at the subcommittee consideration of this bill which makes it clear that disposal of the land by purchase will only be from willing sellers. This bill now has wide bipartisan support. I urge my colleagues to support H.R. 1665.

Mr. Speaker, I reserve the balance of my time.

Mr. ROMERO-BARCELÓ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I ask my colleagues to support H.R. 1665, and I commend the gentleman from Virginia (Mr. BATEMAN) for his initiative.

Mr. Speaker, on May 5 and May 6, 1864, Union troops, under their newly promoted overall commander, Ulysses S. Grant, fought a costly battle against Confederate troops, under Robert E. Lee, in an area of northern Virginia called the Wilderness. Despite a bloody flank attack by troops under General Longstreet, the Union soldiers held out and eventually won the battle of the Wilderness.

The Fredericksburg and Spotsylvania County Battlefield Memorial National Military Park was established in 1927 to preserve the area and to commemorate the battle which took place there. The park includes a national cemetery and portions of four Civil War battlefields, but approximately 525 acres of the Wilderness Battlefield, including the site of Longstreet's attack, are not included in the park. Congress expanded the park's boundaries to include the Wilderness Battlefield in 1992 but authorized the National Park Service to acquire the land by donation only. Unfortunately, the owners of the property have declined to donate the lands.

H.R. 1665 would authorize the National Park Service to acquire the 525 acres through purchase or exchange as well as donation. Since adding these lands to the park is already authorized, H.R. 1665 simply expands the mechanisms available to the NPS for accomplishing this goal.

Mr. Speaker, this is a bipartisan bill. It has bipartisan support. We urge our colleagues to support it.

Mr. Speaker, I yield back the balance of my time.

Mr. SHERWOOD. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. BATEMAN).

Mr. BATEMAN. Mr. Speaker, I thank the gentleman from Pennsylvania and the gentleman from Puerto Rico for their support of this measure. I also want to express my sincere thanks to the gentleman from Utah (Mr. HANSEN), who is the chairman of the Subcommittee on National Parks and Public Lands, for expeditiously moving this legislation through his committee and the full Committee on Resources.

I introduced this legislation that we are considering today because I feel strongly that the National Park Service should perpetuate the longstanding goal of preserving Civil War battlefields where events occurred that are dramatic, tragic and bold. The preservation of these lands is critical to conveying the human struggle and tactical components of battle that marked a watershed change in the nature of combat during the Civil War. This bill, H.R. 1665, as was said, would permit the Park Service to buy several tracts of land in the Fredericksburg and Spotsylvania National Military Park that embody these themes.

Before I outline the substance of H.R. 1665, let me touch on the historical significance of the land that will be protected. These three tracts, totaling 532 acres, comprise the area covered by Confederate General Longstreet's flank attack and other events associated with the Battle of the Wilderness. This ground bore witness to one of the most decisive attacks launched by the Confederates during the war in Virginia. It also marked the beginning of the end of the Confederate war effort.

On the morning of May 6, 1864, massive Union attacks pummeled Confederate lines in this area to the point of collapse. Only the timely arrival of General James Longstreet's First Corps of Lee's Army of Northern Virginia prevented total disaster. As Longstreet's troops arrived at the Widow Tapp Farm, west of the tracts in question here, the general threw them into the fight piecemeal, stopping the Union assaults, and even pushing the Federals back several hundred yards. At midmorning, Longstreet conceived the idea of a surprise counterattack against the Union left. Using the unfinished railroad, which borders the tracts in question on the south, as cover, Confederate troops formed unseen opposite the Union left. By 11 a.m., all was ready.

Ripping their way through thickets and underbrush, Confederate troops on a front more than a quarter-mile long thundered northward into the flank of the Union line. The Federals offered brief resistance, but then their lines collapsed. The momentum of the Confederate attack carried gray-clad troops all the way to the Orange Plank Road. There, disaster struck. Confederate General Longstreet was caught in a Confederate volley and fell gravely wounded only a few miles from where, a year before, Stonewall Jackson was mortally wounded by Confederate troops. With that devastating blow, the Confederate attack lost momentum.

But the Federal lines had been ruined. Never again would they threaten the Confederates in the Wilderness. And indeed later that day, the Confederates would resume the attacks and push the Union lines to the edge of disaster. Later that day, woods on these lands would take fire, consuming wounded and dead alike. The fires of the Wilderness would become the signature horror of two of America's most horrific days.

As Members can see, this stretch of land is a key component which will serve to complete the Wilderness Battlefield, ensuring our heritage for generations to come. The vast majority of this land is currently owned by developers. This spring, the prospective developers of this land offered a 3-year window for the government to acquire the tracts. After 3 years, they intend to move forward with development. Recognizing the need to preserve this land, legislation was passed in the 102nd Congress to allow the Park Service to acquire the land by donation. Since the early 1990s, this tract has been the object of intense efforts by nonprofit organizations, all of which have failed to preserve the tract.

I introduced H.R. 1665 because we are running out of time to save this battlefield from being lost forever. H.R. 1665 would permit the Park Service to buy the land which is already within the authorized boundary of the park. The Park Service, which supports H.R. 1665, has worked cooperatively with the owners of the land and the Spotsylvania County Board of Supervisors to protect the land for several years. Once the Park Service has been given legal authorization to acquire the land, they will enter into negotiations with the developers and other landowners to determine the price to be paid to buy the land. The language in this part of the bill prescribes that acquisition of these tracts of land will be from willing sellers only.

Mr. Speaker, I appreciate being given the opportunity to discuss my efforts to save this historically significant battlefield. Alternatives to Federal acquisition have been exhausted. Congress and the National Park Service must act to acquire the Longstreet Flank Attack site. I urge my colleagues to vote for H.R. 1665.

Mr. SHERWOOD. Mr. Speaker, I would like to commehd the gentleman from Virginia for his hard work to preserve this historic site. I am slightly surprised that he did not refer to our great Civil War as the "War of Northern Aggression."

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHERWOOD) that the House suspend the rules and pass the bill, H.R. 1665, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

KEWEENAW NATIONAL HISTORICAL PARKS ADVISORY COMMISSION ACT

Mr. SHERWOOD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 748) to amend the Act that established the Keweenaw National Historical Park to require the Secretary of the Interior to consider nominees of various local interests in appointing members of the Keweenaw National Historical Parks Advisory Commission, as amended.

The Clerk read as follows:

H.R. 748

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPOINTMENTS TO KEWEENAW NATIONAL HISTORICAL PARK ADVISORY COMMISSION.

Section 9(c)(1) of the Act entitled "An Act to establish the Keweenaw National Historical Park, and for other purposes" (Public Law 102–543; 16 U.S.C. 410yy–8(c)(1)) is amended by striking "from nominees" each place it appears and inserting "after consideration of nominees".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHERWOOD) and the gentleman from Puerto Rico (Mr. ROMERO-BARCELÓ) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. SHERWOOD).

GENERAL LEAVE

Mr. SHERWOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. SHERWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 748, introduced by the gentleman from Michigan (Mr. STUPAK). H.R. 748 is a simple yet necessary bill that amends the Keweenaw National Historical Park Act to require the Secretary of the Interior to consider nominees of various local interests in appointing members of the Keweenaw National Historical Park Advisory Commission.

□ 1745

The existing statute establishing the Keweenaw National Historical Park Advisory Commission states that members shall be appointed from nominees submitted by various local government entities. Apparently this has raised constitutional concerns as the statute directs the Secretary of the Interior to appoint to the commission persons nominated by State and local officials. The Department of Justice has stated that this procedure does not satisfy the requirements imposed by the appointments clause for Federal officers. H.R. 748 addresses these constitutional concerns by striking from nominees each place it appears and inserting after consideration of nominees.

This bill has the support of the administration and minority, and I urge my colleagues also to support H.R. 748.

Mr. ROMERO-BARCELO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 748 submitted by the gentleman from Michigan (Mr. STUPAK). The Keweenaw National Historical Park is located on the Keweenaw peninsula of Lake Superior in northeastern Michigan. The park was established in 1992 to preserve the area's rich copper mining history as well as the oldest and largest lava flow on earth. The first time I ever knew that there was any volcano in America.

The original legislation authorizing the park specified that the Secretary of the Interior was to appoint members of the park's advisory commission from among individuals nominated by State and local officials only. The Department of Justice found that such a restriction on the Secretary's authority conflicted with the appointments clause of the Constitution. As a result, the commission has never been assembled, and H.R. 748 would amend the authorizing statute to alter the terms under which the Secretary may nominate advisory committee members. The legislation makes clear that while the Secretary must consider State and local nominees, he may appoint commission members at will. Such a change would allow the commission to begin fulfilling its important role as a means of local input and coordination for this important park. This has bipartisan support, Mr. Speaker, and we urge our colleagues to support H.R. 748

Mr. Speaker, I reserve the balance of my time.

Mr. SHERWOOD. Mr. Speaker, I have no more requests for time, and I reserve the balance of my time.

Mr. ROMERO-BARCELO. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, I wish to thank the gentleman for yielding this time to me.

Mr. Speaker, the bill before us today, H.R. 748, is a noncontroversial measure that will simply make a technical correction to the act that established the Keweenaw National Historic Park. Although this measure might be considered insignificant when compared with many of the other pieces of legislation considered in this body, H.R. 748 is very important to the people, the culture, and the history of Michigan's upper peninsula and especially to the Keweenaw peninsula. H.R. 748 would facilitate the appointment of the Keweenaw National Historic Park Advisory Commission for this park located in my district. This correction will help the commission assume a greater role in the development of the park.

The Keweenaw peninsula at one time, Mr. Speaker, was a flourishing economic region in the center for copper mining. This remarkable copper mining history is matched by the extensive commercial fishing and maritime history of the massive Lake Superior which surrounds the peninsula. The splendor and the people of the Keweenaw peninsula rival many, if not most, of the national parks and monuments throughout our Nation.

I wish to thank the chairman of the Committee on Resources, the gentleman from Alaska (Mr. YOUNG), the gentleman from Pennsylvania (Mr. SHERWOOD) and the ranking Democratic member, the gentleman from California (Mr. MILLER) for expediting the consideration of this legislation. I also want to thank the chairman of the Subcommittee on National Parks, the gentleman from Utah (Mr. HANSEN) and the ranking subcommittee Democrat, the gentleman from Puerto Rico (Mr. ROMERO-BARCELÓ) the resident commissioner for Puerto Rico for their assistance.

Mr. Speaker, H.R. 748 is very important to the future of the Keweenaw peninsula and the preservation of its rich and extensive history, and I wish to thank my colleagues for their support of this measure.

Mr. ROMERO-BARCELÓ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHERWOOD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHERWOOD) that the House suspend the rules and pass the bill, H.R. 748, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Act that established the Keweenaw National Historical Park to require the Secretary of the Interior to consider nominees of various local interests in appointing members of the Keweenaw National Historical Park Advisory Commission.".

A motion to reconsider was laid on the table.

WIRELESS COMMUNICATIONS AND PUBLIC SAFETY ACT OF 1999

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 800) to promote and enhance public safety through use of 9–1–1 as the universal emergency assistance number, further deployment of wireless 9–1–1 service, support of States in upgrading 9–1–1 capabilities and related functions, encouragement of construction and operation of seamless, ubiquitous, and reliable networks for personal wireless services, and for other purposes.

The Clerk read as follows:

S. 800

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wireless Communications and Public Safety Act of 1999".

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds that—

(1) the establishment and maintenance of an end-to-end communications infrastructure among members of the public, emergency safety, fire service and law enforcement officials, emergency dispatch providers, transportation officials, and hospital emergency and trauma care facilities will reduce response times for the delivery of emergency care, assist in delivering appropriate care, and thereby prevent fatalities, substantially reduce the severity and extent of injuries, reduce time lost from work, and save thousands of lives and billions of dollars in health care costs;

(2) the rapid, efficient deployment of emergency telecommunications service requires statewide coordination of the efforts of local public safety, fire service and law enforcement officials, emergency dispatch providers, and transportation officials; the establishment of sources of adequate funding for carrier and public safety, fire service and law enforcement agency technology development and deployment; the coordination and integration of emergency communications with traffic control and management systems and the designation of 9–1–1 as the number to call in emergencies throughout the Nation;

(3) emerging technologies can be a critical component of the end-to-end communications infrastructure connecting the public with emergency medical service providers and emergency dispatch providers, public safety, fire service and law enforcement officials, and hospital emergency and trauma care facilities, to reduce emergency response times and provide appropriate care;

(4) improved public safety remains an important public health objective of Federal, State, and local governments and substantially facilitates interstate and foreign commerce;

(5) emergency care systems, particularly in rural areas of the Nation, will improve with the enabling of prompt notification of emergency services when motor vehicle crashes occur; and

(6) the construction and operation of seamless, ubiquitous, and reliable wireless telecommunications systems promote public safety and provide immediate and critical communications links among members of the public; emergency medical service providers and emergency dispatch providers; public safety, fire service and law enforcement officials; transportation officials, and hospital emergency and trauma care facilities.

(b) Purpose.—The purpose of this Act is to encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure for communications, including wireless communications, to meet the Nation's public safety and other communications needs.

SEC. 3. UNIVERSAL EMERGENCY TELEPHONE NUMBER.

(a) Establishment of Universal Emergency Telephone Number.—Section 251(e) of the Communications Act of 1934 (47 U.S.C. 251(e)) is amended by adding at the end the following new paragraph:

"(3) Universal emergency telephone number.—The Commission and any agency or entity to which the Commission has delegated authority under this subsection shall designate 9–1–1 as the universal emergency telephone number within the United States for reporting an emergency to appropriate authorities and requesting assistance. The designation shall apply to both wireline and wireless telephone service. In making the designation, the Commission (and any such agency or entity) shall provide appropriate transition periods for areas in which 9–1–1 is not in use as an emergency telephone number on the date of enactment of the Wireless Communications and Public Safety Act of 1999.".

(b) Support.—The Federal Communications Commission shall encourage and support efforts by States to deploy comprehensive end-to-end emergency communications infrastructure and programs, based on coordinated statewide plans, including seamless, ubiquitous, reliable wireless telecommunications networks and enhanced wireless 9–1–1 service. In encouraging and supporting that deployment, the Commission shall consult and cooperate with State and local officials responsible for emergency services and public safety, the telecommunications industry (specifically including the cellular and other wireless telecommunications service providers), the motor vehicle manufacturing industry, emergency medical service providers and emergency dispatch providers, transportation officials, special just 9–1–1 districts, public safety, fire service and law enforcement officials, consumer groups, and hospital emergency and trauma care personnel (including emergency physicians, trauma surgeons, and nurses). The Commission shall encourage each State to develop and implement coordinated statewide deployment plans, through an entity designated by the governor, and to include representatives of the foregoing organizations and entities in development and implementation of such plans. Nothing in this subsection shall be construed to authorize or require the Commission to impose obligations or costs on any person.

SEC. 4. PARITY OF PROTECTION FOR PROVISION OR USE OF WIRELESS SERVICE.

(a) Provider Parity.—A wireless carrier, and its officers, directors, employees, vendors, and agents, shall have immunity or other protection from liability in a State of a scope and extent that is not less than the scope and extent of immunity or other protection from liability that any local exchange company, and its officers, directors, employees, vendors, or agents, have under Federal and State law (whether through statute, judicial decision, tariffs filed by such local exchange company, or otherwise) applicable in such State, including in connection with an act or omission involving the release to a PSAP, emergency medical service provider or emergency dispatch provider, public safety, fire service or law enforcement official, or hospital emergency or trauma care facility of subscriber information related to emergency calls or emergency services.

(b) User Parity.—A person using wireless 9–1–1 service shall have immunity or other protection from liability of a scope and extent that is not less than the scope and extent of immunity or other protection from liability under applicable law in similar circumstances of a person using 9–1–1 service that is not wireless.

(c) PSAP Parity.—In matters related to wireless 9–1–1 communications, a PSAP, and its employees, vendors, agents, and authorizing government entity (if any) shall have immunity or other protection from liability of a scope and extent that is not less than the scope and extent of immunity or other protection from liability under applicable law accorded to such PSAP, employees, vendors, agents, and authorizing government entity, respectively, in matters related to just 9–1–1 communications that are not wireless.

(d) Basis for Enactment.—This section is enacted as an exercise of the enforcement power of the Congress under section 5 of the Fourteenth Amendment to the Constitution and the power of the Congress to regulate commerce with foreign nations, among the several States, and with Indian tribes.

SEC. 5. AUTHORITY TO PROVIDE CUSTOMER INFORMATION.

Section 222 of the Communications Act of 1934 (47 U.S.C. 222) is amended—

(1) in subsection (d)—

(A) by striking "or" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting a semicolon and "and"; and

(C) by adding at the end the following:

"(4) to provide call location information concerning the user of a commercial mobile service (as such term is defined in section 332(d))—

"(A) to a public safety answering point, emergency medical service provider or emergency dispatch provider, public safety, fire service, or law enforcement official, or hospital emergency or trauma care facility, in order to respond to the user's call for emergency services;

"(B) to inform the user's legal guardian or members of the user's immediate family of the user's location in an emergency situation that involves the risk of death or serious physical harm; or

"(C) to providers of information or database management services solely for purposes of assisting in the delivery of emergency services in response to an emergency.".

(2) by redesignating subsection (f) as subsection (h) and by inserting the following after subsection (e):

"(f) Authority To Use Wireless Location Information.—For purposes of subsection (c)(1), without the express prior authorization of the customer, a customer shall not be considered to have approved the use or disclosure of or access to—

"(1) call location information concerning the user of a commercial mobile service (as such term is defined in section 332(d)), other than in accordance with subsection (d)(4); or

"(2) automatic crash notification information to any person other than for use in the operation of an automatic crash notification system.

"(g) Subscriber Listed and Unlisted Information for Emergency Services.—Notwithstanding subsections (b), (c), and (d), a telecommunications carrier that provides telephone exchange service shall provide information described in subsection (i)(3)(A) (including information pertaining to subscribers whose information is unlisted or unpublished) that is in its possession or control (including information pertaining to subscribers of other carriers) on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions to providers of emergency services, and providers of emergency support services, solely for purposes of delivering or assisting in the delivery of emergency services.";

(3) by inserting "location," after "destination," in subsection (h)(1)(A) (as redesignated by paragraph (2)); and

(4) by adding at the end of subsection (h) (as redesignated), the following:

"(4) PUBLIC SAFETY ANSWERING POINT.—The term 'public safety answering point' means a facility that has been designated to receive emergency calls and route them to emergency service personnel.

"(5) EMERGENCY SERVICES.—The term 'emergency services' means 9–1–1 emergency services and emergency notification services.

"(6) EMERGENCY NOTIFICATION SERVICES.—The term 'emergency notification services' means services that notify the public of an emergency.

"(7) EMERGENCY SUPPORT SERVICES.—The term 'emergency support services' means information or data base management services used in support of emergency services.".

SEC. 6. DEFINITIONS.

As used in this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(2) STATE.—The term "State" means any of the several States, the District of Columbia, or any territory or possession of the United States.

(3) PUBLIC SAFETY ANSWERING POINT; PSAP.—The term "public safety answering point" or "PSAP" means a facility that has been designated to receive 9–1–1 calls and route them to emergency service personnel.

(4) WIRELESS CARRIER.—The term "wireless carrier" means a provider of commercial mobile services or any other radio communications service that the Federal Communications Commission requires to provide wireless 9–1–1 service.

(5) ENHANCED WIRELESS 9–1–1 SERVICE.—The term "enhanced wireless 9–1–1 service" means any enhanced 9–1–1 service so designated by the Federal Communications Commission in the proceeding entitled "Revision of the Commission's Rules to Ensure Compatibility with Enhanced 9–1–1 Emergency Calling Systems" (CC Docket No. 94–102; RM–8143), or any successor proceeding.

(6) WIRELESS 9–1–1 SERVICE.—The term "wireless 9–1–1 service" means any 9–1–1 service provided by a wireless carrier, including enhanced wireless 9–1–1 service.

(7) EMERGENCY DISPATCH PROVIDERS.—The term "emergency dispatch providers" shall include governmental and nongovernmental providers of emergency dispatch services.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Massachusetts (Mr. MARKEY) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation, S. 800, and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, let me first compliment the gentleman from Massachusetts (Mr. MARKEY) for his usual excellent cooperation and the spirit by which we always bring our bills to the floor on telecommunication from the Committee on Commerce. I want to also thank the gentleman from Virginia (Mr. BLILEY), our chairman, and the other members of the Subcommittee on Telecommunications, Trade and Consumer Protection for the excellent work they have done on this bill.

But most importantly, Mr. Speaker, I want to thank my good friend and new father of his third son, Daniel Martin, the gentleman from Illinois (Mr. SHIMKUS), for not only sponsoring this important piece of legislation, but for leading the charge to make it that which we know it will be soon, the law of the land. Congratulations on the birth of a new son, and we wish the gentleman from Illinois and his wife the best, and this is a good day for him as we hopefully pass this legislation on to the President of the United States for signature.

Mr. Speaker, 1998 was a landmark year in the history of this country. In 1998, more Americans bought cordless phones than wire phones, and for the first time in the history of this technology people were wireless. In fact, some 80 million Americans now carry wireless telephones or pagers. Studies show that most of those American subscribers of these wireless phones purchase them for safety reasons.

People count on those phones to be their lifeline in emergencies, a parent, for example, driving down an interstate highway with babies in the back seat draws comfort from knowing that if the car is involved in a crash, he or she can call 9–1–1 for help, and an ambulance will soon be there. An older American driving alone on a long trip feels safer knowing that if an accident occurs or symptoms strike, they can call 9–1–1 and the State police will soon be on the way.

But there is a problem with that expectation. In many parts of the country when a frantic parent or a suddenly disabled elder punches 9–1–1 on the wireless phone, nothing happens; and in many regions, in fact, 9–1–1 is not the emergency number. The ambulance and the police do not come, and someone may be facing a terrible life-threatening emergency, but they are on their own because they do not know the local number to call. S. 800 will fix that problem by making 9–1–1 the universal number to call in an emergency any time anywhere in the country.

The rule in America ought to be simple. If one is on a highway, a byway, bike path or a duck blind in Louisiana where someone calls 9–1–1, they ought to get help. S. 800 will provide that help, and that is why I am glad to be here to take final action on it. Passing the bill is a recognition as the telecommunications industry changes that laws must also change to govern their operations.

Let me provide a little background on the bill.

The bill started 3 years ago as a much broader effort. Since then, we have listened closely, pared the bill back. This year my friend, the gentleman from Illinois (Mr. SHIMKUS), reintroduced the bill; and it passed overwhelmingly in the House. The other body took our product, made a couple of changes to reflect new information, and essentially the Senate version is nearly identical to Mr. SHIMKUS' bill, and today's action will send that bill on to the President.

It establishes parity between the wireless and wire line communications industries. It provides, in fact, a situation where wireless phones not only will be that safety link but will be eventually locatable; that is, when one makes a wireless call, they will be able to be found and cars will be able to become smarter, and in fact when accidents happen not only will they be helped, but the search will be taken out of the search and rescue. Rescue will be available more quickly.

The Senate replaced a provision in the bill for straight parity provisions in liability that we considered essentially okay, and we concur in those changes. The protections are necessary to help ensure that the wireless technology develops and matures to provide greater services. It also provides, as I said, 9–1–1 service to receive the same protection from liability under State and federal laws as users of wire line 9–1–1 services. This good samaritan principle should apply also on a State by State basis. S. 800 again improves wireless users' privacy by limiting the disclosure of location information to specific instances. Locatability, yes; privacy, still protected.

This is good, sound public policy. It will enhance security and safety for consumers.

I want to thank the other body for the great work they did on the bill. I particularly want to thank the members of the Committee on Commerce, but especially my good friend, the gentleman from Illinois (Mr. SHIMKUS) for his excellent work on this piece of legislation. This is a good one that all Members should support.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to begin by commending my good friend, the gentleman from Louisiana (Mr. TAUZIN) for his excellent work on this legislation and to praise the gentleman from Illinois (Mr. SHIMKUS) for his work and to congratulate him on the addition to his family.

It has been a wonderful day, if we can get all of those things done, plus have the Red Sox beat Cleveland and head on to beat the Yankees and take the curse of the Bambino off of our shoulders. It would be excellent, as well, if we can follow on and beat the Mets and get rid of the Bill Buckner curse as part of this week as well, but it is developing as one of the best weeks I think that this Congress is going to have, at least from this Member's perspective.

I would also like to compliment the gentleman from Virginia (Mr. BLILEY) and thank both of my colleagues for working closely with the gentleman from Michigan (Mr. DINGELL) and myself and the other Democratic colleagues on our side of the aisle; as my colleagues know, the gentlewoman from Missouri (Ms. DANNER) has been very much identified with this legislation right from the beginning.

Mr. Speaker, the bill before us, S. 800, is the Senate version of legislation that picks up on an effort that the gentleman from Louisiana (Mr. TAUZIN) spearheaded last year to enhance the emergency 9–1–1 infrastructure of this country for wireless communications. It is the Senate version of House Bill 438 which was approved by the House overwhelmingly earlier this year.

This is a very timely endeavor given the explosive growth of wireless communications in our country. Mr. Speaker, as more and more Americans use wireless phones, wireless services become less and less perceived as an ancillary, discretionary service. With over 70 million subscribers and with some carriers dropping prices as much as 30 percent in the last year alone, wireless technology is a great success story, and there is no question that every day more consumers will increasingly be relying on wireless technology for both business and safety.

A natural result of the proliferation of these wireless phones is that many consumers will use them to call for help and assistance in time of emergency. Indeed many wireless carriers actively promote their services to consumers as safety devices, and this reemphasizes the need to make that promise a reality for wireless communications.

Both the House and Senate version of this bill seek to enhance public safety by making 9–1–1 the national public safety designated number. This is important because in many jurisdictions the emergency number wireless consumers must call is something other than 9–1–1.

□ 1800

The gentleman from Louisiana has already pointed that out. That is confusing as people cross State boundaries, and unless it is changed, could cost lives. Simply put, establishing 911 as the national emergency number for wireless calls is something that we believe will save lives.

Secondly, the Senate bill also includes a provision that I added as an amendment to last year's wireless 911 legislation in the House conference committee to protect personal privacy. This is, again, something that I have had an enormous concern about in every aspect of telecommunications. How will these communications technologies impinge upon the privacy of every American?

I have tried working with the majority to include a privacy provision in every telecommunications bill that has passed through the House over the last 5 years. This new ever-more sophisticated location technology permits wireless carriers a greater ability to physically pinpoint the geographic location of the caller. This is vital technology for locating people who may be in distress or in an accident, in situations where emergency personnel must quickly locate victims, treat injuries, and get them to respond, so that they can get to a hospital. Yet, the same technology that can save lives also poses privacy issues that must be dealt with simultaneously.

There is no question that information-rich location systems that do wonders to help save lives on our Nation's roadways also pose significant risks for compromising personal privacy. This is because the technology also avails wireless companies of the ability to locate and track individual's movements throughout society, where you go for your lunch break; where you drive on the weekends; the places you visit during the course of a week is your business. It is your private business, not information that wireless companies ought to collect, monitor, disclose, or use without one's approval.

The privacy amendment that I successfully offered last year and which was contained in H.R. 438 this year, as introduced, and is identical to the provisions subsequently adopted in the Senate is in the bill. It stipulates that location information will not be used by wireless carriers, except for 911 emergency purposes, or with the approval of consumers for any other services.

This is an opt-in for consumer privacy. The company has to get one's permission to use this information. They just cannot say well, they did not say we could not use it, so we are going to let everybody in town buy where you go, where you stop, the places you have been. This is opt-in, and that is the way it should be. They should have to come to you and say we want to sell this information to anyone who wants to buy it as to where you are going. Wherever your cell phone goes becomes a monitor of all of your activities.

Finally, the bill also extends liability protections to wireless carriers for emergency calls equivalent to the protection accorded to States for wire phone companies. Liability protection for wireless service is to be implemented on a State-by-State basis, mirroring the services protections accorded local telephone companies in such jurisdictions.

Again, I want to compliment the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Illinois (Mr. SHIMKUS), the gentlewoman from Missouri (Ms. DANNER), and the majority for the way in which they treated us. I think we have a nice, solid compromise package here for all of the Members to support tonight.

Mr. Speaker, I reserve the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume to first take a second to compliment the gentleman from Massachusetts on the provision that he so eloquently spoke about. His privacy provision is one that he has fought for and we have agreed upon extensively across the Committee on Commerce philosophies, primarily because it not only protects a person's privacy in the sense of someone selling that information, it also protects us from Government knowing where you are going and what you are doing in your life, so it keeps people protected from that kind of scrutiny. I think it was equally important that this amendment be adopted for that purpose.

Mr. Speaker, I am proud to yield such time as he may consume to the gentleman from Illinois (Mr. SHIMKUS), the author of the legislation in the House and the father of a new son.

Mr. SHIMKUS. Mr. Speaker, I would like to thank the chairman for the kind words to my wife and family. We briefly floated the name Billy Tauzin Shimkus, briefly. We settled on Daniel, and as my son, David said, it is now Daniel in the Shimkus den, so he is going to be prepared for a well time in the family.

Mr. Speaker, I thank the gentleman from Louisiana (Mr. TAUZIN), and the gentleman from Virginia (Mr. BLILEY) for their help and support. I also thank the gentleman from Michigan (Mr. DINGELL) and the gentleman from Massachusetts (Mr. MARKEY) for their help and support in working on this important issue. I also would like to recognize the gentlewoman from Missouri (Ms. DANNER) for her constant historic aspect in this battle from my neighboring State of Missouri, and I am sure she is excited about us coming to completion on one portion today.

I am very happy that the House has decided to take up this bill, which is the Senate version of my E–911 legislation. It is a good bill and one which improves upon what was passed out of the Committee on Commerce.

Currently, there are over 68 million wireless phone users in the United States. Many of these users bought their phone specifically for use in emergency situations. Ironically, a simple solution to a life-threatening situation becomes very complicated when some areas in the United States do not use 911 as a cellular number for emergencies, and I recounted numerous times just going over from my side of the St. Louis metropolitan area from Illinois over to Missouri and the Mason Dixon Line of the Mississippi having two different numbers and how critical that could be at a time of emergency.

At a time when studies have shown that in an accident it is critical to receive care within 30 minutes in urban areas and 50 minutes in rural areas, it is vital that we pass this legislation and get our constituents the care they need. Specifically, both the House and the Senate bills designate 911 as the national emergency number. Importantly, S. 800 includes provisions from the House bill that were drafted by the gentleman from Massachusetts (Mr. MARKEY) to protect consumer privacy. This legislation requires carriers to obtain a customer's express prior authorization before disclosing any location information other than in an emergency situation. Unless this legislation is enacted, there will be no protection for a customer's location information.

Additionally, this bill provides comparable liability protection for wireless and land line carriers with respect to nonemergency communications. Again, I would like to thank the gentleman from Virginia (Mr. BLILEY), our full committee chairman; the gentleman from Louisiana (Mr. TAUZIN), my subcommittee chairman; and the ranking members of both the full committee and the subcommittee. I urge my colleagues to support this important piece of legislation.

Mr. MARKEY. Mr. Speaker, I yield 4 minutes to the gentlewoman from Missouri (Ms. DANNER), who played a critical role in the passage of this legislation.

Ms. DANNER. Mr. Speaker, I rise to express my support for S. 800, the Wireless Communications and Public Safety Act.

This bill, which provides cellular phone users nationwide with a single reliable emergency cellular phone number, will help to ensure that citizens can summon help, whether they are a block from home or thousands of miles away.

I have just had some very exciting information too with regard to my family, and an upcoming birth that is going to be taking place in the spring, so I too am a little excited about children this evening.

Wireless technology has helped to simplify or, in some cases complicate our lives; but one important contribution of cellular telephones is the ability to improve public safety. Cellular phones greatly increase the ability of individuals without access perhaps to wire phones at the time to quickly report accidents or other emergencies and to help speed the arrival of assistance.

In March of 1997, 2½ years ago, I introduced legislation that would standardize State cellular emergency numbers. Earlier this year, I introduced a similar bill to accomplish the same goal. I am pleased that the bill we will vote upon and hopefully pass today includes, among its many other important provisions, the designation of 911 as the universal cellular assistance number, and I hear a cellular ringing in the background. We can tell how prevalent they are.

Adoption of this bill will remove one of the greatest obstacles to the effective use of cellular telephones in emergency situations.

I would like to take this opportunity to share with my colleagues briefly a true story that demonstrates the current limits of wireless phone service, a story that might have ended differently if this law had been in place just a short time ago.

In 1997 on Thanksgiving Day, several months after I had introduced the legislation, a couple from Lenexa, Kansas, was driving south on U.S. 71 in southwestern Missouri. This couple observed a minivan weaving through traffic, driving at erratic speed, and crossing both the road's shoulder and its center line. Using a cellular phone, the passenger tried to reach assistance. However, because she was not aware that the cellular emergency number in Missouri is *55, she was unable to reach assistance quickly because in her neighboring State, her home State of Kansas, it is *47, and if one is on the Kansas turnpike, it is even different.

After attempting several different numbers, she was finally able to reach an operator who connected her to the local police station. However, by that time, it was too late. As the police were beginning to set up their roadblock, the minivan, driven by an individual, collided with an oncoming vehicle containing a mother and her two-year-old child. It resulted in the death of all three.

This tragic accident might have been avoided if the passenger in the Kansas vehicle had been able to reach authorities on the first attempt.

It is troubling that this tragic situation could occur almost anywhere in our Nation. For example, the six States between Kansas City and Washington, D.C. have five different cellular assistance numbers. In the United States as a whole, there are as many as 15 different numbers. Besides making it easier for citizens to report aggressive or impaired drivers, this bill will also enhance an individual's ability to summon help whenever needed, for example, when a person might be lost, injured, or otherwise disabled in a secluded area. Such action would provide people with additional peace of mind.

I urge all of my colleagues to vote in favor of this important public safety legislation. It will literally save lives.

Mr. TAUZIN. Mr. Speaker, could I inquire as to how much time is remaining.

The SPEAKER pro tempore (Mr. UPTON). The gentleman from Louisiana (Mr. TAUZIN) has 11 minutes remaining; the gentleman from Massachusetts (Mr. MARKEY) has 8½ minutes remaining.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill addresses a great many problems simultaneously. I want to compliment my dear friend, the gentlewoman from Missouri (Ms. DANNER), for the extraordinary efforts she has made to continue to press forward for this legislation, having the experience she has described in mind, and again my good friend, the gentleman from Illinois (Mr. SHIMKUS), for moving it forward.

The one thing we are not doing in this bill is addressing the question of tower siting, and we have taken it out of the bill because it is still a very controversial question that has to do with local jurisdictions and zoning and what have you. But that problem poses a real problem for many parts of our country.

Right here in the Nation's capital, Rock Creek Parkway still does not have cellular service. So citizens in this area who are using that parkway, women and men who are jogging in that park with their children, maybe subject to some unfortunate attack or some problem with their health cannot dial 911; they cannot dial anybody, because there is no cellular service.

The gentleman from Massachusetts (Mr. MARKEY) and I have been pressing the park agency for the agreement to allow cellular service to come to Rock Creek Parkway, but unfortunately, after giving us promises of meeting deadline after deadline after deadline, there is still no agreement to authorize tower siting for cellular service in Rock Creek Parkway. If we cannot get it done right next to the capital, imagine how much trouble Americans all over the country are having getting cellular service established in places where our own Government sometimes stands in the way.

Mr. Speaker, I wish that we had been able to address that problem in this bill. We were not. In order to get the bill through these two bodies and on to the President's desk, it is so important to get 911 out there and all the features we have just described that we have had to drop that important feature of tower siting. But my friend from Massachusetts and I will continue this fight to see to it that one day Rock Creek Parkway has cellular service and that other parks and recreational areas of the country similarly get the right to have that sort of safety protection for the citizens who use those parks.

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Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, the gentleman put his finger right on the problem. I do not think we want people driving around, driving up Rock Creek without an E-911 signal. That is what we have right now. It would be very helpful if down the line we are able to resolve these tensions that exist between environmental concerns and telecommunications technology, but ultimately, we have to harmonize the policies to ensure that Americans are able to get the best of both, which right now I think they are being denied.

Mr. TAUZIN. I thank the gentleman.

In this case, Mr. Speaker, the cellular service provider has agreed to put the cellular service antennas onto already existing towers at the tennis center. We would think that would be fine, and we would have cellular service for this park. We still cannot get those approved.

It is an example of a problem that exists all over America, and unfortunately, we do not cure it in this bill, but we are not through in our efforts to get service for Rock Creek Parkway.

I know the gentleman from Massachusetts will not give up, anymore than I will give up in that effort.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. FORD), that eloquent forceful advocate.

Mr. FORD. Mr. Speaker, the gentleman from Massachusetts (Mr. MARKEY) is very kind. He has defined his jump shot on this side of the aisle. We thank him for that. My thanks to the gentleman from Louisiana (Mr. TAUZIN), to the gentleman from Massachusetts (Mr. MARKEY), and to the chairman, the gentleman from Illinois (Mr. SHIMKUS), and to the gentleman from Virginia (Chairman BLILEY) and to the ranking member, the gentleman from Michigan (Mr. DINGELL) and the gentlewoman from Missouri (Ms. DANNER). I thank them for all they have done.

Mr. Speaker, S. 800 is a major advancement in our ability to use all our communication abilities to save lives and report crimes. This bill designates 911 as the universal emergency telephone number and replaces the confusing codes and alternative numbers that wireless networks have been forced to use.

The bill upgrades conventional wireline services in areas which do not have the funds to upgrade their services.

Under current law, wireless operators cannot respond to some emergency calls because they are not allowed to process pertinent location information. This legislation, as the gentleman from Illinois has said, will expand the current definition of customer proprietary network information to include local information.

However, it states clearly that a provider must obtain the express prior authorization before a carrier can use location information, other than in an emergency situation.

By extending the current liability protection which exists for landline carriers to wireless carriers, the legislation makes sure that our liability statutes keep pace with ever-changing technology. The bill does not give wireless providers greater protection. It does not change rules for land lines. It simply levels the playing field between the two carriers.

Congress has the opportunity today, and I look forward to joining with colleagues on both sides of the aisle, to open access to emergency services anywhere in this country. Whether it is on a gridlocked highway or in the middle of a national park, emergency service will never be out of reach.

I thank the gentlewoman from Missouri (Ms. DANNER), the gentleman from Louisiana (Mr. TAUZIN), I thank the jump-shooting gentleman from Massachusetts (Mr. MARKEY), and the gentleman from Illinois (Mr. SHIMKUS). I look forward to being part of the vote in favor of the Wireless Communications and Public Safety Act of 1999.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would only point out that in order to have a jump shot, we must be able to get off the ground. I would like to have the gentleman have an opportunity to revise and extend so that he can correct any erroneous impression that he may have left with the listening audience here today with regard to my jumping ability.

Mr. Speaker, I yield 2 minutes to the gentleman from Houston, Texas (Mr. GREEN), the illustrious legislator and another luminary in the firmament of jump-shooting basketball players in Congress.

Mr. GREEN of Texas. Mr. Speaker, I thank my colleague for yielding time to me.

Mr. Speaker, I am glad the gentleman corrected or at least gave my friend, the gentleman from Tennessee (Mr. FORD), the opportunity to correct himself. The gentleman from Massachusetts (Mr. MARKEY) and I both lost our jump shot about 30 years ago.

Mr. FORD. Mr. Speaker, will the gentleman yield?

Mr. GREEN of Texas. I yield to the gentleman from Tennessee.

Mr. FORD. Mr. Speaker, the gentleman does have a set shot.

Mr. GREEN of Texas. I stand corrected.

I am glad to be here, Mr. Speaker, with both my colleague, the gentleman from Louisiana (Mr. TAUZIN), the chairman of the Subcommittee on Telecommunications, Trade, and Consumer Protection, and the ranking member in support of S. 800.

For over 68 million wireless subscribers, wireless communications is often the critical link in emergency and accident situations.

Mr. Speaker, from the city of Houston, our Greater Harris County Emergency Network has taken great strides in implementing E-911 services. Over the past year in Houston, Texas, the emergency service has been conducting a test of an actual E-911 network with simulated 911 wireless calls. The test has met with great success, and the city's action has made them a leader and role model for the rest of the country in deploying and implementing E-911. I applaud all localities that are taking this extra step toward implementing this in our communities.

The ultimate goal in S. 811 is to deploy an end-to-end seamless wireless safety network that will save lives.

There are some obstructions we need to overcome. I am glad my colleague, the gentleman from Massachusetts, was able to get his privacy amendment in there, because there are times that we want to know where we are at, particularly in an emergency, but also we do not want Big Brother looking over our shoulders, so I am glad that hopefully was addressed.

Currently, wireless emergency calls do not include location information. Location information allows a wireless 911 call to be located on a map within 100 meters of the actual call. S-800 enforces current FEC rules that call for Automatic Information Location to be put in place by October 1, 2001. It eliminates the barriers to installing wireless location technology, and assists emergency medical and public safety communities to respond to calls for help.

Mr. Speaker, in response, and the gentleman has heard it in our committee hearing, last spring I was going through a number of States, including Louisiana, Mississippi, Alabama, Tennessee, and Virginia. I did not realize how many States had different numbers than 911. So if nothing else, this bill will do that, but it does a lot more.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would correct the gentleman from Houston, it is Massachusetts, rather than Massatusetts. We are very sensitive to that as we head into the Yankee Series. Mr. Speaker, we recommend to the full House that this bill be accepted.

Mr. BLILEY. Mr. Speaker, I am pleased that we have the opportunity today to complete a project that has been a high priority for the Commerce Committee since December of last year. S. 800 is sound public policy that will have a positive impact on the lives of all Americans for years to come. While the changes contained in the bill are rather small compared to some bills we consider in the

House, the impact will be very significant to the lives and safety of our constituents.

Let me start by thanking the other body for their work on this issue. Last Congress, the Commerce Committee considered a similar bill led by my good friend from Louisiana, Mr. TAUZIN, that did not make it to the House floor. This Congress we were able to bring a new bill, H.R. 438, led by my good friend from Illinois, Mr. SHIMKUS, to the House floor with overwhelming support. This work became the basis for the other body's effort on this issue. The result is S. 800, which slightly modifies and improves the House product without altering the underlying concepts.

S. 800 will resolve once and for all the telephone number people need to dial in order to get emergency personnel. The bill establishes 911 as the universal emergency number for both wireless and wireline telecommunications services. In many parts of our nation, the seemingly ubiquitous telephone number, 911, is not the number used by the local community for emergencies. What seems like such a simple concept has not been implemented uniformly throughout the nation. This situation causes consumer confusion that can delay or prevent emergency personnel from reaching people in need. For instance, there are approximately 15 emergency numbers used around the country for wireless calls. These range from 911 to *55, #77, to the acronym of the State highway police, to the local sheriff or police department.

Think about the typical American experience of taking a family vacation. When you are out on the roads of America with your family and you see an accident or get involved in an accident yourself, how do you get help for your loved ones if you don't know how to reach emergency personnel? Take a moment to imagine trying to get emergency help on an interstate highway when you are not certain of your precise location and you may have no idea of what number that State has adopted to call emergency personnel. These scenarios are real and they happen every day.

Thankfully we are making the thoughtful decision through this bill that there should be one number for consumers to dial to reach emergency personnel. This will remove the dialing guessing game and help improve the safety of our citizens.

S. 800 also provides liability parity between wireline and wireless carriers. Wireless carriers have made a compelling case as to why liability parity is justified in this limited instance and how public safety will be enhanced if it is enacted. The public safety community is also strongly supporting this provision recognizing that the deployment of wireless location technology is being stalled because wireless companies are correctly concerned about their exposure to lawsuit for trying to improve the safety of their systems. With over 100,000 wireless emergency calls being placed each day, pinpointing the exact location of wireless calls will be extremely helpful in improving emergency response time. Liability protection will help facilitate the deployment of such technology.

Lastly, S. 800 will provide privacy protections for consumers in the use of subscriber call location information. As call location information technologies are deployed, it is equally important that we ensure that this information is treated confidentially. It is not appropriate to let government or commercial parties collect such information or keep tabs on the exact location of individual subscribers. S. 800 will ensure that such call location information is not disclosed without the authorization of the user, except in emergency situations, and only to specific personnel.

These are well thought-out, well-vetted concepts that have received broad bipartisan support.

I want to thank all Members that have helped us get where we are today. I especially want to thank Senators BURNS, MCCAIN, and HOLLINGS, and their staffs for the work that went into S. 800. I also want to thank the relevant industry parties involved, including the U.S. wireless companies and their trade associations—the Cellular Telecommunications Industry Association and the Personal Communications Industry Association—for their continued support and helpful suggestions. It is also important that we recognize the fine work of the public safety community, including the ComCARE Alliance, for continuing to remind us that these simple reforms will be so helpful to the safety of Americans. I ask that a letter sent to me by the ComCARE Alliance on this bill be made part of the RECORD.

I urge all Members to support passage of the bill.

Mr. MARKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TAUZIN. Mr. Speaker, asking all Members to join us in this bill, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the Senate bill, S. 800.

The question was taken.

Mr. TAUZIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

HILLORY J. FARIAS DATE-RAPE PREVENTION DRUG ACT OF 1999

Mr. UPTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2130) to amend the Controlled Substances Act to add gamma hydroxybutyric acid and ketamine to the schedules of controlled substances, to provide for a national awareness campaign, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hillory J. Farias Date-Rape Prevention Drug Act of 1999".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Gamma hydroxybutyric acid (also called G, Liquid X, Liquid Ecstasy, Grievous Bodily Harm, Georgia Home Boy, Scoop) has become a significant and growing problem in law enforcement. At least 20 States have scheduled such drug in their drug laws and law enforcement officials have been experiencing an increased presence of the drug in driving under the influence, sexual assault, and overdose cases, especially at night clubs and parties.

(2) A behavioral depressant and a hypnotic, gamma hydroxybutyric acid ("GHB") is being used in conjunction with alcohol and other drugs with detrimental effects in an increasing number of cases. It is difficult to isolate the impact of such drug's ingestion since it is so typically taken with an ever-changing array of other drugs and especially alcohol, which potentiates its impact.

(3) GHB takes the same path as alcohol, processes via alcohol dehydrogenase, and its symptoms at high levels of intake and as impact builds are comparable to alcohol ingestion/intoxication. Thus, aggression and violence can be expected in some individuals who use such drug.

(4) If taken for human consumption, common industrial chemicals such as gamma butyrolactone and 1.4-butanediol are swiftly converted by the body into GHB. Illicit use of these and other GHB analogues and precursor chemicals is a significant and growing law enforcement problem.

(5) A human pharmaceutical formulation of gamma hydroxybutyric acid is being developed as a treatment for cataplexy, a serious and debilitating disease. Cataplexy, which causes sudden and total loss of muscle control, affects about 65 percent of the estimated 180,000 Americans with narcolepsy, a sleep disorder. People with cataplexy often are unable to work, drive a car, hold their children or live a normal life.

SEC. 3. ADDITION OF GAMMA HYDROXYBUTYRIC ACID AND KETAMINE TO SCHEDULES OF CONTROLLED SUBSTANCES; GAMMA BUTYROLACTONE AS ADDITIONAL LIST I CHEMICAL.

(a) ADDITION TO SCHEDULE I.—

(1) IN GENERAL.—Section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended by adding at the end of schedule I the following:

"(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following substance having a depressant effect on the central nervous system, or which contains any of their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

"(1) Gamma hydroxybutyric acid.".

(2) SECURITY OF FACILITIES.—For purposes of any requirements that relate to the physical security of registered manufacturers and registered distributors, gamma hydroxybutyric acid and its salts, isomers, and salts of isomers manufactured, distributed, or possessed in accordance with an exemption approved under section 505(i) of the Federal Food, Drug, and Cosmetic Act shall be treated as a controlled substance in schedule III under section 202(c) of the Controlled Substances Act.

(b) ADDITION TO SCHEDULE III.—Schedule III under section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended in (b)—

(1) by redesignating (4) through (10) as (6) through (12), respectively;

(2) by redesignating (3) as (4);

(3) by inserting after (2) the following:

"(3) Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers contained in a drug

product for which an application has been approved under section 505 of the Federal Food, Drug, and Cosmetic Act."; and

(4) by inserting after (4) (as so redesignated) the following:

"(5) Ketamine and its salts, isomers, and salts of isomers.".

(c) ADDITIONAL LIST I CHEMICAL.—Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended—

(1) by redesignating subparagraph (X) as subparagraph (Y); and

(2) by inserting after subparagraph (W) the following subparagraph:

"(X) Gamma butyrolactone.".

(d) RULE OF CONSTRUCTION REGARDING CONTROLLED SUBSTANCE ANALOGUES.—Section 102(32) of the Controlled Substances Act (21 U.S.C. 802(32)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following subparagraph:

"(B) The designation of gamma butyrolactone or any other chemical as a listed chemical pursuant to paragraph (34) or (35) does not preclude a finding pursuant to subparagraph (A) of this paragraph that the chemical is a controlled substance analogue.".

(e) PENALTIES REGARDING SCHEDULE I.—

(1) IN GENERAL.—Section 401(b)(1)(C) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(C)) is amended in the first sentence by inserting after "schedule I or II," the following: "gamma hydroxybutyric acid in schedule III,".

(2) CONFORMING AMENDMENT.—Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) is amended by inserting "(other than gamma hydroxybutyric acid)" after "schedule III".

(f) DISTRIBUTION WITH INTENT TO COMMIT CRIME OF VIOLENCE.—Section 401(b)(7)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(7)(A)) is amended by inserting "or controlled substance analogue" after "distributing a controlled substance".

SEC. 4. AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS FOR GAMMA HYDROXYBUTYRIC PRODUCTS IN SCHEDULE III.

Section 307 of the Controlled Substances Act (21 U.S.C. 827) is amended by adding at the end the following:

"(h) In the case of a drug product containing gamma hydroxybutyric acid for which an application has been approved under section 505 of the Federal Food, Drug, and Cosmetic Act, the Attorney General may, in addition to any other requirements that apply under this section with respect to such a drug product, establish any of the following as reporting requirements:

"(1) That every person who is registered as a manufacturer of bulk or dosage form, as a packager, repackager, labeler, relabeler, or distributor shall report acquisition and distribution transactions quarterly, not later than the 15th day of the month succeeding the quarter for which the report is submitted, and annually report end-of-year inventories.

"(2) That all annual inventory reports shall be filed no later than January 15 of the year following that for which the report is submitted and include data on the stocks of the drug product, drug substance, bulk drug, and dosage forms on hand as of the close of business December 31, indicating whether materials reported are in storage or in process of manufacturing.

"(3) That every person who is registered as a manufacturer of bulk or dosage form shall report all manufacturing transactions both inventory increases, including purchases, transfers, and returns, and reductions from inventory, including sales, transfers, theft, destruction, and seizure, and shall provide data on material manufactured, manufactured from other material, use in manufacturing other material, and use in manufacturing dosage forms.

"(4) That all reports under this section must include the registered person's registration number as well as the registration numbers, names, and other identifying information of vendors, suppliers, and customers, sufficient to allow the Attorney General to track the receipt and distribution of the drug.

"(5) That each dispensing practitioner shall maintain for each prescription the name of the prescribing practitioner, the prescribing practitioner's Federal and State registration numbers, with the expiration dates of these registrations, verification that the prescribing practitioner possesses the appropriate registration to prescribe this controlled substance, the patient's name and address, the name of the patient's insurance provider and documentation by a medical practitioner licensed and registered to prescribe the drug of the patient's medical need for the drug. Such information shall be available for inspection and copying by the Attorney General.

"(6) That section 310(b)(3) (relating to mail order reporting) applies with respect to gamma hydroxybutyric acid to the same extent and in the same manner as such section applies with respect to the chemicals and drug products specified in subparagraph (A)(i) of such section.".

SEC. 5. DEVELOPMENT OF FORENSIC FIELD TESTS FOR GAMMA HYDROXYBUTYRIC ACID.

The Attorney General shall make a grant for the development of forensic field tests to assist law enforcement officials in detecting the presence of gamma hydroxybutyric acid and related substances.

SEC. 6. ANNUAL REPORT REGARDING DATE-RAPE DRUGS; NATIONAL AWARENESS CAMPAIGN.

(a) ANNUAL REPORT.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall periodically submit to the Congress reports each of which provides an estimate of the number of incidents of the abuse of date-rape drugs (as defined in subsection (c)) that occurred during the most recent one-year period for which data are available. The first such report shall be submitted not later than January 15, 2000, and subsequent reports shall be submitted annually thereafter.

(b) NATIONAL AWARENESS CAMPAIGN.—

(1) DEVELOPMENT OF PLAN; RECOMMENDATIONS OF ADVISORY COMMITTEE.—

(A) IN GENERAL.—The Secretary, in consultation with the Attorney General, shall develop a plan for carrying out a national campaign to educate individuals described in subparagraph (B) on the following:

(i) The dangers of date-rape drugs.

(ii) The applicability of the Controlled Substances Act to such drugs, including penalties under such Act.

(iii) Recognizing the symptoms that indicate an individual may be a victim of such drugs, including symptoms with respect to sexual assault.

(iv) Appropriately responding when an individual has such symptoms.

(B) INTENDED POPULATION.—The individuals referred to in subparagraph (A) are young adults, youths, law enforcement personnel, educators, school nurses, counselors of rape victims, and emergency room personnel in hospitals.

(C) ADVISORY COMMITTEE.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish an advisory committee to make recommendations to the Secretary regarding the plan under subparagraph (A). The committee shall be composed of individuals who collectively possess expertise on the effects of date-rape drugs and on detecting and controlling the drugs.

(2) IMPLEMENTATION OF PLAN.—Not later than 180 days after the date on which the advisory committee under paragraph (1) is established, the Secretary, in consultation with the Attorney General, shall commence carrying out the national campaign under such paragraph in accordance with the plan developed under such paragraph. The campaign may be carried out directly by the Secretary and through grants and contracts.

(3) EVALUATION BY GENERAL ACCOUNTING OFFICE.—Not later than two years after the date on which the national campaign under paragraph (1) is commenced, the Comptroller General of the United States shall submit to the Congress an evaluation of the effects with respect to date-rape drugs of the national campaign.

(c) DEFINITION.—For purposes of this section, the term "date-rape drugs" means gamma hydroxybutyric acid and its salts, isomers, and salts of isomers and such other drugs or substances as the Secretary, after consultation with the Attorney General, determines to be appropriate.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. UPTON) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. UPTON).

GENERAL LEAVE

Mr. UPTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2130.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. UPTON. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio (Mr. CHABOT) be recognized to control half of my time, or 10 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. UPTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2130. I particularly want to appreciate the good work of the gentleman from Virginia (Chairman BLILEY) and the gentleman from Florida (Chairman BILIRAKIS), both of whom would be here except for subcommittee hearings going on.

I thank my colleagues, all of the Michigan delegation, and in particular, the gentleman from Michigan (Mr. STUPAK) who serves with me on the Committee on Commerce, for his diligent work on this effort, and the gentlewoman from Texas (Ms. JACKSON-LEE) for her fine efforts, and obviously the gentleman from Michigan (Mr. DINGELL) as well.

I also want to compliment Senator ABRAHAM, who has introduced similar legislation in the Senate, as well as Chairman HATCH, chairman of the Committee on the Judiciary in the Senate, as he has apparently indicated that they want to move fairly quickly in the Senate with hearings and action over there very soon, perhaps as early as next week.

Mr. Speaker, I was a relatively new chairman of the Subcommittee on Oversight and Investigations in the Committee on Commerce this last year. There were two stories in Michigan that prevailed in a major way last January.

One was the terrible cold and snow. The high temperature I think in my part of the State was about 20 below for about 1½ weeks. The other story was a very sad story about two teenage women from the district of the gentleman from Michigan (Mr. DINGELL) who went to a party and, sadly, someone allegedly laced their soft drinks with a date-rape drug called GHB or GBL. One of those women died. It was a nightmare, a nightmare that no family wants to experience or get that phone call.

I did not know very much about date rape drugs, and I thought, as the new chairman of the subcommittee, that we ought to have a look at it. We called a number of witnesses. In fact, we heard from a victim from this area, the Washington-Virginia-Maryland area, a woman who at the age of 14 or 15 had had her soft drink laced with this same type of drug. She was a serious victim of sexual assault. She, thank goodness, lived, but it was an experience that no family wants to experience.

Mr. Speaker, we heard in August from the Kansas City TV station, where they thought that perhaps as many as 6,000 or 7,000 cases of date rape drugs had happened in the greater Kansas City area, and they were very interested in watching this legislation move forward. I heard from a mom in Ohio whose daughter's bottled water had been laced with this stuff and she was on life support, the daughter.

As we found out a little bit about this drug, we found that it was odorless, colorless, tasteless, and it is virtually available on every college campus across the country. We found out that on the Internet, virtually anyone with a credit card could get this stuff for as little as $20 overnight.

Mr. Speaker, this is a nightmare that needs to end. We found out that because of a number of loopholes in a number of States, these drugs were actually legal. They were legitimate. We found out that those States would try as hard as they may to try and ban some of these drugs. With a simple change in the chemical balance of these drugs, it could be made from GHB to GBL to who knows what, and the circumstance would be the same.

Mr. Speaker, this legislation that I introduced, along with my colleagues, the gentlemen from Michigan, Mr. STUPAK and Mr. DINGELL, the gentleman from Virginia (Mr. BLILEY), and the gentleman from Florida (Mr. BILIRAKIS), closes the door on these drugs. It makes them a Schedule I. It will take it, I hope, off the Internet.

It will make sure that on college campuses, in high schools across the country, that there will be a force that the law enforcement agencies will have where they can take this stuff off the street and save families from the nightmares that they would otherwise have.

We heard testimony that perhaps as many as 90 kids have died in the last couple of years because of these drugs, and certainly thousands and thousands of cases of abuse across the country. In many cases, when these kids, women, are brought to the ER rooms, the hospital has no idea what might have struck these kids because it is natural, in many cases. In many cases these drugs are a naturally-produced substance with a relatively short half-life, and without knowing specifically what to look for in this stuff, the ER room misses it and perhaps that child dies.

Mr. Speaker, I would urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to yield 10 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE) for her to control on behalf of the Committee on the Judiciary.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. STUPAK), the sponsor of the bill who has worked tirelessly on this with the gentlewoman from Texas (Ms. JACKSON-LEE) and the gentlewoman from Michigan (Ms. STABENOW).

Mr. STUPAK. I thank the gentleman for yielding time to me, Mr. Speaker.

Mr. Speaker, I rise in strong support of H.R. 2130, the Hillory T. Varias Date-Rape Prevention Drug Act of 1999.

As many of my colleagues know, with my background in law enforcement, I have been concerned with the problem of drug abuse and date rape. In fact, the first bill that I ever passed in the U.S. Congress in 1993 was the Chemical Diversion Act of 1993, which wiped out cat or methcatadone, as we call it.

But in addition to this and other efforts, we are here today on H.R. 2130, as amended. We did a lot of work in committee. We put my substitute as the committee bill, and it is a product of a lot of compromise worked out by numerous parties in the Committee on Commerce and the Committee on the Judiciary to address the concerns and needs of both law enforcement and patients.

By scheduling GHB, we will be giving the Drug Enforcement Agency strong controls over the drug and allow them to combat the rampant abuse of this drug which we are currently seeing.

□ 1830

Just a few months ago, five Lake City teenagers were brought into the emergency room in convulsions and described as comatose due to the overdose of GHB. Even more recently, October 1 of this year, article right here about eight Ann Arbor University of Michigan students up in the hospital over the weekend because of taking GHB that was slipped into their drinks while they were out partying in Ann Arbor.

Not only in Michigan, Mr. Speaker, but all over the country this drug is spreading in popularity. I know my colleague, from the gentleman from Michigan (Mr. UPTON), estimated 90 people. Even modest estimates put it at 32 people have died from exposure to this drug, most of them because it has been dangerously mixed with alcohol.

Countless others have overdosed or suffered rape as a result of this unpredictable and uncontrolled substance. Furthermore, GHB is one of the first drugs in which the recipe for manufacture at home was widely available over the Internet. People were literally cooking up the drug in their house by obtaining the ingredients and instructions over the Internet.

H.R. 2130 addressed this issue by requiring tracking and reporting of possible misuse of GBL and other precursor chemicals.

Finally, the bill requires the Department of Justice to develop a forensic test to aid law enforcement officials in determining when GHB or a GHB-related compound is involved in a criminal activity. This will be helpful to law enforcement officials who currently have no way of determining GHB's involvement in a crime or situation without laboratory testing.

This bill also recognizes that well-designed legislative efforts should not throw out the baby with the bath water, so to speak. By this, I mean that the abusive use of GHB we have been focusing on should not prevent possible legitimate or beneficial uses of this drug. For example, GHB has shown considerable promise for the treatment of narcolepsy. Specifically, this drug could benefit the approximately 30,000 people who suffer from a form of cataplexy or a sudden loss of muscle control.

Good public policy recognizes these patients and the important research which is being done attempting to address their serious medical concerns.

H.R. 2130 places GHB into Schedule I; but when it is approved by the FDA for medical use, it will then move to a Schedule III with Schedule I criminal penalties. It allows an exemption from the security requirements imposed for Schedule I controlled substances, which will allow the manufacturers of medical-grade GHB to continue their research without the need to construct an expensive vault for storage of the product.

This bill also allows patients to receive their drugs directly from the manufacturer, because it places a medically-approved GHB drug automatically into Schedule III.

Mr. Speaker, a lot of work has gone into reaching this bipartisan legislation. I want to thank the gentlewoman from Texas (Ms. JACKSON-LEE) for her work on this issue. I want to thank the chairman of the Committee on Commerce, the gentleman from Virginia (Mr. BLILEY), as well as my good friend, the gentleman from Michigan (Mr. UPTON) of the Subcommittee on Oversight, Investigations and Emergency Management for holding the first hearing on this matter, and the gentleman from Florida (Mr. BILIRAKIS) who were crucial in moving this bill through the Committee on Commerce.

Finally and most heartfelt, I would like to thank the gentleman from Michigan (Mr. DINGELL), as well as the gentleman from Ohio (Mr. BROWN), the gentleman from Pennsylvania (Mr. KLINK), and the gentlewoman from Michigan (Ms. STABENOW) for working with us on our side to move this bill.

I urge the House to pass this bill so we can prevent more deaths from the misuse of this dangerous substance, and I urge the other body to move this legislation expeditiously.

Mr. CHABOT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2130. One of the most pernicious recent developments in our Nation's battle against illegal drug use is the emergence of so-called date rape drugs. These drugs are being used by sexual predators to incapacitate their victims before they are sexually assaulted. Many of these drugs are odorless and tasteless as the gentleman from Illinois has already mentioned, and they dissolve quickly and easily in alcohol.

Alcohol enhances the drug's intoxicating effect and leaves the victim utterly helpless. What makes the use of these drugs even more contemptible is that the victims are likely to suffer memory loss, and this makes it virtually impossible for them to recount to law enforcement officers the circumstances surrounding the assault. These victims suffer the knowledge that they have been sexually assaulted, but they just cannot remember the details or explain how it happened and that makes it virtually impossible to prosecute many of these cases, and that is why they are particularly heinous.

H.R. 2130 builds on past efforts by the Committee on Commerce and the Committee on the Judiciary to address the problem of date rape drugs. In 1998, a bill I introduced, the Controlled Substances Trafficking Prohibition Act, passed both the House and the Senate and was signed into law by the President. H.R. 2366 closed a gaping loophole in U.S. drug policy, the so-called personal use exemption to the Controlled Substances Act that allowed American drug dealers to bring large quantities of prescription drugs, even the most notorious types of date rape drugs, into this country without a legitimate doctor's prescription or medical purpose.

This exemption was so lax that studies along the Texas border found records of people bringing thousands of these pills into this country in one day; multiple drugs and thousands of pills in a single day supposedly for personal use. These date rape drugs ultimately found their way far too often to the streets and to college campuses, putting young women at risk.

In October 1996, Congress also passed the Drug Induced Rape Prevention and Punishment Act of 1996. That law addressed the abuse of the drug flunitrazepam and established the precedent that H.R. 2130 now follows.

Others have ably described the provisions of this legislation so I will only highlight a few of its key aspects. It places GHB in Schedule I of the Controlled Substances Act; thereby providing the maximum penalties for those who clandestinely produce the drug at home and those who use GHB to commit date rape. It also establishes GBL, the precursor chemical used to make GHB, as a list one chemical, the most regulated chemical category.

The legislation allows for the ongoing, promising clinical development of GHB for the treatment of narcolepsy and more specifically for the treatment of cataplexy. It does so by providing that if and when GHB is approved by the FDA for the treatment of cataplexy, it will then be placed in Schedule III of the Controlled Substances Act. Such scheduling would facilitate use of the drug for such treatment. At the same time, however, the bill provides that the illegal use of GHB will receive Schedule I penalties.

Mr. Speaker, H.R. 2130 is another good example of how this Congress and recent Congresses are working both smarter and harder to combat the scourge of illegal drugs.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, over this past weekend we lost 6 young people in a tragic accident near College Station, and before I begin my remarks I would like to offer my sympathy to their families and their universities.

Any time we lose young people, it is a tragedy and that is why this bill is so particularly important to those of us in Texas and around this country. So I am pleased to stand here today in strong support of the Hillory J. Farias Date-Rape Preservation Act of 1999, and I was delighted this summer to join the members of the Committee on Commerce, the gentleman from Michigan (Mr. UPTON), the gentleman from Michigan (Mr. STUPAK), and the gentleman from Virginia (Mr. BLILEY), to introduce this bipartisan legislation.

I want to take this time now to acknowledge the leadership of the gentleman from Michigan (Mr. UPTON) and the gentleman from Michigan (Mr. STUPAK) and to thank them for their collaborative kindness, to thank the gentleman from Ohio (Mr. BROWN) and the gentlewoman from Michigan (Ms. STABENOW) for their interest and participation. We have waited a long time for this day; and I look forward to the next step for this legislation, which is final passage today in the House and later in the Senate.

This day has been a long time coming, but it is a victory for those of us who are concerned about date rape drugs. This drug, GHB, has been used in innumerable rapes around the country and has been implicated in at least 40 deaths. In addition to date rape, this drug is very popular on the party scene in many cities and it is widely abused. In my home city of Houston, GHB has become known as a rage at some Houston area clubs where it is clandestinely being dispensed by party goers in clear liquid form from designer water bottles. This drug which goes by the names of "easy lay," "grievous bodily harm," "gook," "Gamma 10," and "liquid X" cannot be detected with a routine drug screen. That is why the deaths of so many of the victims have remained a mystery.

I was prompted to act to control the illicit use of GHB 3 years ago because of the death of Hillory J. Farias for whom this bill is named after, proudly so, of La Porte, Texas, on August 5, 1996, who was killed by this drug.

There is no pride in her death, but there is pride in this tribute to her today. I introduced a GHB bill in 1997 and again in 1998 and in 1999, and I have continued to advocate for its passage to prevent women from being victimized by date rape drugs.

Hillory J. Farias was a 17-year-old high school student, model student and varsity volleyball player, who died as a result of GHB slipped in her soft drink. It was at this time that her family refused to believe that she died of a self-induced drug overdose, and in their persistence they had the new Harris County medical center, Dr. Joy Carter, to again retest or reexamine and determine the death or the reason of the death of Hillory J. Farias.

Her family now, Lydia Farias, her grandmother; and Ray Farias, her grandfather; Rubin Farias, her uncle; Rosey Farias, her mother; and Hernando Farias, her uncle have gathered throughout these 3 years to persist in finding some truth to what happened to Hillory but also to help pass this legislation so that it could not happen to others again.

Hillory and two of her girlfriends went out to a club where they consumed only soft drinks. At some point during the evening, GHB was slipped into Hillory's drink and soon afterwards Hillory complained of feeling sick with a severe headache. She went home to bed, but the next morning Hillory was found by her grandmother unconscious and unresponsive. Hillory was rushed to the hospital where she later died. The cause of Hillory's death remained a mystery until it was finally detected by medical examiners, in this instance Dr. Joy Carter, as I indicated, after receiving a report from the Harris County Organized Crime and Narcotics Task Force about a new date-rape drug that was starting to show up in area nightclubs.

I introduced H.R. 1530 on May 5, 1997. The bill has several cosponsors, the gentlewoman from Georgia (Ms. McKINNEY), the gentlewoman from Florida (Mrs. MEEK), the gentlewoman from California (Mrs. TAUSCHER), the gentlewoman from Michigan (Ms. KILPATRICK), the gentlewoman from New York (Mrs. LOWEY), the gentlewoman from Maryland (Mrs. MORELLA), the gentlewoman from New York (Ms. VELÁZQUEZ), the gentlewoman from California (Ms. MILLENDER-McDONALD), the gentleman from Georgia (Mr. BISHOP), the gentleman from New Jersey (Mr. PALLONE), the gentleman from Florida (Mr. WEXLER), the gentlewoman from Michigan (Ms. STABENOW), the gentlewoman from Missouri (Ms. McCARTHY), the gentlewoman from California (Ms. ROYBAL-ALLARD), the gentleman from Texas (Mr. BENTSEN), the gentlewoman from Connecticut (Ms. DeLAURO), the gentleman from Texas (Mr. HINOJOSA), the gentleman from Texas (Mr. RODRIGUEZ), the gentleman from Texas (Mr. REYES), and the gentleman from New York (Mr. SERRANO).

The Subcommittee on Crime held a hearing in July 1998, where Hillory's uncle traveled long distance to come along with Dr. Joy Carter who was a witness.

H.R. 1530 received bipartisan support of the Subcommittee on Crime. Earlier this session, we introduced H.R. 75, and this summer again I worked closely with the gentleman from Michigan (Mr. UPTON), the gentleman from Michigan (Mr. STUPAK), the gentleman from Virginia (Mr. BLILEY), and the gentleman from Michigan (Mr. DINGELL) to bring us to this point.

The Houston Poison Control reports indicate that as many as 30 people have overdosed on the drug and been treated in emergency rooms in the past 6 months. In fact, Mike Ellis, director of poison control, stated in 1996, that the majority of cases that this agency has been seeing over the past few years have resulted from people rushed to the hospitals because they could not breath or they passed out in their cars and nobody could rouse them.

My office has been contacted by many families. Fifteen year old Samantha Reid died in Michigan. The office of the gentleman from New York (Mr. LaFALCE) told us of the story of Kerri Breton who died in Syracuse, New York, who died from this drug being slipped into her drink.

A young man from the Chicago area overdosed and almost died last September. His family called our office pleading for help. There was also a recent incident in Michigan where four teenagers died. One Houston, Texas, resident by the name of Craig told the media officials that the use of the drug is rampant.

These tragedies underscore the importance of this legislation. Without this bill, illicit use of GHB would increase dramatically. It is being made in bathtubs. It is being made on the Internet.

Mr. Speaker, I would like to thank those who have helped us come this far, and I would like to also acknowledge that we have provided in this bill the exception for narcolepsy, which I think is extremely important.

□ 1845

This bill reflects a compromise. This bill enables law enforcement to permit anyone who abuses GHP to the full extent of the law by placing the drug on Schedule I of the Controlled Substances Act. By doing so, it allows those who use the drug for sexual assault to suffer the penalties under the Drug-Induced Rape Prevention and Punishment Act. In addition, it provides for the use of this drug medically.

I would like to thank someone who has been very helpful, Mr. Speaker, one such person, Trinka Porrata, a retired member of the Los Angeles Police Department. She has advocated for scheduling GHB on Schedule I for years and years and years.

So we come to this point where I would like to finally thank John Ford with the minority commerce staff, John Manthei with the majority staff. I would like to also thank my staff members Leon Buck, Ayanna Hawkins, Oliver Kellman.

I would like to finally thank the gentleman from Virginia (Mr. SCOTT); the gentleman from Michigan (Mr. CONYERS), ranking member; the gentleman from Florida (Mr. McCOLLUM); and the gentleman from Illinois (Mr. HYDE) of the Committee on the Judiciary.

I would like to continue again or to emphasize that this has been a bipartisan effort working with the Committee on the Judiciary and the Committee on Commerce; and we have come this far, and I look forward to my colleagues supporting this legislation, the Hillory J. Farias Date-Rape Prevention Drug Act.

Mr. Speaker, I reserve the balance of my time.

Mr. UPTON. Mr. Speaker, may I ask how much time the four of us have remaining.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Michigan (Mr. UPTON) has 5 minutes remaining. The gentleman from Ohio (Mr. CHABOT) has 6 minutes remaining. The gentleman from Ohio (Mr. BROWN) has 5 minutes remaining. The gentlewoman from Texas (Ms. JACKSON-LEE) has 2 minutes remaining.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Michigan (Ms. STABENOW), a leader in this effort on this legislation.

Ms. STABENOW. Mr. Speaker, I thank the gentleman from Ohio for yielding me this time.

Mr. Speaker, I want to first thank the gentleman from Michigan (Mr. UPTON) for his efforts and the gentleman from Michigan (Mr. STUPAK), who I know has been working for 3 years on this issue. I very much appreciate their leadership on this issue, as well as the gentlewoman from Texas (Ms. JACKSON-LEE), and all of the others that have been mentioned concerning this very important issue.

I come to the floor today, and I am a cosponsor of this legislation, not only as a Member of the House of Representatives from Michigan where we have seen tragedies occur, but also as a mother of a college-age daughter.

I share my colleagues' support for classifying GHB as a Schedule I drug, placing it in the most highly regulated category of drugs. It depresses the central nervous system and as we know has reportedly been abused to produce intense highs and to assist in the commission of sexual assaults.

GHB is a very dangerous drug when used in this context. It has been involved in acquaintance or date rapes, which happen to young women most likely between the ages of 16 and 24 more than any other group of women. Compared to stranger rape, it is grossly underreported, mainly because many women do not recognize such encounters as rape, particularly if there is minimal violence. Yet, it is rape, and it is a crime.

The statistics on date rape are frightening. It is estimated that one in four college women have been the victim of date rape. In a recent study, 84 percent of rape victims knew their attacker, and 57 percent of those were raped on a date. According to Virginia's Council Against Sexual Assault, those figures make acquaintance and date rape more common than heart attacks or alcoholism.

This is a serious issue, and I am very pleased to be joining my colleagues to bringing this to the floor. I urge that we have an overwhelming bipartisan support for this bill.

Mr. CHABOT. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama (Mr. BACHUS), who is a member of the Committee on the Judiciary.

Mr. BACHUS. Mr. Speaker, I commend the gentleman from Michigan

(Mr. UPTON) for bringing this legislation.

The gentleman from Michigan (Mr. UPTON) mentioned the word "nightmare." He said it is time to put an end to this nightmare. That is exactly what this legislation is about. Every parent's worst nightmare is to receive that call in the middle of the night telling us that one of our children has been harmed.

Now, the gentlewoman from Texas (Ms. JACKSON-LEE), who has worked very hard on this bill, mentioned those six young people that were killed at College Station, Texas. I think all of us who had young daughters and sons on campuses, we identified with that.

In Birmingham, there has been a different kind of call in the night, a different nightmare. It is a call that our daughters have been given this drug GHB. It is clear. It is tasteless. They were at a party. They were at a club, and someone slipped it into their drink. The unfortunate ones lapsed into unconsciousness, then into a coma, and they never recovered. The more fortunate ones do recover, but they are scarred. Their parents and they live through this nightmare.

In Birmingham, Alabama this year alone there have been almost a dozen cases of people suffering from overdoses of GHB—the active ingredient in date rape drugs. In the past year, Birmingham's South Precinct drug task force has made 20 GHB-related arrests.

It is time to put a stop to it. It is the only responsible thing for us to do. That is what this legislation will move to do. It will empower law enforcement officers to get these sexual predators that would prey on our daughters and our sisters and our neighbors to get them off the street and get them behind bars.

We have had people that have come before the Committee on the Judiciary, young ladies who were victims of GHB. They have described to us in horrible detail the abuse they suffered from a date using GHB. It has been sobering for all of us.

We have a responsibility to those young ladies and to all young women and their parents to address this problem.

By passing this legislation today, we will take a major step in giving our law enforcement officers the tools they need.

I would like to commend, not only the gentleman from Michigan (Mr. UPTON), the gentlewoman from Texas (Ms. JACKSON-LEE), I would like to also commend the gentleman from Florida (Mr. MCCOLLUM), the Subcommittee on Crime chair, for his excellent work on this.

I would like to commend the gentlemen from Ohio (Mr. CHABOT) and the gentleman from Ohio (Mr. BROWN) for their work on this.

I commend the staff of the Committee on the Judiciary, and especially Dan Bryant, for their dedicated service in highlighting this dangerous drug and its consequences.

Hopefully, as a result of this legislation, a few less parents will receive that dreaded phone call in the middle of the night, and this Congress will have done something positive in a bipartisan way. I thank the gentleman from Ohio (Mr. CHABOT) for the opportunity to speaking in support of this legislation.

Mr. CHABOT. Mr. Speaker, I ask unanimous consent to yield the balance of my time to the gentleman from Michigan (Mr. UPTON).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Mr. Speaker, I reserve my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from New York (Mrs. MALONEY), who is the cochair of the Women's Caucus and has worked very hard on issues dealing with women and children.

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentlewoman from Texas (Ms. JACKSON-LEE) for her hard work on this bill, as well as the gentleman from Virginia (Chairman Bliley), the gentleman from Michigan (Mr. DINGELL), the gentleman from Michigan (Mr. STUPAK), the gentleman from Michigan (Mr. UPTON), and many others.

As the mother of two young women, I urge my colleagues to pass this important bipartisan bill, to prevent future tragedies like the one that took the life of Hillory J. Farias.

After an innocent evening at a teenage dance hall, Hillory died, never knowing what hit her, never knowing that someone had slipped a lethal dose of GHB into her Sprite.

Mr. Speaker, this bill is about protecting children and young women. It is about regulating access to dangerous, unpredictable substances like GHB, which is known as a date-rape drug. GHB may not always be harmful. It may, indeed, have an appropriate medical use.

But I say to my colleagues, Mr. Speaker, it should not be in the hands of partying teenagers, of preying sex offenders, of uninformed consumers.

I believe that this drug belongs in the hands of professionals, of pharmacists, of health care providers who know the legitimate uses as well as the risks of GHB. Only then will young women and children be safe from the crime and tragic death to which GHB is an accomplice.

I urge passage of this bill.

Mr. UPTON. Mr. Speaker, I yield 4 minutes to the gentlewoman from Maryland (Mrs. MORELLA), a cosponsor of the bill.

Mrs. MORELLA. Mr. Speaker, I rise in very strong support of H.R. 2130. I really want to thank and commend the gentleman from Michigan (Mr. UPTON) and the gentlewoman from Texas (Ms. JACKSON-LEE) for introducing this very important piece of legislation and bringing the continuing problem of date rape to our attention.

As has been mentioned, parenthood enters into this, too. As someone who has raised six daughters, I am particularly grateful for this legislation. It would amend the Controlled Substance Act to add GHB to the Drug Enforcement Agency's most-regulated category.

GHB, as my colleagues may have heard, it deserves repeating, is a central nervous system depressant. It is approved as an anesthetic in some countries; however, with exception of the investigational research, it is not approved for any use in the United States.

GHB has become one of several agents characterized as a date-rape drug. Restricting the use of GHB will undoubtedly protect people all over the country, especially young women from being drugged and victimized.

This dangerous drug is considered to be a sleep aid among those who know of its effects. A dose is inserted in a drink and orally ingested. The reaction to the drug is immediate and grave. Unconsciousness can occur within 15 minutes, and a profound coma may arise within 30 to 40 minutes after initial consumption.

The purpose of having another ingest this drug is to render the victim helpless. The victim is unable to defend oneself and often has no memory of the attack.

GHB is responsible for many of the rapes that occur. It is connected to 40 deaths also around the country. Many more deaths may also be at the hands of GHB, but this drug is not currently included in a standard toxicology screen.

Adding GHB to the list of controlled substances will help to identify how often this drug is abused and who falls victim to its effects.

The people who can medically benefit from some form of GHB are protected through the Federal drug administration when its use is determined. With FDA approval, health care professionals will be able to treat patients through prescriptions.

H.R. 2130, the Date Rape Prevention Drug Act seeks to prevent violations in sexual attacks. The bill provides protection for anyone who may become a victim of GHB, while securing measures for those who benefit from it. The legislation also enables enforcement to the full extent of the law against anyone who uses GHB for sexual assault crimes.

Offenders could now be sentenced to 20 years in prison under the Drug Induced Rape Prevention and Punishment Act. I certainly urge my colleagues to support this legislation.

I also again wanted to commend the authors of the legislation for introducing it, all of the cosponsors, all of the members of the committee, the chairman, the ranking member of the full committee and of the subcommittee.

I urge my colleagues to support this legislation to minimize the use of date-rape drugs and expand the protection for the victims of sexual attack.

Mr. UPTON. Mr. Speaker, I have no further speakers, though I wish to close.

Ms. JACKSON-LEE of Texas. Mr. Speaker, may I inquire of the order for closing.

The SPEAKER pro tempore. The order is as follows: the gentlewoman from Texas (Ms. JACKSON-LEE) will proceed first, followed by the gentleman from Ohio (Mr. BROWN) second, closed by the gentleman from Michigan (Mr. UPTON).

The gentlewoman from Texas (Ms. JACKSON-LEE) has 30 seconds remaining.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, all I can say is that it is now time for us to pay tribute to the tragic lives that have been lost, like Hillory, the lives in Michigan, the lives across this country, young women who were duped with a mickey, volleyball players, athletes, good young women who did nothing but wanted to live.

This bill says that, if one uses GHB to undermine and to do illegal acts and to sexually assault, one will be held in violation of Schedule I drugs with up to 20 years in jail.

☐ 1900

I ask my colleagues to support this legislation. I ask my colleagues to pay tribute to Hillory and all the other young women.

I am pleased to stand here today in strong support of the Hillory J. Farias Date Rape Prevention Act of 1999. This summer, I joined the members on the Commerce Committee, Representatives UPTON, STUPAK, and BLILEY, to introduce this bipartisan bill. I have waited a long time for this day, and I look forward to the next step for this legislation, which is final passage today in the House, and later, in the Senate.

This day has been a long time coming, but it is a victory for those of us who are concerned about date rape drugs. This drug, GHB (Gamma Hydroxy-butyrate) has been used in innumerable rapes around the country and has been implicated in at least 40 deaths. In addition to date rape, this drug is very popular on the party scene in many cities and it is widely abused.

In my home city of Houston, GHB has become known as the rage at some Houston area clubs where it is clandestinely being dispensed by partygoers in clear liquid form from designer water bottles. This drug—which goes by the nicknames Easy Lay, Grevious Bodily Harm, Gook, Gamma 10 and liquid X—cannot be detected with a routine drug screen. That is why the deaths of many of its victims have remained a mystery.

I was prompted to act to control the illicit use of GHB three years ago because of the death of Hillory J. Farias, of Laporte, Texas on August 5, 1996, who was killed by this drug. I introduced a GHB bill in 1997 and again in 1998, and 1999 and I have continued to advocate for its passage to prevent more women from being victimized by date rape drugs.

Hillory Farias was a 17-year-old high school senior, model student and varsity volleyball player who died as a result of GHB slipped into her soft drink.

Hillory and two of her girlfriends went out to a club where they consumed only soft drinks. At some point during the evening, GHB was slipped into Hillory's drink and soon afterwards, Hillory complained of feeling sick with a severe headache.

She went home to bed, but the next morning, Hillory was found by her grandmother unconscious and unresponsive. Hillory was rushed to the hospital where she later died. The cause of Hillory's death remained a mystery until it was finally detected by medical examiners after receiving a report from the Harris County Organized Crime and Narcotics Task Force about a new date-rape drug that was starting to show up in area nightclubs.

I introduced H.R. 1530 on May 5, 1997. The bill had several cosponsors—Representatives MCKINNEY, MEEK, TAUSCHER, KILPATRICK, LOWEY, MORELLA, VELÁZQUEZ, MILLENDER-MCDONALD, BISHOP, PALLONE, WEXLER, STABENOW, MCCARTHY of Missouri, ROYBAL-ALLARD, BENTSEN, DELAURO, HINOJOSA, RODRIGUEZ, REYES, and SERRANO.

The Subcommittee on Crime held a hearing in July 1998 in which there were several witnesses. These witnesses included Raul Farias, Hillory's uncle and Dr. Joye Carter, the Harris County Medical Examiner who determined that GHB was the official cause of Hillory's death.

H.R. 1530 received the bipartisan support of the Crime Subcommittee and was reported favorably for consideration on the floor.

Earlier this session, I introduced H.R. 75, similar to H.R. 1530 from the 105th Congress. This summer, I worked closely with Members of the Commerce Committee, Representatives UPTON, STUPAK and BLILEY and Mr. DINGELL for this version under the consideration, H.R. 2130.

Unfortunately, Hillory's death was not the only tragedy of this drug. The Houston Poison Control reports indicate that as many as 30 people have overdosed on the drug and been treated in emergency rooms in the past six months. In fact, Mike Ellis, Director of Poison Control, stated back in 1996 that the majority of cases that his agency has been seeing over the past few years have resulted from people rushed to the hospitals because they could not breathe or they passed out in their cars and nobody could rouse them. My office has been contacted by the families of several victims of this drug since March of this year telling stories of how the drug, GHB has impacted their lives.

In January of this year, 15-year-old Samantha Reid, from Michigan, died as a result of this drug and another 14-year-old girl who was also poisoned with GHB went into a coma. Four young men have been indicted in this crime.

My office was contacted by Representative LAFALCE'S office with the story of Kerri Breton, from Syracuse, New York who also died from this drug being slipped into her drink.

Ms. Breton was away on a business trip and was having a drink in the hotel bar with a colleague. She was found the next day dead on the bathroom floor of her hotel room. Her stepfather shared this painful story in hope that it would alert others to the dangers of this drug.

A young man from the Chicago area overdosed and almost died last September. He was a bodybuilder who had abused drugs for years. The doctors and law enforcement officials in the Chicago area did not know anything about GHB. If his sister had not been around when he lost consciousness, he would have surely died. She called my office to share the painful account of how her family almost had to prepare for her brother's death.

There was also a recent incident in Michigan where four teenagers at a party ingested GHB and lapsed into comas. This occurred during the Fourth of July holiday.

One Houston, Texas area resident by the name of Craig told media officials that "the use is rampant." "Drug use GHB spread to many of the area after-hours clubs." Craig grew interested in GHB after reading about the drug on the Internet and in a book he found in a popular bookstore. The book described using GHB to increase one's sense of touch and sexual prowess. So he bought a quantity of it—generally it costs about $10 a capful—from someone in a nightclub. He then distributed it to friends at a private party. GHB made Craig pass out and he remembered nothing of the party.

These tragedies underscore the importance of this legislation. All of these incidents among young people are strong evidence that this drug has a high potential for abuse and must be placed on the schedule for the Controlled Substances Act.

Without this bill, illicit use of GHB would increase dramatically. There are undoubtedly other deaths that may not have been classified as GHB-related because the drug is not a part of a standard toxicology screen.

GHB has been used to render victims helpless to defend against attack and it even erases any memory of the attack. The recipe for this drug and its analogs can be accessed on the Internet. Currently, GHB is not legally produced in the United States. It is being smuggled across our borders or it is being illegally created here by "bathtub" chemists.

As a drug of abuse, GHB is generally ingested orally after being mixed in a liquid. The onset of action is rapid, and unconsciousness can occur in as little as 15 minutes. Profound coma can occur within 30 to 40 minutes after ingestion.

GHB has also been used by drug abusers for its alleged hallucinogenic effects and by bodybuilders who abuse GHB for an anabolic agent or as a sleep aid.

I believe that by classifying this drug now, we send a strong message to those who would use this drug and its analogs to commit crimes against women.

However, my position on the illicit use of GHB does not mean that I am insensitive to the concerns of patients that might be helped with this drug. This drug has shown some benefits to patients with a specific form of narcolepsy in clinical trials.

There is a possibility that GHB can be developed for the treatment of cataplexy, a rare form of narcolepsy. Cataplexy is a rare disorder that causes sudden and total loss of muscle control.

People with cataplexy are unable to work, drive or lead a normal life. Like my Colleagues, I understand the situation that affects these patients and I am sensitive to their need for treatment of that disorder.

This bill reflects a compromise that takes into account the needs of the patient group and the needs of law enforcement. This bill enables law enforcement to prosecute anyone who abuses GHB to the full extent of the law by placing the drug on Schedule I of the Controlled Substances Act.

Scheduling GHB on the Federal Controlled Substances Act allows prosecutors to punish anyone who uses this scheduled drug in any sexual assault crime to suffer penalties under the Drug Induced Rape Prevention and Punishment Act. This bill would increase the sentence for someone using GHB to commit a sex crime to 20 years imprisonment.

However, this bill protects people with cataplexy by providing an exemption for those enrolled in clinical trials now, and later it reschedules the drug once it has been approved by the FDA.

The distribution of the drug would be strictly controlled to ensure that only patients in need of this drug would have access to it. Any illicit use of GHB would result in the enhanced sentence penalties.

This bill also provides for a grant by the Department of Justice to research a forensic test to assist law enforcement in detecting GHB on the street. This would improve the ability to prosecute date rape and other crimes involving this substance. This provision provides law enforcement with a crucial tool in fighting this drug on the street.

This bill reaches a compromise that will benefit the patients who desperately need this drug for treatment and law enforcement agencies that need the tools to fight the use of this drug among young people.

As I stated earlier, I have been working to pass legislation to schedule this drug for a long time now because I do not want to see any more young lives cut short by GHB. There are many people who have been resources to my staff these three years and I would like to thank them publicly for their work.

I would like to thank all of the people who have been involved with this process from the beginning and who provided me with information about this drug. One such person is Trinka Porrata, a retired member of the Los Angeles police department. She has been a strong advocate for this legislation.

I would like to thank the Farias family for sharing their story to help us inform others about this drug. Their tragedy and loss cannot be overlooked and I appreciate their patience with us. We have worked closely with Hillory's family and the Harris County medical examiner, Dr. Joye Carter since I first introduced this bill.

I would also like to thank the other families of the other victims who have shared their stories with us as well. With the passage of this bill today, I hope that there will some comfort brought to those families that their loved ones did not die or suffer in vain.

I would also like to thank my colleagues on the Commerce Committee, for helping to move this legislation through that Committee—Representatives UPTON, STUPAK, BLILEY, DINGELL and BILIRAKIS. I would also like to thank the staff members at the Commerce Committee for their hard work, especially John Ford with the Minority staff and John Manthei with the Majority staff. Also my staff members, Leon Buch, Ayonna Hawkins, and Oliver Kellman.

I would also like to thank the Members of the Judiciary Committee for their work on this issue last year and this year—especially Ranking member CONYERS, Representatives SCOTT, MCCOLLUM and Chairman HYDE. Last year we had a hearing on the issue in the Crime Subcommittee and it shed a lot of light on the issue of date rape and illicit drug abuse of GHB.

I also want to thank Mr. BROWN, Congresswoman STABENOW of Michigan for their efforts.

Finally, I would like to thank my staff for their hard work on this issue. Again, I thank my colleagues for their support of this legislation.

Mr. Speaker, I submit for the RECORD "While You Were Sleeping," a chronicle of a GHB trip by Trinka Porrata, as well as correspondence from the DEA.

WHILE YOU WERE SLEEPING . . . (AKA—THE TRUTH ABOUT GAMMA HYDROXY BUTYRATE)

TO PROTECT AND SERVE—AND IN THIS CASE TO HOPEFULLY SAVE YOU FROM YOURSELF

(By Trinka Porrata)

You thought it was a good trip, but . . . while you were sleeping . . . Your body endured a reeeeeally BAD trip!

First, you took that little capful of salty tasting stuff that your "friend" told you would help develop lean muscle mass or lose weight or improve your sex life, or well, just give you a buzz—(but did your friend tell you it is degreasing solvent—or floor stripper—mixed with drain cleaner?!?!?)

Maybe it was even in a bottle marked "Blue Nitro" or "Renewtrient" or Revivarant" or "Fire Water" or "Remforce."

Ok, that's still just floor stripper.

Anyway—maybe you were trying to impress your buddies and took a big slug of that nasty stuff instead of just the capful they told you to take . . .

Or—maybe your "friend" told you nothing and just slipped it into your drink—talked you into trying a Long Island Ice Tea maybe—or some other unusual drink.

And you sort of remember that really sudden, wild, giddy high you felt from it. You remember how the bass beat of the music became overwhelmingly loud and. . . . you remember walking across the dance floor, but it was sort of like . . . it was happening to you, but like you were watching yourself move on TV. Sort of an "out of body" gig.

Of course, you may (or may not) remember dancing wildly and sexually groping those around you—with little regard for which gender you were grabbing (you see, it is disinhibiting—and gender concerns may fade).

And maybe you remember (or maybe not) wildly climbing all over that virtual stranger who bought you that unusual drink.

Or maybe you're the "mean drunk" kind and you got obnoxious with all around you, waiting to fight anyone in your way.

Then maybe you remember feeling so safe and secure, just a little tired. You remember feeling all was A-OK, but you just wanted to take a comfy nap. You slumped to the floor, but you weren't at all mindful of where you were. The floor or a char or couch or bed—it just didn't matter. You were so very very cool.

Now about that comfy nap you wanted to take. You thought you were just nodding off. You know, head bobbing just a little to the side—gently as you were trying to doze off. That's how YOU recall it. Well, to those standing around you it was much different. Your body was jerking away. Some call it seizures. Doctors call it clonic muscle movements—Whatever. In any case, it was much more dramatic than your mind remembers it. Your body was having a really, really bad day.

Then there's that g-r-o-s-s vomiting you were doing.

Like it was just normal.

Like you were spitting tobacco in a spittoon.

Don't remember it at all do you?

Your body was having a bad, bad, really bad day with that.

By now your pulse was slowing. Respirations were slowing. Your blood pressure was down a bit.

Then your twitching, jerking, stinky body just stopped moving completely. You didn't respond at all to people talking to you or shaking you. You weren't breathing regularly (also known as apnea) and had very depressed breathing. Like maybe just six times per minute.

Your level of consciousness at this stage in the ER is called a Glasgow Coma Score of 3 (on a scale of 3–15).

If you were in an ER now, they'd be pinching your fingernails and beating on your sternum to test for your level of consciousness.

Oh, and, dig this, a cadaver (a dead body) scores a GCS 3 too.

You were nearly dead. Of course, if you were the one trying to impress your pals and took a big slug of it—you may have skipped right on through most of these stages and began frothing up blood right away—and came to this standstill really fast. . . .

Meanwhile, your good "friends" were partying around you.

They tossed you into a corner to let you sleep it off. Part of the time you may have been breathing loudly, but not necessarily.

They couldn't hear you anyway because of the loud music.

They elect not to call 911 because some goofball on the Internet says not to bother—you'll just sleep it off and calling 911 could be expensive if they try to nail you for the hospital bill and besides, it'll attract attention from the police.

So they leave you there—and check on you once in a while . . .

HELLO—

Check on you for what?

So while they are partying, you just forget to breathe. Or that chewing gum in your mouth rolls into the back of your throat and seals off the airway (you don't have a gag reflect now, thanks to GHB, that might make you cough and save yourself).

Or you vomit and you're lying on your back and you literally drown in it because, again, you can't gag and save yourself.

You are in an unarousable coma.

It isn't what life is supposed to be about.

Or maybe during this time—your new "friend" is raping you.

And then, about four or five hours after you took that fateful drink—maybe you wake up suddenly and it's all over!

Of course, you may wonder where that vomit came from, because you may not remember ever feeling ill—just that pleasant want-to-take-a-nap thing you felt early on.

Or maybe you don't wake up—EVER. Maybe your body had the ultimate bad day.

U.S. DEPARTMENT OF JUSTICE—
DRUG ENFORCEMENT ADMINISTRATION,
Washington, DC, October 12, 1999.

Hon. SHEILA JACKSON-LEE,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSWOMAN JACKSON-LEE: I am pleased to provide you with the Drug Enforcement Administration's (DEA) position on H.R. 2130, which schedules gamma-hydroxybutyrate (GHB) under the Controlled Substances Act (CSA). We in DEA appreciate your steadfast support for controlling GHB, which has taken a terrible toll on too many individuals.

The DEA continues to be concerned about the illicit production, trafficking, diversion and public health risks associated with abuse of GHB. GHB has not been approved for medical use in the United States by the Food and Drug Administration (FDA). Although the importation, distribution and use of GHB as a drug are not allowed by the FDA, except for research, the data available to DEA shows that there is a significant and widespread abuse problem with GHB. This information has been collected through traditional data sources, including the Drug Abuse Warning Network (DAWN), the Centers for Disease Control (CDC), and toxicological laboratories, emergency rooms, and medical examiners. The DEA has documented 5,500 cases of overdose, toxicity, dependence and law enforcement encounters. DEA has obtained documentation in the form of toxicology, autopsy and investigator reports from medical examiners on 49 deaths that involved GHB.

In light of the continued illicit production, trafficking, abuse and public health risk of GHB, the DEA strongly supports the control of GHB in Schedule I of the CSA. In addition, the DEA supports the treatment of gamma butyrolactone (GBL) and 1,4-butanediol as controlled substance analogues when intended for human consumption and the listing of GBL, the precursor to GHB, as a List I chemical.

Placing GHB in Schedule I under the CSA, which your legislation proposes, imposes the severest criminal penalties and appropriate regulatory requirements necessary for a drug with high abuse potential and which is not currently available for marketing. Such a placement sends the appropriate message to federal, state and local law enforcement organizations, prosecutors, medical professionals, educators, and others that GHB is a highly abuseable drug and will give those law enforcement officers and prosecutors the necessary legal tools to combat this growing problem.

If GHB is approved for marketing by the FDA, GHB will have a currently accepted medical use in treatment in the United States. Should that occur, the DEA would move the GHB-containing product into whatever Schedule is justified by its actual abuse and the scientific knowledge about its abuse and dependence potentials at that time. The data collected to date would support control of the GHB product in Schedule II.

If I may be of further assistance to you in this matter, please do not hesitate to contact me.

Sincerely,
CATHERINE H. SHAW,
Chief, Office of Congressional and Public Affairs.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, again I would like to commend the authors of the bill, the gentlewoman from Texas (Ms. JACKSON-LEE) and the gentleman from Michigan (Mr. UPTON) and especially the gentleman from Michigan (Mr. STUPAK), who pointed out in committee and on the floor that this legislation, aimed at getting GHB out of the hands of children and criminals, should not at the same time inadvertently stifle beneficial use of the drugs.

GHB holds promises and treatment for narcolepsy, a debilitating and potentially fatal illness that affects 250,000 Americans; and this bill, Mr. Speaker, allows under carefully circumscribed conditions the use of GHB for medical research and treatment.

It certainly has its insidious uses. That is the main thrust of this bill, as it should be. It also has some potentially miraculous ones. This bill I believe, Mr. Speaker, successfully addresses both. I look forward to its passage this year.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Michigan (Mr. UPTON) has 4 minutes remaining.

Mr. UPTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again I wanted to thank my colleagues. This bill would not have happened without the great work done on both sides of the aisle, and in particular, the gentlewoman from Texas (Ms. JACKSON-LEE) who came to our committee and testified and her work in the previous Congress, as well.

This morning, I met with a number of students in my district on a college campus. I know we have done some very good things here. The awareness level is up. Whereas, a year or two ago, I do not think that awareness level was there. But now, in fact, warnings are posted in a lot of dorms and many campuses across the country. The word is out, particularly among college women, that they have to be careful and they need to go to parties with a friend and they need to make sure that whatever they are drinking, a soft drink or whatever it might be, it needs to be watched carefully.

There is an awareness, too, by parents warning their daughters in particular as they go off to school, particularly now as this school year has started off, to be careful.

This is a nightmare. It needs to end. This bill does that in a very strong and bipartisan way that deserves enactment into law.

I appreciate everyone's support, everyone's statements today.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. UPTON. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I want to thank the gentleman from Michigan (Mr. UPTON) again for the persistence, for the determination in which he led his subcommittee, the gentleman from Florida (Mr. BILIRAKIS), the gentleman from Michigan (Mr. STUPAK), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Virginia (Mr. BLILEY) in conjunction with the Committee on the Judiciary. This is the finest hour of those two committees working together.

I might add as I close in thanking the gentleman from Michigan (Mr. UPTON) especially, as we have worked together, is that those young women in taking that drug would fail to remember anything that ever happened to them and could not provide any evidence to police if they were sexually assaulted. It is the worst kind of drug.

So I hope the efforts that we are trying with the campaign, with the attorney general, and the Health and Human Services Secretary will make this go away.

But again, I thank the gentleman very much for his leadership on this issue.

Mr. UPTON. Mr. Speaker, reclaiming my time, I appreciate the comments of the gentlewoman.

Mr. Speaker, I also want to thank the staff from the committees from the get-go to make sure that we drafted and crafted a bill that would muster the test that all of us want with the appropriate end result.

Mr. BILIRAKIS. Mr. Speaker, I rise in strong support of H.R. 2130, "The Hillory J. Farias Date Rape Prevention Drug Act of 1999." This important, bipartisan legislation was unanimously approved by my Health and Environment Subcommittee in July of this year, and the full Commerce Committee passed the measure in August.

H.R. 2130 was introduced by Representative FRED UPTON, joined by Representatives TOM BLILEY, BART STUPAK and SHELIA JACKSON-LEE. The bill amends the Controlled Substances Act to make GHB a Schedule I drug, the DEA's most intensively regulated category of drugs. GHB is a central nervous system depressant that has been abused to assist in the commission of sexual assaults.

H.R. 2130 also schedules ketamine, an animal tranquilizer that has been similarly abused, as a Schedule III drug. As a further protection, H.R. 2130 lists GBL, the primary precursor used in the production of GHB, as a List I chemical. These three compunds—GHB, ketamine, and GBL—are more commonly known as "date rape" drugs.

The bill before us includes language designed to protect very important and promising research on an orphan drug that contains GHB and is used in the treatment of narcolepsy patients. These provisions were adopted as an amendment when the bill was considered by my Health and Environment Subcommittee.

I urge my colleagues to join me in supporting passage of H.R. 2130, the Hillory J. Farias Date Rape Prevention Drug Act of 1999.

Mr. UPTON. Mr. Speaker, I rise in support of H.R. 2130, the Hillory J. Farias Date Rape Drug Prevention Act of 1999. I introduced this legislation with my colleagues Mr. BLILEY, the Chairman of the Commerce Committee, and Mr. STUPAK and Ms. JACKSON-LEE, who have been real leaders in the fight to control date rape drugs.

As you may know, Mr. Speaker, this legislation is the product of an Oversight and Investigations Subcommittee hearing I held earlier this year that focused on the abuse of "date rape" drugs, the law enforcement challenges in battling their abuse, and the administrative procedures involved in scheduling the drugs under the Controlled Substances Act. I held that hearing after reading about two young Michigan women whose drinks were laced with GHB at a party they were attending. Both fell into a coma, and sadly, one died.

Since that hearing, I have read far too many other stories of young women in Michigan and across the nation being given GHB and similar drugs, such as GBL, a precursor to GHB, and ketamine, a fast-acting anesthetic used in veterinary medicine. Simply put, these drugs are killing our young people. Those who survive ingesting these drugs are too often dealing with the painful consequences of rape or other sexual abuse.

The abuse of "date rape" drugs, principally GHB, ketamine, and GBL, has substantially increased in recent years and continues to grow. The Drug Enforcement Administration, the DEA, has documented over 4,000 overdoses and law-enforcement encounters with GHB and 32 GHB-related deaths. At least 20 States have scheduled GHB under state drug control statutes, and law enforcement officials continue to see an increased presence of the drug in sexual assault, driving under the influence (DWI), and overdose cases involving teenagers.

With respect to ketamine, from 1992 through 1998 the DEA has documented more than 560 incidents of the sale and/or use of ketamine in our nation's junior highs, high schools, and college campuses.

This abuse has to stop. By passing this bill today, we are taking a significant step forward in getting these products out of the hands of sexual predators and protecting our nation's youth.

Following the recommendations of the DEA, H.R. 2130 would amend the Controlled Substances Act to make GHB a Schedule I drug, the DEA's most intensively regulated category of drugs. In addition, H.R. 2130 places ketamine in Schedule III of the Controlled Substances Act and lists GBL, the primary precursor used in the production of GHB, as List I chemical.

H.R. 2130 would thus provide law enforcement officers and prosecutors with tough new tools to prosecute those who would use these drugs for criminal purposes or otherwise abuse them. In addition, it would control chemicals being increasingly used to produce a "GHB effect," and would strike at the very source of many of these illegal substances—chemicals ordered over the Internet and shipped by mail.

At the same time, it protects the legitimate medical use of these substances. I know that many of you have heard from narcolepsy researchers and patients who are concerned that by placing GHB in Schedule I, we will disrupt promising clinical trials testing this drug as a treatment for a particularly severe form of narcolepsy. I want to assure everyone that this concern was addressed when the bill was in committee. It was amended to place GHB which is being used in an FDA-approved clinical trial in Schedule III, but with Schedule I penalties for its misuse. Further, should the FDA approve GHB as a treatment for narcolepsy, the prescription form will be in Schedule III, but only for the prescribed use. Again, Schedule I penalties would apply. An individual with a prescription for a GHB product who is passing the drug around at a party will be committing a crime punishable by the severest penalties under the Controlled Substances Act.

This bill attacks date rape drug abuse by educating young people, law enforcement officers, educators, and medical personnel about the dangers of these drugs and the penalties for their abuse. It would further assist law enforcement officers by providing for the development of a forensic field test to detect the presence of GHB and related substances.

Finally, it provides for an annual report on incidence of date-rape drug abuse so that we can ensure that the steps we are taking with this bill and in other areas are working to protect our young people and discourage the use of these substances.

Mr. BLILEY. Mr. Speaker, I rise in support of H.R. 2130, "The Hillory J. Farias Date Rape Prevention Drug Act of 1999." As you know, along with Mr. UPTON, Mr. STUPAK, and Ms. JACKSON-LEE, I am an original sponsor of this important legislation to address the growing problem of the abuse of "date rape drugs" and I strongly urge all of my colleagues to vote in favor of this bipartisan bill.

Earlier this year, the Commerce Committee's Oversight and Investigations subcommittee held a hearing on Date Rape drugs, and the problems in battling their abuse. At the hearing, we heard from the DEA, the Department of Justice, the FDA, and many state and local law enforcement officials, and all of them urged Congress to have these drugs listed as controlled substances.

The bill does just that. These drugs are all powerful sedatives, which in certain dosages can cause unconsciousness or even death. The numbers of emergency room admissions which are related to these drugs have dramatically increased in recent years. For example, as many of you know earlier this summer 5 teenagers in Michigan shared a drink that was laced with GHB. All 5 lapsed into comas, and nearly died. Also, as many of you know, this legislation is named after a young Texas woman, Hillory Farias, who died after a dose of GHB.

Significantly, the legislation before us today also protects years of promising research by providing for a limited exemption from Schedule I manufacturing and distributing facility security requirements for facilities manufacturing and distributing GHB for a FDA approved clinical study, and, following the recommendations of the Department of Health and Human Services, places an FDA approved GHB drug product into Schedule III of the Controlled Substances Act. However, to ensure that the drug products are not improperly abused, the bill adds additional reporting and accountability requirements similar to the requirements for Schedule I substances, Schedule II drugs, and Schedule III narcotics. For example, if new narcolepsy drugs receive FDA approval, H.R. 2130 will still maintain the strict Schedule I criminal penalties for the unlawful abuse of the approved drug product. Simply put, these additional requirements and penalties in my opinion provide greater protection to our nation's youth, and to give law enforcement agencies the ability to penalize those who abuse this product, while protecting certain important advances in new drug development.

By passing H.R. 2130 we will take a significant step forward in giving law enforcement organizations the tools they need to get "date rape" drugs off of the streets and to protect our nation's children. By doing so, hopefully we can ensure that further incidents similar to the events in Michigan and Texas do not occur again.

Once again, I would like to take this opportunity to commend Mr. UPTON, Mr. STUPAK, and Ms. JACKSON-LEE for their leadership on this issue, and I look forward to seeing H.R. 2130 passing the Full House and being signed into law.

Mr. UPTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. UPTON) that the House suspend the rules and pass the bill, H.R. 2130, as amended.

The question was taken.

Mr. UPTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

INTERIM CONTINUATION OF ADMINISTRATION OF MOTOR CARRIER FUNCTIONS BY THE FEDERAL HIGHWAY ADMINISTRATION

Mr. PETRI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3036) to provide for interim continuation of administration of motor carrier functions by the Federal Highway Administration, as amended.

The Clerk read as follows:

H.R. 3036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MOTOR CARRIER SAFETY ENFORCEMENT AUTHORITY.

Section 338 of the Department of Transportation and Related Agencies Appropriations Act, 2000 is amended by striking "521(b)(5)" and inserting "chapters 5 and 315".

SEC. 2. EFFECTIVE DATE.

This Act (including the amendment made by this Act) shall take effect on October 9, 1999.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. PETRI) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Department of Transportation Appropriations Act for budget year 2000, which was signed by our President on Saturday, contains a provision that is clearly authorizing in nature, prohibiting the Federal Highway Administration from carrying out the Federal Motor Carrier Safety Program. The intent of this provision is to force a transfer of the Office of Motor Carriers out of the Federal Highway Administration.

The provision, however, has a serious unintended effect. It did not transfer all the legal authorities required to enforce Federal truck safety regulations. And so, in effect, it left some of these authorities stranded within the Federal Highway Administration and prevented them from being carried out by any entity within the Department of Transportation.

Last Thursday, the Subcommittee on Ground Transportation of the Committee on Transportation and Infrastructure held a hearing on this provision to hear from the Department of Transportation on how this provision would be implemented and how it will impact the ability of the Department of Transportation to ensure our Nation's highways are safe.

The Department's general counsel described how the Department of Transportation will be hampered in its truck safety enforcement efforts. For example, the Department will no longer be able to work with the U.S. Attorney's Office, the Inspector General's Office, or the Federal Bureau of Investigation. The Department will no longer be able to assess fines for safety violations.

Clearly, the appropriations act provision has the effect of reducing highway safety by denying important enforcement tools to the Department. Improving motor carrier safety has been a major priority of this Congress and of this committee. Last year, the House Committee on Appropriations made an effort to strip the Federal Highway Administration of its motor carrier safety authority and move it to another area.

As the authorizing committee with jurisdiction over motor carrier safety, we oppose this since it had never been considered by the committees of the House or Senate with authorizing authority.

Ultimately, the provision was dropped and we pledged that we would look very carefully at the issue of motor carrier safety, and we have done so. We held a series of comprehensive hearings and have produced what we feel is a solid bipartisan bill, H.R. 2679, that will be considered by the House probably later this week.

H.R. 2679 creates a new agency, the National Motor Carrier Administration, to oversee all Federal truck safety efforts and include important safety reforms. The bill we are considering today does not overturn the appropriations act provision in any way. It simply fixes its unintended consequences. The bill amends the appropriations act to ensure that all the enforcement powers are restored to the Secretary for budget year 2000.

The bill restores all safety enforcement powers to the Department, where they will be administered by the Office of the Secretary so that safety is not reduced while Congress considers comprehensive motor carrier safety legislation.

I urge my colleagues to vote for H.R. 3036.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield 30 seconds to the gentleman from Minnesota (Mr. SABO) the distinguished and very capable ranking minority member of the Subcommittee on Transportation of the Committee on Appropriations.

Mr. SABO. Mr. Speaker, I thank the gentleman from West Virginia (Mr. RAHALL) for yielding me the time.

Mr. Speaker, I rise in support of H.R. 3036 and urge its adoption.

Mr. Speaker, I rise to support the compromise language on H.R. 3036 offered by the gentleman from Wisconsin.

This language addresses the problem at hand; that is, ensuring that the Department of Transportation continues to have the ability to assess civil penalties for violations of motor carrier safety regulations. This provision corrects a technical flaw in the wording of the FY 2000 Department of Transportation Appropriations bill that was signed into law on Saturday.

Mr. Speaker, with this provision and the actions recently taken by the Secretary to move the Office of Motor Carriers out of the Federal Highway Administration, the Department can begin immediately the important work of improving truck safety and enforcing truck safety laws with a stronger hand.

I urge the adoption of H.R. 3036.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to commend the gentleman from Pennsylvania (Chairman SHUSTER) and the gentleman from Wisconsin (Mr. PETRI), the subcommittee chairman, and the gentleman from Minnesota (Mr. OBERSTAR), the full committee ranking member, for the excellent work they have done in bringing this legislation before us today.

The fact of the matter is that today, on this very day, because of a legislative rider tacked onto the transportation appropriations act signed into law on Saturday by the President, the Federal Government now has no authority to enforce Federal truck safety regulations, none, no authority to enforce Federal truck safety regulations for whatever infraction except imminent hazard situations, this authority is totally lacking.

This is because the Republican leadership rushed that bill through Congress in a roughshod and cavalier fashion. They did it so fast, tucking this legislative rider and authorization really on an appropriations measure, that apparently it did not occur to the Republican leadership that this rider prohibits the Secretary of Transportation from assessing fines against a trucking company for safety violations.

Not only that, Mr. Speaker, but the Department cannot seek civil injunctions against truckers who violate Federal safety regulations. And to make matters even worse, the Department cannot even provide support to the U.S. Attorney for criminal prosecutions or lend support in FBI investigations.

Imagine that, just imagine that if a roadside inspection or as a result of a compliance review conducted by Federal officials, a trucker is found to be in violation of safety standards, a threat to human life and safety, as a result of that legislative rider on the appropriations bill, no penalties can be assessed.

Oh, yeah, a slap on the wrist perhaps, an admonishment to not do it again or to slow down, but that is pretty much it. It is pretty much like taking away from the police the ability to write tickets for speeding and other driving infractions. Getting pulled over, grant you, may be an inconvenience, but will speeding and aggressive driving be controlled if traffic tickets could not be issued? I think not. Certainly not.

Today, then, all Americans should be aware that the trucking industry is operating with impunity from the Federal Motor Carrier safety regulations. It is really the Wild West all over again, but at this time it is taking place on our Nation's highways and byways.

Mr. Speaker, this is a sad commentary on what happens when bills are rushed to the floor in a hasty manner and when legislative riders are struck on appropriation measures in the middle of the night. There was simply no need for these shenanigans.

The Committee on Transportation and Infrastructure has reported comprehensive motor carrier legislation, and we are prepared to bring it to the House floor tonight. We recognize the pressing needs to improve truck safety, and we are taking action to do so. This is the proper way to proceed, not with these ill-conceived and ill-advised riders to appropriations bills. Because of that, today America is suffering. And it is suffering from a lack of proper truck safety regulation because of arrogance and misuse of the legislative process.

The pending measure will correct this mistake. It simply restores the Federal Government's ability and authority to levy civil penalties for violations of truck safety regulations. This authority could be used by the newly established Office of Motor Carrier Safety established by the Secretary of Transportation on Saturday after the President signed the bill into law.

Mr. Speaker, I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. WOLF) the distinguished chairman of the Appropriations Subcommittee on Transportation.

Mr. WOLF. Mr. Speaker, I thank the chairman for yielding me the time.

Mr. Speaker, I rise in support of the bill, H.R. 3036, as amended. It provides the authority to the Secretary of Transportation to assess civil penalties against violators of truck safety and to ensure that truck safety receives the scrutiny it deserves.

As the House knows, this will make a big difference in the 5,300 annual fatalities that has remained unchanged for several years. The number of annual fatalities equates to a major aviation accident every 2 weeks. A reform of the Office of Motor Carriers to improve truck safety is long overdue.

I want to personally thank the gentleman from Wisconsin (Mr. PETRI), the gentleman from Pennsylvania (Mr. SHUSTER), the gentleman from West Virginia (Mr. RAHALL) and the gentleman from Minnesota (Mr. OBERSTAR) for this language. I think it is very good. It is very, very responsible.

My sense is that because of the effort that the Committee on Transportation and Infrastructure has done, it will actually end up working together to save lives. And so for the gentleman from Wisconsin (Mr. PETRI) who is handling that, I want to thank him.

Mr. RAHALL. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR), the distinguished ranking member of the full committee.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in support of H.R. 3036, as amended, to restore the enforcement authority and civil penalty authority to the proper office within the Department of Transportation.

I want to thank the chairman of our committee, the gentleman from Pennsylvania (Mr. SHUSTER) and the chairman of the Subcommittee on Ground Transportation, the gentleman from Wisconsin (Mr. PETRI), and our ranking Democratic member the gentleman from West Virginia (Mr. RAHALL) for responding so promptly and so effectively to the obvious urgency presented in the offending language in the fiscal year 2000 DOD appropriations conference report.

□ 1915

I want to take a moment to commend the gentleman from Virginia (Mr. WOLF), the chairman of the Subcommittee on Transportation of the Committee on Appropriations. He has at heart a genuine concern for safety and has moved the debate in the right direction. I appreciate his initiative. Unfortunately, the initiative crafted, perhaps in haste, without full appreciation, misses the mark. It is not the gentleman's intention to derogate safety, but it was the result of this section 338 in the conference report.

When the appropriations bill was signed into law last Saturday, the provision required an immediate reorganization of the motor carrier safety function within the Federal Highway Administration and within the Department of Transportation. To Secretary Slater's great credit, he did not wait a moment. The very day that the President signed the bill into law, Secretary Slater directed the reorganization to be done, immediately, over the weekend. But he went only as far as the appropriations bill allowed him to go. And because our committee has greater legislative history and experience with this law, we understood that there was a shortcoming. In fact, we held a hearing on the matter just to be precise about our concerns, that without further changes the reorganization would effectively handcuff and leg-shackle the motor carrier enforcement efforts of the Department of Transportation.

Almost immediately upon passage of the conference report, the Department of Transportation and others expressed serious concerns, our members and professional staff expressed serious concerns, and on the 7th of October, the Subcommittee on Ground Transportation of our committee held a hearing to explore those concerns publicly. I asked the Department of Transportation's general counsel, Nancy McFadden, at that hearing whether the Department would be able to assess fines or seek injunctive relief against a motor carrier that DOT had found in violation of motor carrier laws. She said no. She said further that DOT employees would not be allowed to work with a U.S. attorney in pursuing civil or criminal enforcement in court, that the Department would not be able to force a carrier to comply with Federal law or regulation. But she also said that those shortcomings, very serious ones, could easily be corrected, and that is why we are here today.

Now, the reason we are here is that section 338 of the transportation appropriations bill prohibits the Federal Highway Administration from spending money to carry out motor carrier safety programs. Once that provision took effect, no one in the new entity would have authority to initiate new civil penalty cases or continue existing civil penalty cases. Why? Very simply, the reason for the anomaly is that the law vests civil penalty authority only in the Federal Highway Administration and in the administrator. The administrator may delegate that civil penalty authority to an office within the Federal Highway Administration but not to an office outside the Federal Highway Administration. That is the key element that we have to correct and which we do correct here with this legislation, that the administrator cannot delegate the authority for civil penalties enforcement or cooperation with the Department of Justice and, therefore, without this language, we would have had standing in law the Motor Carrier Evasion Relief Act of 1999 in which motor carriers simply violate the law, cannot be pursued, cannot be penalized and safety cannot be enforced. With the language we bring to the House floor today, we correct that problem. And, happily, we will also be able to bring to the House floor our much more far reaching bill that elevates motor carrier safety to a new level in the National Motor Carrier Administration, in which we direct this new administration to consider the assignment and maintenance of safety as its highest priority.

We do it right. We provide the authority, we provide the civil penalty powers, we provide cooperation with the Justice Department, we provide funding for training and for enforcement authorities, we have a far reaching, comprehensive bill that does the right thing in the right way. I understand from the gentleman from Pennsylvania (Mr. SHUSTER) that we will be able to bring this bill to the House floor on Thursday. I urge everyone to support that bill as well as to support the pending legislation.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I indicated earlier, in summary the bill restores all safety enforcement powers to the Department where they will be administered by the Office of the Secretary for fiscal year 2000 only, so that safety is not reduced while Congress considers comprehensive motor carrier safety legislation.

I would just like to read, if I could briefly, from a letter from our United States Secretary of Transportation, Rodney Slater, that is dated today:

"I am writing to urge Congress to act quickly on legislation to restore enforcement authorities underlying our motor carrier safety programs that were suspended October 9 as a result of enactment of H.R. 2084, the Department of Transportation Appropriations Act.

"The need to act is clear. We currently have 922 cases pending, involving a total of $6 million in outstanding civil claims. Our work with the Department's Inspector General and the U.S. Attorney's office is in abeyance, and the exercise of some other authorities is now subject to question."

Mr. Speaker, I submit the copy of his full letter for the RECORD. This is in response to a clear need outlined by the Secretary of Transportation. I urge speedy passage of this legislation.

THE SECRETARY OF TRANSPORTATION,
Washington, DC, October 12, 1999.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to urge Congress to act quickly on legislation to restore enforcement authorities underlying our motor carrier safety programs that were suspended October 9th as a result of enactment of H.R. 2084, the Department of Transportation and Related Agencies Appropriations Act, 2000.

The need to act is clear. We currently have 922 cases pending, involving a total of $5,985,000 in outstanding civil penalty claims. Our work with the Department's Inspector General and the U.S. Attorney's office is in abeyance, and the exercise of some other authorities is now subject to question.

The need to act expeditiously on permanent legislation that increases the resources and regulatory and enforcement tools of the motor carrier office is also clear. Congress and the Administration, through the work of the Department's Inspector General, Mr. Norman Y. Mineta, and committee hearings and our own analysis, have identified the need to increase the effectiveness of motor carrier programs.

Both your Committee and the Senate Committee on Commerce, Science, and Transportation have reported or will shortly report legislation to address the breadth of motor carrier safety issues. In July, the Administration submitted comprehensive legislation as well. Many provisions in the three bills can be combined now to give us truly effective motor carrier legislation. The safety gains in these proposals should be paramount, as reflected in the principle of H.R. 2679 that safety be the foremost consideration of the motor carrier group, and organizational considerations should not supplant progress on the safety front. Therefore, I will work with Congress to resolve these organizational issues—in a way that ensures successful implementation of our mutual safety goals.

In May, I announced a comprehensive program to address motor carrier safety, setting a goal of a 50 percent reduction in fatalities from motor carrier-related crashes over the next ten years. The Department has redoubled its efforts over the past year, implementing a series of actions to strengthen our program. We developed a draft Safety Action Plan with approximately 65 specific safety initiatives to be completed in the next three years.

To date, we have doubled the number of compliance reviews accomplished by safety investigators each month. Comparing the periods January to April 1999 and May to August 1999, total compliance reviews increased 59 percent. Financial penalties have increased from an average of $1,600 to $3,200 per enforcement case. The backlog of enforcement cases has been reduced by two-thirds, from 1,174 to 363. The number of Federal investigators at the U.S. Mexico border has increased from 13 to 40—a 200-percent increase.

I urge action by Congress as rapidly as possible on the two bills, both of which are essential to strengthening our motor carrier safety programs.

Sincerely,

RODNEY E. SLATER.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in to address H.R. 3036 and truck safety. This bill suspends language in the Transportation Appropriations bill and restores responsibility for all truck safety activities to the Secretary of Transportation. This action comes due to nearly 5,000 people being killed in truck related accidents in each of the past three years on our nation's highways. There are many agencies within our government that have a shared responsibility for safety on our nation's highways, including the Transportation Department, the NTSB and the Federal Highway Administration. But despite much talk and discussion, several hearings, and meetings over improving trucking safety we have had little action aimed at improving safety.

What we do have is accident after accident involving truck drivers who are too tired and even drunk. A total of 5,374 people died in accidents involving large trucks which represents 13 percent of all the traffic fatalities in 1998 and in addition 127,000 were injured in those crashes.

In Houston, Texas, a man (Kurt Groten) 38 years old and his three children David, 5, Madeline, 3, and Adam, 1, were killed in a horrific accident when a 18-wheel truck crashed into their vehicle. His wife, the only survivor of the crash, testified in criminal proceedings against the driver last week stating "I saw that there was a whole 18-wheeler on top of our car. * * * I remember standing there and screaming, 'My life is over! All of my children are dead!'"

Martinez was convicted on last Friday and the jury now must decide if he gets probation or up to 20 years in prison for each of the four counts of intoxication manslaughter.

This is but one example of the thousands of terrible and fatal trucking accidents that are caused every year on our nation's roads and highways.

We need an agency within the government to ensure that the rules are adhered to and those safety technologies like recording devices are implemented into the system. I want to ensure, like many Members, that there are no more Mrs. Groten's in America.

Truckers are required to maintain logbooks for their hours of service. But truckers have routinely falsified records, and many industry observers say, to the point that they are often referred to as "comic books." In their 1995 findings the National Transportation Safety Board found driver fatigue and lack of sleep were factors in up to 30 percent of truck crashes that resulted in fatalities. In 1992 report the NTSB reported that an astonishing 19 percent of truck drivers surveyed said they had fallen asleep at the wheel while driving. Recorders on trucks can provide a tamperproof mechanism that can be used for accident investigation and to enforce the hours-of-service regulations, rather that relying on the driver's handwritten logs.

Mr. Speaker, I know that the trucking industry is concerned by the added cost of the recorders. I also appreciate the fact that close to eighty percent of this country's goods move by truck and that the industry has a major impact on our economy. But can we afford to put our wallets before safety? Ask yourselves where we would be without recorders in commercial aviation, rail, or the marine industry? I think that I have good idea what the answer is, we would not know what caused that accident nor would we be able to learn from our mistakes.

Mr. Speaker, let us vote today to put action behind our discussion and ensure that safety comes first.

• Mr. RAHALL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PETRI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Wisconsin (Mr. PETRI) that the House suspend the rules and pass the bill, H.R. 3036, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to restore motor carrier safety enforcement authority to the Department of Transportation.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PETRI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3036, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order:

House Resolution 303, by the yeas and nays;

S. 800, by the yeas and nays; and

H.R. 2130, de novo.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

SENSE OF THE HOUSE URGING 95 PERCENT OF FEDERAL EDUCATION DOLLARS BE SPENT IN THE CLASSROOM

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, House Resolution 303, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. GOODLING) that the House suspend the rules and agree to the resolution, House Resolution 303, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 421, nays 5, not voting 7, as follows:

[Roll No. 491]

YEAS—421

Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth-Hage
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pastor
Paul
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaffer
Schakowsky
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—5

Abercrombie
Mink
Nadler
Scott
Waters

NOT VOTING—7

Coburn
Fattah
Jefferson
Kilpatrick
Meek (FL)
Pascrell
Scarborough

□ 1945

Mrs. NORTHUP changed her vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended; was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to the provisions of clause 8 of rule XX, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

WIRELESS COMMUNICATIONS AND PUBLIC SAFETY ACT OF 1999

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 800.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the Senate bill, S. 800, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 424, nays 2, not voting 7, as follows:

[Roll No. 492]

YEAS—424

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler

Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—2

Chenoweth-Hage
Paul

NOT VOTING—7

Coburn
Jefferson
Kilpatrick
Meek (FL)
Pascrell
Roukema
Scarborough

☐ 1953

So (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HILLORY J. FARIAS DATE-RAPE PREVENTION DRUG ACT OF 1999

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2130, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. UPTON) that the House suspend the rules and pass the bill, H.R. 2130, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. UPTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 423, nays 1, not voting 9, as follows:

[Roll No. 493]

YEAS—423

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth-Hage
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Metcalf
Mica
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Vento
Visclosky
Vitter
Walden
Walsh

Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—9

Coburn
Jefferson
Kilpatrick
Lazio
Meek (FL)
Millender-McDonald
Pascrell
Roukema
Scarborough

□ 2001

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the Controlled Substances Act to add gamma hydroxybutyric acid and ketamine to the schedules of controlled substances, to provide for a national awareness campaign, and for other purposes.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. KILPATRICK. Mr. Speaker, due to a death in my family, I was unable to be present at several votes that occurred today. Had I been present, I would have voted "no" on H. Res. 303, "aye" on S. 800 and "aye" on H.R. 2130.

REPORT ON OPERATION OF CARIBBEAN BASIN ECONOMIC RECOVERY ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. SHIMKUS) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means:

To the Congress of the United States:

As required by section 214 of the Caribbean Basin Economic Recovery Expansion Act of 1990 (19 U.S.C. 2702(f)), I transit herewith to the Congress the Third Report on the Operation of the Caribbean Basin Economic Recovery Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 12, 1999.*

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2561, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2000

Mr. DIAZ-BALART, from the Committee on Rules, submitted a privileged report (Rept. No. 106–375) on the resolution (H. Res. 326) waiving points of order against the conference report to accompany the bill (H.R. 2561) making appropriations for the Department of Defense for the fiscal year ending September 30, 2000, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1993, EXPORT ENHANCEMENT ACT OF 1999

Mr. DIAZ-BALART, from the Committee on Rules, submitted a privileged report (Rept. No. 106–376) on the resolution (H. Res. 327) providing for consideration of the bill (H.R. 1993) to reauthorize the Overseas Private Investment Corporation and the Trade and Development Agency, and for other purposes, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

INTRODUCING A BIPARTISAN RESOLUTION ENCOURAGING A PARTNERSHIP BETWEEN CONGRESS AND THE CENSUS BUREAU TO ACHIEVE AN ACCURATE COUNT IN THE 2000 CENSUS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

Mrs. MALONEY of New York. Mr. Speaker, I really rise to thank the gentleman from Florida (Chairman MILLER) from the Subcommittee on the Census for working in a bipartisan manner on a resolution that we have put forward, and on tomorrow's briefing which we have invited every Member of the House to attend, a briefing by Director Prewitt on ways to involve Members in getting an accurate count for the Census.

I know that in the past we have had our differences over the best way to conduct the Census, but I think we both now agree that now is the time to put those differences behind us and to go forward with the business of conducting the massive operation of the 2000 census.

Mr. Speaker, I am very happy to join the gentleman from Florida (Mr. MILLER) on House Resolution 193, a resolution which reaffirms the spirit of cooperation between the Census Bureau and Congress, and establishes a public partnership between us.

This partnership is vital because, though the Bureau is doing a very fine job in preparing for the 2000 Census, it truly is a huge undertaking which deserves the support it can receive from any sector.

Just to give an idea of the scale of the 2000 Census, it will be the largest peacetime mobilization ever conducted by our country. It will count approximately 275 million people and 120 million housing units across this Nation. In order to carry out this massive operation, the Census Bureau will have to process 1.5 billion pieces of paper, and it will have to do this in a very short time period. To conduct the 2000 Census, the Bureau will have to fill more than 860,000 temporary positions. They will have to hire more people than are in the Army.

In a very real sense, the 2000 Census has already begun. The forms are being printed and transported across the Nation. The Bureau plans to open 520 local Census offices. One hundred thirty of those are already open, and the remaining 390 are leased and will be open on a flow basis through the beginning of next year.

Every Member of Congress needs to do all they can to encourage this partnership with the 2000 Census from their newsletters, from public service announcements, to participating in local forums.

One new program the Bureau has developed for the Census, which I think is particularly effective, is Census in the Schools. More than 50 percent of all those not counted in 1990 were children. The Census in Schools program aims to help children learn what a Census is and why it is important to them and their families and their community at large. The program also aims to increase participation in Census 2000 by engaging not only the children but their parents, so that they will fill out the Census forms. It will also help recruit teachers and parents to work as Census-takers.

Mr. Speaker, State, local, and tribal governments, as well as businesses and nonprofit organizations, have become partners with the Census Bureau in the effort to make the 2000 Census the best ever.

The constitutionally-mandated Census we take every 10 years is one of the most important civic rituals our Nation has. It determines the distribution of over $185 billion in Federal aid. It determines the distribution of political and economic power in our country for a decade. I urge every Member to actively participate in making it a success.

ENCOURAGING MEMBERS TO JOIN IN PARTNERSHIP WITH THE CENSUS BUREAU TO ACHIEVE AN ACCURATE CENSUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Florida. Mr. Speaker, I rise in agreement with my colleague, the gentlewoman from New York (Mrs. MALONEY). We have had our differences over the past 2 years with the Census issue, but this is one time we are now coming together, as we are so close to our decennial census, which has just about 6 months to go.

Our goal is common: We want to have the most accurate count, and count everybody living in this great country as of April 1 of the year 2000.

Tonight I rise to discuss an important program of the Census Bureau. That is a bipartisan congressional partnership with the Bureau to promote the participation in the 2000 decennial census. It is just 6 months away, and the Bureau will undertake the largest peacetime mobilization in the Nation's history, conducting the 2000 Census.

This massive undertaking deserves our support at the local level. The key to ensuring a successful census that counts everyone in America is outreach and promotion in every neighborhood. Broad-based participation in the Census must start from within our communities. The Census Bureau must use every effort possible to promote participation in the Census. While the Census Bureau does this in several ways, I am here to talk about one of the more important ways I feel the Census Bureau promotes the Census, and those are the partnerships.

The Census Bureau is in the process of forming partnerships with hundreds and thousands of groups, organizations, and individuals from all sectors of the population and all sizes, ranging from Goodwill Industries to local places of worship. It is only fitting and proper that Congress join with these groups across the Nation by partnering with the Census Bureau, and that is why I am speaking here this evening.

This proposed partnership with Members of the House of Representatives seems to me to be one of the most logical partnerships of all. These partnership programs are designed to utilize the resources and knowledge of the local partners, and who knows better the local area and the problems the Bureau may face than Members who serve those districts?

Moreover, there are 435 Members in this House who worked tirelessly for our districts, and most of us go home every weekend to work very hard for the people who elected us as their representatives. We know what it will take to have a successful Census in our districts, and what better way to serve these very people than promoting the Census and helping them get the most accurate count possible?

After all, the decennial census distributes over $180 billion in Federal funds annually. The Census tells us where schools, roads, and lunch programs are most needed. We as representatives owe it to our constituents to make sure they receive the services they need. The best way to do this is through promoting participation in our districts. This is not a Republican issue or a Democratic issue, this is an American issue.

Tomorrow we will be celebrating the kickoff of this vitally important partnership. The gentlewoman from New York (Mrs. MALONEY) and her staff have been working very hard to make this partnership between the Bureau and the House of Representatives a success.

Tomorrow, Director Kenneth Prewitt will be holding a briefing for Members only to explain this partnership program and answer any questions they have. I urge all of my colleagues to attend the briefing tomorrow to learn more about this partnership program and how Members can get involved in their own districts.

I think Members will find the Bureau has put together a comprehensive set of activities that Members can easily take back to their districts to increase public participation. Following the briefing, we will hold a press conference to unveil House Concurrent Resolution 193, a resolution that affirms a partnership between the Census Bureau and the House of Representatives. House Concurrent Resolution 193 recognizes the importance of achieving a successful census, encouraging groups to continue to work towards a successful census, reaffirms our spirit of cooperation with the Census Bureau, and asserts a public partnership between Congress and the Bureau of the Census.

While we may have had our differences in the past, the gentlewoman from New York (Mrs. MALONEY) and I have joined forces to introduce this legislation, which merits broad-based bipartisan support. The decennial census is a cornerstone of our democracy, and it is vital that all Members of Congress, Democrats and Republicans alike, publicly support activities to enhance public participation.

I encourage my colleagues to cosponsor House Concurrent Resolution 193 and to bolster congressional presence during tomorrow's activities.

REVISIONS TO ALLOCATION FOR HOUSE COMMITTEE ON APPROPRIATIONS, PURSUANT TO HOUSE REPORT 106-288, TO REFLECT ADDITIONAL NEW BUDGET AUTHORITY AND OUTLAYS FOR EMERGENCIES

The Speaker pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. KASICH) is recognized for 5 minutes.

Mr. KASICH. Mr. Speaker, pursuant to Sec. 314 of the Congressional Budget Act, I hereby submit for printing in the CONGRESSIONAL RECORD revisions to the allocation for the House Committee on Appropriations pursuant to House Report 106–288 to reflect $7,200,000,000 in additional new budget authority and $4,817,000,000 in additional outlays for emergencies. This will increase the allocation to the House Committee on Appropriations to $561,834,000,000 in budget authority and $597,532,000,000 in outlays for fiscal year 2000. This will increase the aggregate total to $1,452,283,000,000 in budget authority and $1,434,669,000,000 in outlays for fiscal year 2000.

As reported to the House, H.R. 2561, the conference report accompanying the bill making appropriations for the Department of Defense for fiscal year 2000, includes $7,200,000,000 in budget authority and $4,817,000,000 in outlays for emergencies.

These adjustments shall apply while the legislation is under consideration and shall take effect upon final enactment of the legislation. Questions may be directed to Art Sauer or Jim Bates at x6–7270.

ADDITIONAL REVISIONS TO ALLOCATION FOR HOUSE COMMITTEE ON APPROPRIATIONS, PURSUANT TO HOUSE REPORT 106–288, TO REFLECT ADDITIONAL NEW BUDGET AUTHORITY AND OUTLAYS FOR EMERGENCIES

Mr. Speaker, pursuant to sec. 314 of the Congressional Budget Act, I hereby submit for printing in the Congressional Record revisions to the allocation for the House Committee on Appropriations pursuant to House Report 106–288 to reflect $2,310,000,000 in additional new budget authority and $1,591,000,000 in additional outlays for emergencies. The bill also includes $405,000,000 in additional budget authority and $352,000,000 in additional outlays in continuing disabilities reviews, as well as $20,000,000 in additional budget authority and $12,000,000 in additional outlays for adoption incentive payments. This will increase the allocation to the House Committee on Appropriations to $554,634,000,000 in budget authority and $592,715,000,000 in outlays for fiscal year 2000. This will increase the aggregate total to $1,445,083,000,000 in budget authority and $1,429,852,000,000 in outlays for fiscal year 2000.

As reported to the House, H.R. 3037, the bill making appropriations for Labor, Health and Human Services, Education and Related Agencies for fiscal year 2000, includes $2,310,000,000 in budget authority and $1,591,000,000 in outlays for emergencies. The bill also includes $405,000,000 in budget authority and $352,000,000 in outlays in continuing disabilities reviews, as well as $20,000,000 in budget authority and $12,000,000 in outlays for adoption incentive payments.

These adjustments shall apply while the legislation is under consideration and shall take effect upon final enactment of the legislation. Questions may be directed to Art Sauer or Jim Bates at x6–7270.

THE CONTINUING IMPACT OF HURRICANE FLOYD

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, I rise again to remind my colleagues that the impact of Hurricane Floyd continues to affect the people of North Carolina and the people of the eastern shore, from Florida all the way to New York. There have been deaths even up as far as Vermont.

But in North Carolina, that devastation is of untold proportions. There are more than 58,000 people now that have responded to the opportunity to call FEMA's intake line indicating they need assistance through FEMA. They need assistance immediately, and this government and this body needs to act.

I want to say that the people of America have been just tremendously generous in responding and having compassion and showing sensitivity, and by giving of their own personal goods or their organizations or churches or relief organizations.

But that is insufficient to respond to the needs of the 58,000 people who have lost their homes. Some have lost their income, the facilities or the infrastructure that they are accustomed to using, their wastewater system, their water system.

□ 2015

I met today in Greenville with farmers from around four counties. There were approximately 80 or more farmers who had come along with members of the agricultural community to talk about their loss and to recognize that as the relief funds now are constructed they are likely not to be included in that relief. If a farmer has lost his machinery or his livestock or his crops, how do we use that as a way of mitigating his loss? Only through now, as the law is constructed, only through a loan. Many of our small farmers are really on the fringes now of not knowing whether they will stay in business.

I met with the grangers on Friday on the report from the North Carolina Grangers Society. There may be as much as 18 to 20 percent of the farmers going out of business now. I would say that many of the farmers were having problems before now, but if we compound the impact of losing 120,000 hogs, 2.5 million chickens, almost a million turkeys and livestock, we compound that with having low prices and calamities from the drought, one begins to get a sense of the devastation and the suffering and the uncertainty of tomorrow that these farmers are also experiencing.

Not only farmers but small businesses, small businesses in Edgecombe County and Tarboro today said many of them in the downtown area, they were small businesses, they might have had 3 to 5 employees. They are not sure that a loan is what is going to help them. Many of them said when they look at their creditworthiness, meaning how much debt they have in relation to income, already they are at the margin of not being credit-worthy. So we have to begin to think about new structures to respond to both our farmers and our small businesses.

I know the gentlewoman from New Jersey (Mrs. ROUKEMA) and the gentleman from New Jersey (Mr. FRANKS) and gentlewoman from New York (Mrs. KELLY) and the gentlewoman from Florida (Mrs. FOWLER) have begun to work, and I am working with that group, to see how we can ask this Congress to look at maybe a one-time effort to give some relief indeed to both small businesses and farmers. I just want to urge my colleagues to consider that.

Finally, let me just say that we begin to think that this only affects people in North Carolina. Well, on Saturday night, there was a family that had come from this area, had come down to visit their relatives in the home county I live in, in Warren County, a young man who is a young professional, 41 years of age and into computer science, had come to visit his relatives and had gone a familiar road but did not see the sign or the sign was not very well displayed. There was a detour and the waters under that bridge were flooding above the bridge and that family of five in that van ended up in the water and the 8-year-old is dead today and the other four members of that family, from this area, are now in serious and critical condition at Duke University. So the impact is tremendous.

Mr. Speaker, we have an opportunity to respond to this tragedy. We have an opportunity to show that this government is responsive as Americans to us, and we will indeed do the right thing. I urge us to do a relief program that is responsive to the needs of all the people who are in the area of Hurricane Floyd.

THERE IS SORROW WHEN ANYONE IS LOST, BUT ESPECIALLY OUR CHILDREN

The SPEAKER pro tempore (Mr. SHERWOOD). Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, there are several items that I would like to address this evening. Earlier today in debate, I acknowledged that this past weekend, 6 of our young people in the State of Texas died by way of a tragic automobile accident. I do want to make it clear, as I was speaking at the time of the debate on the Hillory J. Farias date-rape drug, that the incident did not involve drugs, but as someone who advocates for children, along with many of my colleagues in this House, I wanted to be able to offer sympathy to the families of those wonderful young people and as well the institutions of higher learning that all of them were then attending, and to say that any life is a great loss but certainly when our young people are taken in the prime of their life, these youngsters were 18 and 20, 22, 21, it is a great loss. So I offer my deepest sympathy to those colleges and the families and to the friends and youngsters who have experienced that, and I hope that we can find a solution to some of these tragic accidents and find a way to prevent tragic car accidents like this one, so that we can prevent this loss of life.

Let me also take a special moment to speak again on the Hillory J. Farias bill, because there was an individual that I did not get to thank enough, and that is the Harris County medical examiner, Dr. Joy M. Carter. This has been a long journey in our community and for the Farias family in particular it has been long because the accusations were that the young lady, their niece, their granddaughter, had taken drugs. This was another drug case, and it was only at the persistence of the law enforcement and Dr. Carter to be able to answer the cries of the family to be able to detect, and Dr. Carter, of course, is a woman physician and medical examiner who persisted in detecting or attempting to detect this very difficult drug.

So I want to thank her for her work in this, and I want to read from her testimony dated July 27, 1998.

> A common feature of date-rape drugs is their ability to be ingested without knowledge and the inducement of an altered state of consciousness or memory loss. These drugs are not easily detected nor considered regularly as a causative agent in a death or sexual assault so you do not usually look for these drugs. Further, these drugs are not at all categorized as Level I or II under the current Controlled Substances Act.

Today, my colleagues have joined me in directing that, and I applaud them; but I do want to thank Dr. Carter for her extra interest and going the extra mile to give comfort to that family, to know that their young person was not on drugs.

I would also like to just read an excerpt from the letter from the DEA which indicates that the DEA has documented 5,500 cases of overdose, toxicity, dependence and law enforcement encounters as it relates to GHB. The DEA has obtained documentation in the form of toxicology, autopsy and investigative reports from medical examiners on 49 deaths that involve GHB, and they will continue to monitor this and ask that it be in Schedule II if it gets to be determined to be approved for medical use by the FDA.

DEADLY 18-WHEELERS SHOULD BE REGULATED ON OUR HIGHWAYS

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would like to turn my attention to the discussion that was on the floor of the House today and a discussion that has been going on in the City of Houston very briefly and that is the number of 18-wheeler trucks going through my community on interstates, of which I recognize the importance of

18-wheelers as transportation in the carry of goods. And I am not here to cast stones, but I am here to say, Mr. Speaker, we need more safety regulation and enforcement as it relates to 18-wheeler trafficking.

I bring to our attention the tragic story that occurred this past summer, a couple of months ago, to the Lutine family, where this widow now tells a story of losing her husband and three babies because of an 18-wheeler at high speed that turned over on them and caused the truck to explode; the vehicle that the family was riding in, the recreational vehicle that the family was riding in, and caused the husband and the children to be burned alive.

If I can quote the comment from the wife, the wife and mother of the three, these victims, witnessed this sickening event and as she testified she stood at the scene screaming, "My life is over. All my children are dead."

I am hoping that we can come together as Members of the United States Congress and ask that we include a data recorder in all trucks, Mr. Speaker, that would provide factual information to determine how these accidents occurred so that we can prevent these accidents. We will have an opportunity as we move toward H.R. 2669, as I conclude, the Motor Carrier Safety Act of 1999, this week and I hope we can work together to ensure that these tragedies do not happen again.

WHEN HISTORY IS LOOKED AT, THERE IS NO CONSTITUTIONAL SEPARATION OF CHURCH AND STATE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Pennsylvania (Mr. PITTS) is recognized for 60 minutes as the designee of the majority leader.

Mr. PITTS. Mr. Speaker, tonight several of us are again gathered here in the hall of the House in this legislative body that represents the freedom that we know and love in America to discuss what our Founding Fathers believed about the First Amendment, the freedom of religion, the issue of religious liberty, and the intersection of religion and public life.

Mr. Speaker, there has been a lot said by people of all political ideologies about the role of religion in public life and the extent to which the two should intersect, if at all. Lately we have heard the discussion of issues like charitable choice, graduation prayers, even prayers at football games, opportunity scholarships for children to attend religious schools, government contracting with faith-based institutions, and the posting of the Ten Commandments and other religious symbols on public property.

As we hear this discussion, we often hear the phrase "separation of church and state" time and time again.

Joining me tonight to examine this phrase and this issue and what our First Amendment rights entail are several Members from across this great Nation. I am pleased to be joined by the gentleman from Colorado (Mr. TANCREDO), the gentleman from North Carolina (Mr. JONES), the gentleman from Kentucky (Mr. WHITFIELD), the gentleman from Kansas (Mr. RYUN), and the gentleman from South Carolina (Mr. DEMINT), each of whom will examine the words and the intent of our Founding Fathers.

I would like to begin by examining some of the words of some of our Founders and Framers of the Constitution as we look at the issue of encouraging religion. In debates in this body in recent weeks, some Members have criticized proposed measures to protect public religious expressions or to allow voluntarily participation in faith-based programs.

They tell us that it is not the purpose of government to encourage religion, even if it shows preference to no particular religious faith or group. Interestingly, we hear no criticism when we encourage or cooperate with private industry or with business or any other group. Only when we cooperate with faith institutions do the critics emerge.

Are the programs and endeavors of people of faith below government encouragement? Or do people of faith have some lethal virus which prohibits the government from partnering with them? Certainly not. What then is the problem? We are told that for us to encourage religion would be unconstitutional, that it would violate the Constitution so wisely devised by our Founding Fathers. This is an argument not founded in history or precedent. It is an argument of recent origin. It does not have its roots in our Constitution but rather in the criticisms of numerous revisionists who wish the Constitution said something other than what it actually does. In fact, those who wrote the Constitution thought it was proper for the government to endorse and encourage religion.

As proof, consider the words of John Jay, one of the three authors of the Federalist Papers, and the original chief justice of the United States Supreme Court.

Chief Justice John Jay declared, and I quote, "It is the duty of all wise, free and virtuous governments to countenance and encourage virtue and religion." Chief Justice John Jay was one of America's leading interpreters of the Constitution, and he declared it is the duty of government to encourage virtue and religion.

Consider next the words of Oliver Ellsworth. He was a member of the convention which framed the Constitution. He was the third chief justice of the United States Supreme Court.

□ 2030

Chief Justice Ellsworth declared, "The primary objects of government are peace, order, and prosperity of society. To the promotion of these objects, good morals are essential. Institutions for the promotion of good morals are therefore objects of legislative provision and support, and among these, religious institutions are eminently useful and important."

Chief Justice Oliver Ellsworth, another of American's leading interpreters of the Constitution, and one who actually helped frame the Constitution, declares that religious institutions are to be encouraged.

Consider, too, the words of Henry Laurens, another member of the constitutional convention. Henry Laurens declared, "I had the honor of being one who framed the Constitution. In order effectually to accomplish these great constitutional ends, it is especially the duty of those who bear rule to promote and encourage respect for God and virtue."

Henry Laurens is a third constitutional expert, one who participated in the drafting of the Constitution and who therefore clearly knows its intent, and he declares that it is the duty of government to encourage respect for God."

Consider also the words of Abraham Baldwin, another of the original drafters of the Constitution, one of its signers. Abraham Baldwin declared, "A free government can only be happy when the public principle and opinions are properly directed by religion and education. It should therefore be among the first objects of those who wish well the national prosperity to encourage and support the principles of religion and morality."

Abraham Baldwin is yet a fourth constitutional expert, a signer of the Constitution. He declares that government should encourage religion.

Since the very Founders who prohibited, "an establishment of religion" also said that it was the duty of government to encourage religion, it is clear that they did not equate encouraging religion as an unconstitutional establishment of religion.

Finally, consider the words of Supreme Court Justice Joseph Story, placed on the Court by President James Madison. Justice Story, in his 1833 Commentaries On The Law, which today are still considered authoritative constitutional commentaries, declared this, "The promulgation of the great doctrines of religion, the being and attributes and providence of one Almighty God; the responsibility to Him for all our actions, founded upon moral accountability; a future state of rewards and punishments; the cultivation of all the personal, social, and benevolent virtues, these never can be a matter of indifference in any well-ordered community. It is indeed difficult to conceive how any civilized society can well exist without them." .

Supreme Court Justice Joseph Story titled The Father of American Jurisprudence for his significant contributions to American law declares that government is not to be indifferent to religion.

There are many, many other examples, and they all prove that the current arguments demanding that government not encourage religion or allow participation in faith-based programs are ill-founded. The conflict between those today who argue that the Constitution does not permit us to encourage religion, and the actual framers of the Constitution who assert that we may encourage religion is best expressed by Chief Justice William Rehnquist who declared, "It would come as much of a shock to those who drafted the Bill of Rights to learn that the Constitution prohibits endorsing or encouraging religion. History must judge whether it was those in 1789, or those today who have strayed from the meaning of the Bill of Rights."

Certainly, clear-thinking Americans know that those who wrote the Constitution understand its meaning better than today's critics who try to make the Constitution say something that it does not.

It is time for this body to get back to upholding the actual wording of the Constitution, not some substitute wording that constitutional revisionists wish that it had said.

Mr. Speaker, I yield to the gentleman from Colorado Mr. TANCREDO.

Mr. TANCREDO. Mr. Speaker, my colleagues and I rise again tonight, as we have done on one other occasion, to address several myths, to destroy several myths, myths that have worked their way into the fabric of America, especially what people believe about the Constitution and about the role of religion in American life. Perhaps no where do we find a greater accumulation of these myths than in the area of education and religion.

I have had the privilege in Colorado to, several times now, present to the people of the State, through the initiative process, proposals designed to deal with school choice, vouchers, tuition tax credits, and the like.

I have always included in those proposals a provision that would allow a parent to use those dollars in support of an educational experience for their children in any school of their choice, including faith-based institutions. Inevitably, during the debate on those issues, inevitably, more hostility is directed toward that particular part of our amendment than almost anything else.

One wonders what justifies this intense hostility against allowing faith access to the halls of education and the public square. Our opponents tell us that, "our founding principles" require this hostility, that under our Constitution, public education has always been segregated from any religious influence. They further tell us that this was the intent of the great statesmen who gave us our government.

These, Mr. Speaker, are all myths. Such misinformed claims prove that, evidently, the individuals making them know little or nothing about those who gave us our documents or about the history of American education. However, since I am pro education, I am certainly willing to help educate my misinformed colleagues across the time on this issue.

Many of our early statesmen were great educators. In fact, in the 10 years after the American Revolution, more universities and colleges were started than in the entire 150 years before the Revolution. Our Founders were definitely pro education. They had much to say on the subject, and their profound impact is still felt today.

One influential Founding Father educator was Dr. Benjamin Rush, a signer of the Declaration of Independence, a leader in the ratification of the Constitution, and a member of the administrations of Presidents John Adams, Thomas Jefferson, and James Madison.

The credentials of Dr. Rush are impressive. He helped start five colleges and universities, three of which are still going today. Additionally, he pioneered education for women and for Black Americans, and, along with Benjamin Franklin, was the founder of America's first abolition society.

Dr. Rush also authored a number of textbooks, held three professorships simultaneously, and, in 1790, became the first Founding Father to call for free public schools under the constitution. Consequently, Benjamin Rush can properly be titled "The Father of Public Schools Under the Constitution."

Now, what did this gentleman with those kinds of credentials and background say about public education? I will quote, "The only foundation for a useful education in a republic is to be laid in religion. Without religion," he said "I believe that learning does real mischief to the morals and principles of mankind."

Clear words about religion and education.

Consider, too, the words of William Samuel Johnson, a signer of the Constitution and a framer of the First Amendment, the very amendment that our opponents wrongly claim excludes religion from the public schools.

Interestingly, in an exercise which we still practice today, Samuel Johnson spoke at a public graduation exercise, and, at it, he told the graduates, "You have received a public education, the purpose whereof hath been to qualify you the better to serve your Creator and your country."

Then there is the Constitution signer Gouverneur Morris. He was a most active member of the Constitutional Convention and was chosen by his colleagues to write the wording of the Constitution. Gouverneur Morris is therefore called "The Penman of the Constitution". It certainly seems that the man chosen to write the Constitution would know its intent.

Concerning public education, Gouverneur Morris declared "Religion is the only solid basis of good morals; therefore education should teach the precepts of religion and the duties of man towards God."

Another drafter of the Constitution, Henry Laurens, expressed equally clear views on religion in public schools. He explained, "I had the honor of being one among many who framed that Constitution. In order effectually to accomplish these great constitutional goals, it is the duty of rulers to promote and encourage respect for God. The Bible is a book containing the history of all men and of all Nations and is a necessary part of a polite education."

Consider the next words of Fisher Ames. He was a Member of this body, and according to the records of Congress for 1789, he was a Member of the House, and he was the most responsible for the final wording of the First Amendment.

Did he have anything to say about religion in schools? Definitely. In fact, when he learned that some schools were de-emphasizing the Bible in their curriculum, Fisher Ames exploded, "Why should not the Bible regain the place it once held as a school book." He said, "Its morals are pure, its examples captivating and noble."

The man most responsible for drafting the final wording of the First Amendment saw no problem with religion in public schools. In fact, he believed that it was a problem if a public school excluded religion.

There are many, many others, all equally succinct in their declarations. These are no light weights. The Penman of the Constitution, the Father of the Public Schools Under the Constitution, the drafter of the language of the First Amendment, delegates to the Constitutional Convention, signers of the Constitution, and they all agree that public education is not to exclude religion.

Because their opinion about religion and education was so clear, the unanimous decision reached by the U.S. Supreme Court in 1844 came as no surprise. In that case, it was proposed that a government-administered school should exclude all ministers from its campus. It was, thus, feared that religious influences would also be excluded.

Interestingly, the defense attorney, Horace Binney, who was a Member of this body, the plaintiff attorney, Daniel Webster, also a Member of the House, a U.S. Senator, and a Secretary of State for three Presidents, and the U.S. Supreme Court all agreed that religious influences should not be barred from the school. The decision was delivered by Justice Joseph Story, placed on the Supreme Court by President James Madison.

Story declared, "Why may not the Bible, and especially the New Testament, without note or comment, be read and taught as Divine revelation in the school, its general precepts expounded, its evidences explained and its glorious principles of morality inculcated? Where can the purest principles of morality be learned so clearly or so perfectly as from the New Testament?"

This was a unanimous decision of the Supreme Court. I wonder why our colleagues across the aisle and others are so hostile to the presence of faith in public education, and then they fail to mention this case.

I also wonder why they ignore the numerous signers of the Constitution who said exactly the opposite of what our opponents are advocating.

Very simply, opponents of public religious expression know that their policies which discriminate against millions of people of faith and against thousands of programs of faith are so unacceptable to Americans that additional clout is needed to convince the unwilling public to succumb to their policies.

So where do they get this additional clout? They wrongly make the Constitution and the framers of our documents into unwilling accomplices to their religion-hostile agenda. That is, they blame their religious discrimination on "the Constitution".

Forget the fact that the Constitution does not say what the opponents of religious expression claim that it says. Or they blame their religion-hostile policies on the great founding principles of those who gave us our government. Just ignore the minor technicality that those who did give us our government opposed the very religion-hostile policies that our opponents are now advocating.

The anti-faith policies of those who are opposed to these ideas are just as bad as their history and just as bad as the distortions they fabricate to try and excuse their religious apartheid. There simply is nothing, either in the actual wording of the Constitution or in the precedents of early American history, that requires religion to be segregated from the public square.

So tonight we once again hope to destroy myths and to continue in that process.

Mr. PITTS. Mr. Speaker, I thank the gentleman from Colorado (Mr. TANCREDO), who happens to represent the area, I believe, of Littleton, Colorado, where the great tragedy at Columbine High School occurred. I am sure the prayers of the Nation have been with his constituents this year.

Mr. TANCREDO. Mr. Speaker, I thank the gentleman from Pennsylvania.

□ 2045

Mr. Speaker, I yield to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Speaker, I want to take just one moment to talk a little bit about how this important discussion came about. On June 29 of this year, the gentlewoman from Idaho introduced House Concurrent Resolution 94 and this body debated that resolution.

It was really a simple resolution. The title of it was Recognizing National Need for Reconciliation and Healing and Recommending a Call for Days of Prayer.

In addition, it specifically said that, "Resolved by the House of Representatives that the Congress urges all Americans to unite in seeking the face of God through humble prayer and fasting persistently, asking God to send spiritual strength and a renewed sense of humility to the Nation so that hate and indifference may be replaced with love and compassion and so that the suffering in the Nation and the world may be healed by the hand of God."

There were a couple of other points that were basically the same, recommending that the leaders and the national, State, and local government and business and clergy appoint and call upon the people they serve to observe a day of prayer and fasting and humiliation before God. A very simple resolution, going back to the very founding of this country on religious principles.

And yet, when that resolution came to a vote on this floor on June 29, it received 270 votes, 270 Members voted yes, 140 Members voted no, and 11 voted present.

Now, normally it would have passed, but this was on a suspension calendar because no one thought it would be controversial. And since it did not receive two-thirds of the vote of those voting that day, it failed.

It is really difficult to imagine that a simple resolution with such traditional values expressing those calling for humility and prayer to help heal this Nation would fail on this floor.

Now, I would also tell my colleagues that of the 140 people who voted no on this floor, 136 of them were Democrats.

Now, I do not question the motives of anyone who voted no. However, the vote demonstrates clearly that a significant number of Members in this body do not want this body to express itself on religious matters. It is also important to remember that this resolution was simply an expression of the House on this issue, it was not a law, it did not have any mandates, it did not have any inner enforcement, but simply an expression of the House. And even if it had passed the House and the Senate and was signed by the President, it would not have been an enforceable statute, simply an expression of the sense of Congress.

Now, the sad thing is people on this body do not want the House of Representatives expressing a view on religion, and yet nearly 200 religious resolutions have been passed by this body over the history of this Congress and many of them passed at the request of Founding Fathers like George Washington, John Adams, James Madison, and others.

Now, members from the other party objected to this body doing what scores of former congressmen had constitutionally done. Why? Well, they made it very clear that day in June that they voted against it because they said to encourage a day of prayer and fasting would be unconstitutional.

Now, why did they say that? I want to quote from their statements taken from the CONGRESSIONAL RECORD. One of them said, "Congress has no business giving its official endorsement to religion. This resolution is an official endorsement of religion and thus constitutes an establishment of religion."

One of them said, "To even suggest prayer should be a government dictated, necessary duty demeans the very sanctity of prayer."

Another one said, "No matter how this resolution is dressed up, it is an official endorsement of religion and of particular religious beliefs and activities and constitutes an establishment of religion."

Well, I found that difficult to believe after having read this resolution three and four and five times. There is nothing in here about dictating anything. It does not establish any religion whatsoever. And I wanted to touch on that briefly.

One example of the definition of "establishment" came from this very body. In 1854, an investigation was conducted by the House Committee on the Judiciary about what is an establishment of religion. After a year of hearings and investigations on what constituted an establishment of religion, the House Committee on the Judiciary emphatically reported.

What is an establishment of religion? It must have a creed defining what a man must believe. It must have rights and ordinances which believers must observe. It must have ministers of defined qualifications to teach the doctrines and administer the rights. It must have tests for the believers and penalties for the nonbelievers. There cannot be an established religion without these.

We know that this simple resolution on this floor on June 9, 1999, did not come close to any of those. And yet most of those opposed said that it established religion.

In addition to that, the Senate Committee on the Judiciary reported the same thing, that it must have a creed defining what a man must believe. It must have rights and ordinances which believers must observe. It must have ministers of defined qualifications. It must have tests for believers, penalties for the non-conformists.

So from these clear definitions of this body itself, from the Senate judiciary, from the House judiciary, this resolution was not an establishment of religion under any definition.

Further proof that it was not, Justice Joseph Story, a legal expert appointed by the Supreme Court by President James Madison and who was called the Father of American Jurisprudence, was very clear on what the word "establishment" meant in the First Amendment.

In his commentaries on the Constitution of the United States, a work which is still cited regularly in this body, Justice Story began by declaring that government should not only endorse but should encourage religion. And then he would explain that "the promulgation of the great doctrines of religion, the being and attributes and providence of one almighty God, the responsibility to him for all our actions founded upon moral freedom and accountability, a future state of rewards and punishments, the cultivation of all the personal social and benevolent virtues, these never can be a matter of indifference in any well-ordered community."

He went on to say that "The real object of the First Amendment was to prevent any national ecclesiastical establishment by the government, and without that there is no establishment of religion."

I, for one, and I think others here tonight refuse to submit to the popularity of political correctness that states that elected representatives of the people should not pass resolutions expressing the sense of Congress on religious matters. I do not advocate nor does anyone here advocate the establishment of any religion as defined. We do not want to mandate Hinduism. We do not want to mandate Buddhism. We do not want to mandate Christianity, Jewish religion, Islamic religion.

So we do not advocate the establishment of any religion. But we recognize the inseparability of the religious principles from humanity. And if this body cannot discuss it, if this body cannot pass resolutions expressing its view on religion, then who in America can?

Mr. PITTS. Mr. Speaker, I thank the gentleman for that very formative discussion of the issue of religious liberty and intent of our Founders.

Mr. Speaker, I yield to the gentleman from Kansas (Mr. RYUN).

Mr. RYUN of Kansas. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. PITTS) for his leadership on this most important issue.

Mr. Speaker, in recent weeks in this chamber, we have debated so many issues related to religious liberties. Opponents of public religious expression from across the aisle were very vocal in their opposition. It was difficult to listen to them rewrite history and the Constitution.

Consider, for example, the assertions that they made when we were debating the Juvenile Justice bill shortly after the Littleton tragedy. One of the amendments to that bill offered by the gentleman that we just heard from recently who represents Littleton allowed the schools to erect memorials in honor of the slain and permitted religious symbols or sayings to be included in these memorials if desired by the citizens.

That identical amendment, I want to say that again, this particular identical amendment already passed the Senate by an overwhelming majority of 85–13. That amendment contained Congressional findings stating, based on our investigation of the issue, that to include a religious symbol or saying in a public display would not violate the Constitutional prohibition against the establishment of religion.

This Congressional finding caused opponents on the other side of the aisle to set forth a startling, dangerous document. They said, "It is the Supreme Court that interprets the Constitution and says what the Constitution means. It is not the province of Congress."

This is a very dangerous doctrine. If this doctrine is true, then this body is no longer an independent branch of Government, it has become a subbranch of the Judiciary. In fact, if this doctrine is true, we should pass no law until we get prior approval from those who are apparently our bosses, the Judiciary.

Are my colleagues proposing we should consult the Judiciary before we waste time passing a law with which they might disagree?

Incredibly, this doctrine was set forth in the 1930s and 1940s by Charles Evans Hughes, who is the Chief Justice of the United States Supreme Court. Chief Justice Hughes declared, "We are under a Constitution, but the Constitution is what the judges say that it is." Let me say that again. "We are under a Constitution, but the Constitution is what the judges say that it is."

His statement properly raised a fire storm at the time and was soundly refuted. It is no less dangerous today simply because it has been revived by those across the aisle. It is unbelievable to me that any Member of this body would support that particular doctrine.

If the doctrine reported by those on the other side of the aisle is true that only 940 individuals in the Judiciary can understand and interpret the Constitution, then we should replace the teaching of the Constitution in our schools with the teaching of the decisions of the Judiciary. And although I say this facetiously, regrettably, this is already happening.

A former member of this body out of the State of Georgia was shocked to find that the Government textbooks used in his State published by one of the national curriculum publishers had actually replaced the original words of the Bill of Rights with the court's interpretation of the Bill of Rights.

If those on the other side of the aisle are right and only the Judiciary can understand and interpret the meaning of the Constitution, then the recommendations by Founding Father John Jay should be considered subversive.

John Jay, coauthor of the Federalist Papers and who has been mentioned many times this evening already, who was one of the three men most responsible for the adoption of the Constitution, and the other original chief justices of the Supreme Court, he admonished America and he said, "Every citizen ought to diligently read and study the Constitution of his country. By knowing their rights, they will sooner perceive when they are violated and be the better prepared to defend and assert them."

□ 2100

Interestingly, this dangerous doctrine is not a new doctrine. Two hundred years ago, it was rejected by every one of the early statesmen who gave us this government. In fact, those who wrote the Constitution declared the doctrine exactly the opposite of what our opposing colleagues are setting forth.

For example, they taught that the opinion of Congress was more important than the opinion of the Judiciary. For example, in the Federalist Papers, Federalist Paper 51, it declares this, under the Constitution, and I quote: The Legislative authority necessarily predominates."

Let me read from the Federalist Paper 78. It declares this, and I quote: "The Judiciary is beyond comparison the weakest of the three departments of power."

These declarations in the Federalist Papers were representative of the widespread feeling of those who gave us the Constitution. As an even further example at the Constitutional Convention, delegate Luther Martin declared, and I quote again, "Knowledge cannot be presumed to belong in a higher degree to the judges than to the legislature."

There are many more examples, but the point is established: the authors of the Constitution believed, and taught, that Congress had a responsibility to interpret the meaning of the Constitution for itself.

So where did our learned colleagues on the other side of the aisle come up with this radical doctrine that 'only unelected attorneys are capable of correctly interpreting the Constitution?

They said, and I quote, "Everybody learns this the first week in constitutional law in law school or college."

Great. Our law schools. Foxes guarding the henhouse. Should we really trust lawyers who teach students that only other lawyers, and especially lawyers that are on the Federal court, can interpret the Constitution?

While the doctrine proposed by those on the other side of the aisle is a startlingly dangerous doctrine, I can understand why they propose it. It is evident in our recent debates on religious liberties. Some clearly do not like the plain, unambiguous words of the Constitution that guarantees the free exercise of religion. They do like, however, the decisions reached by a judiciary that has become increasingly hostile towards students and citizens and communities who simply want to express their religious faith. Many on the other side of the aisle are simply choosing the source with whom they agree, and, unfortunately, it is not the Constitution.

For my part, I will continue to read and study and interpret the actual document and when the Constitution explicitly declares that citizens are guaranteed the free exercise of religion, I will support those citizens' rights to express their religious faith publicly. I choose to support the Constitution the way it was written rather than the way a bunch of constitutional revisionists want it to read.

Mr. PITTS. I thank the gentleman from Kansas for his very informative and timely explanation of the principles of religious freedom as regards to our courts versus the Congress.

Mr. Speaker, I yield to the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. I thank the gentleman from Pennsylvania for yielding. I am picking up on the same theme as my distinguished colleague from Kansas.

I, too, was shocked to hear the claim that this body is incapable of interpreting the Constitution for itself. Unfortunately, those across the aisle did not like the interpretation of the Constitution reached by the majority of this body and instead preferred the interpretation of the Constitution reached by unelected lawyers. So, in an effort to impose the will of those judges with whom they agree on this body with whom they disagree, they tell us that we in this body have no right to interpret the Constitution for ourselves.

This is an amazing doctrine to set forth because they disagree with the free exercise of religion explicitly guaranteed by the Constitution. Contrary to their ill-educated claims, Congress does have not only the right but also the authority and the responsibility to interpret the Constitution for itself. We are here to use every tool at our disposal to preserve for the people of the United States the rights guaranteed by that document, including their right of public religious expression, even when the judiciary disagrees with that constitutionally guaranteed right.

Interestingly, in the course of our debates on religious liberties, our opponents across the aisle have frequently cited two Founding Fathers, James Madison and Thomas Jefferson. Since they have such a high esteem and veneration for these two, I felt sure they would want to know what Madison and Jefferson said about the right of Congress to read and interpret the Constitution for itself.

When James Madison heard it proposed that only judges, and not the Congress, were capable of interpreting the Constitution, he forcefully rejected that suggestion. He declared, and I quote:

> The argument is that the Legislature itself has no right to expound the Constitution; that wherever its meaning is doubtful, you must leave it to take its course until the Judiciary is called upon to declare its meaning. I beg to know upon what principle it can be contended that one department draws from the Constitution greater powers than another. Nothing has yet been offered to invalidate the doctrine that the meaning of the Constitution may as well be ascertained by the Legislative as by the Judiciary authority.

And distinguished Founding Father John Randolph, a member of this body for nearly three decades who served with James Madison, reaffirmed this doctrine explaining, and I quote:

> The decision of a constitutional question must rest somewhere. Shall it be confided to men immediately responsible to the people or to those who are irresponsible?

At that point he was talking about the Congress and judges.

I further quote:

> With all the deference to their talents, is not Congress as capable of forming a correct opinion as they are?

That again I think is an important quote to share with the colleagues here tonight as well as to those who are not here.

The other favorite Founding Father of our distinguished colleagues across the aisle is Thomas Jefferson, the founder of their party. Thomas Jefferson was equally clear on this issue. He declared:

> Each of the three departments has equally the right to decide for itself what is its duty under the Constitution without any regard to what the others may have decided for themselves under a similar question.

The doctrine that only the judiciary can interpret the Constitution is a radical and dangerous doctrine.

And in a second statement by Jefferson, he continued the same thing, declaring:

> To consider the judges as the ultimate arbiters of all constitutional questions is a very dangerous doctrine indeed, and one which would place us under the despotism of an oligarchy. Our judges are as honest as other men and not more so. They have, with others, the same passions for party, for power, and the privilege of their corps. And their power the more dangerous as they are in office for life and not responsible, as the other functionaries are, to the elective control. The Constitution has erected no such single tribunal.

The other founder of the Democratic Party is Andrew Jackson. Maybe those from across the aisle would be interested in what he said on this same issue. Jackson emphatically declared, and I quote:

> Each public officer who takes an oath to support the Constitution swears that he will support it as he understands it and not as it is understood by others. The opinion of the judges has no more authority over the Congress than the opinion of Congress has over the judges. The authority of the Supreme Court must not, therefore, be permitted to control the Congress.

On our side of the aisle, the one we claim as the founder of our party, Abraham Lincoln, was also clear about this issue. In his inaugural address, President Lincoln declared, and I quote:

> I do not forget the position assumed by some that constitutional questions are to be decided by the Supreme Court. At the same time, the candid citizen must confess that if the policy of the government is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made the people will have ceased to be their own rulers, having resigned their government into the hands of that eminent tribunal.

Interestingly, one of the things on which both Republicans and Democrats long agreed was rejecting the doctrine that Congress could not interpret the Constitution. But now those from across the aisle want to abandon the wisdom of the past two centuries and look solely to the judiciary as being the interpreters of the Constitution.

Do they really believe the judiciary to be infallible? Need I remind them that it was the judiciary who declared that black Americans were property and not people? Or that it was the judiciary who instituted the separate but equal doctrine; and that when the judiciary finally struck down that position in Brown v. Board of Education that it was only reversing its own policy that it had established in Plessey v. Ferguson? Does not experience teach that the court is fallible and that Congress in its interpretation of the Constitution has been correct more often?

I choose to agree with America's leading statesman and legal experts from both the Democrat and Republican parties over the past two centuries that Congress does have both the right and the obligation to interpret the Constitution for itself. Our oath of loyalty is not to the judiciary's opinions but rather is to the Constitution itself. Or, as President Andrew Jackson so accurately explained, and I quote, "Each public officer who takes an oath to support the Constitution swears that he will support it as he understands it and not as it is understood by others."

Mr. Speaker, before yielding to the gentleman from Pennsylvania, I would like to say that this country was founded on Judeo-Christian principles and those of us who serve in the United States Congress have a responsibility to remember that this Nation was founded on Judeo-Christian principles.

Mr. PITTS. I thank the gentleman from North Carolina for that continuing explanation of the right of Congress to read and interpret the Constitution for itself, and not just rely on the courts.

Indeed, there is nothing sacrosanct about a Supreme Court decision. The Supreme Court has reversed itself over 100 times since our Nation's founding.

At this time, batting cleanup, I yield to the gentleman from South Carolina (Mr. DEMINT) to talk about one of the more controversial issues that we face this session, the Ten Commandments posting.

Mr. DEMINT. I thank the gentleman from Pennsylvania for his leadership and for yielding.

Mr. Speaker, this House of Representatives recently passed a bill sponsored by the gentleman from Alabama (Mr. ADERHOLT) which was related to the Ten Commandments. This measure is now part of the juvenile justice bill that along with other value-focused provisions will make our schools safer and our communities better places to live for everyone.

Surprisingly, several misguided objections about the Ten Commandments bill were raised by some of my colleagues here in the House, objections which were clearly based on a misunderstanding of the bill and of the Constitution. Tonight, I would like to set the record straight.

The misinformation promoted by the critics of the Ten Commandments bill includes the false idea that the bill would force schools to post the Ten Commandments. It does not. The bill will only transfer power away from the Federal Government and back to the State governments where it belongs. It simply allows each State and their schools to decide for themselves whether or not they wish to display the Commandments. This measure wisely corrects the failed one-size-fits-all Federal Government restrictions on religious freedoms. Furthermore, the bill does not violate Thomas Jefferson's separation of church and state as a few Members have charged. Rather, it complies totally with Thomas Jefferson's intent. Jefferson believed that this issue belongs to the States, not the Federal Government.

Jefferson forcefully argued, and I quote, "No power to proscribe any religious exercise or to assume authority in religious discipline has been delegated to the Federal Government. It must, then, rest with the States."

Jefferson repeated this argument on numerous other occasions, explaining that the issue belongs to the States, not the Federal Government. For example, in 1798 he declared, and I quote, "No power over the freedom of religion is delegated to the Federal Government by the Constitution." And in his second inaugural address in 1805 he declared, "The free exercise of religion is independent of the powers of the Federal Government."

Very simply, according to Jefferson, the purpose of the first amendment was to keep religious issues from being micromanaged at the Federal level. As Jefferson explained to Supreme Court Justice William Johnson, and I quote, "Taking from the States the moral rule of their citizens and subordinating it to the Federal Government would break up the foundations of the Union. I believe the States can best govern our domestic concerns and the Federal Government our foreign ones."

The Bill of Rights was specifically designed to leave decisions on things like posting the Ten Commandments in the hands of the States. Consequently, the Ten Commandments bill passed by the House does not violate Jefferson's separation of church and state concept. Rather, it confirms Jefferson's clearly stated design.

□ 2115

However, even if some were to assert that the decisions on the display of the Ten Commandments should be a Federal issue, we can still strongly defend the people's freedom to display the commandments. Consider the words of President John Adams who signed the Bill of Rights as he links the Ten Commandments with our laws protecting individual rights, and I quote: "The moment the idea is admitted into society that property is not as sacred as the laws of God and that there is no force of law in public justice to protect it, anarchy and tyranny commence. If 'thou shall not covet' and 'thou shall not steal' are not commandments of heaven, they must be made inviolable precepts in every society before it can be civilized or made free."

And President John Quincy Adams, a legislator and legal scholar whose famous cases before the Supreme Court are well known, also declared about the Ten Commandments: "The law given from Sinai was a civil and municipal code as well as a moral and religious code. These are laws essential to the existence of men in society and most of which have been enacted by every Nation which ever professed any code of laws. Vain indeed would be the search among the writings of secular history to find so broad, so complete and so solid a basis of morality as the Ten Commandments lay down."

And Noah Webster, an attorney and constitutional expert declared, and I quote: "The opinion that human reason left without the constant control of divine law and commands will give duration to a popular government is as unlikely as the most extravagant ideas that enter the head of a maniac. Where will you find any code of laws among civilized men in which commands and prohibitions are not founded on divine principles?" end quote.

Clearly, those present at the formation of our government saw no problem with the public use of the Ten Commandments. In fact, they saw grave consequences of any country that did not follow them. Nevertheless, despite what some Members and some in the media have claimed, the bill would not force anyone to display the Ten Commandments. The bill simply transfers the decisions on voluntary posting of the Ten Commandments back to the States and communities where the decisions properly belong.

Those who argue that the Constitution says otherwise need to recheck the wording of the Constitution for themselves, rather than simply embracing the arguments of the constitutional revisionist who wished the Constitution said something other than what it really says. This House has taken a commendable step toward securing the future for every American by returning more decisions and freedoms back to the States and back to our schools. I urge my colleagues to support the juvenile justice conference report that includes the Ten Commandments provisions when it comes to a vote.

Mr. PITTS. Mr. Speaker, I thank the gentleman for that excellent discussion of the original intent of our framers regarding religious liberty and the Ten Commandments posting debate that we have had recently with the juvenile justice bill.

I want to say a final thank you to all of the participating Members tonight. It has been most informative to listen to each of my colleagues as they have shared the very words of our Founding Fathers. And as we have listened to these words, it becomes crystal clear that, to the extent that the First Amendment addresses the interaction between public life and religious belief, it is this: that the only thing that the First Amendment prohibited was the Federal establishment of a national denomination. The freedom of religion, therefore, is to be protected from encroachment by the State, not the other way around.

Mr. Speaker, with the words of our Founding Fathers, and they are many, from George Washington to John Adams to John Jay, Benjamin Rush, John Quincy Adams, Fisher Ames, Daniel Webster, Abraham Lincoln, Thomas Jefferson and others cited tonight, each one of these men was fully committed to the primary role that religion played in public life and in private life, yet without the establishment of one particular denomination.

So, Mr. Speaker, as we continue to consider the many policies that lie before us, from charitable choice to opportunity scholarships to attend religious schools, to governmental contracting with faith-based institutions, even to the posting of the Ten Commandments on public property, let us do so with a true intention of the framers in mind, and that intention was to allow and encourage religion, both to flourish and to inform public life, yet still without naming a particular state religion or denomination at the Federal level.

That is fully possible.

Instead of shutting it out and denying even the purely practical solution that it offers, let us not be afraid of the good that religion can and does bring to public life. Indeed, it is one of the reasons that we have such a great country called America.

THE REPUBLICAN MAJORITY IS NOT LISTENING TO THE AMERICAN PEOPLE

The SPEAKER pro tempore (Mr. OSE). Under the Speaker's announced policy of January 6, 1999, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, we are, I hope, nearing the end of the first session of the 106th Congress, and there are some people who say that probably the end of October we might end the session; but from what I hear today, it may be close to Thanksgiving before we get out of here. Either way, it is a most regrettable session; it is a tragic comedy that ought to end as soon as possible.

One of the most regretful parts of this session is that the Republican majority that is in charge of the Congress is not listening to the American people. We as politicians always are accused of holding our fingers in the air to see which way the wind is blowing and shaping our actions and our policies in accordance with public opinion. It is very interesting that this is a year when, in very important areas, we are not listening to the people when we should be.

I am not saying that we should always follow public opinion; I think a representative government means that they expect some judgment to be exercised by those who are elected and sometimes their conscience and their knowledge and their vision may conflict with the opinion of the masses; but in general, we should always be listening. And when there is a conflict, we should certainly try to work towards some kind of compromise, some kind of merging of our own opinions with those of the majority. We pay a lot of money for polls and both parties and individuals rely heavily on focus groups and all kinds of devices to find out what people are thinking.

But we have a situation now where it is quite clear on several major issues exactly where people are, where the majority is, and this Republican majority refuses to listen. Of course I am told that if the Republican majority wants to shipwreck that first session of the 106th Congress, or maybe the next session too, and we come to a situation where their conflict with the majority of Americans is so great until the democratic process will go into action, and it will throw them out of office. We should not worry as Democrats; we should be happy that there is such confusion and such day-to-day trivializing of the processes of the Congress.

Everyday we have stupid bills that really do not mean very much and are a waste of time. In our committees, instead of meeting issues head on, we are dancing around them and camouflaging the real intent of the majority on these bills. Currently we have a situation of that kind in the Committee on Education and the Workforce as we seek to reauthorize the Title I portion of the Elementary and Secondary Education Assistance Act. I am sure many other committees are finding the same tactics where we do not address reality, we trivialize the process by playing around the edges and we are proud of not doing anything. This is a no-commitment Congress.

Some people have often used the joke that when Congress is out of session, the Republicans say it is good for us not to be around because we only do harm when we are here. Well, I think that worse than doing harm is to not address the issues at hand and to do nothing, sins of omission are the sins of the 106th Congress. It is a shipwreck Congress as we come closer to the close of this first year. It seems that matters are growing worse each day, not better.

We might say that maybe we had a high point last week where we did vote on the HMO Patients' Bill of Rights, the Patients' Bill of Rights that would allow people to have some kind of leveraging as they deal with the health maintenance organizations. Well, we finally came to a point where we got a vote on the floor. We got a long debate, and there were attempts to poison the bill with substitutes and even now, there are attachments to the bill which place the HMO Patients' Bill of Rights bill in some jeopardy, but at least it has been accomplished, finally.

But what took so long when so many Americans have made it quite clear that they wanted something done about reining in the HMOs. They wanted this Patients' Bill of Rights very badly. Do we always have to reach the point where 80 percent of the people are for something before we can get some action by the Republican majority here in the House? Why must it take 80 percent before they realize that there are political dangers in not doing anything, so finally they yielded and we were able to get a Patients' Bill of Rights, flawed as it may be, passed out of the House and it is now going into the conference process with the other body, and the other body has a bill which is quite different and weaker, and we must watch closely to see that the Patients' Bill of Rights, the heart of the matter, is not sabotaged and rendered impotent.

It is very important that with all of the kinds of experiences that we now have, all of the anecdotes that can be told on either side, both Republicans and Democrats, if one is a Congressperson, one is constantly being assailed with stories of the HMOs and our failure to do anything to combat the abuses that HMOs are guilty of.

So it is something that had to be done. The focus groups told us, the polls told us; but it took us a long time to get there. I am happy to see that in certain places there is movement ahead of the Congress and we will have to run to catch up, but I think that there is such a strong impetus to have justice in the area of health care that we are going to get it by and by. It just takes too long. The democratic process should not take so long.

I understand that California, in California today or yesterday, the governor signed a bill where California now has a standard, a fixed standard for nurse and patient ratios. In nursing homes and hospitals, we have to have a certain number of nurses in ratio to the patients that is reasonable so that the patients will get a reasonable amount of care. Governor Gray Davis, Democratic governor of California signed that bill. I want to congratulate the people of California, congratulate the legislators out there for moving forward on correcting a major abuse that HMOs have caused as a pressure to bring down the cost of health care, the amount of money that they pay the hospitals for health care. They have forced hospitals into situations where they have cut back on personnel, often personnel that is vital to the health and safety of the patients.

□ 2130

We should not tolerate that. There are elements in the Norwood-Dingell bill which deal with standards, deal with protection, access to services, emergency care; a number of very direct approaches which rein in abuses that are known to have been practiced by the health maintenance organizations.

Most important in the Norwood-Dingell bill is the provision for the suing of HMOs. We can take an HMO to court and sue, which nobody is recommending a large number of court suits. But if the power to sue is there, then it establishes a whole different environment that patients operate in, and it is very important to keep that provision in there.

So we can applaud that finally, after begging, after pleading, after pushing, after the public opinion polls kept rising, we were able to get some action on the floor. We have a bill that is going through a process now which has to be watched closely, but I hope it is progressing.

The fact that the House and Senate now have to go into conference and come out with a bill that both Houses can live with and the President will sign is a good sign. We are much further along than we were, I assure the Members, before we passed that bill last Thursday.

Prescription drug benefits are not dealt with in this bill. This is to deal with reining in HMOs. There are some items in there related to prescriptions and how HMOs must handle prescriptions. There are some efforts to cut abuses by health maintenance organizations in the case of prescriptions, but we have not addressed the issue of providing prescription drug benefits for people who are on Medicare.

There is a need to be able to let every American share the benefits of modern science. There is a need to be able to make certain that no person goes sick or is in pain unnecessarily. If we have the drugs, if we have the medication which can ease pain, can improve health, then the fact that a person has no money should not be a barrier to the use of those modern miracle drugs.

I think that there are some situations where various ailments or diseases are quite rare and unusual, and the production of the drugs and medications necessary to treat them is very costly. They deserve special treatment. But there are a large number of drugs which are designed to deal with commonplace ailments.

Diabetes is an ailment which afflicts millions of Americans. There are medications for diabetes which everybody should be able to have access to. Some of them are a bit expensive, and expensive is a relative term. If a widow is on a small pension and social security and has to pay her rent and food, et cetera, what is expensive to that widow might seem rather inexpensive to some others of us who are healthy and still working and have good salaries.

But why should the person who needs it most and the people who are most frail, who are the eldest people, the people who have declining incomes, in many cases, or no incomes, do without? In too many instances, I have had people tell me, I could not keep taking my medication. I could not maintain the drugs that I needed because I just did not have the money. It was a matter of either I eat or I take my medications, and I had to stay alive.

Some of those same people, we do not find them around after a few months because the drugs they take are vital to their health, or they become much sicker as a result of not being able to take drugs that are beneficial to the prevention or the retardation of certain kinds of advancing ailments, so they get very sick, they go the hospitals and they are charity cases. They must be taken care of in a much more expensive setting than would be the case if they were allowed to have prescription drugs.

I am on several prescription drug bills. I am happy to say that we have colleagues who have proposed remedies, and the President has certainly proposed an initiative that will begin to deal with the problem of the denial of prescription drugs to persons who are in need of these drugs.

I am on a bill that the gentleman from Massachusetts (Mr. FRANK) has to require the Secretary of Health and Human Services to submit to Congress a plan to include as a benefit under the Medicare program coverage of outpatient prescription drugs, and to provide funding for that benefit.

I am on another bill that the gentleman from New York (Mr. ENGEL) has, which is a bill to amend title 18 of the Social Security Act to provide for the coverage of outpatient prescription drugs under Part B of the Medicare program.

The gentleman from Maryland (Mr. CARDIN) has a bill. I am certainly on a bill with our colleague, the gentleman from Washington (Mr. MCDERMOTT). In his bill, of course, he covers all prescription drugs, because that is a single-payer bill, H.R. 1200.

I just want to take this opportunity to say that H.R. 1200, the single-payer bill sponsored by the gentleman from Washington (Mr. MCDERMOTT), is still very much alive as a piece of legislation. We continue to reintroduce it. I am on that bill.

I am on a bill with the gentleman from Rhode Island (Mr. KENNEDY), with the gentleman from Vermont (Mr. SANDERS), a bill to require persons who undertake federally-funded research in developmental drugs to enter into reasonable pricing agreements with the Secretary of Health and Human Services, and for other purposes.

Some might have seen some of these exposes that have appeared on television in the last few months of what the drug situation is with respect to the United States as a principal creator and manufacturer of modern drugs. We have a situation where we are charging our citizens far more for those drugs that are created in this country than citizens of other countries are being charged.

We do not have to go all the way to Europe, just go next door to Canada or next door to Mexico, and we will see tremendous price differences between the drugs, important prescription drugs, that are being sold in Canada and in Mexico versus the price we pay here.

Many of these same drugs have been developed as a result of basic biology and chemistry, research that has been done in American universities financed by the taxpayers of the country, and have been done in our institutes of health. There are studies and all kinds of things we do to enhance the production of important, modern drugs. But we are, as citizens, forced to pay enormous prices, far more than people in other countries.

This is unacceptable. This is a reason to get angry. We cannot dawdle here in the Congress and let this continue to go on. We need to come to grips with the fact that our people, our citizens who in many cases have financed, partially financed, the development of important, modern drugs, are being charged enormously excessive rates for the use of those drugs. That is more unfinished business.

The public says they want something done about this. The polls say we need to do something about it. The people have spoken, but nobody is listening. The Republican majority is not listening to the American people.

Some folks in New York State, for example, have made a joke out of the fact that the First Lady, Hillary Clinton, is considering running, exploring a possible run for the Senate. She has announced for several months now that she is on a listening tour. She is not running, she is on a listening tour. They made fun of that and thought it was very funny, that it is a new twist, and people like to play with it. But I think it is a very good idea, to have every American elected official start out by listening.

It is a very important part of our activity. We pay a lot to get to the point where people are talking to us through our polling, through our focus groups. It is a vital part of the operation. No political campaign goes forward without polls and without attempting to measure the opinion of the public.

So we know that they want prescription drug benefits. We know they want a bill of rights for health maintenance organization patients. We know this very well, so why is the Republican majority refusing to listen to the American people?

We have some areas where the public has no opinion or no particular concern where there is a great deal of activity here in Washington to spend their money, to spend the taxpayers' money. The other side likes to talk about taxpayers' money being wasted on food stamps and WIC programs and Medicare and programs that benefit people, but they are very much involved in the effort to revive the F–22.

The F–22 is an airplane that may be a miracle airplane. It may be able to do all the things, one day, when they get through with the research and testing. The F–22 may be a miracle airplane able to do wonders, but it costs billions of dollars to manufacture F–22s. They are trying to work out a situation where they can get it through the testing stage and we will build $50 to $60 billion worth of F–22s.

Why do we need $50 to $60 billion worth of F–22 fighter planes when we have very good planes that are far superior to any planes manufactured anywhere in the world? Why do we need another super super fighter plane? But there is a great deal of discussion underway about what can be done to save the F–22, how can we develop a rationale to spend billions of dollars to develop this plane that is manufactured mostly in Marietta, Georgia, the home district of our former Speaker of the House of Representatives, Mr. Gingrich? What can we do to revive the F–22?

The public is not asking for the F–22. In no poll, no focus groups will we hear people crying for more F–22s. I marvel at the way the majority, the Republican majority, gets stuck and stays in one rut.

I was looking through my records and found that on March 14 of 1995, that is 4 years ago, more than 4 years ago, I commented on the F–22 and the folly of pursuing money for the F–22 at a time when the Republican majority was proposing to save money by cutting back on school lunches. I think about a month later in April I talked about, the Nation needs your lunch, where the Republican majority was saying to schoolkids, we have a budget crunch. We need your lunch. We have to cut back on school lunches in order to make certain that we balance the budget.

That same Republican majority was at that time very much pushing the F–22. I am going to go back and read from March 14, 1995, what I said:

> Mr. Speaker, I would like to make one more plea for justice. I want to again beg the leadership of this Congress to abandon its reckless demolition of the programs that have helped to make America great in the eyes of the whole civilized world. The way we as a Nation have treated the least among us is the vital ingredient of our greatness.
>
> This is a plea for honest decision-making. Yes, there is waste in government and it must be removed, but school lunches and summer youth employment programs are not wasteful. These are the government programs that work. These are the programs that are still very much needed. The CIA is not needed at the level of $28 billion a year, which they admitted was at least that much in 1995. The farm price supports for rich farmers are no longer needed at the level of $16 billion a year. We do not need another Sea Wolf submarine, and we certainly do not need to spend billions of dollars for F–22 fighter planes.
>
> The F–22 enterprise in Marietta, Georgia, represents a long-term, overwhelming pork barrel. For this same amount of money, we could double the number of jobs in the civilian sector, creating infrastructure and services that are needed. The F–22 is Republican pork. In the Federal budget, this is a huge hog that deserves to be slaughtered.

My point is that the F–22 in 1995 was on no list of public opinion at a high level demanding that we build F–22s. In 1999, it is even less desirable than it was in 1995. Yet we are going ahead, not listening. We are not listening to the public when they say they want a Patients' Bill of Rights, we are not listening to the public when they say, we want prescription drug benefits. We are not listening to the public when they say, we want school construction, an increase in the minimum wage. They are not listening, but they are trying hard to put together a program to maintain the F–22 in 1999.

In 1995, I did a little poem for them that went as follows:

The F–22 for pork, not for me and you.
The F–22, toys for skies blue,
Empty of any enemy crew.
The F–22, jobs for just a few.
The F–22, rich Georgia stew,
Pork, pork, pork, not for me and you.
Off the orphans, starve the kids,
Save the contracts, roll out the bids.
Bully the poor, be a high-tech dog,
Eat the best meat high on the hog,
For the peach, who gives a hoot?
The F–22 pork is now the Georgia State fruit.
Pork, pork, pork where they grow, the F–22,
that is the speaker's hometown, too.
The F–22, pork, pork, pork not for me and you.

□ 2145

The F–22, mostly manufactured in Marietta, Georgia, the home of former Speaker Newt Gingrich, and there are still people who are working day and night to put together a plan to keep that F–22 flowing at the cost of billions of dollars.

Nowhere is the public asking for more F–22s. We are spending a great deal and amount of time to do the things that nobody wants done, except a small special interest few, but we are ignoring some other big issues. While we dawdle here in this 106th Congress and do not pay attention to anything of great importance, the era of prosperity and relative peace in the world, which has given us time to focus on important vital matters, is being whittled away.

We should be dealing with the fact that in this era of peace, we should invest more funds in ways to keep peace going, not in F–22s and other war machines that are really outdated.

Where is the next contact likely to come from? Probably between India and Pakistan. Every day some new development takes place way over there between two very highly populated countries that have been at each other for quite awhile, mainly over the issue of Kashmir. The Pakistani government was overthrown today. There was a coup. The elected government, elected by a majority of the people, was overthrown by the Army. Pakistan has had a long history of military rule; and whenever the military rules, they only go backward. They have a lot of economic problems at this point, and they are likely to get worse. Why is the Pakistani Army in charge now? Because the elected prime minister, a person chosen by the people, decided to dismiss the chief of staff of the Army, the chief of the Armed Forces. The chief of the Armed Forces is the person rumored to have caused a major upheaval a few months ago when he marched without the knowledge of his government, without the knowledge of the prime minister, of the approval of the elected officials that went into Kashmir beyond the line of demarcation and caused a crisis with India. That blunder is the kind of blunder that could lead to a situation where we would inevitably be drawn in, not that we could do much to solve the problem. In that place, it is not so easy to have a bombing campaign which would bring whoever is right and wrong, and it is not clear who is right and who is wrong, to the table.

In that situation, there may be two recent nuclear powers, I will not say amateur nuclear powers but they certainly are recent. There is a recent acquisition, recent testing of nuclear bombs. If they start throwing bombs at each other then the atmosphere is polluted, the winds are blowing, who anywhere in the world is going to be safe from the kind of radiation fallout? Who anywhere in the world will be safe from the kinds of things that would permanently be done to the environment as a result of some kind of even a small-scale nuclear war between Pakistan and India?

So we ought to be studying ways to deal with making peace in the world. And Pakistan, India, and Kashmir ought to be one of those places that we are focusing attention on.

We have focused very little of our energy and attention on that region. If the same kind of energy and attention that we focus on the Middle East was focused on that area, we might have gotten close to a solution by now. Not that we have done too much in the Middle East. We just need to do as much to deal with the world's second most populous nation, India, and a very densely populated nation of Pakistan.

There is a territory called Kashmir, and it lies between India and Pakistan. And years ago when I was still in school, India promised that it would allow self-determination for the people of Kashmir. That has been on the agenda for all of these years and still no plebiscite, no vote has been allowed under the supervision of the United Nations or some kind of outside objective observers, which would allow the people of Kashmir to make a determination as to what they want to do, whether they want to become part of India or part of Pakistan, or become independent.

India says, no. The focus of the world is on the gun-happy army of Pakistan. Yes, that is a problem. Pakistan must find a way to control its own military.

On the other hand, the situation is exacerbated by the fact that India over these years has refused to allow a plebiscite where the people can vote their own destiny.

We applauded, we were very happy when finally East Timor was allowed to vote and overwhelmingly the people of East Timor voted to be independent. As a result of that, of course, they paid a heavy price because in a very few days the Armed Forces, disguised as guerrillas and local militia, exacted a heavy toll in terms of lives and property; but it went forward. Troops from Australia are there now, and people who like to put down military interventions and say they are never good, I think the people of East Timor, a very small nation of less than 500,000 people, welcomed the entry of the Australian and other troops under the United Nations command to help bring some justice there.

Well, we hope we never have to send troops to Kashmir, and I doubt if it will be so easy to do that. Why are we not working on some peaceful solutions to that problem right now? Why are we not working on peaceful solutions to the problems in a large number of places in the world?

Why do we not spend some money on our peace academy? We have a peace academy. Most people have never heard of it. There is an organization with a very tiny budget that does things in the name of promoting peace. Our peace academy really ought to be as large as our military academies, if we are serious. We have West Point. We have the Naval Academy. We have the Air Force Academy. We have the Coast Guard Academy. We have the War College. We have numerous places where we are still training some of our best minds for war, for old fashioned war, violent war, but we have no places where the Federal Government is investing significant amounts of money to train people for peace.

So I mention this because the folks who are here pressuring to find billions of dollars for the F-22 are off course. They are certainly not listening to the American people. I think if it went to the American people, common sense would set a different agenda. They would say, what is being done to promote peace? How are we investing to promote peace? And that would go forward.

We are not listening, though. We are not listening to those who want to see justice in the world with the least costly means, and that is through a process of peaceful negotiations. In Kosovo, there are some people who have said that it would not have gotten as bad as it was if we had given the peace process, the nonviolent approach, more resources; and they are probably right, but that is a matter of hindsight now. There are a lot of situations in the world where as a matter of foresight we ought to be investing more heavily in peace, but we are not listening.

The Republican majority is not listening to the American people. They are not listening. On the HMO bill of rights, they were not listening. They are not listening on prescription drug benefits. They are not listening on the minimum wage bill.

We have a minimum wage bill now which Members of the House of Representatives have signed a discharge petition for because under normal circumstances we could not get the bill to the floor. Now that large numbers of members have signed and we also know that a considerable number of members of the majority, of the Republican Party, are willing to vote for a minimum wage bill, finally we hear rumors that there is going to be some movement on a bill which would merely raise, merely raise wages from $5.15 an hour to $6.15 an hour in a two-year period, fifty cents a year over a 2-year period.

Considering the fact that we have unprecedented prosperity in this Nation, our CEOs, corporate heads, are making salaries higher than ever before, some of their salaries dwarf the budgets of small countries, we are in a situation where the majority, the Republican majority, will not listen to the American people who say it is only fair, only fair that we increase the minimum wage so that the people on the very bottom are able to begin to make their work count for more.

People who are making minimum wage, a family of four who lives in poverty, they are still below the poverty line at this point if they are making a minimum wage. Let us raise it over a two-year period by one dollar. Republicans have a counterproposal. The leadership of the majority of the Republican Party has not committed themselves, but there are proposals to raise it 25 cents per year over 4 years.

The unprecedented prosperity that we enjoy now is not enough to make them sympathetic toward a 50 cent increase per year, but it appears that finally they are going to listen to the point of yielding to a minimum wage bill being placed on the floor, if they can exact a high price for business. There may be some compromise coming. I think it is important. It is important to people in my district. New York is one of the States with large numbers of people who are still making only the minimum wage, and we need to help those people who are working get better rewards for their work.

The welfare reform bill is coming to a point now where the limits are going to be kicking in, and more people are going to be thrown off welfare, certainly some mothers of young children, and they need to have jobs out there that at least pay $6.15 an hour instead of $5.15 an hour. The Republicans are not listening, but I think we have reached the 80 percent point, at least 80 percent of the American people are saying we think that it is only fair that there be an increase in the minimum wage.

What the Republicans are proposing in the area of programs that help the people on the bottom the most are across the board cuts at this point. We have the appropriations process, which is creeping forward.

I said this, this first year of the 106th Congress, is a tragic comedy. It is tragic that certain vital things are not getting done. It is a comedy to see the kinds of proposals that keep popping up that they expect us to take seriously. Even the Republican candidate for President has stated that he does not want to be identified with certain proposals that have been made recently. One proposal to cut off the lump sum payment of the wage extension that people get as a result of having worked and not making enough money, they now want to cut that into 12 parts and pay it out on a monthly basis instead of the earned income tax credit being paid in a lump sum at one time. I think the reaction of the Republican candidate for President was he does not want to be any part of an action which attempts to balance the budget on the backs of the poor. I applaud his candor, and I applaud his truthfulness, but that only led to another absurd and very harmful proposal by the Republican majority.

Now they are proposing across the board cuts. Let us cut everything drastically. The Health and Human Services bill, which contains most of the programs that benefit the poorest people in America, that was being targeted as the last bill to come out of appropriations, where the highest amounts of cuts will be made. Now they are getting a little more generous and saying we are not going to just make them bear the brunt of the burden. We will have it across the board and all the appropriations bill will be cut and let everybody suffer. At a point in history where we have the greatest prosperity this Nation has ever known, we want to go to the American people and say, we are going to cut title I; we are going to cut Head Start. We are going to cut food stamps; we are going to cut aid to college students. The Pell grants and student work programs, we are going to cut. We are going to cut and say with a straight face that we are being responsible. This is responsible because we need the money in order to put it into a pot for a tax cut, a tax cut for people who are working and earning sizable amounts of money.

Most of the tax cuts, the greatest benefit of the tax cuts, would go to the richest people in America. That is responsible. That is listening to the American people.

The fact that the polls show that most people have used their common sense and said, look, this tax cut does not make sense, the people who need it most are not getting it, the people who need it least are getting the most, why do we need this kind of tax cut? I am in favor of a tax cut. I am in favor of a tax cut, but we ought to start at the bottom and cut the payroll taxes on the poorest people in America.

The biggest increases in taxes over the last decade has been in the payroll taxes, Social Security, and the taxes of Medicare, the taxes that have been imposed on everybody, and poor people have paid the biggest increases. So let us start there and cut the payroll tax first, and then come up and cut the people at the lowest income levels first and keep going so we can give the middle class, which probably suffer the most, because they have enough money to really place them in jeopardy in terms of unfair taxation but not enough to be able to benefit from all the loopholes and the corporate giveaways so they suffer the most. The middle class needs some relief, but that is not the way the Republican majority proposes to handle the tax cut.

After they have across the board cuts, their tax cut will not give the money to the majority of the people in America in any kind of significant way. So they are not listening. They are not listening.

Eighty percent of the people say this tax cut proposal is no good, but they are not listening. When it comes to education and school construction, that is a high priority. The American people keep demanding it. I have been on the floor time and time again saying that the people want more Federal assistance for education. They want more government involvement at every level. Whether we are talking about the State government or the city government or the Federal Government, they want more government.

My people in my district need help. They are tired of situations where the children have to eat lunch at 10:00 in the morning because the school is so overcrowded, and most of the schools in my district there are twice as many students as the school was built for so it is overcrowded from the time they come in in the morning to the time they leave, and the lunchroom cycle has to be arranged so that the lunchroom is not overloaded at any one time. That means that some schools have to have three and four lunch periods. If they have to have three and four lunch periods in order to get the kids in there safely and out, then they have to start having lunch in some cases at 10:00 in the morning. That is child abuse. To make a child eat lunch at 10:00 in the morning is child abuse, but it is going on in large numbers of schools because they see no way out.

In the same schools, there are some students being taught in the hallways, some being taught in closets. There are situations where the President's proposed bill to give money for more teachers at the lower grades cannot help us because of the fact that if they get more teachers, they do not have a way to reduce the classroom size because there are no classes. In a first grade class, one teacher cannot be put in one corner of the room and another teacher in the other corner of the room and expect to have any productive teaching taking place. It will not happen. So as we get more teachers in order to reduce the size of the classes, they need more classrooms.

It goes on and on and the public says, look, we are tired of it. We want more done about education, and we want specifically to have something done about school construction, school infrastructure, school repair, school wiring, things related to the physical infrastructure.

I have been saying this for some time so I guess my credibility in this House would not be that great because one might say I am prejudiced, I am locked into a position. Let us look at the polls that all of us politicians respect.

□ 2200

The ABC News, Washington Post poll released on September 5, 1999 says the following: Support for education over tax cuts. We find that improving education and the schools will be very important to 79 percent of Americans when choosing the President next year more than any other issue, more than any other issue. Only 44 percent say cutting taxes is very important, making it 14th out of 15 issues.

Do my colleagues want to know what the 15 issues are? The top five issues, according to the ABC News, Washington Post poll released on September 5, 1999 is, one, improving education, 79 percent rank education as the number one issue; handling the economy, 74 percent; managing the budget, 74 percent; handling crime, 71 percent; protecting Social Security, 68 percent.

Now, the fact that any one of these made the top five is such that I would not quibble about which is most important, first place or third place or fifth place. Those are top five. Education is always in the top five for the last 5 years. Sometimes it trades places with Social Security and sometimes with crime. Education has always been there. In this poll, 79 percent say improving education is the top issue.

What are the lower five of these 15, they are still important issues: Helping the middle class, 61 percent. Handling gun control, 56 percent. Still over the majority feel that handling gun control is important. Handling foreign affairs, 54 percent. Still over a majority, over the 50 percent. Cutting taxes, below the 50 percent. Only 44 percent are interested in cutting taxes.

Campaign finance reform, 30 percent. I am sorry to see that campaign finance reform is down there so low, but to make the top 15 is important considering this Nation has more than 250 million people, and all the opinions of different problems and issues to make the top 15 is important. Campaign finance reform is one of the those issues where I think we elected officials, Members of Congress, and others have to move public opinion. We have to explain to the people. We have to use our own set of principles and our own values to help guide public opinion into realization of how dangerous it is not to have campaign finance reform and to have money play such a great role in our democracy.

Let me just go a little further on this education issue. When we take the education issue and break it down into parts, the polls show that 80 percent of Americans support at least three education priorities. What are those three priorities? Fixing rundown schools. Ninety-two percent favor fixing rundown schools, 92 percent. Only 7 percent opposed, and 1 percent says they do not know. Let me just say that again. Fixing rundown schools, 92 percent favor, and only 7 percent oppose.

Are we listening? Is the Republican majority listening? Is the Democrat minority listening? Are our Democratic leaders listening? Is the White House listening?

We do not have in this Congress adequate proposals to address the fact that 92 percent of our people say fixing rundown schools is a top priority. Eighty-six percent say that reducing class sizes is a top priority; 86 percent favor, 13 percent oppose, 1 percent says they do not know. But reducing class sizes, 86 percent favor and 13 percent oppose.

Placing more computers in the classroom 81 percent favor, 16 percent oppose, 2 percent do not know. A lot of people will say, well, that is a luxury, computers in the classroom, hookup with the Internet, all this stuff. We need pencils and papers. We need chalk. We have got to stay with the basics.

Well, I think the common sense of the American people have run off and left Members of Congress who think that computers, educational technology, hookups with the Internet, all that is not vital to the education of children in 1999 who are going to be in a cyber-civilization tomorrow. They are going to have to take jobs in a world where, if one cannot use computers and use them effectively, there is very little hope for one ever having the opportunity to make a decent living.

So placing more computers in the classroom is of vital importance. The common sense of the American people has sensed this. Instincts have told them that this is important.

We are privy to all kinds of studies. We know, as Members of Congress, that we are considering another bill to bring in people from outside the country who would fill the jobs and information technology because we have so many vacancies. There is so much pressure from industry here in this country to get more people from the outside to take these jobs. We know that. Most people out there do not know that.

But their instincts tell them, their observations at a very low level, without all the benefits of the staff and the studies that we have, say that computers in the classroom are important.

In other words, 80 percent of Americans support at least three education priorities: fixing rundown schools, reducing class sizes, placing more computers in the classroom.

I think I have just begun to tell my colleagues that the three are inseparable. If we do not fix rundown schools, if we do not create more space, if we do not allow funding for schools to be able to wire for the Internet, and, in many cases, the wiring in the walls will not take, and they have to be rewired, in many cases they have asbestos problems, and that has to be taken care of as a construction issue. So fixing rundown schools is vital in order to be able to put more computers in the classroom.

Fixing rundown schools, of course, is obviously vital if we are going to reduce class sizes. In the places where the children have the greatest amount of problems with reading, and where we want to reduce class size in order to be able to give the early teachers the elementary grades, a chance to be able to help kids more, to learn to read, to establish the basic fundamentals that allow them to be successful in school, in those places, they have the worst physical plants, the worst infrastructures. They do not have any classes. They need more classes before they can have reductions in class sizes.

We are not talking in New York City this fall about the tremendous shortage of classrooms and the overcrowding. We talked about it last year and the year before. Now the silence is such that one thinks the problem has been solved and resolved. It has not.

There is more overcrowding now because there is a great increase in the number of students that have gone into the schools. There is more overcrowding now because children are being held back on the policy of no social promotion.

Some children, of course, last year had to go to summer school and had to attend summer school in buildings that were so hot that it was torture for young kids to be in those buildings during the summer because they have no air conditioning, and they have very poor ventilation. Then they found out some of those same kids should not have had to be there because they had passed the necessary tests, and they did not need to go to summer school in order to qualify for advancement to the next grade. There had been an error, an error in the calculation of the test, to show us how blunders place children at risk and make them suffer.

The private sector I think was involved in that testing blunder as well as the board of education. But let us put that aside for a moment and consider the fact that there is silence in New York City, a city that had $2 billion in surplus last year and did not spend a penny to help renovate, repair, help building those schools. Not a penny of that surplus went into the schools.

There was silence at the State level. The State had a $2 billion surplus, and the Governor vetoed a bill which called for $500 million to help repair schools.

The burden should not only be on the shoulder of the Federal Government. We need movement on the Federal Government because, in the process of having the Federal Government move, we hope to stimulate and drag along other levels of government in this process of getting schools built.

Why do I think it is so important? Because, as I said many times before, in any religion, the state of the temple, the church, or the synagogue, the way the physical building looks is the beginning of the assessment of the way people feel about that religion. If it is a dilapidated, rundown, neglected building, then nobody is going to take the parishioners seriously about their religion and the way they feel about it, because that symbolism, that highly visible statement of how one feels is there.

When one does not take care of school buildings, one sends a message to parents in my community and certainly in inner city communities across the country that we have abandoned the schools. That is almost true. The major leaders of America, the people who are in the power structure, have abandoned public schools in their heads already. Many have overtly done it. Others do not realize yet, but the way they behave, their hesitation, their neglect, their sins of omission means that they have abandoned public schools already. Because if one does not move to build and rebuild the physical infrastructure, then all hope is lost.

□ 2215

Parents have no hope when they hear the rhetoric of the Department of Education, of the White House, or the Congress or any Member of the Congress. They hear the rhetoric, but they see the schools collapsing. They see the schools have leaky roofs, crumbling walls. They see the schools have coal burning furnaces. There are still more than 200 schools in New York City that are burning coal and jeopardizing the healthy kids immediately and causing respiratory illnesses among teachers.

When though see these things happening, they are correct in not believing that elected officials are serious about maintaining the public school system. Is it any wonder, then, that so many inner city parents, white and black, and certainly a large number of black parents, are opting to support vouchers, more than 50 percent in certain surveys.

In a survey that was taken last year, 57 percent of black parents in inner city communities said that they would certainly support vouchers in order to get their kids a decent education. They did not have any faith left in the public school system. That is most unfortunate, but that is a truth I have to stand here and admit.

They have given up hope because they realize that their child only has one life and they only go through the process of being educated one time and they cannot afford to wait any longer. They are desperate. But in their desperation, they are turning to a system which will also disappoint them, because all we have done is create a hope in a false institution that does not exist. The private sector cannot handle the millions of youngsters in public schools who need help.

There is a large scholarship program that was developed by some millionaires in New York and they put up large amounts of money and a thousand youngsters could be provided with a scholarship which allowed them to go to a private school of their choice. The money that they got as a scholarship would pay half of it.

Thousands and thousands are on the waiting list because there are no schools to accommodate all of those young people. There are no private schools that can accommodate it. It would take 20 or 30 years to build a private school system that could accommodate the 53 million children who now go to public schools in America.

It is not an answer to the problem. And the parents who have given up hope are only going to have their hopes dashed greatly as a result of this illusion that is being created by people who wanted to destroy public schools to make a point and to prove that the private sector can do it better.

If they lose a generation, they are so cold hearted that they do not particularly care what happens to that generation. But that is about what we are facing. A generation will be lost while we try to get in place a private school system to replace a public school system which now takes care of 53 million students.

It is most unfortunate. I can only close with the same message that I have brought here before many times. Both parties are negligent in focusing on the principal problem with the education improvement effort. Kids must be provided with an opportunity to learn. As we try to raise standards, as we standardize curriculums, we need to focus on the students themselves and provide them with the maximum opportunity to learn.

At the heart of the opportunity to learn is a physical facility. We need a physical facility which can support the opportunity to learn. They need a decent library. They need decent laboratories. They need a clean, safe environment conducive to learning. We cannot go forward unless we address the issue of school construction, school repair, school modernization.

The bills that we are supporting in the Democratic Caucus is a bill that I have my name on as a cosponsor is totally inadequate. It is a bill to sell bonds and the Federal Government will pay the interest. It is a commitment of the Federal Government over a 5-year period to $3.7 billion for the school construction situation under a situation where each locality or State will have to vote to borrow money and we will pay the interest on the principal. That is totally inadequate.

As would he go into a cyber-civilization, I strongly advise, urge, and plead that all elected officials understand that what would he need is an omnibus cyber-civilization education program to guarantee that the brain power and the leadership needed for our present and our expanding future digitalized economy and high-tech world will be there.

At the heart of such a comprehensive initiative, we must set the all-important revitalization of the physical infrastructure of America's schools. These necessary brick and mortar creations will long endure as symbols of this particular set of leadership's commitment to education. It will also serve as practical vehicles for the delivery of a kind of high-tech education required in the 21st century.

All of the most brilliant and visionary education achievements of the Clinton administration may be merged and focused through these vital and physical edifices. We have had a net day movement for the volunteer wiring of schools. We had the technology literacy legislation, the community technology centers, the distance learning projects, and the widely celebrated and appreciated E-rate for telecommunications.

The lifting of standards, the improvement of school curriculums, and the support for smaller class sizes are also initiatives that require the additional classrooms and expanded libraries and laboratories that school modernization will bring.

We are not listening to the majority of Americans. The Republican majority is not listening, and too many other people in other places also are not listening. We need to listen on all of these vital issues, whether it is the HMO bill of rights, prescription drug benefits, minimum wage, the need to fund HHS right across the board with increases instead of decreases, or school construction.

All of these are areas where leadership is needed, where the demands right now in a time of great prosperity and peace are that we lay the foundation for a cyber-civilization, and we do that with an education program that is across the board seeking to improve education but starting with the all-important area of construction of new schools.

IMPACT OF ILLEGAL NARCOTICS IN AMERICA

The SPEAKER pro tempore (Mr. TANCREDO). Under the Speaker's announced policy of January 6, 1999, the gentleman from Florida (Mr. MICA) is recognized for 60 minutes as the designee of the majority leader.

Mr. MICA. Mr. Speaker, I am pleased to come to the floor again tonight to talk about the issue of illegal narcotics and its impact upon the United States of America.

As I begin my remarks tonight, I want to take a moment and pay special tribute to a gentleman who I have had the honor and privilege of knowing from my district in Central Florida. That individual is E. William Crotty, and he is affectionately known to all of us who are friends of Bill Crotty as Bill Crotty.

He had the distinction of being appointed the ambassador to seven Caribbean nations by President Clinton last November and has been in that position until his death just a few days ago.

To his family, we want to extend our deepest condolences, extend our sympathy to his wife Valerie and his children and his relatives.

I have known Bill Crotty for many years. I happen to be a Republican. I am actually in a family dominated by some pretty prominent Democrats. Bill Crotty was a Democrat's Democrat. But although he and I sometimes differed on political parties, we agreed more often on the need to serve our community, to serve our State, and to serve our Nation.

The untimely death of Bill Crotty this week has left our community with a great void. It has left the Democrat party with a tremendous loss. He was one of the largest sources of support, financial assistance, and dedication for the Democrat party of any individual I know in the United States.

He took on every challenge with a great energy particularly in support of his party and his candidates and also, as I said, in the best interest of his community, State, and Nation.

He was appointed United States ambassador to the Caribbean nations of Barbados, Antigua, Barbuda, Dominica, St. Lucia, Grenada, Saint Kitts, Nevis, and St. Vincent, and the Grenadines.

Since he assumed that post, I had the honor and privilege of talking with Bill Crotty and working with him. We both had a common interest in that region; and that was to bring stability, to bring economic development and trade to that area of the Caribbean.

One of our mutual concerns was the problem of illegal narcotics. Just some weeks ago, Bill had written me and sent me these letters and clips and he said, "Dear John, enclosed please find an article that appeared in the July 23rd edition of the Grenada Today. The article discusses deportees, but the thrust is drug trafficking."

He goes on to discuss the possibility of our visiting with a delegation and meeting with leaders in the Caribbean to help them in their efforts to combat illegal narcotics. He closed by saying, "It will be a real honor for my wife and I to host you and your delegation. I will send you additional materials I think may interest you concerning drug trafficking and Caribbean matters."

Again, just recently discussing with Bill Crotty, our ambassador, this particular situation we face in the Caribbeans on illegal narcotics, I have an article that was published just before his death that spoke of Bill Crotty's determination to make a difference in the post in which he was appointed to serve. The article from the Daytona Beach News Journal in Central Florida said, for example, "He delivered a state-of-the-art Fairchild C-26 aircraft from the United States Government to Barbados. Prime Minister Owen Arthur was the recipient and received this as part of an $11 million support package to the regional security system in the Caribbean to help fight drug trafficking."

We have lost with the death of Bill Crotty, again, an individual who was dedicated to his community, to his party, and also an ally with me in the war against illegal narcotics. His untimely death again leaves us all at a loss. But we do want to extend our very deepest sympathy to his family who now have grief as Bill has left us. Again, Mr. Speaker, we pay tribute tonight to E. William Crotty, United States Ambassador.

When I speak on the floor of the House every Tuesday night and get an opportunity, I like to talk about some of the items in the news and I led tonight with the obituary of a good friend and dedicated American. But it appears to me that almost every time anyone picks up a newspaper or turns on the television or hears some media report, that individual in the United States or in any of our communities hears more and more about the effects of illegal narcotics.

Leading the news this week was the death in Laramie, Wyoming, of a young, gay man who was beaten to death by several individuals. Some have referred to it as a hate crime.

No matter how it is referred to, it was a horrible incident. And I know the State of Wyoming and many people in the community of Laramie, Wyoming, are saddened by that occurrence in their community and that tragic death.

☐ 2230

What captured my imagination and attention, again dealing with the question of illegal narcotics as chairman of the Subcommittee on Criminal Justice and Drug Policy, is the headline that said "Shepard-Death Defendant to Claim Impairment." This is the headline in Tuesday, October 12 Washington Times. The first paragraph says, "Laramie, Wyoming. The attorney for a man charged with beating college student Matthew Shepard to death said yesterday his client's judgment was clouded by drugs and alcohol."

Again even as we face the most tragic events of our time that are publicized in the media, we look at some of the root problems beyond hate, beyond theft and robbery, beyond other charges that have been alleged, and we see drugs and alcohol and substance abuse as possibly the root cause of these crimes. Again, this entire area of illegal narcotics and substance abuse has taken its toll across our Nation.

Last week, I reported the most recent statistics indicate that over 5,200 Americans died last year from drug-induced deaths. I do not think Matthew Shepard's death will be counted in those statistics as I have cited many others who have died as the result of someone being involved with illegal narcotics. But the toll continues to rise and rise. In addition to the deaths, we have the incarceration of 1.8 million, close to 2 million total Americans in our jails, our prisons. Our judiciary system is clogged at tremendous expense to the taxpayer with people who have committed serious felonies, crimes, robberies, murders and other illegal acts either under the influence of illegal narcotics or in dealing with illegal narcotics. The toll from illegal drugs in our country continues to rise.

Also in the news, relating to illegal narcotics, is a debate that has really tied up the other body, the United States Senate, and the House of Representatives with several pieces of legislation. As my colleagues may know, the President has vetoed the D.C. appropriations measure. One of the provisions in that particular bill does restrict needle exchange programs. It is now one of the problem areas that the House of Representatives and Congress, the other body, find ourselves in conflict with the administration. They want to promote these needle exchanges. It has caused the veto in part of this particular bill relating to funding D.C. government. The Congress is also embroiled in a battle to fund several major departments. One of the largest bills that we will face in Congress is the education, labor and human services bill, HHS bill as we refer to it. Recently, the other body struck a provision that would have allowed the Department of Health and Human Services Secretary to create a clean needle exchange program for drug users. In some of the debates on that, one of the quotes that struck me was "giving an addict a clean needle is like giving an alcoholic a clean glass," said one of the sponsors of that legislation in the other body.

What was also interesting is a study that was referred to. I have not read all the details of this study and I have used the example of Baltimore which has had a very liberal policy and needle exchange program and which has, I believe, since 1989 increased its addiction level some five or six times. As it was reported and I cited and quoted a member of the Baltimore city council who said one out of eight citizens in the city of Baltimore is now a heroin addict. Part of this, we can trace back to the needle exchange program. But this quote in the Washington Times from last Friday says that "we have proved beyond a reasonable doubt that needle exchange programs increase the rate of HIV infection and the use of drugs."

Cited in this article is a Vancouver, British Columbia case where the number of drug-related overdoses has increased fivefold since 1988, the year the city began its own free needle exchange program. In Canada, we have an example of when you have a liberalized policy and needle exchange program, the statistics also prove that needle exchange programs actually increase the rate of HIV infection according to this report. Again in Canada and a city like Baltimore, we have seen a dramatic increase in the rise of addicts as we see a more liberalized policy.

Also in the news is a report from the Boston Globe that I thought I would mention tonight. This is a story that we all heard a great deal about some years ago and that was the death of the top Boston Celtics draft pick, Len Bias. His death occurred some 13 years ago. It was a cocaine-related overdose death. Federal prosecutors for the first time in Massachusetts said yesterday that the law bearing Len Bias' name will be used to charge an alleged drug dealer with the overdose of a customer. Again, this report is from just last Friday.

> Alarmed by high levels of heroin purity and an acute statewide overdose problem, United States Attorney Donald K. Stern said Federal and State prosecutors are preparing to bring more cases under the statute. Called the Len Bias Law, it was passed by Congress amid the uproar surrounding the University of Maryland basketball star's death in 1986. It levies stiff Federal penalties on drug dealers whose sales can be directly tied to fatal overdoses. A drug dealer is looking at a maximum of a 20-year prison term on State manslaughter charges.

This is the quote by Mr. Stern who is the U.S. Attorney there. He said that those individuals would face a minimum 20-year sentence in Federal court and the possibility of life without parole under the Len Bias Law.

"One such dealer," Stern said, "was 61-year-old Anibal Soler of Holyoke. Solo was charged with selling Edward Thompson of Chicopee a fatal dose of heroin that officials say was 72 percent pure. High purity heroin can be deadly if users are expecting a less potent dose and take too much."

One of the things that I have tried to point out here and that we have pointed out in our subcommittee hearings and testimony we have had from medical experts is that the heroin and cocaine and some of the other narcotics that we see today are not the same purity level as the cocaine and heroin we saw in the 1970s and 1980s. This particular case had a 72 percent purity. Back in the 1970s and 1980s, they were looking at 5, 6, 7 percent pure heroin. This ends up by saying that high purity heroin can be deadly if users are expecting a less potent dose and take too much.

That is exactly what is happening. We have a flood of high purity heroin, high purity cocaine and other designer drugs that are potentially fatal in very small doses. That is why we are seeing in my community, in central Florida, for example, we have had over 60 heroin overdoses. In fact, in central Florida, a headline is blurted out that overdoses from drugs now exceed homicides in central Florida.

What is particularly disturbing is our young people in particular are falling victim to these overdoses and fatalities and they do not realize that this high purity illegal narcotic that is available in our streets and in our communities is so deadly and so potent.

To deal with some of the problems we have had, I have got a news story from the Washington Times but it is actually a story on what has happened in Florida. I had the opportunity earlier this fall to meet with the governor and also his new drug czar, Jim McDonough, in Orlando on one of the occasions in which a daylong kickoff was celebrated to start a statewide antinarcotics program. It is a multifaceted program which encompasses prevention, education, enforcement, treatment, a whole array and a whole attack on the illegal narcotics problem that we face not only in central Florida but across Florida.

Our governor, Jeb Bush, has done an incredible job in bringing together the State, first in a statewide coordinated meeting in the capital, Tallahassee, earlier this year, with the President of the Florida Senate, Toni Jennings, and the Speaker of the Florida House, John Thrasher, in a joint conference and effort to bring together all of the most knowledgeable people on the illegal narcotics problem, a summit that has produced results. Part of the results was this kickoff. The governor said he would adopt a plan of action, institute a drug czar's office, which he has done, and Jim McDonough, who is a former deputy national drug czar, is now heading up that post. They have discussed a plan, they have developed a plan, they have announced a plan and I am pleased that Jeb Bush and other leaders in our State are now executing a plan.

The headline here on Friday reads, "Florida Raids on Raves Result in 1,219 Arrests." If you do illegal drugs in Florida, we are going to go after you. The governor has made this commitment. I have made the commitment. We have established through central Florida, from Tampa now through Orlando and up almost to Jacksonville, and we will be including Jacksonville, a HIDTA, that is a high intensity drug traffic area. We also have one in Florida. These are designations by Federal law that take every possible law enforcement resource and other resources, local and State, combined with Federal agencies in an effort to combat illegal narcotics. We are going after individuals who deal in death caused by illegal narcotics.

This particular article says that statewide raids on all-night dance parties, known as raves, resulted in 1,219 arrests and the seizure of nearly $9.4 million in drugs, cash, weapons and vehicles. The raids, which were dubbed "Operation Heat Rave," were in response to six rave-related drug deaths around the State, including two this summer, according to State drug czar Jim McDonough.

Jim McDonough is quoted as follows: "Had this been a roller coaster ride and we had had six dead, there would have been a major outcry to close down the theme park until we could do something about that roller coaster ride."

□ 2245

I think Jim McDonough states here that people would be outraged if, in any other instance, there were that many young people killed.

In this raid across the State, State and local law enforcement officers moved against 57 businesses in 21 counties from September 29 through October 4. Officers seized more than 15 kilograms of cocaine, more than 500 pounds of marijuana, and smaller quantities of heroin and methamphetamines. They also seized designer drugs, Ecstacy, GHP, and other drugs such as the rape drugs. So it is nice to see people in public office who set out a plan and then execute a plan and follow through with their commitments, and I am pleased that Governor Jeb Bush and others in our State are following through. Again, part of the news.

Also, I wanted to call to the attention of my colleagues and the entire Congress a little game that is being played on the question of certification, drug certification. Having been involved in the passing and actually authorship of the United States drug decertification law, I know a little bit about how it was set up to work and how it should work.

This article talks about what I consider sort of a little attempt to undermine the United States drug decertification law. Let me read a little bit about it. It is from the Oppenheimer Report and it was published in the Miami Herald. It said, "At a September 2nd meeting in Ottawa, the 34 Nation Organization of American States approved a plan supported by the Clinton administration," now that concerns me, "to create a multinational evaluation system which the OAS," Organization of American States, "hopes will eventually replace the controversial U.S. score board."

I am very disturbed that the Clinton administration would want to do away with our drug decertification law. I am concerned that, first of all, they have misapplied the law.

The drug decertification law is a simple law. It says that any Nation who wishes to receive benefits of the United States, foreign aid, foreign assistance, trade assistance, trade benefits, international financial assistance from the United States, any Nation who receives the largesse of the United States is asked to cooperate with the United States in an effort to eliminate either the production or trafficking of illegal narcotics. It is a simple law. Every year, the President must send to the Congress a list of those countries whether or not they are assisting the United States, an evaluation is made whether they are assisting the United States through stopping illegal narcotics, either in their country or the production in their country or trafficking in their country. It is a simple law. We give them our benefits.

Now, why in the world would we want to transfer to other nations an evaluation process that allows people to have benefits such as foreign aid, financial assistance, trade assistance? Why would we want to give that evaluation ability to some international body or to others? The Clinton administration has misapplied the decertification. They decertified Colombia, and they should have allowed for a national interest waiver, even though they felt Colombia was not properly cooperating, but they had problems with this administration; had problems with Colombia's human rights operations and attitudes and actions, and instead, they decertified Colombia without what we provided in the law, which was a national interest waiver, a United States national interest waiver to allow us to continue to assist in one specific area, and that would be the fight against illegal narcotics. And because of that misapplication of a very good law, we, in fact, have an incredible production of illegal narcotics from Colombia, and I will try to talk a little bit more about that tonight.

But this is sad that this administration still does not understand why that law was instituted or how that law should be applied. By the same token, they took the decertification law and certified Mexico as cooperating in the war on illegal narcotics. Mexico should have been decertified, but also granted a national interest waiver. So what they have done is made a joke of the law and made the law ineffective.

And now, to circumvent the intent of Congress and the intent of that law, again, if a country is going to receive benefits from the United States, why in the world would we allow some multinational organization to evaluate whether those countries would be eligible? It is our trade benefits, it is our foreign aid, it is our financial assistance. All we ask for is minimal cooperation efforts to curtail illegal narcotics.

So both in the case of Mexico they have distorted the law, and in the case of Colombia they have perverted the law, and now, much to our disadvantage, in Mexico, 50, 60 percent of all illegal narcotics coming into the United States either are transited or are produced in Mexico, and now 60 to 70 percent of the heroin and cocaine is both produced and trafficked from Colombia, a lot of it through Mexico. In 6 years they have managed to make Colombia the largest producer of cocaine and heroin in the world, and the largest supplier to the United States. Talk about a messed up policy. This is an incredible fiasco and could get worse if we pass on to these other countries this certification responsibility.

I have cited and spent part of my last talk reflecting on some of the comments that Governor Gary Johnson made in a Cato Institute program in Washington, I believe it was, last week. He is the Republican governor of New Mexico. He has advocated legalization and decriminalization of what are now illegal narcotics. I will not get into all of the comments and debate about some of the things he said while he was here; and he has said as governor in regard to this, but I would like to cite a news story that was out in the Associated Press just in the last couple of days that says, "Albuquerque: A Federal drug agent, head of the FBI in New Mexico and the Otero County sheriff have resigned from a panel that advises Governor Gary Johnson on drugs saying, they are upset by the governor's escalating push for legalized drugs."

Let me read more from the story, and again, it will not be my quote, but their quote. They are quoted here as saying, "We can't be running away from the problems," said Sandoval County Sheriff Ray Rivera, the Council's chairman. "I feel like those folks are running away from the problem instead of standing up." And this is someone who expressed concern about those who resigned, creating a great debate; and it went on not only here in Washington, but in his own State.

We also have one of the agents who resigned, David Kitchen, agent in charge of the FBI, quoted as saying in his resignation letter, and he noted earlier, he told Johnson he admired his courage in calling for a debate on decriminalization, although Kitchen thought it was sending a false message. Then came Johnson's statement advocating legalized marijuana and heroin. "Those absolutely stunned me, especially since they came the same day a multiagency task force arrested more than 30 people accused of being part of a drug ring that operated in northern New Mexico for years," Kitchen wrote.

Hansen, another one who resigned, in his letter of resignation Tuesday objected to what he said was Johnson's apparent theory that, and I will quote him, "that since we are not winning the drug war, we should just stop fighting. That position makes a mockery of the dedicated men and women of the Drug Enforcement Administration," Hansen wrote. "Your radical proposal to legalize drugs will only heighten the legitimate fear and foreboding that drug users and their related crimes inspire. One need only look within New Mexico to find prominent and disheartening examples of families and communities devastated by drug use," he went on to say.

So there are others that are concerned and also critical of Governor Johnson's position, and I am sure that debate will continue. We have held several hearings in my subcommittee on the question of legalization, decriminalization, and some of the facts we found do not jive exactly with what Governor Gary Johnson of New Mexico has advocated; and again, as I said, that debate and discussion will continue here in the Congress and across the Nation.

Also in the news is another example of a failed policy by this administration that is quite disturbing, and that is an article a few weeks ago here in the Washington Post, Tuesday, September 28 that says, "Haiti's police accused of lawlessness." What is absolutely stunning is after spending $3 billion to $4 billion of American hard-earned taxpayer dollars in Haiti in the so-called nation-building effort, we have ended up now with a case of Haiti having a police force trained under some of those programs financed by the United States as a center for some illegal narcotics activities and drug smuggling in the Caribbean. This particular report in the Washington Post says, "Created four years ago to usher in a new era of impartial justice, the United States-trained Haitian National Police is grappling with allegations that its officers have been involved in a waive of murders, disappearances of detainees and drug-related crimes and other illegal activities."

And this is a quote within the story: "If you are asking me whether I am more concerned about rot in the police than a year ago, the answer is yes," said Collin Granderson, Executive Director of an international civilian mission here run by the Organization of American States in the United Nations. We have both human rights concerns and concerns about broader conduct of officers, specifically with respect to criminal activity and particularly drug trafficking. Allegations of police involvement in the drug trade have continued to surface in a country that has become a major transshipment point for cocaine and heroin, both to the United States and from South America. It is absolutely incredible that we would spend billions of taxpayer dollars in a nation-building effort and in these programs to stabilize the judiciary and the police and create a little center of illegal narcotics drug trafficking in Haiti. Again, a failed policy of the Clinton administration.

Tonight I want to talk in addition to some of the news stories and other comments, I want to talk again about what has happened in the United States since 1992, and I have repeatedly said that in 1993 when President Clinton was elected, he basically closed down the war on illegal narcotics, and I have cited very specifically, and we have the programs that deal with illegal narcotics, stopping illegal narcotics coming into the United States, first of all, stopping illegal narcotics at their source.

☐ 2300

In 1993 we can see, with a Democrat House, Senate, and White House, basically they slashed and cut in half all of the cost-effective source country programs to stop illegal narcotics at their source, just a dramatic change. We get back to where the Republicans took over the Congress in 1995, and we see us back then, if we take 1992 dollars, we are just about back to that position.

The war on drugs has been basically closed down internationally by the Clinton administration. Not only did we stop the international programs which are so cost-effective, and I have used this chart also before, but the programs as far as enforcement, particularly interdicting illegal narcotics from their source to our borders, again, a dramatic decrease, 1992–1993.

They closed down these programs. They took the military out of the drug war. They took the Coast Guard out. All of the U.S. resources were slashed. Again, back in 1995, with the Republicans taking over, we are beginning to put Humpty-Dumpty together again, and the war on drugs back together again. We are almost back to 1992 level funding.

I have also pointed out what is absolutely dramatic is if we look at illegal drug usage among our 12th graders and our teenagers, this starts in 1989, this chart. We see, if this chart continued towards me, we see this continual decrease of use among our 12th graders of different types of drug use, 30-day and recent, with these different lines here, levels of use continuing to go down.

This would be the Reagan and Bush administration down here. We see dramatic increases here in use among our young people, in drug abuse and use among our young people. This is about the time Clinton appointed Joycelyn Elders, who sent the "just say maybe" message, as our chief health officer. It is the time, if we took these other charts and transposed them on here, that we cut the source country programs, so we had this incredible influx of heroin, cocaine, other illegal narcotics coming in, a tremendous increase in supply, decrease in price and availability, and the wrong message being sent. This is exactly what we got.

I had another chart that was done. This is a smaller chart. I do not know if this chart can be seen here. But this is heroin trends in annual percentage. Actually it starts in 1975. We can see how this heroin use, annual use here, starts going down. This is eighth grade through 12th grade. We see it going down here, and then we see it levelling off in the eighties and in the nineties.

Then we come to 1992, the election. We see the change in the drug policy. We see it being closed down, the war on drugs; again, the money being slashed in source country programs, the money being slashed in interdiction, stopping drugs coming into our borders. This is one of the most dramatic charts that I have seen produced, but it shows us going off the charts with illegal narcotics.

Then arrive the Republicans in 1995, and through the leadership of the current Speaker of the House, the gentleman from Illinois (Mr. HASTERT), he chaired the subcommittee and had the responsibility for restoring our national drug policy.

What was interesting, as I served in the Congress during this time, from 1992 when I was elected and the Clinton administration took over to 1995, when we took over, I believe, and I served on the Committee on Government Operations which had that drug policy responsibility and oversight responsibility, there was one hearing. It lasted for about 1 hour. They brought in the drug czar at the time.

Again, this was after they had fired people. There were 120 people working in the drug czar's office. In 1993 they fired about 100 of them and left approximately 20. Again, the results are there in black and white. This is not a partisan issue, these are not partisan statistics. In fact, these charts and statistics, the information is provided by Clinton and U.S. officials under this administration. But it is pretty dramatic, when you close down the war on drugs, when you change the message that is being sent there, when you slash the resources from some of the cost-effective programs.

One of the things they did was they shifted their emphasis almost all to treatment. If we take 1992 and 1993 to 1998, we would see almost a doubling in the amount of money for drug treatment. There is nothing wrong with treatment. Of course we need effective treatment programs. That is the subject of additional hearings and investigation which we will be doing, because if we are spending these huge amounts of money on treatment programs and prevention programs, we want to make certain they are effective. But this is very startling, factual information of what has taken place.

Now, this policy has had some implications. Fifty-one percent of high school students said the drug problem is getting worse. This is in a survey within the last year. For the fourth straight year, both middle and high school students say drugs are their biggest concern.

Also from the most recent survey, for the third straight year, the number of high school teens who report that drugs are used, sold, and kept at their school has risen from 72 percent in 1996 to 78 percent in 1998. Teenage drug use, again, the result of a failed policy. That is pretty evident.

Today 50 percent of teens who smoked marijuana cited their friends as most influential, 30 percent cite themselves as most influential in deciding whether or not to use drugs. At age 13, teenagers get to know other students who use and sell pot, acid, cocaine, or heroin, and learn where to buy these drugs and who to buy them from. Forty-seven percent of our 13-year-olds say their parents have never seriously discussed the dangers of illegal drugs with them. We cannot entirely blame this on government, we have to take responsibility as parents.

But the interesting statistics are, again, what has taken place with a change of Federal policy since 1992. We have almost doubled each year since 1992 the use of illegal narcotics by 12- to 17-year-olds. I have the exact statistics. In 1992, the increase was 5.3 percent. In 1994 it jumped to 8.2 percent. It was either 9, 10, or 11 percent for every year, an increase.

So from 1992, with the change in the Clinton policy, to 1998, there has been a doubling of illegal narcotics use among our teenagers almost every single year. What should be of concern to all the Members of Congress is that illegal narcotics does affect our young people, but it also affects our minorities.

A 1998 household survey on drug abuse found the percentage of blacks using drugs rose 8.2 percent in 1998 from 5.8 percent in 1993. So our minorities have been the recipients of a great deal of the problems in increases; particularly among, again, our minorities who are using drugs in almost double the statistics before 1993.

□ 2310

Drug use among Hispanics rose to 6.1 percent from 4.4 percent from 1993 to 1998; another legacy of a change in policy brought about by this administration.

Drug use since 1989 has increased among young adults 18 to 25 to its highest level, and that was in 1998. Drug use among 18 to 25 year olds increased about 10 percent from 1997 to 1998, again startling figures about increases in the use of illegal narcotics, particularly among our young people.

The use of illegal narcotics is not just a problem among our young people. Today about 78 million Americans have used illegal drugs at some point in their lives. Roughly 13.6 million Americans are current users. Right now, marijuana is the most commonly used drug among our Nation's 13.6 million illicit drug users. It has also been recently revealed by another survey that an estimated 4.1 million people met diagnostic criteria for drug dependence on illicit drugs in 1997 and 1998, including 1.1 million use; that is about 25 percent of those who are dependent on illegal drugs are young people between 12 and 17.

Additionally tonight, I wanted to spend a few minutes talking not only about the impact of illegal narcotics, some of the problems that I have cited, but also talk about some of the failures of the Clinton policy as it relates to stopping illegal narcotics coming into our country. As I cited just a few minutes ago, we know where most of the heroin, we know where most of the cocaine, we know where most of the methamphetamines are coming from. They are produced now in Colombia. They transit through Mexico. Mexico has also turned into a producer. Colombia produces 70 percent of all of the heroin. Six years ago it produced almost no heroin. There were almost no poppies grown in Colombia. Again, through the failed policy of this administration, Colombia has mushroomed into the drug producing capital of the world; actual producers of heroin, poppy, the core material. Mexico now is producing 14 percent of the heroin coming into the United States, that was in single digits some 6 or 7 years ago, under the Clinton administration.

Probably 70, 80 percent of all of the illegal narcotics coming into the United States now come in from these two sources. As I cited, these two countries have not properly been dealt with by the United States. We certified Mexico, and Mexico in the last year has had a dramatic, over 50 percent decrease, in seizures of cocaine and dramatic decreases in seizures of heroin, and they were certified as cooperating.

Mexico also promised, and the United States Congress asked Mexico to cooperate with the extradition, according to a 1978 extradition treaty, Mexican nationals who were indicted in the United States and we request their extradition should come back to the United States and fear coming back to the United States for trial on those charges. Not one major Mexican drug lord has been extradited to date. This Congress passed a resolution several years ago asking, in addition to extradition, that Mexico sign a maritime agreement. We know the drugs are coming in across land and around the waters that surround Mexico and the United States. To date, Mexico has not signed a maritime agreement.

We further asked that Mexico allow our handful of DEA agents, law enforcement agents that are working in Mexico, to arm themselves and protect themselves since the death and murder of one of our agents, Kiki Camarena. To date, Mexico still has not complied with that simple request.

We asked that Mexico also enforce laws that it had passed. They passed laws dealing with money laundering and illegal narcotics, and drug trafficking, but they do not enforce it.

Rather than enforce the laws, as our simple request to work with the United States, what Mexico has done has actually become the capital of drug laundering. In fact, the largest drug laundering case in the history of the United States, if not the history of the world, was uncovered in a United States Customs operation which I cited and talked a little bit about in my last talk and this is a bit of the background on Operation Casa Blanca. It was an investigation that was concluded in May of 1998 with the indictment of 109 individuals and three Mexican banks. The undercover operation was the largest sting operation in the United States history. Because there are so many corrupt individuals involved in Mexico law enforcement and government, we did notify the Mexicans of some of what was going on, but not all of what was going on.

After it became known that these individuals were involved at these various levels and that we had this sting operation going on, rather than cooperate with the United States what the Mexican officials did was threaten to arrest United States officials and Customs officials who were involved in this sting operation.

I must say that I am pleased that the United States Customs agency, the Department of Justice, the FBI and others have moved forward. These individuals have been indicted where they are found in the United States. There are several who have fled and several who we requested extradition on who have not been returned to face justice in the United States, but my point here is that this United States Congress, the House of Representatives, asked Mexico to cooperate in stopping illegal narcotics activities and enforcing laws that were put on the books in extradition, which I cited, and some of these other things that I cited, and rather than assist the United States they blocked the United States. Only because of the visit of the President of the United States and because this had gotten so much publicity have they finally backed off.

☐ 2320

But this is the type of lack of cooperation. What is astounding is Mexico has been the recipient of one of the finest and most generous trade agreements of any two Nations, the NAFTA agreement, in which the United States gave very specific trade benefits to Mexico and asked very little in cooperation. We asked for their certification as cooperating and, for these trade benefits, a little bit of assistance in the illegal narcotics problem. What we have gotten basically is sand kicked in our face.

Forty Mexican and Venezuelan bankers, businessmen, and suspected drug cartel members were arrested, and 70 others have been indicted as fugitives. This, again, is something that we have had to deal with ourselves and enforce ourselves without the cooperation of Mexican officials.

It is my hope that we can turn this situation around, that Mexico can become a better partner in fighting illegal narcotics.

I might say that, as I close this evening that Mexico is now becoming the recipient of much of the crime and violence. They have lost several of their States, the Baja peninsula is now lost to narco-traffickers. The Yucatan Peninsula, its Governor fled. He was involved up to his eyeballs in illegal narcotics.

Other States along the United States border and within the heart of Mexico are now on the verge of collapse and being lost to drug traffickers.

Mexico is now the recipient of some of the problems that we have inherited as a neighbor and friend and ally, and we only ask cooperation.

Finally, as we close, it is nice to bring up some of the critical elements of what this administration has done. The positive aspects are the Republican-dominated Congress has restored funds for international programs. We have put back the Coast Guard, the military, and other Federal agencies and are now utilizing every possible resource. We have instituted an education program which is funded with over $190 million plus that amount matched by the private sector on which, this Thursday, our Subcommittee of Criminal Justice, Drug Policy, and Human Resources will do its first review.

We hope that through education, through interdiction, through source country programs, through prevention and through treatment, through a multifaceted approach, this was started under Ronald Reagan, we can again bring down the problem of illegal narcotics, of drug use among our young people, the death and tragedy that it has caused in so many lives.

With that, Mr. Speaker, I am pleased to conclude my special order tonight on the continuing problem we face as a Congress and the American people with illegal narcotics.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. UNDERWOOD (at the request of Mr. GEPHARDT) for today and the balance of the week on account of official business.

Mr. PASCRELL (at the request of Mr. GEPHARDT) for today on account of official business.

Ms. KILPATRICK (at the request of Mr. GEPHARDT) for today on account of a death in the family.

Mr. ENGLISH (at the request of Mr. ARMEY) for today on account of a transportation delay.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mrs. MALONEY of New York, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. UPTON) to revise and extend their remarks and include extraneous material:)

Mrs. JOHNSON of Connecticut, for 5 minutes, October 13.

Mr. BURTON of Indiana, for 5 minutes, October 19.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1567. An act to designate the United States courthouse located at 223 Broad Street in Albany, Georgia, as the "C.B. King United States Courthouse"; to the Committee on Transportation and Infrastructure.

S. 1595. An act to designate the United States courthouse at 401 West Washington Street in Phoenix, Arizona, as the "Sandra Day O'Connor United States Courthouse"; to the Committee on Transportation and Infrastructure.

ADJOURNMENT

Mr. MICA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 23 minutes p.m.), the House adjourned until tomorrow, Wednesday, October 13, 1999, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4712. A letter from the Administrator, Food Safety and Inspection Service, Department of Agriculture, transmitting the Department's final rule—Scale Requirements for Accurate Weights, Repairs, Adjustments, and Replacement After Inspection—received October 8, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4713. A letter from the Manager, Federal Crop Insurance Corporation, Department of Agriculture, transmitting the Department's final rule—General Administrative Regulations; Interpretations of Statutory and Regulatory Provisions (RIN: 0563–AB74) received October 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4714. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Avocados Grown in South Florida and Imported Avocados; Revision of the Maturity Requirements for Fresh Avocados [Docket No. FV99–915–2FR] received October 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4715. A letter from the Office of the Under Secretary, Department of the Navy, transmitting notification of a decision to study certain functions performed by military and civilian personnel in the Department of the Navy for possible performance by private contractors, pursuant to 10 U.S.C. 2461; to the Committee on Armed Services.

4716. A letter from the Director, Regulations Policy and Management Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule—Food Labeling: Declaration of Ingredients [Docket No. 98P–0968] received October 6, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4717. A letter from the Director, Regulations Policy and Management Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule—Internal Analgesic, Antipyretic, and Antirheumatic Drug Products for Over-the-Counter Human Use; Final Rule for Professional Labeling of Aspirin, Buffered Aspirin, and Aspirin in Combination with Antacid Drug Products: Technical Amendments [Docket No. 77N–094A] received October 6, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4718. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Delaware; 15 Percent Rate of

Progress Plan [DE027-1027a; FRL-6453-5] received October 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4719. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Texas Redesignation Request and Maintenance Plan for the Collin Country Lead Nonattainment Area [TX-112-1-7421a; FRL-6449-5] received October 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4720. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans: Approval of Revisions to the North Carolina State Implementation Plan [NC-083-1-9938a; FRL-6453-8] received October 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4721. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Massachusetts: Final Authorization of State Hazardous Waste Management Program Revision [FRL-6454-1] received October 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4722. A letter from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Wellsville and Canaseraga, New York) [MM Docket No. 98-207, RM-9408, RM-9497] received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4723. A letter from the Special Assistatnt to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Choteau, Montana) [MM Docket No. 99-219 RM-9638] (Hubbardston, Michigan) [MM Docket No. 99-80 RM-9493] (Ingram, Texas) [MM Docket No. 99-235 RM-9643] (Parowan, Utah) [MM Docket No. 99-224 RM-9605] (Toquerville, Utah) [MM Docket No. 99-226 RM-9603] (Valier, Montana) [MM Docket No. 99-228 RM-9612] (Washburn, Wisconsin) [MM Docket No. 99-18 RM-9414] (Breckenridge, Texas) [MM Docket No. 99-243 RM-9675] (Alberton, Montana) [MM Docket No. 99-218 RM 9637] Received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4724. A letter from the Director, Office of Congressional Affairs, Office of Nuclear Reactor Regulation, Nuclear Regulatory Commission, transmitting the Commission's final rule—Changes, Tests, and Experiments (RIN: 3150-AF94) received October 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4725. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Australia for defense articles and services (Transmittal No. 00-06), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

4726. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Prevailing Rate Systems; Redefinition of the Eastern South Dakota and Wyoming Appropriated Fund Wage Areas (RIN: 3206-AI74) received October 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4727. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Prevailing Rate Systems: Change in Survey Cycle for the Southwestern Michigan Appropriated Fund Wage Area (RIN: 3206-AI68) received October 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4728. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands [Docket No. 990304063-9063-01; I.D. 092499K] received October 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4729. A letter from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Summer Flounder Fishery [Docket No. 990422103-9209-02; I.D. 090799A] received October 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4730. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Vessels Catching Pollock for Processing by the Inshore Component In the Bering Sea Subarea [Docket No. 990304063-9063-01; I.D. 092899B] received October 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4731. A letter from the Acting Director, Office of Sustainable Fisheries Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States in the Western Pacific; Pacific Coast Groundfish Fishery; End of the Primary Season and Resumption of Trip Limits for the Shoreside Whiting Sector [Docket No. 98123133-9127-03; I.D. 091399B] received October 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4732. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Rules of Practice, Procedure, and Evidence for Administrative Proceedings of the Coast Guard [USCG-1998-3472] (RIN: 2115-AF59) received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4733. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Kansas City, MO [Airspace Docket No. 99-ACE-34] received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4734. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives: Eurocopter France Model SA-360C, SA-365C, C1, and C2 Helicopters [Docket No. 99-SW-15-AD; Amendment 39-11344; AD 99-21-01] (RIN: 2120-AA64) received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4735. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Hayward, WI [Airspace Docket No. 99-AGL-40] received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4736. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Cable Union, WI [Airspace Docket No. 99-AGL-41] received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4737. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class D Airspace; Bellville, IL [Airspace Docket No. 99-AGL-39] received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4738. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Mountain Village, AK [Airspace Docket No. 99-AAL-9] received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4739. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulation: Passaic River, NJ [CGD01-99-171] (RIN: 2115-AE47) received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4740. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—User Fees for Licenses, Certificates of Registry, and Merchant Mariner Documents [USCG-1997-2799] (RIN: 2115-AF49) received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4741. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Aniak, AK Establishment of Class E Airspace; St. Mary's, AK [Airspace Docket No. 99-AAL-7] received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4742. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Kalskag, AK [Airspcae Docket No. 99-AAL-14] received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4743. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Georgetown, TX [Airspace Docket No. 99-ASW-18] received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4744. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Mineral Wells, TX [Airspace Docket No. 99-ASW-20] received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4745. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Alice, TX [Airspace

Docket No. 99–ASW–23] received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4746. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Falfurrias, TX [Airspace Docket No. 99–ASW–21] received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4747. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Corpus Christi, TX [Airspace Docket No. 99–ASW–22] received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4748. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone; Chesapeake Bay, Hampton, VA [CGD 05–99–090] (RIN: 2115–AA97) received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4749. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Mile 94.0 to Mile 96.0, Lower Mississippi River, Above Head of Passes [COTP New Orleans, LA Regulation 99–026] (RIN: 2115–AA97) received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4750. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Swannee River, Florida [CGD07–98–054] (RIN: 2115–AE47) received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4751. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operating Regulation; Gulf Intercoastal Waterway, Algiers Alternate Route, Louisiana [CGD08–99–057] (RIN: 2115–AE57) received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4752. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulation; Inner Harbor Navigation Canal, LA [CGD08–99–011] (RIN: 2115–AE47) received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4753. A letter from the Director, Office of Regulations Management, Veterans Health Administration, Department of Veterans Affairs, transmitting the Department's final rule—Enrollment-Provision of Hospital and Outpatient Care to Veterans (RIN: 2900–AJ18) received October 6, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4754. A letter from the Director, Office of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting the Department's final rule—Returned and Canceled Checks (RIN: 2900–AJ61) received October 6, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. McCOLLUM: Committee on the Judiciary H.R. 1791. A bill to amend title 18, United States Code, to provide penalties for harming animals used in Federal law enforcement; with an amendment (Rept. 106–372). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Florida: Committee on Appropriations. Report on the Revised Suballocation of Budget Allocations for Fiscal Year 2000 (Rept. 106–373). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 795. A bill to provide for the settlement of the water rights claims of the Chippewa Cree Tribe of the Rocky Boy's Reservation, and for other purposes; with an amendment (Rept. 106–374). Referred to the Committee of the Whole House on the State of the Union.

Mrs. MYRICK: Committee on Rules. House Resolution 326. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2561) making appropriations for the Department of Defense for the fiscal year ending September 30, 2000, and for other purposes (Rept. 106–375). Referred to the House Calendar.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 327. Resolution providing for consideration of the bill (H.R. 1993) to reauthorize the Overseas Private Investment Corporation and the Trade and Development Agency, and for other purposes (Rept. 106–376). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BLAGOJEVICH (for himself, Mrs. McCarthy of New York, Mrs. Jones of Ohio, Ms. Schakowsky, and Mr. Nadler):

H.R. 3057. A bill to amend title 18, United States Code, to prohibit gunrunning, and provide mandatory minimum penalties for crimes related to gunrunning; to the Committee on the Judiciary, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FOLEY (for himself and Mr. Ackerman):

H.R. 3058. A bill to amend the Immigration and Nationality Act to provide that aliens who commit acts of torture abroad are inadmissible and removable and to establish within the Criminal Division of the Department of Justice an Office of Special Investigations having responsibilities under that Act with respect to all alien participants in acts of genocide and torture abroad; to the Committee on the Judiciary.

By Mr. HEFLEY:

H.R. 3059. A bill to establish a moratorium on bottom trawling and use of other mobile fishing gear on the seabed in certain areas off the coast of the United States; to the Committee on Resources.

By Mr. McKEON:

H.R. 3060. A bill to prohibit mining on a certain tract of Federal land in Los Angeles County, California, and for other purposes; to the Committee on Resources.

By Mr. SMITH of Texas:

H.R. 3061. A bill to amend the Immigration and Nationality Act to extend for an additional 2 years the period for admission of an alien as a nonimmigrant under section 101(a)(15)(S) of such Act, and to authorize appropriations for the refugee assistance program under chapter 2 of title IV of the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. WISE:

H.R. 3062. A bill to provide grants to States for programs for the reemployment of laid off miners in reclamation work; to the Committee on Resources, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILMAN:

H. Con. Res. 195. Concurrent resolution supporting the transition to democracy in Indonesia; to the Committee on International Relations.

By Mr. EHLERS:

H. Con. Res. 196. Concurrent resolution permitting the use of the rotunda of the Capitol for the presentation of the Congressional Gold Medal to President and Mrs. Gerald R. Ford; to the Committee on House Administration.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 269: Mr. Wu.

H.R. 303: Mr. Diaz-Balart and Mr. Wexler.

H.R. 306: Mr. Skelton and Mr. Barcia.

H.R. 534: Mr. Bass.

H.R. 566: Mr. Dingell and Ms. Pelosi.

H.R. 745: Mr. McGovern.

H.R. 783: Mr. Combest and Mr. Kolbe.

H.R. 797: Mr. Terry, Mr. Hyde, Mrs. Christensen, Mr. Combest, Mr. Waxman, and Mr. Foley.

H.R. 798: Mr. Kucinich.

H.R. 826: Ms. Woolsey.

H.R. 976: Ms. Norton and Mr. Castle.

H.R. 997: Mr. Kasich, Mr. Deal of Georgia, Mr. Rush, Mr. Riley, Mr. Gutierrez, Mr. Petri, Mr. Doolittle, Mr. Watkins, and Mr. Baker.

H.R. 1083: Ms. Danner and Mr. Gordon.

H.R. 1102: Ms. McCarthy of Missouri.

H.R. 1221: Mr. Bilbray.

H.R. 1300: Mr. Thompson of Mississippi and Mr. Mica.

H.R. 1355: Ms. McCarthy of Missouri.

H.R. 1357: Mr. Toomey.

H.R. 1363: Mr. Hall of Texas.

H.R. 1475: Mr. Towns.

H.R. 1495: Mr. Coyne.

H.R. 1622: Mrs. Capps.

H.R. 1644: Mr. LaHood.

H.R. 1798: Mrs. Thurman.

H.R. 1816: Mr. Moran of Virginia and Mr. LaFalce.

H.R. 1860: Mr. Stark, Mr. Romero-Barcelo, Mr. Bonior, and Mr. Hinojosa.

H.R. 1887: Mr. Green of Wisconsin.

H.R. 1899: Mr. Clement, Mr. Skelton, Ms. McKinney, and Mrs. Thurman.

H.R. 2002: Mr. Luther.

H.R. 2059: Mr. Walsh and Mr. Hall of Texas.

H.R. 2120: Mr. Allen.

H.R. 2200: Mr. Pickett and Mr. Gilchrest.

H.R. 2228: Mr. DEFAZIO and Mr. FARR of California.

H.R. 2298: Mr. GREEN of Texas and Mr. WAXMAN.

H.R. 2308: Ms. DEGETTE.

H.R. 2366: Mr. CANNON, Mr. CONDIT, Mr. VITTER, Mr. SMITH of Texas, and Mr. COMBEST.

H.R. 2418: Mr. MENENDEZ, Mr. SMITH of New Jersey, Mr. ANDREWS, Mr. PASCRELL, Mr. PAYNE, Mr. SAXTON, and Mr. HOLT.

H.R. 2457: Mrs. MALONEY of New York.

H.R. 2492: Mr. WEINER, Mr. CROWLEY, and Mr. SERRANO.

H.R. 2495: Ms. WOOLSEY.

H.R. 2528: Mr. THOMPSON of California.

H.R. 2539: Mr. DREIER.

H.R. 2543: Mr. BURR of North Carolina, Mr. BONIOR, and Mr. LARGENT.

H.R. 2612: Ms. KAPTUR.

H.R. 2631: Ms. ROYBAL-ALLARD and Ms. ESHOO.

H.R. 2640: Mr. BOEHLERT.

H.R. 2659: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. BONIOR.

H.R. 2662: Mr. PAYNE and Ms. LEE.

H.R. 2710: Mr. CUNNINGHAM.

H.R. 2720: Mr. WELLER, Mr. BOUCHER, and Mr. TRAFICANT.

H.R. 2733: Mr. REYES.

H.R. 2735: Mr. CRANE.

H.R. 2741: Mr. CROWLEY.

H.R. 2749: Mr. SMITH of Texas and Mr. WELDON of Florida.

H.R. 2776: Mr. WYNN and Mr. MALONEY of Connecticut.

H.R. 2786: Mr. TOWNS.

H.R. 2856: Mr. SMITH of New Jersey, Mr. LIPINSKI, and Mr. ENGLISH.

H.R. 2890: Mr. THOMPSON of Mississippi and Mr. CAPUANO.

H.R. 2892: Mr. WELDON of Pennsylvania, Mrs. LOWEY, and Mr. BARCIA.

H.R. 2902: Mr. SABO, Mr. MOAKLEY, Mr. CAPUANO, Mr. BORSKI, Mr. HOLDEN, Mrs. MALONEY of New York, Mr. FROST, Ms. PELOSI, and Mr. ROTHMAN.

H.R. 2939: Mr. SANDERS and Mr. CONYERS.

H.R. 2986: Mr. ROYCE.

H.R. 2987: Mr. TALENT and Mr. NETHERCUTT.

H.R. 2999: Mr. WYNN.

H.R. 3028: Mr. SALMON.

H.J. Res. 46: Mr. MCHUGH, Mrs. LOWEY, and Mr. WEINER.

H. Con. Res. 141: Mr. PORTER, Mr. GREENWOOD, Mr. HORN, Mr. POMBO, Mr. ENGEL, Mr. KILDEE, Mr. ROHRABACHER, Mr. DIXON, Mrs. CLAYTON, and Mr. PASTOR.

H. Con. Res. 166: Mr. SAM JOHNSON of Texas.

H. Res. 37: Ms. NORTON, Mrs. MINK of Hawaii, and Mr. FROST.

H. Res. 41: Mr. BARCIA, Mrs. JOHNSON of Connecticut, Mr. MARTINEZ, and Mr. UDALL of New Mexico.

H. Res. 224: Mr. MORAN of Kansas.

H. Res. 238: Mr. CAMP and Mr. WOLF.

H. Res. 269: Mr. SABO.

H. Res. 278: Mr. WALSH, Mr. KLECZKA, Mr. PHELPS, and Mr. MCHUGH.

H. Res. 298: Mr. MENENDEZ, Mr. GILCHREST, Ms. DEGETTE, Mr. ROMERO-BARCELO, Mr. DAVIS of Florida, Ms. WATERS, Mr. HOBSON, Mr. LEWIS of Georgia, Mr. MEEKS of New York, Mrs. MALONEY of New York, and Ms. PELOSI.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 1993

OFFERED BY: MR. GEJDENSON

AMENDMENT NO. 1: Insert the following after section 4 and redesignate succeeding sections, and references thereto, accordingly.

SEC. 4. ENVIRONMENTAL IMPACT OF OPIC PROGRAMS.

(a) ADDITIONAL REQUIREMENTS.—Section 231A of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection:

"(b) ENVIRONMENTAL IMPACT.—

"(1) ENVIRONMENTAL ASSESSMENT OR AUDIT.—The Board of Directors of the Corporation shall not vote in favor of any action proposed to be taken by the Corporation that is likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented, unless for at least 60 days before the date of the vote—

"(A) an environmental impact assessment or initial environmental audit, analyzing the environmental impacts of the proposed action and of alternatives to the proposed action has been completed by the project applicant and made available to the Board of Directors; and

"(B) such assessment or audit has been made available to the public of the United States, locally affected groups in the host country, and host country nongovernmental organizations.

"(2) DISCUSSIONS WITH BOARD MEMBERS.—Prior to any decision by the Corporation regarding insurance, reinsurance, guarantees, or financing for any project, the President of the Corporation or the President's designee shall meet with at least one member of the public who is representative of individuals who have concerns regarding any significant adverse environmental impact of that project.

"(3) CONSIDERATION AT BOARD MEETINGS.—In making its decisions regarding insurance, reinsurance, guarantees, or financing for any project, the Board of Directors shall fully take into account any recommendations made by other interested Federal agencies, interested members of the public, locally affected groups in the host country, and host country nongovernmental organizations with respect to the assessment or audit described in paragraph (1) or any other matter related to the environmental effects of the proposed support to be provided by the Corporation for the project."; and

(3) in subsection (c), as so redesignated, by striking "each year" and inserting "every 6 months".

(b) STUDY ON PROCESS FOR OPIC ASSISTANCE.—The Inspector General of the Agency for International Development shall review OPIC's procedures for undertaking to conduct financing, insurance, and reinsurance operations in order to determine whether OPIC receives sufficient information from project applicants, agencies of the United States Government, and members of the public of the United States and other countries on the environmental impact of investments insured, reinsured, or financed by OPIC. Not later than 120 days after the date of the enactment of this Act, the Inspector General shall report to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate on the results of its review. The report shall include—

(1) recommendations for ways in which the views of the public could be better reflected in OPIC's procedures;

(2) recommendations for what additional information should be required of project applicants; and

(3) recommendations for environmental standards that should be used by OPIC in conducting its financing, insurance, and reinsurance operations.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 90 days after the date of the enactment of this Act.

H.R. 1993

OFFERED BY: MR. GEJDENSON

AMENDMENT NO. 2: Insert the following after section 4 and redesignate succeeding sections, and references thereto, accordingly.

SEC. 4. ENVIRONMENTAL IMPACT OF OPIC PROGRAMS.

(a) ADDITIONAL REQUIREMENTS.—Section 231A of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection:

"(b) ENVIRONMENTAL IMPACT.—

"(1) ENVIRONMENTAL ASSESSMENT OR AUDIT.—The Board of Directors of the Corporation shall not vote in favor of any action proposed to be taken by the Corporation that is likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented, unless for at least 60 days before the date of the vote—

"(A) an environmental impact assessment or initial environmental audit, analyzing the environmental impacts of the proposed action and of alternatives to the proposed action has been completed by the project applicant and made available to the Board of Directors; and

"(B) such assessment or audit has been made available to the public of the United States, locally affected groups in the host country, and host country nongovernmental organizations.

"(2) CONSIDERATION AT BOARD MEETINGS.—In making its decisions regarding insurance, reinsurance, guarantees, or financing for any project, the Board of Directors shall fully take into account any recommendations made by other interested Federal agencies, interested members of the public, locally affected groups in the host country, and host country nongovernmental organizations with respect to the assessment or audit described in paragraph (1) or any other matter related to the environmental effects of the proposed support to be provided by the Corporation for the project."; and

(3) in subsection (c), as so redesignated, by striking "each year" and inserting "every 6 months".

(b) STUDY ON PROCESS FOR OPIC ASSISTANCE.—OPIC shall review its procedures for undertaking to conduct financing, insurance, and reinsurance operations in order to determine whether OPIC receives sufficient information from project applicants, agencies of the United States Government, and members of the public of the United States and other countries on the environmental impact of investments insured, reinsured, or financed by OPIC. Not later than 120 days after the date of the enactment of this Act, OPIC shall report to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate on the results of its review. The report shall include—

(1) recommendations for ways in which the views of the public could be better reflected in OPIC's procedures;

(2) recommendations for what additional information should be required of project applicants; and

(3) recommendations for environmental standards that should be used by OPIC in conducting its financing, insurance, and reinsurance operations.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 90 days after the date of the enactment of this Act.

H.R. 1993

OFFERED BY: MR. GEJDENSON

AMENDMENT NO. 3: Insert the following after section 4 and redesignate succeeding sections, and references thereto, accordingly.

SEC. 4. ENVIRONMENTAL IMPACT OF OPIC PROGRAMS.

(a) ADDITIONAL REQUIREMENTS.—Section 231A of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection:

"(b) ENVIRONMENTAL IMPACT.—

"(1) ENVIRONMENTAL ASSESSMENT OR AUDIT.—The Board of Directors of the Corporation shall not vote in favor of any action proposed to be taken by the Corporation that is likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented, unless for at least 60 days before the date of the vote—

"(A) an environmental impact assessment or initial environmental audit, analyzing the environmental impacts of the proposed action and of alternatives to the proposed action has been completed by the project applicant and made available to the Board of Directors; and

"(B) such assessment or audit has been made available to the public of the United States, locally affected groups in the host country, and host country nongovernmental organizations.

"(2) DISCUSSIONS WITH BOARD MEMBERS.—Prior to any decision by the Corporation regarding insurance, reinsurance, guarantees, or financing for any project, a member or members of the Board of Directors shall meet with at least one member of the public who is representative of individuals who have concerns regarding any significant adverse environmental impact of that project.

"(3) CONSIDERATION AT BOARD MEETINGS.—In making its decisions regarding insurance, reinsurance, guarantees, or financing for any project, the Board of Directors shall fully take into account any recommendations made by other interested Federal agencies, interested members of the public, locally affected groups in the host country, and host country nongovernmental organizations with respect to the assessment or audit described in paragraph (1) or any other matter related to the environmental effects of the proposed support to be provided by the Corporation for the project."; and

(3) in subsection (c), as so redesignated, by striking "each year" and inserting "every 6 months".

(b) STUDY ON PROCESS FOR OPIC ASSISTANCE.—The Inspector General of the Agency for International Development shall review OPIC's procedures for undertaking to conduct financing, insurance, and reinsurance operations in order to determine whether OPIC receives sufficient information from project applicants, agencies of the United States Government, and members of the public of the United States and other countries on the environmental impact of investments insured, reinsured, or financed by OPIC. Not later than 120 days after the date of the enactment of this Act, the Inspector General shall report to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate on the results of its review. The report shall include—

(1) recommendations for ways in which the views of the public could be better reflected in OPIC's procedures;

(2) recommendations for what additional information should be required of project applicants; and

(3) recommendations for environmental standards that should be used by OPIC in conducting its financing, insurance, and reinsurance operations.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 90 days after the date of the enactment of this Act.

H.R. 1993

OFFERED BY: MR. GILMAN

AMENDMENT NO. 4: Page 11, lines 4 and 5, strike "minority-owned businesses, focusing on" and insert "businesses that, because of their minority ownership, may have been excluded from export trade, and from".

Page 11, lines 8 and 9, strike "urban-based and minority-owned" and insert "such".

H.R. 1993

OFFERED BY: MR. ROHRABACHER

AMENDMENT NO. 5: Page 6, add the following after line 25 and redesignate succeeding sections, and references thereto, accordingly.

SEC. 5. ENVIRONMENTAL REQUIREMENTS FOR OPIC.

Section 239(g) of the Foreign Assistance Act of 1961 (21 U.S.C. 2199(g)) is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) The Corporation shall not issue any contract of insurance or reinsurance, or any guaranty, or enter into any agreement to provide financing for any Category A investment fund project as defined by the Corporation's environmental handbook, or comparable project, unless all relevant environmental impact statements and assessments and initial environmental audits with respect to the project are made available for a public comment period of not less than 60 to 120 days.".

H.R. 1993

OFFERED BY: MR. ROHRABACHER

AMENDMENT NO. 6: Page 6, add the following after line 25 and redesignate succeeding sections, and references thereto, accordingly.

SEC. 5. PROHIBITION ON OPIC FUNDING FOR FOREIGN MANUFACTURING ENTERPRISES.

Section 231 of the Foreign Assistance Act of 1961 (21 U.S.C. 2191) is amended by adding at the end the following flush sentence:

"In addition, the Corporation shall decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's investment if the investment is to be made in any manufacturing enterprises in a foreign country.".

H.R. 1993

OFFERED BY: MR. SANFORD

AMENDMENT NO. 7: Page 6, line 23, strike "Section" and insert "(a) IN GENERAL.—Section".

Page 6, line 25, strike "2003" and insert "2000".

Page 6, add the following after line 25:

(b) OVERSIGHT HEARINGS.—Prior to considering legislation to authorize issuing authority for OPIC's insurance and financing programs for any fiscal year after fiscal year 2000, the Committee on International Relations of the House of Representatives shall conduct an oversight hearing on the compliance by OPIC with laws, treaties, agreements, general policies, and obligations to which OPIC is subject in the implementation of its programs.

H.R. 1993

OFFERED BY: MR. SANFORD

AMENDMENT NO. 8: Page 6, line 25, strike "2003" and insert "2000".

H.R. 1993

OFFERED BY: MR. TERRY

AMENDMENT NO. 9: Page 6, insert the following after line 21:

(9) OPIC must address concerns that it does not promptly dispose of legitimate claims brought with respect to projects insured or guaranteed by OPIC. The Congress understands the desire of OPIC to explore all possible arrangements with foreign parties. However, OPIC must be aware that private parties with legitimate claims face financial obligations that cannot be deferred indefinitely.

H.R. 1993

OFFERED BY: MR. TERRY

AMENDMENT NO. 10: Page 6, add the following after line 25, and redesignate succeeding sections, and references thereto, accordingly:

SEC. 5. CLAIMS SETTLEMENT REQUIREMENTS FOR OPIC.

(a) TIME PERIODS FOR RESOLVING CLAIMS.—Section 237(i) of the Foreign Assistance Act of 1961 (22 U.S.C. 2197(i)) is amended—

(1) by inserting "(1)" after "(i)"; and

(2) by adding at the end the following:

"(2) The Corporation shall resolve each claim arising as a result of insurance, reinsurance, or guaranty operations under this title or under predecessor guaranty authority within 90 days after the claim is filed, except that the Corporation may request specific supplemental information on the claim before the expiration of that 90-day period, and in that case may extend the 90-day period for an additional 60 days after receipt of such information.

"(3) The Corporation shall pay interest at the prime rate on any claim for each day after the end of the applicable time period specified in paragraph (2) for settlement of the claim.".

H.R. 1993

OFFERED BY: MR. TERRY

AMENDMENT NO. 11: Page 6, add the following after line 25, and redesignate succeeding sections, and references thereto, accordingly:

SEC. 5. RESTRICTION ON CONTACTS RELATING TO OPIC CLAIMS SETTLEMENTS.

(a) PUBLICATION OF FEDERAL AGENCY INTERVENTIONS.—Section 237(i) of the Foreign Assistance Act of 1961 (22 U.S.C. 2197(i)) is amended—

(1) by inserting "(1)" after "(i)"; and

(2) by adding at the end the following:

"(2) No other department or agency of the United States, or officer or employee thereof, may intervene in any pending settlement determination on any claim arising as a result of insurance, reinsurance, or guaranty operations under this title or under predecessor guaranty authority unless such intervention is published in the Federal Register.

"(3) The Corporation shall report to the Congress on any intervention, by any other department or agency of the United States, or officer or employee thereof, regarding the timing or settlement of any claim arising as a result of insurance, reinsurance, or guaranty operations under this title or under predecessor guaranty authority. The report shall be submitted within 30 days after the intervention is made.".

H.R. 1993

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 12: Page 10, strike line 13 and all that follows through line 24 and insert the following:

(d) REPORTS ON MARKET ACCESS.—

(1) ANNUAL REPORTS.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the ITA should submit to the Congress, and make available to the public, a report with respect to those countries selected by the ITA in which goods or services produced or originating in the United States, that would otherwise be competitive in those countries, do not have market access. Each report should contain the following with respect to each such country:

(A) ASSESSMENT OF POTENTIAL MARKET ACCESS.—An assessment of the opportunities that would, but for the lack of market access, be available in the market in that country, for goods and services produced or originating in the United States in those sectors selected by the ITA. In making such assessment, the ITA should consider the competitive position of such goods and services in similarly developed markets in other countries. Such assessment should specify the time periods within which such market access opportunities should reasonably be expected to be obtained.

(B) CRITERIA FOR MEASURING MARKET ACCESS.—Objective criteria for measuring the extent to which those market access opportunities described in subparagraph (A) have been obtained. The development of such objective criteria may include the use of interim objective criteria to measure results on a periodic basis, as appropriate.

(C) COMPLIANCE WITH TRADE AGREEMENTS.—An assessment of whether, and to what extent, the country concerned has materially complied with existing trade agreements between the United States and that country. Such assessment should include specific information on the extent to which United States suppliers have achieved additional access to the market in the country concerned and the extent to which that country has complied with other commitments under such agreements and understandings.

(D) ACTIONS TAKEN BY ITA.—An identification of steps taken by the ITA on behalf of United States companies affected by the lack of market access in that country.

(2) SELECTION OF COUNTRIES AND SECTORS.—

(A) IN GENERAL.—In selecting countries and sectors that are to be the subject of a report under paragraph (1), the ITA should give priority to—

(i) any country with which the United States has a trade deficit if access to the markets in that country is likely to have significant potential to increase exports of United States goods and services; and

(ii) any country, and sectors therein, in which access to the markets will result in significant employment benefits for producers of United States goods and services.

The ITA should also give priority to sectors which represent critical technologies, including those identified by the National Critical Technologies Panel under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683).

(B) FIRST REPORT.—The first report submitted under paragraph (1) should include those countries with which the United States has a substantial portion of its trade deficit.

(C) TRADE SURPLUS COUNTRIES.—The ITA may include in reports after the first report such countries as the ITA considers appropriate with which the United States has a trade surplus but which are otherwise described in paragraph (1) and subparagraph (A) of this paragraph.

EXTENSIONS OF REMARKS

WORKING FAMILIES NEED HEALTH PLANS THAT WORK

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 12, 1999

Mr. GEJDENSON. Mr. Speaker, at long last, the House of Representatives has passed legislation to inject some accountability into the managed care industry. Serious debate to reform health care in this country was long overdue. We could no longer wait for another person to die from lack of care or another doctor to be reprimanded by an HMO for discussing all available treatment options with a patient before taking steps towards change.

Right now, we have a system where HMOs make more money when they deliver less care. To stop the abuses that HMOs inflict on their patients and to make health care more affordable, we have to ensure that patients and their doctors, not accountants, have control of the health care system. That is why it was so important to pass the Patient's Bill of Rights. This bipartisan legislation, which I supported, remedies a number of the problems with an HMO system that currently values profits over patient care.

Access to medically needed care, including access to emergency rooms and specialists, is a fundamental element of the Patient's Bill of Rights. This legislation will also ban gag rules on physicians and end some HMOs' practice of offering financial incentives to withhold necessary treatment. This bill will guarantee timely internal appeals, as well as an independent external appeals process, when plans deny care. Finally, the Patient's Bill of Rights holds plans legally accountable when their profit-drive decisions result in serious injury or death. People need real ways to hold HMOs responsible.

Unlike the Patient's Bill of Rights, the Republican substitutes prohibit patients from suing HMOs when care is improperly denied. In too many instances, courts are the only advocate that consumers have in their battles with multi-billion dollar companies. The health insurance industry, which makes $952 billion a year, does not need protection from lawsuits. When one of your family members dies because an HMO denies access to proper care, the Republican substitutes' only recourse is an external appeal—that's too little, too late. No other industry enjoys such a powerful, Congressionally-mandated shield from liability for their negligence. By rejecting the Republican substitutes, Congress demonstrated that it's time to remove protections for health plans and focus on providing more protections for patients.

We must create a better system for everyone who gives or receives health care in this country. The people who make America work deserve health plans that work for them and their families. By passing the Patient's Bill of Rights, we have taken our first step towards real reform.

TRIBUTE TO FRANK E. FIORILLI UPON RETIREMENT FROM CECOM, FORT MONMOUTH

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 12, 1999

Mr. PALLONE. Mr. Speaker, I want to recognize the achievements and contributions of Mr. Frank E. Fiorilli, Deputy for Business and Strategic Planning for the Army's Communications-Electronics Command (CECOM) at Fort Monmouth, NJ.

Mr. Fiorilli is retiring after 34 years and a luncheon in his honor will be held on October 27. This will be a special occasion for a very special individual—one of those talented civil service managers in whom we invest our faith and trust to successfully carry out an important national security responsibility.

Mr. Fiorilli began his distinguished career as a presidential intern in 1965. Born in Newark, NJ, he received a bachelors degree cum laude from Rutgers in 1965. He has been serving his country ever since.

The principal function of CECOM at Fort Monmouth is to ensure that our soldiers in the field have advanced communications equipment that will protect them and contribute to the success of their battlefield mission. We have been fortunate over the years to have, at Fort Monmouth, highly skilled engineers and other professionals who develop and procure this equipment—a critical component of our military's worldwide success.

Frank Fiorilli has established the foundation for the Army to adequately and properly provide advanced communications equipment for the "Army After Next." He has done this with a combination of creativity and organizational skill that we should honor and encourage in all our senior Federal managers. I congratulate Mr. Fiorilli and wish him a well-deserved and fulfilling retirement.

TRIBUTE TO DR. D. JAMES KENNEDY, A TRUE CHRISTIAN STATESMAN

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 12, 1999

Mr. JONES of North Carolina. Mr. Speaker, it is clear when reading both the Declaration of Independence and the Constitution of the United States, that our Founding Fathers recognized the important role that God and the Bible would play in guiding our Nation's leaders who governed the world. Today, it is becoming clear that the Judeo-Christian principles this nation was founded upon are as critical to the future progress and stability of this nation as they have been in the past. In fact, the 18th President of the United States, Ulysses S. Grant, emphasized the important relationship between the Bible and the freedom that you and I enjoy today. He said, (and I quote) "Hold fast to the Bible as the sheet anchor of your liberties; write its precepts on your heart and practice them in your lives. To the influence of this Book we are indebted for the progress made, and to this we must look as our guide in the future."

Mr. Speaker, there is a man of Christian faith, a leader within our society today who is working to remind you and I to keep this same spirit of faith and freedom alive. That man is Dr. D. James Kennedy, a true Christian statesman. Mr. Speaker, when I was elected in 1994 to represent the citizens of Eastern North Carolina, Dr. Kennedy presented every newly elected Member with a copy of the New Geneva study Bible. In the front cover is a note stating his hope that we would read and apply the messages we found in the scripture to our work and our daily lives—just as Ulysses Grant proposed. Mr. Speaker, I begin and end each day on my knees in prayer. I pray for guidance in the decisions I make that affect the American people. In the last 5 years, I have often reached for the Bible that Dr. Kennedy gave to me for inspiration, encouragement, and a sense of hope.

Mr. Speaker, Dr. Kennedy embodies the ideal of Christian statesmanship. In fact, he has dedicated his life to celebrate and share God's word. In 1959, he became the founding pastor of the Coral Ridge Presbyterian Church in Florida. This year, as the church celebrates its 40th anniversary, Dr. Kennedy is the most widely listened-to Presbyterian minister in the world. His broadcast messages are televised to 35,000 cities and towns across the United States. But Dr. Kennedy's commitment to evangelism and strengthening our nation's communities extends well beyond his role as senior minister to Coral Ridge Church. In 1962, he created a lay-witnessing program called Evangelism Explosion International, which is used in every nation to encourage growth in congregations around the world.

Dr. Kennedy also founded the Westminster Academy in 1971 to provide quality Christian education for the citizens of Fort Lauderdale, Florida. In addition, he started Knox Theological Seminary in 1990, which now offers courses in the United States as well as in Seoul, Korea. Mr. Speaker, last fall I had the unique opportunity to participate and see first hand, Dr. Kennedy's efforts to encourage and motivate people of faith. Coral Ridge Ministries is the television and radio outreach of Dr. Kennedy's word, which this year celebrates its 25th anniversary. One of the television programs his ministry airs is called "The Power of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

One." The program recognizes individuals in our Nation's communities who are working to promote Christian values. One such person is Rebecca Mason, a 10-year old girl from the Third District of North Carolina, which I am proud to represent. Rebecca became frustrated with the state of our country after learning some frightening facts about the rate of crime and violence in our Nation's neighborhoods. Rebecca could not understand why more people of faith were not taking action, so she decided to do something about it. She created a petition for Christian values, calling upon all Americans to stand up and take action to promote and preserve the morals and values we learn from the Bible. Rebecca's efforts were featured on Dr. Kennedy's "Power of One" program. As a man of strong religious conviction myself and as Rebecca's Congressman, I was asked to participate in the program. It was an honor for me to be part of a television program that recognizes the citizens who are taking action to make their communities and their nation stronger. In fact, it reminded me of one of my favorite Bible verses from Isaiah book 6, verse 8. It says, "Also I heard the voice of the Lord, saying Whom shall I send, and who will go for us? Then said I, Here am I; send me."

Mr. Speaker, Dr. Kennedy, like Rebecca Mason, has answered God's call, and he has devoted his life to serving as a messenger of God's word. Today, I am proud to recognize his efforts during this exciting year of celebration to show my respect for his devotion and his commitment to spread the message of hope to all America. Thank you Dr. Kennedy, for reminding those of us who serve the American people—and all citizens—that faith and freedom go hand in hand. Happy anniversary. May God continue to Bless you and give you the strength to continue sharing His message with the world.

100TH ANNIVERSARY OF THE GHENT BAND

HON. JOHN E. SWEENEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 12, 1999

Mr. SWEENEY. Mr. Speaker, I rise to congratulate Ghent Band on their 100th anniversary in entertaining the communities of Columbia County, located in the heart of the 22nd Congressional District, which I proudly represent.

Founded in 1899 by 15 members, the Ghent Band continues to make history while other bands in New York have become history. Inspired by nationally touring bands like John Philip Sousa, the original 15 members gathered old, second hand instruments and began rehearsing weekly at the Old Ghent School House. To this day, the band plays on, serving as Columbia County's only full-fledged village band.

Mr. Speaker, for a full century the Ghent Band's music has filled the hearts of the young and old, creating lasting memories at the many parades and concerts at which they play. The Ghent Band holds a special place in my own heart as they were present at the inauguration celebrating my swearing in to the House of Representatives.

Given the diversity of age and background of the band's members, as well as their strong ties to the local community, I have no doubt that the Ghent Band will continue on for an additional 100 years.

Mr. Speaker, the Ghent Band is America at its best, representing all that is good in this nation. I wish its members and their families the best as they celebrate 100 years of serving and entertaining the Village of Ghent.

BIPARTISAN CONSENSUS MANAGED CARE IMPROVEMENT ACT OF 1999

SPEECH OF

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. GILMAN. Mr. Speaker, I rise today in support of H.R. 2723, the bipartisan consensus Managed Care Improvement Act. This important piece of legislation is long overdue and I am pleased to be a cosponsor of this bipartisan bill that will reform the managed care industry. I commend Mr. NORWOOD and Mr. DINGELL for their diligent work and determination in bringing this bill to the floor today and the House leadership for scheduling debate on this bill.

H.R. 2723, will bring about necessary changes to the managed care industry by bringing the attention of HMOs back to the needs of the American public. For too long, these insurance companies have been driven by profits and have lost sight of their true responsibility, to provide a quality service to those Americans who pay for insurance each month. All too often we hear stories from our constituents who have had numerous conflicts with their insurance companies, ranging from denial of coverage for preventative procedures and medically necessary treatments to denial of reimbursement for trips to emergency rooms and specialists. Americans pay their monthly premiums and expect that if the time comes when they need to seek out medical assistance, they should not have to worry about whether or not their HMO is going to oppose the necessity of their visit to a doctor.

Americans should be able to see specialists such as a cardiologist or oncologist without obtaining a referral from their primary physician, a chore which merely takes up time, time that may be better served by immediately seeing a specialist. Moreover, women should have direct access to their obstetrician-gynecologist and parents should have the option to select a pediatrician as their child's primary physician. Under current guidelines, this is not an option. However, these issues would be addressed by the passage of H.R. 2723.

The major concern that has been brought to my attention by my constituents has been the issue of employer liability. I am gratified that this bill contains a self-executing managers amendment that will directly address this concern. With the passage of H.R. 2723, language will be implemented which clearly states that an employer can not be held liable unless they are making medical decisions. An employer can provide health care coverage for their employees and set the parameters of that coverage with the knowledge that they will not be sued by an employee should the HMO make a negligible medical decision that results in injury or death.

The intent of this legislation is to make managed care coverage more user friendly. To provide the necessary information to policyholders up front so that the frequency of injuries and deaths due to negligent decisions by the HMO decreases. However, there will be times when an HMO fails to provide coverage for services that a policy holder is entitled to. It is for these cases, that the individual has the ability to hold the HMO accountable for its negligent decisions. In cases of personal injury or death, the individual deserves the right to sue the insurance company and hold them financially responsible for their irresponsible decisions. It is for this reason that I strongly support the liability portion of this bill.

I am confident that by requiring health plans to disclose information to policyholders regarding coverage of benefits, doctors, facilities, and claim procedures, the need to proceed to a judicial solution should not occur as often as opponents of this bill insist.

Accordingly, I urge my colleagues to stand up and fight for the rights of the American public and to support passage of this legislation.

VETERANS AFFAIRS MEDICAL CENTER IN GRAND JUNCTION, COLORADO HONORED

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 12, 1999

Mr. MCINNIS. Mr. Speaker, I would like to take a moment to honor not one individual but a team who has dedicated their time, effort, and care into making the smallest VA hospital in the Country, the best. The employees of the Grand Junction VA hospital have changed health care in this country as we know it. Their unparalleled care for the patient has won them the Department of Veterans Affairs highest honor.

The Robert W. Carey Quality Award trophy is given to one facility each year to recognize organizational effectiveness and performance through quality management. It was the first time that the hospital submitted the entry form which was fifty pages long and took five months to process. The employees of the Grand Junction VA hospital patiently waited to hear back while a Department of Veteran Affairs panel reviewed applications. Soon after a panel visit to the hospital and a final ranking decision by a panel of outside judges, they were chosen for the award.

The basis for their winning the award are numerous and well founded. Among them, their work in the revolutionary, primary-care approach to health care that began in 1988. They call it a "virtual circle of care" in which patients see the same physician, nurse, clerk, and social worker each time they visit the hospital. This allows for more personalized care which pays off on a large scale. Health care providers become familiar with the patients they see, therefore providing outstanding, personalized service to them. Also recognized was their work on the Disabled Veterans Winter Sports Clinic, which brings veterans to Crested Butte every weekend.

In addition to these accolades, Mr. Speaker, I would like to add a few final highlights. The administration's attention to the needs of the employee is another facet that makes this hospital so exceptional. They are constantly looking for ways to improve, including their anonymous e-mail system that allows employees to voice any concerns they might have or suggest any improvements they see necessary. Their volunteer program has also grown tremendously. People are getting involved to make a difference and they have.

It is with this, Mr. Speaker, that I honor this institution, on behalf of the people of Western Colorado, for their accomplishments in the health care of our nation's veterans and say thank you for their care and hard work.

TRIBUTE TO FRANK FARRELL

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 12, 1999

Mr. McGOVERN. Mr. Speaker, I rise today to pay tribute to one of Massachusetts' finest leaders, Frank Farrell. Frank is retiring this year after many years as President of the Worcester/Framingham Central Labor Council. I know that thousands of working families throughout Central Massachusetts join me in thanking Frank Farrell for his years of hard work and dedication.

Since 1955, when he was hired as a quality control inspector at Olson Manufacturing in Worcester, Frank Farrell has been a member of the United Steelworkers of America. He has very active in his local union and rose to its presidency in 1965.

He has also been active in the Worcester/Framingham Central Labor Council, and was elected as its president in 1970—a post he has held for the last 20 years. For those 20 years Frank has fought the good fight—he has stood shoulder-to-shoulder with the men and women in organized labor and their families. He has advocated for better wages, better health care, better retirement and better working conditions. Central Massachusetts is a better and safer place to work today because of the hard work put in by Frank Farrell.

Again, Mr. Speaker, I want to pay tribute to Frank; his wife Jan; their 3 children Frank III, Steven and Lisa; and their two grandchildren Bernard and Meressa. I wish them best wishes for a happy and healthy retirement. No one deserves it more.

CYPRUS PEACE TALKS

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 12, 1999

Mr. ANDREWS. Mr. Speaker, I rise today to congratulate President Clinton and Turkish Prime Minister Bulent Ecevit on the significant progress made on the subject of Cyprus during their recent talks in Washington.

I have always felt that Cyprus presents an exceptional opportunity for the United States to facilitate a successful solution because a settlement on this island is within reach. Cyprus is small in size and population, has clearly discreet borders as an island nation, and the international community is committed to the removal of Turkish forces and return of Cypriot sovereignty. Many United Nations and United States Congressional resolutions have been passed over the years expressing the internal community's and United States' commitment to a just and peaceful resolution to this conflict. Failure to secure a solution in Cyprus would undermine international law and UN resolutions, as well as contradicting official U.S. foreign policy, and our national interest in deterring aggressor states.

Failure to solve this problem also bolsters the false notion that ethnic conflicts are unsolvable and that their use as a pretext for international aggression is acceptable. However, over the past decade in Northern Ireland, in the Middle East, and in the former Yugoslavia, have proven that the international community, led by the United States, can and should negotiate and work for peace and an end to ethnic division and conflict.

Late last year, I urged President Clinton to get personally involved in resolving the Cyprus conflict by sending a special envoy, as he did in the Middle East and Northern Ireland. This past summer, I also asked the new Turkish Prime Minister to accept such an offer. I am extremely gratified by recent reports that these events have indeed taken place.

During their recent talks in Washington, Prime Minister Ecevit accepted President Clinton's offer to dispatch a special envoy to work toward a settlement of this quarter-century-old dispute. Indeed, special envoy Al Moses has already been appointed and soon will be beginning his work in this troubled region.

Again, I applaud the leadership of both President Clinton and Prime Minister Ecevit. The time has come for all efforts to be dedicated to resolving the abhorrent injustice of the division of Cyprus. We must all now redouble our efforts to bring peace and justice to the Mediterranean.

IN HONOR OF THE TEMPLE-TIFERETH ISRAEL ON THEIR 150TH ANNIVERSARY

HON. DENNIS J. KUCINICH

OF OHIO

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 12, 1999

Mr. KUCINICH. Mr. Speaker, I rise today to honor the 150th anniversary of The Temple-Tifereth Israel in Cleveland, OH. The Temple begins its year long celebration on Friday, October 15, 1999 with a Shabbat service and reception. This surely will be a historic occasion for the Temple members.

Just 11 years after the first Jewish settlers came to Cleveland, The Temple-Tifereth Israel was founded. In the past 150 years The Temple has been a cornerstone of the Jewish community in the Greater Cleveland Area. Rabbis with extraordinary vision and leadership and members with great commitment and activism have guided The Temple throughout its 150 years. The Temple has developed a flourishing religious school, passing on the traditions of the study of Torah and mitzvah to countless children, and currently boasts a membership of 1,600 families.

Organizations like The Temple-Tifereth Israel must be applauded and recognized for passing on traditions to so many generations of Ohioans. It is not often that organizations can last as long as The Temple, let alone thrive as has been the case for The Temple.

I urge my fellow colleagues to please join me in recognizing the dedication and faith of the families of The Temple-Tifereth Israel as they celebrate 150 years of service in the Greater Cleveland Area.

BIPARTISAN CONSENSUS MANAGED CARE IMPROVEMENT ACT OF 1999

SPEECH OF

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

The House in Committee of the Whole House on the State of the Union had under consideration of the bill (H.R. 2723) to amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the public Health Service Act, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

Mr. MOORE. Mr. Chairman, I am very pleased that on October 7, 1999, the House of Representatives passed the long-overdue Bipartisan Consensus Managed Care Improvement Act (H.R. 2723) by such a large margin. I truly believe that H.R. 2723 is good, common-sense legislation that will protect the interests of patients in contracts with health insurers. I am attaching a letter signed by representatives of the Kansas Association of Osteopathic Medicine, the Kansas Dental Association, the Kansas Medical Society, the Kansas Pharmacists Association, the Kansas State Nurses Association, the National Association of Social Workers—Kansas Chapter and the Kansas Trial Lawyers Association expressing support for H.R. 2723.

I am a cosponsor of H.R. 2723 and supported passage, although I was very disappointed that the Republican leadership did not allow Representatives Norwood and Dingell to offer an amendment to pay for provisions in the managed care bill. Their amendment would have provided $7 billion in offsets for revenue losses estimated to result from increased deductions for higher medical premiums. I fully expect the conferees to offset this cost to gain my support for the final bill, and I am encouraged that the President has said that he will not sign the final bill unless it is fully offset.

On October 6, 1999, I opposed final passage of H.R. 2990, the so-called "access" bill.

This bill was estimated by the Joint Committee on Taxation to cost $48.7 billion over 10 years with not offsets. Sponsors of H.R. 2990 claim that it will be paid for out of the projected budget surplus, which is based upon the assumption that Congress will abide by the spending caps enacted in the 1997 budget agreement. The Congressional Budget Office, however, has estimated that Congress has already voted to increase spending by at least $30 billion over the caps for fiscal year 2000, which will require tapping into the Social Security Trust Fund. I voted against H.R. 2990 because I made a commitment not to spend one penny of the Social Security surplus.

Let me make one thing clear—I do not believe that legislation to protect patients and efforts to make health care more accessible are mutually exclusive. As a member of the Small Business Committee, I am working hard to expand health coverage to the 43 million Americans who lack it, since more than 60% of the uninsured have one thing in common—they are either self-employed, or their primary breadwinner is employed by a small business that cannot afford to provide health benefits.

To this end, I am a cosponsor of H.R. 1496, the Small Business Access and Choice for Entrepreneurs Act. This legislation would do two things: 1) Offer immediate 100% health insurance deductibility for the self-employed; and 2) strengthen and expand Association Health Plans (AHPs) for small business owners. AHPs would allow small businesses and the self-employed to join together to obtain the same economics of scale, purchasing clout, and administrative efficiencies from which large health insurance purchasers currently benefit. AHPs will give small employers the ability to design more affordable benefit options, offer workers more choices, and promote greater competition in the health insurance market.

I look forward to continuing to work with my colleagues to ensure adequate patient protections and access to health care for all Americans.

KANSAS STATE NURSES ASSOCIATION
October 5, 1999.

Congressman DENNIS MOORE,
Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN MOORE: On behalf of organizations concerned about health care in our state, we are writing to ask your support of the bipartisan Consensus Managed Care Improvement Act (HR 2723) by Charlie Norwood and others.

It is our understanding that this important legislation will be up for consideration the week of October 4. We ask that you support this legislation because it provides the best patient protection by addressing these important elements:

- Allows patients to obtain the medical care they need
- Protects nurses, physicians and other health care professionals who advocate for their patients
- Holds health care plans accountable by removing the ERISA preemption
- Has a strong external review component
- Determines "medical necessity" according to generally accepted standards of medical practice by a prudent physician
- Prohibits gag clauses and practices
- Provides accurate disclosure of costs and benefits

Kansans, just like the majority of Americans, want strong patient protections from managed care. H.R. 2723 represents your best opportunity to provide these protections. Please don't vary from this approach.

Thank you,

Respectfully Submitted,

CHIP WHEELAN,
Kansas Association of Osteopathic Medicine.
KEVIN ROBERTSON,
Kansas Dental Association.
JERRY SLAUGHTER,
Kansas Medical Society.
BOB WILLIAMS,
Kansas Pharmacists Association.
TERRI ROBERTS,
Kansas State Nurses Association.
SKY WESTERLUND,
National Association of Social Workers, Kansas Chapter.
TERRY HUMPHREY,
Kansas Trial Lawyers Association.

TRIBUTE TO GREG MAJORS, A DEDICATED INDIVIDUAL

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 12, 1999

Mr. McINNIS. Mr. Speaker, it is with great pride that I take a moment to recognize Greg Majors who has routinely gone above and beyond the usual duties to make his business and community a better place. He has recently been awarded the 1999 Sam Walton Business Leader Award, which honors local business people who best exemplify the principles of Wal Mart founder, Sam Walton.

Greg Majors is a driven man who has many positive ideas for change and improvement. He is involved in many organizations which are both business and community oriented. For the past nineteen years he has been with Norwest Banks. The last eight he has spent in Montrose as manager of Business Banking. There he is revered among his employees as an honest and likeable man.

In addition, Greg has served as director of MEDC for the past four years, two of which he served as president. He has also been the director of the Montrose Memorial Hospital Board of Trustees for the past three years. As if the aforementioned activities are not enough for one man, Greg also serves on the board of trustees of the Montrose United Methodist Church and for the past six years he has been an active member of the Rotary Club.

Mr. Speaker, as you can see, Greg Majors is a valuable asset to the community of Montrose. So, it is with this that I say thank you to this man on behalf of the people of Western Colorado for his dedicated service and I wish him well in all his future endeavors.

TRIBUTE TO DEPUTY SHERIFF ERIC ANDREW THACH

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 12, 1999

Mr. CALVERT. Mr. Speaker, I rise today along with my colleague Congresswoman MARY BONO, with a heavy heart to pay tribute to a fallen deputy sheriff from Sun City, California. Deputy Sheriff Eric Andrew Thach died Friday in the line of duty for his Riverside County community. We send our condolences and prayers to his family, neighbors and the community.

Eric Thach was 34 years of age and employed with the Riverside County Sheriff's Department for three years, since September 1996. He leaves behind his young wife, Evelyn, and daughter, Shana. He also leaves behind neighbors and a community that will miss his constant self-sacrifice, generosity and quiet demeanor. And, now those left behind must pull together to support and strengthen each other during the coming months and years as they heal.

"Deputy Sheriff Eric Thach lived his life with strength and courage. He was a good man, taken from us too soon . . . He will live on in our memory and in the many respects paid to him by the community," stated Riverside County Sheriff Larry D. Smith.

Eric Thach's sacrifice will be further remembered as his name is engraved next to the names of three fellow officers, also felled in the line of duty. The marker sits outside the Riverside County Sheriff's Department as a reminder to us all of the selfless duty for law enforcement officers assume as they protect the people or Riverside County—a sacrifice that we often take for granted. As Madam de Stael once said, "We understand death for the first time when he puts his hand upon the one whom we love."

The National Law Enforcement Officer Memorial, though, says it the best, that "it is not how these officers died that made them heroes, it is how they lived." Many of us can not truly understand the latent danger associated with the day to day routines of our law enforcement officers. They put themselves in the line of danger everyday as they stop a vehicle, respond to an incident or a suspicious circumstances—like Deputy Thach. The danger and violence they face day in and day out is very real and it is times like these—sadly—that make us stop and honor our law enforcement officers. We hope that they be given such honor, respect and thanks always—not only when life's fragile nature is revealed. Deputy Eric Thach lived his life with this constantly in the forefront and his memory can be best served by us all doing the same.

Mr. Speaker, we ask that you and our colleagues join us today to remember this fine deputy. On behalf of the residents of Riverside County, we extend our prayers and most heartfelt sympathy to his family and loved ones.

BIPARTISAN CONSENSUS MANAGED CARE IMPROVEMENT ACT OF 1999

SPEECH OF

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 7, 1999

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2723) to amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

Ms. SANCHEZ. Mr. Chairman, I rise today to share with my colleagues the stories of families in my District who have needlessly suffered in the absence of a real Patients' Bill of Rights.

I want to share with you a story that happened to one of my constituents in what is believed to be the first real brittle bone disease case in Orange County that has gone to trial.

Imagine this man's horror when his son was taken away and given to Child Protective Services because of alleged child abuse. This child was not abused, the child had an incurable disease that was mis-diagnosed.

It is unfathomable to me that the system, which is here to protect patients, would use outdated methods to diagnose this disease, have the patient suffer and not have Patient Protection Legislation for the worst case scenario to safeguard them from medical incompetency.

Since I came to Congress, I have listened closely to the managed care reform debate. I have also read the newspapers, seen the polls, and continue to hear the horror stories.

This past weekend, I did what every member of Congress should be doing; I heard from my constituents.

I learned that my constituents do want reform and do want some type of "Patients' Bill of Rights." They want Congress to initiate reform and to keep the interest of the patients in mind.

My constituents believe that HMO's are the future of healthcare, but they want to make sure that care is put above profits.

The Democratic Patients' Bill of Rights returns medical decisions back to America's families and their doctors. It is based on proposals endorsed by America's family doctors.

Any bill we pass is going to affect each one of my constituents, millions of Americans, and thousands of Orange County residents. But only the Democratic bill will cover all 161 million Americans with private insurance.

The American public cannot continue to afford the absence of Managed Care Reform. But the worst thing we could do is pass legislation that puts consumers in a worse situation than they are today.

That is exactly what the Republican piecemeal managed care legislation would do. The Republican proposal is a minimalist bill that stops short of offering real Patient Protection Legislation.

We need to pass Managed Care protection legislation and we need to pass it in this Congress.

HONORING JOHN BARONE AS HE IS NAMED WEST HAVEN ITALIAN-AMERICAN OF THE YEAR

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 12, 1999

Ms. DELAURO. Mr. Speaker, it gives me great pleasure to stand today to join with the community of West Haven, CT, as they honor my dear friend, John Barone, as Italian-American of the Year.

This weekend is special to Italian-Americans across the Nation. We join together to commemorate the historic voyage of Christoforo Colombo and celebrate the strength of our heritage. Colombo's determination, hard work, and courage led the way across the seas for millions to follow. These immigrants—our parents and grandparents—had little more than hope and determination, yet they built the strong, vital communities that have become the backbone of Connecticut and our great Nation. Each year, the West Haven community honors a member who has demonstrated this same leadership and courage. This year, that man is John Barone.

John has been a driving force in the West Haven community since he and his wife, Ann, first made their home here 48 years ago. John illustrates the vital difference an individual can make in a community. Through his years of dedication to the Italian-American Club and his unfailing efforts to improve the quality of life for the families of West Haven, John has always endeavored to help his neighbors in any way that he could. With his ever-present cigar, and accompanying smile, John's warmth and compassion have become a true source of inspiration and comfort to our community.

John has spent his life preserving and promoting the strong values of Italian-Americans—hard work, family and neighbors, and the importance of keeping our traditions and heritage alive. Last year, I had the opportunity to join family, friends, and over 100 community members who gathered to dedicate the West Haven Beach Bocce courts in his honor. Bocce is a game that combines strategy, skill, and determination. Carrying the true spirit of Italian culture, it is played in Italian-American neighborhoods across the country. John's love of bocce is well-known. His determination to create easy access to the game for the residents of West Haven, and dedication to bringing them together to share and enjoys a game that has its origins in 19th century Italy is truly characteristic of John. Today, these courts provide endless hours of enjoyment for people of all ages from dawn until dusk.

John is an extraordinary individual who has spent his life striving to improve the quality of life for all members of the West Haven community. He is a true friend and I am proud to rise today to recognize his accomplishments and join with family, friends, and the West Haven community as they name him this year's Italian-American of the Year.

IN HONOR OF GREGORY "GQ" JOHNSON

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 12, 1999

Mr. KUCINICH. Mr. Speaker, I stand today with a heavy heart grieving for Gregory "GQ" Johnson, a nineteen year old resident of Cleveland Ohio. Young Gregory Johnson died of complications of diabetes in September.

Gregory "GQ" Johnson was an exemplary young man. As a member of the City Year Cleveland Public Service Program, he dedicated much of his time and energy to tutoring younger children. Gregory especially liked to work with withdrawn or overly aggressive children. Through his inspiration and devotion, many of the children he helped became more focused on the studies and some even began to confide in him. Gregory Johnson was one who could be trusted and relied on. The time he spent with the children he helped will be remembered and cherished.

Gregory will be greatly missed. My distinguished colleagues, please join me in remembering and honoring Gregory "GQ" Johnson, a very special young man who dedicated his life to teaching others.

A TRIBUTE TO RECENT INDUCTEES TO THE SWIRE COCA-COLA MAVERICK HALL OF HONOR

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 12, 1999

Mr. MCINNIS. Mr. Speaker, I rise to recognize Ron Bell, Bob Engle, Jeff Russell, and Shawn Smith who were all inducted into the Swire Coca-Cola Mesa State Maverick Hall of Honor last week. These individuals have shown just what can be achieved through hard work and dedication and are most worthy of this coveted distinction. It is with this that I would like to now honor each of these distinguished Mesa State alums.

It is a rare feat to hold a National record for more than a year in any track and field event. Ron Bell held the National record for the javelin throw for forty years. His throw, back in 1959 measured 207 feet, 1½ inches. He did this not with a personal javelin that he had practiced with many times, but one that he borrowed from the opposing team. Bell, who is now sixty years old, has had many athletic achievements in his time ranging from the 1958 Mesa Junior basketball team which was the first to compete in the junior college national tournament to earn a spot on the Brigham Young basketball team.

Bob Engle is a man who has given years of service to his country in the United States Army. His achievements, thereafter, are the stuff of legend. His two year stay at Mesa Junior college had numerous highlights. He was twice named to the Topps district All Star Team, was awarded a spot on the All-Junior College World Series team in 1969, and in 1970 he was an All-Region XVIII selection. After stays on the Baltimore Orioles and the Toronto Blue Jays, he worked his way up the scouting ladder to his current position in the Blue Jays office as senior advisor of baseball operations.

Rarely do you hear of someone being a four-time All American in any sport. Jeff Russell was the only four-time All America athlete at Mesa State College in two sports. He placed fifth in the nation in wrestling in 1988 and third in the nation the following season. More recently Russell has received honors for his work as a police officer. In 1994 he was named American Legion Officer of the Year.

Heralded as the "best basketball player ever at Mesa State College," Shawn Smith led the first Mesa team to go to the NAIA national tournament. Among his many accolades, Smith was named to every all-state team in Colorado and honorable mention All-American. He also led the state in scoring his senior year.

As you can see, Mr. Speaker, these athletes all warrant the highest of honors. I am proud to honor them now and say congratulations for their acceptance into the Swire Coca-Cola Maverick Hall of Honor.

SUPPORTING THE TRANSITION TO DEMOCRACY IN INDONESIA, H. CON. RES. 195

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 12, 1999

Mr. GILMAN. Mr. Speaker, I am proud to introduce today a Resolution supporting the transition to democracy in Indonesia. Indonesia's highest legislature, the People's Consultative Assembly (MPR), is in the process of choosing the country's next President and Vice President and ultimately setting the course for the founding of a new government. This process will culminate in a little over a week as a result of the first contested election since independence in 1945. On October 21st, a new President takes the helm of state and a new government will be formed. It is hoped and expected that this process will be free, fair and transparent and result in a reduction in the uncertainty which surrounds the country's political, economic, and social stability.

The MPR must quickly ratify the results of the popular consultation in East Timor and all parties should work closely together to ensure a smooth, peaceful transition of government. I fully support the aspirations of the Indonesian people in embracing democracy and it is my hope that the world's fourth largest country will soon become the world's third largest democracy.

Accordingly, I request that the entire text of H. Con. Res. 195 be inserted at this point in the Record.

H. CON. RES. 195

Whereas the Republic of Indonesia is the world's fourth most populous country, has the world's largest Muslim population, and is the second largest country in East Asia;

Whereas a stable and democratic Indonesia is important to regional and American interests;

Whereas on June 7, 1999, elections were held for the Indonesian People's Representative Assembly (DPR), which, despite some irregularities, were deemed to be free, fair, and transparent according to international and domestic observers;

Whereas over 100 million people—more than 90 percent of Indonesia's registered voters—participated in the election, demonstrating the Indonesian people's interest in democratic processes and principles; and

Whereas Indonesia's People's Consultative Assembly (MPR) convened on October 1, 1999, to organize the new government, ratify the results of the August 30, 1999, popular consultation in East Timor, and select the next President and Vice President of Indonesia: Now, therefore, be it

Resolved by the House of Representative (the Senate concurring), That the Congress—

(1) congratulates the people of Indonesia on carrying out the first free, fair, and transparent national elections in 44 years;

(2) supports the aspirations of the Indonesian people in pursuing democracy;

(3) calls upon all Indonesian leaders, political party members, military personnel, and the general public to respect the outcome of the elections;

(4) calls for the transparent selection of the next President and Vice President as expeditiously as possible under Indonesian law, in order to reduce the impact of continued uncertainty about the country's political, economic, and social stability and to enhance the prospects for the country's economic recovery;

(5) calls upon all parties to work together to assure a smooth transition to a new government; and

(6) calls for the People's Consultative Assembly (MPR) to ratify the results of the popular consultation in East Timor as expeditiously as possible.

IN TRIBUTE TO JAZZ GREAT MILT JACKSON

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 12, 1999

Mr. CONYERS. Mr. Speaker, I rise to pay tribute to jazz great, Milt Jackson. Milt Jackson was a wonderful person and magnificent talent who played the vibraphone in a way that emitted rich, warm sounds like no one else. Milt Jackson was born in Detroit and played many instruments prior to playing the vibraphone. Blessed with the gift of perfect pitch, he originally sang with the Detroit gospel group, the Evangelist Singers. He started playing jazz in high school with the Clarance Ringo and the George Lee Band but his new found jazz career was interrupted by a short stint in the Army. Upon discharge, Mr. Jackson founded his own jazz quartet called the Four Sharps.

Dizzy Gillespie, while in Detroit on a midwestern tour, spotted the quartet in a Detroit bar and promptly asked Mr. Jackson to join his band. By the time Mr. Jackson joined Gillespie's band, he was deeply under the influence of Charlie Parker. Jackson tried to emulate Parker's rhythmic traits and tried to achieve a hornlike quality to his sound. Jackson went on to create a new sound in the 1940's slowing down the motor on his Vibraharp's oscillator by one-third the speed to create a rich vibrato sound very similar to his own voice. Mr. Jackson was also knowledgeable in classical music and was involved in the jam sessions with Miles Davis and Gerry Mulligan which led to the "Birth of the Cool." One of the most significant musical achievements in Jackson's career was his over four decades of work as a member of the Modern Jazz Quartet which was formed in the early 1950's.

Milt always responded positively to my invitations to come and share his significant knowledge and talent at the annual Congressional Black Caucus Foundation jazz issues forum. The jazz issues forum was established to enhance and perpetuate the art form, emphasize cultural heritage, and forge awareness and pride within the African-American community. In 1987, the jazz issue forum in the United States Congress passed House Concurrent Resolution 57 which designates jazz to be "a rare and valuable national American treasure."

He will be missed greatly as Milt Jackson was one of the world's preeminent improvisors in jazz. His special brilliance will be enjoyed by jazz fans for all the ages.

[From the N.Y. Times, Mon., Oct. 11, 1999]

MILT JACKSON, 76, JAZZ VIBRAPHONIST, DIES

(By Ben Ratliff)

Milt Jackson, the jazz vibraphonist who was a member of the Modern Jazz Quartet for 40 years and was one of the premier improvisers in jazz with a special brilliance at playing blues, died on Saturday at St. Luke's-Roosevelt Hospital in Manhattan. He was 76 and lived in Teaneck, N.J.

The cause was liver cancer, said his daughter, Chyrise Jackson.

All the best jazz musicians know how to take their time, and Mr. Jackson was no different. Originally a singer in a Detroit gospel quartet, he created a new sound in the 1940's by slowing down the motor on his Deagan Vibraharp's oscillator to a third of the speed of Lionel Hampton's; a result, when he chose to let a sustained note ring, was a rich, warm smoky sound, with a vibrato that approximated his own singing.

"He came closer than anyone else on the instrument to making it sound like the human voice," said the young vibraphonist Stefon Harris yesterday. "It's a collection of metal and iron, and we don't have the ability to bend notes and make vocal inflections like a saxophone. But Milt played the instrument in the most organic way possible—with a warm, rich sound. He set a precedent that this instrument can speak beautiful things, and that it's not just percussive."

Mr. Jackson, who was born in Detroit, had become an impressively broad musician by the middle of his teen-age years. He had perfect pitch, and he began teaching himself guitar at the age of 7, started piano lessons at 11 and in high school played five instruments: drums, tympani, violin, guitar and xylophone; he also sang in the choir. By the age of 16, he had picked up the vibraphone as well, encouraged by a music teacher, and sang tenor in a popular gospel quartet called the Evangelist Singers as well as beginning his jazz career, playing vibraphone with Clarence Ringo and the George E. Lee band.

Out of high school, he almost joined Earl Hines's big band, but his draft notice intervened. In 1944, back in Detroit after two years of overseas military service, he set up a jazz quartet called the Four Sharps. (He admitted that he got his nickname, Bags, from the temporary furrows under his eyes incurred by a drinking binge after his release from the Army.) Dizzy Gillespie saw the quartet at a Detroit bar on a swing through the Midwest, and called upon Mr. Jackson in 1945 to join his band in New York.

Mr. Jackson's style, then and later, came from Charlie Parker, rather than Mr. Hampton, his most prominent precursor on the instrument; he not only tried to achieve a hornlike legato with his mallets, but he adopted many of Parker's rhythmic traits as well. He was the first bona fide bebop musician on the vibraphone, and became one of the prides of Gillespie's own band. Gillespie also brought him to Los Angeles to fill out his sextet at Billy Berg's club, hedging against the probability that Parker, who was in the band and at the low point of his heroin addiction, would fail to show up.

Back in New York in 1946, Mr. Jackson recorded some of bebop's classics with Gillespie's orchestra—"A Night in Tunisia," "Anthropology" and "Two Bass Hit." Mr. Jackson, the pianist John Lewis, the bassist Ray Brown and the drummer Kenny Clarke were the rhythm section of Gillespie's band. "Dizzy had a lot of high parts for the brass in that group," remembered Mr. Brown. "So he said, 'I have to give these guys' lips a little rest during concerts, and while they're resting, you should play something.'" The development of this rhythm section's relationship led to some recordings for Gillespie's own label, Dee Gee, by a new band known as the Milt Jackson Quartet.

Mr. Jackson left Gillespie and came back to him again for a period in the early 1950's. And in 1951, with Thelonious Monk, he made recordings that would further the idiom again, weaving his linear improvisations around Monk's abrupt, jagged gestures on pieces including "Criss Cross" and "Straight, No Chaser."

Mr. Lewis, the pianist, began to have ideas about forming a new group, one that would go beyond the notion of soloists with a rhythm section. He had an extensive knowledge of classical music, had been involved in the sessions with Miles Davis and Gerry Mulligan that would become known as "Birth of the Cool," and he envisioned a more deliberately formal feeling for a small band. In 1952 the Modern Jazz Quartet began, with Clark as drummer and Percy Heath as bassist. Connie Kay replaced Clarke in 1955. After a while, Mr. Lewis became the group's musical director.

The group wore tailored suits and practiced every aspect of their public presentation, from walking on stage to making introductions to the powerfully subdued arrangements in their playing. They wanted to bring back to jazz the sense of high bearing it had been losing as the popularity of the big bands was slipping and jazz became more of a music predicated on the casual jam-session. Through two decades of immaculately conceived and recorded albums on Atlantic Records, beginning in 1956, their vision was borne out. Initially, they found that audiences were somewhat startled by the authority of their quietness; eventually the group would be one of the few jazz bands embraced by an audience much wider than jazz fans.

Mr. Lewis economized, playing small chords and creating a light but sturdy framework for the music, and Mr. Jackson was the expansive foil, letting his tempos crest and fall, luxuriating in the passing tones and quick, curled runs of bebop. It was often supposed that he grew frustrated with his role in the band; in a recent interview Mr. Jackson said he felt that Mr. Lewis suppressed the group's sense of swing. In 1974 he left, dissolving the band until it reunited for the first of several tours in the 1980's. Mr. Kay died in 1994, and the Modern Jazz Quartet, with Mickey Roker sitting in for him, gave its last performance the following year.

Besides being widely acknowledged as one of the music's greatest improvisers, Mr. Jackson wrote a lot of music—most famously the blues pieces "Bags' Groove," "Bluesology" and "The Cylinder." He recorded widely. He made small-group and orchestral records in the early 1960's, collaboration albums with John Coltrane and Ray Charles, and a large number of records on the Pablo label during the 1970's and 1980's with Mr. Brown on bass, as well as Gillespie, Count Basie, Oscar Peterson and others. In 1992 he began a series of albums produced by Quincy Jones for the Qwest label; the most recent, from this year, was "Explosive!," recorded with the Clayton-Hamilton Jazz Orchestra. The last collaboration with Mr. Brown and Mr. Peterson, "The Very Tall Band," was issued this year by Telarc.

In addition to his daughter, of Fort Lee, N.J., he is survived by his wife, Sandra, of Teaneck, and three brothers: Alvin, of Queens, and Wilbur and James, both of Detroit.

SENATE—*Wednesday, October 13, 1999*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Today our prayer is taken from the Jewish Book of Service, Daily Prayers.

Let us pray.

We gratefully acknowledge that You are the eternal one, our God, and the God of our fathers evermore; the Rock of our life and the Shield of our salvation. You are He who exists to all ages. We will therefore render thanks unto You and declare Your praise for our lives, which are delivered into Your hands, and for our souls, which are confided in Your care; for Your goodness, which is displayed to us daily; for Your wonders and Your bounty, which are at all times given unto us. You are the most gracious, for Your mercies never fail. Evermore do we hope in You, O Lord our God. Amen.

PLEDGE OF ALLEGIANCE

The Honorable WAYNE ALLARD, a Senator from the State of Colorado, led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Mississippi.

SCHEDULE

Mr. COCHRAN. Mr. President, for the information of Senators, yesterday the Senate reached an agreement for 6 hours of debate on the Agriculture conference report. That time will expire today at 3:30 p.m. Senators may expect a vote on the conference report to occur then unless time is yielded back. The time will be controlled 2½ hours on each side, with 1 hour under the control of the Senator from Minnesota, Mr. WELLSTONE.

During the rest of the session today, the Senate will go back into executive session to complete consideration of the Comprehensive Nuclear Test-Ban Treaty. There are approximately 3 hours remaining for debate, so a vote is expected to occur prior to adjournment today. The Senate is also expected to begin consideration of the campaign finance reform legislation or any conference reports that may be available for action by the Senate.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the conference report accompanying H.R. 1906, which the clerk will report.

The bill clerk read as follows:

> Conference report to accompanying H.R. 1906, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2000, and for other purposes.

Mr. COCHRAN. Mr. President, under the agreement, I yield myself such time as I may consume on the Agriculture conference report.

As Senators will remember, we invoked cloture on this conference report yesterday. I think the vote was 79–20. So by a very decisive vote, the Senate has expressed its will that we should complete action on this conference report. So debate has been limited, by agreement, to 6 hours, as described in the announcement to the Senate.

I am very pleased we have reached this point. This has been a very difficult and hard to resolve conference agreement. There have been a lot of issues extraneous to the appropriations process this year that had to be considered because they were raised either in the Senate or during consideration of the conference report.

We have reached the point, though, that it is time to complete action on this conference report. We are appropriating funds for the fiscal year that began on October 1. So we have already begun the fiscal year during which the funds we will approve today will be needed. These funds are going to be allocated for administration by the Department of Agriculture among a wide range of programs. Sixty billion dollars are made available under the terms of this bill for programs of the Department of Agriculture including agricultural research, food and nutrition service, conservation programs, agricultural support programs, and rural development. We also have the responsibility of funding the Food and Drug Administration and the Commodity Futures Trading Commission activities under this bill. So funds are provided for those agencies as well.

I am very pleased that the conference agreement reflects a very strong commitment to the food safety initiatives. The President has been very active in his effort to increase funding for a number of those programs. Funds are provided for that—not all that the President wanted for every aspect of the program, but it is a well-balanced program.

We also fund the Food Safety Inspection Service of the Department of Agriculture. Under that program, we have inspection that is conducted at food processing plants throughout the country, trying to make sure the food that is made available in the marketplace in our country is safe and wholesome, trying to alleviate concerns and the risks of foodborne illnesses.

I daresay we have the best record of any country in the world in protecting our citizens from foodborne illnesses, and this is due in large part to those industries and those people who are involved every day in preparing and marketing the foods that make up the U.S. food supply. So they are the ones who really deserve the credit, in my opinion, and we very often do not recognize that. Government officials like to take the credit for just about everything, and I think that is wrong. In our society, we have a lot of people who work very hard and in a very conscientious way with the latest technologies to try to help make this country the best in the world, and they have done it.

We try to support the activities of food processors and producers, but we sometimes fall short. This year, for example, we have had a very serious problem in production agriculture because of low commodity prices. There is an oversupply of some commodities in the world market that has depressed prices a great deal. We have seen a lot of weather-related disasters strike production agriculture this year. So in this bill there is a response to that problem. A generous disaster assistance program totaling $8.7 billion is included in this conference report, providing emergency assistance for production agriculture.

The head of the Mississippi Farm Bureau was interviewed after the House approved this conference report to get his reaction to the need in agriculture for the funds that were provided in this bill. Here is what David Waide of the Mississippi Farm Bureau Federation said about this emergency assistance: It "could well mean the difference in massive foreclosures and the ability to continue farming" in Mississippi. "It's that serious," he said, "because of the market situation and the extremely

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

low commodity prices and the natural disaster we've had with weather, every producer is impacted to some degree." He went on to say, "With the type of market losses that we're seeing as a result of an extremely dry year, the producers are still going to have to struggle."

I point this out because there are some who think we have overreacted to the problems in agriculture this year. Every farmer in every area of the country may not be seriously affected by the problems I have discussed and described but most are. In my State of Mississippi, David Waide has it right. He has described what the problems are and what the needs are, why it is important for this appropriations bill with this emergency disaster assistance program to be approved.

I am hopeful Senators will come to the floor under the order that we have provided for debate. We have a good amount of time available for the discussion of sanctions legislation we adopted in the Senate on an amendment offered by Senator ASHCROFT, which would have limited the unilateral power the President has to impose embargoes, in effect, or trade embargoes, stopping the flow of agricultural commodities from this country into the international marketplace as a means for trying to discipline other countries or coerce them into some kind of change of behavior. For many, this has seemed to be an area where we have unfairly targeted agriculture and made agricultural producers and exporters bear the brunt of American foreign policy and, in many cases, it hasn't worked. It hasn't worked to change the behavior of those countries against whom the trade embargoes or sanctions were imposed. And it has hurt our own economy—not just the agricultural producers and exporters but others, because it has had a ripple effect throughout our economy. So I supported that initiative and I hope we can see legislation of that kind enacted. But because it was legislation, a change in law, there were objections to it being included on this appropriations bill.

So there will be other opportunities to take up that issue, and I hope the Senate will address that at the earliest possible time. We have time available for Senator ASHCROFT and others who are interested in discussing that issue. Under the impression that there will be Senators coming to the floor soon to discuss those issues and others, I am prepared to yield the floor.

I suggest the absence of a quorum, and I ask unanimous consent the time under the quorum call be charged equally to both sides under the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. Mr. President, I rise today to make comments on the Agriculture appropriations conference report. It is a bill which I think is very important for America's farmers and ranchers. Clearly, the agricultural community in America is in dire straits. Farmers need relief quickly. But the irony about this bill is that farmers are getting, in my judgment, shortchanged. They are getting short-term financial relief, but they have been robbed of good policy; that is, a policy to reform the unilateral embargoes of food and medicine that have kept our farmers from being able to sell their products around the world.

Before I get substantially into my remarks, I thank the Senator from Mississippi, the chairman of the agriculture appropriations subcommittee, for his support and vote to end unilateral food embargoes, and for his very mannerly handling of this issue on the floor and in the Senate-House conference. He has a strong record of supporting an end to the food embargoes. I know he recognizes the incredible groundswell of support for this policy change that is in the Congress and, more importantly, in the farm community. Senator COCHRAN is to be commended. I thank him. He has done an outstanding job.

Farmers in America are aware that the current U.S. embargoes tie their hands and give an advantage to Canada, Brazil, Europe, and South America, farmers from around the world, when competing against the United States. Current U.S. policy favors foreign farmers—not U.S. farmers. It is a tragedy that our own policies throw roadblocks between our farmers and the world marketplace so producers in other countries have a better opportunity to be more successful than producers in our country.

Make no mistake about it. The history of U.S. food embargoes is that they almost uniformly hurt only two parties: the American farmer and innocent people overseas.

Food embargoes generally don't succeed in changing other nations. They succeed in taking dollars out of our farmers' pockets and in putting dollars in the pockets of foreign farmers. They succeed in undermining our farmers' reputation as reliable suppliers in the world market. We understand that because farmers have talked to us. Farmers have come to me. I have met with them. Senator BOND and I have several times sat down together and discussed it with farmers in the last 3 or 4 months at various places. We were in the foothills of Missouri. We were in the central part of the State. We have been at various places around the State. They have helped me understand this issue more clearly than ever before.

A number of other Senators are very attuned to this. This is something that goes on on both sides of the aisle. This is not an issue that is defined by parties in this Congress. Senators HAGEL, BAUCUS, DODD, BROWNBACK, DORGAN, KERREY, along with myself and many others—you notice this is one of those things where you can go back and forth across the aisle as you name the Members of the Senate—have been working on a bill that would lift embargoes involving U.S. farm products.

I wish to recognize the fact that Senator LUGAR has for a long time been working on measures to do the same and is chairman of the Agriculture Committee in the Senate.

This understanding about the need to have markets where farmers can sell what they produce is a pretty substantial understanding. It is not partisan. We did not surprise anyone with this proposal. Americans have long agreed it is generally unwise for the United States to use food as a weapon. The weapon usually backfires and hurts us more than it hurts anyone else.

Congress has endorsed the values of the American people. Our job is to represent the values of the American people and not to allow a select few inside Washington, DC, to go behind closed doors and impose their values on America. I am here today to do what I was elected to do—to promote farm policies that reflect the values of the farm belt instead of caving in to the values of the beltway.

If Members listen to their farmers, they will most likely hear what I have been hearing. This is a letter from Kansas City, MO, signed by 10 people with a strong interest in this issue. Let me read a part of it:

> We believe that this legislation—

that is the legislation to allow farmers to market their products to change the way we have embargoes imposed so we don't have the unilateral embargoes against food and medicine imposed by the President without Congress.

> We believe that this legislation will help the United States sell its valuable farm products and medicines as well as help the receiver countries.
>
> The President and Congress ought to review more carefully unilateral embargoes against any country. Withholding food and medicine is an affront against human rights as well as a politically foolish practice. Such sanctions have never toppled governments, but only serve to perpetuate hatred, hunger, and poverty among the ordinary citizens.

This was signed by 10 individuals. This is one of a number of letters I would like to submit for the RECORD.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LATIN AMERICAN TASK FORCE,
CATHOLICS FOR JUSTICE,
Kansas City, MO, September 13, 1999.
Hon. JOHN ASHCROFT,
U.S. Senate, Washington, DC.

DEAR SENATOR ASHCROFT: Thank you for introducing the Food and Medicine for the World Act as an amendment to the agricultural appropriations bill and for championing it through this far. We hope that you and Senator Bond will continue to work to pass this important amendment.

We believe that this legislation will help the United States sell its valuable farm products and medicines as well as help the receiver countries.

The President and Congress ought to review more carefully unilateral embargoes against any country. Withholding food and medicine is an affront against human rights as well as a politically foolish practice. Such sanctions have never toppled governments, but only serve to perpetuate hatred, hunger, and poverty among the ordinary citizens.

Thank you for your attention; we will look forward to a report on the outcome of Food and Medicine for the World Act.

Letter signed by 10 people.

Mr. ASHCROFT. Mr. President, not only do members of my constituency and citizens of Missouri write letters to me, but they write letters to the editor. They talk to the press and farm focus forums about the significance of lifting food embargoes. Senator BOND and I not only were in Columbia at one of these farm forums, but we were at the State fair.

I am reading from a newspaper article out of Sedalia, MO, entitled, "Farmers Meet with Bond, Ashcroft at State Fair."

This is what some farmers said. This is what the article begins with. It includes quotes by farmers.

> Some farmers who are worried by low prices and the recent lack of rain felt encouraged after talking with Missouri's two U.S. Senators about emergency relief and trade barriers.
>
> "I hope the relief comes soon," said Brent Sandidge, a hog farmer. "[But] rather than always giving us immediate relief, help us so that we can live so that emergency money won't be needed.

That is what the hog farmer was saying. Give us the capacity to sell our products so emergency money won't always be needed.

> One such long-range plan is Ashcroft's Food and Medicine for the World Act. . . .

The article continues, and then Brent, the hog farmer who was with us, said:

> . . . lifting embargoes makes sense. We need to use the agriculture in this country to feed the grave hunger of people around the world.

I am pleased to have had that article in the Sedalia paper. The bottom line is this: The final Agriculture appropriations conference report should have included the embargo reform that was overwhelmingly supported by American farmers and adopted by the Senate. Frankly, it is a great disappointment to me that the Agriculture conference report does not include reform for food embargoes. First of all, this reform, which we had included in the Senate version of the Agriculture bill, was a reform that would have required the President to collaborate with Congress and get approval before imposing any unilateral sanction that would embargo food or medicine.

The Senate approved that amendment by an overwhelming vote of 70–28. That included a majority of positive votes from both sides of the aisle—both Democrats and Republicans. This vote shows that not only do we have more than a majority, but 70 votes would be more than enough to invoke cloture, if these votes remain committed, more than enough votes to even override a Presidential veto.

After the Senate 70–28 vote when the Agriculture appropriations bill went to the conference, the House conferees voted on a proposal to make the Senate reform even stronger. This is significant because it reflects the view of many of the House Members with whom I have talked that embargoes be brought to the House of Representatives for a straight up-or-down vote, and the proposal would receive the same kind of overwhelming support in the House that it received in the Senate. They were confident of that if voted on by the House. Also, eight Senate conferees to three favored keeping the Senate provisions along with the stronger House provisions.

It is a mystery that the House wanted this, the Senate wanted this, we voted 70–28 to have it, and then behind closed doors a decision was made to strip out the reform provision that received overwhelming bipartisan support in the Congress. It is something that the American farmers want, that will help sell American goods overseas, that will help reverse the currently depressed prices, that will help provide food and medicine to people all around the world, and a reform that would reverse the rather ridiculous policy in which America finds itself alone so often as a nation using food and medicine as a weapon of foreign policy.

A select few in Congress have tried to make the issue of embargoes on food an issue about Cuba. I reject this narrow interpretation. It is about the importance of consistent U.S. policy on food and medicine embargoes. Since Cuba is one of those countries that we sanction or embargo exports of wheat, rice, pork, and other vital farm products, let me address that. Does it really make sense for the United States not to sell food to Cuba when the entire rest of the world already does? I don't think so. Does it really make sense for the United States to deny food and medicine and thereby bolster Castro's anti-American distortions?

Let's hear from the countryside on this issue. Here is an e-mail I received from one of my constituents, Thomas Capuano, from Kirksville, MO:

> Dear Senator ASHCROFT, I want you to know that I favor loosening the embargo on Cuba. The best way for understanding between our two peoples is by means of free markets, free exchange of ideas and goods and services, and freedom of movement. . . .

I ask unanimous consent to have this printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

To: John Ashcroft.
From: Tom Capuano.
Date: 15 July, 1999.
Subject: Cuba embargo.

DEAR SENATOR ASHCROFT: I want you to know that I favor loosening the embargo on Cuba. The best way for understanding between our two peoples is by means of free markets, free exchange of ideas and goods and services, and freedom of movement between Cuba and the U.S. Please consider supporting the exemptions that are currently being proposed to ease the embargo. Food and medicine should be totally exempted from the embargo.

Thank you for your attention.

Mr. ASHCROFT. Here is another e-mail received from Ms. Janelle Sharoni:

> The blockade against Cuba has been going on for so many years we have nearly forgotten about the terrible suffering of the Cuban people and the total lack of any results to point to from this blockade. The blockade has not worked and has alienated us from other Latin Americans.
>
> All this does is exempt food, agricultural supplies, medicine and medical supplies for the trade embargo. It does NOT indicate any change in American policy, just a change in how we deal with the poor and suffering.

That is a description of the Food and Medicine for the World Act.

I ask unanimous consent to have this printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

To: Senator Ashcroft.
From: "Janell H. Sharoni".
Date: 21 July, 1999.
Subject: End the Cuban Embargo.

DEAR SENATOR ASHCROFT: The blockade against Cuba has been going on for so many years, we have nearly forgotten about the terrible suffering of the Cuban people and the total lack of any results to point to from this blockade. This blockade has not worked and has alienated us from other Latin Americans.

Businessmen are trying, against of course the wishes of the Miami community, who seem to control our entire congress, to make headway in working to establish relations with Cuba. Please support or co-sponsor SB926 to end the embargo against Cuba.

All this does is exempt food, agricultural supplies, medicine and medical supplies for the trade embargo. It does NOT indicate any change in American policy, just a change in how we deal with the poor and suffering in the third world. Is it not obvious that Fidel Castro will die in office and never be removed?

This is the first step in ending our stupid cold war relationships with a person who is head and shoulders above most of the dictators we have supported in the past in our anti communist stance.

The Pentagon is not afraid of Cuba, and especially the Cuban people. Why, Senator

Ashcroft, do we continue this terrible ordeal against the people of a nation so close to our shores.

Sincerely,

JANELLE H. SHARONI.

Mr. ASHCROFT. I received many letters about this issue. Here is one from a constituent in St. Joseph, MO, Mr. Craig Drummond, who is the Drake University student body vice president.

I don't know why he went all the way to Iowa to get his education, but Drake is a fine institution.

He states it this way:

> The United States is a country that was founded on the premise of freedom, democracy and sovereignty. We enact policies, laws and regulations that best exhibit the highest ideals of democracy and the American public. For the most part, we do a good job and function well as a powerful global leader. I am a proponent of democracy and capitalism and hold the values and ideas of the aforementioned paramount to any other country or government. The United States has problems and for the most part we are aware of these and have good people working to rectify our problems and wrongs. That is why this whole Cuba situation intrigues me so much.
>
> Why does America continue to have an embargo against trade with Cuba? Why have we chosen to isolate Cuba and ourselves from each other?

I think the point here that ought to be made is a point that needs to be made over and over again. For food and medicine, we don't strengthen the regime; we strengthen the people. Strengthening oppressed people is what is fundamentally appropriate in terms of eventually allowing them to survive oppressive regimes.

I ask unanimous consent to have this letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 22, 1999.

DEAR SENATOR JOHN ASHCROFT OF MISSOURI: I am writing this letter in regards to the United States' embargo against Cuba. I recently visited Cuba through a U.S. Treasury Department licensed trip that was part of a class for Drake University. In Cuba I was immersed in their culture and sense of community and feel that after this experience, it is my Lockean duty as an American citizen to write my elected leaders and express my concern at the status quo foreign policy that America practices in regards to Cuba.

The United States is a country that was founded on the premise of freedom, democracy and sovereignty. We enact policies, laws and regulations that best exhibit the highest ideals of democracy and the American public. For the most part, we do a good job and function well as a powerful global leader. I am a proponent of democracy and capitalism and hold the values and ideas of the aforementioned paramount to any other country or government. The United States has problems and for the most part we are aware of these and have good people working to rectify our problems and wrongs. That is why this whole Cuba situation intrigues me so much.

Why does America continue to have an embargo against trade with Cuba? Why have we chosen to isolate Cuba and ourselves from each other? This puzzles me dearly and I have searched, with a patriotic mindset, to find answers, yet I have not found any viable ones. Cuba operates as a socialistic government and this government is by far one of the best examples of true socialism that I have seen. The people are educated, have access to medical care and the leaders do not live lavish lifestyles. Cuba is poor and the people need money and have wants, yet the division of wealth appears to be fair and from the government leaders to the person on the street, the people support their governmental system.

Why then has the United States, the world leader in human rights, let itself place greed and the desires of a limited minority of American businessmen above the needs of a people, fair foreign policy, and the search for social justice in U.S. action? American businessmen are upset because their companies were nationalized in the Revolution of 1959. Cuba has since offered retribution, but the former owners have declined it on the grounds that the retribution is not for the real amount that the assets were worth. Well, as someone who has invested in foreign markets, I personally know of and accept the higher degree of risk that is taken when investing in foreign markets that are not under direct U.S. control. A foreign investor must accept this risk and realize that there is additional risk associated with transacting or operating a business in a foreign country.

Cuba is a nation of great beauty and opportunity. The Cuban people desire and need the help of the United States. I see no reason for the current embargo and would ask you to compare Cuba to China when talking about foreign policy and governmental structures. I am asking as a constituent and citizen that you look into this matter so that you can form an educated opinion on this subject. Hopefully, education on this subject will foster a desire to rise up and make the necessary change to lift this embargo. There may have been reasons in the past for the implementation of the embargo, but Cuba and the U.S. have both changed since the 1950's and it is time for our foreign policy to change as well.

The lifting of the embargo will not only help the Cuban economy, but it will inevitably act as an impetus to spark American investment and exports to Cuba. Such transactions could only be considered a positive for the U.S. economy. Thank you and if you have any questions or comments please do not hesitate to contact me.

Sincerely,

CRAIG W. DRUMMOND,
Drake University Students Body Vice-President.

Mr. ASHCROFT. A final letter from Mrs. Joan Botwinick in University City, MO:

> I want to thank you for introducing a bill which would lift the embargo on food and medicine. Not only is it the humane thing to do, but it would also benefit our farmers.

That is a clear statement of what I think is the important truth.

I ask unanimous consent to have the letter printed in its entirety in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNIVERSITY CITY, MO,
Sept. 24, 1999.

DEAR MR. ASHCROFT: I want to thank you for introducing a bill which would lift the embargo on food and medicine in Cuba. Not only is it the humane thing to do, but it would also benefit our farmers.

The broader issue is: Do we promote democracy by putting sanctions on countries we don't like or who may be a threat to us, or do we try to help improve their economies by engaging in commerce and dialogue. I believe our best course is the latter.

Sincerely,

JOAN BOTWINICK.

Mr. ASHCROFT. Comments about lifting the food embargo come not just from the Midwest. An editorial from the Fort Lauderdale Sun-Sentinel, August 16, 1999, states:

> It clearly would be in America's best interest to expand trade in food and medicine to Cuba, for more reasons than one.

I continue to quote:

> If nutrition and health-care conditions don't improve in Cuba under the easing or lifting of U.S. trade restrictions, Castro won't have the embargo to blame for his government's failures.

In other words, we provide Castro with an opportunity to blame America for hungry people, to blame America for sick people, as long as we embargo food and medicine.

Quite frankly, there is a ground swell of support to lift the food and medicine embargo on Cuba—and other countries.

An article from the Omaha World-Herald commends the cosponsor of this legislation, Senator CHUCK HAGEL of Nebraska, who has been such a leader in this respect. I will read from that article:

> Sens Chuck Hagel, R-Neb., and John Ashcroft, R-Mo., added to the Senate's recent farm spending bill an amendment that would exempt most food and medical supplies from U.S. sanctions against foreign nations.
>
> As an editorial in this space said on August 10, Cuba provides the closest example of why Hagel and Ashcroft have a good idea: Such sanctions usually harm only the people who deserve it least, and they pointlessly exclude U.S. farmers and pharmaceutical manufacturers from significant international markets.

I ask unanimous consent to have this editorial from the Omaha World-Herald, Friday, August 20, 1999, printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Omaha World-Herald; Fri. August 20, 1999]

A GENTLER FACE TOWARD CUBA

Maybe it's just a coincidence of timing. But lately it seems that Midwesterners are at the forefront of a push to start easing some of the barriers between the United States and Cuba.

Sens. Chuck Hagel, R-Neb., and John Ashcroft, R-Mo., added to the Senate's recent farm spending bill an amendment that would exempt most food and medical supplies from U.S. sanctions against foreign nations.

As an editorial in this space said on Aug. 10, Cuba provides the closest example of why Hagel and Ashcroft have a good idea: Such sanctions usually harm only the people who deserve it least, and they pointlessly exclude

U.S. farmers and pharmaceutical manufacturers from significant international markets.

Senate Minority Leader Tom Daschle of South Dakota and Sen. Byron Dorgan, D-N.D., recently came back from a visit to Cuba with figures that undergird that idea. They said officials in Cuba told them the country imports nearly $1 billion in food and medicine annually and food imports could double in five years. Cuban doctors and hospital officials told the Americans that more than 200 important pharmaceuticals are not to be found in Cuba and that a pressing need exists to restock.

One must consider the source of such assertions. But even if the numbers were substantially exaggerated, they still point to real markets and real needs.

Now there's the visit to Havana by the Gold Nemesis from Lincoln, Nebraska's top under-17 soccer team, with its people-to-people sports diplomacy stint. What are the young players (many of whose parents have no memory of a time when there wasn't an embargo against Cuba) learning?

"People from Cuba are not stereotypical, real hard-nosed, mean people," Gold nemesis co-captain Christian Mangrum told the Associated Press. "They're actually really nice, really genuine."

No surprise there, surely. The faceoff between the two nations has never been about Americans vs Cubans. It is about the corrupt and dictatorial regime of Fidel Castro and his dreams of Pan-American revolution. And harbor no illusions: Castro remains Castro. All in Cuba is not sweetness and light.

Dorgn reported that Castro staunchly defended the current system. "He staunchly defends what he has done," Dorgan said. "He rejects the notion that there are human rights violations." Dorgan said Cuban officials had told him and Daschle they were free to speak to any Cuban. But that proved to be untrue when they wanted to talk to four dissidents recently sentenced to prison.

The overthrow of Castro is not a realistic prospect, but after all, he will not live forever. It is time to think about what happens after he's gone. If Americans demonstrate to Cubans that we as a nation aren't out to starve them or deprive them of medical care; if we show them more about average Americans and the kind of life that is possible under a more progressive form of government: doesn't it make sense that in the post-Castro era they'll be open to a free and open society?

For that reason, when the House of Representatives resumes its session next month, it should join the Senate in easing the food and medicine embargo.

Mr. ASHCROFT. Most people realize it is the good thing to do for our farmers and it is the right thing to do in terms of humanitarian interests of those abroad. That is why the Senate overwhelmingly approved this concept, and that is why it should have been retained in the conference report which provides relief for American farmers.

We provide financial relief, but we ignore the need for structural relief so that their market can be expanded. It is no secret that what happened to the appropriations bill for farmers has been construed by some as an affront to farmers. Missouri farmers are not duped; they are not fooled. They understand that while there is additional financial assistance being given out, they are still being deprived of their markets, and Missouri farmers want to be able to produce and to sell. That is what farming is all about. They are bewildered as to how their freedom to market, which had majority support from both sides of the aisle, could be stripped out of the bill. I will do everything I can to make sure they get the freedom to market we have been promising them for years; we must deliver.

Quite frankly, there is growing consideration of an idea that says we can't have Freedom to Farm if we don't have freedom to market. We have never given it a real chance to work. We have to give our farmers the chance to market what they produce as well as the freedom to be producers.

If what happened over the last 2 weeks on sanctions policy keeps up, I do not think we will be seeing this program work. We have to have both freedoms: The freedom to farm and the freedom to market; and who will be to blame but those who kept us from passing the freedom to market?

Our amendment, the Food and Medicine for the World Act, is designed to allow our farmers to market around the world and is designed to restructure the way in which agricultural embargoes, or food embargoes, would be imposed—if at all. That proposal would have put United States farmers on more competitive ground with the Canadians and more competitive ground with the Europeans and South Americans in world markets. It would have put money in the pockets of U.S. farmers—clear and simple; just a fact; there would have been money in the pockets of American farmers.

It is hard to believe we simply—we? I should not say "we." From somewhere, in the dark of night in the conference committee, out goes that provision which had overwhelming support, I believe, in both Houses of the Congress. It would have restored the credibility of the Congress worldwide, across America, and would have restored our farmers' credibility worldwide as suppliers.

I will continue my efforts to win final approval for ending unilateral food and medicine embargoes. Next week the sponsors of the amendment, that was approved 70 to 28 and was added to the Agriculture appropriations bill, intend to introduce the embargo reform as a freestanding bill. We will bring it to the Senate and the Congress. We will say to the Congress: This is not part of the Agriculture appropriations measure as it was before, but we want to present this to the Congress. I am grateful the majority leader of the Senate has made a commitment to me to bring the proposal back to the Senate floor for separate consideration this session. That is important to me.

I wanted the measure approved as part of the Agriculture appropriations bill and sent to the President for signature. It would have been easier. It certainly was an overwhelming consensus of this body and I believe an overwhelming consensus of the House. But if that can't be, then we try plan B. Plan B is to bring it up separately and get it passed through the Senate, get it passed through the House of Representatives, and sent to the President.

I thank the majority leader of the Senate who has made a commitment to bring the proposal back to the Senate floor for separate consideration. This debate will continue, therefore.

Let me reiterate a few points that are vital to the proposal we are advancing. The general framework is this. We do not make it impossible to have an embargo. We just say, before there can be an embargo, the Congress has to approve it. So we do not tie the hands of the President, but we ask him to shake hands with the Congress before you take this draconian, drastic step which hurts American farmers, before you have sanctions on food, fiber, and medicine. We will not allow the President, with the stroke of a pen, to damage the livelihood of American farmers or to cut off the subsistence of oppressed people around the world. It will require consultation with the Congress.

I want to make one thing as clear as I can. This is genuinely a proposal that supports the policy of helping our farmers and putting products which will eliminate suffering and hunger into the hands of those who need them most. This is not about shipping military equipment or even dual-use items—things that could be used in the military setting—to other countries. We want to keep those kinds of things out of the hands of tyrants. But we do not want to assist tyrants, or strengthen the hands of tyrants, by allowing them to blame America for hungry people who are oppressed or people who are ill in health, so that the tyrant can say: The reason you are ill and the reason we don't have good medicine is the United States of America won't allow you to have good health or won't sell us food.

Our approach helps us show support for the oppressed people who need to be strengthened in these countries, at the same time we send a message that the United States in no way will assist or endorse the activities of the rogue leaders of these nations which threaten our interests. If these rogue leaders don't spend the money with the American farmers to buy food, that leaves them hard currency to buy weapons and destabilize countries around the world. We ought to hope they spend all their money on food for their people instead of weaponry they use either to repress people in their own regimes or destabilize neighboring countries.

Ending unilateral embargoes against sales of U.S. food and medicine is good, solid foreign policy, it is good farm policy, and it promotes U.S. interests around the world. In the past, we have imposed embargoes that have done exactly the opposite from what we intended. If we use food as a weapon, we have to be careful it doesn't backfire. Using food as a weapon has really resulted in more backfiring than forward firing. We have actually enriched the people we were seeking to hurt, and we have hurt the people, the American farmers, who have been the producers of what has made this Nation the greatest nation on the face of the Earth, where hunger has been virtually abolished—or it should be.

Let me just give this example. It is a tragic example. It is not humorous, but it is almost funny because it backfired so badly. Everyone remembers the Soviet grain embargo in the 1970s. We canceled 17 million tons of high-priced exports from the United States. We told farmers: You cannot make those sales; we are not going to allow you to ship that grain to Russia.

Here is what happened. The Russians, having been relieved of their contractual obligation to buy what they wanted to buy, went into the world marketplace. Do you know what they did? They bought all the stuff which we refused to sell them, and they saved $250 million in the process. We really hurt the Russians with that one. Robert Kohlmeyer of "World Perspectives" brought that story to the committee as we had hearings on sanctions. I thought to myself, that gun backfired in a big way. The only people with powder burns, the only people suffering as a result of that volley, were American farmers and individuals in the production of American agriculture.

Our market reputation as a supplier in the world went down, and other people decided they would bring on land to be producers, in South America and other settings, so they could supply what we would refuse to supply. All of a sudden, we brought new competitors into the arena; we destroyed our reputation; we helped our enemy get $250 million he wouldn't otherwise have gotten, and we hurt American farmers. Seldom can a gun backfire so accurately in so many directions. I say seldom, but it is just generally so in the arena of embargoes. Our embargoes more often deny people who suffer under such regimes the food and medicine they need and desire rather than hurting the leaders in those countries.

America has been a nation that promotes freedom worldwide. We should continue to talk truthfully about political oppression in other countries. We should do so, though, without denying food and medicine to the oppressed people who need to be strengthened, not weakened. How can we ever expect to topple a regime by starving those who populate it? Our foreign policy interests should be to strengthen, not to weaken, those who could resist an oppressive regime.

We need to stop using food as a weapon against the innocent. It is not good foreign policy. It is failed foreign policy. That gun backfires. It is not working. It is hurting those abroad and is hurting those of us who are back home. In terms of market access for farmers, we can talk about the roadblocks that are laid down by foreign governments—and I am pretty distressed about those roadblocks. The Europeans have vast subsidies that make it hard for us to compete with them overseas. But let us also be aware we have to stop throwing roadblocks in the way of our own farmers here at home. We have built a solid brick wall in front of our own farmers. Simply, it is an impenetrable wall when it relates to embargoes and sanctions imposed unilaterally on food and medicine against a number of countries around the world. My message today to the Congress is simply this: Tear down this wall we have built.

Let our farmers be free. Our food embargoes have failed. Our food embargoes are not effective. Food embargoes are not the way for us to win. That gun backfires. It is time to tear down this wall. And we will. Starting next week, we will do our best to bring this measure up as an independent, freestanding measure.

While I believe it is important to help our farmers in the Agriculture appropriations bill upon which we are going to be voting, that is a financial assist in the short term for a disastrous year, but we need the long-term structural reform that the hog farmer in Sedalia, Brett, came to me and said: We need the ability to market so we don't need to come back for financial assistance over and over again. Tear down this wall.

I yield the floor.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER (Mr. ROBERTS). The distinguished Senator from Kansas is recognized.

Mr. BROWNBACK. I thank the Presiding Officer, the other distinguished Senator from Kansas. I appreciate his recognition. I ask unanimous consent to speak for up to 10 minutes on the Ag appropriations conference report which is before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I rise in support of what my colleague from Missouri just spoke about. As he was speaking, I was thinking where I was when the embargo happened. In the late seventies, I was a farm broadcaster in Manhattan, KS, when President Carter put the embargo on the Soviet Union. My dad was farming, as he is today. We were both long in wheat. Wheat went down lock limit for 3 days in a row with that embargo. The markets did not recover when that big of a sale was taken out of the system. We lost a lot of money.

Senator ASHCROFT was talking about how much we lost as a nation and how much our farmers lost. I remember what we lost as a family in that embargo, not that it should be any deciding factor, but it galvanized in my mind what happens when we do these sorts of things. That is, we lose markets, we lose money, our farmers are penalized, punished—and the Soviet Union got cheaper grain out of the deal. It was bad for us all the way around.

One of my great disappointments with the Ag appropriations conference report is that we had a chance to end once and for all the use of food and medicine as a foreign policy tool. We did not take that chance, and we are poorer for it. We should have gotten this monkey off the back of U.S. farmers.

I rise to state my strong disappointment with this conference report, even though my colleague from Mississippi, who chairs this subcommittee, has done everything he possibly can. There is a lot of good in this appropriations conference report, but we missed a chance to lift these unilateral sanctions on food and medicine.

As you have already heard several times, the Ashcroft amendment was adopted overwhelmingly in this body by a vote of 70–28. It is important to keep mentioning that fact because it is astonishing to me that such a clear message from the Senate could be so easily ignored.

In a place as diverse as America and as compact as Congress, there are bound to be honest disagreements about any number of issues, including sanctions. These disagreements were given a thorough and extensive airing in the Senate, and the result was an overwhelming majority decided it was not an effective policy tool to use food and medicine in foreign policy. This is a conclusion that a vast majority of the American public has already recognized for some time and certainly the farming public has recognized this for a long period of time.

What has occurred with the Agriculture appropriations bill is an attempt to avoid this important policy issue. I am delighted we are going to bring it back up next week and discuss it, but it is an unfortunate tactic that has moved us to next week rather than now in deciding this critical policy issue for U.S. agriculture and for America's foreign policy. Compounding this wrong is the fact that U.S. agriculture is in the midst of an economic struggle, and sanctions serve to limit U.S. markets for no real policy effect.

Unilaterally using food and medicine as foreign policy weapons fails to take into account that the U.S. has competition in agriculture. If we do not sell it, somebody else will, and that is what has taken place in the past. It is time we limit the possibility of this happening again in the future to the United States.

Even if the U.S. denies trade with another nation, other countries will, and do eagerly, sell these products. We know this for a fact. The only one who gets hurt in this process is truly the U.S. farmer, the farmers across Kansas who do not get to make these sales.

While it is difficult to calculate the actual gain that lifting sanctions would bring in the short term it is easy to see the long-term benefits of sanctions reform. These benefits include the increased sales to new markets because we tell that new market we will be a reliable supplier; we will not just step in willy-nilly on this; we will be reliable in our supplying. Perhaps even more profound, this policy serves to reassure all our trading partners that the U.S. will continue and will always be that constant and reliable supplier of agricultural goods. This assurance is necessary in a competitive market.

Efforts to reinstate this important sanctions relief language or find a compromise have certainly been valiantly put forward by Senator ASHCROFT, Senator DORGAN, and a number of others, including the Chair. I commend my neighbors in this principled fight and their persistence on this issue. Still the few who oppose sanctions reform have blocked any progress.

Reluctantly, I will vote for this bill because farmers and producers are depending on the emergency aid funding contained in this bill. But I truly believe the future of U.S. agriculture depends on the long-term reforms such as this Senate-passed amendment lifting unilateral sanctions. I will continue to fight on this issue and insist that the will of the majority be followed.

In conclusion, we had a chance to once and for all remove the use of food and medicine as a foreign policy tool, and we missed it. We could do something good, something right, morally on the high ground, the right thing for U.S. farmers, the right thing for those consumers in places around the world who need and should have this good, high quality food product we have. We missed that opportunity. We are poorer for it, and so is the rest of the world. We will have this fight again next week. I hope we can still move this bill this session of Congress. I lament we did not do it on this piece of legislation.

Mr. President, I yield the floor.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Wisconsin is recognized.

Mr. KOHL. I thank the Chair. Mr. President, I am glad to join my colleague, Senator COCHRAN, in support of the conference report to H.R. 1906, the fiscal year 2000 Agriculture appropriations bill.

I congratulate Senator COCHRAN, chairman of the subcommittee, for guiding us past many obstacles that have stood in the way of final passage of this measure. At the end of today's debate, we will send to the President an agricultural spending bill that will result in immediate aid to hundreds of thousands of farmers across our country. That is an accomplishment of which we can all be proud.

At times, work on this bill was contentious. The money we had available to work with made it very difficult to fund adequately the most critical programs at USDA, FDA, and the other agencies in this bill.

Senator COCHRAN did a masterful job in finding a balance of priorities, given the budgetary constraints under which we had to work. In fact, we were even able to increase spending for some critical programs. This conference report provides an increase for the President's food safety initiative, as well as additional funds to help avoid a shortfall in inspectors at the Food Safety Inspection Service. An increase is provided for the WIC Program to help maintain caseload. Other programs, such as research and education, conservation and rural development are all funded at a very healthy level.

Most important, we have managed to include $8.7 billion in emergency aid to farmers suffering from the price collapse that has hit too many commodities. I realize some of my colleagues, especially those from the Northeast, will argue that more is needed to address the needs of farmers suffering from the effects of this summer's drought and Hurricane Floyd. I agree. The administration should send us a separate emergency request for these recent disasters, and Congress ought to act on it immediately. But our commitment to help the farmers of the Northeast overcome the natural disasters of the last several months should not stop us from enacting aid for farmers all over the country suffering from the economic disasters of the last several years.

I also want to note the efforts made to ensure that harmful legislative riders, such as attempts to undermine USDA reform of dairy policy, did not become part of this conference report. We have spent months putting together a fair bill—not perfect, but fair. Efforts to incorporate dairy compacts into this legislation were defeated more than once. It is time to pass this bill and get much-needed funding to dairy farmers and to hardworking farmers across the country.

And let me emphasize that last point. This bill contains almost $9 billion in emergency assistance to struggling farmers everywhere. Within days of the President signing the bill, almost $5 billion of that aid will be on its way to farmers. It is all well and good for us to spend days listening to talk about this money—how it is distributed and how much there should be—but there are hundreds of thousands of farmers who need it now to plant, feed, and operate. All the words in the world will not help farmers get next year's crop in the ground or milk the cows. We have talked enough—it is time now to pass this bill.

In closing, let me say how much I have enjoyed working with Senator COCHRAN. This is my first year as ranking member on this subcommittee and his exceptional leadership, good judgment, and helpful hand has been indispensable in making this a positive experience for all of us. I would also like to thank his distinguished staff, Rebecca Davies, Martha Scott Poindexter, Les Spivey, and Hunt Shipman, for their important contributions to this bill. And, of course, I must thank Galen Fountain of the minority staff for his wisdom and patience. Galen is an invaluable resource to me, to all Democratic Senators, and to the Senate itself.

I ask unanimous consent that a letter on the Foreign Market Development Program from the USDA be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, September 29, 1999.

Hon. HERBERT KOHL,
Committee on Appropriations, Washington, DC.

DEAR SENATOR KOHL: This is in reply to your request for information about the Commodity Credit Corporation (CCC) Charter Act and the President's budget to fund the Foreign Market Development Program (FMD) through CCC.

The President's budget proposes to shift funding for FMD from the FAS appropriated account to the Commodity Credit Corporation (CCC). The budget also proposes to fund a new Quality Samples Program through CCC. In conjunction with the budget, the Administration has forwarded to Congress legislation authorizing the use of CCC funds for FMD and capping expenditures for that purpose at the Fiscal Year (FY) 1998 program level of $27.5 million.

You questioned whether such legislation was necessary or whether the Administration has the authority to fund these programs through CCC administratively. You are indeed correct: although it is the Administration's position that such legislation should be enacted, CCC has the authority to fund FMD and the proposed Quality Samples Program under the Section 5(f) of the CCC Charter Act without additional legislation. The legislation we submitted does not expand the Secretary's existing authority: it limits it by imposing a cap on CCC expenditures for the two programs.

If FMD ultimately is funded through CCC rather than from the FAS appropriated account, the Administration intends to continue to fund FMD at not less than the historic level of $27.5 million annually.

Please feel free to contact me if you need any additional information.

Sincerely,

AUGUST SCHUMACHER, Jr.,
Under Secretary for Farm and Foreign Agricultural Services.

Mr. KOHL. I thank the Chair and yield the floor.

Mr. REED addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KOHL. I yield to the Senator from Rhode Island.

The PRESIDING OFFICER. The distinguished Senator from Rhode Island is recognized.

Mr. REED. I thank the Senator from Wisconsin for yielding and also thank him and the Senator from Mississippi for their efforts on behalf of this legislation. But I must come to the floor today in opposition to this bill because it is not fair legislation for all the farmers of America—certainly not fair to the farmers of the Northeast, in Rhode Island, New England, the Mid-Atlantic States, because they have suffered a tremendous loss this year because of a drought that has historic implications. It was the worst drought in the history of this region in over 105 years of record keeping by the National Oceanic and Atmospheric Administration. This has had a devastating impact on the farmers of my State and of the region.

Most people do not consider the Northeast to be a place where there are lots of farms, but in my own small State of Rhode Island there are over 700 farmers who grow vegetables, turf, nursery stock, cranberries, strawberries, and potatoes. We also have numerous orchards and dairy farms. All of these farms have suffered devastating losses. And these are family farms; these are not large agricultural combines—certainly not in Rhode Island. They are family farms that are struggling to make do. This year they had a difficult struggle because of this historic drought.

We originally thought that farm losses would be about 50 percent of the crop--a serious blow. But I have just been given data today from our agricultural authorities where in Rhode Island they are suggesting that the August estimates were not as severe as the reality is turning out to be. In fact, the estimate is that the percentage loss of sweet corn in the State is 80 percent, silage corn is 70 percent, potatoes is 60 percent, mixed vegetables is 75 percent, and hay is 50 percent. These are difficult losses to bear, particularly difficult to bear without assistance.

We have received some rain through the last few weeks, but it has not been enough to reverse the damage that already was done April through August with the worst drought in the history of our region.

That is why I am here today, because, frankly, the resources in this legislation that are being made available to the Northeast, to the Mid-Atlantic farmers, are insufficient. We have tried, over the last several months, to structure a meaningful relief package that would help the farmers throughout this country—every region.

In the 1999 emergency supplemental appropriations bill, Democrats offered an amendment to provide disaster relief for America's farmers and ranchers which would have taken care of all of our farmers throughout the country. This provision was rejected by the majority. Later, Democrats offered additional disaster relief amendments to the fiscal year 2000 Agriculture appropriations bill as it was being considered in the subcommittee. Those amendments were rejected also.

On the floor of the Senate in August, I joined my Democratic colleagues in supporting an emergency farm package that would provide over $10 billion to producers in need of relief, including $2.6 billion in disaster relief and $212 million in emergency conservation assistance, both of which would have been very critical to my farmers in Rhode Island and throughout the Northeast. Sadly, that proposal was also rejected. There was even discussion to try to work out a compromise, a bipartisan effort, on the order of $8.8 billion. This, too, failed.

Finally, I think in the hopes of moving the process forward, we did agree to the final $7 billion package proposed by the majority, as a downpayment, if you will, on the necessary support we hoped we could obtain through the conference process and we hoped we would be voting on today in this final conference report.

But today we are faced with a bill which we cannot amend, which we must either accept or reject; and, sadly, despite all the efforts, all the earnest efforts of my colleagues, I must vote against it because it does not provide the kind of assistance that is necessary for the farmers of my State and my region.

Of the $8.7 billion in emergency farm relief in the appropriations bill, only $1.2 billion is set aside for all disasters declared by the Secretary of Agriculture in 1999. In the Northeast alone, our Governors have told us we are facing nearly $2 billion in total losses. And as today's data indicates, those are probably conservative estimates. For the Department of Agriculture to cover 65 percent of our region's losses alone would cost about $1.3 billion. Yet we have only appropriated $1.2 billion for the entire country—every region, for every natural disaster from January 1 to December 31.

So as you can see, all of this money that is within this bill could easily be used in the Northeast, in the Mid-Atlantic alone, but it will be spread throughout the country and, in fact, be spread in such a way that my farmers will be particularly disadvantaged.

It is unlikely this $1.2 billion of disaster relief money will be available to my farmers until sometime in the middle of next year because, as the legislation is written, the Secretary must wait until the end of the year to calculate all of the damages throughout the country and then begin the cumbersome process of proration and distribution of these funds, which could take months. That is another problem with the legislation. Not only are there insufficient funds available to the Northeast, but these funds may not come until the middle of next year.

That is in contrast to what my colleague from Wisconsin pointed out with respect to those farmers who are part of the Agricultural Market Transition Act. There is $5.5 billion there. That money will be flowing out immediately. They will get assistance immediately. Not only will they get this assistance, but they will also qualify for this $1.2 billion of natural disaster money if they suffered their loss through a natural disaster. They will get essentially two bites of the apple, where my farmers in the Northeast will get what is left.

There are many States throughout this country that qualify for this disaster program, this $1.2 billion—33 States, in fact. So there will be a long line of farmers who have to be satisfied by this insufficient amount of money.

There are things we could have done, I believe we should have done, in addition to putting more money into the natural disaster program so we could take care of the real needs of all the farmers across the country.

I had hoped we could have increased the Crop Loss Disaster Assistance Program, which is something that has been helpful in the past. There is also a Livestock Feed Assistance Program which is also critically important to my farmers in the Northeast because much of the silage has been lost. In our dairy farms particularly, that is a critical loss.

We also, as we go forward, should think about the structure of the program for noninsured crop disaster assistance, the NAP program. There is a trigger in that program that requires a 35-percent areawide loss. Sometimes we can't meet that loss, but, frankly, most of the crops in my State are noninsured. They are strawberries, vegetables, et cetera. They individually sometimes can't meet this trigger, and they are denied any assistance whatsoever. If that program were more flexible, we could address some of the concerns we are talking about today in terms of insufficient funding.

In addition to this lack of resources, in addition to the unfairness of the distribution, in addition to the lack of timely response to the problems of my farmers in the Northeast and Rhode Island, there is also the issue of the dairy compact. Failing to extend this undercuts a program that was working, a program that provided not only support to the dairy industry in my State but, frankly, provided consumers with milk at reasonable prices. It also provided tremendous environmental benefit to the State of Rhode Island and other States because of the pressure of development, particularly in the Northeast. Many of these dairy farms, given the choice of producing at a loss each year or selling out to developers, will sell out. In Rhode Island, the little green space we have becomes less and less and less.

For all these reasons, I must oppose this legislation. I hope in the remaining days of this session we can, in fact, find ways and other legislative vehicles, perhaps even a supplemental, to direct assistance to the farmers throughout this country, including farmers in the Northeast, particularly in my home State of Rhode Island.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Mr. President, I yield such time as he may consume to the Senator from Minnesota, Mr. GRAMS.

The PRESIDING OFFICER. The distinguished Senator from Minnesota is recognized.

Mr. GRAMS. Mr. President, I will talk a few minutes this morning in support of the Ashcroft amendment to the Agriculture appropriations bill dealing with sanctions. I know this Agriculture appropriations bill covers many areas, including dairy, as we just heard our colleague from Rhode Island discuss. I have a different view, of course, on the dairy situation. I hope to have more on that in another statement that will also be entered into the RECORD in regard to the Agriculture appropriations bill.

I was disappointed the conferees decided to drop the Ashcroft Food and Medicine for the World amendment added by 70 Senators to the Senate Ag appropriations bill. I am a cosponsor of the bill to be introduced by Senator ASHCROFT and the cosponsors of his amendment. While I would prefer this bill addressed all unilateral sanctions, not just food and medicine, I strongly support the bill as a good start to reforming our sanctions policy. As a cosponsor of the Lugar Sanctions Reform Act, I believe it is long overdue that the administration and the Congress think before we sanction.

it makes no sense to punish the people of a country with which we have a dispute. Denying food and medicine does nothing to penalize the leaders of any country. Government leaders can always obtain adequate food and medicine, but people suffer under these sanctions, whether they are multilateral or unilateral. Those two areas should never be a part of any sanction.

At the same time our farmers suffer from the lingering effects of the Asian financial crisis as well as those in other areas of the world, we either have, or are debating, sanctions that further restrict markets for our farmers and medical supply companies. Since most of our sanctions are unilateral, it makes no sense to deny our farmers and workers important markets when those sales are made by our allies. I need not remind any of you that we are still experiencing the aftermath of the Soviet grain embargo of the early 1980's when the United States earned a reputation as an unreliable supplier.

Another example of how we have harmed our farmers is the Cuban embargo. I have for several years supported Senator DODD's Cuba food and medicine bill, similar to this proposal. For 40 years this policy was aimed at removing Fidel Castro—yet he is still there. This is a huge market for midwestern farmers, yet it is shut off to us for no good reason. Because Cuba has fiscal problems, many of its people are experiencing hardship. Those who have relationships with Cuban-Americans receive financial support, but those who don't have relatives here need access to scarce food and medical supplies. Higher shipping costs from other import sources has restricted the volume of food that can be imported. Yet here we are 90 miles away. We could help these people, but we cannot. It is time to develop more contact with the Cuban people and time to help those who do not have relatives in the United States. This bill does not aid the government, as United States guarantees can only be provided through NGOs and the private sector. Currently, donations are permitted, as well as sales of medicine, but they are very bureaucratically difficult to obtain, and they don't help everyone. Our farmers are in a good position to help and they should be allowed to do so.

I applaud Senators ASHCROFT and HAGEL and many others for there work to ensure farmers and medical companies will not be held hostage to those who believe sanctions can make a difference. Any administration would have to get Congressional approval for any food and medicine sanction. This is our best opportunity to help farmers and to show the world we are reliable suppliers. I urge the support of my colleagues for this long overdue legislation.

I yield the floor.

Mr. COCHRAN. Mr. President, seeing no Senators seeking recognition, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally among all sides to the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I yield such time as he may consume to the Senator from Wyoming, Mr. THOMAS.

The PRESIDING OFFICER. The distinguished Senator from Wyoming is recognized for as much time as he may consume.

Mr. THOMAS. I thank the Chair.

Mr. President, I thank the chairman of the Appropriations Committee for the work that has been done on both sides. I know this is a very difficult issue, one about which Members have very different ideas concerning resolution. I do appreciate the work that has been done.

Certainly, one of the things that has occurred and has an impact on what we are talking about today has been the difficult times we are having in agriculture. In my State of Wyoming, we have basically three areas of economic activity. This is one of the three; minerals is the other. Both have not been good lately. Fortunately, there are some signs of improvement, particularly in the livestock area, which is of course the most important part of Wyoming's agriculture.

I come to the floor to talk about what we need to do in the long run. We are talking in this bill about a great deal of fairly short-term remedies. I don't argue with those particularly. I guess maybe we have spent a little more money than we should, used the emergency technique for some things that probably are not bona fide emergencies. On the other hand, we have a great deal to do in our community in agriculture and all that needs to be done.

No one doubts the urgency of providing the short-term relief, whether it be from emergencies in weather, from emergencies in markets, or whether it be other kinds.

But the fact is that this, in my view, is not the long-term solution to the problems we have. Producers in Wyoming generally do not favor returning to the Government farm programs. I think they would much prefer the idea of being in the marketplace, producing for the marketplace, developing new markets.

We had an agricultural seminar in our State recently, and those were the things that were talked about—that we do need to develop markets; we need overseas markets because we are great producers. We produce efficiently and at good prices. But in order to do that, we have to continue to develop markets. I think we have to, in addition, reduce the kinds of restrictions that prohibit the sort of production we choose. So we need to follow up, and I think many of the agricultural leaders in the Senate believe we have some things we have to do to make Freedom to Farm work. Those are the things we must do in following up to make that marketplace work.

One of them, of course, is to reduce unfair trade barriers throughout the world. We have a great many of those, and probably the most pressing one is the European Union, where they have found various ways through tariff barriers, or nontariff barriers, to keep agricultural products in the country moving—beef, for example, which is important to me and others.

We have a great opportunity, as we go forward with the WTO meetings in Seattle soon, to take to that meeting the kinds of things that are important to us. I happen to be involved as chairman of the subcommittee on Asia and the Pacific rim. So I have been involved with some of the countries with which we deal to a great extent.

Japan has a 40-percent tariff on American beef. This is not a realistic thing to do. If we are going to have trade organizations and trade treaties that are designed to level the playing field and be fair, those kinds of things should not happen. We have some opportunities in China, as a matter of fact, where they moved this summer to suggest they would take more wheat and also more beef. So we have some great opportunities to do that. We just this week had some hearings with respect to the NAFTA treaty with Canada. In this instance, we had some hearings before the International Trade Commission to seek enforcement of those trade agreements.

So what I am saying, of course, is that these are the kinds of things, over the long term, that we have to do to cause American agriculture to produce for the market and to be able to produce from that market a reasonable price. We can do that.

Unilateral sanctions. We have had a great deal of talk and discussion about unilateral sanctions. I think most people would agree that unilateral sanctions are not an effective tool for foreign policy. Basically, what we do is bar our own producers from selling in those particular places and gain no advantage from it. If there have to be sanctions, they certainly ought not to be unilateral. They should be through some kind of a trade organization.

So that, coupled with enforcement, I believe, of trade agreements is something that agricultural people are very anxious about. Obviously, foreign trade is not the only remedy, but it is one of the major ones. It was unfortunate that at the time we were moving into the marketplace in agriculture, we had the currency crisis in Asia, a place where we have a potential for great markets. Of course, now, hopefully, the Asian market is strengthening and we will find we will be able to move back there again.

As I mentioned, foreign trade is not the only remedy and not the only issue on which we ought to be working. I think we have to have some other innovative avenues to spur market competition. I think one of them that, again, was talked about at our seminar in Wyoming was producer-owned cooperatives that move on through to the retail marketing of these products.

I think it is pretty clear, particularly in the case of beef—or at least it is very appropriate there—where you had a major reduction in the price received by producers but no reduction in the retail market, no reduction in the grocery store when you went there—so there is some sort of a problem in between. We think producer-owned cooperatives may be a way to do the processing and to ensure that, indeed, producers are given their fair share of the final product. Another is niche marketing. A great number of things are taking place on the Internet, where people are marketing products in specialties areas.

I think we need to look at the concentration of packers, where there are only two or three packers that handle 80 to 85 percent of the livestock. I think there are some similarities in the grain industry, where very few buyers are available to go into the marketplace. So you have to ask the question, Is there, indeed, a competitive, fair marketplace? We have the Packers and Stockyard Act which is designed to do that. Over the years, we have appealed to the Justice Department a number of times to look at whether there was, indeed, a monopoly factor. They have said that, under the law, there is not. Not everybody agrees with that. Nevertheless, that has been the result.

We are going to, I think sometime this week, introduce a proposition that would have to do with packers' ownership of livestock and see if we can do something about reducing the potential for monopolies so the market prices are there. In this bill, I think there is a market-price-revealing requirement that is very important.

Financial solvency, of course, for agriculture is always difficult.

Crop insurance. The Senator who is presiding at this time continues to do a great deal with crop insurance, and we need to do that—at least from the weather emergency standpoint. That is the kind of thing that needs to be in place to protect the investment of farmers. In the form of tax relief, we have tried to do some things to extend income averaging. As you can understand, because some years are good and some are not, there needs to be the ability to income average.

There is interest in estate taxes. Most agricultural people have their estate in property, and they make very little profit often, but it accumulates toward their estate under the circumstances, and after they get beyond the exemption of 55 percent, that estate has to be paid in taxes. That is extremely difficult for agriculture. So we are going to be doing some things there.

Regulatory relief is particularly important in States such as ours, where 50 percent of the land belongs to the Federal Government, where much of agricultural activity, particularly livestock, is carried on, on public lands. The restrictions sometimes are very difficult.

So I am pleased we are going forward with this bill. As is the case with many, it probably isn't the way I would do it if I were in charge. But I am not in charge, nor is anyone else. So when you put it all together, it is difficult. I think the committee has done the best they could and has done a good job, but we need to focus on the long-term prosperity in agriculture, the family farm. We need to focus on continuing to keep U.S. producers competitive in the world market and, finally, opening those markets throughout the world for our agricultural products on a fair basis, so we are not kept out of those markets by nontariff barriers, and, in addition, of course, to develop domestically the things we do.

So, again, I say to the chairman, the Senator from Mississippi, good job. He has worked very hard in doing this, and we are pleased that this bill will be sent to the White House.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, let me, first of all, repeat what I said on the floor yesterday, which is that I am going to support this emergency package, both the financial emergency package and the disaster relief emergency package.

I am going to do so because, may I say for the Record, Tracy Beckman tells me this will mean $620 million in AMTA payments to Minnesota, and this will be important for some 60,000-plus producers. I hasten to add that most of this money to farmers will end up being used to pay back bankers.

I also am going to support this because I want to get some assistance out there. I don't think we are going to have enough with this $8.7 billion package. I don't think there is enough for disaster relief.

Clearly, our farmers in the Northeast are saying we don't figure in. And in northwest Minnesota where we have had so much wet weather and some farmers haven't been able to get a crop in or much of a crop in, I fear there won't be enough assistance.

But I think that when we are at least talking about something we can pass. We need to get this to the President and have President sign it in order to get some of this financial assistance out to our communities within the next couple of weeks. For this reason, I am going to support it. I also want to say that I hope to have to never vote for such a package again.

I believe these disaster relief bills are becoming a disaster. I think they are a complicated way of acknowledging the fact that we have a failed agricultural policy. Who would ever have dreamed that we would have spent over $19 billion now to keep farmers going post-

Freedom to Farm bill. This doesn't make a lot of sense.

The producers in my State, the farmers in my State, much less the rural communities, the small businesses that are affected by this, the implement dealers, and those who sell tools all say: What we want is a decent price.

I want to make it real clear that I wish—though I appreciate the work, I don't think there is any Senator on the floor who has any unkind words to say about Senator COCHRAN, publicly or privately, because I think he is held in such high regard—I wish we were doing this through a somewhat different mechanism because I fear that too much of the support will be in reverse relation to need. I think we will have yet another supplementary emergency package to deal with, especially disaster relief because there is not enough in here.

In any case, we ought to deal with the root of the problem. The family farmers in my State of Minnesota and in the rural communities that have been so affected by this economic convulsion in agriculture—it is a depression in agriculture—I want to see a new policy. The Freedom to Farm bill has become the "freedom to fail" bill. I do not hear very many Senators talking any longer about staying the course. We have to change the course of agricultural policy.

I make a plea on floor of the Senate that before we finish, before we adjourn, before we leave Washington, before we go back to our States, we pass legislation to change farm policy; that we pass some legislation to deal with the price crisis; that we pass legislation to give our farmers and our producers some leverage in the marketplace so they can make a decent price and so they can support their families.

The plea or the cry in rural America from family farmers is nothing more than to say for all you people who believe there should be a family wage, or a living wage, and a parent or parents ought to be able to make enough of a wage to support their families, well, those of us who produce the food and the fiber for families in this country ask for the same thing.

That is what this is all about.

I want to translate this crisis in personal terms.

Lynn Jostock is a Waseca, MN, dairy farmer. He tells his story:

> I have four children. My 11-year-old son Al helps my husband and I by doing chores. But it often is too much to expect of someone so young. For instance, one day our son came home from school. His father asked Al for some help driving the tractor to another farm about 3 miles away. Al was going to come home right afterward. But he wound up helping his father cut hay. Then he helped rake hay. Then he helped bale hay. My son did not return home until 9:30 p.m. He had not yet eaten supper. He had not yet done his schoolwork. We don't have other help. The price we get at the farm gate isn't enough to allow us to hire any farmhands or to help our community by providing more jobs. And it isn't fair to ask your 11-year-old son to work so hard to keep the family going. When will he burn out? How will he ever want to farm?

Gary Wilson, an Odin farmer, says:

> Received the church newsletter in the mail. What's normally to the entire congregation had been addressed to only farmers. The newsletter said farmers should quit farming if it was not profitable. If larger, corporate-style farms were the way to turn a profit, the independent farmers should let go and find something else to do. "What he doesn't understand is that the farmers are his congregation. If we go, he won't have a church."

Oh, how right Gary Wilson is.

The point is, if we continue with this failed policy, we are going to lose a generation of producers. We are going to see this convulsion in agriculture play out to the point where we have a few large conglomerates that control all phases of the food industry. Believe me, if you have just a few landowners versus a lot of family farmers who live and buy in the community and invest in the community, there won't be the support for the church. There won't be the support for the synagogue. There won't be the support for the small business. There won't be the support for the school system.

Darrel Mosel is a Gaylord farmer.

> Farming for 18 years. When he started farming in Sibley County, which is one of Minnesota's largest agricultural counties, there were 4 implement dealers in Gaylord, the county seat. Today, there are none. There's not even an implement dealer in all of Sibley County. The same thing has happened to feed stores and grain elevators. Since the farm policies of the 1980s and the resulting reduction in prices, farmers don't buy new equipment they either use baling wire to hold things together or quit. "The farm houses have people in them but they don't farm. There's something wrong with that."

That is a direct quote from Darrel.

John Doe—this is a farmer who wants to remain anonymous:

> This family has gone through a divorce and the father and three children are operating the farm. The father has taken an off farm job to make payments to the bank and has his 12 year old son and 14 year old daughter are operating the farming operation, unassisted while he is away at work. The neighbors have threatened to turn him in to human services for child abandonment and so he had to have his 18 year old daughter quit work and stay at home to watch the two younger children.
>
> The 12 year old boy is working heavy farm equipment, mostly alone. He is driving these big machines and can hardly reach the clutch on the tractor. It's this or lose the farm.

I could go on and on, but I will not. I want to repeat what I have said, which is that I am going to support this emergency assistance package. But all it does, at best, is enable farmers to live to farm another day. The truth of the matter is it isn't going to help the farmers who it needs to help the most.

In addition, I am going to support it because at least it gets some assistance to some families. It doesn't do anything for the small businesses. Most important of all, farmers simply will not have any future.

Ken and Lois Schaefer from Greenwald, MN, will not receive much assistance. Ken and Lois are one of the few small, independent hog operations still remaining, with roughly 400 hogs. They raise feeder hogs and sows. Lois has an off-farm job to make ends meet. Ken is considering an additional job. This is common. People who farm have jobs off the farm; it is unbelievable stress on the family. There is no choice if they are to survive.

A recent hog operation opened near the Schaefer farm and is seeking employees. Ken's neighbor started working part time for the hog factory. Ken and Lois will not receive much assistance; there is not near enough livestock assistance. However, Ken and Lois do not necessarily want assistance. What they want is a decent price for their hogs.

They ask the question: How can it be that we as hog producers are facing extinction and these packers are in hog heaven? How can it be that we as hog producers are facing extinction and the IBPs and the Cargills and the ConAgras are making record profits?

Several weeks ago, I spoke about the crisis that is ravaging rural America. I told my colleagues about farmers I visited in Minnesota, Iowa, Missouri, South Dakota, and Texas. Today, I want to talk about why there is this convulsion, why every month more and more family farms are put on the auction block; why every month more and more family farmers are forced to give up their way of life; why they lose their work; why they are losing their hope; and why they are sometimes losing their communities.

We ought to act now. I have said to the majority leader three or four times that I want an opportunity to bring to the floor of the Senate some legislation that will alleviate the suffering. I want to talk about this today. I want the opportunity to have an up-or-down vote on a moratorium on any further mergers or acquisition of any huge agribusiness. We have a frightening concentration of market power. These big conglomerates have muscled their way to the dinner table and are driving out family farmers. At the very minimum, we can put into effect the moratorium and have a study so over the next 18 months we can come up with legislation while this moratorium is in place that will put some competition and free enterprise back into the food industry, giving our family farmers, our producers, a fighting chance.

Several weeks ago I spoke on the floor at some length about the crisis that is ravaging rural America today. I told my colleagues about some of the farmers I've visited with in Minnesota, in Iowa, in Texas, and around the country who are on the brink of financial disaster because of record low farm prices.

Farmers from all around the country were in Washington, DC, that week because they know that the future of the family farm is at stake. Every month, more and more family farms are put on the auction block. Every month, more and more family farmers are being forced to give up their life's work, their homes, and their communities. We must act now.

In Minnesota, about 6,500 farmers are expected to go out of business this year. That's about eight percent of all farmers in my state. In northwest Minnesota, which has been hit especially hard by this crisis, about 11 percent are expected to go under. An August 1999 survey of Minnesota County Emergency Boards reported that more Minnesota farmers are quitting or retiring with fewer farmers taking their place; more Minnesota farm families are having to rely on non-farm income to stay afloat; and the number of Minnesota farmers leaving the land will continue to increase unless and until farm prices improve. We must act now.

Today I want to take a step back and look at the larger picture. I want to examine what is going on in American agriculture and why; what it means for farmers and for us as a society; and, most importantly, what we can do about it.

I want to talk about record low farm prices. I want to talk about record high levels of market concentration and the absence of effective competition in almost every major commodity market. I want to talk about the failure of our antitrust enforcement authorities to do much of anything about this.

I want to talk about the need for Congress to take immediate action to restore competitive markets in agriculture and give farmers more equal bargaining power against corporate agribusiness. And I also want to make the case for a moratorium on large agribusiness mergers and acquisitions, effective immediately, which I have recently proposed along with Senator DORGAN.

In my travels around Minnesota and around the country, I've found that many people are not even aware of the crisis afflicting rural America today. Even fewer have any idea to what extent market concentration and anticompetitive practices have substantially eliminated competition in agriculture. So let me just start by ticking off a few statistics that some of my colleagues may find surprising.

In the past decade and a half, an explosion of mergers, acquisitions, and anti-competitive practices has raised concentration in American agriculture to record levels.

The top four pork packers have increased their market share from 36 percent to 57 percent.

The top four beef packers have expanded their market share from 32 percent to 80 percent.

The top four flour millers have increased their market share from 40 percent to 62 percent.

The market share of the top four soybean crushers has jumped from 54 percent to 80 percent.

The top four turkey processors now control 42 percent of production.

49 percent of all chicken broilers are now slaughtered by the four largest firms.

The top four firms control 67 percent of ethanol production.

The top four sheep, poultry, wet corn, and dry corn processors now control 73 percent, 55 percent, 74 percent, and 57 percent of the market, respectively.

The four largest grain buyers control nearly 40 percent of elevator facilities.

By conventional measures, none of these markets is really competitive. According to the economic literature, markets are no longer competitive if the top four firms control over 40 percent. In all the markets I just listed, the market share of the top four firms is 40 percent or more. So there really is no effective competition in the processing markets for pork, beef, chicken, turkeys, ethanol, flour, soybean, wet corn, dry corn and grain.

This development is not entirely new. In some sectors of agriculture, there was already considerable horizontal concentration at the turn of the century. Pork and beef slaughtering and processing were dominated by Wilson, Armour and Swift. That's why Congress passed the Packers and Stockyards Act in 1921.

But now, with this explosion of mergers, acquisitions, joint ventures, marketing agreements, and anti-competitive behavior by the largest firms, these and other commodity markets are becoming more and more concentrated by the day.

Recently the Justice Department approved a modified merger between Cargill and Continental. Just a few weeks ago Smithfield Foods, a major meat processor, announced the acquisition of Murphy Family Farms, a giant hog producer. DuPont is buying Pioneer Hi-Bred International. ADM is buying more and more of IBP. Among seed companies and input suppliers, there has been more than $15 billion worth of combinations in the last three years.

In my hands I have a monthly listing of new mergers, acquisitions, and other agribusiness deals through March 1999. Let me just read a sample of some of the headlines to give you a sense of how rapidly this concentration is taking place. March 1999: Dupont to buy Pioneer. Farmland-Cenex to discuss combining grain operations. Smithfield to acquire Carroll's.

February 1999: Three California dairies preparing for merger. December 1998: Monsanto completes Dekalb purchase. Smithfield gains control of Schneider. Cargill buys Bunge's Venezuelan units. November 1998: Cargill buys out rival grain operation; deal boosts firm's hold on market. Dow Chemical completes purchase of Mycogen. IBP buys appetizer business in expansion move. And so on.

The effect of this surge of concentration is that agribusiness conglomerates have increased their bargaining power over farmers. When farmers have fewer buyers to choose from, they have less leverage to get a good price. Anybody who has been to an auction knows that you get a better price with more bidders. Moreover, when farmers have fewer buyers to choose from, agribusinesses can more easily dictate conditions that farmers have to meet. And fewer buyers means farmers often have to haul their production longer distances, driving up their transportation costs.

In addition to this horizontal concentration among firms in the same line of business, we are also seeing another kind of concentration. It's called vertical integration. Vertical integration is when one firm expands its control over the various stages of food production, from development of the animal or plant gene, to production of fertilizer and chemical inputs, to actual production, to processing, to marketing and distribution, to the supermarket shelf.

The poultry industry is already vertically integrated, by and large. 95 percent of all chicken broilers are produced under production contracts with fewer than 40 firms. Now the same process is occurring in the pork industry. Pork packers are buying up what's called captive supply—hogs that they own or have contracted for under marketing agreements. If these trends continue, grain and soybean production may soon be vertically integrated just like poultry.

The problem with this kind of vertical concentration is that it destroys competitive markets. Potential competitors often never know the sale price for goods at any point in the process. That's because there never is a sale price until the consumer makes the final purchase, since nothing is being sold outside the integrated firm. It's hard to have effective competition if prices are not publicly available. Today there is essentially no price discovery, and therefore no effective competition, for chicken feed, day old chicks, live chicken broilers, turkeys and eggs. If vertical integration of pork and dairy continues at the current pace, we can expect much the same in those industries.

Vertical concentration stacks the deck against farmers, as we can see clearly in the case of the rapidly consolidating hog industry. An April 1999 report by the Minnesota Land Stewardship Project found that:

> Packers' practice of acquiring captive supplies through contracts and direct ownership is reducing the number of opportunities for small- and medium-sized farmers to sell their hogs;
>
> With fewer buyers and more captive supply, there is less competition for independent farmers' hogs and insufficient market information regarding price; and
>
> Lower prices result.

Even the USDA's Western Corn Belt hog procurement study showed price discrimination against smaller farmers. Smaller farmers were paid lower base prices, lower premiums, and they were given little or no access to long-term marketing contracts.

The combined effect of these two different kinds of concentration is to put enormous market power in the hands of a handful of global agribusiness giants. Not only do these conglomerates dominate processing for all the major commodities, but the same firms appear among the top four or five processors for several different commodities. ConAgra, for example, is among the Top Four for beef, pork, turkeys, sheep, and seafood, and it's number five for chicken broilers. To make matters worse, many of these firms are vertically integrated. Cargill, for example, is among the Top Four firms trading grain, producing animal feed, feeding hogs and beef, and processing hogs and beef.

Farmers clearly see the connection between this concentration and lower farm prices. Leland Swensen, president of the National Farmers Union, recently testified that:

> The increasing level of market concentration, with the resulting lack of competition in the marketplace, is one of the top concerns of farmers and ranchers. At most farm and ranch meetings, market concentration ranks as either the first or second in priority of issues of concern. Farmers and ranchers believe that lack of competition is a key factor in the low commodity prices they are receiving.

Well, no wonder. How else can you explain the record profits that the large agribusiness conglomerates are racking up, at the same time low prices are causing a depression for family farmers? IBP's earnings in 1998, for example, were up 62 percent. In the second quarter of this year, they were up a whopping 126 percent. Packing plants, food processors and retailers are all reporting record profits.

While corporate agribusiness grows fat, farmers are facing lean times. The commodity price index is the lowest since 1987. Hog prices are at their lowest since 1972. Cotton and soybean prices are the lowest they've been since the early 1970s. Feed grain prices are the lowest they've been since the mid-1980s. Food grain prices are at the lowest levels since the early 1990s. Agricultural income in the mid-Western states is predicted to fall between 15 and 60 percent this year.

Current prices are so low that many family farmers are lucky to stay in business. Market prices are lower than their cost of production. The value of field crops is expected to be more than 24 percent lower in 1999 than it was in 1996—42 percent lower for wheat, 39 percent lower for corn, and 26 percent lower for soybeans. But farmers' expenses aren't falling by the same amount. In fact, they're not falling at all. Farmers can't cash flow if their selling prices are falling through the floor while their buying prices are shooting through the roof.

It all comes down to market power. Corporate agribusinesses are using their market power to lower prices, without passing those price savings on to consumers. The gap between what consumers pay for food and what farmers get paid is growing wider. According to the USDA, the so-called farm-to-retail price spread—the difference between the farm value and the retail price of food—rose 4.7 percent in 1997. From 1984 to 1998, prices paid to farmers fell 36 percent, while consumer food prices actually increased by 3 percent.

In other words, the farmer's share of farm profit is falling. The farmer share of every retail dollar has fallen from 50 percent in 1952 to 25 percent today. By the same token, the profit share of farm input, marketing, and processing companies is rising. The agribusiness conglomerates claim that this is because they're putting more "added value" into food products. Actually, it looks like they're taking additional value out.

Some people have blamed low farm prices on other factors, such as declining exports. That's a big debate that will have to wait for another day. But let me just say this. We can hardly expect export growth to translate into higher prices for American farmers if the multinational agribusinesses still have enough bargaining power to keep farm prices down.

As Jim Braun, a third-generation Iowa farmer, wrote recently, "Unfortunately, increased exports do not necessarily mean more money for farmers. IBP has doubled exports since 1990 and quadrupled profits in 1998, while it destroyed family farmers by paying below Depression-era prices for hogs. If Cargill, ConAgra, or ADM, the three major grain processors and exporters, could sell corn overseas for $20 per bushel, they could still pay American farmers below the cost of production simply because they have the power to do so."

What we do know for sure is that low farm prices are driving thousands of farmers into bankruptcy, and concentration is helping to depress prices. That's reason enough why we should take immediate action to address the problem of concentration. But there are plenty of other reasons why we should be concerned about concentration in agriculture.

First of all, concentration is bad for the environment. When large-scale corporate feedlots replace family-size farms, they create large amounts of waste in a relatively small space. That puts enormous strain on the local ecology. The lower prices resulting from unequal bargaining power also put pressure on farmers to abandon careful soil and water conservation practices.

There's another reason why we should be concerned about concentration in agriculture. The price effects of unequal bargaining power are tremendously destructive of community and family values. This connection was made explicit in an infamous 1962 report by the Committee for Economic Development, whose members included some of the biggest food companies.

Amazingly, the Committee had this to say about community and family values. They recommended investment "in projects that break up village life by drawing people to centers of employment away from the village . . . because village life is a major source of opposition to change." They went on to say, "Where there are religious obstacles to modern economic progress, the religion may have to be taken less seriously or its character changed."

So the largest agribusinesses were afraid that "village life" and religion would stand in the way of modern economic progress. But what exactly did they mean by the term "modern economic progress"? It turns out they meant the bankruptcy and forced emigration of two million farmers. That's what their report recommended. These agribusiness giants were advocating lower price supports for farmers in order to lower farm prices. And the primary benefits of lowering farm prices, they argued, would be to lower input prices for the food companies, to increase foreign trade, and to depress wage levels by putting two million farmers out of business and dumping them into the urban labor pool.

There's a third reason why we should be concerned about concentration in agriculture. As the Committee for Economic Development report makes clear, this concentration is harmful to the economic development of rural communities. It's been estimated that when a farm goes under, three to five jobs are destroyed. For every six farm failures, one rural business shuts down.

The reason is pretty simple. When production is controlled by more nonlocal corporations, profits don't get reinvested in the community. When family businesses operate local farms, elevators, and grocery stores, they plough profits right back into other local businesses. Those revenues circulate locally three or four times, creating what's called a multiplier effect. But there's no multiplier effect when nonlocal corporations drain profits out of the community. Rural communities become little more than a source of cheap labor inputs for agribusiness multinationals—to be purchased as cheaply as possible in competition with low-wage labor overseas.

Obviously, this kind of concentration is not good for the social and economic health of rural communities. According to the Nebraska Center for Rural Affairs, virtually all researchers have found that social conditions deteriorate in rural communities when farm size and absentee ownership increase. Studies have shown that communities surrounded by large corporate farms suffer from greater income polarization—with a few wealthy elites, a majority of poor laborers, and virtually no middle class. The tax base shrinks and the quantity and quality of their public services, public education, and local government declines.

John Crabtree of the Center for Rural Affairs sums it up this way: "Replacing mid-size farms with big farms reduces middle-class entrepreneurial opportunities in farm communities, at best replacing them with wage labor. . . . A system of economically viable, owner-operated family farms contributed more to communities than systems characterized by inequality and large numbers of farm laborers with below-average incomes and little ownership or control of productive assets." He concludes that "Societies in which income, wealth, and power are more equitably distributed are generally healthier than those in which they are highly concentrated."

I think this last point is true not only of rural communities, but of our country as a whole. "Societies in which income, wealth, and power are more equitably distributed are generally healthier than those in which they are highly concentrated." In other words, we all do better when we all do better. When we have a thriving middle class, including a thriving family farm sector, our economy performs better. Our democracy functions better.

The idea that concentrations of wealth, of economic power, and of political power are unhealthy for our democracy is a theme that runs throughout American history, from Thomas Jefferson to Andrew Jackson to the Progressive Era to the New Deal. But this idea was perhaps most forcefully expressed by the People's Party of the late 1800s, sometimes called the Populists.

The People's Party embodied popular disgust with rampant monopolization and concentration of economic and political power. The Populist platform from the 1892 nominating convention in Omaha declared, "The fruits of the toil of millions are boldly stolen to build up colossal fortunes for a few, unprecedented in the history of mankind." People's Party founder Tom Watson thundered, "The People's Party is the protest of the plundered against the plunderers."

In the Gilded Age of the late 1800s and the Progressive Era of the early 1900s, the danger of concentrated economic power was widely recognized and hotly debated. The Populists argued that a free and democratic society cannot prosper with such concentration of power and inequalities of wealth. As the great Supreme Court Justice Louis Brandeis said, "We can have democracy in this country, or we can have wealth in the hands of a few. We can't have both."

The Populists were reacting to a concentration of wealth, economic power, and political power that was remarkably similar to what we've experienced in the late 1900s. Today, despite wage gains for low-income workers over the past couple years, inequality in America has reached record levels.

According to reports by the Center on Budget and Policy Priorities and the Economic Policy Institute, the gap between rich and poor is greater today than at any time since the Great Depression. CBO data shows that after-tax income is more heavily concentrated among the richest one percent of the population than it has been since 1977. CBO projects that in 1999 the richest 1 percent of Americans (2.7 million people) will receive as much after-tax income as the poorest 38 percent (100 million people) put together.

At the same time, we are witnessing the biggest wave of mergers and economic concentration since the late 1800s. Not only in agriculture, but in media and communications, banking, health care, airlines, energy, hi-tech, defense, you name it. There were 4,728 reportable mergers in 1998, compared to 3,087 in 1993; 1,529 in 1991; and a mere 804 in 1980. And as Joel Klein, head of Justice Department's Antitrust Division, has pointed out, the value of last year's mergers equaled the combined value of all mergers from 1990 through 1996 put together.

Former Speaker Newt Gingrich, the political scientist E. J. Dionne, and the philosopher Michael Sandel, among others, have all drawn parallels between the conditions of today and the heyday of monopoly power in the 19th Century. In the Gilded Age, the welfare of farmers, rural communities, and small businesses was sacrificed for the economic interests of burgeoning bank, railroad, and grain monopolies. Today, the welfare and future of our family farmers and rural communities is being sacrificed to the economic interests of near-monopoly global agribusiness.

While the Sherman Act was written by a Republican senator and signed into law by a Republican president, in 1896 William McKinley and the Republicans openly sided with the titans of industry and decided to write off rural America. They felt that the "social reformers, agrarian rebels, church leaders, and others who challenged the authority of the industrial giants" were being hopelessly sentimental, as E.J. Dionne puts it. The McKinley Republicans presumed that monopoly interests were on the right side of history, of economic progress, and of civilization.

Interestingly enough, Populist demands were initially rebuffed with many of the same arguments that have become conventional wisdom today. The Populists were told that monopoly power was the legitimate outcome of free markets, that concentration was the inevitable result of technological progress, that concentration represented economic efficiency, and that there were no viable alternatives.

These arguments are no truer today than they were at the turn of the century. The current trend towards concentration in agriculture is not the product of the "free market," nor of Adam Smith's invisible hand. For starters, with no effective competition in the major commodity markets, these can hardly be held up as models of free market competition. What they really stand for is market failure.

In any event, these near-monopolies were not created by the free market at all. They were created by government, just like the railroad monopolies of the 19th century. Instead of Adam Smith's invisible hand, we are seeing the hand of multinational food conglomerates, in the words of Iowa farmer Jim Braun, "acting inside the glove of government."

The role of government in creating and fostering these monopolies is probably most obvious in the context of intellectual property rights, such as patents and copyrights. These are monopolies by definition. The whole point of intellectual property protection is to prevent competition. Without that patent protection, there would be a lot more companies selling seed and other inputs to the farmer, there would be a lot more competition, and the farmer would pay much lower prices. And because of that protection, intellectual property rights generate outsized profits and market power.

My point is not that these patent protections are a good thing or a bad thing. The answer will probably depend on a lot of different factors in each particular case. My point is that they are not an example of the free market at work. On the contrary, these are monopolies formally granted by the government.

The issue here is not just competition for the patented goods, but barriers to competition for the entire agribusiness industry. If one of these conglomerates engages in high-handed behavior, new businesses could normally be expected to enter the market and steal its market share. But smaller competitors can't enter the market if the barriers to entry are too high. And intellectual property rights are a mighty high barrier.

In fact, one of the motors driving consolidation of agribusiness today is biotechnology. Soon biotech companies will be able to control the entire food production chain with their genetics. Already Monsanto, DuPont, and Novartis are gobbling up smaller biotech companies' market share, patent rights, and customer base. And biotech patent monopolies on plant and animal genomes will be a nearly insurmountable barrier to market entry in the future.

Professor Bill Heffernan, who was commissioned by the National Farmers Union to study these trends, projects that the entire agricultural sector will soon consolidate into a small number of "food chain clusters," revolving around intellectual property firms. The number of these clusters will be limited by the small number of firms with intellectual property protection and by extremely high barriers to market entry.

A handful of vertically integrated food chain clusters are already poised to control food production from the gene to the supermarket shelf. Professor Heffernan identifies three existing food cluster chains: Cargill-Monsanto, ConAgra, and Novartis-ADM. He predicts that another two or three will eventually develop. Smaller seed firms, independent producers and other independent businesses will face a dilemma. Either they join one of alliances to obtain inputs and sell their production, or they go out of business.

The emergence of these titanic food conglomerates is not the inevitable outcome of technological progress, but of conscious policy choices. Our government-funded research programs, for example, have chosen to fund expensive technologies that generate greater sales for the largest agribusinesses and diminish the role of farmers in the production of food.

Government support for private-sector monopoly over the "terminator gene" is a good example of the bias inherent in these choices. The terminator gene is a gene that can be inserted in plants to make their seeds sterile. It forces farmers to buy new seeds every year instead of reusing their own.

This is not a neutral technology. It raises the income of the seed suppliers and intellectual property holders by forcing farmers to pay more for seed. As Lee Swenson of the National Farmers Union recently has testified, "Biotechnology and the terminator gene have put the farmer at the mercy of the food cluster for seed to plant crop. If the firms in the processing stage of the cluster require specific genetic material and the farmer cannot get that seed, the farmer has no market access." Yet this technology was developed with support from none other than the USDA.

While choosing to invest in technologies such as the terminator gene, the government has generally failed to invest in technology that would benefit the family farmer. Research dollars have not been directed towards technologies that would reduce farmers' costs for capital or inputs, for example, or help them produce higher value products. Dr. Neil Harl of Iowa State University also calls for more government support of cutting edge seed varieties that should be made available to smaller seed companies, helping them compete against the emerging food clusters.

Instead, Congress has chosen to cut funding for publicly available research in biotechnology. One seed company CEO, when asked what farmers could do to resist the growing vertical integration of agriculture, said, "Absolutely nothing, because these are property rights owned by the companies, so the farmer is going to become more and more at the mercy of the few who own intellectual properties. Again, it goes back to the shortsightedness of funding basic research in such a parsimonious fashion. Without government funding, companies are going to fund research and control it."

Economic concentration is not dictated by economic efficiencies any more than it is by free markets and technological progress. In the late 1800s, John D. Rockefeller made the classic argument for the economic efficiencies of monopoly power. He claimed that Standard Oil's monopoly was good for the public because it created efficiencies that could be passed along to the consumer in the form of lower oil prices. That argument wasn't compelling then, and it's not compelling today.

First of all, efficiency is not what's driving the trend towards concentration in agriculture. Research by Iowa State University economist Mike Duffy shows no further economies of scale beyond 600 acres of row crops and about 150 sows. But the most rapidly growing farming operations in Iowa are much larger than that, so economies of scale cannot be driving their expansion.

One Iowa farmer writes, "Today efficiency and cost of production have nothing to do with determining which farmer will survive as a food producer." The most important factor is probably the special relationships the integrating firm has with other businesses. In industries undergoing vertical integration, especially, farmers who don't have special relationships with feed or slaughtering firms often have to pay more for inputs and have more problems selling their product. And smaller farmers are being forced to sign production contracts with input suppliers to obtain new technologies they need to stay competitive.

Another critical factor determining who survives in these non-competitive markets is deep pockets and market share. Conglomerates with multiple holdings can cross-subsidize one of their operations with profits from another operation, making it harder for smaller, less diversified firms to compete. They can also drive local non-diversified firms out of business by excess production or processing of a commodity, driving price down below the cost of production.

These cross-subsidies are increasingly taking place on a global scale. A firm like Cargill, which has operations in 70 countries, can absorb losses in one country so long as it can cross-subsidize with revenues from another country. Because they control supplies in more than one country, these multinationals can also drive prices down to the detriment of farmers in both countries.

Even if concentration did produce economic efficiencies, such efficiencies wouldn't concern us if they weren't passed on to the consumer. But we've already seen that the agribusinesses' price windfalls are not being passed on to the consumer. That's because they are able to exploit their economic power to increase profit share at the expense of farmers.

So it's simply not true that there are no viable alternatives to continued economic concentration. Concentration is not dictated by free markets, by technological progress, or by economic efficiency. It's occurring because of government-created monopolies, biased choices in technology policy, special relationships, and cross-subsidies. And it's occurring because our choices in farm and trade and antitrust policies. In the end, concentration is driven by policy choices that could be made differently.

Consider all the policy choices that have brought American agriculture to where it is today. When we paved the way for family farming with the Homestead Act and the defeat of slavery, that was a policy choice. When we enacted parity legislation in the 1940s, leading to an increase in the number of farmers, expansion of soil and water conservation practices, and a decline in farm debt, that also was a policy choice.

When we cut loan rates in the 1950s and 1960s to lower farm prices, that was a policy choice. When we interlinked domestic commodity markets with lower world prices through trade agreements, that was a policy choice. When we eliminated the safety net for farmers with the Freedom to Farm Act, that was a policy choice.

When we invest public resources in technology that tilts the scales against family farmers, that is a policy choice. When we fail to fund enough economists at GIPSA or enough antitrust staff at Justice and the FTC, that is a policy choice. And when we encourage global concentration through our trade policies while allowing corporate agribusiness to destroy competitive markets here at home, that too is a policy choice.

Now the policy choices before us are clear. We can take legislative action that will help preserve family-based agriculture. Or we can continue on our present course, which is leading unmistakably in the direction of contract farming, rural depopulation, and global oligopoly.

In August, the Omaha World Herald carried a story about one economist's projections for the future of American agriculture. "Farmers who stubbornly insist on being their own boss will end up in the economic scrap heap," he said. This economist described a trend toward "polarization of farms by size, with the number of large farms growing at a rapid pace"; "separation of land ownership from land production, with more and more people owning land as an investment and leasing property for production"; and contract farming, which will change the role of farmers from that of an independent producer to skilled tradesman."

Can any Senator honestly tell me this is the vision he or she supports? Do we really want a world of contract farming, in which farm laborers are stuck with one-sided contracts and inadequate price information and struggle to get out from under mountains of debt? Do we really want a world in which our rural areas become depopulated because family farmers have to leave the land? Do we really want a world in which vertical integration and contract farming shift ever more bargaining power to agribusinesses?

Do we really want a world in which management decisions are made by a small group of corporate executives, removed from the land thanks to new precision farming technologies? Do we really want a world in which titanic food chains face little pressure to pass on price savings to the consumer?

Do we have any say in this matter? I think we do. We don't have to accept this vision of the future if we don't want to. We can propose a different one, and we can fight for it. These are all policy choices.

These choices are made more difficult by the immense power of corporate agribusiness—not only economic power, but political power as well. As Lee Swenson of the NFU recently testified,

> The remaining firms are increasing market share and political power to the point of controlling the governments that once regulated the firms. Some of the biggest corporations have gotten tax breaks or other government incentives. . . . Corporate interests have also called on the government to weaken environmental standards and immigrant labor protections in order to allow them to reduce productions costs.

The bigger these agribusinesses get, the more influence they have over our public policy choices. The bigger they get, the more money they have to spend on political campaigns. The bigger they get, the more lobbyists they can afford to amass on Capitol Hill. The bigger they get, the more likely they are to be named special U.S. trade representatives, like the CEO of Monsanto. The bigger they get, the more likely public officials will be to confuse their interests with the public interest, if they don't already do that. And the bigger they get, the more weight they will pull in the media.

It's a vicious circle. These agribusiness conglomerates used their political clout to shape public policies that helped them grow so big in the first place. Now their overwhelming size makes it easier for them to dictate policies that will help get even bigger.

This was just as much a problem at the turn of the century as it is now. American democracy suffered greatly as a result of concentration of economic power in the late 1800s. But the Populists and their successors showed us that there is a different path, that there are alternatives, and they proceeded to lay the groundwork for the Progressive Era.

Even before the founding of the People's Party, populists and labor and progressives began working to rein in the concentration of economic power. With the help of some forward-looking Republicans, they fought for and passed the Sherman Act and the Clayton Act and the Packers and Stockyards Act and the Federal Trade Commission Act. They also reined in the trusts through regulation of banks and railroads. And they demanded more and better democracy through the direct election of senators.

Judge Robert Bork notwithstanding, I don't believe the Sherman Act was motivated by concerns over economic efficiency and consumer welfare. In fact, during consideration of the Sherman Act, Congressman Mason directly responded to the efficiency arguments raised by John D. Rockefeller.

> If the price of oil, for instance, were reduced to one cent a barrel, it would not right the wrong done to the people of this country by the trusts which have destroyed legitimate competition and driven honest men from legitimate business enterprises.

As Richard Hofstadter has written, the Sherman Act was "a ceremonial concession to an overwhelming public demand for some kind of reassuring action against the trusts." During debate on the Act, Senator John Sherman himself railed against the "kingly prerogative" of men with "concentrated powers." He vowed that "We will not long endure a king over production, transportation, and sale of any of the necessities of life."

But the antitrust laws, in the words of Supreme Court Justice William O. Douglas, are now "mere husks of what they were intended to be." In the last 20 years, the courts have been unduly influenced by the anti-antitrust views of Judge Bork and the Chicago School. Today tremendously unfair market power routinely goes unpunished, especially with regard to vertical integration.

Courts have limited the effectiveness of the antitrust laws by narrowing their focus to questions of economic efficiency and consumer welfare. The focus on consumer welfare is an obstacle to antitrust enforcement in agriculture, even though farmers were an integral part of the original antitrust movement. Conventional antitrust analysis focuses on the ability of dominant firms to charge higher prices to consumers; price declines are generally not regarded as a problem. But farmers today are drawing attention to the ability of dominant firms to abuse their market power to pay lower prices to producers, not consumers.

The Justice Department's recent approval of the Cargill-Continental merger raises troubling questions about the future of antitrust enforcement in agriculture. If DOJ can't stop the merger of Cargill and Continental, what merger will it ever stop? Will it ever be able to take any action at all to arrest the trend towards concentration in agriculture?

The Packers and Stockyards Act is a similar story. Enacted in 1921 to combat the market abuse of the top five meat packers, it has extremely broad and far-reaching language. Under the Packers and Stockyard Act, it is unlawful for any packer to "engage in or use any unfair, unjustly discriminatory, or deceptive practice or device." It is unlawful to "make or give any undue or unreasonable preference or advantage."

However, some court decisions have limited its scope, and USDA is unwilling to test its regulatory authority in court. Meanwhile, concentration in the meat-packing industry today is higher than it was when the FTC issued its original report leading to enactment of the 1921 Act.

Clearly, we cannot simply rely on the current antitrust statutes and antitrust authorities to address the rapid consolidation of the agricultural sector. We must change our antitrust laws. Whether or not our antitrust agencies have authority that they are unwilling to exercise, we need to force their hand. And we must develop a new farm policy. Realistically, however, we know that doing these things may take some time. We must act now.

There is something we can do in the short term. I am offering legislation with Senator DORGAN that would impose a moratorium on mergers and acquisitions among agribusinesses that must already submit pre-merger filings under current law (annual net revenue or assets over $100 million for one party and $10 million for the other). This moratorium would remain in effect for 18 months, or until Congress enacts legislation to address the problem of concentration in agriculture, whichever comes first.

Over the longer term, however, we need to focus on equalizing the bargaining power between farmers and the global agribusiness giants. A growing disparity of economic power is shifting a larger share of farm income to agribusiness. We need to reverse that trend and level the playing field. Unless we ensure that farmers and ranchers receive a fair share of the profit of the food system, little else we do to maintain family-size farms is likely to succeed.

Of course, there's more than one way to attack the problem of unequal bargaining power. The antitrust statutes helped equalize bargaining power by increasing competition, thereby reducing the market power of monopolies. The formation of agricultural cooperatives under the Capper-Volstead Act helped equalize bargaining power from the opposite direction—by increasing the market power of farmers. Under either approach, farmers improve their bargaining position and are likely to obtain a greater share of farm income.

Yet there are some inherent disparities in market power that can only be remedied through farm policy. Because there are so many farmers, no single farmer can influence price on his or her own. On their own, farmers cannot limit production waiting for prices to rise or until they can shift crops. Farmers are unable to reduce supply without assistance from the government, which is where farm policy can play a role.

Farm policy can also remedy inherent disparities in market power by placing a floor on prices. Laws guaranteeing workers the right to bargain collectively and a minimum wage are based on the same idea. The minimum wage law recognizes that there is unequal bargaining power between employers and workers, and that wage negotiation would often lead to wages that are too low. The bargaining power between agribusiness conglomerates and farmers is similarly unequal, and it is resulting in farmer prices that are too low. Farmers today essentially need the equivalent of a minimum wage.

Of course, bolstering the market power of family farmers is inimical to the economic interests of corporate agribusiness, and it will be fiercely resisted. But in the past we have managed to tame concentrations of economic and political power, and I refuse to believe we cannot do so again. For this reason, the examples of the Populist movement and the Progressive Era are enormously instructive and encouraging.

Finally, I want to mention the fiery closing speech at the People's Party convention in 1892, which reads like it could have been written yesterday. It was delivered by a remarkable Minnesotan—an implacable foe of monopoly power named Ignatius Donnelly. Donnelly affirmed that "the interests of rural and urban labor are the same," and he called for a return to America's egalitarian founding principles. "We seek to restore the government of the Republic to the hands of the 'plain people' with whom it originated," he said.

We should do no less. If we want to sustain a vibrant rural economy and a thriving democracy, we need urgent reform of our farm and antitrust laws. We must act now. We can start by passing an 18-month moratorium on the largest agribusiness mergers.

I yield the floor, and I reserve the remainder of our time for the minority.

Mr. COCHRAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

Mr. COCHRAN. Mr. President, I ask unanimous consent—and I do not intend to object—that the time consumed by the Senator be charged equally to all time under the order on the appropriations bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The Senator is recognized.

Mr. INHOFE. Mr. President, I am not going to take much time. I certainly hope the Senator from Minnesota did not cut his remarks short because he certainly is articulating something in which we are all very interested. I would do what I could to protect his rights to get a vote if he needed a vote, the same as I ask my rights be protected to either get a vote or to object to a unanimous consent request, which I have been doing with regularity in the last few days.

Mr. WELLSTONE. Mr. President, I thank my colleague for his remarks.

COMPREHENSIVE NUCLEAR TEST-BAN TREATY

Mr. INHOFE. Mr. President, I will take a few minutes to share with the Senate something that has not been mentioned yet in this whole CTBT debate.

First of all, let me respond to a couple of things that were said by the last speaker who spoke in favor of the Comprehensive Test Ban Treaty. I hate to be redundant, but I cannot let these things continue to go by. People will actually believe them when, in fact, they are not true.

The statement was made by one of the Senators that the Directors of the labs—the three energy labs—were in favor of this treaty. I listened to this, and yet we had them before our committee which I chair. They were very emphatic about their feelings. I am going to read to make sure the record reflects this.

Dr. Paul Robinson, one of the Directors, said:

> The Treaty bans any "nuclear explosion," but unfortunately, compliance with a zero-yield requirement is unverifiable. The limitations of verifiability introduce the possibility of inconsistent observance of the ban under the threshold of detectability.

The threshold of detectability is something that is there. What that means is, no matter what equipment we use, we are unable to detect certain tests that are underground under certain yields. This is a zero-yield test.

We kept hearing from the same individual yesterday that they can get onsite inspections. Onsite inspections are not assured. Under this treaty, it is very specific. Going back to Paul Robinson, the Director of Sandia Lab:

> The decision to approve a request for an onsite inspection must be made by an affirmative vote of at least 30 of the 51 members of the treaty organization's Executive Council.

I know there is supposedly some informal agreement that we in the United States would be a member of that executive council. I do not see anything in this treaty that says we are. We are putting our fate in the hands of some 30 nations, and we do not know at this point who those 30 nations will be.

I will quote further to get my point across, although the Senator was well meaning yesterday in making the comment this was endorsed by the Directors of the labs. I will quote Dr. Paul Robinson again. He was referring to himself and the Directors of the other two labs. I am talking about all three labs:

> I and others who are or have been responsible for the safety and reliability of the U.S. stockpile of nuclear weapons have testified to this obvious conclusion many times in the past. To forego that validation through testing is, in short, to live with uncertainty.

He goes on to say:

> If the United States scrupulously restricts itself to zero yield while other nations may conduct experiments up to the threshold of international detectability—

The one I just talked about—

> we will be at an intolerable disadvantage.

We have to read that over and over because people are not getting that message.

The second thing he said was, what is the rush? This morning, I heard the President in his press conference of yesterday talk about the rush. Here is the President who has been saying over and over that he demands this come before this Senate and be acted upon by November of this year. Here it is. That is next month. We are doing exactly what he wanted. Yet now he wants to withdraw this treaty because he does not believe he has the votes for the ratification. I agree. He does not have the votes. It would shock me if he had the votes.

Yet we have had a chance for a very deliberative session. We have talked for hours and hours, some 22 hours of debate and committee activity on this subject. We are all very familiar with it.

I also suggest that any Member of the Senate who stands up now and says we should not be doing this and how unconscionable that we are considering something of this magnitude right now, any one of those Senators saying that had the opportunity, as the Senator from Illinois would have had the opportunity, to object to bringing it up because it was done so by unanimous consent.

The third thing they were talking about is how everyone is a strong supporter of this treaty. For the record, one more time, we have 6 former Secretaries of Defense and several former Directors of Central Intelligence, as well as some 13 former commanding generals, all of whom are in the RECORD right now, and I do not need to put it in again, I have already put that in the RECORD; also, the statement by Bill Cohen. There is no one for whom I have greater respect than my former colleague on the Senate Armed Services Committee, the former Senator Bill Cohen, now Secretary of Defense Bill Cohen.

But I had to remind him, during our committee meeting, that maybe now his attitude is different on some of these critical things because he is now working for the President. But what he said in September of 1992—and I remember when he said it when he was leading the fight to stop this type of a treaty; in fact, it is the same provisions—he said:

> . . . [W]hat remains relevant is the fact that many of these nuclear weapons which we intend to keep in our stockpile for the indefinite future are dangerously unsafe. Equally relevant is the fact that we can make these weapons much safer if limited testing is allowed to be conducted. So, when crafting our policy regarding nuclear testing, this should be our principal objective: To make the weapons we retain safe.
>
> . . . The amendment that was adopted last week . . .

This is back in 1992, but this is the same language we are talking about today—

> does not meet this test . . . [because] it would not permit the Department of Energy to conduct the necessary testing to make our weapons safe.

Here is the same Secretary of Defense, back when he was in the Senate, talking about the fact that our weapons are not safe. By the way, we had a chart that we showed of information that came from all three of the Energy labs which is in the Cloakroom right now, but we have used on the floor several times, showing specifically not one of the nine weapons in that arsenal meet the safety tests today. In other words, we have gone 7 years now without testing, and it has now taken its toll. We are having a problem. So anyway, that is very significant to remember those words of Secretary Cohen.

I have been asked the question by a number of people as to why I am so adamant about objecting to the unanimous consent request—and I do not care who makes it—to take this from the calendar and put it back into the Foreign Relations Committee.

I do so because there is something that has not even been discussed on this floor yet; and that is, unless we kill it and actually reject this treaty by a formal action, the provisions of this treaty are going to remain somewhat in effect. In other words, we are going to have to comply with this treaty that has been signed—going back to a document of the Vienna Convention that was actually signed on May 23, 1969, but it did not become a part of the international law until January of 1980.

Article 18—and this is in effect today—says:

> Obligation not to defeat the object and purpose of a treaty prior to its entry into force.
>
> A State is obliged to refrain from acts which would defeat the object and purpose of a treaty when:
>
> (a) it has signed the treaty or has exchanged instruments constituting the treaty subject to ratification, acceptance or approval, until it shall have made its intention clear not to become a party to the treaty . . .

What that means is, we have this flawed treaty, this treaty that allows our adversaries to conduct underground tests. Yet while we cannot do it, we have to comply with this treaty, if we merely send it back to committee.

So I just want to make sure—I am going to read that again. This is from the Vienna Convention. This is something that we are a party to. It says—I will take out some of the other language—

> A State is obliged to refrain from acts which would defeat the object and purpose of a treaty when:
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> (a) it has signed the treaty or has exchanged instruments constituting the treaty subject to ratification, acceptance or approval, until it shall have made its intention clear not to become a party to the treaty . . .

How do you make your intentions clear? Under the Vienna Convention language, not to be a party to this treaty you have to vote it down. You have to bring this up for ratification and reject it formally on the floor of this Senate. To do anything other than that is to leave it alive and to force us to comply with this flawed treaty, which is a great threat to our safety in this country.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I want to make a couple comments about the conference report on Agriculture appropriations. Before I do, I would like to make a comment or two about the presentation just offered by my friend from Oklahoma.

The Senator from Oklahoma, as he always does, makes a strong presentation for something he believes very strongly in. I believe very strongly that he is wrong. I believe very strongly in the other side of the issue. Let me describe why just for a few moments.

The Comprehensive Nuclear Test-Ban Treaty is a question presented to this country in this form: Will the United States of America assume the moral leadership that it must assume, in my judgment, to help stop the spread of nuclear weapons around the world? There are two nuclear weapons superpowers—the United States and Russia. Between us, we have roughly 30,000 nuclear weapons. Some other countries have them, and many other countries want them. There are many countries, there are rogue nations, and there are terrorist groups that want to have access to nuclear weapons.

The question of what kind of a future we will have in this world depends, in large part, upon the direction this country takes in assuming its responsibility to stop the spread of nuclear weapons.

We already decided 7 years ago, as a country, we will no longer test nuclear weapons. We made that decision unilaterally. Over 40 years ago, President Eisenhower said: We must have a Comprehensive Nuclear Test-Ban Treaty; we must do that. About 5 or 6 years ago, we began negotiating with other countries to develop such a treaty. Two years ago, President Clinton sent to the Senate a treaty that would provide a comprehensive nuclear test ban all around the world.

For 2 years, that treaty languished here without 1 day of hearings before the primary committee that it was sent to, the Foreign Relations Committee. I know there is disagreement on that, but I tell you, Senator BIDEN, who is the ranking Democrat of that committee, says there was not 1 day of hearings devoted to that treaty.

I understand some people want to kill it.

Mr. INHOFE. Will the Senator yield on that?

Mr. DORGAN. I am happy to yield.

Mr. INHOFE. I ask the Senator, if it should not have been brought up for the purpose he just articulated, why did this Senator not object to the unanimous consent request to have a vote on it?

Mr. DORGAN. Let me say this about the unanimous consent request. If you take a look at all the arms control treaties that have been offered to the Senate—the ABM Treaty, the START I treaty, the START II treaty, on down the line—and take a look at how many days of comprehensive hearings they had, No. 1, in the committee of jurisdiction and, No. 2, how many days they were debated on the floor of the Senate, what the Senator will discover is this treaty, that has been treated lightly, it is a serious matter—treated lightly by the fact that the majority leader said, even without comprehensive hearings, we will bring this treaty to the floor of the Senate and kill it.

It alone is the arms control treaty that has been treated in this manner. All other treaties were dealt with seriously with long, thoughtful, comprehensive hearings—day, after day, after day—and then a debate on the floor of the Senate—day after day—which involved the American people and public opinion; and then this country made decisions about those treaties.

I know there are some who have never supported an arms control treaty under any condition. They have not.

Mr. INHOFE. If the Senator will yield further?

Mr. DORGAN. Let me finish my statement.

They do not support arms control treaties. I respect that. I just think they are dead wrong. I have on my desk—I ask consent to show it again—a piece of a bomber. This is a piece of a Backfire bomber, a Russian bomber. Why is a Russian bomber in a circumstance where its wing was sawed off—not shot down, its wing sawed off? Because arms control agreements have reduced the number of delivery systems and nuclear weapons.

This part was sawed off a Russian bomber wing as part of the reduction of the threat under our arms control treaties. These treaties work. We know they work. That is why, without shooting down a bomber, I have a piece of a Russian Backfire bomber wing, just to remind us that arms control treaties work.

Mr. INHOFE. Will the Senator yield further?

Mr. DORGAN. Just for a moment.

Mr. INHOFE. I think it is very significant because this subject has come up during 14 hearings before the Senate Foreign Relations Committee. We have over 130 pages of testimony on this. We have discussed it for hours and hours over the last 2 days. Again, any Senator could have objected to this and apparently believed it was not necessary.

But I have to ask you this question. You talked about only two countries having these weapons.

Mr. DORGAN. I did not say that. Let me reclaim my time. I did not talk about "only two countries."

Mr. INHOFE. There was a time when that was true. During the cold war that was a valid argument. It is no longer true. Virtually every country has weapons of mass destruction. Now it is a matter of which countries have missiles that could deliver them, of which now we know of North Korea and Russia and China—and whoever else we don't know because they have been trading technology with countries like Iraq and Iran, and other countries.

Mr. DORGAN. I did not say that the United States and Russia are the only countries that have nuclear weapons. I said we have 30,000 between the two countries. Other countries have nuclear weapons as well, and many other countries aspire to have nuclear weapons.

The Senator from Oklahoma said something that is not the case. He said virtually every other country has weapons of mass destruction. That is not the case. The nuclear club, those countries that possess nuclear weapons, is still rather small, but the aspiration to get a hold of nuclear weapons is pretty large. A lot of countries—more than just countries, terrorist groups—want to lay their hands on nuclear weapons. What happens when they do? Then we will see significant threats to the rest of this world.

It is in our interest as a country to do everything we can possibly do to stop the spread of nuclear weapons. Do we want Bin Laden to have a nuclear weapon? Do we want Qadhafi to have a nuclear weapon? Do we want Saddam Hussein to acquire a nuclear weapon? I don't think so. Arms control agreements and the opportunities to prevent the spread of nuclear weapons are critical.

How do we best do that? Many of us believe one of the best ways to do that is to pass this treaty, the Comprehensive Nuclear Test-Ban Treaty.

We are going to have this treaty back on the floor, I think, for 3 hours today. I will make it a point to come and I will spend the entire 3 hours with the Senator from Oklahoma.

Mr. INHOFE. If the Senator will yield for a response.

Mr. DORGAN. I have not yielded, Mr. President.

The PRESIDING OFFICER. The Senator from North Dakota has the floor.

Mr. DORGAN. This treaty was brought to the floor for 14 hours of debate. Name another arms control treaty that came to the floor with only 14 hours of debate. The Senator asks: Why didn't someone object? The burden is on us. Because the majority leader treated a serious matter lightly, the burden is on someone else.

The Senator from Oklahoma knows we objected the first time the Senator from Mississippi proposed it. He knows an objection was raised. The second time the Senator from Mississippi proposed it, he linked it to a time. If that is the only basis on which we had the opportunity to consider this treaty, so be it. But it is not treating a serious matter seriously, in my judgment. Name another treaty that has come to the floor of the Senate dealing with arms control, the arms control issues embodied in this treaty, trying to prevent the spread of nuclear weapons, that has had this little debate and comes to the floor, despite what my colleague says, without having had 1 day of comprehensive hearings devoted to this treaty in the committee to which it was assigned? Those are the facts.

Mr. INHOFE. If the Senator will yield on that point.

Mr. DORGAN. Mr. President, I came to speak about the Agriculture appropriations bill. The only reason I made these comments is, the Senator from Oklahoma was, once again, making statements. He is good at it. He feels passionately about these things. But I think, with all due respect, he is wrong on this issue.

This country has a responsibility to treat these issues seriously. This country has a responsibility to lead in the area of preventing the spread of nuclear weapons. We don't lead in that regard by turning down or rejecting this treaty. There was a coup in Pakistan yesterday; we are told. We don't know the dimensions or consequences of it. Pakistan is a nuclear power. Pakistan and India are two countries that don't like each other. They exploded nuclear weapons, literally under each other's chin, within the last year. Is that a serious concern to the rest of the world? It is.

Mr. INHOFE. Absolutely, if the Senator will yield.

Mr. DORGAN. Are we going to lead and try to stop nuclear testing? Are we going to lead in trying to stop the spread of nuclear weapons? I hope so. I cast my vote to ratify this treaty, believing it is the best hope we have as a country to weigh in and be a leader, to say we want to stop the spread of nuclear weapons around the rest of the country.

Mr. President, I see my friend from Arizona has also joined us. I came to speak about this Agriculture bill. I know my colleague from Illinois is waiting to address these issues as well.

Mr. KYL. I wonder if I might prevail on the courtesy of the Senator for 30 seconds.

Mr. DORGAN. Thirty seconds.

Mr. KYL. The Senator asked a question which I think deserves an answer: Name one other treaty that had less time or more time than this. Here are the treaties: The Chemical Weapons Convention had 18 hours allotted for it.

Mr. DORGAN. Is that less than 14?

Mr. KYL. That includes amendments.

Mr. DORGAN. How many comprehensive hearings did that treaty have?

Mr. KYL. If I could complete my answer to the Senator, which is that this treaty, pursuant to a request by the minority, had 14 hours associated with it, plus 4 hours per amendment, if there were amendments offered. There was an amendment offered on the Democratic side. The Democratic side used 2 hours allotted to them for that. The Conventional Forces in Europe Treaty had 6 hours, compared to 14 for the CTBT. The START Treaty had 9½ hours, about 6 hours less. The START II Treaty had 6 hours, and the CFE Flank Agreement, 2 hours. So every one of these treaties ended up having less time than the CTBT allotted for debate on the floor.

All of last week was consumed by hearings in the Intelligence Committee, the Foreign Relations Committee, and the Senate Armed Services Committee; I don't know how many hours total. Prior to that time, the Government Operations Committee had three separate hearings. That is the specific answer to the Senator's question.

Mr. DORGAN. One thing I hate in politics is losing an argument I am not having. The Senator from Arizona cites the number of hours this treaty or that treaty was considered on the floor of the Senate. I will bring to the floor this afternoon the compendium of action by the Senate on the range of arms control treaties, START I, START II, ABM, so on. What I will show is that in the committee of jurisdiction, there were days and days and days of comprehensive hearings and the length of time those treaties were considered, in terms of number of days on the floor of the Senate, were extensive. It allows the American people to be involved in this discussion and this debate. This approach, which treats a very serious issue, in my judgment, too lightly, says, let us not hold comprehensive hearings. I remind the Senator that the request from the minority was of the majority leader to hold comprehensive hearings, allow consideration, and allow a vote on this treaty. That is not the course the majority leader chose.

Having said all that, I am happy to come back this afternoon. I feel passionately about this issue. We should talk about all the things the Senator from Oklahoma is raising. We haven't tested for 7 years, and we think this country is weaker because of it. I don't know how some people can sleep at night. North Korea is going to attack the Aleutian Islands with some missile. Our nuclear stockpile is unsafe, one Senator said the other day. The bombs in storage are unsafe. We have been storing nuclear weapons for over 40 years in this country. All of a sudden they are unsafe, on the eve of the Comprehensive Nuclear Test-Ban Treaty.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—CONFERENCE REPORT—Continued

Mr. DORGAN. Having said all that, let me turn to the question of the Agriculture Appropriations bill. Let me ask how much time I have remaining? I had sought 20 minutes.

The PRESIDING OFFICER. The minority has 136 minutes remaining.

Mr. DORGAN. I will take 5 minutes. My friend, the Senator from Illinois, is waiting and the Senator from Mississippi, who manages the bill, has the patience of Job. I will not spend a lot of additional time.

I want to run through a couple charts, if I might. I want people to think through if this were their income, what their situation would be. Every one of you have a job; you have an income. If you have a business, you have some profit or an expected profit. Ask yourself what your situation would be personally if your job was to raise corn. This is what has happened to the price of corn; it has dropped dramatically. Think of what that would mean if that happened to your income.

What about if you are a producer out there, a family farmer raising some children and trying to operate a farm? You are raising wheat. Here is what has happened to your income. It has plummeted?

What if you are raising some kids and trying to operate a family farm and doing well and you are producing soybeans? This is what happened to your income. Again, a drastic reduction.

Do you know of any other business in which prices have fallen as much as for wheat, corn, soybeans?

Likewise, what if somebody said that the product you raise, a bushel of wheat, for example, as a percentage of the cereal grain dollar, was going to shrink by over half?

Take another example. Say you were raising hogs and not too long ago you sold a 200-pound hog and got $20 for it. Then that hog was slaughtered and the meat from that hog went to the grocery store and was sold for $350. There is something wrong with that picture.

Is there something wrong with the stream of income that goes to the person who actually raised that hog versus the amount of income that goes to the middle people who process it? Absolutely.

We could go through chart after chart, those of us who represent farm States. All of us know what the story is. The story is, our family farmers are in crisis. We have a farm bill that has an inadequate safety net. We have the collapse of grain prices in this country in an almost unprecedented way. We have the weakening Asian economy, which means fewer exports. We have concentration and monopolies in every direction, which cuts the farmer's share of the food dollar.

When Continental and Cargill are allowed to get married, as they just did, two big companies gathering together under one umbrella, it demonstrates that our antitrust laws don't work. Every direction the farmer looks, he finds a monopoly. Want to raise some grain and ship it on a railroad? You are held up for prices that are outrageous in order to haul it by the railroad. The same is true with virtually every other commodity such as selling wheat into a grain trade that is highly concentrated. In every set of circumstances, farmers have been injured. And the result of all of these adverse circumstances coming together, especially the twin calamities of the collapse of commodity prices and weather-related crop disasters, means we have a full-scale emergency on our family farms.

This piece of legislation is not particularly good. I am going to vote for it, but with no great enthusiasm. I was one of the conferees. The conference met for a brief period of time. Senator DURBIN was a conferee, as well, and he will recall we met for a period of time, and one of the things we pushed for was to stop using food as a weapon. No more food embargoes. Guess what. That was our strong Senate position, but it is not in this report.

This report doesn't end the embargoes on food or end using food as a weapon. This report doesn't do that because the conference dumped it. We didn't do it because we were part of the conference, but the conference didn't meet. It adjourned in a pique and never got back together. We are told the Senate majority leader and the Speaker of the House cobbled together this bill.

with some technical help. When we saw it again, it said we want to continue to use food as a weapon and keep embargoes on various countries around the world.

I am not happy with this bill. Let's provide income support to farmers, it says, after we pushed for that. But it says do it with something called AMTA payments. We are going to have people getting emergency payments who didn't lose any money because of collapsed prices; they weren't even farming. In fact, the payment limits have gone up. So it is conceivable that some landowners are going to get $460,000 without putting a hand to the plow. That is the new payment limit. Can you imagine telling a taxpayer in a city someplace that we want to help farmers in trouble, and they ask which farmers? Well, somebody is going to get a $460,000 payment whether or not they are actually farming. That is not helping America's family farmers. So there is a lot wrong with the payments provided by this bill.

Similarly, the disaster aid is only $1.2 billion and contains no specific line item for flooded lands. We know that amount shortchanges all the known needs. We know that is not going to cover the drought of the Northeast, the flooding from Hurricane Floyd and the prevented planting in the Upper Midwest—all of the disasters that need to be addressed across this country. But the combination of things in this legislation has put us in a position of asking if we are going to provide some help or no help.

We are in a situation where we have to say yes, we will vote for this package, but without great enthusiasm. This was done the wrong way. Most of us know that. We should have helped farmers who lost income because of collapsed prices and weather disasters, the people who really produce a crop. We ought not to have a $460,000 upper payment limit, and we ought not to have dropped the provision that says we are going to end embargoes on food and medicine forever. It was wrong to drop that. We know that.

I will have to vote for this conference report, without enthusiasm, because there is an emergency and a crisis, and some farmers will not be around if we don't extend a helping hand now. Never again should we do it this way. This is the wrong way to do it. It is not the right way to respond to the emergency that exists in farm country.

My friend, the Senator from Illinois, wants to speak. I thank him for his patience. I yield the floor.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Illinois is recognized.

THE COMPREHENSIVE TEST BAN TREATY

Mr. DURBIN. Mr. President, there are several issues that have been debated on the floor this morning, and it is typical of the Senate, which considers myriad issues, to consider some that are quite contrasting. To move from nuclear proliferation to help for soybean growers is about as much a contrast as you could ask for. But it reflects the workload that we face in the Senate, and it reflects the diversity of issues with which we have to deal.

I will speak very briefly to the issue of the nuclear nonproliferation treaty. This nuclear test ban treaty, which may be considered for a vote this afternoon, could be one of the most significant votes ever cast by many Members of the Senate. It appears the vote will be overwhelmingly in favor of the treaty on the Democratic side of the aisle, with a handful of Republican Senators joining us—not enough to enact this treaty into law and to ratify it so that it becomes virtually a law governing the United States. If that occurs, if we defeat this treaty this afternoon—as it appears we are headed to do—it could be one of the single most irresponsible acts ever by the Senate.

Let me give specifics. It was only a few hours ago, in Pakistan, that a military coup took place and replaced the administration of Mr. Sharif. Mr. Sharif had been elected. He was a man with whom we had dealt. He was a person who at least came out of the democratic process. But he was toppled. We have not had that experience in the United States, and I pray we never will. But the military leaders decided they had had enough of Mr. Sharif. They weren't going to wait for an election. They decided to take over. It appears from the press reports that the source of their anger was the fact that Mr. Sharif had not aggressively pursued the war against India, nor had he escalated the nuclear testing that took place just a few months ago.

You may remember, on the Fourth of July, the President of the United States of America stayed in the White House for a special meeting—a rare meeting on a very important national holiday with Mr. Sharif of Pakistan, where he laid down the rule to him that we didn't want to see the Pakistani army engaged in the militia tactics against the Indians in an escalated fight over their territory in Kashmir. He produced, I am told, satellite imagery that verified that the Pakistanis were involved, and he told Mr. Sharif to stop right then and there. If this escalated, two nascent nuclear powers could see this develop into a conflagration that could consume greater parts of Asia. The President was persuasive. Sharif went home and the tension seemed to decline—until yesterday when the military took over.

Why does that have any significance with our vote on a nuclear test ban treaty? How on God's Earth can the United States of America argue to India and Pakistan to stop this madness of testing nuclear weapons and escalating the struggle when we reject a treaty that would end nuclear testing once and for all? It is really talking out of both sides of your mouth.

This nuclear test ban treaty had been supported originally by Presidents Eisenhower and Kennedy, Democratic and Republican Presidents, over the years. It was President George Bush who unilaterally said we will stop nuclear testing in the United States. He did not believe that it compromised our national defense, and he certainly was a Republican.

If you listen to the arguments of my colleagues on the other side of the aisle, you would think this is just a cut and dried partisan issue, with Republicans on one side and Democrats on the other. The polling tells us that 82 percent of the American people want us to pass this test ban treaty. They understand full well that if more and more nations around the world acquire nuclear weapons, it doesn't make the United States any safer; it makes the world more dangerous. Leaders in some of these countries, who should not be entrusted with a cap gun, will end up with a nuclear weapon, and we will have to worry whether they have the delivery capability.

Why is a nuclear test an important part of it? You can't take this nuclear concept from a tiny little model on a bench and move it up to a bomb that can destroy millions of people without testing it. If you stop the testing, you stop the progress of these countries. Some say there will be rogue nations that will ignore that, that they don't care if you sign a treaty in the United States; they are going to go ahead and build their weapons.

I don't think any of us would suggest that we can guarantee a nuclear-free world or a nuclear-controlled world by a treaty. But ask yourself a basic question: Are we a safer world if we have a nuclear test ban treaty that puts sensing devices in 350 different locations so we can detect these tests that occur? Are we a safer world if we have a regime in place where one nation can challenge another and say, "I think you have just engaged in the development of a nuclear weapon you are about to test, and under the terms of the treaty I have a right to send in an international inspection team to answer the question once and for all."

Why, of course, we are a safer world if those two things occur. They will not occur if the Republicans beat down this treaty today, as they have promised they will. An old friend of mine—now passed away—from the city of Chicago, said, "When it comes to politics, there is always a good reason and a real reason."

The so-called good reason for opposing the treaty has to do with this belief that it doesn't cover every nation and every possible test.

The real reason, frankly, that a lot of them are nervous about going against this treaty is the fear that in a week or a month or a few months we will have another member of the nuclear club; in a week or a month or a few months we will have more testing between India and Pakistan; in a few weeks we may see what is happening in Pakistan disintegrating further and then having to worry about whether there will be nuclear weapons used in the process of their confrontation with India.

Those who vote to defeat the treaty will wear that collar, and they will know full well that they missed the signal opportunity for the United States to have the moral leadership to say our policy of no nuclear testing should be the world policy; it makes us safer. It makes the world safer.

Sadly, we have spent virtually no time in having committee hearings necessary for a treaty of this complexity, and a very limited time for floor debate. It is a rush to judgment. I am afraid the judgment has already been made. But ultimately the judgment will be made in November of the year 2000 when the American voters have their voice in this process. Our debates on the floor will be long forgotten. But the voters will have the final voice as to which was the moral, responsible course of action to enact a treaty supported by Presidents Eisenhower and Kennedy, and the Chairmen of the Joint Chiefs of Staff, a treaty that really gives us an opportunity for a safer world, or to turn our backs on it.

I sincerely hope that enough Republicans on that side of the aisle will muster the political courage to join us. The right thing to do is to pass this treaty.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999—CONFERENCE REPORT—Continued

Mr. DURBIN. Mr. President, I want to address the second issue before us, and one which is of grave concern in my home State of Illinois. It is the Agriculture appropriations bill.

It has been my high honor to serve on the agriculture appropriations subcommittee in both the House and the Senate. I have been party to some 13 different conferences. That is where the House and Senate come together and try to work out their differences.

I want to say of my chairman of the subcommittee, Senator COCHRAN, that I respect him very much. When I served in the House and he was a conferee, I believe that we always had a constructive dialog. There are important issues involving American agriculture. I was honored to be appointed to the same committee in the Senate, and I have respected him again for the contribution he has made as chairman of the committee.

But what happened to Senator COCHRAN in this conference shouldn't happen to anyone in the Senate. He was moving along at a good pace, a constructive pace, to resolve differences between the House and the Senate. Unfortunately, the House leadership turned out the lights, ended the conference committee, and said we will meet no more. What was usually a bipartisan and open and fair process disintegrated before our eyes. That is no reflection on the Senator from Mississippi. I have no idea what led to that. It occurred. It was clear that the problem was on the House side. We were making progress. We were making bipartisan decisions. The process broke down.

But with that said, I will vote for this bill, and reluctantly. I believe it will provide some relief for struggling farmers in our fragile farm economy.

The Illinois Department of Agriculture estimates that $450 million from the $8.7 billion agricultural relief package will directly benefit Illinois producers through receipt of 100 percent of the 1999 AMTA payments. I agree with the Senator from North Dakota. Using an AMTA payment is fraught with danger. I think it is an open invitation for every one of these investigative television shows to have fun at the expense of this bill and this decision process. When they find people who haven't seen a tractor in decades but have ownership of a farm receiving payments upward of $.5 million, they are going to say: I thought you were trying to help struggling farmers, not somebody with a trust account who has never been near a farm.

That may occur because we have chosen these AMTA payments. We should have done this differently. I think we are going to rue the day these payments are made and the investigations take place. But these AMTA payments will be in addition to the more than $450 million already received by Illinois farmers this year to help them through this crisis.

I voted for the Freedom to Farm Act. I have said repeatedly that I did not believe when I voted for that farm bill that I was voting for the Ten Commandants. I believed that we were dealing with an unpredictable process. Farming is unpredictable. Farm policy has to be flexible. We don't know what happens to weather or prices. We have to be able to respond.

You have to say in all candor as we complete this fiscal year and spend more in Federal farm payments than ever in our history that the Freedom to Farm Act, as we know, has failed. It is time for us, on a bipartisan basis, to revisit it, otherwise we will see year after weary and expensive year these emergency payments.

Look at the Illinois farm economy. My State is a lucky one. We usually aren't the first to feel the pain. God blessed us with great soil and talented farmers and a good climate. But we are in trouble.

Farm income in Illinois dropped 78 percent last year to just over $11,000 a year. That is barely a minimum wage that farmers will receive. That is the lowest net income on farms in two decades.

Incidentally, if you are going to gauge it by a minimum wage, as the Presiding Officer can tell you, farmers don't work 40-hour workweeks. When they are out in the fields late at night and early in the morning, they put in the hours that are necessary. Yet they end up receiving the minimum wage in my State of Illinois. That is down from $51,000 in 1997. That was the net farm income per family in that year. Lower commodity prices and record low hog prices in particular are primarily to blame for this net farm income free fall in my home State.

The Illinois Farm Development Authority recently noted that the financial stress faced by Illinois farmers today is higher than it has been for 10 years. Activity in the authority's Debt Restructuring Guarantee Program is four or five times higher than last year. They have approved 7 to 10 loans per month in 1998. In 1999, the authority has been approving 30 to 40 debt restructuring loans per month—a 300-percent increase. This is a record level unmatched since the 1986–1987 farm crisis.

The U.S. Department of Agriculture has predicted that prices for corn, soybeans, and wheat will remain well below normal, and that farm income may drop again next near. Nationally, farm income has declined 16 percent since 1996.

On Saturday night in Springfield, IL, I went to a wedding reception and sat next to a friend of mine. I said: What is a bushel of corn going for now? He said $1.51. If you follow this, as they do every day in farm country, that is a disaster—$1.51 a bushel.

I said: How is your yield this year?

He said: It is up a little, but I can't make up for that decline in price.

That is what is coming together. That is the disaster in Illinois and in many places around the Nation.

The USDA is facing the largest farm assistance expenditure in its history. The Department of Agriculture processed 2,181 loan deficiency payments in 1997, about 2.1 million in 1998—1,000 times more—and they will work through a projected 3 million this year. Unfortunately, it appears that this crisis is going to drag on in the foreseeable future further draining USDA's resources and reserves.

I am going to address separately the whole question of the Ashcroft-Dodd amendment because I think it is one that deserves special attention. But I want to say that though I did not sign this conference report because of the procedures that were followed, I hope that we don't repeat this process in the future. It really undermines the credibility of Congress and of the good Members such as the Senator from Mississippi and others who really do their best to produce a good bill when they turn out the lights and send us home, and then circulate a conference report that has never been seen until they put it before you for signature.

Once the Senate acts on the conference report, sends it to the President, our role in helping improve conditions in rural America does not end. We should explore other ways to help our farmers.

Let me say a word about the Ashcroft-Dodd amendment.

You may recall during the Carter administration when the Soviets invaded Afghanistan. President Carter announced an embargo on the Soviet Union—an embargo that became one of the single most unpopular things that he did. President Carter and the Democratic Party wore the collar for a decade or more that we were the party of food embargoes, of agricultural embargoes. Our opponents and critics beat it like a tin drum to remind us that it was our party that did that.

I think it should be a matter of record that a strong bipartisan suggestion from Republican Senator JOHN ASHCROFT of Missouri, and Senator CHRIS DODD, a Democrat of Connecticut, that we stop food embargoes once and for all passed the Senate with 70 votes and then was defeated in that very same conference committee to which I referred. The bill we now have before us continues food embargoes. The sticking point apparently was that of the countries exempted from embargoes on food and medicine, specifically Cuba was to be excluded.

There are some Americans, many Cuban-Americans, who hate Castro with a passion for what he did to their country, their family, and their business, and believe we should punish him. He has been in power for over 40 years, and we imposed embargoes on his nation for food and medicine.

I have said on the floor and I will repeat again, in the 40 years I have seen photographs of Mr. Castro since we have embargoed exports of food to Cuba, I have never seen a photo of Mr. Castro where he appeared malnourished or hungry. The bottom line is, somehow he is pretty well fed. I bet he has access to good medicine. The people who are suffering are the poor people in Cuba and a lot of other countries. The people are suffering because we don't have the trade for American farmers. It is a policy that has not worked.

How did we open up eastern Europe? We opened it up by exposing the people who were living under communism to the real world of the West—free markets and democracy. They fled Moscow and that Soviet control as fast as they could. We have always thought we could isolate Cuba. I think exactly the opposite would end Castro's totalitarian rule—when the people in Cuba get an appetite for what is only 90 miles away in the United States, through trade, through expanded opportunities.

The Governor of the State of Illinois, George Ryan, a Republican Governor, has said he will take a trade mission to Cuba. I support him. I think the idea of opening up that kind of trade is the best way to quickly bring down any control which Castro still holds in that country.

When that amendment to end the embargo on food and medicine in six countries went to conference, the Republican leadership in the House of Representatives stopped it in its tracks. After we had voted on a bipartisan basis on the Senate side to move it forward, they stopped it in its tracks.

That is a sad outcome not just for the poor people living in the countries affected but for the United States to still be using food as a weapon with these unilateral embargoes on food and medicine. Yes, in the case of Cuba and many other countries, it is a policy which does harm a lot of innocent people. In Cuba, it is very difficult to get the most basic medicines. Are we really bringing Castro down by not providing the medicines that an infant needs to survive? Is that what the U.S. foreign policy is all about? I hope not.

Senator ASHCROFT is right. Senator DODD is right. We have to revisit this. I am sorry this bill does not include that provision. It is one that I think is in the best interests of our foreign policy and our future.

I hope the President will sign this conference report quickly and work with Congress to submit a supplemental request, taking into account the devastating financial crisis that continues in rural America. To delay further action on this would be a great disservice to the men and women who have dedicated their lives to production agriculture, a sector of the economy in which I take great pride in my home State of Illinois, and I am sure we all do across the United States.

I am extremely disappointed that this conference agreement removed the Ashcroft amendment that would have allowed food and medicine to be exported to countries against which we have sanctions. This amendment passed the Senate overwhelmingly after language was worked out carefully and on a bipartisan basis. I am especially disturbed that, after the conference stalled on this issue, just a few decided to withdraw this provision behind closed doors.

The sticking point was the idea of selling food and medicine to the people of Cuba—not to Iran, Iraq, or Libya. Cuba remains a Communist country whose leaders repress their people and commit serious abuses of human and political rights. We all agree on the goal of peaceful change toward democracy and a free market economy in Cuba. But continuing the restrictions on sending food and medicine to Cuba is the wrong way to accomplish this goal.

The report issued 2 years ago by the American Association for World Health, Denial of Food and Medicine: The Impact of the U.S. Embargo on Health & Nutrition in Cuba concluded that "the U.S. embargo of Cuba has dramatically harmed the health and nutrition of large numbers of ordinary Cubans." The report went on to say:

> The declining availability of foodstuffs, medicines and such basic medical supplies as replacement parts for 30-year-old X-ray machines is taking a tragic toll. . . . The embargo has closed so many windows that in some instances Cuban physicians have found it impossible to obtain lifesaving machines from any source, under any circumstances. Patients have died.

I would like to read part of a letter I got from Bishop William D. Persell from the Diocese of Chicago who relates his experiences in visiting villages outside of Havana. He says:

> I was especially struck by the impact of the American embargo on people's health. We saw huge boxes of expired pill samples in a hospital. Other than those, the shelves of the pharmacy were almost bare. We talked with patients waiting for surgeries who could not be operated upon because the X-ray machine from Germany had broken down. A woman at the Cathedral was chocking from asthma for lack of an inhaler. At an AIDS center, plastic gloves had been washed and hung on a line to dry for re-use. The examples of people directly suffering from the impact of our government's policy after all these years was sad and embarrassing to see.

Many religious groups in the United States have called for the end of these restrictions, which the U.S. Catholic Conference, for example, has termed "morally unacceptable." During Pope John Paul II's visit to Cuba last year, he noted that it is the poorest and most vulnerable that bear the brunt of these policies.

Hurting everyday people is not what this country is about. Such suffering attributed to our great nation is unconscionable. Even in Iraq, where stringent international sanctions have been imposed, there is an international "oil for food" program, which aims to be sure the Iraqi people have adequate nutrition. That program has not always been as successful as I had hoped, but we have not even tried similar relief for the Cuban people.

The burdensome and complex licensing procedures that Americans have to go through to get food and medicine to Cuba essentially constitute a ban on such products because of the long delays and increased costs. I applaud and welcome the changes the Clinton administration made following Pope John Paul II's visit to streamline the licensing procedures for getting these products to Cuba, but I'm afraid these changes are not enough. Although agricultural and medical products eventually have been licensed to go to Cuba through this lengthy and cumbersome process, much of it has not been sent. The licensing procedure itself discourages many from even trying to use it.

I believe that the suffering of the Cuban people because of these restrictions on food and medicine is counterproductive to our shared goal of democratization in Cuba. Castro gets to blame the United States, and not his own failed Communist policies, for the suffering and hardships of the Cuban people. The policy encourages a "rally 'round the flag" mentally, where people who otherwise might oppose Castro's regime hunker down and support the government in such trying economic circumstances portrayed as the fault of the United States.

There seems to be a consensus developing that food and medicine should not be used as a weapon against governments with which we disagree. Congress has supported lifting such sanctions against India, Pakistan, and even Iran. The people of Cuba should be treated no differently.

Mr. COCHRAN. Mr. President, I yield such time as he may consume to the distinguished Senator from Nebraska.

Mr. HAGEL. Mr. President, I thank the distinguished senior Senator from Mississippi who has managed this Agriculture appropriations bill through the high winds and difficult seas over the last few weeks. Some of that was acknowledged this morning. We started out dealing with agriculture, and we have now been dealing with the Comprehensive Test Ban Treaty and other important things. I am grateful for his patience, leadership, and diligence to get to this point.

This is a very important conference report we take up today. I rise to support the Agriculture appropriations conference report.

As has been noted on the floor of the Senate this morning that American agriculture is in trouble. Our American agricultural producers are struggling. I think it is worthy that we examine briefly what has caused this difficulty.

Good weather over the last 3 years has led to worldwide record grain yields, which has created a large oversupply and significantly reduced grain prices. Other important causes for these difficult times facing our agricultural producers are: The 2-year Asian economic crisis which has spread throughout the world; the high value of the American dollar versus other currencies; export subsidies and unfair trade practices by our foreign competitors; the lack of meaningful trade and sanctions reform; the lack of real tax and regulatory reform; and, for the last 5 years, the lack of fast-track trade authority for the President. All of these and more are directly responsible for the current situation in American agriculture.

I might add, they have nothing to do with our current farm policy, which is known as Freedom to Farm. What I have just registered, what I have just cited—those unpredictables, those uncontrollables—would be here regardless of America's farm policy. It is important to point that out because I have heard some suggest it is America's Freedom to Farm policy that this Congress enacted and this President signed in 1996 that is at the root of this disastrous agricultural situation in which we find ourselves. In fact, it is not.

This $69.3 billion bill will assist agricultural producers by providing, among other things, short-term assistance. It includes an $8.7 billion emergency package, and it is important we work our way through this so the American people understand what is included in this package:

There is $5.5 billion in agricultural market transition assistance payments that are paid directly to our agricultural producers, to the farmers and the ranchers. This equates to a 100-percent increase from the producers' 1999 payment and puts the money directly in the hands of our producers and certainly does it much faster than supplemental loan deficiency payments.

There is $1.2 billion for disaster relief; $475 million in direct payments to soybean and minor oilseed producers; $325 million in livestock feeder assistance; $325 million for livestock producers; $200 million is in the form of assistance to producers due to drought or other natural disasters; $400 million to assist producers in purchasing additional insurance for crops coming up that they will plant early next year for fiscal year 2000; and mandatory price reporting to assist livestock producers in their marketing decisions.

While the Agriculture appropriations conference report and emergency assistance package are important and they are very helpful in the short term, we need to look at the long-term solutions: How do we fix this for the long term so we don't keep coming back to Congress year after year after year for more supplemental appropriations? That is what we must stay focused on. We find those long-term solutions in opening up more opportunities for our farmers and our ranchers to sell the products.

Our producers need more open markets. While we need to adjust parts of Freedom to Farm and we need to do that to make it work better, the basic underlying principle of Freedom to Farm should be preserved. And the basic underlying principle of Freedom to Farm is plant to the market, let the market decide.

In order to become more efficient and to produce for a growing market, we must give the producers the flexibility to grow what they want when they want: Grow for the market, not what the Government dictates or what the Government manipulates.

We need to adjust transition payments to make them more useful in times when cash flows are tight, when they are needed, not just arbitrary: Another supplemental appropriation. Payment levels may need to be adjusted annually, that is the way it is, to take into account such things as the value of the U.S. dollar, export opportunities, natural disasters, actual production levels, and other factors.

Loan deficiency payments have proven a useful tool for farmers, but we need to build into that more flexibility so producers can quickly respond to changes in the market.

The Crop Insurance Program is critical to the future of our ag producers. The Crop Insurance Program needs to be expanded and reformed so producers can be more self-reliant during economic downturns. We need to focus on private-sector solutions rather than public-sector solutions.

The United States needs a relevant and a vital trade policy that addresses the challenges of the 21st century. We need WTO accession for China, trade and sanctions reform, and more international food assistance programs. WTO negotiations also need to address unfair manipulation and other trade barriers that hurt America's farmers and ranchers. We are currently working our way through the beef hormone issue. The WTO has consistently come down in favor of the American producer, yet we still find the Europeans throw up artificial trade barriers. These are big issues, important issues. Trade must be a constant. It must be elevated to a priority in the next administration. The next President must put trade on the agenda, and he must lead toward accomplishment of that agenda.

As my friend, the distinguished Senator from Illinois, noted earlier, I, too, am disappointed this conference report does not contain the Ashcroft-Hagel-Dodd sanctions reform language, which passed this body, as noted by the distinguished Senator from Illinois, 70 to 28—70 votes in favor of lifting unilateral sanctions on food and medicine. I am confident we can move forward on this legislation. We will come back to it when it soon comes, again, to the Senate floor for consideration. The Ashcroft-Hagel-Dodd bill would exempt food and medicine from unilateral sanctions and embargoes. It is supported by the American Farm Bureau and the entire American agricultural community.

This reform also strengthens the ties among peoples and nations and demonstrates the goodness and the humanitarianism of the American people.

It sends a very strong, clear message to our customers and our competitors around the world that our agricultural producers will be consistent and reliable suppliers of quality products. The American agricultural producer can compete with anyone in the world. Passing sanctions reform legislation will open up new markets, and it will allow our agricultural producers to compete in markets around the globe. I am hopeful we will move forward on comprehensive sanctions and trade reform legislation early next year. This must be a priority. It should be a priority. It is a priority, and it is a bipartisan priority.

As Senator DURBIN mentioned earlier, if you look at those 70 Senators who voted in favor of lifting sanctions on food and medicine, they represented the majority of both the Republican and the Democratic Parties in this body. That is a very clear message that this is a bipartisan issue. We should capture the essence of that bipartisanship and let that lead us next year as we should, and we will, make considerable progress in trade and sanctions reform.

Regulations continue to add to the cost of production to farmers and ranchers. Regulatory reform is critical. We need to look at all the regulations currently on the books and make sure they are based on sound science and, lo and behold, common sense.

We need to look at tax reform. In 1996 when the Congress passed and the President signed Freedom to Farm, two promises were made by Congress to our agricultural producers: We would comprehensively deal with the important dynamics of tax reform and regulatory reform. We have failed to do so. We have failed to address comprehensive tax reform and regulatory reform, aside from what we have discussed, not dealing with sanctions and trade reform either. We need to look at tax reform. For example, farm and ranch risk management accounts, FARRM accounts, reduction in capital gains rates, elimination of estate taxes, income averaging, and other constructive actions are all measures that take us, move us, get us to where we want to be.

This conference report includes an important new provision we have not seen in past Agriculture appropriations bills, the mandatory price reporting provision. This is important for livestock producers. It allows for market transparency, it levels the playing field, and ensures fairness. We also need to look hard at other issues like industry concentration and meat labeling to ensure that markets remain free, fair, and competitive.

While we deal with short-term crises, we also need to work consistently, diligently on the long-term improvements focused on trade, and sanctions, and taxes, and regulatory reform, and agricultural policy.

This is important legislation we debate today and will vote on this afternoon. It provides much needed assistance at a very critical time in the agricultural community. I hope we will pass this conference report today and the President will sign it, so we can get our farmers and ranchers the assistance they need. Then this body can move on to do the important business of our Nation and the important business of our agricultural community, connected to the total of who we are, as a nation and as a global leader, and that is paying attention to the issues of trade and foreign policy, sanctions reform, and all that is connected to the future for our country and the world as we enter this next millennium.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I compliment and thank my good friend from Nebraska for his statement on this Agriculture conference report.

Nebraska is an agricultural State. As my colleague from Montana, the Presiding Officer, knows, Montana is also an agricultural State. I see on the floor the chairman, my good friend from Mississippi. Mississippi is also an agricultural State. Every State is an agricultural State—some more than others, of course.

But I must say about the statement the Senator made—in most respects I agree with him—it was a good one.

Essentially it comes down to this. A lot of farmers and ranchers are suffering very dire economic consequences because of low prices in the main but also because of bad weather, because of disaster, droughts, or in many cases floods. The hurricane, for example, that came up the east coast not too long ago has devastated a lot of eastern American farmers. Those States are not part of the farm program but, nevertheless, have heavy agricultural segments in their economy and have been damaged significantly. We have a conference report in front of us which provides about $8.7 billion in emergency aid. Most of that goes to Midwest farmers, western farmers, and not enough goes to the northeastern farmers. That is regrettable.

There is not enough in this conference report that takes care of Eastern and Northeastern agriculture. There should be. I hope we can figure out a way to provide for those in agriculture in the Eastern and Northeastern parts of the United States because they are not sufficiently provided for in this bill.

Nevertheless, for most of America, this bill does help. It just helps. It does not do much more, but it helps relieve a lot of the pain that farmers—when I say farmers, I mean grain producers and livestock producers—are facing.

It is an old story. It has not changed. Agriculture is in a special situation; namely, it suffers the vagaries of weather; it suffers the vagaries of the market price. Most businesses today do not have that to worry about. Most businesses today can control the prices they pay for their products. To some degree, they can control the prices for which they sell their products. There is a lot more stability in most other industries compared to agriculture.

Because of the instability in agriculture, again because farmers and ranchers have virtually no control over the price they get for their products and because the costs they pay for all of their supplies and implements keep rising—and they have virtually no say about that—agriculture is getting squeezed more and more each year. That is the problem, particularly when there is a natural disaster on top of it.

This Senate has not done a very good job in addressing this problem. There are a lot of fancy speeches about we have to do this and we have to do that. I have made some of them. All Senators in this Chamber at the present time have made some of them. I am not blaming us all, but I am giving us all a little bit of a reminder that we have not followed up our speeches enough with action. It is hard. It is very hard to know what the solutions should be, but we still have not found the solutions. We are elected to find the solutions. That is why we run for these jobs, and that is theoretically why people elect us. They think we are going to do something about some of the problems our people face.

Why haven't we done more? I submit in large part because this place is so partisan. It has become very partisan in the last several years. I am not going to stand here and blame one side or the other. I am going to say it is a fact. Because it is so partisan, there is very little trust, and because there is very little trust not much gets accomplished. There is not much trust between the majority party and the White House. When that happens, not much gets accomplished.

Our Founding Fathers set up a form of government of divided powers. We are not a parliamentary form of government. We are a divided government. We have the executive branch and the legislative branch, the two Houses of Congress, and people have to get along if we are to get something accomplished; people have to work together if we are going to get something accomplished.

Too often, people in the House and the Senate, and probably the executive branch as well, run to the newspapers, they run to the press back home and they make all these high-sounding statements to make themselves look good and the other side to look bad. They are trying to claim credit for doing the good things and basically saying the other guys are doing the bad things.

That is where we are. There is not a person listening to my remarks who does not disagree with that. That is exactly where we are.

The question is, How do we get out of this? How do we start to regain some lost trust? How do we begin to regain, in some sense—some are going to dispute a little of this—those times in the older days when there was a little more cooperation? How are we going to do that?

Basically, it takes leadership. It takes leadership by Senators; it takes leadership by the leadership. It means standing above matters a little bit, standing back and getting a perspective, remembering why we are here, remembering what really counts. And what really counts is serving our people without a lot of fanfare rather than trying to make a lot of big fancy statements.

I am reminded of a former Senator from Montana, Mike Mansfield. Mike Mansfield, who was majority leader for 17 years —he was leader longer than any other Senator has ever been leader in this body—was the kind of person—and that is probably why he was leader for so long—who basically worked to get things done but did not crow about it and did not try to take a lot of credit for it. He was a guy who wanted to get things done to serve the people and to serve the right way, not play politics, not play partisan politics. In fact, there is a new book coming out about Mike Mansfield. If you page through it, you can get a sense of what he was about, and we can take a lesson from it.

I am going to list a couple of things I know we have to do in the hope that—knowing that most agree we have to do these things—we somehow get together and start doing something about them.

One is to get this conference report adopted. It is going to help. It is not going to solve all the problems, but it is going to help. As I mentioned, it does not do enough for the Northeastern United States or Eastern United States. I very much hope we can find the time and way to do that.

In addition, we do need to address the longer term; that is, some kind of a safety net. There has been a lot of debate—most of it has been ideological—over Freedom to Farm. It is basically an ideological debate. Most farmers and ranchers do not give two hoots about ideology. Most farmers and ranchers just want some basic program, structure, or something that addresses the bottom so there is some kind of a safety net.

We are not talking about a handout. Nobody is talking about a handout. We are not talking about some solution where farmers are given an absolute guarantee they are going to make money or absolute guarantee they are going to make a profit. But we know because of weather conditions—sometimes it rains too much, sometimes not enough, sometimes there are floods, sometimes droughts, sometimes the market falls to the bottom—we need a floor to basically prevent people from going out of business—not to make a profit but prevent them from going out of business because we know how important agriculture is to our country.

Let's get over the ideology of Freedom to Farm, the "freedom to fail." Those are nice sounding words. All of us have heard them hundreds of times. I say let's forget the words and figure out a way to design a safety net. It is not going to happen this year because there is not enough time. I ask us all, when we are home during the recess, to be thinking about this and thinking about a way to get a square peg in a square hole or a round peg in a round hole and find a solution. I guarantee, the best politics is really the best policy; that is, if we enact something that makes sense, then all the Republicans and all the Democrats can say: Yes, we did something good. And the people at home are going to be very happy for that. They care much more about that than who is blaming whom for not getting the job done.

I do not know why I have to say that. It is so obvious. I guess I say it because it is still not done.

We, obviously, have to address crop insurance. We want a Crop Insurance Program essentially so farmers and ranchers can make their own decisions and know how much they should be insured. We want a program that works and covers a lot more than the current program does.

As you well know, Mr. President, because you and I have spent a lot of time on these issues, we have to have a much better international trade regime. American farmers and ranchers are being taken to the cleaners. They are being taken to the cleaners compared with farmers and ranchers worldwide.

One example is this beef hormone matter. The Europeans for 12 years have said they are not going to take a single ounce of American beef. Why? Because they say our feed lots with growth hormones cause disease and people who eat American beef—Americans eat it all the time and other people do, too—has an adverse health effect on European consumers. It is a totally bogus issue, totally. Europeans know it; we know it. But for 12 years, they still have not taken any beef.

What do we do? We bring an action before the World Trade Organization. What happens? The World Trade Organization agrees. They sent it to an international scientific panel which concluded the Americans are right and the Europeans are wrong. They sent it to a second scientific panel. It came to the same conclusion. All the scientific panels came to the same conclusion. Europe still says no.

The WTO says that we have a right, as Americans, to impose tariffs on European products, on the value of the beef that is not going into Europe, so we do. Europeans say: Fine, we will just pay; we still won't import any beef. That is one of many examples where we are getting stiffed because there is not a way, there is not leverage, there is not a regime for us to stand up for what is right for American farmers.

And take the state trading enterprises, the Canadian Wheat Board, the Australian Wheat Board. We still have not solved that problem.

We will face a huge problem, too, in the coming years with respect to Europe. Europeans are getting on their high horse about genetically modified organisms. It is going to be a huge problem with Europe. To make matters even worse, Europe is starting to feel its oats. I think it is kind of upset with the United States because they see the United States as this big country. I think the war in Yugoslavia has exacerbated things a little bit because the European defense establishment did not provide the sophisticated materiel that was needed there. So now they want to build up their defense establishment. It is wrapped up in an awful lot of issues.

And it is OK for Americans to criticize the Europeans for their failure to be straight and have a level agricultural playing field. I might add, for example, their export subsidies are out of this world. European export subsidies are about 60 times American export subsidies for agriculture—60 times. Our EEP is about $300 million, $200 million—I do not think it is ever used—whereas their export subsidies are gargantuan.

Do you think Europeans, out of the goodness of their heart, are going to lower their export subsidies? No way. No way. We know that no country altruistically, out of the goodness of its heart, is going to lower their trade barriers. The only way to lower trade barriers is when there is a little leverage. So we have to find leverage in the usual way.

What I am saying is we have a huge challenge ahead of us; that is, to try to figure out—hopefully, in a noncombative way —how to deal with Europe. There are many issues with Europe, and they are just getting more and more complicated—whether it is Airbus or whether it is air pollution rules. They will not take our planes now because they say our airplanes pollute Europe. They are just huge issues. Basically, they are economic issues. And the economic issues are also very heavily agricultural.

We have to figure out a way. It takes leadership from the President. It takes some cool-mindedness in the House and the Senate, on both sides of the aisle, to try to figure out some way to crack this nut. It is going to be a very difficult nut to crack, but it has to be if it is going to help our farmers because right now our farmers are being taken advantage of by the Europeans—pure and simple. Nobody disputes that.

It is up to us to try to figure out a way to solve that one. I know that the more we criticize Europe, the more it makes us feel good, but it probably causes Europeans to dig their heels in a little more, and I do not know how much it will get the problem solved. We have to find leverage and some commonsense way to go about it and deal with this issue.

The leverage I suggest is the WTO "trigger," as I call it, the export subsidy trigger. This legislation I have introduced essentially provides that if the Europeans do not reduce their agricultural subsidies by 50 percent in a couple years, then the United States is directed to spend EEP dollars in a like amount. If they do not eliminate them in another year, then the United States is directed to spend several billion dollars in EEP directed and targeted exactly at European producers, the European countries. So that is one bit of leverage.

I am also going to introduce legislation soon. It is agricultural surge legislation, to prevent farmers from suffering so much from import surges from other countries to the United States. We need action such as that and then to sit down calmly and coolly to talk with the Europeans, talk with the Chinese and the Japanese and the Canadians, to find a solution.

There are a lot of other things we need to do to help our farmers. Many have talked about the concentration of the beef packing industry, and they are right; there is way too much concentration of the beef packing industry, which is hurting our producers. There is labeling in this bill that helps.

There is one big omission. Seventy Senators voted to end the unilateral sanctions on food and medicine. The conferees disregarded the views of 70 Senators. They took that out. I do not know why. It does not make any sense why the conferees took that out of this conference report, particularly when 70 Senators, on a bipartisan basis, said, hey, we should not have unilateral sanctions on medicine and food; it should not be there. I wish they had not done that. Clearly, we have to find a way to get that passed.

I will stop here, Mr. President, because I see a lot of other Senators on the floor who wish to speak. But I strongly urge a heavy vote for this conference report and in a deeper sense—because obviously it is going to pass—calling upon us to back off from the partisanship. Let's start to think as men and women, as people. We are supposed to be educated. We are supposed to be smart. We are supposed to be leaders in a certain sense. Let's do it. Let's act as grownups, adults, problem solvers. That is all I am asking. It is not a lot. Over the recess, I hope we think a little bit about that, so when we come back next year, we can start to solve some problems.

COMPREHENSIVE NUCLEAR TEST-BAN TREATY

Mr. BAUCUS. Mr. President, on one other matter, although I told the Senator from Mississippi I would not address this subject, I am going to do so very briefly. That is the other matter before the Senate today, the Comprehensive Nuclear Test-Ban Treaty.

This is a no-brainer. It is an absolute no-brainer. It makes no sense, no sense whatsoever, for the Senate to disregard the views of the President of the United States to bring up the Comprehensive Test Ban Treaty knowing it is going to fail. It makes no sense. It is irresponsible. It is tragic. I cannot believe the Senate will let that happen. I cannot believe it because of the obvious signal it is going to send around the world.

What is that signal? The signal is: The United States is abrogating its leadership. The United States is sticking its tail between its legs and running away. It is leaving the scene. It is not being a leader. I cannot believe the Senate will allow that treaty to come up knowing it is going to be a negative vote.

I do not know what planet I am on—Mars, Pluto, Jupiter—to think of what the Senate could possibly do today. It is outrageous.

While I am on that point, let me speak toward bipartisanship just briefly. It used to be when the President of the United States had a major foreign policy request of the Congress, politics would stop at the water's edge. Politics would stop because it would be such an important national issue, and the Congress—Republicans and Democrats—would work together on major foreign policy issues.

There is plenty of opportunity for politics in the United States. There is plenty of opportunity—too much. It is highly irresponsible for the Senate to stick its thumb in the eye of the President of the United States when the President of the United States requests that there not be a vote on the Comprehensive Test Ban Treaty, whatever his reasons might be, and say: We don't care what you think, Mr. President; we're going to vote anyway because we want to knock this thing down.

I just cannot believe it. It is just beyond belief.

I very much hope that later on today and in future days, Senators will think more calmly about this, exercise a little prudence, and do what Senators are elected to do; that is, be responsible and do what is right, not what is political.

Mr. President, I yield the floor.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—CONFERENCE REPORT—Continued

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Maryland.

Mr. SARBANES. Mr. President, I rise in opposition to the conference report on the fiscal year 2000 Agriculture appropriations bill. I regret very much having to do this because I appreciate the fact that all across our country, farmers are in need of assistance. I recognize that it is important to try to get some of these programs out to them. But I am very frank to tell the Senate that I think the conference badly overlooked the pressing problems which the farmers in the Northeast and the Mid-Atlantic are facing. I can't, in good conscience, support a bill which simply fails to take into account the situation with which we are confronted, a situation which is unparalleled.

Steven Weber, President of the Maryland Farm Bureau, was recently quoted as saying:

> This is not just another crisis. This is the worst string of dry summers and the worst run of crop years since the 1930s. Talk to the old-timers. They haven't seen anything like it since they were young.
>
> Our farmers have been absolutely devastated by the weather we have experienced, not only over this past farming season but in previous ones leading up to it as well. We face a very pressing situation."

In addition, I think this bill fails to address the needs of our dairy farmers. I will discuss that issue subsequently. First, I want to address the disaster assistance.

Most of the disaster assistance that is available under existing programs is in the form of low-interest loans for those who have been rejected twice by commercial lenders. What this approach fails to recognize is that our farmers have been hit with a double whammy. First of all, they had the low commodity prices which farmers all across the country have confronted; and in addition, in our particular situation, our farmers were confronted by severe drought problems, as I have indicated, unparalleled in the memory of those now farming for more than half a century. Low-interest loans simply won't work to address the collective and drastic impact of these factors.

Recognizing that, we sought substantially more and more direct disaster assistance in the Conference Agreement. And the response that the Conferees made to this request—the $1.2 billion that is in this bill—is clearly inadequate. The Secretary of Agriculture estimated that in the Northeast/Mid-Atlantic, we needed $1.5 to $2 billion just for those States alone. Never mind, of course, comparable damage, either drought or floods, that have occurred in other parts of the country which also need assistance. Indeed, it should not be our goal to identify an amount of funding where we have to take from one to give to the other. These states need assistance as well. What we are arguing is that this package ought to be comprehensive enough to meet the needs in the agricultural sector all across the country. I appreciate that other parts of the country have been hit with droughts and floods and that we must address these needs as well, but the amount provided in this conference report for disaster assistance is clearly inadequate to accomplish this goal. The amount that this legislation provides and that which will eventually make its way into the Northeast/Mid-Atlantic States will not enable us to confront the problem bleakly staring our farmers in the face.

We wrote to the conferees, a number of us from this region of the country, asking them to consider the following measures. I regret that very little weight was given to this request. All of them, I think, are exceedingly reasonable requests, and had they been addressed, it would have affected, obviously, the perspective I take on this legislation.

We asked the conference committee to consider the following measures: First, crop loss disaster assistance programs that provide direct payments to producers based on actual losses of 1999 plantings. These payments could be drawn from the Commodity Credit Corporation funds without an arbitrary limit. The arbitrary limit currently in the agreement precludes comprehensive assistance and delays the availability of the assistance. We asked that yield loss thresholds and payment levels be determined in advance so the payments can be made to producers as soon as they apply, rather than providing a fixed amount which would require all producers to apply before a payment factor can be determined and payments can be issued. We asked for this measure because these farmers need the help now. They need it quickly. They are under terrific pressure.

Secondly, we asked the committee to consider sufficient livestock feed assistance, which addresses losses in pasture and forage for livestock operations, provides direct payments to producers based on a percentage of their supplemental feed needs, determined in advance to speed payments and avoids prorating.

Thirdly, we requested the conference to consider credit assistance which addresses the needs of producers who have experienced natural and market loss disasters.

Fourthly, we asked the conference for adequate funding to employ additional staff for the Farm Service Agency and the National Resource Conservation Service so they could swiftly and expeditiously implement various assistance programs at the State and local level.

Finally, we requested cooperative and/or reimbursable agreements that would enable USDA to assist in cases where a State is providing State-funded disaster assistance.

All of these, had they been responded to as we sought, would have given us an opportunity to address the situation in our region, not only in a forthright manner but one that would accommodate the pressing crisis which we confront. As we indicated, this crisis has reached overwhelming proportions. We risk losing a substantial part of the region's critical agricultural sector. The measures in this conference report, I regret to say, are not sufficient, nor sufficiently focused on the needs of the Eastern States to address their problems. That is one major reason I oppose this conference report and will vote against it.

Secondly, this conference report deals with the dairy issue in a way that is harmful to our region. By failing to adopt option 1-A and disallowing the extension of the authorization of the Northeast Dairy Compact, the conference agreement has left our dairy farmers confronting a situation of instability. Milk prices have been moving up and down as if they were on a roller coaster. Our dairy farmers have been subjected to wide and frequent swings, which place our dairy producers in situations where they don't have the cash-flow to meet their costs in a given month. The price goes up; the price comes down. It takes an enormous toll on the industry in our State and elsewhere in the east.

As a result of these fluctuations, the number of dairy farmers in Maryland has been declining markedly over the last 2 decades. We fear that if this process continues, we are going to see the extinction of a critical component of our dairy industry and the farm economy; that is, the family-run dairy farm. Indeed, my concern is primarily focused on family farmers and on sustaining their presence as part of the dairy sector.

The Maryland General Assembly passed legislation to enable Maryland to join the Northeast Dairy Compact. They also took measures in that legislation to ensure that the interests of consumers, low-income households and processors, would be protected when a farm milk price was established. In fact, a representative from those groups would be on the compact commission, as well as from the dairy industry itself. Other states that are a part of the Compact or want to participate have taken the measures to protect same interests. And we believe this established a reasonable solution to provide stable income for those in the dairy industry, particularly family dairy farmers.

But the conference denied what I regard as a fair and reasoned approach—in refusing to extend the authorization of the compact, and therefore, committed our region's dairy industry to a continuance of this unstable and volatile environment.

Mr. President, agriculture is an important economic actor in the state of Maryland. It contributes significantly to our State's economy. It employs hundreds of thousands of people in one way or another. We really are seeking, I think, fair and equitable treatment. I don't think this legislation contains a fair and equitable solution for the crisis that faces farmers in the Northeast and Mid-Atlantic states. Indeed, it seems to ignore the fact that we have farmers as well. The only farmers in the country are not in sectors other than the Northeast and Mid-Atlantic and the needs of all of our farmers should have been addressed in this legislation.

The Farm Bureau has written me a letter urging a vote against adoption of the conference report. I ask unanimous consent that this letter be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. SARBANES. They write:

> Maryland Farm Bureau believes that many of the provisions in the economic disaster relief package are important and necessary. We are concerned, however, that the adoption of the conference report as drafted will not meet Maryland's drought disaster needs. We also believe that the absence of the Option 1A dairy language will have long-term negative impacts on the State's dairy industry.

I agree with that. We should reject this package, go back to conference, and develop a package that addresses the dairy issue, allows us to develop the compact to give some stability and diminished volatility in the industry, and also increases the drought assistance package so it adequately and directly meets the needs of the farmers of our region.

The conference agreement should have done better by these very hardworking men and women, these small farm families. And because it has not—as much as I appreciate the pressing needs of agriculture elsewhere in the country, and as much as I, in the past, have been supportive of those needs—we in the region must take measures to have our farmers' needs addressed in the current context. We have experienced a very difficult and rough period for Maryland agriculture, and for agriculture generally in the Northeast and Mid-Atlantic. Because this crisis is not adequately addressed in this conference report, I intend to vote against it.

I yield the floor.

EXHIBIT 1

MARYLAND FARM BUREAU, INC.,
Randallstown, MD, October 12, 1999.

Hon. PAUL SARBANES,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: I am writing to urge you to vote against adoption of the conference report on Agricultural Appropriations when it is considered on the floor tomorrow.

Maryland Farm Bureau believes that many of the provisions in the economic disaster relief package are important and necessary. We are concerned, however, that the adoption of the conference report as drafted will not meet Maryland's drought disaster needs. We also believe that the absence of the Option 1A dairy language will have long-term negative impacts on the state's dairy industry.

I urge you to vote to send the agricultural appropriations conference report back to the conferees with instructions that they add the Option 1A dairy language and that they increase the drought assistance package to adequately meet the needs of mid-Atlantic farmers.

Sincerely,

STEPHEN L. WEBER,
President.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, before the Senator leaves the floor, I commend my colleague for his comments. He could have easily been speaking on behalf of the State of Connecticut in talking about the particular concerns of his home State of Maryland. In a moment, I will explain why I also have serious reservations about this bill. But his point that the New England States, the Northeast, contribute significantly to the agricultural well-being of this country is well founded.

I know Secretary Glickman came to Maryland and he came to Connecticut during the drought this past summer. The exact number eludes me, but it was surprisingly high, the number of farmers and the significant portion of agricultural production that occurs east of the Mississippi and north of the Mason-Dixon line, or near north of the Mason-Dixon line.

So when we talk about these issues, it may seem as if it is more sort of hobby farms to people, but for many people in Maryland and for the 4,000 people in Connecticut who make a living in agriculture—these are not major agricultural centers, but in a State of 3.5 million people, where 4,000 families annually depend upon agriculture as a source of income, it is not insignificant.

So when you have a bill that virtually excludes people from Maryland, Connecticut, Rhode Island, Massachusetts, and Pennsylvania from receiving some help during a time of crisis, I hope our colleagues who come from the States that benefit from this bill, who I know have enjoyed the support of the Senator from Maryland, this Senator, and others during times of crisis, because we have seen a flood in the Midwest, or a drought in the Midwest, or cyclones and hurricanes that have devastated agriculture in other parts of our country—I never considered my voting to support people in those areas as somehow a regional vote. When I vote to support a farmer who has lost his livelihood because of a natural disaster, I think I am voting to strengthen my country, not to help out a particular farmer in a State that I don't represent.

So when we have a drought in the Northeast, as we did, a record drought this year that wiped out farmers, caused them to lose significant income, to lose farms and the like, and then to have a bill that comes before us that disregards this natural disaster—in my State, $41 million was lost as a result of the drought—I am disappointed. My colleagues may have stronger words to use. I am terribly disappointed, as someone who, year after year, has been supportive of particular agricultural needs, although I didn't directly represent them, that our colleagues in the House and Senate could not see fit to provide some financial help beyond, as my colleague from Maryland said, the loan program, which is not much help. We don't have crop insurance for my row croppers. The small farmers don't get crop insurance. When they get wiped out or lose income, they have to depend upon some direct payment. A loan program is of little or no assistance to them.

I am terribly disappointed that this bill excludes those farmers from the eastern part of the United States. It was the worst drought that has hit our region in decades. Congressional delegations throughout the region have consistently supported our colleagues in other regions when their States have suffered catastrophic floods, hurricanes, and earthquakes. We don't understand why it is so difficult for the eastern part of the country to convey to our colleagues how massive the devastation has been to our small farmers. As I have said, in my State alone, it is $41 million. In other States, the numbers may be higher. I represent a small State.

The dairy industry is one of the major agricultural interests in our region. It has gotten a double hit in this legislation—inadequate drought relief assistance and the exclusion of provisions that would have extended the Northeast Dairy Compact. On top of the drought losses, our farmers will lose an additional $100 million if the new milk marketing pricing goes forward.

While I am heartened by the recently issued court injunction postponing the implementation of the new pricing scheme, quite frankly, this is only a short-term solution and is no substitute for affirmative action taken by the Congress. Northeast dairy farmers are deserving of the same kinds of assistance we offer to the agricultural sectors in other parts of the country. I believe it is grossly unfair that this conference report has chosen to ignore their plight.

We should not be placing one part of the country against another. I don't want to see a midwestern farmer or a western farmer be adversely affected by votes we cast here. But, likewise, I don't want to see farming interests in my State or my region of the country be harmed as a result of our unwillingness to provide some relief when they absolutely need it to survive.

Inadequate drought relief and the exclusion of the Northeast Dairy Compact would be reason enough to vote against the legislation before us today. But I want to raise another issue that has caused a lot of consternation during the debate on this Agriculture appropriations bill. I am referring to the amendment offered by the distinguished Senator from Missouri, Mr. ASHCROFT, myself, and Senator HAGEL of Nebraska. The House leadership literally hijacked this piece of legislation and denied the normal democratic process to work when it came to this measure that was adopted overwhelmingly in the Senate by a margin of 70–28—by any measure, an overwhelming vote of bipartisanship. This measure would have ended unilateral sanctions on the sale of U.S. food and medicine to countries around the globe.

The amendment had broad-based support from farm organizations across the country which, time and time again, have been forced to pay the price of lost income when Congress has decided to "get tough" with dictators and bar farm exports. Farmers, over the years, have rightfully noted that, although in some cases sanctions have been in place for 40 years, there is nothing in the way of positive foreign policy results to show for these sanctions.

On the other hand, the losses to our farmers are measurable and substantial—in the billions of dollars annually—as a result of these unilateral sanctions on food and medicine we have imposed for years.

Church groups and humanitarian organizations have joined farm organizations in strongly opposing use of food and medicine as sanctions weapons on moral grounds.

Ironically, U.S. sanctions—particularly ones on food and medicine—have been used as an instrument by hostile governments to shore up domestic support and retain power, the very power that we are allegedly trying to change through the use of sanctions actually having contributed to these dictators staying in power for as many years as some of them have. Whether or not the United States is fully responsible for the suffering of these men, women, and children in these targeted countries, it is hard to convince many of them that the United States means them no ill will when we deny them the access to foodstuffs, critical medicines, and medical equipment—the reason seventy of our colleagues decided to end this policy of unilateral sanctions on food and medicine.

Unfortunately, the House Republican leadership would not allow the process to work in conference. As a result, this bill was tied up for days over this single measure.

Again, I compliment my colleague from Missouri, Senator ASHCROFT, and Senator HAGEL, who are leaders on this, along with others in fighting for this provision.

This is not a provision that is designed to help dictators. It is a provision to, in fact, change these dictatorial governments and to provide needed relief and opportunity for millions of people who are the innocent victims of these dictators, and not deny our own farm community and business interests the opportunity to sell into these markets and make a difference. They are prepared, of course, to deny, in the case of the major opposition, by the way, which comes from some Members.

I want to emphasize that some members of the Cuban American community feel particularly strongly about the government in Cuba. I respect their feelings. I respect it very deeply. These families have lost their homes, jobs, and family members as a result of the government in Cuba under Fidel Castro. There is no way I can fully appreciate the depth of their feelings and passions about this. As I say, I respect that.

The exile community is not unfounded in its deep concerns about what has happened on the island of Cuba.

Before I make any comments about the island of Cuba and what goes on there, I want it to be as clear as I can possibly make it that my sympathies, my heartfelt sympathies go to the exiled community that lives in this country and elsewhere. Their passions, I understand and accept, and I am tremendously sympathetic.

But I must say as well that there are 11 million Cubans who live on that island 90 miles off our shores who are suffering and hurting badly. Arguably, the problem exists with the government there. I don't deny that. But to impose a sanction for 40 years on the same of food and medicine to 11 million people in this country also is not warranted.

While we may want to change the government in Cuba—and that may happen in time—we shouldn't be compounding the problem by denying the sale of food and medicine to these people.

Many people say they won't set foot on Cuban soil while Castro remains in power. I understand that as well. But don't deny the 11 million people in Cuba the opportunity to at least have basic food supplies and medicine. It seems to me that—in fact I believe—a majority of the Cuban American people in this country have similar feelings. Their voices are not heard as often as is oftentimes the case when a minority view is extremely vocal and can dominate. But I believe the vast majority of Cuban Americans feel strongly about Fidel Castro, want him out of power, and want democracy to come to their country but simultaneously believe the 11 million people with whom they share a common heritage ought not to be denied food and medicine by the United States.

To make my point, these Cuban Americans try on their own to do what they can by sending small packages to loved ones and family members and friends who live in Cuba. Others travel to deliver medicines. Some 150,000 Cuban Americans travel annually to go into Cuba to bring whatever they can to help out family members and friends. However, these gestures of generosity are no substitute for commercial sales of such products if the public health and nutritional need of 11 million people are going to be met.

Unfortunately, the antidemocratic forces have succeeded in stripping the Ashcroft-Dodd-Hagel amendment from this bill. I hope enough of my colleagues will vote against this legislation to prevent its adoption. We can delay a few days, send this measure back to conference, and reestablish this language that was supported overwhelmingly, and I think supported in the House of Representatives, the other body, as well, and bring the measure back.

If this measure goes forward without the inclusion of the Dodd-Hagel-Ashcroft amendment, rest assured we will be back on this floor offering similar amendments at every opportunity that presents itself, and we will continue to do so. The day is going to come when a majority of the Congress and the will of the American people, including the Cuban Americans, I strongly suggest, is going to prevail.

On that day, the United States will regain a moral high ground by ceasing forever to use food and medicine as a weapon against innocent people.

I argue, as Senators ASHCROFT, HAGEL, GRAMS, and others, that the adoption of amendments that would allow for the lifting of unilateral sanctions on food and medicines will also be a major contributing factor to changing governments in these countries.

Aside from helping out farmers and businesses that want to sell these products and the innocent people who can't have access to them in these countries, I believe the foreign policy implications of allowing the sale of food and medicine will be significant for our country and for the people who live under dictatorial governments.

For those reasons, and what is being denied our farmers and agricultural interests in the State of Connecticut and elsewhere in the Northeast, and the rejection of the Ashcroft-Hagel-Dodd amendment, I will oppose this conference report, and I urge my colleagues to do likewise.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, some of our colleagues have denounced the Agriculture appropriations conference report as inadequate. I must agree. Without a doubt this bill is deficient.

It fails to acknowledge the full impact of natural disasters that have been experienced by agricultural producers across the country.

It fails to include adequate funding for the drought that has hit the Northeast.

It fails to provide adequate funding for the hurricane damage to the Southeast and the Northeast.

It fails to include adequate funding for flooded farmland in my own part of the country.

This bill is also deficient in the way it got here because in the conference committee when it became clear that there were going to be steps to change the sanctions regime of this country, the minority, the Democrats, were simply shut out. That is wrong. That should not happen. But it did happen.

So we are left with that result. As a result partly of that lockout, this bill fails to provide the kind of sanctions reform that ought to have occurred.

In 1996 when we passed the last farm bill, the Republican leadership promised American farmers that what they lost in domestic supports they would make up through expanded export opportunities. That was a hollow promise. The harsh reality is that now the prices have collapsed, farmers are in desperate trouble, and there must be a Federal response.

I wish this bill were better. I wish it contained adequate assistance for those who have been hit by hurricanes. I wish it had adequate assistance for farmers who have had their acreage flooded. I wish it had sanctions reform.

Food should not be used as a weapon. It is immoral; It is ineffective; and it is inhumane. But the harsh reality is we are where we are. We have a conference report that is flawed. Indeed, it is badly flawed.

The easy thing to do would be to vote against this conference report. But it would not be the right thing to do. This bill is not just about responding to natural disasters. It also responds to the price collapse that has occurred and threatens the livelihood of tens of thousands of farmers in my State and across the country.

The need for emergency income assistance could not be more clear.

I can say that in my State many farmers are relying on this bill as their only chance for financial survival. I don't say that lightly. It is the reality.

If this assistance is not passed and distributed immediately, literally thousands of farmers in my State are going to go out of business. It is that simple. A way of life and the tradition of farming will be lost in dozens of communities across my State. The funding in this bill only meets the most basic needs of our producers. Make no mistake, it is absolutely essential. Prices for agricultural commodities are at their lowest levels in 50 years in real terms. Wheat and barley are the lowest they have been in real terms in over 50 years. Farm bankruptcies are rising; auctions are being held on an unending basis. If nothing further is done, thousands of our farmers will go out of the business. That is the stark reality in farm country.

If we fail to pass this bill, we are going to mortgage the future of literally thousands of farm families. I think we should keep in mind this is not our last chance to get something done for those who have been so badly hurt, whether it is my farmers who have flooded acres, whether it is people in the Northeast and the Southeast hit by hurricanes, whether it is farmers in the Northeast hit by drought. There is another chance this year to get additional assistance. I sympathize with my colleagues from the Northeastern and Mid-Atlantic States. They are not alone. In my State this year, we have been hit by severe storms, flooding, extreme snow and ice, ground saturation, mud slides, tornadoes, hail, insects, and disease. It is unbelievable what has happened in my State.

Growing up in North Dakota I always thought of my State as dry. I now fly over much of North Dakota and it looks similar to a Louisiana rice paddy. There is water everywhere. Millions of acres are inundated and were never planted this year. Our farmers planted the lowest level of spring wheat since 1988, the year of intense drought. Yet prices remain very low—in fact, record lows. Barley production in North Dakota is down 42 percent. Yet prices remain very low.

Things have gone from bad to worse this fall. Farmers were anxious to get into the field for harvest but were forced to stay at home and watch the rain. North Dakota farmers suffered through 2 weeks of rain at the end of August and early September, the key time for harvest. As a result, the completion of harvest has been delayed. Damage resulting from a delayed harvest is deducted from prices farmers receive for their crops. At this point, there is absolutely no way some farmers will come anywhere close to matching their expenses for this year. We simply must pass this bill to allow entire communities to survive.

I was called by a very dear friend of mine 2 weeks ago describing what had happened to him. He was just beginning harvest when the rains once again resumed in our State. He had just cut his grain. It was on the ground and the rains came and continued day after day after day. As a result, that grain that was on the ground sprouted. He had 30-percent sprout in his fields. He took a sample into the elevator and the elevator said: Don't even bother trucking that in; we aren't going to buy it at any price.

That happened all over my State. I know it has happened in other States, as well.

Passing this bill and releasing this funding is absolutely critical for those farmers who have been so hard hit. Remember, passing this bill does not bar Congress from doing more in the future. We have other opportunities this year to help those who have been hit by a hurricane. There is other legislation moving through this body that has funds for those hit by hurricanes. That package can be improved upon. When we passed the emergency supplemental bill last May, we agreed to revisit agricultural emergency spending once the extent of the price disaster was known. We have done that. We can pass this bill now and assess future needs in response to natural disasters while this assistance is distributed.

The statement of the managers on this bill made several references to the need for additional Federal spending for 1999 disasters. They have recognized the reality. I hope colleagues on the floor will understand there are additional opportunities to achieve the result they seek. The answer is not to kill this bill. This bill, however flawed, is a step in the right direction. It would be a profound mistake to defeat it.

I close by urging my colleagues to support this conference report. We had an overwhelming vote in the Senate yesterday. It was an important vote to send the signal that this legislation ought to pass.

My colleagues in the Northeast are not alone. In many ways, we are in the same circumstance. We desperately need those farmers who have flooded acres to have legislation that addresses their needs. We will have another chance. We will have another opportunity. That is the great thing about the Senate; there is always another chance.

I close by looking at a picture that shows what is happening in my State. This is several sections of land in North Dakota. Everywhere you look is water, water, water—water everywhere. I have flown all over my State. It is truly remarkable; places that were dry for 30 years are now saturated.

I talked about the price collapse. I want to visually show what it is farmers are contending with. This chart shows clearly what has happened to spring wheat and barley prices over the last 53 years. The blue line is spring wheat; the red line is barley. These are two of the dominant crops of my State. Today the prices in inflation-adjusted terms, in real terms, are the lowest they have been in 53 years. That is the reality.

This chart shows the cost of wheat production with the green line; the red line shows what prices are. Prices have been below the cost of production the last 3 years. This is a disaster scenario of its own. This is the reality of what is happening in my State. This threatens the economic future of virtually every farmer in my State. The price is far below the cost of production. There are not many businesses that survive when it costs more to produce the product than is being received—not for a few months but for 3 years.

The next chart shows a comparison of the prices farmers paid for their inputs—the green line that keeps going on—versus the prices that farmers received. We can see there is a gap and it is a widening gap. In fact, the closest we came to having these two on the same line was back at the time of the passage of the 1996 farm bill. Since that time, the prices farmers pay have gone up. Thank goodness they have stabilized somewhat in the last couple of years, but the prices they have received have collapsed. That is the hard reality of what our farmers confront. These are, by the way, statistics from the U.S. Department of Agriculture.

I want to conclude by saying we ought to pass this bill. It is not perfect. In fact, in many ways it is deeply flawed. But it is far better than the alternative of nothing. It is far better than to take the risk of sending this bill back to conference and having it come back in much worse shape. At least we can take this and put it in the bank because this does address the question of price collapse. It does not do a good enough job on the disaster side, but we have other opportunities that will come our way before this session of the Congress concludes.

I will end by thanking the Senator from Mississippi, the chairman of the subcommittee, and Senator KOHL, his counterpart, for the good job they have done under very difficult circumstances. Make no mistake, there are 100 Senators and there are probably 100 different opinions of what agricultural policy should be and what an Agriculture appropriations bill should look like. But we do respect and admire the work they have done. We again thank them for their patience and perseverance bringing this bill to the floor. It deserves our support.

I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from South Dakota.

Mr. JOHNSON. Mr. President, agriculture across most of America is in a state of crisis. We are facing incredibly low livestock and grain prices, coupled with weather disasters in many parts of the country, all simultaneously. The legislation before us, as my colleague has noted so ably, is imperfect. Some have referred to it as throwing a leaking liferaft to a drowning person, and there is some truth to that. But it is urgent legislation. It is legislation we need to move forward because the need is immense and the urgency is critical. There is certainly no assurance, if we were to vote this particular bill down, that it would be back to us anytime soon or that it would come back to us in a better situation than it is now.

I think we need to recognize the inadequacies of the legislation, but at the same time that we move forward, we do so with a commitment to do better, still this Congress and in the coming year, to address the underlying problems that at least contributed to the crisis we have in rural America. Faulty agricultural policy brought to us by Freedom to Farm, combined with low prices, natural disasters, and weak export markets, resulted in an inadequate safety net—for family producers, in any event—across this country.

We have seen net farm income absolutely plummet from $53 billion in 1996 to $43.8 billion in 1999. Off-farm income in many of our States, including mine, South Dakota, is responsible for 80 to 90 percent of our family producers being able to stay on the farm. If it were not for off-farm income, there would be an even more massive exodus off the farm and ranch than we are seeing.

Are there inadequacies in the bill? Certainly. I commend our colleagues, Senator COCHRAN, Senator STEVENS, Senator KOHL, and many others, for hard work on this legislation under circumstances that surely were trying, where the level of resources would certainly not permit what they would prefer to see happen. Nonetheless, I think we have to acknowledge we need a recommitment in this body and from our friends on the other side of the Capitol to address the underlying structural problems ag faces today. I believe that involves revisiting the Freedom to Farm legislation. I believe that involves strengthening our marketing loan capabilities.

I would like to see us pass my country-of-origin meat labeling legislation. I am still working with a bipartisan group of colleagues this week to put together legislation addressing vertical integration in the packing industry, so we do not turn our livestock producers into low-wage employees on their own land. I fear that is the road we are going down.

We have to address issues of trade, value-added agriculture, farmer-owned cooperatives, and crop insurance reform. All of these are issues that cry out for attention, above and beyond anything done in this legislation.

I do applaud the effort in this bill to include mandatory price reporting on the livestock side. I do applaud some modest funding, at least, for my school breakfast pilot project that is included in this bill. I am concerned, however, the process led us to legislation that involves a distribution process that may not be as equitable as what I think the American public deserves. I will quote briefly from an analysis by the Associated Press, Philip Brasher, where he observes:

> Some of the largest, most profitable farms in the country would be among the biggest beneficiaries of Congress' $8.7 billion agricultural assistance package because it loosens rules that wee intended to target government payments to family-size operations.
>
> An individual farm could claim up to $460,000 in subsidies a year—double the current restriction—and the legislation creates a new way for producers to get around even that limit.
>
> The payment limits apply to two different programs: crop subsidies that vary according to fluctuations in commodity prices; and annual "market transition" payments, which were guaranteed to producers under the 1996 farm law.
>
> Farmers are technically allowed to receive no more than $75,000 in crop subsidies and $40,000 a year in market transition payments under current law. But many farms, legally claim twice that much because they are divided into different entities. A husband and a wife, for example, can claim separate payments on the same farm.
>
> The aid package would double those caps, so farms could get up to $300,000 in crop subsidies and $160,000 in market transition payments this year.
>
> Last year, about 550 farmers nationwide claimed the maximum amount in crop subsidies, USDA officials said.
>
> Critics of the looser payment rules fear they will encourage the consolidation of farms and hasten the demise of smaller-scale operations. "Big farms will use the extra cash to buy up land from the neighbors, driving up land prices in the process," said Chuck Hassebrook, program director of the Center for Rural Affairs in Walthill, NE.
>
> "What is the purpose of these farm programs? Is it to help very wealthy, very large landowners get bigger and get richer?"

These are the kinds of questions and concerns many of us have. I think they are profound questions, having to do with the very nature of agriculture, the very nature of rural America. What road we are going down, in terms of ag and rural policy in America, policy responsible for feeding so efficiently and so effectively and in such an extraordinary manner the people of our Nation?

But for all its failings and shortcomings, many of which I briefly raised this morning, the fact is there is absolute urgency this legislation go forward, that we address the problems of income collapse, disaster all over America, with this legislation; and, hopefully, upon passage of this legislation, we recommit ourselves to going expeditiously forward to address the remainder of these other issues I have raised, and others of my colleagues have raised, reflecting upon the inadequacies and inefficiencies and the shortcomings of this legislation. They are many. But to stop this legislation now would only hasten the demise of still more family producers all across America. It would not guarantee a return to a better policy anytime very soon. We need to pass this bill, then go forward with additional legislation to redress these inadequacies.

I urge my colleagues to vote yes on passage of this legislation and to work with us in a bipartisan fashion on the remainder of these agricultural issues and budget issues before the country.

I yield.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I yield 8 minutes to the distinguished Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the conference report for the fiscal year 2000 Agriculture appropriations bill addresses one of the most beleaguered fisheries in the United States. The Norton Sound region of Alaska has suffered chronically poor salmon returns in recent years. Norton Sound is an arm of the Bering Sea off the west coast of Alaska. It lies to the north of the Yukon-Kuskokwim Delta, which has also seen very poor salmon returns in recent years.

Both of these regions are extremely rural and heavily dependent on commercial and subsistence salmon fishing for survival.

The provision in the conference report addresses the Norton Sound problem in several ways. First, it will make the Norton Sound region eligible for the Federal disaster assistance made available to the Yukon-Kuskokwim delta region last year.

Second, it changes the income eligibility standard from the Federal poverty level to that for the temporary assistance to needy families program.

The standard of living in many of these fish-dependent communities is well below the poverty line. This was one of the chief complaints voiced to my staff and several Commerce Department officials when they visited western Alaska last summer. This provision will allow more needy families to qualify for 1999 disaster assistance, much of which has gone unallocated.

Additionally, this bill will provide $10 million in grants through the Economic Development Administration for infrastructure improvements in the Norton Sound region.

The conference report included is $5 million in disaster assistance under the Magnuson-Stevens Fishery Conservation and Management Act to determine the cause of the decline and to identify ways to improve the area's fisheries in the future. These funds will be available in 2001.

The main reason these communities are unable to ride out cyclical fishery failures is the lack of commercial infrastructure in rural fisheries. The EDA grants will help provide ice machines and other equipment to help these communities modernize their processing capabilities and extract more value from the resources they harvest.

I was also pleased to work with my colleagues from New England on their request for fishery disaster assistance. New England will receive $15 million in 2001 for cooperative research and management activities in the New England fisheries. These funds will provide New England fishermen with an important role in working to solve the problems of their own fisheries.

Within this conference report, I have also asked that the Agricultural Marketing Service—the AMS—convene two national meetings to begin development of organic standards with respect to seafoods. One of these meetings will be held in Alaska and the other meeting will be held on the Gulf of Mexico coastal area.

The AMS will use the information gathered at these meetings to develop draft regulations establishing national organic standards for seafood to be published in fiscal year 2000.

It is estimated that the sales of organic foods will reach $6.6 billion by the year 2000. The organic industry has been growing at a rate of 20 to 24 percent for the last 9 consecutive years.

Ocean-harvested seafood should be at the same level with other qualifying protein commodities, such as beef, pork, and chicken. I hope that these protein sources will be included in the proposed U.S. Department of Agriculture rules to be finalized by June 2000. Ocean-harvested seafood should not be excluded as an organically-produced product when USDA issues its final rule.

This issue is very important to Alaska, as the harvesting of seafood is an industry that employs more Alaskans than any other industry. In particular, I am concerned about the inclusion of wild salmon within USDA's final rule for the National Organic Program. Wild salmon is an organic product.

This past summer, two private certifying firms for organic food products visited two Alaska seafood processors to determine whether the wild, ocean-harvested salmon processed at these facilities could be certified as organic. One of the certifiers, farm verified organic, inspected capilliano seafoods. Their report is very positive. In fact, their approval allowed capalliano's salmon to be admitted to natural products east, which is a large organic food show in Boston, Massachusetts. In order to be admitted to this trade show, a product must be verified as organic.

I, frankly do not know what the dispute is about. Natural fish, wild fish should certainly be verified as organic.

I am confident that the AMS will find Alaskan wild salmon a very heart-healthy protein source, to be of high quality and organic, for the purposes of USDA's national organic program.

I thank my friend from Mississippi and yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I will be very brief. I know a number of Members are waiting to speak.

The Governors and legislators in the six New England States had five goals in mind when they enacted the Northeast Interstate Dairy Compact into law in each of their States.

They wanted to assure fresh, local supplies of milk to consumers. In fact, they wanted to do it at lower prices than found in most other parts of the Nation. They wanted to keep dairy farmers in business, they wanted to protect New England's rural environment, and they wanted to do this without burdening Federal taxpayers.

It turned out the Northeast Interstate Dairy Compact was a stirring success on every one of these points. But it also had an added benefit. It increased interstate trade into the region as neighboring farmers took advantage of the compact. Not only did prices come down, but the number of farmers going out of business has declined throughout New England for the first time in many years. We find there are still some who favor having Federal bureaucrats run this farm program, at a cost to the taxpayers, instead of the States themselves, with no cost to the taxpayers.

Because it has been so successful, half the Governors in the Nation, half the State legislatures in the Nation, asked that the Congress allow their States to set their own dairy policies, within certain limits, through interstate compacts that, again, cost taxpayers nothing. The dairy compact legislation passed in these States overwhelmingly.

Perhaps most significant, and I mention this because we have heard those from Minnesota and Wisconsin attack this, what they do not tell us is that the retail milk prices in New England not only average lower than the rest of the Nation, but they are much lower than the milk prices in Minnesota and Wisconsin. So those in these parts of the country who are attacking the Northeast Dairy Compact say they are concerned about consumers and ignore the fact that consumers pay a lot more in their States than they do in New England.

One has to ask, Why does anybody oppose the Dairy Compact? GAO and OMB report that consumer prices are lower and farm income is higher than the average for the rest of the country, without increased cost to the taxpayers. Why would anybody oppose it?

One of the things I learned long ago is to follow the money, and there is one group making a whole lot of money on this issue. They are the huge milk manufacturers, such as Suiza, or Kraft which is owned by Philip Morris, or other processors represented by the International Dairy Foods Association. They oppose the compact not because they care for the consumers, not because they care for the farmers, but because they care for their own huge, bloated profits.

Indeed, they sent around corporate front organizations to speak for them. One was the Public Voice for Food and Health Policy. When it finally became clear that Public Voice was going around fronting for these organizations, and that their policies were determined not by what was best for everybody but by corporate dollars, they finally went out of business.

I've talked about the close alliances between a lead executive who handled compact issues for Public Voice who negotiated a job to represent the huge processors.

I will give the press another lead on the next public interest group whose funding should be investigated, the Consumer Federation of America. One of their officers, formerly from Public Voice, has been going around Capitol Hill offices with lobbyists representing dairy processors.

One might ask why would Philip Morris want to use these organizations instead of going directly to the editorial boards of the New York Times or the Washington Post to bad mouth the compact? Why not have somebody who appears to be representing the consumers rather than Philip Morris coming in and talking about it?

The consumer representative, being paid by the big processors, could come in and say: Editorial board members, milk prices are higher for children in the School Lunch Program under this compact.

We ought to compare those prices. Let's compare the retail milk prices in New England against retail milk prices in the upper Midwest. A gallon of whole milk in Augusta, ME, was $2.47. The price was up to 50 cents more in Minneapolis, MN, the area opponents used as an example of how to save money.

I think we ought to take a look at these issues because when we hear some of the big companies, such as Philip Morris and Kraft and Suiza, saying, well, it's not the money. But you know, of course, it is the money. When they say "we are here because we're concerned about the consumers," you know—with their track record—that the consumer is the last thing on their mind. And when these processor groups say they want to protect the farmer . . . oh, Lordy, don't ever, ever believe that, because there is not a farmer in this country who would.

Lastly, if anybody tells you the dairy compact will cost you money, I point out, not only does it not cost taxpayers any money, but the cost of milk is much lower than in States without a compact.

Mr. President, the Governors and legislators in the six New England states had five goals in mind when they enacted the Compact into law in each of their states.

They wanted to assure fresh, local supplies of milk to consumers—at lower prices than found in most of the nation—they wanted to keep dairy farmers in business, they wanted to protect the New England's rural environment from sprawl and destructive development, and they wanted to do this without burdening federal taxpayers.

The Northeast Interstate Dairy Compact has delivered beyond the expectations of those Governors and state legislators.

The Compact provided an added benefit—it has also increased interstate trade into the region as neighboring farmers took advantage of the Compact.

This great idea—coming from those six New England states—has created a successful and enduring partnership between dairy farmers and consumers throughout New England.

Thanks to the Northeast Compact, the number of farmers going out of business has declined throughout New England—for the first time in many years.

It is unfortunate that most still favor federal bureaucrats running the farm programs—I think Congress should look at more zero-cost state-initiated programs rather than turning a deaf ear to the pleas of state legislators.

Indeed, half the Governors in the nation, and half the state legislatures in the nation, asked that the Congress allow their states to set their own dairy policies—within federally mandated limits—through interstate compacts that cost taxpayers nothing.

And the dairy compact legislation passed with overwhelming support in almost all these states.

One of the most difficult challenges posed by the New England Governors is that the Compact had to cost nothing—yet deliver a benefit to farmers. The Compact is scored by CBO as having no costs to the Federal treasury.

Major environmental groups have endorsed the Northeast Dairy Compact because they know it helps preserve farmland and prevent urban sprawl. Indeed, a New York Times and a National Geographic article that I mentioned yesterday discuss the importance of keeping dairy farmers in business from an environmental standpoint.

Perhaps most significantly, retail milk prices in New England average lower than the rest of the nation and much lower than milk prices in Minnesota and Wisconsin, according to GAO.

The question is: why does anyone in America oppose the dairy compact? Since GAO and OMB report that consumer prices are lower and farm income is higher than the average for the rest of the country, without increased costs to taxpayers, why does anyone oppose the Compact?

The answer is simple, huge milk manufacturers—such as Suiza, headquartered in Texas, Kraft which is owned by the tobacco giant Philip Morris, other processors represented by the International Dairy Foods Association—oppose the Compact.

Even the most junior investigative reporter could figure out the answer to my question with the above information. All anyone has to do is look up the donations made by these, and other, giant processors. All the negative news stories about the compact have their genesis in efforts by these giant processors and their front organizations.

I have explained the details of this on the Senate floor so scholars who want to know what really happened can check the public records and the lobby registration forms.

Indeed, one of the corporate front organizations—Public Voice for Food and Health Policy—apparently could not continue to exist when it was so obvious that their policies where determined by corporate dollars rather than good policy.

A simple glance at the list of corporations who funded and attended their functions could be easily researched by any reporter. It will demonstrate that sad and disturbing relationship—now ended as Public Voice had to close up shop because it lost its conscience.

I have detailed the close alliances between their lead executive who handled compact issues for them and the job he negotiated to represent the huge processors a couple of times on the Senate floor.

I will give the press another lead on the next public interest group whose funding should be investigated—the Consumer Federation of America. Indeed, one of their officers—formerly from Public Voice—is being taken around Capitol Hill offices by lobbyists representing processors. A glance at who funds their functions and efforts will be as instruction as investigations of Public Voice.

Why should Philip Morris or Kraft want to use these organizations instead of directly going to the editorial boards of the New York Times or the Washington Post to badmouth the compact? The question does not need me to provide the answer.

What would be the best attack—whether true or not—on the Compact that might swing public opinion?

It might be to simply allege that milk prices are higher for children in the school lunch program. Who would the editorial boards more likely listen to regarding school children: a public interest group or a tobacco company?

By the way, I would be happy to compare milk prices after the Compact was fully implemented.

I would be pleased to compare retail milk prices in New England against retail milk prices in the Upper Midwest.

A GAO report, dated October, 1998, compared retail milk prices for various U.S. cities both inside and outside the Northeast compact region for various time periods.

For example, in February 1998, the average price of a gallon of whole milk in Augusta, ME, was $2.47. The price in Milwaukee, Wisconsin, was $2.63 per gallon. Prices in Minneapolis, Minnesota, were much higher—they were $2.94 per gallon.

Let's pick another New England city—Boston. In February 1998, the price of a gallon of milk was $2.54 as compared to Minneapolis which where the price on average was $2.94/gallon.

Let's look at the cost of 1% milk for November 1997, for another example.

In Augusta, Maine, it was $2.37 per gallon, the same average-price as for Boston and for New Hampshire and Rhode Island. In Minnesota, the price was $2.82/gallon. It was 45 cents more per gallon in Minnesota.

I could go on and on comparing lower New England retail prices with higher prices in other cities for many different months. I invite anyone to review this GAO report. It is clear that our Compact is working perfectly by benefitting consumers, local economies and farmers.

I urge my colleague to vote against this bill because, as I mentioned yesterday, it does not provide enough disaster assistance to the East and it does not provide enough disaster assistance to the nation.

Also, I cannot vote for it because it does not extend the Northeast dairy compact and does not allow neighboring states to also participate.

It also ignores the pleas of Southern Governors who wanted to be able to protect their farmers without burdening U.S. taxpayers.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from West Virginia.

Mr. BYRD. Mr. President, this afternoon the Senate is scheduled to vote on final passage of the fiscal year 2000 Department of Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations bill. It is critical that we complete action on this bill today to speed assistance to American farmers in need. Therefore, I shall vote for the bill and urge my colleagues to support it also.

The severe drought that has gripped the Eastern United States this year is, by all accounts, the most damaging and prolonged such occurrence since the early 1930s. Just like that period nearly 70 years ago, springs have gone dry, streams have ceased to flow, pastureland and crops have broiled in the relentless Sun until all possible benefits to livestock or man have burned away. In the 1930s the drought turned much of our Nation's farmlands into a veritable dust bowl. Modern conservation practices today may have helped to reduce the erosion by wind, but the soil is just as dry, and farmers in West Virginia and all along the East Coast are suffering from the natural disaster of a generation. Some farmers have had to make the painful decision to sell off their livestock or to give up farms that have been in their families for generations. This is what has been happening in West Virginia. This is nothing short of an emergency. It demands our attention and response.

This bill provides funding for many ongoing and long running programs as well as much needed assistance to farmers who suffered at the hands of Mother Nature this year. The $8.7 billion emergency package that is attached to this appropriations bill contains $1.2 billion specifically for 1999 natural disasters, including drought. In all, more than $1.2 billion will be available for direct payments for farmers suffering crop and livestock losses from natural disasters this year, up significantly from the $50 million in the version that first passed the Senate in August. That may not be enough to fully cover the still-mounting losses to farmers, but it is a good start. These emergency funds will be able to be distributed upon enactment of this legislation to farmers who have been waiting and waiting for the Federal Government to deliver. American farmers cannot afford to wait any longer for Federal assistance, and the Senate cannot afford to delay final passage of this fiscal year 2000 Agriculture Appropriations Conference Report.

Unfortunately, once this measure reached the conference committee, the process that we follow yearly as routine in conferences was sidelined. When difficult issues came before the conference, after only an evening and a morning of debate, the conference committee adjourned for lunch, and never returned. For several days, the conference was "out to lunch," until deals could be reached behind closed doors guided by invisible hands, and our tried and true procedure was circumvented. I believe that this selective bargaining is why some Members have expressed their dissatisfaction with the final bill. The best work of the Congress is demonstrated when, as a body, we cooperate and allow ourselves to be guided by the rules and the traditions that have allowed our Government to flourish under the Constitution now for over 200 years.

I have stood before this body on numerous occasions since visiting West Virginia with the Secretary of Agriculture on August 2 of this year to impress upon my fellow Members what a significant impact the drought has had in West Virginia, and, of course, in other Mid-Atlantic and Northeastern States. Many of these States received a secretarial emergency declaration that has provided some limited USDA assistance to farmers who have experienced losses as a result of the drought. But, unfortunately, much of the assistance came in the form of loans to farmers who were already deep in debt. The recent losses caused by Hurricane Floyd make clear that more emergency assistance will be needed. We can do better for farmers, so I supported the Statement of Managers language directing the administration to conduct full estimates of the remaining need, and to submit to the Congress a supplemental budget request as soon as possible for both hurricane and additional drought assistance.

When we consider all of the natural disasters that have affected farmers this year, from frosts that killed citrus trees, to devastating drought, to States ravaged by storms, and by the hurricane, I feel that it is highly appropriate that the Senate act now because it seems a certainty that the $1.2 billion will be insufficient to help farmers who have been harmed by nature. But the current emergency package attached to the conference report is essential to begin addressing the crisis in rural America that has only been compounded by the weather disasters of 1999. Failure to pass this measure will only allow the suffering of struggling farmers to continue without relief.

The House of Representatives passed this measure on October 1, 1999. It is now time for the Senate to pass this measure.

I want to thank Senator COCHRAN in particular for his study and consideration and for the skill with which he has brought this bill to its present status. I want to thank him also for supporting some of my requests in the bill.

I requested that there be grants to farmers, livestock farmers in particular, in the amount of $200 million and also that there be provisions whereby farmers could restore their land, where there could be new vegetation planted so that they could have a chance of starting over again. It was in that conference that the chairman, in particular, supported my effort.

I was one of the three Democrats on this side who signed the conference report, and did so in particular because of the funding which had been provided, at my request, for the livestock farmers. There are livestock farmers in my State who were selling out their entire herds, not just for this year but for good. Some of those livestock farmers have been in the farming business for years, and the farm indeed has come down to them after one or more generations. It is important not only from the standpoint, I think, of helping these people who are so in need and who have to work every day, 365 days a year, who can never be sure what the weather is going to be, and who are at the mercy, in many instances, of Mother Nature—it is important that we come to their aid—it is also important for our country that we continue to sustain the small farmer.

In the Roman Republic, the small farmers left their farms in the Apennine Mountains and went into the cities and joined with the mob. When those farmers, those peasants of the land in Italy, left the land and migrated into the cities, the Roman republic began to collapse. It was in the homes of the Roman farmers that family values and the Roman spiritual values flourished. When those peasants left the land, the spiritual values of the Romans began to deteriorate because it was in the homes that they venerated their ancestors and worshipped their gods. They were pagan gods, but the Romans worshipped those gods.

Those family values, which included respect for authority and order—there is where the stern Roman discipline had its beginning. It was because of that stern Roman discipline that came out of the homes of the peasants—it was because of that stern Roman discipline that the Roman legions were able to conquer the various other nations around the Mediterranean basin.

It was the same way in our own country in colonial days. Most of the people in this country were from farming stock. There was a time when over 90 percent of the people in this country were from the farms. That day has long gone, as the corporate farms have largely taken over, just as in the Roman Republic, the latifundia—large corporate farms—which were owned mostly by Roman senators, pushed the small farmers off the land.

I suppose Oliver Goldsmith had that in mind when he wrote "The Deserted Village." In his lines, he told the story of the Roman farmers as well as our own people.

Ill fares the land, to hast'ning ills a prey,
Where wealth accumulates, and men decay:
Princes and lords may flourish, or may fade;
A breath can make them, as a breath has made:
But a bold peasantry, their country's pride,
When once destroy'd, can never be supplied.

I thank all Senators for listening. I hope Senators will soon vote for this important bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from West Virginia for his kind comments about the handling of the legislation. I thank him for his valuable assistance in the crafting of the language of our disaster assistance provisions and other provisions as well.

I yield 8 minutes to the distinguished Senator from Maine, Ms. COLLINS.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. I thank the Chair.

Mr. President, I rise today in opposition to the conference report on the fiscal year 2000 Agriculture appropriations bill. I do so with considerable reluctance because the distinguished senior Senator from Mississippi, the subcommittee chairman, has always been so responsive to the needs of rural Maine. And the Senator, in his capacity as chairman, has provided valuable assistance to the State of Maine, particularly in the area of agricultural research, which is very important to my State.

Unfortunately, circumstances largely beyond the control of my good friend from Mississippi have brought this measure before us without a component that is absolutely critical to the survival of Maine's dairy farmers. The lack of provisions reauthorizing the Northeast Dairy Compact creates a serious regional inequity and places an unfair burden on Maine's dairy farmers.

While this measure contains $5.4 billion in payments for farmers harmed by low commodity prices, it ignores a mechanism that provides stability in pricing for dairy farmers in the Northeast. The Northeast Dairy Compact is a proven success, and it is absolutely critical to the survival of dairy farmers in Maine and throughout the Northeast.

First approved by Congress as part of the 1996 farm bill, the Northeast Dairy Compact has a proven track record of benefits for both consumers and farmers. The compact works by simply evening out the peaks and valleys in the fluid milk prices, providing stability to the cost of milk, and ensuring a supply of fresh, wholesome local milk.

The compact works with market forces to help both the farmer and the consumer. As prices climb and farmers begin to receive a sustainable price for their milk, the compact turns off. When prices drop to unsustainable levels, the compact is triggered on. The compact simply softens the blow to farmers of an abrupt and dramatic drop in the volatile fluid milk market.

It is important to reiterate that consumers also benefit from the compact. Not only does the compact stabilize prices, thus avoiding dramatic fluctuations in the retail cost of milk, but also it guarantees that the consumer is assured of the availability of a supply of fresh local milk. Let us remember that the proof is in the prices.

Under the compact, New England consumers have enjoyed lower retail fluid milk prices than many other regions operating without a dairy compact. Moreover, the compact, while providing clear benefits to dairy producers and consumers in the Northeast, has proven that it does not harm farmers or taxpayers in other regions of the country. Indeed, a 1998 report by the Office of Management and Budget showed that during its first 6 months of operation, the compact did not adversely affect farmers outside the compact region and added no Federal cost to nutrition programs. In fact, the compact specifically exempts WIC, the Women, Infants, and Children's Program, from any costs resulting or related to the compact.

The reauthorization of the Northeast Dairy Compact is also important as a matter of States rights. We often hear criticism of the inside-the-beltway mentality that tells States that we here in Washington know better than they do, even on issues that traditionally fall under State and local control.

That is simply wrong. In the Northeast Dairy Compact, we have a solution that was devised by our dairy farmers, that was approved by the legislators and Governors of the New England States, that is supported by every State agricultural commissioner in the region and overwhelmingly, if not unanimously, by the dairy farmers of the region. We in Congress should not be an obstacle to this practical local solution.

It is not too late. There are a variety of ways that Congress can allow dairy farmers in the Northeast to help themselves. All we need to do is to reauthorize the compact and take advantage of those opportunities. I am very disappointed, however, that Congress is missing the logical opportunity to renew this important measure through the Agriculture appropriations bill. Therefore, I must oppose this conference report. But I look forward to working with my colleagues to resolve this matter before we adjourn.

Again, I thank the Senator from Mississippi. He has been extremely responsive to the needs of agricultural producers in my State. I know that he shares my commitment to resolving this matter and coming to a solution that will help our dairy farmers survive before we adjourn this session of the Senate.

Thank you, Mr. President. I yield back to the chairman any remaining time I might have.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Maine for her kind comments. We will certainly continue to do everything possible to be responsive to the needs of agricultural producers both in New England and elsewhere in the country.

I yield such time as he may consume to the distinguished Senator from Vermont, Mr. JEFFORDS.

Mr. JEFFORDS. Mr. President, I rise in opposition to the FY 2000 Agriculture Appropriations bill. I oppose the Agriculture funding bill not because of what's in the bill, but because of what has been left out.

I have listened to several of my colleagues speak in support of the disaster aid in this bill. They have spoken passionately on how we need to help our family farms. I, too, support providing relief to farmers and ranchers across the nation who have suffered from weather and market related disasters.

However, this bill has ignored one of this nation's most important agriculture sectors—our dairy farmers. The bill, which provides $8.7 billion in aid to farmers, in large part as direct payments, has neglected dairy farmers, not only in my home state of Vermont, but the dairy farm families in the entire country.

Unlike the commodity farmers throughout the country, dairy farmers have not asked for assistance in the form of federal dollars. Instead, they have asked for relief from a promised government disaster in the form of a fair pricing structure from the Secretary of Agriculture and the extension of the very successful Northeast Dairy Compact, at no cost to the federal government.

Mr. President, I would like to remind my colleagues from the states and regions of the country that will be receiving billions of tax payer dollars in aid for their farmers, that the Northeast Dairy Compact has no cost to the federal government and has no adverse impact on any farmer outside the compact region.

If my colleagues who have opposed our efforts to bring fairness to all dairy farmers truly supported family farms across this country they would support my efforts to help protect the dairy farmers in my state as well as the dairy farmers in the rest of the nation.

While Congress is providing needed government assistance to commodity farmers across the nation, I would like to remind my colleagues on just how well the Dairy Compact helps dairy farmers protect against sudden drops in the price of their products.

This no cost initiative has given farmers and consumers hope. In large part based on the success of the Northeast Compact, which includes the six New England states, no less than nineteen additional states have adopted dairy compacts.

In total, twenty-five of the states in the country have passed compact legislation. During the past year Alabama, Arkansas, Kentucky, Louisiana, Mississippi, Oklahoma, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, Georgia, Kansas, and Missouri have all passed legislation to form a southern dairy compact. Texas is also considering joining the Southern Compact.

The Oregon legislature is in the process of developing a Pacific Northwest Dairy Compact. In addition, New Jersey, Maryland, Delaware, New York and Pennsylvania have passed state legislation enabling them to join the Northeast Dairy Compact.

The Northeast Dairy Compact, which was authorized by the 1996 farm bill as a three-year pilot program, has been extremely successful. The Compact has been studied, audited, and sued—but has always come through with a clean bill of health. Because of the success of the Compact it has served as a model for the entire country.

One look at the votes cast by each state legislature, and you can see that there is little controversy over what is in the best interest for the consumers and farmers in each respected state. For example, in Alabama and Arkansas, both legislative chambers passed compact legislation unanimously. It passed unanimously in the North Carolina House. In the Oklahoma State Senate, it passed by a vote of 44–1 and unanimously in the Oklahoma House. It passed unanimously in the Virginia State Senate and by a vote of 90–6 in the Virginia House. In Kansas, the bill passed in the Senate by a vote of 39–1 and an impressive 122–1 in the Kansas House.

The Northeast Dairy Compact was also approved on overwhelming votes in each of the New England state's legislative bodies.

Mr. President, given its broad support among the states, we all know that the issue of regional pricing is one that will continue to be debated. I am pleased with the tremendous progress the Southern states and other Northeastern states have made to move their compacts forward.

Thanks to the leadership of Chairman COCHRAN, Senator SPECTER and others progress has been made.

While the debate continues, we must allow the Northeast Compact to continue as the pilot project for the concept of regional pricing.

I am, of course, aware that some of my colleagues oppose our efforts to bring fairness to our states and farmers by continuation of the Northeast Dairy Compact pilot project. However, why do Members who share my admiration and respect for family farms oppose an initiative that has no cost to the federal government and has no adverse impact on farmers outside the region?

Unfortunately, Congress has been bombarded with misinformation from an army of lobbyists representing the national milk processors, led by the International Dairy Foods Association (IDFA) and the Milk Industry Foundation. These two groups, backed by the likes of Philip Morris, have funded several front groups such as Public Voice and the Campaign for Fair Milk Prices to lobby against the Dairy Compact and other important dairy provisions.

The real fight over dairy compacts should not come from Members of the Senate that support protecting small farms and consumers, but from the National Milk Processors who work against all farmers to the benefit of their bottom line, because they control the price now, and that gives them higher profits. All we want is a fair price.

It is crucial that Congress debate the issues presented on dairy compacts on the merits, rather than based on misinformation. When properly armed with the facts, I believe you will conclude that the Northeast Dairy Compact has already proven to be a successful experiment and that the other states which have now adopted dairy compacts should be given the opportunity to determine whether dairy compacts will in fact work for them as well.

Mr. President, federal dairy policy is difficult to explain at best. As a Member of the House of Representatives, I served as the ranking member of the Dairy and Livestock Subcommittee. During my years in the House, I worked very closely with the programs that impacted dairy farmers and consumers. I know the industry, I know the policies, and the compact is a raving success.

Of all the programs and efforts by the federal government to help our nation's dairy farmers and protect the interests of consumers, the most effective and promising solution I have seen thus far is the creation and operation of the Dairy Compact.

Unfortunately, many of my colleagues have not yet seen the benefit of compacts and may be basing their reasons on misinformation.

In addition to being sound public policy, the Dairy Compact represents a state's right to do all it can under the law to protect its farmers and consumers.

The courts agree that the Compact is legally sound. Last January, a federal appeals court rejected a challenge to the Dairy Compact by the Milk Industry Foundation. The Court found that the Compact was constitutional and the U.S. Agriculture Secretary's approval of the Compact was justified.

In November of 1998, a Federal district court judge also ruled in favor of the Compact Commission in a challenge brought by five New York-based milk processors. The court found that the Commission had the authority to regulate milk that is produced or processed outside of the region but distributed within the Compact region. In each case, the courts found that the work of the Commission is of firm and legal grounds.

Mr. President, in recent weeks Governors from throughout the Northeast and Southeast sent a letter to the Majority Leader of the Senate and House, urging Congress to consider and support the Dairy Compact legislation.

The Governors of the Compact regions speak not only for their farmers and consumers but for the rights of the States. The message to Congress from Governors nationwide has been clear. "Increase the flexibility of states and support legislation that promotes state and regional policy initiatives."

Governors from the twenty-five Compact states represent diverse constituents. They have all considered the benefits and potential impacts by compacts on all those in their states. In the state of Rhode Island for example, there are nearly six million consumers and only 32 dairy farmers. Yet, the dairy compact passed overwhelmingly in the Rhode Island State legislature and is supported by the entire Rhode Island delegation. A similar story is true for Massachusetts.

As I mentioned previously in my statement, nearly all the states supported the Dairy Compacts overwhelmingly.

The success of the three year pilot program of the Northeast Dairy Compact, has created an opportunity for a partnership between Congress and the States, to help strengthen the fundamental federalism movement.

The New England states by joining together as one are doing what any large state can do under the law such as California. A large State can do it. We can't because of the commerce clause. We have to join together and get a compact. We did that.

The reauthorization of the successful experimentation of the Northeast Compact and the creation of a Southern Compact as a pilot program will help maintain that the States' constitutional authority, resources, and competence of the people to govern is recognized and protected.

Mr. President, the Compact also stands on firm constitutional grounds. Does Congress possess the authority to approve the Northeast Interstate and Southern Dairy Compacts?

The answer to this question is clear, simple, and affirmative. Under the Compact Clause of the United States Constitution, states are expressly authorized to seek congressional approval of interstate compacts, even states in the Upper Midwest. And congressional approval, once given, endows interstate compacts with the force of federal law. The Compact Clause, and the Compacts that Congress may license under it, are important devices of constitutional federalism.

Despite what some of my colleagues have said, the Northeast Dairy Compact is working as it was intended to. Instead of trying to destroy an initiative that works to help dairy farmers with cost to the federal government, I urge my colleagues to respect the states' interest and initiative to help protect their farmers and encourage that other regions of the country to explore the possibility of forming their own interstate dairy compact.

For many farmers in Vermont and New England, the Compact payments have meant the difference between keeping the farm and calling the auctioneer.

Dairy farming in Vermont represents over seventy percent of the agricultural receipts in the state. No other state relies on one sector of agriculture more than Vermont depends on dairy.

What we were trying to accomplish in the Agriculture Appropriations bill was about helping farmers and protecting consumers. Farmers deserve our support and recognition. It is sometimes easy to forget just how fortunate we are in this country to have the world's least expensive and safest food supply.

Dairy farmers work harder than many of us realize. The cows have to be milked at least two times a day, 365 days a year; farmers work on the average 90 hours per week, an average of 13 hours a day; farm owners receive an average hourly wage of $3.65, take few if any vacations or holidays and have no sick leave. That is why they are so sensitive to something which may destroy or reduce the prices.

Prices received by farmers in the month of October will be lower than the prices received over 20 years ago. Can you imagine maintaining your livelihood or business with salaries of 20 years ago? Think about what that means to consumers also. The price of milk, if you look on an inflationary scale, is well below what it would be for softdrinks or anything else.

I am certain that my colleagues will agree with me that dairy farmers deserve a fair price for their product. What does it say about our values when some of the hardest working people, our farmers, are underpaid and unappreciated? Mandating option 1–A and continuing the dairy compact ensures that dairy farmers will have the needed tools to help face the challenges of the future.

In Vermont, dairy farmers help define the character of the state. I am proud to work to protect them to protect the traditions and special qualities of the state. Dairy is not just a farming operation for Vermont and other states in New England, it is symbol of our culture, history and way of life. Its survival is a highly emotional subject.

Vermonters take pride in their heritage as a state committed to the ideals of freedom and unity. That heritage goes hand and hand with a unique quality of life and the desire to grow and develop while maintaining Vermont's beauty and character. Ethan Allan and his Green Mountain Boys and countless other independent driven Vermonters helped shape the nation's fourteenth state while making outstanding contributions to the independence of this country.

Today, that independence still persists in the hills and valleys of Vermont. Vermonters have worked hard over the years to maintain local control over issues that impact the charm and quality of the state. Vermont's decision to enhance and protect its wonderful scenic vistas by prohibiting bill boards along its highways and roads was a local, statewide decision. Because of the vision Vermonters many years ago had, driving throughout Vermont enjoying the beautiful landscapes and nature beauty is a pleasurable experience. And it would not be without cows on the hillside. Vermonters choose to control their state's destiny. They should, as any other state have the right to protect their consumers, farmers and way of life.

Most Americans know Vermont as a tiny state in the Northeast that has good skiing, great maple syrup, and beautiful fall foliage—a charming place where the trees are close together and the people are far apart—far from the problems that plague many communities across the country. It is nearly impossible to drive down any country road in Vermont and not pass a farm with a herd of cows. Dairy farms still define the nooks and crannies of the rolling hills. Maybe there's a small pond nearby and a few horses or sheep. Or maybe there's a pasture with bales of hay and cows lining up at the barn waiting for milking time.

The look of Vermont distinguishes it as a throwback to a bygone, simpler time. Vermont is the home of stone fences, covered bridges, and red farmhouses. Vermonters have a special place in their hearts and lives for farmers.

Vermonters of today are struggling to keep step with the modern world while holding onto the state's classic rural charm and agriculture base. It's a difficult task requiring much thought and work. But then again, overcoming difficulties through hard work is what the native Vermonter is all about. Farm families know all about hard work.

Mr. President, dairy farmers did not ask Congress for billions of dollars in disaster aid? Instead, and most appropriately, they asked Congress to provide them with a fair pricing structure and the right of the states to work together at no cost to provide a structure that would help them receive a fair price for their product—not a bail out from the federal government.

Therefore, I must oppose the Agriculture Appropriations bill and suggest that Members whose farmers will be getting federal dollars in disaster assistance take a close look at how the Northeast Dairy Compact helps protect farmers and consumers with no cost to the federal government or any adverse impact on farmers outside the compact region.

I urge my friends to watch closely what is happening to dairy and to give us the opportunity to continue to live in a beautiful State with cows on the hillside.

I yield the floor.

Mr. LIEBERMAN. Mr. President, I rise today to express my deep disappointment with the agriculture conference report that we in the Senate will vote on today. This agriculture appropriations bill falls well short of helping the Connecticut farmers whose very livelihood was badly hurt by this summer's record drought, and who are depending on our assistance to recover from the devastating losses they have suffered. Instead, this plan simply leaves farmers throughout the Northeast even higher and drier, and leaves me no choice but to vote against this bill.

In August, I joined with Agriculture Secretary Dan Glickman in visiting a family farm in Northford to inspect the drought damage done in Connecticut this year. On that day, the Secretary declared the entire state a drought disaster area. Since then, it has been estimated that farmers in our state have incurred losses of $41 million; together, the 13 Northeast and Mid-Atlantic states estimate their losses at $2.5 billion.

Sadly, despite strong bipartisan pleas for support, the agriculture appropriations bill shortchanges our state as well as the entire Northeast region. Of the $8.7 billion in "emergency" farm relief this bill provides, only $1.2 billion is available for natural disaster aid. This smaller allocation of money must be distributed, in turn, to farmers nationwide for drought, flood, and other natural disaster damage. It is likely that the drought-stricken farmers of the Northeast and Mid-Atlantic states would receive only about $300 million—less than one-eighth of their estimated recovery costs.

Historically, hard working Connecticut farmers benefit from very little federal assistance. During the last fiscal year, for example, Connecticut farmers received less than one-tenth of one percent of the $10.6 billion paid out by the government-funded Commodity Credit Corporation. It is only fair that when they need emergency recovery assistance, the government come through for Connecticut farmers too. Sadly, this bill is not fair.

This agriculture spending plan is regionally inequitable, offers insufficient disaster assistance for Connecticut farmers, and represents unacceptable public policy. In times of legitimate farm crises, Congress has repeatedly provided a helping hand to farmers in the Midwest and South. We owe nothing less to the farmers in Connecticut and throughout the Northeast who make a critical contribution to our economy. They deserve real help, not a bill of goods.

I am also concerned by the disappearance during conference of the Northeast Dairy Compact, which had been approved by the House of Representatives. Because the usual conference committee proceedings were circumvented this year, it is impossible to know why the Dairy Compact is missing in action. Regardless of the answer to this question, the subversion of the conference committee process disturbs me and represents a bad precedent for our legislative process.

Because this bill does not provide real, equitable relief for Connecticut farmers and does not include reauthorization of the Northeast Dairy Compact, I will join my colleagues from the Northeast in voting against it. I thank the chair, and I yield the floor.

Mr. KYL. Mr. President, I rise to discuss a matter that will severely affect milk producers and processors in my state of Arizona and impede their ability to compete effectively in the state of Nevada. Under the Secretary's final rule, Arizona and Clark County, Nevada, make up one of the 11 consolidated Federal Milk Marketing Order Areas. During consideration of the Agriculture Appropriations bill, a provision was agreed to in the Senate by voice vote that attempted to remove Clark County, Nevada from this proposed order. I say attempted because the drafting of this language was fatally flawed. It would not have achieved its intended goal of allowing Nevada to remove itself from the system. Of course, the Nevada Senators realized this mistake and moved to amend the language in conference. I notified the committee, both in writing and orally, that I objected to any attempt to amend or modify the Senate-passed language. Unfortunately, the language change sought by the Nevada Senators was approved, and is now found in Section 760 of the Agriculture Appropriations bill of FY 2000.

Section 760 creates, for the first time in nearly 75 years of federal milk-price regulation, a category of milk handler which is statutorily exempt from milk-price regulation. Anderson Dairy—the sole processor in Clark County—will gain a tremendous competitive advantage from this exemption at the expense of the Arizona dairy industry. Allowing Anderson to be removed from the Arizona/Nevada order will make it the only milk processor with sales in Clark County that enjoys a regulatory exemption. But its competitors—such as the Arizona processors—will continue to be regulated on all Clark County sales, which make up approximately 20 percent of their market. In other words, Anderson will be able to price its milk well below that of the Arizona processors who remain subject to the pricing structure of the milk-order system.

Moreover, this statutory exemption will extend to Anderson Dairy sales outside of Clark County. Anderson Dairy would, therefore, enjoy a commercial advantage in its sales in Arizona while its competitors would continue to be regulated on all such sales.

A good argument can be made in support of a milk industry that is free from pricing regulations; however, that is not the case today. Competitive equity has been the foundation of Federal Milk Orders for over one-half century. Under 7 U.S.C. 608(c)(5)(A), handlers are subject to the same uniform classified prices as their competitors, and under § 608(c)(5)(B)(ii), revenue from handlers is pooled and blended so that producers may benefit from "uniform prices" irrespective of handler use of milk.

Section 760 of the FY 2000 Agriculture Appropriations bill strikes at the heart of each component of regulatory equity by exempting the Clark County handler from the uniform price and economic standards applicable to competitors within the order, and by excluding from the producer-revenue pool all revenue from milk sales to the plant. For the plant operators in Arizona who continue to operate under price regulation, competing against an exempt plant such as Anderson is like fencing with your sword arm tied behind your back. Anderson can exploit its commercial advantage by expanding sales to current or prospective customers of nonexempt handlers. Such expansion would, in the end, severely harm Arizona producers.

Mr. President, legislative exemption for Clark County plants should greatly enhance Anderson's asset value for acquisition purposes. Several national and international dairy companies have aggressively expanded their operations in the United States during the past few years. These include Dean, Suiza, and Parmalat. A price-exempt plant in the nation's fastest growing major metropolitan area would be very attractive to any expanding dairy enterprise. Should this occur, the producers and processors in Arizona would be negatively impacted.

Having one state subject to the pricing structure of the milk-order system and another, contiguous state free to set its own price creates an uneven playing field. When Anderson is granted the right of removal from a system created to maintain stability and equity within that region, we have effectively undermined the intent of that system.

Some 56 years ago, U.S. Appellate Judge Frank lamented that "the domestication of milk has not been accompanied by a successful domestication of some of the meaner impulses in all those engaged in the milk industry." Queensboro v. Wickard, 137 F. 2d 969 (1943). Regional preferences and exemptions will only fuel these cynical impulses. I hope we can find a way to rectify this egregious situation and maintain a level playing field for the Arizona milk industry.

Mr. LAUTENBERG. Mr. President, I rise in opposition to this conference report. The East Coast suffered through months of drought this summer, causing enormous crop losses to our farmers. Then Hurricane Floyd arrived with severe rains, further affecting farmers with widespread floods.

These two acts of nature are serious emergencies affecting millions of people, yet this conference report does not do nearly enough for farmers on the East Coast.

In my state of New Jersey, agriculture is a $1 billion a year business involving 830,000 acres on over 8,000 farms. While in some more rural states these statistics may not be significant on a relative basis. But in a densely populated place like N.J. they are overpowering.

This summer's drought caused losses on 406,000 acres affecting 7,000 of those farms. All 21 counties in my state were declared drought disaster areas. It has taken a truly devastating toll on our farm community.

According to Secretary Glickman, the drought alone resulted in a total of $1.5 to $2 billion in damages throughout the Northeast and Mid-Atlantic regions.

And now, we have the devastation of Hurricane Floyd on top of the drought disaster. If any state has suffered a true farm disaster this year—it's New Jersey as well as our neighbors in the northeast.

Unfortunately, although this conference report contains $8.7 billion in emergency assistance for farmers, only $1.2 billion of that is for weather related disasters. And this $1.2 billion is spread out over the 50 states. That will not leave a fair share for New Jersey and other northeastern states that actually suffered a disaster this year.

Numerous New Jersey farmers have been left with no hay, no crops and no livestock worth taking to market.

Without our help, the result of these disasters may force some farmers to end decades of family farming and to give up the way of life that they love.

This Congress must do more. The situation facing East Coast farmers is a true emergency, in every sense of the word. At a time when we are watching entirely predictable activities like the census being declared emergencies, we are doing little to assist those who face true acts of God.

I cannot support this conference report until the farmers in New Jersey and up and down the East Coast receive the help they need.

Mr. DURBIN. Mr. President, today I plan to cast my vote in favor of the fiscal year 2000 Agriculture appropriations conference report. I do so, however, with great disappointment in the final package crafted by the Republican leadership. In short, I believe the conference report inadequately addresses the needs of our Nation's farmers, falls short on lifting economically dangerous embargos, and has turned a usually bipartisan, open, and fair process into a backroom operation.

With that said, Mr. President, I cannot stand in the way of at least some relief for to our struggling farmers and our fragile farm economy. The Illinois Department of Agriculture estimates that $450 million from the $8.7 billion agriculture relief package will directly benefit Illinois producers through receipt of 100 percent of their 1999 Agriculture Market Transition Act (AMTA) payments. This is in addition to the more than $450 million already received by Illinois farmers this year to help them through this crisis.

The Illinois farm economy is in trouble. Farm income in Illinois dropped 78 percent last year to just over $11,000, the lowest in two decades and down significantly from the $51,000 figure in 1997. Lower commodity prices and record low hog prices, in particular, are primarily to blame for this net farm income free fall in my home State.

The Illinois Farm Development Authority recently noted that the financial stress faced by Illinois farmers today is higher than it has been for 10 years. Activity in the Authority's Debt Restructuring Guarantee Program is four or five times higher today than last year. The Authority approved 7 to 10 loans per month in 1998. In 1999, the Authority has been approving 30–40 Debt Restructuring loans per month—a 300-percent increase. This is a record level, unmatched since the 1986–87 farm crisis.

The U.S. Department of Agriculture has predicted that prices for corn, soybeans, and wheat will remain well below normal and that farm income will again drop this year. Nationally, farm income has declined more than 16 percent since 1996.

USDA is facing the largest farm assistance expenditure in its history. USDA processed 2,181 Loan Deficiency Payments LDPs in 1997, about 2.1 million in 1998—a thousand times more, and will work through a projected three million LDPs this year. Unfortunately, it appears that this crisis will drag on for the foreseeable future, further draining USDA's resources and reserves.

I served as a conferee on this bill. However, I never had the opportunity to fully debate the disaster provisions or bring up important matters such as producer-owned livestock processing and marketing cooperatives. Also, I find it unacceptable that the conference report excludes Cuba from the list of countries exempted from embargoes and sanctions for food and medicine. The Senate voted overwhelmingly in August to include the Ashcroft-Dodd provision in this bill. And Senate conferees insisted on this important language. When it became clear that the House conferees were on the verge of agreeing to a food and medicine exemption for Cuba, the House Republican leadership shut down the conference and completed the outstanding issues behind closed doors.

I did not sign the conference report because I believe the process was tainted—conferees were excluded from important final decisions. I hope this is never repeated. It undermines the credibility of the entire Congress.

Once the Senate acts on the conference report and sends it to the President, our role in helping to improve conditions in rural America does not end. We should vigorously explore other ways to help our Nation's farmers and our rural economy. We should work on short-term remedies like additional targeted disaster assistance as well as long-term solutions such as expanded trade opportunities—including ensuring that agriculture has an equal seat at the table for the upcoming round of WTO talks, promotion of renewable fuels like ethanol, and tax fairness.

I hope the president will sign this bill quickly and then work with the Congress to submit a supplemental request taking into account the devastating financial crisis that continues in rural America. To delay further action on this matter would be a great disservice to the men and women who dedicate their lives to production agriculture.

Mr. ROCKEFELLER. Mr. President, I take this opportunity to comment on the conference report and the crisis in agriculture that came to pass in my State of West Virginia during the historic drought of 1999.

I am happy that after seeming to be a forgotten issue for so long, the necessity of emergency assistance for the victims of weather-related disasters has been included in the final bill that will be sent to the President. I commend the diligence of my colleague, the senior Senator from West Virginia, in working to ensure that this funding made it, and for working to include a specific mention of West Virginia's horrible statewide drought in the final report language.

Earlier this year, I saw the devastation visited on my State by this drought, and I vowed to do whatever I could to help West Virginia farmers and producers. I probably have written or signed onto more letters about agriculture funding this year than in all my years in the Senate. I invited the Secretary of Agriculture to come out and see the damage first-hand, and I walked along with him and Senator BYRD through the parched fields of Mr. Terry Dunn, near Charles Town, West Virginia. Farmers from around West Virginia told us how terribly the drought was hurting them. Many of these people work their farms and another full-time job, in hopes of keeping viable family farms that have passed down through four, five, and six generations.

I voted today to approve the conference report, although I believe the amount of emergency assistance should have been much higher. I voted for cloture because this money is needed, wherever it will eventually go, as soon as it can be dispersed. I made the decision that "too little right now" was better than "too little, too late."

I also realize that other, more divisive, issues have bogged down the conferees much more so than the prospect of providing a helping hand to struggling agricultural producers in the Northeastern, Mid-Atlantic, and Southeastern states. Actually, I am led to believe that some level of drought funding was among the least contentious issues, and that the conferees ultimately based their number on estimates provided by the Secretary of Agriculture.

Still, I remain troubled that the amount appropriated seems so low, and that emergency funding took so long to become a sure thing. I am mindful of the severe budget constraints under which they are operating, and the tense debates that have accompanied any attempt to appropriate emergency funding. But if the drought of 1999 was not a valid emergency, when will we see one?

Another thing that I will never understand is how the U.S. Senate—including Senators whose own states have suffered the worst drought damage since records were kept—could have voted down emergency funding when we originally debated this bill. I voted for the Democratic package which lost, and now finds its way into the final report. Another thing that troubles me is that while the conferees used Secretary Glickman's preliminary estimate of drought losses, they grouped those losses together with losses incurred during the devastation wrought by Hurricane Floyd, estimates of which exceed the emergency assistance in this bill by many billions of dollars, and did not appropriate a more realistic sum.

Once again, I know the conferees have attempted to give guidance to USDA in how this money should be distributed, and I look forward to an emergency supplemental appropriation that will allow for meaningful rehabilitation of the flood-ravaged agricultural areas of the Southeast and New Jersey. I hope, Mr. President, that if any such supplemental assistance is proposed, that there be included with it sufficient additional funds for our many drought survivors as well.

I hope for this, because this drought might be the last straw that ends the farming life as last for as many as ten percent of my state's small- and medium-sized farmers. Because of this terrible drought, it is estimated that West Virginia will suffer truly horrendous losses: As much as $89 million in cattle; half of our annual apple crop—for the worst yield since 1945; half of our corn; almost half of our soybeans; and nearly 90 percent of our new Christmas trees, a relatively new crop for West Virginia farmers, but one that has allowed many family farms to remain in the family.

In closing, Mr. President, I once again applaud the efforts of my colleague Senator BYRD for doing all that he could to see that our farmers weather this crisis. And I call upon the rest of my colleagues to recognize that most farmers in the drought- and flood-ravaged portions of the eastern United States will need much more help, as soon as it can get to them.

Mrs. MURRAY. Mr. President, I rise today to express my deep frustration with the fiscal year 2000 Agriculture Appropriations conference report before us today.

Two weeks ago, the Republican leadership pulled the plug on conference negotiations—and killed our prospect for comprehensive sanctions reform and additional assistance for agricultural communities hit by economic and natural disasters. When we look back at this first session of the 106th Congress, I believe we will see that decision as an enormous missed opportunity.

Mr. President, Washington State is the most trade-dependent State in the nation. And agriculture is one of its top exports. The growers in my State need open markets. Many times, market access is closed or limited because of the actions of foreign countries. We can and must fight to break down barriers erected by other nations.

We must also fight to break down the barriers to foreign markets created by our own government. Sanctions that include food and medicine do not serve the interest of the United States, and they certainly do not serve the interests of American producers. Oftentimes with the best of intentions, we have cut off all trade with states that sponsor terrorism, fail to live up to critical agreements, or refuse to share our principles of democracy.

Mr. President, we cannot and must not tolerate reprehensible actions by rogue states. But it is clear to me, and to 69 other Senators who voted for sanctions reform, that we do not act in the best interests of American foreign policy or American agricultural producers when we impose unilateral food and medicine sanctions. The people in the world we hurt most with unilateral sanctions are American growers.

The Senate sanctions reform package was a huge step in the right direction. It deserves to become law. Wheat growers in my State deserve access to Iran, which was once our largest export market for soft white wheat. And pea and lentil growers deserve access to Cuba, a market valued at more than $17 million. In both of these cases, our foreign competitors have stepped into the market vacuum created by U.S. sanctions policy.

The Administration started sanctions reform earlier this year. I applaud those efforts—belated as they were. I also applaud those in the Senate who worked so hard for passage of the Ashcroft-Dodd amendment. But now the Republican leadership has sent the message to our foreign competitors that they can continue to conduct business as usual—that U.S. growers will not soon be players in markets like Iran and Cuba.

After hearing for years from some Republicans that the Administration lacked the will to reform our nation's outdated and ineffective sanctions policies, the Republican leadership proved it could not lead American agriculture into the 21st century. Too many of our producers already have empty wallets and empty bank accounts, and—in response—Congress delivered empty rhetoric on sanctions reform.

In September, I met with representatives of the Washington Association of Wheat Growers, the Washington State Farm Bureau, and the Washington Growers Clearing House. I expressed my strong support for the sanctions reform package and my hope that some agreement could be reached between the Senate and House. I did not count on the procedural maneuvering that doomed the sanctions package. Our growers deserved a better process and a better outcome.

Mr. President, in a perfect world this bill would include sanctions reform. Its emergency provisions would include more money for specialty crops, additional funding for the Market Access Program, and increased Section 32 money for USDA purchases of fruits and vegetables. It would include more resources for farm worker housing and Natural Resource Conservation Service conservation operations.

On the subject of minor crops, I would like to discuss the plight of apple growers in my state. The apple industry in particular is in the throes of the economic conditions as bad as anyone can remember. Poor weather has played a role, but more important are the economic factors.

Apple juice dumping by China has removed the floor price for apples. Chinese apple juice concentrate imports increased by more than 1,200 percent between 1995 and 1998. I was pleased to sponsor a letter with Senator GORTON, signed by a total of 21 Senators, to Commerce Secretary Daley urging the administration to find that Chinese dumping is destroying our growers and to impose stiff retroactive duties. Weak Asian markets and high levels of world production have contributed greatly to the terrible economic situation in central Washington State.

As a result, many small family farms that grow some of the best fruit produced in the world are going out of business. Many of these are not marginal producers. They are efficient growers whose families have been growing high quality apples and pears and other commodities for generations.

As in other parts of rural America, the communities that rely on tree fruit production for their economic base are reeling. It is hard to diversify when your economic foundation is crumbling. It is estimated approximately 20 percent of Washington apple growers will lose their farms in the next three years. And that is a conservative estimate. Over the August recess, I met with community leaders in north central Washington State. Okanogan County alone has experienced $70 million in losses in the tree fruit industry leading the county to declare an economic disaster.

Language in the conference report directs the Farm Service Agency to review all programs that assist apple producers, and review the limits set on operating loan programs used by apple growers to determine whether the current limits are insufficient to cover operating expenses. I urge FSA to complete this review as soon as possible so that those of us who represent apple producing states can improve the Federal Government's assistance to our growers.

The conference bill before us provides $1.2 billion in disaster assistance. The report language for that section of the bill mentions the plight of apple growers and urges the USDA to address the problem. However, let's be clear that it will be very difficult for my state's apple producers to get meaningful assistance through this bill. Simply put, this bill is not a victory for apple growers or their communities.

In the future, some of my colleagues may criticize the Secretary of Agriculture for not recognizing the critical need in apple country and failing to deliver assistance. Earlier this year, August Schumacher, Under Secretary for Farm and Foreign Agricultural Services, came to Washington State to hear from apple growers. I know the administration understands the needs of growers in my State. But the administration can't realistically address the needs of growers all over the country with only $1.2 billion. Nevertheless, I look forward to working with my colleagues to direct aid to apple growers in Washington State.

I believe this Congress needs to accept responsibility for the shortcomings in the bill. The Republican leadership certainly bears complete responsibility for the unacceptable manner in which this bill was taken out of the hands of congressional appropriators in the middle of conference negotiations.

Mr. President, while this bill is flawed, it is still a step in the right direction. I intend to vote for the conference report. Although we didn't do it two weeks ago, we must send the message this week that Congress will try to reestablish opportunity in rural America.

I will vote for this bill because it provides emergency assistance to many of our farmers and ranchers. It funds research, including new positions for potato and temperate fruit fly research that are critical to minor crop producers in my state. It delivers a nearly $52 million increase for programs in President Clinton's Food Safety Initiative, including $600,000 for research into listeriosis, sheep scrapie, and ovine progressive pneumonia virus (OPPV) at ARS facilities in Pullman, Washington and in DuBois, ID. It provides critical funding for WIC and other feeding programs, and for P.L. 480.

Mr. President, I was tempted to vote "no" on this conference report. But just as I believe the Republican leadership should have embraced responsibility on sanctions reform, I believe voting to pass this conference report is the most responsible approach. It is my sincere hope the Senate will pass sanctions reform and other legislation to provide greater economic security to communities that rely on agriculture before the end of this session.

Mr. HUTCHINSON. Mr. President, I rise to express my support for a provision by Senator ASHCROFT included in the Senate version of the Agricultural Appropriations Act for FY2000. This provision passed with 70 votes in the Senate but it was subsequently stripped out of the conference report after the conference stalled and never reconvened.

The Ashcroft provision is simple. It substantially curtails the use of unilateral sanctions of food and medicines without removing them absolutely from the palette of foreign policy options. If the President decided to include food and medicine in future sanctions, he would have to receive the approval of Congress, through an expedited procedure.

Mr. President, American farmers have spoken and they want help. In the past year, cotton prices have tumbled 46 percent and wheat is down more than 60 percent. Corn sells for as low as $1.50 for a bushel in some places. It is not surprising that net farm income dropped almost one billion dollars between 1996 and 1998. Storms and drought have destroyed our Nation's crops. We must help our struggling farmers out of this crisis.

The farmers in my home State of Arkansas have made it clear to me that one measure needed to help them out of the current crisis is an expansion of export markets. Indeed, our farmers are missing out on millions of dollars in exports each year. It is estimated that agricultural sanctions have robbed U.S. farmers out of an estimated ten percent of the world wheat market and half a billion dollars in sales. Before agricultural sanctions were placed on Cuba in 1963, that country was the largest U.S. export market for rice, taking more than 50 percent of total rice exports. Even today, American farmers are losing out to farmers in Canada, Europe, and Asia who sell $600 million worth of food products to Cuba.

While President Clinton issued an executive order in April of this year allowing food and medicine sales to Sudan, Libya, and Iran, these sales would still face significant restrictions. Sales would be licensed on a case-by-case basis and made only to non-governmental entities. In some cases, where there are no non-governmental entities buying food for the people, no sales could be made.

It is true that the regimes that are sanctioned from food and medicine, including the governments of the Sudan, Libya, Iran, Iraq, and Cuba, are reprehensible. But we must also consider the populations of the these countries—people with whom we have no argument, people who are starving, people who are sick because they do not have enough food or medicine. While governments may intentionally withhold food and medicine from their populations, both to foster anti-American sentiment and to keep the people under subjection, we benefit no one by denying our farmers the opportunity to sell their crops. If we allow these sales—if we rein back our food and medicine sanctions, then we leave these regimes without an excuse for not providing their people with food. We close off a channel of resentment and make clear to people living under repression that their government is solely responsible for leaving them hungry. And we leave these governments with less money for weapons. Senator ASHCROFT's provision accomplishes all of these things.

Mr. President, I am not arguing for a provision that has been defeated and will never reappear. Let me say again that the Senate passed this provision with 70 votes. I am confident that it will advance this legislation favorably again.

Mr. BURNS. Mr. President, Chairman COCHRAN and his staff have done a highly commendable job of crafting a bill to help agriculture in these tough times. Important funding is included in the bill for agricultural research, nutrition programs, natural resource programs, food safety, export enhancement, rural development, and marketing and regulatory programs. I am exceptionally pleased with the funding that will go to Montana to carry out important agricultural research and promote rural development.

Times are tough in agriculture. In Montana, thousands of farmers and ranchers are experiencing a severe price crunch. Commodities simply are not bringing the prices agricultural producers need to break even. Now is an essential time to provide producers opportunities for diversification and increased marketing opportunities. Times are tough and times are changing.

The Federal Government has the opportunity to provide agricultural producers with enhanced options for marketing. We can do that through funding for agricultural research and rural development and policy changes for sanctions reform, country-of-origin labeling, rescission of the USDA grade, balance of trade laws, and price reporting.

I am extremely pleased with the inclusion, at my request, of reporting in this bill. Mandatory price reporting is a milestone for livestock producers. For too long there has been too much mistrust between agricultural producers and meat packers. Four major packers control 79 percent of the meatpacking industry. Many producers raising and feeding livestock feel that packers can control the market by not providing data on either the number of cattle they buy or the prices they pay for it. The USDA collects the information voluntarily. This legislation mandates that packers will provide that data twice daily and make it easily accessible to ranchers.

Mandatory price reporting provides Montana producers with all the pertinent information they need to make the best possible marketing decision. It means that a Montana rancher can check the daily markets. They will have the necessary data to make the decision to sell their livestock immediately or hold out for a better price. A five cent increase in the market can mean an extra $30 per animal. On a 300-head operation that means an extra $9,000. To those experiencing the best economic times in years, $9,000 doesn't seem like much. I can tell you—to a rancher who hasn't met the cost-of-production in three or four years, any amount of money in the black looks pretty good.

Lately ranchers have not had the money even to buy necessities for operating expenses. Due to the nature of the business and risks involved, farmers and ranchers are used to utilizing credit and operating loans. However, this economic crisis has bankers and rural business worried. Main Street Rural America is hurting too. Producers making knowledge-based marketing decisions helps everybody. It helps agricultural producers—and it helps rural communities who depend on agriculture for their livelihood.

Kent and Sarah Hereim own a 300-head operation between Harlowton and Judith Gap, MT. Nine thousand dollars means to them a new computer. That gives them even more accessibility to marketing information and the ability to make better marketing decisions. A computer provides access to the Chicago Mercantile Exchange or the Chicago Board of Trade for futures marketing options. It provides an updated mechanism to pay bills and keep spreadsheets on operating expenses. A computer can be a valuable tool for ranchers to keep production records, carcass data, grazing plans, and other management information. These records allow producers to be better managers and increase profits.

Nine thousand dollars can mean a new bull in addition to the computer. Buying better seedstock increases genetic capability and produces better animals. Increase in quality increases profit. More and more emphasis is being placed on paying producers on a grid. Paying on a grid means ranchers are paid on the quality of their animals not merely the number of pounds. This gives producers who strive for better genetics and meat quality a clear advantage.

Rural communities win too. An extra $9,000 helped the local computer store and it helped others in the industry. That new bull Kent and Sarah bought helps the seedstock (bull) producer who now has extra money to buy fencing supplies from the local agricultural supply store. The owner of that ag supply store now has extra money for Christmas gifts at the local clothing store. That clothing store owner puts extra money in a CD at the bank. In a rural community a dollar turning over makes a world of difference.

This example is why it is so important to put control back in the hands of the livestock producer. It is exceedingly important to producers to have an assurance that they are receiving timely and accurate data. It doesn't make sense for those raising the commodity to be a passive price-taker. Having the information readily accessible puts the rancher in a position to make good marketing decisions and not be left fully at the mercy of the buyer.

In Montana, livestock outnumber people by at least twice. These are less than a million people in Montana and over 2.5 million head of livestock. Sixty-four percent of the land in Montana is used for agricultural production. Livestock producers depend on the livestock markets for their livelihood. Mandatory price reporting gives them that data and the controls to use it.

Also important to livestock producers is the Sheep Industry Improvement Center. This center, which is located at USDA, has a $30 million budget to assist the sheep and goat industries in research and education.

I realize that no long-term solution will work until this current economic crisis is taken care of. This bill goes a long way in getting producers back on their feet and on the way to a better agricultural sector. Immediate funding needs of farmers and ranchers are addressed in a manner that will give them an opportunity to get back on track.

The $8.7 billion package contains important funding for Agricultural Marketing Transition Act (AMTA) payments for wheat and barley producers in Montana, as well as $322 million for livestock producers and $650 million in crop insurance.

I am pleased that important language for durum wheat producers was included in the bill. Before this change, the method for calculating loan deficiency payments (LDP) repayments unfairly presumed a high quality for durum, which resulted in a lower repayment rate for their crop. However, as a result of this language, the USDA has agreed to correct inequities in the current loan deficiency program (LDP) program for durum wheat.

The crop insurance portion of the bill will provide $400 million to provide agricultural producers with a premium discount toward the purchase of crop insurance for the 2000 crop year. Currently, farmers would pay a higher premium for the year 2000 than for 1999 or 2001. With the lowest prices in years, agricultural producers cannot afford higher premiums.

I am disappointed that sanctions reform was taken out of the bill. I believe these concerns must be addressed as soon as possible. I will support Senator ASHCROFT in his efforts to exempt food and medicine from sanctioned countries. American farmers and ranchers stand much to lose by not having all viable markets open to them.

Imposing trade sanctions hurts American farmers and ranchers. Sanctions have effectively shut out American agricultural producers from 11 percent of the world market, with sanctions imposed on various products of over 60 countries. They allow our competitors an open door to those markets where sanctions are imposed by the United States. In times like these our producers need every available marketing option open to them. We cannot afford lost market share.

Trade sanctions are immoral. Innocent people are denied commodities while our farmers and ranchers are denied the sale to that particular country. It is my sincere hope that my colleagues will see fit to open up more markets by supporting Senator ASHCROFT.

Farmers and ranchers must be provided a fighting chance in the world market, and the people of sanctioned countries must be allowed access to agricultural commodities.

Again, I thank the fine chairman Mr. COCHRAN, and his staff, for all their work on this bill. I will continue to fight for Montana farmers and ranchers and provide a voice for agriculture.

Mr. WELLSTONE. Mr. President, I am disappointed that the conference committee on H.R. 1906, the Agricultural appropriations bill for FY 2000 included a legislative rider sponsored by Senator MCCONNELL that would fundamentally change the H–2A temporary foreign agricultural worker program.

I am concerned that the McConnell rider would be harmful to both foreign and domestic farm workers. The McConnell rider would essentially allow agribusinesses to import as many H–2A foreign guest workers as they want, regardless of whether there are workers here in America who want those jobs.

That would be harmful to the U.S. farm workers who want the jobs, obviously. But it would also be harmful to other farm workers, who would then have to compete with more easily exploitable foreign labor. And I believe it would not be good for the guest workers themselves, who would have few of the protections and benefits to which Americans are entitled.

The Administration opposes the McConnell rider. So does the U.S. Catholic Conference, the National Council of La Raza, the Farmworker Justice Fund, and the United Farm Workers. The McConnell rider also flatly contradicts the recommendations of the General Accounting Office.

Let me take a moment to describe how the H–2A foreign guest worker program works, and maybe that will help explain what the McConnell rider does. The H–2A program allows agricultural employers to import foreign workers on a temporary basis, but only when there is a shortage locally of available U.S. workers. The Labor Department has to issue a labor certification that there is a shortage of available U.S. workers. But before employers can get that certification from the Labor Department, they have to recruit U.S. workers during a period of 28 to 33 days.

The McConnell rider would substantially shorten the period during which agricultural employers have to recruit U.S. workers. Under current law, the recruitment period is 28 days, though it can be extended to 33 days if employers have to refile their application. The McConnell rider would shorten the recruitment period to 3 days, with a 5-day extension for refiling. The recruitment period would shrink from 28 days to three days.

Three days! Does anyone think any kind of meaningful recruitment is going to take place in a period of three days? Of course not. Shortening the recruitment period to three days would turn the labor certification process into a sham and a charade. The result would be that U.S. farmworkers who want those jobs wouldn't be able to get them, and employers would have almost automatic access to cheap, exploitable foreign guest workers.

GAO agrees that shortening the recruitment period to three days would undermine the labor certification process. A December 1997 GAO report looked at this very proposal and found that "employers will not have sufficient time to meet their duties as required by the program and domestic workers will not have ample opportunity to compete for agricultural employment."

The issue here is whether we should make the deplorable working conditions of farmworkers in this country even worse, because that would be the effect of the McConnell rider. I don't think my colleagues really want to do that.

Given the—frankly—miserable working conditions that many farm workers have to endure, I think it would be unconscionable for us to add to their burdens. Farm workers don't have a lot of power. They don't have a lot of economic power, and they don't have a lot of political power. They don't have a lot of money to contribute to political campaigns. You don't see a lot of farm worker faces among the lobbying groups that visit our offices.

Yes, there are some people who advocate on their behalf—groups like the U.S. Catholic Conference, National Council of La Raza, the Farmworker Justice Fund, the UFW. But farmworkers are largely disenfranchised and disempowered. Ultimately, they are dependent on our good will. I hope we can show a little good will towards people who don't have much leverage over us, but people who are very decent and hardworking and deserve better.

Mr. DEWINE. Mr. President, I rise today to discuss the agriculture appropriations conference report. First, I thank the Chairman and Ranking Member of the Agriculture Appropriations Subcommittee, Senator COCHRAN and Senator KOHL, for their hard work on this legislation. They faced multiple challenges in trying to find funds for so many different and critical areas within agriculture.

I support this bill, Mr. President. I support it because it will help provide some immediate relief to our farmers, who, in many states, are facing a twin blow from drought and low commodity prices. I know that in my home state of Ohio—where agriculture is the number one industry—many of our farmers are in serious financial trouble. When you're getting hit from both drought and low commodity prices, it really hurts.

I am pleased that the bill we will send to the President today will take an important step toward helping agriculture producers overcome some of the current problems resulting from this summer's drought and low commodity prices. For example, the conference report includes $5.54 billion in emergency assistance for Agricultural Market Transition Act payments (AMTA). This amount will double producers' AMTA payments for 1999 crops. Also, the bill enables farmers to receive AMTA payments at the beginning of the fiscal year rather than in two installments. This is very important for many of Ohio's farmers who are struggling right now to make ends meet. The Senate should get this bill to the President as quickly as possible. Our farmers need relief now—not later.

This summer has brought with it one of the most prolonged periods of drought in this century. I have talked to many farmers back home and have driven along the highways and back roads in Ohio—you can see how this summer's drought has severely stunted the growth of corn and other key crops. It's devastating. And this devastation is widespread. Secretary of Agriculture Dan Glickman has designated all but one of Ohio's eighty-eight (88) counties as natural disaster areas. Of those, Secretary Glickman designated sixty-six (66) counties as primary disaster areas.

According to the Governor of Ohio, our state's farmers are expected to lose $600 million in income due to the drought. Let me repeat that, Mr. President. In Ohio, our farmers stand to lose $600 million. When combined with the current low commodity prices, it is no wonder that many farmers in Ohio are asking themselves—and us—how they and their families are going to make it.

In response, the bill we will send to the President today provides approximately $1.2 billion—to assist farmers plagued by the drought. It's a decent start. But, while this assistance will surely help lessen the immediate financial worries of many of our drought-stricken farmers, it doesn't address a fundamental issue here—and that is that our farmers aren't equipped to withstand cyclical economic downturns and natural disasters over which they have no control. As I see it, we have failed to give agriculture producers the tools they need, over the long-term, to manage risks—whether those risks come from the market or nature. There are things that we, in Congress, are trying to do to help get to the root of the challenges facing our farmers today. Let me explain.

The United States is the most open market in the world. While our farmers are the most productive in the world, market barriers against the free and fair trade of our agriculture products exist. Dismantling these barriers must be a top priority. Congress can help by giving the President fast track authority to negotiate trade agreements. Fast track authority would allow the Administration to enter into trade agreements with other countries, where we are the most competitive and to negotiate with specific regions of the globe.

Failure to pass fast track puts our farmers at a serious disadvantage with global competitors. For instance, the Latin America and Carribean region offers great opportunities for increased agriculture exports. It is one of the fastest growing markets for U.S. exports and will exceed the European Union as a destination for U.S. exports by next year. This market is expected to exceed both Japan and the European Union combined by the year 2010. Other nations already are working to break down barriers in this region. The United States cannot afford to sit on the sidelines—just watching—much longer. We need to get into the game. That would help our farmers.

When our foreign trading partners are not trading by international rules, and doing so to the detriment of our farmers, our trade authorities should use all the tools available to them. For example, I introduced bipartisan legislation, the "Carousel Retaliation Act," which would increase pressure on our trading partners to comply with World Trade Organization rules by requiring the U.S. government to rotate targets every six months.

What's happening is that our nation—and especially our farmers—are being injured by the refusal of some foreign countries to comply with World Trading Organization (WTO) Dispute Settlement rulings. Noncompliance with Dispute Settlement rulings severely undermines open and fair trade. As many of our farmers, cattle ranchers, and large and small business owners know firsthand, this is having a devastating impact on their efforts to maintain or gain access to important international markets.

The "Carousel Retaliation Act" would help ensure the integrity of the WTO Dispute Settlement by rotating—or carouseling—the retaliation list of goods to affect other goods 120 days from the date the list is made and every 180 days, thereafter. Currently, the U.S. Trade Representative has the authority to carousel retaliation lists, but is not required to do so.

The Carousel bill requires the U.S. Trade Representative to rotate and revise the retaliation list so that countries violating WTO Dispute Settlements cannot merely subsidize the affected industries to recover from retaliation penalties. American farmers are the most efficient and competitive in the world. When given the opportunity to compete on equal footing, they will be the most successful, as well.

Besides opening new markets abroad, there are things we can do here at home to help our farmers prosper under the Freedom to Farm Act we passed three years ago. I cosponsored legislation that would allow farmers to open savings accounts into which they can place—tax free—a certain percentage of their profits during good economic times. These funds can remain in their accounts for up to five years. If hard times come along—as we know they do—farmers can withdraw funds from their accounts. The only time these funds would be taxed is when they are withdrawn from the account or after five years.

This bill, the Farm and Ranch Risk Management (FARRM) Act, was included in the $792 billion tax-relief package that I supported and Congress passed. That tax relief package had many other provisions helpful to farmers. Besides the FARRM provision, the bill included the elimination of estate taxes, broad-based tax relief, the elimination of the marriage penalty, and the full deductibility of health insurance for the self-employed. Unfortunately, President Clinton vetoed this reasonable tax relief package—that doesn't help our farmers.

Most important, we should get the federal government off the backs of our farmers so they can have the freedom to do what they do better than any other country—and that's produce. I have cosponsored the Regulatory Fairness and Openness Act, which would require the Environmental Protection Agency base pesticide use decisions on sound science rather than worst-case scenarios. Also, I have cosponsored legislation that would require the Occupational Safety and Health Administration (OSHA) to base any ergonomic standards on sound science.

Mr. President, our farmers need assistance—the kind that is provided through the agriculture appropriations bill and the kind of assistance that comes from pursuing trade and tax policies that would further the economic strength and freedom of American agriculture.

I urge the President to sign the appropriations bill immediately so that farmers in Ohio—and throughout the country—can receive short-term relief as quickly as possible. I also urge the President to take a long, hard look at how we can give our farmers the kind of lasting relief they need to stay in business not just this year, but for generations to come.

Mr. CHAFEE. Mr President, I rise today to bring to the attention of my colleagues the plight of our nation's farmers. Now, one might ask, what is a Senator from Rhode Island doing speaking about farming? Isn't that usually handled by Members from the Midwest? Well, Mr. President, that is not the case. Farming is alive at our nearly 700 farms in Rhode Island. However, these same family farmers in Rhode Island and those across the nation are looking to Congress for some much needed help in the wake of this summer's horrible weather conditions.

Today, the Senate will be asked to vote on final passage of the conference report on the Fiscal Year 2000 Department of Agriculture and related agencies appropriations bill. This bill is just one of the thirteen spending bills which Congress must approve and the President must sign before the beginning of the new fiscal year. This is a major bill which funds many important farming and environmental programs. However, I must reluctantly vote against final passage of this report for two reasons.

During the debate on the bill earlier this year, farmers in the Northeast and Mid-Atlantic were in the middle of what would become one of the worst droughts in the history of this region. In fact, the National Oceanic and Atmospheric Administration reported that Rhode Island experienced its driest growing season in 105 years of recordkeeping. As a result, crop damages were widespread. According to the Farm Service Agency in my state, crop losses ranged from 35 percent to an astounding 100 percent. These losses created a terrible financial burden on the farmers in Rhode Island, as well as the entire state economy.

In response to these problems, as well as those experienced by farmers across the country, the Senate approved a $7.4 billion emergency relief package, and I was glad to support it. In the House, no such funding existed. However, as the difficulties worsened and the need for additional funding was necessary, I was committed to making sure that our family farms in Rhode Island would not be left out of the pot. To that end, I pressed for direct assistance to specifically address drought damage in the Northeast and Mid-Atlantic. As everyone knows the 1999 drought knew no state barriers or boundaries. Senators from both sides of the aisle knew that making this a partisan issue would not make federal assistance for our farmers come any quicker. We needed to help our farmers and farming families to start the process of rebuilding for new crops and a new season.

In the end, an additional $1.2 billion was allocated for assistance to farmers across the country who have incurred losses for crops harvested or intended to be planted or harvested in 1999. The key word in that sentence is "across the country." In the Northeast and Mid-Atlantic alone, damage assessments range from $2 to $2.5 billion. However, this additional money will not go directly to those farmers in the Northeast and Mid-Atlantic that need it the most. Instead, the money will be available to all farmers who have suffered from flooding, Hurricane Floyd, and the drought. This certainly is not sufficient funding for our region's family farmers.

I also must vote against this conference report because of its failure to include language that extends the Northeast Interstate Dairy Compact. This is an issue that has the support of a majority of the Senators in this body. In fact, during debate on the agriculture spending bill, a majority of Senators—53 to be exact—voted to end a filibuster on the dairy compact issue.

As many of my colleagues know, the Compact was a state-generated response to the decline in the New England dairy industry over the last decade. In the early 1990s, all six New England states approved identical legislation to enter into the Compact. Congress approved the Compact as part of the 1996 Freedom to Farm bill.

Due to the unique nature of fluid milk, it must be worked quickly through the processing chain and get to store shelves within days of its production. Due to these conditions, dairy farmers are at a distinct disadvantage when bargaining for a price for their product. As a result, the minimum farm price fluctuated wildly over time. The Compact corrected this problem and leveled the playing field at no cost to the American taxpayer. How can one be against that?

I am heartened by the consistent efforts of my colleagues Senators JEFFORDS, SPECTER, and LEAHY among others to keep these dairy farmers in mind throughout the debate on the bill and in conference. Although we were not successful, the issue will not go away. The dairy compact issue will be revisited and the voice of the majority of Senators will be heard.

I thank the chair for this time, and I yield the floor.

Mr. LEAHY. Mr. President, I rise to join my colleagues today in opposition to the Fiscal Year 2000 Agriculture Appropriations Conference bill. Usually, it's a testimony to someone's power when they can "kill two birds with one stone." Well, amazingly the managers of this bill were able to kill three birds with one stone - - the Northeast Dairy Compact, drought relief and agricultural sanctions.

Unfortunately, the impact felt by small farmers in the Northeast will be meteoric. I have heard from many of my colleagues about the price drops their farmers have experienced this year. Well, dairy farmers witnessed a 40 percent price drop in one month. If it was not for the Northeast Dairy Compact, this drop could have crushed Vermont dairy farmers.

They have also suffered through one of the worst droughts this century. And how does this Conference bill respond? It doesn't.

Instead, the Conference Committee blocked Senator SPECTER from even raising his amendment to extend the Northeast Dairy Compact and denied any targeted disaster relief for farmers in the Northeast and Mid-Atlantic who suffered through fifteen months of drought.

However, we are yet again sending disaster payments and price supports to the Midwest and Southeast. I guess the Conference committee decided to ignore the old adage that you should not hit someone when they are down. Why not continue to prop up grain prices so that when Vermont farmers have lost all their livestock feed to the drought they can pay even more for feed from other states?

When we passed the Freedom to Farm bill, one of the premises its success was based on was that farmers would also have the freedom to market. By expanding our markets overseas, our farmers would not have to depend on subsidies from the federal government. Yet, after the Senate overwhelmingly passed an amendment to update our sanctions policy and allow our farmers access to more markets.

the Conference committee decided to continue with the old system of guaranteeing farmers the price they want through artificial means and expect taxpayers to go along with it.

Now, I am sure that many of these crops did suffer significant price or market losses and may deserve assistance. But, farmers in the Northeast and Mid-Atlantic are just as worthy. In Vermont alone, we have witnessed over $40 million in drought damage. Without some assistance many of our farmers are not going to make it through the winter. In the last two years they have suffered through an ice storm, flooding, and two summers of drought.

What is so galling to me is that although Congress authorized $10.6 billion in disaster payments in Fiscal Year 1999, the Northeast and Mid-Atlantic have only received 2.5 percent of that assistance. Today, we will likely pass $8.7 billion in disaster assistance and our farmers will probably only receive 2 cents out of every dollar.

Adding salt to our wounds, the Conference Committee also saw fit to block any extension of the Northeast Dairy Compact. Our region developed and implemented a system to help our dairy farmers at no cost to the federal government.

I cannot understand how it made sense to the Conferees to stop a program that is supported by farmers and consumers alike because it does not increase retail price and does not cost the taxpayers money while continuing programs that do cost the taxpayers money. In fact, retail milk prices within the Compact region are lower on average than in the rest of the nation.

I could go on for hours about the ironies contained in this Conference bill. Although I am tempted to run through the virtues of Vermont dairy products like my colleague from Wisconsin did last week, I will let the "Best Cheddar" award won by Vermont's Cabot Creamery at the U.S. Championship Cheese Contest in Green Bay, Wisconsin speak for itself.

However, I do want to take just a few more minutes to reiterate the importance of the Northeast Interstate Dairy Compact. Thanks to the Northeast Compact, the number of farmers going out of business has declined throughout New England—for the first time in many years.

If you are a proponent of states' rights, regional dairy compacts are the answer. Compacts are state-initiated, state-ratified and state-supported programs that assure a safe supply of milk for consumers. Half the Governors in the nation and half the state legislatures asked Congress to allow their states to set their own dairy policies—within federally mandated limits—through compacts.

When it was clear that federal policies were not working to keep dairy farmers in business, states took the matter into their own hands to insure that dairy farmers stay in business and to assure consumers fresh, local supplies of milk. It saddens me that Congress is now standing in their way.

The Northeast Compact has done exactly what it was established to do: stabilize fluctuating dairy prices, insure a fair price for dairy farmers, keep them in business, and protect consumers' supplies of fresh milk. Many of our friends in the South saw how the Compact provided a modest but crucial safety net for struggling farmers. They, too, want the same for their farmers, and their farmers deserve that same opportunity.

Unfortunately, opponents of dairy compacts—large and wealthy milk manufacturers, represented by groups such as the International Dairy Foods Association—have thrown millions of dollars into an all-out campaign to stop compacts. These processor groups are opposed to dairy compacts simply because they want milk as cheap as they can get it to boost their enormous profits to record levels, regardless of the impact on farmers.

Mr. President, it is time for Congress to go back to worrying about small farmers in this country. That is why this Conference bill is such a disappointment to so many of us. The triple whammy of blocking the Northeast Dairy Compact, providing no drought relief and closing the door to new markets will jeopardize the future of small farmers in my region.

These farmers do not usually come to Congress asking for help and they have rarely received it. Now, when they are facing one of their bleakest moments Congress has said "no." I expected better.

Mr. SMITH of Oregon. Mr. President, I rise today to speak on the passage of this very important bill for American agriculture. I want to thank Senator COCHRAN and his staff for all of their hard work to produce this legislation under very difficult circumstances. Although I feel much more needs to be done to address the problems in the farm sector in my state, I will be supporting this conference report today in the hopes that it will provide immediate help to agriculture producers across the country still reeling from the combination of low prices and poor weather this year.

Although the underlying bill provides some $60 billion for domestic nutrition programs, food safety, agriculture research and extension, and other important programs administered by the Department of Agriculture, I would like to speak specifically to the farm relief package component of this conference report. This bill contains $8.7 billion in emergency farm assistance for producers hard hit by recent plunges in commodity prices and, in many parts of this country, weather disasters. Of this total, nearly $5.5 billion will go to program commodity producers in the form of increased AMTA payments to help compensate for lost markets. In Oregon, we produce a considerable amount of wheat for export to Asia, especially in the Pendleton area where I am from. For many Oregon wheat producers reeling from collapsed markets and prices, I know these increased AMTA payments may make the difference between keeping land in production and having to sell the farm. Since the beginning of this farm crisis, we have used this mechanism to deliver ad-hoc market loss payments to keep program commodity farmers afloat, and it may be the best and most efficient tool available to us in the short term. However, I believe the only long-term solution is to expand overseas market opportunities for our commodities. Although unilateral sanctions reform was taken out of this bill in conference, I hope we will have an opportunity to revisit this issue before the end of this session so that we may begin to address some of the root causes of our commodity price problems.

This farm aid package also provides $1.2 billion for weather-related disaster assistance. Severe droughts, both in the Mid-Atlantic States and in parts of my state, have caused tremendous agricultural losses this year. In addition, as we all know, flooding in the aftermath of Hurricane Floyd brought severe farm losses to the Carolinas this fall. Rising waters are also a problem for the second consecutive year in the Malheur-Harney Lakes Basin of Southeastern Oregon, an issue which the conferees have noted in this conference report. Certainly Mother Nature has not been kind to many of our farmers this year, and I am concerned that the $1.2 billion set aside in this conference report to address these weather-related losses may be inadequate. Should this turn out to be the case, I hope that my colleagues and the Administration will be willing to provide the resources to address these needs in a future supplemental appropriations vehicle.

Perhaps the biggest reservation I have with this farm assistance package is that it does not provide any funding to address the problems of the so-called minor crops. When the bill passed the Senate last August, it contained a $50 million earmark for fruit and vegetable producers. While these farmers have persevered with virtually no federal assistance in the past, they have not been immune to the Asian financial crisis and the historic downturn in the agriculture sector that we have seen in recent years. Nursery and potato producers are just as much a part of Oregon agriculture as wheat and cattle, yet they are not represented in this relief package. I am especially concerned about the future of Oregon's tree fruit industry. A number of producers in my state may be forced to tear out apple and pear orchards due to the deadly combination of international market collapse, frost and other weather problems, and mounting domestic regulatory and labor costs. I did note that the conferees made fruit and vegetable producers eligible for the $1.2 billion in weather-related disaster assistance money. However, I am afraid that none of this funding will reach Oregon tree fruit producers, considering that this same pot of money will be stretched to the limit to assist producers impacted by weather problems this year. I believe specialty crop farmers deserve a place at the table alongside our program commodity producers, and I hope we will better address their needs in future appropriations legislation.

Mr. President, despite the reservations I have about this conference agreement, I find that the few negatives are, in the end, outweighed by the many positive aspects of this bill for the Oregon farm sector. While I look forward to the opportunity to work with my colleagues on the pressing farm issues that have not been spoken to in this conference report, I will be casting a vote in favor of the bill. I hope that we will act affirmatively on this legislation today and not further delay the delivery of this needed relief to family farmers across the country.

Mrs. LINCOLN. Mr. President, I plan to vote for the Agriculture Appropriations Bill today, and I would like to thank those who have helped move the ball down the field. But I'd like to state for the record my opposition to the Conference Committee's decision to remove language previously approved by the Senate that would have removed barriers to trade for domestic producers.

I am extremely disappointed and disheartened that this year's Agriculture Appropriations bill will not take steps to open up additional trade markets to domestic producers, especially after this body voted 70–28 to pass legislation that would exempt agricultural products from unilateral economic sanctions.

In short, Mr. President, a small handful of people have overturned the will of the majority by strong-arming Congress with decisions made behind closed doors. The Members who removed sanctions language from the Conference Report are the very same members who promoted the Freedom to Farm Act. It's beyond me how they expect Freedom to Farm to work when they remove the best chance for our farmers to compete in a global economy.

For months our farmers have been left hanging when it comes to disaster relief payments, loan guarantees and crop insurance reform. Producers in Arkansas should not be let down by Congress again. They should be looking forward to sending 300,000 metric tons of rice to Cuba next year. Arkansas producers have been particularly affected by trade sanctions with countries such as Cuba, Iran and Iraq.

According to Riceland executive Richard Bell, who testified before the Senate Agriculture Committee in May, "Probably no domestic commodity or product has suffered more from these trade sanctions than rice. The sanctions towards Cuba in particular were a major blow to our industry, especially to growers in the South who produce long-grain rice."

There is bipartisan support for changes in the way this country considers economic and trade sanctions. So, in light of the conferees' decision to remove sanctions language, I hope my colleagues will take a serious look at cosponsoring S. 566, the Agricultural Trade Freedom Act, which would exempt exports of food and other agricultural products from any current or future U.S. unilateral sanctions imposed against a foreign government. I also encourage my colleagues to consider supporting S. 1523, The HOPE Act, which will require the President to justify how economic sanctions serve our national interests and to report to Congress on an annual basis the costs and benefits of food sanctions.

It's foolish to let our foreign policy objectives cloud common sense. Without access to foreign markets, we cannot expect the agricultural community to survive. Without a better long-term farm policy, it most certainly will not.

While this bill provides some relief, it doesn't go far enough. What we must do is give our farmers a consistent, workable agriculture policy. We must give them some idea of what they can count on from their government in terms of consistent farm policy. Repeatedly passing emergency disaster relief bills isn't the answer. And it is clear that Freedom to Farm has not worked. According to today's Washington Post, "Congress has now spent $19 billion more in the first four years of Freedom to Farm than it was supposed to spend during the bill's entire seven-year life-span."

This relief package will hopefully get several of our nation's producers through this growing season, but it does nothing to ease the minds of our agriculture community for next year. We've taken care of the short term needs of our agriculture community, I hope that my colleagues will soon take care of the long term.

Ms. SNOWE. Mr. President, I would like to once again reiterate my support for the reauthorization of the very successful Northeast Interstate Dairy Compact, and I must vote against the FY2000 Agriculture appropriations conference report without its reauthorization. This past Thursday night, I came to the Senate floor to urge my colleagues to consider certain points that should prove that support of the Compact is justified and I would like to briefly reiterate them again today.

The Northeast Dairy Compact has addressed the needs of states in New England who compacted together within their region to determine fair prices for locally produced supplies of fresh milk. All of their legislatures and the governors approved the Compact and all that is required is the sanction of Congress to reauthorize it.

The Compact has proven to be an effective approach to address farm insecurity. The Compact has protected New England farmers against the loss of their small family dairy farms and the consumers against a decrease in the fresh local supply of milk. The Compact has stabilized the dairy industry in this entire region and protected farmers and consumers against volatile price swings.

Mr. President, over ninety seven percent of the fluid milk market in New England is self contained within the area, and fluid milk markets are local due to the demand for freshness and because of high transportation costs, so any complaints raised in other areas about unfair competition are quite disingenuous.

All we are asking, Mr. President, is the continuation of the Northeast Dairy Compact, the existence of which does not threaten or financially harm any other dairy farmer in the country.

Only the consumers and the processors in the New England region pay to support the minimum price to provide for a fairer return to the area's family dairy farmers and to protect a way of life important to the people of the Northeast.

Under the Compact, New England retail milk prices have been among the lowest and the most stable in the country. The opposition has tried to make the argument that interstate dairy compacts increase milk prices. This is just not so as milk prices around the U.S. have shown time and time again that prices elsewhere are higher and experience much wider price shifts than in the Northeast Compact states.

Also, where is the consumer outrage from the Compact states for spending a few extra pennies for fresh fluid milk so as to ensure a safety net for dairy farmers so that they can continue an important way of life? I have not heard any swell of outrage of consumer complaints over the last three years. Why, because the consumers also realize this initial pilot project has been a huge success.

Mr. President, there is almost $8 billion in the Agriculture Appropriations Conference Report for farm disasters partially created by competition in the global marketplace and because of a series of weather-related problems. The funding will be paid for by the federal government. Now, some of my colleagues want to create a disaster situation for Northeast dairy farmers by taking away a program that has not cost the federal government one cent.

There has been no expense to the federal government—not one penny—for the Northeast Interstate Dairy Compact. The costs to operate the Dairy Compact are borne entirely by the farmers and processors of the Compact region. And, when there has been a rise in the federal milk marketing prices for Class I fluid milk, the Compact has automatically shut itself off from the pricing process.

In addition, the Compact requires the compact commission to take such action as necessary to ensure that a minimum price set by the commission for the region does not create an incentive for producers to generate additional supplies of milk. There has been no rush to increase milk production in the Northeast as has been stated here today. There are compensation procedures that are implemented by the New England Dairy Commission specifically to protect against increased production of fresh milk. No other region should feel threatened by our Northeast Dairy Compact for fluid milk produced and sold mainly at home.

There is no evidence that prices Northeast dairy farmers receive for their milk encourages overproduction of milk that spills over into other regions and affects dairy farmers in other areas. I ask unanimous consent to have printed in the RECORD, a table from the Daily Market News showing USDA Commodity Credit Corporation purchases of surplus dairy products with the total and percentage by regions for the last three fiscal years.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

USDA COMMODITY CREDIT CORPORATION PURCHASES OF SURPLUS DAIRY PRODUCTS TOTAL, AND PERCENTAGE BY REGIONS FY 1996/97, FY 1997/98 AND FY 1998/99 TO DATE

	1996/97	1997/98	1998/99[1]
Total estimated milk volume (million)	390	1.412	2.090
Percentage:			
Midwest	56.8	9.6	9.5
West	43.2	90.2	90.5
East	0.0	0.2	0.0
U.S.	100.0	100.0	100.0

[1] October 1, 1998–September 3, 1999.

Notes: The eastern region from Maine to Florida has sold no surplus dairy products to USDA this fiscal year. All CCC purchases have been nonfat dry milk with 164 million pounds (90.5%) coming from the western states and 15 million pounds (9.5%) coming from the Midwest states for a total of more than 179 million pounds.

Sources: Dairy Market News, USDS–AMS: Vol. 65—Report 39 (Oct. 2, 1998) and Vol. 66—Report 35 (September 3, 1999).

Ms. SNOWE. An important point here, Mr. President, is that, despite what has been said on the Senate floor today, the Eastern region of the country from Maine to Florida—the very states that wish to compact—sold no surplus dairy products to the USDA this past fiscal year. All Commodity Credit Corporation purchases came from the Western and Midwest states.

And, despite what has been stated by the opposition, there are no added costs to the federal nutrition program. There has been no adverse price impact on the WIC program—the Women's Infants and Children's program—or the Federal school lunch and breakfast programs. In fact, the advocates of these programs support the Compact and serve on its commission.

So, I ask for the support of my colleagues today for my dairy farmers in Maine and to vote against the Agriculture Appropriations Conference Report because it does not include the reauthorization of the Northeast Interstate Dairy Compact as the State of Maine and every other New England state legislature, governor and its citizens have requested, and I thank the Chair.

Mr. TORRICELLI. Mr. President, I rise in strong opposition to this legislation. It does not provide adequate relief to farmers across this country. It fails to address issues which will decide the fate of tens of thousands of family farms. It fails to give relief to an entire region with a significant farming community. The drought afflicting farmers in the Northeast and Mid-Atlantic regions is as severe a threat to their existence as low crop prices are to others. The farmers of my state wish they had crops to receive low prices for. Yet this bill fails to remotely begin to address their concerns. The entire relief package of $8.7 billion is primarily focused on low crop prices in the South and to a much lesser degree the Midwest. Only $1.2 billion or slightly over 10% is for "weather-related disaster relief".

To put this in perspective, let me explain the extent of the drought damage. Despite recent rains, New Jersey is in the middle of its driest season in 33 years. From June to August the State received less than 2 inches of rain. Normally, we receive more than 8 inches during this period. Reservoir levels in Northern New Jersey dipped to 10% below normal—and despite the recent "rains", farmers have not recovered. The impact of the drought on New Jersey agriculture is devastating. 400,000 acres on 7000 farms have sustained damage from 30%–100%. Damage estimates are $80 million, and expected to reach $100 million.

But let me be clear that New Jersey is not alone. Secretary Glickman estimates that the need for drought relief in the Mid-Atlantic and Northeast regions is over $2 billion. Governors of our States estimate the damage to be closer to $2.5 billion. But even the limited amount of funds offered in the Agriculture Conference report isn't designated for drought—the entire country including losses from Hurricane Floyd will compete for this funding.

Mr. President, my region of the country has a long tradition of helping out other regions in need. I recall my House colleagues referring to the Great Midwest Drought of 1988. Many considered this drought the worst in the Midwest since the Great Depression. That year, we passed an emergency relief bill which provided direct disaster payments to farmers in the amount of $3.4 billion. I voted for this bill because it was the right thing to do. I realized that farmers in these states needed drought relief, and I gave my vote of support, because it was needed.

In 1992, Hurricane Andrew, one of the most destructive storms of this century, ripped through Florida, inflicting $30 billion in damage. I voted for the Emergency Supplemental bill which brought $9 billion to Florida, to help the citizens of that state recover from the enormous damage to infrastructure, homes, businesses, and crops.

1993 was another horrible year for the Midwest, this time, hit by flooding. Many call it the Great Midwest Flood of 1993. Midwestern states were horribly damaged by the breaching waters of the Mississippi. I voted for this $2.5 billion supplemental for farm disaster payments. Mr. President, New Jersey was not hit with severe flooding in 1993. In fact, New Jersey only received $5.5 million in the bill. But I voted for this package nonetheless. Because farmers in the Midwest needed it, and it was right to provide them with adequate relief.

In January of 1994, the Northridge Earthquake rocked Southern California, causing in excess of $30 billion. I voted for H.R. 3759 which provided $4.7 billion in supplemental funding to assist Californians in their time of need. My point, Mr. President, is to illustrate that I have voted to assist the people of other regions of this country in their time of need, despite the fact that my state may not reap substantial benefit. I ask that my colleagues respect that New Jersey and other Northeast states have endured a prolonged drought that threatens our remaining agriculture.

Over the August recess, I visited farms and county fairs and spoke to New Jersey farmers about the effect of the drought on their livelihood. They understand weather and they accept the difficult life of a farmer but they cannot understand how Congress, which repeatedly sends billions to the South and Midwest, can ignore them in their time of need. I don't have an answer for them but I can only imagine it is because Members do not realize the extent of the agriculture community in my State and our region.

So I would like to educate this body to the significant agriculture community in New Jersey and the Northeast. There is a reason why they call New Jersey the Garden State. The $56 billion food and agriculture complex is New Jersey's third largest industry, behind only pharmaceutical and tourism in economic benefit. Last year, New Jersey's 9,4[illegible] farms generated over $777 million in sales. Nearly 20% of the entire state of New Jersey is productive farmland. That's one million acres of working farms in New Jersey. And in an era of increasing consolidation in the agriculture industry, virtually all of New Jersey's farms are family-owned. The average farm size in New Jersey is just over 100 acres. At $8,370 an acre, our farmland is the most valuable in the nation.

Farmers in the Garden State produce more than 100 different kinds of fruits and vegetables for consumption locally in New Jersey but also for export around the world. Nationally, New Jersey is one of the top ten producers of cranberries, blueberries, peaches, asparagus, bell peppers, spinach, lettuce, cucumbers, sweet corn, tomatoes, snap beans, cabbage, escarole and eggplant. Mr. President, in addition to the fruit and vegetable farmers of my state, a small number of individuals from Warren, Salem, Sussex, Burlington, and Hunterdon counties are the backbone of agriculture in New Jersey. These are New Jersey's dairy farmers. The dairy industry is an important segment of our agricultural economy, supplying almost one-fifth of the fluid milk and dairy products used by over 7.5 million residents in New Jersey. The industry is comprised of 180 dairy farmers. Farmers who get up early to milk 7 days a week, 365 days a year, starting out long before dawn, before most of us are up.

However, this pales in comparison to what the dairy industry used to be. New Jersey has lost 42% of its dairy farms in the past decade. New Jersey dairy farmers produced 300 million pounds of fresh, locally produced milk in 1997, with a value of $41.3 million.

If we do not re-authorize the New England Dairy Compact and allow for New Jersey's entrance the remaining 180 farmers will be gone in the next decade. New Jersey's state legislature has already approved entry into the compact. The loss of dairy farms—whether from inadequate relief from this summer's drought or from an inability to enter the Dairy Compact means more that just a loss of business in New Jersey. This is more than just a nostalgia about the decline of a time in America when agriculture was dominated by family farms, it is also about the practical reality of the loss of open space. It is about farms being sold to developers and turned into parking lots & strip malls. It is a story we know all too well in New Jersey. An average of 10,000 acres of rural/agricultural land is being developed piecemeal every year in New Jersey. In 1959, New Jersey had 1,460,000 acres of farmland: today we have but 800,000. In 1959, New Jersey had 15,800 farms. Today we have 9,400.

As I said earlier this horrible drought has crippled the fruit and vegetable farmers in my state. Unfortunately, it has also had a devastating impact on New Jersey's already very tenuous dairy industry. It has compounded the dire circumstances affecting dairy farmers from low prices. Erratic fluctuations in dairy prices is forcing many out of business. For example, in March dairy farmers across the country experienced a 37% drop in milk prices. When the price drops, the price family farms must pay to feed their cows, hire help, and pay utility costs stays the same. As prices decline and costs increase, farmers need a mechanism to ensure stable prices for milk or they will go out of business.

In addition to the erratic market, New Jersey's family farms face a threat from a pricing system introduced by the Department of Agriculture. This system, Option 1B, would almost surely be the death knell for New Jersey's dairy farmers. Option 1B, would reduce dairy farmer income in New Jersey by $9 million a year.

New Jersey's membership in the Compact would set a floor on dairy prices and reimburse farmers in times of financial trouble. It would provide protection in the event of another drastic price drop. Compacts would also help maintain environment efficiency and open space by preserving the more than 100,000 acres of New Jersey farmland for agricultural use and preventing development.

Unfortunately, the Dairy Compact and Option 1A pricing provisions are not included in this Conference Repot. This will force dairy farmers in my state out of business. Like real drought relief, the dairy provisions necessary to sustain farmers in our region are simply not present.

I urge my colleagues to vote against this conference report and send a message that we should implement farm policy for a nation of farmers, not to serve certain regions at the expense of others.

Mr. CRAIG. Mr. President, I rise in support of the FY2000 Agriculture appropriations bill. This important piece of legislation provides a total of $60.3 billion. While a large portion of this funding goes toward food stamps and nutrition programs, this bill also contains funding for agriculture research, conservation, rural development and direct assistance for our farmers to get through these tough times.

Farmers across the board are facing difficult times. Prices are the lowest this decade and exports are decreasing while imports are increasing. For most commodities, the cost of production exceeds the revenue received. It doesn't take long to go out of business when your costs are more than what you can get for your end product.

The problem is price, not the farm bill or farmers. Because of the Asian flu and depression of other world markets, our farmers are suffering. Simple economics tells you when supply is above demand, prices will drop. Ag commodity prices will increase as our world markets come back, but we don't expect that to happen this year or next. If we want our farmers to stay in business, we must help them in the short term until commodities can be sold on a world market.

Something must be done to help the American farmer through these tough times, which is why I support this bill's $8.7 billion in farmer aid. The emergency aid includes $5.54 billion in additional agriculture market transition payments, which represent a 100 percent increase in a producer's 1999 payment. This is a direct payment that our farmers could receive before Thanksgiving if the President signs the bill into law. This is the immediate assistance our farmers and farm groups ask for in hearings in the Agriculture Committee and elsewhere.

The conference report includes assistance for crop insurance premium write-downs to maintain the 1999 level, which is essential if we want farmers to keep using the program. I am also pleased to see assistance to certain specialty crop producers. These are just a few of the provisions that I supported in this bill.

The conference report also contains mandatory livestock price reporting legislation. I supported this price reporting legislation when it was voted out of the Agriculture Committee and I am pleased to see it is moving forward. There needs to be greater transparency within the livestock industry. Our producers need information on which to base their marketing decisions, and this legislation will provide that.

As others have noted, this conference report does not include sanctions reform language that passed by wide margin on the floor of the Senate. However, I understand legislation to exempt agricultural commodities from unilateral economic sanctions will come before the Senate before we adjourn, and it is something we ought to pass this year. In order to insure the long term survival of the Agriculture industry in the United States we must work on trade and sanctions reform to enable U.S. producers to compete on a level playing field with the rest of the world.

Mr. President, I hope the Senate adopts the conference report today and the President signs it into law so that the hard working farmers across the country can get the assistance we have promised them and that they so deserve.

Mr. KERRY. Mr. President, I support the FY 2000 Agriculture Appropriations Conference Report because it provides important emergency assistance for America's farmers and will provide $15 million in disaster assistance for the commercial fisheries failure in the Gulf of Maine. I believe that this funding is crucial to the survival of fishing industry in New England. It will allow our fishermen to use their fishing vessels as research platforms to do, among other things, cooperative research activities in partnership with the New England Fisheries Management Council and the National Marine Fisheries Service.

I thank appropriations committee Chairman, Mr. STEVENS, and the Democratic ranking member, Mr. BYRD, for their support of New England fishermen and their assistance in obtaining the funding included in the Conference Report. I also thank Agriculture appropriations subcommittee chairman, Mr. COCHRAN, and Democratic ranking member, Mr. KOHL, and their staffs. Finally, I thank Mr. KENNEDY, Mr. GREGG, and Ms. SNOWE for their support in including this provision in the conference report.

Last year, we were able to secure $5 million in emergency assistance for cooperative activities to assist fishermen who were negatively affected by groundfish closures in the Gulf of Maine. These new funds will be used to help fishermen overcome drastically reduced trip limits. A trip limit of 30 pounds, about 2 cod, was imposed immediately after the fishery opened. This was raised to 100 pounds by Commerce Secretary Daley at the request of the New England Fisheries Management Council.

These trip limits have had a severely detrimental economic and social impact on many fishery-dependent communities in New England. Ongoing stock recovery requirements have required continued reductions in fishing and resulted in continuing hardship. The additional funding included in the Conference Report will be used to employ fishermen in cooperative research programs, fund on-vessel observer programs, and provide training and education for fishermen.

I thank my colleagues for recognizing that New England fishermen and their communities require disaster assistance until our fisheries have a chance to rebuild.

Mr. GORTON. Mr. President, during my service as a United States Senator representing the State of Washington, I have consistently reiterated one message to the growers and producers I represent. While I am not a farmer, and could not possibly pretend to understand the intricacies of the business, I will always do my best to understand farmers' needs and work on agriculture's behalf. But there is one message growers in the State of Washington have emphasized to me that I understand without question. When times are tough and the check book doesn't balance, families feel the pinch.

When times are tough, I have asked farmer after farmer, "why do you do this?" The job is terribly difficult, so much of what growers depend upon is unpredictable, and for two years in a row now, world markets have driven prices so low that fathers are telling their sons and daughters not to enter the family business.

But immediately after I question their dedication to their livelihood, I'm reminded of the golden, rolling wheat and barley fields of the Palouse. I remember my countless visits to Yakima and Wenatchee and seeing the lush, vibrant greens of the orchards, rising up out of the dust bowl that was once Central Washington. I think about the hearty breakfast I ate that morning and the apples and sandwiches packed away in my grandchildren's lunches. So much of what farmers do and what they produce is a part of our daily lives, that their existence in this country is paramount and deserves recognition.

Farmers are proud, tough, hardworking Americans. Apple growers in the State of Washington, for example, don't like to come to my office and ask for help. In the past few months, however, I have visited with many growers who are visibly despondent. Washington leads the nation in apple production, and over the past year, it's estimated that producers have lost at least $200 million in the fresh market. From Tonasket to Wapato, the message from orchardists was clear—we need help.

Over the past two months, I have communicated to my colleagues and others the significance of identifying a mechanism to assist fruit and vegetable growers in the disaster assistance package. During debate on the Senate floor in early August, I was able to assist in securing $50 million specifically for fruit and vegetable relief. In the conference report we're addressing today, potential relief for these very growers is incorporated in the $1.2 billion available for crop loss assistance. While I am frustrated that the specific designation for fruits and vegetables was removed, I am particularly pleased that apples were mentioned specifically.

Apples are not the only commodity produced in Washington that could stand to benefit from the crop loss section of the package. Asparagus growers, hard hit by weather and a lack of labor have lost thousands of dollars in fresh product. Potato growers who have also been impacted by poor growing conditions can approach the U.S. Department of Agriculture for assistance. Many are surprised to learn that the State of Washington produces more than 230 food, feed and seed crops, and I hope that many of these commodities will receive the assistance they require.

Wheat growers in Washington will also benefit from the $5.5 billion available for market loss in the disaster package. The nearly $.60 cent per bushel payment to growers will most certainly ensure that the highly demanded soft white wheat our farmers produce will continue to flow to recovering Asian markets.

While the disaster package contained in the Fiscal Year 2000 Agriculture Appropriations bill is most certainly the highlight of the legislation, there are other important, annual funding priorities included. As a member of the Agriculture Appropriations Subcommittee, I have worked to ensure that the research demanded and deserved as a result of the passage of the Farm Bill is provided for the Pacific Northwest. From research for hops to disease eradication in cherries, this bill provides funding necessary to ensure the longevity of the essential public-private investment in our nation's food production.

Language and funding in this bill directed at the implementation of the Food Quality Protection Act are also essential. Programs related to export enhancement and market development received the favorable attention growers in my state demanded. And the land grant universities are secure in knowing that the formula funds necessary for continued excellence in education are available.

With all that said, there are many in this body who know I was not pleased with the removal of Senator ASHCROFT's sanctions relief amendment in the conference report. Sanction relief is essential for the long-term prosperity of agriculture in America. While I received a commitment that the Senate would take up this issue before the adjournment of this session, I cannot over-emphasize the absolute importance and sincere necessity in addressing this issue. Food and medicine sanctions do not cripple regimes or dismantle communist governments. Instead, they hurt our family farmers and keep food out of the mouths of those who cannot provide for themselves. I initially refused to sign the conference report over this issue, and sincerely hope the Senate will address this matter in the very near future.

I am also not pleased with the manner in which this bill was dealt with in the waning hours of conference. Conferees were literally locked out of decisions related to the sanctions issue, dairy, and items included in the disaster package. This "top-down" philosophy is not what should drive the passage of appropriations bills.

All in all, Mr. President, what we have before us today is a good bill. Its contents include year-long negotiations on a variety of issues related to the essential functions administered by the U.S. Department of Agriculture. While some issues have caused me to struggle with my support or opposition to the legislation, the benefits of its passage are overwhelming. It is my hope that the President will give his blessing to the bill so that our struggling farm economy can receive the charge it needs to rejuvenate our agriculture communities.

Mr. MCCAIN. Mr. President, I give due credit to the conferees for their hard work to complete action on the Agriculture Appropriations bill for fiscal year 2000 which supports the nation's farming economy and federal programs through the U.S. Department of Agriculture (USDA). This year's agriculture appropriations bill is also intended to provide needed government aid to farmers and their families who have suffered critical losses due to severe drought and difficult market conditions. However, with much regret, I must vote against this legislation.

I have several concerns with this final conference agreement.

First, it contains $253 million in earmarks and set-asides for towns, universities, research institutes, and a myriad of other entities that were included in this bill without consideration in the normal merit-based review process. This is $82 million more than was included in the Senate version of the bill. Clearly, the House had to get its turn at the trough.

For example, $1.75 million is provided for manure handling and distribution in five states, including Mississippi, Iowa, Nebraska, Texas and Arizona. Why these five states have a monopoly on manure problems in our nation is not adequately explained in this report, nor is a rationale provided as to why an earmark of $200,000 is provided for sunflower research in Fargo, North Dakota. Unless weather conditions are anticipated to change dramatically, it is difficult to fathom why spending thousands of dollars on sunflower research in a state known for severe weather conditions is more critical than other farming emergencies.

No other clear explanations are provided for earmarking $750,000 for the U.S. Plant Stress & Water Conservation Lab in Lubbock, Texas, as well as $1,000,000 for peanut quality research in Athens, GA; $500,000 for fish diseases in Auburn, AL; and, $64,000 for urban pests in Georgia. These may very well be meritorious projects, but I must question again why these specific projects and localities are singled out for direct earmarked funding rather than undergoing a competitive review.

In addition to direct earmarked funding, the conferees have included very blatant directive language which singles out specific projects in various states for special consideration for grant funding, loans or technical assistance from USDA. With these actions, even the limited funding made available to USDA for competitive grant and loan assistance is not fairly distributed since the conferees have included such directives to steer the agency away from considering many other meritorious projects that are equally in need around the country.

Another problem with this spending bill is the inclusion of language which provides for an exception for a single producer from the state of Nevada from pending federal milk marketing orders to be implemented by the USDA. This provision will exclude a single dairy producer in Clark County, Nevada from the proposed new Arizona/Las Vegas Marketing area when USDA's rules take effect, thereby preventing this single producer from competing fairly with the rest of the milk industry.

As many of my colleagues are aware, there are few issues which cause as much controversy and divisiveness as proposed milk marketing restructuring proposals. Yet, without any debate, language was included in the Senate bill, without notice or debate, to protect this single dairy producer while the rest of the nation will be forced to comply. Retaining this provision in the conference report is a serious infraction of out obligation to treat all interests fairly and to abide by the Senate's rules which preclude legislation on appropriations bills except when approved by a super-majority.

Mr. President, finally, I am concerned that this legislation contains $1.2 billion more than the Senate bill in emergency aid for farmers. The House bill contained no such funding at all.

Late last year, the Congress provided $5.9 billion in emergency disaster assistance for farmers as part of the FY 1999 Omnibus Appropriations bill. Earlier this year, we provided another $574 million in the emergency supplemental appropriations bill. I opposed both of those bills, in part because the bills contained excessive amounts of pork-barrel spending but also because of the use of the "emergency" designation for large amounts of non-emergency purposes, some of which was included in the farmer aid package.

While I understand and sympathize with the plight of America's farmers who face economic hardship due to a wide variety of natural disasters, I cannot support the designation of the entire $8.7 billion in assistance to farmers as an emergency.

The Congress has certain rules that apply to its budget process. One of those rules states that, once a Senate-House conference convenes, negotiations are limited to only the funding and legislative provisions that exist in either bill. Adding funding that is outside the "scope" of the conference is not in order, nor is the inclusion of legislative provisions that were not in either the Senate- or House-passed bills.

Once again, the appropriators have deviated from the established process in agreeing on the provisions in this conference report by adding another $1.2 billion in emergency funding to the bill—funding that was considered by neither the House nor the Senate—just the appropriators. That $1.2 billion for crop disaster loss payments that was added to the emergency farm aid package may very well be needed by some of our nation's farmers. But its inclusion at the last minute defeats the entire concept of fiscal responsibility, which is premised on the full Congress debating budget priorities, not just the appropriators.

There were other last-minute add-ons in the conference which were not included in the Senate or House bill, including: $2 million for water and waste forgiveness loans; $15 million for Norton Sound Fisheries failure in Alaska; $56 million for administrative costs associated with managing emergency asssistance programs; and, an entirely new title to the bill, Title IX, which contains 25 pages of legislation to establish a new mandatory price reporting system for various livestock. While this legislation originated in the Senate, it was never called up for debate or a vote.

This last provision was never offered as an amendment on the Senate floor during consideration of the Agriculture Appropriations bill, probably because it would have been ruled out of order since it is legislation that is not supposed to be included on an appropriations bill. Instead, it was simply inserted into the appropriations bill, behind closed doors, without debate.

American taxpayers have to give up their hard-earned tax dollars to pay for these last-minute tactics by the Appropriations Committees. Clearly, Congress appears to favor spending that benefits the special interests of a few, rather than spend the taxpayers' dollars responsibly and enact laws and policies that reflect the best interests of all Americans.

Let me state again that I support federal assistance for farmers and others in need, but only when decisions to spend tax dollars for such aid are considered fairly and truly help those in need. But when we continue the shameful and provincial practice of padding appropriations bills with excessive amounts of dubious emergency spending and special-interest pork-barrel projects, we are short-changing the taxpayers as well as our agricultural industry. This bill may help some farmers and producers who are truly in dire need of federal assistance, but we are harming those in the agriculture industry who are trying to follow established guidelines to qualify for other types of non-emergency assistance.

This bill designates $8.7 billion as emergency spending for FY 2000—money that can only come from the non-Social Security surplus. The Defense Appropriations bill contains another $7.2 billion in emergency spending, which I will also oppose. Together, we are spending almost $16 billion in emergency spending, but, Mr. President, the non-Social Security surplus is only estimated to be $14 billion. That means, pure and simple, that if we approve these two bills with their emergency funding, we will once again be dipping into the Social Security surplus to pay for the continued operations of the federal government.

Already this year, the Senate has approved appropriations bills or conference agreements containing almost $10.5 billion in wasteful and unnecessary spending. Surely, among these billions of dollars, there are at least a few programs that we could all agree are lower priority than desperately needed aid for America's farmers. Surely, in the voluminous lists of billions of dollars of pork projects, there are a few that the Congress would be willing to give up to ensure that we not once again dip into the Social Security Trust Fund—a Fund financed by the payroll taxes of American workers who are counting on their money being available to help them through their retirement years.

This bill demonstrates that the Congress cares more about taking care of special interests than it does about American families. It is the taxpayers who have to shoulder the burden to pay for the pork-barrel spending in this appropriations conference report and the others that will follow, and I will not vote to place that burden on American families.

The full list I have compiled of the objectionable provisions in this final conference report will be available on my Senate webpage.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I yield such time as may be consumed to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Thank you, Mr. President.

First, I would like to say that the senior Senator from Mississippi has one of the toughest jobs on Capitol Hill, along with the senior Senator from Indiana. Chairing the Appropriations Subcommittee on Agriculture and the Agriculture Committee in the Congress are just incredibly difficult tasks. The diversity of agriculture and the needs of agriculture are historic in this Chamber.

Trying to come up with a proper mix of how to solve the needs and the difficulties in farm country is complex. It is difficult.

I understand coalitions have to be put together to pass bills. In this case, a coalition was put together to pass a bill that, in my mind, did not represent the interests of my area of the country, particularly my State of Pennsylvania. I understand that. I appreciate the difficulty in doing it.

I understand that Pennsylvania has a very difficult time participating for one reason. We are a very diverse State agriculturally. We have a tremendous amount of richness in our agriculture. It is our No. 1 industry. Pennsylvania's No. 1 industry is agriculture. Most people don't know that. Most people don't know that the State of Pennsylvania, the Commonwealth of Pennsylvania, has the largest rural population of any State in the country. We take agriculture very seriously. Obviously, our rural population depends heavily upon agribusiness for survival.

We have been hit this year with an absolutely historic drought that has devastated our farm community. Throw on top of that, sort of adding insult to injury, a big chunk of our State was hit very hard by Hurricane Floyd. Not only did we have drought on top of drought and the crops burned up, but they had floods. We have a situation where in almost every county of our State crop losses are in the area of at least 30 percent, and in many areas and many counties it is 100 percent.

I looked at the bill we have before us in the Senate and the one that came out of conference. I was hoping we could focus more of the $8 billion that is in this bill on the area of the country that was affected most dramatically by weather this year. In my mind, it has not. I am not just speaking for Pennsylvania. I am talking about all of the Northeastern States that were affected—the Mid-Atlantic States—by drought. The big chunk of this bill is for AMTA payments, which are payments to farmers who are program farmers.

Before we pass this bill, we are going to give $5.5 billion out to farmers who were previous to the Freedom to Farm bill in Government programs. The problem in Pennsylvania is we have a very small percentage of those farmers because of our diversity. We have very few program crops. We have a lot of specialty crops, livestock, and dairy. As a result, a very small percentage of our farmers participate in the AMTA payments. A very small percentage of, frankly, most of the Mid-Atlantic and Northeastern farmers participate in the AMTA program.

When you look at the $8 billion-plus that is in this bill and you see $5.5 billion of it going to AMTA, almost none of that is going to the area that is most affected by the drought. It is going to the area that is having bumper crops.

The reason we are providing "disaster" help, the disaster in most of the country is they have too much harvesttime. As a result, prices are low. So we are going to give them money because they have too many crops to sell at too low a price.

I can tell you my farmers in Pennsylvania wish they had something to sell. So I am a little frustrated when you look at where the bulk of the money is going. It is going to areas that are hardly hit by a disaster, and certainly no weather disaster. It is a disaster of richness, if you will, because of the tremendous amount of harvest that has occurred in that area, and, obviously, the world situation and the like. When you look at what is specifically targeted for my area of the country, the "drought relief" is $1.2 billion. Not all of it goes to drought relief. A lot of it is going to hurricane disaster relief.

I can tell you my Governor told us that just the preliminary numbers in Pennsylvania are approaching $1 billion in losses for drought. So $1.2 billion for drought and hurricane relief doesn't even begin to touch on what the problem is in Pennsylvania.

I know some have said we can do a supplemental appropriations bill in the spring to see what the problem is. My farmers can't wait until spring. They have to survive the winter. While some folks are getting double AMTA payments, $11.2 billion worth of money, my farmers are going to be told to wait until the spring.

Our area of the country has come to the table time after time after time after time as the Upper Midwest, the Southeast, and other areas of the country have suffered drought, pestilence, floods, hurricanes, tornadoes—I can go on and on—a disaster a year in those areas. We understand that. Our taxpayers and farmers have come to the table and been willing to put up money. We are a big country, and we will pitch in together to help.

When it comes to our farmers being hit with the worst drought in a century, the answer is: Wait until the spring. We may pass a supplemental if you need it.

That doesn't cut mustard. I understand we had a vote here yesterday on cloture and a group from the Northeast cast our votes on cloture. We were defeated. We will be defeated today. This bill will pass and will become law. I understand the need for getting assistance to farmers. I have to speak up and say what is in this bill is not enough to take care of the needs of the farmers in my State.

A couple of other things happened that were disconcerting. We had $134 million in specialty crop money that came out of this bill. We grow a lot of fruits and vegetables in Pennsylvania, specialty crops, important crops. We had $134 million for that. When it came from conference, the money was out and "specialty crop" was defined as only tobacco and peanuts. We don't grow a lot of tobacco and peanuts in Pennsylvania or New Jersey or a lot of other areas hit by the drought.

Again, that money was designated to help some of our farmers who are not the farmers who have been at the Government trough for years and years and years with program crops, but folks making it on their own, not coming to Washington asking for money. The one time we ask for money, the answer is no. I think that is a very sad commentary. We took the money for specialty crops, for fruits and vegetables—again, people who have never gotten Government subsidies—and we give them to two programs that are still getting Government support—tobacco and peanuts.

That is a misguided policy. I understand the dynamics of trying to pass a bill. I understand the power and the influence of the peanut lobby, the sugar lobby, and the tobacco lobby. I understand now we have the honey program back in place, and the mohair program is back. I understand all that.

I keep looking at what it does to those who have been paying the bills for a long time for agriculture in the northeastern part of the country. What I see is a neglect of a bunch of farmers who work just as hard as folks in other areas of the country who don't ask the Government to help very much. We hardly ever ask the Government to help in our agriculture. The one time we get hit with the drought of the century, the answer is: We will give you a little here, and wait until next year, and maybe we can give you some more. By the way, some of the other stuff we were going to give you, we will not.

I thank the chairman for the money for crop insurance. That is something I very much wanted. The $400 million to help try to get farmers into the crop insurance business is very important. We need more farmers covered with risk management tools. Crop insurance is important. I urge the chairman of the Agriculture Committee, Senator LUGAR, to take that up quickly and move forward on crop insurance to put the money to good use.

I have to oppose this bill, reluctantly. I understand the difficult job the Senator from Mississippi had in trying to craft this to pass the Senate and get it signed by the President, but for me it doesn't do enough for my area of the country.

I will have to vote "no" on the bill.

Mr. COCHRAN. Mr. President, I thank the Senator from Pennsylvania, Mr. SPECTER, for his comments about the work that went into crafting this bill and the challenges we faced along the way. We appreciate very much his assistance. He is a member of the legislative committee on agriculture and has provided valuable advice, counsel, and assistance in the crafting of this bill. We thank him for that.

As I understand the status of time, we have about 20 minutes remaining on the Republican side.

The PRESIDING OFFICER. There are 26 minutes remaining and 19½ minutes on the Democratic side.

Mr. COCHRAN. I yield such time as he may consume to the Senator from Minnesota, Mr. GRAMS.

Mr. GRAMS. Mr. President, I rise today to first commend my colleagues for their overwhelming cloture vote last night that permits the Senate to move closer to passing this very important Agriculture appropriations conference report. I especially commend my colleagues for stopping an intended filibuster that was designed to apply pressure to extend the life of the Northeast Dairy Compact. I look forward to the day when we can talk about the Northeast Dairy Compact in the past tense with its detrimental effects on Midwest dairy farmers; that time will be ended.

After hearing all the rhetoric about how compacts are necessary to save small family dairy farms, I think it is very important to highlight some information my office recently received. According to the USDA, NASS data regarding 1998 dairy herd size averages, Vermont dairy farm herd sizes averaged 85 head and New York farms averaged 81 head. In the Midwest, Minnesota dairy farms averaged 57 head and Wisconsin farms averaged 59 head. Again, Vermont dairy farms averaged in size almost 50 percent larger than Minnesota dairy farms. So much for the idea that the Northeast is competing against corporate farms in the Upper Midwest.

I cannot stress this point enough: The Northeast Dairy Compact is heavily subsidizing large-scale dairy operations while those small farmers in the region do not receive enough to seriously impact their bottom line.

We have always known that compacts are bad for consumers, especially low-income consumers. But now we have additional data from the USDA showing they help large-scale dairy farming operations rather than helping what we hear a lot about, the small farm proponents they claim to help.

Dairy compacts are an economic zero sum game in which there are many losers—most importantly, again, the consumer, and especially low-income consumers. Dairy farmers in the noncompact regions become losers. We hear the rhetoric that somehow the compact is only there for the Northeast and it doesn't have any effect on any other dairy farms across the country. That is completely false. It does have dramatic effects and impacts upon prices of farmers in other areas, especially in the Upper Midwest.

The real winners in this zero sum game, again, are the large dairy producers located in the Northeast that receive literally tens of thousands of dollars in subsidies for their already profitable businesses, not the small dairy farmer who supporters say were the focus of this idea to begin with.

The average 6-month subsidy for large Northeast dairy farms is projected to be $78,400—$78,400 in 6 months. Dairy farmers in Minnesota would relish that kind of an income if it were spread across the whole year. But Minnesota farmers wisely have rejected this effort that distorts the system and harms their fellow farmers in other States.

Compact supporters have chosen a strategy of pitting one region of the country against another, offering the cartel-like protection of a compact to other States to prod them into joining the economic warfare. They say: In order to strengthen our position, let's encourage others to set up compacts, let's try to expand these "cartels," and then we can encourage more votes—and then, again, pitting one region of the country against another, encouraging economic warfare. Then they can carve up the market, they can receive fixed prices for the milk they produce, and they claim this policy does not discriminate against other regions of the country.

Higher prices promote higher production. It doesn't take a scientist to figure this out. That is, production is expanded beyond the compact region's fluid needs, the excess production then goes into nonfluid dairy products or nondrinkable milk products, and this depresses the nonfluid prices nationwide.

The overproduction in the Northeast generated by the compact —the cartel, the fixed prices, encouraging overproduction—then is spilt over into other regions of the country, which then depresses those prices. When they say it has no effect on other dairy farms around the country, that is completely false. It does. Where does the excess milk go? Again, the prices encourage overproduction, the overproduction then is spread out across the country, and that depresses the prices for dairy farmers in the Upper Midwest.

It is very disappointing to me that colleagues would describe themselves as free marketers, who understand the basic principles of economics would sign on to this protectionist economic power grab. For farmers who raise corn, soybeans, wheat, potatoes, and other commodities, it seems we are willing in this Congress to try to work for their best interests. There is no difference if you raise corn in Iowa or Illinois or Minnesota or Pennsylvania; the markets treat that corn the same. It is on a competitive basis. The farmers compete on their productivity. But when it comes to milk, it is completely different. If you are in one part of the country, you get more money for your milk than in other parts. Now in the Northeast we want to set up a cartel that has price fixing, that encourages overproduction, which then spills over to the rest of the country.

Why do we support one part of a national agricultural policy but then distort another part of that policy, and that is dealing with dairy? Why should dairy farmers be treated differently than any other farmer? Why should we take dairy markets from one region of the country and give them to another region of the country? That is exactly, again, what the cartel does. Because the milk produced in the Northeast that is not consumed in fluid form is spilled over into the Midwest as powdered milk, cheese, and butter. So they are now competing for those markets and we are then giving them those markets, or at least a share of them. Should large producers in the Northeast be able to thrive at the expense of small farm families in the Midwest?

Our farm families in the Midwest are among the most productive in the country. Yet their fate now depends not on their competitiveness, not on their ability to produce in a competitive manner but on the raw deal presented to them by subsidized dairy farmers in the Northeast.

I am always frustrated by the claim from our pro-compact spokespersons, and repeated again in a recent Christian Science Monitor article, that compacts are necessary to guarantee customers and consumers "an ample supply of fresh, locally produced milk." I am satisfied this rhetoric is designed to scare consumers into believing if they do not support these compacts they will then go to the grocery store and encounter empty milk cases because they cannot get "fresh, locally produced milk."

The well-known truth is, with the modernization of refrigeration and transportation, we could basically eliminate the entire milk marketing orders in this country. That is why they were established to begin with, because there was not the refrigeration, there was not the transportation to ensure an adequate supply of milk in other parts of the country. So it has distorted the entire dairy process.

But now, with new types of refrigeration and transportation, milk can be shipped all over the country and can go to any consumer from anywhere, fresh, just as, say, oranges from Florida, lettuce from California, red meat from down in Texas. But our country's dairy supply is more than adequate to produce fluid milk; that is, the class I milk, as they call it. That milk can be supplied to any part of the continental United States. There is no shortage of fluid milk production in America. It should be built on a competitive basis, not protectionist, not a compact region, not guaranteeing some farmers protection at the expense of other farmers.

The country produces three times as much milk as it consumes as a beverage. "The milk may not be locally produced," is what you have heard—some of the jargon now, "fresh, locally produced"—but it will be fresh. To tell consumers they will not get fresh, locally-produced milk, again, is an intentional deception designed to lead people into thinking if there are no compacts, the grocers' milk supply will dry up or deliveries might be sporadic or frequently interrupted, which is simply not true. The perception that somehow Midwest milk is not as good as anything produced locally is also an affront to the hard-working dairy farmers in my State.

A compact spokesman in the Christian Science Monitor article also claims that locally produced milk will be cheaper to deliver than the milk bought and brought in from outside the area. Not if you live in a compact region, it will not be cheaper. Compacts are designed to protect inefficient producers in one region against the more efficient producers in another—specifically, the efficient farmers in the Upper Midwest. When people argue that when dairy products are no longer produced within a region prices to consumers go up within the area, do not believe it. If that were true, why would they need compacts at all?

If milk produced locally would be cheaper, why do they need a compact at all? The reason they need it is to drive up their prices. Dairy compacts create a minimum price for milk, and they are designed to keep cheaper milk out of the region, not in the region. Again, we don't do this with any other farm product. We do not set a floor or a minimum price for corn from one region to another. We don't pit the Northeast against the Midwest against the Southeast against the South; we do not do that. But in dairy we do.

Dairy compacts create a minimum price for milk, and they are designed to keep cheaper milk out of a region, not into the region. So, again, why do they need compacts at all if their arguments are true?

Upper Midwest producers can sell class I fluid milk in New England for less than the $16.94 per hundredweight floor price of the compact. But the floor price in New England effectively keeps the cheaper milk out of the market. Indeed, after the Northeast Compact was enacted in 1997, the price of milk rose—this is the price of milk in New England—from $2.54 all the way up to a high of $3.21 a gallon. Milk prices there initially jumped about 20 cents a gallon. In fact, there were some grocers who put up signs along the dairy case that said: Don't blame me for the higher prices in milk. Blame the compact. That was because consumers were complaining about the jump in the price of milk in the New England area.

So it does drive up the price. They always quote a study that was done. They said the first 6 months the compact went into effect, it had basically no effect. I would like them to take the last 6 months because the compact had not even geared up in those first 6 months, so it had very little chance to distort the market. But now, take a poll, now take a survey, do the report now, and I will bet the 6 months in the last 6 months would be much different than what they are quoting today.

I believe compacts are clearly bad for America. I urge my colleagues to reject their extension and insist they not, again, be slipped into another appropriations bill in the dead of night.

To wrap up about the dairy bill—I also wanted to talk about the Agriculture appropriations conference we are considering. I am pleased again it contains the $8.7 billion in emergency appropriations. I urge the USDA to work to get the assistance to our Nation's farmers without delay.

I am also encouraged by conference report language urging the President to be more aggressive in strengthening trade negotiating authority to help American farmers and also in expressing Congress' goals for the upcoming negotiations. The conference report is not perfect but it will give our farmers the help to make it through another year. But it will be imperative that Congress continues to address reforms in our trade sanctions, EPA regulations, crop insurance, and also in the Tax Code for farmers to have an environment in which they can truly thrive. I am also glad conferees added additional assistance to farmers who suffered through these natural disasters.

I urge the USDA, when it is distributing the aid, to remember farmers in the northwestern part of my State of Minnesota have been prevented from planting due to flooding. In fact, some farmers in the northwestern part of Minnesota have not had crops now for 7 years because of varying disasters: Flood, drought, disease, et cetera. In northwestern Minnesota this year, crop agents and FSA crop acreage reports show that 70 to 75 percent of the entire area's tillable acres were prevented from being planted in 1999. Only 10 percent of the normal intended acreage of annual crops will be harvested this year at all. Rainfall amounted to over 200 percent of normal in the critical planting months of April, May, and June.

I know there have been many farmers across the Nation affected by drought this year, just the opposite of the problems we have had. But I do expect USDA to provide sufficient and equitable relief to farmers in northwestern Minnesota who have been shortchanged in the past by some of these relief bills. I now hope Congress will turn to enacting long-term solutions that will make such emergency packages as this one unnecessary.

Mr. President, I look forward to working with my colleagues to fulfill our responsibilities to the American farmer.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). Who yields time? The Senator from Florida.

Mr. GRAHAM. Mr. President, I rise to ask the manager of the bill a question relative to fiscal provisions within this bill. The context of these questions is when we commenced this session of Congress, the Congressional Budget Office estimated the non-Social Security surplus for fiscal year 2000 would be approximately $21 billion. Thus far, we have committed $7 billion of that to the 1999 supplemental appropriations bills through the designation of various items as emergencies.

This bill has additional items designated as emergencies totaling $8.7 billion. The effect of this, plus prior action, would be to reduce the estimated non-Social Security surplus to $5.3 billion.

We also have in the offing other emergency provisions which will total approximately $15 billion and thus eliminate the non-Social Security surplus and place us in a position of having to do what we have all committed not to do, which is to dip into the Social Security surplus by in excess of $10 billion.

In that context, I want to ask the manager a short list of questions, and I say to my good friend, the Senator from Mississippi, I commend him for the work he has done this year and in previous years on behalf of American agriculture. I know the frugality with which he approaches his task. He has been faced, as has happened in the past, with an unusual set of circumstances affecting American agriculture and thus the necessity for emergency spending.

What is the level of emergency spending included in this conference committee report?

Mr. COCHRAN. Mr. President, if the Senator will yield, the amount included in the conference committee report that is attributable to emergencies is $8.7 billion which is for disaster assistance and economic assistance for farmers.

Mr. GRAHAM. How much has been designated for emergency spending in the Senate bill which this body passed?

Mr. COCHRAN. Mr. President, when we passed the bill in the Senate, there was $7.6 billion approved by the Senate as emergency spending for agriculture.

Mr. GRAHAM. And how much had been approved by the House in its original version of the Agriculture appropriations bill?

Mr. COCHRAN. Mr. President, the House bill contained no funds for disaster assistance or economic assistance designated as emergencies.

Mr. GRAHAM. I thank the Senator. The emergency spending items which were included in the fiscal year 2000 conference report, what is their degree of adherence to the statutory criteria for emergency spending, which are that spending must be necessary, sudden, urgent, unforeseen, and not permanent in character?

Mr. COCHRAN. Mr. President, it is my understanding there is no statutory test for defining or deciding what is and is not an emergency. Even for OMB, it is a matter of policy, as we understand it, and that is an executive branch agency under the jurisdiction of the President of the United States.

In the Senate, an emergency is whatever the Senate decides is an emergency. A majority of the Senate can designate an event or an appropriation as being for an emergency purpose, and that is how we judge whether it is an emergency—whether a majority of the Senate approves it as such.

Mr. GRAHAM. To the extent those criteria of emergency being necessary—sudden, urgent, unforeseen, and not permanent—if those were the criteria, what proportion of the $8.7 billion of emergency spending would meet those standards?

Mr. COCHRAN. Mr. President, I say again, we have no set of criteria. There is no statute that provides any criteria or test against which a finding of emergency need be made. So it would be presumptuous on my part to try to answer what part or if all of the emergency spending in the bill would stand the test of the criteria the Senator has identified. All five of the ones you have listed are subjected to—there is no analytical test, in other words, with which one can do this. I do not think there is any substitute for good judgment and common sense myself, and I think that is what the Senate relies upon.

Mr. GRAHAM. In the fiscal year 2000 budget, how much is budgeted for emergencies that potentially will occur in the fiscal year that began on October 1?

Mr. COCHRAN. The Appropriations Committee allocations that were made to each subcommittee do not contain a designation for emergencies as such. And as far as I know, the budget resolution did not contain any specific section with an authorization or a designation of funds in the budget for emergencies.

Mr. GRAHAM. If I can editorialize a moment on that question, it seems to me this would be analogous to a family which, for instance, in its budget had said: We will estimate the cost of medical care for our family will be $250. At the end of the year, they found, in fact, it was $1,000. They had to make certain end-of-the-year adjustments in order to fill that $750 missing element in their budget. When they began to write the budget for the next year, one would think prudence would say: Let's include $1,000 as our medical expenses, not a number which has been proven to be inadequate.

I suggest somewhat the same analogy would be applicable here. If we have shown there is $8.7 billion of emergency spending and we have appropriated zero for those emergencies, for the future it would be prudent to begin to incorporate into our ongoing budget some funds to respond to these emergencies. We do not know the characteristics, we do not know the geographic location, we do not know when the emergency will occur, but we are pretty sure there is going to be some kind of emergency somewhere in American agriculture that will warrant a response.

Prudence would indicate we ought to have a fund from which to meet those needs so that every year we are not in the position of having passed an emergency appropriation which, as we know, has the effect of vitiating all of the normal budgetary rules, including budgetary rules that require we offset spending with either reductions in spending elsewhere or with additional revenue. The effect of this is to go directly to the budget surplus.

Mr. COCHRAN. Mr. President, if the Senator will yield, I think his point is illustrated by the fact we have seen legislation introduced to reform and improve the Crop Insurance Program to get at that kind of problem. If farmers find crop insurance both affordable and effective to compensate them for losses of this kind, they would buy crop insurance. We have a flawed program now. We are trying to get the legislative committee to act on legislation on that subject.

Senator LINCOLN from Arkansas and I have cosponsored a bill that we think is needed in order to make that kind of program effective and more attractive in the South. We think the current program does not represent a reasonable or thoughtful investment of a farmer's funds—at least that is the attitude of most southern farmers with whom we have talked on this subject.

One other point on this and that is, there is a Federal Emergency Management Agency appropriation that is made every year. That is a subject in the budget resolution, and we have in the VA-HUD appropriations bill funds to appropriate to that agency to respond to the needs of people confronted with disaster. It is not that the budget is silent on the subject of disasters. There is the Crop Insurance Program that is subsidized by the Government, and there is the FEMA program that is funded in the budget each year.

Mr. GRAHAM. The other two questions relative to the budget relate to advance funding. Is there any advance funding in this conference report, i.e., funds that were normal fiscal year 2000 expenditures which are delayed to a future fiscal year?

Mr. COCHRAN. Mr. President, as far as the regular appropriations bill for fiscal year 2000 funds are concerned, there is no advance funding. In the disaster assistance package, there is $30 million for advance funding of fisheries disaster assistance.

Mr. GRAHAM. Finally, relative to the payment adjustments, is there any change in this conference report relative to the timing of payments made to vendors that are beneficiaries which will have the effect of moving fiscal year 2000 costs into future years?

Mr. COCHRAN. Mr. President, there is none that this Senator knows about.

Mr. GRAHAM. Thank you very much.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, how much time is left on our side?

The PRESIDING OFFICER. Nine minutes 22 seconds.

Mr. HARKIN. How much? Nine minutes and how much?

The PRESIDING OFFICER. Nine minutes 15 seconds.

Mr. HARKIN. I will yield myself 4 minutes and hurry.

I want to say a few words about both parts of the bill before us. The first part is the regular fiscal year 2000 Ag appropriations bill. I commend and thank the chairman, Senator COCHRAN, and thank our ranking member, Senator KOHL, for their hard work and conscientious effort to craft this bill under difficult spending constraints.

There are important provisions in the bill providing funding for agriculture programs, agricultural research, food safety, nutrition, conservation, rural economic development, and in other areas. There are a number of items in this bill that are especially important to my State of Iowa, which I will not list here. I just want to say the regular fiscal year 2000 bill is basically a good bill under the circumstances.

There is a matter that deserves special mention; and that is, in the Senate we had an overwhelming vote of 70–28 to remove sanctions on food and medicine. The Senate conferees also voted in the conference to hold the Senate position, but the House conferees adjourned before we could even vote on sanctions reform. So after all these years of hearing all the talk about removing embargoes on food and medicine, the Republican leadership in the House walked away before we had a chance to reform it. So we still have embargoes on food, embargoes to keep our farmers from selling food to foreign customers.

I also want to mention a provision that was stuck in this bill on the H2A program. That program allows bringing in foreign agricultural workers if the employer cannot find domestic workers. The provision in this bill will significantly shorten the time during which an employer has to look for U.S. workers before bringing in foreign workers.

I recognize that it can be hard to find U.S. workers for agricultural jobs in some instances, but I do not think that Congress ought to be changing the law to make it easier to cut U.S. workers out of those jobs and give them to foreign workers.

I now will turn to the emergency assistance package, which totals about $8.7 billion. My colleagues and I have been working since last May to get this Congress to pass a farm assistance package. We had to fight for too long this summer even to get a recognition here in Congress that there is a farm crisis. Then we had to fight to get this Congress to take any action. And finally, we had to fight for a package that would be adequate to deal with the severe economic hardship in rural America.

So, we have come a long way since last spring. This emergency package will provide a good deal of assistance to help farm families survive this crisis. I am disappointed, however, that the bill uses the same payment mechanism as the failed Freedom to Farm bill and that it does not contain an adequate amount of assistance to respond to the droughts and other natural disasters around the country.

The emergency package has far too little in it for livestock producers—particularly for pork producers who have lost $4 billion in equity over the past 22 months. And it contains no money for emergency conservation work and repairing flood damage. Nor is there any economic development assistance for rural communities that are suffering because of the downturn in agriculture.

On balance, I am supporting the emergency package because it will get some money out to farm families who are struggling to remain in business.

As I have said, it is like throwing a leaking liferaft to a drowning person. That is how I feel. I am standing on the shore. Someone is drowning. All I have is a leaking liferaft. Do I throw it to them or not? Of course, I do, in the hopes that shortly we will get something better. But right now our farmers are drowning. They are sinking. So this emergency bill will help for a little bit, but it is not a long-term solution to the problem.

The fact that Congress is passing a stopgap emergency package for the second year in a row demonstrates that our current farm policy is not working. We must reform the failed Freedom to Farm bill before next year.

Unless we reform Freedom to Farm, all the signs indicate farmers are going to need another emergency package next year, too. Frankly, you can only go to the well so many times.

We cannot continue to have a farm policy in this country that lurches from one crisis to the next. It is time to address the root problem: the lack of a farm income safety net in the Freedom to Farm bill. The Freedom to Farm bill has to be changed to restore farm income protections that were eliminated when the bill was enacted.

Freedom to Farm is a bankrupt farm policy and it is bankrupting America's farm families.

As we have said repeatedly, this bill uses a payment mechanism that has nothing to do with what farmers planted this year. The Freedom to Fail bill is already a proven failure. So why on Earth would we want to go right back to the Freedom to Fail bill to try to remedy its shortcomings? This bill includes $5.5 billion in Freedom to Farm type payments. They would be paid out based on base acres and yields set some 20 years ago. The payments would have nothing to do with this year's planting. In fact, they can go to people who planted nothing.

Using the so-called "three-entity rule," an individual could get $80,000 of these payments and not have planted anything. Add that to the $80,000 in regular AMTA payments, which they also could get without planting anything. This bill then also doubles the payment limit for marketing loan gains and loan deficiency payments to $150,000. Now in practice, that is $300,000 through the use of the three-entity rule. The total that potentially could be paid to one individual then is $460,000.

This bill does not treat oilseeds fairly. There is a very complicated and confusing program for providing direct payments to oilseed producers. It is going to take a long time to get this program sorted out and to get the payments out to producers of soybeans and other oilseeds—and the payments are not going to be fairly distributed among producers. Here is the real irony of this emergency assistance package. With the AMTA type payments, if you did not plant anything this year you can still get as much as an extra $80,000 under this package.

I have some examples under the payment scheme we have in this emergency package. All of these farmers have 500 acres of land, half planted to corn and half planted to soybeans. Yet the payments range anywhere from $19,941 down to $2,040—three neighbors right in a row, farming 500 acres—half in corn and half in soybeans. Or you can have a farmer who decides to go to Palm Beach. He has 500 acres. He did not plant anything. He is going to get $17,901 even though he never did anything. Yet for farmers in the State represented by my friend from North Carolina, who have had disaster losses—or farmers in Iowa, the Dakotas, Minnesota, the Northeast and East who have had drought or other disaster losses—they are going to get pennies on the dollar. Farmers who worked hard, planted a crop, have hardly anything to show for it. But here is a hypothetical example of a farmer who planted nothing, who has 500 acres, and he is going to get $17,900. That is not right.

Let me run through these examples in a little more detail. I ask unanimous consent that a table summarizing the examples be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Farmer	Smith	Jones	Brown	Palm Beach
Total acres	500	500	500	500
Corn base acres	500	250	0	500
Corn planted	250	250	250	0
Soybeans planted	250	250	250	0
Payment	19,941	10,990	2,040	17,901

Mr. HARKIN. For the first farmer, Smith, all 500 acres are corn base.

Those are the acres on which the direct AMTA-type payments are made. Again, 250 acres planted to corn and 250 acres planted to soybeans. That farmer will receive an additional AMTA type corn payment of $17,901 and a soybean payment of $2040, for a total of $19,941. Keep in mind this farmer is receiving both a corn payment and a soybean payment on the very same acre on some of the land.

The second farmer, Jones, has 500 acres, but this farmer has only 250 acres of corn base. Again, 250 acres in corn and 250 acres in soybeans. This farmer will receive $8950 in AMTA type corn payments and $2040 in soybean payments, for a total of $10,990.

Another farmer, Brown, has 500 acres, but no corn base, with half the land in soybeans and half in corn. This farmer will receive $2040, because that is all that would be paid on the soybeans.

In summary, 500 acres of land, half planted to corn, half planted to soybeans, and you have a range of payments from $2040 all the way up to $19,941. All because the AMTA payments are based on what was planted 20 years ago or more, not on what farmers are planting now.

And here is the real kicker, a landowner who chooses to plant nothing can receive a payment. So the owner of that 500 acres could still receive the $17,901 without planting a seed. I call this the Palm Beach Farmer example.

Mr. President, there is a lot wrong with this bill, but there is an overriding need to get assistance out to farmers. Frankly, I have little confidence that we would get anything better if this bill were sent back to conference. I have amendments that I am still prepared to offer. But we couldn't even get the House conferees to come back to the table. They were forbidden by their leadership to do so.

This bill could have been much better, and I deeply regret that we were foreclosed from improving it. So I will vote for this conference report,with some reluctance, simply because so much is at stake for farm families and rural communities in my state of Iowa and across our Nation.

As I said, it amounts to throwing a leaking liferaft to a drowning person. Let's throw the liferaft out; but let us change the bill next year so we are not back once again trying to pass emergency farm assistance.

I yield the floor.

Mr. EDWARDS. Mr. President, first, I thank my friend, the Senator from Mississippi, and the Senator from Wisconsin for all their hard work on this very difficult bill. I intend to support this bill.

Let me talk briefly about what this Agriculture Appropriations bill does for North Carolina and what it will not be able to do for North Carolina. In North Carolina, we talk about things in terms of before and after Hurricane Floyd, unfortunately.

Before Hurricane Floyd, our farmers were struggling, having very difficult times, financially and otherwise. Their crop prices were at the lowest levels they have been in many years. And they needed help; they desperately needed help. One of the things this bill does is provide some of that help in the way of direct market assistance for some of the problems they had before Hurricane Floyd.

We have about $328 million in this conference report for North Carolina's tobacco farmers. I have to say, for those around the country who are not familiar with North Carolina's farming operations, an awful lot of our farmers are tobacco farmers. They may farm a lot of other crops, but tobacco is often the staple that allows them to farm those other crops. This money was desperately needed. And they needed it now. They needed it even before Hurricane Floyd hit. Having visited with our farmers, including our tobacco farmers, all over the State of North Carolina, we are very pleased and very proud that we were able to get them the assistance which they deserved and which they needed.

Sadly, though, I have to also talk about the situation after Floyd. This bill provides $1.2 billion for disaster relief. I have to say, I think this is way short of what we are going to need in North Carolina. We have a real emergency, I think by anybody's standards, in the agricultural farming community in North Carolina as a result of Hurricane Floyd.

I have been all over North Carolina and have spent a lot of time in eastern North Carolina, visiting our farms that have been devastated by Hurricane Floyd. The reality is, this is a loss from which it is going to take many years to recover.

Of this $1.2 billion, some reasonably sized chunk of that money will go to farmers in North Carolina. It will not ultimately be enough. But it is critically important that we get some of that money to them, and get it to them quickly. I urge the Secretary of Agriculture to do as much as he can to get as much of this money as is possible disbursed in the immediate future because these farmers need help. They already needed help before Hurricane Floyd. And they need help now more than ever. They need it immediately.

What this photograph I have represents is what I saw all over eastern North Carolina as a result of Hurricane Floyd and in the wake of Hurricane Floyd. We can see almost the entire farm—except for the farmhouse—is under water. This property, which has been involved in farming for many years, is now under water. And the crop losses have been completely devastating.

This scene is repeated over and over and over, all over eastern North Carolina. We are told the best estimates are, at this point, that there is somewhere between $800 million and $1 billion in agricultural losses in North Carolina. Obviously, the money in this bill is not going to be adequate since it is for the entire country. It is not going to be adequate to deal with the loss in North Carolina alone which approaches $1 billion. We are going to have to do more.

I want the people of North Carolina, and particularly our farmers in North Carolina, to know that we fully recognize they need help. They need help quickly. They do not need loans. They were already up to their necks in debt and up to their necks in loans before the hurricane hit. They need help. They need direct disaster relief, and they need it immediately.

I point out, both for my farmers in North Carolina and to my colleagues, that the money that was recently put in the VA-HUD conference report, the approximately $2.48 billion for FEMA, will not help with the farming problem in North Carolina because that money is not designated and indeed cannot be used specifically for agriculture.

We are going to have to have some direct appropriation through some vehicle in this Congress—this session—to help our farmers because if we do not they are going out of business. They are the heart and soul of North Carolina and to our economy in North Carolina, and particularly to our rural economy in North Carolina. We have to be there for them. They have been there for us. We have to step to the plate and provide them with the support they need.

Finally, I express my disappointment with the lack of any dairy legislation in this conference report.

I supported dairy legislation. I continue to support it. We recognize the plight of dairy farmers in North Carolina. We understand the difficulties and problems they have. We will continue to search and aggressively pursue ways to solve the problems with which they are confronted.

Again, I thank the distinguished managers of this measure.

I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, may I inquire how much time remains for debate on the conference report under the order.

The PRESIDING OFFICER. Ten minutes 53 seconds remain. All time is majority time.

Mr. COCHRAN. The Democrats have used all time allocated to them.

The PRESIDING OFFICER. All time has expired on their side.

Mr. COCHRAN. Mr. President, I will yield back time if no other Senator seeks recognition because I don't need to talk anymore.

I have talked enough about the bill, trying to explain that we have attempted to identify not only the emergency needs that exist by reason of the collapse of prices for commodities for agricultural producers but also the disaster assistance that is needed now to compensate those who have suffered drought-related and other weather-related disasters on the farm.

We have in the conference report a statement by managers indicating that we realize it may be difficult or impossible to ascertain the exact dollar amount of losses attributable to disaster during this crop year. For that reason, we call upon the Department of Agriculture, the Secretary, to monitor the situation and submit to the Congress, if it is justified, a supplemental budget request for any additional funds.

We are confident the Senate and the House, as well, will carefully consider any supplemental request for such funds. We think this is a generous response to the needs in agriculture, but we know it is not enough to satisfy every single need of every individual in agriculture. I don't know that anybody could design a program that would do that. I don't recall there ever being a more generous disaster assistance program approved by this Congress than this one—$8.7 billion in emergency assistance. We hope that will be helpful. That is only a part of this legislation, however.

There is $60 billion of funding for all the fiscal year 2000 programs that will be administered by the Department of Agriculture and also funds for the operation of the Food and Drug Administration and the Commodity Futures Trading Commission. This bill is within its allocation under the Budget Act. It is consistent with the budget resolution adopted by this Congress. We are hopeful the Senate will express its support by voting overwhelmingly for the conference report.

I am aware of no other Senator who has requested time to speak on the bill. I know we have 5 minutes remaining on the bill. To await the arrival of any Senator who does want to speak, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, all time has been used on the conference report on the Agriculture appropriations bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. COCHRAN. Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative assistant called the roll.

The result was announced—yeas 74, nays 26, as follows:

[Rollcall Vote No. 323 Leg.]

YEAS—74

Abraham
Akaka
Allard
Ashcroft
Baucus
Bayh
Bennett
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bunning
Burns
Byrd
Campbell
Cleland
Cochran
Conrad
Coverdell
Craig
Crapo
Daschle
DeWine
Domenici
Dorgan
Durbin
Edwards
Enzi
Feinstein
Fitzgerald
Frist
Gorton
Gramm
Grams
Grassley
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Levin
Lincoln
Lott
Lugar
Mack
McConnell
Murkowski
Murray
Reid
Robb
Roberts
Rockefeller
Sessions
Shelby
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone
Wyden

NAYS—26

Biden
Chafee
Collins
Dodd
Feingold
Graham
Gregg
Jeffords
Kyl
Lautenberg
Leahy
Lieberman
McCain
Mikulski
Moynihan
Nickles
Reed
Roth
Santorum
Sarbanes
Schumer
Smith (NH)
Snowe
Specter
Torricelli
Voinovich

The conference report was agreed to.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. COVERDELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

COMPREHENSIVE NUCLEAR TEST-BAN TREATY

MOTION TO RESUME EXECUTIVE SESSION

Mr. LOTT. Mr. President, I now move that the Senate resume executive session in order to resume consideration of the Comprehensive Nuclear Test-Ban Treaty as provided in the previous unanimous consent, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, the Senate is not in order.

Mr. DASCHLE. Mr. President, I ask unanimous consent both leaders be allowed to use leader time prior to the time we have this vote.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. I object at this time.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent to speak for 15 minutes prior to the vote.

Mr. LOTT. Reserving the right to object, Mr. President, I note we do have some approximately 3 hours of time remaining on the treaty itself. We intend to yield back 54 minutes of our time so there will be an exact equal amount of time available to both sides. I believe that would be the appropriate time to have debate on this treaty, on its merits or on how to proceed.

Therefore, with great respect, I would object.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 55, nays 45, as follows:

[Rollcall Vote No. 324 Leg.]

YEAS—55

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Cochran
Collins
Coverdell
Craig
Crapo
DeWine
Domenici
Enzi
Fitzgerald
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—45

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Bryan
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Schumer
Torricelli
Wellstone
Wyden

The motion was agreed to.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. ASHCROFT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

COMPREHENSIVE NUCLEAR TEST-BAN TREATY—Resumed

Mr. LOTT. Mr. President, I yield back all time under our control with the exception of 54 minutes, which would then put both sides with an equal amount of time.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from West Virginia.

Mr. BYRD. Mr. President, may I have the attention of the majority leader.

Mr. President, may we have order in the Senate.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I say what I am about to say without rancor. I hope I can.

I have been in this body now 41 years at the end of this year. I was majority leader for 4 years, then minority leader for 6 years, and then majority leader for 2 more years.

Mr. President, as majority leader, and as minority leader, I never once objected to a Senator's request to speak for a few minutes—15 minutes in my case today—nor do I ever expect to object to another Senator's request to speak. My request was for only a short amount of time. The distinguished majority leader objected. He has a perfect right to object. I don't question his right to object. But, Mr. President, I think we have come to a very poor pass in this Senate when Senators can't stand to hear a Senator speak for 15 minutes. Our forefathers died for the right of freedom of speech. I may not agree with what another Senator says, but, as someone else has said, I will defend to the death his right to say it.

Mr. Leader, I very much regret that you objected to my request to speak for 15 minutes. I don't get in your way in the Senate often.

Mr. President, I want to adhere to the rules. I don't get in the distinguished majority leader's way very often. He doesn't find me objecting to his requests. I know he has great responsibilities as the majority leader of the Senate. He has a heavy burden. Having borne that burden, having borne those responsibilities, I try to act as I should act in my place and let the two leaders run the Senate. I don't cause the majority leader much trouble here. He will have to say that. He will have to admit that. I don't get in his hair. I don't cause him problems. But, Mr. President, when a Senator, the senior Senator of the minority asks to speak for 15 minutes, I think it has to be offensive, not only to this Senator but to other Senators.

I would never object, Mr. Majority Leader, to a request from your side. Suppose STROM THURMOND had stood to his feet. He is the senior Member of this body. I think there has to be some comity. I think it comes with poor grace to object to a senior Member of the Senate who wishes to speak before a critical vote.

Now, the majority leader said in his opinion, or something to that effect, that I could speak after the motion had been decided upon, and there would be time allowed under the order, and there would be time then to make a speech. That was his opinion.

In this Senator's opinion, this Senator felt that it was important for this Senator to speak at that time. Not that I would have changed any votes, but I think I had the right to speak. What is the majority leader afraid of? What is the majority leader afraid of?

Mr. LOTT. Will the Senator yield?

Mr. BYRD. I will yield in a moment. I will accord the Senator that courtesy.

Mr. President, what is the majority leader afraid of? Is he afraid to hear an expression of opinion that may differ from his? As majority leader, I never did that. When I was majority leader, I sought to protect the rights of the minority. That is one of the great functions of this Senate, one of its reasons for being. I would defend to the death the right of any Senator in this body to speak. Fifteen minutes? Consider the time we have spent. We haven't spent a great deal of time on this treaty. I regret very much the majority leader saw fit to object to my request to speak.

Now, I am glad to yield to the distinguished majority leader. Mr. President, I ask that my rights to the floor be protected. I am not yielding the floor now.

Mr. LOTT. Mr. President, will the Senator yield to me to respond?

Mr. BYRD. Yes.

Mr. LOTT. Let me begin by saying the same thing Senator BYRD said at the beginning of his remarks. I respond without any sense of rancor. I know that sometimes in the Senate we get very intent and very passionate about issues. I know this issue is one we all are very concerned about, and passions do run high, as they should, because we have very strongly held opinions. Thank goodness, though, we still are able to do as we did last night, retire to another building and enjoy each other's friendship and company, and then we return to the issues at hand. We debate them mightily, with due respect and without rancor.

As far as the amount of time that has been spent on debate on this treaty, I went back and checked recent treaties. In fact, the only one that took as much time on the floor of the Senate as this treaty in recent history was the chemical weapons treaty, in which, I remind the Senator, I was also involved. Usually treaties are debated a day or two, 6 hours or 12 hours. I think this one is going to wind up being about 15 or 16 hours. I think we have had time to have the debate that was necessary on this issue. After all, it has been pending in various ways for at least 2 years, and the treaty was actually signed, I think, way back in 1995, if I recall correctly.

I understand what Senator BYRD is saying. I, too, have been around awhile. I know only Senator THURMOND can match your record. But I have been in Congress 27 years myself. I served in the House 16 years, where I was chairman of the Research Committee. I served 8 years as the whip of my party in the House. I have been in the Senate since 1989, where I served as secretary of the conference, the whip, and leader. I understand the importance of the differences between the two bodies and the precedents and the tradition and the comity and the respect for each other. I have a great deal of respect and love for this institution and, in fact, for the Senator from West Virginia.

Having said all of that, this was a motion, a request. I made a motion to go back to the Executive Calendar, a nondebatable motion. Then there was a request in effect to have debate. It wasn't as if there wouldn't be debate on the substance of the treaty. There are almost 3 hours of time remaining on the treaty. But in that extra effort to be fair, so the closing debate would be equal, we have already yielded back 54 minutes so there would be 2 hours approximately on each side.

I want to make sure Senators have a chance to be heard and that their voices are not muted. Yours will not be, under the time we have left. But in that case, I thought the time would have delayed getting to a conclusion on this very important matter. It was a nondebatable motion, and we had time left for debate. I believed it was the correct thing to do. I regret the Senator feels strongly to the contrary.

I recognize that he has been not only not an impediment to my trying to do my job but quite often has been helpful. I appreciate that. I am sorry he feels that way.

I knew he was going to make the motion. I knew there was going to be an effort to have extended debate on a nondebatable motion to go back to a treaty, which I had, frankly, made a mistake, probably, in interrupting it to go to the Agriculture appropriations conference report. I did it because we need to get to these appropriations bills, as the Senator knows.

Majority leaders have to balance time schedules and views of Senators and different bills, appropriations bills, the desire to get to campaign finance reform. I gave my word to more than one Senator that we would begin today on campaign finance reform. I am still determined to keep that commitment. But if it is 8 or 9, they will say: Well, you didn't keep your word. It is too late. All of that came into play.

I assure you, I would want Senator BYRD's voice to be heard, Senator DASCHLE's, on any nondebatable motion and on this treaty. I am sure the time will come when I will stand up. In fact, I remember one occasion—Senator DODD will remember this because he came to me and said: I appreciate your doing that—when there was an effort to cut you off. I stood up and said no. I asked unanimous consent that the Senator have that time. I stood up when I thought it was unfair. This time, on a nondebatable motion to go back to the Executive Calendar, I thought it was unfair, in fact, to have an extended debate on that.

I appreciate your giving me a chance to respond. I hope we can work through this. We will get to a final vote. Sometimes we come up with agreements that allow things to go to another day. Sometimes we strive mightily and we can't reach that. And sometimes you just have to fulfill your constitutional responsibility and you just vote.

Mr. DASCHLE. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. LOTT. Mr. President, I ask unanimous consent that my time be taken out of our side and not yours.

Mr. DASCHLE. Mr. President, reserving the right to object. I ask unanimous consent that, since neither of the statements made by the Senators relates directly to the treaty, none of the time be taken out of the limited time remaining for debate on the treaty.

Mr. LOTT. Mr. President, I will not object.

I reiterate that we need to get to a conclusion on the debate and have the vote on this issue, so we can move to campaign finance reform, as I committed to Senator MCCAIN, within a reasonable hour tonight. But I will not object.

Also, I yield the floor because I don't want to eat up any more time in the late afternoon.

Mr. BYRD. The Senator doesn't have the floor to yield.

Mr. LOTT. I yield as far as my comments are concerned back to the Senator who has the time.

The PRESIDING OFFICER. Without objection, the time will be reasserted to its original agreed period for each side.

Mr. BYRD. If the distinguished majority leader will listen, I want his attention. I don't want to say anything behind his back. He might be offended. I want him to hear what I say and be able to respond to it.

Mr. President, the distinguished majority leader spoke about how long he served in the House. That had nothing to do with my request for 15 minutes. I served in the Senate 30 years before the distinguished majority leader ever got to the Senate. Two-thirds of the Members of this Senate have never served with me when I was majority leader in this Senate. Two-thirds. I am not interested in what the rules of the House are. I served over there.

I am interested in free speech, freedom of speech. May I say, in response to the distinguished majority leader, I know what the rules are. I know that the motion to return to executive session is not debatable. I know that very well. Mr. President, the distinguished majority leader alluded to an extension of debate on this treaty—something to the effect that he had heard there were going to be efforts to extend that debate. I am not one of those. I wasn't part of that, and I never heard of it. So help me God, I had no desire to extend the debate. I wanted to say something about that motion, not just about the treaty. I wanted to speak before the motion. I was denied that right—not that I would have changed any votes, but it is my right as a Senator.

There is too much of what the House does that we don't need to do in this Senate. I am afraid that too many Senators feel that we need to be like the House. This Senate exists for the protection of the minority, for one thing. It also exists to allow Members to speak freely and to their heart's content. I understand unanimous consent agreements. I have probably gotten more unanimous consent agreements than any other majority leader that ever was a part of this Senate. I walked in the Senator's shoes. I walked in the majority leader's shoes. But never—never—would I object to a Senator asking for 15 minutes to speak on a motion, notwithstanding the fact that the rules preclude debate. That is why unanimous consents have to be made. You have to get unanimous consent to speak in a situation like that. I was denied that.

Mr. President, this Senate needs to remember that we operate here by courtesy. We have to be courteous to one another. We have to remember that we work together for the country, we work for the Senate; and it is going to take cooperation and understanding. I try to be a gentleman to every Senator in this body. I don't think there is any Senator who can say I have not been a gentleman to him in my dealings with him or her. The Senate is for two main purposes; there are two things that make the Senate different from any other upper body in the world—the right to amend, which this side is often denied, and which I never denied. If there were 50, 60, or 70 amendments, I said find out from both sides how many Senators wanted to offer amendments and then we will try to get consent that there be no other amendments, and vote. So there is the right to amend and the right to speak—freedom of speech. As long as Senators may stand on their feet and speak as long as they wish, the liberties of the American people will be assured.

Mr. Leader, I will not carry this. I have said my piece today. I am offended by what the majority leader did, but I am going to forgive him. I am. I don't live with yesterday regarding relations in this Senate. I think too much of the Senate. That is why I am running again; I think too much of the Senate. I could retire and receive $21,500 more annually in my retirement than I will earn as a Senator. Besides, I could be free to take another job. But it isn't money that I seek; it isn't wealth that I seek. I love this Senate. I am a traditionalist. I live by the traditions of the Senate. I try to live by the rules of the Senate. I try to remember that if I offend a Senator today, he may be the very Senator who will help me tomorrow. I try to remember that. I try to make that a practice.

The majority leader made a mistake, if I may respectfully say so. But I will not hold that against him. I will shake his hand when this is over, because first, last, and always I try to be a man, one who can look in the eye of my fellow man and, if I have done him wrong, I want to apologize to him before the Sun sets. That is my creed. We need to have better comity than we are having in the Senate—not that I will be a problem. But the American people are watching. They see this, And the majority leader has the votes. He doesn't have to be afraid of a motion the minority might make. He doesn't have to care what the minority may say. Nobody needs to be afraid of an opinion I might express before a vote. And no time is saved by it, as we now see. No time is saved. (Laughter)

If I had any real ill will in my heart, I would take the rest of the afternoon to speak, and maybe more. But I thank the majority leader for his kindness to me in the past. I understand his problems. I don't want to get in his way. I have said things behind his back that were good. I have talked about the attributes of this leader behind his back. And anything I say today, that is all: I am getting it off of my heart. The majority leader, I think, will contemplate what has been done here today and, in the long run—if I may offer a little bit of wisdom that I possess from my 41 years of experience in this body—he will be just a little less relentless in his drive to have the majority's will uncontested.

Remember, there will come a day when he will need the help of the minority. The minority has been right in history on a few occasions and may be right again. The day may come when the minority in the Senate of today will be the majority of tomorrow. If I am still living and in this Senate at that time, I will stand up for the rights of the minority because that is one of the main functions of the Senate.

Mr. President, I yield to the distinguished majority leader if he wishes to respond to anything I said.

Mr. LOTT. Mr. President, I thank the Senator for the offer to yield. I think I have said enough. I appreciate what he has had to say. I appreciate the fact that he has said his piece and we will move on about our business. That is my attitude, too.

Mr. DASCHLE. Mr. President, could the Chair clarify as to the amount of time remaining on both sides?

The PRESIDING OFFICER. There are 45 minutes 41 seconds on the Senator's side, and 54 minutes on the Republican side.

Mr. DASCHLE. The Democratic side has 45 minutes remaining?

The PRESIDING OFFICER. Forty-five minutes 41 seconds.

Mr. BIDEN. Mr. President, parliamentary inquiry: Was that what we had prior to the motion to go back into executive session?

The PRESIDING OFFICER. No. The clock was reset. It was timed according to the original agreement, the original time the Democratic leader had been allotted.

Mr. BIDEN. Parliamentary inquiry: I thought it was 54 minutes.

The PRESIDING OFFICER. Fifty-four minutes, and then the Senator from West Virginia spoke again, and that time was deducted.

Mr. BIDEN. I ask unanimous consent that the whole colloquy —all of what took place—not go against the time of either side because I thought that was the request the minority leader made. I hope we can do that. We have a number of Senators wishing to speak. It is only 54 minutes on each side. I would appreciate it if there would not be an objection to that unanimous consent request. The clock started, 54 minutes per side; ready, get set, go.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. I object.

Mr. BIDEN. I thank my friend. I thank him for the courtesy.

The PRESIDING OFFICER. Objection is heard.

The Democratic leader.

Mr. DASCHLE. Mr. President, I am going to use my leader time. I understand I don't have to use a unanimous consent request to obtain the 20 minutes available to me. I will not use the full 20 minutes.

My colleagues are going to rise to speak to the treaty itself. Up until now, I have refrained from talking about the deliberations themselves, but I think for the RECORD it is important for us to state how it is we got here.

We just cast a vote of profound consequence. The choice that vote presented the Senate this afternoon was quite simple. It was a choice between statesmanship or partisanship.

This was not just a procedural motion. Let's begin with that understanding. The motion that just passed on a party line vote was a vote to kill the test ban treaty. What is all the more important—and people should understand—was that there was no requirement that we cast this vote. This vote was not necessary. We did not have to go to executive session. We could have precluded that vote. Nothing on the Executive Calendar would have been affected adversely by allowing the treaty to stay on the Executive Calendar.

So everyone ought to understand that. This was a voluntary choice made by the majority leader.

That is the first point.

The second point relates to how it is we got here.

This treaty was submitted, as has been repeatedly stated in the RECORD, on September 22, 1997. Ever since that time, my colleagues on this side of the aisle have requested that there be hearings, that there be some thorough consideration of this very important matter.

A number of other countries have already made the decision we were asking this body to make. One-hundred and fifty have signed it. Fifty-one countries have voted already to ratify it.

We were asking that there be hearings.

I don't know where the majority leader got his information about the length of time this treaty has been debated versus all the other treaties. It is interesting. I will submit for the RECORD all of the treaties and the consideration given them since 1972.

But just quickly to summarize, it is important to note that the Intermediate Nuclear Force Treaty took 23 days of committee hearings and 9 days of floor consideration.

The START I treaty took 19 days of hearings and 5 days of floor consideration.

The Antiballistic Missile Treaty, approved in 1972, took 8 days of hearings and 18 days—more than half a month—of consideration on the Senate floor.

Mr. President, we have had a couple of days on this particular issue. I ask unanimous consent that the entire list of treaties and the amount of time given them on the floor and in committee be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE CONSIDERATION OF MAJOR ARMS CONTROL AND SECURITY TREATIES—1972–1999

Anti-Ballistic Missile Treaty/SALT I (approved 1972):

Eight days of Foreign Relations Committee hearings;

Eighteen days of Senate floor consideration.

Intermediate Nuclear Forces (INF) Treaty (1988):

Twenty-three days of Foreign Relations Committee hearings;

Nine days of Senate floor consideration.

Conventional Forces in Europe (CFE) Treaty (1991):

Five days of Foreign Relations Committee hearings;

Two days of Senate floor consideration.

START I Treaty (1992):

Nineteen days of Foreign Relations Committee hearings;

Five days of Senate floor consideration.

START II Treaty (1996):

Eight days of Foreign Relations Committee hearings;

Three days of Senate floor consideration.

Chemical Weapons Convention (1997):

Fourteen days of Foreign Relations Committee hearings;

Three days of floor consideration.

NATO Enlargement (1998):

Seven days of Foreign Relations Committee hearings;

Eight days of floor consideration.

Comprehensive Test Ban Treaty (submitted 1997):

One day of Foreign Relations Committee hearings (scheduled).

Mr. DASCHLE. Mr. President, what Democrats sought, very simply, was complete consideration in all the committees for whatever time it may have taken to ensure we have established the kind of record we established on all the other treaties before we voted on them. That is what we asked. That is what we sought in our letter to the Majority Leader.

The Republicans' response was cynical. They proposed we limit debate to 14 hours, that there be one amendment on a side, and that no time be given to proper hearings. They left us as Democrats the choice: Filibuster the treaty on which we have called for consideration, or accept a unanimous consent agreement.

There was one reason that Republicans forced this choice—one reason, and one reason only. It was a partisan attempt to embarrass the President and embarrass Democrats. That was the reason.

So it is now clear, based upon a letter being circulated by Senator WARNER and others, that the President should delay consideration of this treaty. Over 51 Senators have now signed a letter circulated by Senators MOYNIHAN and WARNER. Nearly 60 Senators—a majority—have now said we ought to postpone consideration of this treaty.

In fact, based upon this clear belief on the part of a majority of my colleagues on both sides of the aisle, I encouraged the President to submit a statement asking the Senate to delay the vote. He did. A couple of days ago, he made a formal request that the Senate delay consideration of this treaty until a later date to allow ample consideration of all the questions raised and the tremendous opportunities presented by this treaty.

The Joint Chiefs of Staff have made similar requests. The Secretary of Defense, the Secretary of State, former Secretaries of Defense, former Chairs of the Joint Chiefs of Staff have all recommended publicly and privately that this treaty consideration be delayed.

I added to the voice yesterday. I submitted a letter to the majority leader wherein I was willing personally to commit to hold over on a final vote for the rest of this Congress, barring any unforeseen and extraordinary circumstances as defined by myself and the Majority Leader. We may have seen an example just yesterday of just such a circumstance. What happens in Pakistan, what happens in India, what happens in North Korea, what happens in the Middle East, what happens in Iraq and Iran, what happens in an awful lot of those countries could have a profound effect on the decisions made in the Senate over the course of the next 14 months.

Yet it was the view expressed by some in the majority, and now apparently all in the majority, that even in the most extraordinary circumstances, the Senate will not take up this treaty. Now we are left with nothing more than an up-or-down vote on the treaty itself.

Now I have heard the latest rumor. In the last couple of hours, we are told that it is article 18 of the Vienna Convention that requires us to act. Mr. President, nothing could be farther from the truth—nothing. Nothing in article 18 requires us to vote. The obligations of a signatory have already attached to the United States and will continue to do so until the President, only the President, makes clear the United States' intent not to become a party.

The Senate will not change this by voting the treaty down or suspending its consideration today. So don't let anyone mislead this body about the ramifications of article 18.

We find ourselves now at the end of this debate with the recognition on the part of Members in our caucus that, of all of our solemn constitutional responsibilities, there cannot be one of greater import than the consideration of a treaty. And, remarkably, incredibly, no constitutional obligation has been treated so cavalierly, so casually, as this treaty on this day. This is a terrible, terrible mistake. If it's true that politics should stop at the water's edge, it is also true that politics should stop at the door to this chamber when we are considering matters of such grave import.

I urge those colleagues who have yet to make up their minds about this treaty to do the right thing; to support it, to recognize the profound ramifications of failure, to pass it today.

I yield the floor.

Mr. DORGAN. Will the Senator yield?

Mr. DASCHLE. I am happy to yield to the Senator.

Mr. DORGAN. Mr. President, I think there was a misunderstanding regarding the previous unanimous consent request.

My understanding is the Senator from South Dakota asked unanimous consent that the presentation by Senator BYRD and the discussion between Senator BYRD and the majority leader not come out of the allocated time. I think each side had 54 minutes remaining. The Chair indicated Senator BYRD spoke twice. Senator BYRD was recognized once and did not relinquish the floor. I am not suggesting there was anything deliberate, but I think there was a misunderstanding with respect to the time that should exist. I think this side should have had 54 minutes based on the unanimous consent request made by the Senator from South Dakota.

Mr. DASCHLE. Mr. President, I also thought we had reached a unanimous consent understanding that there would not be time taken off either side for the colloquy that Senators BYRD and LOTT encountered.

As I understand it, the Chair ruled that the time up until the point that I made the unanimous consent request was not going to be taken from either side, but the remaining time was counted against us. I was making the assumption that the entire colloquy would be left outside our timeframe, and I again make that unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, I don't object, but I ask the Senator to withhold because I think we have a solution to it that will be satisfactory to both sides.

Mr. DASCHLE. I will withhold the unanimous consent request and look forward to that discussion.

I yield the floor.

Mr. HELMS. Mr. President, what is the existing time now—post the minority leader's request?

The PRESIDING OFFICER. The Senator from North Carolina has 54 minutes and there are 48 minutes 41 seconds on the other side.

Mr. HELMS. The proposal I make is that I yield back all time under our control with the exception of 45 minutes. This action again makes the time remaining exactly equal on both sides, or at least I hope it does.

The PRESIDING OFFICER. The Senator has that right. Is there objection?

Mr. DORGAN. Reserving the right to object.

Mr. DASCHLE. Reserving the right to object, if that is the Senator's solution, I am disappointed. We have a number of Senators who have not yet had the opportunity to speak. As it is, it is going to be very difficult to divide what remaining time there is.

I renew the unanimous consent request that we be given the 54 minutes that we understood we were entitled to when I made the first unanimous consent request.

Mr. HELMS. Reserving the right to object.

Mr. INHOFE. Reserving the right to object.

Mr. HELMS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, what is the time the minority leader has under his proposal?

The PRESIDING OFFICER. The minority has 48 minutes.

Mr. HELMS. We have a 3-minute difference; is that correct?

Mr. DASCHLE. Six minutes.

Mr. HELMS. The Chair says 48 minutes.

Mr. DASCHLE. I am asking for the 54 minutes the Senate was originally allotting either side when this debate began.

Mr. HELMS. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. HELMS. I yield back all time under the control with the exception of 45 minutes. This action, again, makes the time remaining equal on both sides.

The PRESIDING OFFICER. The Senator has that right.

Mr. HELMS. If they want to object to that, let them try.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I am going to ask speakers on both sides to have no conversation because we have very little time. I say to the Senators on my side, we are limiting ourselves as far as it will go to 5 minutes per Senator.

I ask unanimous consent to have printed in the RECORD a letter from the distinguished former Secretary of State, Henry Kissinger.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 13, 1999.

Hon. JESSE HELMS,
Chairman, Foreign Relations Committee,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you know, I—together with former National Security Adviser Brent Scowcroft and former CIA Director and Deputy Secretary of Defense John Deutch—had recommended in a letter dated October 5th to Senators Lott and Daschle and in an op-ed in the October 6th Washington Post that a vote on ratification of the Comprehensive Nuclear Test Ban Treaty be postponed to permit a further discussion and clarification of the issues now too controversial. This having proved unachievable, I am obliged to state my position.

As a former Secretary of State, I find the prospect that a major treaty might fail to be ratified extremely painful. But the subject of this treaty concerns the future security of the United States and involves risks that make it impossible for me to recommend voting for the treaty as it now stands.

My concerns are as follows:

IMPORTANCE OF NUCLEAR WEAPONS

For the entire postwar period, the American nuclear arsenal has been America's ultimate shield and that of our allies. Though we no longer face the same massive threat that we did during the Cold War, new dangers have arisen. Our nuclear arsenal is our principal deterrent to the possible use of biological and chemical warfare against America, our military, and our allies.

VERIFICATION

Almost all experts agree that nuclear tests below some yield threshold remain unverifiable and that this threshold can be raised by technical means. It seems to me highly dangerous to leave such a vacuum regarding a matter fundamentally affecting the security of the United States. And the fact that this treaty is of indefinite duration compounds the problem. The CIA's concerns about recent ambiguous activities by Russia, as reported in the media, illustrate difficulties that will only be compounded by the passage of time.

Supporters of the treaty argue that, because of their small yield, these tests cannot be significant and that the treaty would therefore "lock in" our advantages vis-a-vis other nuclear powers and aspirants. I do not know how they can be so sure of this in an age of rapidly exploding technology and whether, on the contrary, this may not work to the advantage of nations seeking to close this gap. After all, victory in the Cold War was achieved in part because we kept increasing, and not freezing, our technological edge.

NUCLEAR STOCKPILE

I am not a technical expert on such issues as proof testing, aging of nuclear material, and reworking existing warheads. But I find it impossible to ignore the concern about the treaty expressed by six former Secretaries of Defense and several former CIA Directors and National Security Advisers. I am aware that experts from the weapons laboratories have argued that there are ingenious ways to mitigate these concerns. On the other hand, there is a difference between the opinion of experts from laboratories and policymakers' confidence in the reliability of these weapons as our existing stockpile ages. When national security is involved, one should not proceed in the face of such doubts.

SANCTIONS

Another fundamental problem is the weakness of the enforcement mechanism. In theory, we have a right to abrogate the treaty when the "supreme national survival" is involved. But this option is more theoretical than practical. In a bilateral treaty, the reluctance to resort to abrogation is powerful enough; in a multilateral treaty of indefinite duration, this reluctance would be even more acute. It is not clear how we would respond to a set of violations by an individual country or, indeed, what response would be meaningful or whether, say, an Iranian test could be said to threaten the supreme national survival.

NON-PROLIFERATION

I am not persuaded that the proposed treaty would inhibit nuclear proliferation. Restraint by the major powers has never been a significant factor in the decisions of other nuclear aspirants, which are driven by local rivalries and security needs. Nor is the behavior of rogue states such as Iraq, Iran, or North Korea likely to be affected by this treaty. They either will not sign or, if they sign, will cheat. And countries relying on our nuclear umbrella might be induced by declining confidence in our arsenal—and the general impression of denuclearization—to accelerate their own efforts.

For all these reasons, I cannot recommend a vote for a comprehensive test ban of unlimited duration.

I hope this is helpful.

Sincerely,

HENRY A. KISSINGER.

Mr. HELMS. Mr. President, the Senate is moving toward the end of an historic confrontation against the most egregious arms control treaty ever presented to this body for its advice and consent.

The CTBT is a dangerous treaty which, if ratified, would do enormous harm to our national security. It will not and cannot accomplish its highly exaggerated stated goal of halting the spread of nuclear weapons, because as the CIA has repeatedly made clear the CTBT cannot be verified. Moreover, at the same time, it would undermine America's security by undermining confidence in the safety and reliability of our nuclear arsenal.

It is for these reasons that the Senate is prepared to vote down this treaty.

Unable—indeed unwilling even to try to respond to these facts, the White House has spitefully argued that Republicans are "playing politics" with the national security of the United States—a spurious charge, which is one of many reasons why the administration has failed to convince Senators who have raised substantive concerns.

Mr. President, the Senate Republicans' purpose in opposing this treaty is not because we seek to score political points against a lame-duck administration.

We are opposed because the CTBT is unverifiable, and because it will endanger the safety and reliability of the U.S. nuclear arsenal. Those who support the CTBT have failed to make a compelling case, and that, Mr. President, is precisely why the CTBT is headed for defeat.

The President and his Senate allies have mouthed the charge that the process has been "unfair"—that Republicans are ramming this vote through the Senate in what the White House has falsely asserted as a "blind rush to judgment."

Let's examine the record: The Senate has held seven separate hearings exclusively on the CTBT—three in the Government Affairs Committee, three in the Armed Services Committee and one final, day-long marathon hearing in the Foreign Relations Committee with 11 different witnesses. It is instructive that, after demanding for months that the Foreign Relations Committee hold hearings, only a handful of Democrat Senators even bothered to show up.

As for floor debate, we scheduled 22 hours of debate on the CTBT—more than any other arms control treaty in recent history. By contrast, the Senate held just 6 hours of debate on Conventional Forces in Europe Treaty; 9½ hours on the START Treaty; 6 hours on the START II treaty; 18 hours on the Chemical Weapons Convention; and just 2 hours on the Conventional Forces in Europe Flank Agreement.

Well, then, some of them have falsely charged, Republicans pushed their unanimous-consent request through an unsuspecting Senate, on a Friday when few Senators were in town to discuss and consider it—a demonstrably false allegation.

The majority leader shared our draft unanimous-consent request with the minority leader on Wednesday, September 29. He offered it on the Senate floor the next day, Thursday, September 30. The minority objected, and asked for more time to consider it. After consulting with the White House, with the State Department, and with the Democrat Caucus, they came back with a request for more time for the debate.

We agreed to give them an additional week before the vote, and 12 additional hours of floor debate. Then on Friday October 1—after 3 days of internal discussion—they finally agreed to a unanimous consent for a vote they had vociferously demanded for two full years. And they are complaining that we are rushing to judgment? As my friend, Senator BIDEN has often pleaded during this debate: Give me a break!

So the "politics" argument failed, and the "process" argument failed. Now they are turning in desperation to the "Chicken Little" argument, warning us of the "disastrous" consequences should the Senate reject the CTBT.

If we vote the CTBT down, they warn, India and Pakistan may well proceed with nuclear test. Well, as Senator BIDEN may plead: Give me a break! That horse has already left the barn. India and Pakistan have already tested. Why did they test in the first place? Because of the Clinton administration's failed nuclear nonproliferation policies.

For years, India watched as Red China transferred M-11 missiles to their adversary, Pakistan. They watched as this administration stood by—despite incontrovertible evidence from our intelligence community that such transfers were taking place—and refused to impose sanctions on China that are required by law. As a result, they made an unfortunate but understandable calculation that the President of the United States is not serious about non-proliferation, and that this White House is unwilling to impose a real cost on proliferating nations.

The fact of the matter is that no matter how the Senate votes on the CTBT, nations with nuclear ambitions will continue to develop those weapons. Russia and China will continue their clandestine nuclear testing programs.

North Korea will not sign or ratify the CTBT, and will continue to blackmail the West with its nuclear program. And India and Pakistan will probably test again—no matter what we do today. Because these nations know that this administration is unwilling to impose any real costs on such violations.

By defeating this treaty, the Senate will not change this calculus one iota.

We will not be giving a “green light” for nuclear testing. Such tests by non-nuclear states are already a violation of the international norm established by the Nuclear Nonproliferation Treaty. The proliferation we have witnessed in recent years has been a result of the administration's failure to enforce that existing norm, and place a real costs on violations of that norm.

Mr. President, only a willingness to impose real penalties on such violations will prevent the expansion of the nuclear club. Papering over the problem with a worthless piece of paper like the CTBT will accomplish nothing.

Let me suggest something that will happen when we defeat this treaty. This administration, and future administrations, will henceforth think twice before signing more bad treaties which cannot pass muster in the United States Senate.

This administration clearly wants the Senate's “consent” on treaties, but they are not interested in the Senate's “advice.” If they had asked our “advice” on the CTBT before they signed it, they would have known well in advance that an unvertifiable, permanent, zero-yield ban on all nuclear tests would be defeated. They would have negotiated a treaty that could be ratified.

Mr. President, when the debate ends today, there must be no ambiguity about the status of the CTBT. The Senate must make clear that this treaty is dead. Unless we vote today to explicitly reject the CTBT, under customary international law the U.S. will be bound by the terms of this treaty. The CTBT will be effectively in force. That is an unacceptable outcome.

Why must the Senate defeat the CTBT? The answer is clear: Because the next administration must be left free to establish its own nuclear testing and nuclear nonproliferation policies, unencumbered by the failed policies of the current, outgoing administration. We must have a clean break, so that the new President can re-establish American credibility in the world on non-proliferation. A credibility not based on scraps of paper, but on clear American resolve.

Mr. President, we must vote on this treaty and we must reject it. It is our duty and solemn responsibility under the Constitution.

I yield the floor and reserve the remainder of our time.

Mr. BIDEN. I yield 2 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, as a Member of the Foreign Relations Committee I sat through the day of hearings. And even in that short time—and I know you and I were there together—I was thoroughly convinced that our country will be more secure if we sign on and we ratify this treaty than if we do not.

I think we have a very stark choice. We can continue to lead the world in stopping the spread of nuclear weapons by supporting this treaty or we can start a nuclear chain reaction by opposing it. I pray that we will support this treaty.

As I said in the committee, when I was a child in grammar school—and I think a lot of you might remember this—America faced a real threat of nuclear war. In my public school we had emergency drills. We were taught that if we hid underneath our desks and we covered our eyes and we turned away from the windows, we would survive a nuclear strike. We were taught that the wood from our desks would save us from the massive destruction caused by a nuclear weapon. We also were made to wear dog tags around our necks. We were so proud of that. We thought we were being just like the people in the Army. We didn't realize the true purpose of the dog tag was so that someone could identify our body after a nuclear strike.

The kids in my generation really didn't know that much. But the kids in later generations certainly did. When I was in the House, Congressman George Miller set up a Select Committee on Children, Youth, and Families. One of our first hearings was on the impact of the nuclear disaster that was looming ahead of our children. So we had testimony from children that they feared for their lives. I do not want to go back to those days when the children of the 1980s feared a nuclear strike, or my days, when we feared a nuclear strike.

I have heard the concerns raised about the treaty. And, as I see it, the two main arguments against the treaty are verifiability and the condition of our stockpile stewardship program.

So like most Members of the Senate, I look at what the experts say on these two issues. Last week, the Secretary of Defense testified on the verification issue. He said, “I am confident that the United States will be able to detect a level of testing and the yield and the number of tests by which a state could undermine our U.S. nuclear deterrent.”

The Chairman of the Joint Chiefs, General Henry Shelton testified, “The CTBT will help limit the development of more advanced and destructive weapons and inhibit the ability of more countries to acquire nuclear weapons. In short, the world would be a safer place with the treaty than without it, and it is in our national security interests to ratify the CTBT treaty.” In fact, four former Chairmen of the Joint Chiefs who served under the Carter, Reagan, Bush, and Clinton administrations have come out in favor of the treaty.

On the condition of our nuclear stockpile, I turned to the directors of our three national laboratories. They all support ratification of the CTBT saying “we are confident that the Stockpile Stewardship program will enable us to maintain America's nuclear deterrent without nuclear testing.”

I've also received a letter from 32 physics Nobel Laureates in support of the CTBT. In discussing the stockpile issue, they write,

> Fully informed technical studies have concluded that continued nuclear testing is not required to retain confidence in the safety, reliability and performance of nuclear weapons in the United States' stockpile, provided science and technology programs necessary for stockpile stewardship are maintained.

Let me also point out that the Senate has passed an amendment to the resolution of ratification stating that if “the President determines that nuclear testing is necessary to assure, with a high degree of confidence, the safety and reliability of the United States nuclear weapons stockpile, the President shall consult promptly with the Senate and withdraw from the Treaty . . . in order to conduct whatever testing might be required.”

If our stockpile is not safe and reliable, the President will withdraw from the treaty. There doesn't have to be a Senate vote. It's not going to get bogged down in rules of the Senate. If there is a supreme national interest in withdrawing from the treaty, we will withdraw.

I also think it is important to look at the risks of not going forward with this treaty. How can the United States tell Pakistan, India, and China not to test their nuclear weapons if we don't ratify this treaty? How can we go to our friends and say, don't give Iran the technology to produce weapons of mass destruction? I fear that our failure to ratify this treaty will set off a nuclear “chain reaction” throughout the world that the United States will long regret.

An editorial in the San Francisco Chronicle puts it best in saying “A global treaty that invites every country to step forward or face condemnation is the only way to corral nuclear danger. If the world feels hostile and uncertain now, wait five years without the ban.”

We can turn it around today if we vote for this treaty. I think there are many protections in it which allow the President, any President, to say: We should go back to testing.

I yield the floor.

(Disturbance in the Visitors' Galleries)

Mr. HELMS. May we have order in the Senate.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, in these brief moments, 5 minutes for each Senator—I think it is probably not a bad idea because we have had so many hours and hours and hours of debate on this it is becoming redundant now—I would like to use this brief period of time only to bring out a couple of things that need to be reemphasized.

First of all, mistakenly—certainly not intentionally—some of the Members have stood on this floor and have implied that the Directors of our labs are in support of this treaty. I think it is very important to hear a quote from one of the Directors, C. Paul Robinson, Dr. Robinson, from Sandia National Lab, speaking in behalf of all three of the Directors.

He said:

> I and others [that's the other three] who are or have been responsible for the safety and reliability of the U.S. stockpile of nuclear weapons have testified to this obvious conclusion many times in the past. To forgo that validation through testing is, in short, to live with uncertainty.

He goes on to say:

> If the United States scrupulously restricts itself to zero yield while other nations may conduct experiments up to the threshold of international detectability, we will be at an intolerable disadvantage.

I can't think of anything worse than to be at an intolerable disadvantage.

Second, it has been implied that all these Presidents have been for it in the past, Eisenhower and Bush, and everyone has been for this treaty. In fact, this is not true. I am sure those who stated it thought it was true, but it is not true. Only President Clinton has come forth with a treaty that is a zero-yield treaty—that is no testing at all—that is unlimited in duration—not 10 years as it was in the case of Eisenhower—and unverifiable. So this is the first time. It would be unprecedented if this were to happen.

Third, I hear so many objections as to the unfairness. It doesn't really matter how much time there has been devoted for the debate on this. Everyone out there, Democrats or Republicans, any one person could have stopped this. This was a unanimous consent. It is true we had three times the time that was allocated for debate on the CFE treaty, twice the time on the START I, three times the time that was allocated on START II. That is important, of course. It shows that we did give adequate time. But the point is, any Senator could have objected. That means every Senator endorsed this schedule by which this was going to be handled.

With the remaining minute that I have, let me just say, as chairman of the readiness committee, I have a very serious concern. We have stood on the floor of this Senate and have tried to stop the President of the United States, this President, Bill Clinton, from vetoing our defense authorization bills going back to and including 1993, stating in his veto message that he doesn't want any money for a National Missile Defense System. He has fought us all the way. We would have had one deployed by fiscal year 1998 except for his vetoes. But he has vetoed it. That means that there is no deterrent left except a nuclear deterrent. That means if a missile comes over, we can't knock the missile down so we have to rely on our ability to have a nuclear deterrent in our stockpile that works. And all the experts have said they don't work now. We can't tell for sure whether they work now.

We have stood on the floor of this Senate with a chart that shows, on all nine of the nuclear weapons, as to whether or not they are working today. We do not really know because we haven't tested in 7 years. Testing is necessary. We would be putting ourselves in a position where we have no missile defense so we have to rely on a nuclear deterrent. We don't know whether or not that nuclear deterrent works.

Last, I would say I wasn't real sure what the minority leader was talking about when he talked about article 18 of the Vienna Convention. I will just read it one more time so we know if we do not kill this and kill it now, we are going to have to live under it. It states:

> A State is obliged to refrain from arguments which would defeat the object and purpose of a treaty when it has signed the treaty or has exchanged instruments constituting the treaty subject to ratification, acceptance or approval, until it shall have made its intentions clear not to become a party to the treaty.

That is what this is all about. We are the Senate that is going to reject this treaty.

Mr. KOHL. Mr. President, I rise to urge my colleagues to ratify the Comprehensive Test Ban Treaty. If two-thirds of this body fails to ratify the treaty, we are squandering a unique opportunity to make the world a safer place for our children.

The Comprehensive Test Ban Treaty is really quite simple: It bans all nuclear explosives testing for weapons or any other purposes. This treaty does not ban nuclear weapons. We currently have some 6,000 nuclear weapons in our arsenal. Nothing in this treaty requires us to give up these weapons. Nor does the Comprehensive Test Ban Treaty require us to limit our own nuclear testing in a way that we have not already chosen to do unilaterally. Yet, opponents of the treaty have painted a picture of dire consequences and doom that requires a response.

The history of the 20th century is replete with lessons about the danger posed to us by nuclear weapons. Those of us who remember when the United States dropped atomic bombs on Hiroshima and Nagasaki towards the end of World War II are vividly aware of the consequences of the use of nuclear weapons. Nuclear arms are not a dry topic for policy debate. They are devastating weapons that have been used and could be used again by any nation that currently possesses nuclear weapons or the capability to develop them.

It was not so long ago that we were in the midst of a nuclear arms race during the Cold War. Those of us who remember the Cuban missile crisis and the palpable fear that swept across the country at that time are well aware of the dangerous potential for a crisis to escalate between nations with nuclear capabilities. Yet in the midst of the Cold War, we were able to negotiate the 1963 Limited Test Ban Treaty which prohibits nuclear explosions for weapons testing in the atmosphere, outer space and under water.

Must we be on the brink of crisis or engaged in another arms race to recognize the value of a nuclear test ban treaty? The Berlin Wall may have fallen and the Cold War may be over but the possibility of new and threatening nuclear powers emerging in the next century must still inform our national security policy. Our formidable stockpile of weapons may serve as a deterrent to the current nuclear weapon states, but far more frightening is the prospect of nuclear weapons falling into the hands of a rogue nation or terrorist organization.

There is no question that a world without nuclear weapons is a safer one. However, we have long moved beyond that point. Rather, we have pursued—for the most part in a bipartisan fashion—arms control agreements and policies to stem the spread of nuclear weapons. Thus, it defies logic that the Senate would not embrace this tool to help us ensure that there are fewer nuclear weapons and fewer advanced nuclear weapons. Without nuclear explosive testing, those attempting to acquire new nuclear weapons cannot be confident that these weapons will work as intended. Banning testing is tantamount to banning the development of nuclear weapons.

Since the signing of the CTBT treaty, 154 states have signed the treaty and 51 have ratified it. A smaller group of 44 states which have nuclear power reactors or nuclear research reactors and are members of the Conference on Disarmament are required to ratify the treaty for it to go into force. Of this group, 41 have signed the treaty and 26 have ratified it. Today, only five countries are nuclear weapons states and only three countries are considered to be nuclear "threshold" states. Limiting nuclear explosive testing is the key to keeping the number of nuclear weapon states down.

For those of my colleagues who see no value in pursuing arms control and policies to limit the development of nuclear weapons—weapons that one day may be directed toward us or our allies I say that you are out of step with the American people. Arms control does not compromise our national security: it bolsters it. Polling on this issue and other arms control issues indicate that the American people recognize that we are safer if there are fewer nuclear arms in the world, especially when we continue to have the most robust conventional and nuclear forces in the world.

Indeed, the CTBT locks in our nuclear superiority, for it is the U.S. government that has conducted more nuclear explosive tests than any other nation. We are integrating the knowledge acquired during our 1000-plus tests with ongoing non-nuclear testing and the science-based Stockpile Stewardship program to monitor the reliability of our weapons. Although some critics have described this approach as risky and incomplete, the three directors of our nuclear weapons labs have all affirmed that this approach is sufficient to maintain the safety and reliability of our stockpile. And, they will continue to review these findings on an annual basis.

Should the lab directors be unable to vouch for the safety and reliability of our nuclear weapons, I have no doubt that they will advise the President accordingly. For the safeguards package accompanying the treaty, and reflecting current U.S. policy relative to the treaty, states that the CTBT is conditioned on:

> The understanding that if the President of the United States is informed by the Secretary of Defense and the Secretary of Energy (DOE)—advised by the Nuclear Weapons Council, the Directors of DOE's nuclear weapons laboratories and the Commander of the U.S. Strategic Command—that a high level of confidence in the safety or reliability of a nuclear weapon type which the two Secretaries consider to be critical to our nuclear deterrent could no longer be certified, the President, in consultation with Congress, would be prepared to withdraw from the CTBT under the standard "supreme national interests" clause in order to conduct whatever testing might be required.

In fact, opponents argue that this treaty cannot restrain nations from testing nuclear weapons because there is nothing to prevent nations from withdrawing from the treaty. That is the case, of course, for all international treaties. While there are no guarantees that this treaty will stop nations from testing, signing the CTBT makes it more difficult for a nation to conduct nuclear tests. A nation must balance its desire to conduct nuclear tests with the likelihood it will be subject to international condemnation. Will we be able to overcome international pressure should the President be advised that we need to conduct nuclear explosive tests again? I am hopeful we will never reach that point, but given the willingness of some members to reject this treaty today, I don't believe that international pressure will prevent us from heeding the advice of our nation's nuclear weapons experts.

We have heard much over the last few days from those who say that we should reject the CTBT because the treaty is not verifiable. Yes, there are some nuclear tests we will not be able to verify, particularly at the lowest levels. This would be the case whether the treaty was in force or not. There is a strong case to be made, however, that tests difficult to verify are at low enough levels to render them militarily insignificant. Treaty opponents also neglect to mention that we are worse off in our ability to monitor nuclear testing around the world without the CTBT. As Secretary Cohen stated in his testimony to the Armed Services Committee last week, "I think that our capacity to verify tests will be enhanced and increased under the treaty by virtue of the fact that we'd have several hundred more monitoring sites across the globe that will aid and assist our national technical means."

If we fail to ratify the CTBT not only are we squandering an opportunity to advance our own national security interests by limiting nuclear testing, but we are at risk of undermining everything we have achieved until now to stem the spread of nuclear weapons. As Paul Nitze, President Reagan's arms control negotiator, explained:

> If the CTBT is not ratified in a timely manner it will gravely undermine U.S. nonproliferation policy. The Nuclear Non-Proliferation Treaty (NPT), the primary tool for preventing the spread of nuclear weapons, was made permanent in 1995 based on a firm commitment by the United States and the other nuclear weapon states to negotiate a CTBT by 1996. Violation of the spirit, if not the letter of this NPT related commitment of 1995 could give nations an excuse to withdraw from the Treaty, potentially causing the NPT regime to begin to erode and allowing fears of widespread acquisition of nuclear weapons by many nations to become reality.
>
> By taking away the most significant weapon in the battle to prevent their spread, failure to ratify the CTBT would fundamentally weaken our national security and facilitate the spread of nuclear weapons. Instead of being a leader in the fight against nuclear proliferation, the United States would have itself struck a blow against the NPT.

Our military leaders have also been advocates for the CTBT. The current Chairman of the Joint Chiefs of Staff echoed Mr. Nitze's remarks when he said in his testimony last week, "The CTBT will help limit the development of more advanced and destructive weapons and inhibit the ability of more countries to acquire nuclear weapons. In short, the world will be a safer place with the treaty than without it, and it is in our national security interests to ratify the CTBT treaty." Four of the previous five chairmen of the Joint Chiefs of Staff support our ratification of the Comprehensive Test Ban Treaty.

The CTBT is not the product of one administration. Rather it is the culmination of the work and ideas of several administrations. The decision to place a moratorium on nuclear testing was first made in 1992, by President George Bush when he announced a five-year moratorium on tests to develop new warheads, and then when he signed legislation containing the Hatfield-Exon-Mitchell amendment banning nuclear testing for at least one year. That testing moratorium has been maintained by President Clinton. And, none of the major presidential candidates have said that they are prepared to end this moratorium and begin conducting nuclear tests.

This treaty is not a Democratic treaty: It was President Eisenhower who said that the failure to achieve a nuclear test ban was one of greatest disappointments of his administration. And it was President Eisenhower who said, "This Government has stood, throughout, for complete abolition of weapons testing subject only to the attainment of agreed and adequate methods of inspection and control." Mr. President, that day has arrived.

This treaty is an American achievement. It was American determination and leadership that brought the CTBT negotiations to conclusion, and it is American leadership which invigorates international arms control efforts in general. I support these efforts.

The debate we are having is being watched around the world. Our allies are dumbfounded that we are on the verge of defeating the CTBT and so am I.

I deplore the partisanship which has underscored this debate. This treaty is not about politics. I urge my colleagues to review the merits of this treaty in a non-partisan fashion. It is clear from the partisan divide that this issue is very much caught up in the politics of this institution. So, I wish we had put off further debate and a vote on ratification for another day and give the Comprehensive Test Ban Treaty the unbiased scrutiny it deserves.

Mr. GORTON. Mr. President, I have followed the Senate's consideration of the Comprehensive Test Ban Treaty with great interest, and am impressed particularly with the statement made last Thursday by Senator LUGAR—whose experience and knowledge on matters of foreign affairs and national security is highly respected by both Republicans and Democrats. I associate myself completely with his views.

I agree with Senator LUGAR that this treaty is unverifiable, jeopardizes our national security by eliminating our ability to modernize and increase the safety of our existing weapons, and will fail to achieve its principal goal: to provoke a roll call of countries that the simple phrase "rogue nations" conjures up in the minds of all Americans (North Korea, Iraq, and Iran, as well as China, Russia, India, and Pakistan) to refrain from engaging in nuclear testing.

First, I join Senator LUGAR in expressing my regret that the Senate is considering the treaty at this time. It has been my strong preference that consideration of the treaty take place after the election of the next President. President Clinton's record on this treaty has been one of political maneuvering and a legacy quest, with shockingly little attention dedicated to how this treaty serves our nation's security and foreign policy objectives. But the timing of the debate and its duration are both the results of demands by the President and Senate Democratic leader.

My support for allowing a new President, should he or she support the treaty, to make his case to the Senate based upon its merits and that administration's broad foreign policy goals, however, does not mean I am not fully prepared to vote against the treaty if the vote takes place at this time.

Senator LUGAR presented a thoughtful and well-reasoned, though devastating, indictment of the treaty: the treaty will prevent the United States from ensuring the reliability, effectiveness and safety of our nation's nuclear deterrent, which means we will not be able to equip our existing weapons with the most modern safety and security measures available; the treaty is not verifiable—not only due to our simple technical inability effectively to monitor for tests, but due to the lack of agreement on what tests are permitted or not permitted under the treaty and the cumbersome, international bureaucracy that must be forged to conduct an inspection if tests are suspected; and, most importantly, that the treaty is unenforceable, lacking any effective means to respond to nations that violate the Treaty's conditions. As Senator LUGAR stated, "This Treaty simply has no teeth. . . . The CTBT's answer to illegal nuclear testing is the possible implementation of sanctions. . . . For those countries seeking nuclear weapons, the perceived benefits in international stature and deterrence generally far outweigh the concern about sanctions that could be brought to bear by the international community."

As I have already said, this debate is premature. It may well be that the passage of years and the development of our own technology might make ratification of the treaty advisable. It is not so today by a wide margin. I must, therefore, vote against ratification in the absence of an enforceable agreement to leave the issue to the next President.

Mr. WYDEN. Mr. President, I come here today to ask a question, a question that is a mystery to the vast majority of Americans: Why will the United States Senate not ratify the Comprehensive Nuclear Test Ban Treaty?

If there were any issue debated in the history of this Senate that called for more sober reflection, more independent thought, it is how to end the proliferation and testing of nuclear weapons. This may be the greatest burden the United States will carry into the next millennium.

The United States was the first nation to develop and test nuclear arms. More than a half century ago we were the first, and so far only, nation to use those arms. Three years ago we were the first nation to sign this treaty that takes a step back from a nuclear-armed world.

No other nation in the world can possibly gain more than the United States does from this treaty.

The treaty holds real promise for putting an end to the international development of nuclear weapons. It removes the ability of belligerent nations to enhance their nuclear stockpile. It removes the ability to use nuclear test explosions to bully and threaten their neighbors. It removes the incentive to throw much-needed capital into an insatiable and wasteful weapons program.

The American people understand this simple logic better than some in this body. Over 84% of the American public understands that ratifying the CTBT is the best way to protect the United States against the threat of nuclear attack by other nations. They are not talking about defensive missiles, they are talking about an America where their children won't have to grow up as they did; under the shadow of nuclear annihilation. This treaty, they understand, is a first step toward that goal.

President Dwight D. Eisenhower was a five star general as well as a two term President of the United States. He led men in wartime against a real, living threat to the security of the United States. He led America at the beginning of the cold war, at the most dangerous time for nuclear confrontation in our history. He had a unique understanding of the needs and necessities of national security, an understanding that I don't believe any member of this chamber can pretend to possess. His view of a nuclear test ban treaty was this: that the failure to achieve such a ban, when the opportunity presented itself would "have to be classed as the greatest disappointment of any administration, of any decade, of any time, and of any party."

Opponents of this treaty say we are letting down our guard, that we are leaving ourselves open to be overwhelmed. President Eisenhower understood clearly and personally the dangers of failing to prepare for war. But it was precisely this experience with war that led him to conceive of the test ban as a means of preserving the safety and security of the American people.

This clear and rational thinking has continued, at least with our senior military leaders. The Chairman of the Joint Chiefs of Staff is responsible for our entire national defense infrastructure. It is his duty to the American people to insure that our military forces, nuclear and conventional, are strong, prepared and able to provide for the common defense. Our current Chairman, General Hugh Shelton, and Former Chairmen General Colin Powell, Admiral William Crowe, General John Shalikashvili, and General David Jones all believe firmly that, for the safety and security of the American people, the CTBT must be ratified.

President Bush signed into law a ban on American nuclear testing in 1992. As a matter of fact, we have not conducted a nuclear test for seven years. We have already stopped running this race.

Has this test ban, already in place domestically for the better part of a decade, harmed our nuclear stockpile? The President says no, our military leaders say no, and the men whose responsibility it is to maintain the weapons say no. The CTBT has the support of all of the directors of our national labs whose first responsibility is to ensure that our nuclear weapons stockpile functions safely and reliably far into the future. They confidently believe this treaty, and the continuation of the test ban, is in our national interest.

It's been seven years since we have conducted a nuclear test. We are no less safe then we were a decade ago. No one who is qualified to make the judgment believes that we need to resume testing in the future.

What would passage of this treaty mean? Without test explosions, a new nuclear state cannot know that their crude bombs will work. Only very recently, after decades, over one thousand tests, and thousands of nuclear bombs manufactured, did our bomb making experts feel confident enough to proceed without testing. Without testing no other state can achieve that level of confidence.

While testing continues there is always the possibility that a nation will develop a bomb that is smaller and more easily concealed, the perfect weapon with which to attack a superpower like the United States, perhaps even without fear of relation. Missile defenses cannot stop a bomb carried over our borders, but an end to testing can stop that bomb before it is even made.

What would the failure of Senate ratification of the CTBT mean? Failure by the Senate to ratify the Treaty would mean a future full of new and more dangerous weapons. It would make infinitely more difficult a new effort to prevent the proliferation and use of nuclear arms. Those states that are currently non-nuclear trust that, in exchange for not attempting to acquire or develop nuclear arms, the current nuclear states will cease using their own.

The Nuclear Non-Proliferation Treaty, the cornerstone of our efforts to prevent the worldwide spread of nuclear weapons, was indefinitely extended in 1995. It was extended with the promise that the CTBT would be ratified by the worlds' nuclear powers. If we defeat this treaty, we will be breaking that promise, and putting our entire world-wide non-proliferation strategy in jeopardy.

If we cannot commit to cease testing, we cannot expect other nations to adhere to their commitments on nuclear non-proliferation. When one nation tests nuclear arms, their neighbors get nervous. They are justifiably concerned for their defense and security. The natural response to this threat, for which there is no real defense, is to acquire a threat of ones own.

A rejection of this treaty by the U.S. Senate would send a chilling message around the world. The tests by India and Pakistan earlier this year highlight another, more sinister motivation for nuclear tests, the desire to threaten and intimidate. How do we expect nations like India and Pakistan to react to the Senate's rejection of this treaty?

For 50 some years we have lived under a gruesome umbrella known as Mutual Assured Destruction. This grim strategic relationship between the Soviet Union and the United States meant that the entire world lived under constant threat of global thermonuclear war. In times of great international tension we were a hair trigger away from unleashing that destruction. If the treaty fails we must contemplate the prospect of dozens of states facing each other in the same insane standoff—in Asia, in the Middle East, in Africa—over disputed borders, scarce resources and ancient hatreds.

The opponents of this treaty say we cannot afford the risk that another nation might have the skill and luck required to sneak a couple of nuclear tests under a world-wide monitoring regime. They believe that possibility is a mortal danger to the United States and the advances we have made in over 1,000 nuclear tests. I say we cannot afford the risk of another 50 years of the unfettered development of nuclear weapons around the world.

Our stockpile is secure, our deterrent is in place. The United States does not need to test as we have witnessed over the past seven years.

We unleashed the nuclear genie that has hung over the world for the last 50 years. But in that moment of leadership, when we signed the Comprehensive Test Ban Treaty, we took a strong step toward making the world a safer place. Let us today take the next step toward a safer, more secure future.

Mr. KYL. Mr. President, earlier today, the Senator from Illinois claimed that President Bush supported a moratorium on nuclear testing. This assertion is inaccurate. I ask unanimous consent to have printed in the RECORD President Bush's statement upon signing the Fiscal Year 1993 Energy and Water Development Appropriations Act, on October 2, 1992.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT ON SIGNING THE ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1993, OCTOBER 2, 1992

Today I have signed into law H.R. 5373, the "Energy and Water Development Appropriations Act, 1993," The Act provides funding for the Department of Energy. The Act also provides funds for the water resources development activities of the Corps of Engineers and the Department of the Interior's Bureau of Reclamation, as well as funds for various related independent agencies such as the Appalachian Regional Commission, the Nuclear Regulatory Commission, and the Tennessee Valley Authority.

I am pleased that the Congress has provided funding for the Superconducting super collider (SSC). This action will help us to maintain U.S. leadership in the field of high-energy physics. SSC-related research has spawned, and will continue to spawn, advances in many fields of technology, including accelerators, cryogenics, superconductivity, and computing. The program serves as a national resource for inspiring students to pursue careers in math and science. SSC related work will support 7,000 first tier jobs in the United States. In addition, 23,000 contracts have been awarded to businesses and universities around the country.

I must, however, note a number of objectionable provisions in the Act. Specifically, Section 507 of H.R. 5373, which concerns nuclear testing, is highly objectionable. It may prevent the United States from conducting underground nuclear tests that are necessary to maintain a safe and reliable nuclear deterrent. This provision unwisely restricts the number and purpose of U.S. nuclear tests and will make future U.S. nuclear testing dependent on actions by another country, rather than on our own national security requirements. Despite the dramatic reductions in nuclear arsenals, the United States continues to rely on nuclear deterrence as an essential element of our national security. We must ensure that our forces are as safe and reliable as possible. To do so, we must continue to conduct a minimal number of underground nuclear tests, regardless of the actions of other countries. Therefore, I will work for new legislation to permit the conduct of a modest number of necessary underground nuclear tests.

In July 1992, I adopted a new nuclear testing policy to reflect the changes in the international security environment and in the size and nature of our nuclear deterrent. That policy imposed strict new limits on the purpose, number, and yield of U.S. nuclear tests, consistent with our national security and safety requirements and with our international obligations. It remains the soundest approach to U.S. nuclear testing.

Sections 304 and 505 of the Act also raise constitutional concerns. Section 304 would establish certain racial, ethnic, and gender criteria for businesses and other organizations seeking Federal funding for the development, construction, and operation of the Superconducting super collider. A congressional grant of Federal money or benefits based solely on the recipient's race, ethnicity, or gender is presumptively unconstitutional under the equal protection standards of the Constitution.

Accordingly, I will construe this provision consistently with the demands of the Constitution and, in particular, monies appropriated by this Act cannot be awarded solely on the basis of race, ethnicity, or gender.

Section 505 of the Act provides that none of the funds appropriated by this or any other legislation may be used to conduct studies concerning "the possibility of changing from the currently required 'at cost' to a 'market rate' or any other noncost-based method for the pricing of hydroelectric power" by Federal power authorities.

Article II, section 3, of the Constitution grants the President authority to recommend to the Congress any legislative measures considered "necessary and expedient." Accordingly, in keeping with the well-settled obligation to construe statutory provisions to avoid constitutional questions, I will interpret section 505 so as not to infringe on the Executive's authority to conduct studies that might assist in the evaluation and preparation of such measures.

GEORGE BUSH.

The White House.

Mr. KYL. I emphasize the following excerpt from President Bush's statement:

> Despite the dramatic reductions in nuclear arsenals, the United States continues to rely on nuclear deterrence as an essential element of our national security. We must ensure that our forces are as safe and reliable as possible. To do so, we must continue to conduct a minimal number of underground nuclear tests, regardless of the actions of other countries.

The moratorium on testing to which the Senator from Illinois referred was not requested by President Bush. It was enacted by Congress as the Hatfield, Exon, Mitchell prohibition on testing, over President Bush's objections. In a subsequent report to Congress, the President responded to this prohibition as follows:

> * * * the administration has concluded that it is not possible to develop a test program within the constraints of Public Law 102-377 [the FY '93 Energy and Water Appropriations Act] that would be fiscally, militarily, and technically responsible. The requirement to maintain and improve the safety of our nuclear stockpile and to evaluate and maintain the reliability of U.S. forces necessitates continued nuclear testing for those purposes, albeit at a modest level, for the foreseeable future. The administration strongly urges the Congress to modify this legislation urgently in order to permit the minimum number and kind of underground nuclear tests that the United States requires, regardless of the action of other States, to retain safe, reliable, although dramatically reduced deterrent forces.

Mr. CRAIG. Mr. President, the Comprehensive Test Ban Treaty has far reaching domestic and international security implications, and it deserves the most thorough and thoughtful consideration by the Senate. Like my colleagues, I have followed the CTBT, and have paid close attention to the number of hearings that have taken place in recent days, and over the last few years.

Let me begin by saying that if I thought supporting this treaty would make the threat of nuclear war disappear, and give us all greater security from these lethal weapons, I would not hesitate in giving my support. Unfortunately, the facts do not demonstrate this; indeed, implementing this treaty will very likely increase danger to U.S. citizens and troops. For that reason, I am obligated to oppose ratification.

Ratification of the CTBT would prohibit the United States from conducting explosive tests of nuclear weapons of any kind. In spite of CTBT's goal of curbing the proliferation and development of nuclear weapons by prohibiting their testing, it is a dangerous and flawed agreement that would undercut U.S. national security.

American foreign policy must be based on decisions and actions that unquestionably enhance the national security interests of the United States, and nothing less. Our foreign policy cannot be based on a view of the world through rose colored glasses. Decisions must be made on the assessment of the clear and present dangers to the United States now and in the future. Let me reiterate some of those dangers confronting U.S. citizens today.

There are twenty-five to thirty countries that have sought or are seeking and developing ballistic missiles. Last August, North Korea flight-tested a long-range missile over Japan, demonstrating its potential to strike Alaska or Hawaii in the near future. Although our decisive victory in the Gulf War demonstrated to many of our adversaries that a challenge on the battlefield would be foolish, hostile states now seek to offset our conventional force strength through the development of their own nuclear weapons programs. Does this Administration really believe that if the U.S. ceased to test, nations like North Korea, Libya, or Iran would end nuclear development? The dangers to the United States are very real and threats continue to grow.

The center of U.S. defense policy is deterrence. Key to that deterrence is the credible threat of retaliation against those who would harm the U.S. and her citizens. This threat can only remain credible if our stockpile of weapons is reliable and modernized. CTBT runs counter to this objective.

Nuclear tests are the only demonstrated way to assure confidence in the reliability and safety of our nuclear weapons. The CTBT will diminish our ability to fix problems within the nuclear stockpile and make safety improvements. We have long relied on testing these extremely complicated weapons to demonstrate both their safety and effectiveness.

The Clinton Administration falsely claims that every Administration since Eisenhower has supported CTBT. What the President fails to say is that no other Administration has sought a test ban at zero yield like the current Administration. Frankly, this is a dangerous proposition for the reliability and safety of our arsenal. Former Secretary of Defense, James Schlesinger, explained the problem:

> * * * new components or components of slightly different materials must be integrated into weapon designs that we deployed earlier. As this process goes on over the years, a simple question arises: Will this design still work? That is why reliability testing is essential. As time passes, as the weapon is retrofitted, we must be absolutely confident that this modified device will still induce the proper nuclear reaction. That is why non-nuclear testing, as valuable as it is, is insufficient. It is why talk of a test ban with zero nuclear yield is irresponsible.

Mr. Schlesinger's point is well taken. Make no mistake, the effects of a zero yield test ban will be catastrophic for U.S. security interests.

The CTBT would also make it very extremely difficult to meet new weapons requirements. Throughout American military history, advances in air defense and anti-submarine warfare have created a need for new weapons, and testing has saved the lives of U.S. airmen. For example, nuclear testing was required to make the B83 bomb of the B–1B aircraft to allow the plane to drop its payload at a low altitude and high speed and escape the pending explosion. The bottom line is a test ban would harm modernization efforts, and jeopardize the lives of our men and women in uniform.

Furthermore, the CTBT will do nothing to stop proliferation, even if testing is thwarted. This treaty is based on the flawed assumption that prohibiting nuclear testing will stop rogue nations from developing nuclear weapons. However, this assumption fails to acknowledge that rogue nations could likely be satisfied with crude devices that may or may not hit intended targets. Killing innocent civilians does not seem to be a concern of leaders like Saddam Hussein of Iraq or Kim Jong-Il of North Korea. The only thing predictable about rogue nations is their unpredictability. Lack of testing is not a security guarantee. South Africa and Pakistan long maintained an untested arsenal, in spite of bold nuclear aspirations. To presume that absence of nuclear test equals enhanced security is dangerous proposition.

It is also very disturbing that ratification of this treaty would abandon a fundamental arms control principle that has been insisted upon for the last two decades—that the United States must be able to "effectively verify" compliance with the terms of the treaty. Verification has meant that the United States intelligence is able to detect a breach in an arms control agreement in time to respond appropriately and assure preservation of our national security interests.

Because the CTBT bans nuclear test explosions no matter how small their yield, it is impossible to verify. Low-yield underground tests are very difficult to detect with seismic monitors. In previous Administrations, CTBT negotiations focused on agreements that allowed explosions below a certain threshold because it is impossible to verify below those levels. As the CTBT is impossible to verify, cheating will occur, and U.S. security will be undermined.

Mr. President, I stand with all Americans today in expressing concern about the growing nuclear threat across the globe. The real question before us is whether ratification of the Comprehensive Test Ban Treaty will increase our own national security. Unfortunately, the answer is no. The sad truth about the CTBT is that it would be counterproductive and dangerous to America's national security. Moreover, I think the Senate must recognize that the implications of ratification of the CTBT is ultimate nuclear disarmament of the United States. If the U.S. cannot maintain a safe and reliable stockpile, and is barred from testing them, disarmament will be the de facto policy. The United States cannot afford this dangerous consequence. Nuclear deterrence has protected America's national and security interests in the midst of a very hostile world. I urge my colleagues to vote against this treaty.

Mr. JOHNSON. Mr. President, the United States Senate has the opportunity to take another important step in ridding the world of the threat of nuclear war by ratifying the Comprehensive Nuclear Test Ban Treaty (CTBT). It was three years ago when the United States joined nations from around the world in signing a treaty banning nuclear explosives testing. It is up to the Senate to ratify this treaty and re-establish the United States as the world leader in efforts to stop nuclear proliferation.

Over forty years ago, President Dwight D. Eisenhower began an effort to end nuclear testing. During this time, the United States and five other nations conducted 2,046 nuclear test explosions—or an average of one nuclear test every nine days. The United States has not tested a nuclear weapon since 1992 when Congress and President Bush agreed to a moratorium on nuclear testing.

Countries who sign the CTBT agree to stop all above-ground and underground nuclear testing. The treaty also sets up an extensive system of monitors and on-site inspections to help ensure that countries adhere to the treaty. Finally, the treaty includes six "safeguards" proposed by the President; the most important of which, allows the United States to remove itself from the conditions of the treaty at any point the Congress and the President determine it would be in the Nation's interest to resume nuclear testing. The current Chairman of the Joint Chiefs of Staff, four former chairmen of the Joint Chiefs of Staff, numerous former military leaders, and an equal number of acclaimed nuclear scientists and nobel laureates support ratification of the CTBT.

My support for the CTBT comes with an understanding of the limitations associated with stopping countries and rogue nations from developing, testing, and deploying nuclear weapons. Opponents of the CTBT claim that it is not a perfect document and therefore threatens the security of our Nation. While I agree that the CTBT is not the definitive answer in stopping nuclear proliferation, I contend that it is an important step in the ongoing process to prevent nuclear war in the future.

The CTBT will not threaten our national security. Most importantly, the treaty bans the "bang", not the "bomb." The United States already possesses the largest and most advanced nuclear weapons stockpile in the world. I agree that maintaining a strong nuclear deterrent is in our country's national security interest. Data collected from over 40 years of nuclear testing, coupled with advanced scientific computing will ensure the reliability and safety of our nuclear weapons without testing. As I mentioned before, the United States can also withdraw from the CTBT at any time to conduct whatever testing our country feels is necessary.

In fact, the CTBT will enhance our national security. The CTBT will limit the ability of other countries to acquire nuclear capabilities, and it will severely constrain the programs of countries that currently have nuclear weapons. With or without the CTBT, the United States has a critical national security requirement to monitor global testing activities. Verification requirements built into the CTBT will provide our country with access to additional monitoring stations we would not otherwise have. For example, the CTBT requires the installation of over 30 monitoring stations in Russia, 11 in China, and 17 in the Middle East. These are in addition to the on-site inspections of nuclear facilities that are also allowed under the treaty.

Additional monitoring stations and on-site inspections are only effective if the countries we are most concerned with actually ratify the treaty. Granted, there is no guarantee that the United States' ratification of the CTBT will automatically mean that India, Pakistan, China, and Russia will follow suit. However, it is an even greater chance that these countries will be less inclined to ratify the treaty if our country does not take the lead. For those who doubt the likelihood of other countries ratifying the CTBT, I point to the example of the Chemical Weapons Convention (CWC). It can not be refuted that the United States ratification of the CWC facilitated ratification by Russia, China, Pakistan, and Iran. Ratification by the United States is required to bring the CTBT into force, and ratification by the United States will strengthen our diplomatic efforts to influence other states to sign and ratify the treaty.

The CTBT will not rid the world of nuclear weapons and it may not even prevent all nations from conducting some kind of nuclear tests. However, the CTBT provides the best tool available for the United States to continue its efforts to combat nuclear proliferation without jeopardizing our own national security. I urge my Senate colleagues to join me in supporting this important treaty and restoring America's leadership on this issue.

Mr. GRAMS. Mr. President, the Senate's responsibility for advice and consent on treaties places a grave responsibility on the institution and its members. There is a very high bar that treaties have to meet, a two-thirds vote in the Senate. That is for good reason. Our nation takes our treaty obligations seriously, and the Senate is the final check on flawed or premature commitments. While I support the goal of controlling nuclear proliferation, it is becoming clear the Comprehensive Test Ban Treaty (CTBT) is not in the best interests of this nation.

After a meeting with the President, personal discussions with some of our nation's top diplomats, including former Secretary of State Henry Kissinger, and participation in hearings held by the Foreign Relations Committee, I harbor reservations about this treaty in its current form and question if it would truly be in the nation's best strategic interest as we move into the 21st Century.

Specifically, the treaty fails to address the key questions of verifiability and reliability: can the results that treaty supporters hope to achieve be verified, and can the treaty ensure the continued reliability of our nation's stockpile?

Since I have been in the Senate, I have voted for three arms control treaties. However, in my judgment, this zero-yield test ban is not in our best interest. We would not be able to verify compliance with the Treaty or ensure the safety and reliability of our nuclear arsenal. Six former Defense Secretaries, two former CIA Directors from the Clinton Administration, and two former Chairmen of the Joint Chiefs of Staff, including Minnesota's General Vessey, have concluded that ratification of the CTBT would be incompatible with our nation's security interests.

The original official negotiating position of the Clinton Administration was to have a treaty with a finite duration of 10 years that permitted low-yield nuclear tests and would have forced countries such as Russia and China into a more reliable verification monitoring regime. If the Administration had negotiated a treaty along those lines, I think it would have had a workable result with a good chance of being ratified.

Instead, the Administration agreed to a treaty of unlimited duration and a zero-yield ban that prohibits all nuclear tests; a treaty which is clearly unverifiable and a clear departure from the positions of all previous Administrations, both Democratic and Republican. For instance, President Eisenhower insisted that low-yield nuclear tests be permitted. President Kennedy ended a three-year moratorium on nuclear tests, saying the U.S. would "never again" make that kind of error. President Carter opposed a zero-yield test ban while in office because it would undermine the U.S. nuclear deterrent. No other Administration has ever supported a zero-yield ban which prohibits all nuclear tests.

Ronald Reagan's words, "Trust but verify," remain a guiding principle. But a zero-yield ban is not verifiable. While the exact thresholds are classified, it is commonly understood that the United States cannot detect nuclear explosions below a few kilotons of yield. We know that countries can take advantage of existing geologic formations, such as salt domes, to decouple their nuclear tests and render them undetectable. Also, advances in commercial mining capability have enabled countries to muffle their nuclear tests, allowing them to conduct militarily significant nuclear explosions with little chance of being detected.

Should technical means of verification fail, the onsite inspection regime is extremely weak. If we suspect a country has cheated, thirty out of fifty-one nations on the Executive Council have to agree to an inspection. It will be extremely difficult to reach this mark given that the Council established under the treaty has quotas from regional groups and the U.S. and other nuclear powers are not guaranteed seats. If an inspection is approved, the suspected state can deny access to particular inspectors and can declare a 50-square kilometer area off limits. These are exactly the type of conditions we rejected in the case of UNSCOM in Iraq.

As to the question of reliability, we all recognize that our nuclear deterrent is effective only if other nations have confidence that our nuclear stockpile will perform as expected. A loss of confidence would not only embolden our adversaries, it would cause our allies to question the usefulness of the U.S. nuclear guarantee. We could end up with more nuclear powers rather than fewer.

There is a very real threat the credibility of our nuclear deterrent will erode if nuclear testing is prohibited. Historically, the U.S. often has been surprised by how systems which performed well in non-nuclear simulations of nuclear effects failed to function properly in an actual nuclear environment. Indeed, it was only following nuclear tests that certain vulnerability to nuclear effects was discovered in all U.S. strategic nuclear systems except the Minuteman II.

The Stockpile Stewardship Program is advertised as an effective alternative to nuclear testing. I hope it will enable us to avoid testing in the near future.

However, many of the critical tools for the Stockpile Stewardship Program have not been developed. For example, the high-powered laser system which supposedly will have the capacity to test the reliability and safety of our nuclear stockpile was scheduled to come on line in 2003, but has now been pushed back two years later. We should make sure that alternatives to nuclear testing are fully capable before we commit to abandoning testing.

There also are very real safety concerns which we must address when dealing with aging materials and components of weapons that can degrade in unpredictable ways. Right now, only one of the nine types of weapons in our nuclear stockpile have all available safety features in place, because adding them would have required nuclear testing. It doesn't make sense to effectively freeze our stockpile before all of our weapons are made as safe as possible. We must make sure that the members of our armed forces who handle these weapons are not placed in jeopardy, and the communities which are close to nuclear weapons sites are not endangered.

Furthermore, this treaty would not ensure U.S. nuclear superiority. As John Deutch, Henry Kissinger and Brent Scowcroft stated in a recent op-ed, "no serious person should believe that rogue nations such as Iran or Iraq will give up their efforts to acquire nuclear weapons if only the United States ratifies the CTBT." There is already a nuclear Non-Proliferation Treaty (NPT). Any threshold state that is ready to test has already broken the norms associated with that treaty. There is no reason to believe that the CTBT regime, which has no real enforcement mechanism, will succeed where the NPT has failed. Nations that are habitual violators of arms control treaties will escape detection, building new weapons to capitalize upon the U.S. deficiencies and vulnerabilities created by the CTBT.

While I support continuing the current moratorium on nuclear testing, it seems premature for the United States to consider ratifying the CTBT. I can envision a time, however, when ratification of a much better negotiated treaty could benefit our nation—but not until we have developed better techniques for verification and enforcement, and the advanced scientific equipment we need for the stockpile stewardship program.

Mr. LAUTENBERG. Mr. President, we are about to begin a new century—a new millennium with new opportunities to make the world a safer place. The United States must be taking the lead in pursuing those opportunities. Which will be possible when this Senate ratifies the Comprehensive Test Ban Treaty which is our best hope for containing the threat of nuclear war.

Unchecked testing of nuclear weapons is the single greatest threat to world peace—and to the security of the United States—as we enter the 21st century. I know none of my colleagues want nuclear weapons falling into the hands of hostile people. None of us want emerging nuclear powers to develop advanced weapons of mass destruction.

The CTBT is not a magic wand, but it would make it more difficult for other countries to develop sophisticated nuclear weapons. But unless we act now to ratify this treaty, those remain very real possibilities—with potentially catastrophic consequences.

Most of us here grew up during a time when the threat posed by nuclear weapons manufactured by the former Soviet Union were a day-to-day, ever-present reality. That particular danger, of course, is part of history now. But that doesn't mean the United States or any other country can rest easy. In fact, in some ways, the dangers are even greater today.

Forty years ago, we at least knew who the enemy was. We knew where to target our defenses. Unless we ratify this treaty and play a role in enforcing it, we won't be completely sure which countries are moving ahead with a nuclear weapons program.

Over just the last year and a half, India and Pakistan have conducted missile tests, and Pakistan's elected government has just been overthrown by a military coup. These developments make it more urgent than ever that we hold the line on any further nuclear weapons testing world-wide.

That is exactly what this treaty promises to do. In fact, it represents the sort of historic opportunity that was only a dream during the Cold War. An opportunity to create an international monitoring system that would be our best assurance that no country's nuclear testing program moves any further than it already has. But that won't happen without this country's participation.

The United States must take the lead in transforming the CTBT from a piece of paper into a force for global security. Our decision to ratify will have a profound effect on the way this treaty is perceived by the rest of the world. 154 nations have signed the CTBT, but many of those countries will ratify it only if the United States leads the way. And every nation with nuclear technology must ratify this agreement before it comes into force.

Every President since Dwight D. Eisenhower has stressed the importance of controlling nuclear weapons worldwide. And I hope everyone here will remember that this treaty has strong support from military weapons experts, religious groups, scientists and world leaders.

Even more importantly, the American people support ratification of this document. They know how important it is and prove it in polls when they say 82% view the treaty ratification as essential. They will remember how we vote on this issue. And it has to be pretty tough to explain to voters who want their families protected why you didn't vote to ban testing of nuclear weapons.

I know the argument has been made that this treaty will somehow compromise our own defenses. But that's a pretty shaky theory. The United States can maintain its nuclear stockpile without testing, using the most advanced technology in the world. So ratifying this treaty won't leave us without a nuclear edge, it will preserve it. At the same time, it will signal our commitment to a more secure and lasting world peace.

A number of our colleagues and other people as well have suggested that we don't have the required two-thirds majority to ratify this treaty. As a result, President Clinton has asked that we delay this historic vote a little longer. I am prepared to support that approach with great reluctance because rejecting this essential treaty outright would be the worst possible outcome. But a delay should give my colleagues who are skeptical of this treaty the chance to better understand how it will enhance our nation's security and why it has the support of the American people.

I hope that, sometime within the next year, we will have the opportunity to continue this debate and provide the necessary advice and consent to ratify a treaty that would create a more peaceful world in the next century.

I yield the floor.

Mr. GRASSLEY. Mr. President, I rise today to express my opposition to the Comprehensive Test Ban Treaty.

First, let me say I do believe my colleagues and I share the goal of decreasing the number of weapons of mass destruction found throughout the world. With that aside, my utmost concern is for the safety of each American, and I take very seriously my constitutional responsibility to review the Comprehensive Test Ban Treaty as it relates to the security of American citizens. I must take into consideration not only the present state of the world, but the future as well.

I have, in the past, supported moratoriums on nuclear testing. In 1992, I voted in favor of imposing a 9-month moratorium on testing of nuclear weapons with only limited tests following the moratorium. Since the Eisenhower Administration, each President has sought a ban on nuclear testing to some degree. However, never before has an administration proposed a ban on nuclear testing with a zero-yield threshold and an unlimited time duration.

The goal of the Comprehensive Test Ban Treaty, also known as CTBT, is to ban all nuclear testing. However, I have not been convinced this treaty is in the best interests of the United States. From the lack of clear definitions to the incorrectness of underlying assumptions to the verification and enforcement provisions, I believe the treaty is fundamentally flawed. And, these flaws cannot be changed by Senate amendment.

I want to take a few moments to discuss my concerns regarding the Comprehensive Test Ban Treaty.

Verification is critical to the enforcement of any treaty. Without verification, enforcement cannot truthfully occur. The Clinton Administration has called for zero-yield under the CTBT. No yield. This means there should be no nuclear yield released when an explosion occurs. There is agreement among the Administration, the intelligence community and the Senate that a zero-yield threshold cannot be verified.

The issue of zero yield takes on another level of importance when it becomes clear that zero-yield is not the standard defined in the Treaty. It is the standard interpreted by President Clinton. Nowhere in the Treaty is there a definition of what is meant by a "test." Other countries, notably Russia, have not interpreted the Treaty in the same manner. We don't know how China has interpreted the ban on "tests." We don't know because we cannot verify that China and Russia are not testing. Therefore, not only do we have a potential standard that is impossible to verify, but other countries have the ability to interpret the Treaty differently and act upon their interpretation, and the United States will not be able to enforce the higher standard.

A second major concern of mine involves our existing nuclear stockpile. The cold war may be a thing of the past, but threats to our nation's security exist today. Our nuclear stockpile exists for a reason, and not only are new weapon technologies essential to our defense, it is also critical to maintain the security and safety of existing weapons.

Proponents of the CTBT maintain the United States does not need to conduct nuclear tests to maintain the integrity of our existing stockpile because of President Clinton's Stockpile Stewardship Program. The Stockpile Stewardship Program relies upon computer modeling and simulations as a substitute for testing. I believe the intent of the Stockpile Stewardship Program is good. However, I am not confident in the ability of the Stockpile Stewardship Program to keep our existing stockpile safe. One-third of all weapons designs introduced into the U.S. stockpile since 1985 have required and received post-deployment nuclear tests to resolve problems. In three-fourths of these cases, the problems were discovered only because of ongoing nuclear tests. In each case, the weapons were thought to be reliable and thoroughly tested.

I see three problems with the Stockpile Stewardship Program as it exists today. First, the technology has not been proven. In 1992 laboratory scientists proposed a series of tests to create the data bases and methodologies for stockpile stewardship under a ban on nuclear testing. These tests were not permitted. At the very least, actual nuclear tests are necessary to produce an accurate computer simulation. Second, data from past tests don't address aging, which is a central problem in light of the highly corrosive nature of weapon materials. Shelf life of U.S. nuclear weapons is expected to be 20 years, and many weapons are reaching that age. Without testing we will not have confidence in refurbished warheads. My third concern relates to China. Apparently, China has acquired the "legacy" computer codes of the U.S. nuclear test program. The Clinton administration proposes to base its efforts to assure stockpile viability on computer simulation which is highly vulnerable to espionage—and even to sabotage—by introducing false data. There is no such thing as a secure computer network.

The Comprehensive Test Ban Treaty will not go into effect until 44 specific countries both sign and ratify the Treaty. In addition to the United States, China, Russia, North Korea, Iran, India and Pakistan have yet to ratify, and India and Pakistan have not even signed the Treaty. The argument is made that U.S. ratification would quickly lead to ratification by these other countries. I would reply by saying that—as the Treaty is constructed—each of these countries could indeed sign and ratify the Treaty. Then, they could proceed with low-yield nuclear testing which cannot be verified.

Even if nuclear testing is suspected, under the terms of the CTBT, any inspection must be supported by 30 of the 51 members of an Executive Council elected by all State Parties to the Treaty. And, the United States is not even guaranteed a position on the Executive Council. Furthermore, onsite inspections are subject to a number of limitations. First, inspection activities are subject to time limits (25 days.) Any collection of radioactive samples must be accompanied by an approval by a majority of the Executive Council. No State Party is required to accept simultaneous on-site inspections on its territory. And finally, the State party under inspection may refuse to accept an observer from the State party requesting the inspection. There is currently a supporter of inspection limitations similar to these; his name is Saddam Hussein.

Effective arms control treaties can be extremely helpful in limiting the spread of weapons of mass destruction. Moratoriums on nuclear testing and limiting the yield of tests have highlighted the ability of the United States and other responsible countries to shape the current environment while protecting against the intentions of rogue states. I remain hopeful that our technology will one day rise to the level of verifying a zero-yield nuclear test ban. I remain hopeful that China, Russia, India and Pakistan may one day commit themselves—in both words and actions—to cease developing and testing nuclear weapons. Until that day, or until a Treaty is brought before the Senate that can be verified and fairly enforced, I will continue to support policy that protects American citizens. And in this case, it means opposing the Comprehensive Test Ban Treaty.

Mrs. MURRAY. Mr. President, I rise to join my colleagues in voicing my strong support for Senate ratification of the Comprehensive Test Ban Treaty.

I joined many of my colleagues in calling for Senate consideration of the CTBT. But I must say, I am very disappointed in the process put into place for the consideration of this hugely important issue.

This Senate is failing our great tradition of considering treaties without partisan political influences. So many giants in American history have argued for and against treaties right here on the Senate floor.

Senator Henry "Scoop" Jackson from my own State of Washington was one of these giants. Following his death in 1983, Charles Krauthammer wrote the following in Time magazine:

> The death of Senator Henry Jackson has left an empty stillness at the center of American politics. Jackson was the symbol, and the last great leader, of a political tradition that began with Woodrow Wilson and reached its apogee with John Kennedy, Lyndon Johnson, and Hubert Humphrey. That tradition—liberal internationalism—held that if democratic capitalism was to have a human face, it had to have a big heart and strong hand.

Scoop believed in that strong hand. Senator Jackson was one of the Senate's workhorses on defense issues. Few had the intimate knowledge of defense and foreign policy matters that Scoop did. And this expertise extended to arms control issues as well. Jackson was famous for taking apart arms control agreements and forcing the Executive Branch and his congressional colleagues to understand fully the matter at hand. And, Jackson was a leader at perfecting arms control agreements that fully protected U.S. interests.

Senator Jackson was a defense giant throughout the cold war. He championed his country's defense from the days of FDR to Ronald Reagan's first term as President. Yet, he managed to vote for every single arms control treaty that came before the Senate. He tackled the issues and he protected U.S. interests and national security with absolute devotion to country free from partisan politics. Jackson epitomized the Senate at its best; senators working together without time constraints; senators holding the Administration accountable; senators engaged to strengthen U.S. foreign and defense policy.

Sadly, this Senate has taken a different course. Few can argue with any sincerity that the Senate has given the CTBT a thorough consideration. The treaty's certain defeat was dictated by partisanship before a single hearing was held on the issue. Advise and consent, the Senate's historical and constitutional duty has been laid aside by a majority party currying favor with extremist political forces.

In spite of the pre-determined fate of the CTBT, I want to take a few minutes to briefly explain my strong support for the Comprehensive Test Ban Treaty.

The arguments used to end nuclear testing in 1992 are just as valid today.

My service in the Senate has largely mirrored the U.S. moratorium on nuclear weapons tests. President Bush wisely halted U.S. nuclear weapons testing after a thorough review of our nuclear weapons arsenal and particularly the safety, reliability and survivability of our stockpile.

The directors of our nuclear weapons laboratories, numerous prestigious weapons scientists, prominent military leaders and many others remain convinced that the United States can safely maintain its nuclear weapons stockpile without nuclear testing.

The CTBT freezes in place U.S. supremacy in nuclear weaponry.

The United States maintains a 6,000 warhead nuclear arsenal. This arsenal is the result of more than 1,000 nuclear weapons tests. Our nuclear weapons program is without equal in the world.

Dr. Hans Bethe, Nobel Prize winning physicist and former Director of Theoretical Division at the Los Alamos Laboratory wrote the President on this very point in early October. Dr. Bethe's letter states:

> Every thinking person should realize that this treaty is uniquely in favor of the United States. We have a substantial lead in atomic weapons technology over all other countries. We have tested weapons of all sizes and shapes suitable for military purposes. We have no interest in and no need for further development through testing. Other existing nuclear powers would need tests to make up this technological gap. And even more importantly, a test ban would make it essentially impossible for new nuclear power to engage.

Here's a leading nuclear scientist, a Nobel Prize winning physicist, and he says the CTBT is "uniquely in favor of the United States." To me, this is an immensely powerful argument in favor of CTBT.

Failure to ratify the test ban treaty will send a disastrous message to the international community.

Already our closest allies are calling upon the United States to ratify the CTBT. Many countries urging the U.S. to ratify the treaty are the same countries covered by the U.S. nuclear umbrella including our closest NATO allies.

Given our unmatched nuclear superiority, is the United States' national interest advanced by working with the global community to combat potential nuclear threats? The answer to me is a resounding yes.

The United States is safer if the world is working together to combat any proliferation threats. Without the CTBT, the global effort to combat proliferation will be seriously undermined and U.S. credibility and sincerity will be jeopardized.

Our efforts to contain and control a nuclear arms race in South Asia will be undermined. The global resolve to contain proliferation in the Middle East in countries like Iran and Iraq will diminish. Rogue states like North Korea will not face the same international resolve on weapons experimentation and development. It will be easier for nations like China to modernize its nuclear weapons program if the CTBT does not enter into force. Our already difficult efforts to work with a fraying nuclear establishment in Russia will also be setback by the U.S. failure to lead the effort to end nuclear weapons testing once and for all.

The CTBT is largely a creation of the United States. For more than 40 years, Republican and Democratic Administrations have pushed the world to end nuclear weapons testing. President Clinton signed the CTBT upon its successful negotiation in 1996. More than 140 countries have signed the treaty. Some 40 countries have ratified the treaty. U.S. ratification of the CTBT is one of the last remaining hurdles to the treaty entering in force.

Mr. President, I will cast my vote with absolute confidence for ratification of the Comprehensive Test Ban Treaty.

Mr. DEWINE. Mr. President, we live in dangerous and uncertain times. The global threats to peace and security known well to us during the Cold War have been replaced by terrorist states and rogue nations with growing nuclear arsenals. Historically, existing international arms control agreements have made our nation, and our world, a safer place. The United States has been a world leader to reduce global nuclear tests. Several nuclear test ban treaties already are in effect, including the 1963 Limited Test Ban Treaty (LTBT), which banned nuclear blasts in the atmosphere, space, and underwater; the 1974 Threshold Test Ban Treaty (TTBT), which banned tests on devices above 150 kilotons; and the 1990 Peaceful Nuclear Explosion Treaty.

Unfortunately, the Comprehensive Test Ban Treaty will not provide the same protections as these other weapons treaties. That is why I cannot support it.

I am against the CTBT for two fundamental reasons: 1. The Treaty does not guarantee us an ability to maintain a safe, viable, and advanced nuclear stockpile; and 2. The Treaty does not provide effective verification and enforcement if other nations violate the Treaty.

The Clinton administration has proposed replacing our testing system with a computer simulated Stockpile Stewardship Program. Right now, we simply do not know if this program can serve as a reliable surrogate for testing. We do not know if computer simulations can mimic accurately the functions of actual testing. We do not know if computer simulations can provide adequate information so we can modernize and our devices in response to changing threats and new weapons systems. What we do know is that in order for our own nuclear defenses to be an effective deterrent, they must be able to work. Ratification of the CTBT would close off the only means that currently can ensure the reliability, safety, and security of our nuclear defense stockpile.

I also am opposed to the CTBT because it does not provide adequate verification and enforcement mechanisms. Nations will be able to conduct nuclear tests well below the detection threshold of the Treaty's current monitoring system. If a rogue nation, like Iraq, conducts a nuclear test, and the United States insists on an on-site inspection, the treaty first would require 30 of 51 nations on the CTBT executive council to approve the inspection. If approved, the country to be inspected could still declare up to 50 square kilometers as being "off limits" from the inspection. How can measures like this ensure other nations will comply with the CTBT? They simply can't.

The national security of our nation would not be served with the adoption of the current CTBT. I believe ratification of the CTBT could compromise our national security. The Senate should defeat its ratification.

Ms. MIKULSKI. Mr. President, I rise to support the Comprehensive Nuclear Test-Ban Treaty.

This is a sad day for the Senate. Despite limited debate on this issue, the appeal of the President and bi-partisan pleas of over 51 Senators to delay consideration of this treaty, the Majority Leader has decided to force our vote on this treaty. The very nature and timing of the issue requires that we come together and act in a responsible, nonpartisan manner. We are faced with an historic opportunity to send nations around the world an important, powerful message—let's make sure it is the right message and that we vote to ratify this important treaty.

Ratification will strengthen—not weaken—America's national security.

We must remember that ratification will not force America to abandon or alter its current practice regarding nuclear testing—we stopped nuclear testing seven years ago. And why did we stop nuclear testing? Because we have a robust, technically sophisticated nuclear force and because nuclear experts affirm that we can maintain a safe and reliable deterrent without nuclear tests. This is also one reason why we should ratify the CTBT.

Another reason to ratify the CTBT is that it will strengthen our national security by limiting the development of more advanced and more destructive nuclear weapons. As we all know, we have the most powerful nuclear force in the world. Thus, limiting the development of more advanced and destructive nuclear weapons limits the power of rogue nations around the world from strengthening their own nuclear arsenal. It allows America to maintain its nuclear superiority.

Full ratification and implementation of the CTBT will also limit the possibility of other countries from acquiring nuclear weapons. Furthermore, it will provide us with new mechanisms to monitor suspicious activities by other nations. For example, it provides for a global network of sensors and the right to request short notice, on-sight inspections in other countries.

But failure to ratify the CTBT will jeopardize our national security as well as the security of countries around the world. If we fail to act, the treaty cannot enter into force for any country. Let us not forget that nuclear competition led Pakistan and India to conduct underground nuclear testing over one year ago. Without this treaty, nuclear competition will only continue to grow and to spread. Without this treaty, underground nuclear testing will not only continue but will be carried out by even more countries—not by our allies, but rather, by our enemies.

I am dismayed that we are even forced to consider this vital treaty in light of the current unrest in Pakistan and India. Now, more than ever, we must demonstrate national unity.

We must listen to the experts who urge us to ratify the treaty—the Secretaries of Defense and Energy, the Directors of the National Weapons Laboratories and the Nobel laureates. We must listen to national leaders around the world beseeching us to ratify the treaty—asking us to act as a responsible international leader and to serve as a positive example for other nations to follow. And most important, we must listen to the American people—the majority of whom are pleading with us to make our world a safer place and to ratify this treaty.

Let us not forget that 152 countries have signed the CTBT. America led these countries by being the first to sign the treaty. Other major nuclear powers, such as Britain, France, Russia and China followed our lead. To date, 41 countries have ratified. Although we will not be the first country to ratify, let us not be the first country to jeopardize its very existence.

We live in a dangerous world—where terrorists and rogue nations are developing the most repugnant weapons of mass destruction. We need to think clearly about what message we are sending today to the rest of the world—to our allies and to our adversaries. Our actions today will influence action by countries around the world. If we ratify, other countries will follow suit and ratify. Our failure to ratify will go beyond encouraging other nations to follow suit. It will prevent the very entry into force of this historic agreement.

Let us send a powerful message to our neighbors around the world and ratify this historic treaty. Let us ratify the treaty and guarantee a safer future for our children by strengthening the security of our country and of the world.

Mr. ROBERTS. Mr. President, there are few responsibilities of the Senate more important than the constitutional duty to offer our advise and consent on treaties.

After long deliberation and after a series of classified and unclassified hearings, I have determined that I cannot support ratification of the Comprehensive Test Ban Treaty. There are serious flaws in this document that could endanger our national security in the future.

Make no mistake, the world is a dangerous place. We must deal with the world as it is, not as we wish it were. And we must approach ratification of this treaty with only one view; does it advance the cause of world peace without jeopardizing our own security.

The treaty fails on both counts.

First, this treaty is not verifiable. I cannot vote for a treaty that will bind the United States, but which will be ignored by other nuclear nations.

There are differing opinions concerning the ability to detect nuclear testing. But the issue is more complex than just detecting a detonation of a nuclear device with a yield greater than allowed by the treaty. If, for example, if a detonation occurred and we decided that we should inspect the site, how would we do the inspection?

First, 31 nations have to agree that a violation has occurred before site inspections would be authorized. The chances of 31 nations agreeing a violation has occurred are remote. But why do proponents of the treaty think a nation that has just violated the treaty will allow an inspection? You need to look no further than Iraq to appreciate the difficulty in inspecting a nation that wants to obfuscate such testing.

Just a quick review of the significant events that escaped our intelligence community in the recent past do not give confidence that they will uncover violations of this treaty. Our intelligence officers missed the development of the advanced missile development by North Korea, they failed to recognize the signs that both India and Pakistan were going to test nuclear weapons, they provided incorrect information resulting in our bombing the Chinese Embassy in Belgrade, and they failed to provide sufficient information to prevent us from conducting a missile attack on a pharmaceutical plant in Khartoum.

Additionally, there was confusion over the exact number of nuclear tests conducted by India and Pakistan.

Secondly, ratification of this treaty will not reduce development or proliferation of nuclear weapons. A basic truth for any nation is that it will act in a manner that best suits its national interests. The downside of our military dominance compared to the rest of the world is that it forces weaker nations to rely on weapons of mass destructions as a counter to our conventional strength. Russia and China have both publicly stated that a new reliance on nuclear weapons is necessary to "balance" our dominance. Rogue nations cannot possibly challenge us with conventional weapons and therefore feel compelled to acquire or develop nonconventional weapons.

This treaty will not stop or slow down the development of nuclear weapons if a nation deems these weapons as vital to their national interests. Russia and China will not be deterred from enhancing their nuclear weapon performance simply because they have signed this treaty.

Yet, our own nuclear defense program would be limited under the treaty.

Third, the Stock Pile Stewardship program as outlined will not guarantee safe and reliable nuclear weapons. This is a technical area. But there is considerable differences of opinion between impressive scientists about whether we can maintain our stock pile as safe and reliable without nuclear testing. Without such assurance of safety and reliability and with the knowledge that the United States will maintain a nuclear deterrent for the foreseeable future, I cannot support such a treaty that would potentially put our stockpile at risk.

Treaty proponents will argue that any time the appropriate leaders of defense, energy and the scientific community say we must test to insure reliability and safety, we can withdraw from the treaty. I have little confidence that once this treaty is approved, "pulling the sword Excaliber from the stone" would seem a trivial task compared to withdrawal from a nuclear test ban treaty.

The point is that once the treaty is signed, we need to be confident that we can maintain a safe, reliable nuclear stockpile. We have no such confidence today—perhaps the technology will be in place in 5–15 years—and therefore we should not jeopardize our nuclear deterrent by agreeing to this treaty.

Because we cannot verify whether other nations are following the treaty, because the treaty does not halt or prevent proliferation of nuclear weapons and because the treaty could lead to reduced reliability and safety of our nuclear stockpile, I cannot support its ratification.

Mr. JEFFORDS. Mr. President, the Senate finds itself in a very uncomfortable position today. We have before us one of the most important treaties negotiated this decade, the Comprehensive Test Ban Treaty. It is not perfect. It does not do everything we wish it would. Its verification provisions are not air-tight, and its sanctions for violators are not particularly stiff.

I understand many of my colleagues' uneasiness about the treaty. Prior to last week, there had been no deliberate consideration of the CTBT before any Senate committee. Members have had little opportunity to learn about the treaty and have their questions addressed. A significant portion of the Senate has just in the last two weeks begun to carefully examine the details of the treaty. This is no way to conduct the ratification process on a matter of such importance to national security, and puts Senators in a very uncomfortable position. For some time, I have urged the Foreign Relations Committee to hold hearings on this treaty and allow this debate to begin. But for better or worse, this is the situation we find ourselves in, and having exhausted appeals for a delay in the vote, I trust my colleagues will do their best to thoroughly evaluate what is now before them.

Implementation of the CTBT would bring, however, a significant improvement in our ability to stop the proliferation of nuclear weapons. The Test Ban Treaty would constrain the development of new and more deadly nuclear weapons by nations around the globe by banning all nuclear weapon test explosions. It would also establish a far-reaching global monitoring system and allow for short-notice on-site inspections of suspicious events, thereby improving our ability to detect and deter nuclear explosions by other nations. The fact that the CTBT was signed by 154 nations is a major tribute to American diplomacy. Many of these nations are now looking to America for leadership before they proceed to ratification of the treaty, and under the provisions of the treaty, it will not enter into force until the United States has ratified.

Rejection of the test ban treaty could give new life to dormant nuclear testing programs in countries like Russia and China. It could also renew dangerous, cold war-era nuclear arms competitions. And we would have a very difficult time asserting our leadership in urging any nation to refrain from testing. Not only would we lose an historic opportunity to lock in this agreement among nations, we would undermine the power of our own diplomacy by not following through on an initiative that we have spearheaded.

Critics charge that we cannot be 100 percent certain that we can detect any test of any size by any nation. I would concede that is true. But when it comes to national defense, nothing is 100 percent certain. We can never be sure any weapon will work 100 percent of the time. We can be certain, however, that this treaty will improve our ability to constrain the nuclear threat today and in the future. We owe it to our children and our grandchildren to add this important weapon to our defense arsenal.

I urge my colleagues to vote for ratification of the Comprehensive Test Ban Treaty.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I want to inform my colleagues on this side—I apologize for it—the most I can give any colleague is 2 minutes. I yield 2 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, with this fateful vote tonight the world becomes a more dangerous place. That is what our top military leaders are telling us. To quote General Shelton, the Chairman of the Joint Chiefs:

> The world will be a safer place with the treaty than without it. And it is in our national security interest to ratify the treaty.

Secretary of Defense Bill Cohen says that this treaty will "help cap the nuclear threat."

Mr. President, we no longer have standing, when we defeat this treaty, to tell China or India or Pakistan or any other country: Don't test nuclear weapons.

We will have lost our standing, and I believe will have lost our bearings. By rushing headlong into this vote tonight and defeating a treaty which 150 nations have signed—it was said a few moments ago that our lab Directors say that the treaty would endanger their safety and reliability testing.

I ask unanimous consent that a joint statement of the lab Directors be printed in the RECORD saying that "we are confident that a fully supported and sustained Stockpile Stewardship Program will enable us to continue to maintain America's nuclear deterrent without nuclear testing."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT STATEMENT BY THREE NUCLEAR WEAPONS LABORATORY DIRECTORS: C. PAUL ROBINSON, SANDIA NATIONAL LABORATORIES, JOHN C. BROWNE, LOS ALAMOS NATIONAL LABORATORY, AND C. BRUCE TARTER, LAWRENCE LIVERMORE NATIONAL LABORATORY

"We, the three nuclear weapons laboratory directors, have been consistent in our view that the stockpile remains safe and reliable today.

"For the last three years, we have advised the Secretaries of Energy and Defense through the formal annual certification process that the stockpile remains safe and reliable and that there is no need to return to nuclear testing at this time.

"We have just forwarded our fourth set of certification letters to the Energy and Defense Secretaries confirming our judgment that once again the stockpile is safe and reliable without nuclear testing.

"While there can never be a guarantee that the stockpile will remain safe and reliable indefinitely without nuclear testing, we have stated that we are confident that a fully supported and sustained stockpile stewardship program will enable us to continue to maintain America's nuclear deterrent without nuclear testing.

"If that turns out not to be the case, Safeguard F—which is a condition for entry into the Test Ban Treaty by the U.S.—provides for the President, in consultation with the Congress, to withdraw from the Treaty under the standard "supreme national interest" clause in order to conduct whatever testing might be required."

Mr. LEVIN. Mr. President, our three allies, in an unprecedented move, have directly appealed to this Senate to ratify this treaty. Great Britain, France, Germany, directly appealed to this Senate.

Finally, it is unprecedented that this Senate would defeat a treaty of this magnitude with this speed without a report even from the Foreign Relations Committee. I think we are doing a real disservice to world peace and stability by defeating this treaty.

I thank my friend for the time he has yielded me.

Mr. BIDEN. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. If when the vote occurs on the Resolution of Ratification it does not achieve 67 votes, what happens to the treaty?

The PRESIDING OFFICER. The treaty would then stay on the calendar until the end of the Congress.

Mr. BIDEN. Further parliamentary inquiry: At the end of the Congress, what would then happen to the treaty?

The PRESIDING OFFICER. The treaty would then be returned to the Foreign Relations Committee.

Mr. BIDEN. I thank the Chair. I yield the floor.

Mr. HELMS. I yield to the distinguished Senator from Texas, Mrs. HUTCHISON.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I want to be notified at 2½ minutes. I am going to split my time with Senator SHELBY who has not arrived. I will take my 2½, and then when he arrives, he will use the other 2½ minutes.

If America does not form a nuclear umbrella to protect world peace, who will? To whom will our allies look to protect them from an incoming ballistic missile? Only America can do that, and there are only two ways we have to deter a rogue nation from lobbing a nuclear missile into some other country. The first is a missile defense system which belatedly we are now deploying. It is not yet ready, but we are on the way. That is No. 1. No. 2 is the ability to be sure we have a safe and secure and viable nuclear arsenal.

This is not a treaty that has been debated for 20 years. It is not the same treaty that preceding Presidents negotiated. It is different in this respect: Every other President held firm for the United States to test at a low level. President Clinton gave that up. That is part of the reason this treaty is before us and why the other countries came in because the low-level testing is not able to be detected. No other President gave in on that issue.

Secondly, no other President gave in on the issue of permanence. The idea that we would unilaterally disarm ourselves in perpetuity is irresponsible.

I do not like the fact we are taking up this treaty now. I do not want to send a bad signal. But most of all, I do not want to leave ourselves and our allies unprotected from some rogue nation that has nuclear capabilities, and we know there are many.

I want to go back and look at the record, and let's talk about peace through strength. It was not peace through weakness and unilateral disarmament that stopped the Cold War. It was peace through strength. We cannot let that go away by signing a treaty that is not in our interests. There are other avenues. There is renegotiating the treaty so we can test at a low level, so we will be able to say to the world: We have a nuclear arsenal, so do not even think about lobbing a nuclear missile at us or any of our allies. We could renegotiate the treaty so it has a term or a timetable. There are alternatives. I hope we will not be rammed into doing something that is wrong for our country because there are alternatives.

Mr. President, I ask unanimous consent that an excerpt of testimony from General Shalikashvili in a March 1997 appropriations hearing be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPTS—SENATE APPROPRIATIONS HEARING, MARCH 1977

NUCLEAR WEAPONS TESTING

Senator HUTCHISON. Second, I am always interested in the Department of Energy's role in the maintenance and storage of our nuclear stockpile. I would like to ask you a general question.

Are you confident that they are doing everything that you think is prudent in maintaining and storing our weapons? Do you think we are maintaining and storing enough? And do you think we can rely on a safe and reliable nuclear stockpile when we have banned any testing?

General SHALIKASHVILI. The answer is yes, and let me tell you what I base this on.

I think it is 2 years ago that the President established a system where each year the Secretary of Defense, the Secretary of Energy, and the Commander of our Strategic Forces, now General Habiger in Omaha, have to certify that the stockpile is safe and reliable. The system is such that if any one of them reports that it is not so, then the President has to consult with Congress on that issue.

Senator HUTCHISON. How do they tell when you cannot actually test? Do you think the computer modeling is sufficient? Do you think the testing is sufficient when you can't test?

General SHALIKASHVILI. The Energy Department has proposed and the Secretary of Defense has agreed with the establishment of a science-based stockpile verification program. It is a very costly program. To stand it up—and I might have my number off but not by much—it is about $4 billion a year, to establish the laboratories, the computer suites, and all of that, to establish it.

What I monitor is whether—this year, for instance, in the energy budget there is approximately $4 billion toward the science-based stockpile verification program. Just 10 days ago I was in Omaha to get a briefing from General Habiger on how he is coming along on making the judgment that this year the stockpile is still safe and reliable.

Not only is he in constant communications with the nuclear laboratory directors who work that issue, he also has a panel of prominent experts on the subject who report to him. Based upon his observations, because he monitors what is on the missiles and so on, his discussions with the labs and the report that he gets from the panel that is established just to answer that question, last year, for the first time, he made the judgment that it was safe. He tells me that, unless something comes up before he reports again, he is going to again certify this year.

With each year that goes by and we are further and further away from having done the last test, it will become more and more difficult. That is why it is very important that we do not allow the energy budget to slip, but continue working on this science-based stockpile verification program and that we get this thing operating.

But even then, Senator, we won't know whether that will be sufficient not to have to test. What we are talking about is the best judgment by scientists that they will be able to determine the reliability through these technical methods.

Senator HUTCHISON. Do you think we should have some time at which we would do some testing just to see if all of these great assumptions are, in fact, true?

How can we just sit here and say gee, we really hope this works and then be in a situation of dire emergency and have them fizzle?

General SHALIKASHVILI. I don't know. I won't pretend to understand the physics of this enough. But I did meet with the nuclear laboratory directors and we talked about this at great length.

They are all convinced that you can do that. But when I ask them for a guarantee, they cannot give it to you until all of the pieces are stood up. Obviously, if we stand it up, and we cannot do that, then we will have to go back to the President and say we will have to test.

Hopefully, it will work out. But we are still a number of years away before we will have that all put together so that we can tell you for sure whether it will work or not.

Senator HUTCHISON. Well, mark one Senator down as skeptical.

General SHALIKASHVILI. Mark one Chairman of the Joint Chiefs of Staff joining you in that skepticism. I just don't know.

But I know that if you do not help us to make sure that energy puts that money against it and does not siphon it off for something else, then I can assure you we won't get there from here.

The PRESIDING OFFICER. The Senator has used 2½ minutes.

Mrs. HUTCHISON. I thank the Chair. I reserve 2½ minutes for Senator SHELBY.

Mr. BIDEN. I yield 2 minutes to the distinguished Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, it is with regret, after 25 years in this Chamber, a Chamber I love so much, that I say it is a travesty the Senate is on the verge of rejecting the Comprehensive Nuclear Test-Ban Treaty. The idea of a treaty banning all nuclear tests has been around since President Dwight Eisenhower called for one more than 40 years ago when I was 19 years old.

Today, there is broad agreement around the world that a test ban treaty is necessary and, I point out to my colleagues, we have not conducted a nuclear test since President Bush signed legislation to establish a moratorium on nuclear testing in 1992.

Mr. President, 152 nations have signed this treaty. They are abiding by its terms, but if we vote against ratification, if we vote against advising and consenting, the Senate will abdicate our Nation's role as the world leader in support of nonproliferation. The 100 people in this body, representing a quarter of a billion people will abdicate our Nation's responsibility to ourselves and the world.

I am bewildered at the arguments made by some of my colleagues because the United States, which enjoys an immense global nuclear advantage over all other countries, will only find that position eroded if a global ban on testing is not realized.

Treaty opponents make two main arguments: that it is unverifiable and that the safety and reliability of our own weapons will be endangered without testing. In my judgment, both arguments fail miserably.

As I said before, no treaty is 100% verifiable, and the fact is that any nation bent on developing a nuclear weapon can fashion a crude device, with or without this treaty. But without the explosive testing that this treaty prohibits, it will be extremely difficult to build nuclear weapons small enough to be mounted on delivery vehicles.

The critical question we should be asking is if this treaty will make it significantly harder for potential evaders to test nuclear weapons. The answer is a resounding yes. This treaty establishes a monitoring system that includes over 300 stations that will help locate the origin of a test. Last year, when India tested two nuclear devices simultaneously, the seismic waves that they created were recorded by 62 of these prototype stations.

Once a test has been detected, the treaty has a short-notice on-site inspection regime so questionable incidents can be resolved quickly. In short, the treaty makes it much more difficult for signatory nations to test nuclear weapons without alerting the international community and incurring their collective condemnation.

The argument that the CTBT will somehow undermine the safety and reliability of our own stockpile is likewise flawed. We have conducted over 1,000 nuclear tests during the last 54 years, the most of any country in the world. We have extensive knowledge of how to build and maintain nuclear weapons reliably. Moreover, the Clinton Administration is planning a 10 year, $45 billion Stockpile Stewardship Program that will develop unprecedented supercomputing simulations that will further ensure the continued reliability of our weapons.

I question whether we need to spend that much money, but I find it ironic that many of the voices who are questioning the technical merits of Stockpile Stewardship Program are the same people who want to spend tens of billions more on a National Missile Defense System that has shown modest technical progress, to say the least.

We have a treaty before us which will curb the proliferation of nuclear weapons. It should have been ratified years ago. I urge my colleagues to join me in setting aside short-term politics. Vote for the instruments of ratification. The Senate should be the conscience of our Nation, the conscience of the world. If we vote this down, it is not.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HELMS. Mr. President, I yield 3 minutes to the distinguished Senator from Alaska, Mr. STEVENS.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I am not opposed to the concept of a comprehensive test ban treaty.

If we are able to maintain our own nuclear deterrent and the umbrella of nuclear protection we have extended to our allies, a ban on testing under a fair treaty could be very much in our national interest.

Clearly we do not want other countries to develop sophisticated nuclear weapons, the sort that are light enough to go on ICBMs that could reach our country. A verifiable test ban would seriously hinder other countries from developing those sophisticated weapons.

However, today we cannot indefinitely maintain with certainty the safety and reliability of our nuclear weapons. So while proponents of the treaty make valid points about the benefits that may be obtained with regard to nonproliferation, we are not yet prepared to assume the risks that would be imposed upon us if we give up the ability to test our own weapons.

As Paul Robinson, the Director of the Sandia National Laboratory, put it:

> Confidence in the reliability and safety of the U.S. nuclear weapons stockpile will eventually decline without nuclear testing * * * Whether the risk that will arise from this decline in confidence will be acceptable or not is a policy issue that must be considered in light of the benefits expected to be realized by a universal test ban.

I have considered the risks on both sides of the this issue, and I come to the conclusion that a test ban should remain our goal, but we are not yet in a position to enter into an indefinite ban.

We hope over time to reduce the risks of maintaining our stockpile without testing using a science-based Stockpile Stewardship Program. But that program is not yet ready.

Our lab Directors believe it will take another 5 to 15 years to prove the program can be a success.

As John Browne, the Director of the Los Alamos National Laboratory has said, he is "concerned about several trends that are reducing [his] confidence. These include annual shortfalls in the planned budgets, increased numbers of findings in the stockpile that need resolution, an augmented workload beyond our original plans, and unfunded mandates that cut into the program."

I hope the Senate can delay a vote on this treaty. It is in our national interest to ask others to abide by a ban as we are doing, and our ability to make that request will be reduced if we vote against ratification today.

However, on whole, the risk to our national security is greater if we prematurely agree to an indefinite ban. For that reason, I hope we will put off the vote on this treaty, but, if we have to vote, in the interest of national security, I will vote against the ratification of this treaty at this time.

I thank the Senator for the time.

Mr. LEAHY. Mr. President, I yield 15 minutes out of our time to the distinguished senior Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Mr. President, I regret that the Senate has arrived at this juncture, that we are forging ahead with a vote that many, if not most, of us believe is ill-timed and premature. The outcome is a foregone conclusion—the Senate will reject the Comprehensive Test Ban Treaty. I sincerely hope that this vote is being driven by something other than pure partisan politics, but for the life of me, I fail to see it. Nevertheless, here we are, and vote, it appears, we will.

In the consideration of a matter as important as a major arms control treaty, we need, at a minimum, sufficient time to examine the issue, sufficient opportunity to modify the treaty, and last, but not least, the answers to a few basic questions.

First, do we support the objectives of the treaty? In the case of the CTBT, I think it is quite possible that a large majority of the Senate does support the goal of banning live nuclear weapons tests worldwide. I suspect that the 80 percent or more approval ratings that we hear in reference to this treaty are based on that question.

Second, is the treaty in the national security interests of the United States? Would the security of the United States be enhanced if we could flash-freeze the practice of nuclear weapons testing worldwide, or are we leaving ourselves frozen in time while other nations march forward? Given our vast superiority in both numbers and technology over other nations, including Russia, it would seem that a freeze on testing could be an advantage to the United States, if—and it is a big if—other nations fully respect the treaty.

Third, does the treaty accomplish its objectives? This is where the questions become more difficult. Verification is a legitimate issue, as is the security of the U.S. nuclear weapons stockpile. What will the impact be on our national security if some countries cheat on the treaty, and others simply refuse to ratify it? Can we really trust an untested Stockpile Security Program to maintain our arsenal of nuclear weapons, and what signal will we be sending to the rest of the world if we find flaws in the program or in our weapons, flaws that mandate live testing to fix the weapons? These types of questions require time and research to fully explore. We have neither the time nor the information we need on this treaty.

Finally, can the treaty be improved by the addition of amendments, reservations, understandings or the like? Few documents that come before this body are perfect, and treaties are no exception. It is easy to criticize, easy to find fault, easy to point out the flaws—it is much easier to renounce a piece of legislation or a treaty than to improve it. We have heard a fair amount of discussion about the safeguards to be attached to this treaty. That is all well and good, but I wonder if they are good enough. I wonder how much scrutiny Senators have really given those safeguards. Could they be improved, or perhaps expanded? Maybe we need more safeguards. The point is, under these circumstances, we do not have the ability to fully explore ways to strengthen this treaty, and perhaps make it acceptable to more Senators.

A treaty of this nature—one that would bar the United States from testing its stockpile of nuclear weapons in perpetuity—deserves extensive study, careful debate, and a floor situation that allows for the open consideration of amendments, reservations, or other motions.

Treaties of this importance, of this impact on the Nation, are not to be brushed off with a political wink and a nod. Treaties of this importance must be debated on the basis of their merits, not calibrated to the ticking of the legislative clock.

As the distinguished ranking member of the Foreign Relations Committee, Senator BIDEN, noted on Friday, in comparison with Senate consideration of other national security treaties, the Comprehensive Test Ban Treaty has been given short shrift indeed. The 1988 Intermediate-Range Nuclear Forces Treaty (INF), which was considered during a time in which I served as Majority Leader, was the subject of 20 hearings before the Senate Foreign Relations Committee, 12 hearings before the Senate Armed Services Committee, a number of hearings in the Intelligence Committee, and eventually, nine days of Senate floor debate. The SALT II Treaty, which again was considered when I was Majority Leader, was the subject of 21 hearings by the Foreign Relations Committee, and nine hearings by the Armed Services Committee before President Carter and I reached agreement in 1980 that, as a result of the seizure of the U.S. embassy in Tehran, consideration of the treaty should be suspended.

The Comprehensive Test Ban Treaty is of equal importance and deserves the same consideration as those earlier treaties affecting our national security. Senator WARNER and Senator LEVIN, the chairman and ranking member of the Senate Armed Services Committees, and their respective staffs, did a yeoman's job in scheduling three back-to-back days of hearings on the Treaty last week. They managed to wedge an enormous amount of information into a remarkably brief window of opportunity. They deserve our thanks and our commendations.

But what are we left with at the end of the process? What we are left with is a cacophony of facts, assessments, and opinions. Few in this chamber are steeped in the intricacies of the Comprehensive Test Ban Treaty. I am not. Few of us have a full enough understanding of the treaty to sift the competing opinions that we have heard this week and to draw informed conclusions.

It is often said that the devil is in the details. To accept or reject this treaty on the basis of such flimsy understanding of the details as most of us possess is a blot on the integrity of the Senate, and a disservice to the Nation.

Mr. President, I refer now to the Federalist No. 75 by Alexander Hamilton. Let me quote a bit of what he says in speaking of the power of making treaties.

> Its objects are contracts with foreign nations, which have the force of law, but derive it from the obligations of good faith. They are not rules prescribed by the sovereign to the subject, but agreements between sovereign and sovereign. The power in question seems therefore to form a distinct department, and to belong properly neither to the legislative nor to the executive. . . .
>
> However proper or safe it may be in government where the executive magistrate is an hereditary monarch, to commit to him the entire power of making treaties, it would be utterly unsafe and improper to entrust that power to an elective magistrate of four years duration. . . . The history of human conduct does not warrant that exalted opinion of human virtue which would make it wise in a nation to commit interests of so delicate and momentous a kind as those which concern its intercourse with the rest of the world to the sole disposal of a magistrate, created and circumstanced, as would be a president of the United States.
>
> . . . It must indeed be clear to a demonstration, that the joint possession of the power in question by the president and senate would afford a greater prospect of security, than the separate possession of it by either of them.

In The Federalist Essays, Number 75, Alexander Hamilton lays out a compelling case for the fundamental and essential role that the Senate must play in the ratification of a treaty.

Mr. President, in accordance with what Hamilton said, in these words that I just spoke, we should pause to take his words to heart. He leaves no room for quibble, no margin for question. The Senate is a vital part of the treaty-making equation. And yet, on this treaty, under this consent agreement, the Senate has effectively abdicated its duty.

This is an extraordinary moment. The Senate is standing on the edge of a precipice, approaching a vote that is, by all accounts, going to result in the rejection of a nuclear arms control treaty. All of us are by now aware of a coup d'etat which has occurred in one of the more unstable nuclear powers in the world—Pakistan—a state that conducted underground tests of nuclear weapons just last year, but which in recent weeks, sent signals that it would sign the Comprehensive Test Ban Treaty.

While the two events are not necessarily related, the Senate's rejection of this treaty, coming on the heel of this coup d'etat, could send a powerful message to the as-yet-unfamiliar government in Pakistan. Would it not be prudent to assess this new situation, with all of its potential ramifications to our own security situation, before we act on this treaty? I believe all of us know that it would.

But, Mr. President, I fear that what is driving the Senate at this moment instead of prudence or the security interests of the United States, is political agenda. Indeed, it is political agenda that has brought us to this uncomfortable place, and it is political agenda which blocks our exit from it, despite the desire of most members to pull back.

Once we have disposed of this vote, if the Comprehensive Test Ban Treaty is returned to the Senate at some future date, I urge the leaders to work together to re-examine it in a bipartisan fashion. We have a number of ready made vehicles to do so—the Foreign Relations Committee, the Armed Services Committee, the Intelligence Committee, and the National Security Working Group, of which both leaders are members. Our leaders should sit down with the experts whose opinions represent both sides of the Treaty debate. They should talk to the Russians, eyeball to eyeball. They should talk to our allies, eyeball to eyeball. An opinion piece in the New York Times is no substitute for face-to-face talks with the leaders of Britain, France and Germany. We have made the effort on other treaties, and we should do no less for this Treaty.

And above all, we should undertake this examination of the treaty on a bipartisan basis. No treaty of this importance is going to receive the consideration that it deserves without the cooperation of the leaders of both parties. It is just that simple.

Mr. President, I look forward to the day when we can deliberate the full implications of the Comprehensive Test Ban Treaty. What we do on this treaty will affect national—and international—security for generations to come. We owe it to the Senate and to the Nation to give this Treaty thorough and informed scrutiny, to improve it if needed, to approve it if warranted, or to reject it if necessary. That is our charge under the Constitution, and that is the course of action that I hope we will be given another opportunity to pursue.

In closing, Mr. President, I cannot vote today either to approve or to reject the ratification of the Comprehensive Test Ban Treaty. I will do something that I have never before done in my 41 years in the United States Senate. I will vote "Present." I will do so in the hope that this treaty will sometime be returned for consideration, under a different set of circumstances, in which we can fully and dispassionately explore the ramifications of the treaty and any amendments, conditions, or reservations in regard to it.

Mr. President, I yield the floor.

Mr. HELMS. I yield 4 minutes to the distinguished Senator from New Hampshire, Mr. SMITH.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. I thank the Chair.

Mr. President, the Senate now has acquired two documents which are very revealing in this debate, new information. I have a memorandum here which makes clear that neither the Department of Defense nor the Joint Chiefs of Staff were privy to the Department of Energy's lobbying effort vis-a-vis the White House to forgo all nuclear testing under the CTBT. This was never—in the words of a senior DOD official—coordinated with the Defense Department or the military.

These documents make it very clear that the Clinton administration ignored national security concerns expressed directly to the President of the United States in negotiating the CTBT and a further reason that the treaty should be rejected.

Mr. President, I ask unanimous consent to have printed in the RECORD a memorandum, dated September 8, 1994, to the President of the United States from Hazel O'Leary.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, September 8, 1994.

MEMORANDUM FOR: THE PRESIDENT.

From: Hazel R. O'Leary.
Subject: Hydronuclear Experiments at the Nevada Test Site Under the Moratorium on Nuclear Testing.

I. Summary

After careful and extended debate within the executive agencies, you are to be presented with a decision memorandum on whether the United States should conduct hydronuclear experiments at the Nevada Test Site (NTS) under the moratorium on nuclear testing. Although the views of the Department of Energy on this matter are reflected in that decision memorandum, I want to take this opportunity to strongly urge you to decide that the U.S. should not conduct, nor prepare to conduct, hydronuclear experiments during the existing moratorium. At the very least, the U.S. should decide to defer a decision on whether to conduct hydronuclear experiments until after the Nuclear Non-Proliferation Treaty (NPT) Extension Conference next spring and not take any actions which prejudice an ultimate decision on whether to conduct these experiments.

II. Discussion

Under your leadership, the United States has taken a world leadership role in enacting and maintaining a nuclear testing moratorium and actively pursuing a test ban treaty. These efforts are essential elements of the comprehensive approach this Nation has undertaken to prevent the proliferation of nuclear weapons. We must be vigilant to ensure that actions are not taken which could undermine these essential objectives.

The reasons to, at a minimum, defer a decision on conducting hydronuclear experiments are compelling.

It is not technically essential to conduct hydronuclear experiments at this time. The Department of Energy has determined that the existing nuclear stockpile of the United States is safe and reliable and; that technical means other than hydronuclear testing can maintain the stockpile in this robust condition for the near term. Additionally, the JASON group, a high-level, independent technical evaluation team assessing the Stockpile Stewardship program for the U.S. Government, weighed the limited technical value of hydronuclear experiments against the costs, the impact of continuing an underground testing program at the NTS, and U.S. non-proliferation goals and determined that on balance they opposed these experiments.

Publicly affirming the U.S. commitment to conduct hydronuclear experiments would highlight the issue at the Conference on Disarmament. This could undermine the comprehensive nuclear test ban negotiations by providing nations that are not fully committed to a comprehensive nuclear test ban an opportunity to use U.S. conduct as a convenient excuse for their opposition. Significant progress on the test ban treaty is essential if the priority objective of achieving an indefinite extension of the Nuclear Non-Proliferation Treaty is to be successful in spring 1995.

A request for funding in fiscal year 1996 to preserve the hydronuclear experiment option will be difficult to defend to the Congress since it is not technically essential to conduct these experiments to preserve stockpile reliability and safety. Additionally, because of the controversial nature of hydronuclear experiments, a request for funding at this time may invite the Congress to enact legislation restricting funding for this purpose. This would tie the hands of the Executive Branch in the negotiation of a comprehensive test ban treaty and may force a change in the Administration's current negotiating position and strategy. Alternatively, if the Congress withheld its approval of funding, this will create ambiguity concerning U.S. policy and intentions on this sensitive issue, further complicating the comprehensive test ban negotiations.

As a member of your cabinet, with responsibility, with others, for carrying out your non-proliferation and national security agenda, I believe strongly that a decision to conduct, or to prepare to conduct, hydronuclear experiments under a nuclear testing moratorium is tactically unwise and substantively unnecessary at this time. I urge you to decide not to authorize preparations for these experiments in the fiscal year 1996 budget request and also not to conduct these experiments under a moratorium.

Mr. SMITH of New Hampshire. Mr. President, I further ask unanimous consent to print in the RECORD a memorandum for Dr. John Deutch, chairman of the Nuclear Weapons Council, from Dr. Harold Smith, staff director of the Nuclear Weapons Council.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM

For: Dr. John Deutch, Chairman NWC.
From: Dr. Harold Smith, Staff Director NWC.
Subject: Secretary O'Leary's Letter to the President on Hydronuclear Experiments (HN).

BACKGROUND

Letter dated September 8, 1994 from Secretary O'Leary to the President was received in my office today by FAX as a bootleg copy from Los Alamos National Laboratory—copies were not distributed to OSD, DoD, JS, NSC or the Deputies.

Letter clearly circumvents the established IWG process being pursued through the NSC.

THE O'LEARY LETTER (SENT AS AN ATTACHMENT)

Section I.

". . . strongly urge you to . . . not conduct, or prepare to conduct hydronuclear experiments during the existing moratorium"—circumvents the IWG Deputies forum established by NSC to decide this issue in an Interagency process

Section II.

". . . not technically essential to conduct hydronuclear experiments at this time"—HNs must be conducted while the stockpile is safe and reliable to acquire baseline data, otherwise HN as a diagnostic for stockpile problems is of limited value

". . . technical means other than hydronuclear testing can maintain the stockpile in this robust condition for the near term"—HNs provide direct experimental testing of an unaltered (real) pit—no other technique provides this capability

". . . the JASON group . . . opposed these experiments."—The JASON's draft report indicated that HN experiments have limited technical value, but their assessment was lacking in scope and depth—the JASONs received one briefing and asked no questions in developing their position—NRDC white paper was the basis for their conclusions

". . . could undermine the CTBT negotiations . . ."— speculative

"A request for funding in FY 1996 . . . difficult to defend to the Congress . . ."—ability to justify funding for HNs with Congress should be based on the need to maintain a safe and reliable stockpile

"As a member of your cabinet with responsibility with others for carrying out your nonproliferation and national security agenda"—the national security agenda should include Stockpile Stewardship that includes the ability to conduct a meaningful experimental program

AE opinion—HNs will provide unique data to be combined with other experimental and analytical data to significantly improve confidence in the safety and reliability of the stockpile

Mr. SMITH of New Hampshire. Mr. President, in the summary of the document to the President of the United States from Hazel O'Leary, the Energy Secretary, she said:

> After careful and extended debate within the executive agencies, you are to be presented with a decision memorandum on whether the United States should conduct hydronuclear experiments at the Nevada test site (NTS) under the moratorium on nuclear testing. Although the views of the Department of Energy on this matter are reflected in that decision memorandum, I want to take this opportunity to strongly urge you to decide that the U.S. should not conduct, nor prepare to conduct, hydronuclear experiments during the existing moratorium.

In other words, the Secretary of Energy is asking the President of the United States to ignore the recommendations of the experts.

She states further in this memorandum to the President:

> It is not technically essential to conduct hydronuclear experiments at this time. The Department of Energy has determined that the existing nuclear stockpile of the United States is safe and reliable and that technical means other than hydronuclear testing can maintain the stockpile in this robust condition for the near term.

She concludes in the memo to the President:

> As a member of your cabinet with responsibility, with others, for carrying out your nonproliferation and national security agenda, I believe strongly that a decision to conduct, or to prepare to conduct, hydronuclear

> experiments under a nuclear testing moratorium is technically unwise and substantively unnecessary at this time. I urge you to decide not to authorize preparations for these experiments in the fiscal year 1996 . . . .

That is a very interesting memorandum from the Secretary of Energy to the President of the United States.

Now let us hear what the experts had to say. This is very interesting. In a memorandum from Dr. Harold Smith to John Deutch, Nuclear Weapons Council: Background, letter dated September 8 from Secretary O'Leary to the President was received in my office today by fax as a bootleg copy from the Los Alamos National Laboratory. Copies not distributed to OSD, DOD, Joint Staff, NSC or the Deputies, not distributed and not copied.

Then the subject, and it begins to analyze the O'Leary memo. Let me quote a couple of items. In the memo from O'Leary to the President, she says: Strongly urge you to not conduct or prepare to conduct hydronuclear experiments. They say: This circumvents the IWG deputies forum established by the NSC to decide this issue in an interagency process.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. HELMS. One more minute.

Mr. SMITH of New Hampshire. I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. The Senator has been yielded 1 additional minute.

Mr. SMITH of New Hampshire. The second point in the O'Leary memo says: not technically essential to conduct hydronuclear experiments at this time. Hydronuclear experiments must be conducted while the stockpile is safe and reliable to acquire baseline data, otherwise HN, or hydronuclear, testing, as a diagnostic for stockpile problems, is of limited value.

These are the experts saying this in response.

Finally: Hydronuclear tests provide direct experimental testing of an unaltered real pit. No other technique provides that capability. This is what the experts in the Clinton administration believed. They were end run by the Secretary of Energy on a political decision, which basically said, don't worry about the science, just move forward with the policy.

This is outrageous. It flies in the face of every single point the President has made in saying we should pass this treaty.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I yield 2 minutes to the distinguished Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CLELAND. Mr. President, I have a strong sense of deja vu today.

On September 22, 1963, the Senate, on a bipartisan basis, ratified the Limited Test Ban Treaty by a vote of 80–19. I was present in the Chamber, in the gallery, as a young 21-year-old student observing my country in action and studying government and politics. I was very proud of the Senate on that day.

I was very proud of President Kennedy when, on October 7, 1963, he signed the instruments of ratification of the Limited Test Ban Treaty in the treaty room at the White House.

Today I am saddened. I am saddened by our rush to judgment. I am saddened that our Nation may see a rejection by this Senate of the first real treaty in terms of arms limitation in 70 years.

We are in the strongest military posture I think we have been in as a nation. As such, we are certainly more secure today than when John F. Kennedy sought ratification of the Limited Test Ban Treaty in 1963, certainly more secure than when President Ronald Reagan sought approval of the Intermediate Nuclear Forces Treaty in 1988, and certainly more secure than when President Bush submitted the START I treaty for Senate ratification in 1992. Of all the nations in the world, we have the most to gain from slowing the development of more capable weapons by others and the spread of nuclear weapons to additional countries.

The treaty cannot enter into force unless and until all 44 nuclear-capable states, including China, India, Iran, North Korea, and Pakistan, have ratified it. Should any one of these nations refuse to accept the treaty and its conditions, all bets are off. Finally, even if all the required countries ratify, we will still have the right to unilaterally withdraw from the treaty if we determine that our supreme national interests have been jeopardized.

President Kennedy said, when he signed our first real nuclear test ban treaty: In the first two decades, the age of nuclear energy has been full of fear, yet never empty of hope. Today the fear is a little less and the hope a little greater.

Mr. President, it is my hope that at the end of today's work, this Senate can say the same.

I thank the Chair.

Mr. HELMS. Mr. President, I yield 4 minutes to the distinguished Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 4 minutes.

Mr. SHELBY. Mr. President, I rise in opposition to the Resolution of Advice and Consent to the Ratification of the Comprehensive Test Ban Treaty.

Last Thursday, I testified before the Senate Committee on Foreign Relations, in my capacity as chairman of the Select Committee on Intelligence, to present my views on the ability of the Intelligence Community to monitor compliance with the CTBT. Today, I would like to make certain general observations, in addition to addressing issues involving CTBT monitoring and verification. By the way: monitoring and verification are different. Monitoring is objective. Verification is subjective; it involves determining the significance of information obtained through monitoring.

First, as a general matter, I believe that the treaty will serve as a stalking horse for denuclearization. I do not accuse all of the treaty's supporters of seeking that goal. Yet, a test ban agreement whose first operative sentence appears on its face to outlaw the explosion of nuclear weapons, even in a war of self-defense, surely raises profound questions about the long-term viability of any nuclear deterrent.

I fear that the treaty will both undermine and delegitimize our nuclear deterrent. When I say "undermine," I refer to the effect of ratification of, and adherence to, this treaty on the weapons in our nuclear stockpile.

Senators KYL, WARNER, and others have ably addressed this issue in the course of the debate. I will not belabor it further, other than to cite, as others have, the conclusion of former Secretaries of Defense Rumsfeld, Cheney, Schlesinger, Weinberger, Laird, and Carlucci. These highly regarded public servants have determined that "over the decades ahead, confidence in the reliability of our nuclear weapons stockpile would inevitably decline, thereby reducing the credibility of America's nuclear deterrent." This alone is reason for the Senate to withhold its advice and consent to the treaty.

With respect to delegitimizing our nuclear deterrent, Article I of the treaty prohibits "any nuclear weapon test explosion or any other nuclear explosion." I understand that the U.S. Government does not view that prohibition as applying to the use of nuclear weapons.

The President's 1997 transmittal message to the Senate included an article-by-article analysis of the treaty. This analysis explains that the U.S. position in the negotiations was that "undertakings relating to the use of nuclear weapons were totally beyond the scope" of the CTBT. The analysis does not make clear whether all other signatories agreed with the U.S. view or whether they acquiesced in it or did something else. It is unfortunate that the CTBT text does not incorporate the U.S. understanding. We are asked to give our advice and consent to that text and only that text.

Article 15 of the treaty bars reservations, even one clarifying the meaning of Article I. Because the U.S. understanding of the scope of the prohibition on other nuclear explosions cannot be incorporated in a reservation to the treaty, the U.S. position may be subject to challenge as a matter of law. After all, one normally looks at negotiating history only if the treaty text is unclear. I hope the administration will address this issue to my satisfaction.

In the meantime, along with many other concerns about this treaty, I question the wisdom of negotiating an agreement that relegates our right of self-defense to the fine print.

I would also draw the attention of Senators to the language of the preamble to the CTBT. The administration points to the preamble for support for its narrow reading of the open-ended language of Article I. The administration notes, correctly, that the preamble does not refer to the "use" of nuclear weapons. In the administration's view, the treaty therefore cannot be read to apply to the use of nuclear weapons. Yet, a close reading of the preamble raises more questions than it answers over the ultimate purpose of the CTBT. I hope everybody shares my abhorrence of nuclear weapons. But merely wishing to put the nuclear genie back in the bottle will not accomplish that goal.

The one certainty about the CTBT is that, if ratified, the United States will obey it to the letter. Other countries' record of deception and denial with respect to nuclear testing is such that we cannot have the same confidence. And, in the world of the blind, the one-eyed is king.

I have supported well-negotiated, well-considered reductions in our nuclear forces. But it is a fact that the American nuclear deterrent has served our Nation well and has served the world well. The United States, under Democratic and Republican administrations, backed by a strong and credible nuclear deterrent, faced down the Soviet threat and served as a force for peace and stability around the world.

Therefore, Mr. President, I would not start down this path. Even if the Senate approved the CTBT today, it would be years before the treaty took effect. And by then, decisions would have been made affecting the future of our nuclear deterrent that may be irrevocable.

The second reason I intend to vote against advice and consent is that I am convinced that the treaty cannot achieve the goals its proponents have described: to prevent the nuclear powers from developing new nuclear weapons and to stop the proliferation of nuclear weapons.

While I cannot go into classified details, as my colleagues are aware, the Washington Post recently reported that Russia continues to conduct what may be low-yield nuclear tests at its Arctic test site. Russia reportedly is undertaking this action in order to develop a new low-yield weapon that will be the linchpin of a new military doctrine. These Russian activities are of particular concern. There is evidence, including public statements from the Russian First Deputy Minister of Atomic Energy, Viktor Mikhailov, that Russia intends to continue to conduct low-yield hydro-nuclear tests—that is, nuclear tests—and does not believe that these are prohibited by the treaty.

With respect to proliferation, Acting Undersecretary of State John Holum has stated that, with the CTBT in effect, it will be "very difficult for new countries to develop nuclear weapons." Yet, Director of Central Intelligence George Tenet has stated that "[n]uclear testing is not required for the acquisition of a basic nuclear weapons capability . . . [and] is not critical for a first-generation weapon." North Korea, Iraq, and Iran are seeking this kind of weapon.

Third, it is my considered judgment, as Chairman of the Intelligence Committee, that it is impossible to monitor compliance with this treaty with the confidence that the Senate should demand—I repeat, demand—before providing its advice and consent to ratification.

Simply put, I am not confident that we can now, or, in the foreseeable future will be able to, detect any and all nuclear explosions prohibited under the treaty.

I have a great degree of confidence in our ability to monitor higher yield explosions at known test sites. I have markedly less confidence in our capabilities to monitor lower yield and/or evasively conducted tests, including tests that may enable states to develop new nuclear weapons or improve existing weapons.

I should also repeat in this context North Korea, Iran, and Iraq can develop and deploy nuclear weapons without any nuclear tests at all.

With respect to monitoring, in July 1997, the intelligence community issued a National Intelligence Estimate entitled "Monitoring the Comprehensive Test Ban Treaty Over the Next 10 years." While I cannot go into classified details, I can say that the NIE was not encouraging about our ability to monitor compliance with the treaty—nor about the likely utility of the treaty in preventing countries like North Korea, Iran, and Iraq from developing and fielding nuclear weapons.

The NIE identified numerous challenges, difficulties, and credible evasion scenarios that affect the intelligence community's confidence in its ability to monitor compliance.

Because the details are classified, and because of the inherent difficulty of summarizing a highly technical analysis covering a number of different countries and a multitude of variables, I recommend that Members review this document with the following caution: I believe that newly acquired information and other developments require a reevaluation of the 1997 estimate's assumptions and underlying analysis on certain key issues. I believe such a new analysis will increase concern about monitoring the CTBT. A preliminary summary of the Intelligence community's revised judgment was provided to the committee late last Friday. This document, along with the NIE and the transcript from last week's hearing is available to Members in S–407.

Proponents of the treaty argue, in essence, that we will miss no test of strategic significance. Despite the U.S. inability to monitor compliance at any test level, proponents place their faith in multilateral monitoring aids provided under the treaty: the International Monitoring System, a multinational seismic, infra-sound, hydroacoustic, and radio-nucleide detection system; and the CTBT's on-site inspection regime.

Based on a review of the structure, likely capabilities, and procedures of these multilateral mechanisms, which will not be operational for a number of years, and based on the intelligence community's own analysis, I believe that these mechanisms will be of little value. For example, the IMS will be technically inadequate to monitor the most likely forms of noncompliance.

The IMS seismic system was not designed to detect "evasively" conducted tests. These are precisely the kind of tests Iraq or North Korea are likely to conduct.

In addition, the IMS suffers from having been designed with diplomatic sensitivities rather than effective monitoring in mind. Under the so-called "non-discriminatory" framework, no country will be singled out for attention. All countries—Iraq and Ireland, North Korea and Norway—will receive the same level of verification.

Lastly, it will be 8 to 10 years before the system is complete.

Because of these shortcomings, and for other technical reasons, I am afraid that the IMS is likely to muddy the waters by injecting questionable data into what will inevitably be highly charged debates over possible violations.

With respect to OSI, I believe that the onsite inspection regime invites delay and deception. For example, U.S. negotiators originally sought an "automatic green light" for on-site inspections. Yet, because of the opposition of the People's Republic of China, the regime that was adopted allows inspections only with the approval of 30 of the 51 countries on the Executive Committee. Proponents of ratification, especially, will appreciate the difficulty of rounding up the votes for such a super-majority.

I am troubled by the fact that if the United States requested an inspection, no U.S. inspectors could participate in that inspection, and we could send an observer only if the inspected party approved. I am also disturbed by the right of the inspected party to declare areas up to fifty square kilometers off-limits to inspection or to impose severe restrictions on inspectors in those areas.

I understand that these provisions mirror limitations sought by Saddam Hussein on UNSCOM inspectors. This leads me to believe that OSI stands for "Option Selected by Iraq." Even if inspectors do eventually get near the scene of a suspicious event, the evidence—which is highly perishable—may well have vanished.

The recently-reported activity at Russia's Arctic test site raises questions both as to our monitoring capabilities and Russian intentions under the CTBT. The Washington Post reported that Russia continues to conduct possible low-yield nuclear tests at its Arctic test site. The Washington Post also reported that the CIA cannot monitor such tests with enough precision to determine whether they are nuclear or conventional explosions.

Mr. President, I have tried to convey some serious concerns about the practicality of this treaty, and that is extremely difficult to do in an unclassified forum and in such a short time.

I urge my colleagues, as they consider their position on this treaty, to immerse themselves in the details. For further information on treaty monitoring and the reported activities at the Russian test site, I urge Members to review the materials available in S-407.

In closing, Mr. President, I would like to make some general points.

First, I believe that, when foreign and national security policies come before the Senate, we must put the Nation's interests first.

Second, while arms control agreements may be useful to the extent they advance our national interests, they are not a substitute for sound policy. Good agreements are an instrument of good policy. Bad agreements, pursued for agreement's sake, do not serve our Nation's interests.

Lastly, some of my colleagues have held out the option of withdrawal from the treaty, should it be ratified yet somehow fail to lead to the Golden Age that proponents envision.

Let me be clear. If this treaty is ratified, there will be no turning back.

The history of cold war arms control agreements is instructive. In 1972, the United States signed the Interim Agreement on the Limitation of Strategic Offensive Arms, generally known as SALT I, together with the SALT I Anti-Ballistic Missile treaty.

On May 9, 1972, Ambassador Gerard Smith unilaterally declared that "[i]f an agreement providing for more complete strategic offensive arms limitations were not achieved within five years, U.S. supreme interests could be jeopardized." He continued, "Should that occur, it would constitute a basis for withdrawal from the ABM Treaty."

In fact, no such agreement was reached in five years or in ten years or in 15 years. Not until 1991, almost 20 years after SALT I, when START I was signed, did the United States and the Soviet Union reach such an agreement. At no point did the United States invoke the Supreme Interest clause to withdraw from the ABM Treaty.

It is difficult to imagine the circumstances in which an administration would withdraw from the CTBT.

In closing, Mr. President, I believe that there are many reasons to oppose this treaty. The effect on our nuclear stockpile, the inability of the treaty to achieve its goals, and our inability to monitor compliance are each sufficient reason to withhold advice and consent to ratification.

Mrs. FEINSTEIN. Mr. President, I yield myself 3 minutes. Mr. President, I rise today to express my support for the Comprehensive Nuclear Test Ban Treaty. Unfortunately, the vote outcome today looks to be a tragedy of major proportions. It will leave the world a far less safe place and means the United States relinquishes its imperative as a leader in nuclear nonproliferation. I would like to take a few minutes to explain why I support this treaty, and to address some of the arguments presented by those who are opposed to this Treaty.

I support the Comprehensive Test Ban Treaty because I believe it strengthens the U.S. ability to play a leadership role in global nuclear nonproliferation. The treaty is a key element of the global non-proliferation regime, and if the U.S. fails to ratify the CTBT, it sends a clear message around the world that the development and possession of nuclear weapons are acceptable. As former U.S. Ambassador to India Frank Wisner expressed in a letter earlier this year, if the U.S. walks away from the CTBT "I do not want to contemplate treaty failure here followed by a breakdown with India and Pakistan and the effect these moves will have on rogue states like Iraq, Libya, Iran and North Korea."

Second, the CTBT will constrain the development of nuclear capabilities by rogue states, as well as the development of more advanced weapons by declared nuclear states. Any significant nuclear program requires extensive testing, and while a rogue state might develop a primitive first generation weapon without testing, that testing would not be adequate to develop a sophisticated weapon. And, because new types of weapons also require testing, the CTBT will also curb the ability of states which already possess nuclear weapons from developing more advanced designs. As John Holum, Acting Undersecretary of State and the former Director of the Arms Control and Disarmament Agency, has noted, the United States does not need tests; proliferators need tests.

Third, the CTBT will improve the U.S. ability to detect and deter nuclear tests. The American Geophysical Union and the Seismological Society of America, in a joint statement issued on October 6, found that when the International Monitoring System—with over 300 seismic, hydroacoustic, infrasound, and radionuclide monitoring stations—is in operation, no nation will be able to elude them, even with a small-yield test.

And, finally, the CTBT will make the world a safer place and safeguard U.S. national security interests. The treaty constrains the development of nuclear weapons by other states. That is good. It provides the United States with additional means to detect nuclear activities of other countries. It provides the United States with means and leverage to act if we discover that other states are, in violation of the treaty, developing nuclear weapons. And, given the size and sophistication of the U.S. nuclear arsenal—second to none in every respect—it preserves U.S. nuclear superiority and our deterrent capability. It will help make the world a safer place. It is in the national interest.

The Joint Chiefs believe that this Treaty safeguards U.S. interests. Former Chiefs, including Generals Colin Powell, John Shalikashvili, David Jones, and Admiral Crowe all endorse the treaty. Presidents of both parties, from Eisenhower and Kennedy to President Clinton have worked for a ban on nuclear test explosions. The NATO alliance has endorsed the Treaty. And other leading U.S. military and diplomatic figures—including Paul Nitze, Admiral Turner, Admiral Zumwalt—all support this treaty and believe that it makes the U.S. more secure in the world, not less.

Let me now address several of the arguments that have been raised by opponents of this treaty: That it is not verifiable; that it will compromise the reliability and integrity of the U.S. nuclear arsenal; that the U.S. needs to maintain the ability to improve our nuclear arsenal and that we can only do so with additional tests; and that others, such as North Korea and Iran, will develop nuclear weapons under the CTBT while our hands are tied.

First, several opponents of this treaty have commented that it is impossible for the CTBT to offer a 100% foolproof means of detecting low-yield tests.

It is true that the CTBT will not provide the means for 100% verification of low-yield tests—those tests less than one kiloton in size. But it is undeniable that the additional seismic monitors, including a system that will be well-calibrated to pick up tests smaller than one kiloton (in areas of interest) and the treaty's on-site verification provisions, will increase our current verification capabilities. As the statement of the American Geophysical

Union and the Seismological Society of America asserts, the CTBT will add significant capabilities to what we can now detect, and the increased likelihood of detection will serve as a real deterrent to any state contemplating a test.

In addition, as physicist and arms control expert Sidney Drell has noted, "very low yield tests are of questionable value in designing new nuclear weapons or confirming that a new design will work as intended." In other words, even if the CTBT is not 100% verifiable for small-yield tests, tests of this size are only of a limited utility to a state seeking to develop nuclear weapons.

Second, questions have been raised about the adequacy of the Science Based Stockpile Stewardship Program to maintain the reliability and integrity of U.S. weapons systems.

Simply put, according to General Shalikashvili in testimony before Congress, "our warheads, having been adequately tested in the past, continue to be safe and reliable." With the Stockpile Stewardship Program, further nuclear testing is not necessary to maintain the safety and reliability of the U.S. arsenal. The U.S. has conducted over 1,000 nuclear tests. We have a high level of knowledge and sophistication and sufficient data to maintain the safety and reliability of our weapons. The U.S. does not need to conduct further nuclear tests—it is other states that need to test if they seek to develop nuclear programs, and it is precisely tests by other states that the CTBT will constrain or prevent.

In fact, because the U.S. does not need to continue to test, in 1992 President Bush signed into law legislation that established a moratorium on U.S. testing, and we have not tested a weapon in six years.

Each year the heads of Los Alamos, Sandia, and Lawrence Livermore have certified that the U.S. stockpile is safe and reliable. There is every indication that, aided by sophisticated computer modeling and other stockpile stewardship initiatives, they will be able to continue to make these certifications. In fact, in a February 2, 1998 statement, the three lab heads stated that "We are confident that the Stockpile Stewardship program will enable us to maintain America's nuclear deterrent without nuclear testing."

Critically—and this point should not be overlooked or ignored by opponents of the treaty—if at any point the United States finds that it can not continue to certify the safety and reliability of our nuclear weapons, under the President's safeguards package incorporated in the Democratic Amendment, the U.S. will maintain the prerogative to pull out of the CTBT and conduct tests or take whatever measures are necessary to maintain stockpile integrity. In other words, our very ability to maintain stockpile safety is a condition of U.S. participation in the CTBT.

Third, questions have been raised as to whether the U.S. needs to continue to test to maintain the ability to improve our nuclear arsenal to face the security challenges that lie ahead.

While the CTBT might constrain our ability to develop whole new classes of weapons, the CTBT does allow us to make modifications to our weapons, including casings, detonators, batteries, and arming systems. In a letter to President Clinton, Dr. Hans A. Bethe, head of the Manhattan Project's theoretical division and professor of physics emeritus at Cornell University, states that "If any component shows signs of deterioration it will be refabricated. If the fuel itself is degrading, it will be refreshed."

Parts that wear out can be replaced, and modifications can be made that will improve the capabilities of our nuclear arsenal. Thus, for example, in 1996 a B-61-7 nuclear bomb was modified to a B-61-Mod V earth penetrating weapon by hardening the outer casing. Unlike the B-61-7, the B-61-Mod V has additional capability to penetrate hardened targets.

In other words, the CTBT, while effectively preventing other states from developing nuclear weapons, will still allow the United States to modify its arsenal to meet the challenges that we may face in the years ahead.

Finally, there is the argument that under the CTBT other states—especially such states as North Korea or Iran—will do what they want while our hands will be tied.

In the final analysis some states will do what they want in violation of the norm established by the international community anyway. In other words, they will seek to develop nuclear weapons whether or not the CTBT is in force.

The real question, then, is if the CTBT will make it easier or more difficult for these states to develop nuclear weapons.

For example, with or without the CTBT the U.S. will face problems verifying small-yield tests. And the fact of the matter is that without the CTBT, relying only on national intelligence means, we will have greater difficulty in detecting any tests and less leverage to do anything about it if we do.

Again, to quote General Shalikashvili,

> On the issue of verification we have concluded that a Comprehensive Test Ban Treaty will actually put us in a better position to obtain effective verification than we would have without the Treaty. The Treaty does not provide "perfect verification," but that level of verification that would allow us to detect, to identify and to attribute that level of testing that could undercut our nuclear deterrent.

The CTBT may thus deter some from going forward with nuclear developments entirely—India and Pakistan have indicated that they would adhere to a test ban, for example—and for those it will not deter, it will make the development of nuclear weapons that much more difficult, and perhaps impossible.

I do not believe the CTBT, or any treaty for that matter, can prevent a determined state from doing what the treaty forbids. But that is neither the right nor the fair standard to measure the treaty against. One cannot let the perfect be the enemy of the good.

The bottom line is that by any measure the CTBT will make the development of nuclear weapons by other states more difficult, will add to the U.S. ability to detect tests, and will enhance U.S. national security by preventing the spread of nuclear weapons while assuring that the U.S. maintains a strong and capable nuclear deterrent second to none. And we also know that failure of the U.S. to ratify the CTBT will have disastrous repercussion.

The United States has led the international effort to keep the nuclear genie in the bottle for the past five decades. As we prepare to enter a new century we should not now uncork that bottle, and make our legacy to the twenty-first century the unleashing of a global nuclear weapons race.

Although I do not believe that this is the appropriate time for this Senate to vote on this treaty, I urge my colleagues to support ratification of the CTBT.

Mr. HELMS. Mr. President, I yield 2 minutes to the Senator from Arizona.

Mr. KYL. Mr. President, I rise today to explain why I intend to vote against the Comprehensive Test Ban Treaty (CTBT). I think that the words of President Ronald Reagan serve as the most appropriate and powerful way to begin this discussion. President Reagan frequently reminded us, "We must always remain strong, so that we will always be free." The first question we must ask ourselves as we consider this vote is whether the CTBT jeopardizes the strength that the American people have relied upon for 50 years to ensure that this Nation remains free and at peace. Unfortunately, after careful consideration, I have concluded that the CTBT does jeopardize our strength by causing real harm to the very backbone of America's security—its safe, reliable, and credible, nuclear deterrent.

Some of my colleagues have argued that the Senate should postpone final action on the CTBT, that defeating the treaty today sends the wrong message to the world, that somehow the Senate would be signaling to rogue states and others that the United States thinks it is acceptable to develop nuclear weapons. I could not disagree more. The Senate will reject this treaty because it harms America's nuclear deterrent and because it does nothing meaningful to ensure that the spread of nuclear weapons is halted. Regardless of the outcome of the CTBT vote, the world should know that this Senate remains committed to preventing the spread of nuclear weapons, and that we will continue to support the strongest possible actions against proliferant states.

Nor should the rest of the world misinterpret another aspect of the Senate's rejection of the CTBT. The main message of the Senate's action today is that our constitutional democracy, with its cherished checks and balances, is alive and well. Through the wisdom of our Founding Fathers, the Constitution makes the treaty-making power a shared power. The Senate, through its obligation to provide advice and consent to treaties, acts as the "quality control mechanism" to ensure that the President does not bind the Nation to an international commitment that is not in its best interests. Before the United States is bound by the terms of an international agreement such as the CTBT, the President and the Senate must both agree to its terms. In rejecting the CTBT, the Senate is sending an explicit message that the United States does not have an international legal obligation to adhere to the provisions of the treaty. If the President were to determine that the United States must conduct tests to ensure the safety or reliability of our nuclear arsenal, the United States would be entitled to do so.

Perhaps most importantly, the Senate's rejection of the CTBT will send a clear message that the United States will not sign up to flawed treaties that are not in the nation's interest. And the men and women who represent the United States in international negotiations will know that when they stand up to negotiating partners in order to protect America's interests in future treaty negotiations, the Senate will not only support them, it will expect them to forcefully advocate a position that protects those interests.

Supporters of the CTBT would have the American people believe that to cast a vote against the treaty is merely a political act designed to embarrass the President. I do not see how anyone who has actually watched the Senate's careful deliberations—both in its committees and the floor—in recent weeks can honestly reach such a conclusion. I think that what the Senate had done through its thorough hearings and floor debate is to demonstrate beyond any reasonable doubt that this treaty faces certain defeat because of the substantive arguments against it that have been persuasively been presented to this body. The inescapable fact about the CTBT is that it is a fatally flawed treaty—it jeopardizes this Nation's nuclear deterrent, it will not contribute to the cause of nonproliferation, and it is unverifiable and unenforceable.

Although these arguments have already been made in depth here on the floor, they bear reinforcement as Senators prepare to cast their votes.

First, the CTBT threatens the Nation's nuclear deterrent—the very backbone of America's security for the past 50 years. To have an effective nuclear deterrent, we must have absolute confidence in the safety and reliability of our nuclear weapons. This requires periodic nuclear tests to ensure that we understand, for example, the effects of aging on our weapons and the best way to mitigate those effects. Again, as with the maintenance of any complex weapon, we must be able to test, to detect technical or safety problems that arise in our nuclear stockpile.

The administration's Stockpile Stewardship Program may well help the United States to better understand our nuclear arsenal, but it is unproven, it may never be an adequate substitute for actual tests, and it is already behind schedule.

A week's worth of expert testimony bears this out. As C. Paul Robinson, the current Director of Sandia National Laboratory, testified before the Armed Services Committee last week:

> I and others who are, or have been, responsible for the safety and reliability of the U.S. stockpile of nuclear weapons have testified to this obvious conclusion [that testing is the preferred methodology] many times in the past. To forego that validation through testing is, in short, to live with uncertainty.

Second, the CTBT will not contribute to the cause of nonproliferation. Countries will make decisions about whether to pursue nuclear weapons based on hard-headed calculations of their security interests. This fact has been demonstrated time and again. The existence of an "international norm" against the pursuit of nuclear weapons, created by the 1968 Nuclear Non-Proliferation Treaty (NPT), has not stopped a number of states, including Iran, Iraq, and North Korea from attempting to develop nuclear weapons. Furthermore, the United States has not tested in 8 years, yet in that same timeframe, five other nations have tested.

Third, the CTBT is unverifiable, meaning that states who choose to violate the CTBT may never be caught, and it is unenforceable, meaning that violators who are caught will likely go unpunished. As the October 3 Washington Post pointed out, a recent assessment by the Central Intelligence Agency concluded that the CIA "cannot monitor low-level tests by Russia precisely enough to ensure compliance with the CTBT."

And as C. Paul Robinson, the Director of Sandia National Laboratory, said in testimony before the Armed Services Committee on October 7:

> . . . [c]ompliance with a strict zero-yield requirement is unverifiable. The limitations of verifiability introduce the possibility of inconsistent observance of the ban under the threshold of detectability.

Speaking to the issue of lack of enforceability, our colleague RICHARD LUGAR recently noted:

> This treaty simply has no teeth . . . . The CTBT's answer to illegal nuclear testing is the possible implementation of sanctions. It is clear that this will not prove particularly compelling in the decisionmaking processes of foreign states intent on building nuclear weapons. For those countries seeking nuclear weapons, the perceived benefits in international stature and deterrence generally far outweigh the concern about sanctions that could be brought to bear by the international community.

Mr. President, for all the reasons my colleagues and I have cited throughout this debate, I believe the only prudent course is for the Senate to demonstrate strength and good sense worthy of Ronald Reagan by rejecting this flawed CTBT.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Dr. Henry Kissinger to the chairman of the Foreign Relations Committee.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HENRY A. KISSINGER,
October 13, 1999.

Hon. JESSE HELMS,
Chairman, Foreign Relations Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you know, I—together with former National Security Adviser Brent Scowcroft and former CIA Director and Deputy Secretary of Defense John Deutch—had recommended in a letter dated October 5th to Senators Lott and Daschle and in an op-ed in the October 6th Washington Post that a vote on ratification of the Comprehensive Nuclear Test Ban Treaty be postponed to permit a further discussion and clarification of the issues now too controversial. This having proved unachievable, I am obliged to state my position.

As a former Secretary of State, I find the prospect that a major treaty might fail to be ratified extremely painful. But the subject of this treaty concerns the future security of the United States and involves risks that make it impossible for me to recommend voting for the treaty as it now stands.

My concerns are as follows.

IMPORTANCE OF NUCLEAR WEAPONS

For the entire postwar period, the American nuclear arsenal has been America's ultimate shield and that of our allies. Though we no longer face the same massive threat that we did during the Cold War, new dangers have arisen. Our nuclear arsenal is our principal deterrent to the possible use of biological and chemical warfare against America, our military, and our allies.

VERIFICATION

Almost all experts agree that nuclear tests below some yield threshold remain unverifiable and that this threshold can be raised by technical means. It seems to me highly dangerous to leave such a vacuum regarding a matter fundamentally affecting the security of the United States. And the fact that this treaty is of indefinite duration compounds the problem. The CIA's concerns about recent ambiguous activities by Russia, as reported in the media, illustrate difficulties that will only be compounded by the passage of time.

Supporters of the treaty argue that, because of their small yield, these tests cannot be significant and that the treaty would therefore "lock in" our advantages vis-à-vis other nuclear powers and aspirants. I do not know how they can be so sure of this in an age of rapidly exploding technology and whether, on the contrary, this may not work to the advantage of nations seeking to close this gap. After all, victory in the Cold War was achieved in part because we kept increasing, and not freezing, our technological edge.

NUCLEAR STOCKPILE

I am not a technical expert on such issues as proof testing, aging of nuclear material, and reworking existing warheads. But I find it impossible to ignore the concern about the treaty expressed by six former Secretaries of Defense and several former CIA Directors and National Security Advisers. I am aware that experts from the weapons laboratories have argued that there are ingenious ways to mitigate these concerns. On the other hand, there is a difference between the opinion of experts from laboratories and policymakers' confidence in the reliability of these weapons as our existing stockpile ages. When national security is involved, one should not proceed in the face of such doubts.

SANCTIONS

Another fundamental problem is the weakness of the enforcement mechanism. In theory, we have a right to abrogate the treaty when the "supreme national survival" is involved. But this option is more theoretical than practical. In a bilateral treaty, the reluctance to resort to abrogation is powerful enough; in a multilateral treaty of indefinite duration, this reluctance would be even more acute. It is not clear how we would respond to a set of violations by an individual country or, indeed, what response would be meaningful or whether, say, an Iranian test could be said to threaten the supreme national survival.

NON-PROLIFERATION

I am not persuaded that the proposed treaty would inhibit nuclear proliferation. Restraint by the major powers has never been a significant factor in the decisions of other nuclear aspirants, which are driven by local rivalries and security needs. Nor is the behavior of rogue states such as Iraq, Iran, or North Korea likely to be affected by this treaty. They either will not sign or, if they sign, will cheat. And countries relying on our nuclear umbrella might be induced by declining confidence in our arsenal—and the general impression of denuclearization—to accelerate their own efforts.

For all these reasons, I cannot recommend a vote for a comprehensive test ban of unlimited duration.

I hope this is helpful.

Sincerely,

HENRY A. KISSINGER.

Mr. KYL. Mr. President, I will read excerpts from the letter. It is instructive that Henry Kissinger has written the following:

> As a former Secretary of State, I find the prospect that major treaty might fail to be ratified extremely painful. But the subject of this treaty concerns the future security of the United States and involves risks that make it impossible for me to recommend voting for the treaty as it now stands.

He then went on to talk about the experts who believe the treaty to be unverifiable, and then the concerns expressed by the CIA about recent ambiguous activities with respect to Russia; the impossibility, on his part, to ignore the concerns expressed by people such as the former Secretaries of Defense, CIA Directors, and National Security Advisers; and the weakness of the enforcement mechanism of the treaty.

He concludes in the following fashion:

> I am not persuaded that the proposed treaty would inhibit nuclear proliferation. Restraint by the major powers has never been a significant factor in the decisions of other nuclear aspirants, which are driven by local rivalries and security needs. Nor is the behavior of the rogue states such as Iraq, Iran, or North Korea likely to be affected by this treaty. They either will not sign or, if they sign, will cheat. And countries relying on our nuclear umbrella might be induced by declining confidence in our arsenal—and the general impression of denuclearization—to accelerate their own efforts.
>
> For all these reasons, I cannot recommend a vote for a comprehensive test ban of unlimited duration.

Mr. COVERDELL. Will the Senator yield?

Mr. KYL. Yes.

Mr. COVERDELL. Mr. President, I think this is a most important letter, but the date makes it unique.

Mr. KYL. The date of the letter is today, October 13, 1999, on the eve of our vote.

Mr. President, let me conclude by thanking all of the people who have testified on both sides of this, especially Dr. James Schlesinger, Jim Woolsey, and people who came early to the Senate and helped inform those of us who were eager to learn what we needed to know about this. I am especially grateful, as I said, to Dr. Schlesinger for his willingness to do that, as well as to testify before the committee.

I also thank Senator JOHN WARNER and Senator JESSE HELMS, both of whom have spent a great deal of time conducting extremely informative hearings. I also thank Senator JOE BIDEN from Delaware, who has conducted himself very well on his side of the debate.

I reserve any additional time.

Mr. BIDEN. Mr. President, I yield 2 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I rise in support of the Comprehensive Nuclear Test Ban Treaty.

I strongly believe that the Comprehensive Test Ban Treaty—or CTBT—is in our nation's national security interests. But before I discuss my reasons for supporting the Treaty, let me first say why the Senate—even those who are unsure of the Treaty—should support the Resolution. The past week of debate over the issue has only underscored the arguments for its ratification.

I have spoken before about the history of the CTBT. Let me reiterate some of its history and why it is important to Iowans.

On October 11, 1963, the Limited Test Ban Treaty entered into force after being ratified by the Senate in an overwhelming, bipartisan vote of 80–14 just a few weeks earlier. This treaty paved the way for future nuclear weapons testing agreements by prohibiting tests in the atmosphere, in outer space, and underwater. This treaty was signed by 108 countries.

Our nation's agreement to the Limited Test Ban Treaty marked the end of our nation's above ground testing of nuclear weapons, including those at the U.S. test site in Nevada. We now know, all too well, the terrible impact of exploding weapons over the Nevada desert. Among other consequences, these tests in the 1950's exposed millions of Americans to large amounts of radioactive Iodine-131, which accumulates in the thyroid gland and has been linked to thyroid cancer. "Hot Spots," where the Iodine-131 fallout was the greatest, were identified by a National Cancer Institute report as receiving 5–16 rads of Iodine-131. The "Hot Spots" included many areas far away from Nevada, including New York, Massachusetts and Iowa. Outside reviewers have shown that the 5–16 rad level is only an average, with many people having received much higher exposure levels, especially those who were children at the time.

To put that in perspective, federal standards for nuclear power plants require that protective action be taken for 15 rads. To further understand the enormity of the potential exposure, consider this: 150 million curies of Iodine-131 were released by the above ground nuclear weapons testing in the United States, about three times more than from the Chernobyl nuclear power plant disaster in the former Soviet Union.

It is all too clear that outlawing above-ground tests were in the interest of our nation. I strongly believe that banning all nuclear tests is also in our interests. This is a view shared by many leading Iowans. I request unanimous consent that a recent editorial from the Des Moines Register be placed in the RECORD.

October also marked some key steps for the Comprehensive Test Ban Treaty or CTBT. On October 2, 1992, President Bush signed into law the U.S. moratorium on all nuclear tests. The moratorium was internationalized when, just a few years later, on September 24, 1996, a second step was taken—the Comprehensive Test Ban Treaty, or CTBT, was opened for signature. The United States was the first to sign this landmark treaty.

Mr. President, President Clinton took a third important step in abolishing nuclear weapons tests by transmitting the CTBT to the United States Senate for ratification. Unfortunately, the Senate has yet to take the additional step of ratifying the CTBT. I am hopeful that we in the Senate will ratify the Treaty, and continue the momentum toward the important goal of a world wide ban on nuclear weapons testing.

Many believed we had conquered the dangerous specter of nuclear war after the Cold War came to an end and many former Soviet states became our allies. Unfortunately, recent developments in South Asia remind us that we need to be vigilant in our cooperative international efforts to reduce the dangers of nuclear weapons. This weeks coup in Pakistan only makes clearer the need for a nuclear test ban treaty.

The CTBT is a major milestone in the effort to prevent the proliferation of nuclear weapons. It would establish a permanent ban on all nuclear explosions in all environments for any purpose. Its "zero-yield" prohibition on nuclear tests would help to halt the development and deployment of new nuclear weapons. The Treaty would also establish a far-reaching verification regime that includes a global network of sophisticated seismic, hydro-acoustic and radionuclide monitoring stations, as well as on-site inspection of test sites to deter and detect violations.

It is vital to our national security for the nuclear arms race to come to an end, and the American people recognize this. In a recent poll, more than 80 percent of voters supported the Treaty.

It is heartening to know that the American people understand the risks of a world with nuclear weapons. It is now time for policymakers to recognize this as well. There is no better way to honor the hard work and dedication of those who developed the LTBT and the CTBT than for the U.S. Senate to immediately ratify the CTBT.

It's ratification is clearly in America's and the worlds security interests. It would make the world a safer place for our children and grandchildren. Its defeat could well trigger a major new arms race in Asia—a prospect that should send chills down the backs of us all.

The choice is clear.

Mr. President, I have read through the treaty as best I could and looked at some of the annexes and protocols thereto. In there, there is a list of about 317 monitoring stations that would be put in place if we ratify this treaty. Right now, I understand there are about 100. So we will have three times more monitoring stations than we have right now. So to those who say we might not be able to absolutely detect every explosion over a certain amount, or under a certain amount, quite frankly, we will have a lot more monitoring stations by ratifying this treaty than we have right now.

Secondly, if the explosions are so small as to be undetectable, there are provisions in the treaty that allow for a state to have an onsite inspection. So there is a whole process it goes through so we can have an onsite inspection to determine whether or not it was a nuclear explosion.

Lastly, the treaty does contain a supreme interest clause in accordance with which a state party may withdraw from the treaty upon 6 month's notice, et cetera, if it determines that extraordinary events related to the subject matter of the treaty have jeopardized its supreme interest. So, at any time, if the United States, or any other sovereign nation, decides it is in their supreme interest to withdraw from the treaty, they can do so by giving 6 month's notice.

Lastly, if anybody ever had any doubt about why we ought to be ratifying this treaty, the headline in this morning's paper ought to say it all: Army Stages Coup In Pakistan. Troops Arrested Prime Minister.

In part, it says:

> India expressed deep concern with the government's ouster and put its army on high alert.

If nothing else, this ought to tell us to ratify this treaty, or else we are going to have more nuclear explosions in South Asia. It is a powder keg waiting to happen. We ought to ratify the treaty.

Mr. HELMS. Mr. President, I yield 2 minutes to the Senator from New Mexico, Mr. DOMENICI.

Mr. DOMENICI. Mr. President, as I said earlier this week, I oppose this treaty for two major reasons: (1) the treaty cannot be considered apart from other major arms control agreements into which the United States has entered; and (2) Science-Based Stockpile Stewardship has not yet been given enough time to prove whether or not it will give us the assurance we need in the reliability and safety of our nuclear weapons without physical testing.

However, the vote by the Senate today to reject this treaty was ill-timed and this poor timing could have adverse consequences in the world. No need exists now for a vote; after all, the United States is not now testing and has no plans in the immediate future to do so. This has been recognized by proponents and opponents of this treaty who have asked for delay in the vote.

I have attempted, with many others, during the last 2 weeks to help forge some path out of the parliamentary impasse in which the Senate is currently involved. Nonetheless, that has not been successful. We have not found any such path. I think that is unfortunate. Nonetheless, I might say treaties don't really die, even when they are defeated; they are returned to the Executive Calendar of the Senate. Therefore, we will have another chance to debate the Comprehensive Test Ban Treaty in the next Congress, or years thereafter. It may very well be that, by then, my concerns about the overall strategic arms strategies and their relationship to the Comprehensive Test Ban Treaty can be alleviated. And if the potential for stockpile stewardship during that decade can be realized, perhaps I will be able to vote for the treaty in the future.

I yield the floor.

Mr. BIDEN. Mr. President, I yield 2 minutes to my friend from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, my father, over a half century ago, wrote an article the day after Hiroshima, and he focused on the problem of a proliferation of atomic bombs and nuclear weaponry. He was worried about his children, and he was worried about his grandchildren to come.

Today I come to the floor of the Senate, and I say I really was hoping this Senator would be a part of a vote that would ratify the Comprehensive Test Ban Treaty. I think it would be an enormous step forward for our children and our grandchildren in our effort to put a stop to the proliferation of these weapons of mass destruction.

I will say very honestly and truthfully to my colleagues that I don't understand why we didn't put this vote off. I don't understand why Senators, on a procedural vote, voted to essentially go forward with this vote today. I think the defeat of this agreement is an enormous step backward for humankind. I think it is a profound mistake.

I think now I have to say to the people in Minnesota and to the people in our country I am saddened that this treaty is going to be defeated. I don't think we should have this vote. But to the American people and Minnesotans, hold each and every Senator accountable.

I yield the floor.

Mr. HELMS. Mr. President, I yield 5 minutes to the distinguished Senator from Virginia, the Old Dominion State, Mr. WARNER.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the distinguished chairman. I thank the distinguished ranking member.

This has been, under the limitations, an excellent debate for the Senate. This is my 21st year in the Senate, and I can think of few debates in that time that have been as informed as this one. I strongly disagree with a very dear friend, Brent Scowcroft, who described this debate otherwise. While not a Member of the Senate, he is one whom I respect. His remarks were reported widely in the newspapers this morning.

This has been a good debate. Senators on both sides have stood up and displayed courage. Our two leaders, Senator LOTT and Senator DASCHLE, have displayed the courage of their convictions. In the many consultations over the past week that I have had with the distinguished chairman and ranking member, and our leadership, I have always left with the belief that they placed the security interests of this country foremost, as each day decisions had to be made regarding this treaty.

I also say to my dear friend, Senator MOYNIHAN, I thank him for the leadership he has shown. We embarked together on a bipartisan effort, and we were joined by a very significant number of our colleagues—whose names will be a part of the RECORD at a later time—in an effort simply to recognize that in the course of the hearings and in the course of conversations and consultations with so many people not only here in the United States but across the seas, that there were clearly honest differences of opinion from individuals who have spent much of their lifetime on this subject—honest differences of opinion.

But lacking is that burden of proof, some would say beyond a reasonable doubt, that this treaty would not put at risk the security of this country by virtue of the terms of the treaty as presently written.

This treaty requires that we put at risk in perpetuity—not just today, not just tomorrow, but in perpetuity—a stockpile which today is safe and credible, which tomorrow will be safe and credible—for the foreseeable next few years to come. Let there be no doubt in anyone's mind of that fact. But can we say that that will be the case forever?

As our military examined this treaty, it is clear that they said we support the treaty, but only if the safeguard is in place which says we can get out of the treaty if the President makes that determination, and only if the Stockpile Stewardship Program—the computer simulations which are to replace actual testing—can be put in place and proven to ensure that our nuclear stockpile remains credible and safe.

The record before the Senate today does not justify that support. It does not say that each of the components of the Stockpile Stewardship Program will be in place and will work in a way that will put our stockpile, in the future, in the same category that it is in today. We do not know. There is a reasonable doubt. We simply do not know. For that reason, regrettably, I shall have to vote—that vote occurs shortly—against this treaty.

But I say that honest individuals have done their very best in this Senate, and I thank all those beyond the Senate who have made very valuable contributions to this debate.

I shall put in the RECORD, by unanimous consent, further documentation on the laboratory directors. Of all the testimony that came before the Armed Services Committee, the testimony of the lab directors was the most compelling. And indeed, that of the intelligence community, which, in a sense, asked for more time to do the work they thought necessary in assessing our ability to monitor this treaty. And many former Secretaries of Defense had an honest difference of opinion.

As Senator KYL, who has worked so hard on this treaty and probably knows it better than anyone else, has said clearly—Secretary Kissinger, one of several Secretaries of State who have expressed their opinions—has now indicated his opposition. These are men and women who have spent their lifetime on this subject. Reasonable doubt is to be found there.

Lastly, the laboratory Directors: I would like to respond to some of my colleagues and the media's mis-portrayal of the testimony given at last Thursday's hearing before the Senate Armed Services Committee by the Directors of the three National Labs—Dr. Paul Robinson of Sandia National Laboratory, Dr. C. Bruce Tarter of the Lawrence Livermore Laboratory, and Dr. John C. Browne of Los Alamos National Laboratory. It is important to have a full picture of what was said at our hearing last week Many of these statements used by my colleagues and the media were taken out of context. For instance, the line of questioning that the Ranking Member engaged in with the Lab Directors on whether they were "on board" with the treaty, I believe has been mis-characterized. I'd like to read from the transcript the exchange that occurred between the Ranking Member and the Lab Directors.

> Senator LEVIN. What you are telling us is that if this safeguard and the other safeguards are part of this process that you can rely on, that in your words, Dr. Robinson, you are on board in terms of this treaty; is that correct?
>
> Dr. ROBINSON. I am on board that science-based stockpile stewardship has a much higher chance of success and I will accept it as the substitute.
>
> Senator LEVIN. For what?
>
> Dr. Robinson. I still had other reservations about the treaty——

At this point, Dr. Robinson was cut off and was unable to finish his answer. In response to this line of questioning, a Senator from the minority side, said that he "detected an uneasiness on the part of some of those who testified" and expressed concern that Dr. Robinson's response that he had other concerns with the treaty was "blurred".

Senator LEVIN then asked Dr. Tarter, Director of Lawrence Livermore Labs, to respond to the same question, Dr. Tarter responded:

> A simple statement again: It is an excellent bet, but it is not a sure thing.
>
> Senator LEVIN. My question is, are you on board, given these safeguards?
>
> Dr. TARTER. I can only testify to the ability of stockpile stewardship to do the job. It is your job about the treaty.
>
> Senator LEVIN. Are you able to say that, providing you can rely on safeguard F and at some point decide that you cannot certify it, that you are willing under that condition to rely on this stewardship program as a substitute for actual testing?
>
> Dr. TARTER. Yes.

Dr. Tarter never said that he was "on board with the treaty." In fact, he attempted to avoid directly answering Senator LEVIN's question. Clearly, Dr. Tarter was uncomfortable with this line of questioning. It was only after Senator LEVIN significantly modified the question by adding certain qualifications that Dr. Tarter finally responded affirmatively.

Senator LEVIN asked Dr. Browne whether he was on board with the treaty and Dr. Browne responded:

> Senator Levin, if the government provides us with the sustained resources, the answer is yes, and if safeguard F is there, yes.

Dr. Browne said that he was "on board with the treaty" but only if certain conditions were met.

In examining the complete record and considering the manner in which the responses were elicited, it is clear that the labs directors had reservations about the treaty. They were clearly uneasy with the question and the manner in which they were questioned. They were certainly not enthusiastic in indicating any support for the treaty—even with the qualifications (i.e., safeguards) that were added.

In addition to the previous line of questioning the transcript includes numerous statements by the Lab Directors which I believe, taken together, indicate that these experts have serious issues with this treaty as well as the Stockpile Stewardship program. I note that the endorsement in January 1998 of the CTBT by Generals Colin Powell, John Shalikashvili, David Jones, and Admiral William Crowe, former chairman of the Joint Chiefs of Staff, was conditioned, like that of the Lab Directors, on the six safeguards submitted by the President along with the treaty to the Senate for advice and consent which included a Stockpile Stewardship program to ensure a high level of confidence in the safety and reliability of nuclear weapons in the stockpile.

Here are some of the statements by the Lab Directors on the Stockpile Stewardship program:

Dr. Browne, Director of Los Alamos stated:

> Each year, through a comprehensive program of surveillance of the stockpile, we find one or more problems in each weapons system that may require attention. . . . we have identified several issues that, if they had occurred when testing was active, most likely would have been resolved by nuclear testing." He went on to state: "The issue that we face is whether we will have the people, the capabilities, and the national commitment to maintain . . . confidence in the stockpile in the future, when we expect to see more significant changes. Although we are adding new tools each year, the essential tool kit for stockpile stewardship will not be complete until some time in the next decade.

Dr. Tarter, Director of the Lawrence Livermore stated:

> I think we have a challenging program [stockpile stewardship], one that is very difficult to achieve. I think, although both the administration and the Congress have had increasing levels of support for the stewardship program over these past years, they have not quite met what we said was necessary to achieve the program on the time scale that we believed was necessary in view of the aging of the designers and of the weapons. I think we all feel under a great deal of stress to try to make those deadlines with the current resources. . . . So I think to date I would give the program a—I think we have done a good job. I think we have learned things. It is not a perfect job, but I think it has been a very, very good start. I think the challenge lies in the longer term, and I think . . . if I had one simple phrase I think that the stewardship program with sustained support is an excellent bet, but it ain't a sure thing.

Dr. Robinson, Director of Sandia, stated:

> I question the expectations many claim for this treaty. . . . I think we have got to specify with a lot more character what is the real purpose of the treaty. I secondly discuss [in his written statement] a lot of the important technical considerations as we have tried to substitute other approaches, which has come to be known as the science-based Stockpile Stewardship Program, for the value that tests had always provided us in previous decades. I can state with no caveats that to confirm the performance of high tech devices—cars, airplanes, medical diagnostics, computers, or nuclear weapons—testing is the preferred methodology. . . . My statement describes the work involved in attempting to substitute science-based stockpile stewardship. It is an enormous challenge, but I agree, much very good work has been done. Much has been accomplished. But we still cannot guarantee that we will ultimately be successful. Science-based stockpile stewardship is the best way we know of to mitigate the risk to the extent that is possible.
>
> . . . But the question and where we (those who support or oppose testing and the treaty) differ the greatest is what is the best way to achieve that peace with stability. At least two very dichotomous approaches. Is the world better off with nuclear weapons in the hands of those who value peace the highest, who will maintain their nuclear arsenals in order to deter aggression and to prevent major wars, or would the world be better off if there were no more nuclear weapons, and is there really a sound plan for how you might ever achieve that?

In addition, an exchange between Senator REED and Dr. Robinson on the Stockpile stewardship Program occurred as follows:

> Senator REED. Let me just ask another question, which, as I understand it, part of the effort on the Stockpile Stewardship Programs is massive computational projects. Which, if carried out, will allow you to go back and analyze data that we have accumulated for years and years and years, which has never been fully analyzed. Does that offer any additional sort of opportunities to increase your sense of reliability that, without testing, we can go ahead and more accurately protect the stockpile?
>
> Dr. ROBINSON. You are quite correct. The legacy data that we have, the correct statement is not that it has not been analyzed, it has not been successfully predicted by the models. We have gaps in our understanding. As we improve the codes, as we add the third dimension—we are presently going from two dimensional calculations to three-dimensional calculations—a key test of the success of these simulation codes will be how well does it predict those things we could not understand in the past. So that is a very key part of the science-based Stockpile Stewardship Program.

There were also statements on the value of testing. One of the most powerful statements was given by Dr. Robinson from Sandia. He said:

> . . . there are black issues, white issues, but mostly a lot of gray. But, I can say from my own experience over the years, I have seen that same kind of scientific debate. But when you then carried out a test and looked at the predictions of various people in the debate, the answer became very clear. The test has a way of crystallizing answers into one or the other and ending that grayness. And that is something that will be missing in a future state.
>
> . . . the President presented to you with the treaty and which he and certainly we believe are conditions for ratification. The most important of those by far is Safeguard F. We kept stressing to the White House, we cannot be sure that science-based stockpile stewardship will mature in time to handle a serious safety or reliability problem as these weapons age. Without it, without the ability at that point to test, we would be powerless to maintain the U.S. first line of defense, its strategic deterrent force.

After hearing their testimony first hand, I do not know how anyone could state that the Lab Directors vigorously supported this treaty. When you examine the entire record it is clear that the Lab Directors—the experts on the safety and reliability of America's nuclear stockpile—have reservations about the treaty and the Stockpile Stewardship Program. Their support for this treaty is tempered by specific qualifications and stipulations. I urge each and every one of you to review the full testimony of these most important witnesses.

Lastly, the laboratory Directors:

The lab Directors have said, based on their careers of 15 or 20 years, they cannot guarantee that the present Stockpile Stewardship Program will match or even approach in, say, 5, 10, or 15 years the sound data that we have gotten through 50 years of testing—actual testing. We are not about to resume actual testing. We don't have to at this point in time, but we might in the future.

But every Senator should think about the fact that they are casting a vote that commits the United States in perpetuity. The road to arms control, whatever the goal is at the end—peace in the world—building blocks and steps have been laid both by Republicans and Democrats. Every President, and others, has worked on these agreements. Neither side should take the majority of the credit; it has been shared equally. And a hope and a prayer of this Senator is that we continue as a nation to lead in taking positive, constructive steps in arms control.

So it is with regret that I believe this treaty has that degree of reasonable doubt, imposing restriction in perpetuity on one of our most valued strategic assets, and I cannot support it.

I yield the floor.

Mr. BIDEN. Mr. President, I yield to the Senator from New York 1 minute.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise to thank, above all Members in this body, the chairman of the Armed Services Committee, Senator WARNER, who is opposed to this treaty, as I am in support.

Together we have addressed a letter to our distinguished leaders, Senator LOTT and Senator DASCHLE, asking that the matter be put off until the next Congress, as the President has requested be done.

Sir, this morning I don't think we had a handful of signatures on that letter. At this moment, we have more than half the Members of this body—as the day has gone by, the realization of what an enormous decision we are making with so very little consideration has sunk in.

Sir, we spent in my time in this body 38 days debating the Panama Canal Treaty. The Treaty of Versailles—equally important—was debated 31 days in 1919 and 24 days in 1920.

Note that it was passed over, because a treaty does not die once it has simply been voted down; it remains on the calendar.

But I would like to express the hope that before the debate is over, the distinguished Senator from Virginia might place in the RECORD the letter which we addressed to the leaders and perhaps, if he wishes, the signatures we have so far received. He indicates he would be willing to do that. I thank him and I thank my leader, Senator BIDEN.

Mr. BIDEN. After consultation with the chairman of the committee, they are going to reserve the remainder of their time so we will not go back and forth with proponents and opponents until they indicate they want to.

I yield 2 minutes to the Senator from Pennsylvania.

Mr. SPECTER. I thank my colleague from Delaware for yielding. I support the treaty because I think the balance of risks are in favor of ratifying this treaty. It is not without risk, but it is not in perpetuity. The United States may withdraw at any time that it chooses. If we reject this treaty, it is an open invitation to other nations to test. I think that is a greater risk than the risks involved in ratifying the treaty. The events of the last 24 hours in Pakistan show the undesirability of having the Pakistanis test in their race with the nation of India, not to speak of the other nations, Iran, Iraq, North Korea.

I suggest the President of the United States call the majority leader of the Senate and try to work this out. More than that, of the Senators here, many who are opposed to the treaty think we should not vote it down. It is not over until it is over. I believe it is possible for the President to say to the majority leader what would satisfy the majority leader to take this treaty out of the next Congress. And I believe the majority leader could convene the Republican caucus—and we can do that yet this afternoon or into the evening on this momentous matter. I think it is still possible to avoid this vote to give extra time for security measures, to give extra time for testing, but not to cast a vote which will be a vote heard around the world to the detriment of the United States.

Mr. BIDEN. Mr. President, I yield 3 minutes to the distinguished Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I support the Comprehensive Test-Ban Treaty, CTBT, a treaty which I believe is in our national security interests.

Although it appears regrettably that the required votes of two-thirds of the Senate do not exist at this point, I nonetheless hope that as many of my colleagues as possible will vote to ratify this treaty since we cannot procedurally seem to be able to set the treaty aside.

Since 1992, the United States has abided by a unilateral moratorium on nuclear weapons testing. Despite the absence of testing during these past 7 years, our nuclear weapons stockpile has been maintained, our nuclear deterrent has remained formidable, and our national security has not been threatened. Because our nuclear arsenal remains safe and reliable today, the United States has no plans to test these weapons any time soon.

Also during these past 7 years of our moratorium on nuclear testing, the United States negotiated and signed the CTBT. We signed this treaty recognizing that discouraging other nuclear powers and would-be nuclear powers from testing these weapons would lessen the unthinkable possibility that the nuclear option would ever be employed. In fact, halting advancement in nuclear weapons development and limiting the number of nuclear-capable military states, locks in a status quo in which the United States has an enormous military advantage. This treaty makes the United States militarily stronger, not weaker.

One of the wisest aspects of the CTBT is its requirement that all of the world's 44 nuclear capable nations ratify the treaty for it to enter into force. This means that North Korea, Iran, and others that pose the greatest potential threat to the United States and our allies must join us in being a party to this treaty before the United States relinquishes the option of nuclear testing.

Another strong aspect of the CTBT is that it is accompanied by 6 critical safeguards that the Joint Chiefs of Staff insisted upon before agreeing to support it. I would note that the sixth and most significant to these safeguards is included in the resolution which is before us today. It requires the United States to withdraw from the CTBT under the supreme national interests clause if the Secretaries of Energy and Defense cannot certify the reliability of our nuclear arsenal. This safeguard gives Americans the assurance that they will continue to be protected by a robust and credible and nuclear deterrent under the CTBT.

I believe this treaty is very much in the interests of the United States. It will help prevent the spread of nuclear weapons worldwide, while ensuring a huge U.S. advantage in nuclear weaponry that has deterred would-be aggressors for many years. I urge my colleagues to support ratification of this treaty.

Mr. KYL. Might I inquire of the distinguished chairman of the committee if I could make a brief statement.

Mr. HELMS. Mr. President, I yield to the distinguished Senator from Arizona.

Mr. KYL. Mr. President, deterrence has long been a primary component of U.S. security policy. In the cold war, nuclear weapons were the backbone of our national deterrent. The threat of unacceptable damage in response to aggression was central to inhibiting the Soviet Union's expansionist aims. Moreover, the credibility of the U.S. nuclear guarantee provided for "extended deterrence" against attacks on our friends and allies.

While the conditions today are much different from the past, our nuclear weapons continue to serve as an essential hedge against a very uncertain future with both Russia and China, two states that highly value their own nuclear forces. Equally important, deterrence—backed by credible nuclear forces—remains the first line of defense against an even broader range of threats than in the past, including rogue states armed with weapons of mass destruction.

The nuclear balance of terror that once defined our relationship with the Soviet Union is no longer central in our relations with Russia. Yet, even as we work to achieve a more democratic and open Russia, nuclear weapons appear to play a growing role in Moscow's security strategy, including declaratory policy and defense planning. Whether to overcome conventional weakness or as a means to retain one of its last vestiges of superpower status, Russia is continuing to modernize its nuclear forces. The retention of thousands of theater nuclear weapons, the deployment of the new mobile SS-27 ICBM, and the continuing investment in its massive nuclear weapons infrastructure demonstrate how important these weapons are to Moscow and lend credence to the concerns that Russia may have recently tested new nuclear weapons to provide the foundation for its future security strategy.

There are many fundamental questions about Russia's political and economic future that today can not be answered with certainty. What is clear, however, is that Russia will continue to possess formidable, modern nuclear forces no matter how these questions are answered over time. For this reason, it remains imperative for us to retain a credible nuclear deterrent capability to guard against the reversal of our relations with a potentially hostile and nuclear-armed Russia.

The strategic uncertainties associated with China are even greater than those with Russia. There are clear indications of qualitative improvements and quantitative increases to the Chinese nuclear arsenal. The Cox committee found that China is actively pursuing miniaturized nuclear warheads and MIRV technology, developing more accurate and ballistic missiles, and building a larger arsenal. Recent Chinese tests of a new medium-range ballistic missile, the DF-31 and public declarations of its development of enhanced radiological weapons serve to reinforce these findings. Similarly, a recent National Intelligence Estimate forecasts increases in the Chinese strategic arsenal and investment in technologies, such as penetration aids, designed to defeat any United States missile defense.

Perhaps most disturbing, the strategic intentions of both Russia and China appear increasingly antagonistic toward the United States. This past August they jointly announced a strategic partnership as a counterweight to what they termed U.S. "hegemonic ambitions." As he met with Chinese President Jiang Zemin, President Yeltsin declared himself "in fighting form, ready for battle, especially with Westerners," and complained that "some nations are trying to build a world order that would be convenient only for them, ignoring that the world is multi-polar." Given the uncertainties surrounding the future political and military developments in these two states, experience and prudence suggest the need for a hedge that only credible nuclear forces can provide.

While deterrence of rogue states armed with weapons of mass destruction is very different than deterrence as we understood it in the cold war, an overwhelming retaliatory capability—and the fear of a possible nuclear repsonse—remains critical to countering this new set of ever more dangerous threats. Despite sustained and determined efforts to de-legitimize our nuclear weapons, and assertions that their utility ended with the cold war, our nuclear weapons are essential in this context. Conventional superiority alone is not sufficient. Looking at the only real world experience we have in deterring the use of chemical and biological by rogue leaders—the Desert Storm case—it appears that the threat of a nuclear response was a major factor in the Iraqi decision to forego the use of their weapons of mass destruction.

An in-depth study of United States security policy in the 21st century, conducted last year by the National Defense University and Livermore National Laboratory, concluded that nuclear weapons would remain critical both to hedge against Russia and China, as well as to deter rogue states that will seek to challenge us in regions of vital interest. This same study concluded that: "Retaining the safety, reliability, security, and performance of the nuclear weapons stockpile in the absence of underground nuclear testing is the highest-risk component of the U.S. strategy for sustaining deterrence." For over 40 years, testing was seen as essential to the credibility of our deterrent forces and our commitments to friends and allies. The CTBT, if ratified by the United States, would call into question the effectiveness and reliability of this essential component of our national security strategy.

In the annual statement of U.S. National Strategy, President Clinton has affirmed the view of his predecessors for more than half a century—nuclear weapons are vital to the security interests of the United States. It is not surprising then that one of the safeguards offered by the White House to diminish the risk inherent in accepting a permanent ban on nuclear weapons testing through the Comprehensive Test Ban Treaty CTBT is to attempt to sustain the existing inventory of nuclear weapons through what is known as the Stockpile Stewardship Program, SSP. The aim of the SSP is to utilize the data from more than 1,000 U.S. atmospheric and underground nuclear tests legacy code combined with advanced diagnostic and experimental facilities now under development in the SSP to assess the aging properties of nuclear weapons. It is hoped that the SSP will enable U.S. nuclear weapon scientists and engineers to model and simulate nuclear phenomena with sufficient fidelity and reliability to permit judgements to be made about whether or not a particular weapon or class of weapons will continue to be safe and reliable. In short, whether or not U.S. nuclear weapons will remain a credible deterrent.

The administration's approach is an extraordinarily risky one—far more so than can be discerned from administration statements on the subject. This is so because the way risks are multiplied in the program. First, the CTBT prevents the United States from using the technique for assuring the reliability of stockpile—the detonation of the nuclear weapon to be confident that the aging of the nuclear components have not diminished confidence in its safety and reliability. Second, the CTBT prevents the United States from testing new weapon designs—the approach we have taken over the past half century to make sure our nuclear weapon stockpile kept pace with what was required to deter. Third, the CTBT offers as an alternative to testing, the SSP. Let's examine each of these elements of risk in turn.

First, the design of nuclear weapons is a highly empirical process. Vast computer networks and theoretical physicists notwithstanding, testing has been an indispensable dimension of nuclear weapon development, production, and deployment. This is so because the environment within a nuclear weapon is unlike anything in nature. Materials exposed to decades of nuclear radiation behave in ways scientists do not know how to predict. Gold, for example, corrodes in a nuclear environment—a property not evident in nature. We do know know what will happen over time to the nuclear components of a weapon and how the aging process will affect the weapon. This has been addressed in the past by detonating weapons after a fix has been installed in a weapon that appears to be adversely affected by age. Because there is no theoretical basis that has been validated through testing to certify weapon safety and reliability, testing has been indispensable. The United States ceased its nuclear weapon testing program in 1992, but had never undertaken an effort to ascertain whether or not it could model and simulate the aging properties of nuclear weapons with sufficient reliability to permit the certification of the weapons in the stockpile.

Nuclear weapons now in the stockpile—eight types plus one additional type in reserve—means that we have concentrated our deterrent in relatively few weapon designs. In the mid-1980s, we had 32 types of nuclear weapons in the stockpile. The average age of the weapons in the stockpile is 15 years—more than has ever been the case in the past, and well beyond U.S. experience. We simply do not know what the long-term implications of aging are on nuclear weapons. We do know that there are consequences from the aging process, because problems resulting from aging have been identified in the past. However, as we were able to conduct underground tests, the aging process did not degrade the safety and reliability of the stockpile. If the CTBT is ratified, we may not have an opportunity to do this in the future because the process for utilizing the supreme national interest provisions of the treaty to withdraw are themselves an impediment to sustaining deterrence.

Second, the CTBT will prevent the United States from testing new nuclear weapon designs should the need to sustain deterrence call for new designs. Many new designs were required during the cold war to sustain deterrence. Identifying some circumstances that could give rise to a requirement for new weapon designs is not difficult. The weapons retained in the U.S. inventory after the cold war are primarily designed to strike urban-industrial targets (reflecting the policy of mutual assured destruction) and hardened targets on or near the earth's surface. The change in the technology of underground construction has fundamentally changed the economics of locating military targets in deep underground locations. In Russia, for example, despite its severely depressed economic circumstances, has invested $6 billion since 1991 in a deep underground military facility in the southern end of the Ural Mountains. The underground facility at the site is located under nearly 1,000 feet of granite—one of scores of deep underground sites—that could not be held at risk with the current nuclear weapon stockpile. Similar underground facilities exist in other declared or undeclared nuclear weapon states. It is possible that some future President may decide that new weapon design(s) are needed to sustain deterrence. He will be prevented from doing so if the CTBT is ratified.

Third, the alternative to testing, the SSP, is an extraordinarily risky approach to sustaining deterrence. The United States has not conducted a testing program to verify that the modeling and simulation of the existing stockpile or new designs can be maintained or implemented using the experimental and diagnostic facilities of the SSP. No testing has taken place since 1992, but the SSP will not be fully operational until 2010 or beyond. One of the most important of these facilities—the National Ignition Facility, NIF—has proven to be both a technical and cost challenge. Last month the Congress was confronted by a one-third jump in the cost of this program. The entire SSP—budgeted at $4.5 billion—is certainly underfunded, as the NIF experience demonstrates. For the SSP to be successful, all of its numerous experimental and diagnostic facilities have to work perfectly to assure that the safety and reliability of the stockpile can be certified indefinitely. It is one thing to take such a technical and financial risk in an environment where testing is unconstrained. It is quite another to bet on the enduring success of a program—the SSP—that has already been shown to have unforeseen cost, technical, and schedule difficulties. The extent of these difficulties has not yet even been ascertained by the executive branch—much less an independent determination by the Congress. The risks to the ability to sustain deterrence under the CTBT are simply too large for the Congress to accept. The CTBT should not be ratified.

CTBT proponents claim that the treaty is an important tool in the fight against nuclear proliferation. This is simply inaccurate.

A test ban will provide no obstacle to a proliferator who seeks a first-generation-or even a second-generation-nuclear weapon. One of the two bombs the United States dropped on Japan to end WWII was an untested design. South African built and deployed six nuclear weapons without testing the design. Pakistan obtained a workable design from China, and thus needed no nuclear tests of its own.

Faced with these facts, treaty proponents often resort to the claim that the CTBT will establish an international norm against nuclear proliferation. Again, history teaches us differently. There is already an international norm against proliferation embodied in the Nuclear Nonproliferation Treaty—the NPT. Over 130 nations have signed the NPT and, by doing so, have forsworn nuclear weapons development. As an aside here, I guess we can say the CTBT is to get nations to promise not to test the weapons that they promised not to develop under the NPT.

The international norm of nuclear nonproliferation-the one supposedly established by the NPTB was broken by Iraq, which tried to develop nuclear weapons clandestinely. And, the norm is violated even today by North Korea, which remains in noncompliance with the NPT. Two nations not party to the NPT, India and Pakistan, also broke the international norm.

Other arms control norms are readily and repeatedly broken as well. There are too many examples to cite here today, but let me give you one. The United States forswore biological weapons and led the world in signing the Biological Weapons ban. The Soviet Union signed too, but secretly kept inventing and manufacturing ever more potent biological weapons. Other nations, including Iraq, have also made such weapons.

The point here is that norms do nothing to prevent development of heinous weapons by nations that view it in their security interests to do so. They are driven by their own perceptions of threat, not by a desire to adhere to a norm established by the United States or the international community.

Ironically, the CTBT might actually promote nuclear proliferation. I say this for two reasons.

First, it my promote proliferation by damaging the U.S. nuclear umbrella. United States allies such as Japan, South Korea, Germany, and Italy have long depended on United States nuclear strength to provide them the ultimate protection. Indeed, the United States persuaded South Korea and Taiwan to give up their own nuclear weapons programs by promising them protection.

U.S. nuclear testing has signaled to allies, and to potential enemies, that the United States nuclear arsenal is effective and that the United States is committed to using such weapons if absolutely necessary. Without nuclear testing, there is no question that United States confidence in the stockpile will decline. Our enemies and allies alike will read this silent signal as a local of commitment to maintaining-and using, if necessary-the nuclear deterrent.

As U.S. confidence in the stockpile declines over time, it is likely that our allies confidence in the nuclear umbrella will similarly decline. This could head to allies reevaluating their own security needs. (If the U.S. umbrella appears insufficient, might they not consider developing their own nuclear deterrents?

The second reason that I say that the CTBT may promote proliferation is that it will result in significantly increased interactions between the U.S. weapons design community and the international academic community. This could, and probably will, result in the transfer of weapons-relevant data. Let me explain.

The U.S. stockpile stewardship program, the one intended to take the place of nuclear testing, relies on markedly increased collaboration between nuclear weapons specialists and the open scientific community. The program encourages open exchange of new nuclear research between the U.S. weapons laboratories and the international scientific community. The role that the stewardship program envisions for unclassified researchers extends far beyond peer review and the occasional preventatives meeting. Bit involves U.S. highly likely that these Occasional presentations meeting energy the quit involves Program, to participate in attempt to develop tool sot replace

There will be five university research centers and a host of other researchers funded by 5 year grants totaling tens of millions of dollars. It is highly likely that these researchers in the unclassified world, working closely with nuclear weapons scientists on the stewardship program, will gain an improved understanding of nuclear explosives phenomena. And, of course, there will be no way to prevent the further dissemination this understanding.

In summary, the CTBT will not further the cause of nuclear nonproliferation. Quite the opposite, it will likely result in promoting nuclear proliferation.

The Comprehensive Test Ban Treaty submitted to this Senate by President Clinton is not verifiable. This means that, despite the vast array of expensive sensors and detection technology being established under the treaty, it will be possible for other nations to conduct militarily significant nuclear testing with little or no risk of detection.

What is militarily significant nuclear testing? Our definitions of the term might vary, but I think we'd all agree that any nuclear test that gives a nation information to develop newer, more effective weaponry is militarily significant.

In the case of the United States, nuclear tests with yields between 1,000 tons and 10,000 tons are generally large enough to provide "proof" data on new weaponry designs. Other nations might have weaponry that could be assessed at even lower yields. For the sake of argument, however, let's be conservative and assume that other nations would also need to conduct tests at a level above 1,000 tons to develop a new nuclear weapon design.

The verification system of the CTBT is supposed to detect nuclear blasts above 1,000 tons, so it would seem at first glance that it will be likely that most cheaters would be caught. We need to look at the fine print, however. In reality, the CTBT system will be able to detect tests of 1,000 tons or more if they are nonevasive. This means that the cheater will be caught only if he does not try to hide his nuclear test. But, what if he does want to hide it? What if he conducts his test evasively?

It is a very simple task for Russia, China, or others to hide their nuclear tests. One of the best known means of evasion is detonating the nuclear device in a cavity such as a salt dome or a room mined below ground. This technique called "decoupling" reduces the noise, or the seismic signal, of the nuclear detonation.

The change in the signal of a decoupled test is so significant—it can be by as much as a factor of 70—that it will be impossible for any known technology to detect it. For example, a 1,000-ton evasive test would have a signal of a 14-ton non-evasive test. This puts the signal of the illicit test well below the threshold of detection.

Decoupling is a well-known technique and is technologically simple to achieve. In fact, it is quite possible that Russia and China have continued to conduct nuclear testing during the past 7 years, while the United States has refrained from doing so. They would have been able to test, without our knowing, by decoupling.

There are also other means of cheating that can circumvent verification. One is open-ocean testing. A nation could put a device on a small seaborne platform, tow it to the middle of the ocean, and detonate it anonymously. It would be virtually impossible to attribute the test to the cheater.

If the CTBT were not going to affect U.S. capabilities, it would not be important whether the treaty is verifiable or not. The fact is, however, the CTBT will freeze the U.S. nuclear weapons program and will make it impossible to assess with high confidence whether the current stockpile is reliable. And, because the treaty is not verifiable, it will not effectively constrain other nations in the same way. That means that they will ultimately be able to gain advantage.

Let me stress here that my assessment is not based on partisan opinions. The non-verifiability of the CTBT is well-known and has been affirmed by the U.S. intelligence community. We have no business signing up to an unverifiable treaty, particularly one that could so adversely affect the strength and effectiveness of our nuclear deterrent.

Mr. President, seismology has come a long way in the past half-century, but it still measures only earth vibrations, not Treaty compliance. Let's save time by stipulating that earth vibrations caused by most nuclear explosions will be detected by the CTBT's International Monitoring System (IMS). Then we can focus discussion on the political process by which detection of "events" lead to identification of nuclear tests, and by which identification of tests leads to verification of noncompliance with a Treaty.

In combination, the United States and IMS will reliably detect thousands of seismic events every year. But that does not mean that either system, independently or in combination, can reliably identify low yield nuclear explosions.

Seismic networks are scientific tools that must be calibrated against real world occurrences of what they measure. Once seismologists know that a given seismic signal was a nuclear test of a given yield at a given location, their network is calibrated for nuclear explosions of comparable magnitude at that location. For events of different magnitudes and/or in different locations, seismic signal identification is subjective. Like a few dozen CPAs interpreting the same IRS rule, each event will be interpreted differently depending on who is making the judgment and who their client is. This is particularly true, of course, for smaller events and those that occur in parts of the world—where nuclear explosions have not previously been recorded.

The fact of such uncertainty is not in dispute. No one can specify now, or in the foreseeable future, how large a nuclear test must be before it can be reliably identified as a nuclear test by the IMS. The best case would involve fully decoupled tests in locations where seismologists know both the precise magnitude of previous tests and the consequent seismic reading generated by those tests. The worst case would involve clandestine tests in uncalibrated regions that are decoupled. Even in best case circumstances no one disputes the uncertainty of identifying low yield nuclear events—no matter where they are conducted. Some believe these uncertainties extend to events of several kilotons, fully decoupled. In any case, no improvements of the United States and IMS systems that can be expected in the foreseeable future will alter those judgments.

Mr. President, that is why CTBT proponents stress seismic capabilities in terms of detection capability, which, unlike identification capabilities, can be calculated. But detection relates exclusively to the seismic network's ability to sense events, and again I stress it is identification, not detection that underpins verification.

A violator can decrease even a detected seismic magnitude by "decoupling"—that is, conducting a nuclear test in an underground cavity that muffles an explosion. Treaty proponents will argue that construction of such cavities is a nontrivial engineering task. It is hard to measure such difficulty because our experience in decoupling is more limited than, say, Russia's. But to decouple a 10-kiloton explosion so that it cannot be identified requires a cavity that countries of greatest concern are certainly capable of constructing.

To help resolve such uncertainties, the CTBT includes the right to conduct on-site inspections (OSI). But decisions to exercise that right will be based on the level of voting countries' confidence in events identified by the IMS seismic network.

Thirty current members of the rotating 51-member CTBT Executive Council must agree that an OSI should be conducted. It is clear from the negotiating record that some countries, including China, would view a request for OSI as a hostile act.

The fact, coupled with identification uncertainties for low yield events, makes it very unlikely that the Executive Council will ever get the votes needed to request OSI for lower yield tests. For larger yields, in calibrated regions, where event-identification would be less ambiguous, OSI requests would be more likely to get the required support, but hardly needed to identify the event.

For seismic events that could be low yield tests, the precise location of that event will be very uncertain, and the area that would need to be examined with OSI would be prohibitively large. Impression in locating an event, coupled with the inspected state's rights under the CTBT's "managed access" principle, assures that an approved OSI will never conclusively identify an event.

Past experience has shown that to achieve consensus—even within the United States—on the identification of low yield events will be very difficult. Past experience has also shown that other countries—most of whom do not have the detection resources the United States has—will weigh OSI decisions against the political reality that target state will perceive OSI as a hostile action.

The bottom line, Mr. President, is that OSI approval will be most likely in cases where they are needed least, least likely in cases where they are needed most, and of marginal utility when they are conducted.

Even if a detected seismic event is categorized as a nuclear test, it still has to be attributed to a CTBT party. What if it takes place in international waters? What if a suspected government feigns surprise and attributes the undertaking to a non-state actor, known or unknown, acting within its borders? What if the precise location cannot be specified and the suspect state has sensitive facilities in the area surrounding the event's apparent epicenter? In short, the IMS is designed to support a bulletproof CTBT regime. It will generate lots of suspecting, very little detecting, still less identifying, little or no attributing, and a virtual absence a verified noncompliance.

Mr. President, none of this would matter except that the United States will never conclude that the accumulated uncertainties are sufficient to justify our abrogation of the treaty. Anti-nuclear interests, knowing full well that a foreign nuclear test has occurred, will always be able to obscure the evidence or moderate the U.S. response. That is true already, of course, but Treaties reside in a rarefield political and legal atmosphere in the U.S. from which abrogation is never taken lightly.

These are the weapons the United States relied on defeat two monstrous twentieth century tyrannies and to deter threats for over a half-century. I do not wish to subordinate their deterrent power, their safety, their modernization, or their reliability to the vagaries of this detection-identification-verification conundrum. The IMS system was not, and could not have been, designed to verify clandestine tests. Thus, to whatever extent our ratification of the CTBT relies on the integrity of verification it should be soundly defeated.

CTBT proponents are fond of saying that this treaty is the longest sought, hardest fought arms control agreement. They point out that negotiation of a nuclear test ban first began with President Eisenhower, and continued on-and-off through the administrations of several presidents.

In truth, the Clinton CTBT is very different from the test bans sought by past presidents. An old name has been put on a new treaty. We need only look at history to see that what President Clinton's administration negotiated is not at all consistent with the treaty sought by his predecessors.

When President Eisenhower undertook negotiations for a test ban, he purposefully excluded low-yield nuclear testing for at least two reasons. First, he knew that the United States would need to conduct such low-level tests to assure that the U.S. stockpile was as safe and reliable as possible. Second, he knew that such testing is readily concealed, so banning them would not be verifiable. And, like Eisenhower, subsequent U.S. Presidents held fast to the position that any test ban must allow for low-yield testing.

President Clinton, separating himself from past presidents, declared that the United States would undertake a zero-yield nuclear test ban. He made this decision against the advice of the majority of his cabinet, including the Secretaries of Defense and State, and against the advice of the leaders of the national laboratories. That is, President Clinton unilaterally determined that the U.S. would deny itself the ability to conduct the low-level testing necessary to assure us that the weapons in our stockpile are functional and usable.

President Clinton's decision is particularly astounding when you realize that other nations will not be similarly constrained. They will be able to test low-yield devices. Why? Because the CTBT does not define what is meant by a nuclear test. In other words, the treaty does not say that it is a zero-yield ban. That is something that President Clinton imposed on the United States as its own interpretation of the treaty. Thus, when Russia conducts low-yield tests to assure reliability of its own arsenal, it will not be technically in violation of the CTBT.

A second reason that Clinton's CTBT is quite different from the test bans sought by past presidents is duration. Clinton's treaty is of unlimited duration. All previous presidents understood that it was very important to limit the length of the treaty to a few years, thus requiring renewal periodically. This would place the burden upon those who want a test ban to prove that it is in the security interests of the United States to continue the ban. Instead, Clinton's treaty does the opposite: it makes getting out of the treaty very difficult. And, as we have seen from the ABM Treaty, it is politically very difficult to leave a treaty, even when it is no longer relevant or in your security interests.

A third major difference that makes Clinton's CTBT different from past test bans is its lack of verifiability. All past presidents stated that they would only support a treaty that is effectively verifiable.

Verifiability may not seem to be a very significant issue, but it is indeed terribly important. We all know that the United States will adhere scrupulously to the CTBT is we in the Senate give our advice and consent to ratification. Other nations, however, have repeatedly demonstrated that they are willing to violate their arms control commitments. North Korea is currently in violation of the Nuclear Nonproliferation Treaty, under which it promised not to pursue nuclear weapons. Russia has violated a host of arms agreements, including the ban on production of biological weapons.

If the United States abides by a test ban, whereas other nations are able to continue testing undetected, the United States will ultimately be disadvantaged. Others will be able to assure confidence in their stockpiles, but the United States will not. Others will be able to continue to develop newer, more modern nuclear weapons, whereas the U.S. program will be frozen. Others will be able to test any fixes to problems that develop with their stockpiles, whereas the United States will not be able to do so.

This treaty is not well-thought-out and contains provisions that will ultimately harm the U.S. nuclear deterrent. Furthermore, the zero-yield interpretation by President Clinton is unacceptable. We should reject this treaty in the interests of our own security.

CTBT proponents assert that the DOE's Science Based Stockpile Stewardship Program (SSP) can maintain the safety and reliability of the nation's nuclear weapon stockpile without nuclear testing. I emphasize that this is an assertion, an unproven, undemonstrated assertion. Dr. Seigfried Hecker, as Director of Los Alamos National Laboratory in 1997, in response to a question from Senator KYL, has stated ". . . we could not guarantee the safety and reliability of the nuclear stockpile indefinitely without nuclear testing." By agreeing to ratification of the CTBT the Senate would accept abandoning nuclear testing, the only proven method for assuring the safety and reliability of our nuclear deterrent, to embrace the unproven, unvalidated SSP.

Nuclear deterrence is a vital element of our national security structure. President Clinton, in sending us this treaty reaffirmed that he views the maintenance of a safe and reliable nuclear stockpile to be a supreme national interest of the United States. If this is the case, how we can accept an unproven SSP as the basis for our confidence in the nuclear stockpile? If SSP were an established capability, and a not a set of research programs, most of which will not reach fruition for years, and the predictions of SSP had been thoroughly compared with the results of nuclear tests specifically designed to validate the new SSP, with positive results, then and only then could I consider abandoning nuclear testing in favor of SSP.

Can you imagine any reputable company abandoning one accounting systems for another without making sure that the new system's results agreed with the old? Can you imagine any reputable laboratory abandoning one calibration tool for another before ensuring that the new tool agreed with the old tool? But this is what we are being asked to do if we give our advice and consent to the CTBT. In an area where the supreme national interest of the United States is at stake we are being asked to endorse SSP as a replacement for nuclear testing without knowing if SSP works. Clearly the sensible course of action is to pursue SSP but calibrate its predictions, validate its new computer models, step-by-step, year-by-year by direct comparison with the results of nuclear tests specifically designed to test SSP. Then, if the SSP is shown to be a reliable replacement for nuclear testing, we could consider whether we would wish to be a party to a treaty banning nuclear testing. We must retain the ability to conduct underground nuclear tests to ensure the reliability and safety of our existing weapons and to establish whether SSP works.

I would like to remind my colleagues that this body, in 1987, required the Department of Energy to design a program very like what I have described, but even more encompassing. The Senate Armed Services Committee language for the fiscal year 1998 authorization bill required that DOE prepare a report on a program which would prepare the country for further limitations on nuclear testing beyond the 150 kiloton yield cap then in place. The committee recognized that the sophisticated weapons in the U.S. inventory might not be sustainable under further test limitations and required DOE to describe a program that would ". . . prepare the stockpile to be less susceptible to unreliability during long periods of substantially limited testing." DOE was also required to ". . . describe ways in which existing and/or new types of calculations, non-nuclear testing, and permissible but infrequent low yield nuclear testing might be used to move toward these objectives." This latter requirement might be viewed as the progenitor of SSP. DOE responded to this requirement by designing a test-ban readiness program which anticipated a ten year, ten nuclear test per year program which would address the objectives required by the Senate, which included the development and validation, by comparison with nuclear tests, of new calculational tools and non-nuclear testing facilities. I must hasten to add that this program described by DOE was never fully funded because throughout the Reagan and Bush administrations further limitations on nuclear testing were not viewed as necessary or desirable. A CTBT was stated to be a long term goal.

The stark differences between the Senate's requirement and the DOE response and the path taken by the Clinton administration could not be more stark. There was no period of preparation for this CTBT before us. The DOE was not instructed to implement the design and testing of robust replacement warheads. The DOE was not funded to procure and validate new calculational and non-nuclear testing facilities. Instead, nuclear testing stopped without warning. Even the few nuclear tests that might have allowed some preparation were denied. Dr. Hecker wrote to Senator KYL, "We favored conducting such tests with the objective of preparing us better for a CTBT." However all tests were ruled out by the Clinton administration for policy reasons. This was years before the President signed the CTBT.

Nuclear weapon safety has always been a paramount concern of the United States. Throughout the history of its nuclear weapons program the United States has made every effort to ensure that even in the most violent of accident situations there would be the minimum chance of a nuclear explosion or radioactive contamination. The adoption of the CTBT will abandon this important commitment.

I am very concerned that a CTBT will stand in the way of improving the safety of U.S. nuclear weapons. All experts agree that nuclear weapon safety cannot be improved without the ability to conduct nuclear tests to confirm that the weapons, once new safety features are incorporated, are reliable. The CTBT makes pointless any attempts to invent new, improved safety feature because they could never be adopted without nuclear testing. Of even greater concern is that the CTBT even eliminates the possibility of improving the safety of current weapons through the incorporation of existing, well understood safety features.

Unfortunately, few people know that many of our current weapons do not contain all the safety features that already have been invented by the DOE Laboratories. A White House Backgrounder issued July 3, 1993, in conjunction with President Clinton's decision to stop all u.S. testing, acknowledges "Additional nuclear tests could help us prepare for a CTBT and provide some additional improvements in safety and reliability." President Clinton thought it was more important not to undercut his nonproliferation goals!

I am less ready to ignore the safety of the American people. If we accept the CTBT, we will be accepting a stockpile of nuclear weapons that is less safe than it could be. I, for one, want no part in settling for less than the best safety that can be had. Should a U.S. nuclear weapon become in evolved in a violent accident which results in deaths and damage due to the spread of radioactive plutonium, I do not want to be in the position of explaining how I, by consenting to ratification of the CTBT, prevented the incorporation of safety measures that would have prevented these tragic consequences.

CTBT proponents will cite certifications of safety by the laboratory directors and the administration that the stockpile is safe. They apparently believe that procedures will make up for the lack of safety features. The Chernobyl nuclear reactor accident provides us with an example of what happens when procedures are counted on to ensure safety rather than putting safety mechanisms in place. Chernobly is not the only example where counting on human operators to follow procedure for ensuring safety has failed. It had been DOE's objective to install safety features which were inherent to guarantee, to the maximum extent possible, that neither through accident nor malevolent intent could human actions cause unacceptable contamination. Has this policy been abandoned because it is inconvenient to an administration determined to have a CTBT at any cost?

We have spent considerable money to incorporate advanced safety features in some existing weapons. Were we wasting our money? Is there some reason why it is OK to have some weapons less safe than others? I am not challenging that each weapon may be as safe as it could have been made at the time it was built. But safety standards change and now we may have to live without current weapon systems for a very long time. The American people deserve the safest weapons possible. We have gone from expecting seat belts, to expecting antilocking brakes and air bags in our automobiles. We know we could have insensitive high explosive and fire-resistant pits and enhanced nuclear detonation safety devices in every stockpile weapon. But we do not! We know each additional safety features decreases the probability of catastrophic results from an accident involving a nuclear weapon. We have no business entering into a CTBT until every weapon in our inventory is as safe as we know how to make it. I cannot justify a lesser standard and I hope you join me in this view and not give advice and consent to the ratification of the CTBT.

Mr. President, there are numerous reasons to oppose this treaty, many of which have been discussed here already. But I would like to focus on one feature of this agreement that is, in my view, sufficient reason by itself for rejecting ratification, and that is the treaty's duration.

This is an agreement of unlimited duration. That means that, if ratified, the United States will be committing itself forever not to conduct another nuclear test.

Think of that—forever. Are we so confident today that we will never again need nuclear testing—so certain that we are willing to deprive all future commanders-in-chief, all future military leaders, all future Congresses, of the one means that can actually prove the reliability of our nuclear deterrent?

Now, proponents of this treaty will say that this is not the case—that this commitment is not forever—because the treaty allows for withdrawal if our national interest requires it. And proponents of the treaty promise that if we reach a point where the safety and reliability of our nuclear deterrent cannot be guaranteed without testing, well then all we need do is exercise our right to withdraw and resume testing. This so-called "supreme national interest" clause, along with Safeguard F, in which President Clinton gives us his solemn word that he will consider a resumption of testing if our deterrent cannot be certified, is supposed to reassure us.

But the fact, Mr. President, is that this reassurance is a hollow promise, and supporters of the treaty know it.

The fact is that if the critical moment arrives and there is irrefutable evidence that we must conduct nuclear testing to ensure our deterrent is safe, reliable, and credible, those same treaty supporters will be shouting from the highest mountain that the very act of withdrawing from this treaty would be too provocative to ever be justified, that no narrow security need of the United States could ever override the solemn commitment we made to the world in agreeing to be bound by this treaty.

And if you don't believe that will happen, Mr. President, you need only look at our current difficulties with the 1972 ABM Treaty. It provides a chilling glimpse of our nuclear future, should we ratify this ill-conceived test ban.

Like the Comprehensive Test Ban Treaty, the ABM Treaty is of unlimited duration. It, too, includes a provision allowing the United States to withdraw if our national interests so demand. It's difficult to imagine a situation in which national security interests and treaty obligations are more clearly mismatched than with the ABM Treaty today, but its supporters insist that withdrawal is not just ill-advised but actually unthinkable. And the voices wailing loudest about changing this ossified agreement are the same ones urging us today to entangle ourselves in another treaty of unlimited duration.

Think of the ways in which the ABM Treaty is mismatched with our modern security needs. The treaty was conceived in a strategic context utterly unlike today's, a bipolar world in which two superpowers were engaged in both global rivalry and an accompanying buildup in strategic nuclear forces. Today, one of those superpowers no longer exists, and what remains of it struggles to secure its own borders against poorly armed militants.

The arms race that supposedly justified the ABM Treaty's perverse deification of vulnerability has not just halted, it's reversed, and no thanks to arms control. Today Russian nuclear forces are plummeting due not to the START II agreement—which Russia has refused to ratify for nearly 7 years—but to economic constraints and the end of the cold war. In fact, their forces are falling far faster than treaties can keep up; arms control isn't controlling anything—economic and strategic considerations are. Similar forces have led the United States to conclude that its forces can also be reduced. Thus, despite a strategic environment completely different from the one that gave birth to the ABM Treaty, its supporters stubbornly insist that we must remain a party to it.

In 1972, only the Soviet Union had the capability to target the United States with long-range ballistic missiles. Today, numerous rogue states are diligently working to acquire long-range missiles with which to coerce the United States or deter it from acting in its interests, and these weapons are so attractive precisely because we have no defense against them—indeed, we are legally prohibited from defending against them by the ABM Treaty.

Technologically, too, the ABM Treaty is obsolete. The kinetic kill vehicle that destroyed an ICBM high over the Pacific Ocean on October 2 was undreamed of in 1972. So was the idea of a 747 equipped with a missile killing laser, which is under construction now in Washington state, or space-based tracking satellites like SBIRS-Low, so precise that they may make traditional ground-based radars superfluous in missile defense. Yet this ABM Treaty, negotiated three decades ago, stands in the way of many of these technological innovations that could provide the United States with the protection it needs against the world's new threats.

These new threats have led to a consensus that the United States must deploy a National Missile Defense system, and a recognition that we are behind the curve in deploying one. The National Missile Defense Act, calling for deployment of such a system as soon as technologically feasible, passed this body by a vote of 97-3, with similar support in the House. Just as obvious as the need for this capability is the fact that the ABM Treaty prohibits us from deploying it. Clearly, the ABM Treaty must be amended or jettisoned; the Russians have so far refused to consider amending it so withdrawal is the obvious course of action if United States security interests are to be served.

But listen to the hue and cry at even the mention of such an option. From Russia to China to France and even to here on the floor of the United States Senate, we have heard the cry that the United States cannot withdraw from the ABM Treaty because it has become too important to the world community. Those who see arms control as an end in itself inveigh against even the consideration of withdrawal, claiming passionately that the United States owes it to the world to remain vulnerable to missile attack. Our participation in this treaty transcends narrow U.S. security interests, they claim; we have a higher obligation to the international community. After all, if the United States is protected from attack, won't that just encourage others to build more missiles in order to retain the ability to coerce us, thus threatening the great god of strategic stability? That phrase, translated, means that citizens of the United States must be vulnerable to incineration or attack by biological weapons so that other nations in this world may do as they please.

Even though the ABM Treaty is hopelessly outdated and prevents the United States from defending its citizens against the new threats of the 21st century, supporters of arms control insist that withdrawal is unthinkable. Its very existence is too important to be overridden by the mere security interests of the United States.

Absurd as such a proposition sounds, it is the current policy of this administration and it is supported by the very same voices who now urge us to ratify this comprehensive test ban. The Clinton administration has been reluctantly forced by the Congress into taking serious action on missile defenses. It admits that the system it needs to meet our security requirements cannot be deployed under the ABM Treaty. Yet, so powerful are the voices calling on the United States to subjugate its own security interests to arms control that the administration is proposing changes to the ABM Treaty that—by its own admission—will not allow a missile defense system that will meet our requirements. It has declared what must be done as "too hard to do" and intends to leave the mess it has created for another administration to clean up. All because arms control becomes an end in itself.

That sorry state of affairs, Mr. President, is where we will end up if the Senate consents to ratification of the Comprehensive Test Ban Treaty. Those treaty supporters who are saying now, "don't worry, there's an escape clause" will be the same ones who, 5 or 10 years from now—when there's a problem with our stockpile and the National Ignition Facility is still not finished and we find out that we overestimated our ability to simulate the workings of a nuclear weapon—will be saying we dare not withdraw from this treaty because we owe a higher debt to the international community.

Mr. President, I don't represent the international community, I represent the people of my state. Our decision here must serve the best interests of the United States and its citizens. Our experience with the ABM Treaty is a perfect example of how arms control agreements assume an importance well beyond their contribution to the security of our nation. The Comprehensive Test Ban Treaty's unlimited duration is a virtual guarantee that this agreement will prevent us from conducting nuclear testing long past the point at which we decide such testing is necessary, should we so decide. As our ABM experience shows, we should take no comfort from the presence of a so-called "supreme national interest" clause.

I urge the defeat of this treaty.

Mr. President, the CTBT is nothing less than an ill-disguised attempt to unilaterally disarm the U.S. nuclear arsenal. We have repeatedly confirmed the need for nuclear weapons in the U.S. defense force posture. According to this administration's Secretary of Defense, "nuclear forces are an essential element of U.S. security that serve as a hedge against an uncertain future and as a guarantee of U.S. commitments to allies." Most of us recognize this as a necessary, but awful, responsibility. Unfortunately, the CTBT actively undermines the Secretary of Defense's stated rationale for the U.S. nuclear arsenal.

For nuclear weapons to serve as a hedge against an uncertain future, they must be relevant to the threats we may face. As Iraq demonstrated during the gulf war, that threat is often a rogue regime armed with weapons of mass destruction. Hopefully, the threat of nuclear retaliation will deter a rogue regime from using WMD against United States forces and allies in the theater, as it did in the Iraqi case. However, some rogue regimes may not be moved by such concerns. Would North Korea, which appears otherwise content to let its people starve, balk at the prospect of United States nuclear retaliation/ and for that matter, is a United States threat to kill hundreds of thousands of oppressed North Korean civilian the proper response to North Korean WMD use? Is it a proportionate, morally acceptable threat to make? If it is not a threat we would carry out, how credible can it be? The answer to these questions lies in making sure that the U.S. nuclear arsenal is and remains relevant to the sorts of threats we will encounter in the "uncertain future."

Making the U.S. nuclear arsenal relevant to a world of rogue actors with dug-in, hardened shelters and WMD capabilities will likely require new weapons designs. In addition to improving the safety and reliability of our arsenal, new weapons designs tailoring explosive power to the threat will be crucial. For example, in some settings, biological weapons can be even more deadly than nuclear weapons. By releasing the agent into the atmosphere, a conventional attack on a biological weapons storage facility might cause more innocent deaths than it averted. It is possible that only a nuclear weapon is capable of assuring the destruction of a biological agent in some circumstances. The U.S. development of the B61-11 bunker buster nuclear weapon is evidence that, absent the political pressure for arms control, the U.S. arsenal needs these capabilities.

The CTBT will stop the United States from developing and deploying fourth generation nuclear weapons. Further, it will slowly degrade and destroy the nuclear weapons design infrastructure needed to produce new weapons designs. Thus any promise to withdraw from the CTBT in time of need becomes irrelevant; the capabilities we need won't be there. Without these new designs, nuclear weapons will ultimately cease to be a credible option for U.S. decisionmakers in all but a few very specific cases. Denying the United States the nuclear option is the true intent of the CTBT.

Do other countries recognize the utility of new weapons designs? Certainly. Russia increasingly relies on its nuclear weapons for national security because its conventional forces are failing. Russia is almost certainly interested in developing what one Russian senior academic identified as "ultralow-yield nuclear weapons with little effect on the environment." Our ability to detect and identify these sorts of test, which may resemble conventional explosions or small seismic events, with any degree of certainty is limited, and the cost of evading detection through decoupled underground tests, masking chemical explosions, etc., is not prohibitive. While the CTBT's proposed International Monitoring System (IMS) will add to the capabilities available through U.S. national technical means (NTM), it will still not provide definitive answers.

While less sophisticated than the Russian program, China has demonstrated that modernized and new weapons designs are on its agenda. Its aggressive intelligence-gathering operation aimed at the U.S. nuclear weapons complex should be clear evidence of that. China's willingness to freeze its nuclear modernization program simply to comply with a treaty should also be suspect—China has repeatedly demonstrated that it is willing to act contrary to its international commitments in areas of keen United States interest like the Missile Technology Control Regime (MTCR). "Norms" and diplomatic peer pressure will not dissuade China from nuclear testing. Based on these observations, what the CTBT will create is a frozen, degrading U.S. nuclear weapons program, improving Russian and Chinese arsenals, and a host of rogue regimes increasingly aware that the United States nuclear threat is deficient.

Let me conclude my remarks. I think as we close this debate, it is important to reflect for a moment on what the constitutional responsibilities of the Senate are. In binding the American people to international treaties, the Senate is a coequal partner with the President of the United States, whose people negotiate treaties which he signs and then sends to the Senate for its advice and consent.

It would help if he asked the Senate's advice before he requested our consent, but in this particular case his negotiators tried in certain circumstances to gain provisions in this treaty which eventually they concluded they could not get, and as a result, negotiated what Senator LUGAR of this body has called a treaty not of the same caliber as previous arms control treaties; a treaty that is flawed in a variety of ways he pointed out, including the fact it is not verifiable and it lacks enforceability.

My view is that the Senate can fulfill its constitutional responsibility not by being a rubber stamp to the administration but by in effect being quality control by sending a message that the U.S. Government, embodied in the Senate, will insist on certain minimum standards in treaties that will bind the American people. Particularly with respect to our national security, when we are talking about arms control, we will insist on those standards regardless of world opinion or what the lowest common denominator of nations may request.

This administration had the opportunity to negotiate a treaty of less than permanent duration. They originally tried a 10-year, opt-out provision but failed in that. They originally, at the request of the Joint Chiefs of Staff, were trying not to agree to a zero yield but to permit hydronuclear tests. But eventually they agreed to a zero yield. There were requests for better monitoring sites around the world, but our negotiators gave up on that as well.

My point is, in rejecting this treaty tonight the Senate will be strengthening the hand of our future negotiators who, in talking to their counterparts in the world, will be able to say the Senate is going to insist on certain minimum standards: That it be verifiable, it be enforceable, that it take the U.S. security interests seriously, and unless that is done we cannot possibly agree to these terms.

By rejecting this treaty this evening, I believe we will be sending a very strong message that as the leader of the world, the United States will insist on certain minimal standards to the treaties. Our negotiators in the future will be better able to negotiate the provisions. And in the future, the Senate will be in a position to ratify a treaty rather than having to reject what is clearly an inferior treaty.

I urge my colleagues to reject this treaty.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I yield 2 minutes to the distinguished Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 2 minutes.

Mr. LIEBERMAN. Mr. President, the good-faith efforts of people on both sides of the aisle to avoid a vote, knowing that there were not votes in the Senate to ratify this treaty, have obviously failed. The vote will occur soon, and the votes are not there to ratify the treaty. That, in my opinion, is profoundly unfortunate. There is plenty of blame to be passed all around for that result.

I think at this moment we all should not look backward but look forward, and particularly say to our friends and allies and enemies around the world that this vote tonight does not send a signal that the majority of the American people and their Representatives in Congress and in the Senate are not profoundly concerned about nuclear proliferation and are not interested in arriving at a treaty that genuinely will protect future generations from that threat.

At times in this debate I was heartened by statements, including those made by the current occupant of the Chair, the Senator from Nebraska, saying if the vote occurred, you would vote against the ratification tonight, but more work ought to be done and more thought ought to be given. I hope in the days ahead we will be able to reach across the partisan aisle, work together without time limitation or even timeframe, to see if we can find a way to build adequate support for the ratification of this treaty, or a treaty which will control the proliferation of nuclear weapons by prohibiting the testing of those weapons. I invite my colleagues from both parties to join with us in that effort in working together with our administration. I hope we can take from this experience the lessons of what we did not do this time and should do next time.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Delaware.

Mr. BIDEN. Mr. President, how much time remains in my control?

The PRESIDING OFFICER. The Senator from Delaware has 16 minutes 54 seconds remaining.

Mr. BIDEN. How much time remains in control of my friend?

The PRESIDING OFFICER. The Senator from North Carolina has 10 minutes remaining.

Mr. HELMS. Will the Senator forgive me; I overlooked Senator WARNER.

Mr. BIDEN. Surely.

Mr. WARNER. I thank my distinguished colleagues.

My dear friend and partner in the venture for a letter, Senator MOYNIHAN, addressed the letter in his remarks. First, we expressed it was an effort in bipartisanship by a large number of Senators—I but one; Senator MOYNIHAN two. This letter will be printed in the RECORD following the vote.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I have spoken to our leader. I am going to close the debate on our side. I will use any time up to the amount of time that I have available.

My friend from North Carolina knows—I guess when people listen to us on the air they must wonder. We go through this, "my friend from North Carolina" and "distinguished Senator from." I imagine people, especially kids or youngsters in high school and college, must look at us and say: What are they talking about, unless they understand the need for good manners in a place where there are such strong differences, where we have such deep-seated differences on some issues, where I must tell you—and I am not being melodramatic—my heart aches because we are about to vote down this treaty. I truly think, I honestly believe that, in the 27 years I have been here, this is the most serious mistake the Senate has ever made—or is about to make.

But that does not detract from my respect for the Senator from North Carolina, who not only is against the treaty, but wants to bring it up now, now, and vote it down. So I think it is important for the American people to understand. We have deep differences on this floor. In other places they have coups and they shoot each other. Because of the traditions of this body and the rules of the Senate, we live to fight another day.

My friend knows we came the same year; we came the same date; we came at the same time. I will promise him, and he will not be surprised, I will use every remaining day of this Congress to try to fight him on this issue—even though I am about to lose, we are about to lose, my position is about to lose—to try to bring this back up, try to push it, try to keep it alive. Because as the Parliamentarian pointed out, when you vote this treaty down today, it doesn't die; it goes to sleep. It goes back to bed. It jumps over that marble counter there, back over the desk to the Executive Calendar to be called up again.

I warn you all, I am going to be a thorn in your side, not that it matters much, but I am going to keep harping at it. I am going to keep beating up on you; I am going to keep talking about it; I am going to keep at it, keep at it, keep at it.

When we started this off, my objective was to get the kind of hearings—I know my friend says we have had hearings—the kind of hearings we have had on other significant treaties—10, 12, 15, 18 days of hearings. The "sense of the Senate" amendment that I was prepared to introduce two weeks ago called for Foreign Relations Committee hearings beginning this fall and final action by March 31, 2000.

That is what I was looking for because I truly believe that, were the American people and our colleagues able to hash this out in the way we designed this body to work, we would, in fact, find accommodation for all those concerns that 67 Senators might have; not 90, but probably 67, 68—70. I truly believe that. I truly believe that.

Instead, we got one quick week of hearings, with the Committee on Foreign Relations holding only one day of hearings dedicated to this treaty, the day after the committee was discharged of its responsibility.

That abdication of committee responsibility was perhaps only fitting, as most Republicans appear prepared to force this great country to abdicate its responsibility for world leadership on nuclear non-proliferation.

But let me say that in this floor debate, I have attempted at least to answer attacks leveled by treaty opponents. Neither side has been able to delve very deeply, however, given the time constraints and lack of balanced, I think, detailed knowledge on the part of our Senate.

For example, the distinguished Senator from Rhode Island and the Senator from Virginia are both friends. They are World War II vets. They have served a long time and they are among the two most honorable people I know. Senator CHAFEE—I assume he will forgive me for saying this—came up to me and said: JOE, check what I have here. Is this accurate, what I have here?

I said what I am about to say: It is absolutely accurate.

He said: But it is different from what my friend from Virginia said, Senator WARNER said.

I said: I love him, but he is flat wrong. He is flat wrong.

I don't think anybody is intentionally misleading anybody. I do think we haven't hashed this out.

For example, there is a condition that we have adopted by unanimous consent, part of this resolution of ratification we are about to vote on, the last section of which says:

> Withdrawal from the treaty: If the President determines that nuclear testing is necessary to assure with a high degree of confidence the safety and reliability of the United States nuclear weapons stockpile, the President shall consult promptly with the Senate and withdraw from the treaty.

He has no choice. He must withdraw.

My friend from Virginia characterizes this treaty as having no way out. If, however, the President is told by the National Laboratory Directors, by the Secretary of Defense, the Secretary of Energy, "We can't guarantee any more, boss," he must inform us and he must withdraw.

That is an illustration of what I mean. Here are two honorable men, two men of significant experience, asking one another and asking each of their staffs: Which is right?

In one sense, it is clear what is right: we haven't had much time to talk about it. We haven't had much time to talk about it.

The debating points and counterpoints are too many to summarize in a short statement in the probably 12 minutes I have left. But the themes of this debate are clear and so are the fallacies that underlie the arguments of those who oppose the treaty, at least the arguments made most repeatedly on the floor.

The first theme of the treaty opponents is that, while our nuclear weapons stockpile may be—they don't say "may", they say "is"—safe and is reliable today, there is no way to do without nuclear testing forever. That is the first theme that is promoted by the opponents.

This argument is based on a fallacy rooted in our nuclear weapons history. The history is that our nuclear testing has supported a trial-and-error approach to correcting deficiencies, rather than rooting our weapons in detailed scientific knowledge of how a nuclear reaction works.

The fallacy is that nuclear weapons must be subjected to full-up, "integrated" testing. That is a fallacy. The truth is, rarely do we fully test major systems. Rather, we test components or conduct less than full tests of complete systems.

As my colleagues know, a truly full test of a nuclear weapon would require that it be tested as a bomb or as a warhead, as it is intended to be, and exploded in the atmosphere. All the experts tell you that. That is the only true, absolute way you know what is going to happen: test it in the atmosphere.

As the Presiding Officer knows, we have done without atmospheric testing for 36 years. We accepted the supposedly degraded confidence in our nuclear stockpile that results from this lack of full-blown testing.

Why have we accepted that? Because we balanced the benefits of full-up atmospheric testing against its disadvantages, and it was clear that the benefits outweighed the negatives.

When listing the benefits, we also noted how well we could assure the systems performance without these full-up tests. When listing the disadvantages, we included cost, risk of collateral damage, environmental risk, radioactive fallout, and the diplomatic or military costs that would have been incurred if we had rejected or withdrawn from the Limited Test-Ban Treaty which was signed in 1963.

Similarly today, we have to consider both the benefits and the disadvantages of insisting upon the right to conduct underground nuclear testing. We should include in our calculus the fact that the Resolution of Ratification of this treaty requires the President to withdraw from the treaty if he "determines that nuclear testing is necessary to assure, with a high degree of confidence, the safety and reliability of the United States nuclear weapons stockpile."

Guess what? Every year now, under the law, the Secretary of Energy and the Secretary of Defense must not only go to the President, but must come to the Senator from Nebraska, the Senator from Delaware, the Foreign Relations Committee, the Armed Services Committee, and they must tell us, as well as the President, whether they can certify the continued safety and reliability of the stockpile. If they cannot certify, and if we adopt this Resolution of Ratification, the President has to withdraw from the treaty.

We will likely differ in our calculations of the balance between advantages and disadvantages of foreswearing underground nuclear testing. But we should all reject the fallacy that there is no substitute for continuing what we did in the past.

The second theme that opponents of the treaty keep putting out is that we have to reject this treaty because it is not perfectly verifiable. This argument is based upon a fallacy rooted in slogans and fear. The fear relates to the history of arms control violations by the Russians and the Soviet Union. The slogans are Ronald Reagan's election-year demand: Effective verification. And his later catch phrase: Trust but verify.

This body has never demanded perfect verification.

Consider the vote we had on the INF Treaty that eliminated land-based intermediate-range missiles. That treaty was signed by President Reagan. President Reagan, the same man who signed the treaty, also coined the phrase "trust but verify."

Was the INF Treaty perfectly verifiable? No. Nobody in the world suggested it was perfectly verifiable. Listen to what the Senate Intelligence Committee said before we voted on Ronald Reagan's INF Treaty. They said:

> Soviet compliance with some of the treaty's provisions will be difficult to monitor. The problem is exemplified by the unresolved controversy between the Defense Intelligence Agency and other intelligence agencies over the number of SS-20s in the Soviet inventory.

We did not even know how many SS-20s, intermediate-range missiles, they had. The Intelligence Committee went on to say:

> Ground-launched cruise missiles pose a particular difficult monitoring problem as they are interchangeable long-range, sea-based launch cruise missiles.

Which the INF Treaty did not ban. This was not verifiable. Where were all you guys and women when the Reagan treaty was up here? God love him: Trust but verify. I challenge anyone to come to the floor in the remaining minutes and tell me that the INF Treaty was perfectly verifiable.

I love this double standard. You wonder why some of us on this side of the aisle think this is about politics.

The fallacy is clear: Nobody really believes in perfect verification. The Senate approved Ronald Reagan's INF Treaty by a vote of 93-5, despite the fact that we knew the INF Treaty was far from verifiable. The legitimate verification questions are how well can we verify compliance and whether our national security will be threatened by any undetected cheating that could occur.

I say to my colleagues, we should end the pretense that only a perfectly verifiable treaty is acceptable. The only perfectly verifiable treaty is one that is impossible to be written.

Each side in this debate has agreed that the approval or rejection of this treaty could have serious consequences. I suggest that we pay some attention to each side's worst-case scenarios.

Opponents of the treaty have warned that a permanent ban on nuclear weapons tests could result in degraded confidence in the U.S. deterrent, perhaps leading other countries to develop their own nuclear weapons. Treaty supporters have warned that rejection of this treaty could lead to a more unstable world in which all countries were freed of any obligation to obey the Test-Ban Treaty.

Neither of these worst-case outcomes is very palatable. Any degraded foreign confidence in the U.S. deterrent would be limited, however, either by annual certification of our own high confidence in our nuclear weapons, or by prompt action to fix any problems—including mandatory withdrawal from this treaty if the President determined that testing was necessary.

Rejection of this treaty would not greatly increase the speed with which a nuclear test could be conducted, if one were necessary. The nuclear stockpile certification process already forces an annual decision on whether to resume testing, and the treaty would impost only a six-month delay after notice of our intent to withdraw. That means a total lag of 6 to 18 months between discovering a problem and being free to test—roughly what officials say is the minimum time that it takes to mount a serious nuclear weapons test, anyway.

By contrast, however, the worst-case scenario of Treaty supporters might not be so limited. As Larry Eagleburger, who served as Secretary of State at the end of the Bush Administration, wrote in Monday's Washington Times:

> The all-important effort of the United States to stem the spread of nuclear weapons around the world is about to go over a cliff unless saner heads in Washington quickly prevail.

Eighty years ago, this body rejected the Treaty of Versailles that ended the First World War. Woodrow Wilson's vision of a League of Nations to keep the peace was turned down by a Senate that did not want to accept such a U.S. responsibility in the world. While that vote was understood to be significant at the time, nobody could foresee that our refusal to take an active role in Europe's affairs would help lead to a Second World War only two decades later.

Today, eight years after the Cold War's end, the Senate is presented with a different kind of collective security proposition—an international treaty that can meaningfully reduce the danger that nuclear weapons will spread, a treaty enforced by an army of inspectors and a global system of sensors.

We cannot tell what the precise consequences of our actions are going to be this time, but the world will surely watch and wonder if we once again abdicate America's responsibility of world leadership, if we once again allow the world to drift rudderless into the stormy seas of nuclear proliferation.

World War II was a time of horror and heroism. A world of nuclear wars will bring unimagined horror and little room for the heroism of our fathers. We all pray that our children and grandchildren will not live in such a world.

Will the votes today have such a major, perhaps awful, consequence? We cannot say for sure, but I end by suggesting to all that the chance being taken by those who are worried about our ability to verify compliance and our ability to verify the stockpile is far outweighed by the chance we take in rejecting this treaty and saying to the entire world: We are going to do testing and we do not believe that you can maintain your interests without testing, so have at it.

We should all consider that this may be a major turning point in world affairs. If we should reject this treaty, we may later find that "the road not taken," in Robert Frost's famous phrase, was, in fact, the last road back from the nuclear brink.

I heard, in closing—the last comment I will make—my friend say: Our allies will lose confidence in us if we ratify this treaty. The fact is, however, that Tony Blair called today and, to paraphrase, said: For God's sake, don't defeat this treaty. He is the Prime Minister of England, our No. 1 ally.

The German Chancellor said: Please ratify, in an open letter. The President of France, Jacques Chirac, said: Please ratify. So said our allies.

Larry Eagleburger's conclusion is one with which I shall end. His conclusion was:

> The whole point of the CTBT from the American perspective is get other nations to stop their testing activities and thereby lock-in—in perpetuity—the overwhelming U.S. advantage in weaponry. There is no other way to interpret a vote against this treaty than as a vote in favor of nuclear testing of other nations. It would stand on its head the model of U.S. leadership on nonproliferation matters we have achieved for over 40 years.
>
> If the Senate cannot bring itself to do the right thing and approve the treaty, then senators should do the next best thing and pull it off the table.

As I used to say in a former profession, I rest my case, but in my former profession, when I rested my case, I assumed I would win. I know I am going to lose here, but I will be back. I will be back. I yield the floor and reserve the remainder of time, if I have any.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, how much time do we have left on this side?

The PRESIDING OFFICER. The Senator from North Carolina has 9 minutes 30 seconds.

Mr. HELMS. Mr. President, my friend, Senator BIDEN, began with an allusion to the young people listening by television about how we call each other distinguish Senators and various other good things, and that is called courtesy. I call him a distinguished Senator, and I admire JOE BIDEN. He knows I do. I cannot outshout him. He has far more volume than I. I have used my windpipes a little bit longer than he has.

Let me tell you about JOE. He is a good guy. He is a good family man. He goes home to Delaware every night. He comes back in the morning. Sometimes he is not on time for committee meetings and other things, but we take account of that. But you can bank on JOE BIDEN in terms of his vote. He is going to vote liberal every time. I have never known him—and I say this with respect—to cast a conservative vote. And that is the real difference.

I believe it is essential that the Senate withhold its consent and vote to defeat the Comprehensive Nuclear Test-Ban Treaty.

Mr. President, in the post-cold-war world, many of us have assumed that the U.S. nuclear deterrent is less relevant than before. I contend that it is more important than ever.

The level of threat posed by another nation has two parts—the nation's capabilities to inflict damage upon us, and the intent to do so. Since the end of the cold war, Russia's intent, clearly, is peaceful. This has not changed Russian nuclear capabilities, however. If Russia's government were to change to a hostile one tomorrow, the level of threat posed by Moscow would be even greater than it was during the cold war.

Unlike the United States, Russia has not stopped improving on its nuclear arsenal. The Russians have continued to modernize their nuclear arsenal with new warheads and new delivery systems, despite the end of the cold war. This modernization has been at tremendous economic expense and has probably entailed continued nuclear testing. I might also add that Russian nuclear doctrine has continued to evolve since the end of the cold war, and now Moscow relies even more on its nuclear deterrent for defense than it did before.

But, Russian is not the only potential threat. The greater danger may come, ultimately, from China. As you know, Chinese espionage has yielded great fruit, including United States nuclear weapons designs and codes, as well as intelligence on our strategic nuclear submarine force. China continued nuclear testing long after the United States undertook a self-imposed nuclear test moratorium in 1992. And, undoubtedly, it can continue secret nuclear testing without our being able to detect it.

Other threats also abound. One of the most serious is from North Korea, which remains in noncompliance with the Nuclear Nonproliferation Treaty and is continuing to build missiles that can be used for nuclear weapons delivery.

In this uncertain world, it is not enough to simply retain a nuclear arsenal. We need a true nuclear deterrent. A nuclear arsenal becomes a nuclear deterrent only when we have convinced potential enemies that we will use that arsenal against them if they attack us or our allies with weapons of mass destruction. This means we must do two things. First, we must maintain the arsenal in workable, reliable condition. Second, we must clearly communicate our willingness to use the arsenal. We must not forget: a weapon does not deter if your enemy knows that you won't use the weapon.

Nuclear testing, historically, has performed both the maintenance and communications functions. Testing kept the arsenal reliable and modern. Very importantly, it also signaled to potential enemies that we were serious about nuclear deterrence.

Some people might argue that our nuclear arsenal is as modern as it will ever need to be. I am not willing to make that argument because I know I can't predict the future. I have no way of knowing what technological advances our potential enemies may make. Perhaps they will make discoveries of countermeasures that make our delivery systems outmoded. Or, perhaps they will acquire ever more potent offenses, just as Iraq, Russia, and North Korea have acquired highly virulent biological weapons.

If the future does bring new challenges to our existing arsenal, I think we ought to be in a position to modernize our stockpile to meet those challenges. The directors of our nuclear weapons design laboratories have told us that we cannot modernize our weapons, for example, to take on the threat of biological weapons unless we can test. It therefore seems reasonable that we not deny ourselves the ability to test.

Again, some people may argue that we should join the CTBT and then pull out if we need to test. That would be terribly foolish. We all know how politically difficult it is to pull out of a treaty, no matter how strong the arguments are for doing so. It is better to not join in the first place.

In conclusion, let me reiterate my support for keeping our nuclear deterrent strong. The nuclear arsenal protects us against attacks from other nations that might use weapons of mass destruction against us. It tells them silently that the cost of any aggression is too high. We need to keep sending that signal to them, and nuclear testing will help us do that.

Mr. President nuclear deterrence was crucial to U.S. and allied security throughout the cold war, and it will be no less important in the future. The enormous benefit of America's nuclear deterrent is that it protects U.S. interests and safeguards the peace without the use of force.

It is clear that on several occasions, notably during the Cuban missile crisis, nuclear deterrence kept the cold war from becoming a shooting war. Now that the cold war is over, has nuclear deterrence become less important? The answer is no. During the first conflict of the post-cold-war period, the 1991 gulf war with Saddam Hussein, nuclear deterrence undoubtedly saved thousands, possibly tens of thousands of lives. How? Saddam Hussein was deterred from using his chemical and biological weapons because he feared the United States would retaliate with nuclear weapons. That is not my interpretation of the gulf war; it is what senior Iraqi leaders have said. The gulf war experience illustrates that as chemical, biological and nuclear weapons continue to proliferate, the U.S. nuclear deterrent will become even more vital to our security.

While Washington must be prepared for the possibility that nuclear deterrence will not always safeguard the peace, we must safeguard our capability to deter. President Clinton recognized this continuing value of nuclear deterrence in the White House's most recent presentation of U.S. national security strategy. A National Security Strategy for A New Century, I quote: "Our nuclear deterrent posture is one of the most visible and important examples of how U.S. military capabilities can be used effectively to deter aggression and coercion . . ." And, quote "The United States must continue to maintain a robust triad of strategic forces sufficient to deter any hostile foreign leadership . . ."

The strategy of nuclear deterrence that for decades has played such a crucial role in preserving peace without resort to war would be damaged, perhaps beyond repair, in the absence of nuclear testing. Make no mistake, the CTBT would harm U.S. security by undermining the U.S. nuclear deterrent.

For the nuclear stockpile to underwrite deterrence it must be credible to foes. That credibility requires testing. To deter hardened aggressors who are seemingly impervious to reason, there is no substitute for nuclear testing to provide the most convincing demonstration of the U.S. nuclear stockpile and U.S. will to maintain nuclear deterrence.

The strategy of nuclear deterrence also requires that U.S. leaders have confidence that the nuclear stockpile will work as intended, is safe and reliable. Only testing can provide that confidence to U.S. leaders, and to our European and Asian allies who depend on the U.S. nuclear deterrent for their security. In the past, nuclear testing has uncovered problems in given types of weapons, and also assured that those problems were corrected, permitting confidence in the reliability of the stockpile.

The absence of testing would undermine both the credibility of the U.S. nuclear deterrent in the eyes of would-be aggressors and the confidence of U.S. leaders in the strategy of nuclear deterrence.

In addition, an effective strategy of nuclear deterrence requires that the nuclear stockpile be capable of deterring a variety of aggressors and challenges. New and unprecedented threats to United States security are emerging as a variety of hostile nations, including North Korea and Iran, develop mass destruction weapons and their delivery means. The U.S. nuclear deterrent must be capable against a wide spectrum of potential foes, including those who are desperate and willing to take grave risks. The nuclear stockpile inherited from the cold war is unlikely to be suited to effective deterrence across this growing spectrum of potential challengers. America's strategy of nuclear deterrence will become increasingly unreliable if the U.S. nuclear arsenal is limited to that developed for a very different time and challenger. Nuclear weapons of new designs inevitably will be necessary; and as the directors of both nuclear weapons design laboratories have affirmed, nuclear testing is necessary to provide confidence in the workability of any new design. In short, nuclear testing is the key to confidence in the new weapons design that inevitably will be necessary to adapt our nuclear deterrent to a variety of new challengers and circumstances.

Finally, the U.S. strategy of nuclear deterrence cannot be sustained without a cadre of highly trained scientists and engineers. That generation of scientists and engineers that served successfully during the cold war is passing rapidly from the scene. Nuclear testing is critical to recruit, train, and validate the competence of a new generation of expert to maintain America's nuclear deterrent in the future.

Mr. President, there is no credible evidence that the CTBT will reduce nuclear proliferation. None of the so-called "unrecognized" nuclear states—India, Pakistan and Israel—will be convinced by this Treaty to give up their weapons programs. Most important, those states that are currently seeking nuclear weapons—including Iran, Iraq and North Korea a state that probably already has one of two nuclear weapons—will either not sign the Treaty or, equally likely, will sign and cheat. These countries have demonstrated the value they ascribe to all types of weapons of mass destruction and are not going to give them up because others pledge not to test. They also know that they do not need to test in order to have confidence in first generation weapons. The United States did not test the gun-assembly design of the "little boy" weapon in 1945; and the South Africans and other more recent proliferators did not test their early warhead designs.

Contrary to its advertised purpose, and in a more perverse and bizarre way, the CTBT could actually lead to greater proliferation not only by our adversaries but also by several key allies and friends who have long relied on the American nuclear umbrella as a cornerstone of their own security policy. In other words, if the CTBT were to lead to uncertainties that called into question the reliability of the U.S. nuclear deterrent, which it certainly will, the result could well be more rather than less proliferation.

The United States has for many years relied on nuclear weapons to protect and defend our core security interests. In the past, our nuclear weapons were the central element of our deterrent strategy. In today's world—with weapons of mass destruction and long-range missiles increasingly available to rogue states—they remain an indispensable component of our national security strategy. While serving as a hedge against an uncertain future with Russia and China, United States nuclear weapons are also essential in meeting the new threat of regional states armed with weapons of mass destruction. In fact, in the only contemporary experience we have with an enemy armed with chemical and biological weapons, there is strong evidence that our nuclear weapons played a vital role in deterring Saddam from using these weapons in a way that would have changed the face of the gulf war, and perhaps its outcome.

While the U.S. nuclear deterrent today inspires fear in the minds of rogue-type adversaries, U.S. nuclear capabilities will erode in the context of a CTBT. Inevitably, as both we and they watch this erosion, the result will be to encourage these states to challenge our commitment and resolve to respond to aggression. Much less concerned by the U.S. ability—and therefore its willingness—to carry out an overwhelming response, they will likely pursue even more vigorously aggression in their own neighborhoods and beyond. To support their goals, these states will almost certainly seek additional and ever more capable weapons of mass destruction—chemical, biological and nuclear—to deter American intervention with our conventional superiority. They may also be more willing to employ weapons of mass destruction on the battlefield in an effort to disrupt, impede, or deny the United States the ability to successfully undertake military operations.

By calling into question the credibility of the "extended deterrent" that our nuclear weapons provided for key allies in Europe and Asia, the CTBT could also spur proliferation of nuclear weapons by those states who have long relied on the U.S. nuclear guarantee. For over half a century, the United States has successfully promoted nonproliferation through the reassurance of allies that their security and ours were inseparable. U.S. nuclear weapons have always been a unique part of this bond. Formal allies such as Germany, Japan and South Korea continue to benefit from this protection. Should the U.S. nuclear deterrent become unreliable, and should U.S. allies begin to fear for their security having lost faith in the U.S. guarantee, it is likely that these states—especially those located in conflict-laden regions—would revisit the question of whether they need their own national deterrent capability.

Maintaining a reliable and credible nuclear deterrent has also contributed to the reassurance of other important friends in regions of vital interest. For instance, Taiwan and Saudi Arabia have to date shown considerable restraint in light of the nuclear, chemical and biological weapons proliferation in their region, in large part because they see the United States as committed and capable of coming to their defense. While strong security relations have encouraged Taipei and Riyadh to abstain from their own nuclear programs, an unreliable or questionable U.S. nuclear deterrent might actually encourage nuclear weapons development by these states.

In summary, by prohibiting further nuclear testing—the very "proof" of our arsenal's viability—the CTBT would call into question the safety, security, and reliability of U.S. nuclear weapons, as well as their credibility and operational utility. Consequently, should the United States move forward with ratification of the Treaty, it is likely to have the profound adverse effect of encouraging further proliferation of weapons of mass destruction. This would be in the most fundamental way detrimental to U.S. national security objectives.

Mr. President, a cornerstone of arms control is the ability of the U.S. government to verify compliance. In U.S. bilateral agreements such as the Strategic Arms Reduction Treaty, and the Intermediate Nuclear Forces Treaty, the Senate has insisted on provisions in the treaty that would provide for a combination of cooperative measures including on-site inspection, as well as independent national technical means of verification to monitor compliance. Such provisions have been almost entirely absent in multinational arms control agreements. It is not surprising that international agreements such as the Biological Weapons Convention, the Nuclear Non-Proliferation Treaty, the Missile Technology Control Regime, and the Chemical Weapons Convention are ignored by nations whose security calculation drives them to acquire weapons of mass destruction and their means of delivery. The CTBT is likely to sustain the tradition of noncompliance we have so widely observed with other multilateral arms control agreements. The problem with the CTBT is particularly acute because national technical means of verification do not exist to verify compliance. There is some relevant arms control history on this point.

In the 1980's, the United States negotiated a threshold test ban treaty with the former Soviet Union, FSU. This agreement limited nuclear tests to a specific yield measured in equivalent explosive energy in tons of TNT. Compliance with this agreement could not be verified by national technical means of verification. Very specific cooperative measures were required to render the agreement vulnerable to verification of compliance. Specifically, underground nuclear tests were limited to designated sites, and each side was required to permit the deployment of sensors in the region where tests were permitted to monitor such testing. These extraordinary measures emphasize the limitations of underground nuclear test monitoring. Tests that were not conducted at designated sites could not be reliably monitored. Moreover, even when we are confident we know where a test will be conducted, unless we have detailed knowledge of the local geological conditions and are able to deploy our own sensors near the site, the limits of modern science—despite the billions of dollars invested in various technologies for nearly half a century—cannot verify compliance with national undertakings concerning underground nuclear testing.

Since the early 1990's, Russian nuclear weapons scientists and engineers have been conducting experiments at a test site on the Novaya Zemlya Island in the Russian Arctic. Because these tests are conducted in underground cavities, it is beyond the limits of modern scientists to be certain that a nuclear test has not been conducted. Two such tests were carried out in September according to the Washington Post in its report on Sunday, October 3, 1999. No one in the Department of Energy, the Department of Defense, the CIA, or the White House knows what those tests were. Nor can they know. These could have been nuclear tests using a technique for emplacing the nuclear device in circumstances that will deny us the ability to know whether or not a nuclear test has been carried out.

A technique known as "decoupling" is a well understood approach to concealing underground nuclear tests. By suspending a nuclear device in a large underground cavity such as a salt dome or hard rock, the seismic "signal" produced by the detonation is sharply reduced as the energy from the detonation is absorbed by the rock or salt. The resulting "signal" produced by the blast of the detonation becomes difficult to distinguish from natural phenomena. Because decoupling is a simple, cheap, and reliable means of concealing nuclear tests, the United States insisted on a provision in the Threshold Test Ban Treaty that underground nuclear tests could only be undertaken in specific agreed-upon sites. The unfeasibility of monitoring compliance with a CTBT if a nation decides to use decoupling techniques to conceal nuclear tests. This has been acknowledged by the Intelligence Community. The Community's chief scientist for the Arms Control Intelligence Staff, Dr. Larry Turnbull stated last year.

The decoupling scenario is credible for many countries for at least two reasons: First, the worldwide mining and petroleum literature indicates that construction of large cavities in both hard rock and sale is feasible with costs that would be relatively small compared to those required for the production of materials for a nuclear device; second, literature and symposia indicate that containment of particulate and gaseous debris is feasible in both sale and had rock.

The reduction in the seismic "signal" can diminish the apparent yield of a nuclear device by as much as a factor of 70. The effectiveness of concealment measures means that potential proliferators can develop the critical primary stage of a thermonuclear (hydrogen) weapon. It can do so with the knowledge that science does not permit detection of a decoupled nuclear test in a manner that will permit verification of compliance with a CTBT or any other bilateral or multilateral arms control agreement intended to restrain nuclear testing.

How much risk must the United States continued to be exposed by these ill-thought out multilateral arms control agreements? We have been reminded of this problem recently. The Biological Weapons Convention has been advertised by the same people now advocating the CTBT to be a successful example of a universally subscribed codification of the rejection of biological weapons by the international community. What has happened in the three decades since its ratification? The treaty has in fact, been widely violated. Two dozen nations have covert biological weapons programs. The arms control community—recognizing the treaty's fundamentally flawed character—is now seeking to "put toothpaste back in the tube" by attempting to negotiate verification provisions 30 years after the fact. We know from the report of the Rumsfeld Commission last year that the technology of nuclear weapons has been widely disseminated—abetted by the declassification policies of the Department of Energy. The problem of nuclear proliferation is now beyond the grasp of arms control. Other measures to protect American security and the security of its allies from its consequences now must be identified, considered, and implemented. We simply have to face the fact that compliance with the CTBT cannot be verified and no "fix" is possible to save it. The scope and pace of the consequences of nuclear proliferation will be magnified if the CTBT is verified.

Mr. President, when Ronald Reagan said "trust but verify" he expressed what most Americans feel about arms control treaties that limit the tools of U.S. national security. They know we will abide scrupulously by our legal obligations and would like to live in a world where others do the same. But since we do not live in such a world, they expect us to avoid treaties whose verification standards are less demanding than our own compliance standards.

The Comprehensive Test Ban Treaty now before us for advice and consent would be a radical departure from traditional U.S. approaches to the cessation of nuclear testing. Despite its superficial attractiveness there are two enduring reasons why no previous administration has ever advocated a permanent, zero-yield test ban. The first is that we've never apologized for relying on low yield underground tests to assure the safety and reliability of our nuclear deterrent.

Others and I will have more to say about that issue, but right now I will focus on the second reason we've never catered to the anti-nuclear sentiments behind a zero-yield test ban. In the 1950's—when international nuclear disarmament really was a stated objective of U.S. policy—President Eisenhower's "comprehensive" test ban applied to tests above four or five kilotons. But after studying it for a few years he turned instead to nonproliferation and limited test ban proposals because he realized he could not assure verification of a test ban even at that threshold.

We understood back then that cheating would allow an adversary to modernize new weapons and confirm the reliability of existing ones. We knew we would never exploit verification loopholes for military advantage but were less sanguine about the forbearance of others. We knew that monitoring, detecting, and identifying noncompliance, let alone verifying it under international legal standards, was beyond our technical, diplomatic, and legal limits, and we were honest enough to say so.

And yet today we are told verification methods are good enough to enforce compliance by others with a permanent zero-yield test ban while we pursue unconstrained nuclear weapons modernization by other means ourselves. Mr. President, I know that science has not stood still over the past 40-plus years. Our monitoring methods have no doubt improved. But does that mean that from now until forever we can verify any nuclear test of any magnitude, conducted by anyone, anywhere? And—if we could—that we would be equipped to do something about it? The administration wisely stops short of such absolute claims, but asserts nevertheless that international verification methods are adequate for this treaty.

So I have to ask is it our means of detection and verification or our standards of foreign compliance that have "evolved" over the past 44 years? I realize that perfect verification is unachievable. The U.S. is party to many treaties—some good, some bad—that are less than 100% verifiable. But the administration's belief—that this CTBT is so important that we should bind ourselves forever to its terms anyway—does not flow logically from that premise.

Previous administration have proposed bans on nuclear tests above certain yields despite sub-optimal means of monitoring compliance by appealing to their "effective" rather than "foolproof" verification provisions. The Carter administration employed that standard to promote a ten-year ban on tests above two kilotons. They knew a lower threshold would stretch credulity despite the seemingly infinite elasticity of "effective verification."

Mr. President, "effective verification" is an intentionally vague political term-of-art, but as the old saying goes, we all "know it when we see it." for the CTBT, it should mean we have high confidence that we can detect within hours or days any clandestine nuclear test that would provide a cheater with militarily significant weapons information.

If the administration attaches a different meaning to the term, we are entitled to know that. If not, we are entitled to know precisely what nuclear tests yields do provide militarily significant information, and whether the CTBT's verification system can detect them down to that level.

As they are pondering those questions, permit me to offer some assistance. Those who test new weapons and track the deterioration of old ones will tell you that Carter's two-kiloton threshold would have permitted scientifically valuable U.S. nuclear tests (which Clinton's CTBT would disallow) bearing directly on the reliability of our nuclear deterrent.

So, let me rephrase the question. Let's say evidence suggests a foreign test in, say, Novaya Zemlya, North Korea, Iran's territorial waters, or somewhere near the Tibetan mountains. Let's say it indicates an explosion of five kilotons—250 percent of what Carter would have allowed. Let's say the test did not take place in a "decoupled" cavity and, unlike the Pakistani test of May 1998, that the suspect state did not disable in-country seismic stations.

Now, will the IMS reliably detect that test within hours or days with high confidence? Will is promptly identify the test and its precise location? Will it quickly differentiate it from mining excavations and plant disasters?

And if it does: Will the requisite 30 members of the 51-member CTBT Executive Council immediately support an on-site inspection on the basis of that IMS input?

Will the Executive Council issue an inspection request even if the state in question was the last one inspected and cannot be challenged consecutively?

With the alleged cheater welcome a team of top caliber experts and escort them to the suspected location promptly on the basis of that input?

Will inspectors be allowed to use state-of-the-art inspection equipment in and around all suspect facilities on the basis of that input?

Let's say the IMS and Executive Council overcome all of those impediments and call for an on site inspection of the suspected state. Now, do you suppose a state that conducted a clandestine nuclear test might be prepared to exercise any of the following rights explicitly granted under the CTBT's "managed access" principle:

Deny entry to the inspection team [88(c)]? Refuse to allow representatives of the United States (as the challenging state) to accompany the inspectors [61(a)]? Delay inspectors' entry for up to 72 hours after arrival [57]? Permanently exclude a given individual from any inspections [22]? Veto the inspection team's use of particular equipment [51]? Declare buildings off-limits to inspectors [88(a); 89(d)]? Declare several four-square-kilometer sites off-limits to inspectors? [89(e); 92; 96]? Shroud sensitive displays, stores, or equipment [89(a)]? Disallow collection/analysis of samples to determine the presence or absence of radioactive products [89(c)]?

Mr. President, even if we truly believe that in certain cases, working diligently under CTBT rules, each of these impediments can be surmounted, I must ask:

Would it really be worth it for 5 kilotons? What if comparable events arise days, weeks, or months apart? What if new information bearing on the event arises after the elaborate inspection process has run its course? What if we develop comparable suspicions of the same state frequently? How many of these would it take before the United States is branded as a "pest" by the anti-nuclear crowd that is pushing this treaty? What if only our friends agree with our judgments? Or, perish the thought, if even our "friends" don't? How many pointless, frustrating, inconclusive OSI exercises would have to proceed our exercise of "Safeguard F" withdrawal rights?

In short, Mr. President, the CTBT is long on President Reagan's "trust" requirement, but fatally short on his "verify" requirement. I don't see how a single Senator can vote in favor of its ratification.

Mr. President, I want to clarify a point in regard to the Comprehensive Test Ban Treaty, and to set the record straight concerning the heritage of the treaty that the Senate is now considering.

The treaty before the Senate is not, as some have led us to believe, the product of nine administrations. Certainly Ronald Reagan, George Bush, Gerald Ford, Richard Nixon, and Dwight D. Eisenhower have no ties to this treaty. And, the administrations of John F. Kennedy, Lyndon Johnson and Jimmy Carter's never proposed this treaty. The fact is, no other administration has any tie whatsoever to the treaty that is being considered by the Senate. The administration would like you to think that the treaty has had decades of support. Not so. This treaty is all Bill Clinton's. No other administration has ever supported a zero yield, unlimited duration nuclear test ban treaty barring all tests.

Well, they'll say, the idea of limiting nuclear testing has been endorsed since the Eisenhower administration. Well, that may be, but supporting an idea and endorsing the specifics of a concrete proposal are two different things. President Clinton and I both support tax cuts. We both support missile defense. We even both say we're for maintaining a strong nuclear deterrent. It's in examining the specific tax cuts, missile defense proposals, and methods of maintaining our nuclear security that we differ.

President Eisenhower's name has been invoked here a number of times by Members supportive of the treaty. The implication is that Eisenhower is somehow the father of the CTBT. A review of the historical record reveals that President Eisenhower's administration proposed a test ban only of limited duration. Eisenhower only supported the test moratorium that began in 1958 because he was assured that the moratorium would retain American nuclear superiority and freeze the Soviets in an inferior position. He was very clear that the United States had to maintain a nuclear edge both in quality and quantity. I believe President Eisenhower would not have supported a treaty that gave others an advantage, as this treaty clearly does.

President Kennedy's views of a nuclear test ban were much the same as Eisenhower's. He did not support a zero yield test ban. In fact, hydronuclear tests were conducted secretly in the Nevada desert during President Kennedy's administration. He also did not support a ban of unlimited duration. Kennedy broke out of the testing moratorium after the Soviet Union tested on September 1, 1961. At that time the world was shocked that the Soviets were able to begin an aggressive series of 60 tests within 30 days. Equally shocking was the realization that the Soviets had been planning for the tests for at least six months, while at the same time negotiating with the United States to extend the test moratorium. The Kennedy and Johnson administrations did agree to the Limited Test Ban Treaty which banned nuclear blasts in the atmosphere, space, or under water, but not underground as the CTBT does.

President Nixon did not seek to ban nuclear tests, although he agreed to limit tests above 150 kilotons.

James Schlesinger, President Jimmy Carter's Secretary of Energy tell us that President Carter only sought a 10-year treaty and sought to allow tests of up to two kilotons.

Presidents Reagan and Bush did not pursue a comprehensive test ban of any kind or duration. Some point to President Bush's signing of the Hatfield/Exon/Mitchell legislation limiting the United States to a series of 15 underground tests before entering a ban on testing as evidence that President Bush supported this comprehensive test ban treaty. This is not correct. On the day he left office, President Bush repudiated the Hatfield legislation and called for continuation of underground nuclear testing. He said, I quote,

> The administration strongly urges Congress to modify this legislation urgently in order to permit the minimum number and kind of underground nuclear tests that the United States requires, regardless of the action of other states, to retain safe, reliable, although dramatically reduced deterrent forces.

That brings us to the Clinton administration. Only President Clinton has sought a zero yield, unlimited duration treaty, and he has not even held that position for the entirety of his administration. For the first 2½ years, this administration pursued a treaty that would allow some level of low yield testing. As recently as 1995, the Department of Defense position was that it could support a CTBT only if tests of up to 500 tons were permitted. As a concession to the non-nuclear states, the Clinton administration dropped that proviso and agreed to a zero yield test ban.

This treaty has no historical lineage. It is from start to finish President Clinton's treaty.

Mr. President, proponents of the CTBT are fond of pointing out that public opinion is strongly in favor of the treaty. This is not particularly a surprise because, in general, Americans support treaties that have been signed by their President. They assume that the U.S. Government would not participate in a treaty that is not in the nation's interest.

In this regard, I would like to make two points. First, the American public overwhelmingly supports maintenance of a strong U.S. nuclear deterrent. If people are given the facts about the importance of nuclear testing to that deterrent, I believe that their view of the CTBT would change dramatically. Second, the CTBT indeed is not in the nation's interests and it is up to us, as leaders, to explain to the people why. Let me first address Americans' attitudes toward their nuclear deterrent.

In June, 1998, the Public Policy Institute of the University of New Mexico truly non-partisan and professional groups conducted a nationwide poll on public views on security issues. Let me give you a few results of that poll:

Seventy-three percent view it as important or extremely important for the U.S. to retain nuclear weapons today.

Sixty-six percent view U.S. nuclear weapons as integral to maintaining U.S. status as a world leader.

Seventy percent say that our nuclear weapons are important for preventing other countries from using nuclear weapons against our country.

More than 70 percent say that it is important for the U.S. to remain a military superpower, with 45 percent saying that it is extremely important that we remain so.

Now, we all know that the measure of commitment to a given aim can sometimes best be gauged by willingness to spend money to achieve it. The poll asked, "Should Government increase spending to maintain existing nuclear weapons in reliable condition?" Fifty-seven percent support increased spending and 15 percent support present spending levels.

I will return to the subject of public opinion in a moment, but let me turn briefly to the issue of whether this treaty is in the nation's interest. If there were a test ban, we would not be able to know with certainty whether our nuclear weapons are as safe and reliable as they can be. On the other hand, Russia, China, and others might be able to continue nuclear testing without being detected. This is because the CTBT is simply not verifiable. What do you think the American people would think about that? Well, we have some data to tell us.

The University of New Mexico's poll asked: "If a problem develops with U.S. nuclear weapons, is it important for the United States to be able to conduct nuclear test explosions to fix the problem?" Fifty-four percent of the people said yes. Only 15.5 percent said no. The rest were undecided.

The poll also asked, "How important do you think it is for the United States to be able to detect cheating by other countries on arms control treaties such as the comprehensive nuclear test ban? Over 80 percent said that it was important, with 40 percent saying that it is extremely important.

The bottom line here is that the American people want us to retain a strong nuclear deterrent. While they will also support good arms control measures, they expect the American leadership to do whatever is necessary to keep the deterrent strong. Let's not be fooled by simplistic yes-or-no answers to questions about the CTBT. This issue is more complex than that. We must simply give people the facts about this treaty. The CTBT would imperil our security.

I urge a vote against this treaty.

I yield back the remainder of my time.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Does the Senator from Delaware have any time remaining?

The PRESIDING OFFICER. The Senator from Delaware has 1 minute 6 seconds remaining.

Mr. BIDEN. I do not wish to be the last to speak. I would like to use that 1 minute and ask unanimous consent that my friend be allowed to use any additional time he may want to use after that, because it is appropriate he should close.

I want to make a point in the minute I have.

This is about, as the Senator has honestly stated, more than the CTBT Treaty. It is about ending the regime of arms control. That is what this is about. If this fails, I ask you the question: Is there any possibility of amending the ABM Treaty? Is there any possibility of the START II or START III agreements coming into effect with regard to Russia? Is there any possibility of arms control surviving?

I think this is about arms control, not just about this treaty. I appreciate my friend's candor. That is one of the reasons I think it is such a devastating vote.

I yield back the remainder of our time. And I ask unanimous consent that the Senator from North Carolina be given an appropriate amount of time to respond, if he wishes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, the yeas and nays have been ordered; is that right?

The PRESIDING OFFICER. Yes, they have.

Mr. HELMS. Let's vote.

The PRESIDING OFFICER. The question is on agreeing to the resolution to advise and consent to ratification of Treaty Document No. 105–28, the Comprehensive Nuclear Test-Ban Treaty. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD (when his name was called). Present.

The yeas and nays resulted—yeas 48, nays 51, as follows:

[Rollcall Vote No. 325 Ex.]

YEAS—48

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Bryan
Chafee
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Schumer
Smith (OR)
Specter
Torricelli
Wellstone
Wyden

NAYS—51

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Cochran
Collins
Coverdell
Craig
Crapo
DeWine
Domenici
Enzi
Fitzgerald
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Snowe
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

ANSWERED "PRESENT"—1

Byrd

The PRESIDING OFFICER. On this vote, the yeas are 48, the nays are 51, and one Senator responding "present." Not having received the affirmative votes of two-thirds of the Senators present, the resolution is not agreed to, and the Senate does not advise and consent to the ratification of the treaty.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. ABRAHAM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I ask unanimous consent that the Warner-Moynihan letter to the Majority and Minority leaders dated October 12, 1999, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 12, 1999.

Hon. TRENT LOTT
Majority Leader.
Hon. TOM DASCHLE
Democratic Leader.
U.S. Senate, Washington, DC.

DEAR MR. LEADERS: The Senate Leadership has received a letter from President Clinton requesting "that you postpone consideration of the Comprehensive Test Ban Treaty on the Senate Floor." We write in support of putting off final consideration until the next Congress.

Were the Treaty to be voted on today, Senator Warner and Senator Lugar would be opposed. Senator Moynihan and Senator Biden would be in support. But we all agree on seeking a delay. We believe many colleagues are of a like view, irrespective of how they would vote at this point.

We recognize that the Nation's best interests, the Nation's vital business, is and must always be the first concern of the Presidency and the Congress.

But we cannot foresee at this time an international crisis of the magnitude, that would persuade the Senate to revisit a decision made now to put off a final consideration of the Treaty until the 107th Congress.

However, we recognize that throughout history the Senate has had the power, the duty to reconsider prior decisions.

Therefore, if Leadership takes under consideration a joint initiative to implement the President's request—and our request—for a delay, then we commit our support for our Leaders taking this statesmanlike initiative.

REPUBLICANS

Warner, Lugar, Roth, Domenici, Hagel, Gordon Smith, Collins, McCain, Snowe, Sessions, Stevens, Chafee, Brownback, Bennett, Jeffords, Grassley, DeWine, Specter, Hatch, Voinovich, Gorton, Burns, Gregg, Santorum.

DEMOCRATS

Moynihan, Biden, Lieberman, Levin, Feingold, Kohl, Boxer, Cleland, Dodd, Wyden, Rockefeller, Bingaman, Inouye, Baucus, Hollings, Kennedy, Harry Reid, Robb, Jack Reed.

Mikulski, Torricelli, Feinstein, Schumer, Breaux, Bob Kerrey, Evan Bayh, John Kerry, Landrieu, Murray, Tim Johnson, Byrd, Lautenberg, Harkin, Durbin, Leahy, Wellstone, Akaka, Edwards.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, the Senate can and should always act as the conscience of the Nation. Historians may well say that we did not vote on this treaty today.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, today the United States Senate fulfilled its constitutional responsibility by voting on the Comprehensive Nuclear-Test Ban Treaty. Under the Constitution, the President and the Senate are co-equal partners when it comes to treaty-making powers. Positive action by both branches is required before a treaty can become the supreme law of the land. All Americans should know that I and my colleagues take this solemn responsibility with great pride, and we are very diligent in making sure that our advice and consent to treaties is treated with the utmost consideration and seriousness.

The Senate does not often refuse to ratify treaties, as borne out by the historical record. But the fact that the Senate has rejected several significant treaties this century underscores the important "quality control" function that was intended by the Framers of the Constitution. The Founding Fathers never envisioned the Senate would be a rubber stamp for flawed treaties. I and my colleagues would never allow this venerable institution to be perceived as—much less actually become—a mere rubber stamp for agreements negotiated by this or any other President. Instead, the Senate must dissect and debate every treaty to ensure that it adequately protects and promotes American security interests. The American people expect no less.

As has been pointed out by numerous experts before the Foreign Relations, Armed Services, and Intelligence Committees, and by many Senators in extended floor debate, this treaty does not meet even the minimal standards of previous arms control treaties. That is, it is ineffectual—even dangerous, in my judgment; it is unverifiable; and it is unenforceable. As one of my distinguished colleagues put it: "the CTBT is not of the same caliber as the arms control treaties that have come before the Senate in recent decades."

This treaty is ineffectual because it would not stop other nations from testing or developing nuclear weapons, but it could preclude the United States from taking appropriate steps to ensure the safety and reliability of the U.S. nuclear arsenal. That it is not effectively verifiable is made clear by the intelligence community's inability to state unequivocally the purpose of activities underway for some number of months at the Russian nuclear test site. Just last week, it was clear that they could not assure us that low-level testing was not taking place. The CTBT simply has no teeth.

Had the President consulted with more Senators before making the decision in 1995 to pursue an unverifiable, unlimited-duration, zero-yield ban on testing, he would have known that such a treaty could not be ratified. If he had talked at that time to Senator WARNER, to Senator KYL, to Senator LUGAR, to any number of Senators, and to Senator HELMS, he could have been told that this was not a verifiable treaty and that it was not the safe thing to do for our country.

I know some will ask, so what happens next? The first thing that must be done is to begin a process to strengthen U.S. nuclear deterrence so that no one—whether potential adversary or ally—comes away from these deliberations with doubts about the credibility of the U.S. nuclear arsenal.

To this end, I have written to Secretary of Defense Bill Cohen asking that he initiate a comprehensive review of the state of the U.S. nuclear weapons stockpile, infrastructure, management, personnel, training, delivery systems, and related matters. The review would encompass activities under the purview of the Department of Defense and the new, congressionally mandated National Nuclear Security Administration. The objective of this review would be to identify ways the administration and Congress jointly can strengthen our nuclear deterrent in the coming decades, for example, by providing additional resources to the Stockpile Stewardship Program on which Senator DOMENICI is so diligently working, and that exists at our nuclear weapons labs and production plants. I have offered to work with Secretary Cohen on the establishment and conduct of such a review, and I hope Secretary Cohen will promptly agree to my request.

Second, the Senate should undertake a major survey of the proliferation of weapons of mass destruction and associated means of delivery as we approach the new millennium. A key aspect of this review should be an assessment of whether or to what extent U.S. policies and actions (or inactions) contributed to the heightened proliferation that has occurred over the past 7 years. We know that from North Korea to Iran and Iraq, from China to Russia, and from India to Pakistan, the next President will be forced to confront a strategic landscape that in many ways is far more hostile and dangerous than that which President Clinton inherited in January, 1993. I call upon the relevant committees of jurisdiction in the Senate to properly initiate such a survey and plan to complete action within the next 180 days.

Finally, I am aware that the administration claims that rejection of the CTBT could damage U.S. prestige and signal a blow to our leadership. American leadership is vital in the world today but with leadership comes responsibility. We have a responsibility to ensure that any arms control agreements presented to the Senate for advice and consent are both clearly in America's security interests and effectively verifiable. The Comprehensive Test Ban Treaty failed on both of these crucial tests.

Today, among many other telephone conversations I had, I talked to former Secretary of Defense Dick Cheney, a man for whom I have the highest regard, a man who gave real leadership when he was at the Department of Defense, a man who would never advocate a position not in the best national security interests of the United States or in support of our international reputation. He told me he was convinced the treaty was fatally flawed, that it should be defeated, and in fact it would send a clear message to our treaty negotiators and people around the world that treaties that are not verifiable, that are not properly concluded, will not be ratified by the Senate. We will take our responsibility seriously and we will defeat bad treaties when it is in the best interest of our country, our allies, and more importantly for me, our children and their future.

I think we have taken the right step today. I note that this vote turned out to be a rather significant vote: 51 Senators voted against this treaty. Not even a majority was for this treaty. To confirm a treaty or ratify a treaty takes, of course, a two-thirds vote, 67 votes. They were not here. They were never here. This treaty should not have been pushed for the past 2 years. It was not ready for consideration and it was unverifiable and therefore would not be ratified.

I thank my colleagues on both sides of the aisle for their participation. I thought the debate was spirited. It was good on both sides of the aisle. I appreciate the advice and counsel I received on all sides as we have gone through this process. It has not been easy but it is part of the job. I take this job very seriously. I take this vote very seriously. For today, Mr. President, we did the right thing for America.

I yield the floor.

LEGISLATIVE SESSION

Mr. CRAPO. Mr. President, I ask unanimous consent that the Senate now proceed to legislative session and a period of morning business with Senators permitted to speak up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2561

Mr. CRAPO. Mr. President, I ask unanimous consent that at 9:30 a.m. on Thursday, October 14, the Senate begin consideration of the DOD appropriations conference report; that it be considered read, and there be 60 minutes equally divided between Senator STEVENS and Senator INOUYE, or their designees, with an additional 10 minutes under the control of Senator McCAIN. I further ask unanimous consent that following the use or yielding back of the time, the conference report be laid aside, and a vote on adoption occur at 4 p.m. on Thursday.

The PRESIDING OFFICER. Without objection, it is so ordered.

BIPARTISAN CAMPAIGN REFORM ACT OF 1999

Mr. CRAPO. Mr. President, I ask unanimous consent that the Senate now begin consideration of Calendar No. 312, S. 1593.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 1593) to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

There being no objection, the Senate proceeded to consider the bill.

Mr. CRAPO. Mr. President, before I yield the floor to the managers of this legislation, let me announce that there will be no further rollcall votes this evening. Tomorrow morning we hope to consider the Defense appropriations conference report under a short time agreement. However, that rollcall vote will be postponed to occur at 4 p.m. We will then resume consideration of the campaign finance reform bill on Thursday, and I hope that substantial progress can be made on that bill during tomorrow's session.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I mention to the majority leader it is now nearly 7:25 p.m. and at the request of the majority leader and the Senator from Kentucky, he wants to begin the debate and discussion on this very important issue. The agreement that the majority leader and I have is we will have 5 days of debate and discussion. I certainly hope he doesn't consider starting at 7:25 as a day of the debate and discussion. I ask him that.

Second, this is a very important issue. Even the staff is gone. Most Members have gone. The Senate majority leader knows that. Tomorrow we have scheduled a DOD discussion and vote which would be the first interruption—although we have just gotten started—followed by a vote on the Department of Defense appropriations bill. That could have been scheduled tonight and the vote have taken place.

I hope the majority leader will understand that I will not make an opening statement tonight. I will wait until tomorrow so I have the attention of my colleagues. If the Senator from Kentucky wants to make his statement, that is fine. I know from discussions with the Senator from Wisconsin he chooses to do the same thing.

I don't think an issue such as this should be initiated at 7:30 in the evening. However, I want to assure Senator LOTT that, once we have opening statements and once we get into the amending process and votes, I will be glad to stay as late as is necessary every night including all through the weekend, if necessary.

I don't think it is appropriate for anyone to say we demand opening statements tonight on the issue, and then tomorrow morning we go back to another bill off of the issue at hand. I hope the majority leader, who has been very cooperative in helping me and has been very cooperative in bringing up this issue, understands my point of view on this particular issue.

I yield the floor.

Mr. McCONNELL. I say to my friend from Arizona, all I was hoping we could do, since this session of Congress is getting short and we have, in response to the requests of both the Senator from Arizona and the Senator from Wisconsin, taken this issue up this year in a way in which people can offer amendments, maybe we could at least get an amendment laid down tonight. Maybe there is a possibility of getting some kind of time agreement on an amendment for tomorrow so we can get into the debate.

I agree with the Senator from Arizona; I don't think there is any need for opening statements tonight. I am not planning on making one, but we desire to get started because we have a lot of Senators on both sides of the aisle desiring to offer amendments.

Mr. LOTT. So I can respond to comments of both Senators, and particularly for questions I was asked by Senator McCAIN, I had a fixation on trying to get started on this bill today because I had committed to do so. I realize it is late, but I am sure the Senator understands how difficult it is to juggle the schedule.

We had originally thought the Comprehensive Test Ban Treaty would be voted on not today but last night or certainly earlier today. I am trying to juggle the appropriations conference reports, too. I was specifically asked by a couple of Senators to have the debate in the morning and then to have the vote at 4 o'clock.

Later this week, we have to have an interruption for the HUD–VA appropriations conference report. Next week, we will have to have interruptions for the Interior appropriations conference report. I have to keep bringing in the appropriations bills. I realize that it interrupts the flow of the debate. However, that is why I have learned around here the best thing to do is to get something going and just get started, get it up so it is the pending business, and we go about our business.

I took particular interest in the Senator's offer that maybe we even consider doing this on the weekend or maybe a Saturday. I think it would get a lot of attention. We are getting down to the end of the session and I have a lot of people pulling on me to do the Religious Persecution Act, the nuclear waste bill, bankruptcy, and trade bills. I need to try to take advantage even of a couple of hours on Wednesday night if we possibly can.

If both Senators are willing to at least get started, see if we can get an agreement, see if we can have opening statements, let's get started and we will be back on it at 10:30 in the morning. I will work with both or all sides to make sure this is fully debated and amendments are offered. Remember, we are going to have amendments and we are going to have a lot of discussion. We are going to have a lot of votes. I think it is time to go forward. I hope the Senator will cooperate with me as we try to get that done.

Mr. McCAIN. Mr. President, let me say to the majority leader, I am in deep and sincere appreciation of his efforts to resolve all of these issues and the pending legislation. I remind him, however, that some months ago we did enter into an agreement that we would have 5 days of debate and amending on the bill. I know the majority leader will stick to that agreement. Starting at 7:30 at night is not, obviously, a day of debate and discussion. I understand we may have to be interrupted. However, I also say again we expect to have the agreement adhered to.

I am deeply concerned about nuclear waste and religious freedom and all of the other issues, but we did have an agreement on this particular issue. I intend to see that we can do our best to adhere to that agreement.

Mr. LOTT. I say to the Senator, we will proceed on Carroll County, MS, time. Do you understand that?

Mr. McCAIN. I thank the Senator from Mississippi. I am glad to entertain whatever proposal the Senator from Kentucky has at this time. I intend, along with the Senator from Wisconsin, to wait until tomorrow for our opening statements. I know there are a number of other Senators who want to make opening statements on this very important issue.

I am sure whatever agreement the Senator from Kentucky and I, along with the Senator from Wisconsin, might want to enter into would clearly take into consideration that there will be a number of opening statements that a number of Senators will have to make.

I yield the floor.

Mr. FEINGOLD. I certainly have no objection to the Senator from Kentucky laying down an amendment. Before he does that, I do make one comment on the colloquy I just listened to.

It is my understanding, based on the agreement we have with the majority leader—I just want to reiterate what Senator McCAIN said—that this was to be a 5-day debate. The critical issue here is on what day the cloture motion can be filed. It is certainly my understanding, based on the discussion we just had, the cloture motion can't be filed until Monday, meaning the cloture vote couldn't occur before Wednesday. That is how I am going to proceed, and I assume that is the good faith understanding.

This agreement was not hammered out of pure good faith. This was based, as it should be in the Senate, on our willingness to withdraw an amendment from a piece of legislation at another critical time when the Senate's business was pressing.

I certainly intend to give an opening statement. This bill is not different from any other major piece of legislation. In fact, I argue it is one of the most important bills we can take up. It is important it be set out properly, and I certainly intend to make an opening statement tomorrow as well.

PRIVILEGE OF THE FLOOR

Finally, I ask unanimous consent the following staff members be permitted the privilege of the floor during the consideration of S. 1593, campaign finance reform legislation: Bob Schiff, Mary Murphy, Kitty Thomas, Tom Walls, Sumner Slichter, and Marla Kanemitsu.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent the Senate now proceed to a period of morning business, with Senators permitted to speak up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGES TO THE BUDGETARY AGGREGATES AND APPROPRIATIONS COMMITTEE ALLOCATION

Mr. DOMENICI. Mr. President, section 314 of the Congressional Budget Act, as amended, requires the chairman of the Senate Budget Committee to adjust the appropriate budgetary aggregates and the allocation for the Appropriations Committee to reflect amounts provided for emergency requirements.

REVISIONS TO THE 2000 SENATE APPROPRIATIONS COMMITTEE ALLOCATIONS, PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT

	Budget authority	Outlays
Current Allocation:		
General purpose discretionary	534,241,000,000	552,763,000,000
Violent crime reduction fund	4,500,000,000	5,554,000,000
Highways		24,574,000,000
Mass transit		4,117,000,000
Mandatory	321,502,000,000	304,297,000,000
Total	869,243,000,000	891,305,000,000
Adjustments:		
General purpose discretionary	+7,200,000,000	+4,817,000,000
Violent crime reduction fund		
Highways		
Mass transit		
Mandatory		
Total	+7,200,000,000	+4,817,000,000
Revised Allocation:		
General purpose discretionary	550,441,000,000	557,580,000,000
Violent crime reduction fund	4,500,000,000	5,554,000,000
Highways		24,574,000,000
Mass transit		4,117,000,000
Mandatory	321,502,000	304,297,000,000
Total	876,443,000,000	896,122,000,000

REVISIONS TO THE 2000 BUDGET AGGREGATES, PURSUANT TO SECTION 311 OF THE CONGRESSIONAL BUDGET ACT

	Budget authority	Outlays	Deficit
Current Allocation:			
Budget Resolution	1,438,190,000,000	1,424,145,000,000	−16,063,000,000
Adjustments:			
Emergencies	+7,200,000,000	+4,817,000,000	−4,817,000,000
Revised Allocation:			
Budget Resolution	1,445,390,000,000	1,428,962,000,000	−20,880,000,000

EXPLANATION OF VOTES

Mr. DODD. Mr. President, I was necessarily absent due to a family medical emergency during Senate action on rollcall votes No. 317 through 322.

Had I been present for the votes, I would have voted as follows. On rollcall vote No. 317, the motion to table Senate amendment 1861, an amendment to ensure accountability in programs for disadvantaged students, I would have voted not to table. On rollcall vote No. 318, Senate amendment 1842, an amendment to express the sense of the Senate regarding the importance of determining the economic status of former recipients of temporary assistance to needy families, I would have voted for the amendment. On rollcall vote No. 319, the motion to table Senate amendment 1825, an amendment to prohibit the use of funds for the promulgation or issuing of any standard relating to ergonomic protection, I would have voted against tabling the amendment. On rollcall vote No. 320, the motion to table Senate amendment 1844, an amendment to limit the applicability of the Davis-Bacon Act in areas designated as disaster areas, I would have voted to table the amendment. On rollcall vote 321, final passage of S. 1650, an original bill making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2000, and for other purposes, I would have voted for passage of the bill, albeit with reservations about specific provisions of the bill. Finally, on rollcall vote 322, the motion to invoke cloture on the conference report on H.R. 1906, the Agriculture Appropriations Act, I would have voted against cloture.

NOTICE OF INTENT TO AMEND THE RULES

Mr. McCONNELL. Mr. President, I hereby give notice in writing that I intend to offer an amendment to the Standing Rules of the Senate that would require any Senator to report to the Select Committee on Ethics any credible information available to him or her that indicates that any Senator may have: (1) violated the Senate Code of Office Conduct; (2) violated a law; or (3) violated any rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as Senators. Such allegations or information may be reported to the chairman, the vice chairman, a committee member, or the staff director of the Select Committee on Ethics.

The material follows:

AMENDMENT NO. —

On page ___, after line ___, insert the following:

SEC. ___. REQUIRING SENATORS TO REPORT CREDIBLE INFORMATION OF CORRUPTION.

The Standing Rules of the Senate are amended by adding at the end the following:

"RULE XLIV

"REQUIRING SENATORS TO REPORT CREDIBLE INFORMATION OF CORRUPTION

"(a) A Senator shall report to the Select Committee on Ethics any credible information available to him or her that indicates that any Senator may have—

"(1) violated the Senate Code of Office Conduct;

"(2) violated a law; or

"(3) violated any rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as Senators.

"(b) Information may be reported under subsection (a) to the Chairman, the Vice Chairman, a Committee member, or the staff director of the Select Committee on Ethics.".

SEC. ___. BRIBERY PENALTIES FOR PUBLIC OFFICIALS.

Section 201(b) of title 18, United States Code, is amended by inserting before the period at the end the following: ", except that, with respect to a person who violates paragraph (2), the amount of the fine under this subsection shall be not less than $100,000, the term of imprisonment shall be not less than 1 year, and such person shall be disqualified from holding any office of honor, trust, or profit under the United States".

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, October 12, 1999, the Federal debt stood at $5,660,733,437,442.56 (Five trillion, six hundred sixty billion, seven hundred thirty-three million, four hundred thirty-seven thousand, four hundred forty-two dollars and fifty-six cents).

Five years ago, October 12, 1994, the Federal debt stood at $4,686,727,000,000 (Four trillion, six hundred eighty-six billion, seven hundred twenty-seven million).

Ten years ago, October 12, 1989, the Federal debt stood at $2,869,151,000,000 (Two trillion, eight hundred sixty-nine billion, one hundred fifty-one million).

Fifteen years ago, October 12, 1984, the Federal debt stood at $1,572,268,000,000 (One trillion, five hundred seventy-two billion, two hundred sixty-eight million) which reflects a debt increase of more than $4 trillion—$4,088,465,437,442.56 (Four trillion, eighty-eight billion, four hundred sixty-five million, four hundred thirty-seven thousand, four hundred forty-two dollars and fifty-six cents) during the past 15 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a treaty and sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON TELECOMMUNICATIONS PAYMENTS PURSUANT TO TREASURY DEPARTMENT SPECIFIC LICENSES—MESSAGE FROM THE PRESIDENT—PM 64

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

As required by section 1705(e)(6) of the Cuban Democracy Act of 1992, 22 U.S.C. 6004(e)(6), as amended by section 102(g) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, Public Law 104–114, 110 Stat. 785, I transmit herewith a semiannual report "detailing payments made to Cuba . . . as a result of the provision of telecommunications services" pursuant to Department of the Treasury specific licenses.

WILLIAM J. CLINTON.

THE WHITE HOUSE, October 13, 1999.

MESSAGES FROM THE HOUSE

At 12:48 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 322. An act to amend title 4, United States Code, to add the Martin Luther King Jr. holiday to the list of days on which the flag should especially be displayed.

S. 800. An act to promote and enhance public safety through the use of 9–1–1 as the universal emergency assistance number, further deployment of wireless 9–1–1 service, support of States in upgrading 9–1–1 capabilities and related functions, encouragement of construction and operation of seamless, ubiquitous, and reliable networks for personal wireless services, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 20. An act to authorize the Secretary of the Interior to construct and operate a visitor center for the Upper Delaware Scenic and Recreational River on land owned by the State of New York.

H.R. 643. An act to redesignate the Federal building located at 10301 South Compton Avenue, in Los Angeles, California, and known as the Watts Finance Office, as the "Augustus F. Hawkins Post Office Building."

H.R. 748. An act to amend the act that established the Keweenaw National Historical Park to require the Secretary of the Interior to consider nominees of various local interests in appointing members of the Keweenaw National Historic Parks Advisory Commission.

H.R. 1374. An act to designate the United States Post Office building located at 680 State Highway 130 in Hamilton, New Jersey, as the "John K. Rafferty Hamilton Post Office Building."

H.R. 1615. An act to amend the Wild and Scenic Rivers Act to extend the designation of a portion of the Lamprey River in New Hampshire as a recreational river to include an additional river segment.

H.R. 1665. An act to allow the National Park Service to acquire certain land for addition to the Wilderness Battlefield in Virginia, as previously authorized by law, by purchase or exchange as well as by donation.

H.R. 1791. An act to amend title 18, United States Code, to provide penalties for harming animals used in Federal law enforcement.

H.R. 1932. An act to authorize the President to award a gold medal on behalf of the Congress to Father Theodore M. Hesburgh, in recognition of his outstanding and enduring contributions to civil rights, higher education, the Catholic Church, the Nation, and the global community.

H.R. 2130. An act to amend the Controlled Substances Act to add gamma hydrozybutyric acid and ketamine to the schedules of controlled substances, to provide for a national awareness campaign, and for other purposes.

H.R. 2357. An act to designate the United States Post Office located at 3675 Warrensville Center Road in Shaker Heights, Ohio, as the "Louise Stokes Post Office."

H.R. 2460. An act to designate the United States Post Office located at 125 Border Avenue West in Wiggins, Mississippi, as the "Jay Hanna 'Dizzy' Dean Post Office."

H.R. 2591. An act to designate the United States Post Office located at 713 Elm Street in Wakefield, Kansas, as the "William H. Avery Post Office."

H.R. 3036. An act to restore motor carrier safety enforcement authority to the Department of Transportation.

The message further announced that pursuant to section 4(b) of Public Law 94–201 (20 U.S.C. 2103 (b)) the Speaker appoints the following individuals from private life to the Board of Trustees of the American Folklife Center in the Library of Congress on the part of the House: Ms. Kay Kaufman Shelemay of Massachusetts to fill the unexpired term of Mr. David W. Robinson, and Mr. John Penn Fix, III, of Washington to a 6-year term.

ENROLLED BILLS SIGNED

At 6:23 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 800. An act to promote and enhance public safety through the use of 9–1–1 as the universal emergency assistance number, further deployment of wireless 9–1–1 service, support of States in upgrading 9–1–1 capabilities and related functions, encouragement of construction and operation of seamless, ubiquitous, and reliable networks for personal wireless services, and for other purposes.

S. 322. An act to amend title 4, United States Code, to add the Martin Luther King Jr. holiday to the list of days on which the flag should especially be displayed.

H.R. 1906. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2000, and for other purposes.

H.R. 560. An act to ensure that the volume of steel imports does not exceed the average monthly volume of such imports during the 36-month period preceding July 1997.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 20. An act to authorize the Secretary of the Interior to construct and operate a visitor center for the Upper Delaware Scenic and Recreational River on land owned by the State of New York; to the Committee on Energy and Natural Resources.

H.R. 643. An act to redesignate the Federal building located at 10301 South Compton Avenue, in Los Angeles, California, and known as the Watts Finance Office, as the "Augustus F. Hawkins Post Office Building"; to the Committee on Governmental Affairs.

H.R. 748. An act to amend the Act that established the Keweenaw National Historical Park to require the Secretary of the Interior to consider nominees of various local interests in appointing members of the Keweenaw National Historic Parks Advisory Commission; to the Committee on Energy and Natural Resources.

H.R. 1374. An act to designate the United States Post Office building located at 680 State Highway 130 in Hamilton, New Jersey, as the "John K. Rafferty Hamilton Post Office Building"; to the Committee on Governmental Affairs.

H.R. 1615. An act to amend the Wild and Scenic Rivers Act to extend the designation of a portion of the Lamprey River in New Hampshire as a recreational river to include an additional river segment; to the Committee on Energy and Natural Resources.

H.R. 1791. An act to amend title 18, United States Code, to provide penalties for harming animals used in Federal law enforcement; to the Committee on the Judiciary.

H.R. 2357. An act to designate the United States Post Office located at 3675 Warrensville Center Road in Shaker Heights, Ohio, as the "Louise Stokes Post Office"; to the Committee on Governmental Affairs.

H.R. 2460. An act to designate the United States Post Office located at 125 Border Avenue West in Wiggins, Mississippi, as the "Jay Hanna 'Dizzy' Dean Post Office"; to the Committee on Governmental Affairs.

H.R. 2591. An act to designate the United States Post Office located at 713 Elm Street in Wakefield, Kansas, as the "William H. Avery Post Office"; to the Committee on Governmental Affairs.

MEASURE PLACED ON THE CALENDAR

The following bill was read twice and placed on the calendar.

H.R. 1665. An act to allow the National Park Service to acquire certain land for addition to the Wilderness Battlefield in Virginia, as previously authorized by law, by purchase or exchange as well as by donation.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on October 13, 1999, he had presented to the President of the United States, the following enrolled bill:

S. 323. An act to redesignate the Black Canyon of the Gunnison National Monument as a national park and establish the Gunnison Gorge National Conservation Area, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. ROTH, for the Committee on Finance:

James G. Huse, Jr., of Maryland, to be Inspector General, Social Security Administration.

Neal S. Wolin, of Illinois, to be General Counsel for the Department of the Treasury.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-5572. A communication from the Under Secretary of the Navy, transmitting, pursuant to law, a report relative to a study of certain functions performed by military and civilian personnel in the DoN for possible performance by private contractors; to the Committee on Armed Services.

EC-5573. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Congressional Medal of Honor" (DFARS Case 98-D304), received October 8, 1999; to the Committee on Armed Services.

EC-5574. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Brand Name or Equal Purchase Descriptions" (DFARS Case 99-D023), received October 8, 1999; to the Committee on Armed Services.

EC-5575. A communication from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Returned and Canceled Checks" (RIN2900-AJ61), received October 5, 1999; to the Committee on Veteran's Affairs.

EC-5576. A communication from the Attorney, Office of the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Collaborative Procedures for Energy Facility Applications" (Order No. 608, 64 Fed. Reg. 51, 209 [Sept. 22, 1999], III FERC Stats. & Regs. Section 61,080 [Sept. 15, 1999]), received October 5, 1999; to the Committee on Energy and Natural Resources.

EC-5577. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the scientific and clinical status of organ transplantation; to the Committee on Health, Education, Labor, and Pensions.

EC-5578. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the National Institutes of Health; to the Committee on Health, Education, Labor, and Pensions.

EC-5579. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to French Guiana; to the Committee on Foreign Relations.

EC-5580. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the United Nations; to the Committee on Foreign Relations.

EC-5581. A communication from the Administrator, Agency for International Development, transmitting, pursuant to law, a report relative to famine prevention and freedom from hunger for fiscal year 1998; to the Committee on Foreign Relations.

EC-5582. A communication from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, a report relative to compliance with the Antiterrorism and Effective Death Penalty Act; to the Committee on the Judiciary.

EC-5583. A communication from the Chairman, Merit Systems Protection Board, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC-5584. A communication from the Chairman, Farm Credit Administration, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC-5585. A communication from the General Counsel, Office of Management and Budget, transmitting, pursuant to law, the report of a rule entitled "Prompt Payment (5 CFR 1315)" (RIN03-AB47), received October 5, 1999; to the Committee on Governmental Affairs.

EC-5586. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Federal Employees' Group Life Insurance: Court Orders" (RIN3206-AI49), received October 8, 1999; to the Committee on Governmental Affairs.

EC-5587. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Voluntary Early Retirement Authority" (RIN3206-AI25), received October 7, 1999; to the Committee on Governmental Affairs.

EC-5588. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Audit of Advisory Neighborhood Commission 3E for the Period October 1, 1995 through September 30, 1998"; to the Committee on Governmental Affairs.

EC-5589. A communication from the Director of Congressional Affairs, U.S. Trade and Development Agency, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC-5590. A communication from the Senior Benefits Programs Planning Analyst, Western Farm Credit Bank, transmitting, pursuant to law, a report entitled "Annual Report for the Eleventh Farm Credit District Employees' Retirement Plan for the Year Ending December 31, 1998"; to the Committee on Governmental Affairs.

EC-5591. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the list of General Accounting Office reports for August 1999; to the Committee on Governmental Affairs.

EC-5592. A communication from the Writer-Editor, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rules of Practice in Permit Proceedings; Technical Amendments" (RIN1512-AB91), received October 8, 1999; to the Committee on Finance.

EC-5593. A communication from the Writer-Editor, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Technical Amendments" (RIN1512-AC00), received October 8, 1999; to the Committee on Finance.

EC-5594. A communication from the Writer-Editor, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Delegation of Authority" (RIN1512-AB94), received October 8, 1999; to the Committee on Finance.

EC-5595. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to extra billing in the Medicare Program; to the Committee on Finance.

EC-5596. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Medical Savings Accounts-Number" (Announcement 99-95), received September 30, 1999; to the Committee on Finance.

EC-5597. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Section 832 Discount Factors for 1999" (Revenue Procedure 99-37), received September 30, 1999; to the Committee on Finance.

EC-5598. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Section 846 Discount Factors for 1999" (Revenue Procedure 99-36), received September 30, 1999; to the Committee on Finance.

EC-5599. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Optional Standard Mileage Rates 2000" (Revenue Procedure 99-38), received October 5, 1999; to the Committee on Finance.

EC-5600. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Form 941 E-File Program" (Revenue Procedure 99-39), received October 7, 1999; to the Committee on Finance.

EC-5601. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "William and Helen Woodral v. Commissioner" (112 T.C. 19{1999} Dkt. No. 6385-9), received October 8, 1999; to the Committee on Finance.

EC-5602. A communication from the Chief, Regulations Branch, Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Interest on Underpayments and Overpayments of Customs Duties, Taxes, Fees and Interest" (RIN1515-AB76), received October 8, 1999; to the Committee on Finance.

EC-5603. A communication from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to the Kingdom of Thailand; to the Committee on Banking, Housing, and Urban Affairs.

EC-5604. A communication from the Assistant Secretary, Bureau of Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Commerce Control List; Medical Products Containing Biological Toxins: ECCN 28351" (RIN0694-AB85), received October 7, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-5605. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations; 64 FR 53931; 10/05/99", received October 8, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-5606. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations; 64 FR 53933; 10/05/99" (FEMA-7296), received October 8, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-5607. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations; 64 FR 53938; 10/05/99", received October 8, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-5608. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations; 64 FR 53939; 10/05/99", received October 8, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-5609. A communication from the General Counsel, Department of Commerce transmitting a draft of proposed legislation relative to the Trademark Act of 1946; to the Committee on the Judiciary.

EC-5610. A communication from the Secretary of Agriculture transmitting a draft of proposed legislation relative to the administration and enforcement of various laws; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5611. A communication from the Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Sweet Cherries Grown in Designated Counties in Washington; Change in Pack Requirements—Correction" (Docket No. FV99-923-1 FIR), received October 7, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5612. A communication from the Administrator, Food and Nutrition Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "School Nutrition Programs: Nondiscretionary Technical Amendments", received October 7, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5613. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Rhizobium Inoculants: Exemption from the Requirement of a Tolerance" (FRL #6380-4), received October 8, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-365. A resolution adopted by the California-Pacific Annual Conference of the United Methodist Church relative to the United Nations; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 492. A bill to amend the Federal Water Pollution Act to assist in the restoration of the Chesapeake Bay, and for other purposes. (Rept. No. 106-181).

S. 1632. A bill to extend the authorization of appropriations for activities at Long Island Sound (Rept. No. 106-182).

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

H.R. 2724. A bill to make technical corrections to the Water Resources Development Act of 1999 (Rept. No. 106-183).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. FEINSTEIN:

S. 1720. A bill for the relief of Mrs. Ruth Hairston of Carson, California by the waiver of a filing deadline for appeal from a ruling relating to her application for a survivor annuity; to the Committee on Governmental Affairs.

By Mr. COVERDELL:

S. 1721. A bill to provide protection for teachers, and for other purposes; to the Committee on the Judiciary.

By Mr. THOMAS (for himself and Mr. ENZI):

S. 1722. A bill to amend the Mineral Leasing Act to increase the maximum acreage of Federal leases for sodium that may be held by an entity in any 1 State, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 1723. A bill to establish a program to authorize the Secretary of the Interior to plan, design, and construct facilities to mitigate impacts associated with irrigation system water diversions by local governmental entities in the Pacific Ocean drainage of the States of Oregon, Washington, Montana, and Idaho; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS:

S. 1724. A bill to modify the standards for responding to import surges under section 201 of the Trade Act of 1974, to establish mechanisms for agricultural import monitoring and the prevention of circumvention of United States trade laws, and to strengthen the enforcement of United States trade remedy laws; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. Res. 202. A resolution recognizing the distinguished service of John E. Cook of Williams, Arizona; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN:

S. 1720. A bill for the relief of Mrs. Ruth Hairston of Carson, California by the waiver of a filing deadline for appeal from a ruling relating to her application for a survivor annuity; to the Committee on Governmental Affairs.

PRIVATE RELIEF LEGISLATION

• Mrs. FEINSTEIN. Mr. President, I am offering today legislation to assist Mrs. Ruth Hairston, of Carson, California. Identical legislation has passed the House without objection under the sponsorship of Representative JUANITA MILLENDER-MCDONALD. I am pleased to support this effort in the Senate.

Mrs. Hairston requires this extreme step in order to be able to pursue a federal court appeal of the Merit Systems Protection Board (# CSF 2221413), which denied Mrs. Hairston's eligibility for an annuity following the retirement and untimely death of her former husband. The legislation does not require the annuity, but will only permit the filing of an appeal with the United States Court of Appeals. As a result, Mrs. Hairston will be permitted to challenge the denial on the merits, rather than accept the denial due to the failure to file an appeal within thirty days.

I would briefly like to describe the facts that warrant this legislation.

Mr. Paul Hairston retired in 1980, electing a survivor annuity for Mrs. Hairston to receive one-half the retirement benefit under the settlement terms. Mr. and Mrs. Hairston began receiving benefits in 1988.

The Merit Systems Protection Board, which reviews Civil Service retirement claims, concluded Mr. Hairston had failed to register Mrs. Hairston for survivors benefits following passage of 1985 law, renewing the survivor annuity previously selected in 1985. As a result the spousal survivor benefits for Mrs. Hairston were canceled. Following Mr. Hairston's death in 1995, Mrs. Hairston's benefits, her portion of his retirement benefit under the divorce settlement, ceased. Mrs. Hairston was denied eligibility as a surviving spouse, but did not challenge or appeal the denial of eligibility, due to hospitalization and poor health.

I am pleased to introduce this private legislation to assist my constituent Mrs. Ruth Hairston. While this legislation represents an extraordinary measure, the step is necessary in order to permit her to appeal the denial of eligibility by the Merit Systems Protection Board in federal court. As I have previously stated, this legislation does not require any specific outcome. The federal court will review the appeal with all the rigor the case deserves. However, Mrs. Hairston will receive her day in court and the opportunity to challenge the decision by the Merit Systems Protection Board to deny her eligibility.

I understand Mrs. Hairston is under considerable financial pressure and could face foreclosure on her home. I am pleased to try to assist Mrs. Hairston in her appeal. Mr. President, I hope you and the subcommittee will support this bill so that Mrs. Hairston may begin to rebuild her life.•

By Mr. COVERDELL:

S. 1721. A bill to provide protection for teachers, and for other purposes; to the Committee on the Judiciary.

THE TEACHER LIABILITY PROTECTION ACT OF 1999

• Mr. COVERDELL. Mr. President, I rise today to introduce the Teacher Liability Protection Act of 1999. This legislation provides limited immunity for teachers, principals and other education professionals who take reasonable measures to maintain order and discipline in America's schools and classrooms in order to create a positive education environment. In other words, it allows teachers to do what is necessary to provide an environment conducive to learning without fear of being sued. This bill allows teachers to control their classrooms. It allows teachers to teach.

The ability of teachers and principals to teach, inspire and shape the intellect of our Nation's students is hindered by frivolous lawsuits and litigation. By creating a national standard for protecting teachers and education professionals through limited civil liability immunity, we allow teachers to teach, and we help our children to learn.

Mr. President, we must give educators the resources they need to educate our children, and these resources include the legal protection necessary to do their job and maintain a safe classroom. Principals must be able to control the schools, teachers must be able to control classrooms. Unruly and unmanageable children must not be allowed to endanger, intimidate or harm other students. It is our responsibility, as members of the United States Senate, to give teachers the legal protections necessary to provide a safe learning environment for all children in their care. We must give teachers the freedom they need to responsibly handle potentially dangerous situations without the fear of frivolous legal reprisals.

Based on the Volunteer Protection Act of 1997, which I introduced and which was signed into law, the Teacher Liability Protection Act would create a national standard to protect every teacher in the country, but would not override any state law that provides greater immunity or liability protection. This bill recognizes the authority of the states on these matters and allows them to opt out of the coverage and provide teachers with a higher or lower level of liability protection if they so choose.

This bill also recognizes that millions of parents across the nation depend upon teachers, principals and other school professionals for the educational development of their children. it affirms the fact that most teachers are hard-working professionals who care deeply for our children and go to extraordinary lengths to help them learn. However, this bill does not protect a teacher when he or she engages in wanton and willful misconduct, a criminal act or violations of State and Federal civil rights laws. It simply protects teachers who undertake reasonable actions to maintain order, discipline and an appropriate learning environment as the public and society expect them to do.

I invite my colleagues to support this important and meaningful legislation and to give our Nation's teachers the freedom they need to educate our children.•

By Mr. THOMAS (for himself and Mr. ENZI):

S. 1722. A bill to amend the Mineral Leasing Act to increase the maximum acreage of Federal leases for sodium that may be held by an entity in any 1 State, and for other purposes; to the Committee on Energy and Natural Resources.

TRONA MARKET COMPETITION ACT OF 1999

Mr. THOMAS. Mr. President, I rise today to introduce a bill which revises an outdated and constricting statute for the number of federal sodium leases which can be held by any single producer within a state. This limitation is damaging the economic viability of an environmental responsible and critical mining industry for our country. The soda ash industry has been operating under the present acreage limitation for five decades. This cap for lease holdings is the oldest acreage limitation under the Mineral Leasing Act. In fact, sodium is the only mineral subject to the Act which has not had an increase since the law was amended in 1948. It is out of date with the competitive and technological advances in the industry and needs to be changed as we move into the next century.

Specifically this legislation provides the Secretary of the Interior with discretion to increase the federally held acreage of individual sodium producers; the same additional discretionary authority he has had for some time for other mineral categories affected by this law. It would increase the current limitation from 15,360 acres per producer, to 30,720 acres.

The Mineral Leasing Act set forth these limits to ensure that no single entity can control too much of any single mineral reserve. This remains an important objective. A lease limitation ensures that there is sufficient competition, while providing an incentive for development of these reserves and ensures a reasonable rate of return to the Federal Treasury. My bill is consistent with these objectives and seeks only to conform the present limitation to current economic and international conditions. Indeed I am pleased that this bill has the full support of the Wyoming Mining Association, including smaller sodium lease holders, who have traditionally been concerned increasing acreage.

Mr President, I offer this bill after carefully reviewing the need for it in light of current conditions affecting the soda ash industry in my state. In my examination, I have been reminded that U.S. soda ash producers, four (of five) of which are in our state, are extremely competitive with one another for a relatively flat domestic market. And, they are also faced with stiff international competition.

I believe this legislation is necessary to sustain the global competitiveness of the U.S. soda ash industry. Since our state is blessed with the largest known deposits of trona in the world, I am proud to say that the United States sodium industry is also the world's low cost supplier of soda ash. U.S. produced soda ash, critical to glass manufacture, is accountable for a $400 million positive contribution to our balance of trade. Today, the U.S. soda ash industry comprises five active producers—four in my home state—generating some 12 million tons of soda ash per year, or approximately a third of the world's demand.

But I have learned we cannot take these producers for granted. Like so many other industries basic to our economy such as steel, paper, aluminum, copper, and so on, the soda ash mines must take the measures necessary to stay competitive. I know, as

Chairman of the Foreign Relations Subcommittee on East Asian and Pacific Affairs, that many countries have make it difficult to export U.S. soda ash. They have erected tariff and non-tariff barriers to support their own less efficient domestic producers.

For this season, U.S. producers have formed the American Natural Soda Ash Corporation (ANSAC), in recognition that the growth of U.S. soda ash is dependent on its ability to effectively export. ANSAC is the sole authorized exporter of soda ash and is wholly owned by the six U.S. sodium producers. It accounts for the employment of some 20,000 people in the U.S. and exports more than $400 million in soda ash to 45 different countries.

This is but one example of how our domestic industry has taken the steps necessary to compete effectively abroad. In addition, the producers in my state are making major investments in moderizing their facilities and sustaining the level of capital investment necessary to continue to be competitive both at home and abroad. The start-up cost for a new soda ash operation is estimated to be at least $350 million, and to develop a world class mine, $150 million. This is largely due to the fact that soda ash is mined underground and thus requires a sophisticated processing plant to turn raw ore into the finished products. This is simply the reality of what is required to stay competitive.

At this cost a new entrant, as well as existing producers, must have a predictable "mine plan." A primary component of such a plan is a predictable level of reserves that will last several decades. The legislation I am introducing today would help provide this predictability by giving the Secretary the discretion to raise lease limits on a case-by-case basis if the producer can show it is in need of additional reserves to maintain its operations.

Producers need to know of mine expansion is possible in order to develop structural design plans which are safe, efficient and maximize the large economic outlays. This is the predictability that any manufacturer needs when contemplating a major capital investment. And in the end, it is the capital required, rather than the acreage available, the must be weighed by new entrants.

I would like to note that despite consolidated in the Wyoming trona patch, there is an anticipated new entrant to the soda ash business in our neighboring state of Colorado. Moreover, in Wyoming, six other leaseholders have substantial holdings that could be translated into active production. This bill does not discourage their entry. In fact, by raising the current cap on acreage holdings, it creates an incentive for additional purchase by these holders, one of whom already exceeds the existing limitation.

Raising the acreage limitation for trona is also consistent with good environmental and safety practices followed by this industry. Much of the currently mined out acreage is essential to proper ventilation of ongoing operations and therefore critical mine safety. In addition, the mechanically mined out sections are also available for proper tailings disposal, thus avoiding environmental degradation elsewhere. This is a practice encouraged by our Wyoming State Department of Environmental Quality.

In summary, Mr. President, the bill I am introducing today provides critical changes in existing statutes in order to sustain the economic viability of an environmental responsible and critical mining industry in our country. The current sodium lease limitation is approximately one-third of the per state Federal lease cap for coal potassium, and one-sixteenth the lease acreage cap for oil and gas. After passing the Mineral Leasing Act in 1948, Congress and the Bureau of Land Management have revised acreage limits for other minerals to meet the needs of these industries consistent with good mining and environmental practices. In light of the conditions I have described, I believe it is time we recognize the need to update the lease limitation for the trona industry as well.

I thank you for the time and opportunity to discuss this important legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1722

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE.

This Act shall be entitled the "Trona Market Competition Act of 1999".

SEC. 2. SODIUM MINING ON FEDERAL LAND.

(a) FINDINGS.—Congress finds that—

(1) Federal land contains commercial deposits of trona, the world's largest deposits of trona being located on Federal land in southwestern Wyoming;

(2) trona is mined on Federal land through Federal sodium leases under the Act of February 25, 1920 (commonly known as the "Mineral Leasing Act") (30 U.S.C. 181 et seq.);

(3) the primary product of trona mining is soda ash (sodium carbonate), a basic industrial chemical that is used for glassmaking and a variety of consumer products, including baking soda, detergents, and pharmaceuticals;

(4) the Mineral Leasing Act sets for each leasable mineral a limitation on the amount of acreage of Federal leases any 1 producer may hold in any 1 State or nationally;

(5)(A) the present acreage limitation for Federal sodium leases has been in place for over 5 decades, since 1948, and is the oldest acreage limitation in the Mineral Leasing Act;

(B) over that time, Congress or the Bureau of Land Management has revised the acreage limits applicable to other minerals to meet the needs of the respective industries; and

(C) currently the sodium lease acreage limit of 15,360 acres per State is approximately 1/3 of the per-State Federal lease acreage limit for coal (46,080 acres) and potassium (51,200 acres) and 1/16 of the per-State Federal lease acreage limit for oil and gas (246,080 acres);

(6) 3 of the 4 trona producers in Wyoming are operating mines on Federal leaseholds that contain total acreage close to the sodium lease acreage ceiling;

(7) the same reasons that Congress cited in enacting increases per State lease acreage caps applicable in the case of other minerals—the advent of modern mine technology, changes in industry economics, greater global competition, and the need to conserve Federal resources—apply to trona;

(8) existing trona mines require additional lease acreage to avoid premature closure, but those mines cannot relinquish mined-out areas to lease new acreage because those areas continue to be used for mine access, ventilation, and tailings disposal and may provide future opportunities for secondary recovery by solution mining;

(9) to enable them to make long-term business decisions affecting the type and amount of additional infrastructure investments, trona producers need certainty that sufficient acreage of leasable trona will be available for mining in the future; and

(10) to maintain the vitality of the domestic trona industry and ensure the continued flow of valuable revenues to the Federal and State governments and of products to the American public from trona production on Federal land, the Mineral Leasing Act should be amended to increase the acreage imitation for Federal sodium leases.

(b) AMENDMENT.—Section 27(b)(2) of the Act of February 25, 1920 (30 U.S.C. 184(b)(2)), is amended by striking "fifteen thousand three hundred and sixty acres" and inserting "30,720 acres".

Mr. ENZI. Mr. President, today I join Senator THOMAS in the introduction of S. 1722, a bill to increase the federal statutory acreage limitation for domestic trona producers. This legislation will bring the federal statutory acreage limitation for trona more in line with acreage limitations for other mineral commodities and will allow American trona producers to remain competitive in the international marketplace well into the twenty-first century.

This legislation will make a small but important change in the federal Mineral Leasing Act that would allow the Secretary of the Interior, at his discretion, to permit a person or corporation to hold sodium leases on federal land of up to 30,720 acres in any one State. This is a two-fold increase over the current discretionary acreage limitation of 15,360 acres. The current limit was established over 50 years ago while the acreage limitation of other minerals, including coal, potassium, and oil and gas, have been increased considerably during that same time in order to meet the needs of these industries. By increasing the federal acreage limitation for trona, Congress will take an important step to ensure future productivity and international competitiveness of an industry that has great importance for the State of Wyoming and the United States. This legislation will in turn benefit the federal government through continued royalties derived from soda ash mined on federal land.

Mr. President, the State of Wyoming has long depended on the mineral industry as a vital part of its economy. Since one-half of our state is comprised of federal land, private companies must temporarily lease portions of this land in order to extract minerals that benefit the entire country, and indeed, the entire world. The mining of natural soda ash, or trona, is an integral part of the state's economy, especially for those who live in southwestern Wyoming. This trona is mined and converted to refined soda ash (sodium carbonate) which is used in the production of glass, detergents, pharmaceuticals, and other sodium chemicals. Currently, three of the four trona producers in Wyoming are operating mines on federal leaseholds that contain total acreage close to the discretionary sodium lease acreage ceiling. By increasing this federal limit, we will give Wyoming producers the certainty they need to continue and expand their substantial capital investments in the State of Wyoming and allow America to remain competitive in this important mineral industry. This acreage increase represents a modest, responsible modification to the Mineral Leasing Act that takes modern economic realities into account without deterring the entry of new companies into the domestic market for mineable trona.

I urge my colleagues to support the swift passage of this modification to the Mineral Leasing Act in order to ensure stability, growth, and continued international competitiveness of America's trona industry.

By Mr. BAUCUS:

S. 1724. A bill to modify the standards for responding to import surges under section 201 of the Trade Act of 1974, to establish mechanisms for agricultural import monitoring and the prevention of circumvention of United States trade laws, and to strengthen the enforcement of United States trade remedy laws; to the Committee on Finance.

THE AGRICULTURE IMPORT SURGE RELIEF ACT

Mr. BAUCUS. Mr. President, I rise today to introduce the Agriculture Import Surge Relief Act of 1999.

This year's harvest is nearly over in Montana and the rest of the country. But instead of breathing a sigh of relief after a summer of hard work, many of our farmers are holding their breath, wondering whether they will even be able to farm next year. With prices at a 50-year low, global oversupply and unpredictable surges in imports, our rural communities continue to face crisis.

We in the Senate have been working hard to address this triad of problems. Today, I would like to offer a partial solution to the trade angle—the Agriculture Import Surge Relief Act. This Act addresses surges in agricultural imports.

For a variety of reasons, including overcapacity overseas, misaligned exchanges rates, and low international commodity prices, we may find a sudden, sharp, and unpredictable increase in import levels of particular agricultural product. This type of sudden rise in import levels damage the heart of our economy and our farm communities.

We must do a better job of monitoring these surges so that we see them as soon as they start. And we must do a better and faster job of responding to these surges to provide relief to our producers before they go out of business.

The Agriculture Import Surge Relief Act targets these goals by making several critical improvements in Section 201 of U.S. trade law.

Section 201 is the so-called "safeguard" provision that is designed to prevent serious disruption of our domestic industry because of imports. It is also the very provision that was used by U.S. lamb producers earlier this year to find relief from a surge in lamb imports from Australia and New Zealand. I am pleased that U.S. lamb producers prevailed; but it cost them dearly—in both time and money. Unlike other industries, agriculture is extraordinarily time sensitive. A year-long case can find many producers driven out of business before it ends.

It is also important to note that Section 201 is not a protectionist measure. It is a short-term mechanism used to get an "injured" American industry back on its feet and competing again. I consider Section 201 as a "breathing room" provision. That is, it gives temporary relief to a domestic industry by providing for a short-term restraint on imports that have surged into the United States.

My bill proposes four changes to the way we anticipate and respond to surges in agriculture.

First, the Act amends Section 201 of the Trade Act of 1974 to be more responsive to import surges—for any industry.

Like the Import Surge Relief Act I introduced last May, co-sponsored by Senator LEVIN, this bill eases Section 201's overly strict injury standard. No longer will American industry have to comply with a standard higher than that of our international trading partners. They will simply have to prove an increase in imports over a short period of time which cause or threaten to cause serious injury to the domestic market.

The Act also speeds up the process for addressing import surges. Recently, I hosted a town hall meeting in Kalispell, Montana. Many agriculture leaders expressed their concern that the process of responding to surges is just too long. The same message came through loud and clear last week when a record number of us in the Congress testified before the International Trade Commission regarding imported Canadian cattle. Relief that is too late can mean the devastation of an industry—and the devastation of Rural America.

My bill would cut the time in half for this process and give the ITC Commissioners the ability to make decisions on an expedited basis.

It will also bring credibility to the final decision-making process. As we learned in the lamb case, the President has the ultimate decision-making authority. This means he can accept, change or reject recommendations from the International Trade Commission based on information above and beyond the evidence presented during the laborious hearings.

My bill requires that the President, in deciding whether to take action, focus more than he has in the past on the beneficial impact of a remedy, rather than on the negative impact on other industries. And in do so, he must make provisional relief available on an urgent basis.

Second, the Act establishes an Agricultural Products Import Monitoring and Enforcement Program. The program shall: Promote and defend US policy with respect to import safeguards and countervailing or antidumping duty actions if challenged in the World Trade Organization, identify foreign trade-distorting measures, and develop policies and responsive actions to address such measures.

Finally, the bill provides an early warning system. We simply cannot wait until we see that an American industry is devastated. We must be able to project ahead, understand the threats facing an industry, and then consider quickly what type of action to take, if any.

My bill requires the Secretary of Commerce to monitor imports and report its findings on a quarterly basis until 2005. This is absolutely critical to take rapid action.

Finally, with the next round of the World Trade Organization talks approaching, the expiration of the Farm Bill, and uncertainties in global financial markets, anything can happen. U.S. industry, and our farm communities, however, should not bear the brunt.

The Agricultural Import Surge Relief Act will begin to bring stability and predictability back to the system. I urge my colleagues to support this proposal.

ADDITIONAL COSPONSORS

S. 178

At the request of Mr. INOUYE, the name of the Senator from Maryland

(Ms. MIKULSKI) was added as a cosponsor of S. 178, a bill to amend the Public Health Service Act to provide for the establishment of a National Center for Social Work Research.

S. 381

At the request of Mr. INOUYE, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 381, a bill to allow certain individuals who provided service to the Armed Forces of the United States in the Philippines during World War II to receive a reduced SSI benefit after moving back to the Philippines.

S. 662

At the request of Mr. CHAFEE, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 662, a bill to amend title XIX of the Social Security Act to provide medical assistance for certain women screened and found to have breast or cervical cancer under a federally funded screening program.

S. 777

At the request of Mr. FITZGERALD, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 777, a bill to require the Department of Agriculture to establish an electronic filing and retrieval system to enable the public to file all required paperwork electronically with the Department and to have access to public information on farm programs, quarterly trade, economic, and production reports, and other similar information.

S. 805

At the request of Mr. DURBIN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Georgia (Mr. COVERDELL) were added as cosponsors of S. 805, a bill to amend title V of the Social Security Act to provide for the establishment and operation of asthma treatment services for children, and for other purposes.

S. 1133

At the request of Mr. GRAMS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1133, a bill to amend the Poultry Products Inspection Act to cover birds of the order Ratitae that are raised for use as human food.

S. 1187

At the request of Mr. DORGAN, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 1187, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Lewis and Clark Expedition, and for other purposes.

S. 1327

At the request of Mr. CHAFEE, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1327, a bill to amend part E of title IV of the Social Security Act to provide States with more funding and greater flexibility in carrying out programs designed to help children make the transition from foster care to self-sufficiency, and for other purposes.

S. 1369

At the request of Mr. JEFFORDS, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1369, a bill to enhance the benefits of the national electric system by encouraging and supporting State programs for renewable energy sources, universal electric service, affordable electric service, and energy conservation and efficiency, and for other purposes.

S. 1448

At the request of Mr. HUTCHINSON, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1448, a bill to amend the Food Security Act of 1985 to authorize the annual enrollment of land in the wetlands reserve program, to extend the program through 2005, and for other purposes.

S. 1478

At the request of Mr. DASCHLE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1478, a bill to amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

S. 1483

At the request of Mr. REID, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 1483, a bill to amend the National Defense Authorization Act for Fiscal Year 1998 with respect to export controls on high performance computers.

S. 1500

At the request of Mr. HATCH, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 1500, a bill to amend title XVIII of the Social Security Act to provide for an additional payment for services provided to certain high-cost individuals under the prospective payment system for skilled nursing facility services, and for other purposes.

S. 1515

At the request of Mr. HATCH, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1515, a bill to amend the Radiation Exposure Compensation Act, and for other purposes.

S. 1563

At the request of Mr. ABRAHAM, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 1563, a bill to establish the Immigration Affairs Agency within the Department of Justice, and for other purposes.

S. 1592

At the request of Mr. DURBIN, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 1592, a bill to amend the Nicaraguan Adjustment and Central American Relief Act to provide to certain nationals of El Salvador, Guatemala, Honduras, and Haiti an opportunity to apply for adjustment of status under that Act, and for other purposes.

S. 1609

At the request of Mrs. HUTCHISON, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1609, a bill to amend title XVIII of the Social Security Act to revise the update factor used in making payments to PPS hospitals under the Medicare Program.

S. 1619

At the request of Mr. DEWINE, the name of the Senator from Texas (Mr. GRAMM) was added as a cosponsor of S. 1619, a bill to amend the Trade Act of 1974 to provide for periodic revision of retaliation lists or other remedial action implemented under section 306 of such Act.

S. 1626

At the request of Mr. HATCH, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1626, a bill to amend title XVIII of the Social Security Act to improve the process by which the Secretary of Health and Human Services makes coverage determinations for items and services furnished under the Medicare Program, and for other purposes.

S. 1644

At the request of Mr. ABRAHAM, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 1644, a bill to provide additional measures for the prevention and punishment of alien smuggling, and for other purposes.

S. 1652

At the request of Mr. CHAFEE, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1652, a bill to designate the Old Executive Office Building located at 17th Street and Pennsylvania Avenue, NW, in Washington, District of Columbia, as the Dwight D. Eisenhower Executive Office Building.

SENATE RESOLUTION 118

At the request of Mr. REID, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of Senate Resolution 118, a resolution designating December 12, 1999, as "National Children's Memorial Day."

SENATE RESOLUTION 190

At the request of Mr. CAMPBELL, the names of the Senator from Florida (Mr. MACK) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of Senate Resolution 190, a resolution designating the week of October 10, 1999, through October 16, 1999, as the "National Cystic Fibrosis Awareness Week".

SENATE RESOLUTION 202—RECOGNIZING THE DISTINGUISHED SERVICE OF JOHN E. COOK OF WILLIAMS, ARIZONA

Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted the following resolution; which was considered and agreed to:

S. Res. 202

Whereas John E. Cook has recently retired from the National Park Service after 43 years of distinguished service to the United States and the people of the western region of the Nation;

Whereas John E. Cook most recently served 87 park units in 8 western States, stretching from the Canadian border to Mexico, as Director of the Intermountain Region of the National Park Service;

Whereas John E. Cook is in the third of 4 generations from the Cook family who have served the National Park Service with enthusiasm and dedication;

Whereas John E. Cook's father, John O. Cook, and his grandfather, John E. Cook, served the National Park Service in the southwestern region, and his daughter Kayci Cook, currently serves as superintendent of Fort McHenry National Monument and Historic Shrine in Baltimore;

Whereas John E. Cook began his National Park Service career as a mule skinner at what is now Saguaro National Park;

Whereas John E. Cook, who is of Cherokee descent, speaks Navajo, and has worked diligently to promote Native American understanding;

Whereas John E. Cook has held 4 regional directorships, 1 deputy regional directorship, and 5 superintendencies within the National Park Service, and has proven to be a strong manager of people and parks, linking cultural and natural resource management; and

Whereas the citizens of the United States and the National Park Service owe John E. Cook a debt of gratitude and wish to congratulate him on his well-deserved retirement: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates John E. Cook for 43 years of service to the National Park Service;

(2) acknowledges the admiration and affection that John E. Cook's friends share for him; and

(3) recognizes the pride and high standard of workmanship exhibited by John E. Cook for 43 years.

AMENDMENTS SUBMITTED

BIPARTISAN CAMPAIGN REFORM ACT OF 1999

THOMPSON AMENDMENT NO. 2292

(Ordered to lie on the table.)

Mr. THOMPSON submitted an amendment intended to be proposed by him to the bill (S. 1593) to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

At the end of the bill, add the following:

SEC. 6. MODIFICATION OF CONTRIBUTION LIMITS.

(a) Increase in Individual Limits.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (A), by striking "$1,000" and inserting "$3,000";

(2) in subparagraph (B), by striking "$20,000" and inserting "$60,000"; and

(3) in subparagraph (C), by striking "$5,000" and inserting "$15,000".

(b) Increase in Aggregate Individual Limit.—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended by striking "$25,000" and inserting "$75,000".

(c) Increase in Multicandidate Limits.—Section 315(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended—

(1) in subparagraph (A), by striking "$5,000" and inserting "$15,000";

(2) in subparagraph (B), by striking "$15,000" and inserting "$45,000"; and

(3) in subparagraph (C), by striking "$5,000" and inserting "$15,000".

(d) Indexing of Increased Limits.—Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)) is amended—

(1) in the second sentence of paragraph (1), by striking "subsection (b) and subsection (d)" and inserting "subsections (a), (b), and (d)"; and

(2) in paragraph (2), by striking subparagraph (B) and inserting the following:

"(B) the term 'base period' means—

"(i) in the case of subsections (b) and (d), calendar year 1974; and

"(ii) in the case of subsection (a), calendar year 1999.".

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will meet on October 14, 1999, in SR-328A at 9 a.m. The purpose of this meeting will be to discuss risk management and crop insurance.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing has been scheduled for Thursday, October 21, 1999, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to conduct oversight on the issues related to land withdrawals and potential National Monument designations using the Antiquities Act, or Federal Land Policy and Management Act (FLPMA).

The hearing will address a number of issues, including public notice and participation the role of Congress, and the application of other laws such as the Administrative Procedure Act and the National Environmental Policy Act.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Mike Menge (202) 224-6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, October 13, for purposes of conducting a joint committee hearing with the Committee on Governmental Affairs, which is scheduled to begin at 10 a.m. The purpose of this oversight hearing is to receive testimony on the Department of Energy's implementation of provisions of the Department of Defense Authorization Act which create the National Nuclear Security Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Wednesday, October 13, at 10 a.m., Hearing Room (SD-406), on issues relating to the Clean Water Act, including the following bills:

S. 669, Federal Facilities Clean Water Compliance Act of 1999;

S. 188, Water Conservation and Quality Incentives Act; and

S. 1706, Water Regulation Improvement Act of 1999.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on "Pain Management and Improving End-of-Life Care" during the session of the Senate on Wednesday, October 13, 1999, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, October 13, 1999, at 9:30 a.m., to mark up S. 964, the Cheyenne River Sioux Tribe Equitable Compensation Act and S. 1508, the Indian Tribal Justice Systems Legal and Technical Assistance Act of 1999 followed by a hearing on S. 1507, the "Native American Alcohol and Substance Abuse Program Consolidation Act of 1999."

The hearing will be held in room 485, Russell Senate Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. COCHRAN. Mr. President, the Committee on the Judiciary requests unanimous consent to conduct a closed hearing on Wednesday, October 13, 1999, beginning at 10 a.m., in Room S407, the Capitol.

The PRESIDING OFFICER. without objection, it is so ordered.

SPECIAL COMMITTEE ON THE YEAR 2000 TECHNOLOGY PROBLEM

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Special Committee on the Year 2000 Technology Problem be permitted to meet on October 13, 1999, at 9:30 a.m., for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the subcommittee on European Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 13, 1999, at 10:15 a.m., to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources by granted permission to meet during the session of the Senate on Wednesday, October 13, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:30 p.m. The purpose of this hearing is to receive testimony on S. 167, a bill to extend the authorization for the Upper Delaware Citizens Advisory Council and to authorize construction and operation of a visitor center for the Upper Delaware Scenic and Recreational River, New York and Pennsylvania; S. 311, a bill to authorize the Disabled Veterans' LIFE Memorial Foundation to establish a memorial in the District of Columbia or its environs, and for other purposes; S. 497, a bill to redesignate Great Kills Part in the Gateway National Recreation Area as "World War II Veterans Park at Great Kill"; H.R. 592, an act to designate a portion of Gateway National Recreation Area as "World war II Veterans Park at Miller Field"; S. 919, a bill to amend the Quininebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994 to expand the boundaries of the Corridor; H.R. 1619, an act to amend the Quinebaug and Shetucket Rivers Valley National Heritage Corridor act of 1994 to expand the boundaries of the Corridor; S. 1296, a bill to designate portions of the lower Delaware Valley River and associated tributaries as a component of the National Wild and Scenic Rivers System; S. 1336, a bill to authorize the Secretary of the Interior to construct and operate a visitor center for the Upper Delaware Scenic and Recreational River on land owned by New York State, and for other purposes; and S. 1569, a bill to amend the Wild and Scenic Rivers Act to designate segments of the Taunton River in the Commonwealth of Massachusetts for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet at 9:30 a.m. on Wednesday, October 13, 1999, in open session, to recieved testimony on force structure impacts on fleet and strategic lift operation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO COLONEL RANDALL D. BOOKOUT

• Mr. SHELBY. Mr. President, I wish to recognize and pay tribute to Colonel Randall D. Bookout, Chief, Senate Liaison Division, Office of the Chief of Legislative Liaison for the U.S. Army, who will retire on January 1, 2000. Colonel Bookout's career spans 27 years during which he has distinguished himself as a soldier, leader and friend of the United States Senate.

An Ohio native, Colonel Bookout graduated from the United States Military Academy in 1972 and was commissioned as a lieutenant in the Infantry Branch of the U.S. Army. During his career, he has commanded at the platoon through the battalion levels, where he ably trained and led America's soldiers at home and overseas. In Fort Wainwright, Alaska, he commanded the 4th Battalion, 9th Infantry Regiment, "The Manchus." He has also served in command and staff positions at Fort Carson, Colorado, the United States Military Academy at West Point, New York, the Pentagon and overseas in Panama and Korea. Prior to assuming his current duties, he served as the Aide de Camp to the Secretary of the Army.

Since January 1996, Randy Bookout has served with distinction as the Chief of the Army's Senate Liaison Office where he has superbly represented the Chief of Legislative Liaison, the Chief of Staff, Army and the Secretary of the Army, as well as promoting the interests of the soldiers and civilians of the Army. His professionalism, mature judgment, sage advice and inter-personal skills have earned him the respect and confidence of the Members of Congress and Congressional staffers with whom he has worked on a multitude of issues. In over four years on the Hill, Randy Bookout has been a true friend of the U.S. Congress. Serving as the Army's primary point of contact for all Senators, their staffs and Congressional Committees, he has assisted Congress in understanding Army policies, actions, operations and requirements. As a result, he and his staff have been extremely effective in providing prompt, coordinated and factual replies to all inquiries and matters involving Army issues. In addition, he has provided invaluable assistance to Members and their staffs while planning, coordinating and accompanying Senate delegations traveling worldwide to over sixty countries. His substantive knowledge of the key issues, keen legislative insight, and ability to effectively advise senior members of the Army leadership directly contributed to the successful representation of the Army's interests before Congress.

Throughout his career, Colonel Randy Bookout has demonstrated his profound commitment to our Nation, his selfless service to the Army, a deep concern for soldiers and their families, and a commitment to excellence. Colonel Bookout is a consummate professional whose performance, in over 27 years of service, has personified those traits of courage, competency and integrity that our Nation has come to expect from its professional Army officers.

Mr. President, I ask my colleagues to join me in thanking Colonel Bookout for his honorable service to the U.S. Army and the people of the United States. We wish him and his family Godspeed and all the best in the future.•

CELEBRATING THE 250TH ANNIVERSARY OF KAHAL KADOSH BETH ELOHIM

• Mr. HOLLINGS. Mr. President, it is a pleasure for me to recognize today the congregation of Kahal Kadosh Beth Elohim in Charleston, S.C. as it celebrates its 250th anniversary on October 23 1999.

Beth Elohim is the fourth oldest Jewish congregation in the United States. The congregation still worships in a synagogue built in 1840–41 in the Greek Revival style, making it the oldest synagogue in continuous use in the United States. In 1980, the building was designated a National Historic Landmark.

Jewish settlers arrived in Charleston as early as 1695 and by 1749 were numerous enough to organize the present congregation of Beth Elohim, then known as Holy Congregational House of God. These settlers were attracted by South Carolina's civil and religious liberty as well as the economic opportunities the colony offered. In 1792, construction of the synagogue began. The structure stood until being destroyed in the Charleston fire of 1838.

The visiting General Marquis de Lafayette observed the original building to be "spacious and elegant."

Beth Elohim also holds the distinction of being the cradle of Reform Judaism in the United States. In 1824, a group of progressive members of the congregation petitioned for a shortened Hebrew ritual, English translation of prayers and a sermon in English. Their petition being denied, they decided to organize The Reformed Society of Israelites. It was a short-lived society, but when the members returned to the congregation at Beth Elohim, their practices and principles influenced the worship service there and today still form the basis of Reform Judaism. During the construction of the new temple in 1840, an organ was installed, encased in mahogany to complement the building's interior. Said to have 700 pipes and costing $2,500, the organ provided the first instrumental music used in worship in any synagogue in America.

Many members of K.K. Beth Elohim have been distinguished city, state and national leaders, including early congregant Moses Lindo, who before the Revolution helped to develop the cultivation of indigo. Joseph Levy, veteran of the Cherokee War of 1760–61, was probably the first Jewish military officer in America. Almost two dozen men of Beth Elohim served in the American Revolution, most notably Francis Salvador who, as a delegate to the South Carolina Provincial Congresses of 1775–1776, was one of the first Jews to serve in the American legislature. The blind poet Penina Moise was a famous early superintendent of the Jewish Sunday School at Beth Elohim.

Today, Beth Elohim is led by Rabbi Anthony David Holz and Rabbi Emeritus William A. Rosenthall. The congregation continues to function as a vital part of the Charleston community and deserves many congratulations on reaching this milestone—250 years of rich history.•

BILL WOLFF

• Mr. BURNS. Mr. President, I rise today to recognize the efforts of a group of farmers in eastern Montana who pulled together following a tragic accident to help the Family of Bill Wolff harvest their crops.

Sadly, the Wolff family suffered a terrible loss on September 10, when a farming accident claimed Bill's life. In the midst of this tragedy, Bill's neighbor's gathered in an impressive effort to help the Wolff family harvest their grain.

In all more than 20 trucks and 12 combines arrived in Glendive to assist in the harvest. Working simultaneously, the combines were able to cut 135 acres per hour and bring in the harvest for the Wolff family.

Jim Wolff, one of Bill's nephews said, "After experiencing the great teamwork here today, it's going to be difficult to go home and finish my own harvest by myself." In addition, many neighbors mirrored Jim's sentiment and expressed a sense of privilege that they were able to join with the Wolff family during their time of need.

Montanans are truly a special breed of people—always quick to lend a hand to others. It says so much that these people took time away from their own extremely hectic harvest schedules to help the Wolffs, and I commend them for it. Their selflessness serves as an example of us all.

I also extend my most sincere sympathies to the Wolf family. As evidenced by the outpouring of support from his neighbors. Bill was a man who was loved by a great many people and his loss will be shared by them also.•

INSTALLATION OF WILLIAM GORDON

• Mr. BINGAMAN. Mr. President, on Sunday William C. Gordon was installed as the 16th President of the University of New Mexico.

A psychologist by training, Dr. Gordon came to New Mexico by way of Wake Forest University, and Rutgers, where he earned his Ph.D. He taught at the State University of New York before moving to Albuquerque more than twenty years ago. Serving as a Professor of Psychology, then as chairman of the department, he became Dean of the College of Arts and Sciences. From there he became the Provost and Vice President for Academic Affairs and then assumed the job of interim president. It was during that period, and after a national search had been conducted, that he himself was named President in March of this year.

Distinguished and well respected, Dr. Gordon has worked diligently throughout his administrative career to improve the university not only for the students and faculty, but for the staff and the wider community. He has sought to improve both the education people are getting, and the way they are getting it. The University of New Mexico is our state's largest institution of higher learning. The potential this represents is not lost on Dr. Gordon, and we look to him for leadership well into the 21st century.•

TRIBUTE TO SERGEANT MAJOR GORDON R. TAFT, UNITED STATES ARMY

• Mr. SHELBY. Mr. President, I rise today to pay tribute to Sergeant Major Gordon R. "Randy" Taft, United States Army, a native of Decatur, Alabama, who is retiring this month from active duty after twenty-six years of distinguished service to the country. Sergeant Major Taft, who currently serves as the Senior Enlisted Advisor to the Director of the Defense Logistics Agency in Fort Belvoir, Virginia, has devoted his professional life to supporting the personal, administrative, and logistics needs of military men and women assigned around the world in defense of our freedom. His accomplishments are many and his reputation for leading and developing young soldiers is legendary. Randy Taft's selfless contributions to the National Defense will be missed, so as he transitions to new opportunities, I want to say thanks to him on behalf of a grateful Nation.

Sergeant Major Taft's numerous military awards and decorations reflect the tremendous impact he has had on the lives of America's fighting men and women. His decorations include the Legion of Merit, the Meritorious Service Medal, the Army Commendation Medal, and the Humanitarian Service Medal. But the medals and certificates do not say it all. Like all Sergeants Major in their day-to-day activities and accomplishments, Randy Taft has served as a positive role model for a whole generation of the Army's finest soldiers. Whether he was serving as a personnel specialist, a platoon sergeant, a recruiter, a member of the Army's premier Honor Guard, or as the Senior Enlisted Advisor for the 44,000 person Defense Logistics Agency, he has led by example. His greatest accomplishments are the young soldiers he has helped mold into the kind of citizens this country can be proud to call our Army.

Mr. President, I am proud and honored to congratulate Sergeant Major Randy Taft upon the occasion of his retirement from the United States Army.•

SET A GOOD EXAMPLE

• Mr. CLELAND. Mr. President, these are difficult times for our nation's children as they watch their peers turn to violence, drugs, truancy and gang membership. If one were to believe the evening news, there appears to be little good news coming from our schools. But I rise before my colleagues today to share with them some good news. Thunderbolt Elementary School in Savannah, Georgia, has been recognized by the Concerned Businessmen's Association of America as violence-free and the "Best Example in America" of what a safe and drug-free school should be.

Thunderbolt Elementary is the only school out of the 10,600 which enrolled in the national "Children's Set a Good Example" Competition during the past 12 years to win the national award three times in a row. Additionally, Thunderbolt has also been chosen this year by the judges of the first "Best of the Best" competition, which will be held just once every ten years, as the best of the best elementary schools in America.

The war against drug abuse, violent crime, illiteracy and intolerance is a multifaceted battle being fought in every sector of our community. It is a war that ravages our streets and has kids killing other kids. Too many of our children have become casualties of this epidemic. We as a society must apply proven, workable methods if we are to salvage our youth and rid our cities of those social ills. Positive counter peer pressure could be more effective than authoritarian efforts when it comes to influencing youth away from drug abuse and gang involvement and I am so proud of Thunderbolt Elementary for showing this to be true.

The work that the students at Thunderbolt have done is inspiring and I hope that they will be an example to other students around the country.•

RUSSELL W. PETERSON HONORED WITH FIRST-EVER "LIFETIME ACHIEVEMENT AWARD" BY CREATIVE GRANDPARENTING, INC.

• Mr. BIDEN. Mr. President, I rise today to honor the lifetime achievements of a man with truly a lifetime of achievements.

Russell W. Peterson served as Governor of Delaware from 1968–1972, restoring peace on the streets of Delaware's largest city in the wake of the tumultuous 1968 summer riots—as he overcame decades of resistance to implement a sweeping overhaul of State government. Russ Peterson is known to Delawareans as the father of the state's landmark Coastal Zone Act, just as he is renowned nationally as one of our country's leading environmentalists.

I will go into more detail of his many accomplishments, however, the reason I pay tribute to him today is for his recognition—not only as a statesman, environmentalist and civil rights leader—but as a grandfather! Delaware's Creative Grandparenting, Inc. has awarded Russell W. Peterson its first-ever "Lifetime Achievement Award." Peterson, a grandfather of 17 and father of four, deserves every accolade bestowed upon him.

When Russ Peterson was elected Governor of Delaware in 1968, the National Guard patrolled the streets of Wilmington. As he promised, the day Peterson was sworn in as Governor, the National Guard was pulled from the streets. As a 27-year-old New Castle County Councilman first elected that same year in 1968, I assure you Governor Peterson's leadership and steady stewardship made a lasting impression upon me. I am proud to call him a friend.

As Governor, he bucked resistance and reformed Delaware's arcane Commission form of Government into a Cabinet form of government. He convinced the General Assembly to streamline 112 Commissions into ten department leaders. It was nothing short of a revolution!

His greatest accomplishment came in June, 1972, when he single-handedly pushed through the landmark Coastal Zone Act, which forever prohibits development along Delaware's precious coastal zone. Yes, he's the man who proclaimed "to hell with Shell," as he fought efforts by oil refineries to further develop on the Delaware River. The Coastal Zone Act shall forever stand as a monument to Russ Peterson in my State.

Governor Peterson also signed Delaware's Fair Housing Act into law and appointed the first female to the Delaware bench—Family Court Judge Roxana C. Arsht. And in July, 1972, he signed into law a major revision of the Delaware Code, which is important for what was not included. The Whipping Post! From 1669–1952, more than 1,600 men were flogged at the whipping post. Delaware was the last State to eliminate this barbaric punishment, thanks to Russ Peterson.

After leaving office in 1972, Russ served as an advisor to Presidents and held numerous prestigious environmental positions. He was named Vice-Chair of Governor Nelson Rockfeller's National Commission on Critical Choices of America. Then, he chaired President Ford's Council on Environmental Quality. In 1976, Peterson became President of New Directions, a world-wide citizens' lobby group. In 1978, he was tapped to be the director of the congressional Office of Technological Assessment. He secured his worldwide reputation as an environmentalist as the President of the National Audubon Society.

Mr. President, I consider myself very fortunate to call him a friend. I am honored that just last week, Governor Peterson took the time to write me a handwritten note to say he was "proud that you are my Senator." That sort of praise from such an accomplished man is humbling.

Russ Peterson, my friend, you have a lot of living yet to do and more accomplishments yet to come. Today, though, we honor your lifetime of achievements.•

NATIONAL SAVE SCHOOLS FROM VIOLENCE DAY

• Mrs. LINCOLN. Mr. President, I have spoken several times this year about the need for our Nation to address juvenile violence. Today, I would like to commend another group that has joined the call to end violence. The American Medical Association Alliance has designated today as National SAVE Schools from Violence Day, and I would like to praise their efforts.

The AMA Alliance SAVE (Stop America's Violence Everywhere) campaign began in 1995 and comprises a grassroots effort of 700 local and state-level projects to curb violence. Through the campaign, the Alliance has created unique workbooks and activities for use as conflict resolution tools in classrooms across the country. One of their themes, Hands are not for hitting, catches children's attention by challenging them to come up with other uses for their hands. Rather than seeing their hands as weapons, children are reminded that their hands can be used for hugging, collecting bugs or coloring with crayons.

Another campaign theme, I Can Choose, teaches children that they can choose their attitudes and behavior. Other projects including I Can Be Safe and Be a Winner have been distributed nationwide.

Using its Hands are not for hitting campaign and others like it, the AMA is working to call attention to school safety and the way children interact. Nationally, the AMA hopes to reach 1 million children by the year 2000 with activities that help them manage anger and build self-esteem. This type of private sector involvement represents a key building block in our nation's commitment to providing a safe learning environment for our children.

Many of my colleagues know that I introduced the Safe Schools Act of 1999 to provide resources to public schools so they can remain safe and strong cornerstones of our communities. As we move into the 21st century, we must adapt our approach to education to meet the changing needs of students, teachers and parents.

Although I am one of the youngest members of the Senate, I grew up in Helena, Arkansas during what seemed to be a much simpler time. Our parents pulled together to make everyone's education experience a success. Students came to school prepared to learn. Teachers had control of their classroom. The threat of school violence was virtually non-existent.

Now, more than twenty years later, things are different—very different. Our children are subjected to unprecedented social stresses including divorce, drug and alcohol abuse, child abuse, poverty and an explosion of technology that has good and bad uses.

These stresses exhibit themselves in the behavior of teenagers, as well as in our young children. Increasingly, elementary school children exhibit symptoms of substance abuse, academic underachievement, disruptive behavior, and even suicide.

Although school shootings will probably not occur in a majority of our schools, each time we witness a tragedy like Jonesboro or Littleton, it makes us wonder if the next incident will be in our own home towns.

This is a very complex problem and there is no one single answer. It will take more than metal detectors and surveillance cameras to prevent the tragedies occurring in our schools. I believe the Safe Schools Act reflects the needs and wishes of students, parents, teachers and school administrators.

Unfortunately, there are not nearly enough mental health professionals working in our nation's schools. The American School Health Association recommends that the student-to-counselor ratio be 250:1. In secondary schools, the current ratio is 513:1. In elementary schools, the student-to-teacher ratio exceeds 1000:1.

Students today bring more to school than backpacks and lunchboxes—many of them bring severe emotional troubles. It is critical that schools be able to help our troubled students by teaching children new skills to cope with their aggression.

So, I commend the AMA Alliance for designating today as National SAVE Schools from Violence Day and encourage students, teachers, parents and the community to work together to make our schools safe.●

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT 106-14

Mr. McCONNELL. Mr. President, as in executive session, I ask unanimous consent that the Injunction of Secrecy be removed from the following convention transmitted to the Senate on October 13, 1999 by the President of the United States:

Food Aid Convention 1999, Treaty Document 106-14.

I further ask that the convention be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Food Aid Convention 1999, which was open for signature at the United Nations Headquarters, New York, from May 1 through June 30, 1999. The Convention was signed by the United States June 16, 1999. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Convention.

The Food Aid Convention 1999 replaces the Food Aid Convention 1995. Donor members continue to make minimum annual commitments that can be expressed either in the quantity or, under the new Convention, the value of the food aid they will provide to developing countries.

As the United States has done in the past, it is participating provisionally in the Food Aid Committee. The Committee granted the United States (and other countries) a 1-year extension of time, until June 30, 2000, in which to deposit its instrument of ratification.

It is my hope that the Senate will give prompt and favorable consideration to this Convention, and give its advice and consent to ratification by the United States at the earliest possible date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 13, 1999.*

UNANIMOUS CONSENT AGREEMENT—H.R. 1000

Mr. McCONNELL. Mr. President, I ask unanimous consent that with respect to H.R. 1000, FAA reauthorization, the Senate insist on its amendment, request a conference with the House on the disagreeing votes, and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. HAGEL) appointed, from the Committee on Commerce, Science, and Transportation, Mr. McCAIN, Mr. STEVENS, Mr. BURNS, Mr. GORTON, Mr. LOTT, Mr. HOLLINGS, Mr. INOUYE, Mr. ROCKEFELLER, and Mr. KERRY, and for the consideration of title IX of the bill, from the Committee on the Budget, Mr. DOMENICI, Mr. GRASSLEY, Mr. NICKLES, Mr. LAUTENBERG, and Mr. CONRAD conferees on the part of the Senate.

CONVEYING CERTAIN PROPERTY FROM THE UNITED STATES TO STANISLAUS COUNTY, CALIFORNIA

Mr. McCONNELL. I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 356, just received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 356) to provide conveyance of certain property from the United States to Stanislaus County, California.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. I ask unanimous consent the bill be read the third time, passed, the motion to reconsider be laid on the table, and any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 356) was read the third time and passed.

RECOGNIZING THE DISTINGUISHED SERVICE OF JOHN E. COOK

Mr. McCONNELL. I ask unanimous consent the Senate now proceed to the immediate consideration of S. Res. 202, submitted earlier today by Senator DOMENICI.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 202) recognizing the distinguished service of John E. Cook of Williams, Arizona.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOMENICI. Mr. President, it is my honor today to introduce a Senate resolution honoring a wonderful man and public servant, John E. Cook. The National Park Service recently celebrated its 83rd birthday, and for more than half that time—43 years—John served the Service with distinction, grit and integrity.

John E. Cook most recently served as Director of the Intermountain Region of the National Park Service, which stretches from Canada to Mexico and covers eight states, including Colorado, Utah, Arizona, Montana, New Mexico, Oklahoma, Texas and Wyoming. There he oversaw 87 diverse park units, including national parks, national monuments, national preserves, and national recreation areas. Since I have been a Senator from New Mexico, John and I have worked on various, and sometimes contentious, park issues. I have always appreciated our relationship, and his frankness and competence in dealing with issues.

Anyone who knows John would agree he is a great guy. Before starting his work for the National Park Service, he worked as a farm and ranch hand—and I've even heard a few good stories from his days as a rodeo cowboy. John began his Park Service career as a mule skinner at what is now Saguaro National Park, and he has worked as a fire fighter, laborer, ranger, superintendent, and regional director throughout the western United States.

In addition to being a strong manager of people and parks, linking cultural and natural resource management, John has worked diligently to promote understanding of American Indians. Former Interior Secretary Stewart Udall appointed John superintendent at Canyon de Chelly National Monument in Arizona partially because he speaks Navajo. He has received awards for his work in parks around the Navajo Nation, and has taught other park staff on American Indians' connection to lands that are now national parks.

The National Park Service owes John Cook a debt of gratitude, and the many honors he has received in his service will not repay what he has done for the parks of the west. I only hope that he will enjoy his extra free time to get in some hunting—a passion both he and I enjoy. I am pleased to offer this resolution, and I thank my colleagues for joining me in honoring this fine man.

Mr. McCONNELL. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and any statements relating to this resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 202) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 202

Whereas John E. Cook has recently retired from the National Park Service after 43 years of distinguished service to the United States and the people of the western region of the Nation;

Whereas John E. Cook most recently served 87 park units in 8 western States, stretching from the Canadian border to Mexico, as Director of the Intermountain Region of the National Park Service;

Whereas John E. Cook is in the third of 4 generations from the Cook family who have served the National Park Service with enthusiasm and dedication;

Whereas John E. Cook's father, John O. Cook, and his grandfather, John E. Cook, served the National Park Service in the southwestern region, and his daughter Kayci Cook, currently serves as superintendent of Fort McHenry National Monument and Historic Shrine in Baltimore;

Whereas John E. Cook began his National Park Service career as a mule skinner at what is now Saguaro National Park;

Whereas John E. Cook, who is of Cherokee descent, speaks Navajo, and has worked diligently to promote Native American understanding;

Whereas John E. Cook has held 4 regional directorships, 1 deputy regional directorship, and 5 superintendencies within the National Park Service, and has proven to be a strong manager of people and parks, linking cultural and natural resource management; and

Whereas the citizens of the United States and the National Park Service owe John E. Cook a debt of gratitude and wish to congratulate him on his well-deserved retirement: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates John E. Cook for 43 years of service to the National Park Service;

(2) acknowledges the admiration and affection that John E. Cook's friends share for him; and

(3) recognizes the pride and high standard of workmanship exhibited by John E. Cook for 43 years.

ORDERS FOR THURSDAY, OCTOBER 14, 1999

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Thursday, October 14. I further ask consent that on Thursday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin 60 minutes of debate on the conference report to accompany the Defense appropriations bill, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. For the information of all Senators, the Senate will begin consideration of the Defense appropriations conference report at 9:30 a.m. tomorrow. By previous consent, there will be 60 minutes of debate on the conference report, with a vote scheduled to occur at 4 p.m. tomorrow. For the remainder of the day, the Senate will resume debate on the campaign finance reform bill. Amendments to the bill are expected to be offered, and therefore Senators may anticipate votes throughout the day. The Senate may also consider any other conference reports available for action.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. McCONNELL. If there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:37 p.m., adjourned until Thursday, October 14, 1999, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 13, 1999:

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. MYRON G. ASHCRAFT, 6527

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. NORTON A. SCHWARTZ, 7542

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

GEN. JOSEPH W. RALSTON, 9172

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

GEN. RALPH E. EBERHART, 7375

DEPARTMENT OF DEFENSE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601 AND 154:

To be general

GEN. RICHARD B. MYERS, 7092

HOUSE OF REPRESENTATIVES—*Wednesday, October 13, 1999*

The House met at 10 a.m.

Rabbi Ronald D. Gerson, Congregation Children of Israel, Athens, Georgia, offered the following prayer:

O Lord, Ruler of our Nation and all nations, gathered in this hallowed Chamber, the indomitable spirit of Columbus, remembered this week, should move both legislators and constituents. It reminds us how the quality of exploration has crowned our country's past and emboldened its future with hope, enriched by the monumental vision of our Founding Fathers who were inspired by Thy holy word.

May we in this land continue our exploration. May we continue to reach new destinations of justice and peace in our Nation and in the world.

Heavenly Father, as we strive to new horizons in our country's glory, guide us through the admonition of the prophet Mica to do justly, to love mercy, and to walk humbly with our God.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. LAMPSON) come forward and lead the House in the Pledge of Allegiance.

Mr. LAMPSON led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. There will be 15 one-minutes on each side.

WELCOMING RABBI RONALD D. GERSON, GUEST CHAPLAIN

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, the prayer this morning was offered by Rabbi Ronald D. Gerson, who comes to us today from my district in Athens, Georgia, the largest city in the Eleventh District of Georgia. Rabbi Gerson has been a rabbi for a quarter of a century and now serves at Congregation Children of Israel in Athens, Georgia. I am delighted to introduce him to the House of Representatives and thank him for his inspiring words of prayer for today's session.

Rabbi Gerson has devoted his life to public and spiritual service, and I was honored to first meet Rabbi Gerson when I visited his congregation a couple of years ago. I want to also recognize his wife and daughter and brother-in-law who are visiting today also, and I have been informed that Rabbi Gerson's mother, who lives in California, is probably watching her son at the early hour of 7 a.m. on the West Coast.

His knowledge of the tradition of faith and his ability to share his understanding of it with others has found an appreciative audience in Georgia and today across the country and the world as he carries the eternal message to others. I am proud to share the floor with Rabbi Gerson because of his religious convictions, his commitment to the service of others, and his faithful devotion to his congregation. I join all my colleagues in the House in thanking our distinguished guest chaplain for bringing us an inspirational message to commence this day of the House session.

SAVE AMERICA'S SCHOOLS FROM VIOLENCE

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, all of us are duly concerned about the alarming rise in school violence, and I am pleased to report that the American Medical Association Alliance in conjunction with the New York State Medical Society is resolved to do something important about it. Today, communities throughout our Nation are joining in announcing this new program, Save America's Schools From Violence, which recognizes that guns in the playground are only a part of the problem. Solutions such as turning off violent television programs, ignoring music with violent or provocative lyrics, avoiding violent videos and computer games and engaging in constructive play will be encouraged throughout this 1-year initiative.

School violence takes many forms, from name calling, to pushing, to bullying. Over 3 million crimes were committed against teenagers in schools in 1996 including robbery, theft, vandalism, rape, sexual battery, and physical attacks. The American Medical Association Alliance's goal is to make our schools a safe place for our children to learn to play and grow by sending the positive message that violence in our schools is unacceptable.

COMMENDATION OF DR. BERNARD MILSTEIN

(Mr. LAMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAMPSON. Mr. Speaker, 20 years ago a person of vision saw a way to improve the sight of many residents. With his foresight and dedication the Gulf Coast branch of Prevent Blindness Texas was formed and began its mission. Tonight, the Gulf Coast branch will proudly celebrate its 20th anniversary with a gala event, and on this occasion the founder of the Gulf Coast branch of Prevent Blindness, Dr. Bernard Milstein, will be honored as this year's person of vision. I commend Dr. Milstein on this wonderful honor.

Prevent Blindness Texas is the largest voluntary health organization in Texas that takes proactive measures in the prevention of blindness. Over the years Prevent Blindness Texas has provided free vision screening to almost one million Texas preschoolers and screened well over 650,000 adults for blinding glaucoma. The Gulf Coast branch alone screened nearly 2,100 adults and children during the last fiscal year. Nearly 500 Galveston residents were provided free eye exams and glasses from this branch last year, almost doubling the prior year.

This organization exists without government funding or United Way funding because of the generosity of people who share in its vision of saving sight. Funds are raised locally and work locally. My heartiest congratulations to Dr. Bernard Milstein and to Prevent Blindness Texas.

PRESIDENT'S COMMITMENT JUST AS EMPTY AS H.R. 1

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, it has been now 10 months since the White House Conference on Social Security. During that conference we pulled together, the President pulled together, much to his credit, leadership from both sides of the aisle, the leadership in both parties. The chairman and the ranking member on the Committee on Ways and Means came together. I was there as a chairman of the Subcommittee on Social Security, and we promised to work together in order to save Social Security.

The President at that point made a commitment to us that he wanted to take the lead and that he would be sending us legislation. Mr. Speaker, today that commitment is just as empty as H.R. 1, which was reserved by the Speaker of this House to place the President's Social Security bill, the Social Security reform bill, in place in order to save Social Security for this country. We have been reaching out in a bipartisan way to the Democrat side in order to do that.

Mr. Speaker, it is time now for the President to come forward and give the leadership that this country needs to save Social Security.

SAVE TODAY

(Mrs. CAPPS asked and was given permission to address the House for 1 minute.)

Mrs. CAPPS. Mr. Speaker, Congress may be struggling to fight against violence affecting our young people, but our communities are doing something about it. Today in San Luis Obispo, California, and around this Nation, the American Medical Association Alliance is kicking off its save schools program.

SAVE, which stands for Stop America's Violence Everywhere, began in 1995. This year the AMA alliance will focus its efforts directly on our schools. In my district, the San Luis Obispo Medical Society Alliance will team up with the local high school students and a local homeless shelter. Dedicated teenagers will mentor younger children in need and help them learn to resolve their conflicts peacefully.

Mr. Speaker, I am especially proud that the national president of the AMA Alliance, Ann Hansen, lives in my district. I join Ann in offering this rallying cry in the fight against school violence. Save today.

PRESIDENT'S SCHEME TO RESTRICT ACCESS TO PUBLIC LANDS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, America's public lands are vital to the future of this Nation, and I have very serious concerns about the President's new scheme to restrict access to these public lands. Most Americans recognize the value that public lands hold for its natural resources as well as the use and development of those natural resources for the quality of life we all enjoy, and no one can deny the opportunity that public lands hold for recreation.

Since these lands are in the public domain, individual costs are low and the lands are generally open for all of us to use and enjoy. Now we are seeing a fundamental shift in how our lands are managed for our access. Historically, we have allowed the public to access our lands in the public domain, but unfortunately it appears the President is setting a trend toward keeping our public lands closed unless posted open. This scheme is completely unacceptable to all Americans who use our public lands. To say the public cannot access their lands unless the Federal Government gives them permission is fundamentally opposite to the freedoms our country was founded upon.

I yield back, Mr. Speaker, the balance of the time I have and any access America has to its public lands.

DAIMLER-BENZ, A GERMAN COMPANY?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, in the 1970s Congress bailed out Chrysler, and last year Chrysler merged with Daimler-Benz. Chrysler is now a German corporation, and upon merging they said Americans will always have a strong voice in the new company's leadership.

So much for the tooth fairy, Mr. Speaker. The three top American executives were replaced, and now the German company announced they will invest $28 billion, all of it in Germany.

What is next, Mr. Speaker? Mercedes-Benz limousines for our White House?

Beam me up.

I yield back the billions of dollars that Congress invested into what is now a German company.

NO TAX INCREASES OR RAIDS ON THE SOCIAL SECURITY TRUST FUND

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, notwithstanding the unwavering opposition of President Clinton and his free-spending allies in this Congress, American taxpayers are now enjoying a budget surplus for the first time in a generation. One might think that the President would be willing to share some of that surplus with working American families. After all, they created the surplus with their hard work and their tax dollars.

Tax relief perhaps? Not a chance. Incredibly the White House instead proposes either, A, more taxes or, B, a raid on the Social Security Trust Fund to pay for yet more government spending programs.

Mr. Speaker, this is one Member of Congress who is more than willing to stay here until Christmas if that is what it takes to stave off another tax grab by the Clinton administration or a raid on the Social Security Trust Fund. American families are taxed more than enough. Leave them alone, Mr. President, and keep your hands off their Social Security. Stop the raid.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). The Chair advises all Members to address their remarks to the Chair and not to the President.

EXPANDED INTERNET ACCESS IN WESTERN MASSACHUSETTS

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, the natural beauty of western Massachusetts is hardly a well-kept secret. We are attracting more people each day who seek the quality of life that is offered. However, there is something that we need in western Massachusetts that would make our lives even better, and what we want is the high-speed Internet connections that our friends down the pike and in the Cape Cod area already have.

Our businesses, employers, and households have a serious interest in the Internet to win contracts, coordinate production and distribution, export entertainment, enhance education, and both to teach and learn at the best medical centers. Right now there are too few capacity Internet data trunks that make the trek from Boston to western Massachusetts. When we get a few high-capacity Internet trunks or backbones, as they are called, we can take it from there.

□ 1015

We already have excellent fiberoptics within my district. This is why I support legislation that provides an incentive that is needed for expanded investment in the Internet backbone into rural areas. Having a better choice provides those who seek it stronger data links that will make Western Massachusetts an even better place to live.

THE CAN SPAM ACT OF 1999

(Mr. GARY MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GARY MILLER of California. Mr. Speaker, I come to the floor today to address my bill, H.R. 2162, the Can Spam Act. Spam are the millions of unsolicited commercial e-mail messages clogging up computer networks and the entire information superhighway. Thirty percent of sample is pornography. Another 30 percent is get-rich-quick schemes, and much of that is targeted towards senior citizens.

In effect, spam levies a tax on all Internet consumers by causing ISPs to spend money on additional bandwidth, hardware, as well as time and staff to deal with the bulk commercial e-mails. The increased costs are passed on to consumers.

America Online estimates that 30 percent of their costs are associated with spam. This cost is passed onto consumers. That is like getting a postage due letter that you do not want and being forced to pay for it.

To combat this problem, I have introduced the Can Spam Act. This bill gives ISPs a civil right of action against spammers who violate their published policy prohibiting spam. They can litigate for $50 per message, up to $25,000 per day for damages. That would also levy penalties on spammers who hijack another person's domain name for the purpose of sending out unsolicited commercial e-mail.

We need to defend our constituents and the businesses in our districts from commercial advertising.

HIGH MATERNAL DEATH RATE AMONG AMERICA'S BLACK WOMEN

(Ms. McKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. McKINNEY. Mr. Speaker, black women who are pregnant are dying at an alarming rate. Maternal death rates among black women are four times those of whites. This represents the largest racial disparity in all public health. We need to know why. We need to get data and improve standards of care.

A report released by the Centers for Disease Control and Prevention shows that for minority women, motherhood is deadly. The discrepancy of maternal mortality rates between black and white women is bordering on a crisis. Despite tremendous advances in the last 20 years, we have failed to make progress on maternal mortality.

I have joined the bipartisan effort to close the gap of maternal mortality rates between black and white women by cosponsoring the Safe Motherhood Monitoring and Prevention Research Act. Women have joined hands across the aisle to support this bill.

This legislation is the cornerstone of our effort to promote better health and to educate women about their pregnancies. Let us work to promote safe motherhood.

NATIONAL BREAST CANCER AWARENESS MONTH, AND THE RACE FOR THE CURE IN MIAMI

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, every 3 minutes a woman is diagnosed with breast cancer, and astonishingly, 80 percent of these women will have no known risk factors. Mr. Speaker, these numbers can be simply translated to say that every woman is at risk of developing breast cancer at some point throughout her lifetime.

We know that the key to defeating breast cancer is early detection through self-exams, mammographies, and clinical tests. However, none of these components can be beneficial if they are not regularly practiced. This month we celebrate national breast cancer awareness, where breast cancer survivors and supporters will share information and raise funds to cure this disease.

This Saturday, the YWCA of greater Miami will host race for the cure, Miami 99, to benefit the Susan G. Komen Foundation, a national organization dedicated to the eradication of breast cancer. This year's race is dedicated to the memory of Nancy Bossard, a Miami Dade County public school teacher who, sadly, lost her life to breast cancer.

Up to 75 percent of the race's proceeds will stay in our community to support local breast cancer programs and to provide detection to equip women in their battle against this deadly disease.

THE RED SOX, THE FINAL MAJOR LEAGUE BASEBALL WORLD CHAMPION OF THE MILLENIUM

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, the baseball gods are smiling down upon Red Sox Nation. The hardball heroes of Boston are in the process of lifting one of the most vexing curses of all time, the curse of the Bambino. For the Fenway faithful, the curse has taken on mythic proportions. It is Shakespearean, epical, Biblical, in the same league as the curse of Macbeth, the curse of King Tut's tomb, or the curse of the Tower of Babel.

Mr. Speaker, today I join with the millions of Red Sox fans who are saying, wait until next year, no more. How will Pedro, Nomar, and the rest of Olde Towne Team meet this daunting challenge? They will blast away at the Bronx Bombers in the House that Ruth built. They will swarm the stadium and swat the sultans' spell. They will crush the curse of the Bambino.

Mr. Speaker, this year is our year. The Red Sox are about to have their millenium moment. The Indians could not stop them, the Yankees cannot stop them, and neither the Mets nor the Braves will be able to stop them as they become the final Major League Baseball world champions of the millennium. The Sox in six, Mr. Speaker. This year we win the World Series.

THE NEW YORK TIMES RECOGNIZES REPUBLICANS' ROLE IN SAVING SOCIAL SECURITY TRUST FUND

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, I would like to quote from today's New York Times:

"Surplus social security funds have functioned as money under the mattress for Congress for four decades. When general government revenues to run the Federal agencies run out, Congress taps into the retirement funds. Some outside experts say that social security surpluses has had no effect on its benefits.

"Republicans have been vowing almost daily never again to spend the money. Speaker J. DENNIS HASTERT again promised today 'never to return to the days when Democrats raided social security.'" This is from the New York Times, of all things.

THE HATE CRIMES PREVENTION ACT OF 1999

(Mr. CROWLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CROWLEY. Mr. Speaker, I am proud to rise today and speak in favor of the Hate Crimes Prevention Act of 1999, which is cosponsored by myself and 184 of my colleagues.

Recently our country was shocked once again when a gunman entered a Jewish community center in Los Angeles, California, shooting at innocent children and workers with the intent of sending a message by killing Jews.

Last year in Laramie, Wyoming, a young man was killed only because he was gay. In Texas, an innocent man was murdered and dragged through the streets of Jasper just because he was an African-American. All of these incidents are hate crimes, and these do not just affect the group that was killed, but they affect all Americans.

I believe the Hate Crimes Prevention Act of 1999 is a constructive and measured response to a problem that continues to plague our Nation, violence motivated by prejudice.

I know some people believe that hate is not an issue when prosecuting a crime. They say our laws already punish the criminal act and that our laws are strong enough. I answer with the most recent figure from 1997, when 8,049 hate crimes were reported in the United States.

REPUBLICANS BALANCE THE BUDGET WITHOUT RAIDING SOCIAL SECURITY

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I would echo the comments of my colleague, the gentleman from North Carolina, and would call to the attention of this House, and by extension, the American people, the headline which appears in the New York Times today. I quote it: "Budget Balances Without Customary Raid on Social Security."

Granted, Mr. Speaker, the Times tried to bury this on page A–18, but even the writer of the article says that this is enormous, this is of enormous import. Here is the reason why, Mr. Speaker. For the first time in 40 years, this Congress has balanced the budget without using social security funds. Indeed, there is a surplus of $1 billion.

Now, Mr. Speaker, let us take a walk down memory lane. For those 40 years, we had four Republicans in the White House and four Democrats, but also, for those 40 years, we had the liberals in control who spent 100 percent of the social security surplus on an annual basis and drove us further into debt.

Mr. Speaker, this is enormous news. We have balanced the budget, we have generated a surplus, and we have stopped the raid on social security trust funds.

WE NEED TO PUT AMERICA'S CHILDREN FIRST INSTEAD OF LAST

(Mr. WU asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WU. Mr. Speaker, school has been in session from anywhere from 1½ months to 2 months, and we have got anywhere from 2 weeks to 2 months to bring this budget cycle to a close. It is time to put America's children first instead of last.

I have been working hard to reduce class size by putting 100,000 teachers into classrooms across America. We clearly need smaller class sizes in my congressional district. Some of the newest schools have overcrowding problems already, even though they have only been open for a year or two.

At other facilities, they either have trailers in the parking lot and in the schoolyard, or else there has not been any new construction since 1927, in some of the rural communities in my congressional district.

We need the ability to build classrooms where classrooms are needed. We need the ability to put additional qualified teachers into those classrooms. We need to put America's children first, instead of last. We need to get that taken care of in the next 30 to 60 days in this Congress.

REDUCING BLOATED FEDERAL GOVERNMENT WILL KEEP SOCIAL SECURITY TRUST FUND SAFE

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, how sweet it is. This year the Republican Congress will balance the budget without spending the social security trust fund. This is the second year in a row. Most people are surprised to find that out. It has not been easy. We have made some tough choices. We have taken some harsh criticism from our opponents, from the media, and even from our friends.

Yes, it has been tough, and it is not over this year. The administration has a different idea. The President says we can spend more money. All we have to do is dip into social security, like a bear dips into a jar of honey. It is easy, and if we do not like that, well, we will just raise taxes.

Mr. Speaker, that would be a bitter pill. We do not need to dip into the jar of honey and we do not need to take a bitter pill to stop the raid on the social security trust fund. All we need to do is put our overweight Federal Government on a diet and reduce its consumption. Then we will stop the raid on the social security trust fund, take care of those truly in need, and balance the Federal budget. How sweet it is, Mr. Speaker.

THE INSURANCE INDUSTRY, HMOS, AND THE REPUBLICANS WORK TO UNDERMINE THE PATIENTS' BILL OF RIGHTS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, last week we passed a historic piece of legislation giving patients strong protections against HMO wrongdoing. We put medical decisions back where they belong, in the hands of doctors and patients.

But the glow of our victory has quickly faded. Today the insurance industry, HMOs, and the Republican leadership are garnering their forces to undermine the Patients' Bill of Rights. The chairman of the Committee on Commerce said yesterday that the bill, and I quote, "will never reach the President's desk." Plans are underway to bend, tear, and spindle these basic patient rights.

Families with loved ones who are sick need the Patients' Bill of Rights. They need it now. We should begin work immediately to reconcile our bill with the other Chamber's, and give patients the ability to choose their own doctors, guaranteed access to emergency and specialty care, the right to make health decisions with their doctors, and the ability to hold HMOs accountable.

Last week's victory was one battle in the war for strong patient protections. The American people deserve the Patients' Bill of Rights, and they deserve it now.

SOCIAL SECURITY LOCKBOX BILL HELD HOSTAGE BY FILIBUSTERS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, on May 6 of this year, 139 days ago, I joined with 415 of my colleagues here in the House in supporting H.R. 1259, the social security lockbox bill.

The fight to stop the raid on social security in this year's budget debate offers the best possible reason for passing the social security lockbox bill. If the lockbox were in place this year, the big spenders would have to think twice before trying to go after the funds that rightly should be set aside for the seniors of today and tomorrow. We must stop balancing the Federal budget on the backs of our seniors and our social security trust fund.

Unfortunately, Members of the minority in the other body refuse to allow this bill to be brought to the floor for a vote. Six times there has been an effort to end the filibuster. Six times that effort has failed. The social security lockbox bill has been held hostage for 139 days. One hundred and thirty-nine days is long enough. It is time for the other body to act.

RURAL AMERICA AND THE POOR REMAIN LEFT OUT OF HIGH-SPEED DIGITAL INTERNET ACCESS

(Mr. TAUZIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, a study here in Washington by Legg-Mason recently reported that we are about to become a Nation of haves and have-nots in the worst way. That report says that as long as 3 years into the next millenium, one-half of America will still be deprived of high-speed digital Internet access.

That means that for half of America, our families, our businesses, will not have access to the Information Age, while the other half of America will have good, competitive service. Guess who is left out? Rural America, the poor, the impoverished parts of our country. It means that for half of America, they will either have a single monopoly provider or no provider at all.

Why? Because of old laws that still exist on the books to regulate long-distance and local phone companies. Those old laws restricting competition in those areas are going to hold back the deployment of high speed to half of America.

Members should try to explain to a business in their district, if they live in rural America, like I do, that has to shut down because it cannot get access to the Internet. Explain to a family that cannot get their children educated that they did not do anything about it.

It is time to change those old laws and to end this system of haves and have-nots in America.

☐ 1030

WE HAVE REACHED THE PROMISED LAND, FOR NOW

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, we have reached the promised land for now. The Federal Government, for the first time, the first time since 1960, balanced its budget in the just-ended year without tapping Social Security. The Congressional Budget Office reported that yesterday.

Now, this is very, very important. Those people who paid their money into Social Security in the form of taxes now can realize that they are protected, they are secure. Quote, "We stopped the raid on Social Security. There is no going back," end quote. That is what our leader, the gentleman from Texas (Mr. ARMEY), said. And this is what Robert Reischauer of the Brookings Institution said, "In a sense what we have done is we have reached the promised land and it will become an issue of who lost the promised land."

Republicans are committed. Stop the raid on Social Security.

WHEN WILL H.R. 1 BE DELIVERED TO THE HOUSE?

(Mr. OSE asked and was given permission to address the House for 1 minute.)

Mr. OSE. Mr. Speaker, I rise today to inquire when are we going to get H.R. 1 delivered to this House? When I arrived here in January, one of the things we did out of respect for the administration was reserve H.R. 1 for the President's plan on Social Security. It is now the middle of October, and the President's plan is still absent.

When can we expect the delivery of H.R. 1 from the administration?

FIRST EVER CLEAN AUDIT OPINION OF U.S. HOUSE FINANCIAL RECORDS

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute.)

Mr. SMITH of Michigan. Mr. Speaker, when we drafted the Contract with America in 1994, we promised to conduct public audits of the House books and records, but in 1995 PricewaterhouseCoopers could not even render an opinion. The records, and I should say the lack of records, were deplorable. Millions of dollars were tracked on handwritten ledgers with numbers scratched out and written in different ink colors. Supplies and equipment were purchased without competitive bidding. There was $14 million in over-budget spending. There were problems with the post office and the House bank.

After a great deal of work to clean up the mess and start keeping records under the guidelines of general accounting principles, this fall we received a totally clean bill of financial health. For the first time ever, the House books are clean, open to the public, and follow those principles.

We are committed to the highest standards of integrity and full accountability to taxpayers, including balancing the budget without using the Social Security trust fund surplus.

CONFERENCE REPORT ON H.R. 2561, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2000

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 326, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 326

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2561) making appropriations for the Department of Defense for the fiscal year ending September 30, 2000, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. LAHOOD). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, yesterday the Committee on Rules met and granted a normal conference report rule for H.R. 2561, the Fiscal Year 2000 Department of Defense Appropriations Act. The rule waives all points of order against the conference report and against its consideration. In addition, the rule provides that the conference report shall be considered as read.

This should not be a controversial rule. It is a type of rule that we grant for every conference report that we consider in the House.

Mr. Speaker, yesterday's military coup in Pakistan was a reminder to all of us that we live in an unstable world. We cannot ignore national defense. This appropriations bill, as well as the defense authorization bill which the President recently signed into law, is a strong step forward as we work to take care of our military personnel and provide for our national defense.

We have a long way to go, but H.R. 2561 fully funds a 4.6 percent military pay raise so that we can get some of our enlisted men and their families off of food stamps. It provides $1.1 billion more than the President requested for the purchase of weapons and equipment and it sets aside funding for a national missile defense system so that we can protect ourselves from terrorist nations.

This is a good bill. I urge my colleagues to support the rule and to support the underlying conference report, because now more than ever we must improve our national security.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this rule and this conference report; but, first and foremost, I rise in support of the men and women who serve the Nation faithfully, as well as members of our armed services. They are the ones who, when called upon, will be required to sacrifice their lives so that we may continue to live in freedom; and this conference report, Mr. Speaker, fulfills a commitment to them which I am proud to support.

Mr. Speaker, this conference report contains a package of pay and retirement improvements which keeps faith with our men and women in uniform. This conference report contains the largest military pay raise in 18 years, as well as funding for a change in pay scales and a series of pay and bonus incentives. These pay increases, bonuses, and other incentives prove our commitment to a better quality of life for our military personnel and their families. As an editorial in the Fort Worth Star Telegram noted on Monday, when the President signed the National Defense Authorization Act last week, he said the excellence of our military is the direct product of the excellence of our men and women in uniform. This bill invests in that excellence.

I believe, Mr. Speaker, the same holds true for this conference report. The conferees are to be commended for ensuring that quality of life, benefits and training for the soldiers, sailors, airmen, and Marines, upon whom we depend for our national security, are squarely addressed. There is much left to do, but I believe the provision of the 4.8 percent pay increase is a solid beginning. Incentives to retain our most skilled military personnel are also in the bill; but, again, there is still much to do to ensure that we not continue to lose men and women who have the skills and experience that are so critical to maintaining a fighting force that can quickly and effectively respond to any emergency or who can sustain a long-term effort.

The ranking member of the Committee on Armed Services, the gentleman from Missouri (Mr. SKELTON), early this year called 1999 the Year of the Troops. This bill lives up to the commitments we as a body made earlier this year; but this is not the end of the story, Mr. Speaker, because there is still much to be done. In spite of the constraints on our budget, we must all make a commitment to continue to improve the quality of life for our military personnel and their families. Considering how much we ask of them, this is the least that we can do.

The conference agreement also provides for those weapons systems that our military men and women will man and operate, and in particular this bill reflects a workable compromise on the future of the F–22 stealth fighter. While I would certainly have preferred that full funding for production of the first six F–22 fighters be included in this bill, the agreement does provide $750 million for the development of a test aircraft which will be subjected to rigorous tests prior to going forward with full scale acquisition. Also included is $277 million for the purchase of components for advanced procurement of ten F–22s if the test aircraft meets the test thresholds established in the conference agreement and provides the $1.2 billion requested by the President for further research and development of the aircraft.

Mr. Speaker, production of this aircraft is the number one modernization priority of the Air Force. This program has received the unqualified endorsement of the entire Joint Chiefs, as well as all 10 war fighting commanders in chief.

The Secretary of Defense has called the F–22 the cornerstone of our Nation's global air power in the 21st Century. Mr. Speaker, no other aircraft in our current arsenal will be able to fulfill the role that the F–22 is designed to fill in the next century, and the conference agreement is a vast improvement over the zero funding that was in the House-passed bill. The conference agreement also provides for $246 million to build ten F–16–C fighters, as well as $283 million for F–16 modifications and upgrades. The bill also provides $302 million for upgrades for the B–2 bomber fleet and $856 million for the acquisition of 12 V–22 Osprey tiltrotor aircraft and $183 million for additional research and development on the V–22.

The conference agreement provides for a total of $267.8 billion for the Department of Defense in the first fiscal year of the new century. The conferees have done the best with the funds available to them but, Mr. Speaker, we have found ourselves in the unenviable position of making trade-offs and delaying the funding for needed modernization programs while at the same time the needs of our military continue to grow as our obligations as the world's only superpower continue to expand. This bill is a good bill as far as it goes, but I believe that in future years the Congress must make every effort to continue to fund the needed programs that will ensure our national security.

Mr. Speaker, I urge the House to adopt this rule and to adopt the conference report. This bill is good for our country and deserves our support.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. HEFLEY).

Mr. HEFLEY. Mr. Speaker, I rise in opposition to the rule, and I do this based on a provision that is in the bill, section 8160, which makes the statement, "Notwithstanding any other provision of law, all military construction projects for which funds were appropriated in Public Law 106–52 are hereby authorized."

In other words, in an appropriations bill they are saying that anything we want to do is okay to do and we will assume that they were authorized. Now, this is not unusual. We do this often in bills. In fact, there are many committees who do not do an authorization bill and then an appropriations bill, but that is not the case with defense. We work very hard to do an authorization bill. We struggle with that. We have endless hours of hearings with that. We come up with a bipartisan, it is almost always a unanimous, vote. Certainly in my committee it is always a unanimous vote on the authorization process. Then we go to the full committee, and it is almost always a unanimous vote.

So we have struggled with these things, trying to authorize the things that really do make sense, that are good public policy.

Then we go through the conference process, and we struggle with the Senate, and we come out, and we have an authorization bill. Now, many times the appropriations bill is out ahead of the authorizations bill, and so they can accept statements like this because they are out ahead, but that is not the case this year. The authorization bill is first. It has been signed by the President. The Committee on Rules, I asked in the Committee on Rules that they make these authorizations subject to a point of order so that we could at least get to these things and determine whether or not we want to do them or not. The Committee on Rules did not do that.

This is bad policy. This is a bad way to do our business here on the House Floor. It raises the question of whether or not we need an authorization committee and a Committee on Appropriations if the Committee on Appropriations is going to do it all.

So, Mr. Speaker, I would request that we would reject this rule and come back with a rule that would give us an opportunity to deal with this blanket authorization which is being done in an appropriations bill.

□ 1045

Mr. FROST. Mr. Speaker, I yield 6 minutes to the gentleman from Wisconsin (Mr. OBEY), the ranking member on the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, first of all, I want to congratulate the gentleman from California (Mr. LEWIS) and the gentleman from Pennsylvania (Mr. MURTHA) for doing their dead-level best to bring new thinking to this bill.

They tried mightily, for instance, on the issue of the F–22, because they recognized that, if we are putting all of our money in that basket, we do not have enough money to provide other high priority needs that our defense posture very badly needs.

They have been partially successful, and I congratulate them for that. I recognize that they could not go as far as they needed to go because of constraints imposed upon them by the leadership of this House. I regret that. I think we should have gone further.

But I want to take the time of the House today to give my colleagues a more basic reason for my concern about this bill. I am not going to vote for this bill in the end because I do not believe in supporting legislation which in the end conveys a falsehood to the American people.

When we had President Reagan ram his budget through here in 1981 and beyond, I opposed those budgets in very large part because they promised something that they could not deliver. They promised that they would balance the budget in 4 years. Instead, they produced the largest deficits in the history of the country.

When we had the budget agreement in 1997, which was signed by the President and pushed through the Congress by then Speaker Gingrich, I did not support it and called it a public lie, because, in my view, it promised things that would never take place. In fact, time has demonstrated that the doubts about that bill were correct.

Now, we have a new situation. We have the Republican majority telling the country that they do not want to sit down in an omnibus negotiation with the President on all remaining bills because, if they did, they say we will wind up just like last year where we had some $21 billion in emergency spending rammed into last year's omnibus appropriation bill.

First of all, that misreads history, because, in fact, that number was driven up substantially by then Speaker Gingrich who insisted that, whatever increases we had on the domestic side be matched on the military and intelligence side, whether we needed them or not. So they wound up spending $21 billion on emergencies.

But, ironically, this year, this Republican House has already spent $24.2 billion and designated them as emergencies. They spent $8.7 billion on agriculture and declared it an emergency. They spent $7.2 billion in this bill on defense, declared it emergency. They spent $4.5 billion on the census. They declared it an emergency. Low-income heating assistance, which has only been around for 24 years, they declared that an emergency at $1.1 billion. They declared $2.5 billion in FEMA as an emergency. They declared half a billion dollars in bioterrorism as an emergency for a grand total of $24.2 billion.

So they have already spent more in emergencies than we spent last year. Yet, they claim the reason they do not want to negotiate with the President is to avoid that which they have already done. That strange logic makes sense only, I guess, on this floor.

I would also point out that, in this bill, this bill pretends to spend $249 billion in outlays. In fact, when we take into account all of the gimmicks, it spends $271 billion in outlays. They have $21 billion worth of gimmicks in order to pretend that the bill is spending less than it actually spends.

It has an emergency designation of $7.2 billion in budget authority and $5.5 billion in outlays. It pretends we are going to make $2.6 billion through spectrum sales. We know that is not going to happen. It has an advance appropriation of $1.8 billion.

Then it simply directs the Congressional Budget Office to pretend that the spend-out rate for this bill is going to be $10.5 billion less than it will actually be, and they simply tell the Congressional Budget Office to ignore reality. That hides another $10.5 billion. Then they delay payments to contractors for a few days to save $1.25 billion.

So we have overall total gimmicks of $21.6 billion. That is not a good recommendation for passing this bill.

One thing we ought to do, no matter what our political differences are, no matter what our philosophical differences are, we at least ought to level with people about what we are doing. Yet, we are engaged in this ridiculous fiction that we are not above the caps and that this Congress has not already spent Social Security money for the coming year, by engaging in all of these phony accounting gimmicks.

That is happening, no question about it, at the direct direction of the leadership of this House. I think it brings discredit to the entire process. It brings discredit to this institution.

Whatever we pass ought to be on the level. This bill is as far from being on the level in terms of being honest with budget numbers as any I have seen in a long time. This and the Departments of Labor, Health and Human Services, and Education and Related Agencies appropriations bill, which has all kinds of similar gimmicks, are two reasons which demonstrate that, when it comes to telling the truth, this House gets a flunking grade.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I thank the gentleman from Texas (Mr. FROST) for yielding me this time.

Mr. Speaker, I do intend to support the rule and the conference report, but I wanted to express my concerns about some particular provisions concerning U.S. policy in South Asia.

The conference report language that would give the President authority to waive certain sanctions against India and Pakistan, including the prohibition on U.S. military assistance to Pakistan mandated by the Pressler Amendment, as well as other arms transfer controls.

While I have long supported lifting the economic sanctions against India and Pakistan, which the conference report also addresses, I am concerned the provisions in the conference report would result in a renewal of U.S. arms transfers to Pakistan.

Mr. Speaker, yesterday we were reminded in a stunning and very disturbing way about the potential problems associated with renewing our military ties with Pakistan. The Pakistani Army Chief of Staff, in a nationally televised address, confirmed that a military coup has taken place.

Prime Minister Sharif has been dismissed and placed under house arrest. Troops took over state-run TV and radio stations and closed the major airports. Pakistan's army has ruled the country for 25 of its 52-year history, so Army takeovers have been a relatively common occurrence. But this time, the subversion of civilian government means that Pakistan's nuclear arsenal is under direct control of the military leaders, the same hard-line forces who precipitated Pakistan's incursion into India or onto India's side of the Line of Control in Kashmir earlier this year, greatly heightened tensions in that region.

I believe the provision in the Defense authorization conference report to grant waiver authority for the Pressler amendment essentially on a permanent basis is a grave mistake. Combined with expanded waiver authority on other provisions of the Arms Export Control Act, this opens the door for the administration to renew the U.S. Pakistan military relationship.

Although the Arms Export Control Act waivers would theoretically apply both to India and Pakistan, with congressional notification, I am concerned that that goal is to renew military assistance to Pakistan. I hope that the administration would not help Pakistan militarily thereby putting India at risk. Likewise, I hope that any steps against Pakistan would not be matched by corresponding actions against India.

The conference report also provides for extended waiver authority of the Glenn Amendment economic sanctions. I have lobbied for a suspension, if not an outright appeal, of the Glenn amendment.

I am glad that the conference took action on the Glenn sanctions. Extending the waiver is a positive step, but I just think we could have gone a little further.

I also want to thank the conferees for another positive provision, a sense of the Congress resolution that the broad application of export controls to nearly 300 Indian and Pakistani entities listed on the so-called Entities List, which is adopted by the Bureau of Export Administration, is inconsistent with the specific national security interest of the U.S., and that this list requires refinement.

There is also language that these export controls should be applied only to those entities that make direct and material contributions to weapons of mass destruction and missile programs and only to those items that so contribute.

The BXA went way too far in blacklisting entities with little or no connection to nuclear or missile programs.

So, Mr. Speaker, again, I urge that we adopt the conference report and the rule, but I am very concerned about the repeal, essentially, of the Pressler Amendment.

Mr. FROST. Mr. Speaker, I urge the adoption of the rule, and I yield back the balance of the time.

Mrs. MYRICK. Mr. Speaker, I yield back the balance of the time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. LEWIS of California. Mr. Speaker, pursuant to House Resolution 326, I call up the conference report on the bill (H.R. 2561) making appropriations for the Department of Defense for the fiscal year ending September 30, 2000, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 8, 1999, at page H9651).

The SPEAKER pro tempore. The gentleman from California (Mr. LEWIS) and the gentleman from Pennsylvania (Mr. MURTHA) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. LEWIS).

GENERAL LEAVE

Mr. LEWIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report to accompany H.R. 2561, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I first rise to ask the membership for their support for this very important bill. It involves the national defense of our country. In doing so, Mr. Speaker, I would like to express my personal appreciation to my colleagues on both sides of the aisle who have been, not just cooperative, but who have been truly professional in the best possible sense in presenting their viewpoints regarding a number of items that are very important, which we will consider as we go forward with this debate today.

In particular, I would like to express my appreciation to the gentleman from Florida (Mr. YOUNG), the chairman of the full committee. He has been essentially my trainer since I assumed this job, for he chaired the committee before I did. The gentleman from Florida (Mr. YOUNG) is not just a great leader of the full Committee on Appropriations, but, for his entire career, he has provided the kind of leadership that has allowed us to make certain that America is the strongest country in the world, as we play a role in leadership for peace in that world.

Mr. Speaker, speaking just for a moment about the bill, this legislation does provide for $267.7 billion in discretionary spending authority for fiscal year 2000. It meets all budget authority and outlay limits set in the subcommittee's 302(b) allocation.

This bill provides for $17.3 billion more than was appropriated in fiscal year 1999 and is $4.5 billion above the administration's 2000 budget request.

Let me take just a moment to outline some of the highlights of the bill. This legislation provides $73.9 billion to meet the most critical personnel needs of our military. One of our top priorities has been to improve the training, benefits, and quality of life, to ensure that the armed services retain their most valuable asset, that asset being the men and women who serve the country in uniform.

There are essentially 2.25 million men and women serving in the Armed Forces, the reserves, and the National Guard. These personnel, as well as our colleagues, will be pleased to know that this bill fully funds the 4.8 percent pay raise that we have discussed previously.

Mr. Speaker, with those brief comments outlining the highlights of the bill, I reserve the balance of my time.

Mr. MURTHA. Mr. Speaker, I yield 5½ minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I thank the gentleman from Pennsylvania for the time.

Mr. Speaker, a minute ago, I talked about the gimmicks that were in this bill that hide its true spending levels. I would like to continue on that theme and put it in context by walking the House through what the gimmicks are in all of the appropriations bills that we are expected to try to pass.

First of all, with respect to this bill itself, one of the gimmicks in this bill, I guess I would call it the Government Deadbeat Amendment for the year. It simply says that the government is going to delay payment to defense contractors on the bills that we owe from 12 days to 17 days, thereby saving $1.2 billion by squeezing that money into the next fiscal year.

□ 1100

I would like to point out when we do that, we are not only affecting the cash flow of the United States Government, we are affecting the cash flow of thousands of U.S. businesses, and we are affecting their balance sheets for the quarter in question and for the entire fiscal year. And I think that what that really does is to increase the cost of doing business with Uncle Sam.

So what is the response of these contractors likely to be? The response is likely to be that they will factor in that problem the next time they write a contract with Uncle Sam. The net effect is it will raise the cost of those contracts down the line and, in the end, the taxpayers will pay for this foolishness.

This is just one example of one of the problems in the bill. And as I say, I make no criticisms to the gentleman from California (Mr. LEWIS) or the gentleman from Pennsylvania (Mr. MURTHA) when I cite this, because they had no choice but to include gimmicks like this because everybody in this House is under orders from the leadership to hide the true levels of spending. And it is not just happening on this bill. It is happening on all of them.

On agriculture we had just in directed scoring alone, not counting the emergency designation, just in directed scoring alone, which means that they pretend that they are going to spend less than they are actually going to spend, they hide $163 million that way.

In the Commerce-Justice bill, they hide $5.4 billion through a series of budgetary gimmicks. In this bill, as I said earlier, they hide $21.5 billion in spending that way. In the Energy and Water bill that passed, they hide $103 million. In the Foreign Operations bill, they hide $159 million. Interior, the House-passed bill, hides $159 million, as well.

Then in the Labor Health bill, which was reported by the committee, we will have $12.1 billion in assorted gimmicks, some of which their own leading presidential contender has denounced as being unfair because they balanced the budget on the backs of the poor.

In Transportation we have $1.4 billion worth of these gimmicks that hide the true nature of congressional spending. In Treasury-Post Office they hide $151 million. In the VA-HUD bill, which is going to come to the floor yet this week, they hide $1.5 billion through what I would call these hidden card tricks in a magic show.

The problem is that it is not just a few suckers paying a quarter who are fooled, the entire American public is deceived in the process. That means that government-wide, in all of the appropriations bills that we are supposed to consider this year, we have over $43 billion in gimmicks. When we subtract $14 billion from that, which represents the amount of the non-Social Security surplus that we have for the coming year on that we are expected to have, that means we have bills $29 billion over the spending caps in real terms when we do not count the gimmicks.

Now, I want to make clear some of this has happened before. This is not unprecedented. But what is unprecedented is the huge amount of game playing that is going on.

I would just suggest, in the end, both parties would be better off if we level with the American people and if we simply tell them what the true effects are. I know the gentleman from Florida (Mr. YOUNG) tried to avoid this. He tried to bring a series of bills out of committee which were bipartisan in nature and which were a whole lot more honest than the bills that we are running to the floor today, but he was cut off at the pass by people in his caucus who thought they knew better.

The result is that the level of consumer fraud in this House has reached record levels, and I think that is unfortunate for the country and the institution.

Mr. LEWIS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG), the chairman of our full committee.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding me the time, and I rise in support of this conference report on our appropriations bill for our national security and our intelligence programs.

The gentleman from California (Chairman LEWIS) deserves a tremendous amount of credit for the hard work that he has done in getting this bill to the floor.

Having had many years of experience as a member of this subcommittee, this was probably the most difficult year to go to conference on this bill that any of us have seen. The gentleman from California (Chairman LEWIS) has done a really outstanding job and especially since this was his first year in that important position as Subcommittee Chairman, and I cannot say enough good words about the outstanding work that he has done.

Also, the gentleman from Pennsylvania (Mr. MURTHA), who is the ranking member and the former chairman of this subcommittee, as usual has worked with the gentleman from California (Mr. LEWIS) to keep this bill and any matters relating to national defense or intelligence totally nonpolitical, nonpartisan, which is as it should be. Our defense issues and our intelligence issues should not be political in any way.

One of the problems that they faced as they produced this bill this year and went to conference with the Senate was a 13-year reduction in our investment in our national defense. However, at the same time we were making these reductions, we were sending our troops to excessive deployments in all parts of the world. Many of them, as all of our Members know, are still deployed today in places like Bosnia and Kosovo and plus the permanent deployments in Europe, Korea, and other places like that.

We have tried to reduce the pressure of these excessive deployments, without much success, because the administration believes that anyplace in the world that there is an opportunity to send American troops they ought to do it. And they do it, and then they send us the bill after they spend the money.

The air war in Kosovo, for example, was a very expensive air war. That air war was basically an American air war. We provided the airplanes. We provided the pilots. We provided the fuel. We provided the munitions. And despite the fact it was a NATO decision to go into that war, it was a U.S. war, and we basically paid for it.

With this bill we are replacing a lot of the munitions, we are fixing a lot of the worn out equipment, we are trying to get a decent quality of life for those men and women who serve in our military by providing them a pay raise. And it is not really enough, but at least it is a significant step towards a commitment that some of us have made to get our men and women in the military up to a livable wage.

It is really a shame when we still have to report that there are still several thousand Americans in uniform who have to rely on food stamps to feed their family.

So we have to give some recognition to those people, and we have done that in this bill in addition to changing the retirement system. This is a good bill. And again I say, in my many years of experience on this subcommittee, this was the toughest conference meeting; and the gentleman from California (Mr. LEWIS) and the gentleman from Pennsylvania (Mr. MURTHA) deserve just a tremendous amount of credit in what they have been able to do to bring this conference report to the floor today.

Mr. LEWIS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado (Mr. HEFLEY).

Mr. HEFLEY. Mr. Speaker, I thank the gentleman from California (Mr. LEWIS) for yielding me the time.

Mr. Speaker, I rise in great reluctance to oppose the conference report to accompany H.R. 2561, the Department of Defense appropriations act for the year 2000. I oppose the legislation because it contains numerous provisions which taken together represent an erosion of the prerogatives of the authorization process and actually raise the question of do we need an appropriations process and an authorization process if the Committee on Appropriations is going to do both in their bill.

I am not usually down here opposing a defense appropriations bill. I always have been and I continue to support a strong national defense.

Let me tell my colleagues, there is a lot of good in this bill. The gentleman from Florida (Mr. YOUNG) pointed out many of the items. There is a lot of good in this bill. The gentleman from California (Mr. LEWIS) and the gentleman from Pennsylvania (Mr. MURTHA) should be commended on the bill that they have produced and for getting this out of the conference report.

But since I have became chairman of the subcommittee on military installations and facilities over 4 years ago, I have worked closely with Members of both sides of the aisle to find additional resources needed to improve and enhance our military housing and infrastructure. I have always done so in cooperation with the Committee on Appropriations.

In fact, the military authorization bill on military facilities and construction and the appropriations bill on military construction in these last 4-plus years have been mirrors of each other because we worked so closely together. That is the way it should be. That is not the way it is this year.

That is why it is especially troubling to me to review the conference report and see that there are so many provisions that violate the necessary and reasonable boundaries between the authorizations and the appropriations process.

First, section 8160 provides a blanket authorization for all military construction projects for which funds are appropriated pursuant to the Military Construction Appropriation Act, 2000. The legislation contained funding or additional funding for 18 military construction projects amounting to $110.5 million for which no authorization of appropriations was provided in the National Defense Authorization Act for Fiscal Year 2000.

Mr. Speaker, I will include a list of these military construction projects at issue following my remarks.

Mr. Speaker, sometimes the appropriations bill is out ahead of the authorization bill; and when that happens, a provision like this may need to be done, but it is usually done with the idea that we are appropriating this subject to the authorization of these projects, which we then look at the next year and we get done.

That is not the case this year. The authorization bill did not provide authority for these military construction projects because there was a consensus among House and Senate conferees on that bill to not break scope to add large number of new projects, given the limited resources available to us.

While these projects may have legitimate military utility, none, in my judgment, represent an urgent requirement that could not be evaluated during next year's authorization review. It is not unusual for an occasional construction project to be appropriated without authorization. But, as I said, we do that the following year.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. HEFLEY. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I appreciate my colleague yielding.

Let me say this: the questions that he is raising in his statement are very legitimate questions, and I must say that the gentleman has been more than professional in his dealings with me. I, too, feel that we need to work very hard to make sure that we eliminate conflicts between the authorizing process where they may exist and the appropriations process.

In this case, I guess the gentleman and I working together would probably agree regarding most of the projects that may have been authorized. Sometimes elements at a different level than that of the gentleman and mine and the House get involved between us. So, in connection with that, let me say to the gentleman that I commit to him that he and I will work very closely to try to eliminate this kind of problem in the future dealing with our leadership and otherwise.

And with that, while the gentleman is expressing very well his concern about this matter, recognizing the broad base of values in this bill, I would hope in the final analysis even with this protest I would have the vote of this gentleman.

Mr. HEFLEY. Mr. Speaker, I appreciate that. The gentleman from California (Mr. LEWIS) and I have worked together; but we have been friends and colleagues and worked well together for darn near 15 years, and that is not going to change because of this bill this year. And we have talked about next year and future years and how this ought to be done, and we intend to do it differently. I appreciate his comments.

Second, section 8167 provide new appropriations and authorization for an Army Aviation Support facility to support the Army National Guard at West Bend, Wisconsin. This MILCON project was not included in either the House or the Senate version of the defense authorization bill or in the House or Senate version of the military construction appropriations bill. It is an entirely new $10 million project that is not even included in the Future Years Defense Plan, what is called the FYDP, meaning that it is not part of the current Army National Guard planning until well after the year 2005.

That is not the way we do business. The urgency of this project escapes me. Its inclusion in the general appropriations bill to support the Department of Defense is simply wrong and compounds the troubling precedent presented by section 8160.

Third, section 8163 provides authority for the Secretary of the Air Force to accept up to $13 million in contributions from the State of New York for the purpose of combining those funds with $12.8 million in appropriated funds to consolidate and expand facilities at Rome Research Site at New York.

□ 1115

It sounds like a good deal for the Air Force. The trouble is that the Air Force does not support it.

The President's budget request for the coming fiscal year contained a requirement for a $12.8 million facility at the Rome Research Site. The conference agreements on the defense authorization bill and the military construction appropriations bill both provided the funding necessary for the validated MILCON requirement. However, the proposal for broader authority to permit the State of New York to contribute funding for additional facility improvements was rejected by the conferees on the defense authorization bill. While the Department of the Air Force fully supported the requirement contained in the President's budget, the Secretary of the Air Force declined to support the broader facility improvement plan. In a letter dated August 6, 1999, the Secretary stated that "The Air Force currently has no additional phased consolidation projects for the Rome Research Site in the Future Years Defense Plan and does not have options for funding any future phases."

Finally, section 8168 contains extensive new authorities for the Secretary of the Air Force to conduct a "pilot project" at Brooks Air Force Base, Texas. These authorities fundamentally change the nature of installation management. Although the provision was slightly modified for the version contained in the Senate-passed defense appropriations bill, this is a matter which deserves review by the authorization committee, even if it is just a "pilot project."

Mr. Speaker, as I said, I know the gentleman from California (Mr. LEWIS) and other members resisted the inclusion of many of these provisions and I appreciate their efforts. Regretfully, the conferees on H.R. 2561 could not withstand the significant pressures to depart from the well-established pattern of comity that has governed the authorization and appropriations process for military construction in recent years. I simply cannot support legislation that in the end significantly undermines the authority of the Committee on Armed Services.

Mr. Speaker, I include the following for the RECORD:

MILITARY CONSTRUCTION PROJECTS AUTHORIZED BY SECTION 8160 OF THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2000

State	Service	Location	Project	Amount in thousands
Arizona	Army	Fort Huachuca	Wastewater Treatment Plant, Phase 1	6,000
California	Navy	NAS Lemoore	Gymnasium	16,000
District of Columbia	Navy	8th & I Barracks	Site Improvements	4,000
Florida	Navy	Blount Island (Jacksonville)	Land Acquisition, Phase 1	5,000
Florida	Air Force	MacDill AFB	Mission Planning Center, Phase 1	10,000
Massachusetts	Army National Guard	Barnes ANGB	Army Aviation Support Facility	3,933
Michigan	Air National Guard	Selfridge ANGB	Replace Fire Crash/Rescue Station	7,400
Minnesota	Air Force Reserve	Minneapolis/St. Paul ARS	Consolidated Lodging Facility, Phase 2	8,140
Montana	Army National Guard	Great Falls	Readiness Center	4,700
New Jersey	Army	Picatinny Arsenal	Armament Software Engineering Center, Phase 1	9,900
New Jersey	Navy	NWS Earle	Security Improvements	1,250
Ohio	Air National Guard	Mansfield Lahm Airport	Replace Security Forces Complex	2,700
Ohio	Air National Guard	Toledo Express Airport	Upgrade Maintenance Complex	8,400
Ohio	Air Force Reserve	Youngstown ARS	Apron Runoff/Storm Water/Deicing Collection System	3,400
Pennsylvania	Army National Guard	Connellsville	Readiness Center	1,700
South Carolina	Navy	NWS Charleston	Child Development Center	3,614
Washington	Army	Yakima Training Center	Tank Trail Erosion Mitigation, Phase 5	12,000
Korea	Army	Camp Kyle	Physical Fitness Center	4,350
Subtotal				112,487
Offset for Authorization of Appropriations (P.L. 106–65)				(2,000)
Total				110,487

Note: Public Law 106–65, the National Defense Authorization Act for Fiscal Year 2000 provided authorization of appropriations for Military Construction, Army in the amount of $2,000,000 for tank trail erosion mitigation at Yakima Training Center, Washington.

Mr. LEWIS of California. Mr. Speaker, I yield 2½ minutes to the gentleman from Georgia (Mr. CHAMBLISS).

Mr. CHAMBLISS. Mr. Speaker, I rise in support of the conference report. I want to commend the gentleman from California, the chairman, along with the gentleman from Pennsylvania, the ranking member, for putting together what I think is a good quality bill.

As the gentlemen know, I was not particularly pleased with the direction at which we started out with respect to the F–22, but I want to say to each of the gentlemen, they have been very straightforward in the debate, the dialogue we have had, they have been honest in their beliefs and honest with me. I appreciate them working hard to make sure that we came up with a fair resolution for the continued research and ultimate procurement of a very valued weapons system. It is going to be necessary for this system to be purchased if we are going to maintain air superiority in the future, and we have seen just most recently in the Balkans how critical that is.

I also want to commend them on the direction in which we are continuing to go with respect to the C–17. The C–17 is a very valuable airlift mobility asset. I think that we ought to continue to look at what we are doing with the C–17 as a model for the purchase of future weapons systems. A multiyear buy not only provides our armed forces with the best weapons systems available but it also saves the taxpayers money, and that is what we are ultimately here and all about. We are operating in an entirely different era now from what we have operated in in past years because we simply do not have the money to buy anything we want in the quantities that we want to buy them.

I am a little disappointed in where we are going, the direction, with the 130s. The Marine Corps asked for a total of four and we were not able to provide those. But I know that the gentlemen are going to work hard to see if we cannot improve that next year. We are going to put the burden back on the Air Force, that if they want these weapons systems, they are not going to be able to depend on add-ons in future years. They have got to come ask for them. That is the way it ought to be.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. CHAMBLISS. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I want to compliment the gentleman on his statement, particularly on his comments regarding the C-17. I am very pleased and I want to compliment the gentleman from Pennsylvania (Mr. MURTHA) and the gentleman from California (Mr. LEWIS) for putting in the multiyear language for the C-17. Frankly, I do not think 120 of these planes is enough. I think we are going to need more than that, simply because we do not have enough aircraft for the airlift and deployability issue.

Just yesterday, General Shinseki has come up with this new program for the Army which is basically heavily reliant on deployability and having all this new equipment be able to fit into those C-130s that the gentleman mentioned. I look forward to working with him in the days ahead, and I appreciate his statement.

Mr. Speaker, I rise in support of this conference report. This year's defense appropriations bill provides funding for many critical military needs. Chairman LEWIS and Ranking Member MURTHA have ensured that the Congress is addressing problems with recruiting and retention and the readiness of our Armed Forces. I thank them for their leadership on this bill.

H.R. 2561 includes the final portion of a 4.8 percent pay raise for military and defense civilian personnel. This pay raise will address the pay gap between those at the Defense Department and comparable jobs in the private sector. The bill includes critical funding for Navy ship maintenance, an area where increasing backlogs have built up. This year's bill includes over $360 million more for ship maintenance activities than the appropriations bill for FY 99. And this bill has found a critical balance for the modernization priorities of all the services. In particular, I am pleased that the conferees were able to restore much of the funding in the President's Request for the F-22, air dominance fighter. Funding included in the bill will allow work to move forward on the F-22 while also providing for additional testing.

The conferees also approved multiyear procurement authority for the FA-18 E&F and the C-17. This will allow us to purchase 222 F-18s for the price of 200, a significant savings. And it will allow us to take advantage of an unsolicited proposal by Boeing to provide 60 more C-17s at an average price that is 25 percent lower than the current model. These planes will address critical airlift needs revealed in Kosovo.

The committee has also ensured that the weaponization of our bomber force will continue. Earlier this year, the Air Force provided Congress with a bomber road map laying out their plan to weaponize the bomber force. It was totally inadequate. Congress has provided an additional $100 million for weaponization of the B-2 bomber. These funds will allow for the purchase of deployable shelters for the B-2 so that when necessary it can deploy closer to the theater of combat. We further integrate the B-2 into the larger air campaign by adding Link 16 connectivity to the B-2 along with the most advanced displays for situational awareness. We improve the in-flight replanning capability of the B-2's on-board computer systems. At the Air Force's request, we pay for the integration of the EGBU 28 bomb in the B-2's bomb bay. And we start the process of developing further improvements to the B-2's stealth.

The conferees also provided funding for improvements to B-52's situational awareness systems, and for additional conventional bomb modules for the B-1B. These investments will ensure that our bomber force can continue to be as effective in the future as it was during the recent Kosovo conflict.

Again, I would like to thank the Chairman and Ranking Member, and urge support of the conference report.

Mr. CHAMBLISS. I thank the gentleman for those comments.

Lastly, just let me say that I appreciate the efforts that we have made on the quality of life issues. As I go around and talk to enlisted personnel all across the world, I am very impressed with the quality of those folks, and the provisions that the gentlemen have made with respect to quality of life are going to help those young men and women out there.

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. GRANGER).

Ms. GRANGER. Mr. Speaker, I rise in strong support of the Department of Defense conference report, legislation that deserves overwhelming support in this House.

I want to begin by acknowledging the budgetary challenges that the gentleman from California and the Subcommittee on Defense faced in assembling this conference report. Yet I also want to thank this Congress and acknowledge that the Federal Government has no more important responsibility than national defense. This bill is a step in the right direction. I commend the gentleman from California for his leadership.

I have been an advocate for a stronger military for many years, but it was not until I arrived in Congress that I realized how hollow our military has become and how important high-tech weapons are to the future of our national security.

I want to commend the gentleman for his scrutiny of the F-22 Raptor program. This is an honorable compromise that does not compromise our national security. The F-22 will continue to be developed. That is bad news for America's enemies, but it is good news for America's security.

This conference report also funds other programs critical to our national defense, including the V-22 Osprey, the F-16 Falcon, and the 4BW-4BN, H-1 upgrade programs. I thank the gentleman for his work on these priorities.

In closing, I would like to remind my colleagues that our national security can be preserved only when we match our greatest asset, which is our troops, with the greatest weapons possible. This bill acknowledges that when it comes to national security, it is better to be safe than sorry. For that reason, I am proud to support this legislation.

Mr. MURTHA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill speaks for itself. All the members have done a marvelous job: the gentleman from Virginia (Mr. MORAN) and the gentleman from Washington (Mr. DICKS) have been in the trenches; the gentleman from Minnesota (Mr. SABO) did a tremendous job; the gentleman from California (Mr. LEWIS) in a very difficult situation. This bill is carefully crafted, articulately done.

Mr. Speaker, I yield back the balance of my time.

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a very brief comment in closing. I would be remiss if I did not just take a moment to express my deep appreciation to the gentleman from Pennsylvania (Mr. MURTHA) who is not just a pro at this business but who has been a great leader on behalf of national defense for a long, long time. Within our subcommittee, he has been the driving force that has allowed us to create an environment that is literally nonpartisan as it relates to national defense. No bill is more important to the national government, to America and indeed to the world than this one. The gentleman from Pennsylvania has played a key role in making this year's effort such a success.

Beyond that, I would also like to express my appreciation to Greg Dahlberg, his fine staff assistant who has worked so closely with us this year, Kevin Roper, my staff director, and I must say my own personal staff as well as our Appropriations Committee staff. Mr. Speaker, I do not know where or how we find such fabulous young people who are willing to work endless hours, endless days. They do not know weekends. They have done a fantastic job this year to create an extraordinary bill.

DEPARTMENT OF DEFENSE APPROPRIATIONS BILL, 2000

(Amounts in thousands)

	FY 1999 Enacted	FY 2000 Request	House	Senate	Conference	Conference vs. enacted
TITLE I						
MILITARY PERSONNEL						
Military Personnel, Army	20,841,687	22,006,632	21,475,732	22,041,094	22,006,361	+1,164,674
Pay increase provided in P.L. 106-31			(559,533)			
Military Personnel, Navy	16,570,754	17,207,481	16,737,072	17,236,001	17,258,823	+688,069
Pay increase provided in P.L. 106-31			(436,773)			
Military Personnel, Marine Corps 2/	6,263,387	6,544,682	6,353,622	6,562,336	6,555,403	+292,016
Pay increase provided in P.L. 106-31			(177,980)			
Military Personnel, Air Force	17,211,987	17,899,685	17,565,811	17,873,759	17,861,803	+649,816
Pay increase provided in P.L. 106-31			(471,892)			
Reserve Personnel, Army	2,167,052	2,270,964	2,235,055	2,278,696	2,289,996	+122,944
Pay increase provided in P.L. 106-31			(40,574)			
Reserve Personnel, Navy	1,426,663	1,446,339	1,425,210	1,450,788	1,473,388	+46,725
Pay increase provided in P.L. 106-31			(29,833)			
Reserve Personnel, Marine Corps	406,616	409,189	403,822	410,650	412,650	+6,034
Pay increase provided in P.L. 106-31			(7,820)			
Reserve Personnel, Air Force	852,324	881,170	872,978	884,794	892,594	+40,270
Pay increase provided in P.L. 106-31			(13,143)			
National Guard Personnel, Army	3,489,987	3,570,639	3,486,427	3,622,479	3,610,479	+120,492
Pay increase provided in P.L. 106-31			(70,416)			
National Guard Personnel, Air Force	1,377,109	1,486,512	1,456,248	1,494,496	1,533,196	+156,087
Pay increase provided in P.L. 106-31			(30,462)			
Total, title I, Military Personnel 4/	70,607,566	73,723,293	72,011,977	73,855,093	73,894,693	+3,287,127
Pay increase provided in P.L. 106-31			(1,838,426)			
Total funding available	70,607,566	73,723,293	73,850,403	73,855,093	73,894,693	+3,287,127
TITLE II						
OPERATION AND MAINTENANCE						
Operation and Maintenance, Army	17,185,623	18,610,994	19,629,019	19,161,852	19,256,152	+2,070,529
(By transfer - National Defense Stockpile)	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)	
(By transfer - Pentagon Renovation Transfer Fund)	(-96,000)					(+96,000)
Operation and Maintenance, Navy	21,872,399	22,188,715	23,029,584	22,841,510	22,958,784	+1,086,385
(By transfer - National Defense Stockpile)	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)	
(By transfer - Pentagon Renovation Transfer Fund)	(-32,087)					(+32,087)
Operation and Maintenance, Marine Corps	2,578,718	2,558,929	2,822,004	2,758,139	2,808,354	+229,636
(By transfer - Pentagon Renovation Transfer Fund)	(-9,513)					(+9,513)
Operation and Maintenance, Air Force	19,021,045	20,313,203	21,641,099	20,760,429	20,896,959	+1,875,914
(By transfer - National Defense Stockpile)	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)	
(By transfer - Pentagon Renovation Transfer Fund)	(-52,200)					(+52,200)
Operation and Maintenance, Defense-Wide	10,914,076	11,419,233	11,402,733	11,537,333	11,489,483	+575,407
(By transfer - Pentagon Renovation Transfer Fund)	(-90,020)					(+90,020)
Operation and Maintenance, Army Reserve	1,202,622	1,369,213	1,513,076	1,438,776	1,469,178	+266,554
Operation and Maintenance, Navy Reserve	957,239	917,647	969,478	946,478	958,978	+1,739
Operation and Maintenance, Marine Corps Reserve	117,893	123,266	143,911	126,711	138,911	+21,018
Operation and Maintenance, Air Force Reserve	1,747,696	1,728,437	1,788,091	1,760,591	1,782,591	+34,895
Operation and Maintenance, Army National Guard	2,678,015	2,903,549	3,103,642	3,156,378	3,161,378	+483,363
Operation and Maintenance, Air National Guard	3,106,933	3,099,618	3,239,438	3,229,638	3,241,138	+134,205
Overseas Contingency Operations Transfer Fund	439,400	2,387,600	1,812,600	2,087,600	1,722,600	+1,283,200
United States Court of Appeals for the Armed Forces	7,324	7,621	7,621	7,621	7,621	+297
Environmental Restoration, Army	370,640	378,170	378,170	378,170	378,170	+7,530
Environmental Restoration, Navy	274,600	284,000	284,000	284,000	284,000	+9,400
Environmental Restoration, Air Force	372,100	376,800	376,800	376,800	376,800	+4,700
Environmental Restoration, Defense-Wide	26,091	25,370	25,370	25,370	25,370	-721
Environmental Restoration, Formerly Used Defense Sites	225,000	199,214	209,214	239,214	239,214	+14,214
Overseas Humanitarian, Disaster, and Civic Aid	50,000	55,800	55,800	55,800	55,800	+5,800
Former Soviet Union Threat Reduction	440,400	475,500	456,100	475,500	460,500	+20,100
Pentagon Renovation Transfer Fund				246,439	222,800	+222,800
(By transfer)	(279,820)					(-279,820)
Quality of Life Enhancements, Defense 3/	455,000	1,845,370	800,000		300,000	-155,000
Total, title II, Operation and maintenance	84,042,814	91,268,249	93,687,750	91,894,349	92,234,779	+8,191,965
(By transfer)	(150,000)	(150,000)	(150,000)	(150,000)	(150,000)	

DEPARTMENT OF DEFENSE APPROPRIATIONS BILL, 2000 — continued

(Amounts in thousands)

	FY 1999 Enacted	FY 2000 Request	House	Senate	Conference	Conference vs. enacted
TITLE III						
PROCUREMENT						
Aircraft Procurement, Army	1,388,268	1,229,888	1,590,488	1,440,788	1,451,688	+63,420
Missile Procurement, Army	1,226,335	1,358,104	1,272,798	1,267,698	1,322,305	+95,970
Procurement of Weapons and Tracked Combat Vehicles, Army	1,548,340	1,416,785	1,556,665	1,526,265	1,586,490	+38,150
Procurement of Ammunition, Army	1,065,955	1,140,816	1,228,770	1,145,566	1,204,120	+138,165
Other Procurement, Army	3,339,486	3,423,870	3,604,751	3,658,070	3,738,934	+399,448
Aircraft Procurement, Navy	7,541,709	8,228,655	9,168,405	8,558,684	8,662,655	+1,120,946
Weapons Procurement, Navy	1,211,419	1,357,400	1,334,800	1,423,713	1,383,413	+171,994
Procurement of Ammunition, Navy and Marine Corps	484,203	484,900	537,600	510,300	525,200	+40,997
Shipbuilding and Conversion, Navy	6,035,752	6,678,454	6,656,554	7,178,454	7,053,454	+1,017,702
Other Procurement, Navy	4,072,662	4,100,091	4,252,191	4,184,891	4,320,238	+247,576
Procurement, Marine Corps	874,216	1,137,220	1,333,120	1,236,620	1,300,920	+426,704
Aircraft Procurement, Air Force	8,095,507	9,302,086	8,298,313	9,918,333	8,228,630	+133,123
Missile Procurement, Air Force	2,069,827	2,359,608	2,329,510	2,338,505	2,211,407	+141,580
Procurement of Ammunition, Air Force	379,425	419,537	481,837	427,537	442,537	+63,112
Other Procurement, Air Force	6,960,483	7,085,177	6,958,227	7,198,627	7,146,157	+185,674
Procurement, Defense-Wide	1,944,833	2,128,967	2,286,368	2,327,965	2,249,566	+304,733
National Guard and Reserve Equipment	352,000	....	130,000	250,000	150,000	-202,000
Defense Production Act Purchases	....	....	5,000	....	3,000	+3,000
Total, title III, Procurement	48,590,420	51,851,538	53,025,397	54,592,016	52,980,714	+4,390,294
TITLE IV						
RESEARCH, DEVELOPMENT, TEST AND EVALUATION						
Research, Development, Test and Evaluation, Army	5,031,788	4,426,194	5,148,093	4,914,294	5,266,601	+234,813
Research, Development, Test and Evaluation, Navy	8,636,649	7,984,016	9,080,580	8,421,976	9,110,326	+473,677
Research, Development, Test and Evaluation, Air Force	13,758,811	13,077,829	13,709,233	13,489,909	13,674,537	-84,274
Research, Development, Test and Evaluation, Defense-Wide	9,036,551	8,609,289	8,935,149	9,327,155	9,256,705	+220,154
Developmental Test and Evaluation, Defense	258,606	253,457	271,957	251,957	265,957	+7,351
Operational Test and Evaluation, Defense	34,245	24,434	29,434	34,434	31,434	-2,811
Total, title IV, Research, Development, Test and Evaluation	36,756,650	34,375,219	37,174,446	36,439,725	37,605,560	+848,910
TITLE V						
REVOLVING AND MANAGEMENT FUNDS						
Defense Working Capital Funds	94,500	90,344	90,344	90,344	90,344	-4,156
Transfer stockpile balances to working capital fund	....	67,000	....	....	....	....
National Defense Sealift Fund:						
Ready Reserve Force	311,266	257,000	257,000	257,000	257,000	-54,266
Acquisition	397,100	97,700	472,700	97,700	460,200	+63,100
(Transfer out)	(-28,800)	....	....	....	....	(+28,800)
Total	708,366	354,700	729,700	354,700	717,200	+8,834
Total, title V, Revolving and Management Funds	802,866	512,044	820,044	445,044	807,544	+4,678
TITLE VI						
OTHER DEPARTMENT OF DEFENSE PROGRAMS						
Defense Health Program:						
Operation and maintenance	9,727,985	10,477,687	10,471,447	10,527,887	10,522,647	+794,662
Procurement	402,387	356,970	356,970	356,970	356,970	-45,417
Research and development	19,500	....	250,000	300,000	275,000	+255,500
Total, Defense Health Program	10,149,872	10,834,657	11,078,417	11,184,857	11,154,617	+1,004,745
Armed Forces Retirement Homes	....	....	....	68,295	....	....
Chemical Agents & Munitions Destruction, Army: 1/						
Operation and maintenance	491,700	593,500	492,000	543,500	543,500	+51,800
Procurement	115,670	241,500	116,000	191,500	191,500	+75,830
Research, development, test, and evaluation	172,780	334,000	173,000	294,000	294,000	+121,220
Total, Chemical Agents	780,150	1,169,000	781,000	1,029,000	1,029,000	+248,850
Drug Interdiction and Counter-Drug Activities, Defense	735,582	788,100	883,700	842,300	847,800	+112,218
Office of the Inspector General	132,064	140,844	140,844	137,544	137,544	+5,480
Total, title VI, Other Department of Defense Programs	11,797,668	12,932,601	12,883,961	13,261,996	13,168,961	+1,371,293

DEPARTMENT OF DEFENSE APPROPRIATIONS BILL, 2000 — continued

(Amounts in thousands)

	FY 1999 Enacted	FY 2000 Request	House	Senate	Conference	Conference vs. enacted
TITLE VII						
RELATED AGENCIES						
Central Intelligence Agency Retirement and Disability System Fund	201,500	209,100	209,100	209,100	209,100	+7,600
Intelligence Community Management Account	129,123	149,415	144,415	149,415	158,015	+28,892
Transfer to Dept of Justice	(27,000)	(27,000)	(27,000)	(27,000)	(27,000)	
Payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund	25,000	15,000	15,000	35,000	35,000	+10,000
National Security Education Trust Fund	3,000	8,000	8,000	8,000	8,000	+5,000
Total, title VII, Related agencies	358,623	381,515	376,515	401,515	410,115	+51,492
TITLE VIII						
GENERAL PROVISIONS						
Ship Transfers (FY99 with FY2000 carryover)	-636,850	-170,000	-170,000	-170,000	-170,000	+466,850
FFRDC's/consultants	-62,000					+62,000
Defense reform initiative (DRI) Title II savings	-70,000					+70,000
National Defense stockpile transaction fund asset sale credit	-100,000					+100,000
Ellsworth AFB claims sup general provision	8,000					-8,000
Fisher Houses	1,000					-1,000
Division B - omnibus general provision (sec. 104)	2,000					-2,000
Procurement reductions	-142,100					+142,100
FY 1999 Procurement inflation Savings	-400,600			-285,600		+400,600
FY 1999 RDT&E inflation savings				-166,500		
FY 1999 Appropriations General Reduction				-3,100,000		
Information Assurance			150,000			
Guard Disaster Response			20,000			
Fuel Repricing	-502,000			-250,307		+502,000
Division B - omnibus general provision (sec. 105)	-67,000					+67,000
Additional transfer authority (sec. 8005)	(1,650,000)	(2,000,000)	(2,000,000)	(2,000,000)	(1,600,000)	(-50,000)
Indian Financing Act incentives (sec. 8024)	8,000		8,000	8,000	8,000	
Disposal & lease of DOD real property (sec. 8040)	25,000	32,200	32,200	32,200	32,200	+7,200
Overseas Military Fac Investment Recovery (sec. 8044)	38,000	4,300	4,300	4,300	4,300	-33,700
Rescissions (sec. 8058)	-415,909		-612,987	-53,405	-350,180	+65,729
Lapsed rescission	67,000					-67,000
FY 1999 Economic Adjustment (rescission) (sec. 8090)			-452,100		-452,100	-452,100
Women in Service for America Memorial (sec. 8097)			5,000		5,000	+5,000
Civilian personnel under execution (sec. 8100)				-209,300	-123,200	-123,200
Foreign Currency Fluctuations (sec. 8101)	-193,600		-171,000	-206,600	-171,000	+22,600
A-76 Studies (sec. 8108)			-100,000		-100,000	-100,000
WMD consequence management (sec. 8111)			50,000		35,000	+35,000
Travel Cards (sec. 8119)	5,000	5,000	5,000	5,000	5,000	
Recovery of DoD admin expenses from FMS (sec. 8123)			-87,000		-87,000	-87,000
Advance pay appropriation (sec. 8129)				-1,838,426	-1,838,426	-1,838,426
Transfer to Department of Transportation (sec. 8131)				(5,000)	(5,000)	(+5,000)
Aircraft leasing (sec. 8133)				11,000	19,000	+19,000
Munitions/Readiness (sec. 8134)					-100,000	-100,000
Red Cross (sec. 8137)				23,000	5,000	+5,000
United Service Organizations (sec. 8143)					5,000	+5,000
F-22 Program Transfer Account (sec. 8146)					1,000,000	+1,000,000
F-22 Program Termination Liability (sec. 8147)					300,000	+300,000
Performance Based Academic Model (sec. 8148)					5,500	+5,500
Seattle Conveyance (sec. 8153)					1,000	+1,000
Eisenhower Memorial Commission (sec. 8162)					300	+300
Rome Labs (sec. 8163)					13,000	+13,000
Aviation Support Facility (sec. 8167)					10,000	+10,000
Depot Maintenance (sec. 8169)					-400,000	-400,000
Spares (sec. 8170)					-550,000	-550,000
Base Operations (sec. 8171)					-100,000	-100,000
Munitions (sec. 8172)					-356,400	-356,400
O&M general reduction (sec. 8173)					-7,200,000	-7,200,000
O&M contingent emergency (sec. 8173)					7,200,000	+7,200,000
Total, title VIII	-2,436,059	-128,500	-1,318,587	-6,196,638	-3,350,006	-913,947
DOD-WIDE SAVINGS		-1,650,000				

DEPARTMENT OF DEFENSE APPROPRIATIONS BILL, 2000 — continued

(Amounts in thousands)

	FY 1999 Enacted	FY 2000 Request	House	Senate	Conference	Conference vs. enacted
TITLE IX						
Waiver of certain sanctions against India and Pakistan					43,000	+43,000
Grand total (before emergency funding for FY99)	250,520,548	263,265,959	268,661,503	264,693,100	267,795,360	+17,274,812
EMERGENCY FUNDING FY99						
Emergency funding (P.L. 105-277):						
Title I - Readiness	5,893,053					-5,893,053
Title II - Antiterrorism	528,927					-528,927
Title III - Y2K conversion	1,100,000					-1,100,000
Supplemental (H.R. 1141)	8,573,969					-8,573,969
Total, Emergency funding for FY99	16,095,949					-16,095,949
Adjusted total (including emergency funding for FY99)	266,616,497	263,265,959	268,661,503	264,693,100	267,795,360	+1,178,863
CONGRESSIONAL BUDGET RECAP						
Scorekeeping adjustments:						
Adjustment for unapprop'd balance transfer (Stockpile)	150,000	150,000	150,000	150,000	150,000	
Stockpile collections (unappropriated)	-150,000	-150,000	-150,000	-150,000	-150,000	
Emergency funding	-7,521,980					+7,521,980
Emergency funding	-8,573,969					+8,573,969
Spectrum auction (sec. 8124)			-2,600,000	-2,600,000	-2,600,000	-2,600,000
Subtotal	-16,095,949		-2,600,000	-2,600,000	-2,600,000	+13,495,949
Advance pay appropriation (P.L. 106-31)			1,838,426	1,838,426	1,838,426	+1,838,426
Total adjustments	-16,095,949		-761,574	-761,574	-761,574	+15,334,375
Adjusted total (including scorekeeping adjustments)	250,520,548	263,265,959	267,899,929	263,931,526	267,033,786	+16,513,238
Appropriations	(250,869,457)	(263,265,959)	(268,965,016)	(263,984,931)	(267,836,066)	(+16,966,609)
Rescissions	(-348,909)		(-1,065,087)	(-53,405)	(-802,280)	(-453,371)
RECAPITULATION						
Title I - Military Personnel	70,607,566	73,723,293	72,011,977	73,855,093	73,894,693	+3,287,127
Title II - Operation and Maintenance	84,042,814	91,268,249	93,687,750	91,894,349	92,234,779	+8,191,965
(By transfer)	(150,000)	(150,000)	(150,000)	(150,000)	(150,000)	
Title III - Procurement	48,590,420	51,851,538	53,025,397	54,592,016	52,980,714	+4,390,294
Title IV - Research, Development, Test and Evaluation	36,756,650	34,375,219	37,174,446	36,439,725	37,605,560	+848,910
Title V - Revolving and Management Funds	802,866	512,044	820,044	445,044	807,544	+4,678
Title VI - Other Department of Defense Programs	11,797,668	12,932,601	12,883,961	13,261,996	13,168,961	+1,371,293
Title VII - Related agencies	358,623	381,515	376,515	401,515	410,115	+51,492
Title VIII - General provisions	-2,436,059	-128,500	-1,318,587	-6,196,638	-3,350,006	-913,947
DoD-wide savings		-1,650,000				
Total, Department of Defense (in this bill)	250,520,548	263,265,959	268,661,503	264,693,100	267,752,360	+17,231,812
Funds provided in Supplemental Acts	16,095,949		1,838,426	1,838,426	1,838,426	-14,257,523
Total DoD funding available	266,616,497	263,265,959	270,499,929	266,531,526	269,590,786	+2,974,289
Title IX - India and Pakistan waiver of sanctions					43,000	+43,000
Other scorekeeping adjustments	-16,095,949		-2,600,000	-2,600,000	-2,600,000	+13,495,949
Total mandatory and discretionary	250,520,548	263,265,959	267,899,929	263,931,526	267,033,786	+16,513,238
RECAP BY FUNCTION						
Mandatory	201,500	209,100	209,100	209,100	209,100	+7,600
Discretionary	250,319,048	263,056,859	267,690,829	263,722,426	266,824,686	+16,505,638

1/ Included in Budget under Procurement title.

2/ FY 2000 budget request was increased by $3,000,000 for a mistake in the budget appendix.

3/ FY 2000 budget amendment added $1,845,370,000.

4/ The total recommended for Title I was reduced by $1,838,426,000, the amount provided in the FY 1999 Supplemental for advance funding of pay and retirement reform initiatives.

Mr. MORAN of Virginia. Mr. Speaker, I rise in support of the conference agreement to H.R. 2561, making FY 2000 appropriations to the Department of Defense.

As a Member of the Defense Appropriations Subcommittee, I would like to take this opportunity to recognize the strong bipartisan leadership exhibited by Chairman LEWIS and Congressman MURTHA in developing this conference report.

Confronted with the difficult task of negotiating an agreement between two vastly different bills, their bipartisan approach should serve as a model of how this entire body should work.

We have produced a strong bill that makes a number of critical investments in our nation's military, most especially the people who serve our country.

This bill funds a 4.8 percent pay increase for our military personnel and an additional $399 million to support DOD's recruiting and retention efforts such as elimination of the so-called REDUX policy.

After many long hours of negotiation, we reached a compromise on the F–22 program that will require further testing of the F–22 aircraft and make procurement of the aircraft contingent on the F–22 passing certain performance tests.

This action sends a signal to the entire defense establishment that, given the demands on today's military forces, we cannot back away from some difficult choices concerning our weapons modernization programs.

This bill carefully balances all facets of our military budget in order to sufficiently invest in hardware without shortchanging our military personnel.

For this reason, we should exercise every opportunity to demand excellence and efficiency from the money we appropriate.

I am optimistic that the outcome of this conference will set a precedent for how our subcommittees must balance our nation's defense spending priorities in today's post-Cold War era.

We have undertaken a serious debate on how to develop and procure the best weapons technology and military equipment available today without shortchanging readiness and quality-of-life issues that are equally critical to the men and women who serve in our military.

I would also like to commend the staff from both subcommittees for their assistance to my office and, most especially, their tireless work in developing this conference agreement. Their professionalism throughout this process is to be highly commended.

I have benefitted from the tremendous expertise and institutional knowledge my esteemed colleagues who sit on this Subcommittee and am proud to support this conference report.

I urge my colleagues to vote for this agreement and promptly send it to the President for this signature which I trust it will secure.

Mr. VENTO. Mr. Speaker, I rise in strong opposition to this Defense bill. I am concerned that this bill does not fit within existing priorities and will make it extraordinarily difficult to address budget reality. This measure appropriates $267 billion—$4.5 billion over the Administration request and $8 billion when all aspects of 2000 spending are calculated. Moreover, $5 billion has been added to advance previous 1999 emergency bills. Overall, this bill easily represents a $20 billion increase in defense spending for 2000—a year when the overall category is supposed to decrease under the caps by some $25–30 billion and collectively translates into a $50 billion reduction from other programs in the budget!

H.R. 2561 relies heavily upon budget gimmicks. The GOP uses over $10 billion in budget slight of hand, suggesting that spending is reduced by $1 billion by simply delaying defense contracts, declaring $7.2 billion in emergency spending to beat the budget caps and claiming over $2 billion credit for sale of the electromagnetic spectrum. These actions defy common sense and the net effect will result clearly in higher spending and this House ought to acknowledge the impact rather than invest in scapegoats.

Surprisingly, the Republicans opted to undermine peacekeeping efforts in the Balkans by not providing any funds for the ongoing operations in Kosovo. By such action, the GOP has turned their backs on the U.S. role in NATO and our involvement within the Balkans. It is imperative that this Congress continue to maintain our commitment in this troubled region by supporting the important peacekeeping mission in Kosovo. No doubt a supplemental spending bill will appear in the near future to fund this and other short changed commitments.

How can we justify appropriating a whopping $4 billion to a national missile defense system that is out of line with the 1972 Anti-Ballistic Missile Treaty and which on technical grounds has failed to perform? This flawed policy at its worst will invite a new arms race, thus trashing a treaty for a missile defense system of dubious performance. Nonetheless, the Republican led House has found a way to waste federal resources on a budget busting and ineffective missile defense when reports suggest that soldiers are living in substandard housing and quitting in droves.

This Conference Agreement provides over billions for aircraft not requested. Specifically, the funding for the KC 130J Hercules alone is $600 million and the National Defense Sealift is $717 million, representing $320 million over the Administrations request. Others collectively include bombers, fighters and helicopters which well exceed $1.1 billion beyond the Presidents request and numerous other procurement programs that go off the deep end.

The most controversial aircraft in this bill is the F–22. This Air Force modernization project was constructed to counter the soviet Union and is estimated to cost well over $40 billion, or $14–$18 billion a year, greater than the cumulative budget of several Federal Departments combined a year, when in full production for one aircraft program. Fortunately, common sense and reality limited funding for such in this bill. However, this measure does provide $1 billion to research and develop "test" aircraft. No doubt the advocates of the F–22 will live to fight another day and will be well fed during the interim.

Congress should keep in mind that we just don't need smart weapons, but smart soldiers and sailors. Our priorities should concentrate on investing in the men and women in the Armed Forces. Such paramount investment constitutes health care and education opportunities for our soldiers and future generations long before they put on a uniform Unfortunately, this bill and its distorted priorities precludes possible investment in people in other parts of the budget. This represents the classic slogan—"guns vs. butter". We can't have both. This measure takes us down the path of investment in hardware, not personnel.

I agree with the important and much needed military pay and pension increases and health care for our military personal, but not the pension changes. This increased military spending brings big budget problems for tomorrow and years ahead. It is my hope that this Republican led Congress will face up to the inflated costs inherent in the policy blueprint of this measure and get their heads out of clouds. and feet back on the ground of the real world.

This measure set us on a policy path where expensive weapon systems and hardware costs soak up all the available funds committing us to a faulty military policy and short changing key people programs. Such people programs are essential to our nation's security both economic and militarily.

Mr. STARK. Mr. Speaker, I rise today in opposition to H.R. 2561, the Defense Appropriations bill for Fiscal Year 2000. Spending on the F–22 is only a small portion of an already bloated Defense Appropriations bill. The House of Representatives will vote today on spending $267.8 billion for the Department of Defense. The GOP is unable to come up with adequate funding for Labor-HHS, yet they have mysteriously come up with $267.8 billion for defense spending. I have a suggestion for the leadership—cut wasteful defense programs.

The Air Force can expect to receive approximately $1 billion to develop "test" F–22 aircraft and $1.2 billion for research and development on the plane. Lockheed Martin's K Street lobbyists are certain to get a bonus in their stocking at Christmas. Thanks to Lockheed's relentless lobbying efforts and shrewd production prowess, the company was able to convince House and Senate conferees that the program really is worthwhile.

The Department of Defense has spent $18 billion on the F–22 since the mid-1980's. The project is too expensive and simply not needed. The program was initiated in 1981 to meet the threat of next generation Soviet aircraft. However, that threat no longer exists. The war in Kosovo is the perfect example of why the U.S. does not need the F–22. The current fleet of F–15s and F–16s demonstrated U.S. dominance in the air in Kosovo. Proponents of the F–22 claim that the aircraft is far superior than the F–15 in air to air combat. This may be true, but we never had air to air combat in Kosovo and we don't need anything superior. The Yugoslav Air Force never engaged the U.s. in air to air combat because they would have faced defeat much sooner. No nation in the world comes close to challenging U.S. air dominance. But there are many nations whose children's elementary and secondary school aptitude tests far exceed those of the U.S.

We must ask ourselves, where are our priorities? When is classroom size reduction, providing health insurance to 11 million children and full prescription drug coverage to 40 million elderly going to be a priority for this

Congress? It is deplorable and shameful that the wealthiest industrial nation cannot afford quality health care or adequate education. Yet at the same time, our nation is able to boast of its air dominance and insist on more.

I urge my colleagues to join me in saying, "enough is enough." I urge a no vote on H.R. 2561.

Mr. MOORE. Mr. Speaker, I rise today in support of H.R. 2561, the defense appropriations conference report, but with reservations. I voted for this conference report because I believe in a strong national defense and I support the men and women who risk their lives to defend our nation. I am, however, strongly opposed to the manner in which this conference report funds these important functions. I believe in a strong defense, not the budget gimmicks that the majority uses to hide the actual amount of spending in the bill.

I voted in favor of a 4.8 percent pay increase for military personnel who risk their lives for this country, not an agreement that shifts spending of an estimated $10.5 billion our of fiscal year 2000 and pushes personnel payments into the next fiscal year. I voted in favor of our commitment to providing the strongest defense in the world, not delaying over $1.3 billion in payments to defense contractors. I voted in favor of new defense technologies that will save lives, not for projects like the F–22 that my colleague from California, the Chairman of the Defense Appropriations Subcommittee says, "has become a burden on the rest of the military."

Mr. Speaker, I am offended by the manner in which this Congress is proceeding with its fiscal duties. Shifting $10.5 billion of FY 2000 dollars to FY 2001, delaying contractor payments into the next fiscal year and declaring a $7.2 billion in "emergency" is not being fiscally responsible and it is not being honest with the American people about adherence to budget caps.

On September 29th, the non-partisan Congressional Budget Office released a letter stating that Congress has already broken the budget caps and has already consumed over $18 billion of the Social Security surplus. Mr. Speaker, as we move forward in the appropriations process, I hope both parties will work together to preserve and protect Social Security and Medicare, while providing for our country's basic needs. I hope the leadership will choose to keep faith with Americans and stop resorting to these kinds of budget gimmicks, which only seek to deceive people about the federal budget.

Mr. BENTSEN. Mr. Speaker, I rise today in support of H.R. 2561, the Fiscal Year 2000 Department of Defense Appropriations bill. This bill will provide $267 billion for defense programs which is sufficient to meet the needs of today's military. However, I am concerned that $18 billion of this bill has been designated as "emergency spending" and would therefore not be subject to the budgetary caps included in the Balanced Budget Act of 1997. I support providing additional resources to the Department of Defense, but I believe that we must be honest with the American people in reconciling our need for additional defense spending with our ability to do so under the existing budget caps.

I would like to highlight an important project included in this bill that would provide $10 million for the Disaster Relief and Emergency Medical Services (DREAMS) program. This is the third installment on funding for DREAMS that would help to save lives and reduce health care costs. In 1997, Congress provided $8 million for DREAMS and in 1999, $10 million for DREAMS. These federal funds have been leveraged with State of Texas funding. financial support from the National Institutes of Health and the ANA and philantropic sources.

DREAMS is a joint Army research project with the University of Texas Houston Health Science Center and Texas A&M University System. The DREAMS project will demonstrate in both civilian and military terms how to attend to wounded soldiers from remote locations during emergency situations. The project will fund three different research projects, including Emergency Medical Services (EMS), diagnostic methods and therapies for shock injuries, and chemical as well as biological warfare defense.

The EMS program will use emergency helicopters to fly directly to injured persons and treat these individuals after a trauma injury. Using the fiber-optic traffic monitoring system already being used in Houston, the DREAMS project will help helicopters to reach their victims faster. The second part of this EMS program is to collect real-time patient data and relate this information back to trauma physicians to make immediate diagnosis and recommended treatments.

The chemical and biological warfare program will help to develop chemical sensor tests to treat victims on toxic substances. In addition, DREAMS in developing mechanisms for the biological decontamination and detoxification of these chemical agents. The City of Houston is an ideal location for these tests because of that large number of petrochemical and industrial facilities located in our area.

The diagnostic methods and therapies program will determine possible applications to treat patients during the "golden hour" following a traumatic injury. These methods will include mechanisms to treat the decreased blood flow that is common in many trauma patients. This project is also exploring how to prevent cell death as a result of traumatic injury. The DREAMS project will yield new results and procedures to help patients become stabilized before sending them to trauma centers.

I am pleased that Congress has included this vitally important research funding and urge my colleagues to support this measure.

Mr. BLUMENAUER. Mr. Speaker, I rise today in opposition to the conference report for Defense Appropriations for Fiscal Year 2000. This bill is replete with budget gimmicks that seek to mask the true cost of funding the Department of Defense, such as declaring billions of spending to be an arbitrary "emergency" and delaying payments to defense contractors. Unfortunately, those gimmicks cannot hide the fact that this bill exceeds the Pentagon's request by $8 billion, with much of that money spent on unnecessary and even unrequested projects such as $264.3 million for the C–130 airplane and $375 million to build the LHD–8 ship in Mississippi. This bill also does not meet our commitments to fund current peacekeeping operations or reconstruction in Kosovo. This sends a disturbing message to the rest of the world that we are not willing to keep our promises to our allies in times of crisis. For these reasons, among others, I am voting against this conference report.

Mr. HOLT. Mr. Speaker, I rise today in support of H.R. 2561, the FY 2000 Defense Appropriations Bill.

There are a number of good things in the bill and I applaud the Members of the Subcommittee for their efforts. I applaud the inclusion of $165 million to boost the military pay raise to 4.8 percent, increasing the 4.4 percent raise that was funded in the FY 1999 emergency supplemental.

While I intend to vote for the package today, I remain extremely concerned about the manner in which this bill fits into the overall budget picture and about the number of budgetary gimmicks included in the legislation.

The bill is $3.8 billion over the President's request. The bill provides $267.1 billion for various defense programs in FY2000, $269.7 billion if spectrum asset sales are excluded. Of this amount, $7.2 billion of routine Operation and Maintenance appropriations are designated as "emergency" for budget scoring purposes, and an additional $10.5 billion in outlays are not counted under the budget caps due to "directed scoring" to the CBO by House leadership.

While it is not clear if the President will sign this bill, I am hopeful that he will examine this legislation in the context of the important needs our government has left to fund for the next fiscal year.

Mr. SPRATT. Mr. Speaker, when combined with defense appropriations in the Military Construction and Energy and Water bills, the Defense Appropriations Conference Report for FY 2000 brings total defense funding to $289 billion, $7.4 billion more than the President requested. This level of spending is above the ceiling imposed by the Balanced Budget Act of 1997; and since the on-budget surplus of $14.4 billion in FY 2000 has been committed already by other appropriations bills, this spending level could lead to borrowing from the Social Security surplus in FY 2000.

To avoid the appearance of being over the caps and into Social Security, the conference report resorts to a number of "gimmicks." It classifies $9 billion in new budget authority as "emergency spending." It directs that outlays in FY 2000 be scored at $10.5 billion less than CBO estimates. As an offset to extra spending, it includes non-germane provisions that direct spectrum sales in FY 2000, although CBO deems them improbable, and it scores the proceeds of the spectrum sales at $2.6 billion, although CBO disputes any proceeds in FY 2000.

I support most of the defense spending in this agreement, but not the "gimmicks." This is no way to budget. This report allows "spending caps" and "emergency spending" to mean whatever the majority says they mean. It disregards CBO's scorekeeping, despite its track record for accuracy, and by fiat inserts outlay estimates of its own. These rules, disciplines, and procedures have helped us achieve the first budget surpluses in thirty years. If we treat these rules in the cavalier way this report treats them, our on-budget surpluses are not destined to last long, and we may soon find ourselves borrowing again from Social Security.

This conference agreement provides $269.4 billion in discretionary budget authority (BA) for defense in FY 2000. This includes $9.0 billion in emergency funding and $2.6 billion in funding that is "offset" by spectrum sales (more details below). Of the $9.0 billion in emergency funding, $1.8 billion was previously appropriated in the Kosovo Emergency Supplemental bill for military pay raises. In conference, $7.2 billion in Operations and Maintenance (O&M) funding already included in the House bill was designated as an emergency. The purpose of this increase was not to increase the total amount of defense funding (the conferees actually cut the House bill). Rather, it was to raise the caps and create room for an increase to the allocations of other subcommittees, such as Labor-HHS-Education.

According to the Appropriations Committee's press release, the gross total of the bill (including emergencies) is almost $900 million less in BA (and $3.3 billion less in outlays) than the House-passed version of the bill, but $17.3 billion more in BA than the 1999 appropriated level excluding emergencies. According to the press release, the following accounts were increased. (Figures are dollar increases compared to President's request except Military Personnel.):

O&M—$1.0 billion.

Procurement—$1.1 billion.

R&D—$3.2 billion.

Military Personnel—4.8% pay raise vs. 4.4% pay raise.

BUDGET GIMMICKS IN THE BILL

Emergency Declaration: Besides the $1.8 billion for "emergency pay" contained in the Kosovo Supplemental, the conference report declares $7.2 billion BA for routine O&M activities to be an emergency even though these activities were not declared emergencies in either the original House or Senate bills. This gimmick is intended to help other subcommittees, not the defense subcommittee, because the emergency will increase the total caps, and money is fungible. To facilitate this kind of chicanery, the Senate has adopted a new rule, which requires 60 votes to declare a non-defense emergency, but only a simple majority to declare a defense emergency.

Delaying Contractor Payments: The conference report included two provisions, sections 8175 and 8176, not found in either the original House or Senate bills, that relax the time table for Pentagon payments to defense contractors by an extra amount of time ranging from five to seven days longer than current practice, depending on the type of payment. This will result in slipping about $1.250 billion in outlays from FY 2000 into FY 2001.

Scoring Adjustments: Several adjustments have been made to CBO's scoring of appropriations bills that contain defense funding:

(1) Outlay "plugs" or "directed scorekeeping" total $10.533 billion. As explained below, this consists of $9.7 billion in general scorekeeping of outlays and $833 million related to contingent emergencies.

(2) $2.6 billion has been added as a "credit" for provisions that direct the Federal Communications Commission to conduct a spectrum auction.

CBO does not believe that the spectrum auction of television frequencies can be completed in 2000, and scores its revenue potential at zero for FY 2000. If the spectrum sales were to occur on a more reasonable schedule, CBO believes they would only raise $1.9 billion, not $2.6 billion. The $9.7 billion plug is supposed to represent the difference between OMB and CBO scoring of the President's budget, but that figure includes the difference in contingent emergencies between OMB and CBO. Nevertheless, CBO is ordered to count contingent emergencies twice for a total of $10.533 billion in "plugged outlays," $833 million more than the discrepancy between CBO and OMB.

SUMMARY OF GIMMICKS

[In billions of dollars]

	BA	Outlays
Directed scorekeeping or plugs	0.000	10.533
Spectrum sales	2.600	2.600
New "emergencies"	9.038	6.591
Delayed contractor payments	0.000	1.250
Total	11.638	20.974

BUDGET VARIANCE REPORT

The following table compares current defense spending levels with levels specified in the Balanced Budget Act of 1997:

COMPARING DEFENSE PLANS: BBA VS. PRESIDENT'S CURRENT PLAN VS. REPUBLICAN RESOLUTION

[In billions of dollars]

	2000	2001	2002	2000–2002 total
Balanced Budget Agreement of 1997 (BBA):				
Budget authority	277.3	231.9	289.7	848.8
Outlays	275.7	272.8	273.9	822.4
President's current plan:				
Budget authority	283.4	301.3	303.2	888.0
Outlays	280.3	284.4	293.3	858.0
Republican FY 2000 budget resolution:				
Budget authority	291.8	304.8	309.3	905.9
Outlays	283.4	288.9	293.4	865.7
President above/below BBA (squeeze on NDD):				
Budget authority	6.2	19.4	13.5	39.1
Outlays	4.6	11.6	19.4	35.6
Republican above/below BBA (squeeze on NDD):				
Budget authority	14.6	22.9	19.6	57.1
Outlays	7.7	16.1	19.5	43.3
Republican above/below President (squeeze on NDD):				
Budget authority	8.4	3.5	6.1	18.0
Outlays	3.1	4.5	0.1	7.7

Notes: (1) The BBA has been adjusted for emergencies, both released and anticipated to be released. (2) The President's plan is from the June Mid-Session Review and includes emergencies, both released and anticipated to be released. (3) the Republican Budget Resolution has been adjusted for emergencies, both released and anticipated to be released. (4) the 1998 and 1999 levels in both the President's plan and the Republican plan are per OMB, actual for 1998 and estimated for 1999. (5) All emergencies are per OMB estimates.

This bill departs from the Balanced Budget Act of 1997, and leaves in its wake a lot of budget problems. For instance, in August 2000, when CBO and OMB do their reviews of the budget, outlays could easily be tracking CBO's projections, in which case outlays would be $11.6 billion greater than the estimates plugged into this report. Or consider the next fiscal year, FY 2001. The discretionary spending cap will be coming down in FY 2001 while defense spending will be going up, up by $22.9 billion in BA and $16.1 billion in outlays above the Balanced Budget Act ceilings. Gimmicks may get this bill over the threshold, but they may not last the full fiscal year, and may make budgeting in the next fiscal year far more difficult. This is the wrong way to run a budget.

Mr. LEWIS of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 372, nays 55, not voting 7, as follows:

[Roll No. 494]

YEAS—372

Abercrombie
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth-Hage
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Davis (FL)
Davis (VA)
Deal
DeLauro
DeLay
DeMint
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Engel
English
Etheridge
Evans
Everett
Ewing
Farr
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kildee
Kilpatrick
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski

LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Manzullo
Martinez
Mascara
Matsui
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Ose
Oxley
Packard
Pallone
Pascrell
Pastor
Pease
Pelosi
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Regula
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sánchez
Sandlin
Sanford
Sawyer
Saxton
Schaffer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—55

Ackerman
Baldwin
Barrett (WI)
Blumenauer
Boswell
Brown (OH)
Capuano
Conyers
Davis (IL)
DeFazio
DeGette
Delahunt
Deutsch
Doggett
Ehlers
Eshoo
Fattah
Filner
Ganske
Green (WI)
Hefley
Hooley
Jackson (IL)
Kind (WI)
Kucinich
Lee
Lofgren
Luther
Markey
McCarthy (MO)
McDermott
McGovern
McKinney
Miller, George
Minge
Nadler
Oberstar
Obey
Olver
Owens
Paul
Payne
Peterson (MN)
Rangel
Rivers
Sanders
Schakowsky
Shays
Stark
Upton
Velázquez
Vento
Waters
Watt (NC)
Waxman

NOT VOTING—7

Carson
Danner
Jefferson
Kennedy
McCarthy (NY)
Scarborough
Wise

□ 1146

Messrs. DAVIS of Illinois, RANGEL, and OLVER, and Ms. MCKINNEY changed their vote from "yea" to "nay."

Mrs. MEEK of Florida and Mr. UDALL of Colorado changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. KENNEDY of Rhode Island. Mr. Speaker, on rollcall No. 494, the conference report on H.R. 2561, the Defense Appropriation Act of FY 2000, had I been present, I would have voted "yea."

Mrs. McCARTHY of New York. Mr. Speaker, due to circumstances beyond my control, I was unable to vote on the Defense Appropriations Conference Report. Had I been present, I would have voted "yes" on rollcall vote No. 494.

EXPORT ENHANCEMENT ACT OF 1999

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 327 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 327

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1993) to reauthorize the Overseas Private Investment Corporation and the Trade and Development Agency, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute consisting of the bill modified by the amendments recommended by the Committee on International Relations now printed in the bill. Each section of that amendment in the nature of a substitute shall be considered as read. No amendment to that amendment in the nature of a substitute shall be in order except those printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII and except pro forma amendments for the purpose of debate. Each amendment so printed may be offered only by the Member who caused it to be printed or his designee and shall be considered as read. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Florida (Mr. DIAZ-BALART) is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 327 is a modified, open rule providing for the consideration of H.R. 1993, the Export Enhancement Act of 1999. The rule provides for one hour of general debate, equally divided between the chairman and the ranking minority member of the Committee on International Relations.

The rule makes in order the Committee on International Relations amendment in the nature of a substitute as an original bill for the purpose of amendment.

Further, the rule provides for the consideration of only pro forma amendments and those amendments preprinted in the CONGRESSIONAL RECORD prior to their consideration, which may be offered only by the Member who preprinted it or by his designee, and shall be considered as read.

As has become standard practice, the rule allows the Chairman of the Committee of the Whole to postpone votes during consideration of the bill and to reduce voting time to 5 minutes on postponed questions if the vote follows a 15 minute vote.

Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, I believe this is an appropriate rule for the consideration of this legislation. It is legislation to reauthorize several very important United States investment trade promotion programs, including the Overseas Private Investment Corporation known as OPIC, the Trade and Development Agency and the export functions of the International Trade Administration of the Department of Commerce.

OPIC's authority to operate lapsed on September 30, but it was extended by the continuing resolution on an emergency basis for only a few days more. This bill must pass the House and the Senate, as you know, in identical forms and be signed by the President in a very short time frame if these programs are to be able to continue uninterrupted. Therefore, I think that the preprinting requirement in this rule is an appropriate manner to allow interested Members to offer amendments while expediting the bill's consideration.

H.R. 1993, the underlying legislation, reauthorizes most commercial export promotion programs that involve the United States Government. OPIC is authorized for 4 years and continuing under this bill will be able to continue its self-sustaining operations without raising its liability ceiling, which is an improvement and a significant change over the bill that was considered in the 104th Congress.

In addition, H.R. 1993, the underlying legislation, codifies the cost-sharing and success fees of the Trade and Development Agency and provides the Agency with $48 million, the amount requested by the President. It also provides funding for all and reauthorizes three programs of the International Trade Administration in the Commerce Department, $202 million for the U.S. and Foreign Commercial Service, $68 million for the Trade Development Program, and $4 million for the Market Access and Compliance Program.

I am encouraged that the bill directs the Department of Commerce to create a special initiative to promote trade opportunities and remove market barriers in sub-Saharan Africa and in Latin America. Obviously, Latin America is a tremendous export market for the United States and very important to the United States economy.

I believe that this is a fair rule and it brings forth a very good underlying bill. I commend my colleagues, the gentleman from New York (Mr. GILMAN), chairman of the Committee on International Relations; the gentleman from New Jersey (Mr. MENENDEZ) and the gentleman from Illinois (Mr. MANZULLO) and the others who have worked very hard on this legislation for advancing the bill. I certainly share their support for this important piece of legislation.

Mr. Speaker, House Resolution 327 is a fair rule. I would urge, and I do urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume. I want to thank the gentleman from Florida (Mr. DIAZ-BALART) for yielding me this time.

This rule will allow for consideration of H.R. 1993, which is the Export Enhancement Act of 1999.

As my colleague from Florida has explained, this rule provides for 1 hour of general debate to be equally divided and controlled by the Chairman and ranking minority member of the Committee on International Relations. Under this rule, only amendments which have been preprinted in the CONGRESSIONAL RECORD will be in order.

The bill reauthorizes the Overseas Private Investment Corporation. It also authorizes appropriations for the Trade and Development Agency and the International Trade Administration of the Commerce Department.

Foreign trade is a critical element of our national economy. An estimated 12 million American jobs are directly tied to U.S. exports. The Overseas Private Investment Corporation is an important part of our government's efforts to increase exports and create American jobs; and in the past 25 years, the corporation has generated about 237,000 jobs and $58 billion in exports. This is done through self-generating revenues, not with taxpayer-supported dollars.

This bill contains important initiatives. The Overseas Private Investment Corporation is directed to increase support for small businesses. The Commercial Service is required to station employees in at least 10 countries in sub-Saharan Africa. The International Trade Administration is required to develop an outreach program to increase exports for minority-owned businesses.

Mr. Speaker, this is a good bipartisan bill. It appears to have strong support on both sides of the aisle. Unfortunately, the rule does permit only amendments that have been preprinted in the CONGRESSIONAL RECORD. This restriction is unnecessary.

Mr. Speaker, I reserve the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN), the chairman of the Committee on International Relations, and at the same time commend him once again for his hard work on this legislation.

□ 1200

Mr. GILMAN. Mr. Speaker, I rise in support of the rule governs the consideration of the Export Enhancement Act of 1999, H.R. 1993. This bill reauthorizes several important U.S. investment trade promotion programs, including the Overseas Private Investment Corporation, OPIC; the Trade and Development Agency, the TDA; and the export functions of the International Trade Administration, ITA, of the Department of Commerce.

OPIC's authority to operate lapsed on September 30, but it has been extended by the continuing resolution on an emergency basis. The stop-gap funding measure will keep this important agency in operation only through the next 10 days. It is vitally important that we consider the Export Enhancement Act as soon as possible, and that we forward this bill to the President for his signature.

Reconciling its provisions with the Senate counterpart OPIC authorization will take additional time, a commodity in increasingly short supply as we approach of the end of our legislative session.

This rule, Mr. Speaker, would provide the best prospects for its prompt enactment, a goal which will boost our exports and level the competitive playing field for our companies that are facing stiff competition and exclusionary practices around the world.

For exporters, OPIC, TDA, and the ITA programs all provide practical assistance in their fight to win export sales in highly competitive overseas markets.

The act reauthorizes OPIC for 4 years, continuing its self-sustaining operations without raising OPIC's liability ceiling. OPIC provides our American companies political risk insurance and project financing for U.S. investments in developing nations and emerging economies. It has undertaken new initiatives in Africa, in Central America, in the Caribbean, and the Caspian Basin, and has stepped up efforts to help more small businesses enter the global economy.

Mr. Speaker, over the past 2½ decades OPIC has generated some 237,000 jobs and $58 billion in exports. Producing a net income of $139 million just in fiscal year 1998 alone, its reserves reached a record level of $3.3 billion. It is anticipated that the OPIC agency will contribute $204 million in fiscal year 2000 to support all the other activities and programs in the international affairs budget.

According to a September, 1997, GAO report to our committee, and I quote, "Historically, OPIC's combined finance and insurance programs have been profitable and self-sustaining, including costs due to credit reform and administration."

With 12 million American jobs now directly tied to U.S. exports, there could be little doubt that the trade promotion agencies authorized in this legislation play a critically important role in our economy. Recently announced trade statistics showing declining U.S. exports underscores the urgency of promptly enacting this measure.

Mr. Speaker, according to the most recent Commerce Department reports, in 1998 U.S. exports actually declined below their level from the preceding year for the first time in over a decade. That decline, together with steadily rising imports, has contributed to a 1998 U.S. trade deficit of $169 billion, nearly $60 billion higher than in 1997. In current trends, this deficit is expected to top $200 billion later on this year.

Accordingly, Mr. Speaker, I urge the adoption of this rule.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Speaker, Japan continues to violate market access commitments in the form of denying rice imports from American farmers. India denies market access to the United States motion picture industry. The European Union denies market access in so many areas it is now legend.

The gentleman from New York (Chairman GILMAN) talked about a $167 trade deficit. Let me upgrade that for the projection for next year. The last quarter of 3 months was $87 billion. If that is annualized, we are talking about $340-some billion in trade deficits in 1 year, more than a third of a trillion dollars. It is unbelievable.

I have an amendment for this bill that changes section 6(d). The bill calls for a report on violations on those trade agreements we have. The Traficant amendment maintains that, but requires that report to be made to Congress. But also it requires the International Trade Administration to also tell us what is the market access of every country, and it stipulates a set of criteria specifying those countries with trade surpluses with America, and telling us what products we could be selling there, what market access is being denied, and what would that impact be on American jobs.

I know we have a lot of different trade reports, a lot of different legislation. I have talked with the respective chairmen. They may want to, at the proper time or in conference, move this into the reporting mechanism so it is not as duplicative, if it is.

However, the market access information is most important. I want the Congress to know when this amendment comes up, it does not only deal with the report to Congress on those countries that are violating our trade agreements, but also for the International Trade Administration to tell us what is available in those countries if we opened up and got those free markets.

With that, I am hoping that the committee will look favorably upon the amendment. I am willing to tailor any language necessary to conform it with the final goals.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think that the rule is fair. The underlying legislation is obviously extraordinarily important. Mr. Speaker, I would urge support not only for the rule but for the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of H.R. 1993, the Export Enhancement Act, and specifically in support of the Overseas Private Investment Corporation. Since 1971, OPIC has worked with U.S. investors who do business overseas by supporting projects where private financing and insurance are unavailable or insufficient.

OPIC provides insurance against political risk, financing assistance through loans and loan guarantees, and financing for private investment funds that provide equity to businesses overseas.

OPIC also acts as an important advocate for American businesses in foreign countries. The facilitation of private investments overseas provides benefits for the American economy. Since 1971, OPIC has paved the way for upwards of $58 billion in exports and the creation of over 200,000 jobs.

Today OPIC supports U.S. businesses in 140 countries. Perhaps, most importantly, this successful program is self-sustaining and operating at no cost to the American taxpayer. An important part of OPIC's work is focusing on and helping small businesses. I look forward to voting in favor of this legislation, not only the rule but the underlying bill, that will reauthorize the program through 2003. I urge my colleagues to do the same.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Speaker, I thank the gentleman for yielding time to me.

As one of the cosponsors with the gentleman from Illinois (Mr. MANZULLO) on this legislation, I want to rise to support the rule and also support the legislation. This is one of those pieces of legislation that has been worked on in a bipartisan effort. It has many Democrat cosponsors on it. It is one that brings us together on the issue of trade because it is about creating American jobs at home and making sure that America is competitive abroad.

I know that during the debate we will hear different views of that, but the fact of the matter is that this is an agency that gives money to the Federal Treasury, that ultimately promotes American interests abroad, that creates jobs at home, and at the end of the day, also serves America's national foreign policy interests by having our entrepreneurs abroad engage in those economies.

So for all of those reasons, I urge adoption of the rule, and I urge adoption of the underlying legislation.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, again supporting the rule, supporting the underlying legislation, I also yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 327 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, (H.R. 1993).

□ 1210

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1993) to reauthorize the Overseas Private Investment Corporation and the Trade and Development Agency, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from New Jersey (Mr. MENENDEZ) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the Export Enhancement Act of 1999, H.R. 1993, and I would like to commend the gentleman from Illinois (Mr. MANZULLO), the author of this important legislation, and the ranking minority member, the gentleman from Connecticut (Mr. GEJDENSON), and the gentleman from New Jersey (Mr. MENENDEZ) for their support.

This bill reauthorizes several U.S. investment and trade promotion programs, including the Overseas Private Investment Corporation, OPIC; the Trade and Development Agency, TDA; and the export functions of the International Trade Administration, ITA, all of the Department of Commerce.

OPIC's authority to operate lapsed September 30, but it has been extended by the continuing resolution on an emergency basis. That stopgap funding measure will keep this important measure in operation only through the next 10 days, until October 22. It is vitally important that we consider the Export Enhancement Act as expeditiously as possible and that we submit this bill to the President for his signature. Reconciling its provisions with the Senate counterpart OPIC authorization will take additional time, a commodity that is in increasingly short supply as we approach the end of our legislative session.

For exporters, OPIC, TDA, and ITA programs all provide practical assistance in their fight to win export sales in highly competitive overseas markets. The administration fully supports enactment of this measure, and has just released a statement of administration position pointing out its substantial benefits for our American workers.

The Act reauthorizes OPIC for 4 years, continuing its self-sustaining operations without raising OPIC's liability ceiling. OPIC provides American companies political risk insurance and project financing for U.S. investments in developing nations and in an emerging economies. It has undertaken new initiatives in Africa, in Central America, and in the Caribbean and the Caspian Basin, and has stepped up our efforts to help more small businesses enter the global economy.

Over the past 2½ decades, OPIC has generated some 237,000 jobs and $58 million in exports. Producing a net income of $139 million just in the last fiscal year of 1998, its reserves have now reached a record level of $3.3 billion. It is anticipated that the OPIC agency will contribute over $200 million in fiscal year 2000 to support all the other activities and programs in the international affairs budget.

According to a September 1997 GAO report to our committee, "Historically, OPIC's combined finance and insurance programs have been profitable and self-sustaining, including cost due to credit reform and administration."

Over its 28-year history, the OPIC agency generated some $14 billion in U.S. exports generated by New York State companies.

□ 1215

It has supported more than 55,000 American jobs created by New York State projects alone. In the last 5 years, OPIC has identified $672 million in foods and services that they will buy from New York State suppliers, 57 percent of which are small New York businesses.

These alone will create more than 2,000 local jobs for New Yorkers. New York businesses are seeking possible OPIC support for some 151 future projects, representing a potential $12 billion of investment, and all of these for just one State, not to mention all the other States that are being benefited by this program.

For those Members concerned about how OPIC operates overseas, permit me to point out that OPIC operates a comprehensive program to monitor every project that it assists for impact on our U.S. economy, on our environment, on workers' rights and on host company development. Each year, each investor must complete detailed information about the actual financial flows associated with the project, information on financial issues and host country development aspects of the project.

OPIC has criteria for detailed, on-site project monitoring for all projects that impact potentially sensitive U.S. economic sectors, all environmentally sensitive projects and a group selected through random sampling theory. Each project that receives an on-site visit is evaluated for impact on the United States and host country economies and employment, impact on the environment and conformance with internationally recognized workers' rights.

With 12 million American jobs now directly tied to U.S. exports, there can be little doubt, Mr. Chairman, that the trade promotion agencies authorized in this legislation do play a critically important role in our Nation's economy. Recently announced trade statistics showing declining U.S. exports underscores the urgency of promptly enacting this kind of a measure. According to the most recent Commerce Department reports, in 1998 U.S. exports actually declined below their level from the preceding year for the first time in a decade. That decline, together with steadily rising imports, has contributed to a 1998 U.S. trade deficit of $169 billion, nearly $60 billion higher than the deficit in 1997. At current trends, this trade deficit is expected to top $200 billion later this year.

During the general debate, I will also ask the gentleman from Illinois (Mr. MANZULLO) to offer a technical and perfecting amendment on my behalf. It takes into account the concerns of my committee colleagues about the provisions of the Urban Initiative of the International Trade Administration. Accordingly, Mr. Chairman, I urge my colleagues to support this important legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. MENENDEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today we are taking a very important step to help reverse the trade deficit and support American companies by reauthorizing the Overseas Private Investment Corporation, the Trade Development Agency, and the International Trade Administration programs. I want to take a moment to thank the distinguished chairman of the full committee, the gentleman from New York (Mr. GILMAN), for his work and his support, as well as my ranking Democrat on the committee, the gentleman from Connecticut (Mr. GEJDENSON), for his encouragement and support in bringing us through the committee and to the floor today, and my coauthor of the legislation, the gentleman from Illinois (Mr. MANZULLO). Working together, we have fashioned a bipartisan bill that promotes America's interests at home and abroad.

With the U.S. trade deficit reaching record highs, $24.6 billion in June, America needs to take immediate steps to reverse the deficit by helping American companies to export American products. This bill begins that process by reauthorizing these agencies and by looking at new ways in which we can help American companies, small, medium and large, to harness the opportunities of emerging markets throughout the world, particularly in Africa and Latin America.

At a time when the Congress is striving to adhere to the constraints of a balanced budget, when we talk about the reauthorization of OPIC, it stands apart as a revenue-earning program. OPIC's budgetary contributions are returned to the Function 150 or the International Affairs account and help offset the deep cuts that have been made to our foreign aid and development programs. That is a fitting relationship, as OPIC was created by President Nixon to complement our foreign aid programs. OPIC not only complements our foreign aid programs, it is helping to sustain them while simultaneously providing a much needed service and market opportunity to American businesses.

Let me give an example. In my home State of New Jersey, OPIC has provided more than a billion dollars in financing and insurance, generating $3 billion in U.S. exports, items that were created here, manufactured here, and exporting them abroad, and created over 10,288 jobs. From Newark to Camden to Princeton, OPIC has supported New Jersey companies and their suppliers, and that is only one small example of the many places across the country for which that is a reality as well.

Turning to the International Trade Administration, among the branches of the International Trade Administration is the U.S. and foreign commercial services. These offices overseas and at home provide real hands-on assistance to small- and medium-sized companies that need help getting started in the export arena. We have to face it, we are living in a global trading economy. The fact of the matter is, we want to engage more of our companies in the opportunities to be able to export their products and services abroad. The U.S. foreign commercial service helps us do that.

TDA is also an important complement to ITA and OPIC's efforts. TDA is often the crucial factor between a project going to an American company or to a foreign company. By funding feasibility studies, orientation visits, specialized training grants, business workshops and various forms of technical assistance, TDA enables American businesses to compete for infrastructure and industrial projects in middle income and developing countries.

So when we are there creating the standard and helping to create that standard, the reality is we are creating an American standard and in creating an American standard we create the opportunity for American companies to succeed abroad.

So as we seek to address our trade deficit and maintain our competitive edge in the global market, we need to look to programs like these which yield big benefits for small costs. We need to understand that American exports mean American jobs here at home, and that the U.S. exports of goods and services are estimated to support more than 12 million domestic jobs. Each one billion in dollars in U.S.

goods and services exports supports some 13,000 U.S. jobs. We want to increase those. We want to create more jobs at home. We want to improve the profitability of American companies. We ultimately receive revenues from that and everybody prospers.

So I urge Members to support the bill. These programs are not corporate welfare. They are opportunities for American firms to compete on a level playing field with our global competitors, and their success means a lower American trade deficit and more American jobs. That is ultimately what this bill is all about.

Mr. Chairman, I reserve the balance of my time.

Mr. MANZULLO. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, I rise in support of the Export Enhancement Act. We are reaching the point where we are at an all-time historic high of a trade deficit, and even the free trade economists such as Alan Greenspan are concerned about the implications of such massive trade deficits.

The trade deficit is extremely important to narrow in order to assure a robust American economy. U.S. exports are barely keeping even with last year's level. It is encouraging that the number of small companies that have entered the export area have grown dramatically from 1987 to 1997, as shown by this chart.

In addition, nearly two-thirds of all U.S. exporters had less than 20 employees, as is evidenced on this chart here, so we can see that more and more small businesses are becoming involved in exporting. Most small businesses are only casual exporters, that is, they export to just a handful of countries as opposed to several countries, and thus broaden the base of the small business exporting community. Nearly two-thirds of small exporters sold just to one foreign market and posted total exports of less than $1 million. If more casual small business exporters became active exporters, our exports could go up by $40 billion, according to the Commerce Department estimates.

Yes, any large reductions in the trade deficit will come from macroeconomic forces. Yet our government's export promotion programs and services should reinforce these larger trends in order to increase exports and reduce the trade deficit. The Export Enhancement Act before us today takes this direction.

The legislation is comprised of four main elements: reauthorization of the Overseas Private Investment Corporation, OPIC, for 4 years, without exposing taxpayers to further risk by not changing the ceiling on OPIC's maximum contingent reliability; two, reauthorization of the Training Development Agency; three, reauthorization and reforming of the export promotion functions of the International Trade Administration at the Department of Commerce; and, four, refection in the most efficient ways possible the efforts of the trade promotion coordinating committee.

Let me talk just about OPIC. OPIC sells political risk insurance and project finance for U.S. overseas investments. Where U.S. overseas investments go, U.S. exports usually follow. Between one-fourth and one-third of our exports go to overseas subsidiaries of U.S. companies.

OPIC makes money for our Government. $204 million is expected for 1999 from the premiums and fees it charges U.S. companies for the use of its services. This is unique. This is a Government agency that actually makes money for the taxpayers.

OPIC projects contributed $58 billion in U.S. exports and 237,000 jobs since its creation in 1971.

OPIC competes, and this is very important, OPIC competes against 37 other foreign equivalents to the Overseas Private Investment Corporation. OPIC contributes to our foreign policy goals by helping countries move up the development ladder. OPIC is not perfect. There are some areas in need of improvement, particularly in the area of helping more small businesses.

OPIC is making progress towards this goal, and H.R. 1993 will make sure that OPIC keeps on target.

Mr. Chairman, I reserve the balance of my time.

Mr. MENENDEZ. Mr. Chairman, I yield 6 minutes to the gentleman from Connecticut (Mr. GEJDENSON), the distinguished ranking Democrat of the full committee.

Mr. GEJDENSON. Mr. Chairman, let me first commend the gentleman from Illinois (Mr. MANZULLO) and the gentleman from New Jersey (Mr. MENENDEZ) for the fine work they have done on this and so many other pieces of legislation in their committee. So often there seems to be a partisan divide that is solely political in its nature in the debate here; and it is clear that in this instance there are differences, but they are not based on a political orientation. It is a philosophical orientation. I think that is the way the debate actually ought to run here, and particularly in this case the work is hard and we have two excellent people leading the effort here, my good friend, the gentleman from New Jersey (Mr. MENENDEZ), and the gentleman from Illinois (Mr. MANZULLO).

The gentleman from New Jersey (Mr. MENENDEZ) has done an excellent job on this subcommittee working with the gentleman from Illinois (Mr. MANZULLO), and I have a particular affinity for this subcommittee in that I used to chair it at an earlier time.

It is easy often to get caught up in the rhetoric and forget about our goal here. Our goals here are very simple. Our goal is to make sure that American economic and foreign policy interests are met and that American workers are not disadvantaged. We have seen that in so many places, where competing with the French, the Japanese, the Germans, that their corporate and government cooperation puts Americans at a great disadvantage. Time and time again, we see their regulatory authorities coming in trying to choke out American business.

I think we have just had a great success where the European Union tried to block American jet engines, not based on the decibel level. They said it was a noise issue, and if they were really concerned about noise, of course, they would set a decibel standard, but what they did was they talked about the manufacturing process, trying to give European-made engines an advantage.

□ 1130

To that end, I offered, and we were able to pass in committee an amendment that adds additional personnel in the EU to make sure we watch the regulatory process.

The Trade and Development Agency that is also authorized in this legislation is critical. The Europeans are starting to beat us worldwide because they now have over 300 million of the wealthiest people on the planet, and they have got a single standard.

Now, they established that standard trying to give European industry an advantage. Whether it is telecommunications or electricity or almost any field, they try to use the European standard to, not just provide health and safety or efficiency or confidence in the equipment, but really to block American products.

What does TDA do? TDA provides the funding that takes a look at the needs of the project and really gives Americans a fair shot at that project.

Now, OPIC has made money, billions of dollars for the American Treasury. It is really a cash cow in many ways. But that is not its primary goal. Its primary goal, and it has been successful at this, is to make sure that American industry can compete successfully.

Now, we think a private insurance program would threaten the private insurers. To the contrary, the program has been so effectively designed that it is complementary to the private insurance that companies can get.

I will give my colleagues some of the examples where we have used OPIC, especially as emerging democracies have come out of years of oppression. We have used OPIC, instead of taxpayer money, we have used this fund generated from the fees paid by private corporations to help American products be sold into these countries.

It does several things. If an American company is building a facility, they tend to buy American generators, American parts. That means long-term

American products are sent there. Replacement parts are American. That gives us the edge.

Oftentimes, as these countries are developing, the first companies in end up controlling the technology. So if we were even to shut OPIC down for a short period of time, we might lose entire countries to European competition. Now, we have the strongest economy in the world. But we also have a massive trade deficit.

I want to again commend both gentlemen for their focus on the fact that this is one of the tools we have to compete with our European competitors and our Asian competitors. These people are allies, but they are very tough competitors.

I had a company in my district come in and tell me that the Japanese, in a number of instances, had come in and offered an outright cash grant in order to secure a contract for one of the companies in their country. We do not use taxpayer money. We use the power of OPIC to make sure that we can be successful for American workers.

Oftentimes, it is hard to separate the rhetoric from the reality. But when it comes to OPIC, not only can we take a look at its tremendous reserves in excess of $3 billion, but we can focus on the jobs it has created.

It has $2.7 billion in reserves it has created as a result of its exports, and it has facilitated 225,000 jobs in the country. In my State alone, it has helped 15,000 jobs. People that go to work every day in each of our communities are working today because of the work that has been done by OPIC and TDA. With the passage of this bipartisan bill, it will make it even better.

I plan to offer later today legislation to toughen the environmental standards to make sure that American policy furthers international environmental standards.

I want to commend the gentlewoman from California (Ms. LEE) for the great work we have done together. I understand there is an additional amendment by the gentleman from California (Mr. ROHRABACHER) which will seek the same goals. I think that it is important that we marry these issues together.

Mr. MANZULLO. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Chairman, I rise in opposition to this authorization bill. We have heard over and over again repeated in this debate that OPIC is in some way responsible for these number of thousands of jobs being created and this amount of competitiveness for America in relationship to its competitors overseas. I have only three things to say about that analysis, and it is called baloney, baloney, baloney.

There is no other institution that so blatantly is corporate welfare at the expense of the well-being and expense of the taxpayers than OPIC. The bottom line is that, if OPIC can operate as a private organization and is not costing the taxpayers any money, so be it. Let them operate in the private sector as a private operation.

Why do we need to have congressional backing behind OPIC? Well, let me point out what OPIC does, and then my colleagues will see why it has to be part of the government. Because no one, no one in the private sector would be as screwball as this in order to undermine the well-being of the people who were picking up the tab.

Yes, we have heard it created this number of jobs here or this number of jobs there. What we have not heard is how many American jobs have disappeared by the fact that we are subsidizing the investment of American dollars overseas to create manufacturing units overseas that will then hire those foreigners to do jobs that could be done here in the United States of America.

Now, I have an amendment. If people object to what I am saying here and say, well, that is not really true, we are not doing that, I would invite those who are objecting to that to support my amendment. My amendment which comes up with this authorization bill simply says that none of the money from OPIC will go to establish a manufacturing unit overseas.

Now, what does it do when we use taxpayer dollars to guarantee a businessman who would rather set up a manufacturing unit, let us say in Communist Vietnam, rather than in Chicago or rather than in New Jersey or rather than in some other place in the United States? Well, if we are taking the risk, he is more likely to make that investment over there, so it is more likely he will invest money there rather than create jobs here.

Number two what we have done is, once that manufacturing unit is set up overseas, what happens? Supposedly that manufacturing unit is helping our exports. Well, all too many times what we found out is, no, it is not helping American exports at all. It is taking the place of American exports.

We have OPIC money being used to guarantee businessmen going overseas, they call it political insurance, in order to create jobs for these people which then, whoever they are overseas, they are manufacturing these projects, not to sell in their own country, but to re-export to the United States. This is adding insult to injury.

First, we put our people out of work; we charge them money through their taxes to subsidize this investment; and now they are going to have those products exported to the United States so that what they are manufacturing in the United States is no longer necessary because this cheap foreign labor is being used.

This is a ridiculous scenario. It is a betrayal of the people of the United States. The arguments that this in some way creates jobs in the United States is baloney. It makes jobs disappear in the United States. By the way, if that is not true, I would invite those people who disagree with me to vote for my amendment that ensures that we are not using taxpayer money to subsidize manufacturing units.

I have another amendment dealing with the environment. I am glad that this coincides with the gentleman from Connecticut (Mr. GEJDENSON). But the worst part about this is there is no restriction on where we are placing this money, where these businessmen will be able to set up the manufacturing units.

So our manufacturers, these people, these businessmen are attracted to what? They are attracted to tyrannies. They are attracted to dictatorships like Vietnam and China. We have no provision in here at all that says, if one wants to have a government, a taxpayer guarantee, one is going to have to set up in a democratic country.

Thus, we have businessmen who should be attracted to countries like the Philippines if they want to invest overseas and take advantage of labor that is cheaper overseas.

They are attracted to the very worst pits of tyranny throughout the world in order to invest. Because now they have political protection provided by the taxpayers of the United States of America. That is a travesty.

It is not true that it is creating jobs. It is making jobs disappear. Again, if my colleagues disagree with that, I would expect that they would be supporting my amendment to make sure that we are not setting up manufacturing units overseas. Because by definition, manufacturing units cost American jobs.

I intend to vote against this reauthorization, and I ask for support of these two amendments.

Mr. MENENDEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. VISCLOSKY).

Mr. VISCLOSKY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I want to rise in support of the legislation and commend the authors of it for taking a positive approach in enhancing our ability to export goods and jobs overseas. I am also here to lend my strong support to an amendment that will be offered a bit later in the debate by the gentleman from Ohio (Mr. TRAFICANT) to, I think, improve the legislation before us.

Unfortunately, U.S. companies simply cannot compete in foreign markets if they are denied market access and forced to brave horrible conditions. There are a number of examples that we are all familiar with. The gentleman from Ohio (Mr. TRAFICANT) earlier this year and I introduced legislation to try to improve these circumstances. An element of that bill is going to be offered as an amendment to ensure that we have the necessary information to open markets for companies and workers in the United States.

Priority will be given, as far as those investigations and studies to countries which have a trade deficit with the U.S., priority will be given to markets which will result in significant employment benefits for U.S. producers. Priority will be given to critical technology sectors.

Too often, I think, we do focus on ensuring that people play fairly in the U.S. market. It is time we ensure they play fairly in their own home markets so we can enhance and increase our exports in job opportunities. I want to thank the gentleman from Ohio (Mr. TRAFICANT) in his initiative and join strongly in supporting his amendment as well as this legislation.

Mr. MANZULLO. Mr. Chairman, I yield 6 minutes to the gentleman from Alabama (Mr. CALLAHAN).

Mr. CALLAHAN. Mr. Chairman, let me just tell my colleagues that, if they just look at the simple title of the agency we are talking about, the Overseas Private Investment Corporation, and if they look at the history of OPIC, they simply see that it is an organization that was formed in 1971, to do exactly what it is doing, to provide our American people the opportunity to sell products overseas.

The gentleman from California (Mr. ROHRABACHER) said we are exporting jobs. We are not. We are exporting projects. We are exporting products that are made in America for the most part, made in America, 137,000 jobs that was created last year. Just because American business had the same opportunity as Japanese businesses, as French businesses, as every other country does.

The Overseas Private Investment Corporation basically does one simple thing. It says that, if we go into a country, and we do support a facility there that is manned by Americans that is utilizing projects manufactured in the United States, if that project or any of the property is expropriated by that government, then OPIC underwrites the insurance program of that.

They tell the investors in those countries, if that project is taken away from them by some unscrupulous dictator in some country, then simply the United States of America will collect their money for them. No private insurance company can do that. No private insurance company can go in and say to them we are an agency of the United States of America; they are not going to treat our citizens this way.

To think that we have people in OPIC that are so unqualified as they would do things to discourage the very thing they were created to do, and that is to create American jobs, is ludicrous. That is not the case. OPIC makes money. They made $137 million last year.

Next year they are projected to make $200 million. It costs about $50 million to operate it. I do not know how anyone in their right mind could possibly say this is not good for American businesses because it is. It gives us the opportunity to play on a level playing field with countries that we are competing against in order to acquire the opportunity for foreign investment to that particular country.

Now, my colleagues can talk about these Third World countries. They can talk about these bad countries. They can talk about all of these things they want. But they have to look at the history. They have to look at the millions of jobs it has created in the last 30 years.

They have to look at the million units of dollars, hundreds of millions of dollars that they have generated. They have to, most importantly, look at the fact that, without this agency, our business people in the United States of America would have no opportunity to compete with the French, no opportunity to compete with the Japanese, no opportunity to compete with most countries because they are doing the same thing.

So we do have a good agency that is doing a good job. They are making money. They are contributing to our problems of spending because they are contributing more than they are spending.

□ 1245

And at the same time they are creating these hundreds of thousands of jobs. So I am here today to encourage my colleague to reauthorize this. Let us not muddy it up by saying let us do it for 1 year. Let us not muck it up by saying let us restrict them; let us not let them do business in countries that we do not personally like. Let us let this professional group of OPIC people who are doing a great job continue to operate and continue to operate without the fear of being sunseted in 1 year.

It is a simple reauthorization of a good project that is doing a lot of good for American businesses. It is doing a lot of good to create exports. It is doing a lot of good to create jobs here in the United States.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, I can understand the argument of the gentleman that this is good for American business because there is only a certain number of people in this country that own businesses.

Mr. CALLAHAN. Mr. Chairman, reclaiming my time, let me respond to that now.

There may be a certain number of people that just own businesses, but those people that own businesses hire thousands of people to work for them and those are the people that I am concerned about. I do not want to abolish jobs. I want to create jobs.

Mr. ROHRABACHER. Mr. Chairman, that is correct. But the question is, these people that hire thousands of people, as my colleague is saying, how can it possibly be in the benefit of those thousands of people that we are giving a guarantee for businessmen to instead build a factory overseas where they will not be hiring those people?

Mr. CALLAHAN. Mr. Chairman, reclaiming my time, because the factory is going to be built overseas anyway; and, primarily, all we are doing is providing insurance. We are saying, if indeed a government expropriates that property that the United States of America is going to go after that country. A private insurance company, if it went in there, those dictators and those crazy people in some of those crazy countries would just say, drop dead. But if they walk in there saying, I am from the United States, they have taken this property away from an American investor and we are going to demand that they pay it.

The very fact that their losses are about one percent ought to tell us about the success of this.

Mr. ROHRABACHER. Mr. Chairman, if the gentleman will continue to yield, but does that not encourage the investment and creation of those jobs overseas?

Mr. CALLAHAN. Mr. Chairman, we have the opportunity in this country to do the same thing. We have the Small Business Administration. We encourage it here, too. But we have got to recognize we are in a global economy now.

If they want the Japanese and French and every other foreign country to take total control of exports, if they want to deny us the ability of exporting our products, exporting our ability to make a profit and create American jobs, yes. But just look at the very title, Overseas Private Investment Corporation.

Mr. MENENDEZ. Mr. Chairman, I would like to inquire how much time I have remaining.

The CHAIRMAN. The gentleman from New Jersey (Mr. MENENDEZ) has 1 minute remaining. The gentleman from Illinois (Mr. MANZULLO) has 8 minutes remaining.

Mr. MANZULLO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank the gentleman from Alabama (Chairman CALLAHAN), who is chairman of the Appropriations Subcommittee on Foreign Operations, for the tremendous work that he has provided for OPIC.

Mr. MANZULLO. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Chairman, I have never voted for a foreign aid bill since I have been in the Congress because I always felt that our country needed that support, but I came very close this last time under the leadership of the gentleman from Alabama (Chairman CALLAHAN). I believe many of the reforms being made in foreign aid are good for the world and good for our country, and I am going to have to give it serious thought.

While the chairman is here, I have a twofold message. The only company in America to invest in a project with OPIC in the Gaza Strip was one of my companies; and they stole the money, stole their equipment, and forced my company to take them to court.

Now, a Federal judge ruled that the bank in Gaza participated in a pattern of conspiracy and racketeering and stealing money and stealing the equipment and had a finding against them.

But I want to say this to the chairman because I think he will feel good about this: OPIC was good and it changed my thinking a little bit and OPIC stood there with my company. And that matter now is being delineated at the highest levels after the finding from that court.

If the court of last resort does not make any difference with the Palestinian activities so involved, I will be coming to the chairman for the ultimate relief of an American company, that is, Congress.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, that is the very point and the rationale behind OPIC. OPIC does not have the authority to go in and threaten anyone on the Gaza Strip or any other country, but the very fact that we are saying, we are the United States of America, we demand that you treat our citizens fairly and that this property not be expropriated is the very reason we need OPIC.

Mr. TRAFICANT. Reclaiming my time, Mr. Chairman, I feel very comfortable with the remarks of the gentleman from Alabama (Chairman CALLAHAN), and I am sure that what he says is heard also around the world.

I hope I have enough time to finish my statement. I just want to make this statement to the Congress.

The gentleman from New York (Chairman GILMAN) says we have a $167 billion trade deficit, another record. My colleagues, that is not the half of it. The new trade deficit reports for the first quarter of this year $87 billion for 3 months, close to $350 billion annualized if it maintains the way it is, that is 7 million jobs.

Now, I have not voted for any of this legislation because, quite frankly, I do not think it is really doing what it is set out to do. But I am going to vote for the modest reforms that are attempted to be made in OPIC this year.

I want to commend the chairman involved and the ranking member because it is, at least, a valid attempt. But my amendment says one other thing: do not just tell us who is violating trade agreements. Tell us what the status of the market access is in those countries. Do not just tell us they are denying or they are violating trade agreements.

Under the Traficant amendment, it tells us what is the situation on market access and, if they are denying us market access, what are the products they are denying from America and what is the marketplace that exists there so we can export more of our product. This is absolutely necessary.

I am for free trade. But, by God, if they are denying us access, we do not just need continuing reports telling us what they are denying us access about and what is the Trade Rep, what is the International Trade Administration, what is Department of Commerce going to do about it.

I know the gentleman from California (Chairman ROHRABACHER) has an amendment coming up, and I am probably going to support his amendment.

I only have a little bit of time left, but let me say this: I want to know what they are denying to American producers. And I think we have to keep their feet to the fire.

Mr. MANZULLO. Mr. Chairman, I reserve the balance of my time.

Mr. MENENDEZ. Mr. Chairman, I yield 3 minutes to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding me the time.

I would just, Mr. Chairman, make a few observations. Number one, when we talk about a record-breaking trade deficit, that should suggest to every Member of this body that it is high time to make fundamental changes in our trade policy with regard to NAFTA, GATT, and Most Favored Nation status.

There is something very, very wrong when major American corporations are investing tens of billions of dollars throughout the world, including countries like China, where workers are paid 20 cents an hour and have no democratic rights; and yet it is very, very hard to get these same companies to invest in Vermont or New England or any other State in this country.

The second point that I would make is that we have heard some of our friends here say, let us have a level playing field. Let the United States do what countries in Europe are doing. I would suggest that if we follow that line of reasoning, the United States of America would institute a national health care system guaranteeing health care to all people. That is what they do in Europe.

I would suggest that the United States Government would provide free college education to all of our kids. That is what they do in many countries in Europe. I would suggest that the United States Congress would mandate 4 or 5 weeks' paid vacation for all of our workers. That is what they do in Europe.

So I find it strange that some of our friends here are saying let us have a level playing field in one area, but let us not have a level playing field in other areas.

Lastly, I would commend my friend, the gentleman from California (Chairman ROHRABACHER), who makes a very sensible point. Why are we encouraging American corporations to take manufacturing jobs out of this country, lay off American workers, and take those jobs abroad, often to countries where the environmental standards are limited, where workers do not have freedom to stand up for their rights, to form a union, and where they are paid very, very limited wages? So I think that amendment makes a lot of sense.

I would also point out to those people who talk about the booming American economy to understand that American workers today are working 160 hours a year more than they did 20 years ago. I would point out to those people who talk about the booming economy that the average American worker today in real inflation accounted for wages is making less than was the case 25 years ago.

So I think, while OPIC is the tip of the iceberg, it makes no sense to me that we put taxpayers' money at risk in what clearly amounts to a corporate welfare situation.

Mr. MENENDEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the statements of several of our colleagues. I just want to put them in some context in this general debate.

I want to address some of the arguments that have been made because they make good sound bytes, but I am not sure they hold up under scrutiny.

We are not talking about, I say to our colleagues who are listening back at their offices and those that are here on the floor, it is not about trade agreements, it is not about Most Favored Nation trading status, it is not about other trading issues that are sometimes divisive in these chambers.

This is not about that. So let us get that straight. I know many people will try to bring in those issues in this debate, but the legislation being considered today is not about that. It is about creating the opportunities in the context of the reality of the world today to have American companies that create American jobs here at home and that export American products to those manufacturing plants in other parts of the world to have opportunity.

Now, there are those that have questioned, why does OPIC not become a private entity? Why the hell do we need the United States Government to be engaged? Well, the full faith and credit of the United States is a powerful tool, and it is a tool that is not available to private insurers. For a job as big as this, this is a tool we need.

It is not that these projects are not a good risk, because they are. But we, the United States, have an incentive to provide this insurance that private insurers do not. We are leveraging the full faith and credit of the United States to create American jobs, to improve American profitability. That is an American interest. That is a function that benefits all Americans, and it is a proper role of Government.

Now, if a factory is going to be built overseas, it is going to be built overseas. OPIC already, in its law which we reauthorize here, is statutorily prohibited from supporting any project that is likely to have a significant negative effect on the U.S. economy. And a business which receives OPIC's support must agree not to transfer U.S. jobs overseas.

The question is, if a factory that does not exist here is going to be built overseas, is it going to be a plant that requires American parts, American manufacturing skills, and creates demands for American products overseas; or is it going to be a French factory or a Japanese factory or a German factory that is not going to be buying any American parts made here at home and sold abroad but which American workers are making and gaining salaries from?

So we should not advocate these jobs to other nations. We should not advocate these emerging markets to other nations. As I said, OPIC's charter prohibits any financing for projects that could cause Americans job loss here at home. Those projects actually mean more American jobs.

It is in that context that I want our colleagues to think about this debate. This is not about overall trade issues. This is about helping American companies who find themselves competing with companies of other countries abroad whose countries are investing enormous amounts of money to make their contracts possible. The Germans, the French, the Japanese all over the world, they are helping their companies make it possible. How could we disarm American companies, which means American workers, from having the opportunity to compete in that global marketplace? That is what is at stake in this legislation.

Mr. Chairman, I yield back the balance of my time.

Mr. MANZULLO. Mr. Chairman, I yield the balance of our time to the gentleman from Nebraska (Mr. BEREUTER).

□ 1300

Mr. BEREUTER. Mr. Chairman, as vice chairman of the authorizing committee and a cosponsor of H.R. 1993, I rise in strong support of the Export Enhancement Act.

I wish that one of our sage Founding Fathers, Benjamin Franklin, were here today. He would find the discussion here interesting and reminiscent. He said over 200 years ago, "No Nation was ever ruined by trade." Indeed, that is true. International trade is a significant part of American economic growth and prosperity today. The programs of OPIC, the Trade and Development Agency and the International Trade Administration are an integral part of our trade promotion system. We need to protect it. They have a proven record of strengthening trade and promoting American exports, and they certainly warrant reauthorization by this Congress.

Since it was created in 1971, OPIC has backed projects worth $121 billion and helped create approximately 230,000 new U.S. jobs and $56 billion in exports. More than $2.8 billion in American exports were generated by OPIC-supported projects in 1998 alone. More than half of the identified suppliers to OPIC-backed projects around the world are U.S. small businesses. In this Member's State alone, OPIC projects have generated about $869 million in exports from the State generating 2,662 jobs. Examples like that can be given from every State.

OPIC is certainly cost beneficial to the American taxpayer. In addition to the American jobs OPIC projects create, 100 percent of OPIC's operating costs are covered by user fees to the individual clients, meaning these administrative costs are not a burden to the taxpayer. In fact, OPIC generates revenue and has generated over $3.3 billion to deficit reduction and other international affairs accounts. It is anticipated that in this fiscal year, OPIC will generate an additional $200 million to deficit reduction.

OPIC, then, is a win-win program that is successful in mobilizing the private sector investment in support of U.S. foreign policy objectives at no operating expense to the American taxpayer. OPIC promotes U.S. best practices, too, by requiring projects to adhere to international standards on the environment, workers rights and human rights. OPIC projects help improve the stability in developing countries and emerging economies by providing an economic boost to the efforts of reform-minded governments. For example, Hungary's opening to the West allowed OPIC to support U.S. investment there in 1990. These investments at this critical time of transition certainly helped accelerate the kind of positive economic and political reforms in Hungary that transformed that country from a captive Warsaw Pact satellite into a free NATO ally.

To those who express concern about OPIC-supported investments abroad luring jobs from America to foreign countries, this Member recommends they examine closely what kind of investments OPIC is supporting and what kind of so-called foreign jobs are being created. For example, the United States cannot supply raw electrical power to Egypt. However, we can supply American-made power generating equipment and services. How can selling power generating equipment made in the U.S. by American workers and subsequently selling American-made spare parts and services for this equipment for many years to come be considered taking jobs away from Americans? If we do not sell the Egyptians these power plants, then the Europeans, Japanese, Canadians or other foreign competitors certainly will sell them and their economies will benefit at the expense of ours.

The United States does not grow tea. Therefore, how does investing in a tea plantation in Rwanda steal American jobs? Indeed, it supports U.S. jobs insofar as that tea operation needs tools, machinery, trucks and other services. These are products and services provided by American firms and produced by American labor.

The United States is not home to the African savannah, and giraffes, zebras and baboons are not our native wildlife. Therefore, how does supporting the eco-tourism industry in Botswana by investing in new hotels and tour operations take away American jobs? On the contrary, this tourism type of development requires all kinds of infrastructure, construction materials, furnishings, vehicles and a wide range of services, everything from financing to marketing. These are goods and services that Americans produce and can now sell to a new market in Botswana.

All of America's economic competitors, including Japan, Germany and France, offer a comprehensive array of export and overseas investment support. They far outstrip what we offer. They certainly recognize the overwhelming benefit to their own economies of such assistance. Indeed, the U.S. spends less per capita as a percentage of GNP and in dollar terms on supporting private sector investment in developing countries than any other major competitor country.

Mr. Chairman, the claims have been made that OPIC is corporate welfare and has eliminated American jobs. Opponents of OPIC, and the Chairman will like this one, have cited Caterpillar Corporation as one of those "fat cats" benefiting from OPIC. Caterpillar makes much of its tractors and heavy equipment in Peoria, Illinois, the epitome of an American city,' and, of course, in other American cities. This Member suspects he would be very hard pressed to find among Caterpillar workers assembling tractors any of them who would believe that they are the fat cats that are benefiting from OPIC.

These are hardworking Americans. At no cost to the taxpayer, OPIC helps to promote the sale of tractors and earth-moving equipment that they make. Given the significant support foreign competitors receive from their governments, without OPIC, America's Caterpillar Corporation and its employees are in many instances at a real disadvantage to Japan's Komatsu or Korea's Hyundai Corporation.

To those who claim that OPIC is unnecessary or competes against private sector insurance providers, this Member would point out that OPIC does not insure against commercial risk or currency devaluation. While OPIC is run like a profitable private business, it still needs to provide long-term political risk insurance that is not fully available in the private sector. For example, with the assurance provided by $1.8 million of OPIC political risk insurance, Agro Management, a minority-owned small business from California, is now able to work with Ugandan farmers to produce African chrysanthemums from which oil is extracted and used as a natural nontoxic and environmentally-friendly insecticide. This is just one example of many investments that will contribute to the estimated $9 billion in increased trade with sub-Saharan Africa that likely would not occur if it were not for OPIC insurance.

Similarly, the Trade and Development Agency has a successful record of promoting American business involvement in infrastructure projects in developing and middle income countries. Since its inception, the TDA has generated over $12 billion in American exports. This equates to $32 in U.S. goods and services exported for every $1 spent on TDA projects. And for every dollar that TDA invests, the agency receives another 50 cents in cost-sharing.

Last year alone, over $1.8 billion in U.S. exports were associated with TDA activities. Eighty percent of those exports were comprised of manufactured goods, illustrating the strong link between TDA projects and U.S. job creation.

The International Trade Administration and Foreign Commercial Service is also re-authorized in this bill. This funding supports the actual personnel stationed at U.S. embassies and U.S. commercial offices around the globe who successfully promote American goods and services abroad and provide assistance to American businessmen seeking new international trade opportunities.

Mr. Chairman, H.R. 1993, the export enhancement legislation before us, re-authorizes a successful American export and trade promotion system. The economic benefits of this cost-effective system to American businessmen, workers and farmers have proven to be overwhelming.

I urge my colleagues to give strong support to this legislation.

Mr. WU. Mr. Chairman, I rise today on behalf of my home state of Oregon, and in strong support of H.R. 1993, the Export Enhancement Act.

Quite simply, trade is one of the critical drivers behind Oregon's current economic prosperity; and trade is expected to grow in importance in the years ahead. The Overseas Private Investment Corporation (OPIC), the Trade and Development Agency (TDA), and the International Trade Administration (ITA) have played a key role in the promotion of Oregon exports. I strongly urge my colleagues to support this important legislation.

Mr. Chairman, OPIC, TDA, and ITA play an important part in the promotion of American exports. They are good for American workers, good for American businesses, and good for the American economy. Each of these very worth agencies requires a relatively small investment. But they certainly reap big results for Americans.

Mr. Chairman, I strongly urge my colleagues to support American exports and support this important bill.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute consisting of the bill modified by the amendments printed in the bill shall be considered by section as an original bill for the purpose of amendment, and each section is considered read.

No amendment to that amendment shall be in order except those printed in the portion of the CONGRESSIONAL RECORD designated for that purpose and pro forma amendments for the purpose of debate. Amendments printed in the RECORD may be offered only by the Member who caused it to be printed or his designee and shall be considered read.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

Ms. ROS-LEHTINEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this bill before us encompasses three agencies which are at the heart of the U.S. strategy to expand its export opportunities and to ensure greater access for American companies, big and small.

As passed by the Committee on International Relations, it helps make the Trade and Development Agency more self-sufficient by requiring companies and entities benefiting from its programs to share in the costs and to reimburse for projects secured, even if the project is not the original one pursued.

It establishes congressional guidelines and recommendations on the operations of these agencies to seek and use more private sector resources, and to place greater emphasis on the promotion of small businesses and make them more export competitive.

This bill also provides for greater accountability and oversight as it calls for independent auditors to report annually on the level of OPIC's reserves and requires that greater emphasis and resources be dedicated to assisting small businesses compete in the global arena.

Further, it establishes reporting requirements for ITA and focuses on the work of the Market Access and Compliance unit of the International Trade Administration which, along with the other units, monitors, investigates and evaluates foreign compliance with over 250 U.S. trade agreements; helps resolve company and industry-specific market access problems in country and regional markets; identifies market and nontrade barriers to better prepare and educate U.S. companies about developing markets.

Their list of accomplishments is long, having succeeded in resolving serious compliance problems relating to discriminatory regulations and barriers faced by American industries.

While not a perfect bill, it does provide certain safeguards for the American taxpayer and it does afford the opportunity for careful oversight by this committee and the Congress in general. I ask my colleagues to support this bill this afternoon.

The CHAIRMAN. The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Export Enhancement Act of 1999".

The CHAIRMAN. Are there amendments to section 1?

The Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Since it began operations in 1971, the Overseas Private Investment Corporation (in this Act referred to as "OPIC") has sold investment services and mobilized private sector resources to assist developing countries and emerging democracies in the transition from nonmarket to market economies.

(2) In an era of declining Federal budgetary resources, OPIC has consistently demonstrated an ability to operate on a self-sustaining basis to support United States companies and promote economic reform in emerging economies in Africa, the newly independent states of the former Soviet Union, Latin America, and the Caribbean.

(3) OPIC has played an important role in reinforcing United States foreign policy goals and in strengthening the United States economy by creating jobs and promoting exports.

(4) Over the past 28 years, projects supported by OPIC have generated over $58,000,000,000 in United States exports, mobilized $121,000,000,000 of United States private sector investment, and created more than 237,000 United States jobs.

(5) OPIC has been run on a sound financial basis with reserves totaling approximately $3,300,000,000 and with an estimated net budget contribution to the international affairs

account of some $204,000,000 in fiscal year 2000.

(6) OPIC has maintained a claims recovery rate of 95 percent, settling 254 insurance claims for $541,000,000 and recovering all but $29,000,000 since 1971.

(7) OPIC programs have served to rectify market failures, including limited market information in developing countries and underdeveloped capital markets, by insuring United States firms against economic and market uncertainties.

(8) The Trade and Development Agency (in this Act referred to as "TDA") promotes United States business involvement in infrastructure projects in developing and middle income countries.

(9) TDA has generated $12,300,000,000 in exports since its inception, with every $1 in spending for TDA projects leading to the sale of $32 in United States goods and services overseas.

(10) The United States and Foreign Commercial Service (in this Act referred to as the "Commercial Service") plays an important role in helping United States businesses identify export opportunities and develop reliable sources of information on commercial prospects in foreign countries.

(11) The Congress has, on several occasions, encouraged the Commercial Service to focus its resources and efforts in countries or regions in Europe and Asia to promote greater United States export activity in those markets.

(12) The Congress supports the expansion of the Rural Export Initiative by the International Trade Administration (in this Act referred to as the "ITA") of the Department of Commerce, particularly those elements related to the use of information technology and electronic commerce techniques.

(13) The Congress is encouraged by the success of the Market Access and Compliance Unit of the ITA and supports the Unit's efforts to develop mobile teams to resolve market access problems and ensure compliance by United States trading partners with trade agreements and commitments.

(14) The Congress acknowledges the demands upon the Market Access and Compliance Unit of the ITA and recommends that priority be given to funding for this unit to ensure that adequate resources are available for it to fully implement its mission.

The CHAIRMAN. Are there amendments to section 2?

The Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. POLICY RECOMMENDATIONS.

The Congress makes the following declarations:

(1) OPIC should set its fees at levels sufficient to cover all operating costs, repay any subsidy appropriations, and set aside adequate reserves against future losses.

(2) OPIC should maintain a conservative ratio of reserves to contingent liabilities and limit its obligations in any one country in its worldwide finance or insurance portfolio.

(3) Projects supported by OPIC should not displace commercial finance or insurance offerings and should encourage private sector financing and insurance participation.

(4) Independent auditors should report annually to the Congress on the level of OPIC's reserves in relation to its liabilities and provide an analysis of the trends in the levels of reserves and liabilities and the composition of its insurance and finance portfolios, including OPIC's investment funds.

(5) OPIC should double the dollar value of its support for small businesses over the next four years.

(6) In administering the programs and activities of the ITA, the Secretary of Commerce should give particular emphasis to obtaining market access for United States firms and to securing full compliance with bilateral and multilateral trade agreements.

(7) The ITA should facilitate the entrance of United States businesses into the countries of sub-Saharan Africa and Latin America.

(8) The Commercial Service, within the ITA, should consider expanding its presence in urban areas and in urban enterprise areas.

AMENDMENT NO. 9 OFFERED BY MR. TERRY

Mr. TERRY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. TERRY:

Page 6, insert the following after line 21:

(9) OPIC must address concerns that it does not promptly dispose of legitimate claims brought with respect to projects insured or guaranteed by OPIC. The Congress understands the desire of OPIC to explore all possible arrangements with foreign parties. However, OPIC must be aware that private parties with legitimate claims face financial obligations that cannot be deferred indefinitely.

Mr. TERRY. Mr. Chairman, I rise today to offer this amendment in hopes that I can bring much needed accountability to OPIC's operations. I believe that government should exercise a high degree of discretion in becoming involved in essentially private sector business functions. At the same time, I understand that OPIC exists to fill a void by providing political risk insurance in countries where private insurers may hesitate to go. The appropriate balance is for an agency such as OPIC to be scrupulous in maintaining a businesslike approach to its dealings, yet be constantly aware of its duty to maintain public confidence and trust.

The House Foreign Operations Committee has noted, "OPIC must be aware that private parties with legitimate claims face financial obligations that cannot be deferred indefinitely." Companies that have disputes before OPIC have the right to know where they stand. It is reasonable for businesses to have a full understanding of the status of their claims.

Mr. Chairman, my amendment adds a statement of policy that OPIC should be more sensitive about the impact of its delays on private businesses. I urge its approval.

Mr. CALLAHAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise, I think, in support of the amendment offered by the gentleman from Nebraska (Mr. TERRY), and I rise also to engage in a colloquy with him, to tell him that there are ways that we can get OPIC to respond, if indeed they are not responding as my colleague or some of his parties of interest may think they ought to respond. I would invite the gentleman, if he would like, to bring his concerns to me as chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs, the committee that funds OPIC, albeit we do not need to fund them; we take their 200 million, and we give them back 50, and that is sort of a plus for my committee.

But the gentleman is absolutely right. If OPIC is not responding in a professional, timely manner, then this ought to be brought to my attention, and I will support the gentleman's amendment and at the same time encourage the gentleman from Nebraska (Mr. TERRY) to bring his concerns to me, and I will call the proper officials from OPIC to my office, and we will get a quick response to any problem he may have.

Mr. TERRY. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from Nebraska.

Mr. TERRY. Mr. Chairman, I thank the gentleman from Alabama for that offer, and I should have offered him the courtesy. A member of the gentleman's committee has been participating in several discussions of which I have been involved with Mr. Munoz and OPIC concerning the status of several claims and their unwillingness to deal with them in a timely manner, and I will meet with the gentleman as soon as this colloquy and amendment are over, and I will give him the details of that, and I apologize for not doing that in advance.

Mr. BEREUTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do rise in strong support of the amendment offered by my colleague from Nebraska (Mr. TERRY). Mr. TERRY has been very much engaged in this issue as, in fact, his predecessor and the whole Nebraska delegation has been engaged for some period of time. There were an unfortunate series of things that happened with the collapse of the economy in Indonesia that affected many American firms, including an energy facility firm in our State. We have worked at length on this matter with OPIC, Treasury, and the Indonesian Government without much success. I believe that in all probability these kinds of things would not happen again, but with the support of the chairman of the Committee on Foreign Operations, Export Financing and Related Programs, and with the continued tenacity and diligence of my colleague from Omaha, I believe that this amendment should be adopted as a sense of the House. It is an important sense of the Congress to convey to OPIC so that in fact a very good OPIC program is improved and American businesses not disadvantaged.

In fact, Mr. Chairman, I think of course to some extent we can reform our agencies to the maximum extent, and they are doing excellent work, but when we have a foreign government that basically collapsed with an involvement of the IMF as well, sometimes American business is disadvantaged.

So I thank my colleague and commend him, and I urge support for his amendment.

Mr. MANZULLO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would accept the amendment offered by the gentleman from Nebraska (Mr. TERRY), Number 9.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the requisite number of words.

First of all, I rise in support of this amendment, and obviously there is a lot of fixing that we need to do on any government program and obviously sending a message out that we want the program officers to be efficient and effective and on time is certainly a good message. I would like to remind us, as we debate this particular amendment, that there is a question, of course, as to whether or not the very fundamentals of OPIC deserve even an amendment like this. While I support the amendment, let us again look at the validity of the organization itself.

We have heard today, for example, a question, and unfortunately this type of debate we only get a couple chances to go back and forth, and I did not get a chance to ask my colleagues, but we heard the declaration that what harm does it do to have U.S. tourist dollars poured into a certain country? Mr. Chairman, I do not know what States these people come from, but tourism means a lot to the people of my area. I would like us to have, rather than having Americans, businessmen, investing and luring tourist dollars away from the United States, I would like those tourist dollars to come to Orange County, California, and to stay in the hotels and to use the facilities in my area, and if my colleagues do not want them in their areas, that is fine. But the fact is that building up the infrastructure to attract tourist dollars to a foreign country does impact on American jobs and, in fact, hurts the very lowest employees, the people who make the least in our society.

I happen to have earned a living when I was younger scooping ice cream at Marineland Snack Bar, which was a tourist attraction. Yes, I would rather those tourists come there, provide me that work, than having American dollars being guaranteed to build tourist attractions overseas to create jobs overseas.

I am sorry, those tourist dollars do take away from American jobs.

And what about this great tractor factory in Illinois that we heard about? Well, okay. My amendment suggests that OPIC will never be able to guarantee the building of a tractor factory.

I would suggest to the gentleman from Illinois (Mr. MANZULLO) and the gentleman from Nebraska (Mr. BEREUTER) who had this tractor factory in their district, they should support my amendment which will prohibit the building of tractor factories with taxpayer guarantees overseas. So I would ask the gentleman from Nebraska and the gentleman from Illinois and others who have such factories, or if my colleagues have any factories in their districts, let us make sure we do not guarantee the investment of building such factories overseas. We are not doing very good work for our constituents if we do.

And what about that investment on the West Bank that we heard from the gentleman from Ohio (Mr. TRAFICANT) about? Do we really want the taxpayers to guarantee people who will invest in places like the West Bank, or should they have to take their own risk? Why is it that we let people have a guarantee of U.S. tax dollars for their investment in far-off countries where there are risky investments, but we will not give people investing in the United States those type of guarantees when they come into our areas that are a little bit risky or they are going into a risky-type business? Here we are giving them this perverse incentive to invest overseas rather than invest here.

Now we could talk, and we have heard about this over and over, jobs, jobs, jobs. I hope people have gotten down to the next level rather than just this rhetoric. We are talking about the loss of jobs. We are talking about an organization whose very purpose, as we have heard time and again, to build tractor factories overseas, to build tourist attractions overseas, to let these American businessmen take risky investments and have the American Government stand right besides them. I do not want the American Government standing besides people who are investing capital and creating jobs overseas. I do not want the American Government to help them. I want the American Government either to stay neutral or to create the jobs here in the United States of America.

Whose side are we on? Well, OPIC certainly is on the side of the American worker; but we have heard it over and over again that, yes, this helps business. Well, everything that helps business does not necessarily help the American working people, and I hope that by what I have said I have helped people understand how, yes, it does help a couple of investors make some big bucks by investing in risky ventures, sometimes in dictatorships overseas like Vietnam and Communist China; but it dramatically hurts the American working person.

The gentleman from Ohio (Mr. TRAFICANT) over there told us about how he was so concerned about this huge deficit that we have. How much of that deficit is due to the fact that OPIC has been encouraging people to invest overseas? And those factories are not necessarily selling overseas, but what they are doing is re-exporting to the United States. How much of that, I ask the gentleman from Ohio (Mr. TRAFICANT) comes from there?

Mr. BLUMENAUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am listening to the debate here today, and I hope that we have some degree of context as we are moving forward dealing with what I think is a very important program for America and for people in the State that I represent, Oregon.

I have been trying to understand the gist behind the amendments from the gentleman from Nebraska (Mr. TERRY). I have talked to OPIC; I have tried to get a feeling for what it is, in fact, we should be doing.

Along with the gentleman from Nebraska (Mr. BEREUTER) I had the opportunity to spend some time earlier this year in Indonesia, and as we hear the two speakers that have addressed themselves to this amendment now and where it takes us, I feel that it is important to take a deep breath. I have no objection I guess per se to the language that has been offered, but there is the subtext here that somehow OPIC is not being responsive; that somehow that these things can simply be moved along very slick and easy; and that somehow someplace off in the bureaucracy there is somebody who is inappropriately holding things up.

It seems to me that when we are dealing with OPIC's ability to process claims, which is the concern, I think, that has prompted the gentleman from Nebraska's amendment, or maybe there may be more here, that one has to appreciate what OPIC has to do in order to be fair to the businesses that are involved, to be fair to the taxpayer, because as has been pointed out by our other friend from Nebraska, this is an operation that, in fact, has not lost any taxpayer money at all, and in fact this year is going to be surplusing money.

Mr. Chairman, part of what they have done in terms of hitting the balance has been careful processing of claims of this nature. They have got something like a 95 percent recovery rate. I think it is important that we not assume that the people in the organization are not, in fact, processing these in an orderly fashion, that dealing with a country like Indonesia where we have multiple interests and our friends at OPIC are not just dealing with one company, but they are dealing with fashioning a record in a country that is in turmoil, and I am sure they are being pushed on by people from other agencies, from the State Department or from Treasury. We have issues that people on this floor have been concerned with, and we have other national interests that we are trying to do in stabilizing the situation in Indonesia to try and play that in a sophisticated and thoughtful fashion.

Mr. Chairman, I would just hope that, as we are dealing with this language that people are making assertions about the behavior of our friends at OPIC, that taking a step back, taking a deep breath, appreciating the difficult position they are in, caught between people on one hand who refuse to acknowledge the positive contributions that this makes to our economy and economies around the world and then interfering with an appreciation of what they have to do to try and be a loyal soldier and an arm of the United States Government and advancing others of our interests.

I will be prepared to talk at greater length about that at another time. Mercifully, Mr. Chairman, I am prepared to yield back the balance of my time at this point, but I do hope that we do not have sort of cardboard cut outs when we are considering amendments like this and appreciate the difficult task that they have been given and some appreciation for the balancing of the interests that they have to have.

Mr. GEJDENSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just yield to the gentleman from California (Mr. ROHRABACHER) to answer one small question. He keeps referencing China, as I understand it. How much business has OPIC done in China?

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, I understand OPIC is not doing business in China.

Mr. GEJDENSON. Reclaiming my time, it is important that we recognize reality from what we would like reality to be. There is no investments in China. Even if they wanted to now as a result of, I think, a bipartisan effort, we have put in language because of Tiananmen Square; they rightly cannot do business in China.

So, reclaiming my time, we are going to have plenty of time to go over this debate further.

□ 1330

Mr. RANGEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to take this opportunity to express my support of the work that OPIC is doing. It is always an emotional thing when we think that in dealing with foreigners, we are going to lose American jobs. And, coming from a community like mine who still suffers unemployment and underemployment, I would like to spend my time on the floor doing all that I can to encourage investments in my community and similar communities within the United States.

But I think we all have come to understand that trade and commerce involves exports and that the exporting industry creates jobs, many in my district. I have had the opportunity to make several trips to sub-Saharan Africa and to work with OPIC and the Ex-Im Bank and American businesses.

And so often we hear that with these developing countries that we cannot give them fish, but we have to give them the tools to teach them how to fish. And so many times we see in these developing countries, well, it is not just a question of American businesses getting the protection of OPIC, but it is the question of American businesses being able to export to these American businesses that are located in these countries.

I would hope that the gentleman from California (Mr. ROHRABACHER) will continue to have enlarged tourist activities in his district. But in order to do this, people have to have jobs, they have to have money, and many of them are able to enjoy tourism here because they have jobs that are here.

So there are enough restrictions to show that the investment is not going to be a direct challenge to our manufacturing operation; that is written into the law. But it would seem to me that it would be a terrible thing to put such restrictions on OPIC that those people, and they are people who have the courage to take the risks, to go overseas, that America goes with them as partners and say that we want investment in this part of the world, we want people to be economically independent, we want to make certain that we preserve democracy, because democracy without economic support cannot last that long.

So it just seems to me that we can take a deep breath about these things when it involves foreign countries. We say foreign and all of the vital juices fly up. But God knows, I believe that we ought to stamp out communism wherever we find it, yet we find the majority of people here think we should do business with China and with North Vietnam and North Korea, and then we have a little island right out there in the Caribbean. It seems as though we get so upset when we try just to remove the embargo, even though I do not know about Castro trying to do anything to overthrow our government; still, we are very selective when we start getting angry with Communists.

But since there are so many other countries that do have democracies and these are the countries that certainly do not cause us political problems, I hope that my friends on this side and the other side of the aisle would find some worthwhile projects where we can say we want to encourage investments in these areas, we want that American flag to be waving with capitalism and investment, and that we want jobs on this side of the ocean as well, which will come as a result of forming these types of economic partnerships.

So I just want to say that I want to thank people on both sides of the aisle for putting together a bill that we can say is bipartisan, and let us give OPIC a chance to do the job that they have been created to do. I will be opposing the Rohrabacher amendment, but I certainly will be giving my strong support for the bill.

Mr. TRAFICANT. Mr. Chairman, I move to strike the requisite number of words.

I can empathize with the gentleman from California (Mr. ROHRABACHER). But he mentioned some of my comments and my company, and I just want to make a couple of points here.

OPIC is worth about $200 million a year to us; and we give $50 million to promote its activities, so that is about $150 million gain. One of the qualifications for an OPIC investment is there are stringent qualifications to the impact of jobs lost and not one job can be lost pursuant to an OPIC investment.

Now, without OPIC, my company, at the request of this administration, made an investment in Gaza, trying to open up that whole opportunity and bring them in as a neighbor of the great world community. If it were not for OPIC and the insurance and protection of Uncle Sam and our government, my company would be laid out, washed out, could possibly be belly up. We provide an opportunity for America to make investments, reasonable investments to move us forward in the community of nations, and the return on our investment has been very good.

So, I am going to support OPIC, but I am going to support OPIC with the types of reforms that are coming from the gentleman from Illinois (Mr. MANZULLO), the gentleman from New Jersey (Mr. MENENDEZ), the gentleman from New York (Mr. GILMAN), the gentleman from Connecticut (Mr. GEJDENSON), and others. I think for once, it turns a reasonable profit.

Mr. SANDERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is very clear that this debate in truth goes far beyond OPIC. It goes to whether or not we as Members of Congress feel positively about our current trade policies, and that, in truth, has to do with NAFTA, GATT, MFN, has to do with the International Monetary Fund, the World Bank, OPIC, Ex-Im Bank and so forth and so on. That is what it really has to do with. OPIC, in truth, is a small part of that whole picture.

I would argue that any conscientious Member of the House who examined the facts would conclude that our current trade policy, OPIC and everything else, has not succeeded. By definition, it has not succeeded, because we are looking at a record-breaking trade deficit. And we hear our friends say, well, this creates jobs and so forth and so on. But we have to look at both sides of the equation; and when we look at both sides of the equation, what we are looking at is a record-breaking trade deficit. Our current trade policy is failing.

As I said earlier, and I want to touch upon this point, I find it interesting that there are Members here who are quite conservative who would turn pale at any mention that the United States Government should have a national health care program guaranteeing health care to all people, apparently think it is okay for the United States Government to have an insurance program to protect American corporate interests.

Now, it seems to me that if a company wants to invest in China or in Africa, in Asia or in any other place on earth, they have the right to do that. No one is arguing that. But what some of us are suggesting is, should American taxpayer money be placed at risk to protect that investment. Day after day I find people come up who believe in laissez-faire capitalism. who say the government is terrible. Get the government out of our lives. Poor people, hey, they are going to have to stand up on their own two feet. Government cannot help everybody. And yet, we have a situation here where apparently these very same people are saying well, government cannot save the poor, cannot help the working people, cannot get involved in the environment, but government can get involved with the Enrine Oil and Gas Company who receive $400 million in U.S. Government-backed OPIC financing and insurance for natural gas processing and storage facilities in Venezuela. The U.S. Government can get involved in that. The U.S. Government can get involved with OPIC helping Texaco and its partners receive $139 million in government-backed OPIC financing for a power generation project in the Philippines. Chase Manhattan Bank, oh, my goodness, the United States Government can have the stand with Chase Manhattan Bank who received $200 million in U.S. Government-backed OPIC insurance for a telecommunications project in Colombia.

So I would suggest to my friends who support laissez-faire capitalism, you cannot do both things. You cannot say that the government cannot protect working people and low-income people in this country, terrible thing, but yes, the United States Government and OPIC can protect the interests of multinational corporations.

Let me make another point, and I think I am echoing a point that the gentleman from California (Mr. ROHRABACHER) made a moment ago. People say well, we are in a global economy, companies are going to invest abroad, and that is true. But it seems to me that given the fact that we have seen a decline in real wages for manufacturing workers in this country, given the fact that our working people are working longer hours and in many cases, for lower wages, because good-paying manufacturing jobs have gone to China and to other countries where workers are paid horrendous wages, then yes, I do have a problem.

And I share the concern of the gentleman from California (Mr. ROHRABACHER) about providing OPIC help to those companies who want to establish manufacturing plants abroad. I think it is very naive to say well, OPIC says that that is not going to result in the loss of any manufacturing jobs in this country. I do not believe that.

I would argue, and maybe some of my friends who support OPIC might want to help me on this, that maybe instead of OPIC overseeing private investment corporations we want to have a domestic OPIC, a domestic OPIC. What about United States Government guaranteeing investments in the State of Vermont or in low-income communities around this country making it easier for companies to hire American workers and pay them a decent wage.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, a few moments ago my good friend, the gentleman from Ohio (Mr. TRAFICANT) noted this company in his district again, which without OPIC standing by its side would have been laying there in the dust in the West Bank. That company should have invested in an opportunity in the United States; it would have not been lying there in the dust. Americans would have been working.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska (Mr. TERRY).

The amendment was agreed to.

THE CHAIRMAN. The Clerk will designate section 4.

The text of section 4 is as follows:

SEC. 4. OPIC ISSUING AUTHORITY

Section 235(a)(2) of the foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(3)) is amended by striking "1999" and inserting "2003".

AMENDMENT NO. 1 OFFERED BY MR. GEJDENSON

Mr. GEJDENSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. GEJDENSON:

Insert the following after section 4 and redesignate succeeding sections, and references thereto, accordingly.

SEC. 4. ENVIRONMENTAL IMPACT OF OPIC PROGRAMS.

(a) ADDITIONAL REQUIREMENTS.—Section 231A of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection:

"(b) ENVIRONMENTAL IMPACT.—

"(1) ENVIRONMENTAL ASSESSMENT OR AUDIT.—The Board of Directors of the Corporation shall not vote in favor of any action proposed to be taken by the Corporation that is likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented, unless for at least 60 days before the date of the vote—

"(A) an environmental impact assessment or initial environmental audit, analyzing the environmental impacts of the proposed action and of alternatives to the proposed action has been completed by the project applicant and made available to the Board of Directors; and

"(B) such assessment or audit has been made available to the public of the United States, locally affected groups in the host country, and host country nongovernmental organizations.

"(2) DISCUSSIONS WITH BOARD MEMBERS.—Prior to any decision by the Corporation regarding insurance, reinsurance, guarantees, or financing for any project, the President of the Corporation or the President's designee shall meet with at least one member of the public who is representative of individuals who have concerns regarding any significant adverse environmental impact of that project.

"(3) CONSIDERATION AT BOARD MEETINGS.—In making its decisions regarding insurance, reinsurance, guarantees, or financing for any project, the Board of Directors shall fully take into account any recommendations made by other interested Federal agencies, interested members of the public, locally affected groups in the host country, and host country nongovernmental organizations with respect to the assessment or audit described in paragraph (1) or any other matter related to the environmental effects of the proposed support to be provided by the Corporation for the project."; and

(3) in subsection (c), as so redesignated, by striking "each year" and inserting "every 6 months".

(b) STUDY ON PROCESS FOR OPIC ASSISTANCE.—The Inspector General of the Agency for International Development shall review OPIC's procedures for undertaking to conduct financing, insurance, and reinsurance operations in order to determine whether OPIC receives sufficient information from project applicants, agencies of the United States Government, and members of the public of the United States and other countries on the environmental impact of investments insured, reinsured, or financed by OPIC. Not later than 120 days after the date of the enactment of this Act, the Inspector General shall report to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate on the results of its review. The report shall include—

(1) recommendations for ways in which the views of the public could be better reflected in OPIC's procedures;

(2) recommendations for what additional information should be required of project applicants; and

(3) recommendations for environmental standards that should be used by OPIC in conducting its financing, insurance, and reinsurance operations.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 90 days after the date of the enactment of this Act.

Mr. GEJDENSON. Mr. Chairman, first I would like to compliment the gentlewoman from California (Ms. LEE) for a great effort on this issue and the strong work she has done here and on so many other issues in the committee.

This is a very direct amendment, Mr. Chairman. This amendment ensures that environmental concerns are taken into account when OPIC is considering assistance for projects that are likely to have a significant adverse environmental impact. The amendment ensures that no decision is taken by the board of directors on such a project until the 60-day waiting period for public comment is passed and ensures that environmental assessment will be available to the public during that time.

It further requires the president of OPIC or his designee to meet with concerned groups on these projects, and the amendment further requires the board of directors to have discussion on these environmental matters every six months, in public.

Finally, it requires an independent study to review whether OPIC's environmental procedures should be approved.

One of the things we have to do as a Nation is to make sure that we add the environment and the rights of working men and women around the globe into every discussion. Because if we simply move forward and clean up our environment, give American families a better living and the rest of the world deteriorates, it will damage our environment, it will damage our economy. We have to make sure that America leads the environmental standards upwards and does not finance them downwards.

This amendment is important because I think it provides a reasonable amount of time, it makes sure that it clearly stipulates the need for public involvement here, public access in providing the public the information and to make sure that American activities further America's goals, which do include bringing those jobs home to America, but also include that we are not involved in projects that degrade the environment in other countries. I want to again thank the gentlewoman from California (Ms. LEE) for the excellent work she has done here and in so many other areas.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the last word.

I support the Gejdenson amendment. I have a similar amendment, but my amendment is a bit tougher than the one the gentleman has proposed, but I believe we both have the same goal in mind.

The fact is that nobody should be receiving taxpayer money in order to go overseas to involve themselves in economic activity that despoils the environment overseas and destroys the natural heritage of other peoples. I would say especially this is true in countries that are not run by the people themselves. In countries that are run by little cliques, by dictators, by tyrants of left and right, it is imperative that we go on record that none of this OPIC money that guarantees these investments overseas will go to those countries in a way that does serious damage to their environment.

□ 1345

As I say, the amendment that I have in mind goes a bit further than the amendment of the gentleman from Connecticut (Mr. GEJDENSON). It requires that these loans not be made, and that not just the environmental impact report but all environmental studies dealing with the guaranty in question be made public, and that they be made public 60 days prior to the transfer of any funds, which will give everyone the chance to have their say and for organizations that hold the environment dear to come and try to protect what they consider to be an important human resource.

Let me note that this amendment and my amendment are very close to a piece of legislation that the gentleman from California (Mr. COX) has submitted as a separate piece of legislation on which I am a cosponsor. I would invite the gentleman from Connecticut and others to join me in cosponsoring the Cox bill.

Ms. LEE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would first like to thank our ranking member, the gentleman from Connecticut (Mr. GEJDENSON), for all the work he has put forth in strengthening the implementation of OPIC's environmental standards, and also for his support and guidance on this issue.

Being a new member of the Committee on International Relations, this is the first year that I have reviewed in-depth the purpose and function of OPIC. I have been very careful and very deliberate in my support of OPIC.

For the last two decades, and particularly during my time in the California State legislature, I have strongly encouraged the Bay area and the State of California and members of the business community to forge fair trade partnerships, particularly with countries in Africa, Asia, and Latin America. In that vein, the mission and work of OPIC is very much in line with initiatives that I have been encouraging for nearly two decades.

I understand from some of my colleagues that they believe that OPIC sends American jobs overseas. Quite to the contrary, OPIC does not support projects that would create any job loss in America.

Additionally, California OPIC projects have created almost 40,000 American jobs, and in the last 5 years, OPIC projects identified $1.5 billion in goods and services that they will buy from California suppliers, 70 percent of which are from small businesses.

Additionally, as I researched OPIC's standards for the approval of projects, I became acutely aware of the concerns and criticisms from the environmental community. The adherence to strong environmental standards in business is fundamental to my support of export policy, and a necessary standard for my constituents in an area of our country that is the birthplace of the environmental movement.

It is for this reason that the gentleman from Connecticut (Mr. GEJDENSON) and I engaged in a process of dialogue and exchange with OPIC and the environmental community. The result of that exchange is the amendment that we are offering today.

OPIC has played a leading role among bilateral international investment agencies in developing reasoned standards that take into consideration the concerns of their business clients and those of environmental groups and the United States taxpayer.

Working with a broad range of stakeholders ranging from U.S. exporters to international environmental organizations, OPIC has developed a sound environmental policy handbook over the past 2 years.

However, many remain concerned with implementation of these standards in a meaningful and transparent manner. The Gejdenson-Lee amendment balances those concerns by codifying existing practices and increasing the transparency in a manner that will not affect U.S. competitiveness.

This amendment will play a key role in promoting strong environmental and social standards for all projects supported by OPIC. Specifically, the amendment will strengthen the process of the 60-day public comment period on OPIC's environmental impact assessments by prohibiting the OPIC board of directors from voting on any proposed action that may have a significant adverse environmental impact until the 60 days of the public comment period.

Secondly, it allows for a representative of the NGO community to meet with the President of OPIC or his designee to directly discuss concerns regarding possible adverse environmental impacts of proposed projects.

Thirdly, it mandates semiannual public hearings of OPIC's board of directors to allow, once again, direct discussion of a wide range of environmental and labor concerns regarding both past and future projects.

Fourth, it requires that the IG of USAID conduct an assessment of OPIC's procedures for reviewing a project and report the results to the Committee on International Relations and the Senate foreign relations committee. We should be promoting the highest environmental standards possible, certainly when public funds are at issue.

I have followed OPIC's progress and am convinced that what is now on the books should be implemented in a meaningful manner. In the writing of this amendment, we worked closely with OPIC and several environmental groups. The amendment is endorsed by the Friends of the Earth, the Environmental Defense Fund, the Sierra Club, Rainforest Action Network, and others.

I urge my colleagues to support this environmental accountability amendment.

Mr. ROHRABACHER. Mr. Chairman, will the gentlewoman yield?

Ms. LEE. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, I of course agree with the positions the gentlewoman has taken today and the statement she has just made.

The amendment that I am considering offering goes just a little bit further. It is not at all at cross-purposes with the goals that the gentlewoman has stated.

I would ask the gentleman from Connecticut (Mr. GEJDENSON), as well, if the gentlewoman would consider an amendment to her amendment that would bring the two amendments together, and which just beefs up a little bit the gentlewoman's amendment.

Mr. GEJDENSON. Mr. Chairman, I move to strike the requisite number of words.

I would just tell the gentleman, we are probably better off trying to work this out in conference. Under the rule before us, the amendments are not amendable.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, I would tell the gentleman, the amendments are amendable. I think this would save us some time. I do believe that we have precisely the same goals.

Mr. GEJDENSON. Mr. Chairman, if we can work this out before the gentleman's amendment comes up, we will do it.

Mr. MANZULLO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have a question with regard to Gejdenson No. 35. That is, under the present practice of OPIC, OPIC will take a look at the general impact on the environment as part of its normal practices. My concern about this amendment is that it sets up something that is a lot more informal by calling it an environmental impact assessment, or initial environmental audit.

Some of these impact assessments and audits could actually take years. That really could end up putting the end to any type of American company wishing to use OPIC.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. My understanding is that that is already part of the present law. The assessment is in the law. They make that assessment.

What this primarily does is several things. It provides for a certain time that they cannot bring the measure to the board. What happened, at least in one instance, maybe in others, is that while there was a 60-day review period, while the review was going on, the board voted on it prior to the 60 days. That leaves a lot of people concerned about the environmental problems.

The gentleman and I share support for this. I understand that he may have some differences on the amendment. I think what this amendment does, it takes a number of groups that are committed to environmental policy and takes away their opposition from what is a very solid program.

I think if we can show sensitivity to those environmental concerns, which I think the gentleman shares, it will not hamper OPIC's operations. It will provide that we will not end up in an embarrassing situation where we are doing some environmental damage in some developing country, and that both the gentleman's desires and mine will be met. We will have an OPIC that has broader support, that does the right things, and achieves the economic and policy goals the United States is interested in.

Mr. CALLAHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am having great difficulty. Normally the gentleman from Connecticut (Mr. GEJDENSON) and I agree on so many things. I think our mission is probably the same, because the gentleman, as I, wants to protect the businesses in our respective districts, and give them the opportunity to have a vehicle in order to compete with all these foreign countries.

However, I am afraid, in reading the amendment, and there are about six amendments that are addressing this floating around here, so I am having very much difficulty. I have to apologize in advance to the gentleman for not knowing the full content.

However, what I fear in reading this amendment is that the gentleman is putting such a hamstring on OPIC, such a requirement on OPIC with respect to notification, that we are probably getting into a situation where we are going to prohibit them from participating in projects because they are going to have to disclose confidential information.

Then when we have the Inspector General, and as I understand the amendment, and I do not apologize for not having a law degree, but I do have an honorary law degree from Spring Hill College in Mobile, but I am not learned in the law. But my reading in this from a layman's point of view is what the gentleman is saying, number one, before OPIC can do anything they have to have the Inspector General's approval to do it. That is how I read it.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Let me say, Mr. Chairman, my great admiration and respect for the gentleman has just been increased to find out he only has an honorary degree in law, rather than actually having a law degree, no offense to any attorneys here.

I would say that is simply a study with the Inspector General to make sure the process is a good process. That builds confidence in a part of American society that has often had some questions about it.

I think if the gentleman reads this carefully, and maybe the gentleman might want to reserve his final decision until later because there are other amendments coming, he will find that what we basically do is codify the existing practice of OPIC, which has been apparently, on occasion, violated, to make sure they cannot have a vote before the 60 days. The review by the Inspector General is to make sure the procedures meet our environmental concerns.

I think if the gentleman takes some time and reads this, and the votes are going to be postponed, he will see that this is not going to do damage to OPIC. I will commit to the gentleman that I will work with him between now and conference to make sure that his concerns are addressed.

We want to make sure we are not doing bad things environmentally. We do not want the United States caught in causing major environmental damage in some country. I agree with the gentleman, we also do not want to end up with OPIC going through so many different hoops and jumps that it cannot operate in the real world.

That is why the difference between the gentleman from California (Mr. ROHRABACHER) and myself is that I fear, frankly, the 120 days may go too long. That is why we picked the 60 days, which we think is a reasonable period of time.

Mr. CALLAHAN. I thank the gentleman. Reclaiming my time, Mr. Chairman, I would say that I apologize for not having a law degree. I do not mean to inflict any criticism on the law profession. My son-in-law is an outstanding lawyer, Dan Cushing, in Mobile, Alabama. Because of his profession, he supports my two granddaughters in a very, I think, well-to-do fashion.

But my concern is here, and if the gentleman says that we will work it out in conference, I will be happy to work with the gentleman. But what he is saying is adopt my amendment, which admittedly could cause great problems to the ability of OPIC to work with American companies, and then the gentleman says that we will work it out in conference.

Why do we not just withdraw the amendment, and then we will work it out in conference to make sure the environmental concerns are met?

Mr. Chairman, I would just say, I would respectfully ask the gentleman to withdraw his amendment because of the nebulousness of the fact that we have all of these concerns: whether or not the Inspector General is going to be the agency determining which loans are going to be processed, whether or not they have the ability of some organization, some environmental organization or individual who writes a letter, and then it kicks in or triggers the opportunity for delay of any project.

Then we are noncompetitive, because the Japanese do not have this restriction, the French do not have this restriction. No other country has these types of restrictions, yet we have an agency which is complying with most every environmental concern that we have.

I think we might be jumping into waters filled with alligators. We do not want to do that. I know my good friend, the gentleman from Connecticut (Mr. GEJDENSON) does not want to do that, either. Yet, I am afraid, without having the opportunity to review this with the lawyers, that to force OPIC to obey our environmental concerns, we may be jumping into that pond of alligators.

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PARLIAMENTARY INQUIRY

Mr. ROHRABACHER. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN pro tempore (Mr. MILLER of Florida). The gentleman will state his parliamentary inquiry.

Mr. ROHRABACHER. Mr. Chairman, is this the time that if I had an amendment to the amendment of the gentleman from Connecticut (Mr. GEJDENSON) that I would submit that amendment?

The CHAIRMAN pro tempore. Yes, it could be offered at this time.

AMENDMENT OFFERED BY MR. ROHRABACHER AS A SUBSTITUTE FOR AMENDMENT NO. 1 OFFERED BY MR. GEJDENSON

Mr. ROHRABACHER. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The CHAIRMAN pro tempore. The Clerk will report the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. ROHRABACHER as a substitute for amendment No. 1 offered by Mr. GEJDENSON:

Strike the text of the amendment and insert the following:

SEC. 5. ENVIRONMENTAL REQUIREMENTS FOR OPIC.

Section 239(g) of the Foreign Assistance Act of 1961 (21 U.S.C. 2199(g)) is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) The Corporation shall not issue any contract of insurance or reinsurance, or any guaranty, or enter into any agreement to provide financing for any Category A investment fund project as defined by the Corporation's environmental handbook, or comparable project, unless all relevant environmental impact statements and assessments and initial environmental audits with respect to the project are made available for a public comment period of not less than 60 days.".

Mr. BEREUTER. Mr. Chairman, I reserve a point of order.

Mr. ROHRABACHER. Mr. Chairman, the amendment that I am offering to the amendment of the gentleman from Connecticut (Mr. GEJDENSON), again reinforcing the fact that the two pieces of a legislation or two amendments that we have both introduced have precisely the same goal, my amendment, the one objection that the gentleman seemed to speak about a few moments ago was that we elongated the process up to 120 days. That has been crossed out. It is no longer part of my amendment.

What the difference between our amendments seem to be is that the gentleman is offering an amendment that requires only the environmental impact report to be made available by OPIC for the loan to go forward, and we are talking about 60 days prior to the transaction. My amendment agrees with all of the points that the gentleman has made in his amendment, but it also says not just the environmental impact report but all environmental statements, all environmental analyses, all of the studies that have been done that deal with the environmental issues on these proposals overseas should be made available.

I do not see any reason why we should just make one thing available. What we are asking for otherwise is the possibility of hiding from the public information that might suggest, for example, that the project being funded could result in horrendous environmental problems in Brazil or Indonesia but that that report, which is not included in the environmental impact report, remains stuck in the safe at OPIC.

I do not think that that is good business on our part, and I would say to the gentleman from Alabama (Mr. CALLAHAN) to the degree that businesses are worried about their own secrets and doing business overseas, they should only worry about that if they are doing it at their own risk. When they come to the taxpayers, asking us to pick up their risk, they then have no right to keep from the taxpayers the information as to whether or not that guarantee, whether or not it is consistent with the values of the American people. The American people do not want their dollars going to these huge corporations that have major projects overseas that would rape the environment of these foreign countries.

Yes, we would like to have the minerals and have those minerals available, but sometimes what we have done in the past is destroy the historical legacy of countries. Whether like Burma, which is a dictatorship, or Indonesia, which was a semi-dictatorship, or Brazil, which is somewhat of a democracy, we do not want any information that would help us determine the economic viability of these projects to be kept from the American people. I think it is very reasonable, and I would hope that the gentleman from Connecticut (Mr. GEJDENSON), whereas we have the same goal in mind we simply are saying that all the information should be available, would accept my amendment.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I would like to be able to accept the amendment of the gentleman from California (Mr. ROHRABACHER), but we still have some problems with the language in that it is not as simple as the gentleman presents it. The situation that the gentleman presents would involve, indeed, proprietary information beyond simply environmental assessments that are mandated under the procedures of OPIC. I think the gentleman from Alabama (Mr. CALLAHAN) was right. There were so many amendments flowing around we have had a little of this today, but I think the gentleman from Alabama (Mr. CALLAHAN) and I both have a concern here that what the gentleman does creates a couple of hurdles.

The reason I would oppose the gentleman's amendment in the present form is that what I think it would do is, if the gentleman's amendment prevails, it would increase the likelihood that we would make no environmental progress in this legislation.

I think if the gentleman can work with us, we may be able to address some of his concerns, but I do not want to leave here, and that is what I was trying to tell the gentleman from Alabama (Mr. CALLAHAN) earlier, I do not want to leave here with a bill that leaves a cloud over the process.

Mr. ROHRABACHER. I would be willing to withdraw my amendment under the agreement with the gentleman from Alabama (Mr. CALLAHAN) and the gentleman from Connecticut (Mr. GEJDENSON) that they would work with me in trying to develop appropriate language that would be agreeable to all parties.

Mr. GEJDENSON. I certainly would do that because I think the gentleman's goals are laudatory. We are all in the same place. We just do not want the process to tie OPIC up in knots so they cannot move forward.

Mr. ROHRABACHER. Mr. Chairman, reclaiming my time, all too often American tax dollars are used for things that are very horrendous to the values of the American people. They deserve that information, and people who go to the Government and ask for guarantees should not be asking for secrecy and proprietary rights on the information of their investments; and I think that all of us agree on those points, but we still want to move forward.

This is not an obstructionist amendment, and I agree to work with my colleagues.

Mr. Chairman, I ask unanimous consent to withdraw the amendment offered as a substitute for the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BEREUTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would ask the distinguished gentleman from Connecticut (Mr. GEJDENSON) if he could respond to a few questions with respect to the underlying amendment which is the Gejdenson amendment and which is also offered by the gentlewoman from California (Ms. LEE).

What I am concerned about is that with every good intention, we may be creating such a delay in the process that OPIC cannot act in a timely fashion to meet the competition from the export assistance or promotion agencies of other countries. Could the gentleman tell me, by walking through once, how he expects that the processing of an application would work if the gentleman's amendment were adopted? I yield to him for that purpose if he wishes to respond.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, as far as the time line goes, it would be consistent with OPIC's present rules, which have been on occasion short circuited, whether intentionally or unintentionally. Under the present rules that OPIC operates under, OPIC has to provide 60 days for commentary on environmental statements.

What has happened in the past, and has caused great concern, particularly with people who are concerned about the environment, is that while they left the 60 days open, the board voted on it 45 or 50 days into the project. OPIC supports this provision. They recognize that this strengthens their position with the American public and it is a good amendment. They do not have a problem with the 60-day provision part of it.

Mr. BEREUTER. Mr. Chairman, reclaiming my time, is the gentleman saying OPIC supports his amendment?

Mr. GEJDENSON. Not the entirety of the amendment, because I think they are probably not crazy about having the IG review their procedures, as none of us are when we ask an outside independent agency to come in and review. They do not have a problem with the 60 days.

Mr. BEREUTER. Reclaiming my time, I would ask the gentleman if he would expect that the IG review would take place at the earliest possible occasion and that it is his expectation that such an audit would be a one-time only event until some changes would precipitate the need for another IG audit?

Mr. GEJDENSON. It is a one-time review, just a simple review by the IG for their procedures to make sure they work.

Mr. BEREUTER. Is it true that the procedures set fourth in this amendment are primarily or largely restricted to their environmental review?

Mr. GEJDENSON. Exactly prescribed to be simply the environmental areas.

The CHAIRMAN pro tempore. Is there further debate on the amendment offered by the gentleman from Connecticut (Mr. GEJDENSON)?

If not, the question is on the amendment offered by the gentleman from Connecticut (Mr. GEJDENSON).

The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. Mr. Chairman, I offer amendment No. 6.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. ROHRABACHER:

Page 6, add the following after line 25 and redesignate succeeding sections, and references thereto, accordingly.

SEC. 5. PROHIBITION ON OPIC FUNDING FOR FOREIGN MANUFACTURING ENTERPRISES.

Section 231 of the Foreign Assistance Act of 1961 (21 U.S.C. 2191) is amended by adding at the end the following flush sentence: "In addition, the Corporation shall decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's investment if the investment is to be made in any manufacturing enterprises in a foreign country.",

Mr. ROHRABACHER. Mr. Chairman, this amendment is simple and represents basic common sense. It also goes to the heart of the debate here today. All it says is that OPIC may not provide taxpayer backing for manufacturing plants overseas. We have heard time and time and time again in this debate that OPIC creates jobs overseas. Everyone who is supporting the OPIC authorization comes up with jobs overseas.

Well, it is my contention that one cannot build factories overseas without having a negative impact on jobs in the United States. That makes all the sense in the world. Those who are listening to this debate need to listen very carefully. This is the center, the core of the debate on OPIC. What my amendment does is say that none of this money that is used by OPIC will be used to subsidize and to guarantee an investment that creates a manufacturing unit overseas.

Again, by definition, that manufacturing unit will do one of two things. Opening up a manufacturing unit overseas will either reduce the number of jobs in the United States by either exporting the goods produced in those factories to the United States, or they will reduce the jobs in the United States by producing over there goods that should be produced in the United States and exported to that country, or number two, what will happen by building a factory overseas it will prevent the creation of new jobs in the United States. Either way, we do not want to have taxpayer money being used to reduce the number of jobs, to create competition for our products overseas, or to prevent, because the jobs are now being exported over there, the creation of new jobs in the United States because they are all going to another country.

By the way, although we have no guarantees here, that is especially true of nondemocratic countries. Again, OPIC is offering a perverse incentive for American businessmen to go overseas to build manufacturing plants, to use slave labor or cheap labor, depending on if it is a democratic or undemocratic country, and then to reexport those goods to the United States of America.

The gentleman from Ohio (Mr. TRAFICANT) was right when he was concerned about this incredible trade deficit that we have. Well, this has something to do with it. We are subsidizing people creating businesses overseas that create employment in Vietnam.

Well, I have nothing against Vietnam except for the fact that it is a dictatorship and also the fact that I think we should watch out for the American people and our constituents before we watch out for creating jobs in Vietnam or any other Third World country.

This is the essence of the debate on OPIC, my amendment. I understand there may be another amendment offered to my amendment, which will simply say that OPIC can move forward if it does not determine that the number of jobs will be reduced. Well, I am sorry, that is not good enough because that type of approach means that there will be no new jobs created in the United States. That means that jobs would have been created in the United States; but by saying if it does not result in a reduction then we can just see to it that no new jobs are created in the district of the gentleman from Illinois (Mr. MANZULLO), or wherever.

I do not think it is good for us to build tractor factories with taxpayer subsidies in Vietnam or anywhere else. I do not think it is good for us to even build hotels necessarily, but this amendment specifically says manufacturing units.

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It says it shall not be the policy of OPIC to provide taxpayer support and subsidies for businessmen going overseas. Again, why are we giving people an investment to invest in risky situations? Do we want the taxpayers to risk hundreds of millions of dollars in a risky situation when, instead, they could come to the United States.

Do my colleagues know why it is not risky in the United States? It is not risky in the United States because the American people, the American working people support free enterprise, support democracy, recognize the rule of law. Now we are punishing them because they have been so good and so true and faithful to American principles and have made this a good place so we do not need to provide risk insurance for the United States.

We are going to take their dollars out of their pockets, these decent, hard-working Americans, and guarantee the building of factories overseas that will compete with their jobs. This is ridiculous.

Again, how this amendment is voted on and how the people will vote on the amendment that is a gutting amendment that could be offered to this is the essential part of the debate today. I hope people pay attention.

Mr. MENENDEZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to speak in opposition to the Rohrabacher amendment. I understand his passion, and I certainly share his concern about American jobs. But the fact is I believe that this amendment, which is well-intentioned, is unnecessary and actually penalizes those that it is intended to protect, which is U.S. workers.

OPIC is already committed in the law not to export jobs. It is statutorily prohibited from supporting any project that is likely to have a significant negative effect on the U.S. economy. A business that receives OPIC's support must agree not to transfer U.S. jobs overseas. OPIC monitors projects and terminates assistance if a company deviates from its commitment to protect U.S. jobs.

Now, OPIC's economists already screen each prospect project for its impact on U.S. jobs and exports. As mandated by its authorizing statute, OPIC does not support any projects that might harm the U.S. economy or that will result in a loss of a single U.S. job. It operates a comprehensive program to monitor each and every project it assists for its impact on the U.S. economy.

After it approves a project, OPIC monitors such a project from the beginning to the end of the agency's contractual commitments to it. It monitors, and its monitoring enables the agency to check the accuracy of its own methodologies, ensuring the project investors live up to its original representation.

Now, there is a ban on manufacturing projects which would hurt U.S. companies and the U.S. economy. Manufacturing projects help create new markets for U.S. goods and services, which would be lost if the Rohrabacher amendment were adopted.

Restricting the type of projects OPIC supports would put U.S. companies at a competitive disadvantage with their heavily subsidized foreign counterparts. For example, if one has an auto manufacturer who is both foreign and domestic, having manufacturing plants all over the world to be closer to their consumer market, the absence of OPIC support may have the intended effect of keeping an auto maker from having a plant in Argentina. But it will also mean that the company will sell considerably fewer cars in Argentina because they would have used U.S. manufactured parts, inputs that would have generated exports and create American jobs here at home. That is an example of what, in fact, we would do.

This is not about taking some plant that exists in the United States and, as a result of OPIC's efforts, transferring it to some other country abroad. I think, generally, we would be opposing that. That is not the issue here.

The issue here is whether or not we allow OPIC to make such an investment in a plant that does not exist now, that will not detract from American jobs, and that, by doing so, will create American design and American parts that will be used in that plant that ultimately will create jobs here at home.

So I understand the gentleman's concern. But the fact of the matter is the very concern he has is undermined by his amendment. It is important that we look at the whole picture. It may not be a choice between manufacturing in the United States or overseas, but, rather, whether or not to manufacture at all if a company cannot get sufficient financing or insurance to make the investment.

It is a lot better to make sure that, when we create the opportunity abroad, that it is an American product and American design using American imports with American workers and American ingenuity to, in essence, influence that market and to create the jobs here at home that will go towards that manufacturing plant in that regard that did not exist here and would not exist here under the set of circumstances that the gentleman from California (Mr. ROHRABACHER) envisions.

I think we need to defeat his amendment. I know we need to defeat his amendment to protect the very goal that he seeks to preserve.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would like to apprise Members that the Chair is alternating recognition across the aisle, and giving preference to Members of the Committee on International Relations and on the basis of seniority on the Committee on International Relations.

AMENDMENT OFFERED BY MR. MANZULLO TO AMENDMENT NO. 6 OFFERED BY MR. ROHRABACHER

Mr. MANZULLO. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. MANZULLO to Amendment No. 6 offered by Mr. ROHRABACHER:

In the amendment strike: "in any manufacturing enterprise in a foreign country" and insert: "in a manufacturing enterprise in a foreign country, if such investment would cause a reduction in manufacturing in the United States."

Mr. MANZULLO. Mr. Chairman, I appreciate the efforts of the gentleman from California (Mr. ROHRABACHER), and I always admire his spirited debate. The problem with the Rohrabacher amendment is that it would prohibit an American firm from setting up an American enterprise overseas that does even the most modest of manufacturing.

For example, one could set up something overseas that would be similar to a warehouse that does minor assembly. The American manufacturer would send his products to the overseas facility for minor assembly for the purposes of thereafter storing and then reselling to the local market. It is not uncommon to ship components from different parts of the country for final assembly in a foreign country. The Rohrabacher amendment would prohibit that, even if that is an American-owned company.

What our amendment does to his is says, look, we will restrict an OPIC guarantee in a manufactured enterprise in a foreign country only if such an investment would cause a reduction in manufacturing in the United States. It is all about jobs. So we are saying OPIC cannot get involved if it results in the loss of American jobs.

That is already present in American law. Take the case of Monique Maddy. Monique was born in Liberia. She is a United States citizen. She got an OPIC guarantee to set up operations in Tanzania and Ghana. She sends U.S. manufactured communication components to two facilities in Africa where they are assembled and used for African consumption, thereby having 400 to 500 jobs in Africa.

Now, under those circumstances, that is not displacing American jobs because the Americans would not be manufacturing here and shipping over there. But what it is doing is it is increasing American exports of those American made products.

I would ask that the Members of Congress, the Chair entertain using the

Manzullo amendment as a perfecting amendment to the Rohrabacher amendment.

Mr. Chairman, I yield to the gentleman form Alabama (Mr. CALLAHAN).

Mr. CALLAHAN. Mr. Chairman, I thank the gentleman for yielding to me. I think he is right on target. As bad as the gentleman from California (Mr. ROHRABACHER) despises OPIC, his intent is to destroy OPIC. Essentially what he is saying is, let us get rid of OPIC through this obnoxious amendment. What his amendment does is does exactly what he says he wants to do, protect American jobs. So what he is saying is exactly right, that, yes, we can create opportunities in foreign countries, but not at the expense of one American job.

The amendment of the gentleman from Illinois (Mr. MANZULLO) corrects it to the extent that it should be and still gives us opportunities to compete with the French and the Japanese and other countries.

So I know that the mission of the gentleman from California (Mr. ROHRABACHER) is to totally eliminate OPIC. I think that there are a couple of Members of the House that would like to do away with OPIC. But their rationale is ill-founded and should not be considered.

But the Manzullo amendment does exactly what he is saying he wants to do, that we will not go into any foreign countries and make any guarantee of investment if, indeed, it is going to cost us one American job.

I get that as the mission of the gentleman from California (Mr. ROHRABACHER), but his amendment, the way it is written, would completely eliminate the ability of OPIC to assist any American who wants to go into a foreign country to create an opportunity there to compete with the Japanese and the French.

We are saying we will accept the amendment if the gentleman from California will allow us to perfect it to the extent that it protects American jobs. That is his mission according to his statement, and that is the mission of the gentleman from Illinois (Mr. MANZULLO). So I would support the gentleman's perfecting amendment to the gentleman from California.

Mr. MANZULLO. Mr. Chairman, reclaiming my time, essentially, if my colleagues support the mission of OPIC, then the Members should support the Manzullo perfecting amendment to Rohrabacher.

Mr. BLUMENAUER. Mr. Chairman, will the gentleman yield?

Mr. MANZULLO. Yes, I yield to the gentleman from Oregon.

Mr. BLUMENAUER. Mr. Chairman, I am trying to understand the impact in terms of the loss of a single job. May I give an example and ask how it would apply.

Mr. MANZULLO. Yes.

Mr. BLUMENAUER. Mr. Chairman, there is a small lumber company in my State, Ochoco Lumber, that has used OPIC to set up a mill in the former Soviet Union; Lithuania, I believe, is the country. As a result of this manufacturing process, they have been able to get product that they cannot get in Oregon because of some of the environmental and supply problems.

Mr. MANZULLO. Mr. Chairman, the Rohrabacher amendment would not allow that.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. MANZULLO) has expired.

(By unanimous consent, Mr. MANZULLO was allowed to proceed for 1 additional minute.)

Mr. MANZULLO. Mr. Chairman, I yield further to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, what I was trying to clarify is that this has created hundreds of jobs in depressed central Oregon. It may theoretically have displaced one job someplace in the United States.

I understand the Rohrabacher amendment would kill what we have done in this small mill.

Mr. MANZULLO. Mr. Chairman, the gentleman is correct.

Mr. BLUMENAUER. But what about the gentleman's perfecting amendment?

Mr. MANZULLO. Mr. Chairman, our amendment will allow the present operation of the gentleman's constituent's firm in Lithuania. That is correct.

Mr. KUCINICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the American people recently learned that more of the goods sold here are manufactured in foreign countries than in the U.S. That trend is getting worse. The trade deficit is at a record high. For that reason, I rise in support of the amendment of the gentleman from California (Mr. ROHRABACHER).

It is well known that global trade agreements like NAFTA have worsened the trade deficit by making it easier for companies to close their American plants and re-open them in developing countries where they do not have to pay a decent wage, where they do not have to prevent work place injuries, where they do not have to curb pollution.

The Overseas Private Investment Corporation does the same thing and adds to the same problem when it subsidized companies to open factories in foreign countries.

Now, the example was given of an auto company. Let us say an American manufacturer would want to open up an auto company in another country. Well, I am opposed to using U.S. taxpayers' money to help do that because that takes away jobs of auto workers in this country, pure and simple. It does not get much more complicated.

So if we use that example, it totally validates the reason why the amendment of the gentleman from California (Mr. ROHRABACHER) ought to pass this House. U.S. tax dollars should not be used to undermine markets here in the United States and to cost the people who pay our salaries their jobs.

Why should any agency of the United States Government subsidize the trade deficit and the loss of U.S. jobs? Congress should not tolerate it.

The Rohrabacher amendment simply prohibits any OPIC support for worsening the trade deficit, worsening the trend of plant closings in the United States.

Mr. Chairman, I am glad to yield to the gentleman from California (Mr. ROHRABACHER), who I think could help elucidate this subject.

Mr. ROHRABACHER. Mr. Chairman, I think that we have heard some very good examples, and they keep coming from those people who are opposing my position here. For example, do we really want to have OPIC giving, providing hundreds or tens of millions or hundreds of millions of dollars to build a saw mill in gangster-ridden Russia? I do not know what the environmental impact of that is going to be. I think we ought to know about that.

Why do they not just go to Burma with that sawmill where they have got a vicious dictatorship that they can pay off and chop down all the teak wood. That is going to create a lot of jobs here, is not it? No, it is not. It is going to spoil the environment, and we need to know about that.

The fact is this is not a perfecting amendment. As much as I like the gentleman from Illinois (Mr. MANZULLO), he is a wonderful colleague, we are good friends, this is not a perfecting amendment. This is a gutting amendment.

Already we have been told it is already policy of OPIC not to do things where there are loss of jobs. Well, if that is the case, accept my amendment. But the central issue here is not that, and the gentleman from Illinois (Mr. MANZULLO) understands that.

The central issue is whether or not building factories overseas in and of itself, prima facie evidence, determines whether or not jobs will be created overseas rather than here.

The Manzullo amendment, which I think just basically is weasel words in action here, because it permits OPIC to subsidize the building of manufacturing units overseas that they determine, OPIC determines, will not reduce employment here.

□ 1430

But OPIC does not believe building factories overseas reduces employment here. Let me point this out. Even if the gentleman from Illinois (Mr. MANZULLO) is correct and it does not have a reduction of employment here, what we are doing is subsidizing the building of manufacturing units that will prevent the creation of new jobs here, and there is no doubt about that.

Mr. KUCINICH. Mr. Chairman, reclaiming my time, I yield to the gentleman from Illinois (Mr. MANZULLO) because I think this debate is healthy for the House.

Mr. MANZULLO. Mr. Chairman, we have a U.S. company building a lumber mill in Lithuania using Lithuanian lumber. Under no circumstances is that going to result in the loss of American jobs.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, I do not know if we have unemployed lumberjacks in this country or not. I do not know whether or not there is unemployment in the part of the country of my colleague. I think there might be some unemployed lumberjacks in this country that would prefer creating the jobs here in the United States of America.

Of course, then we have to have some environmental controls so that some of these big companies could not rape the environment.

The CHAIRMAN pro tempore (Mr. MILLER of Florida). The time of the gentleman from Ohio (Mr. KUCINICH) has expired.

(By unanimous consent, Mr. KUCINICH was allowed to proceed for 1 additional minute.)

Mr. BLUMENAUER. Mr. Chairman, will the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from Oregon.

Mr. BLUMENAUER. Mr. Chairman, the notion that somehow because there are people that are lumberjacks that are unemployed because there is not access to timber supply means that mill workers should not be allowed to process timber and use materials to build that mill from Oregon escapes me.

It seems to me that we are better off having those people using Oregon products, Oregon companies thriving, and that it does not do anything to affect the timber supply or lack thereof in the Northwest.

Maybe I am missing something.

Mr. KUCINICH. Mr. Chairman, I yield to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Chairman, obviously, this lumber mill example is a very tiny, minuscule, one-half of 1 percent example of what OPIC does.

When we are talking about manufacturing units, we are talking about tractor factories; we are talking about other kinds of manufacturing that are heavy, heavy manufacturing. We are also talking about other exploitation of natural resources.

Mr. KUCINICH. Mr. Chairman, reclaiming my time, I would like to just say that it is a great debate, but the thing that we have to be concerned about is the impact of OPIC on our heavy manufacturing, the export of U.S. jobs, and a widening of the trade deficit.

Mr. BEREUTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Manzullo amendment to the Rohrabacher amendment.

If my colleagues and the American public are somewhat perplexed about what is happening here, it is understandable because the arguments that are being raised, I think, are turning rationality on its head.

What the gentleman from Illinois (Mr. MANZULLO) is attempting to do by his perfecting amendment would say that there must not be a net loss of manufacturing jobs in the United States under OPIC activity. And that should be the objective. That is what the gentleman from California (Mr. ROHRABACHER) says he wants to accomplish.

The gentleman from Alabama (Mr. CALLAHAN) indicated a few minutes ago that the Manzullo amendment accomplishes just what the gentleman from California (Mr. ROHRABACHER) says he wants to do, but that perhaps he has a different motive.

Now, I do not know whether that is the case or not about the gentleman from California, but my colleagues should not be confused by this issue.

Let us suppose an American firm wants to create a canning factory for mangos in India. Now, we do not can mangos in this country, no, not even in Hawaii. The Rohrabacher amendment would prevent OPIC assistance to an American firm which wanted to build or help build a plant in India to can mangos. That would be, a net gain in manufacturing jobs for the United States because the products to produce the canning factory are likely to come from the United States. But there are jobs in manufacturing being created in India, and the gentleman from California (Mr. ROHRABACHER) would prevent that by his amendment just as he would prevent a tea operation in Sri Lanka.

The gentleman from Oregon (Mr. BLUMENAUER) was trying to indicate that in this case the OPIC guarantee for a firm in Oregon actually resulted in net manufacturing jobs being created in the United States, not a loss. So the gentleman from Ohio (Mr. KUCINICH) ought to be in favor of the Manzullo perfecting amendment and opposed to the Rohrabacher amendment because the gentleman from California (Mr. ROHRABACHER) kills, inadvertently perhaps, unintentionally perhaps, he kills American manufacturing jobs that are created by OPIC.

What we need to be concerned about, already addressed in law, is that OPIC activities do not result in a net reduction in manufacturing jobs in America. The Manzullo perfecting amendment will do just that. His amendment indicates that, in effect, if there is a net reduction in manufacturing jobs in the United States, then there would be no OPIC activity, but only if there is a net reduction, not just if there is one manufacturing job created abroad. It is not a zero-sum game on job creation under OPIC activities, my colleagues.

Support the perfecting amendment offered by the gentleman from Illinois (Mr. MANZULLO), a perfecting amendment to the Rohrabacher amendment. Vote "yes" on Manzullo.

Mr. MENENDEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to rise to support the Manzullo amendment, as well, because it does go to the very core of what the gentleman from California (Mr. ROHRABACHER) says he wants to accomplish and, in essence, accomplishes that. It clearly says, if any such investment would cause a reduction in manufacturing in the United States, then clearly OPIC would not be able to pursue such an investment. And so that ultimately goes to the question of do we lose any American jobs.

But if we do not adopt the Manzullo amendment and we were to adopt the Rohrabacher amendment, then, as the gentleman from Oregon (Mr. BLUMENAUER) has suggested just a few minutes ago, the reality is that we would lose those American jobs that would not exist but for the opportunities created by that company in Lithuania. The reality is that we would lose opportunity here at home to create products that would be used abroad in the development of the products being made in these manufacturing plants abroad. The fact of the matter is that, in essence, we would lose American jobs here at home.

But I think our colleagues in their passion, and I understand their passion, not to lose American jobs are blinded by the fact that, in fact, what they seek to do, in essence, will make us lose American jobs here at home.

We are much better off to ensure that opportunities of manufacturing here, at home, parts or other supplies that will be used abroad in an investment make eminent sense. And we are much better off to ensure that, in fact, that the last 5 fiscal years where OPIC has supported 43 manufacturing plants have generated $3.1 billion in United States exports and over 10,000 U.S. jobs.

Now, if we adopt the Rohrabacher amendment, we will lose the $3 billion in potential U.S. exports in the future, these are real exports that have taken place; we will lose those in the future and whatever else we can enhance; we will lose the 10,000 jobs created here in the good ol' U.S.A. That is not what our intention is.

Our intention is to create jobs here at home, to promote American interests here at home. And we are also promoting it abroad, because often what we are doing is creating new markets abroad when we make these investments, which not only are investments that are repaid but end up generating revenue for the Treasury of the United States.

So I want to support the Manzullo amendment very strongly. It will accomplish what the gentleman from California (Mr. ROHRABACHER) wants to do, but it will not strike the blow to American jobs here at home that the Rohrabacher amendment would.

Mr. BLUMENAUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wanted to inject a small note of what I think is reality in the discussion in terms of what difference it will make for hundreds and thousands of small businesses around the country.

The gentleman offers an amendment, and people think it is well intended. I do not know that it is necessarily well intended because I think we have already had a perfecting amendment that has been offered that clearly states how existing policy can be reaffirmed.

We already know that OPIC is constrained by its statutory framework and by its own internal operations from the result that the gentleman is talking about.

He dismissed the example, a real-life example, of a struggling timber company in eastern Oregon as that is just 1 percent or half a percent, while arguing that, well, why do not we just go ahead and give money to the Burmese Junta to cut down teak forests?

Well, what is lacking in this discussion is any concrete example of where there is, in fact, a specific area of abuse, where the existing law and the protections thereof are not being followed, where there is a massive loss, where we are giving money for the leveling of teak forests by the brutal dictatorship in Burma. It is thrown off. I am not aware of any example. Nothing specific has been brought forward.

But he dismisses something that results in American jobs, American products in an area that is hard hit in my community. And I just think that that is what is fundamentally wrong with the debate that we have before us today, Mr. Chairman, that we do not have specifics in areas of real abuse; and we take the hundreds and thousands of a tenth of a percent here or 1 percent there that are real successes for American companies and for countries overseas like in Latvia, where they are struggling to recover from the yoke of Soviet oppression, where they are trying to modernize and refine their economies, where they are trying to enter the world stage, and we have a classic win-win. And that is just dismissed out of hand as that is just 1 percent or 2 percent.

I could stand here and give example after example in my State where not billions but tens of millions of dollars have generated Oregon products that have created hundreds of jobs in our State and where the subcontractors of little tiny companies that nobody has heard of outside the boundaries of our communities that has made a difference.

I think it is time for us to not use hyperbole and hypotheticals that are not proven, that, in fact, are contrary to practice and statute of OPIC and dismiss the good that is done by allowing American companies to be able to work in difficult situations, help emerging democracies, strengthen these economies. I think this is precisely what we should be doing.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, again I remind my colleagues who are following this in the CONGRESSIONAL RECORD or on C-SPAN that this is the essential part of the debate, this is the central issue, and what I think that they ought to try, whoever is listening or reading this in the CONGRESSIONAL RECORD to determine what makes sense and what does not make sense.

The other side is saying, having our Federal tax dollars being used to subsidize the building of factories overseas is not doing anything to hurt American working people. Building factories, manufacturing units overseas does not hurt American working people. That is what they are saying.

Now, if that makes no sense to my colleagues, I would invite them to try to look and see what is happening here. We have got some huge American corporate interests, huge, companies that are worth billions of dollars. They have got hundreds of millions of dollars invested overseas that they would like to make where they do not have to pay the salaries to American workers and they want that guaranteed by the taxpayers. That is what this is all about.

They do not want to invest here. They do not want to take that money that they would invest in that lumber company in Lithuania. They do not want to set up some kind of factory in the United States that creates prefabricated walls or invests in something that deals with construction that could give jobs to the American people. They want to go to Lithuania.

No, but that has no impact. Just giving them the guarantee to produce that in Lithuania has no impact on the American unemployment. Gobbledygook. Nonsense. The Manzullo amendment is not a perfecting amendment. It is a gutting amendment.

□ 1445

I might add the gentleman from Nebraska (Mr. BEREUTER) who unfortunately is not here with us today. I mean right now, he was with us earlier, made the point that the Manzullo amendment said that there will be no reduction of jobs, no net reduction of jobs. The gentleman from Nebraska said over and over again, no net reduction.

I am sorry, but that is not what the Manzullo amendment does. It is not what it says. The word "net" is not in there. The word "net" is not in there because the Manzullo amendment is what we call a gutting amendment.

Mr. MANZULLO. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Illinois.

Mr. MANZULLO. Mr. Chairman, I was going to ask for unanimous consent to add the word "net" in my amendment.

Mr. ROHRABACHER. I wish the gentleman would do that on his own time. I thank the gentleman for using my time.

If the gentleman wants to have good relations in this body, we do not waste each other's time. The gentleman has plenty of time to do that later on.

The Manzullo amendment does not say "net reduction." It just says "reduction." Whether it says net reduction is irrelevant because of this point: It is all based on the analysis of OPIC, and OPIC believes in this gobbledygook that we have been hearing today that if you create jobs, or if you build factories overseas, that it will not hurt American workers because if you analyze things out to the nth degree 100 years from now, their consumers are going to have more money to buy American products because they will have good-paying jobs there to buy American products. This sort of nonsense, this sort of just pie-in-the-sky economics, liberal economics, if you will, is bringing down the standard of living of the average American working person that works in manufacturing jobs in the United States. All the examples we have heard of today hurt American workers.

Again, the gentleman from Nebraska talked about, what is wrong with building a canning factory for mangos in some other country? Well, how about it? Do we not have farmers and agricultural workers that provide some sort of competition for mangos? In California, I think they actually can oranges and grapefruits. They can pineapples in Hawaii. No, I do not want to establish a factory with taxpayer-guaranteed money that will manufacture canned mangos overseas in competition with American agricultural products. It might be a little bit hard to see, but I think the American people fully understand that what this amendment does is it guts my amendment and it leaves open the subsidy of building factories and manufacturing units overseas that will destroy American jobs, either

American jobs that exist, or it will destroy the possibility of creating new jobs. In fact, the gentleman from Illinois' language specifically permits there to be a subsidy for an American company if the only impact is the elimination of the creation of new jobs, as long as it does not reduce current jobs. I am sorry, but we have had an expanding population in the United States. If someone wants to invest overseas, they should be doing so at their own risk. That is all we are saying. It is unfair and a betrayal to our taxpayers to set up factories overseas guaranteed by their money that competes with their own job.

Mr. Chairman, I ask for the Manzullo gutting amendment to be defeated and support for my amendment.

Mr. PASCRELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today to voice my support of the Rohrabacher amendment and oppose the gentleman from Illinois' attempt to, I believe, either circumvent, undermine, use whatever word you wish. I think in the area of trade that the jig is up, and that the American people will no longer tolerate trade agreements where we wind up, and this is not a trade agreement, I understand that, where we wind up as the monitors of the world.

It does not work that way. WTO has not worked, our trade agreements to the South and to the West have not worked for the simple reason that there is no teeth, and we are depending on good will. Yet we read in the paper just a few days ago, "Five Clothing Makers Agree on a Settlement, Sweatshops on Saipan Bring Class Action Suit," and the likes of Ralph Lauren, Donna Karan, the Gap, Tommy Hilfiger, Wal-Mart, go down the list, have to be reminded of the obligations and the undermining of the American ethic of work in our own country. Enough is enough is enough. If it takes the government to remind these great corporations, where our wives and our loved ones shop day in and day out, to even see on those labels, "Made in the USA," tags which now consumers understand have nothing to do with where the product is made. That product, with that label, "Made in the USA," once made sense, once had power. It meant that the product was made within our borders. It no longer means that, does it? We are opening up windows and doors and sides of buildings every day. These trade agreements, and OPIC is part of that scene, simply give credibility to those who want to isolate America. That is not the gentleman from California's intent. It is not my intent.

The Rohrabacher amendment is very simple. It seeks to prohibit OPIC guarantees from being used for investments in manufacturing facilities abroad. Our Nation has suffered enough job loss in manufacturing. We do not need to subsidize the creation of jobs abroad. We need to end exporting jobs from America. We need to do it today. OPIC will be fine for another time, not now. The jig, as I said, is up. It has been exposed. We protect the very businesses who put labels on products, be it textiles or machinery, all the same, that have nothing to do with the location, the geography where the product is made. How can we stand here and defend that and support opening our doors to that kind of lunacy? For those of us who are concerned about job loss, concerned about the working conditions at all of the plants in the article that I referred to, we have another example to point to with this settlement, quote-unquote, as if we needed one more.

The amendment would in no uncertain terms end an opportunity, Mr. Chairman, for OPIC to fund overseas industries that might compete with domestic American industry. We need to stop exporting our jobs. We need to go back and strengthen manufacturing within our own shores. On one side of our mouth, we talk about we are a Nation of immigrants. Yet this is how immigrants earned their identity in America, by working with their hands and making the products from their own sweat and their labor. We do not honor the commitment we made to immigrants in this great American society of ours by undermining the tenet to strengthen American jobs.

The CHAIRMAN pro tempore (Mr. MILLER of Florida). The question is on the amendment offered by the gentleman from Illinois (Mr. MANZULLO) to the amendment offered by the gentleman from California (Mr. ROHRABACHER).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. ROHRABACHER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to House Resolution 327, further proceedings on the amendment offered by the gentleman from Illinois (Mr. MANZULLO) to the amendment offered by the gentleman from California (Mr. ROHRABACHER) will be postponed.

The point of no quorum is considered withdrawn.

AMENDMENT NO. 8 OFFERED BY MR. SANFORD

Mr. SANFORD. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. SANFORD: Page 6, line 25, strike "2003" and insert "2000".

Mr. SANFORD. Mr. Chairman, I walked in here about an hour and a half ago hoping to very quickly offer an amendment and walk out. Yet we found ourselves in the middle of a very heated debate because people have very strong feelings on both sides of the OPIC debate. My hope is that this, however, will be something accepted by voice because I see it as completely noncontroversial. I see this simply as an amendment about good government, having nothing to do with the merits on one side or the other of the OPIC debate itself.

Specifically, when we think about the Federal Government, we do not like it, it is painful as we go through the process, but with the Federal Government we go through the authorizing and appropriating process every single year. The reason we do that is because we want to be accountable to the American taxpayer on a yearly basis for any of the money we spend here in Washington.

So we see this model at the Federal Government level. We see the model of annual statement and annual review in the corporate world. How many of my colleagues have ever seen a 5-year report? We do not see 5-year reports, we see an annual report. We see an annual budget and an annual income statement. In fact, if you think about it in your own homes, what you would see there, at least in our home, when my wife and I sit down to look at our family budget, if you think about setting your family budget, which we do on a yearly basis in our house, my wife and I sit down, we look at the numbers and we say, what could we set for our expenditures based on a given level of income over this year.

So in all of life, whether at the Federal Government level, whether at the corporate level or whether in one's home life, we see annual budgeting. Nobody sets spending on remote control except in Washington on a few different things.

All this bill does is say, rather than looking at a 4-year authorization for OPIC, let us simply look at authorizing it for 1 year. The merits behind doing that I think are severalfold. First of all, though we might disagree about the merits of OPIC, one side versus the other, one thing that I do not think we would disagree with is the idea that the world changes. In fact, the Congressional Budget Office in a report showed that the United States taxpayer is liable for a full 90 percent of the loans, the contingent liabilities that go with OPIC funding. So if the world is constantly changing, would you not want to review those loans on an annual basis?

The second point would be that, and again there has been a lot of disagreement about this, does OPIC cost money, does OPIC not cost money? If we actually look at the numbers, the revenue that came into OPIC last year was $193 million. That was based on interest income based on U.S. treasuries that had been given to OPIC at their origin. Their actual net income was $139 million, for a net loss in terms of normal accounting of $54 million. Admittedly, $54 million is not a lot of money in Washington, but it is an expenditure of taxpayer money, and since it is an expenditure of taxpayer money, all this amendment does is say, "Well, let's make sure that we authorize that, let's make sure that we look at that on a regular basis," because we look at every other area of spending basically on an annual basis here in this Chamber and there on the Senate side.

Finally, I would say, and again there was much controversy over this, and, that is, the idea of whether or not investment moves offshore as a result of OPIC. One thing, though, that we could probably agree on is if you change the risk of investment, you probably change where it goes. That is certainly the case with OPIC funding right now, because due to the insurance, due to the change in risk, there is probably an increase of investment overseas. We can debate whether that is a good or a bad thing, but that is a certain thing that skews investment toward overseas. Therefore, I would think, given the fact that trade numbers go up, trade numbers go down, that we too would want to review that on an annual basis.

I would urge the adoption of this amendment. I think it is an amendment having more to do with simple good government and accountability than the merits underlying OPIC. I would urge its adoption.

Mr. MENENDEZ. Mr. Chairman, I rise in opposition to the gentleman's amendment. I think the case for OPIC's longer term reauthorization is very strong. A 4-year extension does not increase OPIC's program ceilings. It continues OPIC's self-sustaining operations. It brings OPIC in line with its sister agency, the U.S. Export-Import Bank, which has a 4-year reauthorization. The notion that, in fact, we have only 1-year reauthorizations for all pieces of legislation is obviously not the case.

I am sure that gentleman, just as I, has voted for reauthorizations that have far extended beyond 1 year, and in fact there is good reason for giving reauthorizations for beyond 1 year. It is because we provide the wherewithal for that agency and/or that program to plan long term. Just as the private sector would plan long term in terms of making its investments and business decisions, just as we, as a government, hope to plan not just from year to year, but also long term as we make budgetary calculations and projections and do programmatic work, OPIC needs to be able to have the opportunity to plan long term, and such a reauthorization would not be unique.

Its business cycle, OPIC's business cycle, is long term. Many OPIC projects extend over a period of years. A 1-year authorization could threaten projects mid-term. If for some reason there is a delay in the authorization process, a 1-year authorization, I would submit, is really not in the best interests of an agency that in essence is self-sustaining. It needlessly burdens the legislative process with the sole intent of obstructing OPIC's operations.

A 4-year authorization provides American companies with security that their overseas investments will not be subject to congressional delays. A 4-year authorization does not impede the Congress from rescinding OPIC's operating authority at any time if the majority of this House wants to do that and it can get a majority in the other body and get the President to sign it. It can do that at any time if the Congress so chooses to do so.

So the fact of the matter is that we should not jeopardize the ongoing investment of American companies overseas who depend upon OPIC to protect their investments and to whom they pay substantial fees for that service. We should have some long-range planning here, particularly of an agency that, in fact, has shown itself worthy, is self-sustaining, produces revenues, creates jobs at home. And that, I think, makes eminent business sense; it makes good sense for the Congress to pursue. And so respectfully I oppose the gentleman's amendment.

Mr. MANZULLO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment offered by my good friend and colleague from the State of South Carolina. We cannot plan to do anything financially in a 1-year period of time. The loans are for a lot more than 1 year, and we are asking that it be for 4 years, which is more reasonable.

Let me take this opportunity to tell my colleagues some of the things that OPIC does that many Members of Congress do not understand. OPIC got involved in helping to build a power plant in Guatemala. There was $100 million and OPIC insurance to build a plant that produces electricity to be sold in Guatemala. Now that is an American investment to a company there, and in turn American manufactured goods that go into the power plant are exported from the United States to Guatemala.

This is generally the nature of what OPIC does, and that does not displace American jobs because it is pretty difficult to export electricity to Guatemala, but what it does is it insures that loan from which the investor pays a premium and which has returned traditionally 150 to $200 million each year as a surplus to the United States Treasury.

Now without OPIC what company is going to invest in manufacturing electricity in Guatemala? Well, that is what OPIC does. That actually creates American jobs because Americans are employed in the manufacturing process of a material that is exported to Guatemala. So the whole purpose here is to show that an investment like that, we cannot have a 1-year authorization. It has to be a 4-year authorization at the minimum so as to have some continuity to the Federal investments that are made.

Therefore, Mr. Chairman, I would ask that the Members oppose the Sanford amendment.

Mr. BLUMENAUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I, too, rise in opposition to this amendment. I have listened carefully. I do not think by any stretch of the imagination we should confuse long-term program stability with something that is operating on remote control.

I think one can look at the analogy to the family operating around the kitchen table, and it is true that sometimes there are some expenses that that family is going to look at over the course of the next year or maybe the next week or month if we are talking about grocery bills or entertainment. But that family rarely in a functional sense every week discusses whether or not they are going to move in front of the children, whether or not they are going to divorce, whether they are going to undermine the whole fabric of what that family is about. And I would respectfully suggest that that is what we are talking about here, moving from a longer term, 4-year operation to a shorter period of 1 year.

We are not talking about the kitchen table issues; we are not talking about next week's grocery bill. We are talking, as the gentleman from Illinois mentioned in great detail very eloquently, we are talking about fundamental business decisions involving investments of ten, sometimes hundreds of millions of dollars in areas that are potentially risky and difficult. People need stability in order to be able to make business-oriented long-term decisions.

As the gentleman from New Jersey (Mr. MENENDEZ) pointed out, we routinely on the floor of this assembly vote for authorization for a program that is 3, 4, 5 years. The Surface Transportation Act is a 6-year authorization routinely because we are looking at long-term infrastructure investments, and communities need that stability in order to make those decisions. If anything, a decision of this magnitude might require more, rather than less, time because it combines the entrepreneurial activities along with the organizational governmental restraints.

The way that this has been able to be successful not using taxpayer dollars, has not lost a dime in terms of taxpayer dollars since 1971, and has surplused money in fact, is because it has been able to plan for the long term, been able to operate like a business, been able to even these things out. I would strongly suggest that we would be better off with a longer time frame than a shorter to keep that entrepreneurial long-term approach.

Mr. SANFORD. Mr. Chairman, will the gentleman yield?

Mr. BLUMENAUER. I yield to the gentleman from South Carolina.

Mr. SANFORD. Mr. Chairman, I would just make the point that in OPIC doing all of the things that the gentleman points out that in the last time it was authorized for 2 years, and it did not seem to cripple it then in its ability to produce those results; and, therefore, I just humbly suggest that if it was able to do it in 2 years then, why go to 4 years now? Why not keep it at that shorter span?

Mr. BLUMENAUER. Reclaiming my time, Mr. Chairman, and I think it is inappropriate, but I was not happy at the time that we were shortening the time frame, and I think the events in the last couple years have shown that there are problems in order for them to be able to operate in a changing environment in an entrepreneurial sense. In fact, our colleague from Nebraska is concerned about a situation in the troubled state of Indonesia and suggesting recommendations here on the floor to change that.

I feel that that is not something that is made easier by the shorter time frame. I think the longer time frame enabled people to solve problems that arise processing claims. Trying to move forward rather than having a shorter and shorter time frame here, going from 4 to 2 did not help make that problem go away any faster in Indonesia. Going from 2 years to 1 is not going to make it any easier in the future, and I personally have great difficulty thinking that I would be back here trying to explain to our colleague from Southern California how getting a milled product to an Oregon company to manufacture things in Oregon is good for the Oregon economy. The prospect of doing that every year drives me to the point of distraction.

Mr. SANFORD. Mr. Chairman, will the gentleman yield?

Mr. BLUMENAUER. I yield to the gentleman from South Carolina.

Mr. SANFORD. Then following that logic out, the gentleman would suggest we ought to go to a 4-year authorizing process in Congress as we authorize or appropriate?

Mr. BLUMENAUER. I would make a distinction between an entrepreneurial, quasi-public business-oriented activity that is involved with long-term investments and what we do here, everything ranging from paper clips to annual salaries to infrastructure investment. I would support a multiyear capital budget for the United States Congress, and I would consider a 2-year fiscal reauthorization, for instance, but I certainly would not shorten this.

Mr. COBURN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as my colleagues know, I looked at OPIC every year since I have been here, and I can honestly say, although its goals may be worthy, it is pure corporate welfare.

We just heard it said that it did not lose any. It actually lost almost $50 million last year. It showed money on Treasury bonds of money that we have given them showing interest, but the actual losses, true losses were $54 million; $54 million of people's money in this country OPIC lost last year.

Okay, that is the truth about what they actually did.

Did they earn money on bonds, on money that we gave them? Yes, they did, but their net cash difference was $54 million.

Now I understand, if we work in a family, we are going to operate on the cash, and I understand we play all sorts of games in Washington, but the real fact is it is $54 million of the taxpayers' money went out the door last year with OPIC.

Let me explain also where some of it went. Coca-Cola, their profits in 1995, the last year we have all the numbers, was $2.9 billion; but they get $246 million from OPIC. Coca-Cola? We should be funding that when we hear time after time that we are not funding education well enough, that we are not funding the social needs of our country well enough; but we are going to stand up and say we are going to justify giving $246 million worth of insured assets to Coca-Cola?

How about Anheuser Busch? We gave them $49 million. They just made $642 million last year, and yet we are saying that we have a vested vital interest in building a beer factory outside of this country? Come on, give me a break. This is corporate welfare. We should not have welfare for the richest in our society, and to see the other side of the aisle defending sending this kind of money?

ITT Corporation, $160 million. They only made 147 million last year. Had they not had this money, they would have lost money.

So now what we are doing, we complain about the European Common Market, and I will be happy to yield when I finish my point. We complain about the EU and how they subsidize their farmers and that our farmers cannot compete with them. There is no difference in what we are doing, and we know it.

Let us talk about Levi Strauss. We are paying tons of money in the Northwest for displaced workers, and we give $47 million to build a factory to build jeans to come into this country and Turkey. That is what OPIC does. OPIC takes jobs from America and puts them somewhere else.

So the fact is that OPIC as an arm of our foreign policy is well intended, but like so many of the programs that the Government creates, it gets gamed, and it is gamed. If we are going to use it as a foreign policy tool, let us do it in a way that does not copy what the Soviet Union used to do. The right hand does not know what the left hand is doing when it comes to OPIC, and in terms of foreign policy there is no question this is absolute corporate welfare.

Mr. BLUMENAUER. Mr. Chairman, will the gentleman yield?

Mr. COBURN. I yield to the gentleman from Oregon.

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy. He mentioned $160 million that went to one company that was a difference between whether they made a profit or a loss?

Mr. COBURN. ITT.

Mr. BLUMENAUER. Is the gentleman assuming that this is money?

Mr. COBURN. No, no. I understand very well that this is a guaranteed loan or an insurance against a loan.

The fact is if they made $147 million on their own, why should we be guaranteeing their risk when they are in a return and they are going to get the benefit?

As my colleagues know, the world is global today, and we should not be giving the richest of our corporations a free ride when they go to take a risk. That is what the whole purpose of their investment strategy is.

I know we are going to do that to the American farmer. Not very many other businesses in this country do we guarantee them that they are going to have their loans paid off, do we guarantee them that they are going to make a profit. There is a reason why we do it for farmers, because we have an investment in the infrastructure that the farmer in this country supplies us and the quality of life. There is not a good reason for us to do it for the largest, the wealthiest, and the most profitable companies.

□ 1515

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman clarifying that this was a loan and it would not have made the difference between whether or not they made a profit or not.

Mr. COBURN. Mr. Chairman, reclaiming my time, it is a loan guarantee that one cannot get, the taxpayer cannot get; only if they lost everything in their life like the people in North Carolina, they are going to get some taxpayer-funded loan guarantees and some grants, but to give it to the wealthiest corporations in this country, absolutely not.

This is a sham as far as protecting big business. If big business wants to invest in a foreign country and they think it is a good return, have them do it.

The CHAIRMAN pro tempore (Mr. EWING). The question is on the amendment offered by the gentleman from South Carolina (Mr. SANFORD).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. SANFORD. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House rule 327, further proceedings on the amendment offered by the gentleman from South Carolina (Mr. SANFORD) will be postponed.

AMENDMENT NO. 10 OFFERED BY MR. TERRY

Mr. TERRY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. TERRY: Page 6, add the following after line 25, and redesignate succeeding sections, and references thereto, accordingly:

SEC. 5. CLAIMS SETTLEMENT REQUIREMENTS FOR OPIC.

(a) TIME PERIODS FOR RESOLVING CLAIMS.—Section 237(i) of the Foreign Assistance Act of 1961 (22 U.S.C. 2197(i)) is amended—

(1) by inserting "(1)" after "(i)"; and

(2) by adding at the end the following:

"(2) The Corporation shall resolve each claim arising as a result of insurance, reinsurance, or guaranty operations under this title or under predecessor guaranty authority within 90 days after the claim is filed, except that the Corporation may request specific supplemental information on the claim before the expiration of that 90-day period, and in that case may extend the 90-day period for an additional 60 days after receipt of such information.

"(3) The Corporation shall pay interest at the prime rate on any claim for each day after the end of the applicable time period specified in paragraph (2) for settlement of the claim.".

MODIFICATION TO AMENDMENT OFFERED BY MR. TERRY

Mr. TERRY. Mr. Chairman, I ask unanimous consent to modify Amendment No. 10.

The CHAIRMAN pro tempore. The Clerk will report the modification to the amendment offered by the gentleman from Nebraska (Mr. TERRY).

The Clerk read as follows:

Modification to Amendment No. 10, offered by Mr. TERRY: in the text of the matter proposed to be inserted, on line 7, strike "shall" and insert "should", and on line 16, after "any", insert "valid".

Mr. TERRY (during the reading). Mr. Chairman, I ask unanimous consent that the modification to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

The CHAIRMAN pro tempore. Is there objection to the modification to the amendment offered by the gentleman from Nebraska (Mr. TERRY)?

There was no objection.

Mr. TERRY. Mr. Chairman, this is an amendment that would apply some reasonable time limits to OPIC's claim settlement procedures. Private parties that have paid substantial premiums to OPIC, in some cases millions of dollars, are finding that they are literally at OPIC's mercy which it comes to the resolution of their claim. They lose real dollars every day OPIC delays settling these claims. Yet, under current law, OPIC does not even have to pay interest on its claims' obligations no matter how long it is delayed.

Moments ago we passed a policy that said that they have to expedite their claims or treat them expeditiously. Now, this is the implementation of that policy. This amendment proposes a 90-day initial period in which they can review the claim. If additional information is required, they can have 60 additional days for a total of 150 days to review the claim to make their decision.

If they are unable to make their decision within that time frame, then at the beginning of the 150 days, in essence, interest starts running if the claim is found to be valid.

I know that the Chairman of OPIC has some concerns with the mechanics of the operation of this amendment. I have talked to Mr. Munoz about those, and I think some of them are valid concerns. It does place a burden on the applicant. The applicant, because of a shortened time frame, has to get their ducks in a row before submitting a claim. One cannot simply write the letter submitting the claim without then having their documentation to back it up. So it does place that burden on the applicant.

But, on the other hand, there is nothing in the system right now that prevents OPIC once that information is submitted to act on it expeditiously. This puts the policy into action with specific time periods and a remedy when they fail to adhere to those time periods.

Mr. Chairman, I urge approval of this amendment.

Mr. MENENDEZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I understand the gentleman's concern, and that is why I went along with his first amendment. But this amendment actually I think creates harm, and I want to call the gentleman's attention to why I have to oppose it and hopefully, we can work something out, but if not, I will have to oppose his amendment at the end of the process.

Imposing a fixed timetable on OPIC creates a series of problems. It disadvantages the small business investor who cannot make his best case early. I understand the gentleman's concern is about a small business, but one cannot at the end of the day create a process that disadvantages them because they cannot make their best case early. It pressures OPIC to deny a claim that might, with both parties' cooperation, be satisfactorily documented in the long run. It frustrates joint efforts at overall settlement of the investor's total claims, both the insured and the uninsured, because settlement efforts with a foreign government takes time, making the fair and flexible OPIC claim process formalistic and confrontational, and lastly, it impairs OPIC's historical claims record of paying over 90 percent of claims and realizing a 94 percent recovery rate as a successor to the investors' valid claims against a foreign government. So even when OPIC comes to the conclusion that it is a valid claim and that it has to be paid, by being the successor in interest to that insured party, it still goes after and tries to pursue and ensure that we are not left holding the bag. And it has a 94 percent success rate in that regard.

This process, by confining OPIC, actually works to the detriment of the small business investor who might be seeking a claim, works to the detriment of OPIC. And then there is a second provision in the gentleman's amendment that actually hurts the taxpayers of the United States, which is that, in fact, in this compacted time period, in situations in which OPIC will be forced to deny the claim in order to be able to best create the circumstances to ensure itself and ultimately the taxpayers, we are going to force it to pay interest, which interest ultimately as a governmental agency would come from the taxpayers.

Now, we have an agency that has not cost the taxpayers money, the previous speaker mentioned something about an OPIC loss, and that they only have interest based upon government bonds. Well, that is from proceeds that they have achieved from the revenues that they generate from the insurance that they offer and for which they are paid for, and that they have invested, so they have not operated as a loss; and we do not want them to operate as a loss. Therefore, we cannot constrain them in such a way.

OPIC's bottom line result on claims payment is excellent and its process is flexible and fair. Rigid timetables would create pressure to deny claims that are not at first convincingly supported where OPIC's practice has been to work with the investor, to make the best case for compensation in the amount claimed. This can take time, but it is fairest to the investor and to the taxpayer.

So, we need to make sure that this process is one that works, as it has, with an excellent percentage of payment of claims, and an excellent percentage of restoring those claims paid by going after the entity with OPIC standing in the interest of the investor. That is what we want to achieve. And yes, we want it to be as fast as possible; but we do not want to hurt the small businessperson in the process that is going to have to make their case early. And we do not want to hurt the taxpayers by imposing upon the agency payments that will ultimately be costly to both the agency and, therefore, to the taxpayers in a premature manner.

So, Mr. Chairman, I would hope the gentleman would try to work with us in a conference and withdraw his amendment, but in view of the fact that I assume the gentleman wants to proceed, then I will offer an amendment to the gentleman's amendment at the appropriate time.

The CHAIRMAN pro tempore. The Committee will rise informally.

The SPEAKER pro tempore (Mr. YOUNG of Florida) assumed the Chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

EXPORT ENHANCEMENT ACT OF 1999

The Committee resumed its sitting.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New Jersey (Mr. MENENDEZ).

AMENDMENT OFFERED BY MR. MENENDEZ TO THE AMENDMENT NO. 10, AS MODIFIED, OFFERED BY MR. TERRY

Mr. MENENDEZ. Mr. Chairman, I offer an amendment to the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. MENENDEZ to Amendment No. 10, as modified, offered by Mr. TERRY: Strike lines 1 through 18 and insert the following:

"SEC. 5. REVIEW OF CLAIMS PROCESSING FOR OPIC.

"The General Accounting Office is requested to provide a report not later than 6 months after the date of the enactment of this Act to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, which reviews the claims activity of the Overseas Private Investment Corporation. The report shall include—

"(1) an analysis of claims paid, settled and denied by OPIC;

"(2) the number of claims determinations made by OPIC which are challenged in arbitration;

"(3) the number of OPIC's claims denials which are reversed in arbitration;

"(4) the number of claims which are withdrawn; and

"(5) recommendations for ways in which the interests of OPIC insureds and the public could be better served by OPIC's claims procedures."

Mr. MENENDEZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. MENENDEZ. Mr. Chairman, what we hope to do through this amendment is to try to reach the gentleman's concern, but at the same time, create the operational capacity for OPIC to do what it does so well. What we offer here is a review of claims processing for OPIC. Having the General Accounting Office providing a report not later than 6 months after the day of the enactment of this law to both the Committee on International Relations and the Senate Foreign Relations Committee, to review the claims activity of OPIC which includes an analysis of the claims paid, settled, and denied; the number of claims determination made by OPIC which are challenged in arbitration; the number of OPIC's claim denials which are reversed in arbitration; the number of claims which are withdrawn; and recommendations for ways in which the interests of OPIC's insured and the public could be better served by OPIC's claims procedures.

To the extent that OPIC has a great record and it can be improved upon, this gives us the wherewithal to do it without creating the constraint that the gentleman's amendment would.

Mr. Chairman, OPIC's standard contracts presently allow OPIC a reasonable time to make a decision after receipt of a completed application, one that establishes the insured's right to be compensated in the amount claimed.

Now, when we have this political risk insurance, the fact of the matter is it raises complex issues: issues of fact, contract interpretation, foreign law, international law and accounting. They cannot be resolved over the phone as we might do if we had an automobile accident or a homeowner's claim and try to deal with our insurance company. They are extremely complex.

Therefore, the time frame that the gentleman wants, while his goal is worthy, ultimately really hamstrings OPIC in a way that is detrimental to that small businessperson, as well as to the taxpayers, by the enforcement of a mechanism that makes them pay interest by the time that the time frame is exhausted, and that time frame is rather short, 150 days, total. That is a very short time frame.

OPIC's decisions on claims become public. They are relied upon as a way and as a means and as a guide to looking at OPIC contracts and are cited in broader discussions of international investment law. Reaching the right bottom line result is simply not enough. OPIC's rationale has to be properly articulated, because if not, others will seek to pursue those future actions if we do not articulate the right set of reasons, and that can be more costly to us.

So any interactive process takes time. If OPIC has to reach final decisions within a fixed deadline, more claims will be denied and in that process of denial will start a series of circumstances that we are going to hurt the investor, we are going to impinge upon the agency, we are going to start charging interest after that 150 days; and that ultimately is going to create a problem for us in terms of the taxpayers of this country.

I think, while the gentleman's intention is well-meaning, his effort as to how he achieves that is both problematic for the agency, problematic for the entities to be insured, problematic for the taxpayers. So I urge the adoption of my amendment to the Terry amendment.

□ 1530

Mr. TERRY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first of all, I want to be clear on what this amendment does. It is, in essence, a substitute amendment to mine. It statutorily incorporates the status quo. It basically says that OPIC has 6 months next to never to resolve claims.

That is no improvement. There are examples where OPIC has drug their feet on claims for a variety of different reasons, but the fact that they have taken substantial time to resolve claims is unrefuted.

The issue then is if they are going to act like a private insurance company, they have to treat claims with good faith. If we review insurance laws of every State, we will see provisions that outline how insurance companies have to act in good faith. One of those provisions in every State is that they have to handle claims expeditiously. If they do not, the remedy is usually pre-judgment interest.

This is what my amendment does, is simply put into the system some accountability. That accountability is if they are going to drag their feet on claims, on valid claims, then after 150 days they should have to pay interest on the amount of that claim.

The world does not operate in a vacuum. If Indonesia takes over a power plant and kicks out the U.S. citizen that built that and threatens to jail them if they return, that is expropriation. OPIC knows when that happens. Now, the applicant has to document those activities, and will take the time to properly put their case together before they submit that.

It is reasonable, then, because OPIC, if they are diligent at all, should already know what is going on, for them to be able to review that within a certain short period of time. If additional information is necessary, as is outlined in mine, and that request is reasonable, then they should be afforded an extra 60 days, for a total of 150 days.

My amendment is reasonable. The substitute amendment offered by the gentleman from New Jersey (Mr. MENENDEZ) guts mine entirely, and basically, as I said, incorporates the status quo.

A couple of points raised; one, that OPIC resolves 94 percent of the claims. I am sure under the current leadership that that will not change. What may change, though, is another category of the timeliness of those resolutions.

That is what we are requesting, is simply that OPIC have a set time frame to resolve those claims. I am sure they will act expeditiously under the current leadership.

The fact that they want to go after, for example, Indonesia for reimbursement, they should not hold up a claim until they get some commitments for reimbursement. In the private sector, that is bad faith. Surely they should have the right.

This amendment in no way quashes or harms or prevents their opportunity to go after a country that has expropriated an asset at all. All this simply does is say, for the victim of that expropriation, that they have to handle that claim in a timely manner.

Mr. Chairman, I urge the defeat of the substitute amendment, and again request passage of my amendment.

Mr. BLUMENAUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, so far today we have not had any evidence on the floor of this Chamber that the people associated with OPIC are operating in bad faith. I have not heard that. My experience and the record before me, at least to this point, indicates that people are trying to do their best under difficult circumstances.

What our colleague, the gentleman from New Jersey, pointed out is that when we are operating in an area that is chaotic, in an area where we have multiple interests that we are trying to advance as a government, where the parties involved have entered into a contractual obligation under which they get the risk insurance, that we have a framework that is established.

This is a decision that is going to guide what the agency does in this case and in others that may be in fact similar. They are relied upon in areas of international law and in terms of people entering into other agreements with us to promote the objectives of this program.

The people who manage OPIC have every reason to do so in an expeditious and thoughtful manner. They are in the business of promoting the interests of American business in risky environments. That is why they are there. They have done a stellar job since 1971 of doing that.

They are caught in a situation in many cases where they are trying to find out what the true facts are and then lay the groundwork; not just to put the money back into the hands of maybe the person who has the risk insurance or the corporation, but then they also have to lay the foundation to get the money back.

The recovery rate, as the gentleman from New Jersey pointed out, is in excess of 90 percent. Ninety-three percent I believe is the number he recited. That is because a thoughtful and careful job is done. Many times it is an interactive process. Where we have some of the smaller businesses that are involved, maybe they do not have as much activity overseas, they do not have as much presence, it takes time for them to assemble their material, and this goes back and forth between OPIC and the insured.

Think for a moment what is going to happen if in fact we are going to change the contracts and the operation, where all of a sudden we are going to have an arbitrary time limit that kicks in and interest is going to be paid.

Two things are going to happen. One, I agree with the gentleman from New Jersey, the inclination, because they have to run as a business, they have to be accountable, the inclination is going to be to reject and deny more claims. That is common sense in terms of how the business operates.

To the extent that that does not occur and we end up paying out a lot of money, that means there are going to be fewer loans that are going to be granted, or it is going to be that maybe for the first time it will actually require that we are invading some of these reserves and it is not going to be surplusing money.

I would strongly suggest that the amendment that has been offered by the gentleman from Nebraska (Mr. TERRY) is undermining the notion of this being an entrepreneurial insurance-oriented approach that gives maximum flexibility to the agency to try and balance the interests to the taxpayer and to the client, according to the contracts that they enter into.

I suggest that it is inappropriate for us to engage in micromanagement on this floor with arbitrary time limits that are going to get in the way of laying the foundation. Ultimately, we want to be successful. We want the Indonesian government to cough up money to cover this, and to be able to keep the taxpayer whole and get money back to an aggrieved party.

I strongly urge that we adopt the amendment of the gentleman from New Jersey (Mr. MENENDEZ) and reject the underlying amendment.

Mr. MENENDEZ. Mr. Chairman, will the gentleman yield?

Mr. BLUMENAUER. I yield to the gentleman from New Jersey.

Mr. MENENDEZ. Mr. Chairman, the point that the gentleman made is an important one. When we deny claims, when OPIC is forced by this new set of circumstances to deny claims, what happens to the claimant, the American company that the gentleman is concerned about? Now their only course is to litigate, which is more costly, more time-consuming, than to work with OPIC in trying to reach a conclusion.

The bottom line, Mr. Chairman, is that, number one, the denial of claims because of the time constraints causes a set of circumstances that is even worse for the claimant, and the claimant happens to be an American entity.

The CHAIRMAN pro tempore (Mr. EWING). The time of the gentleman from Oregon (Mr. BLUMENAUER) has expired.

(By unanimous consent, Mr. BLUMENAUER was allowed to proceed for 2 additional minutes.)

Mr. MENENDEZ. Mr. Chairman, will the gentleman yield?

Mr. BLUMENAUER. I yield to the gentleman from New Jersey.

Mr. MENENDEZ. Mr. Chairman, secondly, if the gentleman's amendment would give flexibility to the company to engage with OPIC and extend the time frame that the gentleman suggested, then it might be more reasonable, because OPIC would not be forced to make a determination, the company would not be forced to pursue its interests in a limited time frame in which it might not make its best case, and everybody would be better served.

Mr. TERRY. Mr. Chairman, will the gentleman yield?

Mr. BLUMENAUER. I yield to the gentleman from Nebraska.

Mr. TERRY. To answer the gentleman's question, Mr. Chairman, on specifically what happens next, the issue is yes, then they can go to arbitration.

There are specific examples in existence where OPIC has not resolved the claim in a timely manner. It has drug on for months. If OPIC would have either accepted or denied their claim, let us say in a denial, probably in the time frame that OPIC has sat on the claim they could have had a determination from the arbitration board in the international arena.

In fact, in the incident in Indonesia when they expropriated the power company, there was already an arbitration of whether or not they had seized those assets. In an international arbitration court of three, it was a three-zero decision that the country had acted in a way to expropriate.

Mr. MANZULLO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is extremely significant that the gentleman from Alabama (Mr. CALLAHAN) supports the original Terry amendment, as modified, or not as modified by the amendment of the gentleman from New Jersey (Mr. MENENDEZ), but the language of the Terry amendment with the change of the two words that appear at the desk.

I think that is extremely significant, because the gentleman from Alabama has been a supporter of OPIC for years. He is very conservative, he is very cautious. He watches the taxpayers' dollars. For him to come out in favor of this amendment to me is quite compelling.

But I would like to contrast the Menendez amendment. Really, that should be supplemental to that of the gentleman from Nebraska (Mr. TERRY). He simply says, let us have a time frame. Granted, the language is not the most artful. It could obviously be cleaned up in conference. But it simply says we should reach a point with all the litigation and all the arbitration that goes on that after a certain point, the person who gets paid his judgment or award is entitled to interest from a certain date on.

There is nothing like prejudgment interest that moves the litigants to get through. It is a tremendous incentive, especially when we are talking about what could be tens of millions of dollars that are at stake. And why not so? If a person's factory is expropriated, that person loses everything. They lose the investment, and many times they still have to pay the bank interest on the investment that he or she made overseas. So the American manufacturer is still paying the bank interest.

What does this say? This says the purpose of this insurance is to make the American manufacturer whole. That is the purpose of insurance. That is what the Terry amendment does.

The gentleman from New Jersey (Mr. MENENDEZ) has a great amendment, if it were on its own. It calls for a study. Around this place, if we do not know what to do, we call for a study. This calls for a study which says within 6 months we want an analysis of all the outstanding claims and all things going on with reference thereto, et cetera, et cetera.

I would suggest that my good friend, the gentleman from New Jersey (Mr. MENENDEZ) really withdraw his amendment, perfecting amendment to that the amendment of the gentleman from Nebraska (Mr. TERRY), and reintroduce it as a stand-alone, and I would be the first one to jump up and say, this is really exciting.

Mr. TERRY. Mr. Chairman, will the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from Nebraska.

Mr. TERRY. Mr. Chairman, I thank the gentleman from Illinois for yielding.

Frankly, the gentleman raised some of the points I wanted to when the gentleman yielded, and I had an opportunity to tell what the process was and how. When OPIC does not act in a timely manner, they also shut the door to those other remedies that are available. When they sit on a claim, and they have, and I am sorry that we do not get the opportunity, like in a court of law, to call witnesses to produce evidence, but if we can get some hearings on the way OPIC has acted on a certain amount of claims, especially the Indonesian claims, we will see that, for whatever reason, and I am not saying that they are bad faith reasons, but without question, they have admitted that they have had all the facts of what happened in Indonesia for months, and in a meeting last week, when they said that they would have a decision months ago, and when asked why they have not, they said, yes, we have all of the facts, but the lawyers have not made their decisions yet.

Well, when I was in the private practice of law, that would be frequently the answer of the insurance companies that were ultimately responsible: We know all of the facts, we have done the investigation, we just have not made our decision yet. This simply says, you have all the facts. Make your decision. Quit using excuses to delay it.

If that is an admirable policy, then what we need to do is to put some teeth into it. I think just a simple private sector remedy of prejudgment interest is probably the easiest solution. The gentleman from Illinois (Mr. MANZULLO) is exactly right, it is a simple solution that incentivizes both parties to move in a timely manner. That is the whole purpose of this amendment.

☐ 1545

The CHAIRMAN pro tempore (Mr. EWING). The question is on the amendment offered by the gentlemen from New Jersey (Mr. MENENDEZ) to the amendment, as modified, offered by the gentleman from Nebraska (Mr. TERRY).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. MENENDEZ. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 327, further proceedings on the amendment offered by the gentleman from New Jersey (Mr. MENENDEZ) to the amendment, as modified, offered by the gentleman from Nebraska (Mr. TERRY) will be postponed.

AMENDMENT NO. 11 OFFERED BY MR. TERRY

Mr. TERRY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. TERRY:

Page 6, add the following after line 25, and redesignate succeeding sections, and references thereto, accordingly:

SEC 5. RESTRICTION ON CONTACTS RELATING TO OPIC CLAIMS SETTLEMENTS.

(a) PUBLICATION OF FEDERAL AGENCY INTERVENTIONS.—Section 237(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2197(i)) is amended—

(1) by inserting "(1) after "(i); and

(2) by adding at the end the following:

"(2) No other department or agency of the United States, or officer or employee thereof, may intervene in any pending settlement determination on any claim arising as a result of insurance, reinsurance, or guaranty operations under this title or under predecessor guaranty authority unless such intervention is published in the Federal Register.

"(3) The Corporation shall report to the Congress on any intervention, by any other department or agency of the United States, or officer or employee thereof, regarding the timing or settlement of any claim arising as a result of insurance, reinsurance, or guaranty operations under this title or under predecessor guaranty authority. The report shall be submitted within 30 days after the intervention is made.".

Mr. TERRY. Mr. Chairman, this amendment addresses a serious concern that I have regarding OPIC. We have alluded to some of it here in our discussions on the last amendment. It is that basic business decisions at OPIC have, I fear, become politicized. When an American business comes to its government and purchases a political risk insurance policy, it is doing so because in certain countries it cannot rely on a transparent political process or the sanctity of those contracts.

Based on the comments that I have heard directly from OPIC officials, I have reason to believe that officials from cabinet agencies are intervening in the business operations of OPIC because of other foreign policy goals. That is, it is turning the purpose of OPIC on its head. The fact that American companies have suffered as a result of capriciousness abroad is bad enough; but when they turn to their own government for help contractually, they should not expect even more political capriciousness.

My amendment seeks to get to the bottom by requiring any intervention by a Federal agency on a pending claim at OPIC to be disclosed. It is as simple as that: disclose it. Let us recognize that OPIC is a governmental agency. Its head is appointed by the President, confirmed by the Senate. So it does have to have relations with the State Department and the Treasury. So if there are foreign policy considerations that are holding up a claim or influencing the resolution of a claim, which I think is wrong, considering the insurance contract should be different than that, but at least recognizing the government relationship, the least that they should do is disclose that intervention.

Now, by intervention I mean simply take the common everyday usage of that word. I mean any formal or informal communication by an official of another agency at OPIC that seeks to affect or could reasonably be expected to have an impact on OPIC's decision on the merits of the case.

There is concern about whether a simple call of inquiry, a Treasury head calling up and saying, George, how are the claims in Indonesia coming, that is a simple inquiry. That is not intervention. If they say we have some real foreign policy issues there, we cannot upset the government of Indonesia right now, so how are those claims coming, I think the true intent might have been to intervene in the process.

I expect an amendment that will change the definition of "intervention," and we will have a continuing debate on that, but I think we owe it to those who are purchasing these contracts that if their claim is being influenced that they at least know it. I urge support for this amendment.

AMENDMENT OFFERED BY MR. MENENDEZ TO AMENDMENT NO. 11 OFFERED BY MR. TERRY

Mr. MENENDEZ. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. MENENDEZ to Amendment No. 11 offered by Mr. TERRY:

Page 1, line 9, insert the following after "intervene"; "with the intent to impede or delay".

Page 1, line 16, insert the following after "intervention,": "with the intent to impede to delay a settlement determination".

Mr. MENENDEZ. Mr. Chairman, I understand the gentleman's concern about the possible intervention of other Federal agencies on pending settlement determinations and clearly claims should be considered on their own merits, without necessary delays, unrelated to the actual claims process, but I am offering this amendment to clarify the gentleman's language. My amendment would change the language in paragraph 2 to read that no other department or agency of the United States or any officer thereof or any employee thereof may intervene with the intent to impede or delay in any pending settlement determination, and it makes the same change in paragraph 3. Now, what is the reason for the clarification?

The proposed amendment by our colleague would prevent OPIC's board members from carrying out their statutory functions. OPIC is governed by a board of directors that, in fact, seven of whom are officers of department or agencies of the United States Government. These are the board of directors. Seven of them are, in fact, officers of departments or agencies of the United States Government.

This amendment would prevent the board from exercising its responsibilities by, quote, "interfering with the ability of its private sector members to participate in discussions regarding claim settlements." So they, in essence, would not be able to engage.

Secondly, the proposed amendment would hurt OPIC's ability to protect the taxpayer by interfering with OPIC's ability to coordinate its claims salvage efforts with other parts of the United States Government. Now, what does that mean? We had a debate earlier, when OPIC has a claim and it is willing to pay the claim, it stands in the shoes of the company that it paid the claim on behalf of to try to get the money from some overseas entity or government. If we cannot coordinate with the agencies of the Federal Government to put OPIC in the best possible sort of circumstances, to protect itself as the claimant and to protect the taxpayers thereof, we are hurting OPIC; we are hurting the taxpayers. That does not make sense.

OPIC's history of successful salvage is due, in part, to its strong coordination with our embassies abroad; and those salvage efforts not only protect the U.S. taxpayer by resulting in a recovery of close to 95 percent of amounts paid or settled on claims over OPIC's history but it also benefits the insured investor whose uninsured interests, uninsured interests, those not covered by OPIC, are also attempted to be covered by OPIC in the salvage effort.

The broad prohibition on intervention that the gentleman would offer in his amendment would inhibit OPIC's ability to obtain relevant information from U.S. embassies in that country and other United States Government sources of information, and it is that very information that is at the core of successfully accomplishing a recovery of the claim.

The threat of violation of this provision would have a serious impact on the willingness of United States Government information sources to provide relevant information to OPIC with respect to claims. Cutting off OPIC's ability to obtain this kind of information would do a disservice, both to the taxpayers and OPIC's insureds, by restricting OPIC's fact-finding efforts to non-U.S. Government sources of information, when we have all of those U.S. government sources of information that can help us achieve a 100 percent claim and cost nothing to the taxpayers.

So my amendment tries to accomplish what the gentleman wants by saying if there is an intent to impede or delay, then that cannot be done and those employees and agencies and officers cannot do that; but otherwise we create a huge opening in which no governmental agency, no embassy abroad, and even the directors of the board of trustees of OPIC who we want to be questioning the director about their payments and their liabilities will not be able to do so in this regard.

We would want no corporation in America, we would want no public entity in the country, to be told that we do not want the people overseeing that entity to have the ability to question on the very liabilities they might have as an agency and on behalf of the taxpayers of the country. So I urge adoption of my amendment to the Terry amendment. I think it accomplishes the gentlemen's goal and at the time preserves the sanctity of OPIC's ability to protect itself, the taxpayers, and the claimant.

Mr. MANZULLO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the original Terry amendment and in opposition to the Menendez amendment. I think Mr. MENENDEZ is talking about two different things. The Terry amendment does not prevent anybody or any organization, or any department, from getting involved in the adjudication of this claim. What it simply says is that there should be an open record. This is an open meetings act for the process of adjudication by OPIC. That is all it says.

The plain language says, "No other department or agency of the United States, or officer or employee thereof, may intervene in any pending settlement," et cetera, "unless such intervention is published in the Federal Register." That is all the gentleman from Nebraska (Mr. TERRY) is asking for. He wants to know what, if any, other departments, are trying to influence, I do not use that word in a meanspirited way but are trying to have a role in making a determination, that simply should be a matter of the public record. That is all he is asking.

The amendment of the gentleman from New Jersey (Mr. MENENDEZ) on the other hand says that by adding the words "with the intent to impede or delay," if his language is added to the Terry amendment that turns the Terry amendment into something entirely different. That is not the purpose of the Terry amendment.

The gentleman from Nebraska (Mr. TERRY) simply says this: we have a claim that is before OPIC. The public has a right to know which government agencies are claiming an interest in it, and the people have a right to know what those government agencies are saying.

So I would ask that the Menendez amendment be defeated, that the original Terry amendment be adopted.

Mr. BLUMENAUER. Mr. Chairman, will the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from Oregon.

Mr. BLUMENAUER. Mr. Chairman, can the gentleman envision circumstances where there would be valid information available to the CIA or the State Department that could help in accurately settling the claim, that we would not want published in the Federal record for everybody to see? Can the gentleman envision any circumstances where that would happen?

Mr. MANZULLO. I would say in answer to that that the CIA has its own statute that would protect the distribution of that material. That could happen in appropriation cases. There is no question about that.

Mr. BLUMENAUER. Or the State Department or Treasury?

Mr. MANZULLO. Sure. Obviously overriding the openness of this material would be any national security interests. Those statutes already exist on the books.

Mr. BLUMENAUER. If there are, in fact, national interests that would prevent it being in the public benefit to have this widely disseminated, would OPIC be able to use such information under the operation of this amendment? If so, who would determine what goes in the Federal record and what does not?

Mr. MANZULLO. Who would determine the language of the gentleman from New Jersey (Mr. MENENDEZ) that says with the intent to impede or delay? I mean, that is a subjective process.

Mr. BLUMENAUER. I can understand where the intent we both agree is not to impede or delay.

Mr. MANZULLO. That is correct.

Mr. BLUMENAUER. The intent is to protect American interests, sources of information.

Mr. MANZULLO. Well, sure.

Mr. BLUMENAUER. That would not fall under the scope of the Menendez amendment.

Mr. MANZULLO. I would submit that there are existing statutes on the books today that would give enough protection to the State Department, to the CIA, or any other security agency, for making open documents that are already classified.

Mr. MENENDEZ. Mr. Chairman, will the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from New Jersey.

Mr. MENENDEZ. I appreciate my friend's comments, but the fact of the matter is that what we would have, there are maybe some agencies covered by other statutory provisions in the intelligence community that might offer OPIC information which might be able not to appear in the register, but there are a series of agencies which we might not consider quote/unquote "intelligence information," but which information would be harmful to the interests of the United States that are not covered by any such provision and that would have to be issued in the Register. If not, it would be a violation of law if this amendment were passed. So I think that there is a serious concern between that and what the gentleman seeks to do.

He wants to know if there is some undue influence in the determination of a payment of a claim, and I think that that is fitting and proper; but we have to limit that to make sure that it is undue influence and not just open the whole book for the whole world to see what we are doing out there to try to determine how we process our way to achieving a claim.

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Mr. TERRY. Mr. Chairman, will the gentleman yield for a response?

Mr. MANZULLO. Yes, I yield to the gentleman from Nebraska.

Mr. TERRY. Mr. Chairman, first of all, what needs to be recorded is that one of our government agencies has requested OPIC to make a decision based on politics. The details of that are not necessarily needed to be disclosed in the record.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. MANZULLO) has expired.

(By unanimous consent, Mr. MANZULLO was allowed to proceed for 1 additional minute.)

Mr. MANZULLO. Mr. Chairman, I yield to the gentleman from Nebraska (Mr. TERRY).

Mr. TERRY. Mr. Chairman, let me ask the same level of rhetorical question back. Does it not provide more confidence in the insurance contract if the purchaser of that contract has some assurances that, if decisions are not going to be made on the merits of the claim but on politics, that they at least be told?

Mr. MENENDEZ. Mr. Chairman, will the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from New Jersey.

Mr. MENENDEZ. Mr. Chairman, first of all, I am reading the gentleman's amendment. It says nothing about politics here. It simply says no department or agency of the United States or any of its officers may intervene in any pending settlement determination.

Mr. MANZULLO. Mr. Chairman, reclaiming my time, unless such intervention is published in the Federal Register.

Mr. MENENDEZ. Mr. Chairman, if the gentleman will yield, that goes back to our original discussion, that the very intervention that is going to be published in the Federal Register already unlocks the door to a whole series of things that we may not want, foreign nationals and foreign countries.

Mr. TERRY. Mr. Chairman, will the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from Nebraska.

Mr. TERRY. Mr. Chairman, the issue is that OPIC should be making those decisions on the outcome of claims, not other agencies.

Mr. BLUMENAUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am a little troubled by the turn that the conversation has taken. I will be the first to admit that I think we put the cloak of secrecy too broadly over issues in this country.

I think it is outrageous that the American public does not yet know what we did in Central America 20 or 25 years after the fact, destabilizing democratically elected governments.

I think it is outrageous some of the things that happened in Chile, in Central America, in Asia. I think that we far too broadly keep information from the American public, things that are not designed to keep information from our enemies, or past enemies. They already know what was in those files. It is to prevent, I am afraid, sometimes, embarrassment for some people here. I think, as a general rule, we ought to open up more, and I so voted.

But what this talks about is not sort of a sunshine. I just reject this concept that somehow we are turning the interests of America on its head by having the full range of information available to make these determinations.

I think representing the full range of American interests in the decisions that OPIC makes is not turning American interests on their head. They should not necessarily be disconnected from the best sources of information that we have.

The gentleman from New Jersey (Mr. MENENDEZ) is suggesting that, if something is offered up for the purpose of merely impeding settlement, that that should be prohibited or should be made more difficult.

But this amendment that the gentleman from Nebraska (Mr. TERRY) has offered does not distinguish between things that are somehow impeded, and operation of the information that comes from Treasury, that comes from State, not just the CIA, that from whatever source we have this information available, there would, because there are seven independent agency heads who function as trustees or directors of OPIC, it would very much confuse the deliberations.

If the information that they provided had the effect perhaps of delaying the processing of the claim as rapidly as maybe somebody would request, it may raise the obligation to put information in the record that, frankly, we do not want to have put in the Federal Registry. It would not be in America's best interest.

But why, if that be the case, would the gentleman from Nebraska (Mr. TERRY) penalize either the taxpayer or the balance of OPIC in terms of the bottom line, in terms of having to pay more money. That seems to me to make no sense.

I think we are confusing here politics, to use the word from the gentleman from Nebraska, with having national interests and the best information available to treat the policy holder and the American taxpayer in the best interests.

I fear that if this amendment were adopted, not the Menendez perfecting amendment, but the amendment of the gentleman from Nebraska (Mr. TERRY), operation at OPIC would go on. The people in the bureaucracy would continue to function.

But it would raise questions for the board. It would make them harder to get the good information. They will not be able to do their job as well. That is only going to hurt the taxpayer, if it ends up costing taxpayer money in the long run, where OPIC does not surplus as much money. But because they operate in an entrepreneurial fashion, what it is going to mean is that it is going to mean that there is going to be less money available to loan. It is going to make it more cumbersome. It is going to make the processing of claims based on less accurate information.

Ultimately, it may well mean that fewer people are insured. I do not think that that is necessarily in our best interest. We do not need this to solve a problem that somebody in Nebraska has.

I understand that we are moving forward with that claim, and something is happening. But we do not need to put a cumbersome process, freeze it into statute that is going to give less effective information and make the job of the director and OPIC harder.

I strongly urge the rejection of the Terry amendment and the adoption of what the gentleman from New Jersey (Mr. Menendez) has offered by way of a substitute.

The CHAIRMAN pro tempore (Mr. EWING). The question is on the amendment offered by the gentleman from New Jersey (Mr. MENENDEZ) to amendment No. 11 offered by the gentleman from Nebraska (Mr. TERRY).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. MENENDEZ. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 327, further proceedings on the amendment offered by the gentleman from New Jersey (Mr. MENENDEZ) to the amendment No. 11 offered by the gentleman from Nebraska (Mr. TERRY) will be postponed.

The CHAIRMAN pro tempore. Are there further amendments to section 4?

If not, the Clerk will designate section 5.

The text of section 5 is as follows:

SEC. 5. TRADE AND DEVELOPMENT AGENCY.

(a) PURPOSE.—Section 661(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2421(a)) is amended by inserting before the period at the end of the second sentence the following: ", with special emphasis on economic sectors with significant United States export potential, such as energy, transportation, telecommunications, and environment".

(b) CONTRIBUTIONS OF COSTS.—Section 661(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2421(b)) is amended by adding at the end the following:

"(5) CONTRIBUTIONS TO COSTS.—The Trade and Development Agency shall, to the maximum extent practicable, require corporations and other entities to—

"(A) share the costs of feasibility studies and other project planning services funded under this section; and

"(B) reimburse the Trade and Development Agency those funds provided under this section, if the corporation or entity concerned succeeds in project implementation.".

(c) FUNDING.—Section 661(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2421(f)) is amended—

(1) in paragraph (1)(A) by striking "$77,000,000" and all that follows through "1996" and inserting "$48,000,000 for fiscal year 2000 and such sums as may be necessary for each fiscal year thereafter"; and

(2) in paragraph (2)(A), by striking "in fiscal years" and all that follows through "provides" and inserting "in carrying out its program, provide, as appropriate, funds".

The CHAIRMAN pro tempore. Are there amendments to section 5?

If not, the Clerk will designate section 6.

The text of section 6 is as follows:

SEC. 6. PROGRAMS OF THE INTERNATIONAL TRADE ADMINISTRATION.

(a) FUNDING.—There are authorized to be appropriated to the ITA—

(1) for fiscal year 2000, $24,000,000 for its Market Access and Compliance program, $68,000,000 for its Trade Development program, and $202,000,000 for the Commercial Service program; and

(2) for each fiscal year thereafter, such sums as may be necessary for the programs referred to in paragraph (1).

(b) APPOINTMENTS.—Subject to the availability of appropriations, the Secretary of Commerce, acting through the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service, shall take steps to ensure that Commercial Service employees are stationed in no fewer than 10 sub-Saharan African countries and 1 full-time Commercial Service employee is stationed in the Baltic states, and that the Commercial Service has full-time employees in each country in South and Central America and an adequate number of employees in the Caribbean to ensure that United States businesses are made aware of existing market opportunities for goods and services.

(c) INITIATIVE FOR SUB-SAHARAN AFRICA AND LATIN AMERICA.—The Secretary of Commerce, acting through the Under Secretary of Commerce for the International Trade Administration, shall make a special effort to—

(1) identify those goods and services of United States companies which are not being exported to Latin America and sub-Saharan Africa but which are being exported to countries in those regions by competitor nations;

(2) identify trade barriers and noncompetitive actions, including violations of intellectual property rights, that are preventing or hindering the operation of United States companies in sub-Saharan Africa and Latin America;

(3) publish on an annual basis the information obtained under paragraphs (1) and (2);

(4) bring such information to the attention of authorities in sub-Saharan Africa and Latin America with the goal of securing greater market access for United States exporters of goods and services; and

(5) report to the Speaker of the House of Representatives and the President of the Senate the results of the efforts to increase the sales of United States goods and services in sub-Saharan Africa and Latin America.

(d) REPORTING ON VIOLATIONS OF TRADE AGREEMENTS.—The ITA should—

(1) identify countries and entities, as practicable, that violate commitments under trade agreements with the United States and the impact of these violations on specific sectors of the United States economy;

(2) identify steps taken by the ITA on behalf of United States companies affected by these violations; and

(3) publicize, on an annual basis, the information gathered under paragraphs (1) and (2).

(e) GLOBAL DIVERSITY AND URBAN EXPORT INITIATIVE FOR THE ITA.—The ITA shall undertake an initiative entitled the "Global Diversity and Urban Export Initiative" to increase exports from minority-owned businesses, focusing on businesses in underserved areas, including inner-city urban areas and urban enterprise zones. The initiative should use electronic commerce technology and products as another means of helping urban-based and minority-owned businesses export overseas.

(f) STANDARDS ATTACHES.—Subject to the availability of appropriations, the International Trade Administration shall take the necessary steps to increase the number of standards attaches in the European Union and in developing countries.

(g) EXPANSION OF PROGRAMS TO ASSIST SMALL BUSINESSES.—The International Trade Administration shall expand its efforts to assist small businesses in exporting their products and services abroad by using electronic commerce technology and other electronic means—

(1) to communicate with significantly larger numbers of small businesses about the assistance offered by the ITA to small businesses in exporting their products and services abroad; and

(2) to provide such assistance.

(h) AUTHORIZATION FOR ADVERTISING.—The ITA is authorized to advertise in newspapers, business journals, and other relevant publications and related media to inform businesses about the services offered by the ITA.

AMENDMENT NO. 12 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mr. TRAFICANT:

Page 10, strike line 13 and all that follows through line 24 and insert the following:

(d) REPORTS ON MARKET ACCESS.—

(1) ANNUAL REPORTS.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the ITA should submit to the Congress, and make available to the public, a report with respect to those countries selected by the ITA in which goods or services produced or originating in the United States, that would otherwise be competitive in those countries, do not have market access. Each report should contain the following with respect to each such country:

(A) ASSESSMENT OF POTENTIAL MARKET ACCESS.—An assessment of the opportunities that would, but for the lack of market access, be available in the market in that country, for goods and services produced or originating in the United States in those sectors selected by the ITA. In making such assessment, the ITA should consider the competitive position of such goods and services in similarly developed markets in other countries. Such assessment should specify the time periods within which such market access opportunities should reasonably be expected to be obtained.

(B) CRITERIA FOR MEASURING MARKET ACCESS.—Objective criteria for measuring the extent to which those market access opportunities described in subparagraph (A) have been obtained. The development of such objective criteria may include the use of interim objective criteria to measure results on a periodic basis, as appropriate.

(C) COMPLIANCE WITH TRADE AGREEMENTS.—An assessment of whether, and to what extent, the country concerned has materially complied with existing trade agreements between the United States and that country. Such assessment should include specific information on the extent to which United

States suppliers have achieved additional access to the market in the country concerned and the extent to which that country has complied with other commitments under such agreements and understandings.

(D) ACTIONS TAKEN BY ITA.—An identification of steps taken by the ITA on behalf of United States companies affected by the lack of market access in that country.

(2) SELECTION OF COUNTRIES AND SECTORS.—

(A) IN GENERAL.—In selecting countries and sectors that are to be the subject of a report under paragraph (1), the ITA should give priority to—

(i) any country with which the United States has a trade deficit if access to the markets in that country is likely to have significant potential to increase exports of United States goods and services; and

(ii) any country, and sectors therein, in which access to the markets will result in significant employment benefits for producers of United States goods and services.

The ITA should also give priority to sectors which represent critical technologies, including those identified by the National Critical Technologies Panel under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683).

(B) FIRST REPORT.—The first report submitted under paragraph (1) should include those countries with which the United States has a substantial portion of its trade deficit.

(C) TRADE SURPLUS COUNTRIES.—The ITA may include in reports after the first report such countries as the ITA considers appropriate with which the United States has a trade surplus but which are otherwise described in paragraph (1) and subparagraph (A) of this paragraph.

MODIFICATION TO AMENDMENT NO. 12 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent that the amendment be modified with the language at the desk.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Amendment No. 12, as modified, offered by Mr. TRAFICANT:

Page 10, strike line 13 and all that follows through line 24 and insert the following:

(d) REPORTS ON MARKET ACCESS.—

(1) ANNUAL REPORTS.—Not later than March 30 days after the date of the enactment of this Act, and annually thereafter, the TPCC should submit to the Congress, and make available to the public, a report with respect to those countries selected by the TPCC in which goods or services produced or originating in the United States, that would otherwise be competitive in those countries, do not have market access. Each report should contain the following with respect to each such country:

(A) ASSESSMENT OF POTENTIAL MARKET ACCESS.—An assessment of the opportunities that would, but for the lack of market access, be available in the market in that country, for goods and services produced or originating in the United States in those sectors selected by the TPCC. In making such assessment, the TPCC should consider the competitive position of such goods and services in similarly developed markets in other countries. Such assessment should specify the time periods within which such market access opportunities should reasonably be expected to be obtained.

(B) CRITERIA FOR MEASURING MARKET ACCESS.—Objective criteria for measuring the extent to which those market access opportunities described in subparagraph (A) have been obtained. The development of such objective criteria may include the use of interim objective criteria to measure results on a periodic basis, as appropriate.

(C) COMPLIANCE WITH TRADE AGREEMENTS.—An assessment of whether, and to what extent, the country concerned has materially complied with existing trade agreements between the United States and that country. Such assessment should include specific information on the extent to which United States suppliers have achieved additional access to the market in the country concerned and the extent to which that country has complied with other commitments under such agreements and understandings.

(D) ACTIONS TAKEN BY ITA.—An identification of steps taken by the USTR and ITA on behalf of United States companies affected by the lack of market access in that country.

(2) SELECTION OF COUNTRIES AND SECTORS.—

(A) IN GENERAL.—In selecting countries and sectors that are to be the subject of a report under paragraph (1), the USTR and ITA should give priority to—

(i) any country with which the United States has a trade deficit if access to the markets in that country is likely to have significant potential to increase exports of United States goods and services; and

(ii) any country, and sectors therein, in which access to the markets will result in significant employment benefits for producers of United States goods and services.

The USTR and ITA should also give priority to sectors which represent critical technologies, including those identified by the National Critical Technologies Panel under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683).

(B) FIRST REPORT.—The first report submitted under paragraph (1) should include those countries with which the United States has a substantial portion of its trade deficit.

(C) TRADE SURPLUS COUNTRIES.—The TPCC may include in reports after the first report such countries as the USTR and ITA considers appropriate with which the United States has a trade surplus but which are otherwise described in paragraph (1) and subparagraph (A) of this paragraph.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN pro tempore. Is there objection to the modification offered by the gentleman from Ohio?

Mr. MANZULLO. Mr. Chairman, reserving the right to object, just a formality, I do not have a copy of that document. I can take a quick look at it, and then I make reference to it.

Mr. Chairman, under my reservation of objection, I yield to the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Chairman, the only change is that in the first part "Reports on Market Access," I change the report requirement from the International Trade Administration to the Trade Promotion Coordination Committee to make it more compatible with other duties in similar areas that are making such reports.

It follows through as far as the report is concerned in that regard, and that is the only modification that is made. The only other modification is, in the beginning, "not later than March 30," rather than 90 days.

Mr. MANZULLO. Mr. Chairman, I have a response. I agree to the amendment. The problem is that there is an error in the manner in which the amendment is being inserted into the base bill.

The CHAIRMAN pro tempore. The gentleman from Illinois reserves the right to object to the modification of the amendment, not the underlying amendment. The underlying amendment is not under debate.

Mr. MANZULLO. Mr. Chairman, I withdraw my reservation of objection based upon the fact that this is a technical error, and I would agree to accept the amendment of the gentleman from Ohio (Mr. TRAFICANT).

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN pro tempore. The amendment is modified.

The gentleman from Ohio (Mr. TRAFICANT) is recognized for 5 minutes on the amendment, as modified.

Mr. TRAFICANT. Mr. Chairman, the salient point of the difference between the committee's bill and the Traficant amendment deals with the issue of market access. The Traficant amendment says, in addition to all of the reporting on whether or not a Nation is complying with our trade agreements, the Traficant amendment also says the report must cover the availability of market access and whether or not market access is being made available by these countries pursuant to the report process.

Second of all, it is to delineate what are those products and/or other areas of market availability that are being denied to us and what is their impact on jobs.

Bottom line is this, not only are we being denied access, this says tell us who is denying us that access. Do not just say they are denying this access, tell us what that access denial really is, what products are impacted upon by this, and how can we, in fact, make gains through our export activity once we can overcome that market access problem.

So that is the salient point, the difference between the major aspects of the bill itself and my perfecting amendment. I would hope that the committee would find favor with it and vote in favor with it.

Mr. MANZULLO. Mr. Chairman, I support the amendment.

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentleman from Ohio (Mr. TRAFICANT).

The amendment, as modified, was agreed to.

AMENDMENT NO. 4 OFFERED BY MR. MANZULLO

Mr. MANZULLO. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. MANZULLO:

Page 11, lines 4 and 5, strike "minority-owned businesses, focusing on" and insert "businesses that, because of their minority ownership, may have been excluded from export trade, and from".

Page 11, lines 8 and 9, strike "urban-based and minority-owned" and insert "such".

Mr. MANZULLO. Mr. Chairman, this is a technical and perfecting amendment to the urban export initiative section for the International Trade Administration designed to take into account the concerns of the members of our committee that there be no automatic presumption of support for all minority-owned businesses under this initiative.

It simply directs the ITA, pursuant to this initiative, to increase exports from those minority-owned businesses who may have been excluded from exporting. It is my understanding that it has full support of the minority.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. MANZULLO).

The amendment was agreed to.

Are there further amendments to this section?

Mr. LATHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had intended today to be on the floor in support of the amendments by the gentleman from Nebraska (Mr. TERRY).

□ 1615

And the reason being because of a situation we have with OPIC and one of its customers who has over the past several years paid premiums of over $20 million who has a rightful claim and is having a very difficult time collecting.

As any business would know, when they buy insurance, they expect to have their claims paid on a timely basis when the facts are laid out. And that simply is not the case.

The timeliness of the situation and the second Terry amendment having to do with concerns that have become I think very real, other departments interfering in the situation and for outside political reasons it is being held up as far as the payment of the claim itself, there is no question of the validity. But it is a matter of the technicalities going through the delays in place.

As someone who has in the last 5 years always supported OPIC, it is a very great concern to me to see this happening to what I think is a very important agency, one that provides an outstanding financial potential. But when we have agencies coming into play introducing outside political consequences to the equation and not looking at the claim and its validity itself, it raises great grave concerns as far as I am concerned.

I just wanted to make that statement. I would support both of the Terry amendments and would oppose the gutting amendments offered by the gentleman from New Jersey (Mr. MENENDEZ).

The CHAIRMAN pro tempore (Mr. EWING). Are there any other amendments to section 6?

If not, the Clerk will designate section 7.

The text of section 7 is as follows:

SEC. 7. BOARD OF DIRECTORS.

Section 233(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2193(b)) is amended—

(1) by striking the second and third sentences;

(2) in the fourth sentence by striking "(other than the President of the Corporation, appointed pursuant to subsection (c) who shall serve as a Director, ex officio)";

(3) in the second undesignated paragraph—

(A) by inserting "the President of the Corporation, the Administrator of the Agency for International Development, the United States Trade Representative, and" after "including"; and

(B) by adding at the end the following: "The United States Trade Representative may designate a Deputy United States Trade Representative to serve on the Board in place of the United States Trade Representative."; and

(4) by inserting after the second undesignated paragraph the following:

"There shall be a Chairman and a Vice Chairman of the Board, both of whom shall be designated by the President of the United States from among the Directors of the Board other than those appointed under the second sentence of the first paragraph of this subsection.".

The CHAIRMAN pro tempore. Are there amendments to section 7?

If not, the Clerk will designate section 8.

The text of section 8 is as follows:

SEC. 8. STRATEGIC EXPORT PLAN.

Section 2312(c) of the Export Enhancement Act of 1988 (15 U.S.C. 4727(c)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting a semicolon; and

(3) by adding at the end the following:

"(7) ensure that all export promotion activities of the Agency for International Development are fully coordinated and consistent with those of other agencies;

"(8) identify means for providing more coordinated and comprehensive export promotion services to, and on behalf of, small and medium-sized businesses; and

"(9) establish a set of priorities to promote United States exports to, and free market reforms in, the Middle East, Africa, Latin America, and other emerging markets, that are designed to stimulate job growth both in the United States and those regions and emerging markets.".

The CHAIRMAN pro tempore. Are there amendments to section 8?

If not, the Clerk will designate section 9.

The text of section 9 is as follows:

SEC. 9. IMPLEMENTATION OF PRIMARY OBJECTIVES.

The Trade Promotion Coordinating Committee shall—

(1) report on the actions taken or efforts currently underway to eliminate the areas of overlap and duplication identified among Federal export promotion activities;

(2) coordinate efforts to sponsor or promote any trade show or trade fair;

(3) work with all relevant State and national organizations, including the National Governors' Association, that have established trade promotion offices;

(4) report on actions taken or efforts currently underway to promote better coordination between State, Federal, and private sector export promotion activities, including co-location, cost sharing between Federal, State, and private sector export promotion programs, and sharing of market research data; and

(5) by not later than March 30, 2000, and annually thereafter, include the matters addressed in paragraphs (1), (2), (3), and (4) in the annual report required to be submitted under section 2312(f) of the Export Enhancement Act of 1988 (15 U.S.C. 4727(f)).

The CHAIRMAN pro tempore. Are there amendments to section 9?

If not, the Clerk will designate section 10.

The text of section 10 is as follows:

SEC. 10. TIMING OF TPCC REPORTS.

Section 2312(f) of the Export Enhancement Act of 1988 (15 U.S.C. 4727(f)) is amended by striking "September 30, 1995, and annually thereafter," and inserting "March 30 of each year,".

The CHAIRMAN pro tempore. Are there further amendments?

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to House Resolution 327, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: The second-degree amendment offered by the gentleman from Illinois (Mr. MANZULLO), the underlying amendment No. 6 offered by the gentleman from California (Mr. ROHRABACHER), amendment No. 8 offered by the gentleman from South Carolina (Mr. SANFORD), the second-degree amendment offered by the gentleman from New Jersey (Mr. MENENDEZ), the underlying amendment No. 10 offered by the gentleman from Nebraska (Mr. TERRY), the second-degree amendment offered by the gentleman from New Jersey (Mr. MENENDEZ), the underlying amendment No. 11 offered by the gentleman from Nebraska (Mr. TERRY).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. MANZULLO TO AMENDMENT NO. 6 OFFERED BY MR. ROHRABACHER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Illinois (Mr. MANZULLO) to amendment No. 6 offered by the gentleman from California (Mr. ROHRABACHER) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 379, noes 49, not voting 5, as follows:

[Roll No. 495]

AYES—379

Ackerman
Aderholt
Allen
Archer
Armey
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Bryant
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Combest
Condit
Cook
Cooksey
Costello
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fowler
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pastor
Payne
Pease
Pelosi
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sánchez
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stenholm
Stump
Stupak
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Toomey
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOES—49

Abercrombie
Andrews
Bachus
Barr
Bartlett
Burton
Chenoweth-Hage
Coburn
Collins
Conyers
Cox
DeFazio
Duncan
Fossella
Frank (MA)
Hayworth
Hinchey
Hostettler
Hunter
Jackson (IL)
Jones (NC)
Kasich
Kucinich
LoBiondo
McIntosh
McKinney
Myrick
Nadler
Pascrell
Paul
Peterson (MN)
Radanovich
Rohrabacher
Royce
Sanders
Sanford
Shadegg
Slaughter
Smith (MI)
Smith (NJ)
Stark
Stearns
Strickland
Sununu
Taylor (MS)
Tierney
Towns
Vento
Wamp

NOT VOTING—5

Brown (OH)
Burr
Jefferson
Scarborough
Young (AK)

□ 1643

Messrs. TOWNS, BURTON of Indiana, SMITH of Michigan, HOSTETTLER, FRANK of Massachusetts, BACHUS, FOSSELLA, RADANOVICH, TAYLOR of Mississippi, Ms. McKINNEY, Ms. SLAUGHTER, and Mr. HINCHEY changed their vote from "aye" to "no."

Messrs. SHAYS, POMBO, YOUNG of Florida, and Mrs. JOHNSON of Connecticut changed their vote from "no" to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. EWING). The question is on the amendment offered by the gentleman from California (Mr. ROHRABACHER), as amended.

The amendment, as amended, was agreed to.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. EWING). Pursuant to House Resolution 327, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 8 OFFERED BY MR. SANFORD

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from South Carolina (Mr. SANFORD) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 104, noes 323, not voting 6, as follows:

[Roll No. 496]

AYES—104

Abercrombie
Andrews
Armey
Bachus
Barr
Bartlett
Bilirakis
Bonior
Burton
Buyer
Campbell
Carson
Chabot
Chenoweth-Hage
Coble
Coburn
Collins
Condit
Cox
Crane
Cubin
DeFazio
DeMint
Doolittle
Duncan
Ehrlich
Fossella
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Gutknecht
Hall (TX)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hinchey
Hoekstra
Hostettler
Hunter
Istook
Jackson (IL)
Jenkins
Jones (NC)
Kaptur
Kasich
Kelly
Kingston
Kucinich
Largent
Latham
Linder
Lipinski
LoBiondo
Lucas (OK)
Luther
McIntosh
McIntyre
McKinney
Meehan
Myrick
Norwood
Pascrell
Paul
Pease
Peterson (MN)
Pombo
Rivers
Rogan
Rohrabacher
Royce
Salmon
Sanders
Sanford
Schaffer
Sessions
Shadegg
Shays
Slaughter
Smith (MI)
Smith (NJ)
Spence
Stark
Stearns
Strickland
Stump
Sununu
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (MS)
Thune

Tierney
Toomey
Visclosky
Wamp
Watkins
Watts (OK)

NOES—323

Ackerman
Aderholt
Allen
Archer
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Barton
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Bryant
Callahan
Calvert
Camp
Canady
Cannon
Capps
Capuano
Cardin
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Combest
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crowley
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Hall (OH)
Hansen
Hastings (FL)
Hastings (WA)
Hill (IN)
Hill (MT)
Hilliard
Hinojosa
Hobson
Hoeffel
Holden
Holt
Hooley
Horn
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inslee
Isakson
Jackson-Lee (TX)
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Knollenberg
Kolbe
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Larson
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lofgren
Lowey
Lucas (KY)
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pastor
Payne
Pelosi
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sánchez
Sandlin
Sawyer
Saxton
Schakowsky
Scott
Sensenbrenner
Serrano
Shaw
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stabenow
Stenholm
Stupak
Sweeney
Talent
Tanner
Tauscher
Thomas
Thompson (CA)
Thornberry
Thurman
Tiahrt
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Vento
Vitter
Walden
Walsh
Waters
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—6

Bass
Brown (OH)
Burr
Jefferson
Scarborough
Young (AK)

□ 1652

Mr. FOSSELLA and Mr. HALL of Texas changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MENENDEZ TO AMENDMENT NO. 10, AS MODIFIED, OFFERED BY MR. TERRY

The CHAIRMAN pro tempore (Mr. EWING). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New Jersey (Mr. MENENDEZ) to the amendment offered by the gentleman from Nebraska (Mr. TERRY), as modified, on which further proceedings were postponed and on which the noes prevailed by a voice vote.

The Clerk will redesignate the amendment to the amendment, as modified.

The Clerk redesignated the amendment to the amendment, as modified.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 259, noes 169, not voting 5, as follows:

[Roll No. 497]

AYES—259

Abercrombie
Ackerman
Allen
Baird
Baldacci
Baldwin
Barcia
Barr
Barrett (WI)
Bass
Becerra
Bentsen
Berkley
Berman
Berry
Biggert
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Bonilla
Bonior
Bono
Borski
Boucher
Boyd
Brady (PA)
Brown (FL)
Burton
Buyer
Canady
Cannon
Capps
Capuano
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Conyers
Costello
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dunn
Edwards
Ehlers
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Forbes
Ford
Fowler
Frank (MA)
Frost
Gejdenson
Gephardt
Gilchrest
Gonzalez
Goodling
Gordon
Graham
Granger
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hefley
Hill (IN)
Hill (MT)
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Hooley
Hostettler
Hoyer
Hunter
Hutchinson
Inslee
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (CT)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lewis (KY)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Morella
Murtha
Nadler
Napolitano
Neal
Ney
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Paul
Payne
Pease
Pelosi
Peterson (PA)
Phelps
Pickett
Pombo
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rogers
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Shays
Sherman
Shimkus
Shows
Sisisky
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Souder
Spratt
Stabenow
Stark
Strickland
Stupak
Talent
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Vento
Visclosky
Walden
Waters
Watt (NC)
Watts (OK)
Waxman
Weiner
Wexler
Weygand
Whitfield
Wise
Woolsey
Wu
Wynn

NOES—169

Aderholt
Andrews
Archer
Armey
Bachus
Baker
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Boehner
Boswell
Brady (TX)
Bryant
Callahan
Calvert
Camp
Campbell
Castle
Chabot
Chambliss
Chenoweth-Hage
Collins
Combest
Condit
Cook
Cooksey
Cox
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Dickey
Dreier
Duncan
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Foley
Fossella
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goss
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Herger
Hilleary
Hoekstra
Horn
Houghton
Hulshof
Hyde
Isakson
John
Johnson, Sam
Kasich
King (NY)
Kingston
Knollenberg
Kolbe
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Linder
Lipinski
Lucas (OK)
Manzullo

McCrery
McInnis
McIntosh
McKeon
McKinney
Miller (FL)
Miller, Gary
Moran (KS)
Moran (VA)
Myrick
Nethercutt
Northup
Norwood
Nussle
Ose
Oxley
Packard
Pascrell
Peterson (MN)
Petri
Pickering
Pitts
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Regula
Reynolds
Riley
Rogan
Rohrabacher
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shuster
Simpson
Skeen
Smith (MI)
Smith (TX)
Spence
Stearns
Stenholm
Stump
Sununu
Sweeney
Tancredo
Tauzin
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Traficant
Vitter
Walsh
Wamp
Watkins
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson
Wolf
Young (FL)

NOT VOTING—5

Brown (OH)
Burr
Jefferson
Scarborough
Young (AK)

□ 1701

Messrs. DUNCAN, KASICH, McINNIS, Mrs. NORTHUP, Mr. WAMP and Mr. BRYANT changed their vote from "aye" to "no."

Mr. PALLONE, Ms. ROS-LEHTINEN and Mrs. MORELLA changed their vote from "no" to "aye."

So the amendment to the amendment, as modified, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 10 OFFERED BY MR. TERRY, AS MODIFIED, AS AMENDED

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Nebraska (Mr. TERRY), as modified, as amended.

The amendment, as modified, as amended, was agreed to.

AMENDMENT OFFERED BY MR. MENENDEZ TO AMENDMENT NO. 11 OFFERED BY MR. TERRY

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New Jersey (Mr. MENENDEZ) to the amendment No. 11 offered by the gentleman from Nebraska (Mr. TERRY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 253, noes 173, not voting 7, as follows:

[Roll No. 498]

AYES—253

Abercrombie
Ackerman
Allen
Baird
Baldacci
Baldwin
Barcia
Barrett (WI)
Bass
Becerra
Bentsen
Berkley
Berman
Berry
Biggert
Bilbray
Bishop
Blagojevich
Blumenauer
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Burton
Buyer
Callahan
Capps
Capuano
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Coburn
Conyers
Costello
Coyne
Cramer
Crane
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dunn
Edwards
Ehlers
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fowler
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Gejdenson
Gekas
Gephardt
Gonzalez
Goodling
Gordon
Graham
Granger
Green (TX)
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hill (IN)
Hill (MT)
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Hooley
Houghton
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Larson
LaTourette
Lee
Levin
Lewis (GA)
Lewis (KY)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pastor
Paul
Payne
Pelosi
Peterson (PA)
Phelps
Pickett
Pomeroy
Portman
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rogers
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Shays
Sherman
Shimkus
Sisisky
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Souder
Spratt
Stabenow
Stark
Stearns
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Wise
Woolsey
Wu
Wynn
Young (FL)

NOES—173

Aderholt
Andrews
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Brady (TX)
Bryant
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth-Hage
Coble
Collins
Combest
Condit
Cook
Cooksey
Cox
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Dickey
Doolittle
Dreier
Duncan
Ehrlich
Emerson
English
Everett
Ewing
Fossella
Frank (MA)
Ganske
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Green (WI)
Gutknecht
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
John
Johnson, Sam
Kasich
King (NY)
Kingston
Knollenberg
Largent
Latham
Lazio
Leach
Lewis (CA)
Linder
Lipinski
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Miller (FL)
Miller, Gary
Moran (KS)
Myrick
Nethercutt
Ney
Norwood
Nussle
Ose
Packard
Pascrell
Pease
Peterson (MN)
Petri
Pickering
Pitts
Pombo
Porter
Pryce (OH)
Quinn
Regula
Reynolds
Riley
Rogan
Rohrabacher
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shows
Shuster
Simpson
Skeen
Smith (MI)
Smith (TX)
Spence
Stenholm
Stump
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Traficant
Vitter
Walden
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson
Wolf

NOT VOTING—7

Brown (OH)
Burr
Jefferson
Radanovich
Scarborough
Whitfield
Young (AK)

□ 1711

Mr. VITTER and Mr. EVERETT changed their vote from "aye" to "no."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 11, AS AMENDED, OFFERED BY MR. TERRY

The CHAIRMAN pro tempore (Mr. EWING). The question is on the amendment offered by the gentleman from Nebraska (Mr. TERRY), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PEASE) having assumed the chair, Mr. EWING, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1993) to reauthorize the Overseas Private Investment Corporation and the Trade and Development Agency, and for other purposes, pursuant to House Resolution 327, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. PEASE). Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MANZULLO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 357, noes 71, not voting 5, as follows:

[Roll No. 499]

AYES—357

Abercrombie
Ackerman
Aderholt
Allen
Archer
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett (NE)
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Bryant
Callahan
Calvert
Camp
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Collins
Combest
Cook
Cooksey
Costello
Coyne
Cramer
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Herger
Hill (IN)
Hill (MT)
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Knollenberg
Kolbe
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pastor
Payne
Pelosi
Peterson (PA)
Phelps
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryan (WI)
Sabo
Sanchez
Sandlin
Sawyer
Saxton
Schakowsky
Scott
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stenholm
Stump
Stupak
Sweeney
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Vento
Visclosky
Vitter
Walden
Walsh
Waters
Watkins
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOES—71

Andrews
Armey
Bachus
Barr
Barrett (WI)
Bartlett
Burton
Buyer
Campbell
Chabot
Chenoweth-Hage
Coble
Coburn
Condit
Conyers
Cox
Crane
DeFazio
DeMint
Doolittle
Duncan
Ehrlich
Goode
Hayes
Hayworth
Hefley
Hilleary
Hoekstra
Hostettler
Istook
Jackson (IL)
Jones (NC)
Kaptur
Kasich
Kingston
Kucinich
Lipinski
LoBiondo
McInnis
McIntosh
McIntyre
McKinney
Miller (FL)
Myrick
Pascrell
Paul
Pease
Peterson (MN)
Petri
Pombo
Rogan
Rohrabacher
Royce
Ryun (KS)
Salmon
Sanders
Sanford
Schaffer
Sensenbrenner
Shadegg
Smith (MI)
Stark
Stearns
Strickland
Sununu
Tancredo
Taylor (NC)
Tierney
Toomey
Wamp
Watts (OK)

NOT VOTING—5

Brown (OH)
Burr
Jefferson
Scarborough
Young (AK)

☐ 1730

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CHABOT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1993, the bill just passed.

The SPEAKER pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from Ohio?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 1993, EXPORT ENHANCEMENT ACT OF 1999

Mr. CHABOT. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 1993, the Clerk be authorized to correct section numbers, cross references, punctuation, and indentation, and to make any other technical and conforming change necessary to reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CELEBRATING ONE AMERICA

Mr. CHABOT. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the concurrent resolution (H. Con. Res. 141), Celebrating One America, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RANGEL. Mr. Speaker, reserving the right to object, I yield to the gentleman from Ohio (Mr. CHABOT) to please explain this resolution.

Mr. CHABOT. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Ohio.

Mr. CHABOT. Mr. Speaker, H. Con. Res. 141 was introduced by my colleague, the distinguished gentleman, very distinguished gentleman from New York (Mr. RANGEL). This resolution expresses the sense of Congress that all people in the United States should reach out across our differences and ethnicity, race and religion, to respect each other and to celebrate in friendship and unity one America.

I would like to thank the gentleman from New York (Mr. RANGEL) for introducing this commendable piece of legislation.

Mr. RANGEL. Continuing to reserve my right to object, I would like to thank the gentleman from Ohio (Mr. CHABOT) for his unanimous consent request and at the same time thank the gentleman from Illinois (Mr. HYDE), and the ranking member, the gentleman from Michigan (Mr. CONYERS); our majority and minority leaders, the gentleman from Texas (Mr. ARMEY) and the gentleman from Missouri (Mr. GEPHARDT), and also to have the resolution amended to make certain that it includes the Pacific Islanders with the Asians.

I also, in furthering my reservation, would like to point out for many years my brother, the gentleman from New York (Mr. GILMAN), and former Congressman Frank Guarini have gone around the world. We have been to the Middle East; we have been to Africa; we have been to Europe, and we were all fascinated that no matter what mission we were on for the United States Congress, how blessed and how glad we were to get back to these great United States to see how it has been God's will for over 200 years that people from all of these countries that for whatever reason found themselves here seeking a better way of life.

With all of the holidays that we have had, Frank Guarini who now has retired and chairs the Italian American Foundation had put together some 30 organizations of different backgrounds and different cultures with different languages and has made it abundantly clear that if it were not for these people we would not have the great country we have today.

So I want to thank the gentleman from New York (Mr. GILMAN) for the great role that he has played over the years in bringing people together, but most importantly on making certain that we could fashion something that expresses not my feelings or the feelings of the gentleman from New York (Mr. GILMAN) but the feelings of most Americans and certainly the representatives in the House

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the distinguished gentleman from New York (Mr. RANGEL) for his kind words and eloquent words in support of this important measure, and I am pleased to have worked with him on this measure. I have been pleased to travel with him to many nations where we have found sometimes prejudice and intolerance and have found authoritarian governments and, yes, when we returned to our Nation how grateful we were that we enjoy the freedoms that we have here.

Mr. Speaker, I would like to take the opportunity to commend the gentleman from New York (Mr. RANGEL), for sponsoring and bringing to us on the floor tonight H. Con. Res. 141. I also thank the gentleman from Ohio (Mr. CHABOT) for his support on the Committee on the Judiciary.

Furthermore, I want to thank all of our colleagues who have joined together to support this measure and to make a strong statement on behalf of every American in working to build one America. Yes, a gentleman who has been working in the background, a former Member of Congress, Frank Guarini, has appealed to us to urge this measure to show our strong support for one nation, a one American nation.

Mr. Speaker, the history of our Nation is the history of people throughout the world. A nation of immigrants, our Nation represents a diversity of culture, of religion, of ethnicity and race from every corner of the globe. From Andrew Carnegie to Albert Einstein, immigrants have provided our Nation with an incredible wealth of energy, knowledge and creativity. Their stories are the American experience, and they send a message to the world that this Nation is one which welcomes diversity, offers hope and provides opportunity.

Although our history on occasion has been tainted with prejudice and bigotry, our Nation is committed to defeating ignorance, intolerance and pursuing the high ideal that all men and women are created equal. However, from the tragic shootings at the Jewish Center in Los Angeles to the questions concerning the death of Matthew Shepard over the past few months, the citizens of our Nation have all too often seen the face of bigotry, intolerance and hate.

Accordingly, it is important that we remind those who view the world with prejudice that our Nation will not succumb to ignorance, will not succumb to bigotry, that our diversity is our greatest strength. Accordingly, we stand today to celebrate our Nation's diversity and we recognize the need to continue to reach across racial, ethnic and cultural lines to come together and build a unified nation. America is one, and I urge my colleagues to support this measure.

Mr. RANGEL. Mr. Speaker, I continue my reservation only to thank, again, the gentleman from Ohio (Mr. CHABOT) for facilitating this through the great Committee on the Judiciary and to tell my friends and colleagues that they can join with the close to 70 Members of the House tomorrow, Thursday, as we meet in Statutory Hall at 10:00 on October 14, where we can really say God bless America and the wonderful people that make this country as great as it is.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. MCNULTY. Mr. Speaker, reserving the right to object and, of course, I will not object, Mr. Speaker, but I have listened to the colloquies that have been going on and I just want to say that if there are any two people in this body who represent the ideals that all Americans hold dear, they are the gentleman from New York (Mr. GILMAN) and the gentleman from New York (Mr. RANGEL), and I rise in strong support of this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 141

Whereas the United States is a nation of immigrants, whose 270,000,000 inhabitants hail from every corner of the globe;

Whereas from Ellis Island to the Pacific coast, the United States has welcomed immigrants seeking freedom and opportunity;

Whereas the United States democratic system of government mandates equal protection under the law and the right to life, liberty, and the pursuit of happiness for all its citizens;

Whereas the United States endured a civil war for emancipation, and in doing so, formed a permanent union and a society of equals;

Whereas the United States has outlawed racial, ethnic, and religious bigotry to create the world's greatest multicultural society;

Whereas the United States respects the individual and welcomes each one's participation in our democratic society;

Whereas the United States is the preeminent land of opportunity which rewards hard work, ingenuity, and perseverance;

Whereas the ethnic diversity of the United States has provided an abundance of energy, creativity, and prosperity;

Whereas people in the United States recognize and reward the contributions of members from every group;

Whereas people in the United States are working to close opportunity gaps so that all may share in the great prosperity of our Nation;

Whereas people in the United States of all backgrounds have sacrificed their lives in war to defend the cause of freedom for people around the world; and

Whereas people in the United States of African, Asian, European, Latin American, Middle Eastern, and Native American backgrounds cherish and celebrate their various national, ethnic, and religious heritages: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that all people in the United States should reach out across our differences in ethnicity, race, and religion to respect each other and to celebrate, in friendship and unity, one America.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 2670, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

Mr. TANCREDO. Mr. Speaker, pursuant to clause 7c of rule XXII, I hereby announce my intention to offer a motion to instruct conferees tomorrow on H.R. 2670, the Commerce/Justice/State appropriations bill.

Mr. Speaker, the form of the motion is as follows:

Mr. TANCREDO moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill, H.R. 2670, be instructed to agree, to the extent within the scope of the conference, to provisions that, one, reduce nonessential spending in programs authorized within the Departments of Commerce, Justice and State, the Judiciary and other related agencies; and, two, reduce spending on international organizations, in particular, in order to honor the commitment of the Congress to protect Social Security; and, three, do not increase overall spending to a level that exceeds the higher of the House bill or the Senate amendment.

ALABAMA REJECTS PLAN FOR A LOTTERY

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. WOLF. Mr. Speaker, I want to call to the attention of my colleagues today's headlines: Alabama Rejects the Plan for a Lottery, AP. Fifty-four percent of the voters in Alabama rejected a State-sponsored lottery yesterday. The Crimson Tide has rejected a lottery in their State, and perhaps this is a shift that will change the tide of gambling in America.

According to news reports, the tide is expected to wash over South Carolina, where a referendum to ban video poker is expected to also pass.

I want to congratulate the people of Alabama for standing up and voting against State-sponsored gambling, and I hope others around the country will take note of what has occurred at the ballot box.

Mr. Speaker, I would like to, at this point, submit this material for the record.

MONTGOMERY, AL. (AP)—Gov. Don Siegelman, who lobbied long and hard for a state lottery to help fund education, watched the measure collapse in defeat at the hands of voters unwilling to cross their ministers.

With 98 percent of precincts reporting, 663,988 people, or 54 percent, opposed the lottery referendum Tuesday, and 559,377 people, or 46 percent, supported it. Turnout was estimated at 50 percent.

The proposal—a constitutional amendment to allow gambling—had once enjoyed a 20-point lead in the polls but came under increasing fire from church groups who said it would exploit the poor.

Other opponents also claimed that a recent traffic ticket-fixing scandal showed that the Democratic governor's administration could not be trusted to oversee gambling in the state.

Alabama joins Arkansas, Oklahoma and North Dakota as states that have rejected lotteries at the ballot box. Thirty-seven states and the District of Columbia have approved them.

The loss was a stinging blow to Siegelman, who had made the referendum's passage a cornerstone of his 1998 election victory over Republican Fob James.

"In my inaugural address, I said that we would dare mighty things. I said that we would try new things and if they didn't work we would try something else," Siegelman said after the votes were counted.

He said the results "only serve to motivate me and to energize me in our fight and our quest to change education in this state forever."

Along with the lottery proposal, two other proposed constitutional amendments were on the ballot, and voters in Birmingham and Montgomery chose candidates for mayor and city council members.

In Birmingham, Alabama's largest city, interim Mayor William Bell led a 14-way race for the mayorship but was forced into a Nov. 2 runoff against City Councilman Bernard Kincaid.

In Montgomery, conservative Mayor Emory Folmar led six opponents in his bid for a seventh term but was forced into a runoff against Bobby Bright, a lawyer backed by organized labor.

Siegelman had promised that the lottery would generate at least $150 million annually to fund college scholarships, a pre-kindergarten program and computer technology in schools.

"He has put everything on this," said Auburn University at Montgomery political analyst Brad Moody. "He has made it the centerpiece of his campaign and the centerpiece of his first year in office. He has thrown all his political capital away."

Sheila Bird was among those who voted against the lottery even though her 2-year-old daughter Amanda could have one day benefited from the plan.

"I just feel like it's morally wrong. I feel like it's going to cause problems in lower income families," she said. "I think you can get money other ways."

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

DEMOCRATS WHO CONTINUE TO SUPPORT SEPARATION OF CHURCH AND STATE ARE ALSO RELIGIOUS PEOPLE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. BROWN) is recognized for 5 minutes.

Ms. BROWN of Florida. Mr. Speaker, I rise this evening because I listened to several of my Republican colleagues on the floor last night, and I was very disturbed by what I heard. The Members implied that because Democrats continue to support separation of church and State we are not religious people. As a child growing up in Jacksonville, Florida, the district I now represent, my religion was the cornerstone of my life. It still is today. In fact, my church is more to me than a place I visit on Sunday. It is my home. It is a family gathering place and it is a real part of the community I represent.

My Republican colleagues would have people believe that Democrats are anti-faith. This is a lie. Democrats believe in the separation of church and State. We believe that every person has the right to choose their religion. We do not believe it is up to the House of Representatives to dictate how and where our faith should be expressed. Our constituents did not elect us to be their spiritual leaders. They do not turn to C-SPAN for healing. Rather, they expect us to vote for the programs and policies that mirrors their beliefs. This is how they judge us.

Do we support Head Start and school lunch programs, education? Do we support saving Social Security and protecting public education? This is the reason we have been sent to Washington, not to preach but to support the things that are important to the people who sent us here.

OUR TRADE DEFICIT IS STILL GROWING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, earlier today my good friend, the gentleman from Ohio (Mr. TRAFICANT), spoke on this floor about our trade deficit. He pointed out that our trade deficit in the last quarter hit an all-time record of $87 billion. If that keeps up, it would be an astounding $350 billion for the full year, meaning that we are buying that much more from other countries than they are buying from us.

Most economists agree that we lose, conservatively, 20,000 jobs per billion, meaning we would lose 7 million jobs to other countries in one year if our trade deficit stays at the rate of this last quarter. Many people believe we are losing these jobs, that we have this unbelievable trade deficit in large part because of bad trade deals, trade deals good for big multinational companies but very harmful to small American businesses and American workers.

The Christian Science Monitor, one of the leading national newspapers, had this on its front page recently, quote, "America's widening trade deficit, now more than $25 billion a month, is starting to cause concern in the topic echelons of the United States.

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"While the trade gap has been growing for years, it is becoming large enough that experts are becoming increasely worried it will slow the 'miracle' economy of the 1990s."

Just 1 week later, the Washington Post reported that the "suddenly slumping" U.S. dollar "is stirring unease about the potential for a stampede by foreign investors from American stocks and bonds, which could terminate the U.S. expansion and destabilize the world economy."

According to the Post, "The problem starts with the U.S. trade deficit . . . as the booming U.S. economy sucks in massive amounts of imports, and slumping overseas markets absorb fewer exports from American firms."

We simply cannot, Mr. Speaker, continue to run trade deficits of 300 or more billions of dollars each year without causing very serious problems for our own people.

Today, our unemployment is very low, but our under-employment is terrible.

We have many college graduates who work very hard and spend a lot of money to get a degree in a field in which there are very few good jobs available. There are so many people getting law degrees these days that even they are becoming of very little assistance to many in getting good jobs or positions.

Most colleges and universities cannot discourage students from majoring in certain subjects without causing a faculty rebellion.

So parents and students really need to start asking the hard question: Is it likely that I can get a decent job if I major in this subject?

If we keep running trade deficits like we are now, we will have more and more college graduates working as waiters and waitresses. Also, young people had better wake up and tell these environmental extremists that we cannot base our entire economy on tourism unless we want to have almost everybody working at minimum wage jobs.

This large trade deficit, which is causing us to lose so many high-paying jobs, is also causing the gap between the rich and the poor to grow much wider.

This is, I suppose, why it is hard for so many wealthy people to realize the extent of this under-employment problem and why so many upper income people support extreme environmental measures that really hurt lower income people by driving up prices and destroying jobs.

I started thinking about all this after reading a column by William Safire in today's Knoxville News-Sentinel, which I assume ran in yesterday's New York Times. Mr. Safire, after being ripped off due to a big cable merger, wrote in a column entitled, "Giant Corporations May Not Serve Us Well," these lines: "The merger-manic mantra: In conglomeration there is strength.

"Ah, but now, say the biggest-is-best philosophers, we're merging within the field we know best. And if we don't combine quickly, the Europeans and Asians will, stealing world business domination from us.

"The urgency of globalization, say today's merger maniacs, destroys all notions of diverse competition, and only the huge, heavily capitalized multinational can survive."

Mr. Safire concluded, "Only JOHN MCCAIN dares to say: 'Anybody who glances at increases in cable rates, phone rates, mergers and lack of competition clearly knows that the special interests are protected in Washington, and the public interest is submerged.' "

Are we, Mr. Speaker, "Wal-Marting" the entire world? In a few short years, are just one or two big giants going to control every field and every industry? I sure hope not.

A few years ago, I spoke on the floor of this House, pointing out that U.S.A. Today said competition existed in only 55 out of 11,000 cable markets.

The situation is worse today. The Wall Street Journal said then, "Competition is the last thing big cable operators want. They have vigorously lobbied local and State governments to keep their turf exclusive."

I said in my speech in Congress at that time, "What we really need is more competition. Every place there is competition, cable prices have gone down and service has gone up." This is true in every field.

Here in Washington, the two daily Washington newspapers sell for 25 cents each. Most places where there is no competition, much smaller newspapers sell for 50 cents or more.

I voted against the big telecommunications bill a few years ago because of my fear that it would only lead to a massive consolidation within the industry and the big getting much bigger. That is certainly coming true even faster than I thought.

If the government, Mr. Speaker, keeps approving more and more mergers, if our anti-trust, anti-monopoly laws become a joke, if we keep giving every break to multinational companies and keep running huge trade deficits, our under-employment will grow worse, our middle class will be slowly wiped out, and the United States will be a very different place than it has been up until now.

HELP AMERICAN CITIZENS BEFORE GIVING MONEY ABROAD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FOLEY) is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, I just wanted to get up for a moment and talk about some of the events of the past couple of weeks and some of the acrimony that exists in this Chamber and some of the dialogue that takes place. We had a very difficult and interesting vote on foreign aid the other day and foreign operations.

It caused me to think, as I looked at some editorial comments. It was interesting, and I want to quote from Charley Reese from the Port St. Lucie Tribune, "Real Help For North Carolina Heading Overseas". He says "Think this through: People who have lost everything in eastern North Carolina to the floods can get help from the U.S. Government in the form of loans at interest.

"I dare say many of those who lost their homes had not paid off their mortgages. The obligation to pay the morality remains even if the house is gone and rendered unlivable. So in essence, the federal assistance consists of an offer to most folks to make two mortgage payments instead of one."

So we look at our own real-life circumstances in this city and in this country, and we say to ourselves, yes, we have a responsibility for foreign aid. We have a responsibility to help other nations. But when do we start focusing on the American public and the American taxpayer?

The President suggested the other day he would like to wipe out $5.7 billion worth of foreign aid that have been given over the past years in the form of loans. To some of that, I give credit. Some of the countries cannot repay the money.

But let us think of our experience over the last couple of decades of American foreign policy. Let us think of the billions of dollars that have been swept out of the taxpayers' wallets in the United States and are now residing in Zurich, Switzerland in the form of secret bank accounts by people like Duvalier, people like the Marcoses, people that have plundered the United States foreign aid not to help the countrymen that they were supposedly elected to serve, but to put it in their own bank accounts, and to run off with our cash.

Now, we are going to wipe out debt, and we are going to just erase the balance sheet and say they do not have to pay us back. Yet, in North Carolina, if one's home is destroyed by an earthquake or a hurricane or some other devastation, one is told to come to the line and borrow from the U.S. government, and one can make two payments at once.

We also hear that we cannot give any kind of tax break for individuals. We cannot eliminate the marriage penalty. We cannot give debt relief on the estate tax relief. We cannot do anything to reduce the cost of insurance by giving credits to small business owners or self-employed, because we cannot afford a tax cut. It is selfish. It is stingy. It is not proper. It will explode the deficit.

We have to use the surplus for other things that we think are good for the

American public. We should spend our resources, our surplus on things that we think are good for people rather than people voicing their opinion.

Then I started to think of the real overriding question, which is: Surplus? What are we all talking about? A surplus? There is $5.7 trillion worth of debt. There is no surplus. There may be an excess cash to expenditures. But, clearly, there is no surplus.

But if we keep doing these things and paying money in all kinds of different accounts and different proposals, we will never balance the budget, and no American taxpayer will get any relief.

We sent money to Russia recently, I can remember, through the IMF, and nobody can account for the hundreds of millions of dollars that are residing in the bank accounts all over the world. The Russians never got helped by our cash. It went into the pockets of people who purloined the money and took it for their own use.

We keep saying to ourselves, well, we will do better next time. We will put some oversight panels together. We will look at the money and the expenditures. Yet, each time, we fall into the trap once again of saying we better add some more money to the appropriations bill because we have got to help out another one of our neighbors in trouble, a neighbor overseas.

Then I think when I ride around at night, how many homeless Vietnam veterans are probably on the streets of our Nation's capital, homeless Vietnam veterans who are going without health care, medical care of any kind because we cannot help them. They fought the good fight, but we have got too many other things on our plate.

We cannot sacrifice individual appropriations bills, because we are all trying to protect our reelections. We cannot make our government more fiscally sound because we are too interested in racking up totals that are mind boggling on their face.

Our interest payments are like $247 billion a year on the debt we have now at $5.7 trillion. So we will never get ahead if we continue this. But what about giving or, as the headline says, forgiving our debts. What about forgiving some of the debts that the American public has every day that they work and pay their taxes to help support this government, and we seem tone deaf to be able to turn our responsibilities directed towards them.

I say, pay down the debt. But I also say let us not start attacking the majority party here for being cheap as I heard last week. We did not recognize our responsibilities. So let us focus a little bit more on the American public, the American taxpayer, helping our own citizens, our community before we start giving money away abroad.

GOOD NEWS TONIGHT: BUDGET BALANCE WITHOUT TOUCHING SOCIAL SECURITY

The SPEAKER pro tempore (Mr. COOKSEY). Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, Will Rogers used to say, "All I know is what I read in the newspapers." There was another commentator who used to start his news cast every night by saying, "This is good news tonight."

Mr. Speaker, there is good news tonight, perhaps the best news that we have had on the economy and the budget in a long, long time. There it is on page A18 of the New York Times. In fact, it appeared in newspapers all over the country today.

Let me read the first two paragraphs. "Something symbolically enormous may have happened today: the Congressional Budget Office announced that the Government may have balanced the budget in fiscal year 1999", that is the one we just finished, "without spending Social Security money.

"If so, it would be the first time that has happened since 1960, when Dwight Eisenhower was President, gentlemen sported felt fedoras and women wore fox stoles."

Mr. Speaker, this is truly great news. It is great news for all generations. What this really means, it means a more secure retirement for our parents. It means a much stronger economy for baby boomers and folks who are working. But, most importantly, it means a brighter future for our kids.

This is just a blow up of that article that appears in the New York Times, but it is written all over. It is a great story.

I want to come back to something and show my colleagues where we were just a few years ago. Because I think to understand the importance and the significance of this, we sort of have to look at where we were.

This is what the Congressional Budget Office was predicting just a few years ago with what was going to be happening in terms of the Social Security deficit projections. We were looking, in 1999, at a deficit of $90 billion. We were going in the wrong direction. So the American people said enough is enough. We have got to change course.

So what we did is we began to gradually reduce the growth in Federal spending. We have cut the rate of growth in Federal spending by more than half. As a result, today, we not only have a balanced budget ahead of schedule, but we believe, for the first time since Dwight Eisenhower was President, we actually have a balanced budget without stealing from Social Security.

Now that we have crossed this Rubicon, I think we have to make it clear that we are not going to turn back. If we are going to do that, I think we have really only several alternatives. One thing, of course, we can always do is raise taxes. There are more than enough of our friends on the left who believe that that is really the answer in terms of balancing our budget long-term.

The second, of course, is we could turn our backs on Social Security. We can begin to steal from Social Security again. We believe that is the wrong course.

The only other real alternative we have in terms of balancing the budget and saving Social Security would be to cut spending.

Now, in the next couple of days, we are probably going to be faced with that simple choice: Are we going to raise taxes? Are we going to steal from Social Security? Are we going to cut spending?

I happen to believe that the third option is the only one that the American people will accept. I also happen to believe that the fairest way to cut that spending would be across the board.

Our leadership and people on the Committee on Appropriations are working on a plan whereby we would cut spending 1 percent across the board. I think that is the fairest thing to do. I think that is what the American people want us to do.

As I say, after wandering in the wilderness of deficit spending, of enormous deficits, including borrowing from Social Security for 40 years, we have finally crossed the River Jordan. Now that we have, we have it within our power to make certain and make it clear to future generations that we are not going back.

HATE CRIMES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Ms. SCHAKOWSKY) is recognized for 5 minutes.

Ms. SCHAKOWSKY. Mr. Speaker, 1 year ago, a mother in Wyoming received news that tragically changed her life forever. Her son, an openly gay University of Wyoming student, was kidnapped, robbed, beaten, and burned by two male assailants. Left exposed to the elements, latched to a ranch fence for 18 hours, the young man Matthew Shepard died at a local hospital 6 days later. He lost his life as a result of bigotry and hate.

One year later, we stand on the House floor empty handed, unable to provide any real comfort to the mothers and fathers of the Matthew Shapards of our Nation. One year later, we stand on the House floor to mourn the death of Matthew, yet, failed to honor his life in any meaningful way. One year later, we are working to ensure that the Hate Crimes Prevention Act of 1999 becomes the law of the land, yet a real threat exists that we may not succeed.

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Mr. Speaker, it is not fair to the families of America. It is not fair to the families who have lost a loved one as a result of hate. It is not fair for these families to have to wait for Congress to recognize their need and honor the lives of the loved ones they lost. It is not fair for Congress to remain silent while these programs loudly demand action.

Hate can occur in any community. In Jasper, Texas, three white men dragged a 49-year-old black man for two miles while he was chained to the back of a pickup truck. In Ft. Campbell, Kentucky, a 21-year-old Private First Class was brutally beaten with a baseball bat in his barracks because he was gay.

In my district over the Fourth of July weekend, hate erupted with a vengeance. A madman full of rage and with a gun took the life of two men and forever changed the lives of many families.

This madman left us grieving for Ricky Byrdsong and his family and Woo-Joon Yoon, an Asian student from Bloomington, Indiana, and angry for the assault on Jewish men peacefully observing the Sabbath.

Ricky Byrdsong lived in Skokie, Illinois, in my district. He was a loving husband, a father, a leader in the community, a former basketball coach at Northwestern University, a man of deep religious faith, and a constituent. He was murdered in cold blood. His only crime was the color of his skin. He was African-American.

Many skeptics say we do not need this bill. But tell that to the family of Ricky Byrdsong or Matthew Shepard.

I urge my House colleagues on the Commerce-State-Justice Conference Committee to agree to include the hate crimes prevention act in the final bill. We must expand and improve the Federal hate crimes law and punish those who choose their victims based on race or gender, ethnicity, sexual orientation, or physical disability.

It would also make it easier for Federal law enforcement officials to investigate and prosecute cases of racial and religious violence.

State and local authorities currently prosecute the majority of hate crimes and will continue to do so under this legislation. Keeping the Hate Crimes Prevention Act in the appropriations bill will increase Federal jurisdiction to allow Federal officials to assist State and local authorities to investigate and prosecute hate crimes. It will also provide State and local programs with grants designed to combat hate crimes committed by juveniles.

While serving in the Illinois State House, my colleagues and I were successful in strengthening State laws dealing with hate crimes. I am looking forward to working with my colleagues here in the Congress to translate successes on the State level to the national stage.

The Hate Crimes Prevention Act is such an opportunity to send a clear and powerful message that the safety of all people is a priority and anyone who threatens that safety will face the consequences.

As a Member of Congress who represents one of the most diverse districts in the Nation, I strongly believe that we must ensure the passage of this act. Hate crimes if left unchecked not only victimize our citizens but debase and shame us all.

SENATE MESSAGE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1906) "An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2000, and for other purposes."

HATE CRIMES PREVENTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Wisconsin (Ms. BALDWIN) is recognized for 5 minutes.

Ms. BALDWIN. Mr. Speaker, I rise today in support of H.R. 1082, the Hate Crimes Prevention Act.

In August, the House Committee on the Judiciary, on which I sit, held a hearing on hate crimes. We heard testimony from Carole Carrington. I am sure my colleagues are familiar with her story.

Her daughter, granddaughter, and a dear family friend were murdered in Yosemite National Park last February. The murderer was finally captured a few months later after brutally murdering another woman near Yosemite.

Why did this man kill these four women? Because they were women. He claims to have fantasized about killing women for the last 30 years. He did not know any of his victims. He targeted them simply because they were women.

Mr. Speaker, this great Nation was founded on the desire for freedom, freedom from oppression, freedom from religious persecution, freedom to participate as full citizens.

Our Nation's founding principles revolve around the concept of individual liberties and the freedom to live our lives in a free and open society. We have long recognized that personal safety and security are essential for a person to exercise the rights and obligations of citizenship.

Governments are created by men and women in part to protect and defend citizens from violence to ensure that they are able to exercise their personal liberties.

Hate crimes are intended to intimidate the victim and to limit those freedoms. Hate crimes are designed by the perpetrators to create fear in the victim. The woman who was attacked on a dark street lives in fear of another attack. The African-American family that has a cross burned on their lawn remembers that threat far after the scorch marks on the grass have been washed away. The gay teenager who is beaten by classmates may never feel safe in school again.

Hate crimes are meant to instill fear. And the fear that hate crimes instill is not simply targeted at the immediate victim. The fear is aimed at members of the group. Hate crimes are different than any other violent crime because they seek to terrorize an entire community, be it burning a cross in someone's yard, the burning of a synagogue, or a rash of gay bashings.

This sort of domestic terrorism demands a strong Federal response because this country was founded on the premise that a person should be free to be who they are without fear of violence.

A member of the other body, the Republican chairman of the Senate Committee on the Judiciary, said, "A crime committed not just to harm an individual but out of a motive of sending a message of hatred to an entire community is appropriately punished more harshly, or in a different manner, than other crimes."

I do not know for sure what causes hate. I am sure the expert have some ideas. But fear of the unknown combined with stereotyping of groups that reinforces that fear probably has something to do with it.

I know that hate crime legislation cannot cure the hate that still resides among some in our country, but this legislation can provide more protections for groups who are targeted and send an important message that Congress believes that hate crimes against any group are a serious national problem that deserves to be addressed.

One year ago, a young University of Wyoming student, Matthew Shepard, was brutally murdered because he was gay. We all know the story. But Matthew's murder had a profound personal impact on me. It reminded me that I could be targeted simply because of who I am.

It was at the height of my campaign when they found Matthew's body. The word spread quickly among my many university student volunteers, and I could see the hurt and fear in their eyes as they talked about what happened to this young university student, a person their age.

A number of my volunteers were gay or lesbian and they were in shock. It affected so many of us profoundly and personally.

Hate crimes are an attack on society, an attack on tolerance, an attack on freedom. This Congress ought to act swiftly to pass the Hate Crimes Prevention Act.

Mr. Speaker, I yield to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I thank the gentlewoman for yielding. I would like to associate myself with the words of the gentlewoman from Wisconsin for her leadership on this issue.

Let me say directly to the American public, this is desperately needed legislation. We have in our climate today too much anti-Semitism, too much racial hatred, too much homophobia, and people who are singled out based on those parameters are targeted by those that hate others because of who they are, because of their gender or orientation or color of skin.

This should not be permissive in this society of ours as we enter the 21st century, and we have to deal with this and we have to confront it and we have to educate our children because these crimes are devastating.

We had a boy killed in our community recently in West Palm for the same motivation, because he was gay. We have heard crime after crime similar to these Matthew Shepard cases that are wrenching the heart and soul out of our country.

So I applaud the gentlewoman for her leadership. I join my colleague in urging the Congress to adopt hate crime legislation to federalize these crimes. Because, again, these are not singular acts. These are acts by despicable people who seek out people based on race, gender, sexual orientation. They are mean-spirited and they must be dealt with with the full effect of the law so, hopefully, we can turn the tide on these crimes and get people to recognize that the punishment will be severe, it will be swift, and maybe they will think twice before they inflict their hatred on others.

HATE CRIMES—OTHER NOT-SO-WELL-KNOWN CASES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WEINER) is recognized for 5 minutes.

Mr. WEINER. Mr. Speaker, I do not know where Sylacauga, Alabama, is. But in February of 1999, Billy Jack Gaither, a gay man, was abducted and beaten to death with an ax handle and set afire among burning tires in a remote area.

And frankly, Mr. Speaker, I do not know where Texas City, Texas, is either. But that is a place where two black gay men, Laaron Morris and Kevin Tryals, were shot to death and one of the men was left inside a burning car.

And very frankly, Mr. Speaker, I do not know where Kenosha, Wisconsin, is, although I have heard of it. But that is a place where, in May of 1999, a 27-year-old man intentionally swerved his car onto a sidewalk to run over two African-American teens. After hitting the two cyclists, he left the scene and kept driving until stopped by police. Eight years earlier, the same man ran his car twice into a stopped van carrying five African-American men and drove away.

I do not know where those places are. But very frankly, Mr. Speaker, I think many Americans do not know where Laramie, Wyoming, was until about a year ago Matthew Shepard, an openly gay 21-year-old university student, was savagely beaten, burned, tied to a wooden fence in a remote area, and left to die in subfreezing temperatures.

There is nothing about these cases that reflects poorly on those individual towns across America. In fact, hate crimes like these, unfortunately, are happening in towns big and small, major metropolises, small neighborhoods all across this country.

Since 1991, when the Department of Justice started keeping hate crime statistics, they found after surveying hundreds of police department law enforcement agencies around this country that about 4,600 hate crimes had been committed. When they did a similar survey in 1997, they found that that number had nearly doubled to over 8,000.

This is an epidemic, Mr. Speaker. Matthew Shepard made us all gasp in horror. But now we in Congress have an opportunity to act.

Not so long ago, in 1990 and 1994, this House did act in passing the Hate Crime Statistics Act and Hate Crimes Sentencing Enhancement Act. But we have seen again and again that that law needs to be strengthened. We learned frankly from cases all across this country that there are problems with the current law that we are obligated to fix.

The Federal prosecution of hate crimes can only happen if the crime is motivated by race, religion, national origin, color, and the assailant intended to prevent the victim from exercising a very narrowly defined protected right, like voting or attending school.

The law is so narrowly written that we are seeing problems with prosecutions all around this country. In 1994, a Federal jury in Fort Worth, Texas, acquitted three white supremacists of Federal civil rights charges arising form unprovoked assaults on African-Americans, including one incident where the defendant knocked the man unconscious as he stood near a bus stop.

□ 1815

Some of the jurors revealed after the acquittal that although they were absolutely convinced that the crime was racially motivated, they could not find that it fit into one of these narrow racially protected activities. The same happened in 1992 when two white men chased a man of Asian descent from a nightclub in Detroit and beat him to death. The Department of Justice, with a great deal of help from the State and locality, tried to prosecute it using the current hate crimes law and failed because the law was too narrowly crafted.

We have an opportunity with the bill that is currently before the House Committee on the Judiciary to deal with this problem, to broaden the crimes which the Federal Government, with the help of the States and localities, can prosecute. We have seen over and over again that if the Federal Government brings its forces to bear, that we can make a difference.

Mr. Speaker, sometimes this House is criticized for acting only in the face of abject crisis. I believe that that crisis has been shown to us by the horror of Matthew Shepard. Now is the opportunity for us to act in this time of crisis, to pass the Hate Crimes Enhancement Act, to finally begin to do something to stop that increasing trend of hate crimes. I cannot promise anyone in this Chamber that if we were to pass this act, there will not be people with hate in their hearts, there will not be people who do horrific things in small towns and big cities all across this country. But I do know we have an obligation to act, because what happened to Matthew Shepard was not just a blow to that small town, it was not just a blow to gay rights, it was not just a blow to that person's family, it was a blow to our national family. It was a horror that all of us must address.

IN SUPPORT OF THE HATE CRIMES PREVENTION ACT

The SPEAKER pro tempore (Mr. COOKSEY). Under a previous order of the House, the gentleman from New York (Mr. NADLER) is recognized for 5 minutes.

Mr. NADLER. Mr. Speaker, we are faced with an historic opportunity once again this year to pass legislation to combat violent hate crimes that continue to plague our country.

Last year, despite the brutal killing of Matthew Shepard simply because he was gay, we failed to incorporate the Hate Crimes Prevention Act into a bill to fund the Justice Department. We must not make the same mistake again this year.

In the year that followed Matthew Shepard's death, thousands of hate crimes were committed and Congress failed to protect gays, lesbians, bisexuals, transgender individuals and others from these heinous crimes.

Tragically, we are all far too familiar with the violent acts of terrorism that are sweeping our country. The August 10 shooting of a Filipino-American letter carrier, shooting to death, three young children who were shot and two adults at the Los Angeles Jewish community center is one of a series of brutal hate crimes that continue to plague victims, families, communities and the Nation. These violent acts come on the heels of the July 4 shooting spree in Illinois and Indiana, and the burning of three synagogues in northern California.

Congress has been far too slow in responding to the hate crimes that continue to threaten our communities all across America. Week after week we hear horror stories of murderers attacking innocent people because they are, or are perceived, to be members of a certain community, because they are of a particular ethnic group, or thought to be of a particular ethnic group, or race or color or creed or sexual orientation. These hate crimes devastate families and local communities and they also send a chill down the backs of everyone else that belongs to the same group.

Remember, hate crimes are especially odious because they victimize more than just the individual victim, they also are acts of terrorism directed against an entire class of citizens. When a hate crime is committed, it sends a message to every member of the targeted group that they risk their lives simply by being a member of a targeted group. No American should have to be afraid to live in any community because they are threatened with violence because of who they are.

We should instruct the conferees to accede to one version of the Senate language, to agree to add gender and disability and sexual orientation to the Federal hate crimes law. There is a necessity to do this in order so that we can give help to States that have their own hate crimes laws but need Federal assistance in investigating crimes.

The Senate has already passed the Hate Crimes Prevention Act as an amendment to the Commerce, Justice, State and Judiciary appropriations bill which is now in the conference committee. Over the summer, I organized a group of 62 other Members of the House, both Republicans and Democrats, to join together and urge the conferees to include the Hate Crimes Prevention Act in the final appropriations bill. I hope we are successful and that we can pass meaningful reform this fall. It is certainly within our grasp, but we need all the help we can get to urge other Members of the House and of the Senate to include this vital legislation, the Hate Crimes Prevention Act, in the final version of the appropriations bill.

We must all redouble our efforts to pass sensible hate crimes prevention legislation this year. We must continue our fight to protect American families from violent bigotry and from vicious acts of hatred. Our constituents and the citizens of this great country expect no less of us.

IN SUPPORT OF HATE CRIMES PREVENTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CROWLEY) is recognized for 5 minutes.

Mr. CROWLEY. Mr. Speaker, I am proud to rise today and speak in favor of the Hate Crimes Prevention Act of 1999 which is cosponsored by myself and 184 of my colleagues in this House.

Just a few weeks ago, our country was shocked when a gunman entered a Jewish community center in Los Angeles, shooting at innocent children. His intent, and I quote, "sending a message by killing Jews." What kind of message was he sending? A message of hatred.

One year ago yesterday, in Laramie, Wyoming, a young man named Matthew Shepard was killed. The reason? Because he was gay.

In Jasper, Texas, a man was murdered and dragged through the streets because he was an African-American.

All of these incidents are hate crimes. They do not just affect the group that was killed, they affect each and every one of us.

This is especially troubling to me because of the rash of anti-immigrant billboards and posters in my district of late which falsely blame immigrants for all of society's problems. Having spent my entire life in Queens County in New York, I recognize the problems faced on a daily basis by minorities who strive to eliminate any form of discrimination still present in our society. Unfortunately, the billboards of late only tell that discrimination is alive and well.

I believe the Hate Crimes Prevention Act of 1999 is a constructive and measured response to a problem that continues to plague our Nation. Violence motivated by prejudice. This legislation is also needed because many States lack comprehensive hate crime laws.

I understand there are some people who believe that hate should not be an issue when prosecuting a crime. They say our laws already punish the criminal act and that our laws are strong enough as is. I answer with the most recent figures from 1997, when 8,049 hate crimes were reported in the United States, 8,049 crimes, because of hate. According to the FBI, hate crimes are underreported. So the actual figure is much, much higher.

I say to my colleagues, penalties for committing a murder are increased if the murder happens during the commission of a crime. Murdering a police officer is considered first degree murder, even if there was no premeditation. Committing armed robbery carries a higher punishment than petty larceny. There are degrees to crimes. Local governments and State governments and the Federal Government recognize that. And committing a crime against someone because of their race, color, sex, sexual orientation, religion, ethnicity or other group should warrant a different penalty. These crimes are designed to send a message, "We don't like your kind and here is what we're going to do about it." So why can we not punish crimes motivated by hate differently than other crimes?

Mr. Speaker, this legislation does not punish free speech as some have contended. Nowhere does it say you cannot hold a certain political belief or view or a particular philosophy. What it does say is that if you commit a violent act because of those beliefs, you will be punished and punished differently.

Hate crime laws are also constitutional. The U.S. Supreme Court's ruling in Wisconsin v. Mitchell unanimously upheld a Wisconsin statute which gave enhanced sentences to a defendant who intentionally selects a victim because of the person's race, religion, color, disability, sexual orientation, sex or nation of origin.

I believe we ought to stand up as a Congress and as a country to pass the Hate Crimes Prevention Act to make our laws tougher for the people who carry out these heinous crimes.

The Senate has already included it as part of the fiscal year 2000 Commerce-Justice-State appropriations bill. I would urge the House conferees to recede to the Senate on this section. At the very least, H.R. 1082 should be brought to the House floor for consideration. We must end the hate that is permeating our society.

PERIODIC REPORT ON TELECOMMUNICATIONS PAYMENTS PURSUANT TO TREASURY DEPARTMENT SPECIFIC LICENSES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations:

To the Congress of the United States:

As required by section 1705(e)(6) of the Cuban Democracy Act of 1992, 22 U.S.C. 6004(e)(6), as amended by section 102(g) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, Public Law 104–114, 110 Stat. 785, I transmit herewith a semiannual report "detailing payments made to Cuba . . . as a result of the provision of telecommunications services" pursuant to Department of the Treasury specific licenses.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 13, 1999.*

IN SUPPORT OF HATE CRIMES LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

Mr. CUMMINGS. Mr. Speaker, under the Violent Crime Control and Law Enforcement Act of 1994, Congress has defined a hate crime as "any act of violence against a person or property based on the victim's race, color, gender, national origin, religion, sexual orientation or disability."

I am here today, Mr. Speaker, to talk about the victims of hate crimes that provide a real-life definition.

James Byrd, Jr., an African-American male victim, chained to the back of a pickup truck and dragged along a dirt road, murdered by supporters of a white supremacist organization.

Thanh Mai, a Vietnamese-American victim who died from a split skull after being taunted and called a "gook" and struck to a cement floor.

A Latino-American family victimized by arsonists who burned down their home after spray-painting racist messages on the walls.

Women in Massachusetts victimized by a sexual batterer who was found to have violated the State's hate crime law for his biased crimes against women.

Jewish children victimized by shootings at their community center by a man who had connections to an anti-Semitic organization.

And today, we remember Matthew Shepard, a 21-year-old college student who was brutally and savagely beaten, strapped to a fence like an animal and left to die, all because of his sexual orientation.

These are only a few of the human faces that fell victim to intolerance, bias and bigotry. In fact, FBI statistics reveal that in 1997, a total of 8,049 biased motivated criminal incidents were reported. Of these incidents, 4,700 were motivated by racial bias, 1,400 by religious bias, 1,100 by sexual-orientation bias, 800 by ethnicity/national origin bias, and 12 by disability bias.

□ 1830

The number of incidents reported in my home State of Maryland was 335.

As we discuss this issue, I believe that there are two questions our Nation must answer: First, why should we care?

I submit to my colleagues today that we should care because our Nation was built on a foundation of democracy and independence for all. Our Declaration of Independence states that we hold these truths to be self-evident, that all men are created equal, and they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. We all take pride in these words, Mr. Speaker, but we all have a duty as American people to recognize this principle applies to all of our Nation's citizens regardless of their race or national origin, gender, sexual orientation, religion or disability status.

As cosponsor of the Celebrating One America resolution that this House passed today by unanimous consent sponsored by my good friend from New York (Mr. RANGEL), I believe that we should reach out across our differences in ethnicity, race and religion to respect each other and to celebrate in friendship our unity and one America. We must all remember that although we are a melting pot of various cultures, ideals and physical make-ups, we are all one human race.

As one 16 year-old recently wrote:

"He prayed, it wasn't my religion;
He ate, it wasn't what I ate;
He spoke, it wasn't my language;
He dressed, it wasn't what I wore;
He took my hand, it wasn't the color of mine;
But when he laughed, it was how I laugh, and when he cried, it was how I cry."

The second question our Nation must answer is: How can we put an end to hate violence?

The American people must take action. A resolution will require a united and determined partnership of elected officials, law enforcement entities, businesses, community organizations, churches and religious organizations and schools.

Congress must also take action. Yes, statistics have shed light on the prevalence of hate crimes in our society, however hate crimes are often under reported. Although we gathered significant information as a result of the Hate Crimes Statistics Act, this act makes the reporting of hate crimes by State and local jurisdictions voluntary, leaving gaps in information from various jurisdictions.

As such, I call for immediate passage of the Hate Crime Prevention Act, and I ask that we all join together. But most significant, non action translates into silence, and as Martin Luther King stated, We will remember not the words of our enemies, but the silence of our friends.

HATE CRIMES PREVENTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MEEKS) is recognized for 5 minutes.

Mr. MEEKS of New York. Mr. Speaker, it is truly a sad occasion that as we are about to enter the next millennium that we do have to stand on the floor of the United States House of Representatives still asking that all people be treated fairly. I listened to the word of my colleague, the gentleman from Maryland (Mr. CUMMINGS), when he stated that this country was built upon the notion that all men are created equal. Unfortunately, I have to disagree with that because our history in this country shows that unfortunately we do not consider African Americans equal, we do not consider women equal, but we are learning, and we are moving. And it would be my hope that as we are about to enter to the next millennium, that we would understand the error of our ways, and move forward and let it be known that we understand the history, the true history, of this country, and we are going to rectify it and not allow those individuals who become victims of hate to continue to suffer. We in this House, Mr. Speaker, must send a loud and clear message that those who want to hate others because they are different than they, it will not be tolerated.

In my lifetime I have seen individuals lynched and no one called to justice. In my lifetime, and we are not talking about a long time ago, I have seen individuals spat upon because of a different sexual orientation. I wish that we did not have to be here, but in 1999, in 1998, we had incidences like James Byrd dragged to death in the back woods by three white supremacists. We had Matthew Sheppard brutally murdered by three young men who despised his sexual orientation. We had places of worship, three synagogues in Sacramento, destroyed by arson. African American churches throughout the south still burned down. Bomb threats, death threats to the Muslim community immediately following the Oklahoma bombings.

Tolerance is not in America yet.

All these situations have one thing in common. They were the results of hate crimes committed due to the ignorance and nontolerance of individuals.

This Nation has consistently prided itself on its acceptance of all people; at least, that is what we say. What we have an opportunity now to do is to put our actions behind our words, for words alone mean nothing. It is the action behind the words that give the words value.

We commend ourselves, and I can know, sitting in the House, we talk about all other countries we do not want to do business with because we say that they are human rights violations. Well, we must first make sure that we take care of our own family and make sure that we are standing on the proper moral ground to begin with because how can you condemn someone else when you are not standing strong to make sure that your own home is in the best of shape?

During the 1960's, for example, people of all colors, races and creeds came together to fight against the racial intolerance that was directed specifically that time against African Americans and other minorities, and as a result of that united effort, this body passed major legislation known as the Civil Rights Act as a statement and tried to put some teeth and power behind the words: All men; and we should say all men and women; are created equal.

It is now time for us to take an additional step in that direction by attaching the Hate Crimes Prevention Act to the Commerce, Justice and the State appropriations bill. This act will make the intent of Congress clear and will put power behind the words that we will not tolerate hate crimes.

In conclusion, Dr. King said:

Injustice anywhere is a threat to justice everywhere.

Let us make our voices loud and clear; let us put power behind our words.

ANNOUNCEMENT OF INTENTION TO OFFER A MOTION TO INSTRUCT CONFEREES ON H.R. 1501, JUVENILE JUSTICE REFORM ACT OF 1999

Ms. JACKSON-LEE of Texas. Mr. Speaker, pursuant to clause 7(c) of rule XXII, I hereby announce my intention to offer a motion to instruct conferees on H.R. 1501 tomorrow. The form of the motion is as follows:

I move that the managers on the part of the House at the conference on the disagreeing votes of the two houses on the Senate amendment to bill, H.R. 1501, be instructed to insist that the committee of conference should immediately have its first substantive meeting to offer amendments and motions including gun safety amendments and motions; and 2, the committee of conference report a conference substitute by October 20, the 6-month anniversary of the tragedy at Columbine High School in Littleton, Colorado, and with sufficient opportunity for both the House and the Senate to consider gun safety legislation prior to adjournment. H.R. 1501 is the Juvenile Justice Reform act of 1999.

The SPEAKER pro tempore. The form of the motion will appear in the RECORD.

PASS THE HATE CRIMES PREVENTION ACT AS QUICKLY AS POSSIBLE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentlewoman from Michigan (Ms. STABENOW) is recognized for 60 minutes as the designee of the minority leader.

Ms. STABENOW. Mr. Speaker, first, as we begin this evening, I want to associate myself with the comments of my colleagues this evening concerning Matthew Sheppard and all of those who have found themselves the victims of hate crimes and the great necessity to pass the Hate Crimes Prevention Act as quickly as possible.

This evening I am joining with colleagues to speak out in support of efforts to restore Medicare cuts that have been too deep and have gone on too long, and we have an opportunity in this session before we leave to fix it, and we need to do that as quickly as possible.

The Balanced Budget Act of 1997 included numerous cuts to Medicare payments, to health care providers, and the original intent was to slow the growth of the costs of Medicare by cutting approximately $115 billion over 5 years. Recently the Congressional Budget Office has projected, however, that Medicare spending has been reduced by almost twice that amount. Clearly Congress went too far.

These are not simply numbers that we are talking about. These are people, these are families, these are doctors and nurses trying to provide care, home health care providers, nursing homes that are trying to provide care, hospitals, teaching hospitals that are trying to make ends meet with cuts from the Federal Government that have gone too far.

Earlier this year 80 Members of the House joined me in sending a letter to the President asking him that as he put together his Medicare reform package that he not choose to cut Medicare further. I am very pleased that he heard our message and that in fact he did not choose to cut Medicare further but instead proposed restoring $7 billion worth of cuts. That is a good first step, but it is not enough for us to be able to truly solve the problem that faces our health care providers across the country.

Many of us have cosponsored numerous bills that seek to resolve specific problems that have arisen with the balanced budget agreement. Just this year I have cosponsored 10 bills myself that cover specific issues ranging from hospital outpatient prospective payment systems to the $1,500 cap placed on therapy services. My colleagues joining me tonight are deeply concerned and involved in this issue.

The sheer number of bills alone that have been introduced and cosponsored by people on both sides of the aisle should send a strong message to the leadership that we need to act now. Time is running out. For too many time has already run out, and shame on us if we do not act now.

Just today key members of the Committee on Ways and Means and the Finance Committee on the Senate side have introduced marks for legislation to mark up future bills. I am pleased that Senator DASCHLE has introduced a comprehensive bill that addresses a number of the issues we will speak to this evening.

Tonight is our opportunity to outline our priorities for what this legislation should address. Solving the balanced budget agreement concerns involves dollars, Federal dollars, but as I indicated earlier, we have seen more than twice the amount cut that is necessary for Medicare's portion of the balanced budget agreement, and we are now facing surpluses, we are debating surpluses over the next 10 years. For many of us, we have been fighting to put Social Security and Medicare first. We have an opportunity to do that, and an important part of putting Medicare first is to restore the cuts that have been made and provide an opportunity for people to receive the health care that they need and deserve.

□ 1845

Tonight we are going to talk about real pain that real people are suffering as a result of the deep cuts.

Let me take just a moment in each of the three major areas and then ask my colleagues to respond as well. Let me speak to Michigan. I have had an opportunity to travel across Michigan speaking to hospital providers, nursing homes, home health care providers. Michigan hospitals alone are expected to bear between $2.5 and $3 billion, not million, billion dollars in cuts as a result of the balanced budget agreement. That is a 10 percent cut in their Medicare reimbursements since 1997.

Now, to put that in perspective, 10 percent of the Medicare services to hospitals are providing in-patient care, persons staying overnight. We are talking about a 10 percent cut that could wipe out in-patient care in Michigan. Michigan is already suffering. Schoolcraft Memorial in Manistique, Michigan is suffering devastating losses of the VBA and they recently made the painful decision to close their maternity ward. Now, this is an area where now women are going to have to travel at least 50 miles, travel about an hour in order to deliver their babies. What if there is an emergency? What if that hour is too late?

I have talked with hospitals in Marquette, Michigan in the upper peninsula; in northern Michigan, in my hometown in Sparrow Hospital and the Medical Regional Center and down in the metropolitan area of southeastern Michigan, Detroit Medical Center, Henry Ford Health Systems. In fact, Henry Ford Health Systems located in Detroit announced recently just last week, in fact, that 1,000 employees not directly involved in patient care will be asked to voluntarily retire or will be laid off. One thousand employees, and we have discussions of hospitals, whole hospitals closing.

What is it that we need for our hospitals? We need to repeal the balanced budget agreement transfer provisions. I have cosponsored with colleagues H.R. 405 that would repeal the transfer provision. Currently, hospitals are not discharging patients to nursing homes because the paperwork and regulations are just too difficult. Secondly, we need to limit the reductions for outpatient care. This is a number one concern for hospitals, and I am pleased to have cosponsored H.R. 2241 that would limit reductions to outpatient care.

We need to limit reductions for in-patient care as well, and I am pleased to have cosponsored H.R. 2266 with the gentlewoman from New York (Mrs. LOWEY) that would increase payments to hospitals for in-patient care. We need to provide more support for our rural hospitals in communities like Manistique that are feeling the need to close their facilities for delivering babies.

We need to increase Medicare's commitment to graduate medical education. Our esteemed colleague and ranking member on the Committee on Ways and Means, the gentleman from New York (Mr. RANGEL) has recognized the importance of this issue and I am pleased to be cosponsoring legislation, H.R. 1785, that would stabilize payments to hospitals for the indirect costs associated with graduate medical education.

In the areas of nursing homes, the major feature of the balanced budget agreement that has impacted skilled nursing facilities was the implementation of the Medicare perspective payment system for in-patient services and the establishment of caps on therapy services. The impact of these provisions could range from decisions by nursing homes to no longer provide services that are not adequately reimbursed to limiting the amount of services that a patient can receive. The prospective payment system has dramatically changed the way skilled nursing facilities approach Medicare patient admissions.

Now, skilled nursing facilities require more information prior to a Medicare admission because they have to assess the overall costs and compare that to the costs of reimbursement that they are receiving, and too many times this is keeping our frailest and sickest patients out of our nursing facilities.

The other obstacle to care that nursing facilities are facing is the arbitrary cap of $1,500 for therapy services. The Balanced Budget Act created a $1,500 cap for physical and speech therapy together, and another $1,500 cap for occupational therapy. These caps are way too severe. They are not allowing patients to receive the services that they need. Once the beneficiary reaches the cap, the nursing facilities must seek payment from the patient or decide whether or not to continue care. Our nursing homes need to lift the arbitrary therapy cap, and we need to reduce the cuts from the prospective payment services.

Finally, an area that has been hit extremely hard by the balanced budget agreement cuts, and that is the area of home health care. The Balanced Budget Agreement was expected to cut Medicare spending on home health by $16 billion, but earlier this year when CBO reestimated the Medicare budget baseline, that number had more than doubled. Right now, we are seeing Medicare payments to home health agencies reduced by over $48 billion. Not $16 billion, $48 billion. This is $32 billion more than Congress intended, and this needs to be addressed now. These numbers can be overwhelming when we look at what this means for patients.

Mr. Speaker, 28 agencies have closed in Michigan. Twenty-eight agencies have closed in Michigan, and over 2,400 agencies have closed nationally or have stopped providing service. I remember, Mr. Speaker, being on the floor a year ago, a number of us, working on this issue of home health care, organizing a national rally to address home health care cuts, and at that time we said there were 1,200 agencies that had closed and that if nothing was done, we would see that double. We do not want to be right about that, but in fact, it has doubled. I do not want to be here a year from now saying it has doubled again and people have lost their services and that families have found themselves in horrible situations as a result of trying to care for a loved one at home or, at the same time, finding themselves in a situation where someone needs to be placed back into the hospital or in a nursing home when they could, in fact, be at home or be with loved ones.

We have numerous examples, and I know my colleagues will speak to this as well.

What do our home health agencies need? We need to first eliminate the 15 percent cut that is currently scheduled for next year, October 2000. We need to establish a payment system to cover what are called outliers or the costliest and most expensive patients that are difficult right now for home health agencies to serve as a result of the cuts. We need to provide overpayment relief. We need to revise the per-visit limits to at least 108 percent of the medium which is simply right now just too low to cover the sickest and the frailest patients. And, we need to develop an equitable perspective payment system for home health.

We can achieve these goals. We can fix this problem. We have in front of us an opportunity. We are talking about budget surpluses for the next 10 years, not budget deficits. We have people that are not receiving health care in a country with the greatest health care systems available in the world, and yet too many are not able to receive them. We can fix this, and I am pleased tonight to be here with my colleagues that are going to share as well in their thoughts as they relate to how this affects their States.

Let me first call on the gentleman from Illinois (Mr. DAVIS) who has been one of the leaders as well on this question of restoring Medicare cuts. I am so pleased the gentleman is here this evening.

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentlewoman. Let me commend the gentlewoman for not only her leadership on this issue, but for the leadership that she has provided on a number of issues not only affecting your home State of Michigan, but actually affecting the lives of people all over America. I am indeed pleased and delighted to join with the gentlewoman tonight as we talk about this problem.

Mr. Speaker, the Balanced Budget Act of 1997 ushered in the largest cuts in Medicaid spending since 1981. Cuts estimated at $17 billion over five years, and $61.4 billion over 10 years. These cuts amount to and account for more than 9 percent of the supposed savings under the Balanced Budget Act. Two-thirds of the cuts in Medicaid are from reductions or limits on disproportionate share or additional reimbursements to hospitals. These are payments to hospitals serving a disproportionate share of low-income, Medicaid and uninsured patients. Ten-year cuts, $40.4 billion. Twenty percent of the reductions shift the cost of Medicaid deductibles and coinsurance while the very poor to physicians and other providers of care. Most of the remainder of the cuts come from the repeal of the Buyer amendment, requiring minimum payment guarantees for hospitals, nursing homes and community health centers. 10 years worth of cuts, $6.9 billion.

There were several other provisions which were particularly cruel. The phaseout of the health center cost reimbursement with 10-year cuts totaling $1.3 billion, and the counting of veterans' benefits as income with 10-year cuts totaling $200 million.

Mr. Speaker, as disastrous as these cuts are, they are not the end of the story, or even the worst of the story. The impact of the so-called Balanced Budget Amendment on Medicare has been even more staggering, and it is not an exaggeration to state that the long-term existence of Medicare is not guaranteed. The byzantine logic of the Balanced Budget Amendment extended the life of Medicare by slowing the rate of growth in Medicare's payments to providers and shifting some home health services out of Part A. But the Balanced Budget Amendment did nothing to fundamentally address the problem of insuring the health of future generations of seniors.

Medicare is based on the principle of spreading the risk for our seniors through a system of insurance funded through our tax system. Medicare has been one of the most successful Federal programs in our history. But now, Medicare faces new challenges, largely because we are living longer. By the year 2030, we expect that the number of beneficiaries will double, reaching a total of 76 million, or almost 20 percent of our population. This has raised questions about how will we continue to fund the program.

The Balanced Budget Amendment shortsightedly attempts to address the problem by saying that the government can no longer afford to pay for health care for our seniors. The implication is that our Nation can no longer afford health care for seniors and that they should be left to fend for themselves for that portion of health care no longer covered by Medicare.

Most Americans, though, reject such a notion. We reject the notion that the wealthiest Nation in the history of the world cannot take care of the health of its seniors. This is an affront to those who have worked all of their lives. It is also not based on fiscal reality. By undermining the concept of a universal insurance pool for all seniors, these cuts actually will increase the inequities and costs in the system. The so-called unrestricted fee-for-service plan which removed the cap on what providers are allowed to charge and the Kyl amendment, which would allow providers to contract directly for services outside Medicare are direct attacks on the concept of a common insurance pool.

□ 1900

While we debate the future of Medicare, and I would note that a one-half of 1 percent increase in the payroll tax would extend the Medicare program another generation to the year 2032, but we have turned away from real solutions and the impact of our hospitals is exploding like a bombshell.

The 5-year impact of the balanced budget amendment will amount to $2.7 billion. Large urban hospitals will absorb more than $2 billion of those cuts in the State of Illinois alone.

The State of Illinois has 20 congressional districts. Thus, each district accounts for 5 percent of Illinois' population. However, my district, the 7th District, will absorb $468 million of the Medicare cuts. That is 16.9 percent of all the cuts in the State. Over the next 5 years, in my district, hospitals will absorb cuts that are equivalent to more than 75 percent of their 1997 base year Medicare payments, and tertiary teaching hospitals will absorb more than a billion dollars in cuts over the 5-year period.

So, I would say to the gentlewoman from Michigan (Ms. STABENOW), this problem exists all over America and as we move towards finding a solution, the solutions that the gentlewoman has articulated, the legislation that she and others of us have cosponsored, provides a tremendous opportunity to move ahead and arrive at real solutions to these problems.

So, again, I commend the gentlewoman for the leadership that she has shown, for bringing us here this evening to discuss this issue, and I trust that America will follow the lead of the gentlewoman and help us find solutions to this very serious problem, and I thank the gentlewoman.

Ms. STABENOW. Mr. Speaker, I thank the gentleman from Illinois (Mr. DAVIS) for his comments. I know that his State of Illinois is not unlike Michigan and all of us across the country right now are having those conversations with our hospitals and our nursing homes and home health facilities, and most importantly with our families that are represented and served by those providers who want to serve them, who are quality facilities but are finding themselves in very difficult situations as a result of the Congress. We can change that. It is up to us and it is long overdue.

I would like now to call on another colleague of mine from Illinois. Illinois is filled with wonderful leadership and I am so pleased to have a Member who has come to this body in her first term and has become an instant leader on a number of issues, the gentlewoman from Illinois (Ms. SCHAKOWSKY), who is here with us this evening to speak as well.

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentlewoman from Michigan (Ms. STABENOW) for yielding me this time. I would like to thank the gentlewoman from Michigan for her tireless work on this important issue and for organizing this discussion tonight and also to associate myself with the comments of my colleague from Illinois.

Recently, I joined him some days ago, speaking out on the need to restore payments for hospitals, particularly those hospitals that serve a disproportionate number of uninsured and poorly insured patients, and those that train medical professionals.

Unless we act now, Illinois hospitals and hospitals across the country will have insufficient resources to provide the quality and timely care that our constituents deserve.

I also wanted to say that there was a recent report by George Washington University researchers Barbara Smith, Kathleen Maloy and Daniel Hawkins which provides a clear warning signal that home health services are also threatened by the cuts that the balanced budget amendment had. Three million acutely and chronically ill senior citizens and Medicare beneficiaries with disabilities are depending on home health care services.

Hospital stays are getting shorter. More and more Medicare patients are being sent home with ongoing medical needs. In many cases, home health services, if available and appropriate, are cost effective substitutes for hospital and nursing home care. Despite the overwhelming and growing need for quality home services, the George Washington University study demonstrates that the interim payment system required by the balanced budget amendment is having adverse impacts. Because of cost constraints, the majority of home health agencies have already changed their case mix. They are looking for patients with less complex and less expensive problems, and they are avoiding patients that have more complicated and more expensive needs. In other words, those people who are most in need of home health services are most at risk of losing them.

The study concluded that in reaction to patient cuts, home health services are cutting staff but not just the administrative staff but specialists, such as occupational and speech therapists and, again, quality care is being compromised. Those payment cuts are having a serious effect on patients, and they are also costly. Evidence is mounting that without adequate home care more Medicare patients are being readmitted to hospitals and nursing homes, adding to health care costs. Clearly, we need to act now to restore home health service payments to adequate levels.

Before I conclude, I want to talk a little bit about the effect of payment cuts on hospice care. Many of us have had the experience of caring for a loved one who is terminally ill. My beloved father, Irwin Danoff, lived with me and my husband until he died in 1997, and we were fortunate enough to have hospice care provided by the wonderful people at the Palliative Care Center of the North Shore.

At a time of great need, hospice provided medical care and medical devices but so much more; the comfort, the dignity, the support and the respect not only for him but for our family as well. Half a million patients a year depend on hospice care. Since 1982, when the benefit was initiated, millions of patients have been able to die in dignity and in comfort because of hospice. Unless we act now to provide for payments, patients and families may be unable to get the care and support they need.

The hospice rate per day is supposed to cover all the costs related to terminal illness, including physicians, oversight services, counseling, prescription drugs, home health aides. It allows hospice providers to provide coordinated care and keeps patients and families from having to deal with multiple providers, at such an extremely critical and emotionally draining time. I speak from experience.

The plain facts are that the hospice daily rate has not kept pace with the cost of providing the hospice service. We believe that terminally ill patients should receive pain medication and pain management, which is what my father needed, to make sure that their final days are not days of agony. In 1982, when the hospice benefit began, it assumed the drug cost would account for 3 percent of the daily rate. In today's dollars, that equals about $2.50 a day for pain medication, and that is just inadequate. In fact, on average the cost of providing drugs to hospice patients is between $12 and $14 a day. Some drugs may cost $36 a dose, like Duragesic, a pain relief drug, or Zofran, an effective anti-nausea drug. It costs $100 a day, but if a person needs it, they need it.

The resources are needed to make sure that with new technologies available to treat acute pain symptoms that those technologies actually get to those who need them. Not only does hospice make sense for patients, it makes sense for Medicare as a whole because it is such a cost effective way of providing care.

A 1995 Lewin study found, for example, that every dollar spent on hospice actually saves $1.52 in Medicare dollars that would otherwise be spent. I hope that we will act to provide adequate hospice payments. The first step would be to ensure that hospice providers receive their full Medicare update so that payments more accurately reflect actual costs. It is the compassionate thing to do. It is the medically appropriate thing to do. It is the right thing to do.

Again, I want to thank my colleague, the gentlewoman from Michigan (Ms. STABENOW), for organizing this discussion.

Ms. STABENOW. Mr. Speaker, I also thank the gentlewoman from Illinois (Ms. SCHAKOWSKY) for her comments. I am so pleased that she raised hospice. That is such an important service. In Michigan, I was pleased as a member of the State House of Representatives to help pass the law that we now have on the books in Michigan, and I know for my own family as well that hospice has been a very important service. When we look at all of these issues, it is the continuum of care we are talking about. Unfortunately, when we are not adequately funding one area it just moves over into the next. So we need to look at this comprehensively on behalf of families.

It is now my pleasure to turn to the gentleman from Massachusetts (Mr. MCGOVERN), who is a sponsor of H.R. 1917. The gentleman from Massachusetts (Mr. MCGOVERN) and I have been working together on this issue it seems like for a long time, too long, and I know that he is deeply involved and cares passionately about this, and I want to thank the gentleman for his leadership. He has been there since the beginning when we have been trying to resolve the issues, particularly around home health care. I want to thank the gentleman for his leadership.

Mr. MCGOVERN. Mr. Speaker, I appreciate those comments and I too want to commend the gentlewoman from Michigan (Ms. STABENOW) for her leadership and for her commitment on health care issues. I do not know anybody in this Congress who has fought harder for the rights of patients or for quality care for all more than she has. She really has done a great job not only for the people of Michigan but for the people of this country and I am really proud to be part of this special order tonight with her to talk about what we need to do to correct some of the imbalances in the Balanced Budget Act and how we can make sure the people get the quality health care that they deserve in this country.

Let me begin by saying that, in my opinion, Congress made a mistake back in 1997 when we passed the Balanced Budget Act. I voted against the Balanced Budget Act back then because I thought the cuts in Medicare were too deep, were too drastic, but I did not realize then and I do not think the most ardent supporters of the Balanced Budget Act realized then, that the cuts would be as deep or as drastic as they have turned out to be.

As has been pointed out, CBO has analyzed that the cuts are about $200 billion more than anticipated. That is a lot of money, even by today's standards. That means that hospitals and home health care agencies and other health services are being cut by $200 billion more than Congress even anticipated those cuts to be.

I think part of our job as legislators is to fix what is wrong. Even if we pass something that, with good intentions, if we look back on it and realize that mistakes were made we have to have the courage and we have to have the fortitude to fix it. I think this is one such case.

Now, there is not a person in this House who has not met with hospitals in their districts, who has not met with home health care agencies in their district or visiting nurse associations or people who run hospice centers or nurses or doctors or patients who have not complained about these cuts in the Balanced Budget Act.

In my State of Massachusetts hospitals will lose $1.7 billion over 5 years. That is a pretty hefty amount of money. The bad news is that they have yet to face 90 percent of the cuts. The worst is yet to come.

I have hospitals in my district, teaching hospitals and community hospitals, that are very good, that really I think are models of efficiency, that provide good quality care to the people who utilize them. They are getting frustrated with the remarks that come out of Washington that they just need to trim the fat a little bit more and everything will be okay. Well, to those who say that hospitals need to trim more fat, I would invite them to my district to tour through some of the hospitals that are located in my district and they will realize that there is no more fat to trim.

In fact, what hospitals are cutting back on now are programs that benefit the elderly, that benefit children, that benefit the neediest people in our communities. What hospitals are doing now is they are cutting back on their nursing staff. I was recently visited by a CEO of one of my hospitals who told me he used to make it a practice over the years to visit the various floors in his hospitals and talk to the nurses and try to find out what he needed to do to make their jobs easier, what he needed to do to make the quality of care provided to patients better.

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He says that recently because of the cutbacks when he goes by and tries to talk to the nurses, they do not have time to talk to them. They are so overwhelmed, they are so overburdened with the patients because they are so short staffed that they do not have the time to talk to him anymore.

What is happening is that the quality of care that this hospital and other hospitals used to provide to patients is suffering. Nurses are doing a great job. They are doing an incredible job. But in too many hospitals, in too many health care facilities, they are being overworked. That is happening because of what we have done in this Congress, and we need to fix it. Again, it is not just teaching hospitals, it is community hospitals. Hospitals all across the country are paying a price.

Now, we also have a problem with home health care agencies. As the gentlewoman from Michigan (Ms. STABENOW) pointed out, we have been working on this issue since 1997.

Home health care was a wonderful phenomena. It allows families to stay together. If a loved one is sick, in the old days, before home health care, one would end up having to put that loved one into a long-term nursing care facility, because one was just incapable of being able to care for that person at home.

Home health care agencies or visiting nurse associations across the country have arisen, and they have allowed families to stay together. They have done so in a way that I think is very cost efficient.

Now, because of the cutbacks in the balanced budget act, in Massachusetts, since 1997, over 20 agencies have closed. When an agency closes, that means that that person, who used to rely on that agency for home health care, has to try to find another agency to provide the home health care; and, oftentimes, they cannot do it.

Oftentimes, they may be the sickest of patients, and they can have a difficult time trying to find another agency who will want to pick them up. Therefore, they are then forced to deal with the reality that they have to go into a long-term nursing care facility.

To those who think we are saving money, the reality is we are not. It is a heck of a lot cheaper to provide somebody home health care every single day of the week than it is to force that person into a long-term nursing care facility.

So what we are doing here in Congress really is not controlling health care costs. What we are doing is actually inflating health care cost because the cost to care for these people is going to increase, not decrease.

I will say one other thing. If we do not fix this problem now, the governors of our States across this country are going to realize that Congress had just handed them a big unfunded mandate on their States, because when somebody goes into a long-term nursing care facility, that is funded mostly by Medicaid, and the States pay a large portion of that.

So when the governors of this country start to realize that their State budgets are going to have to take more and more of their resources and put it into Medicaid to pay for what is happening, and that is people going from homes into long-term nursing care facilities, we are going to see the switchboard up here on the Capitol light up, and justifiably so.

We should not be passing these costs on to the States. It is not fair. Every cost we pass on to the States means the States are going to have less money for education, less money for transportation, less money for the environment. It is simply wrong, and we need to do something about it.

I have introduced a bill, as the gentlewoman from Michigan pointed out, H.R. 1917, the Home Health Care Access Preservation Act, that would deal with providing coverage for the sickest patients, the so-called outliers, the patients that tend to be the most costly. We do not want those people to fall through the cracks.

This is a modest step to try to help deal with some of the adverse impacts of the Balanced Budget Act with regard to home health care. I hope that this Congress will act on it. We have over 100 cosponsors. It is a bipartisan list of cosponsors. We need to do something about that, and we need to do something now.

I will conclude here by simply posing a question as to whether or not we have the political will to fix this problem. We certainly have the resources. We certainly have the money. As the gentlewoman from Michigan pointed out, we are not dealing with deficits in 1999. We are dealing with surpluses.

The question is: What are our political priorities? Do we want to make sure that hospitals have necessary funding? Do we want to make sure that home health care agencies do not close? Do we want to make sure that hospices are adequately funded to make sure that health care facilities have the funds to be able to employ enough nurses and enough doctors?

If that is our priority, then we are going to act, and we are going to make sure that we have a budget that fixes some of the problems as a result of the Balanced Budget Act.

The other question is: Will the Republican leadership of this Congress allow us to fix some of the mistakes that were made in the Balanced Budget Act? Will they allow us to bring legislation to the floor? Will they allow us to have input on the budget so we can actually fix this problem? Or is it going to be business as usual? Are we going to let this thing just pass and more people will suffer as a result of it?

Make no mistake about it, if we do not fix this, we are going to see more and more hospitals close. When a hospital closes in the community, it is not easy for the people of that community. It is not easy just to go to the next hospital, because the next hospital may be several miles away.

When a home health care agency closes in an area, that means that people are going to lose their home health care and be forced with the difficult question as to whether or not to have to enter long-term nursing care.

When patients are denied care, when programs are closed, people suffer. I think that all of us in this Congress have heard loud and clear from our constituents all across this country about what the adverse impacts of this Balanced Budget Act have been. I think we have an obligation, we have a moral duty to fix it. We have an opportunity now to fix the inadequacies of the Balanced Budget Act. I hope that we do it.

I will be working and fighting alongside the gentlewoman from Michigan (Ms. STABENOW) who I know will be out there leading the fight, as she always has, to make sure that people get the quality care that they deserve. I again just want to thank her for all the wonderful work that she has done. Again, I meant it when I said it in the beginning, that I do not know of anybody in this Congress who has fought longer and harder for good quality health care for people than she has. I am proud to be here with her today.

Ms. STABENOW. Mr. Speaker, I thank the gentleman from Massachusetts. He is absolutely correct. This is a question of priorities. This is about our deciding what the priorities for the country are.

I remember a few months ago when colleagues in this House and Senate in the majority felt that the priority was a tax cut, a tax cut that was geared to the top 1 percent wealthiest individuals in the country, and they were able to pass a tax cut that took basically all of the on-budget surplus, almost $800 billion, much more than we are talking about here.

We are talking about less than a tenth of that, few percentage points of that to help with Medicare so that people have health care that they need when they need it. So the priority was to do that. The President said no. He vetoed that.

We now have an opportunity to come back and do what I know the gentleman from Massachusetts (Mr. McGOVERN) and I have been saying all along, which is put Social Security and Medicare first. The first step with Medicare is to restore the cuts. We have to do that so that we can then go on to strengthen it.

I often think about the fact that, in my mind, Social Security and Medicare are great American success stories. Prior to Social Security, half of the American seniors were in poverty. Today, it is less than 11 percent. Prior to Medicare being enacted in 1965, half the seniors could not purchase insurance, could not get health insurance.

Today one of the great things about our country is that, if one is 65 years of age, one knows, or if one is disabled, one knows that one is able to have basic health care provided to one in this country. This is something we should be proud of. I do not understand why it is now, when we are faced with the opportunity to decide what our American priorities are for the next 10 years, why we are fighting with the majority to restore what everyone agrees were cuts that went too far.

Mr. McGOVERN. Mr. Speaker, I just want to echo what the gentlewoman from Michigan has just said. When I go around to my district, what people are talking about is, not tax cuts for the wealthy, but they are talking about good quality health care for all. They are talking about expanding Medicare, which I have yet to find anybody who thinks that Medicare is a bad idea. Everybody in my district thinks it is a great idea. It is one of the most successful social programs in the history of this country. They want to expand Medicare to provide a prescription drug benefit. They would rather have a prescription drug benefit than see Donald Trump get a tax cut.

Those are the choices we are faced with right now. We have a surplus, as the gentlewoman pointed out. The resources are there. Are we going to take that surplus, invest it in Social Security, invest it in Medicare, make sure that hospitals have the funding that they need, make sure that we have enough nurses and doctors, make sure that our home health care agencies can stay strong, make sure that there is a prescription drug benefit for all Medicare eligible senior citizens? Are we going to do that, or are we going to blow this opportunity?

We have a moment in our history where, because of a good economy, we have this surplus. If we cannot fix these problems now, if we cannot extend some of these benefits now, then when will we be able to do it?

Ms. STABENOW. Mr. Speaker, I totally agree. I would much rather be here, as I know the gentleman from Massachusetts would, talking about how we modernize Medicare with the prescription drug coverage than to say that we are here having to talk about restoration of cuts or hospitals closing, literally closing.

I do not think there is yet a total understanding of the depth of the cuts and the suffering and the struggle that is going on today; whole hospitals closing or maternity wards closing or home health agencies.

A wonderful agency that I have worked with in Brighton, Michigan, the first time I visited there, it was two floors with nurses, home health providers on two floors that were serving people in Livingston County. I went back after the BBA was enacted. It is now one floor. The other floor is totally empty.

What does that mean? That means those home health nurses, those individuals that were providing care to people in their homes are no longer available there to do that. It also means job loss. We are talking about supporting small business.

When a hospital closes, when Henry Ford Health Systems has to lay off or early retire 1,000 people, those people are caring for their families. We are not just talking about the care, we are talking about jobs, incomes, the ability of people to care for their own families. So this is serious.

My concern is that we have a very short window of opportunity now to fix this, 3 weeks, 4 weeks possibly, certainly just a matter of weeks. We know there are bills that have been introduced. There are people that are talking about the issue. We need to get beyond the talk. The gentleman from Massachusetts and I have been talking about this for a long time. It is now time to do something about it.

Mr. McGOVERN. Absolutely. Mr. Speaker, one thing I hope that we do in this Congress is, not simply pass sense of Congress resolutions to say that we feel your pain, I hope we pass legislation that has some teeth in it, that actually puts some of the money back into hospitals and health care in this country.

People are suffering all over this country because of these cuts. And we have an obligation in this Congress to fix the problem and to take some of these resources that have been generated by a strong economy, that have produced this surplus, and put it back into health care to make sure that people have the very best health care in the world.

I mean, this is the United States. We have the finest health care technology, the best doctors, the best nurses, the best facilities in the world. The problem is that a lot of people cannot take advantage of them because they do not have the resources or the money to do so.

The gentlewoman from Michigan has heard from her constituents. I have heard from my constituents. People come into my office because their loved one has just lost their home health care or because their HMO will not reimburse a particular service that they had done because they are being told because Medicare reimbursements or because of caps on therapy, because of programs that hospitals have that are being cut off.

I mean, it is painful to watch as people come into our office and tell us these sad stories. But what is more frustrating than listening to these stories is the fact of knowing that we have the ability to fix this, and so far we have not done it.

I think we just need to keep the pressure on, and I hope that the people who are watching will keep the pressure on, because we have an opportunity to, right now. This budget deal should not go through unless there are some real fixes in there for hospitals. We are going to do a weekend here to fight the good fight.

I again thank the gentlewoman for this special order and for all of her great efforts.

Ms. STABENOW. Mr. Speaker, let me just say in conclusion as well, I again thank the gentleman from Massachusetts (Mr. McGOVERN). I thank my other colleagues. To those that are having the opportunity to listen this evening, I would hope that they would pick up the phone and call their Representative, call their Senator, be involved, e-mail, mailings, whatever means they have of communicating. Now is the time to do that.

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We do have the best health care system in the world. But right now we are in a situation where we are jeopardizing people's health, people's quality of life, and in many cases, unfortunately, their lives. And it is not necessary. This is fixable. We can do something about it. Medicare works. It is a great American success story. We need to make sure we keep it that way.

FEDERAL GOVERNMENT BALANCES BUDGET WITHOUT DIPPING INTO SOCIAL SECURITY

The SPEAKER pro tempore (Mr. COOKSEY). Under the Speaker's announced policy of January 6, 1999, the gentleman from Colorado (Mr. SCHAFFER) is recognized for 60 minutes as the designee of the majority leader.

Mr. SCHAFFER. Mr. Speaker, this evening I will lead a special order on behalf of the leadership of the majority party. Our focus tonight is to talk about a number of remarkable events that have occurred today, not the least of which was the announcement that the Federal Government has in fact balanced its budget for 1999 and it appears to have done so without dipping into Social Security at all.

This is a long-standing goal of the Republican party and one goal to which we are exceedingly proud to represent.

But before I get into that subject, I want to yield the floor to the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Speaker, I thank the gentleman for yielding. I do plan to participate in part of his discussion. But before we get into that, I just wanted to respond to the comments of the previous speakers on the issue that was being discussed and just give some additional comments.

Today, the gentleman from California (Mr. THOMAS) had a press conference at which he announced the development of a bill dealing with the Medicare issue and which the amount of money to be appropriated as well as administrative actions we are requesting be taken from the President will resolve the problem and will deal with all the issues and problems that were mentioned by the preceding two speakers.

I also want to clarify, as Paul Harvey says, to give the whole story; and that is that many of the points that they were belaboring the Republican party for are in fact a direct result of the actions of the President and of his employees, particularly those at the Health Care Financing Administration. They have cut far more deeply than the legislation the Republicans got through asked them to do.

As a result of that, the home health care agencies are severely in trouble, the rural hospitals and skilled nursing units are also in trouble, and even the major city hospitals are in trouble.

The other factor that should be mentioned is that the President, who does have the responsibility for this and who has criticized us for not acting on this, has not come to the Congress with any suggestions of how to deal with it and has not initiated any actions as a result of the problem, although much of it he could do administratively through requests directed to the Health Care Financing Administration.

So there is more to the story than was explained in the last 60 minutes, and I just want to make sure everyone in the House and in the Congress, as well as in our Nation, is aware of the fact. It is a broader story. The President has not acted as we think he should have.

Furthermore, the Health Care Financing Administration has cut more severely than the Congress intended; and Congress has taken action and will conduct a hearing on that, in fact, and final action on the bill in committee this week to ensure that the additional funds will be allocated for hospitals, skilled nursing units, and for home health care. We hope this will go a long way toward resolving the problem.

Mr. SCHAFFER. Mr. Speaker, reclaiming my time, I look forward to the return of the gentleman to continue discussing some additional topics.

Again, I want to go back to the news that was revealed here in Washington today. In fact, I brought with me a copy of the New York Times. This is an article that my colleagues would find if they ventured back to page 18–A. It is kind of remarkable, I point that out, because this is a landmark announcement and many in the media are hoping that this kind of news remains buried in the back of newspapers.

In fact, if my colleagues look this up on the New York Times website, they find it even deeper into the paper. But I wanted to bring it on the floor today and magnify the impact of the article to show the impact and how big this really is.

Yesterday, the Congressional Budget Office announced that the Government may have balanced the budget in fiscal year 1999 without spending Social Security money.

Now, that is a remarkable accomplishment. There still remains some additional accounting that needs to come forward as we shore up those numbers. But as of yesterday, it appears that we balanced the budget in 1999 without dipping into the Social Security Trust Fund.

Now, I just cannot overstate at all the magnitude of this announcement and how important this is. When the Republicans took over the United States Congress back in 1994, they pledged to balance the budget by the year 2002; and that seemed at the time to be a reasonable time frame to get to the point of balancing the budget. It was misrepresented by many.

In fact, if my colleagues remember some of the rhetoric coming out the White House and from some of our friends on the left side of the aisle, they claim that balancing the budget would represent some kind of undue hardship on the American people, that balancing the budget entails drastic and dramatic cuts in Federal programs.

If my colleagues remember, they talked about the notion that we would see seniors out on the streets and we would see children who would be denied meals and things of that sort and opportunity for education. But balancing the budget really did not entail dramatic cuts in spending. It did entail reductions in the overall growth of Federal spending over a certain time frame, and we did that to the extent that we allowed the American economy to catch up with Washington's spending habits by changing the appetite in Congress to spend and spend and spend and to reform the attitude that used to be very prevalent here to one of frugality.

We allowed the American people to catch up with the spending in Washington, and it resulted in a balanced budget not on target for the year 2002 but a full 4 years ahead of schedule and in fact in 1999 balanced without dipping into the Social Security revenues. Again, a remarkable success.

I will tell my colleagues how remarkable it really is. If we look at what Congress projected back in January of 1995, here is where we saw the Social Security deficit projections at that point in time.

In 1995, we expected that in 1999 we may be seeing a $90-billion deficit in Social Security projections for this year for 1999. We beat those odds. We, in fact, managed not only to balance the budget but to exercise the kind of regulatory restraint and concern for tax relief that really stimulated economic growth throughout the country that allowed the American people to beat those numbers, to beat those progressions from back there in 1995, to do it in a way that allowed us to balance the budget in 1999, without dipping into Social Security.

Once again, the article that we find in the New York Times and elsewhere around the country this morning is one that I really hope the American people have an opportunity to evaluate and to consider. Because what this article tells us, Mr. Speaker, is that we are far ahead of schedule, we are far further along at this point in time than the American people ever gave us credit for when we took over the Congress.

This is an example of the Congress under promising and over delivering. And I just cannot help but to remind the House one more time that that promise that I described as under promising was made back in 1994 to balance the budget by 2002 at the time seemed like it was insurmountable.

In fact, there is a quote in the article from an individual named Robert Reischauer. He is the Director of the Budget Office or was from 1989 to 1995. Listen to what he says. He says, "If any budget expert told you in 1997 that we would have balanced the budget in 1999, that person would have been committed to an asylum."

Now, that is said with tongue in cheek certainly, but I think it shows the drama of how Washington has just been rocked by this particular announcement and decision.

We have moved forward with a plan to try to stop the President's raid on Social Security. The President proposed when he stood here at the rostrum just at the beginning of the year to deliver a State of the Union address and laid out a plan to once again dip into the Social Security revenues to balance the budget for this year. He moved forward on his plan and his party's plan to move forward to a balanced budget, again dipping into the Social Security program in order to accomplish that.

Well, the Congress has a very different message for the President, and that is we do not need to dip into the Social Security Trust Fund any longer. We should stop the White House raid on the Social Security Trust Fund and we should move forward on a better plan to allow Congress to balance the budget and live within its means without robbing the security of current retirees and future generations.

Mr. Speaker, I yield to the gentleman from Michigan (Mr. EHLERS) who has returned and joined us again.

Mr. EHLERS. Mr. Speaker, I thank the gentleman for yielding. I would like to make a few additional points.

First all, we talked in the past year about the tax cuts and the need to give money back to our citizens if we have a surplus. But let me point out to my colleagues how the citizens of our country are getting more money back than we could give them through a tax cut.

Now, how could that possibly be? The point is simple. When I came here in late 1993, early 1994, we were running at an annual deficit of over $300 billion per year. We were going in the hole that much every year, using every penny I might add of the Social Security surplus. And then in the space of a short time, 5 years, we have changed that. And instead of a $300-billion deficit way done here, we are now up to over a $100-billion surplus. This is a $400-billion difference.

Now, why does this help the people? It helps them in a lot of ways. First of all, we do not have as much interest to pay as we would have otherwise. But more directly, every economist I have talked to says, because we are not out there as a Government borrowing these huge amounts of money, the interest rates will go down and their estimate is the interest rate has dropped between one percent and two percent simply because we have balanced the budget and we have a surplus instead of the deficit.

Now, how does that affect the average citizen? Just think about that for a moment. If the interest rates, just averaging the numbers they have given, is about 1½ percent lower, and recognizing that the average American home is worth $100,000 and so people have gone on to get a mortgage of roughly that amount for their first home on a $100,000 mortgage, a 1½ percent difference in interest rates means they are saving $1,500 per family, just on the mortgage every year, they are saving $1,500 a year because they have a lower interest rate on their mortgage.

That is astounding. That is bigger than any tax cut we talked about giving them, even though we had proposed a very healthy tax cut in the Republican tax cut proposal. But we actually have given them more money back already just by balancing the budget and having a surplus because it has affected the economy. And this applies to purchases of cars, credit card debt, anything of that sort.

So the average American is saving a lot of money just because we have balanced the budget, and that is very important to remember.

The other point I would make about the comment from the gentleman from Colorado (Mr. SCHAFFER), and he has hit it right on the nose, once again, it amuses me, a couple of months ago we were being wrongly criticized by the folks on other side of the aisle that Republicans were raiding Social Security of all things. How could we do that? That was terrible. And even my Republican colleagues are starting to feel bad about this. Are we really doing that? We must not do that.

So I got up and spoke at the Republican Conference a few weeks ago and said, hey, folks, remember, we may possibly dip into the Social Security reserve just a little bit yet this year and not do it next year, but I do not think we will even have to do that. But remember that the last several years the Democrats have not just dipped into it, they have run off with the whole pot. They have spent every single cent of the Social Security reserve for the past few years.

Now, that is intolerable and it certainly means that they cannot criticize us for any actions we take in that regard this year but, rather, should thank us and congratulate us because we are determined not to touch this Social Security surplus, which is generated because people are paying more into Social Security than is currently be being taken out. And that money has to be saved for the future when the current people paying it in will retire and need their money back.

Mr. SCHAFFER. Mr. Speaker, this Congress has not balanced the budget without dipping into Social Security since 1960. We have to go back almost 40 years to find a schedule when the Congress acted in a way that honored and respected the full intent of Social Security and did not use the trust fund as some kind of a slush fund.

□ 1945

You have to go back quite a long ways. In the ensuing 40 years that the other party, the Democrat Party has run this Congress, their record and legacy to the American people has been a perpetual use and abuse of the Social Security trust fund by year after year after year dipping into that trust fund in order to pay for the wants and desires of people here in Washington, D.C. It is a great day when we are able to turn the tables, turn things around and go back to the ways the Congress used to run the budget, and, that is, to pay for the things that government wants to spend with the dollars that are on hand today and not borrow and raid the Social Security trust fund.

Mr. EHLERS. Just a brief comment on that, and a slight correction, but the correction is to make a point. There were several years in the late 1970s when Congress did not take anything out of the Social Security surplus. The reason for that is that there was no Social Security surplus. So what did they do? They still overspent but added it to the national debt. If you wonder why we have an almost $6 trillion national debt at this point, you can recognize what happened in those years. You just look to it, and see that they just kept the spending on and added it to the national debt. I do not want to imply that you are wrong in any way, but the point is simply they could not take any in those few years because there was not any. It was about 6 years longer.

Mr. SCHAFFER. I appreciate the gentleman making that correction.

I yield to the gentleman from Montana.

Mr. HILL of Montana. I thank the gentleman from Colorado for yielding. I just want to reiterate the point that for 40 years when the other party controlled the House of Representatives, not one penny was set aside for the future of Social Security. When there were surpluses, they were spent. Obviously one of the reasons that there were increases in Social Security taxes is because the surpluses were spent and eventually went into deficit which incidentally is what the problem is. One of the problems that we are facing is that sometime around 2014, 2015, there are not going to be Social Security surpluses again. The account will go into deficit. That is, the taxes going in will not be enough to pay the benefits going out. If we do not set aside the surpluses now, those extra dollars that are being paid in, the excess Social Security taxes, if we do not lock them away now for that purpose, then we are going to be faced with the kind of choices which were faced in the early 1980s which are massive tax increases or cut in benefits. In fact, what the trustees of Social Security say is that it is going to be a 25 percent reduction in benefits or a one-third increase in the taxes in order to keep it solvent. That is why maintaining the discipline that got us to this point is so important.

I just want to point out a couple of things that I think kind of have been forgotten, I think many of my colleagues have forgotten, because it is a whole host of policies that were implemented with the new majority. When the new majority, when Republicans took over the House, let me remind you where we were. We had skyrocketing debt. Medicare was on the verge of bankruptcy. Social Security was facing bankruptcy. We were swimming in red ink. We had a record tax increase. If you recall in 1993, President Clinton and Democrats passed the largest tax increase in the history of the country. So when Republicans got elected to Congress, what did we do? We said, "First of all, we have got to reform government." We said, "Let's reform welfare." That helps us two ways. One, it can reduce the burden on the budget, but the other thing is that when people are working and paying taxes, they are adding to the equation rather than taking from the equation. We said, "Let's shift power to the States," give States the authority to run programs more efficiently and use that money better to get more done. We did that. We said we would balance the budget. How would we do that? We said rather than balancing the budget the way the President proposed, by raising taxes, we were going to do it by constraining spending. And, in fact, we eventually lowered taxes.

And so we saved Medicare from insolvency. People forget that just 3 years ago, we were facing the insolvency of Medicare this year or next year. Now it appears as though Medicare is going to be solvent well into the next century, sometime around 2015, without any changes, and certainly we can make changes to extend that further. It makes me breathless to think of how much we have accomplished in 3 years or 4 years of a Republican Congress. But there is more to do. If we are really going to save Social Security, if we are going to make changes to Medicare that we know that need to be made, we have got to maintain the spending discipline.

If you think about it, and I thought about this, on every single appropriation bill that we passed, the leading Democrat on the Committee on Appropriations has come to the floor and he has made the following statement: "This is a great bill; it just doesn't spend enough money." The problem is that we have spent all the money that there is, all the surplus there is except Social Security. If we are going to spend anything more than what we propose to spend, it is going to start the raid on Social Security again. That is where we have to maintain the discipline. We have to maintain the discipline on the rate of growth of spending if we are going to maintain this balanced budget and if we are going to save Social Security for the long term.

Mr. SCHAFFER. The Democrats on the other side of the aisle like to accuse Republicans, particularly in this Congress have engaged in what they call a do-nothing Congress. I guess if you evaluate progress in Washington based on their standards, we may be guilty of that because their standards involve creating new programs, building new government regulatory structures, manipulating a tax code which usually results in taking more money from the American people and bringing it here to Washington. I am not making this up. They have a 40-year record of coming to this floor and solving every problem in America by creating new programs, new government, new bureaucratic structure, new rules, new regulations, new laws, new taxes, new ways to spend it. That seemed like real progress to them. The result is trillions of dollars in debt and overexpenditures.

So while we have been accused of being a do-nothing Congress, I think the record is quite the opposite and now we are starting to see the fruits of that quiet, behind-the-scenes labor that we have been involved in day after day after day. The results are we got government out of the way in many areas where business is concerned and job creation and wealth creation and economic growth, we lowered the tax burden on the American people, we allowed the American people through the power and economic strength of a free market capitalistic system that the United States represents to create more wealth in America, to catch up with Washington, D.C., to surpass where we were in 1999 in spending to allow us to begin to pay down the debt quicker, to allow us to focus on tax relief that will enable us ultimately to stimulate economic growth even further, to put more Americans back to work by reforming the welfare system and creating more jobs, to create a stronger and more vibrant education system throughout the country, to establish as a top priority defending our Nation through a strong national defense system.

Americans frankly have to look hard to find these kinds of articles, because the White House and the President's allies in the national media like to put these great big stories on page A–18 as we can see right here in the New York Times. You have to flip a few pages before you find a landmark announcement like this that the "Budget Balances Without Customary Raid on Social Security." Look at the headline right there. How many years have we been working for this very goal and President after President after President stood right up there at that podium, speaker after speaker has come down to these microphones in the well, party after party have all stated this as a primary goal, only one party has managed to accomplish that, it is the Republican Party and we managed to do that within the last 6 years that we have been running the Congress.

This is truly a big announcement. Doing something in Washington sometimes means stopping the bad ideas that emanate from the other end of Pennsylvania Avenue. As I stated earlier, the Clinton-Gore spending proposals entailed raiding the Social Security trust fund this year to the tune of about $32 billion. That is equivalent to the yearly Social Security income for one out of every 10 seniors. Let me restate the number again. The Clinton-Gore plan proposed to raid the Social Security trust fund by $32 billion this year. That is equivalent to a 10 percent cut in every senior's Social Security check. By raiding the Social Security trust fund as the Clinton-Gore plan entailed to the tune of $32 billion, their plan was equivalent to every senior citizen not receiving a Social Security check for the entire month of July. We accomplish something big by stopping those ridiculous plans that come out of the White House. It allows seniors to have a more comfortable retirement and enjoy their golden years, it allows for economic growth, to put more people back to work, it allows for Americans to afford more education for their children and for themselves when it comes to higher education.

Before I yield again to the gentleman from Michigan, let me just make one more distinction between what they consider progress on the Democrat side and what we consider progress. Their idea of promoting education opportunity in the United States of America is taking tax dollars from the American people, confiscating those tax dollars, requiring them to be sent here to Washington, D.C. so that politicians can redistribute that wealth to the American people in general or to different political projects and so on, but at times to government schools. That is a fine thing. There is a legitimate cause for the Federal Government to appropriate dollars for education. I do not dispute that at all. But we can do even more. By balancing our budget, by being fiscally responsible here in Washington, D.C., that allows the American people to be full participants in an academic marketplace, picking and choosing the kinds of academic settings that make the most sense for them, picking the kinds of programs that will most directly allow them to enter into the workforce, whether that be through a traditional liberal arts education or one that is involved in technical training of various sorts. That is the point that the gentleman from Michigan has really led this Congress on. I yield to the gentleman on that note.

Mr. EHLERS. I thank the gentleman from Colorado for yielding. Let me just make a couple of final comments on Social Security and then I will say something about education.

I happened to pick up this morning a sheet from the Committee on Appropriations' office because I was interested in digging out these numbers. The chairman of the Committee on Appropriations had managed to get this out last week. In terms of the money taken from the Social Security trust fund to help balance the budget, if you go back to 1960 as you mentioned earlier, the problem starts then but the amounts are fairly small. Nothing in 1960, $431 million in 1961, then really low again, then up to $600 million, but very modest amounts, until 1967. What happened in 1967? President Lyndon Johnson, with the unfortunate agreement of the Congress, combined all the money in the Federal budget into what is called the unified budget. Now, that sounds nice but I have to tell you, I was angered back then. I was not involved in politics at all. I never dreamed I would be involved in politics. But I thought that was voodoo economics, to coin a phrase, that they were cheating, because they were taking all the funds, the gas tax trust fund that people pay to get roads built, the aviation trust fund, the Social Security trust fund, Medicare trust fund, combined it all into one. And then look at the figures of what happened after that. Immediately, that year, almost $4 billion, the highest amount that had ever been taken out of the Social Security trust fund. And it continues to be high, partly to cover the cost of the Vietnam War. Then it dropped down in 1976 to zero. Why? Because there was no surplus left in the Social Security fund. And then in 1984, 1983 and 1984, we revamped the Social Security tax and really increased it. It is now for many people, the lower income people, the highest tax they pay, for Social Security. So there is a fresh influx of money. And immediately the Federal Government began using that money once again to cover the deficits. It goes up, it starts modestly again, $212 million, before long it is up to $58 billion, then continues all the way up to $60 billion in 1995 and so forth, until we finally got in office and started chopping it down.

Now, the other point I would like to comment on is the one made by the gentleman from Montana (Mr. HILL), about this is not the end-all just because we balanced the budget. We have to make up for all that money that was taken out and basically is added to our national debt. We have to begin paying back the national debt to correct the problems we have had ever since President Johnson went in the other direction in 1967. I am very pleased that last year we got the gas tax trust fund off-budget, so now when people pay their fuel tax, it actually goes into roads, bridges, highways and all the things that it was supposed to go into instead of being used for other purposes. This year, we are trying to get the aviation gas tax off-budget so the ticket tax that people pay when they travel will be used for better airports, runways and so forth. I hope someday personally that we can get the Social Security trust fund off-budget so we cannot even tinker with it and take that money out of there. That is a long-term goal.

Now to shift gears a little bit and make some introductory comments about education. What should we do for education in this country from the Federal level? Here it is quite different from the previous topic we discussed. We have been criticizing the Democrats for a long time on their fiscal management, but I will commend them, just as I commended the Republicans, on their desire to improve education in the United States. I think that desire is shared throughout this entire Chamber.

□ 2000

But there is a basic difference in philosophy, and I think it is very important to highlight that. The approach of the other party is to have a Washington down program; in other words, it starts here, we think of the ideas, we do the work here, and we filter all that down, and in the process we lose a lot of money.

We can tell endless stories, and you may hear some of those later from my colleagues about the money that is wasted in that.

The Republican philosophy is, first of all, that the Federal Government has a limited role in K–12 education. That is not the job of the Federal Government to dictate how the schools should operate; it is our job to try to help them in ways that they determine are best, and so that we should serve as a resource for the local and State governments as they attempt to run our schools and that our program should make sense. Furthermore, it is our philosophy that the Federal money should go directly down to the local schools where it will do some good.

Right now, current estimate I am aware of is that only about 65 percent of the education dollars from Washington actually get down to the classroom. Thirty-five percent is lost in administration and other parts of the bureaucracy. Our goal, by virtue of a resolution we passed just yesterday, is to get 95 percent of the Federal money right down in the classrooms where it will do some good.

Also, it is not the Republican philosophy to mandate precisely how that money is to be used. Just compare, for example, President Clinton's proposal to provide 100,000 new teachers. Now that is a noble gesture, but what would be accomplished? Governor Wilson in California tried to do exactly the same thing, and he found out that in fact the result was not what he had expected. Adding teachers to the California system, reducing class size, did not help. If you look at the students' scores, they really did not change. Why not? Because there are not enough qualified teachers available in California or, in fact, in the United States, and so they proceed to hire 100,000, or I forget precise number; they hired a large number of new teachers, most of whom are not qualified, and there was no net improvement in the schools.

Rather than taking a Federal approach that says we will help you hire 100,000 new teachers, a far better approach is to say we want to hear from you at the local level what you could do to improve education in the schools and to work with them, and that has been the emphasis in the Committee on Education and the Workforce of which I am a member. And we have just passed out major legislation today, two different bills which will help the schools, but give them much greater flexibility than they have had in the past and reduce the amount of money spent at the Federal level trying to evaluate programs, telling them what to do and saying: You do it our way or the highway.

So I think it is very important to recognize the distinction in philosophy. The people of this Nation can pick and choose which philosophy they want, but I happen to think just from my years in education; I spent 22 years teaching. As far as my money is concerned that I send to the Federal Government, Mr. Speaker, I would rather have it come back to the local schools and the teachers where they know how to use it and can use it well.

Something else the Federal Government can help in tremendously is that we have to recruit and train and keep good teachers. Over the next decade we are going to lose 2 million teachers in the schools. There is going to be a great shortage, and that is something the Federal Government can help with through various scholarship programs to make sure that we get the best possible teachers, we train them the best possible way and we make sure we keep them and that they do not go off to other jobs.

Mr. SCHAFFER. Mr. Speaker, I would like to yield back for a couple of questions perhaps and just some observations.

Your expertise is in science, is in physics, and, you know, the third international math and science study was released, I think about a year ago, showing that there is something to be concerned about in the United States where our graduates are concerned and their competitive rating compared to the rest of the world. Our results were not quite nationally where we would like to see them, but to contrast that we see pockets throughout the United States where school districts and specific schools are doing remarkably well and where our students are, in fact, the best in the world. But trying to allow for a system to occur where children anywhere at the K–12 level, or even at the higher ed level, have access to good professors and good school teachers that get the basics of math and science at the very early ages and are able to cultivate those skills into marketable and competitive skills as they grow is the real challenge for the country.

And you are right. There seems to be an attitude by some in Washington, typically on the Democrat side of the aisle, that suggest that we here in Washington can magically come up with the answers, spend a little money, create a few new rules, and we will resolve that issue. But I think that our answer is right, that the strength really does lie out there in the States. They may need the resources and support of the Federal Government, but they do not need us to take over, and I yield to the gentleman to comment on that point.

Mr. EHLERS. Mr. Speaker, I will be pleased to comment on that. You have touched on something that means a lot to me and I pursued a long time.

For those who are not aware, I just mentioned that I happen to be a physicist, I have a doctorate in nuclear physics, and never in my life intended to get into politics, enjoyed teaching and research, but here I am.

I was given an assignment by the previous Speaker of the House to work on improving our Nation's science policy and improving math and science education, and I am continuing this year under the direction of Speaker HASTERT and the Chairman of the Committee on Science, the gentleman from Wisconsin (Mr. SENSENBRENNER) both of whom have a deep interest in this and have given a lot of help and support.

And you are quite right. The third international science and mathematics study which compared students from our high schools with students from high schools across the country really, I think, shamed us in the sense that our students came out near the bottom. They were at the bottom in physics, they were barely above the bottom in mathematics, and overall there were only two nations below us in the rankings of knowledge of math and science in high school.

Mr. SCHAFFER. If I remember right, it was Cyprus and South Africa.

Mr. EHLERS. Yes, in the overall rating, and we were behind Slovenia and a lot of other nations. This was all developed nations of course.

It was a real shock, but there are other factors.

Just recently our science Olympiad students went to compete on an international level, and they were bright students. I met with them, and they were very capable. But once again we did not win the international championship, and it was certainly not the fault of the students. It is just that we have to do a better job throughout our educational system of educating and preparing.

Now there are several reasons for that. Number one, of course, is to produce good scientists and engineers, and that is very important in this technological age because, as my colleagues know and have heard repeatedly here, over one half of our economic growth today comes from science and technology, and if we do not train the people, we are going to lose that to other nations. We already are losing some and have to Japan which spends more on this, on scientific research and training, than we do, a greater percentage of their gross domestic product, and also Germany does the same, and, believe it or not, South Korea is almost overtaking us. So we have to watch this very carefully and do a better job.

But there are other reasons why we have to do a better job in math and science education, and that is I am personally convinced that within 20 years you will not be able to get a decent job in America without some good understanding of science and technology. It even happens in my office here, and you would not think a congressional office would be that way.

But I have told my employees; I said, just imagine, suppose you had worked here 20 years ago, and you fell into a Rip Van Winkle sleep, and you just woke up this morning and came to work here. Would you know what to do? And everyone of them said, no, they would not have the slightest idea because they could not even operate the telephones because telephones are basically computerized today. They obviously could not operate the computer, so they could not get letters out, and they could not handle mail and so forth.

And you just go right down the line, so many things we do. If I asked them to find out what is in a particular bill, they would not know how to get on the Internet or the Intranet and look it up. We work much more efficiently in the Congress today because of our computerization, but it takes knowledge and skill, and the more that they learn in the school, the less they have to be trained when they get a job.

That relates to another issue of what I call workplace readiness. We are spending a huge amount of money in this country, individual companies are spending that, training their employees to be able to do their work when they hire them, and we certainly have to do a better job of preparing them for the workplace.

Third major reason for improving math and science education is just better educated citizens and voters. We deal with a lot of complex scientific issues here. How are the voters going to be able to judge us and judge the issues if they do not have some background in it?

And similarly in the marketplace, as consumers; how are they going to be able to judge individual products when they evaluate the claims? As my colleagues know, are these claims, too, or are they not, particularly when you get to health supplements, or health care or issues like that. It is very complex, and we certainly need to do a better job of training them.

Now how can we do that? Again, I mentioned earlier trying to find, train and keep better teachers. But there is more to it than that. There are a lot of teachers out there who did not receive adequate training. We should not talk in terms of they cannot do their job, is that not terrible? We should say, hey, they were trained in a different era.

Our job in the government is to try to offer retraining, and that is why I have been a very strong advocate of what is called professional development, helping teachers who are out there, doing a good job but suffering because they have not had the proper training and they do not generally have the best textbook because there are not really good textbooks out there in many of these areas. Let us help them by providing professional development funds so that they can learn more about it.

I am impressed every time that I go in the class. The teachers really want to do the job well, and they really are fearful when they have not had adequate training, and that is what we have to provide.

One last thing the Federal Government could do without interfering with the local schools, but helping them a lot, and that is by funding research on better ways to teach, particularly teaching math and science. There are a lot of new ideas out there, and I have another aspect of that. I am hoping that we can, as a Federal Government, fund a national clearinghouse which will take all the supplementary materials available from chemical companies, from NASA, from the National Oceanic and Atmospheric Administration. They all have individual units. Put them all on the Internet, have them all catalogued so if a teacher wants to go and do a unit on Antarctica; there is an interest now because they are trying to save this doctor down there. She can just go right to the Net, she can give her students experiments that are ready on the Internet and say, hey, we read about Antarctica; why is it so cold there? And they can do a unit right that day.

Mr. SCHAFFER. Your comments about science technology and education give me a perfect opportunity to switch the subject and jump to another topic that the gentleman from Montana and I work on quite a lot as western legislators.

But, as my colleagues know, there are a lot of scientists that we count on and rely on and training that we hope to impart in our universities and research universities with respect to forestry. Forestry, the area of forestry, seems that science has kind of gone by the wayside especially with some of the latest decisions that have come out of the White House. The National Forest system is a system that was designed back in 1910 as a system, or was it 1903? Somewhere back there in the early part of the century as a service designed to manage these vast natural resources that the American people own and enjoy and maintain to help stabilize our economy, to utilize these lands for multiple use, and that concept of multiple use is, as I say, going by the wayside. The President made an unfortunate announcement just today that has caught many of us in western States I cannot say by surprise, but it has certainly grabbed our attention because it has tremendous economic consequences, and I will yield to the gentleman from Montana to elaborate further on the President's most recent antics on National Forest management.

Mr. HILL of Montana. Mr. Speaker, as my friend from Colorado commented, this is not a good day for rural western America. The western States, as my colleagues know, those of us from the west often have to remind our colleagues from the east how big our western States are and how much of our western States are public lands. My State is 148,000 square miles, and about 30 percent of that is public land, Forest Service land and BLM lands, and the concern that we have and I have today is the President announced today that he is going to be locking up about 40 million acres of US Forest Service land, in essence making it de facto wilderness area. As my colleagues know, the Congress and the Constitution provides that the Congress will determine whether or not lands will be designated as wilderness, and the President by executive order has in effect allocated this 40 million acres to wilderness.

And you made note of the Forest Service. The total Forest Service acres in the country is about 191 million acres, so this is over a fourth or over a fifth of the total US Forest Service acres, and this designation means there is going to be less access. They are going to close roads, they are going to remove roads, they are going to eliminate timber harvest in these areas, no mining.

□ 2015

In fact, if the previous activities of the administration are any indication, there will be little recreation in these lands, too.

Mr. SCHAFFER. Mr. Speaker, if the gentleman will yield for a request, and that is, would the gentleman just explain to the House what this wilderness designation means, because for many people, this term wilderness sounds like a great thing. That sounds like a good thing. We like wilderness when it comes right down to it, but the term "wilderness designation" has a very specific legal meaning, which robs the American people of access to their precious lands.

I would ask the gentleman to just go into that a little further and make sure we do not skip over that point, because it is an important distinction that we need to reinforce here on the floor.

Mr. HILL of Montana. Mr. Speaker, the gentleman is exactly right. Sometimes I think people confuse the idea of wilderness with wild areas, and those do not have the same meaning at all. Wilderness has a legal meaning, and it means that the land can only be used in more primitive ways.

For example, if people want to enter the land, they have to do it by horseback or on foot or hike in, they could not even take a bicycle in there. So motorized vehicles are not allowed in there, chain saws are not allowed in there. Basically they are areas that are allowed to remain entirely wild and allow natural forces to be at work.

Mr. SCHAFFER. Mr. Speaker, if the gentleman will yield, so the elderly, the handicapped, the infirm who currently enjoy access to their national forests, under the new designation, the de facto wilderness designation, what happens to them?

Mr. HILL of Montana. Well, those people will not have access to those areas. But even more important than that, the gentleman from Colorado has counties I know in his State and I have some in my State, and in fact, I have one county where 97 percent of the land in the county is Forest Service land. So that community really depends on that land for its livelihood, whether it is timber harvesting or mining, and of course the people recreate on that land. They hunt and they fish, pick berries. All of those things occur on that land. All of that kind of activity will be restricted in these areas under the President's designation.

Now, the President is saying, this is his environmental legacy. The President is trying to establish legacies for his administration. But the record, the environmental legacy with regard to public land management of this administration is dismal. It has been an absolute failure. It has failed the environment. The General Accounting Office has reported to the Congress, and the gentleman serves on the Committee on Resources with me, that the condition of our western forests is in a disastrous condition, catastrophic condition. When they say catastrophic, they mean that the ecology of these areas is subject to catastrophic risk. Catastrophic fire risk, risks for disease and infestation. This administration's record in managing this resource is dismal.

But also, its impact on these rural communities has been abysmal. These communities rely on these lands for grazing and for timber harvesting and for mining, and all of those sorts of things, recreation, and the President is basically saying, there will be no more of that.

This latest decision on the part of the President really will put the nail in the coffin for many of these rural communities. Much of the economy of this country has prospered over the course of the last decade, but in rural America, things are not so good. In agriculture, we suffered a great deal.

Those communities that are dependent on the public lands and appropriate management of the public lands have suffered greatly. The economy of those communities is in trouble; unemployment rates are extremely high. In my State, many of those counties have unemployment rates of 15 to 20 percent. And what happens when we have that kind of unemployment, the social fabric of the community breaks down, churches cannot afford to stay in business, schools suffer.

As the gentleman knows, these rural communities share in the income that the government produces from the development of these resources. All of that the President is writing off. And it is because, of course there are not many votes out there, there are not a lot of people out there. So the President is more interested in the people that can contribute millions of dollars of soft money to his campaign. He is interested in supporting the people, the glamorous people in Hollywood and the Silicon Valley. But these are the salt of the earth people; these are people with simple needs. The President today has said that these people do not matter, and it is a disaster for rural America.

I yield to the gentleman from Arizona.

Mr. HAYWORTH. Mr. Speaker, I thank my friend from Montana and my colleague from Colorado for taking this time on the House Floor to really address these issues of vital concern. I listened to my friend from Montana talk about the counties. As he explained his own situation, I thought about Gila County, Arizona. Ninety-seven percent of the land in Gila County, Arizona is under some governmental control. The bulk of it is under Federal control.

And, there is a misnomer at work. My colleague from Colorado mentioned the designation of wilderness, but there is a far more misleading moniker given to these federally controlled lands. Mr. Speaker, for our friends in the east and indeed in the Bay Area of San Francisco and other major metropolitan areas, when we hear the term "public land," that suggests in the mind's eye a public library, a public park, a public facility. But in essence, Mr. Speaker, a far more accurate moniker is federally controlled land.

So many of our colleagues from the east fail to understand the distinction. The State of Arizona, the youngest of the 48 contiguous States, not becoming a State until Valentine's Day of 1912 under President William Taft, Arizona, as a condition of its Statehood had to offer, in essence, a dowry to the Federal Government. And that dowry, if you will, was over half the landmass of the State of Arizona given to the Federal Government.

Now, our friends in the east, our friends in the inner city fail to understand what that means. Because the fact is, vast holdings of land as personal property are not found in the State of Arizona or in the American west. But I must tell my colleagues, I get a kick out of those in the think tanks who talk about welfare or socialist cowboys, as if applying for grazing permits is somehow pledging one's trough to the Federal Government. Mr. Speaker, my constituents have no choice. They do not own the land. And yet, time and again they are good stewards of the land that they lease from the Federal Government.

But what we see here is really yet another gulf between rhetoric and reality. My colleague from Montana mentioned the contributions to the Clinton-Gore campaign. Let the record show, and I say this unapologetically and clearly to the American people, Mr. Speaker, vast sums of money came from the Communist Chinese to those coffers, and yet the partisan press wants to ignore that inconvenient fact. Yet, we also see, even as the Clinton-Gore gang extols the virtues of campaign finance reform which, for that crowd, is akin to Bonnie and Clyde at the height of their crime spree holding a press conference calling for tougher penalties on bank robbers, they also wrap up rhetoric about the children.

Mr. Speaker, I would note for this House the vote that took place earlier this summer on the new Education Land Grant Act, what my staff has nicknamed HELGA, the Hayworth Education Land Grant Act, which deals with public land, federally controlled land and sets up a uniform method of conveyance at a minimal cost to rural school districts in 44 of our States, but especially in the American west. And, Mr. Speaker, even though the left insisted on a rule to bring that to the floor and debate, in the final analysis, even the left could not abandon the logic of that common sense approach, and all 421 Members of the Congress who were here on that day voted in the affirmative for the new Education Land Grant Act.

How sad it is, Mr. Speaker, that the President, who rhetorically embraces the cause of children, has asked a liberal Senator in the other body to put a hold on that legislation. The gulf between rhetoric and reality is profound.

I yield to my friend from Colorado.

Mr. SCHAFFER. Mr. Speaker, I thank the gentleman for yielding. We only have just about 5 minutes left, but I want to say the Education Land Grant bill that the gentleman has introduced is a brilliant bill and earned quite a lot of support here in the House, and I would submit it did so because it typified the original deal, if you will, that existed with all of these Federal lands that we are here discussing, the national forestlands in particular, but also some of the other Federal lands. That is, these lands should be managed for multiple use, keeping in mind that they are to be used for livestock raising, for timber harvests, for mining, for recreation, for wildlife habitat management, for a whole assortment of forest products being used and taken from the forests, all of that within the context of sound forest management. Because if one is not in the forest working the land, taking care of it, keeping the diseased trees treated, getting the bugs out, helping to thin the forests so that they do not catch fire or deplete water resources and so on and so forth, if we fail to do all of those things, not only do we damage the environmental integrity that we are concerned about our national forests, but at the same time, by pushing people off of public lands, we do lose a valuable source of income for schools, for communities. Because these public lands, while they do not pay taxes, there is what is called a payment in lieu of taxes that comes from the economic activity that is generated by those lands.

So when the President pushes this policy forward, and I would ask the gentleman from Montana to elaborate further on this point, further restricting access to public lands means further restricting the economic activity on those lands; it means further restricting the management of those lands, and it threatens not only the forest health, but threatens severely the economic livelihoods of thousands of communities not just across the west, but across the whole country.

But I think disproportionately, that burden falls in our respective districts.

I yield to the gentleman.

Mr. HILL of Montana. The gentleman is exactly right. I have 10 national forests in my district, so when we learned of the President's intention to announce this, it was in the Post last week, we called those regional supervisors and said, how is this going to impact the regional forests? What we found is that the White House had not consulted with the regional forests or with the individual forest supervisors, with the biologists that are out there in the field. This is a policy that was made up in the West Wing of the White House, not by the land managers out there that understand the resource.

That is why this policy, seven years of this administration, has been so devastating to the natural resources in the west, because they have made these as political decisions. They are decisions that have been made by people that do not understand these communities; they do not understand these resources, and they have made the wrong decisions.

They say they want to preserve the West, but as the gentleman from Arizona pointed out, the reason that the West is such a wonderful, beautiful place is the people that live there have been outstanding stewards of this land for as long as we have been there, and that has included multiple use of the land. We have mined the land, we have timber harvests, grazing on the lands, hiking, recreation on the land, and the resource is an incredible resource.

We know how to take care of the land, work with the land, live with the land. Frankly, we also understand that people are part of the environment too, that the environment is not just about birds and animals, it is about people too, and that a healthy environment for these communities is a prosperous community with opportunity as well.

That is what the President does not understand, that this decision is just the next step in this administration's top-down perspective on managing this natural resource. It is not only bad for these communities and for my district and my State, but it is bad for the environment as well.

I yield to the gentleman from Arizona.

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Montana.

Just one final point. Again, the gulf between rhetoric and reality. In the 1960s, critics of Lyndon Johnson spoke of a credibility gap. With this administration, sadly, we have a credibility canyon such as the gulf between rhetoric and reality, and as my friend from Montana was making this point, Mr. Speaker, I could not help but think of the slogan of the Clinton-Gore 1992 campaign: Putting People First. How falsely that rings in the years of western Americans.

I yield to my friend from Colorado.

Mr. SCHAFFER. Mr. Speaker, I want to thank the gentleman from Arizona, the gentleman from Montana and the gentleman who has left us now from Michigan for joining me in this Special Order, and we will come back as often and as frequently as we can to talk about the great accomplishments of the Republican Party.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GREEN of Wisconsin). The Chair will remind Members to refrain from characterizing Senate action.

THE BUDGET AND FEDERAL PUBLIC LANDS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes.

Mr. MCINNIS. Mr. Speaker, while we are preparing up here to discuss my main topic this evening which will be the Federal public lands, the management tools, the history of multiple use in this country, Colorado water, Colorado recreation, and Colorado jobs, while we are preparing to set up for that, I want to mention a couple of comments on a subject that involves every state in the Union, and that is our budget.

□ 2030

Back here, we are right in the midst of some very tentative negotiations, very fragile negotiations would be an appropriate way to discuss it. The Federal budget is important to every citizen in America. This Federal budget helps determine the future of our generation and the kind of debt and the kind of opportunities we give to the next generation and the next generation and the next generation.

We have some very strong policy points that must be adopted or must be carried out, and those policy points are the Republicans' top priorities in regards to these budget negotiations. Number one, the defense of this country, this country must maintain a strong defense. We cannot be the second strongest kid on the block.

Number two, education. We can have a strong military. We can have a good economy but if we do not have a strong educational system, and when I talk about a strong educational system history will show that the best educational system is not run from Washington, D.C. down, as the Democrats would have it done but it is run from the local school districts up, education is absolutely crucial.

The third thing, for 40 years, while the other party was in control, they ran deficits year after year after year. It is very interesting to see them all of a sudden adopt fiduciary and fiscal responsibility to the taxpayers of this country. The plan and the budget we have to come up with, we will come up with, has to reduce that Federal debt.

In fact, I remember all the criticism given by the other side, the Democrats, when we took the majority: Do not fill us full of baloney that they are going to get rid of the annual deficit; do not tell us how the cuts in the programs and cutting government waste, which is one of our big targets, is going to help get rid of the annual deficits.

Well, today it is as if they were part of our team back then. They did not cooperate much. Some of them did but not all of them. Today they have forgotten all about that. We do not have annual deficits. In fact, last year we had a $1 billion surplus, after Social Security. We have heard a lot of discussions out there on Main Street about, well, maybe there is a surplus but it includes Social Security money. We have heard Republican after Republican and some conservative Democrats say, look, Social Security has to be preserved; we cannot count that in that surplus.

Last year we really had a true surplus of $1 billion. Well, the key here and the key in our budget is to be able to go forward and take care of that Federal debt. We have the deficit taken care of. Now we have to shift from the annual deficit, which happens every year, did happen for 40-some years with the exception of a couple of years, I think in 1963 and 1964, now we have that taken care of, at least we are barely on top of it, and now we have to look at reducing the Federal debt. That is a high priority.

What is the other priority in these budget negotiations? Medicare. I can say that colleagues on both sides of the aisle are concerned about that, but concern is one thing. Doing something about it is something else. Of course, the final thing, Social Security, I do not know anybody that is not concerned about Social Security. I know a lot of people, however, that are not confident in Social Security and Social Security being there when they need it or being there when their children or their children's children need it. Those are our priorities in this Republican budget.

I can say when there is a so-called surplus, it is very easy to go out to the country, to go out to the communities and promise everybody that wants money that money. Those are the people that do not get it done. Those are the people that promise it. They are the ones that do not gather a lot of firewood for the fire at the campsite. It is very easy to do that, but the real tough decision is the party; the party that really has the tough decision is the party that has to try and balance this budget.

We have committed to the American people we will do everything we can to avoid spending Social Security money and at the same time enhance the military, enhance education, reduce the debt, help Social Security and help Medicare.

I think we are pretty darn close to doing it. That is the good news I have tonight, but let me say it is going to require some sacrifice. Now, we ask all to sacrifice. Now, I do not think cutting government waste is a real sacrifice, although some people make a living off government waste. I think it is something pretty easy to do, but there are a lot of programs out there that are good programs but maybe not urgent programs or necessary programs. We are asking the citizens of this country, team up with us. We can save Social Security. We can do something about Medicare. We can reduce the Federal deficit. We can do something for education. We can have a strong defense in this country, and we can do it in a fiscally responsible way, but it means we have to tighten our belt.

It is always easy to pick between a good program and a bad program. That choice is pretty easy. Our choices today are between good and good programs. These are not easy choices, and in the way our legislative body is created the minority party does not have that responsibility so it is very easy for them to go out and promise to every American that certain products or programs or services will be delivered.

It is our job on this side to put the money in the account. We write the checks. We do not complain, but we know that we have to ask for a tightening of the belt. Now one of the things we are talking about is an across-the-board, 1 percent maybe, 1 percent out of every dollar, reduction in some of these agencies to help us save Social Security, get money into Medicare, help education, help the military defense and reduce the Federal debt. That is all we are asking.

Think about it on a person's own family budget, Mr. Speaker, at home at night. When someone's daughter or son comes home and says, dad and mom, if we can just save one penny on the dollar it can really help me with my future.

That is exactly what we are doing here. We are looking at the generation of their son's, their daughter's age or their grandson's or their granddaughter's age, we are looking at them and they are asking us to save one penny on the dollar. Let us reduce our expenditures by one penny on the dollar. Guess what? We can do it without going into the Social Security money. We can put money into education, we can put money into defense, we can reduce the debt and we can help Social Security, obviously, and Medicare. Those are important issues for us to consider. I will keep everyone advised as these negotiations continue to go on.

FEDERAL PUBLIC LANDS SHOULD REMAIN PUBLIC

Mr. McINNIS. Mr. Speaker, I would now like to shift gears and talk about the Federal public lands. The largest landowner in the United States is the Federal Government, and by far, by far, the largest owners of land are the Federal Government, the State government, the city government, the local districts, et cetera, et cetera, et cetera. We depend very heavily on the use of public lands.

I thought I would begin tonight by showing some examples of some beautiful public lands. Now, I am a little biased in this regard. My State, the State I represent, is the State of Colorado and I have been very fortunate to represent the 3rd District of the State of Colorado. Many people have been to Aspen, many have heard of Glenwood Springs or Steamboat or Telluride, or Durango, Breckenridge, Summit County, Grand Junction. There are a number of different communities that some people have visited. They know about the Colorado Rockies. The Colorado Rockies are a gem. They are a diamond for the United States.

We need to do what we can do to preserve those while at the same time, while at the same time, allowing people to live out there. We are going to cover a little of that.

Let me, first of all, point out, this is in the district, I will use my red pointer here, we will see the red pointer on the sky above the mountains. This is the Maroon Bells, one of the most beautiful settings and I am sure many of my colleagues have been there. This is fall, obviously, which can be seen by the colors. Many, many thousands and thousands of visitors, whether handicapped, whether 19 years old and have great big legs, everybody gets to have access that can get here can go up there and see this beautiful, beautiful gem of our country, the Maroon Bells.

I know the Maroon Bells. I was born about 40 miles away. My brother climbed the Maroon Bells when he was 14 years old right there on that peak where the red dot is. Unfortunately, during that climb, a rock came off the top. He was in outward bound school, and it killed his instructor. He was 14 or 15 years old. We have a lot of family history and there are a lot of people in this country that have a lot of history in these mountain ranges. I am from the mountains. So are many of us, but the mountains are something we believe in. We have a strong heritage with the mountains. We want to protect the mountains.

Now, that is what this looks like today. See my red beeper, my little light there, the lake, that is how it looks today. Why does it look like that today? Is it because we allowed oil well drilling to go up on top of it? No. Is it because we put mines in there? No. Is it because we clear cut all the sides? No. Is it because we let them fish out the lake? No. Is it because we let them pollute the water? No.

What is my point? My point is that for 200 years and before that with the Native Americans, we have taken care of this land. Washington, D.C. would like to convince us that this thing is full of oil rigs, that the timber, that the small families that make a living off timber, go up there and clear cut this land, that the fishermen fish out the streams, that the streams are polluted and that the only way to do this is move the West Wing of the White House to now have that command center for the western United States. They think it matches: West Wing, western United States. So they come up with a program, 40 million acres.

Now, what does 40 million acres mean? Many people, if they own a home, they are on a lot size, maybe they have, I do not know, half an acre, a half an acre, where their home is located. Imagine 80 million times that half an acre that they own and that is what the President today has proposed to, in essence, take off limits.

What I am saying here is, these are assets, these are museum pieces. These mountains are beautiful. We know this. We want to protect them, but we have to use common sense and in using common sense we cannot just do it for the elite people of this country. We have to consider the common man of this country, and I say that generically. We have to speak for the common person in this country. Do not forget about them.

Not everybody can have a farm or a ranch in Aspen, Colorado. Not everybody can own a home in Aspen, Colorado. I certainly could not afford it and most of my colleagues on this floor could not afford it, but that should not keep us from being able to go up and enjoy it. It should not keep us from being able to go up and recreate on it, like skiing. I can say within eyesight of Maroon Bells, one can see several of the major ski areas in the world. Have they polluted the Maroon Bells? No. Have they caused clear cutting in the Maroon Bells? No. Do they provide jobs for Colorado? Yes, thousands of jobs. Do a lot of people get to enjoy the recreation of skiing in Aspen, Colorado? Yes, lots. We have to be careful about allowing an administration, who by the way rarely sets foot in Colorado and last year when they locked off a big chunk of the State of Utah, they announced it, the President announced it, in the State of Arizona.

Come put your hands in the soil; come put your hands in the dirt, Mr. President. Come see what you are doing before you do it. Know a little something about it before you talk about it.

I know about it. I was raised there. My family has been there for generations.

Let me show my next display here. These are the Fourteeners. Look at this. All over Colorado, I will point out, there is the young Compadre Peak. This one is the mount of the Holy Cross right here where my finger is. I will put the red pointer so it can be tracked by the red pointer. Columbine Park, look at all of these.

□ 2045

We have over 54 of them. Over 14,000 feet in Colorado form these beautiful mountain ranges. Do my colleagues see any clear-cutting that has gone on? No. Do my colleagues see any oil rigs? No. Do my colleagues see tents and cities and condominiums and town homes all over those 14,000 foot peaks?

No. Why do my colleagues not see them? It is because we protect this land. But we protect it with common sense. We do not lock everybody out of there. One can ski on some of those mountains. One can cross country ski.

In the summer, guess what? We have discovered something. It is a wonderful sport. It is a fabulous sport. Mountain biking. One gets to mountain bike a lot of this. Does it tear up those mountains? No. Are people who use those mountains responsible for the most part? Yes. For the ones who are not, let us go after them.

If this is an asset, if they are going to abuse it, kick them off. But do not kick them off in general just because they are human beings. Do not put all of the four systems of the United States into a museum.

The Federal lands, I will show my colleagues a couple other here real quick. This right here, this is a winter scene here in Colorado. Take a close look at that. Look at that snow. Do my colleagues see bulldozer tracks through that snow? No. My colleagues do not even see snow machine tracks through that snow. Why? Because we have designated trails. We manage those lands out there.

Those lands are not just important to the United States. They are important to those of us who make a living off of those lands. My in-laws, for example, David and Sue Ann Smith, my colleagues ought to visit them. They live in Meeker, Colorado. You want to talk about salt of the earth people. You want to talk about environmentalists. Do my colleagues know why they are environmentalists? They have got their hand in the soil every day.

Ask him what he thinks about that ranch. Ask him what he thinks about that ranch when people come up and offer him millions of dollars for that property. They do not want to sell it. They love that land. The Smith family is pretty representative of most of the ranching families.

I mean, the President is about to go out and destroy the way of the West, the territory. Remember the judge from the Supreme Court, "Go west, young man. Go west." Maybe it was Greeley, Horace Greeley said that. "Go west, young man. Go west."

Do not wipe it out. Do not make it an urban area. Do not restrict it for the President's museum at the White House. Work with us and help us protect this in a common sense approach, a common sense approach.

This is Colorado. These are more peaks that I want my colleagues to see. Beautiful, absolutely beautiful. Those are protected. President Clinton does not need to skip in and protect them any more than they are protected right now. We are preserving them. We know how to take care of this land.

What I am saying to my colleagues, in my district alone, and I say my district, the people's district that I am lucky enough and fortunate enough to represent, in that district alone, we have over 23 million acres of government-owned land, 23 million acres. We take darn good care of that land. We have a lot of uses of that land: recreational land, recreation, wilderness areas. We do have some timber. We have very little mining left anymore. We have a lot of different uses for that land.

President Theodore Roosevelt, I want to quote him, because the President in the last couple of days wants to put out an image that he is the Theodore Roosevelt, the Teddy Roosevelt who rode in on the bucking Bronco to save the West. Let me tell my colleagues what Teddy Roosevelt said. I think it is very important here because he talks to the common man. President Teddy Roosevelt was known as a common man. He understood the ways of the east. He understood the ways of the West. I think before somebody lifts themselves to that standard, they ought to at least qualify for it.

Let us talk about Teddy Roosevelt. "Conservation. Conservation means development as much as it does protection. I recognize the right and the duty of this generation to develop and use the natural resources of our land. But I do not recognize the right to waste them or to rob by wasteful use the generations that come after us."

That is the approach, the balanced approach. In essence, what he is saying is there is a right for people to use these lands. But there is no right, no right by the people that use these lands to destroy these lands for future generations.

We have got really two extremes: One end of the spectrum over here, one end of the spectrum over here. This end of the spectrum says, "hey, we ought to be able to go out there and mine it and clear-cut it and develop it all we want." Over here on this extreme, we have got organizations like Earth First. "Lock them out. Put everything in wilderness. Take away the right of multiple use." I will talk about multiple use here in a minute. Take away those rights.

But do my colleagues know what? Most people in America and certainly most of the people that live here feel that, in the middle ground there, we can do both. We can allow some ski areas. We can allow cross country skiers. We can allow mountain bikers. We can raft on those wonderful, beautiful rivers in Colorado. We can hike.

Yeah, we can allow a power line to go across them to some of our communities that are circled by Federal lands. There are things we can do with Federal lands. We are going to restrict it. We are going to be balanced.

On the other hand, they also say there are places, the same group that says one can ski and ride on mountain bikes and raft down the rivers, that same group, the middle group, as I call it, the real Westerners, as I call it, also believe, hey, there are some areas like the Maroon Bells that we just saw, like this area right here to my left, just like this area where my hands are. There are some areas we need to lock those away. Let us put those into wilderness. Those are appropriate wilderness.

Or let us create a National Park, just like Senator CAMPBELL and I did with the Black Canyon National Monument. We just converted it to a National Park. Or let us create a new monument, or let us make this a special-use area, or let us give this a species status, a certain endangered protected status. There is a reasonable ground in there.

What the President has done is laid his chip. He has staked out his ground on this extreme. To me, that is as offensive as the people over here that stake out their claim that say we ought to be able to mine it at any cost. Let us go in and cut the timber. We do not need selected timber cuts. Let's go in and cut it. That is as extreme as the President is attempting to do over here for Earth First, and that is clear-cut those forests, abandon those forests, and put them into the museum.

Let us talk about a concept that is very important, very important for the United States and for all of us to understand during my discussion this evening.

That is the concept of multiple use. Now, many of us, many of my colleagues may have never heard of what multiple use means. Well, obviously, one puts use together with multiple. It means many uses, many different kinds of uses.

Remember, just a couple of minutes ago in my comments, I talked about skiing, mountain biking, rafting, grazing, grazing one's cattle, timber, mining, lots of different uses, wilderness, environmental, fishing, things like that. Those are multiple uses.

I think this map is an excellent illustration if my colleagues can follow my red dot on the map. Obviously this is a map of the United States. This is government lands. My colleagues can see where the blob of government lands are. They are not in the east. There are some in the Carolinas. There are some up here in the northern part and Illinois and the Great Lakes. But the big bulk of Federal lands are right here.

Well, when the United States acquired these lands through different acquisition methods, the population was all along here in the east, and they decided they needed to move the population to the west.

Follow the red dot out to the west. Well, when they got them out here to Ohio and Nebraska and Kansas and Texas, Oklahoma, and some of these States out here, those are pretty fertile States. The way to encourage people to go out west when we wanted to settle the frontier back in the last century was to give them land grants or let them go out and put a stake in the ground and claim that land, 120 acres or 160 acres.

Let us go back to the map. In these areas, for example, in Kansas, in Nebraska, in the Dakotas, out here in the midwest farm country, one can support a family on 160 or 320 acres or some other type of government land grant.

But what was happening, and Washington was aware of it, is there were not many people coming into the mountains. They were not going into this area. They wanted to settle this area of the West. The question came up, how do we encourage our pioneers to go to the west, to go beyond the Colorado Rockies or to get into the Rockies and into the mountains and go west? How do we encourage people to settle? Shall we give them 160 acres under land grant like we have to settle the midwest and up to Kansas and so on?

Well, the answer came back pretty simple. One is dealing with different terrain. The mountains cannot support per acre what the Great Plains States can support per acre. So if we give 160 acres to somebody for agriculture, and that was the driving industry, obviously back then, the agriculture and mining, if we give it to them for agriculture, they are not going to be able to make it off 160 acres. In fact, they need thousands of acres to do what somebody can do on 160 acres of real fertile land or 220 acres of real fertile land.

So they thought about it, and said, we cannot go out politically, and it may not even be right to go out, and give citizens several thousand acres of land simply through a land grant program. What can we do? How do we resolve this?

Therein was the birth of multiple use. That is a concept. That concept was the government said, okay, and again follow my pen on the demonstration here, the way we can get people to go up into this territory of the United States, let us introduce this concept of multiple use, which simply means that the government retains the ownership of the land, we will call it public lands, but the people have a right to use the lands.

Now, when I grew up, and when my father and mother grew up before me, and so on down back in the generations, there was a sign that hung out there. We still see it once in a while. But there was a sign that hung out there on public lands. For example, when one would go into the White River National Forest, one would see a sign that said "Welcome to the White River National Forest." Underneath it hung a sign that said a land of many uses. That is what the sign said.

Today there is a very concentrated attempt to take off the sign that says a "land of many uses", throw it in the trash, and put on a sign that says "no trespassing." That is the defeat of the concept of multiple use.

Now, maybe this would have worked. I doubt it, but maybe that "no trespassing" would have worked 150 years ago. But the government itself, this country itself encouraged its citizens, encouraged its people to become pioneers. Go out and settle the West. Be cowboys. Be farmers. Help this country. We need people in the West.

So generation after generation after generation, including not only my family, but my wife's family and our children, has spent generations in those mountains. That is how we make a living.

If one wants to put up one's "no trespassing" sign to those of us in the West, one will break us. We are not large in number. We are large in heart. We have got a lot of heart in our feeling about this. But one will break us. Keep putting up that "no trespassing" sign. Unfortunately, a lot of people that are encouraging that are these over here on this extreme that I spoke about earlier.

My colleagues have to imagine, if they can pretend for a minute, that they are a ranch owner, that they own their own ranch. There are several things that they need to do to be a responsible ranch owner.

Number one, they need to visit. They need to go out into their fields. They need to get their hand into the dirt. Number two, they need to understand nature. They need not to defy nature. They need to work with nature. Nature renews a lot of natural resources such as water, only if they treat it right. So they have to understand nature.

The other thing that they have to do is manage different segments of that ranch. They may want to manage the strawberry patch on their ranch a little different than they manage their grazing area where they have got their cattle.

Well, it is the same thing here. The United States has millions and millions of acres in public lands. Let me give my colleagues some of those statistics. Ninety-one percent, almost 92 percent of the land that the Federal Government owns, almost 92 percent of the land that the Federal Government owns is in the western United States. Thirty-seven percent, almost 37 percent of the land in the State of Colorado, primarily in the mountains, is owned by the Federal Government.

□ 2100

The Forest Service, the BLM, and the National Park Service manage 95 percent of this land. The National Wild and Scenic Rivers system contains 10,900 miles of wild, scenic and recreational rivers. We have got a lot of land out there, and most of it is owned in the mountains by the Federal Government.

How do we manage that land? What kind of management tools do we have? Let me talk to my colleagues about a few of them. In order to manage Federal land, we do not need to lock everything up, as some proposals like the President. He says take 40 million acres. Again, colleagues, picture what 40 million acres is. Imagine how many people make a livelihood off of 40 million acres, 40 million.

We have lots of ways we can manage that land and protect it so it looks just like the beautiful Maroon Bells that I just got done showing my colleagues, or like the 54 Peaks over 14,000 feet that I just got down showing you, or the snowy scene in the Colorado Rockies that I just got done showing my colleagues.

We have ways to manage that land, protect it for the future, but reach that balance that Teddy Roosevelt spoke about. Teddy Roosevelt said, "you have a right to develop." That was the word back then. Of course, it is a sin to use that word today. But back then that is exactly the word that Teddy Roosevelt meant. Today we use the word "use," you have the right for use. But you do not have the right for waste. You don't have the right for abuse, for destruction. And he is right. He is absolutely right.

Well, how do you manage this to help protect it? We have national parks. We have national monuments. We have national preserves. We have national reserves. We have national lake shores. National seashores. National rivers. National wild and scenic rivers. I just told you eleven-some thousand miles. National scenic trails. National historic sites. National military parks. National battlefield parks. National battlefield site. National battlefields. National historic park. Reserve study areas. National memorials. National recreation areas. National parkway. Coordination areas. National forests. National scenic areas. National byways. National scenic research area. Conservation research programs. National research and experimental areas. National grasslands. National conservation areas. Special management areas. National forest primitive areas. National game refuges. National wildlife preserve areas. National wildlife refuges. National wildlife protection areas.

We have lots of tools in our arsenal to manage these public lands. We should not just go to one tool. We should not put everything in a national park. We should not put everything in a national wilderness.

Mr. President, before you put 40 million acres, 40 million acres, in essence locking people out of it, look at what the consequences are to the people who have preserved it all of these years.

It is very, very important for us to understand a couple other ramifications, not just the soil, not just the land, but right here. With my cold tonight, I have been sipping on water to keep my voice because I feel it very important to talk to you. But that is water.

In Colorado, let me give my colleagues a little quote from the poet Thomas Ferrell. It is in the Colorado State Capital. I saw it when I served in the State legislature. And the quote is, "Here is a land," talking about Colorado, "Here is a land where life is written in water." "Here is a land where life is written in water."

Colorado is a very unique State. In Colorado we must be overly protective of our water rights. Number one, it is something that a lot of other people want. Colorado provides water for probably 18 to 23 other States. Believe it or not, the country of Mexico has water rights in the State of Colorado for some of that water.

Colorado is the only State in the Union, the only State in the Union, where all of our water goes out of the State. We have no free flowing water that comes into the State for our usage.

In Colorado, we are an arid State, an arid State, meaning we do not get much rain. When you look at those beautiful mountains, you say, wow, it looks pretty rich to us. But we do not have the kind of thick vegetation that a lot of my colleagues do in the East in their district. In the East, their problem is getting rid of water. In the West, our problem is storing water.

We have to store it because since we do not have much rain, the only real opportunity we have for mass volumes of water is for the spring runoff, assuming we get the winter snows. And that spring runoff only lasts for about 65 maybe at the most 90 days. So over the balance of time, we have got to have it, we have got to store it, or we do not get it.

Now, what happens is that the water law in Colorado is unique, as well, and the same for a lot of the western water law. It is different than the East, as I mentioned earlier. It is entirely different. But there are some organizations out there who understand this, and those organizations really have two things in mind.

One, stop any kind of use from the water and that is one way to drive people out of those mountains. And the second thing is, let us take the water for our own use.

I do not know many organizations in the East who have the interests of the people of the State of Colorado or have the interests of the people in the West in mind when they look at our water rights. They look at our water rights like a great big piece of apple pie and they are hungry and they think it ought to be theirs, although they did not bake it or anything else. They think it ought to be theirs. So they put their arm around us and they talk to us friendly and they do all kinds of things, but their goal is to put that apple pie in their mouth and keep it out of our stomach. That is what their goal is.

So what do we do. We have to be protective. And when the President comes out and does as he did today, set aside 40 million acres of public lands to essentially lock them up, when he does that, what are the implications to water in the West?

Well, I can tell my colleagues right now that the National Sierra Club, that Earth First, and some of these kind of organizations, their goal is that every acre he locks up ought to have with it implied water rights. You ought to be able to reach outside that acre. Let us say this is an acre of land right here. This is an acre of land. They would like to have the Government step outside of this acre, up here or over here or over here, to control water rights. These are very, very valuable rights.

And in essence, what the next argument will be is, hey, we realize that President Clinton back in 1999 set aside 40 million acres and certainly what he wanted to do is to also lock up the water necessary for all of those 40 million acres even though we may not be using the water for agriculture or anything. We have certain water rights, like we want the quality, et cetera, et cetera, and they start reaching outside that territory.

It happened in Colorado. We have the Wilderness Act. When the Wilderness Act was enacted by this Congress by the United States House of Representatives and of course the Senate and the President, there was never any kind of discussion of water rights.

In about 1985, Judge Cain out of the Federal District Court said, although there were no water rights for the Federal Government, although the Federal Government does not seem to have any automatic water rights, there must have been an implication for water rights so the Federal Government now has implied water rights for the wilderness areas.

We have been fighting that battle for a long time. Same thing is going to happen here, my colleagues.

Now, for you in the East, my colleagues, so what? We need the water. What do you mean "so what"? That is our lifeblood. Remember my quote? "Here is a land," speaking of Colorado, "Here is a land where life is written in water." "Here is a land where life is written in water." It is a huge difference to us.

What are some of the other things that these 40 million acres can do, the other implications? We do not know. But it could be all of a sudden there are air rights for the Federal Government. All of a sudden the Federal Government could reach out to an adjacent town, say Silt Colorado or Grand Junction, Colorado, or Glenwood Springs, Colorado, which borders the White River National Forest, or Meeker, Colorado, which borders the White River National Forest on the north side, and they could say to those communities, you know something, you have too many cars in your community, you have too many people burning wood fireplaces. And those communities could say, we understand that. We try and do our own. No, no, no. Here is what the Federal Government out of Washington, D.C., is going to tell you communities in the West how you are going to run your communities.

There are lots of implications to the action that the President has taken today. Now, what they will try and give you is an allusion that if we do not follow the President's lead, if we do not listen to the advice of Earth First, if we do not adopt point by point the national policies of the National Sierra Club, that these beautiful mountains that I showed you a picture of will be destroyed, that the water in the West will be polluted, that the trees will be clear-cutted.

Well, let me tell you what happens if we follow their agenda. Write off mountain biking. Forget skiing. Forget river rafting. Forget the other recreational uses that we have out there, hunting, going throughout in a 4-wheel drive vehicle on marked trails, all of the different kind of things that you can recreate with in Colorado. In the long-run, those could very easily be diminished significantly, maybe never ended completely, because we have some private property.

Although, every ski area, to the best of my knowledge, and I have almost all of them in the Third Congress District, in my district, almost every one of them is on public land. Those are the kind of implications that we are speaking about here.

It sounds warm and fuzzy today. And it is very easy to appeal to the entire country by saying what I have done is to do as Teddy Roosevelt or, as I just heard somebody on TV say, it is the most significant thing we have done for the environment in centuries.

Do you know what the most significant thing we have done for the environment in centuries? We have let the people that live in those mountains help manage those mountains. We let the people who really have their hands in the soil every day.

Now, my hands are not in soil. But take a look at my father-in-law's hands or my mother-in-law or my parents or many, many people out there in Colorado. I could give you name after name after name. What we have done right is let those people who are on the ground there every day, every hour help us manage those lands. We did not kick them off.

Now, once in a while we have had abuse and we get rid of them. And maybe we need to tighten the laws on that. I am up for that. And I am not for saying that we do not have additional areas out there where these kind of restrictions should be placed. But 40 million acres by simply throwing a fishnet over the western United States? That is what has happened. The President got a big fishnet and just threw it as far as he could and out it floated over the western United States. And wherever there is public lands, ha-ha, we will lock it up.

I am not attempting here to be provocative, to try and be derogatory. What I am trying to do here is, one, make us all cognizant of what life in the western mountains is all about; number 2, the fact that we have beautiful, beautiful diamonds out there, meaning the mountains, and we all want to protect those; and three, I want to tell you, do not just write us off. We have too much to lose. We are fellow citizens and we live in a beautiful, large expansive area, but there are not a lot of us out there. So it may be pretty easy for many of my colleagues just simply to write us off. But I am asking you not to do that. Take a look at what it really means, what kind of impact you are going to have.

You are going to hear in the next few days many statements about how bad mountain bikes are I guess. Probably more realistically, they will take some kind of thing that just on its face they will want to make it sound offensive. Logging, for example.

You know, I have known a lot of small families, these are not the big logging companies, these are small families that are in the logging business. Why do you want to wipe them out? Manage them. Do not wipe them out. Help them. Do not destroy them.

My gosh, Mr. President, I wish that you could go to dinner some night. Go to dinner tonight. What you should have done is made this announcement of this lock-up of this 40 million acres and then gone to dinner with a small family in Colorado somewhere that cuts timber and does it responsibly. How happy do you think they are tonight? It is going to destroy some people out there.

But that will not happen. The people in Washington, D.C., especially down the street, are not going to take time to see what the impact is on people. As my good colleague the gentleman from Arizona (Mr. HAYWORTH) said earlier, this President committed to put people first, they are not going to go out and see where it puts people.

Instead, it is much easier to be politically warm and fuzzy and say the West is being destroyed and we in the East must step into the West and defend it, defend it against itself.

□ 2115

We have got to protect those people, those families and pioneers out there in the West, those ranchers, those river rafters, those hikers, those skiers, those residents that live out in the West. We have got to protect them from themselves. They are destroying themselves.

That is what the image is here in Washington, D.C. That is exactly what the image is that this President is trying to portray to you people with this sign, with this signature of 40 million acres set aside.

Mr. Speaker, in Colorado most of us that live out there, including myself, my family, my wife's family, we are not wealthy people. We are there because we have a job. I have been fortunate. I have a job representing those people. But all five of my brothers and sisters, all of my nieces and nephews, all of my cousins, there are probably 30 or 40 first cousins, they are all over Colorado. Why are we able to stay in Colorado? Because we have a job. We have a job. That may not sound like a lot. Up here we get paid. We have got an automatic job for 2 years. Back there some of these people depend on their jobs almost day to day.

Let me give my colleagues an example of what kind of jobs we have in Colorado. On the White River National Forest, the White River National Forest has two predominant uses. Two-thirds of the forest, the predominant use in two-thirds of it is recreation. In one-third of the White River National Forest, the predominant use is wilderness. We have locked it up. I voted for that and it was appropriate to do that. But we intentionally left two-thirds open for recreation. Why? Number one, they do it in a responsible fashion. Two, it provides resources that are not available. You cannot put a ski mountain out in Ohio. They do not have a lot of skiing in Kansas. They do not have much skiing in Mississippi or Missouri or Louisiana or Nevada. They have some in the Sierras, but not much. Colorado has got the natural resource for it. What does that do, that White River National Forest, just that forest? Thirty-five thousand jobs. My neighbors in a lot of cases have those jobs. That is how we are able to stay out in Colorado. We are not Johnny-come-lately. We did not just jump out to Colorado all of a sudden to live. Our families, many of our families have lived there for generations. My family and my wife's family have lived there for many, many generations, but we still welcome people to come out to Colorado. Sure we think it has grown too fast, we wish it were not growing so fast, but we do not think we have the right to shut the door because they did not shut the door on us back in the 1870s when my family came in or the 1880s when Lori's family came in, they did not shut the door on us. They said, Come on in, but we only ask you one thing when you come to Colorado or when you come to the Rockies or Utah, Wyoming or Montana: Be responsible, help us make this a good community to live in, help us retain the beauty of this State, help us follow what Teddy Roosevelt said and, that is, there is a right to use the land but there is not a right to destroy the land.

We think we can use the land, the Federal public lands in Colorado or in the Rockies or in the West in a responsible fashion. I happen to think you can build a ski area and manage it in a responsible way. Many of you have skied in Colorado. Many of your constituents have skied in Colorado. You have been there. You have seen that a lot of those areas, they are managed okay. It has been a fun family vacation. It was a nice way to recreate. Then when you take a look at the areas that are cleared for the ski runs, they are just a pinpoint, a pinpoint in the forest. Many of you have had the opportunity to river raft in the State of Colorado, or Utah or Wyoming or Montana. It is a blast. If you have not done it, do it. It is a great time. And it is a great family activity. We have not destroyed the rivers. We have been doing what Teddy Roosevelt said to do: "Use it but don't destroy it."

Some of you may have never heard of Lake Powell but many of you probably have. Do you know what Lake Powell has done for families in this country, how many families are down there instead of having their kids running out to the mall or dad running down to work? They are down together on a little boat on Lake Powell. That lake does a lot. It recreates. "Use it but don't destroy it." The Roosevelt theory. It is a lot different than the other theories that have come out. When we talk about this, when we talk about where we are going with the future, I have got to tell you, as long as I am in this elected office, I am going to stand as strongly as I can for Colorado and for water rights in the West. I am not just saying that. Because never in my entire career have I felt more of a challenge to the taking of Colorado water than I do today. And never in my career have I felt more of a challenge to those 35,000 jobs on the White River National Forest. Those are not indirect jobs, those are direct jobs. That is not 35,000. In fact, it is 35,000 families live off that forest.

I have never felt a larger threat in my political career to those jobs than the vision coming out of Washington, D.C., the vision that we cannot manage it, the vision that they need to protect us, to protect us from ourselves. How many of you have ever mountain biked out in Colorado? That is a relatively new sport. But if you have, you have really gotten into some of that terrain and you have been able to access it, you did not have to hike for miles, you have been able to ride in there on your bike. Minimal damage to the environment. We managed it well, despite the fact that Washington thinks they need to protect us from ourselves. We followed the Roosevelt theory: "Use it but don't abuse it."

It is the same thing with any other type of activity you can imagine, whether it is kayaking, whether it is hiking, and so on. You get my message, my drift, what I am saying here.

Now, what about some of the other issues? What about some of the other jobs? I do not think it is shameful to have a sporting goods store and sell sporting goods in Colorado. I do not think it is wrong for a small family to try and go out and harvest some timber. By the way, if you harvest timber with correct management, it is healthy for the forest, it is a renewable resource and, by the way, every one of you in this room tonight, every one of your constituents uses wood that is taken out of some forest somewhere at some time. Every chair in here. You look around. You know what I mean. Wood is everywhere. It is a renewable resource. But you have to follow the Roosevelt theory. The Roosevelt theory is: "Use it but don't abuse it."

It saddens me to think that here in Washington, D.C., frankly a lot of the national press is buying this hook, line and sinker, they are biting at it just like that, it troubles me that back here in the East, that even the administration in the West Wing, they do not go to the western United States, they make this decision in the West Wing. They have got some confusion there. It bothers me that they are using a deception upon the American people that this land out there, that we are not taking care of that land. It is public land. It is all of our land. I am telling you, we have been on it for a long time. We have lived on it for a long time. We have worked it for a long time. We have used it for a long time. And we have not abused it for a long time.

Folks, do not be sold on this. Do not automatically assume that the West is being destroyed because of the fact that we have ski areas. Do not automatically assume that the West is being destroyed because we have mountain bikes. Do not automatically assume that the West is being destroyed because we allow people to river raft and hike and hunt. Do not automatically assume because it is not true. We do follow the Roosevelt theory: "Use it but don't abuse it."

I know that tonight my time is rapidly expiring, but I just want to reiterate a couple of things. Number one, do not forget that the pioneer spirit still exists for a lot of us. We are very proud of our heritage. We are Americans. But we also come from the West. I feel very respectful of the people of the East. But I am not an Easterner. I am a Westerner. I am not out here to destroy the life-style of the East, and I ask you people in the East, do not go out of your way to destroy our lifestyle in the West. We do not need the eastern United States, the bureaucracies in Washington, D.C. to protect us from ourselves. I think we, much, much better than some of my colleagues and some of the people in the East, understand that land much, much better than you ever will. We have got our hands in the soil. All of us can agree that a common-sense approach is what is reasonable. But that means that these people out here who want to clear-cut every forest, who want to put a ski area on every mountain, who want to build a house on every ridge, who want to put a highway wherever they want to, who want to build townhouses wherever they want, that means these people are going to have to be moved to the middle, and the people out here like Earth First and other hard-core groups out there who think they only have the title to the environment, who think they only have the knowledge to protect that land, who think only they have the historical background to manage that ranch for all of us, that group has also got to be brought to the middle. And here in the middle is not the leader of the United States today, the President of the United States, Bill Clinton. That is not who is here in the middle today. He is over here. What is in the middle today was what was in the middle at the turn of the century and many years ago, and, that is, Teddy Roosevelt. Teddy Roosevelt is who is in the middle.

And remember, and I will conclude with Teddy Roosevelt's comments, and I will paraphrase him: "You have the right to use it but you don't have the right to abuse it or destroy it." Teddy Roosevelt had it right. It should be Teddy Roosevelt's path that we follow. Do not be misguided down the path of President Clinton. Follow the path of Teddy Roosevelt: "Use it and enjoy it, but don't abuse it and destroy it."

RECESS

The SPEAKER pro tempore (Mr. TOOMEY). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 27 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2307

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DREIER) at 11 o'clock and 7 minutes p.m.

CONFERENCE REPORT ON H.R. 2684, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2000

Mr. WALSH submitted the following conference report and statement on the bill (H.R. 2684) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2000, and for other purposes:

CONFERENCE REPORT (H. REPT. 106-379)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2684) "making appropriations for the Departments of Veterans Affairs and Housing and

Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2000, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2000, and for other purposes, namely:

TITLE I—DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFERS OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans and a pilot program for disability examinations as authorized by law (38 U.S.C. 107, chapters 11, 13, 18, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $21,568,364,000, to remain available until expended: Provided, That not to exceed $17,932,000 of the amount appropriated shall be reimbursed to "General operating expenses" and "Medical care" for necessary expenses in implementing those provisions authorized in the Omnibus Budget Reconciliation Act of 1990, and in the Veterans' Benefits Act of 1992 (38 U.S.C. chapters 51, 53, and 55), the funding source for which is specifically provided as the "Compensation and pensions" appropriation: Provided further, That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to "Medical facilities revolving fund" to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by 38 U.S.C. chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61, $1,469,000,000, to remain available until expended: Provided, That funds shall be available to pay any court order, court award or any compromise settlement arising from litigation involving the vocational training program authorized by section 18 of Public Law 98–77, as amended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by 38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487, $28,670,000, to remain available until expended.

VETERANS HOUSING BENEFIT PROGRAM FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the program, as authorized by 38 U.S.C. chapter 37, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That during fiscal year 2000, within the resources available, not to exceed $300,000 in gross obligations for direct loans are authorized for specially adapted housing loans.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $156,958,000, which may be transferred to and merged with the appropriation for "General operating expenses".

EDUCATION LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $1,000, as authorized by 38 U.S.C. 3698, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $3,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $214,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $57,000, as authorized by 38 U.S.C. chapter 31, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $2,531,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $415,000, which may be transferred to and merged with the appropriation for "General operating expenses".

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the direct loan program authorized by 38 U.S.C. chapter 37, subchapter V, as amended, $520,000, which may be transferred to and merged with the appropriation for "General operating expenses".

GUARANTEED TRANSITIONAL HOUSING LOANS FOR HOMELESS VETERANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of guaranteed loans as authorized by 38 U.S.C. chapter 37 subchapter VI, $48,250,000, to remain available until expended: Provided, That no more than five loans may be guaranteed under this program prior to November 11, 2001: Provided further, That no more than fifteen loans may be guaranteed under this program: Provided further, That the total principal amount of loans guaranteed under this program may not exceed $100,000,000: Provided further, That not to exceed $750,000 of the amounts appropriated by this Act for "General operating expenses" and "Medical care" may be expended for the administrative expenses to carry out the guaranteed loan program authorized by 38 U.S.C. chapter 37, subchapter VI.

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department; and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in the Department; administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department; oversight, engineering and architectural activities not charged to project cost; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; aid to State homes as authorized by 38 U.S.C. 1741; administrative and legal expenses of the Department for collecting and recovering amounts owed the Department as authorized under 38 U.S.C. chapter 17, and the Federal Medical Care Recovery Act, 42 U.S.C. 2651 et seq.; and not to exceed $8,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 8110(a)(5), $19,006,000,000, plus reimbursements: Provided, That of the funds made available under this heading, $900,000,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 2000, and shall remain available until September 30, 2001: Provided further, That of the funds made available under this heading, not to exceed $900,000,000 shall be available until September 30, 2001: Provided further, That of the funds made available under this heading, not to exceed $27,907,000 may be transferred to and merged with the appropriation for "General operating expenses": Provided further, That the Department shall conduct by contract a program of recovery audits for the fee basis and other medical services contracts with respect to payments for hospital care; and, notwithstanding 31 U.S.C. 3302(b), amounts collected, by setoff or otherwise, as the result of such audits shall be available, without fiscal year limitation, for the purposes for which funds are appropriated under this heading and the purposes of paying a contractor a percent of the amount collected as a result of an audit carried out by the contractor: Provided further, That all amounts so collected under the preceding proviso with respect to a designated health care region (as that term is defined in 38 U.S.C. 1729A(d)(2)) shall be allocated, net of payments to the contractor, to that region.

In addition, in conformance with Public Law 105–33 establishing the Department of Veterans Affairs Medical Care Collections Fund, such sums as may be deposited to such Fund pursuant to 38 U.S.C. 1729A may be transferred to this account, to remain available until expended for the purposes of this account.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by 38 U.S.C. chapter 73, to remain available until September 30, 2001, $321,000,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of capital policy activities, $59,703,000 plus reimbursements: Provided, That project technical and consulting services offered *by the Facilities Management Service Delivery Office, including technical consulting services, project management, real property administration (including leases, site acquisition and disposal activities directly supporting projects), shall be provided to Department of Veterans Affairs components only on a reimbursable basis, and such amounts will remain available until September 30, 2000.*

GENERAL POST FUND, NATIONAL HOMES

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $7,000, as authorized by Public Law 102–54, section 8, which shall be transferred from the "General post fund": Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $70,000.

In addition, for administrative expenses to carry out the direct loan programs, $54,000, which shall be transferred from the "General post fund", as authorized by Public Law 102–54, section 8.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail, $912,594,000: Provided, That of the funds made available under this heading, not to exceed $45,600,000 shall be available until September 30, 2001: Provided further, That funds under this heading shall be available to administer the Service Members Occupational Conversion and Training Act.

NATIONAL CEMETERY ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the maintenance and operation of the National Cemetery Administration, not otherwise provided for, including uniforms or allowances therefor; cemeterial expenses as authorized by law; purchase of two passenger motor vehicles for use in cemeterial operations; and hire of passenger motor vehicles, $97,256,000: Provided, That of the amount made available under this heading, not to exceed $117,000 may be transferred to and merged with the appropriation for "General operating expenses".

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $43,200,000: Provided, That of the amount made available under this heading, not to exceed $30,000 may be transferred to and merged with the appropriation for "General operating expenses".

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is $4,000,000 or more or where funds for a project were made available in a previous major project appropriation, $65,140,000, to remain available until expended: Provided, That except for advance planning of projects (including market-based assessments of health care needs which may or may not lead to capital investments) funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: Provided further, That funds provided in this appropriation for fiscal year 2000, for each approved project shall be obligated: (1) by the awarding of a construction documents contract by September 30, 2000; and (2) by the awarding of a construction contract by September 30, 2001: Provided further, That the Secretary shall promptly report in writing to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above: Provided further, That no funds from any other account except the "Parking revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until 1 year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, where the estimated cost of a project is less than $4,000,000, $160,000,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $4,000,000: Provided, That funds in this account shall be available for: (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department which are necessary because of loss or damage caused by any natural disaster or catastrophe; and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING REVOLVING FUND

For the parking revolving fund as authorized by 38 U.S.C. 8109, income from fees collected, to remain available until expended, which shall be available for all authorized expenses except operations and maintenance costs, which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by 38 U.S.C. 8131–8137, $90,000,000, to remain available until expended.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veteran cemeteries as authorized by 38 U.S.C. 2408, $25,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 101. Any appropriation for fiscal year 2000 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations.

SEC. 102. Appropriations available to the Department of Veterans Affairs for fiscal year 2000 for salaries and expenses shall be available for services authorized by 5 U.S.C. 3109.

SEC. 103. No appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects", and the "Parking revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

SEC. 104. No appropriations in this Act for the Department of Veterans Affairs shall be available for hospitalization or examination of any persons (except beneficiaries entitled under the laws bestowing such benefits to veterans, and persons receiving such treatment under 5 U.S.C. 7901–7904 or 42 U.S.C. 5141–5204), unless reimbursement of cost is made to the "Medical care" account at such rates as may be fixed by the Secretary of Veterans Affairs.

SEC. 105. Appropriations available to the Department of Veterans Affairs for fiscal year 2000 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 1999.

SEC. 106. Appropriations accounts available to the Department of Veterans Affairs for fiscal year 2000 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100-86, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

SEC. 107. Notwithstanding any other provision of law, during fiscal year 2000, the Secretary of Veterans Affairs shall, from the National Service Life Insurance Fund (38 U.S.C. 1920), the Veterans' Special Life Insurance Fund (38 U.S.C. 1923), and the United States Government Life Insurance Fund (38 U.S.C. 1955), reimburse the "General operating expenses" account for the cost of administration of the insurance programs financed through those accounts: Provided, That reimbursement shall be made only from the surplus earnings accumulated in an insurance program in fiscal year 2000, that are available for dividends in that program after claims have been paid and actuarially determined reserves have been set aside: Provided further, That if the cost of administration of an insurance program exceeds the amount of surplus earnings accumulated in that program, reimbursement shall be made only to the extent of such surplus earnings: Provided further, That the Secretary shall determine the cost of administration for fiscal year 2000, which is properly allocable to the provision of each insurance program and to the provision of any total disability income insurance included in such insurance program.

SEC. 108. (a) The Congress supports efforts to implement improvements in health care services for veterans in rural areas.

(b) REPORT REQUIRED.—(1) Not later than 6 months after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the impact of the allocation of funds

under the Veterans Equitable Resource Allocation (VERA) funding formula on the rural subregions of the health care system administered by the Veterans Health Administration.

(2) The report shall include the following:

(A) An assessment of impact of the allocation of funds under the VERA formula on—

(i) travel times to veterans health care in rural areas;

(ii) waiting periods for appointments for veterans health care in rural areas;

(iii) the cost associated with additional community-based outpatient clinics;

(iv) transportation costs; and

(v) the unique challenges that Department of Veterans Affairs medical centers in rural, low-population subregions face in attempting to increase efficiency without large economies of scale.

(B) The recommendations of the Secretary, if any, on how rural veterans' access to health care services might be enhanced.

SEC. 109. The Secretary of Veterans Affairs may carry out a major medical facility project to renovate and construct facilities at the Olin E. Teague Department of Veterans Affairs Medical Center, Temple, Texas, for a joint venture Cardiovascular Institute, in an amount not to exceed $11,500,000. In order to carry out that project, the amount of $11,500,000 appropriated for fiscal year 1998 and programmed for the renovation of Building 9 at the Waco, Texas, Department of Veterans Affairs Medical Center is hereby made available for that project.

SEC. 110. Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available in this Act for the Medical Care appropriation of the Department of Veterans Affairs may be obligated for the realignment of the health care delivery system in VISN 12 until 60 days after the Secretary of Veterans Affairs certifies that the Department has: (1) consulted with veterans organizations, medical school affiliates, employee representatives, State veterans and health associations, and other interested parties with respect to the realignment plan to be implemented; and (2) made available to the Congress and the public information from the consultations regarding possible impacts on the accessibility of veterans health care services to affected veterans.

TITLE II—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING

HOUSING CERTIFICATE FUND

(INCLUDING TRANSFERS OF FUNDS)

For activities and assistance to prevent the involuntary displacement of low-income families, the elderly and the disabled because of the loss of affordable housing stock, expiration of subsidy contracts (other than contracts for which amounts are provided under another heading in this Act) or expiration of use restrictions, or other changes in housing assistance arrangements, and for other purposes, $11,376,695,000 and amounts that are recaptured in this account, and recaptured under the appropriation for "Annual contributions for assisted housing", to remain available until expended: Provided, That of the total amount provided under this heading, $10,990,135,000, of which $6,790,135,000 shall be available on October 1, 1999 and $4,200,000,000 shall be available on October 1, 2000, shall be for assistance under the United States Housing Act of 1937 ("the Act" herein) (42 U.S.C. 1437) for use in connection with expiring or terminating section 8 subsidy contracts, for amendments to section 8 subsidy contracts, for enhanced vouchers (including amendments and renewals) under any provision of law authorizing such assistance under section 8(t) of the United States Housing Act of 1937 (47 U.S.C. 1437f(t)), as added by section 538 of title V of this Act, and contracts entered into pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act: Provided further, That amounts available under the first proviso under this heading may be available for section 8 rental assistance under the United States Housing Act of 1937: (1) to relocate residents of properties: (A) that are owned by the Secretary and being disposed of; or (B) that are discontinuing section 8 project-based assistance; (2) for relocation and replacement housing for units that are demolished or disposed of: (A) from the public housing inventory (in addition to amounts that may be available for such purposes under this and other headings); or (B) pursuant to section 24 of the United States Housing Act of 1937 or to other authority for the revitalization of severely distressed public housing, as set forth in the Appropriations Acts for the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies for fiscal years 1993, 1994, 1995, and 1997, and in the Omnibus Consolidated Rescissions and Appropriations Act of 1996; (3) for the conversion of section 23 projects to assistance under section 8; (4) for funds to carry out the family unification program; (5) for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to a request from a law enforcement or prosecution agency; and (6) for the 1-year renewal of section 8 contracts for units in a project that is subject to an approved plan of action under the Emergency Low Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990: Provided further, That of the total amount provided under this heading, $40,000,000 shall be made available to nonelderly disabled families affected by the designation of a public housing development under section 7 of such Act, the establishment of preferences in accordance with section 651 of the Housing and Community Development Act of 1992 (42 U.S.C. 13611), or the restriction of occupancy to elderly families in accordance with section 658 of such Act, and to the extent the Secretary determines that such amount is not needed to fund applications for such affected families, to other nonelderly disabled families: Provided further, That amounts available under this heading may be made available for administrative fees and other expenses to cover the cost of administering rental assistance programs under section 8 of the United States Housing Act of 1937: Provided further, That the fee otherwise authorized under section 8(q) of such Act shall be determined in accordance with section 8(q), as in effect immediately before the enactment of the Quality Housing and Work Responsibility Act of 1998: Provided further, That all balances for the section 8 rental assistance, section 8 counseling, section 8 new construction, section 8 substantial rehabilitation, relocation/replacement/demolition, section 23 conversions, rental and disaster vouchers, loan management set-aside, section 514 technical assistance, and other programs previously funded within the "Annual Contributions" account shall be transferred to this account, to be available for the purposes for which they were originally appropriated: Provided further, That all balances in the "Section 8 Reserve Preservation" account shall be transferred to this account, to be available for the purposes for which they were originally appropriated: Provided further, That the unexpended amounts previously appropriated for special purpose grants within the "Annual Contributions for Assisted Housing" account shall be recaptured and transferred to this account, to be available for assistance under the Act for use in connection with expiring or terminating section 8 subsidy contracts: Provided further, That of the amounts previously appropriated for property disposition within the "Annual Contributions for Assisted Housing" account, up to $79,000,000 shall be transferred to this account, to be available for assistance under the Act for use in connection with expiring or terminating section 8 subsidy contracts: Provided further, That of the unexpended amounts previously appropriated for carrying out the Low-Income Housing Preservation and Resident Homeownership Act of 1990 and the Emergency Low Income Housing Preservation Act of 1987, other than amounts made available for rental assistance, within the "Annual Contributions for Assisted Housing" and "Preserving Existing Housing Investments" accounts, shall be recaptured and transferred to this account, to be available for assistance under the Act for use in connection with expiring or terminating section 8 subsidy contracts: Provided further, That of the total amount provided under this heading, $346,560,000 shall be made available for incremental vouchers under section 8 of the United States Housing Act of 1937 on a fair share basis and administered by public housing agencies: Provided further, That of the balances remaining from funds appropriated under this heading or the heading "Annual Contributions for Assisted Housing" during fiscal year 2000 and prior years, $2,243,000,000 is rescinded: Provided further, That of the amount rescinded under the previous proviso, $1,300,000,000 shall be from amounts recaptured and the Secretary shall have discretion to specify the amounts to be rescinded from each of the foregoing accounts, $505,000,000 shall be from unobligated balances, and $438,000,000 shall be from amounts that were appropriated in fiscal year 1999 and prior years for section 8 assistance including assistance to relocate residents of properties that are owned by the Secretary and being disposed of or that are discontinuing section 8 project-based assistance, for relocation and replacement housing for units that are demolished or disposed of from the public housing inventory, and for enhanced vouchers as provided under the "Preserving Existing Housing Investment" account in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104–204).

PUBLIC HOUSING CAPITAL FUND

(INCLUDING TRANSFERS OF FUNDS)

For the Public Housing Capital Fund Program to carry out capital and management activities for public housing agencies, as authorized under section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437), $2,900,000,000, to remain available until expended: Provided, That of the total amount, up to $75,000,000 shall be for carrying out activities under section 9(h) of such Act, and for lease adjustments to section 23 projects: Provided further, That no funds may be used under this heading for the purposes specified in section 9(k) of the United States Housing Act of 1937: Provided further, That of the total amount, up to $75,000,000 shall be available for the Secretary of Housing and Urban Development to make grants to public housing agencies for emergency capital needs resulting from emergencies and natural disasters in fiscal year 2000: Provided further, That all balances for debt service for Public and Indian Housing and Public and Indian Housing Grants previously funded within the "Annual Contributions for Assisted Housing" account shall be transferred to this account, to be available for the purposes for which they were originally appropriated.

PUBLIC HOUSING OPERATING FUND

(INCLUDING TRANSFERS OF FUNDS)

For payments to public housing agencies for the operation and management of public housing, as authorized by section 9(e) of the United

States Housing Act of 1937, as amended (42 U.S.C. 1437g), $3,138,000,000, to remain available until expended: Provided, That no funds may be used under this heading for the purposes specified in section 9(k) of the United States Housing Act of 1937.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

For grants to public housing agencies and Indian tribes and their tribally designated housing entities for use in eliminating crime in public housing projects authorized by 42 U.S.C. 11901–11908, for grants for federally assisted low-income housing authorized by 42 U.S.C. 11909, and for drug information clearinghouse services authorized by 42 U.S.C. 11921–11925, $310,000,000, to remain available until expended: Provided, That of the total amount provided under this heading, up to $4,500,000 shall be solely for technical assistance, technical assistance grants, training, and program assessment for or on behalf of public housing agencies, resident organizations, and Indian tribes and their tribally designated housing entities (including up to $150,000 for the cost of necessary travel for participants in such training): Provided further, That of the amount provided under this heading, $10,000,000 shall be used in connection with efforts to combat violent crime in public and assisted housing under the Operation Safe Home Program administered by the Inspector General of the Department of Housing and Urban Development: Provided further, That of the amount under this heading, $10,000,000 shall be provided to the Office of Inspector General for Operation Safe Home: Provided further, That of the amount under this heading, $20,000,000 shall be available for a program named the New Approach Anti-Drug program which will provide competitive grants to entities managing or operating public housing developments, federally assisted multifamily housing developments, or other multifamily housing developments for low-income families supported by non-Federal governmental entities or similar housing developments supported by nonprofit private sources in order to provide or augment security (including personnel costs), to assist in the investigation and/or prosecution of drug related criminal activity in and around such developments, and to provide assistance for the development of capital improvements at such developments directly relating to the security of such developments: Provided further, That grants for the New Approach Anti-Drug program shall be made on a competitive basis as specified in section 102 of the Department of Housing and Urban Development Reform Act of 1989.

REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING (HOPE VI)

For grants to public housing agencies for demolition, site revitalization, replacement housing, and tenant-based assistance grants to projects as authorized by section 24 of the United States Housing Act of 1937, $575,000,000 to remain available until expended of which the Secretary may use up to $10,000,000 for technical assistance and contract expertise, to be provided directly or indirectly by grants, contracts or cooperative agreements, including training and cost of necessary travel for participants in such training, by or to officials and employees of the Department and of public housing agencies and to residents: Provided, That none of such funds shall be used directly or indirectly by granting competitive advantage in awards to settle litigation or pay judgments, unless expressly permitted herein: Provided further, That of the amount provided under this heading, $1,200,000 shall be contracted through the Secretary to be used by the Urban Institute to conduct an independent study on the long-term effects of the HOPE VI program on former residents of distressed public housing developments.

NATIVE AMERICAN HOUSING BLOCK GRANTS

(INCLUDING TRANSFER OF FUNDS)

For the Native American Housing Block Grants program, as authorized under title I of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (Public Law 104–330), $620,000,000, to remain available until expended, of which $2,000,000 shall be contracted through the Secretary as technical assistance and capacity building to be used by the National American Indian Housing Council in support of the implementation of NAHASDA and up to $4,000,000 by the Secretary to support the inspection of Indian housing units, contract expertise, training, and technical assistance in the oversight and management of Indian housing and tenant-based assistance, including up to $200,000 for related travel: Provided, That of the amount provided under this heading, $6,000,000 shall be made available for the cost of guaranteed notes and other obligations, as authorized by title VI of NAHASDA: Provided further, That such costs, including the costs of modifying such notes and other obligations, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize the total principal amount of any notes and other obligations, any part of which is to be guaranteed, not to exceed $54,600,000: Provided further, That for administrative expenses to carry out the guaranteed loan program, up to $200,000 from amounts in the first proviso, which shall be transferred to and merged with the appropriation for "Salaries and expenses", to be used only for the administrative costs of these guarantees.

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of guaranteed loans, as authorized by section 184 of the Housing and Community Development Act of 1992 (106 Stat. 3739), $6,000,000, to remain available until expended: Provided, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $71,956,000.

In addition, for administrative expenses to carry out the guaranteed loan program, up to $150,000 from amounts in the first paragraph, which shall be transferred to and merged with the appropriation for "Salaries and expenses", to be used only for the administrative costs of these guarantees.

COMMUNITY PLANNING AND DEVELOPMENT

HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

For carrying out the Housing Opportunities for Persons with AIDS program, as authorized by the AIDS Housing Opportunity Act (42 U.S.C. 12901), $232,000,000, to remain available until expended: Provided, That the Secretary may use up to 0.75 percent of the funds under this heading for technical assistance.

RURAL HOUSING AND ECONOMIC DEVELOPMENT

For the Office of Rural Housing and Economic Development in the Department of Housing and Urban Development, $25,000,000, to remain available until expended: Provided, That of the amount under this heading, up to $3,000,000 shall be used to develop capacity at the State and local level for developing rural housing and for rural economic development and for maintaining a clearinghouse of ideas for innovative strategies for rural housing and economic development and revitalization: Provided further, That of the amount under this heading, at least $22,000,000 shall be awarded by June 1, 2000 to Indian tribes, State housing finance agencies, State community and/or economic development agencies, local rural nonprofits and community development corporations to support innovative housing and economic development activities in rural areas: Provided further, That all grants shall be awarded on a competitive basis as specified in section 102 of the HUD Reform Act.

AMERICA'S PRIVATE INVESTMENT COMPANIES PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of guaranteed loans under the America's Private Investment Companies Program, $20,000,000, to remain available until September 30, 2002: Provided, That such costs, including the cost of modifying loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is guaranteed, not to exceed $541,000,000: Provided further, That the funds appropriated under this heading shall not be available for obligation until the America's Private Investment Companies Program is authorized by subsequent legislation and the program is developed subject to notice and comment rulemaking: Provided further, That if the authorizing legislation is not enacted by June 30, 2000, all funds under this heading shall be transferred to and merged with the appropriation for the "Community development financial institutions fund program account" to be available for use as grants and loans under that account.

URBAN EMPOWERMENT ZONES

For grants in connection with a second round of the empowerment zones program in urban areas, designated by the Secretary of Housing and Urban Development in fiscal year 1999 pursuant to the Taxpayer Relief Act of 1997, $55,000,000 to the Secretary of Housing and Urban Development for "Urban Empowerment Zones", including $3,666,000 for each empowerment zone for use in conjunction with economic development activities consistent with the strategic plan of each empowerment zone, to remain available until expended.

RURAL EMPOWERMENT ZONES

For grants for the rural empowerment zone and enterprise communities programs, as designated by the Secretary of Agriculture, $15,000,000 to the Secretary of Agriculture for grants for designated empowerment zones in rural areas and for grants for designated rural enterprise communities, to remain available until expended.

COMMUNITY DEVELOPMENT BLOCK GRANTS

(INCLUDING TRANSFERS OF FUNDS)

For grants to States and units of general local government and for related expenses, not otherwise provided for, to carry out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (the "Act" herein) (42 U.S.C. 5301), $4,800,000,000, to remain available until September 30, 2002: Provided, That $67,000,000 shall be for grants to Indian tribes notwithstanding section 106(a)(1) of such Act, $3,000,000 shall be available as a grant to the Housing Assistance Council, $2,200,000 shall be available as a grant to the National American Indian Housing Council, and $41,500,000 shall be for grants pursuant to section 107 of the Act including $2,000,000 to support Alaska Native serving institutions and native Hawaiian serving institutions, as defined under the Higher Education Act, as amended: Provided further, That $20,000,000 shall be for grants pursuant to the Self Help Housing Opportunity Program: Provided further, That not to exceed 20 percent of any grant made with funds appropriated herein (other than a grant made available in this paragraph to the Housing Assistance Council or the National American Indian Housing

Council, or a grant using funds under section 107(b)(3) of the Housing and Community Development Act of 1974, as amended) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department: Provided further, That all balances for the Economic Development Initiative grants program, the John Heinz Neighborhood Development program, grants to Self Help Housing Opportunity program, and the Moving to Work Demonstration program previously funded within the "Annual Contributions for Assisted Housing" account shall be transferred to this account, to be available for the purposes for which they were originally appropriated.

Of the amount made available under this heading, $23,750,000 shall be made available for capacity building, of which $20,000,000 shall be made available for "Capacity Building for Community Development and Affordable Housing," for LISC and the Enterprise Foundation for activities as authorized by section 4 of the HUD Demonstration Act of 1993 (Public Law 103–120), as in effect immediately before June 12, 1997, with not less than $4,000,000 of the funding to be used in rural areas, including tribal areas, and of which $3,750,000 shall be made available to Habitat for Humanity International.

Of the amount made available under this heading, the Secretary of Housing and Urban Development may use up to $55,000,000 for supportive services for public housing residents, as authorized by section 34 of the United States Housing Act of 1937, as amended, and for grants for service coordinators and congregate services for the elderly and disabled residents of public and assisted housing: Provided further, That amounts made available for congregate services and service coordinators for the elderly and disabled under this heading and in prior fiscal years may be used by grantees to reimburse themselves for costs incurred in connection with providing service coordinators previously advanced by grantees out of other funds due to delays in the granting by or receipt of funds from the Secretary, and the funds so made available to grantees for congregate services or service coordinators under this heading or in prior years shall be considered as expended by the grantees upon such reimbursement. The Secretary shall not condition the availability of funding made available under this heading or in prior years for congregate services or service coordinators upon any grantee's obligation or expenditure of any prior funding.

Of the amount made available under this heading, $30,000,000 shall be available for neighborhood initiatives that are utilized to improve the conditions of distressed and blighted areas and neighborhoods, to stimulate investment, economic diversification, and community revitalization in areas with population outmigration or a stagnating or declining economic base, or to determine whether housing benefits can be integrated more effectively with welfare reform initiatives: Provided, that any unobligated balances of amounts set aside for neighborhood initiatives in fiscal years 1998 and 1999 may be utilized for any of the foregoing purposes: Provided further, That of the amount set aside for fiscal year 2000 under this paragraph, $23,000,000 shall be used for grants specified in the statement of the Managers of the Committee of Conference accompanying this Act.

Of the amount made available under this heading, $30,000,000 shall be available for neighborhood initiatives.

Of the amount made available under this heading, notwithstanding any other provision of law, $42,500,000 shall be available for YouthBuild program activities authorized by subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, as amended, and such activities shall be an eligible activity with respect to any funds made available under this heading: Provided, That local YouthBuild programs that demonstrate an ability to leverage private and nonprofit funding shall be given a priority for YouthBuild funding: Provided further, That of the amount provided under this paragraph, $2,500,000 shall be set aside and made available for a grant to Youthbuild USA for capacity building for community development and affordable housing activities as specified in section 4 of the HUD Demonstration Act of 1993, as amended.

Of the amount made available under this heading, $275,000,000 shall be available for grants for the Economic Development Initiative (EDI) to finance a variety of economic development efforts, including $240,000,000 for making individual grants for targeted economic investments in accordance with the terms and conditions specified for such grants in the statement of the managers of the committee of conference accompanying this Act.

For the cost of guaranteed loans, $29,000,000, as authorized by section 108 of the Housing and Community Development Act of 1974: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $1,261,000,000, notwithstanding any aggregate limitation on outstanding obligations guaranteed in section 108(k) of the Housing and Community Development Act of 1974: Provided further, That in addition, for administrative expenses to carry out the guaranteed loan program, $1,000,000, which shall be transferred to and merged with the appropriation for "Salaries and expenses".

The Secretary is directed to transfer the administration of the small cities component of the Community Development Block Grant Program for the funds allocated for the State of New York under section 106(d) of the Housing and Community Development Act of 1974 for fiscal year 2000 and all fiscal years thereafter to the State of New York to be administered by the Governor of New York.

BROWNFIELDS REDEVELOPMENT

For Economic Development Grants, as authorized by section 108(q) of the Housing and Community Development Act of 1974, as amended, for Brownfields redevelopment projects, $25,000,000, to remain available until expended: Provided, That the Secretary of Housing and Urban Development shall make these grants available on a competitive basis as specified in section 102 of the Department of Housing and Urban Development Reform Act of 1989.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), as amended, $1,600,000,000, to remain available until expended: Provided, That up to $15,000,000 of these funds shall be available for Housing Counseling under section 106 of the Housing and Urban Development Act of 1968: Provided further, That $2,000,000 of these funds shall be made available as a grant to the National Housing Development Corporation for a program of housing acquisition and rehabilitation: Provided further, That all Housing Counseling program balances previously appropriated in the "Housing Counseling Assistance" account shall be transferred to this account, to be available for the purposes for which they were originally appropriated.

HOMELESS ASSISTANCE GRANTS

For the emergency shelter grants program (as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act, as amended); the supportive housing program (as authorized under subtitle C of title IV of such Act); the section 8 moderate rehabilitation single room occupancy program (as authorized under the United States Housing Act of 1937, as amended) to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act; and the shelter plus care program (as authorized under subtitle F of title IV of such Act), $1,020,000,000, to remain available until expended: Provided, That not less than 30 percent of these funds shall be used for permanent housing, and all funding for services must be matched by 25 percent in funding by each grantee: Provided further, That the Secretary of Housing and Urban Development shall conduct a review of any balances of amounts provided under this heading in any previous appropriations Acts that have been obligated but remain unexpended and shall deobligate any such amounts that the Secretary determines were obligated for contracts that are unlikely to be performed and award such amounts during this fiscal year: Provided further, That up to 1 percent of the funds appropriated under this heading may be used for technical assistance: Provided further, That all balances previously appropriated in the "Emergency Shelter Grants", "Supportive Housing", "Supplemental Assistance for Facilities to Assist the Homeless", "Shelter Plus Care", "Section 8 Moderate Rehabilitation Single Room Occupancy", and "Innovative Homeless Initiatives Demonstration" accounts shall be transferred to and merged with this account, to be available for any authorized purpose under this heading.

HOUSING PROGRAMS

HOUSING FOR SPECIAL POPULATIONS

For assistance for the purchase, construction, acquisition, or development of additional public and subsidized housing units for low income families not otherwise provided for, $911,000,000, to remain available until expended: Provided, That $710,000,000 shall be for capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance, and amendments to contracts for project rental assistance, for the elderly under such section 202(c)(2), and for supportive services associated with the housing of which amount $50,000,000 shall be for service coordinators and continuation of existing congregate services grants for residents of assisted housing projects, and of which amount $50,000,000 shall be for grants for conversion of existing section 202 projects, or portions thereof, to assisted living or related use, consistent with the relevant provision of title V of this Act: Provided further, That of the amount under this heading, $201,000,000 shall be for capital advances, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act, for project rental assistance, for amendments to contracts for project rental assistance, and supportive services associated with the housing for persons with disabilities as authorized by section 811 of such Act: Provided further, That the Secretary may designate up to 25 percent of the amounts earmarked under this paragraph for section 811 of such Act for tenant-based assistance, as authorized under that section, including such authority as may be waived under the next proviso, which assistance is five years in duration: Provided further, That the Secretary may waive any provision of such section 202 and such section 811 (including the provisions governing the terms and conditions of project rental assistance and tenant-based assistance) that the Secretary *determines is not necessary to achieve the objectives of these programs, or that otherwise impedes the ability to develop, operate or administer projects assisted under these programs, and may make provision for alternative conditions or terms where appropriate.*

FLEXIBLE SUBSIDY FUND

(TRANSFER OF FUNDS)

From the Rental Housing Assistance Fund, all uncommitted balances of excess rental charges as of September 30, 1999, and any collections made during fiscal year 2000, shall be transferred to the Flexible Subsidy Fund, as authorized by section 236(g) of the National Housing Act, as amended.

FEDERAL HOUSING ADMINISTRATION

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

During fiscal year 2000, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of $140,000,000,000.

During fiscal year 2000, obligations to make direct loans to carry out the purposes of section 204(g) of the National Housing Act, as amended, shall not exceed $100,000,000: Provided, That the foregoing amount shall be for loans to nonprofit and governmental entities in connection with sales of single family real properties owned by the Secretary and formerly insured under the Mutual Mortgage Insurance Fund.

For administrative expenses necessary to carry out the guaranteed and direct loan program, $330,888,000, of which not to exceed $324,866,000 shall be transferred to the appropriation for "Salaries and expenses"; not to exceed $4,022,000 shall be transferred to the appropriation for the Office of Inspector General. In addition, for administrative contract expenses, $160,000,000: Provided, That to the extent guaranteed loan commitments exceed $49,664,000,000 on or before April 1, 2000, an additional $1,400 for administrative contract expenses shall be available for each $1,000,000 in additional guaranteed loan commitments (including a pro rata amount for any amount below $1,000,000), but in no case shall funds made available by this proviso exceed $16,000,000.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act (12 U.S.C. 1715z–3 and 1735c), including the cost of loan guarantee modifications (as that term is defined in section 502 of the Congressional Budget Act of 1974, as amended), $153,000,000, including not to exceed $153,000,000 from unobligated balances previously appropriated under this heading, to remain available until expended: Provided, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, of up to $18,100,000,000: Provided further, That any amounts made available in any prior appropriations Act for the cost (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guaranteed loans that are obligations of the funds established under section 238 or 519 of the National Housing Act that have not been obligated or that are deobligated shall be available to the Secretary of Housing and Urban Development in connection with the making of such guarantees and shall remain available until expended, notwithstanding the expiration of any period of availability otherwise applicable to such amounts.

Gross obligations for the principal amount of direct loans, as authorized by sections 204(g), 207(l), 238, and 519(a) of the National Housing Act, shall not exceed $50,000,000; of which not to exceed $30,000,000 shall be for bridge financing in connection with the sale of multifamily real properties owned by the Secretary and formerly insured under such Act; and of which not to exceed $20,000,000 shall be for loans to nonprofit and governmental entities in connection with the sale of single-family real properties owned by the Secretary and formerly insured under such Act.

In addition, for administrative expenses necessary to carry out the guaranteed and direct loan programs, $211,455,000 (including not to exceed $147,000,000 from unobligated balances previously appropriated under this heading), of which $193,134,000, shall be transferred to the appropriation for "Salaries and expenses"; and of which $18,321,000 shall be transferred to the appropriation for the Office of Inspector General. In addition, for administrative contract expenses necessary to carry out the guaranteed and direct loan programs, $144,000,000: Provided, That to the extent guaranteed loan commitments exceed $7,263,000,000 on or before April 1, 2000, an additional $19,800 for administrative contract expenses shall be available for each $1,000,000 in additional guaranteed loan commitments over $7,263,000,000 (including a pro rata amount for any increment below $1,000,000), but in no case shall funds made available by this proviso exceed $14,400,000.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

During fiscal year 2000, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed $200,000,000,000.

For administrative expenses necessary to carry out the guaranteed mortgage-backed securities program, $9,383,000 to be derived from the GNMA guarantees of mortgage-backed securities guaranteed loan receipt account, of which not to exceed $9,383,000 shall be transferred to the appropriation for departmental "Salaries and expenses".

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z–1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $45,000,000, to remain available until September 30, 2001: Provided, That of the amount provided under this heading, $10,000,000 shall be for the Partnership for Advancing Technology in Housing (PATH) Initiative and $500,000 shall be for a commission established in section 525 of title V of this Act.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and section 561 of the Housing and Community Development Act of 1987, as amended, $44,000,000, to remain available until September 30, 2001, of which $24,000,000 shall be to carry out activities pursuant to such section 561: Provided, That no funds made available under this heading shall be used to lobby the executive or legislative branches of the Federal Government in connection with a specific contract, grant or loan.

OFFICE OF LEAD HAZARD CONTROL

LEAD HAZARD REDUCTION

(INCLUDING TRANSFER OF FUNDS)

For the Lead Hazard Reduction Program, as authorized by sections 1011 and 1053 of the Residential Lead-Based Hazard Reduction Act of 1992, $80,000,000 to remain available until expended, of which $1,000,000 shall be for CLEARCorps and $10,000,000 shall be for a Healthy Homes Initiative, which shall be a program pursuant to sections 501 and 502 of the Housing and Urban Development Act of 1970 that shall include research, studies, testing, and demonstration efforts, including education and outreach concerning lead-based paint poisoning and other housing-related environmental diseases and hazards: Provided, That all balances for the Lead Hazard Reduction Programs previously funded in the Annual Contributions for Assisted Housing and Community Development Block Grant accounts shall be transferred to this account, to be available for the purposes for which they were originally appropriated.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative and non-administrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $1,005,733,000, of which $518,000,000 shall be provided from the various funds of the Federal Housing Administration, $9,383,000 shall be provided from funds of the Government National Mortgage Association, $1,000,000 shall be provided from the "Community development block grants program" account, $150,000 shall be provided by transfer from the "Title VI indian federal guarantees program" account, and $200,000 shall be provided by transfer from the "Indian housing loan guarantee fund program" account: Provided, That the Secretary is prohibited from using any funds under this heading or any other heading in this Act from employing more than 77 schedule C and 20 noncareer Senior Executive Service employees: Provided further, That the Secretary is prohibited from using funds under this heading or any other heading in this Act to employ more than 9,300 employees: Provided further, That the Secretary is prohibited from using funds under this heading or any other heading in this Act to convert any external community builders to career employees, and after September 1, 2000 to employ any external community builders: Provided further, That the Secretary is prohibited from using funds under this heading or any other heading in this Act to employ more than 14 employees in the Office of Public Affairs: Provided further, That of the amount made available under this heading, $2,000,000 shall be for the Millennial Housing Commission as established under section 206.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $83,000,000, of which $22,343,000 shall be provided from the various funds of the Federal Housing Administration and $10,000,000 shall be provided from the amount earmarked for Operation Safe Home in the appropriation for "Drug elimination grants for low-income housing": Provided, That the Inspector General shall have independent authority over all personnel issues within the Office of Inspector General.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For carrying out the Federal Housing Enterprise Financial Safety and Soundness Act of

1992, including not to exceed $500 for official reception and representation expenses, $19,493,000, to remain available until expended, to be derived from the Federal Housing Enterprise Oversight Fund: Provided, That not to exceed such amount shall be available from the General Fund of the Treasury to the extent necessary to incur obligations and make expenditures pending the receipt of collections to the Fund: Provided further, That the General Fund amount shall be reduced as collections are received during the fiscal year so as to result in a final appropriation from the General Fund estimated at not more than $0.

ADMINISTRATIVE PROVISIONS

FINANCING ADJUSTMENT FACTORS

SEC. 201. Fifty percent of the amounts of budget authority, or in lieu thereof 50 percent of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628, 102 Stat. 3224, 3268) shall be rescinded, or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section. Notwithstanding the previous sentence, the Secretary may award up to 15 percent of the budget authority or cash recaptured and not rescinded or remitted to the Treasury to provide project owners with incentives to refinance their project at a lower interest rate.

FAIR HOUSING AND FREE SPEECH

SEC. 202. None of the amounts made available under this Act may be used during fiscal year 2000 to investigate or prosecute under the Fair Housing Act any otherwise lawful activity engaged in by one or more persons, including the filing or maintaining of a nonfrivolous legal action, that is engaged in solely for the purpose of achieving or preventing action by a government official or entity, or a court of competent jurisdiction.

HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS GRANTS

SEC. 203. Section 207 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, is amended by striking wherever it occurs "fiscal year 1999" and inserting "fiscal years 1999 and 2000".

REPROGRAMMING

SEC. 204. Of the amounts made available under the sixth undesignated paragraph under the heading "COMMUNITY PLANNING AND DEVELOPMENT—COMMUNITY DEVELOPMENT BLOCK GRANTS" in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Public Law 105–276; 112 Stat. 2477) for the Economic Development Initiative (EDI) for grants for targeted economic investments, the $1,000,000 to be made available (pursuant to the related provisions of the joint explanatory statement in the conference report to accompany such Act (Report 105–769, 105th Congress, 2d Session)) to the City of Redlands, California, for the redevelopment initiatives near the historic Fox Theater shall, notwithstanding such provisions, be made available to such City for the following purposes:

(1) $700,000 shall be for renovation of the City of Redlands Fire Station No. 1;

(2) $200,000 shall be for renovation of the Mission Gables House at the Redlands Bowl historic outdoor amphitheater; and

(3) $100,000 shall be for the preservation of historic Hillside Cemetery.

ADJUSTMENTS TO INCOME ELIGIBILITY FOR UNUSUALLY HIGH OR LOW FAMILIES INCOMES IN ASSISTED HOUSING

SEC. 205. Section 16 of the United States Housing Act of 1937 is amended—

(1) in subsection (a)(2)(A), by inserting before the period the following: "; except that the Secretary may establish income ceilings higher or lower than 30 percent of the area median income on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes"; and

(2) in subsection (c)(3), by inserting before the period the following: "; except that the Secretary may establish income ceilings higher or lower than 30 percent of the area median income on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes".

MILLENNIAL HOUSING COMMISSION

SEC. 206. (a) ESTABLISHMENT.—There is hereby established a commission to be known as the Millennial Housing Commission (in this section referred to as the "Commission".

(b) STUDY.—The duty of the Commission shall be to conduct a study that examines, analyzes, and explores—

(1) the importance of housing, particularly affordable housing which includes housing for the elderly, to the infrastructure of the United States;

(2) the various possible methods for increasing the role of the private sector in providing affordable housing in the United States, including the effectiveness and efficiency of such methods; and

(3) whether the existing programs of the Department of Housing and Urban Development work in conjunction with one another to provide better housing opportunities for families, neighborhoods, and communities, and how such programs can be improved with respect to such purpose.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 22 members, appointed not later than January 1, 2000, as follows:

(A) Two co-chairpersons appointed by—

(i) one co-chairperson appointed by a committee consisting of the chairmen of the Subcommittees on the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies of the Committees on Appropriations of the House of Representatives and the Senate, and the chairman of the Subcommittee on Housing and Community Opportunities of the House of Representatives and the chairman of the Subcommittee on Housing and Transportation of the Senate; and

(ii) one co-chairperson appointed by a committee consisting of the ranking minority members of the Subcommittees on the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies of the Committees on Appropriations of the House of Representatives and the Senate, and the ranking minority member of the Subcommittee on Housing and Community Opportunities of the House of Representatives and the ranking minority member of the Subcommittee on Housing and Transportation of the Senate.

(B) Ten members appointed by the Chairman and Ranking Minority Member of the Committee on Appropriations of the House of Representatives and the Chairman and Ranking Minority Member of the Committee on Banking and Financial Services of the House of Representatives.

(C) Ten members appointed by the Chairman and Ranking Minority Member of the Committee on Appropriations of the Senate and the Chairman and Ranking Minority Member of the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) QUALIFICATIONS.—Appointees should have proven expertise in directing, assemblying, or applying capital resources from a variety of sources to the successful development of affordable housing or the revitalization of communities, including economic and job development.

(3) VACANCIES.—Any vacancy on the Commission shall not affect its powers and shall be filled in the manner in which the original appointment was made.

(4) CHAIRPERSONS.—The members appointed pursuant to paragraph (1)(A) shall serve as co-chairpersons of the Commission.

(5) PROHIBITION OF PAY.—Members of the Commission shall serve without pay.

(6) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(7) QUORUM.—A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(8) MEETINGS.—The Commission shall meet at the call of the Chairpersons.

(d) DIRECTOR AND STAFF.—

(1) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Chairperson. The Director shall be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

(2) STAFF.—The Commission may appoint personnel as appropriate. The staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(3) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the General Schedule.

(4) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

(e) POWERS.—

(1) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairpersons of the Commission, the head of that department or agency shall furnish that information to the Commission.

(4) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(5) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(7) CONTRACT AUTHORITY.—The Commission may contract with and compensate government and private agencies or persons for services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(f) REPORT.—The Commission shall submit to the Committees on Appropriations and Banking and Financial Services of the House of Representatives and the Committees on Appropriations and Banking, Housing, and Urban Affairs of the Senate a final report not later than March 1, 2002. The report shall contain a detailed statement of the findings and conclusions of the Commission with respect to the study conducted under subsection (b), together with its recommendations for legislation, administrative actions, and any other actions the Commission considers appropriate.

(g) TERMINATION.—The Commission shall terminate on June 30, 2002. section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to the termination of advisory committees) shall not apply to the Commission.

FHA TECHNICAL CORRECTION

SEC. 207. Section 203(b)(2)(A)(ii) of the National Housing Act (12 U.S.C. 1709(b)(2)(A)(ii)) is amended by adding before "48 percent" the following: "the greater of the dollar amount limitation in effect under this section for the area on the date of the enactment of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act for Fiscal Year 1999 or".

RESCISSIONS

SEC. 208. Of the balances remaining from funds appropriated to the Department of Housing and Urban Development in Public Law 105–65 and prior appropriations Acts, $74,400,000 is rescinded: Provided, That the amount rescinded shall be comprised of—

(1) $30,552,000 of the amounts that were appropriated for the modernization of public housing unit; under the heading "Annual contributions for assisted housing", including an amount equal to the amount transferred from such account to, and merged with amounts under the heading "Public housing capital fund";

(2) $3,048,000 of the amounts from which no disbursements have been made within five successive fiscal years beginning after September 30, 1993, that were appropriated under the heading "Annual contributions for assisted housing", including an amount equal to the amount transferred from such account to the account under the heading "Housing certificate fund";

(3) $22,975,000 of amounts appropriated for homeownership assistance under section 235(r) of the National Housing Act, including $6,875,000 appropriated in Public Law 103–327 (approved September 28, 1994, 104 Stat. 2305) for such purposes;

(4) $11,400,000 of the amounts appropriated for the Homeownership and Opportunity for People Everywhere programs (HOPE programs), as authorized by the Cranston-Gonzalez National Affordable Housing Act; and

(5) $6,400,000 of the balances remaining in the account under the heading "Nonprofit Sponsor Assistance Account".

GRANT FOR NATIONAL CITIES IN SCHOOLS

SEC. 209. For a grant to the National Cities in Schools Community Development program under section 930 of the Housing and Community Development Act of 1992, $5,000,000.

MOVING TO WORK DEMONSTRATION

SEC. 210. For the Jobs-Plus Initiative of the Moving to Work Demonstration, $5,000,000 to cover the cost of rent-based work incentives to families in selected public housing developments, who shall be encouraged to go to work under work incentive plans approved by the Secretary and carefully tracked as part of the research and demonstration effort.

REPEALER

SEC. 211. Section 218 of Public Law 104–204 is repealed.

FHA ADMINISTRATIVE CONTRACT EXPENSE AUTHORITY

SEC. 212. Section 1 of the National Housing Act (12 U.S.C. 1702) is amended by inserting the following new sentence after the first proviso: "Except with respect to title III, for the purposes of this section, the term "nonadministrative" shall not include contract expenses that are not capitalized or routinely deducted from the proceeds of sales, and such expenses shall not be payable from funds made available by this Act.".

FULL PAYMENT OF CLAIMS

SEC. 213. (a) Section 541 of the National Housing Act is amended—

(1) by amending the heading to read as follows: "PARTIAL PAYMENT OF CLAIMS ON DEFAULTED MORTGAGES AND IN CONNECTION WITH MORTGAGE RESTRUCTURING"; and

(2) in subsection (b), by striking "partial payment of the claim under the mortgage insurance contract" and inserting, "partial or full payment of claim under one or more mortgage insurance contracts".

(b) Section 517 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 is amended by adding a new subsection (a)(6) to read as follows: "(6) The second mortgage under this section may be a first mortgage if no restructured or new first mortgage will meet the requirement of paragraph (1)(A).".

AVAILABILITY OF INCOME MATCHING INFORMATION

SEC. 214. (a) Section 3(f) of the United States Housing Act of 1937 (42 U.S.C. 1437a), as amended by section 508(d)(1) of the Quality Housing and Work Responsibility Act of 1998, is further amended—

(1) in paragraph (1)—

(A) after the first appearance of "public housing agency", by inserting ", or the owner responsible for determining the participant's eligibility or level of benefits,"; and

(B) after "as applicable", by inserting ", or to the owner responsible for determining the participant's eligibility or level of benefits"; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "or";

(B) in subparagraph (B), by striking the period and inserting ", or"; and

(C) by inserting at the end the following new subparagraph:

"(C) for which project-based assistance is provided under section 8, section 202, or section 811.".

(b) Section 904(b) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544), as amended by section 508(d)(2) of the Quality Housing and Work Responsibility Act of 1998, is further amended in paragraph (4)—

(1) by inserting after "public housing agency" the first time it appears the following: ", or the owner responsible for determining the participant's eligibility or level of benefits,"; and

(2) by striking "the public housing agency verifying income" and inserting "verifying income".

EXEMPTION FOR ALASKA AND MISSISSIPPI FROM REQUIREMENT OF RESIDENT ON BOARD

SEC. 215. Public housing agencies in the states of Alaska and Mississippi shall not be required to comply with section 2(b) of the United States Housing Act of 1937, as amended, during fiscal year 2000.

ADMINISTRATION OF THE CDBG PROGRAM BY NEW YORK STATE

SEC. 216. The Secretary of Housing and Urban Development shall transfer on the date of the enactment of this Act the administration of the Small Cities component of the Community Development Block Grants program for all funds allocated for the State of New York under section 106(d) of the Housing and Community Development Act of 1974 for fiscal year 2000 and all fiscal years thereafter, to the State of New York to be administered by the Governor of such State.

SECTION 202 EXEMPTION

SEC. 217. Notwithstanding section 202 of the Housing Act of 1959 or any other provision of law, Peggy A. Burgin may not be disqualified on the basis of age from residing at Clark's Landing in Groton, Vermont.

DARLINTON PRESERVATION AMENDMENT

SEC. 218. Notwithstanding any other provision of law, upon prepayment of the FHA-insured Section 236 mortgage, the Secretary shall continue to provide interest reduction payment in accordance with the existing amortization schedule for Darlinton Manor Apartments, a 100-unit project located at 606 North 5th Street, Bozemen, Montana, which will continue as affordable housing pursuant to a use agreement with the State of Montana.

RISK-SHARING PRIORITY

SEC. 219. Section 517(b)(3) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 is amended by inserting after "1992." the following: "The Secretary shall use risk-shared financing under section 542(c) of the Housing and Community Development Act of 1992 for any mortgage restructuring, rehabilitation financing, or debt refinancing included as part of a mortgage restructuring and rental assistance sufficiency plan if the terms and conditions are considered to be the best available financing in terms of financial savings to the FHA insurance funds and will result in reduced risk of loss to the Federal Government.".

TREATMENT OF EXPIRING ECONOMIC DEVELOPMENT INITIATIVE GRANTS

SEC. 220. (a) AVAILABILITY.—Notwithstanding section 1552 of title 31, United States Code, the grant amounts identified in subsection (b) shall remain available to the grantees for the purposes for which such amounts were obligated through September 30, 2000.

(b) GRANTS.—The grant amounts identified in this subsection are the amounts provided under the following grants made by the Secretary of Housing and Urban Development under the economic development initiative under section 108(q) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(q)):

(1) The grant for Miami, Florida, designated as B–92–ED–12–013.

(2) The grant for Miami Beach, Florida, designated as B–92–ED–12–014.

(c) EFFECTIVE DATE.—This section shall be considered to have taken effect on September 30, 1999. The Secretary of the Treasury and the Secretary of Housing and Urban Development shall take such actions as may be necessary to carry out this section, notwithstanding any actions taken previously pursuant to section 1552 of title 31, United States Code.

USE OF TRUSTS WITH REGARD TO COOPERATIVE HOUSING SECTION

SEC. 221. Section 213(a) of the National Housing Act (12 U.S.C. 1715e(a)) is amended by adding at the end the following new sentence: "Nothing in this section may be construed to prevent membership in a nonprofit housing cooperative from being held in the name of a trust, the beneficiary of which shall occupy the dwelling unit in accordance with rules and regulations prescribed by the Secretary.".

GRANT TECHNICAL CORRECTION

SEC. 222. Notwithstanding any other provision of law, the amount made available under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991 (Public Law 101–507) for a special purpose grant under section 107 of the Housing and Community Development Act of 1974 to the County of Hawaii for the purpose of an environmental impact statement for the development of a water resource system in Kohala, Hawaii, that is unobligated on the date of the enactment of this Act, may be used to fund water system improvements, including exploratory wells, well drillings, pipeline replacements, water system planning and design, and booster pump and reservoir development.

REUSE OF CERTAIN BUDGET AUTHORITY

SEC. 223. section 8(z) of the United States Housing Act of 1937 is amended—

(1) in paragraph (1)—

(A) by inserting after "on account of" the following: "expiration or"; and

(B) by striking the parenthetical phrase; and

(2) by striking paragraph (3).

SECTION 108 WAIVER

SEC. 224. With respect to the $6,700,000 commitment in connection with guaranteed obligations for the Sandtown-Winchester Home Ownership Zone under section 108 of the Housing and Community Development Act of 1974, the Secretary shall not require security in excess of that authorized under section 108(d)(1)(B).

HOPWA TECHNICAL

SEC. 225. (a) Notwithstanding any other provision of law, the amount allocated for fiscal year 2000, and the amounts that would otherwise be allocated for fiscal year 2001, to the City of Philadelphia, Pennsylvania on behalf of the Philadelphia, PA-NJ Primary Metropolitan Area (hereafter "metropolitan area"), under section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)), the Secretary of Housing and Urban Development shall adjust such amounts by allocating to the State of New Jersey the proportion of the metropolitan area's amount that is based on the number of cases of AIDS reported in the portion of the metropolitan area that is located in New Jersey.

(b) The State of New Jersey shall use amounts allocated to the state under this section to carry out eligible activities under section 855 of the AIDS Housing Opportunity Act (42 U.S.C. 12904) in the portion of the metropolitan area that is located in New Jersey.

TITLE III—INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries, $28,467,000, to remain available until expended.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

SALARIES AND EXPENSES

For necessary expenses in carrying out activities pursuant to section 112(r)(6) of the Clean Air Act, including hire of passenger vehicles, and for services authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376, $8,000,000: Provided, That the Chemical Safety and Hazard Investigation Board shall have not more than three career Senior Executive Service positions.

DEPARTMENT OF THE TREASURY

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

FUND PROGRAM ACCOUNT

For grants, loans, and technical assistance to qualifying community development lenders, and administrative expenses of the Fund, including services authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for ES–3, $95,000,000, to remain available until September 30, 2001, of which up to $7,860,000 may be used for administrative expenses, up to $16,500,000 may be used for the cost of direct loans, and up to $1,000,000 may be used for administrative expenses to carry out the direct loan program: Provided, That the cost of direct loans, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $53,140,000: Provided further, That not more than $30,000,000 of the funds made available under this heading may be used for programs and activities authorized in section 114 of the Community Development Banking and Financial Institutions Act of 1994.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable under 5 U.S.C. 5376, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, $49,000,000.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service (referred to in the matter under this heading as the "Corporation") in carrying out programs, activities, and initiatives under the National and Community Service Act of 1990 (referred to in the matter under this heading as the "Act") (42 U.S.C. 12501 et seq.), $434,500,000, to remain available until September 30, 2000: Provided, That not more than $28,500,000 shall be available for administrative expenses authorized under section 501(a)(4) of the Act (42 U.S.C. 12671(a)(4)) with not less than $1,500,000 targeted to administrative needs, not including salaries and expenses, identified as urgent by the Corporation without regard to the provisions of section 501(a)(4)(B) of the Act: Provided further, That not more than $2,500 shall be for official reception and representation expenses: Provided further, That not more than $70,000,000, to remain available without fiscal year limitation, shall be transferred to the National Service Trust account for educational awards authorized under subtitle D of title I of the Act (42 U.S.C. 12601 et seq.), of which not to exceed $5,000,000 shall be available for national service scholarships for high school students performing community service: Provided further, That not more than $234,000,000 of the amount provided under this heading shall be available for grants under the National Service Trust program authorized under subtitle C of title I of the Act (42 U.S.C. 12571 et seq.) (relating to activities including the AmeriCorps program), of which not more than $45,000,000 may be used to administer, reimburse, or support any national service program authorized under section 121(d)(2) of such Act (42 U.S.C. 12581(d)(2)): Provided further, That not more than $7,500,000 of the funds made available under this heading shall be made available for the Points of Light Foundation for activities authorized under title III of the Act (42 U.S.C. 12661 et seq.): Provided further, That no funds shall be available for national service programs run by Federal agencies authorized under section 121(b) of such Act (42 U.S.C. 12571(b)): Provided further, That to the maximum extent feasible, funds appropriated under subtitle C of title I of the Act shall be provided in a manner that is consistent with the recommendations of peer review panels in order to ensure that priority is given to programs that demonstrate quality, innovation, replicability, and sustainability: Provided further, That not more than $18,000,000 of the funds made available under this heading shall be available for the Civilian Community Corps authorized under subtitle E of title I of the Act (42 U.S.C. 12611 et seq.): Provided further, That not more than $43,000,000 shall be available for school-based and community-based service-learning programs authorized under subtitle B of title I of the Act (42 U.S.C. 12521 et seq.): Provided further, That not more than $28,500,000 shall be available for quality and innovation activities authorized under subtitle H of title I of the Act (42 U.S.C. 12853 et seq.): Provided further, That not more than $5,000,000 shall be available for audits and other evaluations authorized under section 179 of the Act (42 U.S.C. 12639): Provided further, That to the maximum extent practicable, the Corporation shall increase significantly the level of matching funds and in-kind contributions provided by the private sector, shall expand significantly the number of educational awards provided under subtitle D of title I, and shall reduce the total Federal costs per participant in all programs: Provided further, That of amounts available in the National Service Trust account from previous appropriations acts, $80,000,000 shall be rescinded.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $4,000,000.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. 7251–7298, $11,450,000, of which $910,000, shall be available for the purpose of providing financial assistance as de scribed, and in accordance with the process and reporting procedures set forth, under this heading in Public Law 102–229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of one passenger motor vehicle for replacement only, and not to exceed $1,000 for official reception and representation expenses, $12,473,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

(INCLUDING TRANSFER OF FUNDS)

For science and technology, including research and development activities, which shall include research and development activities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

(CERCLA), as amended; necessary expenses for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; procurement of laboratory equipment and supplies; other operating expenses in support of research and development; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $645,000,000, which shall remain available until September 30, 2001: Provided, That the obligated balance of sums available in this account shall remain available through September 30, 2008 for liquidating obligations made in fiscal years 2000 and 2001: Provided further, That the obligated balance of funds transferred to this account in Public Law 105–276 shall remain available through September 30, 2007 for liquidating obligations made in fiscal years 1999 and 2000.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses, not otherwise provided for, for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $6,000 for official reception and representation expenses, $1,900,000,000, which shall remain available until September 30, 2001: Provided, That the obligated balance of such sums shall remain available through September 30, 2008 for liquidating obligations made in fiscal years 2000 and 2001: Provided further, That none of the funds appropriated by this Act shall be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol which was adopted on December 11, 1997, in Kyoto, Japan at the Third Conference of the Parties to the United Nations Framework Convention on Climate Change, which has not been submitted to the Senate for advice and consent to ratification pursuant to article II, section 2, clause 2, of the United States Constitution, and which has not entered into force pursuant to article 25 of the Protocol: Provided further, That none of the funds made available in this Act may be used to implement or administer the interim guidance issued on February 5, 1998, by the Environmental Protection Agency relating to title VI of the Civil Rights Act of 1964 and designated as the "Interim Guidance for Investigating Title VI Administrative Complaints Challenging Permits" with respect to complaints filed under such title after October 21, 1998, and until guidance is finalized. Nothing in this proviso may be construed to restrict the Environmental Protection Agency from developing or issuing final guidance relating to title VI of the Civil Rights Act of 1964: Provided further, That notwithstanding 7 U.S.C. 136r and 15 U.S.C. 2609, beginning in fiscal year 2000 and thereafter, grants awarded under section 20 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, and section 10 of the Toxic Substances Control Act, as amended, shall be available for research, development, monitoring, public education, training, demonstrations, and studies: Provided further, That the unexpended funds remaining from the $2,200,000 appropriated under this heading in Public Law 105–276 for a grant to the Lake Ponchartrain Basin Foundation circuit rider initiative in Louisiana shall be transferred to the "State and tribal assistance grants" appropriation to remain available until expended for making grants for the construction of wastewater and water treatment facilities and groundwater protection infrastructure in accordance with the terms and conditions specified for such grants in the report accompanying that Act.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $32,409,000, to remain available until September 30, 2001: Provided, That the sums available in this account shall remain available through September 30, 2008 for liquidating obligations made in fiscal years 2000 and 2001: Provided further, That the obligated balance of funds transferred to this account in Public Law 105–276 shall remain available through September 30, 2007 for liquidating obligations made in fiscal years 1999 and 2000.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or for use by, the Environmental Protection Agency, $62,600,000, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111(c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; $1,400,000,000 (of which $100,000,000 shall not become available until September 1, 2000), to remain available until expended, consisting of $700,000,000, as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101–508, and $700,000,000 as a payment from general revenues to the Hazardous Substance Superfund for purposes as authorized by section 517(b) of SARA, as amended by Public Law 101–508: Provided, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: Provided further, That $11,000,000 of the funds appropriated under this heading shall be transferred to the "Office of Inspector General" appropriation to remain available until September 30, 2001: Provided further, That $38,000,000 of the funds appropriated under this heading shall be transferred to the "Science and technology" appropriation to remain available until September 30, 2001: Provided further, That notwithstanding section 111(m) of CERCLA or any other provision of law, $70,000,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry (ATSDR) to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of SARA: Provided further, That notwithstanding any other provision of law, in lieu of performing a health assessment under section 104(i)(6) of CERCLA, the Administrator of ATSDR may conduct other appropriate health studies, evaluations or activities, including, without limitation, biomedical testing, clinical evaluations, medical monitoring, and referral to accredited health care providers: Provided further, That in performing any such health assessment or health study, evaluation, or activity, the Administrator of ATSDR shall not be bound by the deadlines in section 104(i)(6)(A): Provided further, That none of the funds appropriated under this heading shall be available for ATSDR to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 2000.

LEAKING UNDERGROUND STORAGE TANK PROGRAM

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $70,000,000, to remain available until expended.

OIL SPILL RESPONSE

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, $15,000,000, to be derived from the Oil Spill Liability trust fund, to remain available until expended.

STATE AND TRIBAL ASSISTANCE GRANTS

For environmental programs and infrastructure assistance, including capitalization grants for State revolving funds and performance partnership grants, $3,466,650,000, to remain available until expended, of which $1,350,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended; $820,000,000 shall be for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act, as amended, except that, notwithstanding section 1452(n) of the Safe Drinking Water Act, as amended, none of the funds made available under this heading in this Act, or in previous appropriations acts, shall be reserved by the Administrator for health effects studies on drinking water contaminants; $50,000,000 shall be for architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission; $30,000,000 shall be for grants to the State of Alaska to address drinking water and wastewater infrastructure needs of rural and Alaska Native Villages; $331,650,000 shall be for making grants for the construction of wastewater and water treatment facilities and groundwater protection infrastructure in accordance with the terms and conditions specified for such grants in the conference report and joint explanatory statement of the committee of conference accompanying this Act (H.R. 2684); and $885,000,000 shall be for grants, including associated program support costs, to States, federally recognized tribes, interstate agencies, tribal consortia, and air pollution control agencies for multi-media or single media pollution prevention, control and abatement and related activities, including activities pursuant to the provisions set forth under this heading in Public Law 104–134, and for making grants under section 103 of the Clean Air Act for particulate matter monitoring and data collection activities: Provided, That notwithstanding section 603(d)(7) of the Federal Water Pollution Control Act, as amended, the limitation on the amounts in a State water pollution control revolving fund that may be used by a State to administer the fund shall not apply to amounts included as principal in loans made by such fund in fiscal year 2000 and prior years where such amounts represent costs of administering the fund, or by the State of New York for fiscal year 2000 and prior years, costs of capitalizing the fund, to the extent that such amounts are or were deemed *reasonable by the Administrator, accounted for separately from other assets in the fund, and used for eligible purposes of the fund, including administration, or, by the State of New York for fiscal year 2000 and prior years, for capitalization of the fund: Provided further, That notwithstanding section 518(f) of the Federal Water Pollution Control Act, the Administrator is authorized to use the amounts appropriated for any fiscal year under section 319 of that Act to make grants to Indian Tribes pursuant to section 319(h) and 518(e) of that Act: Provided further, That notwithstanding any other provision of law, in the case of a publicly owned treatment works in the District of Columbia, the Federal share of grants awarded under title II of the Federal Water Pollution Control Act, beginning October 1, 1999 and continuing through September 30, 2001, shall be 80 percent of the cost of construction, and all grants made to such publicly owned treatment works in the District of Columbia may include an advance of allowance under section 201(l)(2): Provided further, That the $2,200,000 appropriated in Public Law 105-276 in accordance with House Report No. 105–769, for a grant to the Charleston, Utah Water Conservancy District, as amended by Public Law 106–31, shall be awarded to Wasatch County, Utah, for water and sewer needs: Provided further, That the funds appropriated under this heading in Public Law 105–276 for the City of Fairbanks, Alaska, water system improvements shall instead be for the Matanuska-Susitna Borough, Alaska, water and sewer improvements: Provided further, That notwithstanding any other provision of law, all claims for principal and interest registered through grant dispute AA–91–AD34 (05–90–AD09) or any other such dispute hereafter filed by the Environmental Protection Agency relative to water pollution control center and sewer system improvement grants numbers C–390996–01, C–390996–2, and C–390996–3 made in 1976 and 1977 are hereby resolved in favor of the grantee.*

The Environmental Protection Agency and the New York State Department of Environmental Conservation are authorized to award, from construction grant reallotments to the State of New York of previously appropriated funds, supplemental grant assistance to Nassau County, New York, for additional odor control at the Bay Park and Cedar Creek wastewater treatment plants, notwithstanding initiation of construction or prior State Revolving Fund funding. Nassau County may elect to accept a combined lump-sum of $15,000,000, paid in advance of construction, in lieu of a 75 percent entitlement, to minimize grant and project administration.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $5,108,000.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, $2,827,000: Provided, That, notwithstanding any other provision of law, no funds other than those appropriated under this heading shall be used for or by the Council on Environmental Quality and Office of Environmental Quality: Provided further, That notwithstanding section 202 of the National Environmental Policy Act of 1970, the Council shall consist of one member, appointed by the President, by and with the advice and consent of the Senate, serving as chairman and exercising all powers, functions, and duties of the Council.

FEDERAL DEPOSIT INSURANCE CORPORATION

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $33,666,000, to be derived from the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $300,000,000, and, notwithstanding 42 U.S.C. 5203, to remain available until expended, of which not to exceed $2,900,000 may be transferred to "Emergency Management Planning and Assistance" for the consolidated emergency management performance grant program: Provided, That of the funds made available under this heading in this and prior Appropriations Acts and under section 404 of the Stafford Act to the State of California, $2,000,000 shall be for a pilot project of seismic retrofit technology at California State University, San Bernardino; $6,000,000 shall be for a seismic retrofit project at Loma Linda University Hospital; and $2,000,000 shall be for a seismic retrofit project at the University of Redlands, Redlands: Provided further, That of the funds made available under this heading in this and prior Appropriations Acts and under section 404 of the Stafford Act to the State of Florida, $1,000,000 shall be for a hurricane protection project for the St. Petersburg campus of South Florida University, and $2,500,000 shall be for a windstorm simulation project at Florida International University, Miami: Provided further, That of the funds made available under this heading in this and prior Appropriations Acts and under section 404 of the Stafford Act to the State of North Carolina, $1,000,000 shall be for a logistical staging area concept demonstration involving warehouse facilities at the Stanly County Airport: Provided further, That of the funds made available under this heading in this and prior Appropriations Acts and under section 404 of the Stafford Act to the State of Louisiana, $500,000 shall be for wave monitoring buoys in the Gulf of Mexico off the Louisiana coast.

For an additional amount for "Disaster relief", $2,480,425,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For the cost of direct loans, $1,295,000, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $25,000,000.

In addition, for administrative expenses to carry out the direct loan program, $420,000.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles as authorized by 31 U.S.C. 1343; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses, $180,000,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $8,015,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947, as amended (50 U.S.C. 404–405), and Reorganization Plan No. 3 of 1978, $267,000,000: Provided, That for purposes of pre-disaster mitigation pursuant to 42 U.S.C. 5131(b) and (c) and 42 U.S.C. 5196(e) and (i), $25,000,000 of the funds made available under this heading shall be available until expended for project grants: Provided further, That beginning in fiscal year 2000 and each fiscal year thereafter, and notwithstanding any other provision of law, the Director of FEMA is authorized to provide assistance from funds appropriated under this heading, subject to terms and conditions as the Director of FEMA shall establish, to any State for multi-hazard preparedness and mitigation through consolidated emergency management performance grants: Provided further, That notwithstanding any other provision of law, FEMA is authorized to and shall extend its cooperative agreement for the Jones County, Mississippi Emergency Operating Center, and the funds which were obligated as federal matching funds for that Center shall remain available for expenditure until September 30, 2001.

RADIOLOGICAL EMERGENCY PREPAREDNESS FUND

The aggregate charges assessed during fiscal year 2000, as authorized by Public Law 105–276, shall not be less than 100 percent of the amounts anticipated by FEMA necessary for its radiological emergency preparedness program for the next fiscal year. The methodology for assessment and collection of fees shall be fair and equitable; and shall reflect costs of providing such services, including administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the Fund as offsetting collections and will become available for *authorized purposes on October 1, 2000, and remain available until expended.*

EMERGENCY FOOD AND SHELTER PROGRAM

To carry out an emergency food and shelter program pursuant to title III of Public Law 100–77, as amended, $110,000,000, to remain available until expended: Provided, That total administrative costs shall not exceed three and one-half percent of the total appropriation.

FLOOD MAP MODERNIZATION FUND

For necessary expenses pursuant to section 1360 of the National Flood Insurance Act of 1968, $5,000,000, and such additional sums as may be provided by State or local governments or other political subdivisions for cost shared mapping activities under section 1360(f)(2), to remain available until expended.

NATIONAL INSURANCE DEVELOPMENT FUND

Notwithstanding the provisions of 12 U.S.C. 1735d(b) and 12 U.S.C. 1749bbb–13(b)(6), any indebtedness of the Director of the Federal Emergency Management Agency resulting from the Director borrowing sums under such sections before the date of the enactment of this Act to carry out title XII of the National Housing Act shall be canceled, and the Director shall not be obligated to repay such sums or any interest thereon, and no further interest shall accrue on such sums.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, as amended, not to exceed $24,333,000 for salaries and expenses associated with flood mitigation and flood insurance operations, and not to exceed $78,710,000 for flood mitigation, including up to $20,000,000 for expenses under section 1366 of the National Flood Insurance Act, which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2001. In fiscal year 2000, no funds in excess of: (1) $47,000,000 for operating expenses; (2) $456,427,000 for agents' commissions and taxes; and (3) $50,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations. For fiscal year 2000, flood insurance rates shall not exceed the level authorized by the National Flood Insurance Reform Act of 1994.

Section 1309(a)(2) of the National Flood Insurance Act (42 U.S.C. 4016(a)(2)), as amended by Public Law 104–208, is further amended by striking "1999" and inserting "2000".

The first sentence of section 1376(c) of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4127(c)), is amended by striking "September 30, 1999" and inserting "September 30, 2000".

NATIONAL FLOOD MITIGATION FUND

(INCLUDING TRANSFER OF FUNDS)

Notwithstanding sections 1366(b)(3)(B)–(C) and 1366(f) of the National Flood Insurance Act of 1968, as amended, $20,000,000 to remain available until September 30, 2001, for activities designed to reduce the risk of flood damage to structures pursuant to such Act, of which $20,000,000 shall be derived from the National Flood Insurance Fund.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER FUND

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $2,622,000, to be deposited into the Consumer Information Center Fund: Provided, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $7,500,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 2000 in excess of $7,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For necessary expenses, not otherwise provided for, in the conduct and support of human space flight research and development activities, including research, development, operations, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, $5,510,900,000, to remain available until September 30, 2001: Provided, That $40,000,000 of the amount provided in this paragraph shall be available to the space shuttle program only for preparations necessary to carry out a life and micro-gravity science mission, to be flown between STS–107 and December 2001.

SCIENCE, AERONAUTICS AND TECHNOLOGY

For necessary expenses, not otherwise provided for, in the conduct and support of science, aeronautics and technology research and development activities, including research, development, operations, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, $5,606,700,000, to remain available until September 30, 2001.

MISSION SUPPORT

For necessary expenses, not otherwise provided for, in carrying out mission support for human space flight programs and science, aeronautical, and technology programs, including research operations and support; space communications activities including operations, production and services; maintenance; construction of facilities including repair, rehabilitation, and modification of facilities, minor construction of new facilities and additions to existing facilities, facility planning and design, environmental compliance and restoration, and acquisition or condemnation of real property, as authorized by law; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; not to exceed $35,000 for official reception and representation expenses; and purchase (not to exceed 33 for replacement only) and hire of passenger motor vehicles, $2,515,100,000, to remain available until September 30, 2001.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $20,000,000.

ADMINISTRATIVE PROVISIONS

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, when any activity has been initiated by the incurrence of obligations for construction of facilities as authorized by law, such amount available for such activity shall remain available until expended. This provision does not apply to the amounts appropriated in "Mission support" pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, the amounts appropriated for construction of facilities shall remain available until September 30, 2002.

Notwithstanding the limitation on the availability of funds appropriated for "Mission support" and "Office of Inspector General", amounts made available by this Act for personnel and related costs and travel expenses of the National Aeronautics and Space Administration shall remain available until September 30, 2000 and may be used to enter into contracts for training, investigations, costs associated with personnel relocation, and for other services, to be provided during the next fiscal year.

Unless otherwise provided for in this Act or in the joint explanatory statement of the committee of conference accompanying this Act, no part of the funds appropriated for "Human space flight" may be used for the development of the International Space Station in excess of the amounts set forth in the budget estimates submitted as part of the budget request for fiscal year 2000.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 2000, administrative expenses of the Central Liquidity Facility shall not exceed $257,000: Provided, That $1,000,000, together with amounts of principal and interest on loans repaid, to be available until expended, is available for loans to community development credit unions.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; $2,966,000,000, of which not to exceed $253,000,000 shall remain available until expended for Polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program; the balance to remain available until September 30, 2001: Provided, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: Provided further, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: Provided further, That $60,000,000 of the funds available under this heading shall be made available for a comprehensive research initiative on plant genomes for economically significant crop: Provided further, That none of the funds appropriated or otherwise made available to the National Science Foundation in this or any prior Act may be obligated or expended by the National Science Foundation to enter into or extend a grant, contract, or cooperative agreement for the support of administering the domain name and numbering system of the Internet after September 30, 1998: Provided further, That no funds *in this or any other Act shall be used to acquire or lease a research vessel with ice-breaking capability built or retrofitted by a shipyard located in a foreign country if such a vessel of United States origin can be obtained at a cost no more than 50 per centum above that of the least expensive technically acceptable foreign vessel bid: Provided further, That, in determining the cost of such a vessel, such cost be increased by the amount of any subsidies or financing provided by a foreign government (or instrumentality thereof) to such vessel's construction: Provided further, That if the vessel contracted for pursuant to the foregoing is not available for the 2002–2003 austral summer Antarctic season, a vessel of any origin may be leased for a period of not to exceed 120 days for that season and each season thereafter until delivery of the new vessel.*

MAJOR RESEARCH EQUIPMENT

For necessary expenses of major construction projects pursuant to the National Science Foundation Act of 1950, as amended, including award-related travel, $95,000,000, to remain available until expended.

EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109, award-related travel, and rental of conference rooms in the District of Columbia, $696,600,000, to remain available until September 30, 2001: Provided, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: Provided further, That $10,000,000 shall be available for the purpose of establishing an office of innovation partnerships.

SALARIES AND EXPENSES

For salaries and expenses necessary in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $9,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services; $149,000,000: Provided, That contracts may be entered into under "Salaries and expenses" in fiscal year 2000 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General as authorized by the Inspector General Act of 1978, as amended, $5,450,000, to remain available until September 30, 2001.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $75,000,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by 5 U.S.C. 4101–4118 for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $24,000,000: Provided, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: Provided further, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

TITLE IV—GENERAL PROVISIONS

SEC. 401. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefore in the budget estimates submitted for the appropriations: Provided, That this provision does not apply to accounts that do not contain an object classification for travel: Provided further, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: Provided further, That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefore set forth in the estimates in the same proportion.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made; or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between their domicile and their place of employment, with the exception of any officer or employee authorized such transportation under 31 U.S.C. 1344 or 5 U.S.C. 7905.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: Provided, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 408. None of the funds in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the rate paid for level IV of the Executive Schedule, unless specifically authorized by law.

SEC. 409. None of the funds provided in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 410. Except as otherwise provided under existing law, or under an existing Executive Order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are: (1) a matter of public record and available for public inspection; and (2) thereafter included in a publicly available list of all contracts entered into within 24 months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 411. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), for a contract for services unless such executive agency: (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder; and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning: (A) the contract pursuant to which the report was prepared; and (B) the contractor who prepared the report pursuant to such contract.

SEC. 412. Except as otherwise provided in section 406, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 413. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 414. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than $300,000 unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a *period of 30 days has expired following the date on which the report is received by the Committees on Appropriations.*

Sec. 415. (a) It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

Sec. 416. None of the funds appropriated in this Act may be used to implement any cap on reimbursements to grantees for indirect costs, except as published in Office of Management and Budget Circular A–21.

Sec. 417. Such sums as may be necessary for fiscal year 2000 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Sec. 418. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

Sec. 419. Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 2000 for such corporation or agency except as hereinafter provided: Provided, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

Sec. 420. Notwithstanding section 320(g) of the Federal Water Pollution Control Act (33 U.S.C. 1330(g)), funds made available pursuant to authorization under such section for fiscal year 2000 may be used for implementing comprehensive conservation and management plans.

Sec. 421. Notwithstanding any other provision of law, the term "qualified student loan" with respect to national service education awards shall mean any loan made directly to a student by the Alaska Commission on Postsecondary Education, in addition to other meanings under section 148(b)(7) of the National and Community Service Act.

Sec. 422. It is the sense of the Congress that, along with health care, housing, education, and other benefits, the presence of an honor guard at a veteran's funeral is a benefit that a veteran has earned, and, therefore, the executive branch should provide funeral honor details for the funerals of veterans when requested, in accordance with law.

Sec. 423. Notwithstanding any other law, funds made available by this or any other Act or previous Acts for the United States/Mexico Foundation for Science may be used for the endowment of such Foundation: Provided, That funds from the United States Government shall be matched in equal amounts with funds from Mexico: Provided further, That the accounts of such Foundation shall be subject to United States Government administrative and audit requirements concerning grants and requirements concerning cost principles for nonprofit organizations: Provided further, That the United States/Mexico Foundation for Science is renamed the George E. Brown United States/Mexico Foundation for Science.

Sec. 424. None of the funds made available in this Act may be used to carry out Executive Order No. 13083.

Sec. 425. Unless otherwise provided for in this Act, no part of any appropriation for the Department of Housing and Urban Development shall be available for any activity in excess of amounts set forth in the budget estimates submitted for the appropriations.

Sec. 426. Except in the case of entities that are funded solely with Federal funds or any natural persons that are funded under this Act, none of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties to lobby or litigate in respect to adjudicatory proceedings funded in this Act. A chief executive officer of any entity receiving funds under this Act shall certify that none of these funds have been used to engage in the lobbying of the Federal government or in litigation against the United States unless authorized under existing law.

Sec. 427. Law Enforcement Agencies Not Included as Owner or Operator. Section 101(20)(D) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)(D)) is amended by inserting "through seizure or otherwise in connection with law enforcement activity" before "involuntary" the first place it appears.

Sec. 428. No part of any funds appropriated in this Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

Sec. 429. The comment period on the proposed rules related to section 303(d) of the Clean Water Act published at 64 Federal Register 46012 and 46058 (August 23, 1999) shall be extended from October 22, 1999, for a period of 90 additional calendar days.

Sec. 430. Section 4(a) of the Act of August 9, 1950 (16 U.S.C. 777c(a)), is amended in the second sentence by striking "1999" and inserting "2000".

Sec. 431. Promulgation of Stormwater Regulations. (a) Stormwater Regulations.—The Administrator of the Environmental Protection Agency shall not promulgate the Phase II stormwater regulations until the Administrator submits to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing—

(1) an in-depth impact analysis on the effect the final regulations will have on urban, suburban, and rural local governments subject to the regulations, including an estimate of—

(A) the costs of complying with the 6 minimum control measures described in the regulations; and

(B) the costs resulting from the lowering of the construction threshold from 5 acres to 1 acre;

(2) an explanation of the rationale of the Administrator for lowering the construction site threshold from 5 acres to 1 acre, including—

(A) an explanation, in light of recent court decisions, of why a 1-acre measure is any less arbitrarily determined than a 5-acre measure; and

(B) all qualitative information used in determining an acre threshold for a construction site;

(3) documentation demonstrating that stormwater runoff is generally a problem in communities with populations of 50,000 to 100,000 (including an explanation of why the coverage of the regulation is based on a census-determined population instead of a water quality threshold); and

(4) information that supports the position of the Administrator that the Phase II stormwater program should be administered as part of the National Pollutant Discharge Elimination System under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342).

(b) Phase I Regulations.—No later than 120 days after the enactment of this Act, the Environmental Protection Agency shall submit to the Environment and Public Works Committee of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing a detailed explanation of the impact, if any, that the Phase I program has had in improving water quality in the United States (including a description of specific measures that have been successful and those that have been unsuccessful).

(c) Federal Register.—The reports described in subsections (a) and (b) shall be published in the Federal Register for public comment.

Sec. 432. Pesticide Tolerance Fees. None of the funds appropriated or otherwise made available by this Act shall be used to promulgate a final regulation to implement changes in the payment of pesticide tolerance processing fees as proposed at 64 Fed. Reg. 31040, or any similar proposals. The Environmental Protection Agency may proceed with the development of such a rule.

Sec. 433. Commercial Space Launch Indemnification Extension. Section 70113(f) of title 49, United States Code is amended by striking "December 31, 1999", and inserting "December 31, 2000".

Sec. 434. Space Station Commercial Development Demonstration Program. (a) Purpose.—The purpose of this section is to establish a demonstration regarding the commercial feasibility and economic viability of private sector business operations involving the International Space Station and its related infrastructure. The goal will be furthered by the early use of the International Space Station by United States commercial entities committing private capital to commercial enterprises on the International Space Station. In conjunction with this demonstration program, the National Aeronautics and Space Administration (NASA) shall establish and publish a price policy designed to eliminate price uncertainty for those planning to utilize the International Space Station and its related facilities for United States commercial use.

(b) Use of Receipts for Commercial Use.—Any receipts collected by NASA from the commercial use of the International Space Station shall first be used to offset any costs incurred by NASA in support of the United States commercial use of the International Space Station. Any receipts collected in excess of the costs identified pursuant to the prior sentence may be retained by NASA for use without fiscal year limitation in promoting the commercial use of the International Space Station.

(c) Report.—NASA shall submit an annual report to the Congress that identifies all receipts that are collected under this section, the use of the receipts and the status of the demonstration. NASA shall submit a final report on the status of the demonstration, including any recommendation for expansion, within 120 days of

the completion of the assembly of the International Space Station or the end of fiscal year 2004, whichever is earlier.

(d) DEFINITIONS.—As used in this section, the term "United States commercial use" means private commercial projects that are designed to benefit the United States through the sales of goods or services or the creation of jobs, or both.

(e) TERMINATION.—The demonstration program established under this section shall apply to United States commercial use agreements that are entered into prior to the date of the completion of the International Space Station or the end of fiscal year 2004, whichever is earlier.

SEC. 435. INSURANCE; INDEMNIFICATION; LIABILITY. (a) AMENDMENT.—The National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.) is amended by inserting after section 308 the following new section:

"EXPERIMENTAL AEROSPACE VEHICLE

"(a) IN GENERAL.—The Administrator may provide liability insurance for, or indemnification to, the developer of an experimental aerospace vehicle developed or used in execution of an agreement between the Administration and the developer.

"(b) TERMS AND CONDITIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the insurance and indemnification provided by the Administration under subsection (a) to a developer shall be provided on the same terms and conditions as insurance and indemnification is provided by the Administration under section 308 of this Act to the user of a space vehicle.

"(2) INSURANCE.—

"(A) IN GENERAL.—A developer shall obtain liability insurance or demonstrate financial responsibility in amounts to compensate for the maximum probable loss from claims by—

"(i) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with the development or use of an experimental aerospace vehicle; and

"(ii) the United States Government for damage or loss to Government property resulting from such an activity.

"(B) MAXIMUM REQUIRED.—The Administrator shall determine the amount of insurance required, but, except as provided in subparagraph (C), that amount shall not be greater than the amount required under section 70112(a)(3) of title 49, United States Code, for a launch. The Administrator shall publish notice of the Administrator's determination and the applicable amount or amounts in the Federal Register within 10 days after making the determination.

"(C) INCREASE IN DOLLAR AMOUNTS.—The Administrator may increase the dollar amounts set forth in section 70112(a)(3)(A) of title 49, United States Code, for the purpose of applying that section under this section to a developer after consultation with the Comptroller General and such experts and consultants as may be appropriate, and after publishing notice of the increase in the Federal Register not less than 180 days before the increase goes into effect. The Administrator shall make available for public inspection, not later than the date of publication of such notice, a complete record of any correspondence received by the Administration, and a transcript of any meetings in which the Administration participated, regarding the proposed increase.

"(D) SAFETY REVIEW REQUIRED BEFORE ADMINISTRATOR PROVIDES INSURANCE.—The Administrator may not provide liability insurance or indemnification under subsection (a) unless the developer establishes to the satisfaction of the Administrator that appropriate safety procedures and practices are being followed in the development of the experimental aerospace vehicle.

"(3) NO INDEMNIFICATION WITHOUT CROSS-WAIVER.—Notwithstanding subsection (a), the Administrator may not indemnify a developer of an experimental aerospace vehicle under this section unless there is an agreement between the Administration and the developer described in subsection (c).

"(4) APPLICATION OF CERTAIN PROCEDURES.—If the Administrator requests additional appropriations to make payments under this section, like the payments that may be made under section 308(b) of this Act, then the request for those appropriations shall be made in accordance with the procedures established by subsections (d) and (e) of section 70113 of title 49, United States Code.

"(c) CROSS-WAIVERS.—

"(1) ADMINISTRATOR AUTHORIZED TO WAIVE.—The Administrator, on behalf of the United States, and its departments, agencies, and related entities, may reciprocally waive claims with a developer or cooperating party and with the related entities of that developer or cooperating party under which each party to the waiver agrees to be responsible, and agrees to ensure that its own related entities are responsible, for damage or loss to its property for which it is responsible, or for losses resulting from any injury or death sustained by its own employees or agents, as a result of activities connected to the agreement or use of the experimental aerospace vehicle.

"(2) LIMITATIONS.—

"(A) CLAIMS.—A reciprocal waiver under paragraph (1) may not preclude a claim by any natural person (including, but not limited to, a natural person who is an employee of the United States, the developer, the cooperating party, or their respective subcontractors) or that natural person's estate, survivors, or subrogees for injury or death, except with respect to a subrogee that is a party to the waiver or has otherwise agreed to be bound by the terms of the waiver.

"(B) LIABILITY FOR NEGLIGENCE.—A reciprocal waiver under paragraph (1) may not absolve any party of liability to any natural person (including, but not limited to, a natural person who is an employee of the United States, the developer, the cooperating party, or their respective subcontractors) or such a natural person's estate, survivors, or subrogees for negligence, except with respect to a subrogee that is a party to the waiver or has otherwise agreed to be bound by the terms of the waiver.

"(C) INDEMNIFICATION FOR DAMAGES.—A reciprocal waiver under paragraph (1) may not be used as the basis of a claim by the Administration, or the developer or cooperating party, for indemnification against the other for damages paid to a natural person, or that natural person's estate, survivors, or subrogees, for injury or death sustained by that natural person as a result of activities connected to the agreement or use of the experimental aerospace vehicle.

"(3) EFFECT ON PREVIOUS WAIVERS.—Subsection (c) applies to any waiver of claims entered into by the Administration without regard to whether it was entered into before, on, or after the date of the enactment of this Act.

"(d) DEFINITIONS.—In this section:

"(1) COOPERATING PARTY.—The term 'cooperating party' means any person who enters into an agreement with the Administration for the performance of cooperative scientific, aeronautical, or space activities to carry out the purposes of this Act.

"(2) DEVELOPER.—The term 'developer' means a United States person (other than a natural person) who—

"(A) is a party to an agreement with the Administration for the purpose of developing new technology for an experimental aerospace vehicle;

"(B) owns or provides property to be flown or situated on that vehicle; or

"(C) employs a natural person to be flown on that vehicle.

"(3) EXPERIMENTAL AEROSPACE VEHICLE.—The term 'experimental aerospace vehicle' means an object intended to be flown in, or launched into, orbital or suborbital flight for the purpose of demonstrating technologies necessary for a reusable launch vehicle, developed under an agreement between the Administration and a developer.

"(4) RELATED ENTITY.—The term 'related entity' includes a contractor or subcontractor at any tier, a supplier, a grantee, and an investigator or detailee.

"(e) RELATIONSHIP TO OTHER LAWS.—

"(1) SECTION 308.—This section does not apply to any object, transaction, or operation to which section 308 of this Act applies.

"(2) CHAPTER 701 OF TITLE 49, UNITED STATES CODE.—The Administrator may not provide indemnification to a developer under this section for launches subject to license under section 70117(g)(1) of title 49, United States Code.".

(b) REPEAL.—Section 431 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Public Law 105–276) is repealed.

TITLE V—PRESERVATION OF AFFORDABLE HOUSING

SEC. 501. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Preserving Affordable Housing for Senior Citizens and Families into the 21st Century Act".

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. 501. Short title and table of contents.
Sec. 502. Regulations.
Sec. 503. Effective date.

Subtitle A—Authorization of Appropriations for Supportive Housing for the Elderly and Persons With Disabilities

Sec. 511. Supportive housing for elderly persons.
Sec. 512. Supportive housing for persons with disabilities.
Sec. 513. Service coordinators and congregate services for elderly and disabled housing.

Subtitle B—Expanding Housing Opportunities for the Elderly and Persons With Disabilities

Sec. 521. Study of debt forgiveness for section 202 loans.
Sec. 522. Grants for conversion of elderly housing to assisted living facilities.
Sec. 523. Use of section 8 assistance for assisted living facilities.
Sec. 524. Size limitation for projects for persons with disabilities.
Sec. 525. Commission on Affordable Housing and Health Care Facility Needs in the 21st Century.

Subtitle C—Renewal of Expiring Rental Assistance Contracts and Protection of Residents

Sec. 531. Renewal of expiring contracts and enhanced vouchers for project residents.
Sec. 532. Section 236 assistance.
Sec. 533. Rehabilitation of assisted housing.
Sec. 534. Technical assistance.
Sec. 535. Termination of section 8 contract and duration of renewal contract.
Sec. 536. Eligibility of residents of flexible subsidy projects for enhanced vouchers.
Sec. 537. Enhanced disposition authority.
Sec. 538. Unified enhanced voucher authority.

SEC. 502. REGULATIONS.

The Secretary of Housing and Urban Development shall issue any regulations to carry out this title and the amendments made by this title that the Secretary determines may or will affect tenants of federally assisted housing only after notice and opportunity for public comment in accordance with the procedure under section 553 of title 5, United States Code, applicable to substantive rules (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). Notice of such proposed rulemaking shall be provided by publication in the Federal Register. In issuing such regulations, the Secretary shall take such actions as may be necessary to ensure that such tenants are notified of, and provided an opportunity to participate in, the rulemaking, as required by such section 553.

SEC. 503. EFFECTIVE DATE.

(a) IN GENERAL.—The provisions of this title and the amendments made by this title are effective as of the date of the enactment of this Act, unless such provisions or amendments specifically provide for effectiveness or applicability upon another date certain.

(b) EFFECT OF REGULATORY AUTHORITY.—Any authority in this title or the amendments made by this title to issue regulations, and any specific requirement to issue regulations by a date certain, may not be construed to affect the effectiveness or applicability of the provisions of this title or the amendments made by this title under such provisions and amendments and subsection (a) of this section.

Subtitle A—Authorization of Appropriations for Supportive Housing for the Elderly and Persons With Disabilities

SEC. 511. SUPPORTIVE HOUSING FOR ELDERLY PERSONS.

Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) is amended by adding at the end the following new subsection:

"(m) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for providing assistance under this section $710,000,000 for fiscal year 2000.".

SEC. 512. SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.

Section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013) is amended—

(1) by redesignating subsection (m) as subsection (n); and

(2) by inserting after subsection (l) the following new subsection:

"(m) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for providing assistance under this section $201,000,000 for fiscal year 2000.".

SEC. 513. SERVICE COORDINATORS AND CONGREGATE SERVICES FOR ELDERLY AND DISABLED HOUSING.

(a) AUTHORIZATION OF APPROPRIATIONS FOR FEDERALLY ASSISTED HOUSING.—There is authorized to be appropriated to the Secretary of Housing and Urban Development $50,000,000 for fiscal year 2000 for the following purposes:

(1) GRANTS FOR SERVICE COORDINATORS FOR CERTAIN FEDERALLY ASSISTED MULTIFAMILY HOUSING.—For grants under section 676 of the Housing and Community Development Act of 1992 (42 U.S.C. 13632) for providing service coordinators.

(2) CONGREGATE SERVICES FOR FEDERALLY ASSISTED HOUSING.—For contracts under section 802 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011) to provide congregate services programs for eligible residents of eligible housing projects under subparagraphs (B) through (D) of subsection (k)(6) of such section.

(b) PUBLIC HOUSING.—There is authorized to be appropriated to the Secretary of Housing and Urban Development such sums as may be necessary for fiscal year 2000 for grants for use only for activities described in paragraph (2) of section 34(b) of the United States Housing Act of 1937 (42 U.S.C. 1437z–6(b)(2)) for renewal of all grants made in prior fiscal years for providing service coordinators and congregate services for the elderly and disabled in public housing.

Subtitle B—Expanding Housing Opportunities for the Elderly and Persons With Disabilities

SEC. 521. STUDY OF DEBT FORGIVENESS FOR SECTION 202 LOANS.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct an analysis of the net impact on the Federal budget deficit or surplus of making available, on a one-time basis, to sponsors of projects assisted under section 202 of the Housing Act of 1959 (as in effect before the enactment of the Cranston-Gonzalez National Affordable Housing Act), forgiveness of any indebtedness to the Secretary relating to any remaining principal and interest under loans made under such section, together with a dollar for dollar reduction in the amount of rental assistance under section 8 of the United States Housing Act of 1937 or other rental assistance provided for such project. Such analysis shall take into consideration the full cost of future appropriations for rental assistance under such section 8 expected to be provided if such debt forgiveness does not take place, notwithstanding current budgetary treatment of such actions pursuant to the Congressional Budget Act of 1974.

(b) REPORT.—Not later than the expiration of the 3-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Congress containing the quantitative results of the analysis and an enumeration of any project or administrative benefits of such actions.

SEC. 522. GRANTS FOR CONVERSION OF ELDERLY HOUSING TO ASSISTED LIVING FACILITIES.

Title II of the Housing Act of 1959 is amended by inserting after section 202a (12 U.S.C. 1701q–1) the following new section:

"SEC. 202b. GRANTS FOR CONVERSION OF ELDERLY HOUSING TO ASSISTED LIVING FACILITIES.

"(a) GRANT AUTHORITY.—The Secretary of Housing and Urban Development may make grants in accordance with this section to owners of eligible projects described in subsection (b) for one or both of the following activities:

"(1) REPAIRS.—Substantial capital repairs to a project that are needed to rehabilitate, modernize, or retrofit aging structures, common areas, or individual dwelling units.

"(2) CONVERSION.—Activities designed to convert dwelling units in the eligible project to assisted living facilities for elderly persons.

"(b) ELIGIBLE PROJECTS.—An eligible project described in this subsection is a multifamily housing project that is—

"(1)(A) described in subparagraph (B), (C), (D), (E), (F), or (G) of section 683(2) of the Housing and Community Development Act of 1992 (42 U.S.C. 13641(2)), or (B) only to the extent amounts of the Department of Agriculture are made available to the Secretary of Housing and Urban Development for such grants under this section for such projects, subject to a loan made or insured under section 515 of the Housing Act of 1949 (42 U.S.C. 1485);

"(2) owned by a private nonprofit organization (as such term is defined in section 202); and

"(3) designated primarily for occupancy by elderly persons.

Notwithstanding any other provision of this subsection or this section, an unused or underutilized commercial property may be considered an eligible project under this subsection, except that the Secretary may not provide grants under this section for more than 3 such properties. For any such projects, any reference under this section to dwelling units shall be considered to refer to the premises of such properties.

"(c) APPLICATIONS.—Applications for grants under this section shall be submitted to the Secretary in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

"(1) a description of the substantial capital repairs or the proposed conversion activities for which a grant under this section is requested;

"(2) the amount of the grant requested to complete the substantial capital repairs or conversion activities;

"(3) a description of the resources that are expected to be made available, if any, in conjunction with the grant under this section; and

"(4) such other information or certifications that the Secretary determines to be necessary or appropriate.

"(d) FUNDING FOR SERVICES.—The Secretary may not make a grant under this section for conversion activities unless the application contains sufficient evidence, in the determination of the Secretary, of firm commitments for the funding of services to be provided in the assisted living facility, which may be provided by third parties.

"(e) SELECTION CRITERIA.—The Secretary shall select applications for grants under this section based upon selection criteria, which shall be established by the Secretary and shall include—

"(1) in the case of a grant for substantial capital repairs, the extent to which the project to be repaired is in need of such repair, including such factors as the age of improvements to be repaired, and the impact on the health and safety of residents of failure to make such repairs;

"(2) in the case of a grant for conversion activities, the extent to which the conversion is likely to provide assisted living facilities that are needed or are expected to be needed by the categories of elderly persons that the assisted living facility is intended to serve, with a special emphasis on very low-income elderly persons who need assistance with activities of daily living;

"(3) the inability of the applicant to fund the repairs or conversion activities from existing financial resources, as evidenced by the applicant's financial records, including assets in the applicant's residual receipts account and reserves for replacement account;

"(4) the extent to which the applicant has evidenced community support for the repairs or conversion, by such indicators as letters of support from the local community for the repairs or conversion and financial contributions from public and private sources;

"(5) in the case of a grant for conversion activities, the extent to which the applicant demonstrates a strong commitment to promoting the autonomy and independence of the elderly persons that the assisted living facility is intended to serve;

"(6) in the case of a grant for conversion activities, the quality, completeness, and managerial capability of providing the services which the assisted living facility intends to provide to elderly residents, especially in such areas as meals, 24-hour staffing, and on-site health care; and

"(7) such other criteria as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

"(f) DEFINITIONS.—For the purposes of this section—

"(1) the term 'assisted living facility' has the meaning given such term in section 232(b) of the National Housing Act (12 U.S.C. 1715w(b)); and

"(2) the definitions in section 202(k) shall apply.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for providing grants under this section such sums as may be necessary for fiscal year 2000.".

SEC. 523. USE OF SECTION 8 ASSISTANCE FOR ASSISTED LIVING FACILITIES.

(a) VOUCHER ASSISTANCE.—Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended by adding at the end the following new paragraph:

"(18) RENTAL ASSISTANCE FOR ASSISTED LIVING FACILITIES.—

"(A) IN GENERAL.—A public housing agency may make assistance payments on behalf of a family that uses an assisted living facility as a principal place of residence and that uses such supportive services made available in the facility as the agency may require. Such payments may be made only for covering costs of rental of the dwelling unit in the assisted living facility and not for covering any portion of the cost of residing in such facility that is attributable to service relating to assisted living.

"(B) RENT CALCULATION.—

"(i) CHARGES INCLUDED.—For assistance pursuant to this paragraph, the rent of the dwelling unit that is an assisted living facility with respect to which assistance payments are made shall include maintenance and management charges related to the dwelling unit and tenant-paid utilities. Such rent shall not include any charges attributable to services relating to assisted living.

"(ii) PAYMENT STANDARD.—In determining the monthly assistance that may be paid under this paragraph on behalf of any family residing in an assisted living facility, the public housing agency shall utilize the payment standard established under paragraph (1), for the market area in which the assisted living facility is located, for the applicable size dwelling unit.

"(iii) MONTHLY ASSISTANCE PAYMENT.—The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2) (using the rent and payment standard for the dwelling unit as determined in accordance with this subsection).

"(C) DEFINITION.—For the purposes of this paragraph, the term 'assisted living facility' has the meaning given that term in section 232(b) of the National Housing Act (12 U.S.C. 1715w(b)), except that such a facility may be contained within a portion of a larger multifamily housing project.".

(b) PROJECT-BASED ASSISTANCE.—Section 202b of the Housing Act of 1959, as added by section 522 of this Act, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection:

"(f) SECTION 8 PROJECT-BASED ASSISTANCE.—

"(1) ELIGIBILITY.—Notwithstanding any other provision of law, a multifamily project which includes one or more dwelling units that have been converted to assisted living facilities using grants made under this section shall be eligible for project-based assistance under section 8 of the United States Housing Act of 1937, in the same manner in which the project would be eligible for such assistance but for the assisted living facilities in the project.

"(2) CALCULATION OF RENT.—For assistance pursuant to this subsection, the maximum monthly rent of a dwelling unit that is an assisted living facility with respect to which assistance payments are made shall not include charges attributable to services relating to assisted living.".

SEC. 524. SIZE LIMITATION FOR PROJECTS FOR PERSONS WITH DISABILITIES.

(a) LIMITATION.—Section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013) is amended—

(1) in subsection (k)(4), by inserting ", subject to the limitation under subsection (h)(6)" after "prescribe"; and

(2) in subsection (l), by adding at the end the following new paragraph:

"(4) SIZE LIMITATION.—Of any amounts made available for any fiscal year and used for capital advances or project rental assistance under paragraphs (1) and (2) of subsection (d), not more than 25 percent may be used for supportive housing which contains more than 24 separate dwelling units.".

(b) STUDY.—Not later than the expiration of the 3-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall conduct a study and submit a report to the Congress regarding—

(1) the extent to which the authority of the Secretary under section 811(k)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(k)(4)), as in effect immediately before the enactment of this Act, has been used in each year since 1990 to provide for assistance under such section for supportive housing for persons with disabilities having more than 24 separate dwelling units;

(2) the per-unit costs of, and the benefits and problems associated with, providing such housing in projects having 8 or less dwelling units, 8 to 24 units, and more than 24 units; and

(3) the per-unit costs of, and the benefits and problems associated with providing housing under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) in projects having 30 to 50 dwelling units, in projects having more than 50 but not more than 80 dwelling units, in projects having more than 80 but not more than 120 dwelling units, and in projects having more than 120 dwelling units, but the study shall also examine the social considerations afforded by smaller and moderate-size developments and shall not be limited to economic factors.

SEC. 525. COMMISSION ON AFFORDABLE HOUSING AND HEALTH CARE FACILITY NEEDS IN THE 21ST CENTURY.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the Commission on Affordable Housing and Health Care Facility Needs in the 21st Century (in this section referred to as the "Commission".

(b) STUDY.—The duty of the Commission shall be to conduct a study that—

(1) compiles and interprets information regarding the expected increase in the population of persons 62 years of age or older, particularly information regarding distribution of income levels, homeownership and home equity rates, and degree or extent of health and independence of living;

(2) provides an estimate of the future needs of seniors for affordable housing and assisted living and health care facilities;

(3) provides a comparison of estimate of such future needs with an estimate of the housing and facilities expected to be provided under existing public programs, and identifies possible actions or initiatives that may assist in providing affordable housing and assisted living and health care facilities to meet such expected needs;

(4) identifies and analyzes methods of encouraging increased private sector participation, investment, and capital formation in affordable housing and assisted living and health care facilities for seniors through partnerships between public and private entities and other creative strategies;

(5) analyzes the costs and benefits of comprehensive aging-in-place strategies, taking into consideration physical and mental well-being and the importance of coordination between shelter and supportive services;

(6) identifies and analyzes methods of promoting a more comprehensive approach to dealing with housing and supportive service issues involved in aging and the multiple governmental agencies involved in such issues, including the Department of Housing and Urban Development and the Department of Health and Human Services; and

(7) examines how to establish intergenerational learning and care centers and living arrangements, in particular to facilitate appropriate environments for families consisting only of children and a grandparent or grandparents who are the head of the household.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 14 members, appointed not later than January 1, 2000, as follows:

(A) Two co-chairpersons, of whom—

(i) one co-chairperson shall be appointed by a committee consisting of the chairman of the Subcommittee on Housing and Community Opportunities of the House of Representatives and the chairman of the Subcommittee on Housing and Transportation of the Senate, and the chairmen of the Subcommittees on the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies of the Committees on Appropriations of the House of Representatives and the Senate; and

(ii) one co-chairperson shall be appointed by a committee consisting of the ranking minority member of the Subcommittee on Housing and Community Opportunities of the House of Representatives and the ranking minority member of the Subcommittee on Housing and Transportation of the Senate, and the ranking minority members of the Subcommittees on the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies of the Committees on Appropriations of the House of Representatives and the Senate.

(B) Six members appointed by the Chairman and Ranking Minority Member of the Committee on Banking and Financial Services of the House of Representatives and the Chairman and Ranking Minority Member of the Committee on Appropriations of the House of Representatives.

(C) Six members appointed by the Chairman and Ranking Minority Member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman and Ranking Minority Member of the Committee on Appropriations of the Senate.

(2) QUALIFICATIONS.—Appointees should have proven expertise in directing, assembling, or applying capital resources from a variety of sources to the successful development of affordable housing, assisted living facilities, or health care facilities.

(3) VACANCIES.—Any vacancy on the Commission shall not affect its powers and shall be filled in the manner in which the original appointment was made.

(4) CHAIRPERSONS.—The members appointed pursuant to paragraph (1)(A) shall serve as co-chairpersons of the Commission.

(5) PROHIBITION OF PAY.—Members of the Commission shall serve without pay.

(6) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(7) QUORUM.—A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(8) MEETINGS.—The Commission shall meet at the call of the Chairpersons.

(d) DIRECTOR AND STAFF.—

(1) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Chairperson. The Director shall be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

(2) STAFF.—The Commission may appoint personnel as appropriate. The staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall

be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(3) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the General Schedule.

(4) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

(e) POWERS.—

(1) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairpersons of the Commission, the head of that department or agency shall furnish that information to the Commission.

(4) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(5) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(7) CONTRACT AUTHORITY.—The Commission may contract with and compensate government and private agencies or persons for services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(f) REPORT.—The Commission shall submit to the Committees on Banking and Financial Services and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate, a final report not later than December 31, 2001. The report shall contain a detailed statement of the findings and conclusions of the Commission with respect to the study conducted under subsection (b), together with its recommendations for legislation, administrative actions, and any other actions the Commission considers appropriate.

(g) TERMINATION.—The Commission shall terminate on June 30, 2002. Section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to the termination of advisory committees) shall not apply to the Commission.

Subtitle C—Renewal of Expiring Rental Assistance Contracts and Protection of Residents

SEC. 531. RENEWAL OF EXPIRING CONTRACTS AND ENHANCED VOUCHERS FOR PROJECT RESIDENTS.

(a) IN GENERAL.—Section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended to read as follows:

"SEC. 524. RENEWAL OF EXPIRING PROJECT-BASED SECTION 8 CONTRACTS.

"(a) IN GENERAL.—

"(1) RENEWAL.—Subject to paragraph (2), upon termination or expiration of a contract for project-based assistance under section 8 for a multifamily housing project (and notwithstanding section 8(v) of the United States Housing Act of 1937 for loan management assistance), the Secretary shall, at the request of the owner of the project and to the extent sufficient amounts are made available in appropriation Acts, use amounts available for the renewal of assistance under section 8 of such Act to provide such assistance for the project. The assistance shall be provided under a contract having such terms and conditions as the Secretary considers appropriate, subject to the requirements of this section. This section shall not require contract renewal for a project that is eligible under this subtitle for a mortgage restructuring and rental assistance sufficiency plan, if there is no approved plan for the project and the Secretary determines that such an approved plan is necessary.

"(2) PROHIBITION ON RENEWAL.—Notwithstanding part 24 of title 24 of the Code of Federal Regulations, the Secretary may elect not to renew assistance for a project otherwise required to be renewed under paragraph (1) or provide comparable benefits under paragraph (1) or (2) of subsection (e) for a project described in either such paragraph, if the Secretary determines that a violation under paragraph (1) through (4) of section 516(a) has occurred with respect to the project. For purposes of such a determination, the provisions of section 516 shall apply to a project under this section in the same manner and to the same extent that the provisions of such section apply to eligible multifamily housing projects, except that the Secretary shall make the determination under section 516(a)(4).

"(3) CONTRACT TERM FOR MARK-UP-TO-MARKET CONTRACTS.—In the case of an expiring or terminating contract that has rent levels less than comparable market rents for the market area, if the rent levels under the renewal contract under this section are equal to comparable market rents for the market area, the contract shall have a term of not less than 5 years, subject to the availability of sufficient amounts in appropriation Acts.

"(4) RENEWAL RENTS.—Except as provided in subsection (b), the contract for assistance shall provide assistance at the following rent levels:

"(A) MARKET RENTS.—At the request of the owner of the project, at rent levels equal to the lesser of comparable market rents for the market area or 150 percent of the fair market rents, in the case only of a project that—

"(i) has rent levels under the expiring or terminating contract that do not exceed such comparable market rents;

"(ii) does not have a low- and moderate-income use restriction that can not be eliminated by unilateral action by the owner;

"(iii) is decent, safe, and sanitary housing, as determined by the Secretary;

"(iv) is not—

"(I) owned by a nonprofit entity;

"(II) subject to a contract for moderate rehabilitation assistance under section 8(e)(2) of the United States Housing Act of 1937, as in effect before October 1, 1991; or

"(III) a project for which the public housing agency provided voucher assistance to one or more of the tenants after the owner has provided notice of termination of the contract covering the tenant's unit; and

"(v) has units assisted under the contract for which the comparable market rent exceeds 110 percent of the fair market rent.

The Secretary may adjust the percentages of fair market rent (as specified in the matter preceding clause (i) and in clause (v)), but only upon a determination and written notification to the Congress within 10 days of making such determination, that such adjustment is necessary to ensure that this subparagraph covers projects with a high risk of nonrenewal of expiring contracts for project-based assistance.

"(B) REDUCTION TO MARKET RENTS.—In the case of a project that has rent levels under the expiring or terminating contract that exceed comparable market rents for the market area, at rent levels equal to such comparable market rents.

"(C) RENTS NOT EXCEEDING MARKET RENTS.—In the case of a project that is not subject to subparagraph (A) or (B), at rent levels that—

"(i) are not less than the existing rents under the terminated or expiring contract, as adjusted by an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment), if such adjusted rents do not exceed comparable market rents for the market area; and

"(ii) do not exceed comparable market rents for the market area.

In determining the rent level for a contract under this subparagraph, the Secretary shall approve rents sufficient to cover budget-based cost increases and shall give greater consideration to providing rent at a level up to comparable market rents for the market area based on the number of the criteria under clauses (i) through (iii) of subparagraph (D) that the project meets.

"(D) WAIVER OF 150 PERCENT LIMITATION.—Notwithstanding subparagraph (A), at rent levels up to comparable market rents for the market area, in the case of a project that meets the requirements under clauses (i) through (v) of subparagraph (A) and—

"(i) has residents who are a particularly vulnerable population, as demonstrated by a high percentage of units being rented to elderly families, disabled families, or large families;

"(ii) is located in an area in which tenant-based assistance would be difficult to use, as demonstrated by a low vacancy rate for affordable housing, a high turnback rate for vouchers, or a lack of comparable rental housing; or

"(iii) is a high priority for the local community, as demonstrated by a contribution of State or local funds to the property.

In determining the rent level for a contract under this subparagraph, the Secretary shall approve rents sufficient to cover budget-based cost increases and shall give greater consideration to providing rent at a level up to comparable market rents for the market area based on the number of the criteria under clauses (i) through (iv) that the project meets.

"(5) COMPARABLE MARKET RENTS AND COMPARISON WITH FAIR MARKET RENTS.—The Secretary shall prescribe the method for determining comparable market rent by comparison with rents charged for comparable properties (as such term is defined in section 512), which may include appropriate adjustments for utility allowances and adjustments to reflect the value of any subsidy (other than section 8 assistance) provided by the Department of Housing and Urban Development.

"(b) EXCEPTION RENTS.—

"(1) RENEWAL.—In the case of a multifamily housing project described in paragraph (2), pursuant to the request of the owner of the project,

the contract for assistance for the project pursuant to subsection (a) shall provide assistance at the lesser of the following rent levels:

"(A) ADJUSTED EXISTING RENTS.—The existing rents under the expiring contract, as adjusted by an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment).

"(B) BUDGET-BASED RENTS.—Subject to a determination by the Secretary that a rent level under this subparagraph is appropriate for a project, a rent level that provides income sufficient to support a budget-based rent (including a budget-based rent adjustment if justified by reasonable and expected operating expenses).

"(2) PROJECTS COVERED.—A multifamily housing project described in this paragraph is a multifamily housing project that—

"(A) is not an eligible multifamily housing project under section 512(2); or

"(B) is exempt from mortgage restructuring under this subtitle pursuant to section 514(h).

"(3) MODERATE REHABILITATION PROJECTS.—In the case of a project with a contract under the moderate rehabilitation program, other than a moderate rehabilitation contract under section 441 of the Stewart B. McKinney Homeless Assistance Act, pursuant to the request of the owner of the project, the contract for assistance for the project pursuant to subsection (a) shall provide assistance at the lesser of the following rent levels:

"(A) ADJUSTED EXISTING RENTS.—The existing rents under the expiring contract, as adjusted by an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment).

"(B) FAIR MARKET RENTS.—Fair market rents (less any amounts allowed for tenant-purchased utilities).

"(C) MARKET RENTS.—Comparable market rents for the market area.

"(c) RENT ADJUSTMENTS AFTER RENEWAL OF CONTRACT.—

"(1) REQUIRED.—After the initial renewal of a contract for assistance under section 8 of the United States Housing Act of 1937 pursuant to subsection (a), (b)(1), or (e)(2), the Secretary shall annually adjust the rents using an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment) or, upon the request of the owner and subject to approval of the Secretary, on a budget basis. In the case of projects with contracts renewed pursuant to subsection (a) or pursuant to subsection (e)(2) at rent levels equal to comparable market rents for the market area, at the expiration of each 5-year period, the Secretary shall compare existing rents with comparable market rents for the market area and may make any adjustments in the rent necessary to maintain the contract rents at a level not greater than comparable market rents or to increase rents to comparable market rents.

"(2) DISCRETIONARY.—In addition to review and adjustment required under paragraph (1), in the case of projects with contracts renewed pursuant to subsection (a) or pursuant to subsection (e)(2) at rent levels equal to comparable market rents for the market area, the Secretary may, at the discretion of the Secretary but only once within each 5-year period referred to in paragraph (1), conduct a comparison of rents for a project and adjust the rents accordingly to maintain the contract rents at a level not greater than comparable market rents or to increase rents to comparable market rents.

"(d) ENHANCED VOUCHERS UPON CONTRACT EXPIRATION.—

"(1) IN GENERAL.—In the case of a contract for project-based assistance under section 8 for a covered project that is not renewed under subsection (a) or (b) of this section (or any other authority), to the extent that amounts for assistance under this subsection are provided in advance in appropriation Acts, upon the date of the expiration of such contract the Secretary shall make enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)) available on behalf of each low-income family who, upon the date of such expiration, is residing in an assisted dwelling unit in the covered project.

"(2) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) ASSISTED DWELLING UNIT.—The term 'assisted dwelling unit' means a dwelling unit that—

"(i) is in a covered project; and

"(ii) is covered by rental assistance provided under the contract for project-based assistance for the covered project.

"(B) COVERED PROJECT.—The term 'covered project' means any housing that—

"(i) consists of more than 4 dwelling units;

"(ii) is covered in whole or in part by a contract for project-based assistance under—

"(I) the new construction or substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

"(II) the property disposition program under section 8(b) of the United States Housing Act of 1937;

"(III) the moderate rehabilitation program under section 8(e)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1991);

"(IV) the loan management assistance program under section 8 of the United States Housing Act of 1937;

"(V) section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975);

"(VI) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965; or

"(VII) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965,

which contract will (under its own terms) expire during the period consisting of fiscal years 2000 through 2004; and

"(iii) is not housing for which residents are eligible for enhanced voucher assistance as provided, pursuant to the 'Preserving Existing Housing Investment' account in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104–204; 110 Stat. 2884) or any other subsequently enacted provision of law, in lieu of any benefits under section 223 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4113).

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2000, 2001, 2002, 2003, and 2004 such sums as may be necessary for enhanced voucher assistance under this subsection.

"(e) CONTRACTUAL COMMITMENTS UNDER PRESERVATION LAWS.—Except as provided in subsection (a)(2) and notwithstanding any other provision of this subtitle, the following shall apply:

"(1) PRESERVATION PROJECTS.—Upon expiration of a contract for assistance under section 8 for a project that is subject to an approved plan of action under the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715l note) or the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4101 et seq.), to the extent amounts are specifically made available in appropriation Acts, the Secretary shall provide to the owner benefits comparable to those provided under such plan of action, including distributions, rent increase procedures, and duration of low-income affordability restrictions. This paragraph shall apply to projects with contracts expiring before, on, or after the date of the enactment of this section.

"(2) DEMONSTRATION PROJECTS.—

"(A) IN GENERAL.—Upon expiration of a contract for assistance under section 8 for a project entered into pursuant to any authority specified in subparagraph (B) for which the Secretary determines that debt restructuring is inappropriate, the Secretary shall, at the request of the owner of the project and to the extent sufficient amounts are made available in appropriation Acts, provide benefits to the owner comparable to those provided under such contract, including annual distributions, rent increase procedures, and duration of low-income affordability restrictions. This paragraph shall apply to projects with contracts expiring before, on, or after the date of the enactment of this section.

"(B) DEMONSTRATION PROGRAMS.—The authority specified in this subparagraph is the authority under—

"(i) section 210 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (Public Law 104-134; 110 Stat. 1321–285; 42 U.S.C. 1437f note);

"(ii) section 212 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104–204; 110 Stat. 2897; 42 U.S.C. 1437f note); and

"(iii) either of such sections, pursuant to any provision of this title.

"(f) PREEMPTION OF CONFLICTING STATE LAWS LIMITING DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no State or political subdivision of a State may establish, continue in effect, or enforce any law or regulation that limits or restricts, to an amount that is less than the amount provided for under the regulations of the Secretary establishing allowable project distributions to provide a return on investment, the amount of surplus funds accruing after the date of the enactment of this section that may be distributed from any multifamily housing project assisted under a contract for rental assistance renewed under any provision of this section (except subsection (b)) to the owner of the project.

"(2) EXCEPTION AND WAIVER.—Paragraph (1) shall not apply to any law or regulation to the extent such law or regulation applies to—

"(A) a State-financed multifamily housing project; or

"(B) a multifamily housing project for which the owner has elected to waive the applicability of paragraph (1).

"(3) TREATMENT OF LOW-INCOME USE RESTRICTIONS.—This subsection may not be construed to provide for, allow, or result in the release or termination, for any project, of any low- or moderate-income use restrictions that can not be eliminated by unilateral action of the owner of the project.

"(g) APPLICABILITY.—Except to the extent otherwise specifically provided in this section, this section shall apply with respect to any multifamily housing project having a contract for project-based assistance under section 8 that terminates or expires during fiscal year 2000 or thereafter.".

(b) DEFINITION OF ELIGIBLE MULTIFAMILY HOUSING PROJECT.—Section 512(2) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by inserting after and below subparagraph (C) the following:

"Such term does not include any project with an expiring contract described in paragraph (1) or (2) of section 524(e).".

(c) PROJECTS EXEMPTED FROM RESTRUCTURING AGREEMENTS.—Section 514(h) of the

Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by inserting before the semicolon at the end the following: "and the financing involves mortgage insurance under the National Housing Act, such that the implementation of a mortgage restructuring and rental assistance sufficiency plan under this subtitle is in conflict with applicable law or agreements governing such financing".

(d) CONFORMING AMENDMENTS.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended—

(1) by designating as subsection (v) the sentence added by section 405(c) of The Balanced Budget Downpayment Act, I (Public Law 104–99; 110 Stat. 44); and

(2) by striking subsection (w).

SEC. 532. SECTION 236 ASSISTANCE.

(a) CONTINUED RECEIPT OF SUBSIDIES UPON REFINANCING.—Section 236(e) of the National Housing Act (12 U.S.C. 1715z–1(e)) is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following new paragraph:

"(2) A project for which interest reduction payments are made under this section and for which the mortgage on the project has been refinanced shall continue to receive the interest reduction payments under this section under the terms of the contract for such payments, but only if the project owner enters into such binding commitments as the Secretary may require (which shall be applicable to any subsequent owner) to ensure that the owner will continue to operate the project in accordance with all low-income affordability restrictions for the project in connection with the Federal assistance for the project for a period having a duration that is not less than the term for which such interest reduction payments are made plus an additional 5 years.".

(b) RETENTION OF EXCESS INCOME.—Section 236(g) of the National Housing Act (12 U.S.C. 1715z–1(g)) is amended—

(1) by inserting "(1)" after "(g)";

(2) by striking the last sentence; and

(3) by adding at the end the following new paragraphs:

"(2) Subject to paragraph (3) and notwithstanding any other requirements of this subsection, a project owner may retain some or all of such excess charges for project use if authorized by the Secretary. Such excess charges shall be used for the project and upon terms and conditions established by the Secretary, unless the Secretary permits the owner to retain funds for non-project use after a determination that the project is well-maintained housing in good condition and that the owner has not engaged in material adverse financial or managerial actions or omissions as described in section 516 of the Multifamily Assisted Housing Reform and Affordability Act of 1997. In connection with the retention of funds for non-project use, the Secretary may require the project owner to enter into a binding commitment (which shall be applicable to any subsequent owner) to ensure that the owner will continue to operate the project in accordance with all low-income affordability restrictions for the project in connection with the Federal assistance for the project for a period having a duration of not less than the term of the existing affordability restrictions plus an additional 5 years.

"(3) The authority under paragraph (2) to retain and use excess charges shall apply—

"(A) during fiscal year 2000, to all project owners collecting such excess charges; and

"(B) during fiscal year 2001 and thereafter—

"(i) to any owner of (I) a project with a mortgage insured under this section, (II) a project with a mortgage formerly insured under this section if such mortgage is held by the Secretary and the owner of such project is current with respect to the mortgage obligation, or (III) a project previously assisted under subsection (b) but without a mortgage insured under this section if the project was insured under section 207 of this Act before July 30, 1998, pursuant to section 223(f) of this Act and assisted under subsection (b); and

"(ii) to other project owners not referred to in clause (i) who collect such excess charges, but only to the extent that such retention and use is approved in advance in an appropriation Act.".

(c) PREVIOUSLY OWED EXCESS INCOME.—Section 236(g) of the National Housing Act (12 U.S.C. 1715z–1(g)), as amended by subsection (b) of this section, is further amended by adding at the end the following new paragraph:

"(4) The Secretary shall not withhold approval of the retention by the owner of such excess charges because of the existence of unpaid excess charges if such unpaid amount is being remitted to the Secretary over a period of time in accordance with a workout agreement with the Secretary, unless the Secretary determines that the owner is in violation of the workout agreement.".

(d) FLEXIBILITY REGARDING BASIC RENTS AND MARKET RENTS.—Section 236(f) of the National Housing Act (12 U.S.C. 1715z–1(f)(1)) is amended by striking the subsection designation and all that follows through the end of paragraph (1) and inserting the following:

"(f)(1)(A)(i) For each dwelling unit there shall be established, with the approval of the Secretary, a basic rental charge and fair market rental charge.

"(ii) The basic rental charge shall be—

"(I) the amount needed to operate the project with payments of principal and interest due under a mortgage bearing interest at the rate of 1 percent per annum; or

"(II) an amount greater than that determined under clause (ii)(I), but not greater than the market rent for a comparable unassisted unit, reduced by the value of the interest reduction payments subsidy.

"(iii) The fair market rental charge shall be—

"(I) the amount needed to operate the project with payments of principal, interest, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage covering the project; or

"(II) an amount greater than that determined under clause (iii)(I), but not greater than the market rent for a comparable unassisted unit.

"(iv) The Secretary may approve a basic rental charge and fair market rental charge for a unit that exceeds the minimum amounts permitted by this subparagraph for such charges only if—

"(I) the approved basic rental charge and fair market rental charges each exceed the applicable minimum charge by the same amount; and

"(II) the project owner agrees to restrictions on project use or mortgage prepayment that are acceptable to the Secretary.

"(v) The Secretary may approve a basic rental charge and fair market rental charge under this paragraph for a unit with assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) that differs from the basic rental charge and fair market rental charge for a unit in the same project that is similar in size and amenities but without such assistance, as needed to ensure equitable treatment of tenants in units without such assistance.

"(B)(i) The rental charge for each dwelling unit shall be at the basic rental charge or such greater amount, not exceeding the fair market rental charge determined pursuant to subparagraph (A), as represents 30 percent of the tenant's adjusted income, except as otherwise provided in this subparagraph.

"(ii) In the case of a project which contains more than 5000 units, is subject to an interest reduction payments contract, and is financed under a State or local project, the Secretary may reduce the rental charge ceiling, but in no case shall the rental charge be below the basic rental charge set forth in subparagraph (A)(ii)(I).

"(iii) For plans of action approved for capital grants under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 or the Emergency Low Income Housing Preservation Act of 1987, the rental charge for each dwelling unit shall be at the minimum basic rental charge set forth in subparagraph (A)(ii)(I) or such greater amount, not exceeding the lower of (I) the fair market rental charge set forth in subparagraph (A)(iii)(I), or (II) the actual rent paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located, as represents 30 percent of the tenant's adjusted income.

"(C) With respect to those projects which the Secretary determines have separate utility metering paid by the tenants for some or all dwelling units, the Secretary may—

"(i) permit the basic rental charge and the fair market rental charge to be determined on the basis of operating the project without the payment of the cost of utility services used by such dwelling units; and

"(ii) permit the charging of a rental for such dwelling units at such an amount less than 30 percent of a tenant's adjusted income as the Secretary determines represents a proportionate decrease for the utility charges to be paid by such tenant, but in no case shall rental be lower than 25 percent of a tenant's adjusted income.".

(e) EFFECTIVE DATE OF 1998 PROVISIONS.—Section 236(g) of the National Housing Act (12 U.S.C. 1715z–1(g)), as amended by section 227 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Public Law 105–276; 112 Stat. 2490) shall be effective on the date of the enactment of such Public Law 105-276, and any excess rental charges referred to in such section that have been collected since such date of the enactment with respect to projects with mortgages insured under section 207 of the National Housing Act (12 U.S.C. 1713) may be retained by the project owner unless the Secretary of Housing and Urban Development specifically provides otherwise. The Secretary may return any excess charges remitted to the Secretary since such date of the enactment.

(f) EFFECTIVE DATE.—This section shall take effect, and the amendments made by this section are made and shall apply, on the date of the enactment of this Act.

SEC. 533. REHABILITATION OF ASSISTED HOUSING.

(a) REHABILITATION LOANS FROM RECAPTURED IRP AMOUNTS.—Section 236(s) of the National Housing Act (12 U.S.C. 1715z–1(s)) is amended—

(1) by striking the subsection designation and heading and inserting the following:

"(s) GRANTS AND LOANS FOR REHABILITATION OF MULTIFAMILY PROJECTS.—";

(2) in paragraph (1), by inserting "and loans" after "grants";

(3) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "capital grant assistance under this subsection" and inserting "capital assistance under this subsection under a grant or loan only"; and

(B) in subparagraph (D)(i), by striking "capital grant assistance" and inserting "capital assistance under this subsection from a grant or loan (as appropriate)";

(4) in paragraph (3), by striking all of the matter that precedes subparagraph (A) and inserting the following:

"(3) ELIGIBLE USES.—Amounts from a grant or loan under this subsection may be used only for projects eligible under paragraph (2) for the purposes of—";

(5) in paragraph (4)—

(A) by striking the paragraph heading and inserting "GRANT AND LOAN AGREEMENTS"; and

(B) by inserting "or loan" after "grant", each place it appears;

(6) in paragraph (5), by inserting "or loan" after "grant", each place it appears;

(7) in paragraph (6), by adding at the end the following new subparagraph:

"(D) LOANS.—In making loans under this subsection using the amounts that the Secretary has recaptured from contracts for interest reduction payments pursuant to clause (i) or (ii) of paragraph (7)(A)—

"(i) the Secretary may use such recaptured amounts for costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of such loans; and

"(ii) the Secretary may make loans in any fiscal year only to the extent or in such amounts that amounts are used under clause (i) to cover costs of such loans.";

(8) by redesignating paragraphs (5) and (6) (as amended by the preceding provisions of this subsection) as paragraphs (6) and (7); and

(9) by inserting after paragraph (4) the following new paragraph:

"(5) LOAN TERMS.—A loan under this subsection—

"(A) shall provide amounts for the eligible uses under paragraph (3) in a single loan disbursement of loan principal;

"(B) shall be repaid, as to principal and interest, on behalf of the borrower using amounts recaptured from contracts for interest reduction payments pursuant to clause (i) or (ii) of paragraph (7)(A);

"(C) shall have a term to maturity of a duration not shorter than the remaining period for which the interest reduction payments for the insured mortgage or mortgages that fund repayment of the loan would have continued after extinguishment or writedown of the mortgage (in accordance with the terms of such mortgage in effect immediately before such extinguishment or writedown);

"(D) shall bear interest at a rate, as determined by the Secretary of the Treasury, that is based upon the current market yields on outstanding marketable obligations of the United States having comparable maturities; and

"(E) shall involve a principal obligation of an amount not exceeding the amount that can be repaid using amounts described in subparagraph (B) over the term determined in accordance with subparagraph (C), with interest at the rate determined under subparagraph (D).".

(b) IRP CAPITAL GRANTS REQUIREMENT FOR EXTENSION OF LOW-INCOME AFFORDABILITY REQUIREMENTS.—Section 236(s) of the National Housing Act (12 U.S.C. 1715z–1(s)) is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (C) and (D), as amended by the preceding provisions of this section, as subparagraphs (D) and (E), respectively; and

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) the project owner enters into such binding commitments as the Secretary may require (which shall be applicable to any subsequent owner) to ensure that the owner will continue to operate the project in accordance with all low-income affordability restrictions for the project in connection with the Federal assistance for the project for a period having a duration that is not less than the period referred to in paragraph (5)(C);"; and

(2) in paragraph (4)(B), by inserting "and consistent with paragraph (2)(C)" before the period at the end.

SEC. 534. TECHNICAL ASSISTANCE.

Section 514(f)(3) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by inserting after "new owners)" the following: ", for technical assistance for preservation of low-income housing for which project-based rental assistance is provided at below market rent levels and may not be renewed (including transfer of developments to tenant groups, nonprofit organizations, and public entities),".

SEC. 535. TERMINATION OF SECTION 8 CONTRACT AND DURATION OF RENEWAL CONTRACT.

Section 8(c)(8) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(8)) is amended—

(1) in subparagraph (A)—

(A) by striking "terminating" and inserting "termination of"; and

(B) by striking the third comma of the first sentence and all that follows through the end of the subparagraph and inserting the following: ". The notice shall also include a statement that, if the Congress makes funds available, the owner and the Secretary may agree to a renewal of the contract, thus avoiding termination, and that in the event of termination the Department of Housing and Urban Development will provide tenant-based rental assistance to all eligible residents, enabling them to choose the place they wish to rent, which is likely to include the dwelling unit in which they currently reside. Any contract covered by this paragraph that is renewed may be renewed for a period of up to one year or any number or years, with payments subject to the availability of appropriations for any year.";

(2) by striking subparagraph (B);

(3) in subparagraph (C)—

(A) by striking the first sentence;

(B) by striking "in the immediately preceding sentence";

(C) by striking "180-day" each place it appears;

(D) by striking "such period" and inserting "one year"; and

(E) by striking "180 days" and inserting "one year"; and

(4) by redesignating subparagraphs (C), (D), and (E), as amended by the preceding provisions of this subsection, as subparagraphs (B), (C), and (D), respectively.

SEC. 536. ELIGIBILITY OF RESIDENTS OF FLEXIBLE SUBSIDY PROJECTS FOR ENHANCED VOUCHERS.

Section 201 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a) is amended by adding at the end the following new subsection:

"(p) ENHANCED VOUCHER ELIGIBILITY.—Notwithstanding any other provision of law, any project that receives or has received assistance under this section and which is the subject of a transaction under which the project is preserved as affordable housing, as determined by the Secretary, shall be considered eligible low-income housing under section 229 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4119) for purposes of eligibility of residents of such project for enhanced voucher assistance provided under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)) (pursuant to section 223(f) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4113(f)))."

SEC. 537. ENHANCED DISPOSITION AUTHORITY.

Section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z–11a) is amended—

(1) by striking "and 1999" and inserting "1999, and 2000"; and

(2) by striking "or demolition" and inserting ", demolition, or construction on the properties (which shall be eligible whether vacant or occupied)".

SEC. 538. UNIFIED ENHANCED VOUCHER AUTHORITY.

(a) IN GENERAL.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by inserting after subsection (s) the following new subsection:

"(t) ENHANCED VOUCHERS.—

"(1) IN GENERAL.—Enhanced voucher assistance under this subsection for a family shall be voucher assistance under subsection (o), except that under such enhanced voucher assistance—

"(A) subject only to subparagraph (D), the assisted family shall pay as rent no less than the amount the family was paying on the date of the eligibility event for the project in which the family was residing on such date;

"(B) during any period that the assisted family continues residing in the same project in which the family was residing on the date of the eligibility event for the project, if the rent for the dwelling unit of the family in such project exceeds the applicable payment standard established pursuant to subsection (o) for the unit, the amount of rental assistance provided on behalf of the family shall be determined using a payment standard that is equal to the rent for the dwelling unit (as such rent may be increased from time to time), subject to paragraph (10)(A) of subsection (o);

"(C) subparagraph (B) of this paragraph shall not apply and the payment standard for the dwelling unit occupied by the family shall be determined in accordance with subsection (o) if—

"(i) the assisted family moves, at any time, from such project; or

"(ii) the voucher is made available for use by any family other than the original family on behalf of whom the voucher was provided; and

"(D) if the income of the assisted family declines to a significant extent, the percentage of income paid by the family for rent shall not exceed the greater of 30 percent or the percentage of income paid at the time of the eligibility event for the project.

"(2) ELIGIBILITY EVENT.—For purposes of this subsection, the term 'eligibility event' means, with respect to a multifamily housing project, the prepayment of the mortgage on such housing project, the voluntary termination of the insurance contract for the mortgage for such housing project, the termination or expiration of the contract for rental assistance under section 8 of the United States Housing Act of 1937 for such housing project, or the transaction under which the project is preserved as affordable housing, that, under paragraphs (3) and (4) of section 515(c), section 524(d) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note), section 223(f) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4113(f)), or section 201(p) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(p)), results in tenants in such housing project being eligible for enhanced voucher assistance under this subsection.

"(3) TREATMENT OF ENHANCED VOUCHERS PROVIDED UNDER OTHER AUTHORITY.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, any enhanced voucher assistance provided under any authority specified in subparagraph (B) shall (regardless of the date that the amounts for providing such assistance were made available) be treated, and subject to the same requirements, as enhanced voucher assistance under this subsection.

"(B) IDENTIFICATION OF OTHER AUTHORITY.—The authority specified in this subparagraph is the authority under—

"(i) the 10th, 11th, and 12th provisos under the 'Preserving Existing Housing Investment' account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations

Act, 1997 (Public Law 104–204; 110 Stat. 2884), pursuant to such provisos, the first proviso under the 'Housing Certificate Fund' account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Public Law 105–65; 111 Stat. 1351), or the first proviso under the 'Housing Certificate Fund' account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Public Law 105–276; 112 Stat. 2469); and

''(ii) paragraphs (3) and (4) of section 515(c) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note), as in effect before the enactment of this Act.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2000, 2001, 2002, 2003, and 2004 such sums as may be necessary for enhanced voucher assistance under this subsection.''.

(b) ENHANCED VOUCHERS UNDER MAHRAA.—Section 515(c) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by striking paragraph (4) and inserting the following new paragraph:

''(4) ASSISTANCE THROUGH ENHANCED VOUCHERS.—In the case of any family described in paragraph (3) that resides in a project described in section 512(2)(B), the tenant-based assistance provided shall be enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)).''.

(c) ENHANCED VOUCHERS FOR CERTAIN TENANTS IN PREPAYMENT AND VOLUNTARY TERMINATION PROPERTIES.—Section 223 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4113) is amended by adding at the end the following new subsection:

''(f) ENHANCED VOUCHER ASSISTANCE FOR CERTAIN TENANTS.—

''(1) AUTHORITY.—In lieu of benefits under subsections (b), (c), and (d), and subject to the availability of appropriated amounts, each family described in paragraph (2) shall be offered enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)).

''(2) ELIGIBLE FAMILIES.—A family described in this paragraph is a family that is—

''(A)(i) a low-income family; or

''(ii) a moderate-income family that is (I) an elderly family, (II) a disabled family, or (III) residing in a low-vacancy area; and

''(B) residing in eligible low-income housing on the date of the prepayment of the mortgage or voluntary termination of the insurance contract.''.

This Act may be cited as the ''Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000''.

And the Senate agree to the same.

JAMES T. WALSH,
TOM DELAY,
DAVID HOBSON,
JOE KNOLLENBERG,
ROD FRELINGHUYSEN,
ROGER WICKER,
ANNE M. NORTHUP,
JOHN E. SUNUNU,
BILL YOUNG,
ALAN MOLLOHAN,
MARCY KAPTUR,
CARRIE P. MEEK,
DAVID E. PRICE,
BUD CRAMER,
DAVID OBEY
(except for delayed funding gimmick),
Managers on Part of the House.

C.S. BOND,
CONRAD BURNS,
RICHARD SHELBY,
LARRY E. CRAIG,
KAY BAILEY HUTCHISON,
TED STEVENS,
BARBARA MIKULSKI,
PATRICK LEAHY,
FRANK R. LAUTENBERG,
TOM HARKIN,
ROBERT C. BYRD,
DANIEL INOUYE,
Managers on Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2684) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2000, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying report.

The language and allocations set forth in House Report 106–286 and Senate Report 106–161 should be complied with unless specifically addressed to the contrary in the conference report and statement of the managers. Report language included by the House which is not changed by the report of the Senate or the conference, and Senate report language which is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases in which the House or Senate have directed the submission of a report, such report is to be submitted to both House and Senate Committees on Appropriations.

Unless specifically addressed in this report, the conferees agree to retain the reprogramming thresholds for each department or agency at the level established by the fiscal year 1999 conference agreement.

TITLE I—DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

Provides up to $17,932,000 to be transferred to the general operating expenses and medical care accounts as proposed by the House instead of $38,079,000 as proposed by the Senate.

GUARANTEED TRANSITIONAL HOUSING LOANS FOR HOMELESS VETERANS PROGRAM ACCOUNT

Retains language proposed by the Senate providing $48,250,000 for the guaranteed transitional housing loans program account.

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

Appropriates $19,006,000,000 for medical care as proposed by the House instead of $18,406,000,000 plus $600,000,000 in emergency funding as proposed by the Senate. The conferees have recommended $1,700,000,000 above the President's request for medical care. According to the General Accounting Office, there are many opportunities to make VA health care more cost-effective. These include improved procurement practices, consolidating certain services, and eliminating excess management layers and administration. The conferees expect VA to continue implementing reforms and improvements to the way it allocates its resources, ensuring that funds are focused on veterans health, not maintaining buildings and the status quo. The additional funds in VA's budget are for improving the quality of and access to veterans health care, accommodating uncontrollable increased costs associated with pharmaceuticals and prosthetics, enhancing care for homeless veterans, expanding alternatives to institutional long-term care, and accommodating some new requirements upon enactment of authorizing legislation. The conferees direct that VA submit as part of its operating plan a detailed description of its plans for allocating the additional funds.

Retains the Senate provision making $900,000,000, approximately 5 percent of the medical care appropriation, available until September 30, 2001.

Delays the availability of $900,000,000 of the medical care appropriation in the equipment and land and structures object classifications until August 1, 2000, instead of delaying the availability of $635,000,000 as proposed by the House and Senate.

Retains language proposed by the Senate transferring not to exceed $27,907,000 from the medical care appropriation to the general operating expenses appropriation for expenses of the Office of Resolution Management (ORM) and the Office of Employment Discrimination Complaint Adjudication (OEDCA).

Retains language proposed by the Senate directing the VA to contract for a recovery audit program of past medical payments. The intent of the provision is to ensure that clinical diagnoses and treatments match the codes which are submitted to VA for payment, and where an overpayment has been made, to enable VA to recover these funds for medical care. The conferees are interested to learn the quality of VA's financial records and whether VA's data quality has an impact on its ability to recover overpayments under this program. The conferees direct VA to provide a report detailing the progress and success of this program within one year after enactment of this Act.

The conferees reiterate their frustration with the way VA handled the directed report on the National Formulary by the Institutes of Medicine. The conferees direct that the VA deliver the completed report by July 11, 2000. If the report is not available on that date, the conferees direct the VA to brief the Committees on Appropriations as to the status and reasons why the report is not completed. The conferees strike the language inserted by the House restricting classification activities.

The conferees are concerned about the availability of mental health services and direct the VA to submit one report to the House and Senate Committees on Appropriations addressing the concerns described in House Report 106–286 and Senate Report 106–161, no later than March 31, 2000.

In each of the past two fiscal years the Congress has provided funding from within the VISN 8 allocation for a demonstration program to study the cost-effectiveness of contracting inpatient health care services with local East Central Florida hospitals. Based on the success of the program and the significant increase in funding provided in this bill for medical care, the conferees direct the VA to continue the demonstration program in fiscal year 2000. The conferees direct the VA to submit a report by April 1, 2000 addressing the costs and benefits of this program and the applicability of expanding this program to other parts of the country. Due to the success of the program in VISN 8, the conferees view this program as a regular part of the VISN 8 system, not a demonstration, and expect that in future years any further funding or continuation considerations should be made on the demonstrated merits and available resources.

The conferees recommend $750,000 to continue VA's participation with the Alaska Federal Health Care Access Network.

The conferees direct the Department to continue the demonstration project involving the Clarksburg VAMC and the Ruby Memorial Hospital at West Virginia University.

The conferees encourage further deployment of the Joslin Vision Network as a high priority through available resources in the medical care account and not the medical and prosthetic research account as proposed by the House.

The conferees direct the VA to provide a report addressing the OIG findings and recommendations regarding local patient access to care, including the feasibility of a contracting demonstration program, for the medical care system serving Chattanooga, Tennessee by January 31, 2000.

The conferees direct the VA to submit a report on access to medical care and community-based outpatient clinics in Georgia's 7th Congressional District 30 days after the enactment of this bill.

In instances that significant deficiencies in quality of care and operations of VA medical facilities are identified by the VA Medical Inspector, the conferees expect that the VA will correct the deficiencies identified in the inspections and that resources such as the National Reserve Fund, other surplus resources, FTE, technical assistance, training and equipment should be made available on a priority basis to address the deficiencies.

The conferees are concerned that the VA medical system must cancel and/or reschedule healthcare appointments, creating an undue hardship to veterans. Furthermore, the conferees understand that the GAO is currently investigating this issue. Therefore, within 90 days after the GAO issues the final report on this issue, the conferees direct the VA to develop options to mitigate the hardship placed on veterans when the VA medical system cancels or reschedules their medical appointments and submit a report of those options to the committees.

The conferees urge the VA to partner with existing, federally-funded Community Health Care Centers to provide outpatient primary and preventive health care services to area veterans in their home communities. Such a plan would greatly enhance access to quality health care for veterans living in remote areas. The conferees urge the veteran populations in the following areas be included in such a program: Marshall County, Mississippi; Hardin County, Tennessee; and Letcher County, Kentucky.

The conferees support VA's efforts to undertake a three-year rural health care pilot program at the VAMC in White River Junction, Vermont. The rural health care services delivery model will explore new methods of optimizing surgical, ambulatory, and mental health care services in rural settings. VA estimates this will cost approximately $7,000,000 in fiscal year 2000.

The conferees urge the VA to make testing and treatment for hepatitis C broadly available to all veterans.

MEDICAL AND PROSTHETIC RESEARCH

Appropriates $321,000,000 for medical and prosthetic research, instead of $326,000,000 as proposed by the House and $316,000,000 as proposed by the Senate.

The conferees have not included the recommended funding as proposed by the House, but instead urge research endeavors in the areas of prostate imaging, bio-artificial kidney development, and artificial neural networks relating to the diagnosis and prognosis of heart disease, subject to the normal peer review procedures. The conferees are aware of bio-artificial kidney research being conducted by Dr. David Humes of the Ann Arbor VAMC and the University of Michigan.

The conferees direct $1,000,000 to the National Technology Transfer Center to establish a pilot program to assess, market, and license medical technologies researched in VA facilities. The conferees expect a report on the progress of this program by April 1, 2000.

The conferees are concerned about the review and oversight procedures protecting human subjects in research programs funded by the VA. The conferees believe an effective means of promoting adequate protections and informed consent for human subjects in VA research programs is ensuring that an appropriate mix of independent expertise is represented on Institutional Review Boards. Such boards have a special and sensitive responsibility to mentally ill veterans, who, because of the nature of their illness, may have difficulty fully understanding the purposes and risks associated with such research. The conferees therefore urge the VA to submit a report to the committees on the Department's progress for improving the functions and oversight of these boards, especially where they involve mental illness research, by March 31, 2000.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

Appropriates $59,703,000 for medical administration and miscellaneous operating expenses, instead of $61,200,000 as proposed by the House and $60,703,000 as proposed by the Senate.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

Appropriates $912,594,000 for general operating expenses as proposed by the Senate, instead of $886,000,000 as proposed by the House. The conferees provided $45,600,000, approximately 5 percent of the appropriation, to be available until September 30, 2001.

The conferees direct the immediate Office of the Secretary to limit travel expenditures to $100,000 in fiscal year 2000. The conferees are extremely concerned about recent findings of the Inspector General related to improper use of travel and representation funds by the Secretary and expect that the IG's recommendations will be implemented fully.

The conferees expect assurances that the Department is fiscally and logistically ready to consolidate computer services at the Austin Automation Center. Therefore, the conferees direct the VA to submit a report summarizing all cost/benefit studies regarding the consolidation and site readiness at Austin to accommodate the relocated services. The conferees direct that no funds in this Act will be used to relocate the center unless the VA submits the requested report to the Committees 60 days prior to moving operations from Hines.

NATIONAL CEMETERY ADMINISTRATION

Appropriates $97,256,000 for the National Cemetery Administration as proposed by the Senate instead of $97,000,000 as proposed by the House.

Restores language proposed by the Senate transferring not to exceed $90,000 ($84,000 for ORM and $6,000 for OEDCA) from the national cemetery administration appropriation to the general operating expenses appropriation for expenses of the Office of Resolution Management and the Office of Employment Discrimination Complaint Adjudication. Additional information on funding for these two offices is included under the VA's administrative provisions section of this report.

OFFICE OF INSPECTOR GENERAL

Appropriates $43,200,000 for the Office of Inspector General as proposed by the Senate, instead of $38,500,000 as proposed by the House.

Retains Senate language transferring not to exceed $30,000 from the Office of Inspector General appropriation to the general operating expenses appropriation for expenses of the Office of Resolution Management ($28,000) and the Office of Employment Discrimination Complaint Adjudication ($2,000). Additional information on funding for these two offices is included under the VA's administrative provisions section of this report.

CONSTRUCTION, MAJOR PROJECTS

Appropriates $65,140,000 for construction, major projects instead of $34,700,000 as proposed by the House and $70,140,000 as proposed by the Senate.

The conference agreement includes the following changes from the budget estimate:

+$10,000,000 for capital asset planning.

+$1,000,000 for the advance planning and design of the Lebanon VAMC renovation of patient care units and enhancements for extended care programs, contingent upon authorization.

+$500,000 for planning national cemeteries in the regions designated by the authorizing committees in the Atlanta area of Georgia, the Pittsburgh area of Pennsylvania, South Florida, and Northern California.

−$6,500,000 from available unobligated balances in the working reserve.

The conferees support a new national cemetery in the Lawton, OK area. VA expects to award a design contract for architectural and engineering services for this project in October 1999. The conferees expect the President's fiscal year 2001 budget will include construction funds for this project.

CONSTRUCTION, MINOR PROJECTS

Appropriates $160,000,000 for construction, minor projects instead of $102,300,000 as proposed by the House and $175,000,000 as proposed by the Senate.

Of the funds provided, the conferees direct $150,000 for "mothballing" four historic buildings at the Dayton VAMC in Dayton, Ohio; $3,000,000 for renovations of the research building at the Bronx VAMC in Bronx, New York; $500,000 for preparation of the satellite site at the National Cemetery at Salisbury, North Carolina; and $3,900,000 to convert unfinished space into research laboratories at the ambulatory care addition of the Harry S Truman VAMC. The conferees also request a study to examine and design a relocated entrance to the West Virginia National Cemetery in Grafton, West Virginia.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

Appropriates $90,000,000 for grants for construction of state extended care facilities as proposed by the Senate, instead of $87,000,000 ($80,000,000 in the grants for construction of state extended care facilities account and an additional $7,000,000 in Sec. 426 of the General Provisions) as proposed by the House.

GRANTS FOR CONSTRUCTION OF STATE VETERANS CEMETERIES

Appropriates $25,000,000 for grants for construction of state veterans cemeteries as proposed by the Senate, instead of $11,000,000 as proposed by the House.

ADMINISTRATIVE PROVISIONS

Deletes language proposed by the House authorizing the reimbursement of expenses for the Office of Resolution Management and the Office of Employment Discrimination Complaint Adjudication from other VA appropriations beginning in fiscal year 2000, and inserts language as proposed by the Senate transferring amounts in medical care ($27,907,000—$26,111,000 for ORM and $1,796,000 for OEDCA), national cemetery administration ($117,000—$111,000 for ORM and $6,000 for OEDCA), and Office of Inspector General ($30,000—$28,000 for ORM and $2,000 for OEDCA) to the general operating expenses appropriation. In addition, $2,068,000 is assumed in the general operating expenses appropriation for these activities. All funds for these two offices should be requested in the general operating expenses appropriation in fiscal year 2001.

The conferees recognize that transportation to VA hospitals and clinics is a major concern to many veterans in rural areas. The conferees direct the VA to conduct a study to determine to what extent geography and distance serve as a barrier to health care in rural areas. The conferees direct the VA to report its findings back to Congress no later than February 1, 2000. Furthermore, the conferees direct the VA to develop a proposal addressing this concern.

Both the House and Senate included provisions expressing the concern about the quality of and access to medical care for veterans in rural areas. The conferees consolidated the two provisions in this title under Sec. 108.

Retains Sec. 109, proposed by the House authorizing $11,500,000, originally appropriated in fiscal year 1998 to renovate Building 9 at the VAMC in Waco, Texas, to instead be used for renovation and construction of a joint venture cardiovascular institute at the Olin E. Teague VAMC in Temple, Texas.

In response to the GAO report, VA Health Care: Closing a Chicago Hospital Would Save Millions and Enhance Access to Services, the VHA established the VISN 12 Delivery Options Study Steering Committee to provide recommended options for optimally aligning resources with veteran needs. The conferees have concerns about the recommended option of the VISN 12 Delivery Options Study as it may be inconsistent with the GAO report. The conferees understand that the recommended option is under review and may lead to a realignment plan being proposed by VHA for VISN 12. Sec. 110 has been included to ensure appropriate consultation and input for all stakeholders.

Deletes bill language proposed by the Senate presuming cancer of the lung, colon, brain and central nervous system should be added to the list of radiogenic diseases presumed to be service-connected disabilities by the Department.

TITLE II—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING

HOUSING CERTIFICATE FUND

(INCLUDING TRANSFERS OF FUNDS)

Appropriates $11,376,695,000 for the housing certificate fund, instead of $10,540,135,000 as proposed by the House and $11,051,135,000 as proposed by the Senate. The conference agreement includes:

—$10,990,135,000 for expiring section 8 housing assistance contracts, tenant protections, including tenant protections for HOPE VI relocations, section 8 amendments, contract administration, enhanced vouchers, and contracts entered into pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act;

—$346,560,000 to provide 60,000 incremental section 8 housing assistance vouchers, to increase the number of low-income individuals and families receiving assistance; and

—$40,000,000 to provide section 8 housing vouchers to non-elderly, disabled residents who are affected by designation of public and assisted housing as "elderly-only" developments.

Within the overall totals for the housing certificate fund, the House bill provided $25,000,000 for non-elderly disabled residents and did not specify a division between the amounts for contract renewals and tenant protection vouchers, while the Senate bill provided $10,855,135,000 for contract renewals, $156,000,000 for tenant protection vouchers, and $40,000,000 for the non-elderly disabled. Neither bill provided funds for incremental vouchers.

The conferees note that the costs of renewing all expiring section 8 housing assistance contracts will continue to rise significantly from year to year. The 60,000 additional vouchers provided in the conference agreement will need to be funded in future years, and will place substantial burdens on the Congress. The conferees have agreed to fund these incremental vouchers for fiscal year 2000, based in part on the Administration's representation that it will endeavor to address the shortfalls in this account and to fully fund these and all other section 8 contracts in fiscal year 2001.

The conferees expect the Administration to submit a budget request for fiscal year 2001 that includes sufficient funding for the section 8 account, including vouchers added this year, consistent with the agreement reached between the Administration and the conferees.

While the conferees have included funds for incremental voucher assistance, they note that vouchers are not a panacea for low-income, affordable housing. The voucher program has significant problems, with families in many areas of the country unable to utilize effectively this housing subsidy, especially in high-cost areas where the payment standard of the voucher program may not be sufficient to cover market rents. Moreover, there is a substantial shortage of available, low-income affordable housing throughout the country, and vouchers do not provide an effective financing tool that will result in constructing additional affordable housing. Finally, there is a need for communities, nonprofits, public housing authorities and others to create links between all HUD programs, to ensure that housing and community development assistance is integrated to benefit the overall needs of the community.

Inserts language, as proposed by the Senate, making the amount set aside for non-elderly disabled persons affected by elderly-only designations also available to assist other disabled persons, to the extent that amounts are not needed to fund applications from those affected by designations.

Inserts language proposed by the House and not included by the Senate requiring HUD to determine section 8 administrative fees for public housing authorities under the requirements in effect before enactment of the Quality Housing and Work Responsibility Act of 1998.

Inserts language proposed by the Senate adopting the Administration's recommendation to provide $4,200,000,000 (within the overall totals given above for the housing certificate fund) in the form of an advance appropriation that will first become available in fiscal year 2001. This advance appropriation is intended to cover a portion of expenditures that will actually occur in fiscal year 2001 under section 8 contracts renewed during fiscal year 2000. The House did not include such an advance appropriation, but instead followed the past practice of providing all funds needed for fiscal year 2000 contract renewals in the form of a regular fiscal year 2000 appropriation.

Deletes language proposed by the Senate and not included by the House prohibiting funds from being expended for the Regional Opportunity Counseling program.

Inserts language, not included by either the House or the Senate, rescinding $1,300,000,000 in recaptured section 8 housing assistance funds from the Annual Contributions for Assisted Housing account and the Housing Certificate Fund account that are not expected to be needed in fiscal year 2000.

Inserts language, not included by either the House or the Senate, rescinding $943,000,000 in unobligated balances of funds previously appropriated in the Housing Certificate Fund or Annual Contributions for Assisted Housing accounts.

PUBLIC HOUSING CAPITAL FUND

(INCLUDING TRANSFERS OF FUNDS)

Appropriates $2,900,000,000 for the public housing capital fund instead of $2,555,000,000 as proposed by the Senate and the House. The conferees recommend an increase in this appropriation above the levels provided in either the House or the Senate bill, in recognition of the serious unmet needs for capital improvements to the nation's public housing. The conferees believe that providing adequate funding to renovate and improve these facilities is less costly than allowing them to fall into disrepair. Currently, HUD estimates that the 3,400 public housing authorities have a backlog of modernization needs that totals more than $20,000,000,000. This is due in large part to the age of the inventory, as at least half of the 1,322,000 apartments managed by public housing authorities are more than 30 years old and are home to almost 3,000,000 people, 43% of whom are 62 or older or have a disability. Families with children live in the remaining apartments. Public housing represents a major investment of federal resources over many years, and it is vital that funding be provided to properly preserve this taxpayer investment. Allowing more of these housing units to deteriorate to the point that they must be demolished and rebuilt would be a far more costly option.

Includes $75,000,000 for technical assistance under section 9(h) of the United States Housing Act of 1937, instead of $100,000,000 as proposed by the Senate and $50,000,000 as proposed by the House. The conferees note that section 9(h) includes the costs of travel, and have therefore deleted a House provision that provided $1,000,000 for travel costs. Finally, the conferees direct HUD to include in its operating plan a detailed description of the Department's plans for utilizing these technical assistance funds in fiscal year 2000, and to include a similarly detailed description in next year's budget justification regarding plans for use of any funds requested for fiscal year 2001. Unless such information is provided, the conferees would be very reluctant to continue appropriating funds for technical assistance in the future.

Includes $75,000,000 for the Secretary's discretionary fund for the purpose of making grants to PHAs for emergency capital needs resulting from emergencies and natural disasters. The House did not include a similar provision and the Senate expressly provided no funds for this activity under section 9(k)of the United States Housing Act of 1937.

PUBLIC HOUSING OPERATING FUND

Appropriates $3,138,000,000 for the public housing operating fund instead of $2,818,000,000 as proposed by the House, and $2,900,000,000 as proposed by the Senate. Like the increase to the public housing capital fund, this increase reflects the conferees' commitment to providing adequate resources to public housing—in this case for basic costs like water, gas and electric utilities, security, and routine maintenance.

Inserts language proposed by the Senate and not included by the House prohibiting funds from being used for the Secretary's discretionary fund under section 9(k) of the United States Housing Act of 1937.

The conferees direct HUD to delay implementing the Public Housing Assessment System (PHAS) until, in consultation with public housing authorities (PHAs) and their designated representatives, the Secretary: (a) conducts a thorough analysis of all advisory PHAS assessments; (b) reviews the GAO's study of the PHAS when it is complete; and (c) based on that analysis and review, publishes in the Federal Register a new consensus-based PHAS final rule that incorporates any recommended changes resulting from the process referenced above. Finally, HUD shall take all reasonable steps to minimize the costs and burdens the PHAS imposes on public housing authorities. The conferees intend that the PHAS, when finalized, acknowledge the complexities and practicalities inherent in managing large-scale apartment buildings and make allowances for these considerations.

Finally, the conferees note that the negotiated rule-making on revisions to the "performance funding system" formula for allocating operating subsidy funds appears to have stalled, in part because of lack of adequate data about actual costs of operating public housing. Therefore, before a proposed rule is published in the Federal Register, the conferees direct HUD to contract with the Harvard University Graduate School of Design to conduct a study on the costs incurred in operating well-run public housing and provide the results to the negotiated rule-making committee and the appropriate congressional committees. The final report shall be completed by October 1, 2000. The conferees direct that $3,000,000 from technical assistance funds in the public housing capital fund account be set-aside for this purpose.

DRUG ELIMINATION GRANTS FOR LOW INCOME HOUSING

(INCLUDING TRANSFER OF FUNDS)

Appropriates $310,000,000 for drug elimination grants, as proposed by the Senate instead of $290,000,000 as proposed by the House.

Includes $20,000,000 for the New Approach Anti-Drug program, as proposed by the Senate, rather than no funding as proposed by the House.

Includes $4,500,000 for technical assistance grants as proposed by the House instead of $5,000,000 as proposed by the Senate. Of this set-aside, $150,000 is for related travel as proposed by the House, instead of $250,000 as proposed by the Senate.

Deletes language proposed by the Senate and not included by the House requiring notice and comment rulemaking in all situations where HUD makes substantive changes to the grant program. Nevertheless, the conferees strongly believe in the value of notice and comment rulemaking, and remind the Department of the requirements set forth in the Administrative Procedures Act and in section 208 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act for fiscal year 1998. The conferees encourage the Department to institutionalize the drug elimination grant program through an appropriate rulemaking process.

REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING (HOPE VI)

Appropriates $575,000,000 for the revitalization of severely distressed public housing program as proposed by the House, instead of $500,000,000 as proposed by the Senate.

Inserts language proposed by the House and stricken by the Senate providing $10,000,000 for technical assistance, training, and necessary travel.

The conferees note the Department's success in leveraging local businesses, community organizations, residents, and other partners, to create residential computing centers in multifamily housing through the unfunded Neighborhood Networks Initiative. This initiative bridges the information technology gap in communities, helping hundreds of residents, such as those in The Terraces in West Baltimore, improve computer technology skills, which in turn increases job and education opportunities. The conferees believe that the opportunity to bridge the digital divide should also be available to HOPE VI residents and directs the Department to undertake an effort to adapt the Neighborhood Networks Initiative to new HOPE VI projects. The conferees further direct the Department to report on the status of its efforts to implement the Neighborhood Networks Initiative in HOPE VI communities no later than June 30, 2000.

The conferees direct the Department to contract with the Urban Institute to conduct an independent study on the long-term effects of the HOPE VI program on former residents of distressed public housing developments, focusing on the effects of relocation and improved community and supportive services. The conferees have provided $1,200,000 from within this account for this purpose. Because HOPE VI was established to address the social needs of residents as well as the physical distress of the housing, the conferees feel that it is important to assess the effectiveness of the social aspects of the program in order to better evaluate the accomplishments of the program.

NATIVE AMERICAN HOUSING BLOCK GRANTS

(INCLUDING TRANSFER OF FUNDS)

Includes $6,000,000 for technical assistance grants, of which $4,000,000 is for HUD and $2,000,000 is for the National American Indian Housing Council (NAIHC). The House provided the entire amount to HUD while the Senate provided $4,000,000 to NAIHC and $2,000,000 to HUD. Of the amount $200,000 is for related travel instead of $100,000 as proposed by the House and $300,000 as proposed by the Senate.

The housing and economic development problems faced by Indian tribes are unique because of the special status accorded to reservation lands. NAIHC has a proven technical assistance and training program that the conferees believe could be a valuable tool in addition to HUD's existing technical assistance programs. Prior to receiving the grant, the conferees expect NAIHC to provide a business plan to HUD and to the Committees on Appropriations for expending these funds. The plan should include performance measures and goals. Upon receipt and review of the plan, HUD is directed to enter into a contract with NAIHC, and to deliver the funds by March 1, 2000.

Inserts language proposed by the House and stricken by the Senate making a technical correction to bill language.

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

Inserts language proposed by the House and stricken by the Senate making a technical correction to bill language.

COMMUNITY PLANNING AND DEVELOPMENT

HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

Appropriates $232,000,000 for housing opportunities for persons with AIDS, as proposed by the Senate instead of $225,000,000 as proposed by the House. Of the amount, .75 percent is appropriated for technical assistance instead of .50 percent as proposed by the House and 1 percent as proposed by the Senate.

Deletes bill and report language proposed by the Senate requiring HUD to give priority to renewing existing programs. The House did not include similar language.

RURAL HOUSING AND ECONOMIC DEVELOPMENT

Appropriates $25,000,000 for rural housing and economic development as proposed by the Senate, instead of a $10,000,000 set-aside in the Community Development Block Grant (CDBG) account as proposed by the House. The conferees note that they intend to fully review HUD's Notice of Funding Availability (NOFA), which is the vehicle HUD has used to implement this program, and to make recommendations about its contents where necessary. Furthermore, the conferees reiterate their expectation that HUD will cooperate with the United States Department of Agriculture (USDA), review the requirements of USDA's rural development and housing programs, and incorporate USDA definitions and requirements in this program to the extent appropriate.

AMERICA'S PRIVATE INVESTMENT COMPANIES PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

Inserts new language providing $20,000,000 for America's private investment companies program account, contingent upon enactment of authorizing legislation prior to June 30, 2000. If the program is not authorized, the funds shall be transferred to the Community Development Financial Institutions program. Neither the House nor the Senate included a similar provision.

URBAN EMPOWERMENT ZONES

Inserts new language providing $55,000,000 for grants to urban empowerment zones to be used in conjunction with economic development activities detailed in the strategic plans of each empowerment zone. Neither the House nor the Senate included a similar provision.

RURAL EMPOWERMENT ZONES

Inserts new language providing $15,000,000 to the Secretary of the United States Department of Agriculture for grants to designated empowerment zones.

COMMUNITY DEVELOPMENT BLOCK GRANTS

(INCLUDING TRANSFERS OF FUNDS)

Appropriates $4,800,000,000 for community development block grants, as proposed by the Senate instead of $4,500,200,000 as proposed by the House. The conferees agree to the following earmarks:

—$41,500,000 for section 107 grants. The House provided $30,000,000 for section 107 grants and the Senate provided $41,500,000 for section 107 grants. The conference agreement provides the following earmarks:

—$3,000,000 is for community development work study;

—$10,000,000 is for historically black colleges and universities;

—$8,000,000 is for the Community Outreach Partnerships program;

—$7,000,000 is for insular areas;

—$2,000,000 is for native Hawaiian Serving Institutions and for Alaska Native Serving Institutions, to be divided evenly;

—$6,500,000 is for Hispanic Serving Institutions; and

—$5,000,000 is for management information systems;

—$2,200,000 for the National American Indian Housing Council instead of $3,000,000 as proposed by the House and $1,800,000 as proposed by the Senate;

—$20,000,000 for the Capacity Building for Community Development and Affordable Housing program, authorized by section 4 of P.L. 103–120, as in effect before June 12, 1997, instead of the $15,000,000 proposed by the House and $25,000,000 proposed by the Senate; of the amount provided in the conference report, at least $4,000,000 shall be for capacity building activities in rural areas;

—$3,750,000 for the capacity building activities of Habitat for Humanity International, as proposed by the House and instead of no funding as proposed by the Senate;

—$42,500,000 for Youthbuild, including $2,500,000 for a grant to Youthbuild USA for capacity building activities, the same as proposed by both the House and Senate (apart from a technical correction);

—$20,000,000 for grants to eligible grantees under section 11 of the Self-Help Housing Opportunity Program Extension Act of 1996, instead of $15,000,000 as proposed by the House. The Senate did not include funds for this item;

—$30,000,000 for the Neighborhood Initiatives program, instead of $20,000,000 as proposed by the House and no funding as proposed by the Senate;

—$5,000,000 is for the Institute for Software Research for construction related to a high-technology diversification initiative;

—$10,000,000 is for the City of Syracuse, New York, for the Neighborhood Initiative Program;

—$4,000,000 for Missouri, of which $1,500,000 shall be for the St. Louis Sustainable Neighborhoods Initiative, of which at least $500,000 shall be made available for the redevelopment of the Lemay community and at least $500,000 shall be for the redevelopment of Grand Rock community, both in St. Louis, and $2,500,000 shall be made available for Kansas City, Missouri, of which $1,500,000 shall be made available for the Midtown Community Development Corporation for the redevelopment of the Mount Cleveland community and $1,000,000 shall be made available for the East Meyer Community Association for the redevelopment of the East Meyer community; and

—$1,000,000 shall be for the Patterson Park Community Development Corporation to establish a revolving fund to acquire and rehabilitate properties in Baltimore, Maryland; $500,000 for the City of Suffolk, Virginia for the East Suffolk Gateway Redevelopment project; $500,000 for Fort Dodge, Iowa for the Soldier Creek neighborhood revitalization project; $750,000 for the Mitchell Development Corporation for economic development activities in Mitchell, South Dakota; $500,000 for the City of Green Bay, Wisconsin for Broadway Street revitalization; and $500,000 for the City of Yankton, South Dakota for the restoration of the downtown area and the development of the Fox Run Industrial Park;

—$29,000,000 for credit subsidy for section 108 loan guarantees as proposed by the Senate instead of $25,000,000 as proposed by the House. This level of credit subsidy should produce no more than $1,261,000,000 in loan guarantees as proposed by the Senate instead of $1,087,000,000 as proposed by the House; and,

—$275,000,000 for economic development grants, instead of $20,000,000 as proposed by the House and $110,000,000 as proposed by the Senate. The conferees agree to the following targeted economic development initiatives:

—$480,000 to the Town of Swearingen, Alabama for water system infrastructure improvements;

—$300,000 to Lamar County, Alabama for upgrading sewer and water supply systems;

—$140,000 to Rainsville, Alabama for infrastructure improvements to the town's industrial park;

—$60,000 to Haleyville, Alabama for purchase and renovation of a senior citizens center and a Head Start facility;

—$800,000 to the City of Mobile, Alabama for the waterfront development project;

—$500,000 to the University of Alabama for the construction of a child development facility;

—$500,000 to the University of South Alabama for the construction of an archaeological research facility;

—$250,000 to Stillman College in Tuscaloosa, Alabama for the construction and development of a health and wellness facility;

—$200,000 to the City of Daphine, Alabama for revitalization of the Daphne Bayfront Park;

—$1,500,000 to Union County, Arkansas to find alternative water sources to the Sparta Sands Aquifer;

—$1,000,000 to the City of Sierra Vista, Arizona for a wastewater treatment and effluent recharge facility;

—$500,000 to the Boys and Girls Club in Oxnard, California for the renovation and expansion of existing facilities;

—$250,000 to the County of San Bernardino, California for the rehabilitation of Fogelsong Pool in Barstow;

—$425,000 to the City of Highland, California for public park facilities to serve the recreational needs of the local community;

—$250,000 to the County of San Bernardino, California for a River Walk Nature and Bike Trail on the Mojave river between Mojave Narrows and Old Town Victorville;

—$425,000 to the County of San Bernardino, California for the Yucaipa Valley Regional Soccer Complex;

—$500,000 to the San Bernardino National Forest for Phase II construction of the Big Bear Discovery Center;

—$50,000 to the City of Twentynine Palms, California for the completion of the mural project;

—$100,000 to the City of Loma Linda, California for road infrastructure improvements;

—$1,000,000 to the City of San Juan Capistrano for the rehabilitation and historic preservation of the Mission San Juan Capistrano;

—$500,000 to the City of Citrus Heights, California for the revitalization of the Sunrise Mall;

—$750,000 to the City of Escondido, California for the development and infrastructure improvements associated with Quail Hills Industrial Park;

—$600,000 to the City of Tracy, California for the repair/construction of the Tracy Fire Station Number 1;

—$350,000 to the City of Riverside, California for the expansion of the Goeske Senior and Disabled Citizens Center;

—$350,000 to the City of Fountain Valley, California for the expansion of the Mile Square Regional Park recreation facility;

—$350,000 to the City of Huntington Beach, California for soil remediation and cleanup activities in Huntington Central Park;

—$1,000,000 to the City of San Diego, California for the San Diego Children's Convalescent Hospital;

—$100,000 to the City of Arcadia, California for the Arcadia Historical Museum;

—$400,000 to the City of Claremont, California for construction of a community center;

—$1,000,000 to the City of Pasadena, California for renovation and rehabilitation of the Pasadena Civic Auditorium;

—$20,000 to the City of Glendale, California for city infrastructure improvements;

—$250,000 to Shelter From the Storm, Inc., a battered women's and children's center in Palm Desert, California;

—$250,000 to the City of El Segundo, California for the design and development of the Douglas Street Gap Closure project;

—$200,000 to the County of Tulare, California for road infrastructure improvements;

—$400,000 to the City of Bakersfield, California to redevelop downtown Bakersfield through the Mobility Opportunities via Education initiative;

—$100,000 to the County of Tulare, California for construction of an international trade center;

—$600,000 to the Klingberg Family Centers in New Britain, Connecticut for the expansion of their school;

—$250,000 to the City of Miami Beach, Florida for the North Beach Recreation Corridor Initiative;

—$600,000 to the City of Largo, Florida for economic development and infrastructure improvements;

—$1,400,000 to the City of Clearwater, Florida for costs associated with the development of a regional stormwater retention facility;

—$300,000 to the City of Edgewater, Florida for the construction of an emergency shelter;

—$400,000 to the City of Jacksonville, Florida for the development of an ecosystem tourist program;

—$300,000 to the City of Jacksonville, Florida for the Lower East Side/Upper Deer Creek Stormwater Project;

—$1,250,000 to the Town of Milton, Florida for the construction of a hurricane shelter;

—$250,000 to the City of Miami, Florida for the OpSail Miami 2000 cultural exchange program;

—$500,000 to the Tubman African American Museum in Macon, Georgia for development of a new facility;

—$400,000 to the City of Savannah, Georgia for development of a youth facilty;

—$500,000 to Rockdale County, Georgia for the development of Georgia Veterans' Park;

—$500,000 to the Village of Hampshire, Illinois to construct new drinking water facilities;

—$500,000 to the Haymarket Center in Haymarket, Illinois for a community and family learning center;

—$750,000 to Edward Hospital in Naperville, Illinois for the construction of a women and children's pavillion;

—$250,000 to the Town of Cortland, Illinois for water treatment facility improvements;

—$250,000 to the Town of Steward, Illinois for water treatment facility improvements;

—$500,000 to Loyola University, Illinois for expansion of their computer and information resource centers;

—$500,000 to the Safe Haven Foundation, Inc. in Indianapolis, Indiana to expand domestic violence shelters and related services;

—$250,000 to Ball State University, Indiana for the development of the Workforce Technology Enhancement Project;

—$500,000 to Tri-State University, Indiana for the expansion, renewal, and renovation of their Business and Engineering Departments, including the Tri-State Leadership Institute and Center;

—$1,000,000 to the Home of the Innocents in Louisville, Kentucky for the expansion and relocation of a facility to help abused children;

—$500,000 to the Wayne County, Kentucky Historical Society to complete the renovation and restoration of the Wayne County Historical Museum;

—$500,000 to the Kentucky Highlands Investment Corporation in London, Kentucky for expansion of a venture capital fund;

—$500,000 to the Center for Rural Development in Somerset, Kentucky for continued development and training for a regional teleconferencing network;

—$250,000 to Bell County, Kentucky for renovation of the Pine Mountain Park Amphitheater;

—$250,000 to the Magoffin County, Kentucky Historical Society for the expansion of the Pioneer Tourist Information and Visitor Center;

—$250,000 to Montgomery County, Kentucky for redevelopment of a community center;

—$300,000 to the Port of South Louisiana for the expansion of the Globalplex Intermodal Terminal Facility;

—$100,000 to the City of New Iberia, Louisiana for economic development and revitalization of the downtown area;

—$50,000 to the City of Thibodaux, Louisiana for infrastructure improvements to the Civic Center;

—$50,000 to St. Charles Parish, Louisiana for the enhancement of the parks and recreation system;

—$100,000 to Plaquemines Parish, Louisiana for enhancements and upgrades to their Disaster Communications Center;

—$100,000 to Nicholls State University in Louisiana for expansion and development of the Family and Consumer Science Program;

—$300,000 to Wayne State University in Michigan for infrastructure improvements to the Merrill-Palmer Institute's child care research facilities;

—$500,000 to Wayne County, Michigan for enhancement of geographical information systems to expedite economic development;

—$100,000 to the City of Detroit, Michigan for the Covenant House, a long-term transitional living facility for homeless adults;

—$250,000 to the National Eagle Center community development project in Wabasha, Minnesota;

—$1,100,000 to the City of Fulton, Mississippi for water infrastructure improvements for the Northeast Mississippi Regional Water Supply District;

—$200,000 to the Town of Sardis, Mississippi for economic development and related infrastructure and recreational facilities;

—$550,000 to the City of Lincoln, Nebraska for Cedars Youth Services for the development of a youth home;

—$750,000 to Wake Forest University in North Carolina for the continued development of the University's Baptist Medical Center;

—$250,000 to the Town of Berlin, New Hampshire for the Northern Forest Heritage Park;

—$300,000 to the Town of Tamworth, New Hampshire for the construction of a multiservice community center;

—$1,000,000 to the Child Health Institute in New Jersey for development;

—$550,000 to the Morris County Urban League, New Jersey to support community outreach and child care initiatives;

—$100,000 to the Town of Dover, New Jersey to renovate and establish El Primer Paso, an early childhood education center;

—$350,000 to the Morris Area Girl Scout Council in Randolph, New Jersey for upgrading facilities at Jockey Hollow campgrounds;

—$300,000 to the County of Bernalillo, New Mexico to conduct a feasibility study and design for the Wheels Museum;

—$200,000 to the City of Albuquerque, New Mexico for restoration planning and design of the Albuquerque Little Theatre;

—$1,000,000 to the Buffalo Economic Renaissance Corporation in New York for the development of the Atlantic Corridor business exchange and education program;

—$345,000 to Wayne County, New York for anti-erosion measures and construction on Port Bay Barrier Bar;

—$500,000 to the Water Systems Council in Glenellen, Illinois for rural water infrastructure;

—$155,000 to the Town of Amherst, New York for rehabilitation of the Amherst Senior Center;

—$750,000 to Rural Opportunities, Inc. in Rochester, New York for the establishment of the Rural Opportunities Affordable Housing Alliance to expand housing opportunities in rural communities;

—$700,000 to the Port Authority of New York and New Jersey for construction and dredging of the Arthur Kill at Howland Hook Marine Terminal;

—$100,000 to the New York City Economic Development Corporation for the Fifth Avenue Reconstruction in Bay Bridge, Brooklyn, New York;

—$750,000 to the State University of New York at Stonybrook in Islip, New York for the Center for Emerging Technology;

—$1,000,000 to Carnegie Hall in New York City, New York for the Third Stage Project;

—$400,000 to Neve Yerushalayim College in Brooklyn, New York for the development of a Residential Community Center;

—$500,000 to the Town of Babylon, New York for revitalization of the Babylon Citizen's Cultural Resource Center;

—$1,000,000 to the Town of Massena, New York for the construction of the St. Lawrence Aquarium and Environmental Research Institute;

—$1,000,000 to the County of Schuyler, New York for the Schuyler County Partnership for Economic Development to develop a business park and revitalize Watkins Glen International;

—$200,000 to the New York Institute of Technology for the rehabilitation of Robbins Hall;

—$200,000 to the Village of Amityville, New York for construction and revitalization of the Village's downtown area;

—$3,000,000 to Olympic Regional Development Authority, New York for upgrades at Mt. Van Hoevenberg Sports Complex;

—$500,000 to the Village of Freeport, New York to revitalize the Nautical Mile;

—$275,000 to the Town of New Brunswick, New York for the extension of a water line to a senior housing project;

—$225,000 to the Town of East Greenbush, New York for road infrastructure improvements;

—$450,000 to the County of Cortland, New York for the acquisition and remediation of the Contento scrapyard;

—$1,000,000 to St. Joseph's Hospital Health Center for the Central New York Cardiac Care and Hemodialysis Enhancement Center in Syracuse, New York;

—$250,000 to the City of Syracuse, New York for renovations to the Media Unit Building;

—$450,000 to the City of Syracuse, New York for the renovation and revitalization of the Everson Museum;

—$1,000,000 to the University of Syracuse in New York for rehabilitation and community redevelopment of the Marshall Street area;

—$450,000 to the City of Syracuse, New York for rehabilitation and conversion of part of the former NYNEX building into a parking garage;

—$500,000 to Onondaga County, New York for infrastructure improvements involved in the expansion of the New Venture Gear Facility;

—$500,000 to the City of Syracuse, New York for renovations to the O.M. Edwards Building;

—$250,000 to the City of Syracuse, New York for renovations to the Dunbar Center;

—$440,000 to the Village of Weedsport, New York for the construction of a water storage facility;

—$150,000 to the City of Auburn, New York for renovation of the Schine Theater;

—$100,000 to the Village of Newark Valley, New York for the construction of a new well;

—$160,000 to the Town of Victory, New York for the extension of a water line;

—$300,000 to the Town of Elbridge, New York for extension of a water line to provide additional fire protection for the Tessy Plastics facility;

—$500,000 to the Southeastern Otsego Health Center in Worchester, New York to enhance their health care facilities;

—$500,000 to the Dominican College in Orangeburg, New York to establish a Center for Health Sciences;

—$600,000 to the New York State Education and Research Network for support of advanced application implementation on high performance networks;

—$500,000 to the State University of New York at Albany, New York to establish an economic development/workforce training initiative;

—$700,000 to the Hebrew Academy for Special Children in New York for expansion of a developmentally disabled children program;

—$250,000 to the Orange County Mental Health Association in Orange County, New York to provide enhanced health care services;

—$700,000 to the University Colleges of Technology of the State University of New York for the development of the Telecommunications Center for Education;

—$700,000 to the Children's Center of Brooklyn, New York for the construction of a facility to house educational and therapeutic programs for disabled preschool children;

—$1,000,000 to Wittenberg University, Ohio for rehabilitation and renovation of a Science Center facility;

—$500,000 to the Greene County, Ohio Park District to construct a composite materials bicycle/pedestrian bridge;

—$1,000,000 to Holmes County, Ohio for the construction of a wellness center;

—$400,000 to the University of Cincinnati for renovation of the medical science building;

—$1,500,000 to the City of Oklahoma City, Oklahoma for the loan fund created to assist with recovery efforts from the Oklahoma City bombing;

—$360,000 to the Borough of New Hope, Pennsylvania for redevelopment and revitalization of the site formerly known as Union Camp;

—$40,000 to the Township of Tinicum, Pennsylvania for a floodplain delineation/hydraulic modeling study;

—$400,000 to Wyoming County, Pennsylvania for a radiological facility at the Tyler Memorial Hospital in Tunkhannock;

—$500,000 to Calhoon County, South Carolina for economic development and infrastructure improvements;

—$300,000 to Carter County, Tennessee for road construction and water infrastructure improvements;

—$300,000 to the ArtSpace Victory Arts Center in Texas for the revitalization of the Our Lady of Victory Convent;

—$350,000 to the City of Lubbock, Texas for development of the American Wind Power Center;

—$350,000 to the City of Lubbock, Texas for the Texas Aviation Heritage Foundation;

—$1,000,000 million to the Salt Lake City Organizing Committee for housing infrastructure improvements for the Olympics and Paralympics;

—$50,000 to the Town of Shenandoah, Virginia for the establishment of a comprehensive economic development strategy;

—$1,000,000 to Warren County, Virginia for asbestos remediation and lead paint removal at the Avtex Superfund Site in Front Royal, Virginia;

—$500,000 to Fairfax County, Virginia to revitalize low and moderate income housing;

—$500,000 to the George Mason University in Virginia to develop and enhance the National Center for Technology and the Law;

—$500,000 to the City of Covington, Washington to replace substandard water lines in the Covington Water District/Timberline Estate Development;

—$50,000 to the City of Enumclaw, Washington for the development of a Welcome Center Facility;

—$1,000,000 to the National Children's Advocacy Center in Huntsville, Alabama for the establishment of a research and training facility;

—$200,000 to Alabama A&M University in Normal, Alabama for the renovation of historic buildings on the university's campus;

—$150,000 to the Children's Museum of the Shoals in Florence, Alabama for the establishment of a hands-on discovery museum;

—$125,000 to the Princess Theater in Decatur, Alabama for the renovation and operation of the current facility;

—$25,000 to the Limestone County Veteran's Museum and Archives in Limestone County, Alabama for establishment of a veteran's museum in the City of Athens, Alabama;

—$250,000 to the Arizona Science Center in Yuma, Arizona for its after-school program for inner-city youth;

—$150,000 to the City of Yuma, Arizona for its downtown rejuvenation project involving the Historic Yuma Theatre;

—$100,000 to the City of Phoenix, Arizona for the Westwood Neighborhood Redevelopment Project;

—$250,000 to the Central American Resource Center (CARECEN) in Los Angeles, California for the rehabilitation of the Youth and Family Technology and Education Floor at its community center;

—$400,000 to the County of Merced, California for planning for UC-Merced and University Village;

—$400,000 to the City of Culver City, California for construction of the Culver City Senior Center;

—$400,000 to the Los Angeles Neighborhood Initiative (LANI) for the South Robertson Neighborhood project;

—$150,000 to the Carmel Highlands Fire Protection District, California for the construction of a new fire station;

—$150,000 to the City of Hollister, California for the construction of a new fire station;

—$200,000 to the City of Alhambra, California for the Fire Station Training Center Project;

—$100,000 to the City of Norwalk, California for construction of a new senior citizen center;

—$200,000 to the City of Maywood, California for the design and construction of a community center for at-risk youth and seniors;

—$10,000 to the City of Los Angeles Cultural Affairs Department in Los Angeles, California for the Chinatown Gateway Project to build an archway in Chinatown;

—$80,000 to the City of Los Angeles, California for the redevelopment of the Sears and Prison Industrial sites in the downtown area;

—$100,000 to The East Los Angeles Community Union (TELACU) in Los Angeles, California for the renovation of a sixty-acre industrial park;

—$10,000 to the Los Angeles County Community Development Commission in Los Angeles, California for a telemedicine program in the east Los Angeles area;

—$300,000 to the City of San Leandro, California for the Gateway to the East Bay Initiative;

—$100,000 to the Pacific Union College in Angwin, California for the Napa Valley Resource Center job training program;

—$400,000 to the Sacramento Housing and Redevelopment Agency in Sacramento, California for the rehabilitation of the Franklin Villa housing development;

—$500,000 to the City of New Haven, Connecticut for the restoration and rehabilitation of the West River Memorial Park;

—$200,000 to the Mystic Seaport in Mystic, Connecticut for the design and construction of the American Maritime Education and Research Center;

—$300,000 to Building Bridges Across the River in Washington, District of Columbia for the continued development and construction of a recreation and performing arts center in Ward 8;

—$400,000 to the City of Monticello, Florida for the refurbishment of the Jefferson County High School building as a community center;

—$1,700,000 to the City of Miami, Florida for the development of a Homeownership Zone to assist residents displaced by the demolition of public housing in the Model City area;

—$300,000 to the City of Gainesville, Florida for the planning, design and implementation of the Depot Avenue Project;

—$400,000 to the City of Atlanta, Georgia for the design and construction of a community center adjacent to the Martin Luther King, Jr. Historic District;

—$350,000 to the City of East St. Louis, Illinois for the renovation of the former Cannady School into a Vocational Charter School;

—$1,000,000 to the Rush-Presbyterian St. Luke's Medical Center in Chicago, Illinois for the design, construction and operation of a research center for the elderly;

—$250,000 to Black Hawk College in East Moline, Illinois for the design and construction of a business and continuing education conference center;

—$200,000 to the City of Harvey, Illinois to establish a pilot program for neighborhood stabilization, including demolition of vacant homes, land-banking of vacant properties and renovation of occupied homes;

—$200,000 to the Illinois International Port District in Chicago, Illinois for dockwall repairs at Port of Chicago and Lake Calumet;

—$300,000 to the City of Chicago, Illinois for the South Chicago Housing Initiative at the former USX South Works site;

—$200,000 to the Village of Chicago Ridge, Illinois for the construction of a municipal law enforcement complex;

—$200,000 to the Township of Stickney, Illinois for the renovation of the Stickney Township North Clinic;

—$400,000 to Wyatt Community Life Center in Chicago, Illinois for health, education and job training needs of underserved populations;

—$200,000 to the City of Elkhart, Indiana for the continuation of the Building the American Dream initiative;

—$500,000 to the Town of Griffith, Indiana for stormwater and sewer separation;

—$100,000 to Northern Kentucky University in Highland Heights, Kentucky for the purchase of computers, books and supplies at the Urban Learning Center;

—$500,000 to the City of Boston, Massachusetts for redevelopment in the historic Tremont Street midtown area;

—$400,000 to the Springfield Library and Museum Association in Springfield, Massachusetts for construction and infrastructure improvement needs related to a national memorial and park honoring Theodor Geisel;

—$250,000 to the Greater Holyoke YMCA in Holyoke, Massachusetts for the continuation of the Expanding Horizons Downtown for Children and Families capital campaign;

—$250,000 to Hampshire College in Amherst, Massachusetts for construction of the National Center for Science Education;

—$500,000 to the University of Maryland in College Park, Maryland for the renovation of the James McGregor Burn Academy of Leadership;

—$100,000 to the Bowie-Crofton Business and Professional Women's (BPW) Choices and Challenges Program in Bowie, Maryland for the purchase of computers, educational software and other educational materials;

—$600,000 to Macomb Township, Michigan for site preparation, site development and equipment purchase related to Waldenburg Park;

—$600,000 to the City of St. Clair Shores, Michigan for enhancement of the Jefferson Avenue corridor;

—$400,000 to the City of Pontiac, Michigan for the renovation and rehabilitation of the Strand Theatre;

—$275,000 to Fairview Health Services in Elk River, Minnesota for the expansion of the Elk River primary care clinic;

—$600,000 to the Minneapolis Urban League City of Minneapolis, Minnesota for planning and construction of a multi-purpose business development center in north Minneapolis;

—$100,000 to Better Family Life in St. Louis, Missouri for construction of a new facility;

—$50,000 to the Black World History Wax Museum in St. Louis, Missouri for structural renovations and accessibility improvements;

—$100,000 to the Black Repertory Company in St. Louis, Missouri for renovation of a facility;

—$250,000 for People's Health Centers in St. Louis, Missouri for the construction of an elderly day care and physical fitness center;

—$1,000,000 to the St. Louis City Department of Parks, Recreation and Forestry in

St. Louis, Missouri for the ongoing restoration of Forest Park;

—$500,000 to the St. Louis City Department of Parks, Recreation and Forestry in St. Louis, Missouri for modernization of facilities and restorations at Carondelet Park;

—$200,000 to the Union Station Assistance Corporation in Kansas City, Missouri for construction of the passenger rail services facility;

—$200,000 to the City of Jackson, Mississippi for the capitalization of a home mortgage program for first-time home buyers;

—$200,000 to the City of Jackson, Mississippi for the capitalization of a home improvement loan program;

—$400,000 to Greene County Health Care in Snow Hill, North Carolina for facility enhancements;

—$250,000 to the Town of Navassa, North Carolina for the construction of a community center;

—$600,000 to the City of Durham, North Carolina for the Durham Regional Finance Center to acquire and renovate office space;

—$250,000 to the Town of Chapel Hill, North Carolina for the activities of the Community Land Trust in Orange County;

—$250,000 to the Community Reinvestment Association of North Carolina in Raleigh, North Carolina for economic literacy activities;

—$200,000 to the Eagle Village Community Development Corporation in Durham, North Carolina for community development activities;

—$200,000 for the Park Performing Arts Center in Union City, New Jersey for facilities renovation;

—$300,000 to the City of Newark, New Jersey for the restoration and beautification of area urban parks;

—$1,000,000 to Little Flowers Children's Services in Wading River, New York for construction of residential colleges and for educational and therapeutic services to children who have been separated from their parents;

—$400,000 to the City of Kingston, New York for the rehabilitation and renovation of its City Hall;

—$950,000 for the Town of Tonawanda, New York, for construction of low-income and mixed income housing, giving priority to the Blind Association of Western New York for construction of low-income and mixed income housing for physically disabled persons;

—$500,000 to the City of New Rochelle, New York for streetscape improvements to North Avenue;

—$200,000 to the New York Foundation for Senior Citizens for construction of an 89 unit senior citizens apartment complex in New York County, New York;

—$400,000 to the Bronx Museum of the Arts in New York, New York for infrastructure improvements, construction, renovation, operation and facility upgrades;

—$150,000 to the Mount Hope Housing Company in New York, New York for renovation of a multi-use community center;

—$150,000 to the New York City Department of Parks and Recreation in New York, New York for phase three of the rebuilding and restoration of Joyce Kilmer Park in South Bronx, New York;

—$170,000 to the David Hochstein Memorial Music School in New York for renovations and equipment related to a historic church sanctuary to serve as a performance hall;

—$80,000 to the Rochester Association of Performing Arts, School of Performing Arts in New York for restoration and renovation of the School;

—$200,000 to the City of Dayton, Ohio for land acquisition for the Tool Town precision metalworking park;

—$1,400,000 to the City of Toledo, Ohio for improvements to central city neighborhoods and rejuvenation near the downtown historic commercial district, in cooperation with area not-for-profit community development corporations;

—$700,000 to the Ohio Department of Development in Columbus, Ohio for the Safe Water Fund and rural development initiatives including cultural arts centers in Lucas, Fulton, Wood and Ottawa Counties, Ohio;

—$200,000 to the City of Detroit, Oregon for sewer system design engineering in cooperation with the City of Idanha, Oregon;

—$200,000 to the Regional Industrial Development Corporation of Southwestern Pennsylvania's Growth Fund in Pittsburgh, Pennsylvania for asbestos abatement and removal of blast furnace stocks located on the Duquesne and McKeesport brownfield sites in Allegheny County, Pennsylvania;

—$200,000 to the Schuylkill County Fire Fighters Association for a smoke-maze building on the grounds of the firefighters facility in Morea, Pennsylvania;

—$300,000 to the City of Nanticoke, Pennsylvania for economic development initiatives;

—$500,000 to Camp Kon-O-Kwee/Spencer YMCA camp in Beaver County, Pennsylvania for construction of a wastewater treatment facility;

—$350,000 to Rostraver Township, Westmoreland County, Pennsylvania for wastewater infrastructure upgrades and extension of sanitary sewer lines into previously unserved areas;

—$540,000 to the Cambria County Commissioners in Cambria County, Pennsylvania for the design and construction of a recreation facility in northern Cambria County;

—$260,000 to the Fort Ligonier Association in Westmoreland County, Pennsylvania for restoration of Fort Ligonier;

—$500,000 to the Indiana County Commissioners in Indiana, Pennsylvania for rehabilitation of the downtown area;

—$300,000 to Mount Aloysius College in Cresson, Pennsylvania for the restoration of a historic boiler house;

—$500,000 to Fallingwater in Mill Run, Pennsylvania for rehabilitation of concrete cantilevers;

—$500,000 to the Johnstown Area Heritage Association in Johnstown, Pennsylvania for facilities renovation and exhibition development;

—$250,000 to the University of Puerto Rico (UPR) for the renovation and restoration of the UPR Theater;

—$500,000 to the Berkeley-Charleston-Dorchester Council of Governments for planning and construction of the Parkers Ferry Community Center in Charleston County, South Carolina;

—$400,000 to Lee County, South Carolina for the renovation of the old Ashwood School into a community center;

—$100,000 to the Town of Santee, South Carolina for construction of the Santee Cultural Arts and Visitor's Center;

—$250,000 to the Memphis Zoo in Memphis, Tennessee for the Northwest Passage Campaign;

—$400,000 to the City of Waco, Texas for unmet housing needs;

—$400,000 to the Natural Gas Vehicle Coalition in Arlington, Virginia for expansion of the Airport-Alternative Fuel Vehicle Demonstration Project to Dallas-Fort Worth Airport and other locations nationally;

—$150,000 to the Acres Home Citizen's Chamber of Commerce in Houston, Texas for services provided through the Acres Home Consortium;

—$50,000 to the South Dallas Fairpark Inner City Community Development Corporation in Dallas, Texas for community housing development programs;

—$50,000 to the Southfair Community Development Corporation in Dallas, Texas for community housing development programs;

—$100,000 to the West Dallas Neighborhood Development Corporation in Dallas, Texas for community housing development programs;

—$250,000 to Arlington-Alexandria Coalition for the Homeless (AACH) in Arlington, Virginia for the purchase of the property that houses its Community Resource Center;

—$250,000 to the Borromeo Housing Foundation in Arlington, Virginia to establish a permanent Second Chance Home for unwed mothers;

—$200,000 to the Campagna Center in Alexandria, Virginia to support the This Way House program;

—$250,000 to the City of Virginia Beach, Virginia for the Virginia Marine Science Museum's Phase III expansion plan;

—$300,000 to the Admiral Theater Foundation in Bremerton, Washington for continuing renovations and improvements at the Admiral Theatre;

—$100,000 to the City of Tacoma, Washington for supplementation of the Tacoma Housing Trust Fund;

—$400,000 to the City of Madison, Wisconsin for affordable housing initiatives;

—$900,000 to the West Virginia School of Osteopathic Medicine Foundation in Lewisburg, West Virginia for the construction of a multi-use museum and cultural education center;

—$900,000 to the Southern West Virginia Community and Technical College in Williamson, West Virginia for the construction, equipping and furnishing of a library;

—$250,000 to the Berkeley County, West Virginia Commission for the Historic Baltimore and Ohio Roundhouse Renovation Project;

—$225,000 to the Gilmer County, West Virginia Commission for a museum and cultural education center;

—$500,000 to the Gilmer County, West Virginia Commission for the planning and construction of a senior center;

—$225,000 to the Calhoun County, West Virginia Commission for a museum and cultural education center;

—$700,000 to the Kanawha County, West Virginia Commission for the activities of the Upper Kanawha Valley Enterprise Community;

—$2,000,000 to the Vandalia Heritage Foundation for promotion of community and economic development;

—$1,150,000 to the City of Fairmont, West Virginia to be distributed as follows: $1,000,000 to the Fairmont Community Development Partnership, and $150,000 to the Women's Club of Fairmont;

—$300,000 to the Marion County Camp Board Association in Marion County, West Virginia for facilities enhancement at Camp Mar-Mac;

—$1,000,000 to the City of Shinnston, West Virginia for design and construction of city park facilities;

—$500,000 to the Mid-Atlantic Aerospace Complex in Bridgeport, West Virginia for economic development efforts;

—$300,000 to the Institute for Software Research in Fairmont, West Virginia for capital equipment, operational expenses and program development;

—$100,000 to the St. Louis County Port Authority for the remediation of the National Lead Site;

—$500,000 for the City of Union for infrastructure improvements to the Union Corporate Center, Missouri;

—$1,000,000 for City of Knoxville, Tennessee for economic development training for low-income people;

—$700,000 for the Minnesota Housing Finance Agency for the preservation of federally assisted low-income housing at risk of being lost as affordable housing;

—$1,700,000 for the Sheldon Jackson College Auditorium in Sitka, Alaska for refurbishing;

—$250,000 for Northern Initiatives in the Upper Peninsula of Michigan for the capitalization of a training endowment fund;

—$1,500,000 for Focus HOPE for the expansion of its Machinist Training Institute in Detroit, Michigan;

—$1,000,000 for the construction of a fire station project in Logan, Utah;

—$900,000 for Ogden, Utah for downtown redevelopment;

—$750,000 for Billings, Montana for the redevelopment of the Billings Depot;

—$900,000 for Libby, Montana for the construction of a community center;

—$1,000,000 for Mississippi State University for the renovation of buildings;

—$1,200,000 for the City of Madison, Mississippi to renovate a gateway to historic downtown Madison;

—$900,000 for Providence, Rhode Island for the renovation of the Providence performing Arts Center;

—$1,000,000 for the Bidwell Industrial Development Corporation the Harbor Gardens development project;

—$500,000 for Philadelphia, Pennsylvania for the expansion of the Pennsylvania Convention Center;

—$1,000,000 for the City of Jackson, Mississippi to create a housing rehabilitation program;

—$650,000 for Monessen, Pennsylvania for the development of a business development and support facility;

—$800,000 for the City of Wilkes-Barre for downtown revitalization;

—$500,000 for the Friends of the Capitol Theater for the renovation of the Capitol Theater in Dover, Delaware;

—$2,000,000 for the Idaho Bureau of Disaster Services for the restoration of Milo Creek;

—$500,000 for the Clearwater Economic Development Association for planning for the Lewis and Clark Bicentennial celebration;

—$1,000,000 for the Developmental Disabilities Resource Center to provide services to persons with disabilities in the Front Range area of Colorado;

—$600,000 for the City of Montrose, Colorado to develop affordable, low-income housing;

—$1,400,000 for the Columbia/Adair County Industrial Development Authority in Kentucky for infrastructure development for the Columbia/Adair County Industrial Park Development;

—$800,000 for the University of Findlay in Ohio to expand its National Center for Excellence in Environmental Management facility;

—$500,000 for MSU-Billings in Billings, Montana for the development of a business development and support facility;

—$500,000 for the City of Brookhaven, Mississippi to renovate historic Whitworth College buildings and related improvements;

—$1,500,000 for the Bethel Pre-Maternal Home in Bethel, Alaska for expansion;

—$3,500,000 for the University of Alaska Fairbanks Museum in Fairbanks, Alaska;

—$1,200,000 for Forum Health of Youngstown, Ohio for a hospital conversion project;

—$2,200,000 for the Pacific Science Center for the construction of the Mercer Slough Environmental Education Center;

—$1,000,000 for the Tacoma Art Museum in Tacoma, Washington for expansion;

—$300,000 for the Portsmouth, New Hampshire City Housing Authority for the development of a multiple use recreation and learning center;

—$300,000 for the City of Concord for community and neighborhood improvements;

—$100,000 for the City of Nashua, New Hampshire for a river front project;

—$75,000 for the Manchester Neighborhood Housing Services in Manchester, New Hampshire;

—$200,000 for Vergennes, Vermont for the renovation and expansion of the Vergennes Opera House;

—$1,000,000 for the renovation and expansion of the Flynn Theatre in Burlington, Vermont;

—$75,000 for the French Hill Neighborhood Housing Services in Nashua, New Hampshire;

—$75,000 for the Concord Area Trust for Community Housing in Concord, New Hampshire;

—$375,000 for the Town of Winchester, New Hampshire to tear down an old leather tannery;

—$2,500,000 for the Kansas City Liberty Memorial renovation and restoration;

—$1,500,000 for the American National Fish and Wildlife Museum in Springfield, Missouri for construction;

—$100,000 for the City of Claremont, New Hampshire to upgrade and repair their public parks service;

—$75,000 for the Laconia Area Community Land Trust in Laconia, New Hampshire;

—$200,000 for the Town of Barre, Vermont for the construction of a business incubator building in the Wilson Industrial Park;

—$400,000 for Housing Vermont to construct affordable housing in Bellows Falls, Vermont;

—$200,000 for the Vermont Center for Independent Living for its Home Access program;

—$100,000 for the Bennington Museum in Bennington, Vermont;

—$600,000 for the Vermont Rural Fire Protection Task Force for the purchase of equipment;

—$900,000 for the Home Repair Collaborative in Indianapolis, Indiana for the repair of low-income housing;

—$1,900,000 for the City of Montgomery, Alabama for the redevelopment of its riverfront area;

—$1,500,000 for the planning and construction of a regional learning center at Spring Hill College in Montgomery, Alabama;

—$1,500,000 for the Donald Danforth Plant Science Center for the development of a greenhouse complex;

—$500,000 for Calhoun Community College, Advance Manufacturing Center in Decatur, Alabama for the development of an advanced manufacturing center;

—$500,000 for the Clay County Courthouse rehabilitation project in Clay County, Alabama;

—$1,800,000 for the renovation of Bates Mill in Lewiston, Maine;

—$800,000 for Coastal Enterprises, Inc for rural economic development and housing initiatives in Kennebec and Somerset Counties;

—$1,300,000 for the City of Fort Worth, Texas for building renovation associated with the development of the Fort Worth Medtech Center;

—$1,000,000 for the Southwest Collaborative for Community Development for low-income housing and economic development in the southwest border area of Texas;

—$750,000 for Houston, Texas to establish a Distance Learning Center as part of a "campus park" redevelopment in the Stella Link community;

—$1,650,000 for Farmington, New Mexico for the renovation of Ricketts Field;

—$1,000,000 for New Mexico Highlands University for its Science and Engineering Complex;

—$800,000 for the National Institute for Community Empowerment for its capacity building efforts in underserved communities;

—$250,000 for the City of Santa Ana, California for the establishment of the IDEA center;

—$750,000 for the First AME Church in Los Angeles, California for the development of a business incubator;

—$750,000 for the City of Riverside, California for the development of Citrus Park;

—$500,000 for the City of Inglewood, California for the construction of a senior center;

—$750,000 for the City of San Francisco, California for the redevelopment of the Laguna Honda Assisted Living/Housing for Seniors;

—$250,000 for the Southside Institutions Neighborhood Alliance in Hartford, Connecticut for downtown renovation;

—$250,000 for the University of Connecticut for the construction of a biotechnology facility;

—$1,500,000 for Fairfield University for the Information Technology Center, Fairfield, Connecticut;

—$500,000 for the Mark Twain House Visitor's Center in Hartford, Connecticut;

—$500,000 for the Bushnell Theater, Hartford, Connecticut for renovation efforts;

—$700,000 for Bethune-Cookman College in Daytona Beach, Florida for the development of a community services student union;

—$500,000 for Spelman College in Atlanta, Georgia for renovation of the Spelman College Science Center;

—$1,150,000 for the City of Moultrie, Georgia for environmental mitigation and redevelopment of the Swift Building;

—$150,000 for the County of Maui, Hawaii to assist the Island of Molokai for capacity development related to its status as an Enterprise Community;

—$1,000,000 for Honolulu, Hawaii to implement the Kahuku Drainage Plan;

—$350,000 for the Maui Family Support Services, Inc. for the creation of an early childhood center in Maui County, Hawaii;

—$500,000 for Wailuku, Hawaii for revitalization efforts;

—$500,000 for the City of Waterloo, Iowa for the development of affordable, low-income housing;

—$500,000 for Des Moines, Iowa for south of downtown redevelopment;

—$500,000 for the Muscatine Center for Strategic Action in Wilton, Iowa for the operation of a nonprofit modular housing factory;

—$1,000,000 for Sioux City, Iowa for the redevelopment of the Sioux City Stockyards;

—$550,000 for Audubon Institute Living Sciences Museum for the restoration of a New Orleans, Louisiana, Customs House;

—$500,000 for Dillard University in New Orleans, Louisiana for assisting persons in the transition from welfare to work;

—$250,000 for the National Center for the Revitalization of Central Cities, New Orleans, Louisiana for the development of redevelopment strategies;

—$1,500,000 for the University of Maryland-Eastern Shore in Princess Anne, Maryland for the development of a Coastal Ecology Teaching and Research Center;

—$1,500,000 for Prince Georges County, Maryland for the revitalization of the Route 1 corridor;

—$250,000 for the Hampden/Hampshire Housing Partnership Loan Fund in western Massachusetts for the development of affordable housing;

—$250,000 for the City of Lowell, Massachusetts for downtown redevelopment;

—$250,000 for the City of Lawrence, Massachusetts for the City of Lawrence Loan and Investment Program;

—$500,000 for the Boys & Girls Club of Boston in Chelsea, Massachusetts for construction of a clubhouse;

—$500,000 for Assumption College in Worcester, Massachusetts for construction of the Lieutenant Joseph P. Kennedy, Jr. Memorial Science and Technology Center;

—$250,000 for the City of Pontiac, Michigan for economic development activities;

—$500,000 for City of Flint, Michigan for economic development activities;

—$1,000,000 for the Minnesota Indian Primary Residential Treatment Center in Sawyer, Minnesota for the adolescent treatment center;

—$500,000 for the Research Development Enterprise in Missoula, Montana for the advancement of university research activities;

—$500,000 for the Panhandle Community Service in Scottsbluff, Nebraska for the construction of an early childhood development center;

—$1,750,000 for the University of Nevada in Reno, Nevada for the Structures Laboratory;

—$250,000 for Henderson, Nevada for downtown redevelopment;

—$600,000 for the Boys & Girls Club of Las Vegas, Nevada for the renovation and expansion of existing facilities;

—$250,000 for Willingboro, New Jersey for the revitalization of the Central Business Center;

—$500,000 for Plainfield, New Jersey for the redevelopment of the Teppers building;

—$200,000 for Trenton, New Jersey for the renovation of the YWCA's indoor swimming pool;

—$500,000 for Gloucester County, New Jersey for downtown revitalization;

—$1,000,000 for Children's House Hackensack University Medical Center in Hackensack, New Jersey for expansion;

—$250,000 for Belen, New Mexico for the development of a recreation center;

—$250,000 for Arroyo Seco Youth Center Hands Across Culture Corporation, New Mexico;

—$500,000 for the Esperanza Domestic Violence Shelter in northern New Mexico for homeless services;

—$500,000 for the Court Youth Center in Dona Ana County, New Mexico for renovation of their youth center;

—$750,000 for the New York Public Library's Library for the Performing Arts for renovations;

—$1,000,000 for Rural Economic Area Partnership Zones in North Dakota;

—$850,000 for Turtle Mountain Economic Development and Education Complex in North Dakota;

—$500,000 for the City of Providence, Rhode Island for the Nickerson Community Center for an assisted living facility for homeless veterans;

—$100,000 for the South Providence Development Corporation in Providence, Rhode Island for a child care facility;

—$2,000,000 for the Spartanburg School for the Deaf and the Blind in Spartanburg, South Carolina for a new dormitory;

—$500,000 for the University of South Carolina School of Public Health to consolidate its programs in a new central location;

—$1,000,000 for the University of South Dakota, in Vermillion, South Dakota for the expansion of Medical School research facilities;

—$100,000 for the City of Flandreau, South Dakota for infrastructure improvements and economic development activities;

—$100,000 for the City of Garretson, South Dakota for infrastructure improvements and economic development activities;

—$100,000 for the City of Hot Springs, South Dakota for redevelopment activities;

—$100,000 for the City of Sisseton, South Dakota to make infrastructure improvements at an industrial site in the community;

—$250,000 for the City of Aberdeen, South Dakota for a community child daycare center;

—$100,000 for the North Sioux City Economic Development Corporation in North Sioux, South Dakota for the construction of an industrial park;

—$650,000 for Burlington, Vermont for downtown redevelopment;

—$500,000 for the Kellog-Hubbard Library in Montpelier, Vermont for renovation and expansion;

—$350,000 for Brattleboro, Vermont for downtown redevelopment;

—$750,000 for Chittenden County, Vermont for the development of affordable low-income housing;

—$250,000 for Lake Champlain Science Center, Burlington, Vermont;

—$150,000 for the Southwest Virginia Governor's School for Science, Mathematics and Technology for improvements;

—$500,000 for the Accomack-Northampton Planning District Commission for economic development on the Eastern Shore of Virginia;

—$250,000 for an Achievable Dream in Newport News, Virginia to help at-risk youth;

—$500,000 for the Fremont Public Association in Seattle, Washington for construction costs related to its Community Resource Center;

—$500,000 for the Puget Sound Center for Teaching, Learning and Technology in Seattle, Washington;

—$200,000 for the University of Charleston in West Virginia for a basic skills and assessment lab;

—$600,000 for Shepherd College in Shepherdstown, West Virginia for the renovation of Scarborough Library;

—$4,000,000 for Wheeling Jesuit University in Wheeling, West Virginia for the construction of a science/computer teaching center;

—$500,000 for the Town of Kimball, West Virginia for the restoration of the Kimball War Memorial;

—$300,000 for Bethany College, in Bethany, West Virginia for the creation of a health and wellness center;

—$200,000 for West Virginia State College to assist in creating a computer library;

—$2,000,000 for the Center for the Arts & Sciences of West Virginia for the construction of a theater/planetarium;

—$500,000 for the City of Milwaukee, Wisconsin for its Metcalfe Neighborhood Redevelopment Initiative;

—$250,000 for the City of Beloit, Wisconsin for urban renewal activities;

—$500,000 for the City of Milwaukee, Wisconsin for redevelopment activities in the Menomonee River Valley. Milwaukee, Wisconsin may transfer up to $200,000 of these funds to its Metcalfe Neighborhood Redevelopment Initiative;

—$4,000,000 for the City of Hot Springs, Arkansas for the construction and hillside stabilization of the Downtown Hot Springs National Park parking facility;

—$1,000,000 for Lewis and Clark College in Portland, Oregon for construction and program activities at Bicentennial Hall;

—$250,000 for the Reedsport, Oregon for the expansion of exhibits and educational programs at Umpqua Discovery Center;

—$1,000,000 for the Redevelopment Agency of Salt Lake City, Utah for the redevelopment of the Gateway District;

—$500,000 for the Boys and Girls Club for the development of a Boys and Girls Club facility in Brownsville, Texas to serve at-risk youth;

—$500,000 for the City of Beaumont, Texas to renovate the L. L. Melton YMCA to provide services to low-income families;

—$1,000,000 for the Discovery Place Museum in Charlotte, North Carolina for modernization and program costs;

—$500,000 for the American Cave and Karst Center in Horse Cave, Kentucky;

—$900,000 for the Madison County Economic Development Authority for the development of the Central Mississippi Industrial Center in Madison, Mississippi;

—$500,000 for the Borden Development Alliance to develop strategies and promote economic development in the United States-Mexico border region;

—$1,000,000 for the Center for Science and Technology in Idaho Falls, Idaho for start-up costs to develop technology transfer and business development within Idaho;

—$250,000 for the Thomas Jefferson Agricultural Institute in Missouri to develop programs supporting farmers and rural communities through diversification and value-added economic development;

—$250,000 for the Hundley-Whaley telecommunications resource center in Albany, Missouri;

—$350,000 for infrastructure and development activities associated with new housing in Moscow Mills, Missouri;

—$300,000 for Kirksville, Missouri downtown redevelopment activities;

—$350,000 to Maysville, Missouri for drinking water infrastructure improvements;

—$250,000 to Moberly, Missouri for streetscape and curb improvements;

—$500,000 to the Northeast Community Action Corporation of Missouri for low-income rural housing;

—$250,000 to the Missouri Agriculture and Small Business Development Authority to complete market development activities that relate to beef and pork cooperative processing capacity such as in Macon, Missouri;

—$500,000 for Anchorage, Alaska United Way for rehabilitation of a community services building;

—$500,000 for the Sitka Pioneer Home in Sitka, Alaska for rehabilitation;

—$100,000 to the University of Maryland—Baltimore County for an environmental center;

—$600,000 to East Northport in Long Island, New York for construction of a sewage treatment facility;

The conference report includes $55,000,000 for the Resident Opportunity and Supportive Services (ROSS) program, as proposed by both the House and the Senate, but deletes the specific $10,000,000 amount allocated by both the House and Senate within this item for grants for service coordinators and congregate housing services for the elderly and disabled. Rather, the conferees direct the Department to use sufficient funds within the ROSS program to renew all expiring service coordinator and congregate services grants (except those for which renewal is not considered appropriate due to poor performance, lack of continuing need, or similar circumstances), other than those for which renewal funding is made available elsewhere in this conference report. The conferees understand that the amount needed for these renewals exceeds the $10,000,000 allocated by the House and Senate, but have not inserted a new dollar amount because of uncertainties regarding the precise cost. The conference report also includes language proposed by the Senate restricting HUD from adding certain conditions to grants for service coordinators and congregate services.

Deletes report language proposed by the Senate and not included by the House directing HUD to report on all projects funded under EDI grants awarded independently by HUD.

Deletes report language proposed by the Senate and not included by the House directing HUD to conduct a close-out review of each EDI grant within five years of funding.

Adds language proposed by the House authorizing YouthBuild to engage in capacity building activities.

The conferees continue to expect Youthbuild programs to leverage private capital. This requirement emphasizes the value of local commitments as a state in these programs as well as additional resources available to assist in expansion.

Inserts language proposed by the Senate and not included by the House to permanently transfer the New York Small Cities program to the State of New York. If, however, the program is not operating smoothly and effectively after one year, HUD may submit legislation to transfer the program back to the Department. The conferees will be following the results of this transfer and its implementation at the state level.

The conferees note that the Governor of New York has stated that ". . . New York has taken the necessary steps as set out by law and precedent to begin the transfer of this program from HUD to the State. In addition, the State has proposed an appropriate structure to administer the program and we have implemented an extensive consultation and public outreach process through which numerous citizens, local government and organizations participated in development of the comprehensive plan for our administration of the program."

The conferees direct that this transfer shall not affect any awards made by HUD prior to the enactment of these provisions, including multi-year awards, provided the awardee remains in compliance with all contract terms and applicable regulations. HUD is directed to continue to administer those awards that are under contract but have not yet been closed out. Furthermore, the conferees delete bill language conditioning award of other Small Cities funds on this transfer and clarify that only the Small Cities program for New York State is transferred.

BROWNFIELDS REDEVELOPMENT

Appropriates $25,000,000 for brownfields redevelopment, as proposed by the Senate instead of $20,000,000 as proposed by the House.

HOME INVESTMENT PARTNERSHIPS PROGRAM

Appropriates $1,600,000,000 for the HOME program, as proposed by the Senate instead of $1,580,000,000 as proposed by the House.

Includes $15,000,000 for housing counseling, instead of $7,500,000 as proposed by the House and $20,000,000 as proposed by the Senate.

Includes $5,000,000 for information systems as proposed by the House instead of no funding as proposed by the Senate.

Includes an earmark of $2,000,000 for the National Housing Development Corporation, to demonstrate innovative methods of preserving affordable housing. The funding is intended to be used for start-up costs, operating expenses, and working capital.

The conferees reiterate language included in the fiscal year 1999 conference report directing HUD to develop a process for measuring the performance of housing counseling agencies, and urge HUD to incorporate performance measurement requirements into future Notices of Funding Availability for the housing counseling program. Unless HUD provides solid information concerning the uses of these funds and the performance of grantees, the conferees will reluctantly consider making further reductions in the housing counseling program in future years.

HOMELESS ASSISTANCE GRANTS

Appropriates $1,020,000,000 for homeless assistance grants as proposed by the Senate instead of $970,000,000 as proposed by the House.

Inserts language requiring at least 30% of the appropriation be directed to permanent housing, as proposed by the Senate. The House did not include this item.

Inserts language requiring a 25% match by grantees for funding for services, as proposed by the Senate. The House did not include this item.

Inserts language proposed by the Senate directing HUD to review any previously obligated amounts of assistance, and to deobligate the funds if the contracts are unlikely to be performed. The House did not include this item.

The conferees agree with report language proposed by the Senate and not included by the House directing HUD to ensure that State and local jurisdictions pass on at least 50% of all administrative funds to the nonprofit organizations administering the homeless assistance programs.

HOUSING PROGRAMS

HOUSING FOR SPECIAL POPULATIONS

Appropriates $911,000,000 for housing for special populations as proposed by the Senate instead of $854,000,000 as proposed by the House.

Includes $710,000,000 for section 202 housing for the elderly as proposed by the Senate instead of $660,000,000 as proposed by the House.

Includes $201,000,000 for section 811 housing for the disabled as proposed by the Senate instead of $194,000,000 as proposed by the House.

Inserts language proposed by the Senate and not included by the House that, of the funds appropriated for the section 202 program, $50,000,000 shall be for service coordinators and existing congregate services grants, and $50,000,000 shall be for the costs of converting existing section 202 projects to assisted living facilities. Grants for conversion of buildings to assisted living facilities are to be administered under provisions of title V of this Act. For fiscal year 2000, funds are not provided for any capital repairs but are limited to conversions only.

The conferees note that title V of this bill includes reforms to the elderly and disabled housing programs. These reforms will enable the programs to work more efficiently and effectively.

FEDERAL HOUSING ADMINISTRATION

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

Limits commitments for guaranteed loans to $140,000,000,000 as proposed by the House instead of $120,000,000,000 as proposed by the Senate.

Limits obligations for direct loans to no more than $100,000,000 as proposed by the Senate instead of $50,000,000 as proposed by the House.

Appropriates $330,888,000 for administrative expenses as proposed by the Senate instead of $328,888,000 as proposed by the House.

Appropriates $160,000,000 for administrative contract expenses as proposed by the Senate. The House did not fund this item.

Inserts language making a technical correction as proposed by the House and stricken by the Senate.

Deletes language proposed by the Senate prohibiting HUD or the FHA from discriminating between public and private elementary and secondary school teachers. The House did not include a similar item. The conferees note, however, that HUD should make FHA mortgage insurance advantages available to any teacher regardless of school affiliation.

The conferees are aware that the Secretary of Housing and Urban Development, pursuant to the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Title VIII, P.L. 102–550), has announced the intention to publish for comment a proposed rule implementing new affordable housing goals for Freddie Mac and Fannie Mae. In light of the extraordinary increase in the proposed goal, the conferees expect the Secretary to consider the following:

First, the stretch affordable housing efforts required of each of Freddie Mac and Fannie Mae should be equal, so that both enterprises are similarly challenged in attaining the goals. This will require the Secretary to recognize the present composition of each enterprise's overall portfolio in order to ensure regulatory parity in the application of regulatory guidelines measuring goal compliance. Second, any new affordable housing goal regulations must recognize that attainment of materially higher goals will be largely dependent on the continuation of the current economic conditions that are very favorable for housing affordability. Deterioration in these conditions likely would render stretch goals infeasible within the intent of the 1992 legislation.

The fiscal year 1999 Appropriations Act contained a provision that imposed treble damages on FHA lenders who fail to provide loss mitigation actions. The conferees are concerned with how this provision will be implemented and encourage HUD to promulgate very specific regulations to clearly define actions that are considered loss mitigation. Furthermore, the conferees urge HUD to withhold imposing severe penalties under this provision until such times as regulations are in place and the authorizing committees have had time to review the impact these penalties will have on the FHA lending program.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

Appropriates $144,000,000 for administrative contract expenses as proposed by the Senate. The House did not include this item.

Deletes language proposed by the Senate prohibiting HUD or the FHA from discriminating between public and private elementary and secondary school teachers. The House did not include a similar item.

Inserts language proposed by the Senate making previously appropriated amounts available despite the expiration of the amounts.

Inserts language making a technical correction as proposed by the House and stricken by the Senate.

The conferees are aware of the efforts the Department has made to bridge the growing digital divide between information technology "haves" and "have nots" through its Neighborhood Networks initiative. This initiative leverages local businesses, community organizations, local residents and other partners to provide residential computing centers to HUD-assisted housing throughout the country which in turn provide computer and job training, senior and youth programs and a variety of other supportive services at almost no direct cost to the Department. The conferees direct the Department to submit a report no later than June 30, 2000 which details and evaluates: the goals and progress of the initiative; strategies to sustain resident involvement in the program and to overcome other potential obstacles, which the report should identify; future areas of opportunity for the program, including possible partnerships with non-profit organizations and other Federal agencies; and the effectiveness of the initiative relative to the mission and goals of the Department as specified in the strategic and annual operating plan.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

Appropriates $9,383,000 for administrative expenses as proposed by the House instead of $15,383,000 as proposed by the Senate.

Inserts language proposed by the House requiring expenses to be derived from receipts from GNMA guarantees of mortgage backed securities (MBS). The Senate did not include this item.

Inserts language making a technical correction to bill language as proposed by the House and stricken by the Senate.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

Appropriates $45,000,000 for research and technology, instead of $42,500,000 as proposed by the House and $35,000,000 as proposed by the Senate.

Includes $10,000,000 for the PATH program, instead of $7,500,000 as proposed by the House. The Senate did not include a similar item. Additionally, $500,000 is for the Elderly Housing Commission, which is authorized in title V of this Act.

The conferees expect the PATH program to include coordination on cold climate housing research with the Cold Climate Housing Research Center in Fairbanks, Alaska.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

Appropriates $44,000,000 for fair housing activities, instead of $40,000,000 as proposed by the Senate and $37,500,000 as proposed by the House.

Of the total amount provided in the conference agreement, $24,000,000 is for the Fair Housing Initiatives Program (including $6 million for continuation of the nationwide audit to determine the extent of discrimination in housing rental and sales) and $20,000,000 is for the Fair Housing Assistance Program.

OFFICE OF LEAD HAZARD CONTROL

LEAD HAZARD REDUCTION

(INCLUDING TRANSFERS OF FUNDS)

Appropriates $80,000,000 for lead hazard reduction, as proposed by the Senate instead of $70,000,000 as proposed by the House.

Of the amount, $10,000,000 is for the Healthy Homes Initiative as proposed by the Senate instead of $7,500,000 as proposed by the House.

Inserts language proposed by the House and stricken by the Senate providing $1,000,000 for CLEARCorps.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

Appropriates $477,000,000 for salaries and expenses instead of $456,843,000 as proposed by the House and $457,039,000 as proposed by the Senate.

Inserts language proposed by the Senate prohibiting HUD from employing more than 77 schedule C and 20 non-career SES employees.

The conferees are aware of a number of significant concerns with HUD's external Community Builders program. Most importantly, the conferees believe that HUD must rebuild itself from within, from staff that are committed to HUD's long-term future and the federal investment in local communities and neighborhoods. Therefore, the conferees are terminating the external Community Builders program effective September 1, 2000 (rather than effective February 1, 2000, as proposed by the Senate). The conferees expect that, following the termination of the program, functions now being performed by external Community Builders will be carried out by career civil servants, and that FTEs now occupied by external Community Builders will be filled instead by regular civil service employees.

HUD also is prohibited from converting any external Community Builder to permanent staff (i.e., from changing employee status without following normal civil service competitive requirements). In addition, while the conferees do not object to external community builders applying for career civil service positions at HUD, they should not be provided any special preference or priority simply because of their status as current or former external Community Builders.

In addition, the conferees remain concerned about potential problems with conflicts of interest in the Community Builders program, and direct HUD to establish clear rules to avoid any appearance of self-interest. In particular, there should be a bright line test prohibiting any Community Builder from being involved in any HUD transaction in which that person has a fiduciary interest or has had an employer/employee relationship with the entities involved in the transaction.

Inserts several language changes that are technical.

Inserts language proposed by the House and not included by the Senate providing $2,000,000 for the Millennial Housing Commission established in the Administrative Provisions section of this title.

Inserts a modification of Senate language prohibiting HUD from employing more than 9,300 full-time equivalent employees. Unlike the Senate language, the conference agreement does not count on-site contract employees as part of the total that is subject to the limitation.

Inserts language proposed by the Senate and not included by the House prohibiting HUD from employing more than 14 employees in the Office of Public Affairs.

Deletes language proposed by the Senate and not included by the House prohibiting HUD from using more than $1,000,000 for travel.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

Appropriates $83,000,000 for the Office of Inspector General, instead of $72,343,000 as proposed by the House and $95,910,000 as proposed by the Senate.

Inserts language making a technical correction as proposed by the House and stricken by the Senate.

Deletes language proposed by the Senate and not included by the House providing $10,000,000 for the Office of Inspector General to contract for a series of independent financial audits of HUD's internal systems. Deletes language proposed by the Senate and not included by the House authorizing this amount to be available until September 30, 2001.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

Provides $500 for the Office of Federal Housing Enterprise Oversight's (OFHEO) reception and representation expenses instead of $1,000 as proposed by the House. The Senate did not provide a similar item.

ADMINISTRATIVE PROVISIONS

Deletes language proposed by the House and stricken by the Senate making a technical correction regarding enhanced disposition authority. This provision is incorporated in title V.

Restores language proposed by the House and stricken by the Senate reprogramming previously awarded economic development initiatives.

Deletes language proposed by the Senate and not included by the House clarifying an owner's right to prepay the mortgage of eligible low-income housing developments.

Deletes language proposed by the Senate and not included by the House prohibiting operating subsidies or capital funds from being provided to certain State and city funded and locally developed public housing or assisted units.

Restores language proposed by the House and stricken by the Senate establishing the Millennial Housing Commission.

Restores language proposed by the House and stricken by the Senate rescinding $74,400,000.

Restores language proposed by the House and stricken by the Senate providing $5,000,000 for the National Cities in Schools Community Development program.

Deletes language proposed by the House and stricken by the Senate authorizing HUD to provide enhanced section 8 vouchers for certain assisted housing projects. This authority is incorporated into provisions in title V.

Restores language proposed by the House and stricken by the Senate to provide $5,000,000 to the Jobs-Plus component of the Moving to Work program.

Restores language proposed by the House and stricken by the Senate repealing section 214 of Public Law 104-204, dealing with recaptured section 8 funds.

Inserts language proposed by the Senate and not included by the House amending the National Housing Act defining the term "nonadministrative."

Deletes language proposed by the Senate and not included by the House limiting compensation to employees of public housing authorities to no more than $125,000.

Inserts language proposed by the Senate and not included by the House making a technical correction to section 541 of the National Housing Act regarding payment of claims. This provision streamlines the debt restructuring process in MAHRA.

Deletes language proposed by the Senate and not included by the House limiting compensation for employees of YouthBuild to no more than $125,000.

Inserts language proposed by the Senate and not included by the House providing HUD with the authority to gain access to tenant income matching information.

Deletes language proposed by the Senate and not included by the House eliminating the Secretary's discretionary fund.

Deletes language proposed by the Senate and not included by the House to correct section 514 (h)(1) of MAHRA. This matter is covered in title V.

Deletes language proposed by the Senate and not included by the House requiring HUD to reimburse GAO for any failure to cooperate in investigations.

The conferees have agreed to drop the requirement that HUD reimburse GAO for the cost of time due to delays caused by HUD in providing access to HUD officials and staff and to information important to the House and Senate appropriations committees. The conferees are concerned, however, about reports that HUD has unreasonably delayed such access on numerous occasions in the past year. Therefore, the conferees direct GAO to maintain a log detailing GAO's efforts to meet with HUD officials and staff and in seeking to obtain information on HUD programs and activities. This log shall include a summary of all delays and HUD's reasons for the delays. The conferees expect HUD to provide reasonable access to HUD officials, staff and information and that all meetings should be accommodated within a week of any request, unless there is a delay that is both reasonable and unavoidable.

Inserts language proposed by the Senate and not included by the House exempting Alaska and Mississippi—for fiscal year 2000 only—from statutory requirements to have a resident of public housing on the Board of Directors.

Deletes language proposed by the Senate and not included by the House clarifying that HOME funds may be used to preserve housing assisted with section 8.

Inserts language proposed by the Senate and not included by the House transferring administration of the Small Cities component of the CDBG program for all funds allocated to the State of New York from HUD to the State of New York.

Inserts language proposed by the Senate and not included by the House exempting Peggy Burgin from having to comply with the age requirement at Clark's Landing in Groton, Vermont.

Inserts language proposed by the Senate and not included by the House requiring HUD to continue to make interest reductions payments to Darlinton Manor apartments.

Deletes language proposed by the Senate and not included by the House authorizing HUD to provide section 8 assistance to buildings with terminating section 8 contracts. This provision is incorporated in title V.

Inserts modified language proposed by the Senate and not included by the House requiring HUD to use risk-sharing if the refinancing is the best available in terms of savings to the FHA insurance funds and results in reduced risk of loss to the federal government.

Deletes language proposed by the Senate and not included by the House authorizing section 8 enhanced vouchers. This provision is included in title V.

Inserts language extending the deadline for certain EDI grants until September 30, 2000. Neither the House nor the Senate included this language.

Deletes language proposed by the Senate and not included by the House authorizing HUD to contract with State or local housing finance agencies for the purpose of determining market rents.

Inserts new language enabling tenants of cooperative housing projects to make use of revocable trusts. Neither the House nor the Senate included this language.

Inserts new language making a technical correction to a grant to the County of Hawaii. Neither the House nor the Senate included this provision.

Restores language proposed by the House and not included by the Senate providing authority to HUD to reuse certain section 8 funds.

Deletes language proposed by the Senate and not included by the House authorizing HUD to allow project owners to use interest reduction payments for renovations in certain assisted housing projects. A similar provision is included in title V.

Inserts new language making waivers to the section 108 program for certain projects.

Inserts new language requiring HUD to allocate directly to New Jersey a portion of HOPWA funds designated for the Philadelphia, PA-NJ Primary Metropolitan Statistical Area. Neither the House nor the Senate included a similar provision.

TITLE III—INDEPENDENT AGENCIES

American Battle Monuments Commission

SALARIES AND EXPENSES

Appropriates $28,467,000 for salaries and expenses as proposed by the House instead of $26,467,000 as proposed by the Senate. The conferees commend the ABMC for the progress made in reducing the backlogged maintenance needs throughout the ABMC system, and have provided funds in excess of the budget request to continue this important project.

Chemical Safety and Hazard Investigation Board

SALARIES AND EXPENSES

Appropriates $8,000,000 for salaries and expenses instead of $7,000,000 as proposed by the House and $6,500,000 as proposed by the Senate. Bill language has been included for fiscal year 2000 which limits the number of career Senior Executive Service positions to three.

The conferees share the concern expressed in the Senate Report that the Board may not be making the most effective use of its financial resources. In particular, the conferees agree that the Board must spend the preponderance of its resources, including contract resources, on investigations and safety instead of on external affairs or information technology.

The Board is further directed to complete, by December 31, 1999, an updated business plan, as well as formal written procedures for awarding and managing contracts and formal written procedures for selecting and performing investigations. In addition, the Board is directed to expend no funds to develop software for vulnerability assessments, and may not fill any vacant positions in the areas of external affairs or information technology.

Department of the Treasury

Community Development Financial Institutions

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAM ACCOUNT

Appropriates $95,000,000 for the Community Development Financial Institutions Fund, instead of $70,000,000 as proposed by the House, and $80,000,000 as proposed by the Senate.

Deletes language proposed by the House allowing the CDFI Fund to use part of its appropriation to establish and carry out a microenterprise technical assistance and capacity building grant program.

The conferees encourage the CDFI Fund to maintain a blend of emerging and mature CDFIs, as well as CDFIs of varying asset sizes, by creating a "Small and Emerging CDFI Access Program" (SECAP) as part of its core CDFI Program. SECAP would fill a gap between the Core Component of the CDFI Program and the Technical Assistance Program.

The conferees recommend that the CDFI Fund's "Small and Emerging CDFI Access Program" require a streamlined business plan; employ flexible matching requirements; include access to training and technical assistance, as in the Core Component; and place a $100,000 cap per application on capital assistance, including both capital awards and awards for technical assistance.

Consumer Product Safety Commission

SALARIES AND EXPENSES

Appropriates $49,000,000 for the Consumer Product Safety Commission, salaries and expenses, instead of $47,000,000 as proposed by the House and $49,500,000 as proposed by the Senate.

Corporation for National and Community Service

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

Appropriates $434,500,000 for national and community service programs operating expenses, instead of $423,500,000 as proposed by the Senate. The House proposed termination of the Corporation for National and Community Service using funds appropriated in fiscal year 1999 for close-out expenses.

Limits funds for administrative expenses to not more than $28,500,000, instead of $27,000,000 as proposed by the Senate. The conferees direct that additional funds are to be used for improvements to the Corporation's financial management system and not for general salaries and expenses. The conferees direct that the Corporation report, on a monthly basis, the status of efforts to improve its financial management.

Limits funds as proposed by the Senate to not more than: $28,500,000 for quality and innovation activities; $2,500 for official reception and representation expenses; $70,000,000 for education awards, of which not to exceed $5,000,000 shall be available for national service scholarships for high school students performing community service; $234,000,000 for AmeriCorps grants, of which $45,000,000 may be for national direct programs; $7,500,000 for the Points of Light Foundation; $18,000,000 for the Civilian Community Corps; $43,000,000 for school-based and community-based service-learning programs; and $5,000,000 for audits and other evaluations.

Inserts language proposed by the Senate which prohibits using any funds for national service programs run by Federal agencies; provides that, to the maximum extent feasible, funds for the AmeriCorps program will be provided consistent with the recommendation of peer review panels; and provides that, to the maximum extent practicable, the level of matching funds shall be increased, education only awards shall be expanded, and the cost per participant shall be reduced.

Rescinds $80,000,000 from the National Service Trust as proposed by the Senate. The conferees have taken this action because the balances in the Trust appear at this time to be in excess of requirements based upon usage rates. The conferees direct the Corporation to report in its fiscal year 2001 budget request and operating plan the status of its Trust fund reserve including the award usage rate and number of participants in the program.

The conferees agree to the Senate proposal to earmark $5,000,000 for the Girl Scouts of the United States for the "P.A.V.E. the Way" project and direct the Corporation to use the increase in the national direct program cap to fund this project. The conferees further agree that a unique set of circumstances exist in Shelby County, Alabama which indicates that the RSVP Program is to be allowed to operate separately from the existing multi-county consortium.

The House proposed that the Corporation be terminated and did not include any of the foregoing limitations or provisions proposed by the Senate.

OFFICE OF INSPECTOR GENERAL

Appropriates $4,000,000 for the Office of Inspector General, instead of $5,000,000 as proposed by the Senate and $3,000,000 as proposed by the House.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

Appropriates $645,000,000 for science and technology as proposed by the House instead of $642,483,000 as proposed by the Senate.

The conferees have agreed to the following increases to the budget request:

1. $1,250,000 for continuation of the California Regional PM 10 and 2.5 air quality study.
2. $2,500,000 for EPSCoR.
3. $700,000 for continuation of the study of livestock and agricultural pollution abatement at Tarleton State University.
4. $3,000,000 for the Water Environment Research Foundation.
5. $750,000 for continued research on urban waste management at the University of New Orleans.
6. $750,000 for continued perchlorate research through the East Valley Water District.
7. $1,500,000 for the Mickey Leland National Urban Air Toxics Research Center.
8. $4,000,000 for the American Water Works Association Research Foundation, including $1,000,000 for continued research on arsenic.
9. $1,500,000 for the National Decentralized Water Resource Capacity Development Project, in coordination with EPA, for continued training and research and development.
10. $750,000 for the Integrated Petroleum Environmental Consortium project.
11. $1,000,000 for the National Center for Atlantic and Caribbean Reef Research.
12. $800,000 for the University of New Hampshire's Bedrock Bioremediation Center research project.
13. $1,800,000 for the Lovelace National Environmental Respiratory Center.
14. $400,000 for the development, design, and implementation of a research effort on tributyltin-based ship bottom paints at Old Dominion University.
15. $750,000 for research of advanced vehicle design, advanced transportation systems, vehicle emissions, and atmospheric pollution at the University of Riverside CE-CERT facility.
16. $1,500,000 for the Environmental Technology Commercialization Center (ETC2) in Cleveland, Ohio.
17. $750,000 for continued research of the Salton Sea at the University of Redlands.
18. $750,000 for the final phase of research conducted through the Institute for Environmental and Industrial Science in San Marcos, Texas.
19. $1,000,000 for the Center for Estuarine Research at the University of South Alabama for research on the environmental impact of human activities on water quality and habitat loss in an estuarine environment.
20. $550,000 to develop and maintain an information repository of water related materials for research and conflict resolution at the Water Resources Institute at California State University, San Bernardino.
21. $300,000 for environmental remanufacturing research at the Rochester Institute of Technology.
22. $1,500,000 for the Fresh Water Institute to extend and expand acid deposition research.
23. $2,000,000 for assessing and mitigating the impact of exposure to multiple indoor contaminants on human health through the Metropolitan Development Association of Syracuse and Central New York.
24. $2,000,000 for the Canaan Valley Institute to establish a regional environmental data center and coordinated information system in the Mid-Atlantic Highlands, in coordination with the Federal Geographic Data Committee and the National Spatial Data Infrastructure.
25. $2,000,000 for the Center for the Engineered Conservation of Energy in Alfred, New York to conduct environmental performance and resource conservation research.
26. $750,000 for the National Center for Animal Waste Technologies at Purdue University.
27. $1,000,000 for analysis and research of the environmental and public health impacts associated with pollution sources, including waste transfer stations, in the South Bronx, New York, to be conducted by New York University.
28. $1,000,000 for research associated with the restoration and enhancement of Manchac Swamp conducted by Southeastern Louisiana University at the Turtle Cove Research Station.
29. $2,000,000 for drinking water research, to ensure the best available science needed for upcoming regulatory requirements under the Safe Drinking Water Act Amendments.
30. $1,500,000 for the National Jewish Medical and Research Center for research on the relationship between indoor and outdoor pollution and the development of respiratory diseases.
31. $1,250,000 for the Center for Air Toxics Metals at the Energy and Environmental Research Center.
32. $250,000 for acid rain research at the University of Vermont.
33. $6,000,000 for the Mine Waste Technology program at the National Environmental Waste Technology, Testing, and Evaluation Center.
34. $350,000 for the Consortium for Agricultural Soils Mitigation of Greenhouse Gases.
35. $250,000 to continue the work of the Environmental Technology Development and Commercialization Center at the Texas Regional Institute for Environmental Studies.
36. $750,000 for the Geothermal Heat Pump (GHP) Consortium.
37. $2,000,000 for the National Research Council to conduct a study of the effectiveness of clean air programs utilized by federal, state, and local governments. This study is intended to reveal, among other things, any contradictions among the various clean air programs, rules, and regulations at every level of government which may result in worsening air quality in the United States.
38. $3,000,000 for the National Technology Transfer Center to establish a technology commercialization partnership program and a comprehensive training program on commercialization best practices for EPA and other Federal officials.

The conferees have agreed to the following reductions from the budget request:

1. $22,900,000 from the CCTI Transportation research program.
2. $2,000,000 from the global change research program.
3. $3,000,000 from the Research for Ecosystems Assessment and Restoration program objective.
4. $900,000 from project EMPACT.
5. $4,958,000 from Clean Water Action Plan related research.
6. $1,000,000 from various lower priority facility repair and improvement projects.
7. $16,625,000 as a general reduction.

Within available funds, the Agency is expected to provide up to $1,000,000 to create the databases and analysis necessary to help establish programs and technologies to achieve an effective carbon sequestration program. In addition, no less than $7,000,000 is to be provided for the Superfund Innovative Technology Evaluation (SITE) program, and no less than $4,000,000 for the Clean Air Status and Trends Network (CASTNet).

The conferees are concerned about the accuracy of information contained in the Integrated Risk Information System (IRIS) data base which contains health effects information on more than 500 chemicals. The conferees direct the Agency to consult with the Science Advisory Board (SAB) on the design of a study that will, 1) examine a representative sample of IRIS health assessments completed before the IRIS Pilot Project, as well as a representative sample of assessments completed under the project, and 2) assess the extent to which these assessments document the range of uncertainty and variability of the data. The results of that study will be reviewed by the SAB and a copy of the study and the SAB's report on the study sent to the Congress within one year of enactment of this Act.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

Appropriates $1,900,000,000 for environmental programs and management instead of $1,850,000,000 as proposed by the House and $1,897,000,000 as proposed by the Senate. The conferees have included bill language as proposed by the House, identical to that carried in the fiscal year 1999 Act, which limits the expenditure of funds to implement or administer guidance relating to title VI of the Civil Rights Act of 1964, with certain exceptions. This provision does not provide the Agency statutory authority to implement its Environmental Justice Guidance. Rather, it simply clarifies the applicability of the Interim Guidance with respect to certain pending cases as an administrative convenience for the Agency.

Bill language proposed by the House and the Senate, identical to that contained in the fiscal year 1999 Act, has also been included to prohibit the expenditure of funds to take certain actions for the purpose of implementing or preparing to implement the Kyoto Protocol. Also included is bill language proposed by the House and the Senate to provide that in fiscal year 2000 and thereafter, grants awarded under section 20 of the Federal Insecticide, Fungicide and Rodenticide Act and under section 10 of the Toxic Substances Control Act shall be available for research, development, monitoring, public education, training, demonstrations, and studies.

Finally, the conferees have included bill language which transfers unexpended funds appropriated under this heading in Public Law 105–276 for the Lake Ponchartrain Basin Foundation to the state and tribal assistance grants account for grants for wastewater treatment infrastructure construction in Fluker Chapel and Mandeville, Louisiana.

The conferees have deleted language proposed by the Senate providing funds from within other EPA accounts to fund the Montreal Protocol activity, and have deleted language proposed by the Senate limiting the expenditure of funds for personnel compensation and benefit costs. The conferees have also deleted bill language proposed by the House providing funds for regional haze grants to the states. These issues have been specifically addressed elsewhere in the statement of the managers accompanying the conference report.

The conferees have agreed to the following increases to the budget request:

1. $2,000,000 for the Michigan Biotechnology Institute for continued development of viable cleanup technologies.

2. $500,000 for continued activities of the Small Business Pollution Prevention Center at the University of Northern Iowa.

3. $750,000 for the painting and coating compliance project at the University of Northern Iowa.

4. $1,500,000 for continuation of the Sacramento River Toxic Pollution Control Project, to be cost shared.

5. $1,325,000 for ongoing activities at the Canaan Valley Institute.

6. $2,500,000 for the Southwest Center for Environmental Research and Policy (SCERP).

7. $400,000 for continuation of the Small Water Systems Institute at Montana State University.

8. $14,000,000 for rural water technical assistance activities and groundwater protection with distribution as follows: $8,500,000 for the National Rural Water Association; $2,300,000 for the Rural Community Assistance Program; $650,000 for the Groundwater Protection Council; $1,550,000 for the Small Flows Clearinghouse; and $1,000,000 for the National Environmental Training Center. The conferees believe that the increase provided to carry out rural water technical assistance through the Rural Community Assistance Program (RCAP) should be utilized to balance that program's efforts with additional attention to wastewater projects.

9. $900,000 for implementation of the National Biosolids Partnership Program.

10. $1,000,000 for continued work on the Soil Aquifer Treatment Demonstration project.

11. $2,000,000 for continuation of the New York and New Jersey dredge decontamination project.

12. $500,000 for operation of the Long Island Sound Office.

13. $750,000 for the Southern Appalachian Mountain Institute.

14. $100,000 to the Miami-Dade County Department of Environmental Resources Management to expand the existing education program.

15. $200,000 for the Northwest Citizens' Advisory Commission to coordinate research and education efforts of environmental issues covering the entire Northwest Straits area.

16. $175,000 for use in planning to enhance environmental stewardship in the design, construction, and operation, of the University of California, Merced.

17. $1,000,000 for the four regional environmental enforcement projects.

18. $690,000 to develop a broad-based, highly interdisciplinary risk assessment program with strong community involvement, at Cleveland State University.

19. $700,000 for the university portion of the Southern Oxidants Study.

20. $1,500,000 for source water protection programs.

21. $5,000,000 for section 103 grants to the states to develop regional haze programs under Title I, Part C of the Clean Air Act.

22. $500,000 for continued work on the Cortland County, New York aquifer protection plan, $150,000 of which is for planning and implementation of the Upper Susquehanna watershed.

23. $1,250,000 for the National Onsite Water Demonstration project.

24. $2,000,000 for the Federal Energy Technology Center and EPA Region III for continued activities on a comprehensive clean water initiative.

25. $1,600,000 for Tampa Bay Watch to establish a sustaining program and expand community environmental restoration and developmental stewardship projects designed to elevate the health of the Tampa Bay estuary.

26. $500,000 for water quality monitoring of the Tennessee River basin through the Alabama Department of Environmental Management.

27. $5,000,000 to validate screens and tests required by the Food Quality Protection Act to identify hormone-disrupting chemicals.

28. $1,500,000 for training grants under section 104(g) of the Clean Water Act.

29. $500,000 for the Small Public Water System Technology Center at Western Kentucky University.

30. $400,000 for Small Water Systems Technology Assistance Center at the University of Alaska-Sitka.

31. $500,000 for the Small Public Water System Technology Center at the University of Missouri-Columbia.

32. $500,000 for the Southeast Center for Technology Assistance for Small Drinking Water Systems at Mississippi State University.

33. $500,000 to assist communities in Hawaii to meet successfully the water quality permitting requirements for rehabilitating native Hawaiian fishponds.

34. $5,000,000 under section 104(b) of the Clean Water Act for America's Clean Water Foundation for implementation of on-farm environmental assessments for hog production operations, with the goal of improving surface and ground water quality.

35. $475,000 for the Coordinated Tribal Water Quality Program through the Northwest Indian Fisheries Commission.

36. $500,000 for the Ohio River Watershed Pollutant Reduction Program, to be cost-shared.

37. $1,500,000 for the National Alternative Fuels Vehicle Training Program.

38. $2,500,000 for King County, Washington, molten carbonate fuel cell demonstration project.

39. $1,000,000 for the Frank Tejeda Center for Excellence in Environmental Operations to demonstrate new technology for water and wastewater treatment.

40. $775,000 for the National Center for Vehicle Emissions Control and Safety for onboard diagnostic research.

41. $750,000 for the Chesapeake Bay Small Watershed Grants Program.

42. $1,250,000 for the Lake Champlain management plan.

43. $500,000 for the Environmentors project.

44. $1,500,000 for the Food and Agricultural Policy Research Institute's Missouri watershed initiative project to link economic and environmental data with ambient water quality.

45. $500,000 for the final year of funding for the Ala Wai Canal watershed improvement project.

46. $200,000 for the Hawaii Department of Agriculture and the University of Hawaii College of Tropical Agriculture and Human Resources to continue developing agriculturally based remediation technologies.

47. $1,000,000 for the Animal Waste Management Consortium through the University of Missouri, acting with Iowa State University, North Carolina State University, Michigan State University, Oklahoma State University, and Purdue University to supplement ongoing research, demonstration, and outreach projects associated with animal waste management.

48. $1,500,000 for the University of Missouri Agroforestry Center to support the agroforestry floodplain initiative on nonpoint source pollution.

49. $1,000,000 for the Columbia basin ground water management assessment.

50. $1,500,000 for a cumulative impacts study of North Slope oil and gas development. The conferees expect the Administrator to contract for the full amount with the National Academy of Sciences through the National Research Council's Board on Environmental Studies and Toxicology to perform the study which shall be completed within 2 years of contract execution. The Council shall seek input from federal and state agencies, Native organizations, nongovernmental entities, and other interested parties. Pending completion of the NRC study, the conferees direct that federal agencies shall not, under any circumstances, rely upon the pendency of the study to delay, suspend, or otherwise alter federal decisionmaking and NEPA compliance for any existing or proposed oil and gas exploration, development, production or delivery on the North Slope.

51. $750,000 for an expansion of EPA's efforts related to the Government purchase and use of environmentally preferable products under Executive Order 13101 through the Office of Prevention, Pesticides and Toxic Substances. This includes up to $200,000 for the University of Missouri-Rolla to work with the Army to validate soysmoke as a replacement for petroleum fog oil in obscurant smoke used in battlefield exercises.

52. $200,000 to complete the development of a technical guidance manual for use by permit reviewers and product specifiers (Government and private sector) to ensure appropriate uses of preserved wood in applications including housing, piers, docks, bridges, utility poles, and railroad ties.

53. $500,000 for a watershed study for northern Kentucky, including the development and demonstration of a methodology for implementing a cost-effective program for addressing the problems associated with wet weather conditions on a watershed basis.

54. $1,750,000 for the Kansas City Riverfront project to demonstrate innovative methods of removing contaminated debris.

55. $250,000 for the Maryland Bureau of Mines to design and construct a Kempton Mine remediation project to reduce or eliminate the loss of quality water from surface streams into the Kempton Mine complex.

56. $975,000 for the Alabama Department of Environmental Management water and wastewater training programs.

57. $250,000 for the Vermont Department of Agriculture to work with the conservation districts along the Connecticut River in Vermont to reduce nonpoint source pollution.

58. $75,000 for the groundwater protection/wellhead protection project, Nez Perce Indian Reservation in Idaho.

59. $475,000 for the Water Systems Council to assist in the effective delivery of water to rural citizens nationwide.

60. $500,000 to complete the Treasure Valley Hydrologic Project.

61. $350,000 for the Leon County, Florida storm water runoff study.

62. $500,000 for Envision Utah sustainable development activities.

63. $550,000 for the Idaho Water Initiative.

64. $750,000 for the Resource and Agricultural Policy Systems Project.

65. $150,000 for the Vermont Small Business Development Center to assist small businesses in complying with environmental regulations.

66. $700,000 to continue the Urban Rivers Awareness Program at the Academy of Natural Sciences in Philadelphia for its environmental science program.

67. $500,000 for the Kenai River Center for research on watershed issues and related activities.

68. $300,000 for the restoration of the Beaver Springs Slough.

69. $750,000 for the New Hampshire Estuaries Project management plan implementation.

70. $200,000 for the Fairmount Park Commission to identify, design, implement, and evaluate environmental education exhibits.

71. $100,000 to continue the Design for the Environment for Farmers Program to address the unique environmental concerns of the American Pacific area through the adoption of sustainable agricultural practices.

72. $200,000 to complete the cleanup of Five Island Lake in Emmetsburg, Iowa.

73. $175,000 for the Geographical Survey of Alabama for a study on flow in natural and induced fractures in coalbed methane reservoirs to determine the impact of hydraulic fracturing and deep water production on shallow domestic water wells.

74. $850,000 for continued restoration of Lake Ponchartrain, Louisiana.

75. $500,000 for an arsenic groundwater study in Fallon, Nevada.

76. $500,000 for planning and development of the Buffalo Creek watershed, New York.

77. $1,500,000 for continued work on the water quality management plans for the New York watersheds.

78. $1,000,000 for the Mecklenburg County, North Carolina surface water improvement and management program.

79. $1,000,000 for planning and development of a master plan of the Susquehanna-Lackawanna, Pennsylvania watershed through the Pennsylvania Geographic Information Consortium.

80. $500,000 for a study of the effect of pesticide runoff on inter-urban lakes in Fort Worth, Texas.

81. $500,000 for the Brazos/Navasota, Texas watershed management initiative.

82. $300,000 for implementation of the Potomac River Visions Initiative through the Friends of the Potomac.

83. $500,000 for Mississippi State University, the University of Mississippi, and the University of Georgia to conduct forestry best management practice water quality effectiveness studies in the States of Mississippi and Georgia.

84. $500,000 for planning and consolidation of the west bank Jefferson Parish, Louisiana wastewater treatment facilities.

85. $300,000 for the Northeast States for Coordinated Air Use Management (NESCAUM).

86. $500,000 for completion of the international project to phase out the use of lead in gasoline.

87. $1,500,000 for West Virginia University to develop the plastics recycling component of the Green Exchange, in cooperation with the Polymer Alliance Zone and the National Electronics Recycling Project, and in consultation with the Office of Information and Resource Management.

The conferees have agreed to the following reductions from the budget request:

1. $90,000,000 from the climate change technology initiative (CCTI), including elimination of funds for the Transportation Partners program.

2. $2,000,000 from the partnerships with other countries program.

3. $3,043,000 from Project EMPACT.

4. $5,847,000 from compliance monitoring program.

5. $6,749,000 from the civil enforcement program.

6. $656,000 from the enforcement training program.

7. $2,700,000 from human resources management.

8. $1,369,000 from the criminal enforcement program.

9. $9,000,000 from the Montreal Protocol Multilateral Fund.

10. $4,700,000 from Sustainable Development Challenge Grants.

11. $3,400,000 from the new Urban Environmental Quality and Human Health program.

12. $112,119,000 as a general reduction.

In the Congressional response to the EPA's proposed Operating Plan for fiscal year 1999, deep concerns were raised regarding the increase of the overall personnel level at the Agency and the relationship of that increase to the actual appropriated levels for activities of the Agency. As a result of these concerns, both the House and the Senate included specific payroll reductions in their respective fiscal year 2000 legislative proposals, and the Senate took the further step of including a maximum expenditure for personnel compensation and benefits within the text of its bill.

The conferees acknowledge that such specific direction tends to reduce the Agency's flexibility in balancing both personnel and operations requirements and have therefore determined not to include specific dollar or FTE provisions in either the legislation or the statement of the managers accompanying the conference report. This action, however, should not be interpreted as any change in the conferees' resolve that EPA must continue to take the steps necessary, short of a reduction-in-force action, to reduce its workforce and personnel costs.

To this end, the conferees expect the Agency to maintain throughout the year the modified hiring freeze begun during fiscal year 1999, with the ultimate goal of reaching, by the end of fiscal year 2001, an Agency-wide personnel level of no more than 18,000 FTEs. In applying the hiring freeze, the Agency should remain flexible and make accommodations, as appropriate, to maintain necessary positions, even if doing so will temporarily result in upward fluctuations of monthly personnel levels. In addition, the Agency is expected to include as part of its Operating Plan submission for fiscal year 2000 a proposal to reduce payroll costs to help meet the general reduction requirement contained in the Environmental Programs and Management account. Finally, the Agency is requested to provide monthly to the Committees on Appropriations an informal report detailing the end-of-month personnel levels listed by office, location (headquarters, region, field) and by appropriations account.

The conferees have agreed to provide $1,250,000 from within available funds for the seven Environmental Finance Centers. In this regard, the conferees direct the Agency to consider the finance center located at the University of Louisville part of and an equal partner in all activities, financial and otherwise, of the finance center network.

The conference agreement includes the budget request of $32,800,000 for reregistration and $36,100,000 for registration activities performed by EPA. Faster review and approval for registration applications will allow safer, more environmentally friendly products on the market sooner and ensure that farmers have the ability to protect their crop. In the submission of the fiscal year 2000 operating plan, the Agency is directed to take no reductions below the budget request from the pesticide registration and reregistration programs, as well as from the NPDES permit backlog, compliance assistance activities, RCRA corrective actions, and data quality and information management activities related to the reorganization of the Office of Information Management.

The conferees have provided $5,000,000 under section 103 of the Clean Air Act for states and recognized regional partnerships, including the Western Regional Air Partnership due to the accelerated schedule it has in the Regional Haze regulations, for multi-state planning efforts on regional haze, including aiding in the development of emissions inventories, quantification of natural visibility conditions, monitoring, and other data necessary to define reasonable progress and develop control strategies. These additional funds shall in no way reduce other, existing grants to states or tribes authorized under sections 103 and 105 of title I, part C of the Clean Air Act, as amended.

The conferees have similarly provided an additional $5,000,000 for the validation of screens and tests under the Endocrine Disrupter Screening Program (EDSP), bringing the total funding level for this program to $12,700,000. The conferees expect these funds to be used by the Office of Pollution Prevention and Toxics, in conjunction with the Office of Research and Development, to improve, standardize, and validate simultaneously the recommended Tier I screens and Tier II tests, beginning with those screens and tests relevant to human health, to protect appropriately public health. For the public to have confidence in information developed under the EDSP, the screens and tests must produce credible, replicable results.

Within 60 days of enactment of this Act, EPA is directed to provide $300,000 to the Environmental Council of the States (ECOS) to analyze state enforcement and compliance statistics and identify the sources of any inconsistencies among the states and EPA in data collection, reporting, or definitions, and make such information along with a summary of state enforcement and compliance activities available for review by the Congress. EPA is further directed to provide the National Academy of Public Administration (NAPA), within 60 days of enactment, $200,000 to provide the Congress with an independent evaluation of state and federal enforcement data, including a recommendation of actions needed to ensure public access to accurate, credible, and consistent enforcement data.

Within available funds, the conferees direct EPA to conduct a relative risk assessment of deep well injection, ocean disposal, surface discharge, and aquifer recharge of treated effluent in South Florida, in close cooperation with the Florida Department of Environmental Protection and South Florida municipal water utilities.

The conferees encourage EPA to move forward with a rulemaking to provide for the use of a refillable/recyclable refrigerant cylinder system as a means of reducing the release of ozone-depleting chemicals.

Consistent with the Senate Report, the Agency is directed to conduct in conjunction with the Department of Agriculture a cost and capability assessment of the Unified National Strategy for Animal Feeding Operations. The conferees agree this report should be completed and submitted to the Congress by May 15, 2001. Similarly, consistent with the House Report, the conferees expect the Agency to solicit and consider additional public comment regarding exemptions from the rule on "plant pesticides" as suggested by the Consortium of Eleven Scientific Societies.

The conferees are concerned about an apparent inequity created by two separate and conflicting actions that occurred last May. One was EPA's issuance of a final rule under section 126 of the Clean Air Act that in essence requires the same emission reductions called for by EPA's State Implementation Plan (SIP) revision call for nitrogen oxides (NOx) if the Agency has not approved the NOx SIP Call revisions of 22 States and the District of Columbia by November 30, 1999. The other was an order by the United States Court of Appeals for the D.C. Circuit staying the requirement imposed in EPA's 1998 NOx SIP Call for these same jurisdictions to submit the SIP revisions just mentioned for EPA approval. Prior to this, EPA maintained a close link between the NOx SIP Call and the section 126 rule.

While the conferees' primary concern is in ensuring that these matters are soon resolved in the interest of air quality enhancements for all the states, the conferees encourage EPA to retain the linkage and refrain from implementing the section 126 regulation until the NOx SIP Call litigation is complete.

The conferees are aware that an agreement is close to being reached among the EPA, various animal protection organizations, trade associations representing chemical companies, and other interested parties that will incorporate certain animal welfare concerns and scientific principles into the High Production Volume (HPV) testing program. It is the intention of the conferees that the HPV program, including the first test rule, should proceed in a manner that is consistent with those animal welfare concerns and that the EPA develop and validate within existing funds non-animal test methods for use in chemical toxicity testing.

The conferees are aware of concerns regarding the relationship between proposed regulatory standards for radium in drinking water and the actual risks to public health caused by the ingestion of low concentrations of radium in drinking water. The Administrator of the EPA is therefore directed to evaluate all direct human health impacts of low concentrations of radium in drinking water and ascertain at what level radium in water actually becomes a risk to public health. The EPA is expected to publish a summary of this information in a Notice of Data Availability before making decisions about final standards for Radium 226 and Radium 228 in drinking water.

The conferees have deleted bill language proposed by the House under General Provisions in title IV prohibiting the expenditure of funds to publish or issue an assessment required under section 106 of the Global Change Research Act of 1990 unless the supporting research has been subjected to peer review and, if not otherwise publicly available, posted electronically for public comment prior to use in the assessment, and the draft assessment has been published in the Federal Register for a 60 day public comment period. While the conferees have deleted this specific bill language, the Agency is nevertheless expected to adhere to this provision.

Unlike in the State and Tribal Assistance Grants account, the Agency has historically not required a cost-share component for specific grants provided through the Environmental Programs and Management (EPM) account, unless specifically required. In order to leverage better available financial resources, the Agency is directed to work with the Committees on Appropriations in the development of a proposal for a cost-share requirement to be included for projects funded within the EPM account, with the goal of having such an agreed upon proposal included in the fiscal year 2000 Operating Plan.

OFFICE OF INSPECTOR GENERAL

Appropriates $32,409,000 for the Office of Inspector General as proposed by the Senate instead of $25,000,000 as proposed by the House. In addition to this appropriation, $11,000,000 is available to the OIG by transfer from the Hazardous Substance Superfund account. The conferees agree that the increase above the budget request provided the OIG should be used to address major problems at EPA through the development of additional audits of grants and assistance agreements, and to form a new program evaluation unit to analyze environmental outcomes more effectively.

BUILDINGS AND FACILITIES

Appropriates $62,600,000 for buildings and facilities as proposed by the House instead of $25,930,000 as proposed by the Senate. The conferees note that within this appropriation is $36,700,000, the final funding increment, for continued construction of the consolidated research facility at Research Triangle Park, North Carolina.

HAZARDOUS SUBSTANCE SUPERFUND

Appropriates $1,400,000,000 for hazardous substance superfund as proposed by the Senate instead of $1,450,000,000 as proposed by the House. Bill language provides that $700,000,000 of the appropriated amount is to be derived from the Superfund Trust Fund, while the remaining $700,000,000 is to be derived from General Revenues of the Treasury. Additional language 1) provides $70,000,000 for the Agency for Toxic Substances and Disease Registry (ATSDR); 2) provides for a transfer of $11,000,000 to the Office of Inspector General; 3) provides for a transfer of $38,000,000 to the Science and Technology account; and 4) provides that $100,000,000 of the appropriated amount shall not become available for obligation until September 1, 2000.

The conferees have also included bill language which permits the Administrator of the ATSDR to conduct other appropriate health studies and evaluations or activities in lieu of health assessments pursuant to section 104(i)(6) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). The language further stipulates that in the conduct of such other health assessments, evaluations, or activities, the ATSDR shall not be bound by the deadlines imposed in section 104(i)(6)(A) of CERCLA.

The conferees have agreed to the following fiscal year 2000 funding levels:

1. $917,337,000 for Superfund response/cleanup actions. The Brownfields program has been funded at the budget request level of $91,700,000.

2. $140,000,000 for enforcement activities.

3. $125,000,000 for management and support. In addition, $11,000,000 is to be provided by transfer to the Office of Inspector General.

4. $38,000,000 for research and development activities, to be transferred to the Science and Technology account.

5. $60,000,000 for the National Institute of Environmental Health Sciences, including $23,000,000 for worker training and $37,000,000 for research activities.

6. $70,000,000 for the Agency for Toxic Substances and Disease Registry.

7. $38,663,000 for reimbursable interagency activities, including $28,663,000 for the Department of Justice, $650,000 for OSHA, $1,100,000 for FEMA, $2,450,000 for NOAA, $4,800,000 for the Coast Guard, and $1,000,000 for the Department of the Interior.

Within the amount provided to the ATSDR, $1,500,000 is for continued work on the Toms River, New Jersey cancer evaluation and research project. In addition, the conferees expect the ATSDR to provide adequate funding to continue the minority health professions program and to continue the health effects study on the consumption of Great Lakes fish. As in the past, ATSDR's administrative costs charged by CDC are capped at 7.5 percent of the amount appropriated herein. The conferees agree that $3,000,000 is to be re-directed from health assessments to other priorities.

With the funds transferred to science and technology, the conferees direct that the current hazardous substance research centers, including the Gulf Coast center, will be funded at no less than the 1998 funding level.

For fiscal year 2000 and consistent with fiscal year 1999, the conferees direct the Agency not to initiate or order dredging, except as noted in the conference report and statement of the managers accompanying the 1999 Appropriations Act, until the National Academy of Sciences has completed its dredging study and that study has been properly considered by EPA. Further, the Agency should only initiate or order dredging in cases where a full analysis of long and short-term health and environmental impacts has been conducted.

Finally, the conferees direct that within 45 days of enactment of this Act, EPA award a cooperative agreement for an independent analysis of the projected federal costs over the ten-year period of fiscal years 2000–2010 for implementation of the Superfund program under current law, including the annual and cumulative costs associated with administering CERCLA activities at National Priority List (NPL) sites. The analysis should identify sources of uncertainty in the estimates, and shall model 1) costs for completion of all sites currently listed on the NPL, 2) costs associated with additions to the NPL anticipated for fiscal year 2000 through fiscal year 2009, 3) costs associated with federal expenditures for the operations and maintenance at both existing and new NPL sites, 4) costs for emergency removals, 5) non-site specific costs assigned to other activities such as research, administration, and interagency transfers, and 6) costs associated with five-year reviews at existing and new NPL sites and associated activities. For purposes of this analysis, costs associated with assessment, response, and development of brownfields and federal facility sites are not to be included. The analysis shall be conducted by the Resources for the Future, and the results of the work are to be transmitted in a report to the Congress no later than December 31, 2000.

LEAKING UNDERGROUND STORAGE TANK PROGRAM

Appropriates $70,000,000 for the leaking underground storage tank program instead of $60,000,000 as proposed by the House and $71,556,000 as proposed by the Senate.

The conferees direct EPA to submit a plan to the Congress by May 1, 2000, including cost estimates, to (1) identify underground storage tanks that are not in compliance with subtitle I of the Solid Waste Disposal Act; (2) identify underground storage tanks in temporary closure; (3) determine the ownership of underground storage tanks not in compliance or in temporary closure; and (4) determine the plans of owners and operators to bring such tanks into compliance or out of temporary closure. For tanks for which no owner can be identified, the plans should describe how they will be brought into compliance or closed permanently.

OIL SPILL RESPONSE

Appropriates $15,000,000 for oil spill response as provided by both the House and the Senate.

STATE AND TRIBAL ASSISTANCE GRANTS

Appropriates $3,466,650,000 for state and tribal assistance grants instead of $3,199,957,000 as proposed by the House and $3,250,000,000 as proposed by the Senate. Bill language specifically provides $1,350,000,000 for Clean Water State Revolving Fund (SRF) capitalization grants, $820,000,000 for Safe Drinking Water SRF capitalization grants, $50,000,000 for the United States-Mexico Border program, $30,000,000 for grants to address drinking water and wastewater infrastructure needs in rural and native Alaska, $885,000,000 for categorical grants to the states and tribes, and $331,650,000 for grants for construction of water and wastewater treatment facilities and for groundwater protection infrastructure.

The conferees have included bill language which, for fiscal year 2000 only, authorizes the Administrator of the EPA to use funds appropriated under section 319 of the Federal Water Pollution Control Act (FWPCA) to make grants to Indian tribes pursuant to section 319 (h) and 518 (e) of FWPCA. In addition, bill language has been adopted by the conferees to permit states to include as principal amounts considered to be the cost of administering or, for the State of New York only, capitalizing SRF loans to eligible borrowers, with certain limitations.

The conferees have further agreed to include bill language which resolves in favor of the grantee a disputed grant, docket number AA-91-AD34 (05-90-AD09); bill language which permits EPA and the State of New York to utilize certain grant reallotments to provide grant assistance to Nassau County, New York for improvements at the Bay Park and Cedar Creek waste treatment plants; and bill language which makes technical changes to the use of funds appropriated in Public Law 105-276 for water and sewer infrastructure improvements in Utah and Alaska.

Finally, the conferees have included bill language, similar to that included in the fiscal year 1998 Appropriations Act, which permits the District of Columbia Water and Sewer Authority to obtain federal construction grants containing a matching requirement of 80-20. This provision will permit the District to continue its efforts to implement its necessary capital improvement program while enabling it to maintain a sound financial position.

Of the funds provided for the United States-Mexico Border Program, $3,000,000 is for the El Paso-Las Cruces sustainable water project, and $2,000,000 is for the Brownsville, Texas water supply project. Of the funds provided for rural and Alaska Native villages, $2,000,000 is for training and technical assistance. The State of Alaska must also provide a 25 percent match for all expenditures through this program.

The conferees agree that the $331,650,000 provided to communities or other entities for construction of water and wastewater treatment facilities and for groundwater protection infrastructure shall be accompanied by a cost-share requirement whereby 45 percent of a project's cost is to be the responsibility of the community or entity consistent with long-standing guidelines of the Agency. These guidelines also offer flexibility in the application of the cost-share requirement for those few circumstances when meeting the 45 percent requirement is not possible. The Agency is commended for its past efforts in working with communities and other entities to resolve problems in this regard, and the conferees expect this level of effort and flexibility to continue throughout fiscal year 2000. The distribution of funds under this program is as follows:

1. $2,000,000 for wastewater infrastructure improvements in Cherokee County ($750,000); South Vinemont ($750,000); and Dodge City ($500,000), Alabama.
2. $1,000,000 for water infrastructure needs in Jefferson County, Alabama.
3. $500,000 for the Dog River watershed project in Mobile, Alabama.
4. $1,900,000 for wastewater infrastructure improvements in Stevenson ($950,000) and Athens ($950,000), Alabama.
5. $3,000,000 for a surface water treatment plant in Franklin County, Alabama.
6. $500,000 for Lafayette, Alabama, water system project.
7. $500,000 for the City of Sitka, Alaska, water/sewer improvements.
8. $3,750,000 for water/sewer improvements in the Chugiak area of Anchorage, Alaska.
9. $3,750,000 for water/sewer improvements for the City of Valdez, Alaska.
10. $300,000 for the East Wetlands Restoration project in Yuma, Arizona.
11. $3,000,000 for a grant to the Arizona Water Infrastructure Financing Authority for making a loan to the city of Safford, Arizona to address the city's wastewater needs, which will be repaid by the city to the Arizona Clean Water Revolving fund established under title VI of the Federal Water Pollution Control Act, as amended.
12. $1,000,000 for water and wastewater infrastructure improvements in Fort Chaffee, Arkansas.
13. $3,000,000 for the Coastal Low Flow Storm Drain Diversion project in San Diego, California.
14. $1,500,000 for the removal of Arundo Donax on the lower Santa Ana River ($1,000,000); and for restoration of Lake Elsinore ($500,000), California.
15. $3,000,000 for continued construction of the Olivenhain Water District, California water treatment project.
16. $2,000,000 for continued work on the Lake Tahoe water export replacement project ($1,000,000), and for wastewater infrastructure improvements at the Placer County Subregional Wastewater Treatment Plant ($1,000,000), California.
17. $3,500,000 for water and wastewater infrastructure improvements for Arcadia and Sierra Madre ($2,000,000) and the City of San Dimas Walker House ($1,000,000); and for the Desalination Research and Innovation Partnership ($500,000), California.
18. $500,000 for continued development of the Calleguas Creek, California watershed management plan.
19. $4,000,000 for water, wastewater, and system infrastructure development and improvements for the Yucaipa Valley Water District ($2,000,000); the Lower Owens River project in Inyo County ($1,000,000); the Lower Owens River project in the City of Los Angeles ($500,000); and the San Timoteo Creek environmental restoration project in Loma Linda ($500,000), California.
20. $2,000,000 for Sacramento, California's combined sewer system improvement and rehabilitation project.
21. $2,500,000 for a desalination facility in Carlsbad ($500,000); for the San Diego wastewater capital improvement program ($1,000,000), and for watershed planning for the community and environmental transportation acceptability process in Riverside County ($1,000,000), California.
22. $1,000,000 for wastewater and sewer infrastructure improvements in Huntington Beach, California.
23. $950,000 for wastewater infrastructure improvements in the Russian River Sanitation District ($475,000), and for continued development of the Geysers Recharge project ($475,000), California.
24. $1,600,000 for continuation of a water reuse demonstration project in Yucca Valley ($1,000,000) and a water storage distribution project in Twenty Nine Palms ($600,000), California.
25. $950,000 for wastewater infrastructure needs on Mare Island, Vallejo, California.
26. $1,500,000 for sewer infrastructure improvements in the vicinity of the Santa Clara River in Los Angeles County, California.
27. $1,500,000 for the City of Montrose, Colorado, wastewater treatment plant upgrade.
28. $1,500,000 for wastewater infrastructure improvements in New Britain and Southington, Connecticut.
29. $1,425,000 for wastewater infrastructure and combined sewer overflow improvements on the Connecticut River in Connecticut and Massachusetts.
30. $3,000,000 for water, wastewater, and water reuse infrastructure improvements through Florida's five water management district Alternative Water Sources Development program.
31. $2,000,000 for continuation of the water reuse infrastructure project in West Palm Beach, Florida.
32. $5,000,000 for the Tampa Bay, Florida regional reservoir infrastructure project.
33. $1,900,000 for wastewater infrastructure improvements for Opa-locka ($950,000) and for the Highland Village neighborhood of North Miami Beach ($950,000), Florida.
34. $1,500,000 for wastewater infrastructure improvements necessary to reduce effluent discharge into Sarasota Bay, Florida.

35. $500,000 for development of the Deer Point Watershed Protection Zone in Bay County, Florida.

36. $1,000,000 for analysis and development of necessary combined system overflow facilities in Atlanta, Georgia.

37. $1,000,000 for infrastructure development and improvements of the Big Creek watershed programs in the cities of Roswell, Mountain Park, and Brookfield, and Fulton County, Georgia.

38. $1,000,000 for continued work on the basin stormwater retention and reuse project at Big Haynes Creek, Georgia.

39. $1,500,000 for the County of Kauai, Hawaii, for the Lihue wastewater treatment plant.

40. $600,000 for water and wastewater infrastructure improvements in Jerome ($300,000), and Dietrich ($300,000), Idaho.

41. $1,800,000 for the City of Blackfoot, Idaho, for wastewater treatment plant improvements.

42. $7,500,000 for drinking water infrastructure improvements in the cities of DeKalb ($2,500,000); Yorkville ($1,000,000); Elburn ($500,000); Batavia ($1,500,000); Oswego ($1,000,000); and Geneva ($1,000,000), Illinois.

43. $4,750,000 for continued development of the tunnel and reservoir project (TARP) of the Metropolitan Water Reclamation District in Chicago, Illinois.

44. $950,000 for water and wastewater infrastructure improvements in Robbins ($475,000) and Phoenix ($475,000), Illinois.

45. $1,000,000 for infrastructure development of the Pigeon Creek Enhancement project in Evansville, Indiana.

46. $1,900,000 for wastewater infrastructure improvements within the Gary Sanitary District, Indiana.

47. $900,000 for wastewater infrastructure improvements in Kansas City, Kansas.

48. $1,500,000 for wastewater infrastructure development and improvements in Jessamine County, Kentucky.

49. $1,000,000 for wastewater and drinking water infrastructure improvements in Bonnieville ($600,000) and in the Kentucky Turnpike Water District Division 2 ($400,000), Kentucky.

50. $1,500,000 for wastewater infrastructure improvements at the West County Wastewater Treatment Plant within the Metropolitan Sewer District of Louisville, Kentucky.

51. $6,400,000 for water and wastewater infrastructure needs for Knott County ($2,000,000); Somerset ($1,400,000); Knox County ($1,000,000); Harlan ($1,000,000); and McCreary County ($1,000,000), Kentucky.

52. $800,000 for water, sewer, and wastewater infrastructure improvements within the Henderson County Water District ($350,000); the Logan/Todd Regional Water System ($300,000); the McLean County sewer system ($120,000); and the Fancy Farm water system ($30,000), Kentucky.

53. $3,000,000 for North Jessamine County, Kentucky, wastewater system improvements.

54. $2,500,000 for water and wastewater infrastructure improvements in the East Baton Rouge Parish ($1,000,000); Ascension Parish ($1,250,000); and St. Gabriel ($250,000), Louisiana.

55. $2,000,000 for water and wastewater infrastructure improvements in St. Bernard Parish, Louisiana.

56. $3,800,000 for New Orleans, Louisiana wastewater infrastructure improvements.

57. $1,425,000 for combined sewer overflow infrastructure support in Middlesex and Essex Counties ($712,500), and for continued wastewater infrastructure improvements in Essex County ($712,500), Massachusetts.

58. $2,000,000 for continued wastewater needs in Bristol County, Massachusetts.

59. $1,900,000 for combined sewer overflow infrastructure improvements in Boston, Massachusetts.

60. $1,000,000 for Vinalhaven, Maine, wastewater infrastructure improvements.

61. $5,000,000 for the upgrade of sewage treatment facilities in Cambridge and Salisbury, Maryland.

62. $1,500,000 for combined sewer overflow infrastructure improvements in Grand Rapids, Michigan.

63. $5,000,000 for continuation of the Rouge River National Wet Weather Demonstration project.

64. $1,500,000 for infrastructure improvements within the George W. Kuhn Drainage District, Oakland County, Michigan.

65. $1,000,000 for water and watershed infrastructure improvements and research through Western Michigan University at Kalamazoo, Michigan.

66. $1,900,000 for wastewater infrastructure improvements in Port Huron, Michigan.

67. $1,425,000 for continued drinking water infrastructure improvements for Bad Axe, Michigan.

68. $1,900,000 for continued development of the Mille Lacs regional wastewater treatment facility, Minnesota.

69. $2,800,000 for the City of Flowood, Mississippi for the Hogg Creek Interceptor wastewater infrastructure improvements within the West Rankin Regional Sewage System.

70. $950,000 for sewer and wastewater infrastructure needs in Picayune, Mississippi.

71. $3,500,000 for wastewater infrastructure improvements at the DeSoto County Wastewater Treatment Facility ($2,950,000), and the City of Farmington wastewater collection and treatment facility ($550,000), Mississippi.

72. $475,000 for wastewater infrastructure improvements in Lamont, Mississippi.

73. $5,200,000 for wastewater infrastructure evaluation and improvements in Jackson, Mississippi.

74. $2,375,000 for the Meramac River, Missouri enhancement and wetlands protection project.

75. $1,000,000 for wastewater infrastructure improvements in Jefferson County, Missouri.

76. $5,500,000 for the State of Missouri Department of Natural Resources for phosphorous removal efforts in southwestern Missouri communities under 50,000, including but not limited to Nixa, Ozark, Kimberling City, Reeds Spring, and Galena wastewater treatment facilities discharging into the Table Rock Lake watershed.

77. $3,300,000 for the Missouri Division of State Parks water and sewer improvements needs including but not limited to the state parks of Meramec, Roaring River, Lake of the Ozarks, Knob Noster, Cuivve River, Mark Twain, and Trail of Tears.

78. $1,000,000 for wastewater infrastructure improvements for the East Missoula wastewater system ($250,000); the El Mar Estates wastewater treatment facility ($250,000); and the Lolo wastewater treatment plant ($500,000), Montana.

79. $4,000,000 for the Lockwood, Montana, water and sewer district for implementation of its wastewater collection, treatment and disposal plan.

80. $1,500,000 for the Big Timber, Montana wastewater treatment facility.

81. $450,000 for watershed management improvements in Omaha, Nebraska.

82. $3,300,000 for water and wastewater infrastructure needs of the Moapa Valley Water District ($2,300,000) and the City of Fallon ($1,000,000), Nevada.

83. $900,000 for water infrastructure improvements in Henderson, Nevada.

84. $2,000,000 for wastewater infrastructure improvements in Epping, New Hampshire.

85. $2,000,000 for the Berlin, New Hampshire, water infrastructure improvements.

86. $1,000,000 for combined sewer overflow infrastructure improvements in Nashua, New Hampshire.

87. $5,000,000 for combined sewer overflow requirements of the Passaic Valley Sewerage Commission, New Jersey.

88. $1,500,000 for combined sewer overflow infrastructure improvements of the North Hudson Sewerage Authority, New Jersey.

89. $475,000 for wastewater infrastructure improvements for the South Side Interceptor/Queens Ditch in Newark, New Jersey.

90. $3,000,000 for water and wastewater infrastructure and development needs in Lovington ($1,500,000) and Belen ($1,500,000), New Mexico.

91. $7,500,000 for water and wastewater infrastructure improvements in Bernalillo ($1,000,000); in the North and South Valley areas of Albuquerque and Bernalillo County ($6,000,000); and in Espanola ($500,000), New Mexico.

92. $500,000 for the Clovis, New Mexico emergency repair of a wastewater effluent holding pond and renovation of its wastewater treatment plant.

93. $10,000,000 for drinking water infrastructure needs in the New York City watershed.

94. $5,000,000 for wastewater infrastructure improvements within the Western Ramapo Sewer District in Rockland County, New York.

95. $950,000 for wastewater infrastructure improvements at New York and Pennsylvania treatment facilities which discharge into the Susquehanna River.

96. $950,000 for infrastructure improvements at the White Plains water filtration facility, New York.

97. $1,500,000 for phase one of the Genesee County, New York public water supply project.

98. $1,500,000 for water and wastewater infrastructure improvements for the Hamlet of Verona, New York.

99. $1,500,000 for the Lake Water Supply project in Monroe County, New York.

100. $1,000,000 for water infrastructure improvements in Syracuse, New York.

101. $18,500,000 for continued clean water improvements of Onondaga Lake, New York.

102. $2,500,000 for drinking water and wastewater infrastructure improvements of the Buncombe County Metropolitan Sewerage District ($2,000,000), and in the town of Waynesville ($500,000), North Carolina.

103. $3,000,000 for the Grand Forks, North Dakota, water treatment plant.

104. $1,925,000 for continued development of a storm water abatement system in the Doan Brook Watershed Area, Ohio.

105. $3,000,000 for combined sewer overflow infrastructure improvements in Port Clinton ($1,500,000) and Van Wert ($1,500,000), Ohio.

106. $1,000,000 for water treatment infrastructure improvements in Girard, Ohio.

107. $1,900,000 for wastewater improvements associated with the Toledo Waste Equalization Basin, Ohio.

108. $1,425,000 for drinking water infrastructure needs in Jackson County, Ohio.

109. $1,000,000 for wastewater infrastructure improvements in Hood River, Oregon.

110. $2,900,000 for continued development of the Three Rivers Wet Weather Demonstration program in Allegheny County, Pennsylvania.

111. $1,000,000 for Hampden Township, Pennsylvania wastewater infrastructure improvements.

112. $1,000,000 for continued wastewater infrastructure improvements for the Springettsbury Township and City of York, Pennsylvania.

113. $3,800,000 for groundwater, drinking water and watershed infrastructure restoration and improvements in Carrolltown Borough ($1,567,500); Sipesville ($2,118,500); and the Saint Vincent watershed ($114,000), Pennsylvania.

114. $1,000,000 for wastewater infrastructure improvements for the Roaring Brook Township Sewer Authority ($300,000); the Borough of Olyphant ($300,000); and the Borough of Honesdale ($400,000), Pennsylvania.

115. $1,000,000 for wastewater and sewer infrastructure improvements in New Kensington, Pennsylvania.

116. $5,000,000 for water and wastewater infrastructure improvements for the Lewistown Municipal Water Authority ($500,000); Chambersburg Borough ($1,250,000); Hollidaysburg Borough ($1,500,000); Houtzdale Borough Municipal Authority ($200,000); Tyrone Borough ($800,000); Metal Township Sewer Authority ($500,000); and Decatur Township ($250,000), Pennsylvania.

117. $500,000 for water infrastructure needs in the Khedive area of Jefferson Township, Greene County, Pennsylvania.

118. $4,000,000 for the continued development of water supply needs of the Lake Marion Regional Water Agency, South Carolina.

119. $2,300,000 for the Shulerville-Honey Hill, South Carolina, water extension project.

120. $1,000,000 for wastewater infrastructure development and improvements at the George's Creek Wastewater Treatment Plant, Pickens County, South Carolina.

121. $500,000 for Dell Rapids, South Dakota, wastewater treatment facility upgrade.

122. $5,000,000 for the Mitchell, South Dakota, water system.

123. $2,000,000 for drinking water infrastructure improvements of the Sunbright Utility District, Morgan County, Tennessee.

124. $1,000,000 for a wastewater, wet weather demonstration project in Fort Worth, Texas.

125. $500,000 for continued development of the Riverton, Utah water reuse system improvement project.

126. $2,000,000 for water, sewer, and stormwater infrastructure improvements for the City of Ogden, Utah.

127. $800,000 for a wetland development project in Logan, Utah.

128. $8,000,000 for continued development of combined sewer overflow improvements in Richmond ($4,000,000) and Lynchburg ($4,000,000), Virginia.

129. $2,000,000 for water and wastewater infrastructure improvements in western Lee County ($1,250,000) and in Amonate, Tazewell County ($750,000), Virginia.

130. $2,700,000 for the Pownal, Vermont wastewater treatment project.

131. $1,300,000 for the Cabot, Vermont, wastewater treatment project.

132. $2,500,000 for water system improvements in Metaline Falls, Washington.

133. $600,000 for the city of Bremerton, Washington, combined sewer overflow project.

134. $450,000 for water and wastewater infrastructure needs for the Village of Klicktat, Washington.

135. $950,000 for water and wastewater infrastructure improvements in Huntington, West Virginia.

136. $7,000,000 for water, wastewater, and sewer infrastructure improvements in Davis ($1,850,000); Newburg ($1,900,000); the Chestnut Ridge Public Service District in Barbour County ($1,950,000); and Worthington ($1,300,000), West Virginia.

137. $5,000,000 for the City of Welch, West Virginia, for water and sewer improvements.

138. $3,000,000 for continued development of the Metropolitan Milwaukee Sewerage District interceptor system.

139. $1,000,000 for wastewater infrastructure improvements in Beloit, Wisconsin.

140. $5,900,000 for continuation of the National Community Decentralized Wastewater Demonstration Project to develop and transfer technologies which offer alternatives to centralized wastewater treatment facilities. The three communities of Monroe County, Florida Keys, Florida ($4,000,000); Mobile, Alabama ($1,200,000); and Skaneateles Lake, New York have been added to the demonstration project based on their unique and diverse geology and geography, as well as on the commitment of each community to find appropriate alternative technologies to resolve their wastewater treatment needs. The Committee expects to continue the cost share requirements for these three projects as was provided the first three project communities.

141. $500,000 for wastewater infrastructure improvements through the City of Warm Springs, Georgia.

It is the intent of the conferees that EPA is to award the remaining $2,675,000 not yet awarded from the $8,000,000 appropriated in Public Law 105-65 for the Upper Savannah Council of Governments for wastewater facility improvements, with a local match less than that normally prescribed by EPA for such grants. In addition, for this year and prior fiscal years, any grants to nonprofit organizations (or educational institutions) for a project to demonstrate the use of an onsite ecologically based wastewater treatment process that are funded from monies included in EPA's State and Tribal Assistance Grant account should require not more than a five percent match requirement.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Appropriates $5,108,000 for the Office of Science and Technology Policy as proposed by the House instead of $5,201,000 as proposed by the Senate.

The conferees are aware of the growing interest in the scientific, biomedical, and industrial communities for increasing high field nuclear magnetic resonance capacities. Last year, the House Appropriations Committee requested the National Science Foundation assess and report on Japanese efforts in this area. It appears that progress by Japan and several other countries has been impressive while efforts related to this important new technology in the United States have lagged.

The conferees strongly urge the OSTP to undertake an assessment of this technology, its potential utilization by various scientific disciplines, and to provide recommendations on what future efforts or programs the federal research and development agencies should undertake to address this challenge. The conferees request the OSTP provide a report to the Committees on Appropriations by May 1, 2000.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

Appropriates $2,827,000 for the Council on Environmental Quality and the Office of Environmental Quality as proposed by the House instead of $2,675,000 as proposed by the Senate. The conferees have once again included bill language which prohibits CEQ from using funds other than those appropriated directly under this heading. The Council is expected to implement this provision in a manner consistent with its implementation during fiscal years 1998 and 1999.

The conferees note that the fiscal year 1999 Appropriations Act directed that "no less than $100,000 of the appropriated amount be used by CEQ for work on the NEPA Reinvention project . . . to establish a memorandum of understanding between the Federal Energy Regulatory Commission and other appropriate federal departments and agencies to expedite review of natural gas pipeline projects." The conferees commend CEQ for beginning this process and understand the Council is currently awaiting input from the industry, which is expected shortly. The conferees continue to want this memorandum of understanding to occur in fiscal year 2000 and expect that it will help to serve as a model to develop memoranda of understanding to expedite processing for other projects that require NEPA review.

FEDERAL DEPOSIT INSURANCE CORPORATION

OFFICE OF INSPECTOR GENERAL

Appropriates $33,666,000 for the Office of Inspector general as proposed by the House, instead of $34,666,000 as proposed by the Senate. Funds for this account are derived from the Bank Insurance Fund, the Savings and Loan association Insurance Fund, and the FSLIC Resolution Fund.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

Appropriates $300,000,000 for disaster relief as proposed by the both the House and the Senate. In addition, appropriates $2,480,425,000 in emergency funding for disaster relief. The House and Senate bills did not provide for the emergency funding.

The conferees have agreed to include language in the bill making $10,000,000 from section 404 hazard mitigation grant funding available to the State of California for pilot projects to demonstrate seismic retrofit technology. Of this amount, FEMA is directed to use $2,000,000 to continue a pilot project of seismic retrofit technology on an existing welded steel frame building at California State University, San Bernardino. Also within the account, an additional $6,000,000 is available for continuation of a project at Loma Linda University Hospital, and $2,000,000 is available for a seismic retrofit project at the University of Redlands.

The conferees have also agreed to make available from section 404 hazard mitigation grant funding available to the respective states, $1,000,000 for a hurricane mitigation project at South Florida University, Ft. Lauderdale campus; $2,500,000 for a windstorm simulation project at Florida International University; $1,000,000 for a logistical staging area concept demonstration at the Stanly County Airport in North Carolina; and $500,000 for wave monitoring buoys in the Gulf of Mexico off the Louisiana coast.

The conferees note that FEMA's plans to promulgate regulations pertaining to public assistance insurance requirements have significant financial implications for states, municipalities, and private non-profit hospitals and universities. The conferees believe it is important that FEMA obtain key data prior to finalizing such a rule. Therefore, the conferees direct the General Accounting Office to study the financial impacts of the proposed FEMA regulation and submit the report to the Committees on Appropriations of the House and Senate within 120 days. Prior to finalizing a rule, FEMA is directed to consider fully the GAO's findings.

The conferees agree that the Texas Task Force 1 is strategically located and fully operational and direct FEMA to do a full evaluation of the task force and report back to the Committees on Appropriations of the House and Senate as to whether it should be included in the Urban Search and Rescue system.

The conferees are concerned that FEMA may not have adequate resources available for the training of federal, state, local, and volunteer disaster officials on the latest techniques in disaster response and resource management. Therefore, the conferees direct FEMA to study the feasibility and the merits of establishing a national training academy in south Florida for the above purposes. In completing such study, FEMA should consult with other agencies engaged in natural disaster response and assistance, and should take into account the activities of the Emergency Management Institute in Emmitsburg, Maryland. The conferees expect FEMA to report back to the Committees on Appropriations of the House and Senate by January 31, 2000.

EMERGENCY Y2K ASSISTANCE

The conferees agree not to establish a program of grants and loans to counties and local governments for expenses related to problems associated with the year 2000 date change as proposed by the Senate. This program was not included in the House bill.

SALARIES AND EXPENSES

Appropriates $180,000,000 for salaries and expenses as proposed by the Senate instead of $177,720,000 as proposed by the House. The conferees agree that the reduction from the budget request shall be applied to program offices in an equitable manner. FEMA is to provide a track of the funding reduction as part of its operating plan.

OFFICE OF INSPECTOR GENERAL

Appropriates $8,015,000 for the Office of Inspector General as proposed by the Senate instead of $6,515,000 as proposed by the House.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

Appropriates $267,000,000 for emergency management planning and assistance instead of $280,787,000 as proposed by the House and $255,850,000 as proposed by the Senate. The conferees have included language in the bill which authorizes and directs FEMA to extend its cooperative agreement for the Jones County, Mississippi emergency operating center, modified with a technical change from that proposed by the Senate.

The conferees agree that the amount provided includes $25,000,000 for pre-disaster mitigation activities and a reduction of $4,500,000 from the budget request for consolidated emergency performance grants. Unspecified reductions to the account are to be taken in an equitable manner except as provided below.

The conferees agree to make no specific reduction to the request for anti-terrorism activities. However, the conferees are concerned that the proliferation of anti-terrorism activities throughout the Federal government may give rise to duplication of efforts. FEMA is encouraged to take whatever action is required to ensure that its efforts do not duplicate the efforts of other Federal entities.

The conferees direct FEMA to ensure that, in exchange for the additional flexibility provided through the emergency management performance grants, States are held accountable for the funds by tying such funds to performance measures. FEMA is expected to provide adequate financial and programmatic accountability in order to demonstrate appropriate use of the funds.

The conferees agree to provide $400,000 for upgrades to the computer modeling capability of FEMA and the California Office of Emergency Services. Specifically, the Regional Assessment of Mitigation Priorities computer program is to be upgraded to evaluate earthquake disaster mitigation projects. The conferees also agree to provide $1,500,000 for the commercialization of emergency response technologies, to be performed by the National Technology Transfer Center, and $1,000,000 for the Operations Support Directorate to archive key agency documents by digitalization to optical disks.

The conferees agree with the Senate that the full budget request of $5,500,000 is to be provided for the dam safety program.

The conferees concur with House report language regarding an evacuation plan for the New Orleans area and direct FEMA to work with the Southeast Louisiana Hurricane Task Force and the Louisiana One Coalition on the preparation of this evacuation and recovery plan and report.

EMERGENCY FOOD AND SHELTER PROGRAM

Appropriates $110,000,000 for the Emergency Food and Shelter program as proposed by both the House and Senate. Includes language proposed by the Senate which makes the funds available until expended.

FLOOD MAP MODERNIZATION FUND

Appropriates $5,000,000 to establish the Flood Map Modernization Fund as proposed by the House. The Senate did not provide funding for this program. The conferees agree not to provide an earmark of $2,000,000 for the New York Department of Environmental Conservation from this fund.

NATIONAL INSURANCE DEVELOPMENT FUND

The conferees agree to bill language which cancels the indebtedness of the Director of FEMA. The House and Senate both included the provision, but with technical differences. The conferees agree to include the House language.

NATIONAL FLOOD INSURANCE FUND

The conferees have included bill language which authorizes the National Flood Insurance Program for fiscal year 2000. Without this authorization, new flood insurance policies could not be written throughout the fiscal year. In addition, the conferees direct FEMA to make $2,000,000 available to the New York Department of Environmental Conservation for initiating the Statewide Flood Plain Mapping Program. The House had proposed this earmark within the Flood Map Modernization Fund.

NATIONAL FLOOD MITIGATION FUND

Provides for the transfer of $20,000,000 from the National Flood Insurance Fund to the National Flood Mitigation Fund as proposed by the House. The Senate did not include a provision for the Fund.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Appropriates a total of $13,652,700,000 for the National Aeronautics and Space Administration, instead of $12,653,800,000 as proposed by the House and $13,578,400,000 as proposed by the Senate.

The conferees agree to retain the current NASA account structure for fiscal year 2000.

The conferees agree to include a general provision which provides indemnification and cross-waivers of liability with regard to experimental aerospace vehicle programs. The language is included as a general provision in title IV of the Act and is a modification of language included as part of the fiscal year 1999 appropriations Act. The conferees have also agreed to include a general provision which provides for a one year extension of indemnification for commercial space launches.

In addition, the conferees have agreed to include a general provision which authorizes NASA to carry out a program to demonstrate commercial feasibility and economic viability of private sector business operations involving the International Space Station.

The conferees believe that the International Space Station will be a catalyst for future economic development activity in low earth orbit. Therefore, the conferees have included bill language establishing a demonstration program intended to test the feasibility of commercial ventures using the station, and whether or not it is possible to operate the station in accordance with business practices. In order to encourage private investment and increase economic activity in low earth orbit, NASA may negotiate for payments, at a value set by the private market, and retain any funds received in excess of costs for re-investment in the station economic development program.

The demonstration program applies only to the transition period associated with station assembly and early operations—a period during which fledgling businesses will experience their first opportunity for sustainable, continuous access to orbital laboratories. The conferees expect NASA to refrain from picking winners and losers in this coming era and instead enable the power of the U.S. capital markets to come to bear on this new frontier of U.S. economic development.

The conferees intend that the results of this demonstration program—and lessons learned along the way—will be incorporated into NASA's planning for long-term commercialization of the station, in concert with other ongoing activities such as the establishment of a non-government organization for station utilization and management.

Of the amounts approved in the following appropriations accounts, NASA must limit transfers of funds between programs and activities to not more than $500,000 without prior approval of the Committees on Appropriations. Further, no changes may be made to any account or program element if it is construed to be policy or a change in policy. Any activity or program cited in this report shall be construed as the position of the conferees and should not be subject to reductions or reprogramming without prior approval of the Committees on Appropriations of the House and Senate. Finally, it is the intent of the conferees that all carryover funds in the various appropriations accounts are subject to the normal reprogramming requirements outlined above.

HUMAN SPACE FLIGHT

Appropriates $5,510,900,000 for human space flight. The House had proposed $5,388,000,000 in this account. The Senate had proposed two new accounts, International Space Station and Launch Vehicles and Payload Operations, with a total of $5,638,700,000. Within the amount provided, the appropriation for space shuttle is $3,011,200,000, the appropriation for payload and utilization is $169,100,000, and the appropriation for space station development related activities is $2,330,600,000.

The amount provided for space shuttle operations is $25,000,000 greater than the budget request. The increase is provided for urgent safety upgrades for the shuttle and may be augmented with additional funding from shuttle operations if such funding is identified throughout the fiscal year. The conferees agree that NASA is to undertake upgrades that are necessary to ensure continued safe operation of the shuttle and NASA is to provide a report to the Committees on Appropriations which identifies proposed upgrades, a schedule for accomplishing the upgrades, and the cost associated with each upgrade. The report is to be provided to the Committees on Appropriations by February 1, 2000.

The conferees have included a proviso within the Human Space Flight account which reserves $40,000,000 for use only in connection with a shuttle science mission to be flown between the flight of STS–107 and December of 2001. The conferees have taken this action because of the belief that dedicated science missions must continue during the assembly of the International Space Station to ensure that the scientific community remains fully engaged in human space flight activities. Funding of $15,000,000 provided for the life and microgravity science program in fiscal year 1999 is to be used for STS–107 ($5,000,000) and for principal investigators associated with the dedicated flight which will occur before December, 2001 ($10,000,000).

The amount provided for the international space station program is $2,330,600,000, a decrease of $152,100,000 from the budget request. The reductions include a transfer of $17,100,000 to Mission Support to cover emergent personnel costs, a reduction of $100,000,000 from the funds requested for development of the crew return vehicle, and a general reduction of $35,000,000.

The conferees agree that international agreements to provide hardware for the space station should be binding and such agreements should be structured in such a way as to avoid complicating the assembly of the station. In order to be more fully informed on what potential problems may arise due to a reliance on foreign entities providing necessary hardware, NASA is directed to provide the Committees on Appropriations with a report on all external hardware components needed for the station that have been contracted for internationally, the schedule for delivery of these components, and the current status of each component with regard to completion and delivery.

The conferees agree that the two quarterly reports requested in the International Space Station section of the Senate report shall not be required. Instead, NASA shall provide a quarterly report, beginning on April 1, 2000 and every three months thereafter, which provides the status of station hardware construction and assembly, as well as associated costs. The report shall highlight schedule and cost variance relative to the schedule and cost included as the basis for the fiscal year 2000 budget request.

The conferees recognize the funds appropriated by this Act for the development of the International Space Station may not be adequate to cover all potential contractual commitments should the program be terminated for the convenience of the Government. Accordingly, if the Space Station is terminated for the convenience of the Government, additional appropriated funds may be necessary to cover such contractual commitments. In the event of such termination, it would be the intent of the conferees to provide such additional appropriations as may be necessary to provide fully for termination payments in a manner which avoids impacting the conduct of other ongoing NASA programs.

SCIENCE, AERONAUTICS AND TECHNOLOGY

Appropriates $5,606,700,000 for science, aeronautics and technology. The House had proposed $4,975,700,000 in this account and the Senate had proposed $5,424,700,000. The amount provided is $182,000,000 above the budget request. The amount provided consists of:

$2,197,850,000 for space science.

$277,200,000 for life and microgravity sciences.

$1,455,200,000 for earth sciences.

$1,158,800,000 for aeronautics and space transportation.

$406,300,000 for mission support.

$141,300,000 for academic programs.

$29,950,000 in general reductions.

The conferees are aware of a recent capabilities briefing that took place at NASA's Independent Verification and Validation (IV&V) Facility in conjunction with the quarterly Senior Management Council Meeting in June, 1999. The conferees understand that most NASA Center Directors or their designees were present at this briefing, as were the Assistant Administrators of the various NASA enterprises. The conferees expect substantial integration of the IV&V Facility into the NASA system, and in particular, the activities of the Goddard Space Flight Center (GSFC). This Center should take specific note of this opportunity due to its close proximity to the IV&V Facility. To these ends, the conferees direct the Administrator to report, in conjunction with GSFC and no later than June 1, 2000, on what new activities the various NASA Centers are initiating with the IV&V Facility.

The conferees are aware of the NASA Sounding Rocket Operations contract (NSROC) competitive procurement for rocket systems now underway, and see this as an excellent opportunity to invigorate the domestic sounding rocket industry, which has languished in recent years. Therefore, NASA is directed to instruct the NSROC contractor to choose the best domestic competitor for this procurement, if the NASA Administrator determines the competitor has satisfied the requirements of the contract.

The conferees are concerned that the large amount of data being collected as part of NASA science missions is not being put to the best possible use. To allay these concerns, the conferees direct NASA to contract with the National Research Council for the study of the availability and usefulness of data collected from all of NASA's science missions. The study should also address what investments are needed in data analysis commensurate with the promotion of new missions.

The conferees note that the fiscal year 1998 Statement of Managers (House Report 105–297) outlined a change in the allocation of advanced technology funding for space science so that 75 percent of all such funding would be done competitively through an announcement of opportunity. The conferees urge NASA to continue its efforts to reach the 75 percent target in a manner that does not undermine the core competencies of the NASA centers. Furthermore, the conferees direct NASA to present a plan to the Committees on Appropriations by February 1, 2000 that details how the agency will meet the 75 percent goal for both space and earth sciences and preserve core competencies at NASA Centers. The plan should also articulate how non-competitive funding will be allocated, by Center, to preserve core competencies. In addition, the report shall include a plan to link NASA Centers with relevant academic laboratories to enhance Center capabilities and core competencies.

The conferees direct NASA to submit project status reports on a quarterly basis for all space and earth science missions. The project status reports must include all projects in either phase B or phase C/D status and all mission operations and data analysis funding. The reports must also include all advanced technology funding by subprogram activity and future flight profile, and salary and expense costs. The conferees further expect NASA to include in these quarterly project status reports a review of any mission or project that is exceeding its annual or aggregate budget by more than 15 percent. This review shall include a status report on the feasibility of the mission or project, the reasons for the cost overrun, and a cost containment plan, in cases where NASA has determined to continue the mission or project. The conferees have included this reporting requirement as an alternative to the Senate recommendation that NASA missions and projects be terminated where their costs exceed their budget by 15 percent.

The conferees believe NASA should seek further opportunities to expand the scope of the Consolidated Space Operations Contract as a means to achieve additional savings for the agency and the taxpayer. Thus far, large portions of the deep space network (DSN) and related mission operations infrastructure have been exempted from CSOC. Therefore, the conferees direct NASA's space operations management office (SOMO) to undertake a study, to be submitted to the Committees on Appropriations by February 8, 2000, that evaluates transferring all remaining non-CSOC work in the telecommunications and mission operations directorate (TMOD), including all work designated for mission operations partnership services (MOPS), Jet Propulsion Lab (JPL) mission services, DSN operations architecture development and the deep space network services management system (DSMS) to the CSOC contract.

The space operations management office should identify and compare the full and total existing direct and indirect cost of the TMOD workforce with the projected cost of this workforce when transferred to CSOC on October 1, 2000. The transfer and cost analysis shall include all positions in the entire TMOD base, including employees assigned to specific flight projects, data services, mission services and research and development costs related to the deep space network operations infrastructure. Cost calculations for determining the existing full costs of TMOD shall utilize the rates and estimates stated in the FY 99–01 JPL Cost Estimation Rates and Factors Manual and shall include direct labor, fringe benefits, leave, vacation pay, and full burden rates applied to the work performed at JPL. The full JPL burden rate calculation for estimating current TMOD costs shall follow precisely all terms and rates stated in the FY 99–01 JPL Cost Estimation Rates and Factors Manual.

Specific program adjustments are outlined below.

SPACE SCIENCE

The conferees agree to the following changes to the budget request:

1. Reduce funding for future planning for the Explorer program by $6,100,000. The conferees direct NASA to ensure that this reduction will not impact the current Explorer announcement of opportunity selection, ensuring that there will be two awards made for the mid-explorer competition.

2. Reduce funding for future planning for the Discovery program future mission by $23,700,000. The conferees expect that this reduction will not adversely impact funds available for Contour, Messenger and Deep Impact so that each can launch on its current schedule. In addition, the conferees expect that there will be sufficient funds in fiscal year 2000 to extend NEAR operations to correspond to next year's encounter with the Eros asteroid.

3. Reduce funding for Mars missions by $22,800,000. The conferees have made this adjustment without prejudice in light of the recent failure of this mission. The Committees on Appropriations are troubled by this second failure of a Mars orbiting spacecraft in recent years and expect a complete report on the cause of the most recent failure and what corrective actions NASA will take to prevent a failure on subsequent Mars missions. This report is due within 180 days of enactment of this Act.

4. Reduce funding for supporting research and technology by $4,400,000.

5. A reduction of $37,400,000 in the funding for the Champollion mission due to cancellation of the mission.

6. A reduction of $100,000 to finance personnel related expenses. These funds are provided within the Mission Support account.

7. An increase of $8,000,000 for Space Solar Power.

8. An increase of $2,000,000 for the Science Center at Glendale Community College.

9. An increase of $1,500,000 for the Louisville Science Center.

10. An increase of $1,500,000 for the Science Center Initiative at Ohio Wesleyan University.

11. An increase of $5,000,000 for the Polymer Energy Rechargeable System (PERS). The conferees recognize the leadership of NASA Glenn in battery technology development and encourage NASA to continue this program. Working with scientists at Wright Patterson Air Force Base, the PERS program will develop significant space, defense, and commercial applications and therefore should continue at NASA Glenn.

12. An increase of $2,000,000 for the center on life in extreme thermal environments at Montana State University in Bozeman.

13. An increase of $3,000,000 for the Adler Planetarium in Chicago, Illinois.

14. NASA is directed to provide an increase of $10,000,000 for fundamental physics research.

15. An increase of $23,000,000 for science costs related to the next servicing mission of the Hubble Space Telescope. The conferees are aware of the strong support in the scientific community for proceeding with the infrared channel on Wide Field–3 Camera. The conferees have provided sufficient resources in fiscal year 2000 to begin work on its development so that it will be ready for the final servicing mission now scheduled for Hubble in the 2002–03 timeframe.

16. An increase of $21,000,000 for the Sun-Earth Connections program, including an increase of $15,000,000 for STEREO and $6,000,000 for advanced technology for post-STEREO missions.

17. An increase of $3,000,000 for the development of STEP-Air SEDS, an electrodynamic tether facility to place and manipulate satellites in their orbits without the use of chemical propellants. To the extent this is a viable and useful technology, it is expected that NASA will include the necessary funds in the fiscal year 2001 budget.

18. An increase of $1,000,000 for a satellite telescope at Western Kentucky University.

19. An increase of $4,000,000 for the SciQuest hands-on science center in Huntsville, Alabama.

20. An increase of $2,000,000 for research into advanced hardware and software technologies at Montana State University, Bozeman.

21. An increase of $2,500,000 for the Bishop Museum.

22. An increase of $1,000,000 for the Chabot Observatory, Oakland, California.

23. An increase of $4,000,000 for the Green Bank Radio Telescope Museum.

24. An increase of $750,000 for the Museum of Discovery and Science in Ft. Lauderdale, Florida.

25. An increase of $500,000 for the Science and Technology Museum, Discovery Place in Charlotte, North Carolina.

LIFE AND MICROGRAVITY SCIENCES

The conferees have included a provision in the Human Space Flight account which calls for two science missions prior to December of 2001. The first mission, STS–107 will utilize up to $5,000,000 of the amounts provided in this account in fiscal year 1999. The remaining $10,000,000 from the fiscal year 1999 appropriation is to be used to finance principal investigators affiliated with the second science mission.

The conferees agree to the following changes to the budget request:

1. An increase of $14,000,000 for infrastructure needs at the University of Missouri, Columbia.

2. An increase of $1,000,000 for the "Garden Machine" program at Texas Tech University.

3. An increase of $4,000,000 for the Space Radiation program at Loma Linda University Hospital.

4. An increase of $2,000,000 for the Neutron Therapy Facility at Fermi Lab.

EARTH SCIENCES

The conferees have not terminated the Triana program as the House had proposed. Instead, the conferees direct NASA to suspend all work on the development of the Triana satellite using funds made available by this appropriation until the National Academy of Sciences (NAS) has completed an evaluation of the scientific goals of the Triana mission. The conferees expect the NAS to move expeditiously to complete its evaluation. In the event of a favorable report from the NAS, NASA may not launch Triana prior to January 1, 2001. The conferees have no objection to NASA's reserving funds made available by this appropriation for potential termination costs. The conferees recognize that, if a favorable report is rendered by the NAS, there will be some additional cost resulting from the delay.

The conferees agree with the House language directing NASA to develop a five-year plan detailing a robust program for Code Y utilization of unmanned aerial vehicles (UAVs). The conferees expect NASA to move ahead with the UAV Science Demonstration Program as detailed in the fiscal year 2000 budget justification, and to request fiscal year 2001 funding for this program in conformity with the five-year plan.

The conferees do not agree with the Senate directive to provide a report on the commercialization of EOSDIS data.

The conferees agree that NASA is to submit a report by March 15, 2000 on an EOS–II strategy that articulates in detail the NASA plan for earth science through fiscal year 2010.

The conferees direct NASA, in conjunction with the National Science Foundation, the Environmental Protection Agency, and the Federal Emergency Management Agency, to report by April 15, 2000 on a plan to demonstrate the potential benefits of remote sensing.

The conferees agree to the following changes to the budget request.

1. An increase of $2,000,000 for a Remote Sensing Center for Geoinformatics at the University of Mississippi.

2. An increase of $1,000,000 for the Advanced Tropical Remote Sensing Center of the National Center for Tropical Remote Sensing Applications and Resources at the Rosenstiel School of Marine and Atmospheric Science.

3. An increase of $10,000,000 for the Regional Application Center in Cayuga County, New York.

4. An increase of $2,500,000 for a joint U.S./Italian space-based research initiative for the study and detection of forest fires.

5. An increase of $3,000,000 for continuation of programs at the American Museum of Natural History.

6. An increase of $1,500,000 for a remote sensing center at the Fulton-Montgomery Community College in New York. The center is to work through the Regional Application Center at Cayuga County, New York.

7. An increase of $1,000,000 for continued development of nickel metal hydride battery technology.

8. An increase of $31,000,000 for the EOSDIS Core System.

9. An increase of $2,000,000 for the Advanced Fisheries Management Information System, of which $500,000 is to be used to develop a companion program at the University of Alaska, Fairbanks.

10. An increase of $2,000,000 for the EOS National Resource Training Center at the University of Montana, Missoula.

11. An increase of $1,000,000 for the PIPELINE project at Iowa State University and Southern University, Baton Rouge.

12. An increase of $7,000,000 to the EOSDIS Core System to develop additional uses for NASA's Earth Observing System to make data more readily available for potential user communities.

13. An increase of $1,000,000 for the Field Museum for the "underground adventure" exhibit.

14. An increase of $2,000,000 for research in remote sensing applications at the University of Missouri, Columbia.

15. An increase of $300,000 for the State University of New York College of Environmental Sciences and Forestry for a remote sensing applications project.

16. A decrease of $20,000,000 from the LightSAR program. The conferees agree that NASA's action to terminate the LightSAR program has resulted in a missed opportunity by failing to recognize the commitment to commercial investment and significant interest shown by private industry in the current structure of the program. LightSAR continues to offer tremendous potential for a number of practical applications, most particularly as an all-weather method for remote sensing of the Earth's surface. The conferees direct NASA to review the history of this program and report to the Congress by February 1, 2000 on actions the agency can undertake to support industry-led efforts to develop an operational synthetic aperture radar capability in the United States, with particular focus on NASA as a data customer.

17. A decrease of $23,500,000 from reserves being held for the PM–1 mission.

18. A decrease of $5,700,000 from algorithm development.

19. A decrease of $22,000,000 from the funding requested for EOS special spacecraft.

AERONAUTICS AND SPACE TRANSPORTATION

The conferees agree that an independent review of NASA's decision to terminate the High Speed Research and Advanced Subsonic Technology programs is necessary. The conferees direct the Office of Science and Technology Policy to conduct such a review which should address the overall impact of these terminations on the United States aviation industry as well as the impact on the core competencies of NASA centers. The review should also address the merits of NASA undertaking a program to improve aircraft safety and reduce aircraft noise emissions. The conferees direct that this report be completed no later than July 1, 2000.

The conferees are aware of NASA's recent ERAST research announcement to bid competitively, important technology thrusts for combustible fuel vehicle research, with the goal of providing unmanned aerial vehicle (UAV) platforms to meet Code Y requirements by fiscal year 2002. The conferees are equally supportive of NASA's plan for flight testing as part of the solar-electric airplane program at the Pacific Missile Range Facility (PMRF). Therefore, the conferees expect NASA to balance carefully these two important initiatives. Furthermore, NASA should remain sensitive to transition funding for the partners of the ERAST Alliance during this period, such that past NASA investments in these partners is not undermined.

The conferees are aware of the many successful technology transfer arrangements negotiated in rural states through the NASA Techlink program and expect NASA to continue the program at the current level.

The conferees are concerned that significant reductions in NASA's budget request for rotorcraft research will undermine the core competencies in this technology at the Glenn and Langley research centers. The conferees believe that NASA should take into consideration the valuable service these centers provide to the Department of Defense for its Joint Transport Rotorcraft and tiltrotor programs and take efforts to ensure the centers retain their expertise in rotorcraft research.

The conferees agree to the following changes to the budget request:

1. An increase of $20,000,000 for Ultra Efficient Engine Technology.
2. An increase of $1,800,000 for phase two of the synthetic vision information system being tested at the Dallas-Ft.Worth Airport.
3. An increase of $1,200,000 for continued support of the Dynamic Runway Occupancy Measurement System demonstration at the Seattle-Tacoma Airport.
4. An increase of $2,000,000 to facilitate the acquisition of a 16 beam SOCRATES system and integration of SOCRATES into the AVOSS program.
5. An increase of $10,000,000 for the Trailblazer program at the Glenn Research Center.
6. An increase of $1,000,000 for the Institute for Software Research to continue its collaborative effort with NASA-Dryden, focusing on adaptive flight control research, including a flight control upgrade to the F-15 Active.
7. An increase of $1,500,000 for the Software Optimization and Reuse Technology program.
8. An increase of $2,000,000 for the establishment of the NASA-Illinois Technology Commercialization Center as an extension of the Midwest Regional Technology Transfer Center, to be located at the DuPage County Research Park.
9. An increase of $1,000,000 for Miami-Dade Community College-Homestead Campus to develop a technology-oriented business incubator in Homestead, Florida.
10. An increase of $2,000,000 for the Earth Alert program for a test of the system throughout the State of Maryland.
11. An increase of $1,500,000 for the National Technology Transfer Center, to bring total funding for the center up to $7,200,000.
12. An increase of $500,000 to study aircraft cabin air quality at the Education and Research Center for Occupational Safety and Health in Baltimore, Maryland.
13. An increase of $80,000,000 for Space Liner 100 efforts.
14. An increase of $1,500,000 for the Western Environmental Technology Office, Butte Montana.
15. An increase of $5,000,000 for the National Center for Space Technology.
16. An increase of $3,000,000 for enhanced vision system technology development.
17. An increase of $20,000,000 for efforts related to aircraft noise reduction.
18. An increase of $1,000,000 for the Institute for Software Research, for the modeling and simulation of electromagnetic phenomena for alternative space propulsion concepts.
19. An increase of $200,000 for the Garret Morgan Initiative in Ohio.
20. A decrease of $2,900,000 for personnel related expenses, transferred to Mission Support.

MISSION COMMUNICATIONS

The conferees have provided $406,300,000 for Mission Communications, the same amount as provided by the House and Senate.

ACADEMIC PROGRAMS

The conferees have agreed to the following changes to the budget request:

1. An increase of $6,500,000 for the National Space Grant College and Fellowship Program, for a total of $19,100,000.
2. An increase of $1,500,000 for the Franklin Institute for development of an exhibit on astronomy.
3. An increase of $2,300,000 for the JASON Foundation's JASON XI expedition, "Going to Extremes."
4. An increase of $1,000,000 for the Carl Sagan Discovery Center at the Children's Hospital at Montefiore Medical Center.
5. An increase of $4,000,000 for the Texas Learning and Computational Center at the University of Houston.
6. An increase of $4,000,000 for the Space Science Museum and Educational Program at Downey, California. The conferees are concerned about the transfer of NASA property at the space shuttle manufacturing facility in Downey, California to the City when the contractor leaves the facility at the end of the year. The conferees endorse the process established by GSA for disposal of historic artifacts at the facility, specifically, the space shuttle mock-up and astronaut footprints. The conferees do not intend to circumvent this process, but the conferees agree that GSA should take into consideration the historical significance of these artifacts at the Downey site, a significance that would be lost if the artifacts were to move to a different location.
7. An increase of $2,000,000 for the Ohio View Project.
8. An increase of $2,000,000 for continued academic and infrastructure needs related to the computer sciences, mathematics and physics building at the University of Redlands.
9. An increase of $5,400,000 for the EPSCoR program.
10. An increase of $1,000,000 for the Science Learning Center in Kenai, Alaska.
11. An increase of $2,000,000 for the Lewis and Clark Rediscovery Web Technology Project.
12. An increase of $1,000,000 for the Science Museum at Spelman College.
13. An increase of $7,600,000 for Minority University Research and Education projects, including $1,000,000 to provide support for the establishment of a Center of Excellence in Mathematics and Science at Texas College.
14. An increase of $500,000 for the University of San Diego for a Science and Education Center.
15. An increase of $500,000 for the City of Ontario, California for the development of a Science and Technology Learning Center.
16. The conferees agree to provide the budget request of $2,000,000 for the Classroom of the Future project.

MISSION SUPPORT

Appropriates $2,515,100,000 for mission support instead of $2,269,300,000 as proposed by the House and $2,495,000,000 as proposed by the Senate. The amount provided includes an increase of $20,200,000, derived from other accounts, to cover emergent personnel related requirements including lower than anticipated personnel retirements and government-wide pay rate changes.

The conferees continue to prohibit the use of funds appropriated or otherwise made available to the National Aeronautics and Space Administration by this Act, or any other Act enacted before the date of enactment of this Act, by the Administrator of NASA to relocate aircraft of the National Aeronautics and Space Administration based east of the Mississippi River to the Dryden Flight Research Center in California.

OFFICE OF INSPECTOR GENERAL

Appropriates $20,000,000 for the Office of Inspector General as proposed by the Senate, instead of $20,800,000 as proposed by the House.

ADMINISTRATIVE PROVISONS

Deletes language proposed by the House which directed NASA to develop a revised appropriations structure for fiscal year 2001.

Deletes language proposed by the Senate which directed NASA to terminate any program which experienced a cost growth of 15 percent.

Inserts a new general provision which limits the amounts NASA may use for the International Space Station.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

Appropriates $1,000,000 for the National Credit Union Administration for the Community Development Revolving Loan Program for credit unions, as proposed by the House instead of no funding as proposed by the Senate.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

Appropriates $2,966,000,000 for research and related activities instead of $2,768,500,000 as proposed by the House and $3,007,300,000 as proposed by the Senate. Bill language provides up to $253,000,000 of this amount for Polar research and operations support.

The conferees have included bill language which specifies that $60,000,000 of appropriated funds are to be for a comprehensive research initiative on plant genomes for economically significant crops. Language has also been included which prohibits NSF from obligating or expending funds to enter into or extend a grant, contract, or cooperative agreement regarding the administration of the domain name and numbering system of the Internet.

Finally, the conferees have agreed to bill language which: (1) prohibits funds spent in this or any other Act to acquire or lease a research vessel with ice-breaking capability built or retrofitted outside of the United States if such a vessel of United States origin can be obtained at a cost of not more than 50 per centum above the cost of the least expensive, technically acceptable, non-United States vessel; (2) requires that the amount of subsidy or financing provided by a foreign government, or instrumentality thereof, to a vessel's construction shall be included as part of the total cost of such vessel; and (3) provides that should a U.S. vessel as set forth in the foregoing language not be available for leasing for the austral summer Antarctic season of 2002–2003, and thereafter, a vessel of any origin can be leased for a period not to exceed 120 days of that season until delivery of such a United States vessel occurs.

The conference agreement provides an increase of $196,000,000 above the fiscal year 1999 appropriated level for research and related activities, $90,000,000 of which is to be used within the Computer and Information Sciences and Engineering (CISE) directorate and $106,000,000 of which is for the remaining directorates, including Integrative Activities.

With regard to the additional funds provided for CISE, the conferees expect the Foundation to support individual and team research projects related to information technologies, specifically in the areas recommended in the PITAC report and in H.R. 2086. Among the most important of these are software research, scalable information infrastructure, software design, stability, security and reliability, as well as the need to acquire high-end computing equipment. In addition, the conferees expect an appropriate level of funding be provided for research to study privacy and access to information, and to further the understanding of the impact information technology advances have on issues that are of significant societal, ethical, and economical importance. Finally, as the NSF prepares to release CISE research funds through its normal competitive process, the conferees strongly encourage that an increased ratio of grants be issued at higher funding levels and for longer duration.

Within the amounts made available to all other directorates, $50,000,000 is for the new Biocomplexity Initiative. All other programs within the Integrative Activities directorate, except the Opportunity Fund, have been funded at the budget request. The Opportunity Fund has, without prejudice, not been funded for fiscal year 2000.

The NSF is directed to provide up to $5,000,000 for the National Oceanographic Partnership Program, and is further directed to contract with a non-federal entity to carry out a review of the merit review process of the Foundation. This review is to be completed and submitted to the Committees on Appropriations within eleven months of enactment of this Act.

The conferees have provided $25,000,000 for Arctic research support and logistics, an increase of $3,000,000 above the budget request. The conferees expect the Foundation, in conjunction and in close cooperation with the Interagency Arctic Research and Policy Committee to develop a multi-year, multi-agency plan for the implementation of joint United States-Japan Arctic research activities as envisioned by the March 1997 science and technology section of the Common Agenda agreed to by the United States and Japan. In this regard, the conferees expect the Foundation to provide up to $5,000,000 from within available funds for logistical activities in support of United States-Japan international research activities related to global climate change.

Consistent with a directive of the Senate to strengthen international cooperation in science and engineering, the conferees encourage NSF to consider providing from within available funds up to $3,000,000 to strengthen cooperative research activities between the United States and the former Soviet Union through the Civilian Research and Development Foundation.

Except as previously noted, the conferees expect that the remaining additional funds will be distributed proportionately and equitably, consistent with the ratio of the budget request level above the fiscal year 1999 funding level, among all of the remaining directorates, and request that such distribution be specifically noted in the fiscal year 2000 Operating Plan submission.

The conferees commend the Foundation for its support of the National High Magnetic Field Laboratory (NHMFL) located in Tallahassee, Florida. That laboratory is an excellent example of a facility that has worked closely with teams of academic and industrial scientists from throughout the United States and abroad. The conferees strongly support the work of this important national facility and commend the NSF for its increased support and interest in the work of the NHMFL.

Finally, pursuant to recommendations made by the federally-mandated National Gambling Impact Study Commission, the conferees encourage the NSF to explore the feasibility of establishing a multi-disciplinary research program that will estimate the benefits and costs of gambling.

MAJOR RESEARCH EQUIPMENT

Appropriates $95,000,000 for major research equipment instead of $56,500,000 as proposed by the House and $70,000,000 as proposed by the Senate.

The conference agreement provides the budget request level for all projects within the MRE account, including $36,000,000 for the development and construction of a new, single site, five teraflop computing facility. The conferees expect that the competition for this project will allow for significant participation by universities and other institutions throughout the country, and will have as its goal completion of such a facility within 16 months of enactment of this Act. The conferees further expect the Foundation to provide regular, informal reports as to the progress of this project, including the funding requirements necessary to complete five teraflop capability.

The conference agreement also provides $10,000,000 to begin production of the High-Performance Instrumented Airborne Platform for Environmental Research (HIAPER). This new high-altitude research aircraft will, upon its completion, be available to support critical and outstanding atmospheric science research opportunities over the next 25 to 30 years.

EDUCATION AND HUMAN RESOURCES

Appropriates $696,600,000 for education and human resources instead of $660,000,000 as proposed by the House and $688,600,000 as proposed by the Senate.

Within this appropriated level, the conferees have provided $55,000,000 for the Experimental Program to Stimulate Competitive Research (EPSCoR) to allow for renewed emphasis on research infrastructure development in the EPSCoR states, as well as to permit full implementation awards to states which have research proposals in the planning process. In addition, the conferees have provided $10,000,000 to initiate a new Office of Innovation Partnerships. This new office, in addition to housing the EPSCoR program, will examine means of helping those non-EPSCoR institutions receiving among the least federal research funding expand their research capacity and competitiveness so as to develop a truly national scientific research community with appropriate research centers located throughout the nation.

The conferees expect that funds for these two efforts will be included in a single program office within the EHR account, under the direct supervision of the Director's office. Building upon the EPSCoR experience, the conferees also expect the new office to work with CISE to insure that all areas of the country share in advanced networking and computing activities, especially rural and insular areas with research institutions. Assistance in developing scientific research applications for use on the computing and networking systems now available as a result of earlier NSF programs is a high priority in the EPSCoR states. The conferees also expect the new office to coordinate with all research and related activities directorates.

The conference agreement also provides $10,000,000 for Historically Black Colleges and Universities through the underrepresented population undergraduate reform initiative, including $8,000,000 from the EHR account and $2,000,000 from the RRA account. Similarly, the conferees have provided the budget request level of $46,000,000 for the Informal Science Education (ISE) program. This program has acted as a catalyst for increasing the public's appreciation and understanding of science and technology in settings such as science centers, museums, zoos, aquariums, and public television. The ISE program has also been involved in the professional development of science teachers. The conferees continue to support this important program, including its focus for fiscal year 2000 on increasing access to informal learning opportunities in inner cities and rural areas that have received little exposure to science and technology.

Except as previously noted, the conferees expect that the remaining additional funds will be distributed proportionately and equitably, consistent with the ratio of the budget request level above the fiscal year 1999 funding level, among all of the remaining directorates, and request that such distribution be specifically noted in the fiscal year 2000 Operating Plan submission.

SALARIES AND EXPENSES

Appropriates $149,000,000 for salaries and expenses instead of $146,500,000 as proposed by the House and $150,000,000 as proposed by the Senate. Consistent with the position of the Senate, the conferees direct the Foundation to fund program travel only from within the salaries and expenses account. Additionally, the conferees urge the Foundation to improve its oversight activity of its many programs, using available funds from within this account.

OFFICE OF INSPECTOR GENERAL

Appropriates $5,450,000 for the Office of Inspector General instead of $5,325,000 as proposed by the House and $5,550,000 as proposed by the Senate. The conferees expect the OIG to increase efforts in the areas of cost-sharing, indirect costs, and reducing misconduct in scientific research.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

Appropriates $75,000,000 for the Neighborhood Reinvestment Corporation instead of $80,000,000 as proposed by the House and $60,000,000 as proposed by the Senate.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

Appropriates $24,000,000 for salaries and expenses instead of $7,000,000 for termination costs as proposed by the House and $25,250,000 as proposed by the Senate.

TITLE IV—GENERAL PROVISIONS

Retains language proposed by the Senate permitting EPA appropriations to be used for comprehensive conservation and management plans.

Deletes language proposed by the House and stricken by the Senate providing for a rescission of Tennessee Valley Authority borrowing authority.

Inserts and modifies language proposed by the Senate to hereafter authorize the use of funds for the United States/Mexico Foundation for Science. Inserts new language renaming the Foundation the "George E. Brown United States/Mexico Foundation for Science."

Deletes language proposed by the House and stricken by the Senate prohibiting the use of funds by the EPA to publish or issue assessments under the Global Change Research Act unless certain conditions are met. The conferees have addressed this issue in the EPA Environmental Programs and Management account under title III.

Deletes language proposed by the House and stricken by the Senate expressing House support for the improvement of health care services in rural areas. Similar language is included in the Administrative Provisions section of title I.

Restores language proposed by the House and stricken by the Senate expressing the sense of the Congress that honor guards at a veteran's funeral is a benefit that a veteran has earned.

Deletes language proposed by the House and stricken by the Senate reducing certain accounts within the bill by $7,000,000 and increasing another account by a like amount.

Deletes language proposed by the Senate prohibiting the use of funds to carry out Executive Order 13083.

Inserts language proposed by the Senate prohibiting HUD from using funds for any activity in excess of amounts set forth in the budget estimates.

Inserts modified language proposed by the Senate prohibiting the use of funds for the purpose of lobbying or litigating against any Federal entity or official, with certain exceptions.

Deletes language proposed by the Senate prohibiting the obligation of any funds after February 15, 2000 unless each department provides a detailed justification for all salary and expense activities for fiscal years 2001-2005.

Inserts modified language proposed by the Senate amending section 101 (20)(D) of CERCLA to stipulate that law enforcement agencies shall not be considered owners or operators following seizure of properties needing certain environmental cleanup response.

Inserts modified language proposed by the Senate prohibiting the use of funds for any activity or publication or distribution of literature that is designed to promote public support or opposition to any legislative proposal on which Congressional action is not complete.

Deletes language proposed by the Senate redesignating an economic development grant for Kohala, Hawaii. The conferees have included this provision in title II of the bill.

Deletes language proposed by the Senate prohibiting the movement of NASA aircraft from the Glenn Research Center to any other field center.

Deletes language proposed by the Senate establishing a GAO study of the Federal Home Loan Bank system capital structure.

Deletes language proposed by the Senate expressing the sense of the Senate regarding aeronautics research. This issue has been addressed in the NASA section of title III.

Deletes language proposed by the Senate directing the EPA Administrator to develop a compliance plan for the underground storage tank program. This issue was addressed in the EPA Leaking Underground Storage Tank Program under title III.

Inserts modified language proposed by the Senate extending the comment period on the proposed rule related to section 303(d) of the Clean Water Act by 90 days. The conferees agree that nothing in this language is intended to limit EPA's administrative authority to extend the comment period beyond this 90 day period.

Inserts language proposed by the Senate extending the authority of 16 U.S.C. 777c(a) through calendar year 2000.

Inserts modified language proposed by the Senate prohibiting EPA from promulgating the Phase II stormwater regulations until the Administrator submits a report to the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure.

Inserts language proposed by the Senate prohibiting the EPA's expenditure of funds to promulgate a final regulation to implement changes in the payment of pesticide tolerance fees for fiscal year 2000. The conferees support and encourage EPA and the industry's joint effort to develop a comprehensive fee-for-service proposal to provide the necessary additional resources for registration and tolerance actions coupled with EPA performance enhancements, milestones, and accountability. The conferees expect that this fiscal year 2000 prohibition will not be repeated in future years. The conferees direct that the EPA not reduce its effort to approve both pesticide reassessments and approval of new applications at a pace presumed in the budget submittal.

Inserts language amending section 70113(f) of title 49, U.S.C., providing for a one year extension of indemnification for commercial space launches.

Inserts language providing the National Aeronautics and Space Administration with authority to establish a demonstration program regarding the commercial feasibility of private sector business operations involving the International Space Station.

Inserts language repealing section 431 of Public Law 105-276 and amending the National Aeronautics and Space Act of 1958 to allow for insurance, indemnification, and liability protection for experimental aerospace vehicle developers.

TITLE V—PRESERVATION OF AFFORDABLE HOUSING

OVERVIEW

Title V combines certain provisions from three bipartisan House housing bills (including H.R. 202 "Preserving Affordable Housing for Senior Citizens into the 21st Century Act," introduced by Reps. James A. Leach and Rick Lazio, H.R. 1336 "Emergency Resident Protection Act of 1999", introduced by Reps Leach, Lazio and James T. Walsh, and H.R. 1624 "Elderly Housing Quality Improvement Act", introduced by Reps. John J. LaFalce, Barney Frank and Bruce Vento) and the title is designed to address a potentially crisis-level loss of affordable housing for seniors, individuals with disabilities and other vulnerable families. The consolidate House bill passed the U.S. House of Representatives on September 27, 1999 by a vote of 405 to 5. In addition, this title is consistent with a number of provisions contained in S. 1319, the "Save My Home Act", legislation introduced by Senators Kit Bond and Wayne Allard which is designed to address the section 8 opt out problem. The Senate VA/HUD FY 2000 appropriations bill also includes authority on section 202 and assisted living units.

The legislation protects existing residents of Federal-assisted housing from being forced to move from their homes in the face of market-rate rent increases; preserves the housing as affordable itself where appropriate by emphasizing renewal at market-rate rents for developments that serve seniors or persons with disabilities or in other circumstances where there is risk of loss of an important affordable housing resource; and provides flexibility for the conversion of housing to assisted living environments to allow seniors to "age in place."

Title V represents a consensus between the House and Senate VA/HUD Appropriations subcommittees as well as the House Banking Committee. The references to conferees herein reflect the views of all these parties.

SECTION BY SECTION: "PRESERVING AFFORDABLE HOUSING FOR SENIOR CITIZENS INTO THE 21ST CENTURY"

Section 501. Short title and table of contests

Titled cited as "Preserving 'Affordable Housing for Senior Citizens into the 21st Century Act".

Section 502. Regulations

Provides that the HUD Secretary shall issue regulations necessary to carry out the provisions of the Act only after notice and opportunity for public comment.

Section 503. Effective date

Provisions of the Act are effective as of the date of enactment unless such provisions specifically provide for effectiveness or applicability upon another date. The authority to issue regulations to implement this Act shall not be construed to affect the effectiveness or applicability of the bill as of the effective date.

Subtitle A—Authorization of Appropriations for Supportive Housing for the Elderly and Persons With Disabilities

Section 511. Supportive housing for elderly persons

Provides annual authorization of appropriation of $710 million for existing program of supportive housing for the elderly (section 202) for FY2000.

Section 512. Supportive housing for persons with disabilities

Provides annual authorization of appropriation of $201 million for supportive housing for the disabled (section 811) for FY2000.

Section 513. Service coordinators and congregate services for elderly and disabled housing

Provides annual authorization of appropriation of $50 million for grants for service coordinators for certain federally assisted multifamily housing projects for FY2000.

Subtitle B—Expanding Housing Opportunities for the Elderly and Persons With Disabilities

Section 521. Study of debt forgiveness for section 202 loans

Requires the Secretary to conduct a study of the net impact on the Federal budget deficit or surplus of making available, on a one-time basis, debt forgiveness relating to remaining principal and interest from Section 202 loans with a dollar-for-dollar reduction of rental assistance amounts under the Section 8 rental assistance program.

Section 522. Grants for conversion of elderly housing to assisted living facilities

Authorizes grants to convert and repair elderly affordable housing projects to assisted living facilities. Authorizes such sums as may be necessary for fiscal year 2000.

Section 523. Use of section 8 assistance for assisted living facilities

Provides that a recipient of Section 8 housing assistance may use such assistance in an assisted living facility.

Section 524. Size limitation for projects for persons with disabilities

Provides that of any amounts made available in any fiscal year for capital advances or project rental assistance under this section, not more than 25% may be used for supportive housing which contains more than 24 separate dwelling units. Requires the Secretary to study and submit a report to Congress regarding the extent to which the authority of the Secretary under Section 811(k)(4) of the Cranston Gonzalez National Affordable Housing Act has been used to provide assistance to supportive housing projects for persons with disabilities having more than 24 units

Section 525. Commission on Affordable Housing and Health Care Facility Needs in the 21st Century

Establishes a commission to be known as the Commission on Affordable Housing and Health Care Facility Needs in the 21st Century. The Commission shall provide an estimate of the future needs of seniors for affordable housing and assisted living and health care facilities, identify methods of encouraging private sector participation and investment in affordable housing, and perform other matters relating to housing the elderly.

Subtitle C—Renewal of Expiring Rental Assistance Contracts and Protection of Residents

Section 531. Renewal of expiring contracts and enhanced vouchers for project residents

Unless otherwise provided, for expiring Section 8 properties that have current rents below comparable market rents for the area and that meet certain criteria set out in the bill, the Secretary of HUD is directed upon renewal of such Section 8 contracts to set rents at comparable market rent levels. For those expiring Section 8 contracts that have rent levels above comparable market rents but are not being restructured, the Secretary upon renewal shall set these rents at comparable market rents. With regard to those expiring Section 8 contracts for multifamily housing projects that are not eligible multifamily housing project[s] under Section 512(2) of the Multifamily Assisted Housing Reform and Affordability Act (MAHRA) or that are exempt from mortgage restructuring pursuant to section 514(h) of MAHRA, upon the request of the owner, renewal rents shall be set at the lesser of existing rents, adjusted by an operating cost adjustment factor, or a rent level that provides income sufficient to support a budget-based rent.

Directs the Secretary of Housing and Urban Development to provide "enhanced vouchers" to residents residing in a property upon the date of the expiration of a federally-assisted housing contract that is not renewed. Enhanced vouchers allow increased assistance for residents in cases where rents increase as a result of the project owner's decision to opt-out of the Section 8 program, therefore ensuring that the resident may continue to reside in the unit. Authorizes such sums as may be necessary for enhanced voucher assistance for fiscal years 2000 through fiscal year 2004.

To the extent funds are specifically appropriated for this purpose, authorizes the Secretary to renew expiring Section 8 contracts for projects that are subject to an approval plan of action under the Emergency Low Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990 on terms comparable to those provided in the plan of action.

Provides a limited preemption of state distribution limitations in cases where such limitations interfere with affordable housing preservation.

Section 532. Section 236 assistance

Allows Section 236 property to continue to receive interest reduction payments following a mortgage refinancing, subject to the owner's agreement to continue to operate the project in accordance with low income affordability restrictions for the period of the interest reduction payments plus an additional five years.

Allows an owner of a project financed under a State program pursuant to Section 236 of the National Housing Act to retain any excess rental income from the project for use for the benefit of the project, upon terms and conditions established by the Secretary, subject to appropriations.

Section 533. Rehabilitation of assisted housing

Amends Section 236 of the National Housing Act to accelerate the use of recaptured interest reduction payments.

Section 534. Technical assistance

Amends the Multifamily Assisted Housing Reform and Affordability Act of 1997 to allow for technical assistance for preservation of low-income housing.

Section 535. Termination of section 8 contract and duration of renewal contract

Provides that section 8 contracts may be renewed for up to one year or for any number of years, subject to appropriations (as opposed to mandatory renewals of one year).

Section 536. Eligibility of residents of flexible subsidy projects for enhanced vouchers

Amends Section 201 of the Housing and Community Development Amendments of 1978 by allowing the use of enhanced vouchers for projects preserved as affordable housing under section 229 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990.

Section 537. Enhanced disposition authority

Amends section 204 of the FY 1997 VA/HUD Appropriations Act to extend current grant and loan authority under Section 204 through FY 2000, expressly provide that upfront grants or loans may support reconstruction as well as rehabilitation and demolition, and provide that vacant as well as occupied projects shall be eligible for such grants or loans.

Section 538. Unified enhanced voucher authority

Consolidates and unifies all existing enhanced voucher authority, the terms regarding provision of tenant-based assistance through an enhanced voucher under a new subsection 8(t) of the United States Housing Act of 1937.

REPORT LANGUAGE

The conferees are aware that the Department has issued a notice permitting non-profit owners of section 202 properties to repay their section 202/section 8 mortgages and to refinance those mortgages provided the housing remains available to existing and future tenants under terms at least as advantageous to them as the terms required by the original loan, and if the subsequent refinancing would enhance the housing for the tenants. For this reason, the conferees do not feel it necessary to include Section 102 of HR 202, which passed the House with strong bipartisan support. Section 102 of HR 202 was intended to accomplish this same purpose. In keeping with the intent of section 102 of HR 202, however, the conferees direct the Department, in instances where section 202 borrowers choose to prepay and refinance their mortgages, to share at least 50% of any section 8 savings that might become available as a result of prepayment with the borrower in order to facilitate the refinancing so that enhancements can be made to serve the current and future elderly tenants.

The conferees are aware that the non-profit sponsors of section 202 developments for the elderly struggle to identify additional sources of financing for their projects to enhance the amenities and services available to low-income senior citizens. One alternative that should be explored is to permit the non-profit organizations that are eligible as borrowers for section 202 funds to be the sole general partner of a for-profit limited partnership as long as that general partner meets the definition of private non-profit organization under section 202(k)(4). This would enable borrowers under the 202 program to become eligible for LIHTC, and the equity financing it generates, in the same way as non-profit borrowers under the section 515 rural rental housing program are eligible for the LIHTC. Such eligibility would provide a critical source of additional capital to housing for the elderly, giving our deserving elderly residents the best housing possible.

Sections 307 and 327 of HR 202 specifically allowed for the development and operation of commercial facilities in Section 202 and Section 811 projects, respectively. The conferees, however, believe that nothing in federal law currently prohibits the Department of Housing and Urban Development from permitting the development and operation of commercial facilities in Section 202 and Section 811 projects. For this reason, the conferees do not feel inclusion of these provisions of HR 202 is necessary, but instead specifically directs HUD to grant requests of project sponsors to do this wherever feasible.

In addition, the conferees believe that HUD has authority to allow the development and operation of Section 202 units on the same premises as, and integrated with, privately-financed units. Such integrated housing would allow low-income elderly residents and elderly residents in privately financed units to live side-by-side without the stigma of a separate, low-income wing or of units that are clearly designated for low-income residents. Such was the intent of Section 308 of HR 202. Because the conferees believe the

Department already has the authority to accomplish this goal, rather than including Section 308 of 202, the conferees direct HUD to develop policies to enable Section 202 project sponsors who request it to include privately-financed units in their 202 developments.

The conferees direct the Department, for Fiscal Year 2000, that, notwithstanding any other provision of law or any Department regulation, in the case of any denial of an application for assistance under Section 202 of the Housing Act of 1959 for failure to timely provide information required by the Secretary, the Secretary shall notify the applicant of the failure and provide the applicant an opportunity to show that the failure was due to the failure of a third party to provide information under the control of the third party. If the applicant demonstrates, within a reasonable period of time after notification of such failure, that the applicant did not have such information but requested the timely provision of such information by the third party, the Secretary may not deny the application on the grounds of failure to timely provide such information.

The conferees are concerned that section 8 projects whose rent structure was modified and a use agreement executed under one of the portfolio reengineering demonstration programs may be required to undertake a second round of time consuming and expensive rent restructuring. If the Secretary has previously found debt restructuring to be inappropriate for a project by closing a project under a demonstration program using budget-based rents without debt restructuring and pursuant to a use agreement between the Secretary and the project owner, the conferees direct the Secretary to use the authority provided by the conference report to honor the terms of the use agreement without debt restructuring.

The contract renewals for moderate rehabilitation Section 8 projects are treated differently than contract renewals for other Section 8 properties by requiring a renewal at the lesser of: current rents with an operating cost adjustment factor (OCAF), FMRs minus tenant paid utilities, or the comparable market rent for unassisted units. The conferees do not intend for such renewals to result in a rent that is below the aggregate base rent for the project. The base rent reflects the rent without the rehabilitation financing that was added to the project upon entering the moderate rehabilitation program.

The conferees direct the Department to streamline and reduce the cost of refinancing Home Equity Conversion Mortgages [HECMs] for elderly homeowners, including (a) reducing the single premium payment to credit the premium paid on the original loan [subject to actuarial study], (b) establishing a limit on origination fees that may be charged [which fees may be fully financed] and prohibiting the charging of broker fees, (c) waiving counseling requirements if the borrower has received counseling in the prior five years and the increase in the principal limit exceeds refinancing costs by an amount set by the Department, and (d) providing a disclosure under a refinanced mortgage of the total cost of refinancing and the principal limit increase.

The conferees further direct the Department to conduct within 180 days an actuarial study of the effect of reducing the refinancing premium collected under a refinancing and of the effect creating a single national loan limit for HECM reverse mortgages.

The conferees note the increasing trend in the mortgage industry of various types of home equity loans such as reverse mortgages, and are concerned about the potential effect of abusive lending practices on elderly homeowners. Because the elderly have high rates of homeownership and are more likely to have high levels of equity in their homes, they are prime targets for reverse mortgage scams. While the conferees recognize the majority of lenders operate legitimately, the conferees are concerned about the increasing number of reverse mortgage scams. The conferees therefore direct HUD to evaluate and report on the lending practices of the reverse mortgage industry no later than June 30, 2000. This report should focus on elderly borrowers and should include, at a minimum, an evaluation of: current consumer protection measures; the terms of home equity loans, including the rates and fees paid by elderly borrowers; and the marketing of home equity loans to elderly borrowers. The report should also include an assessment of HUD's role in ensuring that reverse mortgages are not used to defraud elderly homeowners and should detail HUD's plan for preventing such activity.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2000 recommended by the Committee of Conference, with comparisons to the fiscal year 1999 amount, the 2000 budget estimates, and the House and Senate bills for 2000 follow:

[In thousands of dollars]

New budget (obligational) authority, fiscal year 1999	$95,263,261
Budget estimates of new (obligational) authority, fiscal year 2000	99,603,004
House bill, fiscal year 2000	91,980,156
Senate bill, fiscal year 2000	97,828,196
Conference agreement, fiscal year 2000	99,452,918
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1999	+4,189,657
Budget estimates of new (obligational) authority, fiscal year 2000	−150,086
House bill, fiscal year 2000	+7,472,762
Senate bill, fiscal year 2000	+1,624,722

JAMES T. WALSH,
TOM DELAY,
DAVID HOBSON,
JOE KNOLLENBERG,
ROD FRELINGHUYSEN,
ROGER WICKER,
ANNE M. NORTHUP,
JOHN E. SUNUNU,
BILL YOUNG,
ALAN MOLLOHAN,
MARCY KAPTUR,
CARRIE P. MEEK,
DAVID E. PRICE,
BUD CRAMER,
DAVID OBEY,
(except for delayed funding gimmick),
Managers on Part of the House.

C.S. BOND,
CONRAD BURNS,
RICHARD SHELBY,
LARRY E. CRAIG,
KAY BAILEY HUTCHISON,
TED STEVENS,
BARBARA MIKULSKI,
PATRICK LEAHY,
FRANK R. LAUTENBERG,
TOM HARKIN,
ROBERT C. BYRD,
DANIEL INOUYE,
Managers on Part of the Senate.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 8 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 2357

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DREIER) at 11 o'clock and 57 minutes p.m.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2684, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2000

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 106–380) on the resolution (H. Res. 328) waiving points of order against the conference report to accompany the bill (H.R. 2684) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2000, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2679, MOTOR CARRIER SAFETY ACT OF 1999

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 106–381) on the resolution (H. Res. 329) providing for consideration of the bill (H.R. 2679) to amend title 49, United States Code, to establish the National Motor Carrier Administration in the Department of Transportation, to improve the safety of commercial motor vehicle operators and carriers, to strengthen commercial driver's licenses, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3064, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2000

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report

(Rept. No. 106–382) on the resolution (H. Res. 330) providing for consideration of the bill (H.R. 3064) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2000, and for other purposes, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.

Mrs. MALONEY of New York, for 5 minutes, today.

Ms. BROWN of Florida, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Mr. CROWLEY, for 5 minutes, today.

Ms. SCHAKOWSKY, for 5 minutes, today.

Ms. BALDWIN, for 5 minutes, today.

Mr. WIENER, for 5 minutes, today.

Mr. NADLER, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. MEEKS of New York, for 5 minutes, today.

Mr. MOORE, for 5 minutes, today.

The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, October 20.

Mr. DUNCAN, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, today and October 14.

Mr. METCALF, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, today.

Mr. NETHERCUTT, for 5 minutes, October 14.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 560. An act to designate the Federal building and United States courthouse located at the intersection of Comercio and San Justo Streets, in San Juan, Puerto Rico, as the "Jose v. Toledo Federal Building and United States Courthouse."

H.R. 1906. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2000, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 322—An act to amend title 4, United States Code, to add the Martin Luther King Jr. holiday to the list of days on which the flag should especially be displayed.

S. 800—An act to promote and enhance public safety through use of 9-1-1 as the universal emergency assistance number, further deployment of wireless 9-1-1 service, support of States in upgrading 9-1-1 capabilities and related functions, encouragement of construction and operation of seamless, ubiquitous, and reliable networks for personal wireless service, and for other purposes.

ADJOURNMENT

Mr. SESSIONS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 58 minutes p.m.), the House adjourned until tomorrow, Thursday, October 14, 1999, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4755. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Rhizobium inoculants; Exemption from the Requirement of Tolerance [OPP–300915; FRL–6380–4] (RIN: 2070–AB78) received October 8, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4756. A letter from the Director, Office of Regulation Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Ethalfluralin; Reestablishment of Tolerance for Emergency Exemptions [OPP–300925; FRL–6383–2] (RIN: 2070–AB78) received October 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4757. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Tebuconazole; Extension of Tolerance for Emergency Exemptions [OPP–300936; FRL–6386–4] (RIN: 2070–AB78) received October 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4758. A communication from the President of the United States, transmitting requests for transfers from the Information Technology Systems and Related Expenses Account for Year 2000 compliance to eight Federal agencies; (H. Doc. No. 106–143); to the Committee on Appropriations and ordered to be printed.

4759. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Stage II Gasoline Vapor Recovery and RACT Requirements for Major Sources of VOC [DC–2012a; FRL–6457–1] received October 8, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4760. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Maryland; Revision to Section 111(d) Plan Controlling Total Reduced Sulfur Emissions from Existing Kraft Pulp Mills [MD054–3044a; FRL–6456–6] received October 8, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4761. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Pennsylvania; Control of Total Reduced Sulfur Emissions from Existing Kraft Pulp Mills [PA022–4089a; FRL–6456–4] received October 8, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4762. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Vermont: Final Authorization of State Hazardous Waste Management Program Revision [FRL–6456–8] received October 8, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4763. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Santa Barbara County Air Pollution Control District and South Coast Air Quality Management District [CA 226–165a, FRL–6448–5] received October 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4764. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Georgia: Final Authorization of State Hazardous Waste Management Program Revision [FRL–6453–2] received October 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4765. A letter from the Associate Chief, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting the Commission's final rule—1998 Biennial Regulatory Review Spectrum Aggregation Limits for Wireless Telecommunications Carriers [WT Docket 98–205] Cellular Telecommunications Industry Association's Petition for Forbearance From the 45 MHz CMRS Spectrum Cap; Amendment of Parts 20 and 24 of the Commission's Rules-Broadband PCS Competitive Bidding and Commercial Mobile Radio Service Spectrum Cap [WT Docket No. 96–59] Implementation of Section 3(n) and 332 of the Communications Act [GN Docket No. 93–252] Regulatory Treatment of Mobile Services—Received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4766. A letter from the Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Socorro, New Mexico) [MM Docket No. 99–90 RM–9528] (Shiprock, New Mexico) [MM Docket No. 99–119 RM–9550] (Magdalena, New Mexico) [MM Docket No. 99–120 RM–9551] (Minatare, Nebraska) [MM Docket No. 99–122 RM–9553] (Dexter, New Mexico) [MM Docket No. 99–158 RM–9615] (Tularosa, New Mexico) [MM Docket No. 99–191 RM–9632] received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4767. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule—Revisions to the Commerce Control List (ECCNs 1C351, 1C991, and 2B351): Medical Products Containing Biological Toxins; and Toxic Gas Monitoring Systems and Dedicated Detectors [Docket No. 990920257–9257–01] (RIN: 0694–AB85) received October 12, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

4768. A letter from the Director, Workforce Restructuring Office, Employment Service, Office of Personnel Management, transmitting the Office's final rule—Voluntary Early Retirement Authority (RIN: 3206–A125) received October 8, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4769. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Central Regulatory Area of the Gulf of Alaska [Docket No. 990304062–9062–01; I.D. 100599C] received October 12, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4770. A letter from the Chief, Endangered Species Division, Office of Protected Resources, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Sea Turtle Conservation; Restrictions Applicable to Shrimp Trawl Activities; Leatherback Conservation Zone [Docket No. 950427117–9123–06; I.D. 050599D] (RIN: 0648–AH97) received October 8, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4771. A letter from the Chief, Endangered Species Division, Office of Protected Resources, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Sea Turtle Conservation; Restrictions Applicable to Shrimp Trawl Activities; Leatherback Conservation Zone [Docket No. 950427117–9149–09; I.D. 052799C] (RIN: 0648–AH97) received October 8, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on Science, H.R. 1753. A bill to promote the research, identification, assessment, exploration, and development of methane hydrate resources, and for other purposes; with amendments (Rept. 106–377, Pt. 1). Ordered to be printed.

Mr. HYDE. Committee on the Judiciary. H.R. 2260. A bill to amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia, and for other purposes (Rept. 106–378 Pt. 1). Ordered to be printed.

Mr. WALSH: Committee on Conference. Conference report on H.R. 2684. A bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2000, and for other purposes (Rept. 106–379). Ordered to be printed.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 328. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2684) making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2000, and for other purposes (Rept. 106–380). Referred to the House Calendar.

Mr. SESSIONS: Committee on Rules. House Resolution 329. Resolution providing for consideration of the bill (H.R. 2679) to amend title 49, United States Code, to establish the National Motor Carrier Administration in the Department of Transportation, to improve the safety of commercial motor vehicle operators and carriers, to strengthen commercial driver's licenses, and for other purposes (Rept. 106–381). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 330. Resolution providing for consideration of the bill (H.R. 3064) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2000, and for other purposes (Rept. 106–382). Referred to the House Calendar.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 1753. Referral to the Committee on Resources extended for a period ending not later than October 18, 1999.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mrs. CUBIN:

H.R. 3063. A bill to amend the Mineral Leasing Act to increase the maximum acreage of Federal leases for sodium that may be held by an entity in any one State, and for other purposes; to the Committee on Resources.

By Mr. ISTOOK:

H.R. 3064. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2000, and for other purposes; to the Committee on Appropriations.

By Mr. BOEHNER (for himself, Mr. Sawyer, Ms. Kaptur, Ms. Pryce of Ohio, Mr. Oxley, Mr. Regula, and Mr. Strickland):

H.R. 3065. A bill to amend title XIX of the Social Security Act to remove the limit on amount of Medicaid disproportionate share hospital payment for hospitals in Ohio; to the Committee on Commerce.

By Mr. CARDIN:

H.R. 3066. A bill to amend the Uruguay Round Agreements Act with respect to the rules of origin for certain textile and apparel products; to the Committee on Ways and Means.

By Mrs. CHENOWETH-HAGE (for herself and Mr. Simpson):

H.R. 3067. A bill to authorize the Secretary of the Interior to convey certain facilities to Nampa and Meridian Irrigation District; to the Committee on Resources.

By Mr. ENGLISH (for himself, Mr. Peterson of Pennsylvania, Mr. Shuster, Mr. Coyne, Mr. Holden, Mr. Murtha, Mrs. Wilson, Mr. Greenwood, Mr. Pitts, Mr. Weldon of Pennsylvania, Mr. Brady of Pennsylvania, Mr. Borski, Mr. Doyle, Mr. Goodling, Mr. Kanjorski, Mr. Ney, Mr. Klink, Mr. Toomey, Mr. Sherwood, Mr. Hoeffel, Mr. Fattah, Mr. Mascara, and Mr. Gekas):

H.R. 3068. A bill to designate the Federal building and United States courthouse located at 617 State Street in Erie, Pennsylvania, as the "Samuel J. Roberts Federal Building and United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. FRANKS of New Jersey (for himself, Ms. Norton, Mr. Wise, and Mr. Traficant):

H.R. 3069. A bill to authorize the Administrator of General Services to provide for redevelopment of the Southeast Federal Center in the District of Columbia; to the Committee on Transportation and Infrastructure.

By Mr. HULSHOF (for himself, Mr. Archer, Mr. Shaw, Mr. Camp, Ms. Dunn, Mr. English, Mr. Foley, Mr. Hayworth, Mr. Herger, Mr. Houghton, Mr. Ramstad, Mr. Thomas, and Mr. Weller):

H.R. 3070. A bill to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to work, to extend health care coverage for such beneficiaries, and to make additional miscellaneous amendments relating to Social Security; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OWENS:

H.R. 3071. A bill to amend title XII of the Elementary and Secondary Education Act of 1965 to provide grants to improve the infrastructure of elementary and secondary schools; to the Committee on Education and the Workforce.

By Mr. TOOMEY (for himself, Mr. Stenholm, Mr. Bartlett of Maryland, Mrs. Biggert, Mr. Boehner, Mr. Burr of North Carolina, Mr. Calvert, Mr. Chambliss, Mrs. Chenoweth-Hage, Mr. Condit, Mr. Crane, Mrs. Cubin, Mr. DeMint, Mr. Doolittle, Ms. Dunn, Mr. Fletcher, Mr. Franks of New Jersey, Mr. Goode, Mr. Green of Wisconsin, Mr. Greenwood, Mr. Hastings of Washington, Mr. Hayes, Mr. Hayworth, Mr. Herger, Mr. Hill of Montana, Mr. Hostettler, Mr. John, Mrs. Johnson of Connecticut, Mr. Sam Johnson of Texas, Mr. Jones of North Carolina, Mr. Knollenberg, Mr. Kuykendall, Mr. Largent, Mr. McIntosh, Mr. Mica, Mr. Miller of Florida, Mr. Gary Miller of California, Mr. Nethercutt, Mr. Peterson of Pennsylvania, Mr. Pitts, Mr. Pombo, Mr. Radanovich, Mr. Riley, Mr. Rohrabacher, Mr. Ryan of Wisconsin, Mr. Ryun of Kansas, Mr. Sessions, Mr. Saxton, Mr. Shaw, Mr. Sherwood, Mr. Simpson, Mr. Sisisky, Mr. STEARNS, Mr. SUNUNU, Mr. TANCREDO, Mr. TIAHRT, Mr. VITTER, and Mr. WALDEN of Oregon):

H. Con. Res. 197. Concurrent resolution expressing the sense of Congress that there should be no increase in Federal taxes in order to fund additional Government spending; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 2: Mr. HILL of Montana and Mr. LUCAS of Oklahoma.

H.R. 531: Mr. UDALL of Colorado.

H.R. 552: Mrs. EMERSON.

H.R. 815: Mrs. MEEK of Florida.

H.R. 1071: Mr. MASCARA, Mr. HINCHEY, Mr. SANDLIN, Mr. OLVER, and Mr. SCOTT.

H.R. 1083: Mr. ARMEY.

H.R. 1093: Mr. SWEENEY.

H.R. 1095: Mr. CLYBURN, Mr. PHELPS, Mr. NADLER, and Ms. MCCARTHY of Missouri.

H.R. 1103: Mr. SHAYS.

H.R. 1115: Ms. MILLENDER-MCDONALD, Mr. NADLER, Mr. PETERSON of Minnesota, Mr. CONYERS, Mr. SMITH of Washington, Mrs. JONES of Ohio, Mr. JACKSON of Illinois, Mr. OWENS, Ms. ESHOO, Mr. KANJORSKI, Mrs. NAPOLITANO, Mr. JOHN, Ms. SCHAKOWSKY, Mr. KENNEDY of Rhode Island, Mr. DOOLEY of California, Mr. UNDERWOOD, Mr. MEEHAN, Mr. DICKS, Mr. HASTINGS of Florida, Mr. BRADY of Pennsylvania, Mrs. CLAYTON, Mr. FATTAH, Mr. CRAMER, Mr. CLYBURN, Mr. HINOJOSA, Mr. MEEKS of New York, and Ms. MCKINNEY.

H.R. 1132: Mr. ANDREWS and Ms. LEE.

H.R. 1187: Mrs. LOWEY.

H.R. 1388: Mrs. LOWEY and Mr. DICKEY.

H.R. 1399: Mr. SERRANO and Mr. SABO.

H.R. 1432: Mr. TIERNEY.

H.R. 1465: Mr. UDALL of Colorado.

H.R. 1505: Mr. HILL of Indiana.

H.R. 1579: Mr. KENNEDY of Rhode Island and Mr. CONYERS.

H.R. 1592: Mr. HINOJOSA.

H.R. 1650: Mr. MCDERMOTT, Mr. JOHN, and Mr. SWEENEY.

H.R. 1728: Mr. BOUCHER and Mr. GEJDENSON.

H.R. 1775: Ms. WOOLSEY, Ms. ESHOO, Ms. PELOSI, Mr. TIERNEY, Mr. DEUTSCH, Mr. CASTLE, and Mr. HORN.

H.R. 1785: Ms. PELOSI and Mr. SHAYS.

H.R. 1814: Mr. LARGENT, Mr. COBURN, and Mr. SENSENBRENNER.

H.R. 1838: Mr. HANSEN, Mr. ETHERIDGE, Mr. TALENT, Mr. TAYLOR of North Carolina, Mr. SESSIONS, and Mr. SAM JOHNSON of Texas.

H.R. 1868: Mr. COOKSEY and Mr. HALL of Texas.

H.R. 1869: Mr. HYDE.

H.R. 1870: Mr. GREEN of Wisconsin, Mr. SWEENEY, and Mr. EVANS.

H.R. 1887: Mr. UDALL of Colorado and Mr. DIAZ-BALART.

H.R. 2102: Mr. PHELPS.

H.R. 2162: Mr. RAMSTAD and Mr. WOLF.

H.R. 2170: Mr. DIAZ-BALART, Mr. VENTO, Mr. GOSS, and MR. RAMSTAD.

H.R. 2233: Mr. SANDLIN, Mr. KENNEDY of Rhode Island, Mr. BARRETT of Wisconsin, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 2260: Mrs. FOWLER.

H.R. 2300: Mr. GOODLATTE.

H.R. 2320: Mr. CALVERT.

H.R. 2366: Mrs. NORTHUP.

H.R. 2409: Mr. MCINNIS.

H.R. 2493: Mrs. LOWEY, Mrs. MEEK of Florida, Mr. LANTOS, and Mr. KENNEDY of Rhode Island.

H.R. 2628: Ms. STABENOW.

H.R. 2655: Mr. FOLEY.

H.R. 2698: Mr. KOLBE.

H.R. 2713: Mr. ORTIZ, Mr. GONZALEZ, Ms. ROYBAL-ALLARD, Mr. RODRIGUEZ, Mr. REYES, Mr. SERRANO, and Ms. VELÁZQUEZ.

H.R. 2720: Mr. PASCRELL.

H.R. 2722: Ms. SCHAKOWSKY.

H.R. 2728: Mr. EHLERS and Mr. CASTLE.

H.R. 2733: Mr. HALL of Texas and Mr. EVANS.

H.R. 2749: Mr. ENGLISH.

H.R. 2757: Mr. PAUL and Mr. LARGENT.

H.R. 2807: Mr. DOYLE.

H.R. 2809: Mr. GOODE, Mr. STARK, and Mr. SABO.

H.R. 2810: Mr. WEINER.

H.R. 2816: Mr. OWENS.

H.R. 2888: Mr. FRANK of Massachusetts and Mr. HALL of Ohio.

H.R. 2895: Mr. CAPUANO, Mr. MARTINEZ, Mr. HINCHEY, Ms. NORTON, and Mr. WU.

H.R. 2906: Mr. BLUNT, Mr. TIAHRT, and Mr. FOLEY.

H.R. 2928: Mr. BALLENGER, Mr. LARGENT, Mr. DOOLITTLE, Mr. SWEENEY, Mrs. MYRICK, Mr. POMBO, Mr. TANCREDO, Mr. GRAHAM, Mr. TOOMEY, Mr. PITTS, Mr. OSE, Mr. BARTLETT of Maryland, Mr. PETERSON of Pennsylvania, and Mr. KINGSTON.

H.R. 2939: Ms. MCKINNEY.

H.R. 3014: Mr. BILBRAY.

H.R. 3047: Mr. COYNE.

H. Con. Res. 120: Mr. HERGER.

H. Con. Res. 141: Mr. KENNEDY of Rhode Island, Mr. ABERCROMBIE, Mr. DICKEY, Mr. MCHUGH, and Mr. MCGOVERN.

H. Con. Res. 174: Mr. GEPHARDT.

H. Con. Res. 177: Ms. MCCARTHY of Missouri, Ms. SCHAKOWSKY, Mr. SABO, Mr. KUCINICH, Mr. BONIOR, Mr. TIERNEY, Mr. WEYGAND, Mr. DELAHUNT, Mrs. LOWEY, Ms. ESHOO, and Ms. PELOSI.

H. Con. Res. 188: Mr. BLAGOJEVICH, Mr. FOLEY, Mr. KING, Mr. FROST, Mrs. MYRICK, Mr. VISCLOSKY, Mr. GEJDENSON, Mrs. MINK of Hawaii, Ms. ESHOO, Mr. PORTER, Mr. DIXON, Mr. KENNEDY of Rhode Island, Mr. GOODLING, Mr. RUSH, Mr. ABERCROMBIE, and Mr. MEEHAN.

H. Res. 41: Mrs. BIGGERT and Mrs. EMERSON.

H. Res. 238: Mr. FRANK of Massachusetts.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2679

OFFERED BY: MR. GONZALEZ

AMENDMENT NO. 1: Page 34, strike line 6 and all that follows through the end of line 21, and insert the following:

SEC. 205. SAFETY VIOLATION TELEPHONE HOTLINE.

(a) STAFFING.—Section 4017 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31143 note; 112 Stat. 413) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(2) by inserting after subsection (b) the following:

"(c) STAFFING.—The toll-free telephone system shall be staffed 24 hours a day 7 days a week by individuals knowledgeable about Federal motor carrier safety regulations and procedures."; and

(3) in subsection (e) (as redesignated by paragraph (1) of this section) by striking "for each of fiscal years 1999" and inserting "for fiscal year 1999 and $375,000 for each of fiscal years 2000".

(b) DISPLAY OF TELEPHONE NUMBER.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations requiring all commercial motor vehicles (as defined in section 31101 of title 49, United States Code) traveling in the United States, including such vehicles registered in foreign countries, to display the telephone number of the hotline for reporting safety violations established by the Secretary under section 4017 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31143 note).

H.R. 2679

OFFERED BY: MS. JACKSON-LEE OF TEXAS

Amendment No. 2: At the end of the bill, add the following:

SEC. 210. SENSE OF CONGRESS ON USE OF RECORDING DEVICES IN COMMERCIAL MOTOR VEHICLES.

It is the sense of Congress that—

(1) the use of recording devices (commonly referred to as "black boxes") in commercial motor vehicles could provide a tamper-proof mechanism for use in accident investigations and enforcement of hours-of-service regulations; and

(2) the National Motor Carrier Administration should implement the recommendations of the National Transportation Safety Board concerning the use of recording devices in commercial motor vehicles.

Conform the table of contents of the bill accordingly.

H.R. 2679

OFFERED BY: MS. JACKSON-LEE OF TEXAS

Amendment No. 3: At the end of the bill, add the following:

SEC. 210. USE OF RECORDING DEVICES IN COMMERCIAL MOTOR VEHICLES.

(a) STUDY.—The Secretary of Transportation shall conduct a study to determine if the use of recording devices (commonly referred to as "black boxes") in commercial motor vehicles could provide a tamper-proof mechanism for use in accident investigations and enforcement of hours-of-service regulations.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall report to Congress on the results of the study, together with recommendations concerning the use of recording devices and commercial motor vehicles.

Conform the table of contents of the bill accordingly.

EXTENSIONS OF REMARKS

INTRODUCTION OF RULES OF ORIGIN LEGISLATION

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. CARDIN. Mr. Speaker, today I am introducing a bill to amend the rules of origin for certain textile products. This bill would amend the rule of origin requirements contained in section 334 of the Uruguay Round Agreements Act (URAA) in order to allow dyeing, printing, and two or more finishing operations to confer origin on certain fabrics and goods. Specifically, this dyeing and printing rule would apply to fabrics classified as of silk, cotton, man-made, and vegetable fibers and certain products classified in enumerated headings of the Harmonized Tariff Schedule.

Under current law, fabrics and certain products derive their origin in the country where the fabric is woven or knitted, notwithstanding any further processing (such as dyeing and printing). This bill would change that rule for fabrics and products included within its scope and would base origin determinations for customs and marking purposes in the place where these finishing operations take place.

Enactment of this bill would also settle a longstanding dispute in the World Trade Organization (WTO) brought by the European Union (EU) against the United States regarding section 334 of the URAA. The Administration worked with the EU—in close consultation with U.S. industry—to resolve outstanding concerns with respect to section 334, and, in August, concluded a settlement with the EU, under which the Administration agreed to propose new legislation to Congress to amend section 334.

I urge my colleagues to suport swift enactment of this bill. It is non-controversial, was drafted in consultation with domestic industry, will have minimal effect domestically, and will settle an outstanding trade irritant between the European Union and United States. I look forward to its passage into law in the remaining weeks of the congressional session.

TRIBUTE TO STEVE SIMPSON

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. PACKARD. Mr. Speaker, I would like to take this moment to recognize the hard work and dedication of Deputy Steve Simpson, a fine police officer who has represented the Orange County Sheriff's Department since 1990. Deputy Simpson has been recognized as Deputy of the Year for Orange County because of his outstanding dedication and service to the citizens of Orange County.

Deputy Simpson began his career in 1990 at the Central Men's Jail, he also served at the James A. Musick Facility and the Central Women's Jail. He worked quickly to establish himself as an outstanding patrol officer. His work ethic and willingness to handle any assignment has endeared him to his peers and supervisors. In the last year alone Deputy Simpson has made 99 arrests including 12 felony arrests. He is a member of the Tactical Support Team and serves as a specialist on the actual entry team. Deputy Simpson currently serves as a patrol officer in the City of Lake Forest.

Mr. Speaker, Deputy Steve Simpson is an outstanding member of the Orange County Sheriff's Department and is a valuable asset to our community. Law enforcement officers risk their lives daily to provide safety to our nation and Deputy Simpson has provided safety with excellence. Deputy Simpson truly deserves this recognition as South Orange County Exchange Club Officer of the Year and I am pleased to recognize his accomplishments before this House today.

TRIBUTE TO GENESIS FAMILY HOME

HON. ROBIN HAYES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. HAYES. Mr. Speaker, I rise today to honor Mr. and Mrs. John K. Edmond, Sr., founder of the Genesis Family Home in Concord, North Carolina.

The Genesis Family Home's philosophy is to create a new beginning for young adults, ranging from 9 to 17.

The Genesis Family Home provides a residential setting for these young adults for whom removal from home to a community-based residential setting is essential to facilitate treatment.

Treatment is targeted to those who no longer meet criteria for in-patient psychiatric services or intensive residential treatment and need a step-down placement in the community, or those who have been placed in non-residential community setting and need a more intensive treatment program.

Mr. and Mrs. Johnson are responding to the children in need in our community that need our help in the transition back into family life.

Positive role models are often hard to find, the Johnson's aren't only role models—they are the boost these young adults need to survive.

Mr. Speaker, I congratulate the Genesis Family Home on the difference it is making on our community.

A TRIBUTE TO MR. KENNETH GAMBLE AND UNIVERSAL COMMUNITY HOMES

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to honor one of my most distinguished constituents, Kenneth Gamble and the organization he created, Universal Community Homes.

Many of my colleagues will recognize Kenny Gamble as the pop music icon who gave us the "Sound of Philadelphia" as he steered Philadelphia International Records to the heights of the music industry. The unmistakable sounds of artists such as the Intruders, The Delfonics, The Spinners, The O'Jays, Phyllis Hyman, Teddy Pendergast, and Harold Melvin and the Blue Notes have enriched the lives of all Americans. It was Kenny's vision and hard work that made that possible.

Mr. Speaker, Kenny Gamble could have chosen to take his well earned financial rewards and enjoy the "good life" away from the urban environment. Instead, he came back home to Philadelphia. We often hear people say that they want to make a difference. Well, Kenny Gamble has made a difference. He has taken an area that was plagued by drugs, violent crime and abandoned buildings and made from it a true community. He built houses, made community-based small businesses possible, mentored children, and did so much more. Throughout all this, he set an example. He showed young people in the neighborhood he grew up in that they could succeed without using or selling drugs. That the ball field is not the only way to escape poverty. That faith in God and respect for people is an honorable way to live. And most of all, that one need not flee ones past to live a bright future.

Mr. Speaker, the non-profit development company Mr. Gamble founded, Universal Community Homes has already completed over $13 million in real estate and economic development programs, holds leadership positions in 13 community partnerships, and currently operates several educational, social and human service programs at 4 locations. Under Mr. Gamble's direct leadership and tremendous financial commitment, Universal Community Homes, in a relatively short period of time, has begun one of the largest concentrated community development initiatives in the history of Philadelphia.

Mr. Speaker, October 13, 1999 has been designated Universal Community Homes Day in Philadelphia. I urge all my colleagues to join me in honoring this great man and his proud organization.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

A TRIBUTE TO SONDRA MILLER

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mrs. LOWEY. Mr. Speaker, I rise today to express my great admiration for Judge Sondra Miller, an extraordinary jurist and community leader who will be honored with the Diane White "Advocate for Women's Justice" Award on October 28th.

Judge Miller has enjoyed a remarkable career in the law. Currently an Associate Justice of the Appellate Division of the Supreme Court of the State of New York, she has previously served as a Justice of the Supreme Court for the Ninth Judicial District, and as a Family Court Judge in Westchester County.

Judge Miller has also lent her energy and expertise to a great number of organizations which support our legal system and advance the values of a strong society. Her expertise and commitment to women and children has been especially inspiring. Judge Miller has been the Co-Chair of the New York State Task Force on Family Violence, the Founder of Judges and Lawyers Breast Cancer Alert, and a Commissioner of the Governor's Permanent Judicial Commission on Justice for Children, among many other volunteer posts.

To each challenge, Judge Miller brings a keen legal mind, a genuine devotion to our system of law, and a determination to seek justice. It is no wonder that she has been recognized repeatedly by her peers, receiving honors such as the Westchester Woman of the Year Award, the Founders Award from the Woman's Bar Association of the State of New York, and the New York State Bar Association Howard A. Levine Award for Outstanding Work in the Area of Children and the Law.

Judge Miller's commitment to the law is matched by an equally powerful devotion to the larger community. She has been active in a wide variety of organizations, ranging from the League of Women Voters, to Hadassah, to Planned Parenthood. In each case, Judge Miller has earned the respect and admiration of friends and associates.

In short, Judge Miller is a trail-blazer whose work and personal example have made a difference to countless Americans, and who continues to offer the very highest quality of personal and professional service.

I am proud to join in recognizing Judge Sondra Miller and confident that she will remain a leading light for many years to come.

ADDRESS BY H.E. LENNART MERI, PRESIDENT OF ESTONIA

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. KUCINICH. Mr. Speaker, I submit the following for the RECORD.

ADDRESS BY H.E. LENNART MERI, PRESIDENT OF ESTONIA, AT THE BREAKFAST OF THE JOINT BALTIC AMERICAN NATIONAL COMMITTEE HONORING THE MEMBERS OF THE BALTIC CAUCUS OF THE SENATE AND THE HOUSE OF REPRESENTATIVES

OCTOBER 13, 1999—WASHINGTON, DC

Mr. Chairman, Members of Congress, Ladies and Gentlemen:

I appreciate being here in this very distinguished company. I appreciate the opportunity to address this distinguished audience here today and I will do so in a triple capacity: as an Estonian, as a representative of the Baltic states, and as European. I will focus on the challenge of NATO enlargement to the Baltic states, but I will do so in the context of the evolving European-U.S. relationship and of the situation in and the relationship with the Russian Federation.

The world today is changing, and it should be our joint endeavor to change it in a way, which promotes our common interests. These interests include, both as far as Estonia and the U.S. are concerned, a stable and secure Europe and a stable, secure, democratic and cooperative Russia. The question is how to achieve these two aims. I will present to you my case that, including the Baltic States in NATO can actually contribute to both.

Ladies and Gentlemen, the security relationship between the US and Europe is changing and evolving. What is not and what should not change is the American commitment to European security. After all, for forty years it was the United States presence in Europe that guaranteed safety and freedom to the non-communist part of the continent. Even in countries that were not and are not members of NATO it is generally acknowledged today that their safety was a consequence of the United States military presence in Europe. For all the manpower and military hardware that the European NATO members themselves put up it was essential for America to be ever-present and ready to support and lead the defense of western Europe, should it come to that. Today, the security situation has altered drastically. In this situation it is clear that we Europeans have to do more and that we have to be better prepared to manage crises on our own doorstep to be a more partner to the United States.

The contrary, the US presence in Europe is today as vital as it has ever been. History has shown that the United States will be involved, sooner or later, in a European conflict. This is a sign of our close economic ties, but it is more importantly, and I believe above all, a sign of the convictions and values we share on both sides of the Atlantic Ocean. Therefore we must continue to work together to strengthen and expand the still all too narrow area where democracy rules and human rights are respected. It is right of the United States to want its European partners to contribute more and it is right of the Europeans to strengthen common defense capacities. Yet all this means is that we are restructuring a successful and vital relationship. We are not—and we must not—alter the fundamental principles on which this co-operation is based, and these principles are caught up in one word: NATO. NATO is today and will remain for the foreseeable future the only organisation capable of ensuring a safe and secure Euro-Atlantic region.

Estonia and our two Baltic neighbours, Latvia and Lithuania, wish to be part of this co-operation. Or rather I should say that we are already part of it. Estonia, Latvia and Lithuania have been working together with NATO forces in Bosnia and now in Kosovo. We are exercising with US and European forces on a regular basis. In the very near future Estonian radar stations and those of our neighbours will be hooked up to NATO systems and we will start exchanging vital information.

Thus the co-operation between Estonia and NATO, between our neighbours and NATO is already happening. We have demonstrated clearly our willingness and readiness to contribute to European and Trans-Atlantic security and stability because we believe that this also affects our security. Kosovo and Bosnia were not far away events in far away places but were of direct relevance to our own national security. If one nation in Europe is not secure then no one is secure. We may be able to avoid direct conflict, but we cannot avoid refugees and disruptions in trade that result from these wars. Therefore it is in our direct national interest to contribute to European and Trans-Atlantic security, just as I am convinced that it is in the United States interest to remain engaged in Europe.

This is the reason why we wish to join NATO and this is why I believe it is also in the national interest of the United States to have the Baltic states become members of the Alliance.

Ladies and Gentlemen, it is fashionable for some nowadays to speak of a realist, or neorealist policy agenda. The argument is that what worked well until the end of the Cold War will work well today. I would be the last one to dispute that the US policies, which led to the collapse of the Soviet Union, were wrong or ineffective. On the contrary; they were right and effective. But the world of 1999 is different from the world of 1989, or 1979, 69 or 59. We no longer have the Cold War; we no longer have the Soviet Union. Instead we have a Central Europe stretching from the Gulf of Finland to the Adriatic and Black Seas that is free once more and we have a Russia which is struggling to find a democratic path. We also have an independent Ukraine, and Georgia and Azerbaijan and Armenia . . . The list goes on! And we are faced with the fact that the United States truly is the one remaining superpower.

Thus, our policy agenda today should also proceed from the fact that we face a new world, which requires new solutions. The world of tomorrow is in the process of being shaped. In shaping this world we must act with great agility and great speed. Whether we term the policies realistic or idealistic or something in between has in this case no relevance. What is required is determined action. Any other approach is, I believe, simply unrealistic.

I am convinced that the United States has a profound interest in leading this endeavour. An expanded area of democracy and freedom is in the US interest, because it increases stability. And stability in turn is a catalyst for economic development, which increases trade, and so on. And one major way of increasing stability is to continue the enlargement of NATO.

There will be those—perhaps even here, in this room—who will say that I am wrong, that continuing the enlargement of NATO will only irritate Russia, make it even harder to deal with and that for that reason NATO should not expand. Certainly not to the Baltic states.

Ladies and Gentlemen, Dreams of the instant birth of a free and democratic Russia, where human rights would be respected were very popular in the West at the beginning of this decade. We in Estonia never shared this enthusiasm. But neither do we share the gloom of many Western observers today who seem to write off Russia and to say that nothing good will ever come out of there. I believe that Russia can indeed become a truly democratic country. But it will simply take a lot of time. What Russia needs during this time of growing up is firm guidance on what is and what is not permitted in our new world.

Today we see once again the bombing of villages and the killing of civilians in Chechnya. We see the deportation of tens of thousands of persons from Moscow—simply because of the different colour of their skin. And we see worrying calls for a strong man to lead Russia. All of these symptoms give cause for concern. We must in no way nurture these trends, we must in no way give people who advocate such policies a reason to believe that they are accepted or tolerated by the West. Rather we have to support those politicians in Russia who even today are expressing reservations about the war in Chechnya and the deportation of persons because of the colour of their skin. We must nurture the democratic forces in Russia, however weak, so that Russia may one day find the political will to abandon her post-feudal way of thinking and start to build a civil society. This means supporting the Russian democrats and providing assistance, but precisely targeted assistance. It means staying engaged with Russia. It means stability around Russia will be the best way to assist her democratic forces. It also means enlarging NATO to include those countries of central Europe that wish to join, including the Baltic states.

Ladies and Gentlemen, One of the fundamental tenets of our common heritage is the promotion of the free right of men and nations to choose their destiny. It is a tenet, which underpins the international society in which we live and where we wish to live. This is the principle, which should guide us when discussing the future NATO membership of Estonia, Latvia and Lithuania. Any word—any hint—that Russia has a say in this matter will only strengthen those in Moscow who aim to do things the old feudal way. It will strengthen those who do not wish to have Russia become a member of the democratic society of nations. It will bring us all further from the goal of enhancing the sphere of stability and security in Europe.

In short, Baltic NATO membership is in the interest of those who wish to strengthen democracy in Russia.

Mr. Chairman, Ladies and Gentlemen, I have approached Baltic membership in NATO from two angles: from a European and from a Russian one. Europe's role within NATO is growing and the Baltic states are committed to being part of this development. We are willing to carry our share of the burden.

On the other hand, Russia's future is only now taking shape and Baltic membership of NATO will help steer this development in the right direction.

The Baltic Caucus in the Senate and in the House and Baltic Americans are a crucial element in our strategy for gaining membership of the Alliance. It is you who are our advocates both here in Washington and across the United States. I hope that my presentation here today has further served to strengthen your resolve and has provided you with some additional ideas on this issue. I am convinced that by working together we can achieve our common goal so that Estonia, Latvia and Lithuania may in the near future join the United States as full members of NATO.

By working together, Estonia and the US, the Baltic states and the US, Europe and the US, we can ensure that our world of tomorrow will be somewhat safer, somewhat more democratic, somewhat more prosperous than the world of today.

Thank you.

TRIBUTE TO REAR ADMIRAL NORBERT R. RYAN, JR.

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. SPENCE. Mr. Speaker, I rise today to recognize Rear Admiral Norbert R. Ryan, Jr., the outgoing Chief of Legislative Affairs for the U.S. Navy. During the past three years, he has proven to be an invaluable asset to the House Armed Services Committee, the House of Representatives and the Congress. It is an honor to have the opportunity to thank Rear Admiral Ryan for his dedicated service and to recognize him for his accomplishments.

A native of Mountainhome, Pennsylvania, Rear Admiral Ryan began his military career after graduating from the U.S. Naval Academy in 1967. From the beginning, Rear Admiral Ray demonstrated his leadership skills, and in 1993 after a distinguished career as an aviator, Rear Admiral Ryan was selected for rear admiral (lower half). In 1996, Rear Admiral Ryan was selected to represent the Navy on Capitol Hill as Chief of Legislative Affairs. Given the significant changes in Navy leadership during his tenure, Rear Admiral Ryan's steadfast leadership and strategic vision may be credited with keeping the Navy's legislative strategy on course. Over the past three legislative cycles, I watched as he successfully navigated Navy leadership through difficult challenges to key naval programs including the F/A–18E/FSuperhornet, the CVN–77/CVN(X), the DD–21, Tactical Tomahawk, Virginia Class Submarines, shipyard maintenance and the Navy's role in Kosovo.

As Chairman of the House Armed Services Committee, I have had the pleasure of working closely with Norb Ryan. His success has been due in no small part to the strong relationships that he has built with Members of the House and our staffs. He enhanced these action, and established an impressive program to maximize congressional exposure to the men and women who serve in the Navy and Marine Corps.

Rear Admiral Ryan may also be credited with initiating a series of Congressional Constituent Caseworker workshops by geographical region. Today, these workshops are invaluable to Members of Congress and ensure that we have the information we need on Navy programs to respond to the concerns of our constituents.

Rear Admiral Ryan's tireless efforts throughout his distinguished career have benefited America's Navy. He is a spirited and resourceful naval officer with whom it has been a pleasure to work. I look forward to working with Norb in the future and am certain that his contributions in the years ahead will continue to benefit both the Navy and the Nation.

While his presence on Capitol Hill will be missed, Rear Admiral Ryan will be doing critically important work in his new role as Chief of Naval Personnel. I can think of few officers as well suited to leading America's navy into the new millenium. As his career sails on, I would like to send Rear Admiral Ryan the traditional Navy farewell wish—"Fair Winds and Following Seas!"

TRIBUTE TO MIKE PETRO

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. PACKARD. Mr. Speaker, I would like to take this opportunity to recognize Firefighter Mike Petro for his dedication and service to the Orange County Fire Department. Mike Petro joined the fire service in 1984 as a volunteer fire fighter in north San Diego while he was a freshman in college. The California Department of Forestry and Fire Protection later hired him to be a Seasonal Firefighter. In 1989, Mike was hired as a Firefighter with the Orange County Fire Department, now the Orange County Fire Authority (OCFA).

During Mike Petro's service career he has participated in and remains on several Fire Authority and County wide pre-hospital emergency care committees including: Local 3631 Pre-Hospital Care Committee, Equipment Project Team and EMS Continuous Quality Improvement Steering Committee. He has served as a Cardio Pulmonary Resuscitation (CPR) Instructor and teaches CPR classes for the OCFA's community CPR program. Additionally, he is an Emergency Medical Technician instructor for Rancho Santiago Community College and a guest lecturer for Saddleback Community College's Paramedic program. Mike Petro has also been a Paramedic Preceptor and an assistant instructor for Career and Reserve OCFA fire fighter academies.

Mr. Speaker, firefighters provide key services in protecting communities and citizens, as well as our Nation's forests. Mike Petro has gone above and beyond the call of duty in his service to the Orange County Community. I am proud to recognize Mike Petro as Firefighter of the Year.

TRIBUTE TO ANSON COUNTY JAYCEES

HON. ROBIN HAYES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. HAYES. Mr. Speaker, I rise today to honor the Anson County, North Carolina chapter of the Jaycees.

The Anson County Jaycees were recognized as the number one chapter in North Carolina Jaycees Parade of Excellence.

The Jaycees are a national organization of men and women between the ages of 21–39 who want the best opportunities for leadership development, volunteerism, and community service.

At the fall convention of the North Carolina Jaycees, The Anson County chapter also was awarded first place out of approximately 90 chapters.

Individual members were also recognized for their successes: Ken Caulder, Mark Snuggs, and Jennifer Tucker were 3 of the Anson Chapter's 48 members who were singled out for their good deeds.

Mr. Speaker, I congratulate the Anson County Jaycees on the difference they are making on our community and I wish them continued success as they look forward to the next convention in February 2000.

TRIBUTE TO CATCH IN PHILADELPHIA

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to honor Citizens Acting Together Can Help (CATCH), as it celebrates its 20 years of service and commitment to the community. CATCH is a non-profit organization incorporated in the Commonwealth of Pennsylvania on November 12, 1976. The Corporation was established to assume responsibilities for the operation of the Community Mental Health and Retardation Center in Catchment Area 2B, located within the Southwestern portion of Philadelphia.

On July 1, 1979 CATCH assumed full responsibilities for the operations of the Community Mental Health Center, giving the Center the operational name of CATCH Community Mental Health/Mental Retardation Center. The Center is currently under the leadership of Raymond A. Pescatore, Chief Executive Officer with Edward C. Mintzer, Jr., Esq., serving as Board Chairman.

CATCH is a full-service, accredited Mental Health/Mental Retardation Center committed to serving citizens of Philadelphia.

CATCH continues to attract the attention of the community through its reputation of reliable service, leadership qualities and strong commitment. In keeping with its reputation of high quality care, CATCH serves the community offering the following services: Residential and Emergency Services, Mental Health Services and Developmental Disabilities Services.

In recognition of its years of service, I join the Citizens Acting Together Can Help, Inc., as it celebrates its 20 year anniversary.

IN HONOR OF MRS. STELLA M. ZANNONI

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. KUCINICH. Mr. Speaker, I rise today in memory of Mrs. Stella Zannoni, a retiree of the honorary consul of Italy for the State of Ohio, who died in August.

Mrs. Zannoni took an active part in her community. She was appointed honorary consul by the Italian government in 1978, as well as being the co-owner and secretary-treasurer of Cleveland Imported Groceries and Wines Inc. At the store Mrs. Zannoni assisted customers in obtaining answers to questions about pensions, property matters and visas. In view of all who had the pleasure to know her and to work with her, she managed to help and touch the lives of tens of thousands of Clevelanders. The current honorary consul of Italy member was quoted saying that Mrs. Zannoni set an example for the Italian community with her selflessness and strength.

Mrs. Stella Zannoni received several honors and awards for her service in the Cleveland community as well as in the Italian Community. She was a steadfast believer in the art of the possible, of providing opportunities to all, and in the idea that anything was possible with the proper amount of hard work, diligence and sense of hope and optimism. She had spirit, spunk and outgoing joy for others. Mrs. Stella Zannoni will be greatly missed.

My fellow colleagues please join me in honoring the memory of Mrs. Stella Zannoni, a true beacon in the Cleveland community.

TRIBUTE TO BRADLEY JAY RICHES

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. PACKARD. Mr. Speaker, I would like to take this opportunity to recognize Deputy Brad Jay Riches for the Blue and Gold Posthumous Award for his tremendous service as Deputy Sheriff for the Orange County Sheriff's Department. Deputy Riches began his service originally as a Paid Call Firefighter with Orange County Fire Authority and as an Emergency Medical Technician before joining the Orange County Sheriff's Department in 1989.

Deputy Riches attended the Sheriff's Academy and graduated as a Deputy Sheriff in 1990. He worked in the Musick Facility and the Central Main jail prior to his transfer to the Patrol Division in 1998. Deputy Riches began his assignment with the City of Lake Forest Police Services Unit in December 1998.

On Saturday, June 12, 1999 at approximately 1 am, Deputy Riches was making a routine patrol check of a convenience store in Lake Forest when he was suddenly and without provocation, shot and killed by a suspect. Law enforcement officers put their lives at risk daily to ensure the safety of our citizens. Deputy Brad Riches paid the ultimate price for our safety, with his very life.

Mr. Speaker, I am deeply honored to recognize Deputy Brad Riches for his tremendous service and sacrifice for the citizens of Lake Forest, California. His brave service to our community will not be forgotten.

THE 25TH ANNIVERSARY OF THE ALLIANCE FOR THE MENTALLY ILL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me in paying tribute to the Alliance for the Mentally Ill, an outstanding nonprofit association which will celebrate its 25th Anniversary on October 14, 1999.

The Alliance for the Mentally Ill is a special organization whose membership includes individuals who suffer from mental illnesses and their families. These dedicated people contribute almost all the funding for this nationwide group. Their hard work and commitment to the improvement of the lives of the mentally ill is truly remarkable.

Mr. Speaker, the founders of Alliance for the Mentally Ill first met in San Mateo County, California, in 1974 to discuss their concerns about the treatment of their mentally ill children. The organization has grown tremendously since then, but it still has the same intense personal concern for the people it serves. In 1979 a national group was established, based in Washington D.C. I am happy to say that the National Alliance for the Mentally Ill (NAMI) now has representatives in all fifty states.

As its membership grew from ten people to over two hundred thousand, the fundamental mission of the Alliance has remained the same—to fight discrimination, to educate the public and those who are suffering, and to strive towards better treatment and research for an illness that has been historically misunderstood. This organization fights the traditional isolation and fear of mental illness with knowledge and compassion.

The Alliance for the Mentally Ill provides a network of support groups and educational services to assist families of the mentally ill at the local level. It has now assumed a vital role in our nation's health care community and is working closely with professionals on a variety of programs. Some of the programs it has helped to implement include a local mental health care center and an agency that provides supported housing. Newsletters and speakers keep the community active and informed about the important issues affecting the mentally ill. The organization has promoted a greater awareness of mental illness and encouraged our community colleges to implement peer counseling programs. As always, the Alliance has focused on helping adolescents and children, who are so much in need of special support.

Mr. Speaker, I want to pay tribute to the Alliance for the Mentally Ill on this important 25th anniversary. This outstanding organization deserves our gratitude and our congratulations for a quarter century of selfless and dedicated service to the people of our nation.

TRIBUTE TO THE LATE JESSIE COLLINS TRICE

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mrs. MEEK of Florida. Mr. Speaker, it is indeed a distinct honor to pay tribute to one of Miami-Dade County's unsung heroines, the late Jessie Collins Trice. Her untimely demise from the scourge of lung cancer last Friday, October 8, 1999 will truly leave a deep void in our midst.

Mrs. Jessie Collins Trice represented the best and the noblest of my community. Having dedicated a major portion of her life in championing the health care of African-Americans and Hispanics throughout Florida, she tirelessly advocated a monumental struggle toward ensuring the creation of the Health Choice Network to provide comprehensive primary and preventive health care to low-income and uninsured populations in minority communities. Her mission undergirded her belief that health care was a right for the poor and the underserved.

Ms. Trice was a multi-dimensional public servant, a civic activist par excellence, an indefatigable community-builder, a loving mother and a doting grandmother, completely unselfish in all her endeavors. The genuineness of her stewardship on behalf of our community was buttressed by her utmost consecration to her vocation as God's faithful servant, bringing hope and optimism to thousands of ordinary folks whose lives she touched so deeply, never holding anyone at arm's length.

What we most know about Jessie Trice is that she was a trailblazer in the realm of health care. She was the first Black to receive a nursing degree from the University of Miami, the first and only Black to serve as Director of Nursing for the Miami-Dade County Department of Public Health, the only Black to have served as Chairperson of the Florida State Board of Nursing, and founder of the Miami-Dade Black Nurses Association. She also served as the past President of the Florida Association of Community Health Centers and the National Association of Community Health Centers.

For the past eighteen years, she held the distinction of President and CEO of the Economic Opportunity Family Health Center, Inc., the largest minority employer in the Liberty City community. Through a staff of 300 employees, more than 9-million dollars are added annually to the local economy. Her record of sustained service has been recognized at the local, state and national levels. This was evidenced by her appointment in 1991 to the National Advisory Committee on Infant Mortality by then Secretary of Health Louis Sullivan and the Florida Work Group on Health Care by the late Governor Lawton Chiles. Along with Elizabeth Taylor, she was featured in the Miami Herald as the distinguished "Miamian," after testifying before the U.S. Senate for increased funding for those afflicted with the HIV-AIDS virus.

This remarkable lady was my friend and confidante. I am deeply saddened by her passing away. She will indeed be an indelible reminder of the noble commitment and awesome power of public service on behalf of the less fortunate. Her faith was deep and genuine, and her love for our community defined her dynamic friendship and understanding. No one who knew Jessie—and being struck by her sunny disposition and optimism—went away not acknowledging the presence of a caring and compassionate community leader.

Jessie Collins Trice's life was akin to that of a burning candle. A candle's lifelong service is to shed its light to illuminate the darkness of pessimism and hopelessness—until it is consumed. She conscientiously consecrated her life by serving God through her fellow human beings—especially the women and children from the innercity. I do remember cogently her challenging words: "Our children are our future, and if we don't expend every effort to help our children, we won't have a future."

This Friday, October 15, 1999 at a funeral mass at the Archdiocese of Miami's St. Mary's Cathedral, I join the Miami-Dade County community to celebrate her life and her friendship. Undoubtedly, Jessie Collins Trice would urge us that her death does not represent an irrevocable termination or a grim finality. She would rather have us firmly believe that she will live on in the good deeds she amply left behind. She will carry on through the wonderful thoughts and memories we all have of her.

Like the God whom she served faithfully during her earthly sojourn, she came and lived among us that we may have life—and have hope more abundantly. This is the wonderful legacy Jessie Collins Trice left behind. And this is the gift with which she blesses us. May Almighty God grant her eternal rest!

LABOR CELEBRATION

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. KANJORSKI. Mr. Speaker, I rise today to bring to the attention of my colleagues a very special celebration taking place in my district this week. The Greater Wilkes-Barre Central Labor Council will gather to recognize the contributions of organized labor over the last century. I am pleased and proud to have been asked to participate.

A number of my good friends at the Labor Council will preside at this event: President Sam Bianco, Vice-President Joseph Capece, Secretary Lois Hartel, Treasurer Joseph Gorham and Trustees Ed Harry, Ed Hahn, Ed Walsh, David Williams, and Jerry Kishbaugh. The banquet will feature a comprehensive slide show that depicts the struggles of labor over the last century, highlighting such victories as anti-child labor laws, free public education, voting rights, equal pay for equal work, Social Security, job-safety, workers compensation, civil rights, the eight-hour work day, the minimum wage, and other triumphs. The program will also highlight the historic contributions of the Greater Wilkes-Barre Central Labor Council, which received the 1998 National AFL–CIO Model Cities in Community Services Award.

The Greater Wilkes-Barre Central Labor Council was founded in September 1894 by a group of six men: John J. Casey and Daniel Shovlin of the Plumbers and Steamfitters Union, Pat O'Neill and John Gibbon of the Stone Cutters Union, Amos Ayers of the Carpenters Union, and David Brovea of the Painters Union. In the beginning, fear of being blacklisted and jailed forced the Council members to hold secret, hidden meetings. The first such meeting was held in an old stone yard until rain forced the gathering to move under a bridge. There, in the rain-soaked autumn air, the Labor Council was founded.

John J. Casey went on to head what was then called the Central Labor Union, or CLU and the Building Trades Council. By 1902, 118 local unions were affiliated with the CLU. In 1903, United Mine Workers President John Mitchell told the American Federation of Labor convention in Boston that Wilkes-Barre was the "best organized city in the United States." Within the next few years, it was common to see as many as 300 members at the bimonthly meetings.

The father of Labor Council was John J. Casey, who sought to unite all the trade unions in the event of a major problem with local contractors. Casey, a central figure in the history of the local labor movement, came from an inspiring background. Born in a company-owned mining shack in the anthracite region, Casey lost his father in a mining accident at age eight. With no compensation laws in place at that time, Casey was forced to leave school and become a breaker boy, working ten-hour days for pennies. It was here that the seed of labor activism was born in John J. Casey

John J. Casey realized legislation was needed to obtain equal labor rights and social justice for working men and women. He successfully ran for State Representative and, later, for the United States Congress. When he won his congressional seat in 1912, John J. Casey became the first labor leader ever elected to that body. During his tenure, he was instrumental in the passage of laws prohibiting child labor and supporting vocational education in public schools.

Mr. Speaker, I am extremely proud of the labor unions in Northeastern Pennsylvania. The unions not only brought fair labor practices to the area, they saved lives, protected our children, and are responsible for much of the wonderful quality of life we enjoy here. I join with this hardworking group of dedicated individuals in paying tribute to their origins, their heroes, and the rank-and-file laborers whose rights they so fiercely protect every day. I applaud the Greater Wilkes-Barre Central Labor Council for bringing the proud history of local labor unions to the attention of the Luzerne County community and send my sincere best wishes for continued success.

TAIWAN'S NATIONAL DAY

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. ORTIZ. Mr. Speaker, on the occasion of Taiwan's National Day, I wish to convey my best wishes to the people of Taiwan, congratulating them for their successes in the past and extending my sympathies to all the earthquake victims and their families. My prayers are with them.

Taiwan is a model of success in Asia. Through hard work and ingenuity, Taiwan has emerged as one of the strongest economies on the Pacific Rim and is a showcase democracy in the world. The accomplishments of Taiwan, whether economic or political, are truly impressive.

I am confident that Taiwan's future successes will remain impressive, despite the recent earthquake which has severely damaged Taiwan's economy and infrastructure. Godspeed and good fortune to our friends in Taiwan as they rebuild their nation.

TRIBUTE TO TODD OFFORD

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. PACKARD. Mr. Speaker, I would like to take this opportunity to recognize Mr. Todd Offord as Reserve Firefighter of the Year for the City of Lake Forest. When Todd was 16 years old he began as a Fire Explorer and was certified in Fire Control and auto extrication. He also attended the Fire Explorer Academy at El Toro Marine Base. In 1989, Todd became a Paid Call Firefighter and has since attended the Driver/Operator academy, become certified as an Emergency Medical Technician, and attended the Orange County Fire Departments 562 hour Firefighter Academy.

In his time as a Reserve Firefighter, Todd has helped with yearly Christmas decorations, community fairs, serving food to the homeless and many other volunteer projects. Todd is currently employed by the El Toro Water District in customer service and continues to be a valuable asset to the Reserve Firefighters in Lake Forest.

Mr. Speaker, reserve firefighters provide key services in protecting communities and citizens, as well as our Nation's forests. Todd Offord has gone above and beyond the call of duty in his service to the Orange County Community. I am proud to recognize Todd Offord as Reserve Firefighter of the Year.

HONORING BILL BURKE FOR HIS ROLE AS CHAIRMAN OF THE SAN DIEGO CHAPTER OF THE AGC

HON. BRIAN P. BILBRAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. BILBRAY. Mr. Speaker, I would like to take this time to honor and congratulate Bill Burke for the leadership and direction he has provided to the San Diego Chapter of the Associated General Contractors (AGC) over the last 23 years. As Chairman of AGC, his countless hours of persistent hard work have led to some great strides and advancements for general contractors in San Diego.

During Bill's tenure he provided fundamental leadership that expanded the tasks of the San Diego AGC by moving them into a multi-dimensional organization that not only strives to accomplish the goals and achievements of the construction industry, but also provides apprenticeships, safety, and benefit programs. He has demonstrated great flexibility and creativity over the last two decades to keep ahead of the changing role of general contractors and the construction industry in San Diego County.

At the end of this year Bill Burke will be retiring from his leadership position. He will remain a constant standard and hard act to follow for all future AGC Chairmen, his impact on the construction industry in San Diego county will be felt for many future generations. I thank him for all his efforts and congratulate him on his retirement and wish him the best of luck in all future endeavors.

WHAT ARE THE PRIORITIES OF CONGRESS?

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Ms. DEGETTE. Mr. Speaker, what are the priorities of this Congress? Today, the House voted on the Defense Appropriations Conference Report, the final vote to determine funding for the Department of Defense. The Defense Appropriations, Military Construction, and Energy and Water Appropriations bills together have provided $289 billion in defense funds, which is $8 billion more than was requested by the Administration. In addition, the Defense Appropriations Conference Report allocates $1 billion for the procurement of "test" F–22 fighters and an additional $275 million has been provided for the purchase of five unrequested F–15 jets. Extra funding, well beyond what is needed to maintain a strong defense, is being allocated to the Defense Department at the same time as programs that help the neediest Americans are being severely cut. Millions of children across the country are without health care, programs to help improve our children's education are being cut, and millions of people are living in poverty at a time when affordable housing is consistently decreasing. This Congress must better prioritize in order to provide for the needs of Americans.

Currently, 11 million children in the United States go without health insurance and 150,000 of them are in my home state of Colorado. Eight million children without health insurance could be insured using the excess $8 billion in defense funding.

Several "test" F–22 fighters will be purchased by the United States at a cost of $300 million per plane. Every uninsured child in Colorado who suffers because he or she cannot receive health care could be covered at half the price of a single F–22 fighter. Instead, the fighter jets will be produced while children in every state across America suffer due to a lack of needed health coverage.

Education is another area where deep funding cuts will harm our nation's children. Approximately $3 billion has been targeted for cuts from the education budget for fiscal year 2000. These cuts damage education programs intended to assist over two million children. This proposal would cut programs that provide needed after school care, reading and math help for low-income children, and technology support for schools. Under current proposals, states would not receive grants to assist in School-to-Work programs and funding would be denied for drug and violence coordinators in middle schools across the country. The cost of a single F–22 fighter would provide approximately 750,000 low-income and needy children with lunches at school for a year through the National School Lunch program. In addition, about 675,000 needy students could be provided with school lunches at the cost of the five unrequested F–15 fighters provided for in the Defense Appropriations Conference Report. Instead, 2.9 billion dollars' worth of education programs are in danger of being underfunded.

Finally, even in today's booming economy, millions of Americans suffer from homelessness and poverty. According to a Congressional Research Service report by Morton J. Schusseim, "Housing the Poor: Federal Housing Program for Low-Income Families," on any given night, 600,000 people sleep on the streets because they have no home. In addition, 12.5 million people are classified by the government as having severe housing problems such as substandard and crowded living conditions. In recent years, there has been a 15.8 percent increase in the number of very-low-income households in the United States and the number of affordable housing units has decreased by 42 percent between 1974 and 1995. Severe physical deficiencies such as bad wiring, broken heating and dilapidated structures affect 3.1 million families that rent homes.

So, what are the priorities of this Congress? The answer lies in its actions. When defense is provided with billions of dollars more than what was requested, when too many kids remain uninsured, and when education initiatives and affordable housing programs are in danger of being cut by millions, it becomes crystal clear that the priorities of this Congress are grossly out of sync with those of the American people.

FOCUSING ON ACADEMIC EXCELLENCE IN THE NEW BRAUNFELS INDEPENDENT SCHOOL DISTRICT

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. RODRIGUEZ. Mr. Speaker, I rise today to recognize the education efforts of the New Braunfels Independent School District in collaboration with the Center for Leadership in Science, Mathematics and Technology at the Alamo Community College District. These two educational districts have joined to host a meeting entitled "The Community Focuses on Academic Excellence," scheduled for October 19, 1999, in New Braunfels, TX. The meeting will address the need for more students to engage in hands-on science exploration in grades K–12.

The New Braunfels Independent School District has demonstrated an exceptional dedication to expand the educational horizons of its students, particularly in science. Together, the New Braunfels Independent School District and Alamo Community College District have invited a keynote speaker, Dr. Lawrence Lowery from the Lawrence Hall of Science at U.C. Berkeley, to discuss the topic "How Students Learn." The United States Marine Corps will be on hand to present $10,000 for an Annenberg Satellite Dish for use in all schools in New Braunfels. The commitment of the school districts, the support of the parents, and the generosity of the community will help expand the horizons of our children.

Science is key to understanding the world we live in. It is important for our students to have the type of hands-on education in science that is both challenging and rewarding. Without exposure to the sciences early on, our students will be left behind on the road of educational advancement. We have seen time and again that a commitment to higher standards of education is a commitment to excellence and a commitment to our future.

I would like to commend the New Braunfels Independent School District for its focus on its students. The efforts of teachers, parents, and a community of supporters will help us reach our common goal, academic excellence and a love of learning.

WILT CHAMBERLAIN'S PENNSYLVANIA LEGACY

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. GEKAS. Mr. Speaker, I rise to pay tribute to one of the greatest basketball players, and one of the most magnificent Pennsylvanians that ever lived. As the Representative from Hershey, Pennsylvania, I have a unique remembrance of Wilton Norman Chamberlain.

On the tragic occasion of his death we remember his awesome physical stature and stunning agility, his God given athletic prowess. Inevitably, we recall what is one of the greatest feats in all of sport: Wilt Chamberlain's 100 point game. Chamberlain's 100 point game, a record that will surely stand through the next millennium, took place on March 2, 1962, in Hershey, Pennsylvania.

Wilt Chamberlain, a Philadelphia native, began his career with the Philadelphia Warriors in 1959. He remained loyal to his team for many years, and to people all over Pennsylvania, as evidenced by the game at Hershey. To his credit and the credit of the NBA, the value of bringing professional basketball to people in reaches otherwise untouched by the big city teams was well recognized.

Wilt Chamberlain's 100 point game will be remembered as one of the greatest athletic accomplishments of all time. But it will be remembered by the people of Hershey for the great and imposing presence that left its impression there 37 years ago, and remains to this day.

BALANCED BUDGET ACT CUTS TO MEDICARE

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. BALDACCI. Mr. Speaker, Maine hospitals, home health agencies, and skilled nursing facilities are in a state of crisis. Congress must address this issue before we recess for the year.

I am proud of the fact that Maine health institutions are efficient and perform above the norm nationwide in regards to quality of care. But now our providers, especially those in rural areas, are suffering disproportionately under the Balanced Budget Act Medicare cuts, and our resources are stretched to the limit. With the BBA Medicare cuts, our hospitals will lose $338 million over 5 years.

Maine has the lowest Medicare inpatient operating margins in the country. In fact, our operating margins are in the negative. Because of these already too-low Medicare reimbursement rates, any cuts to Medicare hurt Maine that much harder. There are no more margins left to cut. Cost shifting will occur and this will hurt all Maine citizens.

One area which particularly concerns me and my constituents is the effect of the interim payment system on home health agencies. The burden home health agencies have been asked to bear is extreme, especially when considering that the losses are spread among only 40 providers in the state. I hope that a fix can be developed for home health providers that includes the elimination of the 15 percent reduction in payments due to begin October 2000. Home health agencies in my district also ask that an outlier payment be added to the Interim Payment System to adequately account for high-need, high-cost patients. A flexible overpayment schedule, interest-free, would be helpful to providers, as well as a gradual raise in the per beneficiary limits for agencies falling under the national median and the extension of Periodic Interim Payments.

I am very concerned about the effects of the outpatient prospective payment system and the severe cuts Maine providers will experience under this reimbursement system. By HCFA's own admission in the May 7 published rule, rural hospitals will take the biggest hit in reimbursements from the outpatient PPS. The total reduction in the first year for all institutions will be $900 million, or a 5.7 percent average reduction per facility. I hope we consider placing a ceiling on the level of cut any hospital would face to their outpatient reimbursements.

Skilled nursing facilities are under particular burdens under the BBA as well. The prospective payment system is reducing payments by 20 percent. Rural facilities, especially, do not have the operating margins to absorb such a drastic cut. There are no accounting methods to increase payments for medically complex cases. On a related front, many providers believe the $1,500 annual cap on therapy services is arbitrary and very hurtful for seniors. Many of these seniors have multiple therapy needs which can run out in a matter of months under this tight cap.

Changes in reimbursement for Graduate Medical Education unintentionally hurt family practice training in districts such as my own. I hope that this body reviews the technical corrections to GME reimbursements contained in my bill, H.R. 1222, which addressed this issue. These corrections are especially important for rural communities, where there are still shortages of family practice physicians.

Finally, I hope we consider as part of BBA corrective legislation the incorporation of provisions of H.R. 1344, the Triple-A Rural Health Improvement Act, developed by the Rural Health Care Coalition of the House. This bill is designed to address further the need for health care access for seniors in rural areas.

We must take the initiative to attack the problem of inadequate provider reimbursements now. I urge my colleagues to support the restoration of some of the most-harmful BBA cuts.

CELEBRATING THE HARRY AND ROSE SAMSON FAMILY RESOURCE CENTER

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. BARRETT of Wisconsin. Mr. Speaker, I appreciate this opportunity to share with my colleagues a few words of congratulations to the Neighborhood House of Milwaukee on the dedication of its Harry and Rose Samson Family Resource Center, as well as my sincere appreciation for the generosity of Harry Samson.

Neighborhood House has a long and rich history of service to children and families in my hometown of Milwaukee, WI. Its program services are delivered in a community setting and are tailored to meet the diverse needs of neighborhood residents. The goal has always been to build "Healthy Families in a Strong Community," and Neighborhood House has never forgotten that the one implies the other.

I have respected Harry Samson for years, and I have the deepest regard and admiration for his commitment to improving the lives of others in our community. Harry and his late wife, rose have led by example, giving generously of their financial resources, their time and their creative energy to support the Children's Outing Association, Congregation Shalom, the Next Door Foundation, the Jewish Community Center, and other worthy organizations.

Today in Milwaukee, Harry Samson's many friends and admirers will join Neighborhood house leadership and staff and neighborhood residents in celebrating Harry's latest gift to Milwaukee: the Harry and Rose Samson Family Resource Center. The Center will be home to a new and expanded program of services at Neighborhood House. These include support groups to help parents and other childcare givers, employment and work search resources and workshops, a clothing exchange to help families meet the clothing needs of growing children, a play area that will serve both parents and area in-home child care providers, and a health and wellness program with diagnostic screenings, nutrition information, immunization and other services.

Mr. Speaker, wish I could be in Milwaukee today to shake Harry's hand and thank him for his gift of renewed hope. I wish I could join the excited people touring the new Center for the first time. But I appreciate this opportunity to share their story with my colleague and to offer my most sincere appreciation to Harry Samson for this unparalleled devotion and generosity and my heartfelt congratulations to Neighborhood House on the dedication of the Harry and Rose Sampson Family Resource Center.

A TRIBUTE IN HONOR OF JOSEPH BARBERA

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute to Mr. Joseph Barbera, who, along with his partner Mr. William Hanna, created some of the most beloved characters of the twentieth century, including Scooby-Doo, Tom and Jerry, Yogi Bear and Boo Boo, The Flintstones, The Jetsons, Johnny Quest, Huckleberry Hound, and Quick Draw McGraw. For many generations of young viewers, these characters have served both as barometers of American culture and as tools for shaping the way these viewers relate to their family and friends. And not just in this country—Hanna-Barbera shows have been seen in nearly 100 countries and translated into 22 languages. It is with great pleasure that I speak today about part of that duo, Mr. Barbera, who is being honored with the Lifetime Achievement Award by the Italian American Cultural Society.

Joseph Roland Barbera was born in New York City in 1911 to Vincente and Frances Barbera. In the early 1930's in New York City, he began his famous animation career as an accountant, and fortunately for us, found that his more exceptional skills lay elsewhere. He started supplementing his work by drawing cartoons for magazines, and soon had a job as an animator. In 1937 his career took another turn, and Mr. Barbera joined MGM Studio's cartoon unit, where he met Mr. Hanna and the two immediately produced one of their most famous creations. Their first collaboration was titled "Puss Gets the Boot," which led to two of America's most entertaining pals, Tom and Jerry. The duo would eventually receive seven Academy Awards throughout the next two decades for their cat-and-mouse team.

In 1957, when MGM closed its animation studio, Mr. Barbera joined with Mr. Hanna in forming Hanna-Barbera Productions. A year later the studio had won the first of eight Emmy Awards for "The Huckleberry Hound Show." The duo went on to create many more classics such as "The Flintstones," "the Jetsons," "Top Cat," and "The Adventures of Jonny Quest," to the great delight of viewers of all ages.

The reason that both adults and children have such an affinity to the shows can perhaps be given by Mr. Barbera himself. In a recent interview with the Las Vegas Review-Journal he said, "We never really played down to kids. We made what I call entertainment for families. The kids got on board and the adults came on board. We never really lost any of them." today, the Flinstones still rank as one of the top-rated programs in syndication history.

In addition to great talent, Mr. Barbera is blessed with a loving family. He and his wife, Sheila, live in Studio City, CA, where Mr. Barbera continues to serve as a creative consultant, most recently with the animated feature film "Tom and Jerry—The Movie." He is also blessed with three children, Jayne, a production executive; Neal, a writer/producer; and Lynn, married to a producer and a mother of two.

Mr. Speaker, I invite you and my colleagues to join with me in honoring Mr. Joseph Barbera, who has given many generations, both young and old alike, beloved characters like Scooby-Doo, Tom and Jerry, Yogi Bear and Boo Boo.

CHILD ABUSE PREVENTION AND ENFORCEMENT ACT

SPEECH OF

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 764) to reduce the incidence of child abuse and neglect, and for other purposes:

Mr. QUINN. Mr. Chairman, I want to commend my fellow colleagues for their work in passing H.R. 764, the Child Abuse Prevention Act. This bill is a step in the right direction toward achieving our ultimate goal of eliminating child abuse.

Mr. Chairman, there are a few provisions currently being debated in the conference committee negotiations on H.R. 1501, the juvenile justice bill, that will help prevent child abuse and neglect. The first provision is the Parenting as Prevention Program. This program would provide parenting support and education centers to promote early brain development, child development and education.

The second provision that deserves our complete support is the Juvenile Accountability Incentive Block Grant, of which 25% is specifically reserved for prevention activities. This grant program would ensure that adequate resources are available for efforts aimed at preventing juvenile delinquency, including programs that prevent child abuse and neglect.

Numerous studies have concluded that there is a direct link between child abuse and a later onset of criminal activity as a juvenile. In fact, in one of the most detailed studies on this issue, the National Institute of Justice concluded that being abused or neglected as a child increased the likelihood of arrest as a juvenile by 59%. Therefore, we must invest in programs that help to reduce child abuse.

In my home state of New York, a fifteen year study of a nursing home visitation program reported that state-verified cases of child abuse and neglect were reduced by 79% among program participants. Furthermore, youths whose mothers participated in the program were 55% less likely to be arrested.

Mr. Chairman, as we debate juvenile crime, our primary focus should be on child abuse. I urge all of my colleagues to support these provisions that are put forth in the juvenile justice bill.

CAPTAIN SANDRA REDDING MAKES HISTORY WITH CALIFORNIA HIGHWAY PATROL

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. LEWIS of California. Mr. Speaker, I would like today to call your attention to an unprecedented accomplishment by Capt. Sandra Redding, who on Nov. 1 will become the first woman to serve as assistant chief of the California Highway Patrol.

A graduate of San Gorgonio High School in San Bernardino, Capt. Redding has risen quickly through the ranks of the CHP to her present position as commander for the San Bernardino area, where she has served since 1996.

Although she originally attended California State College, San Bernardino, with the goal of becoming a teacher, Capt. Redding developed a love of law enforcement and joined the San Bernardino Police Department in 1977. That same year, she was appointed to the CHP academy, and in 1978 joined that renowned law enforcement agency.

Serving throughout Southern California, Capt. Redding was promoted sergeant in 1983—the second woman to reach that position in the CHP. She became the second woman promoted to lieutenant in 1987, and was the third woman appointed as captain in 1996.

When she moves up to her new post as assistant chief, Capt. Redding will move to CHP headquarters in Sacramento to oversee programs in the Personnel and Training Division. She will be joined there by her husband, Jarrell, who is retiring after 27 years in the CHP, and stepdaughters Jessica and Jacqueline. But the Inland Empire will keep a claim on her through her proud parents, Joseph and Betty Hayes, who live in Highland.

Mr. Speaker, we can all be proud of the accomplishments of this product of San Bernardino schools. I ask you and my colleagues to join me in congratulating her and wishing her well in her new assignment.

VOA'S 40TH ANNIVERSARY OF SPECIAL ENGLISH PROGRAMMING

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. GILMAN. Mr. Speaker, the Voice of America (VOA) is celebrating 40 years of broadcasting Special English programs. I call this to the attention of our colleagues because this is a service offered by the United States Government that is appreciated by millions around the world, but is little known here at home. VOA's Special English program was first broadcast over the international airwaves on October 19, 1959. Today, there are Special English broadcasts around the world seven days a week, six times a day, delivering the latest news and features on American culture, science, medicine, and literature.

Special English began as an experiment to communicate by radio clearly and simply with people whose native language is not English. It was an immediate success. Special English programs quickly became some of the most popular programs on VOA. Forty years later they still are. And they still are unique. No other international radio station has a specialized series of English news and feature programs aimed at non-native English speakers around the world.

VOA Special English is different from standard English in the way it is written and the way it is delivered. Its vocabulary is limited to 1,500 words. It is spoken slowly, in short, active-voice sentences. Although the format is simple, the content is not. Complex, topical subjects are described in an easy to understand, concise way.

Through the years, Special English has become a very popular English teaching tool, even though it was not designed to teach English. Its limited vocabulary, short sentences and slow pace of speaking help listeners become comfortable with American English. Individuals record the programs and play them over and over to practice their listening skills. Teachers of English in dozens of countries including China, Japan, Vietnam, Iran, Cuba, Russia, Nepal and Nigeria use Special English in their classes. They praise it for improving their students' ability to understand American English and for the content of the programs.

For many listeners, VOA Special English programs provide a window into American life that may change some misconceptions. A listener from China wrote:

> A wonderful world appeared before my eyes through my radio receiver. There were your history, your everyday life, your brave and intelligent people and your words. To get a better appreciation about you, I spent most of my spare time in learning. I could say you presented people like me, those who have only limited English knowledge, an approachable American culture and acted like a usher leading us into it.

For other listeners, VOA Special English provides information that they cannot get elsewhere. A listener in Havana, Cuba writes:

> I'm sure that you are not able to imagine how many people listen to you every day. What is important in Special English is that you broadcast the most important news and later give us important reports about science, environment, agriculture and then follow with 15 minute programs about all the things people are interested in.

And for other listeners, VOA Special English offers a way of learning American English. A listener in Tehran, Iran writes:

> It was summer 1993 that I started listening to your programs, and during the first summer, I really had a great improvement in my English speaking, specially my accent. Many times I wanted to write letters to you, but I was afraid, because I was not sure I could write in a way that I could reflect what was in my heart. I thank you because you did something that no one could do. I suffer from visual problems, so your programs with their independence of vision helped me a lot.

Mr. Speaker, the hundreds of such testimonial letters and e-mail messages that are received each month are proof that Special English makes a difference in the lives of people around the world. I invite my colleagues to join me in congratulating the Special English branch of the Voice of America on its 40th anniversary.

DR. PETER LUNDIN, A VERY SPECIAL ROLE MODEL

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. STARK. Mr. Speaker, kidney failure, and the need for dialysis 3 times weekly, is a devastating disease that grinds many people down.

One of the most remarkable people I know is Dr. A. Peter Lundin, who experienced kidney failure as a young man 33 years ago, but who entered the world of medicine, became a nephrologist, and has had a remarkable and successful medical practice since then. He has been President of the American Association of Kidney Patients and a tireless advocate for the Nation's quarter million renal patients.

He is truly a role model, a figure of courage and determination, to thousands. I would like to include in the RECORD at this point an article he recently wrote for RenaLIFE entitled "Dialysis at the Beginning."

Thank you, Dr. Lundin, for the great help and inspiration you have given to so many.

DIALYSIS AT THE BEGINNING

(By A. Peter Lundin, MD)

Patients starting on dialysis today do not realize how easy and routine it has become. Since the 1960s when it began, dialysis therapy has grown into a well-organized, efficiently run, multi-billion dollar industry. From the perspective of the doctor and provider, it is no big deal to start a patient on dialysis today. Everybody who needs it, can get it. Patients really cannot be blamed for their ignorance of how relatively easy they have it because the emotional trauma of losing your kidneys and beginning a new and restricted life with dialysis has not changed. What has changed in this regard is much less attention today is paid to emotional adjustment. Patients are told when they need an access placed and when to start dialysis, often with little consideration of the impact of this new and dramatic event on their lives. Dialysis units are often compared with factory assembly lines where patients come, get their treatment and leave without so much as a word of concern.

It was not like this when I began on hemodialysis in 1966. Then it was available in only a few centers scattered across the country. You had to have a willing insurance company or pay for it yourself. Because there were very few slots available you were chosen by a committee based on your social worth. Only breadwinners or housewives caring for working husbands and children were eligible. You were expected to continue working after you started dialysis. If you had another complicating disease such as diabetes or were over 50 years of age, dialysis was not even offered to you.

The therapy itself was cumbersome and took a long time. It was done in settings where lots of nurses and doctors were available because of the uncertainty of how stable patients would be. Everybody was carefully observed by a psychiatrist for signs of distress. Everything was being measured because there was much to learn about this new therapy. How much time to spend on the machine and how often during the week to dialyze were still being developed. The few medications available for high blood pressure had powerful side effects and were rarely effective. There were no replacements for the erythropoietin and active vitamin D, which the dying kidneys had stopped making, therefore we were all constantly anemic. To get my hematocrit (amount of red cells in the blood) above 20 percent I needed frequent blood transfusions. The only way to control phosphorous in the blood was to eat a diet without phosphorous containing foods and to take Amphogel, an aluminum containing antacid. In those days Amphogel tasted like chalk. It came only as large unswallowable tablets or in liquid form and was extremely constipating. Due in part to the unpalatability of this therapy, some patients already had severe crippling bone disease. Others were already running out of areas for new accesses, their arteries and veins having been used up by multiple external catheters.

In those days we did not have grafts or fistulas. We dialyzed through an external shunt in the arm or leg. In my case it was in my leg so I had more independence in putting myself on and off the machine. While I did not have to worry about getting stuck with needles, the shunts caused serious concerns of their own. They easily got infected, damaged the veins and arteries, and often clotted. All of these problems led to a shunt life expectancy of about six months. One of mine was chronically leaking from the arterial side, forcing me to walk on crutches from class to class. After getting heparin for dialysis it might take several hours with pressure to stop bleeding. When it clotted I had my own declotting kits. Sometimes it would take several hours to open the shunt up again.

I was an undergraduate student at Santa Clara University in California when my kidneys failed. I was not a candidate for transplant, and as a student I was not a dialysis candidate either because I would have to become dependent on my family again. Nevertheless by a series of fortunate events the future came about and I am here 33 years later to tell about it.

I learned how to dialyze myself at the University of Washington in Seattle in their Remote Home Dialysis Program. After three months of training I returned to Northern California and to school. I had the hope and expectation of becoming a medical doctor, and I transferred to Stanford University, feeling it would be easier to get into medical school from there. While taking a full course load of physics, chemistry, biology and mathematics I dialyzed at home. The treatments were done, then as now, three times per week, but they lasted for 10 hours. Clearly, to be able to go to school the dialysis sessions had to occur overnight. After setting up the machine I would get on about 7 p.m. and off at 5 a.m. Of course, I had to sleep and did while the machine was washing the blood.

When I started dialyzing at home, dialyzers and blood tubing did not yet come in clean packages out of a box. They had to be put together by hand. At first, I had specially made glass drip chambers and long roles of plastic tubing. Dialysis membranes came in a large flat box. The open end of the tubing had to be softened by sticking it in acetone and was then attached to both ends of the glass drip chamber. The dialysis membranes were soaked and sanitized for several hours in a container filled with acetic acid. Carefully removed, they had to be stretched over long plastic boards. There were four membranes divided into two layers each between three boards. Then this construction was filled with formaldehyde overnight before the next dialysis. With practice I was able to put it all together in a bit less than an hour. Taking it apart when the dialysis was over took less time, but before the next dialysis it had to be put together again.

My break came in 1968 when I was accepted to medical school in Brooklyn. It was my salvation. I was put on dialysis for 14 hours overnight, three times per week. I felt much better. I was learning to become a doctor. I got my first and only fistula which works well to this day. It was from that period of my life I learned some very important lessons about how to survive with dialysis: the importance of good dialysis and a reliable blood access.

Getting dialysis treatments today is, in many ways, very much easier on the patient, who is on average older and having many more medical problems. Supplies, equipment, medications and ways to treat other medical problems have greatly improved over the years. While having one's access fail is no less traumatic today than it was back then, the future promises to bring additional advances to improve the lives of patients with kidney failure.

INTRODUCTION OF THE SOUTHEAST FEDERAL CENTER PUBLIC-PRIVATE REDEVELOPMENT ACT OF 1999

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Ms. NORTON. Mr. Speaker, along with Chairman Bob Franks today, I rise to introduce the Southeast Federal Center Public-Private Redevelopment Act of 1999 (SEFCA) to develop the largest undeveloped parcel of prime real estate here in the District of Columbia—the Southeast Federal Center located in Southeast Washington. This bill follows a tour of the site at the suggestion of Rep. Bob Franks, Chairman of the Subcommittee on Economic Development, Public Buildings, Hazardous Materials and Pipeline Transportation, as a result of questions I raised to General Services Administration (GSA) officials at a congressional hearing on May 11, 1999, concerning the failure of the federal government to make productive use of this valuable federal land while the government pays to rent and lease space for federal facilities.

I recently held a town meeting in the District focusing on the development of the Southeast Federal Center and other properties owned by the federal government and the jobs and spinoff economic benefits that they inevitably have on their surrounding communities. Because the parcel is located in this city, the District of Columbia would gain immeasurably from the project at the same time that the federal government finally would achieve productive use and revenue from valuable property. The win-win approach embodied in this bill has clear potential for a new kind of partnership between hard pressed cities and the federal government.

The Southeast Federal Center is a 55-acre undeveloped site just 5 minutes from the U.S. Capitol. Located between M Street, S.E. and the Anacostia River next to the Washington Navy Yard, the site is considered by real estate and land use experts to be one of the most valuable pieces of property remaining on the entire east coast. It is as important a federal parcel as Constitution Avenue and Pennsylvania Avenue, the existing prime locations for federal facilities. The property was once a part of the Washington Navy Yard, but approximately 30 years ago, this large parcel was transferred to the GSA in anticipation that the site would be developed into office space for federal agencies. For years, the site remained environmentally degraded, but I have worked hard to secure funds for this purpose, and to its credit, Congress responded by appropriating the necessary funds in FY 1997–99, and environmental upgrading is nearing completion. Yet, despite its inherent value, prime location, a $30 million infusion from the federal government for environmental cleanup of the site, and a proposed mall with stores and amenities to be built by the government to serve federal employees and the neighborhood, GSA has been continually frustrated in attempts to attract federal government tenants to the site, and the property has remained undeveloped. Thus, instead of using this federal land to house federal agencies or for other productive purposes, the federal government rents other space throughout the region. The financial loss to the federal government as a result of its failure to make use of this valuable asset is incalculable.

Federal land cannot be used for other than federal purposes without legislation and the new approach embodied in this bill. One of the main reasons the site still lies unused is because the federal government has been unable to commit sufficient financial resources for its development. The bill would overcome this obstacle by creating a public-private partnership whereby the federal government would make the land available for development and a private developer would furnish the necessary capital to make the land productive. This kind of partnership represents an important breakthrough in securing the highest and best use for federal resources, securing revenue for the federal government, and saving the government money while at the same time contributing to the local D.C. economy and its neighborhood. The approach is mutually beneficial: the federal government makes its property available for development and revenue-producing occupancy and the developer, selected competitively, receives a valuable opportunity.

Our bill would authorize the Administrator of the GSA to enter into agreements with a private entity to provide for acquisition, construction, rehabilitation, operation, maintenance, or use of facilities located at the site. The bill provides the GSA with wide latitude to enter into arrangements to bring any appropriate development work to the site—private, federal, local, or some combination. The bill also specifies that any agreement entered between the GSA and the developing entity must (1) have as its primary purpose enhancing the value of the Southeast Federal Center; (2) be negotiated pursuant to procedures that protect the federal government's interests and promote a competitive bidding process; (3) provide an option for the federal government to lease and occupy any office space in the developed facilities; (4) not require, unless otherwise determined by the GSA, federal ownership of any developed facilities; and (5) describe the duties and consideration for which the U.S. and the public or private entities involved are responsible. The bill also authorizes GSA to accept non-monetary, in-kind consideration, such as the provision of goods and services at the site.

I very much appreciate Chairman Bob Franks for his indispensable leadership on the bill. The Southeast Federal Center has been a subject at hearings since I came to Congress almost 10 years ago, and before. Bob Franks is the first chair of the Subcommittee to initiate action. New to the chairmanship of the Subcommittee, he was astonished to discover during my questioning of GSA witnesses that so large and valuable a federal parcel has long gone unused while taxpayers had been laying out billions of dollars to lease space for federal facilities. On the spot, he suggested that the subcommittee tour the parcel. Shortly thereafter, Chairman Franks indicated that he wanted to hold a hearing to work for expeditious passage of a bill for productive use of the parcel and revenue to the federal government. The result is a bipartisan effort made possible by the Chairman's understanding that something could be done about a notorious waste of a valuable federal resource.

I urge rapid passage of the Southeast Federal Center Public-Private Redevelopment Act of 1999 so that the progress we have made thus far can soon produce a result at once beneficial to the federal government and the nation's capital.

INTRODUCTION OF LEGISLATION TO EXPAND THE ACREAGE LIMITATION FOR SODIUM LEASES

HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mrs. CUBIN. Mr. Speaker, today I am introducing legislation to amend the Mineral Leasing Act (MLA) to grant the Secretary of the Interior the discretion to increase the number of federal leases which may be held by any one producer in a single State. The present acreage limitation for sodium leases of 15,360 acres has been in place for five decades—longer than any other existing law. In fact, sodium is the only mineral subject to the MLA which has not had an increase in acreage since the law was amended in 1948. My bill would increase that limitation to 30,720 acres per producer. Frankly, the current limit is just out of step with the competitive and technological advances of this industry and must be changed as we move into the next century.

The MLA set forth acreage limits to ensure that no single entity held too much of any single mineral reserve. This remains an important objective. A lease limitation ensures that there is sufficient competition, while providing an incentive for development of these reserves and ensuring a reasonable rate of return to the Federal and State Treasuries. My bill is consistent with these objectives and seeks only to grant the Secretary of the Interior the discretionary authority to adjust the present lease limitation to current economic and international conditions.

Mr. Speaker, I offer this bill after carefully reviewing current conditions of the trona industry in my State. In the course of that review, I have been reminded that U.S. soda ash producers, four of which are in Wyoming, are extremely competitive with one another for a share of the relatively flat domestic market. They are also faced with strong international competition.

With that in mind, I believe this legislation is critical to the domestic industry to sustain its global competitiveness. Wyoming is the Saudi Arabia of the world in terms of trona deposits, generating some 12 million tons of soda ash per year and $400 million to our balance of trade. But I have also learned that we cannot take this industry for granted. Like so many industries basic to our economy such as steel, paper, aluminum, copper and coal, the soda ash producers must take measures to stay competitive. Many countries, including China and India, with vast supplies of trona, have erected tariff and non-tariff barriers to support their own less efficient producers, making it difficult to export U.S. soda ash.

For this reason, U.S. producers have formed the American Natural Soda Ash Corporation (ANSAC), a Webb-Pomarene trading association, in recognition of the fact that growth of the U.S. soda ash industry is directly tied to its ability to effectively export. ANSAC is the sole authorized exporter of soda ash and is wholly owned by the six U.S. sodium producers. It accounts for the employment of some 20,000 people in the U.S. and exports to 45 different countries.

This is but one example of how our domestic industry has taken the steps necessary to compete effectively abroad. In addition, the producers in my state are making major investments in modernizing their facilities and sustaining the level of capital investment necessary to continue to be competitive both at home and abroad. The start up cost for a new soda ash operation is estimated to be at least $350 million dollars and to develop a world class mine, $150 million. Putting this in perspective, our Wyoming soda ash producers invest on average twice as much as their counterparts in the Powder River coal basin. This is largely due to the fact that soda ash is mined underground and thus requires a sophisticated processing plan to turn raw ore into finished products. That is simply the reality of what is required to stay competitive.

But more importantly, at these costs, a new entrant, as well as existing producers, must have a predictable mine plan. A primary component of such a plan is a predictable level of reserves that will last several decades. My bill would help provide this predictability by giving the Secretary of the Interior the discretion to raise lease limits on a case-by-case basis if the producer can show it is in need of additional reserves to maintain its operations.

In short, what discourages new entrants into this process is not available acreage, but the realities of capital investment required to sustain a competitive soda ash operation. Because domestic consumption is only anticipated to grow at about one percent over the next ten years, a new producer must have the wherewithal to build an operation which can effectively compete in international markets, where a 60 percent growth rate is expected over the next decade. Soda ash prices have been declining about 1 percent a year since 1991. Any company coming into this industry has to recognize that their investment will take a while to realize returns.

In summary, the bill I am introducing today is necessary for a number of reasons. It is consistent with good mining and environmental practices and it is good public policy. I commend it to my colleagues for their support.

CONGRATULATING CENTRAL CONNECTICUT STATE UNIVERSITY ON ITS 150TH ANNIVERSARY

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mrs. JOHNSON of Connecticut. Mr. Speaker, today I rise to commemorate the 150th anniversary of Central Connecticut State University (CCSU), a regional, comprehensive university in my hometown dedicated to learning in the liberal arts and sciences and the strengthening of our communities and economy.

To appreciate the importance of this University to the state of Connecticut and the city of New Britain, we need to understand its remarkable history of anticipating the educational needs of our society as they have developed and responding with forward thinking, high quality courses and new partnerships.

CCSU is Connecticut's oldest, publicly-supported institution of higher education. Founded in 1849 as the New Britain Normal School, a training facility for teachers, it moved to the site of its modern-day campus in 1922. Eleven years later it became the Teachers College of Connecticut and began offering 4 year Bachelor of Arts degrees.

In 1959, with the capacity to offer liberal arts degrees, it became the Central Connecticut State College and in 1983, the Central Connecticut State University. The University now not only offers a wide range of undergraduate but also graduate programs.

CCSU plays an important role in the state of Connecticut's education mission. It is the largest of four comprehensive Universities within the Connecticut State University System and enrolls 12,000 full-time and part-time students. Its 400 full-time faculty members, 350 lecturers and over 500 administrators and staff are dedicated to providing a quality educational experience to these students.

One can learn a great deal about a university from how it defines itself. CCSU's mission statement clearly articulates its goal of not only educating its students but of preparing them for making positive contributions in the challenging, fast paced world of work and the equally important world of civic responsibility.

"With learning at the heart of all our activities, our fundamental responsibility is to empower students to attain the highest standards of academic achievement, public service and personal development. Preparing students for enlightened and productive participation in a global society is our obligation."

Through CCSU's active participation in the State and the communities of New Britain and Central Connecticut, it not only provides a quality education to its students but provides them with an excellent example of community involvement and volunteerism. The State of Connecticut affords a special designation to those programs which contribute to the betterment of the State as a whole and CCSU has earned the "Center for Excellence" designation in both international education and technology education.

CCSU has long been a generous partner with the people of New Britain as they look for ways to bring new businesses to the town and to promote a better quality of life for all of its residents. As manufacturing faced the challenges of competing globally, CCSU developed the state's first Masters degree in Industrial Technical Management to accelerate the modernization of manufacturing management to enhance quality and productivity. This not only better prepared students to help lead the rebirth of manufacturing, but made critical resources available to the multitude of small and medium sized manufacturers being challenged to meet new standards to succeed in serving globally competing companies. Following this development of its graduate courses, CCSU developed a Center for International Education and a Program in International Business as well as developed partnerships with educational institutions in 19 countries around the world. CCSU is the State's flagship university in international education.

In its own neighborhood of New Britain and Central Connecticut, the University works with many city and community programs to promote the economic development of New Britain, including the Mayor's Development Cabinet, the Metro Economic Development Authority; the New Britain Marketing Collaborative and the Greater New Britain Network Group and the Initiative for a Competitive Inner City.

The Center for Social Research (CSR) at CCSU is also involved in enhancing economic development by providing critical resources to our Neighborhood Revitalization Zones (NRZ) including the Broad Street NRZ, the Arch Street NRZ and the North and Oak Street NRZ. It conducted research to identify the unemployed and the underemployed in our city neighborhoods to enable the city to attract employers who could hire them. This approach promises to both strengthen the economic base of the community and improve people's lives without creating the urban and environmental problems that accompany commuters and their automobiles.

CCSU serves as a resource for the community at large by performing needs assessment and public opinion surveys, developing training workshops, and using its resources to help community organizations address specific needs. It is also conducting surveys for the Main Street New Britain Project to identify the combination of shops and restaurants that will bring more people to downtown Main Street.

In addition, it has partnered with the Klingberg Family Centers of New Britain, a day-school and residential facility for troubled children and families, to create a Community Outreach Center to better serve our families. CCSU's Tutor Corp, funded by Stanley Works, is a group of 40 students who work with 150 New Britain middle and high school students at risk for dropping out of school. The tutors also provide support to the Teen Pregnancy Prevention Program at Pathways Senderos.

I pay tribute to CCSU's remarkable history of leadership in education and creative development of partnerships strengthening our community and economy. As Central Connecticut State University nears its 150th anniversary on October 23, 1999, I salute this fine institution that has served as a stable and generous source of information, expertise, guidance and charity throughout its history as it prepares the state's youths for adulthood and partners with communities to solve problems. We congratulate CCSU on her long and successful history and thank her for her leadership into the new millenium.

HATE CRIMES PREVENTION ACT

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mrs. KELLY. Mr. Speaker, without check, hate can vein our society like subterranean mold, popping up now and then to spread vitriol over the land. On the occasion of the anniversary of Matthew Shephards' brutal killing, and in memory of those who have also lost their lives due to their race, national origin, disability or sexual orientation, I speak out today in support of the Hate Crimes Prevention Act of 1999. Additionally, I urge my colleagues to preserve its inclusion in the Conference Report for the Departments of Commerce, Justice and State and the Judiciary Appropriations Act for Fiscal Year 2000.

The hate crimes legislation in both the House and the Senate have been widely supported. The inclusion of the House and Senate versions of this bill in the C/J/S Conference report is critical to its success. I urge my colleagues on the Conference Committee to include this measure in their final report. Its long past time. Over the last year we have heard from the families of individuals whose lives have been viciously ended. These families, and those they speak for, have asked us to expand the federal jurisdiction to reach serious, violent hate crimes. With hope, the day will come that this type of measure will no longer be necessary. But until that time, let us act now so that more families do not have to live through the tragedy of losing a loved one to this type of vicious hate.

STOP RESUMPTION OF MILITARY TIES TO PAKISTAN

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. McCOLLUM. Mr. Speaker, I rise today out of my great concern for the possible resumption of military supply between the U.S. and Pakistan. The Department of Defense Appropriations conference report allows the President to waive certain sanctions against India and Pakistan under the Glenn and Pressler amendments. While I am pleased that the economic and technological restrictions have been lifted, I am gravely concerned about the prospect of military exchanges with an unstable Pakistan.

As I am sure colleagues are aware, Pakistan's government has been "dismissed" by its army, leaving the country in much uncertainty. As a new nuclear state, this type of disruption should certainly cause concern for its neighbor. However, this is compounded by the role that the Pakistani military played in the recent Kargil episode which erupted this May. The Indian Army discovered the infiltration of Pakistani regular troops and an assortment of ISI-sponsored Mujahideen into the northern parts of Indian Kashmir.

There is no doubt that the Pakistani military supported, encouraged, and participated in this incursion. To allow U.S. military support to the very organization that prompted this action would send the signal that the U.S. supports such action. Late today, I received a communication from India's Prime Minister A.B. Vajpayee, expressing his government's concern over the repeal of the Pressler amendment. Mr. Vaypayee's statement echoes my concern over the signal that this action will send to Pakistan, endorsement of the action in Kargil.

I encourage my colleagues to carefully consider the ramifications of repealing this provision at this time and the potential that it has to seriously damage our relationship with a long-standing friend, India.

SENSE OF THE HOUSE URGING 95 PERCENT OF FEDERAL EDUCATION DOLLARS BE SPENT IN THE CLASSROOM

SPEECH OF

HON. DAVID M. McINTOSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 12, 1999

Mr. McINTOSH. Mr. Speaker, I rise today in support of House Resolution 303 expressing the sense of the House of Representatives that 95 percent of Federal education dollars be spent in the classroom. Currently as few as 65 cents of every Federal education dollar is reaching the place where it can do the most good. In some places across the country, the discrepancy is even greater. Consumed by the bureaucracy and special interests, funds are not reaching the people for whom they are meant—the children.

During the 105th Congress, the Education Subcommittee on Oversight and Reform investigated the trail of Federal dollars from the taxpayer's pocket book through the government money mill and back to the schoolhouse. In the course their investigations, they discovered quite a few leaks in the system. Taxpayer money is lost at each level on bureaucracy, paperwork, and other nonclassroom-centered activities.

Every year, millions of dollars, hours of work, and talent are lost on paperwork. Using resources which should be spent in the classroom on children, paperwork places a burden on teachers and local administrators taking them away from the most important work they perform.

According to the Education at a Crossroads Report released last year by the Education Subcommittee on Oversight and Investigations the U.S. Department of Education requires over 48.6 million hours' worth of paperwork per year—or the equivalent of 25,000 employees working full-time. Without fully accounting for all the attachments and supplemental submissions required with each application, the Committee counted more than 20,000 pages of applications states must fill out to receive federal education funds each year.

One governor noted in his testimony that local schools in his state had to submit as many as 170 federal reports totaling more than 700 pages during a single year. This report also noted that more than 50 percent of the paperwork required by a local school is a result of federal programs which account for 6 percent of the funding.

Principal Steve Hall of Muncie, Indiana who administers Federal funds for schools in my home town recently told me, "We still recommend and request a reduction in grant preparation and paperwork for the Title I program for our school district. If this preparation was reduced, we could spend more time for planning and preparing to work with high-needs students, and the more time with students means more educational success for our students."

Directing money away from paperwork and toward students has become a high priority for me during the reauthorization of the Elementary and Secondary Education Act. I am a proud co-sponsor of this resolution because I believe it should serve as a guide for every piece of education legislation we write this Congress.

The resolution clearly spells out our education priorities and draws a clear distinction between our vision and that of our opponents. We believe local educators are the best people to make resource allocation decisions about students, not Washington bureaucrats. Educators understand their students' background and needs and can respond directly to them. We trust parents and teachers to use the money to best meet the unique needs of children in their care.

This resolution raises the bar urging nothing less than 95 percent of funds go to children. We must prioritize the way we spend our education dollars, and put children first. It is that simple. It is the standard I intend to use while in Congress and throughout my career in public service. I urge my colleagues to support this resolution and use its principles to guide their efforts in reforming education.

CONGRATULATING TAIWAN ON ITS NATIONAL DAY

HON. LINDSEY O. GRAHAM

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. GRAHAM. Mr. Speaker, I rise today to congratulate Taiwan on its National Day. I wish to extend my condolences to the people of Taiwan who have lost loved ones during Taiwan's most recent earthquakes, and I pray that Taiwan will soon return to normalcy. The Taiwanese government has been trying its very best to help all victims and their families with financial and psychological assistance whenever and wherever it is needed. I am pleased to learn that they have received so much international assistance from around the world as they begin to rebuild. The people of the United States have been so generous with their donations of time and materials in an effort to help Taiwan cope with the devastation of the quake.

The silver lining of this latest tragedy is that is proves Taiwan is not alone in the world. Taiwan has many friends here and around the world who stand willing and ready to help. We hope that Taiwan will have fully recovered in time to celebrate their next National Day.

DR. AULAKH NAMED KHALISTAN MAN OF THE YEAR

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. TOWNS. Mr. Speaker, I was pleased to note that the annual convention of the Council of Khalistan named Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, as Khalistan Man of the Year.

Dr. Aulakh is well known to us here on Capitol Hill. He has been a tireless advocate for freedom for the Sikhs. He has consistently worked to expose the brutal human-rights violations committed against the Sikhs by the Indian government. He has worked with us here in Congress to preserve the true history of the Sikhs which the Indian government is trying to alter.

Dr. Aulakh has also worked for the rights of Sikhs in this country. He provided information to support asylum requests. He has supported Charan Singh Kalsi, the Sikhs who was fired by the New York Transit Authority because he refused to remove his turban for a hard hat. He is actively working to get the authorities in Mentor, OH, outside Cleveland, to drop concealed weapons charges against Gurbachan Singh Bhatia for carrying his kirpan, a ceremonial sword required by the Sikh religion.

For all of these reasons and more, Dr. Aulakh deserves the support of all Sikhs and richly deserves the title of Khalistan Man of the Year.

I submit the resolution designating Dr. Aulakh Khalistan Man of the Year into the RECORD for the information of my colleagues.

RESOLUTION DESIGNATING DR. AULAKH KHALISTAN'S MAN OF THE YEAR FOR 1999

PASSED AT THE CONVENTION OF THE COUNCIL OF KHALISTAN, OCTOBER 9–10, 1999, RICHMOND HILL, NY

Whereas the struggle for a free Khalistan is the most important issue facing the Sikh Nation;

Whereas Dr. Gurmit Singh Aulakh and the Council of Khalistan have been working tirelessly for this goal for eleven years;

Whereas Dr. Aulakh has been very successful in internationalizing the Sikh freedom struggle, in bringing the genocide against the Sikhs and other minorities to the attention of Congress and the media, in giving speeches, raising funds, and otherwise creating a political and social climate that brings Sikh freedom closer to fulfillment;

Therefore be it resolved by the delegates of this convention:

That Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, is hereby designated as Khalistan's Man of the Year for 1999.

WORLD SHOULD SUPPORT SIKH FREEDOM

HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 13, 1999

Mr. DOOLITTLE. Mr. Speaker, when I picked up my Washington Times on October 7, I was pleased to see a letter from Dr. Gurmit Singh Aulakh, whom many of us know well.

Dr. Aulakh, who is the President of the Council of Khalistan, wrote about the Sikh independence struggle. He noted that Sikhs are "culturally, religiously, and linguistically distinct from Hindu India" and that they ruled Punjab independently for many years before the British conquered the subcontinent.

Dr. Aulakh's letter asked why India, which prides itself on being democratic, doesn't hold a plebiscite in Punjab, Khalistan on the question of independence. That is the democratic way to do things. But India appears to care more about achieving hegemony in South Asia than it does about the democratic principles it proclaims.

It is interesting that this letter ran on the 12th anniversary of the day the Sikh nation declared the independence of the Sikh homeland, Punjab, naming their new country Khalistan.

The recent elections in India underline the instability of India's multiethnic state. India has 18 official languages and Christians, Sikhs, Muslims, and others suffer from religious persecution. Many experts predict that India will soon break up.

America and the world should support the freedom movements in Khalistan, Kashmir, Nagaland, Assam, and the other nations seeking their freedom from India. We should cut American aid to India until it learns to respect human rights and we should work for an internationally-supervised plebiscite in Punjab, Khalistan, in Kashmir, in Nagaland, and in all the other areas seeking independence, on the question of their future political status.

Mr. Speaker, I insert Dr. Aulakh's letter into the RECORD. I hope that my colleagues will read it.

[From the Washington Times, Oct. 7, 1999]

SIKH INDEPENDENCE DESERVES INTERNATIONAL SUPPORT

(By Gurmit Singh Aulakh)

We appreciate Arnold Beichman's mention of the Sikh struggle for an independent Khalistan ("Crossing the mini-state frontier," Commentary, Sept. 23). Sikhs are culturally, linguistically and religiously distinct from Hindu India, and we have a history of self-rule in Punjab. Sikhs are a separate nation.

Sikhs drove foreign invaders out of the subcontinent in the 18th century. Banda Singh Bahadar established Khalsa rule in Punjab in 1710. The Sikh rule lasted until 1716. Sikh rule was re-established in 1765, lasting until the British conquest of 1849. Sikh rule extended to Kabul and was considered one of the powers in South Asia. Since then, the Sikh nation has been struggling to regain its sovereignty.

No Sikh has ever signed the Indian constitution. On Oct. 7, 1987, the Sikh nation declared its independence, forming the separate nation of Khalistan. Our effort to liberate Khalistan is peaceful, democratic and nonviolent, but our declaration of independence is irrevocable and nonnegotiable.

India claims that the struggle for independence is over. If that is the case, why doesn't "the world's largest democracy" hold a plebiscite in Punjab to decide the question of independence the democratic way?

India is not one country. It is an empire of many countries that was thrown together by the British for their administrative convenience. Like the former Soviet Union, it is destined to fall apart.

In the June 17, 1994, issue of Strategic Investment, Jack Wheeler of the Freedom Research Foundation predicted that within 10 years, India "will cease to exist as we know [it]." Stanley Wolpert, a professor at the University of California in Los Angeles who wrote a biography on the late Indian Prime Minister Jawaharlal Nehru, predicted on CNN that both India and Pakistan will soon break up.

Sikhs oppose tyranny wherever it rears its head. Consequently, we support freedom for the people of Kashmir, Nagaland and other countries seeking their freedom.

The world helped East Timor achieve its freedom. The world helped Kosovo achieve its freedom. It is time for the free nations of the world to cut off aid to India and support an internationally supervised plebiscite to help the people of Khalistan, Kashmir, Nagaland and all nations of South Asia to achieve their freedom.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily

Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 14, 1999 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 15

9 a.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine quality management at the Federal level.
SD–628

10:30 a.m.
Foreign Relations
To hold hearings on the nomination of Donald Stuart Hays, of Virginia, to be Representative to the United Nations for U.N. Management and Reform, with the rank of Ambassador; and the nomination of James B. Cunningham, of Pennsylvania, to be Deputy Representative to the United Nations, with the rank and status of Ambassador.
SD–419

OCTOBER 19

9:30 a.m.
Armed Services
To hold hearings to examine future naval operations at the Atlantic Fleet Weapons Training Facility.
SD–106

10 a.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on S. 1608, to provide annual payments to the States and counties from National Forest System lands managed by the Forest Service, and the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands managed predominately by the Bureau of Land Management, for use by the counties in which the lands are situated for the benefit of the public schools, roads, emergency and other public purposes; to encourage and provide new mechanism for cooperation between counties and the Forest Service and the Bureau of Land Management to make necessary investments in federal lands, and reaffirm the positive connection between Federal Lands counties and Federal Lands; and for other purposes.
SD–366

Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings on issues relating to the MCIWorldcom/Sprint merger.
SD–226

Environment and Public Works
Fisheries, Wildlife, and Drinking Water Subcommittee
To hold hearings to examine the benefits and policy concerns related to habitat conservation plans.
SD–406

10:30 a.m.
Governmental Affairs
To hold hearings on S. 1378 and H.R. 391, bills to amend chapter 35 of title 44, United States Code, for the purposes of facilitating compliance by small businesses with certain Federal paperwork requirements, to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small businesses.
SD–628

2 p.m.
Energy and Natural Resources
Governmental Affairs
To hold joint oversight hearings on the implementation of provisions of the Department of Defense Authorization Act which create the National Nuclear Security Administration.
SH–216

2:30 p.m.
Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold hearings on S. 1365, to amend the National Preservation Act of 1966 to extend the authorization for the Historic Preservation Fund and the Advisory Council on Historic Preservation; S. 1434, to amend the National Historic Preservation Act to reauthorize that Act; and H.R. 834, to extend the authorization for the National Historic Preservation Fund.
SD–366

OCTOBER 20

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine the use of performance enhancing drugs in Olympic competition.
SR–253

Judiciary
To hold hearings on the Justice Department's role and the FALN.
SD–226

Indian Affairs
To hold oversight hearings on the implementation of the Transportation Equity Act in the 21st Century, focusing on Indian reservation roads; to be followed by a business meeting on pending calendar business.
SR–485

2 p.m.
Foreign Relations
To hold hearings on extradition Treaty between the Government of the United States of America and the Government of the Republic of Korea (hereinafter referred to as "the Treaty"), signed at Washington on June 9, 1998 (Treaty Doc. 106–02).
SD–419

2:30 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1167, to amend the Pacific Northwest Electric Power Planning and Conservation Act to provide for expanding the scope of the Independent Scientific Review Panel; S. 1694, to direct the Secretary of the Interior to conduct a study on the reclamation and reuse of water and wastewater in the State of Hawaii; S. 1612, to direct the Secretary of the Interior to convey certain irrigation project property to certain irrigation and reclamation districts in the State of Nebraska; S. 1474, providing conveyance of the Palmetto Bend project to the State of Texas; S. 1697, to authorize the Secretary of the Interior to refund certain collections received pursuant to the Reclamation Reform Act of 1982; and S. 1178, to direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the Oahe Irrigation Project, South Dakota, to the Commission of Schools and Public Lands of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission.
SD–366

OCTOBER 21

9:30 a.m.
Armed Services
To resume hearings on the lessons learned from the military operations conducted as part of Operation Allied Force, and associated relief operations, with respect to Kosovo; to be followed by a closed hearing (SR–222).
SD–106

Energy and Natural Resources
To hold oversight hearings on issues related to land withdrawals and potential National Monument designations using the Antiquities Act, or Federal Land Policy and Management Act.
SD–366

OCTOBER 26

2:30 p.m.
Armed Services
Readiness and Management Support Subcommittee
To hold hearings on the Real Property Management Program and the maintenance of the historic homes and senior offices' quarters.
SR–222

OCTOBER 27

9:30 a.m.
Indian Affairs
To hold hearings on proposed legislation authorizing funds for elementary and secondary education assistance, focusing on Indian educational programs; to be followed by a business meeting on pending calendar business.
SR–285

NOVEMBER 4

9:30 a.m.

Indian Affairs

To hold joint hearings with the House Committee on Resources on S. 1586, to reduce the fractionated ownership of Indian Lands; and S. 1315, to permit the leasing of oil and gas rights on certain lands held in trust for the Navajo Nation or allotted to a member of the Navajo Nation, in any case in which there is consent from a specified percentage interest in the parcel of land under consideration for lease.

Room to be announced

CANCELLATIONS

OCTOBER 26

9:30 a.m.

Energy and Natural Resources

To hold hearings on S. 882, to strengthen provisions in the Energy Policy Act of 1992 and the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to potential Climate Change.

SD–366

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